



Town Council Agenda Report

SUBJECT: Ordinance (2nd Reading)

(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.

CONTACT PERSON/NUMBER

Name: Jason Eppy, Planner II
Phone: (954) 797-1108

TITLE OF AGENDA ITEM:

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM AG, AGRICULTURAL DISTRICT TO BP, BUSINESS PARK DISTRICT, OF THE TOWN OF DAVIE CODE; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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.
- Town Council approved this item (5-0), at its November 3, 1999 meeting.
- Town Council approved (5-0) item V 9-4-99, at its November 3, 1999 meeting.
- Town Council tabled 2nd Reading of the ordinance to it 12/15/99 meeting on 12/1/99.

CONCURRENCES:

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

FISCAL IMPACT: Not applicable.

RECOMMENDATION(S): Motion to approve the ordinance.

Attachment(s): Ordinance with back-up, Land Use Map, Subject Site Map, and Aerial.

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM AG, AGRICULTURAL DISTRICT TO BP, BUSINESS PARK DISTRICT, OF THE TOWN OF DAVIE CODE; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, that the classification of certain lands within the Town be changed from AG, Agricultural District to BP, Business Park District,

WHEREAS, said notice was given and publication made as required by law on November 24, 1999, and a public hearing thereunder was held on December 1, 1999.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE FLORIDA:

SECTION 1. That the property herein after described be and the same is hereby rezoned and changed from AG, Agricultural District to Business Park District:

a. The subject property is described in Exhibit "A", which is attached hereto and made a part hereof.

SECTION 2. That the owner has voluntarily executed a deed restriction on the property described in Section 1:

a. The deed restriction is attached as Exhibit "B", which is attached hereto and made a part hereof.

SECTION 3. That the zoning map heretofore adopted by the Town Council be and the same is hereby amended to show the property described in Section 1, herein, as BP, Business Park District.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 6. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 1999.

PASSED ON SECOND READING THIS _____ DAY OF _____, 1999.

ATTEST:

MAYOR/COUNCILMEMBER

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 1999.

EXHIBIT "A"

SKETCH AND DESCRIPTIONS OF PORTIONS OF POINTE WEST CENTER NORTH TO BE RE-ZONED

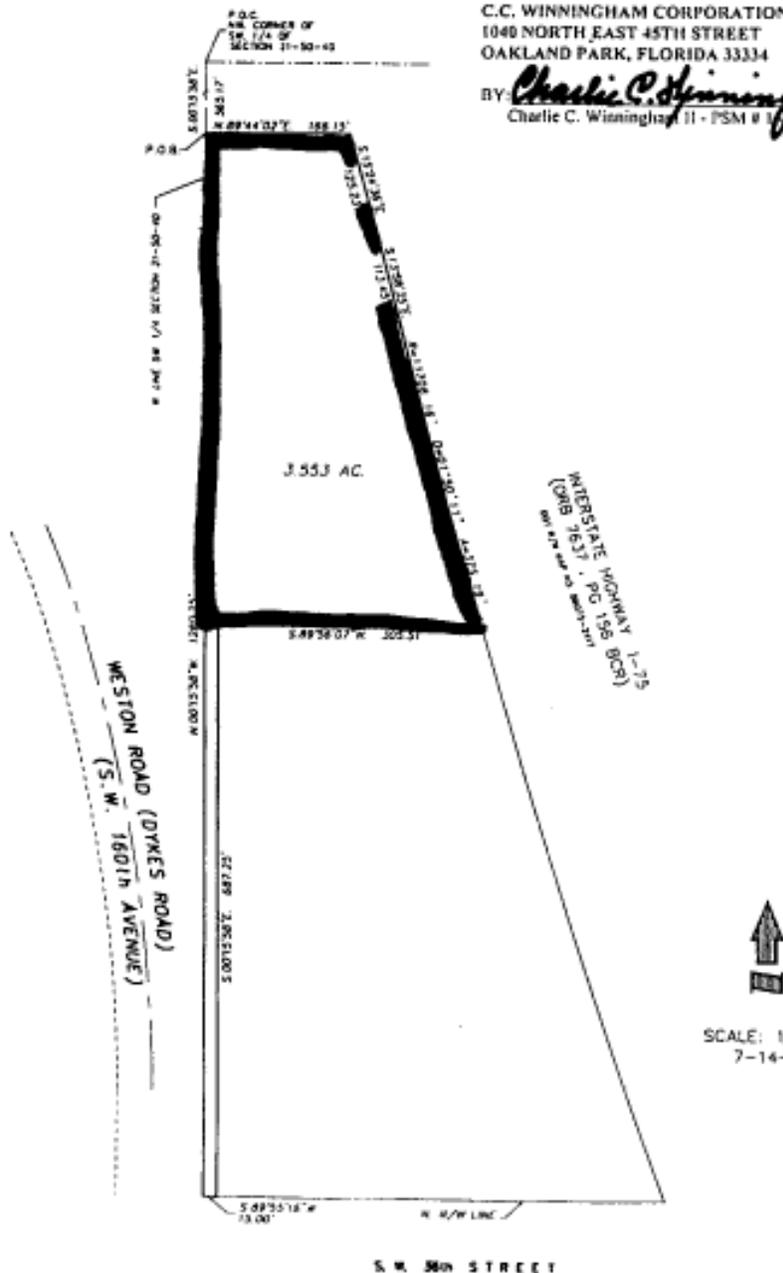
A parcel of land in the Southwest 1/4 of Section 21, Township 30 South, Range 40 East. Said parcel including portions of the FLORIDA FRUIT LAND COMPANY'S SUBDIVISION NO. 1 of said Section 21, as recorded in Plat Book 2 at Page 17 of the Public Records of Dale County, Florida and being more particularly described as follows:

Commencing at the Northwest corner of the Southwest 1/4 of said Section 21; thence run South 00°15'58" East (on a grid bearing) 565.17 feet along the West line of said Southwest 1/4 of Section 21 to the Point of Beginning; thence run North 89°44'02" East 166.15 feet to an intersection with the Westerly right of way line of Interstate Highway 1-75; thence run South 15°24'36" East 123.23 feet along said Westerly right of way line to a point of intersection; thence run South 17°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 11,708.18 feet and a central angle of 01°50'11"; thence run South 89°16'01" West 202.51 feet to an intersection with a line 1.5 feet East of, as measured at right angles and parallel to said West line of the Southwest 1/4 of Section 21; thence run South 00°15'58" East 687.25 feet along said parallel line to an intersection with the North right of way line of Southwest 16th Street, as now located and constructed; thence run South 89°55'18" West 1.5 feet along said North right of way line to an intersection with said West line of the Southwest 1/4 of Section 21; thence run North 00°15'58" West 1280.25 feet along said West line to the Point of Beginning.

Said land is situated in the Town of Davie, Howard County, Florida and containing 3.553 acres, more or less.

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

BY: *Charlie C. Winningham II*
Charlie C. Winningham II - PSM # 110



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

4 4 7 4 0

EXHIBIT "B"

Return to (enclose self-addressed stamped envelope)

Name: Gail Reinfeld, Town Clerk

Address:

Town of Davie
6591 S.W. 45th Street
Davie, Florida 33314

This Instrument Prepared by:

Robert B. Lochrie, III, Esquire
Ruden, McClosky, Smith,
Schuster & Russell, P.A.
200 East Broward Boulevard, 18th Floor
Fort Lauderdale, Florida 33301

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR PROCESSING DATA

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Covenant") made this 2nd day of February, 1999 by TIMOTHY M. RYAN, 700 E. Dania Beach Boulevard, Dania Beach, FL-33004 ("Owner"), shall be for the benefit of BROWARD COUNTY, a political subdivision of the State of Florida, its successors and assigns, with a post office address at 115 South Andrews Avenue, Fort Lauderdale, Florida 33301 ("County") and the Town of Davie, Florida, a Florida municipal corporation, its successors and assigns with a post office address at 6591 Orange Drive, Florida 33314 ("Town").

WITNESSETH:

WHEREAS, the Owner is the fee simple owner of the property more particularly described in Exhibit A ("Property"); and

WHEREAS, the Owner has made application to the Town to rezone the Property to the Town's Business Park (BP) zoning designation; and

WHEREAS, the County, pursuant to the commercial flex provisions of the Broward County Land Use Plan, is required to review neighborhood compatibility.

WHEREAS, the Owner has offered to enter into this Covenant to place certain restrictions on the uses of the Property; and

WHEREAS, the Owner agrees to grant this Covenant to the County and Town and the County and Town agree to accept this Covenant in order to place certain restrictions on the development of the Property upon final approval of Owner's application to amend the Town's zoning map to BP for the Property.

NOW, THEREFORE, in consideration of the promises and covenants herein contained, Owner hereby declares that the Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, and regulations hereinafter set forth, all of which shall run with the Property and any part thereof and which shall be binding upon all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns.

1. Recitations. The recitations set forth above are true and correct and are incorporated into this Declaration by this reference.

2. Use Restrictions. The Property shall be limited to those lawful uses permitted under the Town of Davie Business Park (BP) zoning category pursuant to the Town of Davie Code of Ordinances as such category existed on the date of execution of this Declaration (attached as Exhibit "B"), with the exception of the following uses which shall be prohibited on the Property: agriculture, commercial agriculture, auction house, adult education, light manufacturing, medium manufacturing, warehouse, storage, watchman's apartment and wholesale uses.

3. Access Restriction. There shall be no direct vehicular ingress or egress to the property from Southwest 36th Street (South Post Road).

4. Amendments. This Covenant shall not be modified, amended or released as to any portion of the Property except by written instrument, executed by the then owner or owners of a majority of the Property and approved in writing by the County and Town. The appropriate governmental authority of the County and Town shall execute a written instrument effectuating and acknowledging such modification, amendment or release. Any amendment, modification or release of this Covenant shall be recorded in the Public Records of Broward County, Florida.

5. Recording of Persons Bound. This Covenant shall be recorded in the Public Records of Broward County, shall run with the Property in perpetuity, for the benefit of Broward County and the Town of Davie and shall bind all successors and assigns to the title of the Property.

6. Attorneys' Fees. In the event the County or Town is forced to enter into litigation to enforce the terms of this Declaration and Owner is found by a court of competent jurisdiction to have violated the Declaration, the County or Town shall be entitled to reimbursement for its reasonable attorneys' fees and costs in pursuing such enforcement.

7. Effective Date. This instrument shall become effective and shall be recorded if the above-described rezoning is approved and made effective by the Town with all appeal periods having run without the filing of an appeal.

8. Severability. These restrictions are hereby declared to be severable and independent. If any court of competent jurisdiction shall declare any section, paragraph or part thereof invalid or unenforceable, then such judgment or decree shall have no effect on the enforcement or validity of any other section, paragraph or part hereof, and the same shall remain in full force and effect.

9. Authority. By execution hereof, the signatory on behalf of Owner acknowledges his/her authorities to bind the Owner and Owner acknowledges the validity and binding nature of this Declaration both on itself, its successors and assigns of the property.

10. Captions, Headings and Titles. Articles and paragraph captions, headings and titles inserted throughout this Covenant are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of this Covenant.

11. Context. Whenever the context requires or admits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns or pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

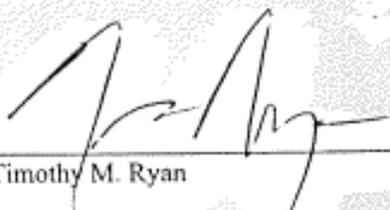
12. Construction. This Agreement shall be liberally construed to achieve its intent to limit the uses on the Property as described herein.

IN WITNESS WHEREOF, the Owner has executed this Declaration of Restrictive Covenants on the day first above written.

WITNESSES:


Print Name: Laurie Phelps


Print Name: ROXANNE LIPP

By: 
Timothy M. Ryan

Address: 700 E. Dania Beach Boulevard,
Dania Beach, FL 33004

[SEE NEXT PAGE FOR NOTARY ACKNOWLEDGMENT]

STATE OF FLORIDA)
) SS:
COUNTY OF Brevard)

RECORDED
NOV 23 1999
COUNTY CLERK & CO.

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by TIMOTHY M. RYAN. He 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 22 day of November, 1999

Laurie Phelps
Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:



EXHIBIT A

SKETCH AND DESCRIPTIONS
OF PORTIONS OF POINT WEST CENTER NORTH
TO BE RE-ZONED

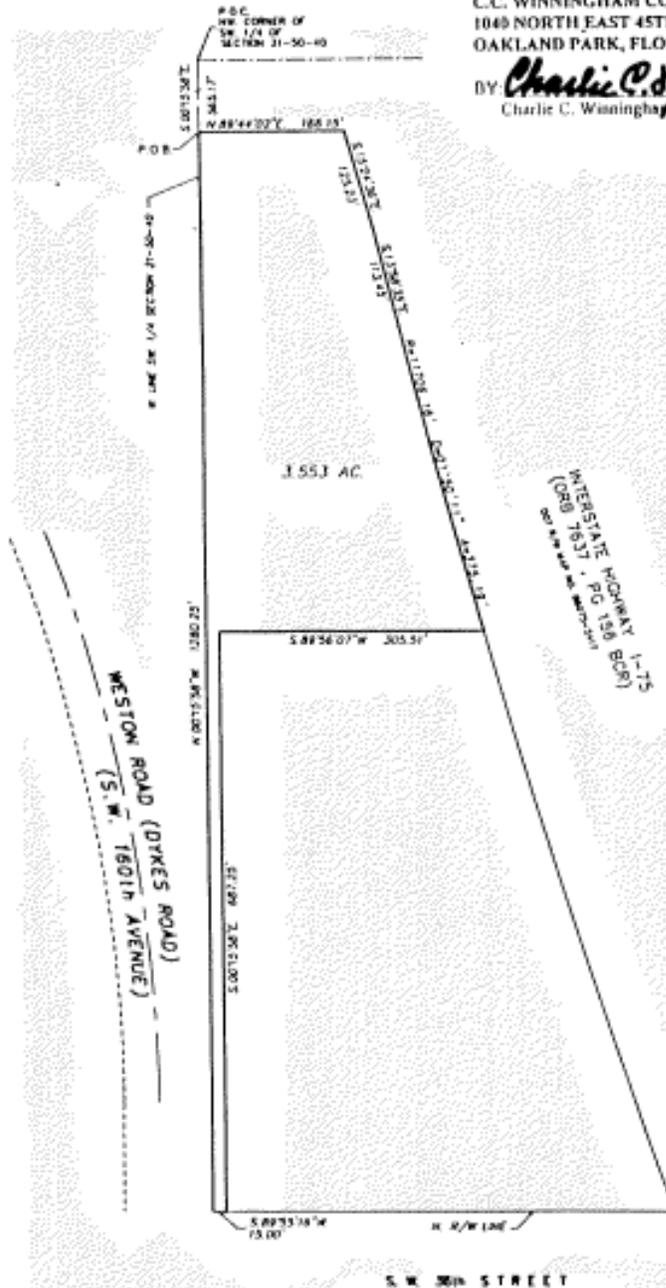
A parcel of land in the Southwest 1/4 of Section 21, Township 50 South, Range 40 East. Said parcel including portions of the FLORIDA FRUIT LAND COMPANY'S SUBDIVISION NO. 1 of said Section 21, as recorded in Plat Book 2 at Page 11 of the Public Records of Dade County, Florida and being more particularly described as follows:

Commencing at the Northwest corner of the Southwest 1/4 of said Section 21; thence run South 00°15'58" East (on a grid bearing) 165.17 feet along the West line of said Southwest 1/4 of Section 21 to the Point of Beginning; thence run North 89°44'02" East 166.35 feet to an intersection with the Westerly right of way line of Interstate Highway I-75; thence run South 15°24'36" East 125.23 feet along said Westerly right of way line to a point of intersection; thence run South 17°18'33" 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 11,706.16 feet and a central angle of 0°15'01"11", run Southeastwesterly 375.19 feet; thence run South 89°56'07" West 305.51 feet 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 South 00°15'58" East 687.25 feet along said parallel line to an intersection with the North right of way line of Southwest 36th Street, as now located and constructed; thence run South 89°55'16" West 15 feet along said North right of way line to an intersection with said West line of the Southwest 1/4 of Section 21; thence run North 00°15'58" West 1280.25 feet along said West line to the Point of Beginning.

Said lands situate in the Town of Davie, Broward County, Florida and containing 3.553 acres, more or less.

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

BY: *Charlie C. Winingham II*
Charlie C. Winingham II - PSM # 1410



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

4 4 7 4 0

EXHIBIT "B"

LAND DEVELOPMENT CODE

§ 12-35

(C) BUSINESS PARK AND INDUSTRIAL
GENERAL USE

	BP	DISTRICTS		
		M-1	M-2	M-3
Acid, Explosives	N	N	N	N
Agriculture, Commercial Agriculture	*	*	*	*
Animal Kennel	N	*	*	*
Auction House	*	N	N	N
Brewing/Distilling of Malt Beverages or Liquors	N	N	N	N
Business Uses	P	*	*	*
Cement, Concrete, Lime	N	N	P	P
Educational (Adult)	*	*	*	*
Food Processing Facility	N	N	N	P
Foundry, Drop Forging	N	N	N	N
Gravel, Rock Mining	N	N	N	N
Incinerator (Medical, Solid Waste, Biohazardous)	N	N	N	N
Junk Yards	N	N	N	N
Landfill/Trash, Garbage Disposal	N	N	N	N
Light Manufacturing	P	P	P	P
Machine Shop	N	N	P	P
Marina, Dry Storage	N	N	*	*
Medium Manufacturing	*	N	P	P
Mixed Use	N	*	*	*
Motor Freight Terminal	N	N	*	*
Office, Professional	P	*	*	*
Petroleum Storage, Refining, Distribution, etc.	N	N	N	N
Retail Sales	P	*	*	*
Sales of Construction Equipment	N	N	P	P
Sandblasting	N	N	N	N
Slaughter Yards	N	N	N	N
Soaps, Detergent, Cleansing Materials Manufacturing	N	N	N	N
Stockyards, Rendering, Glue	N	N	N	N
Storage Yards	N	N	P	P
Trash Transfer Station	N	N	N	N
Truck Stop	N	N	N	N
Vehicle, Boat, Truck, Repair, Major or Minor	N	P	P	P
Vehicle Towing/Storage	N	P	P	P
Vehicle, Boat, Truck Sales	*	P	P	P
Warehouse, Storage	*	*	*	*
Watchman's Apartment	*	*	*	*
Wholesale	P	P	P	P

P = Permitted by right in this district.

N = Not permitted in this district.

* = Conditionally permitted subject to detailed use regulations (Section 12-34).

Permitted uses, specified under each zoning district, are intended to express the intent and purpose of that district. All uses are subject to General Regulations, Section 12-33 and Detailed Use Regulations, Section 12-34 of this Article.

S.W. 160th AVENUE
(DYKES ROAD)

100' PER D.B. 789,
PG. 544 B.C.R.

20' MINIMUM LANDSCAPE BUFFER

ALL USES ALLOWED UNDER
PROPOSED BP ZONING AND
DECLARATION OF RESTRICTIVE
COVENANTS

320.51'

166.15'

125.23'

20' MINIMUM LANDSCAPE BUFFER
113.45'

20' MINIMUM LANDSCAPE BUFFER
A=375.18"

D=01d 50' 11"

R=11706.16'

I-75

NOTES

1. EXACT ACCESS POINTS TO BE DETERMINED WITH SITE PLAN REVIEW.
2. BUILDING LOCATION WILL BE FINALIZED WITH SITE PLAN.

CONCEPTUAL PLAN

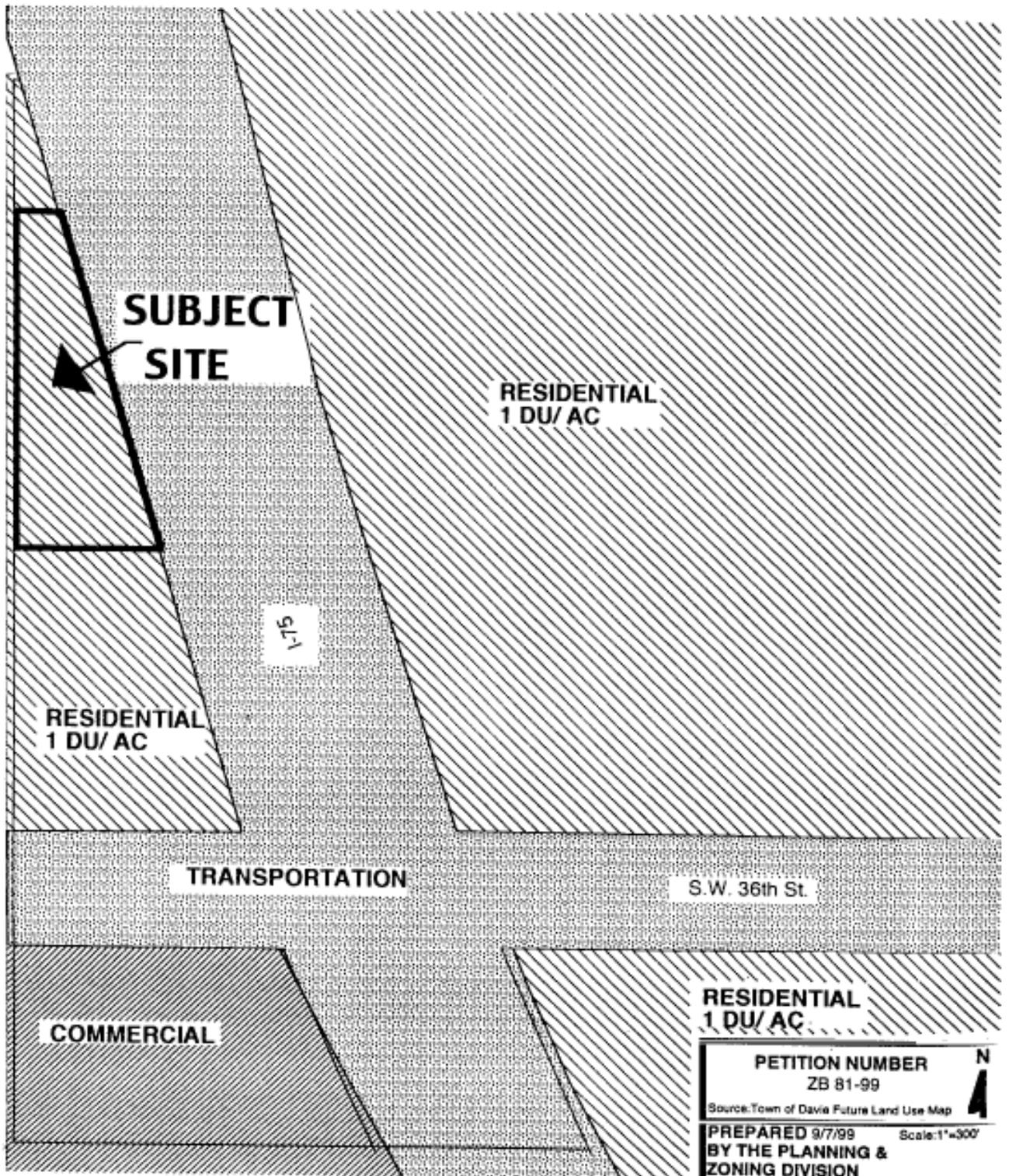


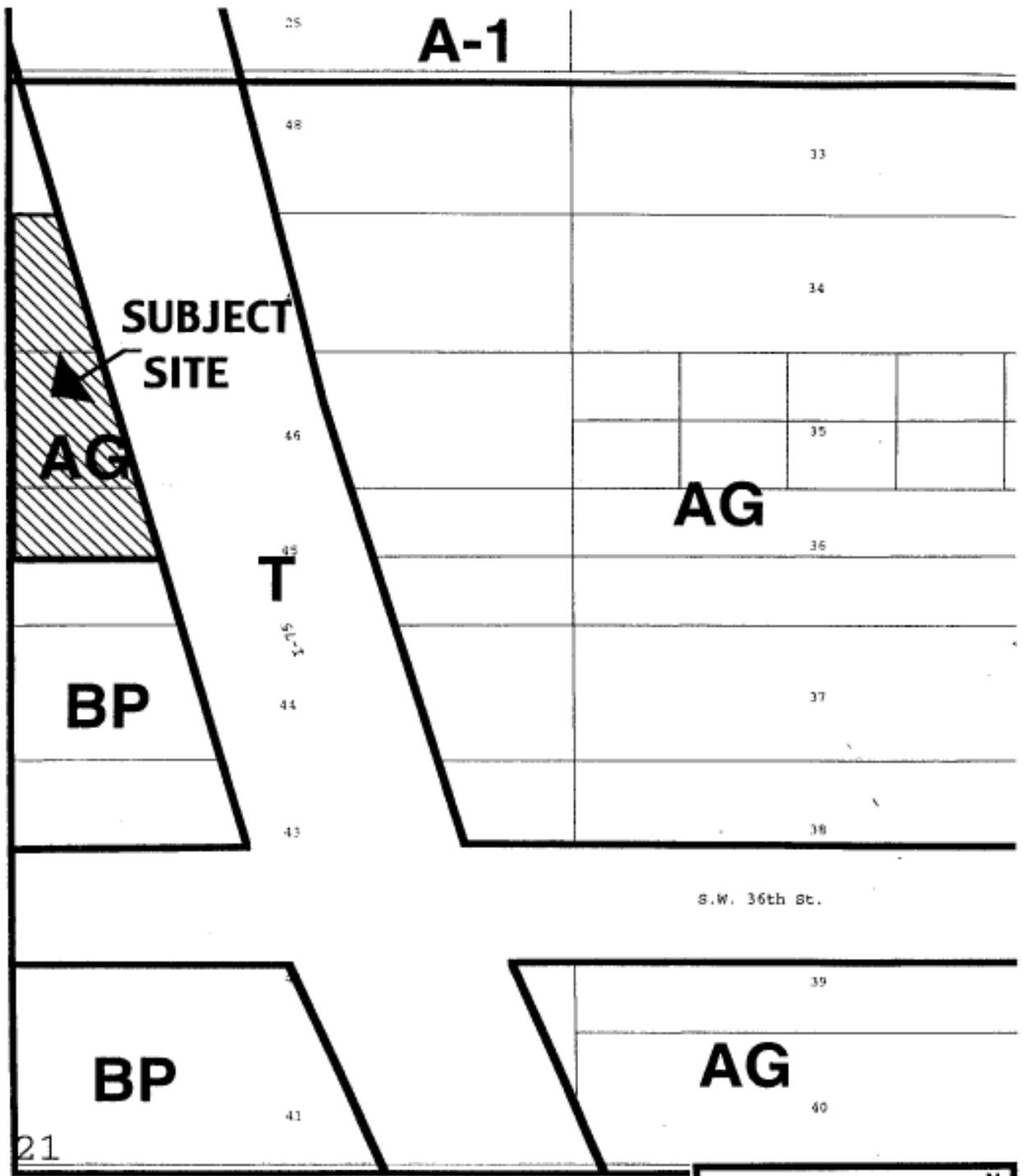
SCALE: 1" = 100'
DATE: NOVEMBER 8, 1999

RYAN

leigh robinson kent
& associates, inc.

PLANNING-SURVING-LAND USE
808 E. Lee One Blvd. - Suite 104
Fort Lauderdale, FL 33301
(954) 497-5308





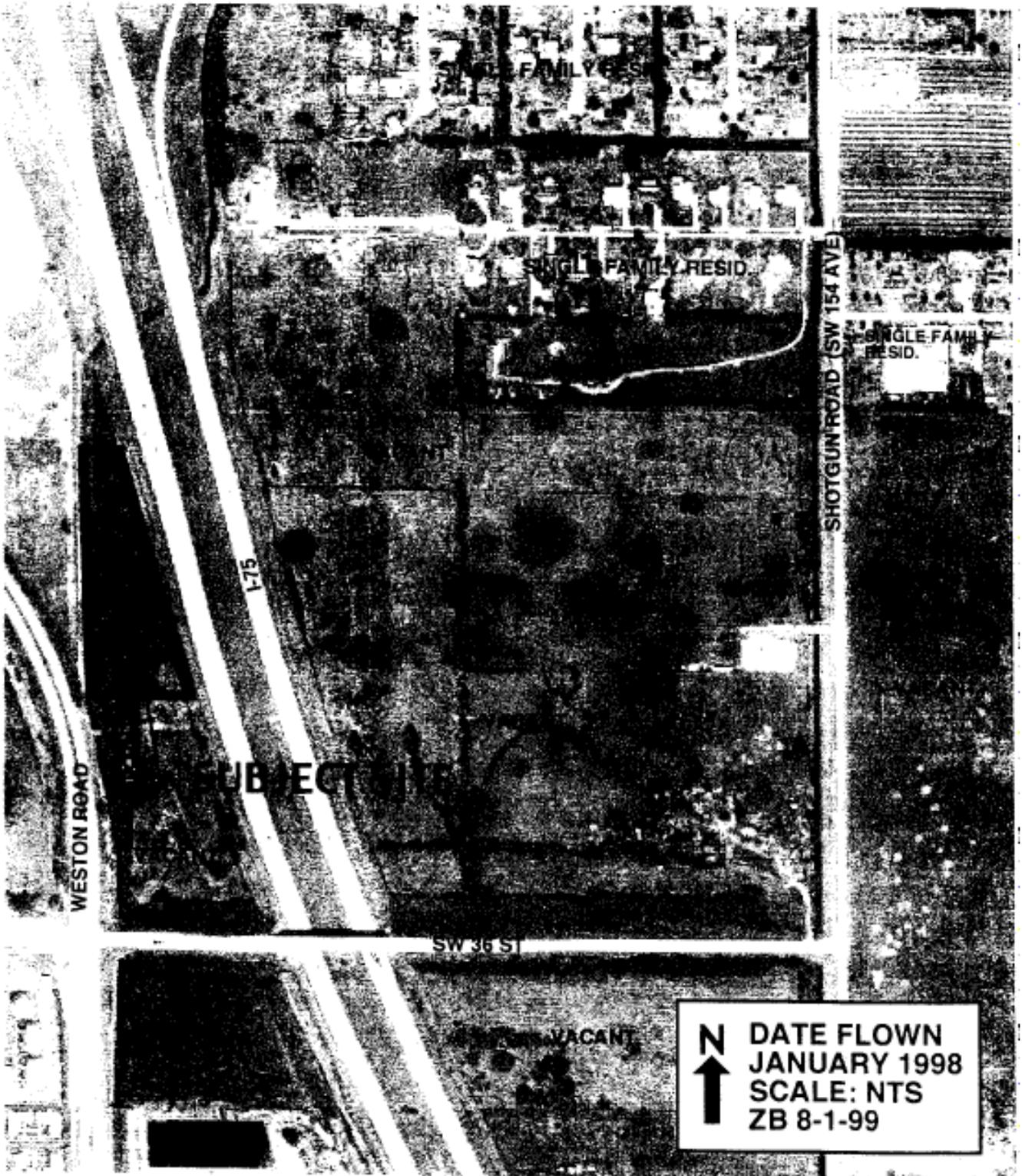
S.W. 36th St.

PETITION NUMBER
 ZB 8-1-99

PREPARED 8/7/99 BY THE PLANNING & ZONING DIVISION

Scale: 1" = 300'

N



SUBJECT

WESTON ROAD

L-75

SHOTGUN ROAD (SW 154 AVE)

SW 36 ST

VACANT

SINGL FAMILY RESID

SINGL FAMILY RESID

SINGL FAMILY RESID

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