



Town Council Agenda Report

SUBJECT: Ordinance

CONTACT PERSON/NUMBER

Name: Mark Kutney, AICP
Phone: (954) 797-1101

TITLE OF AGENDA ITEM:

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT TO B-3, PLANNED BUSINESS CENTER DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

ZB 12-1-99 - "Imagination Farms Commercial", Flamingo West, Inc., owner/ROHO Flamingo, Ltd., petitioner - 12401 Orange Drive/Generally located at the NW corner of Flamingo Road and Orange Drive.

REPORT IN BRIEF:

The subject site is approximately 1.23 acres in area, and is located within the 28-acre Flamingo Commons Master Site Plan (ICE Plat) which the Council approved on March 15, 2000. The entire master plan, with the exception of the subject parcel, is zoned B-3. On November 1, 2000, Council approved a settlement agreement for the property which clarifies annexation issues arising from the 1979 Final Judgment in a 1974 lawsuit against the Town, initiated by Imagination Farms and Henry Pownall (the Town entered into a separate settlement agreement for the adjacent Flamingo Commons site and several other properties west of the subject site in 1996).

One of the conditions of the agreement is that the Town will rezone the subject property from A-1 to B-3, which is the purpose of the attached ordinance.

The petitioner has voluntarily provided a declaration of restrictions, attached to the ordinance, that matches that which was established for the abutting ICE Plat/Flamingo Commons site, since the subject site will be utilized in conjunction with the overall ICE master plan. The uses to be restricted are: adult facilities; bingo establishments; mobile home, boat and trailer sales and rentals; pawn shops; fortune telling/clairvoyants; and, any stand alone establishment where the primary business purpose of which is to sell alcoholic beverages for consumption on site, not to preclude restaurant, motels, hotels or private clubs that serve alcohol.

PREVIOUS ACTIONS:

- On January 19, 2000, the Town Council approved application ZB 12-1-99 on its merits subject to the deed restrictions (motion carried 5-0).
- On February 2, 2000, the Town Council approved first reading of the ordinance (motioned carried 5-0).
- On February 16, 2000, the Town Council deferred consideration of second reading for this item to its March 15, 2000 meeting (motion carried 5-0).
- On March 15, 2000, the Town Council deferred consideration of second reading for this item to its April 18, 2000 meeting (motion carried 5-0).
- On April 18, 2000, the Town Council deferred consideration of second reading for this item to its June 7, 2000 meeting.

- On June 7, 2000, the Town Council withdrew the ordinance (motion carried 5-0).

CONCURRENCES:

- On January 12, 2000, the Planning and Zoning Board recommended approval subject to the deed restrictions as stated in the staff analysis and conceptual plan (motion carried 4-0, Mr. Stahl absent).

FISCAL IMPACT: None.

RECOMMENDATION(S): Motion to approve the Ordinance.

Attachment(s): Ordinance with exhibits.

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM A-1, AGRICULTURAL DISTRICT 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 A-1, Agricultural District to B-3, Planned Business Center District.

WHEREAS, said notice was given and publication made as required by law, and a public hearing thereunder was held on the date of 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 A-1, Agricultural District 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.

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

a. The deed restriction is attached as Exhibit "B", which is attached hereto and made a part hereof.

SECTION 3. That the owner has prepared a conceptual master plan:

a. The conceptual master plan is attached as Exhibit "C", which is attached hereto and made a part hereof.

SECTION 4. 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-3, Planned Business Center District.

SECTION 5. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 6. 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 7. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2000.

PASSED ON SECOND READING THIS _____ DAY OF _____, 2000.

ATTEST:

MAYOR/COUNCIL MEMBER

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2000.

EXHIBIT "A"

(LEGAL DESCRIPTION)

Commencing at the point of intersection of the East line of Section 26, Township 50 South, Range 40 East, and the North boundary line of the right-of-way of the South new river canal; thence North along the East section line of said section 26, 350.00 feet; thence West 200.00 feet; thence South parallel to the East section line of section 26 to the point of intersection of the North boundary line of the right-of-way of the south new river canal; thence East along said right-of-way to the POINT OF BEGINNING. Said lands situate, lying and being in Broward County, Florida.

A portion of the Southeast one-quarter of Section 26, Township 50 South, Range 40 East, being described as follows: COMMENCE at the Northeast corner of the Southeast one-quarter of Section 26, Township 50 South, Range 40 East, thence along the East line of said Southeast one-quarter, South $01^{\circ}47'01''$ East, a distance of 528.00 feet; thence South $88^{\circ}29'38''$ West a distance of 50.00 feet to the POINT OF BEGINNING; thence along the West Right of Way Line of Flamingo Road (S.R. 823), South $01^{\circ}47'01''$ East, a distance of 80.00 feet; thence along the North Right of Way Line of the South New River Canal (C-11-3), South $88^{\circ}29'38''$ West a distance of 150.00 feet; thence North $01^{\circ}47'01''$ West a distance of 80.00 feet; thence North $88^{\circ}29'38''$ East, a distance of 150.00 feet to the POINT OF BEGINNING.

EXHIBIT "B"

DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS that the undersigned ROHO FLAMINGO, LTD., a Florida limited partnership, being the owners 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 dedication 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 may be used for the following:
All uses permitted in Table 12-32 (B) of the Davie Land Development Code with the following exceptions: adult facilities, bingo establishments, mobile home, boat and trailer sales and rentals, pawn shops, fortune telling/clairvoyants and any stand alone establishment the primary business purpose of which is to sell alcoholic beverages for consumption on site, not to preclude restaurants, motels, hotels or private clubs that serve alcohol.

2. These restrictions shall not be construed to grant a use not allowable under the applicable zoning category of the subject property.

3. Development of the property shall be in conformance with the approved Conceptual Master site Plan attached hereto and made a part hereof as Exhibit "B", or any amendment thereto approved by the Town of Davie.

4. 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 executed by the Town of Davie and by the undersigned or their successors in title 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 declarants or their successors in title or assigns from applying to the Town of Davie, Florida, for modification of this Declaration of Restrictions or termination hereof.

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

6. This Declaration of Restrictions is executed for the purpose of protecting the health, safety and welfare of the (residents of the subject property and) citizens of the Town of Davie.

IN WITNESS WHEREOF, I have set my hand and seal this _____ day of _____, 2000.

Signed, sealed and delivered

Witness

(Printed name)

Witness

(Printed name)

ROHO FLAMINGO, LTD., a Florida
limited partnership

By: _____
Barry Ross, President

Witness

(Printed name)

By: SILVER DEVELOPMENT
CORP., a Florida Corporation, its
general partner

Witness

(Printed name)

By: _____
David Hollander, President

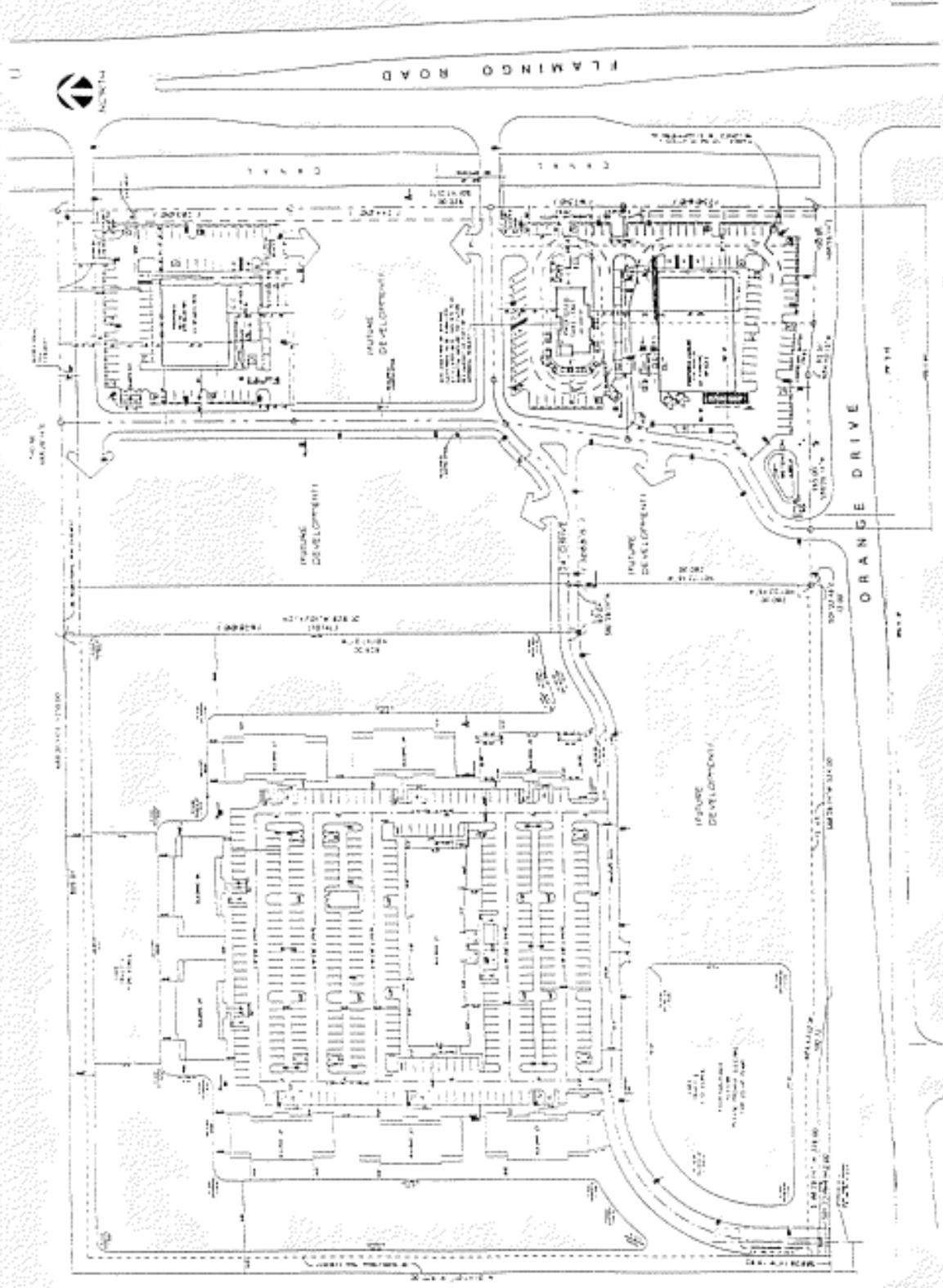
(EXHIBIT "A")

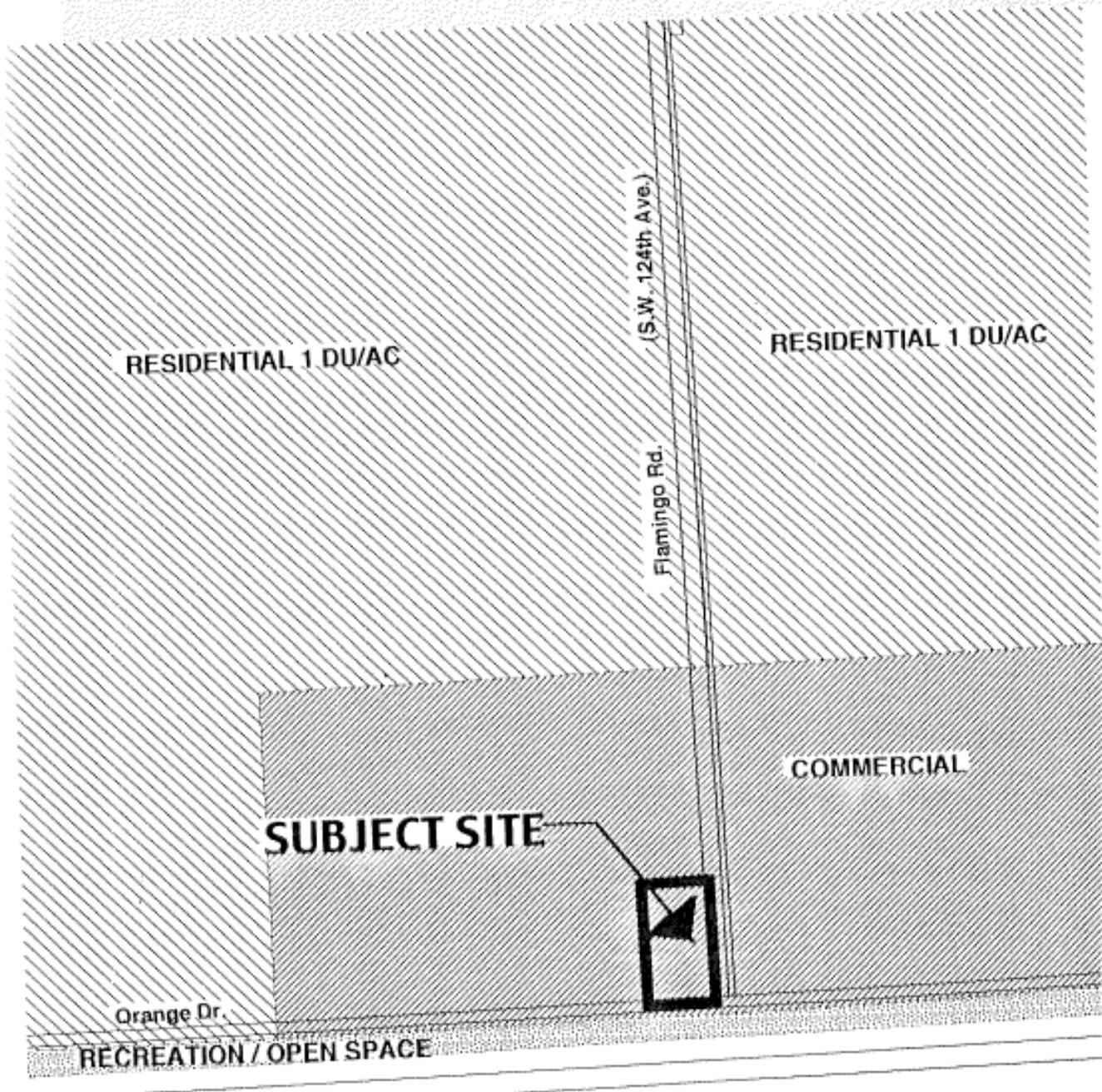
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EXHIBIT "C"





RESIDENTIAL 1 DU/AC

RESIDENTIAL 1 DU/AC

(S.W. 124th Ave.)

Flamingo Rd.

COMMERCIAL

SUBJECT SITE

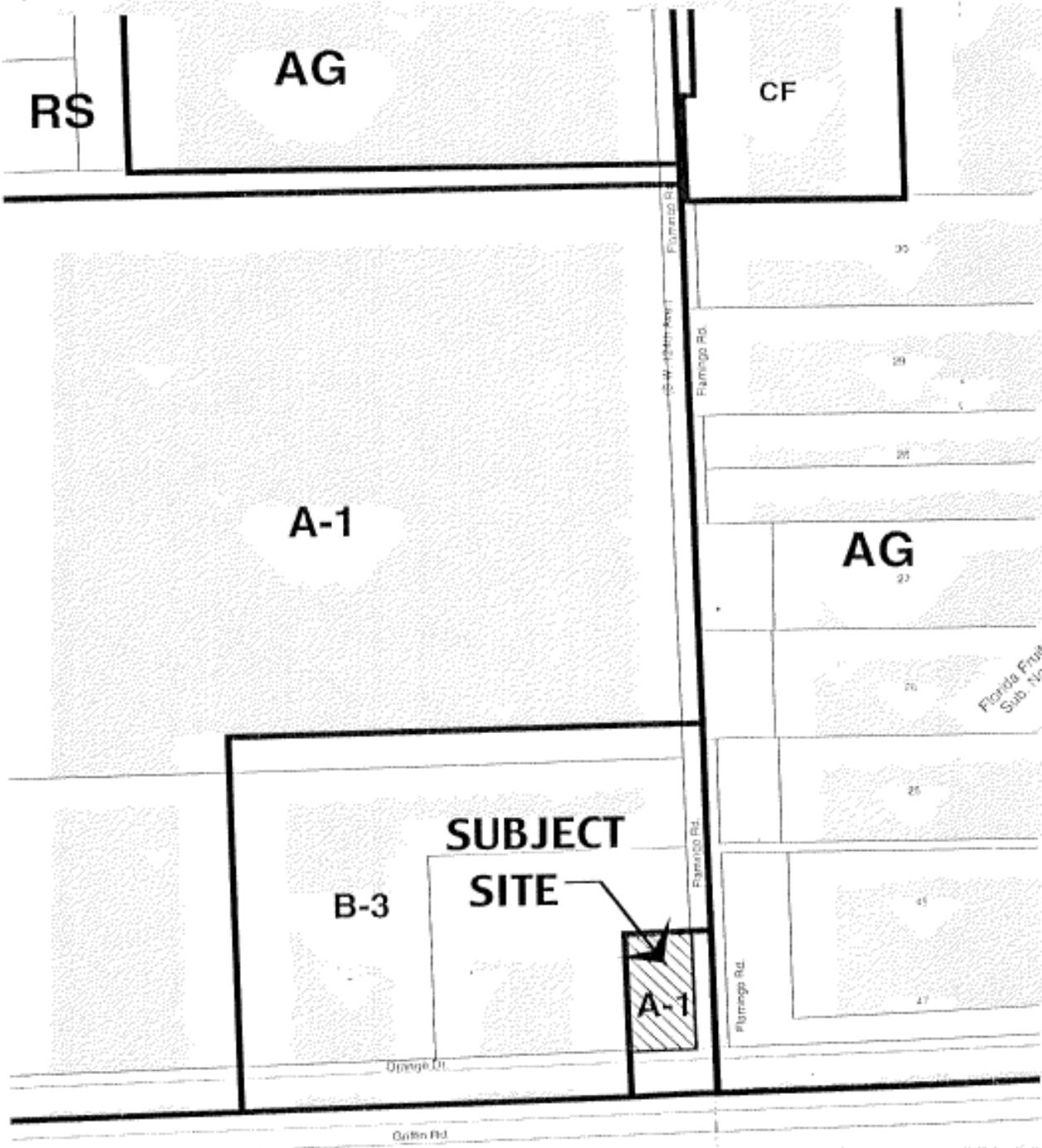
Orange Dr.

RECREATION / OPEN SPACE

Griffin Rd.

PETITION NUMBER
ZB 12-1-99
Source: Town of Davis Future Land Use Map
PREPARED 12/21/99 Scale: 1"=400'
BY THE PLANNING &
ZONING DIVISION



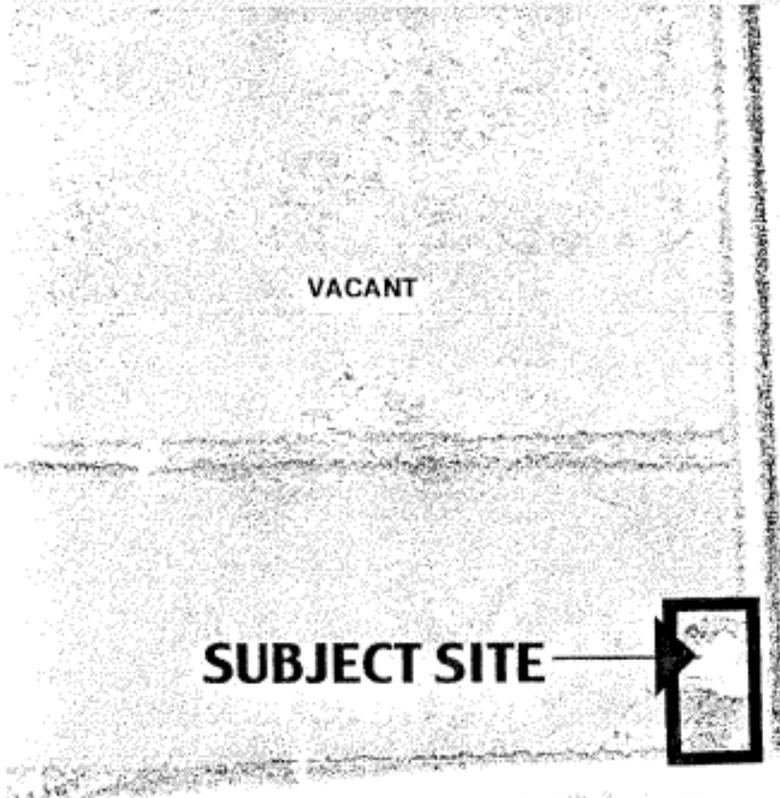


PETITION NUMBER
ZB 12-1-99

PREPARED 12/21/99 BY THE PLANNING & ZONING DIVISION

Scale: 1" = 400'

N
4



VACANT

SUBJECT SITE

FLAMIGO RD



VACANT

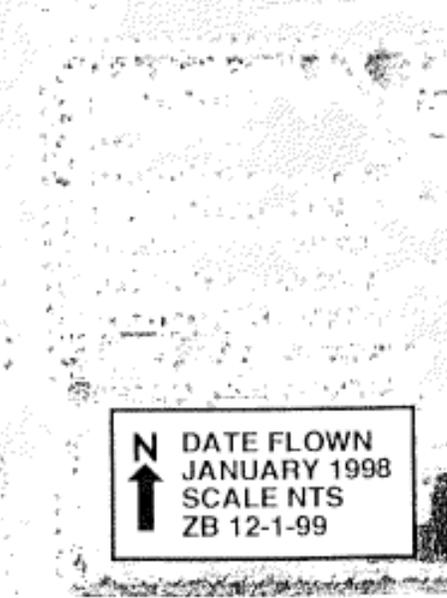
ORANGE RD



TOWN LIMITS



GRIFFIN RD



N
↑
DATE FLOWN
JANUARY 1998
SCALE NTS
ZB 12-1-99