## **RESOLUTION NUMBER Z-96-025**

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

WHEREAS, Bernard J. DeWolfe, Gina DeWolfe, Allen H. Johnson and Patricia Johnson, represented by Development Associates of Bonita Springs, Inc. filed an application for a rezoning from CN-2 (Neighborhood Commercial) to Commercial Planned Development, in reference to The Plaza; and

WHEREAS, the subject property is located 24921 South Tamiami Trail, Bonita Springs, and is described more particularly as:

LEGAL DESCRIPTION: In Section 16, Township 47 South, Range 25 East, Lee County, Florida:

Commence at the Southeast corner of Section 16, Township 47 South, Range 25 East;

THENCE S89°44'20"W along the South line of said Section 16 for 1,145.47 feet to an intersection with the East right-of-way line of SR 45 (US 41 Bypass);

THENCE Northerly along said Easterly right-of-way line for the following three (3) described courses:

(1) N00°17'30"E for 735.76 feet;

(2) N03°09'15"E for 100.12 feet;

(3) THENCE N00°17'30"E for 7.46 feet to the POINT OF BEGINNING of the herein described parcel of land;

THENCE continue N00°17"30"E along said East right-of-way line for 576.34 feet to an intersection with that certain Florida Power & Light Company easement described in Deed Book 229 at Page 48 of the Public Records of Lee County, Florida.

THENCE S53°53'30"E along said centerline for 180.45 feet to an intersection with the centerline of that certain Florida Power & Light Company right-of-way described in Deed Book 244 at Page 138 of said Public Records;

THENCE S69°30'18"W for 50.00 feet;

THENCE S20°29'42"E along the Easterly right-of-way (50 feet from centerline) of said Florida Power & Light Company right-of-way for 547.88 feet;

THENCE S89°38'36"W for 254.04 feet;

THENCE N00°17'30"E for 62.00 feet;

THENCE N89°42'30"W for 40.00 feet to the POINT OF BEGINNING.

Said parcel of land situated lying and being in Lee County, Florida. Containing 2.50 acres, more or less.

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WHEREAS, the applicant has indicated the property's current STRAP number is 16-47-25-00-00100.0050; and

WHEREAS, Bernard J. DeWolfe, Gina DeWolfe, Allen H. Johnson and Patricia Johnson, fee simple owners, authorized Development Associates of Bonita Springs, Inc., Pavese, Garner, Haverfield, Dalton, Harrison & Jensen and Johnson Engineering, Inc.-to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held on May 28, 1996 before the Lee County Hearing Examiner who gave full consideration of the evidence available; and

WHEREAS, a public hearing was advertised and held on July 1, 1996 before the Lee County Board of County Commissioners who gave full and complete consideration to the recommendations of 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 COMMIS-SIONERS, that the Board **APPROVES** with conditions the requested rezoning from CN-2 to Commercial Planned Development.

## SECTION A. CONDITIONS:

The rezoning and Master Concept Plan are subject to the following conditions:

- 1. The development and use of the subject property must be in substantial compliance with the approved three-page Master Concept Plan for the project entitled "The Plaza CPD" (File PZ-CPD, dated August, 1995, last revised January 15, 1996, printed on March 26 and March 01, 1996), prepared by Q. Grady Minor and Associates, P.A., except as modified by the conditions herein.
- 2. The total square footage of this planned development may not exceed 24,999 square feet.
- 3. The following uses are permitted:

ACCESSORY USES AND STRUCTURES ADMINISTRATIVE OFFICES ANIMAL CLINIC [Section 34-1321] ATM AUTO PARTS STORE AUTOMOBILE SERVICE STATION AUTO REPAIR AND SERVICE, All Groups [Section 34-622(c)(2)] BAIT AND TACKLE SHOP BANKS AND FINANCIAL ESTABLISHMENTS, Groups I and II [Section 34-622(c)(3)] BAR OR COCKTAIL LOUNGE [Section 34-1261] **BOAT PARTS STORE** BOAT RENTAL BOAT SALES BROADCAST STUDIO, COMMERCIAL RADIO AND TELEVISION [Section 34-1441] BUILDING MATERIALS SALES [Section 34-622(c)(4)] BUSINESS SERVICES, Groups I and II [Section 34-622(c)(5)] CAR WASH CLEANING AND MAINTENANCE SERVICES [Section 34-622(c)(7)] CLOTHING STORES, GENERAL [Section 34-622(c)(8)] CLUBS: COMMERCIAL, FRATERNAL, AND PRIVATE [Section 34-2111] CONSUMPTION ON PREMISES [in conjunction with a Restaurant use only] [Section 1261] CONTRACTORS AND BUILDERS, All Groups [Section 34-622(c)(9)] CONVENIENCE FOOD AND BEVERAGE STORE CULTURAL FACILITIES [except zoo] [Section 34-622(c)(10)] DAY CARE CENTER, ADULT AND CHILD DEPARTMENT STORE DRIVE-THROUGH FACILITY FOR ANY PERMITTED USE DRUGSTORE ESSENTIAL SERVICES [Section 34-1611] ESSENTIAL SERVICE FACILITIES, Group I [Section 34-622(c)(13)] EXCAVATION, WATER RETENTION [Section 1651] FACTORY OUTLET FENCES. WALLS FOOD AND BEVERAGE SERVICE, LIMITED FOOD STORES, Groups I and II [Section 34-622(c)(16)] FUNERAL HOME OR MORTUARY [with or without cremation] GIFT AND SOUVENIR SHOP HARDWARE STORE HOBBY, TOY, AND GAME SHOPS [Section 34-622(c)(21)] HOUSEHOLD AND OFFICE FURNISHINGS, All Groups [Section 34-622(c)(22)] INSURANCE COMPANIES [Section 34-622(c)(23)] LAUNDRY OR DRY CLEANING, Group I [Section 34-622(c)(24)] LIBRARY MEDICAL OFFICE **MINI-WAREHOUSE** MODEL DISPLAY CENTER [Section 34-1951] NONSTORE RETAILERS, All Groups [Section 34-622(c)(30)] PACKAGE STORE [Section 34-1261] PAINT, GLASS & WALLPAPER PARKING LOT, Accessory, Commercial, Garage, Public Parking, and Temporary PERSONAL SERVICES, All Groups [Section 34-622(c)(33)]

PET SERVICES PET SHOP PHARMACY PLACE OF WORSHIP PRINTING AND PUBLISHING [Section 34-622(c)(36)] RECREATION, COMMERCIAL, Groups II and IV [Section 34-622(c)(38)] RECREATIONAL FACILITIES, Commercial, Personal, Private or Public [indoor only] RELIGIOUS FACILITIES [Section 34-2051] RENTAL OR LEASING ESTABLISHMENTS, Groups I, II, and III [Section 34-62(c)(39)] REPAIR SHOPS, All Groups [Section 34-622(c)(40)] RESEARCH AND DEVELOPMENT LABORATORIES, Groups II and IV [Section 34-622(c)(41)] RESTAURANTS, All Groups [Section 34-622(c)(43)] RESTAURANT, FAST FOOD SCHOOLS, COMMERCIAL [Section 34-622(c)(45)] SELF-SERVICE FUEL PUMPS SELF-SERVICE FUEL PUMP STATION SIGNS, IN ACCORDANCE WITH THE LAND DEVELOPMENT CODE SOCIAL SERVICES, Groups I and II [Section 34-622(c)(46)] SPECIALTY RETAIL SHOP, All Groups [Section 34-622(c)(47)] STORAGE, Open and Indoor [Section 34-3001] STUDIO [Section 34-622(c)(49)] SUPERMARKET TEMPORARY USES TOWERS, COMMUNICATION [less than 100 feet in height] TRANSPORTATION SERVICES, Group II [Section 34-622(c)(53)] USED MERCHANDISE STORE, Groups I, II, and III [Section 34-622(c)(54)] VARIETY STORE VEHICLE & EQUIPMENT DEALERS, All Groups [Section 34-622(c)(55)] WHOLESALE ESTABLISHMENT, Groups I, III, and IV [Section 34-622(c)(56)]

4. Development of The Plaza CPD will comply with the following Property Development Regulations:

Minimum Lot Area and Dimensions:

Area:10,000 square feetWidth:100 feetDepth:100 feet

Minimum Setbacks:

Street: Variable according to the functional classification of the street or road (Section 34-2191 et seq.) Side: 10 feet Zero feet (adjacent to the Florida Power and Light easement) Rear: Maximum Lot Coverage: 40 percent

Maximum Building Height: 45 feet

- 5. This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions may be required at the time of local Development Order.
- 6. Approval of this rezoning does not give the Developer the undeniable right to receive local Development Order approval that exceeds the Year 2010 Overlay use allocation for the applicable district.
- 7. This development must comply with the requirements of the Lee County Land Development Code at the time of local Development Order approval, except as may be granted by deviation as part of this planned development.
- For the purposes of this planned development, the billboard sign on the subject 8. property is deemed an existing non-conforming use.

## SECTION B. DEVIATIONS:

The Plaza CPD Master Concept Plan deviates from several Lee County development standards. The proposed deviations are granted or denied as set forth below;

- 1. Deviation (1) requests relief from LDC Section 10-283(a) to eliminate the required access road as part of this planned development. This deviation is APPROVED.
- 2. Deviation (2) requests relief from LDC Section 10-415(b)(1) to modify the landscaping requirements on the landscaping strip adjacent to an arterial road. This deviation is APPROVED with the CONDITION that the developer follows the proposed enhanced typical perimeter right-of-way landscaping strip shown on the approved Master Concept Plan.
- 3. Deviation (3) requests relief from LDC Section 34-935(b)(1)(b) to allow a zero-foot perimeter boundary structural setback at the Florida Power & Light right-of-way line. This deviation is APPROVED with the condition that no local development order approval may be granted until the Bonita Springs Fire Control and Rescue District approves the use of the Florida Power & Light right-of-way for access or the building(s) are equipped with an automatic fire sprinkler system.

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## 4. Deviation (4) has been WITHDRAWN.

## SECTION C. Master Concept Plan:

A reduced copy of the three-page Master Concept Plan for the project entitled "The Plaza CPD" (File PZ-CPD, dated August, 1995, last revised January 15, 1996, printed on March 26 and March 01, 1996) is attached and incorporated into this resolution by reference.

## SECTION D. FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval of the requested rezoning:

- 1. The applicant has proved entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes and regulations.
- 2. The requested zoning:
  - a) meets or exceeds 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 and natural resources.
- 3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development.
- 4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
- 5. The proposed use or mix of uses is appropriate at the subject location.
- 6. The recommended conditions and other applicable regulations provide sufficient safeguards to the public interest.
- 7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
- 8. The deviations granted:

- a) enhance the objectives of the planned development; and
- b) preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner John E. Manning, and seconded by Commissioner John E. Albion and, upon being put to a vote, the result was as follows:

John E. ManningAyeDouglas R. St. CernyAbsentRay JudahAbsentAndrew W. CoyAyeJohn E. AlbionAye

DULY PASSED AND ADOPTED this 1st day of July, A.D., 1996.

ATTEST: CHARLIE GREEN, CLERK Depùty Cler

BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA BY:\_\_\_\_\_\_

Chairman

Approved as to form by:

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# MASTER CONCEPT PLAN THE PLAZA CPD



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LOCATION MAP

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DEVELOPER

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