

RESOLUTION NUMBER Z-00-003

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

WHEREAS, the contract purchaser, Douglas Hannah, Trustee, filed an application with the consent of the property owner, Muriel Hattenbach, to rezone a 9.2 acre parcel from Residential Planned Development (RPD) to Commercial Planned Development (CPD), in reference to Cypress Lake Center; and

WHEREAS, a public hearing was advertised and held on January 5, 2000, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case # 96-09-098.03Z 05.01; and

WHEREAS, a second public hearing was advertised and held on February 7, 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 9.2 acre parcel from RPD to CPD, to allow a maximum of 100,000 square feet of commercial office floor area of which up to 50,000 square feet may be medical office uses, in buildings not to exceed 45 feet in height within a maximum of four stories; as well as 171 motel/hotel units and up to 145 assisted living units in buildings not to exceed 85 feet in height within a maximum of six stories. The property is located in the Intensive Development 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 "Master Concept Plan-Cypress Lake CPD," stamped received October 18, 1999, last revised 10/18/99, except as modified by the conditions below. This development must comply with all requirements of the 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

Accessory Uses and Structures
Administrative Offices
Assisted Living Facility, limited to the conversion equivalent of 145 dwelling units as enumerated in LDC §34-1494
Banks and Financial Establishments, Group I
Business Services, Groups I & II
Entrance Gates and Gatehouse
Essential Services
Excavation, Water Retention
Fences & Walls
Health Care Facilities, Groups I, II & III
Hotel/Motel, limited to 171 units
Insurance Companies
Medical Offices
Parking Lot, Accessory
Personal Services, Group I
Signs, in accordance with LDC

b. Site Development Regulations

- (1) The project may be developed with a maximum of 100,000 square feet of office commercial floor area. This can be comprised of all general office, or up to 50,000 square feet of medical office use, a maximum of 171 hotel/motel units and 145 assisted living units.
- (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 Area: 20,000 square feet
Lot Width: 100 feet, except that Parcel "C" may have a minimum of 35 feet of road frontage as shown on the MCP
Lot Depth: 100 feet

Maximum Building Height: 85 feet/six stories for hotel and ALF structures
45 feet/four stories for any other use

Minimum Building Setbacks:

Public right-of-way: 25 feet
Private right-of-way: 20 feet
Property Perimeter-Side: 15 feet, or as governed by Condition 4
Property Perimeter-Rear: 25 feet, or as governed by Condition 4
Internal Side: 10 feet, or as governed by Condition 4

3. Prior to local development order approval, open space must be provided per the open space table on the MCP counter stamped October 18, 1999. Open space must be tracked with each development order to demonstrate the overall required open space is being met.
4. Buildings exceeding 35 feet in height must maintain additional building separation and additional building setbacks as regulated by LDC §§34-2174(a) and 34-935(e)4.
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 Allocations Table, Map 16 and Table 1(b).
7. All commitments made in the original Development of Regional Impact (DRI) development order approval or subsequent documents and amendments and all conditions of DRI actions not affected by this rezoning remain in full force and effect.
8. 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:

1. Deviation (1) - WITHDRAWN BY APPLICANT.
2. Deviation (2) seeks relief from the LDC §10-285(a) requirement to provide 125-foot intersection separation distances for local roads (Vector Avenue), to allow separations of 59, 81, 46 and 104 feet. This deviation is APPROVED, SUBJECT TO THE CONDITION that the two connections adjacent to the Sprint site are limited to right-in/right-out as shown on the MCP.
3. Deviation (3) seeks relief from the LDC §§10-416(d)(3) and 10-416(d)(4) buffering requirements to eliminate the required Type "C" or Type "F" buffer adjacent to land zoned RM-2. This deviation is APPROVED.
4. Deviation (4) seeks relief from the LDC §§10-416(d)(3) and 10-416(d)(4) buffering requirements to eliminate the required Type "A" buffer adjacent to commercially zoned land. This deviation is APPROVED.
5. Deviation (5) - WITHDRAWN BY APPLICANT.
6. Deviation (6) - WITHDRAWN BY APPLICANT.
7. Deviation (7) seeks relief from the LDC §§10-416(d)(3) and 10-416(d)(4) buffering requirements, to eliminate the 5-foot-wide Type "A" buffer along the north perimeter property line. This deviation is APPROVED.

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 labeled as Subject Property)
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 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 upon the motion of Commissioner Ray Judah, seconded by Commissioner Andrew W. Coy and, upon being put to a vote, the result was as follows:

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

DULY PASSED AND ADOPTED this 7th day of February, 2000.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Ruth F. [Signature]*
Deputy Clerk



BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *[Signature]*
Chairman

Approved as to form by:

[Signature]
County Attorney's Office

MINUTES OFFICE

Ruth F
FILED FEB 14 2000

EXHIBIT "A"

LEGAL DESCRIPTION

Lot 6 and Tract B, SUBDIVISION Cypress Lake Center Phase II, as recorded in Plat Book 39, Page 22-24 less phase B-1 Cypress Lake Center, Plat book 43, Page 11, of the Public Records of Lee County, Florida, lying in Section 23, Township 45 South, Range 24 East, Lee County, FL.

A subdivision in the East ½ of the Southeast ¼ of Section 23, Township 45 South, Range 24 East, Lee County, Florida.

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

Zoning & Land Use Map

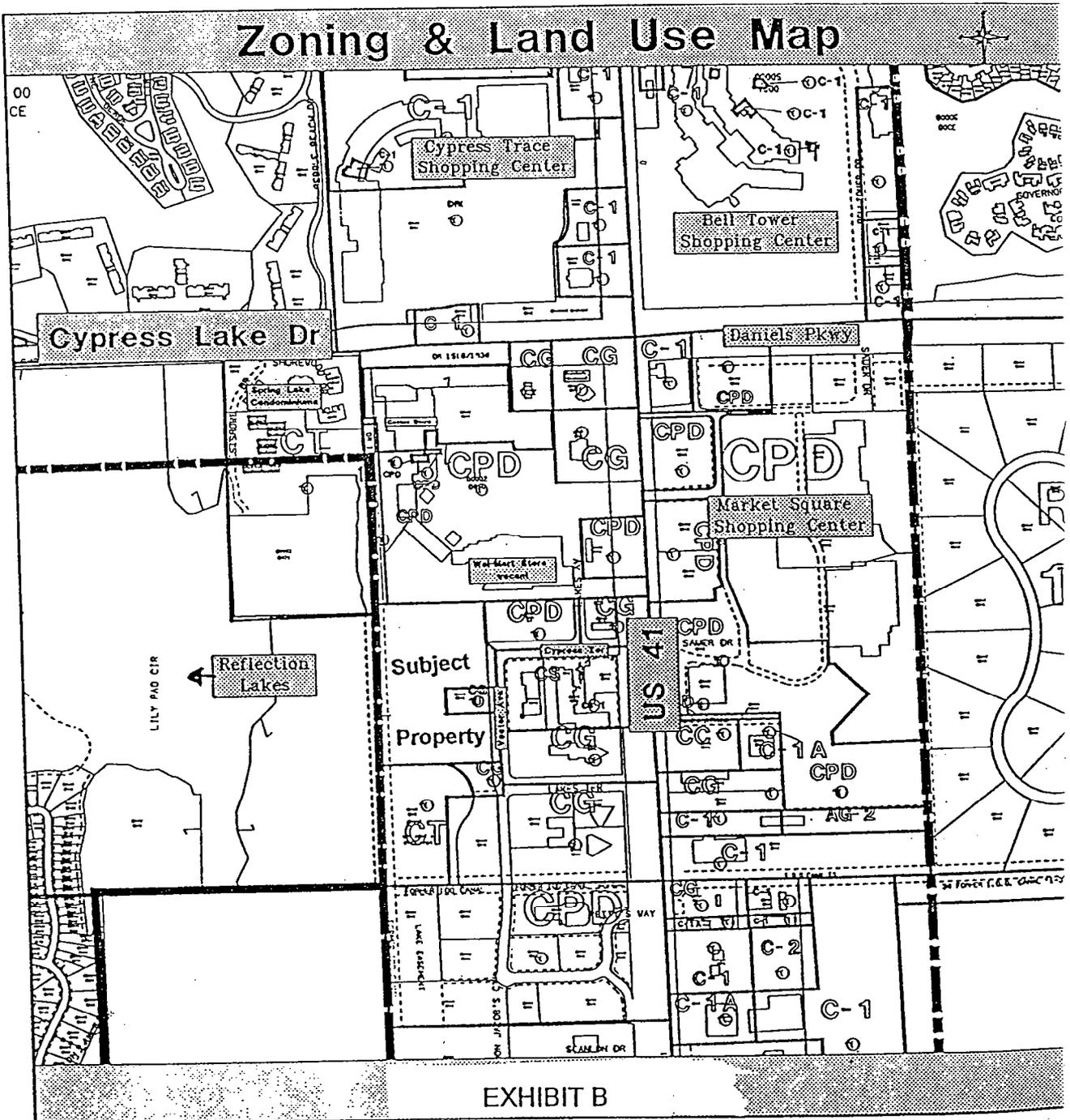
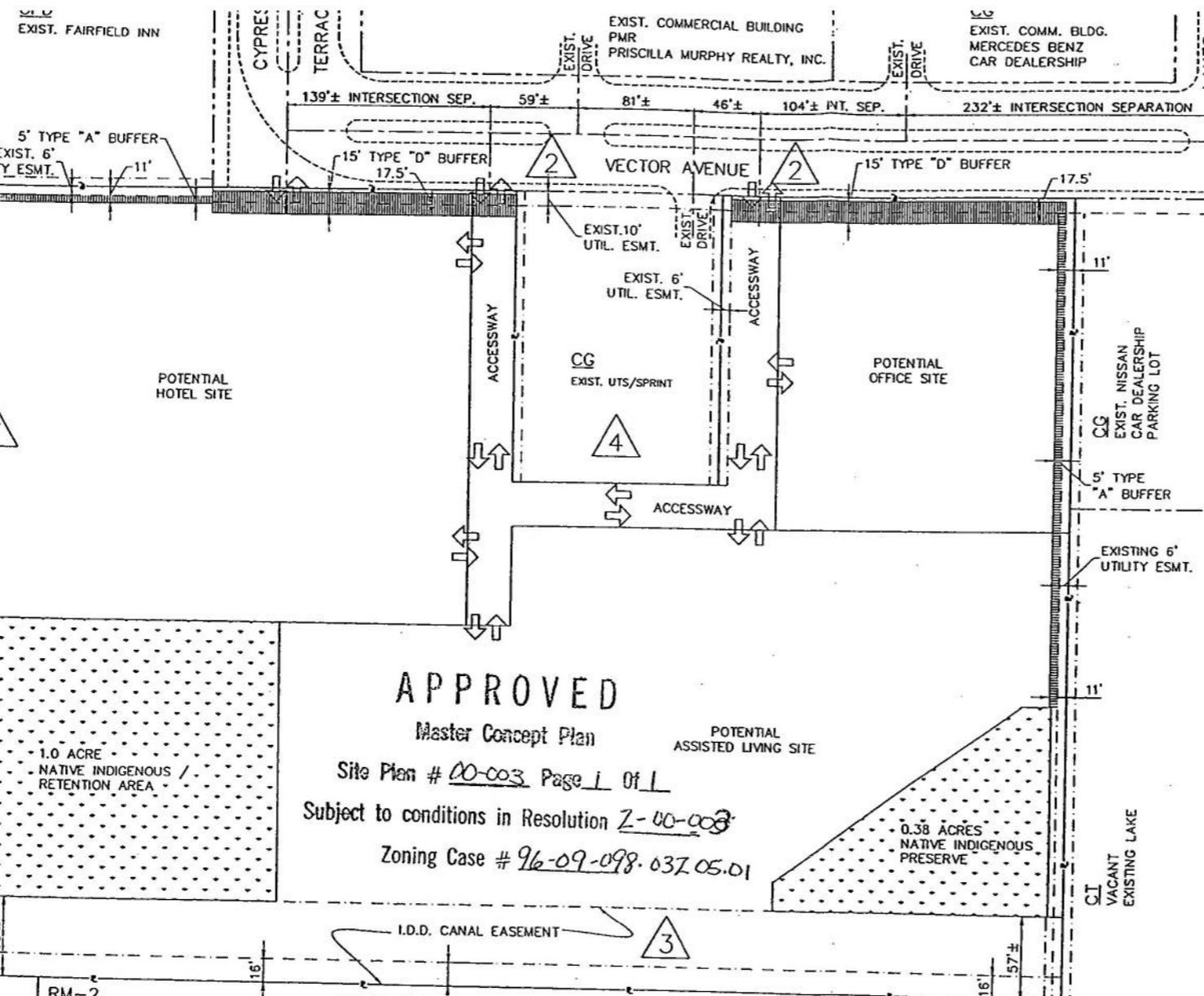


EXHIBIT B

10000133001330013300_MCP04.dwg Tue Oct 19 01:32:28 1999



APPROVED
 Master Concept Plan
 Site Plan # 00-003 Page 1 Of 1
 Subject to conditions in Resolution Z-00-003
 Zoning Case # 96-09-098.03Z.05.01

PROJECT SUMMARY DATA:
 SITE AREA = 9.2± AC
 LAND USE CLASSIFICATION = INTENSIVE DEVELOPMENT
 EXISTING ZONING = RPO
 PROPOSED ZONING = CPD
 WATER UTILITY = LEE COUNTY UTILITIES
 IRRIGATION = FROM POTABLE WATER OR WELL
 SEWER UTILITY = LEE COUNTY UTILITIES
 FIRE DISTRICT = SOUTH TRAIL FIRE DEPT.
 FLOOD ZONE = A10 / ELEV. +8.0'

PARKING:
 PARKING TO BE PROVIDED IN ACCORDANCE TO THE LEE COUNTY LAND DEVELOPMENT CODE (LDC) UNLESS OTHERWISE NOTED.

OPEN SPACE TABLE:
 OPEN SPACE REQ'D. = 30%
 9.2 AC X 0.30 = 2.76 AC
 OPEN SPACE PROVIDED = 2.76 AC(1)
 (1.38 AC NATIVE INDIGENOUS)

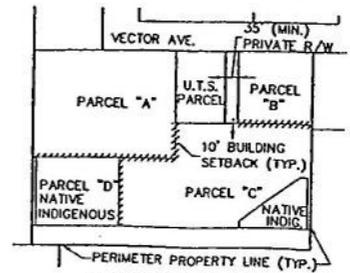
(1) THE OPEN SPACE WILL BE PROVIDED AS FOLLOWS:
 1.0 ACRE NATIVE INDIGENOUS AREA X 125% (25% ADDITIONAL OPEN SPACE CREDIT) = 1.25 ACRES
 0.38 ACRE NATIVE INDIGENOUS AREA
 TOTAL = 1.63 ACRES DESIGNATED OPEN SPACE

THE REMAINING 1.13 ACRES (2.76 AC - 1.63 AC) OF REQUIRED OPEN SPACE WILL BE PROVIDED AT THE TIME OF DEVELOPMENT ORDER. IF THE PARENT PARCEL IS SUBDIVIDED, EACH LOT WILL NEED TO PROVIDE ITS PROPORTIONATE SHARE OF THE REMAINING OPEN SPACE BASED ON LOT AREA. AT A MINIMUM, EACH LOT WILL PROVIDE AT LEAST 10% OF ITS TOTAL AREA AS OPEN SPACE.

PROJECT DEVELOPMENT STANDARDS:
 MIN. AREA DIMENSIONS:
 MIN. LOT AREA = 20,000 SF
 MIN. LOT WIDTH = 100 FT
 MIN. LOT DEPTH = 100 FT
 NOTE: IF PROJECT IS SUBDIVIDED, THE MINIMUM LOT WIDTH ALONG AN ACCESS EASEMENT OR RIGHT-OF-WAY SHALL BE 35 FT. (SEE DETAIL BELOW)

MAX. BUILDING HEIGHT = 45', 4 STORIES, EXCEPT FOR HOTEL & A.L.F. = 85', 6 STORIES
 MAX. LOT COVERAGE = 40%

MIN. BUILDING SETBACKS:
 PUBLIC RIGHT-OF-WAY = 25 FT
 PRIVATE RIGHT-OF-WAY = 20 FT
 SIDE SETBACKS = 15 FT
 REAR SETBACKS = 25 FT
 NOTE: IF THE PARCEL IS SUBDIVIDED, INTERIOR LOT LINES WILL HAVE A MINIMUM 10 FT BUILDING SETBACK (SEE DETAIL BELOW).



PROJECT NOTES AND GENERAL CONDITIONS
 1) THE MASTER CONCEPT PLAN DEPICTS THE PROJECT'S GENERAL CONFIGURATION AND AS SUCH, IS FOR CONCEPTUAL REVIEW AND ZONING PURPOSES ONLY. THE PLAN'S FINAL LAND USES, INTERNAL PARKING AND CIRCULATION AREAS, BUILDING FOOTPRINTS, SURFACE WATER MANAGEMENT SYSTEM AND OTHER FUNCTIONAL ELEMENTS, WILL BE DETERMINED AT THE TIME OF FINAL DEVELOPMENT ORDER PERMITTING.

2) UNLESS OTHERWISE NOTED, PROJECT PARKING AND CIRCULATION SHALL CONFORM WITH LDC 34-2013 TO 34-2020.

3) LANDSCAPING, OPEN SPACE, AND BUFFERING SHALL CONFORM WITH LDC 10-414 TO 10-416 UNLESS OTHERWISE NOTED.

4) THE PROPERTY IS NOT LOCATED ON A BUS ROUTE. THE CLOSEST BUS STOP TO THE SITE IS ON U.S. 41 - CLEVELAND AVENUE, AND IS LEE TRAN BUS ROUTE 140 - U.S. 41 CORRIDOR.

5) PROJECT SIGN LOCATIONS ARE TO BE DETERMINED AT THE TIME OF FINAL DEVELOPMENT ORDER PERMITTING.

6) THE PARCEL MAY BE SUBDIVIDED IN ACCORDANCE WITH THE PROJECT DEVELOPMENT STANDARDS.

7) THE EXISTING DRIVEWAY LOCATIONS WERE SCALED OFF AN AERIAL PHOTOGRAPH. THE ACTUAL LOCATION IS SUBJECT TO CHANGE BASED ON SURVEY AS-BUILT LOCATION.

SCHEDULE OF DEVIATIONS:
 1) WITHDRAWN BY APPLICANT

2) A REQUEST TO DEVIATE FROM LDC SECTION 10-285(d) WHICH REQUIRES 125' INTERSECTION SEPARATION FOR LOCAL ROADS TO 59'±, 81'±, 46'±, AND 104'± INTERSECTION SEPARATION.

3) A REQUEST TO DEVIATE FROM LDC SECTION 10-416(d)(3) AND 10-416(d)(4) WHICH REQUIRES A TYPE "C" OR TYPE "D" BUFFER ADJACENT TO LAND ZONED RM-2 TO REQUIRE NO BUFFER ALONG THE WEST LINE.

4) A REQUEST TO DEVIATE FROM LDC SECTION 10-416(d)(3) AND 10-416(d)(4) WHICH REQUIRES A TYPE "A" BUFFER ADJACENT TO COMMERCIAL SITES, TO REQUIRE NO BUFFER.

5) A REQUEST TO DEVIATE FROM LDC SECTION 34-1802(3)(c) WHICH REQUIRES 1.2 PARKING SPACES PER RENTAL UNIT, TO REQUIRE 1.0 PARKING SPACES PER RENTAL UNIT PLUS 10 EMPLOYEE PARKING SPACES.

6) WITHDRAWN BY APPLICANT.

7) A REQUEST TO DEVIATE FROM LDC SECTION 10-416(d)(3) AND 10-416(d)(4) WHICH REQUIRES A 5' WIDE TYPE "A" BUFFER TO REQUIRE NO BUFFER ALONG THE NORTH LINE.

SCHEDULE OF USES:
 ACCESSORY USES AND STRUCTURES
 ADMINISTRATIVE OFFICES
 ASSISTED LIVING FACILITY
 BANKS AND FINANCIAL ESTABLISHMENTS, GROUP I
 BUSINESS SERVICES, GROUPS I AND II
 ENTRANCE GATES AND GATEHOUSE
 ESSENTIAL SERVICES
 EXCAVATION, WATER RETENTION
 FENCES, WALLS
 HEALTH CARE FACILITIES, GROUP I, II, III, AND IV
 HOTEL/NOTEL
 INSURANCE COMPANIES
 MEDICAL OFFICE
 PARKING LOT, ACCESSORY AND TEMPORARY
 PERSONAL SERVICES, GROUP I
 SIGNS, IN ACCORDANCE WITH LDC CHAPTER 30
 TEMPORARY USES

RECEIVED
 OCT 18 1999

ZONING COUNTER
 GRAPHIC SCALE 1" = 40'

LEGEND:
 [Symbol] LANDSCAPE BUFFER AREA
 [Symbol] NATIVE INDIGENOUS/DRY RETENTION AREA
 [Symbol] DEVIATION LOCATION

PREPARED FOR:
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| NO. | DATE | REVISION DESCRIPTION | BY |
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MASTER CONCEPT PLAN
CYPRESS LAKE CPD
 LEE COU' FLORIDA

| DATE | PROJECT | DRAWING | DESIGN | DRAWN | SCALE | SHEET | OF | FILE NO. (S-T-N) |
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| 10/18/99 | 13300 | 10000 | 10000 | 10000 | | | | |