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 2-4-03, Oak Scholar of Broward, LLC, 3655 Shotgun Road (SW 154 Avenue)/Generally located on the west side of Shotgun Road, south of SW 36 Street.

AFFECTED DISTRICT: District 4

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-4-03, 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 subject property is currently zoned AG, Agricultural District with the underlying Land Use Designation of Residential (1 DU/AC). The applicant proposes to rezone the property to CF, Community Facilities District to build a 66,565-square foot charter school to accommodate a maximum of 900 students from kindergarten through 8th grade. The 10.63-net acre property is located on the west side of Shotgun Road, south of SW 36 Street, across the street from the single-family development known as Riverstone. The minimum required lot size for the CF zoning district is one (1) acre (43,560 square feet) and the subject site is 10.63 acres (463,000 square feet). The minimum required lot frontage is 100 feet and the subject site has 250 feet of lot frontage.

Land Use and Zoning: The Future Land Use Plan Map designates the parcel Residential (1DU/AC). A school is a permitted use as a community facility within the residential land use category. The CF zoning district allows for schools or other community facility uses.

Compatibility: The subject site is surrounded by a vacant lot zoned AG, Agricultural District to the north, a vacant property zoned CF, Community Facilities District to the south, I-75 to the west, and a single-family development (Riverstone) zoned E, Estate District to the east. The proposed rezoning is compatible with the property to the south, owned by the Broward County School Board, also zoned CF, Community Facilities District. An eight-foot high wall with a landscape buffer along the north property line is proposed to separate the school from the adjacent residential zoned property to the north. A school may be considered compatible with the surrounding residential properties with the existing and proposed buffers as required by the Land Development Code.

PREVIOUS ACTIONS: This item has been tabled three (3) times; two(2) times at the request of the applicant, from June 1, 2005, to July 6, 2005; from July 6, 2005, to July 20, 2005; to allow time for discussion with the adjacent residents; and was tabled by Town Council from July 20, 2005, to August 3, 2005, in order to have the applicant address the following items: 1) contact the Broward County School Board regarding obtaining land from the adjacent site; 2) supply drainage calculations to ensure that adequate water retention is being provided; 3) emergency access; 4) satisfy traffic concerns along Shotgun Road, the roundabout and South Post Road.

CONCURRENCES: At the May 11, 2005, Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded by Vice-Chair Turin, to deny. (Motion carried 5-0, traffic issues on Shotgun Road was the objection)

FISCAL IMPACT: N/A

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Ordinance, Planning Report

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-4-03, 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 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 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 _____, 2005.

PASSED ON SECOND READING THIS _____ DAY OF_____, 2005.

ATTEST:

_____
MAYOR/COUNCILMEMBER

_____
TOWN CLERK

APPROVED THIS_____ DAY OF _____, 2005.

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

Applicant Information

Owner:		**Petitioner:**	
Name:	Oak Scholar of Broward, LLC Hugo F. Hormazabal	**Name:**	C. William Laystrom Jr. Doumar, Allsworth, et al.
Address:	6035 SW 88 Court	**Address:**	1177 SE 3 Avenue
City:	Miami, FL 33173	**City:**	Fort Lauderdale, FL 33316
Phone:	(305) 412-7874	**Phone:**	(954) 762-3400

Background Information

Application History: This item has been tabled three (3) times; two(2) times at the request of the applicant, from June 1, 2005, to July 6, 2005; from July 6, 2005, to July 20, 2005; to allow time for discussion with the adjacent residents; and was tabled by Town Council from July 20, 2005, to August 3, 2005, in order to have the applicant address the following items: 1) contact the Broward County School Board regarding obtaining land from the adjacent site; 2) supply drainage calculations to ensure that adequate water retention is being provided; 3) emergency access; 4) satisfy traffic concerns along Shotgun Road, the roundabout and South Post Road.

Planning and Zoning Board Recommendation: Denial was recommended at the May 11, 2005, meeting.

Date of Notification: May 4, 2005 **Number of Notifications:** 23

Application Request: Rezone 10.63 net acres **FROM:** AG, Agricultural District; **TO:** CF, Community Facilities District. The purpose of this request is to allow the subject site to be developed as a charter school.

Address/Location: 3655 Shotgun Road (SW 154 Avenue)/Generally located on the west side of Shotgun Road, south of SW 36 Street.

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

Existing Zoning: AG, Agricultural District

Proposed Zoning: CF, Community Facilities District

Existing/Proposed Use: Vacant/66,565 square foot charter school of with a maximum capacity of 900 students

Net Parcel Size: 10.63 acres

Surrounding Uses:		**Surrounding Land Use Plan Designations:**
North:	Vacant & SW 36 Street	Residential (1 DU/AC)
South:	Vacant Land	Residential (1 DU/AC)
East:	Shotgun Road (SW 154 Avenue)	Residential (1 DU/AC)
West:	I-75	Transportation

Surrounding Zoning:

North: AG, Agricultural District
South: CF, Community Facilities District
East: E, Estate District
West: T, Transportation

Zoning History

Related Zoning History:

On October 16, 2002, the Town Council approved Ordinance 2002-35, amending the Land Development Code to create Article IX of Chapter 12, entitled "Rural Lifestyle Regulations" and to create Scenic Corridors Overlay District. Shotgun Road was designated as a scenic corridor.

Plat:

On February 18, 2004, the Town Council approved the plat, Oak Scholar-Davie, subject to approval of the rezoning (ZB 2-4-03) from AG, Agricultural District, To CF, Community Facilities District.

Previous Requests on Same Property:

The applicant has submitted the following requests simultaneously with this request:

A site plan application (SP 2-4-03) for construction of 66,565-square foot school facility to accommodate a maximum of 900 students from kindergarten through 8th grade;

A vacation request (VA 12-1-03) to vacate the existing 15-foot road easement along the south property line;

A developers agreement (DA 12-2-03) between the developer, Broward County, and Town of Davie for the management plan for the archeological site within the plat limit;

A developers agreement (DA 4-2-04) between the developer, Broward County, and Town of Davie for the Regional Road Concurrency Agreement.

Application Details

The subject site is a 10.63 net acre vacant parcel located at the west side of Shotgun Road and south of SW 36 Street. The petitioner requests to rezone the site from AG, Agricultural District to CF, Community Facilities District. The purpose of this request is to allow the subject site to be developed as a charter school.

Applicable Codes and Ordinances

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

Section 12-24 (J) (13) of Land Development Code provides the intent of CF zoning district.

Comprehensive Plan Considerations

Planning Area: The subject property is 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 113.

Applicable Goals, Objectives & Policies: *Future Land Use Plan, Objective 5: Consistency of Development with Comprehensive Plan, Policy 5-2:* The (re)zoning, (re)platting, 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 Uses portion of the Implementation Section.

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

Staff Analysis

The 10.63-net acre site is located on the west side of Shotgun Road, south of SW 36 Street, across the street from the single-family development known as Riverstone. The applicant proposes a 66,565-square foot school facility to accommodate a maximum of 900 students from kindergarten through 8th grade. The minimum required lot size for the CF, Community

Facilities District, is one (1) acre (43,560 square feet) and the subject site is 10.63 acres (463,000 square feet). The minimum required lot frontage is 100 feet and the subject site has 250 feet of lot frontage.

Land Use and Zoning: The Future Land Use Plan Map designates the parcel Residential (1DU/AC). A school is a permitted use as a community facility within the residential land use category. The CF zoning district allows for schools or other community facility uses.

Compatibility: The subject site is surrounded by a vacant lot zoned AG, Agricultural District to the north, a vacant property zoned CF, Community Facilities District to the south, I-75 to the west, and a single-family development (Riverstone) zoned E, Estate District to the east. The proposed rezoning is compatible with the property to the south, owned by the Broward County School Board, also zoned CF, Community Facilities District. An eight-foot high wall with a landscape buffer along the north property line is proposed to separate the school from the adjacent residential zoned property to the north. A school may be considered compatible with the residential properties with the existing and proposed buffers as required by the Land Development Code.

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). The CF, Community Facilities District is a permitted zoning district within the Residential Land Use category. Therefore, the proposed change is not contrary to the comprehensive plan.

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

The property to the south is zoned CF, Community Facilities District. The requested CF zoning district is an expansion of the adjacent CF zoning district. As such, the proposed change will not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts.

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

The existing AG district boundaries are logically drawn in relation to existing conditions on the subject property. However, this zoning classification does not allow the parcel to be developed for a charter school.

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

The proposed change may not adversely affect living conditions in the neighborhood because the vacant property to the south is zoned CF and is intended to be developed as a public school, to the north is a vacant property and to the west is I-75. In addition, an eight-foot wall with landscape buffer will be provided along the north property line to separate the school site from the vacant residential zoned property to the north. With the existing and proposed buffers, the proposed change may not adversely affect living conditions in the neighborhood.

(e) The proposed change is expected to 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 increase automobile and vehicular traffic above that which would be anticipated with permitted intensities of the underlying Residential (1DU/AC) land use plan designation. Shotgun Road is a 50-foot wide two-way local street. The school is proposed to accommodate 900 students, which will generate 1,200 trips per day on Shotgun Road. An approximately 3,000-foot long driveway is proposed within the site for traffic stacking to alleviate any traffic impact on Shotgun Road. Both a northbound and southbound right-turn lane left-turn lane will be constructed on Shotgun Road to turn into the subject site. With the proposed on-site and off-site improvements, the projected traffic impact to the neighborhood is reduced. Additionally, Broward County requires improvements to the Regional Road Network and the Town requires improvements to the Local Road Network to satisfy traffic concurrency. A Regional Road Concurrency Agreement for off-site improvements to satisfy traffic concurrency has been filed concurrently.

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

The proposed change may not adversely affect surrounding properties value, as the subject site is adjacent to I-75 to the west, vacant properties to the north and south, and an existing bermed landscape buffer surrounds the Riverstone development.

(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 not deter adjacent property owners from improving their property, as the adjacent properties to the north and south are vacant, and Riverstone across street has been developed.

(h) The proposed change does not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;

This request is a privilege for any property owner that has a parcel that meets the Land Development Code's minimum requirements to achieve the zoning classification consistent with

the underlying Residential (1DU/AC) land use designation. Therefore, the proposed change does not constitute a grant of special privilege to the property owner as contrasted with the welfare of the general public.

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

The subject site can be developed for a maximum of 10 single-family homes under the current AG, Agricultural District with the underlying Residential (1 DU/AC) Land Use Designation.

(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.

The proposed rezoning is for construction of a charter school, which would be exempted from property tax. As such, the proposed zoning designation is not the most appropriate designations to enhance the Town's tax base. However, due to Riverstone's proximity, a school may be needed in this location for the purpose of providing basic services.

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 May 11, 2005, Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded by Vice-Chair Turin, to deny. (Motion carried 5-0, traffic issues on Shotgun Road was the objection)

Town Council Action

Exhibits

1. Justification
2. Future Land Use Map
3. Zoning and Aerial Map
4. Site Plan

Prepared by: _____ Reviewed by: _____

Applicant: Oak Scholar of Broward, LLC
Project: Oak Scholar Charter School
Petition #: ZB 2-4-03

JUSTIFICATION STATEMENT FOR REZONING REQUEST

The subject site contains approximately 10.62 acres that are vacant lands currently zoned AG for agricultural uses, but not actively being used in any agricultural endeavor at this time. The property is contiguous to the west side of S.W. 154th Avenue (Shotgun Road). The address of the property is 3655 S.W. 154th Avenue, which places the parcel slightly south of S.W. 36th Street. To the west and to the south is Interstate 75.

The property to the north is zoned residential one unit per acre and currently is vacant. The property immediately to the south is also zoned residential, one unit per acre, and is vacant. The property immediately to the east across Shotgun Road is single family residential which is under construction and is also zoned residential one unit per acre. The land immediately to the west is vacant and is zoned for transportation and through this land passes I-75. The subject property is zoned AG and the proposed rezoning is to CF to allow for construction of a charter school to include both an elementary school and a middle school. The proposed rezoning and use is consistent with the future land use designation of the subject property and the surrounding properties in that both residential and agricultural districts may accommodate community facilities, which obviously are designed to serve those residential uses.

A review of the rezoning request should include a consideration of the criteria listed in section 12-307(A)(1) of the Town of Davie Land Development Code to determine if the request should be favorably reviewed. These criteria with respect to the subject request are discussed below.

Criterion (a): Whether the proposed change is 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 (1DU/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. There is no reason to believe that an elementary school and middle school would adversely affect the development of surrounding properties for residential purposes, since those schools would be available to serve the needs of those residential developments. Further, this use is obviously compatible with a residential neighborhood.

The subject site is located within Planning Area 8 as identified by the Town of Davie Comprehensive Plan. The vacant lands in Planning Area 8 are virtually all reserved for future residential development at the rate of one unit per acre. The area does include the former Broward County landfill site, which is reserved for a park site. There is a boy scout camp located nearby as well, showing that the community facility uses are compatible with ultimate residential development around them.

As a result, the rezoning request is consistent with the adopted comprehensive plan.

Criterion (b): Whether the proposed change would create an isolated zoning district unrelated and incompatible with adjacent and nearby zoning districts.

The requested CF, Community Facilities District, will allow development of an elementary school and middle school that is related to and compatible with the adjacent residential zoning designations. Specific issues regarding the change could be addressed through a declaration of restrictions placed on the land to ensure that the development as constructed does not deviate from the development as conceived and approved.

As a result, the requested rezoning positively satisfies this criterion.

Criterion (c): Whether existing zoning districts are illogically drawn in relation to existing conditions on the property proposed for change.

The existing AG zoning district was logically drawn at the time of

its creation, but is now viewed by the town as a transitional zoning district with the surrounding lands earmarked for residential development at one unit per acre. The small portion of land lying between Shotgun Road and Interstate 75 is now not realistic for agricultural use. This is a result of the construction of Interstate 75 through the AG designated zoning district. The CF designation would allow the school to serve the surrounding residential areas.

As a result, the proposed rezoning satisfies this criterion.

Criterion (d): Whether the proposed change will adversely affect living conditions in the neighborhood.

The proposed change will not adversely affect living conditions in the neighborhood. First, there is currently no neighborhood, but rather only vacant land. Second, the school is designed to serve the residential areas and is across Shotgun Road from development to the east and across S.W. 36th Street from residential development to the north. The proposed development should be an asset to the area.

As a result, the requested rezoning satisfies this criterion.

Criterion (e): Whether 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 current land use designation for this site is residential, one dwelling unit per acre. The proposed use after the rezoning will be a community facility designation to allow for an elementary and middle school. The proposed request, therefore, will increase traffic above the level of residential one unit per acre, but will not do so as to negatively affect public safety. Although the subject roadway is not a part of the Broward County trafficways plan, the development will still be subject to all traffic concurrency and mitigation requirements. The end result will be that the improvements to the roadways will benefit the development

of the surrounding neighborhoods and the area in general.

Since the development cannot go forward without satisfying traffic concurrency issues with Broward County, the proposed rezoning will satisfy this criterion.

Criterion (f): Whether the proposed change will adversely affect other property values.

Surrounding property values should not be adversely impacted by the development of this vacant site as charter school. Certainly the transportation corridor to the west and the noise generated by I-75 would have a greater negative effect on property values and the school site will only help to buffer the residential areas from the proximity of I-75. Further, it is hoped that the school can be designed and operated in such a fashion as to actually positively affect surrounding property values.

As a result, the proposed rezoning satisfies this criterion.

Criterion (g): Whether the proposed change will be a deterrent to the improvement or development of other property in accord with the existing regulations.

All of the land in the surrounding areas has a future land use designation of residential, one dwelling unit per acre, with the exception of the transportation corridor to the south and the west. The proposed rezoning would allow development of a school site in a manner consistent with the future land use designation of residential. The proposed rezoning should not deter future development, but rather enhance future development in a number of ways. First, the traffic and roadway improvements that will be required for the construction a school will ultimately positively impact future residential developments. Second, the placement of the school will help to buffer the residential areas from the impacts of the transportation corridor and I-75. There is nothing to show that the establishment of a charter school would be a deterrent to development of nearby lands.

As a result, the requested rezoning satisfies this criterion.

Criterion (h): Whether the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public.

The proposed change does not constitute a grant of special privilege to an individual owner because it 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 this zoning classification. Further, the proposed rezoning is consistent with the adopted comprehensive plan and, therefore, does not constitute a grant of special privilege.

As a result, the requested rezoning satisfies this criterion.

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

The existing zoning, AG, contemplates agricultural uses and allows residential uses only on larger lots than one unit per acre. The small parcel size available between Shotgun Road and Interstate 75 is unrealistic for any agricultural use and undesirable for any residential use. The owner seeks to have the property rezoned to CF to allow for the construction of a charter school that would serve the surrounding neighborhoods and allow for development of the site in a meaningful fashion. It is unlikely that the subject site could be developed according to existing zoning district standards due to the proximity of I-75.

As a result, the requested rezoning satisfies this criterion.

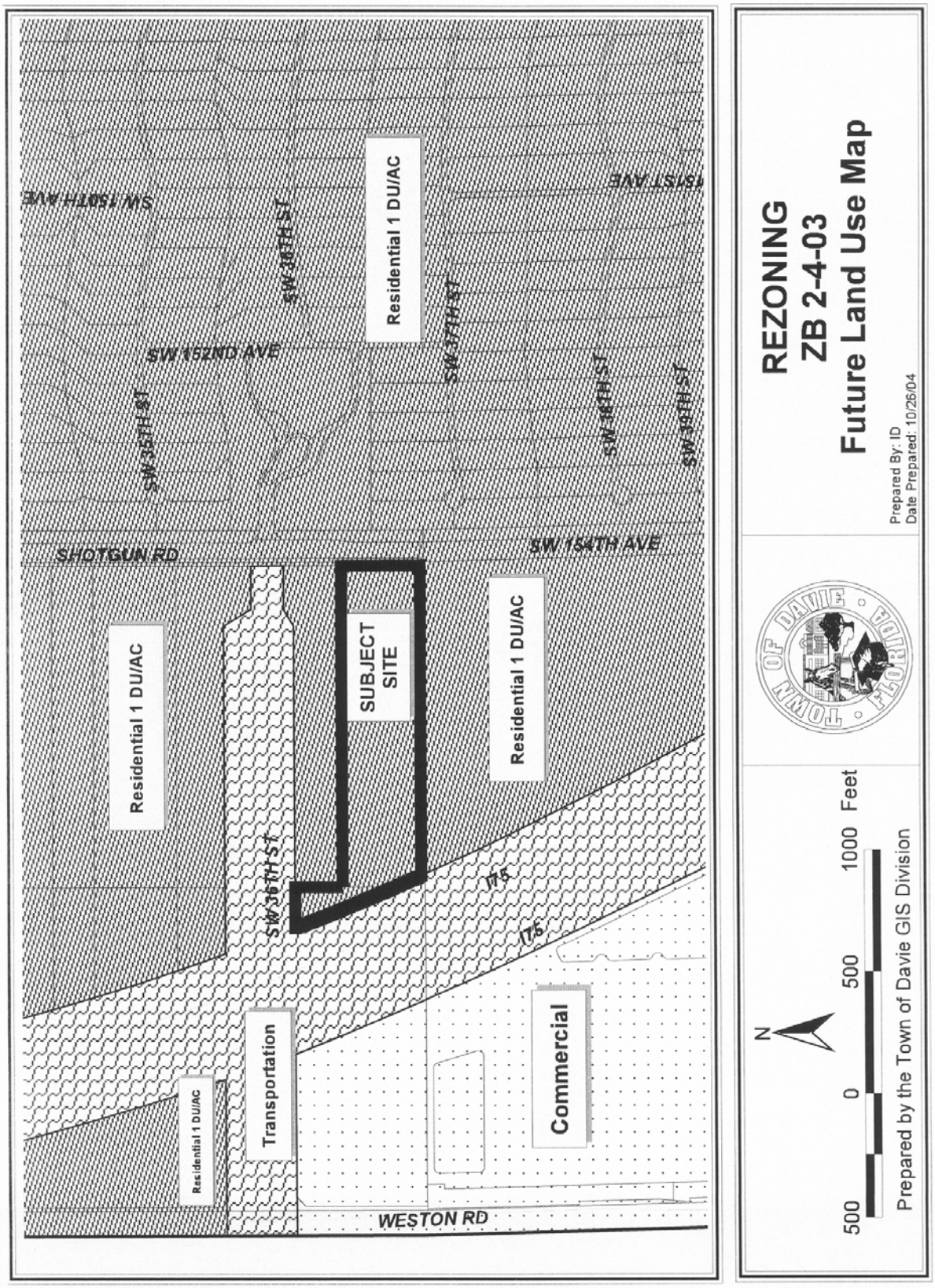
Criterion (j): Whether the proposed zoning designation is the most appropriate designation to enhance the Town's tax base given the site location relative to the pattern of land use designations established on the future land use plan map, appropriate land use planning practice, and comprehensive plan policies directing land use location.

The property is currently zoned for agricultural uses, which are subject to many tax exemptions. By rezoning the land from AG to CF, community facility, this action should keep the property on the

tax rolls. Charter schools do qualify for tax exemption and it is anticipated that the school would obtain such an exemption. Obviously, if the exemption is not granted or if the property was not utilized for a charter school, the community facility zoning designation would subject it to taxation. Since this parcel also includes an archaeological site that must be preserved, developmental options are limited. It is anticipated that the operation of a charter school would have a neutral effect on the Town's tax base.

As a result the requested rezoning satisfies this criterion.

As has been demonstrated, the requested rezoning from AG to CF is consistent with the adopted Town of Davie Comprehensive Plan, the Town's Future Land Use Plan Map, and meets all the criteria contained in the Land Development Code. As a result, this rezoning request merits favorable consideration.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ZB 2-4-03
Future Land Use Map
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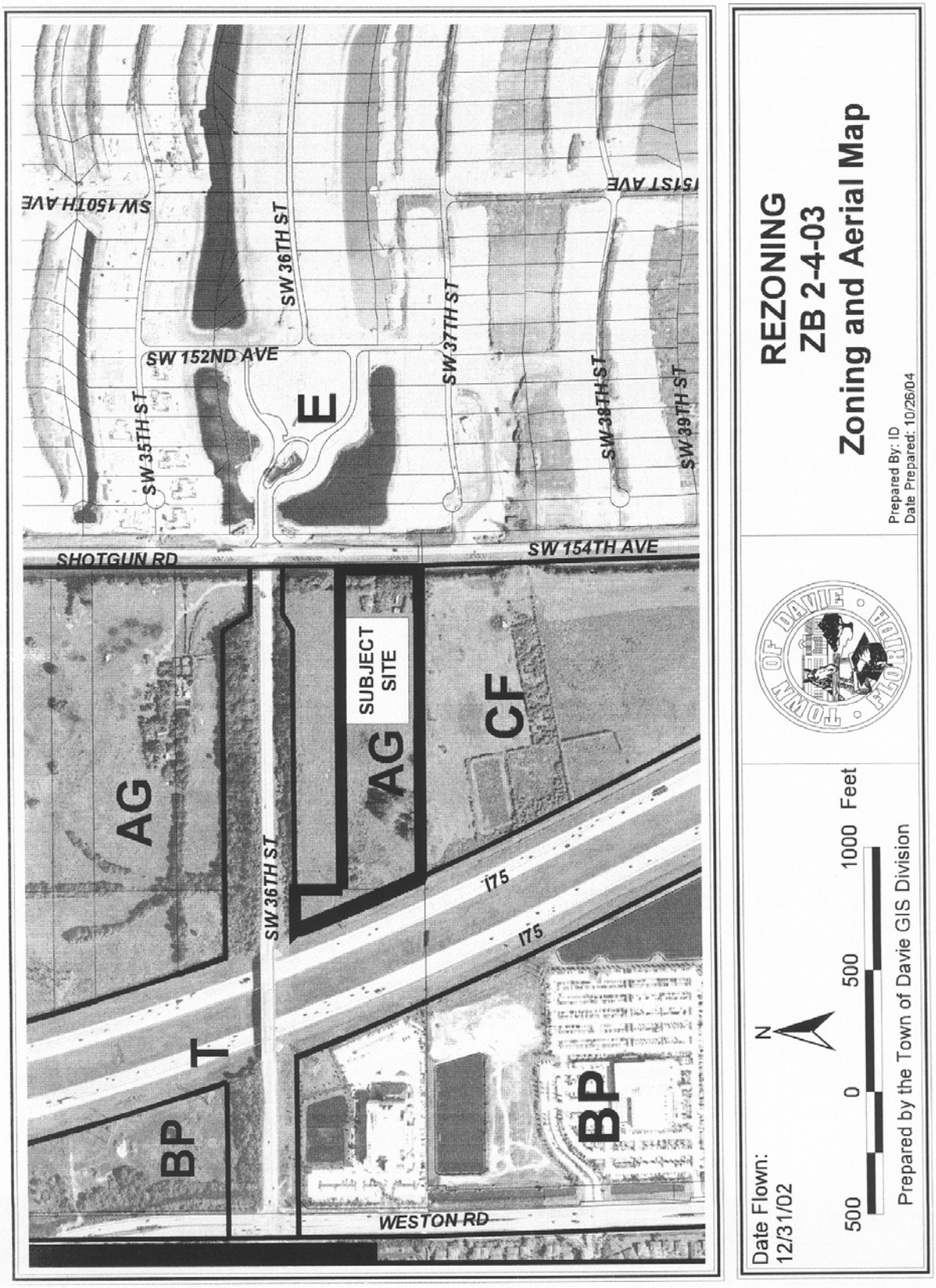
Date Prepared: 10/26/04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Prepared By: ID
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