

RESOLUTION NUMBER Z-99-097

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, an application was filed by the property owner, Alico Development Corporation, to rezone a 35.2± acre parcel from Agricultural District (AG-2) to Commercial Planned Development (CPD), in reference to The Vintage Commerce Center; and

WHEREAS, a public hearing was advertised and held on December 22, 1999 before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #99-06-355.03Z; and

WHEREAS, a second public hearing was advertised and held on February 21, 2000 before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 35.2± acre parcel from AG to CPD to allow a maximum of 200,000 square feet of retail uses that may include up to 30,000 square feet of office uses, in buildings that will not exceed 45 feet in height within a maximum of three stories. The property is located in the Industrial Commercial Land Use Category and legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled "Vintage Commerce Center CPD," stamped received December 15, 1999, last revised 11/30/99, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

a. Schedule of Uses

Agricultural Uses
ATM
Auto Parts Store with or without installation service
Automobile Service Station
Auto Repair and Service, Groups I & II
Banks and Financial Establishments, Groups I & II
Bar or Cocktail Lounge
Boat Sales
Building Material Sales
Business Services, Groups I & II
Car Wash
Clothing Store, General
Contractor and Builders, Group I
Convenience Food and Beverage Store
Department Store
Drive Through Facility for Any Permitted Use
Drugstore
Entrance Gates and Gatehouses
Essential Services
Essential Service Facilities, Group I
Excavation, Water Retention
Hardware Store
Health Care Facility, Group III
Hobby, Toy and Game Shops
Household and Office Furnishings, Groups I & II
Insurance Companies
Laundromat
Laundry or Dry Cleaning, Group I
Lawn and Garden Supply Store
Medical Office
Non-Store Retailers, All Groups
Package Store
Paint, Glass and Wallpaper
Parking Lot, Accessory and Temporary
Personal Services, Groups I, II & III
Pet Services
Pet Shop
Pharmacy
Printing and Publishing
Rental or Leasing Establishments, Group II
Repair Shops, Groups I & II

Restaurants, Fast Food
Restaurants, Groups I, II, III, & IV
Social Services, Group I
Specialty Retail, Groups I, II, III & IV
Studios
Supermarket
Temporary Uses
Used Merchandise Store, Group I

b. Site Development Regulations

- (1) The project may be developed with a maximum of 200,000 square feet of floor area. This can be comprised of all retail, or up to 30,000 square feet of office use--of which up to 15,000 square feet may be medical office use and the remainder retail floor area; and
- (2) This approval does not alleviate the need to comply with all federal, state and county development regulations for life safety and fire codes, open space, buffering and parking spaces, except as specifically modified by this approval. No deviations from any regulations that are not specifically stated are granted as part of this approval.
- (3) Any use that is specifically addressed in the LDC with special buffering, separation or other requirements must adhere to those requirements. No relief has been granted as part of this approval to allow a lessening of those requirements.
- (4) The property development limitations are:

Minimum Area Dimensions:

Lot Size	20,000 square feet
Lot Depth	100 feet
Lot Width	100 feet

Minimum Building Setbacks:

Street Internal or External	25 feet
Side	15 feet
Rear	20 feet
Waterbody	25 feet

Maximum Building Height: 45 feet/three stories

Maximum Lot Coverage: 45 percent

Minimum Open Space: A minimum of 9.9 acres of general open space must be provided within the overall development site. Each development

tract may contain a minimum of 10 percent open space per LDC §34-414(c) provided the developer demonstrates the overall open space requirement will be met with each local development order submittal.

3. Bona fide agricultural uses that are now in existence may continue until the first development order approval is granted. However, no development activity of any kind may occur on the property, including clearing of vegetation or cutting of trees, unless such activity is reviewed and approved in accordance with all applicable Lee County regulations as if no agricultural use existed on the property. The purpose of this condition is to eliminate any exemption or other special considerations or procedures that might otherwise be available under Lee County regulations by virtue of the existing agricultural uses on the property.
4. Buildings exceeding 35 feet in height must maintain additional building separation or additional building setbacks as regulated by LDC §34-2174(a) and LDC §34-935(e)4. However, maximum building height in this project is limited to 45 feet.
5. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
6. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b).
7. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development rezoning action or subsequent amendment approvals.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §10-329(e)(1)(a)(3) requirement to provide a 50-foot-wide right-of-way and private property line setbacks for water retention excavation, to allow a 25-foot-wide setback. This deviation is APPROVED, WITH THE CONDITION that the developer provide adequate protection for wayward vehicles along Alico Road and the east property line of the subject property. The elements of protection will be reviewed during the development order process and are subject to the approval of the Director of Development Services. Similarly, the setback along the eastern property line is approved with the condition the lake is adequately buffered from the adjoining property line with berms and/or landscaping to deter unauthorized access. These elements can also be reviewed during the development order process and subject to the approval of the Director.
2. Deviation (2) seeks relief from the LDC §10-296(d), Table 4(7)(c) (1 & 2) requirement to provide 1½-inch FDOT S-III asphaltic concrete for commercial Class A & B local street wearing surfaces, and 1-inch Type S-III asphaltic concrete for privately maintained residential local streets, to allow the use of cement concrete, pavers or similar decorative

paving material to be used within the project entrance areas. This deviation is APPROVED, WITH THE CONDITION that prior to development order approval, the developer must demonstrate that the decorative paving materials are structurally equivalent to the pavement standard in the LDC.

3. Deviation (3) seeks relief from the LDC §10-285(a) requirement to provide a 660-foot connection separation for the future Three Oaks Arterial, to allow a right-in/right-out access connection at 490 feet as measured from the centerline of Alico Road, and a right-in/right-out access connection co-located along the north site boundary line 390 feet north of the project's full access connection. This deviation is APPROVED as follows:
 - a. The full access onto the future Three Oaks Parkway is approved.
 - b. The right-in/right-out access point located at the northern property line is approved with the condition that the location be designed so the adjacent property can jointly utilize the access point as access to their property.
 - c. With respect only to the southernmost right-in/right-out connection to future Three Oaks Parkway, there will be no connections on the internal east/west accessway between Three Oaks Parkway and the north/south reverse frontage road.
 - d. Approval of this deviation does not guarantee the alignment of the future Three Oaks Parkway at the location depicted on the MCP. Nor does this approval guarantee the depicted access points as shown on the MCP if the alignment of the future Three Oaks Parkway is changed.

4. Deviation (4) seeks relief from the LDC 10-415(b)(1) requirement that 50 percent of large project's open space consist of native, indigenous vegetation, to permit 3.4 acres of preserved pine flatwood indigenous lands to meet this requirement as shown on the MCP. This deviation is APPROVED, with the following conditions:
 - a. A minimum of 3.3 acres of existing indigenous preservation must be provided as shown on the MCP counter stamped December 15, 1999. A restoration plan meeting the general guidelines of LDC §14-384 "Restoration Standards" must be provided to the Division of Planning, Environmental Sciences for review and approval at the time of local development order submittal.
 - b. An enhanced, undulating native indigenous buffer must be provided along the entire length of the southern Alico Road boundary. The buffer must vary from a minimum 25 feet to 30 feet wide. The varying width of the buffer will allow for preservation of existing large pine trees. The native saw palmetto understory vegetation must be preserved within the dripline of the pine trees. Additional plantings must be 100 percent native, indicative of a pine flatwoods community and, at a minimum, meet the number and size requirements of a Type "D" buffer (five trees per 100 linear feet with a double staggered row hedge). Lower limbs of the preserved pine trees may be trimmed for visual access to the development as long as the health of the pine

trees will not be jeopardized. Proposed groundcover, understory and tree trimming, cutting and maintenance must be reviewed and approved by the Division of Planning Staff arborist.

- c. No portion of the 25 foot wide drainage berm referenced on the MCP can be placed within the boundaries of the 3.3 acre indigenous vegetation area (a/k/a Native Open Space and Surface Water Management Tract).
5. Deviation (5) seeks relief from the LDC §30-153(2)(a)(4), requirement that on-site identification signs set back a minimum of 15 feet from any street right-of-way or easement, and 10 feet from any other property line, to allow project identification signs in a median within the project's internal road right-of-way. This deviation is APPROVED, WITH THE CONDITION that the identification signs are placed and constructed in accordance with LDC §30-93, visibility triangle safe sight distance requirements.

SECTION D. EXHIBITS:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: The legal description and STRAP number of the property.
Exhibit B: Zoning Map (subject parcel identified with shading)
Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.

3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Andrew W. Coy, seconded by Commissioner John E. Albion and, upon being put to a vote, the result was as follows:

John E. Manning	Absent
Douglas R. St. Cerny	Absent
Ray Judah	Nay
Andrew W. Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 21st day of February, 2000.

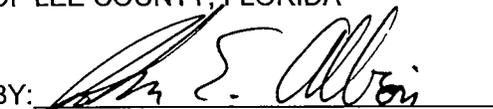
ATTEST:
CHARLIE GREEN, CLERK

BY:


Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY:


Chairman

Approved as to form by:

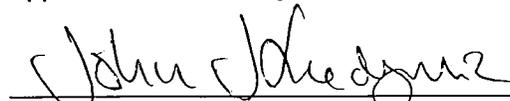

County Attorney's Office

EXHIBIT "A"

(PHASE 1A)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 3, TOWNSHIP 46 SOUTH, RANGE 25 EAST AND BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 3, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE N. 01°03'27" W. ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER FOR 50.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF ALICO ROAD (100 FEET WIDE) AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE N. 89°23'05" E. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 122.95 FEET; THENCE N. 00°36'43"W. FOR 1240.00 FEET; THENCE S. 89° 23'15" W. FOR 1235.00 FEET; THENCE S. 00°36'43" E. FOR 1240.00 FEET TO SAID NORTH RIGHT-OF-WAY LINE; THENCE N. 89°23'17" E. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 1112.05 FEET TO THE POINT OF BEGINNING.

The applicant has indicated that the STRAP number for the subject property is: 03-46-25-00-00001.1100

Zoning Map

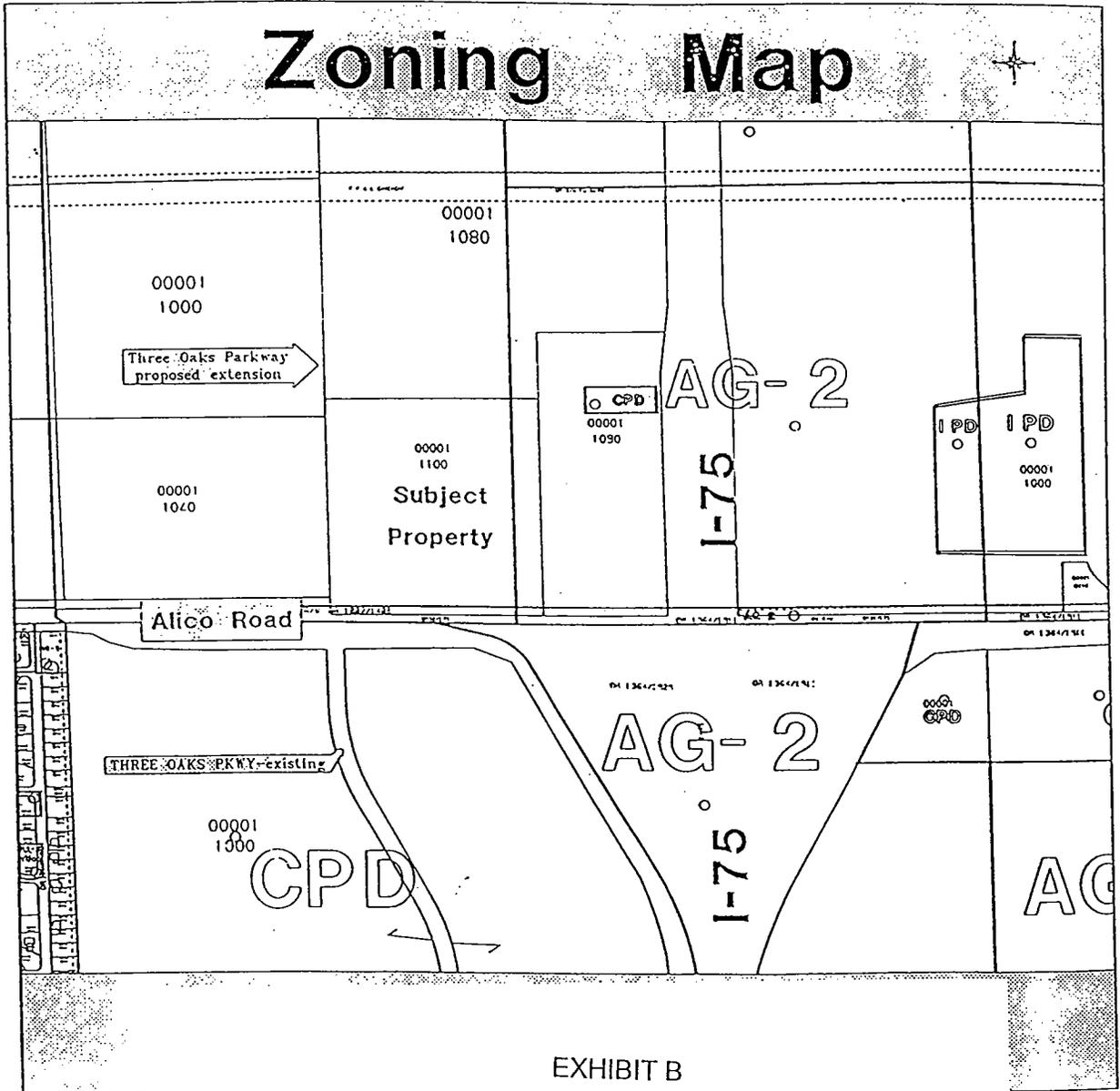


EXHIBIT B

