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: David M. Abramson, Planner I

SUBJECT: Ordinance 1st Reading/Quasi-judicial, ZB 7-2-03 Tracy Lemons / Charles Bolender, 1390 South Flamingo Drive/ generally located on the northeast corner of South Flamingo Road and S.W. 14th Street.

AFFECTED DISTRICT: District 3

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 7-2-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM R-5, LOW MEDIUM DWELLING DISTRICT; TO AG, AGRICULTURAL DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

REPORT IN BRIEF: The applicant has requested to rezone the 3.07 acre subject site from: R-5, Low Medium Dwelling District to: AG, Agricultural District. The subject site is located on the northeast corner of South Flamingo Road and S.W. 14th Street.

The applicant has completed building a new residential home consisting of approximately 3,200 square feet. Furthermore, the applicant intends to board horses and build a barn with stalls for them on the subject site. However, horses are not permitted in R-5, Low Medium Dwelling District. Therefore, the applicant has requested to rezone their property to a valid Town of Davie zoning district, which shall permit agricultural uses of large animals including horses.

PREVIOUS ACTIONS: None

CONCURRENCES: At the September 24, 2003 Planning and Zoning Board meeting, Ms. Lee made a motion, seconded by Mr. Stevens, 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, Survey, Land Use Map, Zoning and Aerial Map

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 7-2-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM R-5, LOW MEDIUM DWELLING DISTRICT TO AG, AGRICULTURAL 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 R-5, Low Medium Dwelling District to AG, Agricultural 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 R-5, Low Medium Dwelling District to AG, Agricultural 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 AG, Agricultural 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/COUNCILMEMBE

_____
TOWN CLERK

APPROVED THIS_____ DAY OF _____, 2003.

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

Applicant Information

Owner / Agent:
Name: Tracy Lemon & Charles Bolender
Address: 1390 South Flamingo Road
City: Davie, Florida 33325
Phone: (954) 444-2165

Background Information

Date of Notification: September 10, 2003 **Number of Notifications:** 162

Application History: No deferrals have been requested.

Application Request: Rezone the 3.07 acre subject site **FROM:** R-5, Low Medium Dwelling District **TO:** AG, Agricultural District.

Address/Location: 1390 South Flamingo Road, Davie, Florida 33325 / Generally located on the northeast corner of South Flamingo Road and S.W. 14th Street.

Future Land Use Plan Designation: Residential 5 DU / Acre

Zoning: R-5, Low Medium Dwelling District

Existing Use: Single residential home totaling 3,200 square feet.

Proposed Use: Single residential home with stalls and barn for boarding horses.

Parcel Size: 133,729.20 square feet (3.07 acres)

	Surrounding Uses:	Surrounding Land Use Plan Designation:
North:	Triple Cross Ranch	Residential 5 DU / Acre
South:	Vacant Parcel (Future – Sheridan House)	Residential 1 DU / Acre
East:	Village at Pine Lake II	Residential 5 DU / Acre
West:	Existing Church	Residential 5 DU / Acre

Surrounding Zoning:

North:	AG, Agricultural District
South:	CF, Community Facility District
East:	RM-5, Low Medium Density Dwelling District
West:	CF, Community Facility District

Zoning History

Related Zoning History:

Rezoning Request (ZB 12-1-92): Ordinance (93-011) was approved by Town Council on February 17, 1993. The request changed the property classification **from:** AG, Agricultural District **to:** R-5, Low Medium Density Dwelling District at 1380 Flamingo Road.

Previous Requests on same property:

Delegation Request (DG 9-4-97): Resolution (R 97-344) was approved on October 15, 1997 by Town Council to revise the restrictive note for the Christian Fellowship Church Plat.

Application Details

The applicant has completed building a new residential home consisting of approximately 3,200 square feet on the 3.07 acres subject site. In addition, the applicant plans to board horses and construct a barn with stalls on the subject site. However, according to the Land Development Code, large animals including horses are not permitted in R-5, Low Medium Dwelling District. Therefore, the applicant has requested to rezone their site to AG, Agricultural District that allows large animals.

The subject site is located on the northeast corner of South Flamingo Road and S.W. 14th Street. To the north, across Frontage Road is Triple Cross Ranch zoned AG, Agricultural District. Adjacent to east portion of the site is Village at Pine Lake II zoned RM-5, Low Medium Density Dwelling District. To the south, directly across S.W. 14th Street is a vacant parcel and future location of Sheridan House zoned CF, Community Facility District. And finally, to the west is an existing church zoned CF, Community Facility District.

Applicable Codes and Ordinances

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

Section 12-24 (A) of the Land Development Code, This district is intended to maintain, preserve and protect areas of the Town of Davie that are predominately in agricultural uses, and/or have historically demonstrated agriculture productivity. This district is designed to protect the agricultural industry from scattered residential development that displaces agricultural uses from substantial areas of productive agricultural land for a limited number of dwelling units by providing for lots on an acre in size or larger. This district is intended to maintain the rural character of the town and implement the Town of Davie Comprehensive Plan.

Comprehensive Plan Considerations

This parcel is located within the Residential 5 DU / Acre Land Use Plan designation that was adopted by Town Council in 1998.

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.

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.

Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-6: Town land development regulations shall address incompatible land uses through requirements such as buffering and setbacks.

Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-7: Adopted land development regulations shall continue to set forth setbacks or separation regulations, landscaping requirements, and minimum open space criteria to enhance living and working environments.

Staff Analysis

The purpose of this request is to rezone the subject site from R-5, Low Medium Dwelling District to AG, Agricultural. According to the existing Land Development Code, an R-5 zoning district will allow five (5) dwelling units per acre, while an Agricultural zoning district only allows one (1) dwelling unit per acre. Rezoning to an Agricultural zoning district would reduce the density permitted on the subject parcel and allow agricultural uses requested by the applicant.

According to the survey submitted by the applicant, the existing residence conforms to all existing Land Development Code as per § 12-81A. The subject site meets the requirement for minimum lot area, minimum lot frontage, setbacks and maximum building coverage needed to gain the AG, Agricultural District zoning designation.

Land Use and Zoning: The Future Land Use Plan Map designates the parcel as Residential 5 DU / Acre.

Compatibility: A single dwelling unit classification is compatible with the surrounding agricultural uses and community facility uses. The subject site runs parallel to the north side of S.W. 14th Avenue situated just east of Flamingo Road. Adjacent to the north of the site is Triple Cross Ranch, an AG Agricultural zoned parcel. Immediately to the east is Village at Pine Lake II a lower density residential development of 5 dwelling per acre. Across S.W. 14th Avenue to the south is a vacant parcel and proposed future site of the Sheridan House zoned CF, community facility. Finally, immediately to the west is an existing church zoned community facilities.

Findings of Fact

Rezonings:
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 proposed AG, Agricultural zoning district can be applied to any parcel with a Residential Designation on Future Land Use Plan Map.

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

Directly north of the property are existing parcels zoned of AG, Agricultural District. Although only three out of the four adjacent parcel are not specifically zoned AG, Agricultural District, this zoning designation will blend together with the surrounding agricultural and lower residential uses.

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

The existing R-5, Low Medium Dwelling District boundaries are logically drawn, and the proposed designation to AG, Agricultural District is a valid Town of Davie zoning district.

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

The proposed AG, Agricultural District designation will not have any undesirable impacts on residential development surrounding the subject site. Eliminating the R-5, Low Medium Dwelling District, should improve living conditions with more opportunity of open space and less residential density.

(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;

Rezoning the subject site from R-5, Low Medium Dwelling District to AG, Agricultural District will not increase traffic due to the fact that the site is already developed and platted.

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

Rezoning the subject site from R-5, Low Medium Dwelling District to AG, Agricultural District will not have negative impact on surrounding property value.

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

The proposed change will be developed in accordance with existing land development regulations. Surrounding property will be able to develop in accordance with all exiting land development regulation.

(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 R-5, Low Medium Dwelling District is a valid Town of Davie zoning district, however, does not permitted agricultural uses. Therefore, the applicant has request a rezoning so they may use their land for agricultural purposes, such as boarding horses.

(j) The proposed zoning designation maybe 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 R-5 or RM-5 zoning district designation would maximize the development of the site and would be the most appropriate designations to enhance the Town's tax base. However, the proposed AG zoning district designation would use fewer services and would maintain the rural atmosphere of western Davie.

Staff Recommendation

Staff finds that rezoning the subject site **from** R-5, Low Medium Dwelling District, **to** AG, Agriculture District, would trigger a land use plan amendment. Therefore, staff has requested that the applicant provide a letter stating they agree to participate and cooperate in any future comprehensive land use plan amendment to amend the underlying designation of property to Agriculture.

Planning and Zoning Board Recommendation

At the September 24, 2003 Planning and Zoning Board meeting, Ms. Lee made a motion, seconded by Mr. Stevens, to approve. Motion carried 5-0

Exhibits

1. Justification
2. Survey
3. Future Land Use Map
4. Subject Site, Zoning and Aerial Map

Prepared by: _____ Reviewed by: _____

July 16, 2003

Planning and Zoning Department
Town of Davie, Florida

RE: 3.07 acres (survey attached) located at 1390 S. Flamingo Road, Davie, Florida currently zoned R-5.

Dear Sirs:

In October of 2002, we purchased approximately 3 acres located on the Frontage Road of Flamingo Road. We have just completed building a new home on the site. The property is presently zoned R-5. We are requesting to down zone to AG.

It is my understanding that R-5 does not allow large animals. We have horses currently boarded at Triple Cross Ranch (the property north of our land). It is our desire to build stalls and move our horses to our property. In order to do this, we need the zoning changed to AG.

The following is our response to issues as listed as criteria for reviewing rezoning request:

1) The proposed change is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof

   AG is a down zone from R-5. Adjacent properties are either zoned AG or CF. AG land use is permitted in an R-5 zoning, therefore it is not contrary to the adopted land use plan.

2) The proposed plan would create an isolated zoning district unrelated and incompatible with adjacent or nearby districts

   The adjacent properties are zoned AG. This property is isolated from the other properties being zoned R-5.

3) Existing zoning district boundaries are illogically drawn in relation to existing conditions on the property proposed for change

We purchased the property and built a single-family home. We have no intentions of subdividing the site in the future. The surrounding properties are zoned AG making our zoning of R-5 an isolated district in relation to the surrounding land use.

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

In my opinion, the proposed change will enhance the conditions as opposed to adversely effect the conditions. Since the surrounding land is used for ranches, etc., the placement of several homes as permitted with the current zoning would take away part of the "country living" lifestyle they currently enjoy. Permitting our property to become a ranch by rezoning it to AG would add to the lifestyle living of the area.

5) The proposed change will create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety

The proposed rezoning would have the opposite affect. A single-family home will have less traffic than a development of 12-15 homes.

6) The proposed change will adversely affect other property values

The proposed change would not allow any type of land use that are not currently allowed by the surrounding properties, therefore the change would not adversely affect their property values.

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

The change would not have any affect on the improvement or development of other properties. The change is for our property to be rezoned the same as the adjacent property is zoned now.

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

In making this rezoning request, we are asking for no special privilege or conditions that to not exist with all the general public.

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

As stated above, we currently pay to board our horses. Since we have over three acres, we have ample space to construct a barn and stables and maintain them on our property therefore relieving us of the expense of boarding.

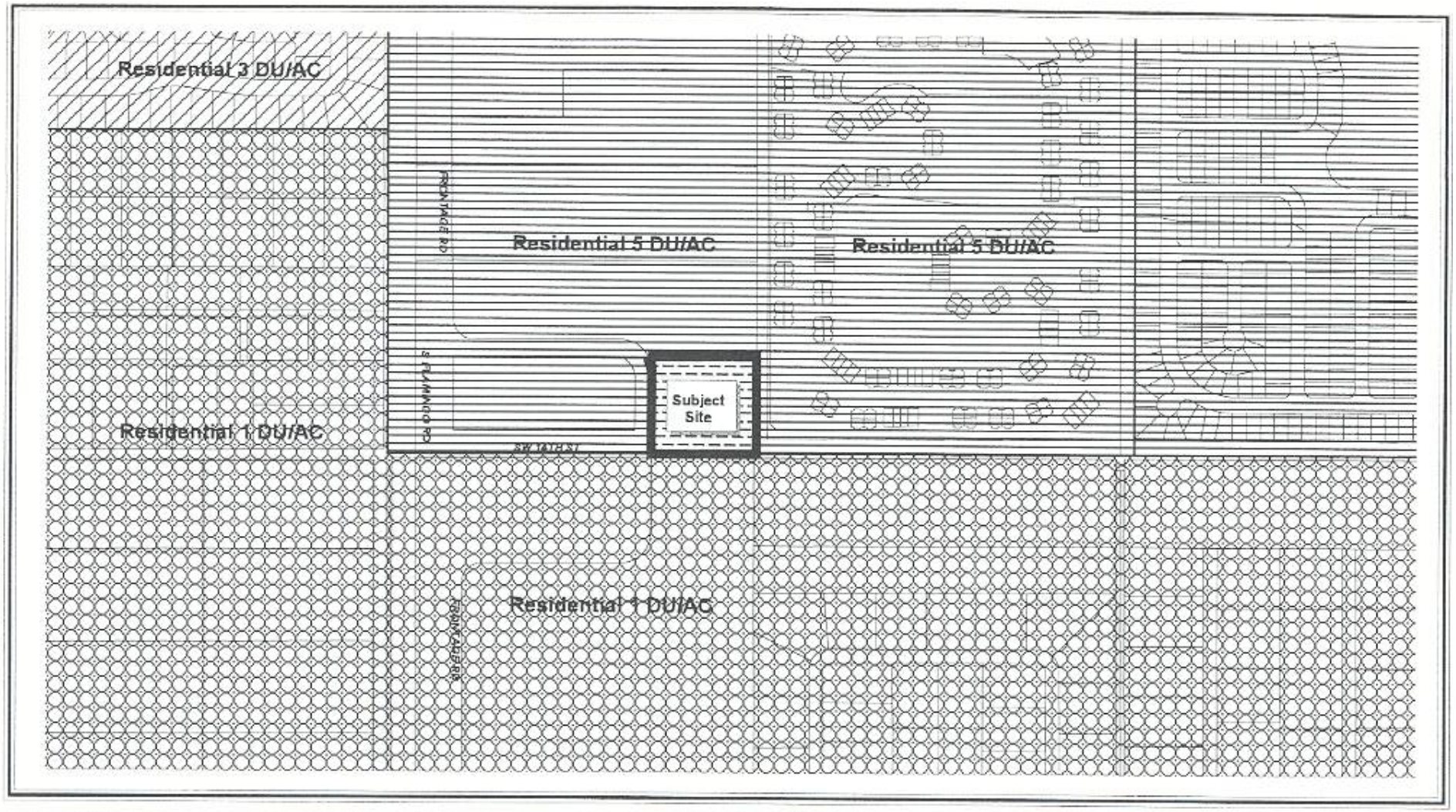
We respectfully request that you grant the rezoning of our property to AG. If you need additional information or have question, please call us at your convenience (954-444-2165).

Respectively submitted,

Tracy Lemon

Tracy Lemon and Charles Bolender
Owners, 1390 S. Flamingo Road, Davie, FL

RECORD LAND SURVEY
ENGINEERING COMPANY (LB#285)
GRAPHIC SCALE
LEGEND
Legal Description
LOCATION SKETCH
S 89°48'49" W
389.80'
346.00'
N 00°08'23"
378.00'
S 00°10'03" E 29.96'
R=109.00'
A=50.86'
Δ=26°43'59"
CH BRG S 13°32'03" E
FRONTAGE ROAD
20' CANAL EASEMENT ON LINE
POINT OF COMMENCEMENT
SOUTH LINE SECTION 12 30 42



Date Flown:
12/31/00

N

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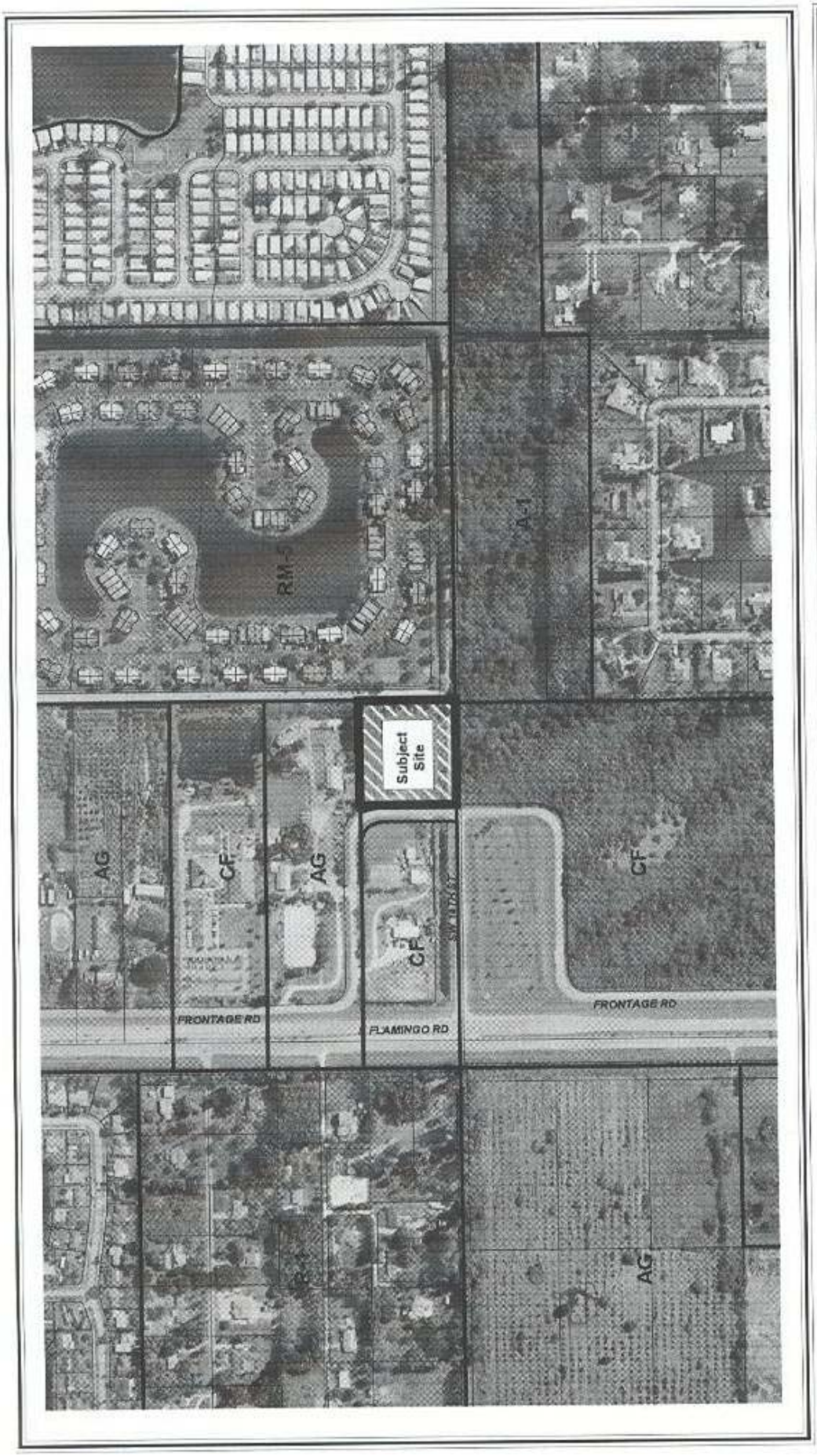
Planning & Zoning Division - GIS

TOWN OF DAVIE FLORIDA

REZONING REQUEST
ZB 7-2-03
Future Land Use Map

Prepared By: D.M.A.
Date Prepared: 9-16-03



REZONING REQUEST
ZB 7-2-03
Subject Site, Zoning, and Aerial Map

Prepared By: D.M.A.
Date Prepared: 9-16-03

Date Flown:
12/31/00

N

300 0 300 600 900 1200 Feet

Planning & Zoning Division - GIS