

## 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.

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. ...* 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

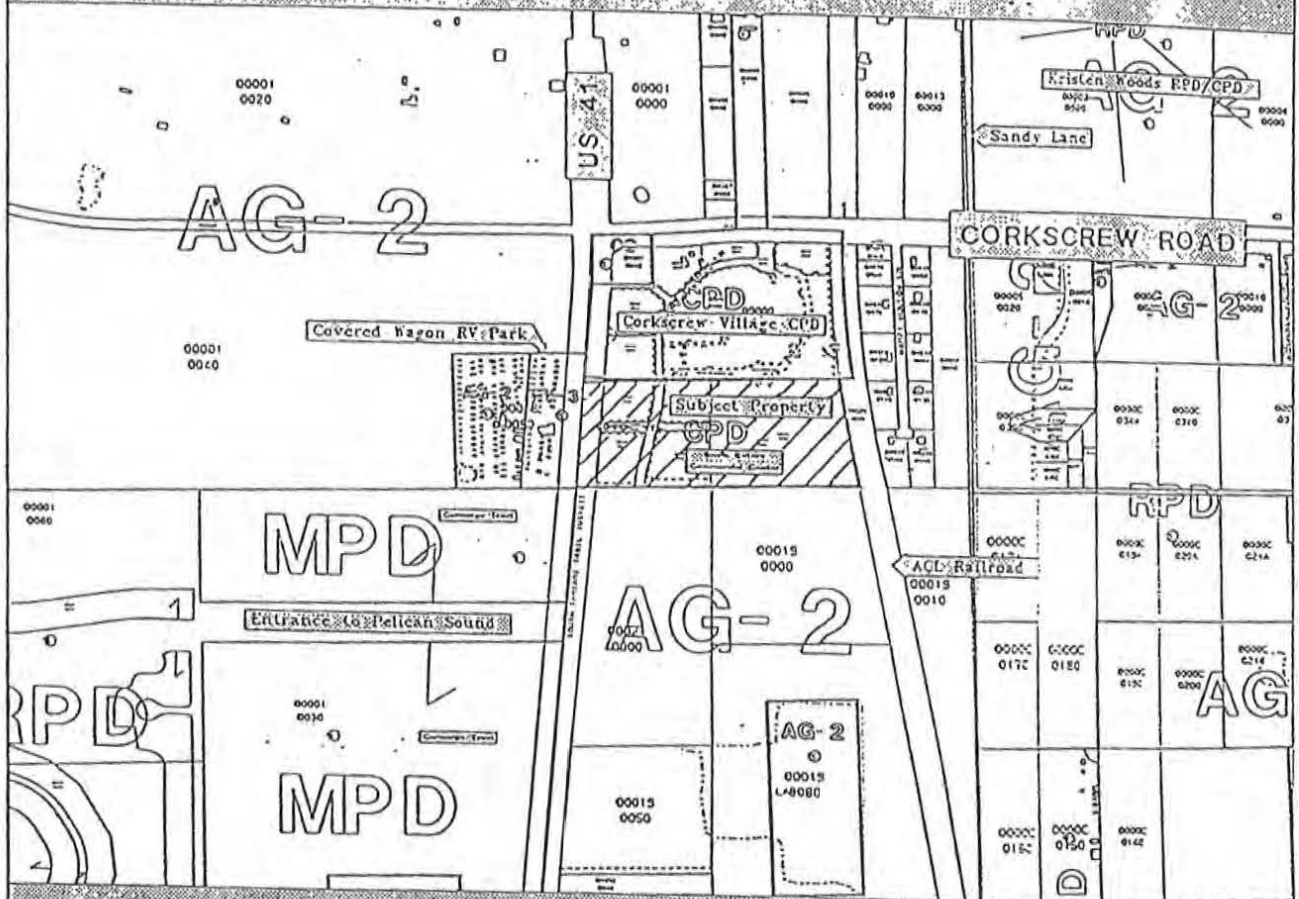


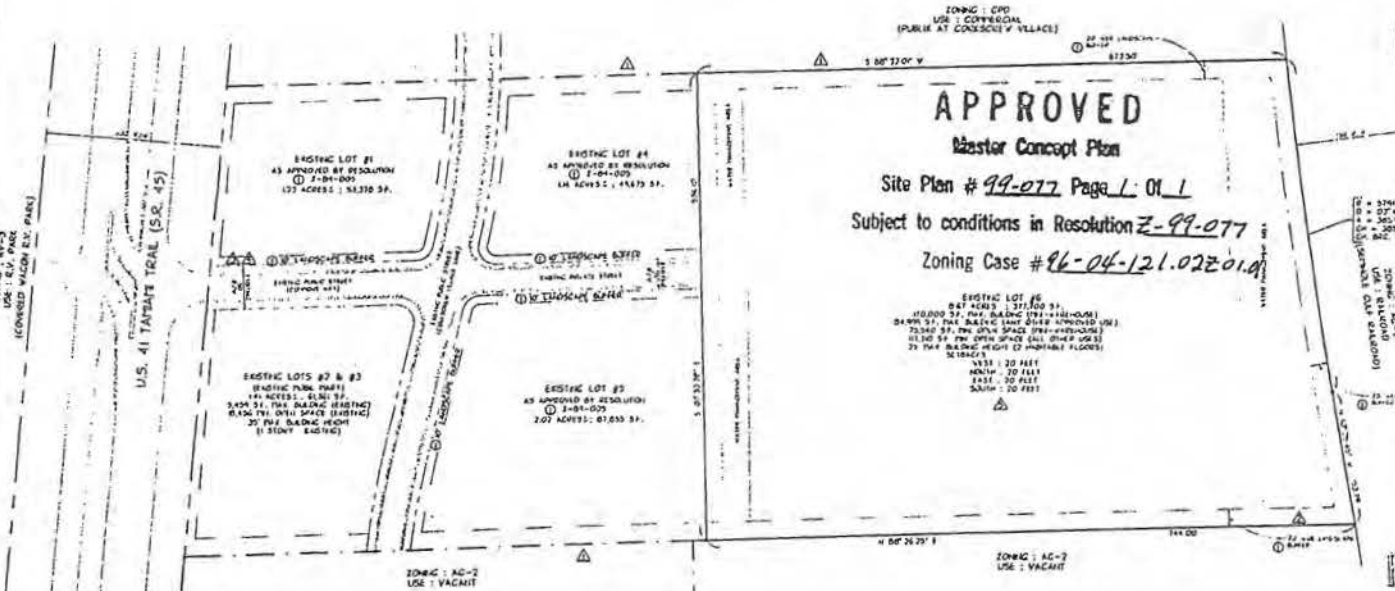
EXHIBIT B



# AN AMENDMENT TO SOUTH ESTERO COMMERCIAL CENTER

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

SCALE: 1" = 40'



**APPROVED**

Master Concept Plan

Site Plan # 99-077 Page 1 OF 1

Subject to conditions in Resolution Z-99-077

Zoning Case # 96-04-121.02201.0

**SCHEDULE OF USES  
AS APPROVED BY RESOLUTION Z-99-077  
AND ADMINISTRATIVE  
AMENDMENT PD-96-022**

1. RETAIL CLERK
2. AUTO REPAIR AND SERVICE GROUP I
3. BARS AND RESTAURANT ESTABLISHMENTS
4. BROADCASTING STUDIO, COMMERCIAL RADIO AND TELEVISION
5. BUSINESS SERVICE GROUP I
6. CAR WASH
7. CLEANING AND MAINTENANCE SERVICES
8. CLOTHING STORES, GENERAL
9. CLUBE, COMMERCIAL, RECREATIONAL, PEEPERSHIP
10. CONFECTIONERY AND BAKERS GROUP I AND II
11. CONVEYANCE RENT AND REPAIRS STORES
12. DRUGSTORES
13. FURNITURE AND FURNITURE, NO CREATION
14. GARAGE, PUBLIC
15. GENERAL SERVICE FURNISHINGS GROUP I AND II
16. INDUSTRY OR LIGHT MANUFACTURING GROUP I
17. LAUNDRY AND DRY CLEANING STORES
18. FASHION STORES, RETAILERS, ALL GROUPS
19. FINE ARTS AND WALLPAPER STORES
20. PERSONAL SERVICES, ALL GROUPS
21. RECREATION, COMMERCIAL, GROUPS I AND II
22. REPAIR STORES, GROUPS I AND II
23. RESTAURANTS, RESTAURANTS
24. RESTAURANT, STRUCTURED, ALL GROUPS
25. SCHOOLS, COMMERCIAL
26. SELF SERVICE FUEL PUMP STATION
27. SOCIAL SERVICES GROUP I
28. SPECIALTY RETAIL STORE GROUPS L, L & H
29. STRUCTURE, MODERN
30. STUDIO
31. TIRE SERVICE, COMMERCIAL - 600 FEET OR LESS
32. TRANSPORTATION SERVICES, GROUP I
33. USED FURNITURE STORES, GROUPS I AND II
34. DRIVE THRU FACILITY
35. BAR AND COCKTAIL LOUNGE
36. CONSTRUCTION ON PROGRESS
37. MEET AND GREET BUILDING

**SCHEDULE OF USES  
LOT #6 EXCLUSIVELY**

1. ALL USES INDIVIDUALLY APPROVED BY RESOLUTION Z-99-077 AND ADMINISTRATIVE AMENDMENT PD-96-022
2. ADMINISTRATIVE OFFICE
3. CASHIERS RESIDENCY
4. STORAGE DRIVE
5. DRIVE-THRU

**PROPERTY DEVELOPMENT REGULATIONS**

**MINIMUM BUILDING SETBACKS**

LOT #	FRONT	SIDE	REAR
LOT #1	20(1)	20(1)	N/A
LOT #2	20(1)	20(1)	20(1)
LOT #3	20(1)	20(1)	20(1)
LOT #4	20(1)	20(1)	20(1)
LOT #5	20(1)	20(1)	20(1)
LOT #6	20(1)	20(1)	20(1)

**MINIMUM BUILDING HEIGHTS**

LOT #1 & #2: 20 FEET (2 STORIES)

**OPEN SPACE**

LOT #	MIN. SQ. FT.
LOT #1	8,000 SF.
LOT #2	8,000 SF.
LOT #3	8,000 SF.
LOT #4	8,000 SF.
LOT #5	8,000 SF.
LOT #6	8,000 SF.

**MINIMUM BUILDING AREA**

LOT #	MIN. SQ. FT.
LOT #1	7,000 SF.
LOT #2	7,000 SF.
LOT #3	7,000 SF.
LOT #4	7,000 SF.
LOT #5	7,000 SF.
LOT #6	7,000 SF.

**MINIMUM LOT AREA AS PLATTED**

**OPEN SPACE CALCULATIONS**

1. REQUIRED: AS APPROVED BY RESOLUTION Z-99-077 FOR LOTS #1 THRU #4  
= 80% OF TOTAL PARCEL LESS ROAD BUFFER  
= 0.80 x 8,000 SF.  
= 6,400 SF.  
PROVIDED: 8,000 SF.
2. LOT #6: 20% FOR PVA-WAREHOUSE USE (AND ACCESSORY USES LISTED ABOVE)  
REQUIRED: 1,600 SF.  
PROVIDED: 1,670 SF.

**GENERAL NOTES**

1. AS APPROVED BY RESOLUTION Z-99-077 AND AMENDMENT BY PD-96-022

**SCHEDULE OF DEVIATIONS**

1. DEVIATION FROM SECTION 246.7(2), WHICH REQUIRES INTERIOR DRIVEWAYS TO BE NO CLOSER THAN 25 FEET FROM A PREVIOUS PROPERTY LINE, TO ALLOW DRIVEWAYS WITHIN 20 FEET OF PREVIOUS PROPERTY LINE (SECTION REPEALED) APPROVED BY RESOLUTION Z-99-077.
2. DEVIATION FROM SECTION 206.4 WHICH REQUIRES THAT WATER DETENTION EXCEPT FOR 10% OF THE TOTAL AREA OF THE PROPERTY BE PROVIDED SEPARATE DRAINAGE TO BE 10 FEET FROM THE PREVIOUS PROPERTY LINE (NEW LOG NO-1274(1)) APPROVED BY RESOLUTION Z-99-077.
3. SECTION 20-03(2): FROM THE REQUIREMENT THAT EVERY RETAIL/INDUSTRY OFFICE, BUSINESS OR INDUSTRIAL ESTABLISHMENT AND A FULL-OCCUPANCY COMPLEX OF 100 OR LESS ESTABLISHMENTS SHALL BE BUILT ON ONE CORNER PLOTTED SOIL TO ALLOW ONE CORNER PLOTTED SOIL FOR THE FULL-TIME OCCUPANCY COMPLEX ON LOT #1 AND ONE CORNER PLOTTED SOIL FOR THE USE OF LOT #1 ON LOT #1.
4. SECTION 20-03(2): FROM THE REQUIREMENT THAT NON-RESIDENTIAL BUILDINGS AND FULL-TIME OCCUPANCY COMPLEXES WITH 100 OR MORE ESTABLISHMENTS SHALL HAVE AN OPENING WITHIN 10 FEET OF THE NON-RESIDENTIAL SUBDIVISION OF THE LOTS THAT HAVE AN OPENING WITHIN 10 FEET OF THE CORNER PLOTTED SOIL.
5. SECTION 20-10(4): FROM THE REQUIREMENT THIRTY PERCENT (30%) OPEN SPACE TO REMAIN PRESENT (20%) OPEN SPACE FOR LOT #4 WHEN DEVELOPED AS PVA-WAREHOUSE.

**RECEIVED**  
JUL 22 1999

ZONING COUNCIL  
PROJECT # 96 04-121-02 Z 01.01  
PROJECT TYPE 17



**PRINTED**  
JUL 20 1999

DATE: MARCH 26, 1999  
REVISION DATE: JULY 20, 1999  
FILE: 5/21/99  
DRAWING NUMBER: 1 OF 1

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