

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

WHEREAS, US Home Corporation filed an application on behalf of the property owners, Pritchett Development Company Ltd.; Kathy Lynne R. Pritchett, Trustee; Peter Kainz; Bank of America, N.A., R. E. Services - Pritchett; and Ernest A. Hansen, Trustee (½ Interest) and Frances Hansen, Trustee (½ Interest), to rezone 741.22± acres from Agricultural (AG-2), Commercial Planned Development (CPD), & Recreational Vehicle Planned Development (RVPD) to Residential Planned Development (RPD), in reference to Heritage Creek, a/k/a Stoneybrook North; and,

WHEREAS, public hearings were advertised and held on December 11, 2002; and continued and held on February 12 and 13, 2003; April 23 and 24, 2003; June 18 and 19, 2003; July 31, 2003; and August 1 and 8, 2003; with the record held open for written submissions until August 25, 2003; before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2001-00038; and

WHEREAS, a second public hearing was advertised and held on February 16, 2004, 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 741.22± acres from from AG-2, CPD, and RVPD to RPD, to permit the development of a maximum of 1,525 residential units including a mixture of single-family, duplex, townhouse, two-family attached and multi-family units all not to exceed 35 feet in height. The property is located in the Outlying Suburban, Wetlands and General Interchange Land Use Categories and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations 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 one-page Master Concept Plan (MCP) entitled "Stoneybrook North Master Concept Plan," prepared by Wilson Miller, dated March 10, 2004, printed March 17, 2004, and stamped "Received Mar 17 2004 Permit Counter," except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local development order approval, except as may be granted by deviation

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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

Administrative Offices

Agriculture - SUBJECT TO Condition 24

Accessory uses and structures

Club, Private (Limited to Tract K)

Food and beverage service, limited

Health Club and Spa

Parking lot, accessory

Rental or leasing establishment, Group I - limited to

bicycles, tennis rackets and other small

equipment for use by members of the private club

Specialty Retail Shop, Group I

Communication Tower - limited to one on the north

side of Tract K and limited to a maximum of 35 feet in height

Dwelling Unit - limited to a maximum of 1,275 units consisting of:

Conventional Single-family Residence

(May be constructed on all R-1 and R-1A residential tracts)

See Note 1.

Two-family attached (Limited to Tracts I-1, I-2 & J)

See Note 1.

Conventional Single-family Detached Residential lots located on

the northern boundary of the project in Tracts F-1 and F-3,

must be no less than 7,500 square feet in area within 500 feet

of the northern boundary.

Entrance Gate and Gatehouse, in compliance with §34-1748

Essential Services

Essential Service Facilities, Group I

Excavation, water retention

Fences, walls

Home occupation

Model Home, Model Unit and Model Display Group

Real Estate Sales Office (Temporary sales office limited

to Tract K and limited to the sale of lots

or units within the development only)

Recreation Facilities, Personal

Recreation Facilities, Private on-site

Parking lot, accessory

Residential Accessory Uses

Signs, including one existing billboard located on the southwest side

of Lake L1, all in compliance with LDC Chapter 30 except

as approved by deviation

Temporary uses (§34-3041)

Note 1: Single-family dwelling units may be constructed on all R-1 and R-1A residential tracts. Two-family attached dwelling units may be constructed only on R-1A residential tracts (Tracts I-1, I-2 and J).

b. Site Development Regulations

LAND USES	Minimum Lot		Minimum Setback (ft.)								Min. Bld. Separation (ft.)	Max Lot Coverage (%)	
			Rear (ft.)				Front (ft.)		Water Body (ft.)	Max. Bldg. Height (ft.)			
	Area (sq. ft.)	Min. Width (ft.)	Min. Depth (ft.)	Side Including Corner Lots (ft.) *	Lots	Wetland	Acc.	Front Entry Garage					Bldg. or Side Entry Garage
Single-family Detached	4,000†	40	100	5	20	20	5	20	12	25	35 or 2 stories	10	45
Two-family Attached	3,500 per unit	35 per unit	100	0 or 10	20	20	5	20	12	25	35 or 2 stories	10	45
Clubhouse	20,000	80	100	10	20	20	5	n/a	20	25	35 or 2 Stories	20	45
Accessory Recreation Buildings	n/a	n/a	n/a	n/a	20	20	n/a	n/a	n/a	n/a	35 or 1 story	20	n/a

* Applies to lots of all widths and to corner lots. Each lot, including corner lots, will have only one front yard.

† Lots located within 500 feet of the northern boundary of the project on Tracts F-1 and F-3, must be no less than 7,500 square feet in area.

3. DELETED
4. The Tract M recreational area must include at a minimum, one multi-purpose field, a playground and picnic area. Facilities for the safe passage of pedestrians cyclists from one side of Pritchett Parkway to the other as determined by the Director of Development Services at the time of local development order submittal must be provided
5. No residential lots may be located within 250 feet of the existing High Point sewage treatment plant property lines until the sewage treatment plant is no longer in operation. If the High Point sewage treatment plant is still in operation when the plat is approved for any lots located in Tracts F-2 and Tract G, the Applicant must include a 30-foot- wide Type F buffer around the perimeter of the High Point sewage treatment plant property lines, excluding the easement that provides access to the plant.
6. Common area open space must be designed to incorporate as many of the native heritage trees and Sabal palms as possible. Any healthy Sabal palms with a minimum eight foot clear trunk must be salvaged if conditions (e.g., no rock) and sequence of construction allows. If the sequence of construction does not allow the

on-site relocation of Sabal palms, effort must be made to identify an off-site recipient site. Sabal palms that are located in wet areas typically do not respond well to transplanting and will not be subject to this condition. The salvage efforts must be coordinated with the Lee County Division of Environmental Sciences staff whether used on-site or otherwise. Any Sabal palms being relocated must be moved in a horticulturally correct manner per Lee County Extension Services brochure Lee 8/2000A and attached as **Exhibit D**. Prior to local development order approval, the preserved trees and any relocated palms must be delineated on the plans. Preserved trees and relocated Sabal palms will receive protected tree credits per §10-420(h).

7. Gopher Tortoises:

A detailed protected species management plan for gopher tortoises, Big Cypress fox squirrels, and wading birds must be submitted with the initial development order for any portion of this project. The gopher tortoise management plan must include either a permanent fence or a continuous hedge of native shrubs where the gopher tortoise preserve abuts the road and park to protect the tortoises from the vehicular traffic and active recreation area.

A pedestrian/bicycle trail, with a maximum four-foot width, is permissible within the gopher tortoise preserve. The trail must be designed to avoid impacting existing gopher tortoise burrows and large native trees. Two (2) access points to the trail may be incorporated into the fence, provided the openings are designed to minimize the potential for tortoises to disperse from the preserve. Details of the trail and fence must be included in the development order plans.

8. Prior to any local development order approval, an open space table must be included that details the residential unit type with lot size per tract, required open space, provided open space, required indigenous preservation and provided indigenous preservation. The project must preserve at a minimum the approximately 100.1 acres of conservation area including the wetland creation area. If more than 500 acres of the project is developed with residential tracts (including roads and lakes) requiring open space, then the development order must delineate the additional required indigenous preservation for the Lee County Division of Environmental Sciences staff review and approval.

9. The use of cypress mulch is prohibited in preserve areas.

10. The maximum width of all boardwalks within the preserve areas may not exceed the minimum width requirements set forth by the Americans with Disabilities Act.

11. All boardwalks within the preserve areas must be designed to avoid mature native trees and protected species burrows, nests, or dens. The final layout of the boardwalks must be field verified by the Lee County Division of Environmental Sciences staff prior to construction. Minor adjustments to minimize impacts to native vegetation may be required.

12. The construction of gazebos or viewing platforms within conservation areas is limited to no more than two (2) structures, each having a footprint no larger than 200 square feet.
13. Prior to site work for any recreational use that requires the removal of vegetation within a conservation area, a development order showing impacts to the conservation area must be submitted for review and approval by Environmental Sciences and other applicable County Staff.
14. Prior to local development order approval, the development order plans must include littoral planting areas in substantial compliance with the "Stoneybrook North Littoral Planting Exhibit," stamped "Received Apr 07 2003 Community Development," and attached as **Exhibit E**.

All lake littoral zones must be constructed as depicted in Cross-Section B-B. Littoral planting quantities must be consistent with the "Littoral Planting Exhibit, Stoneybrook North" and accompanying table stamped "Received May 29 2003 Community Development," and attached as **Exhibit F**. The planting area along the northern ditch expansion must also provide native wetland plants installed three-feet on center.
15. The Communication Tower as denoted on the Master Concept Plan must be of a monopole design and limited to 35 feet in height. The tower and its associated maintenance buildings must be designed to minimize impacts to birds.
16. Lake littoral plantings within Tract K must be calculated at one littoral plant per linear foot of lake shoreline. One 10-foot-tall tree or two (2) three-gallon shrubs may be substituted for 10 herbaceous plants. Trees and shrubs may be used to count toward up to 50 percent of the required lake littoral planting requirements. A minimum of two (2) native wetland tree species and four (4) native herbaceous plant species must be installed in the Lake L1 (contained within Tract K).
17. The placement of any required vegetation within a utility, power, or drainage easement must be clearly delineated on an Alternate Landscape Betterment Plan as per §10-419 and submitted with the local development order. The placement of vegetation within any easement must be approved by Lee County Environmental Sciences staff and any other affected Division (Utilities, Zoning, etc.). If the easement is to an entity other than Lee County, then written approval of the location of vegetation from any affected easement holder must be submitted to Lee County Environmental Sciences staff as part of the development order. Approval from all affected parties must be obtained prior to approval of the local development order.
18. Lake bulkheads are limited to roads and the clubhouse area. Bulkheads are not permitted along residential boundaries.

Prior to local development order approval, the plans must show the location of the bulkheads to confirm that no more than 20 percent of each lake shoreline consists of bulkhead or rip-rap. Lakes where bulkheads are proposed must be designed to

provide one linear foot of compensatory littoral zone with an 8:1 slope for each linear foot of bulkhead. For lakes that utilize bulkheads, littoral plants must be calculated at two (2) plants per linear foot of shoreline clustered within the 8:1 slope portion of the lake.

The development order must include a typical cross-section detail of bulkhead and rip-rap areas on the paving, grading and landscape plan.

19. Transportation Concurrence for this project will be measured pursuant to the Lee Plan and LDC standards in place at the time of the development order. This must include evaluating Bayshore Road from Nalle Road to I-75 for transportation concurrency. Prior to development order approval, the developer must demonstrate that the Level of Service (LOS) will not fall below the adopted level of service on the identified links. In determining that level of service, only road improvements with committed funding, as provided in FAC 9J-2.045, may be considered.

20. The developer must provide intersection improvements to the intersection of Bayshore Road and Pritchett Parkway. At a minimum, the developer will construct a southbound right turn lane as a site-related improvement, and not eligible for road impact fee credits. In cooperation with the Florida Department of Transportation and the County, the developer may realign Pritchett Parkway to address future operational problems caused by project traffic.

21. The developer must construct an eight-foot-wide bicycle path or two (2) five-foot-wide sidewalks along Pritchett Parkway from Bayshore Road to Rich Road. Whether the portions of the bicycle/pedestrian improvements constructed 1) between Bayshore Road and the southernmost site entrance, and 2) between Rich Road and the northernmost site entrance, will be eligible for road impact fee credits will be determined through negotiations between the Staff and the Applicant when there is sufficient information to make such a determination.

22. Blasting is prohibited on this project site.

23. The excavation of material from the lake areas does not constitute construction materials mining as defined under Section 552.30, Florida Statutes.

24. AGRICULTURAL USES:

Agriculture is not approved as a permanent use in the Schedule of Uses for this property. All agricultural uses must cease upon approval of the requested rezoning, EXCEPT as follows:

- a) Existing bona fide agricultural uses, as shown in attached **Exhibit H**, may continue until approval of a local development order for the area of the project containing those uses.
- b) Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be

maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County approved requests for the removal of invasive exotic vegetation.

- c) The property owner must terminate the agricultural tax exemption for any portion of the property that receives a local development order. The agricultural use must cease by December 31st of the calendar year in which the local development order is issued. The exemption termination must be filed with the Property Appraiser's Office by December 31st of the calendar year in which the local development order is issued. A copy of the exemption termination must be provided to the Office of the County Attorney.

25. Deleted.

26. Development along Popash and Bayshore Creeks:

General Conditions:

- a. Prior to issuance of the first Development Order (or any early work, clearing, filling permits), the applicant must submit the following information for review and approval by the Lee County Natural Resources Division:

- 1) If the development parameters change from those modeled and approved during the rezoning, then developer must provide an HEC-RAS model pursuant to the same modeling parameters established during the rezoning process for the Popash and Bayshore Creeks demonstrating that the revised development will not induce any rise to the existing flood elevations, nor any increases in velocities, nor any transfer in overbank flows for the 10-, 25-, and 100-year storms.
- 2) Show the location and extent of the existing and proposed cross sections from the HEC-RAS model on the Development Order plans, as well as, defining the existing top of bank station/elevation, overbank elevations, roadway elevations, and bridge dimensions and elevations. Sufficient details or sections showing continuity and capacity of flows in the overbank must be clearly demonstrated.
- 3) All plans and documents related to the above must include the statement: "This is to certify that I am a duly qualified engineer licensed to practice in the State of Florida. It is to further certify that these design plans, drawings, and associated technical calculations and/or data demonstrate that no adverse effects to the existing flood elevations will occur as a result of this development."

- 4) The above information must be submitted to the South Florida Water Management District (SFWMD) for review, consideration, and inclusion in their permit files.
- 5) The developer or its assigns must dedicate a drainage/maintenance easement to Lee County for Popash and Bayshore Creeks for all portion(s) of the channel and its overbanks included in the HEC-RAS modeling and that lie within its property limits. The easement may be part of any conservation easement dedicated to Lee County and the South Florida Water Management District (SFWMD), but must be consistent with the maintenance activities anticipated and outlined in these conditions. The easement must also give the county the right, but not the obligation for maintenance and provide for maintenance access along the creeks. As a part of the easement, the developer agrees to a monthly maintenance schedule to include initial and ongoing maintenance for these creeks that is to include removal of all exotics including, but not limited to, grape vines (above three feet in height above ground) and rosary pea, any deposited debris, fencing, fallen trees, or eroded vegetation. The basic ground cover within the easement area is to remain in its current grassed condition. The relocation of onsite Sabal palms from other parts of the property to the easement area is permissible, but must not be collocated closer than a ten (10) foot spacing. No saw palmetto or shrubbery of any type is to be planted within the easement area. The easement must be reviewed and approved by the County Attorney and Natural Resources during the platting process. This same drainage/maintenance easement language must be contained within the Community Development District (CDD) or Home Owners Association (HOA) documents.
- 6) All modifications and exotic vegetation removal outlined herein for Popash and Bayshore Creeks must be completed before the issuance of the first Certification of Completion for the first Development Order.
- 7) The east-west ditch proposed along the northerly boundary of the development must have no interconnection between Popash and Bayshore Creeks.

Popash Creek:

- b. Prior to issuance of the first Development Order (or any early work, clearing, filling permits) containing the bridge crossing, the developer must provide complete construction plans for the bridge for review and approval by the Lee County Natural Resources Division and be in accordance with the following:

- 1) The bridge crossing of Popash Creek must be a pile-supported structure.
- 2) No more than two (2) rows of pilings (or supports) are permitted in the overbank and none may be closer than 10 feet to the existing top of bank. Each row must be perpendicular to the direction of flood flows and each must have a maximum dimension of twenty-four (24) inches.
- 3) The low chord of the bridge must be at or above the 100-year floodwater surface elevation and the abutments for the bridge may not be closer than 50 feet to the existing top of bank. Additionally, the low chord must be at least two (2) feet above the highest overbank elevation within the 50-foot offset areas (total of 100 feet ±).
- 4) No berming, filling, planting, or other above ground construction/amenities are permitted within 50 feet of the existing top of banks for Popash Creek, unless permitted elsewhere in these conditions by Lee County Natural Resources.

Bayshore Creek:

- c. All modifications and exotic vegetation removal outlined below for Bayshore Creek must be completed before the issuance of the first Certification of Completion for the first Development Order.

- 1) The spoil is to be removed down to an elevation of 18.0 feet NGVD and then sloped in conjunction with the perimeter berm along Bayshore Creek for that portion upstream of Prichett Parkway and within the 50-foot offset from the existing top of bank.
- 2) No berming, filling, planting, or other above ground construction/amenities are permitted within 50 feet of the existing top of bank for Bayshore Creek, unless permitted elsewhere in these conditions by Lee County Natural Resources.

27. In light of the potential for the existing High Point Wastewater Treatment Plant (WWTP) to continue operation, the developer must disclose the existence, location and operation of the sewage treatment plant to any purchasers of property immediately adjacent to a line 250 feet from the perimeter boundary of the WWTP site (excluding that portion of the site containing the access road into the WWTP site).

Any and all agreements for the sale of property immediately adjacent to the 250-foot dimension must include this disclosure statement. The following disclosure statement must appear in bold face and conspicuous type that is larger than the type in the remaining text of the contract:

“Lot owners immediately adjacent to the line, 250 feet from the perimeter boundary of the WWTP site within the Stoneybrook North (f/k/a Heritage Creek) Planned Development, must acknowledge the presence of the High Point Wastewater Treatment Plant.”

28. The maintenance of Popash and Bayshore Creeks within the property limits, which is required in Condition 26, will be assured by the provision of a surety for the annual cost of maintenance. Evidence of the surety must be provided to the County prior to certificate of completion of the first development order for the drainage infrastructure for the project.

29. In an effort to cooperate in achieving the reduction of the regional flooding problem, the applicant must provide a drainage easement to Lee County for the drainage ditch along the north boundary of the property. This easement is for the purpose of allowing the existing ditch to accept the quantity of stormwater that is approved pursuant to a South Florida Water Management District permit addressing the regional flooding problem.

30. Except as otherwise noted on the MCP, perimeter buffers around the outside perimeter of the property will require 10 trees per 100 linear feet and a double staggered hedge. The hedge will be installed at 36 inches high and maintained at 60 inches high. Seventy-five (75) percent of the shrubs and 50 percent of the trees will be native species.

31. Lighting

a. This project must comply with the recently adopted “Outdoor Lighting Standards” adopted in §34-625.

b. Outdoor ballfield lights for the baseball field located on Tract K are prohibited.

- c. Outdoor recreational lighting for any multi-purpose courts or fields located on Tract K (with the exception of ballfields where lighting is prohibited) and Tract M must be on timers and must meet the requirements of §34-625 and must be done in a fashion to minimize light pollution, glare and light trespass. Lighting impacts will be measured at the boundary of Tracts K and M, and not at the boundary of any adjacent lakes or preserve areas.

- 32. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

SECTION C. DEVIATIONS:

1. Deviation (1) - Withdrawn
2. Deviation (2) - Withdrawn
3. Deviation (3) seeks relief from §10-418(2)b which requires the installation of one (1) native wetland herbaceous plant per linear foot of lake shoreline and where trees and shrubs can be substituted for up to 25 percent of the total number of herbaceous plants required; to allow the required plantings to include up to 50 percent trees in the Tract K lake (Lake L1). This deviation is APPROVED, SUBJECT TO Condition 16.
4. Deviation (4) - Withdrawn
5. Deviation (5) - Withdrawn
6. Deviation (6) - Withdrawn
7. Deviation (7) seeks relief from §10-329(e)(4) which requires excavations to be sloped at a ratio of four (4) horizontal to one (1) vertical to a water depth of four feet below the dry season water table and a ratio of two (2) horizontal to one (1) vertical thereafter; to allow 40 percent of the lake bank slopes within the development to utilize vertical bulkheads and/or rip rap. This deviation is APPROVED, SUBJECT TO Condition 18.
8. Deviation (8) - Withdrawn
9. Deviation (9) - Withdrawn
10. Deviation (10) - Withdrawn
11. Deviation (11) - Withdrawn

12. Deviation (12) seeks relief from §34-1954(a)(1) which requires administrative approval of locations for model homes in new developments; to allow model homes by right in the locations within the development as shown on the MCP. This deviation is **APPROVED**.

13. Deviation (13) seeks relief from §34-1954(f) which requires parking for model homes or model units to be located on the same premises and in compliance with the type of dwelling unit being displayed; to permit the development of accessory parking for model homes as low turnover and therefore permit development of these lots with alternative surfaces. This deviation is **APPROVED**, **SUBJECT TO** the following conditions:

1. The entrance apron into each parking lot would be paved.
2. The handicapped parking space(s) in each lot would be paved.
3. The Applicant will keep the portion of the street in front of each model free from gravel or shell that may be tracked out the model home parking area(s) by departing vehicles.

14. Deviation (14) seeks relief from §30-153(2)(a)(iv) which limits the text of additional subdivision or residential development identification signs to the subdivision or project name; to allow the additional signs for this project to include the notation "A US Home Community," in addition to the name of the development. This deviation is **APPROVED**, **SUBJECT TO** the following condition:

The proposed project sign must be in substantial compliance with the rendering submitted in conjunction with the justification for Deviations 14 and 15, which was stamped "Received Apr 07 2003 Community Development" and attached as **Exhibit G**.

15. Deviation (15) seeks relief from §30-152(2)(d) which limits the size of project entrance signs and which limits the size and number of additional project signs to allow all of the permitted square footage for the number of permitted signs to be combined into the main project entrance sign and a deviation from §30-94(h) which restricts double faced signs with opposing faces to an interior angle of less than 30 degrees; to allow the Heritage Creek project sign to have two sign faces of approximately 130 square feet in size and be located on a curvilinear wall. This deviation is **APPROVED**, **SUBJECT TO** the following condition:

The proposed project sign must be in substantial compliance with the rendering submitted in conjunction with the justification for Deviations 14 and 15 which was stamped "Received Apr 07 2003 Community Development" and attached as **Exhibit G**.

16. Deviation (16) - Withdrawn

SECTION D. EXHIBITS AND STRAP NUMBER:

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

Exhibit A:	The legal description of the property
Exhibit B:	Zoning Map (with the subject parcel indicated)
Exhibit C:	The Master Concept Plan
Exhibit D:	Lee County Extension Services brochure Lee 8/2000A
Exhibit E:	Stoneybrook North Littoral Planting Exhibit
Exhibit F:	Littoral Planting Exhibit Stonebrook North (with accompanying table)
Exhibit G:	Deviations
Exhibit H:	Agricultural Uses Exhibit

The applicant has indicated that the STRAP numbers for the subject property are:

15-43-25-00-00001.0000; 15-43-25-00-00001.0010; 16-43-25-00-00001.0060;
 16-43-25-00-00001.006A; 16-43-25-00-00001.006B; 16-43-25-00-00001.006C;
 16-43-25-00-00001.0100; 16-43-25-00-00002.0000; 16-43-25-00-00003.0000;
 16-43-25-00-00003.0010; 16-43-25-00-00003.0020; 16-43-25-00-00003.0030;
 16-43-25-00-00003.0040; 16-43-25-00-00003.0050; 16-43-25-00-00003.0070;
 16-43-25-00-00003.0080; 21-43-25-00-00001.1000; 21-43-25-00-00002.0000;
 21-43-25-00-00006.0020

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; and
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and
 - c. is compatible with existing or planned uses in the surrounding area; and
 - 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 deviations, as conditioned, enhance 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 Andrew W. Coy, seconded by Commissioner Robert P. Janes, and, upon being put to a vote, the result was as follows:

Robert P. Janes	Aye
Douglas R. St. Cerny	Absent
Ray Judah	Nay
Andrew W. Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 16th day of February, 2004.

ATTEST:
CHARLIE GREEN, CLERK

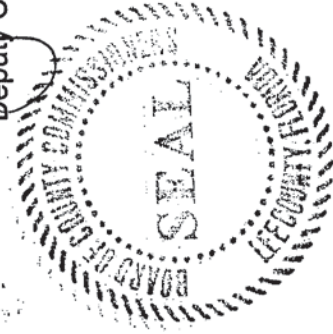
BY: Cindy Morris
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [Signature]
Chairman

Approved as to form by:

[Signature]
County Attorney's Office



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