

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

WHEREAS, Cypress Lake Associates, represented by Wal-Mart, Inc., in reference to Wal-Mart Expansion at Cypress Lake Center, have properly filed an application to amend Phase II CPD (Resolution Z-90-070); and

WHEREAS, the subject property is located at 7101 Cypress Lake Drive, described more particularly as:

LEGAL DESCRIPTION: In Section 23, Township 45 South, Range 24 East, Lee County, Florida:

PHASE II

A tract or parcel of land situated in the State of Florida, County of Lee-, **Section** 23, Township 45 South, Range 24 East, and further bounded and described as follows:

Lot 6 and Tract B, Cypress Lake Center, Phase II, as **recorded in** Plat Book 39 at Pages 22 through 24, inclusive, Public **Records of said Lee** County, Florida.

LESS AND EXCEPT Phase B-1, Cypress Lake Center, as recorded in Plat Book 43 at Page 11, Public Records of said Lee County;

WHEREAS, the applicant has indicated the property's current STRAP numbers are **23-45-24-44-00000.B000** and 23-45-24-44-00000.0060; and

WHEREAS, proper authorization has been given to Bean, Whitaker, Lutz & Barnes by Frank J. Cannon, General Partner, Cypress Lake Associates, the owner, and Curtis H. Barlow, Vice President, Wal-Mart Stores, the contract purchaser of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing' held on February 4, 1992, and 'subsequently continued to May 29, 1992; and

WHEREAS, a public hearing was legally and properly advertised 'and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested

persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE WITH CONDITIONS the request to amend Phase II CPD.

The Master Concept Plan, which deviates from certain Lee County Standards, is subject to the following conditions:

1. At the time the owner of Phase II CPD (Z-90-070) seeks an amendment to Resolution Z-90-070 or the DRI Development Order #7-8384-47, the revised Master Concept Plan for Phase II CPD shall exclude Lot 2.
2. The **conditions** and deviations of Resolution Z-90-070 no longer apply to Lot 2.
3. Phase II CPD is amended to delete Lot 2 from the legal description.
4. Phase II CPD, Resolution Z-90-070 is amended to permit 25,986 square feet of retail commercial use instead of 61,805 square feet (see Exhibit A).
5. Phase II CPD is subject to compliance with the approved totals of retail building area contained in the Cypress Lake Center DRI Development Order #7-8384-7, as amended, and all conditions of the DRI Development Order & **Resolution Z-90-070** shall remain in full force and effect, except as modified, and are incorporated herein by reference.

Site Plan 92-011 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this request:

- A. That the subject Development of Regional Impact (DRI) development order amendment request will not result in any increased use intensity within the development, and merely re-allocates previously approved development rights between component parcels within the overall project.
- B. That the proposed amendment does not affect the project's compatibility with existing or planned uses within the approved DRI project, and will not act to create any hazard, nuisance or other detriment to persons or property within the development or on property situated adjacent to or in the near vicinity of the development.
- C. That, as an approved, vested DRI development, considerations of Lee Plan consistencies and locational standards are not relevant since the request presented in this application does not incorporate any use or intensity increases.
- D. That the deviations are the minimum necessary to, advance the purposes of the development while providing for the adequate protection of public interests and for preventing significant adverse impacts on adjacent or near vicinity uses.
- E. That the conditions, together with other applicable regulations, will act to provide sufficient safeguards to insulate public interests from **any** adverse impacts that could reasonably arise from the requested development amendment.

- F. That the subject requests will have no adverse impacts on environmentally sensitive areas or valued natural resources.
- G. That approval of the subject requests will not result in the imposition of additional burdens on existing transportation facilities serving the subject DRI development, since no additional **traffic-** generating uses beyond those already approved are proposed.

The foregoing Resolution was adopted by **the** Lee County Board of County Commissioners upon a motion by Commissioner John Manning, and seconded by Commissioner Donald Slisher and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Vicki Lopez-Wolfe	Absent
Donald D. Slisher	Aye

DULY PASSED AND ADOPTED this 20th day of July, A.D., 1992.

ATTEST:
CHARLIE GREEN, CLERK

BY: Charlie J. Green,
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chairman

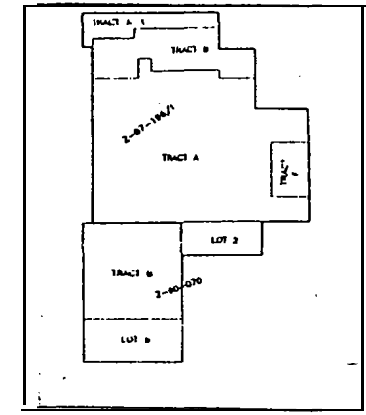
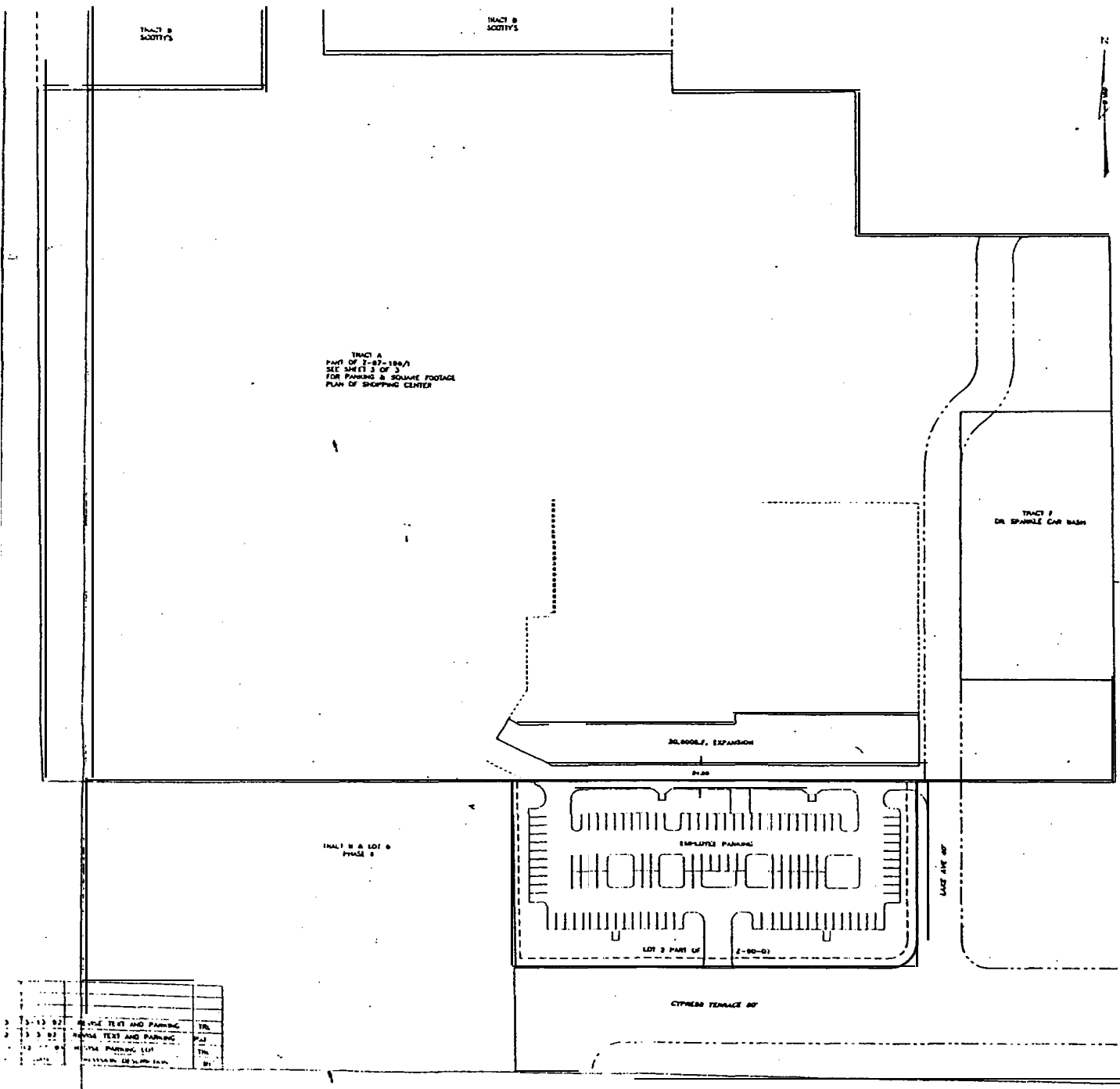
Approved as to form by:

[Signature]
County Attorney's Office

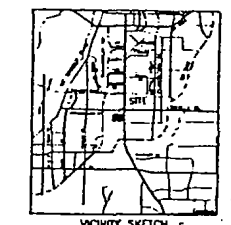
FILED

JUL 31 1992

CLERK CIRCUIT COURT
BY Charles H. D.C.



LIMITS OF AMENDMENT REQUEST



VICINITY SKETCH

1. **APPROVED**
 2. **RECEIVED**
 3. **PRINTED**
 4. **ZONING COUNTER**
 5. **MAY 13 1992**
 6. **MAY 14 1992**

MASTER CONCEPT PLAN AMENDMENT TO CPD 2-87-198 & 2-90-070
WAL-MART AT CYPRESS LAKE CENTER
 LEE COUNTY, FLORIDA
Bean, Whitaker, Lutz & Barnes, Inc.
 CONSULTING ENGINEERS AND SURVEYORS
 18445-S HIGHWAY 90, SUITE 100, FORT MYERS, FLORIDA 33907
 PHONE 941-938-1111 FAX 941-938-1112
 TABLE 1: REVISIONS
 NO. DATE DESCRIPTION
 1 0-13-91 INITIAL DESIGN

1	0-13-91	INITIAL DESIGN	100%
2	0-13-91	REVISION 1	100%
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99	0-13-91	REVISION 98	100%
100	0-13-91	REVISION 99	100%
101	0-13-91	REVISION 100	100%

Existing Retail Commercial Square Footage CPD 2-87-196/1

Walmart	47,997 SF
Scatter's (includes 4800 sq ft under roof storage)	48,288 SF
Retail Retail Space (includes 8500 SF of restaurants)	79,861 SF
Spurlock Car Wash/GreaseLube	5,182 SF
Subtotal - CPD Phase I	210,328 SF
Amoco	8,228 SF
Amoco Gas Station	3,788 SF
Bus Depot	5,000 SF
Amoco Gas Station	1,831 SF
Overhead meters	41,378 SF
Total	289,754 SF
Approved Retail Commercial SF	336,340 SF
Existing Retail Commercial SF	289,754 SF

Remaining Retail Commercial SF	46,586 SF
Less proposed multi-unit expansion	-28,688 SF
Remaining Retail Commercial SF in Unit 20000	17,898 SF
after multi-unit expansion	

Phase I CPD 2-87-196/1 - Existing Retail Commercial Square Footage

Approved Retail Commercial Square Footage	336,340 SF
Existing Retail Commercial Square Footage	210,328 SF
Total Retail Square Footage remaining in Phase I CPD	126,012 SF

Phase II CPD 2-87-196/2 - Existing Retail Commercial Square Footage

Approved Retail Commercial Square Footage	61,885 SF
Remaining Retail Commercial SF	46,586 SF
Less SF acquired by Unit 20000	-28,688 SF
Remaining Retail Commercial SF in Phase II CPD	17,898 SF

Land Use - Phase I CPD 2-87-196/1 - Existing Development

Land Use - Phase I CPD 2-87-196/1	25,37 AC
Land Use - Intensive Development	289,754 SF
Open Space Provided - 289,754 SF	
Parking Provided - 1,242 (includes 82 H.C. spaces to be reconfigured)	
Height - 35'	

Schedule of uses limited to all permitted uses of CC Zoning District. Currently, all units in Section 682 87-196/1 are well as the following: variety store, wholesale establishment, Group 111 A, Insurance Companies, Social Services - Groups 1 & 11; non-store retailers - Groups 1, 11 & 111.

Land Use Data - Phase II CPD 2-87-196/2 - Planned but not yet approved

Total Site - 11.7 AC	
Land Use - Intensive Development	289,754 SF
Open Space - 4.38 AC (for 20000) Phase II	
289,754 SF for Small Development into retail lots	
Height 120' above 10000 lot 2 & 3 AC	
Total Site 10000 lot 2 & 3 AC	

Schedule of uses limited to all uses permitted by right in the CC and CC Zoning districts

Amended Schedule of Uses

Phase I	25,37 AC
Lot 2, Phase II	1.84 AC
Total Site Amended	27,21 AC
Total Existing Retail SF	210,328 SF
Amended Retail Commercial SF	289,754 SF
Amended Retail Commercial SF	289,754 SF
Amended Open Space Calculation	221,825 SF
25,37 AC x 289	7,331 SF
1.84 AC x 388	715,813 SF
Amended Total Open Space	240,836 SF

Amended Parking Calculations and Deficits

Total Parking Required	1,586 spaces
(1415 x 85)	
Vehicle Spaces per Amendment	1,528 spaces
(1202 x 288)	(includes 38 H.C. spaces)

Amended Schedule of Uses

28,888 SF expansion of the existing retail store within Phase I for retail and storage space (expansion of parking for employees on lot 2)

All uses approved in Resolution 2-87-196/1 to remain in effect for the amended amendment

The parking area identified on lot 2 as indicated on the Master Concept Plan shall be located in the right-of-way and shall not be utilized to serve any other purpose and as the shopping center that may be brought about through an amendment to zoning

All deviations and conditions approved in Resolution No. 2-87-196/1 shall apply to lot 2 except that Condition 5 of 2-87-196/1 shall not apply to lot 2

All deviations, conditions and uses of Resolution 2-87-196/1 shall no longer apply to lot 2

Phase I CPD 2-87-196/1 is amended to add lot 2, Phase II, Cypress Lake Center, as recorded in Plat Book 39, Page 22, Public Records of Lee County. Phase II CPD 2-87-196/2 is amended to include lot 2 from the final registration of Phase II, Cypress Lake Center, as recorded in Plat Book 39, Page 22, Public Records of Lee County.

Phase I and Phase II CPD's as amended are subject to compliance with the approved lot 2 contained in the Cypress Lake Center (All Development) Order 7-850-42

Increases to 220,825 SF of retail commercial use in the amended CPD 2-87-196/1 to accommodate the multi-unit expansion within phase I

Schedule of Deviations and Justifications - Amendment

1. Deviation from Section 682 C.2 a 1 of the Lee County Zoning Regulations which require all structures and improvements to be set back from the easement's perimeter a distance equal to the width of a minimum buffer area (width 100' or 110' foot, whichever is greater, to allow all structures and improvements to be set back a distance of 8 feet from the development perimeter along the common lot line between Parcel "A", Phase I, and lot 2, Phase II of Cypress Lake Center

Deviation No. 1 will allow for an existing asphalt drive 26.5 feet in width to run along the south side of the proposed expansion and the common lot line that would serve as fire access, truck access to loading dock and parking access

2. Deviation from 1C29 Ordinance 80-18, Section 586.22.7 requirement that uses with 18,000 SF or more gross floor area requiring the receipt or distribution by vehicles of materials or merchandise shall have at least one permanent maintained off-street loading berth for the first 18,000 SF and one additional berth for each 20,000 SF or fraction thereof. gross floor area above the first 18,000 SF to allow a total of ten loading bays for the multi-unit store (Parcel "A")

Deviation No. 2 will allow the multi-unit store to maintain their existing loading bay based on written justification that no more are needed. This justification is to be presented at time of final development order application

3. Deviation from 1C29 Ordinance 80-18, Section 586.21.2 requirement that restaurants provide sixteen (16) spaces for each one thousand (1000) square feet of gross floor area to allow for thirty-two (32) hundred square feet of restaurant use within CPD 2-87-196/1 to no calculation of the commercial retail site already approved in DMI 7-850-42 of 4.5/1989 to allow the existing parking deficit within the CPD for Phase I to be reduced from 171 to 56

Deviation No. 3 will allow the parking deficit to be reduced for the total shopping center when spaces in Parcel "A" are completed. Spaces on lot 2 are constructed and additional parking remains as called out on sheet 3 of 3, "Attachment A", are implemented. This would leave 1528 spaces to be provided, twenty over the required 1508 spaces

4. Deviation from 1C29 Ordinance 80-18, Section C.3.a 6.b requirement that landscaped islands shall be used to subdivide parking areas into parking bays of not over 48 spaces per bay and that no more than 28 spaces occur in an uninterrupted row to allow a maximum number of parking spaces in each bay on Parcel "A" in front of multi-unit

Deviation No. 4 will allow reconfiguring and re-striping of the parking referenced above to help alleviate the existing parking deficit. This deviation implements conditions set forth by the County Zoning staff in their review of the amendment request. Twenty seven additional spaces are permitted by approval of this deviation

General Notes

- All design, construction and site design to comply with South Florida Water Management District regulations in all areas at time of development. Cypress Lake Center I and II have received final Development Order for drainage and infrastructure (D.O. 8-12-83) (D.O. 8-12-83)
- While Cypress Lake Center Phase II is a plot of record, this amendment affecting lot 2 will in no way affect other land owners within the subdivision from requesting future regulation line reconfigurations or standards set forth in resolution 2-87-196/1
- A certain design flexibility shall remain for the location and size of parking islands on lot 2 until final plan approval. However, 305 more spaces will be maintained on lot 2
- The forty two (42) parking spaces provided in the block area of Parcel "A" will be constructed no later than December 1, 1993, or six months after the resolution of pending litigation involving the shopping center owner and current tenant, Inc-A-Dome
- Designation of employee parking and signage will comply with the intent of the declaration of covenants and restrictions recorded in O.R. Book 1848, Page 2889, throughout the Cypress Lake Shopping Center
- AFDO 25 approved 12-15-88 allowed Sparkle Car Wash and Quick Lube auto repair a total of 5,187 sq ft 2882 sq ft have been constructed for the car wash. An additional 2385 sq ft remain to be built for the Quick Lube auto repair. AFDO 25 is valid until December 12, 1993 unless extended pursuant to DSC regulations prior to that date.
- AFDO 25 12-15-88 requires, twelve (12) additional parking spaces based on three service bays at four spaces per bay for the Quick Lube auto repair.

APPROVED

Master Concept Plan

Site Plan - 2-87-196/1

Subject to conditions in Resolution 2-87-196/1

Zoning Code - 2-87-196/1

RECEIVED
MAY 13 1992
MAY 14 1992
ZONING COUNTER

MASTER CONCEPT PLAN AMENDMENT TO CPD 2-87-196/1 & 2-90-170
WALMART AT CYPRESS LAKE CENTER
LEE COUNTY, FLORIDA

Bean, Whitaker, Lutz & Barnes, Inc.

CONSULTING ENGINEERS AND SURVEYORS

1911 E. HOLLAND AVENUE, SUITE 100, TAMPA, FLORIDA 33610

PHOTOGRAPHIC REPRODUCTION OF THIS PLAN IS PROHIBITED

DATE	PROJECT NO.	DESIGNED	DRAWN	CHECKED	SCALE	FILE NO. (1-1-93)
3-13-92	SPR33002	TD	TL	TD	HTS	23-45-06

