

# 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: Roberta Moore, Planner I

**SUBJECT:** Ordinance 1st Reading/Quasi-judicial, ZB 4-1-03 Administrative Rezoning, 5241 SW 82 Avenue, Generally located between SW 82 Avenue to the east and Pine Island Road to the west, approximately 3/4 of a mile north of Stirling Road.

**AFFECTED DISTRICT:** District 2

**TITLE OF AGENDA ITEM:** AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 4-1-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM R-5, LOW MEDIUM DWELLING DISTRICT TO A-1, AGRICULTURAL DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

**REPORT IN BRIEF:** The applicant requests rezoning of the 4.0 acre parcel from R-5, Low Medium Dwelling District to A-1, Agricultural District. The subject site is currently zoned R-5, Low Medium Dwelling District and is currently being used as a single family residence and agricultural uses. The subject site was rezoned by Davie Builders', ZB 7-1-99, which rezoned the parcels from A-1, Agricultural District and CF, Community Facilities to R-5, Low Medium Density Dwelling District and also from A-1, Agricultural District to CF, Community Facilities. Davie Builders' filed for an additional rezoning, ZB 4-1-00, to rezone parcels from A-1, Agricultural District to R-5, Low Medium Density Dwelling District. The parcels are under new ownership and these property owners would like to utilize the parcels for Residential (1 du/ac) and agricultural uses.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** At the May 14, 2003 Planning and Zoning Board meeting, Vice-Chair Bender made a motion, seconded by Ms. Lee, to approve. (Motion carried 4-0, Mr. Waitkus absent).

**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, Survey, Land Use Map, Zoning and Aerial Map

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

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**Applicant Information**

**Owner / Agent:**

**Name:** Thomas J. Willi, Town Administrator  
**Address:** 6591 Orange Drive  
**City:** Davie, Florida 33314  
**Phone:** (954) 797-1000

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**Background Information**

**Date of Notification:** May 6, 2003    **Number of Notifications:** 14

**Application History:** No deferrals have been requested.

**Application Request:** Town initiated administrative rezoning.

**Affected District:** District 2

**Address/Location:** 5241 SW 82 Avenue/Generally located between SW 82 Avenue to the east and Pine Island Road to the west, approximately 3/4 of a mile north of Stirling Road.

**Future Land Use Plan Designation:** Residential (3 DU/AC)

**Existing Zoning:** R-5, Low Medium Dwelling District

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

**Existing Use:** Vacant and Single family dwellings.

**Proposed Use:** Single family dwellings and agricultural.

**Parcel Size:** 4.00 acres (174,245 square feet)

**Surrounding Uses:**

**North:** Vacant  
**South:** Agricultural  
**East:** Single Family Dwelling  
**West:** Vacant

**Surrounding Land**

**Use Plan Designation:**

Community Facilities  
Residential (3 DU/AC)  
Residential (3 DU/AC)  
Residential (3 DU/AC)

**Surrounding Zoning:**

**North:** CF, Community Facilities  
**South:** A-1, Agricultural District  
**East:** A-1, Agricultural District  
**West:** CF, Community Facilities

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**Zoning History**

**Related Zoning History:**

- Rezoning application ZB 7-1-99, was approved on June 21, 2000, changing the zoning on 19.8 acres.
  - These requests included rezoning from A-1, Agricultural District and CF, Community Facilities to R-5, Low Medium Density Dwelling District and also rezoning from A-1, Agricultural District to CF, Community Facilities.
- Rezoning application ZB 4-1-00, was approved on June 21, 2000, changing the zoning on 3.1 acres.
  - The request included rezoning from A-1, Agricultural District to CF, Community Facilities.

**Previous Request on same property:** A deed restriction was voluntarily executed per Ordinance 2000-20 that limited the land to a maximum of 42 dwelling units and limited the infrastructure and recreation improvements to serve the development parcel.

The Davie Builders parcel was part of a previous Town and County Land Use Plan Amendment request in December 1998, which sought to allow for up to 10 units per acre. The Planning and Zoning Board recommended approval with conditions, and the Town Council denied the request.

The rezoning application, ZB 7-1-99, requested the assignment of 18 reserve units to the Future Residential property. In conjunction with the rezoning applications, the petitioner had voluntarily committed the future residential property to a restrictive covenant that limited the future residential property to a density of 81 residential units. The use of reserve units are required to permit the proposed R-5 zoning district within the designated Residential (3 DU/AC) land use designation.

A Small Scale Land Use Plan Amendment [LABC (SS) 99-4A] was approved (first reading) on August 4, 1999, to change the land use from CF, Community Facilities to R-3, Residential (3 DU/AC).

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## Application Details

The Town of Davie has requested to rezone the 174,245 square feet (4.0 acres) subject site from: R-5, Low Medium Dwelling District; back to: A-1, Agricultural District.

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### Applicable Codes and Ordinances

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

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### Comprehensive Plan Considerations

**Planning Area:** The subject property falls within Planning Area 10. Planning area 10 is generally located north of Stirling Road, south of Griffin Road, east of Pine Island Road, and west of SW 76 Avenue. Commercial development of retail centers and office buildings line the west side of the University Drive corridor. The east side of this corridor is predominantly small-scale commercial development, with multifamily residential development and plant nurseries on the northern half of the corridor, and commerce park development and cattle grazing on commerce park zoned lands on the southern half. Commercial development also exists along Griffin Road within this planning area. Several small-scale single-family residential communities, two trailer parks totaling approximately 30 acres in area, and an eight (8) acre industrial park are located within this planning area, together with six parcels zoned for community facilities uses. 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.

**Applicable Goals, Objectives & Policies:** *Future Land Use Plan, Objective 14: 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 Town of Davie Future Land Use Plan.

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### Staff Analysis

The purpose of this rezoning request is to rezone the 4.0 acre subject site to the original A-1, Agricultural District. There were two previous rezoning applications on the subject site, ZB 7-1-99 and ZB 4-1-00.

In June 21, 2000, a combined total of 22.9 acres were the subject of the Davie Builders rezoning. This request was to allow for a church relocation and expansion, water retention and residential development. The various property owners terminated the contract which was the basis of the previous rezoning. The zoning applied to the parcels is no longer consistent with the land use and precludes new property owners from pursuing agricultural uses on this property, as it now is zoned R-5, which prohibits horses. The request is not in conflict with the Comprehensive Plan or any element thereof. The proposed use can be considered to be in

harmony with the general intent and purpose of the code, and will not be detrimental to the public welfare.

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### Findings of Fact

#### Review for Rezonings:

#### **Section 12-308(A)(1):**

- (i) The proposed change is not contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;

*The land use is R-3, Residential (3 DU/AC) and the A-1 zoning district is a permitted zoning district within the R-3 Land Use.*

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

*The surrounding uses consist of CF, Community Facilities to the north, R-3, Low Medium Dwelling District to the south, R-3, Low Medium Dwelling District to the east, and R-3, Low Medium Dwelling District to the west.*

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

*To the north are vacant parcels, to the east are single family residential dwellings, to the south is agriculture, and to the west is vacant.*

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

*The proposed changes will allow for single family dwellings and agricultural uses, which are consistent with the character of the area.*

- (v) 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 proposed change will decrease traffic as the intensity of the permitted uses are less than what is allowed by the Future Land Use Plan map designation.*

- (vi) The proposed change should not adversely affect other property values;

*The rezoning should not affect adjacent property values as the proposed zoning district is compatible with the surrounding zoning districts.*

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

*Development of the subject site will not deter development or improvement of adjacent parcels.*

- (viii) The proposed change will 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.*

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

*The property cannot be developed as the underlying land use is R-3 because the existing zoning district is R-5 which is not consistent with the R-3 land use designation.*

- (x) 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.

*The proposed zoning designation is consistent with the Future Land Use Plan Map, adjacent to an arterial roadway, and is therefore the most appropriate designation to enhance the Town's tax base.*

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### **Staff Recommendation**

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

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

At the May 14, 2003 Planning and Zoning Board meeting, Vice-Chair Bender made a motion, seconded by Ms. Lee, to approve. (Motion carried 4-0, Mr. Waitkus absent).

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### **Exhibits**

1. Justification
2. Survey
3. Land Use Map
4. Zoning and Aerial Map

JUSTIFICATION STATEMENT FOR REZONING REQUEST ZB 4-1-03

The subject site contains approximately 4.0 acres of residential and vacant land that is currently being utilized for both residential and agricultural purposes. The property is located between Pine Island Road and SW 82 Avenue approximately 3/4 of a mile north of Stirling Road.

The subject site is currently zoned R-5, Low Medium Dwelling District and is currently being used as a single family residence and agricultural uses. The subject site was rezoned by Davie Builders', ZB 7-1-99, which rezoned the parcels from A-1, Agricultural District and CF, Community Facilities to R-5, Low Medium Density Dwelling District and also from A-1, Agricultural District to CF, Community Facilities. Davie Builders' filed for an additional rezoning, ZB 4-1-00, to rezone parcels from A-1, Agricultural District to R-5, Low Medium Density Dwelling District.

The parcels are under new ownership and these property owners would like to utilize the parcels for Residential (1 du/ac) and agricultural uses.





SKETCH AND LEGAL DESCRIPTION  
BY  
**PULICE LAND SURVEYORS, INC.**  
5381 NOB HILL ROAD  
SUNRISE, FLORIDA 33351



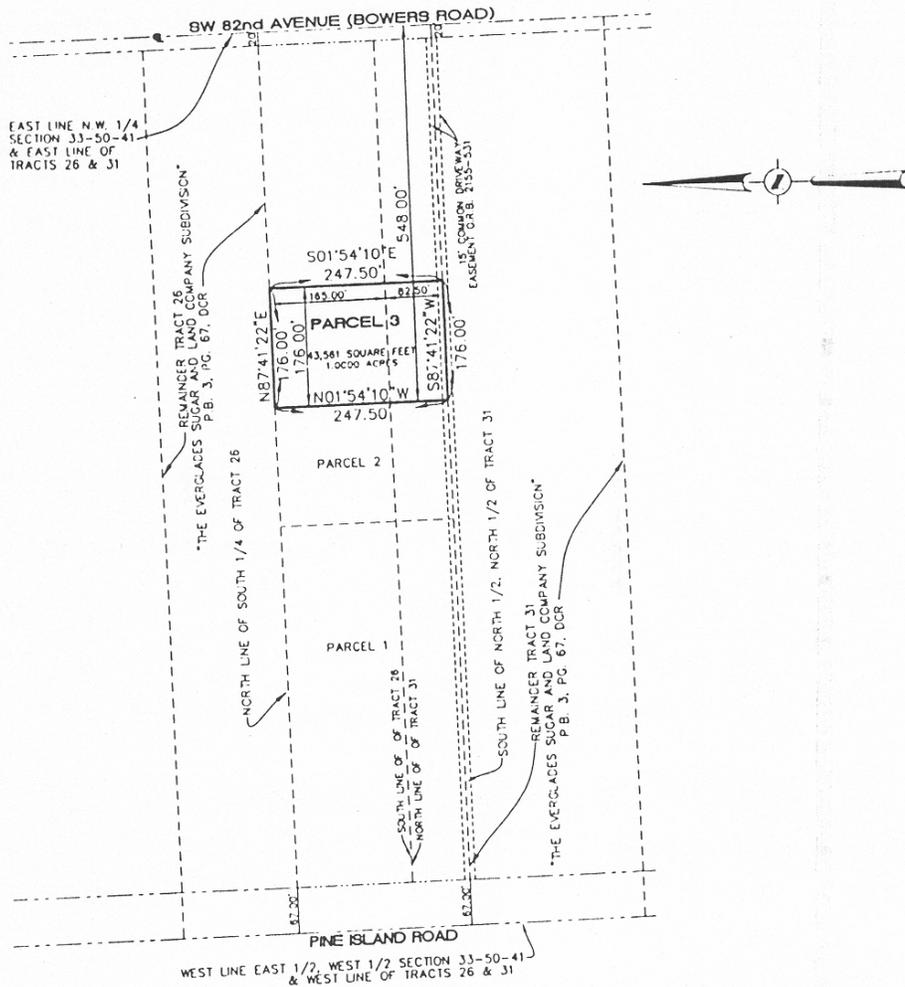
TELEPHONE: (954) 572-1777 • FAX: (954) 572-1778  
E-MAIL: surveys@pulicelandsurveyors.com • CERTIFICATE OF AUTHORIZATION #LB3870

**LEGAL DESCRIPTION: PARCEL 3**

THE WEST 176.00 FEET OF THE EAST 548.00 FEET OF THE SOUTH 1/2 OF TRACT 26 OF "EVERGLADES SUGAR AND LAND COMPANY SUBDIVISION" OF SECTION 33, TOWNSHIP 50 SOUTH, RANGE 41 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 3 AT PAGE 67 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; TOGETHER WITH THE WEST 176.00 FEET OF THE EAST 548.00 FEET OF THE NORTH 1/2 OF THE NORTH 1/2 OF TRACT 31 OF SAID PLAT.  
SAID LANDS SITUATE, LYING AND BEING IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA, AND CONTAINING 43,561 SQUARE FEET (1.0000 ACRES).

**NOTES:**

- 1) BEARINGS ARE BASED ON THE EAST LINE OF THE N.W. 1/4 OF SECTION 33 BEING N01°54'10"W.
- 2) THIS IS NOT A FIELD SURVEY AND DOES NOT REPRESENT A FIELD SURVEY.



FILE: HOYT, GENE  
 SCALE: 1" = 200'  
 ORDER NO.: 44008C  
 DATE: 02/04/03  
 PARCEL OF LAND ON PINE ISLAND ROAD  
 DAVIE, BROWARD COUNTY, FLORIDA  
 FOR: HOYT

*[Signature]*  
 John F. Pulice, Reg. Land Surveyor #2691, State of Florida  
 Beth Ann Shields, Professional Surveyor and Mapper #6136, State of Florida



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BY

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TELEPHONE: (954) 572-1777 • FAX: (954) 572-1778

E-MAIL: surveys@pulicelandsurveyors.com • CERTIFICATE OF AUTHORIZATION #183870

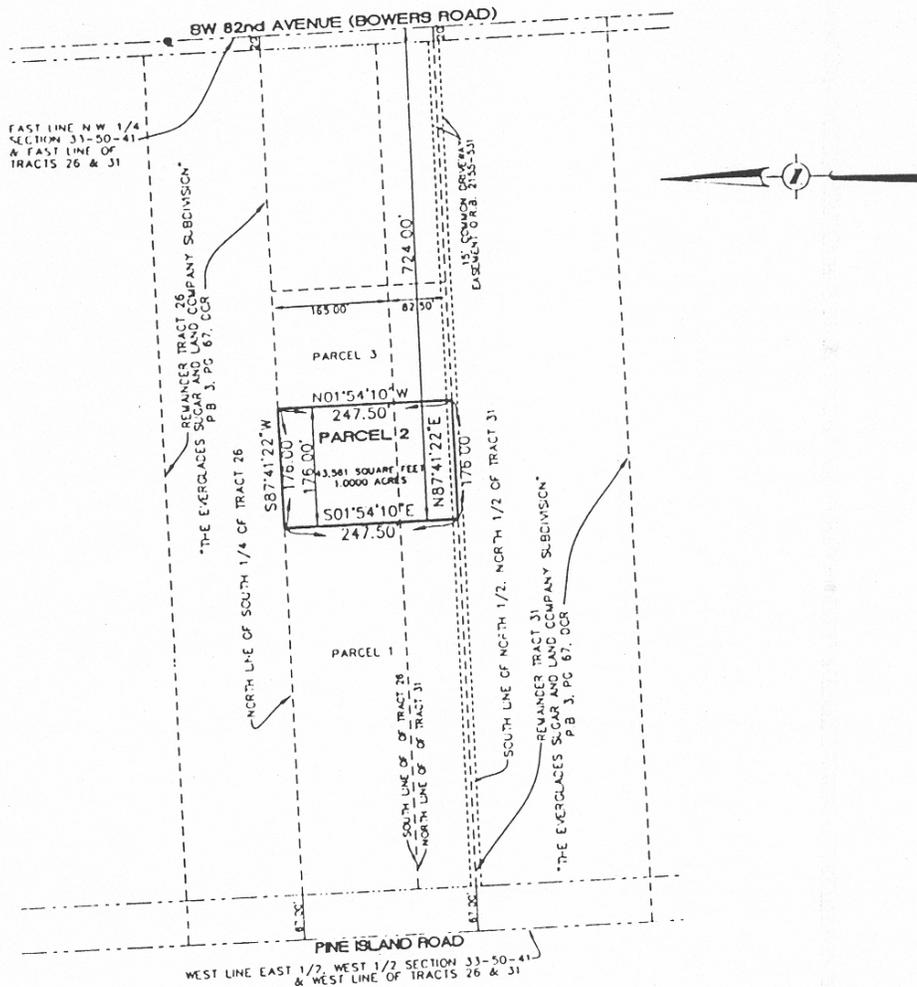


**LEGAL DESCRIPTION: PARCEL 2**

THE WEST 176.00 FEET OF THE EAST 724.00 FEET OF THE SOUTH 1/2 OF TRACT 26 OF "EVERGLADES SUGAR AND LAND COMPANY SUBDIVISION" OF SECTION 33, TOWNSHIP 50 SOUTH, RANGE 41 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 3 AT PAGE 67 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; TOGETHER WITH THE WEST 176.00 FEET OF THE EAST 724.00 FEET OF THE NORTH 1/2 OF THE NORTH 1/2 OF TRACT 31 OF SAID PLAT. SAID LANDS SITUATE, LYING AND BEING IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA, AND CONTAINING 43,561 SQUARE FEET (1.0000 ACRES).

**NOTES:**

- 1) BEARINGS ARE BASED ON THE EAST LINE OF THE N.W. 1/4 OF SECTION 33 BEING N01°54'10"W
- 2) THIS IS NOT A SKETCH OF SURVEY AND DOES NOT REPRESENT A FIELD SURVEY.



FILE: HOYT, GENE

SCALE: 1" = 200'

ORDER NO.: 440088

DATE: 02/04/03

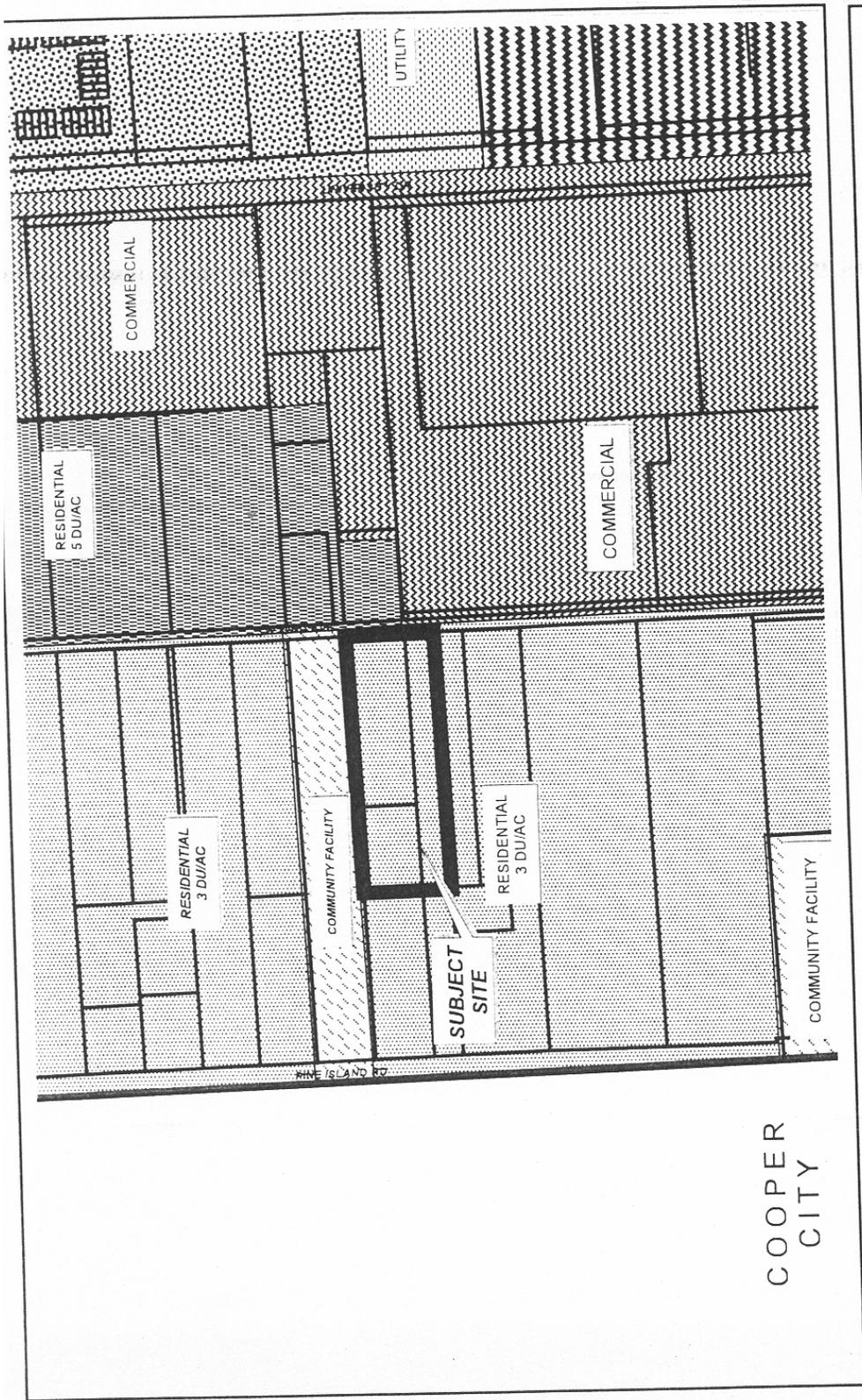
PARCEL OF LAND ON PINE ISLAND ROAD

DAVE, BROWARD COUNTY, FLORIDA

FOR: HOYT

*[Signature]*

John F. Pulice, Reg. Land Surveyor #2691, State of Florida  
Beth Ann Shields, Professional Surveyor and Mapper #6136, State of Florida

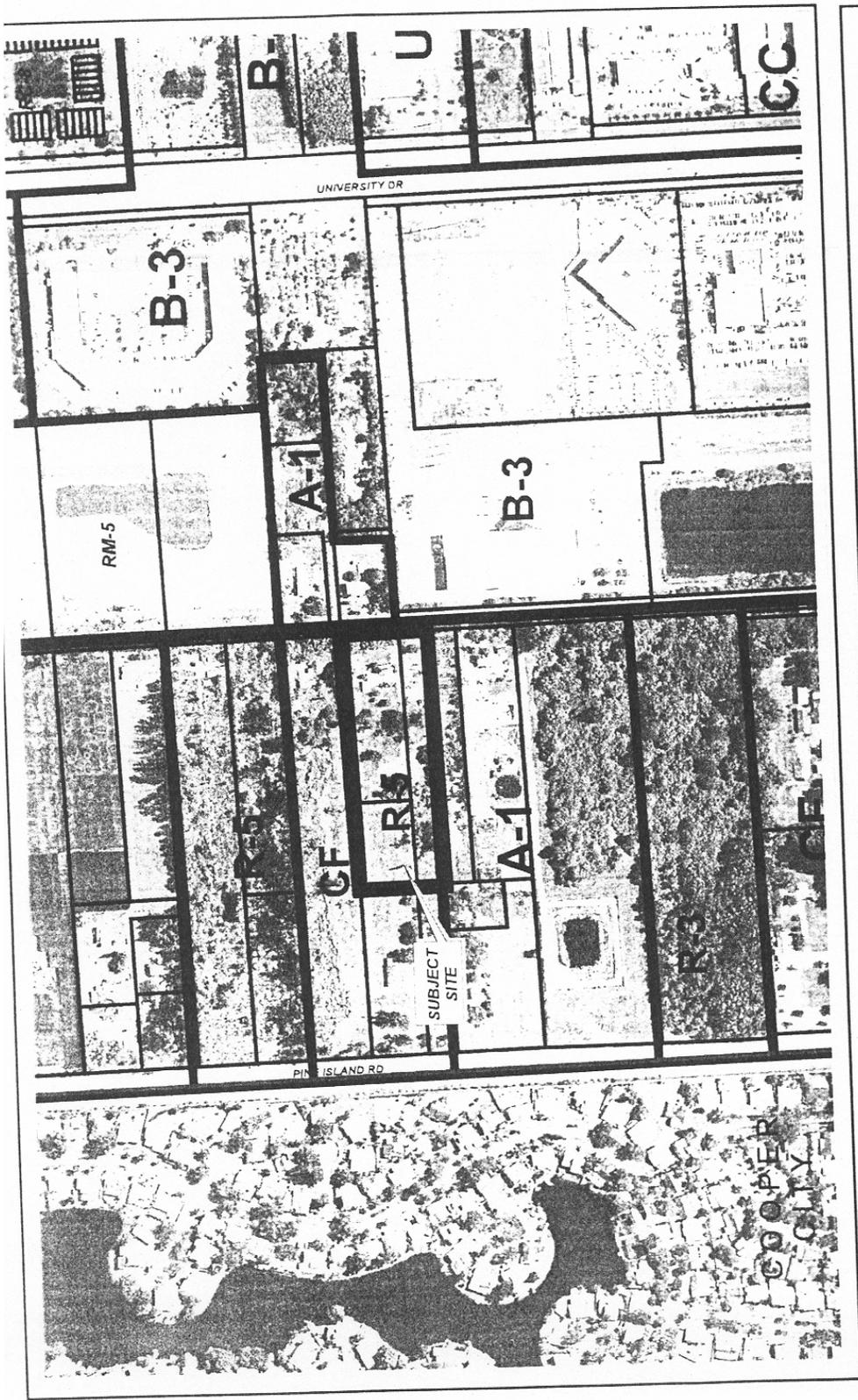


**REZONING  
ZB 4-1-03  
Future Land Use Map**

Prepared by ID  
Date Prepared 5/1/03



Planning & Zoning Division - GIS



**REZONING**  
**ZB 4-1-03**  
**Zoning and Aerial Map**

Prepared by: ID  
 Date Prepared: 5/1/03



Date Flown:  
 12/31/00



Planning & Zoning Division - GIS