



BOARD OF COUNTY COMMISSIONERS

Kevin Ruane
District One

Cecil L. Pendergrass
District Two

Raymond Sandelli
District Three

Brian Hamman
District Four

Mike Greenwell
District Five

Roger Desjarlais
County Manager

Richard Wesch
County Attorney

Donna Marie Collins
Chief Hearing Examiner

Telephone (239) 533-2236

Facsimile (239) 485-2106

VIA CERTIFIED MAIL 70111150000157578090

March 2, 2023

Steve Hartsell, Esquire
Pavese Law Firm
1833 Hendry Street
Fort Myers, FL 33901

Re: CYPRESS LAKE CENTER DRI DEVELOPMENT ORDER
RESCISSION
STATE DRI #7-8384-47
COUNTY CASE # 2018-10002

Dear Mr. Hartsell:

Enclosed please find a copy of the Rescission of the Cypress Lake Center DRI Development Order and the Resolution adopted by the Board of County Commissioners of Lee County, Florida, on January 18, 2023. This has been transmitted in accordance with Chapter 380, Florida Statutes.

Please note that under the terms of the Cypress Lake Center Development Order and Florida Statutes Section 380.06(4)(c), a Notice of Development Order Adoption should be recorded with the Clerk of Circuit Court after the effective date of the development order. For your convenience, I have enclosed a form notice as an example that will meet the requirements of the statute. Once recorded, kindly send a copy of the Notice for our files.

If I may be of further assistance, please do not hesitate to contact my office.

Sincerely,

Amanda L. Swindle
Assistant County Attorney, Senior

ALS/slk
Enclosures

cc via email only: Dirk Danley, Senior Planner



Lee County
Southwest Florida

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VIA CERTIFIED MAIL 70111150000157578083

March 2, 2023

David Crawford, DRI Coordinator
Southwest Florida Regional Planning Council
PO Box 60933
Fort Myers, Florida 33906

Re: CYPRESS LAKE CENTER DRI RESCISSION
STATE DRI #7-8384-47

Dear Dr. Crawford:

Enclosed please find a copy of the Rescission of the Cypress Lake Center DRI Development Order adopted by the Board of County Commissioners of Lee County, Florida, on January 18, 2023. This document has been transmitted pursuant to Chapter 380, Florida Statutes.

Sincerely,

Amanda L. Swindle
Assistant County Attorney, Senior

ALS/slk
Enclosure

cc via email only: Dirk Danley, Planner, Department of Community Development
Steve Hartsell, Esquire, Pavese Law Firm



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Chief Hearing Examiner

VIA FEDERAL EXPRESS

March 2, 2023

The Department of Economic Opportunity
Division of Community Planning and Development
The Caldwell Building, MSC 160
107 East Madison Street
Tallahassee, Florida 32399

Re: CYPRESS LAKE CENTER DRI RESCISSION
STATE DRI #7-8384-47

Dear Sir or Madam:

Enclosed please find the Rescission of the Cypress Lake Center DRI Development Order adopted by the Board of County Commissioners of Lee County, Florida, on January 18, 2023. This document has been transmitted in accordance with Chapter 380, Florida Statutes.

If I may be of any assistance concerning this matter, please do not hesitate to contact my office.

Sincerely,

Amanda L. Swindle
Assistant County Attorney, Senior

ALS/slk
Enclosure

cc via email only: Dirk Danley, Planner, Department of Community Development
Steve Hartsell, Esquire, Pavese Law Firm

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

WHEREAS, an application was filed by the property owner, Collier Family Trust, LLC, to rescind Zoning Resolution 12-02-33 approving a 68.5 acres Development of Regional Impact (DRI) known as Cypress Lake Center DRI (State DRI #7-8384-47); and

WHEREAS, the Lee County Department of Community Development prepared and provided a Staff Report in response to the request, along with a recommendation to approve the request; and

WHEREAS, a public hearing was advertised and held on January 18, 2023, before the Lee County Board of County Commissioners; and

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the documents on record for DRI2018-10002, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

Request for a rescission of the Cypress Lake Center Development of Regional Impact (DRI).

The property is located in the Intensive Development Future Land Use Category and is legally described in attached Exhibit "A".

The request to rescind the Cypress Lake Center DRI is APPROVED subject to the Cypress Lake Center DRI Development Order of Recission attached as Exhibit "B".

SECTION B. EXHIBITS:

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

- Exhibit A: Legal description of the property
- Exhibit B: Recission of the Cypress Lake Center DRI DO

SECTION C. FINDINGS AND CONCLUSIONS:

The request to rescind the Cypress Lake Center DRI qualifies for approval pursuant to Florida Statutes and the LDC.

Future development must remain consistent with the LDC and Lee Plan.

SECTION D. SCRIVENER'S ERRORS

The Board intends that this resolution can be renumbered or relettered and typographical errors that do not affect the intent and are consistent with the Board's action can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

Commissioner Sandelli made a motion to adopt the foregoing resolution, seconded by Commissioner Greenwell. The vote was as follows:

Adopted by unanimous consent.

Kevin Ruane	<u>Absent</u>
Cecil L Pendergrass	<u>Absent</u>
Raymond Sandelli	<u>Aye</u>
Brian Hamman	<u>Aye</u>
Mike Greenwell	<u>Aye</u>

DULY PASSED AND ADOPTED this 18th day of January 2023.

ATTEST:
KEVIN C. KARNES, CLERK

BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Brian Hamman, Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY


Amanda L. Swindle
Assistant County Attorney, Senior
County Attorney's Office

RECEIVED
MINUTES OFFICE
2023 FEB 20 PM 12:25

EXHIBIT A

EXHIBIT "A"

LEGAL DESCRIPTION

A TRACT OR PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST, WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS:

THE EAST ONE-HALF OF THE SOUTHEAST ONE-QUARTER, LESS THE NORTH 116 FEET LYING WEST OF STATE ROAD NO. 45, OF SAID SECTION 23, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA.

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

23-45-24-44-00000.0070
23-45-24-44-00000.008B
23-45-24-48-00000.0020
23-45-24-00-00002.0020
23-45-24-44-00000.0060
23-45-24-44-00000.0020
23-45-24-44-00000.0080
23-45-24-00-00002.0050

23-45-24-50-00000.0010
23-45-24-44-00000.0010
23-45-24-44-00000.008A
23-45-24-00-00002.0010
23-45-24-00-00002.0040
23-45-24-44-00000.00CE
23-45-24-44-00000.0040
23-45-24-48-00000.0010
23-45-24-00-00002.0060
23-45-24-00-00002.0030:

New STRAPS

23452400000020070
23452400000020080
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23452460000002010
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23452461000000300
23452461000000401
23452461000000402
23452461000000403
23452461000000500
23452461000000600
23452461000000701
23452461000000702
23452461000000703

REVIEWED
DRI2018-10002
Rick Burris, Principal
Planner
Lee County DCD/Planning
11/4/2022

RESCISSION
OF THE
DEVELOPMENT ORDER
FOR
CYPRESS LAKE CENTER

A DEVELOPMENT OF REGIONAL IMPACT
STATE DRI #7-8384-47
COUNTY CASE #DRI2018-10002

WHEREAS, Chick-fil-A, Inc., Applicant, pursued the original application filed by Collier Family Trust, LLC, for rescission of a development of regional impact pursuant to Section 380.115(2), Florida Statutes, to rescind the Cypress Lake Center Development of Regional Impact (DRI); and

WHEREAS, the effective date of the original Cypress Lake Center DRI Development Order is May 20, 1985; and

WHEREAS, the DRI Development Order originally consisted of 336,400 square feet of retail commercial and 270,000 square feet of office development; and

WHEREAS, the DRI Development Order was thereafter amended on June 8, 1987, to allow 336,400 square feet of retail commercial and 270,000 square feet of office development; and

WHEREAS, the DRI Development Order was thereafter amended a second time on November 9, 1987, to allow refund of traffic mitigation funds under certain circumstances; and

WHEREAS, the DRI Development Order was thereafter amended a third time on November 29, 1993, to extend the effective date of the Development Order to June 19, 2000; and

WHEREAS, the DRI Development Order was thereafter amended a fourth time on March 29, 1999, to adopt a new Master Development Plan (Map H) which reflected approval of a shopping center (336,340 square feet on 40 acres); business corporate office area (40,000 square feet); an executive business office part (165,000 square feet); hotel complex (275 room hotel, 200-seat restaurant, 100-seat conference center); and 210 multi-family residential units on approximately 68.5 acres, and to extend the buildout date to June 19, 2000; and

WHEREAS, the DRI Development Order was thereafter amended a fifth time on May 12, 2000, to adopt a new Master Development Plan (Map H) to reflect the change in Tract B and Lot

6 of Phase II, to replace "Proposed Multifamily uses (210 units)" with "Mixed Use Development," and to extend the buildout and termination dates to June 19, 2003; and

WHEREAS, the DRI Development Order was thereafter amended a sixth time on September 3, 2002, revising the Master Development Plan (Map H) to redesignate a .67+/-acre parcel from Office to Retail Commercial; and

WHEREAS, the DRI Development Order was thereafter amended a seventh time to amend the land use designations set forth on Map H (Master Development Plan) to extend the buildout date to June 19, 2009, and to change the frequency of filing monitoring reports from annually or biennially; and

WHEREAS, the DRI Development Order was thereafter amended an eighth time to extend the buildout date pursuant to SB 360 by two years; and

WHEREAS, on June 2, 2011, the DRI Development Order was extended pursuant to House Bill 7207; and

WHEREAS, on December 28, 2011, the DRI Development Order was extended pursuant to House Bill 7207; and

WHEREAS, the County has satisfied the notice requirements for public hearing on the application; and

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on the record for DRI2018-10002 and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that the request for rescission of the Cypress Lake Center DRI is hereby approved pursuant to Section 380.115, Florida Statutes, and the DRI Development Order is of no further force and effect.

A. FINDINGS OF FACT/CONCLUSIONS OF LAW.

Pursuant to Section 380.115(2), Florida Statutes, the County makes the following findings of fact:

1. The Applicant for rescission, Chick-fil-A, Inc., is a landowner within the property constituting the Cypress Lake Center DRI and pursuant to Section 380.115, Florida Statutes, has filed to rescind the DRI Development Order.

2. Florida Statutes permit landowners within a DRI to elect rescission when all required mitigation related to the development has already been done.¹ Florida law further dictates that a local government *must* rescind a DRI when certain criteria are met.²

3. The Applicant seeks to rescind the Cypress Lake Center DRI in recognition that the project has been effectively built out and has satisfied all applicable conditions. Staff confirms applicant demonstrated the project has complied with DRI development order conditions through the current point of development.

4. Under current regulations, the project no longer triggers DRI review. Upon rescission, zoning regulations and development provisions in the Land Development Code (“LDC”) and Lee Plan will provide enforcement mechanisms to ensure the project remains in compliance with local regulations.

5. The property is located in the Intensive Development Future Land Use Category on the Future Land Use Map of the Lee Plan. The proposed rescission will not affect this classification. Future development of the project site will be subject to all applicable Lee Plan guidelines and Lee County Land Development Regulations.

6. The legal description of the property is attached hereto as Exhibit A.

B. ACTION ON REQUEST AND CONDITIONS OF APPROVAL.

1. The request to rescind the Cypress Lake Center DRI qualifies for approval pursuant to Florida Statutes and the LDC.

2. Future development must remain consistent with the LDC and Lee Plan.

3. Future development of the property must comply with any applicable permitting requirements of the South Florida Water Management District.

4. In addition, consistent with existing zoning and development approvals, future development of the property will comply in all respects with the Lee Plan, including but not limited to, residential density limitations, concurrency, and commercial site location standards.

¹ §380.115, Fla. Stat. (2022).

² §380.115(2), Fla. Stat. (2022): If requested by the developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization issued by a governmental agency as defined in §380.031(6), if such permit or authorization is subject to enforcement through administrative or judicial remedies.

5. All future development will be addressed in accordance with local, state and federal regulations.

6. All future development will be consistent with existing zoning and development approvals and will be subject to the regulations set forth in the Lee County Land Development Code, including but not limited to: zoning, site development, transportation requirements, impact mitigation, surface water management, utilities, protection of habitat, and management of exotic vegetation.

C. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS.

1. This Development Order constitutes a resolution of Lee County, adopted by the Board of County Commissioners in response to the Application for Rescission of the Cypress Lake Center Development of Regional Impact filed by the Applicant.

2. This Rescission DRI Development Order is binding upon the owners and developer(s) of property within the DRI as depicted on Exhibit A.

3. Pursuant to Section 380.115, Florida Statutes, subsequent requests for local development permits will not require further DRI review.

4. This Rescission Development Order will be effective upon expiration of the appeal period pursuant to Section 380.115, Florida Statutes, or upon the completion of any appellate proceedings, whichever time is greater. Once effective, the Applicant must record notice of the rescission pursuant to Section 28.222, Florida Statutes, with the Clerk of Circuit Court.

5. The issues in any appeal filed pursuant to Section 380.115, Florida Statutes, will be confined to whether the provisions of Section 380.115 or rules promulgated thereunder have been satisfied.

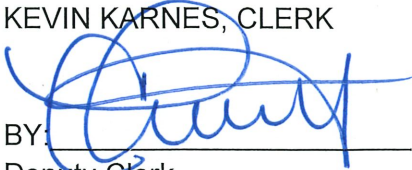
THE MOTION TO ADOPT the above amendments to the DRI Development Order was offered by Commissioner Sandelli and seconded by Commissioner Greenwell and, upon poll of the members present, the vote was as follows:

Kevin Ruane	<u>Absent</u>
Cecil L Pendergrass	<u>Absent</u>
Raymond Sandelli	<u>Aye</u>
Brian Hamman	<u>Aye</u>
Mike Greenwell	<u>Aye</u>

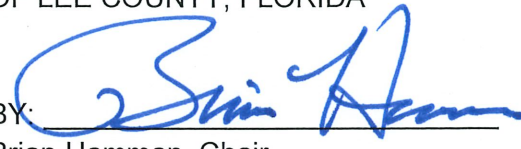
DULY PASSED AND ADOPTED this 18th day of January 2023.

ATTEST:

KEVIN KARNES, CLERK

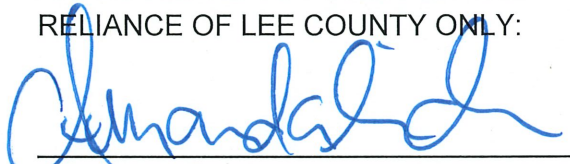
BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Brian Hamman, Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:


Amanda L. Swindle
Assistant County Attorney, Senior
County Attorney's Office

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23-45-24-44-00000.0060	23-45-24-44-00000.00CE
23-45-24-44-00000.0020	23-45-24-44-00000.0040
23-45-24-44-00000.0080	23-45-24-48-00000.0010
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23452400000020080
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23452461000000200
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23452461000000600
23452461000000701
23452461000000702
23452461000000703

REVIEWED
DRI2018-10002
Rick Burris, Principal
Planner
Lee County DCD/Planning
11/4/2022