

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: Developers Agreement, DA 4-2-05 Pointe West Center North Plat a.k.a. Rick Case Hyundai, 3550 Weston Road/Generally located on the north side of SW 36 Street, between Weston Road and I-75

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO A TRAFFIC CONCURRENCY AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND R & R DAVIE, LLC FOR IMPROVEMENTS REQUIRED TO SATISFY REGIONAL ROAD CONCURRENCY FOR THE POINTE WEST CENTER NORTH PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The request is for the Town Council to authorize the Mayor and Town Administrator to enter into a Regional Road Concurrency Agreement for construction of improvements relating to the Pointe West Center North Plat. The Town of Davie is agreeing that, upon notification from Broward County that the developer is in default of this agreement, that the Town will withhold issuance of all building permits, certificates of occupancy, or any other development permits within the boundaries of the plat until such time as until confirmation is received that the default has been resolved.

The delegation request to revise the restrictive note on the plat to allow 110,000 square feet of car dealership and 215,000 square feet of auto storage use was approved at the January 19, 2005, Town Council meeting. The approval was based upon the owner's commitment to working with the Town to connect the equestrian trail on the west side of I-75 to the Shotgun Road equestrian trail by providing an equestrian crossing on the existing SW 36 Street, and to provide a reasonable share contribution for the cost of improvements identified by the Shotgun Road/Orange Drive corridor study performed by the URS Corporation. The proposed Resolution affirms the owner's commitment to providing improvements within the Town of Davie and provides for measures to mitigate the traffic impact the development will have on the Regional Road Network.

Prior to the receipt of any additional certificate of occupancy within the plat, the Town of Davie will be provided with \$500,000 for the construction of a greenways crossing that includes equestrian improvements to the SW 36 Street Bridge, and \$72,000 towards improvements on Orange Drive, for a total of \$572,000.

To satisfy traffic concurrency on the Regional Road Network, Broward County in accord with the City of Weston's recommendation, the owner is required to provide for the modification of the north leg of the Weston Road/Griffin Road intersection to convert a through lane to a through/left, creating three (3) southbound left turn lanes, at a total cost of \$55,985.

PREVIOUS ACTIONS: None

CONCURRENCES: N/A

FISCAL IMPACT: None

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Resolution, Agreement, Future Land Use Plan Map, Zoning and Aerial Map

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO A TRAFFIC CONCURRENCY AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND R & R DAVIE, LLC FOR IMPROVEMENTS REQUIRED TO SATISFY REGIONAL ROAD CONCURRENCY FOR THE POINTE WEST CENTER NORTH PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the plat known as the Pointe West Center North Plat was approved by the Town Council of the Town of Davie on January 5, 2000, and was recorded in the official records of Broward County in Plat Book 172, Page 136; and

WHEREAS, the Town Council of the Town of Davie authorized a revision the restrictive note on the Pointe West Center North Plat to allow 110,000 square feet of car dealership and 215,000 square feet of auto storage use at the January 19, 2005, Town Council meeting; and

WHEREAS, the Town of Davie's approval of the additional development rights was based upon the owner's commitment to working with the Town to connect the equestrian trail on the west side of I-75 to the Shotgun Road equestrian trail by providing an equestrian crossing on the existing SW 36 Street, and to provide a reasonable share contribution for the cost of improvements identified by the Shotgun Road/Orange Drive corridor study performed by the URS Corporation; and

WHEREAS, prior to the receipt of any additional certificate of occupancy within the Pointe West Center North Plat, the owner shall provide the Town of Davie with \$500,000 for the construction of a greenways crossing that includes equestrian improvements to the SW 36 Street Bridge, and \$72,000 towards improvements on Orange Drive, for a total of \$572,000; and

WHEREAS, Broward County requires that the regional transportation network be adequate to serve the reasonably projected needs of proposed developments, and that applications for development permits satisfy concurrency requirements for impact areas; and

WHEREAS, Broward County requires that upon notification that the developer is in default of this agreement, that the Town will withhold issuance of all building permits, certificates of occupancy, or any other development permits within the boundaries of the plat until such time as until confirmation is received that the default has been resolved;

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

SECTION 1. The Town Council of the Town of Davie does hereby authorize the Mayor and Town Administrator to enter into an Agreement, attached hereto as Exhibit "A."

SECTION 2. The Town Administrator and Town Attorney are authorized to make and accept non-substantive revisions to the agreement in order for the agreement to be in final, recordable form.

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

PASSED AND ADOPTED THIS ____ DAY OF _____, 2005.

MAYOR/COUNCILMEMBER

Attest:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2005.

R & R DAVIE, LLC
875 North State Road 7
Fort Lauderdale, FL 33317-1514

April 7, 2005

Town of Davie
6591 Orange Drive
Davie, FL 33314-3399

To Whom It May Concern:

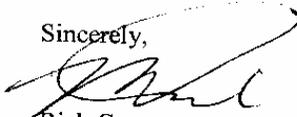
Please process the development agreement. This was previously approved by Town Council, but in February 2005, Broward County Development Management Division issued a Notification of Failure finding that the application for approval of the amendment to the Plat did not satisfy the impact area concurrency standards for the regional road network as stated in the "Code".

Developer has conducted a study and has determined that the previously constructed improvements at Weston Road and Arvida Parkway, in addition to certain other remedial measures will mitigate the traffic impacts so that the proposed amendment to the Plat will satisfy Broward County concurrency standards.

Broward County Development Management Division has approved these remedial measures and finds that its concurrency requirements for the amendment to the Plat will be met with the execution of, and compliance with, the terms of this Agreement by Developer.

Therefore, we request that the Town of Davie process the attached Second Regional Road Concurrency Agreement for Construction of Improvements Relating to the Pointe West Center North Platt (100-MP-99).

Sincerely,



Rick Case
Manager



Department of Urban Planning and Redevelopment
DEVELOPMENT MANAGEMENT DIVISION
115 S. Andrews Avenue, Room A-240 • Fort Lauderdale, Florida 33301 • 954-357-6666 • FAX 954-357-6521

June 2, 2005

Mr. John J. McWilliams, E.I.
Kimley-Horn and Associates, Inc.
5100 NW 33 Avenue, Suite 157
Fort Lauderdale, Florida 33309

RE: Traffic Concurrency Mitigation related to the Pointe West Center North Plat (100-MP-99)
Proposed Plat Note Amendment Adding 55,000 Square Feet of Auto Dealership and
215,000 Square feet of Auto Storage

Dear Mr. McWilliams:

On December 10, 2004, I advised you that the Action Plan Review Committee concurred that the capacity benefit of the previously approved improvement related to the ICW South Plat note amendment, which reconfigured the northbound approach at the intersection of Weston Road and Arvida Parkway to include dual right turn lanes, provided additional capacity equivalent to 456 peak hour trips, and that the balance of capacity available for the proposed Pointe West Center North Plat note amendment was 269 peak hour trips. Since the impacts of the proposed note amendment on Weston Road south of Arvida Parkway, and on Arvida Parkway total 116 peak hour trips, this improvement will also mitigate these additional impacts.

In addition, the City of Weston has recommended, and the Action Plan Review Committee has concurred, that the modification of the north leg of the Weston Road/Griffin Road intersection to convert a through lane to a through/left, creating three southbound left turn lanes, will provide sufficient capacity to mitigate the proposed note amendment's impacts totaling 149 peak hour trips on Weston Road between South Post Road and Griffin Road, on Griffin Road, and on South Post Road.

Moreover, the Highway Construction and Engineering Division has approved the 125% cost estimate of the Weston Road/Griffin Road intersection improvement, excluding signal modifications, of \$18,485.00, and the Traffic Engineering Division has approved the 125% signal modification cost of \$37,500, for a total cost of \$55,985.

Attached is a "form" Traffic Concurrency Agreement in which the developer agrees to complete this improvement prior to the receipt of any additional certificate of occupancy within the plat. Please have the agreement completed, and then executed by the property owner(s) and the Town of Davie, and then return it to me, together with a Letter of Credit in the amount of \$55,985 and a current title opinion, for approval by the County along with the delegation request. The \$290.00 agreement review fee is not required, as a traffic study fee was previously paid.

Mr. John J. McWilliams, E.I.
June 2, 2005
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If you have any questions in this regard, please advise.

Sincerely,



Martin Berger
Planning Section Manager

Attachment

cc: Mark Kutney, Town of Davie
Scott Brunner, Calvin, Giordano & Associates (Weston)

cc (w/att): Rick Case

Return recorded document to:

Development Management Division
115 S. Andrews Avenue, A240
Fort Lauderdale, FL 33301

Document prepared by:

NOTICE: PURCHASERS, GRANTEES, HEIRS, SUCCESSORS AND ASSIGNS OF ANY INTEREST IN THE PROPERTY SET FORTH ON EXHIBIT "A" ARE HEREBY PUT ON NOTICE OF THE OBLIGATIONS SET FORTH WITHIN THIS AGREEMENT WHICH SHALL RUN WITH THE PROPERTY UNTIL FULLY PAID AND/OR PERFORMED.

**SECOND REGIONAL ROAD CONCURRENCY AGREEMENT
FOR CONSTRUCTION OF IMPROVEMENTS
RELATING TO THE POINTE WEST CENTER NORTH PLAT (100-MP-99)**

This is an Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY,"

AND

R&R Davie, LLC, its successors and assigns, hereinafter referred to as "DEVELOPER",

[AND IF THE PROPERTY IS LOCATED WITHIN A MUNICIPALITY]

The Town of DAVIE, a municipal corporation created and existing under the laws of the State of Florida, hereinafter referred to as "TOWN."

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, requires that the regional transportation network be adequate to serve the reasonably projected needs of proposed developments; and

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, more specifically requires that an application for a development permit satisfy concurrency requirements for impact areas; and

WHEREAS, the **Point West Center North Plat (100-MP-99)**, hereinafter referred to as "PLAT," more particularly described in Exhibit "A" attached hereto and made a part hereof, was approved on December 4, 2001, with a Traffic Concurrency Agreement which required DEVELOPER to widen the southbound on-ramp of Arvida Parkway at I-75 (First Regional Road Concurrency Agreement); and

WHEREAS, DEVELOPER has applied for approval of an amendment to the PLAT; and

WHEREAS, on February 21, 2005, the Broward County Development Management Division issued a Notification of Failure to Satisfy Broward County Concurrency Standards for the regional transportation network, finding that the application for approval of the amendment to the PLAT does not satisfy the impact area concurrency standards for the regional road network as stated in the Broward County Land Development Code ("CODE"); and

WHEREAS, DEVELOPER has previously entered into a Traffic Concurrency Agreement related to a note amendment for the ICW South Plat (Plat Book 163, Page 45), in which DEVELOPER paid the City of Weston to construct improvements at the intersection of Weston Road and Arvida Parkway; and

WHEREAS, DEVELOPER has conducted a study and has determined that the previously constructed improvements at Weston Road and Arvida Parkway, in addition to certain other remedial measures will mitigate the traffic impacts so that the proposed amendment to the PLAT will satisfy Broward County concurrency standards; and

WHEREAS, the Broward County Development Management Division has approved these remedial measures and finds that its concurrency requirements for the amendment to the PLAT will be met with the execution of, and compliance with, the terms of this Agreement by DEVELOPER; NOW, THEREFORE, .

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the parties agree as follows:

1. The above recitals and representations are true and correct and are incorporated herein.

2. Construction of Improvements.

PLEASE CHECK THE APPROPRIATE SECTION

[X] IMPROVEMENTS CONSTRUCTED BY DEVELOPER

- (a) DEVELOPER agrees to construct the improvements described in Exhibit "B" attached hereto, hereinafter referred to as the "Improvements." DEVELOPER agrees to complete the Improvements prior to receipt of a certificate of occupancy for development within the PLAT that exceeds 55,000 square feet of automobile dealership.
- (b) If the improvements described in Exhibit "B" are on a state road, as that term is defined in Chapter 334, Florida Statutes, DEVELOPER agrees that, prior to recordation of the plat note amendment, DEVELOPER shall provide COUNTY with proof of having received a permit or letter of intent to permit from the State of Florida Department of Transportation for the Improvements.
- (c) DEVELOPER shall provide to COUNTY, contemporaneously with this Agreement, an irrevocable Letter of Credit, attached hereto as Exhibit "C," in the amount of **\$55,985.00** in a form acceptable to the COUNTY, which represents 125% of the costs of the Improvements.
- (d) The Improvements described in Exhibit "B" shall be installed in accordance with applicable COUNTY, State of Florida Department of Transportation standards and specifications and in accordance with the Development Review Report for the PLAT. The construction plans for the Improvements, including pavement marking and signing plans, shall be submitted to COUNTY for review and approval prior to commencement of construction. Construction shall be subject to inspection and approval by the COUNTY. Pavement marking and signing shall be provided for all of the Improvements and shall be subject to review, field inspections and final approval by the Broward County Traffic Engineering Division, which Improvements shall be consistent with the previously approved plans.
- (e) Developer agrees that this agreement shall be recorded in the Official Records of Broward County, Florida, against the property described in Exhibit "A" to put subsequent purchasers, grantees, heirs, successors and assigns of any interest in such property on notice of the obligations set forth herein, which shall run with the property until fully performed. However, the amount(s) set forth above which are secured by a letter of credit shall not constitute a lien on the property unless and until the provisions below are activated by the recording of a "Notice of Lien."

- (f) If property is located within a municipality, DEVELOPER, its successors and assigns agree that no certificates of occupancy within the Plat shall be obtained prior to completion of the Improvements according to the schedule set forth in Exhibit "B." Failure to comply with the above shall constitute a default of this Agreement. If the property is located within the unincorporated area, the COUNTY shall not issue any certificates of occupancy within the Plat prior to completion of the Improvements according to the schedule set forth in Exhibit "B."
- (g) In the event DEVELOPER defaults under the terms of this Agreement or the COUNTY receives notice that the security will be canceled by the issuing institution, COUNTY shall be entitled to draw against the security for the amount set forth above, plus costs and interest as set out herein. If COUNTY draws against the security and the amount recovered is less than the amount due, COUNTY may maintain an action against DEVELOPER in a court of competent jurisdiction for the difference between any sums obtained and the amount due, plus costs and interest accrued from the due date at the rate of twelve (12) per cent per annum or, at the option of the COUNTY, the COUNTY may record a document entitled "Notice of Lien" which shall constitute a lien on the property described in Exhibit "A" in the amount stated above. To the extent that the failed security is attributable to an identified parcel or portion of the PLAT, the Notice of Lien, as set forth above, shall be recorded against and apply only to such parcel or portion of the PLAT. The above provisions shall control such lien, except that the provision regarding subordination of mortgages shall not apply. Such lien may be foreclosed or otherwise enforced by the COUNTY by action or suit in equity as for the foreclosure of a mortgage on real property.
- (h) DEVELOPER shall ensure that the security remains valid and in full force and effect until DEVELOPER'S obligations are fully satisfied. Expiration of the security prior to DEVELOPER'S satisfaction of such obligations, or notice to Broward County that the security will expire or be canceled prior to DEVELOPER'S satisfaction of all obligations hereunder, shall constitute a default of this Agreement.
- (i) In the event the COUNTY determines that the security has been canceled or disaffirmed by the issuing institution, COUNTY may record a document entitled "Notice of Lien" which shall constitute a lien on the property described in Exhibit "A" for the Outstanding Balance or stated portion thereof. To the extent that the disaffirmed security is attributable to an identified parcel or portion of the PLAT, the Notice of Lien, as set forth above, shall be recorded against and apply only to such parcel or portion of the PLAT. The above provisions shall control such lien, except that the provision regarding subordination of mortgages shall not apply. If the

DEVELOPER provides substitute security in a form acceptable to COUNTY, COUNTY shall release the lien.

- (j) In the event COUNTY draws on the security in accordance with the provisions of this Agreement, DEVELOPER shall be responsible for COUNTY'S reasonable costs incurred in drawing against the security.
- (k) DEVELOPER agrees that any contract(s) for the Improvements shall:
 - 1. Indemnify and hold harmless COUNTY, its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of DEVELOPER and persons employed or utilized by or under contract with the DEVELOPER in the performance of this Agreement. Except as specifically provided herein, this Agreement does not require DEVELOPER to indemnify COUNTY, its employees, officers, directors, or agents from any liability, damage, loss, claim, action, or proceeding. In the event that any action or proceeding is brought against COUNTY by reason of any such claim or demand, DEVELOPER shall, upon written notice from COUNTY, resist and defend such action or proceeding by counsel satisfactory to COUNTY. The provisions of this section shall survive the expiration or earlier termination of this Agreement.
 - 2. In order to insure the indemnification obligation contained above, the DEVELOPER and/or its contractor shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement (unless otherwise provided), the insurance coverages set forth below, in accordance with the terms and conditions required by this section.
 - 3. Such policy or policies shall be without any deductible amount and shall be issued by United States Treasury approved companies authorized to do business in the state of Florida, and having agents upon whom service of process may be made in Broward County, Florida. Such policies shall specifically protect COUNTY and the Broward County Board of County Commissioners by naming COUNTY and the Broward County Board of County Commissioners as additional insureds.
 - 4. Comprehensive General Liability Insurance. A Comprehensive General Liability Insurance Policy with minimum limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence combined

single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

Premises and/or operations.
Independent contractors.
Products and/or completed operations for contracts.
Broad Form Contractual Coverage applicable to this specific contract, including any hold harmless and/or indemnification agreement.
Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.
Underground coverages.

5. Business Automobile Liability Insurance. Business Automobile Liability Insurance with minimum limits of Three Hundred Thousand Dollars (\$300,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

Owned vehicles.
Hired and non-owned vehicles.
Employers' non-ownership.

6. Workers' Compensation Insurance. Workers' Compensation insurance to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include:

Employers' Liability with a limit of One Hundred Thousand Dollars (\$100,000.00) each accident.

7. DEVELOPER shall furnish to the Broward County Engineering Division Certificates of Insurance or endorsements evidencing the insurance coverages specified by this Article prior to beginning performance of work under this Agreement. The required Certificates of Insurance shall name the types of policies provided, refer specifically to this Agreement, and state that such insurance is as required by this Agreement.

8. Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of DEVELOPER is completed. All policies must be endorsed to provide COUNTY with at least thirty (30) days' notice of cancellation and/or restriction. If any of the insurance coverages will expire prior to the completion of the work, copies of renewal policies shall be furnished at least thirty (30) days' prior to the date of their expiration.

[] IMPROVEMENTS CONSTRUCTED BY COUNTY, CITY OR FDOT

- (a) If the Improvements are to be constructed by the State of Florida, Department of Transportation (FDOT) or a municipality or a combination thereof, DEVELOPER agrees to pay the amount in Exhibit "B," attached hereto, which represents DEVELOPER's proportionate share of the cost of the Improvements described in Exhibit "B," hereinafter referred to as the Improvements. DEVELOPER agrees that payment must be made to the municipality or to FDOT (or any combination thereof) either prior to receipt of the first certificate of occupancy for property within Exhibit "A" or within thirty (30) days of receiving notice from COUNTY that payment is due, whichever date occurs first. Failure to comply with the above shall constitute a default of this Agreement.
 - (b) If the Improvements are to be constructed solely by the COUNTY, DEVELOPER agrees that payment of the amount in Exhibit "B" shall be made to COUNTY prior to PLAT recordation or recordation of the Agreement amending the Notation on the Face of the PLAT. COUNTY agrees that no security shall be required by the COUNTY since payment shall be made prior to PLAT recordation or recordation of the Agreement amending the Notation on the Face of the PLAT.
 - (c) If the Improvements are to be constructed by the TOWN or FDOT, DEVELOPER shall provide to the municipality or FDOT, contemporaneously with this agreement, security acceptable to the municipality or FDOT.
3. CONCURRENCY COMPLIANCE. COUNTY finds that the execution of and adherence to this Agreement on the part of DEVELOPER satisfies the requirement of Chapter 5, Article IX, Broward County Code of Ordinances, that plats of land shall be designed to provide for the adequacy of the regional transportation network, at the adopted levels of service, concurrent with the impact of the development. Nothing in this Agreement shall be construed as constituting a waiver or an exemption from road impact fees authorized to be assessed by COUNTY to DEVELOPER under the provisions of Chapter 5, Article IX, Broward County Code of Ordinances.

4. PROPERTY WITHIN A MUNICIPALITY.

- (a) If the property is located within a municipality, TOWN agrees that, upon notification from the COUNTY that DEVELOPER is in default of this Agreement, TOWN shall withhold issuance of all building permits, certificates of occupancy, or any other development permits within the boundaries of the PLAT, until such time that the COUNTY notifies the TOWN that the default has been resolved. If the property is located within the unincorporated area and the DEVELOPER is determined to be in default of this Agreement by the COUNTY, the COUNTY shall withhold issuance of all building permits, certificates of occupancy, or any other development permits within the boundaries of the PLAT, until such time as the default has been resolved.
- (b) If the property is located within a municipality, the parties hereto agree that, except as may otherwise be provided herein, the TOWN is a party to this Agreement solely for the purpose of issuing or withholding the issuance of permits for the construction of buildings within the property subject to this Agreement and for the purpose of issuing or withholding the issuance of certificates of occupancy for the construction of buildings within the property subject to this Agreement. The parties specifically agree and recognize that nothing in this Agreement is a waiver, specific or otherwise, of the obligation of the DEVELOPER to strictly comply with all the requirements of the TOWN'S land development codes.

5. DEVELOPER, its successors and assigns agree that in the event of a default of this Agreement, DEVELOPER, its successors and assigns agree that no building permits, certificates of occupancy, or any other development permits shall be obtained within the boundaries of the PLAT, until such time that the COUNTY notifies the local government that the default has been resolved. If the property is located within the unincorporated area and the DEVELOPER is determined to be in default of this Agreement by the COUNTY, the COUNTY shall withhold issuance of all building permits, certificates of occupancy, or any other development permits within the boundaries of the PLAT, until such time as the default has been resolved.

6. NOTICE. Whenever any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:

For the COUNTY:

Director of the Broward County Development Management Division
115 South Andrews Avenue, Room A240
Fort Lauderdale, FL 33301

Director of the Broward County Engineering Division
115 South Andrews Avenue, Room 321
Fort Lauderdale, FL 33301

For the DEVELOPER:

Mr. Richard J. Case, Manager
R&R Davie, LLC
875 N. State Road 7
Ft. Lauderdale, FL 33317

FOR the TOWN:

7. **RECORDATION.** This Agreement shall be recorded in the Public Records of Broward County Florida, at the DEVELOPER=S expense. The benefits and obligations contained in this Agreement shall inure to grantees, successors, heirs, and assigns who have an interest in the PLAT.
8. **VENUE; CHOICE OF LAW.** Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State Courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue sitis, and shall be governed by the laws of the State of Florida.
9. **CHANGES TO FORM AGREEMENT.** DEVELOPER represents and warrants that there have been no amendments or revisions whatsoever to the form Agreement without the prior written consent of the County Attorney=s Office. Any unapproved changes shall be deemed a default of this Agreement and of no legal effect.

10. CAPTIONS AND PARAGRAPH HEADINGS. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.
11. NO WAIVER. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.
12. EXHIBITS. All Exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference. Typewritten or handwritten provisions inserted in this Agreement or attached hereto shall control all printed provisions in conflict therewith.
13. FURTHER ASSURANCES. The parties hereby agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.
14. ASSIGNMENT AND ASSUMPTION. DEVELOPER may assign all or any portion of its obligations pursuant to this Agreement to a grantee of the fee title to all or any portion of the property described in Exhibit "A." DEVELOPER agrees that any assignment shall contain a provision which clearly states that such assignment is subject to the obligations of this Agreement and recorded in the public records of Broward County, Florida.
15. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties to this Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

TOWN

WITNESSES:

ATTEST:

Town Clerk

TOWN of DAVIE

By _____
Mayor-Commissioner

____ day of _____, 20__

By _____
Town Manager

____ day of _____, 20__

APPROVED AS TO FORM:

By _____
Town Attorney

EXHIBIT "A"

PROJECT LEGAL DESCRIPTION

Legal Description

Parcel "A", Pointe West Center North, according to the Plat hereof recorded in Plat Book 172, Page 137 of the public records of Broward County, Florida.

TOGETHER WITH: Parcel I - A portion of Tracts 47 and 48 lying West of Interstate 75, being in the Southwest one-quarter (SW¹/₄) of Section 21, Township 50 South, Range 40 East, Florida Fruit Lands Company's Subdivision No. 1, according to the Plat thereof recorded in Plat Book 2, of Page 17, of the Public Records of Miami-Dade County, Florida. Said lands lying in Broward County, Florida, being more particularly described as follows: Commence[1] at the West one-quarter (W¹/₄) corner of Section 21; thence North 89° 56 minutes 06 seconds East along the North line of said Southwest one-quarter (SW¹/₄) of Section 21 coincident with the North line of said Tract 48, 13.45 feet of the West right-of-way line of said Interstate 75; thence South 15 degrees 24 minutes 09 seconds East along said West right-of-way line a distance of 682 feet to the Point of Beginning[1]; thence continuing South 15°24'36" East, along said right-of-way line, a distance of 576.55 feet to a point on the North line of said Parcel "A"; thence South 89°44'02" West along said North line of parcel "A" a distance of 150.62 feet to a point on the West line of said Tracts 47 and 48, thence along said West line North 00° 16 minutes 16 seconds West, 556.53 feet to the Point of Beginning[1].

TOGETHER WITH: Parcel II - A portion of the vacated Dykes Road as recorded in Official Records Book #1678, At Page 814, Of the Public Records of Broward County, Florida being more particularly describe as follows: Begin[2] at the Northeast corner of the Southeast quarter (East quarter corner) of Section 20, Township 50 South, Range 40 East; Thence South 00° 15 minutes 59 seconds East, along the East line of said 20 and the Easterly line of said vacated Dykes Road, for 1516.80 feet to the intersection of the East line of said Section 20 and the Southerly prolongation of the circular curve of the Easterly right-of-way for Weston Road (formerly Bonaventure Boulevard) as defined by the Plat of PARK OF COMMERCE, according to the Plat thereof as recorded in Plat Book 110, of Page 115, Public Records of Broward County, Florida, Said point bears South 83° 57 minutes 28 seconds West to the radius point of the next describe curve. Thence Northwesterly along said vacated Dykes Road, along a circular curve to the left, having a radius of 1969.86 feet, a central angle of 13° 27 minutes 44 seconds for an arc distance of 462.84 feet to the said Southerly corner of Lot 16, Block 5, said Park of Commerce; Thence North 00° 15 minutes 59 seconds West, along the Westerly line said vacated Dykes Road and Easterly line of said Lot 16 for 128.61 feet to the Southerly line of Quit Claim Deed recorded in Official Records Book 1631, at Page 328, Public Records of Broward County, Florida and the Southerly line of Special Warranty Deed filed in Official Records Book 21964, at Page 64, Public Records of Broward County, Florida; Thence North 89° 44 minutes 01 seconds East, along the Southerly line of said Quit Claim Deed and said Special Warranty Deed, for 80.00 feet; Thence North 00° 15 minutes 59 seconds West along the Easterly line of said Special Warranty Deed and said Quit Claim Deed and parallel with the East line of said Section 20, for 985.27 feet; Thence North 89° 44 minutes 01 seconds East, along the Southerly line of said Special Warranty Deed and said Quit Claim Deed, for 50.00 feet to the Easterly line of said vacated Dykes Road; thence S. 00° 15 minutes 59 seconds East along the Easterly line of said vacated Dykes Road, for 47-90 feet for the Point of Beginning[2]. Said lands situate in the Town of Davie, Broward County, Florida.

TOGETHER WITH: Parcel III Description of a portion of 15 foot right of way at Pointe West Center North
A Parcel of land in the Southwest one-quarter (SW¹/₄) of Section 21, Township 50 South, Range 40 East, being a portion of that certain 15.00 foot right-of-way lying east of the west line of the Southwest one-quarter (SW¹/₄) of said Section 21, according to the Florida Fruit Lands Company's Subdivision No.1 of said Section 21, as recorded in Plat Book 2, at page 17 of the Public Records of Dade County, Florida and being more particularly described as follows:

BEGINNING[3] at the Northwest corner of said Southwest one-quarter (SW¹/₄) of Section 21; thence run North 89°58'14" East (on a grid bearing) 13.21 feet along the North line of said Southwest one-quarter (SW¹/₄) to an intersection with the Westerly Limited Access R/W line of Interstate Highway I-75 as now located and constructed; thence run South 15°24'36" East along said Westerly Limited Access R/W line 6.82 feet to an intersection with the East right-of-way line of said 15.00 foot right-of-way as shown on said Plat; thence run South 00°15'58" East 1,838.21 feet along East right-of-way line to the North right-of-way for Southwest 36th Street (140 feet North of the center-line); thence run South 89°55'49" West 15.00 feet along the Westerly prolongation of said North right-of-way line to an intersection with the West right-of-way line said 15.00 foot right-of-way; thence run North 00°15'58" West 1,844.80 feet along West right-of-way line, also being the West line of the Southwest one-quarter (SW¹/₄) of said Section 21, to the Point of Beginning[3]. Said lands containing 0.635 acres more or less (27,669 square feet more less) and being situate in the Town of Davie, Broward County, Florida.

TOGETHER WITH: Parcel IV (LEASE PARCEL) Description of a 50 foot portion of SW 36th Street at Pointe West Center North
A parcel of land in the Southwest one-quarter (SW¹/₄) of Section 21, Township 50 South, Range 40 East, being a portion of SW 36th Street as described in the instrument Plat in Official Records Book 7637 at Page 156 of the Public Records of Broward County, Florida described as follows: Beginning[4] at the Southeast corner of Parcel A, according to the plat of Pointe West Center North, as recorded in Plat Book 172 at Pages 136 and 137 of the Public Records of Broward County, Florida; thence run South 89°55'49" West (on a plat bearing) 534.71 feet along the North right-of-way line SW 36th Street to an intersection with the West line of the Southwest one-quarter (SW¹/₄) of Section 21; thence run South 00°15'58" East 50.00 feet along said West line of the Southwest one-quarter (SW¹/₄) of Section 21; thence run North 89°55'49" East 552.14 feet to a point of intersection with the arc of a curve running Northwesterly to the right, being the Westerly right-of-way line of Interstate Highway I-75, as now located and constructed, a radial at said point being North 70°24'34" East; thence along said Westerly right-of-way line, on the arc of said curve to the right having a radius of 11,076.16 feet and a central angle of 00°15'34", run Northwesterly 53.01 feet to the Point of Beginning[4].

Said lands containing 0.624 acres more or less (27,170 square feet more or less) and being situate in the Town of Davie, Broward County, Florida.

EXHIBIT "B"

IMPROVEMENTS & COST OF IMPROVEMENTS

Prior to the issuance of a certificate of occupancy for additional development within the plat:

Reconstruct the north leg of the Weston Road/Griffin Road intersection to convert a through lane to a through/left, creating three southbound left turn lanes. This improvement includes the addition of any necessary pavement on Griffin Road to accommodate the additional turn lane, and any necessary signal modifications, as required by the Traffic Engineering Division.

EXHIBIT "C"

SECURITY

CAF#361
01/01/02

POINTE WEST CENTER NORTH

A REPLAT OF PORTIONS OF TRACTS 43, 44, 45, 46 AND 47 LYING IN THE S.W. 1/4 OF SECTION 21
TOWNSHIP 50 SOUTH, RANGE 40 EAST, AS SHOWN ON "FLORIDA FRUIT LANDS COMPANYS
SUBDIVISION NO. 1", RECORDED IN PLAT BOOK 2 AT PAGE 17, DADE COUNTY RECORDS,
TOWN OF DAVIE, BROWARD COUNTY, FLORIDA.

PREPARED BY:
WINNINGHAM & FOGLEY, INC.
111 N.E. 44th STREET
OAKLAND PARK, FLORIDA
33334

Page 1 of 2
Recorded 08/09/2003 at 02:27 PM

CFN # 103001359.

SCALE: 1" = 40' (AS SHOWN)



LEGAL DESCRIPTION

THE PART OF LAND IN THE S.W. 1/4 OF SECTION 21, TOWNSHIP 50 SOUTH, RANGE 40 EAST, AS SHOWN ON "FLORIDA FRUIT LANDS COMPANYS SUBDIVISION NO. 1", RECORDED IN PLAT BOOK 2 AT PAGE 17, DADE COUNTY RECORDS, TOWN OF DAVIE, BROWARD COUNTY, FLORIDA, WHICH IS DESCRIBED AS FOLLOWS: ...



NOTES

1. THE PART OF LAND IN THE S.W. 1/4 OF SECTION 21, TOWNSHIP 50 SOUTH, RANGE 40 EAST, AS SHOWN ON "FLORIDA FRUIT LANDS COMPANYS SUBDIVISION NO. 1", RECORDED IN PLAT BOOK 2 AT PAGE 17, DADE COUNTY RECORDS, TOWN OF DAVIE, BROWARD COUNTY, FLORIDA, WHICH IS DESCRIBED AS FOLLOWS: ...

RECORDING
I, the undersigned, being a duly qualified and authorized officer of the State of Florida, do hereby certify that the foregoing is a true and correct copy of the original as recorded in my office on the 9th day of August, 2003, at 2:27 PM.

ACKNOWLEDGMENT
I, the undersigned, being a duly qualified and authorized officer of the State of Florida, do hereby certify that the foregoing is a true and correct copy of the original as recorded in my office on the 9th day of August, 2003, at 2:27 PM.

BROWARD COUNTY FINANCE AND ADMINISTRATIVE SERVICES DEPARTMENT
COUNTY RECORDS DIVISION
I, the undersigned, being a duly qualified and authorized officer of the State of Florida, do hereby certify that the foregoing is a true and correct copy of the original as recorded in my office on the 9th day of August, 2003, at 2:27 PM.

BROWARD COUNTY ENGINEERING DIVISION
I, the undersigned, being a duly qualified and authorized officer of the State of Florida, do hereby certify that the foregoing is a true and correct copy of the original as recorded in my office on the 9th day of August, 2003, at 2:27 PM.

BROWARD COUNTY PLANNING DIVISION
I, the undersigned, being a duly qualified and authorized officer of the State of Florida, do hereby certify that the foregoing is a true and correct copy of the original as recorded in my office on the 9th day of August, 2003, at 2:27 PM.

SPONSOR'S CERTIFICATE
I, the undersigned, being a duly qualified and authorized officer of the State of Florida, do hereby certify that the foregoing is a true and correct copy of the original as recorded in my office on the 9th day of August, 2003, at 2:27 PM.

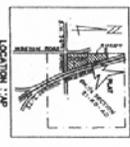


100 - 172 - 98

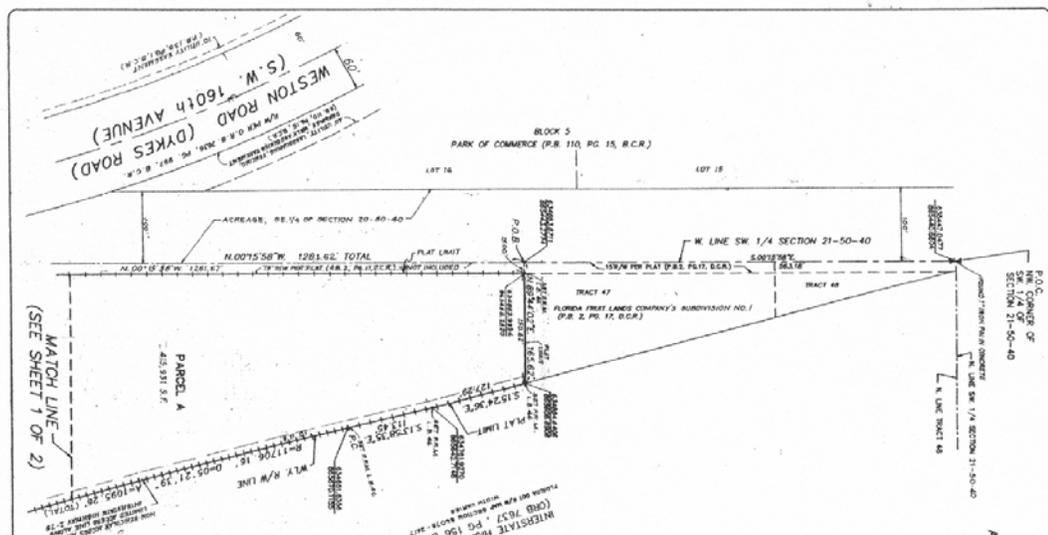
POINTE WEST CENTER NORTH
A REPLAT OF PORTIONS OF TRACTS 43, 44, 45, 46 AND 47, LYING IN THE S.W. 1/4 OF SECTION 21
TOWNSHIP 50 SOUTH, RANGE 40 EAST, AS SHOWN ON "FLORIDA FRUIT LANDS COMPANY'S
SUBDIVISION NO. 1", RECORDED IN PLAT BOOK 2 AT PAGE 17, DADE COUNTY RECORDS,
TOWN OF DAVE, BROWARD COUNTY, FLORIDA.

PREPARED BY:
WINNINGHAM & FRODLEY, INC.

111 NE 44th STREET
OAKLAND, FLORIDA
33304



LOCATION MAP



MATCH LINE 1 OF 2
(SEE SHEET 1 OF 2)

ACKNOWLEDGMENT
I, the undersigned, being the owner and holder of a mortgage on the
premises described in the foregoing plat, do hereby certify that the
above described plat is a true and correct copy of the original
plat as the same appears on the records of the county clerk of
Dade County, Florida, and that the same is a true and correct
copy of the original plat as the same appears on the records of
the county clerk of Dade County, Florida, and that the same is
a true and correct copy of the original plat as the same
appears on the records of the county clerk of Dade County,
Florida.

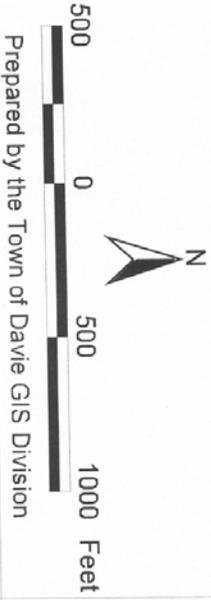
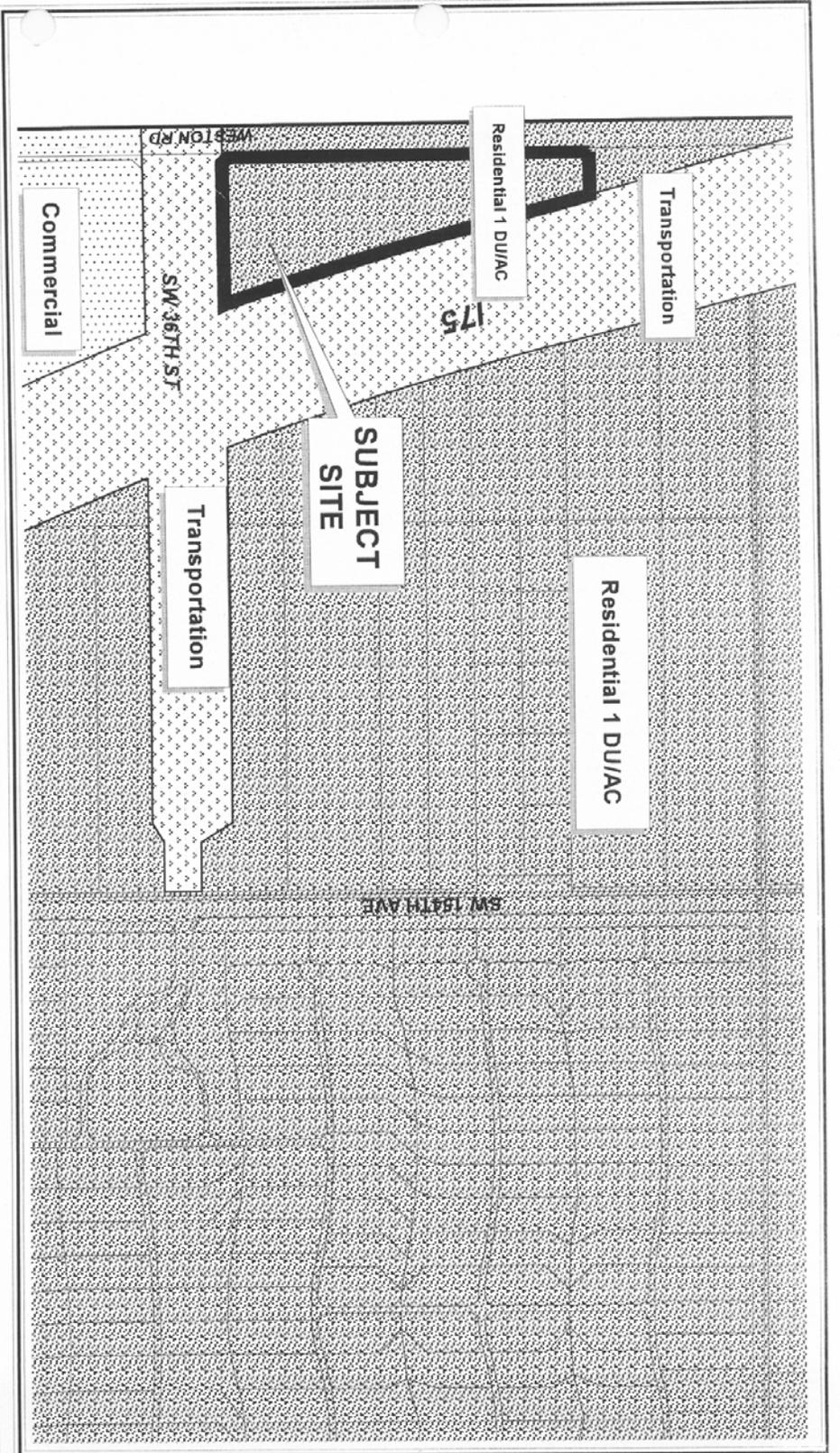
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Florida.

CFN #103001359
Page 2 of 2



Prepared by the Town of Davie GIS Division

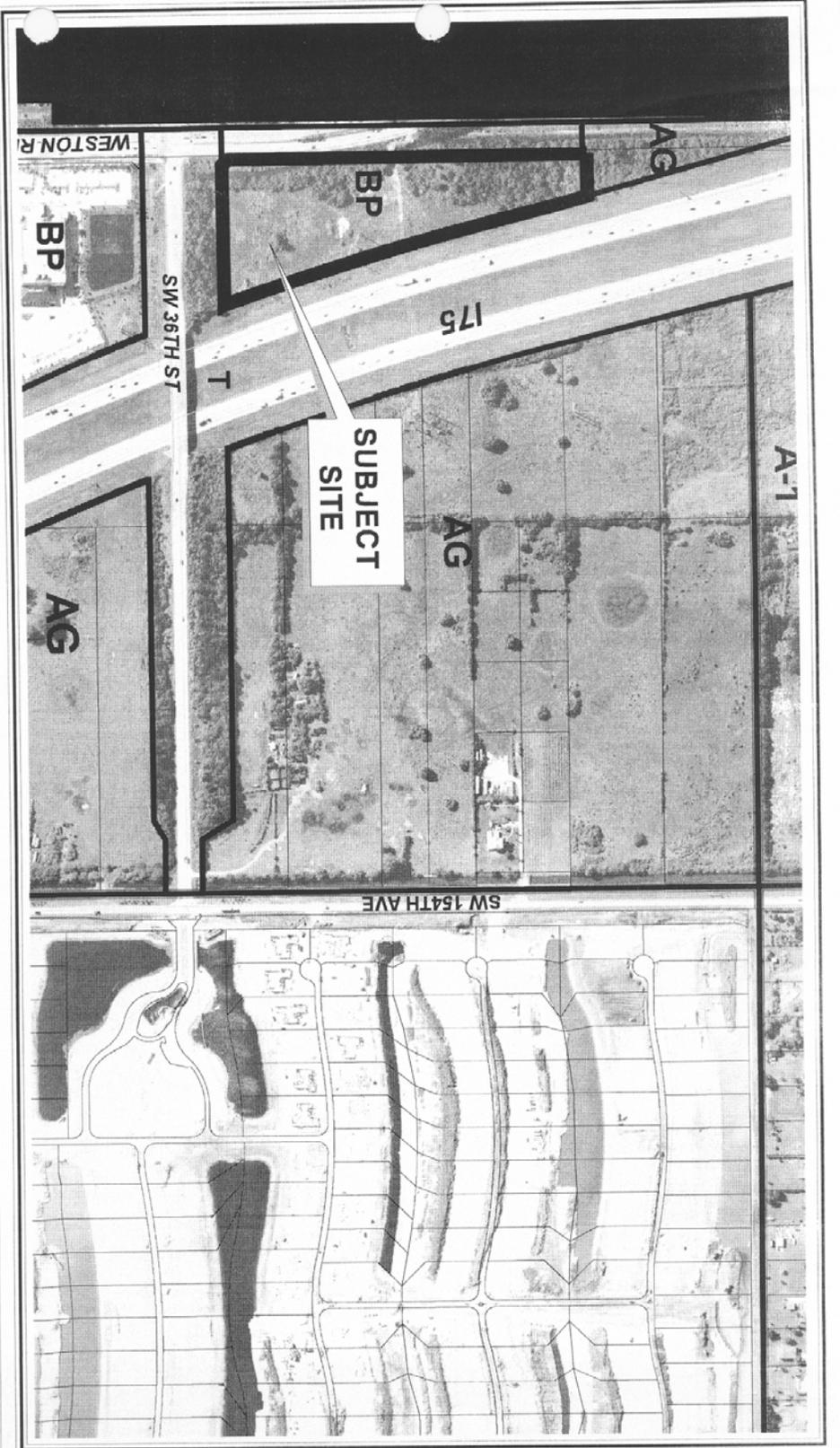


Prepared By: ID
Date Prepared: 10/13/04

DELAGATION REQUEST

DG 9-2-04

Future Land Use Map



Date Flown:
12/31/02



Prepared by the Town of Davie GIS Division



Prepared By: ID
Date Prepared: 10/13/04

DELEGATION REQUEST DG 9-2-04 Zoning and Aerial Map