

# TOWN OF DAVIE

## TOWN COUNCIL AGENDA REPORT

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark Kutney, AICP/(954) 797-1101

**SUBJECT:** Quasi Judicial Hearing: Rezoning  
ZB 4-6-01 Miller, Legg & Associates, Inc./Moersch, Fuselli, Amsouth Bank,  
Trustee of the Fuselli Trust, 4450 Flamingo Road

**TITLE OF AGENDA ITEM:** ZB 4-6-01 Miller, Legg & Associates, Inc./Moersch, Fuselli, Amsouth Bank, Trustee of the Fuselli Trust, 4450 Flamingo Road (AG to B-3)

**REPORT IN BRIEF:** The applicant requests rezoning of a 21.731 acre subject site from AG, Agricultural District to B-3, Planned Business Center District for the construction of a 200,000 square feet commercial retail center, parking lot, and landscaping. Water retention and a passive recreation area are being provided on a contiguous 5.928 acre parcel under joint ownership to the north (rezoning petition ZB 4-5-01 requesting CF, Community Facilities District). The master plan shows potential retail development that includes a service station, pharmacy, grocery or retail store, linear strip retail, all uses permitted under the B-3, Planned Business Center District. The service station (shown as Outparcel #2 on the master plan) is subject to variance petition V 4-3-01 because the Code requires 250 foot separation between a service station and property that has a residential land use classification.

The proposed zoning designation will be consistent with the property to the west and with Broward County's Land Use Plan designation as commercial use. The subject site is unique in that it is surrounded by land with Residential (1 DU/AC) classification without an intervening multi-family residential land use. Because of the lack of transition area, careful consideration must be given to this request. Uses and conventional development standards, such as service stations and building heights, permitted by the proposed zoning designation may have negative impacts on the surrounding area.

Staff does not believe the proposed designation will increase traffic intensities beyond the levels that were anticipated by the commercial land use designation. Staff does believe the requested zoning designation may be among the most appropriate to enhance the Town's tax base at this location, but would also have the same opinion of a B-2, Community Business District designation. The proposed rezoning does not create an isolated zoning district, but is not completely consistent with the adjacent existing and planned uses. Therefore, the proposed use may be considered to be in harmony with the general intent and purpose of the code.

**PREVIOUS ACTIONS:** Town Council tabled the item from the September 6, 2001 to the September 19, 2001 meeting at the request of the applicant (5-0).

Town Council tabled the item from the September 19, 2001 to the October 3, 2001 meeting at the request of the applicant (5-0).

Town Council tabled the item from the October 3, 2001 to the November 7, 2001 meeting at the request of the applicant (5-0).

**CONCURRENCES:** The Planning and Zoning Board recommended denial of the request at its August 22, 2001 meeting (3-2, Ms. Moore and Ms. Turin opposed).

**FISCAL IMPACT:** None  
**RECOMMENDATION(S):** Motion to approve

**Attachment(s):** Justification letter, Master plan, Land use map, Subject site map, Aerial

# DEVELOPMENT SERVICES DEPARTMENT

## Planning & Zoning Division

### MEMORANDUM

**PZ 11-03-01**

**TO:** Thomas J. Willi, Town Administrator

**THRU:** Mark Kutney, AICP, Development Services Director

**FROM:** Christopher M. Gratz, Planner II

**DATE:** November 1, 2001

**RE:** Westridge Commons: P 5-1-01, ZB 4-5-01, ZB 4-6-01, V 4-3-01  
Petitioner/Owner: Miller, Legg & Associates, Inc./Moersch, Fuselli, Amsouth Bank, Trustee of the Fuselli Trust

Attached is a revised concept plan submittal from the Stiles Development Corporation for the above captioned petitions. The basis for the resubmittal is to address resident concerns and the Planning and Zoning Board's recommendation of denial for all of the petitions.

The revised site layout shows new locations for the grocery store, linear strip retail, and outparcel #2. The grocery store and linear strip retail have traded places and have been reconfigured. Included in the grocery store modification is a truck turning area so that grocery delivery vehicles will utilize Flamingo Road exclusively. The change in location of outparcel #2 could result in variance petition V 4-3-01 being withdrawn. The size of the overall development has been reduced by 40,000 square feet. The two (2) proposed openings along Orange Drive have been modified. The concept plan now shows one (1) 60' unrestricted access opening along Orange Drive.

A table of restrictions has been added to the concept plan. These restrictions include but are not limited to: restricting permitted uses to those allowed in B-2, Community Business Districts, maximum center size of 160,000 square feet, maximum individual building size of 60,000 square feet, maximum building height of 25' on the east 300' of the site, maximum height of light poles of 25'. Provided along the eastern boundary is a landscape buffer of 70', 8' concrete wall that extends 90' along Orange Drive, a 10' berm, 1 shade tree 14-16' in height per 20 lineal feet of berm, 1 accent tree 10-12' in height per 30 lineal feet of berm, continuous row of hedge at the top of the berm, and commitment to complete berm and wall within 120 days from the start of construction.

This information has been provided to Council as an addendum to the aforementioned petitions above and does not alter or impact the staff recommendation.



**NATIONAL DEVELOPER  
OF THE YEAR**



October 25, 2001

Chris Grantz  
Town of Davie  
6591 Orange Drive  
Davie, FL 33314



300 S.E. 2nd Street  
Ft. Lauderdale, FL 33301  
954.627.9160  
954.627.9288 Fax  
stiles.com  
info@stiles.com

**RE: WESTRIDGE COMMONS  
N.E.C. FLAMINGO ROAD AND ORANGE DRIVE**

Dear Chris:

In response to the issues raised at the August 22<sup>nd</sup> Planning & Zoning Board meeting, the purpose of this submittal is to request two modifications of our previous applications for the above referenced project.

1) Revised Master Plan Resubmittal:

In order to address the concerns that were raised by the homeowner's association at the Planning & Zoning Board meeting, we have made several substantial improvements to the Conceptual Master Plan. These changes are described below:

- a) Relocated the grocery store away from the east property line.
- b) Reduced the curb cuts on Orange Drive down to one opening.
- c) Increased the height of the rear berm to 10' (from 5').
- d) Lengthened the screen wall by 90' feet along Orange Drive.
- e) Provided a truck turning area so that grocery delivery vehicles enter and exit via Flamingo Road only.
- f) Relocated Outparcel #2 away from the north property line.
- g) Lowered all site light poles down to 25' (from 40').

We have also agreed to several additional restrictions that are documented in the table of restrictions that has been added to the Master Plan. These restrictions are summarized below:

- a) Reduced the maximum size of the center from 200,000 s.f. to 160,000 s.f.
- b) Limited the permitted uses to only those allowed within B2. Additionally, we have further excluded numerous B2 uses that are not a part of our development plan.
- c) Limited the maximum individual building size to 60,000 s.f.
- d) Provided shade trees on the east berm at 2x Code requirements.
- e) Provided accent trees on the east berm at 3x Code requirements.
- f) Committed to complete the rear berm and wall within 120 days of the start of the project.

Chris Grantz  
October 25, 2001  
Page 2 of 2

2) Withdrawal of Variance

Since Outparcel #2 has now been relocated so that it no longer lies within 250' of residentially land used property, there is no longer the need for a variance. We are therefore requesting that our Application for Variance #V4-3-01 be withdrawn.

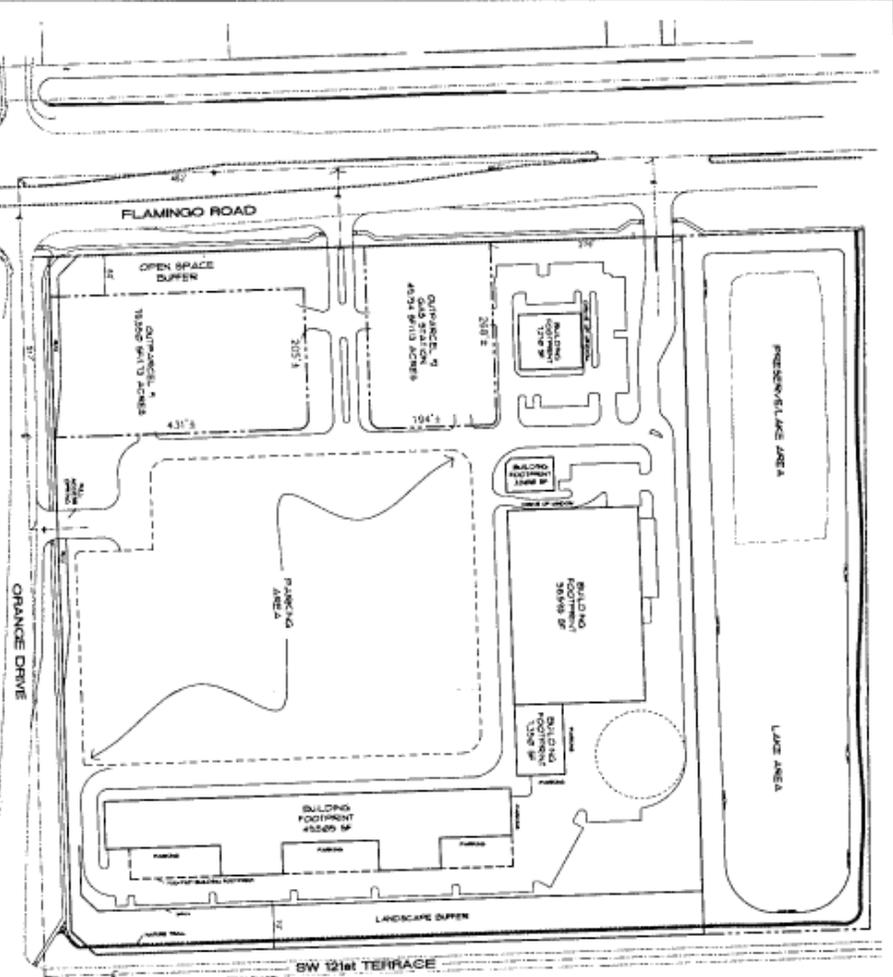
With these modifications and restrictions, we believe that each of the concerns raised by the homeowners association has now been fully addressed. Please contact me at (954) 627-9354 if you should have any questions. Thank you very much.

Sincerely,

**STILES DEVELOPMENT CO.**



Stephen M. Fleisher  
Director of Retail Development



Item No.	Description	Quantity	Unit	Notes
1	Site Preparation	1	Lot	Clearing, grading, and utility relocation.
2	Foundation	1	Lot	Concrete foundation for all buildings.
3	Structural Steel	1	Lot	Structural steel for all buildings.
4	Roofing	1	Lot	Asphalt shingle roofing for all buildings.
5	Masonry	1	Lot	Block masonry for all buildings.
6	Interior Finishes	1	Lot	Interior finishes for all buildings.
7	Exterior Finishes	1	Lot	Exterior finishes for all buildings.
8	Site Work	1	Lot	Site work including parking areas and landscaping.
9	Utilities	1	Lot	Utilities including water, sewer, and gas.
10	Final Site	1	Lot	Final site preparation and landscaping.

CONCEPTUAL MASTER PLAN FOR  
**WESTRIDGE COMMONS**  
 CORNER OF FLAMINGO ROAD AND ORANGE DRIVE  
 DADE COUNTY, FLORIDA

**SITE DATA**

**SITE ZONE:** COMMERCIAL

**ADJACENT TO:** FLAMINGO ROAD AND ORANGE DRIVE

**ADJACENT TO:** WESTRIDGE COMMONS

**ADJACENT TO:** WESTRIDGE COMMONS

**ADJACENT TO:** WESTRIDGE COMMONS



**Application #: ZB 4-6-01**  
**Exhibit "A"**

**Revisions:**  
**Original Report Date: 11/2/01**

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

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**APPLICANT INFORMATION**

**Owner:**

**Name:** Barry Webber, Attorney-In-Fact  
**Address:** 4430 SW 64 Avenue  
**City:** Davie, FL 33314  
**Phone:** (954)587-3058

**Agent:**

**Name:** Miller, Legg & Associates, Inc.  
**Address:** 1800 North Douglas Road, Suite 200  
**City:** Pembroke Pines, FL 33024  
**Phone:** (954)436-7000

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**BACKGROUND INFORMATION**

**Date of Notification:** August 1, 2001    **Number of Notifications:** 27

**Application History:** Three (3) deferrals have been requested.

**Application Request:** Rezone the 21.731 acre subject site **FROM:** AG, Agricultural District;  
**TO:** B-3, Planned Business Center District.

**Address/Location:** 4450 Flamingo Road/Generally located at the northeast corner of Orange Drive and Flamingo Road.

**Future Land Use Plan Designation:** Commercial

**Zoning:** AG, Agricultural District

**Existing Use:** Vacant

**Proposed Use:** 200,000 square feet commercial use

**Parcel Size:** 21.731 acres (946,593 square feet)

**Surrounding Uses:**

**North:** Vacant  
**South:** Orange Drive, South New River Canal  
**East:** Single Family Residential (Laurel Oaks)  
**West:** Commercial (Flamingo Commons)

**Surrounding Land**  
**Use Plan Designation:**

Residential (1 DU/AC)  
Recreation and Open Space  
Residential (1 DU/AC)  
Commercial

**Surrounding Zoning:**

**North:** AG, Agricultural District (CF, Community Facilities District proposed)

pursuant to application ZB 4-5-01)  
**South:** AG, Agricultural District  
**East:** R-1, Estate Dwelling District  
**West:** B-3, Planned Business Center District

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## ZONING HISTORY

**Related Zoning History:** None

**Previous Request on same property:** None

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## APPLICATION DETAILS

The applicant requests rezoning of a 21.731 acre subject site from AG, Agricultural District to B-3, Planned Business Center District for the construction of a 200,000 square foot commercial retail center, parking lot, and landscaping. Water retention and a passive recreation area are being provided on a contiguous 5.928 acre parcel under joint ownership to the north. This parcel is under consideration for rezoning from AG, Agricultural District to CF, Community Facilities District under petition ZB 4-5-01. The master plan shows potential retail development that includes a service station, pharmacy, grocery or retail store, linear strip retail, all uses permitted under the B-3, Planned Business Center District. The service station is shown as Outparcel #2 on the master plan and can not be built unless this rezoning and variance petition V 4-3-01 are approved. A variance is required for the service station because the Code requires 250 foot separation between a service station and property that has a residential land use classification. It should be noted that the 8,240 square foot multi-tenant retail parcel appears to be an outparcel, however it technically does not qualify as such. The parcel will not be subdivided, supports multiple tenants, and has the same architectural features as the rest of the center. In addition, Outparcel #1 provides for a 60 foot open space buffer along Flamingo Road, and because of this the parcel does not diminish the street frontage of the overall development.

### **Site Area Information:**

1. All applicable code requirements will have to be met (open space, parking, buffers, landscaping, ect.) and a full site plan filed. The master plan attached hereto is made part of the rezoning request shall not be deemed as site plan approval.
2. Access to the site will be provided via Flamingo Road and Orange Drive through two 60' access openings, and two 40' right in right out only access openings. The Engineering Division has recommended the elimination of 1 of the access openings on Orange Drive. This matter is being considered under plat application P 5-1-01, Westridge Commons Plat.

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### **Applicable Codes and Ordinances**

1. Section 12-307 of the Land Development Code, review for rezonings.
2. Section 12-83 of the Land Development Code, Conventional Nonresidential Development Standards, B-3, Planned Business Center District, requires minimum lot area of 43,560 square feet, minimum lot frontage of 150 feet, minimum lot depth of 250 feet, minimum front, side, and rear setbacks of 25 feet (50 feet on sides abutting residentially zoned, occupied or Land Use Plan-designated properties), and maximum building height

of 35 feet.

3. Section 12-33(P)(11) of the Land Development Code, General Provisions Pertaining to All Business Districts, states when an outparcel is created within any of the business or industrial districts, said outparcel shall not be created so as to diminish the street frontage of the overall development by more than twenty (20) percent. There shall not be created two or more contiguous outparcels within a single overall development. Development of outparcels created pursuant to the regulations contained herein shall be evaluated in terms of the overall development within which it is located. Access to the outparcel shall be provided from the overall development. All landscaping, parking and open space requirements of the applicable zoning district shall be satisfied on-site unless otherwise provided for within the overall development; the developer shall submit appropriate documents ensuring compliance. A maximum of one (1) outparcel may be created within an overall development for each fifty thousand (50,000) square feet, or fraction thereof, of gross building area.

4. Section 12-503 of the Land Development Code, Definitions, defines an outparcel as a parcel of land which was previously included in an overall development of a larger parcel of land, subdivided for the purpose of building a separate, freestanding building or for marketing as a separate or distinct parcel of land. For the purposes of these regulations, an outparcel containing all the land area measuring from the front lot line to the rear lot line, inclusive, of the overall development shall not be subject to the restrictions contained herein.

5. Section 12-34(Y)(2) of the Land Development Code, Service Stations and Motor Fuel Pump Islands, states that there shall be a minimum distance of two hundred fifty (250) feet between property occupied by a service station and the nearest points on any lot land use plan designated residential.

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### **Comprehensive Plan Considerations**

**Planning Area:** The subject property falls within Planning Area 2. Planning area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 100. The petitioner is required to plat the subject site and satisfy Broward County traffic concurrency requirements.

**Applicable Goals, Objectives & Policies:** 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 residential 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. Commercial uses located on arterials not designated by the Future Land Use Plan map as commercial corridors should be limited to the intersection of two arterials or arterials and interstates. Consistent with Policy 7-1, vacant land with such access shall be evaluated for potential commercial use.

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### Staff Analysis

The proposed zoning designation will be consistent with the property to the west and with Broward County's Land Use Plan designation as commercial use. The subject site is unique in that it is surrounded by land with Residential (1 DU/AC) classification without an intervening multi-family residential land use. Because of the lack of transition area, careful consideration must be given to this request. Uses and conventional development standards, such as service stations and building heights, permitted by the proposed zoning designation may have negative impacts on the surrounding area. The Residential (1 DU/AC) property immediately to the north will serve as a generous buffer as it is proposed to be rezoned CF, Community Facilities, and to be utilized as a water retention and passive recreation area.

Staff does not believe the proposed designation will increase traffic intensities beyond the levels that were anticipated by the commercial land use designation. Staff does believe the requested zoning designation may be among the most appropriate to enhance the Town's tax base at this location, but would also have the same opinion of a B-2, Community Business District designation. The proposed rezoning does not create an isolated zoning district, but is not completely consistent with the adjacent existing and planned uses. Therefore, the proposed use may be considered to be in harmony with the general intent and purpose of the code.

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### Findings of Fact

#### **Rezoning:**

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

**The following findings of facts apply to the rezoning request.**

- (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 not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;

***However, the site is bordered by Residential (1 DU/AC) to the north and east.***

- (c) Existing zoning district boundaries are logically drawn in relation to existing conditions on the property proposed for change;
- (d) The proposed change could adversely affect living conditions in the neighborhood;

***If adequate measures are not taken to buffer the adjoining sites.***

- (e) The proposed change will not create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated with permitted intensities or densities of the underlying land use plan designation, or otherwise affect public safety;

(f) The proposed change will not adversely affect other property values;

***Provided that adequate measures are taken to buffer the adjoining sites.***

(g) The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations;

(h) The proposed change does not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;

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

(j) The proposed zoning designation may be 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 mixed findings of facts in the positive, staff recommends **approval**, of petition ZB 4-6-01.

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### **Planning & Zoning Board Recommendation**

The Planning and Zoning Board recommended denial of the request at its August 22, 2001 meeting (3-2, Ms. Moore and Ms. Turin opposed).

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### **Exhibits**

1. Justification letter
2. Master plan
3. Land use map
4. Subject site map
5. Aerial

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

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

**Supplemental data for the B-3 Rezoning Application for the "Westridge Commons"**

The Town of Davie requires specific criteria to be reviewed for all rezoning requests. The following questions are provided on the rezoning application and are answered below:

1. *Whether or not the proposed change is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof:*

The site has a current land use designation of "Commercial", as shown on the Town of Davie and Broward County land use plans. The existing AG zoning district is not consistent with the current land use designation. The proposed B-3 zoning will bring the property into conformance with the intended uses of the Town of Davie Comprehensive Plan.

2. *Whether or not the proposed change would create an isolated zoning district unrelated and incompatible with adjacent and nearby districts:*

The proposed change would not create an isolated zoning district that would be unrelated and incompatible with the adjacent and nearby districts. The Town's comprehensive plan shows the intended plan of development for this area is to provide commercial nodes on the east and west side of Flamingo Road and Orange Drive. The Town has already changed the zoning designation for the property on the west side of Flamingo Road to implement that plan. This rezoning will implement that plan for the east side.

The development as proposed will be surrounded by commercial development on the west and south, by a lake and open space buffer provided by the proposed CF rezoning to the north and by well-separated and buffered residential to the east. Therefore the zoning does not create an unrelated and incompatible district with respect to adjacent and nearby districts.

3. *Whether or not the existing zoning district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.*

The existing AG zoning district boundaries were intended to be temporary until a plan for development of the property consistent with the Comprehensive Plan designation became appropriate. In view of the status of development in the surrounding area, the agricultural zoning designation for this property, which has a Commercial designation on the Comprehensive Plan, is illogical in that it is outdated.

4. *Whether or not the proposed change will create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety:*

MAR 20 2012

The requested change in zoning from AG to B-3 will increase in vehicular traffic because the existing zoning does not provide an attraction for nearby residential development. The proposed development of this parcel as a shopping center anchored with a grocery store will certainly provide that attraction. However the commercial use of this property will also reduce trip lengths for residents driving longer distances on the Town's roadways, to obtain the commercial services that will be provided at the proposed shopping center. The developer of the shopping center will be required to comply with traffic concurrency, which means that it will be required to provide improvements to overcapacity roadways impacted by the development.

5. *Whether or not the proposed change will adversely affect other property values:*

The overall development proposed by this rezoning and the accompanying CF rezoning is planned, and will be designed, in a manner that provides convenient shopping for the nearby residents in a shopping center that is attractive, adequately buffered and that provides public amenities. Therefore the proposed rezoning will enhance property values and will create a greater tax base for the Town of Davie.

6. *Whether or not the proposed change will be a deterrent to the improvement or development of other property in accord with existing regulations:*

This proposed change implements the Town's own planning for this area by rezoning the property to provide that commercial development that was designed to serve the adjacent residential area. The development will be well buffered from the adjacent residential areas and, together with the accompanying CF rezoning, will facilitate the development of other property in accord with the existing regulations.

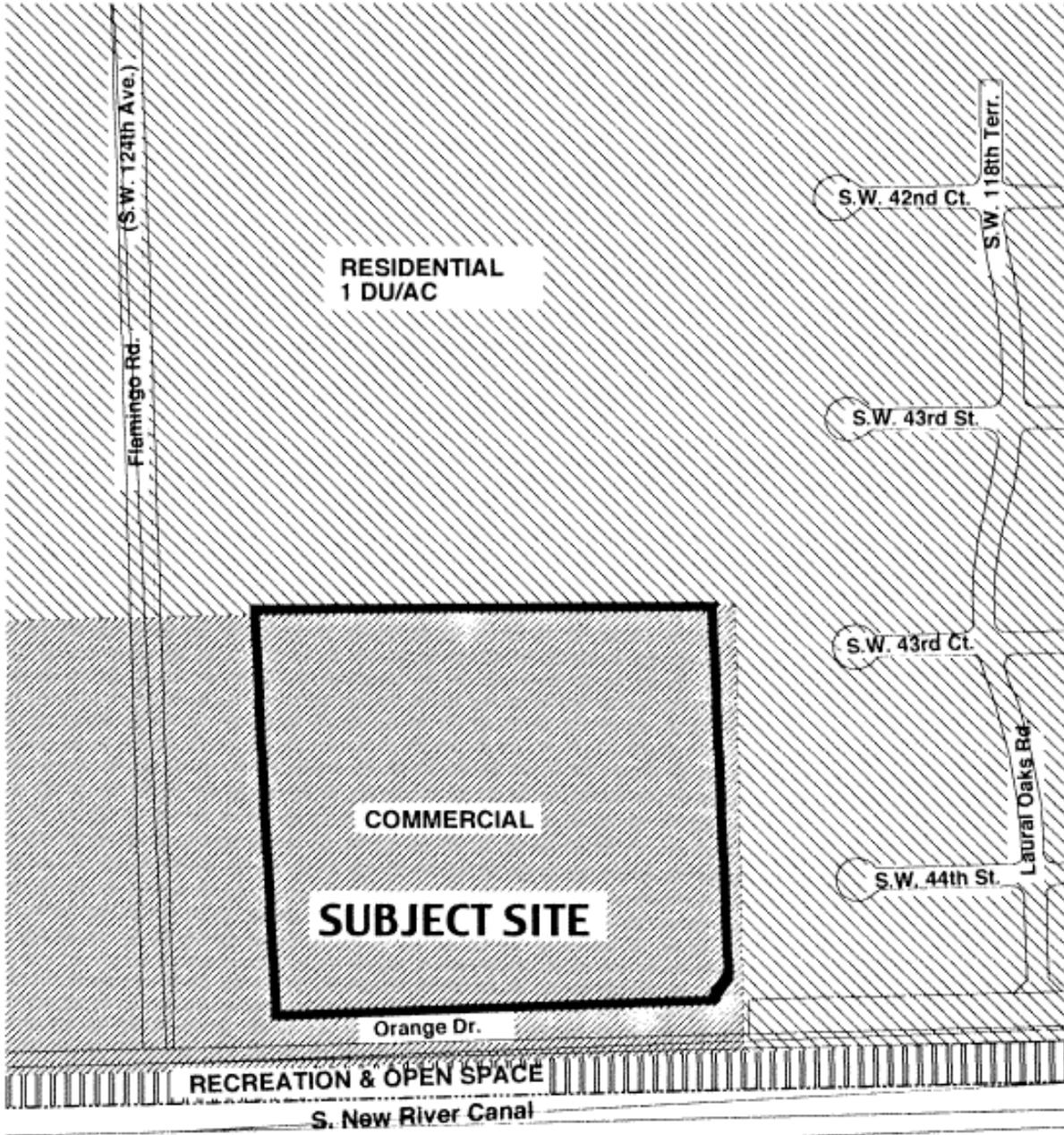
7. *Whether or not the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public.*

The proposed change will not grant a special privilege to an individual owner. It simply implements the Town's Comprehensive Plan designation for this area.

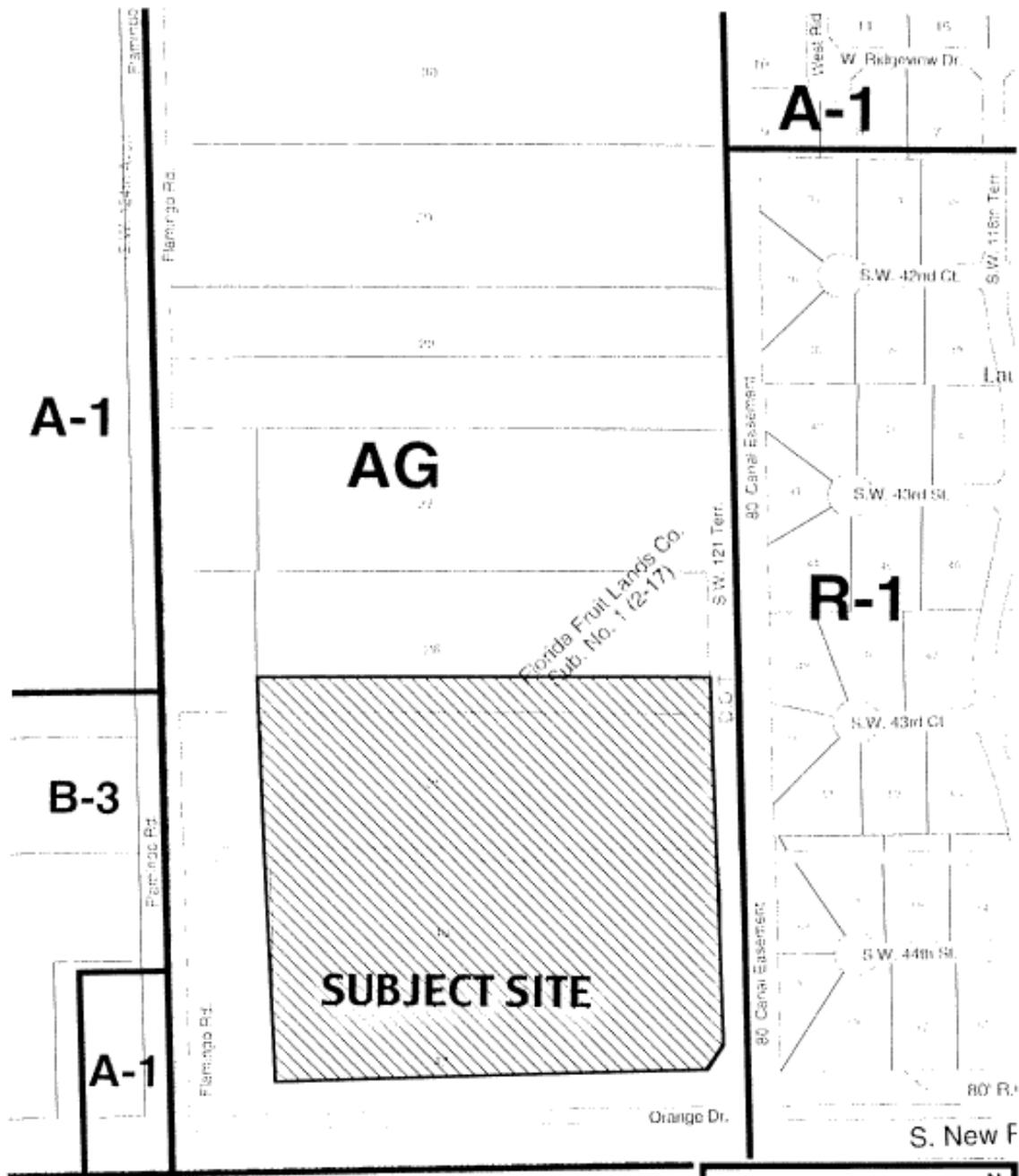
8. *Whether or not there are substantial reasons why the property cannot be used in accord with existing zoning.*

The property cannot be developed with a shopping center, as anticipated by the Town's Comprehensive Plan without commercial zoning. The existing Agricultural designation would not permit the proposed commercial development.





PETITION NUMBER ZB 4-6-01 <i>Subject Site Area          Future Land Use Plan</i>	N <b>4</b>
PREPARED 5/18/01 BY THE PLANNING & ZONING DIVISION	Scale: 1"=100'

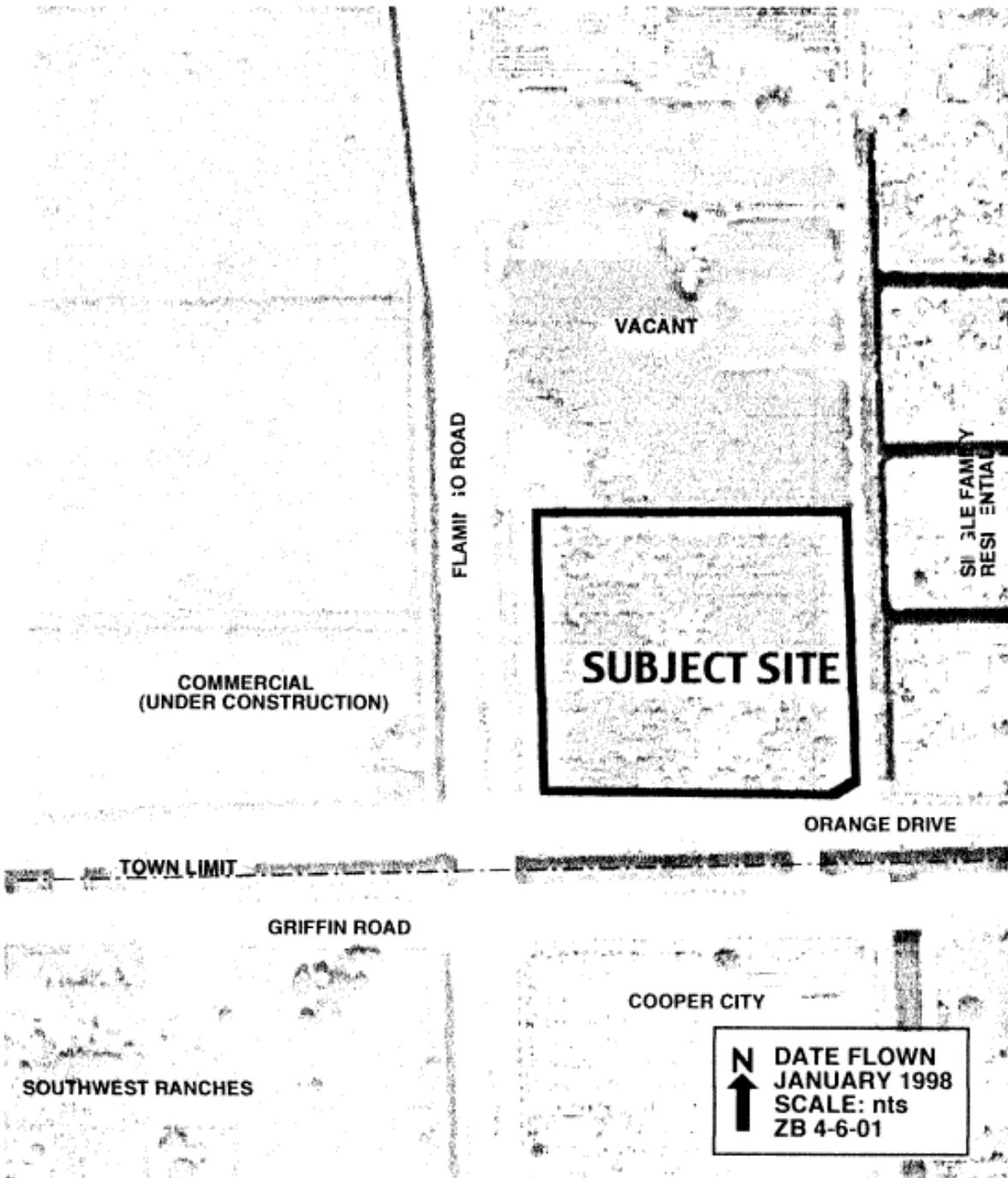


**PETITION NUMBER**  
 ZB 4-6-01

*Subject Site Area Zoning Map*

**PREPARED** 5/18/01 Scale 1"=300'  
**BY THE PLANNING &  
 ZONING DIVISION**

N



VACANT

FLAMINGO ROAD

COMMERCIAL  
(UNDER CONSTRUCTION)

SINGLE FAMILY  
RESIDENTIAL

**SUBJECT SITE**

ORANGE DRIVE

TOWN LIMIT

GRIFFIN ROAD

SOUTHWEST RANCHES

COOPER CITY

**N**  
**↑**  
DATE FLOWN  
JANUARY 1998  
SCALE: nts  
ZB 4-6-01