

RESOLUTION NUMBER Z-08-045

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

WHEREAS, an application was filed by the property owner, First Choice Properties of Lehigh, Inc., to rezone 2.13± acres from Residential Single-Family (RS-1) to Commercial Planned Development (CPD), in reference to Barry's Place; and,

WHEREAS, a public hearing was advertised and held on August 27, 2008, and then continued to September 5, 2008, for written submissions, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2007-00060; and

WHEREAS, a second public hearing was advertised and held on November 3, 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 rezone 2.13± acres from RS-1 to CPD to permit a maximum of 25,000 square feet of medical office, general office and retail uses with a maximum height of 35 feet and two stories. Potable water and sanitary sewer services will be provided by Florida Governmental Utility Authority. No development blasting is proposed. The property is located in the Central Urban 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. Master Concept Plan/Development Parameters

The development of this project must be consistent with the single-page Master Concept Plan (MCP) entitled "Barry's Place, Master Concept Plan," dated MAR 2007, last revised 10/15/08, date-stamped "Received OCT 16 2008" except as modified by the conditions below. Said MCP is attached hereto as Exhibit "C". 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 project is permitted a maximum gross floor area of 25,000 square feet.

2. Uses and Site Development Regulations

The following Limits apply to the project and uses:

a. Schedule of Uses

ACCESSORIES USES AND STRUCTURES
ADMINISTRATIVE OFFICES
ATM (AUTOMATIC TELLER MACHINE)
BAIT AND TACKLE SHOP
BANKS & FINANCIAL ESTABLISHMENTS, GROUP I only, WITH DRIVE-THRU
BROADCAST STUDIOS
BUSINESS SERVICES: GROUP I only
CLEANING AND MAINTENANCE SERVICES
CLOTHING STORES
CLUB, PRIVATE AND FRATERNAL
DAY CARE CENTER
ESSENTIAL SERVICES, GROUP I only
FENCES, WALLS
FOOD STORES: GROUP I only
GIFT AND SOUVENIR SHOP
HARDWARE STORE
HEALTHCARE FACILITIES, GROUP III only
HOBBY, TOY, AND GAME SHOPS
HOUSEHOLD AND OFFICE FURNISHINGS, ALL GROUPS,
NO OUTDOOR DISPLAY
LAUNDRY OR DRY CLEANING, GROUP I only
LAWN AND GARDEN SUPPLY STORE
MEDICAL OFFICE
NONSTORE RETAIL, GROUP I only
PACKAGE STORE
PAINT, GLASS AND WALLPAPER
PARKING LOT: ACCESSORY
PERSONAL SERVICES: GROUPS I, II & III
PET SERVICES
PET SHOP
PHARMACY
PLACE OF WORSHIP
RENTAL ESTABLISHMENTS, GROUPS I & II
REPAIR SHOPS, GROUPS I, II & III
RESTAURANT, FAST FOOD
RESTAURANTS: ALL GROUPS NO CONSUMPTION ON PREMISES
SIGNS IN ACCORDANCE WITH LDC CHAPTER 30
SOCIAL SERVICES, GROUP I
SPECIALTY RETAIL SHOPS: ALL GROUPS
STUDIOS

TEMPORARY USES, LIMITED TO CONSTRUCTION STORAGE AND
CONTRACTOR'S OFFICE DURING DEVELOPMENT
USED MERCHANDISE STORES, GROUPS I & II
VARIETY STORE

b. Site Development Regulations

Building setbacks:

From public right-of-way:	25 feet
From lot line:	10 feet
Building separation:	20 feet

Maximum Lot Coverage: 40%

Minimum Open Space: 30%

Maximum Building Height: 35 feet

Minimum Lot width: 287 feet

Minimum Lot depth: 320 feet

Minimum Lot area: 2.13 acres

3. Environmental Conditions

- A. Prior to local development order approval, the development order plans must delineate a minimum of 0.64 acres of common open space.
- B. Prior to local development order approval, the development order plans must delineate an enhanced type "A" buffer along the eastern portion of the project, planted with 4 palms and 18 shrubs planted at 24 inches and maintained at 36 inches per 100 linear feet. The buffer shrubs can be clustered between the parking lot and eastern property line to provide sufficient screening to the adjacent residential project.
- C. Prior to local development order approval, the landscape plans must depict the planting of native herbaceous grasses and shrubs in the dry detention areas per LDC §10-420(I).

4. Traffic Conditions

Prior to any local development approval, the developer must record an easement which permits vehicular and pedestrian access from the CS-1 parcel to the east (as identified on the MCP) through the subject parcel to its access on Terry Avenue.

5. Hours of deliveries

Commercial deliveries may only occur between the hours of 8 a.m. and 9 p.m., Monday through Sunday.

6. Utility Easement Vacation

Prior to local development order approval, all internal Public Utility Easements not accommodated by the MCP must be vacated.

7. Vehicular/Pedestrian Impacts

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.

8. Lee County Comprehensive Plan Consistency

Approval of this zoning request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee County Comprehensive 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 County Comprehensive Plan provisions.

9. Concurrency

This project is deemed exempt from the concurrency requirements set forth in LDC Chapter 2 and the Lee County Comprehensive Plan by virtue of the Certificate of Concurrency Exemption issued by the County pursuant to the Stipulation and Settlement Agreement dated June 9, 1992, in *Lehigh Corporation v. Lee County*, Case No. 91-2482 CA.

10. Utilities

Water and sewer services are available to the site, and this development must connect to those services as part of any local development order for the site.

11. Solid Waste/Recycling

Prior to local development order approval for vertical development, the developer must provide facilities in compliance with LDC §10-261 and Lee County Solid Waste Ordinance No. 08-10 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of local development order application.

12. Construction Traffic

All site preparation and construction traffic is required to use only the Terry Avenue access point. No other site accesses are authorized.

SECTION C. DEVIATIONS:

1. Parking Lot Buffer - Deviation (1) seeks relief from the LDC §10-416(d)(6) requirement to provide a 25-foot wide landscape buffer with a solid wall, when a parking lot or a driveway is proposed within 125 feet of any residential properties, to allow for a 5-foot wide landscape buffer. This deviation is APPROVED.
2. Buffer next to Residential - Deviation (2) seeks relief from the LDC §10-416(d)(3) requirement to provide a type "C" or "F" buffer when a commercial development abuts a residentially zoned or used property, to allow for a 5-foot-wide landscape buffer. This deviation is APPROVED.

SECTION D. EXHIBITS AND STRAP NUMBERS:

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:
26-44-26-07-00029.0010; 26-44-26-07-00029.0020; 26-44-26-07-00029.0030;
26-44-26-07-00029.0040; 26-44-26-07-00029.0170; 26-44-26-07-00029.0180;
26-44-26-07-00029.0190 and 26-44-26-07-00029.0200.

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 Tammara Hall made a motion to adopt the foregoing resolution, seconded by Commissioner Robert P. Janes. 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 3rd day of November, 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

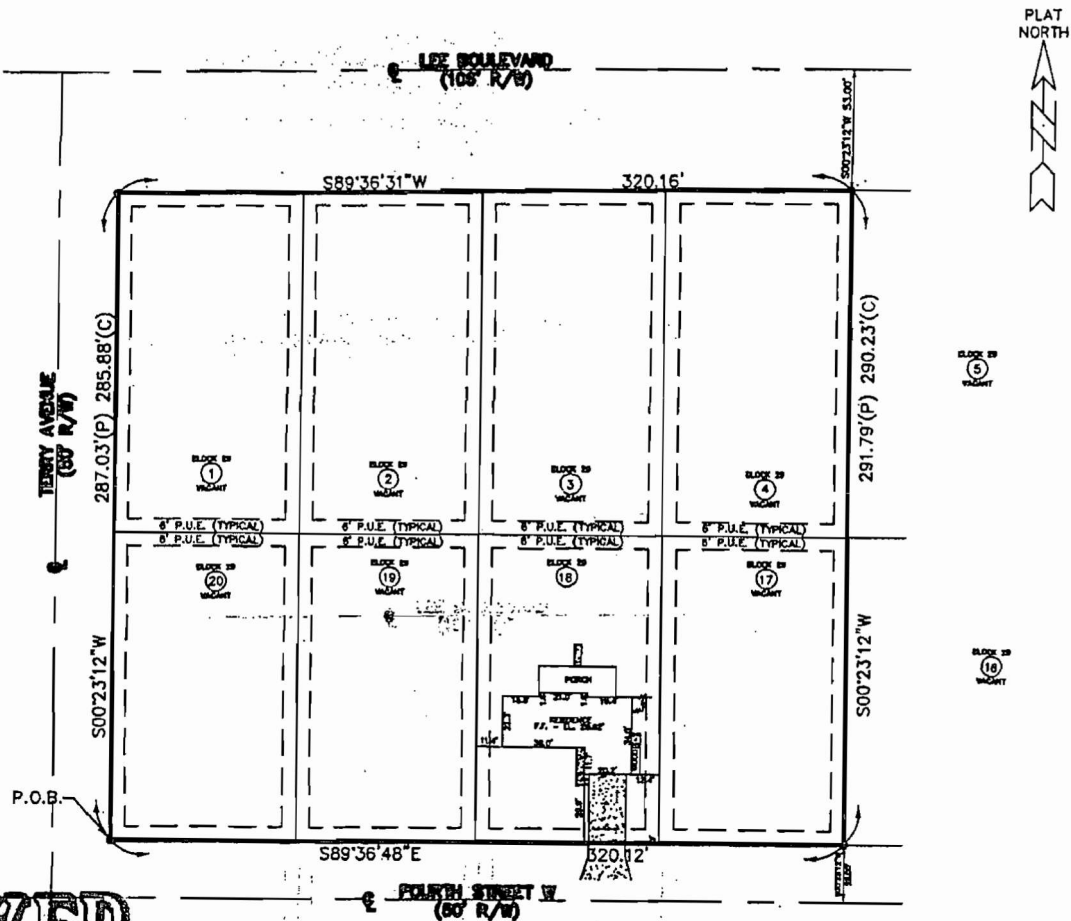


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mw

2008 DEC 29 PM 2:13

CASE NO: DCI2007-00060

NOT A SURVEY – SKETCH ONLY



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MAR 13 2008

DCI 2007-00060

PERMIT COUNTER LOTS 1-4 AND 17-20, BLOCK 29, UNIT 7
SECTION 26, TOWNSHIP 44 SOUTH, RANGE 26 EAST
LEHIGH ACRES, LEE COUNTY, FLORIDA
RECORDED IN PLAT BOOK 15, PAGE 75, OF THE
OFFICIAL RECORDS OF LEE COUNTY, FLORIDA

sketch
Applicant's Legal Checked
by *[signature]* 4/9/08

[signature]
2-29-08

LEHIGH SURVEYING, INC. (LB5941)

Professional Surveyors and Mappers

715 Greenwood Avenue, Lehigh Acres, Florida 33972

(239) 368-7400 (239) 368-7685 (Fax)

DATE	2-29-08
JOB NUMBER	0625-7
DRAWN BY	C.B.S.
SCALE	1" = 80'
SHEET	1 of 1

EXHIBIT "A"

(Page 1 of 4)

LEGAL DESCRIPTION

A TRACT OR PARCEL OF LAND LYING IN SECTION 26, TOWNSHIP 44 SOUTH, RANGE 26 EAST, LEHIGH ACRES, LEE COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 20, BLOCK 29, UNIT 7, A SUBDIVISION OF LEHIGH ACRES AS RECORDED IN PLAT BOOK 15, PAGE 75, OF THE OFFICIAL RECORDS OF LEE COUNTY, FLORIDA, SAID POINT ALSO BEING ON THE EASTERLY RIGHT OF WAY LINE OF TERRY AVENUE (50' WIDE) AND THE NORTHERLY RIGHT OF WAY LINE OF FOURTH STREET WEST (50' WIDE) THENCE RUN N0°23'12"E, ALONG SAID EASTERLY RIGHT OF WAY LINE OF TERRY AVENUE, FOR A DISTANCE OF 285.88 FEET (287.03' PLAT) TO THE NORTHWEST CORNER OF LOT 1, BLOCK 29, SAID POINT BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF LEE BOULEVARD (106' WIDE); THENCE LEAVING SAID EASTERLY RIGHT OF WAY LINE OF SAID TERRY AVENUE, RUN N89°36'31"E, ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF LEE BOULEVARD, FOR A DISTANCE OF 320.16 FEET TO THE NORTHEAST CORNER OF LOT 4, BLOCK 29; THENCE LEAVING SAID SOUTHERLY RIGHT OF WAY LINE OF LEE BOULEVARD, RUN S0°23'12"W FOR A DISTANCE OF 290.23 FEET (291.79' PLAT) TO THE SOUTHEAST CORNER OF LOT 17, BLOCK 29, SAID POINT ALSO BEING ON THE NORTHERLY RIGHT OF WAY LINE OF FOURTH STREET WEST; THENCE RUN N89°36'48"W, ALONG SAID NORTHERLY RIGHT OF WAY LINE OF FOURTH STREET WEST, FOR A DISTANCE OF 320.12 FEET TO THE POINT OF BEGINNING.

Christopher B. Still

RECEIVED
MAR 13 2008

CHRISTOPHER B. STILL

P.S.M. 5941

FEBRUARY 29, 2008

PERMIT COUNTER

Applicant's Legal Checked
4/9/08

Applicant's Legal Checked

DCI 2007-00060

EXHIBIT "A"

(Page 2 of 4)

1 ←



PLAT OF
NE 1/4 & S 1/4 OF SECTION 26
TOWNSHIP 44 SOUTH RANGE 26 EAST

A SUBDIVISION OF
LEHIGH ACRES

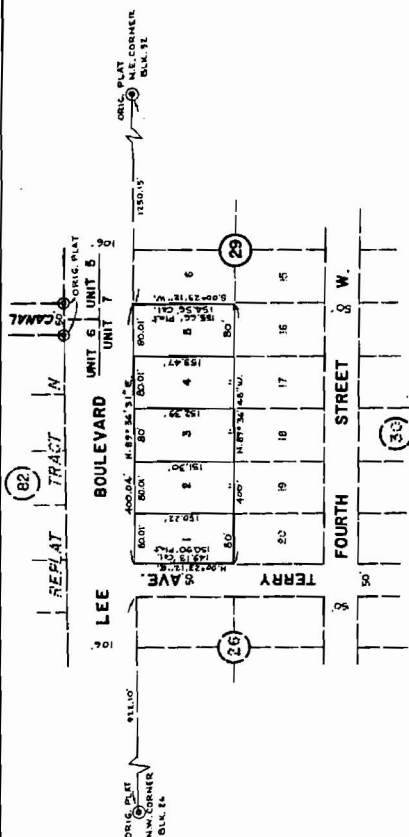
LEE COUNTY, FLORIDA
LEE COUNTY LAND & TRUST CO., DEVELOPERS
Book 15, Page 75
AUGUST, 1956

SUBDIVISION CERTIFICATE
This certificate is given in full compliance with the provisions of Chapter 32, Florida Statutes, and the provisions of the plat of the subdivision of the land described in the foregoing plat.

NOTE:
The plat of the subdivision of the land described in the foregoing plat is on file in the office of the Clerk of the Circuit Court, Lee County, Florida.



CLERK OF THE CIRCUIT COURT, LEE COUNTY, FLORIDA



REPLAT OF
TRACTS P & Q - UNIT 7
N.E. $\frac{1}{4}$ & S. $\frac{1}{2}$ OF SECTION 26,
TWP. 44S., RGE. 26E.
A SUBDIVISION OF

LEHIGH ACRES



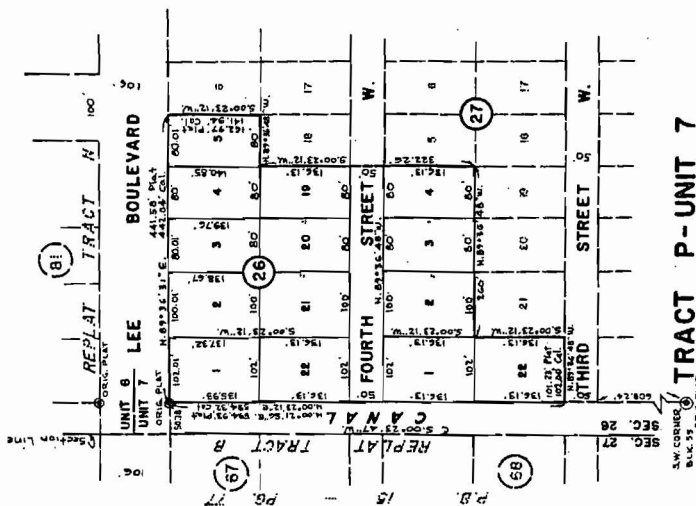
All lots subject to a 5 foot Utility and
Drainage Easement on both sides, front,
and back.

All corner lot radii are 25 feet except as shown. The lot dimensions are to the straight line intersections, except where arc distances are shown.

NOTE : ORIGINAL PLAT P.B. 15 - PG. 75

...ZUNING...

SHEET 61 OF 121



TRACT P - UNIT 7

DCI200700060

Zoning Map

7/30/2008

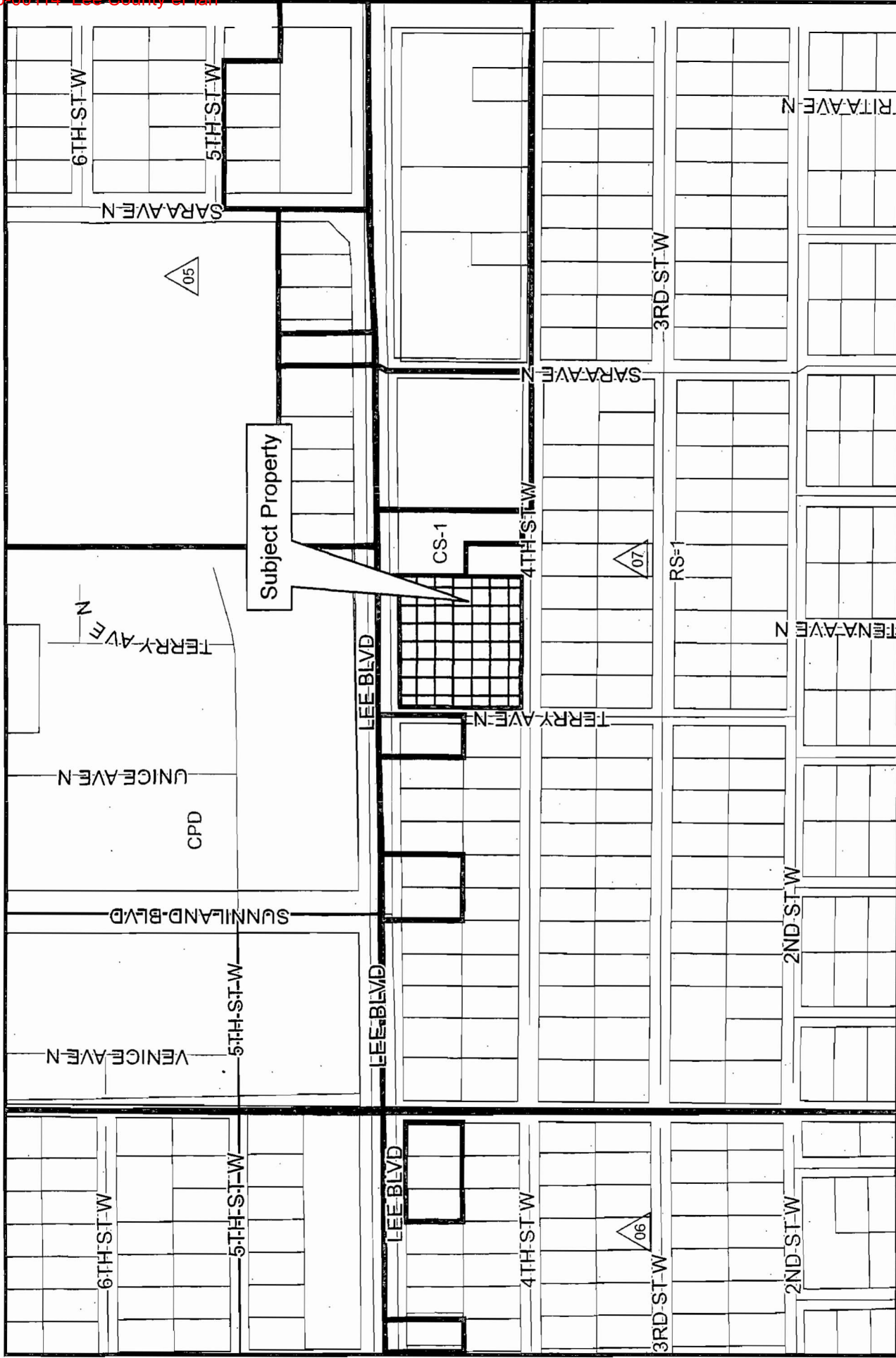
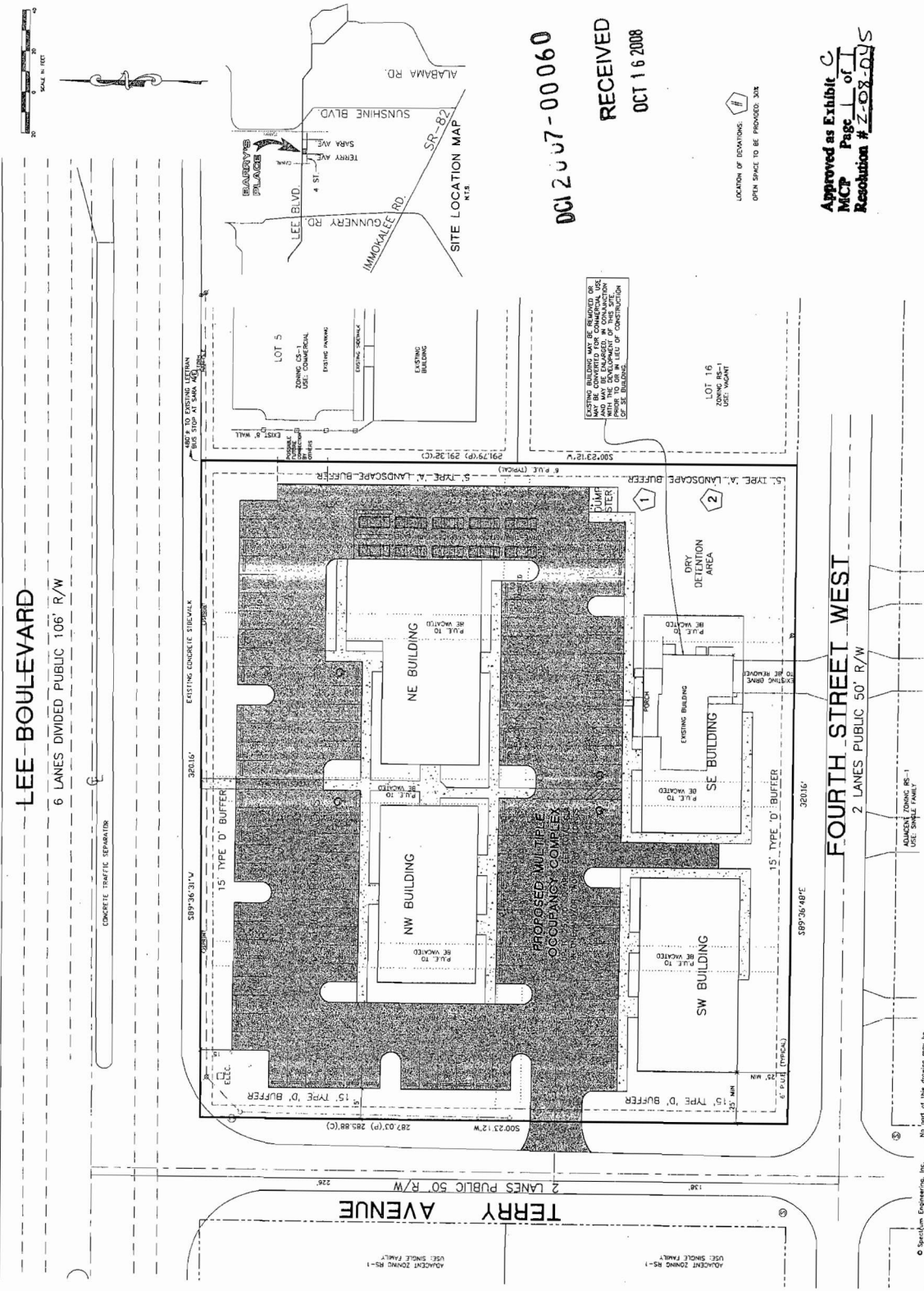


EXHIBIT "B"





ADMINISTRATIVE AMENDMENT (PD) ADD2010-00090(A)

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Barry Gionfriddo filed an application for administrative approval to a Commercial Planned Development on a project known as Barry's Place (Z-08-045) for re-arranging and reducing the number of buildings shown on the Master Concept Plan (MCP), revising the Site Development Regulations to enable the subdivision of the site, and including two additional deviations on property located at 3519 Lee Blvd., described more particularly as:

LEGAL DESCRIPTION: In Section 26, Township 44 South, Range 26 East, Lee County, Florida:

See Exhibit "A"

WHEREAS, the property was originally rezoned in case number DCI2007-00060 (Z-08-045); and

WHEREAS, an administrative amendment was approved in December 21, 2010 in case number ADD2010-00090, and

WHEREAS, on February 1st, 2011, the applicant requested to amend the administrative amendment ADD2010-00090 to provide modified site development regulations and requesting modification to one of the conditions of approval by providing a revised Master Concept Plan, and

WHEREAS, the subject property is located in the Central Urban Future Land Use Category as designated by the Lee Plan; and

WHEREAS, the applicant requested modification to the approved Master Concept Plan to remove two of the four buildings shown on the original Master Concept Plan and replacing them with a single larger building; and

WHEREAS, the request includes relocation of the access point further to the south than originally approved; and

WHEREAS, two additional deviations are requested from the intersection separation requirement of 125 feet established for local roads to 110 feet (LDC Sec. 10-10-285), and a driveway access width of 60 feet from the required maximum width of 35 feet at property line (LDC Sec. 34-2013(b)(3)); and

WHEREAS, these deviations are necessary to provide safe ingress and egress for cars and trucks to and from the site; and

WHEREAS, the applicant, in order to allow the subdivision of the property into two development parcels, has requested to modify the Site Development Regulations of Resolution Z-08-045; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to Commercial Planned Development is **APPROVED** subject to the following conditions:

1. **The original administrative amendment ADD2010-00090 approved on December 21, 2010 is no longer effective and is hereby replaced by this resolution.**
2. **The Development must be in compliance with the amended Master Concept Plan, stamped received dated February 1, 2011. Master Concept Plan for ADD2010-00090A is hereby APPROVED and adopted. A reduced copy is attached hereto.**
3. **The terms and conditions of the original zoning resolution remains in full force and effect, unless amended herein.**
4. **Deviation #3 increasing the width of the driveway from a maximum of 35 feet at property line to 60 feet is hereby approved.**
5. **Deviation #4 reducing the required intersection separation of 125 feet established for local street to 110 feet is hereby approved.**
6. **Site Development Regulations:**
 - Building Setbacks:**
 - From Public right-of-way: 25 feet**
 - From lot line: 10 feet**
 - Building separation: 20 feet**

Maximum lot coverage:	40%
Minimum open space:	30%
Maximum building height:	35 feet
Minimum lot width:	160 feet
Minimum lot depth:	235 feet
Minimum lot area:	1 acre

DULY SIGNED this 21st day of February, A.D., 2011.

BY: _____

Pam Houck
Pam Houck, Director

Division of Zoning

Department of Community Development

