

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

WHEREAS, Roy Massey, filed an application to rezone from Agricultural (AG-2) to Commercial Planned Development (CPD), in reference to Massey Commercial Building; and

WHEREAS, Edward H. Olling, Grantor, and Carole L. Olling, Trustee, the owners of the subject parcel, authorized Manuel Garcia and Greg Stuart, to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held before the Lee County Hearing Examiner on June 2, 1999, and continued to July 2, 1999, who gave full consideration to the evidence in the record for Case # 99-03-251.02Z 01.01; and

WHEREAS, a second public hearing was advertised and held on October 4, 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 on 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 filed a request to rezone the subject property from AG-2 to CPD located in the Suburban Land Use Category. The legal description of the subject property is set forth in Exhibit A attached to this resolution. The request is hereby APPROVED subject to the conditions and deviations set forth 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 two-page Master Concept Plan entitled "Massey Building Minor CPD," prepared by Southwest Engineering, dated March 15, 1999 and stamped received March 23, 1999 by the Permit Counter, 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 Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.
2. The following limits apply to the project and uses:

a. Schedule of Uses

Administrative Offices  
Business Services, Group I  
Essential Services  
Essential Services Facilities-Group I  
Excavation, water retention  
Hobby Shop  
Medical Office  
Non-Store Retailers-Group I  
Parking lot-Accessory  
Personal services-Group I (except coin-operated laundries and laundromats) and Group III (except massage establishments, massage parlors, reducing or slenderizing salons and steam or Turkish baths)  
Rental or Leasing Establishments-Group I (excluding bicycles, mopeds, and scooters) and Group II (excluding bicycles)  
Repair Shops-Group I and Group II  
Signs in accordance with Chapter 30  
Specialty Retail Shop-Group I, Group II and Group III (limited to the sales/rental of windsurfing, canoeing, kayaking and related apparel and sports equipment - to be conducted completely indoors)  
Storage-indoor only

b. Site Development Regulations

Development of the subject property must comply with the following Property Development Regulations:

Minimum Setbacks-Building and Structures:

Street: 25 feet  
Side: 15 feet  
Rear: 25 feet

Maximum Lot coverage: 40 percent

Maximum Building Height: 35 feet

3. The Applicant must provide a Type "C," 15-foot-wide buffer along the north property line consisting of Type "F" plantings, but with 10 trees per 100 linear feet, and a hedge planted in double staggered rows which must form, within one year after date of planting, at least a 36-inch-high continuous visual screen.
4. At the time of development order review, the developer must provide for cross access to McGregor Boulevard along the common property line with the adjacent parcel to the west so that both parcels will be accessed through the same access point. All documents necessary to implement this condition must be submitted and approved prior to

development order approval. The realigned access point and resulting driveway location will differ from that depicted on the approved MCP. The purpose and intent of this condition is to require access to the parcel through one point on the common boundary line and for both properties to share in providing access.

5. The hours of operation for the retail commercial uses are limited to 8:00 a.m. to 6:00 p.m., Monday through Saturday. Retail commercial operations are prohibited on Sunday.
6. With respect to the retail commercial uses, any external lighting of the site after 6:00 p.m. is prohibited, with the exception of security lighting. Light from the external lighting of the site must not extend beyond the site's property line.
7. Outdoor storage or display of merchandise on the property is prohibited, including the parking of trucks, trailers or other transport vehicles containing canoes, kayaks or windsurfing equipment.
8. Any future amendments to the schedule of uses or conditions must be approved through the public hearing process.
9. No temporary uses or temporary parking lots are permitted on-site.
10. 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.
11. Approval of this rezoning does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the 2020 Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b), of the Lee Plan.
12. 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.

#### SECTION C. DEVIATIONS:

Deviation (1), requests relief from LDC Section 10-285, which requires a 660 feet intersection separation for an arterial road, to allow an intersection separation of approximately 130-foot between the centerline of Amazon Lane and the common property line with the adjacent parcel to the west, and a corresponding separation between the common property line and the centerline of Jacaranda Drive, and a corresponding separation from the centerline of the adjacent driveway and the common property line, as also determined at the time of development order review in order to achieve cross access with the adjacent parcel to the west. This deviation is APPROVED, SUBJECT TO Condition 4.

Deviation (2), requests relief from LDC Sections 10-416(d)(3) and 10-416(d)(4), which require a

5-foot-wide Type "A" buffer along the east property line, to eliminate the buffer requirement along the east property line. This deviation is DENIED.

Deviation (3), requests relief from the LDC Section 34-2020 (2) m.3., requirement to provide one parking space for each 200 square feet of total floor area, to allow a reduction in the total number of parking spaces required to support the permitted use in the cited provision by a maximum of four (4) parking spaces. This deviation is APPROVED, PROVIDED THAT the reduction in the number of parking spaces to be provided is the minimum number necessary to accommodate the required cross access set forth in Condition 4.

#### SECTION D. EXHIBITS:

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

- Exhibit A. The legal description and STRAP number of the subject property.
- Exhibit B. A reduced copy of the Massey Building Minor CPD Master Concept Plan.
- Exhibit C. A map depicting the subject parcel (shaded in) in relation to the surrounding area.

#### SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, 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 by a motion by Commissioner John E. Albion, and seconded by Commissioner John E. Manning and, upon being put to a vote, the result was as follows:

Ray Judah	<u>AYE</u>
John E. Manning	<u>AYE</u>
Douglas R. St. Cerny	<u>AYE</u>
Andrew W. Coy	<u>AYE</u>
John E. Albion	<u>AYE</u>

DULY PASSED AND ADOPTED this 4th day of October, 1999.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: *Charlie Green*  
Deputy Clerk

BY: *Ray Judah*  
Chairman

Approved as to form by:

*Patricia Wilk*  
County Attorney's Office

MINUTES OFFICE

*Charlie R*

FILED OCT 21 1999

EXHIBIT A

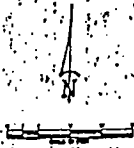
LEGAL DESCRIPTION

Lot 14, Block C, COTTAGE POINT SUBDIVISION, as recorded in Plat Book 9, Page 133, of the Public Records of Lee County, Florida, lying in Section 02, Township 46 South, Range 23 East, Lee County, FL.

STRAP NUMBER

The applicant has indicated the STRAP # of the subject property is 02-46-23-01-0000C.0140





AG-1 ZONING - VACANT  
FUTURE LAND USE - SUBURBAN

C-1 ZONING - OFFICE BUILDING  
FUTURE LAND USE - SUBURBAN

C-1 ZONING - VACANT  
FUTURE LAND USE - SUBURBAN

AG-2 ZONING - VACANT  
FUTURE LAND USE - SUBURBAN

AG-2 ZONING - VACANT  
FUTURE LAND USE - URBAN COMMUNITY

AG-2 ZONING - RES USE  
FUTURE LAND USE - URBAN COMMUNITY

AG-2 ZONING - VACANT  
FUTURE LAND USE - SUBURBAN

CPD ZONING - COMM USE  
FUTURE LAND USE - SUBURBAN

AMAZON LANE  
LOCAL ROAD

PROPOSED DETRACT LND

PROPOSED LND 24' WALK

PROPOSED PARKING LND DRIVE

MACGREGOR BOULEVARD  
EXISTING 5' TO 6' WIDE SIDEWALK

JACARANDA DRIVE  
LOCAL ROAD

ARBOR RIDGE DRIVE  
LOCAL ROAD

**APPROVED**

Master Concept Plan

Site Plan # 99-037 Page 2 Of 2

Subject to conditions in Resolution Z99037

Zoning Case # 99-03-25102 Z 01-01

GENERAL NOTES:

1. SCS SOL. TYPE 15; #13 BOCA FINE SAND.
2. LAND USE COVER CLASSIFICATION IS 411 PINE FLATWOOD WITH AUSTRALIAN PINE INFESTATION

DATE	REVISION	DESIGNED BY: JHC
		APPROVED BY: GS
		PROJ. NO. 990210
		PLOT DATE: 3/15/21
		SCALE: 1"=20'
 SOUTHWEST ENGINEERING <small>10000 W. 10TH AVE. SUITE 200 DENVER, CO 80202 PH: 303.751.1111</small>		
EXHIBIT 11-1-4 MASSEY BUILDING MINOR CPD MASTER CONCEPT PLAN <small>SECTION 15, TOWNSHIP 35 SOUTH, RANGE 24 EAST</small>		
CAD FILE NAME: 990210.DWG DATE: 3/15/21		

