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: Ordinance 1st Reading/Quasi-judicial, ZB 2-1-02 John D. Voigt, Esquire/ Hanmi Baptist Church, 2150 Flamingo Road/Generally located 660' south of SW 20 Street, on the east side of Flamingo Road.

AFFECTED DISTRICT: District 3

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-1-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM AG, AGRICULTURAL DISTRICT TO CF, COMMUNITY FACILITIES 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 4.99 acre subject site from: AG, Agricultural District; to: CF, Community Facilities District in order to allow development of a House of Worship. The petitioner has offered a voluntary Declaration of Restrictions on the use of the property to help ensure that the church will be compatible with the surrounding area, has committed to work with the adjacent neighbors, and has provided a conceptual master plan. In addition, a variance has been requested, under petition V 2-1-02, to allow a House of Worship on the subject site. The variance is required to reduce the minimum separation between Houses of Worship by 200' since Calvary Chapel is located 2,300' to the northwest.

PREVIOUS ACTIONS: At the November 6, 2002, Town Council meeting the item was tabled to the December 4, 2002, at the request of the applicant.

At the December 4, 2002, Town Council meeting the item was tabled to January 2, 2003, meeting at the request of the applicant.

CONCURRENCES: At the October 9, 2002, Planning and Zoning Board meeting, Ms. Lee made a motion, seconded by Vice-Chair Bender, to deny (Motion carried 5-0).

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, Justification, Declaration of Restrictions, Survey, Conceptual Site Plan, Letter from Paradise Pines H.O.A., Land Use Map, Zoning and Aerial Map

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-1-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM AG, AGRICULTURAL DISTRICT TO CF, COMMUNITY FACILITIES 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 AG, Agricultural District to CF, Community Facilities District;

WHEREAS, said notice was given and publication made as required by law, and a public hearing there under 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 AG, Agricultural District to CF, Community Facilities District:

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

SECTION 2. That the owner has voluntarily executed a deed restriction on the property described in Section 1:

a. The declaration of restrictions is included within Exhibit "A", hereto, and made a part hereof;

SECTION 3. 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 CF, Community Facilities District.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 5. 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 6. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2003.

PASSED ON SECOND READING THIS _____ DAY OF_____, 2003.

ATTEST:

_____
MAYOR/COUNCILMEMBER

_____
TOWN CLERK

APPROVED THIS_____ DAY OF _____, 2003.

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

APPLICANT INFORMATION

Owner:
Name: Pastor Seung Soo Kim
Hanmi Baptist Church
Address: 1219 Fairlake Trace, #99
City: Weston, FL 33326
Phone: (954) 792-1025

Agent:
Name: John D. Voigt, Esquire
Doumar, Allsworth, et al.
Address: 1177 SE 3 Avenue
City: Fort Lauderdale, FL 33316
Phone: (954) 762-3400

BACKGROUND INFORMATION

Date of Notification: October 2, 2002 **Number of Notifications:** 19

Application History: At the November 6, 2002, Town Council meeting the item was tabled to the December 4, 2002, at the request of the applicant.

At the December 4, 2002, Town Council meeting the item was tabled to January 2, 2003, meeting at the request of the applicant.

Application Request: Rezone the 4.99 acre subject site **FROM:** AG, Agricultural District; **TO:** CF, Community Facilities District.

Address/Location: 2150 Flamingo Road/Generally located 660' south of SW 20 Street, on the east side of Flamingo Road.

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

Zoning: AG, Agricultural District

Existing/Proposed Use: Vacant/House of Worship

Parcel Size: 4.99 acres (217,364 square feet)

	Surrounding Uses:	Surrounding Land Use Plan Designation:
North:	V.I. Pet Resort (Vacant)	Residential (1 DU/AC)
South:	Vacant	Residential (1 DU/AC)
East:	Paradise Pines	Residential (1 DU/AC)
West:	Vacant	Residential (1 DU/AC)

Surrounding Zoning:

North:	AG, Agricultural District
South:	AG, Agricultural District
East:	AG, Agricultural District
West:	AG, Agricultural District

ZONING HISTORY

Related Zoning History: The adjacent parcel to the north has been approved to be developed with an animal hospital and kennel known as V.I. Pet Resort. The applications associated with V.I. Pet Resort include FX 11-1-00, P 8-2-01, SE 9-1-01, and SP 12-1-01.

Previous Requests on same property: Variance petition V 2-1-02 has been filled concurrently with this application. The request is a variance **FROM:** Section 12-34(DD) of the Land Development Code which requires that no freestanding house of worship shall be located closer than 2,500′ from any other freestanding house of worship; **TO:** reduce the minimum separation to 2,300′.

APPLICATION DETAILS

The petitioner has requested to rezone the 4.99 acre subject site from: AG, Agricultural District; to: CF, Community Facilities District in order to allow development of a House of Worship. The petitioner has offered a voluntary Declaration of Restrictions on the use of the property to help ensure that the church will be compatible with the surrounding area, has committed to work with the adjacent neighbors, and has provided a conceptual master plan. In addition, a variance has been requested, under petition V 2-1-02, to allow a House of Worship on the subject site. The variance is required to reduce the minimum separation between Houses of Worship by 200′ since Calvary Chapel is located 2,300′ to the northwest.

The proposed Declaration of Restrictions consists of the following:

1. The property shall only be used for a Church/House of Worship, all ancillary and attendant uses normally associated with such a facility, including, but not limited to church offices, kitchen facilities, and child care during church activities and functions.

2. The property shall not be used for the following: school, nursing homes, adult congregate living facility (ACLF), day care center (except that the church may provide child care services to members and guests during church activities and functions), hospital, mausoleum, cemetery, mental institution, residential/life care facility, flood control, telecommunication towers, and civic center.

Applicable Codes and Ordinances

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

Section 12-83 of the Land Development Code, Conventional Nonresidential Development Standards, CF, Community Facilities District, requires the following minimums: lot area of 43,560 square feet, frontage of 100 feet, front setback of 50 feet, side and rear setbacks of 25 feet, maximum building height of 35 feet, and 30 percent minimum open space.

Section 12-34 (DD) of the Land Development Code, Churches, Houses of Worship states: No freestanding house of worship shall be located closer than twenty-five hundred (2500) feet from any other freestanding house of worship, measured from the nearest point on the nearest property line of one house of worship to the nearest point of the nearest property line of another house of worship in a straight line. The applicant shall furnish a certified survey from a land surveyor registered in the State of Florida, indicating the distance between the property lines of the proposed house of worship and any other house of worship.

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. Platting of the subject site is required prior to the issuance of a building permit for a principle structure.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Community Facilities Use, Policy 13-2*: Community Facilities may be permitted in land use categories other than Community Facilities category, provided such development is compatible with and does not adversely affect the development of surrounding land for designated purposes.

Future Land Use Plan, 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.

Staff Analysis

This request will allow the subject site to be developed with a House of Worship, provided the variance, V 2-1-02, to reduce the required separation between Houses of Worship, is approved. The parcel exceeds the Land Development Code's minimum requirements needed to gain the zoning designation. Minimum lot size required is 43,560 square feet, and the subject site is 217,364 square feet, or 4.99 acres. Minimum frontage required is 100 feet, and the subject site is 330 feet wide.

Land Use and Zoning: The Future Land Use Plan Map designates the parcel Residential (1 DU/AC). The Future Land Use Plan allows community facilities in residential land use categories, provided such development is compatible with and does not adversely affect the development of surrounding land for designated purposes. The requested zoning classification, CF, Community Facilities District, allows for Houses of Worship to be developed.

Compatibility: A House of Worship can be compatible with the surrounding uses. The adjacent parcel to the north is being developed as an animal hospital and kennel, to the south is undeveloped land zoned AG, Agricultural District, to the west is Flamingo Road, and to the east is approximately three (3) acres of undeveloped land zoned AG, Agricultural District, then the single family development known as Paradise Pines. Written approval of the request from the Paradise Pines Home Owners Association is attached.

Findings of Fact

Rezonings:
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 Future Land Use Plan Map designates the parcel as Residential (1 DU/AC), and the comprehensive plan allows community facilities to be developed in residential land use categories provided such development is compatible with and does not adversely affect the development of surrounding land for designated purposes.

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

The requested CF, Community Facilities District, and proposed Declaration of Restrictions, will allow development of a House of Worship that is related and compatible with the adjacent AG, Agricultural District zoning designations. The parcel to the to the north is being developed with an animal hospital and kennel, to the south is vacant land zoned AG, Agricultural District, to

the west is Flamingo Road, and to the east is three (3) acres of undeveloped land zoned AG, Agricultural District, then the single family development known as Paradise Pines.

(c) Existing zoning district boundaries <u>are</u> logically drawn in relation to existing conditions on the property proposed for change;

The existing AG, Agricultural District boundaries are the original zoning boundaries, and are logically drawn.

(d) The proposed change <u>will not</u> adversely affect living conditions in the neighborhood;

Development of House of Worship, pursuant to the Declaration of Restrictions and Conceptual Master Plan, will not have adverse impacts on the surrounding area.

(e) The proposed change <u>will not</u> 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 a congregation with a maximum of 200 to 250 members will not excessively increase traffic. The majority of the traffic generated by the site will be on Sundays and Wednesdays. Prior to final approval of plats by Broward County, traffic impacts are assessed and concurrency must be met.

(f) The proposed change <u>will not</u> adversely affect other property values;

Surrounding property values will not be adversely impacted by development of this vacant site. The proposed House of Worship will not adversely impact the animal hospital and kennel to the north; it will serve as an additional buffer for the animal hospital and kennel for the parcel to the south, to the west is Flamingo Road, and to the east there are three (3) acres of vacant land classified as AG, Agricultural District, then the single family development known as Paradise Pines.

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

Development of the subject site will not deter development or improvement of adjacent parcels. The parcel to the to the north is being developed with an animal hospital and kennel, to the south is vacant land zoned AG, Agricultural District, to the west is Flamingo Road, and to the east is three (3) acres of undeveloped land zoned AG, Agricultural District, then the single family development known as Paradise Pines.

(h) The proposed change <u>does not</u> 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 that has a parcel that meets the Land Development Code's minimum requirements to achieve the zoning classification.

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

The subject site can be developed according to the existing zoning district standards.

(j) The proposed zoning designation is not 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 as a House of Worship will not enhance the Town's tax base.

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 October 9, 2002, Planning and Zoning Board meeting, Ms. Lee made a motion, seconded by Vice-Chair Bender, to deny (Motion carried 5-0).

Exhibits

1. Justification
2. Declaration of Restrictions
3. Survey
4. Conceptual Master Plan
5. Letter from Paradise Pines H.O.A.
6. Land Use Map
7. Zoning and Aerial Map

Prepared by: _____ Reviewed by: _____

Hanmi Baptist Church
Criteria for Reviewing Rezoning Requests
February 15, 2002

This is a rezoning request for +/- 7.97 acres located on the east side of Flamingo Road, approximately 660 feet south of SW 20th Street. The site is currently vacant and is bound on the north by a proposed animal hospital and kennel; on the south by vacant land zoned AG, Agriculture; on the west by Flamingo Road; and on the east by an existing residential development zoned AG.

The applicant proposes to rezone the west +/- 4.99 acres adjacent to Flamingo Road from AG, Agricultural District, to CF, Community Facility, and to leave the east +/- 3.01 acres as AG for future residential development and to serve as a buffer between the animal hospital and the existing residential development to the east. The maximum size church that will be proposed will be a 10,000 SF structure.

Also proposed as part of this rezoning is a voluntary declaration of restrictions that will restrict the uses of the west 4.99 acres to exclude the uses of hospitals, mausoleums, cemeteries, mental institutions, residential/life care facilities, flood control, telecommunications towers, civic centers, and nursing homes. It will also require a minimum 25' landscape buffer on the south and east property boundaries adjacent to residential districts.

Hanmi Baptist Church is a Korean church that currently has approximately 130 members, including children. Church services will be in Korean. Because of this, the church congregation is estimated to grow to a maximum of 200 to 250 members within in the next ten years. A future 10,000 SF building will be more than adequate. There will be no commercial daycare for the public, only ancillary childcare services for its members.

As required in Section 12-307 of the Land Development Code, the following is an analysis of the criteria for reviewing rezoning requests.

a) *The proposed change is contrary to the adopted comprehensive plan, as amended, or any element or portion thereof;*

   The proposed change is <u>not</u> contrary to the adopted comprehensive plan. Policy 13-3 of the Comprehensive Plan states that the location of regional community facilities should be encouraged in close proximity to primary transportation facilities such as Flamingo Road and I-595. It also encourages the location of community facilities in areas where such uses are complimentary to surrounding existing and planned facilities.

b) The proposed change would create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;

The proposed change would not create an isolated zoning district nor is it incompatible with adjacent districts. The Comprehensive Plan recognizes that Community Facilities of appropriate scale can be permitted within residential areas. As stated above, the church use is more compatible to the kennel and will serve as a buffer to the residentially zoned properties.

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

Existing zoning district boundaries are not illogically drawn in relation to existing conditions on the subject property. This section does not apply.

d) The proposed change will adversely affect living conditions in the neighborhood;

The proposed change will not adversely affect living conditions in the neighborhood. The subject property is a 4.99-acre site adjacent to an approved animal hospital and kennel. The proposed deed restrictions will limit the site to a church, limiting its future impact on the surrounding properties as they develop.

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;

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 subject property is not within a Compact Deferral Area. In comparing a 10,000 SF church to 5 residential units, there are only 43 additional trips on the road network. Churches generally generate less traffic during peak hours because the majority of their traffic will be generated on Sundays and Wednesdays, in this case, during church services. Since the services will be in Korean, the church is not expected to grow, and will not require expansion of the proposed 10,000 SF building.

f) The proposed change will adversely affect other property values;

The proposed change will not adversely affect other property values. With an approved animal hospital and kennel to the north, this project will serve as a buffer to the residential designation to the south. Since the east 3.01 acres will remain residential, it will be compatible with the existing residential development to the east.

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

The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations. The proposed church will be providing more than adequate buffering along the perimeter of the property and will leave the east 3.01 acres for residential development equal to that of the surrounding area.

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 welfare of the general public will not be compromised by the granting of this request nor does it grant special privileges to the owner.

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

The subject site is adjacent to an animal hospital and kennel and will serve as a more compatible use than a residential development. The 4.99 acres subject to the rezoning will be adjacent to the 4.99 acres of animal hospital/kennel. The 3.01 acres to remain residential will be adjacent to the 3.01 acres east of the kennel that has also remained residential. .

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.

Although churches do not pay taxes on property, this church will provide a needed service to the community. The site is 8 acres but only 4.99 acres will be rezoned to CF and used for a church. This will allow for the remaining 3.01 acres to revert to residential, and will be subject to property tax, thus increasing the Town's tax base. The needs of the public for places of worship need to be balanced with the need for property tax base.

The proposed use will also reduce the impact on public facilities such as schools, and water and sewer services.

LAW OFFICES
DOUMAR, ALLSWORTH, CROSS, LAYSTROM,
PERLOFF, VOIGT, WACHS, MAC IVER & ADAIR, LLP

JOHN R. ADAIR III, P.A.
EMERSON ALLSWORTH, P.A.
E. SCOTT ALLSWORTH, P.A.
MARK E. ALLSWORTH, P.A.
WILLIAM S. CROSS, P.A.**
RAYMOND A. DOUMAR, P.A.*

† ALSO ADMITTED IN PENNSYLVANIA
* ALSO ADMITTED IN MICHIGAN
& BOARD CERTIFIED REAL ESTATE LAWYER
** CERTIFIED CIRCUIT CIVIL AND FAMILY MEDIATOR

1177 SOUTHEAST THIRD AVENUE
FORT LAUDERDALE, FLORIDA 33316-1109
BROWARD (954) 764-3400
MIAMI (305) 945-3172
TELEFAX (954) 525-3423

C. WILLIAM LAYSTROM, JR., P.A.
STUART J. MAC IVER, P.A.
JOHN W. PERLOFF, P.A.&
JOHN S. VOIGT, P.A.
JEFFREY S. WACHS, P.A.†

VIA FAX AND U.S. MAIL
(954) 797-1204

December 18, 2002

Mr. Christopher M. Gratz
Planner II
Development Services Department
Town of Davie
6591 Orange Drive
Davie, Florida 33314-3399

Re: Hanmi Baptist Church
Rezoning Application ZB2-1-02
Variance Application V2-1-02

Dear Chris:

It is my understanding that you are going to be issuing the staff report for town council on these two applications this week. It is my understanding that those reports will be virtually unchanged from the reports that were issued on October 4, 2002 to the planning and zoning board. As such, I would like to provide the following comments on behalf of the petitioner in response to those reports.

With regard to the rezoning application, the petitioner agrees in principle to your Findings of Fact (a), (b), (d), (e), (f), (g), (h). The petitioner, however, takes issue with the Findings of Fact listed as (c), (i) and (j). Finding (c) states that the existing zoning district boundaries are logically drawn and states

only that they are the original zoning boundaries in support of that conclusion. As I have understood it, it has long been the position of the Town of Davie that the AG zoning along Flamingo Road was considered a transitional designation only and that it was not realistic to believe that agricultural endeavors could be conducted on a 4.99 acre piece of land. I believe that most of the surrounding land that has been developed has been done so as residential, community facility or commercial, and not as agricultural.

With regard to Finding of Fact (i), the petitioner disagrees that there are no substantial reasons why the property can be used and accorded with existing zoning. Again, there is no factual support for this conclusion, and I would suggest that farming on less than a five acre tract is entirely unrealistic and not compatible with the nearby residential neighborhoods. I believe that the agricultural uses that could be placed on such a piece of property would be extremely offensive to the surrounding neighbors.

With regard to Finding of Fact (j), the petitioner disagrees that this rezoning will not enhance the Town's tax base. The entire approximately nine acre tract has been off the tax rolls for several years since it is owned by a recognized church. The rezoning of only a portion of that land would not change that status, but would leave the rest free to be placed back on the tax rolls as it is sold for residential development. In light of the Religious Land Use and Institutionalized Persons Act (RLUIPA), Title 42, Chapter 21C of the United States Code, this rezoning application should receive favorable consideration to allow the petitioner's property owner to utilize the real property for the purpose of religious exercise.

In the same light, we take the position that the variance application is not required. The variance is needed only because the closest point of this church property is less than 2,500 feet from the closest point of a proposed church property diagonally across Flamingo Road. The petitioner purchased this property with the intent of developing it as a church well in advance of the time that the religious facility planned across the street was begun.

Further, the 25-foot restriction is arbitrary and capricious in light of the RLUIPA in that it does not further any compelling governmental interest. The properties are 2,300 feet apart on opposite sides of Flamingo Road, which obviously is a divided six lane highway. The report states that the purpose of the distance separation requirement is to control traffic flow. Under the Broward County trips calculation currently in use that calculates peak hour travel, neither facility will pose any traffic problem to the Town of Davie or Broward County, so the distance separation requirement serves no purpose in this instance.

Further, the petitioner strenuously disagrees with the Staff Findings of Fact (a)(b). With regard to Finding of Fact (a), there are special circumstances applying to this land in that it is owned by a religious institution and is intended to be utilized for religious exercise. This is specifically within the purview of the RLUIPA and, therefore, makes this property unique as compared to all other properties on Flamingo Road that are not owned by religious institutions. Second, the rezoning has been found to be appropriate, but would be useless without the granting of the variance. Obviously if the property is rezoned and the variance is not granted, the petitioner is totally deprived of the use of the property. Finally, it is entirely unrealistic to believe that a religious institution would engage in agricultural activities so as to utilize the property. As a practical matter, the property would have to be sold by the church to a developer for there to be any utilization of the property should the variance be denied.

With regard to Finding of Fact (b), it is basically a restatement of (a) and the same arguments apply. The granting of the variance is necessary for the reasonable use of the land under the RLUIPA.

In addition to the foregoing, the church has agreed to reduce the size of its facility from 10,000 square feet to a maximum of 6,500 square feet to ensure that its size and congregation would not become a burden on the roads or any surrounding neighborhoods, and to be less obtrusive, while providing more open space. Secondly, the rear three acres of the property, and possibly more, would subsequently be rezoned to either A-1 or R-1 for the purposes of residential development. The petitioner would be agreeable to

placing deed restrictions on those lots to require that they be made compatible with the size, price structure and design of the homes found in Paradise Pines. Further, the church facility would comply with all of the requirements of the new Town ordinances with regard to both the rural lifestyles issues and the designation of that area as a scenic way. For these reasons and those previously enumerated in the justification statement accompanying each application, both applications merit favorable consideration.

Sincerely,

JOHN D. VOIGT
For the Firm

JDV/kdr

cc: Hanmi Baptist Church

LAW OFFICES
DOUMAR, ALLSWORTH, CROSS, LAYSTROM,
VOIGT, WACHS, MAC IVER & ADAIR, LLP

JOHN H. ADAIR, III, P.A.
EMERSON ALLSWORTH, P.A.
E. SCOTT ALLSWORTH, P.A.
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C. WILLIAM LAYSTROM, JR., P.A.
STUART J. MAC IVER, P.A.
JOHN D. VOIGT, P.A.
JEFFREY S. WACHS, P.A.†

JOHN W. PERLOFF, P.A.☆
OF COUNSEL

VIA FAX
(954) 797-1204

February 20, 2003

Mr. Christopher M. Gratz
Planner II
Development Services Department
Town of Davie
6591 Orange Drive
Davie, Florida 33314-3399

Re: Hanmi Baptist Church
Applications for Rezoning and Variance

Dear Chris:

Enclosed please find a revised Declaration of Restrictions for the Hanmi Baptist Church property. You will note that we have specified the acreage to be utilized for the church facility and have expanded the prohibited uses in paragraph 2. We have also added paragraphs 3 and 4 to address the eastern portion of the property.

Also enclosed please find a copy of my proposed letter of understanding sent to the residents. It is my understanding they would like to incorporate paragraphs 1 through 6 as conditions of the ordinance.

Also enclosed please find a copy of the homeowner's association letter to Councilmember Susan Starkey regarding the terms of their agreement. I believe that they wish to make this letter an exhibit to the resolution as well. Please contact me should you have any questions.

Sincerely,

JOHN D. VOIGT
For the Firm

JDV/kdr
encs.

Prepared by:
John D. Voigt
Doumar, Allsworth, et al.
1177 S.E. Third Avenue
Ft. Lauderdale, FL 33316

Return to:
Town Clerk's Office
6591 Orange Drive
Davie, Florida 33314

DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS that the undersigned, HANMI BAPTIST CHURCH, whose mailing address is 1219 Fairlake Trace, #99, Weston Florida 33326, being the owner of that certain real property located in the Town of Davie, Broward County, Florida, and described on Exhibit "A" attached hereto and made a part hereof ("Property"), voluntarily make the following Declaration of Restrictions covering the above-described Property, specifying that this Declaration of Restrictions shall constitute a covenant running with the land and that this Declaration shall be binding upon the undersigned and upon all persons deriving or taking title through the undersigned. These restrictions, during their lifetime, shall be for the benefit of the Town of Davie, Florida.

1. The western 4.44 acres of the Property as shown on the attached Conceptual Site Plan shall be used only for the following uses:

   A Church/House of Worship
   All Ancillary and Attendant uses normally associated with such a facility, including but not limited to Church

4. All vehicular access to and from the church property would be from the west side of the property from the Flamingo Road frontage road.

5. The church shall provide adequate written notice to the homeowners in advance of submission of all applications for site plan or any other governmental approvals.

6. The church will commit to being a good neighbor and undertake no actions that will reduce the quality of life of the residents of Paradise Pines.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated.

HANMI BAPTIST CHURCH

By:_____

PARADISE PINES

_____

_____

_____

_____

_____

2

Prepared by:
John D. Voigt
Doumar, Allsworth, et al.
1177 S.E. Third Avenue
Ft. Lauderdale, FL 33316

Return to:
Town Clerk's Office
6591 Orange Drive
Davie, Florida 33314

LETTER OF UNDERSTANDING

IT IS HEREBY AGREED between the HANMI BAPTIST CHURCH, whose mailing address is 1219 Fairlake Trace, #99,Weston Florida 33326, being the owner of that certain real property located in the Town of Davie, Broward County, Florida, and described on Exhibit "A" attached hereto and made a part hereof ("Property"), and the undersigned residents of Paradise Pines, regarding the development of the Property:

1. The property shall be subject to the Declaration of Restrictions attached hereto, made a part hereof, and labeled Exhibit "B".

2. In addition to those restrictions set forth, the HANMI BAPTIST CHURCH agrees that the western 4.44 acres of the property shall be limited to a church building of a maximum of 10,000 square feet.

3. On the dividing line shown on the Conceptual Site Plan, the church will erect a masonry wall and a landscaping berm providing more landscaping than the minimum required by the Town of Davie Code.

Offices, Kitchen Facilities, and Child Care during Church activities and functions

2. The western portion of the Property shall not be used for the following:

School
Nursing Home
A.C.L.F.
Day Care Center (except that the Church may provide Child Care services to members and guests during Church activities and functions)
Rehabilitation Center
Homeless Shelter
Thrift Store
Hospital
Mausoleum
Cemetery
Mental Institution
Residential/Life Care Facility
Flood Control (except as required by governmental entities)
Telecommunication Towers
Civic Center

3. The eastern 3.56 acres of the property, as designated on the attached Conceptual Site Plan, shall be used only for the following use:

Detached single family homes of a minimum of 3,000 square feet under air with a three-car garage with side entrances and paver brick driveways, each on a lot of a minimum of 35,000 square feet. In addition the colors and architectural styles utilized in the construction of these homes will be compatible with those existing in Paradise Pines.

4. The eastern portion of the subject property shall not be used for the following:

All uses other than specifically permitted in paragraph 3 above.

5. These covenants are to run with the land and shall be binding upon all parties and persons deriving or taking title through the undersigned from the date these covenants

are recorded in the Public records of Broward County, Florida. This Declaration of Restrictions, may be amended or removed only by the Town of Davie, Florida, by a written document of equal formality and dignity and with the approval of the undersigned or their successors or assigns. Any amendment to this Declaration of Restrictions or termination thereof shall be recorded in the Public Records of Broward County, Florida. Nothing herein shall prevent the declarant or its successors in title or assigns from applying to the Town of Davie, Florida, for modification of this Declaration of Restrictions or termination hereof.

6. Invalidation of any one portion of this Declaration of Restrictions or any portion of this document by judgment or court order in no way shall affect any other provisions, which shall remain in full force and effect.

7. This Declaration of Restrictions is executed for the purpose of protecting the health, safety, and welfare of the citizens of the Town of Davie.

IN WITNESS WHEREOF, I have set my hand and seal this ____ day of _____, 2002.

Signed, sealed and delivered:

HANMI BAPTIST CHURCH

_____
WITNESS
Print: _____

By:_____ _____

_____
WITNESS
Print:_____

3

STATE OF FLORIDA)
SS:
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this _____ day of _____, 2002, by _____, as _____ of _____. He is personally known to me or has produced _____ as identification.

NOTARY PUBLIC:

_____

Print Name: _____

4

The Paradise Pines Homeowners Association

February 18, 2003

Ms. Susan Starkey
Davie Town Council Member

Dear Ms. Starkey,

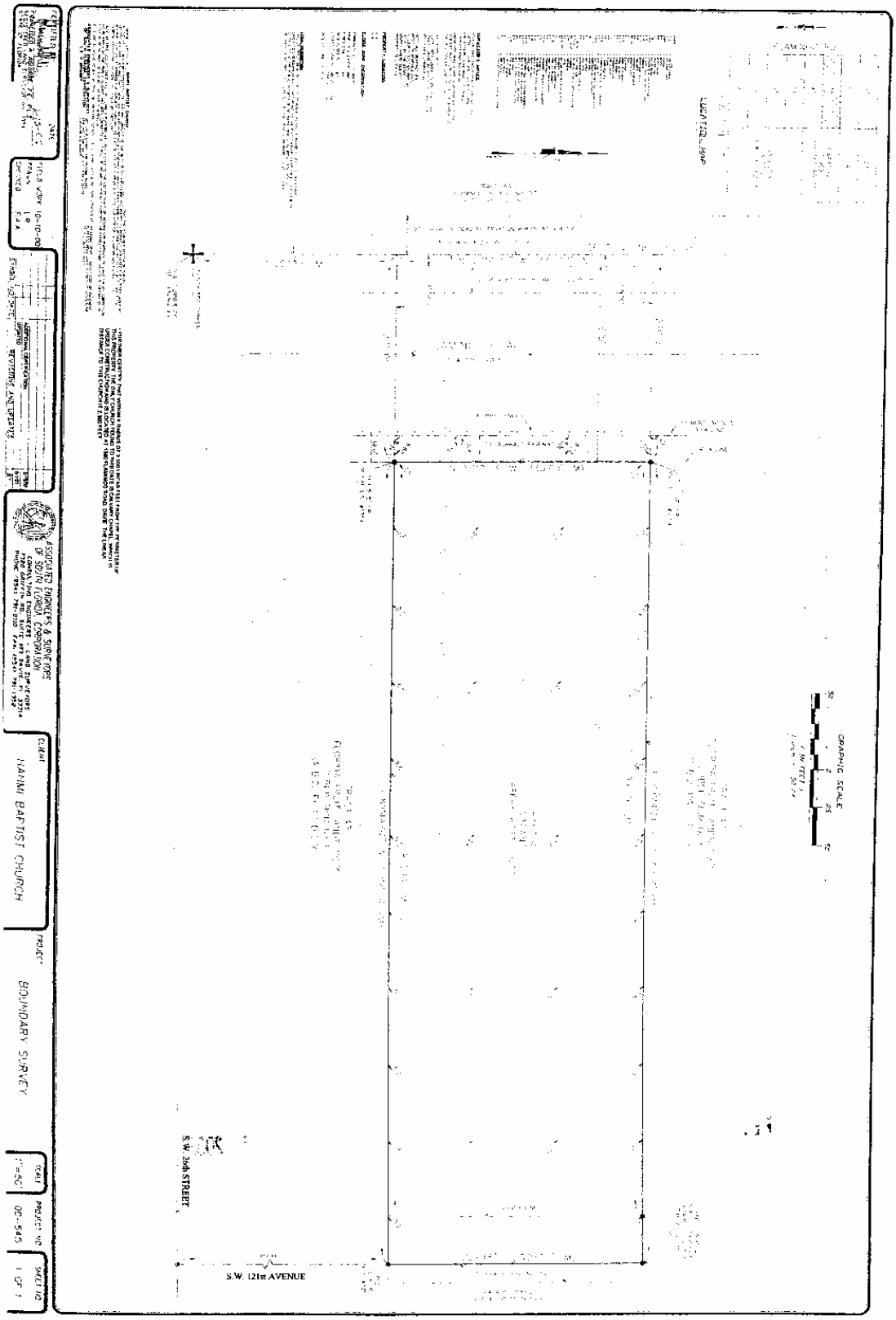
Regarding the Hanmi Baptist Church and the proposed rezoning of Tract 46, Paradise Pines Homeowners Association agrees to the rezoning and variance change with the following conditions: That we be allowed to review the site plan before it is given final approval. The homes be of similar architecture to those in Paradise Pines HOA, i.e., the homes be not less than 3000 Sq Ft under air, with a three car garage with side entrances, paver driveways, and no less than 35000 Sq Ft Lot, etc.

Of course the particulars of the actual project site, namely, size of the church and the capacity, etc. will all have to be submitted for final approval. All of these agreements need to be placed into a permanent record that is unable to be changed without Paradise Pines Association approval.

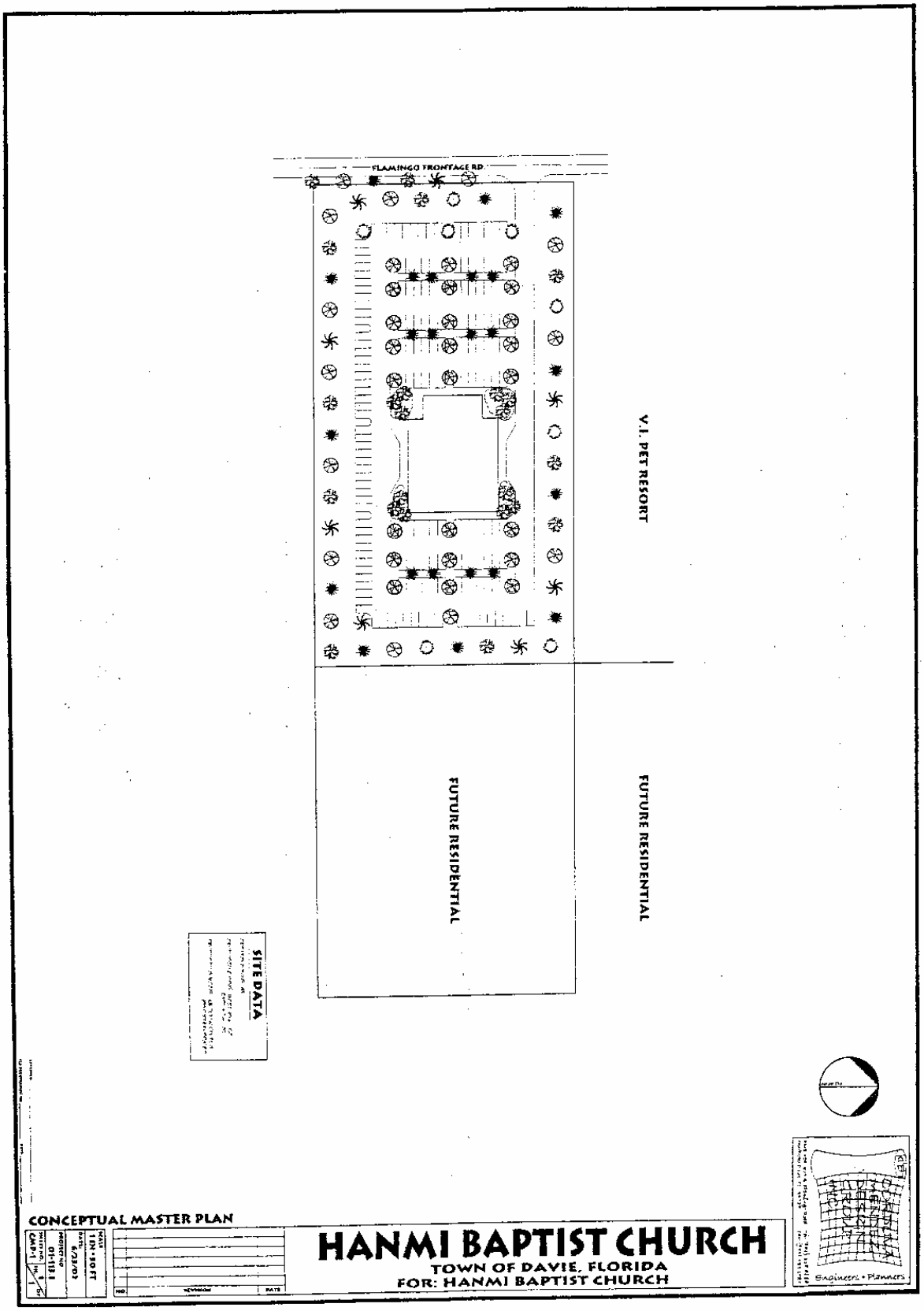
Sincerely,

Terry Nickerchie
President
Paradise Pines HOA

Lot #2 Lot #16
Lot #17
Lot 13 Lot 3
Lot 15
Lot #12
Lot 1
Lot #9 Lot #4



S.W. 26th STREET
S.W. 121st AVENUE
GRAPHIC SCALE
LOCATION MAP
ASSOCIATED ENGINEERS & SURVEYORS OF SOUTH FLORIDA CORPORATION
CLIENT
HANMI BAPTIST CHURCH
PROJECT
BOUNDARY SURVEY
SCALE
1"=50'
PROJECT NO
00-545
SHEET NO
1 OF 1


FLAMINGO FRONTAGE RD.
V.I. PET RESORT
FUTURE RESIDENTIAL
FUTURE RESIDENTIAL
SITE DATA
CONCEPTUAL MASTER PLAN
HANMI BAPTIST CHURCH
TOWN OF DAVIE, FLORIDA
FOR: HANMI BAPTIST CHURCH
Engineers • Planners

MARK L. SCHMIDT

8320 W. Sunrise Boulevard, Suite 215
Plantation, FL 33322
Phone - 954.472.6450
Fax - 954.472.6420
E-Mail Address – bizops4mls@cs.com

August 27, 2002

VIA FACSIMILE: 954.525.3423

Mr. John Voigt
DOUMAR, ALLSWORTH, CURTIS,
CROSS, LAYSTROM, PERLOFF,
VOIGT, WACHS, MAC IVER & ADAIR, LLP
1177 Southeast Third Avenue
Fort Lauderdale, FL 33316-1109

RE: Hanmi Baptist Church
Proposed Rezoning of Tract 46

Dear John:

Thank you for sending the sight plan over for our perusal.

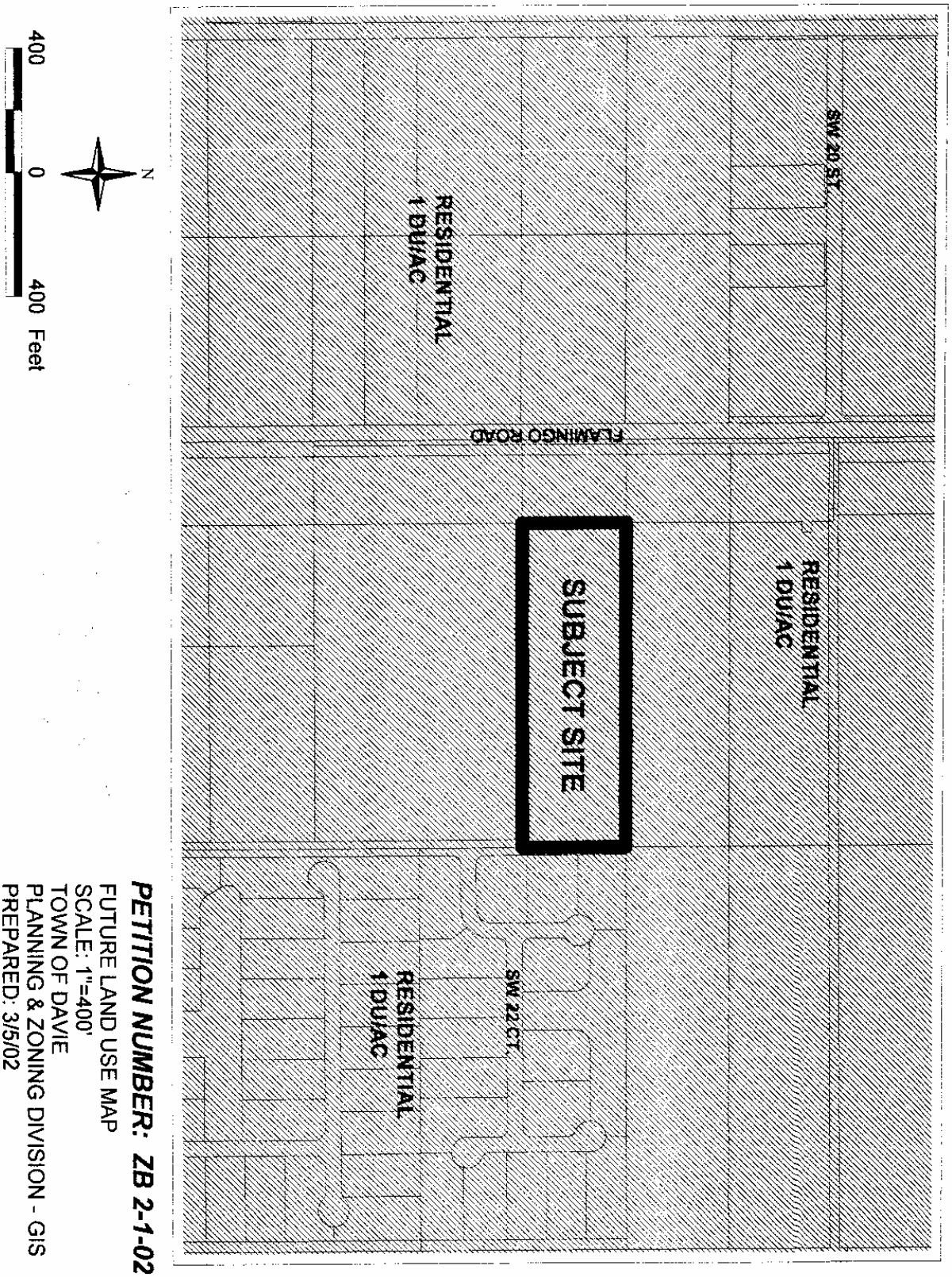
Felix Braverman, the Vice President of the Paradise Pines H.O.A., and I have reviewed the site plan and have one recommendation. We would like a 6' concrete wall as a barrier between the residential area and the church. This wall, of course, should be heavily landscaped and supported with a berm, as well.

With this recommended change, my wife and I along with Felix Braverman, Vice President representing the Paradise Pines H.O.A., believe this is an excellent site plan, and we recommend approval.

Yours truly,

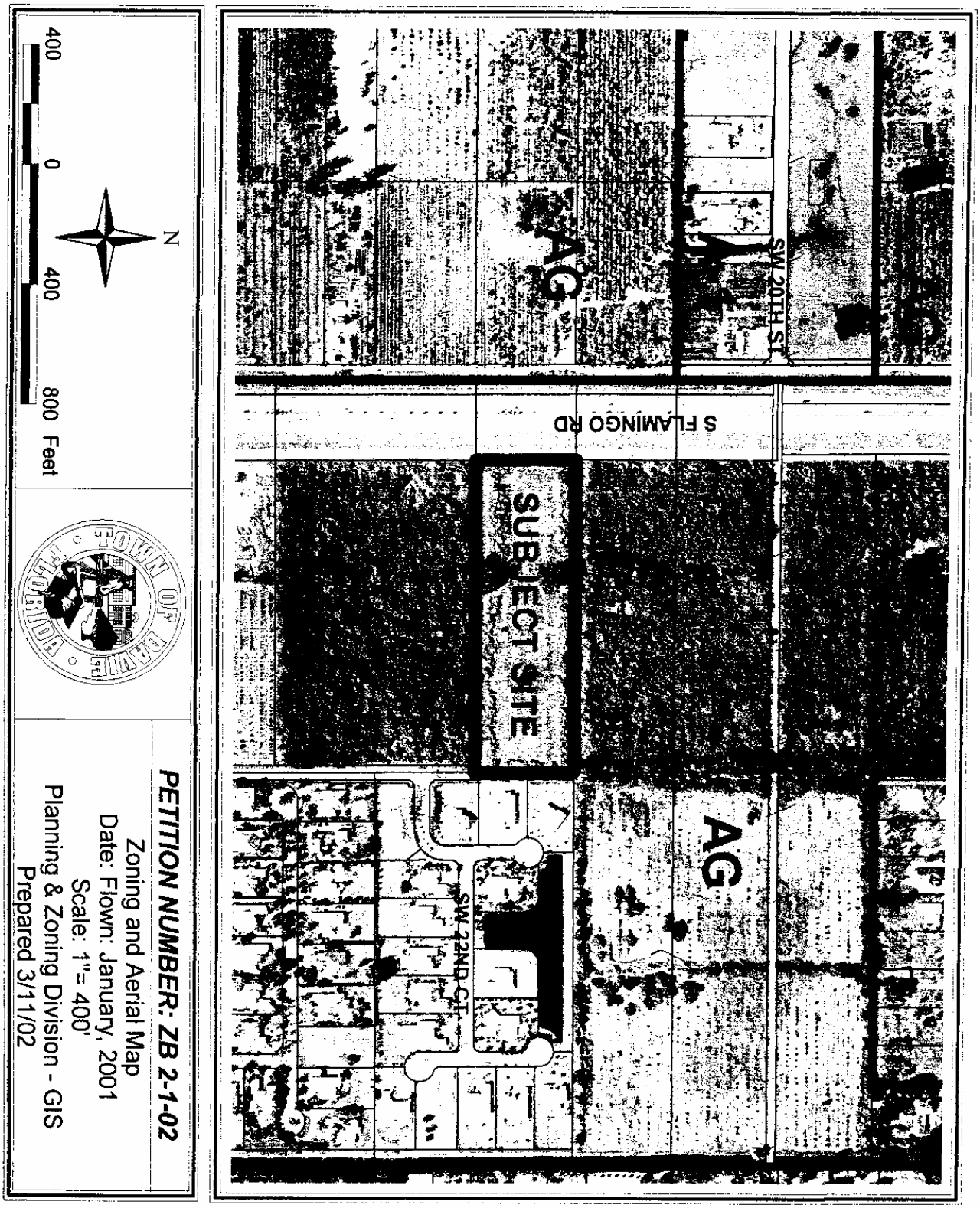
Mark L. Schmidt

Felix Braverman, Vice President
PARADISE PINES H.O.A.



PETITION NUMBER: ZB 2-1-02

FUTURE LAND USE MAP
SCALE: 1"=400'
TOWN OF DAVIE
PLANNING & ZONING DIVISION - GIS
PREPARED: 3/5/02


AG
AG
SW 20TH ST
S FLAMINGO RD
SUBJECT SITE
SW 22ND CT
N
400 0 400 800 Feet
TOWN OF DAVIE
FLORIDA
PETITION NUMBER: ZB 2-1-02
Zoning and Aerial Map
Date: Flown: January, 2001
Scale: 1"= 400'
Planning & Zoning Division - GIS
Prepared 3/11/02