

RESOLUTION NUMBER Z-98-034

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

WHEREAS, Flagship Properties Corporation filed an application on behalf of the property owner, Muriel Hattenbach, to amend the Development Order for the Cypress Lake Center Development of Regional Impact (DRI) and rezone a portion of the DRI property from Commercial Planned Development (CPD) to Residential Planned Development (RPD); and

WHEREAS, a public hearing was advertised and held on May 20, 1998, June 26, 1998, July 17, 1998, August 21, 1998 and October 23, 1998 before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case Nos. 96-09-098.03Z 03.01 and 96-09-098.04Z 01.01; and

WHEREAS, a second public hearing was advertised and held on March 29, 1999 before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents in the record and the testimony of all interested persons.

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

SECTION A - REQUEST

The applicant made the following requests with respect to the property described in Exhibit A:

1. Amend the Cypress Lake Center DRI Development Order #7-8384-47 to reduce the total square footage for retail/office/business use from 646,340 square feet, to 352,001 square feet; reduce the number of approved hotel units from 275 rooms, to 104 rooms; and add 210 residential dwelling units;
2. Determine whether the proposed DRI Amendment requires additional review under the substantial deviation provisions of F.S. § 380.06(19); and
3. Rezone 9.2 acres from CPD to RPD to permit a maximum of 210 multi-family dwelling units, not to exceed 45 feet in height with a maximum of three stories.

The Lee County Board of County Commissioners APPROVES amendment to and recodification of the DRI Development Order, finds no substantial deviation and approves the rezoning from CPD to RPD, with conditions as follows:

SECTION B - CONDITIONS:

1. The development of this project must substantially conform to the one-page Master Concept Plan (MCP) entitled "Master Concept Plan for Cypress Lakes, Lot 6 and Tract B, Cypress Lake Center Phase II" prepared by Avalon Engineering, Inc., dated 11/17/97, last revised March 1998, stamped received 03/04/98, except as modified by the conditions below. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

2. The approved schedule of uses is limited to the following:

Dwelling units, multi-family, as further limited by Condition 6
Accessory uses, residential
Entrance gates and gatehouses
Fences and walls
Administrative offices
Recreational Facilities, Personal
Signs

3. The property development regulations are limited to the following:

Street Setback: 25 feet
Perimeter Setback: 19.5 feet
Maximum Height: 45 feet or three stories, whichever is less

4. Required parking spaces for residents or guests must be located within the confines of any perimeter gate, gatehouses, fences or walls.

5. Environmental Conditions

- a. Prior to local Development Order approval for the project, the applicant must submit a restoration and enhancement plan as mitigation for the 0.5-acre reduction in existing native indigenous vegetation preservation. The plan must be submitted to and approved by the Division of Planning, Environmental Sciences Program staff and include the following:

- (1) A plan to restore and maintain in perpetuity the saw palmetto understory in a more natural state. The first phase must take place prior to issuance of a certificate of completion for the project.
- (2) The additional pine flatwoods area (not delineated on the FLUCCS map) located west of the southwestern edge of the existing UTS/Sprint building must be preserved where it overlaps common open space on the MCP.
- (3) A detailed exotic removal plan must be submitted for the abutting water management system. All invasive exotics per LDC Section 10-413(f) must be removed prior to certificate of compliance for the RPD.
- (4) A lake enhancement plan for the abutting water management system must be submitted that provides for native shade trees meeting the specifications of LDC Section 10-416(a)(1). The trees must be planted around the lake perimeter calculated on one tree per 100 feet of lake shoreline measured at the control elevation. The tree planting is in addition to other LDC required trees. An additional one native herbaceous plant per linear foot of lake shoreline as measured at the control elevation water level is also required. Trees and plants may be grouped or clustered together around the lake perimeter.

- b. Retaining walls must be installed where indigenous preserves abut parking areas and the slope from finished parking elevation to match existing grade in the preserve is steeper than 2:1 (horizontal to vertical). The retaining walls must be installed prior to the commencement of fill activities within parking areas. Parking spaces abutting preserves must be 16 feet long with "type F" or similar non-mountable curbs in lieu of bumpers.
 - c. Buildings that encroach within 10 feet of a preserve must utilize stem-wall construction. Retaining walls must be installed at the limit of the preserve where a building encroaches within 10 feet of a preserve. The retaining walls must be installed prior to commencement of fill activities for the building.
 - d. Applicant's open space calculations and depictions on the MCP - indigenous and otherwise - must be reevaluated and revised to comply with the provisions of Condition 13 and Deviation (5) below.
6. No more than 145 dwelling units can be developed on this site until the application for Transfer of Development Rights (TDR) or density bonus is approved. If TDR or bonus density units are approved for this site, then a maximum of 210 units may be developed. Additional conditions may be added to address TDR/bonus density units.
7. Emergency Preparation
- a. The Applicant must initiate the establishment of a property owners' or residents' association for each residential component of this project. The organization must provide an educational program on an annual basis, in conjunction with the staff of Emergency Management, which will provide literature, brochures and technical assistance for Hurricane Awareness/Preparedness Seminars, describing the risks of natural hazards. The intent of this recommendation is to provide a mechanism to educate residents concerning the actions they should take to mitigate the dangers inherent in these hazards.
 - b. The Applicant must formulate an emergency hurricane notification and evacuation plan for the development, which will be subject to review and approval by the Lee County Office of Emergency Management.
 - c. If access to this development or into portions of this development is through a security gate or similar device, which is not manned 24 hours a day, it must be equipped with an override strip installed in a glass-covered box to be used by drivers of emergency vehicles to gain entry consistent with LDC Section 34-1749.
 - d. The purchaser/end user of any parcel, which will be used to store, manufacture, or use hazardous materials, must contact the Lee County Office of Emergency Management Hazardous Material Representative, to discuss the proposed development in relation to the potential type, use, and storage of hazardous materials, which will be located on the premises.
 - e. The Applicant must establish an emergency notification system for its residents and commercial employees to be used in the event of a hazardous material release.

- f. The Applicant must cooperate with the Division of Emergency Management in determining and participating in a means to lessen their adverse impacts on the County's hurricane preparedness process and public safety. This means could include the provision of equipment, monies in lieu of equipment, or such other goods, materials or actions deemed appropriate by Emergency Management that results in the provision of additional shelters, or improvement of roads for use as additional evacuation routes.
8. Trash dumpsters or compactors must be sized to accommodate the development in compliance with LDC Section 10-261, and located within the confines of the perimeter gates. All dumpsters/compactors must be reached for emptying from within the subject property, and not from Vector Avenue or other external roadway.
9. This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions, consistent with the DRI Development Order and the Lee County LDC, may be required at the time of local Development Order.
10. All commitments made in the original DRI or subsequent documents and all conditions of previous zoning actions not affected by this amendment remain in full force and effect.
11. Except as granted by deviation herein, this development must comply with all Lee County Land Development Code requirements in effect at the time of local Development Order approval.
12. Sidewalks that are a minimum of four feet wide must be installed between the buildings and the internal roadway to provide a pedestrian walkway between the buildings and recreational amenities.
13. Applicant must install a 6-foot-high wall along the north, east and south property lines not adjacent to a water management area or preserve area, with five canopy trees and 12 shrubs per 100 linear feet in a 10-foot-wide buffer. The wall is not required to be 100 percent solid; it may be constructed with small "decorative" (designed/patterned) openings every 25 feet or along the top, middle, or bottom of the wall, as long as the openings do not separate the wall into independent segments, compromise the wall's structural integrity, or diminish its purpose of providing a protective barrier against noise. Specific exceptions to the wall/buffer requirement are as follows:
 - a. No wall is required along that portion of the north boundary abutting the preserve area;
 - b. A wall is only required along the south boundary where the subject property abuts lot 7, i.e., no wall is required between the subject property and Tract A, which is the water management and preserve area;
 - c. No wall is required around Tract B-1, which is identified on the MCP as the Sprint or U.T.S. parcel; and

- d. A fence, meandering around the preserve and water management areas abutting the site, must be constructed to connect to the wall required in accordance with this condition.

SECTION C - DEVIATIONS:

Deviation (1) requests relief from the LDC Section 34-2020(4)(o)(2) requirement to provide parking spaces at a rate of one per 100 square feet of Private On-Site Recreational Facilities, to allow a total of four parking spaces instead of 40 parking spaces. This request is DENIED. Lee County Planning and Zoning Staff have historically identified such a use as a PERSONAL recreational facility, amenity/accessory use, when contained solely within the grounds of the apartment complex. A personal recreational facility does not have separate parking requirements, thereby making the request for the Deviation unnecessary.

Deviation (2) requests relief from the LDC Section 34-1174(b) requirement that accessory structures be set back 25 feet from the right-of-way of Vector Avenue, to allow the trash compactor to be placed 15 feet from the right-of-way. This deviation is APPROVED, PROVIDED trash collection occurs in accordance with Condition 8.

Deviation (3) requests relief from the LDC Section 10-292(3) requirement to provide two or more means of ingress/egress for residential developments over five acres, to allow only one ingress/egress. This deviation is APPROVED, PROVIDED the stabilized maintenance road along the canal on the western boundary is improved for use as an alternative emergency access, and the local fire district and Lee County EMS agree, in writing, to the use of the maintenance road. Applicant must also comply with any conditions required by the fire district and EMS in the use of this service road or the solitary access point.

Deviation (4) requests relief from LDC Section 10-296(m)(4)a. that dictates accessways are not required to meet the minimum roadway right of way widths if they provide access to 50 or fewer multi-family residential units, to allow an accessway to provide access to a maximum of 210 multi-family units. This deviation is APPROVED, WITH THE CONDITION that, prior to development order approval, the developer must provide documentation to show that traffic calming devices as identified in the ITE Residential Street Design and Traffic Control book will be installed in such a manner as to reduce the vehicular speeds.

Deviation (5) requests relief from the LDC Section 10-413(C)(1) requirement that 50 percent of the required open space be indigenous open space, to allow 38 percent indigenous open space. This deviation is APPROVED, SUBJECT TO compliance with Condition 5.

Deviation (6) requests relief from the LDC Section 34-2020(1) requirement to provide additional parking spaces equaling 10 percent of the total common parking for space requirement (in this case 36 spaces) as an accommodation for guest parking, to eliminate the requirement for these additional spaces. This deviation is APPROVED.

Deviation (7) requests relief from the LDC Section 34-2474(b)(6) requirement to provide a 40-foot-wide separation between private recreational facilities and residential units, to allow a 15-foot-wide separation. This deviation is APPROVED.

Deviation (8) requests relief from the LDC Section 34-1749(1)(b) requirement that gates/gatehouses be located 100 feet from a right-of-way, to allow the gates/gatehouses to be located 80 feet from Vector Avenue. This deviation is APPROVED, PROVIDED the entrance is designed to ensure that a minimum of five vehicles can pull safely off the public street while awaiting entrance into the project. This condition is required whether the developer provides one or two gates.

Deviation (9) requests relief from the LDC Section 2020(1)(c), which prohibits the stacking of vehicles one behind another in multi-family projects, to allow the stacking of vehicles for 24 of the multi-family units having garages. This deviation is DENIED.

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: The Master Concept Plan
- Exhibit C: Zoning Map
- Exhibit D: Fourth Development Order Amendment for Flagship Apartments, a portion of Cypress Lake Center DRI

SECTION E - FINDINGS AND CONCLUSIONS:

REQUESTS 1) and 2):

1. The subject property is part of the Cypress Lake Center DRI, and is only one of two undeveloped parcels in the DRI.
2. The DRI was approved in May 1985 and has been developed to date with a combined total of 352,001 square feet of commercial and office uses (310,354 commercial/retail; 41,647 executive business office area) and a 104 room hotel. This leaves an undeveloped total of 294,339 square feet of commercial and office uses (25,986 commercial/retail; 228,353 executive business office park; 40,000 corporate office area) and 171 hotel rooms with a 200 seat restaurant and conference center based upon the DRI Development Order as amended prior to this request.
3. The original DRI owner paid \$1.3 million as its proportionate share for the anticipated traffic impacts based upon the 1985 approval, and that "costs" of the improvements attributable to the existing development is less than that amount.
4. The DRI DO did not designate development amounts or types per parcel within the DRI, which has resulted in all the DRI property owners having an interest in the remaining approved, unused commercial and hotel development amounts.
5. The proposed multi-family use is a "new" use, not an increase of an existing use for the purposes of determining substantial deviation under Section 380.06(19), F.S.
6. The 210 dwelling units are approximately equivalent to 105,000 square feet of office use (based upon transportation generation rates). Reducing the executive business office

square footage by 105,000 square feet leaves 123,353 square feet of executive business office park; 25,986 square feet of commercial retail and 171 hotel rooms with restaurant and conference center available for development by the DRI property owners.

7. The proposed change to the DRI does not increase existing or create new regional impacts, and is not a "Substantial Deviation" under the provisions set out in Subsection 380.06(19), F.S.
8. The BOCC has inherent authority, through its public health, safety and welfare powers, to restrict the amount of reduction being taken in the DRI's unused commercial square footage and hotel rooms, and the Hearing Examiner has the authority to recommend such action to the BOCC in the grant of powers to her in Land Development Code Section 34-145.
9. The proposed change is consistent with the intent and provisions of Florida Statutes, Chapters 187 and 163, Part II and Section 380.06, *et seq.*

REQUEST 3):

1. The Applicant has proven entitlement to the RPD zoning, as conditioned, by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes or regulations.
2. The RPD zoning, as conditioned:
 - a. will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request.
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan.
 - c. is compatible with existing or planned uses in the surrounding area; and
 - d. will not adversely affect environmentally critical areas or natural resources.
3. Approval of the RPD zoning, as conditioned, will not place an undue burden upon existing transportation or planned infrastructure facilities, and the development will be served by streets with the capacity to carry the traffic the development generates.
4. The proposed use and density, as conditioned, is appropriate at the subject location.
5. The recommended conditions to the Master Concept Plan are reasonably related to the impacts created by or resulting from the proposed development, and, with other applicable regulations, will provide sufficient safeguard to the public interest.
6. The requested deviations:
 - a. enhance the achievement of the objectives of the planned development; and

- b. preserve and promote the general intent of LDC Chapter 34 to protect the public health, safety and welfare.
7. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
8. Lee County Planning and Zoning Staff have historically interpreted the clubhouse and pool of an apartment complex as a personal recreational use, thereby making it an "accessory" use that is not required to provide separately assigned parking spaces.
9. Conversion of residential development into commercial square footage and vice versa is a commonly accepted development practice in Lee County for DRIs and planned developments, and is typically based upon equivalent traffic trip generation rates.
10. The provisions of the Lee Plan and LDC are intended to provide for the protection of all uses from potentially incompatible uses in close proximity, i.e., residential from incoming commercial and existing commercial from incoming residential.
11. The Hearing Examiner has authority, under LDC Section 34-145, to impose certain buffering conditions on a residential planned development that has made no provisions to protect its future residents from the known nuisance impacts of the surrounding commercial uses.

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

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

DULY PASSED AND ADOPTED this 29th day of March, 1999.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Ann S. Pierce*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *Ray Judah*
Chairman

Approved as to form by:

Dawn E. [Signature] 3/29/99
County Attorney's Office

MINUTES OFFICE

RECEIVED MAR 30 1999
FILED MAR 30 1999

EXHIBIT "A"

LEGAL DESCRIPTION

Lot 6, CYPRESS LAKE CENTER PHASE II SUBDIVISION, as recorded in Plat Book 39, Pages 22 to 24, of the Public Records of Lee County, Florida, lying in Section 23, Township 45 South, Range 24 East, Lee County, FL.

The applicant has indicated that the STRAP numbers for the subject property are: 23-45-24-44-00000.B000 and 23-45-24-44-00000.0060.

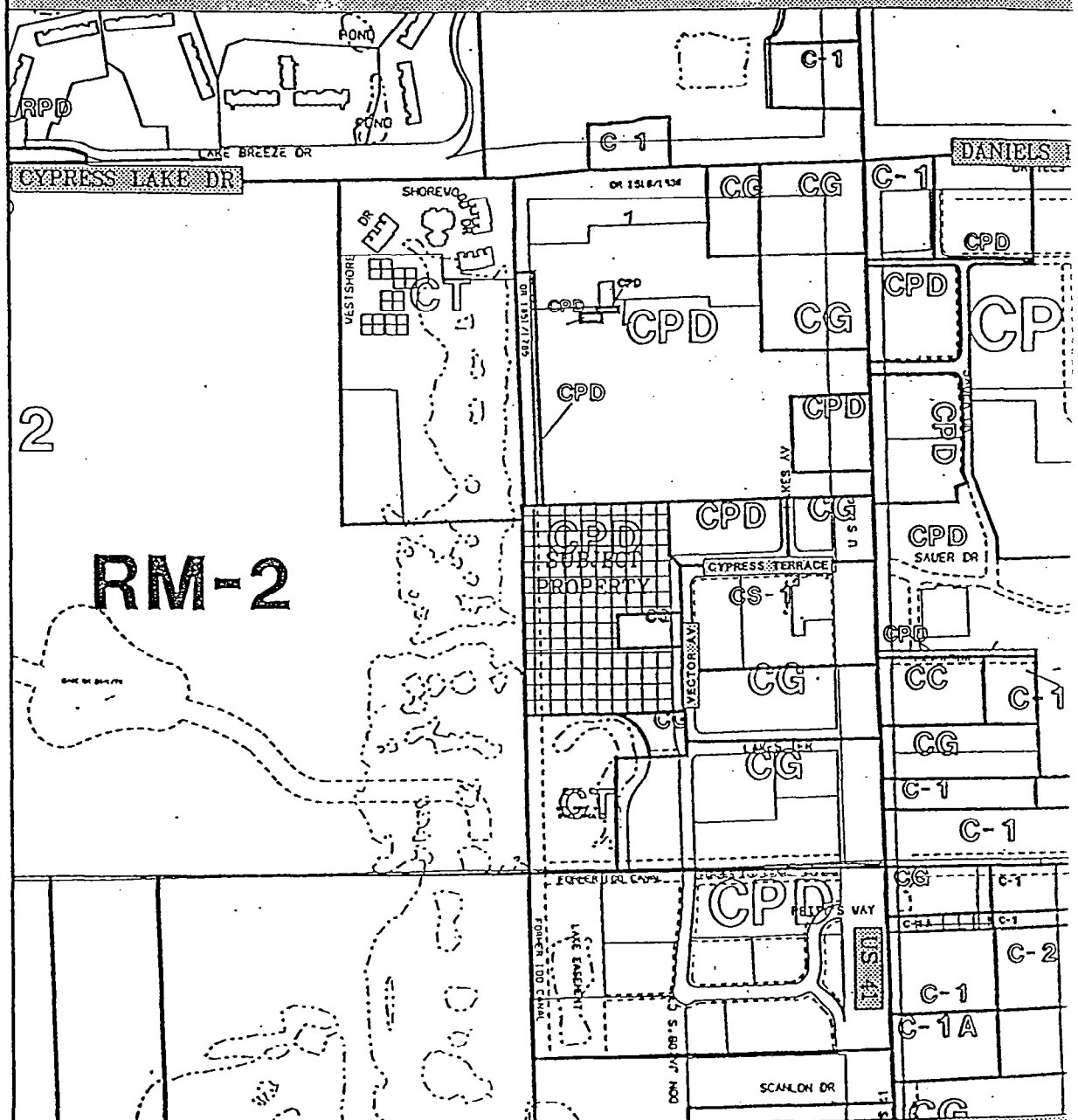


EXHIBIT "C"

**FOURTH AMENDMENT TO THE DEVELOPMENT ORDER
FOR
CYPRESS LAKE CENTER**

**A DEVELOPMENT OF REGIONAL IMPACT
#7-8384-47**

LET IT BE KNOWN, THAT, PURSUANT TO SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, HAS HEARD, AT A PUBLIC HEARING CONVENED ON MARCH 29, 1999, THE REQUEST TO AMEND THE DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER FOR CYPRESS LAKE CENTER, A COMMERCIAL (SHOPPING CENTER/OFFICE PARK) DEVELOPMENT CONSISTING OF APPROXIMATELY 68.5 ACRES TO BE DEVELOPED IN ACCORDANCE WITH THE APPLICATION FILED ON DECEMBER 18, 1997, BY LARRY HILDRETH, AGENT, AUTHORIZED REPRESENTATIVE OF FLAGSHIP PROPERTIES CORPORATION, AN OWNER OF A 9.2-ACRE PARCEL WITHIN THE DRI.

WHEREAS, the original Cypress Lake Center DRI Development Order was approved on May 20, 1985; and

WHEREAS, the Development Order was first amended on June 8, 1987 to increase the commercial retail square footage from 300,000 square feet to 336,400 square feet and reduce the executive business office park square footage from 306,340 to 270,000 square feet; and

WHEREAS, the Development Order was amended on November 9, 1987 to allow refund of traffic mitigation funds under certain circumstances; and

WHEREAS, the Development Order was amended a third time on November 29, 1993 to extend the termination date of the Development Order to June 19, 2000; and

WHEREAS, Flagship Properties Corporation submitted a Notification of Proposed Change to amend the DRI Development Order a fourth time to adopt a new Master Development Plan, Map H (attached as Exhibit A) to accommodate the addition of 210 multi-family residential units, and to decrease commercial development to 310,354 square feet, office/business to 41,647 square feet, and hotel rooms to a total of 104 rooms and extend the buildout date to June 19, 2000; and

WHEREAS, under Florida Statutes, Section 380.06, the proposed change must be reviewed and evaluated to determine whether it constitutes a substantial deviation from the terms of the existing Development Order; and

WHEREAS, Flagship Properties Corporation offered no objection to a modification of its request to retain in the DRI Development Order all or a portion of the unused commercial and office square footage; and

WHEREAS, the proposed amendment to the DRI Development Order, as modified below, is consistent with the adopted Comprehensive Land Use Plan of Lee County and applicable local land development regulations; and

WHEREAS, the proposed amendment to the DRI Development Order, as modified below, is consistent with the State Comprehensive Plan, the Southwest Florida Regional Plan, and the State Land Development Plan; and

WHEREAS, the Board of County Commissioners has reviewed the proposed Amendment and finds the change, as amended below, does not constitute a Substantial Deviation; and

WHEREAS, the Board of County Commissioners of Lee County, Florida, considered the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Administrative Staff, the Lee County Local Planning Agency, and the documents and comments upon the record made before the Board in public hearing, and after full consideration of those reports, recommendations, comments, and documents, finds and determines that:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. The development proposed herein will result in a mixed use project including: a shopping center (336,340 square feet on 40 acres); and business corporate office area (40,000 square feet) and executive business/office park (165,000 square feet); hotel complex (275-room hotel, 200-seat restaurant, 100-seat conference center); and, 210 multi-family residential units on approximately 68.5 acres. The proposed development constitutes a Development of Regional Impact on the real property described as:

A tract or parcel of land lying in the southeast quarter of Section 23, Township 45 South, Range 24 East, which tract or parcel is described as follows:

The east one-half of the southeast one-quarter, less than north 116 feet lying west of State Road No. 45, of said Section 23, Township 45 South, Range 24 East, Lee County, Florida.

B. The subject property is presently zoned CG, CS, CPD, and CT pursuant to the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), the Lee County Zoning regulations, as amended, and the Lee County Land Development Code (LDC); and a rezoning of 9.2 acres from CPD to RPD is being approved concurrent with this Development Order Amendment.

C. The Notice of Proposed Change (NOPC) is consistent with the requirements of Section 380.06, Florida Statutes.

D. The proposed development

1. is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes; and
2. has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendations adopted by that body, and subsequently forwarded to Lee County pursuant to the provisions of Section 380.06, Florida Statutes, and the proposed development as modified by this development order is consistent with this report and recommendations of the Southwest Florida Regional Planning Council;
3. is consistent with the adopted Lee County Comprehensive Plan; and,
4. does not constitute a substantial deviation from the original development approval.

E. This resolution constitutes the Fourth Amendment to the Cypress Lake Center DRI Development Order and is based upon the NOPC filed on behalf of Muriel Hattenbach by Flagship Properties Corporation (hereinafter referred to as "developer").

F. All commitments and impact mitigating actions volunteered by the developer in the NOPC and supplementary documents not in conflict with conditions or stipulations specifically enumerated herein, are adopted into this Development Order by reference. The commitments incorporated by reference are binding on the developer as if fully set forth herein.

G. The Development Order, as amended, is binding upon the developer, its successors and assigns.

It is declared that the terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Development Order Amendment and the zoning Resolution adopted concurrently herewith.

All conditions, restrictions, stipulations and safeguards contained in the Resolution and this Amendment to the DRI Development Order may be enforced by either party hereto by action at law or equity and all costs of such proceedings, including reasonable attorney's fees, will be paid by the defaulting party.

H. It is understood that any reference herein to any governmental agency will be construed to mean any future instrumentality that may be created and designated as

successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

I. In the event that any portion or section of this Development Order Amendment is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision will in no manner affect the remaining portions or sections of the Development Order Amendment, which will remain in full force and effect provided that the portion of the Development Order Amendment that is invalidated does not cause the remainder of the development area to be inconsistent with the purpose and intent of Lee County adopting this Development Order Amendment.

J. The approval granted by this Development Order Amendment is limited. Approval may not be construed to obviate the duty of the applicant to comply with all other applicable local or state review and permitting procedures.

K. Based on the record, the transportation impacts of the proposed 210 multi-family residential units are equivalent to that generated by 105,000 square feet of executive business office park use. Consequently, it is not necessary to eliminate all of the remaining unbuilt commercial development in order to balance the impacts of the proposed residential units.

L. The DRI Development Order, as amended, will remain in effect until June 19, 2000, and the DRI project buildout date is June 19, 2000.

M. The Administrative Director of the Lee County Division of Community Development or his/her designee, is the local official responsible for assuring compliance with this Development Order Amendment.

N. Certified copies of this Development Order Amendment will be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order Amendment is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order Amendment becoming effective, notice of its adoption must be recorded as provided in Chapter 380, Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting duly constituted and assembled on March 29, 1999, that as a result of the Development of Regional Impact Notice of Proposed Change submitted by Flagship Properties Corporation, the Board finds no substantial deviation and approves:

1. the addition of 210 multi-family dwelling units on the subject 9.2 acre parcel;

2. the reduction of executive business office park square footage from 270,000 square feet to 165,000 square feet; and
3. replacement of the "Map H" previously approved with the "Map H" as amended and attached as Exhibit "A".
- 4 the project buildout date is extended to June 19, 2000.

THE MOTION TO ADOPT the above resolution was offered by Commissioner Manning, and seconded by Commissioner Coy and upon poll of the members present, the vote was as follows:

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

DULY PASSED AND ADOPTED this 29th day of March, 1999.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

Ray Judah
(Chairman)

ATTEST:
Charlie Green, Clerk

Joan H. Pierce
Deputy Clerk

APPROVED AS TO FORM

Dawn E. Abbott 3/29/99
County Attorney

MINUTES OFFICE

FILED MAR 30 1999

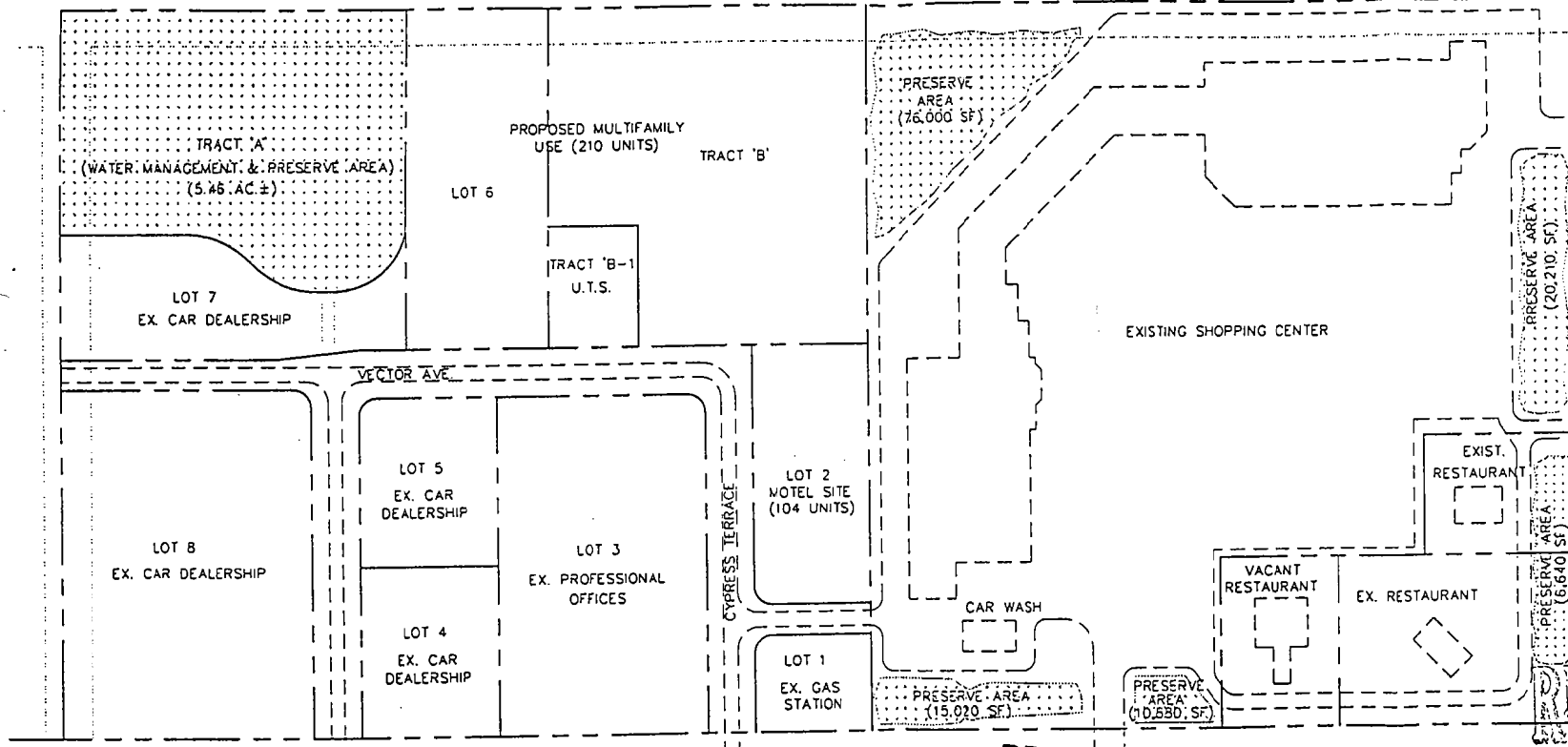
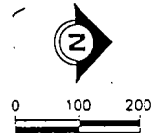
State of Florida
County of Lee

I Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 30th day of March, A.D. 1999

CHARLIE GREEN, CLERK
By Joan H. Pierce
Deputy Clerk

PHASE II ← → PHASE I



U.S. 41 (TAMIAMI TRAIL)

PROJECT # 96-09 098 047-03-21
PROJECT TYPE 16

FEB 23 1993
PERMIT COUNTER

CYPRESS LAKE CENTER

DAVALON ENGINEERING, INC.
1620 CAPE CORAL PARKWAY E, CAPE CORAL, FLORIDA 33904
(941) 549-8559

MASTER DEVELOPMENT PLAN
MAP "H"
(REV. - 2/18/98)

EXHIBIT "A"

**CODIFIED DEVELOPMENT ORDER¹
FOR
CYPRESS LAKE CENTER**

A DEVELOPMENT OF REGIONAL IMPACT

#7-8384-47

LET IT BE KNOWN, THAT, PURSUANT TO SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, HAS HEARD, AT A PUBLIC HEARING CONVENED ON MARCH 29, 1999, THE REQUEST TO AMEND THE DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER FOR CYPRESS LAKE CENTER, A COMMERCIAL (SHOPPING CENTER/OFFICE PARK) DEVELOPMENT CONSISTING OF APPROXIMATELY 68.5 ACRES TO BE DEVELOPED IN ACCORDANCE WITH THE APPLICATION FILED ON JULY 17, 1984, BY ARTHUR L. MOSES, TRUSTEE, AUTHORIZED REPRESENTATIVE OF CYPRESS LAKE VENTURE, LTD., FOR SAID DEVELOPMENT AND AS SUBSEQUENTLY AMENDED.

WHEREAS, the original Cypress Lake Center DRI Development Order was approved on May 20, 1985; and

WHEREAS, the Development Order was first amended on June 8, 1987 to allow 336,400 square feet of retail commercial and 270,000 square feet of office development; and

WHEREAS, the Development Order was amended on November 9, 1987 to allow refund of traffic mitigation funds under certain circumstances; and

WHEREAS, the Development Order was amended a third time on November 29, 1993 to extend the effective date of the Development Order to June 19, 2000; and

WHEREAS, Flagship Properties Corporation (hereinafter called Flagship) has submitted an application for a fourth amendment to the Cypress Lake Center DRI Development Order to adopt a new Master Development Plan, Map H (attached as Exhibit A) to accommodate the addition of 210 multi-family residential units and decrease commercial development to 310,354 square feet, office/business to 41,647 square feet and hotel rooms to a total of 104 rooms and extend the buildout date to June 19, 2000.

¹ This codified Development Order (DO) includes all development order amendments thru the 4th DRI DO Amendment adopted by the Board on March 29, 1999. It is an official codification, having received Board approval during an advertised public hearing on March 29, 1999.

WHEREAS, the Board of County Commissioners of Lee County, Florida desire to adopt a codified Development Order to consolidate all of the past actions taken in regard to this approved development; and

WHEREAS, in order to retain a clear understanding of the history of Cypress Lake Center DRI project this codification includes all of the conditions of the original DRI DO and amendments thereto, but the inclusion of such conditions herein is not intended to resurrect or reimpose any conditions that have already been satisfied; and

WHEREAS, the Board of County Commissioners of Lee County, Florida, considered the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Administrative Staff, the Lee County Local Planning Agency, and the documents and comments upon the record made before the Board in public hearing, and after full consideration of those reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, finds and determines that:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. ~~This development, as amended, will be Said applicant originally proposed to develop a mixed use project shopping center and office park; including a shopping center (336,340 square feet on 40 acres); business corporate office area (40,000 square feet); an executive business office park (270,000 165,000 square feet); and hotel complex (275 room hotel, 200-seat restaurant, 100-seat conference center); and, 210 multi-family residential units on approximately 68.5 acres. The formal Application for Development Approval "ADA" submitted requested approval of those uses. As described in Condition "H" below, the Lee County Comprehensive Plan requires a reduction of the commercial shopping center facilities to 300,000 square feet or less to provide for consistency with that Plan. The proposed development, as reduced from 336,400 square feet to 300,000 square feet of shopping center and expanded from 270,000 square feet to 306,400 square feet of office park, constitutes a shopping center/office park. The Lee County Comprehensive Plan has subsequently been amended and new permits up to 400,000 square feet of Commercial Shopping Center while remaining consistent with that Plan pursuant to amendments to the Plan. The proposed development of 336,340 square feet of shopping center, 270,000 square feet of office park, and the hotel complex and corporate office area constitutes a shopping center office park Development of Regional Impact on the real property described as:~~

A tract or parcel of land lying in the southeast quarter of Section 23, Township 45 South, range 24 East, which tract or parcel is described as follows:

The east one-half of the southeast one-quarter, less than north 116 feet lying west of State Road No. 45, of said Section 23, Township 45 South, Range 24 East, Lee County, Florida.

B. ~~The subject property had been is presently zoned CPD, RPD, CG, CS and CT. by the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida~~

(Special Acts), and the Lee County Zoning regulations, as amended, in the AG District; and rezoning to the CG, CS and CT districts was approved concurrently with this Development Order:

C. The Application for Development Approval (ADA) is consistent with the requirements of Chapter Section 380.06, Florida Statutes; and

D. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Chapter Section 380.05, Florida Statutes; and

E. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendations adopted by that body on February 28, 1985, and subsequently forwarded to Lee County pursuant to the provisions of Chapter Section 380.06, Florida Statutes, and the proposed development is consistent with this report and recommendations of the Southwest Florida Regional Planning Council; and

F. The proposed development is consistent with the adopted Lee County Comprehensive Plan, subject to the following conditions.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting duly constituted and assembled this Twentieth (20th) Day of May, 1985 on March 29, 1999, that the Development of Regional Impact Application for Development Approval submitted by Cypress Lake Venture, Ltd.; (referred to hereinafter as "developer") and as subsequently amended, is hereby ordered APPROVED, subject to the following conditions, restrictions, and limitations:

A. COMMUNITY SERVICES

1. The developer shall must meet with the Chief of the South Trail Fire Department and the Director of Lee County Division of Public Safety or his designee, prior to project construction, to discuss fire protection and Emergency Medical Service needs and appropriate measures to meet these needs.

2. The developer must demonstrate, to the satisfaction of the Lee County Division of Community Development prior to project construction, that there will be no adverse fiscal impacts (costs exceeding revenues) upon fire protection and Emergency Medical Service providers resulting from the development.

B. DRAINAGE/WATER QUALITY

1. The drainage system for the proposed project must be redesigned to provide greater upland (dry) retention/detention of runoff prior to discharge into the on-site

lake system. Areas of natural vegetation as described in condition "E" below may be used where feasible.

2. The discharge structure ~~shall~~ must include a baffle, skimmer, or other mechanism suitable for preventing oil and grease from discharging from retention/detention areas.

3. The drainage system ~~shall~~ must implement the design standards and "best management practices" outlined in the ADA and in all supplementary material.

4. The developer and/or his successor(s), ~~shall~~ must implement an ongoing maintenance and monitoring program that regularly inspects, maintains and samples the stormwater drainage system. The program ~~shall~~ must be designed in consultation with the staffs of the Southwest Florida Regional Planning Council, the South Florida Water Management District, and Lee County. Final approval of the program rests with Lee County. The program ~~shall~~ must be redesigned, if necessary, to incorporate any County ordinances and/or policies relating to the Lakes Park drainage basin. If the quality of surface water runoff does not meet any present or future standards, then the developer ~~shall~~ must take remedial measures to improve the system to meet these standards, entirely at the developer's expense. The developer ~~shall be~~ is responsible for any remedial measures required by the County, including all costs.

5. A regular program of vacuum sweeping of all project parking lots ~~shall~~ must be utilized both during and after project construction.

6. The project ~~shall~~ must be served by a central sewage system.

7. The project ~~shall be~~ is subject to all regulations of Lee County for the protection of the Lakes Regional Park Watershed and Lakes Regional Park water quality.

C. ENERGY

The developer ~~shall~~ must incorporate, ~~as at~~ a minimum, the following energy conservation features into all site plans and architectural programs or insure that the following features are implemented through deed restrictions and covenants with successors in title. All applications for site plan approvals and building permits ~~shall~~ must be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents ~~shall~~ must be approved by the Lee County Attorney's Office prior to recording.

These features are:

1. Provision of bicycle racks or storage facilities.

2. Location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, in cooperation with the appropriate Lee County agencies.
3. Use of energy-efficient features in window design (e.g., tinting and exterior shading), and use of operable windows and ceiling fans.
4. Installation of energy-efficient appliances and equipment.
5. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).
6. Reduced coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat.
7. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
8. Installation of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a minimum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, Chapter (Section 553.14, F.S.).
9. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance, and other needs, for all parking lot landscaping and required vegetated buffer areas.
10. Placement of native trees to provide shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months, and to provide shade for all streets and parking areas.
11. Orientation of structures, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind, whenever feasible.
12. Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.
13. Establishment of an architectural review committee and consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development.

D. TRANSPORTATION

1. The developer shall must construct, cause to be constructed or pay the full costs for intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and Cypress Lake Drive. These improvements shall must be made prior to the issuance of the first certificate of occupancy for the project.

2. The developer shall must pay a proportionate share of the cost of constructing two additional lanes, on the following road segments:

- a. U.S. 41 from Cypress Lake Drive/Daniels Road Parkway to and including the intersection of Island Park Road with U.S. 41.
- b. Daniels Road Parkway from the Bell Tower Mall entrance east of U.S. 41 to the beginning of four lanes west of I-75.
- c. Cypress Lake Drive from the terminus of four lanes west of U.S. 41 to the intersection of McGregor Boulevard with Cypress Lake Drive.
- d. Gladiolus Drive from the terminus of four lanes west of U.S. 41 to and including the intersection of Summerlin Road with Gladiolus Drive.

The developer's proportionate share shall must be determined by the County Engineer and shall be paid at the time that the first local Development Order is issued under Lee County regulations.

3. The developer shall must pay a proportionate share of the cost of signalization, turn lanes, additional approach lanes, or other improvements deemed necessary by the Lee County Engineer or FDOT in order to maintain level of service "C" at the following intersections:

- a. U.S. 41 at Daniels Road Parkway/Cypress Lake Drive
- b. U.S. 41 at Gladiolus Drive/Six Mile Parkway
- c. U.S. 41 at College Parkway
- d. Cypress Lake Drive at Summerlin Road
- e. Daniels Road Parkway at Metro Parkway

The developer's proportionate share ~~shall~~ will be determined by the County Engineer and ~~shall~~ be paid upon commencement of the intersection improvement.

4. ~~Should~~ If more than two additional lanes be are required to maintain level of service "C" on a road segment specified in D.2 above during project build out, then the developer ~~shall~~ must pay a proportionate share of the cost of constructing these lanes. The developer's proportionate share ~~shall~~ will be determined by the County Engineer and ~~shall~~ be paid upon commencement of the roadway improvement.

5. The developer ~~shall~~ must submit an annual monitoring report to the Lee County Engineer, the Lee County MPO, FDOT and the Southwest Florida Regional Planning Council for review. This monitoring report ~~shall~~ must include average daily and peak-hour traffic counts, with turning movements, at the project's access points on U.S. 41 and Cypress Lake Drive and at the intersections listed in D.3 above. The first report ~~shall~~ must be submitted one year following the issuance of the first certificate of occupancy for the project. Reports ~~shall~~ must be submitted annually until build out of the project.

6. Nothing contained in this Development Order ~~shall~~ may be construed to exempt this development from participation in the funding, through Municipal Services Benefit Units (MSBU's) or other special assessment districts of improvements to various state or county arterial and collector roads or intersections to the degree to which this development generates demand.

ALTERNATIVES

1. In lieu of the obligations and payments required by D.1 through D.3 above, the developer ~~shall~~ may contribute a base amount of \$1,300,000 (in 1985 dollars) for the mitigation of adverse traffic impacts due to this project. Payment ~~shall~~ must be made subject to the provisions listed below:

- a. The developer ~~shall~~ must design and construct, or cause to be designed and constructed, two additional lanes on U.S. 41 from the southern boundary line of the Cypress Lake Center DRI to Daniels Road Parkway/Cypress Lake Drive plus intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and for the south leg of the U.S. 41/Daniels Road Parkway/Cypress Lake Drive intersection. The developer's contract(s) for the design and construction of these improvements ~~shall~~ must be reviewed and approved by the County Engineer. These improvements ~~shall~~ must be substantially completed to the satisfaction of the County Engineer prior to issuance of the first certification of occupancy for this project.
- b. Funds ~~shall~~ must be expended first for the U.S. 41 improvements specified in Alternative 1.a above, with the balance of the base

amount of \$1,300,000 paid by the developer into a fund established by Lee County for the purpose of mitigating other adverse impacts due to the project, including improvements described in D.2 and D.3 above, plus intersection improvements deemed necessary by the County Engineer for the project's access points onto Cypress Lake Drive. At the time that construction contracts are let for the specified improvements on U.S. 41, and after consultation and agreement with the County Engineer, the developer shall must pay an amount estimated to be the balance of the \$1,300,000 minus the cost for design and construction of the U.S. 41 improvements into the fund established by Lee County. Within one month of the completion of the U.S. 41 contracts, the County Engineer shall will determine the exact amount of this balance based on actual design and construction costs. The developer shall will receive a refund or make an additional payment to Lee County so that the total amount paid by the developer equals the base payment of \$1,300,000.

- c. If the construction contracts have not been let prior to October 1, 1985, the base payment of \$1,300,000 shall will be adjusted quarterly thereafter using the most current Construction Price Index (C.P.I.) published by the Engineer News Record (McGraw-Hill Publications) until the construction contracts are let. The base price index for these adjustments ~~is shall be~~ the price index in the Second Quarterly Cost Round-Up for 1985.
- d. If Lee County adopts a Roads Impact Fee ordinance, the amount of this base payment shall will remain the same (\$1,300,000), except for adjustments required by Alternative 1.c above. This base payment shall will be credited against the roads impact fee when adopted.
- e. The Board of County Commissioners, in its discretion, may equitably refund monies to the developer for transportation mitigation fees paid in excess of those reasonably necessary to mitigate the development's adverse impacts. If the total refunding of such fees equals or exceeds 15% of the mitigation amount required by the Development Order, it shall will be deemed a substantial deviation. The refund in this case is not to exceed \$49,537 and is to be refunded only after staff has determined that all transportation commitments made in the Development Order have been met.

2. If the developer foregoes Alternative 1 and Lee County adopts a Roads Impact Fee ordinance before the first building permit is issued, this fee may be credited toward off-site improvements listed in D.2 through D.4 above. Site-related improvements shall remain the developer's responsibility and obligation. Payments already made for these off-site improvements shall will be credited toward the overall fee.

E. VEGETATION AND WILDLIFE

4. The developer shall must preserve no less than 15 percent of the total site as unaltered native vegetation, including understory, generally along the project's north, east, and west boundaries. These areas may be utilized as dry detention basins (excavation prohibited) in the water management system to purify surface run-off. Plans for this preserve area shall must be submitted to the Lee County Planning Department for approval. Native species shall must be utilized for all parking lot landscaping and required vegetated buffer areas.

F. WATER SUPPLY

1. The developer shall must incorporate the use of water-conserving devices, as required by state law (Chapter 553.14, F.S.).

2. The developer shall must utilize water-conserving features in irrigation system design and use, including the use of native and/or low water use plants and turf.

3. The developer shall must utilize either surface water from the on-site lake system or groundwater for irrigation, unless demonstrated infeasible.

G. HURRICANE EVACUATION

The developer shall must meet with Lee County Division of Public Safety officials to discuss the use of project common areas for storm shelter purposes, and shall establish and maintain a hotel/motel hurricane evacuation program of education and information describing the risks of environmental hazards, as well as the actions necessary to mitigate the dangers which these hazards present.

H. OTHER

The project shall may not exceed a total of 336,340 square feet of retail commercial use as defined by the Lee County Comprehensive Plan (p. III-42), ~~to remain consistent with the Comprehensive Plan.~~ These uses may also include automobile dealerships, auto centers, automobile service stations, or indoor movie theaters (up to 800 permanent seats). The total project is approved for and limited to the following development parameters: 336,340 square feet of shopping center (on a total of 40 acres); 40,000 square feet of business corporate office area; 165,000 square feet of executive business office park; 275 room hotel (with 200 seat restaurant, and 100 seat conference center); and, 210 multiple family dwelling units.

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Lee County, Florida, that:

1. This resolution ~~shall~~ constitutes the Development Order of this Board issued in response to the original Development of Regional Impact application for Development Approval filed by Cypress Lake Venture, Ltd. and all amendments approved through and including March 29, 1999.

2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents, ~~and~~ not in conflict with conditions or stipulations specifically enumerated above, are hereby adopted into this Development Order by referenced. The commitments incorporated by reference are as binding on the developer as if ~~the commitments were~~ set forth herein.

3. This Development Order ~~shall be~~ is binding upon the developer and ~~their~~ the developer's heirs, assignees or successors in interest.

It is ~~hereby~~ declared that the terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Resolution and Development Order.

All conditions, restrictions, stipulations and safeguards contained in this Resolution and Development Order may be enforced by either party hereto by action at law or equity and all costs of such proceedings, including reasonable attorney's fees, ~~shall~~ will be paid by the defaulting party.

4. It is understood that any reference herein to any governmental agency ~~shall~~ will be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

5. In the event that any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision ~~shall~~ will in no manner affect the remaining portions or sections of the Development Order, which ~~shall~~ will remain in full force and effect provided that the portion of the Development Order ~~which~~ that is invalidated does not cause the remainder of the development area to be inconsistent with the purpose and intent of Lee County adopting this Development Order.

6. The approval granted by this Development Order is limited. ~~Such a~~ Approval ~~shall~~ may not be construed to obviate the duty of the applicant to comply with all other applicable local or state review and permitting procedures.

7. Subsequent requests for local development permits ~~shall~~ may not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the

Board of County Commissioners, after due notice and hearing, that one or more of the following is present:

- a. A substantial deviation from the terms or conditions of this development order, or other changes to the approved development plans which create a reasonable likelihood of adverse regional impacts or other regional impacts which were not evaluated in the review by the Southwest Florida Regional Planning Council; or
- b. An expiration of the period of effectiveness of this development order as provided herein.

Upon finding that either of the above is present, the Board ~~shall~~ may order a termination of all development activity until such time as a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes, and all local approvals have been obtained.

8. This Development Order ~~shall~~ will remain in effect until June 19, 2000, provided that this effective period may be extended by this Board upon a finding of excusable delay in any proposed development activity and that conditions have not changed sufficiently to warrant further consideration of the development. In the event the developer fails to commence significant physical development of that property identified in this development order within five (5) years from the date of rendition of this Development Order, development approval ~~shall~~ will terminate and the development ~~shall~~ may be subject to further consideration. Significant physical development ~~shall~~ includes obtaining a Certificate of Completion on some substantial portion of the project. The project buildout date is June 19, 2000.

9. The Administrative Director of the Lee County Division of Community Development or his/her designee, ~~shall be~~ is the local official responsible for assuring compliance with this Development Order.

10. The developer, or his successor(s) in title to the undeveloped portion of the subject property, ~~shall~~ must submit a report annually to the Lee County Board of County Commissioners, the Southwest Florida Regional Planning Council, the State land planning agency, and all affected permit agencies. This report ~~shall~~ must describe the state of development and compliance as of the date of submission, and ~~shall further~~ be consistent with the rules of the State land planning agency. The first monitoring report ~~shall~~ must be submitted to the Administrative Director of the Division of Community Development not later than May 1, 1986, and further reporting ~~shall~~ must be submitted not later than January 1st of subsequent calendar years. Failure to comply with this reporting procedure is governed by Section: 380.06 (16) F.S. and the developer ~~shall~~ must inform any successor in title to any undeveloped portion of the real property covered by this Development Order.

11. Certified copies of this Development Order ~~are to~~ will be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but ~~shall~~ will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order becoming effective, notice of its adoption shall must be recorded as provided in Chapter 380, Florida Statutes.

THE MOTION TO ADOPT the above codified Development Order was offered by Commissioner Manning, and seconded by Commissioner Coy and upon poll of the members present, the vote was as follows:

Ray Judah	Aye
John Albion	Aye
John Manning	Aye
Douglas St. Cerny	Aye
Andrew Coy	Aye

DULY PASSED AND ADOPTED this 29th day of March, 1999.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

Ray Judah
(Chairman)

ATTEST:
Charlie Green, Clerk

Joan L. Pierce
Deputy Clerk

APPROVED AS TO FORM

David C. [Signature] 3/29/99
County Attorney
County of Lee

I Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 30th day of March, A.D. 1999.

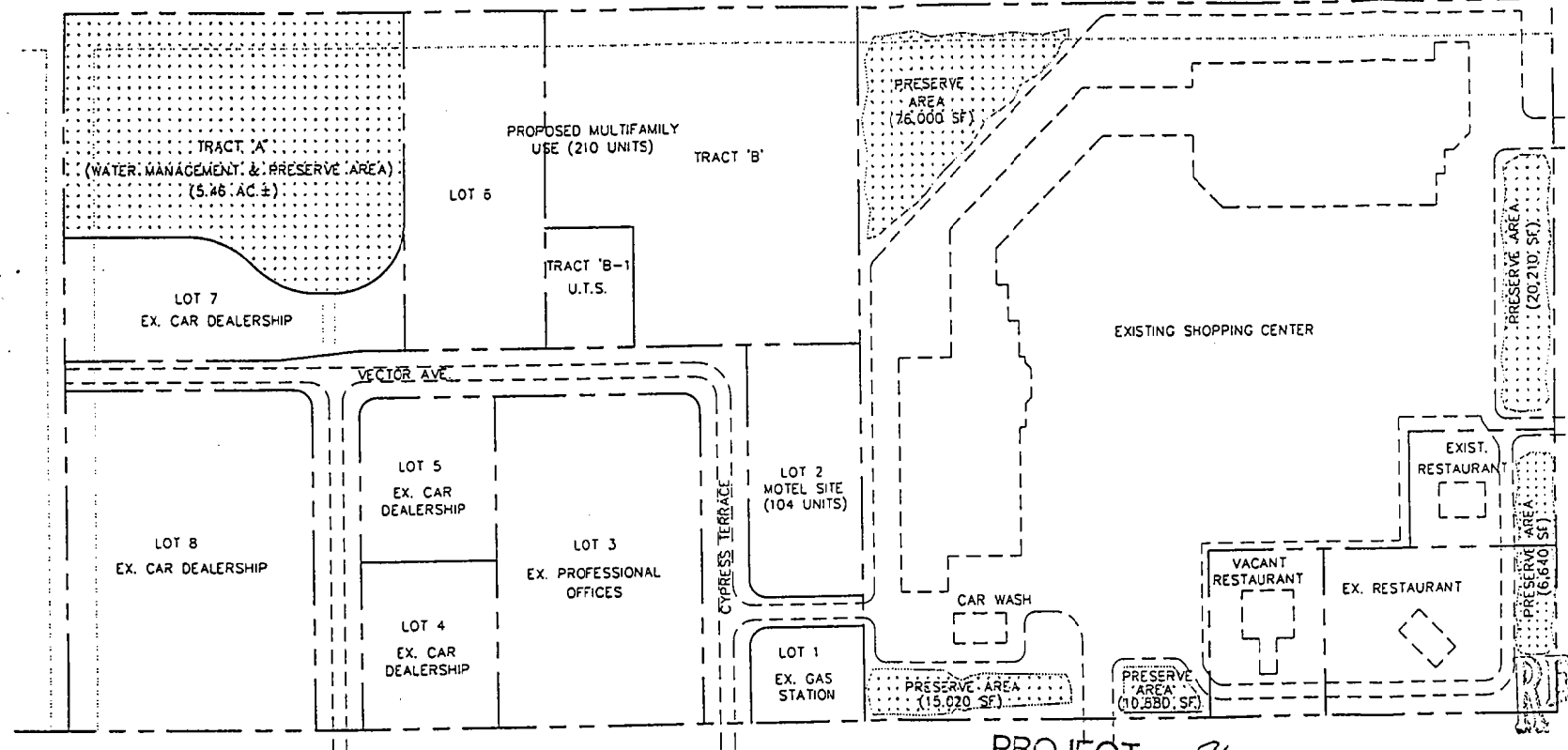
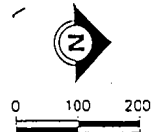
CHARLIE GREEN, CLERK
By Joan L. Pierce
Deputy Clerk

MINUTES OFFICE

lp

FILED MAR 30 1999

PHASE II ← → PHASE I



CYPRESS LAKE DRIVE

U.S. 41 (TAMIAMI TRAIL)

PROJECT # 96-09 098 047-03-21
 PROJECT TYPE 16

FEB 23 1998
 PERMIT COUNTER

CYPRESS LAKE CENTER

AVALON ENGINEERING, INC.
 1620 CAPE CORAL PARKWAY E. CAPE CORAL, FLORIDA 33904
 (941) 549-8559

MASTER DEVELOPMENT PLAN
 MAP "H"
 (REV. - 2/18/98)

EXHIBIT "A"