



Town Council Agenda Report

SUBJECT: QUASI JUDICIAL - REZONING

TITLE OF AGENDA ITEM:

ZB 8-1-99 - Leigh Robinson Kerr & Associates, petitioner / Timothy Ryan, owner - 3450 SW 36 Street, generally located at the northwest corner of SW 36 Street and I-75.

REPORT IN BRIEF:

The petitioner is proposing to rezone 3.553 acres from AG to BP, with the use of the “residential-to-commercial” flexibility rule as permitted by Broward County. The BP zoning designation would not be permitted within the existing Residential (1 du/ac) land use designation without the use of the “residential-to-commercial” flexibility rule, which requires approval of a compatibility study by the Broward County Commission prior Neighborhood Planning Division for use of the “residential-to-commercial” flexibility rule. This property falls within flexibility zone 113. Currently there is sufficient flex available within flexibility zone 113 for this request, while leaving surplus flexibility for future requests. Certain uses within the proposed BP zoning district are inconsistent with the uses permitted when utilizing “residential-to-commercial” flexibility. Therefore, the petitioner will be required to provide a declaration of restrictions prior to the second reading of the ordinance. The uses to be restricted will be determined at the time of compatibility review by Broward County, consistent with the Town’s zoning regulations.

The proposed rezoning is consistent with the surrounding uses and location adjacent to Interstate I-75. The proposed rezoning will have no negative impact on the Broward County school system, or regional roadway network. Therefore, staff believes the proposed rezoning is consistent with the goal policies and objectives of the Town Comprehensive Plan.

PREVIOUS ACTIONS:

The Town Council tabled this item to November 3, 1999, at its October 6, 1999 meeting.

CONCURRENCES:

The Planning and Zoning Board recommended approval (5-0) of the ammended application, subject to the planning report at it’s October 27, 1999 meeting (motion by Mr. Pisula, second by Mr. Kuvin)

Staff finds that the proposed rezoning is consistent with the criteria outlined in Section 12-307 and can be considered to be in harmony with the general intent and purpose of the Code.

FISCAL IMPACT: Is appropriation required? No
Funding appropriated? No

RECOMMENDATION(S):

Motion to approve.

ATTACHMENTS:

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

Application #: ZB 8-1-99

Revisions:

Exhibit "A":

Original Report Date: 10/28/99

**TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation**

APPLICANT INFORMATION

Owner:

Name: Timothy Ryan
Address: 5691 Woodland Lane
City: Davie, FL 33312
Phone: (954) 920-2921

Agent:

Name: Leigh Robinson Kerr & Associates
Address: 808 East Las Olas Blvd., Ste. 104
City: Fort Lauderdale, FL 33301
Phone: (954) 467-6308

BACKGROUND INFORMATION

Application Request: To rezone the subject site from AG, Agricultural District to BP, Business Park District, with the utilization of the Broward County "Residential-to-Commercial" Flexibility Rule.

Address/Location: 3450 Weston Road - Generally located approximately one-quarter mile north of SW 36th Street on the east side of Weston Road.

Land Use Plan Designation: Residential (1 du/ac)

Zoning: AG, Agricultural District

Existing Use: Vacant

Proposed Use: Office/Business

Parcel Size: 3.553 acres

Surrounding Land Use:

North: Vacant (Proposed Wetland Mitigation Area)

South: Vacant (Proposed Office/Business Center)

East: Interstate I-75

West: City of Weston, Weston Park of Commerce

Surrounding Zoning:

South: BP, Business Park District

East: AG, Agricultural District, across Interstate I-75 zoned T, Transportation

West: City of West, Weston Park of Commerce

ZONING HISTORY

Related Zoning History: No previous zoning actions occurred on this property. There is an associated variance pending (V 9-4-99) which is required in order to rezone this property to the BP zoning district, also on this agenda.

Previous Request on same property: None

Applicable Codes and Ordinances

12-24(G): The Business Park (BP) District is intended to be used to promote modern campus types of industrial office, distribution and service business areas where a wide variety of uses can be built in an attractive environment with substantial open areas on the periphery of the development.

Table 12-54: Non-Residential Performance Standards for the BP zoning district requires a minimum site area of 20 acres.

Comprehensive Plan Considerations

Planning Areas The Broward County Land Use Plan provides for the division of all land within the County into smaller geographically defined areas for planning purposes. These planning areas are referred to as “flexibility zoned” and are used in the application of flexibility rules, reserve units, and rearrangement of land uses within the parameters of the “flex rules”. Flexibility Zone boundaries generally follow municipal limits, major geographic features, and primary transportation facilities. All or portions of 12 flexibility Zones are located within the Town of Davie.

Planning Area: The subject site falls within Planning Area 1 and Flexibility Zone 113. Annexations have expanded the Town’s western boundary in this vicinity, to include additional residential and commercial lands and property owned by the local drainage district.

Future Land Use Policy 7-1, the Town shall endeavor to expand its economic base through expansion of the commercial sector of its economy.

Future Land Use Policy 7-3, zoning regulations shall provide for varying intensities of commercial development, and direct application of appropriate districts where compatible with adjacent and surrounding uses.

Future Land Use Policy 7-4, commercial land uses shall generally be located with access to primary transportation facilities including interstates, highways and arterials.

Staff Analysis

This petition includes a request for use of the "residential-to-commercial flexibility rule" as

permitted by the Broward County Land Use Plan, and the Plan Implementation Section of the Town Comprehensive Plan. Prior to ultimate Town approval, the petitioner must initiate the Broward County compatibility determination process required for all use of flexibility. The petitioner has been informed to contact the Comprehensive Neighborhood Planning Division of Broward County to initiate this process. The subject property lies within flexibility zone 113 which has a sufficient amount of flexibility available to accommodate this request, and still provide for a number of requests for flexibility in the future.

The residential-to-commercial flexibility rule, as outlined within the Broward County Land Use Plan, stipulates that in order utilize residential-to-commercial flexibility, use of the subject property is limited to neighborhood office and/or retail sales of merchandise or services. This will require the applicant to restrict use of the property consistent with this requirement, which would eliminate the following uses: agricultural, commercial agriculture, auction house, adult education, light manufacturing, medium manufacturing, warehouse, storage, watchman's apartment and wholesale uses. Staff expects Broward County to duplicate these restrictions for the subject site.

The approximate 1/4 acre property immediately north of the subject site is currently under the same ownership and is not included within this request. The petitioner has indicated this property will be used for on-site wetland mitigation and will retain its AG zoning designation (see Exhibit "B").

Interstate 75 geographically isolates the subject site from all other portions of Davie with the exception of more than 150 acres of land to the south zoned BP. Land west of the site, in the City of Weston, is also developed consistent with the BP district uses. The subject site's AG zoning is inappropriate given the site's isolation, adjacent uses and adjacent zoning. Rezoning the site to the BP district would provide continuity in zoning and land use in the area west of I-75, consistent with the intent of the BP district, and avoid any perception of spot zoning, should the subject site be rezoned to a district other than BP.

The proposed rezoning is consistent with the Town's effort to enhance economic development, provides for employment opportunities within the community, and is well situated with nearby access to the I-75/ Griffin Road interchange. Thus, the proposed rezoning should facilitate commercial development of the property while maintaining the integrity and viability of surrounding properties in accord with existing regulations.

It is important to note, the subject site is currently unplatted and will be required to undergo concurrency review by Broward County and the Town relative to public facility capacity.

Furthermore, staff has identified that Section 12-54 of the Town Land Development Code requires a minimum site area of 20 acres for all BP zoning designations. Subsequently, the petitioner is requesting a variance from this section, also on this agenda (V 9-4-99).

Findings of Fact

Section 12-307

- The proposed change will provide continuity in the area's zoning.
- The proposed change will not adversely affect living conditions in the area;
- 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;
 - 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 zoning designation is 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.
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Staff Recommendation

Recommendation: Based upon the above and the finding of facts in the positive, staff recommends approval of Application No. ZB 8-1-99, subject to approval of variance V 9-4-99, compatibility approval by Broward County for use of the Residential-to-Commercial flexibility rule, and execution of a voluntary deed restriction for the use of only those uses noted within the planning report.

Planning and Zoning Board Recommendation

The Planning and Zoning Board recommended approval (5-0) of the ammended application, subject to the planning report at it's October 27, 1999 meeting (motion by Mr. Pisula, second by Mr. Kuvin)

Exhibits

1. Land Use Map
2. Subject Site Map
3. Aerial

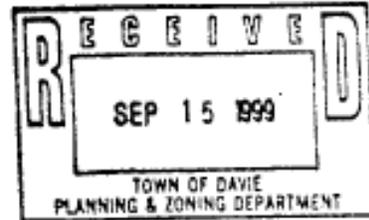
Prepared by: _____

Reviewed by: _____

EXHIBIT "B"

Leigh Robinson Kerr & Associates, Inc.

Member, American Institute
of Certified Planners



MEMORANDUM

DATE: September 10, 1999

TO: Jason Eppy, Planner II
Town of Davie

FROM: Leigh R. Kerr, AICP 

RE: RYAN REZONING

As we discussed, the following will outline the intended utilization of the remaining property north of the proposed rezoning.

The remaining triangular parcel which is located within a portion of Tract 48 would be part of my client's ownership. Because of its limited dimension, it is their intention to utilize the triangular parcel for wetlands mitigation purposes.

I trust the above addresses your request. If you should have any questions or need additional information, please do not hesitate to contact me.

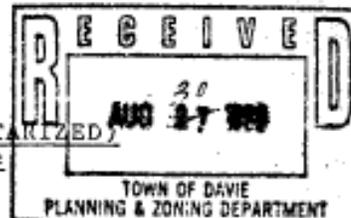
LRK/ker

EXISTING ZONING: Agriculture
CODE SECTION:
PROPOSED ZONING: BP-Business Park
CODE SECTION:
LAND USE DESIGNATION: Residential (1)
FOLIO NUMBER 50502101 0420; 0430; 0440

TOWN OF DAVIE USE ONLY	
PETITION NO.	<u>ZB 8-4-99 400</u>
FEE.	<u>\$1550.00</u>
RECEIPT NO.	<u>7712</u>

TOWN OF DAVIE
REZONING APPLICATION

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



DATE FILED: 8/30/99 PHONE: 954-467-6308
PETITIONER: Leigh Robinson Kerr & Associates, Inc.
MAILING ADDRESS: 808 East Las Olas Blvd #104, Ft Lauderdale, FL 33301
RELATIONSHIP TO PROPERTY: Agent
OWNER: Timothy M. Ryan
MAILING ADDRESS: 700 E. Dania Beach Blvd. Dania Beach, FL 33004
ADDRESS OF PROPERTY: Northeast corner of Southwest 36th Street and
Weston Road.

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

See attached .

ACREAGE: 3 +/-

REQUEST: Rezone the subject property to BP-Business Park, utilizing flexibility.

REASON FOR REQUEST (attach additional sheet as necessary):

Due to existing and proposed development in the surrounding area,
the subject site is no longer suitable for agricultural uses.

Pre-Application meeting has been met. JK

*** PETITIONER MUST BE PRESENT IN ORDER FOR ACTION TO BE TAKEN ***

OFFICE USE ONLY

APPROVED AS TO FORM: JK PUBLICATION DATE: 9/15/99
MEETING DATE: PLANNING AND ZONING BOARD: 9/22/99 TOWN COUNCIL: 10/6/99 7/11/01
NOTICES SENT: 3 REPLIES: FOR: _____ AGAINST: _____
UNDELIVERABLE: _____

Timothy M. Ryan
OWNER'S NAME(S)

[Signature]
OWNER'S SIGNATURE (ALL OWNERS MUST SIGN)

700 East Dania Beach Blvd
ADDRESS

Dania Beach, FL 33004
CITY, STATE, ZIP

954-920-2921
PHONE

PHONE

The foregoing instrument was acknowledged before me this 13th day of August, 1999, by Timothy M. Ryan who is personally known to me or who has produced _____

as identification and who did take an oath.

NOTARY PUBLIC:

Sign: [Signature]

Print: LENA D. REID

My Commission Expires:



Lena D. Reid
MY COMMISSION # CC737820 EXPIRES
April 28, 2002
BONDED BY THE FAIRPLAY INSURANCE CO.

Leigh Robinson Kerr & Associates, Inc.
PETITIONER'S NAME

[Signature]
PETITIONER'S SIGNATURE

808 East Las Olas Blvd, #104
ADDRESS

Ft. Lauderdale, FL 33301
CITY, STATE, ZIP

954-467-6308
PHONE

PHONE

The foregoing instrument was acknowledged before me this 14th day of August, 1999, by Cynthia A. Bertschinger who is personally known to me or who has produced _____

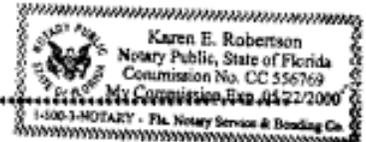
as identification and who did take an oath.

NOTARY PUBLIC:

Sign: [Signature]

Print: KAREN E. ROBERTSON

My Commission Expires:



Karen E. Robertson
Notary Public, State of Florida
Commission No. CC 556769
My Commission Exp. 04/22/2000
1-800-1-NOTARY - Fla. Notary Service & Bonding Co.

OFFICE USE ONLY

PLANNING AND ZONING BOARD RECOMMENDATION:
09/22/99 - tabled to 10/27/99 [initials]

TC tabled to 11/3/99 on 10/6/99 [initials]

SKETCH OF THE RYAN LANDS TO BE REZONED

DESCRIPTION

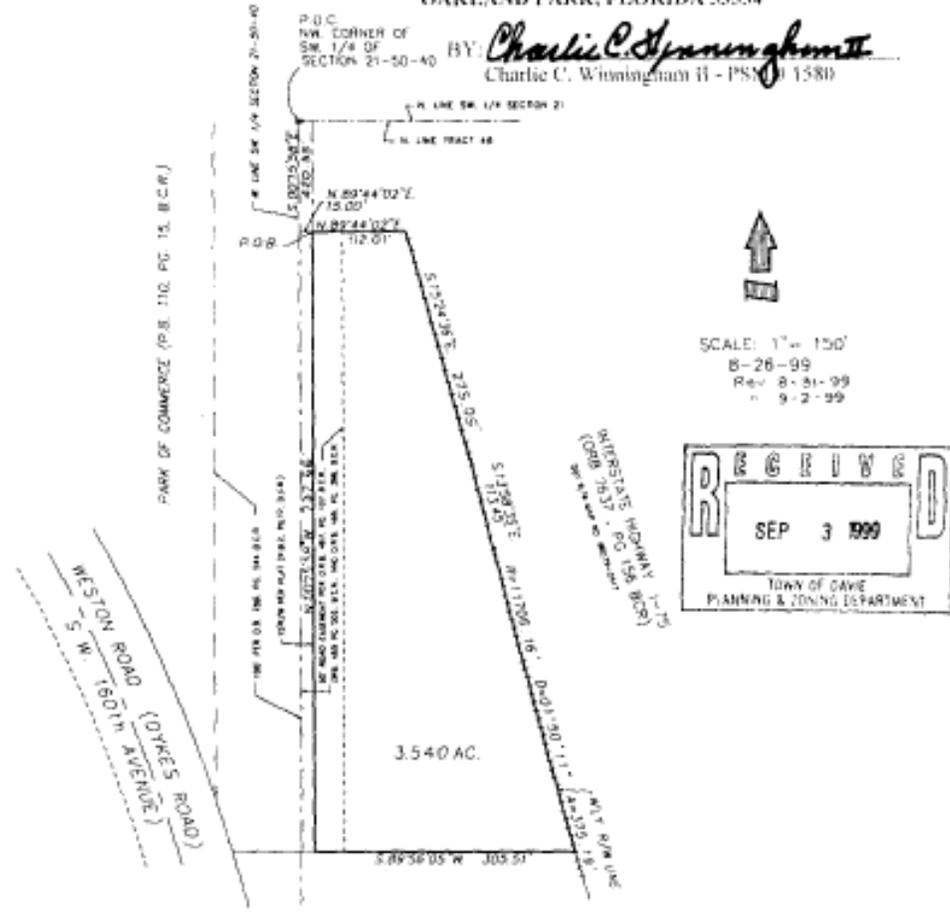
A parcel of land in the Southwest 1/4 of Section 21, Township 50 South, Range 40 East, said parcel including portions of Tract 45, 46 and 47, according to the FLORIDA TRUITT LANDS COMPANY'S SUBDIVISION NO. 1 of said Section 21, as recorded in Plat Book 2 at Page 17 of the Public Records of Dade County, Florida, and being more particularly described as follows:

Commencing at the Northwest corner of said Southwest 1/4 of Section 21; thence run South 00°15'58" East (on a grid bearing) 420.55 feet along the West line of said Southwest 1/4; thence run North 89°44'02" East 15.0 feet to the Point of Beginning; thence continue North 89°44'02" East 112.01 feet to an intersection with the Westerly right of way line of Interstate Highway I-75, as described in the instrument filed in Official Records Book 7637 at Page 156 of the Public Records of Broward County, Florida; thence run South 13°24'36" East 275.05 feet along said Westerly right of way line to a point of intersection; thence run South 13°58'35" East 113.45 feet along said Westerly right of way line to a point of curvature of a curve to the left; thence along said Westerly right of way line on the arc of said curve to the left, having a radius of 11706.16 feet and a central angle of 01°50'11", run Southeasterly 375.19 feet to an intersection with the South line of the North 1/2 of said Tract 45; thence run South 89°56'05" West 305.51 feet along said South line to an intersection with a line 15 feet East of, as measured at right angles and parallel to said West line of the Southwest 1/4 of Section 21; thence run North 00°15'58" West 737.66 feet along said parallel line to the Point of Beginning.

Said lands situate in the Town of Davie, Broward County, Florida and containing 3,540 acres, more or less.

C.C. WINNINGHAM CORPORATION - LR # 46
 1040 NORTH EAST 45TH STREET
 OAKLAND PARK, FLORIDA 33334

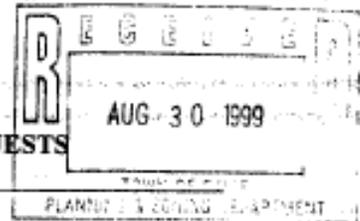
BY: *Charlie C. Winningham II*
 Charlie C. Winningham II - PSM # 1580



P.O.C. = POINT OF COMMENCEMENT
 P.O.B. = POINT OF BEGINNING

4 4 6 9 4

CRITERIA FOR REVIEWING REZONING REQUESTS



The Planning and Zoning Board shall hold its public hearing and make a recommendation upon the application to the Town Council based upon its consideration of, where applicable, whether or not:

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

The subject property is currently designated Residential (1) on the Town of Davie Land Use Plan Map. The Davie Comprehensive Plan permits office and/or retail sales of merchandise or services on lands designated on residential, provided that no more than a total 5% of area designated for residential use on the Davie Future Land Use Plan Map may be used for offices and/or retail sales of merchandise or services. This proposed rezoning to BP (Business Park) is consistent with this 5% commercial flexibility rule. Therefore, the requested rezoning is consistent with the adopted Comprehensive Plan.

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

Property to the south of the subject site is currently designated for residential use on the Town of Davie Future Land Use Plan Map but is also zoned BP (Business Park). Therefore, this proposed change would not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts.

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

The subject property is currently zoned AG (Agriculture). This site is located immediately adjacent and west of I-75 and is comprised of approximately 3 acres. This site is no longer suitable for agricultural use, given the current development patterns and future land use designations in the surrounding area. This rezoning will facilitate development of a viable use which will serve the existing and proposed residential uses in the area.

Criteria for Reviewing Rezoning Requests

in the area. Therefore, this proposed rezoning will not deter development in the surrounding area.

- (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 applicant is requesting a change to BP (Business Park) which is a zoning district in the Town of Davie Land Zoning Code and is available to all individual property owners within the Town. Property south of the subject site is currently designated for residential use on the Town of Davie Land Use Plan Map but is zoned BP.

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

The subject property is currently zoned for agriculture uses. The property contains 3 acres and is surrounded by major transportation facilities and urban type development. Therefore, the property can no longer be utilized for agricultural purposes. The proposed BP zoning designation is more compatible and consistent with the existing development in the surrounding area than the current agricultural zoning.

Taken from: Section 27-803(g) of the Code of Ordinances Town of Davie, as amended.

Criteria for Reviewing Rezoning Requests

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

The subject site is proposed to be rezoned to BP (Business Park). This rezoning will facilitate development of a neighborhood office and/or retail sales which are compatible with the surrounding development patterns. The subject site which is adjacent to I-75 and Weston Road is an appropriate location for these uses. In addition, the proposed uses will reduce the distance that nearby residents need to travel for neighborhood commercial uses. Therefore, this proposed change will have no adverse effect on living conditions in the neighborhood.

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

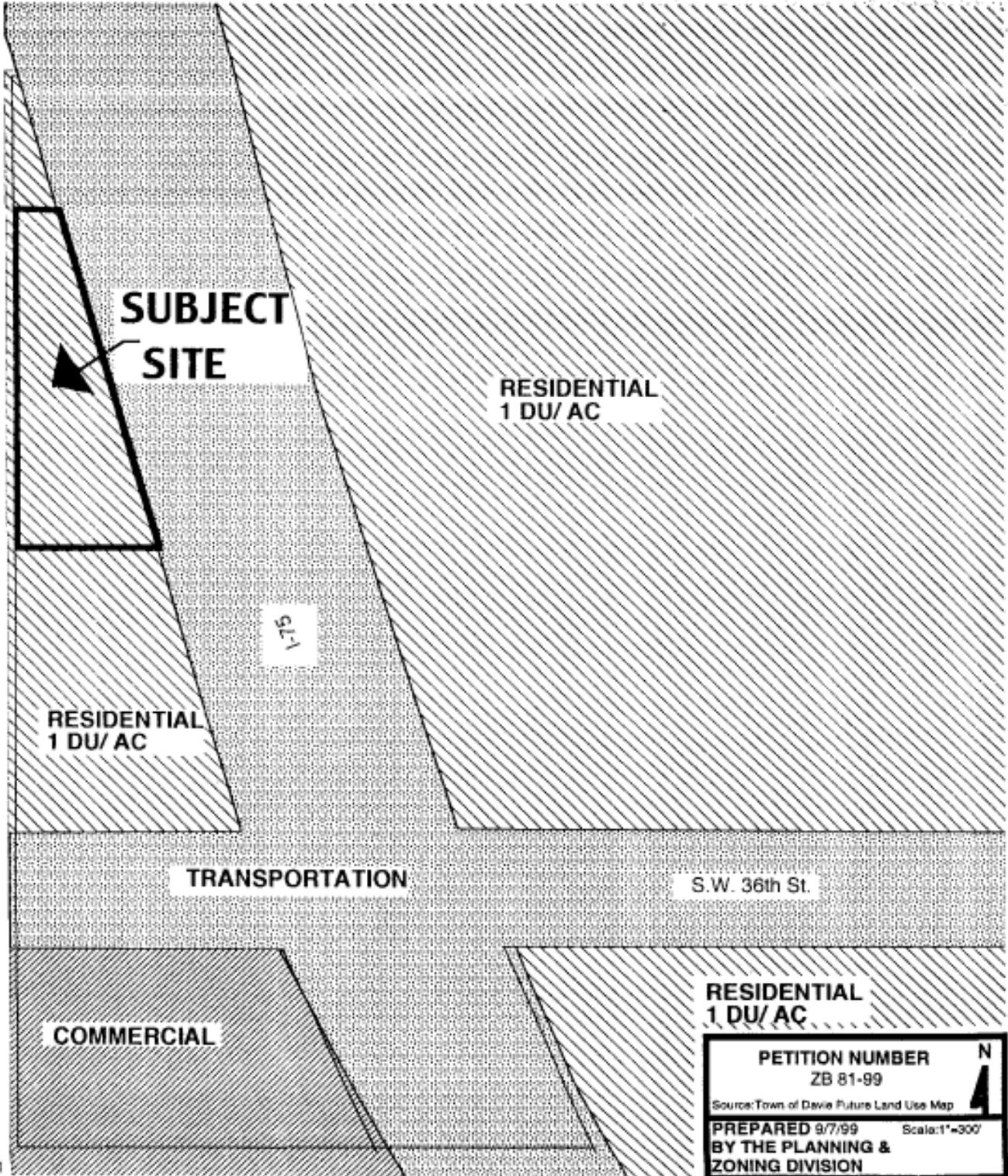
The subject site is bounded by two (2) transportation facilities: I-75, , and Weston Road. The site will be provided with access to facilitate safe and adequate traffic movement. As this site is only comprised of approximately 3 acres, there will not be an excessive amount of automobile traffic generated as a result of development of this site.

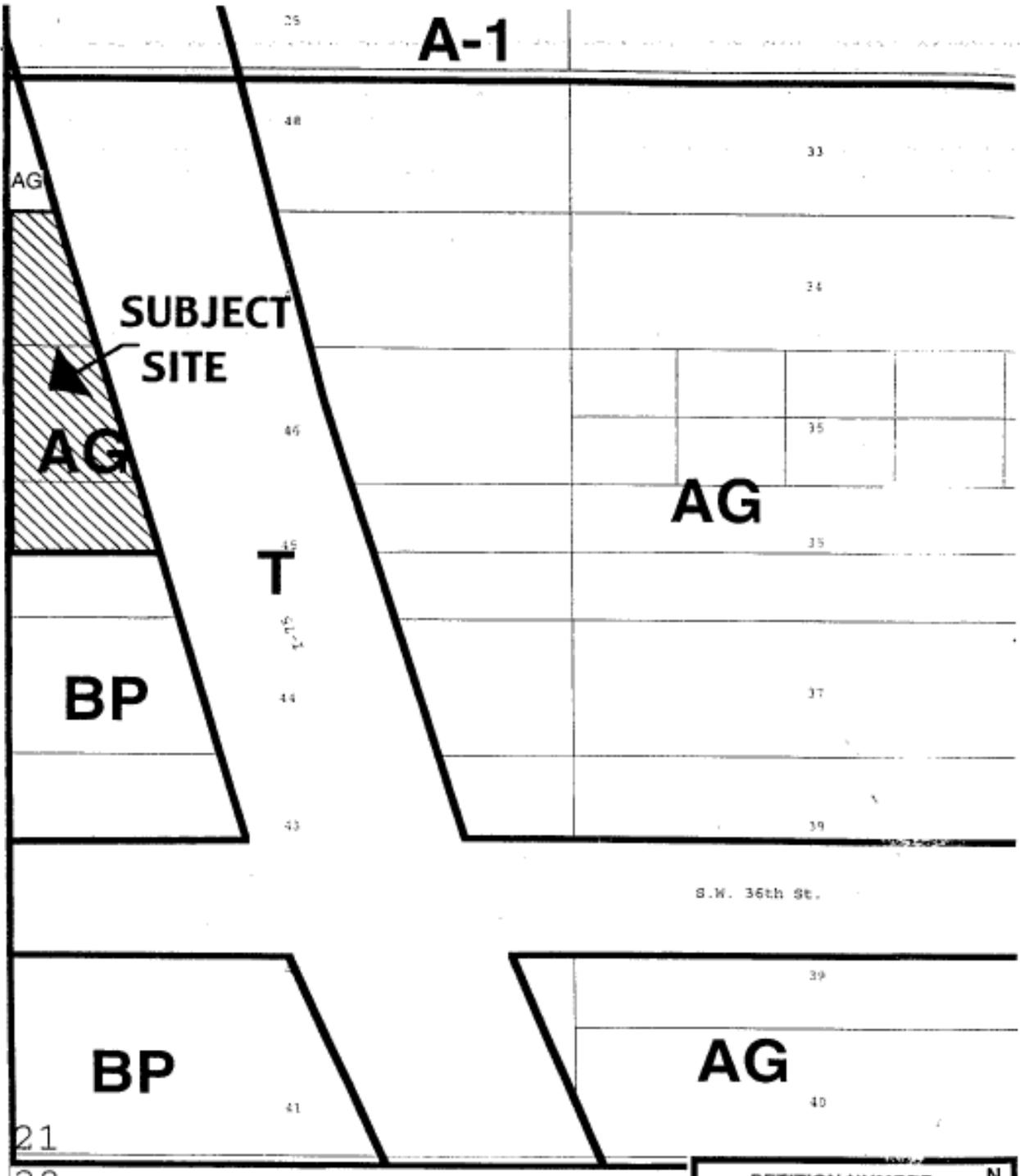
- (6) The proposed change will adversely affect other property values;

The area north of Griffin Road and west of I-75 is comprised of a variety land uses including commercial, employment center, industrial and a range of residential densities. The proposed BP zoning is consistent with the zoning immediately south of the subject site. Therefore, this proposed rezoning is consistent with development patterns in the area. In addition, development on the site will be restricted to office and/or retail sales, and will not produce objectionable noise, smoke, odor, or traffic. Therefore, this proposed rezoning will not adversely effect property values in the area.

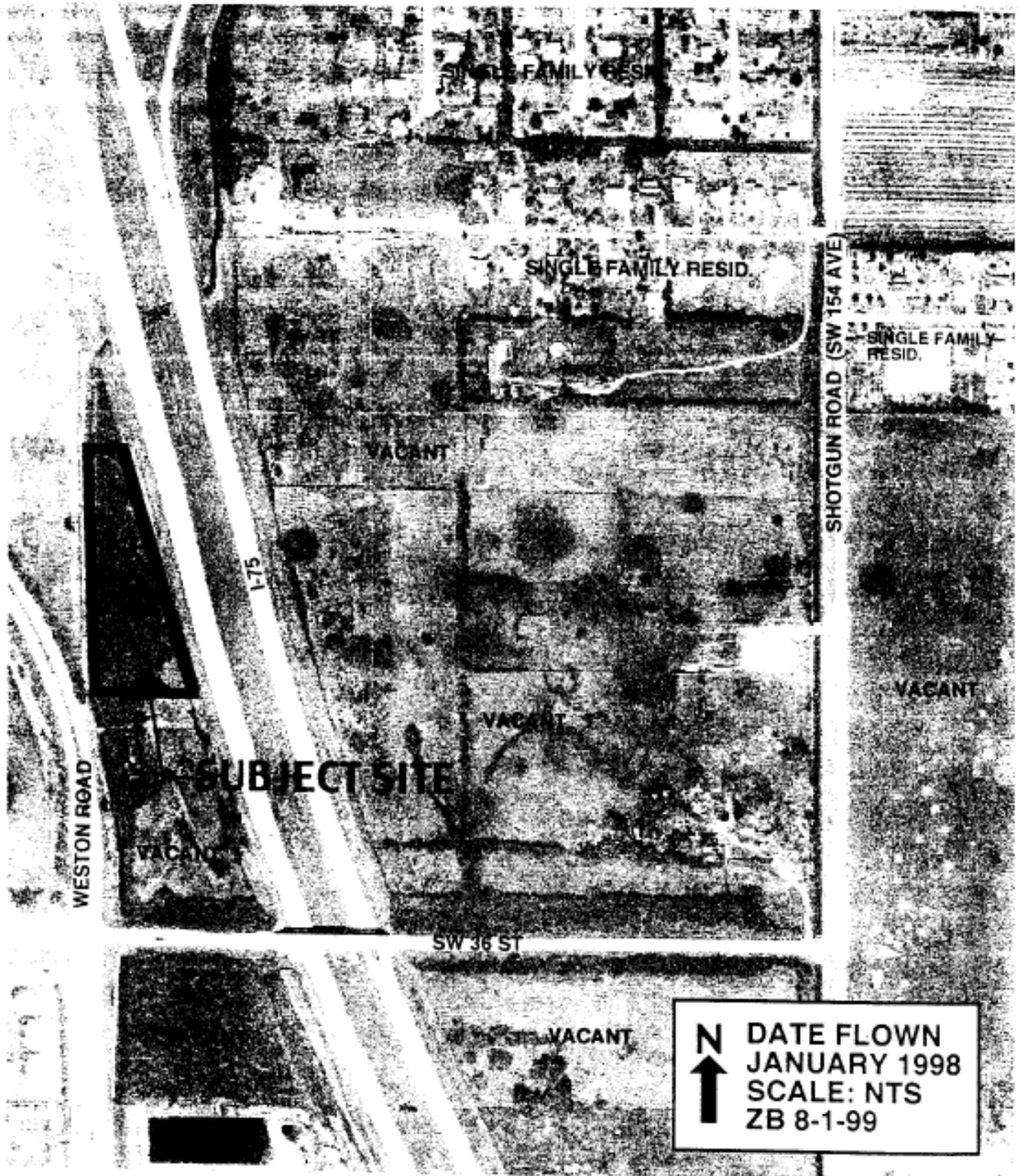
- (7) The proposed change will be a deterrent to the improvement or development of other property in accord with existing regulations;

The site is proposed to be developed with neighborhood office and/or retail sales. The surrounding area within the Town of Davie and the City of Weston is planned to include a variety of urban uses. The low intensity neighborhood commercial uses proposed for this property are consistent with current and future development patterns





PETITION NUMBER		N ▲
ZB 8-1-99		
PREPARED 9/7/99	Scale: 1" = 300'	
BY THE PLANNING & ZONING DIVISION		



SINGLE FAMILY RESID.

SINGLE FAMILY RESID.

SINGLE FAMILY RESID.

VACANT

VACANT

VACANT

SUBJECT SITE

VACANT

VACANT

WESTON ROAD

SHOTGUN ROAD (SW 154 AVE)

SW 36 ST

1-75

N
↑
DATE FLOWN
JANUARY 1998
SCALE: NTS
ZB 8-1-99