

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: Bradley Swing, AICP, Planner II

SUBJECT: Quasi Judicial Hearing: Ordinance 1st Reading, ZB 2-1-04 Forest Lawn Memorial Gardens, 2401 Davie Road/Generally located on the south side of State Road 84, 580 feet west of Davie Road.

AFFECTED DISTRICT: District 2

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-1-04, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-9 (COUNTY), CEMETERY DISTRICT TO B-2, COMMUNITY BUSINESS DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The request is to rezone 2.08 acres of vacant land on the south side of State Road 84 within the Forest Lawn Memorial Gardens property from A-9 (County), Cemetery District, to B-2, Community Business District, in order to allow the construction of a funeral home on the site. The existing A-9 (County) classification is the original zoning of the property. This zoning district is not a Town of Davie zoning district and will not provide for the development of the property consistent with the intent of the Town of Davie Comprehensive Plan and Land Development Code. In addition, the Town's Land Development Code, Section 12-2, requires that all real property be designated with a valid Town of Davie zoning district prior to issuance of a development permit.

The rezoning request is consistent with the intent of the B-2, Community Business District as it provides for a business area to serve a limited service need of the local community. The site is compatible with the surrounding zoning districts and uses. Forest Lawn Memorial Gardens surrounds the site and properties with M-4 (County) Limited Heavy Industrial zoning are located adjacent to the cemetery.

The subject parcel, at approximately 187' x 357', meets the requirements of Section 12-83 of the Land Development Code in regard to minimum lot size, frontage, depth and setbacks. The proposed funeral home will have direct access to State Road 84 and I-595 and will not affect the traffic patterns of the surrounding area.

PREVIOUS ACTIONS: None

CONCURRENCES: At the March 24, 2004 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Vice-Chair Turin, to approve. Motion carried 4-0 with Mr. McLaughlin absent.

FISCAL IMPACT: N/A

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 , Legal Description, Future Land Use Plan Map, Zoning and Aerial Map

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-1-04, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-9 (COUNTY), CEMETERY DISTRICT TO B-2, COMMUNITY BUSINESS 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 A-9 (County), Cemetery District, to B-2, Community Business 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 A-9 (County), Cemetery District to B-2, Community Business 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, B-2, Community Business 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 _____, 2004.

PASSED ON SECOND READING THIS _____ DAY OF _____, 2004.

ATTEST:

MAYOR/COUNCILMEMBER

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2004.

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



Applicant Information

<u>Owner:</u>		<u>Agent:</u>	
Name:	SCI Funeral Services of Florida	Name:	Craven Thompson & Associates Edward P. Ploski, AICP
Address:	1929 Allen Parkway, 8 th Floor	Address:	3563 NW 53 Street
City:	Houston, TX 77019	City:	Fort Lauderdale, FL 33309-6311
Phone:	(713) 525-9089	Phone:	(954) 739-2002

Background Information

Date of Notification: March 17, 2004

Number of Notifications: 15

Planning and Zoning Board Recommendation: At the March 24, 2004 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Vice-Chair Turin, to approve. Motion carried 4-0 with Mr. McLaughlin absent.

Application Request: The request is to rezone the 90,635 square foot (2.08 acre) subject site **FROM:** A-9 (County), Cemetery District; **TO:** B-2, Community Business District.

Address/Location: 2401 Davie Road/Generally located on the south side of State Road 84, 580 feet west of Davie Road.

Future Land Use Plan Map: Regional Activity Center and Transportation (R-O-W)

Existing Zoning: A-9 (County), Cemetery District

Proposed Zoning: B-2, Community Business District

Existing Use: Vacant

Proposed Use: Funeral Home

Parcel Size: 2.08 acres (90,635 square feet)

	<u>Surrounding Uses:</u>	<u>Surrounding Future Land Use Plan Map Designations:</u>
North:	State Road 84/I-595	T, Transportation
South:	Forest Lawn Memorial Gardens	RAC, Regional Activity Center
East:	Forest Lawn Memorial Gardens	RAC, Regional Activity Center
West:	Forest Lawn Memorial Gardens	RAC, Regional Activity Center

Surrounding Zoning:

North:	A-9 (County), Cemetery District; M-4 (County) Limited Heavy Industrial
South:	A-9 (County), Cemetery District; M-4 (County) Limited Heavy Industrial
East:	A-9 (County), Cemetery District; M-4 (County) Limited Heavy Industrial
West:	A-9 (County), Cemetery District; M-4 (County) Limited Heavy Industrial

Zoning History

Related Zoning History: None

Previous Requests on same property: The subject site was annexed into the Town as part of the Forman Agreement.

Applicable Codes and Ordinances

Section 12-2 of the Land Development Code, which requires that all real property within the town shall be designated with a valid Town of Davie zoning district as established in the Land Development Code, Chapter 12, Article II prior to issuance of a development permit.

Section 12-307 of the Land Development Code, review for rezonings; criterion in the Findings of Fact.

Section 12-24(J)(5) of the Land Development Code, Community Business (B-2) District. The B-2 District is intended to implement the commercial designation of the Town of Davie Comprehensive Plan by providing for a business area to service the shopping and limited service needs of several neighborhoods or the local community. Retail stores are intended to include convenience, fashion and durable goods.

Section 12-83 of the Land Development Code, Conventional Nonresidential Development Standards, B-2, Community Business Center District requires the following minimums: lot area of 52,500 square feet, 200' frontage, 200' depth, 20' setbacks on all sides except 50' on sides abutting residentially zoned, occupied, or Land Use Plan designated properties, 30% open space, 10' minimum building separation and the following maximums: height 35' and 40% building coverage.

Section 12-208(A)(20) of the Land Development Code, Requirements for off-street parking. *Mortuaries; funeral homes.* One (1) space for each four (4) seats in chapel and viewing areas plus

one (1) space for each four hundred (400) square feet of gross floor area. In no case shall there be less than twenty-five (25) parking spaces provided.

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 99. Platting will be required prior to development of the site.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 5: Consistency of Development with Comprehensive Plan, Policy 5-2:* The (re)zoning, (re)platting, and site planning of land shall be in compliance with the density ranges shown on the Davie Future Land Use Plan map and the applicable Future Land Use Designation provisions as contained in the Permitted Use portion of the Implementation Section.

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 17-3: Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Application Details and Staff Analysis

The request is to rezone 2.08 acres of vacant land on the south side of State Road 84 within the Forest Lawn Memorial Gardens property from A-9 (County), Cemetery District, to B-2, Community Business District, in order to allow the construction of a funeral home on the site. The existing A-9 (County) classification is the original zoning of the property. This zoning district is not a Town of Davie zoning district and will not provide for the development of the property consistent with the intent of the Town of Davie Comprehensive Plan and Land Development Code. In addition, the Town's Land Development Code, Section 12-2, requires that all real property be designated with a valid Town of Davie zoning district prior to issuance of a development permit.

The rezoning request is consistent with the intent of the B-2, Community Business District as it provides for a business area to serve a limited service need of the local community. The site is compatible with the surrounding zoning districts and uses. Forest Lawn Memorial Gardens surrounds the site and properties with M-4 (County) Limited Heavy Industrial zoning are located adjacent to the cemetery.

The subject parcel, at approximately 187' x 357', meets the requirements of Section 12-83 of the Land Development Code in regard to minimum lot size, frontage, depth and setbacks. The proposed funeral home will have direct access to State Road 84 and I-595 and will not affect the traffic patterns of the surrounding area.

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 parcels as Regional Activity Center (RAC). The land use category, Regional Activity Center (RAC) is intended to promote and encourage large-scale development and redevelopment that facilitates a balanced mix of land uses, providing for educational facilities, shopping opportunities, and a wide selection of housing types to meet the needs of students, residents, employees and visitors. The RAC land use category provides for maximum thresholds for uses and does not require land use plan changes for individual parcels of land. The proposed B-2 zoning district is consistent with the underlying land use and the proposed funeral home is compatible with the existing surrounding uses.

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

The zoning districts surrounding the property include industrial and cemetery zoning. The proposed B-2 zoning district is required to permit a mortuary/funeral home. The funeral home is compatible with the existing cemetery, which surrounds the subject site and the existing self-storage business to the west. The proposed use of the subject site as a funeral home would not be unrelated or incompatible with adjacent or nearby zoning districts.

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

The existing A-9 (County) classification is the original zoning of the property. This zoning district is not a Town of Davie zoning district and will not provide for the development of the property consistent with the intent of the Town of Davie Comprehensive Plan and Land Development Code.

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

The rezoning to the B-2 will not adversely affect living conditions in the neighborhood, because no residential neighborhoods are located adjacent to the site. The nearest residential neighborhoods are located ¾ mile to the west and ½ mile to the southeast.

(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 proposed rezoning to B-2 will not increase automobile traffic or affect public safety because the proposed funeral home is a low traffic generator which generally operates at off peak hours. The funeral home will have direct access to State Road 84 and I-595 and will not affect the traffic patterns of the surrounding area.

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

The proposed change will not adversely affect property values. The existing cemetery property surrounds the subject site on three sides, and the site faces State Road 84/I-595.

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

Rezoning the subject site will not deter development or improvement of adjacent parcels. With the exception of a small vacant parcel west of the cemetery property, all adjacent property is already developed. The proposed funeral home will not impact the surrounding existing businesses.

(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 as submitted is not a grant of special privilege as this proposal was submitted in accordance with the Town's Land Development Code and reviewed for consistency with the Town's Comprehensive Plan. In addition, 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 zoning A-9 (County) Cemetery District is not a valid Town of Davie zoning district. Section 12-2 of the Land Development Code requires that all real property within the Town shall be designated with a valid Town of Davie zoning district as established in the Land Development Code, Chapter 12, Article II, prior to issuance of a development permit. It is

normal for a cemetery to have a funeral home, in conjunction with the cemetery use. A funeral home is not permitted in the existing A-9 zoning district. The only way the property can be used for a funeral home is if the property is rezoned to a B-2 zoning district.

(j) The proposed zoning designation is the most appropriate designation to enhance the Town's tax base given the site's 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 existing A-9 (County) zoning district is not the most appropriate for the site. Development of the site as a funeral home will ultimately enhance the Town's tax base. The proposed B-2 zoning is consistent with the Town of Davie Future Land Use Plan Map designation of Regional Activity Center.

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 24, 2004 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Vice-Chair Turin, to approve. Motion carried 4-0 with Mr. McLaughlin absent.

Exhibits

1. Justification
2. Survey
3. Legal Description
4. Future Land Use Plan Map
5. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

CRITERIA FOR REVIEWING REZONING REQUEST

- (1) The proposed change is contrary to the adopted comprehensive plan, as amended, or an element or portion thereof:
The proposed rezoning change is not contrary to the comprehensive plan. This property has an existing land use as a Regional Activity Center and as such provides for many different uses. The proposed B-2 zoning for the proposed funeral home is also compatible with the surrounding existing uses.
- (2) The proposed change would create an isolated zoning district unrelated and incompatible with the adjacent and nearby districts:
The zoning districts surrounding the property are a mixture of commercial, business, industrial and cemetery zoning. The proposed B-2 zoning district is the required zoning district to permit a funeral home. The funeral home is a compatible use with the existing cemetery, which surrounds the parcel. A funeral home use should not be incompatible with the small vacated property to the west of the cemetery, or the existing self-storage business west of the vacated parcel. Many types of businesses are located along the I-595 corridor between the parcel and University Drive to the west. Use as a funeral home would not be unrelated or incompatible with the adjacent and nearby zoning districts.
- (3) Existing zoning district boundaries are illogically drawn in the relation to existing conditions on the property proposed for change:
The zoning districts surrounding the proposed rezoning parcel were originally zoned by Broward County and were annexed into the Town of Davie. The existing zoning of A-9 is the zoning category which was in placed when the property was annexed. The cemetery was the existing use of the property when the property was annexed. The Town of Davie requires a B-2 zoning district for a funeral home which is consistent with the land use and the surrounding uses. The Regional Activity Center land use category permits many different types of development. The surrounding uses will not have a conflict with the proposed funeral home.
- (4) The proposed change will adversely affect living conditions in the neighborhood:
The proposed zoning change will not affect living conditions in the neighborhoods, because no residential neighborhoods are adjacent to the proposed property. The nearest residential neighborhood is ¼ mile to the west and ½ mile to the southeast.
- (5) The proposed change will create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety:
The proposed funeral home is a low traffic generator. The proposed funeral home, in most cases, functions at off peak traffic times. The funeral home is located directly adjacent to two major roadways, Interstate I-595 and State Road 84. The proposed rezoning of this property for a funeral homes does not create excess traffic, vehicular traffic congestion, or affect public safety. The funeral home will have direct access to the two major adjacent roadways and will not affect the traffic patterns of the surrounding uses.

- 1 -

CRANEN THOMPSON & ASSOCIATES INC.

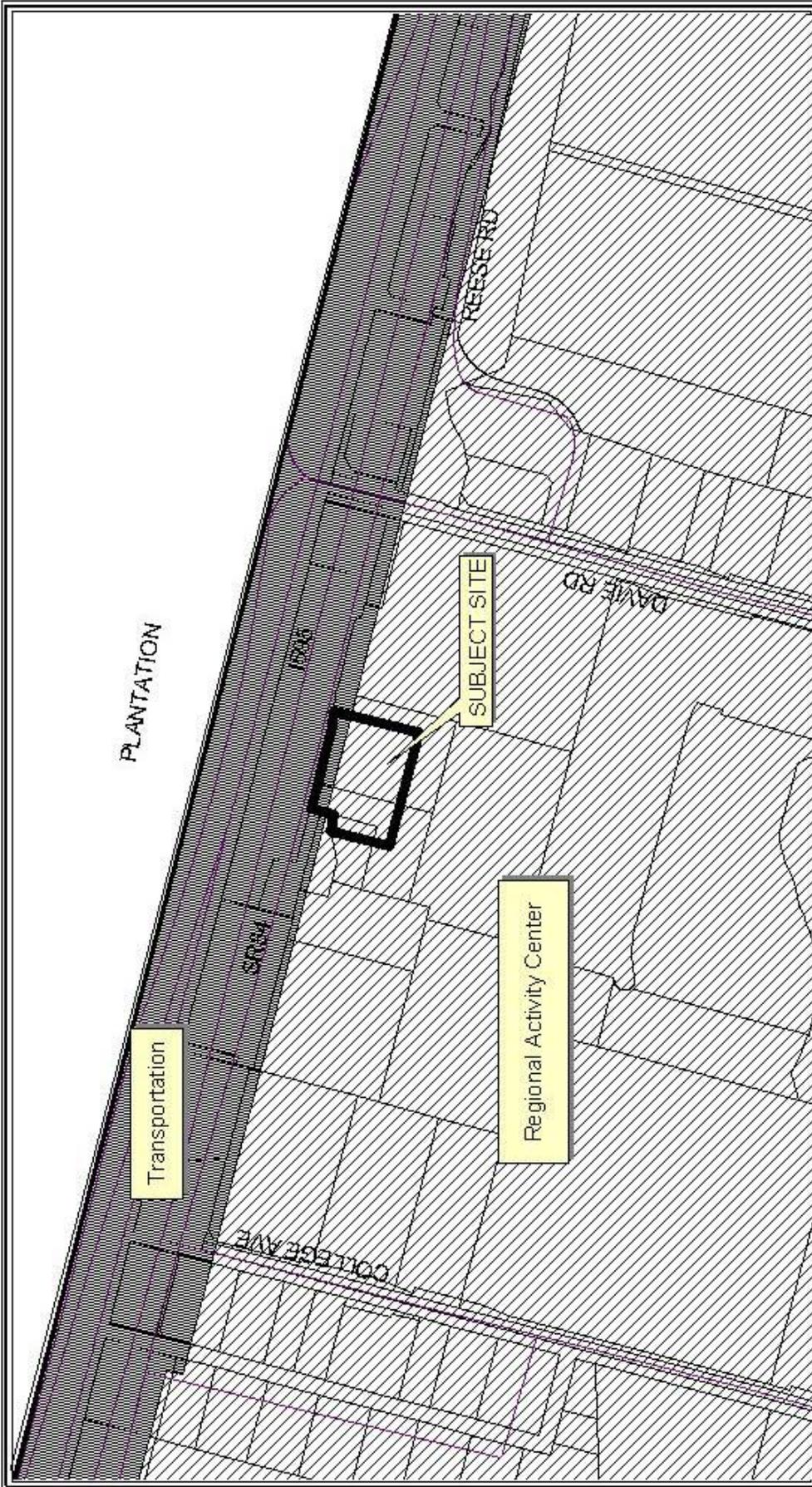
- (5) The proposed change will adversely affect other property values:
The proposed change will not adversely affect other property values in the surrounding area. The cemetery surrounds the proposed property on (3) sides, and the site faces directly to two major roadways. The rezoning of the property to B-2 will have not negatively affect to other properties adjacent to the property.
- (6) The proposed change will be deterrent to the improvements or development of other property in accord with the existing regulations:
The proposed change will not be a deterrent to the improvements or development of other properties in the surrounding area, in accordance with the existing regulations. The proposed funeral home is completely within the existing cemetery property, except for a small vacant parcel west of the cemetery. All adjacent property is already developed. The proposed use will not impact the surrounding existing businesses.
- (7) 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 request to rezone the property from A-9 (cemetery use) to B-2 (Community Business) will not constitute a grant of special privilege or contract the welfare of the general public. The funeral home is an associated use with the existing cemetery. The funeral home is a use that will not impact the surrounding uses or the general public.
- (8) There are substantial reasons why the property cannot not be used in accord with the existing zoning.
The property is currently zoned for a cemetery and for many years has been a cemetery. The owner of the cemetery believes that there is a need in the community for a funeral home at this location. It is normal for a cemetery to have a funeral home, in conjunction with the cemetery use. A funeral home is not permitted by the A-9 zoning district. The only way the property can be used for funeral use is if the property is rezoned to a B-2 zoning district. A funeral home at this proposed location is within the existing cemetery, has direct access to major roadways and will not impact the surrounding uses in any negative ways.

LEGAL DESCRIPTION:

A PORTION OF TRACT 1, TIER 33 OF "NEWMAN'S SUBDIVISIONS" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, AT PAGE 26 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

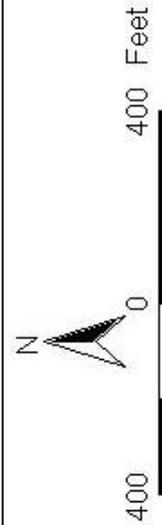
COMMENCE AT THE MOST EASTERLY CORNER OF PARCEL "A" OF "595 INDUSTRIAL PLAT" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 155, PAGE 27 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE S75°15'32"E FOR 59.45 FEET; THENCE N78°35'25"E FOR 102.10 FEET TO THE POINT OF BEGINNING; THENCE S75°15'32"E FOR 48.90 FEET; THENCE N14°44'28"E FOR 76.99 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 84; THENCE S75°14'58"E ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 265.83 FEET; THENCE S83°58'50"E ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 42.77 FEET; THENCE S14°44'51"W FOR 270.58 FEET; THENCE N75°14'08"W FOR 357.00 FEET; THENCE N14°44'51"E FOR 187.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA; CONTAINING 90,635 SQUARE FEET (2.0807 ACRES)



**REZONING
ZB 2-1-04
Future Land Use Map**

Prepared By: B S
Date Prepared: 3/11/04

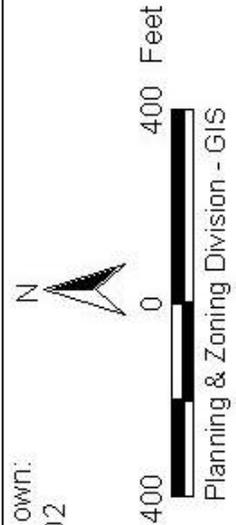


Planning & Zoning Division - GIS



REZONING ZB 2-1-04 Zoning and Aerial Map

Prepared By: B S
Date Prepared: 3-11-04



Date Flown:
12/30/02

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