

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

WHEREAS, Shuckers & Company Crabhouse, Inc. filed an application on behalf of the owners of the property, Caloosa Isle Marine, Inc., to amend a Commercial Planned Development (CPD), in reference to Shuckers & Company Crabhouse, Inc.; and

WHEREAS, a public hearing was advertised and held on September 29, 1999 before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #99-05-228.02Z 01.01; and

WHEREAS, a second public hearing was advertised and held on November 15, 1999 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 applicants filed a request to allow enclosure of a 15-foot by 45 foot open deck located adjacent to Store #2 to be used as seating area for the restaurant. The property is located in the Suburban 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 "Caloosa Isle Marine, Inc." stamped received November 21, 1988 (adopted in Resolution Z-88-293) and also stamped received again on May 24, 1999, except as modified by the deviations and 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 MCP are subsequently pursued, appropriate approvals will be necessary.
2. All terms, conditions and deviations of the original zoning resolution (Z-88-293), as amended, and Special Permit Case 94-10-13-SP-02, remain in full force and effect, except

as may be amended herein.

3. The enclosure of the deck area does not change the character of this area from an outdoor seating area to an indoor seating area. The prohibitions previously placed on this parcel with respect to outdoor entertainment, hours of operation, and the setup of bar facilities, are still in full force and effect.
4. Approval of this rezoning does not give the developer the undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the 2020 Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b) of the Lee Plan.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §34-2194(b) requirement to provide the minimum required water body setback of 25 feet, to allow a zero foot waterbody setback. This deviation is APPROVED.
2. Deviation (2) seeks relief from the LDC §34-2020(2)(1)(2) requirement for a restaurant to provide a minimum of 14 parking spaces per 1,000 square feet of floor area, to allow the 50 parking spaces as approved by Resolution Z-88-293. This deviation is APPROVED SUBJECT TO the condition that:
 - a. enclosure of the 15-foot by 45-foot patio is limited to a roofed, screen enclosure. If this area is enclosed with walls, the required off-street parking must be provided; and
 - b. the conditions of approval in Special Permit Case 94-10-13-SP-02 remain in full force and effect, except as modified herein.

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 rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and any other applicable code or regulation.

2. The amendment, 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;
 - 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 proposed amendment satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location;
 - 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 Andrew Coy, seconded by Commissioner John E. Albion and, upon being put to a vote, the result was as follows:

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

DULY PASSED AND ADOPTED this 15th day of November, 1999.

ATTEST:
CHARLIE GREEN, CLERK

BY: Ruth F. Green
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: John E. Albani
Chairman

Approved as to form by:

Ruth E. Albani 11/15/99
County Attorney's Office

MINUTES OFFICE

Ruth F
FILED NOV 17 1999

EXHIBIT "A"
LEGAL DESCRIPTION

A tract or parcel of land lying in WATERWAY ESTATES of Fort Myers, Unit 2, in the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of Section 16, Township 44 South, Range 24 East, Lee County, Florida, as shown on Sheet 2 of plat recorded in Plat Book 12 beginning at page 63, Lee County Records, which tract or parcel is described as follows:

Beginning at a Point of curvature on Curve "K" on the South line of Tract "B" as shown on said plat of WATERWAY ESTATES of Fort Myers, Unit 2, run N89°24'20"E along said South line for 201.00 feet to the West line of the parcel described in deed recorded in Official Records Book 145 at page 95, Lee County Records;

THENCE run N00°35'40"W along said West line for 165.94 feet to the Northwesternly line of said parcel;

THENCE run N43°56'37"E along said Northwesternly line for 136.87 feet to an intersection with the Northerly line of said parcel;

THENCE run N89°24'20"E along said North line for 90.00 feet to an intersection with the East line of said parcel;

THENCE run S00°35'40"E along said East line for 263.50 feet to an intersection with the South line of said Tract "B";

THENCE run N89°24'20"E along said South line for 342.93 feet to a Point of Curvature;

THENCE run Easterly, Northeasterly and Northerly along the arc of a curve to the left of radius 25.00 feet (delta 89°30'20") (chord bearing N44°39'10") (chord 35.20 feet) for 39.05 feet to a Point of Tangency on the East line of said Tract "B";

THENCE run N00°06'00"W along said East line and a Northerly prolongation thereof on the East line of the first parcel described in Resolution recorded in Official Record Book 245 beginning at page 753 said public records for 490.23 feet to the North line of said parcel;

THENCE run S89°54'00"W along said North line for 309.45 feet to an intersection with the Northwesternly line of said parcel;

THENCE run S43°56'37"W along said Northwesternly line for 27.98 feet to a Northeasterly line of said parcel;

THENCE run N59°33'03"W along said Northeasterly line for 102.84 feet to the Northerly most corner of said Tract "B";

THENCE run S43°56'37"W along the Southeasterly line of Tract "A" said WATERWAY ESTATES for 50.00 feet to the Southerly most corner of said Tract "A";

THENCE run S32°33'43"E along the Southwesterly line of the second parcel described in said Resolution recorded in Official Record Book 245 at page 753, Lee County Records, for the 102.84 feet to an intersection with the Northwesternly line of said Tract "B";

THENCE run S43°56'37"W along said Northwesternly line for 540.61 feet to a Point of Curvature on said curve "K";

THENCE run Southwesterly, Southerly and Southeasterly along an arc of a curve to the left of radius 25.00 feet (delta 134°32'17") (chord bearing S23°19'32"E) (chord 46.12 feet) for 58.70 feet to the POINT OF BEGINNING.

SUBJECT TO easements, restrictions and reservations of record.

CONTAINING 5.80 acres, more or less.

Zoning Map Case #99-05-228.02Z 01.01

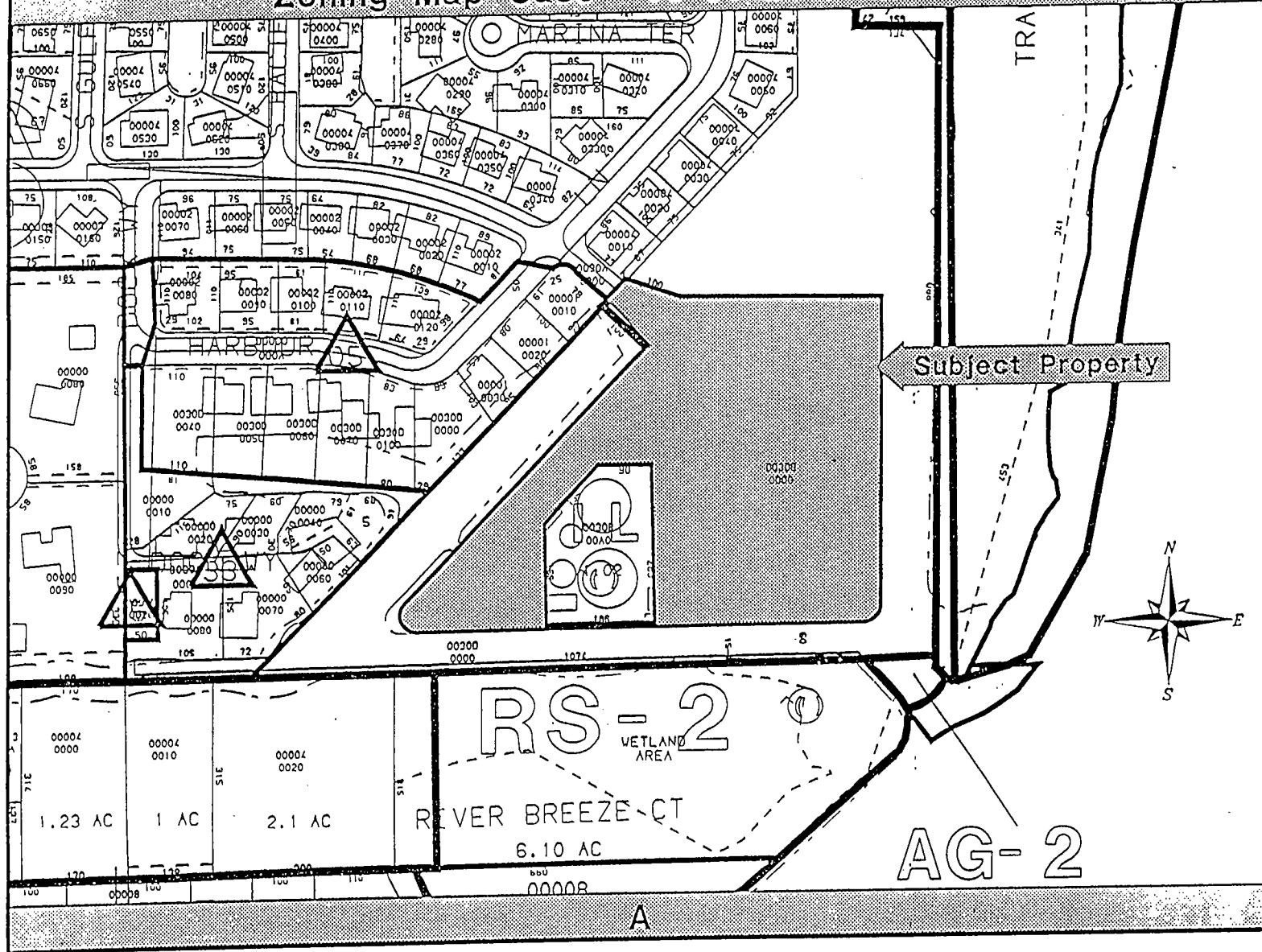


EXHIBIT B

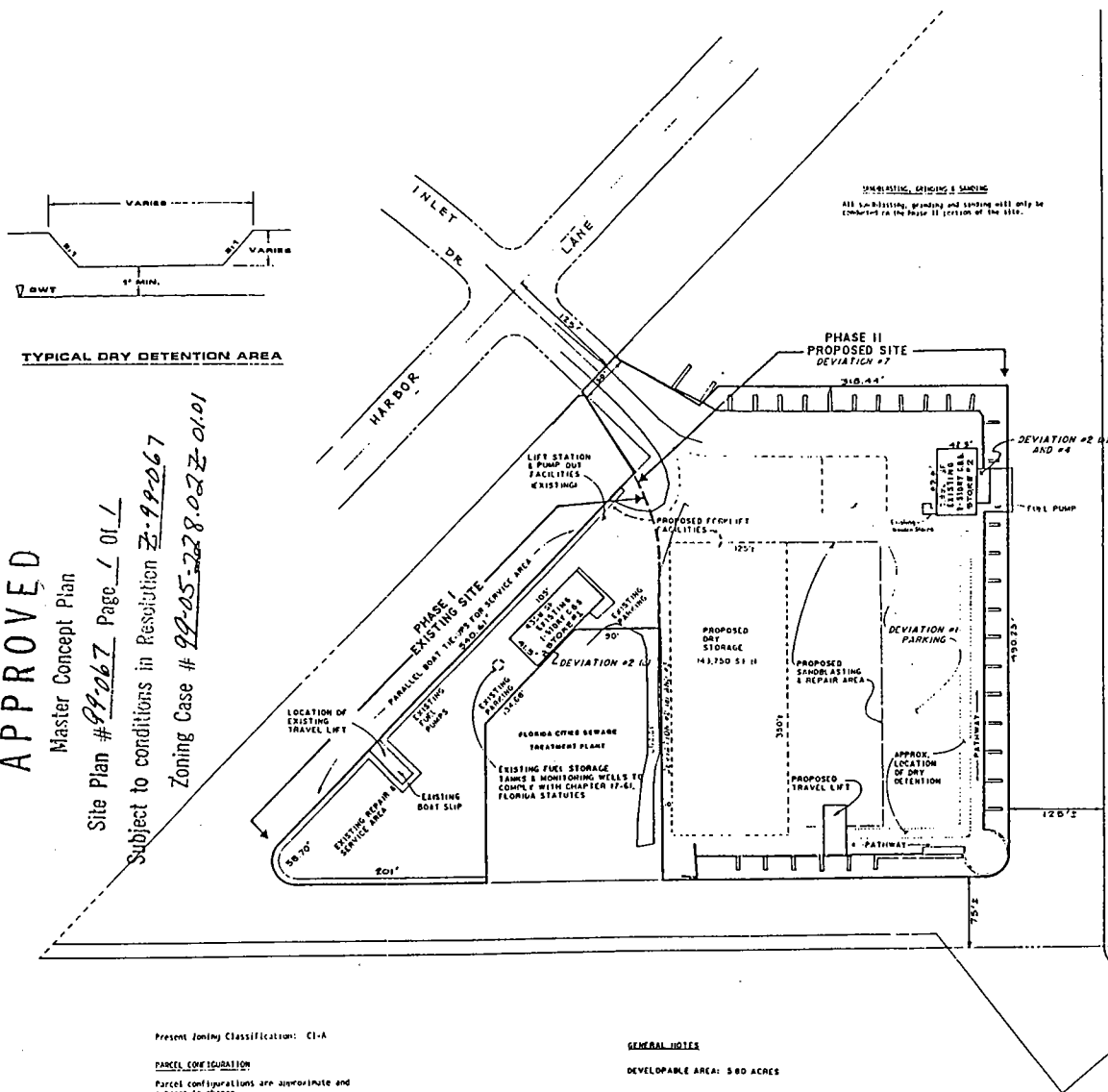
APPROVED

Master Concept Plan

Site Plan # 99-067 Page 1 of 1

Subject to conditions in Resolution Z-99-067

Zoning Case # 99-05-228.02 Z-01.01



Present Zoning Classification: C1-A

PARCEL CONFIGURATION

Parcel configurations are approximate and subject to change.

DISCHARGE & OUTFALLS

All discharges, outfalls & site design to comply with the South Florida Water Management District and the Development Standards Regulations in existence at time of development.

LOCATION OF INTERNAL ACCESSWAYS

The locations of internal roadways and entryways are approximate and subject to change.

GENERAL NOTES

DEVELOPABLE AREA: 580 ACRES

MAXIMUM HEIGHT: 45 FEET ABOVE FINISHED GRADE

LAND USE CLASSIFICATION: SUBURBAN

ANTICIPATED SQUARE FOOTAGE OF BUILDINGS

STORE #1 - 4,328 SF
STORE #2 - 5,008 SF
PROPOSED DRY STORAGE - 43,750 SF

SCHEDULE OF USES
(70 - Marine, Class I and Class II facilities)
All wet slips (existing prior to 1973)
250 Dry Slips (existing prior to 1973)

EXISTING USES:

Administration Office - Store #1 and #2
Storage Building
Fuel and Oil Storage - Store #1 and #2
Dry Fuel Storage Building - Store #1, #2, #3, #4, #5, #6, #7, #8, #9, #10, #11, #12, #13, #14, #15, #16, #17, #18, #19, #20, #21, #22, #23, #24, #25, #26, #27, #28, #29, #30, #31, #32, #33, #34, #35, #36, #37, #38, #39, #40, #41, #42, #43, #44, #45, #46, #47, #48, #49, #50, #51, #52, #53, #54, #55, #56, #57, #58, #59, #60, #61, #62, #63, #64, #65, #66, #67, #68, #69, #70, #71, #72, #73, #74, #75, #76, #77, #78, #79, #80, #81, #82, #83, #84, #85, #86, #87, #88, #89, #90, #91, #92, #93, #94, #95, #96, #97, #98, #99, #100

PROPOSED USES:

2. Construct new building (expansion of second story) existing retail store #2
Essential Services
Essential Service Facilities, Group 1
Food and Beverage Service, Limited (FBS)
Recreation Facilities (Recreation)

SCHEDULE OF BUILDINGS

1. Deviation from Section 22.03.03 of the Lee County Zoning Regulations which requires the following in any lot:
200-13.03.03 - 200 Dry Slips (existing) 30 spaces
200-13.03.03 - 200 Dry Slips (proposed) 60 spaces
2. Construct new building #2 (proposed) 4 spaces
4,328 S.F. Retail/Storage (existing) 5 spaces
200-13.03.03 - 1000 S.F. (proposed) 2 spaces
200-13.03.03 - 1000 S.F. (proposed) 2 spaces
200-13.03.03 - 1000 S.F. (proposed) 2 spaces
In a total of 50 spaces.

- Deviation from Section 22.03.03 of the Lee County Zoning Regulations which requires that no building or structure shall be placed closer to a lot line than the minimum setback required by the applicable zoning ordinance. The minimum setback shall be 10 feet for all buildings and structures, except for those buildings and structures which are located on a lot which is adjacent to a waterway. In such cases, the minimum setback shall be 5 feet.
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MASTER CONCEPT PLAN

CALOOSA ISLE MARINE, INC.

PROJECT # 99-05-228.02 Z-01.01
PROJECT TYPE 19

JOHNSON ENGINEERING, INC.			
CIVIL ENGINEERS - LAND SURVEYORS			
POST OFFICE BOX 1556, FORT MYERS, FLORIDA 33902-1556, PHONE (813) 334-0646			
DATE	PROJECT	SCALE	SHEET
NOV. 1997	16255	1"=40' X 4'	1 OF 1

REVISED NOV 15 1998
REVISED SEPT 11 1998
REVISED MAY 5 1998

EXHIBIT C