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 12-1-03 Oak Scholar Academy Charter School, 3655 Shotgun Road (SW 154 Avenue)/Generally located on the west side of Shotgun Road, south of SW 36 Street.

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION PETITION VA 12-1-03, VACATING A PORTION OF THE 15 FOOT RIGHT-OF-WAY LYING SOUTH OF TRACT 40 AS SHOWN ON "FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO.1", SECTION 21, TOWNSHIP 50 SOUTH, RANGE 40 EAST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The request is to vacate a 15-foot road right-of-way easement adjacent to the south property line on the 10.63 acres subject site.

This 15-foot road right-of-way easement was dedicated by the original Plat, "Florida Fruit Lands Company's Subdivision Plat No. 1, recorded in Plat Book 2, Page 17 of Dade County Records. The request is to vacate this easement so that the overall 10.63 net acre site can accommodate a proposed 66,565 square foot charter school.

The proposed vacation will not have an adverse impact on the surrounding properties or neighborhood. The 15-foot road right-of-way easement is along the south property line, running through the archeological site, from the east property line to the west property line. It does not provide any street connections from east to west as I-75 is west of the property. The vacant parcel to the south has access on Shotgun Road and will not be affected by this request. The proposed vacation will allow a better site design as the subject site is long and narrow (330′ x 1,305′) and contains an archeological site. A 10-foot perimeter landscape buffer is proposed in this location.

PREVIOUS ACTIONS: This item has been tabled three (3) times; two(2) times at the request of the applicant, from June 1, 2005, to July 6, 2005; from July 6, 2005, to July 20, 2005; to allow time for discussion with the adjacent residents; and was tabled by Town Council from July 20, 2005, to August 3, 2005, in order to have the applicant address the following items: 1) contact the Broward County School Board regarding obtaining land from the adjacent site; 2) supply drainage calculations to ensure that adequate water retention is being provided; 3) emergency access; 4) satisfy traffic concerns along Shotgun Road, the roundabout and South Post Road.

CONCURRENCES: At the May 11, 2005, Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded by Mr. Stevens, to vacate the 15-foot road right-of-way.

(Motion carried 3-2 with Chair Bender and Vice-Chair Turin being opposed since they are opposed to the rezoning of the site.)

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

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 12-1-03, VACATING A PORTION OF THE 15 FOOT RIGHT-OF-WAY LYING SOUTH OF TRACT 40 AS SHOWN ON "FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO.1", SECTION 21, TOWNSHIP 50 SOUTH, RANGE 40 EAST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, a 15' right-of-way within Section 21, Township 50 South, Range 40 East, was dedicated by the Everglades Sugar and Land Company Subdivision, as recorded in Plat Book 2, Page 17 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 THIS _____ DAY OF _____, 2005.

PASSED ON SECOND READING THIS _____ DAY OF_____, 2005.

ATTEST:

_____

MAYOR/COUNCILMEMBER

_____

TOWN CLERK

APPROVED THIS_____ DAY OF _____, 2005.

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

Applicant Information

Owner:		**Petitioner:**	
Name:	Oak Scholar of Broward, LLC Hugo F. Hormazabal	**Name:**	C. William Laystrom Jr. Doumar, Allsworth, et al.
Address:	6035 SW 88 Court	**Address:**	1177 SE 3 Avenue
City:	Miami, FL 33173	**City:**	Fort Lauderdale, FL 33316
Phone:	(305) 412-7874	**Phone:**	(954) 762-3400

Background Information

Application History: This item has been tabled three (3) times; two(2) times at the request of the applicant, from June 1, 2005, to July 6, 2005; from July 6, 2005, to July 20, 2005; to allow time for discussion with the adjacent residents; and was tabled by Town Council from July 20, 2005, to August 3, 2005, in order to have the applicant address the following items: 1) contact the Broward County School Board regarding obtaining land from the adjacent site; 2) supply drainage calculations to ensure that adequate water retention is being provided; 3) emergency access; 4) satisfy traffic concerns along Shotgun Road, the roundabout and South Post Road.

Planning and Zoning Board Recommendation: Approval was recommended at the May 11, 2005, meeting.

Date of Notification: May 4, 2005 **Number of Notifications:** 23

Application Request: To vacate a 15-foot road right-of-way easement on the subject site

Address/Location: 3655 Shotgun Road (SW 154 Avenue)/generally located on the west side of Shotgun Road, south of SW 36 Street.

Future Land Use Plan Map Designation: Residential (1 DU/AC)

Existing Zoning: AG, Agricultural District

Proposed Zoning: CF, Community Facilities District

Existing Use: Vacant

Proposed Use: A charter school of 66,565 square feet with a maximum capacity of 900 students

Net Parcel Size: 10.63 acres

Surrounding Uses:		**Surrounding Land Use Plan Designations:**
North:	Vacant & SW 36 Street	Residential (1 DU/AC)
South:	Vacant Land	Residential (1 DU/AC)
East:	Shotgun Road (SW 154 Avenue)	Residential (1 DU/AC)
West:	I-75	Transportation

Surrounding Zoning:

North: AG, Agricultural District
South: CF, Community Facilities District
East: E, Estate District
West: T, Transportation

Zoning History

Related Zoning History:

On October 16, 2002, the Town Council approved Ordinance 2002-35, amending the Land Development Code to create Article IX of Chapter 12, entitled "Rural Lifestyle Regulations" and to create Scenic Corridors Overlay District. Shotgun Road was designated as a scenic corridor.

Plat:

The subject site was a portion of the plat, Florida Fruit Lands Company's Subdivision Plat No. 1, as recorded in Plat Book 2, Page 17 of Miami Dade County Records.

On February 18, 2004, the Town Council approved the replat, Oak Scholar-Davie Plat, subject to approval of the rezoning (ZB 2-4-03) from AG, Agricultural District, to CF, Community Facilities District.

Previous Requests on Same Property:

The applicant has submitted the following requests simultaneously with this request:

A site plan application (SP 2-4-03) for construction of a 63,561-square foot school facility to accommodate a maximum of 900 students from kindergarten through 8th grade;

A rezoning request (ZB 2-4-03) to rezone the subject property from AG, Agricultural District, to CF, Community Facilities District;

A developers agreement (DA 12-2-03) between the developer, Broward County, and Town of Davie for the management plan for the archeological site within the plat limit;

A developers agreement (DA 4-2-04) between the developer, Broward County, and Town of Davie for the Regional Road Concurrency Agreement.

Application Details

The request is to vacate a 15-foot road right-of-way easement adjacent to the south property line on the 10.63 acres subject site.

Applicable Codes and Ordinances

Section 12-310 of the Land Development Code, review for vacations or abandonment of right-of-way.

Section 12-289 (A) of Rural Lifestyle Regulation, Street, Access, and Circulation.

Comprehensive Plan Considerations

Planning Area: The subject property is within Planning Area 2. Planning Area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 113.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 5: Consistency of Development with Comprehensive Plan, Policy 15-4:* Land development regulation shall provide for adequate, convenient, and safe on-site circulation and off-street parking facilities.

Significant Development Review Agency Comments

There were no significant development review comments for this application.

Staff Analysis

This 15-foot road right-of-way easement was dedicated by the original Plat, "Florida Fruit Lands Company's Subdivision Plat No. 1, recorded in Plat Book 2, Page 17 of Dade County Records. The request is to vacate this easement so that the overall 10.63 net acre site can accommodate a proposed 66,565 square foot charter school.

The proposed vacation will not have an adverse impact on the surrounding properties or neighborhood. The 15-foot road right-of-way easement is along the south property line, running through the archeological site, from the east property line to the west property line. It does not provide any street connections from east to west as I-75 is west of the property. The vacant parcel to the south has access on Shotgun Road and will not be affected by this request. The proposed vacation will allow a better site design as the subject site is long and narrow (330′ x 1,305′) and contains an archeological site. A 10-foot perimeter landscape buffer is proposed in this location.

Findings of Fact

Vacations or abandonment of right-of-way:
Section 12-310 (A)(1):

The following findings of fact apply to the vacation requested:

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

The 15-foot road right-of-way easement is along the south property line adjacent to the vacant parcel owned by Broward County. This vacant parcel to the south has an access on Shotgun Road. No other property in the neighborhood will be affected by this request. Therefore, it will not adversely affect access to neighboring properties.

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

The subject property is adjacent to I-75 to the west and Shotgun Road to the east. The 15-foot road right-of way easement is along the south property line running from the east property line to the west property line. It does not provide any street connections from east to west as I-75 is west of the property. The vacant parcel to the south has an access on Shotgun Road and will not be affected by this vacation. As such, vacation of this easement will not be in conflict with the public interest.

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 May 11, 2005, Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded by Mr. Stevens, to vacate the 15-foot road right-of-way. (Motion carried 3-2 with Chair Bender and Vice-Chair Turin being opposed since they are opposed to the rezoning of the site.)

Town Council Action

Exhibits

1) Justification
2) Survey
3) Future Land Use Plan Map
4) Zoning and Aerial Map

Prepared by: _____ Reviewed by: _____

KEITH and SCHNARS, P.A.
ENGINEERS – PLANNERS – SURVEYORS

December 9, 2003

Annie Feng
Planning and Zoning Division
Town of Davie
6591 Orange Drive.
Davie, FL 33314-3399

RE: Oak Scholar Academy Charter School-Roadway Vacation
Keith and Schnars, P.A /009-MP-03

Dear Mrs. Feng:

We are requesting that you review the above plat documents. The survey indicates a 15-foot right-of-way along the south property line therefore a vacation of a right-of-way is required to include this parcel into the project prior to the Town of Davie approving the site plan.

Thank you in advance for your prompt response to this request. Should you have any questions, or require additional clarification, please feel free to contact this office at (954) 776-1616 ext. 466.

Sincerely,

KEITH and SCHNARS, P.A.
Engineers~Planners~Surveyors

Sharon Rios,
Associate Planner

SR/

RECEIVED
DEC 09 2003
TOWN OF DAVIE
PLANNING & ZONING DI

6500 North Andrews Avenue • Ft. Lauderdale, Florida 33309-2132
(954) 776-1616 • (800) 488-1255 • Fax (954) 771-7690

SURVEY NOTES:

1. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD.
3. THE BEARINGS SHOWN ON THIS SKETCH WERE BASED ON THE NORTH AMERICAN DATUM OF 1927. SHOWN ON THE "STONER/KEITH RESURVEY II" OF ALL OF TOWNSHIP 50 SOUTH, RANGE 40 EAST, BROWARD COUNTY, FLORIDA, AS RECORDED IN MISCELLANEOUS PLAT BOOK 4, PAGE 21 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND AS TRANSFORMED TO THE NORTH AMERICAN DATUM OF 1983, WITH THE 1990 ADJUSTMENT. A REFERENCE BEARING OF NORTH 00°10'35" WEST, ON THE EAST LINE OF THE SOUTHWEST 1/4 OF SECTION 21.
4. THE "LAND DESCRIPTION" HEREON WAS PREPARED BY THE SURVEYOR.
5. THIS SKETCH IS NOT A BOUNDARY SURVEY AS SUCH.

LEGAL DESCRIPTION :

A PORTION OF THE 15' RIGHT- OF- WAY LYING SOUTH OF TRACT 40 AS SHOWN ON "FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO.1", SECTION 21, TOWNSHIP 50 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED PLAT BOOK 2, PAGE 17 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, AND LYING NORTH OF THE SOUTH LINE OF SAID SECTION 21 AND LYING WEST OF THE SOUTHERLY PROJECTION OF THE EAST LINE OF SAID TRACT 40 AND LYING EAST OF INTERSTATE 75 AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP, SECTION #86075-2417, SHEET 8 OF 11, LATEST REVISION DATE 09/17/96.

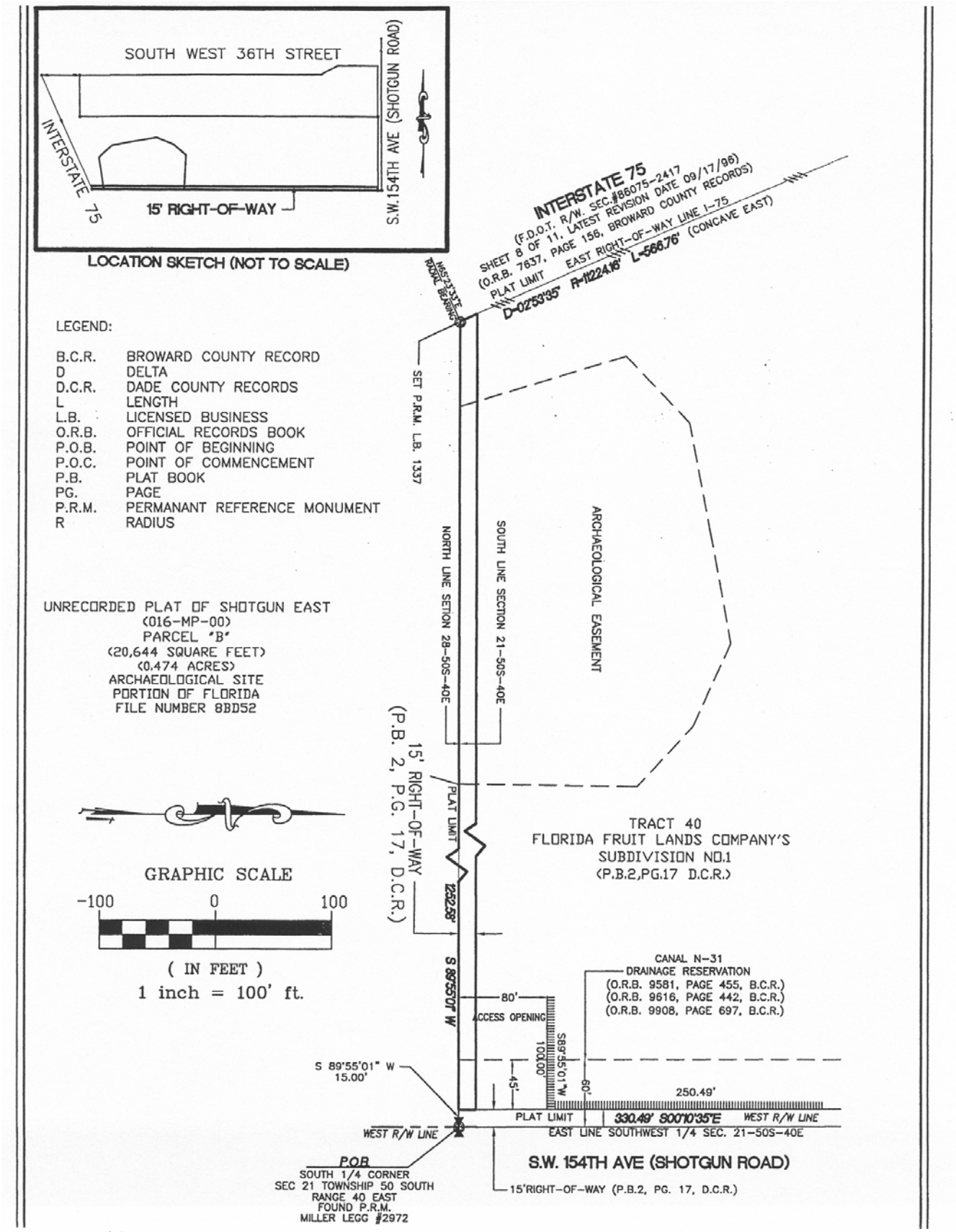
SAID LAND LYING IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA.

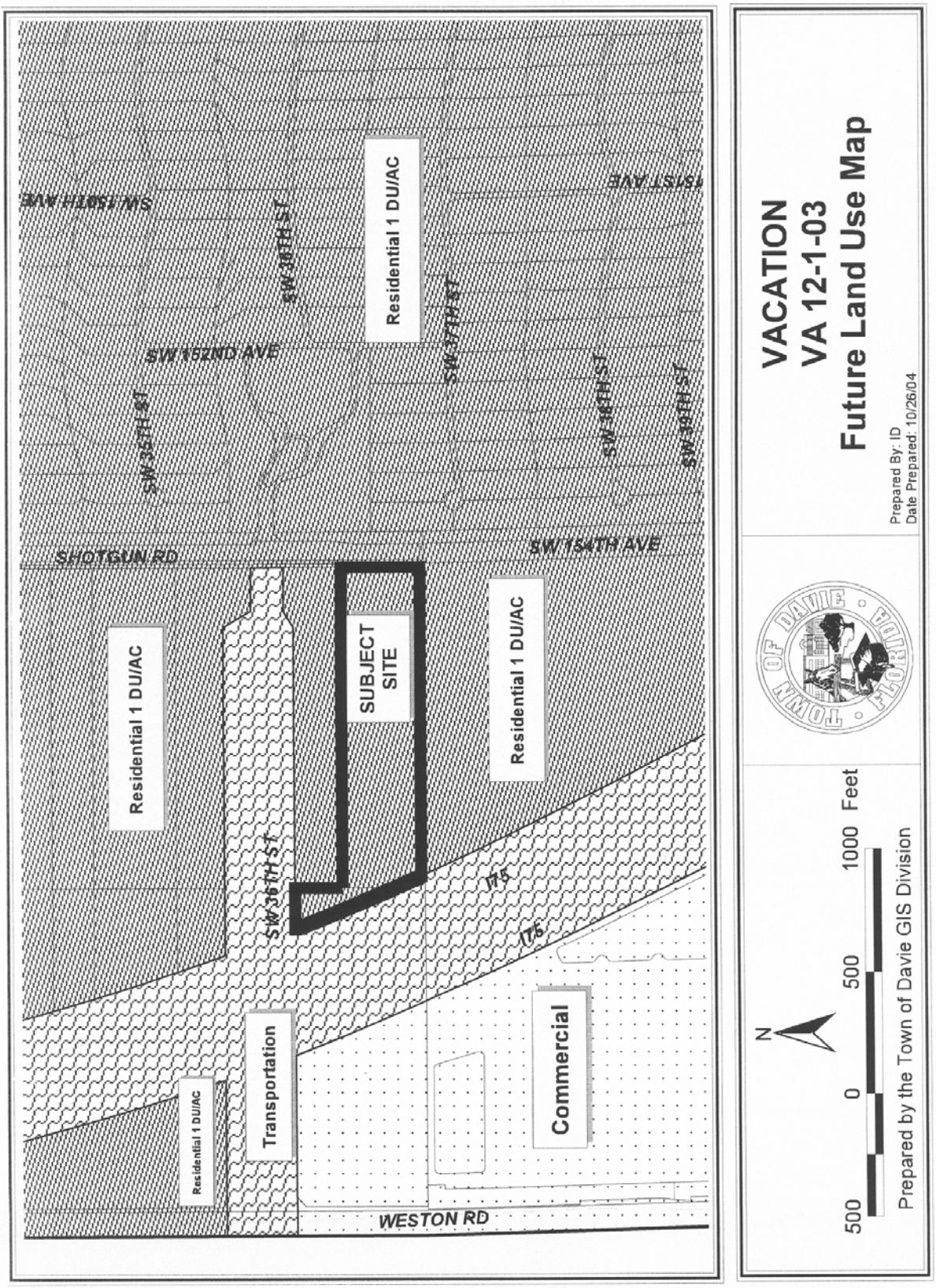
CERTIFICATE:

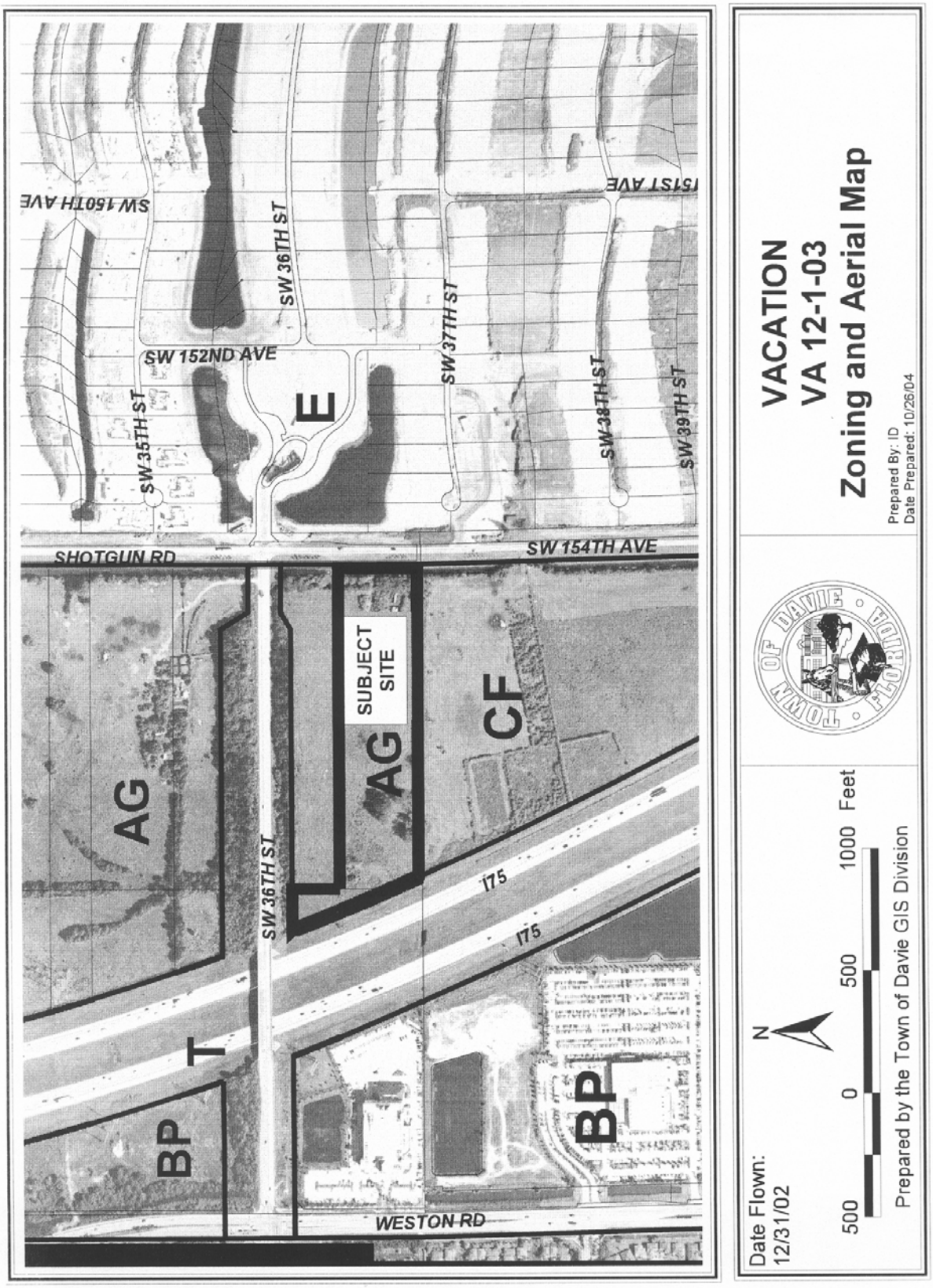
I HEREBY CERTIFY THAT THE ATTACHED SKETCH OF DISCRIPTION OF THE HEREON DESCRIBED PROPERTY IS DEPICTED TO THE BEST OF MY KNOWLEDGE, BELIEF, AND INFORMATION AS DELINEATED UNDER MY DIRECTION ON DECEMBER 5, 2003.
I FURTHER CERTIFY THAT THIS SKETCH OF DISCRIPTION MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, SUBJECT TO THE QUALIFICATIONS NOTED HEREON.

KEITH AND SCHANRS, P.A.
ENGINEERS-PLANNERS-SURVEYORS

BY: A.M. LAZOWICK, P.S.M.


SOUTH WEST 36TH STREET
INTERSTATE 75
15' RIGHT-OF-WAY
S.W.154TH AVE (SHOTGUN ROAD)
LOCATION SKETCH (NOT TO SCALE)
INTERSTATE 75
(F.D.O.T. R/W. SEC.#86075-2417
SHEET 8 OF 11, LATEST REVISION DATE 09/17/96)
(O.R.B. 7637, PAGE 156, BROWARD COUNTY RECORDS)
PLAT LIMIT
EAST RIGHT-OF-WAY LINE I-75
D=02°53'35" R=11224.16' L=566.76' (CONCAVE EAST)
N65°23'33"E RADIAL BEARING
LEGEND:
B.C.R. BROWARD COUNTY RECORD
D DELTA
D.C.R. DADE COUNTY RECORDS
L LENGTH
L.B. LICENSED BUSINESS
O.R.B. OFFICIAL RECORDS BOOK
P.O.B. POINT OF BEGINNING
P.O.C. POINT OF COMMENCEMENT
P.B. PLAT BOOK
PG. PAGE
P.R.M. PERMANANT REFERENCE MONUMENT
R RADIUS
SET P.R.M. L.B. 1337
NORTH LINE SETION 28-50S-40E
SOUTH LINE SECTION 21-50S-40E
ARCHAEOLOGICAL EASEMENT
UNRECORDED PLAT OF SHOTGUN EAST
(016-MP-00)
PARCEL "B"
(20,644 SQUARE FEET)
(0.474 ACRES)
ARCHAEOLOGICAL SITE
PORTION OF FLORIDA
FILE NUMBER 8BD52
15' RIGHT-OF-WAY
(P.B. 2, P.G. 17, D.C.R.)
PLAT LIMIT
TRACT 40
FLORIDA FRUIT LANDS COMPANY'S
SUBDIVISION NO.1
(P.B.2,PG.17 D.C.R.)
GRAPHIC SCALE
-100
0
100
(IN FEET)
1 inch = 100' ft.
1252.58'
S 89°55'01" W
CANAL N-31
DRAINAGE RESERVATION
(O.R.B. 9581, PAGE 455, B.C.R.)
(O.R.B. 9616, PAGE 442, B.C.R.)
(O.R.B. 9908, PAGE 697, B.C.R.)
80'
ACCESS OPENING
100.00'
S89°55'01"W
S 89°55'01" W
15.00'
45'
60'
250.49'
PLAT LIMIT
330.49' S00°10'35"E
WEST R/W LINE
WEST R/W LINE
EAST LINE SOUTHWEST 1/4 SEC. 21-50S-40E
P.O.B.
SOUTH 1/4 CORNER
SEC 21 TOWNSHIP 50 SOUTH
RANGE 40 EAST
FOUND P.R.M.
MILLER LEGG #2972
S.W. 154TH AVE (SHOTGUN ROAD)
15'RIGHT-OF-WAY (P.B.2, PG. 17, D.C.R.)


VACATION
VA 12-1-03
Future Land Use Map
Prepared By: ID
Date Prepared: 10/26/04
TOWN OF DAVIE FLORIDA
N
500 0 500 1000 Feet
Prepared by the Town of Davie GIS Division
Residential 1 DU/AC
SUBJECT SITE
Residential 1 DU/AC
Residential 1 DU/AC
Residential 1 DU/AC
Transportation
Commercial
SHOTGUN RD
SW 154TH AVE
WESTON RD
SW 36TH ST
SW 35TH ST
SW 152ND AVE
SW 38TH ST
SW 37TH ST
SW 18TH ST
SW 19TH ST
SW 150TH AVE
175
176


SW 160TH AVE
SW 36TH ST
SW 37TH ST
151ST AVE
SW 152ND AVE
SW 35TH ST
SW 38TH ST
SW 39TH ST
E
SHOTGUN RD
SW 154TH AVE
SUBJECT SITE
AG
AG
CF
SW 36TH ST
I75
I75
T
BP
BP
WESTON RD
VACATION
VA 12-1-03
Zoning and Aerial Map
Prepared By: ID
Date Prepared: 10/26/04
TOWN OF DAVIE FLORIDA
Date Flown:
12/31/02
N
500
0
500
1000 Feet
Prepared by the Town of Davie GIS Division