

# **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark Kutney, AICP/(954) 797-1101

**SUBJECT:** Rezoning

Project Name and Location: C. William Laystrom, Jr., Esq./Theodore and Nadine Curcie, 5990 SW 82 Avenue/Generally located at the northeast corner of Stirling Road and SW 82 Avenue.

**TITLE OF AGENDA ITEM:**

ZB 1-4-01            Applicant: C. William Laystrom, Jr., Esq., petitioner/Theodore and Nadine Curcie, owner.

**REPORT IN BRIEF:**

The applicant requests to rezone the 9.04 acre subject property as well as the abutting 3.58 acres to the north, from A-1 to B-2 for the construction of an 87,000 square foot retail center, parking, retention, and landscaping. This rezoning would provide a consistent zoning designation with the properties to the north (under consideration for rezoning to B-2) and west (zoned B-2). It would also remain consistent with the Town and County Commercial Land Use Plan Designation for said properties.

**PREVIOUS ACTIONS:** None.

**CONCURRENCES:**

The Planning and Zoning Board recommended to approve the request at its March 14, 2001 meeting (motion carried 4-0).

**FISCAL IMPACT:** None.

**RECOMMENDATION(S):** Motion to approve.

**Attachment(s):** Justification letter, Land Use Map, Subject Site Map, Aerial.

**Application #: ZB 1-4-01**

**Revisions:**

**Exhibit "A"**

**Original Report Date: 3/16/01**

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

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**APPLICANT INFORMATION**

**Owner:**

**Name:** Theodore and Nadine Curcie  
**Address:** 5990 SW 82 Avenue  
**City:** Davie, FL 33328  
**Phone:** (954)434-8640

**Agent:**

**Name:** C. William Laystrom, Jr., Esq.  
**Address:** 1177 SE 3 Avenue  
**City:** Ft. Lauderdale, FL 33316  
**Phone:** (954)762-3400

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**BACKGROUND INFORMATION**

**Date of Notification:** March 7, 2001    **Number of Notifications:** 11

**Application Request:** To rezone a 9.04 acre site from A-1, Agricultural District to B-2, Community Business District.

**Address/Location:** 5990 SW 82 Avenue/Generally located at the northeast corner of Stirling Road and SW 82 Avenue

**Future Land Use Plan Designation:** Commercial

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

**Existing Use:** Residential/Agricultural

**Proposed Use:** Portion of an 82,000 square foot retail building, parking, retention, and landscaping of an overall 12.62 acre site and 87,000 square foot development that will provide cross-access to University Creek Plaza and the proposed Home Depot.

**Parcel Size:** 9.04 acres (393,769 square feet)

**Surrounding Uses:**

**North:** Vacant land under consideration for rezoning from A-1 to B-2 (ZB 1-5-01)

**Surrounding Land  
Use Plan Designation:**

Commercial

**South:** Unincorporated Unincorporated  
**East:** University Creek Plaza Commercial  
**West:** Residential, Vacant Residential 3 DU/Acre

**Surrounding Zoning:**

**North:** A-1, Agricultural District under consideration for rezoning from A-1 to B-2 (ZB 1-5-01)  
**South:** Unincorporated  
**East:** B-2, Community Business District  
**West:** A-1, Agricultural District

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**ZONING HISTORY**

**Related Zoning History:** None.

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

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**APPLICATION DETAILS**

The applicant requests to rezone the 9.04 acre property and the abutting 3.58 acres to the north from A-1 to B-2 for the construction of an 87,000 square foot retail center, parking, retention, and landscaping. This rezoning will provide a consistent zoning designation with the properties to the north (under consideration for rezoning to B-2) and west (zoned B-2). It would also remain consistent with the commercial designation within the Town's and Broward County's Comprehensive Plan.

**Site Area Information:**

1. The applicant has provided a conceptual development plan of the subject site and 3.58 acres to its north which is also under consideration for rezoning to B-2. The conceptual site plan shows a 2.23 acre retention lake, and 3 retail buildings which are 37,500, 44,500, and 5,000 square feet. All applicable code requirements will have to be met (open space, parking, buffers, landscaping, etc.) and a full site plan filed. The conceptual site plan attached hereto is made part of the rezoning request shall not be deemed as a site plan approval.
  2. There will be no access to SW 82 Avenue. Access to the site will be provided via Stirling Road. In addition, the cross access road that goes through the parcel connects to University Creek Plaza which has access on University Drive.
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**Applicable Codes and Ordinances**

The applicable code is the Town of Davie Land Development Code.

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## Comprehensive Plan Considerations

**Planning Area:** The subject site 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 side of the University Drive corridor. The east side of this corridor is predominantly small-scale commercial development, with multi-family residential development (one existing, one proposed) 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. These include, but are not limited to, a regional library, multiple church uses varying scales, a girl scout campground facility, and a private school. *The Town is optimistic in the potential expansion of commercial uses within this planning area, given the increased accessibility provided by Pine Island Road, and potential development of agricultural lands in the years to come.*

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

### Applicable Goals, Objectives & Policies:

Future Land Use Policy 7-1: The Town shall endeavor to expand its economic base through expansion of the commercial sector of its economy.

Future Land Use Policy 7-3: Zoning regulations shall provide for varying intensities of commercial development, and direct application of appropriate districts where compatible with adjacent and surrounding residential uses.

Future Land Use Policy 7-4: Commercial land uses shall generally be located with access to primary transportation facilities including interstates, highways and arterials. Commercial uses located on arterials not designated by the Future Land Use Plan map as commercial corridors should be limited to the intersection of two arterials or arterials and interstates. Consistent with Policy 7-1, vacant land with such access shall be evaluated for potential commercial use.

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## Broward County Comprehensive Plan Considerations

None.

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### Staff Analysis

The proposed zoning will be consistent with the B-2 zoning proposed to the north and south, and existing to the east. It will also remain consistent with Town's and Broward

County's Land Use Plan designation as commercial use. Traffic levels will be in line with that expected from land with a commercial future land use designation.

Staff believes the requested zoning is among the most appropriate to enhance the Town's tax base at this location. Also, the proposed rezoning does not create an isolated zoning district and is consistent with the adjacent existing and planned uses. Therefore, the proposed use can be considered to be in harmony with the general intent and purpose of the code and will not be harmful to the public welfare.

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### Findings of Fact

#### Rezoning:

#### **Section 12-307(A)(1):**

**The following findings of facts apply to the rezoning request.**

- (a) The proposed change is not contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;
- (b) The proposed change will not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;
- (c) Existing zoning district boundaries are logically drawn in relation to existing conditions on the property proposed for change;
- (d) The proposed change will not adversely affect living conditions in the neighborhood;
- (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;
- (f) The proposed change will not adversely affect other property values;
- (g) The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations;
- (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;
- (i) There are not substantial reasons why the property cannot be used in accord with existing zoning.
- (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.

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### Staff Recommendation

**Recommendation:** Based upon the above and the finding of facts in the positive, staff

recommends **approval**, of petition ZB 1-4-01.

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**Planning & Zoning Board Recommendation**

The Planning and Zoning Board recommended to approve the request at its March 14, 2001 meeting (motion carried 4-0).

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**Exhibits**

1. Justification letter
2. Conceptual site plan
3. Location map
4. Land Use Map
5. Subject Site Map
6. Aerial

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

JUSTIFICATION  
FOR REZONING REQUEST

JAN 30 1998

The subject site contains approximately 9.0397 gross acres that are vacant lands. The property is contiguous to the east side of S.W. 82<sup>nd</sup> Avenue, situated just north of Stirling Road. To the north are lands all either currently zoning with commercial designations or designated as commercial on the town's future land use map. Immediately to the east is land zoned B-3 commercial and already developed into a commercial center. To the south is Stirling Road, which is a divided arterial that separates the property from land to the south.

In 1997 and 1998, Pine Island Road was constructed between Griffin Road and Stirling Road, to the west of the subject site. Completion of this four lane divided highway altered the character of the area. The roadway now forms a direct link from I-595 to Stirling Road, which is south of the subject site, making it directly accessible and more urban in nature. As a result, the site is ideal for commercial development in that there is now easy access from the east, north and west.

The petitioner proposes rezoning of the property to zoning district B-2. This zoning would allow for the development of a commercial retail center.

A review of the rezoning amendment request should include consideration of the criteria listed in Sec. 12-307 of the Land Development Code to determine if the request should be favorably reviewed. These criteria with respect to the subject request are discussed below.

Criterion (a): The proposed change is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof.

Policy 7-1 of the adopted comprehensive plan of the Town of Davie provides that the Town shall endeavor to expand its economic base through the expansion of the commercial sector of its economy. Further, Policy 7-4 of the comprehensive plan states that commercial land uses shall be generally located with access to primary transportation facilities including interstates, highways and arterials. Obviously both of these policies were considered when the entire surrounding area between University Drive to the east, S.W. 82<sup>nd</sup> Avenue to the west, Stirling Road to the south, and extending northward well beyond this tract were all designated as commercial on the Town's future land use plan map.

As a result, the rezoning request is consistent with the adopted comprehensive plan.

Criterion (b): The proposed change would create an isolated zoning district unrelated and incompatible with adjacent and nearby districts.

The requested rezoning to B-2 is consistent and compatible with adjacent and nearby zoning districts. To the immediate east are commercial uses currently zoned B-2 and operating as commercial retail centers. The proposed zoning district is compatible and appropriate given the zoning districts and uses that surround the site. Appropriate buffers can be put in place to address any impact to the properties to the west.

The requested rezoning positively satisfies this criterion.

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

The current zoning designation of A-1 is deemed as a transitional designation pending rezoning into a commercial zone as specified by the town's future land use map. The rezoning falls squarely within the arterial boundaries of the commercial designation of the area.

As a result, the proposed rezoning satisfies this criterion.

Criterion (d): The proposed change will adversely affect living conditions in the neighborhood.

The proposed B-2 designation will have no adverse impact on living conditions in the neighborhood. The proposed rezoning will allow for commercial development of the site as a retail center in an area where similar retail uses already exist to serve the community. As access to the area has improved, the proposed rezoning will allow for development of the site in accordance with the changing nature of the area.

The requested rezoning satisfies this criterion.

Criterion (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.

Certainly commercial development will increase automobile and vehicular traffic above that occasioned by the status as vacant land, but will not significantly increase traffic patterns over what currently exist with the commercial developments immediately to the east on University Drive. The proposed rezoning request will not increase automobile and vehicular traffic above the level already anticipated by the commercial designation on the Town's future land use map. There is nothing to suggest that the commercial development would adversely affect public safety.

The proposed rezoning satisfies this criterion.

Criterion (f): The proposed change will adversely affect other property values.

The proposed rezoning will have a positive impact on surrounding property values by changing from a vacant A-1 designation to B-2 zoning which will allow for attractive upscale retail development.

As a result, the requested rezoning satisfactorily addresses this criterion.

Criterion (g): The proposed change will be a deterrent to the improvement or development of other property in accord with existing regulations.

Land to the east of the subject site is already development in commercial uses. The balance of the land surrounding the subject property is designated for commercial use on the Town's future land use map. As a result, the proposed rezoning to B-2 will not be a deterrent to the improvement or development of the surrounding properties, but rather an asset to the development of the surrounding properties.

As a result, the requested rezoning satisfactorily addresses this criterion.

Criterion (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 requested rezoning does not sacrifice the welfare of the general public for the benefit of an individual owner. The proposed change is consistent with the adopted comprehensive plan and, therefore, does not constitute a grant of special privilege.

Criterion (I): There are substantial reasons by the property cannot

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be used in accord with existing zoning.

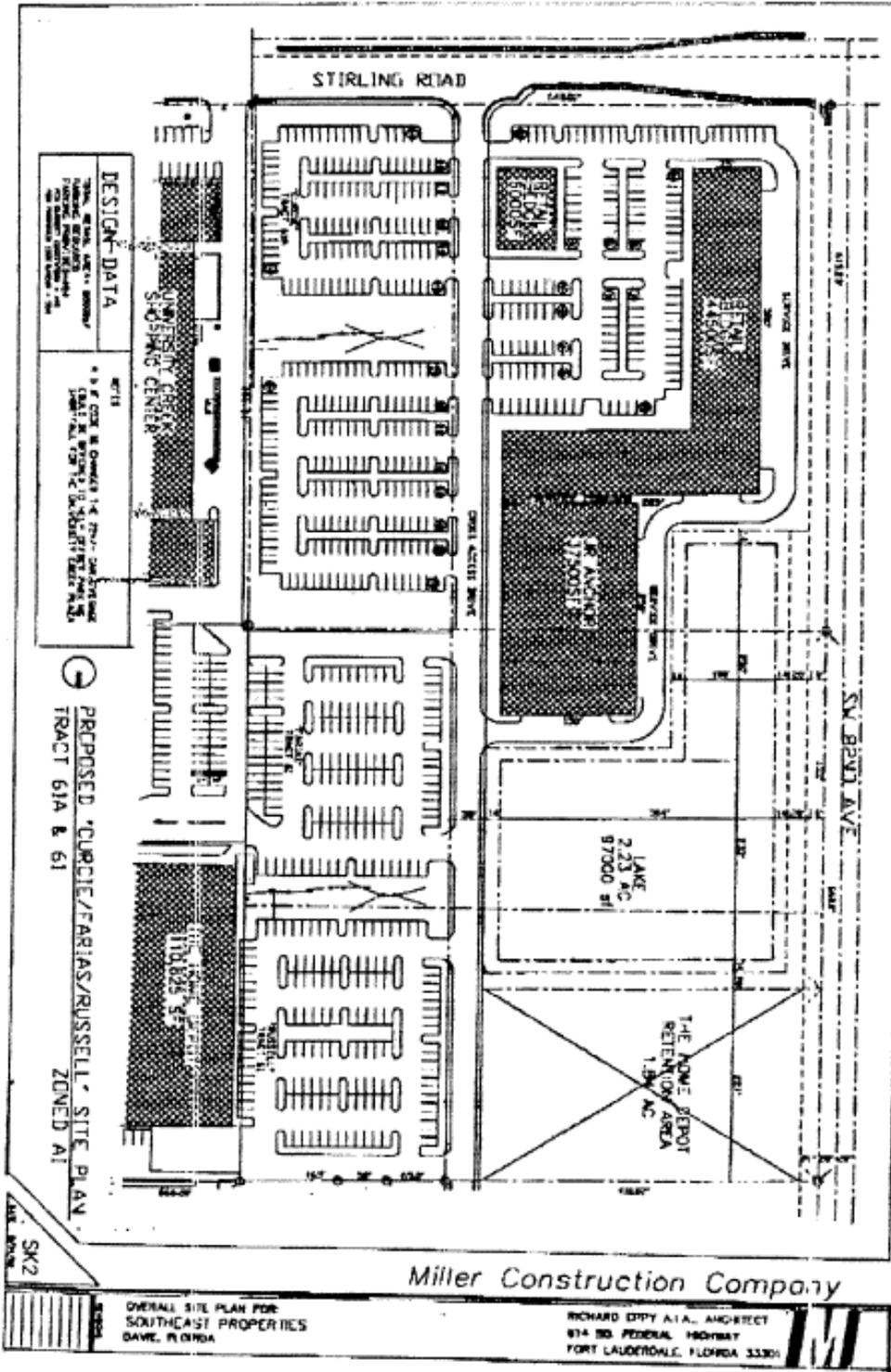
The existing zoning of the property is A-1, which allows for residential development at one dwelling unit per acre or agricultural uses. Given the property's size and location immediately adjacent to a developed commercial center to the east, it is not suitable for either of those uses. Further, such development under the A-1 designation would not be compatible with the existing surrounding development. Finally, it is understood that A-1 is a transitional zoning only in anticipation of the Town's designation and the comprehensive plan. As a result the proposed change is requested to allow a reasonable use of the property that is consistent with the surrounding development and the comprehensive plan.

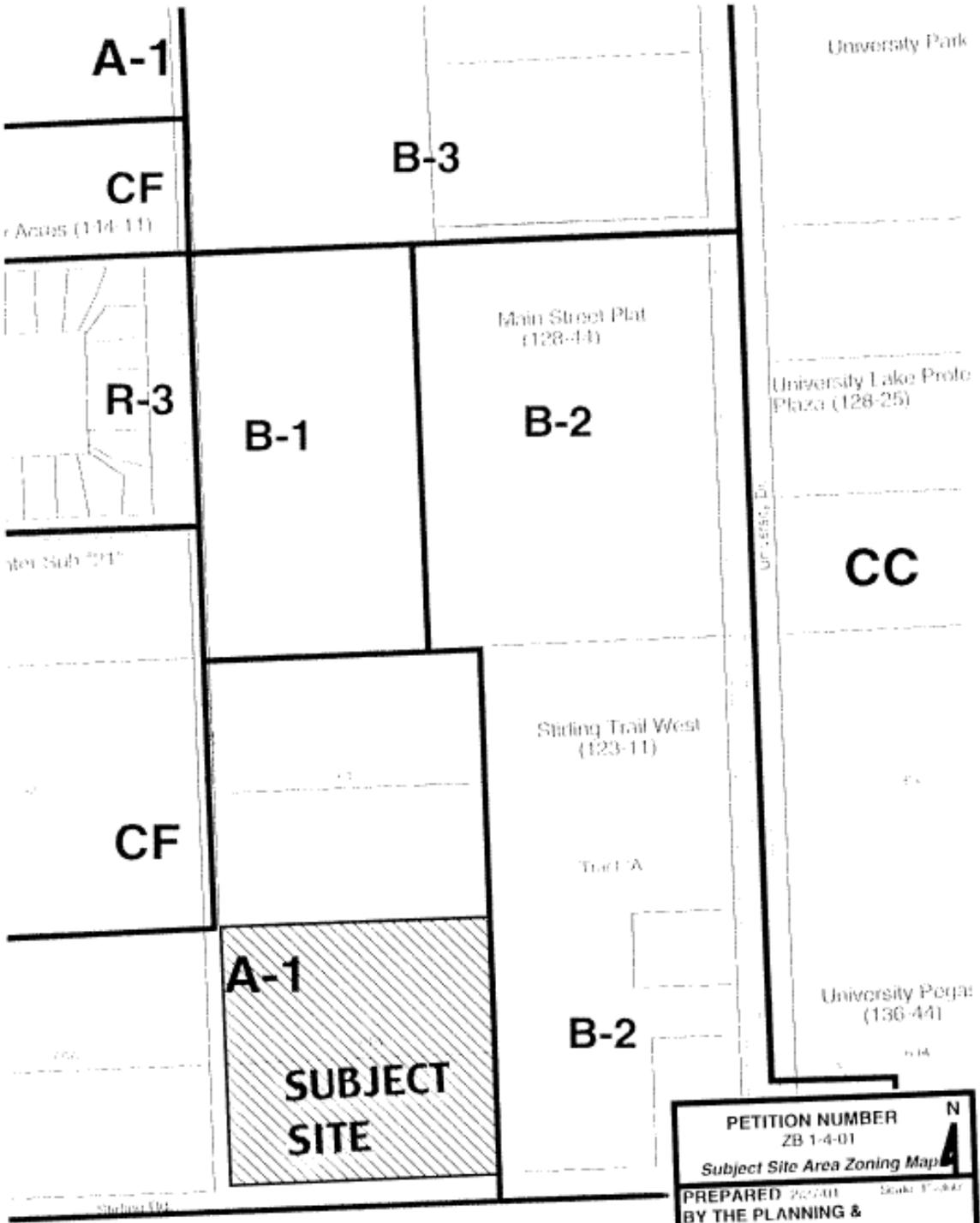
Criterion (j): The proposed zoning designation is the most appropriate designation to enhance the Town's tax base given the site location relative to the pattern of land use designations established on the future land use plan map, appropriate land use planning practice, and comprehensive plan policies directing land use location.

The proposed rezoning to B-3 will provide the greatest enhancement to the Town's tax base that could be provided on a tract of land of that size given this location. Again, the property is designated commercial on the Town's future land use plan map, and is in conjunction with comprehensive plan policies 7-1, 7-2, 7-3, and 7-4.

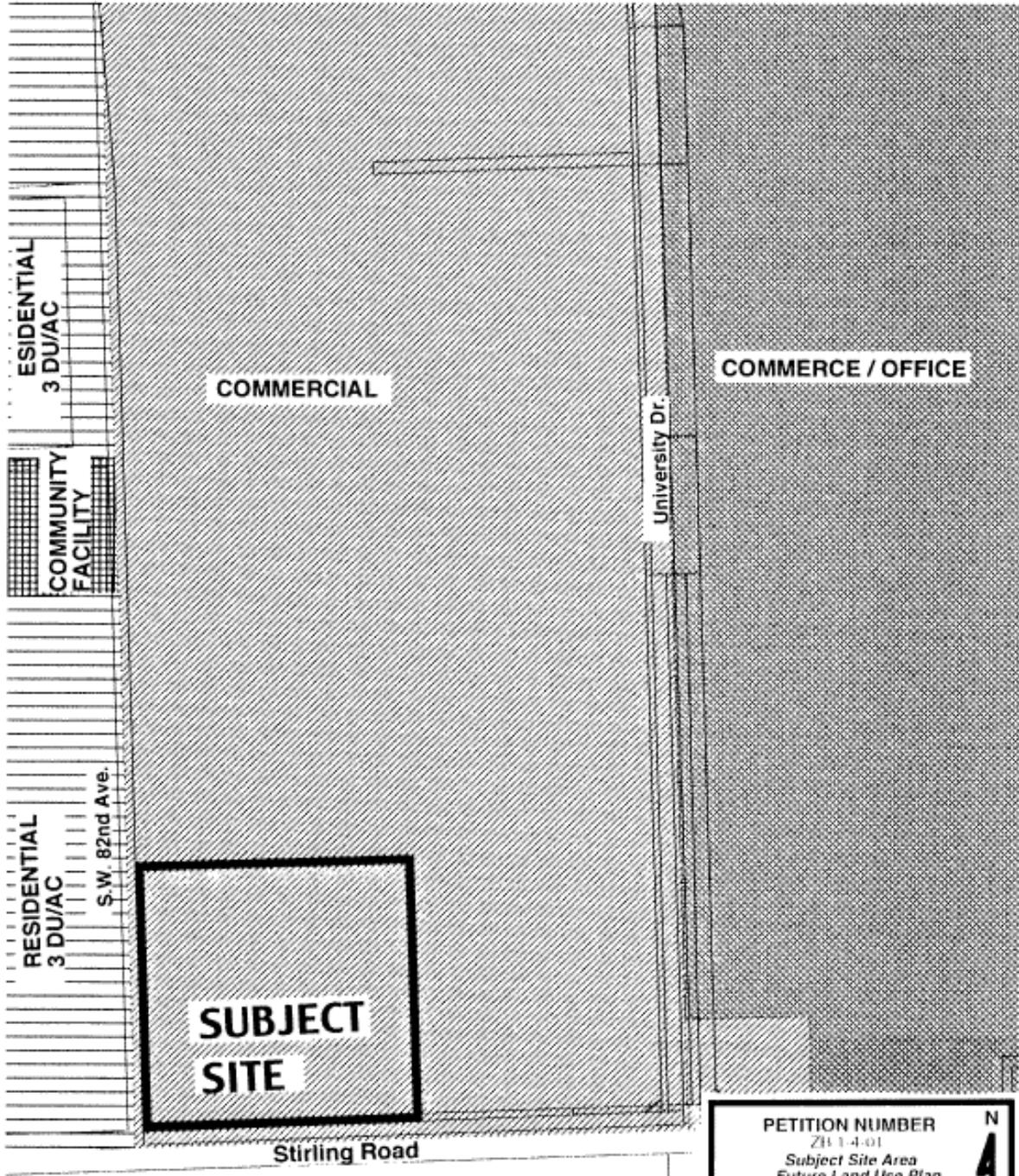
As a result, the requested rezoning satisfactorily addresses this criterion.

As has been demonstrated, the requested rezoning to B-2 is consistent with the adopted comprehensive plan, the Town's future land use map, and meets all the criteria contained in the Land Development Code. As a result this rezoning request merits favorable consideration.





PETITION NUMBER  
 ZB 1-4-01  
 Subject Site Area Zoning Map **A**  
 PREPARED 2/2/01 Scale 1"=100'  
 BY THE PLANNING &  
 ZONING DIVISION



ESIDENTIAL  
3 DU/AC

COMMUNITY  
FACILITY

COMMERCIAL

COMMERCE / OFFICE

RESIDENTIAL  
3 DU/AC

S.W. 82nd Ave.

University Dr.

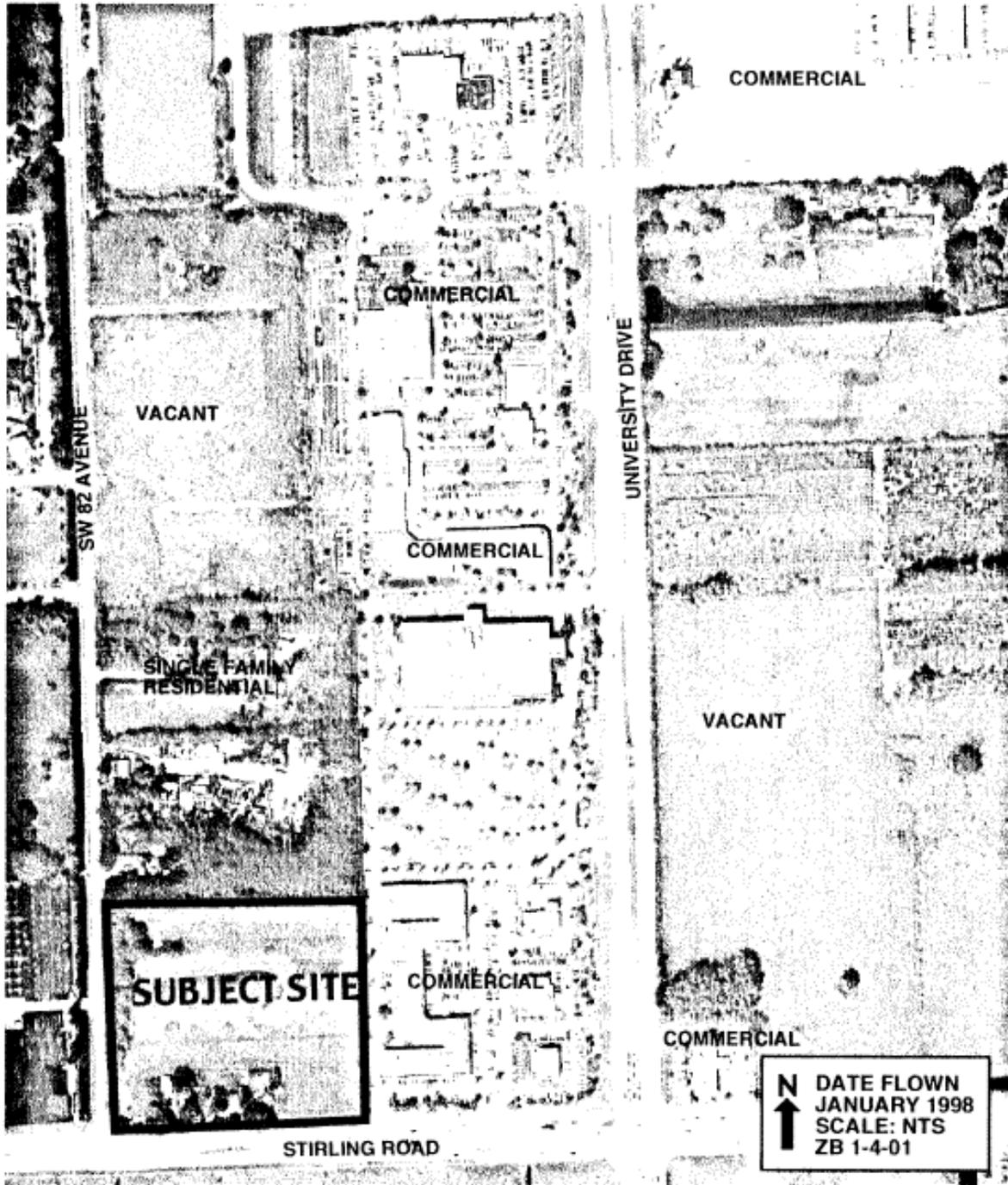
**SUBJECT  
SITE**

Stirling Road

PETITION NUMBER  
ZB 14-01  
Subject Site Area  
Future Land Use Plan

PREPARED 2/27/01 Scale: 1"=300'  
BY THE PLANNING &  
ZONING DIVISION

N  
4



COMMERCIAL

COMMERCIAL

VACANT

SW 82 AVENUE

COMMERCIAL

UNIVERSITY DRIVE

SINGLE FAMILY  
RESIDENTIAL

VACANT

**SUBJECT SITE**

COMMERCIAL

COMMERCIAL

STIRLING ROAD

N  
↑  
DATE FLOWN  
JANUARY 1998  
SCALE: NTS  
ZB 1-4-01