

RESOLUTION NUMBER Z-99-091

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

WHEREAS, an application was filed by the property owner, LEF/Cypress Lake Center, LLC, to amend the Cypress Lake Center Commercial Planned Development (CPD); and

WHEREAS, a public hearing was advertised and held on November 17, 1999 before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case # 96-09-098.03Z 04.01; and

WHEREAS, a second public hearing was advertised and held on January 3, 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 for an Amendment of the Cypress Lake Center CPD granted by Zoning Resolution Z-87-196/1 and amended in Z-92-011/1 and Z-96-70, and Administrative Action PD-99-014, to add 15,500 square feet of retail use. The property is located in the Intensive Development 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 two-page Master Concept Plan entitled "Site Plan/Master Concept Plan and DRI/Parking Plan," stamped received August 4, 1999, 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 (MCP) are subsequently pursued, appropriate approvals will be necessary.
2. The uses and development regulations for this property are limited to the uses listed in Zoning Resolutions Z-87-196/1 and Z-96-070 which include the following:

All uses permitted by right in the CG zoning district, as well as the following:

Variety Store
Wholesale Establishments (Group III & IV)
Insurance Companies
Social Services (Groups I & II)
Non-store Retailers (Groups I, II, & III)

3. All terms and conditions of any previous actions on the part of the County remain fully binding upon Phase I of Cypress Lake Center, unless specifically addressed and modified by this amendment. [The only action addressed as part of this request is the addition of 15,500 square feet of retail development within Phase 1 of the overall Cypress Lake Center Development.] This project, must fully comply with all commitments and conditions of the DRI Development Order, any previous zoning resolutions, including, but not limited to Z-87-196/1, Z-92-001/1, and Z-96-070.
4. Phase I CPD is amended to permit 255,500 square feet of retail commercial uses instead of 240,000 square feet.
5. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the DRI Development Order and 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. 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.
8. The Costco fueling facility is limited to an unstaffed facility and to Costco cardholders only.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §10-415(b) requirement to provide 30 percent open space, to allow 20 percent open space. This deviation is APPROVED.
2. Deviation (2) seeks relief from the LDC §34-2020(5)2 requirement for 1,380 parking spaces, to allow 1,290 parking spaces to be provided. This deviation is APPROVED but only so long as the wholesale club use exists as depicted on the MCP. Should the existing wholesale club use, or any part thereof, be converted later to a retail use, the required amount of parking spaces, i.e., up to 1,380 spaces, must be provided for the new uses, or in the alternative, the retail space of the building must be reduced or converted to another

use that has a lesser parking space requirement.

3. Deviation (3) seeks relief from the LDC §10-416(d)(4) note1 requirement to provide an 8-foot-high concrete block wall within a Type "C" buffer, to allow the continued use of the existing wooden fence along the northerly 245± feet of the western perimeter property line. This deviation is APPROVED, WITH THE CONDITION that the fence be repaired to "like new" condition within 60 days of the approval of this deviation and maintained in that fashion in perpetuity.

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 identified with shading)
Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the amendment by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The amendment, 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 amendment 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 John E. Manning and, upon being put to a vote, the result was as follows:

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

DULY PASSED AND ADOPTED this 3rd day of January, 2000.

ATTEST:
CHARLIE GREEN, CLERK

BY: Michele D. Leisner
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: John E. Albion
Chairman

Approved as to form by:

David E. [Signature] 1/4/00
County Attorney's Office

FILED JAN 11 2000
MINUTES OFFICE
ngl

EXHIBIT "A"
LEF/CYPRESS LAKE, LLC, a FLORIDA LIMITED
LIABILITY CORPORATION
96-09-098.03Z 04.01

A TRACT OR PARCEL OF LAND SITUATED IN THE SOUTHEAST ONE QUARTER (SE 1/4) OF SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SOUTHEAST ONE QUARTER; THENCE S.89°08'26"W. ALONG THE CENTERLINE OF CYPRESS LAKE DRIVE, A DISTANCE OF 132.00 FEET TO A POINT OF INTERSECTION WITH THE WESTERLY RIGHT OF WAY LINE OF U.S. 41 (TAMIAMI TRAIL - SR 45); THENCE S.01°16'00"E ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 116.00 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY RIGHT OF WAY LINE OF SAID CYPRESS LAKE DRIVE; THENCE S.89°08'26"W. ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 465.00 FEET TO THE NORTHWEST CORNER OF A TRACT OF LAND DESCRIBED IN OFFICIAL RECORDS (O.R.) BOOK 1873 AT PAGE 4216 OF THE PUBLIC RECORDS OF SAID LEE COUNTY AND THE POINT OF BEGINNING; THENCE S.00°51'34"E. PERPENDICULAR TO SAID SOUTHERLY RIGHT OF WAY LINE AND ALONG THE WEST LINE OF SAID TRACT, A DISTANCE OF 230.00 FEET; THENCE N.89°08'26"E. ALONG THE SOUTH LINE OF SAID TRACT, A DISTANCE OF 200.00 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF A TRACT OF LAND DESCRIBED IN O.R. BOOK 1851 AT PAGE 3715 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S.00°51'34"E. ALONG SAID WEST LINE, A DISTANCE OF 349.98 FEET; THENCE N.89°08'26"E. ALONG THE SOUTH LINE OF SAID TRACT, A DISTANCE OF 269.12 FEET TO A POINT OF INTERSECTION WITH SAID WESTERLY RIGHT OF WAY LINE OF U.S. 41; THENCE S.01°16'00"E. ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 573.32 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF CYPRESS LAKE CENTER PHASE H AS RECORDED ON PLAT BOOK 39 AT PAGES 22 - 24 OF SAID PUBLIC RECORDS OF LEE COUNTY; THENCE S.89°08'26"W. ALONG SAID NORTH LINE, A DISTANCE OF 1126.61 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF FORMER IONA DRAINAGE DISTRICT (I.D.D.) CANAL "I" AS PARTIALLY DESCRIBED IN O.R. BOOK 1851 AT PAGE 1788 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE N.00°47'20"W. ALONG SAID EAST LINE, A DISTANCE OF 908.29 FEET; THENCE S.89°08'26"W. ALONG THE NORTH LINE OF SAID TRACT, A DISTANCE OF 51.23 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF THE NORTHEAST ONE QUARTER OF SAID SOUTHEAST ONE QUARTER; THENCE N.00°35'38"W. ALONG SAID WEST LINE, A DISTANCE OF 245.00 FEET TO A POINT OF INTERSECTION WITH SAID SOUTHERLY RIGHT OF WAY LINE OF CYPRESS LAKE DRIVE; THENCE N.89°08'26"E. ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 702.39 FEET TO THE POINT OF BEGINNING.

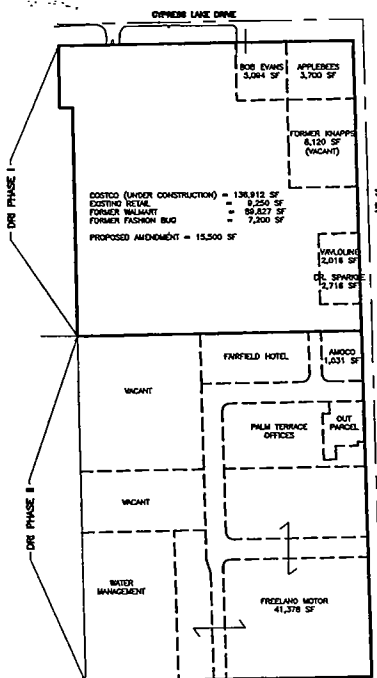
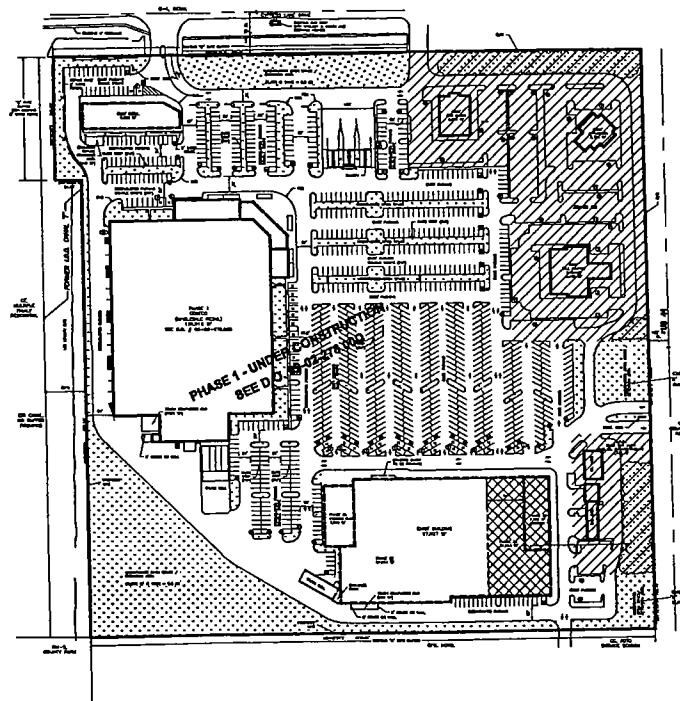
CONTAINING 25.36 ACRES, MORE OR LESS.

BEARINGS SHOWN HEREIN ARE BASED ON THE CENTERLINE SURVEY OF SAID US 41.

The applicant has indicated that the STRAP number for the subject property is: 23-45-24-00-00002.0030 & 23-45-24-00-00002.0010.

EXHIBIT B

**REDUCED COPY
NOT TO SCALE**

[illegible]

MAXIMUM OCCUPANCY REQUIREMENT 14-30303(2)(3) 4.5 PERSONS
 PER 1,000 SF INCLUDING RESTROOMS OUTWASH SINKS AND
 CLOSET ARE CALCULATED AS FOLLOWS:
 ① REQUIRED PARKING SPACES - TOTAL SHOPPING CENTER:
 SHOPPING CAR PARKS 14-30303(4) = 17
 OUTWASH REQUIREMENT 14 PERSONS PER 1,000 SF
 14,914 SF / 14 = 1,065 = 1,065
 SHOPPING AND PROPOSED PARKING = 4.5 PERSONS PER 1,000 SF
 1,065 PERSONS / 4.5 PERSONS PER 1,000 SF = 237
 TOTAL PARKING REQUIRED 15
 PROPOSED PARKING 17
 17 - 15 = 2
 ② REQUIRED PARKING SPACES - MAXIMUM OCCUPANCY REQUIRED
 MAXIMUM OCCUPANCY REQUIRED 14-30303(2)(3) 4.5 PERSONS
 PER 1,000 SF INCLUDING RESTROOMS OUTWASH SINKS AND
 CLOSET ARE CALCULATED AS FOLLOWS:
 ③ FIVE PERSONS PER 1,000 SF = 775
 ④ FIVE PERSONS PER 1,000 SF = 775
 ⑤ FIVE PERSONS PER 1,000 SF = 775
 ⑥ FIVE PERSONS PER 1,000 SF = 775
 ⑦ FIVE PERSONS PER 1,000 SF = 775
 TOTAL SHOPPING CENTER PROPOSED PARKING = 1,113
 OUTWASH PARKING 17
 TOTAL PARKING PROVIDED 1,130

RECEIVED
AUG 24 1933

AUG 04 1999

DEVELOPMENT SERVICES

APPROVED

Master Concept Plan

Site Plan # 99-091 Page 2 Of 2

Subject to conditions in Resolution Z-99-091

Zoning Case # 96-09-098.03Z 04.01

MD MORRIS - DEPEW ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS • MAPMONGERS
2215 Second Avenue • Fort Worth, Texas 76102 • Tel. 817-337-3941

DRIVE/PARKING PLAN

NSA PROJECT: 98057A	
CHIEFED BY: MYM	DESIGNED BY: RMS
DATE: 08/04/09	
SHEET: S2	