



# Town Council Agenda Report

**SUBJECT:** QUASI JUDICIAL - REZONING

**TITLE OF AGENDA ITEM:**

ZB 7-1-99 - Davie Builders, LLC, Petitioner / Alpha Baptist Church, Inc., George Janica, Anthony Galletta, Ralph Gross, Deborah Gross, Virginia Ann Loecher, John Loecher, Jr., and Deborah Bell, Owners

**REPORT IN BRIEF:**

The petitioner is proposing to develop a detached single family subdivision comprised of 81 units on 19.8 net acres. The target site is currently made up of several parcels under separate ownership. The petitioner plans to purchase these parcels and combine them as a unified site. The petitioner plans to rezone the unified site area to the R-5, Low Medium Dwelling District. The majority of the site is currently zoned A-1, Agricultural District. However, a small portion of this property is zoned CF, Community Facilities, owned by a church. In order to allow the proposed development to be made up of contiguous parcels, the church has agreed to give the petitioner their land in return for land just south of the proposed development. This portion of the site is a subject of a small scale land use plan amendment to change the current Community Facilities designation to Residential (3 du/ac). Therefore, the request includes rezoning of land from A-1 to R-5, land zoned CF to R-5, and land zoned A-1 to CF.

The existing land use designation for the subject site, is Residential (3 du/ac). Typically, the R-5 zoning district would not be permitted in the Residential (3 du/ac) land use designation. However, the petitioner is requesting the utilization of reserve units which would allow the R-5 district in the Residential (3 du/ac) land use designation. Currently there are available reserve units to accommodate this request.

The petitioner has also sufficiently demonstrated that the proposed rezoning and request for reserve units will have no negative affect on the school system, roadway network or infrastructure.

**DISCUSSION:**

Background: The subject site was part of a previous Town and County land use plan amendment request in December 1998, which sought to allow for up to 10 units per acre. The Planning and Zoning Board recommended approval with conditions, and the Town Council denied the request. This request did not continue on the Broward County Planning Council.

Purpose of Request: To rezone 19.8 (net site area) from A-1 and CF to R-5, and 3.7 gross acres A-1 to CF, to accommodate development of 81 detached single family units and a church.

Significant Impacts: The proposed rezoning will affect Cooper City Elementary, Pioneer Middle, and Cooper City High, along with Pine Island Road, Stirling Road and SW 82nd Avenue. However, the impact will be insignificant and will have no negative impact on these facilities.

Conclusion: The proposed rezoning is consistent with the surrounding uses. There are no negative impacts to the school system or roadway network, and is consistent with the goals, objectives, and policies of the Town's Comprehensive Plan.

**CONCURRENCES:**

At the August 11, 1999, Planning and Zoning Board meeting, the Board recommended approval (3-1, Mr. Greb dissenting, Mr. Kuvin absent), subject to a voluntary amended application. [Condition of amended application: 1) The petitioner limit 50% of the total number of units to 3 bedrooms or less, 2) the request for 18 reserve units subject to the restrictive covenant limiting the property to 81 dwelling units, and 3) the approval of variance V 7-2-99.]

The Planning and Zoning Division therefore recommends approval of the requested rezoning from A-1, Agricultural & CF, Community Facilities to R-5, Low Medium Density Dwelling; and from A-1, Agricultural to Community Facilities subject to the small scale land use plan amendment (LABC (SS) 99-4A). In addition, staff also recommends approval of the request for 18 reserve units as permitted by Broward County, subject to a restrictive covenant that limits the Future Residential property to 81 dwelling units, with a finding that the request is consistent with Comprehensive Plan objectives and is in harmony with the general intent and purpose of the code.

**FISCAL IMPACT:**

Not applicable.

**RECOMMENDATION(S):**

Motion to approve the requested rezoning from A-1 and CF to R-5, and from A-1 to CF; and to approve the request for 18 reserve units, subject to the following conditions; 1) approval of the small scale land use plan amendment (LABC (SS) 99-4A), 2) provision of a restrictive covenant that limits the Future Residential property to a maximum of 81 dwelling units and limits 50% of the total number of units to 3 bedrooms or less, and 3) approval of variance V 7-2-99.

**ATTACHMENTS:**

Planning report, rezoning application, land use map, subject site map, and aerial.

TOWN OF DAVIE  
DEVELOPMENT SERVICES DEPARTMENT  
PLANNING AND ZONING DIVISION  
PLANNING REPORT

**SUBJECT:** Rezoning ZB 7-1-99

**APPLICANT:** Davie Builders, LLC, Petitioner / Alpha Baptist Church, Inc., George Janica, Anthony Galletta, Ralph Gross, Deborah Gross, Virginia Ann Loecher, John Loecher, Jr., and Deborah Bell, Owners

**ADDRESS/LOCATION:** General Address: 5230 Pine Island Road / Generally located between SW 82nd Avenue to the east and Pine Island Road to the west, approximately 3/4 of a mile north of Stirling Road.

**LAND USE PLAN/ZONING:** Residential (3 du/acre) / Community Facilities

**REQUEST:**  
**From:** A-1, Agricultural & CF, Community Facilities  
**To:** R-5, Low Medium Density Dwelling; and  
  
**From:** A-1, Agricultural  
**To:** Community Facilities

**EXHIBITS TO BE INCLUDED:** Rezoning application, subject site map, planning report, and aerial.

**DESCRIPTION:** The subject site contains three tracts of land totaling 23.5 gross acres (19.8 acres future residential property and 3.7 future church property). The site is vacant with the exception of five structures, fronting on SW 82nd Avenue, used for nursery purposes. These structures will be removed prior to construction of the proposed development. The site is bound on the north and south by land zoned A-1, Agricultural, to the east by land zoned R-5, Low Medium Dwelling District, A-1, Agricultural, and B-3, Planned Business Center. To the west, across Pine Island Road, is land designated Residential (3 du/ac), within Cooper City.

**REQUEST:**

The petitioner is purchasing several adjacent parcels of land on Pine Island Road, totaling 23.5 acres. 4.7 acres is currently zoned CF and 18.8 acres is currently zoned A-1. The petitioner is proposing to rezone all of the subject property to create 19.8

contiguous acres of R-5 zoning for the development of 81 detached single family homes and a 3.7 acre parcel zoned CF at the southern end of the property to accommodate a church and related facilities. In order to accomplish this the petitioner is proposing the following zoning actions.

**1. Change the Current Church Property from CF to R-5**

The 4.7 acre parcel, currently zoned CF, is in the center of the property and is owned by Alpha Baptist Church, Inc. This land was purchased to be developed as a house of

worship with associated church facilities. However, the petitioner states, “ the narrow configuration of the that parcel (165 feet wide by 1,200 feet long), is not well suited to that church use. Furthermore, the location of the CF within the overall property inhibits the development of anything other than piecemeal residential development on the remainder of the property.” Please note, the current church property is also the subject of a small scale County and Town land use plan amendment to change the land use designation from CF to Residential (3 du/ac). The proposed land use amendment was presented at the July 28, 1999, Planning and Zoning Board meeting (Approved 4-0, Mr. Pisula absent), and approved at the August 4, 1999, Town Council meeting, and is in the process of being transmitted to the Broward County Planning Council. The petitioner is proposing to change the zoning for the current church property from CF to R-5 so that along with the other zoning changes described below, approximately 20 acres of contiguous R-5 zoned property will be available for development in a single well-designed residential subdivision (see attached subject site map).

**2. Change Future Church Property from A-1 to CF**

The petitioner is proposing to provide Alpha Baptist Church with a better designed 3.7 acre parcel at the south end of the property (“Future Church Property”) for development as a Church with associated facilities. The rezoning of this parcel will provide the Alpha Baptist Church with a parcel that is more appropriate for Church development and, along with the other zoning actions proposed, will create an appropriate development parcel for the proposed single family community. Because there is an existing house of worship within 2,500 feet of the Future Church property, the petitioner is also requesting a variance of the Town Code which prohibits a freestanding house of worship from being located within 2,500 feet of another freestanding house of worship. In addition, the existing CF property would also require a variance before it could be developed with a Church (see attached subject site map).

**3. Change other Future Residential Property from A-1 to R-5.**

In addition to the existing church property, which is currently zoned CF, there are 15.1 additional acres that are presently zoned A-1, which are proposed for development under R-5 zoning to comprise the 19.8 acre residential development parcel (see attached subject site map).

**4. Allocation of 18 Reserve Units to Future Residential Property.**

The rezoning sought for the Future Residential property is R-5. Generally, the R-5 zoning district would not be permitted within the Residential (3 du/ac), however, can be permitted with the allocation of reserve units providing for the higher density of 5 units per acre. If approved, the R-5 zoning district would permit the development of up to 105 residential units (21.05 gross acres X 5 units = 105 units). However, the petitioner has determined that a more appropriate and better designed community can be created if the density is limited to 81 units. This would result in an overall gross density of 3.85 units per acre. The Town and County land use plan designation for the Future Residential property (assuming approval of the small scale amendment from CF to Residential (3 du/ac) would not permit more than 63 units on the Future Residential property unless reserve units are assigned. The petitioner is therefore requesting the assignment of 18 reserve units to the Future Residential property. In conjunction with these zoning actions which would rezone the future residential property to R-5 the petitioner will

voluntarily commit the future residential property to a restrictive covenant that limits the future residential property to a density of 81 residential units.

### **ANALYSIS:**

Policy 13-3 of the Comprehensive Plan states that the location of regional community facilities should be encouraged, as appropriate, in close proximity to primary transportation facilities and in areas where such uses are complimentary to surrounding existing and planned uses. Policy 17-1 and 17-3 provides that lands designated for non-residential uses shall be located in a manner which facilitates development but does not adversely impact existing and designated residential areas and that all development proposals shall be reviewed for compatibility with adjacent existing and planned uses.

Review of a rezoning request should include consideration of the criteria listed in Section 12-307 of the Land Development Code which is attached hereto, and made a part hereof.

Staff will address the request for Broward County reserve units first, as the proposed rezoning will not be feasible without approval of these units.

#### **A. Reserve Units:**

Reserve units, as defined in Section IV.B “Residential Use” of the Broward County Land Use Plan, mean additional permitted dwelling units equal to two percent (2%) of the total number of dwelling units permitted within a flexibility zone by the Broward County Land Use Plan.

The use of reserve units is required to permit the proposed R-5 zoning district within the designated Residential (3 du/ac) land use designation. The Residential (3 du/ac) land use permits up to a maximum of 3 dwelling units per acre, while the R-5 zoning permits a maximum of 5 dwelling units per acre. If approved, with the associated small scale land use amendment, the petitioner plans to develop the proposed residential site area at a density of 3.85 units per acre, which would be consistent with the Town and County land use plans, provided the allocation of 18 reserve units.

The Broward County Land Use Plan and the Town of Davie’s Comprehensive Plan identifies the subject site lies within flexibility zone 102, which defines available reserve units. Currently, there are approximately 100 reserve units available within this flexibility zone. Therefore, there is a sufficient amount of reserve units to provide for the petitioner’s request of 18 units. At this time, there are no other formal requests for use of reserve units in flexibility zone 102.

As referenced above, staff has identified there are sufficient reserve units within Flexibility Zone 102 to accommodate the proposed use of 18 units. If the property were developed without the use of reserve units at the designated Residential (3 du/ac), the property would yield a total of 63 units, or a density of 3 du/ac (21.05 gross acres X 3 du/ac = 63 units). With the allocation of 18 reserve units, the same 21.05 gross acre area would yield a total of 81 units (21.05 acres X 3 du/ac + 18 = 81 du) or a density of 3.85 du/ac (81 / 21.05 = 3.85). Respectively, staff believes the increase of .9 units per acre will not degrade the affected service facilities and create a residential community consistent with the existing Residential (3 du/ac) land use.

The following information outlines the impact to existing service facilities:

#### **SCHOOLS:**

As referenced above, the proposed rezoning with an allocation of reserve units will increase the permitted dwelling density per acre, which in turn affects the school system. Student generation rates are determined using a multiplier established within the Broward County, Future Land Use Plan, Public Schools Element, and is based on a per unit capita. Broward County has established an average multiplier that takes in to consideration the increase to Elementary School, Middle School and High School, combined. The defined multiplier for single family units, 4 or more bedrooms, is .439.

In order to determine the affect on the school system staff compared the number of students which could be generated under the existing land use and zoning, the number of student which could be generated under the proposed land use and zoning, and the available capacity of the affected school facilities.

**EXISTING CONDITIONS:**

Total site area:            18.8 ac Residential (3 du/ac)  
                                   4.7 ac Community Facilities (not included for reserve units)  
                                   **23.5 Total acres**

Total Students:            18.8 ac X 3 du/ac = 56 units (max. # of units allowed/land use)  
                                   56 units X .439 = 25 students  
                                   **25 Total students under existing conditions**

**PROPOSED CONDITIONS:**

Total site area:            19.8 ac Residential (3 du/ac)  
                                   3.7 ac Community Facilities (not included for reserve units)  
                                   **23.5 Total acres**

Total Students:            (21.05 gross ac X 3 du/ac) + 18 reserve units = 81 dwelling units  
                                   81 units X .439 = 36 students  
                                   **36 Total students under proposed changes**

**AVAILABLE SCHOOL CAPACITY:**

The educational facilities affected by the proposed amendment are Cooper City Elementary School, Pioneer Middle School, and Cooper City High School. Schools utilize a measurement of Level of Service (LOS) to determine overcrowding for each facility ("A", "B", and "C", with "A" being the best). The capacity of schools are measured using a percentage of available student stations, known as the FISH capacity. The FISH capacity varies as non-classroom resource rooms such as portables, art rooms, and other available space are considered for classroom use. Currently, the above referenced schools are operating at a LOS "B", providing for additional students above the design capacity of the schools with the consideration of additional resource room space. Therefore, there is sufficient capacity for the additional 11 students which would be generated by the proposed rezoning while not degrading the existing LOS, (see chart below).

<u>Cap.</u>	<u>1999/2000 Enrollment</u>	<u>Design Capacity</u>	<u>Avail. FISH Cap. Above Design</u>
• Cooper City Elementary	1,101 Students	866 Students	235 Students
• Pioneer Middle School	1,648 Students	1,432 Students	216 Students
• Cooper City High	2,300 Students	1,936 Students	364 Students

**TRAFFIC**

The following roadway segments (Pine Island Road, Griffin Road and Stirling Road) are affected by the this netition. Pine Island Road between Griffin Road and Stirling Road was

recently constructed as a four lane divided highway. The current capacity of this roadway segment is 48,900 trips per day, with a current demand of 7,600 trips per day, operating at a LOS "A". Griffin Road and Stirling Road, between University Drive and Pine Island Road are currently operating at a LOS "B". The LOS for all affected roadway segments will not be degraded with or without the proposed rezoning.

The rezoning will also affect SW 82nd Avenue which abuts this property on the east side, however, the petitioner has indicated the proposed development will not be designed with public access off SW 82nd Avenue. A stabilized access will be provided for emergency service access only. Please note, no traffic counts exist for this road as it is a local road and is not included within Broward County's traffic information. It is considered to be a sub-standard road due to its inadequate right-of-way width, however, improvements will occur as development of the vacant parcels along SW 82nd Avenue, between Stirling Road and Pine Island Road, occur. The petitioner will not be exempt from improvements to SW 82nd Avenue even though they do not plan to provide public access off this right-of-way. Traffic concurrency, including impact fees and associated improvements, will be required at the time of platting. This property will require Broward County and Town plat approval.

### **AFFECT ON ADJACENT PROPERTIES**

As referenced above, the petitioner is requesting the rezoning to reconfigure the land to allow for a more suitable land design to accommodate their proposed detached single family subdivision. Aside from the request for 18 reserve units, the existing conditions of the subject area will go virtually unchanged should the rezoning be approved. In reference to the request for 18 reserve units, staff has determined the increase in students and affect on the surrounding trafficway system is insignificant and will not degrade these facilities with or without this request.

Therefore, staff believes the request would not create an isolated district unrelated and incompatible with adjacent and nearby uses, the proposed change will not adversely affect living conditions in the neighborhood, the proposed change will not adversely affect other property values, the proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations, and the proposed change will not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public. The proposed rezoning and associated request for reserve units, given the voluntary stipulation, is compatible with existing and adjacent planned uses and consistent with Comprehensive Plan objectives relating to community facility siting.

**RECOMMENDATION:** The Planning and Zoning Department therefore recommends **APPROVAL** of the requested rezoning from A-1, Agricultural & CF, Community Facilities to R-5, Low Medium Density Dwelling; and from A-1, Agricultural to Community Facilities subject to the small scale land use plan amendment (LABC (SS) 99-4A). In addition, staff also recommends **APPROVAL** of the request for 18 reserve units as permitted by Broward County, subject to a restrictive covenant that limits the Future Residential property to 81 dwelling units, with a finding that the request is consistent with Comprehensive Plan objectives and is in harmony with the general intent and purpose of the code.

**PLANNING AND ZONING BOARD RECOMMENDATION:** Motion to approve (3-1, Mr. Greb dissenting, Mr. Kuvin absent) subject to a voluntary amended application, August 11, 1999 meeting.

[Condition of amended application: 1) The petitioner limit 50% of the total number of units to 3 bedrooms or less 2) the request for 18 reserve units subject to the restrictive covenant

limiting the property to 81 dwelling units, and 3) the approval of the variance V 7-2-99.]

Prepared by:

Reviewed by:

**TOWN OF DAVIE  
CODE OF ORDINANCES  
(EXCERPT)**

**Section 12-307. Review for rezonings.**

- (a) The proposed change is/is not contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;**
- (b) The proposed change would/would not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;**
- (c) Existing zoning district boundaries are/are not illogically drawn in relation to existing conditions on the property proposed for change;**
- (d) The proposed change will/will not adversely affect living conditions in the neighborhood;**
- (e) The proposed change will/will not create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated with permitted intensities or densities of the underlying land use plan designation, or otherwise affect public safety;**
- (f) The proposed change will/will not adversely affect other property values;**
- (g) The proposed change will/will not be a deterrent to the improvement or development of other property in accord with existing regulations;**
- (h) The proposed change will/will not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;**
- (i) There are/are not substantial reasons why the property cannot be used in accord with existing zoning.**
- (j) The proposed zoning designation is/is not the most appropriate designation to enhance the Town's tax base given the site location relative to the pattern of land use designations established on the future land use plan map, appropriate land use planning practice, and comprehensive plan policies directing land use location.**

EXISTING ZONING: A-1, CF  
CODE SECTION: 12-32, 12-53

PROPOSED ZONING: R-5, CF  
CODE SECTION: 12-32, 12-53

LAND USE DESIGNATION: Res. (3) and  
CF (LUPA pending to Res.(3))

FOLIO NUMBER: 504133010280; 504133010281; 504133010270; 504133010412;  
504133010391; 504133010310; 504133010311; 504133010400; 504133010320

TOWN OF DAVIE USE ONLY	
PETITION NO.:	<u>23 7-1-99</u>
FEE:	<u>1550-</u>
RECEIPT NO.:	<u>7650 + 7651</u>

TOWN OF DAVIE  
REZONING APPLICATION

(NOTE: INFORMATION MUST BE TYPED AND NOTARIZED)  
Make Checks Payable to Town of Davie.

RECEIVED  
July 8 1999

DATE FILED: July 7, 1999

PHONE: 474-2800

TOWN OF DAVIE  
PLANNING & ZONING DEPARTMENT

PETITIONER: Davie Builders L.L.C.

MAILING ADDRESS: c/o Mark Stelnik, 2615 S. University Drive, Davie, FL  
33328

RELATIONSHIP TO PROPERTY: Contract Purchaser

OWNER: See Attachment 1

MAILING ADDRESS: See Attachment 1

ADDRESS OF PROPERTY: See legal description in Attachment 2

LEGAL DESCRIPTION: (Certified Sealed Boundary Survey to include statement of  
amount of acreage involved MUST be submitted with application): See  
Attachment 2

ACREAGE: See Attachment 2

REQUEST: Rezone the proposed residential property from A-1 and CF to R-5;  
Rezone the; proposed church property from A-1 to CF

REASON FOR REQUEST: See Attachment 3

PETITIONER MUST BE PRESENT IN ORDER FOR ACTION TO BE TAKEN

OFFICE USE ONLY  
APPROVED AS TO FORM: Just PUBLICATION DATE: \_\_\_\_\_  
MEETING DATE: PLANNING AND ZONING BOARD: 8/11/99 TOWN COUNCIL \_\_\_\_\_  
NOTICES SENT: \_\_\_\_\_ REPLIES: FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_  
UNDELIVERABLE: \_\_\_\_\_

OWNER'S NAME(S)  
OWNER'S SIGNATURE (ALL OWNERS MUST SIGN)  
ADDRESS  
CITY, STATE, ZIP  
PHONE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who did take an oath.

NOTARY PUBLIC:  
Sign: \_\_\_\_\_  
Print: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

DAVIE BUILDERS, LLC  
PETITIONER'S NAME  
By: Mark Stelmik  
PETITIONER'S SIGNATURE Mark Stelmik, Director  
2615 S. University Drive  
ADDRESS  
Davie, FL 33328  
CITY, STATE, ZIP  
954 474-2800  
PHONE

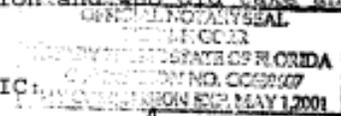
The foregoing instrument was acknowledged before me this 6th day of July, 1999, by Mark Stelmik who is personally known to me or who has produced \_\_\_\_\_ as identification and who did take an oath.

NOTARY PUBLIC:  
Sign: Sandra Clobridge  
Print: SANDRA CLOBRIDGE  
My Commission Expires: \_\_\_\_\_

\*\*\*\*\*  
OFFICE USE ONLY  
OFFICIAL NOTARY SEAL  
SANDRA CLOBRIDGE  
NOTARY PUBLIC STATE OF FLORIDA  
COMMISSION NO. CC679637  
MY COMMISSION EXPIRES SEPT 11 2001

Alpha Baptist Church, Inc.  
OWNER'S NAME(S) Ralph Button  
OWNER'S SIGNATURE (ALL OWNERS MUST SIGN) Ralph Button, President  
ADDRESS 6301 Fillmore Street  
Hollywood, FL 33024  
CITY, STATE, ZIP (954) 981-8419  
PHONE

The foregoing instrument was acknowledged before me this 6 day of JULY, 1999, by Ralph Button who is personally known to me or who has produced

\_\_\_\_\_ as  
identification and who did take an oath.  
NOTARY PUBLIC:   
Sign: Beryl H. Gork  
Print: BERYL H. GORK  
My Commission Expires:

PETITIONER'S NAME  
PETITIONER'S SIGNATURE  
ADDRESS  
CITY, STATE, ZIP  
PHONE

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 19\_\_\_, by \_\_\_\_\_ who is personally known to me or who has produced

\_\_\_\_\_ as  
identification and who did take an oath.  
NOTARY PUBLIC:  
Sign: \_\_\_\_\_  
Print: \_\_\_\_\_  
My Commission Expires:

\*\*\*\*\*  
OFFICE USE ONLY

George Janica  
OWNER'S NAME (S)  
George Janica  
OWNER'S SIGNATURE (ALL OWNERS MUST SIGN)  
5151 SW 22 AVE  
ADDRESS  
DAVIE FL 33328  
CITY, STATE, ZIP  
(954) 434 1131  
PHONE

The foregoing instrument was acknowledged before me this 6 day of JULY, 1999, by George Janica who is personally known to me or who has produced

D.L. as identification and who did take an oath.

NOTARY PUBLIC:

Sign: B. Bove  
Print: \_\_\_\_\_  
My Commission Expires:

\_\_\_\_\_  
PETITIONER'S NAME  
\_\_\_\_\_  
PETITIONER'S SIGNATURE  
\_\_\_\_\_  
ADDRESS  
\_\_\_\_\_  
CITY, STATE, ZIP  
\_\_\_\_\_  
PHONE

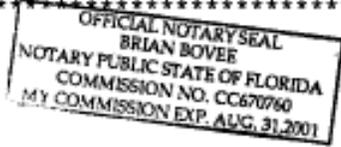
The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 19\_\_\_, by \_\_\_\_\_ who is personally known to me or who has produced

\_\_\_\_\_ as identification and who did take an oath.

NOTARY PUBLIC:

Sign: \_\_\_\_\_  
Print: \_\_\_\_\_  
My Commission Expires:

\*\*\*\*\* OFFICE USE ONLY \*\*\*\*\*



Anthony Galletta  
OWNER'S NAME(S)  
Anthony Galletta  
OWNER'S SIGNATURE (ALL OWNERS MUST SIGN)  
5151 SW 82nd Ave  
ADDRESS  
DAVIE FL 33328  
CITY, STATE, ZIP  
(954) 434-1131  
PHONE

The foregoing instrument was acknowledged before me this 4 day of JULY, 1992, by Anthony Galletta who is personally known to me or who has produced D.L.

D.L. as identification and who did take an oath.

NOTARY PUBLIC:

Sign: D.B. Bovee  
Print: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

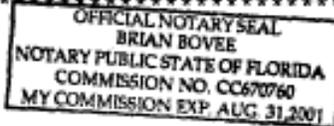
PETITIONER'S NAME  
PETITIONER'S SIGNATURE  
ADDRESS  
CITY, STATE, ZIP  
PHONE

The foregoing instrument was acknowledged before me this 6 day of JULY, 1992, by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_

D.L. as identification and who did take an oath.

NOTARY PUBLIC:

Sign: D.B. Bovee  
Print: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



OFFICE USE ONLY

Ralph Gross  
OWNER'S NAME(S)  
Ralph Gross  
OWNER'S SIGNATURE (ALL OWNERS MUST SIGN)  
3236 Lake Josephine Drive  
ADDRESS  
Sebring, FL 33872  
CITY, STATE, ZIP  
(941) 382-3259  
PHONE

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of July, 1999, by Ralph Gross who is personally known to me or who has produced

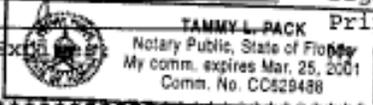
\_\_\_\_\_ as identification and who did take an oath.

NOTARY PUBLIC:

Sign: Tammy L. Pack

Print: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



PETITIONER'S NAME  
PETITIONER'S SIGNATURE  
ADDRESS  
CITY, STATE, ZIP  
PHONE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_ who is personally known to me or who has produced

\_\_\_\_\_ as identification and who did take an oath.

NOTARY PUBLIC:

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

\*\*\*\*\*  
OFFICE USE ONLY

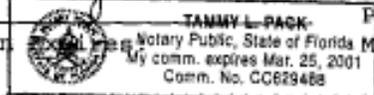
Deborah Gross  
OWNER'S NAME(S)  
*Deborah Gross*  
OWNER'S SIGNATURE (ALL OWNERS MUST SIGN)  
3236 Lake Josephine Drive  
ADDRESS  
Sebring, FL 33872  
CITY, STATE, ZIP  
(941) 382-3259  
PHONE

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of July, 1999, by Deborah Gross who is personally known to me or who has produced

FL DJL as identification and who did take an oath.

NOTARY PUBLIC:  
Sign: *Tammy L. Pack*

Print: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



PETITIONER'S NAME  
PETITIONER'S SIGNATURE  
ADDRESS  
CITY, STATE, ZIP  
PHONE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_ who is personally known to me or who has produced

\_\_\_\_\_ as identification and who did take an oath.

NOTARY PUBLIC:  
Sign: \_\_\_\_\_

Print: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

\*\*\*\*\*  
OFFICE USE ONLY  
\*\*\*\*\*

Virginia Ann Loecher  
OWNER'S NAME(S)  
Virginia Ann Loecher  
OWNER'S SIGNATURE (ALL OWNERS MUST SIGN)  
2402 N. BERRY'S CHAPEL RD.  
ADDRESS  
FRANKLIN, TN. 37069  
CITY, STATE, ZIP  
(615) 595-7061  
PHONE

The foregoing instrument was acknowledged before me this 7 day of July, 1987, by Virginia Ann Loecher who is personally known to me or who has produced Tenn Driver License

\_\_\_\_\_ as identification and who did take an oath.

NOTARY PUBLIC:

Sign: [Signature]  
Print: Tammie H. Ward  
My Commission Expires: 12/31/2000

\_\_\_\_\_  
PETITIONER'S NAME  
\_\_\_\_\_  
PETITIONER'S SIGNATURE  
\_\_\_\_\_  
ADDRESS  
\_\_\_\_\_  
CITY, STATE, ZIP  
\_\_\_\_\_  
PHONE

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_

\_\_\_\_\_ as identification and who did take an oath.

NOTARY PUBLIC:

Sign: \_\_\_\_\_  
Print: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

\*\*\*\*\*  
OFFICE USE ONLY

John Loecher, Jr.  
OWNER'S NAME(S)  
John Loecher Jr.  
OWNER'S SIGNATURE (ALL OWNERS MUST SIGN)  
2402 N. BERRY'S CHAPEL RD.  
ADDRESS  
FRANKLIN, TN. 37069  
CITY, STATE, ZIP  
(615) 595-7061  
PHONE

The foregoing instrument was acknowledged before me this 7 day of July, 1999, by John Loecher Jr. who is personally known to me or who has produced Tenn Drivers License as identification and who did take an oath.

NOTARY PUBLIC:  
Sign: [Signature]  
Print: Garrett H. Ward  
My Commission Expires: 12-11-2000

\_\_\_\_\_  
PETITIONER'S NAME  
\_\_\_\_\_  
PETITIONER'S SIGNATURE  
\_\_\_\_\_  
ADDRESS  
\_\_\_\_\_  
CITY, STATE, ZIP  
\_\_\_\_\_  
PHONE

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 19\_\_\_, by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who did take an oath.

NOTARY PUBLIC:  
Sign: \_\_\_\_\_  
Print: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

\*\*\*\*\*  
OFFICE USE ONLY



# Davie Builders, LLC

P.O. Box 15728, Plantation, FL 33318-5728 • (954) 474-2800 • Fax (954) 476-7300

July 6, 1999

Ms. Barbara Hall  
Greenberg Traurig  
515 East Las Olas Boulevard  
Fort Lauderdale, FL 33301

Subject: Pine Island Road Property

Dear Barbara:

We hereby authorize Greenberg Traurig to act as our agent to process the attached rezoning and variance applications.

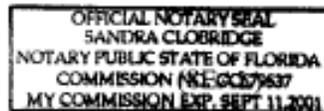
Sincerely,  
Davie Builders, LLC

by: Mark E. Stelnik

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgements, the foregoing instrument was acknowledged before me by Mark E. Stelnik, who is personally known to me or who has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 6th day of July, 1999.

Notary Public  
Printed Name: Sandra Clobridge  
My Commission Expires:  
My Commission No:



**ATTACHMENT 1**

**Name and Addresses of Property Owners**

John Loecher, Jr.  
Virginia Ann Loecher  
2402 N. Berrys Chapel Road  
Franklin, Tennessee 37069-6603

Ralph Gross  
Deborah Gross  
3236 Lake Josephine Drive  
Sebring, FL 33872

Alpha Baptist Church, Inc.  
6301 Fillmore Street  
Hollywood, FL 33024

Anthony Galletta  
5151 S.W. 82nd Avenue  
Davie, FL 33328

George Janica  
5151 S.W. 82nd Avenue  
Davie, FL 33328

Deborah J. Bell  
5253 SW 82nd Avenue  
Davie, FL 33328

## ATTACHMENT 2

### LEGAL DESCRIPTION: CHURCH PROPERTY

A PORTION OF TRACTS 26 AND 31 OF "THE EVERGLADES SUGAR AND LAND COMPANY SUBDIVISION" OF SECTION 33, TOWNSHIP 50 SOUTH RANGE 41 EAST ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 3 AT PAGE 67 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE CENTER OF SAID SECTION 33; THENCE RUN NORTH 01 DEGREES 54 MINUTES 10 SECONDS WEST ALONG THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 33 FOR A DISTANCE OF 904.04 FEET; THENCE RUN SOUTH 87 DEGREES 54 MINUTES 41 SECONDS WEST FOR A DISTANCE OF 800.00 FEET TO THE POINT OF BEGINNING; THENCE RUN SOUTH 01 DEGREES 54 MINUTES 10 SECONDS EAST FOR A DISTANCE OF 247.50 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT 31; THENCE RUN SOUTH 87 DEGREES 54 MINUTES 41 SECONDS WEST ALONG SAID SOUTH LINE FOR A DISTANCE OF 453.00 FEET; THENCE RUN NORTH 01 DEGREES 54 MINUTES 10 SECONDS WEST ALONG A LINE 67.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID TRACTS 31 AND 26 FOR A DISTANCE OF 360.60 FEET TO A POINT; THENCE RUN NORTH 87 DEGREES 54 MINUTES 41 SECONDS EAST FOR A DISTANCE OF 453.00 FEET; THENCE RUN SOUTH 01 DEGREES 54 MINUTES 10 SECONDS EAST FOR A DISTANCE OF 113.10 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 163,351 SQUARE FEET.

### LEGAL DESCRIPTION: RESIDENTIAL PROPERTY

A PORTION OF TRACTS 23, 26 AND 31 OF "THE EVERGLADES SUGAR AND LAND COMPANY SUBDIVISION" OF SECTION 33, TOWNSHIP 50 SOUTH RANGE 41 EAST ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 3 AT PAGE 67 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE CENTER OF SAID SECTION 33; THENCE RUN NORTH 01 DEGREES 54 MINUTES 10 SECONDS WEST ALONG THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 33 FOR A DISTANCE OF 904.04 FEET; THENCE RUN SOUTH 87 DEGREES 54 MINUTES 41 SECONDS WEST FOR A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 87 DEGREES 54 MINUTES 41 SECONDS WEST FOR A DISTANCE OF 780.00 FEET; THENCE RUN NORTH 01 DEGREES 54 MINUTES 10 SECONDS WEST FOR A DISTANCE OF 113.10 FEET; THENCE RUN SOUTH 87 DEGREES 54 MINUTES 41 SECONDS WEST FOR A DISTANCE OF 453.00 FEET; THENCE RUN NORTH 01 DEGREES 54 MINUTES 10 SECONDS WEST ALONG A LINE 67.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID TRACTS 31, 26 AND 23 FOR A DISTANCE OF 629.40 FEET TO A POINT ON THE NORTH LINE OF SAID TRACT 23; THENCE RUN NORTH 87 DEGREES 54 MINUTES 41 SECONDS EAST ALONG SAID NORTH LINE FOR A DISTANCE OF 1233.00 FEET; THENCE RUN SOUTH 01 DEGREES 54 MINUTES 10 SECONDS EAST ALONG A LINE 20.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 33 FOR A DISTANCE OF 742.50 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAINING 864,264 SQUARE FEET.

#### NOTES:

- 1.) AREA OF THIS PROPERTY IS: 1,027,615 SQUARE FEET (23.5908 ACRES)

RECORDED  
July 8 1999

TOWN OF DADE  
PLANNING & ZONING DEPARTMENT

## **ATTACHMENT 3**

### **Description of Request**

#### **Rezoning from A-1 and CF to R-5 and CF**

The Petitioner is purchasing several adjacent parcels of land on Pine Island Road, totaling approximately 23.5 acres (the "Property"). 4.7 acres of the Property is zoned CF and 18.8 acres of the property is zoned A-1. The Petitioner is proposing to rezone all of that Property to create 19.8 contiguous acres of R-5 zoning for the development of 81 detached single family homes and a 3.7 acre parcel zoned CF at the southern end of the Property to accommodate a church and related facilities. In order to accomplish this the Petitioner is proposing the following zoning actions. A sketch depicting the parcels discussed is attached as Exhibit A.

#### **1. Change the Current Church Property from CF to R-5**

The 4.7 acre parcel, currently zoned CF, is in the center of the Property and is owned by Alpha Baptist Church, Inc. ("Current Church Property"). That land was purchased to be developed as a house of worship with associated church facilities. However, the narrow configuration of that parcel (165 feet wide by 1,200 feet long), is not well suited to that church use. Furthermore, the location of the CF within the overall Property inhibits the development of anything other than piecemeal residential development on the remainder of the Property. (The Current Church Property is also the subject of a small scale County and Town land use plan amendment to change the land use designation from CF to Residential 3). The Petitioner is proposing to change the zoning for the Current Church Property from CF to R-5 so that along with the zoning change described in #3 below, almost 20 acres of contiguous R-5 zoned property will be available for development in a single well-designed residential subdivision. The description for the parcel to be changed from CF to R-5 is attached as Exhibit B-1.

#### **2. Change Future Church Property from A-1 to CF.**

The Petitioner is proposing to provide Alpha Baptist Church with a better designed 3.7 acre parcel at the south end of the Property ("Future Church Property") for development as a Church with associated facilities. The rezoning of this parcel will provide the Alpha Baptist Church with a parcel that is more appropriate for Church development and, along with the other zoning actions proposed, will create an appropriate development parcel for the proposed single family community. Because there is an existing house of worship within 2,500 feet of the Future Church Property, the Petitioner is also requesting a variance from Section 12-34 (cc) of the Town Land Development Code which prohibits a freestanding house of worship from being located within 2,500 feet of another freestanding house of worship. As an aside, the existing CF property would also require a variance before it could be developed with a Church. The legal description for the parcel to be changed from A-1 to CF is attached as Exhibit B-2.

**3. Change other Future Residential Property from A-1 to R-5.**

In addition to the Current Church Property, which is now zoned CF, there are 15.1 additional acres that are now zoned A-1 which are proposed for development under R-5 Zoning to comprise an approximately 20-acre residential development parcel. The legal description for the property to be changed from A-1 to R-5 is provided in Exhibit B-3.

**4. Allocation of 18 Reserve Units to Future Residential Property.**

The rezoning sought for the Future Residential Property is R-5. That zoning would permit the development of up to 105 residential units. However, the Petitioner has determined that a more appropriate and better designed community can be created if the density is limited to 81 units. That would result in an overall gross density of 3.83 units per acre. The Town and County land use plan designation for the Future Residential Property (assuming approval of the small scale amendment from CF to Residential 3) is Residential 3 which would not permit more than 63 units on the Future Residential Property unless Reserve Units are assigned. The Petitioner is therefore requesting the assignment of 18 Reserve Units to the Future Residential Property. In conjunction with these zoning actions which would rezone the Future Residential Property to R-5, the Petitioner will voluntarily commit the Future Residential Property to a restrictive covenant that limits the Future Residential Property to a density of 81 residential units.

## CRITERIA FOR REVIEWING REZONING REQUESTS

- (1) The proposed change is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof.

The Future Residential Property, except for the Current Church Property, is designated Residential 3 on the Town's Future Land Use Plan map. A land use plan amendment is pending to designate the Current Church Property Residential 3. The Residential 3 designation permits residential development at a density of 3 units per acre. The proposed zoning designation of R-5 permits a maximum of 5 dwelling units per acre. However, the Petitioner is proposing to develop the Future Residential Property at a density of 3.83 units per acre which is consistent with the Town and County land use plans with an allocation of 18 reserve units to the Future Residential Property. The petitioner will deed restrict the Future Residential Property so that it cannot be developed at a density greater than 3.83 units per acre.

The proposed rezoning of the Future Residential Property furthers the following Goals, Objectives and Policies on the Town's Comprehensive Plan:

### *Land Use Element*

*OBJECTIVE 4: Pursuant to the adopted Davie Future Land Use Plan map, land uses, intensities and densities shall be distributed and concentrated in such a manner so as to promote an economically sound community and discourage urban sprawl.*

*Policy 4-3: Infill shall be encouraged as a means of directing growth to areas already containing essential infrastructure improvements, such as potable water and sanitary sewer services. Priority shall be given to areas suitable for infill development in the extension of infrastructure.*

*OBJECTIVE 5: Lands designated on the Davie Future Land Use Plan map for Residential purposes shall contain one or more of the uses specified in the Permitted Uses portion of the Implementation Section.*

*Policy 5-1: Land designated for Residential use on the Davie Future Land Use Plan map shall be restricted to the maximum density as shown*

*on the map, and to uses permitted pursuant to the Permitted Uses portion of the Implementation Section.*

*Policy 5-6: The application of "flexibility units" and "reserve units" shall be on accordance with the provisions as contained in the Flexibility Units and Reserve Units discussions under the Residential category in the Permitted Uses portion of the Implementation Section.*

### ***Housing Element***

***OBJECTIVE 2: Facilitate and promote a wide variety of residential development to address the different needs of the projected population.***

- (2) The proposed change would create an isolated zoning district unrelated and incompatible with adjacent and nearby districts.

The proposed rezoning of the Future Church Property to CF would not create an isolated district unrelated to, or incompatible with, adjacent and nearby districts because it is simply the relocation of a CF zoned parcel from a location 150 feet to the north of the proposed location to achieve a better configured church development and residential development. In zoning the Current Church Property as CF, the Town has already determined that CF zoning is generally compatible with the surrounding area.

The proposed rezoning of the Future Residential Property would also not create an isolated district unrelated to incompatible with the adjacent and nearby districts. The land use designation of Residential 3 anticipates the development of this property with traditional single family homes. The rezoning action requested, coupled with the density assignment requested, will result in exactly the type of development anticipated by the Land Use Plan. The proposed density will be 3.83. The area to the north of the site (along the older portion of Pine Island Road) has been developed with homes at densities ranging from 3.6 to 16 units per acre and the property east of the site is designated for 5 units to the acre.

- (3) Existing zoning district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.

The boundaries of the CF district, which are coextensive with the boundaries of the Current Church Parcel, are illogically drawn because they create an inappropriately configured church parcel and a residential parcel broken up by the CF zoning in a manner that inhibits good residential development.

- (4) The proposed change will adversely affect living conditions in the neighborhood.

**The proposed low density residential development and the proposed church will not adversely affect living conditions in the neighborhood because those uses are compatible with the surrounding area and are uses that were already anticipated by the current land use designations of Residential 3 and CF and the zoning designation of CF on the Current Church Parcel. The proposed residential density of 3.83 falls within the range of surrounding land use and densities.**

- (5) The proposed change will create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety.

**The proposed change will create only 18 units more than were anticipated by the land use plan. That increase is less than 180 daily trips. The residential development will be designed with access restricted to Pine Island Road which has the capacity to accommodate the development.**

- (6) The proposed change will adversely affect other property values.

**The redesignation of the parcels as proposed by the rezoning will facilitate better residential development and better designed church facilities than would be possible under the current zoning. Therefore, these changes can be expected to enhance the property values in the surrounding area.**

- (7) The proposed change will be a deterrent to the improvement or development of other property in accord with existing regulations.

**The proposed change will not affect development of other property in accordance with existing regulations.**

- (8) The proposed change will constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public.

**The Petitioner is proposing to make use of the provisions of the land use plan that were intended to be used for these purposes to zone property to densities that exceed somewhat the current land use density but are significantly lower than the next highest residential density. The welfare of the public is well served in this instance by changing discontinuous residential parcels into a contiguous residential parcel of twenty acres which can be developed with**

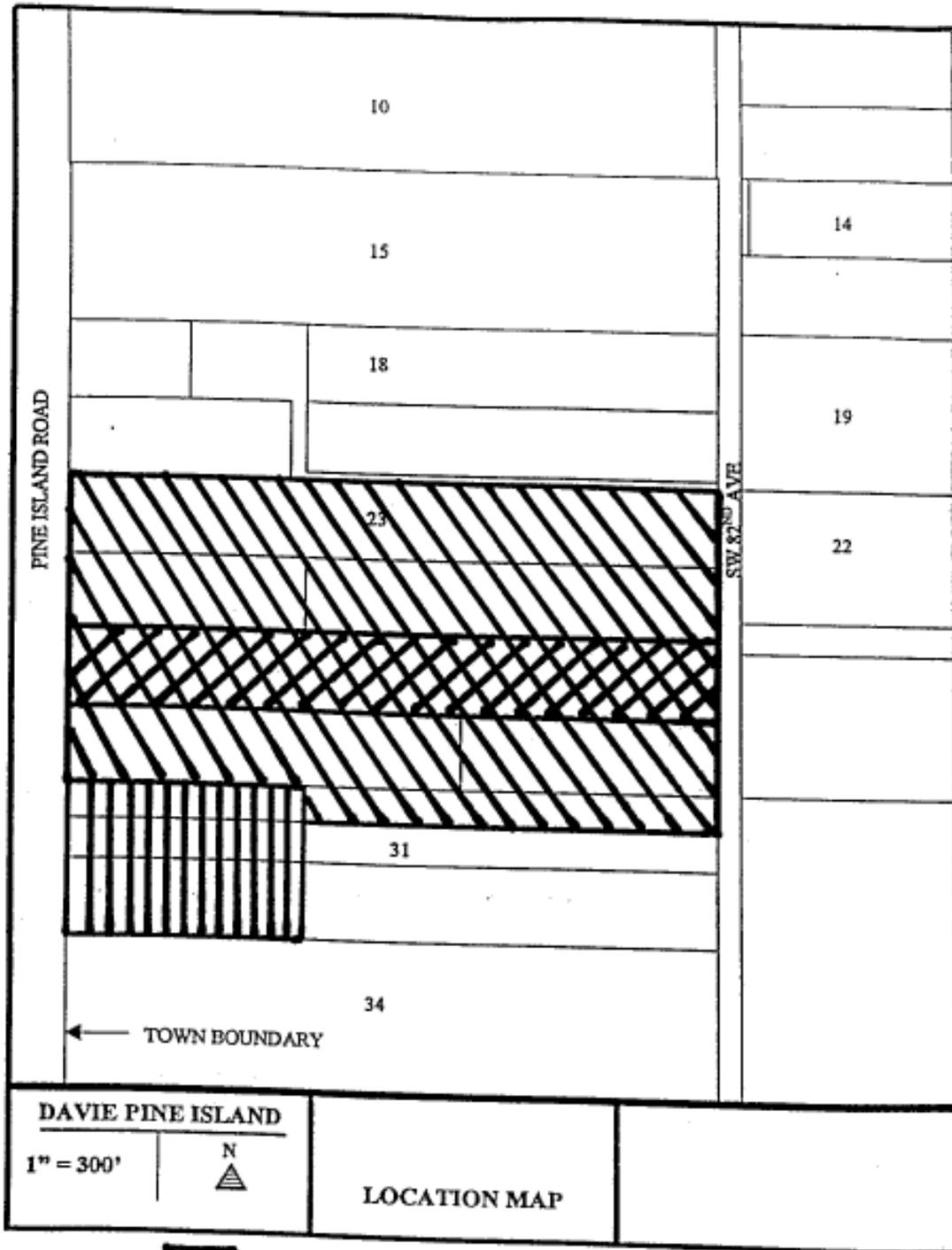
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**detached traditional single family homes at a density compatible with the surrounding land use.**

- (9) There are substantial reasons why the property cannot be used in accord with the existing zoning.

**As described above, the configuration of the Current Church Property renders it inappropriate for church purposes and probably for many other purposes permitted in the CF district. The A-1 designation on the Future Residential Property does not permit the property which is located on a primary trafficway to be developed at a density that makes the provision of desired water, sewer and drainage facilities economically feasible. An agricultural designation for the property which now fronts upon a major thoroughfare in what has become a more urbanized area is no longer appropriate.**

EXHIBIT "A"



-  FUTURE RESIDENTIAL PROPERTY
-  FUTURE CHURCH PROPERTY
-  CURRENT CHURCH PROPERTY / FUTURE RESIDENTIAL PROPERTY

Pine Island Rd.

RESIDENTIAL  
3 DU/AC

S.W. 82nd Ave.

RESIDENTIAL  
5 DU/AC

**SUBJECT SITE**

COMMUNITY FACILITY

RESIDENTIAL  
3 DU/AC

COMMERCIAL

COMMUNITY  
FACILITY

S.W. 55th Ct.

PETITION NUMBER  
ZB 7-1-99

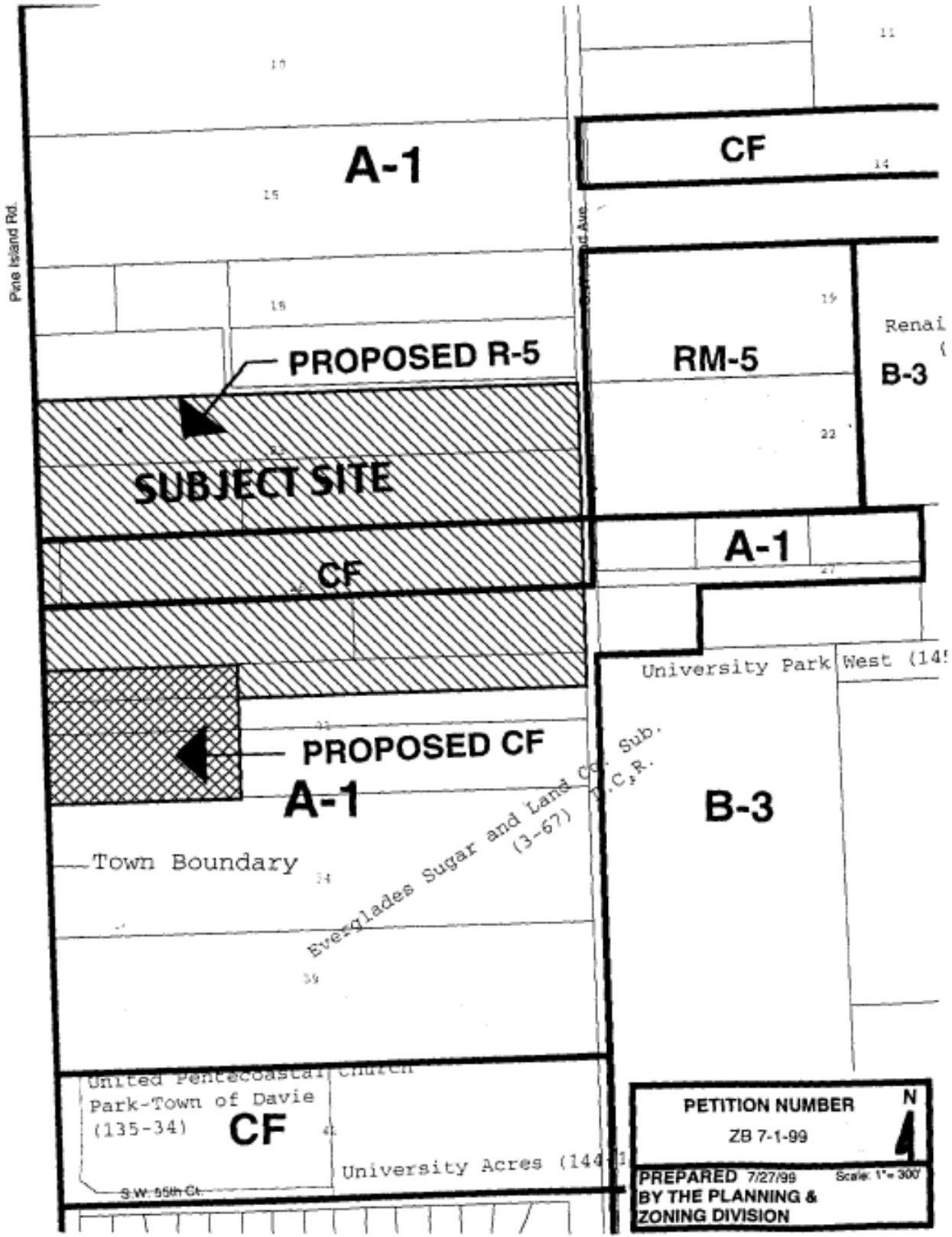
N

Source: Town of Davis Future Land Use Map

PREPARED 7/23/99

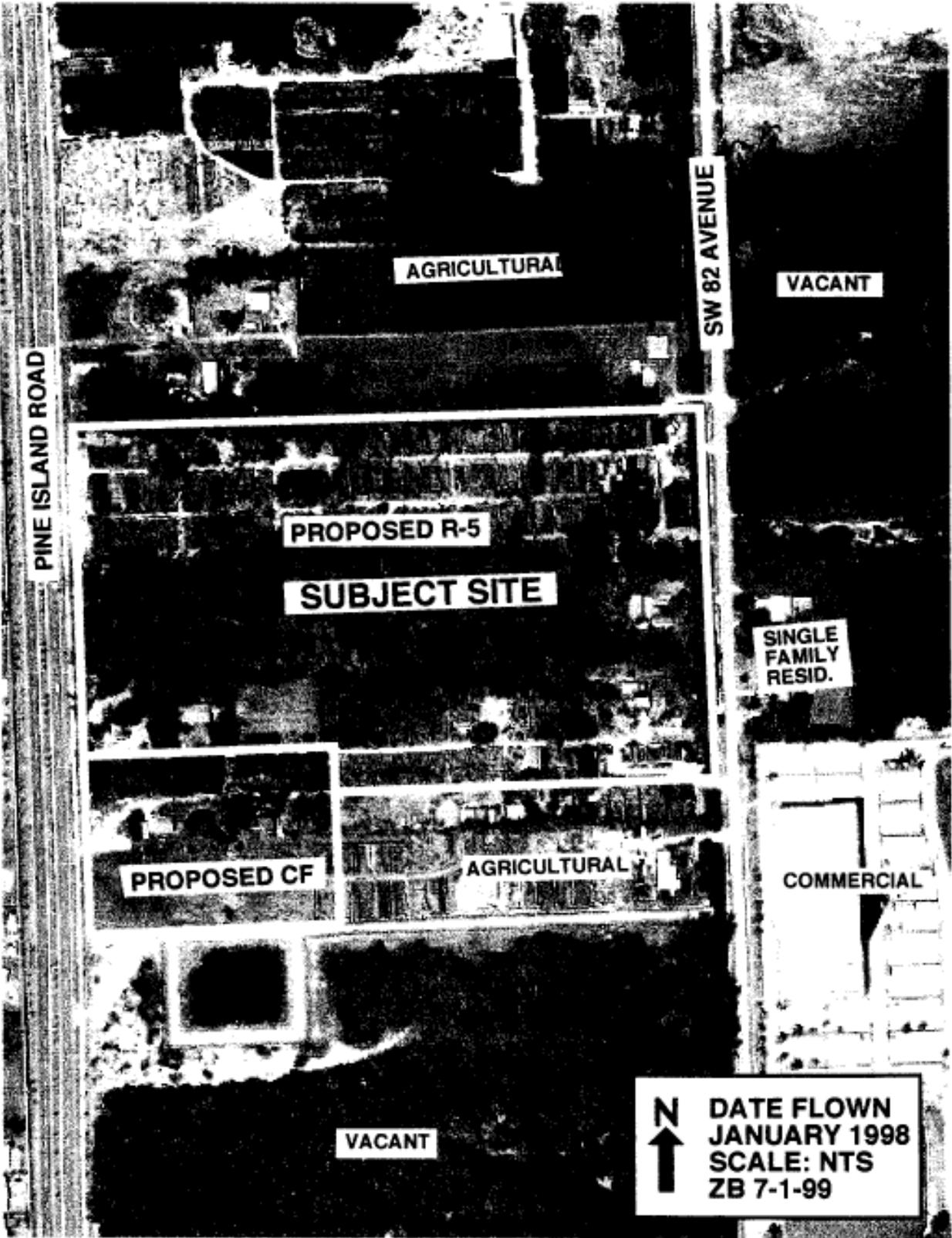
Scale: 1"=300'

BY THE PLANNING &  
ZONING DIVISION



**PETITION NUMBER** N  
 ZB 7-1-99 4

PREPARED 7/27/99 Scale: 1" = 300'  
 BY THE PLANNING & ZONING DIVISION



AGRICULTURAL

VACANT

PINE ISLAND ROAD

SW 82 AVENUE

PROPOSED R-5

SUBJECT SITE

SINGLE FAMILY RESID.

PROPOSED CF

AGRICULTURAL

COMMERCIAL

VACANT

N  
↑  
DATE FLOWN  
JANUARY 1998  
SCALE: NTS  
ZB 7-1-99