



LEE COUNTY BOARD OF COUNTY COMMISSIONERS

ZONING HEARING AGENDA

Wednesday, November 3, 2021

9:30AM

REZ2020-00017
Z-21-013

Meadowbrook Estates REZ

DCI2021-00005
Z-21-014

Orange River Blvd RPD

NOTICE OF PUBLIC HEARING

The Lee County Board of County Commissioners will hold a public hearing at 9:30 am on Wednesday, November 3, 2021 in the Board Chambers at 2120 Main St., Ft. Myers, FL, to review the written recommendations made by the Hearing Examiner and make a final decision on the case(s) below. (Lee County Land Development Code is abbreviated below as **LDC**.)

REZ2020-00017/Meadowbrook Estates REZ

Request to rezone from Single Family Residential (RS-1) to Multifamily Residential (RM-8) for a 3.04± acre tract of land in Lehigh Acres.

Located on lots 12 through 20, Block 63, Meadowbrook Estates at 701-717 Glenn Avenue and Lot 11, Block 63, Meadowbrook Estates at 1703 E 7th Street, recorded in Plat Book 18 Page 167, Lehigh Acres Planning Community, Lee County, Florida.

DCI2021-00005/Orange River Blvd RPD

Request to rezone 19.99± acres from Agricultural (AG-2) to Residential Planned Development (RPD) to allow for up to 120 residential dwelling units.

Located At 10311 & 10361 Orange River Blvd., Fort Myers Shores Planning Community, Lee County, FL.

Copies of the Hearing Examiner's recommendation may be obtained or the electronic file reviewed at the Zoning Section, 1500 Monroe St., Ft. Myers, FL. You may also view and track zoning cases online, through eConnect at <https://accelaaca.leegov.com/aca/>. Telephone 239-533-8585 for additional information.

If you did not appear before the Hearing Examiner or otherwise become a participant for that case in which you wish to testify, the law does not permit you to address the Board of County Commissioners.

Statements before the Board of County Commissioners regarding the zoning case will be strictly limited to testimony presented to the Hearing Examiner, testimony concerning the correctness of the findings of fact or conclusions of law contained in the record, or to allege the discovery of new, relevant information which was not available at the time of the hearing before the Hearing Examiner.

If a participant decides to appeal a decision made by the Board of County Commissioners with respect to any matter considered at this hearing, a verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

In accordance with the Americans with Disabilities Act, Lee County will not discriminate against qualified individuals with disabilities in its services, programs, or activities. To request an auxiliary aid or service for effective communication or a reasonable modification to participate, contact Joan LaGuardia, (239)533-2314, ADArequests@leegov.com or Florida Relay Service 711. Accommodation will be provided at no cost to the requestor. Requests should be made at least five business days in advance.

REZ2020-00017
MEADOWBROOK
ESTATES REZ

Staff Summary

CASE NUMBER & NAME: REZ2020-00017 / Meadowbrook Estates REZ

REQUEST: Request to rezone from Single Family Residential (RS-1) to Multifamily Residential (RM-8) for a 3.04± acre tract of land in Lehigh Acres.

RESOLUTION NUMBER: Z-21-013

LOCATION: Located on lots 12 through 20, Block 63, Meadowbrook Estates at 701-717 Glenn Avenue and Lot 11, Block 63, Meadowbrook Estates at 1703 E 7th Street, recorded in Plat Book 18 Page 167, Lehigh Acres Planning Community, Lee County, FL.

OWNER: BROWNIE INC C/O: SONJA K BURKARD

APPLICANT: Quattrone & Associates, Inc.

AGENT: Alfred John Quattrone
Quattrone & Associates, Inc.
4301 Veronica Shoemaker Blvd.
Fort Myers, FL 33916

HEARING EXAMINER
RECOMMENDATION: Approval

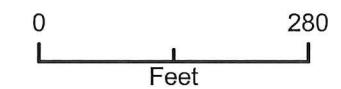
PARTICIPANTS: (2) Frank DiLonardo
Rafael Griego



REZ2020-00017
Aerial

Legend

 Subject Parcel



Summary of Hearing Examiner Recommendation

MEADOWBROOK ESTATES REZONE

(by Al Quattrone on behalf of Meadowbrook Park Holdings, LLC)

Request:	Rezone from Single-Family (RS-1) to Multi-Family Residential (RM-8)
Location:	West side of Glenn Avenue, North of 7 th Street Lehigh Acres Planning Community (District 5)
Size:	3.04± acres
Recommendation:	Approve
Public Concerns:	Compatibility

Hearing Examiner Remarks:

The request seeks rezoning to allow development of duplexes and two-family attached homes. The property sits in an area dominated by residential uses. Proposed uses remain compatible with residential development patterns in the area.

Detailed recommendation follows

REZ2020-00017
Future Land Use

Legend



Subject Parcel

Future Land Use



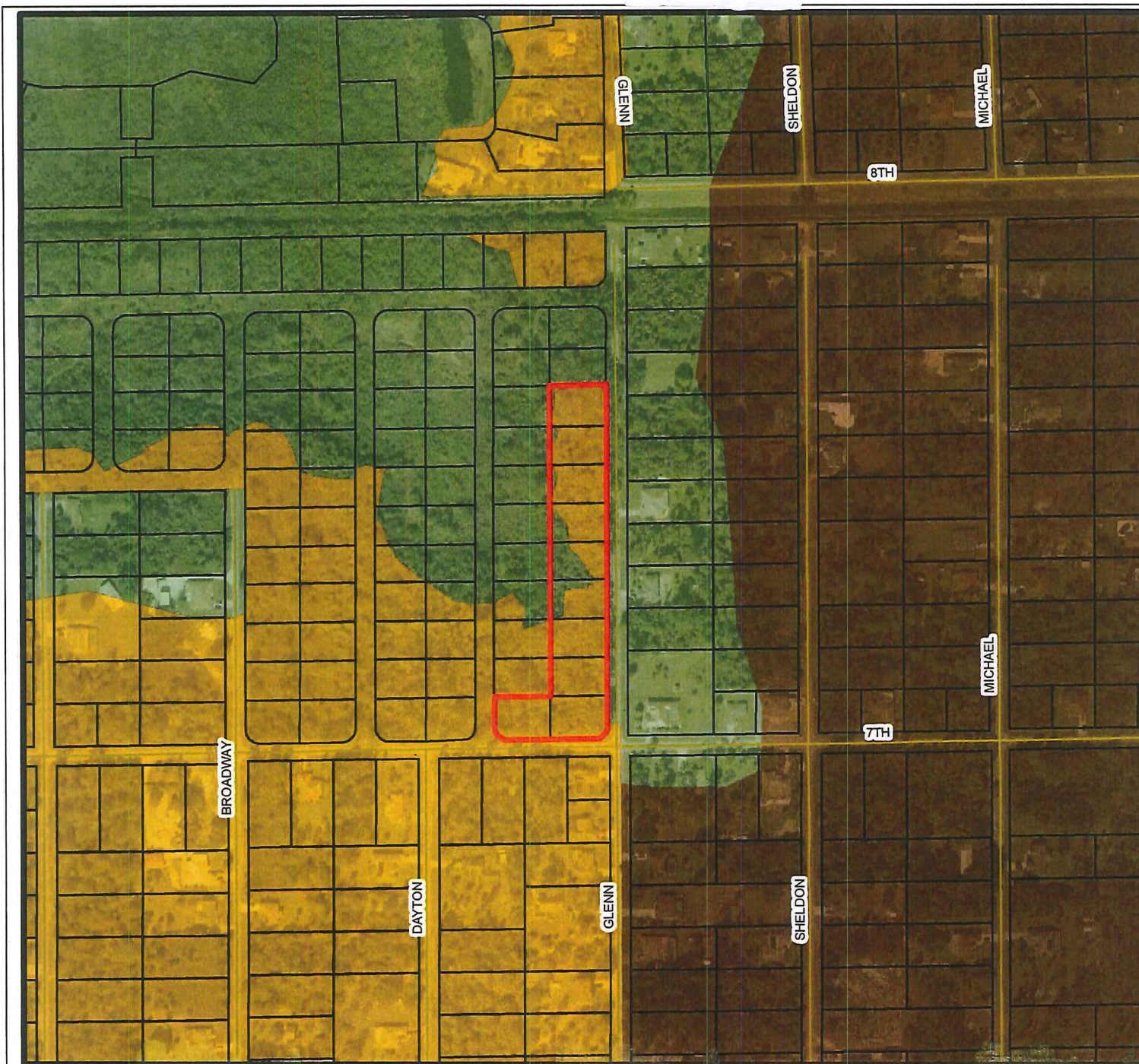
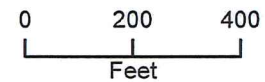
Central Urban



Urban Community




Wetlands



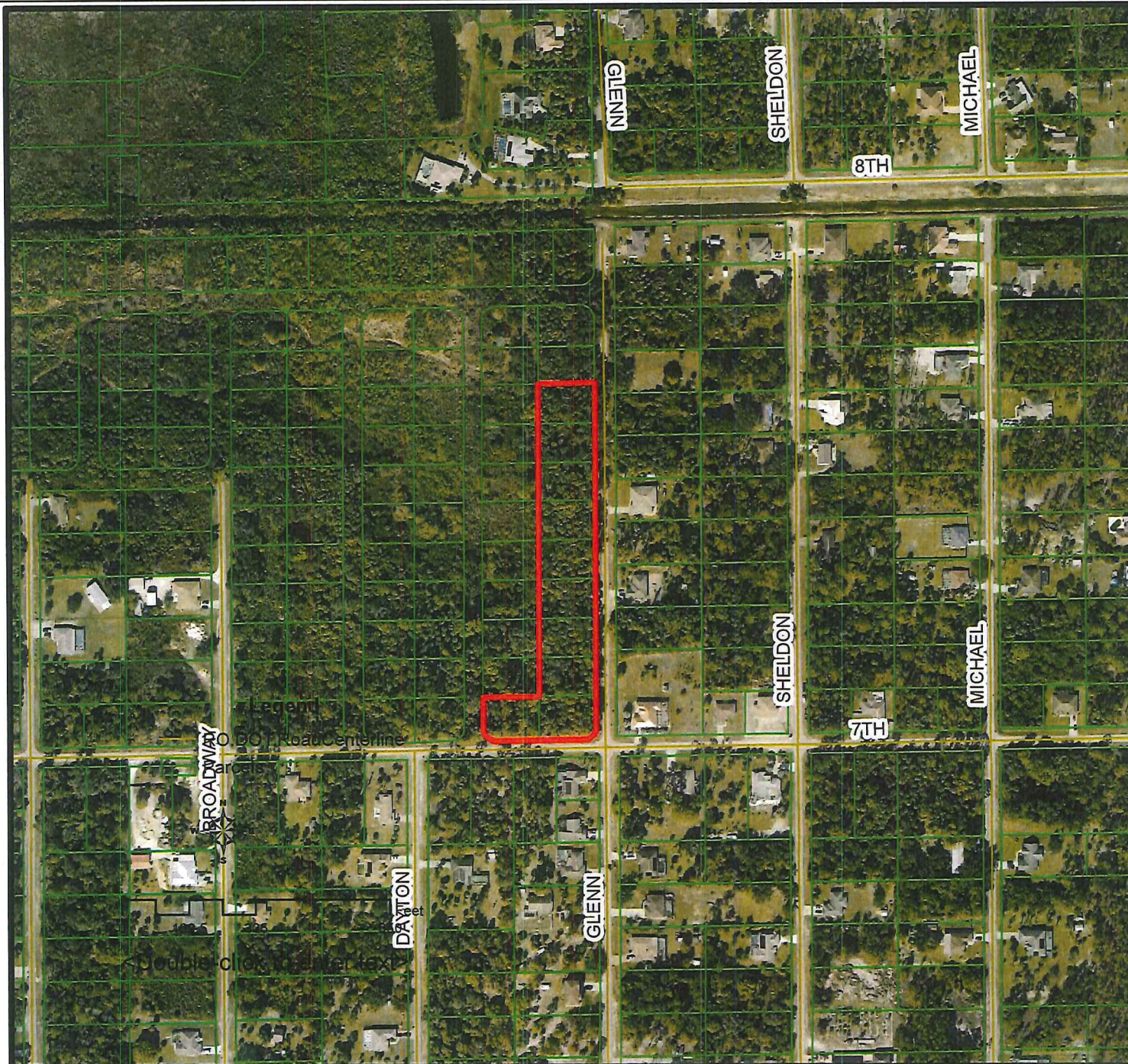
REZ2020-00017
Aerial

Legend

 Subject Parcel



0 200 400
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: REZ2020-00017

Regarding: MEADOWBROOK ESTATES REZONE

Location: West side of Glenn Avenue, North of 7th Street

Lehigh Acres Planning Community
(District 5)

Hearing Date: August 26, 2021

Record Closed: August 27, 2021

I. Request

Request to rezone 3.04± acres from Single Family Residential (RS-1) to Multi-Family Residential (RM-8).

The property is legally described in Exhibit A.

II. Hearing Examiner Recommendation

Approval

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.¹ In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone 3.04± acres to the RM-8 district.

In preparing a recommendation to the Board, the Hearing Examiner is tasked to apply the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other County regulations to the facts presented in a rezoning request.² The record must contain competent substantial evidence to support the Hearing Examiner's recommendation.³

¹ LDC 34-145(d)(1)a.

² LDC 34-145(d)(3)-(4)(a)(1).

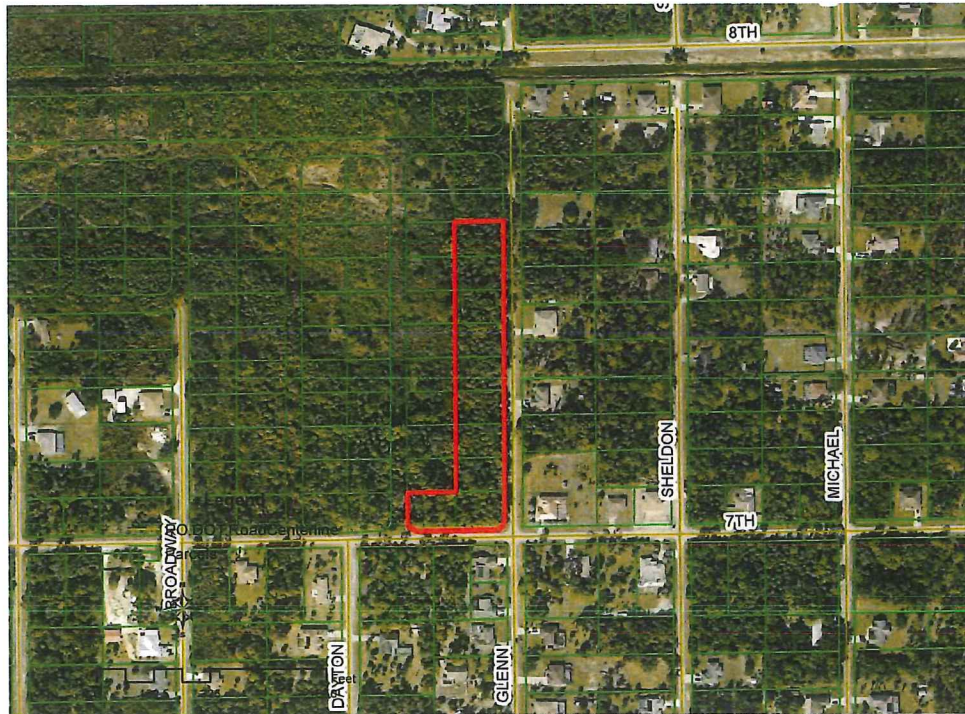
³ Lee Co. Admin. Code §2-6, 3.3(A)(2).

Discussion supporting the Hearing Examiner's recommendation of approval follows below.

Synopsis of Request/Character of the Area

Applicant seeks to rezone 10 contiguous vacant lots to permit development of duplex and two-family attached homes.⁴ Current zoning restricts residential uses to single family homes.⁵

The property is located in a sea of platted residential lots in the heart of Lehigh Acres.⁶ Ten platted lots in the Meadowbrook subdivision comprise the site.⁷ Two lots front 7th Street while remaining lots front Glenn Avenue. This results in an L-shaped configuration.



Scattered single family homes, wetlands, vacant lands, Glenn Avenue, and the George Canal surround the site.⁸ Joel Boulevard sits farther east, hosting multi-

⁴ Applicant intends to develop single family, two-family, and duplex homes utilizing Alternate Property Development Regulations pursuant to LDC 34-713. See Applicant's Ex. 1 (slide 4); Testimony of Al Quattrone. Each lot could accommodate two dwelling units, but Lot 16 is limited to development of a single family residence. See Staff Report (pg. 2, referencing MUD2021-00010); Testimony of Peter Blackwell.

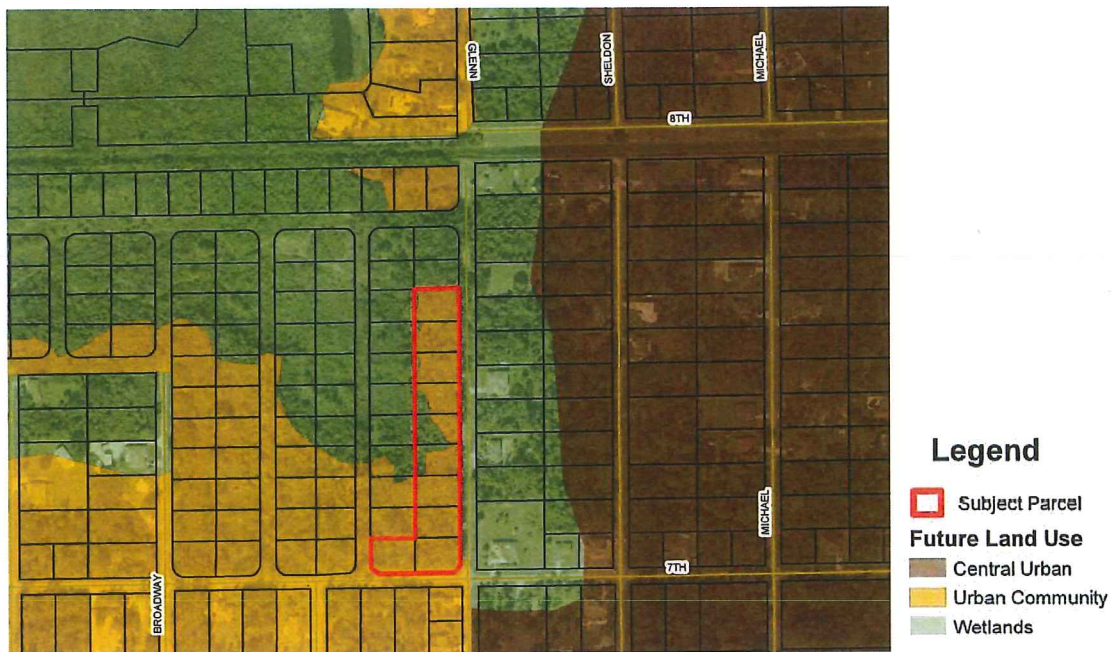
⁵ The RS-1 district does not permit duplexes or two-family attached homes. LDC 34-692. Mobile homes are permitted as "existing only." *Id.*

⁶ See Staff Report (pg. 1-2, Attachments B & C).

⁷ Lots 11 through 20, Block 63, Unit 4 of Meadowbrook Estates Plat (PB 18, Pages 163-67). See Staff Report (pg. 1).

⁸ See Applicant's Ex. 1 (slide 5); Staff Ex. 2 (slide 2); Staff Report (pg. 1-2, Attachment B).

family residential and commercial uses.⁹ The area is unique given the transitional future land use designations of Wetlands, Urban Community, and Central Urban.



Rezoning to RM-8 provides diverse housing opportunities for Lehigh Acres residents.¹⁰ Staff concluded physical site constraints prohibit high density multi-family development.¹¹

Staff found the request satisfied LDC review criteria and recommended approval.

Lee Plan Consistency/Compatibility

Before recommending approval of a rezoning, the Hearing Examiner must find the request complies with the Lee Plan and is compatible with existing/planned uses in the surrounding area.¹²

The property is predominately located in the Urban Community future land use category with a small portion designated Wetlands.¹³ Lee Plan Maps also locate the site in the Lehigh Acres Planning Community.¹⁴

⁹ See Staff Report (pg.2); Staff Ex. 2 (slide 2); Applicant's Ex. 1 (slide 5). The property is located 2,300 feet west of Joel Boulevard. See Staff Report Ex. 2 (slide 2).

¹⁰ See Lee Plan Goal 135.

¹¹ Testimony of Peter Blackwell; See Staff Report (pg. 4); Staff Ex. 2 (slide 8).

¹² LDC 34-145(d)(4)(a).

¹³ Lee Plan Map 1; See Staff Report (pg. 2, Attachment B).

¹⁴ Lee Plan Map 16; Vision Statement ¶17. The Lehigh Acres community plan is largely inapplicable since the property avoids classification within overlays. See Staff Ex. 2 (slide 6).

Urban Community areas have a distinctly urban character, hosting a mix of relatively intense commercial and residential uses.¹⁵ The Urban Community classification permits a standard density of 1-6 units per acre.¹⁶ Staff found the proposed development and RM-8 district consistent with the Urban Community classification.¹⁷

The Wetlands category permits low density residential uses.¹⁸ Staff determined the Wetlands classification affects density for just one lot.¹⁹ The affected lot is central to the site, and can only accommodate one single family residence.²⁰ This limitation protects neighbors from intense multi-family uses.²¹

The requested RM-8 district retains residential zoning and does not alter underlying density.²² Rezoning to permit duplexes/two-family attached homes compliments existing and planned uses in the area.²³

The Hearing Examiner finds the request to rezone to RM-8 consistent with Lee Plan directives and compatible with the surrounding area.

Meets LDC and Other Applicable County Regulations

Requests to rezone property must meet the LDC and other applicable County regulations or qualify for deviations.²⁴

Applicant seeks to reclassify the property to RM-8, a conventional zoning district.²⁵ Therefore, it is not possible to impose conditions on approval. Rather, the RM-8 use regulation table will govern permitted uses.²⁶ Applicant intends to utilize Alternate Property Development Regulations for duplex and two-family attached homes.²⁷ Deviations from LDC requirements may be granted by variance.²⁸

¹⁵ Lee Plan Policy 1.1.4.

¹⁶ *Id.* Density can be maximized to 10 units per acre, or 15 units per acre utilizing Greater Pine Island Transfer of Development Units. Applicant must develop within permitted density ranges. LDC 34-491.

¹⁷ See Staff Report (pg. 5); Testimony of Peter Blackwell; Staff Ex. 2 (slide 6-8).

¹⁸ See Lee Plan Policy 1.5.1; Goal 124.

¹⁹ See Staff Report (pg. 2, referencing MUD2021-00010); Testimony of Peter Blackwell.

²⁰ *Id.*

²¹ Lot 16 sits in the middle of the 10 platted lots. Applicant's ability to only construct a single family home on that lot prohibits expansive multi-family units from proliferating the site. See Lee Plan 5.1.5; Staff Report (pg. 4).

²² RS-1 and RM-8 are both residential zoning districts. See LDC Chapter 34, Article VI, Division 3. Density for the site is controlled by the future land use designations, which remain unaffected by the request. See Lee Plan Policies 1.1.4, 1.5.1.

²³ Providing alternative housing types is encouraged throughout the Lee Plan. See Goal 135.

²⁴ LDC 34-145(d)(4)(a)(1)(b).

²⁵ LDC 34-612(1).

²⁶ LDC 34-621(b), LDC 34-694.

²⁷ See LDC 34-713. Alternate Property Development regulations require a minimum area of 2,400 square feet per unit, compliance with RM-8 lot coverage/area/width/depth requirements, and covenants regarding open space protection.

²⁸ LDC 34-621(a)(2); LDC 33-1403.

The request does not seek variance approval from LDC requirements. Accordingly, future development must comply with LDC standards.

Transportation

Rezoning requests must demonstrate access to existing or proposed roads with sufficient capacity to support the proposed intensity.²⁹ Expected impacts on transportation facilities must be addressed by existing regulations.³⁰

The site fronts Glenn Avenue and 7th Street.³¹ Joel Boulevard intersects 7th Street approximately one-half mile to the east.³²

Staff determined the property has adequate frontage to accommodate access.³³

Urban Services

Properties proposed for rezoning must be served by urban services if located in a Future Urban category.³⁴

The site is located in the Urban Community but does not yet receive the full complement of urban services. Potable water and sanitary sewer do not service the area.³⁵ Accordingly, Applicant must either extend services or utilize well and septic.³⁶ Lehigh Acres Fire District, Lee County EMS, and Lee County Sheriff do provide services to the site.³⁷

Environmental

A request to rezone cannot be approved if it will adversely affect environmentally critical areas and natural resources.³⁸

²⁹ LDC 34-145(d)(4)(a)(1)(d).

³⁰ LDC 34-145(d)(4)(a)(1)(e).

³¹ See Staff Report (pg. 6).

³² See Applicant's Ex. 1 (slide 10).

³³ *Id.*; Testimony of Peter Blackwell; See Staff Report (pg. 6); Staff Ex. 2 (slide 9-10); Lee Plan Objective 39.1, Policy 39.1.1.

³⁴ LDC 34-145(d)(4)(a)(1)(g).

³⁵ See Staff Report (pg. 6).

³⁶ The Lee Plan and LDC set forth connection requirements to determine whether development warrants potable water/sewer connectivity. Lee Plan Policy 2.2.1, Standard 4.1.1, 4.1.2; See Staff Report (pg. 6); Staff Ex. 2 (slide 12). Applicant indicated it will not trigger connection requirements, and will rely upon well and septic. Testimony of Al Quattrone and Peter Blackwell.

³⁷ Lehigh Fire Station 101 is approximately 4,000 feet to the northeast and houses Lee County ALS Station 101. The property is within Sheriff's East District E3 and Lee County School District 5. See Staff Report (pg. 6); Lee Plan Policy 2.2.1.

³⁸ LDC 34-145(d)(4)(a)(1)(f).

The site contains no rare or unique habitats.³⁹ Future development must comply with LDC requirements.

Public

Two neighbors voiced concerns at hearing regarding compatibility and traffic of intensifying the property to multi-family development.⁴⁰ The parties adequately addressed these concerns.⁴¹

Applicant conducted a community meeting in Lehigh Acres as mandated by the LDC.⁴² No attendees objected to the request.⁴³

Conclusion

The Hearing Examiner concurs with staff's analysis and recommendation of approval. The requested RM-8 zoning district satisfies LDC approval criteria.

IV. Findings and Conclusions

Based on the testimony and evidence in the record, the Hearing Examiner makes the following findings and conclusions:

The requested Multi-Family Residential (RM-8) zoning district:

- A. Is consistent with the Lee Plan. See Lee Plan Vision Statement Paragraph 17 (Lehigh Acres Planning Community), Lee Plan Goals 1, 2, 4, 5, 25, 124, 135, Objectives 2.1, 2.2, and Policies 1.1.1, 1.1.4, 1.5.1, 1.7.6, 2.1.1, 2.2.1, 5.1.2, 5.1.5, 5.1.8, Map 16 and Table 1(b);
- B. Will meet or exceed the performance and location standards for the uses allowed in the RM-8 zoning district. See Lee Plan Objectives 2.1, 2.2 and Policy 2.1.2;

³⁹ See Staff Report (pg. 6); Staff Ex. 2 (slide 11).

⁴⁰ One speaker also questioned whether proper notice was provided for the hearing. Staff provided proof of publication properly noticing Lots 12-20 and Lot 11 of Block 63 of the Meadowbrook Estates plat (PB 18, Pg 167); See Staff Ex. 3. Other concerns raised included construction impacts, water scarcity, rental properties, and high density development.

⁴¹ Applicant and Staff explained: (1) RM-8 is actually a more restrictive category than RM-2 because it requires a larger minimum lot size [10,000 sq. ft. rather than 7,500 sq. ft.]; (2) construction impacts of duplex/two-family attached homes would not be markedly more than single family homes currently permitted on each lot; (3) drainage will improve in this area due to stormwater improvements Applicant is making in partnership with LAMSID; and (4) current road infrastructure meets LDC requirements for the level of development proposed - if additional development occurs, the LDC must be satisfied to accommodate that level of development. See Testimony of Al Quattrone and Peter Blackwell; Applicant's Ex. 1; Staff's Ex. 2.

⁴² See LDC 33-1482(a); See Staff Report (Attachment E). Applicant held the meeting on Dec. 17, 2020.

⁴³ See Staff Report (Attachment E).

- C. Is compatible with existing and planned uses in the surrounding area. See Lee Plan Objective 2.1, Policies 1.1.4, 2.1.1, and 5.1.5;
- D. Provides sufficient access to support development intensity. Expected impacts on transportation facilities will be addressed by existing county regulations;
- E. Will not adversely affect environmentally critical or sensitive areas or natural resources on the property; and
- F. Will be served by adequate urban services. See Lee Plan Glossary, Goal 4, Objective 2.2, Policies 1.1.4, 2.2.1, Standards 4.1.1, 4.1.2.

Date of Recommendation: September 23, 2021.



Amanda L. Rivera
Deputy Hearing Examiner

Lee County Hearing Examiner
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398

Exhibits to Hearing Examiner's Recommendation

Exhibit A Legal Description and Vicinity Map
Exhibit B Exhibits Presented at Hearing
Exhibit C Hearing Participants
Exhibit D Information

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

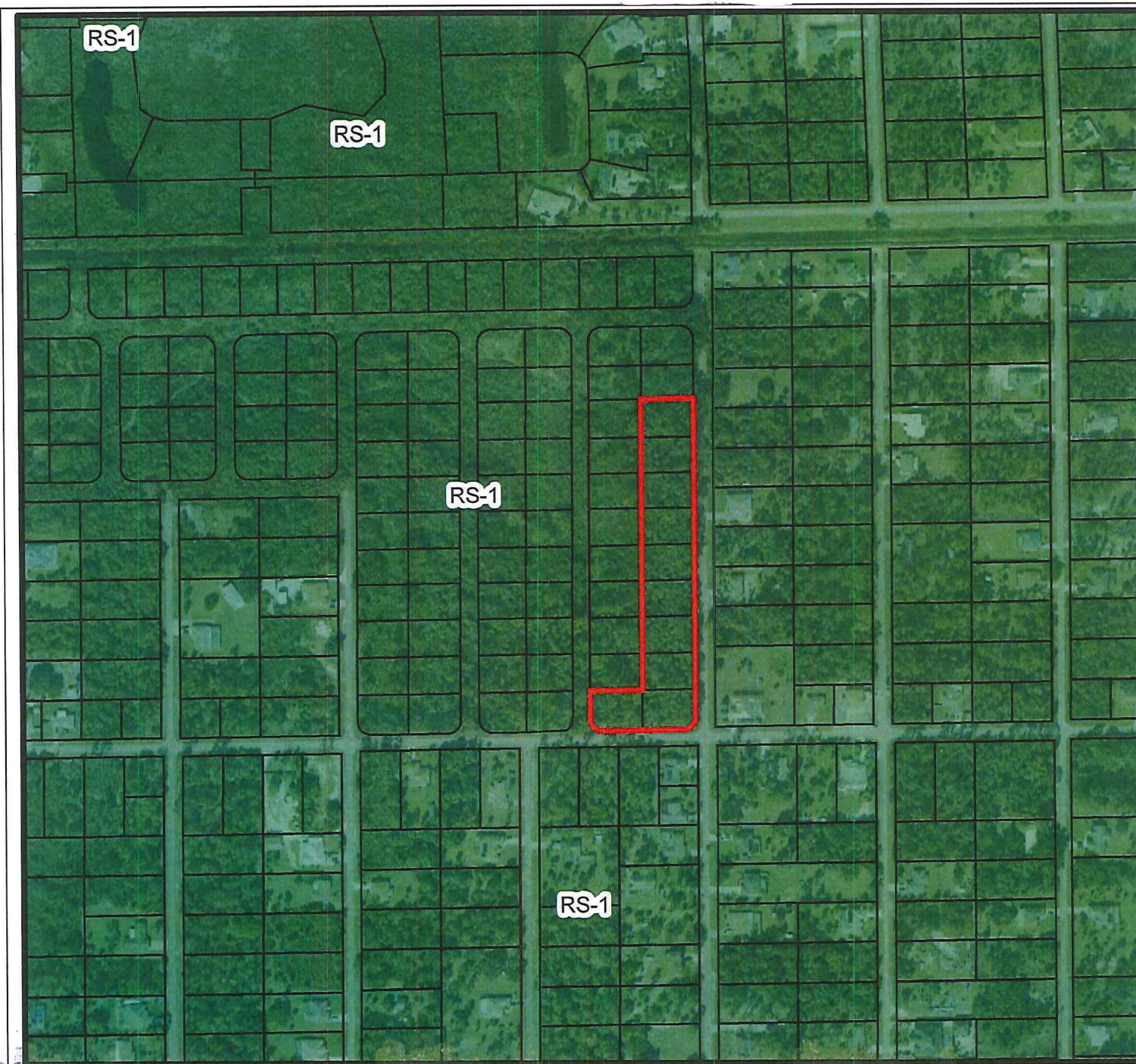
EXHIBIT A

Legal Description of the Lands

Lots 11 through 20, inclusive, Block 63;

All of the Plat of Unit 4, MEADOWBROOK ESTATES, Section 27, Township 44 South, Range 27 East, a subdivision of Lehigh Acres, Lee County, Florida recorded in Plat Book 18, at Page 167, of the Public Records of Lee County, Florida.

REVIEWED
REZ2020-00017
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/3/2021



REZ2020-00017
Zoning

Legend

 Subject Parcel



0 220 440
Feet



Exhibit B

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Peter Blackwell, Planner, dated August 12, 2021 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *PowerPoint Presentation:* Prepared for REZ2020-00017, MEADOWBROOK ESTATES (multiple pages - 8.5"x11")[color]
3. *Written Submissions:* News-Press Notice of Public Hearing for case REZ2020-00017, Meadowbrook Estates REZ (1 page – 8.5"x11")

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Sharon Hrabak, with Quattrone & Associates, Inc., to Hearing Examiner, Peter Blackwell & Al Quattrone, dated Monday, August 23, 2021 6:0 PM (2 pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared for REZ2020-00017, MEADOWBROOK ESTATES, Public Hearing, dated Thursday, August 26, 2021 (multiple pages - 8.5"x11")[color]

Exhibit C

HEARING PARTICIPANTS

County Staff:

1. Peter Blackwell

Applicant Representatives:

1. Al Quattrone

Public Participants:

1. Frank DiLonardo
2. Rafael Griego

Exhibit D
INFORMATION

UNAUTHORIZED COMMUNICATIONS

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

- A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.
- B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants are limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.

COPIES OF TESTIMONY AND TRANSCRIPTS

- A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.
- B. A verbatim transcript may also be available for purchase from the court reporting service.

**Lee County, Florida
Department of Community Development
Zoning Section
Staff Report**

Case Number: REZ2020-00017
Case Name: Meadowbrook Estates Rezone
Area to be Rezoned: +/- 3.04 Acres
Type of Case: Conventional Rezoning
Hearing Date: August 26, 2021
Found Sufficient: June 24, 2021

Request

The applicant, Al Quattrone, on behalf of the property owner Meadowbrook Park Holdings, LLC has filed an application to rezone approximately 3.04 acres of land west of Glenn Avenue and north of 7th Street East from Single Family Residential (RS-1) to Multi-Family Residential (RM-8).

The subject property consists of 10 contiguous lots: 9 platted lots located on the west side of Glenn Avenue and a single lot lying north of 7th Street in a residential neighborhood lying west of Joel Boulevard in Lehigh Acres. The STRAP numbers associated with the subject property are: 27-44-27-22-00063.0110, 27-44-27-22-00063.0120, 27-44-27-22-00063.0130, 27-44-27-22-00063.0140, 27-44-27-22-00063.0150, 27-44-27-22-00063.0160, 27-44-27-22-00063.0170, 27-44-27-22-00063.0180, 27-44-27-22-00063.0190, and 27-44-27-22-00063.0200. A legal description of the subject property is attached as Attachment D.

Recommendation

Staff recommends **APPROVAL** of the applicant's request.

Property History and Character

The subject property consists of 10 contiguous lots (Lots 11 through 20, Block 63) from Unit 4 of the Meadowbrook Estates Plat, a platted subdivision recorded in Plat Book 18 Pages 163-167 in 1964. However, Glenn Avenue was platted as part of the 1956 Lehigh Acres Unit 10 Plat recorded in Deed Book 254 Page 35 (See Attachment "D"). The typical lot has 95 linear feet of frontage and is 138 linear feet deep, or 13,300 square feet. The subject property was acquired by the applicant in February of 2021. Unit 4 extends from Glenn Avenue on the east to Cleveland Avenue on the west and from Olivet Avenue on the north to East 7th Street on the South. The George Canal runs across the northern portion of the unit, and the portion of the unit north of the canal has been subsequently replatted.

Unit 4 is roughly L-shaped, with the main section aligned north-south and a smaller section extending west from the northern portion of the main section. The subject property runs along the eastern edge and southeast corner of Unit 4. The applicant owns the entirety of Unit 4 apart from the four northernmost lots of Block 63, which abut the subject property on the north. At this time, the entirety of Unit 4 is undeveloped. Several platted

roads cross Unit 4 but none of them have been constructed, including Cleveland Avenue, the western boundary of the Unit.

A large portion of Meadowbrook Estates Unit 4 is designated as wetlands. Several of the subject lots have a small amount of the Wetlands Future Land Use Category within them, but only Lot 16 has enough wetlands to affect residential density so as to require a Minimum Use Determination (MUD2021-00010). The effect of the MUD is to limit that particular lot to one single family residence.

Character of the Area

Meadowbrook Estates is deep within the large extent of platted single family lots that characterize much of Lehigh Acres. Unit 4 is approximately 2,300 feet west of Joel Boulevard. The area of Lehigh Acres surrounding Unit 4 is moderately developed with single family homes. This development is piecemeal in nature, and reflects the individual construction of residences rather than the efforts of any large cohesive residential development. Along the east side of Glenn Avenue, 5 of the 12 originally platted lots are developed with single family residences. The entirety of the immediately surrounding area is zoned Single Family Residential (RS-1). The only nearby areas that are not zoned RS-1 lay along Joel Boulevard, and consist of Multi-family Residential (RM-2) and Commercial (C-2) districts. This area is over 2,000 feet east of the subject property. The main access route to the subject property is via East 7th Street which runs east to Joel Boulevard.

The future land use of the subject property is mainly Urban Community, with a small portion in the Wetlands category. The land to the south and southwest is also in the Urban Community category. There are extensive areas to the east and west of the subject property that are also designated Wetlands. Beyond the Wetlands area to the east, the land is designated in the Central Urban Future Land Use Category.

Analysis

The intent of this request is to rezone the subject property from Single Family Residential (RS-1) to Multi-Family Residential (RM-8) to allow for two-family attached residential development using the Alternate Property Development Regulations under LDC Section 34-713, per the applicant's narrative. The RM-8 zoning district permits such development.

Section 34-145 of the Lee County Land Development Code establishes the review criteria for requests for conventional rezoning. Before recommending approval of a conventional rezone request, the Hearing Examiner must find that the request:

- a) Complies with the Lee Plan;
- b) Meets the Land Development Code and other applicable County regulations or qualifies for deviations;
- c) Is compatible with existing and planned uses in the surrounding area;
- d) Will provide access sufficient to support the proposed development intensity;
- e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and

- g) Will be served by urban services, defined in the Lee Plan, if located in a Future urban area category.

The following sections provide an analysis of whether the request meets these established criteria.

Lee Plan Compliance

The subject property is located in the Lehigh Acres Planning Community, as established by the Lee Plan. The Lee Plan's vision for this Planning Community anticipates increased residential development in the area. This proposed rezone will be consistent with this anticipated development, as it will permit uses on the property that conform to the intent of the planning community.

The subject property is located within the Urban Community Future Land Use Category (See Attachment B). This category is intended for a variety of residential and commercial uses. The proposed RM-8 District is compatible with this category as it permits a variety of residential uses.

Lee Plan Objective 2.1 promotes contiguous and compact growth patterns within designated Future Urban Areas in order to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, and minimize the cost of services. Policy 2.1.1 states that most development, including residential, is expected to occur within the designated future urban areas. Lee Plan Objective 2.2 and Policy 2.2.1 address development timing. Objective 2.2 states that new growth will be directed to future urban areas where adequate public facilities exist or are assured, and where compact and contiguous development patterns can be created. Per Policy 2.1.1, rezoning proposals will be evaluated as to the availability and proximity of the road network, and facilities and services, including community facilities, schools, EMS, etc.

The proposed rezoning is in an area that has been platted for single family residential development. With the large amount of existing residential uses in the area, the rezoning would not be approving any new lands for development, nor is the proposed rezoning creating any premature development, due to the moderately-developed nature of the area. Therefore, the requested district is appropriate and compatible with the neighborhood. The request is consistent with Objectives 2.1 and 2.2 and Policies 2.1.1 and 2.2.1 of the Lee Plan.

Goal 4 of the Lee Plan establishes water and sewer development standards for new development. Residential development that exceeds 2.5 dwelling units per acre must connect to a public water system and a sanitary sewer system. The subject property is within the FGUA service area but is not currently served by potable water or sanitary sewer service lines. The applicant has stated that development of the property will utilize well water and septic systems. Under Goal 4, single family homes, duplexes, and two-family attached dwellings can be developed without being required to connect to central water and sewer. Multi-family buildings require connection if they exceeds the 2.5 unit per acre threshold. Therefore, Standards 4.1.1 and 4.1.2 act as controls on the form of development for the property. Multi-family residential development would not be possible

until the property has sufficient utility service while other, lower-density forms of residential development would be permitted immediately.

Policy 5.1.5 addresses the encroachment of incompatible of uses into residential areas. The area surrounding the subject property is entirely zoned as Residential Single Family (RS-1) which permits only single family residential development. In addition to single family residences, the proposed RM-8 permits a wide variety of dwelling unit types, including duplexes and two-family attached units, townhouses, and multi-family buildings. Of these, only multi-family buildings could be considered inappropriate for the area. However, the spatial layout of the subject property prevents the development of extensive multi-family residential units. The Urban Community Future Land Use Category permits a maximum of 6 dwelling units per acre, which would allow for a maximum of 18 multi-family units on the 3.04 acre subject property. However, a portion of the subject property is in the Wetlands Future Land Use Category, which reduces the potential number of units. Additionally, the linear configuration of the subject property would make multi-family development difficult due to the site requirements for parking, buffering, storm water management, open space, and other site improvements. The physical layout of the site prevents the development of incompatible dwelling types. From a Lee Plan perspective, rezoning from one residential district to another residential district does not create an incompatibility because the underlying residential density remains unchanged. Therefore, the proposed rezoning conforms to Policy 5.1.5.

Goal 25 addresses planning issues in the Lehigh Acres Community Plan Area. The subject property is not within any of the Specialized Mixed Use Nodes or Commercial Overlay Zones identified on Lee Plan Map 1, Page 7, nor is the property within designated Downtown Lehigh Acres. Therefore, the property is not intended to be used for commercial or other non-residential uses, according to the Lee Plan. Overall, the subject property is not subject to the objectives and policies of Goal 25.

Goal 135 is the Housing Element of the Lee Plan and addresses the residential needs of the County. The proposed rezoning would allow for different residential dwelling unit types in an area that is lacking in variety. The existing RS-1 zoning permits only single family residences, whereas the RM-8 district permits duplexes, two-family attached units, town homes and multi-family residences in addition to single family residences. Two-family attached and duplex units may potentially provide lower-cost housing than is usually found in a single family residential area. This conforms to the intent of Policies 135.1.8 and 135.1.14 and Objective 135.4.

Land Development Code Compliance

The property is proposed for the RM-8 zoning district. Any development of the subject property will be required to either conform to the relevant section of the Lee County Land Development Code, or to seek variances thereof. No variances are being sought in conjunction with the rezoning. Therefore, the proposed rezoning will comply with the Land Development Code.

LDC Section 34-491 requires all rezoning requests to comply with the Goals, Objectives and Policies of The Lee Plan. The subject request complies with the Lee Plan. In

particular, the proposed rezoning conforms to the Future Land Use Category for the property. Therefore, the proposed rezoning meets the criteria of LDC Section 34-491.

LDC Section 33-1401(a) & (b) require an applicant for a conventional rezoning to conduct a publicly advertised informational meeting within the Lehigh Acres Community Plan Area prior to obtaining approval or a finding of sufficiency. The applicant held such a meeting on December 17, 2020 which was not attended by any members of the public. One member of the board noted that there are requirements for paved driveways in the community, and another member asked about the size of the rezoned area (See Attachment E).

Compatibility with Surrounding Uses

The proposed RM-8 zoning district would allow for a wider variety of dwelling unit types on the subject parcel than is currently permitted by the RS-1 district. The district permits single family and multi-family residences, townhouses, duplexes and two-family attached residences. Mobile homes are only permitted as "Existing Only," and there are currently no mobile homes on the property. Of these various housing types, only multi-family residential buildings would be potentially problematic, due to the potential for creating an area of incompatible residential use within a lower-density neighborhood.

It should be noted that the ability to develop a multi-family building on the subject property is severely curtailed by the spatial layout of the platted lots. Nine of the lots are arranged linearly along Glenn Avenue, with the tenth lot located behind the southernmost of these lots. This results in a parcel that is only 140 feet deep for most of its length, which presents difficulty with respect to developing a multi-family development while accommodating site design elements such as parking, open space, and storm water management. The subject property is in the Urban Community Future Land Use Category, which would allow for a maximum of 18 dwelling units on the 3.04-acre site. A portion of the site is in the Wetlands Future Land Use Category, which reduces the number of potential dwelling units even further.

The other permitted dwelling unit types within the RM-8 Zoning District, including duplexes, townhouses, and two-family attached residences are much more compatible with the single family development pattern of the surrounding area. This is due to the linear fashion in which they can be arranged along the frontage of the property, and on each platted lot separately, rather than as one single development.

The form and intensity of development will also be regulated through the requirement for connection to central water and sewer service for large developments. Although smaller, lower-density dwelling units like two-family attached would be permitted, large multi-family projects would not be able to be constructed until the area had central utility services available.

In addition, the proposed rezoning will not affect the underlying density of the subject property, as that is determined by the Future Land Use Categories of the Lee Plan. Rezoning to the RM-8 district will not increase the permitted density.

Sufficiency of Access and Transportation Impacts

Access to the subject property is from Glenn Avenue for lots 12 through 20, which runs along the entirety of the frontage. Access to Lot 11 is off of East 7th Street which runs along the south frontage. Both Glenn Avenue and East 7th Street are paved roadways. A Traffic Impact Study is not required for the case.

Environmental Impacts

The subject property appears to have always been vacant. Only a small portion of the subject property is shown in the Wetlands Future Land Use Category. No rare or unique habitats have been identified on the site.

Access to Urban Services

The subject property is not fully served by urban services. Neither potable water service nor sanitary sewer service is currently provided, although the property is within the Florida Governmental Utility Authority franchise area for both water and sewer service. The subject property is located within Solid Waste Area 4 as delineated by Lee County Solid Waste. The proposed rezoning will not impact solid waste collection on the subject property. Future development of the property will be required to address wastewater service, either through connection to a service provider or on-site treatment.

The subject property is served by Lehigh Acres Fire Station 101, which is approximately 4,000 feet to the northeast on Joel Boulevard, which also contains Lee County ALS Station 101. The subject property is within the Lee County Sheriff's East E3 District. The subject property is located within the Lehigh Acres Fire District, and is served by Lee County School District 5.

Conclusion

The requested rezoning from Residential Single Family (RS-1) to Residential Multi-Family (RM-8) is substantially consistent with the Lee Plan. The proposed rezoning is consistent with the Land Development Code to the extent that it promotes uses compatible with established land use and development patterns. The proposed rezoning is intended to allow greater variety of residential uses on the subject property, while remaining compatible with the neighboring area. The subject property has sufficient access via East 7th Street to Joel Boulevard, and is not expected to significantly impact traffic. The proposed RM-8 district is not significant with respect to environmental impacts. The rezoning will not result in any negative impacts to urban services or infrastructure. The subject property is sufficiently served by fire, police, and emergency services personnel. The request will not impact any aquatic preserves, or flood hazard areas. Based on the general compatibility of the proposed RM-8 zoning district with the Future Land Use Category, neighboring zoning districts, and neighboring uses, staff recommends **approval** of the proposed rezoning.

Attachments

- A. Expert Witness List
- B. Aerial, Current Zoning, and Future Land Use Maps
- C. Request Statement
- D. Legal Description
- E. Public Meeting Minutes

DCI2021-00005
ORANGE RIVER
BLVD RPD

Staff Summary

CASE NUMBER & NAME: DCI2021-00005 / Orange River Blvd RPD

REQUEST: Request to rezone 19.99± acres from Agricultural (AG-2) to Residential Planned Development (RPD) to allow for up to 120 residential dwelling units

RESOLUTION NUMBER: Z-21-014

LOCATION: 10311 & 10361 Orange River Blvd., Fort Myers Shores Planning Community, Lee County, FL

OWNER: BURKETT PROPERTY ASSOC + DORAGH PETE & CYNTHIA C/O: ROBERT DORAGH

APPLICANT: MML II, LLC, Authorized Rep: Michael Neal

AGENT: D. Brent Addison, P.E., Vice President
Banks Engineering
10511 Six Mile Cypress Parkway
Fort Myers, FL 33966

HEARING EXAMINER
RECOMMENDATION: Approve with Conditions

PARTICIPANTS: (3) Arthur Levine
Allison Reardon
Mario Walguarnery



DCI2021-00005

Aerial

 Subject Property



0 260 520
Feet



M E M O R A N D U M
FROM
THE OFFICE OF THE
LEE COUNTY HEARING EXAMINER

DATE: October 5, 2021 
TO: Brent Addison, Applicant's Representative FROM: Donna Marie Collins
Chahram Badamtchian, Staff Hearing Chief Examiner

RE: DCI2021-00005 – ORANGE RIVER BOULEVARD RPD
Modification to Hearing Examiner Recommendation

The Hearing Examiner's Recommendation is modified as follows:

Environment and Storm Water Management

The site consists of 100% uplands and no environmentally critical/natural resources. The property was previously cleared and is now used for cattle grazing. Remaining vegetation onsite is comprised mainly of invasive exotic species, which the developer will remove as a condition of development order approval.

The MCP reflects two lakes devoted to storm water quality and attenuation.¹ The lakes will be designed with different control elevations consistent with groundwater conditions. The lake along the west boundary will be designed to handle project storm water runoff.² The lake along the north boundary will serve as the source of onsite fill material. The developer will design the north lake to receive storm water runoff from nearby properties.³ Both storm water management features will drain into an existing ditch/swale with an outfall into the Orange River. The proposed site design does not impact the function of this conduit.⁴ Applicant volunteered to clear the swale and culvert to ensure water flows freely without obstruction.⁵

~~A 25-foot vegetative buffer will encircle the project perimeter with the exception of the roadside buffer, which will be the code standard 15 feet wide.⁶~~

The Code does not require residential development to install buffer plantings along property lines bordering residential or agricultural uses.⁷ However the MCP reflects enhanced landscape buffers along the north, east, and south property boundary.⁸

¹ The MCP reflects water detention/retention facilities along the west and north boundaries of the site.

² Lee Plan Goal 60, Policy 61.3.11. Internal project roads will utilize closed drainage with gutters directing storm water runoff to the lake on the west boundary.

³ Lee Plan Goal 59. The topography of the site reflects an 11 foot drop across the site from south to north. The proposed retention/detention area along the north property line is located within an area of Special Flood Hazard due to its proximity to the Orange River and its tributaries.

⁴ Lee Plan Policy 61.3.1.

⁵ Hearing Examiner anticipates clearing will coincide with development of the site infrastructure, Thereafter, area residents should participate in ongoing maintenance of this drainage easement.

⁶ ~~Lee Plan Objective 21.1. Buffers along north, east and west boundaries exceed code minimums. See Master Concept Plan.~~

⁷ LDC 10-416(d)(3); The project borders agriculture and residential development on three sides.

⁸ See MCP; Lee Plan Objective 21.1; The proposed roadside buffer along Orange River Boulevard is a 15 foot Type D buffer comprised of five trees and 18 shrubs per 100 linear feet.

Copies Provided to: Board of County Commissioners (BOCC)
Michael Jacob, Deputy County Attorney
Joseph Adams, Assistant County Attorney
Anthony Rodriguez, Zoning Manager
Applicant/Applicant's Representative(s)
Jamie Princing, Community Development
Hearing Participants

Summary of Hearing Examiner Recommendation

ORANGE RIVER BLVD RPD (by Banks Engineering, Inc.)

Request: Rezone from Agricultural (AG-2) to Residential Planned Development (RPD), to allow 120 Residential dwelling units

Location: 10311 & 10361 Orange River Boulevard
Fort Myers Shores Planning Community
(District 5)

Size: 19.99+/-

Recommendation: Approve with conditions

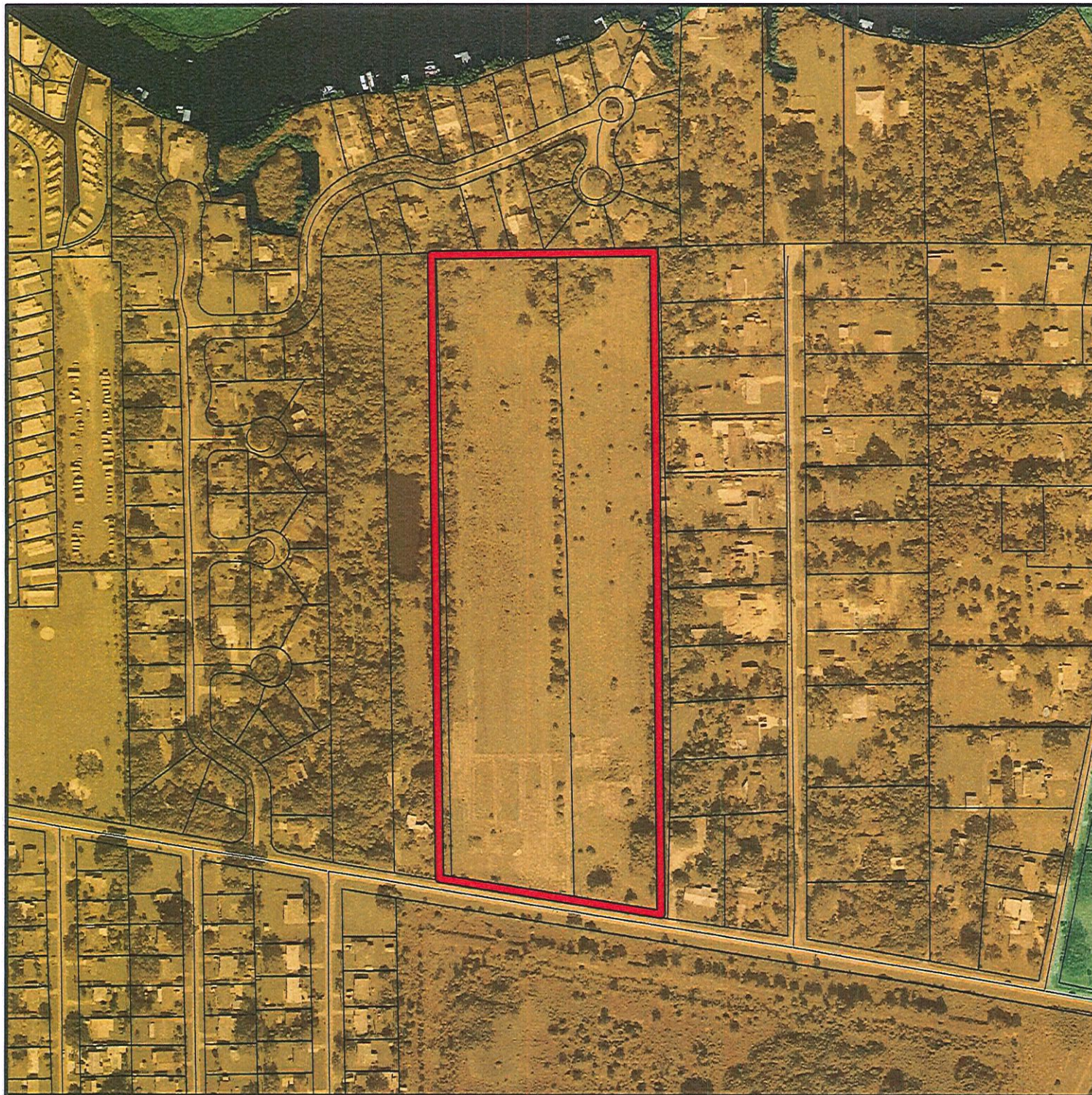
Deviations: 3

Public Concerns: Traffic and drainage

Hearing Examiner Remarks

Applicant seeks to redevelop a former auto salvage yard with up to 120 residential units. Residential subdivision is compatible with surrounding land use patterns, which include single family residences and mobile homes. The proposed development will add to the variety of residential dwelling options in the community.

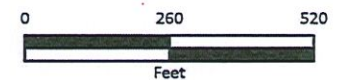
Detailed recommendation follows



DCI2021-00005

Future Land Use

-  Subject Property
-  Urban Community
-  Rural Community Preserve
-  Wetlands

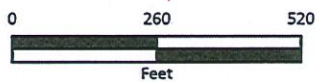




DCI2021-00005

Aerial

 Subject Property



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2021-00005

Regarding: ORANGE RIVER BLVD RPD

Location: 10311 & 10361 Orange River Boulevard
Fort Myers Shores Planning Community
(District 5)

Hearing Date: September 16, 2021
Record Closed: September 23, 2021

I. Request

Request to rezone 19.99+/- acres from Agricultural (AG-2) to Residential Planned Development (RPD) to allow up to 120 residential dwelling units.

The property legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approved, subject to the conditions and deviations set forth in Exhibit B.

III. Discussion

The Hearing Examiner serves as an advisor to the Board of County Commissioners (Board) on applications to rezone property.¹ In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone 19.99 acres from AG-2 to RPD. The planned development zoning designation is warranted due to project size and classification as "development of county impact."²

In preparing a recommendation to the Board, the Hearing Examiner applies the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC) and other County regulations to facts adduced at hearing. The record must include substantial competent evidence to support the Hearing Examiner's recommendation to the Board. Discussion supporting the recommendation of approval follows below.

¹ LDC 34-145(d)(4)a.

² Lee Plan Glossary and Policies 5.1.5; LDC 34-2, 34-341, 34-612.

Synopsis of Request

Applicant seeks to rezone the property from AG-2 to RPD to redevelop a former salvage yard with up to 120 residential units comprised of single family dwellings.³ Building heights will not exceed 45 feet. Applicant requests three deviations from the LDC.⁴

Staff recommended approval with conditions.

History

The property is located on the north side of Orange River Boulevard approximately ¾ mile east of the Palm Beach Boulevard intersection.

Formerly operated as an auto salvage facility, the property is now vacant, cleared of vegetation and used for cattle grazing.⁵

Applicant requested to retain ongoing livestock grazing on the site until the first development order for vertical development.

Character of Area

The property lies within the Caloosahatchee Shores area of the Fort Myers Shores Planning Community north of Orange River Boulevard.⁶ The Caloosahatchee Shores planning community includes a mix of future land use designations and is expected to grow substantially over the Lee Plan planning horizon.⁷

Lee Plan

All planned developments must be consistent with the Lee Plan.⁸ The property is designated Urban Community on the Lee Plan Future Land Use Map.⁹ Urban Communities are areas outside incorporated areas characterized by a mix of relatively intense commercial and residential uses. Although distinctly urban in character, these areas are developed at slightly lower densities.¹⁰

³ The proposed property development regulations offer several options include traditional single family dwellings, single family attached, duplex, townhouse, and zero lot line.

⁴ Requested deviations include single site access, reduced setbacks for water retention excavations and cul-de-sacs.

⁵ There is some paving on the south end of the site along Orange River Boulevard. Contamination stemming from the previous use has been fully remediated. Testimony of Josh Philpott.

⁶ Lee Plan Vision Statement Paragraph 4. Development in the Caloosahatchee Shores area is subject to enhanced development criteria LDC 33-1480 *et seq.*

⁷ Lee Plan Vision Statement Paragraph 4

⁸ LDC 34-411(a).

⁹ Lee Plan Map 1

¹⁰ Lee Plan Policy 1.1.4

Predominant land uses in the Urban Community include residential development at densities of 1 to 6 units per acre, but may densities be as high as 15 dwelling units per acre under special circumstances.¹¹ Project intensity is determined after considering the Lee Plan, availability of public infrastructure/services and nature of surrounding development.¹² The property has access to a wide range of public services and infrastructure including public water and sanitary sewer, paved roads, police, fire and emergency medical services.¹³ Accordingly, the proposed density of 6 units per acre is consistent with these requirements.

A residential subdivision is compatible with surrounding land use patterns that feature mobile homes and traditional single family residences.¹⁴ A large vacant tract across Orange River Boulevard to the south is owned by the school district.¹⁵ The project would add single-family/townhouse style dwellings to the mix of residential options in the community.¹⁶ The proposed residential use of the property is arguably more compatible with development patterns in the surrounding area than the salvage yard.¹⁷

The RPD will be subject to road, park, Fire/EMS, and school impact fees.¹⁸

Transportation

Access to the site will be through a single driveway onto Orange River Boulevard, a County maintained collector roadway.¹⁹ As proposed, the project will generate less than 100 trips during the peak hour at buildout.²⁰ Area roadways will continue to operate within adopted levels of service following project buildout.²¹

The County will evaluate needed site related improvements, including turn lanes, during development order review.²²

¹¹ Lee Plan Policy 1.1.4.

¹² LDC 34-413; Lee Plan 7.1.3.

¹³ Lee Plan Goals 2, 4, Objective 4.1, Policies 1.1.4, 135.9.7. Potable water and sanitary sewer service will be provided by Lee County Utilities. Developer must upgrade water main along Orange River Boulevard from 6 to 8 inches to support the project. The site has access to paved roads. Fire and emergency medical services will be provided by Tice Fire District Station 201 approximately 2+ miles from the property.

¹⁴ Lee Plan Policy 5.1.5, LDC 34-145(d)(4)(a). See also LDC 34-411(i) and (j).

¹⁵ This property is currently zoned RS-1 and may be developed as a school district facility, or potentially sold for single family development consistent with its zoning designation.

¹⁶ Lee Plan Objective 135.1, Policies 135.1.9, 135.9.5, 135.9.6.

¹⁷ Lee Plan Goal 21; Resuming the salvage yard use would require 660 foot setbacks from property line

¹⁸ Lee Plan Policies 38.1.1, 87.1.3. Roads, Parks, Fire/EMS impact fees for each dwelling unit.

¹⁹ Lee County Administrative Code 11-1. The project has 553 feet of frontage on Orange River Boulevard. The MCP depicts access approximately 25 feet from the west property boundary.

²⁰ The project is exempt from providing level of service analysis for roads and intersections due to low peak hour trip generation. See Lee County Administrative Code 13-17. A staff recommended condition limits the maximum development intensity to the trips generated by 90 multi-family and 30 single family dwellings. Applicant is free to develop any residential unit mix that does not exceed trips generated by 90 multifamily and 30 single family dwellings.

²¹ Testimony of Josh Philpott.

²² Lee Plan Objective 39.1, Policy 39.1.1.

Environment and Storm Water Management

The site consists of 100% uplands and no environmentally critical/natural resources. The property was previously cleared and is now used for cattle grazing. Remaining vegetation onsite is comprised mainly of invasive exotic species, which the developer will remove as a condition of development order approval.

The MCP reflects two lakes devoted to storm water quality and attenuation.²³ The lakes will be designed with different control elevations consistent with groundwater conditions. The lake along the west boundary will be designed to handle project storm water runoff.²⁴ The lake along the north boundary will serve as the source of onsite fill material. The developer will design the north lake to receive storm water runoff from nearby properties.²⁵ Both storm water management features will drain into an existing ditch/swale with an outfall into the Orange River. The proposed site design does not impact the function of this conduit.²⁶ Applicant volunteered to clear the swale and culvert to ensure water flows freely without obstruction.²⁷

A 25 foot vegetative buffer will encircle the project perimeter with the exception of the roadside buffer, which will be the code standard 15 feet wide.²⁸

Conditions

The County must administer the zoning process so that proposed land uses minimize adverse impacts on adjacent property and protect natural resources.²⁹ Conditions must plausibly relate to anticipated impacts, and be pertinent to mitigating impacts to public health, safety and welfare.³⁰

The proposed RPD will be subject to several conditions of approval. These conditions reasonably relate to the impacts anticipated from the development.³¹ The Hearing Examiner recommends revisions to Conditions to improve clarity.

²³ The MCP reflects water detention/retention facilities along the west and north boundaries of the site.

²⁴ Lee Plan Goal 60, Policy 61.3.11. Internal project roads will utilize closed drainage with gutters directing storm water runoff to the lake on the west boundary.

²⁵ Lee Plan Goal 59. The topography of the site reflects an 11 foot drop across the site from south to north. The proposed retention/detention area along the north property line is located within an area of Special Flood Hazard due to its proximity to the Orange River and its tributaries.

²⁶ Lee Plan Policy 61.3.1.

²⁷ Hearing Examiner anticipates clearing will coincide with development of the site infrastructure. Thereafter, area residents should participate in ongoing maintenance of this drainage easement.

²⁸ Lee Plan Objective 21.1. Buffers along north, east and west boundaries exceed code minimums. See Master Concept Plan.

²⁹ LDC 34-145(d)(4)a.2.(b), LDC 34-377(a)(3), and 34-932(b and c). See also Lee Plan Policy 135.9.6

³⁰ LDC 34-932(c).

³¹ Lee Plan Policy 5.1.5; LDC 34-83(b)(4)a.3.

Deviations

Applicant seeks 3 deviations from the LDC.³² A “deviation” is a departure from a land development regulation.³³ Applicants must demonstrate each requested deviation enhances the planned development and will not cause a detriment to the public.³⁴

The requested deviations pertain to cul-de-sacs, project street access, and water retention excavation setbacks.³⁵ Applicant offered testimony/evidence to support approval of the deviations.³⁶ Staff recommended approval of all three deviations finding they advance the objectives of the planned development and protect public health, safety and welfare.

The LDC requires the Hearing Examiner to evaluate deviations based on the applicable standard of review. The Hearing Examiner finds the requested deviations meet LDC approval criteria.

Public

Several members of the public attended the hearing before the Hearing Examiner. Concerns centered on traffic and drainage. Testimony on the record confirms area roadways will operate within adopted levels of service at buildout. Further, state and county permitting criteria ensure no negative impacts to area drainage patterns.³⁷

Applicant held the requisite community meeting via the Microsoft Teams virtual space platform on Thursday April 29, 2021.³⁸ Despite publication notice in the New-Press and posting on the property, no members of the public registered to observe the presentation. Applicant's representatives recorded the presentation.

Conclusion

The Hearing Examiner recommends approval of the proposed Orange River Boulevard RPD, subject to conditions.

³² The LDC permits deviations in the Caloosahatchee Shores planning community in accordance with Chapter 34 of the Code. LDC 33-1484.

³³ LDC 34-2.

³⁴ LDC 34-373(a)(9).

³⁵ LDC 10-296(k), 10-291(3) and 10-329(d)(1)a.3.

³⁶ LDC 34-377(a)(4).

³⁷ Lee Plan Goal 59, Policy 135.9.6.

³⁸ LDC 33-1482; See also Lee Plan Objective 17.3, Policy 17.3.5.

IV. Findings and Conclusions

The Hearing Examiner makes the following findings and conclusions based on the testimony and evidence in the record:

- A. The proposed Residential Planned Development complies with the Lee Plan. Lee Plan Vision Statement Paragraph 4 (Fort Myers Shores), Lee Plan Goals 2, 4, 5, 21, Objectives 5.1, 21.1, 135.1, Policies 1.1.4, 5.1.1, 5.1.7, 135.1.9, 135.9.5, 135.9.6.
- B. *As conditioned*, the Residential Planned Development:
 - 1. Meets the LDC and other county regulations or qualifies for deviations. LDC §§ 10-321, 10-415, 10-416(d), 34-411, 34-413, 34-491, 34-612(2);
 - 2. Is compatible with existing and planned uses in the surrounding area. Lee Plan Policies 1.1.4, 2.1.2, 2.2.1, 5.1.2, 5.1.5, 135.9.5;
 - 3. Provides access sufficient to support the proposed development intensity. Expected impacts on transportation facilities will be addressed by county regulations and conditions of approval. Lee Plan Objective 39.1, Policies 2.2.1, 38.1.1, 39.1.1; LDC §34-411(d) and (e);
 - 4. Will not adversely affect environmentally critical areas and natural resources. Lee Plan Goals 61, 77, Objectives 77.1, 126.2, Policies 61.3.1, 61.3.6, 61.3.8, 61.3.11, 126.2.1, 135.9.6; and
 - 5. Will be served by public services including paved roads, potable water, sanitary sewer, urban surface water management, police, fire, and emergency services. Lee Plan Glossary, Lee Plan Goals 2, 4, Objectives 2.1, 4.1, 5.1, Policies 2.2.1, 135.9.7, Standards 4.1.1 and 4.1.2 and Maps 6, 7; LDC §34-411(d).
- C. The proposed uses are appropriate at the proposed location. Lee Plan Goal 5, Objective 2.1, Policies 2.1.1, 2.1.2, 135.1.9, 135.9.5, 135.9.7.
- D. Recommended conditions and applicable regulations provide sufficient safeguards to protect the public interest. In addition, recommended conditions reasonably relate to impacts expected from the proposed development. Lee Plan Policies 5.1.5, 135.9.6; LDC §§ 34-377(a)(3), 34-411, 34-932(b) and (c).
- E. *As conditioned*, the requested deviations:

1. Enhance the planned development; and
2. Preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

Date of Recommendation: September 30, 2021.



Donna Marie Collins
Chief Hearing Examiner

Lee County Hearing Examiner
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398

Exhibits to Hearing Examiner's Recommendation

Exhibit A Legal Description and Vicinity Map
Exhibit B Recommended Conditions and Deviations
Exhibit C Exhibits Presented at Hearing
Exhibit D Hearing Participants
Exhibit E Information

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A



Professional Engineers, Planners & Land Surveyors

DESCRIPTION
OF
A PARCEL OF LAND LYING IN
SECTION 2, TOWNSHIP 44 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 2, TOWNSHIP 44 SOUTH, RANGE 25 EAST, BEING A PORTION OF BLOCK 2, TERRY TICE & VANDAWALKERS, RECORDED IN PLAT BOOK 1, PAGE 46, PUBLIC RECORDS OF SAID LEE COUNTY AND BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER, NORTHEAST EAST QUARTER, NORTHWEST QUARTER OF SAID SECTION 2; THENCE N 89°18'35" E ALONG THE NORTH LINE OF SAID SECTION FOR 112.50 FEET TO THE POINT OF BEGINNING OF A PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N 89°18'35" E ALONG SAID NORTH LINE FOR 547.51 FEET; THENCE S 00°43'07" E FOR 1,641.04 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF ORANGE RIVER BOULEVARD (58 FEET WIDE RIGHT-OF-WAY); THENCE N 80°48'26" W ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 553.75 FEET; THENCE N 00°47'36" W FOR 1,545.99 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS: 19.99 ACRES, MORE OR LESS.

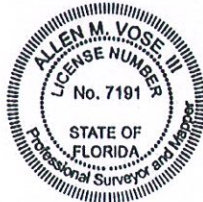
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

NORTH IS BASED ON THE "STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83/2011 (CORS), WHEREIN NORTH LINE OF SECTION 2, TOWNSHIP 44 SOUTH, RANGE 25 EAST BEARS N 89°18'35" E.

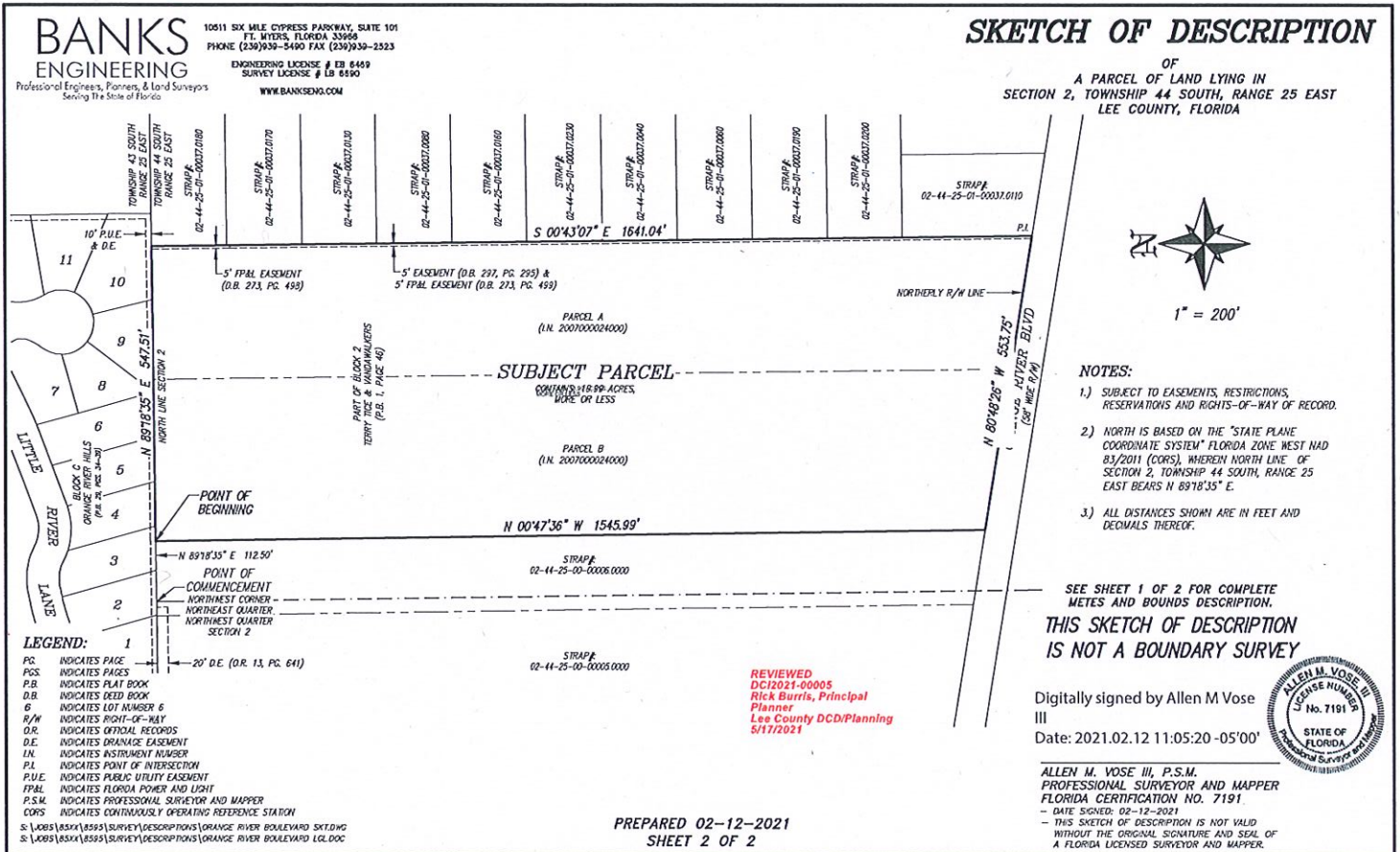
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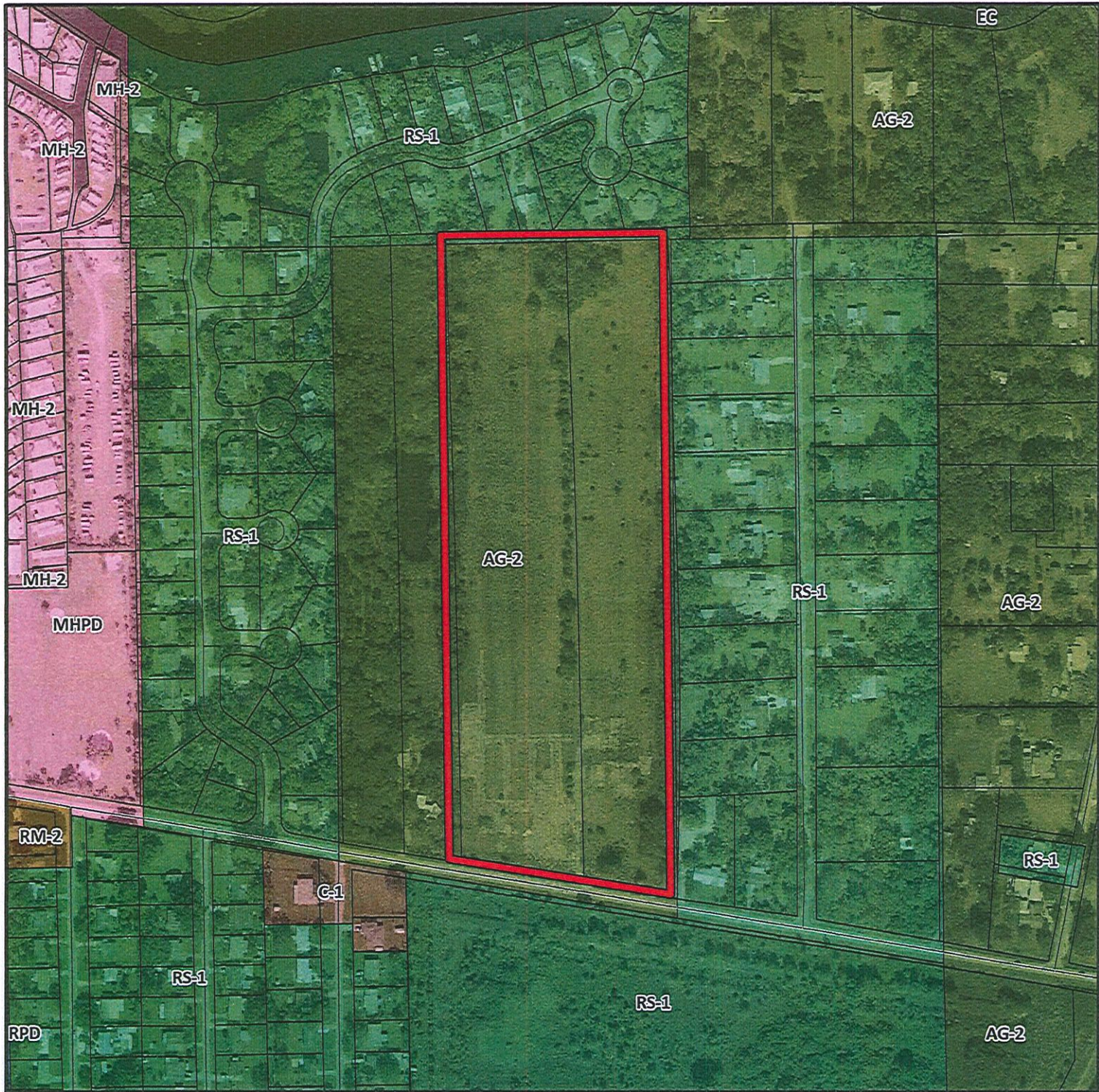
Digitally signed by Allen M Vose III
Date: 2021.02.12 11:05:02 -05'00'

ALLEN M. VOSE III, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATION NO. 7191
DATE SIGNED 02-12-2021
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REVIEWED
DCI2021-00005
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/17/2021





DCI2021-00005

Zoning

 Subject Property

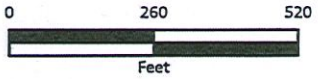


Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

Hearing Examiner Note:

Conditions and Deviations reflect Hearing Examiner modifications.

CONDITIONS

1. Master Concept Plan/Development Parameters

Development must be consistent with the two-page Master Concept Plan (MCP) entitled "Orange River Boulevard RPD" dated April 30, 2021, received on June 15, 2021 (Exhibit B1), except where modified by the conditions below. All development must comply with the Lee Plan and Lee County Land Development Code (LDC) except where deviations have been granted herein. Changes to the MCP may require further development approvals.

Development Parameters: Up to 120 dwelling units.

2. Permitted Uses and Site Development Regulations

a. Schedule of Uses

Accessory uses and structures

Administrative offices

Clubs, private

Dwelling units:

Single-Family

Single-Family, Attached

Duplex

Two-Family Attached

Townhouse

Zero-Lot Line

Entrance Gate and Gatehouse

Essential Services

Essential Service Facilities: Group I

Excavation: water retention

Fences, walls

Home Occupations

Models:

Homes

Units

Parking lot, Accessory
 Real Estate Sales Office (temporary, within model home or unit)
 Recreation Facilities:
 Personal
 Private, on-site
 Residential Accessory Uses
 Signs
 Temporary Uses, limited to a construction trailer or modular unit
 and associated parking for purposes of managing on-site
 construction activities

b. Site Development Regulations

Use	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Structure Height	Minimum Side Setback	Minimum Front (street) Setback	Minimum Rear Setback (Principal)	Minimum Rear Setback (Accessory)
Single-Family	4,500 SF	45'	75'	45'/3-stories	5'	20'	10'	5'
Single-Family, Attached	2,500 SF	20'	75'	45'/3-stories	5'	20'	10'	5'
Duplex/Two-Family Attached	5,000 SF	60'	75'	45'/3-stories	5'	20'	10'	5'
Townhouse	10,000 SF	100'	75'	45'/3-stories	5'	20'	10'	5'
Zero-Lot Line	2,500 SF	35'	65'	45'/3-stories	2.5' on one side; 5' on one side	20'	10'	5'
Recreational Facilities	5,000 SF	50'	75'	25'/1-story	5'	20'	10'	5'

Notes:

1. Project perimeter setbacks not less than 15'.
2. Project perimeter buffers shown on MCP.

3. Model Homes/Units and Real Estate Sales

- a. Each Model home/unit must be a unique example. Multiple examples of the same home/unit are prohibited.
- b. Model Home Sites must be designated on development order plans. Developer must buffer parking areas supporting model home/units with a single-row hedge and tree canopy.

- c. Developer must depict model home/units on a preliminary plat prior to construction. Developer must file the preliminary plat concurrently with the development order application. Model home/unit construction must comply with property development regulations set forth in condition 2.b.
- d. No more than five model homes/units may be active at one time.
- e. Real estate sales are limited to sale of lots/units within the development.
- f. Hours of operation for models and real estate sales are Monday through Sunday 8 a.m. to 8 p.m.
- g. Model homes and real estate sales will be valid for a period of up to 5 years from the date of the certificate of occupancy of a model home.

4. Agricultural Uses

Existing bona fide agricultural uses (livestock pasture/grazing) may continue onsite subject to the following:

- a. Termination of Agriculture Use. Agricultural uses must terminate in project areas receiving development order approval for vertical development and prior to county issuance of a vegetation removal permit. Development order approvals for plats, infrastructure improvements, landscaping, surface water management, or other non- vertical development do not trigger termination.
- b. Additional Clearing Prohibited. Additional clearing of trees or vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained (i.e. mowed), but not cleared or expanded. This prohibition does not preclude County approval requests to remove invasive exotic vegetation.
- c. Proof of Termination. Upon approval of local development order for vertical development and prior to vegetation removal permit issuance, the property owner must provide written proof, of the following, subject to review/approval by the County Attorney's Office:
 - i. Affidavit. Sworn affidavit from the property owner confirming:
 - a) Date agricultural uses ceased.

- b) Legal description of the property subject to development order approval for vertical development.
 - c) Affirmative statement acknowledging and agreeing agricultural uses are illegal and prohibited on the property. Further, that the property owner covenants with the County not to resume agricultural uses until the property is rezoned to permit agricultural; and
 - d) The affidavit constitutes a binding covenant between the property owner and Lee County including the property owner's successors. The covenant must be recorded in public record of Lee County at the property owner's expense.
- ii. Termination of Tax Exemption. The property owner must terminate the agricultural tax exemption on the portions of the property with a development order for vertical development. Proof of termination must include a copy of the property owner's request to terminate the tax exemption with the Property Appraiser.

DEVIATIONS

Deviation 1. Withdrawn

Deviation 2 – Street Design and Construction Standards. Deviation from LDC §10-296(k), requiring circular turnarounds at the end of dead-end streets, to allow two street stub-outs at the end of the dead-end street stubs located in the southeast and northern portions of the property consistent with the MCP.

This deviation is approved subject to the following condition:

Prior to approval of the development order the developer must submit a letter of no objection to the dead-end street stub from the applicable Fire District.

Deviation 3 - Required Street Access. Deviation from LDC§10-291(3), which requires residential developments greater than five acres to provide more than one means of ingress or egress to the project, to allow a single point of access to Orange River Boulevard consistent with the MCP.

This deviation is approved subject to the following condition:

Prior to approval of the development order allowing construction of the access to the development, the developer must record a notice to future

owners in the public records of Lee County. The notice must detail the emergency access plan and provide information as to where a copy of the plan may be obtained from the developer or its successor.

Deviation 4 – Excavations. Deviation from LDC §10-329(d)(1)a.3, which requires no excavation within 50 feet of private property lines under separate ownership, to allow water retention excavations to be located within 35' of the property boundary.

This deviation is approved subject to the following condition:

The developer must install a fence no less than 4 feet in height along the entire western portion of Proposed Lake #1 and along the entire eastern and northern portion of Proposed Lake #2 as reflected on the MCP.

Exhibits to Conditions:

B1 Master Concept Plan entitled Orange River Boulevard RPD dated April 30, 2021, stamped received by the Department of Community Development on June 15, 2021



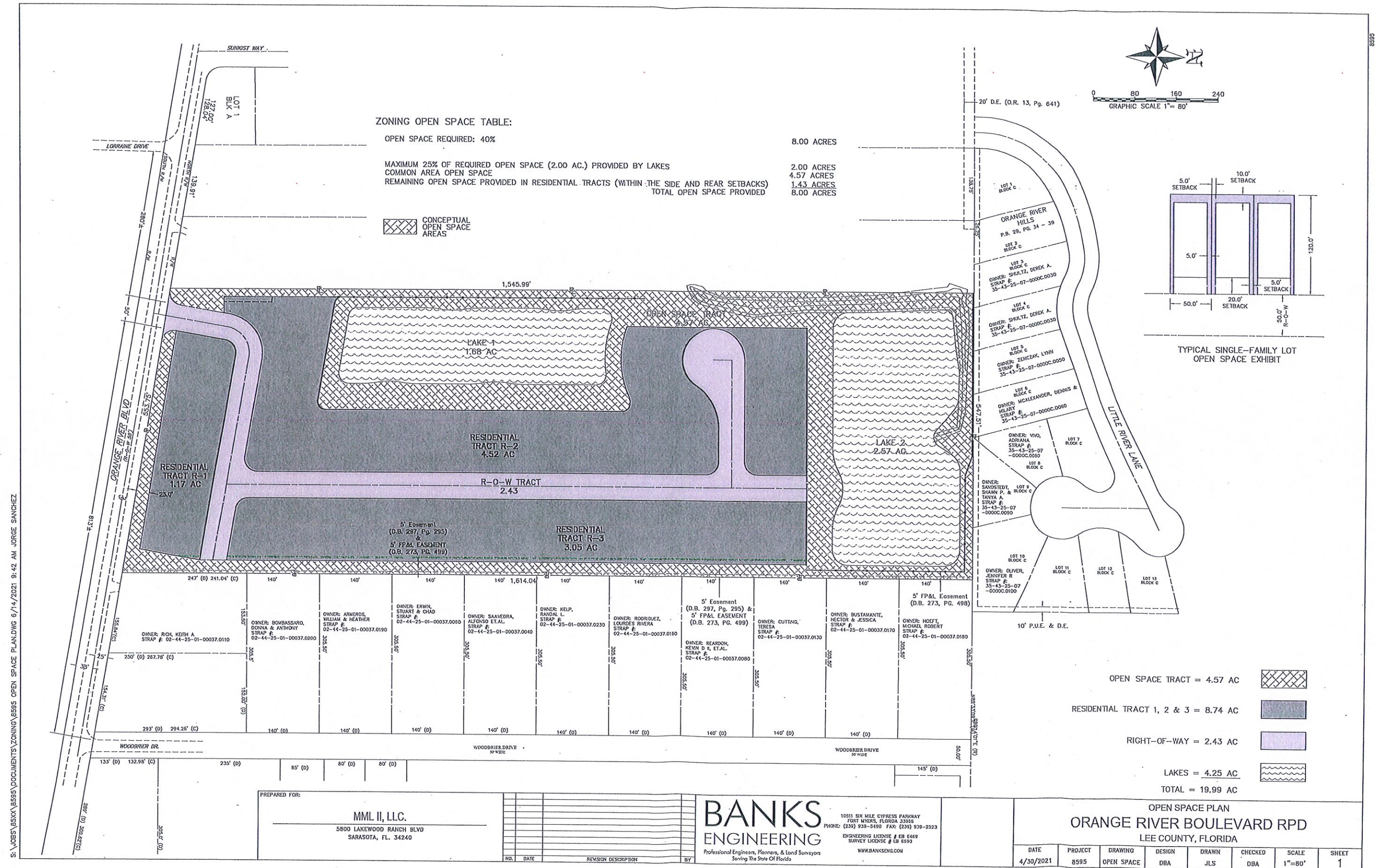


Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

- a. *48-Hour Notice*: Email from Chahram Badamtchian to Hearing Examiner, with copies to Brent Addison, Dr. Dave Depew, Josh Philpott, & Jennifer Sheppard, dated Tuesday, September 14, 2021 11:05 AM (3 pages – 8.5"x11")
- 1. *DCD Staff Report with attachments for DCI*: Prepared by Chahram Badamtchian, Senior Planner, date stamped received September 1, 2021 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

APPLICANT EXHIBITS

- a. *48-Hour Notice*: Email from Brent Addison, with Banks Engineering, to Maria Perez, with copies to Dr. Dave Depew, dated Tuesday, September 14, 2021 10:03 AM (3 pages – 8.5"x11")
- b. *Second 48-Hour Notice*: Email from Brent Addison, with Banks Engineering, to Maria Perez, with copies to Dr. Dave Depew, dated Tuesday, September 15, 2021 9:53 AM (4 pages – 8.5"x11")
- 1. *PowerPoint Presentation*: Prepared by Banks Engineering for Orange River Boulevard Residential Planned Development, DCI2021-00005, Lee County Hearing Examiner Hearing, September 16, 2021 (multiple pages – 8.5"x11") [color]
- 2. *Written Submission*: Email from Brent Addison, to Hearing Examiner & Chahram Badamtchian, with copies to Dr. Depew, Josh Philpott, Jennifer Sheppard, Michael Neal, Richard Bedford, dated Thursday, September 16, 2021 3:53 PM (3 pages – 8.5"x11")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Chahram Badamtcian

Applicant Representatives:

1. Brent Addison
2. Michael Neal
3. Josh Philpott

Public Participants:

1. Arthur Levine
2. Allison Reardon
3. Mario Walguarnery

Exhibit E
INFORMATION

UNAUTHORIZED COMMUNICATIONS

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.

B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants are limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.

COPIES OF TESTIMONY AND TRANSCRIPTS

A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.

B. A verbatim transcript may also be available for purchase from the court reporting service.

DCI2021-00005, Orange River Boulevard RPD
Conditions and Deviations

A. Conditions

1. MASTER CONCEPT PLAN/DEVELOPMENT PARAMETERS

The development of this project must be consistent with the two-page Master Concept Plan entitled “Orange River Boulevard RPD” dated April 30, 2021, revised on June 21, 2021, except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (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.

This rezoning will allow a maximum of 120 dwelling units for the entire development.

2. USES AND SITE DEVELOPMENT REGULATIONS

a. Schedule of Uses

Accessory uses and structures

Administrative offices

Clubs, private

Dwelling units:

Single-Family

Single-Family, Attached

Duplex

Two-Family Attached

Townhouse

Zero-Lot Line

Entrance Gate and Gatehouse

Essential Services

Essential Service Facilities: Group I

Excavation: water retention

Fences, walls

Home Occupations

Models:

Homes

Units

Parking lot, Accessory

Real Estate Sales Office (temporary, within model home or unit)

Recreation Facilities:

Personal

Private, on-site

Residential Accessory Uses

Signs

Temporary Uses, limited to a construction trailer or modular unit and associated parking for purposes of managing on-site construction activities

- b. Site Development Regulations

Attached to the staff report as Exhibit "E"

3. MODEL HOMES, MODEL UNITS

Model units, model homes, model are permitted in compliance with the following conditions:

- a. Each model must be a unique example. Multiple examples of the same unit are not permitted.
- b. All Model Home Sites, must be designated on the development order plans. Parking areas for these uses will be buffered with a single-row hedge and tree canopy for parking areas.
- c. Prior to model home construction, the lots upon which model homes will be constructed must be shown on a preliminary plat. The preliminary plat must be filed concurrently with the local development order application. The model homes must comply with the setbacks set forth in the property development regulations for this project.
- d. The number of model homes or model units will be limited to no more than 5 within the development at one time.
- e. Real estate sales are limited to the sale of lots or units within the development only.
- f. Hours of operation for both models and real estate sales are limited to Monday through Sunday 8 a.m. to 8 p.m.
- g. Model homes and real estate sales will be valid for a period of up to 5 years from the date of issuance of a certificate of occupancy of a model home.

4. AGRICULTURAL USES

All existing agricultural uses and activities on this site must cease with 90 days of the final approval of this rezoning application.

B. DEVIATIONS:

Deviation #1: This deviation was withdrawn by the applicant.

Deviation #2: Deviation from Land Development Code Sec.10-296(k), requiring circular turnarounds at the end of dead-end streets, to allow two street stub-outs at the end of the dead-end street stubs located in the southeast and northern portions of the subject property as depicted on the MCP.

This deviation is approved subject to the following condition:

Prior to approval of the development order the developer must submit a letter of no objection to the dead-end street stub from the applicable Fire District.

Deviation #3: Deviation from Land Development Code Sec.10-291(3) which requires residential development of more than five acres to provide more than one means of ingress or egress for the development, to allow a single point of access to Orange River Boulevard as shown on the MCP.

This deviation is approved subject to the following condition:

Prior to approval of a development order allowing construction of the access to the development, the developer must record a notice to all future owners, in public records. This notice must detail the emergency access plan and provide information as to where a copy of this plan may be obtained from the developer or developer's successor.

Deviation #4: Deviation from Land Development Code Sec.10-329(d)(1)a.3, which requires that no excavation will be allowed within 50 feet of any private property line under separate ownership, to allow water retention excavations to be placed within 35' of the property boundary.

This deviation is approved subject to the following condition:

The developer must install a fence no less than 4 feet in height along the entire western portion of the proposed Lake #1 and along the entire eastern and northern portion of the proposed Lake #2.

LEE COUNTY, FLORIDA
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION
STAFF REPORT

TYPE OF CASE:	PLANNED DEVELOPMENT/DCI
CASE NUMBER:	DCI2021-00005
HEARING EXAMINER DATE:	September 16, 2021
SUFFICIENCY DATE:	July 19, 2021

Applicant: Banks Engineering, Inc. in reference to Orange River Boulevard RPD.

Request: Request to rezone 19.99± acres from Agricultural AG-2 to Residential Planned Development (RPD) to allow for up to 120 residential dwelling units.

Location: The subject property is located at 10311 & 10361 Orange River Boulevard, Caloosahatchee Shores Planning Community, Lee County, FL (District #5). The applicant indicates the STRAP numbers are: 02-44-25-00-00007.0000 and 02-44-25-00-00008.0000

Summary

Staff recommends APPROVAL of the applicant's request to rezone with the conditions and deviations found in Attachment C.

The conditions have been prepared to address the proposed development and consistency with the Lee County Comprehensive Plan (Lee Plan), compatibility with surrounding land uses, and addressing future infrastructure needed to support the development.

The applicant's request includes three (3) deviations from the requirements of the Land Development Code. Staff has reviewed and recommends approval of the requested deviations subject to conditions.

Character of the Area

The area is mostly developed with residential uses. Lot sizes of those residential parcels vary in size. Aside from two properties to the west which are zoned AG-2, most of the properties surrounding this property are zoned RS-1.

To the north and east there are two single family subdivisions zoned RS-1. The subdivision to the east contains larger lots, about 40,000 square feet in area. The subdivision to the north contains lots ranging between 10,000 and 14,000 square feet in area.

To the south, across Orange River Boulevard, there is a large vacant parcel zoned RS-1 which is owned by the Lee County School District.

To the west there is are two large lots, slightly less than 10 acres in area combined, under the same ownership, zoned AG-2 containing one single family residence. To the west of those two lots there is a residential subdivision, zoned RS-1 with lots ranging between 10,000 and 12,000 square feet lots.

Analysis

The subject site, which consists of 19.99± acres, is currently zoned Agricultural (AG-2). The request is to rezone the property to RPD to allow for single-family and townhouse type development with up to 120 units.

Transportation

Infrastructure Planning staff has reviewed this project and has recommended approval (Attachment F).

Lee Plan

The subject property is located in the Urban Community Future Land Use category. This Future Land Use designation is intended for a mixture of relatively intense commercial and residential uses. The request is to develop this 20± acres with a maximum of 120 dwelling units, which is within the density range of this FLU category. Staff finds this request consistent with Policy 1.1.4 of the Lee Plan.

The proposed development promotes contiguous and compact growth patterns, limits urban sprawl and minimizes the costs of services. Adequate public services exist to serve the property. Sewer and water are available to the site. The property has direct frontage on Orange River Boulevard. Therefore, the request is consistent with Objectives 2.1 and 2.2 and Policies 2.1.1 and 2.2.1 of the Lee Plan.

Policy 21.1.2 of the Lee Plan requires all buffering, landscaping, signage and architectural deviations to comply with the variance criteria set forth in chapter 34 of the Land Development Code. This application requests 3 deviations but none from the above mentioned requirements.

Water and sewer services from Lee County Utilities are available to the site and the site will be connected to those services. Staff finds the request consistent with Standards 4.1.1 and 4.1.2 of the Lee Plan (Attachment H).

Urban Services

Urban services are defined by the Lee Plan as the requisite services, facilities, capital improvements, and infrastructure necessary to support growth and development at levels of urban density and intensity.

Public sewer and water: Municipal potable water service is available to the site from Lee County Utilities, with adequate capacity to serve this development. Development must connect to public water and sewer services when development activity triggers the connection requirements of the LDC.

Paved streets and roads: The subject property fronts on Orange River Boulevard, providing adequate access to the site.

Public transit: Currently there is no bus route within close proximity of this site.

Parks and recreation facilities/Community facilities: Shores Natural Trail Park is located on Fifth Street and Olga Park located on South Olga Drive are within close proximity of this site.

Urban levels of police, fire, and emergency services: The subject property will be provided urban levels of police, fire and emergency services. Fire protection is provided by Tice Fire District, located at 5170 Tice Street. Ambulance services will be provided by Lee County Medic 11 located approximately 5.5 miles from this site.

Urban surface water management: Any future development will be required to comply with the LDC, including provisions for surface water management.

Schools: Orange River Elementary School located on Underwood Drive, Oak Hammock Middle School, located on Tice Street, and Riverdale High School, located on Buckingham Road are the closest public schools to this site.

Employment and commercial centers: The subject property is in close proximity of existing commercial and industrial developments along I-75 highway. These commercial and industrial centers provide employment and shopping opportunities in the area.

Planning Community Map and Allocation Table

POLICY 1.7.6: The Planning Communities Map and Acreage Allocation Table (see Map 16 and Table 1(b) and Policies 1.1.1 and 2.2.2) depict the proposed distribution, extent, and location of generalized land uses for the year 2030.

The subject property is located in the Fort Myers Shores Planning Community. The Planning Community Year 2030 Allocations indicate that 4,500 acres are allocated to residential uses in the Fort Myers Shores Planning Community. From that number, 2,429 acres of residential acreage is still available. Staff finds the request CONSISTENT with the allocations for the Fort Myers Shores Planning Community.

Land Development Code Compliance:

The applicant is in compliance with the Lee County Land Development Code Chapter 33-1482 which requires the owner or agent applying for rezoning to conduct one publicly-advertised information session within the Caloosahatchee Shores Community Plan Area. The applicant conducted a public informational meeting on April 29, 2021(Attachment I).

The applicant is requesting three deviations for this rezoning.

Deviation number one was withdrawn by the applicant.

Deviation number 2 is a request to not to provide circular turnarounds at the end of two short roads. Staff recommended approval of this deviation subject to a condition.

Deviation number 3 is a request to provide a single ingress and egress point, when the Code requires two such access points. This request is due to a relative short road frontage along Orange River Boulevard. Staff recommended approval of this deviation subject to a condition.

Deviation number 4 is a request to allow water retention lakes to be 35 feet from the property lines, when the Code requires 50 feet. Staff recommended approval of this deviation subject to a condition.

Findings and Conclusions

Based upon an analysis of the application and the standards for approval of planned development rezonings, as required by Land Development Code Section 34-145(d)(4)a.1, staff offers the following findings and conclusions:

The request, as conditioned:

- Complies with Lee Plan as discussed in the Lee Plan analysis section of this report, specifically Lee Plan Policies 1.1.4 2.1.1, 2.2.1 and 1.7.6; Objectives 2.1 and 2.2 Standards 4.1.1 and 4.1.2;
- Meets the Land Development Code and other applicable County regulations or qualifies for deviations;
- Is compatible with existing and planned uses in the surrounding area;
- Will provide access sufficient to support the proposed development intensity and the expected impacts on existing or planned transportation facilities will be mitigated through existing County regulations or conditions of approval;
- Will not adversely affect environmentally critical or sensitive areas and natural resources;
- Will be served by urban services, as defined in the Lee Plan; and
- The proposed mix of uses is appropriate at the proposed location;
- The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development: and
- The requested deviations, as conditioned: pursuant to section 34-373(a)(9):
 - Enhance the achievement of the objectives of the planned development; and
 - Preserve and promote the general intent of this Code to protect the public health, safety and welfare.

Closing Remarks

Lee County staff has reviewed the proposed rezoning request and recommends approval of the RPD rezoning with conditions. The applicant has sought three deviations from the Lee County Land Development Code, which are recommended for approval. The uses and density proposed by this request are consistent with the Lee Plan and compatible with surrounding existing land uses.

ATTACHMENTS:

- A. Expert Witness Information
- B. Maps: surrounding zoning, future land use and aerial photograph
- C. Recommended Conditions and Deviations
- D. Master Concept Plan
- E. Property Development Regulations
- F. Memorandum from Lee County Section of Infrastructure Planning
- G. Memorandum from Lee County Section of Development Services
- H. Letter of availability for water and sewer
- I. Public Informational Meeting Summary
- J. Application, narrative and TIS
- K. Legal Description

cc: Applicant
County Attorney
Zoning File