

RESOLUTION NUMBER Z-99-077

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

WHEREAS, the contract purchaser, Don Bordner, filed an application with the consent of the property owner, Steven E. Hithersay, Trustee, to amend the South Estero Commercial Center Commercial Planned Development (CPD); and,

WHEREAS, a public hearing was advertised and held on October 20, 1999 before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case # 96-04-121.02Z 01.01; and,

WHEREAS, a second public hearing was advertised and held on December 20, 1999 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 applicants filed a request to amend the South Estero Commercial Center granted by Zoning Resolution Z-89-005 and amended in Administrative Action PD-96-023, to add 170,000 square feet of mini-warehouse use on Lot 6; recombine Lots 2 and 3; add several deviations; and make changes to bring the Master Concept Plan into compliance with D.O. 96-10-325.00D relating to realignment of the internal roadway. The property is located in the Urban Land Use Category and 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 entitled "An Amendment to South Estero Commercial Center," stamped received July 22, 1999, last revised July 20, 1999, 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 as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

12/20/99

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

a. Schedule of Uses

Lots 1-5

Animal Clinic
Auto Repair and Service, Group I
Banks and Financial Establishments
Bar and Cocktail Lounge
Broadcast Studio, Commercial Radio and Television
Business Services, Group I
Car Wash
Cleaning and Maintenance Services
Clothing Stores, General
Clubs, Commercial Fraternal & Membership
Consumption on Premises
Contractors and Builders, Groups I & II
Convenience Food and Beverage Stores
Department Store
Drive Thru Facility
Funeral Home and Mortuary, no cremation
Garage, Public
Household and Office Furnishings, Groups I & II
Laundry and Dry Cleaning, Group I
Lawn and Garden Supply Store
Non-store Retailers, All Groups
Paint, Glass and Wallpaper Store
Personal Services, All Groups
Recreation, Commercial, Groups II & IV
Repair Shops, Groups I & II
Restaurant, Standards, All Groups
Schools, Commercial
Self Service Fuel Pumps
Self Service Fuel Pump Station
Social Services, Group I
Specialty Retail Shops, Groups I, II, III & IV
Storage, Indoor
Towers, Communication, 100 feet or less
Transportation Services, Group II
Used Merchandise Stores, Groups I & II
Freight and Cargo Handling Establishments, approved only for freight and cargo
produced upon or sold in the ordinary course of business from the premises

LOT 6

All uses listed above plus the following:

- Administration Office
- Caretaker's Residence
- Storage, Open
- Mini-warehouse

b. Site Development Regulations

Minimum Building Setbacks:	<u>Front</u>	<u>Side</u>	<u>Rear</u>
Lot 1	25' (E) 25' (W)	20' (N) 25' (S)	n/a
Lot 4	25' (W)	20' (N&S)	20' (E)
Lot 5	25' (W)	20' (N&S)	20' (E)
Lot 6	West: 20 feet North: 20 feet South: 20 feet East: 20 feet		

Maximum Building Heights:

Lots 1, 4, 5, & 6	35 feet/two stories
Lots 2 & 3	35 feet/one story (existing)
Lot 6	35 feet/two stories

Maximum Building Area:

Lots 1 & 4	7,000 square feet
Lots 2 & 3	5,459 square feet (existing)
Lot 5	15,000 square feet
Lot 6	170,000 square feet of mini-warehouse, OR 84,999 square feet of other approved uses

OVERALL PROJECT: 140,000 square feet of gross floor area without mini-warehouse use
205,000 square feet if Lot 6 is developed with mini-warehouse only

3. Bars and Cocktail Lounges and Consumption on Premises (COP) must be in conformance with all regulations, such as separation distances, set forth in the LDC.
4. Rail traffic using this site must not block vehicle traffic on Corkscrew Road.

5. Since the project is located within certificated service areas, septic tanks are prohibited. The development must connect to central sewer and water service.
6. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
7. 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).
8. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.
9. Zoning Resolution Z-95-005 and Administrative Amendment PD-96-023 conditions have been incorporated herein. Therefore, those documents are hereby declared null and void, and any conditions or approvals contained therein are of no further force and effect.

SECTION C. DEVIATIONS:

1. Deviation (1) - WITHDRAWN
2. Deviation (2) - WITHDRAWN
3. Deviation (3) seeks relief from the LDC §30-153(3)a provision that limits business or industrial multiple-occupancy complexes of five or less establishments to one ground-mounted sign, to allow one ground-mounted sign for the multiple occupancy complex on Lot 1, and one ground-mounted sign for the use of Lot 1 on Lot 1. The deviation will allow two ground-mounted signs on Lot 1. One sign will advertise the occupant of Lot 1, and one sign will advertise the overall complex. This deviation is APPROVED as shown on the MCP.
4. Deviation (4) seeks relief from the LDC §30-153(2) requirements relating to the placement of ground-mounted identification signs within nonresidential subdivisions of five or more establishments along access roads, to allow placement of two ground-mounted identification signs as depicted on the MCP. This deviation is APPROVED.
5. Deviation (5) seeks relief from the LDC §10-415(a) requirement to provide 30 percent open space in commercial planned development projects, to allow 20 percent open space on Lot 6, if it is developed with mini-warehouse uses. This deviation is PARTIALLY APPROVED WITH THE FOLLOWING CONDITIONS:

- a. A minimum of 27.8 percent open space must be provided unless it is determined by the County in the development order stage that 25 percent open space is sufficient to meet the open space requirements, in which case it may be reduced to 25 percent, administratively; and
- b. Six trees, consisting of sabal palms and smaller canopy trees such as dahoon holly, must be planted in each internal landscape island. The trees may be used to meet the internal parking canopy tree requirement only. These islands must also contain shrubs and groundcover plants as part of the building perimeter landscape requirement per LDC §10-416(b); and
- c. Five trees per 100 linear feet with a minimum 12-foot-height, 2-inch-caliper at 12 inches above the ground, and 4-foot canopy must be planted along the north, east and west property lines in addition to any other required buffer; and
- d. Type "D" buffer plantings are required along the west property line. The width of the buffer may be reduced to 10 feet along the parking area north of the entrance; and
- e. All required landscaping must be provided with native plants.

If, however, this deviation is found to be unnecessary when the design of the project is completed, items a-e will not be required.

SECTION D. EXHIBITS:

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

- Exhibit A: The legal description and STRAP number of the property.
- Exhibit B: Zoning Map (subject parcel identified with shading)
- Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

- 1. The applicant has proven entitlement to the amendment by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
- 2. The amendment, 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 amendment 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 Ray Judah, seconded by Commissioner John E. Manning and, upon being put to a vote, the result was as follows:

John E. Albion	Aye
Douglas R. St. Cerny	Aye
Andrew Coy	Aye
Ray Judah	Aye
John E. Manning	Aye

DULY PASSED AND ADOPTED this 20th day of December, 1999.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Ruth Ferguson*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *John E. Albion*
Chairman

Approved as to form by:

Douglas E. Stewart 12/21/99
County Attorney's Office

MINUTES OFFICE

Ruth
FILED DEC 23 1999

EXHIBIT "A"

LEGAL DESCRIPTION

Lot 1-6, SOUTH ESTERO COMMERCIAL CENTER as recorded in Plat Book 60, Pages 23 & 24, of the Public Records of Lee County, Florida, lying in Section 33, Township 46 South, Range 25 East, Lee County, FL.

The applicant has indicated that the STRAP number for the subject property is: 33-46-25-01-00000.0010, 33-46-25-01-00000.0040, 33-46-25-01-00000.0050 and 33-46-25-01-00000.0060

ZONING MAP

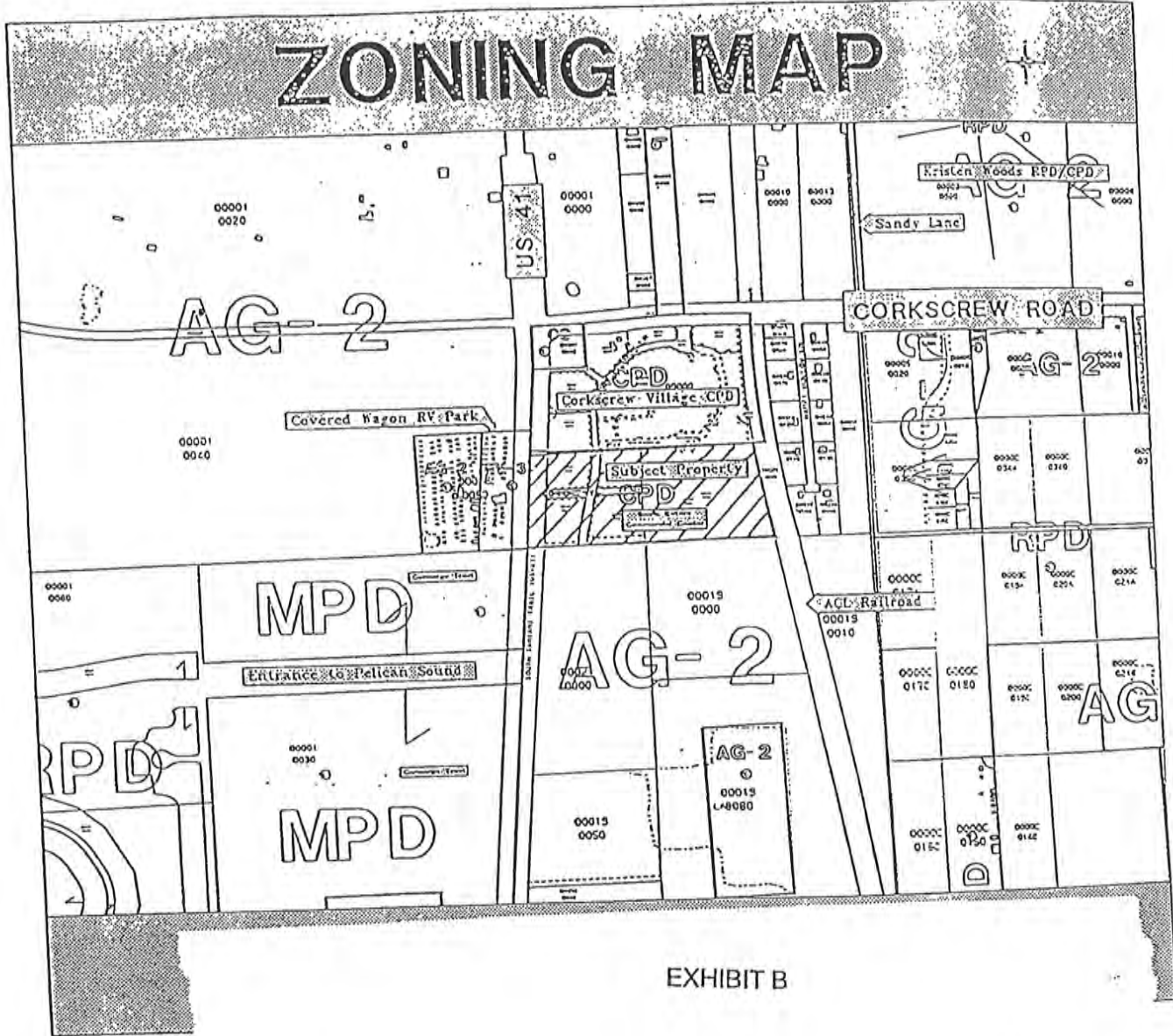
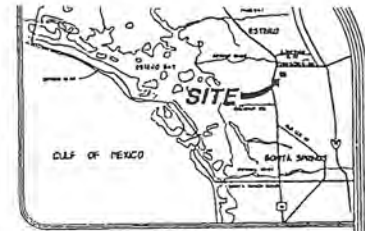


EXHIBIT B

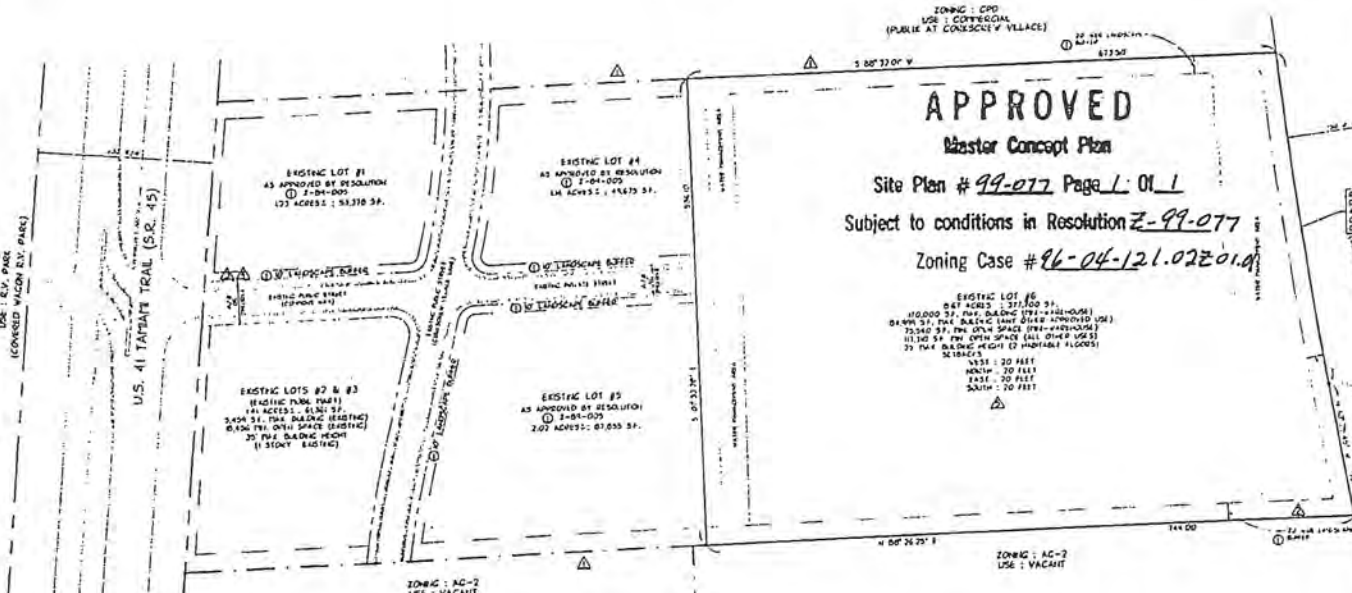
AN AMENDMENT TO SOUTH ESTERO COMMERCIAL CENTER

SECTION 33, TOWNSHIP 46 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA



LOCATION MAP
W.T.S.

SCALE: 1" = 40'



ZONING: CPD
USE: COMMERCIAL
(PUBLIC AT CONVENIENCE VILLAGE)

APPROVED

Master Concept Plan

Site Plan # 99-077 Page 1 of 1

Subject to conditions in Resolution Z-99-077

Zoning Case # 96-04-121-02 E.O. 1

EXISTING LOT #5
NET ACRES: 1.31500 SF
10,000 SF. PAV. DRIVING (79' x 126'-0")
8,498 SF. PAV. DRIVE (100' x 84'-0")
7,540 SF. PAV. DRIVE SPACE (79' x 100'-0")
11,340 SF. PAV. DRIVE SPACE (ALL OTHER USES)
20' PAV. DRIVING HEIGHT (2 STORY BUILDING)
SETBACKS:
WEST: 20 FEET
EAST: 20 FEET
SOUTH: 20 FEET

ZONING: AC-2
USE: VACANT

PROPERTY DEVELOPMENT REGULATIONS

MINIMUM BUILDING SETBACKS			
LOT #	FRONT	SIDE	REAR
LOT #1	25'(S)	20'(W)	N/A
LOT #4	25'(W)	20'(N&S)	20'(E)
LOT #5	25'(W)	20'(N&S)	20'(E)

MINIMUM BUILDING HEIGHTS	
LOTS #1, #4 AND #5	20 FEET (2 STORY)
LOT #1	6.0H SF.
LOT #4	4.503 SF.
LOT #5	26.251 SF.

MINIMUM BUILDING AREA	
LOT #	MINIMUM BUILDING AREA
LOT #1	7,000 SF.
LOT #4	7,000 SF.
LOT #5	0,000 SF.

ENTIRE LOT AREA AS PLATTED

OPEN SPACE CALCULATIONS

- REQUIRED: AS APPROVED BY RESOLUTION Z-99-005 FOR LOTS #1 THRU #4 IS 20% OF TOTAL PARCEL (LESS ROAD FRONTAGE) = 0.30 x 870,406 SF. = 261,722 SF.
PROVIDED: 86,510 SF.
- LOT #5: 20% FOR THE WAREHOUSE USE (AND ACCESSORY USES LISTED ABOVE) REQUIRED: 01,270 SF.
PROVIDED: 01,270 SF.

GENERAL NOTES

- AS APPROVED BY RESOLUTION Z-99-005 AND AMENDED BY D.C. 96-10-370-005

SCHEDULE OF DEVIATIONS

- DEVIATION FROM SECTION 14C.2.3 WHICH REQUIRES MINIMUM SIDEWALKS TO BE NO CLOSER THAN 75 FEET FROM A PROPERTY FRONTAGE TO BE ALLOWED TO BE 20 FEET FROM PROPERTY FRONTAGE (SECTION REPEALED) APPROVED BY RESOLUTION Z-99-005
- DEVIATION FROM SECTION 30C.4 WHICH REQUIRES THAT WATER RETENTION CAPACITY BE 301 GALLONS PER 1,000 SQUARE FEET OF PAVEMENT SEPARATE CONCRETE TO BE 10 FEET FROM THE PROPERTY FRONTAGE (THE NEW MDC IS 224'(X)3') APPROVED BY RESOLUTION Z-99-005
- SECTION 30-03(3): FROM THE REQUIREMENT THAT EVERY NEW/RENOVATED OFFICE BUSINESS OR INDUSTRIAL ESTABLISHMENT AND A TEN-TO-THIRTY COPY OF THIS OR LESS ESTABLISHMENTS SHALL BE ALLOWED ONE (1) GROUND MOUNTED SIGN TO BE PLACED ON THE GROUND MOUNTED SIGN FOR THE MULTIPLE OCCUPANCY COMPLEX ON LOT #1 AND ONE GROUND MOUNTED SIGN FOR THE USE OF LOT #1 ON LOT #1
- SECTION 30-03(7): FROM THE REQUIREMENT THAT NON-RESIDENTIAL SUBDIVISIONS AND MULTIPLE OCCUPANCY COMPLEXES WITH MORE THAN FIVE ESTABLISHMENTS THAT HAVE AN IDENTIFICATION SIGN IS A NON-RESIDENTIAL SUBDIVISION OF THE LOTS THAT HAVE AN IDENTIFICATION SIGN
- SECTION 10-4(4): FROM THE REQUIREMENT THAT PERMITS (OVER) OPEN SPACES TO BE OPEN SPACES (OVER) OPEN SPACES FOR LOT 4 WHEN DEVELOPED AS THE WAREHOUSE.

SCHEDULE OF USES AS APPROVED BY RESOLUTION Z-99-005 AND ADMINISTRATIVE AMENDMENT PD-96-023

- AMPHI THEATRE
- ARTS AND RECREATION SERVICES, GROUP I
- BARBERS AND BEAUTY ESTABLISHMENTS
- BROADCASTING STUDIO, COMMERCIAL RADIO AND TELEVISION
- BUSINESS SERVICES, GROUP I
- CAR WASH
- CLEANING AND MAINTENANCE SERVICES
- CLUBS, SOCIAL, RECREATIONAL, FELLOWSHIP OR SOCIETY
- CLUBS, COMMERCIAL, RECREATIONAL, FELLOWSHIP OR SOCIETY
- CONTRACTORS AND ADDRESS GROUPS I AND II
- CONVENIENCE FOOD AND BEVERAGE STORES
- DEPARTMENT STORES
- DENTAL OFFICE AND PORTULANT, NO OPERATIONS
- GARAGE, PUBLIC
- HOUSING/SPACES FOR BUSINESS, GROUPS I AND II
- LAUNDRY OR DRY CLEANING, GROUP I
- LIQUOR AND BEVERAGE STORES
- NON-STORE RETAILERS, ALL GROUPS
- PAINT, GLASS AND WALLPAPER STORES
- PERSONAL SERVICES, ALL GROUPS
- RESTAURANT, CATERING, GROUPS I AND II
- REPAIR SHOPS, GROUPS I AND II
- RESTAURANT, FAST FOOD
- RESTAURANT, STEAKHOUSE, ALL GROUPS
- SCHOOLS, COMMERCIAL
- SELF SERVICE FUEL PUMPS
- SELF SERVICE FUEL PUMP STATION
- SMOKE SERVICES, GROUP I
- STRUCTURAL RETAIL SHOP, GROUPS I, II AND III
- STORAGE, WAREHOUSE
- THEATRE, COMMUNICATION - 100 FEET OR LESS
- TRANSPORTATION SERVICES, GROUP I
- USED FURNITURE STORES, GROUPS I AND II
- DRIVE THRU FACILITY
- BAR AND COCKTAIL LOUNGE
- COLLECTION ON PORTULANT
- REPAIR AND AUTO MAINTENANCE

SCHEDULE OF USES LOT #5 EXCLUSIVELY

- ALL USES PROVIDED APPROVED BY RESOLUTION Z-99-005 AND ADMINISTRATIVE AMENDMENT PD-96-023
- ADMINISTRATIVE OFFICE
- CHARITABLE RESIDENCE
- STORAGE, WAREHOUSE
- RECREATION

RECEIVED
JUL 22 1999

ZONING COUNTY CLERK
PROJECT # 96 04-121-02 Z 01-01
PROJECT TYPE 17

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