TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP (797-1101)

SUBJECT: Quasi Judicial Hearing: Vacation of Utility Easement

Application No., Project Name and Location:
VA 12-1-01, Hector Belloso /Generally located on the south side of Nova Drive, approximately 200' east of University Drive.

AFFECTED DISTRICT: District 2

TITLE OF AGENDA ITEM: VA 12-1-01, Hector Belloso, 7750 Nova Drive

REPORT IN BRIEF:

On September 6, 1989, Town Council approved the University - Nova Plat reflecting a 12' utility easement running east and west through the center of Parcel "A" the subject plat. The applicant is now requesting the approval to vacate said utility easement in order to construct a commercial/retail building within Parcel "A".

The location of the subject easement together with the County improvement requirements and canal maintenance easements provide site design limitations which prohibits the applicant from complying with the Town's codes.

The vacation of the requested easements is not compromised as the site provides for a 10' and 12' utility easement around the perimeter of the site.

PREVIOUS ACTIONS: None

CONCURRENCES:

The Planning and Zoning Board recommend approval (Motion By: Ms. Moore, Seconded By: Vice-Chair Bender, 4-0, Mr. Waitkus absent) February 13, 2002 meeting.

FISCAL IMPACT: None

RECOMMENDATION(S): Motion to approve

Attachment(s): Justification Letter, Survey, Sketch and Description, Plat, Land Use Map, Subject Site Map, and Aerial.

Prepared By:
Geri A. Baluss
Town of Davie
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, VACATING A PORTION OF A TWELVE FOOT UTILITY EASEMENT WITHIN THE PROPERTY PLATTED AS "UNIVERSITY - NOVA PLAT"; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, a portion of a 12 foot utility easement located within the property platted as "University - Nova Plat" Plat book 148, Page 23 of the public records of Broward County, specifically described on Exhibit "A" attached hereto, was accepted as an utility easement; and

WHEREAS, it is the desire of the Town Council to vacate and abandon a portion of such utility easement; and

WHEREAS, on the date of adoption of this ordinance Town Council did agree to such vacation.

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

SECTION 1. That a portion of a 12 foot utility easement located within the property platted as "University - Nova Plat", specifically described on Exhibit "A" attached hereto, is hereby vacated by the Town of Davie.

SECTION 2. All other easements and/or right-of-ways reflected on and located within the property described on Exhibit "A" are not vacated and shall be maintained in perpetuity.

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 portions of this Ordinance.

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

PASSED ON FIRST READING THIS_____DAY OF_____, 2002.

PASSED ON SECOND READING THIS_____DAY OF_____, 2002.

_____
MAYOR/COUNCILMEMBER

ATTEST:

_____
TOWN CLERK

APPROVED THIS _____ DAY OF _____ , 2002.

Application #: VA 12-1-01 **Revisions:**

Exhibit "A"

Original Report Date: February 6, 2002

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

APPLICANT INFORMATION

Owner:	**Agent:**
Name: Hector Belloso	Associated Engineers of South Florida, Inc.
Address: Avenue Washington #6 San Bernardino	5450 Griffin Road
City: Caracas, Venezuela	Davie, FL 33314
Phone: (305) 757-7093	(954) 584-6880

BACKGROUND INFORMATION

Notification Date: February 6, 2002 **Number of Notifications: 40**

Application Request: To vacate a portion of a 12 foot utility easement, approximately 325 feet in length and 3,909.48 square feet in area; within the platted area known as "University - Nova Plat" as recorded in Plat Book 148, Page 23 of the Broward County Records.

Address/Location: 7750 Nova Drive, Generally located on the south side of Nova Drive, approximately 200' east of University Drive.

Land Use Designation: Commercial

.

Existing Zoning: B-2 (Community Business District)

Existing Use: Vacant

Proposed Use: Commercial Retail Building

Parcel Size: .09 acre (3,909.48 square feet)

Surrounding Land Use:	**Land Use Designations:**
North: Nova Drive, Remax Building	Commercial
South: Poinciana Apartments	Residential (16 du/ac)
East: Nova Townhomes	Residential (10 du/ac)
West: Shell Gas Station	Commercial

Surrounding Zoning:

North: B-2, Community Business District and B-2 Old Code, Community Business District
South: RM-16, Medium High Density Dwelling District
East: RM-10, Medium Density Dwelling District
West: B-2, Community Business District

ZONING HISTORY

Related Zoning History: None

Previous Request on same property: Town Council approved by Resolution No. 89-262 the University-Nova Plat at its September 6, 1989 meeting.

This plat was reviewed by Broward County Commission and recorded on March 26, 1991 in Plat Book 148, Page 23 of the public records of Broward County.

Summary of Significant Development Review Agency Comments

The Engineering Department has reviewed the subject request and has recommended approval. The various utility companies which staff notifies of easement vacation requests have responded with letters of no objection..

Application Codes and Ordinances

Land Development Code Section 12-310 requires that Town Council must review and approve vacations and abandonments by Ordinance.

Comprehensive Plan Considerations

Planning Area: This property falls within Planning Area 8, this planning area is the “heart” of Davie, and is the most diverse, characterized by older, small-scale commercial development, older single-family residential neighborhoods, and newer, larger-scale multi-family residential developments that serve the rapidly growing South Florida Educational

Center (SFEC). The SFEC includes Nova

Southeastern University, Florida Atlantic University, Broward Community College, Florida International University, and Mc Fatter Vocational School, among others. The planning area also encompasses the downtown Davie Business District, where
western-theme architecture is required, the Davie Town Hall and Rodeo Arena, two large mobile home communities recently annexed into the Town, and industrial land.

Flexibility Zone: The proposed plat is in Flexibility Zone 99.

Applicable Goals, Objectives & Policies: None

Staff Analysis

On September 6, 1989, Town Council approved the University - Nova Plat reflecting a 12' utility easement running east and west through the center of Parcel "A" the subject plat. The applicant is now requesting the approval to vacate said utility easement in order to construct a commercial/retail building within Parcel "A".

The location of the subject easement together with the County improvement requirements and canal maintenance easements provide site design limitations which prohibits the applicant from complying with the Town's codes.

The vacation of the requested easements is not compromised as the site provides for a 10' and 12' utility easement around the perimeter of the site.

Findings of Fact

The proposed request is not contrary to the Land Development Code or adopted Comprehensive Plan, as amended, or any element or portion thereof.

Staff Recommendation

Recommendation: Based upon the above and the positive findings of fact, staff recommends approval of application number VA 12-1-01.

Planning and Zoning Board

The Planning and Zoning Board motion to recommend approval (Motion By: Ms. Moore, Seconded By: Vice-Chair Bender, 4-0, Mr. Waitkus absent) February 13, 2002 meeting.

Exhibits

Ordinance, Planning Report, Justification Letter, Sketch and Description, Plat, Land Use Map, Subject Site Map, and Aerial.

Prepared By: _____

Reviewed By: _____

ASSOCIATED ENGINEERS OF SOUTH FLORIDA, INC

PLANNING • DESIGN • STUDIES • INSPECTION SERVICES

5450 GRIFFIN ROAD, DAVIE, FL. 33314

December 6, 2001

Town of Davie Planning & Zoning Div.
6591 S.W. 45th Street
Davie, FL 33314

Att: Ms. Geri Baluss

RE: Nova Plaza, Parcel "A" of University-Nova
Plat (P.B. 148, Pg. 23, B.C.R.)
Vacating of 12 ft. Utility Easement
Our Project No. 01-109

Dear Geri:

This is written as our justification letter to our request to vacate an existing 12.00 ft. utility easement running east and west within Parcel "A" of the subject plat, approximately 31.00 feet south of the north property line of said Parcel "A", this easement is a duplication of another existing 12.00 ft. wide utility easement running east to west immediately adjacent to the north property line of said Parcel "A". We are told that the reason for the duplication was that the 12' utility easement immediately adjacent to the north property line was also within a previously existing 50 ft. wide canal easement, and at the time the plat was recorded, it was decided that in case a canal was ever excavated within the 50' canal easement, the 12' utility easement adjacent to the property line could not be used. At the present time the 50' canal easement has been vacated by the Central Broward Water Control Easement (see enclose letter), so in fact the 12' utility easement adjacent to the property line could be used, and there is no need for the duplication of that easement.

We have obtained letters from the utility companies operating in this area, stating that they have no objections to the granting of our request, copies of those letters are enclosed herewith.

We are also enclosing a copy of the sketch showing the location of the easement proposed to be vacated, including a legal description.

Phone: (954) 584-6880 Fax: (954) 584-2862

As always, should you have any questions regarding the above or if you need additional information, please do not hesitate to contact us.

Sincerely

ASSOCIATED ENGINEERS
OF SOUTH FLORIDA, INC.

Gustavo X. Aguirre, President

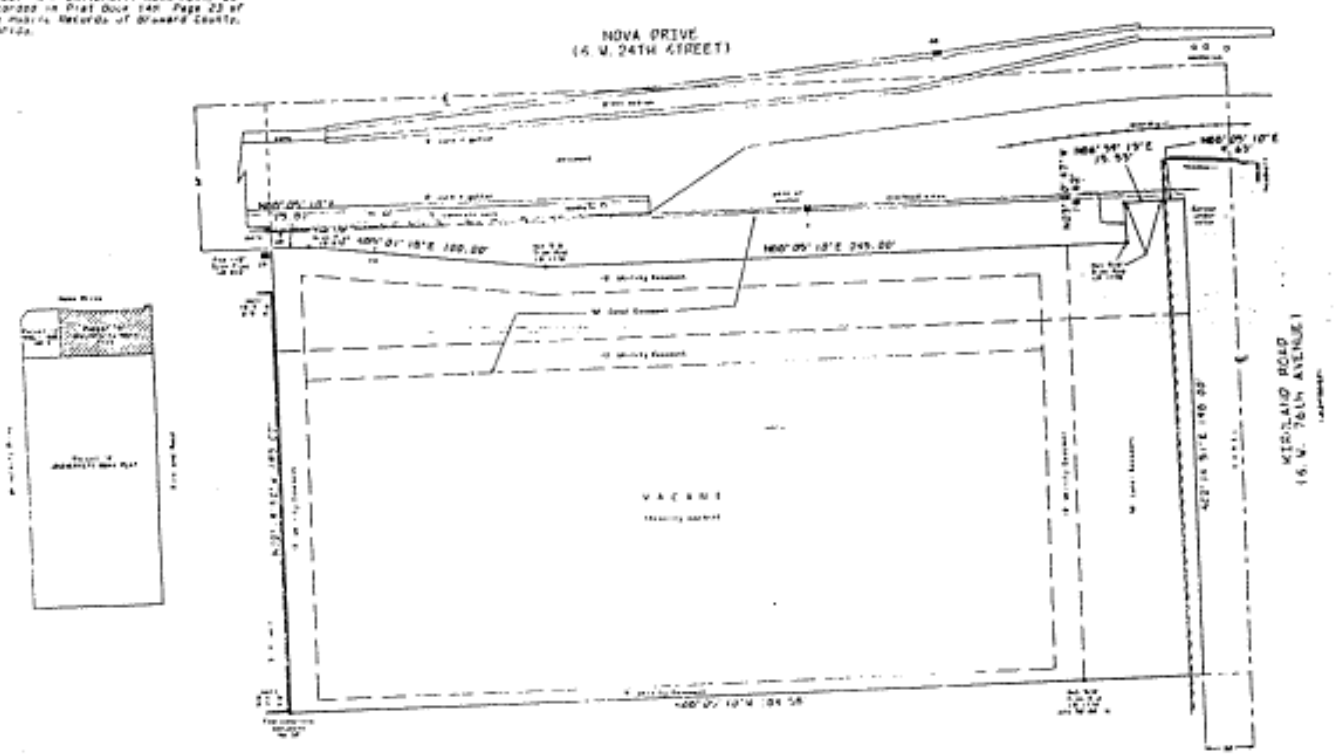
cc: Mr. Tom Thiebeaux, AIA

01-109TOD-2 gxaletters

SKETCH OF BOUNDARY SURVEY

DESCRIPTION:

Parcel "A", UNIVERSITY-NOVA PLAT, as recorded in Plat Book 149, Page 23 of the Public Records of Broward County, Florida.



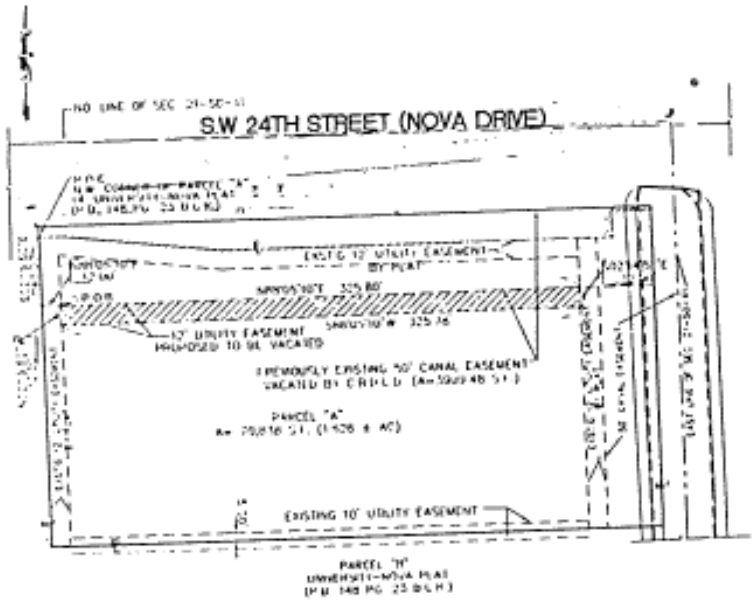
SCALE 1" = 30'

HIGGINS DENI. & ASSOCIATES

SKETCH AND DESCRIPTION

SHEET 1 OF 1

THIS IS NOT A SURVEY BUT ONLY A GRAPHICAL REPRESENTATION OF THE DESCRIPTION SHOWN HEREON



LEGAL DESCRIPTION

A PORTION OF PARCEL "A" OF THE "UNIVERSITY-NOVA PLAT", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 148, PAGE 25 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS

COMMENCE AT THE NORTHEAST CORNER OF SAID PARCEL "A", THENCE PROCEED S 02°19'50" E, A DISTANCE OF 45.00 FEET, THENCE N 89°05'10" E, A DISTANCE OF 12.00 FEET TO THE POINT OF BEGINNING, THENCE CONTINUE ALONG N 89°05'10" E, A DISTANCE OF 325.80 FEET, THENCE S 02°19'50" E, A DISTANCE OF 12.00 FEET, THENCE S 89°05'10" W A DISTANCE OF 325.78 FEET, THENCE N 02°19'50" W A DISTANCE OF 12.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE LYING AND BEING IN THE TOWN OF DAVIE, BROWARD COUNTY, FLORIDA CONTAINING 3,909.48 SQ.-FT.

DATED: NOVEMBER 7TH, 2001

DATE	DRAWN BY	CHECKED BY	PROJECT No.
	M.J.	G.R.A.	2001-109

ASSOCIATED ENGINEERS OF SOUTH FLORIDA INC.

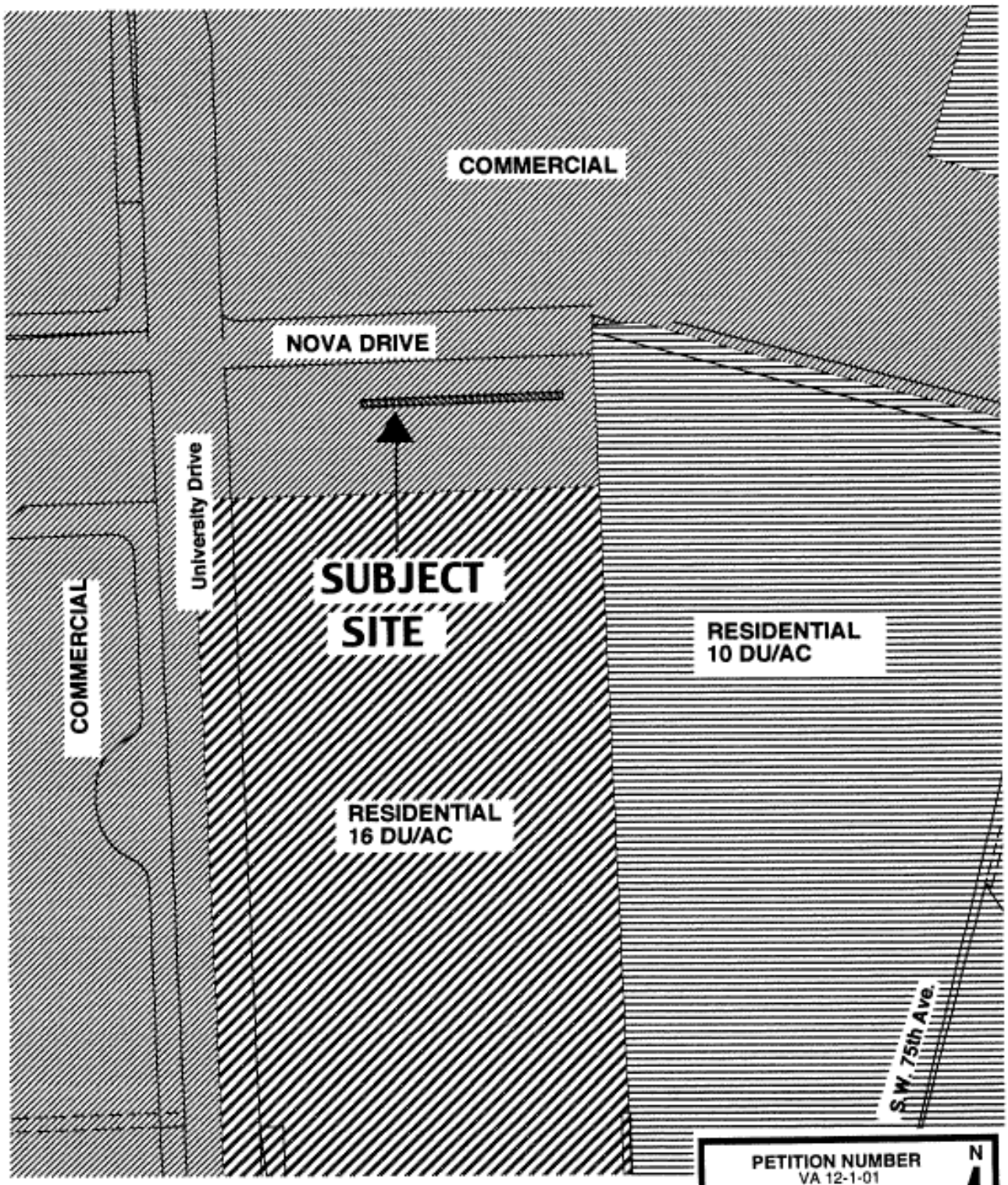
CERTIFICATE OF AUTHORIZATION NO. 8482

FOR

NOVA PLAZA

PROJECT

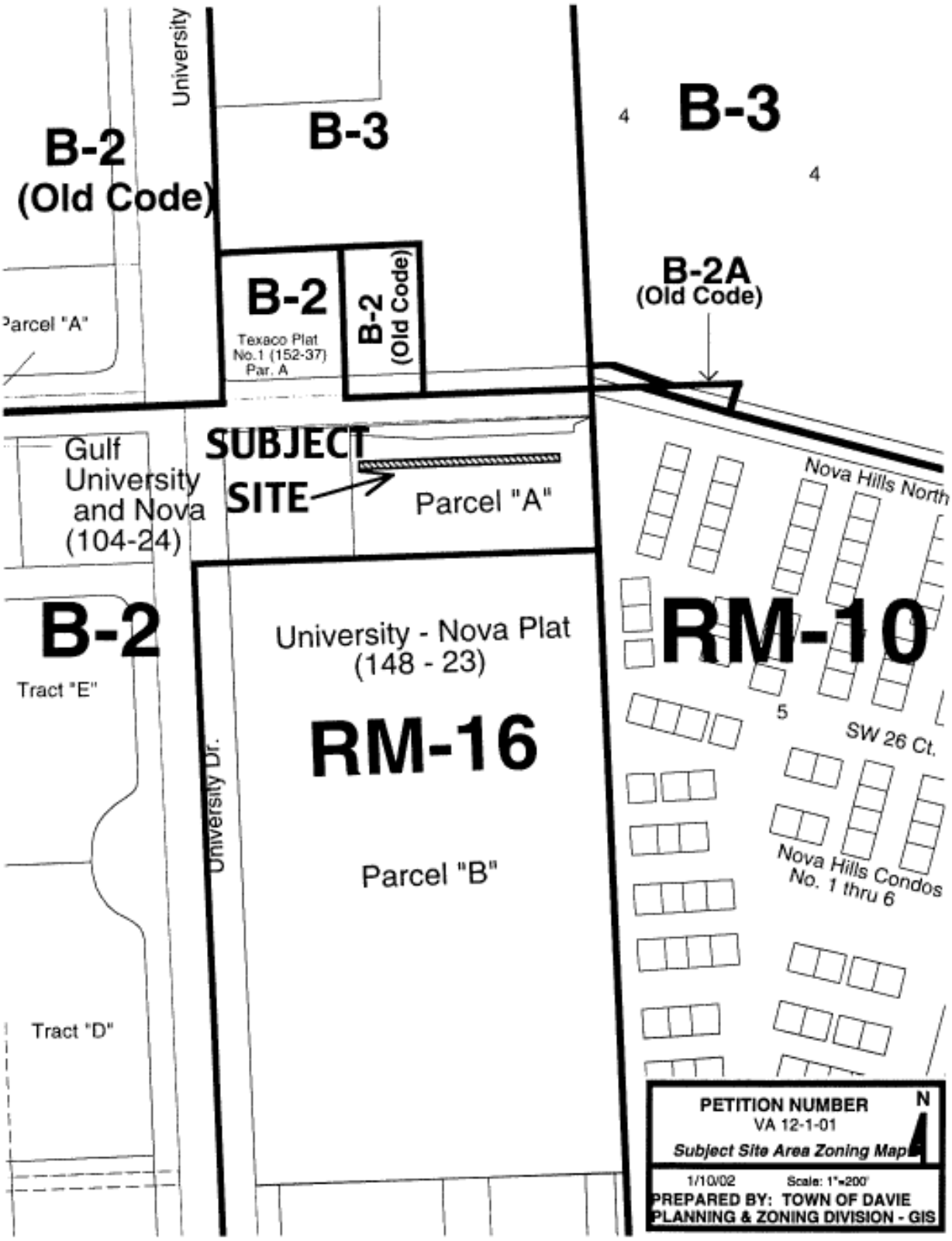
SKETCH AND DESCRIPTION

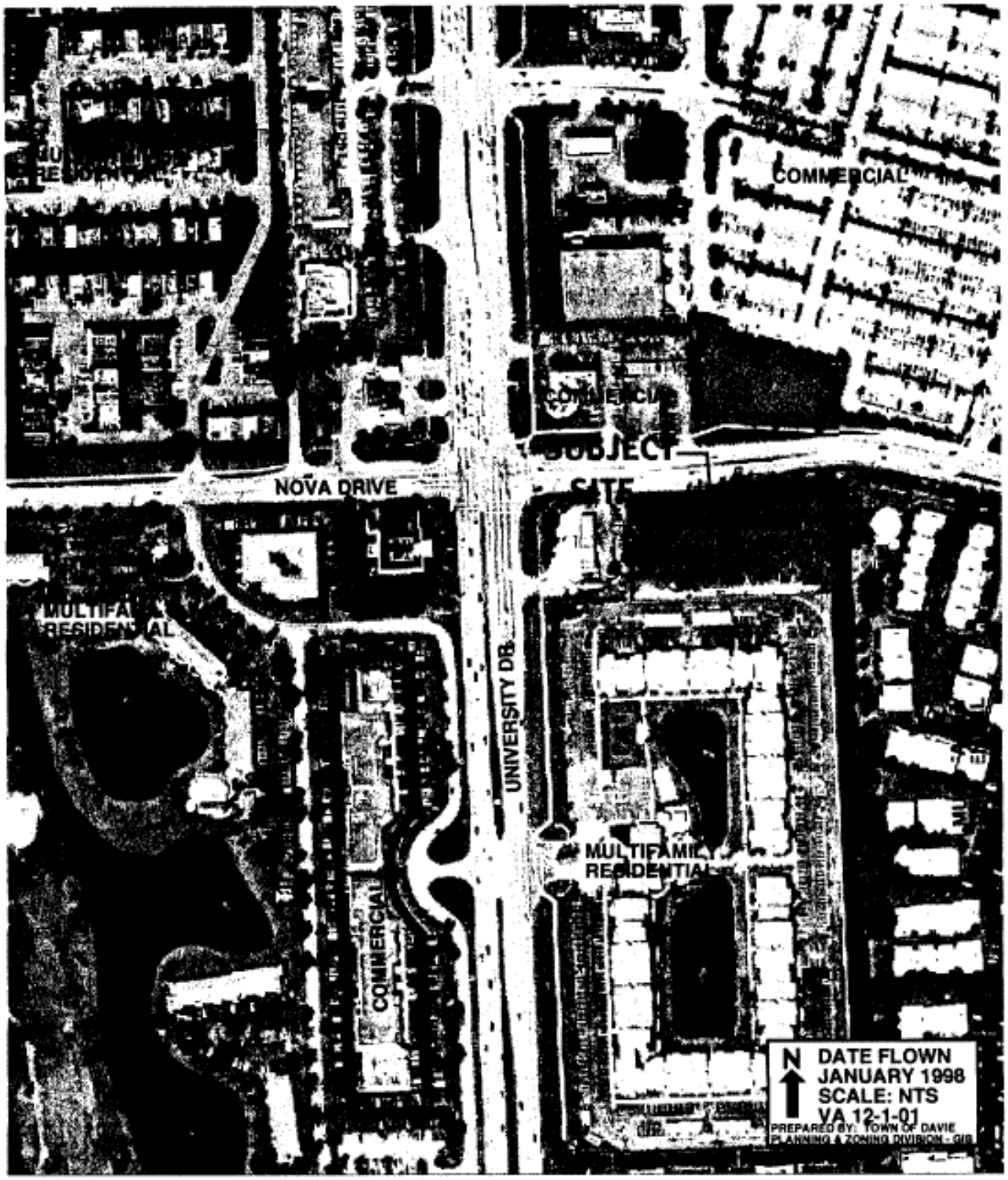


PETITION NUMBER
VA 12-1-01
Subject Site Area
Future Land Use Plan

N

1/10/02 Scale: 1"=200'
PREPARED BY: TOWN OF DAVIE
PLANNING & ZONING DIVISION - GIS


University
B-2
(Old Code)
B-3
B-3
B-2
Texaco Plat
No.1 (152-37)
Par. A
B-2
(Old Code)
B-2A
(Old Code)
Parcel "A"
Gulf
University
and Nova
(104-24)
SUBJECT
SITE
Parcel "A"
Nova Hills North
B-2
Tract "E"
University - Nova Plat
(148 - 23)
RM-16
RM-10
SW 26 Ct.
University Dr.
Parcel "B"
Nova Hills Condos
No. 1 thru 6
Tract "D"
PETITION NUMBER
VA 12-1-01
Subject Site Area Zoning Map
N
1/10/02
Scale: 1"=200'
PREPARED BY: TOWN OF DAVIE
PLANNING & ZONING DIVISION - GIS


COMMERCIAL
COMMERCIAL
SUBJECT
SITE
NOVA DRIVE
MULTIFAMILY
RESIDENTIAL
UNIVERSITY DR.
MULTIFAMILY
RESIDENTIAL
COMMERCIAL
N
DATE FLOWN
JANUARY 1998
SCALE: NTS
VA 12-1-01
PREPARED BY: TOWN OF DAVIE
PLANNING & ZONING DIVISION - GIS