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: Marcie O. Nolan, Deputy Planning and Zoning Manager

SUBJECT: Quasi Judicial Hearing: Ordinance 1st Reading
ZB 7-1-04/Wilson Road Company, Warren North and Rita Herzig
4621 SW 58th Avenue
Generally located on SW 58th Avenue 600 feet south of Griffin Road

AFFECTED DISTRICT: District 1

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 7-1-04, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO R-1, ESTATE DWELLING DISTRICT ONE (1) UNIT AN ACRE; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The current request is to rezone the 98 acre site from A-1, Agricultural District to R-1, Estate dwelling district (1 du/acre) in order to allow for a 98 unit single family development. The proposed number of units would be consistent with the underlying land use classification of R-1, residential one dwelling unit/acre, which would allow for a maximum of 98 residential units on 98 gross acres. This application has been amended by the applicant from the original rezoning request asking for a zoning designation of R-2, residential two (2) dwelling units an acre utilizing 68 reserve units for an overall site density of 166 dwelling units at 1.7 du/acre (see attached letter). The applicant has met with the surrounding property owners on three occasions and modified this request based upon their concerns

Directly to the south of the site is an FPL easement and Berman Park Wetland Preserve. To the north are single family homes with a zoning designation of A-1, Agricultural 1 du/acre. To the west is a vacant parcel of land zoned R-1 and to the east is the Florida Turnpike.

The applicant has submitted a conceptual site plan concurrent with this application indicating 166 single family homes. This plan must be modified prior to second reading to reflect the maximum number of dwelling units at 98. In addition, a variance

has also been requested to reduce the minimum lot area from 35,000 square feet to no less than 17,500 square feet in order to achieve the 98 units on 98 acres.

PREVIOUS ACTIONS: This item was heard by the Planning and Zoning Board on November 10, 2004. Ms. Lee made a motion, seconded by Vice-Chair Turin, to deny, motion carried 4-1 with Mr. Stevens being opposed. The consensus of the board was to have less density.

CONCURRENCES:

FISCAL IMPACT: N/A

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council, as modified, for further consideration on the condition that prior to second reading a conceptual site plan is attached as Exhibit B that reflects that actual number of units approved by Town Council

Attachment(s): Letter from Applicant**,** Ordinance, Planning Report, Conceptual Site Plan, Future Land Use Plan Map, Zoning and Aerial Map

Ruden McClosky

200 EAST BROWARD BOULEVARD
FORT LAUDERDALE, FLORIDA 33301

POST OFFICE BOX 1900
FORT LAUDERDALE, FLORIDA 33302

(954) 527-2485
FAX: (954) 333-4085
SCOTT.BACKMAN@RUDEN.COM

November 19, 2004

VIA FACSIMILE & U.S. MAIL
Marcie Nolan
Town of Davie
6591 Orange Drive
Davie, FL 33314

Re: Application ZB7-1-04/Silverado Ranches

Dear Marcie:

Home Dynamics hereby voluntarily withdraws its request for 68 reserve units in association with the rezoning application ("Application") scheduled for consideration by the Town Council on Wednesday, December 1, 2004. If necessary, Home Dynamics will also modify the application to request an R-1 zoning designation for the property as opposed to the R-2 zoning designation currently pending with the Application. In order to accommodate the one unit per acre requirements under the R-1 zoning designation, Home Dynamics will also be modifying its pending variance application to request a reduction in minimum lot area required by the R-1 zoning regulations.

If you have any questions or require additional information, please feel free to contact me at your convenience.

Sincerely,

Scott E. Backman

SEB/kb
cc: David Schack
Alejandro Delfino
Mike Gai
Dennis D. Mele, Esq.

FTL:1324813:1

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 7-1-04, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO R-1, ESTATE DWELLING DISTRICT ONE (1) UNIT AN ACRE; 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-1, Agricultural District to R-1, Estate dwelling district one (1) dwelling unit per acre.

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-1, Agricultural District, to R-1, Estate dwelling distrct one (1) dwelling unit per acre.

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

b. The subject property shall be developed in substantial conformance with the master plan as shown in Exhibit "B."

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, R-1, Estate dwelling district one (1) dwelling unit an acre.

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.

Application: ZB 7-1-04/Silverado Ranches
Original Report Date: 11/5/04

Exhibit "A"
Revisions: 11/19/04

TOWN OF DAVIE

Development Services Department
Planning and Zoning Division
Staff Report and Recommendation

Applicant Information

Owners:
Name: Warren North, Rita Herzig, and Wilson Road Co.
Address: 4621 SW 58th Ave.
City: Davie, FL
Phone:

Agent:
Name: Leigh Robinson Kerr
Address:808 E. Las Olas Blvd.
City: Ft. Lauderdale, FL
Phone: 954-467-6309

Background Information

Date of Notification: November 3, 2004 **Number of Notifications:** 66

Application Request: The request is to rezone approximately 98.71 acres from A-1, Agricultural to R-1, Estate dwelling district 1 du/acre. R~~-2, Residential Low Density Dwelling 2 du/acre.~~

Address/Location: The parcels are generally located on the east side of SW 58th Avenue, approximately 600 feet south of SW 48th Street, south of Griffin Road.

Future Land Use Plan Map: Residential 1 du/acre

Existing Zoning: A-1, Agricultural District

Proposed Zoning: R-1, Estate dwelling district, 1 dwelling unit per acre
~~R-2, Residential Low Density Dwelling 2 du/acre through the application of 68 reserve units from Flexibility Zone 102.~~

Existing Use: vacant

Proposed Use: Residential subdivision of 98 single family homes ~~166 single family homes.~~

Parcel Size: 98.71 net acres

98.78 gross acres
Parcel Density: 98 units allowed per land use plan designation

	Surrounding Uses:	**Use Plan Designation:**
North:	Single Family Residential/Vacant	Residential (1 DU/AC)
South:	FPL Property	Residential (1 DU/AC)
East:	Florida's Turnpike	Transportation
West:	Single Family Residential/Vacant	Residential (1 DU/AC)

Surrounding Zoning:

North: A-1, Agricultural District
South: A-1, Agricultural District
East: T, Transportation District
West: A-1, Agricultural District; R-1, Estate Dwelling District

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Zoning History

Previous Requests on same property: The Town initiated Land Use Plan Amendment LABC 98-3A to change the land use of 148 acres of land, including the subject parcel, to a land use classification of Employment Center. The application was withdrawn

Poinciana Homes of Broward County, Inc. initiated Land Use Plan Amendment LA 02-1 to change the land use of a portion of the subject site (the 57 acre nursery), to a land use classification of Special Classification 2.3 DU/AC. The application was denied by Town Council on February 21, 2002 by a vote of 5-0.

A land use plan application (LA 03-7) to change the subject site to Employment Center was denied by Town Council on March 17, 2004.

Concurrent Applications:
The applicant currently has a site plan (SP 9-4-04) in house consistent with the submitted conceptual site plan. The conceptual site plan and site plan application will be modified to reflect the revised rezoning application.

A variance request (V 10-1-04) is being processed to reduce the minimum square lot size from 35, 000 square to no less than 17,500 square feet to allow the parcel be developed as one dwelling unit per acre.

Applicable Codes and Ordinances

Section 12-305, Entitled Rezonings, Special Permits, Variances and Vactions of Rights-of-way, providing noticing requirements.

Table 12-53. Entitled, Residential performance standards requiring a minimum lot area of 35,000 square feet and net density not to exceed 1.24 units per acre.

Table 12-81A, Entitled, Conventional single-family development standards requiring in the R-1 zoning district and minimum lot area of 35,000 square feet, net dry, 125 feet of lot frontage, staggered setback from 30-40 feet, side setback of 25 feet and rear setback of 30 feet.

Artilcle IX. Rural Lifestyle Regulations.

~~Section 12-24, Entitled Neighborhood Conservation District, providing the intent of the R-2, residential low density dwelling unit.~~

Comprehensive Plan Considerations

Planning Area: The proposed project is within the planning area No. 9. This planning area is south of Griffin Road, generally north of Stirling Road, east of SW 76th Avenue and west of the Florida Turnpike. This area is predominately agricultural in nature with scattered low-density single-family residential development. Low profile commercial development lines the Griffin Road, Davie Road, and Stirling Road corridors. Agricultural uses are expected to diminish in the upcoming years, succumbing to increased residential demands given the enhanced accessibility provided by the roadway expansion and easy access to the Florida turnpike.

Broward County Land Use Plan:

The subject site falls within Flexibility Zone 102.

There are currently 115 reserve units remaining in Flexibility Zone 102 and 101 flex units available . ~~Approval of Compatibility, for the allocation of residential reserve units, according to Policy 13.01.10 of the Broward County Land Use Plan is required.~~

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 5: Consistence of Development with Comprehensive Plan, Policy 6-6:* The application of "flexibility units" and "reserve units" shall be in accordance with the provisions as contained in the Flexibility Units and Reserve Units discussion under the Residential category 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 applicant reflects a request to rezone the property from A-1, agricultural one unit per acre to R-1, Estate one unit per acre. The land development requirements for the A-1 and R-1 zoning designation are different with respect to lot frontage and setbacks. However, both districts require a minimum lot size of 35,000 sq.ft. net dry. In the A-1 zoning district the required lot frontage is 140 feet, with setbacks of 30 feet side and 35 feet in the rear. The front setback is a staggered 40 to 50 feet. In the R-1 zoning district the required lot frontage is 125 feet, with setbacks of 25 feet side and 30 feet in the rear. By requesting the R-1 zoning district the applicant has stated they wish to develop a maximum of 98 single family dwelling units on the parcel, consistent with the existing underlying land use classification of R-1, one dwelling unit an acre. A variance application has been submitted to reduce the lot size from the required 35,000 sq.ft. net dry to a lot size no less than 17,500 sq.ft. net dry.

The gross acreage on the five contiguous parcels is 98.78 acres. This allows up to a maximum of 98 dwelling units on the subject site. The Town of Davie land development regulations typically do not allow a developer to build the maximum number of units due to drainage, road dedications, and lot lay-out requirements. The applicant's rationale for the request is based upon the transition in uses occurring within the area resulting in a mix of residential densities along SW 58th Avenue. A transition in land use occur from both commercial corridors of Griffin Road and Stirling Road stepping down in intensity from commercial to residential with ranges from three (3) dwelling units and acre to five (5) dwelling units an acre. The accessibility of the site from the Turnpike has also brought additional growth pressures to the area.

To the south of the site is an FPL easement, the Berman Park Wetland Mitigation Park, and then a development built at three (3) dwelling units per acre. To the north of the site are existing single family homes at one unit per acre and further to the north are development existing at five (5) units per acre. This parcel is the last large parcel that is undeveloped along the east side of SW 58th Avenue and the proposed change in zoning can be considered consistent with the changes occurring both to the north and south of the subject site. Any rezoning request of 10 acres of more requires a conceptual site plan be approved as part of the rezoning request. The attached site plan reflects the applicant's previous proposal before it was modified. Prior to any second reading of the ordinance, if approved, the applicant will be required to revise the plan to indicate the maximum number of units approved by Town Council. The conceptual site plan indicates a 30 foot equestrian/recreation trail along both SW 58th Avenue and SW 52nd Avenue. The site plan also indicates that SW 58th Avenue will be reconstructed with traffic calming measures within the limits of the plat. Since the zoning requested is governed by the Rural Lifestyle Regulations, all requirements of these regulations will be met at time of site plan including side loaded garages, anti-monotony provisions, street lay-out and design.

~~This request is to rezone the 98 acres site from A-1, Agricultural District to R-2, Residential Low Density (2 du/acre) in order to allow for a 166 unit single family development. The applicant has requested the use of 68 residential units from the Town's supply of reserve units is order to apply additional residential density to the project, without the need for a land use plan change. The project is located within Flexibility Zone 102, the same flex zone as the Griffin Corridor. There are currently 115 reserve units is Flex Zone 102. An approval of this request will result in a remainder of 47 reserve units for the remainder of the Griffin Corridor projects that may require residential density. The Broward County Land Use Plan and the Town of Davie Land Use Plan both provide allow communities a level of flexibility with regard to density consistent with the Administrative Rules Document.~~

~~The applicant is proposing an overall density of 1.7 dwelling units per acre. The proposed number of units would be consistent with the requested zoning designation, which would allow for a maximum of 196 residential units, as R-2. The applicant has submitted a conceptual site plan concurrent with this applicant indicated 166 single family homes. In addition, a variance has also been requested to reduce the minimum lot area from 17,000 to 14,000 square feet.~~

Findings of Fact

<u>Rezonings:</u>
Section 12-307(A) (1):
The following findings of facts apply to the rezoning request:

(a) The proposed change <u>is not</u> contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;

The proposed change will be consistent with the underlying land use category of one dwelling unit per acre.

~~*The proposed change requires the use of Residential Flexibility. The application of the 68 residential units will result in the proposed rezoning being consistent with the comprehensive plan. The comprehensive plan provides for the use of reserve units at the discretion of Town Council.*~~

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

The proposed change will not create an isolated zoning district as to the south of this parcel are land use categories and zoning districts of greater density than the proposed 1.1 ~~1.7~~ dwelling units per acre. To the north and west are properties with both a land use classification and a zoning designation of 1 dwelling unit per acre. To the east, the Florida Turnpike acts as a buffer to commercial and industrial uses on the east side of the Turnpike.

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

The existing boundaries can be considered logically drawn, as to the north and west are existing uses at a density of 1 dwelling unit per acre.

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

The proposed change may not ~~will not~~ adversely affect living conditions, as this area represents a transition in densities all within the single family low density dwelling category. To the south of the parcel is a wetland buffer from the higher densities of 3 to 5 dwelling units per acre, while along the north property line, the existing land use pattern is one dwelling unit per acre.

(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 change will not increase traffic over what was anticipated based upon the existing land use of one dwelling unit per acre. Broward County and the Town would be required to provide traffic mitigation measure to address any increased traffic along local and regional roads. The conceptual site plan indicates that all traffic will be from SW 52 Avenue then to Griffin Road.

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

The proposed change will not adversely affect other property values as the density of the site and the design can be considered consistent with uses to the south.

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

There are few remaining vacant parcels located along SW 58th Avenue. The proposed rezoning and associated development would not be a deterrent to improvement of other property in the area. The developer has agreed to reconstruct SW 58th Avenue within the limits of their plat and to provide for other traffic calming measures along adjacent portions of the roadway.

(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;

The proposed change can be requested by any applicant and does not constitute a grant of special privilege.

(i) There are no substantial reasons why the property cannot be used in accord with existing zoning.

There are no substantial reasons why the property cannot be used as it is currently zoned. The cost of development is a cost determined by the private sector.

(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 proposed zoning designation will result in an increase in the total number of units able to be developed on the site. This increase may be reflected in higher associated tax revenue generated by the Town.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration. The conceptual site plan, required for a rezoning request, shall be revised prior to second reading, to reflect the maximum number of dwelling units ultimately approved.

Planning and Zoning Board

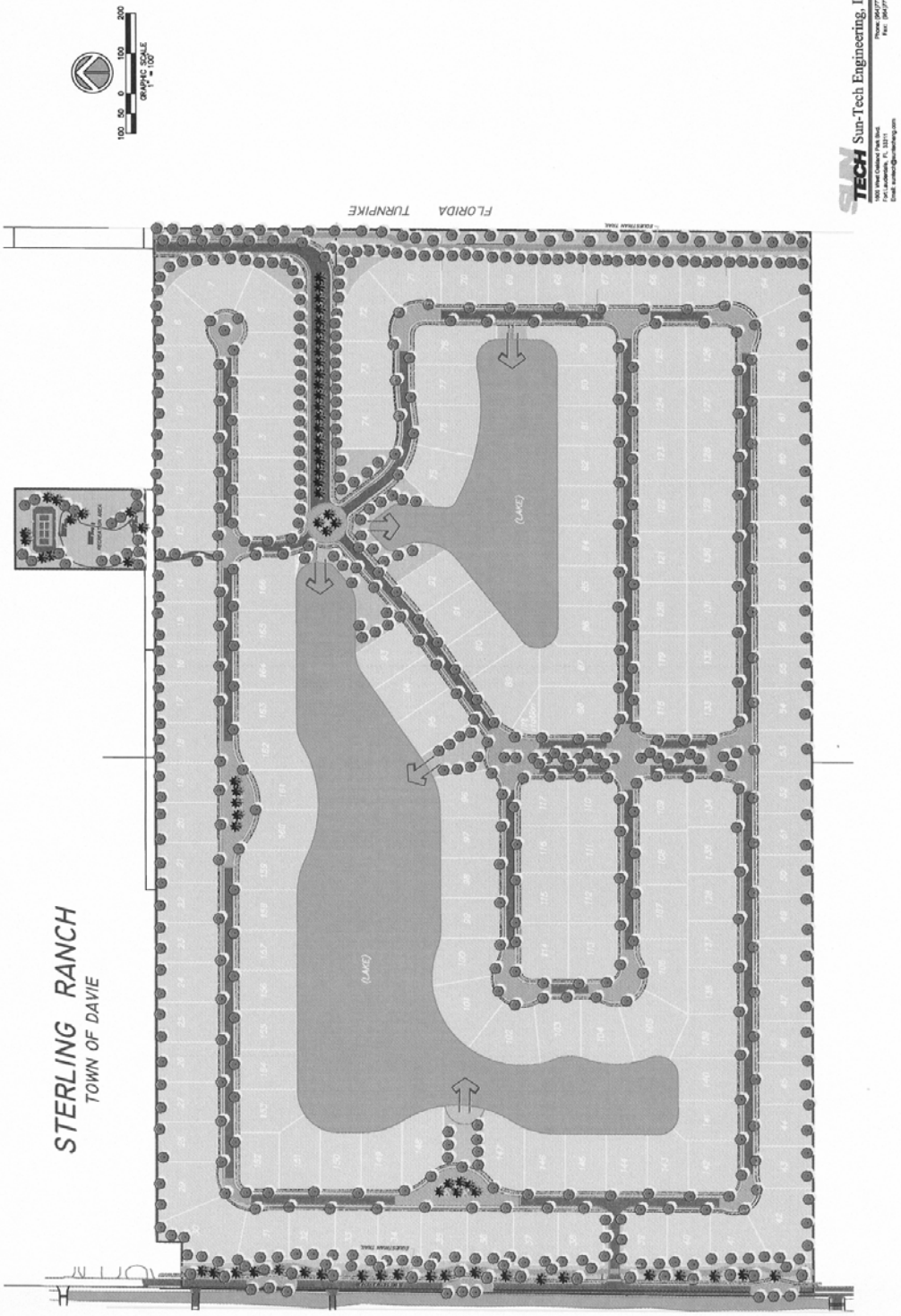
This item was heard by the Planning and Zoning Board on November 10, 2004. Ms. Lee made a motion, seconded by Vice-Chair Turin, to deny, motion carried 4-1 with Mr. Stevens being opposed. The consensus of the board was to have less density.

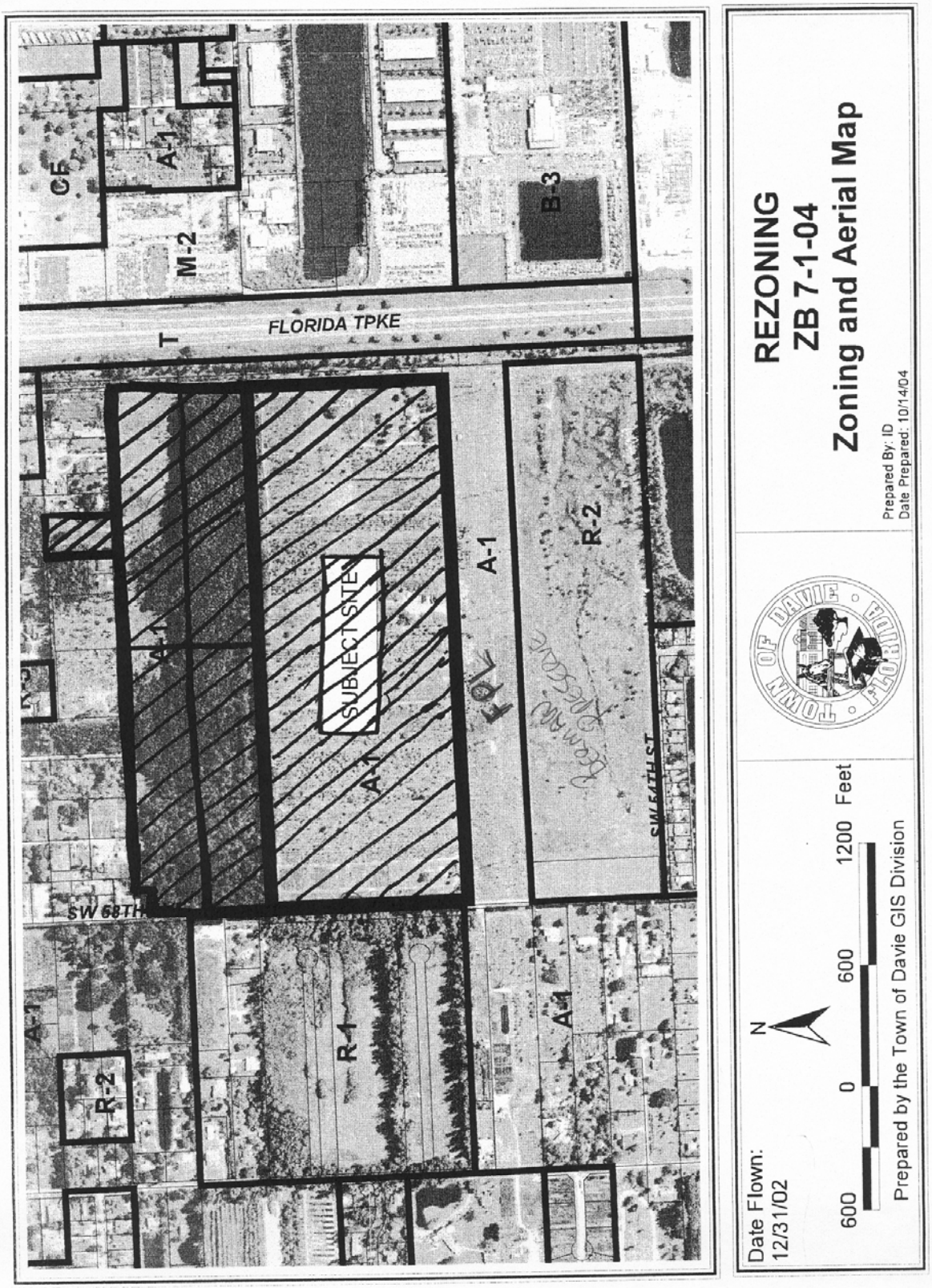
Exhibits

1. Conceptual Site Plan;
2. Future Land Use Plan Map;

3. Zoning and Aerial Map
4. Justification letter
5. Letters from residents

Reviewed by: _____ Prepared by:_____


STERLING RANCH
TOWN OF DAVIE
FLORIDA TURNPIKE
(LAKE)
(LAKE)
GRAPHIC SCALE
1" = 100'
TECH Sun-Tech Engineering, Inc.


REZONING
ZB 7-1-04
Zoning and Aerial Map
Prepared By: ID
Date Prepared: 10/14/04
TOWN OF DAVIE FLORIDA
Date Flown:
12/31/02
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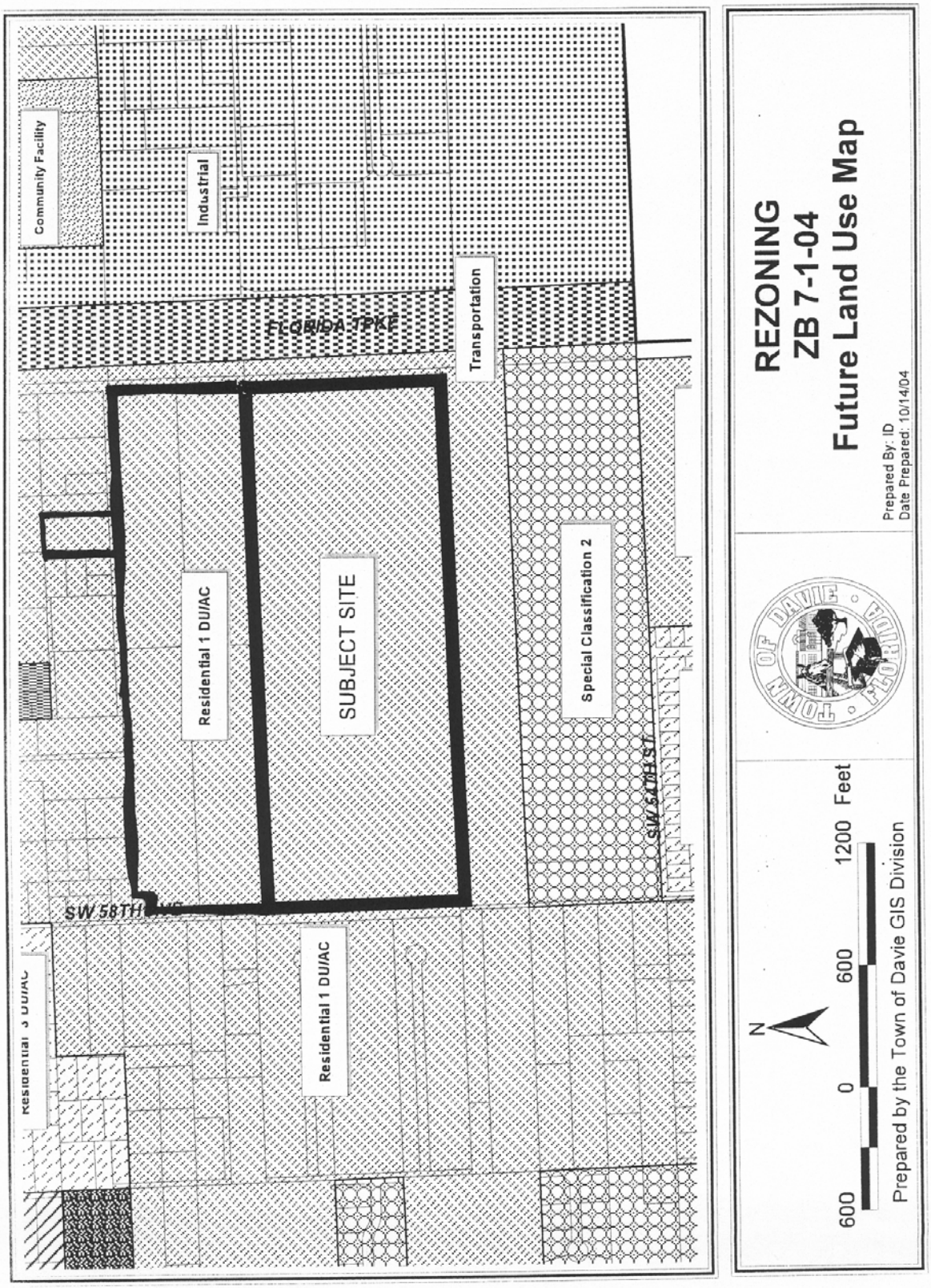
600 0 600 1200 Feet
Prepared by the Town of Davie GIS Division
FLORIDA TPKE
SUBJECT SITE
A-1
R-2
R-1
M-2
CB
B-3
SW 68TH
SW 64TH ST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Industrial
FLORIDA TPKE
Transportation
Residential 1 DU/AC
SUBJECT SITE
Special Classification 2
SW 58TH AVE
SW 57TH ST
Residential 1 DU/AC
REZONING
ZB 7-1-04
Future Land Use Map
Prepared By: ID
Date Prepared: 10/14/04
TOWN OF DAVIE FLORIDA
N
600 0 600 1200 Feet
Prepared by the Town of Davie GIS Division

Leigh Robinson **Kerr**
& Associates, Inc.
Member, American Institute
of Certified Planners

July 19, 2004

Mr. Mark Kutney
Development Services
Town of Davie
6591 Orange Drive
Davie, FL 33314

Re: McCall/Hertzig/North-Rezoning/Flexibility

Dear Mark:

The purpose of this letter is to provide justification for this application for rezoning from Agricultural to R-3 Residential Zoning. The purpose of this rezoning is to rezone the property to a zoning district consistent with the comprehensive plan with an allocation of 90 reserve units. In addition, we offer the following information:

A. The proposed change is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;

This proposed change is consistent with the comprehensive plan designation of residential (1) land use with the allocation of reserve dwelling units..

B. The proposed change would create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;

The proposed change is bound on the east by the Florida Turnpike, on the south, below the FPL easement, by Residential (2), and on the north by Residential (5) and Residential Office. Further to the north, along Griffin Road, by Commercial land use designation. The proposed change will provide a suitable transition to the uses occurring within the area.

C. Existing zoning district boundaries are illogically drawn in relation to existing conditions on the property proposed for change;

The proposed zoning designation will provide a suitable transition of the uses occurring within the area.

• Planning • Zoning • Land Use • Expert Testimony •
808 East Las Olas Boulevard, Suite 104, Fort Lauderdale, Florida 33301
Phone (954) 467-6308 Fax (954) 467-6309
lkerr808@bellsouth.net

D. The proposed change will adversely affect living conditions in the neighborhood;

The proposed change will not adversely affect living conditions within the neighborhood and will provide an upscale residential community.

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 rezoning and planned site plan for the site will not increase vehicular traffic along S.W. 58th Avenue as all traffic will be oriented toward Griffin Road at S.W. 52nd Avenue. There is no direct vehicular access occurring onto S.W. 58th Avenue.

F. The proposed change will adversely affect other property values;

The proposed change will increase property values on the subject site and on the adjacent properties.

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 and development of other property in accordance with existing regulations.

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

This proposed rezoning will not grant a special privilege to an individual owner. The change is consistent with the comprehensive plan.

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

The property is not appropriate for agricultural uses.

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.

This proposed zoning designation is the most appropriate designation to enhance the Town's tax base due to its location, pattern of land uses in the area and policies in the Town of Davie's Comprehensive Plan.

We thank you for your review and consideration of the above and attached rezoning and flexibility application. If you should have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

Leigh R. Kerr, AICP
President

LRK/kar

2429 – Justification Letter

Leigh Robinson Kerr
& Associates, Inc.
Member, American Institute
of Certified Planners

MEMORANDUM

DATE: October 12, 2004

TO: Marcie Oppenheimer Nolan

FROM: Leigh R. Kerr, AICP

RE: **Silverado Ranches /McCall - Rezoning**

Please accept this letter as a request to modify our zoning application to R-2 Residential. If you should have any questions or require additional information, please do not hesitate to contact me.

cc: Alejandro Delfino
Dennis D. Mele, Esquire

LRK/kar

• Planning • Zoning • Land Use • Expert Testimony •
808 East Las Olas Boulevard, Suite 104, Fort Lauderdale, Florida 33301
Phone (954) 467-6308 Fax (954) 467-6309
lkerr808@bellsouth.net

2429-M-Nolan

October 27, 2004

Mr. Mark Kutney, Director
Development Services Dept.
Town Of Davie
Orange Dr.
Davie, FL 33314

Re: Draft Document of Master Land Use Plan Formulation; Sector Planning, SW 58 Av Corridor
April 2004
For Discussion Purposes Only

Dear Mr. Kutney:

This letter serves to clarify the above named document drafted April 2004 and provided to the Town of Davie, Development Services Dept. on May 7, 2004. It also clarifies the position of the residents and property owners in the area.

The Draft Document of Master Land Use Plan Formulation, Sector Planning of the SW 58 Av Corridor was provided for **Discussion Purposes Only.** It is a conceptual idea serving as a general directional for the whole neighborhood of the SW 58 Av Corridor, ***taking into account the range of future land use designations already existing within the corridor.***

This document states the various zoning ***categories and future land use designations*** throughout the SW 58 Av Corridor, reflects the different zoning throughout the corridor, and addresses the neighborhood in general. It does not specifically address the McCall Nursery parcel or any other parcel within that area ***nor does it constitute any form of potential*** agreement or consideration ***any proposed*** zoning changes by the surrounding property owners/residents.

On June 16, 2004, at the Council Meeting, under Item 9.2, Old Business, Sector Planning, ***the Town Council discussed, but took no further action towards the formulation of*** a Town of Davie Master Land Use Plan.

Based on Council's ***lack of direction*** on June 16, 2004 ***any references in the above-mentioned April, 2004 document made for possible considerations by the residents for the SW 58 Av. Corridor in general were based on*** the formulation of a Town of Davie Master Land Use Plan and Sector Planning ***are*** rendered void.
Until such a time that the Council adopts a Master Land Use Plan, the Town of Davie Comprehensive Land Use Plan serves to provide the ***sole*** necessary support regarding Future Land Use in the town.

Furthermore, none of the elements stated in the document have been satisfied with regard to any **discussion**, nor have the criteria set forth been satisfied in this conceptual idea.
The elements and criteria included:

Workshops held prior to filing of re-zoning application
Town of Davie Rural Lifestyle Initiative be followed
Traffic issues addressed and resolved
Environmental Study done prior to any rezoning approval, to include a complete relocation plan for widlife and protection of the natural Aquifer which runs along this area. As well as preservation of the Wetlands located in this area.

The community strongly objects to ***any increase in*** density of any parcel along the SW 58 Av Corridor beyond it's current ***Future*** Land Use designation set forth by the Town of Davie Comprehensive Land Use Plan. This was made very clear during our Town of Davie Comprehensive Land Use Workshops which were held earlier this year.

This is well documented and expressed to the Planning and Zoning Dept. by the property owners and residents during these workshops.

Lastly, there is no agreement by the community to support any proposals of zoning changes ***or increased density*** along the SW 58 Av Corridor. The afore-mentioned document expressed only a consideration for **"Discussion Purposes Only"**, ***based entirely on the concept of Sector Planning under an officially adopted Town of Davie Master Land Use Plan, if and when such a Plan is ever formalized. The residents' position remains that each development proposal will be addressed and considered on it's own merits, specific to each parcel included un any such proposal.***

Please enter this letter into the record of any present and future development, re-zoning, ***or*** land use change proposals ***for the SW 59 Av. neighborhood*** to clarify any ***misinterpretation or misrepresentations that may have occurred. Additionally, please not that this letter also serves as a formal, written objection to the current application for a proposed development submitted for the McCall's Nursery together with the adjacent parcels in particular. I request this objection be accordingly noted and included in the files for the P & Z Board/Local Planning Agency and the Town Council.***

Karen Stenzel-Nowicki

Karen Stenzel-Nowicki
5480 SW 55 Av.
Davie, FL 33314
(954)584-8328
karenstenzel@netzero.net

cc: Marcie Nolan, P & Z Dept., Town of Davie

Mauer

Doris Monier

5305 SW 48 St.
Davie, Fl. 33314

Phone: 954-7914425

Mr. Mark Kutney
Development Services
Town of Davie
6591 Orange Drive
Davie, Fl. 33314

Nov. 9, 2004

Re: ZB-7-1-04 McCall/Hertzig/North - Rezoning/Variance/Flexibility

Dear Mr. Kutney,

The purpose of this letter is to oppose the proposed site plan and rezoning and flexibility application from Home Dynamics. Please include this letter into the files for the Planning and Zoning Board/Local Planning Agency and the Town Council.

A. *The proposed change is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof:*

The proposed change is contrary to the primary goal of the comprehensive plan, which is to develop Davie as an attractive community while maintaining its rural character. The proposed change is also contrary to the stated goal of providing park, recreation and open space for existing and future residents. The proposed change is simply an attempt to avoid the rural lifestyle development regulations, applicable to this property, adopted to implement the stated goals of the comprehensive plan, in particular the maintenance of the town's rural character and provision of open space and recreational opportunities (see: Div. 3, Sec. 12-286, Town of Davie Land Development Code). Further, in conjunction with this request for rezoning, the applicant has also made a request to utilize an additional 60 flex/reserve units, which is strictly prohibited by the rural lifestyle development regulations for lands zoned AG, A1 or R1 (see: Div. 3, Sec. 12-287).

B. *The proposed change would create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;*

The property for the proposed change is bound on the East by the Florida Turnpike, on the South by the FPL easement and the Berman Park preserve, and on the North and East by Single Family homes/R1 and existing agricultural uses. Further to the north and dominating the access road to this

requested development is the proposed Sunny Lakes Park. The proposed change would create an isolated zoning district, doubling the permitted residential density, entirely unrelated to the adjacent uses and existing rural character of the district. Since all the adjacent uses consist of agriculture and single-family homes/R1, the proposed change offers no transitional purposes whatsoever and, instead, would constitute a form of highly incompatible spot zoning that would destroy the very heart of the existing rural neighborhood.

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

The existing zoning district boundaries are logically drawn and the property's future land use designation of single family homes/R1 is in the center of and entirely compatible with the existing uses of agriculture and single family homes/R1 surrounding the property. The FPL easement and the Berman Park preserve on the south already provide an ample transition from R1 to the existing neighborhoods zoned R2, further to the south.

D. The proposed change will adversely affect living conditions in the neighborhood;

The proposed change will have a substantial negative impact on the rural character of the existing neighborhood and adversely affect the lifestyle of the current residents and the rights of the property owners, who purchased their properties with the assurance that the future land use designation of this subject property was a maximum of R1, the same as their own. The proposed change, doubling the residential density, would insert an incompatible urban subdivision of tract homes into the center of a traditional rural neighborhood of older, individual homes. Additionally, the entire area is extremely low-lying and the increase in impervious surface areas that the proposed change would create would have an adverse impact on the existing drainage problems.

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 double the amount of vehicular traffic and number of daily trips that the property's permitted future land use designation of R1 would create. The only possible access points to the subject property are SW 52nd Avenue, a quiet, dead end residential street, lacking sidewalks, where children ride bicycles and play, and SW 58th Avenue, narrow and also lacking sidewalks, currently in a dangerous state of disrepair and used as a high speed cut-through road, which already creates a hazard to public safety. The planned site plan which incorporates the proposed change,

doubling the amount of traffic to the subject property, directs all of this increased automobile traffic along tiny SW 52nd Avenue, past the existing family homes, and out to Griffin Road. Actually, only 15 homes are served by 52 Avenue. An additional 166 homes would increase automobile and vehicular traffic congestion. In addition, there is nothing to stop this excessive amount of traffic from turning left on Griffin Road and using SW 58th Avenue as a cut-through to Stirling Road. Each of the two possible access points to the subject property will create a safety problem under the permitted density, which will be twice as detrimental to public safety if the proposed change is granted. Any site plan under the permitted density of R1 will nevertheless need to utilize both access points to divide the traffic impact and address improvements to both roads, including the provision of sidewalks and trails.

F. *The proposed change will adversely affect other property values;*

The proposed change will create excessive traffic that will destroy the tranquility and safety of the existing adjacent neighborhoods, aggravate existing drainage problems in the area and insert an incompatible, urban subdivision into a traditional, rural neighborhood that will adversely affect the values of the surrounding properties, which appeal to buyers seeking the quiet rural lifestyle and character that Davie's older neighborhoods provide. Moreover, the proposed change will clearly decrease the per unit property values on the subject site itself if double the density is permitted. The only increase would be to the developer's profits, at the expense of the existing neighborhood and the town.

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 be the opening wedge for further requests for similarly increased density on the other sizeable tracts of undeveloped land with a future land use designation of R1 in the district and the town. The recently adopted rural lifestyle development regulations, which implement the goals of the comprehensive plan and the charter mandate by the citizens, will be contested by every developer throughout the district and the town if this proposed spot zoning should be granted. There is no unique condition of the subject property that is not shared by the remaining large tracts of undeveloped land along I75 and other major thoroughfares within the town to warrant a special exception made on behalf of this particular application.

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 proposed change clearly constitutes an unwarranted grant of special privilege to the owner of the subject property, which is contrary to the mandate to the town council by the citizens of Davie to adopt legislation to ensure that the rural character and equestrian lifestyle of the town is maintained. Equally, the proposed change offers nothing to improve the welfare of the general public and is highly detrimental to the existing neighborhood and contrary to the welfare of the people of the town as a whole.

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

There are no genuine reasons whatsoever why the property cannot be used in accord with the existing zoning or future land use designation. Both the current zoning of A1 and the future land use designation of R1 allow for residential development of one unit per acre, just as the adjacent properties have been or will be developed. There are no unique circumstances inherent in the subject property that are not shared by all of the properties in the neighborhood. Moreover, the subject property is and has been used as a nursery for decades, hence there is no basis for the applicant's claim that the land is not appropriate for agricultural uses prior to development.

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 change is detrimental to the town's tax base, which will only be enhanced by maintaining the future land use designation of R1. According to the "land use impact analysis for the town of Davie", higher residential density has a negative impact on the town's revenues. The projected costs of services that would be created by this proposal to double the residential density would exceed the projected revenues to the town. Increasing the permitted density is a minus factor, which difference the other taxpayers of the town would then be forced to subsidize.

Variances - Davie Code
Sec. 12-309. Review for variances.
(A) A variance may only be considered for height, area, number of required parking spaces, or plant units, size of structure or size of yards and open spaces, and separation requirements.
(B) Planning and Zoning Board Review:
(1) The planning and zoning board shall hold its public hearing and shall make a

be such that it renders it virtually impossible to use the land for the purpose for which it is zoned. Bernard v. Town Council of town of Palm Beach, 569 so.2d 853 (FLA. 4th DCA 1990). Thus, according to the Davie code of ordinances and the binding decisions of this district, there is no legal basis for approving the requested variance.

(c) That granting the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The subject property is within the boundaries and controlled by division 3. Rural lifestyle development regulations, Davie land development code, the stated purpose and intent of which is to ensure that development is compatible with the surrounding land uses and maintains and enhances the rural character of the district. Sec. 12-286. The requested variance and requested rezoning, which serve no purpose other than to drastically increase the residential density of the subject property, are both contrary to this stated intent and purpose. Such a development is not in any way compatible with the surrounding agricultural and low density existing residential uses. The rural character of this neighborhood would be destroyed, not enhanced or maintained, by approving the requested variance. Moreover, such increased density would be injurious to the existing neighborhood and the increased traffic impact caused on the narrow, residential streets would be extremely detrimental to the public safety and welfare.

Thank you for your consideration

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