

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

WHEREAS, Mohamed Jebai & Sabal Springs Golf & Racquet Club, in reference to Sabal Springs Commercial Center has properly filed an application for a rezoning from AG-2 and Residential Planned Development to Commercial Planned Development to permit 46,000 square feet of office and commercial space in a maximum of 4 buildings, not to exceed 2 stories in height, on 11.53 acres of land.

NOTE: If approved, the Master Concept Plan will deviate from the following Lee County Standards:

- (1) Minimum required intersection separation along arterial streets of 660 feet (DSO Section C.3.H.), to 453 feet along US 41;
- (2) Minimum required intersection separation along arterial streets of 660 feet (DSO Section C.3.H.), to 485 feet on the proposed arterial road;
- (3) Minimum required C/D type buffer (DSO Table C-4) where proposed commercial abuts residential to no buffer between Area D, the dry retention area and the south property line;
- (4) Minimum required intersection separation along local streets of 125 feet (DSO Section C.3.H.), to 100 feet for proposed access to development areas A, C, and D; and 95 feet for proposed access to development area B; and
- (5) Minimum required right-of-way width for the proposed arterial as shown on the Official Trafficways map (DSO Section C.3.M.) from 150 feet to 100 feet and thereby reduce the required setbacks of one-half the right-of-way, or 75 feet, (202.B.2.a.) plus 25 feet to 50 feet plus 25 feet; and

WHEREAS, the subject property is located at 17970 North Tamiami Trail, described more particularly as:

LEGAL DESCRIPTION: In Section 22, Township 43 South, Range 24 East, Lee County, Florida:

A tract or parcel of land lying in Section 22, Township 43 South, Range 24 East, Lee County, Florida, said tract being part of Lots 1 and 2, Block 2, Tamiami City, as recorded in Plat Book 9, Page 7 of the Public Records of Lee County, Florida, described as follows:
From the Northwest corner of said Section 22;
THENCE N89°49'30"E along the North line of said Section 22 for 330.08 feet to the Easterly right-of-way of SR 45 (US 41, Tamiami Trail, 155 feet from centerline) and the POINT OF BEGINNING;
THENCE continue N89°49'30"E along the North line of said Section 22 for 989.34 feet;

continued ...

THENCE S00°48'55"W along the Easterly lot lines of said Lots 1 and 2 for 241.66 feet;
THENCE S74°21'50"W along the Southeasterly line of said Lot 2 for 822.56 feet to a curve to the left, radius 5,884.58 feet (delta angle 04°51'52', chord 499.44 feet, chord bearing N22°49'47"W) and the Easterly right-of-way of said SR 45;
THENCE Northwesterly along the Easterly right-of-way of SR 45 and along the arc of said curve for 499.59 feet to the POINT OF BEGINNING.

CONTAINING 7.382 acres±

SUBJECT TO easements, restrictions, reservations, or rights-of-way of record.

AND

A parcel or tract of land in Section 22, Township 43 South, Range 24 East, Lee County, Florida more particularly described as follows:
COMMENCE at the Northwest corner of said Section 22;
THENCE N89°49'30"E along the North line of said Section 22 for 1,319.42 feet to the POINT OF BEGINNING;
THENCE continue N89°49'30"E along the North line of said Section 22 for 609.44 feet;
THENCE S00°10'30"E for 290.12 feet to the point of curvature of a curve to the left;
THENCE Southerly along the arc of said curve having for its elements a radius of 322.50 feet and a central angle of 02°53'42" for 16.29 feet;
THENCE N68°49'32"W for 199.85 feet;
THENCE N84°09'24"W for 44.83 feet;
THENCE S72°59'40"W for 45.65 feet;
THENCE N68°46'01"W for 44.94 feet;
THENCE S62°49'33"W for 63.27 feet;
THENCE S46°37'16"W for 224.11 feet;
THENCE S70°57'00"W for 86.02 feet to an intersection with the West line of the East Half (E½) of the Northwest Quarter (NW¼) of the aforementioned Section 22;
THENCE N00°48'55"E along said West line for 435.80 feet to the POINT OF BEGINNING.

CONTAINING 4.152 acres±.

SUBJECT TO any easements, restrictions, reservations, or rights-of-way of record.

WHEREAS, the applicant has indicated the property's current STRAP numbers are: 22-43-24-01-00002.0010, and
22-43-24-00-00001.0000; and

WHEREAS, proper authorization has been given to Winesett, Avery, Dupree & Whigham, P.A., by Mohammed H. Jebai and Nabil Gebahi, the fee simple owners 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

HEARING NUMBER 90-3-27-1 DCI

RESOLUTION NUMBER Z-90-031
Page 2 of 9

WHEREAS, the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on March 27, 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 AG-2 and Residential Planned Development to Commercial Planned Development.

This approval 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 "Sabal Springs Commercial Center" (drawing number 8510, printed January 2, 1990, stamped received January 8, 1990 by the Zoning Division) as prepared by Ink Engineering, Inc. except as modified by the conditions herein.
2. Allowable uses are as follows:

Out Parcels A & B

Administrative Offices
Automatic Teller Machine
Automobile Service Station
Banks and Financial Institutions - All Groups and including drive-thru for bank or financial institution use only
Bar or Cocktail Lounge
Business Services - All Groups
Car Wash
Clubs, Commercial or Fraternal Membership Organizations
Consumption on Premises
Convenience Food and Beverage Stores
Essential Services
Government Services (excluding animal control facility, maintenance facility or mass transit maintenance facility)
Music Store
Night Club
Package Store
Recreation, Commercial - Group I
Religious Facilities
Restaurant, Standard - All Groups
Restaurant, Fast Food
Self Service Fuel Pump Station
Signs (in accordance with Lee County Sign Ordinance)
Storage, Indoor

Development Area C

Administrative Offices
Auto Parts Store - No Installation Service
Broadcasting Studio, Commercial, Radio & Television

Business Services - All Groups
 Camera Shop
 Clothing Stores
 Department Store
 Drug Store
 Essential Services
 Food Stores - Group I
 Gift, Novelty and Souvenir Shop
 Hardware Store
 Hobby, Toy & Game Shops
 Household and Office Furnishings - Groups I & II
 Insurance Companies
 Laundry or Dry Cleaning - Groups I & II
 Music Store
 Newstand
 Offices, Medical
 Paint, Glass & Wall Paper Store
 Personal Service - Groups I, II, and III
 Pet Shop
 Pharmacy
 Recreation, Commercial - Group II
 Rental or Leasing Establishments - Groups I & II
 Repair Shops - Groups I & II
 Restaurant, Standard - All Groups
 Signs (in accordance with the Lee County Sign Ordinance)
 Social Services - Group I
 Specialty Retail Shops - Groups I, II & III
 Storage, Indoor
 Studios
 Used Merchandise Stores - Groups I & II
 Variety Store

Development Area D

Administrative Offices
 Business Services - All Groups
 Essential Services
 Health Care Facility - Groups I, II, & III
 Hospice
 Offices, Medical
 Signs (in accordance with the Lee County Sign Ordinance)
 Social Services - Group I
 Storage, Indoor

3. The proposed 100-foot right-of-way will be accepted in lieu of the projected 150-foot right-of-way shown on the Official Trafficways Map only if:
 - (a) The roadway shall be constructed through the subject property in accordance with the cross-section shown on the approved Master Concept Plan, subject to approval of Lee County Department of Transportation and Engineering and Lee County Division of Development Review; and
 - (b) the buffer along the commercial property 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.
4. The applicant shall dedicate to the County the 100 foot wide area along the northern boundary for right-of-way and construct the arterial roadway, to County standard, from US 41 (SR 45) through the eastern property boundary of the commercial tract. This roadway construction shall be completed prior to issuance of any certificate of compliance for any phase of this project. This does not relieve the developer of the Sabal Springs Golf and Racquet Club from constructing and dedicating the remaining portion of the arterial roadway in accordance with Resolution ZAB-86-63.

5. An exotic vegetation removal program shall be established, subject to the approval of the Division of Environmental Sciences, if such vegetation exists.
6. At time of Final Development Order for any phase of this project, preservation of existing native vegetation and understory shall be demonstrated in all development areas including buffers and open space. Site planning shall encourage the preservation of existing native trees and understory, such that the layout of infrastructure and building pads shall be designed to minimize the removal of such vegetation.

When this is not possible due to conflict with the required streets, parking areas, utilities, buildings, or stormwater management facilities, site revegetation shall include 100% native plantings. The approved planting list shall be based on the FLUCCS Code for the subject property, thereby reestablishing the vegetation which exists in the pre-development state. In all areas disturbed by construction activity, where native vegetation has not been preserved, revegetation shall be required as follows:

- (a) The tree planting ratio of one tree per each five thousand square feet for commercial projects in Development Standards Ordinance Section C.5.e.(1).(c). shall be substituted by a ratio of one tree per 750 square feet of unpaved area. In addition, the size of trees specified under DSO Section C.5.f.(1).(a). shall be substituted by trees no less than 10 feet in height, 2 inch caliper and 3 foot wide crown. Preservation of existing trees and understory shall be credited toward this requirement on a one to one basis.
 - (b) Understory vegetation, shrubs and grasses shall also be planted in the areas disturbed by development activity. Species planted shall be based on the FLUCCS Code for the subject property, and at a density such that in all open areas, a cover of at least 75 percent shall be achieved within a time period acceptable to the Division of Environmental Sciences. The use of sod shall only be permitted in drainage swales to facilitate the conveyance of stormwater. These requirements shall be made part of the Final Development Order Landscape Plans.
 - (c) The dry retention area shall also be planted, although the type and density of the planted vegetation shall be reflective of the hydric conditions experienced in the stormwater management facility and the design function. All vegetation shall be native but not limited to those species represented by the FLUCCS Code.
7. Street trees shall be shown on the Final Development Order Landscape Plan along the proposed arterial road subject to the approval of Lee County Department of Transportation and Engineering, and on both sides of the internal local streets at a ratio of one tree per 50 lineal feet of road length to be spaced at intervals no closer than 20 feet apart and not separated by more than 80 feet. These trees shall be native, canopy-type trees no smaller than 10 feet in height, 2 inch caliper and with a 3 foot crown. This requirement shall in no way be construed to allow plantings which would present a hindrance to the provision of adequate site distance for traffic circulation. Existing native trees which meet or exceed the aforementioned minimum size requirement may be credited towards compliance with this requirement on a one to one ratio basis.

8. All structures, including those developed on the out-parcels, will be bound by covenants running with the property to an architectural design compatible with and similar to existing surrounding land uses, particularly the Sabal Springs Golf and Racquet Club. Building facades and exteriors which represent a particular company logo or symbol shall not be permitted. Such symbols or logos shall be restricted to signage.
9. Exterior lighting and signage shall be designed and constructed in such a way so as to eliminate any negative impacts on adjacent residential developments.
10. A bike path shall be designed and constructed in such a way so as to encourage pedestrian access from adjacent residential developments and within the project itself, subject to the approval of Lee County DOT&E.
11. Signage for each parcel shall be limited to business identification and a maximum of 100 square feet per building. Directory signs may be provided, the intent of which is to provide direction to pedestrians to particular businesses, but not readable from passing vehicles.
12. Government Services use group listed under the proposed list of uses for out parcels "A" and "B" shall not include animal control facility, maintenance facility or mass transit maintenance facility.
13. The preserve area noted to the south of development area "D" and the dry retention area shall be a minimum of twenty feet in width and contain upland vegetation only. Should this not be able to be accommodated within the area depicted on the Master Concept Plan, then the development area will be reduced to provide the minimum 20 foot upland vegetative buffer. Furthermore, if the existing vegetation does not comply with the screening requirement of Zoning Ordinance Section 202.14.E.1., supplemental plantings shall be provided to ensure compliance.
14. Level of Service (LOS) analysis will be necessary for US 41, the proposed new arterial street and any other collector or arterial street where peak hour traffic is 5 percent or more of LOS "C" peak hour capacity within the described area of influence, all site entrances and all intersections on arterial and collector streets where peak hour traffic is 5 percent or more of total intersection peak hour capacity or 5 percent or more of any approach peak hour capacity.

Signal warrant analysis will be necessary at all intersections and site entrances that are analyzed.

Turn lane and other roadway improvements (if required) must be designed and cost estimates provided as part of the TIS when application for a Preliminary Development Order is made; when approved, this will become the Traffic Impact Mitigation Plan (TIMP) for the Final Development Order.

15. Access to the parcels to the south shall be provided by the reverse frontage road shown on the Master Concept Plan located between Parcels A and B and Parcel C. The proposed frontage road on US 41 may be used as a privately-maintained accessway so long as the intersection between that accessway and the accessway running east from US 41 is a minimum of 100 feet from US 41 as measured from edge to edge of the pavement.
16. That the maximum amount of 46,000 square feet of floor space be developed rather than the 46,400 square feet shown on the Master Concept Plan which is the subject of this recommendation and that the reduction of 400 square feet shall take place in Development Area C.

17. Deviation (1) is hereby APPROVED as conditioned below:

Concerning the right turn-in and right turn-out only, there shall be sufficient weaving distance to allow vehicles to cross US 41 to make the U-turn or if a no U-turn restriction is proposed and approved by Lee County Department of Transportation and Engineering and Florida Department of Transportation. Further, the subject driveway shall be used as a temporary access only, to be relocated when the property to the south is developed. The relocated driveway will be a joint access to both properties with common access via a frontage/backage road system. Temporary access and frontage road agreements must be executed at the Development Review stage.

Deviation (2) is hereby APPROVED.

Deviation (3) is hereby APPROVED.

Deviation (4) is hereby APPROVED as limited and conditioned below:

Because of the configuration of the property, the deviation can be allowed at the location between Development Areas C and D, and is hereby APPROVED at this location, provided adequate sight distance is provided for traffic exiting Development Area C. This deviation is hereby DENIED for the accesses to out parcels A and B, and Development Area C.

Deviation (5) is hereby APPROVED as conditioned below:

The conditions imposed via Resolution ZAB-86-63 are carried over to this approval. Deviation (5) is hereby APPROVED subject to compliance with Condition 3 contained herein. It should be noted that an amendment to the Official Trafficways Map may be needed.

Site Plan 90-031 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 Commercial Planned Development zoning:

- A. That the real estate which is the subject of this request is correctly described herein.
- B. That the proposed mix of uses is appropriate at the subject location.
- C. That all of the conditions herein are consistent with the requirements of Lee Plan and the Zoning Ordinance with respect to preservation of the environment, conservation of land, water and other natural resources and the general intent and specific direction of the Lee Plan to require that Commercial Planned Developments:

- provide visual harmony, sign control and screening
- reduce dependence on the automobile
- promote pedestrian movement within the development
- avoid negative impacts on surrounding land uses and traffic circulation
- protect natural resources
- provide adequate and appropriate landscaping, open space and buffering
- designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.

- D. That each deviation enhances the achievement of the objectives of the planned development and preserves and promotes the general intent of the Lee Plan and the Zoning Ordinance to protect the public health, safety and welfare.
- E. That the development shown on the Master Concept Plan, as conditioned and subject to deviations, does not unnecessarily alter the vegetation and/or topography of the land or disrupt the surface or groundwater hydrology, increase erosion of the land or destroy significant wildlife habitat.
- F. That the development shown on the Master Concept Plan, as conditioned and subject to deviations, makes creative use of open space to produce an architecturally integrated human environment and which minimizes any negative impacts of the planned development on surrounding land and land uses.
- G. That the conditions with respect to the nature and type of plantings required and the requirement that the Applicant reestablish the vegetation which exists at this site in its pre-development state as well as the requirements of Condition 7 with respect to tree sizes and ratio, while they may be consistent with the intent of the Lee Plan and the Zoning Ordinance, do represent a significant, expensive and time consuming departure from past practice.
- H. That the development of the area constitutes changed or changing conditions which make approval of the requested Commercial Planned Development, as conditioned, appropriate.
- I. That the proposed Commercial Planned Development, as conditioned and subject to deviations:
 - 1. Has a neutral impact on the intent of the Zoning Ordinance.
 - 2. Is consistent with the goals of the Lee Plan.
 - 3. Is consistent with the objectives of the Lee Plan.
 - 4. Is consistent with the 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. Meets the locational standards set out in the Lee Plan.
 - 8. Is consistent with the densities, intensities and general uses set forth in the Lee Plan.
 - 9. Will protect, conserve and preserve environmentally critical areas and natural resources.
 - 10. Will be compatible with existing and planned uses in the area and will not cause damage, hazard or nuisance or other detriment to persons or property.
 - 11. Will not, by virtue of its location, place an undue burden upon existing transportation services, or upon government services or facilities.
 - 12. Will be served by streets and roads with the apparent present capacity to serve the development.
 - 13. Will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the requested use.

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 Douglas St. Cerny and, upon being put to a vote, the result was as follows:

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

DULY PASSED AND ADOPTED this 25th day of June, A.D., 1990.

ATTEST:
CHARLIE GREEN, CLERK

BY: Charlie Green
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: J. Manning
Chairman

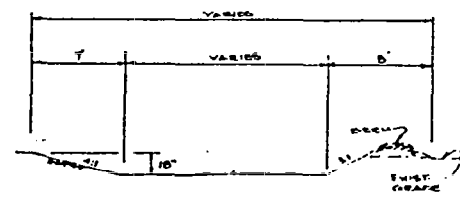
Approved as to form by:

Andrea M. Terry
County Attorney's Office

FILED

JUL 12 90

CLERK CIRCUIT COURT
BY Charlie Green D.C.



TYPICAL DRY RETENTION SWALE
M.T.O.

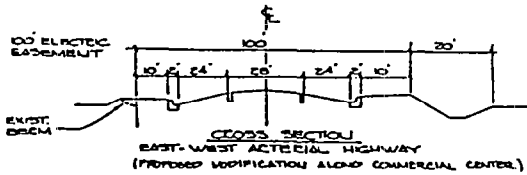
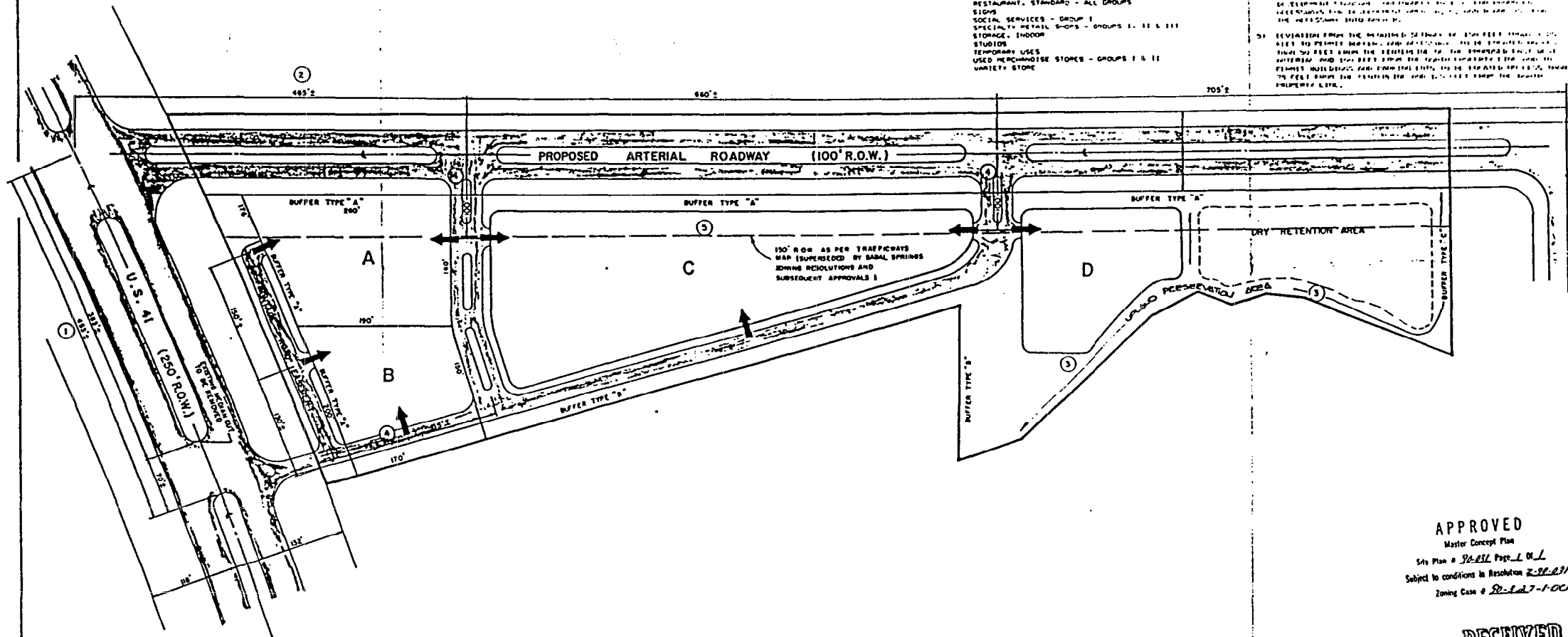
PROPOSED SCHEDULE OF USES

- OUT PARCELS A, B, C**
- ADMINISTRATIVE OFFICES
 - AUTOMATIC TELLER MACHINE
 - AUTOMOBILE SERVICE STATION
 - AUTOMOBILE REPAIR AND SERVICE FACILITIES - GROUP I
 - BANKS AND FINANCIAL INSTITUTIONS - ALL GROUPS
 - BAR OR COCKTAIL LOUNGE
 - BUSINESS SERVICES - ALL GROUPS
 - CAFETERIA
 - CLUBS, COMMERCIAL, FRATERNAL, MEMBERSHIP ORGANIZATION
 - CONSUMPTION ON PREMISES
 - CONVENIENCE FOOD AND BEVERAGE STORES
 - DRIVE THRU FACILITY - FOR ANY PERMITTED USE
 - ESSENTIAL SERVICES
 - GOVERNMENT SERVICES
 - MUSIC STORE
 - NIGHT CLUB
 - PACKAGE STORE
 - RECREATION, COMMERCIAL - GROUP I
 - RESTAURANT, STANDARD - ALL GROUPS
 - RESTAURANT, FAST FOOD
 - SELF SERVICE FUEL PUMP STATION
 - STORAGE, INDOOR
 - VEHICLE & EQUIPMENT DEALER - ALL GROUPS

PROPOSED SCHEDULE OF USES

- DEVELOPMENT AREA C**
- ADMINISTRATIVE OFFICES
 - AUTO PARTS STORE - NO INSTALLATION SERVICE
 - BAR OR COCKTAIL LOUNGE
 - BOAT PARTS STORE - NO INSTALLATION SERVICE
 - BROADCASTING STUDIO, COMMERCIAL, RADIO & TELEVISION
 - BUSINESS SERVICES - ALL GROUPS
 - CAMERA SHOP
 - CLOTHING STORE
 - CONSUMPTION ON PREMISES
 - DEPARTMENT STORE
 - DRUG STORE
 - ESSENTIAL SERVICES
 - FOOD STORES - GROUP I
 - GIFT, NOVELTY AND SOUVENIR SHOP
 - GOVERNMENT SERVICES
 - HAIRDRESSING
 - HOBBY, TOY & GAME SHOPS
 - HOUSEHOLD OFFICE FURNISHINGS - GROUPS I & II
 - INSURANCE COMPANIES
 - LAUNDRY OR DRY CLEANING - GROUPS I & II
 - LIQUOR STORE
 - MUSIC STORE
 - NEWSPAPER
 - OFFICES, MEDICAL
 - PAINT, GLASS & WALL PAPER STORE
 - PERSONAL SERVICE - ALL GROUPS
 - PET SHOP
 - PHARMACY
 - RECREATION, COMMERCIAL - GROUP II
 - RENTAL OR LEASING ESTABLISHMENTS - GROUP I & II
 - REPAIR SHOPS - GROUPS I & II
 - RESTAURANT, STANDARD - ALL GROUPS
 - SIGNS
 - SOCIAL SERVICES - GROUP I
 - SPECIALTY RETAIL SHOPS - GROUPS I, II & III
 - STORAGE - INDOOR
 - STUDIOS
 - TEMPORARY USES
 - USED MERCHANDISE STORES - GROUPS I & II
 - VARIETY STORE

- UNUSUAL SCHEDULE OF DEVELOPMENT**
1. FROM THE MINIMUM BUILDING HEIGHT TABLE, THE MINIMUM BUILDING HEIGHT FOR THE PROPOSED DEVELOPMENT IS 10 FEET. THE MINIMUM BUILDING HEIGHT FOR THE PROPOSED DEVELOPMENT IS 10 FEET. THE MINIMUM BUILDING HEIGHT FOR THE PROPOSED DEVELOPMENT IS 10 FEET.
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SITE DATA

TOTAL SITE AREA	11.53 ± ACRES
FUTURE RIGHT OF WAY	3.41 ± ACRES
NET SITE AREA	7.92 ± ACRES
OPEN SPACE	30% (MINIMUM)
BUILDING HEIGHT	35' (MAXIMUM)

NOTE: PARKING TO BE PROVIDED IN ACCORDANCE WITH SECTION 214.1 OF THE LEE COUNTY ZONING REGULATIONS.

ARROWS INDICATE ALLEYS POINTING TO EXPRESS & EXPRESS TURN FACILITIES SHOWN ABOVE.

DEVELOPMENT AREA	NUMBER OF BUILDINGS	BUILDING HEIGHT	APPROXIMATE SQUARE FOOTAGE
A	1	2 STORY	4,000 S.F.
B	1	1 STORY	2,400 S.F.
C	1	2 STORY	70,000 S.F.
D	1	2 STORY	8,000 S.F.
TOTAL			84,400 S.F.

NOTE: PROPOSED ARTERIAL ROADWAY TO BE CONSTRUCTED PURSUANT TO CONDITION 97 OF ZONING RESOLUTION 28-231, SABAL SPRINGS GOLF & ACQUACULTURE CLUB.

APPROVED
Master Concept Plan
Site Plan # 28-231, Page 1 of 1
Subject to conditions in Resolution 28-231
Zoning Case # 28-231-1-001

RECEIVED
JAN 11 1990
ZONING COUNTER

STAMP
40-3-27-1

PRINTED
JAN 82 1990

INK ENGINEERING INC.
ENGINEERS • SURVEYORS • PLANNERS

SABAL SPRINGS COMMERCIAL CENTER
IN SECTION 22 TWP 43 S. RGE. 24 E.
LEE COUNTY FLORIDA

DWG. NO.
8510