

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

WHEREAS, Stephanie Miller, Trustee filed an application for a rezoning from Agricultural (AG-2) to Commercial Planned Development (CPD) in reference to Carissa CPD; and

WHEREAS, the subject property is located at 12150 Six Mile Cypress Parkway, and is described more particularly as:

LEGAL DESCRIPTION: In Section 17, Township 45 South, Range 25 East, Lee County, Florida:

A tract or parcel of land situated in the State of Florida, County of Lee, lying in Section 17, Township 45 South, Range 25 East, and being further bound and described:

Lot 27, of that certain unrecorded subdivision known as SUBURBAN RANCHETTES located in Lee County, Florida as more particularly described as follows:

The North Half (N $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest (NW $\frac{1}{4}$) of section 17, Township 45 South, Range 25 East;

Excepting therefrom the Westerly 30 feet thereof;

Together with an easement for ingress and egress over and across the East 30 feet of the West Half (W $\frac{1}{2}$) of the East Half (E $\frac{1}{2}$) of the Northwest Quarter (NW $\frac{1}{4}$) and the West 30 feet of the East Half (E $\frac{1}{2}$) of the East Half (E $\frac{1}{2}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section 17, Township 45 South, Range 25 East, Lee County, Florida; and

ALSO a tract or parcel of land lying in Section 17, Township 45 South, Range 25 East, Lee County, Florida, said tract or parcel is further described as follows:

The South Half (S $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of the Northwest Quarter (NW $\frac{1}{4}$) of said Section 17;

Said parcel is subject to the South 30.00 feet thereof for road right-of-way as per County Commissioners Minutes Book 5, Page 669, Public Records of Lee County, Florida, and the West 30.00 feet thereof is reserved as a roadway easement;

Said parcel is also known as lot 28, SUBURBAN RANCHETTES as recorded in Official Records Book 273, Page 94 through 96, Public Records of Lee County, Florida; and

ALSO a parcel of land situated in Section 17, Township 45 South, Range 25 East, Lee County, Florida, being more particularly described as follows: Commencing at the Northeast corner of said Section 17;

6/16/97

THENCE S88°52'52"W, 2057.74 feet along the North line of said Section 17 to a point on the Westerly right-of-way line of Six Mile Cypress Parkway (S.R. 80-B), said point also being the true POINT OF BEGINNING;
THENCE S20°01'31"W, 511.03 feet along said Westerly right-of-way line;
THENCE S88°52'49"W, 399.64 feet to a point of the East line of SUBURBAN RANCHETTES as recorded in Official Record Book 273, Pages 94 through 96 of the Public Records of Lee County, Florida;
THENCE N00°04'42"W, 476.71 feet along said Quarter Section line to the North Quarter corner of said Section 17;
THENCE N88°52'52"E, 575.32 feet along the North line of said Section 17 to a point on said Westerly right-of-way line of Six Mile Cypress Parkway (S.R. 80-B) said point also being the true POINT OF BEGINNING; and
ALSO a parcel of land situated in Section 17, Township 45 South, Range 25 East, Lee County, Florida, being more particularly described as follows:
Commencing at the Northeast corner of said Section 17;
THENCE S88°52'52"W, 2,057.74 feet along the North line of said Section 17 to a point on the Westerly right-of-way line of Six Mile Cypress Parkway (S.R. 80-B);
THENCE S20°01'31"W, 511.03 feet along said Westerly right-of-way line to the true POINT OF BEGINNING;
Continue S20°01'31"W, 878.15 feet to the North line of 60' wide road right-of-way as recorded in County Commission Minute Book 5, Page 669 of the Public Records;
THENCE S88°52'49"W, 97.75 feet along said North line to a point on the East line of SUBURBAN RANCHETTES as recorded in Official Record Book 273, Pages 94 through 96 of the Public Records;
THENCE N00°04'42"W, 819.16 feet along said East line;
THENCE N88°52'52"E, 399.64 feet to a point on said Westerly right-of-way line, said point also being the true POINT OF BEGINNING; and

WHEREAS, the applicant has indicated the property's current STRAP numbers are 17-45-25-01-00000.0270, 17-45-25-01-00000.0280, 17-45-25-00-00004.0000 and 17-45-25-00-00004.0020; and

WHEREAS, Stephanie Miller, Trustee owner of the subject parcel, authorized Stuart & Associates and Banks Engineering, Inc. to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held on April 22, 1997 before the Lee County Hearing Examiner in Case No. 96-12-014.03Z 01.01, who gave full consideration to the evidence available; and

WHEREAS, a public hearing was advertised and held on June 16, 1997 before the Lee County Board of County Commissioners who gave full and complete consideration to the recommendations of 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 LEE COUNTY BOARD OF COUNTY COMMISSIONERS, that the Board **APPROVES with conditions** the requested rezoning from AG-2 to CPD, as follows:

SECTION A. CONDITIONS:

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

1. The development and use of the subject parcel must be in substantial compliance with the approved Master Concept Plan for this development which is a document entitled "Carissa C.P.D." prepared by Banks Engineering, Inc., dated November 11, 1996, last revised January 20, 1997, and stamped received by the zoning counter on February 21, 1997, except as modified by the conditions herein.
2. The approved Schedule of Uses for this development is limited to the following:

Schedule of Uses:

Administration Offices
Animal Clinic
ATM
Auto Parts Store, No Installation Service
Automobile Service Station
Automotive Repair and Service, Group I
Banks & Financial Establishments, All Groups
Boat Parts Store
Building Material Sales
Business Services, Groups I and II
Car Wash
Cleaning and Maintenance Services
Clothing Store, General
Commercial Clubs, Fraternal or Membership Organization
Consumption on Premises
Contractors and Builders, Groups I and II
Convenience Food and Beverage Store, subject to Condition #4 & Deviation (7)
Cultural Facilities - Excluding Zoos
Day Care Center, Child, Adult
Department Store
Drive-thru Facility
Drug Store, Pharmacy
Essential Services
Essential Service Facilities
Excavation, Water Retention
Factory Outlets (Point of Manufacture)
Farm Equipment, Sales, Storage, Rental or Service
Feed, Fertilizer, Mixing and Sales

Fences, Walls
Fire Station
Flea Market, Indoor
Food and Beverage Service, Limited
Food Stores, Groups I and II
Gasoline Dispensing System, Special
Gift and Souvenir Shop
Hardware Store
Health Care Facilities, Group III
Hobby, Toy and Game Shops
Hotel/Motel - 100 rooms
Household & Office Furnishings, Groups I and II
Insurance Companies
Laundry Dry Cleaning, Group I
Lawn & Garden Supply Store
Medical Office
Mini Warehouses
Non-Store Retailers, All Groups
Pet Services
Pet Shops
Pharmacy
Place of Worship
Plant Nursery
Post Office
Real Estate Sales Office
Recreation, Commercial, Groups I, II & IV
Religious Facilities
Rental or Leasing Establishments, Groups I and II
Repair Shops, Groups I and II
Research & Development Laboratories, Groups II & IV
Restaurant, Groups I, II and III
Restaurant, Fast Food, subject to Condition 4 & Deviation (7)
Retail and Wholesale, when clearly incidental and subordinate to the principal use on the same premises
Schools, Commercial
Self Service Fuel Pumps
Self Service Fuel Pump Stations
Signs, in accordance with LDC Chapter 30
Social Services, Groups I and II
Specialty Retail Shops, Groups I, II, III and IV
Storage, Indoor only
Studios
Supermarkets
Temporary Uses
Theater, Indoor
Towers, Communication - less than 100 feet in height

Transportation Services, Group II
Used Merchandise Stores, Groups I and II
Variety Store
Wholesale Establishments, Group III

3. The following Property Development Regulations apply to the development of the subject property:

Minimum Lot Area and Dimensions:

Minimum Lot Area	10,000 square feet
Minimum Lot Width	100 feet
Minimum Lot Depth	100 feet

Minimum Setbacks - Buildings And Structures :

Street: (Six Mile Cypress Parkway)	65 feet
Street: (parallel access street)	25 feet
Side:	15 feet
Rear:	20 feet

Maximum Lot Coverage: 40 percent

Maximum Building Height: up to three habitable floors within 35 feet

- 4.
- a. The area west of the proposed buildings fronting on Six Mile Cypress Parkway and north of the proposed buildings fronting on Crystal Drive is limited to open space uses and vehicular access. Public access is prohibited on the west or north sides of these buildings.
 - b. If a Fast Food Restaurant or Convenience Food and Beverage Store use is developed next to the northwest property line (extending south approximately 660 feet from the northernmost property line), the Developer must construct an 8-foot-high masonry wall parallel to the northwest line prior to development order approval. The wall must be located between the wetland preservation areas or 30-foot-wide retention/detention area and these uses. The 8-foot-high masonry wall is required only adjacent to the northwest property line. The buffer must also comply with the Land Development Code, including but not limited to required trees and shrubs.
5. The magnitude of commercial development will be governed by the access to the site as set forth in the matrix below:

Access required for development	Maximum amount of floor area that may be developed	of which a maximum amount of retail floor area may be developed
Six Mile Cypress only (existing)	75,000 sq. ft.	None
With access to Crystal Drive (Crystal Drive must be constructed to minimum Local Street Standard)	150,000 sq. ft.	30,000 sq. ft.*
With access to Crystal Dr. (Crystal Drive must be opened & functioning as a collector road)	150,000 sq. ft.	100,000 sq. ft.
OR		
With access to Penzance Rd. (with connection to Carissa CPD access road)	150,000 sq. ft.	100,000 sq. ft.

[*Access must be within 330 feet of intersection.]

6. Prior to development order approval, the developer must regrade existing lakes to a water depth of four (4) feet below the dry season water table so that the lake banks are sloped to a ratio not steeper than four (4) feet horizontal to one (1) foot vertical. In addition, the developer must provide elements for the protection of wayward vehicles (such as bollards, guardrails, berms, swales, etc.) around these lakes as determined by the Director of Development Services.
7. Prior to local development order approval or issuance of early work vegetation removal permit, the developer must survey all infrastructure and individual parcels for fox squirrels. If squirrel nests or "day beds" are observed, then further observations must be performed to determine if these structures are active and utilized by fox squirrels. If fox squirrel use is verified, the developer must submit a fox squirrel management plan meeting the requirements of LDC § 10-474.
8. Additional conditions may be required at the time of local development order approval to mitigate the project's vehicular or pedestrian traffic impacts.
9. Approval of this rezoning does not give the Developer the undeniable right to receive local development order approval that exceeds the Year 2010 Overlay use allocation, if such allocation exists, for the applicable district.

10. This development must comply with all of the requirements of the Lee County Land Development Code at the time of local development order approval, except as granted by deviation as part of this planned development.
11. If the developer requests impact fee credits for the dedication and construction of the access road shown on the Master Concept Plan, only the area that is not site-related and deemed necessary to allow a neighboring parcel access across the subject parcel will be eligible for credits. Any right-of-way for which credits are issued will be valued based upon the zoning of the land as it existed prior to this zoning approval (AG-2).

SECTION B. DEVIATIONS:

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

Deviation (1) was WITHDRAWN by the applicant.

Deviation (2) seeks relief from LDC Section 10-329(e)(3) which limits the depth of an excavation to a maximum of 12 feet, to allow a maximum depth of 20 feet. The requested deviation is **DENIED WITHOUT PREJUDICE, because no lake management plan has, as yet, been submitted by the Applicant.**

Deviation (3) seeks relief from LDC Section 10-413(c)(1) which requires 50 percent of the required open space to be preserved as existing native vegetation, to permit 34 percent of the required open space to be preserved as existing native vegetation. The requested deviation is **APPROVED.**

Deviation (4) seeks relief from LDC Section 10-415(a)(4) which requires that one tree must be provided for each 3,500 square feet of development area, to allow one tree be provided for each 3,500 square feet of development area excluding the frontage road area, wetland preserve and mitigation area. The requested deviation is **DENIED.**

Deviation (5) seeks relief from LDC Section 30-153(2)a., which restricts total sign area on any given street to 300 square feet, to allow two 200-square foot identification signs, each located a minimum of 15 feet from the parallel access street easement. The requested deviation is **APPROVED.**

Deviation (6) seeks relief from LDC Section 10-329(e)(1)a.1. which prohibits an excavation for water retention from being located closer than 25 feet to an existing or proposed street right-of-way line or easement, to allow the existing lakes to encroach into the 25 foot setback. The requested deviation is **APPROVED** subject to Condition 6 above.

Deviation (7) seeks relief from LDC Section 10-414(a) which requires that commercial developments adjacent to existing residential developments provide a minimum 15 foot wide buffer which includes a fence, wall or berm not less than 8 feet in height, to eliminate the

requirement for the 8 foot fence, wall or berm. The requested deviation is **APPROVED** subject to Condition 4.b. above, no deviation is granted for the Fast Food Restaurant or Convenience Store uses described therein.

Deviation (8) was WITHDRAWN by the applicant.

SECTION C. Master Concept Plan:

A one-page reduced copy of the Master Concept Plan is attached and incorporated into this resolution by reference, 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 or special exception by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes and regulations.
2. The requested zoning, 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
 - d. will not adversely affect environmentally critical areas or natural resources.
3. Approval of the request will not unduly burden 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, or will be, 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 recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.
7. The recommended 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 Douglas R. St. Cerny 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	Absent

DULY PASSED AND ADOPTED this 16th day of June, 1997.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Puth F.*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *[Signature]*
Chairman

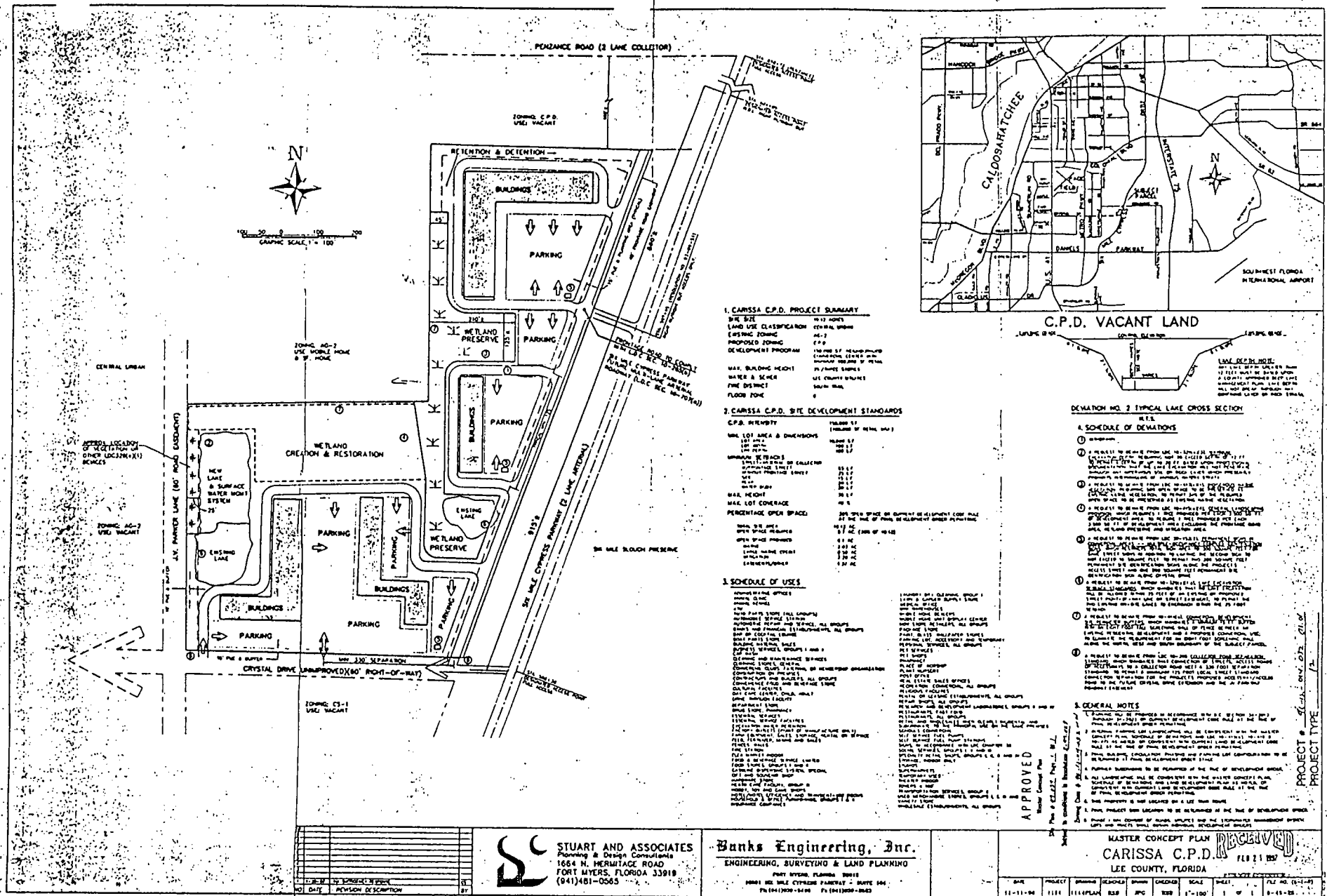
Approved as to form by:

[Signature]
County Attorney's Office

FILED

JUN 19 1997

DEFINITION COPY
b. *Puth F.* D.C.



PROJECT # 9(-11)-014.012 Q1.0
PROJECT TYPE 12