

RESOLUTION NUMBER Z-96-008

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

WHEREAS, Means Commercial Development filed an application for a rezoning from AG-2 (Agricultural) to Commercial Planned Development (CPD); and

WHEREAS, the subject property is located at 15801 Hart Road, North Fort Myers, and is described more particularly as:

LEGAL DESCRIPTION: In Section 36, Township 43 South, Range 24 East, Lee County, Florida:

A tract or parcel of land lying in the North Half (N½) of the Northwest Quarter (NW¼) of Section 36, Township 43 South, Range 24 East, Lee County, Florida, and being more particularly described as follows:

From the Northwest corner of said Section 36 run S89°46'50"E along the North line of said Section 36 for 2,310.00 feet;

THENCE run S00°19'40"E for 685.65 feet to the POINT OF BEGINNING.

THENCE run S89°46'31"E for 291.47 feet;

THENCE run S02°45'55"E for 635.54 feet;

THENCE run N89°45'13"W for 317.91 feet;

THENCE run N00°20'52"W for 634.7 feet to the POINT OF BEGINNING.

WHEREAS, the applicant has indicated the property's current STRAP numbers are 36-43-24-00-00001.0030 and 36-43-26-00-00001.003A; and

WHEREAS, Means Commercial Development, the owner of the subject parcel, authorized Morris-Depew Associates, Inc. and Goldberg, Goldstein & Buckley to act as agents to pursue this CPD zoning application; and

WHEREAS, a public hearing was advertised and held on January 30, 1996 before the Lee County Hearing Examiner who gave full consideration of the evidence available; and

WHEREAS, a public hearing was advertised and held on March 4, 1996 before the Lee County Board of County Commissioners who gave full and complete consideration to the recommendations of staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board **APPROVES** with conditions the requested rezoning from AG-2 to CPD.

SECTION A. CONDITIONS:

The rezoning and Master Concept Plan are subject to the following conditions:

1. The development of this project must be in accordance with the one page Master Concept Plan entitled "Minor CPD - Master Concept Plan," prepared by Morris-Depew Associates, Inc. dated 8/17/95, last revised 11/24/95, stamped received 12/1/95; except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (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 Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.
2. The uses and development regulations for this property are limited to those listed below:
 - a. Schedule of Uses

Mini-warehouse units not to exceed 65,000 square feet total gross area

Caretaker's residence

All uses permitted by right in the CN-2 zoning district, as limited by Conditions #3 and #6.
 - b. Site Development Regulations
 - 1) Mini-warehouse use

Minimum open space: 58,000 square feet

Minimum perimeter setbacks:

North: 53 feet

East: 10 feet

South: 25 feet

West : 41 feet

Maximum building height: 1 story not to exceed 25 feet
 - 2) Site Development Regulations for any use other than the mini-warehouse use must be determined as part of the public hearing amendment required by Conditions #3 and #6.
3. Development of uses other than the mini-warehouse use must be approved pursuant to a public hearing to amend the Master Concept Plan.

4. The developer must preserve all existing oaks, cabbage palms and pine trees within the 41-foot-wide open space area along the western boundary. Any cabbage palms that are located outside of proposed open space must be relocated into provided open space on site. In addition, if the existing fence is removed, the Developer must comply with LDC Section 10-414(a).
5. All canopy trees must be a minimum of 10 to 12 feet in height with a minimum caliper of three inches measured at three feet above the ground at the time of planting.
6. Any use other than the proposed mini-warehouse will require the submission of a Traffic Impact Statement (TIS) and a re-examination of the proposed connection separation on Hart Road. The developer must construct all warranted off-site improvements in accordance with the TIS and the applicable development regulations in effect at that time.
7. The Development Order plans must include a 20-foot-wide breakaway gate at the northwest corner of the project for fire department access, subject to approval by the North Fort Myers Fire Department.
8. The Development Order plans must identify the 37-foot 6-inch minimum turning radii for fire fighting vehicles, subject to approval by the North Fort Myers Fire Department.
9. The hours of operation are limited to the hours of either 6:00 a.m. - 10:00 p.m. or 7:00 a.m. - 11:00 p.m. at the choice of the owner.
10. This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions may be required at the time of local Development Order approval.
11. Approval of this rezoning does nothing more than change the zoning district wherein the subject property lies. It does not grant or vest present or future development rights that exceed the Lee Plan use restrictions set forth in the 2010 (Roberts) Overlay or any other Lee Plan provision.

SECTION B. DEVIATIONS:

Deviation (1) seeks relief from LDC Section 10-285, Table 1, which requires connections on collector streets (Hart Road) to be spaced no closer than 330 feet apart, to allow a spacing of 160 feet to an existing church driveway. The requested deviation is hereby **APPROVED** subject to compliance with Condition 6.

Deviation (2) seeks relief from LDC Section 10-414(a) which requires buffer plantings to be placed on the residential side of the fence, to allow the plantings to be placed on the commercial side of the fence. The requested deviation is hereby **APPROVED** subject to compliance with Condition 4.

Deviation (3) seeks relief from LDC Section 10-415(c)(2)a which requires a canopy tree to be located within 100 feet of each parking space, to allow a maximum distance of 125 feet from certain parking spaces. The requested deviation is hereby **APPROVED** subject to compliance with Condition 5.

SECTION C. FINDINGS AND CONCLUSIONS:

1. As conditioned in Section A, the CPD rezoning and deviations:
 - a) will not have an adverse impact on the intent and purposes of the Land Development Code.
 - b) are consistent with the goals, objectives, policies and intent of the Lee Plan and with the densities, intensities, and general uses set forth in the Lee Plan.
 - c) meet or exceed all performance and location standards set forth for the proposed use.
 - d) will be compatible with existing or planned uses, and will not cause damage, hazard, nuisance or other detriment to persons or property.
 - e) are not contrary to the public's interest, health, safety or welfare.
2. Urban services, as defined in the Lee Plan, are or will be available and adequate to serve the proposed use when it is developed.
3. There are no jurisdictional or wetland areas on the property.
4. The location of the subject property does not place an undue burden on the existing transportation network or other facilities and services and will be served by streets with the capacity to handle the traffic generated by the development.
5. The requested use will comply with all applicable general zoning provisions and supplemental regulations pertaining to the use, in accordance with the Land Development Code.
6. The Master Concept Plan, the recommended conditions, and the deviations are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
7. Each approved deviation, as conditioned, enhances the achievement of the objectives of the planned development and promotes the general intent of the Land Development Code to protect the public health, safety and welfare.

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

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

DULY PASSED AND ADOPTED this 4th day of March, A.D., 1996.

ATTEST:
CHARLIE GREEN, CLERK

BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA


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Chairman

Approved as to form by:

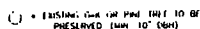

County Attorney's Office

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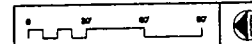
CLERK CIRCUIT COURT
BY  D.C.

7. PROPOSED IS REZONED FROM AG-2 TO COMMERCIAL PLANNING DEVELOPMENT.
8. THE PROPOSED DEVELOPMENT IS CENTRAL URBAN LAND USE DESIGNATION.
9. 12.00 ACRES OF 100' WIDE, 10' HIGH WAREHOUSE DEVELOPMENT.
10. REQUIRED OPEN SPACE = $1 \text{ SPACE PER TEN SQUARE FEET OF COVERED AREA}$
11. REQUIRED OPEN SPACE = 50% OF SITE AREA
12. $50\% \times 12.00 \text{ ACRES} = 6.00 \text{ ACRES}$
13. 50.00 SQ. FT. IS PROVIDED
14. RECOMMENDATION
15. DEVIATION #1 - A DEVIATION FROM LOC 10-285 WHICH REQUIRES CLOSER BUFFER DISTANCE FROM THE ADJACENT OPEN SPACE TO CLOSER THAN 330' APART, TO ACHIEVE A BUFFER OF 140' TO 150' FROM THE ADJACENT DWYERS
16. DEVIATION #2 - A DEVIATION FROM LOC 10-214(c) WHICH REQUIRES BUFFER PLANTINGS TO BE PLACED BETWEEN THE REMAINING SIDE OF THE FENCE, TO ALLOW THE PLANTINGS TO BE PLACED BETWEEN THE FENCE AND THE ADJACENT DWYERS
17. DEVIATION #3 - A DEVIATION FROM LOC 10-214(d) WHICH REQUIRES THE PLANTINGS TO BE LOCATED WITHIN 100' OF EACH CORNER OF THE LOT TO ACHIEVE A MAXIMUM DISTANCE OF 175'
18. SCHEDULE OF 120'
19. THE PROPOSED DEVELOPMENT IS REZONED BY RIGHT IN 20-2 DISTRICT
20. THE PROPOSED DEVELOPMENT IS REZONED BY THE CHAIRMAN'S RESOLUTION
21. THE PROPOSED DEVELOPMENT IS REZONED BY THE CHAIRMAN'S RESOLUTION AND SHOWS NO OTHER REASON FOR REZONING
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APPROVED

APPROVED
Master Concept Plan
Site Plan # 96-008 Page 1 of 1
Subject to conditions in Resolution 2-2009
Zoning Case # 85-08-200.02Z



Client: RICK MEANS
MEANS COMMERCIAL SITE

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