

2197696

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, an application has been properly filed for the following zoning change for Forest Creek:

Rezoning from AG to Residential Planned Development, to permit a mobile home residential development of 1300 units not to exceed 15 feet, and a clubhouse not to exceed 35 feet in height, on 371.72 acres of land. The proposed development will also include a golf course, wetland preserves, a guardhouse, a temporary sales office, and model units.

NOTE:

If approved, the master Concept Plan (available for inspection at 1831 Hendry Street in Fort Myers) will deviate from the following Lee County standards:

- (1) Maximum excavation size for water retention areas of 5 acres (500.4.B), to 7.62 acres;
- (2) Minimum setback between structures and a half (quarter) section line of 60 feet (500.29.D.2), to 0 feet in Section 22; and
- (3) Minimum setback between structures and a half (quarter) section line of 60 feet (500.29.D.2), to 0 feet in Section 23; and
- (4) Minimum setback between structures and a section line of 75 feet (500.29.D.1), to 0 feet between sections 22 and 23.

The subject property is located on the east side of U.S.41 N (Tamiami Trail), approximately one mile north of Laurel Drive in North Fort Myers, described more particularly as:

LEGAL DESCRIPTION: In Sections 22 and 23, Township 43 South, Range 24 East, Lee County, Florida:

Tract or parcel of land lying in Sections 22 and 23, Township 43 South, Range 24 East, Lee County, Florida, Described as Follows:

From the Point of Beginning at the north section corner common with said Sections 22 and 23; Thence N. 89° 48' 33" E. along the north line of section 23 and along the northerly line of parcel 2 as described in ORB 1049, Pages 1 through 3 for 2672.54 feet to the north quarter corner of said section 23; Thence N. 89° 52' 17" E. along the north line of said Section 23 and along the northerly line of said parcel 2 for 166.20 feet; Thence S. 11° 23' 35" E. along the westerly right of way of former Seaboard Airline Railroad right of way as recorded in ORB 775, Pages 261 and 262 and along the north-easterly line of said Parcel 2 for 1648.50 feet; Thence S. 89° 56' 33" W. for 2902.97 feet; Thence S. 0° 24' 20" E. parallel with the Section line common with said Sections 22 & 23 for 1050.02 feet; Thence S. 89° 56' 33" W. along the easterly extension of and the quarter section line of said Section 22 (passing through the section line common with said Sections 22 & 23 at 250.0 feet) for 2912.84 feet to the center of Section 22; Thence along the lines of Parcel 1 as described in said ORB 1049, Pages 1 through 3 for the following calls, S. 0° 04' 04" W. along the north-south quarter section line of said Section 22 for 204.65 feet; Thence S. 74° 10' 01" W. for 1102.48 feet; Thence N. 15° 49' 59" W. for 180.0 feet; Thence N. 74° 10' 01" E. for 140.08 feet; Thence N. 15° 49' 59" W. for 359.99 feet; Thence S. 74° 10' 01" W. for 195.62 feet; Thence S. 89° 57' 01" W. for 81.97 feet; Thence N. 0° 35' 10" E. for 35.08 feet;

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REC 1886PG265b

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: H. FERNSTROM, D.C.

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Thence S. 74° 10' 01" W. along the southeasterly line of Lot 25, Block 2, Tamiami City, as Recorded in Plat Book 9 at Page 7 of the Public Records of Lee County, Florida for 136.77 feet; Thence N. 15° 49' 59" W. along the easterly right of way of S.R. 45 (U.S. 41, Tamiami Trail, 150.0 feet from centerline) for 375.47 feet; Thence N. 74° 10' 01" E. along the northwesterly line of Lot 22 of said Block 2 for 247.42 feet; Thence N. 0° 35' 10" E. along the east line of said Block 2 for 1978.82 feet; Thence S. 74° 10' 01" W. along the southeasterly line of said Lot 2 and along the southeasterly line of parcel 4 as Recorded in said ORB 1052, Page 547 for 822.02 feet to a curve to the left, radius 5884.58 feet, Delta Angle 4° 52' 35", chord 500.68 feet, chord bearing N. 23° 01' 41" W.; Thence northwesterly along the easterly right of way of said S.R. 45 (U.S. 41, Tamiami Trail, 155.0 feet from centerline) and along the arc of said curve for 500.83 feet; Thence N. 89° 37' 46" E. along the north line of said Section 22 and along the north line of said Parcel 4 and said Parcel 1 for 2308.89 feet to the north quarter corner of said Section 22; Thence N. 89° 50' 44" E. along the north line of Section 22 and said parcel 1 for 2640.89 feet to the Point of Beginning.

Containing 377.204 acres more or less, subject to any easements, restrictions, reservations, or rights of way of record. Bearings are assumed. Bearing in description for S.R. 45 is N. 15° 49' 59" W. and is N. 15° 38' 10" W. on Right of Way Map.

LESS THE FOLLOWING;

A tract of parcel of land lying in Section 22, Township 43 South, Range 24 East, Lee County, Florida, said tract being part of Lot 1, Block 2, Tamiami City, as Recorded in Plat Book 9 at Page 7 of the Public Records of Lee County, Florida, also described as Parcel 4, as Recorded in Official Record Book 1052 at Page 547, described as follows:

From the northeast corner of said Section 22; Thence S. 89° 50' 45" W. along the north line of Section 22 for 2640.89 feet to the north quarter corner of said Section 22; Thence S. 89° 37' 46" W. along said north line of Section 22 for 1319.70' to the Point of Beginning; Thence S. 0° 35' 10" W. along the east line of said Lot 1 for 138.76 feet; Thence S. 74° 10' 01" W. along the southeasterly line of said Lot 1 for 860.63 feet to a curve to the left, radius 5884.58 feet, (delta angle 03° 53' 58", chord 400.43 feet, chord bearing N. 23° 31' 00" W.); Thence northwesterly along the easterly right of way of S.R. 45 (U.S., Tamiami Trail, 155.0 feet from centerline) and along the arc of said curve for 400.50 feet; Thence N. 89° 37' 46" E. along the said north line of Section 22, Parcel 4 and Lot 1 for 989.19 feet to the Point of Beginning.

Containing 5.475 acres more or less.

Subject to any easements, restrictions, reservations, or rights of way of record.

Bearings are assumed, bearing in parent tract description for S.R. 45 is N. 15° 49' 59" W. and is N. 15° 38' 10" W. on Right of Way Map.

WHEREAS, proper authorization has been given to Matt Uhle of Bigelow & Winesett, Attorneys at Law, by Reynaldo Mayor, the contract purchaser of the subject parcel, and by M. H. Jebai, the fee simple owner, 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 Zoning Board, with full consideration of all the evidence available to the Zoning Board; and

WHEREAS, the Lee County Zoning Board fully reviewed the matter and recommended approval of a district boundary change from AG to Residential Planned Development with conditions and with findings of fact as contained in staff summary report dated March 14, 1986 (with conditions 1, 2, 3 and 4 to be accomplished prior to plan resubmission), to permit a mobile home residential development of 1300 units not to exceed 15 feet in height, and a clubhouse not to exceed 35 feet in height, on 371.72 acres of land; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and

WHEREAS, in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the Staff, the Local Planning Agency, the Zoning Board, the documents on file with the County, and the testimony of all interested persons:

LEGISLATIVE HISTORY:

The LPA found the request consistent with the Lee Plan on March 18, 1986. On March 25, 1986, the Zoning Board recommended approval of a district boundary change from AG to Residential Planned Development with conditions and with findings of fact as contained in the staff summary report dated March 14, 1986, with conditions 1, 2, 3 and 4 to be accomplished prior to plan resubmission. The Board of County Commissioners heard this case on May 12, 1986, and deferred it because staff had not yet been able to work out the traffic issue with the developer concerning two proposed arterial roads. Other issues of concern included hurricane preparedness, low water pressure from the Lee County Utilities lines, density, and future utility easements. The staff recommended approval of the requested rezoning subject to ten conditions, approval of requested deviations (1), (2), and (3), and partial approval of requested deviation (4) for the southerly portion of the line where the north-south road running along the section line between Sections 22 and 23 bends to the east to run along the eastern boundary line of the adjoining Sans Souci Mobile Home Park. On June 23, 1986, the Board of County Commissioners granted a district boundary change to RPD based on comments made that day, and the agreement that the road construction would commence within four years, with completion being within 180 days. The name of this development has been changed to "Sabal Springs" to avoid a conflict with an existing mobile home park.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS AS THE ZONING APPEALS BOARD, that the Zoning Appeals Board does hereby grant a district boundary change in the AG district to Residential Planned Development, subject to the following conditions:

1. Prior to final plan approval, the applicant shall make acceptable provisions for off-setting any added net public costs or premature commitment of public funds needed to provide appropriate levels of fire protection service for this development. In particular, the applicant shall make necessary arrangements with the North Fort Myers Fire District to off-set a proportionate share of the cost of the new local fire station (including land, buildings and equipment) planned by the North Fort Myers Fire District. Said fire district may apply these monies toward a more comprehensive facility that provides district-wide services.

2. Prior to final plan approval, the applicant shall flag the wetland/upland line of demarcation for review by county staff. The applicant shall modify the project site plan where necessary to preserve the wetlands areas, including all "Resource Protection Areas" and "Transition Zones", except where needed for public arterial roads.
3. Site planning shall encourage the preservation of trees. The precise location of roads, parking areas, structures, excavations and golf facilities may be altered during construction to preserve trees through an administrative modification to an RPD under the provisions of Section 626 of the Zoning Regulations.
4. Prior to development completion, the following shall be provided in order to mitigate hazard occurrences and to insure Comprehensive Plan compliance:
 - A. Hurricane Evacuation
 - (1) Establish and maintain a condominium or homeowner's association to provide a program of education and information to the residential population, describing the risks of environmental hazards, as well as the action necessary to mitigate the dangers which these hazards present.
 - (2) Construct an emergency shelter for 45% of the potential population. Shelter shall be elevated to a minimum height equal to or above worst-case category three storm flooding level, utilizing the National Weather Service's storm surge model "SLOSH".
 - (3) Provide shelter space at a ratio of 20 square feet per person.
 - B. Emergency Medical Services

At the completion of development construction or each phase thereof, a development representative shall contact Lee County Emergency Medical Services to discuss the designation of emergency helicopter landing zones, provide a site plan depicting the official street names and building addresses within the development, and other pertinent information deemed necessary.
5. This approval shall permit, in addition to mobile homes and their customary accessory uses: recreational and water management facilities, a temporary sales office, model units, signs as permitted by current regulations, and gatehouses. Any security gate or similar device that is not manned 24 hours per day must be provided with an override switch installed in a glass-covered box for the use of emergency vehicles. Lot sizes and setbacks shall be the same as for the MH-2 zoning district generally.
6. Final plans shall be in conformance with the Development Standard Regulations, and other development regulations in effect, except for deviations (1), (2), and (3) as shown on the master Concept Plan dated June 17, 1986, (unless future variances are requested and approved). Deviation (4) is hereby denied, except for any portion of the southerly end of the section line between Sections 22 and 23 where the future arterial roadway bends to the east and thereby not following the section line.
7. The applicant shall modify the project Master Concept Plan to show a 100-foot right-of-way along the northern boundary line of the entire project. The applicant shall also dedicate the subject 100-foot right-of-way and construct an arterial roadway from U.S. 41 (S.R. 45) through, but not beyond, the intersection of the future roadway with the north-south section line of Sections 22 and 23. This intersection shall be constructed to the specifications of the County Engineer. This 100-foot right-of-way will be accepted in lieu of the projected 150-foot right-of-way only if:
 - (A) the Lee County Electric Co-op approves, in writing, the use of its powerline easement for a drainage swale as shown on the attached cross section, and
 - (B) the buffer along the mobile home park adjacent to the roadway includes drainage provisions, and that the subject project accepts all stormwater runoff from the roadway and includes it as part of its stormwater management plan.

If the applicant cannot fulfill the above conditions, the applicant shall amend the Master Concept Plan to provide a 150-foot right-of-way and construct the proposed arterial as prescribed by the County Engineer. Credits for the right-of-way dedicated and the roads constructed by the developer shall be the amount in excess of that which is normally required for the proposed development by the Development Standards Ordinance.

8. The applicant shall commence construction of the proposed east-west arterial running along the northern property line of the site within four years of the approval of this project. The proposed road shall be completed within 180 days of construction commencement.
9. The applicant shall modify the Master Concept Plan to show a 150-foot right-of-way along the section line running generally along the line between Sections 22 and 23. This right-of-way shall curve to the east as specified by the County Engineer in order to avoid disruption of existing adjacent development. The applicant shall be required to provide a portion of the drainage swale within a 40-foot buffer adjacent to east side of the roadway, as shown on the attached cross-section. Credits for the right-of-way dedicated and the roads constructed by the developer shall be the amount in excess of that which is normally required for the proposed development by the Development Standards Ordinance.
10. No permit authorizing the construction or move-on of buildings or mobile homes shall be granted to the applicant until such time as a potable water source which will not adversely affect the capacity or pressure of the Lee County Utilities system has been provided. This source may include the upgrading of the Lee County Utilities system, or contributions thereto. Any application for a development order shall specify the source of potable water for the project, and shall include as a plan specification the foregoing limitations upon permit issuance. If the proposed potable water source is the Lee County Utilities system, the Director of the system shall determine whether the proposed connections from the subject project will adversely affect the system's capacity or pressure, prior to the issuance of building or move-on permits.
11. Deviations (1), (2), and (3) are hereby APPROVED; and deviation (4) is PARTIALLY APPROVED for that portion of the section not required by the County Engineer for roadway purposes (see Condition #9).

Site Plan SP-86-63 dated June 17, 1986, 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 zoning:

- 1) The proposed use or mix of uses is appropriate at the subject location; and
- 2) The proposed development is consistent with the adopted Lee Plan, in that:
 - (a) The land use change meets or exceeds the applicable performance and locational standards; and
 - (b) Urban Services, as defined by the Lee Plan, are (or will be) available and adequate to serve the proposed land use change; and
 - (c) The land use change complies with the densities and general uses set forth in the Lee Plan; and
 - (d) The land use change will protect, conserve, or preserve environmentally critical areas and natural resources; and
 - (e) The land use change is compatible with existing or planned land uses, and would not cause damage, hazard, or nuisance, or other detriment to persons or property; and

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- (f) The location of the proposed land use change does not place an undue burden upon existing transportation and other services and facilities, and will be served by streets of a capacity sufficient to carry traffic generated by the development; and
- 3) Sufficient safeguards to the public interest are provided by the recommended conditions to the Concept Plan or by other applicable regulations; and
- 4) All recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

The following findings of fact were required in conjunction with the requested deviations:

Approval of the deviations as provided in this Resolution enhances the planned development objectives, and preserves and promotes the general intent of the regulations, to protect the public health, safety, and welfare.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Fussell, and seconded by Commissioner Eastwood and, upon being put to a vote, was as follows:

Porter J. Goss	Aye
Roland Eastwood	Aye
Mary Ann Wallace	Absent
Bill Fussell	Aye
Donald D. Slisher	Aye

DULY PASSED AND ADOPTED this 23rd day of June, A.D., 1986.

ATTEST
CHARLIE GREEN, CLERK
BY: Mary Armentrout
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA
BY: Bill Fussell
Chairman

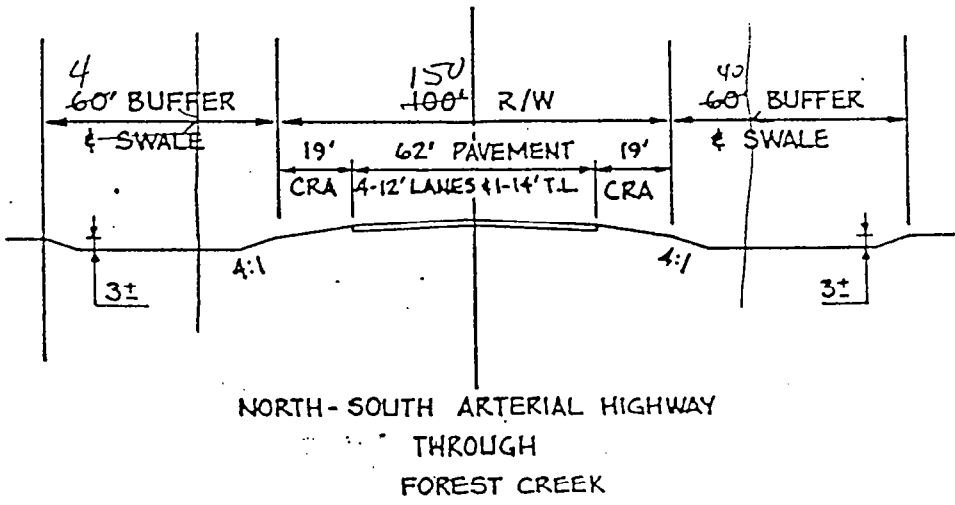
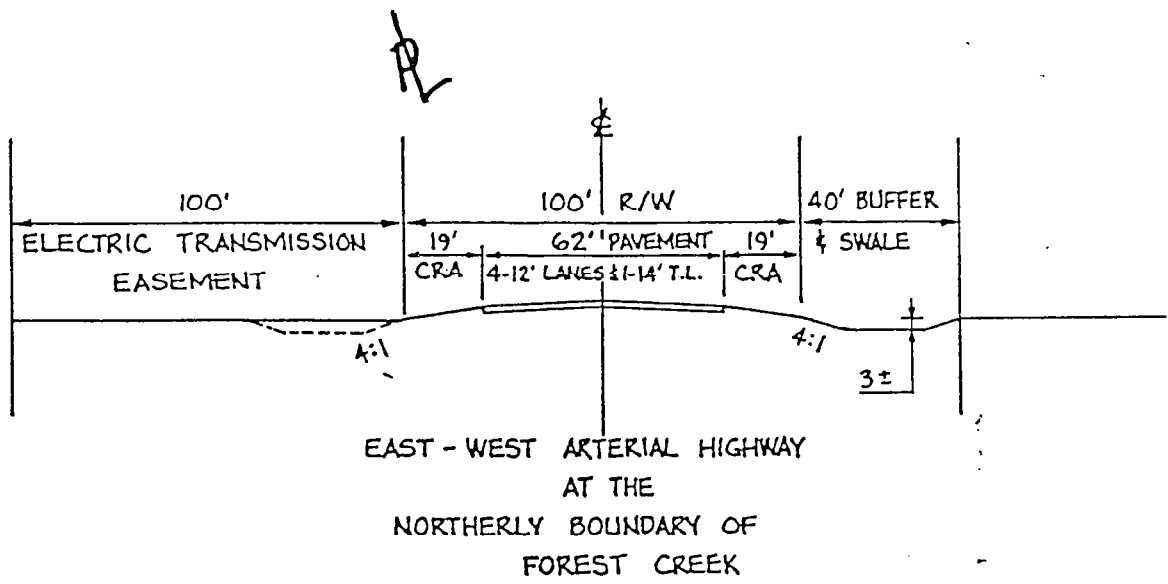
Approved as to form by:
[Signature]
County Attorney's Office

FILED

DEC. 12, 1986

CLERK CIRCUIT COURT
BY: M. Armentrout D.C.

REC 1886PG2663



Dec 19 2 20 PM '86

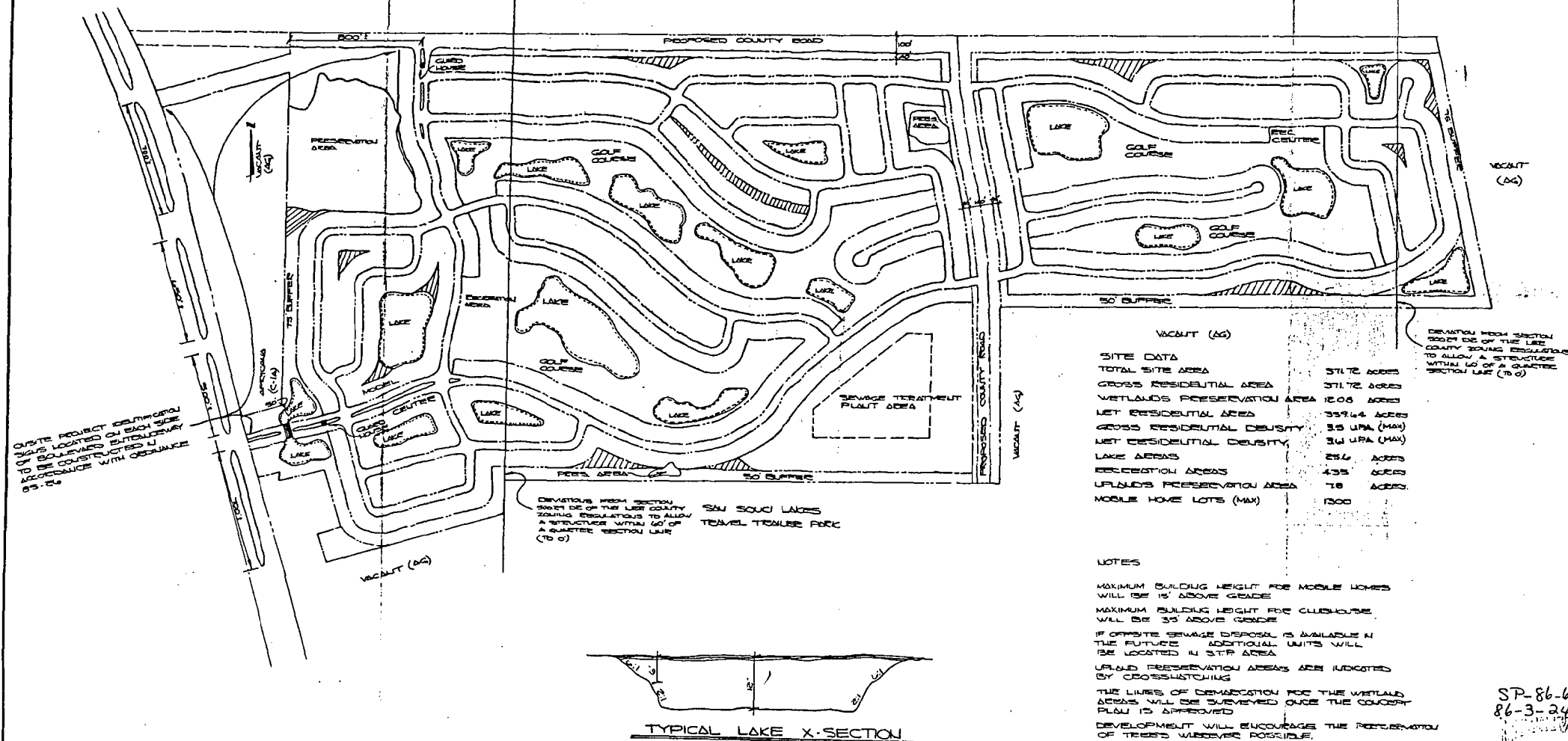
RECORDED AND RECORDED VERIFIED
CLERK CIRCUIT COURT
LEE COUNTY FLA

INK ENGINEERING, INC.
260 PROFESSIONAL PLACE
NORTH FORT MYERS, FLORIDA
(813) 995 - 8500 33903

HIGHWAY SECTION

Forest Creek
Sec. 22 & 23, T43S, R24E
Lee County, Florida

86-3-24 DCI



NOTES

MAXIMUM BUILDING HEIGHT FOR MOBILE HOMES
WILL BE 15' ABOVE GRADE

MAXIMUM BUILDING HEIGHT FOR CLUBHOUSE
WILL BE 35' ABOVE GRADE

IF OFFSITE SEWAGE DISPOSAL IS AVAILABLE IN THE FUTURE ADDITIONAL UNITS WILL BE LOCATED IN S.T.P. AREA

UPLAND PRESERVATION AREAS ARE INDICATED
BY CROSSHATCHING

THE LINES OF DEMARCATION FOR THE WETLAND
AREAS WILL BE SURVEYED ONCE THE CONCEPT
PLAN IS APPROVED

DEVELOPMENT WILL ENCOURAGE THE PRESERVATION
OF TREES WHEREVER POSSIBLE.

SP-86-63
86-3-241

JUL 17 1984

DEPT. OF COMM. DEV.

PRINTED ON
JUN 17 1986

MASTER SITE PLAN
FOREST CREEK
SECTIONS 26, 27, 28 TWP. 13S. RANGE 21E
LEE COUNTY, FLORIDA
ROSALDO SILVERA

DWG. NO.
8510

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