

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

WHEREAS, Charles M. Long, *et al.*, and Humphrey & Knott, P.A., filed an application to rezone 83.4± total acres of land from Agricultural (AG-2) to Mixed Use Planned Development (MPD) in reference to Camargo Trust MPD; and

WHEREAS, a Public Hearing was advertised and held on April 29, 1998 before the Lee County Zoning Hearing Examiner who gave full consideration to the evidence in the record (Case #97-12-021.03Z 01.01); and

WHEREAS, a second Public Hearing was advertised and held on June 29, 1998 before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on the record, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone 83.4± total acres of land from Agricultural (AG-2) to Mixed Use Planned Development (MPD) to permit a mixed use development consisting of: 300 dwelling units; 200,000 square feet of retail space; 100,000 square feet of office space; and 105 hotel/motel units, with a maximum building height of 65 feet. The legal description of the subject property is set forth in Exhibit A, attached to this resolution. The request is APPROVED with a limitation of no more than 100,000 square feet of retail space and subject to the conditions and deviations set forth in Sections B and C below.

SECTION B. CONDITIONS:

1. The development and use of the subject property will be in substantial compliance with the approved Master Concept Plan (MCP) entitled "Camargo Trust Property" (File No. D-0249-03, last revised 01/21/98, stamped received February 6, 1998) as prepared by Wilson, Miller, Barton, and Peek, Inc., except as modified by the conditions herein. Unless specifically approved as part of this rezoning, development must comply with all applicable local development regulations.
2. This development is limited to a total of 300,000 square feet of commercial uses, of which ONLY 100,000 square feet may be retail commercial uses or uses that must meet Lee Plan commercial site location standards. All retail uses or commercial uses that have to meet commercial site location standards must be located south of Pelican Sound access road on the 10.6-acre and 5.8-acre commercial parcels fronting on U.S. 41. The Assisted Living Facility within the commercial component of this project is limited to a maximum of 500 beds.

A maximum of 100,000 square feet of approved retail space may be replaced by a maximum of 75,000 square feet of additional general or medical office uses pursuant to a 4:3 retail/office equivalency factor.

Development of the residential portion of this project may not exceed six dwelling units per gross residential acre. Any Assisted Living Facility within the residential component will be limited to the Density Equivalents found in Division 12 of Article VII of Chapter 34 of the Land Development Code (LDC).

3. The following Schedule of Use sets out the permitted uses within this planned development. Some commercial uses have been limited to specific areas of the project.

The statement, "Uses that are not specifically listed in this section may also be permitted if, in the opinion, of Lee County Department of Community Development or designee, they are substantially similar to a listed permitted use" found on the MCP has no force as part of this planned development. Adding uses to this planned development may be allowed through the amendment process as described within the LDC.

Schedule of Uses

Residential "R"

ACCESSORY USES AND STRUCTURES (LDC Sections 34-1171 *et seq.*, 34-2441 *et seq.*, 34-1863, and 34-2141 *et seq.*)

ADMINISTRATIVE OFFICES

ASSISTED LIVING FACILITY (LDC Sections 34-1491 *et seq.*, and 34-1411) - As limited in Condition 2 above

CONSUMPTION ON PREMISES - In clubhouse only

CLUBS:

Country

Private (LDC Section 34-2111)

DWELLING UNIT:

Single-family

Duplex

Two-family attached

Townhouse

Multiple-family building

Zero lot line

ENTRANCE GATES AND GATEHOUSE (LDC Section 34-1741 *et seq.*)

ESSENTIAL SERVICES (LDC Sections 34-1611 *et seq.*, and 34-1741 *et seq.*)

ESSENTIAL SERVICE FACILITIES [LDC Section 34-622(c)(13)]: Group I only (LDC Sections 34-1611 *et seq.*, 34-1741 *et seq.*, and 34-2141 *et seq.*)

EXCAVATION: Water retention (LDC Section 34-1651)

FENCES, WALLS (LDC Section 34-1741)

HOME CARE FACILITY

HOME OCCUPATION (LDC Section 34-1771 *et seq.*)

MODELS:

Display center (LDC Section 34-1951 *et seq.*)

Model home (LDC Section 34-1951 *et seq.*)

Model unit (LDC Section 34-1951 *et seq.*)

PARKING LOT:

Accessory

PLACE OF WORSHIP (LDC Section 34-2051 *et seq.*)

RECREATIONAL FACILITIES: Private, On-Site

RELIGIOUS FACILITIES (LDC Section 34-2051 *et seq.*)

RESIDENTIAL ACCESSORY USES [LDC Section 34-622(c)(42)] (LDC Section 34-1171 *et seq.*)

SIGNS in accordance with Chapter 30

Commercial "C"

[All uses with an asterisk (*) may only be developed south of the Pelican Sound access.]

ACCESSORY USES AND STRUCTURES (LDC Sections 34-1171 *et seq.*, 34-2441 *et seq.*, 34-1863, and 34-2141 *et seq.*)

ADMINISTRATIVE OFFICES

ANIMALS: Clinic (LDC Section 34-1321 *et seq.*) - within an enclosed building only

ASSISTED LIVING FACILITY (LDC Sections 34-1491 *et seq.*, and 34-1411) - As limited in Condition 2

- * ATM (automatic teller machine)
- * AUTO PARTS STORE - without installation services
- * AUTOMOBILE SERVICE STATION
- * AUTO REPAIR AND SERVICE [LDC Section 34-622(c)(2)], Group I only
- * BAIT AND TACKLE SHOP
- * BANKS AND FINANCIAL ESTABLISHMENTS [LDC Section 34-622(c)(3)]: Groups I and II

BOATS:

- Boat parts store
- Boat rental

BROADCAST STUDIO, COMMERCIAL RADIO AND TELEVISION (LDC Section 34-1441 *et seq.*)

- * BUILDING MATERIAL SALES [LDC Section 34-622(c)(4) and 34-3001 *et seq.*] - NO outside storage

BUSINESS SERVICES [LDC Section 34-622(c)(5)]: Group I

- * CAR WASH

CLEANING AND MAINTENANCE SERVICES [LDC Section 34-622(c)(7)]

- * CLOTHING STORES, general [LDC Section 34-622(c)(8)]

CLUBS:

- * Commercial
- * Fraternal, membership organization (LDC Section 34-2111)
- Private (LDC Section 34-2111)

COMPUTER AND DATA PROCESSING SERVICES

- * CONSUMPTION ON PREMISES (LDC Section 34-1261 *et seq.*)

* CONVENIENCE FOOD AND BEVERAGE STORE

CULTURAL FACILITIES [LDC Section 34-622(c)(10)]

DAY CARE CENTER, CHILD, ADULT

- * DEPARTMENT STORE

* DRIVE-THROUGH FACILITY FOR ANY PERMITTED USE

DRUGSTORE, PHARMACY

ENTRANCE GATES AND GATEHOUSE (LDC Section 34-1741 *et seq.*)

ESSENTIAL SERVICES (LDC Sections 34-1611 *et seq.*, and 34-1741 *et seq.*)

ESSENTIAL SERVICE FACILITIES [LDC Section 34-622(c)(13)]: Group I (LDC Sections 34-1611 *et seq.*, 34-1741 *et seq.*, and 34-2141 *et seq.*)

EXCAVATION: Water retention (LDC Section 34-1651)

FENCES, WALLS (LDC Section 34-1741)

FOOD AND BEVERAGE SERVICE, LIMITED

- * FOOD STORES [LDC Section 34-622(c)(16)]: Group I

FUNERAL HOME AND MORTUARY (without a crematory)

- * HARDWARE STORE

* HEALTH CARE FACILITIES [LDC Section 34-622(c)(20)]: Groups I - III

- * HELISTOP

* HOBBY, TOY AND GAME SHOPS [LDC Section 34-622(c)(21)]

- * HOTEL/MOTEL (LDC Section 34-1801 *et seq.*) - limited to 105 rooms
- * HOUSEHOLD AND OFFICE FURNISHINGS [LDC Section 34-622(c)(22)], Groups I and II
- INSURANCE COMPANIES [LDC Section 34-622(c)(23)]
- * LAUNDRY OR DRY CLEANING [LDC Section 34-622(c)(24)]: Group I
- * LAWN AND GARDEN SUPPLY STORES (LDC Section 34-2081)
- LIBRARY
- MEDICAL OFFICE
- MODEL DISPLAY CENTER
- NONSTORE RETAILERS [LDC Section 34-622(c)(30)], All Groups
- * PACKAGE STORE (LDC Section 34-1261 *et seq.*)
- PAINT, GLASS AND WALLPAPER
- PARKS [LDC Section 34-622(c)(32)]: Groups I and II
- PARKING LOT:
 - Accessory
 - Garage, public parking
 - Temporary (LDC Section 34-2022)
- PERSONAL SERVICES [LDC Section 34-622(c)(33)]: Groups I - III (* ATM only)
- PET SERVICES
- PET SHOP
- * PHARMACY
- PLACE OF WORSHIP (LDC Section 34-2051 *et seq.*)
- * POST OFFICE
- * PRINTING AND PUBLISHING [LDC Section 34-622(c)(36)]
- REAL ESTATE SALES OFFICE (LDC Sections 34-1951 *et seq.*, and 34-3021)
- * RECREATION FACILITIES, Commercial [LDC Section 34-622(c)(38)]: Groups II and IV
- RELIGIOUS FACILITIES (LDC Section 34-2051 *et seq.*)
- * RENTAL OR LEASING ESTABLISHMENT [LDC Section 34-622(c)(39)]: Groups I and II (LDC Section 34-1201 *et seq.*, 34-1352, and 34-3001 *et seq.*) - indoor storage only
- * REPAIR SHOPS [LDC Section 34-622(c)(40)]: Groups I and II
- * RESEARCH AND DEVELOPMENT LABORATORIES [LDC Section 34-622(c)(41)]: Groups II and IV
- * RESTAURANT, FAST FOOD
- * RESTAURANTS [LDC Section 34-622(c)(43)]: Groups I, II, and III
- * SCHOOLS:
 - Commercial [LDC Section 34-622(c)(45)] (LDC Section 34-2381)
- * SELF-SERVICE FUEL PUMPS
- SIGNS in accordance with Chapter 30
- SOCIAL SERVICES [LDC Section 34-622(c)(46)]: Group I only
- * SPECIALTY RETAIL SHOPS [LDC Section 34-622(c)(47)]: Groups I - IV - NO outdoor storage
- STORAGE:
 - Indoor only, (LDC Section 34-3001 *et seq.*)
- STUDIOS [LDC Section 34-622(c)(49)]
- TEMPORARY USES (LDC Section 34-3041 *et seq.*)
- * THEATER, indoor only (LDC Section 34-2471 *et seq.*)
- * USED MERCHANDISE STORES [LDC Section 34-622(c)(54)]: Groups I and II
- * VARIETY STORE
- * VEHICLE AND EQUIPMENT DEALERS [LDC Section 34-622(c)(55)]: Group II only (LDC Section 34-1352)
- * WHOLESALE ESTABLISHMENTS [LDC Section 34-622(c)(56)]: Group III only

4. Exhibit "B" (Attachment G to the Staff Report) sets out the Property Development Regulations within this planned development. No building located within the first 100 feet of the northern perimeter property line may exceed a height of 35 feet.
5. At the time of local development order, a detailed gopher tortoise management plan per LDC Section 10-474 must be submitted. This plan must provide for preservation of the 2.2 acres of pine flatwoods surrounding the gopher tortoise burrows, gopher tortoise fencing during construction activities, deed restrictions preventing pets and pedestrians from entering the preserve, interpretive signage delineating the boundaries of the preserve, and management guidelines to maintain the preserve as viable gopher tortoise habitat.
6. Prior to issuance of development orders for any portion of the project fronting the perimeter boundaries, the developer must provide a covenant running with the land showing a consistent architectural theme and landscaping design within the project that is compatible with and similar to any existing buildings and landscaping on this overall site.
7. The project will feature a minimum 25-foot-wide native landscaped arterial road buffer. In areas where native vegetation does not exist, the developer will plant five native trees and 15 native shrubs per 100 linear feet. This buffer must include a 2-foot-high undulating berm (with landscaping on the berm) running parallel to U.S. 41. New landscaping will be planted in a well designed and clustered manner.
8. Site identification signs, building identification signs, and directory signs must be architecturally integrated and compatible with the project's building design and color; unless stated otherwise, all signs must comply with the LDC.
9. At the time of local development order, open space must be provided per the open space table on the MCP. A total of 10.0 acres (with credits) of existing indigenous native vegetation must be preserved as delineated on the MCP.
10. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic requirements. Additional conditions may be required to obtain a local development order, consistent with local development regulations.
11. This rezoning approval does not give the Developer an undeniable right to receive local development order approval that exceeds the Year 2010 Overlay use allocation, if such allocation exists, for the applicable district.

SECTION C. DEVIATIONS:

Deviation (1) requesting relief from LDC Sections 10-8(2) and 34-2013(a) which require that all parking lots be designed to permit vehicles exiting the parking lot to enter the street right-of-way or easement in a forward motion, to allow individual parking spaces to back onto the right-of-way or easement for common access drives and private local roads, IS APPROVED WITH THE FOLLOWING CONDITIONS:

- a) The deviation only applies to units with individual driveways and garages.
- b) The minimum dimension from the garage entrance to the street must be 25 feet, unless the garage is constructed with a side facing entrance rather than a front facing entrance.
- c) The posted speed of the adjacent roadway must be posted at 20 mph or less.

Deviation (2) has been WITHDRAWN.

Deviation (3) requesting relief from LDC Section 10-291(3) which requires, where practical, any residential development of at least five± acres to provide two or more means of ingress and egress, to allow only one means of ingress and egress, IS APPROVED WITH THE FOLLOWING CONDITIONS:

- a) An emergency turnaround of adequate dimension is provided for emergency service providers within each development pod.
- b) Each multi-family pod with one means of ingress and egress will not exceed 150 units.
- c) The local Fire and Emergency Service District must provide a letter of approval prior to local Development Order approval.

Deviation (4) was WITHDRAWN at hearing.

Deviation (5) requesting relief from LDC Section 10-329(e)(3) which requires the maximum depth of excavation not exceed 12 feet, to allow excavation not to exceed 20 feet as supported by a hydrogeological report, IS APPROVED WITH THE FOLLOWING CONDITIONS:

- a) The excavation dimension must be measured from the control elevation and not the dry season elevation.
- b) The "Camargo Trust Property Deep Lake Management Plan," dated January 1998 must be implemented prior to the issuance of a certificate of compliance.
- c) Documentation of the aeration system adequacy for each deep lake must be sealed by a professional engineer and approved by the Division of Planning, Environmental Sciences prior to development order issuance.
- d) The proposed planting locations of the wetland herbaceous plant requirements of LDC Section 10-418 and additional native shade trees must be graphically detailed as part of the Deep Lake Management Plan. All plants must be grouped or clustered around the lake perimeters.
- e) An as-built bathymetric survey for all lakes deeper than 12 feet is required. The survey must be submitted prior to certificate of compliance.

Deviation (6) requesting relief from LDC Section 34-2015(2) which prohibits stacked parking for multiple family dwelling units, to allow stacked parking for multiple family units which have a specific garage or driveway appurtenant to it, IS APPROVED.

SECTION D. EXHIBITS:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A. The legal description and STRAP number of the subject property.
- Exhibit B. Property Development Regulations.
- Exhibit C. A reduced copy of the Camargo Trust MPD Master Concept Plan.
- Exhibit D. A map depicting the subject parcel (shaded in) in relation to the surrounding area.

SECTION E. FINDINGS AND CONCLUSIONS:

1. The Applicant proved entitlement to the MPD rezoning, as conditioned for 100,000 square feet of retail uses and 200,000 square feet of non-retail uses, by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes or regulations.
2. Approval of more than 100,000 square feet of retail uses, or uses having to meet the locational standards of Policy 6.1.2, even with conditions, is contrary to the intent of the Suburban land use designation, and will have adverse impacts on the surrounding uses and persons.
3. The MPD, as conditioned,
 - a. will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area; and
 - d. will not adversely affect environmentally critical areas or natural resources.
4. Approval of the MPD, as conditioned, will not place an undue burden upon existing transportation or planned infrastructure facilities, and the development will be served by streets with the capacity to carry traffic it generates.
5. The proposed use or mix of uses is appropriate at the subject location.
6. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest, and are reasonably related to the impacts on the public interest created by or expected from the proposed development.
7. The requested deviations enhance the achievement of the objectives of the planned development, and preserve and promote the general intent of Chapter 34, Land Development Code, to protect the public health, safety and welfare.
8. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner Andrew Coy, and seconded by Commissioner Ray Judah and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 29th day of June, 1998.

ATTEST:
CHARLIE GREEN, CLERK

BY: Mary Amment
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: J. Manning
Chairman

Approved as to form by:

Leahy
County Attorney's Office

Exhibit A

LEGAL DESCRIPTION

In Section 33, Township 46 South, Range 25 East, Lee County, Florida, more particularly described as follows:

Parcel 1

Commence at the Southwest corner of Section 33, Township 46 South, Range 25 East, Lee County, Florida;

THENCE run N00°31'21"W along the West line of the Southwest Quarter (SW¼) of said Section 33 for a distance of 30.00 feet to a point on the Northerly right-of-way line of Williams Road, a 60.00 foot right-of-way;

THENCE run N89°00'54"E along said Northerly right-of-way line for a distance of 1,382.17 feet to the POINT OF BEGINNING of the parcel of land herein described;

THENCE run N00°31'21"W for a distance of 1,845.84 feet;

THENCE run N88°52'56"E for a distance of 1,720.01 feet to a point on the Westerly right-of-way line of US Highway 41, State Road No. 45, a 200 foot right-of-way;

THENCE run S05°19'58"W along said Westerly right-of-way line for a distance of 1,860.16 feet to a point on the Northerly right-of-way line of Williams Road;

THENCE run S88°49'24"W along said Northerly right-of-way line for a distance of 268.34 feet to a point on the East line of the Southeast Quarter (SE¼) of the Southwest Quarter (SW¼) of said Section 33;

THENCE run S89°00'54"W along said Northerly right-of-way line for a distance of 1,261.87 feet to the POINT OF BEGINNING;

Containing 68.925 acres, more or less.

LESS AND EXCEPT the following described parcel of land:

A portion of the Southwest Quarter (SW¼) of Section 33, Township 46 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

The Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) of the Southwest Quarter (SW¼) of Section 33, Township 46 South, Range 25 East, Lee County, Florida, LESS the South 30.00 feet thereof;

Containing 9.598 acres, more or less.

PARCEL 2

Commence at the Southwest corner of Section 33, Township 46 South, Range 25 East, Lee County, Florida;

THENCE run N00°31'21"W along the West line of the Southwest Quarter (SW¼) of said Section 33 for a distance of 30.00 feet to a point of the Northerly right-of-way line of Williams Road (a 60 foot right-of-way);

THENCE run N89°00'54"E along said Northerly right-of-way line for a distance of 1,382.17 feet;

THENCE run N00°31'21"W for a distance of 2,045.85 feet to the POINT OF BEGINNING of the parcel of land herein described;

THENCE continue N00°31'21"W for a distance of 572.68 feet to a point on the North line of the Southwest Quarter (SW¼) of said Section 33;

THENCE run N88°52'56"E along the North line of the Southwest Quarter (SW¼) of said Section 33 for a distance of 1,799.34 feet to a point on the Westerly right-of-way line of US Hwy. 41 (State Road 45 - a 200 foot right-of-way);

THENCE run S05°19'58"W along said Westerly right-of-way line for a distance of 576.30 feet;

THENCE run S88°52'56"W for a distance of 1,740.54 feet to the POINT OF BEGINNING;

Containing 23.268 acres, more or less.

STRAP NUMBER

The applicant has indicated the subject property's STRAP# is 33-46-25-00-00001.0030.

