

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

WHEREAS, Pilcher Enterprises, Inc. filed an application for a rezoning from Residential Single Family (RS-1) to Commercial Planned Development (CPD), in reference to Clancey's Restaurant; and

WHEREAS, the subject property is located at 11481 McGregor Boulevard, and is described more particularly as:

LEGAL DESCRIPTION: In Section 10, Township 45 South, Range 24 East, Lee County, Florida:

Parcel #1

Beginning at the Northwest corner of the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section 10, Township 45 South, Range 24 East, Lee County, Florida;

THENCE East 264.00 feet, more or less, to the Easterly side of Estero Road Extended;

THENCE Southerly on the Easterly line of said Estero Road extended 53.55 feet to a point which is 33.00 feet from the center line of McGregor Boulevard;

THENCE Northeasterly and parallel to the center line of said McGregor Boulevard a distance of 139.00 feet to the POINT OF BEGINNING of the lands herein described;

THENCE Southeasterly and at right angles to McGregor Boulevard a distance of 111.00 feet;

THENCE Northeasterly and parallel to the center line of McGregor Boulevard a distance of 15.00 feet;

THENCE Northwesterly at right angles a distance 111.00 feet to the Southerly side of McGregor Boulevard;

THENCE Southwesterly along the Southerly side of McGregor Boulevard to the POINT OF BEGINNING.

Parcel #2

Beginning at the Northwest corner of the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section 10, Township 45 South, Range 24 East, Lee County, Florida;

THENCE East 264.00 feet more or less to the Easterly side of Estero Road extended;

THENCE Southerly on the Easterly line of said Estero Road extended 53.55 feet to a point which is 33.00 feet from the center line of McGregor Boulevard;

9/15/97

THENCE Northeasterly and parallel to the center line of said McGregor Boulevard a distance of 154.00 feet to the POINT OF BEGINNING of lands herein described;  
THENCE Southeasterly and at right angles to McGregor Boulevard a distance of 136.90 feet;  
THENCE Northeasterly and parallel to the center line of McGregor Boulevard a distance of 32.00 feet;  
THENCE Northwesterly at right angles a distance of 136.90 feet to the Southeasterly side of McGregor Boulevard;  
THENCE Southwesterly along the Southerly side of McGregor Boulevard to a POINT OF BEGINNING, said Parcel #2 being that said Parcel of land adjacent on the North side of Parcel #1 and containing 32 foot of frontage on McGregor Boulevard.

Parcel #3

Beginning at the Northwest corner of the Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) of Section 10, Township 45 South, Range 24 East;  
THENCE East 264 feet, more or less, to the Easterly side of Estero Road extended;  
THENCE Southerly on Easterly line of said Estero Road extended 53.55 feet to a point which is 33.00 from the center line of McGregor Boulevard;  
THENCE Northeasterly and parallel to the center line of said McGregor Boulevard a distance of 23.00 feet to the POINT OF BEGINNING of the lands herein described;  
THENCE Southeasterly and at right angles to McGregor Boulevard a distance of 111.00 feet;  
THENCE Northeasterly and parallel to the center line of McGregor Boulevard a distance of 116.00 feet;  
THENCE Northwesterly at right angles a distance of 111.00 feet to the Southerly side of McGregor Boulevard;  
THENCE Southwesterly along the Southerly side of McGregor Boulevard to the POINT OF BEGINNING; and

WHEREAS, the applicant has indicated the property's current STRAP number is 10-45-24-00-00030.0000 & 10-45-24-00-00016.0000; and

WHEREAS, Pilcher Enterprises, Inc., the owner of the subject parcel, authorized Johnson Engineering, Inc. and Thomas E. Moorey, Esquire, to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held on July 16, 1997 before the Lee County Hearing Examiner, in Case No. 97-01-273.02Z 01.01, who gave full consideration to the evidence available; and

WHEREAS, a public hearing was advertised and held on September 15, 1997 before the Lee County Board of County Commissioners who gave full and complete consideration to the

recommendations of the 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 the rezoning from Residential Single-Family (RS-1) District to Commercial Planned Development (CPD) WITH THE FOLLOWING CONDITIONS AND DEVIATIONS:

SECTION A. CONDITIONS:

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

1. The development and use of the subject property is to be in substantial compliance with the approved Master Concept Plan entitled Clancey's Restaurant, Site Plan, prepared by Johnson Engineering, Inc., stamped received by the Permit Counter on June 2, 1997, except as modified herein.

2. Total gross building floor area may not exceed 3,007 square feet.

3. The following uses are permitted:

ACCESSORY USES AND STRUCTURES  
ADMINISTRATIVE OFFICES  
CONSUMPTION ON PREMISES  
ESSENTIAL SERVICES  
ESSENTIAL SERVICES FACILITIES, GROUP I [Section 34-622(c)(13)]  
FENCES, WALLS  
GIFT AND SOUVENIR SHOP  
RESTAURANT, GROUP III [Section 34-622(c)(43)]  
SIGNS IN ACCORDANCE WITH CHAPTER 30

4. Development of the CPD will comply with the following Property Development Regulations:

Minimum Lot Area and Dimensions:

Area: 7,500 square feet  
Width: 100 feet  
Depth: 100 feet

Minimum setbacks (existing structure and additions):

Street: 15 feet  
Rear (SE): 25 feet  
Side (NE): 15 feet  
Side (SW): 0 feet

Maximum Lot Coverage: 45 percent

Maximum Building Height: 35 feet above finished grade (one habitable floor)

5. Instructional signs must be provided, in compliance with Chapter 30 of the LDC, identifying the entrance and exit locations to the subject property from McGregor Boulevard.
6. Approval of this rezoning does not give the Developer the undeniable right to receive any local Development Order approval that exceeds the Year 2010 Overlay use allocation, if such allocation exists, for the applicable district.
7. This rezoning does not mitigate the project's vehicular or pedestrian traffic impacts. Additional conditions may be required at the time of local development order approval.
8. This development must comply with all requirements of the Lee County Land Development Code in effect at the time of local development order approval, except as may be granted by deviation as part of this planned development.
9. All deviations granted herein apply only to the existing development and expansion of the existing development. Any change in use or redevelopment of the site must comply with all other requirements of the Lee County Land Development Code.

#### SECTION B. DEVIATIONS:

The Master Concept Plan deviates from several Lee County development standards. The proposed deviations are granted as set forth below:

1. Deviation (1) requests relief from LDC Section 10-413(b) requiring small commercial projects to provide 20 percent open space, to allow three percent. This deviation is **APPROVED for the existing use only**. Any change in use or redevelopment of the site will require compliance with the open space requirements of the Lee County Land Development Code (LDC).
2. Deviation (2) requests relief from the LDC Section 10-415(b)(1) requirement to provide a landscaping strip of no less than 10 feet in width adjacent to all street rights-of-way, to eliminate the requirement. This deviation is **APPROVED for the existing use only**. Any change in use or redevelopment of the site will require compliance with LDC Section 10-415(b)(1).
3. Deviation (3) requests relief from the LDC Section 10-414(a) requirement to provide a buffer of no less than 15 feet in width adjacent to all residential uses and property lines, to eliminate the requirement. This deviation is **APPROVED for the existing use only**. Any change in use or redevelopment of the site will require compliance with LDC Section 10-414(a).
4. Deviation (4) requests relief from the LDC Section 10-415(a)(4) requirement to provide landscaping for all new developments consisting of one tree per each 3,500 square feet of development area, to eliminate the requirement. This deviation is **APPROVED for the**

**existing use only.** Any change in use or redevelopment of the site will require compliance with LDC Section 10-415(a)(4).

5. Deviation (5) requests relief from the LDC Section 10-415(c)(2) requirement to provide internal landscaping for parking areas, to reduce the requirement to no landscaping. This deviation is **APPROVED for the existing use only.** Any change in use or redevelopment of the site will require compliance with LDC Section 10-415(c)(2).
6. Deviation (6) requests relief from the LDC Section 34-2016 dimensional requirements for parking spaces and minimum aisle widths, to allow the parking lot layout as shown on the Master Concept Plan. This deviation is **APPROVED for the existing use only.** Any change in use or redevelopment of the site will require compliance with LDC Section 34-2016.
7. Deviation (7) requests relief from LDC Section 34-2020 requiring a total of 45 parking spaces, to allow a total of 36 parking spaces on the site as depicted on the Master Concept Plan. This deviation is **APPROVED for the existing use only with the restaurant seating capacity being restricted to 92 seats.** Any change in use or redevelopment of the site will require compliance with LDC Section 34-2020.

#### SECTION C. Master Concept Plan:

A one page reduced copy of the Master Concept Plan is attached and incorporated into this resolution by reference, except as modified herein.

#### SECTION D. FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval of the requested rezoning:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes and regulations.
2. The CPD rezoning as conditioned:
  - a. meets or exceeds 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
3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities, and the site will be served by streets with the capacity to carry traffic generated by the development.

4. Urban services, as defined in the Lee Plan, are available and adequate to serve the proposed land use.
5. The proposed use or mix of uses is appropriate at the subject location.
6. The conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.
7. The conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
8. The deviations granted:
  - a. enhance the objectives of the planned development; and
  - b. preserve and promote the general intent of the LDC 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. Manning, and seconded by Commissioner John E. Albion and, upon being put to a vote, the result was as follows:

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

DULY PASSED AND ADOPTED this 15th day of September, 1997.

ATTEST:  
CHARLIE GREEN, CLERK

BY: Ruth E. Green  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: [Signature]  
Chairman

Approved as to form by:

[Signature]  
County Attorney's Office

**FILED**

**SEP 16 1997**

CLERK, COUNTY COURT  
BY: Ruth E. Green D.C.

ZONING  
RS-1  
VACANT

ZONING  
RS-1  
RESIDENTIAL

# EXISTING GAS PLAYS

ZONING  
RS-1  
WITH VARIANCE TO  
REPLACE EXISTING  
SERVICE STATION  
(2-81-31/31A, 81-2-4)

EXISTING GAS STATION

ZONING  
RS-1  
EXISTING FIRE STATION  
10-45-24-00-00031.0070

ZONING  
RS-1  
SINGLE FAMILY RESIDENCE  
10-45-24-00-00031.0100

### SCHEDULE OF DEVIATIONS

- [illegible]

### SCHEDULE OF USES

[illegible]

**SITE DATA:**

SIZE OF PARCEL:	16.91 A.P. (14.4 ACRES)	
REQUEST:	R9-1 30 MINOR DMS (OPTION 2)	
USE PLANT LAND USE	CLASSIFICATION:	SUBURBAN
MAXIMUM HEIGHT:	35' ABOVE FINISHED GRADE	+ HABITABLE FLOOR
PROPOSED BUILDING:		
RESTAURANT	2,330 S.F.	
LOUNGE	215 S.F.	
		2,545 S.F.
EXISTING BUILDING:		
RESTAURANT	1,008 S.F.	
LOUNGE	215 S.F.	
		1,223 S.F.
ADDITIONAL BUILDING AREA PROPOSED =		1,322 S.F.

**PARKING:**

RESTAURANT  
(16 SPACES PER 1,000 S.F. TOTAL RESTAURANT AREA)  
 $1,001/1000 = 2 \text{ } 14 = 42 \text{ PARKING SPACES REQUIRED}$

LOUNGE  
(17 SPACES PER 1,000 S.F. TOTAL RESTAURANT AREA)  
 $140 \div 17 = 8 \text{ } 16 = 88 \text{ SPACES REQUIRED}$

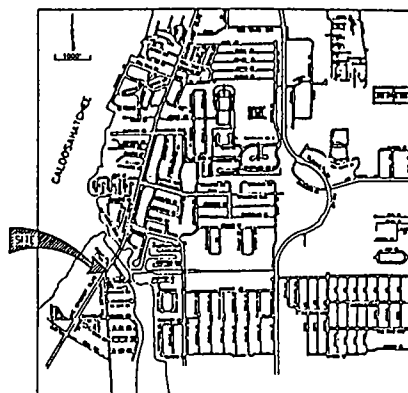
TOTAL PARKING REQUIRED 46 SPACES

EXISTING PARKING ON-SITE 26 SPACES  
EXISTING PARKING LEASED 20 SPACES

TOTAL PARKING PROVIDED 46 SPACES

EXISTING OPEN SPACE: 633 S.F. (30)

EXISTING OPEN SPACE: 422 S.F. A (NO



**LOCATION MAP**

APPROVED

## Master Concept Plan

Site Plan #: 97-047 Page 1 Of 1

Subject to conditions in Resolution 2-97-047

Zoning Case # 97-01-273.02Z 01.01

PROPERTY DEVELOPMENT REGULATIONS:

MINIMUM LOT DIMENSIONS:

WIDE: 75'  
DEPT: 100'  
MINIMUM LOT SIZE: 7,500 S.F.

**MINIMUM STRUCTURAL SETBACKS:**

FRONT (McGREGOR BLVD.)	15'
REAR (SE):	25'
SIDE (NE):	15'
SIDE (SW):	0'

**STRUCTURAL COVERAGE:**

OWNER/DEVELOPER:  
CLANCEY'S RESTAURANT  
11481 MCGREGOR BLVD.  
FORT MYERS, FLORIDA 33919

STRAP NUMBER:  
10-45-24-00-00030.0000  
10-45-24-00-00018.0000

ZONING:  
RS-1 TO MINOR CPD 64

PERMIT COUNTER

1999 2-4 2-4 17-3 18-3 19

PROJECT # 72-4-271-112-11-11  
PROJECT TYPE 11

PROJECT TYPE

JOHNSON ENGINEERING, INC.

ENGINEERS, SURVEYORS AND ECOLOGISTS  
2100 JONATHAN STREET, P.O. BOX 1500, FORT MYERS, FLORIDA 33903-1500  
Phone (813) 335-8844 Fax (813) 335-1041

CLANCEY'S RESTAURANT  
SECTION 10, TOWNSHIP 45 SOUTH, RANGE 24 EAST  
LEE COUNTY, FLORIDA

## SITE PLAN

D E S I G N S										NAME		DATE	
BLK	ST	DE SIGN	BLK	ST	DE SIGN	BLK	ST	DE SIGN	BLK	ST	DESIGNED	DATE	
2-A-1	ST	SCHEDULE 40 VLR DESIGN									DRAWN	4-10-64	
											CHECKED	4-10-64	
											DATE	1-17-67	

JOHNSON ENGINEERING, INC.  
ENGINEERS, SURVEYORS AND COLONISTS  
2108 JOHNSON STREET, P O BOX 1040, FORT WORTH, TEXAS 76101  
PHONE (817) 331-4444 FAX (817) 331-4444