



# Town Council Agenda Report

**SUBJECT:** Quasi Judicial Hearing: Rezoning

## **CONTACT PERSON/NUMBER**

Name: Mark Kutney, AICP  
Phone: (954) 797-1101

## **TITLE OF AGENDA ITEM:**

ZB 12-3-99 Harry C. Speyer, owner/Frank A. Kamerling, petitioner - 5401 SW 82 Avenue/ Generally located between Pine Island Road and SW 82nd Avenue approximately 2,400 feet north of Stirling Road.

## **REPORT IN BRIEF:**

The petitioner is proposing to rezone the subject site to construct a total of 60 single family residential dwelling units on 10 gross acres/ 9.41 net acres of land. However, the existing land use designation which permits only 3 units per acre for a total of 30 residential units. Therefore, the petitioner is also petitioning for the use of 30 reserve units as made available by the Broward County Future Land Use Plan and the Town of Davie Comprehensive Plan. Should the request for reserve units be approved, the subject site would accommodate a land use density of 6 units per acre.

The existing zoning of the subject site is A-1, Agricultural District which permits only 1 unit per acre. The petitioner is requesting to rezone the property to the Town's RM-8, Medium Dwelling District which permits a total of 8 units per acres in order to implement the increase in density, should the request for reserve units be approved. The petitioner is requesting the RM-8 zoning district because the Town does not have a zoning district above RM-5 and less than RM-8, which would permit the requested 6 units per acre density. Therefore, the petitioner is offering to provide a declaration of restrictions to restrict the land to 6 units per acre should the use of reserve units and the rezoning to RM-8 be approved.

Staff believes the proposed density of 6 units per acre, along with the proposed RM-8 zoning district, is inconsistent and incompatible with adjacent existing and planned uses.

The petitioner states, that the recent completion of Pine Island Road between Griffin Road and Stirling Road has changed the characteristic of the area to a more urban area in nature, and that the proposed 6 unit per acre density would be consistent with an urban residential area. However, it is the Town's policy that the use of "reserve units" is intended to amend large sections of land within each flexibility zone.

Currently, there are a total 91 reserve units available within this flexibility zone. These reserve units are also provided to accommodate the use of mix-use (residential/commercial) development within the existing Residential Land Use. Staff agrees that the recent completion of Pine Island Road has change the characteristic of the area, however, believes a land use plan amendment would be the most appropriate action to increase density in this area. Staff also believes the available "reserve units" should be reserved for mix-use development along Griffin Road .

This request would also double the amount of trips per day above that which could be generated under the existing Residential (3 du/ac) land use. The amount of school students would also double for this site depending on the proposed unit mix. Therefore, staff believes the proposed request would increase traffic above which is anticipated under existing conditions and would have a negative affect on the surrounding area, and is inconsistent with the Town's Comprehensive Plan Polices.

**PREVIOUS ACTIONS:** None.

**CONCURRENCES:** On January 26, 2000, the Planning and Zoning Board recommended approval (motion carried 5-0, motion by Mr. Pisula, seconded by Mr. Davenport), subject to the declaration of restrictions.

**FISCAL IMPACT:** Not Applicable.

**RECOMMENDATION(S):** Motion to deny.

**Attachment(s):** Planning report, land use map, subject site map, and aerial.

Exhibit "A":

Original Report Date: 1/19/00

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

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**APPLICANT INFORMATION**

**Owner:**

**Agent:**

**Name:** Harry C. Speyer

**Name:** Frank A. Kamerling, Chairman  
of the Board

**Address:** 6927 Silvermill Drive

**Address:** 2921 NE 48th Street

**City:** Tampa, FL 33635

**City:** Lighthouse Point, FL 33064

**Phone:** (813) 885-4768

**Phone:** (954) 785-8543

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**BACKGROUND INFORMATION**

**Application Request:** To rezone 10 gross acres of property from A-1, Agricultural District to RM-8, Medium Dwelling District, through the use of 30 residential "reserve units" as provided for by the Broward County Future Land Use Plan and the Town of Davie Future Land Use Plan.

**Address/Location:** 5401 SW 82nd Avenue / Generally located between Pine Island Road and SW 82nd Avenue approximately 2,400 feet north of Stirling Road.

**Land Use Plan Designation:** Residential (3 du/ac)

**Zoning:** A-1, Agricultural District

**Existing Use:** Vacant Land

**Proposed Zoning:** RM-8, Medium Dwelling District

**Proposed Use:** Single family residential dwelling units

**Parcel Size:** 10 gross acres (435,000 square feet)

**Surrounding Land Use:**

**North:** Vacant Land

**South:** United Pentecostal Church.

**East:** University Park West (office) retention lake.

**West:** Single family residential dwelling units, across Pine Island Road, within the municipal boundaries of Cooper City.

**Surrounding Zoning:**

**North:** A-1, Agricultural District

**South:** CF, Community Facilities District

**East:** B-3, Planned Business Center District

**West:** R1-A and R1-B, within the municipal boundaries of Cooper City.

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**ZONING HISTORY**

**Related Zoning History:** A previous request by Davie Builders, Inc. to rezone approximately 20 acres of land, from A-1, Agricultural District to R-3, Low Density Density Dwelling District is currently tracking for that portion of land just north of the subject site. This request also included a request for the use of 18 “reserve units” to achieve a density of 3.85 units per acre within the existing Residential (3 du/ac) land use designation. However, the petitioner has dropped their request for the use of “reserve units” and is seeking only the R-3 zoning designation which is consistent with the existing Residential (3 du/ac) land use.

**Previous Requests on same property:** None

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**DEVELOPMENT PLAN DETAILS**

*See Staff Analysis Below.*

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**Applicable Codes and Ordinances**

The applicable code is the Town of Davie Land Development Code.

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**Comprehensive Plan Considerations**

**Planning Area:** The subject site falls within Planning Area 10. This area is generally located north of Stirling Road, south of Griffin Road, east of Pine Island Road, and west of SW 76th Avenue. Pine Island Road, a major north/south arterial has recently been constructed on the western limits of this planning area and provides through access from Griffin Road to Stirling Road. Commercial development of retail centers and office buildings line the west side of the University Drive corridor. Several small-scale single-family residential communities, two trailer parks totaling approximately 30 acres in area, and an 8 acre industrial park are located within this planning area, together with six parcels zoned for community facilities uses. These include, but are not limited to a regional library, multiple church uses of varying scales, and a private school. The Town is optimistic in the potential expansion of commercial uses within this planning area, given the increased accessibility provided by Pine Island Road, and potential development of agricultural lands in the years to come.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 102. Currently

Should this rezoning be approved, the petitioner will be required to obtain Town of Davie and Broward County plat approval prior to site plan and permit approval. Concurrency review, including roadways and utilities infrastructure, will be reviewed at the time of platting.

**Applicable Goals, Objectives & Policies:**

Future Land Use Policy 4-2: 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.

Future Land Use Policy 6-1: Residential development of moderate to high density should be located in close proximity to arterial roadways, available mass transit, and other community amenities, and should generally be located east of Pine Island Road, unless located adjacent to the S.R. 84/I-595 corridor, or I-75 interchanges.

Future Land Use Policy 6-2: Generally discourage plan amendments or use of flexibility provisions to increase residential densities or permit more intensive uses in areas west of Pine Island Road and south of SW 14th Street, unless located adjacent to the SR 84/I-595 corridor or I-75 interchanges.

Future Land Use Policy 6-6: The application of “flexibility units” and “reserve units” shall be in 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.

Future Land Use Policy 17-3: Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

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**Staff Analysis**

The petitioner is proposing to rezone the subject site to construct a total of 60 single family residential dwelling units on 10 gross acres/9.41 net acres of land. However, the existing land use designation is Residential (3 du/ac) which permits a total of 30 residential units. Therefore, the petitioner is also petitioning for the use of 30 reserve units as made available by the Broward County Future Land Use Plan and the Town of Davie Comprehensive Plan. Should the request for reserve units be approved, the subject site would accommodate a land use density of 6 units per acre.

The petitioner is requesting to rezone the property to the Town’s RM-8, Medium Dwelling District which permit a total of 8 units per acre because the Town does not have a zoning district which would permit exactly 6 units per acre. Therefore, the petitioner is offering to provide a declaration of restrictions to restrict the land to 6 units per acre should the use of reserve units and the rezoning to RM-8 be approved.

Staff believes the proposed density of 6 units per acre, along with the proposed RM-8 zoning district, is inconsistent and incompatible with adjacent existing and planned uses. Currently, there is only 1 adjacent residential community existing in this area (Davie Lake Estates), and no planned residential development exceeding 3 du/ac. As referenced above, Davie Builders has dropped their request for the use of “reserve units”. To the south is land zoned CE

Community Facilities, to the east, across SW 82nd Avenue is land zoned B-3, Commercial, and to the north is land zoned A-1, Agricultural. To the west, within the municipal boundaries of Cooper City are single family homes at a density of 3 units per acre.

The petitioner states that the recent completion of Pine Island Road between Griffin Road and Stirling Road has changed the characteristic of the area to a more urban area in nature, and that the proposed 6 unit per acre density would be consistent with an urban residential area. However, the Town does not encourage piecemeal increases in density which create inconsistent zoning patterns and density mixes. This is what is occurring in this area. Staff believes this request illustrates this concern as the property to the north, not proposed for development, would remain A-1, Agricultural which may be developed at a density of 3 units per acre or less as permitted by the existing Residential (3 du/ac) land use.

Currently, there are a total 91 reserve units available within this flexibility zone. Staff agrees that the recent completion of Pine Island Road has changed the character of the area and a land use plan amendment would be the most appropriate action to increase density in this area. Reserve units are a means of increasing density or rezoning land from a commercial designation to a residential designation without a land use plan amendment. The subject site for this request, as well as Davie Builder's (ZB 7-1-99), both of which requested density increased through reserve units, share the same flexibility zone with the proposed Griffin Corridor District. This is a mixed commercial/residential district overlaying predominantly commercial land use plan designations. Residential "reserve units" are necessary for mixed commercial/residential uses within this District. Staff also believes the available "reserve units" should be reserved for mix-use development along Griffin Road.

This request would also double the amount of trips per day above that which could be generated under the existing Residential (3 du/ac) land use. Currently, Pine Island Road and Griffin Road have sufficient capacity to accommodate this traffic, however, the additional use of capacity for this request may place an unwarranted burden on the undeveloped properties to the north and east, as development occurs and capacity is used. The amount of school students would also double for this site depending on the proposed unit mix. Therefore, staff believes the proposed request would increase traffic above which is anticipated under existing conditions and would have a negative affect on the surrounding area.

## Findings of Fact

### Section 12-309(B)(1)

- (a) The proposed change is not contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;
- (b) The proposed change will create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;
- (c) Existing zoning district boundaries are logically drawn in relation to existing conditions on the property proposed for change;
- (d) The proposed change may not adversely affect living conditions in the neighborhood;
- (e) The proposed change will create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated permitted intensities or densities of the underlying land use plan with designation, or otherwise affect public safety;

- (f) The proposed change may not adversely affect other property values;
  - (g) The proposed change may not be a deterrent to the improvement or development of other property in accord with existing regulations;
  - (h) The proposed change may constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;
  - (i) There are not substantial reasons why the property cannot be used in accord with existing zoning.
  - (j) The proposed zoning designation 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.
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### **Staff Recommendation**

**Recommendation:** Based upon the above and the overall finding of facts in the negative, staff recommends denial of application no. ZB 12-3-99.

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### **Planning and Zoning Board Recommendation**

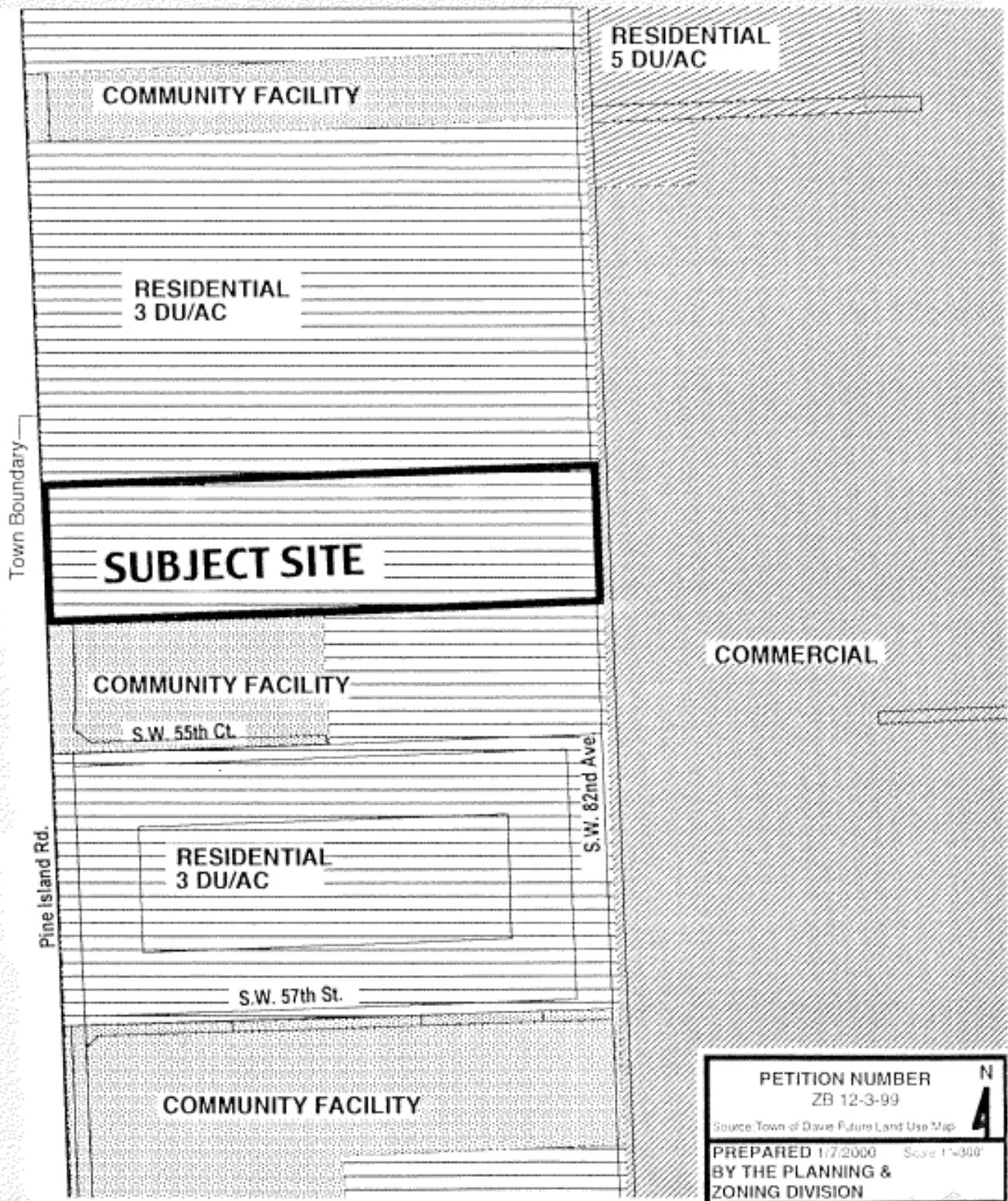
On January 26, 2000, the Planning and Zoning Board recommended approval (motion carried 5-0, motion by Mr. Pisula, seconded by Mr. Davenport), subject to the declaration of restrictions.

### **Exhibits**

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

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

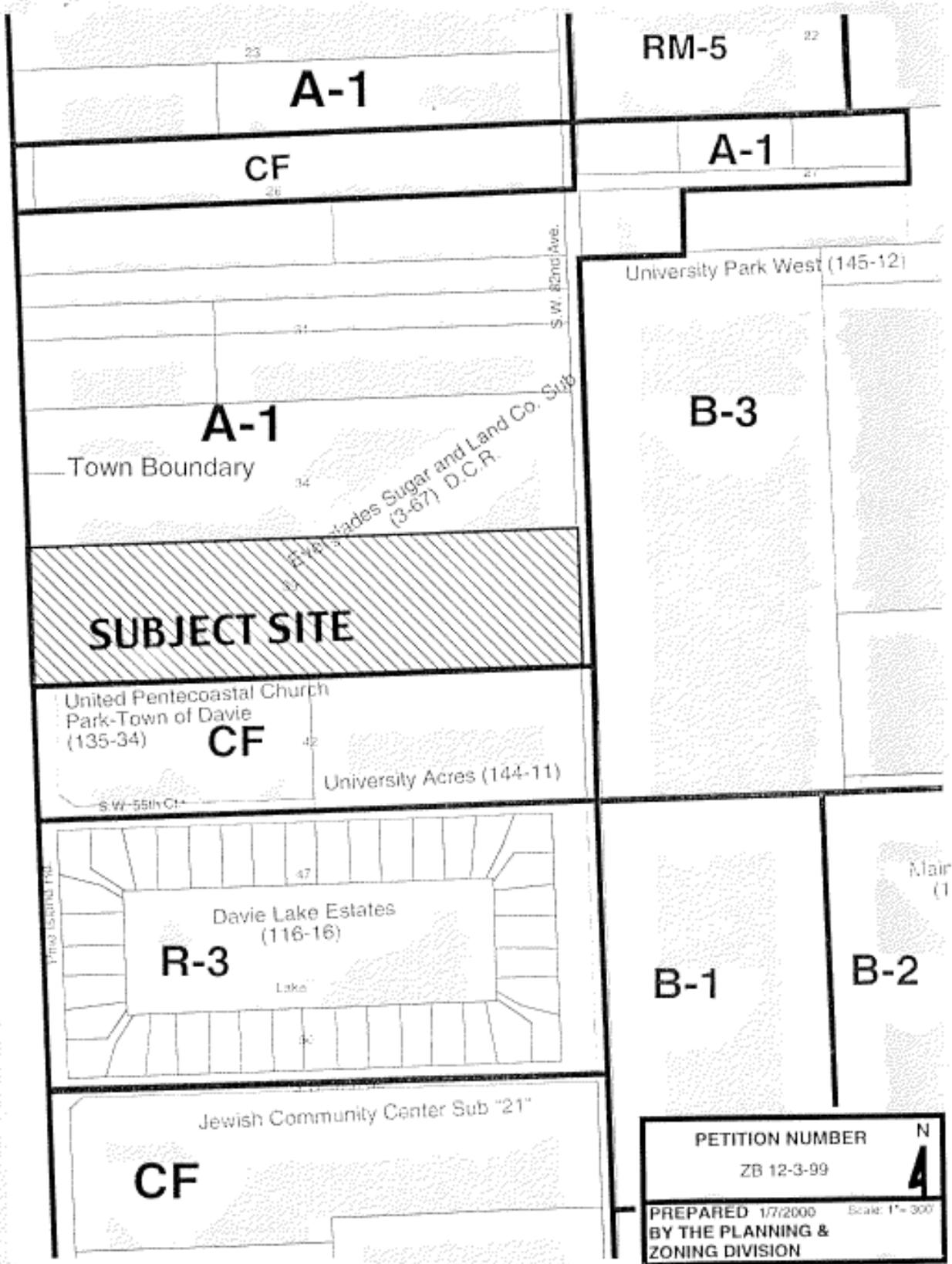


PETITION NUMBER  
 ZB 12-3-99

Source: Town of Davis Future Land Use Map

PREPARED 1/7/2000 Scale 1"=300'  
 BY THE PLANNING &  
 ZONING DIVISION

N  
**4**



PETITION NUMBER **N**  
 ZB 12-3-99 **4**

PREPARED 1/7/2000 Scale: 1" = 300'  
 BY THE PLANNING &  
 ZONING DIVISION

PINE ISLAND ROAD

SINGLE FAMILY RESID.

SINGLE FAMILY RESID.

COMMERCIAL

**SUBJECT SITE**

COMMERCIAL

CHURCH

SINGLE FAMILY RESID.

SW 55 CT

SINGLE FAMILY RESID.

VACANT

SW 82 AVE

COMMERCIAL

COMMUNITY CENTER

VACANT

**N** DATE FLOWN  
JANUARY 1998  
SCALE: NTS  
ZB 12-3-99