

2382664

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, Cypress Lakes Associates has properly filed an application on a project known as Cypress Lake Center for a rezoning from CG to Commercial Planned Development (minor), to permit a commercial development with a maximum of 240,000 square feet not to exceed 35 feet above average grade on 25.37 acres of land. The proposed development will also include five (5) consumption on premises of alcoholic beverages and joint-use parking agreements. This project, which is part of the Cypress Lake Center DRI, is primarily completed and contains various commercial uses.

NOTE:

If approved, the Master Concept Plan will deviate from the following Lee County Standards:

- (1) Minimum setback requirements (Section 462.07.C.2.) of 15 feet (side setback), to 0 feet, and of 25 feet (rear setback), to 0 feet; and
- (2) Minimum lot width and depth requirements (Section 462.07.C.1.) of 100 feet, to zero (0) feet;
- (3) Requirement that a 5-foot-wide landscaped buffer area be provided between the parking area and any other property line [old D.S.O. Section C.5.e.(1)(b)], to eliminate this requirement;
- (4) Requirement that storage of retail or wholesale goods shall be enclosed by a wall or opaque fence or solid hedge not less than 6 feet in height, or otherwise completely visually buffered (Section 461.D.6.), to eliminate this requirement; and
- (5) Minimum required open space for commercial planned developments of 30% (Section 461.C.4.a.), to 20%.

WHEREAS, the subject property is located at the southwest quadrant of Cypress Lake Drive and U.S. 41, described more particularly as:

LEGAL DESCRIPTION: In Section 23, Township 45 South, Range 24 East, Lee County, Florida:

PARCEL F

A tract or parcel of land situated in the State of Florida, County of Lee, being a part of the Southeast One Quarter (SE 1/4) of Section 23, Township 45 South, Range 24 East, and further bounded and described as follows:

Starting at the Northeast corner of said Southeast One quarter (SE 1/4); THENCE S.89°08'26"W. along the centerline of Cypress Lake Drive for 132.00 feet; THENCE S.01°16'00"E. along the Westerly right-of-way line of U.S. 41 (Tamiami Trail - S.R. 45) for 116.00 feet to the southerly right-of-way line of Cypress Lake Drive;

RECORD VERIFIED - CHARLIE GREEN, CLERK
BY: G. SHERWOOD, D.C.

THENCE continue S.01°16'00"E. along said Westerly right-of-way line for 763.45 feet to the POINT OF BEGINNING; THENCE continue S.01°16'00"E. along said Westerly line for 281.13 feet; THENCE S.89°08'26"W. for 159.95 feet; THENCE N.00°51'34"W. for 280.00 feet; THENCE N.88°44'00"E. for 157.96 feet to the POINT OF BEGINNING.

Said parcel contains 1.02 acres, more or less.

Said parcel subject to all easements, rights-of-way and restrictions of record.

Bearings are based on the centerline survey of U.S. 41.

PARCEL A

A tract or parcel of land situated in the State of Florida, County of Lee, being a part of the Southeast One Quarter (SE 1/4) of Section 23, Township 45 South, Range 24 East, and further bounded and described as follows:

Starting at the Northeast corner of said Southeast One Quarter (SE 1/4); THENCE S.89°08'26"W. along the centerline of Cypress Lake Drive for 132.00 feet; THENCE S.01°16'00"E. along the Westerly right-of-way line of U.S. 41 (Tamiami Trail - S.R. 45) 116.00 feet to the Southerly right-of-way line of Cypress Lake Drive; THENCE continue S.01°16'00"E. along said Westerly right-of-way line for 580.00 feet to the POINT OF BEGINNING; THENCE continue S.01°16'00"E. along said right-of-way line for 183.45 feet; THENCE S.88°44'00"W. for 157.96 feet; THENCE S.00°51'34"E. for 280.00 feet; THENCE N.89°08'26"E. for 159.95 feet to the West line of said right-of-way; THENCE S.01°16'00"E. along said right-of-way line for 108.74 feet; THENCE S.89°08'26"W. for 1126.61 feet to the East line of former Iona Drainage District Canal "I"; THENCE N.00°47'20"W. along said East line for 733.18 feet; THENCE N.89°08'26"E. for 228.46 feet; THENCE N.00°51'34"W. for 103.00 feet; THENCE N.89°08'26"E. for 65.00 feet; THENCE S.00°51'34"E. for 65.89 feet; THENCE N.89°08'26"E. for 364.00 feet; THENCE S.00°51'34"E. for 42.00 feet; THENCE N.89°08'26"E. for 195.05 feet; THENCE S.00°51'34"E. for 154.98 feet; THENCE N.89°08'26"E. for 269.12 feet to the POINT OF BEGINNING.

Said parcel contains 17.34 acres, more or less.

Said parcel subject to all other easements, rights-of-way and restrictions of record.

Bearings are based on the centerline survey of U.S. 41.

PARCEL A-1

A tract or parcel of land situated in the State of Florida, County of Lee, being a part of the Southeast One Quarter (SE 1/4) of Section 23, Township 45 South, Range 24 East, and further bounded and described as follows:

Starting at the Northeast corner of said Southeast One Quarter (SE 1/4); THENCE S.89°08'26"W. along the centerline of Cypress Lake Drive for 132.00 feet; THENCE S.01°16'00"E. along the Westerly right-of-way line of U.S. 41 (Tamiami Trail - S.R. 45) for 116.00 feet to the Southerly right-of-way line of Cypress Lake Drive; THENCE S.89°08'26"W. along said Southerly line for 465.00 feet to the POINT OF BEGINNING; THENCE continue S.89°08'26"W. along said right-of-way line for 702.39 feet to the West line of the Northeast One Quarter (NE 1/4) of said Southeast One Quarter (SE 1/4); THENCE S.00°35'38"E. along said west line for 245.00 feet; THENCE N.89°08'26"E. for 51.23 feet to the East line of former Iona Drainage District (I.D.D.) Canal "I"; THENCE N.00°47'20"W. along said East line for 89.14 feet; THENCE N.89°08'26"E. for 196.08 feet;

THENCE N.00°51'34"W. for 60.00 feet; THENCE N.89°08'26"E. for 456.10 feet; THENCE N.00°51'34"W. for 95.86 feet to the POINT OF BEGINNING.

OFF 1960 PG 3248

Said parcel contains 1.99 acres, more or less.

Said parcel subject to a Florida Power & Light easement as recorded in Official Records Book 1520 at Pages 846-847 over and across the northerly 6.00 feet.

Said parcel subject to former I.D.D. Canal "I" along the Westerly property line.

Said parcel subject to all other easements, rights-of-way and restrictions of record.

Bearings are based on the centerline survey of U.S. 41.

PARCEL B

A tract or parcel of land situated in the State of Florida, County of Lee, being a part of the Southeast One Quarter (SE 1/4) of Section 23, Township 45 South, Range 24 East, and further bounded and described as follows:

Starting at the Northeast corner of said Southeast One Quarter (SE 1/4); THENCE S.89°08'26"W. along the centerline of Cypress Lake Drive for 132.00 feet; THENCE S.01°16'00"E. along the Westerly right-of-way line of U.S. 41 (Tamiami Trail - S.R. 45) for 116.00 feet to the Southerly right-of-way line of Cypress Lake Drive; THENCE S.89°08'26"W. along said Southerly line for 465.00 feet; THENCE S.00°51'34"E. for 95.86 feet to the POINT OF BEGINNING; THENCE continue S.00°51'34"E. for 134.14 feet; THENCE N.89°08'26"E. for 200.00 feet; THENCE S.00°51'34"E. for 195.00 feet; THENCE S.89°08'26"W. for 195.05 feet; THENCE N.00°51'34"W. for 42.00 feet; THENCE S.89°08'26"W. for 364.00 feet; THENCE N.00°51'34"W. for 65.89 feet; THENCE S.89°08'26"W. for 65.00 feet; THENCE S.00°51'34"E. for 103.00 feet; THENCE S.89°08'26"W. for 228.46 feet to the East line of former Iona Drainage District (I.D.D.) Canal "I"; THENCE N.00°47'20"W. along said East line for 264.25 feet; THENCE N.89°08'26"E. for 196.08 feet; THENCE N.00°51'34"W. for 60.00 feet; THENCE N.89°08'26"E. for 456.10 feet to the POINT OF BEGINNING.

Said parcel contains 5.02 acres, more or less.

Said parcel subject to all easements, rights-of-way and restrictions of record.

Bearings are based on the centerline survey of U.S. 41.

WHEREAS, the applicant has indicated the property's current STRAP numbers are 23-45-24-00-00002.0010, 23-45-24-00-00002.0030; and

WHEREAS, proper authorization has been given to Howell F. Davis & Associates, Inc., by Terry Lubinsky, General Partner, Cypress Lake Associates, the applicant, to act as agent to pursue this zoning application; and

WHEREAS, proper authorization has been given to Cypress Lake Associates, Frank Cannon and/or Howell F. Davis & Associates by Richard D. Clark, Real Estate Vice President, Scotty's Inc., the owner, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Planning and Zoning Commission, with full consideration of all the evidence available to the Planning and Zoning Commission; and

WHEREAS, the Lee County Planning and Zoning Commission fully reviewed the matter in a public hearing held on October 5, 1987; 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 Planning and Zoning Commission, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE a rezoning from CG to Commercial Planned Development (minor), to permit a commercial development with a maximum of 240,000 square feet not to exceed 35 feet above average grade on 25.37 acres of land. The proposed development will also include joint-use parking agreements. This project, which is part of the Cypress Lake Center DRI, is primarily completed and contains various commercial uses. Approval is subject to the following conditions:

1. The Master Concept Plan is a three-sheet plan titled "Master Concept Plan Cypress Lake Center", "Master Concept Plan Subdivision Sheet E" and "Cypress Lake Center Site & Buffering" prepared by Howell F. Davis & Associates, Inc., Project No. 87-113, dated 7-29-87, revised 9-1-87 and 9-3-87 and received September 9, 1987 (except for Site & Buffering Plan, dated 1-7-86, last revised 7-15-87), except as modified by the conditions herein.
2. The schedule of uses shall be limited to all permitted uses of the CG zoning district (as defined in the Zoning Ordinance, as may be amended from time to time, but without modification by the footnotes currently set forth to the permitted uses listed in Section 462.07.B.1. of the Lee County Zoning Ordinance), as well as the following:
 - Variety Store
 - Wholesale Establishment (Groups 3 and 4)
 - Insurance Companies
 - Social Services (Groups 1 and 2)
 - Non-store Retailers (Groups 1, 2 and 3)
3. Maximum building height shall be 35 feet as volunteered by the applicant. Maximum size is limited to 240,000 square feet.
4. Approval of this plan does not exempt the developer from compliance with all regulations of the Development Standards Ordinance, except for those specifically approved herein.
5. The applicant shall submit the proper documentation for the joint use parking proposal to the Department of Community Development within 30 days of the date of this hearing.

6. Deviations (1), (3), (4), and (5) are hereby APPROVED as identified on the site plan. (Master Concept Plan Subdivision Sheet E). Deviation (2) is APPROVED for depth only to 97 feet for Parcel A-1.

Site Plan 87-196 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of Commercial Planned Development (minor) zoning:

- a. The proposed uses are, as limited by the conditions herein, appropriate at the subject location;
- b. Sufficient safeguards to the public interest are provided by the recommended conditions to the Master Concept Plan, the DRI Development Order and by other applicable regulations;
- c. All conditions found on the Master Concept Plan and recommended by staff are reasonably related to the impacts on the public's interest created by or expected from the proposed development;
- d. The general intent of these regulations, to protect the public health, safety, and welfare, is preserved and promoted; and
- e. The deviations recommended for approval enhance the achievement of the objectives of the planned development. The general intent of these regulations to protect the public health, safety and welfare, is preserved and promoted.
- f. Approval of this rezoning request will result in the creation of several lots or out-parcels which will not have adequate parking (although parking is sufficient for the total shopping center). The applicant has requested "joint use" parking for the center. However, a written agreement must be provided as noted in Section 800.02.F.5.2 of the Zoning Ordinance, or the deed restrictions for the shopping center should be modified to incorporate joint parking provisions (see Condition #5).

The following findings of fact were made in conjunction with the requested deviations:

The applicant has requested five deviations. Deviation (1) is a request to eliminate side and rear setbacks. The site plan submitted with the request shows this deviation on Parcel A-1, Parcel B (Scotty's building) and the undeveloped Parcel F. There is no objection to granting the deviation as noted on the Master Concept Plan Subdivision Sheet E; a variance was recently approved for parcels A-1 and B for this same request. Granting this deviation will legitimize the subdivision of the shopping center, since zero lot line is not provided for in standard commercial zoning districts.

Deviation (2) is a request to reduce the 100-foot lot width and depth requirements to an unspecified amount. A variance was recently granted for this request on Parcel A-1. (Parcel A-1 is the remainder parcel left after subdividing Scotty's, Bob Evans, Applebee's, Bill Knapp's, the undeveloped parcel and the large Wal-Mart parcel.) This is the same request and APPROVAL is for lot depth only to 97 feet for Parcel A-1.

Deviation (3) is a request to eliminate the requirement in the old Development Standards Ordinance (DSO) that a 5-foot-wide landscaped buffer be provided between a parking area and property line (Since this project was approved under the old DSO, this buffer is necessary). This requirement is intended to buffer adjacent properties; however, since this is for an existing shopping center and is internal to the project, there is no objection for the areas numbered on the site plan (Parcels A, B, and F).

Deviation (4) is a request to eliminate the requirement that wholesale goods be enclosed by a 6 foot wall, opaque fence or solid hedge for Parcels A and A-1 (Scotty's storage area.) A chain link fence encloses this existing storage area. The adjacent property is separated from Cypress Lake Center by an IDD ditch.

Deviation (5) would reduce the required open space for commercial planned developments from 30% to 20% for the overall site. (The DRI was approved with the condition that 15% of the site remain as unaltered native vegetation.)

The Board does hereby DEFER the request for a special permit for five (5) consumption on premises of alcoholic beverages to a later date.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Bill Fussell, and seconded by Commissioner Porter J. Goss and, upon being put to a vote, the result was as follows:

Porter J. Goss	AYE
Charles L. Bigelow, Jr.	ABSENT
Mary Ann Wallace	NAY
Bill Fussell	AYE
Donald D. Slisher	ABSENT

DULY PASSED AND ADOPTED this 9th day of November, A.D., 1987.

ATTEST:
CHARLIE GREEN, CLERK

BY: Clara J. Wmuck
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Bill Fussell
Chairman

Approved as to form by:

[Signature]
County Attorney's Office

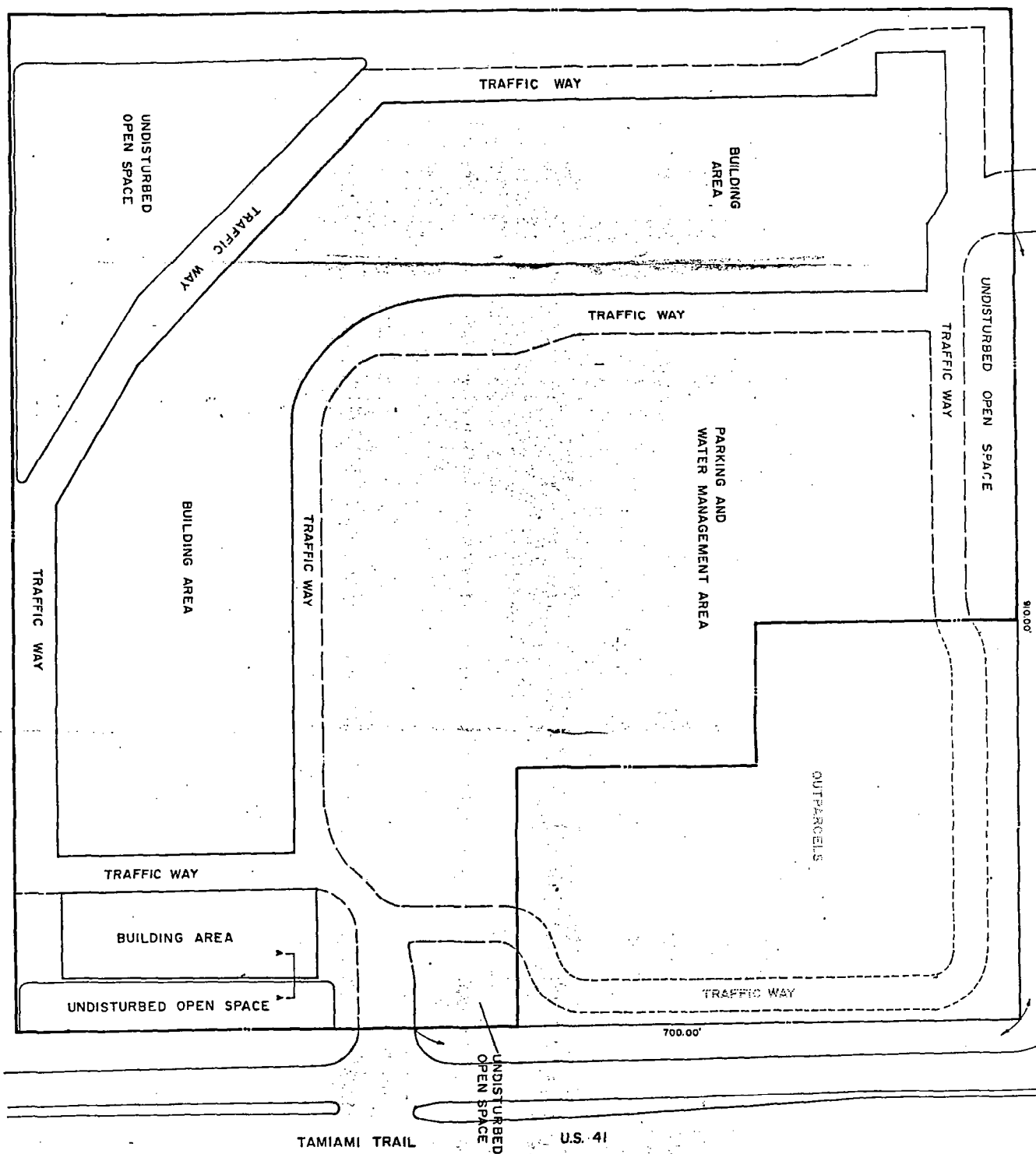
FILED

DEC 22 1987

CLERK CIRCUIT COURT
BY Clara J. Wmuck D.C.

RESOLUTION NUMBER Z-87-196/1

HEARING NUMBER 85-3-1(b) DRI
Page 6 of 6

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CROSS-SECTION (N12.3)
APPROVED
Master Concept Plan
Site Plan of 822.14 P. 11, N. 3
Subject to conditions of Recommendation, E-322.14/11
Zoning Class 3, E-33-3-10/2001
RECEIVED
SEP 8 1987
DEPT. OF COMM. DEV.

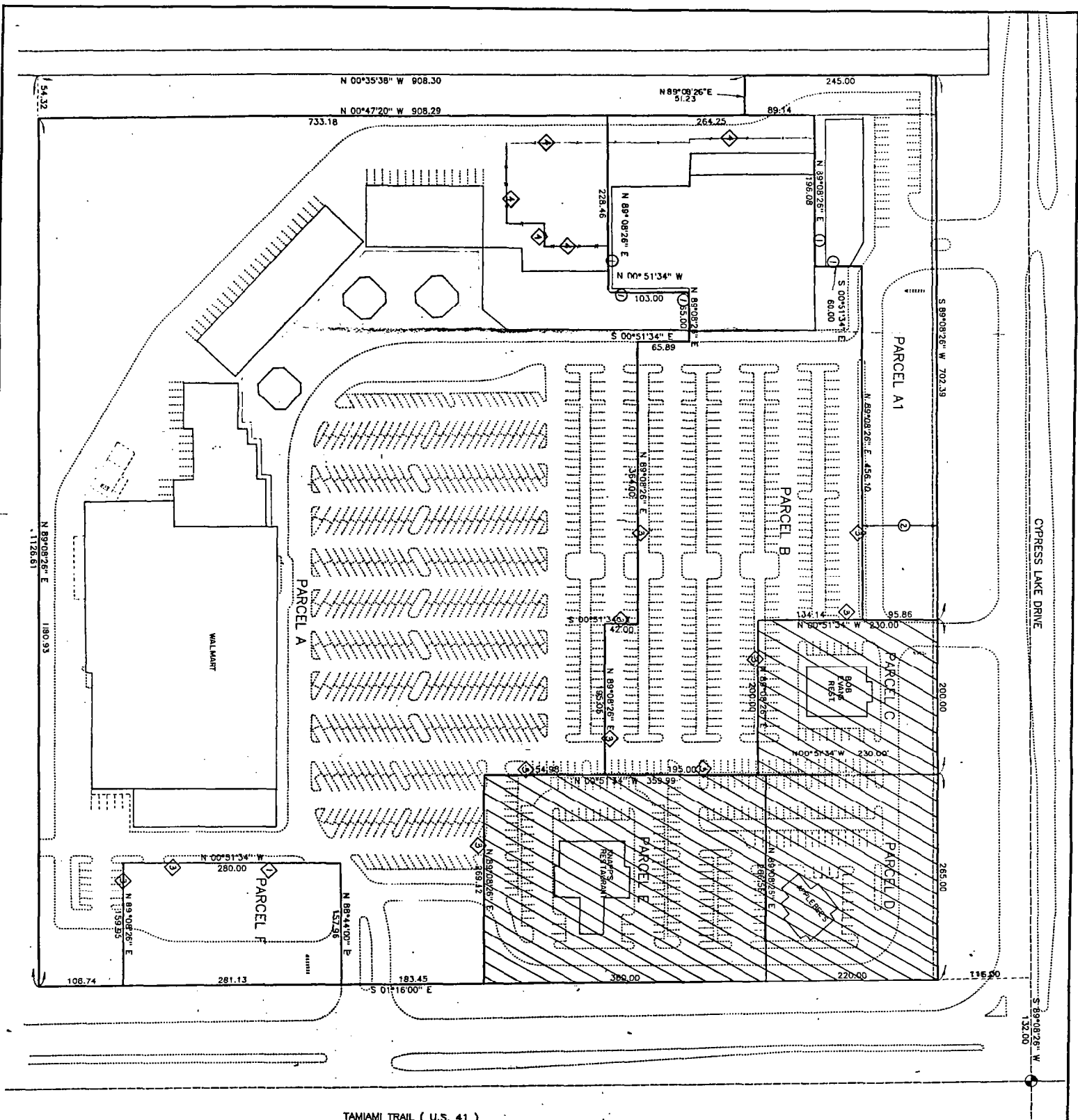
HOWELL F. DAVIS & ASSOCIATES, INC.
CONSULTING ENGINEERS AND SURVEYORS

HFD

ONE S. HICKORY, P.O. BOX 1078, WILSON, N.C. 27157

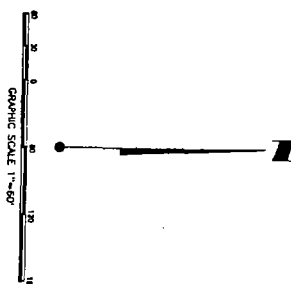
012 481-3311

DATE 7-22-87	PROJECT AND SHEET NO.	DRAWN BY TJL	SCALE 1"=60'	CHECKED BY JH	DATE 8-4-87
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TAMIAMI TRAIL (U.S. 41)

- ① DEVIATION IN ALREADY GRANTED VARIANCE.
- ② DEVIATION IN ALREADY GRANTED VARIANCE.
- ③ ADDITIONAL AREA REQUESTING DEVIATION -1.
- ④ AREA REQUESTING DEVIATION -3.
- ⑤ AREA REQUESTING DEVIATION -4.



APPROVED
Master Concept Plan
Site Plan & Easement, Page 2 of 2
Submitted to conditions in Resolution 282294
Zoning Case # 83-3160041

RECEIVED
SEP 1 1997

HOWELL F. DAVIS & ASSOCIATES, INC.
DEPT. OF COMM. DEV.
CYPRESS LAKE CENTER

DATE 8-23-97	PROJECT NO. 87-113	DRAWN BY S.C.W.	SCALE 1 inch = 50 feet	FILE NO. 23-45-24
HOWELL F. DAVIS & ASSOCIATES, INC. CONSULTING ENGINEERS AND SURVEYORS 13414 WICKHAM ROAD, FORT WORTH, TEXAS 76120				

