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: David M. Abramson, Planner I

Quasi Judicial Hearing: Ordinance 1st Reading, ZB 3-3-04 / 04-276 / Dimar Plat, 3000 S.W. 64th Avenue / generally located on the north east corner of Davie Road and Reese Road

AFFECTED DISTRICT: District 1

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 3-3-04, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM M-4 (COUNTY), LIMITED HEAVY INDUSTRIAL DISTRICT (FORMAN AGREEMENT) TO B-1, NEIGHBORHOOD BUSINESS 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 .904 acre subject site **from:** M-4 (County), Limited Heavy Industrial **to:** B-1, Neighborhood Business District.

The purpose of this request is to rezone the subject site to a valid Town of Davie zoning designation. This request is in conformance with staff policy of requiring all parcels under development to be designated with a Town of Davie zoning designation and Ordinance 2003-21, adopted June 4, 2003.

The B-1, Neighborhood Business Zoning District permits for the development of commercial uses, including a bank, as proposed for this site. The B-1, Neighborhood Business Zoning District zoning would also prohibit many heavy industrial uses that are currently permitted by M-4 (County), Limited Heavy Industrial District (Forman Agreement).

The subject site meets all requirements in the Land Development Code that are needed to gain the B-1, Neighborhood Business zoning designation.

PREVIOUS ACTIONS: None

CONCURRENCES: At the April 28, 2003 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Vice-Chair Turin, to approve. (Motion carried 3-0). Mr. McLaughlin and Ms. Lee were absent.

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, Conceptual Site Plan, Land Use Map, Zoning and Aerial Map

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 3-3-04, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM M-4 (COUNTY), LIMITED HEAVY INDUSTRIAL DISTRICT (FORMAN AGREEMENT) TO B-1, NEIGHBORHOOD BUISNESS 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 M-4 (County), Limited Heavy Industrial District (Forman Agreement) to B-1, Neighborhood Business 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 M-4 (County), Limited Heavy Industrial District (Forman Agreement) to B-1, Neighborhood Business 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 B-1, Neighborhood Business 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 _____, 2004.

PASSED ON SECOND READING THIS _____ DAY OF_____, 2004.

ATTEST:

_____
MAYOR/COUNCILMEMBER

_____
TOWN CLERK

APPROVED THIS_____ DAY OF _____, 2004.

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

Applicant Information

Contract Purchaser:		**Petitioner:**	
Name:	Broward Schools Credit Union	**Name:**	Eric Anderson
Address:	5901 Del Lago Circle	**Address:**	399 West Camino Gardens Blvd.
City:	Sunrise, Florida 33316	**City:**	Boca Raton, Florida 33432
Phone:	(954) 809-5180	**Phone:**	(561) 362-0220

Background Information

Date of Notification: April 21, 2004 **Number of Notifications:** 12

Application History: No deferrals have been requested.

Application Request: Rezone the .904 acre subject site **FROM:** M-4 (County), Limited Heavy Industrial **TO:** B-1, Neighborhood Business District.

P & Z Board Recommendation: At the April 28, 2003 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Vice-Chair Turin, to approve. (Motion carried 3-0). Mr. McLaughlin and Ms. Lee were absent.

Address/Location: 3000 S.W. 64th Avenue / generally located on the north east corner of Davie Road and Reese Road

Future Land Use Plan Designation: Regional Activity Center (RAC)

Zoning: M-4 (County), Limited Heavy Industrial District (Forman Agreement)

Existing Use: Vacant land

Proposed Use: Financial Institution

Parcel Size: 39,378 square feet (.904 acre)

	Surrounding Uses:	**Surrounding Land Use Plan Designation:**
North:	Vacant land	Regional Activity Center (RAC)
South:	Restaurant	Regional Activity Center (RAC)
East:	Vacant land	Regional Activity Center (RAC)
West:	Cemetery	Regional Activity Center (RAC)

Surrounding Zoning:

North:	M-4 (County), Limited Heavy Industrial District (Forman Agreement)
South:	M-4 (County), Limited Heavy Industrial District (Forman Agreement)
East:	M-4 (County), Limited Heavy Industrial District (Forman Agreement)
West:	A-9 (County), Cemetery District (Forman Agreement)

Zoning History

Related Zoning History:

The subject property was annexed into the Town in 1985. A stipulated settlement agreement approved in 1985, established the "Forman Code" applicable to the annexed land.

Town Council approved the Regional Activity Center Land Use Plan Classification in 1998.

Previous Requests on same property:

Plat Request (P 7-3-89): Town Council approved this subdivide plat on August 2, 1989.

Plat Request (P 7-3-89): Town Council approved the revision to this subdivision plat on December 19, 1990.

Vacation Request (VA 4-1-91): Town Council approved this application to vacate a portion of an access easement lying within Parcels "A" and "B" of the Dimar Plat on May 15, 1991.

Site Plan Request (SP 2-1-95): Town Council approved Shell Oil Station (1,152 square foot station) Site Plan submittal on March 1, 1995.

Site Plan Request (SP 9-5-96): Town Council approved this expired Shell Oil Station (1,152 square foot station) Site Plan submittal due to the realignment of Reese Road on October 16, 1996.

Application Details

The petitioner is applying to rezone the subject site in order to develop a financial institution. The site contains a total of 39,378 square feet (.904 acre). The site is located on the northeast corner of Davie Road and Reese Road, approximately 300' south of State Road 84.

Neighboring to the north of the site and once Reese Road is a vacant parcel currently zoned M-4 (County). Adjacent to the east is parcel "B" of the Dimar Plat and is also vacant zoned M-4 (County). Contiguous to the south, directly across the realigned Reese Road is Shonney's Restaurant zoned M-4 (County). Moreover, to the west across Davie Road is Forest Lawn Cemetery zoned A-9 (County).

Currently, the subject site is zoned M-4 (County), Limited Heavy Industrial District (Forman Agreement) which is not a valid Town of Davie zoning district. Therefore, prior to applying for a site plan approval, staff requested the petitioner to rezone the .904-acre subject site to a Town zoning designation. The petitioner has requested to rezone the subject site from M-4 (County), Limited Heavy Industrial District (Forman Agreement) to B-1, Neighborhood Business District.

The subject site's Land Use Plan designation is Regional Activity Center (RAC). The Town's B-1, Neighborhood Business District zoning designation is consistent with the underlying Land Use designation.

Applicable Codes and Ordinances

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

Section 12-24 (J)(4) of the Land Development Code, The B-1 District is intended to implement the commercial designation of the Town of Davie Comprehensive Plan by providing for a business area to service the local neighborhood shopping and personal service needs of a limited surrounding residential area. Retail stores permitted herein are intended to include mainly convenience goods, which are usually a daily necessity for a residential neighborhood.

Stipulated settlement agreement between the Hamilton M. and Blanche C. Forman Christian Foundation and various other Plaintiffs and the Town of Davie, entered into on November 12, 1985, Broward County Circuit Court Case No. 85-003046-CT.

Comprehensive Plan Considerations

This parcel is inside the Regional Activity Center (RAC) Land Use Plan designation that was adopted by Town Council in 1998.

Planning Area: The subject property falls within Planning Area 6. Planning Area 6 includes lands located south of State Road 84, east of University Drive and north of Nova Drive, together with lands located east of the Florida Turnpike and west of State Road 7, south of State Road 84 and north of the south Town limits. The majority of this planning area is industrially zoned and land used plan designated. There are small commercial parcels along the State Road 7 corridor with one large retail center being located on the southeast corner of University Drive and State Road 84. Commercial flexibility has been applied to lands designated industrial on Nova Drive.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 97.

Applicable Goals, Objectives & Policies:

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.

Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-6: Town land development regulations shall address incompatible land uses through requirements such as buffering and setbacks.

Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, 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 and working environments.

Staff Analysis

The purpose of this request is to rezone the subject site from M-4 (County), Limited Heavy Industrial District (Forman Agreement) to a valid Town of Davie zoning district. This request is in conformance with staff policy of requiring all parcels under development to be designated with a Town of Davie zoning designation and Ordinance 2003-21, adopted June 4, 2003.

The B-1, Neighborhood Business Zoning District permits for the development of commercial uses, including a bank, as proposed for this site. The B-1, Neighborhood Business Zoning District zoning would also prohibit many heavy industrial uses that are currently permitted by M-4 (County), Limited Heavy Industrial District (Forman Agreement).

The subject site meets all requirements in the Land Development Code that are needed to gain the B-1, Neighborhood Business zoning designation.

Land Use and Zoning: The subject site lies in the Regional Activity Center (RAC) per the Future Land Use Map. In addition, lands designated Regional Activity Center (RAC) are permitted to be zoned B-1, Neighborhood Business Zoning District.

Compatibility: The B-1, Neighborhood Business District is compatible with the other surrounding zoning districts. This area is one of the last sites prior to a transition from commercial and industrial uses to community facilities and multi family residential. The site is located on the northeast corner of Davie Road and Reese Road, just south of State Road 84. Neighboring to the north and east of the site are vacant parcels designated for commercial use. Adjacent to the south is a Shonney's, a commercial restaurant. Furthermore, to the west across Davie Road is Forest Lawn Cemetery.

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 applicant does not need to submit a Land Use Plan Amendment to change the subject site. Based upon approval, at second reading, of the proposed amendment, the proposed zoning designation of B-1 Neighborhood Business District is consistent with the underlying land use category of Regional Activity Center (RAC).

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

To the north, east, and south the properties are zoned of M-4 (County). And to the west is A-9 (County). Although none of adjacent areas are specifically zoned B-1 Neighborhood Business District, B-1 zoning designation will integrate with present and future surrounding commercial uses.

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

The existing M-4 (County), Limited Heavy Industrial District (Forman Agreement) boundaries are logically drawn, and the proposed designation to B-1, Neighborhood Business District is valid Town of Davie zoning district.

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

The proposed B-1, Neighborhood Business District designation will not have any undesirable impacts on residential development surrounding the subject site. Eliminating the M-4 (County), Limited Heavy Industrial District (Forman Agreement), should improve living conditions with businesses and commercial uses now reviewed under the zoning regulations of the Town of Davie.

(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;

Rezoning the subject site from M-4 (County) to B-1, Neighborhood Business District will not increase traffic due to the fact that the subject site is already platted for commercial uses.

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

Rezoning the subject site from M-4 (County) to B-1, Neighborhood Business District will have a positive impact on surrounding property values as the Town of Davie code will ensure that development will be done in accordance with the Town of Davie Land Development Regulations.

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

The proposed change will be developed in accordance with existing land development regulations. Surrounding property will be able to develop in accordance with all exiting land development regulation.

(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;

Rezoning the subject property is not a grant of special privilege per the Town's Comprehensive Plan and Land Development Code. Any property owner may request a rezoning consistent with the underlying land use plan category.

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

The existing M-4 (County), Limited Heavy Industrial District (Forman Agreement) is not a valid Town of Davie zoning district. Therefore, prior to receiving a site plan approval for this subject site, the Town required the applicant to rezone the property to a current Town of Davie District.

(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.

Designating the site B-1, Neighborhood Business District will allow for the parcel to be developed in a manner consistent with the land use, and hence, be the most appropriate designation to 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 April 28, 2003 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Vice-Chair Turin, to approve. (Motion carried 3-0). Mr. McLaughlin and Ms. Lee were absent.

Exhibits

1. Justification
2. Future Land Use Map
3. Subject Site, Zoning and Aerial Map
4. Proposed Site Plan Sketch

Prepared by: _____ Reviewed by: _____

"Exhibit 1" ***(Justification Letter)***

anderson
architecture, inc.

03.18.04

David Abramson, Planner
Town of Davie
6591 Orange Drive
Davie, Florida 33314

Re: **Justification Letter - Rezoning Request**
Parcel A, Dimar Plat
NE corner of Reese Road and Davie Road

Dear David,

As you are aware, this property was never assigned a zoning classification from the Town of Davie, making a *Rezoning Request* a necessity for any use of this property (current zoning is 'County M-4'). With the intended use as a financial institution and parcel's size (39,377 SF - .904 acres), the most appropriate classification for this property is B-1.

Attached to this application is a copy of the intended Site Plan for development of the site. Formal application for Site Plan Approval will be submitted on or before April 20th.

If you have any questions regarding this request or need additional information, please do not hesitate to call.

Sincerely,

Eric Anderson, Principal

cc: K. Winters, BSCU
M.Garreffi, Itasca

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PLANNING & ZONING DI

399 W. CAMINO GARDENS BLVD. • SUITE 202 • BOCA RATON, FLORIDA 33432 • V: 561.362.0220 • F: 561.362.0224 • www.andersonarchitecture.com
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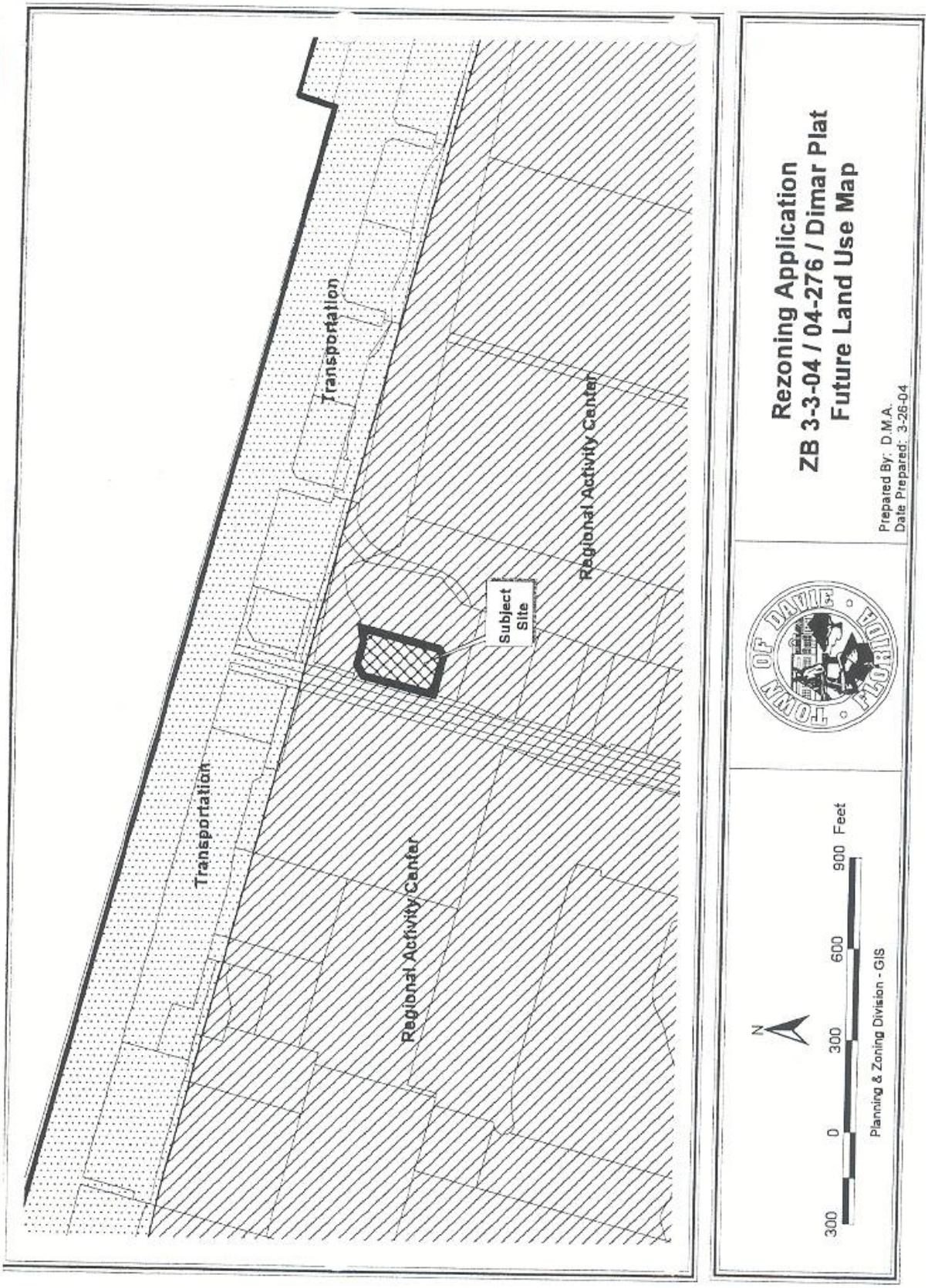
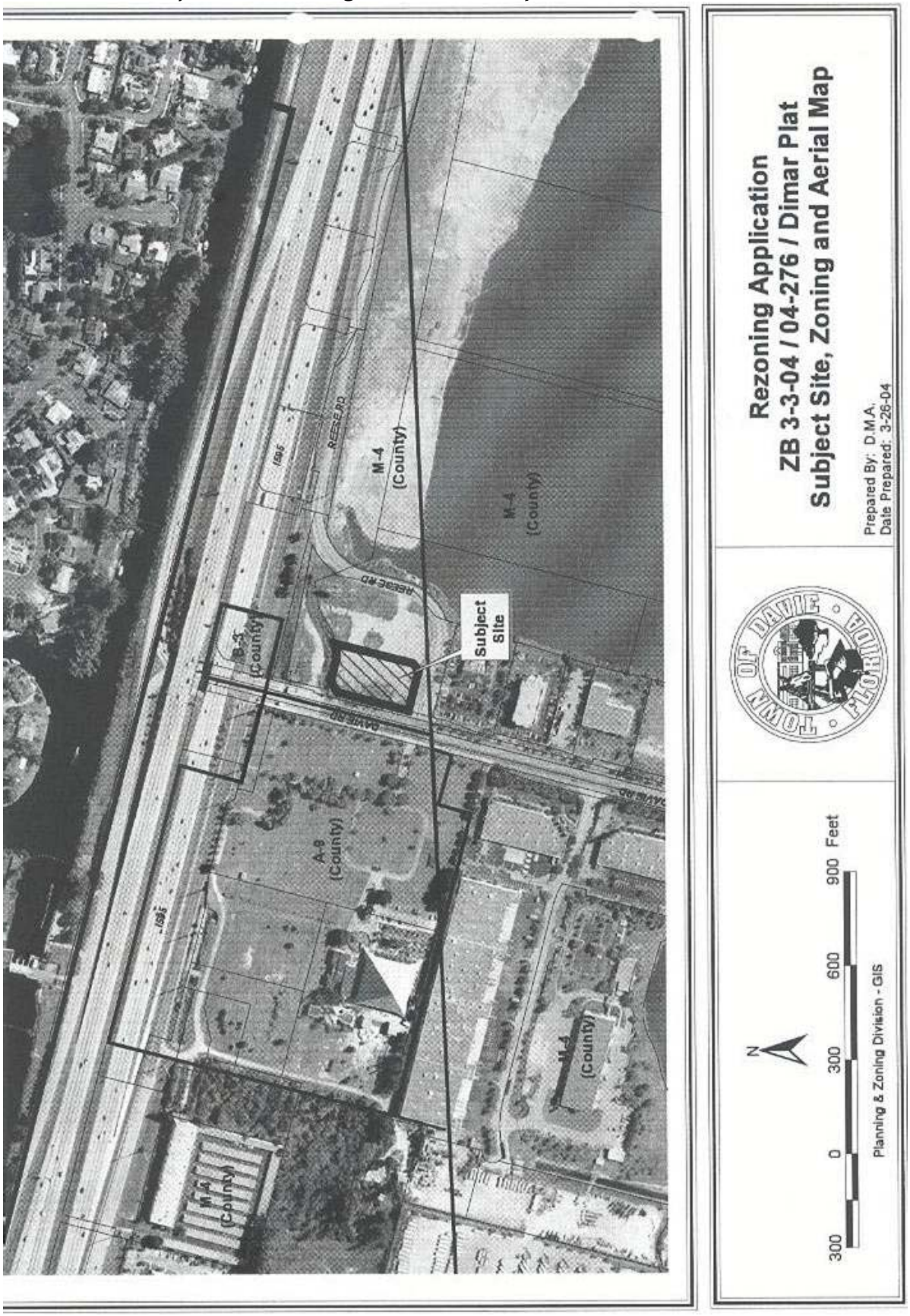
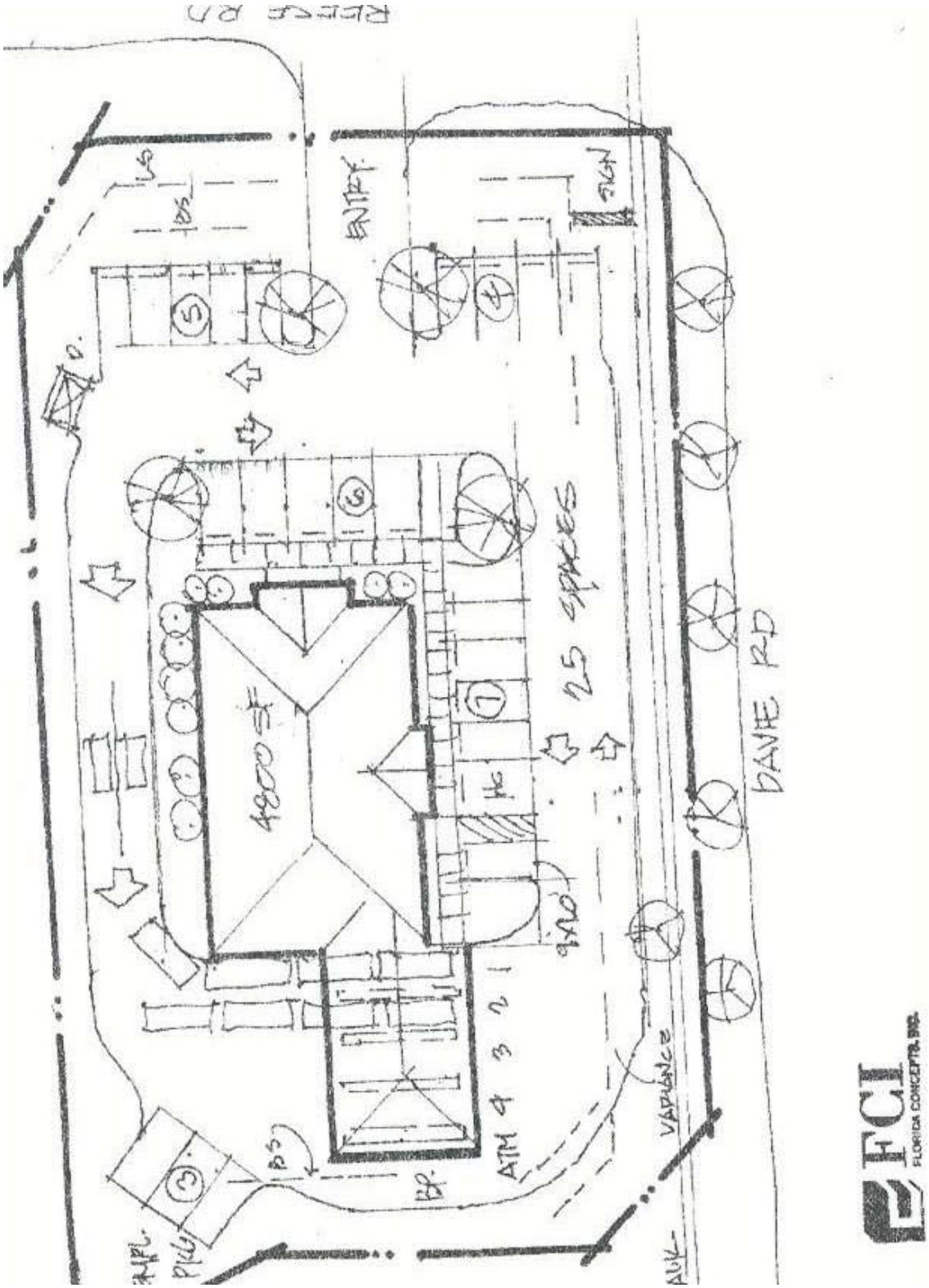
"Exhibit 2" ***(Future Land Use Map)***



"Exhibit 3" ***(Subject Site, Zoning, and Aerial Map))***



"Exhibit 4" ***(Proposed Site Plan Sketch)***



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