

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

WHEREAS, an application was filed by the property owner, Stephanie Miller, Trustee, to reinstate the vacated Master Concept Plan for Carissa CPD (Zoning Resolution Z-97-029 and Z-97-029A) for a maximum of two years on a 19.07± acre parcel; and

WHEREAS, a public hearing was advertised and held on January 18, 2006, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2005-00101; and

WHEREAS, a second public hearing was advertised and held on April 3, 2006, 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 to reinstate the vacated Master Concept Plan (MCP) for Carissa CPD (Zoning Resolution Z-97-029, and clarified by Z-97-029A) for a maximum of two years. This planned development was approved for a mixed-use commercial development consisting of 100,000 square feet of retail commercial floor area; 50,000 square feet of office space; and 100 hotel/motel units. The Master Concept Plan was extended once for two years on August 26, 2003. The property is located in the Central Urban Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development and use of the subject parcel must be in substantial compliance with the approved Master Concept Plan for this development, which is entitled "Master Concept Plan, Carissa CPD," dated 04/06, Exhibit C attached hereto, except as modified by the conditions herein.

**On June 16, 2007, the effectiveness of the attached Master Concept Plan expires.** LDC §34-381 provides that a MCP reinstatement may not exceed 10 years from the date of the original rezoning application.

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) 25 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 LDC, 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.*
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With access to Crystal Dr. (Crystal Drive must be opened & functioning as a collector road)	150,000 sq. ft.	100,000 sq. ft.
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**OR**

With access to Penzance Rd. (with connection to Carissa CPD access road)	150,000 sq. ft.	100,000 sq. ft.
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[\*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 feet below the dry season water table so that the lake banks are sloped to a ratio not steeper than four feet horizontal to one 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. The landscape plans must include a detailed wetland creation planting plan for the wetland creation/detention area delineated on the Master Concept Plan for review and approval by the Division of Environmental Sciences staff. A minimum of six species of native wetland plants must be included. Groundcover plants must be a minimum 1-gallon container size. Trees must be a mixture of sizes with a minimum 3-gallon container size for the smaller trees and a minimum 10-foot height, with a 2-inch caliper, for larger trees. The 10-foot-tall trees may be used to meet buffer or general tree requirements; and

The landscape plans must include appropriate native trees meeting the LDC general tree requirements and must be incorporated into the design and placed within Lake Tract 1, both within the littoral zone and in the surrounding upland areas, in such a manner as to create a forested wetland and hammock area. The trees may be used toward the general tree requirement for the overall site; and

The property must be surveyed specifically for Big Cypress fox squirrels and their nests. If squirrel nests or day beds are observed, then the structure must be observed for five consecutive days in the early morning and early evening to determine if they are active fox squirrel nests. If fox squirrel use is verified, then a 125-foot-wide buffer must be

maintained around any active nest until it is deemed inactive and written authorization is obtained from the Florida Fish and Wildlife Conservation Commission to remove the tree and nest structure. (This condition replaces Condition 7 of Zoning Resolution Z-97-029).

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 LDC 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 the original zoning approval (AG-2).
12. 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).

#### SECTION C. DEVIATIONS:

1. Deviation (1) withdrawn by the applicant.
2. Deviation (2) seeks relief from the LDC §10-329(e)(3) requirement limiting the depth of an excavation to a maximum of 12 feet, to allow a maximum depth of 20 feet. This deviation is DENIED.
3. Deviation (3) seeks relief from the LDC §10-413(c)(1) requirement that 50 percent of the required open space to be preserved as existing native vegetation, to allow 34 percent of the required open space to be preserved as existing native vegetation. This deviation is APPROVED.
4. Deviation (4) seeks relief from the LDC §10-415(a)(4) provision requiring one tree must be provided for each 3,500 square feet of development area, to allow one tree to be provided for each 3,500 square feet of development area excluding the frontage road area, wetland preserve and mitigation area. This deviation is DENIED.

5. Deviation (5) seeks relief from the LDC §30-153(2)a. requirement restricting 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. This deviation is APPROVED.
6. Deviation (6) seeks relief from the LDC §10-329(e)(1)a.1. requirement that prohibits 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. This deviation is APPROVED, SUBJECT TO Condition 6 above.
7. Deviation (7) seeks relief from the LDC §10-414(a) requirement for commercial developments adjacent to existing residential developments to provide a minimum 15-foot-wide buffer that includes a fence, wall or berm not less than eight feet in height, to eliminate the requirement of the 8-foot-high fence, wall or berm. This deviation is APPROVED, SUBJECT TO Condition 4.b. above.
8. Deviation (8) withdrawn by the applicant.

#### SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: Legal description of the property  
Exhibit B: Zoning Map (with the subject parcel indicated)  
Exhibit C: The Master Concept Plan

The applicant has indicated that the STRAP numbers for the subject property are: 17-45-25-00-00004.0000, 17-45-25-01-00000.0270, 17-45-25-01-00000.0280, 17-45-25-00-00004.0020.

#### SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
  - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
  - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
  - c. is compatible with existing or planned uses in the surrounding area; and,

- d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
  - e. will not adversely affect environmentally critical areas or natural resources.
- 3. The rezoning satisfies the following criteria:
  - a. the proposed use or mix of uses is appropriate at the subject location; and
  - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
  - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
- 4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
- 5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.
- 6. Based upon an analysis of the application and the standards for approval of a reinstatement of a vacated Master Concept Plan set forth in LDC §§34-145 and 34-381:
  - a. The applicant is proposing no changes to the original approved Master Concept Plan; and
  - b. The Master Concept Plan is consistent with the current Lee County LDC, including, but not limited to, density, intensity and concurrency requirements; and
  - c. The development shown by the Master Concept Plan is compatible with existing and approved uses in the surrounding area; and
  - d. The development shown by the Master Concept Plan will not, by itself or in conjunction with other development, place an unreasonable burden on essential public facilities; and
  - e. The criteria listed in subsection 34-145(d)(1), which are applicable to this application, are satisfied; and
  - f. The criteria set forth in §34-145(d)(2), which are applicable to this application, are satisfied; and



- g. The criteria listed in subsection 34-381(d)(1), which are applicable to this application, are satisfied.

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

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

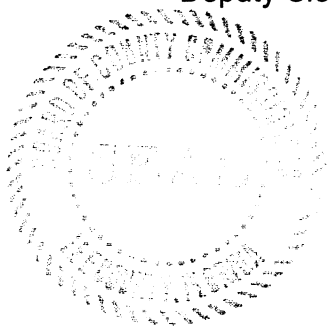
DULY PASSED AND ADOPTED this 3<sup>rd</sup> day of April 2006.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: Michele S. Cooper  
Deputy Clerk

BY: Tammara Hall  
Chairwoman



Approved as to form by:

Dawn E. Perry-Lehnert  
Dawn E. Perry-Lehnert  
County Attorney's Office

RECEIVED  
MINUTES OFFICE  
hgc  
2006 APR 24 AM 11:16

# **Banks Engineering, Inc.**

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE

DESCRIPTION  
OF A  
PARCEL OF LAND  
LYING 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 BOUNDED AND DESCRIBED AS FOLLOWS:

## PARCEL I


BEGINNING AT A CONCRETE MONUMENT MARKING THE NORTH QUARTER CORNER OF SECTION 17, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE N.88°29'12"E., ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 17 FOR 576.42 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF SIX MILE CYPRESS PARKWAY; THENCE S.20°01'31"W., ALONG SAID WESTERLY RIGHT OF WAY LINE FOR 1389.14 FEET TO A POINT ON THE NORTHERLY LINE OF A 60 FOOT WIDE ROAD RIGHT OF WAY AS RECORDED IN COUNTY COMMISSION MINUTE BOOK 5, PAGE 669 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.88°52'35"W., ALONG SAID NORTH LINE FOR 98.08 FEET TO A POINT ON THE NORTH SOUTH QUARTER SECTION LINE OF SAID SECTION 17 AND BEING A POINT ON THE EAST LINE OF LOT 28, OF THE UNRECORDED PLAT OF SUBURBAN RANCHETTES, AS RECORDED IN OFFICIAL RECORDS BOOK 273, PAGES 94 THROUGH 96, SAID PUBLIC RECORDS; THENCE S.88°48'50"W. ALONG A LINE 30 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID LOT 28 AND ALONG THE NORTH LINE OF SAID ROAD RIGHT OF WAY FOR 621.82 FEET TO A POINT LYING 30 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT 28; THENCE N.00°22'36"W. ALONG SAID LINE LYING 30 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT 28 AND LOT 27, SAID UNRECORDED PLAT OF SUBURBAN RANCHETTES FOR 634.53 FEET TO THE NORTH LINE OF SAID LOT 27; THENCE N.88°56'52"E., ALONG SAID NORTH LINE OF SAID LOT 27 FOR 624.75 FEET TO THE NORTHEAST CORNER OF SAID LOT 27, ALSO BEING A POINT ON THE NORTH SOUTH QUARTER SECTION LINE OF SAID SECTION 17; THENCE N.00°06'35"W., ALONG SAID NORTH SOUTH SECTION LINE FOR 658.74 FEET TO THE POINT OF BEGINNING OF PARCEL 1.

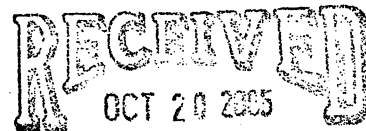
PARCEL I CONTAINS 830,753.57 SQUARE FEET OR 19.07 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

BEARINGS ARE BASED ON THE WESTERLY RIGHT OF WAY LINE OF SIX MILE CYPRESS PARKWAY AS BEARING OF N.20°01'31"E.

DESCRIPTION PREPARED JUNE 2, 2005

  
A. LEE HAYNE  
REGISTERED SURVEYOR AND MAPPER  
FLORIDA CERTIFICATION NO. 6338



PERMIT COUNTER

**Applicant's Legal Checked**

by Lgm 12/06/2005  
(P1 of 2)

SHEET 1 OF 2

DCI 2005-00101

# Banka Engineering, Inc.

PROFESSIONAL ENGINEERS, LAND SURVEYORS & PLANNERS

FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690

10511 SIX MILE CYPRESS PARKWAY - SUITE 101

FORT MYERS, FLORIDA 33912

(239) 939-5490

## SKETCH OF DESCRIPTION

OF

A TRACT OR PARCEL OF LAND LYING IN  
SECTION 17, TOWNSHIP 45 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

### NOTES:

- 1.) SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.
- 2.) ASSUMED NORTH BASED ON THE WESTERLY RIGHT OF WAY LINE OF SIX MILE CYPRESS PARKWAY AS BEARING N.20°01'31"E.

### LEGEND:

O.R. INDICATES OFFICIAL RECORDS BOOK

PG. INDICATES PAGE



P.O.B. - PARCEL 1

N. 1/4 CORNER  
SECTION 17

O.R. 2700, PG. 927

N.88°29'12"E. 576.42'

EAST-WEST QUARTER SECTION LINE

658.74'

NORTH-SOUTH QUARTER SECTION LINE

LOT 25  
SUBURBAN RANCHETTES  
O.R. 541, PG. 220

O.R. 2508, PG. 3443

RECEIVED  
OCT 20 2005

PERMIT COUNTER

DCI 2005-00101

LOT 26  
SUBURBAN RANCHETTES  
O.R. 2168, PG. 4642

PARCEL 1

N.88°56'52"E. 624.75'

60' WIDE INGRESS  
AND EGRESS EASEMENT  
(O.R. 4609, PG. 4248)

O.R. 4131, PG. 4232

LOT 19  
SUBURBAN  
RANCHETTES

634.53'

LOT 27  
SUBURBAN RANCHETTES  
O.R. 2307, PG. 4555

O.R. 2456, PG. 111

PARCEL 1

LOT 20  
SUBURBAN  
RANCHETTES

N.00°22'36"W. 634.53'

LOT 28  
SUBURBAN RANCHETTES  
O.R. 4028, PG. 3938

S.88°52'35"W. 98.08'

JV PARKER LANE  
16'± WIDE DIRT ROAD

ROAD RIGHT OF WAY  
SOUTH 30' LOT 28  
(C.C.M.B. 5, PG. 669)

S.88°48'50"W. 621.82'

60' WIDE INGRESS  
AND EGRESS EASEMENT  
(O.R. 4609, PG. 4248)

LOT 21  
SUBURBAN  
RANCHETTES  
O.R. 3321,  
PG. 3940

60' WIDE ROAD RIGHT-OF-WAY  
C.C.M.B. 5, PG. 669  
(NOT IMPROVED AS ROADWAY)

LOT 29  
SUBURBAN RANCHETTES  
O.R. 2172, PG. 2339

EXCEPTING NORTHERLY  
30' LOT 29  
(O.R. 4609, PG. 4248)

O.R. 1117,  
PG. 1102

SEE SHEET 1 FOR COMPLETE  
METES AND BOUNDS DESCRIPTION.

THIS SKETCH OF DESCRIPTION  
IS NOT A BOUNDARY SURVEY

A. Lee Hayne  
REGISTERED LAND SURVEYOR  
FLORIDA CERTIFICATION NO. 6338

PREPARED 06-02-05  
SHEET 2 OF 2

- THIS SKETCH OF DESCRIPTION IS NOT VALID  
WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED  
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

S:\JOBS\18XX\1869\1869\_SK\_parcel-1.DOC  
S:\JOBS\18XX\1869\1869\_SK\_parcel-1.DWG

# ZONING MAP

12/9/2005

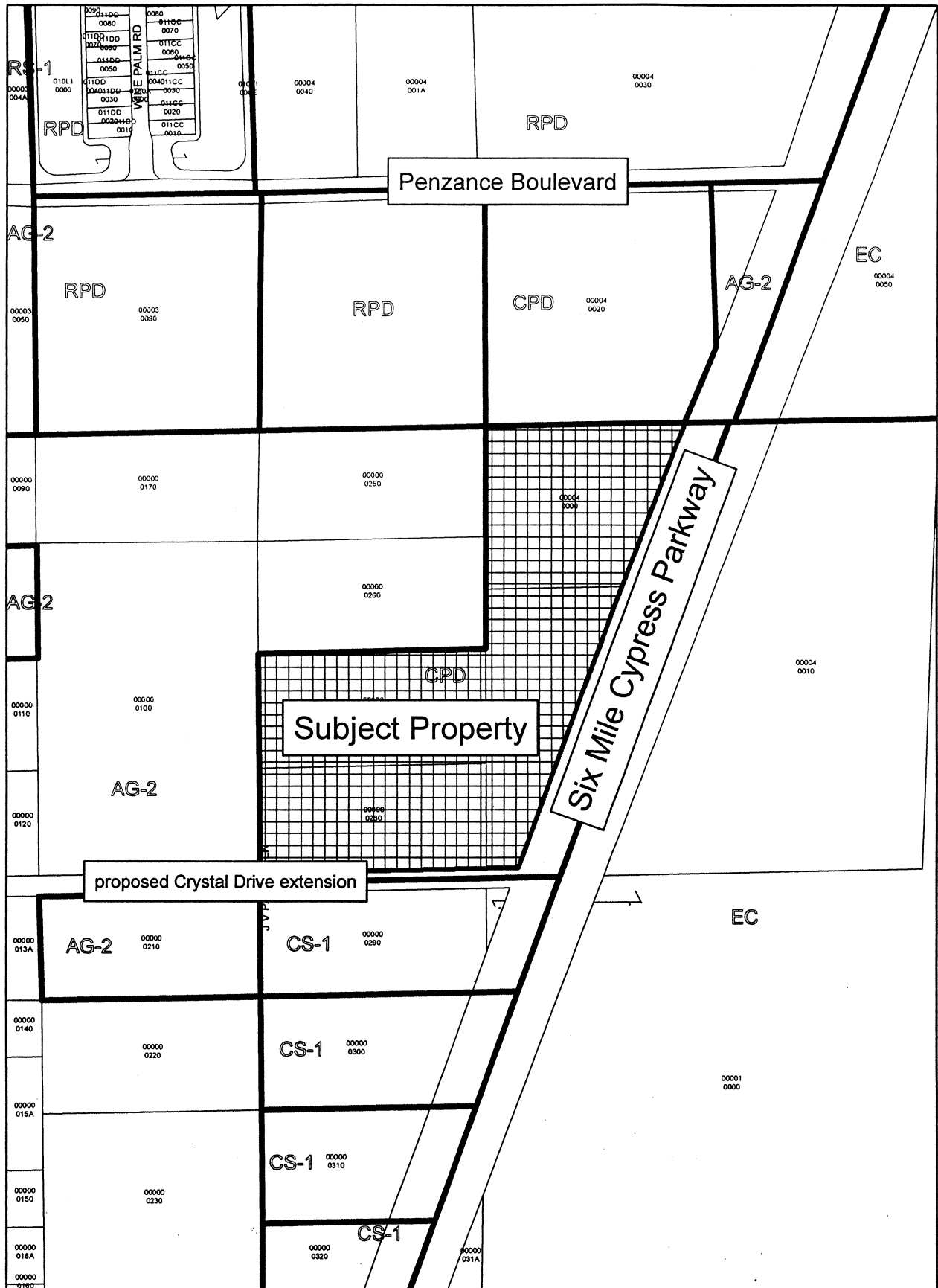
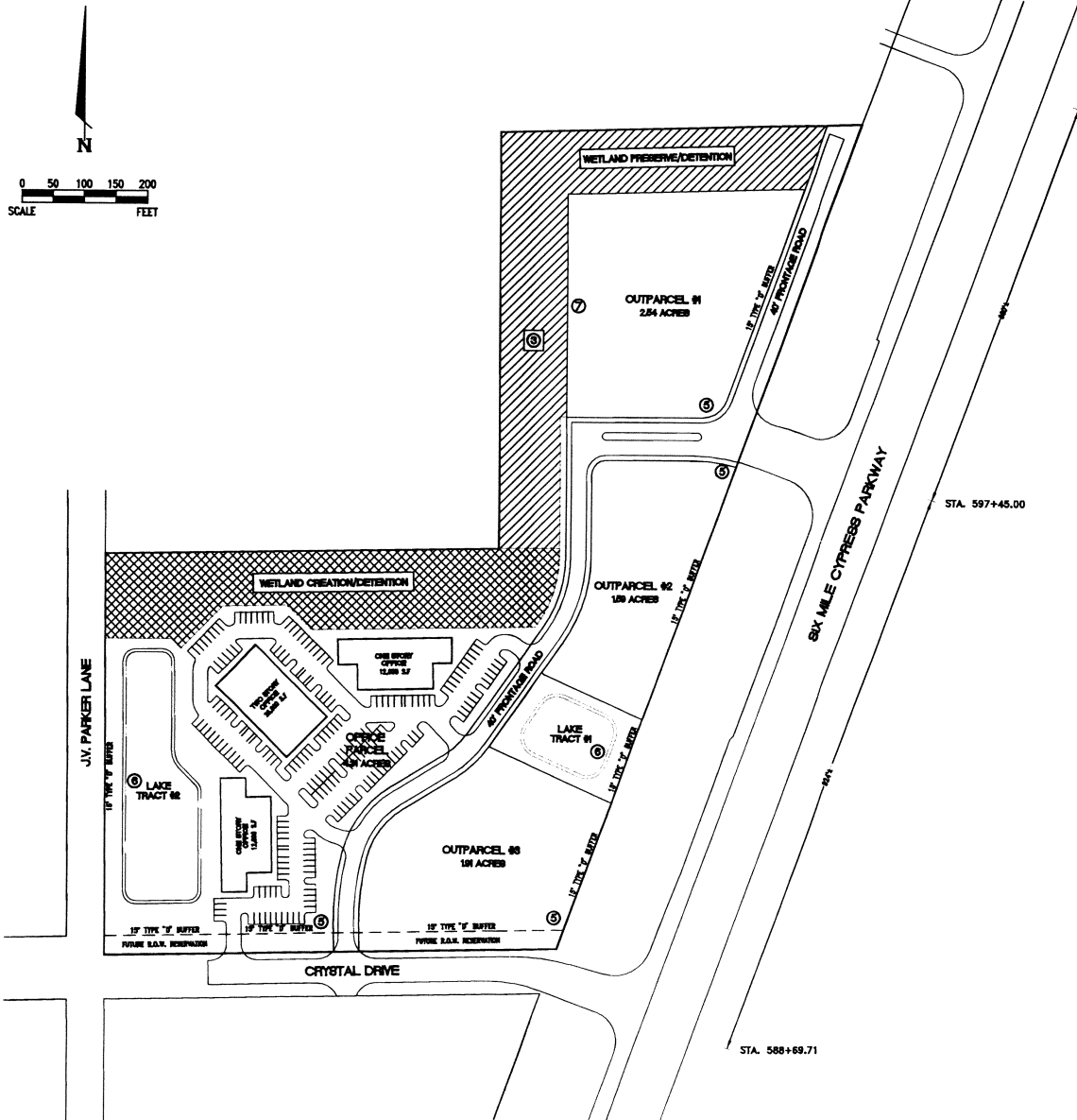


EXHIBIT B

350 175 0 350 Feet





- LEGEND**
- ④ APPROVED DEVIATION
  - ▨ WETLAND PRESERVATION AREA
  - ▩ WETLAND CREATION AREA

**PROJECT SUMMARY**

TOTAL SITE AREA:	19.07 ACRES
MAXIMUM BUILDING AREA:	150,000 S.F.
LAND USE CLASSIFICATION:	CENTRAL URBAN
EXISTING ZONING:	CPD
WATER & SEWER:	LEE COUNTY UTILITIES
FIRE DISTRICT:	SOUTH TRAIL
FLOOD ELEVATION:	8 FEET

1 SEE ZONING RESOLUTION FOR DETAILS

**OPEN SPACE CALCULATIONS**

OPEN SPACE REQUIRED: (19.07 ACRES X 30%)	5.72 ACRES
<b>OPEN SPACE PROVIDED:</b>	
OUTPARCEL #1 (2.34 ACRES X 20%)	0.51 ACRES
OUTPARCEL #2 (1.58 ACRES X 20%)	0.32 ACRES
OUTPARCEL #3 (1.91 ACRES X 20%)	0.38 ACRES
OFFICE PARCEL (4.06 ACRES X 30%)	1.22 ACRES
WETLAND PRESERVE AREA	2.46 ACRES
WETLAND CREATION AREA	1.96 ACRES
LAKE TRACT #1	1.47 ACRES
LAKE TRACT #2	0.63 ACRES
<b>TOTAL</b>	<b>8.95 ACRES</b>

Approved as Exhibit  
MCP Page 1 of 1  
Resolution # **Z-06-007**

EXHIBIT C

FILE #	0107MCP
DATE	04/08
SCALE	NOTED
DESIGN	GFH
DRAWN	GFH
CHECK	GFH