

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101
Prepared by: Christopher M. Gratz, Planner II

SUBJECT: Ordinance 1st Reading/Quasi-judicial, ZB 2-3-02 Parker Real Estate Partners, 3290 SW 50 Avenue/Generally located on the east side of SW 50 Avenue, approximately 1200' north of SW 36 Street.

AFFECTED DISTRICT: District 1

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-3-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM M-4, LIMITED HEAVY INDUSTRIAL DISTRICT (HACIENDA VILLAGE) TO M-3, PLANNED INDUSTRIAL DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

REPORT IN BRIEF: The petitioner has requested to rezone the 1.28 acre subject site from: M-4, Limited Heavy Industrial District (Hacienda Village) to: M-3, Planned Industrial District so that the subject site can be developed in accordance with Town of Davie land development regulations.

The petitioner has made the request because the use of the structure, building and premises has been discontinued for a period of time longer than ninety (90) consecutive days, and as such it is considered an illegal non-conforming structure as stated in the Land Development Code, Article III, Division 5, Nonconforming Uses and Structures. The master development plan shows that the site will be improved by the addition of landscaping and a parking area. In addition, site plan approval is also required.

PREVIOUS ACTIONS: None

CONCURRENCES: At the March 26, 2003, Planning and Zoning Board meeting, Vice-Chair Bender made a motion, seconded by Mr. Waitkus to approve (Motion carried 5-0).

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Ordinance, Planning Report, Justification, Conceptual Site Plan, Land Use Map, Zoning and Aerial Map

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-3-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM M-4, LIMITED HEAVY INDUSTRIAL DISTRICT (HACIENDA VILLAGE) TO M-3, PLANNED INDUSTRIAL DISTRICT; 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 M-4, Limited Heavy Industrial District (Hacienda Village) to M-3, Planned Industrial District;

WHEREAS, said notice was given and publication made as required by law, and a public hearing there under was held on the date of the adoption of this ordinance. 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 M-4, Limited Heavy Industrial District (Hacienda Village) to M-3, Planned Industrial District:

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

SECTION 2. 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 M-3, Planned Industrial District.

SECTION 3. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. 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 5. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2003.

PASSED ON SECOND READING THIS _____ DAY OF _____, 2003.

ATTEST:

MAYOR/COUNCILMEMBER

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2003.

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

Applicant Information

<u>Owner:</u>		<u>Agent:</u>	
<u>Name:</u>	Parker Real Estate Partners	<u>Name:</u>	Rosanna Cordova, PE Cordova Mendez Design Group
<u>Address:</u>	810 NE 20 Avenue	<u>Address:</u>	320 S. Flamingo Road, PMB 328
<u>City:</u>	Fort Lauderdale, FL 33304	<u>City:</u>	Pembroke Pines, FL 33027
<u>Phone:</u>	(954) 768-0274	<u>Phone:</u>	(954) 441-4455

Background Information

Date of Notification: March 19, 2002 **Number of Notifications:** 13

Application History: No deferrals have been requested.

Application Request: Rezone the 1.28 acre subject site **FROM:** M-4, Limited Heavy Industrial District (Hacienda Village); **TO:** M-3, Planned Industrial District.

Address/Location: 3290 SW 50 Avenue/Generally located on the east side of SW 50 Avenue, approximately 1200' north of SW 36 Street

Future Land Use Plan Designation: Industrial

Zoning: M-4, Limited Heavy Industrial District (Hacienda Village)

Existing Use: Vacant one (1) story warehouse

Proposed Use: Equipment storage and rental

Parcel Size: 1.28 acres (55,669 square feet)

	<u>Surrounding Uses:</u>	<u>Surrounding Land Use Plan Designation:</u>
North:	Mason Elevator Company	Industrial
South:	Ferncrest Industrial Park	Industrial
East:	Ferncrest Industrial Park	Industrial
West:	Florida's Turnpike	Transportation

Surrounding Zoning:

North: M-4, Limited Heavy Industrial District (Hacienda Village)
South: M-4, Limited Heavy Industrial District (Broward County)
East: M-4, Limited Heavy Industrial District (Broward County)
West: T, Transportation District

Zoning History

Related Zoning History: The subject site was annexed into the Town of Davie by Resolution No. 84-127 and Senate Bill 1146, on September 4, 1984, after Hacienda Village was dissolved by the Florida State Legislature.

Previous Requests on same property: None.

Application Details

The petitioner has requested to rezone the 1.28 acre subject site from: M-4, Limited Heavy Industrial District (Hacienda Village) to: M-3, Planned Industrial District so that the subject site can be used.

The petitioner has made the request because the use of the structure, building and premises has been discontinued for a period of time longer than ninety (90) consecutive days, and as such it is considered an illegal non-conforming structure as stated in the Land Development Code, Article III, Division 5, Nonconforming Uses and Structures. The master development plan shows that the site will be improved by the addition of landscaping and a parking area. In addition, site plan approval is also required.

Applicable Codes and Ordinances

Section 12-307 of the Land Development Code, review for rezonings.

Section 12-40 (4) of the Land Development Code, Nonconforming uses of buildings, structures and premises states: When a nonconforming use of a structure or building, or structure or building and premises in combination, is discontinued or abandoned for ninety (90) consecutive days or for a total of six (6) months during any two-year period, except when government action impedes access to the premises, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.

Section 12-83 of the Land Development Code, Conventional Nonresidential Development Standards, M-3, Planned Industrial District, requires the following minimums: lot area of 43,560 square feet, 150' frontage, 25' setback from all street lines, 10' setback from non-residential uses, 35' maximum building height, and 20 percent minimum open space.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 6. Planning Area 6 includes lands located south of State Road 84, east of University Drive and north of Nova Drive, together with lands located east of the Florida Turnpike and west of State Road 7, south of State Road 84 and north of the south Town limits. The majority of this planning area is industrially zoned and land used plan designated. There are small commercial parcels along the State Road 7 corridor with one large retail center being located on the southeast corner of University Drive and State Road 84. Commercial flexibility has been applied to lands designated Industrial on Nova Drive.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 58. Platting of the subject site is not required since there is no proposal for construction of a new structure.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-2:* No property within the Town shall be rezoned to a zoning district that is not in compliance with the Davie Future Land Use Plan.

Staff Analysis

This request will allow the subject site to be used for equipment rental and storage, or other uses permitted in the M-3, Planned Industrial District. The parcel exceeds the Land Development Code's minimum requirements needed to gain the M-3, Planned Industrial District zoning designation. Minimum lot size required is 43,560 square feet, and the subject site is 55,669 square feet, or 1.28 acres. Minimum frontage required is 150', and the subject site has 185'. The existing structure is located 78' from all street lines (25' minimum required), and is setback more than 10' from the adjacent non-residential uses to the north, south, and east. In addition, 25 percent open space (20 percent minimum required) has been provided.

Land Use and Zoning: The Future Land Use Plan Map designates the parcel Industrial. The Future Land Use Plan allows lands designated Industrial to be zoned M-3, Planned Industrial District. The requested zoning classification allows for an equipment rental and storage company to use the site.

Compatibility: An equipment rental and storage company, or other uses permitted by the M-3, Planned Industrial District, are compatible with the surrounding uses. The adjacent parcel to the north is developed with a warehouse building used by an elevator company, to the south and east is the Ferncrest Industrial Park; to the west is Florida's Turnpike.

Findings of Fact

Rezoning:

Section 12-307(A) (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;

The Future Land Use Plan Map designates the parcel as Industrial, and the comprehensive plan allows the M-3, Planned Industrial District to be applied to parcels with this land use.

- (b) The proposed change will not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;

The requested M-3, Planned Industrial District is related and compatible to the adjacent M-4, Limited Heavy Industrial District and T, Transportation District designations.

- (c) Existing zoning district boundaries are logically drawn in relation to existing conditions on the property proposed for change;

The existing M-4, Limited Heavy Industrial District (Hacienda Village) boundaries are logically drawn, however this designation is not a valid Town of Davie zoning district.

- (d) The proposed change will not adversely affect living conditions in the neighborhood;

The uses permitted by the M-3, Planned Industrial District will not have adverse impacts on the surrounding area.

- (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;

The traffic generated by uses permitted by the M-3, Planned Industrial District will not increase traffic or otherwise affect public safety.

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

Surrounding property values will not be adversely impacted by rezoning this site to a valid Town of Davie zoning district. The proposed equipment storage and rental company will not adversely impact the warehouse building occupied by an elevator company to the north; it will not impact the Ferncrest Industrial Park to the south and east, or Florida's Turnpike to the west.

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

Designating the site M-3, Planned Industrial District and making the modifications so the premises meet current requirements will not deter adjacent property owners from improving their property, and should serve as an example to be followed by others.

(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;

This request is a privilege that can be afforded to any owner that has a parcel that meets the Land Development Code's minimum requirements to achieve the zoning classification.

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

The existing M-4, Limited Heavy Industrial District (Hacienda Village) is not a valid Town of Davie zoning district. The structure, building and premises have lost non-conforming status. In order to allow use of the site, it must comply with a valid Town zoning district.

(j) The proposed zoning designation is 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.

Designating the site M-3, Planned Industrial District will enhance the Town's tax base. The parcel is surrounded by industrial uses on three (3) sides and Florida's Turnpike to the west.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board Recommendation

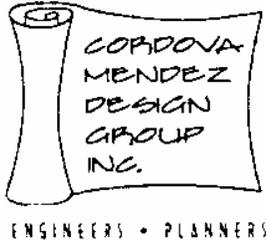
At the March 26, 2003, Planning and Zoning Board meeting, Vice-Chair Bender made a motion, seconded by Mr. Waitkus to approve (Motion carried 5-0).

Exhibits

1. Justification
2. Master Development Plan
3. Future Land Use Map
4. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____



**Dixie Southland Corp.
Justification for Rezoning
February 13, 2003**

This is a rezoning request for +/- 1.28 acres located at 3290 SW 50th Avenue from M-4 (Hacienda Village) to M-3, Planned Industrial Park. The property was annexed into the Town in 1984 as part of the Hacienda Village. This zoning designation is being requested in order to reflect the Town of Davie zoning category. The site is bound on the north by an existing warehouse, zoned M-4 (Hacienda Village); on the south and east by Ferncrest Industrial Park, zoned M-4 (County); and on the west by the Florida Turnpike

The site is an existing warehouse that will be used for equipment storage and rental and brought into compliance with the existing Town of Davie zoning designation. As part of the Planned Industrial District, a Master Development Plan is included in this application.

As required in Section 12-307 of the Land Development Code, the following is an analysis of the criteria for reviewing rezoning requests.

- a) *The proposed change is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;*

The proposed change is not contrary to the adopted comprehensive plan. This rezoning is proposed in order to bring the site into compliance with the Town of Davie zoning category.

- b) *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 nor is it incompatible with adjacent districts. This rezoning is proposed in order to bring the site into compliance with the Town of Davie zoning requirements. The site is surrounded by Industrial uses.

- c) *Existing zoning district boundaries are illogically drawn in relation to existing conditions on the property proposed for change;*

Existing zoning district boundaries are not illogically drawn in relation to existing conditions on the subject property.

d) The proposed change will adversely affect living conditions in the neighborhood;

The proposed change will not adversely affect living conditions in the neighborhood. This rezoning is proposed in order to bring the site into compliance with the Town of Davie zoning category.

e) The proposed change will 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;

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. This rezoning is proposed in order to bring the site into compliance with the Town of Davie zoning category.

f) The proposed change will adversely affect other property values;

The proposed change will not adversely affect other property values. This rezoning is proposed in order to bring the site into compliance with the Town of Davie zoning category. The required landscape buffer will enhance the property.

g) The proposed change will be a deterrent to the improvement or development of other property in accord with existing regulations;

The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations. This rezoning is proposed in order to bring the site into compliance with the Town of Davie zoning requirements.

h) The proposed change will constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;

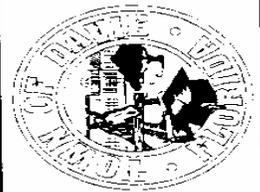
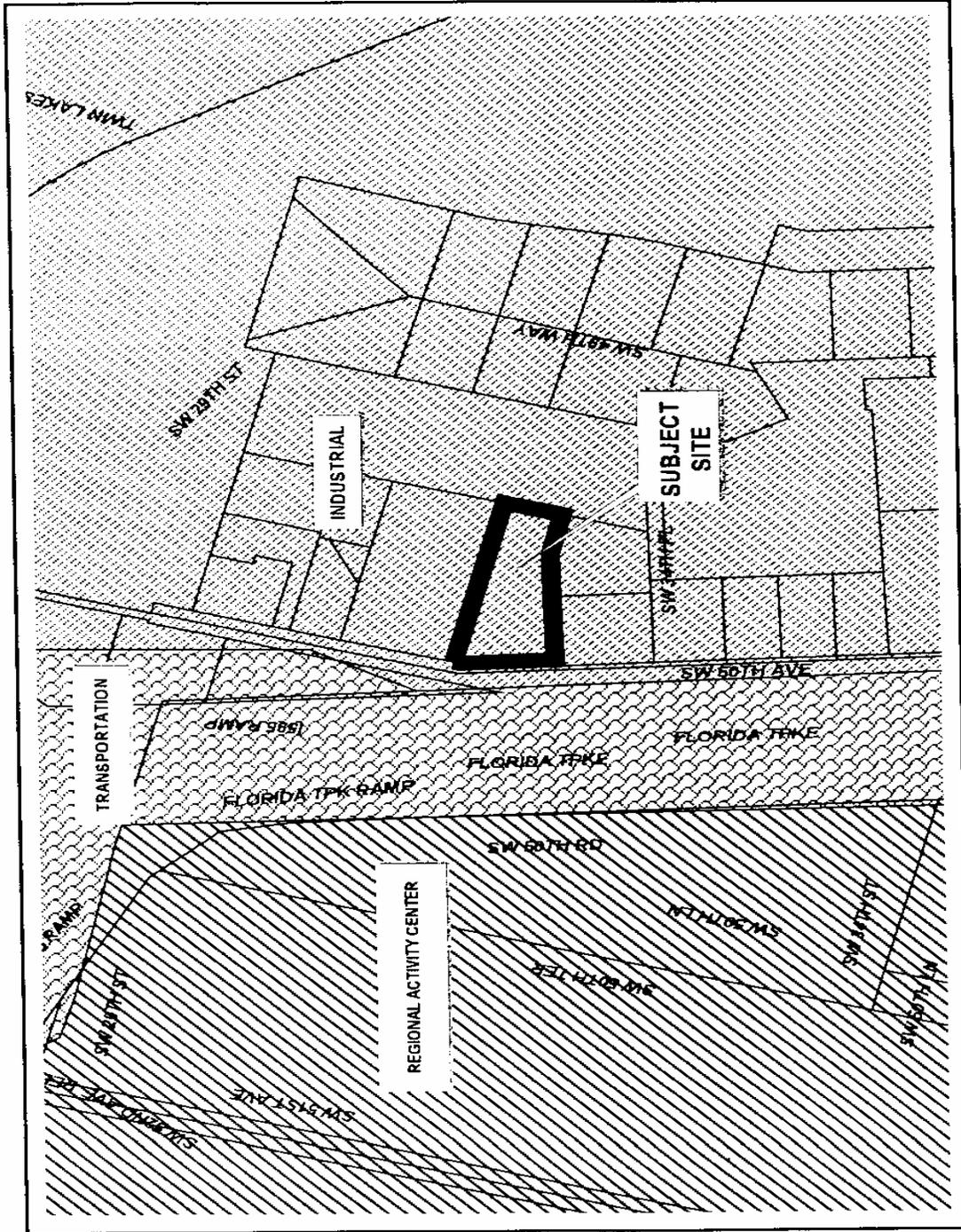
The welfare of the general public will not be compromised by the granting of this request nor does it grant special privileges to the owner.

- i) *There are substantial reasons why the property cannot be used in accord with existing zoning:*

This rezoning is proposed in order to bring the site into compliance with the Town of Davie zoning category. It cannot be used in accord with the existing zoning because the M-4 (Hacienda Village) zoning category does not exist in the Town of Davie zoning code.

- j) *The proposed zoning designation is 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.*

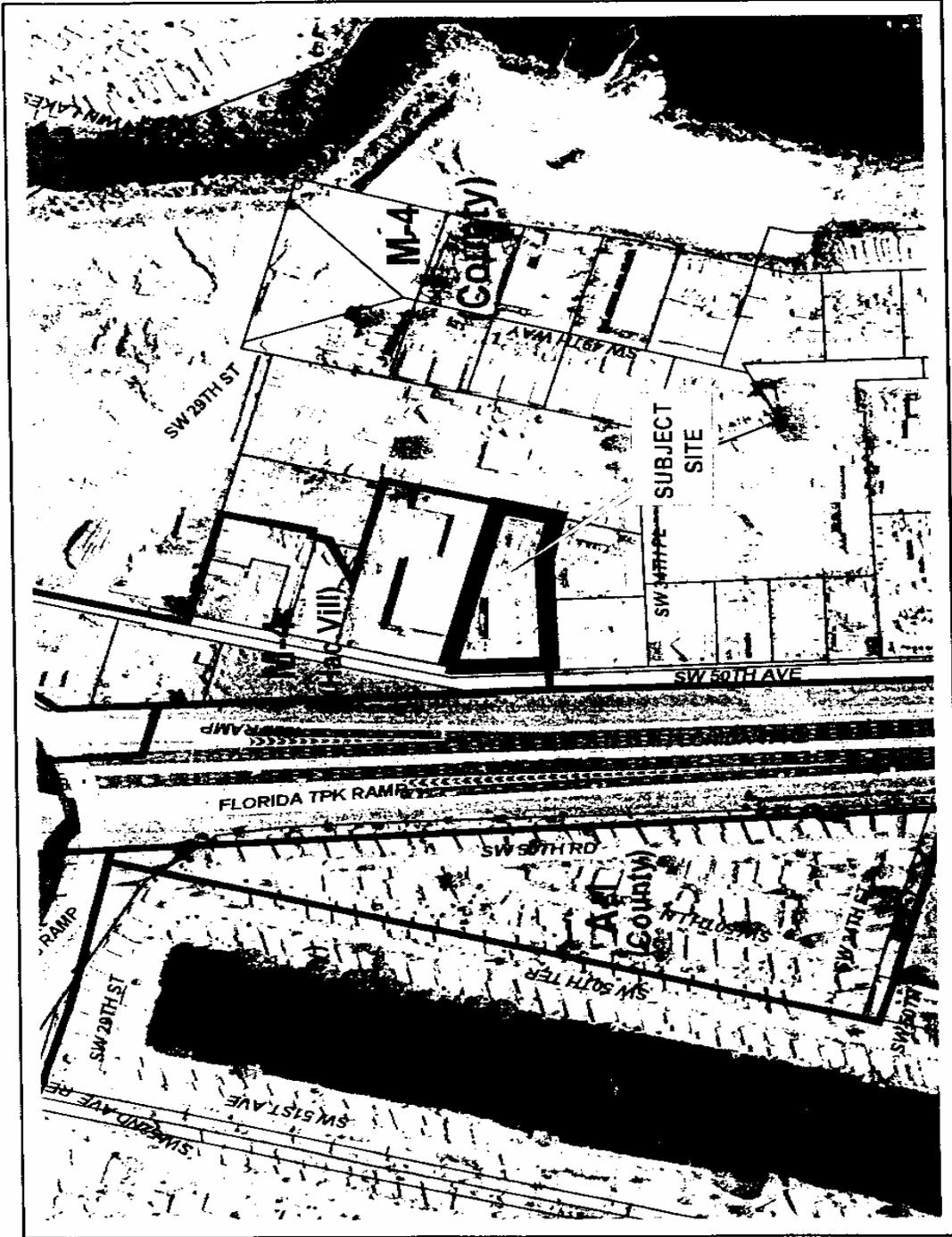
The proposed zoning designation is compatible with the existing zoning and the surrounding zoning in the area. Therefore, it is the most appropriate zoning designation relative to the pattern of land use existing and proposed for the future. The existing and future tax base will not change due to this request.



Planning & Zoning Division - GIS

REZONING
ZB 2-3-03
Future Land Use Map

Date Prepared: 3/1/03
 Prepared By: ILO



REZONING
ZB 2-3-03
Zoning and Aerial Map

Date Prepared 3/1/03
 Prepared By ILD

Date Flown:
 12/31/00



Planning & Zoning Division - GIS