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

WHEREAS, Quattrone & Associates, Inc., filed an application on behalf of the property owner, Gator Recreational Complex, LLC to rezone a 7.1± acre parcel from Agricultural (AG-2) to Commercial Planned Development (CPD) in reference to Gator Recreation Complex; and

WHEREAS, a public hearing was advertised and held on May 26, 2005 and July 21, 2005, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2004-00087; and

WHEREAS, a second public hearing was advertised and held on October 3, 2005, 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

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The applicant filed a request to rezone a 7.1± acre parcel from AG-2 to CPD, to allow for the development of the 60,400 square-foot Gator Recreation Complex, which includes uses such as a 40-lane bowling alley, video arcade, restaurant, bar, convention center, and a 1.56-acre out parcel with 21,000 square feet of office and/or retail uses. The property is located in the Intensive Development Land Use Category and is 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 "Gator Recreation Complex," stamped received November 7, 2005, last revised January 31, 2005, except as modified by the conditions below:

The MCP specifies a maximum of 81,400 square feet of building space divided into two lots: the "Main Parcel" is limited to a 60,400-square-foot building; "Out Parcel" is limited to a 21,000-square-foot building.

2. The following limits apply to the project and uses (any Note referenced below is taken from LDC §34-934):



Schedule of Uses a.

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Main Parcel: Gator Recreation Complex Accessory Uses and Structures: Note (1), §34-1171 et seq., §34-2441 et seq., §§ 34-1863, 34-2141 et seq., §34-3106 Administrative Offices: Note (1) Agricultural Use, in accord with Condition 11 ATM (automatic teller machine ancillary to buildings principle use) Bar or Cocktail Lounge limited to one per bowling alley and one per restaurant Groups III and IV (§34-1261 et seq.) as ancillary use Business Services (§34-622(c))(5)): Groups I and II Clubs: Commercial Private (§34-2111 *et seq.*) Cultural Facilities (§34-622(c))(10)) Consumption on Premises (§34-1261 et seq.): limited to bowling alley and restaurant Drive-Through Facility for any permitted use **Emergency Operations Center** Essential Services (Note 1, §§ 34-1611, 34-1741) Essential Service Facilities (§34-622(c))(13)): Group I (Note 1, §§ 34-1611, 34-1741, 34-2141) Fences, Walls Food and Beverage Service, Limited (Note 1) Gift and Souvenir Shop (ancillary to bowling alley) Health Care Facilities (§34-622(c))(20)): Groups I (Note 28) and II (Note 28) Hobby, Toy and Game Shops (§34-622(c))(21)) Parking lot: Accessory Temporary (§34-2022) **Recreation Facilities:** Commercial (§34-622(c))(38)): Groups I, III and IV Restaurants (§34-622(c))(43)): Groups I, II, III, and IV (limited to one per parcel) Retail and Wholesale Sales, when clearly incidental and subordinate to a permitted principal use on the same premises (limited to Main Parcel - Recreational Facilities, Commercial [(§34-622(c))(38)): Groups I, III and IVI uses) Signs (in accordance with Chapter 30, Note 1) Specialty Retail Shops (§34-622(c))(47)): Groups I, II, and III (ancillary to bowling allev) Storage: Indoor only (Note 1, §34-3001 et seq.) Theater, Indoor (Note 32, §34-2471 et seq.) Used Merchandise Stores (§34-622(c))(54)): Group I Warehouse: Mini-warehouse Private Public Wholesale Establishments (§34-622(c))(56)): Group III Out Parcel Accessory Uses and Structures: Note (1), §34-1171 et seq., §34-2441 et seq., §§ 34-1863, 34-2141 et seq., §34-3106 Administrative Offices: Note (1) CASE NO: DCI2004-00087

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Agricultural Use, in accord with Condition 11 ATM (automatic teller machine) Auto Parts Store (no installation) Banks and Financial Establishments (§34-622(c))(3)): Groups I and II Bar or Cocktail Lounge limited to one per bowling alley and one per Restaurant Groups III and IV (§34-1261 et seq.) as ancillary use Boat Parts Store (no installation) Broadcast Studio, Commercial Radio and Television (§34-1141 et seq.) Business Services (§34-622(c))(5)): Groups I and II Cleaning and Maintenance Services (§34-622(c))(7)) Clothing Stores, General (§34-622(c))(8)) Clubs: Commercial Fraternal, Membership Organization (§34 2111 et seq.) Private (§34-2111 *et seq.*) Cultural Facilities (§34-622(c))(10)) Consumption on Premises (§34-1261 et seq.): limited to Bowling Alley and Restaurant Day Care Center, Child, Adult (Note 28) Drive-Through Facility for any permitted use Drugstore, Pharmacy **Emergency Operations Center** Essential Services (Note 1, §§ 34-1611, 34-1741) Essential Service Facilities (§34-622(c))(13)): Group I (Note 1, §§ 34-1611, 34-1741, 34-2141) Fences, Walls Food and Beverage Service, Limited (Note 1) Food Stores (§34-622(c))(16)): Group I Gift and Souvenir Shop Hardware Store Hobby, Toy and Game Shops (§34-622(c))(21)) Household and Office Furnishings Insurance Companies (§34-622(c))(23)) Laundry or Dry Cleaning (§34-622(c))(24)): Group I Medical Office Nonstore Retailers (§34-622(c))(30)), Groups I and II Paint, Glass and Wallpaper Parking Lot: Accessory Temporary (§34-2022) Personal Services (§34-622(c))(33)): Groups I (§34-3021), II and III (excluding Turkish baths and massage parlors) Pet Services Pet Shop Place of Worship (Note 28, §34-2051) Rental or Leasing Establishment (§34-622(c))(39)): Group I (§§ 34-1352, 34-3001 et seq.), II (§34-1201 et seq., §§ 34-1352, 34-3001 et seq.), III (§§ 34-1352, 34-3001 et seq.), Group IV (§34-1201 et seq., §§ 34-1352, 34-3001 et seq.) Repair Shops (§34-622(c))(40)): Groups I and II Restaurant, Fast Food (out parcel only)

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Z-05-046 Page 3 of 8 Restaurants (§34-622(c))(43)): Groups I, II, III, and IV (limited to one per parcel and by Condition 4)
Signs (in accordance with Chapter 30, Note 1)
Social Services (§34-622(c))(46)): Groups I, II, III (Note 28), IV (Note 28)
Specialty Retail Shops (§34-622(c))(47)): Groups I, II, III, IV
Studios (§34-622(c))(49))
Used Merchandise Stores (§34-622(c))(54)): Group I
Variety Store

b. <u>Site Development Regulations</u>

Minimum Lot Area and Dimensions: Main Parcel	
Area	5.5 acres
Width	200 feet
Depth	300 feet
Minimum Lot Area and Dimensions: Ou	ut Parcel

Area	1.5 acres
Width	100 feet
Depth	100 feet

Minimum Building Setbacks:

Street	25 feet
Side	25 feet
Rear	25 feet
Water	25 feet

Accessory Structures*	5 feet
Accessory Structures* (Water)	20 feet

Maximum Height:

Main Parcel, Gator Rec. Complex	45 feet/3 stories
Out Parcel	35 feet/2 stories

Maximum Lot Coverage25 percentMinimum Open Space2.13 acres

*Accessory Use and Structure setbacks must comply with LDC §34-1171 *et seq*.

3. Ingress to project from Six Mile Cypress Parkway is limited to south-bound right-in and north-bound left-in, while egress is limited to right-out only (Controlled Access Resolution

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Z-05-046 Page 4 of 8 93-09-5, as amended by Resolution 00-04-09, and identified as Designated Access Point #452+50).

- 4. The out parcel is limited to 21,000 square feet of office/retail uses with a minimum of 70 parking spaces. If the applicant wishes to use the out parcel for a restaurant, the maximum building size is limited to 6,500 square feet with a minimum of 91 parking spaces and will require an Administrative Amendment to the MCP.
- 5. The Type "D" vegetation buffer along Six Mile Cypress Parkway is to be enhanced, doubling the required trees to 10 per 100 lineal feet. All trees must be 100 percent native species. Non-native trees can be used in excess to these requirements. This enhancement follows similar landscaping improvements required of projects along Six Mile Cypress Parkway: Daniels Crossing CPD (north of the project at the Daniels Road and Six Mile Cypress Parkway intersection) requiring a 20-foot-wide buffer with double Type "D" vegetation (10 trees per 100 lineal feet and hedge planted in double staggered rows); International Center (parcels along Six Mile Cypress south of Daniels Crossing) requiring 10-foot-wide landscape strip containing native species of eight trees and 24 shrubs per 100 linear feet; and similar enhancements to the Lee County Sports Complex.
- 6. Buildings exceeding 35 feet in height must maintain additional building separation as regulated by LDC §34-2174(a).
- 7. 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.
- 8. 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 Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.
- 9. 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 MCP are subsequently pursued, appropriate approvals will be necessary.
- 10. Blasting activities are not permitted a part of this action.
- 11. AGRICULTURAL USES: Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:
 - a. Bona fide agricultural uses that are in existence at the time the application for this project was filed, and as shown on Exhibit D attached hereto, may continue until approval of a local development order for the area of the project containing those uses.

- b. Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County approved requests for the removal of invasive exotic vegetation.
- c. Prior to issuance of a local development order, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
 - i. Termination of all agricultural use on any portion of the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:
 - (1) the date the agricultural uses ceased;
 - (2) the legal description of the property subject to the development order approval;
 - (3) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the county that they will not allow any such uses on the property unless and until the property is rezoned to permit such uses; and,
 - (4) that the affidavit constitutes a covenant between the owner and the county that is binding on the owner and their assignees and successors in interest.

The covenant must be properly recorded in the public records of the county at the owner's expense.

- ii. Termination of the agricultural tax exemption for any portion of the property included in the development order application/approval. Proof as to termination must include of a copy of the request to terminate the tax exemption provided to the Property Appraiser.
- 12. Prior to issuance of a local development order allowing vertical construction of either phase identified on the attached MCP, the developer must submit proof acceptable to Development Services, that the surrounding road system has sufficient capacity to accommodate the proposed development. This documentation must demonstrate the project's compliance with the transportation concurrency and level-of-service standards as set forth in the Lee Plan and the LDC.

SECTION C. DEVIATIONS:

Deviation (1) seeks relief from the LDC §10-285(a) requirement to provide a 330 feet connection separation between the project's two entrances onto Plantation Road, to allow a 238-foot

separation between the two ingress/egress points for the Gator Recreation Complex CPD. This deviation is APPROVED, as depicted on the MCP.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (subject parcel identified with shading)
- Exhibit C: The Master Concept Plan
- Exhibit D: Ag Use Affidavit

The applicant has indicated that the STRAP number for the subject property is: 30-45-25-00-00002.0000.

SECTION E. FINDINGS AND CONCLUSIONS:

- 1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, 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 Albion, seconded by Commissioner Janes and, upon being put to a vote, the result was as follows:

> Robert P. Janes Douglas R. St. Cerny Ray Judah Tammy Hall John E. Albion

Aye Absent Nay Aye Aye

DULY PASSED AND ADOPTED this 3rd day of October 2005.

ATTES CHARLIE GREEN, CLERK Deputy Clerk

BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA

BY:_____

Chairman

Approved as to form by:

Dawn E. Perry-Lehnert County Attorney's Office

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Since 1946

January 21, 2005

DESCRIPTION PARCEL "A" LYING IN SECTION 30, TOWNSHIP 45 SOUTH, RANGE 25 EAST LEE COUNTY, FLORIDA

A parcel of land lying in Section 30, Township 46 South, Range 25 East, Lee County, Florida, described as follows in Official Records Book 4344, page 2929, Lee County Records, Lee County, Florida:

All that part of the Northwest Quarter of the Southeast Quarter of Section 30, Township 45 South, Range 25 East, lying Northwesterly of the Six Mile Parkway in Lee County, Florida.

Being more particularly described as follows:

Commencing at the Northwest Corner of the Southeast Quarter (NE ¼) of Section 30, run North 88°55'40" East along the South Line of land Described in Official Records Book 3262, Page 2761, Lee County Records, Lee County, Florida for a distance of 50.00 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING continue easterly along said line, for a distance of 749.06 feet; To a point of intersection with the Westerly Right Of Way Line of Ben C. Pratt Six Mile Cypress Parkway, a 250 feet wide Public Right of Way; thence departing said South line run South 38°15'54" West along said Westerly Right Of Way, for a distance of 306.49 feet to a point of curvature; thence run southwesterly along an arc of a curve to the right of radius 2,739.79 feet (delta 15°48'54") (chord bearing South 46°10'21" West) (chord 753.85 feet) for a distance of 756.25 feet to a point of °10'06" West along said Easterly Right Of Way line for a distance of 748.82 feet to the POINT OF BEGINNING.

Containing 309,452 square feet or 7.104 acres, more or less.

Bearings shown hereon are based on the West line of the Southeast Quarter Section 30 to bear North 01°10'06" West.

Applicant's Legal Checked 12005

FEB 1 0 2005

PERMIT COUNTER

DCI2004-00087

MICHAEL A. WARD (FOR THEFIRM LB-642) PROFESSIONAL SURVEYOR AND MAPPER FLORIDA GERTIFICATE NO. 5301 DATE SIGNED: 124/05 NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

EXHIBIT A Page 1 of 2

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ZONING INTAKE MAP

4/27/2005





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υ EXHIBIT

EXHIBIT

Agricultural Uses at time of Zoning Application

I, Kevin J. Walsh certify that I am the Managing Member of Gator Recreation Complex, LLC.; that Gator Complex, LLC is the owner of the property described on the attached exhibit, and that the property is currently being used for agricultural purposes. More specifically, the 7.1 acre parcel is currently being used for cattle grazing. All agricultural uses will cease upon site development construction.

Signature of Owner or Owner-authorized Agent

Mayl > 2005

Date

Kevin J. Walsh, Managing Member of Gator Complex LLC.

Typed or printed name and title

STATE OF <u>**FLORIDA**</u>) COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this $\frac{1}{100}$ day of May 2005, By Kevin J. Walsh, as Managing Member of Gator Complex, LLC, on behalf of the limited liability company who is personally known to me or who has produced _as identification.

(SEAL)



Iniavette Ramirez Commission #DD370027 Expires: Nov 08, 2008 Bonded Thru Atlantic Bonding Co., Inc.

BARLE Signature of notary pu

Iniavette Ramirez

Printed name of notary public

DCI 2004-00087





Since 1946

DCI 2004 00087

PERMIT COUNTER.

January 21, 2005

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Containing 309,452 square feet or 7.104 acres, more or less.

Bearings shown hereon are based on the West line of the Southeast Quarter Section 30 to bear North 01°10'06" West.

MICHAEL A. WARD (FOR THE SURVEYOR AND MAPPER FLORIDA GERT FIRM LB-642) PROFESSIONAL TE NO. 5301 DATE SIGNED: EAJOS NOT VALID WITHOUT THE SIGNATURE AND TH FLORIDA LICENSED SURVEYOR AND MAPPER THE ORIGINAL RAISED SEAL OF A

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Sheet 1 Of 2

EXHIBIT D Page 2 of 3

