

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: Quasi Judicial Hearing: Ordinance 1st Reading, ZB 8-1-04 Regency Square, Regency Square at Broward Joint Venture/C. William Laystrom Jr., 4900 SW 148 Avenue (Volunteer Road)/Generally located on the west side of SW 148 Avenue, south of Griffin Road.

AFFECTED DISTRICT: District 2

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 8-1-04 REGENCY SQUARE, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM: PUD (BROWARD COUNTY); TO: B-3, PLANNED BUSINESS CENTER DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The request is to rezone 19.99 acres of the Regency Square Shopping Center located on the west side of SW 148 Avenue (Volunteer Road), south of Griffin Road. When the property was annexed into the Town in 1986, the Broward County PUD zoning was retained. However, since this zoning designation is not a valid Town of Davie zoning district the property must be rezoned in order to allow the development of the vacant parcels within the center. Three site plans are in the review process for structures that can accommodate a total of 46,000 square feet of general office, medical office, and retail uses.

According to the Land Development Code, the parcel meets the minimum technical requirements for the B-3, Planned Business Center District zoning classification. The minimum lot size required is 43,560 square feet, and the subject site is 19.99 acres (870,764.4 square feet), minimum lot frontage required is 150' and the site has over 700' of frontage on Volunteer Road, minimum depth required is 200' and the site is over 800' deep.

The existing delineated outparcels are recorded legal lots of record, and as such they do not have to individually meet the B-3, Planned Business Center District lot size, frontage, and depth requirements in order to be developed. However, each vacant site must be designed to meet the current Town of Davie standards in terms of open space, landscaping, and parking. The existing grocery store, in-line retail, gas station, parking lot, and telecommunications facility have all been developed under the Broward County PUD zoning standards.

Based upon the scale of the development (the existing shopping center is over 100,000 square feet and less than 300,000 square feet) the B-3, Planned Business Center District designation is the only Town of Davie designation that may be requested without the application and granting of a variance.

The master site plan indicates that the other B-3, Planned Business Center District development standards are being met with the provision of the required 25' setbacks on all sides except 50' on sides abutting residentially zoned, occupied, or Land Use Plan designated properties, 30% open space, and the following maximums are being met: height 35', and 40% building coverage. The proposed square footage of commercial use is consistent and allowed by the Land Development Code and restrictive note on the plat. Additionally, the owner has voluntarily provided a Declaration of Restrictions that prohibits Adult facilities, Adult entertainment facilities, and Automobile Dealerships.

PREVIOUS ACTIONS: At the February, 16, 2005, meeting, the applicant requested that the item be tabled to March 2, 2005, in order to allow for more time to address the concerns of adjacent residents.

At the March 2, 2005, meeting, after a discussion of conditions for approval, the applicant requested that the item be tabled to April 7, 2005, in order to allow for more time to address the concerns of adjacent residents.

At the April 7, 2005, meeting the applicant requested that the item be tabled to May 4, 2005.

At the May 4, 2005, meeting the applicant requested that the item be tabled to May 18, 2005.

At the May 18, 2005, meeting the applicant requested that the item be tabled to July 6, 2005.

At the July 6, 2005, meeting the applicant requested that the item be tabled to July 20, 2005.

At the July 20, 2005, meeting the applicant requested that the item be tabled to August 3, 2005.

CONCURRENCES: At the January 26, 2005, Planning and Zoning Board meeting, Vice-Chair Turin made a motion, seconded by Ms. Lee, to approve subject to the condition of an eight-foot wall as requested by the residents and that the developer look at some kind of added landscaping. (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, Future Land Use Plan Map, Zoning and Aerial Map, Justification, Declaration of Restrictions, Master Site Plan

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 8-1-04 REGENCY SQUARE, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM: PUD (BROWARD COUNTY); TO: B-3, PLANNED BUSINESS CENTER 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 PUD (Broward County); TO: B-3, Planned Business Center District;

WHEREAS, the subject property has been developed in accordance with the PUD (Broward County) zoning regulations, and it has been agreed that if any of the structures on the outparcels are destroyed by more than twenty (20) percent and if the in-line retail center is destroyed by more than fifty (50) percent of their assessed values at the time of destruction that said premises shall not be used again accept in accordance with the current regulations of the B-3, Planned Business Center District; as amended from time to time subject to the provisions of Paragraph 2 below;

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 PUD (Broward County); TO: B-3, Planned Business Center District:

- a. The subject property is described in Exhibit "A", which is attached hereto and made a part hereof;
- b. The subject property shall be developed in substantial conformance with the proposed Master Site Plan that is part of Exhibit "A", which is attached hereto and made part hereof;
- c. The owner has voluntarily executed a Declaration of Restrictions on the property that is part of Exhibit "A", which is attached hereto, and made a part hereof;

~~d. The existing telecommunications tower is to be considered legal conforming for the purposes of collocation;~~

SECTION 2. The Town of Davie and property owner acknowledge that the existing development on the property took place in accordance with the Broward County PUD zoning designation, the Town's current ordinances require that the property be rezoned to a valid Town of Davie zoning district; and because of these circumstances the following allowances, commitments, and/or restrictions are being agreed to by both parties in conjunction with the rezoning request:

a. That the property owner of the existing in-line retail center will install and maintain an 8' wall to buffer the existing residential properties as shown on the master plan attached hereto as Exhibit "A";

b. That the property owner of the existing in-line retail center will remedy any of the site's deficiencies in landscape materials, improve the appearance of the landscape buffer along Palomino Drive, and maintain the landscaping on the property in the future as shown on the master plan attached hereto as Exhibit "A", all in accordance with the Town Code;

c. That the existing "U-Haul" business use may remain as a legal non-conforming use which shall not be expanded in any manner;

d. That the existing telecommunications facility may remain as a legally permitted use and may be expanded solely for the purpose of collocation;

e. That ~~a~~ the existing daycare facility, gas station/convenience store and grocery store are allowed to remain as a legally permitted uses which may be expanded and ownership of said businesses may be transferred notwithstanding any future modifications as to uses permitted under the B-3 zoning district;

f. That if the existing in-line retail center is destroyed in excess of fifty (50) percent of its assessed value at the time of destruction, that said premises shall not be used except in accordance with the current standards of the B-3, Planned Business Center District, as may be amended from time to time except as otherwise stated herein;

g. That all of the parcel size and dimensions of the existing outparcels are to be considered legally conforming even if partially or totally destroyed, for the purpose of redevelopment and any site plan or use change;

h. That if any of the existing structures on the outparcels are destroyed in excess of twenty (20) percent of their assessed valued at the time of destruction, that said outparcel shall not thereafter be used for any use other than those uses listed as permitted or conditional use in the B-3, Planned Business Center District, as may be amended from time to time. Notwithstanding the provisions of Section 2(g) above to the contrary, any outparcel redevelopment shall be designed in accordance with the B-3, Planned Business Center District development standards as may be amended from time to time.

~~SECTION 2.~~ 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, B-3, Planned Business Center District.

~~SECTION 3.~~ SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

~~SECTION 4.~~ 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.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2005.

PASSED ON SECOND READING THIS _____ DAY OF _____, 2005.

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2005.

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

Applicant Information

Owner:

Name: Regency Square at Broward Joint Venture
SEC Commercial Realty Group, Inc.
Address: 1541 Sunset Drive, Suite 300
City: Coral Gables, FL 33143
Phone: (305) 666-2140

Petitioner:

Name: C. William Laystrom Jr.
Doumar, Allsworth, et al.
Address: 1177 SE 3 Avenue
City: Fort Lauderdale, FL 33316
Phone: (954) 762-3400

Background Information

Date of Notification: January 19, 2005 **Number of Notifications:** 180

Application History: Seven (7) deferrals have been requested.

Planning and Zoning

Board Recommendation: Approval with conditions was recommended on January 27, 2005.

Application Request: Rezone the 19.99 acres subject site FROM: PUD (Broward County);
TO: B-3, Planned Business Center District.

Address/Location: 4900 SW 148 Avenue (Volunteer Road)/Generally located on the
west side of SW148 Avenue, south of Griffin Road.

Future Land Use

Plan Map Designation: Commercial

Existing Zoning: PUD (Broward County)

Proposed Zoning: B-3, Planned Business Center District

Existing/Proposed Use: Regency Square Shopping Center

Net Parcel Size: 19.99 acres (870,764.4 square feet)

Surrounding Uses:

North: Shell Gas Station, Burger King, Outback Restaurant, Martino Tire
South: Chelsea at Ivanhoe
East: Agricultural, Single family dwellings (Town of Southwest Ranches)
West: Lake

Surrounding Future Land Use Plan Map Designations:

North: Commercial
South: Residential (3 DU/AC)
East: Rural Ranches (Town of Southwest Ranches)
West: Commercial

Surrounding Zoning:

North: PUD (Broward County)
South: PUD (Broward County)
East: Rural Ranches (Town of Southwest Ranches)
West: B-3, Planned Business Center District

Zoning History

Related Zoning History: The Ivanhoe PUD was approved and developed under Broward County in 1980. Broward County Ordinance 80-76, approved by Broward County September 29, 1980, rezoned the 864 acre Ivanhoe Development from A-1 to Planned Unit Development (PUD). The Regency property is part of the Ivanhoe PUD. The Regency Plat was recorded on January 7, 1985. Town of Davie Ordinance 86-14, approved February 1986, annexed the PUD into the Town of Davie and kept Broward County Ordinance 80-76 in effect.

Previous Requests on same property:

The site plan, SP 6-14-99, Regency Park Office Center, was approved on October 6, 1999.

The delegation request, DG 10-2-99, to change the plat note from “382 multi-family units, 25.5 acres of commercial use and 10.5 acres of office park” to “182 single family units, 172,500 square feet of commercial use, a 120 room hotel, 12,500 square feet of restaurant and 140,000 square feet of office use,” was approved on November 17, 1999.

The site plan, SP 12-8-99 Holiday Inn Express, was approved on February 2, 2000.

The delegation request, DG 10-4-02, to change the restrictive note on the Regency Plat to “This plat is restricted to 182 single family homes, 100,000 square feet of automobile dealership,

165,000 square feet of automobile storage, and 235,454 square feet of commercial use," was approved on December 4, 2002.

The rezoning, ZB 12-2-02 Town of Davie, to B-3, Planned Business Center District was approved on December 17, 2003.

The site plan, SP 10-7-02 Warren Henry, was approved on December 17, 2003.

The developer's agreement, DA 9-1-03, which provides for use restrictions and off site improvements related to the Warren Henry site plan, was approved on December 17, 2003.

The master site plan MSP 8-1-04, SP 8-8-04 parcel A site plan, SP 8-9-04 parcel B site plan, SP 11-1-04 parcel C site plan, where approved at the July 6, 2005, Town Council meeting, on the consent agenda subject to the approval of the rezoning ZB 8-1-04, all staff and Site Plan Committee recommendations, and 1) Installation of pavers under the drive thru overhang of each building; 2) Enhanced light poles for each outparcel. Fixtures to remain as proposed; 3) Payment of the sum of \$5,000 to the Town of Davie for a multi-use crossing along Griffin Road or such other project as the Town may designate.

Applicable Codes and Ordinances

§12-2 of the Land Development Code requires that all real property within the Town to be designated with a valid Town of Davie zoning district as established in the Land Development Code, Chapter 12, Article II, prior to issuance of a development permit.

§12-24 (J) (6) of the Land Development Code, Planned Business Center (B-3) District. The B-3 District is intended to implement the commercial designation of the Town of Davie Comprehensive Plan by providing for a business area to meet the shopping and service needs of large sections of the town or metropolitan areas. Such business generally requires considerable ground area, do not cater directly to pedestrians, and need a conspicuous and accessible location convenient for motorists.

§12-55. Scale of nonresidential development. Community shopping centers in the B-3, Planned Business Center District may be 100,000 to 300,000 square feet, with no individual building being allowed to be greater than 100,000 square feet.

§12-83 of the Land Development Code, Conventional Nonresidential Development Standards, B-3, Planned Business Center District requires the following minimums: lot area of 43,560 square feet, 150' frontage, 200' depth, 25' setbacks on all sides except 50' on sides abutting residentially zoned, occupied, or Land Use Plan designated properties, 30% open space, and the following maximums: height 35', 40% building coverage.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 1. This Planning Area constitutes the southwestern most portion of the Town, encompassing all of the land south of Griffin Road and west of SW 148 Avenue (Volunteer Road). The Ivanhoe development constitutes most of this planning area, which is essentially programmed for low density (3 dwellings per acre) residential development. There are parcels designated for commercial use located in the southern and northern ends of the Ivanhoe development at the intersection of I-75 with Sheridan and Griffin Roads, and Orange Drive.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 117.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 5: Consistency of Development with Comprehensive Plan, Policy 5-2:* The (re)zoning, (re)planning, and site planning of land shall be in compliance with the density ranges shown on the Davie Future Land Use Plan map and the applicable Future Land Use Designation provisions as contained in the Permitted Use portion of the Implementation Section.

Future Land Use Plan, Objective 5: Consistency of Development with Comprehensive Plan, Policy 7-1: The Town shall endeavor to expand its economic base through expansion of the commercial sector of its economy.

Future Land Use Plan, Objective 5: Consistency of Development with Comprehensive Plan, Policy 7-3: Zoning regulations shall provide for varying intensities of commercial development, and direct application of appropriate districts where compatible with adjacent and surrounding residential uses.

Future Land Use Plan, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-3: Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Application Details

The request is to rezone 19.99 acres of the Regency Square Shopping Center located on the west side of SW 148 Avenue (Volunteer Road), south of Griffin Road. When the property was annexed into the Town in 1986, the Broward County PUD zoning was retained. However, since this zoning designation is not a valid Town of Davie zoning district the property must be rezoned in order to allow the development of the vacant parcels within the center. Three site plans are in the review process for structures that can accommodate a total of 46,000 square feet of general office, medical office, and retail uses.

Staff Analysis

According to the Land Development Code, the parcel meets the minimum technical requirements for the B-3, Planned Business Center District zoning classification. The minimum lot size required is 43,560 square feet, and the subject site is 19.99 acres (870,764.4

square feet), minimum lot frontage required is 150' and the site has over 700' of frontage on Volunteer Road, minimum depth required is 200' and the site is over 800' deep.

The existing delineated outparcels are recorded legal lots of record, and as such they do not have to individually meet the B-3, Planned Business Center District lot size, frontage, and depth requirements in order to be developed. However, each vacant site must be designed to meet the current Town of Davie standards in terms of open space, landscaping, and parking. The existing grocery store, in-line retail, gas station, parking lot, and telecommunications facility have all been developed under the Broward County PUD zoning standards. The existing telecommunications tower was approved prior to the new telecommunications ordinances passed by Town Council. Under the new ordinance the existing tower would not be allowed to co-locate new antennae. However, considering the tower is an existing legal use would allow for collocation as is encouraged under the new regulations. Staff recommends, consistent with the purpose of the new telecommunications ordinances, that the tower be considered legal non-conforming for the purposes of collocation.

Based upon the scale of the development (the existing shopping center is over 100,000 square feet and less than 300,000 square feet) the B-3, Planned Business Center District designation is the only Town of Davie designation that may be requested without the application and granting of a variance.

The master site plan indicates that the other B-3, Planned Business Center District development standards are being met with the provision of the required 25' setbacks on all sides except 50' on sides abutting residentially zoned, occupied, or Land Use Plan designated properties, 30% open space, and the following maximums are being met: height 35', and 40% building coverage. The proposed square footage of commercial use is consistent and allowed by the Land Development Code and restrictive note on the plat. Additionally, the owner has voluntarily provided a Declaration of Restrictions that prohibits Adult facilities, Adult entertainment facilities, and Automobile Dealerships.

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 Future Land Use Plan Map designates the parcel as Commercial and the comprehensive plan allows properties with this to be rezoned to B-3, Planned Business Center District.

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

Designating the site B-3, Planned Business Center District is directly related to the adjacent B-3, Planned Business Center District and PUD (Broward County) designations. The designation does not increase the development rights that the owner now possesses.

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

The Broward County PUD zoning district boundaries were drawn logically, however since this is not a valid Town of Davie designation the shopping center can not be built-out without rezoning the site.

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

Designating the site B-3, Planned Business Center District is not expected to adversely affect living conditions in the neighborhood. The owner desires to build-out the center with general office, medical office, and retail uses, which all permitted by the Land Development Code and restrictive note on the plat.

- (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;

Changing the parcel's zoning to B-3, Planned Business Center District will not generate more traffic than what is anticipated by the underlying Future Land Use Plan Map designation of Commercial. The impact of the proposed amount of development was reviewed, considered and approved by the Town and Broward County prior to approval of the restrictive note on the plat.

- (f) The proposed change is not expected to adversely affect other property values;

The shopping center is existing and its build out should not have a negative impact on the value of the adjacent properties.

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

Designating the site B-3, Planned Business Center District will not deter the adjacent properties from being developed, as this designation does not increase the existing development rights on the property.

- (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;

Approval of this rezoning request will not give the owner a unique benefit that harms the welfare of the general public. The benefit the owner will get is the ability to request site plan approvals to build-out the shopping center with allowable and platted uses.

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

The existing Broward County PUD zoning is not a valid Town of Davie zoning district and the shopping center can not be built-out without a change to the site's zoning classification.

- (j) The proposed zoning designation is the most appropriate designation to enhance the Town's tax base given the site's 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-3, Planned Business Center District to allow the shopping center to be built-out is a necessary an appropriate action. The property has established development rights that can not be exercised without rezoning the site. Because of the scale of the shopping center, the B-3, Planned Business Center District is the only Town of Davie designation that may be applied without the application and approval of a variance. Additionally, to help ensure that the center is a compatible family oriented development, the owner has voluntarily provided a Declaration of Restrictions that prohibits Adult facilities, Adult entertainment facilities, and Automobile Dealerships.

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 January 26, 2005, Planning and Zoning Board meeting, Vice-Chair Turin made a motion, seconded by Ms. Lee, to approve subject to the condition of an eight-foot wall as requested by the residents and that the developer look at some kind of added landscaping. (Motion carried 5-0)

Town Council Action

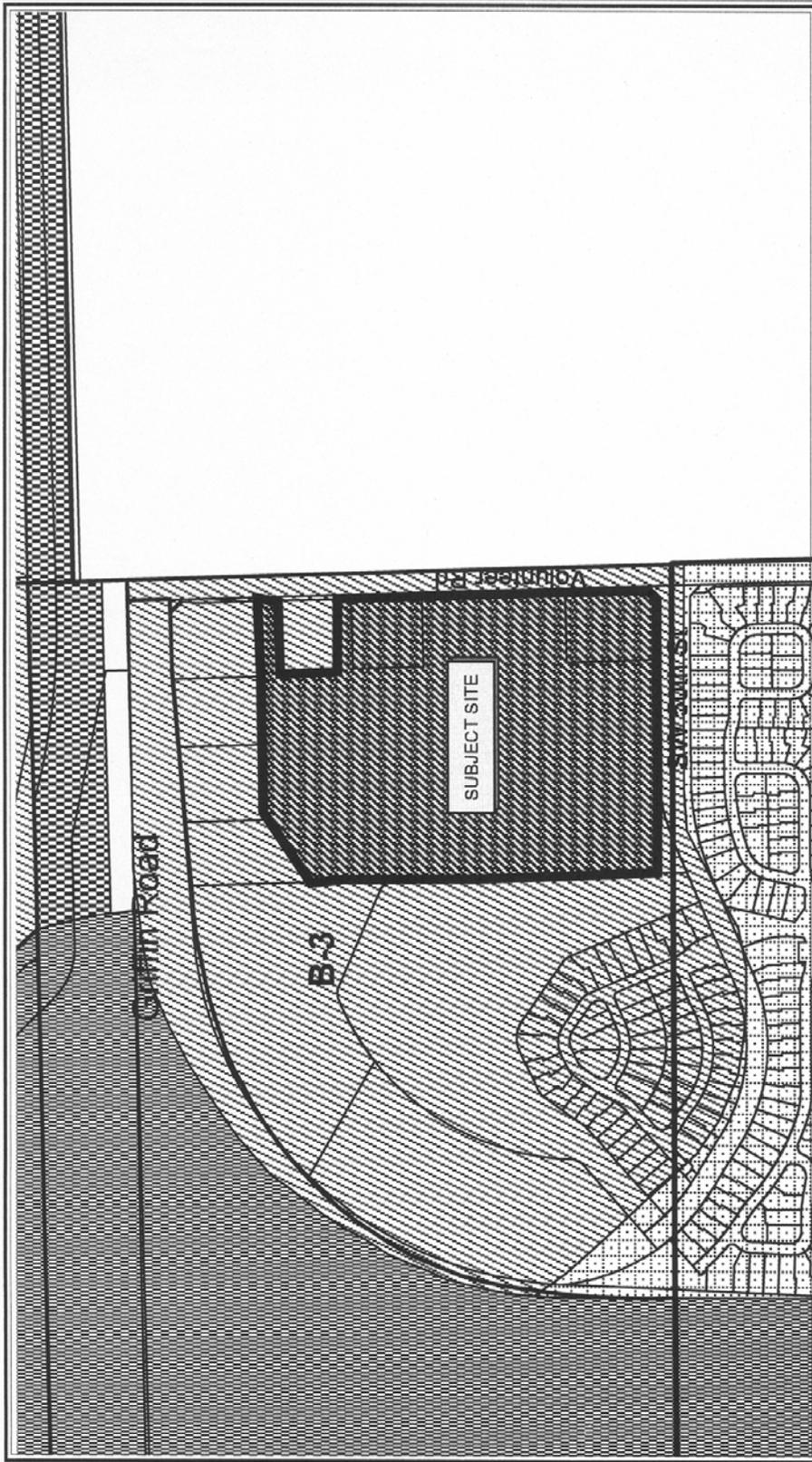
Exhibits

1. Future Land Use Plan Map

2. Zoning and Aerial Map
3. Justification
4. Declaration of Restrictions
5. Master Site Plan

Prepared by: _____

Reviewed by: _____



REZONING ZB 8-1-04, Regency Square Land Use Map

Prepared By: A.J.P.
Date Prepared: 1-14-05



Planning & Zoning Division



**REZONING
ZB 8-1-04, Regency Square
Zoning and Aerial Map**

Prepared By: A.J.P
Date Prepared: 1-14-05



Planning & Zoning Division

ZONING APPLICATION REVIEW CHECKLIST

August 2, 2004

Town of Davie

Section 12-307

Planning and Zoning Board Review Checklist:

The proposed re-zoning of the site to a B-3 Commercial District is being requested by staff to replace the County PUD Commercial designation currently applicable to the site. The following provides the applicant's responses to the evaluation criteria for new zoning petitions:

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

The change will be consistent with the Commercial Land Use Classification shown for the site. The land is already zoned for commercial purposes.

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

The change will not create an isolated zoning district.

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

The site is currently zoned for commercial development and most of the site is used for that purpose. The current lines are logically drawn.

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

As noted above, the site is currently zoned for commercial use. The purpose of this re-zoning request is to change the existing County Commercial PUD classification on the site to a more restrictive Town category of B-3 commercial.

- (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,

CHARLES PUTMAN & ASSOCIATES

PLANNERS | LAND DEVELOPMENT CONSULTANTS

Boca Raton, Florida | (561) 994-6411

or otherwise affect public safety;

The re-zoning of the site will not serve to increase the number of vehicular trips that would be generated from the subject site.

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

The change will have no impact on surrounding property values in that the land included in the application is already zoned for commercial use. In fact, most of the land is currently developed for retail commercial use.

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

As noted above the change in zoning will not create a change of land use patterns in the 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;

No special privilege will be granted.

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

The City has requested that the zoning be changed so as to comply with current ordinances. The applicant has no objections to retaining the current PUD zoning.

- (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.

As noted above, the Town has recommended the B-3 zoning as the appropriate classification for the subject site.

Prepared by:
C. William Laystrom, Jr.
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 Regency Square At Broward County Joint Venture a Texas Joint Venture whose mailing address is 1541 Sunset Drive, Suite 300, Coral Gables, FL., 33143, 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, voluntarily make the following Declaration of Restrictions covering the above-described real 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 above-described property shall not be used for the following uses:

- Adult Arcade Amusement Centers
- Adult Facilities
- Adult entertainment facilities
- Automobile Dealerships
- Bars and Lounges (except as an accessory use to a restaurant)
- Bingo Establishments
- Dance Halls

Clubs
Game Rooms
Arcades
Mortuaries
Pawnshops
Pool Rooms
Private Clubs
Repair Shops
Additional Automotive Repair or Sales Facilities
Adult Arcades/Casinos

2. These restrictions shall not be construed to grant a use not allowable under the Town of Davie B - 3 zoning district.

3. 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.

4. 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.

5. 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 18th day of July, 2005.

Signed, sealed and delivered:

REGENCY SQUARE AT BROWARD
JOINT VENTURE, A TEXAS JOINT
VENTURE

By: REGENCY SQUARE OF BROWARD
INC., A FLORIDA CORPORATION
GENERAL PARTNER

By: Gerald M. Higier
Gerald M. Higier, as President of
Regency Square of Broward County,
Inc.

WITNESS:

David J. Ardine

Print: DAVID J. ARDINE

WITNESS:

Carmen L. Gallival

Print: CARMEN L. GALLIVAL

STATE OF FLORIDA)
SS:
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this 15th day of July, 2005, by Gerald M. Higier, as President of Regency Square of Broward, Inc., general partner of Regency Square at Broward Joint Venture. He/She is personally know to me or has produced _____ as identification.

NOTARY PUBLIC:



Lisa Guzman
My Commission 00082506
Expires December 21, 2006

Print Name: _____

Lisa Guzman
Lisa Guzman

First American Title Insurance Company

FATIC File No.: FL02-4862C
Customer Reference: NCS-797-CHI1/Regency
Issued pursuant to Commitment No.: FA-C 4923
Policy No.: FA-38-481276 / Simo

Schedule A (Continued)

Parcel A:

Tract A, REGENCY, according to the Plat thereof, as recorded in Plat Book 121, Page 48, in the Public Records of Broward County, Florida.

LESS: PARCEL 1

A parcel of land lying in the Southeast 1/4 of Section 28, Township 50 South, Range 40 East, being a portion of Tract A, REGENCY, according to the Plat thereof, as recorded in Plat Book 121, Page 48, of the Public Records of Broward County, Florida, more particularly described as follows:

Begin at the most Northeast corner of said Tract 'A', said point being on the Southerly right-of-way line of Griffin Road, as in Official Records Book 9215, Page 913, of said Broward County Public Records; thence run South 46°33'39" East for a distance of 49.34 feet to the Westerly Right-of-way line of Volunteer Road (S.W. 148th Avenue), as in Official Records Book 7830, Page 571; thence run South 01°44'27" East for a distance of 80.70 feet; thence run South 05°08'04" West for a distance of 100.00 feet; (the preceding two bearings and distances being along the Westerly Right-of-way line of said Volunteer Road); thence run North 01°44'27" West for a distance of 132.95 feet; thence run North 04°15'33" East for a distance of 43.85 feet; thence run North 43°33'40" West for a distance of 51.87 feet to the said Southerly Right-of-way line of Griffin Road; thence run North 88°37'08" East for a distance of 7.25 feet to the Point of Beginning.

AND LESS: PARCEL 2

That portion of Tract A, REGENCY, according to the Plat thereof, as recorded in Plat Book 121, Page 48, in the Public Records of Broward County, Florida, being more particularly described as follows:

Commencing at the Southwest corner of said Tract A; thence run North 01°44'27" West along the West line of said Tract A, for a distance of 1065.01 feet to the Point of Beginning; thence continue North 01°44'27" West along said West line, for a distance of 339.99 feet to the Northwest corner of said Tract A; thence run North 85°16'30" East along the North line of said Tract A, for a distance of 183.50 feet; thence run South 01°44'27" East for a distance of 239.75 feet; thence run South 57°19'46" West for a distance of 213.83 feet to the Point of Beginning.

AND LESS: PARCEL 3

That portion of Tract A, REGENCY, according to the Plat thereof, as recorded in Plat Book 121, Page 48, in the Public Records of Broward County, Florida, being more particularly described as follows:

Commencing at the Southwest corner of said Tract A; thence run North 01°44'27" West along the West line of said Tract A, for a distance of 1065.01 feet to the Point of Beginning; thence continue North 01°44'27" West along said West line, for a distance of 339.99 feet to the North line of said Tract A; thence along said North line the following three courses: (1) North 85°16'30" East for a distance of 626.12 feet; (2) South 01°22'52" East for a distance of 0.75 feet; (3) North 88°37'08" East for a distance of 184.95 feet to the East line of said Tract A; thence along the East line of said Tract A, the following four courses: (1) South 48°33'39" East for a distance of 49.34 feet; (2) South 01°44'27" East for a distance of 80.70 feet; (3)

Examiner: J77jm

Mortgage Policy
Page 3

First American Title Insurance Company

FATIC File No.: FL02-49620
Customer Reference: NCS-797-CHI1/Regency
Issued pursuant to Commitment No.: FA-C 4923
Policy No.: FA-36-481278 / Simo:

South 06°09'04" West for a distance of 100.00 feet; (4) South 01°44'27" East for a distance of 34.02 feet; thence run South 88°15'33" West for a distance of 609.72 feet; thence run South 57°19'46" West for a distance of 236.99 feet to the Point of Beginning.

AND LESS: PARCEL 4

That portion of Tract A, REGENCY, according to the Plat thereof, as recorded in Plat Book 121, Page 48, in the Public Records of Broward County, Florida, being more particularly described as follows:

Commencing at the Southwest corner of said Tract A; thence on an assumed bearing of North 01°44'27" West along the West line of said Tract A, for a distance of 1095.01 feet; thence run North 57°19'46" East for a distance of 236.99 feet; thence run North 88°15'33" East for a distance of 609.72 feet to a point on the East line of said Tract A; thence run South 01°44'27" East along the said East line for a distance of 60.00 feet to the Point of Beginning; thence continue South 01°44'27" East along said East line for a distance of 165.00 feet; thence run South 88°15'33" West for a distance of 200.00 feet; thence run North 01°44'27" West for a distance of 165.00 feet; thence run North 88°15'33" East for a distance of 200.00 feet to the Point of Beginning.

PARCEL B:

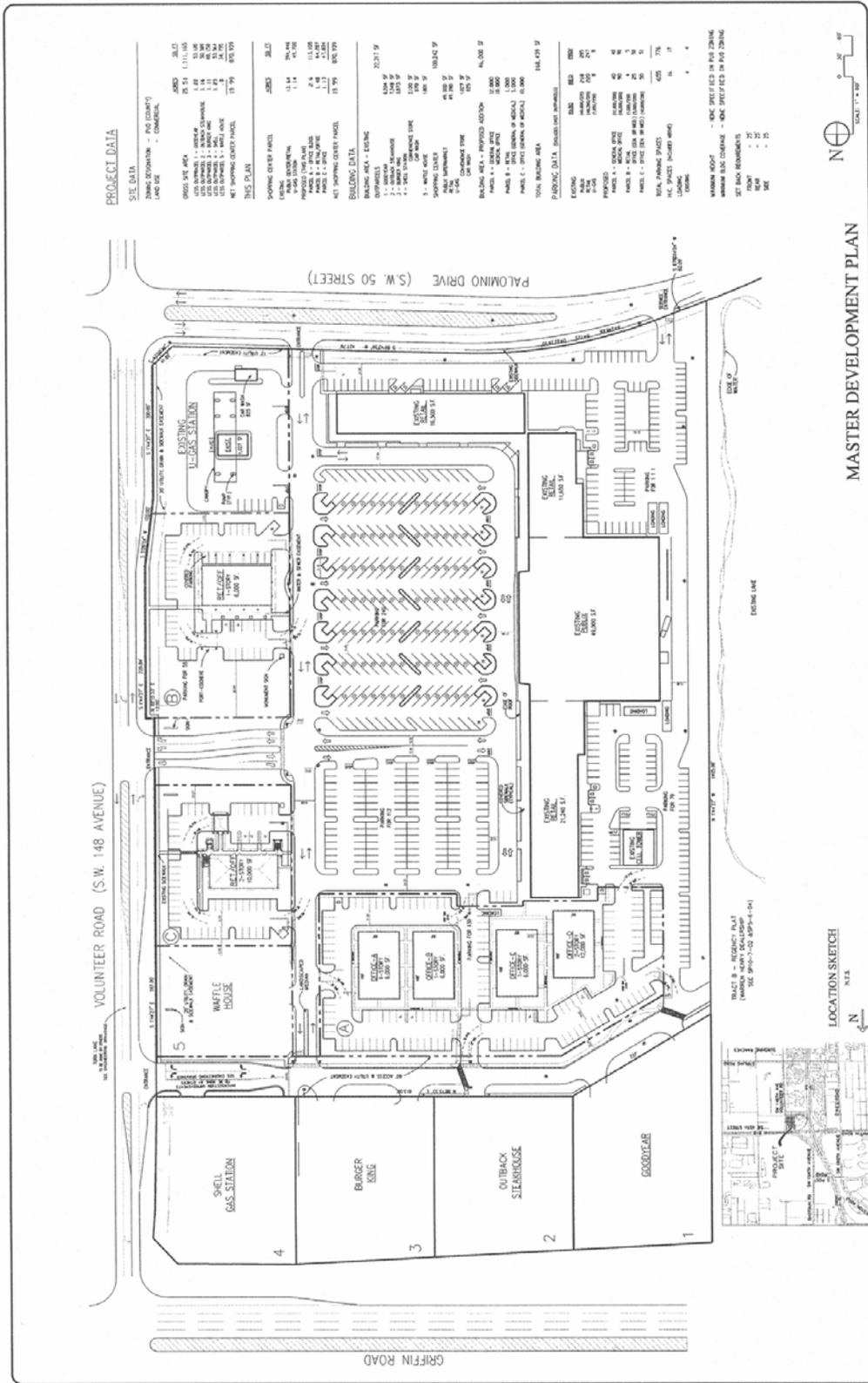
Together with the non-exclusive rights, uses and benefits derived from that certain Cross Parking and Easement Agreement filed October 4, 1989, in Official Records Book 16816, Page 649; together with First Amendment thereto filed June 18, 1992, in Official Records Book 19599, Page 1, Public Records of BROWARD County, Florida..

PARCEL C:

Together with the non-exclusive rights, uses and benefits derived from "Drainage Easement" described in Paragraph 5.1 of that certain Declaration of Protective Covenants for a Shopping Center Parcel, filed December 10, 1987, in Official Records Book 15025, Page 94, Public Records of BROWARD County, Florida.

Examiner: JTT/yn

Mortgage Policy
Page 4



PROJECT DATA

SITE DATA	
ZONING DISTRICT	- PD (D-10)
LAND USE	- COMMERCIAL
EXISTING SITE AREA	
ACRES	32.00
SQ. FT.	1,311,160
PROPOSED DEVELOPMENT	
ACRES	1.14
SQ. FT.	49,100
TOTAL DEVELOPMENT	
ACRES	33.14
SQ. FT.	1,360,260
NET SHOPPING CENTER PARCEL	
ACRES	11.79
SQ. FT.	507,179
BUILDING DATA	
EXISTING AREA - EXISTING	22,371 SF
1 - EXISTING	4,200 SF
2 - EXISTING	1,875 SF
3 - EXISTING	1,000 SF
4 - EXISTING	1,000 SF
5 - EXISTING	1,396 SF
PROPOSED AREA - PROPOSED ADDITION	26,729 SF
1 - PROPOSED	14,000 SF
2 - PROPOSED	12,729 SF
TOTAL PROPOSED	26,729 SF
TOTAL BUILDING AREA	49,100 SF
PARKING DATA - BASED ON 400 VEHICLES	
EXISTING	180
PROPOSED	1,000
TOTAL	1,180
TOTAL PARKING SPACES	
EXISTING	180
PROPOSED	1,000
TOTAL	1,180
TOTAL PROJECT (INCLUDES EXISTING)	
EXISTING	22,371
PROPOSED	26,729
TOTAL	49,100

MASTER DEVELOPMENT PLAN



Charles Putman & Associates, Inc.
 PLANNING / ZONING / PERMITTING
 4729 NW Boca Raton Boulevard, Suite C109
 Boca Raton, Florida 33431
 661/694-6411 Fax 661/694-0447

REGENCY SQUARE
 DAVIE, FLORIDA

Worthington & Frutkin, Inc.
 10000 W. Broward Blvd., Suite 100
 Fort Lauderdale, FL 33315
 954/331-1100

Quinn & Luciano Architects, P.A.
 11111 W. Broward Blvd., Suite 100
 Fort Lauderdale, FL 33315
 954/331-1100

Regency Square @ Downtown Joint Venture
 11111 W. Broward Blvd., Suite 100
 Fort Lauderdale, FL 33315
 954/331-1100

Wayne E. Vasek Architects, Inc.
 11111 W. Broward Blvd., Suite 100
 Fort Lauderdale, FL 33315
 954/331-1100

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