



# Town Council Agenda Report

**SUBJECT:** Resolution - Plat Amendment

DG 01-1-00, Pointe West Center North Plat - 3550 Weston Road

**CONTACT PERSON/NUMBER:**

Mark A. Kutney, AICP (797-1101)

**TITLE OF AGENDA ITEM:**

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, CITY OF WESTON, BROWARD COUNTY, AND GENE R. BURGESS, HOWARD E. BURGESS AND TIMOTHY M. RYAN PROVIDING FOR REMEDIAL MEASURES TO SATISFY ROAD CONCURRENCY REQUIREMENTS RELATED TO THE POINTE WEST CENTER NORTH PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

**REPORT IN BRIEF:**

On January 5, 2000, Town Council passed Resolution No. R 2000-005, approving a boundary plat consisting of 9.994 acres for 55,000 square feet of commercial use to accommodate a car dealership. The attached agreement stipulates that the Town will not issue additional certificates of occupancy within the Pointe West Center North Plat until such time as the parties named in the agreement make payment to Broward County for the required roadway improvements.

**PREVIOUS ACTIONS:**

None

**CONCURRENCES:**

None

**RECOMMENDATION(S):** Motion to approve the resolution.

**Attachment(s):** Resolution with backup, Land Use map, Subject Site map, and Aerial.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, CITY OF WESTON, BROWARD COUNTY, AND GENE R. BURGESS, HOWARD E. BURGESS AND TIMOTHY M. RYAN PROVIDING FOR REMEDIAL MEASURES TO SATISFY ROAD CONCURRENCY REQUIREMENTS RELATED TO THE POINTE WEST CENTER NORTH PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Gene R. Burgess, Howard E. Burgess and Timothy M. Ryan are proposing to develop properties known as the Pointe West Center North Plat; and

WHEREAS, Broward County will allow remedial measures to satisfy road concurrency requirements for compact deferral areas should an agreement be entered into with the Town as a party.

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

SECTION 1. The Town Council of the Town of Davie does hereby authorize the Mayor and Town Administrator to enter into an Agreement, attached hereto as Exhibit "A", between Broward County, City of Weston, Gene R. Burgess, Howard E. Burgess and Timothy M. Ryan, and the Town of Davie, whereby the Town of Davie Development Services Department shall not issue a certificate of occupancy for any development within the Pointe West Center North Plat prior to payment of the monies to Broward County described in Exhibit "A".

SECTION 2. The Town Administrator and Town Attorney are authorized to make and accept non-substantive revisions to the agreement in order for the agreement to be in final, recordable form.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2000.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

Attest:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2000.

**Return recorded document to:**  
Broward County Dev. Management Division  
115 South Andrews Avenue, Room #A-240  
Fort Lauderdale, Florida 33301

**Document prepared by:**  
Bonnie L. Miskel, Esq  
Ruden, McClosky, et al.  
200 E. Broward Boulevard, P.O. Box 1900  
Fort Lauderdale, FL 33301

**TRAFFIC CONCURRENCY AGREEMENT**  
**AMONG**  
**BROWARD COUNTY, AND**  
**THE TOWN OF DAVIE, AND**  
**THE CITY OF WESTON AND**  
**GENE R. BURGESS, HOWARD E. BURGESS**  
**AND TIMOTHY M. RYAN**  
**FOR ROAD CONCURRENCY RELATING TO**  
**THE POINT WEST CENTER NORTH PLAT**

THIS AGREEMENT, is made and entered into by and among:

BROWARD COUNTY, a political subdivision of the State of Florida, its successors and assigns, hereinafter referred to as "COUNTY" through its Board of County Commissioners;

and

The TOWN OF DAVIE, a Florida municipal corporation created and existing under the laws of the State of Florida, hereinafter referred to as "TOWN,"

and

CAT#268  
County Project  
10/7/98  
111-393017.3

The CITY OF WESTON, a municipal corporation created and existing under the laws of the State of Florida, hereinafter referred to as "CITY;"

and

GENE R. BURGESS, HOWARD E. BURGESS and TIMOTHY M. RYAN, their successors and assigns, hereinafter referred to collectively as "DEVELOPER,"

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, requires that the regional transportation network be adequate to serve the reasonably projected needs of proposed developments; and

WHEREAS, Section 5-182 of said Chapter 5 more specifically requires that an application for a development permit satisfy concurrency requirements for compact deferral areas; and

WHEREAS, DEVELOPER, as owner of, has applied for approval of the Point West Center North Plat (\_\_\_\_-\_\_\_\_-\_\_\_\_) more particularly described in Exhibit "A" attached hereto and made a part hereof ("Plat"); and

WHEREAS, on \_\_\_\_\_, \_\_\_\_\_, the Broward County Development Management Division issued a Notification of Failure to Satisfy Broward County Concurrency Standards for the regional transportation network, finding that the application for approval of the Plat does not satisfy the compact deferral area concurrency standards for the regional road network as stated in Section 5-182 of the Broward County Land Development Code ("CODE") for Griffin Road from I-75 to S.W. 160th Avenue, and for Weston Road from Emerald Park Circle to Griffin Road and for Weston Road from Arvida Parkway to South Post Road; and

WHEREAS, COUNTY has undertaken an expansion of Griffin Road from I-75 to Bonaventure Boulevard ("County Project"); and

WHEREAS, City will be undertaking an expansion of Arvida Parkway from I-75 to West of Weston Road and an expansion of Weston Road from North Commerce Parkway South Corporate Lakes Boulevard (collectively, "City Project"); and

WHEREAS, in accordance with Ordinance No. 98-57, the CITY made a determination that a contract for the CITY Project shall be let no later than September 30, 2000; and

WHEREAS, DEVELOPER has conducted a study and has determined that COUNTY Project and CITY Project will mitigate the Plat's traffic impacts so that the Plat will satisfy Broward COUNTY concurrency standards; and

CAP026K

County Project

10/2/98

FILE 393017.3

WHEREAS, DEVELOPER has agreed to pay a share of the cost of COUNTY Project and CITY Project, proportionate to the Plat's impact; and

WHEREAS, the Broward County Development Management Division has approved these remedial measures and finds that its concurrency requirements for the Plat will be met with the execution of, and compliance with, the terms of this Agreement by DEVELOPER;

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the Parties agree as follows:

1. The above recitals are true and correct and are hereby incorporated herein.
2. Construction of Improvements.
  - (a) DEVELOPER agrees to pay to County \$174,471, which represents DEVELOPER's proportionate share of the cost of the COUNTY Project. DEVELOPER agrees that payment must be made prior to recordation of the Plat.
  - (b) DEVELOPER agrees to pay to CITY \$91,240, which represents the DEVELOPER's proportionate share of the cost of the CITY Project. DEVELOPER agrees that payment must be made on or before December 31, 1999. Developer shall post a Letter of Credit with the City in a form acceptable to the City and which will guarantee the Developer's payment in full of the amount of money prescribed in this paragraph 2(b). In the event that the amount of money becomes due and payable, City shall have the right to draw against the security to satisfy payment of the amount of money prescribed in this paragraph 2(b).
  - (c) CITY shall execute a binding contract for the implementation of the CITY Project no later than September 30, 2000.
  - (d) Form of Security. (Strike through inapplicable ALTERNATIVE)  
(ALTERNATIVE A)
    - (i) This Agreement shall be recorded in the Official Records of Broward County and a lien is hereby imposed by the COUNTY against all of the real property described in Exhibit "A" for \$265,711. Such lien shall continue from the date of this Agreement until fully paid, discharged, released or barred by law. The obligations created under this Agreement shall run with the land and shall bind DEVELOPER, its successors, grantees, heirs and assigns.

- (ii) In the event that the amount of money or any portion thereof the DEVELOPER has agreed to pay pursuant hereto becomes due and payable as provided herein and continues unpaid for thirty (30) days or more thereafter, the entire unpaid balance of such amount, plus costs and interest accrued from the due date at the rate of 12 percent per annum, shall become immediately due and payable and may be recovered by the COUNTY against the DEVELOPER in a civil action, along with COUNTY's costs incurred in bringing such action, or the lien created hereby plus such costs and interest may be foreclosed or otherwise enforced by the COUNTY by action or suit in equity as for the foreclosure of a mortgage on real property.
- (iii) The lien of any mortgage on the real property described in Exhibit "A" shall be subordinate to the rights of the COUNTY with respect to the lien created by this Agreement. The DEVELOPER shall cause this Agreement to be executed by the holder of any such mortgage as consent to such subordination.
- (iv) When the lien hereby has been fully paid or discharged, the COUNTY shall promptly cause evidence of such satisfaction and discharge to be recorded in the Official Records of Broward County. At the request of the DEVELOPER and upon payment of the appropriate amounts, the COUNTY may grant the DEVELOPER a partial release of the lien.

(ALTERNATIVE B)

- (v) In the event DEVELOPER elects to post a Letter of Credit on Surety Bond, Developer shall provide the COUNTY contemporaneously with this agreement with a form of security such as a surety bond or irrevocable letter of credit, which is acceptable to the COUNTY and which will guarantee the DEVELOPER's payment in full of \$265,711 which represents 100% of the amount of payment to be made to County and City for the County and City projects.
3. CONCURRENCY COMPLIANCE. COUNTY finds that by executing and complying with the terms of this Agreement, DEVELOPER has satisfied the adequacy of the Regional Roadway Network requirement of Section 5-182 of the Broward County Land Development Code for the PLAT as approved by the COUNTY.
  4. TOWN is a party to the Agreement solely for the purpose of issuance of a Certificate of Occupancy which shall not be issued for any development within the Plat until TOWN receives confirmation from COUNTY and CITY that the payments required pursuant to Section 2(a) and (b) and have been received by COUNTY and CITY.

5. This Agreement shall be recorded in the Public Records of Broward County and shall be binding upon successors and assigns.
6. APPLICABLE LAW AND VENUE. The Parties agree that this Agreement shall be construed in accordance with the laws of the state of Florida. Venue for any action arising from this Agreement shall lie in Broward County, Florida.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Chair or Vice Chair, authorized to execute same by Board action on the \_\_\_\_ day of \_\_\_\_\_, 1999, CITY OF WESTON, signing by and through its Mayor, duly authorized to execute same, TOWN OF DAVIE, signing by and through its Mayor, duly authorized to execute same, and DEVELOPER, signing by and through its \_\_\_\_\_, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its  
BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
County Administrator and  
Ex-Officio Clerk of the  
Board of County Commissioners  
of Broward County, Florida

By \_\_\_\_\_  
Chair

\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (date)

Approved as to form by  
Office of County Attorney  
Broward County, Florida  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-6968

By \_\_\_\_\_  
Assistant County Attorney

TRAFFIC CONCURRENCY AGREEMENT AMONG BROWARD COUNTY, THE CITY OF WESTON AND THE TOWN OF DAVIE FOR ROAD CONCURRENCY RELATING TO THE POINT WEST CENTER PLAT

CITY

CITY OF WESTON

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Printed Name

\_\_\_\_ day of \_\_\_\_\_, 1999

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Name

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_ day of \_\_\_\_\_, 1999

CORPORATE SEAL

APPROVED AS TO FORM:

By \_\_\_\_\_  
City Attorney

STATE OF FLORIDA )

) SS

COUNTY OF BROWARD )

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

My commission expires:

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
Commission No.

\_\_\_\_\_  
Type or print name

TRAFFIC CONCURRENCY AGREEMENT AMONG BROWARD COUNTY, THE CITY OF WESTON AND THE TOWN OF DAVIE FOR ROAD CONCURRENCY RELATING TO THE POINT WEST CENTER PLAT

TOWN

TOWN OF DAVIE

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Printed Name

\_\_\_\_ day of \_\_\_\_\_, 1999

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Printed Name

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_ day of \_\_\_\_\_, 1999

CORPORATE SEAL

APPROVED AS TO FORM:

By \_\_\_\_\_  
Town Attorney

STATE OF FLORIDA )

COUNTY OF BROWARD )

SS

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

My commission expires:

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
Commission No.

\_\_\_\_\_  
Type or print name



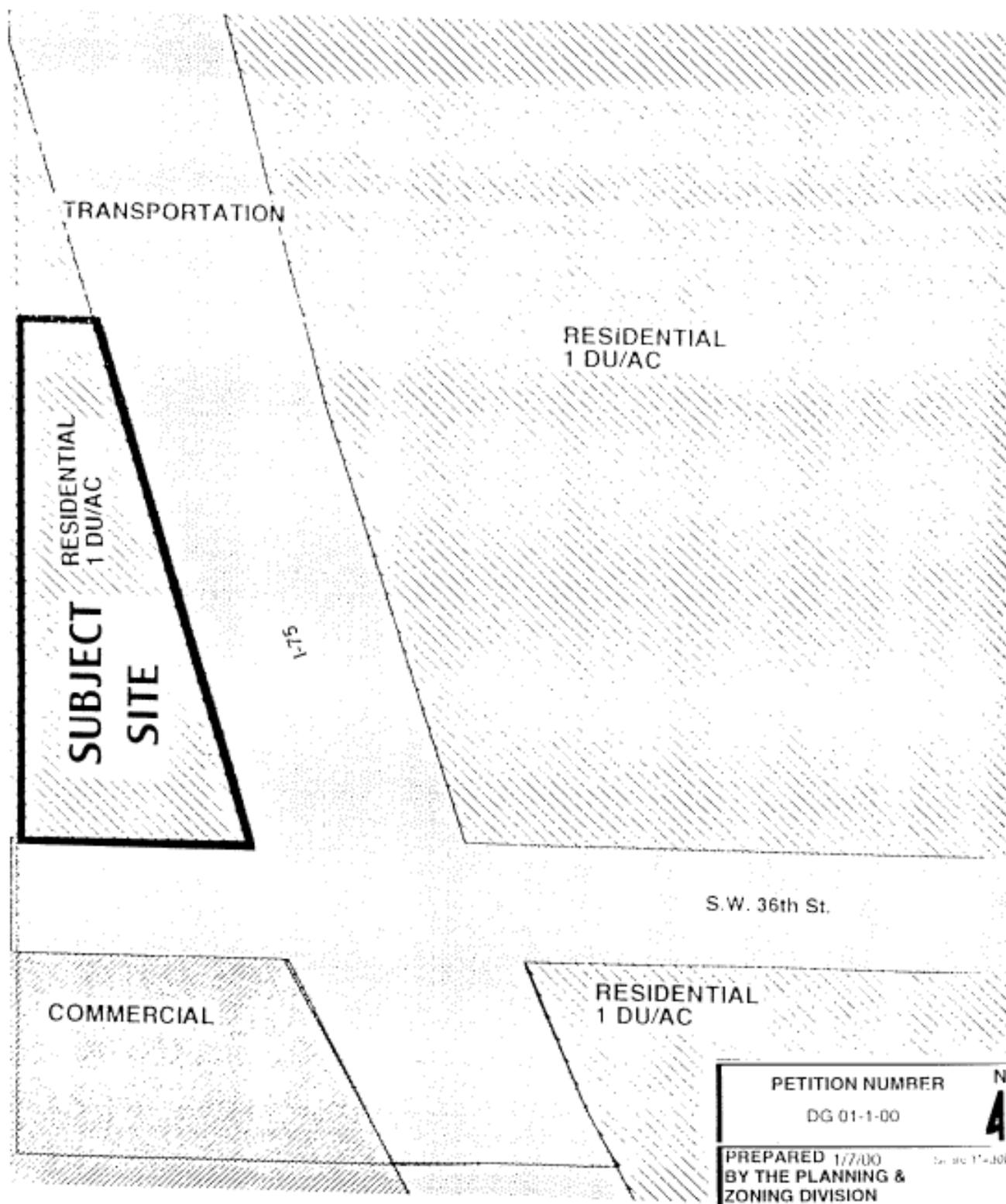




**LEGAL DESCRIPTION**

A PARCEL OF LAND IN THE SOUTHEAST 1/4 OF SECTION 21, TOWNSHIP 50 SOUTH, RANGE 40 EAST, SAID PARCEL INCLUDING PORTIONS OF TRACTS 43 THROUGH 47 INCLUSIVE, ACCORDING TO THE FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO.1 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 THE SOUTHWEST 1/4 OF SECTION 21; THENCE RUN SOUTH 00°15'58" EAST (ON A GRID BEARING) 563.18 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 165.62 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT OF WAY LINE OF INTERSTATE HIGHWAY NO. 1-75 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 15°24'36" EAST 127.29 FEET ALONG SAID WESTERLY RIGHT OF WAY LINE TO A POINT OF INTERSECTION; THENCE RUN SOUTH 13°38'35" EAST 113.45 FEET ALONG SAID WESTERLY RIGHT OF WAY LINE, TO A POINT OF INTERSECTION; THENCE CURVE TO THE LEFT; THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE, TO A POINT OF INTERSECTION; THENCE HAVING A RADIUS OF 11,706.16 FEET AND A CENTRAL ANGLE OF 05°21'39", RUN SOUTHEASTERLY 1095.26 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF SOUTHWEST 36TH STREET, 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 89°55'49" WEST 534.71 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 1281.62 FEET ALONG SAID WEST LINE TO THE POINT OF BEGINNING.  
SAID LANDS SITUATE IN THE TOWN OF DAVE, BROWARD COUNTY, FLORIDA AND CONTAINING 9.994 ACRES, MORE OR LESS.

INTERST  
(ORB 7



TRANSPORTATION

RESIDENTIAL  
1 DU/AC

RESIDENTIAL  
1 DU/AC

**SUBJECT  
SITE**

V-75

S.W. 36th St.

COMMERCIAL

RESIDENTIAL  
1 DU/AC

PETITION NUMBRER

DG 01-1-00

N  
4

PREPARED 1/7/00  
BY THE PLANNING &  
ZONING DIVISION

Scale 1"=100'

A-1

SUBJECT  
SITE

AG

T

BP

AG

BP

AG

21

22

PETITION NUMBER

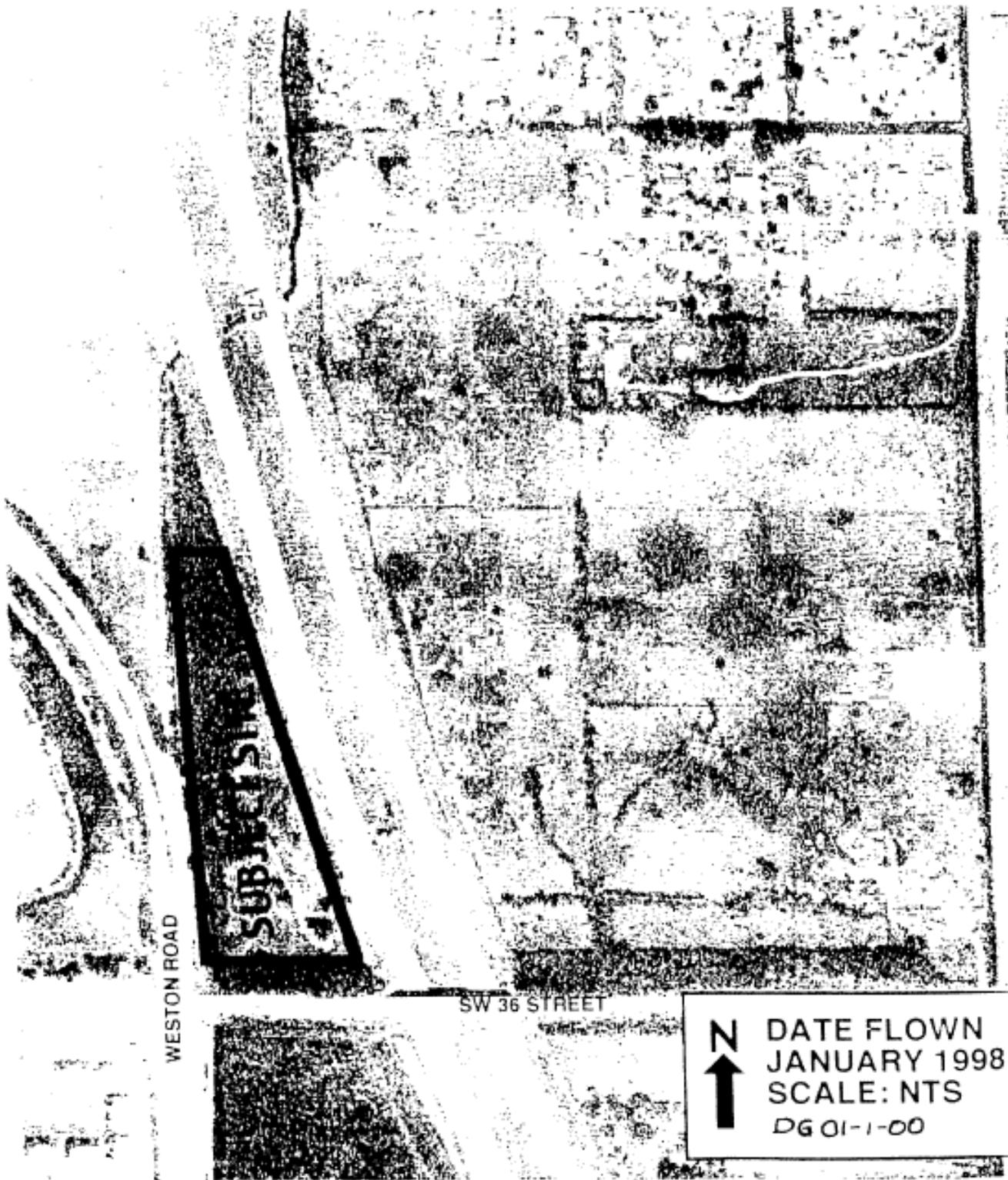
DG 01-1-00

N

4

PREPARED 1/7/00  
BY THE PLANNING &  
ZONING DIVISION

Scale: 1" = 300'



WESTON ROAD

SUBJECT SITE

SW 36 STREET

**N**  
**↑**  
DATE FLOWN  
JANUARY 1998  
SCALE: NTS  
DG 01-1-00