

2055822

## RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

## OF LEE COUNTY, FLORIDA

WHEREAS, Cypress Lake Center, has properly filed an application for: District boundary change from AG to CG, CS, and CT, and approval of a Chapter 380 Development Order for a Commercial Development of Regional Impact on a piece of property located at the southwest corner of Cypress Lake Drive and US 41 (Tamiami Trail), described more particularly as;

LEGAL DESCRIPTION: Section 23, Township 45S, Range 24E, Lee County, Florida.

CG PARCEL:

A tract or parcel of land lying in the east half (E 1/2) of the southeast quarter (SE 1/4) of Section 23, Township 45 South, Range 24 East, Lee County, Florida which tract or parcel is described as follows:

From the northwest corner of the east half (E 1/2) of the southeast quarter (SE 1/4) of said Section 23 run S 00° 35' 44" E along the west line of said east half (E 1/2) for 1597.52 feet to the Point of Beginning.

From said Point of Beginning run N 89° 08' 16" E, parallel with the north line of said fraction, for 584.78 feet; thence run S 01° 16' 00" E, parallel with the west right-of-way line (132 feet from the centerline) of State Road No. 45, for 210.00 feet to point designated "A"; thence run S 89° 08' 16" W, parallel with the north line of said fraction, for 382.24 feet; thence run S 39° 47' 40" W for 316.36 feet to the west line of said east half (E 1/2); thence run N 00° 35' 44" W along said west line for 450.00 feet to the Point of Beginning.

Containing 3.39 acres, more or less.

## ALSO

From the aforementioned point designated "A" run S 01° 16' 00" E for 90.00 feet to the Point of Beginning.

From said Point of Beginning run N 89° 08' 16" E, parallel with the north line of said fraction, for 190.00 feet; thence S 01° 16' 00" E, parallel with the west right-of-way line (132 feet from the centerline) of State Road No. 45, for 300.00 feet; thence run N 89° 08' 16" E, parallel with the north line of said fraction, for 410.00 feet to said west right-of-way line of State Road No. 45; thence run S 01° 16' 00" E along said right-of-way line for 450.35 feet to the south line of said fraction of a section; thence run S 89° 19' 21" W along said south line for 886.63 feet; thence run N 00° 40' 39" W for 447.49 feet; thence run N 89° 08' 16" E for 282.00 feet; thence run N 01° 16' 00" W for 300.00 feet to the Point of Beginning.

Containing 10.42 acres, more or less.

## ALSO

*Handwritten signature*

From the northwest corner of the east half (E 1/2) of the southeast quarter (SE 1/4) of Section 23, Township 45 South, Range 24 East run S 00° 35' 44" E along the west line of said east half (E 1/2) for 116.00 feet to the south line of Cypress Lake Drive and the Point of Beginning.

From said Point of Beginning run N 89° 08' 16" E along said south line for 1167.43 feet to an intersection with the west right-of-way line (132 feet from the centerline) of State Road No. 45; thence run S 01° 16' 00" E along said west line for 1481.54 feet; thence run S 89° 08' 16" W parallel with said south line of Cypress Lake Drive for 1184.78 feet to said west line of said east half (E 1/2); thence run N 00° 35' 44" W along said west line for 1481.52 feet to the Point of Beginning.

Containing 40.00 acres more or less.

Bearings hereinabove mentioned are from the centerline survey of State Road No. 45.

CT PARCEL:

A tract or parcel of land lying in the east half (E 1/2) of the southeast quarter (SE 1/4) of Section 23, Township 45 South, Range 24 East, Lee County, Florida which tract or parcel is described as follows:

From the northwest corner of the east half (E 1/2) of the southeast quarter (SE 1/4) of said Section 23 run S 00° 35' 44" E along the west line of said east half (E 1/2) for 1597.52 feet; thence run N 89° 08' 16" E, parallel with the north line of said fraction, for 584.78 feet; thence run S 01° 16' 00" E for 300.00 feet; thence run N 89° 08' 16" E for 190.00 feet to the Point of Beginning.

From said Point of Beginning continue N 89° 08' 16" E, parallel with said north line, for 410.00 feet to the west right-of-way line (132 feet from the centerline) of State Road No. 45; thence run S 01° 16' 00" E along said west line for 300.00 feet; thence run S 89° 08' 16" W, parallel with the north line of said fraction, for 410.00 feet; thence run N 01° 16' 00" W, parallel with said west line, for 300.00 feet to the Point of Beginning.

Containing 2.82 acres more or less.

CS PARCEL:

A tract or parcel of land lying in the east half (E 1/2) of the southeast quarter (SE 1/4) of Section 23, Township 45 South, Range 24 East, Lee County, Florida which tract or parcel is described as follows:

From the northwest corner of the east half (E 1/2) of the southeast quarter (SE 1/4) of said Section 23 run S 00° 35' 44" E along the west line of said east half (E 1/2) for 1597.52 feet; thence run N 89° 08' 16" E, parallel with the north line of said fraction, for 584.78 feet to the Point of Beginning.

From said Point of Beginning continue N 89° 08' 16" E along said parallel line for 600.00 feet to an intersection with the west right-of-way line (132 feet from the centerline) of State Road No. 45; thence run S 01° 16' 00" E along said west line for 300.00 feet; thence run S 89° 08' 16" W, parallel with the north line of said fraction, for 600.00 feet; thence run N 01° 16' 00" W, parallel with said west right-of-way line, for 300.00 feet to the Point of Beginning.

Bearings hereinabove mentioned are from the centerline survey of State Road No. 45.

REF 1830PG0322

WHEREAS, proper authorization has been given to James F. Garner and Forrest H. Banks, by Arthur L. Moses, the trustees of the subject parcel, to act as agent(s) to pursue this zoning application;

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 the request pursuant to the Development Order, including the suggestion to change Section C, Transportation #5 that the applicant shall be required to participate in improvements to Cypress Lake Drive, from US 41 to and including the intersection of McGregor Boulevard and Cypress Lake Drive. The extent of the participation shall be determined by the applicant's proportionate share of the traffic on this segment. The share shall be determined by a monitoring report provided by the applicant to the County Engineer, beginning one year after the issuance of the first certificate of occupancy; and

WHEREAS, an appeal was timely filed by the Division of Community Development; 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 staff recommended conditional approval of the project, with rezoning approval for the shopping center portion of the project only, and subsequent consideration for approval of the remaining uses, as specified in the proposed Development Order dated May 17, 1985.

The rationale for approval of the proposed Development Order and partial approval of the zoning was based upon staff concerns that the transportation network in the US 41/Daniels Road vicinity would be inadequate to handle the demand. The staff memo of May 17 also included a draft "Traffic Study of the US 41/Daniels Road Intersection" which outlined these concerns. The traffic study was prepared pursuant to Board direction for the Cypress Trace Development of Regional Impact which was previously heard by the Board on April 8, 1985.

The Local Planning Agency found the request to be consistent with the Comprehensive Plan on March 15, with the condition that the size of the retail portion of the project be reduced to 300,000 square feet and that the development order contain conditions addressing the staff's concerns (regarding traffic, vegetation, etc.)

OFF 1830 PG0323  
REC

The Zoning Board recommended approval of the Development Order with conditions at its March 25th meeting. The conditions included those specified in the staff's draft development order, with an additional transportation condition that the applicant be required to participate in improvements to Cypress Lake Drive, from US 41 to and including the intersection of McGregor Blvd. and Cypress Lake Drive.

Mr. James Garner appeared before the Board of County Commissioners sitting as the Zoning Board of Appeals on May 20, representing the applicant. Mr. Garner requested that the approval of the rezoning be granted for the entire project, including the shopping center portion. Mr. Garner presented a draft Development Order granting approval of the entire project.

The Board of County Commissioners approved the rezoning for the entire project, as well as the State Development Order, with an alternative condition that the developer pay a base amount of \$1.3 million for the mitigation of adverse traffic impacts, and with other additional conditions as listed in the May 20th Development Order (said Development Order is attached hereto and incorporated herein by reference).

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 from AG to CG, CS and CT, and the Board does hereby approve Development Order #DO-85-45, providing for a Chapter 380 Commercial Development of Regional Impact.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Eastwood, and seconded by Commissioner Fussell 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 20th day of May, A.D., 1985.

ATTEST:  
CHARLIE GREEN, CLERK

BY: Mary Armentrout  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: [Signature]  
Chairman

Approved as to form by:

[Signature]  
County Attorney's Office

RESOLUTION NUMBER ZAB-85-45  
(0076Z)

HEARING NUMBER 85-3-1 DRI

31  
OFF 1830 PG 0324  
REC

DEVELOPMENT ORDER  
FOR  
CYPRESS LAKE CENTER  
A DEVELOPMENT OF REGIONAL IMPACT

#7-8384-47

LET IT BE KNOWN, THAT, PURSUANT TO SECTION 380.06 OF THE FLORIDA STATUTES, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, HAS HEARD, AT A PUBLIC HEARING CONVENED ON THE TWENTIETH (20th) DAY OF MAY, 1985 THE APPLICATION FOR DEVELOPMENT APPROVAL FOR CYPRESS LAKE CENTER, A COMMERCIAL (SHOPPING CENTER/OFFICE PARK) DEVELOPMENT CONSISTING OF APPROXIMATELY 68.5 ACRES TO BE DEVELOPED IN ACCORDANCE WITH THE APPLICATION FILED ON JULY 17, 1984, BY ARTHUR L. MOSES, TRUSTEE, AUTHORIZED REPRESENTATIVE OF CYPRESS LAKE VENTURE, LTD., FOR SAID DEVELOPMENT.

WHEREAS, the Board of County Commissioners of Lee County, Florida has considered the report and recommendations of the Southwest Florida Regional Planning Council, the Lee County Administrative Staff, the Lee County Local Planning Agency, and the documents and comments upon the record made before the Board in public hearing, and, after full consideration of said reports, recommendations, comments, and documents, the Board of County Commissioners of Lee County, Florida, hereby finds and determines that:

FINDINGS OF FACT

A. Said applicant originally proposed to develop a shopping center and office park, including a shopping center (336,340 square feet on 40 acres), business corporate office area (40,000 square feet), an executive office park (270,000 square feet), and hotel complex (275-room hotel, 200-seat restaurant, 100-seat conference center) on approximately 68.5 acres. The formal Application for Development Approval "ADA" submitted requested approval of those uses. As described in Condition "H" below, the Lee County Comprehensive Plan requires a reduction of the commercial shopping center facilities to 300,000 square feet or less to provide for consistency with that Plan. The proposed development, as reduced from 336,340 square feet to 300,000 square feet of shopping center and expanded from 270,000 square feet to 306,340 square feet of office park, constitutes a shopping center/office park Development of Regional Impact on the real property described as:

A tract or parcel of land lying in the southeast quarter of Section 23, Township 45 South, Range 24 East, which tract or parcel is described as follows (and more specifically in Exhibit A):

5/20/85  
DO-85-45

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The east one-half of the southeast one-quarter, less the north 116 feet lying west of State Road No. 45, of said Section 23, Township 45 South, Range 24 East, Lee County, Florida.

B. The subject property had been zoned by the authority of Chapter 125, Florida Statutes, Chapter 61-2405, Laws of Florida (Special Acts), and the Lee County Zoning Regulations, as amended, in the AG District; and rezoning to the CG, CS and CT districts was approved concurrently with this Development Order.

C. The Application for Development Approval is consistent with the requirements of Chapter 380.06, Florida Statutes; and

D. The proposed development is not in an area designated as an Area of Critical State Concern pursuant to the provisions of Chapter 380.05, Florida Statutes; and

E. The proposed development has been reviewed by the Southwest Florida Regional Planning Council and is the subject of the report and recommendations adopted by that body on February 28, 1985, and subsequently forwarded to Lee County pursuant to the provisions of Chapter 380.06, Florida Statutes, and the proposed development is consistent with this report and recommendations of the Southwest Florida Regional Planning Council; and

F. The proposed development is consistent with the adopted Lee County Comprehensive Plan, subject to the following conditions.

#### CONCLUSIONS OF LAW

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, in public meeting duly constituted and assembled this Twentieth (20th) Day of May, 1985, that the Development of Regional Impact Application for Development Approval submitted by Cypress Lake Venture, Ltd., referred to hereinafter as "developer"; is hereby ordered APPROVED, subject to the following conditions, restrictions, and limitations:

#### A. COMMUNITY SERVICES

1. The developer shall meet with the Chief of the South Trail Fire Department and the Director of Lee County Division of Public Safety or his designee, prior to project construction, to discuss fire protection and Emergency Medical Service needs and appropriate measures to meet these needs.

2. The developer must demonstrate, to the satisfaction of the Lee County Division of Community Development prior to project construction, that there will be no adverse fiscal impacts (costs exceeding revenues) upon fire protection and Emergency Medical Service providers resulting from the development.

## B. DRAINAGE/WATER QUALITY

1. The drainage system for the proposed project must be redesigned to provide greater upland (dry) retention/detention of runoff prior to discharge into the on-site lake system. Areas of natural vegetation as described in condition "E" below may be used where feasible.

2. The discharge structures shall include a baffle, skimmer, or other mechanism suitable for preventing oil and grease from discharging from retention/detention areas.

3. The drainage system shall implement the design standards and "best management practices" outlined in the ADA and in all supplementary material.

4. The developer and/or his successor(s), shall implement an on-going maintenance and monitoring program that regularly inspects, maintains and samples the stormwater drainage system. The program shall be designed in consultation with the staffs of the Southwest Florida Regional Planning Council, the South Florida Water Management District, and Lee County. Final approval of the program rests with Lee County. The program shall be redesigned, if necessary, to incorporate any County ordinances and/or policies relating to the Lakes Park drainage basin. If the quality of surface water runoff does not meet any present or future standards, then the developer shall take remedial measures to improve the system to meet these standards, entirely at the developer's expense. The developer shall be responsible for any remedial measures required by the County, including all costs.

5. A regular program of vacuum sweeping of all project parking lots shall be utilized both during and after project construction.

6. The project shall be served by a central sewage system.

7. The project shall be subject to all regulations of Lee County for the protection of the Lakes Regional Park Watershed and Lakes Regional Park water quality.

## C. ENERGY

The developer shall incorporate, as a minimum, the following energy conservation features into all site plans and architectural programs or insure that the following features are implemented through deed restrictions and covenants with successors in title. All applications for site plan approvals and building permits shall be accompanied by a document detailing proposed compliance with these conditions. If deed restrictions or covenants are utilized to insure compliance, such documents shall be approved by the Lee County Attorney's Office prior to recording.

These features are:

1. Provision of bicycle racks or storage facilities.
2. Location of bus stops, shelters, and other passenger and system accommodations for a transit system to serve the project area, in cooperation with the appropriate Lee County agencies.
3. Use of energy-efficient features in window design (e.g., tinting and exterior shading), and use of operable windows and ceiling fans.
4. Installation of energy-efficient appliances and equipment.
5. Prohibition of deed restrictions or covenants that would prevent or unnecessarily hamper energy conservation efforts (e.g., building orientation and solar water heating systems).
6. Reduced coverage by asphalt, concrete, rock, and similar substances in streets, parking lots, and other areas to reduce local air temperatures and reflected light and heat.
7. Installation of energy-efficient lighting for streets, parking areas, and other interior and exterior public areas.
8. Installation of water closets with a maximum flush of 3.5 gallons and shower heads and faucets with a maximum flow rate of 3.0 gallons per minute (at 60 pounds of pressure per square inch) as specified in the Water Conservation Act, Chapter 553.14, F.S.)
9. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, fertilizer, maintenance, and other needs, for all parking lot landscaping and required vegetated buffer areas.
10. Placement of native trees to provide shade in the warmer months while not overly reducing the benefits of sunlight in the cooler months, and to provide shade for all streets and parking areas.
11. Orientation of structures, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind, whenever feasible.
12. Provision for structural shading (e.g., trellises, awnings, and roof overhangs) wherever practical when natural shading cannot be used effectively.



13. Establishment of an architectural review committee and consideration by the project architectural review committee(s) of energy conservation measures (both those noted here and others) to assist builders and tenants in their efforts to achieve greater energy efficiency in the development.

D. TRANSPORTATION

1. The developer shall construct, cause to be constructed or pay the full costs for intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and Cypress Lake Drive. These improvements shall be made prior to the issuance of the first certificate of occupancy for the project.

2. The developer shall pay a proportionate share of the cost of constructing two additional lanes, on the following road segments:

- ° U.S. 41 from Cypress Lake Drive/Daniels Road to and including the intersection of Island Park Road with U.S. 41.
- ° Daniels Road from the Bell Tower Mall entrance east of U.S. 41 to the beginning of four lanes west of I-75.
- ° Cypress Lake Drive from the terminus of four lanes west of U.S. 41 to the intersection of McGregor Boulevard with Cypress Lake Drive.
- ° Gladiolus Drive from the terminus of four lanes west of U.S. 41 to and including the intersection of Summerlin Road with Gladiolus Drive.

The developer's proportionate share shall be determined by the County Engineer and shall be paid at the time that the first local Development Order is issued under Lee County regulations.

3. The developer shall pay a proportionate share of the cost of signalization, turn lanes, additional approach lanes, or other improvements deemed necessary by the Lee County Engineer or FDOT in order to maintain level of service "C" at the following intersections:

- ° U.S. 41 at Daniels Road/Cypress Lake Drive
- ° U.S. 41 at Gladiolus Drive/Six Mile Parkway
- ° U.S. 41 at College Parkway
- ° Cypress Lake Drive at Summerlin Road
- ° Daniels Road at Metro Parkway

The developer's proportionate share shall be determined by the County Engineer and shall be paid upon commencement of the intersection improvement.

4. Should more than two additional lanes be required to maintain level of service "C" on a road segment specified in D.2 above during project buildout, the developer shall pay a proportionate share of the cost of constructing these lanes. The developer's proportionate share shall be determined by the County Engineer and shall be paid upon commencement of the roadway improvement.

5. The developer shall submit an annual monitoring report to the Lee County Engineer, the Lee County MPO, FDOT and the Southwest Florida Regional Planning Council for review. This monitoring report shall include average daily and peak-hour traffic counts, with turning movements, at the project's access points on U.S. 41 and Cypress Lake Drive and at the intersections listed in D.3 above. The first report shall be submitted one year following the issuance of the first Certificate of Occupancy for the project. Reports shall be submitted annually until buildout of the project.

6. Nothing contained in this Development Order shall be construed to exempt this development from participation in the funding, through Municipal Services Benefit Units (MSBU's) or other special assessment districts of improvements to various state or county arterial and collector roads or intersections to the degree to which this development generates demand.

#### ALTERNATIVES

1. In lieu of the obligations and payments required by D.1 through D.3 above, the developer shall contribute a base amount of \$1,300,000 (in 1985 dollars) for the mitigation of adverse traffic impacts due to this project. Payment shall be made subject to the provisions listed below:

- a. The developer shall design and construct, or cause to be designed and constructed, two additional lanes on U.S. 41 from the southern boundary line of the Cypress Lake Center DRI to Daniels Road/Cypress Lake Drive plus intersection improvements deemed necessary by the Lee County Engineer for the project's access points onto U.S. 41 and for the south leg of the U.S. 41/Daniels Road/Cypress Lake Drive intersection. The developer's contract(s) for the design and construction of these improvements shall be reviewed and approved by the County Engineer. These improvements shall be substantially completed to the satisfaction of the County Engineer prior to issuance of the first certificate of occupancy for this project.

- b. Funds shall be expended first for the U.S. 41 improvements specified in Alternative 1.a above, with the balance of the base amount of \$1,300,000 paid by the developer into a fund established by Lee County for the purpose of mitigating other adverse impacts due to the project, including improvements described in D.2 and D.3 above, plus intersection improvements deemed necessary by the County Engineer for the projects access points onto Cypress Lake Drive. At the time that construction contracts are let for the specified improvements on U.S. 41, and after consultation and agreement with the County Engineer, the developer shall pay an amount estimated to be the balance of the \$1,300,000 minus the cost for design and construction of the U.S. 41 improvements into the fund established by Lee County. Within one month of the completion of the U.S. 41 contracts, the County Engineer shall determine the exact amount of this balance based on actual design and construction costs. The developer shall receive a refund or make an additional payment to Lee County so that the total amount paid by the developer equals the base payment of \$1,300,000.
  - c. If the construction contracts have not been let prior to October 1, 1985, the base payment of \$1,300,000 shall be adjusted quarterly thereafter using the most current Construction Price Index (C.P.I.) published by the Engineer News Record (McGraw-Hill Publications) until the construction contracts are let. The base price index for these adjustments shall be the price index in the Second Quarterly Cost Round-Up for 1985.
  - d. If Lee County adopts a Roads Impact Fee ordinance, the amount of this base payment shall remain the same (\$1,300,000), except for adjustments required by Alternative 1.c above. This base payment shall be credited against the roads impact fee when adopted.
2. If the developer foregoes Alternative 1 and Lee County adopts a Roads Impact Fee ordinance before the first building permit is issued, this fee may be credited toward off-site improvements listed in D.2 through D.4 above. Site-related improvements shall remain the developer's responsibility and obligation. Payments already made for these off-site improvements shall be credited toward the overall fee.

#### E. VEGETATION AND WILDLIFE

1. The developer shall preserve no less than 15 percent of the total site as unaltered native vegetation, including understory, generally along the project's north, east, and west boundaries. These areas may be utilized as dry detention basins (excavation prohibited) in the water management system to purify

surface run-off. Plans for this preserve area shall be submitted to the Lee County Planning Department for approval. Native species shall be utilized for all parking lot landscaping and required vegetated buffer areas.

F. WATER SUPPLY

1. The developer shall incorporate the use of water-conserving devices, as required by state law (Chapter 553.14, F.S.)

2. The developer shall utilize water-conserving features in irrigation system design and use, including the use of native and/or low water use plants and turf.

3. The developer shall utilize either surface water from the on-site lake system or groundwater for irrigation, unless demonstrated infeasible.

G. HURRICANE EVACUATION

The developer shall meet with Lee County Division of Public Safety officials to discuss the use of project common areas for storm shelter purposes, and shall establish and maintain a hotel/motel hurricane evacuation program of education and information describing the risks of environmental hazards, as well as the actions necessary to mitigate the dangers which these hazards present.

H. OTHER

The project shall not exceed a total of 300,000 square feet of retail commercial use as defined by the Lee County Comprehensive Plan (pp III - 57,58), to remain consistent with the Comprehensive Plan.

BE IT FURTHER RESOLVED, by the Board of County Commissioners of Lee County, Florida, that:

1. This resolution shall constitute the Development Order of this Board issued in response to the Development of Regional Impact Application for Development Approval filed by Cypress Lake Venture, Ltd.

2. All commitments and impact mitigating actions volunteered by the developer in the Application for Development Approval and supplementary documents and not in conflict with conditions or stipulations specifically enumerated above are hereby adopted to this Development Order by reference. The commitments incorporated by reference are as binding on the developer as if the commitments were set forth herein.

3. This Development Order shall be binding upon the developer and their heirs, assignees or successors in interest.

REC 1830P60332

It is hereby declared that the terms and conditions set out in this document constitute a basis upon which the developer and County may rely in future actions necessary to implement fully the final development contemplated by this Resolution and Development Order.

All conditions, restrictions, stipulations and safeguards contained in this Resolution and Development Order may be enforced by either party hereto by action at law or equity and all costs of such proceedings, including reasonable attorney's fees shall be paid by the defaulting party.

4. It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality which may be created and designated as successor in interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Development Order.

5. In the event that any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of the Development Order which shall remain in full force and effect provided that the portion of the Development Order which is invalidated does not cause the remainder of the development area to be inconsistent with the purpose and intent of Lee County adopting this Development Order.

6. The approval granted by this Development Order is limited. Such approval shall not be construed to obviate the duty of the applicant to comply with all other applicable local or state review and permitting procedures.

7. Subsequent requests for local development permits shall not require further review pursuant to Section 380.06, Florida Statutes, unless it is found by the Board of County Commissioners, after due notice and hearing, that one or more of the following is present:

(a) A substantial deviation from the terms or conditions of this development order, or other changes to the approved development plans which create a reasonable likelihood of adverse regional impacts or other regional impacts which were not evaluated in the review by the Southwest Florida Regional Planning Council; or

(b) An expiration of the period of effectiveness of this development order as provided herein.

Upon a finding that either of the above is present, the Board shall order a termination of all development activity until such time as a new DRI Application for Development Approval has

been submitted, reviewed and approved in accordance with Section 380.06, Florida Statutes, and all local approvals have been obtained.

8. This Development Order shall remain in effect for a period of ten (10) years from the date of its rendition, provided that this effective period may be extended by this Board upon a finding of excusable delay in any proposed development activity and that conditions have not changed sufficiently to warrant further consideration of the development. In the event the developer fails to commence significant physical development of that property identified in this development order within five (5) years from the date of rendition of this Development Order, development approval shall terminate and the development shall be subject to further consideration. Significant physical development shall include obtaining a Certificate of Completion on some substantial portion of the project.

9. The Administrative Director of the Lee County Division of Community Development or his/her designee, shall be the local official responsible for assuring compliance with this Development Order.

10. The developer, or his successor(s) in title to the undeveloped portion of the subject property, shall submit a report annually to the Lee County Board of County Commissioners, the Southwest Florida Regional Planning Council, the State land planning agency, and all affected permit agencies. This report shall describe the state of development and compliance as of the date of submission, and shall further be consistent with the rules of the State land planning agency. The first monitoring report shall be submitted to the Administrative Director of the Division of Community Development not later than May 1, 1986, and further reporting shall be submitted not later than January 1st of subsequent calendar years. Failure to comply with this reporting procedure is governed by Sec. 380.06 (16) F.S. and the developer shall so inform any successor in title to any undeveloped portion of the real property covered by this Development Order.

11. Certified copies of this Development Order are to be forwarded to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but shall not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order becoming effective, notice of its adoption shall be recorded as provided in Chapter 380, Florida Statutes.

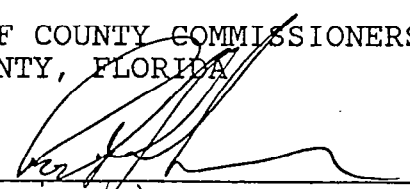
41  
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REC 1830PG0334

THE MOTION TO ADOPT the above resolution was offered by Commissioner Eastwood and seconded by Commissioner Fussell, and upon poll of the members present, the vote was as follows:

Commissioner Eastwood	Aye
Commissioner Goss	Aye
Commissioner Fussell	Aye
Commissioner Wallace	Absent
Commissioner Slisher	Aye

DULY PASSED AND ADOPTED this 20th day of May, 1985.

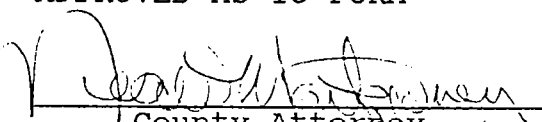
BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA

  
\_\_\_\_\_  
Vice (Chairman)

ATTEST:  
Charlie Green, Clerk

By: Cindy L. Proia  
Deputy Clerk

APPROVED AS TO FORM

  
\_\_\_\_\_  
County Attorney

(124-A)

42  
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REC 1830PG0335

EXHIBIT A

CYPRESS LAKE CENTER LEGAL DESCRIPTION

CG PARCEL:

A tract or parcel of land lying in the east half ( $E \frac{1}{2}$ ) of the southeast quarter ( $SE \frac{1}{4}$ ) of Section 23, Township 45 South, Range 24 East, Lee County, Florida which tract or parcel is described as follows:

From the northwest corner of the east half ( $E \frac{1}{2}$ ) of the southeast quarter ( $SE \frac{1}{4}$ ) of said Section 23 run S  $00^{\circ} 35' 44''$  E along the west line of said east half ( $E \frac{1}{2}$ ) for 1,597.52 feet to the Point of Beginning.

From said Point of Beginning run N  $89^{\circ} 08' 16''$  E, parallel with the north line of said fraction, for 584.78 feet; thence run S  $01^{\circ} 16' 00''$  E, parallel with the west right-of-way line (132 feet from the centerline) of State Road No. 45, for 210.00 feet to point designated "A"; thence run S  $89^{\circ} 08' 16''$  W, parallel with the north line of said fraction, for 382.24 feet; thence run S  $39^{\circ} 47' 40''$  W for 316.36 feet to the west line of said east half ( $E \frac{1}{2}$ ); thence run W  $00^{\circ} 35' 44''$  W along said west line for 450.00 feet to the Point of Beginning.

Containing 3.39 acres, more or less.

ALSO

From the aforementioned point designated "A" run S  $01^{\circ} 16' 00''$  E for 90.00 feet to the Point of Beginning.

From said Point of Beginning run N  $89^{\circ} 08' 16''$  E, parallel with the north line of said fraction, for 190.00 feet; thence S  $01^{\circ} 16' 00''$  E, parallel with the west right-of-way line (132 feet from the centerline) of State Road No. 45, for 300.00 feet; thence run N  $89^{\circ} 08' 16''$  E, parallel with the north line of said fraction, for 410.00 feet to said west right-of-way line of State Road No. 45, thence run S  $01^{\circ} 16' 00''$  E along said right-of-way line for 450.35 feet to the south line of said fraction of a section; thence run S  $89^{\circ} 19' 21''$  W along said south line for 886.63 feet; thence run N  $00^{\circ} 40' 39''$  W for 447.49 feet; thence run N  $89^{\circ} 08' 16''$  E for 282.00 feet; thence run N  $01^{\circ} 16' 00''$  W for 300.00 feet to the Point of Beginning.

Containing 10.42 acres, more or less.

ALSO



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OFF 1830 PG 0336

From the northwest corner of the east half ( $E \frac{1}{2}$ ) of the southeast quarter ( $SE \frac{1}{4}$ ) of Section 23, Township 45 South, Range 24 East run S  $00^{\circ} 35' 44''$  E along the west line of said east half ( $E \frac{1}{2}$ ) for 116.00 feet to the south line of Cypress Lake Drive and the Point of Beginning.

From said Point of Beginning run N  $89^{\circ} 08' 16''$  E along said south line for 1,167.43 feet to an intersection with the west right-of-way line (132 feet from the centerline) of State Road No. 45; thence run S  $01^{\circ} 16' 00''$  E along said west line for 1,481.54 feet; thence run S  $89^{\circ} 08' 16''$  W parallel with said south line of Cypress Lake Drive for 1,184.78 feet to said west line of said east half ( $E \frac{1}{2}$ ); thence run N  $00^{\circ} 35' 44''$  W along said west line for 1,481.52 feet to the Point of Beginning.

Containing 40.00 acres more or less.

Bearings hereinabove mentioned are from the centerline survey of State Road No. 45.

CT PARCEL:

A tract or parcel of land lying in the east half ( $E \frac{1}{2}$ ) of the southeast quarter ( $SE \frac{1}{4}$ ) of Section 23, Township 45 South, Range 24 East, Lee County, Florida which tract or parcel is described as follows:

From the northwest corner of the east half ( $E \frac{1}{2}$ ) of the southeast quarter ( $SE \frac{1}{4}$ ) of said Section 23 run S  $00^{\circ} 35' 44''$  E along the west line of said east half ( $E \frac{1}{2}$ ) for 1,597.52 feet; thence run N  $89^{\circ} 08' 16''$  E, parallel with the north line of said fraction, for 584.78 feet; thence run S  $01^{\circ} 16' 00''$  E for 300.00 feet; thence run N  $89^{\circ} 08' 16''$  E for 190.00 feet to the Point of Beginning.

From said Point of Beginning continue N  $89^{\circ} 08' 16''$  E, parallel with said north line, for 410.00 feet to the west right-of-way line (132 feet from the centerline) of State Road No. 45; thence run S  $01^{\circ} 16' 00''$  E along said west line for 300.00 feet; thence run S  $89^{\circ} 08' 16''$  W, parallel with the north line of said fraction, for 410.00 feet; thence run N  $01^{\circ} 16' 00''$  W, parallel with said west line, for 300.00 feet to the Point of Beginning.

Containing 2.82 acres more or less.

CS PARCEL:

A tract or parcel of land lying in the east half ( $E \frac{1}{2}$ ) of the southeast quarter ( $SE \frac{1}{4}$ ) of Section 23, Township 45 South, Range 24 East, Lee County, Florida which tract or parcel is described as follows:

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OFF 1830 PG0337

From the northwest corner of the east half (E  $\frac{1}{2}$ ) of the southeast quarter (SE  $\frac{1}{4}$ ) of said Section 23 run S 00° 35' 44" E along the west line of said east half (E  $\frac{1}{2}$ ) for 1,597.52 feet; thence run N 89° 08' 16" E, parallel with the north line of said fraction, for 584.78 feet to the Point of Beginning.

From said Point of Beginning continue N 89° 08' 16" E along said parallel line for 600.00 feet to an intersection with the west right-of-way line (132 feet from the centerline) of State Road No. 45; thence run S 01° 16' 00" E along said west line for 300.00 feet; thence run S 89° 08' 16" W, parallel with the north line of said fraction, for 600.00 feet; thence run N 01° 16' 00" W, parallel with said west right-of-way line, for 300.00 feet to the Point of Beginning.

Bearings hereinabove mentioned are from the centerline survey of State Road No. 45.

RECORDED IN OFFICIAL  
RECORDS  
LEE COUNTY, FLORIDA  
PIBORG VERIFIED  
FEB 19 10 41 AM '86  
CLERK OF CIRCUIT COURT

(124-A)