

RESOLUTION NUMBER Z-97-050

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

WHEREAS, Florida Group Investments, Inc. filed an application for a rezoning from Agricultural (AG-2) to Commercial Planned Development (CPD), in reference to Estero Greens; and

WHEREAS, the subject property is located at 22250 S Tamiami Trail, Estero, and is described more particularly as:

LEGAL DESCRIPTION: In Section 04, Township 47 South, Range 25 East, Lee County, Florida:

A tract or parcel of land lying in Section 04, Township 47 South, Range 25 East, Lee County, Florida, more particularly described as follows:

Commence at the Southeast corner of Section 04, Township 47 South, Range 25 East;

THENCE S88°14'22"W for 2,266.44 feet along the South line of the Southeast Quarter (SE¼) of said Section 04 to an intersection with the Westerly right-of-way line of US 41 (SR 45 - Tamiami Trail);

THENCE N06°41'21"W for 2,267.59 feet along said Westerly right-of-way to the POINT OF BEGINNING;

THENCE continue N06°41'21"W for 651.86 feet along said right-of-way to the Point of Curvature of a curve to the right, radius 2,932.79 feet, central angle 07°12'27";

THENCE Northwesterly for 590.90 feet along the said arc of curve to the Point of Tangency;

THENCE N04°51'17"E for 811.36 feet along said right-of-way;

THENCE N85°08'43"W for 500.00 feet to an intersection with a line parallel with and 500.00 feet Westerly of (as measured at right angles to) the aforementioned Westerly right-of-way line of US 41;

THENCE S04°51'17"W for 811.36 feet along said parallel line and a line common with a tract or parcel of land as described in Official Record Book 1775 at Pages 2025 and 2026 of the Public Records of Lee County, Florida to the Point of Curvature of a curve to the left, radius 3,432.79 feet, central angle 07°12'27";

THENCE Southwesterly for 691.63 feet along the arc of said curve to the Point of Tangency;

THENCE S06°41'21"E for 651.86 feet;

THENCE N83°18'39"E for 500.00 feet along said common line to the POINT OF BEGINNING.

Containing 24.16 acres more or less; and

WHEREAS, the applicant has indicated the property's current STRAP numbers are 04-47-25-00-00001.002D and 04-47-25-00-00001.002E; and

9/15/97

WHEREAS, Florida Group Investments, Inc., the owner of the subject parcel, authorized Stuart & Associates to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held on July 30, 1997 before the Lee County Hearing Examiner in Case No. 97-04-065.03Z 01.01, who gave full consideration to the evidence available; and

WHEREAS, a public hearing was advertised and held on September 15, 1997 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 LEE COUNTY BOARD OF COUNTY COMMISSIONERS, that the Board **APPROVES** the rezoning from Agricultural (AG-2) to Commercial Planned Development (CPD), to permit the development of up to 100,000 square feet of retail or 129,900 square feet of office uses (with a maximum of 229,900 square feet of commercial development), or an Adult Living Facility (ALF) on three acres with a maximum of 145 rooms, or a 125-room hotel/motel use, or some combination of these uses, with building(s) not to exceed 45 feet in height within three stories for all uses, except the hotel/motel use which may be a maximum of 50 feet in height within five stories, on 24.2± acres of land **WITH THE FOLLOWING CONDITIONS AND DEVIATIONS:**

SECTION A. CONDITIONS:

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

1. The development of this project must be in accordance with the one-page Master Concept Plan (MCP) entitled "Master Concept Plan for Estero Greens CPD," prepared by Stuart & Associates, dated 6/9/97, stamped "Received June 12, 1997," as may be modified below. This approval does not alleviate the need to comply with all state and county development regulations, except as specifically modified by this approval. Any change to the MCP will require an appropriate approval.

2. The uses and development regulations for this property are as follows:

a. **Schedule of Uses**

- (1) This project may be developed with the following uses, except as further limited below:

Accessory uses and structures
Administrative Offices
Animal Clinic (only as limited by LDC Section 34-1322)
Auto Parts Store
Auto Repair & Service, Group II
Automobile Service Station
Bait & Tackle Shop

Banks & Financial Establishments, Groups I & II
Boat Parts Store
Boat Sales
Broadcast Studio, Commercial Radio & Television
Building Material sales
Business Services, Group I
Car Wash
Cleaning & Maintenance Services
Clothing Store, General
Clubs-Commercial, Fraternal, Membership
Consumption on Premises (only as limited below)
Convenience Food & Beverage Stores
Cultural Facilities (excluding zoos)
Day care Center, Child and/or Adult
Department Store
Drive Thru (only as limited below)
Drugstore
Essential Services (in compliance with LDC Section 34-1611)
Essential Service Facilities, Group I
Excavation, Water Retention
Food & Beverage Services, Limited
Food Stores, Groups I & II
Funeral Home or Mortuary (with or without cremation)
Gift & Souvenir Shop
Hardware Store
Hobby, Toy & Game Shops
Hotel Motel, limited to a maximum of 125 rooms
Household & Office Furnishings, All Groups
Insurance Companies
Laundromat
Laundry or Dry Cleaning, Group I
Lawn and Garden Supply Store
Library
Medical Office
Mini-warehouse
Model Display Center
Non-store Retailers, all groups
Package Store
Paint, Glass & Wallpaper
Parking Lot - accessory, commercial, garage, temporary
Personal Services, Groups I, II & III
Pet Shops
Pet Services
Plant Nursery
Place of Worship
Post Office
Printing & Publishing

Real Estate Sales Office
 Recreation, Commercial, Groups II & IV
 Recreational Facilities - commercial, personal, private or public--
 indoor only
 Religious Facilities
 Rental or Leasing Establishments, Groups I, II & III
 Repair Shops, Groups I & II
 Research & Development Laboratories, Groups II & IV
 Restaurants, Fast Food (as limited below)
 Restaurants, all Groups
 Schools, Commercial
 Self-Service Fuel Pumps
 Self-Service Fuel Pump Stations
 Signs, in accordance with the LDC
 Social Services, Groups I & II
 Specialty Retail Shops, All Groups
 Storage, Indoor
 Studios
 Supermarket
 Temporary Uses
 Theater, Indoor
 Transportation Services, Group II
 Used Merchandise Store, Groups I & II
 Vehicle & Equipment Dealers, Groups I & II
 Wholesale Establishment, Groups I & III -limited to those
 commodities and products which are permitted to be sold at retail,
 provided that parking meets the requirements for retail sales

- (2) Any consumption on premises not in conjunction with a full service restaurant must be located at least 500 feet from any residentially used building measured from entrance to entrance.
- (3) Outside speaker systems, loud speakers, or public address systems associated with any drive-thru use must be located a minimum of 200 feet away from the project's western perimeter property line. Sound must be directed away from the western perimeter property line.
- (4) Outside consumption on premises is prohibited within 400 feet of the west property line.
- (5) Deliveries to any businesses on this site between the hours of 8:00 p.m. and 6:00 a.m. are prohibited.
- (6) Garbage or grease dumpsters may not be located on the west side of the internal roadway.

b. Property Development Regulations

- (1)
 - a. Maximum overall commercial development is limited to 229,900 square feet, with the retail commercial uses further limited by items c. and d. below.
 - b. This project can be comprised of medical, general office, retail, or service uses (in compliance with the schedule above), or any combination of those uses, up to the maximum square footage, provided all limiting conditions and parking, open space, buffering, and water management requirements are met.
 - c. Prior to approval of a development order for uses that are subject to Lee Plan Neighborhood Commercial retail site location standards, the developer must provide access to Williams Road via an internal connection through the northerly parcel. Absent this interconnection, the project may not exceed Lee Plan standards for Minor Commercial uses.
 - d. If the project cannot achieve access to Williams Road, the connection(s) to U.S. 41 must be developed/built to local road standards to qualify and achieve Lee Plan Minor Commercial uses.

(2) Minimum Setbacks:

Street (U.S. 41)	25 feet
Street (internal)	25 feet
Side:	15 feet
Rear:	20 feet
Water Body:	25 feet
Building separation:	20 feet (if no lot line exists)

- (3) Minimum lot size: 20,000 square feet
100 feet by 100 feet
- (4) Minimum Open Space: 30 percent per lot, parcel or tract
- (5) Maximum building height may not exceed 45 feet or three stories for any use other than the hotel/motel use which is limited to a maximum of 50 feet or five stories, whichever is less. However, no office building taller than two stories is permitted within 125 feet of the Fountain Lakes western property line, and no retail or service building or a hotel/motel taller than two stories is permitted within 200 feet of the Fountain Lakes western property line.

3. Required parking will be calculated based upon the specific uses developed.

4. Special Buffering

- a. The developer must provide a 75-foot-wide indigenous preserve buffer along the length of the entire western property boundary (east of the 10-foot-wide drainage easement). In addition, the developer must provide an 8-foot-high fence (not a wall) or a 6-foot-high fence on a 2-foot-high berm within the westerly 10-foot-wide drainage easement. Additional tree plantings must be provided on the east side of the fence within 20 feet of said fence. These trees plantings must be South Florida slash pines no less than 10 feet tall with a three-inch caliper measured at three feet above the ground. A minimum of eight trees per 100 foot buffer segment are required.
 - b. The developer must remove invasive exotic vegetation from the special buffering area and provide the fence and additional plantings as part of the first phase of any construction on site.
5. Each parcel, lot, or tract must provide 30 percent open space. Indigenous open space preservation must be as delineated (a minimum of 3.70 contiguous acres with a minimum width of 75 feet) on the approved Master Concept Plan. Indigenous open space "credit" will be allotted to each parcel, lot, or tract by the proportionate size of the indigenous preserve area on each parcel, lot, or tract at time of their local development order. (The open space table on the Master Concept Plan is not adopted as part of this zoning approval.)

All invasive exotic vegetation, as identified in the Lee County LDC Section 10-413(f), must be removed from the entire indigenous vegetation preserve area prior to Certificate of Compliance for roads and infrastructure construction. This requirement must be stated on the development plans prior to development order approval for roads and infrastructure.

6. Auto repair work must be performed within a completely enclosed building.
7. Interior (project) lighting must comply with Land Development Code Section 34-936(g), must be of the lowest intensity meeting life safety codes, and must be shielded and directed away from the adjacent residential area.
8. This project must comply with the Lee Plan requirements for sewer service. Septic tanks will not be permitted if central service can be accommodated in compliance with the LDC and the Lee Plan.
9. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions may be required to obtain a local development order.
10. Approval of this CPD rezoning merely changes the zoning district of the subject property. It does not grant or vest present or future development rights exceeding the Lee Plan use restrictions set forth in the 2010 (Roberts) Overlay or any other Lee Plan provision.

11. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.
12. Prior to approval of development orders or the granting of an early work permit for infrastructure or individual lot development, the affected area of the site, and any portion of the property within 125 feet of the affected area, must be resurveyed for possible squirrel presence. If squirrel nests or "day beds" are observed, the survey must determine if these structures are being utilized by fox squirrels. Should fox squirrel use be verified, a management plan meeting the requirements of the Land Development Code Section 10-474 is required.

SECTION B. DEVIATIONS:

The Master Concept Plan deviates from several Lee County development standards. The proposed deviations are granted as set forth below:

1. Deviation (1) requests relief from LDC Section 10-414(a) which requires a 15-foot-wide landscape buffer and the 8-foot-high wall to be provided between certain commercial and residential developments, to replace the requirement with a 75-foot-wide, 3.73-acre, native open space and surface water management and buffer area. This deviation is **APPROVED subject to Condition 4**.
2. Deviation (2) was **WITHDRAWN** by the Applicant.
3. Deviation (3) requests relief from LDC Section 10-415(b)(1) to replace the required 10-foot-wide landscaping strips along U.S. 41 with a 20-foot-wide roadway buffer that includes five trees and twelve shrubs per 100 linear feet, and to eliminate the required 10-foot-wide landscape strip buffer areas along both side of the internal north-south road. All internal east/west roads will provide the required 10-foot-wide landscape strips per the LDC. This deviation is **APPROVED subject to** the developer providing the 20-foot-wide landscaped strip with five trees and twelve shrubs per 100 linear feet along U.S. 41, and providing the normally required landscaped strip along the internal east/west roads.
4. Deviation (4) requests relief from LDC Section 34-2192(a) which requires a 65-foot-wide minimum roadway setback for arterial roadways (U.S. 41) shown on the required access roadway map, to allow a 25-foot minimum roadway setback for proposed buildings located along the U.S. 41 roadway frontage. This deviation is **APPROVED with the following conditions:**
 - a. In accordance with Land Development Code Section 10-295, Table 3, reverse frontage roads must comply with local road standards. Therefore, if the proposed privately maintained road is to be an open drainage design, the minimum easement or right-of-way width must be 45 feet. The same criteria would apply to the proposed 35-foot easement that runs perpendicular to U.S. 41.

- b. The frontage road requirement for the subject property is waived.

SECTION C. Master Concept Plan:

A one page reduced copy of the Master Concept Plan is attached and incorporated into this resolution by reference, except as modified herein.

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 proven entitlement to the rezoning or special exception by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes and regulations.
2. The CPD rezoning, as conditioned:
 - 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 or natural resources.
3. Approval of the CPD rezoning will not unduly burden existing transportation or planned infrastructure facilities, and the site 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 to the concept plan 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

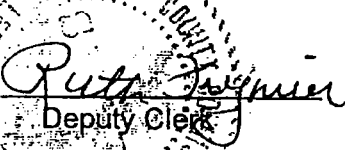
- b. preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

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 Ray Judah and, upon being put to a vote, the result was as follows:

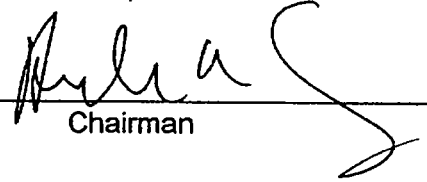
John E. Manning	Aye
Douglas R. St. Cerny	Absent
Ray Judah	Aye
Andrew W. Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 15th day of September, 1997.

ATTEST:
CHARLIE GREEN, CLERK

BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

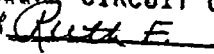
BY: 
Chairman

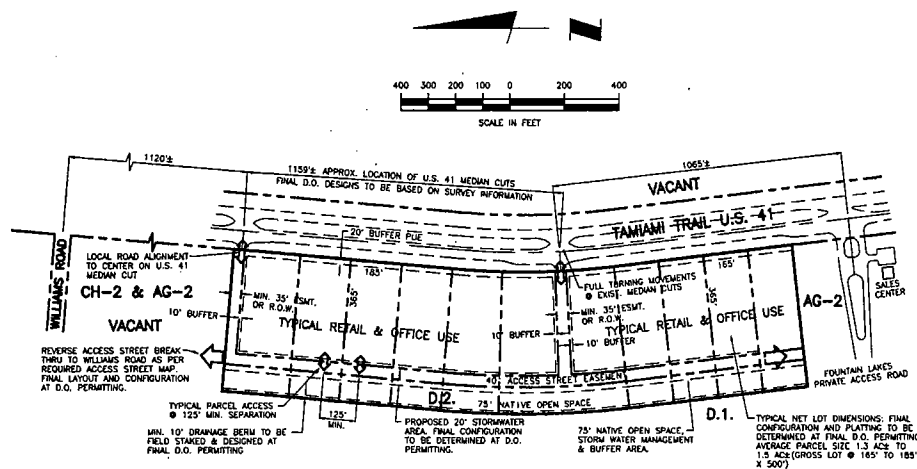
Approved as to form by:


County Attorney's Office

FILED

SEP 16 1997

CLERK CIRCUIT COURT
BY:  D.C.



- NOTE:
1. PROPERTY WITHIN THE FUTURE SUBURBAN LAND USE CATEGORY.
 2. 20' ROADWAY BUFFERS @ 12 SHRUBS AND 5 TREES 100 L.F.

MARSH LANDING RPD

FOUNTAIN LAKES RPD

PROJECT SUMMARY DATA

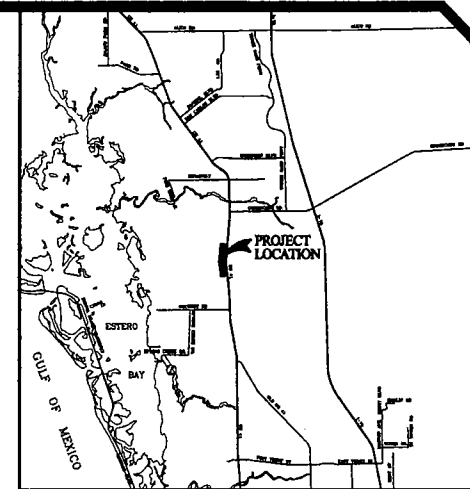
SITE AREA		24.2 ACs
LAND USE CLASSIFICATION		SUBURBAN
EXISTING ZONING/PROPOSED ZONING		AG-2/CPD
WATER AND SEWER UTILITIES		BONITA SPRINGS UTILITIES, INC.
FIRE DISTRICT		ESTERO
FLOOD ZONE		ZONE B
DEVELOPMENT PROGRAM		229,900 SQ.FT.
RETAIL	100,000 SQ.FT.	
NON RETAIL/COMMERCIAL	129,900 SQ.FT.	
HOTEL/MOTEL	125 ROOMS	

OPEN SPACE TABLE

	185' X 500'	165' X 500'
TOTAL SITE AREA	2.12 ACs	1.90 ACs
OPEN SPACE REQUIRED @ 30%	0.63 ACs	0.57 ACs
OPEN SPACE PROVIDED		
NATIVE AREA	0.28 ACs	0.24 ACs
25% CREDIT	0.07 ACs	0.06 ACs
20' DRAINAGE ESMT.	0.08 ACs	0.07 ACs
U.S. 41 BUFFER	0.08 ACs	0.07 ACs
OTHER OPEN SPACE	0.12 ACs	0.13 ACs

PROJECT DEVELOPMENT STANDARDS

MIN. AREA DIMENSIONS:	
MIN. LOT AREA	20,000 SQ.FT.
MIN. LOT WIDTH	100 FT.
MIN. LOT DEPTH	100 FT.
MIN. BUILDING SETBACKS:	
STREET SETBACK WITH ACCESS ROAD	65 FT.
LOCAL ACCESS & ARTERIAL ROADS	25 FT.
SIDE SETBACKS	15 FT.
REAR SETBACKS/WITH WATER	20 FT./25 FT.
MAX. BUILDING HEIGHT	35 FT.
HOTEL/MOTEL	75 FT.
MAX. LOT COVERAGE	40%
OPEN SPACE CALCULATIONS:	
TOTAL SITE AREA	24.2 ACs
TOTAL OPEN SPACE REQUIRED	7.26 ACs
TOTAL OPEN SPACE PROVIDED	
U.S. 41 BUFFERS	0.92 ACs
CONCEPTUAL STORM WATER MANAGEMENT	1.00 ACs
NATIVE OPEN SPACE	3.70 ACs
NATIVE OPEN SPACE CREDIT	0.90 ACs
DEVELOPMENT PARCELS' INTERNAL OPEN SPACE	1.32 ACs
TOTAL PROVIDED OPEN SPACE	7.84 ACs
NATIVE OPEN SPACE REQUIRED	3.63 ACs
NATIVE OPEN SPACE PROVIDED	3.70 ACs



LOCATION MAP
LEE COUNTY, FLORIDA
SECTION 4, TOWNSHIP 47S, RANGE 25E.

PROJECT NOTES AND GENERAL COMMENTS

1. THE DEPICTED MASTER CONCEPT PLAN IS FOR CONCEPTUAL ZONING APPROVAL ONLY. FINAL SITE PLAN ACCESS, PARKING AND CIRCULATION, STORM WATER MANAGEMENT SYSTEMS AND OTHER LAND DEVELOPMENT ELEMENTS WILL BE DETERMINED AT THE TIME OF DEVELOPMENT ORDER PERMITTING.
2. UNLESS OTHERWISE NOTED, PROJECT PARKING AND CIRCULATION SHALL CONFORM WITH LDC 34-2013 TO 2020. LANDSCAPING, OPEN SPACE AND BUFFERS SHALL CONFORM WITH LDC 10-414, 415 AND 416, UNLESS NOTED.
3. SURFACE WATER MANAGEMENT SYSTEM TO COMPLY AND BE MAINTAINED IN ACCORDANCE WITH ALL RELEVANT LOCAL, STATE AND FEDERAL RULES AND REGULATIONS.

SCHEDULE OF DEVIATIONS

1. DEVIATION FROM LDC SECTION 10-414(6), TO REPLACE THE 15 FT. WIDE LANDSCAPE BUFFER AND THE 8 FT. THAT IS REQUIRED TO BE PROVIDED BETWEEN CERTAIN COMMERCIAL AND RESIDENTIAL DEVELOPMENTS, WITH A 75 FT. WIDE, 3.73 ACRE NATIVE OPEN SPACE AND SURFACE WATER MANAGEMENT AND BUFFER AREA.
2. DEVIATION FROM LDC SECTION 10-415(3)(4), TO EXEMPT THE 75 FT. WIDE, 3.73 ACRE NATIVE OPEN SPACE AND SURFACE WATER MANAGEMENT AND BUFFER AREA FROM THE REQUIREMENT TO PROVIDE ONE TREE PER 3,500 SQUARE FEET OF DEVELOPMENT AREAS.
3. DEVIATION FROM LDC SECTION 10-415(6)(1), TO REPLACE THE REQUIRED 10 FT. WIDE LANDSCAPING STRIPS ALONG US-41 WITH A 20 FT. WIDE ROADWAY BUFFER THAT INCLUDES 5 TREES AND 12 SHRUBS PER 100 LINEAR FEET, AND TO ELIMINATE THE REQUIRED 10 FT. WIDE LANDSCAPE STRIP BUFFER AREAS ALONG BOTH SIDES OF THE REVERSE ACCESS ROAD. ALL INTERNAL EAST/WEST ROADS WILL PROVIDE THE REQUIRED 10 FT. WIDE LANDSCAPE STRIPS PER THE LDC.
4. DEVIATION FROM LDC SECTION 34-2192(6), WHICH REQUIRES A 65 FT. WIDE MINIMUM ROADWAY SETBACK FOR ARTERIAL ROADWAYS (US-41) SHOWN ON THE RECORDED GROUND ROADWAY MAP, TO ALLOW A 25 FT. MINIMUM ROADWAY SETBACK FOR ARTERIAL ROADWAYS LOCATED ALONG THE US-41 ROADWAY FRONTAGE.

Master Concept Plan

Site Plan # 21452, Page 1 of 1

Subject to conditions in Resolution 2-2726

Zoning Case # 27-01-045-032-01

SCHEDULE OF PROJECT USES:

ALL CC USES PERMITTED BY RIGHT AND BY SPECIAL EXEMPTION AS OF 7/1/96, WITH THE EXCLUSION OF THE FOLLOWING:
AIRCRAFT LAND FACILITIES, NEW
BOATS, BOAT RENTAL
CHARTERS/RESIDENCE
EXCAVATION: OIL AND GAS

ALL CC USES PERMITTED BY RIGHT AND BY SPECIAL EXEMPTION AS OF 7/1/96, WITH THE INCLUSION OF THE FOLLOWING:
AUTO REPAIR & SALES GROUP 1
BOAT SALES
BUILDING MATERIALS SALES
CULTURAL FACILITIES
INSURANCE COMPANIES
MINI-MARKETPLACE
PET SERVICES
PRINTING & PUBLISHING
PLANT NURSERY
POST OFFICE
RENTAL & LEASING ESTABLISHMENTS (GROUPS II AND III)

RECEIVED
JUN 12 1997

ZONING COUNTER

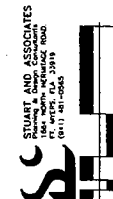
Date: 6/9/97

Scale: 1" = 200'

Revisions

JOB NO. 96.007

Sheet 1 of 1



MASTER CONCEPT PLAN FOR THE
ESTERO GREENS CPD
FLORIDA GROUP INVESTMENTS, INC., TRUSTEE
PREPARED FOR: