# TOWN OF DAVIE
# TOWN COUNCIL AGENDA REPORT

**TO:** Mayor and Councilmembers

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

**SUBJECT:** Quasi Judicial Hearing: Ordinance 1st Reading, VA 6-1-04 Young & Lawson/Michele Mellgren & Associates, 4900 South University Drive/Generally located at the 4900 block of SW 78 Avenue.

**AFFECTED DISTRICT:** District 2

**TITLE OF AGENDA ITEM:** AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION PETITION VA 6-1-04, VACATING A PORTION OF RIGHT-OF-WAY FOR SW 78 AVENUE WITHIN SECTION 33, TOWNSHIP 50 SOUTH, RANGE 41 EAST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**REPORT IN BRIEF:** The request is to vacate 6,398 square feet (0.147 acres) of right-of-way for SW 78 Avenue within Section 33, Township 50 South, Range 41 East; located at the 4900 block of SW 78 Avenue, approximately 1,400' south of Griffin Road. This right-of-way lies between two (2) parcels, zoned A-1, Agricultural District, which are being used as one plant nursery, Florida Nursery Mart. South of this plant nursery the right-of-way for SW 78 Avenue was vacated when the property was platted, and subsequently Southwood Townhomes was constructed on the site.

The right-of-way that been requested to be vacated does not provide access to any neighboring properties, nor does it serve any public purpose. The applicant has provided an exhibit showing that a "T-Turnaround" area will be provided to the north of the site within the right-of-way which will allow vehicles to turnaround at the end of this dead end street. Prior to filing the request, the applicant was required to contact all utility providers to obtain written authorization from them that there is no objection to this vacation. No providers objected, however, Florida Power and Light requests that a 10' easement be provided for an overhead pole line that exists. There are no recreation or equestrian trails that can be connected to, and the Central Broward Water Control District has stated that the parcel is not needed for drainage. Staff has no objection to this vacation of right-of-way request.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** At the October 27, 2004, Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded by Vice-Chair Turin, to deny. (Motion carried 3-1 with Mr. Stevens being opposed. Ms. Lee abstained.) Chair Bender stated that he was not in the habit of giving public property away. Mr. McLaughlin indicated that he was not in favor of "hammerhead" turns and was in favor of having it platted, having a proper cul-de-sac, and then going from there. He mentioned that the nursery had been making use of the road with

deliveries of stones and mulch and didn't believe this had been correct. He added that fencing, if installed, should be kept to the applicant's property.

**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, Future Land Use Plan Map, Zoning and Aerial Map, Justification, Survey, T-Turnaround/FPL Easement

**Prepared By:**
Christopher M. Gratz, Planner II
Town of Davie
Planning and Zoning Division
6591 Orange Drive
Davie, FL 33314

**Return To:**
Town Clerk's Office
Town of Davie
6591 Orange Drive
Davie, FL 33314

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION PETITION VA 6-1-04, VACATING A PORTION OF RIGHT-OF-WAY FOR SW 78 AVENUE WITHIN SECTION 33, TOWNSHIP 50 SOUTH, RANGE 41 EAST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, right-of-way for SW 78 Avenue within Section 33, Township 50 South, Range 41 East, was dedicated by the Everglades Sugar and Land Company Subdivision, as recorded in Plat Book 3, Page 67 of the Public Records of Dade County, said lands lying in Broward County, Florida; and

WHEREAS, vacating this right-of-way will not adversely affect access to adjoining properties and will not be in conflict with the public interest; and

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, and a public hearing was held on the date of the adoption of this ordinance; and

WHEREAS, on the date of adoption of this Ordinance, the Town Council of the Town of Davie did agree to the vacation request.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE FLORIDA:

SECTION 1. That the right-of-way herein after described be vacated by the Town of Davie:

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

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 3. 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 4. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING _____ DAY OF _____, 2005

PASSED ON SECOND AND FINAL READING THIS _____ DAY OF _____, 2005

_____
MAYOR/COUNCILMEMBER

ATTEST:

_____
TOWN CLERK

APPROVED THIS_____ DAY OF _____, 2004.

# TOWN OF DAVIE

**Development Services Department**
**Planning and Zoning Division**
***Staff Report and Recommendation***

## Applicant Information

**Owners:**

**Name:** Stephen Young & Christopher Lawson
Florida Nursery Mart
**Address:** 4900 South University Drive
**City:** Davie, FL 33328
**Phone:** (954) 689-0791

**Petitioner:**

**Name:** Michele Mellgren & Associates
**Address:** 300 SW 2 Street, Suite 3
**City:** Fort Lauderdale, FL 33312
**Phone:** (954) 467-2322

## Background Information

**Date of Notification:** October 20, 2004 **Number of Notifications:** 164

**Planning and Zoning Recommendation:** At the October 27, 2004, Planning and Zoning Board meeting, denial of the request was recommended.

**Application Request:** Vacate 6,398 square feet (0.147 acres) of right-of-way for SW 78 Avenue within Section 33, Township 50 South, Range 41 East.

**Address/Location:** 4900 South University Drive/Generally located at the 4900 block of SW 78 Avenue, approximately 1,400' south of Griffin Road.

**Future Land Use Plan Map Designation:** Residential (10 DU/AC)

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

**Existing/Proposed Use:** Plant nursery

**Right-of-Way Parcel Size:** 6,398 square feet (0.147 acres)

**Adjoining Parcels Sizes:** 70,422.56 square feet (1.62 acres)

**Resulting Parcel Size:** 76,825.88 (1.76 acres)

**Surrounding Uses:**

**North:** Plant nurseries
**South:** Southwood Townhomes, Open space within Saddle-Up Townhomes
**East:** Single family dwelling
**West:** University Drive, The Atrium

**Surrounding Future Land Use Plan Map Designations:**

**North:** Residential (10 DU/AC)
**South:** Residential (10 DU/AC)
**East:** Commercial
**West:** Residential (3 DU/AC)

**Surrounding Zoning:**

**North:** A-1, Agricultural District
**South:** RM-10, Medium Density Dwelling District, RC-8, Residential Cluster District
**East:** B-3, Planned Business Center District
**West:** A-1, Agricultural District

## Zoning History

**Plat History:** The property was platted as the Everglades Land Sale Company Subdivision, Plat Book 3, Page 67, of the public records of Dade County; said lands situate lying in Broward County, Florida.

**Surrounding Parcel History:** The plat, which abuts to the south, Paragon Centre, for fifty townhomes, was approved by the Town Council on January 6, 1993, and subsequently recorded in Plat Book 162, Page 35, of the public records of Broward County on February 13, 1997.

The site plan, which abuts to the south, SP 10-1-99 Southwood Townhomes, for fifty townhomes, was approved on November 3, 1999.

**Previous Requests on same property:** None.

## Applicable Codes and Ordinances

§12-24(I) (1) *Agricultural (A-1) District:* The A-1 District is intended to implement the Agricultural and Residential one (1) unit per acre classifications of the Town of Davie Comprehensive Plan and to maintain, protect and encourage the continuance of a productive agricultural community in Davie by ensuring that developments are buffered from existing agricultural uses.

§12-310 Review of vacations or abandonments of right-of-way.

## Comprehensive Plan Considerations

**Planning Area:** The subject property falls within Planning Area 10. This Planning Area is generally located north of Stirling Road, south of Griffin Road, east of Pine Island Road, and west of SW 76 Avenue. Pine Island Road, a major north/south arterial, on the western limits of this planning area provides through access from Griffin Road to Stirling Road. Commercial development of retail centers and office buildings line the University Drive corridor. The east side of this corridor is predominantly small-scale commercial development, with multi-family 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 8 acre industrial park are located within this planning area, together with six parcels zoned for community facilities uses.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 102.

**Applicable Goals, Objectives & Policies:** *Future Land Use Plan, Policy Group 15: Transportation Use and Access*: Ensure that adequate rights-of-way are secured to accommodate the existing and future needs of the Town of Davie.

*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.

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## Application Details

The request is to vacate 6,398 square feet (0.147 acres) of right-of-way for SW 78 Avenue within Section 33, Township 50 South, Range 41 East; located at the 4900 block of SW 78 Avenue, approximately 1,400' south of Griffin Road. This right-of-way lies between two (2) parcels, zoned A-1, Agricultural District, which are being used as one plant nursery, Florida Nursery Mart. South of this plant nursery the right-of-way for SW 78 Avenue was vacated when the property was platted, and subsequently Southwood Townhomes was constructed on the site.

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## Staff Analysis

The right-of-way that been requested to be vacated does not provide access to any neighboring properties, nor does it serve any public purpose. There are no rights-of-way existing or proposed east or west of this right-of-way to connect to. The applicant has provided an exhibit showing that a "T-Turnaround" area will be provided to the north of the site within the right-of-way which will allow vehicles to turnaround at the end of this dead end street. Prior to filing the request, the applicant was required to contact all utility providers to obtain written authorization from them that there is no objection to this vacation. No providers objected, however, Florida Power and Light requests that a 10' easement be provided for an overhead pole line that exists. There are no recreation or equestrian trails that can be connected to, and

the Central Broward Water Control District has stated that the parcel is not needed for drainage. Staff has no objection to this vacation of right-of-way request.

## Findings of Fact

**Rezonings:**
**Section 12-310(A) (1):**
**The following findings of facts apply to the vacation request:**

(a) It will not adversely affect access to neighboring properties

*No access to neighboring properties is provided by this right-of-way.*

(b) It will not be in conflict with the public interest

*This right-of-way serves no public interest. There are no recreation and equestrian trails nearby, and the parcel is not needed for drainage.*

## 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 October 27, 2004, Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded by Vice-Chair Turin, to deny. (Motion carried 3-1 with Mr. Stevens being opposed. Ms. Lee abstained.) Chair Bender stated that he was not in the habit of giving public property away. Mr. McLaughlin indicated that he was not in favor of "hammerhead" turns and was in favor of having it platted, having a proper cul-de-sac, and then going from there. He mentioned that the nursery had been making use of the road with deliveries of stones and mulch and didn't believe this had been correct. He added that fencing, if installed, should be kept to the applicant's property.

## Town Council Action

## Exhibits

1. Justification
2. Survey
3. T-Turnaround
4. Future Land Use Plan Map
5. Zoning and Aerial Map

Prepared by: _____ Reviewed by: _____

**Florida Nursery Mart**
**4900 S University Dr**
**Davie, Fl 33328**
**(954) 689-0791**

To Whom It May Concern:

My name is Stephen Young. Christopher Lawson, my uncle, and myself own 2 parcels of land in Davie. Each parcel is approximately 1 acre. Since purchasing the property in the early 80's, we have operated a plant nursery on the property. The 2 parcels have functioned as 1 parcel, as they are side by side, separated only by the last section of SW 78th Avenue, a dead-end road that runs right through the middle of our nursery and terminates at the south end of our property. SW 78th Ave will never continue south past our property because the South Wood Town homes development abuts our south property line, and has access directly from University Dr. Since the portion of the road through our property no longer serves any public purpose, we are requesting that this last portion of SW 78th Ave be vacated from the Town of Davie. Thank you for your consideration.

Stephen Young

President: Florida Nursery Mart.

Atlantic Coast
SURVEYING, INC.
LB NO. 5495

5615 S. UNIVERSITY DR. DAVIE (954)252-5254
DAVIE, FLORIDA 33328 BOCA (561)488-9628
FAX (954)252-5358

©1998 ATLANTIC COAST SURVEYING INC.

## LEGAL DESCRIPTION

THE WEST 50.00 FEET OF THE EAST 350.00 FEET OF TRACT 2 LESS THE NORTH 532.00 FEET, "EVERGLADES SUGAR AND LAND COMPANY SUBDIVISION, SECTION 33, TOWNSHIP 50 SOUTH, RANGE 41 EAST AS RECORDED IN PLAT BOOK 3, PAGE 67, OF THE PUBLIC OF DADE COUNTY, FLORIDA, SAID LANDS LYING IN BROWARD COUNTY, FLORIDA.

CERTIFIED TO:
STEPHEN C. YOUNG
CHRISTOPHER LAWSON

PROPERTY ADDRESS
4900 S. UNIVERSITY DRIVE
DAVIE, FL

BOUNDARY SURVEY
INVOICE # 12927
SURVEY DATE 02/05/01
SURVEY DATE 04/13/04

FLOOD ZONE AH-5.00
MAP DATE 10/02/97
MAP NUMBER 120035 0305 F

**NOTES**

1. BASIS OF BEARINGS AS INDICATED ON SKETCH.
2. LEGAL DESCRIPTION PROVIDED BY CLIENT.
3. THE LANDS SHOWN HEREON WERE NOT ABSTRACTED BY THIS OFFICE FOR EASEMENTS, RIGHT-OF-WAYS, OWNERSHIP OR OTHER INSTRUMENTS OF RECORD.
4. UNDERGROUND OR INTERIOR PORTIONS OF FOOTINGS, FOUNDATIONS, WALLS OR OTHER NON-VISIBLE IMPROVEMENTS WERE NOT LOCATED.
5. ELEVATIONS ARE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 UNLESS OTHERWISE SHOWN.
6. FENCE TIES ARE TO THE CENTERLINE OF FENCE. WALL TIES ARE TO THE FACE OF WALL.
7. IN SOME INSTANCES GRAPHIC REPRESENTATIONS HAVE BEEN EXAGGERATED TO MORE CLEARLY ILLUSTRATE THE RELATIONSHIP BETWEEN PHYSICAL IMPROVEMENTS AND/OR LOT LINES. IN ALL CASES DIMENSIONS SHALL CONTROL THE LOCATION OF THE IMPROVEMENTS OVER SCALED POSITIONS.
8. THE DIMENSIONS AND DIRECTIONS SHOWN HEREON ARE IN SUBSTANTIAL AGREEMENT WITH RECORD VALUES UNLESS OTHERWISE NOTED.
9. PARTY WALLS ARE CENTERED ON PROPERTY LINE UNLESS OTHERWISE NOTED.

ABBREVIATIONS (SEE BACK OF THIS PAGE)

I HEREBY CERTIFY THAT THE SURVEY REPRESENTED HEREON MEETS THE MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYS AS SET FORTH IN CHAPTER 61G17-6 OF THE FLORIDA ADMINISTRATIVE CODE FOR THE BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS PURSUANT TO SECTION 427.027 OF THE FLORIDA STATUTES.

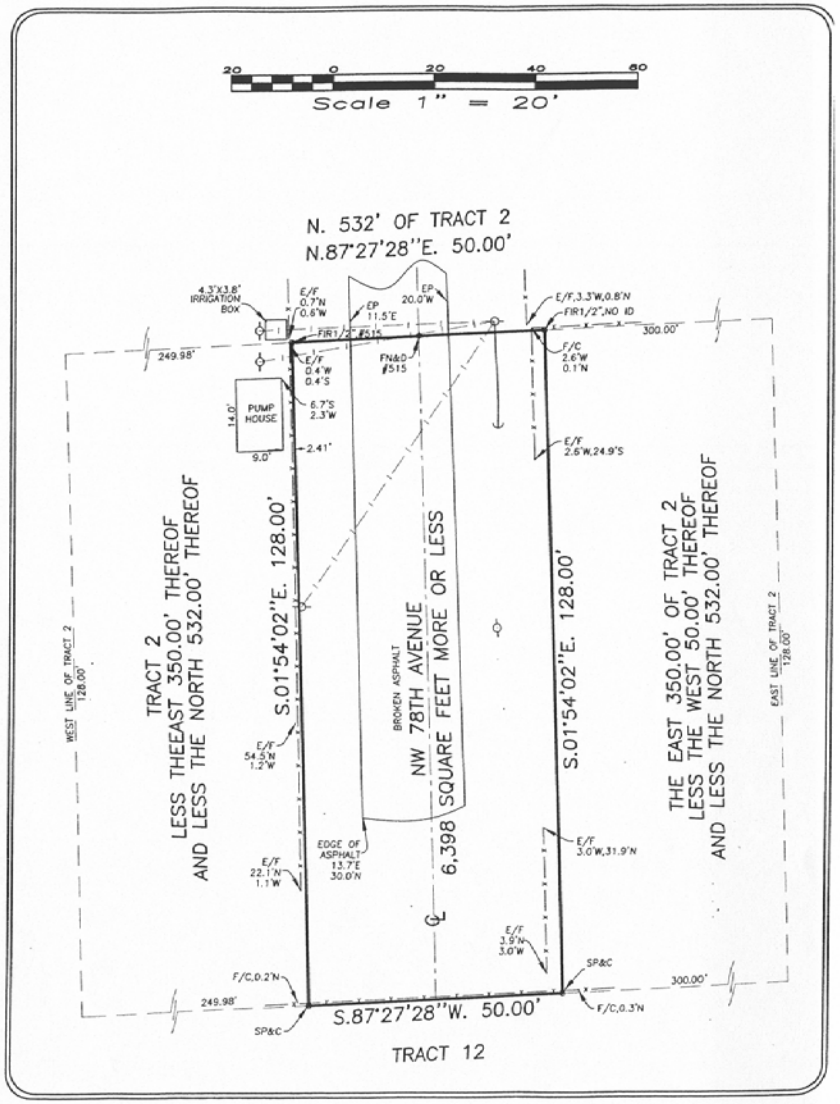
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

BY: _____ DATE 04/14/04 PJS

CLYDE MCNEAL PROFESSIONAL LAND SURVEYOR FLORIDA CERTIFICATION NO. 2883

**LEGEND**

| | | | |
|---|---|---|---|
| CONCRETE BLOCK WALL | | MONITORING WELL | |
| OVERHEAD WIRES | | CABLE JUNCTION BOX | |
| CONCRETE FENCE | | POWER/LIGHT POLE | |
| CENTERLINE | | WATER METER | |
| WOOD FENCE | | FP&L/SBT PAD | |
| METAL FENCE | | GUY ANCHOR | |
| CONC./CHAT / BRICK PAVERS | | CENTRAL ANGLE | |



PROPOSED SW 78TH AVENUE CONDITIONS

Atlantic Coast
SURVEYING, INC.
LB NO. 5495

5615 S. UNIVERSITY DR. DAVIE (954)252-5254
DAVIE, FLORIDA 33328 BOCA (561)488-9628
FAX (954)252-5358

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CERTIFIED TO:
STEPHEN C. YOUNG
CHRISTOPHER LAWSON

PROPERTY ADDRESS
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DAVIE, FL

BOUNDARY SURVEY
INVOICE # 12927
SURVEY DATE 02/05/01
SURVEY DATE 04/13/04

FLOOD ZONE AH-5.00
MAP DATE 10/02/97
MAP NUMBER 120035 0305 F

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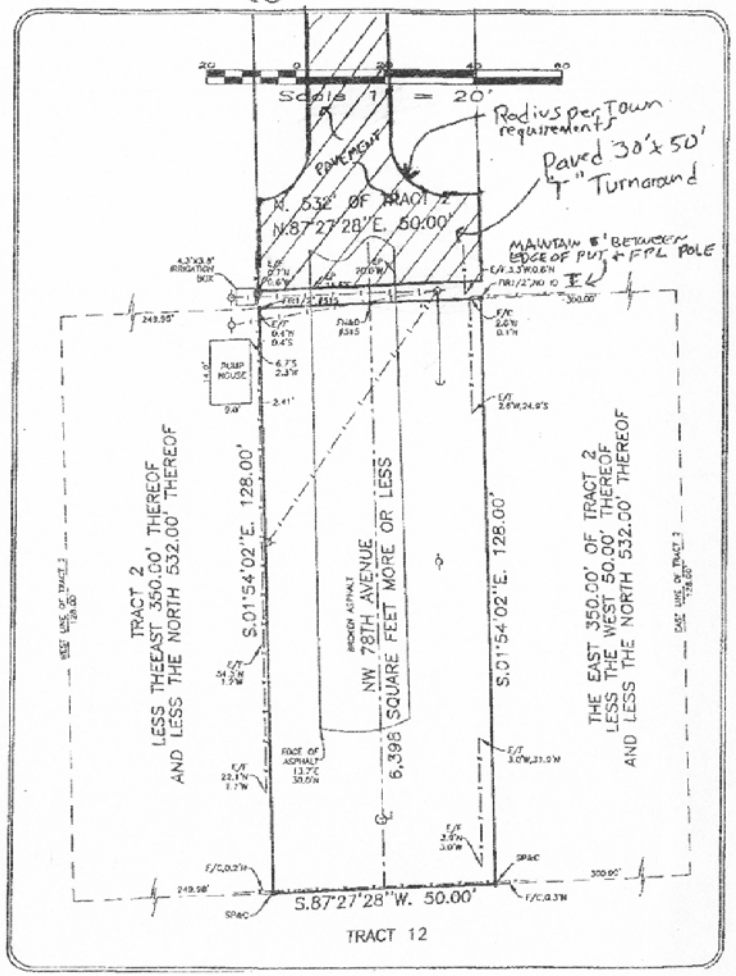
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

BY: _____ DATE 04/14/04 PJS

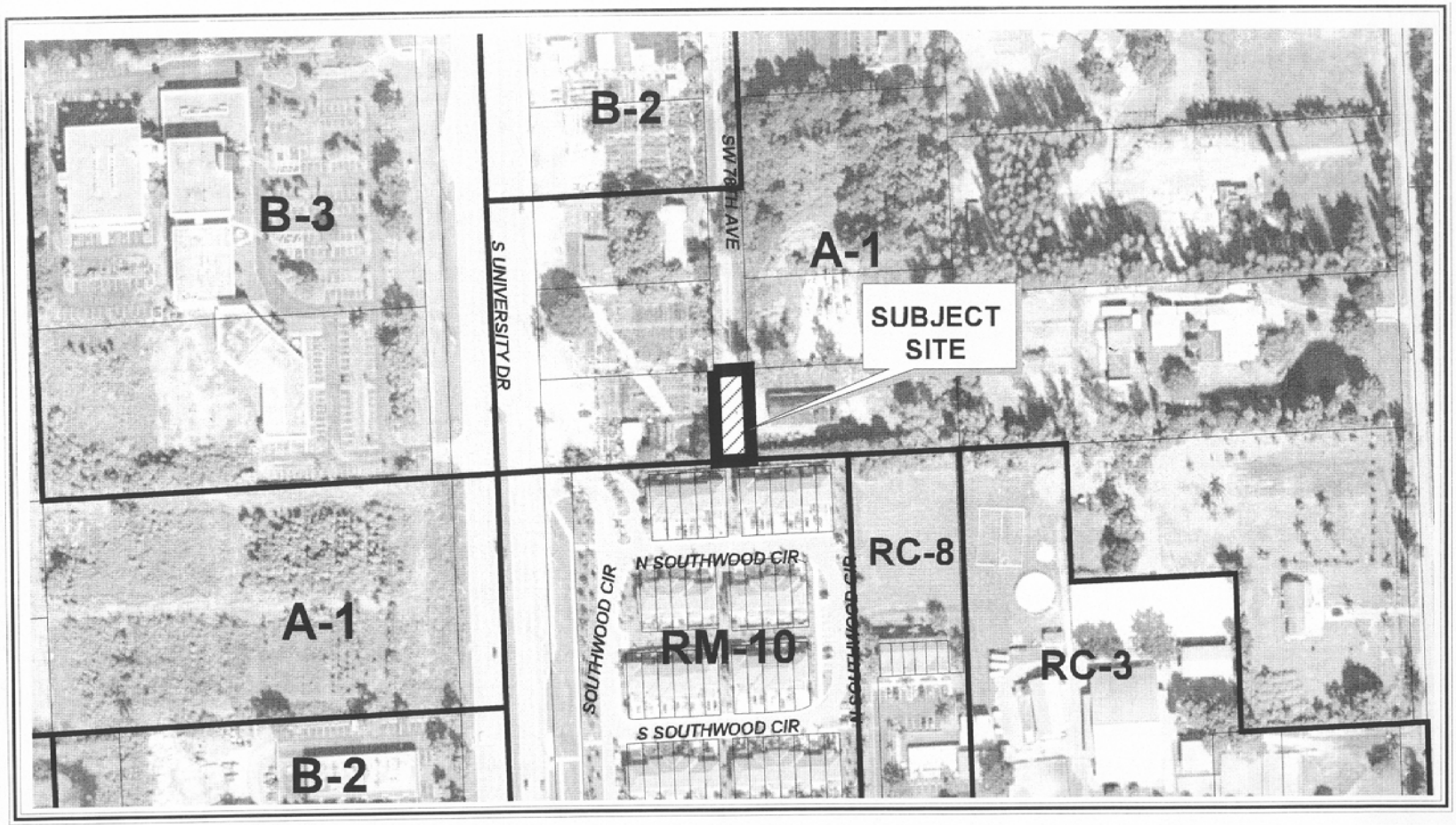
CLYDE MOWDY PROFESSIONAL LAND SURVEYOR FLORIDA CERTIFICATION NO. 2883

LEGEND

| | | | |
|---|---|---|---|
| CONCRETE BLOCK WALL | | MONITORING WELL | |
| OVERHEAD WIRES | | CABLE JUNCTION BOX | |
| CONCRETE FENCE | | POWER/LIGHT POLE | |
| CENTERLINE | | WATER METER | |
| WOOD FENCE | | FPL/SPT PAD | |
| METAL FENCE | | GUY ANCHOR | |
| CONC. PERIM. | | CENTRAL ANGLE | |



Commercial
S UNIVERSITY DR
SOUTHWOOD CIR
N SOUTHWOOD CIR
S SOUTHWOOD CIR
N SOUTHWOOD CIR
Residential 10 DU/AC
SW 78TH AVE
SUBJECT SITE
Residential 3 DU/AC
N
200 0 200 400 Feet
Prepared by the Town of Davie GIS Division
TOWN OF DAVIE FLORIDA
VACATION
VA 6-1-04
Future Land Use Map
Prepared By: ID
Date Prepared: 10/11/04




Date Flown:
12/31/02

N

200 0 200 400 Feet

Prepared by the Town of Davie GIS Division

TOWN OF DAVIE FLORIDA

# VACATION
# VA 6-1-04
# Zoning and Aerial Map

Prepared By: ID
Date Prepared: 10/11/04

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