

# TOWN OF DAVIE

## TOWN COUNCIL AGENDA REPORT

**TO:** Mayor and Councilmembers

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

**SUBJECT:** Ordinance 1st Reading/Quasi-judicial  
ZB 5-1-02 Jerry Seligman, 7730 and 7740 NW 30 Street  
Generally located on the south side of NW 30 Street, approximately 180 feet west of NW 77 Avenue

**AFFECTED DISTRICT:** District 2

**TITLE OF AGENDA ITEM:** AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 5-1-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM B-2, COMMUNITY BUSINESS DISTRICT TO R-5, LOW MEDIUM DENSITY DWELLING DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

### **REPORT IN BRIEF:**

The petitioner has requested to rezone the 12,000 square foot (0.275 acres) subject site from: B-2, Neighborhood Business District; to: R-5, Low Medium Density Dwelling District utilizing the Broward County commercial to residential flexibility rule.

This request is to allow the 12,000 square foot (0.275 acres) site to be developed with two (2) single family dwellings. The two (2) parcels are the last vacant sites between different intensities of uses, and meet the Land Development Code's minimum requirements needed to gain the zoning designation. The request will allocate 2 of the 103 Flexibility Units available in Flex Zone 102.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** At the June 12, 2002, meeting of the Planning and Zoning Board, Vice-Chair Bender made a motion, seconded by Mr. Waitkus to approve (Motion carried 5-0).

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Staff recommends that the subject report, on the reclassification of property, be reviewed and discussed by Town Council so that a final decision may be rendered.

**Attachment(s):** Ordinance, Justification, Letter from adjacent owner, Survey, Land Use Map, Zoning and Aerial Map

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 5-1-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM B-2, COMMUNITY BUSINESS DISTRICT TO R-5, LOW MEDIUM DENSITY DWELLING DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, that the classification of certain lands within the Town be changed from B-2, Community Business District to R-5, Low Medium Density Dwelling District;

WHEREAS, said notice was given and publication made as required by law, and a public hearing thereunder was held on the date of the adoption of this ordinance.

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

SECTION 1. That the property herein after described be and the same is hereby rezoned and changed from B-2, Community Business District to R-5, Low Medium Density Dwelling District:

a. The subject property is described in Exhibit "A", which is attached hereto and made a part hereof.

SECTION 2. That the zoning map heretofore adopted by the Town Council be and the same is hereby amended to show the property described in Section 1, herein, as R-5, Low Medium Density Dwelling District.

SECTION 3. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. 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 5. 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.

ATTEST:

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2002.

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

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**APPLICANT INFORMATION**

**Owner:s**

**Name:** Jerry, Rena, Lee, and Sharon Seligman  
**Address:** 8400 Pasadena Boulevard  
**City:** Pembroke Pines, FL 33024  
**Phone:** (954)432-7919

**Agent:**

**Name:** Jerry Seligman  
**Address:** 8400 Pasadena Boulevard  
**City:** Pembroke Pines, FL 33024  
**Phone:** (954)432-7919

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**BACKGROUND INFORMATION**

**Date of Notification:** June 5, 2002    **Number of Notifications:** 72

**Application History:** The application states rezone to RM-5, Low Medium Density Dwelling District to allow for duplex development. Prior to consideration at the June 12, 2002, Planning and Zoning Board meeting, the applicant amended the request by asking to rezone the subject site to R-5, Low Medium Density Dwelling District to allow for single family development.

**Application Request:** Rezone the 12,000 square foot (0.275 acres) subject site **FROM:** B-2, Neighborhood Business District; **TO:** R-5, Low Medium Density Dwelling District utilizing the Broward County commercial to residential flexibility rule.

**Address/Location:** 7730 - 7740 NW 30 Street/Generally located on the south side of NW 30 Street, approximately 180 feet west of NW 77 Avenue.

**Future Land Use Plan Designation:** Commercial

**Zoning:** B-2, Community Business District

**Existing Use:** Vacant

**Proposed Use:** Two (2) single family dwellings

**Parcel Size:** 0.275 acres (12,000 square feet)

	<b><u>Surrounding Uses:</u></b>	<b><u>Surrounding Land Use Plan Designation:</u></b>
<b>North:</b>	Single family residential	Residential (5 DU/AC)
<b>South:</b>	Little Shavers Academy (daycare)	Commercial
<b>East:</b>	Mixed use structure (offices & apartments)	Commercial
<b>West:</b>	Single family residential	Residential (5 DU/AC)

**Surrounding Zoning:**

<b>North:</b>	R-5, Low Medium Density Dwelling District
<b>South:</b>	B-2, Community Business District
<b>East:</b>	B-2, Community Business District
<b>West:</b>	R-5, Low Medium Density Dwelling District

**ZONING HISTORY**

**Related Zoning History:** Pursuant to a referendum vote, the subject site was annexed to the Town of Davie by Ordinance 81-7, on March 5, 1981.

**Previous Request on same property:** The subject site was platted as: Lots 1 & 2, Block 4 “Driftwood Estates No. 6” according to the plat thereof recorded in Plat Book 48, Page 8 of the Public Records of Broward County, Florida. The plat was recorded September 29, 1958.

**APPLICATION DETAILS**

The petitioner has requested to rezone the 12,000 square foot (0.275 acres) subject site from: B-2, Neighborhood Business District; to: R-5, Low Medium Density Dwelling District utilizing the Broward County commercial to residential flexibility rule.

**Applicable Codes and Ordinances**

Section 12-307 of the Land Development Code, review for rezonings.

Section 12-81A of the Land Development Code, Conventional Single-Family Development Standards, R-5, Low Density Dwelling District, requires minimum: lot area of 7,000 square feet, frontage of 75 feet, front setback of 25 feet, side setback of 10 feet, rear setback of 15 feet, maximum height of 35 feet.

**Comprehensive Plan Considerations**

**Planning Area:** The subject property falls within Planning Area 11. This Planning Area is bound by Stirling Road on the north, Davie Road Extension on the southeast, and University Drive on the west. The area is characterized by multi-family residential development on the south side of Stirling Road, ranging from 8 to 16 dwellings per acre. There is one single family residential subdivision developed at five dwellings per acre.

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

Article 2.5 Administrative Rules Document: Increase and Decrease of Commercial and Residential Acreage:

(1) The land designated “Commercial” within a flexibility zone on the Broward County Land Use Plan may be decreased by twenty percent (20%) and (re)designated to a land use category consistent with the residential land use categories of the Broward County Land Use Plan. (Re)designation to a residential land use category is subject to the following rules and regulations:

- a. The local government must assign available flexibility or reserve units in compliance with the provides of Section 2.1 (Flexibility Units) or Section 2.2 (Reserve Units), of this Administrative Rules Document; or
- b. The local government must correspondingly reduce, within the local land use element, the density of a residential area so that the total number of permitted dwelling units allowed in the flexibility zone is not increased.

Policy 13.01.10: Local government utilization of the Broward County Land Use Plan “Flexibility Rules,” as per policies 1.01.03, 1.01.04, 1.02.01, 1.02.02, 2.04.04, 2.04.05, 3.01.06 and 3.02.02, shall be subject to a determination by the Broward County Commission that such allocation is compatible with adjacent land uses, and that impacts on public school facilities have been adequately considered. Allocations of “flexibility” for “affordable housing” or “special residential facilities” or “urban infill, urban redevelopment and downtown revitalization areas,” as defined with the Broward County Land Use Plan shall be exempt from this Policy.

**Applicable Goals, Objectives & Policies:**

Objective 17: Land Use Compatibility and Community Appearance: Policy 17-1:

Lands designated for non-residential use shall be located in a manner which facilitates development, but does not adversely impact existing and designated residential areas.

Objective 17: Land Use Compatibility and Community Appearance: Policy 17-2:

No property within the Town shall be rezoned to a zoning district that is not in compliance with the Davie Future Land Use Plan.

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**Staff Analysis**

This request is to allow the 12,000 square foot (0.275 acres) site to be developed with two (2) single family dwellings. The two (2) parcels are the last vacant sites between different intensities of uses, and meet the Land Development Code’s minimum requirements needed to gain the zoning designation. The request will allocate 2 of the 103 Flexibility Units available in Flex Zone 102.

Land Use and Zoning

The Comprehensive Plan and Land Development Code allows for single family dwelling units to be developed at 5 dwelling units per acre.

### Compatibility

A single family dwelling unit developed at a density of 5 dwelling units per acre is a use compatible with the surrounding single family homes that have been developed at the same density, mixed use, and commercial use.

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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;

*The comprehensive plan allows single family homes to be developed at 5 dwelling units per acre.*

- (b) The proposed change will not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;

*The use is related and compatible with the adjacent properties.*

- (c) Existing zoning district boundaries are not logically drawn in relation to existing conditions on the property proposed for change;

*The parcels were platted as single family residential lots in 1958. The Commercial Land Use and B-2, Community Business District designations are not logical in relation to the existing conditions of the neighborhood.*

- (d) The proposed change will not adversely affect living conditions in the neighborhood;

*Development of a two (2) single family homes on this parcel will not have adverse impacts on 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;

*The traffic generated by two (2) single family homes is less than a commercial use.*

- (f) The proposed change will not adversely affect other property values;

*Surrounding property values will not be adversely impacted by development of this neighborhood's last vacant site.*

(g) The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations;

*All other surrounding property is developed, and the addition of two (2) single family homes will not deter their improvement.*

(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;

*This request is a privilege that can be afforded to any owner.*

(i) There are substantial reasons why the property cannot be used in accord with existing zoning.

*The subject site was platted for single family residential use under Broward County with a zoning designation of B-2, Community Business District. This rezoning request represents an opportunity for the Town to analyze surrounding land uses and apply the zoning designation which is the most compatible with existing development.*

*To achieve this commercial zoning designation, the Land Development Code requires: minimum lot area of 52,500 square feet, minimum lot frontage and depth of 200', 20' setbacks on sides abutting residential property, and 25' on sides adjacent to a right-of-way. The subject site is over four (4) times smaller than the minimum size required and located on a residential street.*

(j) The proposed zoning designation may be 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.

*Development of the site will ultimately enhance the Town's tax base.*

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## **Staff Recommendation**

Staff recommends that the subject report, on the reclassification of property, be reviewed and discussed by the Planning and Zoning Board and Town Council so that a recommendation and final decision may be rendered.

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## **Planning & Zoning Board Recommendation**

At the June 12, 2002, meeting of the Planning and Zoning Board, Vice-Chair Bender made a motion, seconded by Mr. Waitkus to approve (Motion carried 5-0).

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## **Exhibits**

1. Justification
2. Letter from adjacent owner
3. Survey
4. Land Use Map
5. Zoning and Aerial Map

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

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

**JERRY SELIGMAN**  
8400 Pasadena Boulevard • Pembroke Pines, FL 33024  
Tel (954) 432-7919

May 8, 2002

DAVIE TOWN COUNCIL  
6591 Orange Drive  
Davie, FL 33314-3399

Dear Mayor & Council Members:

I am requesting a change of zoning simply because the present zoning is not in keeping the with the neighborhood.

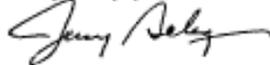
For fourteen years I have tried to sell the lots as B2 to no avail while the rest of the block has developed 100% residential.

My empty lots are maintained regularly but are an eyesore in the community. Cars, furniture and other trash are repeatedly dumped there.

At my request Mr. Leiva and Mr. Gratz have eyeballed the lots and concur.

Your cooperation and help would be greatly appreciated.

Very truly yours,



JERRY SELIGMAN

JS/jg

CRITERIA FOR REVIEWING REZONING REQUESTS

The Planning and Zoning Board shall hold its public hearing and make a recommendation upon the application to the Town Council based upon its consideration of, where applicable, whether or not:

- (1) The proposed change is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;  
No, it is not in conflict with the comprehensive plan.
- (2) The propose change would create an isolated zoning district unrelated and incompatible with adjacent and nearby districts:  
No, its related. New boundaries developed as residential and this is consistent.
- (3) Existing zoning district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.  
They are illogical. A B-2 use is not appropriate at this location.
- (4) The proposed change will adversely affect living conditions in the neighborhood.  
No, will enhance. No more vacant lots.
- (5) The proposed change will create or excessively increase automobile and vehicular traffic congestion or otherwise affect public safety;  
No, it will not.
- (6) The proposed change will adversely affect other property values:  
No, should increase other properties.
- (7) The proposed change will be a deterrent to the improvement or development of other property in accord with existing regulations;  
No, in an already developed area.
- (8) The proposed change will constitute a grant of special privilege to an individual owner as contrasted, with the welfare of the general public;  
No, any property owner has the right to request a change.
- (9) There are substantial reasons why the property cannot be used in accord with existing zoning.  
There are. This site is not feasible for a B-2 use as the entire block is DGV as residential.  
Taken from: Section 27-803(g) of the Code of Ordinaces  
Town of Davie, as amended.

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\*\*\* PETITIONER MUST BE PRESENT IN ORDER FOR ACTION TO BE TAKEN \*\*\*

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OFFICE USE ONLY

APPROVED (AS TO FORM: \_\_\_\_\_ PUBLICATION DATE: \_\_\_\_\_

MEETING DATE: PLANNING AND ZONING BOARD: \_\_\_\_\_ TOWN COUNCIL: \_\_\_\_\_

NOTICES SENT: \_\_\_\_\_ REPLIES: FOR: \_\_\_\_\_ AGAINST: \_\_\_\_\_

UNDELIVERABLE: \_\_\_\_\_

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*Barry Alan Wilen*

EMERALD HILLS PLAZA ONE  
4601 SHERIDAN STREET, SUITE 208  
HOLLYWOOD, FLORIDA 33021

ATTORNEY-AT-LAW

HOLLYWOOD (954) 966-0011  
NO. BROWARD (954) 522-4601  
DADE (305) 625-1100  
FAX (954) 966-3740

June 6, 2002

Town of Davie  
Planning & Zoning Board  
6591 Orange Drive  
Davie, Florida 33314

**Re: File # ZB5-1-02;  
My client- Dial Realty Corp.**

To the Honorable Members of the  
Planning & Zoning Board of the Town of Davie:

Please be advised that I represent Dial Realty Corp., the property owner of the three story commercial office building located at 7777 Davie Road Extension, Davie.

My client is in receipt of the Petition for Rezoning the property located 7730-7740 NW 30<sup>th</sup> Street from B-2, Neighborhood Business District to RM-5, Low Medium Density Dwelling District.

My client wishes to be placed on record as being in opposition to the Petition for Rezoning because it is an accepted fact that there is a greater likelihood that a single family property owner will afford more care and attention to his/her property than a tenant. Please let it be known that my client would not oppose a rezoning of the subject property to allow two single family homes, but is opposed to a multi-unit residential rental building.

Since my client purchased the property in 1996, it has taken steps to improve the building, increase its value and the value of the surrounding properties and operates at a near 100% occupancy. The proposed rezoning would certainly not increase the value of my client's property, but if anything, decrease the value.

Thank you for your attention and consideration to this matter.

Very truly yours,



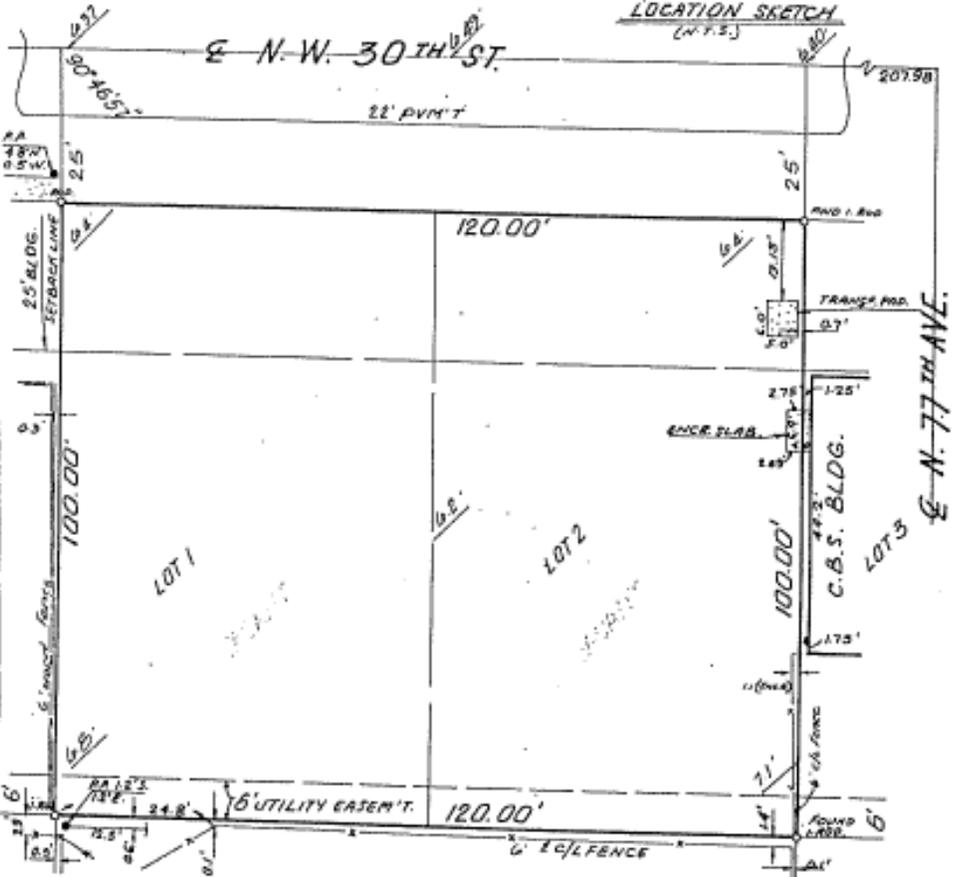
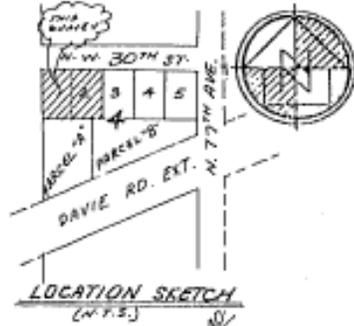
cc: Dial Realty Corp.  
BAW:irm



LAND BOUNDARY SURVEY FOR: JERRY SELIGMAN

5/4/03090320  
7740 + 7730

DESCRIPTION  
Lots 1 & 2, Block 4 "DRIFTWOOD ESTATES NO. 6"  
according to the plat thereof recorded in  
Plat Book 48 Page 8 of the Public Records of  
Broward County, Florida.



NOTE: Elevations shown thus  $\frac{0}{0}$  are based on N.G.V.D.  
(city of Hollywood 2.122)

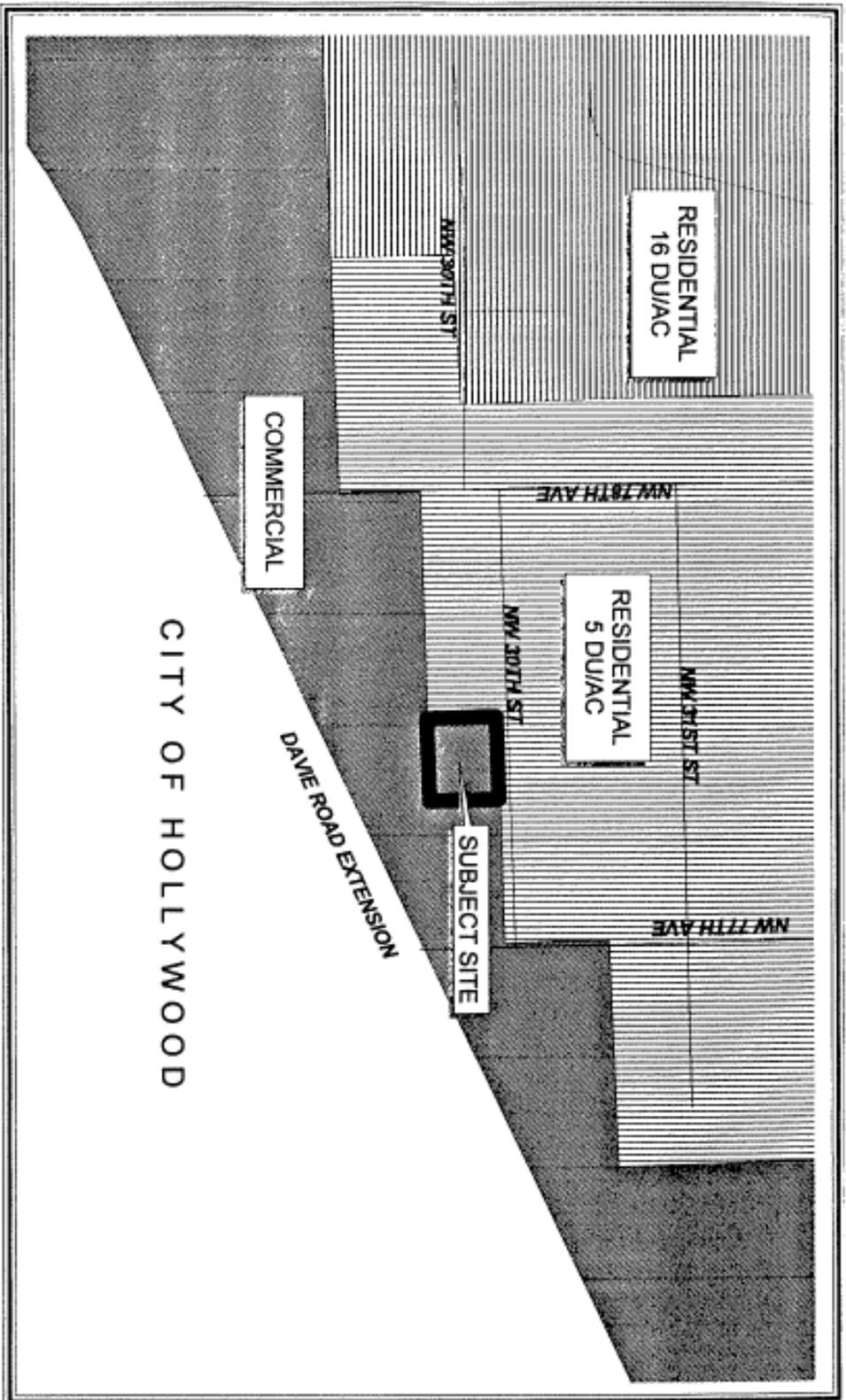
CERTIFICATION  
I HEREBY CERTIFY THAT THE ATTACHED SKETCH OF SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT IT MEETS THE MINIMUM TECHNICAL STANDARDS ADOPTED BY THE FLORIDA STATE BOARD OF LAND SURVEYORS IN CHAPTER 61G17-6, OF THE FLORIDA ADMINISTRATIVE CODE.

SCALE 1" = 20'  
SURVEY DATE MAY 3rd 2002  
JOB NO. 473 - 02

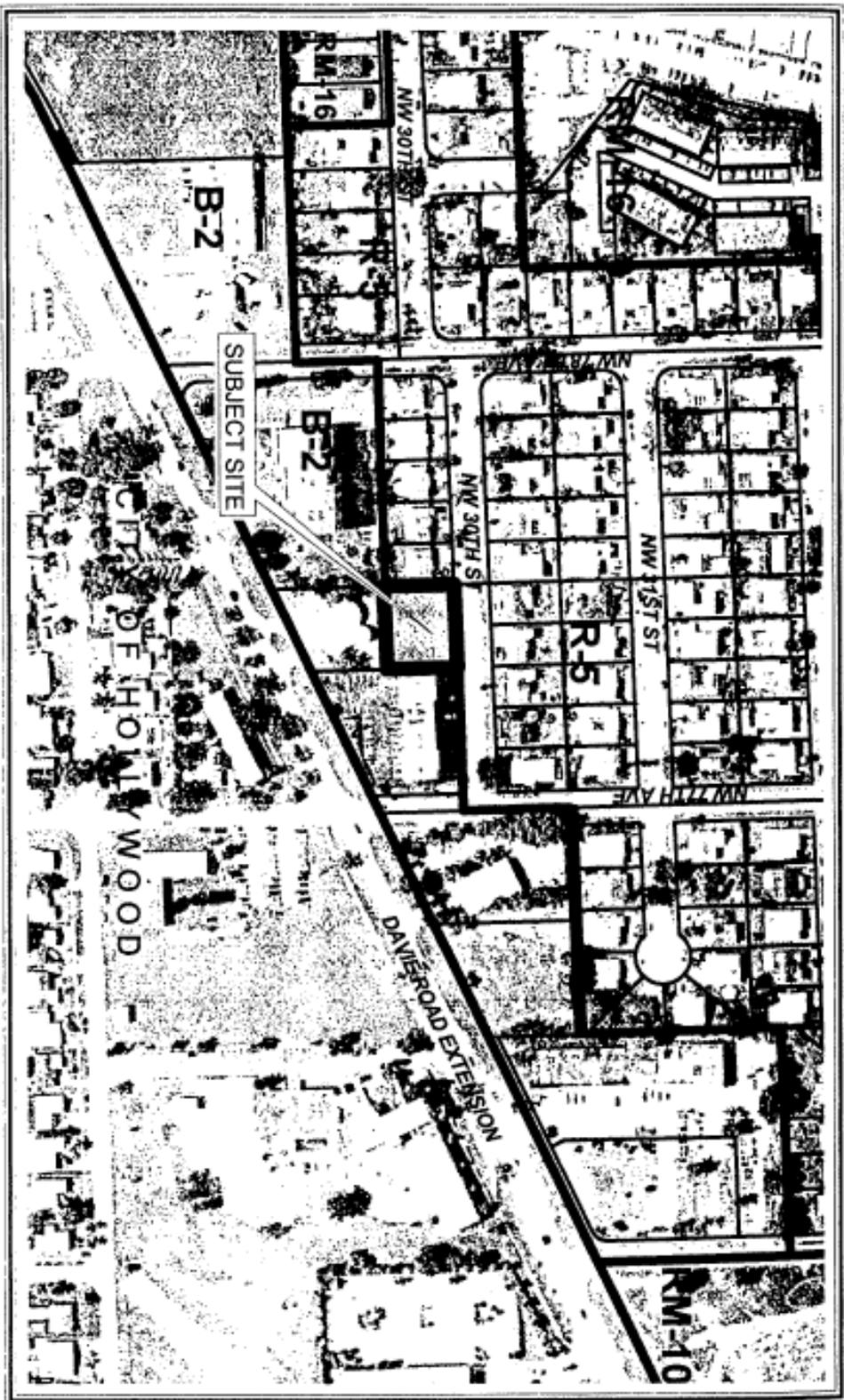
NOT VALID UNLESS SIGNED, DATED AND STAMPED WITH EMBOSSED SEAL.

R.T. BOGLE & ASSOC. INC.  
LAND SURVEYORS  
7040 Tull Street • Hollywood, Florida 33024  
(954) 961-8008

SEAL  
  
ROBERT T. BOGLE  
Registered Land Surveyor No. 3277  
STATE OF FLORIDA



<p>200 0 200 Feet</p>		<p><b>PETITION NUMBER ZB 5-1-02</b></p> <p>LAND USE MAP Scale: 1"=200' Planning &amp; Zoning Division - GIS Prepared 5/30/02</p>
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**PETITION NUMBER ZB 5-1-02**  
**ZONING AND AERIAL MAP**  
 Aerial Date Flown: January, 2001  
 Scale: 1"=200'  
 Planning & Zoning Division - GIS  
 Prepared 5/30/02