

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

WHEREAS, an application was filed by the property owner, Davie Investments, L.L.C., to rezone 40.5± acres from the Agricultural (AG-2) zoning district to a Residential Planned Development (RPD) zoning district, in reference to Beazer Bayshore 40 (a/k/a Stonehill Manor); and,

WHEREAS, a public hearing was advertised and held on March 30, 2006, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2005-00089; and

WHEREAS, a second public hearing was advertised and held on May 15, 2006, 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 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 40.5± acres from AG-2 to RPD to permit 71 residential single-family dwelling units. No blasting is proposed. The property is located in the Outlying Suburban Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviation specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be consistent with the single-page Master Concept Plan (MCP) entitled "Zoning Master Concept Plan, Bayshore 40 - Residential Development," date stamped "Received May 03 2006 Community Development," prepared by Morris-Depew Associates, Inc., and dated December 9, 2005, last revised 05/03/06, except as modified by the conditions below. This development must comply with all requirements of the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

2. The following Limits apply to the project and uses:

a. Schedule of Uses

Dwelling Units:

Single-Family (Limited to 71 units)

Entrance Gate and Gatehouse (SUBJECT to Condition 7)

Essential Services

Excavation, No blasting allowed:

Water Retention

Fences, Walls

Fishing Piers

Models: for marketing purposes within the project

Homes (up to 4, Lots 3-13)

Residential Accessory Uses (§34-622(c)(42))

Real Estates Sales Office for marketing purposes
within the project (on Lots 8 -11)

Signs, in accordance with Chapter 30

b. Site Development Regulations

Minimum lot size: 8,125 square feet

Minimum lot width: 65 feet

Minimum lot depth 125 feet

Minimum side setback:

Principal 7 feet

Accessory 7 feet

Minimum rear setback:

Principal 20 feet

Accessory 10 feet

Minimum front setback: 20 feet

Minimum waterbody setback:

Principal 25 feet

Accessory 15 feet

Maximum building height: 35 feet/2 stories

Maximum lot coverage: 40 percent

3. Prior to local development order approval, the Development Order plans must delineate a minimum 30-foot-wide Type "F" buffer along the south and east property line as depicted on the MCP. The buffer plantings must contain native trees and shrubs with a minimum of 75 percent of the required trees being provided as south Florida slash pine.

4. No blasting is permitted on-site.

5. Model Homes are permitted uses, but, must be consistent with the following conditions:
 - a. A maximum of four Model Homes are permitted; and
 - b. Hours of operation for the model homes are restricted to Sunday through Saturday, 8:00 a.m. through 6:00 p.m.; and
 - c. Each model home must be a unique example. Multiple examples of the same model are not permitted.
6. A Real Estate Sales Office is a permitted use, but, must be consistent with the following conditions:
 - a. A maximum of one Real Estate Sales Office is permitted; and
 - b. Hours of operation for the Real Estate Sales Office restricted to Sunday through Saturday, 8:00 a.m. through 6:00 p.m.; and
 - c. The Real Estate Sales Office is limited to the sale of units within the development, and is valid for a period of time not to exceed three years from the date the Certificate of Occupancy for the sales office is issued. The director may grant one 2-year extension. Additional time will require a Special Exception approval.
7. Entrance gate and gatehouse are permitted, provided that the MCP is administratively amended to provide for adequate stacking room, etc. as required by the LDC at the time of the Development Order approval.
8. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.
9. Approval of this zoning request does not guarantee local development order approval. Future Development Order Approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), as well as all other Lee Plan provisions.
10. 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.
11. Agricultural use is not approved as part of this rezoning and may not be established in the future, absent rezoning to an agricultural land use district. Any existing agricultural uses on the property must cease within two weeks of the approval of this rezoning; and, the Property Appraiser's Office must be notified of the cessation of the agricultural uses on the property within two weeks of the final approval of this petition by the Board of County Commissioners.

12. A copy of the request to terminate the tax exemption status, provided to the Lee County Property Appraiser, must be included in the first Development Order application packet.
13. The potable water and sanitary sewer are available to this site, and this development is required to connect to those services. The use of on-site septic systems is prohibited.

SECTION C. DEVIATION:

1. Deviation (1) seeks relief from the §10-329(d)(1)a.3. requirement that lakes contain a 50-foot setback from any private property line under separate ownership, to allow a 30-foot setback from a private property line. This deviation is APPROVED.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: Legal description of the property
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: The Master Concept Plan

The applicant has indicated that the STRAP numbers for the subject property are:
22-43-25-00-00016.0190; 22-43-25-00-00016.0200; 22-43-25-00-00016.0100;
and 22-43-25-00-00016.0210.

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - 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;
 - d. 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; and
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:

- a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed 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 approved deviation, as conditioned, enhances achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Tammara Hall	Absent
John E. Albion	Aye

DULY PASSED AND ADOPTED this 15th day of May, 2006.

ATTEST:
CHARLIE GREEN, CLERK

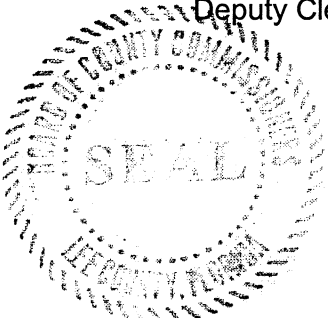
BY: Michele S. Cooper
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
for Chairwoman

Approved as to form by:

[Signature]
County Attorney's Office



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MINUTES OFFICE
mjc

2006 MAY 19 AM 9:40

DESCRIPTION

A parcel of land lying in the Southeast quarter of Section 22, Township 43 South, Range 25 East, Lee County, Florida being more particularly described as follows:
Beginning at the Southeast corner of said Section 22; thence S 89°59'41" W along the South line of said Section 22, a distance of 1856.33 feet; thence N 0°20'00" E a distance of 150.00 feet to a non-radial intersection with a curve concave on the northerly side; thence westerly along an arc of said curve, having a radius of 50.00 feet whose radius point bears N 27°50'57" W from said non-radial intersection, a central angle of 60°02'02" and whose chord bears N 87°49'55" W for a distance of 50.03 feet, arc distance being 52.39 feet, thence along the westerly boundary line of a 50 foot wide Private Road Easement known as Cypress Creek Drive, for the next six (6) courses, N 0°20'00" E, along a non-tangent, non-radial line, a distance of 617.38 feet to the beginning of a curve to the right; then along an arc of said curve, having a radius of 100.00 feet, a central angle of 89°59'57", and whose chord bears N 45°19'59" E for a distance of 141.42 feet, arc distance being 157.08 feet, thence S 89°40'03" E along a tangent line, a distance of 75.01 feet to the beginning of a curve to the left; thence along an arc of said curve, having a radius of 25.00 feet, a central angle of 89°59'57", and whose chord bears N 45°19'59" E for a distance of 35.36 feet, arc distance being 39.27 feet; thence N 0°20'00" E, along a tangent line, a distance of 350.11 feet to the beginning of the curve to the left; thence along an arc of said curve, having a radius of 25.00 feet, a central angle of 90°03'11", and whose chord bears N 44°41'36" W for a distance of 35.37 feet, arc distance being 39.29 feet to an intersection with the southerly right-of-way line of Bayshore Road (100' right-of-way); thence S 89°43'11" E along said right-of-way line, leaving said westerly boundary of the private 50 foot wide road easement, a distance of 100.00 feet to a point-of-cusp of a curve concave in the southeasterly side; then southwesterly along said curve, being also the east boundary line of said 50' private road easement (whose radius point bears S 0°16'49" W a distance of 25.00 feet from said point-of-cusp) having a radius of 25.00 feet, a central angle of 89°56'49" and whose chord bears S 45°18'24" W a distance of 35.34 feet, arc distance being 39.25 feet; thence S 0°20'00" W along a tangent line, being also the easterly boundary line of said 50 foot wide private road easement, a distance of 175.08 feet; thence S 89°43'11" E along the northerly boundary line of Lot 11, Block 2, Cypress Creek Estates unrecorded subdivision, and it's easterly extension, a distance of 395.00 feet; then N 0°32'21" E, a distance of 200.06 feet to an intersection with the said southerly right-of-way line of Bayshore Road; then S 89°43'11" E, along said right-of-way line, a distance of 602.48 feet to the northwest corner of that certain parcel of land as described in Official Records Book 3300, page 3098, Public Records of Lee County, Florida; thence along the boundary of said certain parcel for the next two courses; S 0°29'11" W a distance of 596.46 feet; thence S 89°59'24" E a distance of 662.08 feet to an intersection with the east line of said Section 22; then S 0°32'21" W along said east line, a distance of 666.41 feet to the said southeast corner of Section 22 and the said Point-Of-Beginning of this description.

LESS the following described parcel:

DESCRIPTION OUT-PARCEL

a 1.99 acre parcel of land in the Southeast-quarter of Section 22, Township 43 South, Range 25 East, Lee County, Florida, being more particularly described as follows:
Commencing at the Southeast corner of said Section 22; thence S 89°59'41" W along the south line of said Section 22, a distance of 1856.33 feet; then N 0°20'00" E along the east boundary line (and its southerly extension) of a private 50 foot wide road easement known as Cypress Creek Drive, a distance of 244.50 feet to the Point-of-Beginning of this description, thence along the said east boundary line of the 50 foot wide road easement for the next three courses; continuing N 0°20'00" E, a distance of 618.98 feet to the beginning of a curve to the right; thence along an arc of said curve, having a radius of 50.00 feet, a central angle of 89°59'57"; and whose long chord bears N 45°19'59" E for a distance of 70.71 feet, arc distance being 78.54 feet; then S 89°40'03" E, along a tangent line, a distance of 175.01 feet; thence S 0°20'00" W a distance of 159.00 feet; thence N 89°40'03" W a distance of 50.00 feet; thence S 02°19'53" E a distance of 95.69 feet to a non-radial intersection with a curve to the left, the radius point of said curve which bears S 62°14'38" E. a distance of 40.00 feet from the said non-radial intersection; thence southwesterly, along an arc of said curve, having a radius of 40.00 feet, a central angle of 27°27'56" and whose chord bears S 14°01'25" W a distance of 18.99 feet, arc distance being 19.17 feet; thence S 0°20'00" W along a tangent line, a distance of 116.20 feet to the beginning of a curve to the left; thence along an arc of said curve, having a radius of 60.00 feet, a central angle of 44°59'53" and whose chord bears S 22°09'53" E for a distance of 45.92 feet, arc distance being 47.12 feet; thence S 45°20'00" W, along a non-radial line, a distance of 226.62 feet to a non-radial intersection with a curve being concave in the easterly side, whose radius point bears S 45°28'09" E from the said non-radial intersection; thence northeasterly along an arc of said curve, having a radius of 25.00 feet, a central angle of N 22°20'00" W for a distance of 18.89 feet, arc distance being 19.37 feet to the said Point-of-Beginning of this description.

Subject to all easements, restrictions, reservations, and rights-of-way of record.

Applicant's Legal Checked
by lsm 11/28/2005

SURVEYOR'S NOTES:

THE DESCRIPTION SHOWN HEREON IS NEW.
PARCEL IS SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF- WAY OF RECORD. NO SEARCH OF THE PUBLIC RECORDS HAS BEEN CONDUCTED BY THIS OFFICE.
ORIENTATION BASED ON THE SOUTH LINE OF SECTION 22 AS BEARING S.89°59'41"W.
CERTIFICATE OF AUTHORIZATION LICENSE BUSINESS NO. 6891.
UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED PROFESSIONAL SURVEYOR AND MAPPER, AND BOTH SHEETS ARE INCLUDED, THIS MAP IS NOT VALID.
THIS IS NOT A SURVEY!

ABBREVIATIONS

O.R. = OFFICIAL RECORDS
P.G. = PAGE
SEC. = SECTION
TWP. = TOWNSHIP
RNG. = RANGE

DESCRIPTION DRAWING

Parcel of land lying in Section 22,
T. 43 S., R. 25 E., Lee County,
Florida.

Sheet 1 of 2



MORRIS - DEPEW ASSOCIATES, INC.

ENGINEERS * PLANNERS * SURVEYORS * MAPPERS
2216 Altamont Avenue * Fort Myers, Florida 33901 * (239) 337-3993 * (FAX) 337-3994

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL
SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER.

Prepared By:

Mark A. Hatfield, P.S.M. Date
FLORIDA CERT. NO. 4155

Zoning Map

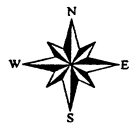
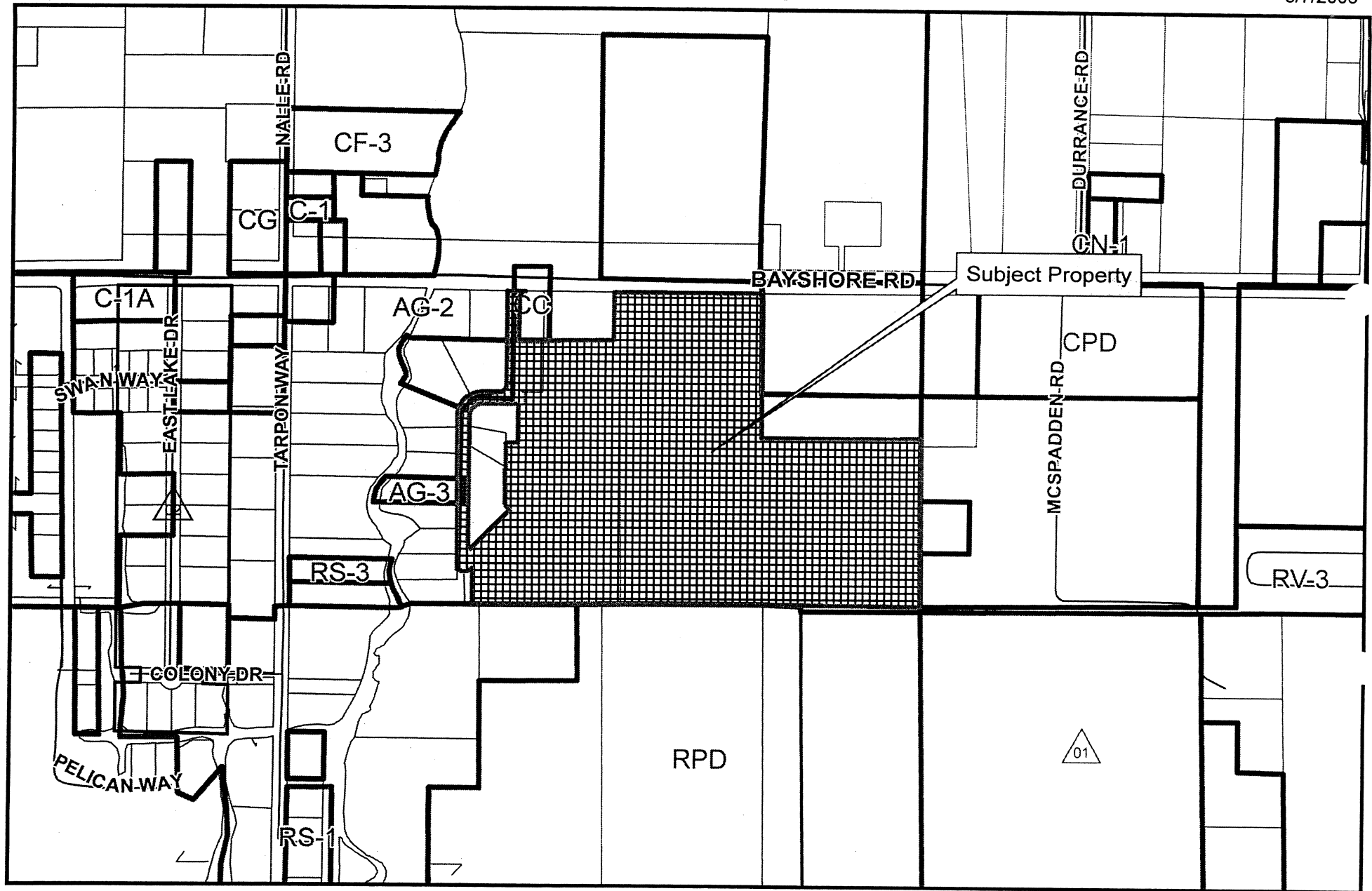
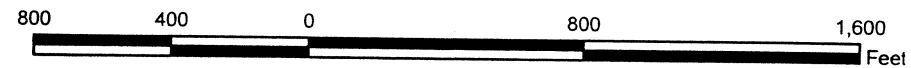
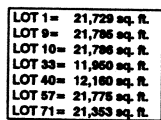


EXHIBIT "B"
(Zoning Map)



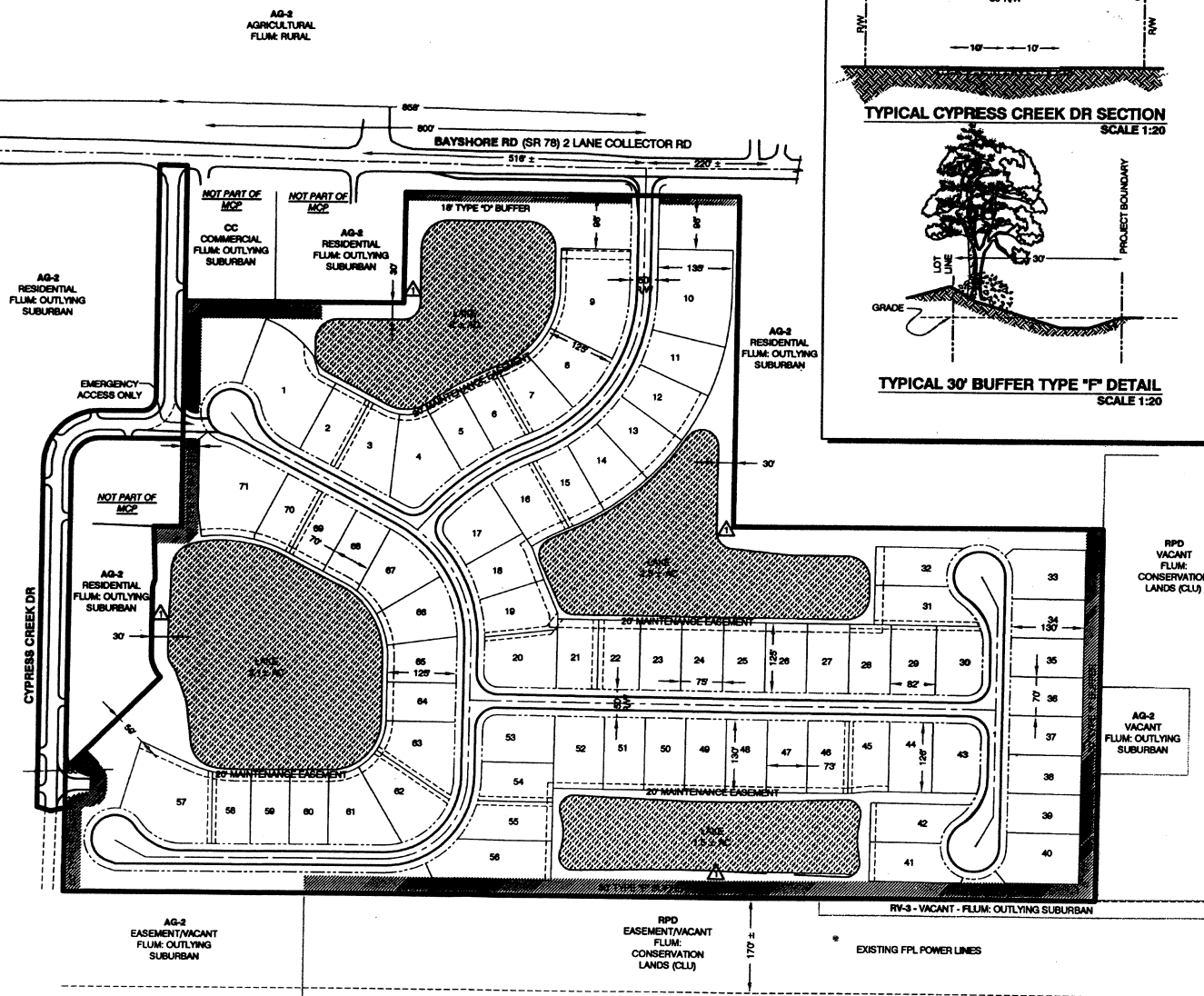


Approved as Exhibit "C"
MCP Page 1 of 1
Resolution # 7-06-029

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COMMUNITY DEVELOPMENT

DCI 2005-00089



TYPICAL CYPRESS CREEK DR SECTION
SCALE 1:20

TYPICAL 30' BUFFER TYPE "F" DETAIL
SCALE 1:20

ZONING MASTER CONCEPT PLAN

MORRIS - DEPEW ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS & MAPPERS
2115 Alameda Avenue • Fort Worth, Texas 76102 • (817) 337-1355 • (800) 357-1354



MDA PROJECT: 05087A	
CHECKED BY: DWF	DESIGNED BY: AZ
DATE: 12/9/05	
SHEET	