

# TOWN OF DAVIE

## TOWN COUNCIL AGENDA REPORT

**TO:** Mayor and Councilmembers

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

**SUBJECT:** Quasi Judicial Hearing: Variance  
V 12-2-01 Dennis Stabile, 14161 SW 17 Street/Generally located on the north side of SW 17 Street, 1145 feet east of SW 139 Avenue

**AFFECTED DISTRICT:** District 4

**TITLE OF AGENDA ITEM:** V 12-2-01 Dennis Stabile, 14161 SW 17 Street (R-1)

**REPORT IN BRIEF:** The petitioner has requested to place a 40'x 50' accessory structure ("Ted's Shed") 15' from the rear and side property lines at the northwest corner of the subject site. Since the structure is greater than 150 square feet, the Code requires that it be placed within zoning district setbacks. The request technically represents a 25' reduction in rear setback, and 10' reduction in the side setback. The Board of Commissioners of the Central Broward Water Control District granted the petitioner permission to encroach 10' into the canal reservation easement on February 13, 2002.

The Land Development Code's requirement of placing accessory structures greater 150 square feet within zoning district setbacks is intended to maintain the open space between structures on adjacent properties. The subject site has special circumstances in that it is uniquely situated at the end of a cul-de-sac, adjacent right-of-way for SW 142 Avenue that is in the process of being vacated by the Town. In addition, the western boundary of the site is adjacent to a canal which provides a physical barrier that separates the properties. Granting of this request will not diminish the open space in such a way that it will infringe upon neighboring properties, and the adjacent neighbors have provided their written consent. Furthermore, the Central Broward Water Control District will have adequate access to maintain the canal, and has approved the encroachment into the canal reservation easement. Staff has conducted an inspection of the subject site and finds that the request will not be detrimental to the neighborhood.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** At the February 27, 2002 Planning and Zoning Board meeting, Vice-Chair Bender made a motion, seconded by Ms. Turin, to approve (Motion carried 5-0).

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Motion to deny

**Attachment(s):** Planning Report, Justification letter, Consent letter, CWCD approval, Permitted location, Proposed location, Land use map, Subject site map, Aerial



**Surrounding Zoning:**

**North:** R-1, Estate Dwelling District  
**South:** R-1, Estate Dwelling District  
**East:** R-1, Estate Dwelling District  
**West:** R-1, Estate Dwelling District

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**ZONING HISTORY**

**Related Zoning History:** No related zoning history.

**Previous Request on same property:** None

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**APPLICATION DETAILS**

The petitioner has requested to place a 40'x50' accessory structure ("Ted's Shed") 15' from the rear and side property lines at the northwest corner of the subject site. Since the structure is greater than 150 square feet, the Code requires that it be placed within zoning district setbacks. The request technically represents a 25' reduction in rear setback, and 10' reduction in the side setback. The Board of Commissioners of the Central Broward Water Control District granted the petitioner permission to encroach 10' into the canal reservation easement on February 13, 2002.

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**Applicable Codes and Ordinances**

Section 12-81A of the Land Development Code requires a rear setback of 40 feet and side setback 25 feet in the R-1, Estate Dwelling District.

Section 12-33(A)(2) of the Land Development Code states: In residential districts all accessory uses, storage sheds, and accessory buildings up to one hundred fifty (150) square feet in area, shall be located at least five (5) feet from any plot line and at least fifteen (15) feet from any street line. All accessory buildings and structures shall not exceed one (1) story or twelve (12) feet in height except in the RR, AG and A-1 districts. Storage sheds, and accessory buildings and structures over one hundred fifty (150) square feet in area shall be subject to the limitations on location of a building and shall not be placed in any required yard.

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**Comprehensive Plan Considerations**

**Planning Area:** The subject property falls 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 100.

**Applicable Goals, Objectives and Policies:** Policy 17-7 Adopted land development regulations shall continue to set forth setbacks or separation regulations, landscaping requirements, and minimum open space criteria to enhance living environments.

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### **Staff Analysis**

The Land Development Code's requirement of placing accessory structures greater 150 square feet within zoning district setbacks is intended to maintain the open space between structures on adjacent properties. The subject site has special circumstances in that it is uniquely situated at the end of a cul-de-sac, adjacent right-of-way for SW 142 Avenue that is in the process of being vacated by the Town. In addition, the western boundary of the site is adjacent to a canal which provides a physical barrier that separates the properties. Granting of this request will not diminish the open space in such a way that it will infringe upon neighboring properties, and the adjacent neighbors have provided their written consent. Furthermore, the Central Broward Water Control District will have adequate access to maintain the canal, and has approved the encroachment into the canal reservation easement. Staff has conducted an inspection of the subject site and finds that the request will not be detrimental to the neighborhood.

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### **Findings of Fact**

**Variances:**

**Section 12-309(B)(1):**

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

(a) There are special circumstances or conditions applying to the land or building for which the variances are sought, which circumstances or conditions are peculiar to such land or building and do apply generally to land or buildings in the same district, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would not deprive the application of the reasonable use of such land or building for which the variances are sought, and that alleged hardship is self-created by any person having an interest in the property.

(b) The granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is not the minimum variance that will accomplish this purpose.

*Staff cannot state that accessory structures of this size are necessary for reasonable use of the land.*

(c) Granting of the requested variances will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

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### **Staff Recommendation**

**Recommendation:** Based upon the above and because of the mixed finding of facts, staff must recommend **denial** of petition V 12-2-01.

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## Planning & Zoning Board Recommendation

At the February 27, 2002 Planning and Zoning Board meeting, Vice-Chair Bender made a motion, seconded by Ms. Turin, to approve (Motion carried 5-0).

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### Exhibits

1. Justification letter
2. Consent letter
3. CBWCD approval
4. Permitted location
5. Proposed location
6. Land use map
7. Subject site map
8. Aerial

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

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

December 28, 2001

Mr. Christopher Gratz  
c/o Town of Davie  
Planning & Zoning Division  
6591 Orange Dr.  
Davie, Florida 33314

Dear Mr. Gratz:

I have been a longtime resident of Davie buying my first home on SW 20<sup>th</sup> Street in 1982. I have since bought two additional homes and now reside at 14161 SW 17<sup>th</sup> Street.

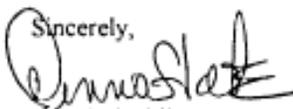
When I bought this property in 1990, I planned on adding a workshop behind the house to enjoy my hobby. In October of 2001, I went to building and zoning to inquire about any problems in placing a 40' x 50' steel structure in the rear yard. I also inquired at zoning and was told the building would pose no zoning problems. I ordered the building and paid a considerable down payment to receive plans to submit for permits.

As the permit requires a survey, I now returned to zoning department for exact specification to meet requirements. I was told at this time, a setback of 40 feet was required from the rear property line. I already have a small shed, 15 feet from the property line, that was installed in 1994. I was now informed the requirements were changed in 1996 and 1998. These new requirements were not addressed at my first meeting with zoning department, and now pose a problem as the front of the building will be too close to my pool.

Prior to buying the building I searched the neighborhood and saw many workshops close to the property line where I would expect them to be. I would like to enjoy the same requirements my neighbors enjoyed when building workshops. Since encountering this problem I have also considered reducing the building size to 30' x 40'. This reduction would keep with the country atmosphere we all enjoy living in Davie. When I bought the land, planning this building, I did not see this set back to be a problem, and now I am looking for help to resolve this issue.

Many of my neighbors have workshops and pole barns and they are not offensive to me. My property is situated at the end of a cull-de-sac and the westside borders a canal. I want to place the workshop at the northwest corner of my property where it will least offend any of my neighbors, and not take away from the rural atmosphere. I have spoken with me neighbor to the north and west, and they have both agreed the new addition would not be detrimental to the neighborhood. They will sign letters to be presented to the board at required hearings. I understand rules but feel my property was purchased with this building in mind and it would be unfair to restrict my enjoyment as my retirement nears.

I respectfully request to place the workshop only 15 feet from the rear property line and 15 feet from the west property line. As the west property line is in a water management easement, I will attempt to gain approval from the Central Broward Drainage District prior to any required hearings. I await your speedy reply as I am paying storage for the building during this unforeseen delay.

Sincerely,  
  
Dennis Stabile

February 28, 2002

Mr. Christopher Gratz  
c/o Town of Davie  
Planning and Zoning Division  
6591 Orange Drive.  
Davie, Florida 33314

Mr. Gratz

I have received the variance request notice reference the property located at 14161 S.W. 17 Street. I am familiar with this property and understand the owner, Mr. Dennis Stabile, would like to build a 40x50 workshop in the rear of the yard. If the variance was granted the building would be 15 feet from the rear property line and 15 feet from the west side property line. I have no objections to the new structure or the variance being granted.

Peter Estis 14141 S.W. 17 St. Davie *Peter Estis*  
PETER HENRIZ 14180 SW 15th Ct. Davie, FL *Peter Henriz 2/20/02*  
JULIO VARGAS 14203 SW 16 COURT *Julio Vargas 2/20/02*

Thank you for your attention in this matter.



## CENTRAL BROWARD WATER CONTROL DISTRICT

8020 STIRLING ROAD (DAVIE)  
HOLLYWOOD, FLORIDA 33024

### BOARD OF COMMISSIONERS

Wayne Arnold, Chair  
Manan M. Russell, Vice-Chair  
Kevin Bedeman  
Cns Fardelmann  
Tom Green  
Sandra Switzer

TELEPHONE: (954) 432-5110  
FAX: (954) 432-8603  
E-Mail: [culvert@gate.net](mailto:culvert@gate.net)

February 15, 2002

Mr. Dennis Stabile  
14161 SW 17 Street  
Davie, FL 33325

Re: Variance Request to Encroach 10 Feet into Canal Easement  
Location: 14161 SW 17 Street, Davie, FL 33325

Dear Mr. Stabile:

Please be advised that the above request has been granted at their regularly scheduled meeting of February 13, 2002 by the Board of Commissioners of the Central Broward Water Control District.

Should you require additional information, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Crowley".

Michael Crowley  
District Manager

MC/vg

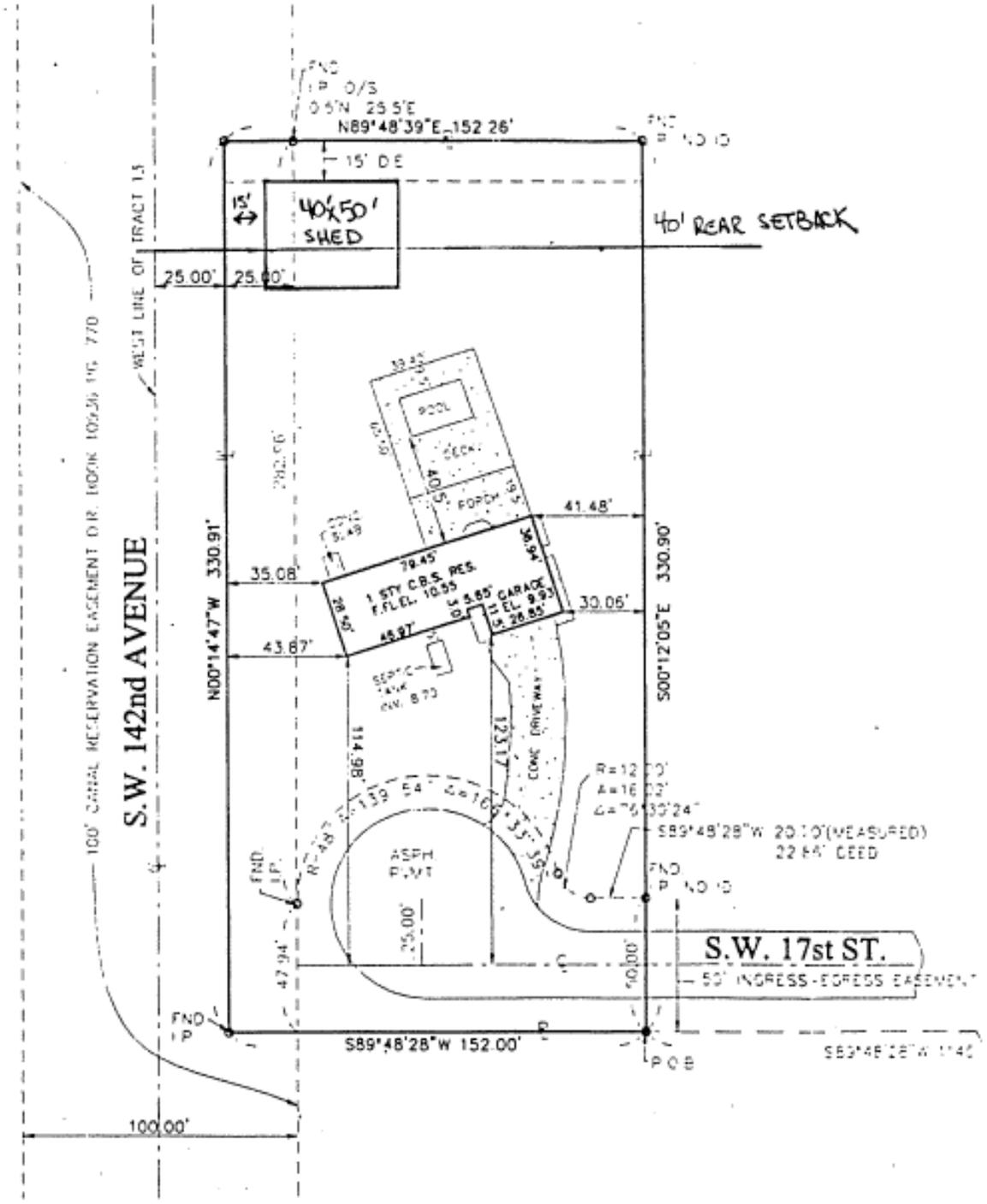


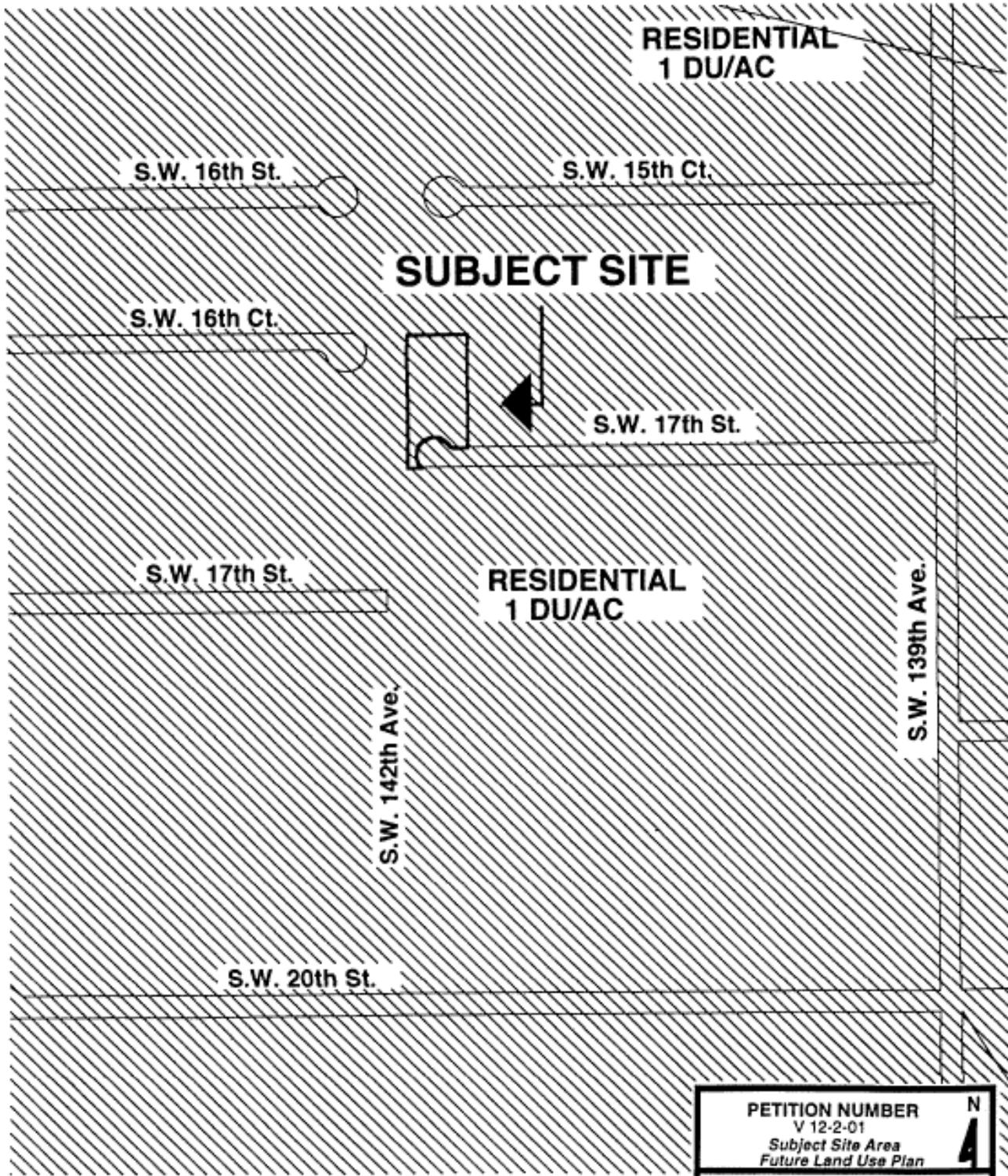


( 1/2 FEET )

1 inch = 50 ft

PROPOSED LOCATION





**PETITION NUMBER**  
V 12-2-01  
*Subject Site Area*  
*Future Land Use Plan*

1/9/02      Scale: 1"=300'  
**PREPARED BY: TOWN OF DAVIE**  
**PLANNING & ZONING DIVISION - GIS**

N  
4

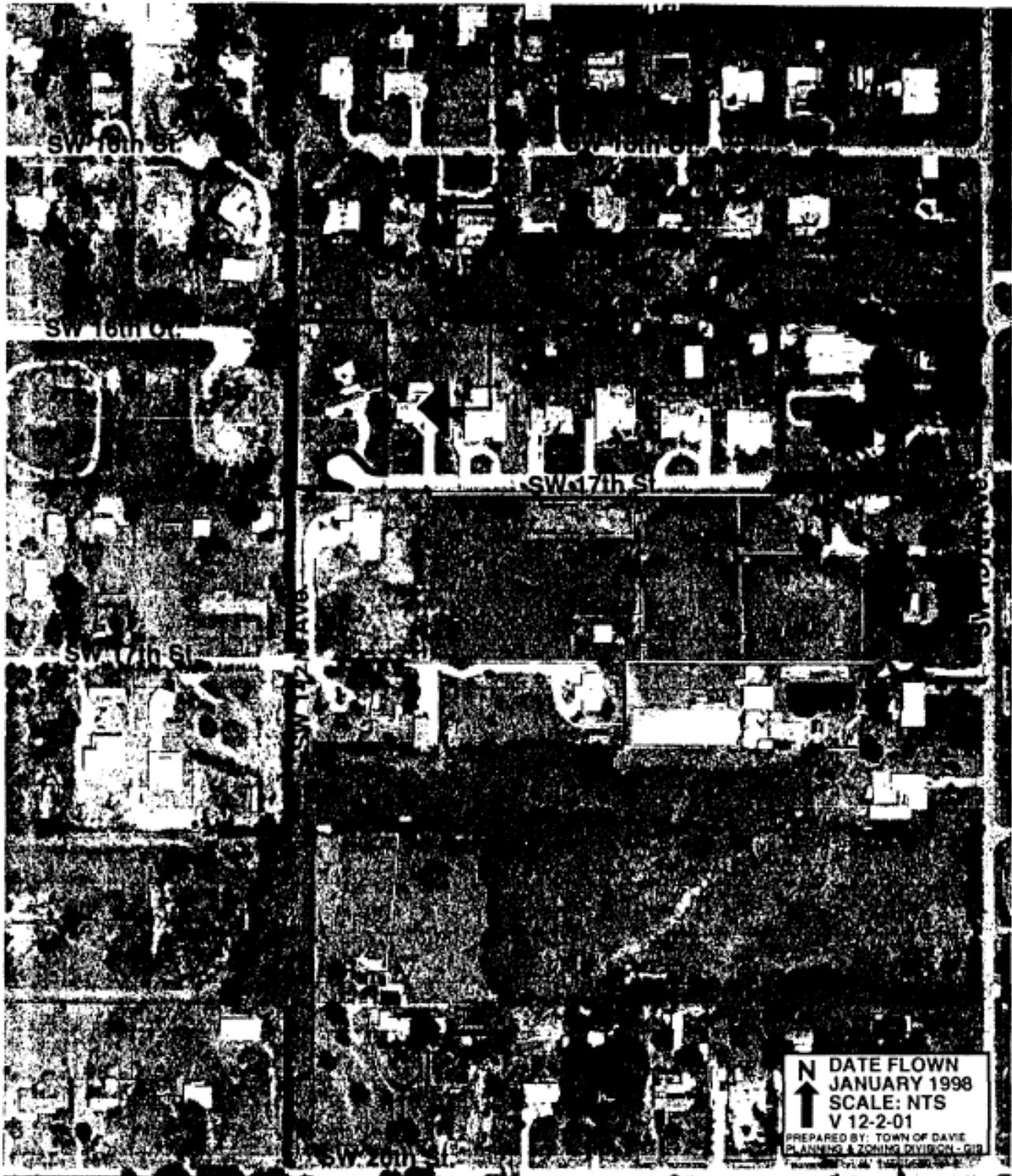


**SUBJECT SITE**

**R-1**

Florida Fruit Lands Co.  
 Sub. No. 1, P.B. 2, Pg. 17  
 D.C.R.

<b>PETITION NUMBER</b> V 12-2-01		<b>N</b> <b>4</b>
<i>Subject Site Area Zoning Map</i>		
1/9/02	Scale: 1"=300'	
<b>PREPARED BY: TOWN OF DAVIE          PLANNING &amp; ZONING DIVISION - GIS</b>		



**N**  
DATE FLOWN  
JANUARY 1998  
SCALE: NTS  
V 12-2-01  
PREPARED BY: TOWN OF DAVIE  
PLANNING & ZONING DIVISION - GIB