

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

WHEREAS, an application was filed by the property owner, Keith Basik, to amend the Cypress Lake Center DRI development order approvals and to rezone a 9.2± acre parcel within the DRI from Commercial Planned Development (CPD) to Mixed Use Planned Development (MPD), in reference to Cypress Lake Center; and,

WHEREAS, a public hearing was advertised and held on August 17, 2005, before Lee County Zoning Hearing Examiner, Diana Parker, who gave full consideration to the evidence in the record for the proposed amendment to Case #DRI2005-00003 (Cypress Lake Center DRI) and case DCI2004-00085 (Central Park MPD); and

WHEREAS, a second public hearing was advertised and held on November 7, 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

The applicant filed a request for the Board to:

1. Amend the Cypress Lake Center DRI Development Order to extend the build out date and modify the land use designations on Map H (Master Development Plan);
2. Find that the proposed changes to the DRI Development Order do not constitute a substantial deviation from the original approvals warranting further DRI review;
3. Rezone a 9.2 acre parcel within the DRI from Commercial Planned Development to Mixed Use Planned Development, to allow an additional 58,200 square feet of Commercial office uses, underground parking, and 166 residential units. Proposed height will not exceed 12 habitable floors and 150 feet. The property is located in the Intensive Development Land Use Category and is legally described in attached Exhibit A. At the hearing examiner hearing, the applicant requested to amend the frequency of filing DRI monitoring reports to reflect the current statutory requirement of biennial reporting.

All requests are 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 the 9.2 acre parcel must be consistent with the 1-page Master Concept Plan entitled "Park Center," stamped received November 29, 2005, last revised November 4, 2005, except as modified by the conditions below.

The project is approved for a maximum of 58,200 square feet commercial office uses (22,000 medical office), and 166 residential units in three buildings, in accordance with Condition 9 below.

In addition, development of the 9.2 acre parcel rezoned to MPD herein, must be consistent with the Cypress Lake Center DRI development order approvals.

2. The following limits apply to the 9.2 acre MPD parcel and uses (any Note referenced is taken from LDC §34-934):

- a. Schedule of Uses

TRACT A

Accessory uses and structures: Note (1), 34-1171 *et seq.*, 34-2441 *et seq.*, 34-2141 *et seq.*, & 34-3106

Administrative offices: Note (1)

ATM (automatic teller machine)

Banks and financial establishments (34-622(c)(3)): Groups I and II

Business services (34-622(c)(5)): Groups I and II

Computer and data processing services

Entrance gates and gatehouse (34-1741)

Essential services (Note 1, 34-1611, 34-1741)

Essential service facilities (34-622(c)(13)): Group I

Fences, walls (Note 1, 34-1741)

Health care facilities (34-622(c)(20)): Group III (subject to the 22,000 sq. ft. limit for medical office between Tracts A and B)

Insurance companies (34-622(c)(23))

Medical office

(limited to 22,000 sq. ft. of gross floor area between Tracts A and B)

Parking lot: Accessory

Personal services (34-622(c)(33)): Group I (34-3021)

Post office

Real estate sales office (Note 23, 34-1951, 34-3021)

Rental or leasing establishment (34-622(c)(39)): Groups I (34-1352, 34-3001 *et seq.*), II (34-1352, 34-3001 *et seq.*)

Schools: Commercial (34-622(c)(45))

Signs (in accordance with chapter 30)

Temporary uses (Note 1, 34-3041) limited to 30-3044, Temporary contractor's office and equipment storage shed

TRACT B

Accessory Uses and Structures: Note (1), 34-1171 *et seq.*, 34-2441 *et seq.*, 34-2141 *et seq.*, & 34-3106
Administrative Offices: Note (1)
ATM (Automatic Teller Machine)
Banks and Financial Establishments (34-622(c)(3)): Groups I and II
Business Services (34-622(c)(5)): Groups I and II
Computer and Data Processing Services
Dwelling Units (limited to 166): Multiple-Family Building (Note 28)
Entrance Gates and Gatehouse (34-1741)
Essential Services (Note 1, 34-1611, 34-1741)
Essential Service Facilities (34-622(c)(13)): Group I
Fences, Walls (Note 1, 34-1741)
Health Care Facilities (34-622(c)(20)): Group III (subject to the 22,000 sq. ft. limit for Medical Office between Tracts A and B)
Medical Office
(limited to 22,000 sq. ft. of gross floor area between Tracts A and B)
Models: Model Units (34-1951 *et seq.*)
Parking Lot: Accessory
Personal Services (34-622(c)(33)): Group I (34-3021)
Real Estate Sales Office (Note 23, 34-1951, 34-3021)
Rental or Leasing Establishment (34-622(c)(39)): Groups I (34-1352, 34-3001 *et seq.*), II (34-1352, 34-3001 *et seq.*)
Schools: Commercial (34-622(c)(45))
Signs (in accordance with chapter 30)
Temporary Uses (Note 1, 34-3041) limited to 30-3044, Temporary Contractor's Office and Equipment Storage Shed

b. Site Development Regulations for the 9.2 acre MPD parcel

TRACT AMinimum Lot Area and Dimensions:

Area	2.7 acres
Width	400 feet
Depth	200 feet
Maximum Building Height	45 feet

TRACT BMinimum Lot Area and Dimensions:

Area	4.1 acres
Width	200 feet
Depth	400 feet
Maximum Building Height	100 or 120 feet and one level of understory parking-in accordance with Condition 9

GENERAL

Minimum Building Setbacks:

Vector Avenue	25 feet
Internal Streets	10 feet
MPD perimeter	15 feet
Side (internal)	10 feet
Rear	25 feet
Water Body	25 feet

Accessory Structures	10 feet
Minimum Building Separation	15 feet
Maximum Lot Coverage	40 percent

3. Prior to local development order approval, the development order plans must demonstrate how the open space and indigenous preservation requirements will be met based upon the use of the property as follows:

- a. If the entire planned development is developed as commercial uses then 30 percent or 2.76 acres of open space must be provided, of which 1.38 acres must be indigenous preservation.

-OR-

- b. If the planned development is developed as commercial and/or residential above ground floor commercial uses, then 30 percent or 2.76 acres of open space must be provided, of which 1.38 acres must be indigenous preservation.

-OR-

- c. If Tract A remains commercial, and Tract B is developed as residential uses, then 3.38 acres of open space must be provided of which 1.69 acres must be indigenous preservation. A total of 1.38 acres of indigenous preservation must be provided as shown on the MCP. The developer must demonstrate that the remaining 0.31 acres of indigenous preservation requirement can be met within the Central Park DRI with areas not used for open space or indigenous preservation for other portions of the DRI. If the 0.31 acres of indigenous preservation cannot be met with existing indigenous within the Central Park DRI, then an indigenous restoration plan for 0.31 acres within the Central Park MPD must be submitted for the Division of Environmental Sciences staff review and approval.

-OR-

- d. If the entire planned development is developed as residential uses then 40 percent or 3.65 acres of open space must be provided, of which 1.83 acres must be

indigenous preservation. 1.38 acres of indigenous preservation must be provided as shown on the MCP. The developer must demonstrate that the remaining 0.45 acres of indigenous preservation requirement can be met within the Central Park DRI with areas not used for open space or indigenous preservation for other portions of the DRI. If the 0.45 acres of indigenous preservation cannot be met with existing indigenous within the Central Park DRI, then an indigenous restoration plan for 0.45 acres within the Central Park MPD must be submitted for the Division of Environmental Sciences staff review and approval.

4. Prior to local development order approval, the development order plans must delineate 20-foot-wide buffers to the west of Building C and to the south of Building A - at least 10 feet of that 20-foot width must be outside any utility or drainage easement. The buffer plantings must include a staggered row of staggered height palms (planted 10-foot on center; 50 percent sabal palms and 50 percent Washingtonian palms) and a continuous double staggered hedge of cocoplum. The sabal palms must have a minimum 10-foot clear trunk. The Washingtonian palms must have a minimum 20-foot clear trunk. The palms must be allowed to grow to their natural form and no trimming is permitted. The cocoplum must have a minimum 48-inch height, and be allowed to grow to its natural form with no trimming.
5. Commercial activities approved for Tract B are limited to the ground and/or the first habitable floor of a residential building or in a stand alone building.
6. 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.
7. 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.
8. Development must comply with all of the requirements of the Lee County LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.
9. The westernmost two buildings must not exceed 100 feet in height, and the easternmost building must not exceed 120 feet in height.
10. Blasting is not approved, nor permitted as part of this rezoning request.
11. Accessory uses must be located on the same tract, parcel or outparcel where the principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel.

12. Development of this parcel is also subject to the Seventh Amendment to the Cypress Lake DRI development order approved on October 31, 2005 in conjunction with this rezoning.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC§10-285(a) requirement to provide a 125-foot intersection separation distance for local roads (Vector Avenue), to allow a separation of 50± feet from the UTS/Sprint telecommunications facility service entrance to the north. This deviation is APPROVED SUBJECT TO the condition that the ingress/egress to the subject property is right-in/right-out only as previously approved under Resolution Z-00-003.
2. Deviation (2) seeks relief from the LDC§10-416(d)(3) requirement to provide Type "A" buffers between commercially zoned lands, to eliminate buffer requirements on the northern boundary of the UTS/Sprint. This deviation is APPROVED for elimination of the Type "A" buffer on the northern boundary of the UTS/Sprint property.
3. Deviation (3) seeks relief from the LDC§10-416(d)(3) requirement to provide Type "A" buffers between commercially zoned lands, to eliminate buffer requirements for the northern property boundary abutting the existing Cypress Lake Center. This deviation is APPROVED.
4. Deviation (4) seeks relief from the LDC§10-296 requirement to provide the wearing surface specified in Table 4(7)(c)(2) for local access roads, to allow decorative pavers on private streets internal to the project. This deviation is APPROVED SUBJECT TO the condition that at the time of local development order review, the pavers are determined to not reduce the requirements of the road surface, but only seek to directly substitute, so that quality is not downgraded, only appearance is altered.
5. Deviation (5) seeks relief from the LDC§34-935(b)(1) requirement establishing building setbacks from development perimeter boundaries a distance equal to the greater of fifteen feet for residential and commercial portions of the development or one-half the height of the building or structure, to allow a 20-foot setback along the southern and western property boundaries irrespective of building height. This deviation is APPROVED SUBJECT TO the condition that the Applicant installs the buffer described in Condition 4 along the southern boundary.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: Legal description of the 9.2 parcel
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan stamped received November 29, 2005
- Exhibit D: Seventh Amendment to the Cypress Lake Center DRI Development Order

The applicant has indicated that the STRAP numbers for the 9.2 acre property subject to the MPD rezoning are: 23-46-24-65-00000.00CE & 23-45-24-60-00000.2010

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning to MPD by demonstrating compliance with the Lee Plan, the LDC, and other applicable codes and regulations.
2. The MPD 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 MPD 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.
6. The proposed changes to the Cypress Lake Center DRI development order (Seventh Amendment) do not constitute a substantial deviation from the original development order approvals warranting further DRI review.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Ray Judah, seconded by Commissioner Robert P. Janes and, upon being put to a vote, the result was as follows:

Robert P. Janes	Aye
Douglas R. St. Cerny	Absent
Ray Judah	Aye
Tammara Hall	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 7th day of November 2005.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *Michelle B. Cooper*
Deputy Clerk

BY: *T Hall*
Tammara Hall, Chairwoman

Approved as to form by:

Donna Marie Collins
Donna Marie Collins
County Attorney's Office

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MINUTES OFFICE
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2005 DEC 15 AM 10:24

RECEIVED

APR 25 2005

ZONING

LEGAL DESCRIPTION

Lot 6 and Tract B, SUBDIVISION Cypress Lake Center Phase II, as recorded in Plat Book 39, Page 22-24 less phase B-1 Cypress Lake Center, Plat Book 43, Page 11, of the Public Records of Lee County, Florida, lying in Section 23, Township 45 South, Range 24 East, Lee County, Florida.

A subdivision in the East 1/2 of Section 23, Township 45 South, Range 24 East, Lee County, Florida.

Applicant's Legal Checked

by Lgm 4/25/2005

EXHIBIT PH-3.C.1

DRI 2005-00003

APR 25 2005

ZONING

DRI 2005-00003

BOUNDARY SURVEY

TRACT "B" AND LOT 6
CYPRESS LAKE CENTER PHASE II
RECORDED IN PLAT BOOK 39, PAGES 22-24
SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

1. THE CERTIFICATE OF APPROPRIATION NAMED OF JEFFREY C. DOUGHER AND ASSOCIATES IS IN 10-0007173.
2. NO RECORD OF TITLE OR TITLE INSURANCE COVERAGE WAS REVEALED AS PART OF THIS SEARCH.
3. THIS SURVEY IS SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED BY A PAIL AND A RECORD OF TITLE SEARCH.
4. APPROPRIATIONS ON AN ALLEGED TO THE SUBJECT PARCELS, HAVE NOT BEEN LOCATED (EXCEPT AS SHOWN).
5. THERE ARE NO VISIBLE ENCUMBRANCES OTHER THAN THESE SHOWN.
6. THIS SURVEY DOES NOT TAKE ANY ENCUMBRANCES AS TO ZONING OR DEVELOPMENT REGULATIONS.
7. THIS SURVEY DOES NOT REFLECT CHANGES, CHARACTERISTICS OF THE SURVEYED PARCELS.
8. ALL LOCATIONS REPRESENTED ARE FROM THE PUBLIC RECORDS OF LAND OFFICE.
9. BOUNDARY SHOWN ON THIS SURVEY MAP ARE BASED ON THE NORTH LINE OF CYPRESS LAKE NORTH PARK IS AN IRREGULAR LINE, ESTABLISHED BY METEOROLOGICAL RECORDS.
10. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF UNLESS OTHERWISE NOTED.
11. BOUNDARY POINTS ARE CALCULATED FROM FIELD SURVEY DATA.
12. SURVEYED PARCELS, OFFERING BOUNDARY SURVEY DATA ON AN OTHER, MORE OR LESS.
13. DATE OF LAST FIELD WORK: 10-10-24. FIELD BOOK NO. 100023-03-04.
14. THIS SURVEY IS NOT USED FOR THE PURPOSES AND THE ORIGINAL, REPRODUCED, OR A REPRODUCED SURVEYOR AND MAPPER. OTHERWISE, THIS MAP IS A REPRODUCED, REPRODUCED COPY.
15. NO ENCUMBRANCES, NOT AN ENCUMBRANCE, INDICATE THE DATE OF THIS SURVEY.
16. ANY SURVEYED ARE NOT FOR "INTERNATIONAL PURPOSES" BUT, NO SURVEY OF THE SURVEYED ARE NOT FOR "INTERNATIONAL PURPOSES".
17. SURVEYED PARCELS, IS LOCATED IN PLOTTED ZONE (AS SHOWN) AND HAS PLANNED BOUNDARY (AS SHOWN) BY SURVEYOR. SURVEY DATA IS BASED ON PLANNED BOUNDARY (AS SHOWN) BY SURVEYOR. SURVEY DATA IS BASED ON PLANNED BOUNDARY (AS SHOWN) BY SURVEYOR.

[illegible]

RECORDED

TRACT "B" AND LOT 8, CYPRESS LAKE CENTER, PHASE 2
AS RECORDED IN PLAT BOOK 38, PAGES 22-24, PUBLIC
RECORDS OF LEE COUNTY, FLORIDA.

EXHIBIT PH-3.D.3 & 6-A

JEFFREY C. COONER AND ASSOCIATES, INC.
SURVEYING AND MAPPING
3905 COLONIAL BOULEVARD, SUITE 4, FORT MYERS, FLORIDA, 33912
PHONE: (238) 277-0722 FAX: (238) 277-7178 EMAIL: SURVEYING@COONER.COM

Applicant's Survey Checked
By Lgm. 4/25/2005

Exhibit A
(Page 2 of 6)

CYPRESS LAKE CENTER PHASE II

SHEET 1 OF 3

RECEIVED

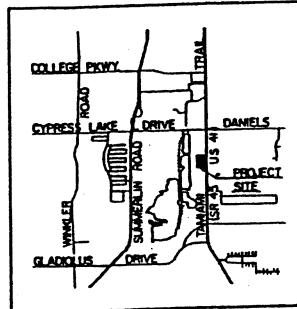
APR 25 2005

ZONING

A SUBDIVISION IN
THE EAST 1/2 OF THE SOUTHEAST 1/4 OF
SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

JUNE, 1987

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS
FORT MYERS, FLORIDA



VICINITY MAP
SCALE: 1" = 1 MILE

APPROVALS

THIS PLAT ACCEPTED THIS 25 DAY OF August, 1987 IN OPEN
MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA

Bob Funnell
CHAIRMAN

Paul M. Chapp
COUNTY ATTORNEY

Michael Monro
COUNTY ENGINEER

Charlie Green
CLERK OF COURT

Sam H. Davis
DIRECTOR, DIV. OF COMM. DEV.

I HEREBY CERTIFY THAT THIS PLAT OF CYPRESS LAKE CENTER PHASE II
HAS BEEN EXAMINED BY ME AND FROM MY EXAMINATION I FIND THAT SAID
PLAT COMPLIES IN FORM WITH THE REQUIREMENTS OF CHAPTER 177,
FLORIDA STATUTES.
I FURTHER CERTIFY THAT SAID PLAT WAS FILED FOR RECORD AT 2:25 P.M.
THIS 25 DAY OF August, 1987 A.D. AND WAS DULY RECORDED
IN PLAT BOOK 27 AT PAGES 22-23 OF THE PUBLIC RECORDS OF
LEE COUNTY, FLORIDA.

2318320

Charlie Green
CLERK OF THE CIRCUIT COURT
IN AND FOR LEE COUNTY

NOTES

1. D - PERMANENT REFERENCE MONUMENTS (P.R.M.'S) ARE
TAPED CONCRETE MONUMENTS WITH METAL DISKS SET
IN THE TOP BEARING THE SURVEYOR'S CERTIFICATE NUMBER.
2. C - PERMANENT CONTROL POINTS (P.C.P.'S) ARE METAL MARKERS
BEARING THE SURVEYOR'S CERTIFICATE NUMBER.
3. THERE IS A UTILITY EASEMENT 8 FEET WIDE ALONG EACH SIDE
LOT LINE EXCEPT WHERE TWO OR MORE LOTS ARE USED AS
ONE DEVELOPMENT PARCEL IN WHICH CASE THE EASEMENT WILL
BE ALONG THE SIDE LOT LINES OF THE DEVELOPMENT PARCEL.
4. THERE IS A UTILITY EASEMENT 16 FEET WIDE ALONG THE REAR OF
EACH LOT UNLESS THE REAR OF A LOT ADJAINS ANOTHER LOT, THEN
EACH LOT WILL HAVE A PUBLIC UTILITY EASEMENT 8 FEET
WIDE ALONG THE REAR LOT LINE.
5. THERE IS A UTILITY EASEMENT 10 FEET WIDE ALONG ALL
SUBDIVISION STREET BOUNDARIES OF ALL LOTS.
6. BEARINGS ARE DERIVED FROM THE CENTERLINE SURVEY
OF STATE ROAD 45 (U.S. 41).
7. APPROXIMATE EDGE OF LAKE SHOWN FROM BOUNDARY SURVEY
BY JOHNSON ENGINEERING, INC. DATED 9/23/86.
8. ALL DIMENSIONS IN CURVE DATA ON PLAT ARE IN FEET

CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT OF CYPRESS LAKE CENTER
PHASE II IS A TRUE AND CORRECT REPRESENTATION
OF THE HEREIN DESCRIBED LAND ACCORDING TO A RECENT SURVEY
MADE AND PLATTED UNDER MY DIRECTION AND SUPERVISION,
AND THAT THE SURVEY DATA COMPLIES WITH ALL OF THE
REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES,
AND MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH IN
CHAPTER 204-6, FLORIDA ADMINISTRATIVE CODE.

DONE THIS 25th DAY OF June, 1987 A.D.

Jeffrey C. Cooner
JEFFREY C. COONER
PROFESSIONAL LAND SURVEYOR
FLORIDA CERTIFICATE NO. 4052



DRI 2005-00003

DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT VECTOR LAND GROUP, INC., A
FLORIDA CORPORATION, AS OWNER OF THE HEREIN DESCRIBED LANDS HAS
CAUSED THIS PLAT OF CYPRESS LAKE CENTER PHASE II TO BE MADE AND DOES
HEREBY DEDICATE TO THE PERPETUAL USE OF THE PUBLIC ALL DRIVES,
ROADS, TRAILS, DRAINAGE AND PUBLIC UTILITY EASEMENTS SHOWN
HEREON, SAID EASEMENTS BEING DEDICATED SOLELY FOR THE USES AND
PURPOSES INDICATED, HEREBY REVOKING, VACATING AND ABROGATING
ANY PLAT OR PLATS OF SAID LANDS HERETOFORE MADE,
IN WITNESS WHEREOF VECTOR LAND GROUP, INC. HAS CAUSED THIS DEDI-
CATION TO BE SIGNED BY ITS PRESIDENT, ARTHUR MOSES, THIS 12
DAY OF JUNE, 1987 A.D.

Arthur Moses
ARTHUR MOSES, PRESIDENT

Walter
WITNESS

Eric M. Stein
WITNESS

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF DADE

I HEREBY CERTIFY THAT ON THIS DAY BEFORE ME PERSONALLY APPEARED
ARTHUR MOSES, PRESIDENT OF VECTOR LAND GROUP, INC., A FLORIDA
CORPORATION UNDER THE LAWS OF FLORIDA, TO ME KNOWN TO BE THE
PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEDICATION AND HE
ACKNOWLEDGED THE EXECUTION THEREOF FOR THE USES AND PURPOSES
THEREIN MENTIONED.
WITNESS MY HAND AND OFFICIAL SEAL AT Omaha, Nebraska SAID COUNTY AND
STATE THIS 12 DAY OF June, 1987 A.D.

James Ray Wiggins
NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES 1 July 1988

MORTGAGEE'S CONSENT TO DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT BRIAN REITER, VICE PRESIDENT
OF COMMERCIAL LOANS FOR CHASE FEDERAL SAVINGS AND LOAN ASSOCIATION,
A U.S. CORPORATION, HOLDER OF A CERTAIN MORTGAGE RECORDED IN
OFFICIAL RECORD BOOK 1841 AT PAGES 3065 THROUGH 3067 OF THE PUBLIC
RECORDS OF LEE COUNTY FLORIDA ON THE HEREIN DESCRIBED LANDS DOES
HEREBY JOIN IN THE PLAT DEDICATION APPEARING HEREON THIS 12 DAY
OF June, 1987 A.D.

Brian Reiter
BRIAN REITER, VICE PRESIDENT

Ellen Hennigan
WITNESS

Angela B. Chis
WITNESS

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF DADE

I HEREBY CERTIFY THAT ON THIS DAY BEFORE ME PERSONALLY APPEARED
BRIAN REITER TO ME KNOWN TO BE THE PERSONS DESCRIBED IN AND
WHO EXECUTED THE FOREGOING DEDICATION AND HE ACKNOWLEDGED THE
EXECUTION THEREOF FOR THE USES AND PURPOSES THEREIN MENTIONED.
WITNESS MY HAND AND OFFICIAL SEAL AT Omaha, Neb. SAID COUNTY AND
STATE THIS 12 DAY OF June, 1987 A.D.

Angela B. Chis
NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES 1 July 1988

CYPRESS LAKE CENTER PHASE II

SHEET 2 OF 3

RECEIVED

APR 25 2005

ZONING

A SUBDIVISION IN
THE EAST 1/2 OF THE SOUTHEAST 1/4 OF
SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

DRI 2005-00003

CURVE DATA

Δ	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING	CHORD DIST.
1	90°00'00"	30.00	47.12	30.00	N 45°51'44"W	42.43
2	90°00'00"	30.00	47.12	30.00	S 44°08'16"W	42.43
3	90°24'16"	30.00	47.33	30.21	N 43°56'08"E	42.57
4	89°35'44"	30.00	46.91	29.79	N 46°03'52"W	42.28
5	19°06'19"	150.00	50.02	25.24	S 10°49'09"E	48.79
6	09°41'22"	122.33	20.69	10.37	S 15°31'38"E	20.66
7	09°24'57"	122.33	20.10	10.07	S 05°58'28"E	20.08
8	90°24'16"	30.00	47.34	30.21	N 43°56'08"E	42.58
9	19°06'19"	122.33	40.79	20.59	S 10°49'09"E	40.80
10	43°41'48"	148.64	113.36	59.60	N 21°10'15"E	110.63
11	90°00'00"	125.00	196.35	125.00	N 45°40'39"W	176.78
12	43°41'48"	170.99	130.41	68.58	N 21°10'15"E	127.27

DESCRIPTION

PARCEL IN THE EAST HALF OF THE SOUTHEAST QUARTER
SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND LYING IN THE EAST HALF (E 1/2) OF THE
SOUTHEAST QUARTER (SE 1/4) OF SECTION 23, TOWNSHIP 45 SOUTH, RANGE
24 EAST, LEE COUNTY, FLORIDA, WHICH TRACT OR PARCEL IS DESCRIBED
AS FOLLOWS:

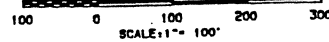
FROM THE NORTHWEST CORNER OF THE EAST HALF OF THE
SOUTHEAST QUARTER (SE 1/4) OF SECTION 23, TOWNSHIP 45
SOUTH, RANGE 24 EAST RUN S 00°35'44"E ALONG THE WEST
LINE OF SAID EAST HALF FOR 116.00 FEET TO THE SOUTH
LINE OF CYPRESS LAKE DRIVE; THENCE CONTINUE
S 00°35'44"E ALONG SAID WEST LINE FOR 1153.30 FEET
TO THE POINT OF BEGINNING.
FROM SAID POINT OF BEGINNING RUN N 89°08'16"E
PARALLEL WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID
CYPRESS LAKE DRIVE FOR 181.15 FEET TO THE WEST RIGHT-
OF-WAY LINE OF TANTARI TRAIL (SR 45 - US 41); THENCE
RUN S 01°16'00"E ALONG SAID RIGHT-OF-WAY LINE FOR
1360.81 FEET; THENCE RUN S 00°33'30"E ALONG SAID
RIGHT-OF-WAY FOR 17.77 FEET TO THE SOUTH LINE OF SAID
SECTION 23; THENCE RUN S 88°19'21"W ALONG SAID SOUTH
LINE FOR 1197.07 FEET TO THE WEST LINE OF SAID EAST
HALF OF THE SOUTHEAST QUARTER (SE 1/4); THENCE RUN
N 00°35'44"W ALONG SAID WEST LINE FOR 1374.70 FEET
TO THE POINT OF BEGINNING.
CONTAINING 37.59 ACRES MORE OR LESS.

BEARINGS HEREINAFORE MENTIONED ARE DERIVED FROM THE CENTERLINE
SURVEY OF STATE ROAD 45 (U.S. 41).

CYPRESS LAKE CENTER PHASE II

SHEET 3 OF 3

A SUBDIVISION IN
THE EAST 1/2 OF THE SOUTHEAST 1/4 OF
SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA



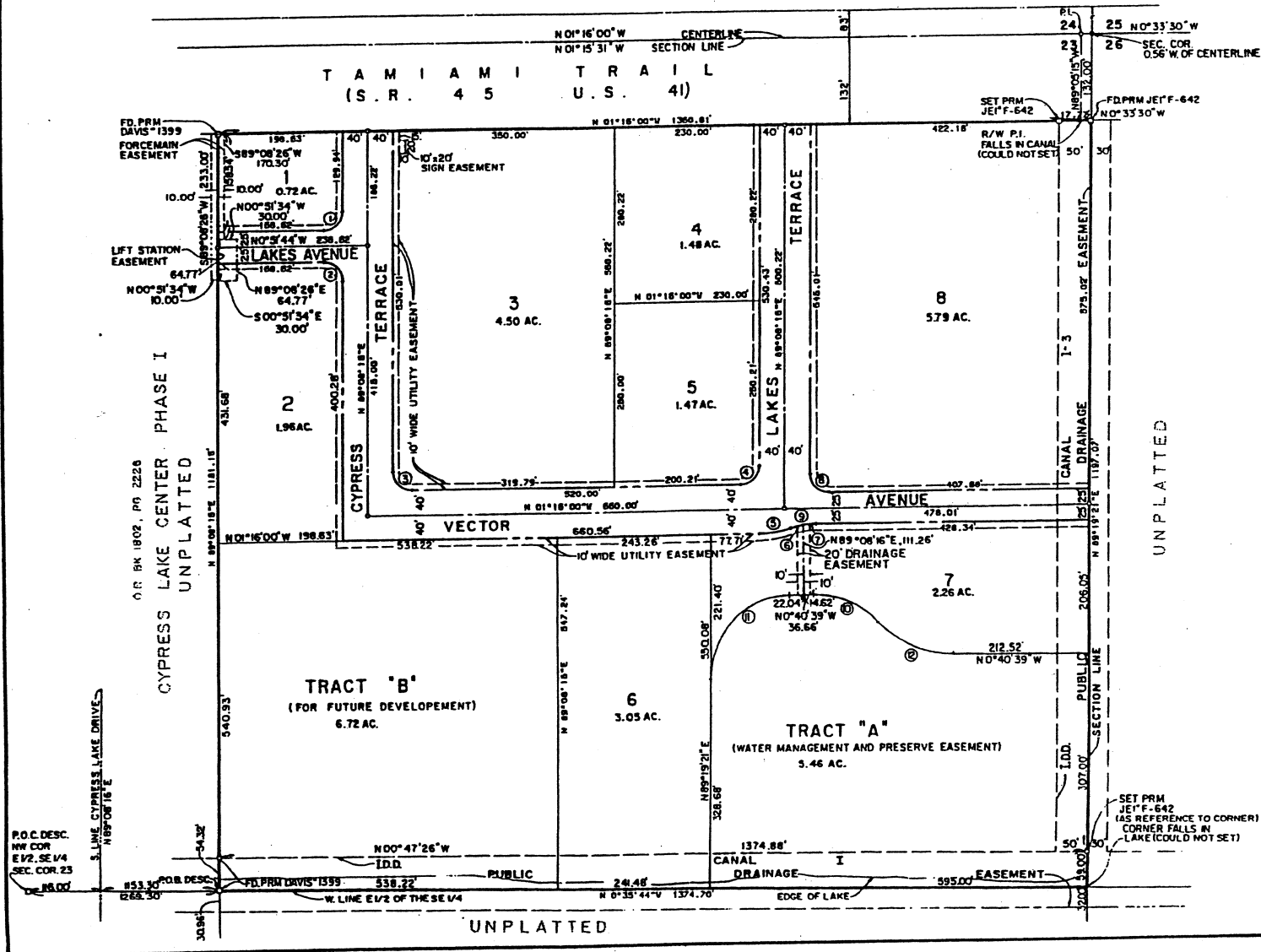
DOI 2005-00003

RECEIVED

APR 25 2005

ZONING

Exhibit A
(Page 5 of 6)



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APR 25 2005
ZONING

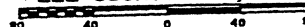
Exhibit A
(Page 6 of 6)

PHASE B-1 CYPRESS LAKE CENTER

A REPLAT OF PART OF TRACT B, CYPRESS LAKE CENTER PHASE II
A SUBDIVISION IN

SHEET 1 OF 1

THE EAST 1/2 OF THE SOUTHEAST 1/4 OF
SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA



SCALE: 1" = 40'
APRIL, 1989

JOHNSON ENGINEERING, INC.
CIVIL ENGINEERS - LAND SURVEYORS
FORT MYERS, FLORIDA

DRI 2005-00003



APPROVALS

THIS PLAT ACCEPTED THIS 12th DAY OF MAY 1989 IN OPEN MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA

Charles Green
CHAIRMAN

James H. Hays
COUNTY ATTORNEY

Ronald H. Bean
COUNTY ENGINEER

Charles Green
CLERK OF COURT

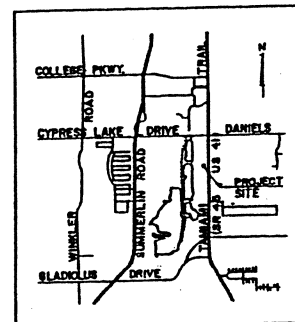
James J. Williams
DIRECTOR, DEPT. OF COMM. DEV.

I HEREBY CERTIFY THAT THIS PLAT OF PHASE B-1 CYPRESS LAKE CENTER, A REPLAT OF PART OF TRACT B, CYPRESS LAKE CENTER PHASE II HAS BEEN EXAMINED BY ME AND FROM MY EXAMINATION I FIND THAT SAID PLAT COMPLIES IN FORM WITH THE REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES.
I FURTHER CERTIFY THAT SAID PLAT WAS FILED FOR RECORD AT 11:34 A.M. THIS 22nd DAY OF MAY 1989 A.D. AND WAS DULY RECORDED IN PLAT BOOK 39, AT PAGE 22 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.



Charles Green
CLERK OF THE CIRCUIT COURT
IN AND FOR LEE COUNTY

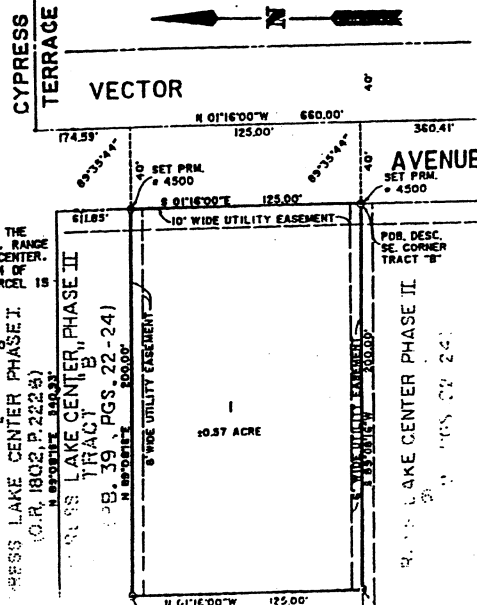
2654711



VICINITY MAP

SCALE: 1" = 1 MILE

VECTOR



DESCRIPTION

A TRACT OR PARCEL OF LAND LYING IN THE EAST HALF (E-1/2) OF THE SOUTHEAST QUARTER (SE-1/4) OF SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST, A RE-PLAT OF A PORTION OF TRACT "B", CYPRESS LAKE CENTER, PHASE II AS RECORDED IN PLAT BOOK 39, AT PAGES 22 THROUGH 24 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT "B" RUN S 89° 00' 16" W ALONG THE COMMON BOUNDARY LINE OF SAID TRACT "B" AND LOT 6 OF SAID CYPRESS LAKE CENTER, PHASE II FOR 200.00 FEET TO AN INTERSECTION WITH A LINE 200.00 FEET WEST OF (AS MEASURED ON A PERPENDICULAR) AND PARALLEL WITH THE EASTERLY BOUNDARY LINE OF SAID TRACT "B"; THENCE RUN N 01° 18' 00" W ALONG SAID PARALLEL LINE FOR 125.00 FEET TO AN INTERSECTION WITH A LINE 125.00 FEET NORTH OF (AS MEASURED ON A PERPENDICULAR) AND PARALLEL WITH THE SOUTH BOUNDARY LINE OF SAID TRACT "B"; THENCE RUN N 89° 00' 16" E ALONG SAID PARALLEL LINE FOR 200.00 FEET TO AN INTERSECTION WITH THE EASTERLY BOUNDARY OF SAID TRACT "B"; THENCE RUN S 01° 18' 00" E ALONG SAID EASTERLY BOUNDARY, ALSO BEING THE WESTERLY RIGHT-OF-WAY LINE OF VECTOR AVENUE (60 FEET WIDE) FOR 125.00 FEET TO THE POINT OF BEGINNING.
CONTAINING 25,000 SQUARE FEET MORE OR LESS.

NOTICE

THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT VECTOR LAND GROUP, INC., A FLORIDA CORPORATION, AS OWNER OF THE HEREIN DESCRIBED LANDS HAS CAUSED THIS PLAT OF PHASE B-1 CYPRESS LAKE CENTER, A REPLAT OF PART OF TRACT B, CYPRESS LAKE CENTER PHASE II TO BE MADE AND DOES HEREBY DEDICATE TO THE PERPETUAL USE OF THE PUBLIC, ALL PUBLIC UTILITY EASEMENTS AS SHOWN HEREON, SAID EASEMENTS BEING DEDICATED SOLELY FOR THE USES AND PURPOSES INDICATED, HEREBY REVOKING, VACATING AND ABROGATING ANY PLATS OF SAID LANDS HERETOFORE MADE.
IN WITNESS WHEREOF VECTOR LAND GROUP, INC. HAS CAUSED THIS DEDICATION TO BE SIGNED BY ITS PRESIDENT, ARTHUR MOSES, THIS 12th DAY OF APRIL, 1989 A.D.

VECTOR LAND GROUP, INC.

BY: *Arthur Moses*
ARTHUR MOSES, PRESIDENT

Arthur Moses
WITNESS

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF DADE
I HEREBY CERTIFY THAT ON THIS DAY BEFORE ME PERSONALLY APPEARED ARTHUR MOSES, PRESIDENT OF VECTOR LAND GROUP, INC., A FLORIDA CORPORATION UNDER THE LAWS OF FLORIDA, TO ME KNOWN TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEDICATION AND HE ACKNOWLEDGED THE EXECUTION THEREOF FOR THE USES AND PURPOSES THEREIN MENTIONED.
WITNESS MY HAND AND OFFICIAL SEAL AT 11:34 A.M. SAID COUNTY AND STATE THIS 12th DAY OF April 1989 A.D.

Notary Seal
NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES 3-7-91

NOTES

1. 6" PERMANENT REFERENCE MONUMENTS (P.R.M.'S) ARE TAPERED CONCRETE MONUMENTS WITH METAL DISKS SET IN TOP BEARING THE SURVEYOR'S CERTIFICATE NUMBER.
2. BEARINGS ARE DERIVED FROM THE PLAT OF CYPRESS LAKE CENTER PHASE II AS RECORDED IN PLAT BOOK 39, PAGES 22 THROUGH 24, LEE COUNTY RECORDS.

CERTIFICATE

I HEREBY CERTIFY THAT THE ATTACHED PLAT OF PHASE B-1 CYPRESS LAKE CENTER, A REPLAT OF PART OF TRACT B, CYPRESS LAKE CENTER PHASE II IS A TRUE AND CORRECT REPRESENTATION OF THE HEREIN DESCRIBED LAND ACCORDING TO A RECENT SURVEY MADE AND PLATTED UNDER MY DIRECTION AND SUPERVISION AND THAT THE SURVEY DATA COMPLIES WITH ALL OF THE REQUIREMENTS OF CHAPTER 177 FLORIDA STATUTES. I FURTHER CERTIFY THAT THE PERMANENT REFERENCE MONUMENTS (P.R.M.'S) HAVE BEEN PLACED AT LOCATIONS SHOWN ON THIS PLAT.

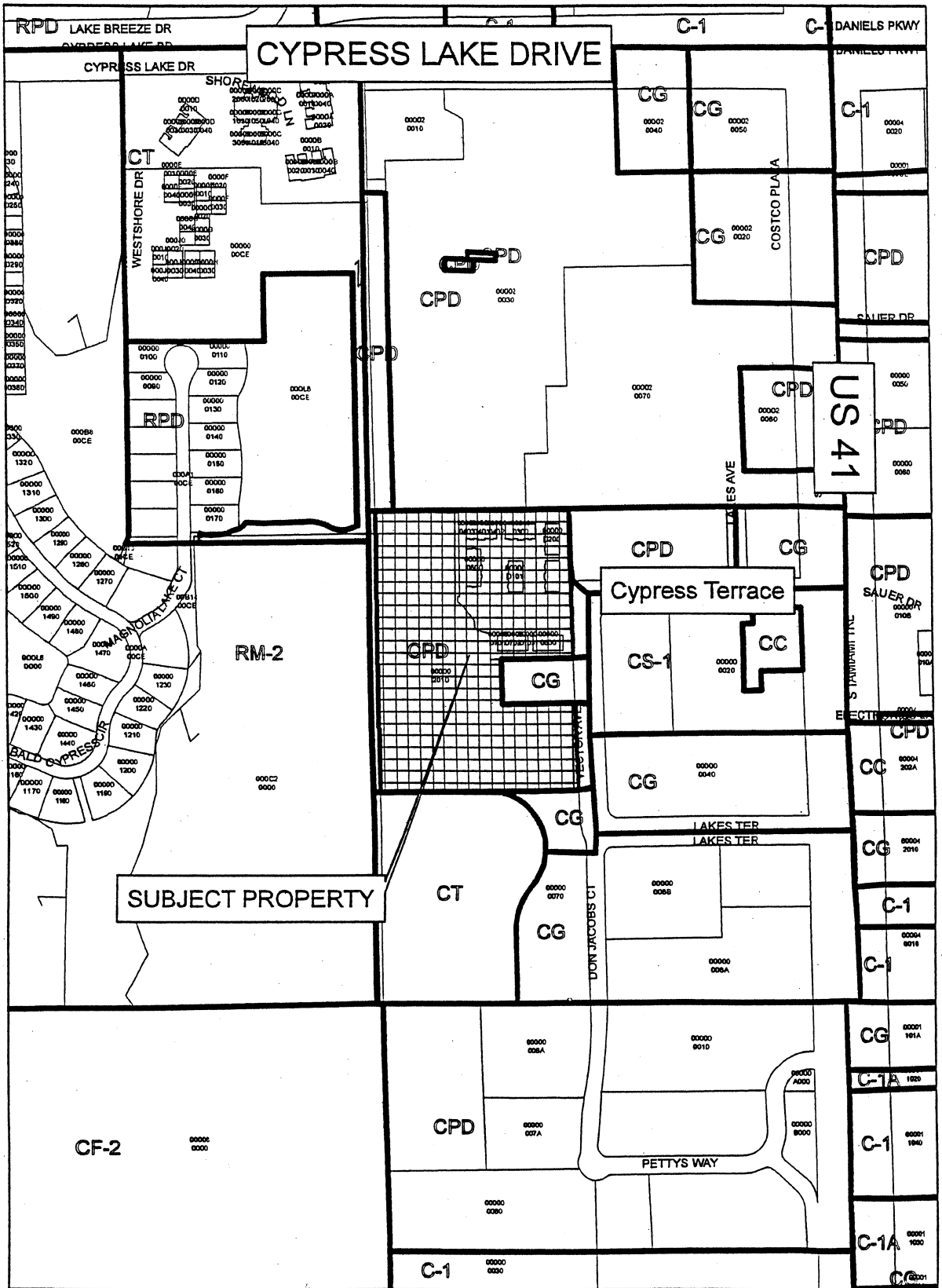
DONE THIS 10th DAY OF April 1989 A.D.

Michael J. Norman
MICHAEL J. NORMAN
PROFESSIONAL LAND SURVEYOR
FLORIDA LICENSE NO. 12345



ZONING MAP

6/29/2005



350 175 0 350 Feet

EXHIBIT B

**CODIFIED SEVENTH DEVELOPMENT ORDER AMENDMENT¹
FOR
CYPRESS LAKE CENTER**

A DEVELOPMENT OF REGIONAL IMPACT

#7-8384-47

LET IT BE KNOWN, THAT, PURSUANT TO SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, HEARD, AT A PUBLIC HEARING CONVENED ON MAY 20, 1985, THE REQUEST TO ADOPT THE DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER FOR CYPRESS LAKE CENTER, A COMMERCIAL (SHOPPING CENTER/OFFICE PARK) DEVELOPMENT CONSISTING OF APPROXIMATELY 68.5 ACRES TO BE DEVELOPED IN ACCORDANCE WITH THE APPLICATION FILED ON JULY 17, 1984, BY ARTHUR L. MOSES, TRUSTEE, AUTHORIZED REPRESENTATIVE OF CYPRESS LAKE VENTURE, LTD.

WHEREAS, the original Cypress Lake Center DRI Development Order was approved on May 20, 1985; and

WHEREAS, the Development Order was subsequently amended six times. The first amendment was approved on June 8, 1987 to allow 336,400 square feet of retail commercial and 270,000 square feet of office development; and

WHEREAS, the Development Order was amended a second time on November 9, 1987 to allow refund of traffic mitigation funds under certain circumstances; and

WHEREAS, the Development Order was amended a third time on November 29, 1993 to extend the effective date of the Development Order to June 19, 2000; and

WHEREAS, the Development Order was amended a fourth time on March 29, 1999, to adopt a new Master Development Plan, Map H which reflected approval of a shopping center (336,340 square feet on 40 acres); business corporate office area (40,000 square feet); an executive business office park (165,000 square feet); hotel complex (275 room hotel, 200-seat restaurant, 100-seat conference center); and, 210 multi-family residential units on approximately 68.5 acres, and to extend the buildout date to June 19, 2000; and

¹This codified Development Order (DO) includes all development order amendment thru the 7th DRI DO Amendment adopted by the Board on November 7, 2005, and may be relied on to state the terms of the original DRI DO, as amended. The seventh amendment to this development order is reflected by deleted text being ~~struck through~~ and new text being under-lined.

WHEREAS, the Development Order was amended on May 12, 2000, for a fifth time to adopt a new Master Development Plan (Map H) to reflect the change in Tract B and Lot 6 of Phase II, to replace "Proposed Multifamily uses (210 units)" with "Mixed Use Development," and to extend the buildout and termination dates to June 19, 2003; and

WHEREAS, the Development Order was amended for the sixth time on September 3, 2002, revising the Master Development Plan (Map H) to redesignate a .67+-acre parcel from Office to Retail Commercial; and

WHEREAS, an application has been filed to amend the DRI development order approvals a seventh time to amend the land use designations set forth on Map H (Master Development Plan) to extend build out to June 19, 2009, and to change the frequency of filing monitoring reports from annually to biennially; and

WHEREAS, the Board of County Commissioners of Lee County, Florida desire to adopt a codified Development Order to consolidate all of the past actions taken in regard to this approved development; and

WHEREAS, the Board of County Commissioners of Lee County, Florida, considered the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Administrative Staff, the Lee County Local Planning Agency, and the documents and comments upon the record made before the Board in public hearing, and after full consideration of those reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, finds and determines that:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. This development, as amended, will be a mixed use project including a shopping center (336,340 square feet on 40 acres); business corporate office area (40,000 square feet); an executive business office park (165,000 square feet); hotel complex (275 room hotel, 200-seat restaurant, 100-seat conference center); and, 210 multi-family residential units on approximately 68.5 acres. The proposed development constitutes a Development of Regional Impact on the real property described as:

A tract or parcel of land lying in the southeast quarter of Section 23, Township 45 South, range 24 East, which tract or parcel is described as follows:
The east one-half of the southeast one-quarter, less than north 116 feet lying west of State Road No. 45, of said Section 23, Township 45 South, Range 24 East, Lee County, Florida.

B. The subject property is presently zoned MPD, CPD, RPD, CG, CS and CT.

C. The Application for Development Approval (ADA) is consistent with the requirements of Section 380.06, Florida Statutes; and

D. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Section 380.05, Florida Statutes; and

E. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendations adopted by that body, and subsequently forwarded to Lee County pursuant to the provisions of Section 380.06, Florida Statutes, and the proposed development is consistent with this report and recommendations of the Southwest Florida Regional Planning Council; and

F. The proposed development is consistent with the adopted Lee County Comprehensive Plan, subject to the following conditions.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting duly constituted and assembled on November 7, 2005, that the proposed amendments to the Cypress Lake Development of Regional Impact Development Approvals are APPROVED, subject to the following conditions, restrictions, and limitations:

II. CONDITIONS OF DEVELOPMENT APPROVAL

A. COMMUNITY SERVICES

1. The developer must meet with the Chief of the South Trail Fire Department and the Director of Lee County Division of Public Safety or his designee, prior to project construction, to discuss fire protection and Emergency Medical Service needs and appropriate measures to meet these needs.

2. The developer must demonstrate, to the satisfaction of the Lee County Division of Community Development prior to project construction, that there will be no adverse fiscal impacts (costs exceeding revenues) upon fire protection and Emergency Medical Service providers resulting from the development.

B. DRAINAGE/WATER QUALITY

1. The drainage system for the proposed project must be redesigned to provide greater upland (dry) retention/detention of runoff prior to discharge into the on-site lake system. Areas of natural vegetation as described in condition "E" below may be used where feasible.

2. The discharge structure must include a baffle, skimmer, or other mechanism suitable for preventing oil and grease from discharging from retention/detention areas.

3. The drainage system must implement the design standards and "best management practices" outlined in the ADA and in all supplementary material.

4. The developer and/or his successor(s), must implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the stormwater drainage system. The program must be designed in consultation with the staffs of the Southwest Florida Regional Planning Council, the South Florida Water Management District, and Lee County. Final approval of the program rests with Lee County. The program must be redesigned, if necessary, to incorporate any County ordinances and/or policies relating to the Lakes Park drainage basin. If the quality of surface water runoff does not meet any present or future standards, then the developer must take remedial measures to improve the system to meet these standards, entirely at the developer's expense. The developer is responsible for any remedial measures required by the County, including all costs.

5. A regular program of vacuum sweeping of all project parking lots must be utilized both during and after project construction.

6. The project must be served by a central sewage system.

7. The project is subject to all regulations of Lee County for the protection of the Lakes Regional Park Watershed and Lakes Regional Park water quality.

C. ENERGY

The developer must incorporate, at a minimum, the following energy conservation features into all site plans and architectural programs or insure that the following features are implemented through deed restrictions and covenants with successors in title. All applications for site plan approvals and building permits must be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents must be approved by the Lee County Attorney's Office prior to recording.

These features are:

1. Provision of bicycle racks or storage facilities.

2. Location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, in cooperation with the appropriate Lee County agencies.

3. Use of energy-efficient features in window design (e.g., tinting and exterior shading), and use of operable windows and ceiling fans.

4. Installation of energy-efficient appliances and equipment.
5. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).
6. Reduced coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat.
7. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
8. Installation of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a minimum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, (Section 553.14, F.S.).
9. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance, and other needs, for all parking lot landscaping and required vegetated buffer areas.
10. Placement of native trees to provide shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months, and to provide shade for all streets and parking areas.
11. Orientation of structures, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind, whenever feasible.
12. Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.
13. Establishment of an architectural review committee and consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development.

D. TRANSPORTATION

1. The developer must construct, cause to be constructed or pay the full costs for intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and Cypress Lake Drive. These improvements must be made prior to the issuance of the first certificate of occupancy for the project.

2. The developer must pay a proportionate share of the cost of constructing two additional lanes, on the following road segments:

- a. U.S. 41 from Cypress Lake Drive/Daniels Parkway to and including the intersection of Island Park Road with U.S. 41.
- b. Daniels Parkway from the Bell Tower Mall entrance east of U.S. 41 to the beginning of four lanes west of I-75.
- c. Cypress Lake Drive from the terminus of four lanes west of U.S. 41 to the intersection of McGregor Boulevard with Cypress Lake Drive.
- d. Gladiolus Drive from the terminus of four lanes west of U.S. 41 to and including the intersection of Summerlin Road with Gladiolus Drive.

The developer's proportionate share must be determined by the County Engineer and be paid at the time that the first local Development Order is issued under Lee County regulations.

3. The developer must pay a proportionate share of the cost of signalization, turn lanes, additional approach lanes, or other improvements deemed necessary by the Lee County Engineer or FDOT in order to maintain level of service "C" at the following intersections:

- a. U.S. 41 at Daniels Parkway/Cypress Lake Drive
- b. U.S. 41 at Gladiolus Drive/Six Mile Parkway
- c. U.S. 41 at College Parkway
- d. Cypress Lake Drive at Summerlin Road
- e. Daniels Parkway at Metro Parkway

The developer's proportionate share will be determined by the County Engineer and be paid upon commencement of the intersection improvement.

4. If more than two additional lanes are required to maintain level of service "C" on a road segment specified in D.2 above during project build out, then the developer must pay a proportionate share of the cost of constructing these lanes. The developer's proportionate share will be determined by the County Engineer and be paid upon commencement of the roadway improvement.

5. The developer must submit an annual monitoring report to the Lee County Engineer, the Lee County MPO, FDOT and the Southwest Florida Regional Planning Council for review. This monitoring report must include average daily and peak-hour traffic counts, with turning movements, at the project's access points on U.S. 41 and Cypress Lake Drive and at the intersections listed in D.3 above. The first report must be submitted one year following the issuance of the first certificate of occupancy for the project. Reports must be submitted annually until build out of the project.

6. Nothing contained in this Development Order may be construed to exempt this development from participation in the funding, through Municipal Services Benefit Units (MSBU's) or other special assessment districts of improvements to various state or county arterial and collector roads or intersections to the degree to which this development generates demand.

ALTERNATIVES

1. In lieu of the obligations and payments required by D.1 through D.3 above, the developer may contribute a base amount of \$1,300,000 (in 1985 dollars) for the mitigation of adverse traffic impacts due to this project. Payment must be made subject to the provisions listed below:

- a. The developer must design and construct, or cause to be designed and constructed, two additional lanes on U.S. 41 from the southern boundary line of the Cypress Lake Center DRI to Daniels Parkway/Cypress Lake Drive plus intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and for the south leg of the U.S. 41/Daniels Parkway/Cypress Lake Drive intersection. The developer's contract(s) for the design and construction of these improvements must be reviewed and approved by the County Engineer. These improvements must be substantially completed to the satisfaction of the County Engineer prior to issuance of the first certification of occupancy for this project.
- b. Funds must be expended first for the U.S. 41 improvements specified in Alternative 1.a above, with the balance of the base amount of \$1,300,000 paid by the developer into a fund established by Lee County for the purpose of mitigating other adverse impacts due to the project, including improvements described in D.2 and D.3 above, plus intersection improvements deemed necessary by the County Engineer for the project's access points onto Cypress Lake Drive. At the time that construction contracts are let for the specified improvements on U.S. 41, and after consultation and agreement with the County Engineer, the developer must pay an amount estimated to be the balance of the \$1,300,00 minus the cost for design and construction of the U.S. 41 improvements into the fund established by

Lee County. Within one month of the completion of the U.S. 41 contracts, the County Engineer will determine the exact amount of this balance based on actual design and construction costs. The developer will receive a refund or make an additional payment to Lee County so that the total amount paid by the developer equals the base payment of \$1,300,000.

- c. If the construction contracts have not been let prior to October 1, 1985, the base payment of \$1,300,000 will be adjusted quarterly thereafter using the most current Construction Price Index (C.P.I.) published by the Engineer News Record (McGraw-Hill Publications) until the construction contracts are let. The base price index for these adjustments is the price index in the Second Quarterly Cost Round-Up for 1985.
- d. If Lee County adopts a Roads Impact Fee ordinance, the amount of this base payment will remain the same (\$1,300,000), except for adjustments required by Alternative 1.c above. This base payment will be credited against the roads impact fee when adopted.
- e. The Board of County Commissioners, in its discretion, may equitably refund monies to the developer for transportation mitigation fees paid in excess of those reasonably necessary to mitigate the development's adverse impacts. If the total refunding of such fees equals or exceeds 15% of the mitigation amount required by the Development Order, it will be deemed a substantial deviation. The refund in this case is not to exceed \$49,537 and is to be refunded only after staff has determined that all transportation commitments made in the Development Order have been met.

2. If the developer foregoes Alternative 1 and Lee County adopts a Roads Impact Fee ordinance before the first building permit is issued, this fee may be credited toward off-site improvements listed in D.2 through D.4 above. Site-related improvements remain the developer's responsibility and obligation. Payments already made for these off-site improvements will be credited toward the overall fee.

E. VEGETATION AND WILDLIFE

1. The developer must preserve no less than 15 percent of the total site as unaltered native vegetation, including understory, generally along the project's north, east, and west boundaries. These areas may be utilized as dry detention basins (excavation prohibited) in the water management system to purify surface run-off. Plans for this preserve area must be submitted to the Lee County Planning Department for approval. Native species must be utilized for all parking lot landscaping and required vegetated buffer areas.

F. WATER SUPPLY

1. The developer must incorporate the use of water-conserving devices, as required by state law (Chapter 553.14, F.S.).
2. The developer must utilize water-conserving features in irrigation system design and use, including the use of native or low water use plants and turf.
3. The developer must utilize either surface water from the on-site lake system or groundwater for irrigation, unless demonstrated infeasible.

G. HURRICANE EVACUATION

The developer must meet with Lee County Division of Public Safety officials to discuss the use of project common areas for storm shelter purposes, and establish and maintain a hotel/motel hurricane evacuation program of education and information describing the risks of environmental hazards, as well as the actions necessary to mitigate the dangers these hazards present.

H. OTHER

The project may not exceed a total of 336,340 square feet of retail commercial use as defined by the Lee County Comprehensive Plan. These uses may also include automobile dealerships, auto centers, automobile service stations, or indoor movie theaters (up to 800 permanent seats). The total project is approved for and limited to the following development parameters: 336,340 square feet of shopping center (on a total of 40 acres); 40,000 square feet of business corporate office area; 165,000 square feet of executive business office park; 275 room hotel (with 200 seat restaurant, and 100 seat conference center); and, 210 multiple family dwelling units.

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Lee County, Florida, that:

III. FURTHER CONDITIONS OF DEVELOPMENT APPROVAL

1. This resolution constitutes the Development Order of this Board issued in response to the original Development of Regional Impact application for Development Approval filed by Cypress Lake Venture, Ltd. and all amendments approved through and including ~~May 15, 2000~~ November 7, 2005. Map H, attached as Attachment 1, revised and dated on November 7, 2005, is incorporated as part of this Development Order.
2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents, not in conflict with conditions or stipulations specifically enumerated above, are adopted into this Development Order by reference. The commitments incorporated by reference are binding on the developer as if set forth herein.

3. This Development Order is binding upon the developer and the developer's heirs, assignees or successors in interest.

It is declared that the terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Resolution and Development Order.

All conditions, restrictions, stipulations and safeguards contained in this Resolution and Development Order may be enforced by either party hereto by action at law or equity and all costs of such proceedings, including reasonable attorney's fees, will be paid by the defaulting party.

4. It is understood that any reference herein to any governmental agency will be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

5. In the event that any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision will in no manner affect the remaining portions or sections of the Development Order, which will remain in full force and effect provided that the portion of the Development Order that is invalidated does not cause the remainder of the development area to be inconsistent with the purpose and intent of Lee County adopting this Development Order.

6. The approval granted by this Development Order is limited. Approval may not be construed to obviate the duty of the applicant to comply with all other applicable local or state review and permitting procedures.

7. Subsequent request for local development permits may not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, after due notice and hearing, that one or more of the following is present:

- a. A substantial deviation from the terms or conditions of this development order, or other changes to the approved development plans which create a reasonable likelihood of adverse regional impacts or other regional impacts which were not evaluated in the review by the Southwest Florida Regional Planning Council; or
- b. An expiration of the period of effectiveness of this development order as provided herein.

Upon finding that either of the above is present, the Board may order a termination of all development activity until such time as a new DRI Application for Development Approval has been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes, and all local approvals have been obtained.

8. This Development Order will remain in effect until June 19, 20039, provided that this effective period may be extended by this Board upon a finding of excusable delay in any proposed development activity and that conditions have not changed sufficiently to warrant further consideration of the development. In the event the developer fails to commence significant physical development of that property identified in this development order within five (5) years from the date of rendition of this Development Order, development approval will terminate and the development may be subject to further consideration. Significant physical development includes obtaining a Certificate of Completion on some substantial portion of the project. The project buildout date is June 19, 20039.

9. The Administrative Director of the Lee County Division of Community Development or his/her designee, is the local official responsible for assuring compliance with this Development Order.

10. The developer, or his successor(s) in title to the undeveloped portion of the subject property, must submit a report biennially to the Lee County Board of County Commissioners, the Southwest Florida Regional Planning Council, the State land planning agency, and all affected permit agencies. This report must describe the state of development and compliance as of the date of submission, and be consistent with the rules of the State land planning agency. The first monitoring report must be submitted to the Administrative Director of the Division of Community Development not later than May 1, 1986, and further reporting must be submitted not later than January 1st of subsequent calendar years. Failure to comply with this reporting procedure is governed by Section 380.06 (16) F.S. and the developer must inform any successor in title to any undeveloped portion of the real property covered by this Development Order.

11. Certified copies of this Development Order will be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but will not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order becoming effective, notice of its adoption must be recorded as provided in Chapter 380, Florida Statutes.

THE MOTION TO ADOPT the above codified Development Order was offered by Commissioner Ray Judah, and seconded by Commissioner Robert P. Janes and upon poll of the members present, the vote was as follows:

Douglas St. Cerny	Absent
Ray Judah	Aye
Robert P. Janes	Aye
Tammara Hall	Aye
John Albion	Aye

DULY PASSED AND ADOPTED this 7th day of November 2005.

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

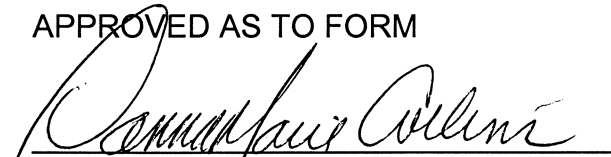


Tammara Hall, Chairwoman

ATTEST:
Charlie Green, Clerk

APPROVED AS TO FORM

by Michele G. Cooper
Deputy Clerk


Donna Marie Collins
County Attorney

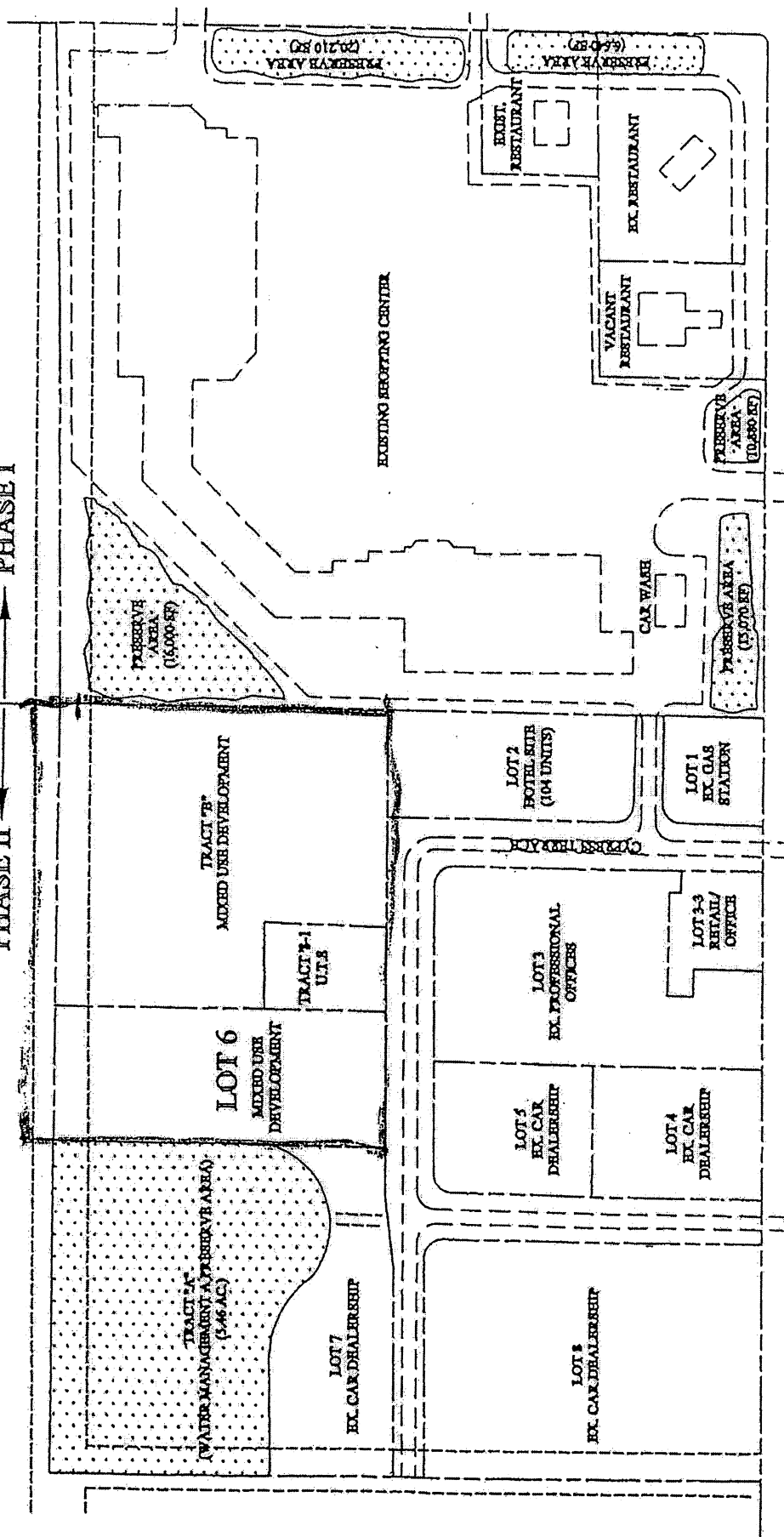
Attachment:

1. Master Development Plan (Map H), revised November 7, 2005



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U.S. 41 (TAMIAMI TRAIL)

DRI 2005-00003

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CYPRESS LAKE CENTER DRI

REVISÉ NOV. 07-2005

RECEIVED NOV. 07-2003
AMENDED BY THE SEVENTH AMENDMENT
TO THE DRI DO

MAP "H"

MASTER DEVELOPMENT PLAN

ATTACHMENT 1