

Exhibit B

RESOLUTION NUMBER Z-08-008

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

WHEREAS, Acie Forrer c/o Liberty Bank filed an application on behalf of the property owners, Banyan Professional Center LLC and Banyan Center Parkway II LLC, to amend the existing Banyan Office Park CPD (Resolution # Z-95-054), in reference to Banyan Office Park; and,

WHEREAS, a public hearing was advertised and held on January 31, 2008, and continued to March 26, 2008, and then heard on May 7, 2008, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2006-00098; and

WHEREAS, a second public hearing was advertised and held on August 18, 2008, 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 amend the existing Banyan Office Park CPD (Resolution # Z-95-054) by (a) increasing the commercial intensity of the CPD site by adding an additional building totaling 24,000 square feet in area; (b) changing the building height from 35 feet to 45 feet; and (c) modifying the Schedule of Uses. The site is currently being served by potable water and sanitary sewer. The property is located in the Intensive Development Future Land Use Category 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 1-page Master Concept Plan (MCP) entitled "Banyan Office Park Master Concept Plan," dated 07/06/06, last revised 08/08, date-stamped "Received AUG 04 2008"

Community Development,” and attached hereto as Exhibit C, 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.

This CPD allows a maximum of 40,700 square feet of commercial floor area. A maximum of 12,000 square feet may be used for medical offices.

Schedule of Uses and Site Development Regulations

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

a. Schedule of Uses

Administrative Offices
 ATM (Automatic Teller Machine)
 Banks and Financial Establishments - Groups I and II
 Broadcast Studios
 Business Services - Group I only
 Cultural Facilities
 Entrance Gates and Gatehouse
 Essential Services
 Essential Service Facilities - Group I only
 Excavation, water retention
 Fences, Walls
 Insurance Companies
 Medical Offices - limited to 12,000 square feet and to the north parcel
 Parking Lot, Accessory
 Personal Services - Group IV only, excluding escort services, palm readers, fortune tellers or card readers and tattoo parlors
 Real Estate Sales Office
 Religious Facilities
 Signs, in accordance with LDC Chapter 30
 Social Services - Group I only
 Storage, Indoor only (Accessory only to a permitted use)

b. Site Development Regulations

Setbacks:

Front:	45 feet
Side:	15 feet, 25 feet when abutting residential zoning or use.
Rear:	25 feet

Maximum Building Height:	45 feet or 2 habitable stories
Minimum Open Space:	30 percent
Maximum Lot Coverage	40 percent

3. Environmental Conditions

- a. Lee County Environmental Sciences Staff recommends the following condition to ensure the open space as committed to by the Applicant and the buffer plantable area requirements are met:
 - 1) Prior to development order approval, the development order plans must delineate a minimum open space requirement of 15,414 square feet on the north parcel and 15,688 square feet on the south parcel for a total of 30 percent open space.
 - 2) Prior to lot split approval, the applicant must provide open space verification of a minimum 15,414 square feet on the north parcel and a minimum 15,688 square feet on the south parcel
- b. The submitted landscape plans are only conceptual except as provided in the conditions and deviations. Prior to local development order approval, a landscape plan in substantial compliance with L-1 to L-3 of the approved MCP must be submitted for Lee County Division of Environmental Sciences review and approval.
- c. Prior to local development order approval, landscape plans must depict enhanced canopy tree heights a minimum of 12 feet in height, 3-inch caliper at 12 inches above grade and a 4-foot canopy spread at time of installation.
- d. Lee County Environmental Sciences Staff recommends the following condition for Deviation 2 to insure the proposed plantings can be accommodated in the decreased plantable area width:
 - 1) Prior to local development order approval, the landscape plans must depict an enhanced 30-foot wide

Type F buffer along the east property line with a minimum 10-foot wide plantable area outside the 20-foot wide existing utility easement. The enhancements must include:

- a) a double tiered hedge row consisting of at least two native species, interior row minimum 7-gallon container size, minimum 48 inches in height at time of installation, maintained at a minimum of 60 inches in height, at final grade, and exterior row minimum 3-gallon container size, minimum 36 inches in height at time of installation, maintained at 48 inches in height at grade; and
 - b) groundcover (other than sod), at least 2 species, minimum 1-gallon container size, planted on the exterior side of the shrubs to provide a minimum 50 percent ground coverage at the time of installation.
- e. Lee County Environmental Sciences staff recommends the following condition for deviation #3 to insure the requirements of LDC §10-416(b) Landscape standards are met:
- 1) Prior to local development order approval, landscape plans must depict a minimum of 2,900 square feet of area planted to meet LDC §10-416(b) building perimeter planting standards, located within:
 - a) the four parking islands (720 square feet) at each corner of the building; and
 - b) the entire Type A buffer (1,200 square feet) along the west property line; and
 - c) the area between the Type C buffer and required vehicle overhang, and within the terminal parking islands (1,000 square feet) along the north property line.
- f. Installation heights of all trees and shrubs are to be measured from the final grade of the project site.

4. Solid Waste Disposal/Recycling

Prior to local development order approval, the Applicant must provide facilities for solid waste disposal/recycling in compliance with LDC §10-261 for both north and south parcels.

5. Vehicle and Pedestrian Traffic

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.

6. Lee Plan Allocation

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), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.

7. Concurrency

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

8. Former Zoning Resolution Void

This Resolution supersedes and replaces Lee County Zoning Resolution Z-95-054.

9. Emergency Access

The stabilized access depicted on the MCP is for emergency vehicle access only.

SECTION C. DEVIATIONS:

1. Reduced Buffer Width - Deviation (1) seeks relief from the LDC §10-421(A)(2) requirement that trees and shrubs used in buffers be planted in a minimum width area equal to one-half the required width of the

buffer, to allow a minimum width that is 10-foot-wide, which is one third of the 30-foot-wide requirement. This deviation is APPROVED, SUBJECT TO Condition 3.

2. Reduce Width of Access - Deviation (2) seeks relief from the LDC §34-2013(b)(2) requirement of a minimum width of 25 feet at the property line for 2-way entrances, to allow the existing 20-foot-wide driveway. This deviation is APPROVED.
3. Perimeter Plantings - Deviation (3) seeks relief from the LDC §10-416(b) requirement that all new developments in commercial zoning districts or planned development districts to provide building perimeter plantings equal to 10 percent of the proposed buildings' ground level floor area, to allow additional landscaping, in the amount of 10 percent of the building footprint, to be placed elsewhere on the site to compensate for the lack of perimeter landscaping. This deviation is APPROVED, SUBJECT TO Condition 3.
4. Reduced Width of Right-of-Way - Deviation (4) seeks relief from the LDC §10-296(c) requirement of a 40-foot-wide minimum right-of-way (ROW) for 2-way privately maintained streets with closed drainage or inverted crown, to allow a ROW width of 20 feet. This deviation is APPROVED.
5. Reduced Width of Pavement - Deviation (5) seeks relief from the LDC §10-296(c)(1) requirement of a 24-foot minimum pavement width for a category "A" street, to allow an existing pavement width of 20 feet. 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: 15-45-24-00-00014.0060 and 15-45-24-00-00014.006A.

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;
 - 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.

Commissioner Frank Mann made a motion to adopt the foregoing resolution, seconded by Commissioner Tammara Hall. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 18th day of August 2008.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: Ray Judah
Ray Judah, Chair



Approved as to form by:

John J. Fredyma
John J. Fredyma
Assistant County Attorney
County Attorney's Office

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MINUTES OFFICE
mw
2008 AUG 26 AM 8: 07



Bean, Whitaker, Lutz & Kareh, Inc.

13041 McGregor Boulevard
Fort Myers, Florida 33919-5910
email – fmoffice@bwlk.net
(Ph) 239-481-1331 (Fax) 239-481-1073

Description

Parcel in
Section 15, Township 45 South, Range 24 East
Lee County, Florida

A tract or parcel of land lying in Section 15, Township 45 South, Range 24 East, Lee County, Florida, being further described as follows:

From the southeast corner of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of said Section 15 run S89°00'05"W along the centerline of College Parkway 100 feet wide for 928.15 feet; thence run N00°59'55"W for 50.00 feet to a point on the north line of said College Parkway and the Point of Beginning.

From said Point of Beginning continue N00°59'55"W for 292.00 feet to an intersection with the south line of lands described in Official Record Book 3171 beginning at Page 4579 of the Lee County Records; thence run N89°00'05"E along said south line for 29.07 feet; thence run N00°58'21"W along the east line of lands described in Official Record Book 3171 beginning at Page 4579 for 342.91 feet to an intersection with the north line of lands described in Official Record Book 2801 beginning at Page 94 and the south line of a Florida Power & Light Company easement 100 feet wide as recorded in Official Record Book 394 beginning at Page 281; thence run N89°01'39"E along the north line of said lands for 149.78 feet to an intersection with the east line of lands described in Official Record Book 2801 beginning at Page 94 of the Lee County Records; thence run S00°59'55"E along said east line for 634.84 feet to an intersection with the north line of said College Parkway; thence run S89°00'05"W along said north line for 179.00 feet to the Point of Beginning.

Containing 2.38 acres, more or less.

Bearings hereinabove mentioned based on the centerline of College Parkway to bear S89°00'05"W.

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4919)

34717_DESC1

11/15/06

William E. Bean R.L.S. 3261

Applicant's Legal Checked

by CS 11/22/2007

Page 1 of 2

RECEIVED
JAN 16 2007

PRINCIPALS:

WILLIAM E. BEAN, PSM, CHAIRMAN
SCOTT C. WHITAKER, PSM, PRESIDENT
JOSEPH L. LUTZ, PSM
AHMAD R. KAREH, PE, MSCE, VICE PRESIDENT

CONSULTING ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS

EXHIBIT "A"
(Page 1 of 2)



DCI 2006-00098

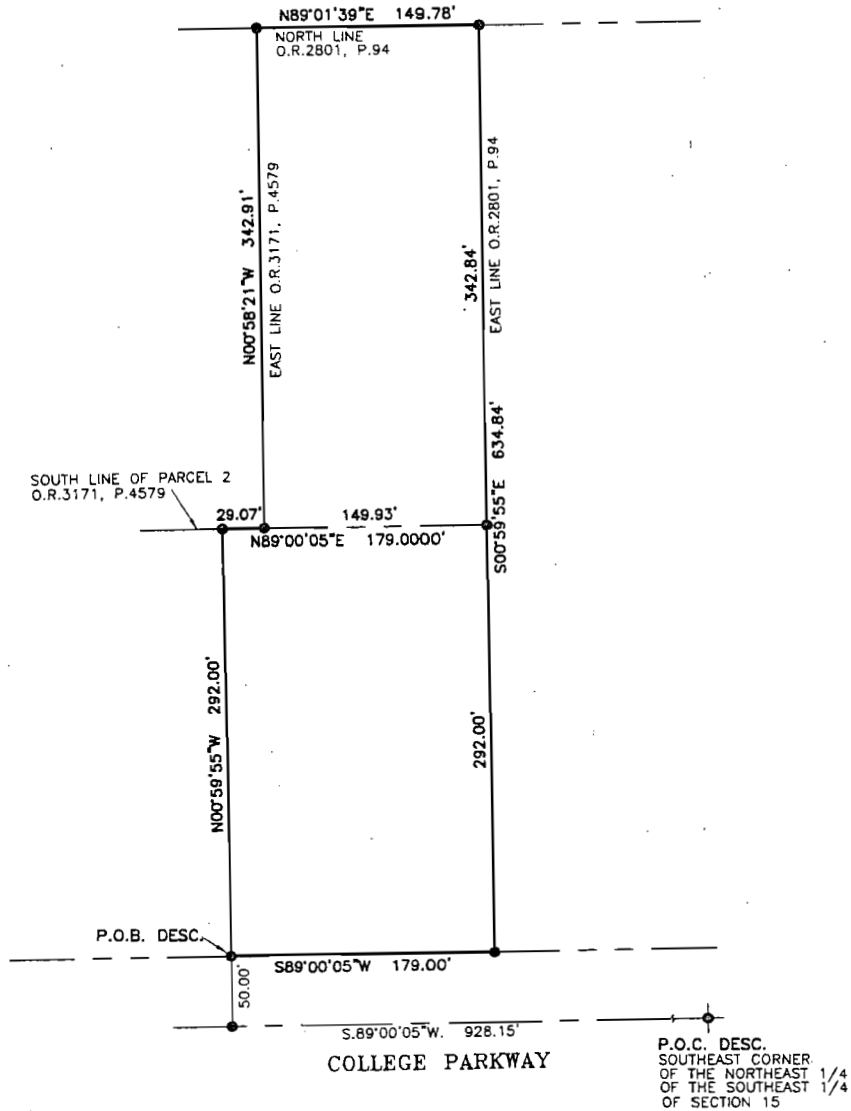
ASSOCIATES:

TRACY N. BEAN, AICP
W. BRITT POMEROY, JR., PSM
STEPHEN H. SKORUPSKI, PSM
ELWOOD FINEFIELD, PSM
JAMES A. HESSLER, PSM
JAMES R. COLEMAN, PSM
RUDOLFA. NORMAN, PE

SKETCH TO ACCOMPANY DESCRIPTION
PARCEL IN
SECTION 15, TOWNSHIP 45 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA

0' 100' 200' 300'

FLORIDA POWER & LIGHT COMPANY EASEMENT
(100' WIDE)
(O.R. 394, PAGE 281)



Applicant's Legal Checked
by CST 1/22/2007

THIS IS NOT A SURVEY

W. E. Bean
WILLIAM E. BEAN
Registered Land Surveyor
Florida Certificate No. 3261

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JAN 16 2007
DCI 2006-00098

Bean, Whitaker, Lutz & Kareh, Inc. (LB 4810)
CIVIL ENGINEERS - SURVEYORS AND MAPPERS - PLANNERS
13041-1 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919-5910 (239) 481-1331

SK34717-0A.DWG	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
11-15-06	34717	WBP	1"= 100'	2 OF 2	15-45-24

DCI200600098

Zoning Map

10/26/2007

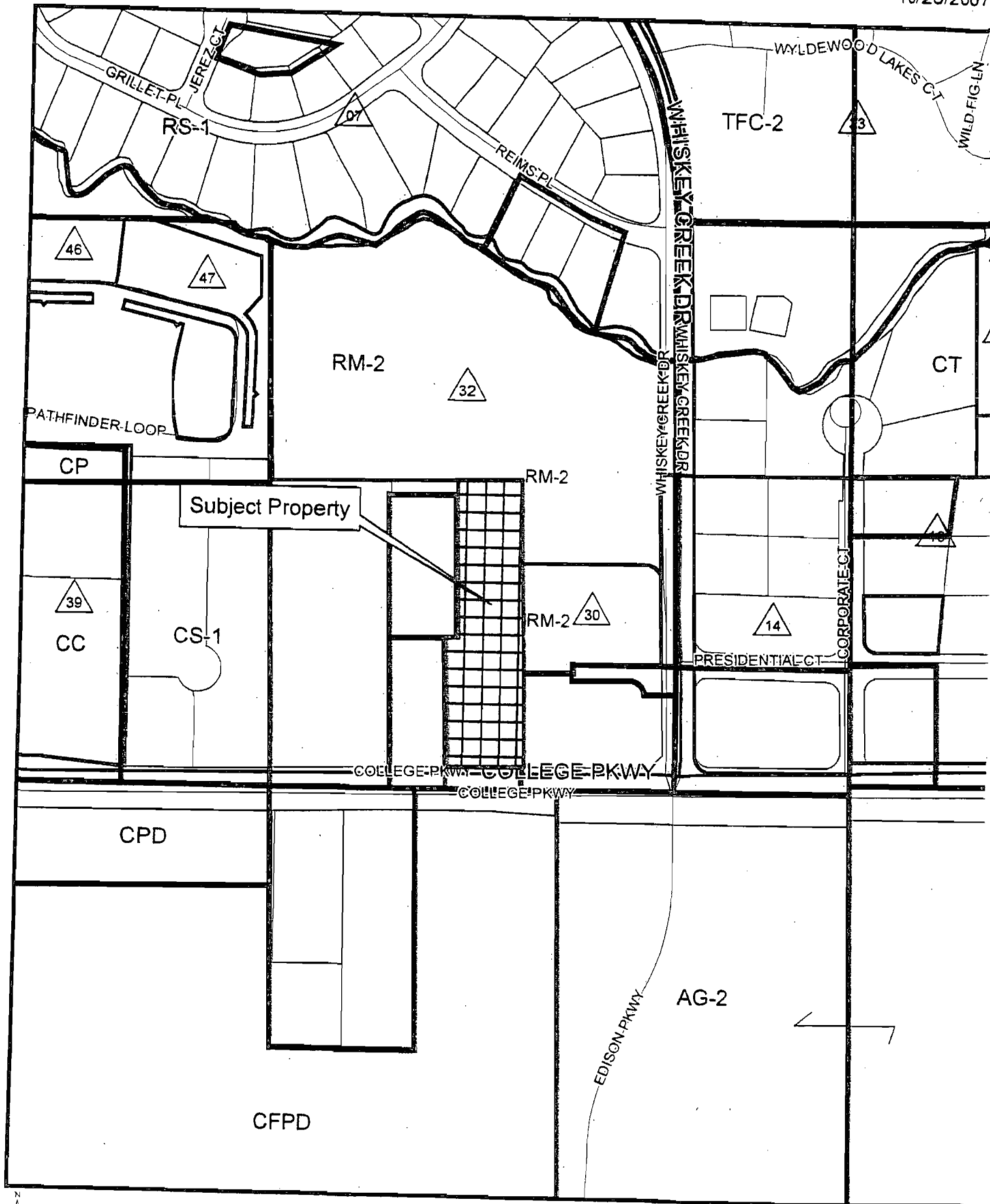
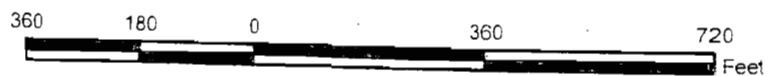


EXHIBIT "B"



STREET ADDRESS

8140/8160 COLLEGE PARKWAY
FORT MYERS, FL 33919

STRAP NUMBERS

15-45-24-00-00014.0080
15-45-24-00-00014.0084

ZONING/ACTUAL USE

NORTH: RM-2/MHRSKEY CREEK CONDOS
SOUTH: ROW/COLLEGE PARKWAY
EAST: RM-2 AND CO/MHRSKEY CREEK
CONDOS AND BANK OF AMERICA
WEST: CS-1/OFFICE BUILDINGS

SITE DATA

ZONING: CPD
FUTURE LAND USE: INTENSIVE DEVELOPMENT
TOTAL PARCEL AREA: 2.38 ACRES
EXISTING STRUCTURE: 16,700 SF, 2 STORIES
PROPOSED STRUCTURE: 24,000 SF, 2 STORIES
OVER PARKING

PARKING REQUIREMENTS

GENERAL OFFICE: REQUIRES 1 SPACE PER 300 SF GROSS FLOOR AREA
MEDICAL OFFICE: REQUIRES 1 SPACE PER 200 SF GROSS FLOOR AREA
EXISTING OFFICE BUILDING = 16,700 SF/300 = 56 SPACES (GENERAL OFFICE)
PROPOSED OFFICE BUILDING = 12,000 SF/300 = 40 SPACES (GENERAL OFFICE)
12,000 SF/200 = 60 SPACES (MEDICAL OFFICE)
REQUIRED PARKING = 156 SPACES (INCLUDING 7 HC SPACES)
PROVIDED PARKING = 156 SPACES (INCLUDING 7 HC SPACES)

BUFFERS

NORTH: COM TO MFR, 15' W TYPE "C" LANDSCAPE BUFFER
SOUTH: COM TO ROW, 15' W TYPE "D" LANDSCAPE BUFFER
EAST: COM TO MFR, 30' W TYPE "T" LANDSCAPE BUFFER
COM TO COM, 5' W TYPE "A" LANDSCAPE BUFFER
WEST: COM TO COM, 5' W TYPE "A" LANDSCAPE BUFFER

OPEN SPACE CALCULATIONS

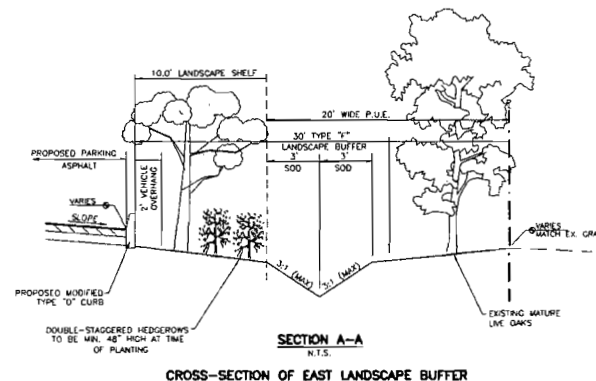
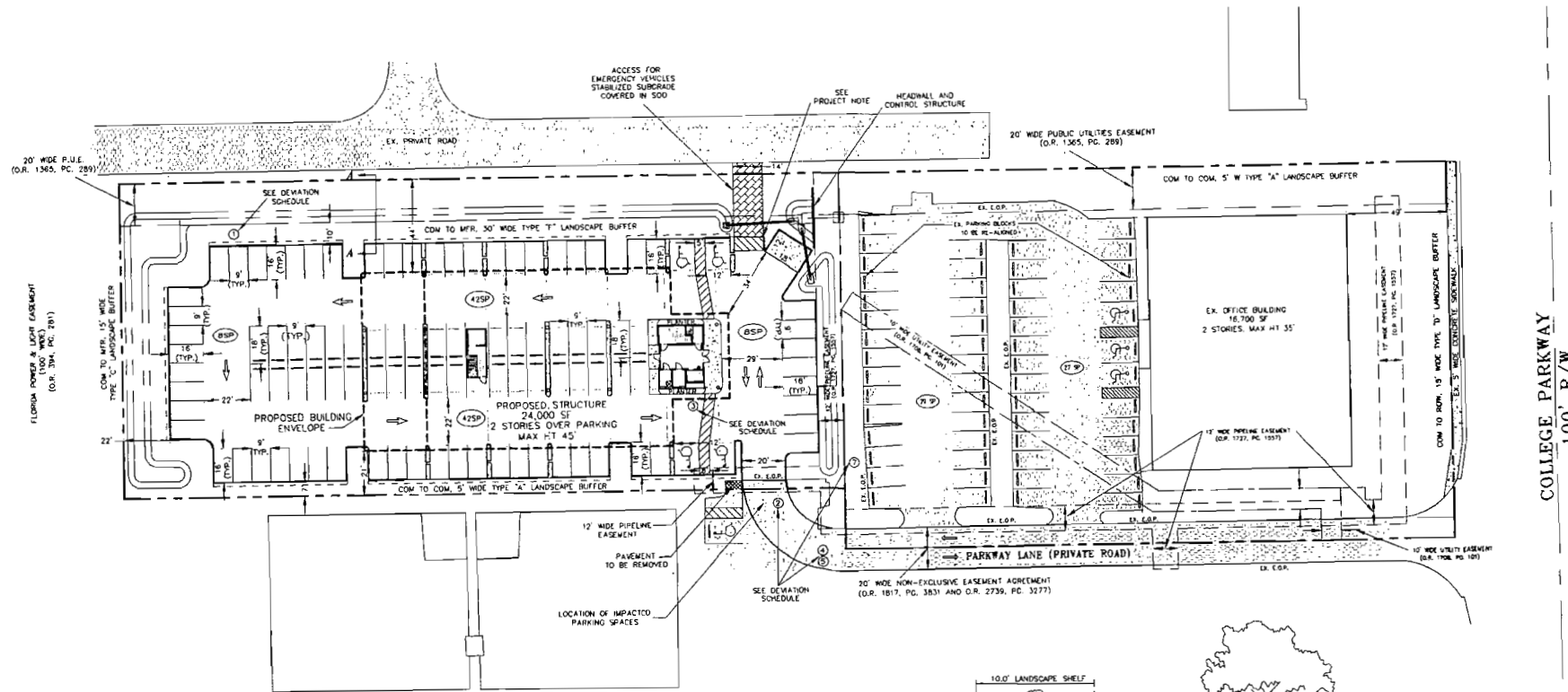
BANYAN CPD: 30% REQUIRED PER ZONING RESOLUTION Z-95-054
TOTAL OPEN SPACE REQUIRED = 30% X 103,673 SF = 31,102 SF
NORTH PARCEL: 51,380 SF (1.18 AC)
MIN. OPEN SPACE PROVIDED = 30% X 51,380 SF = 15,414 SF
SOUTH PARCEL: 52,293 SF (1.20 AC)
MIN. OPEN SPACE PROVIDED = 30% X 52,293 SF = 15,688 SF
TOTAL OPEN SPACE PROVIDED = 31,102 SF (30%)

LEGEND

- R/W RIGHT OF WAY
- SF SQUARE FEET
- EX. EXISTING
- E.O.P. EDGE OF PAVEMENT
- EXISTING PAVEMENT AREA
- PROPOSED PAVEMENT
- PROPOSED CONCRETE
- PAVEMENT TO BE REMOVED
- PROPOSED FIRE ACCESS
- XXSP NUMBER OF PARKING SPACES IN LOT
- (F) LOCATION OF DEVIATION

TDM N 1" = 60'

EXHIBIT "C"



Approved as Exhibit C
MCP Page 1 of 1
Resolution # Z-08-008

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AUG 04 2008

COMMUNITY DEVELOPMENT

DCI 2006-00098

DATE	REVISIONS	DATE	REVISIONS
DESIGNED BY	REVISED FOR ZONING RESOLUTION	APPROVED BY	APPROVED BY
DRAWN BY		DATE	
CHECKED BY			
TITLE			

**BANYAN OFFICE PARK
MASTER CONCEPT PLAN**

8655 College Parkway, Suite #106
Fort Myers, FL 33919
Phone: (239) 433-4231
Fax: (239) 433-9632
Email: daniel@tdm-engineering.com



SHEET #	DATE
1 of 1	

Scale: 1" = 60'