RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, Gulf Paving Company, Inc., represented by Construction Burning, Inc., has properly filed an application for a rezoning from IL to Industrial Planned Development, to permit an incineration use and ancillary office not to exceed 35 feet above average grade, on 9.11 total acres of land. The proposed development will also include open storage of vegetation to be incinerated.

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

(1) Minimum required lot width for an industrial use of 100 feet (Zoning Ordinance Section 472.02.C.1.a.), and the prohibition of flag lots (DSO Section C.2.d.(3)], to allow a minimum lot width of 60 feet and to legitimize the existing flag lot; and

WHEREAS, the subject property is located at 16351 Old US 41, described more particularly as:

LEGAL DESCRIPTION: In Section 06, Township 46 South, Range 25 East, Lee County, Florida:

A tract or parcel of land lying in the South Half (S½) of the Northwest Quarter (NW¼) of Section 06, Township 46 South, Range 25 East, Lee County, Florida, which tract or parcel is described as follows:

From the Northwest corner of said fraction of a section run S00°22'47"E along the section line for 385.99 feet to a concrete monument marking the intersection with the Northeasterly line (50 feet from the centerline) of former SR 45;
THENCE run S40°31'34"E along said Northeasterly line for 1,027.14 feet to the POINT OF BEGINNING.
From said POINT OF BEGINNING continue S40°31'34"E along said Northeasterly line for 60 feet;
THENCE run N49°28'26"E for 1,007.19 feet to an intersection with the Southwesterly line (65 feet from the centerline) of the Seaboard Coast Line Railroad right-of-way;
THENCE run N32°31'32"W along said Southwesterly line for 525.28 feet to an intersection with the Northerly line of said fraction of a section;
THENCE run N84°29'36"W along said Northwesterly line for 266.06 feet;
THENCE run S05°30'32"W perpendicular to said North line for 938.67 feet;
THENCE run S49°28'26"W for 220 feet to the POINT OF BEGINNING.

SUBJECT to an easement for drainage and public utilities 10 feet wide along all boundaries of the herein described parcel. Bearings hereinabove mentioned are from the centerline survey of new SR 45.

SUBJECT also to easements, restrictions and reservations of record.

WHEREAS, the applicant has indicated the property's current STRAP number is 06-46-25-00-00003.0010; and

WHEREAS, proper authorization has been given to Construction Burning, Inc., by Gulf Paving Company, the owner of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, proper authorization has been given to Humphrey & Knott, P.A., formerly known as Humphrey & Myers, P.A., by Gulf Paving Company, 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

WHEREAS, the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on May 8, 1990, May 23, 1990 and June 1, 1990; 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 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 IL to Industrial Planned Development.

This approval of Industrial Planned Development zoning is subject to the following conditions:

1. The development of the subject property shall be in accordance with the one page Master Concept Plan entitled "Construction Burning" (October '89, stamped received February 26, 1990), except as modified herein.

2. Permitted uses are as follows:

   a. Salvage and Disposal of Materials. The only use permitted on the subject real estate is the storage and incineration of vegetation in the presence of trained and qualified operators of any incineration equipment employed. No other material shall be incinerated other than vegetation.

   b. Administrative Office (not to exceed 2,500 gross square feet)

   c. Open Storage (limited to vegetation to be incinerated only)

3. At the time of review by the Division of Development Review for a development order or exemption, a traffic impact study shall be provided for review by the Department of Transportation and Engineering sufficient to enable them to determine if compliance with Lee County Turn Lane Policy is required.

4. At the time of application for a development order or exemption, a plan shall be submitted to the Division of Environmental Sciences for the removal of exotic vegetation and the utilization of existing native vegetation in all open space and buffers

5. Prior to issuance of the exemption or development order as required by the Division of Development Review, fencing shall be provided which will prevent unauthorized access and illegal dumping.

6. Storage of any materials which could contaminate surface or groundwater shall be prohibited except for fuel to be used by or contained within the air curtain incinerator itself, or vehicles.

7. Any on-site equipment maintenance shall only be conducted in a manner which is properly contained so as to minimize the potential for surface or groundwater contamination.

8. Operation of the incinerator shall not begin until such time as all Code violations have been abated and development order or exemption acquired.

9. In accordance with the recommendation of the Six Mile Cypress Board, no grade changes affecting surface water flow, no removal of native vegetation and no construction of any permanent structures shall be permitted without the prior review and recommendation of said Board.

10. Prior to application for a development order or exemption, the Applicant shall submit a standby fire protection plan to the Division of Development Review for approval and such plan shall include provision for adequate water on site at all times during the operation of the incinerator. Compliance with the requirements, terms and conditions of the approved plan is a condition of approval for the IPD.

11. The incinerator shown on the Master Concept Plan shall be relocated prior to Final Plan approval to a central location on the plan.

12. Deviation (1) is hereby APPROVED.

Site Plan 90-043 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 Industrial Planned Development zoning:

A. That the real estate which is the subject of this application is correctly described on page one of this document.

B. That the proposed Industrial Planned Development in this document and subject only to those deviations approved in this document:

1. Will have a neutral impact on the intent of the Zoning Ordinance.
2. Is consistent with the relevant goals of the Lee Plan.
3. Is consistent with the relevant objectives of the Lee Plan.
4. Is consistent with the relevant policies of the Lee Plan.
5. Is consistent with the intent of the Lee Plan.
6. Meets the performance and locational standards set out in the Lee Plan.

7. Is consistent with the densities, intensities and general uses set forth in the Lee Plan.
8. Will protect, conserve and preserve environmentally critical areas and natural resources.
9. Will be compatible with existing uses in the same zoning category and will not cause damage, hazard or nuisance or other detriment to persons or property.
10. Will not, by virtue of its location, place an undue burden upon existing transportation services, or upon government services or facilities.
11. Will be served by streets and roads with the apparent present capacity to serve the development.
12. Will be in apparent compliance with all applicable general zoning provisions and supplemental regulations pertaining to the requested use.

C. That owners of neighboring property believe that allowing this use on the subject real estate will have a negative impact on the value of their property if their property is utilized for residential purposes and are concerned about the possibility of uncontrolled fires spreading to adjoining real estate and about the presence of three tanks for various flammable liquids located on the subject property.

D. That the following uses are allowed, as a matter of right, in the existing IL zoning district & should be compared with the proposed use in determining the nature and extent of the actual impact of the proposed change in use on the surrounding property:

ADMINISTRATIVE OFFICES
AUTOMOTIVE REPAIR AND SERVICE - Groups I and II
BROADCASTING STUDIO, COMMERCIAL RADIO & TELEVISION
BUILDING MATERIALS - SALES
BUSINESS SERVICES - Group II
CLEANING AND MAINTENANCE SERVICES
COLD STORAGE, PRE-COOLING
CONTRACTORS AND BUILDERS - Groups I and II, excluding asphalt or concrete batch plants
ENTRANCE GATES AND GATEHOUSES
ESSENTIAL SERVICES
ESSENTIAL SERVICE FACILITIES
EXCAVATION, water retention
GASOLINE DISPENSING SYSTEMS, SPECIAL
GOVERNMENT SERVICES
LAUNDRY OR DRYCLEANING - Group II
MACHINE SHOP
MANUFACTURING/REPAIR OF:
- APPAREL
- ELECTRICAL MACHINERY AND EQUIPMENT
- FOOD AND KINDRED PRODUCTS - Group III
- FURNITURE AND FIXTURES
- LEATHER AND LEATHER PRODUCTS - Group II
- LUMBER AND WOOD PRODUCTS - Groups II and IV
- MEASURING, ANALYZING, AND CONTROLLING INSTRUMENTS
- NOVELTIES, JEWELRY, TOYS, SIGNS
- PAPER AND ALLIED PRODUCTS - Group II
- RUBBER AND PLASTIC PRODUCTS - Group II
- STONE, CLAY, GLASS AND CONCRETE - Group I
- TEXTILE MILL PRODUCTS - Groups I and II

MARINA - existing only
MOTION PICTURE PRODUCTION STUDIO
PLACE OF WORSHIP
PRINTING AND PUBLISHING
PROCESSING AND WAREHOUSING
RELIGIOUS FACILITIES
RENTAL ESTABLISHMENTS - Group II
REPAIR SHOPS - all groups
RESEARCH AND DEVELOPMENT LABORATORIES - Groups II and IV

RESTAURANT, STANDARD - Group II
SIGNS, provided such signs comply with Lee County Sign Ordinance
STORAGE, INDOOR, ENCLOSED
TOWERS, COMMUNICATION
TRANSPORTATION SERVICES - Groups II, III and IV
VEHICLE AND EQUIPMENT DEALERS - Group V
WAREHOUSING, PUBLIC and PRIVATE
WAREHOUSE, MINI
WHOLESALE ESTABLISHMENTS - Groups III & IV; Group VI - existing only

D. That the Applicant intends to open the facility to private individuals at a $5.00 per load price in order to encourage private citizens to use the facility rather than taking vegetative matter to the landfill.

E. That the Florida Department of Environmental Regulation and the Florida Department of Agriculture, Division of Forestry are the primary regulators for this type of use in the State of Florida.

F. That the proposed use is now in successful operation in other parts of the State of Florida and that the applicant presented various exhibits describing the technology the Applicant plans to employ if this rezoning is approved.

G. That Staff has contacted the San Carlos Fire District with respect to the proposed use.

H. That the real estate which is the subject of this request is approximately 9.0 acres in size and that this is adequate for the intended purpose as it is described in the application for rezoning.

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

John E. Manning	AYE
Douglas St. Cerny	AYE
Ray Judah	NAY
Bill Fussell	AYE
Donald D. Slisher	AYE

DULY PASSED AND ADOPTED this 13th day of August, A.D., 1990.

ATTEST:
CHARLIE GREEN, CLERK

BY: Clare J. Wauck
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: J Manning
Chairman

Approved as to form by:

County Attorney's Office

FILED
SEPT 1 3 90
CLERK CIRCUIT COURT
BY C. Wauck D.C.

90-5-8-DCI-4

EDD Canal

NORTH 1"=100'

N. 84°29'36"W. 266.06'

1/4 1/4 SECTION LINE

130' R/W

SEABOARD COAST LINE RAILROAD R/W

N. 32°31'32"W. 525.28'

Equip. Storage

INCINERATOR LOCATION

65'±

370'±

LOT 1

LOT 5

S. 05°30'24"W. 938.67'

240'±

50'

Surface Flow

Traffic Flow

Material Storage

Office Site

40'

1007.19'

N. 49°28'26"E.

LOT 6

RECEIVED
FEB 26 1990
ZONING COUNTER

NW CORNER OF THE S 1/2 OF NW 1/4 OF SEC. 6-46-25

LOT 4

1/4 1/4 SEC. LINE

S. 00°22'47"E. 385.99'

SECTION LINE AND RANGE LINE

S. 40°31'34"E. 1027.14'

100' R/W

S. 49°28'26"W. 220.00'

P.O.B.

220'

LOT 7

S. 40°31'34"E. 60.00'

OLD 41 ROAD
(FORMERLY OLD TAMIAMI TRAIL - S.R. 45)

650.00'

THOMAS RD.

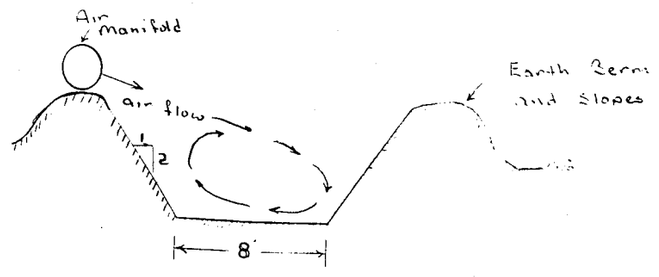
1. Schedule of Uses

DISPOSAL OF MATERIALS (to include incineration of untreated wood products only)

ANCILLARY USES RELATED TO PRINCIPAL USE:
STORAGE, OPEN (limited to untreated wood and vegetation only)
ADMINISTRATIVE OFFICE (not to exceed 2500 sq. ft.)

2. Deviation

MINIMUM LOT WIDTH FOR AN INDUSTRIAL USE FROM 100 FT. (472.02.C.1.a) TO 60 FT.



Trench Thru Section

SKETCH OF DESCRIPTION FOR ZONING PURPOSES

APPROVED
Master Concept Plan
Site Plan # 90-043 Page 1 of 1
Subject to conditions in Resolution 2-90-043
Zoning Case # 90-5-8-DCI-4

LEGAL DESCRIPTION:

A tract or parcel of land lying in the South half (S 1/2) of the northwest quarter (NW 1/4) of Section 6, Township 46 South, Range 25 East, Lee County, Florida, which tract or parcel is described as follows: From the northwest corner of said fraction of a section run S 00°22'47" E along the section line for 385.99 feet to a concrete monument marking the intersection with the northeasterly line (50 feet from the centerline) of former State Road No. 45; thence run S 40°31'34" E along said northeasterly line for 1027.14 feet to the point of beginning. From said point of beginning continue S 40°31'34" E along said northeasterly line for 60 feet; thence run N 49°28'26" E for 1007.19 feet to an intersection with the southwesterly line (65 feet from the centerline) of the Seaboard Coast Line Roadroad right-of-way; thence run N 32° 31'32" W along said southwesterly line for 525.28 feet to an intersection with the northerly line of said fraction of a section; thence run N 84° 29' 36" W along said northwesterly line for 266.06 feet; thence run S 5°30'24" W perpendicular to said north line for 938.67 feet; thence run S 49°28'26" W for 220 feet to the point of beginning.

SUBJECT to an easement for drainage and public utilities 10 feet wide along all boundaries of the herein described parcel. Bearings hereinabove mentioned are from the centerline survey of new State Road No. 45.

Subject also to easements, restrictions and reservations of record and taxes for the year 1979.

CONSTRUCTION BUILDING
OCT. '89