



Town Council Agenda Report

SUBJECT: Quasi Judicial Hearing: Variance

CONTACT PERSON/NUMBER

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

TITLE OF AGENDA ITEM:

V 7-2-00 Michael and Anne Jatoft, petitioners/Value Dining of Davie, Inc., owner - 4190 South University Drive/Generally located on the east side of University Drive approximately 1,500 feet north of Griffin Road.

REPORT IN BRIEF:

This variance request results from the proposed development of the abutting property to the south, known as Dry Concepts. Upon review of the proposed Dry Concepts development plan, the Engineering Department identified certain unsafe conditions at the existing entranceway of Dry Concepts on University Drive and is recommending certain improvements to ensure the health and safety of the public. These improvements require encroachment of the drive aisle from the Dry Concepts into the subject site. The encroachment would be a unique and peculiar circumstance for the Value Dining site. Such circumstances already exist on the Dry Concepts site, given the lack of separation between the existing structure and the entranceway. Denial of the requested variances may result in unnecessary hardship for the Dry Concepts site, as it would be unable to satisfy the minimum public safety standards for access without extensive modification to the site. The requested variances are the minimum variances necessary to achieve their purposes, are in harmony with the general purpose and intent of the code, and can be considered not to be injurious to the neighborhood or otherwise detrimental to the public welfare.

PREVIOUS ACTIONS: None.

CONCURRENCES:

The Planning and Zoning Board recommended approval subject to the planning report (motion carried 4-0, Mr. Davenport absent, August 9, 2000).

FISCAL IMPACT: Not Applicable.

RECOMMENDATION(S): Motion to approve all three variances.

Attachment(s): Planning Report, Justification Letter, Plot Plan, Survey, Land Use Map, Subject Site Map, Aerial.

Application #: V 7-2-00

Revisions:

Exhibit "A":

Original Report Date: 8/2/00

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

APPLICANT INFORMATION

Owner:

Agent:

Name:	Value Dining of Davie, Inc.	Name:	Michael and Anne Jatoft
Address:	3704 NW 82 Avenue	Address:	11861 Tara Drive
City:	Coral Springs, FL 33065	City:	Plantation, FL 33325
Phone:	(954) 340-3185	Phone:	(954) 473-0131

BACKGROUND INFORMATION

Date of Notification: August 2, 2000 **Number of Notifications:** Thirty (30)

Application Requests: 1) to reduce the required 10-foot landscape buffer from 10 feet to 3.57 feet along the south property line, 2) to reduce the required five foot separation between any parking aisle and a property line from 5 feet to 0 feet along the south property line, and 3) reduce the required 5 foot distance separation from a driveway to a property line to 0 feet.

Address/Location: 4190 South University Drive/Generally located on the east side of University Drive approximately 1,500 feet north of Griffin Road.

Land Use Plan Designation: Regional Activity Center

Zoning: B-2, Community Business District

Existing Use: Vacant Land

Proposed Use: Restaurant/Office

Parcel Size: 2.70 acres (117,612 square feet)

Surrounding Land Use:

Land Use Designation:

North: Existing commercial development
(Berkharts - lawn equipment sales)

Regional Activity Center

South: Existing commercial development

Regional Activity Center

The affect of the roadway reconfiguration is limited to a small portion of the Value Dining property. The roadway encroaches approximately 7 feet into the Value Dining property for a distance of 345 feet of the 560 foot long southern property line of the Value Dining property. The impact is limited to green area only within this area (see attached plot plan).

Applicable Codes and Ordinances

- 1) Section 12-107(D)(4), which requires a 10-foot perimeter landscape buffer adjacent to all other abutting properties
- 2) Section 12-205(A)(1)(g), which states no point of parking stall or aisle shall be closer than 5 feet to any building or property line.
- 3) Section 12-205(A)(3)(c), which requires a minimum distance from a driveway to a structure or property line to be 5 feet.

Comprehensive Plan Considerations

Planning Area: This property falls within Planning Area 8. This planning area is the heart of Davie, and is the most diverse, characterized by older, small-scale commercial development, older single-family residential neighborhoods, and newer, large-scale multi-family residential developments that serve the rapidly growing South Florida Education Center (SFEC). The planning area issues include roadway congestion in and around the SFEC and the University Drive/I-595 redevelopment of Davie's original business district, and neighborhood redevelopment.

Broward County Comprehensive Plan Considerations

This property falls within Flexibility Zone 99. The subject site has been platted and is consistent with all plat note restrictions. Therefore, Broward County concurrency has been satisfied to the extent this variance can be processed.

Staff Analysis

The Town Engineering Department recommends entranceway improvements to the Dry Concepts site for public safety purposes, which requires encroachment of the drive aisle from the Dry Concepts into the subject site. The encroachment would be a unique and peculiar circumstance for the Value Dining site. Such circumstances already exist on the Dry Concepts site, given the lack of separation between the existing structure and the entranceway. Denial of the requested variances may result in unnecessary hardship for the Dry Concepts site, as it would be unable to satisfy the minimum public safety standards for access without extensive modification to the site. The requested variances are the minimum variances necessary to achieve their purposes, are in harmony with the general purpose and intent of the code, and can be considered not to be injurious to the neighborhood or otherwise detrimental to the public welfare.

Findings of Fact

Variances: Section 12-309(B)(1):

The following findings of facts represent staff findings for all 3 variance requests:

(a) There are special circumstances and conditions applying to the land and building for which the variances are sought; the circumstances or conditions are peculiar to such land or building and do apply generally to land or buildings in the same district, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variances are sought; the alleged hardships are not self-created by any person having an interest in the property;

(b) The granting of the variances are necessary for the reasonable use of the land or building of the adjoining property;

(c) Granting of the requested variances are in harmony with the general purpose and intent of this chapter, and can be considered not to be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff Recommendation

Recommendation: Based upon the above and the finding of facts in the positive, staff recommends **approval** of variance requests 1, 2 and 3, subject to the dedication of easement to Dry Concepts for the encroachment of their drive aisle on the Value Dining subject site.

Planning and Zoning Board Recommendation

The Planning and Zoning Board recommended approval, subject to the planning report (motion carried 4-0, Mr. Davenport absent, August 9, 2000).

Exhibits

1. Justification Letter
2. Plot Plan
3. Survey
4. Land Use Map
5. Subject Site Map
6. Aerial

Prepared by: _____

Reviewed by: _____



CRITERIA FOR REVIEWING VARIANCE REQUESTS

1. **There are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the same district, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variance is sought, and that alleged hardship is not self created by any person having an interest in the property.**

Response: The current existing driveway serving the Dry Concept's property is immediately adjacent to the existing building. There is no room to relocate the driveway to provide requested separation between the driveway and the building without encroaching onto the Value Dining property. Strict application of code provisions would deny Mr. Jatoft of the reasonable use of the remaining portion of the property. The hardship was not created by any person having an interest in the property. Value Dining is willing to grant an easement for the encroachment of the driveway.

2. **The granting of the variance is necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.**

Response: The granting of the variance is necessary as the encroachment will cure an existing safety hazard and allow Mr. Jatoft access to the remaining portion of the property without having to destroy a part of the existing building.

3. **That granting the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.**

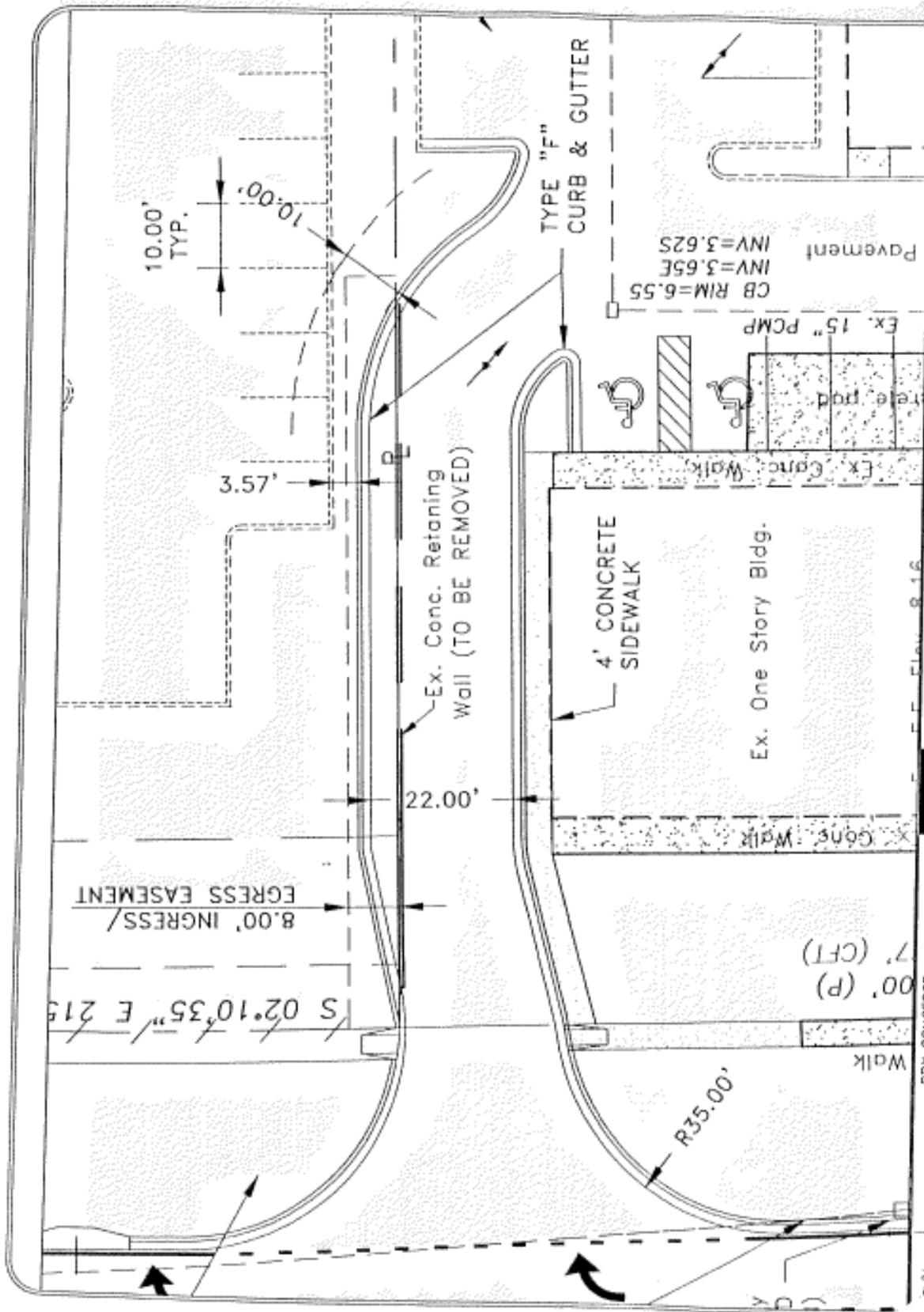
Response: The variance will not affect the integrity of the neighborhood or be otherwise detrimental to the public welfare. On the contrary, the variance would make possible safer access to the property.

REASONS FOR VARIANCE

The variances requested are to permit the encroachment of a driveway onto Value Dining of Davie, Inc. property, which driveway serves the proposed Dry Concepts property for the purpose of correcting a safety issue affecting the Dry Concept's property. The current, existing driveway serving the Dry Concept's property is immediately adjacent to the existing building. There is no room to relocate the driveway to provide adequate separation between the driveway and the building without encroaching onto the Value Dining property. Value Dining is willing to grant an easement for the encroachment of the driveway. However, since Value Dining already has an approved Site Plan and is currently seeking approval of its building permit based on such site plan, the Town would have to grant the following variances from the Town Code to Value Dining in order for Value Dining to grant the easement.

1. Section 12-108, requiring 10 feet separation between driveway and parking areas; 3.57 feet provided.
2. Section 12-107, requiring 10 feet landscaping buffer along property line; 3.57 feet provided.
3. Section 12-205, requiring 5 feet separation between driveway and property line; 0 feet provided.

The special circumstances pertaining to this property are such that the encroachment will cure an existing safety hazard. Mr. Jatoft recently purchased the property. Despite his intensive investigation of the site prior to purchasing the property, this issue only became known to him upon application for site plan approval. He did not cause the existing situation and the hardship is not self imposed. In the event the variances are not granted, Mr. Jatoft would not have access to the remaining portion of the property without having to destroy a part of the existing building. This variance is required for the reasonable use of the property and is the absolute minimum variance which will accomplish this purpose. The variance will not affect the integrity of the neighborhood or be otherwise detrimental to the public welfare. In fact, the variance would enhance the public welfare by making access to the property safer.



SCALE	1"=20'
PROJECT NO.	4577-01
DATE	11/11/01
BY	DRY CONCEPTS
DESCRIPTION	ENTRY EXHIBIT
DATE	11/11/01
SCALE	8"=16'
C C L CONSULTANTS, INC. CONSULTANTS 1000 W. 10th St., Suite 1000 Oklahoma City, Oklahoma 73106 (405) 241-1100	

Pavement
 CB RIM=6.55
 INV=3.65E
 INV=3.62S

Ex. 15" PCMP
 Ex. Conc. Walk
 Ex. One Story Bldg.

4' CONCRETE
 SIDEWALK

Ex. Conc. Retaining
 Wall (TO BE REMOVED)

TYPE "F"
 CURB & GUTTER

8.00' INGRESS/
 EGRESS EASEMENT

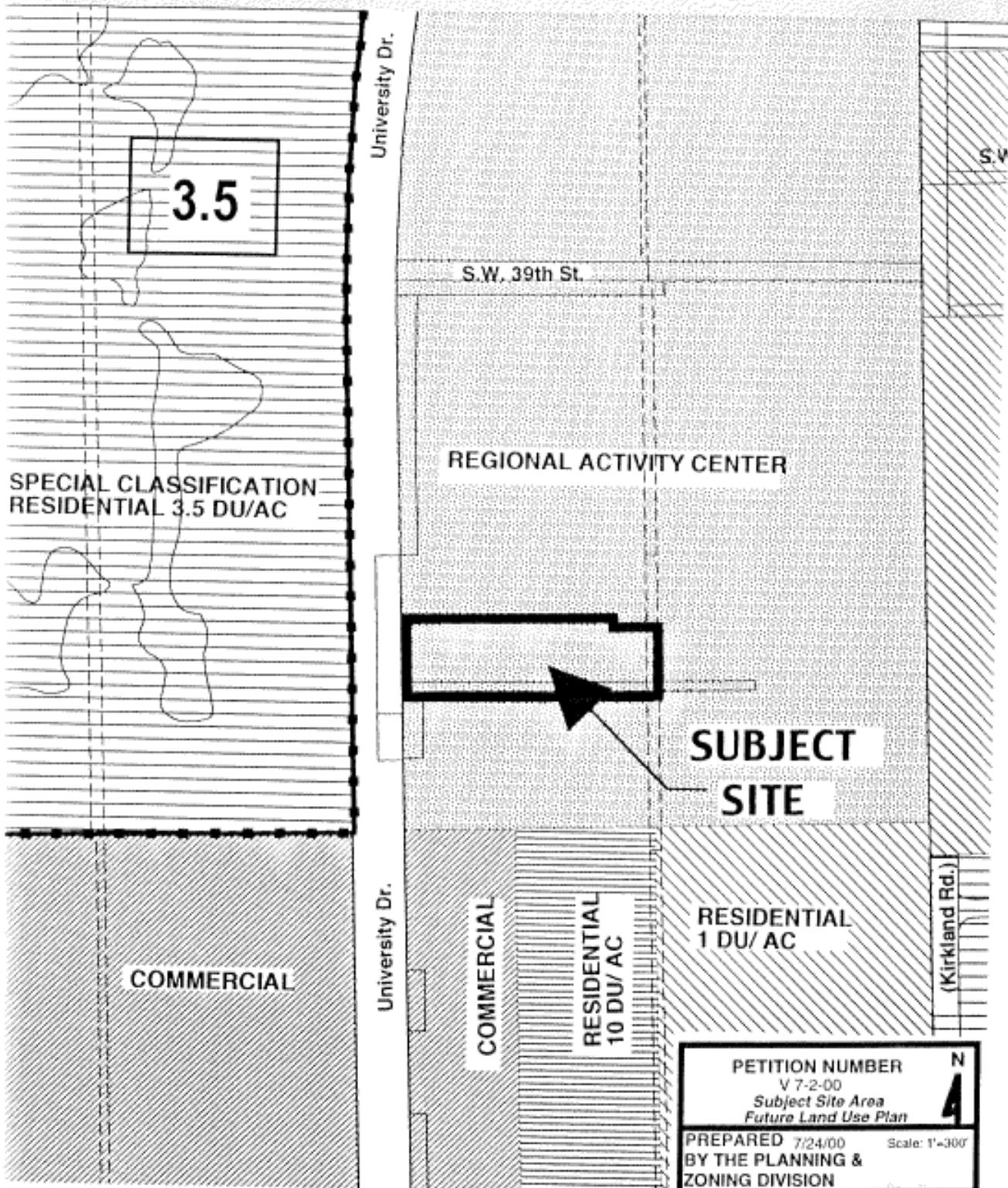
S 02°10'35" E 219

00' (P)
 7' (CFT)

Walk

DRY CONCEPTS

ENTRY EXHIBIT



3.5

SPECIAL CLASSIFICATION
RESIDENTIAL 3.5 DU/AC

S.W. 39th St.

REGIONAL ACTIVITY CENTER

**SUBJECT
SITE**

COMMERCIAL

University Dr.

COMMERCIAL

RESIDENTIAL
10 DU/ AC

RESIDENTIAL
1 DU/ AC

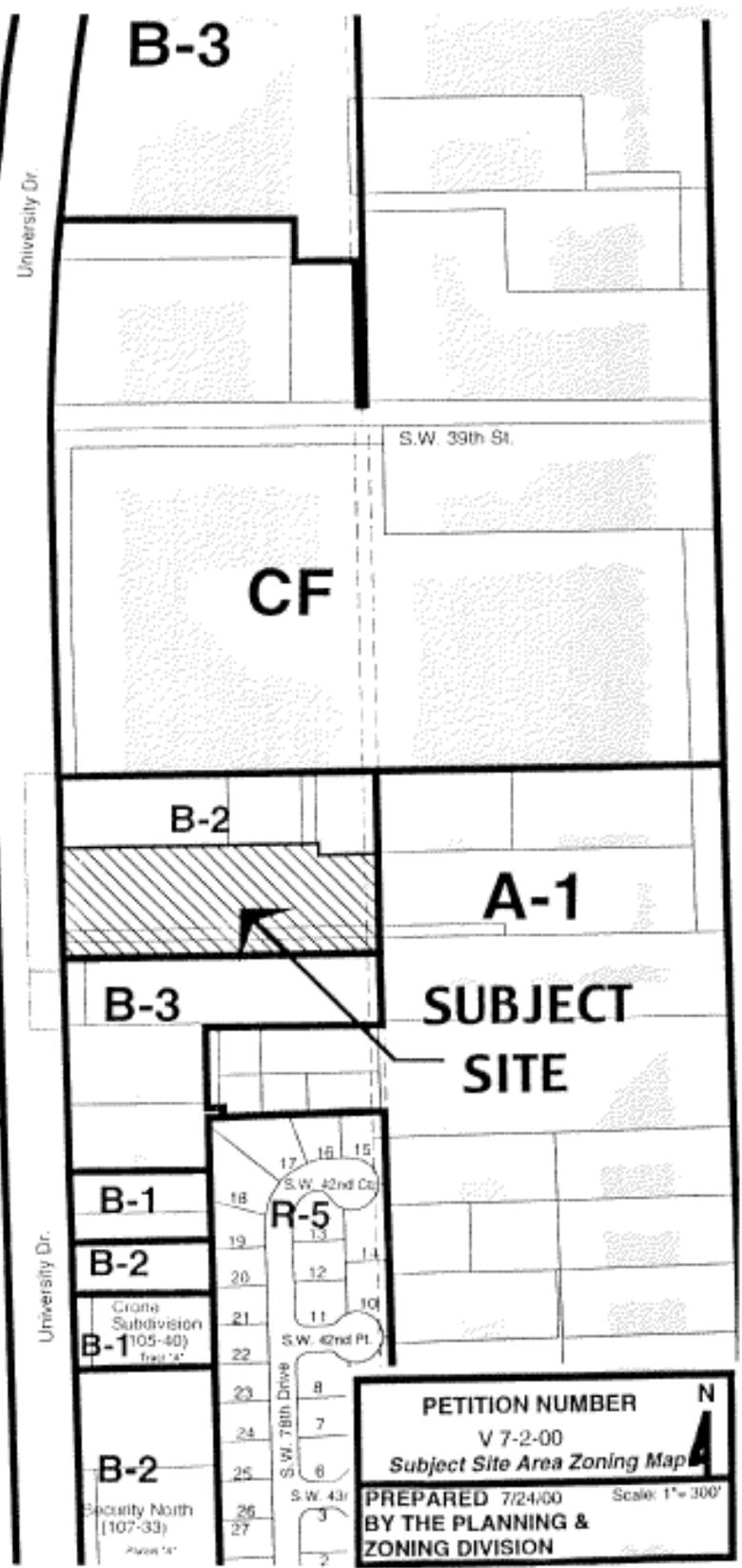
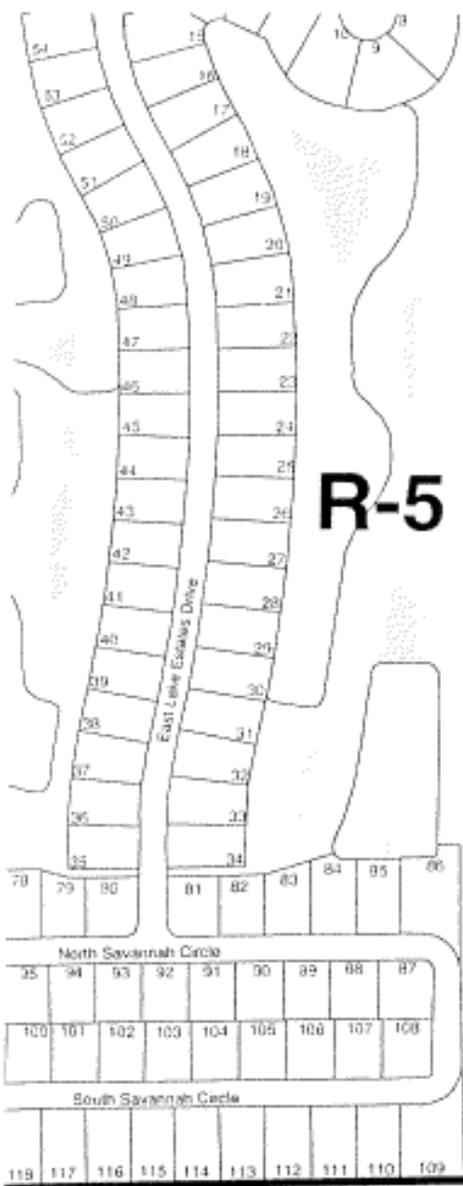
(Kirkland Rd.)

PETITION NUMBER
V 7-2-00
*Subject Site Area
Future Land Use Plan*

PREPARED 7/24/00 BY THE PLANNING & ZONING DIVISION

Scale: 1"=300'

N
4



PETITION NUMBER
 V 7-2-00
Subject Site Area Zoning Map

PREPARED 7/24/00 **Scale:** 1" = 300'
BY THE PLANNING & ZONING DIVISION

NGLE FAMILY RESIDENTIAL
(UNDER CONSTRUCTION)

UNIVERSITY DR

POST OFFICE

SW 39TH ST

CHURCH / SCHOOL

CHURCH / SCHOOL

COMMERCIAL

SUBJECT SITE

SINGLE FAMILY
RESIDENTIAL



DATE FLOWN
JANUARY 1998
SCALE: NTS
V 7-2-00

COMMERCIAL

SINGLE FAMILY
RESIDENTIAL