

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

WHEREAS, Murray Carslake has properly filed an application for a rezoning from RS-1 to Commercial Planned Development; and

WHEREAS, the subject property is located at 1999 Estero Boulevard, Fort Myers Beach, described more particularly as:

LEGAL DESCRIPTION: In Section 19, Township 46 South, Range 24 East, Lee County, Florida:

Lots 2 and 4, Block B, GULF BAY VIEW SUBDIVISION, as recorded in Plat Book 8, Page 69, of the Public Records of Lee County, Florida, lying in Section 19, Township 46 South, Range 24 East, Lee County, Florida.

WHEREAS, the applicant has indicated the property's current STRAP number is 19-46-24-09-0000B.0020; and

WHEREAS, proper authorization has been given to Carleton Ryffel by Murray Carslake, the owner 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 August 31, 1993 and continued to September 7, 1993; 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 a rezoning from RS-1 to CPD.

The rezoning and Master Concept Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development of this property shall be in substantial compliance with the one-page Master Concept Plan entitled "Minor CPD Master Plan for Murray Carslake" dated 12/4/92 (last revised 7/21/93, stamped received July 22, 1993) as prepared by Carleton Ryffel, except as may be modified by the conditions contained in this zoning approval. This approval does not alleviate the need to comply with local and state development regulations, unless specifically granted by this zoning approval.
2. The proposed Schedule of Uses on the Master Concept Plan is not approved as part of this zoning approval. The following is the list of permitted uses:

BANKS AND FINANCIAL ESTABLISHMENTS - Group I (Section 1001.02)  
BUSINESS SERVICES - Group I (Section 1001.05)  
DRUGSTORE  
LAUNDRY OR DRY CLEANING - Group I (Section 1001.24)  
OFFICES - MEDICAL  
PACKAGE STORE (Section 202.03)  
PERSONAL SERVICES - Groups I, II, and III (Section 1001.33)  
REPAIR SHOPS - Groups I and II (Section 1001.40)  
RESTAURANTS - Groups I and II (Section 1001.44)  
SIGNS, in conformance with the Lee County Sign Ordinance  
SPECIALTY RETAIL - Groups I, II, and III (Section 1001.47)  
STUDIO

No use within this planned development shall be permitted to have a drive-thru facility.

3. Note #5 on the Master Concept Plan shall be null and have no effect as part of this zoning action, EXCEPT in concerning the amount of open space required and provided for this planned development.
4. The minimum setbacks for any building to be developed on this site shall be in accordance with the CN-2 zoning district.
5. An eight (8) foot wall shall be constructed along the southernmost portion of the proposed fifteen (15) foot buffer along the northern property line. A 100 percent native vegetative screen is required and shall consist of shrubs, a minimum of eight (8) feet in height, and trees, a minimum of twelve (12) feet in height, both as measured above the soil line at the time of planting. The total number of shrubs shall be as required within a "C" type buffer and the total number of trees shall be double that required within a "C" Type buffer. The spacing of trees shall be of approximately equal distance apart. No fill shall be allowed within this buffer, except for that required for water management purposes.
6. An access point shall be permitted directly onto Estero Boulevard, but it shall be limited to right-turn out only.
7. This zoning approval does not signify that the project's traffic impacts have been mitigated. Additional conditions may be required at the time of issuance of a local Development Order per the Development Standards Ordinance or other Lee County Ordinance.
8. Approval of this rezoning does not give the developer the undeniable right to receive any local Development Order approval which exceeds the Year 2010 Overlay use allocation, if such allocation exists, for the applicable district.
9. Since the specific use of the site has not been determined at the time of the rezoning of this property, off-street parking shall be based upon the use of the site in accordance with the Lee County Zoning Ordinance.
10. Deviation (1) is a request to deviate from Section 202.18.A.5.c, to allow structure height of 35 feet maximum to be measured from finished grade instead of grade. Deviation (1) is APPROVED.

Deviation (2) is a request to deviate from Section 461.C.2.a.2.)b.), to allow pavement setback of 15 feet instead of the required 25 feet. Deviation (2) is APPROVED along the northern property line only and subject

to the buffering of the adjacent property as set out in Condition 5. Deviation (3) is a request to deviate from Sections 202.18.B.2 and 461.C.2.a.4, to allow a structure setback of 10 feet and 22 feet instead of the 25 feet. Deviation (3) is APPROVED to 22 feet along the western property line only and setbacks along the street shall be in accordance with Condition 4 above.

Deviation (4) is a request to deviate from DSO Sections 13.D.3, Table 13-1 and Section 13.G.2.b.3, to allow buffers of 7 feet and 11 feet per the Master Concept Plan. Deviation (4) is APPROVED as specifically delineated on the approved Master Concept Plan.

Deviation (5) is a request to deviate from DSO Section 9.E and Table 9.1, to allow intersection separations of 84± feet and 99± feet on an arterial road (Estero Boulevard) instead of the required 660 feet and separations of 109± feet and 8± feet on a local road (Virginia Avenue) instead of the required 125 feet. Deviation (5) is APPROVED regarding Virginia Avenue, and for Estero Boulevard as conditioned in Condition 6 above.

Site Plan 93-065 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 approval of CPD zoning:

- A. That the predominantly commercial development of the neighborhood along Estero Boulevard makes approval of the Commercial Planned Development (CPD), as conditioned, appropriate.
- B. That the CPD, as conditioned, will not have an adverse impact on the intent of the Zoning Ordinance.
- C. That the CPD, as conditioned, is consistent with the goals, objectives, policies, and intent of the Lee Plan, and with the densities, intensities, and general uses set forth for the proposed use.
- D. That the CPD, as conditioned, meets or exceeds all performance and locational standards set forth for the proposed use.
- E. That the CPD, as conditioned, will protect, conserve, preserve all protected and endangered species, natural habitat and vegetation, in accordance with the Lee Plan and other Lee County development regulations.
- F. That the CPD, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance, or other detriment to persons or property.
- G. That the CPD, as conditioned, will not place an undue burden upon existing transportation or other services and facilities, and will be served by streets with the capacity to carry traffic generated by the development.
- H. That the commercial uses, as conditioned in this recommendation, will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.
- I. That the proposed use is appropriate on the subject property and in the vicinity of the subject property.
- J. That the recommended conditions are reasonably related to the impacts expected from or created by the proposed development.
- K. That the recommended conditions and other Lee County development regulations provide sufficient safeguards to the public health, safety and welfare.

L. That the deviations, as conditioned, enhance the achievement of the objectives of the CPD and preserve and promote the protection of the public health, safety and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Douglas St. Cerny, and seconded by Commissioner John Albion and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Nay
Franklin B. Mann	Absent
John E. Albion	Aye

DULY PASSED AND ADOPTED this 4th day of October, A.D., 1993.

ATTEST:  
CHARLIE GREEN, CLERK

BY: Clara J. Wreck  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: J. Manning  
Chairman

Approved as to form by:

Ann M. Sullivan  
County Attorney's Office

FILED

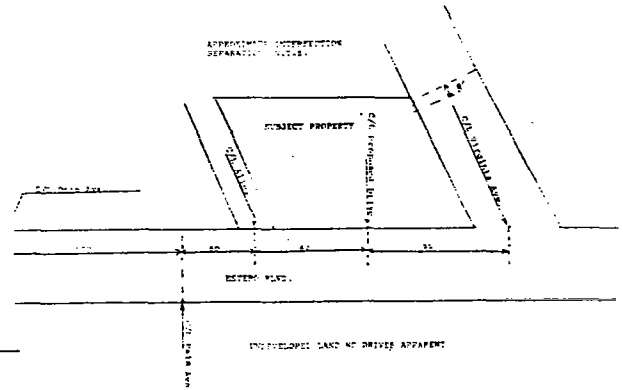
OCT 13 1993

CLERK CIRCUIT COURT  
BY afw D.C.

1. Zoning Proposal: Section 220.02.A.1.c. as CPD (minor).
2. Parcel Size: 0.33 acre
3. Maximum Building Height: 31' Above Finished Grade.
4. Permitted Uses: Bank with Drive-thru Groups I.II; Insurance companies; Package stores; CD; (Illustrations) Personal services. Groups I.II.II; Repairs shops. Groups I.II; Laundry or Drycleaning. Group I.II; Business services. Group I.I; Specialty retail shops. Group I.II.II; Studios; Medical offices; Restaurants, fast food with drive-thru, eat-in only; Restaurant, standard. Groups I.II. III; Signs in conformance with Lee County Sign Ordinance.
5. Master Plan reflects the footprint of a bank and drive thru. Applicant may change the size of the footprint due to different parking requirements and their arrangement. Open space shown will serve as a driveway and its area will not change regardless of use. Open space required 30% shown 21%.

**Summary of Deviations**

1. Deviation from Section 220.02.A.1.c. to allow maximum height of 31' maximum to be measured from (finishing grade) instead of grade.
2. Deviation from Section 461.02.A.2.10.1 to allow pavement setback of 15' instead of the required 25'.
3. Deviation from Sections 220.10.1.2 and 461.02.A.4. to allow a structure setback of 10' and 20' instead of the required 25'.
4. Deviation from CS Sections 17.5.2, Table 12-1 and Section 23.2.2.2, to allow buffers of 7' and 11' per the Master Plan.
5. Deviation from DCO Section 9.8. and Table 9.1. to allow intersection separations of 84' and 99' on an arterial road (Estero Blvd.) instead of the required 65' and separations of 100' and 110' on a local road (Virginia Ave.) instead of the required 125'.



**APPROVED**  
 Master Concept Plan  
 Site Plan # 27-02-001 Page 1 of 1  
 Subject to conditions to Resolution 27-02-001  
 Zoning Case # 27-02-001

EXHIBIT THREE: C.2.

