OFF REC 1910 PG 1290

21.00 Billed

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

2258564

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

WHEREAS, John E. States has properly filed an application on a project known as Bayshore I-75 Land Trust for A rezoning from AG-2 to Commercial Planned Development, to permit a mixed-use commercial development on a total of 25.69 acres of land, with up to 130,000 gross square feet, and a motel/hotel of up to 182 rooms. Buildings in the proposed development will not exceed 75 feet above minimum flood elevation with not more than six (6) habitable floors, and may include restaurants, a truck stop, gasoline sales, offices, warehousing, distribution, financial and business services, and consumption on premises of alcoholic beverages; and

WHEREAS, the subject property is located south of Bayshore Road and just west of I-75, described more particularly as:

LEGAL DESCRIPTION: In Section 21, Township 43S, Range 25E, Lee County, Florida:

> A parcel of land situated in the State of Florida, County of Lee, being a part of southeast one quarter (SE ¼) of Section 21, Township 43 South, Range 25 East, and further bounded and described as follows:
>
> Starting at an iron pip at the southwest corner of said southeast one quarter (SE ¼); thence S89° 18' 14" E along the southerly line of said fraction for 433.00 feet to the Point of Beginning; thence N 00° 26' 43" parallel with and 433.00 feet east of the west line of said fractionfor 1250.84 feet to the southerly right-of-way line of Bayshore Road thence S 86° 01' 30" E along said right-of-way line for 113.81 feet to an iron rod (with D.O.T. cap); thence S 00° 33' 06" W along said right-of-way line for 60.00 feet to an iron rod (with D.O.T. cap); thence S 89° 22' 43" E along said right-of-way line for 514.47 feet to an iron rod (with D.O.T. cap); thence S 85° 47' 08" E along said right-of-way line for 306.90 feet to an iron rod (with D.O.T. cap); thence S 72° 40' 01" along said right-of-way line for 5.00 feet to a line parallel with and 33.00 feet east of the east line of the southwest one quarter (SW ¼) of said southeast one quarter (SE ¼); thence S 00° 14' 30" W along said parallel line for 1164.76 feet to the south line of said southeast one quarter (SE ¼); thence N 89° 18' 14" W along said south line for 943.12 feet to the Point of Beginning.
>
> Description and survey based on the following descriptions:
>
> O.R. 518, Page 802
> O.R. 1520, Page 655
> O.R. 563, Page 514
> O.R. 891, Page 587
> O.R. 751, Page 484
> O.R. 1107, Page 385
> O.R. 455, Page 581
> O.R. 217, Page 287

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 21-43-25-00-00007.0080,

21-43-25-00-00007.0040,

21-43-25-00-00007.0020,

21-43-25-00-00007.0060,

21-43-25-00-00007.0090; and

WHEREAS, proper authorization has been given to Stephanie Keyes, AICP, by Jeff Cagan, Dale Stahlman, and John E. States, the trustees 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 Planning and Zoning Commission, with full consideration of all the evidence available to the Planning and Zoning Commission; and

WHEREAS, the Lee County Planning and Zoning Commission fully reviewed the matter and recommended to approve the request with conditions, based on the analysis contained in the summary report dated October 24, 1986 and the testimony given at the November 3, 1986 Planning and Zoning Commission hearing; 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 Planning and Zoning Commission, the documents on file with the county, and the testimony of all interested persons:

LEGISLATIVE HISTORY:

> The Planning and Zoning Commission found the request to be consistent with the Lee Plan. The applicant intends to develop a commercial subdivision in the "General Interchange" land use category. Most of the requested uses are appropriate for this location and consistent with the Lee Plan. However, four of the requested uses are not appropriate at this location given the intent of the "General Interchange" land use category and good land use practice.
>
> Denial is recommended of the request to allow the maximum height to be 75 feet and six habitable floors, until such time as Bayshore Fire District has equipment to provide adequate fire protection and evacuation of structures of that height. A maximum height of 35 feet above average grade with no more than three habitable floors, unless the Bayshore Fire District states in writing that they have adequate equipment to fight fires and evacuate people from buildings of a greater height is recommended.

Several other developments are proposed for this interchange. The construction of individual package treatment plants for each quadrant is neither efficient nor practical, and is contrary to the unified development concept of the Lee Plan for interchanges. It is recommended that this development not be issued a preliminary development order until an acceptable method of dealing with sewage has been provided. There are several possible solutions to this problem, generally involving the joint use of a single plant. The applicant will have to negotiate with other parties, as it is not desired to bind the applicant to a specific solution at this time.

The Department of Transportation and Engineering has indicated that Bayshore Road is operating at unacceptable levels of service and that the developer should pay a proportionate share of estimated road improvement costs. A condition is recommended to require a cash payment to the county, or construction of road improvements acceptable to the Director of the Department of Transportation and Engineering, to mitigate this impact.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE a rezoning from AG-2 to Commercial Planned Development, to permit a mixed-use commercial development on a total of 25.69 acres of land, with up to 130,000 gross square feet, and a motel/hotel of up to 182 rooms. Buildings in the proposed development will not exceed 75 feet above minimum flood elevation with not more than six (6) habitable floors, and may include restaurants, a truck stop, gasoline sales, offices, warehousing, distribution, financial and business services, and consumption on premises of alcoholic beverages. Approval is subject to the following conditions.

1. One establishment offering consumption-on-premises of alcoholic beverages is approved for this development. Additional consumption-on-premises of alcoholic beverages may be approved by following county procedures in effect at the time of any future application. Other permitted uses are as shown on the Master Concept Plan.

2. No structure shall exceed 35 feet above average grade with three habitable floors, unless the Bayshore Fire District states in writing that they have adequate equipment to fight fires and evacuate people from buildings of a greater height, and states to what height they can provide this protection. In any case, no buildings shall exceed 75 feet or 6 stories above average grade.

3. The developer shall be allowed to dispose of sewage using an on-site package treatment plant or any other method which first is approved by either the Director of Community Development or the Board of County Commissioners.

4. The internal road's location and/or alignment shall be adjusted in order to preserve the two existing Cabbage Palm Hammocks, if necessary.

5. The nature preserve area shown on the Master Concept Plan shall be preserved in its natural state in perpetuity.

6. Ninety percent (90%) of all Live Oaks (Quercus virginiana) and Laurel Oaks (Queraus laurifolia) with 4-inch d.b.h. (diameter

at breast height) or greater, not including those oaks located in the Nature Preserve Area shown on the Master Concept Plan, shall be preserved. (Relocation shall be allowed if 90% survival is guaranteed.)

7. This development is required to make a good-faith effort to connect its internal road and water mains to the road and water mains of Bayshore Park (located immediately to the east).

8. This development shall be in general compliance with the Master Concept Plan prepared by Howell F. Davis & Associates, Inc.: dated 8/28/86; project No. 86-558; file No. 21-43-25; printed October 23, 1986; and stamped received October 23, 1986, except as modified by the above conditions.

Site Plan-86-191 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 of zoning:

1) The proposed mix of uses, as modified by the conditions above, is appropriate at the subject location;

2) Sufficient safeguards to the public interest are provided by the recommended conditions and by other applicable regulations; and

3) All recommended conditions are directly related to the impacts on the public interest created by or expected from the proposed development.

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

Porter J. Goss	Absent
Charles L. Bigelow, Jr.	Aye
Mary Ann Wallace	Nay
Bill Fussell	Aye
Donald D. Slisher	Aye

DULY PASSED AND ADOPTED this 8th day of December, A.D., 1986.

ATTEST:
CHARLIE GREEN, CLERK

BY: Lisa L. Price
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Bill Fussell
Chairman

FILED

APR 7 1987

CLERK CIRCUIT COURT
BY Lisa L. Price D.C.

Approved as to form by:

County Attorney's Office

OFF REC 10PG1294

Open Space Required: 30%

Site 1: 2.58± Acres x 30% = 0.77± Acres
Site 2: 1.73± Acres x 30% = 0.52± Acres
Site 3: 3.97± Acres x 30% = 1.18± Acres
Site 4: 6.48± Acres x 30% = 1.93± Acres
Site 5: 1.57± Acres x 30% = 0.47± Acres
Site 6: 1.16± Acres x 30% = 0.35± Acres
Site 7: 1.07± Acres x 30% = 0.32± Acres
Site 8: 0.98± Acres x 30% = 0.29± Acres
Site 9: 2.80± Acres x 30% = 0.84± Acres
Site 10: 1.24± Acres x 30%= 0.37± Acres

*The above areas of sites may change due to alterations in the road plan to avoid trees and due to market conditions.

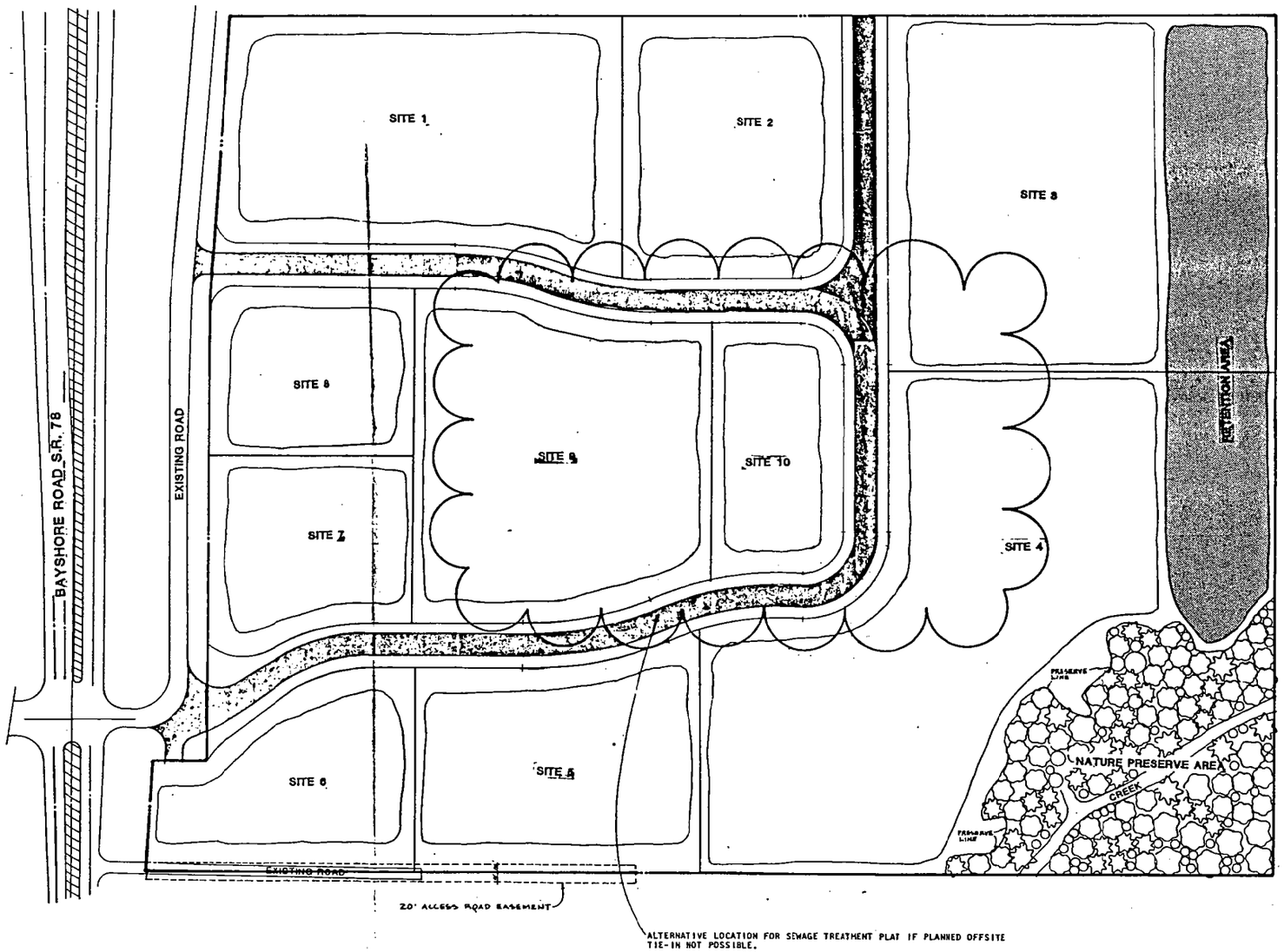
Notes:

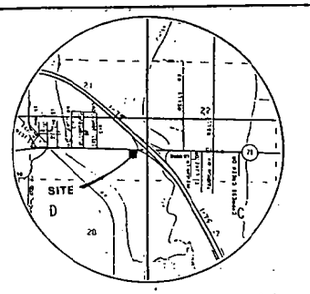
1. Total Area = 25.69± Acres
2. Open Space (see chart).
3. Area of creek and hammock area to be deeded To Lee County = 2.07 AC.
4. Sewer: Existing Offsite Plant
   Water: Lee County Utilities
   Electric: Lee County Co-Op
   Telephone: United Telephone
   Fire Protection: Bayshore Fire Department

CPD Uses (as Established in Sec.34):

Any use permitted by right in the CC District, plus the following uses:

Automotive service stations; automobile rentals and services; bar or cocktail lounges; building material sales; business management services; business services; communication towers; contractors and builders; cultural facilities; essential services; essential service facilities; gasoline and petroleum products storage; nursery facilities for plants and garden supplies; personal services; recreational facilities; restaurants, convenience; restaurants, fast food; restaurants, standard; retail sales; temporary uses; vehicle and equipment dealers; veterinarian, professional services; private uses; health care facilities; hospitals; industrial, nonpredominantly; laundromats; medical offices; motels; motor freight terminals; night clubs; novelty, jewelry, toy and sign manufacturing; public and private parks (Group II); place of worship; printing and publishing; processing and warehousing; commercial recreation; religious facilities; rental establishments (Groups II, III and IV); repair shops, research and development laboratories (Groups II and IV); social services; transportation services; Group V(a); breeding and sale of pets; veterinarian clinics; wireless communication facilities; accessory uses and structures customarily associated with the aforementioned uses; and uses similar to the above uses.





RECORDED AND RECORD VERIFIED
SHERRIE BIRCH, CLERK
LEE COUNTY FLA
APR 16 8 59 AM '87

LEGEND:

INDICATES RETENTION AREA.
INDICATES PROPOSED ROADWAY
INDICATES LIMITS OF ALTERNATIVE LOCATION FOR S.T.P. IF NECESSARY.
INDICATES TREES IN NATURE PRESERVE. NOT EXACT TREE LOCATIONS.

APPROVED
Master Concept Plan
Site Plan # 86-191 Page 1 of 1
Subject to conditions in Resolution Z-86-191
Zoning Case # 86-11-13 DCI

RECEIVED
OCT 23 1986
DEPT. OF COMM. DEV.

MASTER CONCEPT PLAN
FLORIDA INVESTOR'S - BAYSHORE AT I-75

PRINTED
OCT 23 1986

HOWELL F. DAVIS & ASSOCIATES, INC.
CONSULTING ENGINEERS AND SURVEYORS
HFD
6333 McGREGOR BLVD., FORT MYERS, FL 33907 (813) 481-1301

HOWELL F. DAVIS AND ASSOCIATES, INC.

DATE | PROJECT NO | DRN BY | SCALE | FILE NO