



LEE COUNTY BOARD OF COUNTY COMMISSIONERS

ZONING HEARING AGENDA

Wednesday, February 2, 2022

9:30AM

DCI2021-00010
Z-21-024

Parker Lane RPD

DCI2021-00020
Z-21-016

Gator-Domestic Industrial Center IPD

NOTICE OF PUBLIC HEARING

The Lee County Board of County Commissioners will hold a public hearing at 9:30 am on Wednesday, February 2, 2022 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 cases below.

DCI2021-00010 / Parker Lane RPD

Request to rezone approximately 18.55 acres from Agricultural District (AG-2) to Residential Planned Development (RPD) to allow for the development of up to 90 dwelling units with accessory uses.

Located at 12091 Blasingim Rd., South Fort Myers Planning Community, Lee County, FL.

DCI2021-00020 / Gator-Domestic Industrial Center IPD

Amend Resolution No. Z-13-010 which rezoned 88.16 acres to Industrial Planned District by reducing from 900,000 to 700,000 square feet the amount of industrial development and repealing from the approved list of conditions three traffic conditions requiring: i) a traffic analysis at the Alico Road/Gator Road and Alico Road/Domestic Avenue intersections; ii) the southbound widening of Gator Roads to add a left-turn lane if the intersection analysis shows the need; and iii) sign an agreement to pay a proportionate share of any necessary signalization improvements.

Located at 16575/579 Gator Rd., Gateway/Airport Planning Community, Lee County, FL.

Copies of the Hearing Examiner's recommendation may be obtained or the file reviewed at the Zoning Section, 1500 Monroe St., Ft. Myers, FL. 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.

DCI2021-00010
PARKER LANE
RPD

Staff Summary

CASE NUMBER & NAME: DCI2021-00010 / Parker Lane RPD

REQUEST: Request to rezone approximately 18.55 acres from Agricultural District (AG-2) to Residential Planned Development (RPD) to allow for the development of up to 90 dwelling units with accessory uses.

RESOLUTION NUMBER: Z-21-024

LOCATION: 12091 Blasingim Road, South Fort Myers Planning Community, Lee County, FL.

OWNER: Parker Catherine Sue + Parker David M

APPLICANT: Barry Ernst

AGENT: Daniel DeLisi AICP
DeLisi, Inc.
520 27th St.
West Palm Beach, FL 33407

HEARING EXAMINER
RECOMMENDATION: Approve, with conditions

PARTICIPANTS: (3) Bill Ennen
Stephanie Miller
David Richards



DCI2021-00010

Aerial

 Subject Property



0 190 380
Feet



Summary of Hearing Examiner Recommendation

PARKER LANE RPD

(by Daniel DeLisi, AICP of DeLisi, Inc.,
on behalf of Barry Ernst of Lennar Homes)

Request: Rezone from Agriculture (AG-2) to Residential Planned Development (RPD) to allow up to 90 dwelling units with accessory uses

Location: 12091 Blasingim Road

South Fort Myers Planning Community

(District 2)

Size: 18.55 acres

Recommendation: Approve, with conditions.

Deviations: 9

Conditions of Note: Storm water outfall south to JV Parker Lane.

Public Concerns: Emergency access, drainage, legal status of Crystal Drive Extension.

Hearing Examiner Remarks:

The proposed RPD is compatible with surrounding development approvals, which includes a variety of housing types ranging in density from 4 to 12 units per acre. Blasingim Road will serve only as an emergency access to the project. The project will access the County Road network via Crystal Road extension.

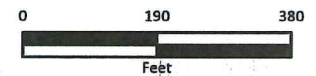
Detailed recommendation follows

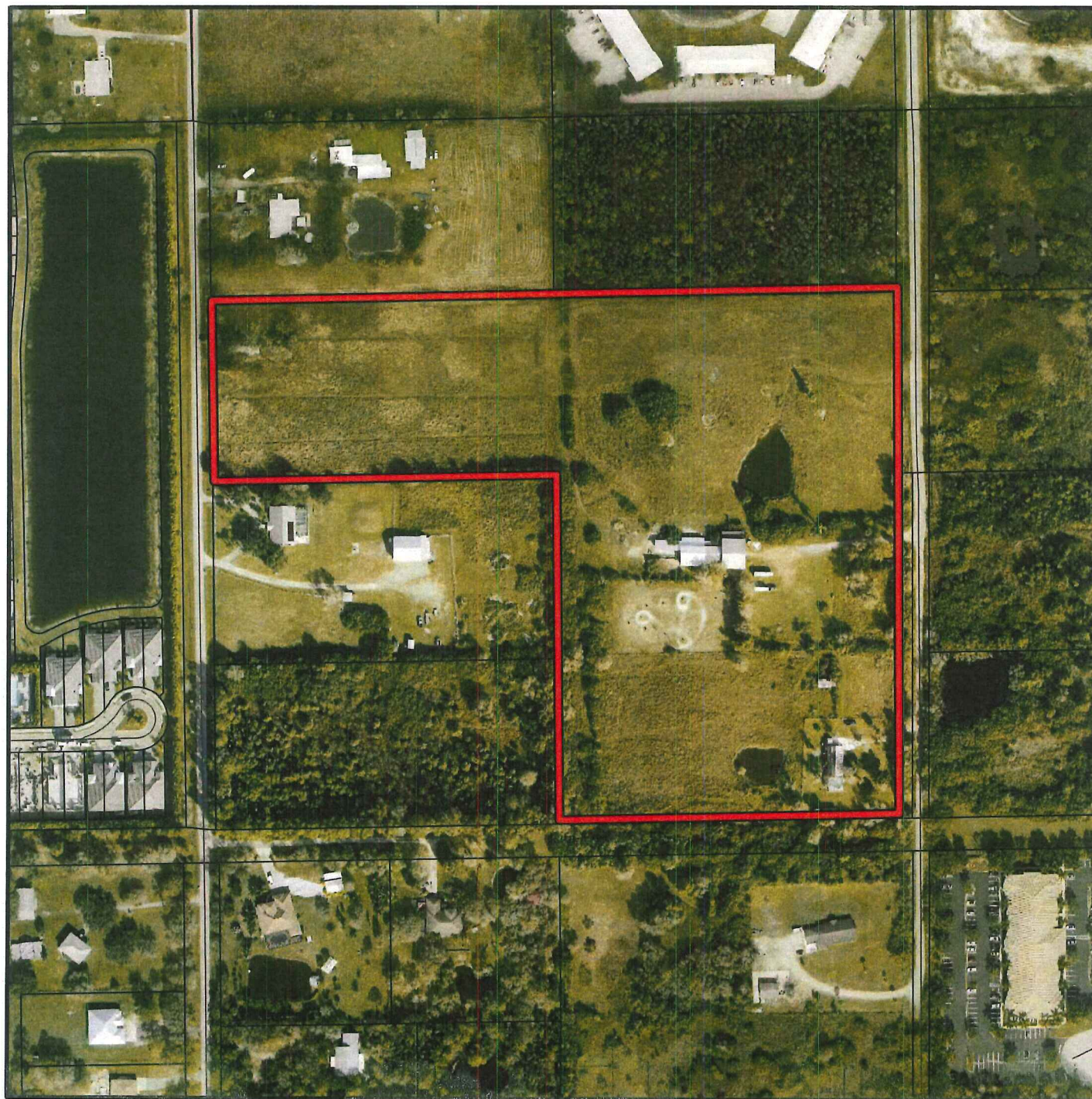
DCI2021-00010

Future Land Use

 Subject Property

 Central Urban

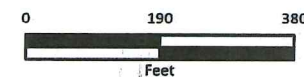




DCI2021-00010

Aerial

 Subject Property



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2021-00010

Regarding: **PARKER LANE RPD**

Location: 12091 Blasingim Road

South Fort Myers Planning Community
(District 2)

Hearing Date: December 9, 2021

I. Request

Rezone approximately 18.55 acres from Agriculture (AG-2) to Residential Planned Development (RPD) to allow the development of up to 90 dwelling units with accessory uses.

The property legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

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

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 18.55 acres from Agriculture (AG-2) to Residential Planned Development (RPD).

In preparing a recommendation for the Board, Hearing Examiner must apply the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC) and other County regulations to the facts adduced at the hearing. There must be substantial competent evidence in the record to support the recommendation to the Board.

¹ LDC 34-145(d)(4)a.

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

Request

The request seeks approval of a residential development consisting of up to 90 single family dwelling units. The property is located west of Six Mile Cypress Parkway off the Crystal Drive Extension, between J V Parker Lane and Blasingim Road.

Maximum building heights will be 35 feet. Crystal Drive extension will serve the community's primary access. There will be a paved emergency access to Blasingim Road.

Staff recommended approval, finding the proposed RPD satisfies the review criteria in the LDC and the Lee Plan.

History of the Site

The property is zoned for agriculture and developed with a single family home and improved pasture.²

Character of Surrounding Area

Zoning requests must be compatible with existing and planned uses in the area and minimize potential negative effects on neighboring property.³

The property lies within the South Fort Myers Planning District, a core area of the County with high intensity uses and a range of public facilities and urban services.⁴

Employment centers, residential development and a broad range of infrastructure and services feature predominately in the planning district.⁵ The Six Mile Cypress road corridor is emerging as a focal point for residential and commercial development. The requested RPD promotes contiguous and compact growth patterns in the area.⁶

² The County granted Special Permit approval for a mobile home on the northwest portion of the site circa 1974. Z-74-137 Staff PowerPoint "Parker Lane Residential Planned Development (RPD) DCI2021-00010." Staff Exhibit 2.

³ LDC 34-145(d)(4), 34-411; Lee Plan Policies 5.1.5, 135.9.5, 135.9.6.

⁴ Lee Plan Map 1. See Lee Plan Policy 1.1.3.

⁵ There are two fire stations and sheriff station within three miles of the site. Several schools are also within three miles including Villas Elementary, Dunbar Middle School, Six Mile Charter Academy and South Fort Myers High School. There are three regional parks within six miles: Lakes Regional Park, John Yarbrough Linear Park, and the Six Mile Cypress Slough Preserve. Lakes Regional library (8 miles)

⁶ Lee Plan Objectives 2.1 and 2.2.

The proposed site design is compatible with surrounding land uses, which consist of single and multi-family homes ranging in density from 5 to 12 dwelling units per acre.⁷

Lee Plan Consistency

Planned developments must be consistent with the Lee Plan.⁸ The Lee Plan Future Land Use Map classifies the property as Central Urban and Wetlands.⁹ The Central Urban land use category is the second most intense under the Lee Plan. Central Urban areas typically contain a variety of housing types, commercial, services and infrastructure.¹⁰ Permissible residential density ranges from 4 to 10 dwellings per acre, but may be as high as 20 dwellings per acre under certain circumstances.¹¹

The proposed project density of 5.5 units per acre falls within the low end of the permissible range.

A single family community is compatible with existing residential development approvals south of Penzance Boulevard.¹²

Transportation

The Master Concept Plan reflects a single project entrance from the Crystal Drive Extension. Crystal Drive connects to the County road network at Six Mile Cypress Parkway.¹³ The entrance aligns with the proposed entrance to Oak Village RPD. The developer will construct Crystal Drive extension along its frontage with roadside swales consistent with the design of the existing road segment.

The Traffic Impact Statement demonstrates area roadways will operate at acceptable levels of service at buildout.¹⁴ The report concludes the project will mitigate impacts to the county's transportation network through the payment of

⁷ Applicant PowerPoint "Parker Lane Residential Planned Development" dated December 9, 2021. Applicant Hearing Exhibit 1.

⁸ Lee Plan Policy 2.1.2; LDC 34-411(a).

⁹ Lee Plan Objective 1.5, Policies 1.1.3, 1.5.1.

¹⁰ The Central Urban category offers the greatest range and highest levels of urban services and infrastructure. Lee Plan Policy 1.1.3.

¹¹ Developers may increase maximum density to 20 dwellings per acre when utilizing Greater Pine Island Transfer of Development Units. Lee Plan Policy 1.1.3.

¹² Lee Plan Goal 5, Policy 135.1.9.

¹³ There is a median opening at the intersection of Crystal Drive and Six Mile Cypress Parkway allowing all turning movements.

¹⁴ Parker Lane Traffic Impact Statement prepared by David Plummer & Associates, Inc. dated February 6, 2021. Staff Report Attachment L. See Staff Report Attachment M: Memo from Lili Wu Senior Planner Department of Community Development entitled "Parker Lane RPD (DCI 2021-00010) Transportation-Related Analysis.

impact fees. Site-related improvements will be evaluated during local development order review.¹⁵

Environmental

The site is cleared and formerly used for grazing. Onsite wetlands consist of low areas within existing pastureland. The South Florida Management District did not claim jurisdiction over the hydric pasturelands during the Environmental Permitting process.¹⁶ Accordingly, no mitigation is necessary.

The Six Mile Cypress Watershed is a critical area for surface water management.¹⁷ The proposed storm water management system incorporates wet and dry detention prior to discharging into a drainage conveyance on JV Parker Lane. Treated storm water from the site flows south into a portion of the Six Mile Cypress Slough system and ultimately to the Ten Mile Canal.

Urban Services

The Lee Plan requires the availability of urban services to be evaluated during the rezoning process. Urban services are the services, facilities, capital improvements, and infrastructure necessary to support development.¹⁸

As the site lies within the County's urban core, a broad range of services and infrastructure are available to serve future residents. These services include public water and sewer, schools, libraries, medical facilities, law enforcement, fire and emergency medical service.¹⁹ Shopping, recreation, and employment centers are within a short distance. Development will be subject to road, park, school, fire and EMS impact fees.²⁰

Public Participation

Three members of the public spoke at hearing. An area resident expressed his preference for an unpaved emergency access from Blasingim Road. He also requested the developer to design the project storm water management system to outfall to the south rather than the west. Another public participant questioned the legal status of the Crystal Drive extension. A third participant with ownership interest in the Carissa Commerce Center explained the Center constructed the

¹⁵ Developer must address site related improvements, including turn lanes, if warranted during the development order process. Lee Plan Objective 39.1, Policy 39.1.1, LDC 10-287.

¹⁶ Applicant Hearing Exhibit 2.

¹⁷ Lee Plan Objective 60.3.

¹⁸ Lee Plan Glossary definition of urban services.

¹⁹ South Trail Fire & Rescue Services District will provide fire and emergency medical services. Law Enforcement will be supplied by Lee County Sheriff's Central District offices. Lee County Utilities potable water lines are in operation adjacent to the site. Sanitary sewer services will be provided by the City of Fort Myers. Staff Report Attachment N, O and P.

²⁰ LDC 2-261 *et seq.*, 2-301 *et seq.*, 2-341 *et seq.*, 2-381 *et seq.*

improved portion of Crystal Drive including the turn lane improvements. They expressed disappointment that those improvements were not eligible for impact fee credits.

Staff submitted a letter into the record from Keith Poliakoff, Esq.²¹

Conditions

The County must administer the zoning process so that proposed land uses acceptably minimize adverse impacts to adjacent residential properties.²² Accordingly, the proposed RPD will be subject to conditions of approval. Conditions must plausibly relate to the impacts anticipated from the development and be pertinent to mitigating its impacts on public health, safety, and welfare.²³

Deviations

The proposed RPD includes several deviations from the LDC. "Deviations" are departures from the land development regulations.²⁴ An Applicant must demonstrate requested deviations enhance the planned development and not cause a detriment to public interests.²⁵

The Hearing Examiner's standard of review for deviations requires a finding that the deviation:

1. Enhances the objectives of the planned development; and
2. Preserves and promotes public health, safety, and welfare.²⁶

The 9 requested deviations pertain to excavation setbacks, right of way design, cul-de-sac requirements, ingress/egress, and lake bank design criteria. Staff found all deviations met LDC criteria for approval.²⁷

The Hearing Examiner agrees with staff's recommendations finding the requested deviations enhance the RPD and promotes the LDC's intent to protect public health, safety, and welfare.²⁸

²¹ Staff Exhibit 3

²² Lee Plan Policy 135.9.6.

²³ LDC 34-932(b).

²⁴ LDC 34-2.

²⁵ LDC 34-373(a)(9).

²⁶ LDC 34-377(a)(4).

²⁷ South Trail Fire Protection & Rescue Service District offered no objection to the propose deviation from the LDC cul-de-sac requirement, the hammerhead and additional emergency services access road. Staff Report Attachment N: Letter from Nate Burley, Division Chief – Fire and Life Safety, South Trail Fire District.

²⁸ LDC 34-373(a)(9), 34-377(a)(4).

Conclusion

In conclusion, the Hearing Examiner recommends approval of Parker Lane RPD subject to the conditions set forth in Exhibit B.

The Hearing Examiner recommends revisions to the proposed wording of conditions/deviations to improve clarity.²⁹

IV. Findings and Conclusions

Based on the testimony and exhibits presented in the record of this Request, the Hearing Examiner makes the following findings and conclusions:

- A. The requested rezoning to Residential Planned Development complies with the Lee Plan. Lee Plan Goals 2, 4, 5, 60, 61, 77, 135; Objectives 1.5, 2.1, 2.2, 4.1, 5.1, 60.3, 77.1, 77.3, 126.2; Policies 2.1.2, 2.2.1, 5.1.1, 5.1.2, 5.1.7, 135.1.9, 135.9.5, 135.9.6; Lee Plan Maps 1, 6, 7.
- B. *As conditioned*, the Parker Lane Residential Planned Development:
 - 1. Meets the Land Development Code and other County regulations or qualifies for deviations. LDC 10-474, 34-145(d), 34-341, 34-378, 34-411, 34-413, 34-491, 34-612(2), 34-932;
 - 2. Is compatible with existing and planned uses. Lee Plan Objectives 2.1, 2.2, Policies 5.1.5, 135.9.5, 135.9.6; LDC 34-411.
 - 3. Provides access sufficient to support the proposed development intensity. Expected impacts to transportation facilities will be addressed by the conditions of approval and County regulations. Lee Plan Policies 39.1.1; LDC 2-261 *et seq.*, 10-287, 34-411(d).
 - 4. Will not adversely affect environmentally critical/sensitive areas and natural resources. Lee Plan Goals 77, 125; Objectives 77.1, 77.3, 126.2; Policies 61.3.1, 61.3.6, 61.3.11, 126.2.1, Standard 4.1.4; and LDC 34-411(h).
 - 5. Will be served by urban services adequate to serve the proposed land use. Lee Plan Glossary, Lee Plan Maps 6, 7, Goals 2, 4, Objectives 2.1, 2.2, 4.1, and Standards 4.1.1 and 4.1.2; LDC 34-411(d).
- C. The proposed mix of uses is appropriate at the proposed location. Lee Plan Goals 2, 5; Policies 2.1.1, 2.2.2, 5.1.2, 5.1.3, 5.1.5, 135.1.9.

²⁹ LDC 34-932.

- D. The recommended conditions and applicable regulations provide sufficient safeguards to protect the public interest. Lee Plan Policies: 5.1.5, 5.1.6, 126.2.1 and 135.9.6; LDC 34-411.
- E. The recommended conditions are reasonably related to the impacts expected from the proposed development. Lee Plan Policies 5.1.5, 135.9.6; LDC 34-932.
- F. The ten requested deviations, as conditioned:
 - 1. Enhance the objectives of the planned development, and
 - 2. Preserve and promote protection of public health, safety and welfare.

Date of Recommendation: January 4, 2022.



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



DCI2021-00010

Zoning

 Subject Property

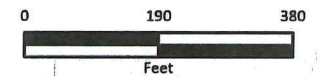


Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

Conditions/deviations reflect Hearing Examiners revisions to improve clarity

CONDITIONS

1. Development must be consistent with the two-page Master Concept Plan entitled "Parker Lane RPD," prepared by DeLisi Fitzgerald, Inc., dated September 3, 2021, except as modified by the conditions below. (Exhibit B1) Development must comply with the Lee Plan and Land Development Code at time of local development order approval, except where deviations are approved herein. Changes to the Master Concept Plan (MCP) may require further development approvals.

Approved Development Parameters: Project density is limited to a maximum of 90 single-family dwelling units.

2. Permitted Uses and Property Development Regulations

- a. Schedule of Uses

Accessory Uses and Structures

Administrative Office

Dwelling Unit, Single-Family

Entrance Gates and Gatehouses

Essential Services

Essential Services Facilities, Group I

Excavation - Water Retention

Fences and Walls

Home Occupation

Models: Model Unit, Model Home, Model Unit (~~Subject to LDC §34-1954~~) (See Condition 3)

Hearing Examiner Note: Delete reference to LDC because it is applicable by virtue of Condition 1)

Parking Lot, Accessory

Real Estate Sales Office (See Condition 3)

Recreation Facilities, Private, On Site, Personal

Signs

Temporary uses

b. Site Development Regulations

Residential Development

Lot Size

Minimum Lot Area:	4,500 square feet
Minimum Lot Depth:	115 feet
Minimum Lot Width:	40 feet

Setbacks

Development Perimeter	5 feet
Street	20 feet
Street (on corner lots)	15 feet

Side	5 feet
Rear	10 feet
Rear Accessory Setbacks	5 feet
Waterbody	20 feet
Waterbody Accessory Setbacks	20 feet
<u>Maximum Lot Coverage</u>	50%

<u>Maximum Height</u>	35 feet
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3. Model Units/ Real Estate Sales

Real Estate Sales are limited to clubhouses and model units. Hours of operation for model units and real estate sales are limited to Monday through Sunday 8 a.m. to 8 p.m.

4. Project Storm Water Outfall to JV Parker Lane

Developer must design the storm water management system to outfall to the south via JV Parker Lane.

DEVIATIONS

1. Excavation Standards. Deviation (1) seeks relief from LDC §10-329(d)(1)a.3., which requires no excavation within 50 feet of a private property line under separate ownership, to allow a minimum setback of 25 feet.

Hearing Examiner Recommendation:

Deviation approved, subject to the following condition:

- a. A double hedgerow and berm, with a minimum total height of four feet is required where the excavation setback to property under separate

ownership is less than 50 feet. In no instance may the setback be less than 25 feet.

2. Street Design and Construction Standards. Deviation (2) seeks relief from LDC §10-296(e)(1)i.4.iii., requiring Crystal Drive to be constructed as an urban minor collector roadway from its current terminus to the project entrance, to allow Crystal Drive to be constructed consistent with the typical section requirements of LDC §10-296 (e)(2)h.4 for a suburban minor collector roadway with open drainage in 60 feet of existing right-of-way as depicted on the Master Concept Plan.

Hearing Examiner Recommendation:

Deviation approved, subject to the following condition:

- a. Developer must design and construct the required sidewalk inside the property line, parallel, or in close proximity to, the right-of-way to accommodate the roadside drainage swale on Crystal Drive. Developer must provide an easement meeting County standards over the property necessary to support the alternative plan. The County will review alternative on-site locations of the sidewalk and easement during development order review.
3. Street Design and Construction Standards. Deviation (3) seeks relief from LDC §10-296(k)(1), requiring dead-end streets to be constructed with a circular turnaround for vehicles, to eliminate the requirement for circular turnarounds in four locations depicted on the Master Concept Plan where there is less than 150 feet of roadway to the nearest intersection.

Hearing Examiner Recommendation:

Deviation approved.

4. Lot Depth. Deviation (4) seeks relief from LDC §10-703, which illustrates how to measure lot depth, to allow the lot depth for three dead-end street lots on the MCP to be measured consistent with the detail on MCP Sheet 2.

Hearing Examiner Recommendation:

Deviation approved.

5. Required Street Access. Deviation (5) seeks relief from LDC §10-291(3), which requires two means of ingress or egress to any residential subdivision greater than 5 acres, to allow for one means of ingress and egress for the development.

Hearing Examiner Recommendation:

Deviation approved, subject to the following conditions:

- a. The emergency only access must be designed with a minimum 20 foot clear width. The access must be stabilized and include signage designating the emergency access route. Developer must submit a letter of no objection to the design from Lee County Public Safety, Lee County Sheriff's Office and the Fire District with jurisdiction prior to development order approval.
 - b. Developer must record a notice to future property owners in the public records prior to the issuance of a local development order allowing construction of project access. The notice must articulate the emergency access plan and provide information on where property owners may obtain a copy of the plan.
 - c. The development order application must include documentation confirming the developer submitted a Crime Prevention through Environmental Design report to the Lee County Sheriff's Department.
6. Excavation Standards. Deviation (6) seeks relief from LDC §10-329 (d)(4), which requires banks of excavations to be sloped at a ratio not greater than 6:1 to allow for 4:1 lake bank slopes.

Hearing Examiner Recommendation:

Deviation approved.

7. Planted Littoral Shelf/Surface Water Management Systems. Deviation (7) seeks relief from LDC §10-418(2)d, which requires littoral areas to be planted with herbaceous plant material to allow no herbaceous plants in littoral areas on the water management lake.

Hearing Examiner Recommendation:

Deviation approved, subject to the following condition:

- a. Development order landscape plans must depict 100% of required littorals substituted with native wetland trees planted around surface water management lakes. One native wetland tree must be substituted for 100 littoral plants based on LDC littoral plant calculations. Native wetland trees must be specified at ten-feet-in-height, two-inch caliper, and a four-foot canopy spread.

8. Planted Littoral Shelf/Surface Water Management Systems. Deviation (8) seeks relief from LDC §10-418(2)d.3, which permits a maximum of 25 percent of required herbaceous plants on littoral areas to be converted to wetland trees, to allow for the conversion of 100 percent of required littoral plantings to wetland trees.

Hearing Examiner Recommendation:

Deviation approved, subject to the following condition:

- a. Development order landscape plans must depict 100% of required littorals substituted with native wetland trees planted around surface water management lakes. One native wetland tree must be substituted for 100 littoral plants based on LDC littoral plant calculations. The native wetland trees must be specified at ten-feet-in-height, two-inch caliper, and a four-foot canopy spread.
9. Excavation Standards. Deviation (9) seeks relief from LDC §10-329(d)(1)a.1., which requires lakes to be setback a minimum 25 feet from local road rights-of-way, to allow the proposed lake to be set back a minimum of 20 feet from the right-of-way.

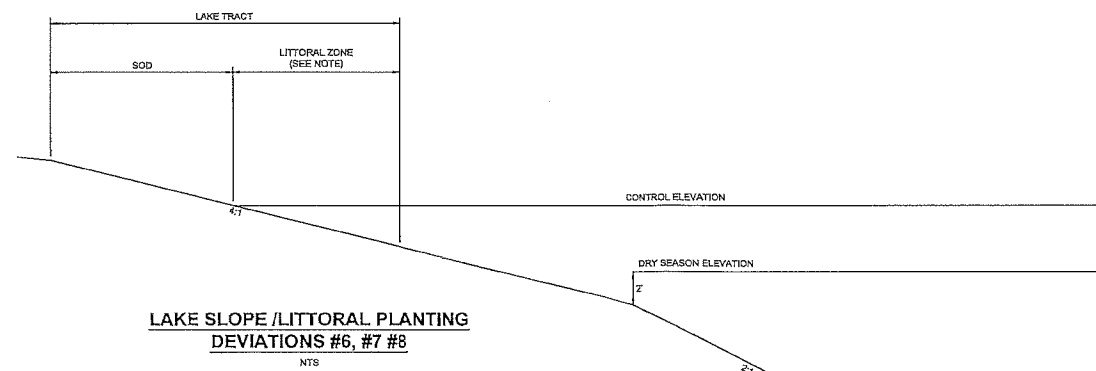
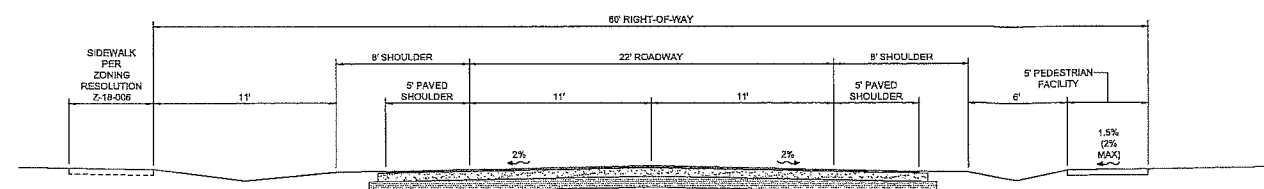
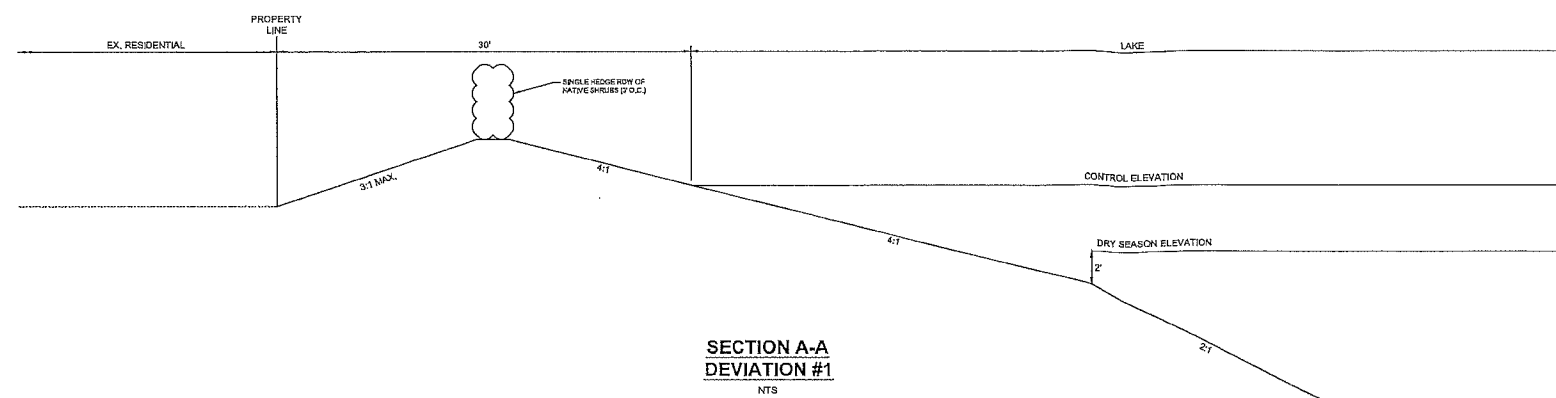
Hearing Examiner Recommendation:

Deviation approved, subject to the following condition:

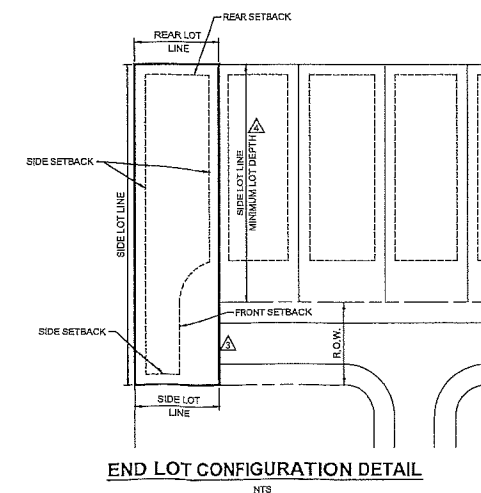
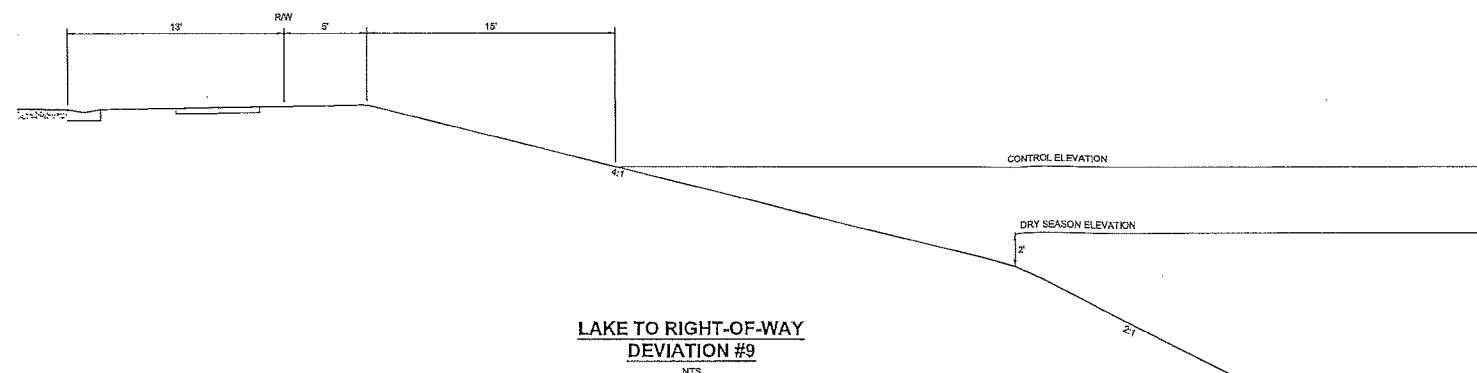
- a. Where the excavation setback from a local road right-of-way is less than 25 feet, developer must implement measures to prevent wayward vehicles using guardrails, berms, swales, vegetation or other methods determined suitable by the Director.

Exhibits to Conditions:


B1 Master Concept Plan entitled: Parker Lane RPD dated September 3, 2021



NOTE:
ALL REQUIRED LITTORAL PLANTINGS FOR THE
LITTORAL ZONE SHALL BE WETLAND TREES.
NO HERBACEOUS PLANTINGS ALLOWED.



DELISI FITZGERALD, INC.
Planning • Engineering • Project Management

 1005 Hendry Street
Fort Myers, FL 33901
(239) 413-0691

Florida Certificate
of Authorization

PARKER LANE RPD

OWNER / DEVELOPER:
LENNAR

APPENDIX

[illegible]

MASTER CONCEPT PLA
DETAILS

Project Manager:		
Drawn By:		
Checked By:		
Project Number:		21
Located in Section(s):		
Township: 45 S		Range:
County, State:		LEE COUNTY

Status:
FOR CONSTRUCTION
SUBJECT TO PERMIT APPROVALS

Sheet Number:	20
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Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Dirk Danley, Senior Planner, date stamped received November 24, 2021 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *PowerPoint Presentation:* Prepared by DCD Staff Presentation, for Parker Lane Residential Planned Development (RPD), DCI2021-00010 (multiple pages – 8.5"x11")[color]
3. *Letter of Objection:* From Keith M. Poliakoff, Esq., with Government Law Group, to David Loveland, Director of Lee County Department of Community Development, dated December 3, 2021, regarding Parker Lane RPD, DCI2021-00010, Lennar's Request to Rezone and Seek Deviations, Ownership of Crystal Drive, representing Carissa, LLC., & Six Mile Partners, LLC (2 pages – 8.5"x11")

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Olga Ramos, with Pavese Law Firm, to Maria Perez, with copies to Neale Montgomery, Drew Fitzgerald, Dan DeLisi, & Barry Ernst, dated Tuesday, December 7, 2021, 9:01 AM (2 pages – 8.5"x11")
- b. *Second 48-Hour Notice:* Email from Neale Montgomery, Esq., to Maria Perez, with copies to Jacob Taminosian, dated Tuesday, December 7, 2021 10:11 AM (4 pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared for Parker Lane Residential Planned Development, Hearing Examiner Hearing, dated December 9, 2021 (multiple pages – 8.5"x11")[color]
2. *Environmental Resource Permit:* From South Florida Water Management District, ERP Permit No. 36-105309-P, issued August 5, 2021, Expiration date August 5, 2026, Application No. 210415-5935, Permittee Lennar Homes, LLC., Project Name Parker Lane RPD (multiple pages – 8.5"x11" & 11"x17")
3. *Development Order Plans Approval:* For Oak Villages, 12270 & 12330 JV Parker Lane, Fort Myers, Florida 33916, DOS2015-00027 (multiple pages – 11"x17")
4. *Email:* From John Fredyma, Esq., to Richard Wesch, Esq., with copies to Glen Salyer, Susan Amburgey, & Al Quattrone, dated Friday, July 31, 2015 3:23 PM, regarding Oak Villages Site Plan Color (2 pages – 8.5"x11")

5. *Land Development Code 2-264, Definitions & Rules of Construction:* (multiple pages – 8.5"x11")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Dan DeLisi
2. Drew Fitzgerald
3. Stephen Leung

Applicant Representatives:

1. Dirk Danley, Jr.

Public Participants:

1. Bill Ennen
2. Stephanie Miller
3. David Richards

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.

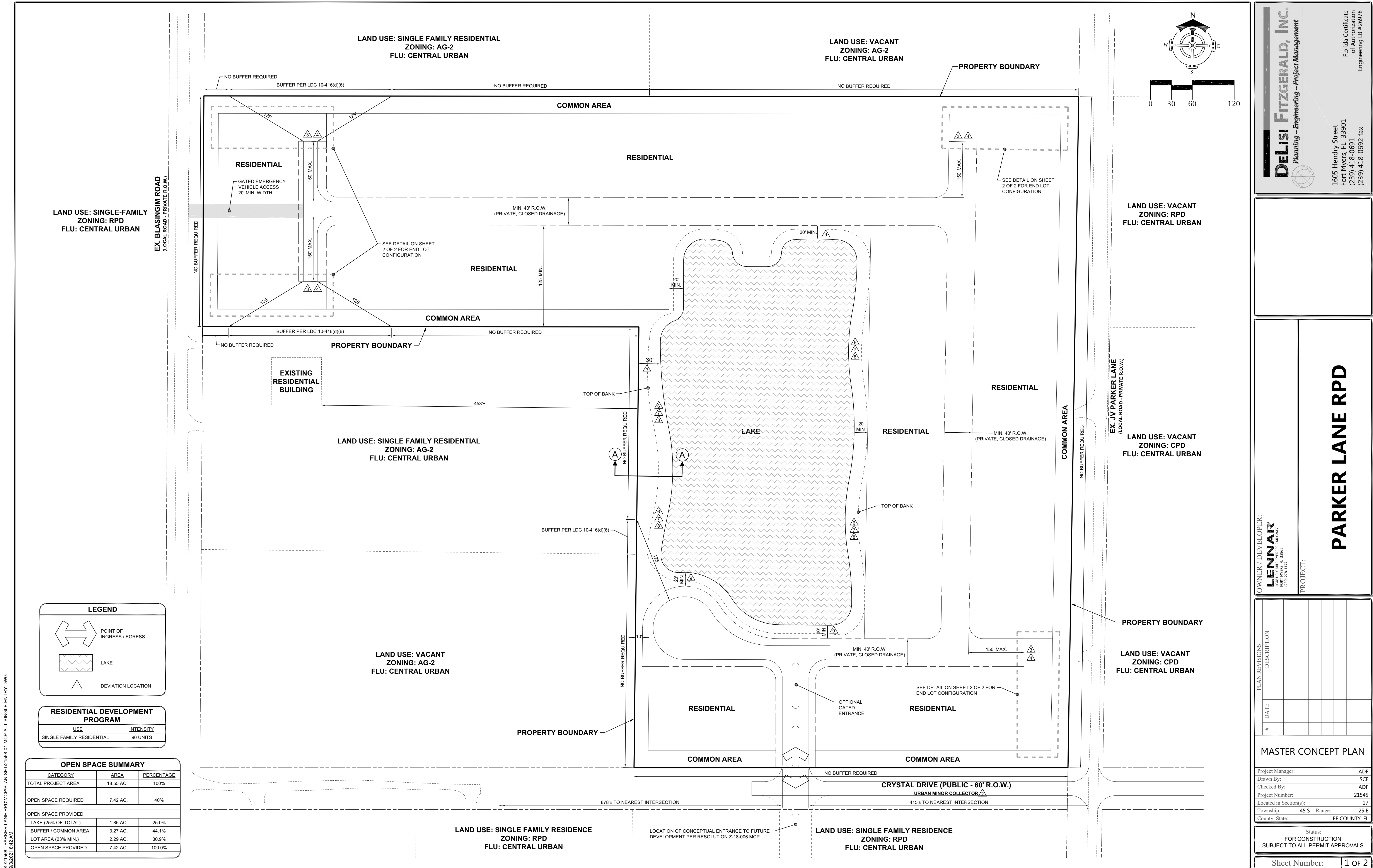
HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

- 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.

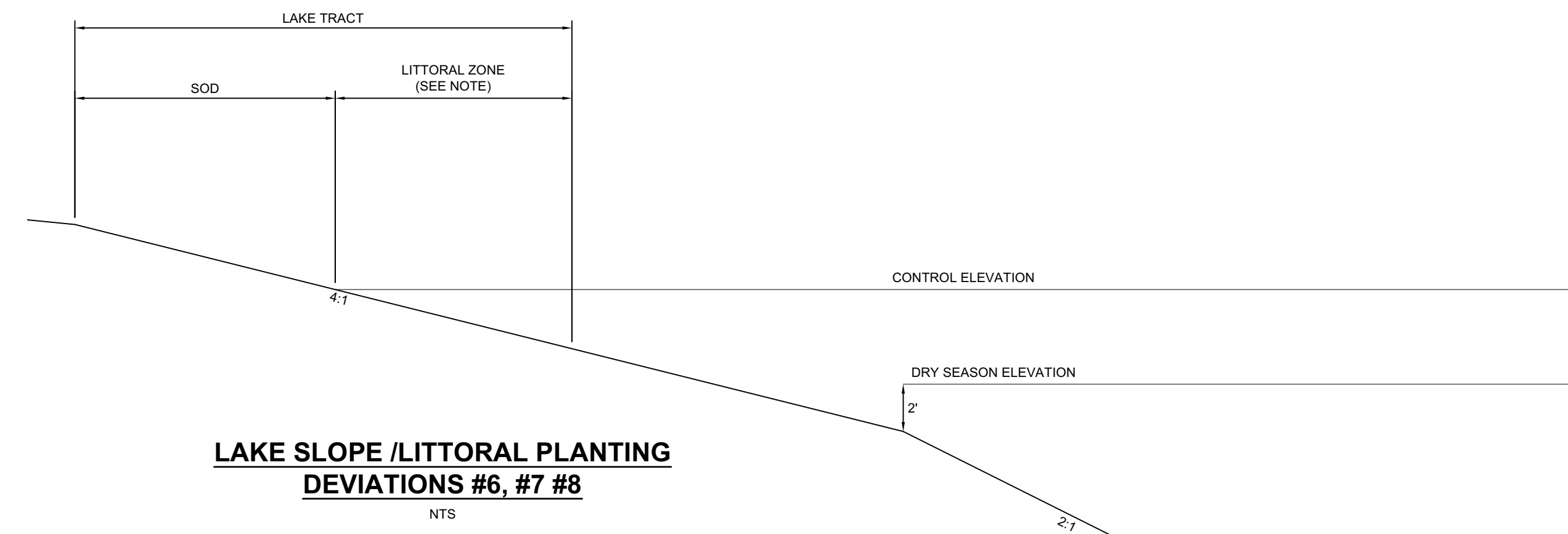
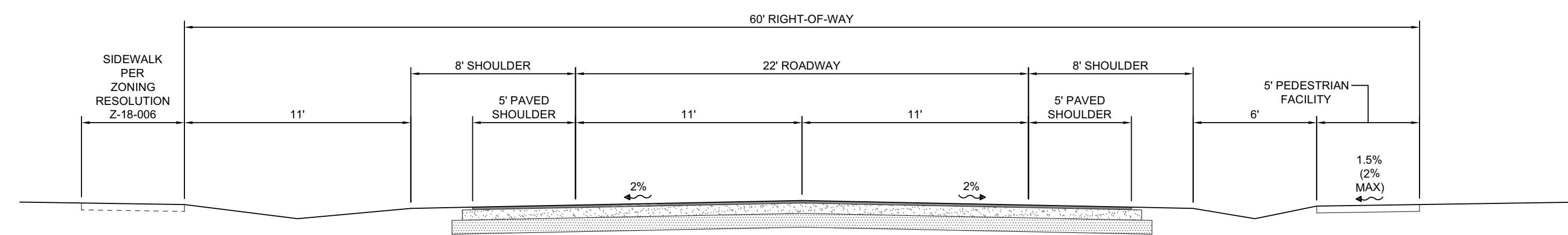
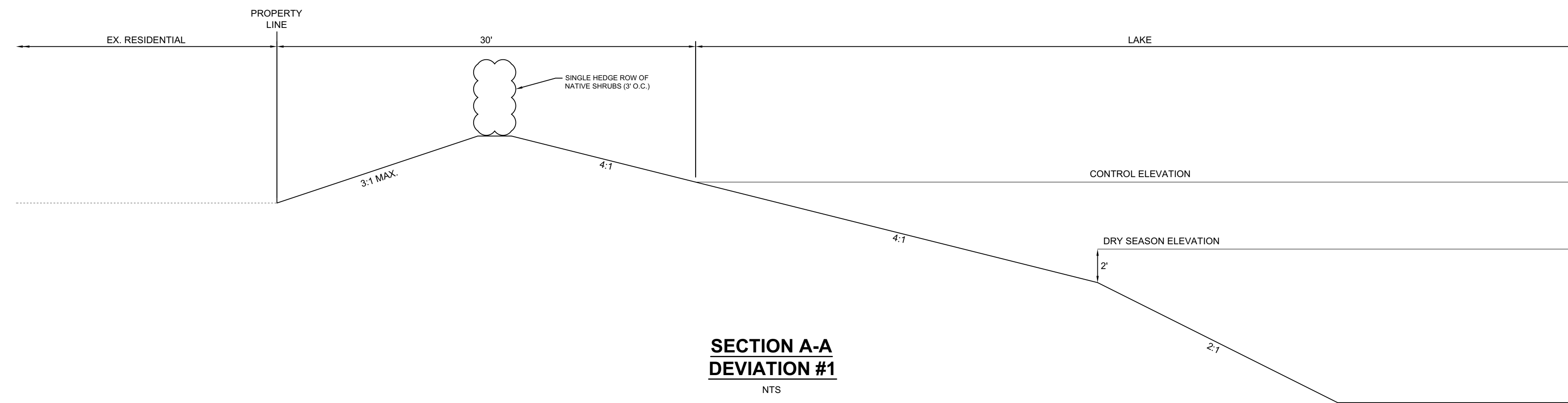
COPIES OF TESTIMONY AND TRANSCRIPTS

- 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.

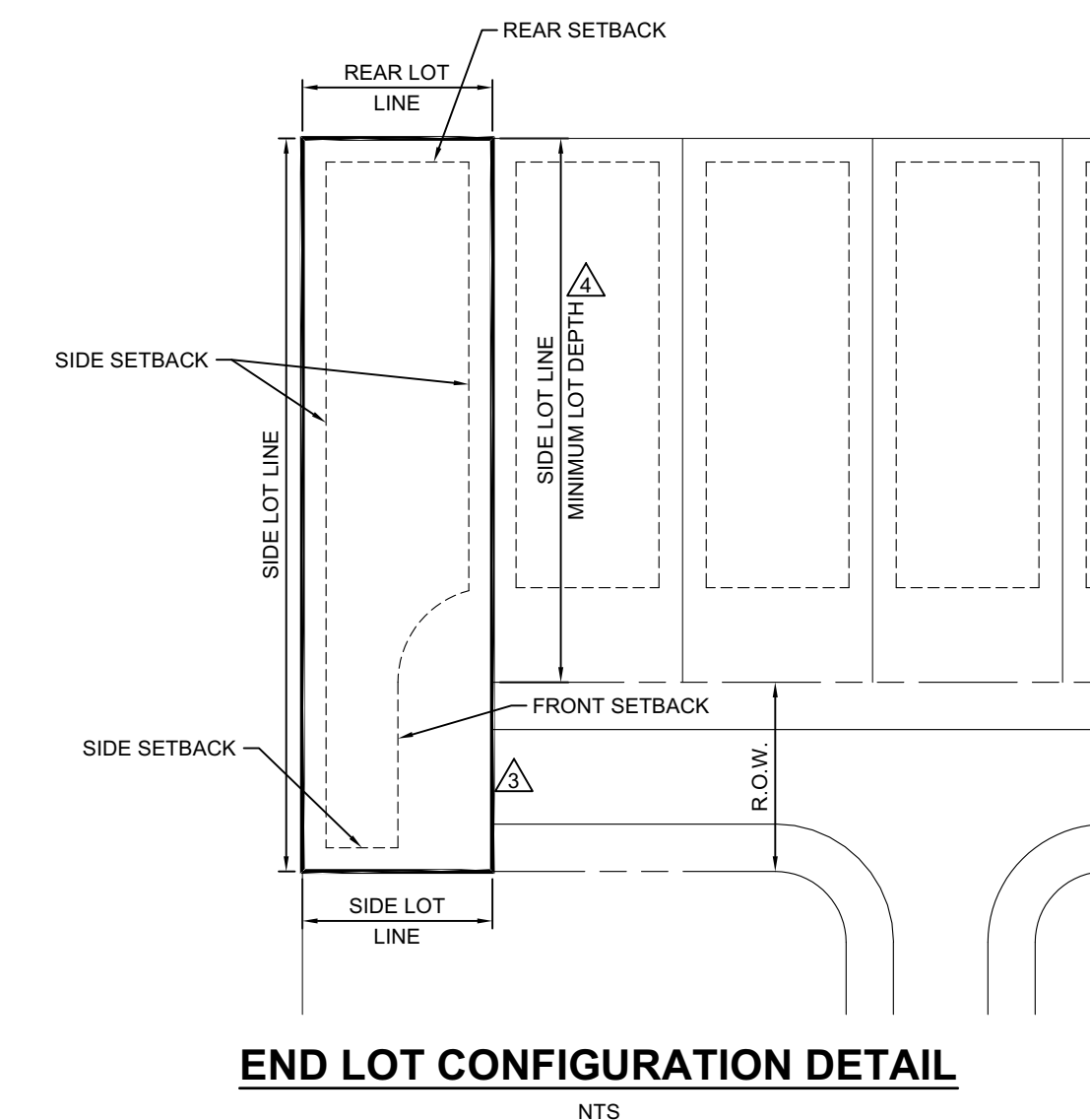
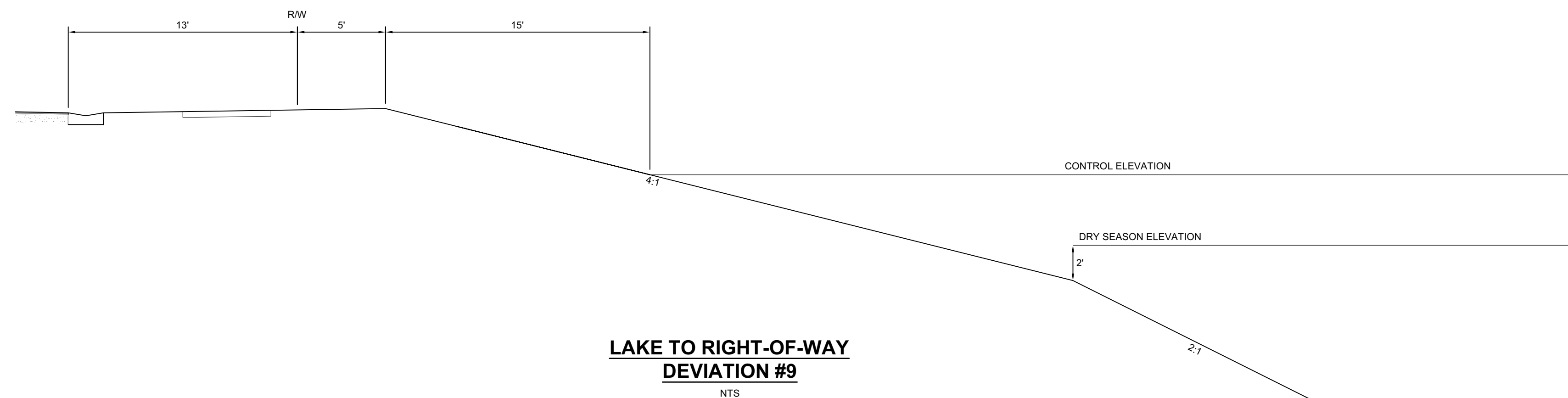
Additional info dated 09-03-2021



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09/03/2021 09:42 AM



NOTE:
ALL REQUIRED LITTORAL PLANTINGS FOR THE
LITTORAL ZONE SHALL BE WETLAND TREES.
NO HERBACEOUS PLANTINGS ALLOWED.



DELISI FITZGERALD, INC.

Planning • Engineering • Project Management



1605 Hendry Street
Fort Myers, FL 33901
(239) 418-0691
(239) 418-0692 fax

Florida Certificate
No. PC 15969
Engineering LB #26978

OWNER / DEVELOPER:
LENNAR
10485 SW 104th STREET
DADE CITY, FL 33626
(239) 278-1177

PROJECT:

PARKER LANE RPD

PLAN REVISIONS		DESCRIPTION													
#	DATE														
<div style="text-align: center;"> <h1>MASTER CONCEPT PLAN DETAILS</h1> </div>															
Project Manager:														ADF	
Drawn By:														SCF	
Checked By:														ADF	
Project Number:														21545	
Located in Section(s):														17	
Township:														45 S 24 E	
County, State:														LEE COUNTY, FL	

Status:
FOR CONSTRUCTION
SUBJECT TO PERMIT APPROVALS

A. Conditions

1. Development must be consistent with the two-page Master Concept Plan (MCP) entitled "Parker Lane RPD," prepared by DeLisi Fitzgerald, Inc., dated September 3, 2021 except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code 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.

Project density is limited to the development of a maximum of 90 single-family dwelling units and accessory uses.

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

- a. Schedule of Uses

Accessory Uses and Structures
 Administrative Office
 Dwelling Unit, Single-Family
 Entrance Gates and Gatehouses
 Essential Services
 Essential Services Facilities, Group I
 Excavation - Water Retention
 Fences and Walls
 Home Occupation
 Models: Model Unit, Model Home, Model Unit (Subject to LDC Section 34-1954) (See Condition 3)
 Parking Lot, Accessory
 Real Estate Sales Office (See Condition 3)
 Recreation Facilities, Private, On Site, Personal
 Signs
 Temporary uses

- b. Site Development Regulations

Residential Development

Lot Size

Minimum Lot Area:	4,500 square feet
Minimum Lot Depth:	40 feet
Minimum Lot Width:	115 feet

Setbacks

Development Perimeter	5 feet
Street	20 feet
Street (on corner lots)	15 feet

Side	5 feet
Rear	10 feet
Rear Accessory Setbacks	5 feet
Waterbody	20 feet
Waterbody Accessory Setbacks	20 feet
<u>Maximum Lot Coverage</u>	50 percent
<u>Maximum Height</u>	35 feet

3. Model Units/ Real Estate Sales

Real Estate Sales are limited to clubhouses and model units. Hours of operation for model units and real estate sales are limited to Monday through Sunday 8 a.m. to 8 p.m.

4. Wetland Mitigation

Prior to any site work, a receipt of payment for the offsite wetland mitigation credit must be submitted.

B. Deviations

1. Deviation (1) seeks relief from LDC Section 10-329(d)(1)a.3., which requires that no excavation be allowed within 50 feet of any private property line under separate ownership, to allow a minimum setback of 25 feet.

This deviation is APPROVED, subject to the following condition:

- a. A double hedgerow and berm, with a minimum total height of four feet, is required where the excavation setback to property under separate ownership is less than 50 feet. In no instance may the setback be less than 25 feet.
2. Deviation (2) seeks relief from LDC Section 10-296(e)(1)i.4.iii., requiring Crystal Drive to be constructed as an urban minor collector roadway from its current terminus to the project entrance, to allow Crystal Drive to be constructed consistent with the typical section requirements of LDC Section 10-296 (e)(2)h.4 for a suburban minor collector roadway with open drainage in 60 feet of existing right-of-way as depicted on the Master Concept Plan.

This deviation is APPROVED subject to the following condition:

- a. To accommodate the roadside drainage swale along Crystal Dr, the required sidewalk shall be designed and constructed inside the property line parallel or in close proximity to the right-of-way. The developer shall provide an easement meeting County standards over the property necessary to support the alternative

plan. The alternative on-site locations of the sidewalk with associated easement shall be reviewed and approved in accordance with LDC Section 10-256 during the development order review.

3. Deviation (3) seeks relief from LDC Section 10-296(k)(1), requiring dead-end streets to be constructed with a circular turnaround for vehicles, to eliminate the requirements for circular turnarounds in four locations depicted on the Master Concept Plan where there is less than 150 feet of roadway to the nearest intersection.

This deviation is APPROVED.

4. Deviation (4) seeks relief from LDC Section 10-703, which contains illustrations on how to measure lot depth, to allow the lot depth for three dead-end street lots on the Master Concept Plan to be measured as depicted in the detail on Sheet 2 of the Master Concept Plan.

This deviation is APPROVED.

5. Deviation (5) seeks relief from 10-291(3), which requires two means of ingress or egress to any residential subdivision greater than 5 acres, to allow for one means of ingress and egress for the development.

This deviation is APPROVED, subject to the following conditions:

- a. The emergency only access must be designed with a minimum 20 foot clear width. The access must be stabilized and signage designating the emergency access route must be provided. A letter of no objection to the design must be provided from Lee County Public Safety, the Lee County Sheriff's Office and the Fire District having jurisdiction prior to development order approval.
 - b. A notice to all future property owners must be recorded by the developer in the public records prior to the issuance of a local development order allowing construction of the access to the development. The notice must articulate 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.
 - c. At time of development order application, the applicant must demonstrate that a Crime Prevention through Environmental Design (CPTED) report has been submitted to the Lee County Sheriff's Department.
6. Deviation (6) seeks relief from LDC Section 10-329 (d)(4), which requires banks of excavations to be sloped at a ratio not greater than 6:1 slope to allow for 4:1 lake bank slopes.

This deviation is APPROVED.

7. Deviation (7) seeks relief from LDC Section 10-418(2)d, which requires littoral areas to be planted with herbaceous plant material to allow for the planting of no herbaceous plants on the littorals area on the water management lake.

This deviation is APPROVED, subject to the following condition:

- a. Prior to development order approval, the landscape plans must depict 100% of the required littorals substituted with native, wetland trees and located around the surface water management lakes. One native, wetland tree must be substituted for 100 littoral plants based on the littoral plant calculation per LDC Section 10-418(d)(2). The native, wetland trees must be specified at ten-foot-in-height, two-inch caliper, and a four-foot canopy spread.
8. Deviation (8) seeks relief from LDC Section 10-418(2)d.3, which permits a maximum of 25 percent of the required herbaceous plants on littoral areas to be converted to wetland trees, to allow for the conversion of 100 percent of the required littoral plantings to wetland trees.

This deviation is APPROVED, subject to the following condition:

- a. Prior to development order approval, the landscape plans must depict 100% of the required littorals substituted with native, wetland trees and located around the surface water management lakes. One native, wetland tree must be substituted for 100 littoral plants based on the littoral plant calculation per LDC Section 10-418(d)(2). The native, wetland trees must be specified at ten-foot-in-height, two-inch caliper, and a four-foot canopy spread.
9. Deviation (9) seeks relief from LDC Section 10-329(d)(1)a.1., which requires a lake to be setback a minimum 25 feet from a local road right-of-way, to allow the proposed lake to be setback a minimum of 20 feet from the right-of-way line.

This deviation is approved, subject to the following condition:

- a. Where the minimum setback of 25 feet from an excavation to the local road right-of-way cannot be met, measures to prevent wayward vehicles through the use of guardrails, berms, swales, vegetation or other suitable methods as determined by the Director must be provided.

Lee County, Florida
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION
STAFF REPORT

CASE NUMBER: DCI2021-00010

CASE NAME: PARKER LANE RESIDENTIAL PLANNED DEVELOPMENT

TYPE OF CASE: MINOR PLANNED DEVELOPMENT

HEARING EXAMINER DATE: DECEMBER 7, 2021

SUFFICIENCY DATE: OCTOBER 7, 2021

REQUEST:

An application has been submitted by Daniel DeLisi, AICP of DeLisi, Inc. on behalf of Barry Ernst of Lennar Homes, to request a rezoning of approximately 18.55 acres from Agricultural (AG-2) to Residential Planned Development (RPD) to allow for the development of up to 90 dwelling units with accessory uses. The applicant seeks deviations regarding reduction in setbacks for excavations, modifications to right-of-way design, allowance for a single point of ingress and egress, and relief to address FAA guidelines as it pertains to lake bank design.

The subject property is located at 12091 Blasingim Road, South Fort Myers Planning Community, Lee County, FL. (District #2), STRAP Numbers 17-45-25-01-00000-0100.

SUMMARY:

Staff recommends **APPROVAL** of the applicant's request, with the Conditions found in Attachment C. The applicant seeks nine deviations to permit reductions in setbacks for excavations, alternative right-of-way design, allowance for a single point of ingress and egress, and relief to address FAA guidelines as it pertains to lake bank design. Staff also recommends approval of these deviations.

HISTORY OF PARCEL AND CHARACTER OF THE AREA:

The subject property is located along the Crystal Drive right-of-way between JV Parker Lane and Blasingim Road, and is approximately 18.55 acres in area. The subject property is near the intersection of Ben C Pratt/Six Mile Cypress Parkway and Crystal Drive, which will facilitates access to the County roadway network. The property has a limited zoning history, with the sole zoning action being a Special Permit for a mobile home on the northwest portion of the property (Resolution Z-74-137, Attachment G). This resolution is no longer in effect on the property.

The property is currently developed with a single family home, accessory uses, and agricultural land that is accessed by JV Parker Lane. The existing development is characteristic of many properties in the area, but an influx of more suburban style residential development consistent with the underlying future land use designation has occurred in this area as housing demand increases in Lee County.

Properties to the north and west are zoned Agricultural (AG-2) and are either undeveloped or developed with large lot residential development. A residential development known as Windsong, which was rezoned to Residential Planned Development (RPD) by Resolution Z-16-024, is located across Blasingim

Road from the subject property (Attachment H). This development, which is approved for a maximum of 120 single-family dwelling units on 24.11 acres, does not have access onto Blasingim Road, but includes a deviation to provide a stabilized emergency access onto Blasingim Road in lieu of a second means of ingress and egress. There is also an approved administrative action to this development to allow for an amended Master Concept Plans and an approved deviation to allow for a reduced setback for lake excavations (ADD2018-10017, Attachment H).

Property to the south is zoned Residential Planned Development (RPD) (Oak Villages RPD, Resolution Z-18-006, Attachment I). This planned development approved a maximum of 255 multiple family and single family dwelling units. This planned development was amended by ADD2020-00036 to reduce the number of multiple family buildings, adding parking stalls, and approve deviations for signage and parking design (Attachment I). The property remains undeveloped; however, it should be noted that the current approved Master Concept Plan for Oak Villages aligns with the primary access point onto Crystal Drive proposed by the subject request.

Property to the east is separated by JV Parker Lane, and is zoned Residential Planned Development (RPD). There are two Residential Planned Developments (RPDs) approved to the east including Carissa Minor RPD, approved by Resolution Z-21-006 (Attachment J) and Cypress Village RPD approved by Resolution Z-13-025 (Attachment K). Both are currently undeveloped.

The subject property is in the Central Urban future land use category; as such, the request must be found consistent with Lee Plan Policy 1.1.3. The subject property is also located in the South Fort Myers Planning Community, which includes areas west of the Six Mile Cypress Slough and is characterized by higher density and intensity land use categories, and include a mix of commercial uses along major corridors in the area.

ANALYSIS

This request is to rezone approximately 18.55 acres from Agricultural (AG-2) to Residential Planned Development (RPD) to allow for the development of up to 90 dwelling units with accessory uses. The applicant seeks deviations pertaining to a reduction in setbacks for excavations, modifications to right-of-way design, allowance for a single point of ingress and egress, and relief to address FAA guidelines as it pertains to lake bank design. The applicant provided a request statement detailing the nature of the rezoning request, and how the request meets the decision making criteria for planned development rezoning requests (Attachment D).

Planned Development Rezoning:

Section 34-612 of the Lee County Land Development Code describes the intent of the utilization of the Planned Development zoning district. The purpose of planned developments is to further implement the goals, objectives, and policies of the Lee Plan, while providing some degree of flexibility in the planning and design of proposed developments.

Section 34-145 of the Land Development Code (LDC) establishes the review criteria for all rezoning requests. Before recommending approval of a rezoning request, the Hearing Examiner must find 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.

For Planned Development rezoning requests, the Hearing Examiner must also find:

- a) The proposed use or mix of uses is appropriate at the proposed location;
- b) 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
- c) That each requested deviation:
 - 1) Enhances the achievement of the objectives of the planned development; and
 - 2) Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.

Master Concept Plan:

The applicant has provided a two-page Master Concept Plan which depicts vehicular circulation, location of lots, water retention, and open space areas (Attachment T). Access to the subject property is proposed from Crystal Drive, while a stabilized emergency access point is proposed onto Blasingim Road. The Master Concept Plan depicts the location of deviation requests and locations of buffers on the property. The second page of the Master Concept Plan details cross sections for Crystal Drive, for lake banks slopes, and for the measurement of lot dimensions and setbacks for end lots within the development.

Development Pattern Considerations:

The subject property is in the Central Urban future land use category as described in Lee Policy 1.1.3, which is described as the 'urban core' of the county. Areas designated as Central Urban allow for standard densities from four dwelling units per acre to ten units per acre as well as a mix of commercial, public and semi-public, and light industrial land uses. The applicant seeks residential development that allows for up to 5.5 dwelling units per acre, which is well within the standard density range established for this land use category. Staff finds the proposed request consistent with Lee Plan Policy 1.1.3.

Objective 1.5 establishes policies regarding the use and development of wetlands. The applicant states that there are approximately 2.17 acres of hydric pasture wetlands on the property. Wetlands on the project site consist of low areas in an existing pasture that have been disturbed by cattle grazing and exotic plant species. The applicant intends to mitigate the impact to the existing wetlands through the purchase of off-site wetland mitigation bank credits, consistent with Lee Plan Policy 123.1.1. Staff finds the proposed request consistent with Objective 1.5 and Policy 123.1.1.

Objectives 2.1 and 2.2 encourage new growth in future urban areas where adequate facilities exist or are assured and where compact and contiguous development patterns can be created. The subject property is located in a transitioning area within a future urban land use category that has experienced considerable

growth, including recent zoning approvals for higher density projects adjacent to the subject property. Policy 2.2.1 encourages clustered mixed use development within Lee County where sufficient infrastructure exists. The applicant has provided sufficient documentation to demonstrate that the available infrastructure would support the development intensity that is proposed (see Attachments D, P and L). Staff finds this Planned Development Rezoning consistent with Objective 2.1, Objective 2.2, and Policy 2.2.1.

Goal 5 of the Lee Plan establishes Objectives and Policies to provide sufficient land to accommodate the project population to the year 2045 in attractive and safe neighborhoods with a mix of housing types and prices.

Policy 5.1.2 prohibits residential development where physical constraints or hazards exist or require density and design to be adjusted accordingly to be sensitive to such constraints. This policy notes physical constraints include flood, storm, or hurricane hazards, environmental limitations, or characteristics that may endanger the residential community. The subject property does not have significant physical constraints to limit development of the property. The subject property is not located in a Coastal High Hazard Area or floodway and is located in Flood Insurance Rate Map (FIRM) Zone AH-EL 16.5 and X. Regardless of the lack of physical constraints evident on the subject property, the applicant will be required to meet the requirements of Chapter 2, Article XI of the Land Development Code regarding hurricane preparedness and mitigation at the time of application for a local development order. This includes the determination of necessary hurricane sheltering, and mitigation of impacts to state evacuation times. Additionally, there are no significant environmental impacts that may take place as a result of this development, as the site is already cleared of most vegetation and has historically been used for agricultural activities. Staff finds the request consistent with Lee Plan Policy 5.1.2.

Lee Plan Policy 5.1.3 states that during the rezoning process, high-density residential developments should be directed to locations near employment and shopping centers that are accessible to mass transit and bicycle facilities, and are close to parks and schools. Within a 3 mile radius, future residents of the proposed development will have access to Gulf Coast Hospital, significant employment centers and shopping areas. The property is also near the Six Mile Cypress Slough and a multiple use path along both sides of Ben C Pratt/Six Mile Cypress Parkway. Staff finds the request consistent with Lee Plan Policy 5.1.3.

Policy 5.1.5 of the Lee Plan intends to protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of residential development. The surrounding development patterns include a mixture of low density residential development and vacant land. Because much of the vacant land surrounding the subject property is zoned for higher density residential development, staff finds the proposed request generally compatible with the surrounding development. Staff has received inquiries into whether or not the applicant seeks access onto Blasingim Road, which is maintained by a just a few adjacent property owners. The inquiries expressed concern over the significant increase in traffic on Blasingim Road, and whether or not the applicant will be maintaining the roadway section. Since these inquiries have been made, the applicant has removed the secondary access point and replaced it with a stabilized emergency access to address this concern. Staff finds the request consistent with Lee Plan Policy 5.1.5.

Policy 115.1.2 requires new development and additions to existing development to not degrade surface and ground water quality. Future development of the property will require an Environmental Resource Permit from the South Florida Water Management District, and the project will be required to comply with state and local regulations as it pertains to water quality. The applicant has not requested deviations

from any water quality requirements established in the Land Development Code. Staff finds this planned development rezoning request consistent with Policy 115.1.2.

Goal 123 establishes objectives and policies to manage wetland and upland ecosystems and natural resources in order to maintain and enhance native habitats. Policy 123.2.6 encourages the avoidance of disturbing vegetative communities through alternative design layout. Because existing wetlands are significantly impacted by historic agricultural activities, the proposed project will not impact indigenous wetland and upland areas. Staff finds the request consistent with Goal 123 and Policy 123.2.6.

Goal 125 of the Lee Plan establishes objectives and policies to ensure that water quality is maintained or improved for the environment and people of Lee County. Objective 125.1 states that development must maintain high water quality, meeting or exceeding state and federal water quality standards. Policies 125.1.2 and 125.1.3 require new development to not degrade surface and ground water quality and require the design of drainage systems that minimize nutrient loading and pollution in off-site charges. Staff finds the request consistent with Goal 125, Objective 125.1, and Policies 125.1.2 and 125.1.3.

Goal 135 of the Lee Plan addresses the necessity to meet housing needs as Lee County grows in population. Policy 135.1.9 states that the county will ensure a mix of residential housing types on a county wide basis through the planned development process. The proposed rezoning will allow for up to 90 single family dwelling units. The housing type is similar to those surrounding the subject property, but with smaller lot development. The area includes a mix of zoning entitlements that provide for both single-family and multiple-family housing types. The proposed rezoning will facilitate the development of additional housing in Lee County while still being compatible with surrounding development patterns and housing types. Staff finds the proposed rezoning consistent with Goal 135 and Policy 138.1.9.

Transportation Considerations:

The applicant has provided a traffic impact statement for the proposed development detailing an analysis of impacts to the surrounding transportation system (Attachment L). Infrastructure planning staff has provided an analysis of the applicant's traffic impact statement (Attachment M) and has determined that the proposed project will not have a detrimental impact to the surrounding roadway system.

Bicycle and Pedestrian Facilities:

The subject property is in proximity to Ben C Pratt/ Six Mile Cypress Parkway which is located on Lee Plan Map 3D. This arterial roadway has multiple use paths on both sides of the roadway. At the time of local development order, the applicant will be required to demonstrate compliance with the requirements of Chapter 10 as it pertains to bicycle and pedestrian facilities.

Urban Services:

The subject property is serviced by the South Trail Fire and EMS station, which is approximately 3.02 miles southeast of the property, and a Sheriff's station 4.07 miles southwest of the property. The proposed development will have access to Lee County Utilities for both water and wastewater (Attachment P). The request is consistent with Lee Plan Standards 4.1.1 and 4.1.2.

DEVIATION REQUESTS:

The applicant seeks the following deviations as part of this planned development rezoning (Attachment F). Staff provides the following analysis on the following deviation requests:

1. Deviation (1) seeks relief from LDC Section 10-329(d)(1)a.3., which requires that no excavation be allowed within 50 feet of any private property line under separate ownership, to allow a minimum setback of 25 feet.

Development services staff reviewed this request (Attachment R) and finds that Land Development Code Section 10-104 allows for administrative reduction to 25 feet from the property for properties under separate ownership. The applicant proposes a vegetated berm to provide a physical barrier between the storm water excavation and adjacent properties. Staff recommends approval of this deviation, subject to the following condition:

- a. A double hedgerow and berm, with a minimum total height of four feet, is required where the excavation setback to property under separate ownership is less than 50 feet. In no instance may the setback be less than 25 feet.
2. Deviation (2) seeks relief from LDC Section 10-296(e)(1)i.4.iii., requiring Crystal Drive to be constructed as an urban minor collector roadway from its current terminus to the project entrance, to allow Crystal Drive to be constructed consistent with the typical section requirements of LDC Section 10-296 (e)(2)h.4 for a suburban minor collector roadway with open drainage in 60 feet of existing right-of-way as depicted on the Master Concept Plan.

Lee County Department of Transportation staff reviewed this deviation request (Attachment S), and recommends approval of this deviation, subject to the following condition:

- a. To accommodate the roadside drainage swale along Crystal Dr, the required sidewalk shall be designed and constructed inside the property line parallel or in close proximity to the right-of-way. The developer shall provide an easement meeting County standards over the property necessary to support the alternative plan. The alternative on-site locations of the sidewalk with associated easement shall be reviewed and approved in accordance with LDC Section 10-256 during the development order review.
3. Deviation (3) seeks relief from LDC Section 10-296(k)(1), requiring dead-end streets to be constructed with a circular turnaround for vehicles, to eliminate the requirements for circular turnarounds in four locations depicted on the Master Concept Plan where there is less than 150 feet of roadway to the nearest intersection.

Development services staff reviewed this request (Attachment R) and finds that each dead end is less than the maximum allowed throat depth of 150 feet. Additionally, the applicant has provided a letter of no objection from the fire district (Attachment N). Staff recommends approval of this deviation.

4. Deviation (4) seeks relief from LDC Section 10-703, which contains illustrations on how to measure lot depth, to allow the lot depth for three dead-end street lots on the Master Concept Plan to be measured as depicted in the detail on Sheet 2 of the Master Concept Plan.

The applicant's detail on Sheet 2 of the Master Concept Plan depicts how lots should be measured at the end of roadways internal to the development. Staff recommends **approval** of this deviation.

5. Deviation (5) seeks relief from LDC Section 10-291(3), which requires two means of ingress or egress to any residential subdivision greater than 5 acres, to allow for one means of ingress and egress for the development.

Development services staff reviewed this request and provided substantive comment (Attachment R). The applicant also provided letters of no objection from the Fire District (Attachment N) and Lee County Sheriff's Department (Attachment O) in support of the request. Staff notes that the Sheriff's Department requested that the applicant provide a Crime Prevention Through Environmental Design (CPTED) report at the time of development order application. Staff recommends that the proposed stabilization also be reviewed and approved by these emergency response entities at time of development order application. Staff recommends **approval** of this deviation, subject to the following conditions:

- a. The emergency only access must be designed with a minimum 20-foot clear width. The access must be stabilized and signage designating the emergency access route must be provided. A letter of no objection to the design must be provided from Lee County Public Safety, the Lee County Sheriff's Office and the Fire District having jurisdiction prior to development order approval.
 - b. A notice to all future property owners must be recorded by the developer in the public records prior to the issuance of a local development order allowing construction of the access to the development. The notice must articulate 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.
 - c. At time of development order application, the applicant must demonstrate that a Crime Prevention through Environmental Design (CPTED) report has been submitted to the Lee County Sheriff's Department.
6. Deviation (6) seeks relief from LDC Section 10-329 (d)(4), which requires banks of excavations to be sloped at a ratio not greater than 6:1 slope, to allow for 4:1 lake bank slopes.

Development services staff reviewed this request (Attachment R). The subject property is located in the airport operational area and that the reduced slope is requested in accordance with FAA regulations. LDC Section 34-1110(a)(9) states the Pursuant to FAA AC 150/5200-33B, all development within 10,000 feet of a public airport is encouraged to be designed in accordance with FAA recommendations. Staff, therefore, recommends **approval** of this deviation.

7. Deviation (7) seeks relief from LDC Section 10-418(2)d, which requires littoral areas to be planted with herbaceous plant material, to allow for the planting of no herbaceous plants on the littorals area on the water management lake.

Environmental staff provided analysis on this deviation (Attachment Q). Based on this analysis, staff recommends **approval** of this deviation, subject to the following condition:

- a. Prior to development order approval, the landscape plans must depict 100% of the required littorals substituted with native, wetland trees and located around the surface water management lakes. One native, wetland tree must be substituted for 100 littoral plants based on the littoral plant calculation per LDC Section 10-418(d)(2). The native, wetland trees must be specified at ten-foot-in-height, two-inch caliper, and a four-foot canopy spread.
8. Deviation (8) seeks relief from LDC Section 10-418(2)d.3, which permits a maximum of 25 percent of the required herbaceous plants on littoral areas to be converted to wetland trees, to allow for the conversion of 100 percent of the required littoral plantings to wetland trees.

Environmental staff provided analysis on this deviation (Attachment Q). Based on this analysis, staff recommends **approval** of this deviation, subject to the following condition:

- a. Prior to development order approval, the landscape plans must depict 100% of the required littorals substituted with native, wetland trees and located around the surface water management lakes. One native, wetland tree must be substituted for 100 littoral plants based on the littoral plant calculation per LDC Section 10-418(d)(2). The native, wetland trees must be specified at ten-foot-in-height, two-inch caliper, and a four-foot canopy spread.
9. Deviation (9) seeks relief from LDC Section 10-329(d)(1)a.1., which requires a lake to be set back a minimum 25 feet from a local road right-of-way, to allow the proposed lake to be set back a minimum of 20 feet from the right-of-way line.

Staff recommends **approval** of this deviation, subject to the following condition:

- a. Where the minimum setback of 25 feet from an excavation to the local road right-of-way cannot be met, measures to prevent wayward vehicles through the use of guardrails, berms, swales, vegetation or other suitable methods as determined by the Director must be provided.

CONCLUSION:

Based on the analysis provided above, staff offers the following review of the decision-making criteria for the planned development rezoning request. Staff finds that the proposed request:

- a) Complies with the Lee Plan;

Based on the analysis above, staff finds that the request is consistent with the Lee Plan. The proposed use and density are compatible with existing and proposed uses, and meet or exceed the objectives and policies above.

- b) Meets this Code and other applicable County regulations or qualifies for deviations;

The applicant seeks 9 deviations that are supported by staff. With the exception of these deviations, staff finds that the request meets or exceeds County regulations.

- c) Is compatible with existing and planned uses in the surrounding area;

The mix of uses surrounding the subject property includes a mix of residential uses of varying types and densities, agricultural land, and vacant land. The proposed use is consistent with surrounding existing and planned uses.

- d) Will provide access sufficient to support the proposed development intensity;

Access is proposed on Crystal Drive, which then connects to Ben C Pratt/ Sixe Mile Cypress. Staff finds that there will be sufficient access to support the community.

- e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;

Staff has reviewed the transportation impacts of the development, and has concluded that the request does not significantly impact the roadway network in the area.

- f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and

Staff has reviewed the potential environmental impacts and has determined that the request, as conditioned, meets the requirements of the Land Development Code and Lee Plan and sufficiently protects existing environmentally critical areas.

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

Additionally, staff has concluded:

- a) The proposed use or mix of uses is appropriate at the proposed location;

The proposed residential use is similar to those surrounding the subject property.

- b) 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

Staff finds the proposed conditions appropriate for approval and sufficiently address the public's interest expected from the proposed development.

- c) That each requested deviation enhances the achievement of the objectives of the planned development and reserves and promotes the general intent of the Land Development Code to protect the public health, safety and welfare:

The nine deviations requested by the applicant meet the decision-making criteria listed above, and staff recommends approval of these deviations.

Staff, therefore, recommends approval of this rezoning request from Agricultural (AG-2) to Residential Planned Development (RPD) as conditioned in Attachment C.

ATTACHMENTS:

- A. Expert Witness Information
- B. Maps: Surrounding Zoning, Future Land Use and Aerial Photograph
- C. Recommended Conditions and Deviations
- D. Request Statement
- E. Legal Description
- F. Applicant Proposed Deviations and Conditions
- G. Resolution Z-74-137
- H. Windsong RPD
 - Resolution Z-16-024
 - Resolution ADD2018-10017
- I. Oak Villages RPD
 - Resolution Z-18-006
 - Resolution ADD2020-00036
- J. Carissa Minor RPD – Resolution Z-21-006
- K. Cypress Village RPD – Resolution Z-13-025
- L. Traffic Impact Statement
- M. Infrastructure Planning Memorandum
- N. Letter of No Objection South Trail Fire District
- O. Letter of No Objection Lee County Sheriff's Department
- P. Letter of Utility Availability
- Q. Memorandum from Environmental Sciences
- R. Memorandum from Development Services
- S. Letter from Department of Transportation
- T. Master Concept Plan

DCI2021-00020
GATOR-DOMESTIC
INDUSTRIAL CENTER
IPD

Staff Summary

CASE NUMBER & NAME: DCI2021-00020 / Gator-Domestic Industrial Center IPD

REQUEST: Amend Resolution No. Z-13-010 which rezoned 88.16 acres to Industrial Planned District by reducing from 900,000 to 700,000 square feet the amount of industrial development and repealing from the approved list of conditions three traffic conditions requiring: i) a traffic analysis at the Alico Road/Gator Road and Alico Road/Domestic Avenue intersections; ii) the southbound widening of Gator Roads to add a left-turn lane if the intersection analysis shows the need; and iii) sign an agreement to pay a proportionate share of any necessary signalization improvements.

RESOLUTION NUMBER: Z-21-016

LOCATION: 16575/579 Gator Rd, Gateway/Airport Planning Community, Lee County, FL.

OWNER: USA Fort Myers Holding Company

APPLICANT: Quattrone & Associates, Inc.

AGENT: Al Quattrone
Quattrone & Associates, Inc.
4310 Veronica Shoemaker Blvd.
Fort Myers, FL 33916

HEARING EXAMINER
RECOMMENDATION: Approve

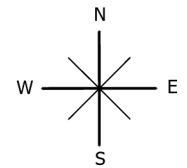
PARTICIPANTS: (4) William Daubmann
Kelly Hirt
Kenneth Lee
Mark Wiles



DCI2021-00020

Aerial

 Subject Property



0 500 1,000 1,500
Feet



Summary of Hearing Examiner Recommendation

GATOR DOMESTIC INDUSTRIAL CENTER IPD

(by Quattrone & Associates, Inc.,
on behalf of landowner
USA Fort Myers Holding Company, LLC)

Request: Amend the existing Gator Domestic Industrial Center IPD to reduce approved square footage, eliminate transportation related conditions.

Location: 16575/579 Gator Road, north of Alico Road

Gateway/Airport Planning Community

(District 2)

Size: 88.16±

Recommendation: Approve

Public Concerns: Roads, drainage

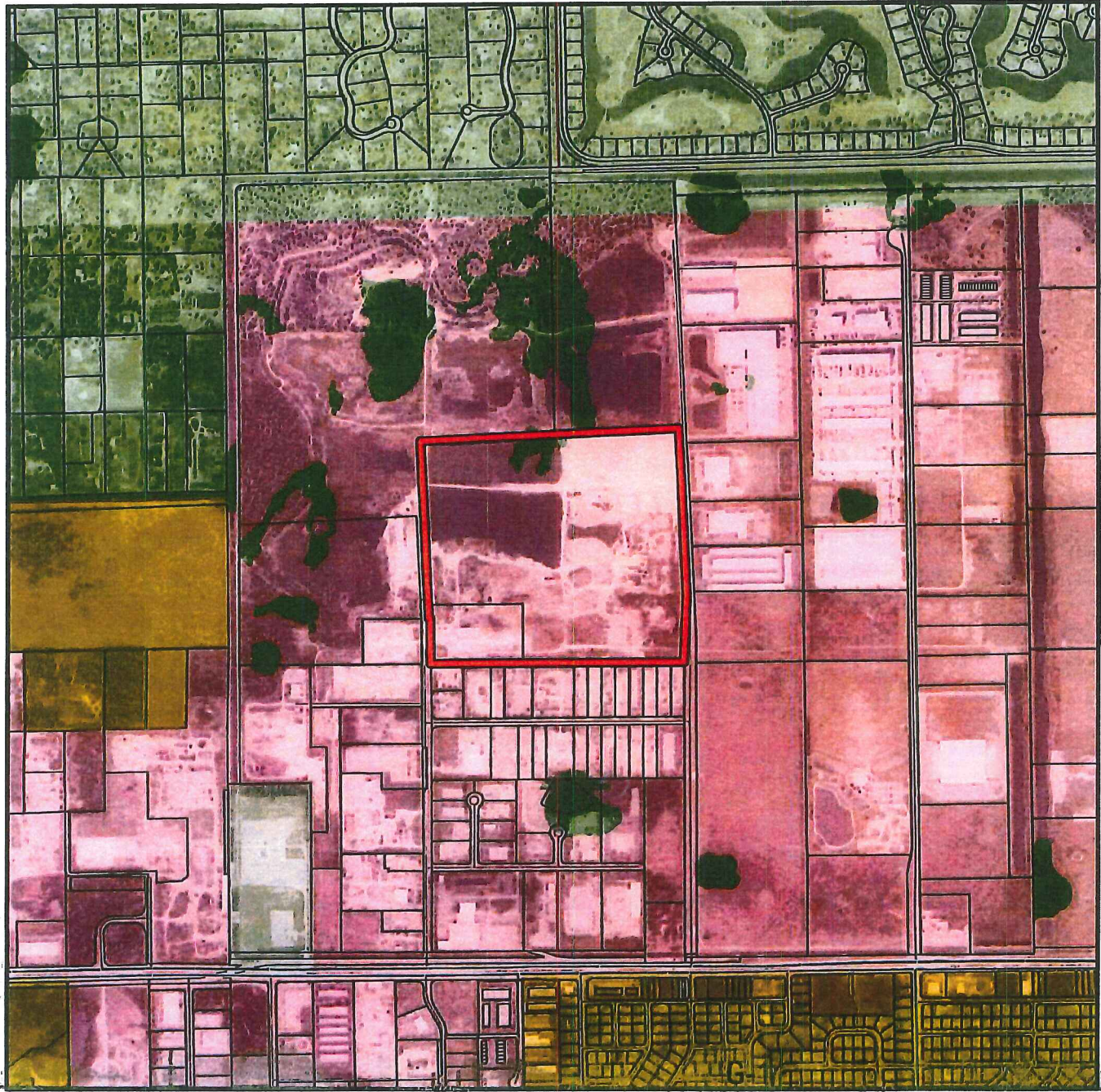
Condition of Note: Airport Noise Zone notification.

Hearing Examiner Remarks:

The proposed amendments to the IPD are consistent with LDC review criteria. Reducing approved square footage eliminates the need for a transportation related condition.

The Hearing Examiner does not recommend Applicant's proposed condition requiring a proportionate share contribution toward private road improvements.

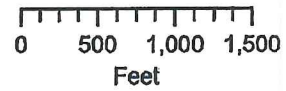
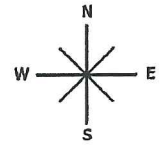
Detailed recommendation follows



DCI2021-00020

Future Land Use

-  Subject Property
-  Urban Community
-  Suburban
-  Industrial
-  Public Facilities
-  Rural
-  Open Lands
-  Wetlands

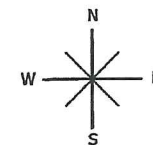




DCI2021-00020

Aerial

 Subject Property



0 500 1,000 1,500
Feet



Lee County
Southwest Florida

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2021-00020

Regarding: GATOR DOMESTIC INDUSTRIAL CENTER IPD

Location: 16575/579 Gator Road

Gateway Airport Planning Community
(District 2)

Hearing Date: September 30, 2021 (Not Heard)

Continued Dates: November 16, 2021 (Not Heard)
December 7, 2021 (Heard)

Record Closed: December 10, 2021

I. Request

Amend Gator Domestic Industrial Center Industrial Planned Development (IPD) to eliminate three transportation related conditions. Conditions proposed for deletion include: 1) analysis of the Alico Road/Gator Road and Alico Road/Domestic Avenue intersections, 2) turn lane improvements if warranted by the intersection analysis, and 3) proportionate share contribution toward a traffic signal, if warranted.

Property legal description set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approve, subject to conditions and deviations 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 amend the Gator Domestic Industrial Center IPD.

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

¹ LDC 34-145(d)(4)a.

substantial competent evidence to support the recommendation. Discussion supporting the Hearing Examiner's recommendation of approval follows below.

Synopsis of Request

Applicant seeks to amend the Gator Domestic Industrial Center IPD to reduce approved square footage from 900,000 sq. feet to 700, 000 sq. feet and eliminate the transportation condition.

The transportation condition includes three requirements:

- 1) A traffic analysis of the Alico Road/Gator Road and Alico Road/Domestic Avenue intersections,
- 2) Turn lane improvements warranted by the intersection analysis, and
- 3) Payment of a proportionate share of signalization improvements, if warranted.

The remaining conditions, deviations, and approved Master Concept Plan are not affected by the request.

History

The Board first approved the 88.16 acre IPD with one deviation in 2013.² The County subsequently approved three additional deviations through the administrative amendment process.³ The recommended conditions and deviations represent a codification of prior and proposed approvals.

Character of Area

The property lies within the Gateway/Airport Planning District north of Alico Road. Surrounding lands are characterized by ongoing industrial development activity.⁴ Many of those properties are approved for industrial uses.⁵

Lee Plan

All planned developments must be consistent with the Lee Plan.⁶ The property lies within the Industrial Development future land use category.⁷ These areas are reserved for industrial activity and expanded job opportunities.⁸ The Industrial Development land use category is reserved for manufacturing, industry, research,

² Resolution Number Z-13-010 adopted June 17, 2013 (Case Number DCI 2013-00004).

³ ADD 2019-00106.

⁴ Lee Plan Policy 1.1.1.

⁵ A mixed use planned development approving commercial and industrial uses lies at the intersection of Domestic Avenue and Alico Road.

⁶ LDC 34-411(a).

⁷ Lee Plan Objective 1.3, Policies 1.1.7, 1.3.4; Lee Plan Map 1, page 1 or 8.

⁸ See Lee Plan Goals 2, 158, Policies 7.1.3, 7.1.4.

recreation, and offices. The Lee Plan Economic Element encourages industrial and commercial uses to expand the economic base.⁹

A portion of the IPD lies within the Airport Noise Zone Overlay, specifically Airport Noise Zone C.¹⁰ Land uses in this noise zone are subject to public disclosure requirements of potential airport related noise.¹¹ Prior zoning approvals do not include the disclosure condition or a deviation from the LDC requirement to provide the disclosure.¹² The Hearing Examiner recommends the Board include the necessary condition in the resolution of approval.

Transportation

The IPD fronts on private roads and relies on those private roads to access Alico Road. Development will be subject to road impact fees, but those fees address impacts to the county road network, not private roads.

Upon approving the IPD in 2013, the Board imposed a three-part transportation condition requiring the developer to:

- a. Submit an intersection analysis with the development order for site infrastructure. The intersection analysis was to target the intersections of Alico and Gator Road and Alico and Domestic Avenue.
- b. Improve Gator Road with a southbound left turn lane if the intersection analysis indicates a need to widen the southbound approach to Alico Road.
- c. Contribute a proportionate share of the cost of a traffic signal at the intersection of Gator and Alico Roads if the intersection analysis indicates the intersection requires signalization.¹³

Applicant completed the required intersection analysis rendering Condition 4.a. moot. The County subsequently installed a traffic signal at the intersection rendering Condition 4.c. moot as well.¹⁴

⁹ Lee Plan Vision Statement; Lee Plan Goal 158, Objective 158.3.

¹⁰ Lee Plan Policy 1.7.1, Lee Plan Map 1, page 5 of 7; LDC Map SWFIA Airport Noise Zone Map; See Staff Report: Attachment N: Application DCI2021-00020 Gator-Domestic Industrial Center IPD. The application identifies the property within zone B, however GIS mapping confirms the site is in Airport Noise Zone C. The LDC permits all uses in Airport Noise zone C but requires notification of potential noise impacts. LDC 34-1104.

¹¹ LDC 34-1104(a)(3) and 34-1104(b).

¹² See Z-13-010, ADD 2019-00106; LDC 34-0019 permits deviations with specific submittal requirements including alerting the Lee County Port Authority and Federal Aviation Administration.

¹³ Specifically, Condition 4c required the developer to execute an agreement with the County for the proportionate share contribution. The property owner attempted to delete the transportation conditions in the 2019 administrative amendment, but subsequently abandoned that portion of the request.

¹⁴ The County installed a traffic signal at the intersection of Alico and Gator Roads and did not pursue contributions from property owners along Gator Road.

The intersection analysis concludes turn lane improvement on Gator Road is not warranted. The proposed reduction in square footage reduces peak hour trips below 300. Since the Gator/Alico Road intersection lies more than a quarter mile from the site, the Administrative Code does not consider the intersection when evaluating project impacts.¹⁵ For this reason, Condition 4.b. is no longer necessary.

Applicant offers a condition that requires future payment of a proportional share contribution toward the cost of turn lane improvements to the Gator and Alico Road intersection. The proffered condition reads as follows:

As a condition of and prior to development order approval, the Owner, its successors, or assigns shall pay to the Gator Road Maintenance Association, Inc. (GRMAI) a proportionate share payment for the cost of the design, permitting, and construction of a southbound left turn lane on the approach to Alico Road. The methodology for determining the proportionate share payment amount shall be substantially based on AC 13-16 for Transportation Proportionate Share Calculations for New Development Projects, and the payment amount shall be subject to the review and approval of County staff.

As explained in the preceding discussion, the project's anticipated traffic impacts do not warrant contribution toward or improvement to the intersection of Gator and Alico Roads. The effect of the proffered condition is to require what the regulations do not. Furthermore, the County has no means to enforce a voluntary payment to a private entity.¹⁶

Environment

The proposed amendment has no impact on environmentally sensitive lands and does not require changes to previously approved conditions relating to open space, buffers, and landscaping.

Urban Services

There has been no change to the urban services available to the property since its initial IPD approval.

¹⁵ Lee County Administrative Code 13-17: Traffic Guidelines for Planned Development Rezoning.

¹⁶ The roads north of Alico Road are not County roads, but privately owned. The Hearing Examiner does not recommend the incorporation of the proffered condition because it is not enforceable by the County. Several of the properties in the surrounding area are members of a private property owners association known as the Gator Road Maintenance Association, Inc. The legal method for a property owners association to improve private roads is through the Municipal Service Benefit Unit (MSBU) process.

Conditions

The County must administer the zoning process so proposed land uses minimize adverse impacts on adjacent property and protect natural resources.¹⁷ Conditions must plausibly relate to anticipated impacts, and be pertinent to mitigating impacts to public health, safety, and welfare.¹⁸ The original development approvals imposed several conditions, three of which are the focus of the proposed amendment.

Condition 1 must be modified to reflect the 200,000 reduction in approved square footage. Staff supports Applicant's proposed replacement Condition 4 (transportation condition). The proposal requires developer to pay a proportionate share of the cost of design, permitting, and construction of a southbound left turn lane on the Gator Road approach to Alico Road to a private entity.¹⁹ However since the improvement is not required under County regulations, the Hearing Examiner did not include the condition in the recommendation.

As noted above, the project lies within Airport Noise Zone C, but existing development approvals do not include the LDC required condition for public disclosure of potential noise incidental to airport operations.²⁰ The Hearing Examiner recommends the Board include the necessary condition in the resolution of approval as follows:

New Condition: Airport Noise

The developer, successor, or assign acknowledges the property's proximity to Southwest Florida International Airport and potential for noise created by and incidental to the operation of the airport as outlined in LDC §34-1104. The developer, successor or assign acknowledges that a disclosure statement is required on plats and in property owner association documents consistent with Land Development Code §34-1104(b).

The recommended condition and deviations attached as exhibit B reflect a codification of prior approvals. The Hearing Examiner recommends removing Commercial Parking lot from the list of permitted uses because it is not a permitted use in the IPD zoning district. For this reason, its inclusion in the original resolution of approval was likely an error.²¹

¹⁷ LDC 34-145(d)(4)a.2.(b), LDC 34-377(a)(3), and 34-932(b and c).

¹⁸ LDC 34-932(c).

¹⁹ Gator Road Maintenance Association, Inc.

²⁰ LDC 34-1104(a)(3) and (b).

²¹ LDC 34-933.

Deviations

The IPD is subject to four deviations from the Land Development Code.²² The proposed amendment does not affect previously approved deviations.

Public

Several members of the Gator Road Maintenance Association, Inc. attended the hearing. They expressed frustration with the road and drainage conditions north of Alico Road. They testified to traffic congestion exacerbated by the Amazon distribution center and developing properties in the area. The Hearing Examiner explained the land development regulations do not require Applicant to make road improvements based on the project's forecasted trip generation. They were encouraged to seek County assistance with a potential MSBU to address road and drainage conditions on private roadways in the area.

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 amendment to the Gator Domestic Industrial Planned Development complies with the Lee Plan. Lee Plan Goals 2, 4, 7, 77, 158, Objectives 1.7, 2.1, 2.2, 4.1, 7.1, 47.2, 158.3, Policies 1.1.7, 1.7.1, 2.1.2, 2.2.1, 7.1.1, 7.1.2, 7.1.3, 7.1.5, 7.1.9, 7.1.10, 158.3.5, Lee Plan Maps 1, 6, 7, 16.
- B. *As conditioned*, the Industrial Planned Development:
 - 1. Meets the LDC and other county regulations or qualifies for deviations. LDC §§ 2-265, 10-287, 10-288, 10-293, 10-321, 10-415, 10-416, 34-411, 34-413, 34-491, 34-612(2), 34-935(g), 34-1104, Administrative Code 13-17;
 - 2. Is compatible with existing and planned uses in the surrounding area. Lee Plan Policies 2.1.2, 2.2.1, 7.1.2, 7.1.3, 7.1.9;
 - 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, 7.1.1, 7.1.2, 7.1.5, 39.1.1;

²² The Board approved a single deviation in resolution Z- 13-010. The Department of Community Development approved three additional deviations administratively in ADD2019-00103.

4. Will not adversely affect environmentally critical areas and natural resources. Lee Plan Goals 61, 77, Objectives 77.2, 126.2, Policies 61.3.11, 126.2.1, Standard 4.1.4, and
 5. Will be served by urban 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, 7.1, 66.1, Policies 2.2.1, 7.1.1, 7.1.5, Standards 4.1.1 and 4.1.2 and Maps 6, 7;
- C. The proposed uses are appropriate at the proposed location. Lee Plan Goal 158, Objective 2.1, Policies 2.1.1, 2.1.2, 7.1.1, 7.1.2, 7.1.3;
- 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 1.7.1, 7.1.2, 47.2.2; LDC §§34-377(a)(3), 34-411, 34-932, 34-1104.
- 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: January 4, 2022.



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 (Strike-through/underlined version)
Exhibit C Recommended Conditions and Deviations (Clean version)
Exhibit D Exhibits Presented at Hearing
Exhibit E Hearing Participants
Exhibit F Information

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A

USA MULCH
SECTION 4 & 5
TOWNSHIP 46 SOUTH
RANGE 25 EAST


PARCEL OF LAND IN SECTIONS 4 AND 5, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA,
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

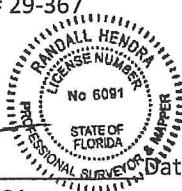
COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 4; THENCE N.00°21'51"W. ALONG THE WEST LINE OF SAID SECTION 4, A DISTANCE OF 50.00 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF ALICO ROAD; THENCE N.89°38'46"E. ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1014.17 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF DOMESTIC AVENUE FORMERLY HAITIAN ROAD) AS DESCRIBED IN OFFICIAL RECORD BOOK 1998, PAGE 4500, AND ALSO OFFICIAL RECORD BOOK 3883, PAGE 243, ALL OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE N.00°21'51 "W. ALONG SAID WESTERLY RIGHT-OF-WAY LINE, PARALLEL TO THE SAID WEST LINE OF SECTION 4, A DISTANCE OF 2420.00 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THAT CERTAIN 170 FOOT WIDE FLORIDA POWER AND LIGHT EASEMENT AS DESCRIBED IN OFFICIAL RECORD BOOK 876, PAGE 610, OF THE SAID PUBLIC RECORDS AND THE POINT-OF-BEGINNING OF THIS DESCRIPTION; THENCE S.89°40'49"W. ALONG SAID SOUTH LINE, A DISTANCE OF 2041.97 FEET TO THE SOUTHEAST CORNER OF THAT PORTION OF GATOR ROAD EASEMENT AS DESCRIBED IN OFFICIAL RECORD BOOK 3947, PAGE 3464, OF THE SAID PUBLIC RECORDS; THENCE N.00°36'36"W. ALONG THE EAST LINE OF SAID GATOR ROAD EASEMENT, A DISTANCE 370.96 FEET TO THE NORTHEAST CORNER OF THE GATOR ROAD EASEMENT DESCRIBED IN SAID OFFICIAL RECORD BOOK 3947, PAGE 3464; THENCE S.89°40'49"W. ALONG THE NORTH LINE OF SAID GATOR ROAD EASEMENT, A DISTANCE OF 10.00 FEET; THENCE N.02°43'24"W., A DISTANCE OF 1435.98 FEET; THENCE N.87°16'36"E. A DISTANCE OF 2083.39 FEET TO AN INTERSECTION WITH THE WEST RIGHT-OF- WAY LINE OF SAID DOMESTIC AVENUE; THENCE S.02°43'29"E. ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1353.22 FEET; THENCE S.02°15'16"W., CONTINUING ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 540.56 FEET TO THE SAID POINT-OF-BEGINNING OF THIS DESCRIPTION;

Containing 88.164 acres, more or less.

PREPARED BY:

Diversified Surveying Inc.
6900 Daniels Parkway # 29-367
Fort Myers, FL 33912


Randall Hendra PSM 6091
Florida Surveyor and Mapper



Date: 07-10-219

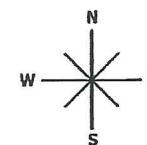
REVIEWED
DCI2021-00020
Hunter Searson, GIS
Planner
Lee County Government
11/4/2021



DCI2021-00020

Zoning

 Subject Property



0 500 1,000 1,500
Feet



Exhibit B

Codified
RECOMMENDED CONDITIONS AND DEVIATIONS
Strike-through/underline version

CONDITIONS

1. Master Concept Plan/Development Parameters

Development must be consistent with the Master Concept Plan (MCP) previously approved by ADD2019-00106 entitled "Gator-Domestic Industrial Center IPD" except as modified by conditions below. (MCP attached as Exhibit B1) Development must comply with the Lee Plan and LDC at time of local development order approval, except where deviations have been approved. Changes to the MCP may require further development approvals.

This development will allow a maximum floor area of 700,000 square feet.

2. Uses and Site Development Regulations

a. Schedule of Uses

Accessory uses and structures
Administrative offices
Animals: Clinic or kennel
Auto repair and service, all groups
Boats: Boat repair and service
Broadcast studio, commercial radio and television
Building materials sales
Business services: Group II (non-retail)
Bus station/depot
Cleaning and maintenance services
Cold storage, pre-cooling, warehouse and processing plant
Computer and data processing services
Contractors and builders, all groups (non-retail, offices ancillary to trade contractors, builders)
Entrance gates and gatehouse
Emergency operations center
EMS, fire or sheriff's station
Essential services
Essential service facilities: Group I
Excavation: Water retention
Fences, walls
Freight and cargo handling establishments
Gasoline dispensing system, special
Government maintenance facility

Manufacturing of:

- Apparel products
- Chemical and allied products: Groups I and II
- Electrical machinery and equipment
- Fabricated metal products: Groups I, II, and III
- Food and kindred products: Group III
- Furniture and fixtures
- Leather products: Group II
- Lumber and wood products: Groups I, II, III, IV, V and VI
- Machinery, Groups I, II, and III
- Measuring, analyzing and controlling instruments
- Novelties, jewelry, toys and signs, all groups
- Rubber and plastic products: Group II
- Stone, clay, glass and concrete products: Group I, II, III, and IV
- Textile mill products, Groups I, II, and III
- Transportation equipment: Groups I, II, III and IV

Motion picture production studio

Nonstore retailers, all groups

Parcel and express services

Parking lot:

- Accessory

- Commercial **Hearing Examiner Note: not permitted in IPD District.**

- Garage, public parking

- Temporary

Printing and publishing

Processing and warehousing

Recreation facilities: Personal

Recycling facility

Rental or leasing establishment: Group IV

Repair shops: Groups I, II, III, IV, and V

Research and development laboratories: Group IV

Retail and wholesale sales, when clearly incidental and subordinate to a permitted principal use on the same premises

Salvage and disposal of materials - limited to crushed rock, concrete and dirt (Subject to Condition #10 **6**)

Hearing Examiner Note: Erroneous condition number corrected.

Schools: Commercial

Shredding and composting of vegetative matter

Signs in accordance with Chapter 30

Social services: Group II

Storage: Indoor only

- Storage, open

Studios

Transportation services: Groups II, III, and IV

Vehicle and equipment dealers: Group V

Warehouse: Mini-warehouse
Private
Public

Wholesale establishments: Groups I, II, and IV

b. Site Development Regulations

Minimum Area Dimensions:

Minimum Lot Size:	45,000 sq. ft.
Minimum Lot Depth:	200 ft.
Minimum Lot Width:	100 ft.

Minimum setbacks:

Street:	
Public:	25 ft.
Private:	20 ft.
Side:	20 ft.
Rear:	15 ft.
Waterbody:	25 ft.
Development Perimeter:	25 ft.
Accessory Structures:	Per LDC §§ 34-1171 & 34-2194

Maximum Building Height:	45 ft.
Maximum Lot Coverage:	40%

Minimum Open Space:	20%
Minimum Open Space per Lot:	15%

3. Environmental Conditions:

- a. The development order plans must delineate a minimum of 15 percent open space for each lot.
- b. The development order plans must demonstrate the use of 100 percent native vegetation for all required landscaping on site.
- c. The development order plans must demonstrate a common landscape theme for the Type "D" buffer plantings along Domestic Avenue.

4. ~~Traffic Condition~~ [Staff Recommended]

~~Prior to the issuance of a Certificate of Compliance for a Local Development Order that includes site infrastructure, the developer must obtain a Local Development Order and a Certificate of Compliance for the construction of a southbound left turn lane on the approach to Alico Road.~~

Hearing Examiner Note: Do not include this condition. It is not supported by governing land development regulations.

~~5.4~~ Solid Waste Management

As part of any local development order approval for vertical development, the development order plans must include facilities in compliance with LDC §10-261 and Solid Waste Ordinance #11-27 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of local development order application.

~~6.5~~ Tall Buildings

The development must comply with Land Development Code § 34-2175 for tall structures including permanent buildings, antennas, towers, and temporary cranes.

~~7.6~~ Salvage and Disposal of Material

The use "Salvage and disposal of material" is limited to concrete (without rebar) or crushed rock and dirt. This use is limited to the filling of the on-site, man-made lakes. Upon completion of the filling of these lakes, this use is no longer a permitted use within this Planned Development.

~~8.7~~ Truck wash

As part of the local development order to fill the lakes, truck wash(es) must be provided. The location of the wash(es) will be determined by Development Services Staff at the time of local development order.

~~9.8~~ Utilities

Prior to local development order approval for vertical construction, public water and sewer facilities must be provided to the subject property, and all parcels must connect to those services.

~~9.~~ Airport Noise

The developer, successor, or assign acknowledges the property's proximity to Southwest Florida International Airport and potential for noise created by and incidental to the operation of the airport as outlined in LDC §34-1104. The developer, successor or assign acknowledges that a disclosure statement is required on plats and in property owner association documents consistent with Land Development Code §34-1104(b).

Hearing Examiner Note: *Condition required by LDC 34-1104 due to property location within Airport Noise Zone C.*

DEVIATIONS

1. Excavation Standards. Deviation (1) seeks relief from the LDC §10-329(d)1(a)3 requirement to provide a setback of 50 feet from any property line under separate ownership, to allow a 25-foot lake setback from properties to the north and west of the subject site (the balance of the original 290-acre IPD). This deviation is APPROVED.
2. Street Design and Construction Standards. Deviation (2) seeks relief from LDC §10-296(e)(2)d. Tree and Palm Spacing in Roadway Planting Areas (Street Trees) requiring that Street Trees must be planted on both sides of the road, that palm trees may only be substituted for a maximum of 50 percent of the required small trees, and that the trees must be spaced evenly along the frontage and not clustered, to allow the trees required per this section of the code to be planted on one side of the road, to allow 100 percent of the trees to be palm trees, and to allow the palm trees to be clustered with an enhancement to the code that the palms must be staggered in height from 10 feet to 14 feet.

Deviation approved by ADD2019-00106.

3. Street Design and Construction Standards. Deviation (3) seeks relief from the requirement to provide a pedestrian facility in accordance with the Table 15 for suburban local streets per LDC § 10-296(e)(2)e which requires a six-foot-wide sidewalk to only provide a 6 foot sidewalk on one side of the internal roads and/or shared access easements.

Deviation approved by ADD2019-00106, subject to complying with detail provided in Exhibit B1.

4. Street Stubs to Adjoining Property. Deviation (4) seeks relief from LDC §10-295 requiring street stubs or an interconnection to adjoining areas, to provide street stubs may be provided with a temporary cul-de-sac turnaround within the minimum required platted right-of-way.

Deviation approved by ADD2019-00106.

Exhibits to Conditions:

B1 Master Concept Plan entitled "Gator-Domestic Industrial Center IPD"

Exhibit C

Codified RECOMMENDED CONDITIONS AND DEVIATIONS Clean version

CONDITIONS

1. Master Concept Plan/Development Parameters

Development must be consistent with the Master Concept Plan (MCP) previously approved by ADD2019-00106 entitled "Gator-Domestic Industrial Center IPD" except as modified by conditions below. (MCP attached as Exhibit B1) Development must comply with the Lee Plan and LDC at time of local development order approval, except where deviations have been approved. Changes to the MCP may require further development approvals.

This development will allow a maximum floor area of 700,000 square feet.

2. Uses and Site Development Regulations

a. Schedule of Uses

Accessory uses and structures
Administrative offices
Animals: Clinic or kennel
Auto repair and service, all groups
Boats: Boat repair and service
Broadcast studio, commercial radio and television
Building materials sales
Business services: Group II (non-retail)
Bus station/depot
Cleaning and maintenance services
Cold storage, pre-cooling, warehouse and processing plant
Computer and data processing services
Contractors and builders, all groups (non-retail, offices ancillary to trade contractors, builders)
Entrance gates and gatehouse
Emergency operations center
EMS, fire or sheriff's station
Essential services
Essential service facilities: Group I
Excavation: Water retention
Fences, walls
Freight and cargo handling establishments
Gasoline dispensing system, special
Government maintenance facility

Manufacturing of:

- Apparel products
- Chemical and allied products: Groups I and II
- Electrical machinery and equipment
- Fabricated metal products: Groups I, II, and III
- Food and kindred products: Group III
- Furniture and fixtures
- Leather products: Group II
- Lumber and wood products: Groups I, II, III, IV, V and VI
- Machinery, Groups I, II, and III
- Measuring, analyzing and controlling instruments
- Novelties, jewelry, toys and signs, all groups
- Rubber and plastic products: Group II
- Stone, clay, glass and concrete products: Group I, II, III, and IV
- Textile mill products, Groups I, II, and III
- Transportation equipment: Groups I, II, III and IV

Motion picture production studio

Nonstore retailers, all groups

Parcel and express services

Parking lot:

- Accessory
- Garage, public parking
- Temporary

Printing and publishing

Processing and warehousing

Recreation facilities: Personal

Recycling facility

Rental or leasing establishment: Group IV

Repair shops: Groups I, II, III, IV, and V

Research and development laboratories: Group IV

Retail and wholesale sales, when clearly incidental and subordinate to a permitted principal use on the same premises

Salvage and disposal of materials - limited to crushed rock, concrete and dirt (Subject to Condition # 6)

Schools: Commercial

Shredding and composting of vegetative matter

Signs in accordance with Chapter 30

Social services: Group II

Storage: Indoor only
Storage, open

Studios

Transportation services: Groups II, III, and IV

Vehicle and equipment dealers: Group V

Warehouse: Mini-warehouse
Private
Public

Wholesale establishments: Groups I, II, and IV

b. Site Development Regulations

Minimum Area Dimensions:

Minimum Lot Size:	45,000 sq. ft.
Minimum Lot Depth:	200 ft.
Minimum Lot Width:	100 ft.

Minimum setbacks:

Street:	
Public:	25 ft.
Private:	20 ft.
Side:	20 ft.
Rear:	15 ft.
Waterbody:	25 ft.
Development Perimeter:	25 ft.
Accessory Structures:	Per LDC §§ 34-1171 & 34-2194

Maximum Building Height:	45 ft.
Maximum Lot Coverage:	40%

Minimum Open Space:	20%
Minimum Open Space per Lot:	15%

3. Environmental Conditions:

- a. The development order plans must delineate a minimum of 15 percent open space for each lot.
- b. The development order plans must demonstrate the use of 100 percent native vegetation for all required landscaping on site.
- c. The development order plans must demonstrate a common landscape theme for the Type "D" buffer plantings along Domestic Avenue.

4. Solid Waste Management

As part of any local development order approval for vertical development, the development order plans must include facilities in compliance with LDC §10-261 and Solid Waste Ordinance #11-27 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of local development order application.

5. Tall Buildings

The development must comply with Land Development Code § 34-2175 for tall structures including permanent buildings, antennas, towers, and temporary cranes.

6. Salvage and Disposal of Material

The use "Salvage and disposal of material" is limited to concrete (without rebar) or crushed rock and dirt. This use is limited to the filling of the on-site, man-made lakes. Upon completion of the filling of these lakes, this use is no longer a permitted use within this Planned Development.

7. Truck wash

As part of the local development order to fill the lakes, truck wash(es) must be provided. The location of the wash(es) will be determined by Development Services Staff at the time of local development order.

8. Utilities

Prior to local development order approval for vertical construction, public water and sewer facilities must be provided to the subject property, and all parcels must connect to those services.

9. Airport Noise

The developer, successor, or assign acknowledges the property's proximity to Southwest Florida International Airport and potential for noise created by and incidental to the operation of the airport as outlined in LDC §34-1104. The developer, successor or assign acknowledges that a disclosure statement is required on plats and in property owner association documents consistent with Land Development Code §34-1104(b).

DEVIATIONS

1. Excavation Standards. Deviation (1) seeks relief from the LDC §10-329(d)1(a)3 requirement to provide a setback of 50 feet from any property line under separate ownership, to allow a 25-foot lake setback from properties to the north and west of the subject site (the balance of the original 290-acre IPD). This deviation is APPROVED.
2. Street Design and Construction Standards. Deviation (2) seeks relief from LDC §10-296(e)(2)d. Tree and Palm Spacing in Roadway Planting Areas (Street Trees) requiring that Street Trees must be planted on both sides of the road, that palm

trees may only be substituted for a maximum of 50 percent of the required small trees, and that the trees must be spaced evenly along the frontage and not clustered, to allow the trees required per this section of the code to be planted on one side of the road, to allow 100 percent of the trees to be palm trees, and to allow the palm trees to be clustered with an enhancement to the code that the palms must be staggered in height from 10 feet to 14 feet.

Deviation approved by ADD2019-00106.

3. Street Design and Construction Standards. Deviation (3) seeks relief from the requirement to provide a pedestrian facility in accordance with the Table 15 for suburban local streets per LDC § 10-296(e)(2)e which requires a six-foot-wide sidewalk to only provide a 6 foot sidewalk on one side of the internal roads and/or shared access easements.

Deviation approved by ADD2019-00106, subject to complying with detail provided in Exhibit B1.

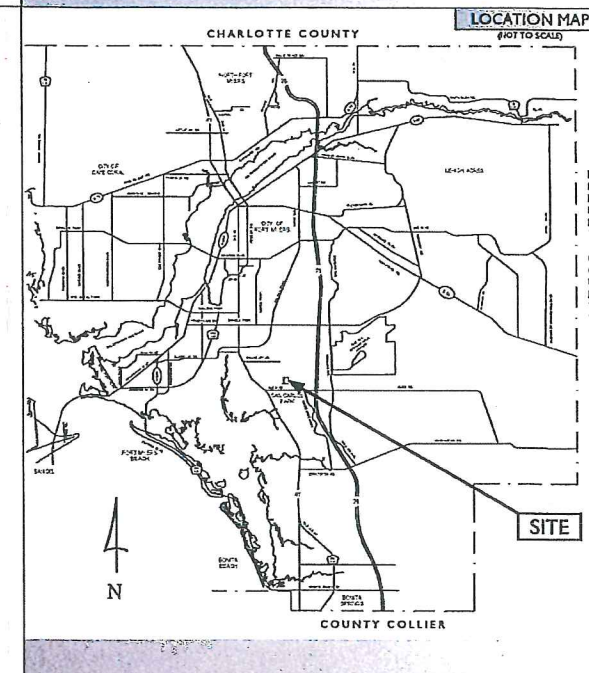
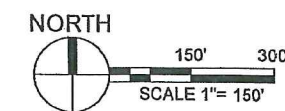
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Deviation approved by ADD2019-00106.

Exhibits to Conditions:

B1 Master Concept Plan entitled "Gator-Domestic Industrial Center IPD"

LOCATED IN SECTION 05, TOWNSHIP 46-S, RANGE 25-E, LEE COUNTY, FLORIDA



MASTER CONCEPT PLAN

PROJECT SUMMARY:

ZONING/REZONING

IPD to IPD

STRAP #'s

05-46-25-00-01000.5100
05-46-25-00-01000.5080

PROJECT ACREAGE

88.16 ACRES (3,840,560 SF)

PROJECT INTENSITY

INDUSTRIAL: 900,000 SF

REQUIRED OPEN SPACE

17.63 ACRES (20.0%) (768,049 SF)

PROVIDED OPEN SPACE

LAKE WSWT: 4.41 AC (192,099 SF)
(25% OF REQUIRED PROVIDED BY WATER)
REMAINDER OF LAKE TRACT: 2.28 AC (99,316 SF)
LOTS: 10.94 AC (476,546 SF)
(10.94 AC / 73.09 AC DEVELOPABLE LOT AREA)
15% OPEN SPACE PROVIDED PER LOT)

- ① LOT NUMBERS
▲ DEVIATION SYMBOL

LEE COUNTY
HEARING EXAMINER
2021 DEC -8 AM 10:27



Quattrone & Associates, Inc.

Engineers, Planners, & Development Consultants

4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QALoc.net

Exhibit D

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Earl Hahn, Principal Planner, date stamped received September 16, 2021 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *Revised DCD Staff Report with attachments for DCI:* Prepared by Earl Hahn, Principal Planner, date stamped received December 1, 2021 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
3. *Résumé:* For Earl Rafael Hahn, Principal Planner, with Lee County Community Development (2 double-sided pages – 8.5"x11")
4. *PowerPoint Presentation:* Prepared for Gator-Domestic Industrial Center, DCI2021-00020 (multiple pages – 8.5"x11")[color]
5. *Witness List:* Prepared for Case Number DCI2021-00020, for Gator-Domestic Industrial Center IPD (1 double-sided page – 8.5"x11")

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Sharon Hrabak, with Quattrone & Associates, Inc., to Hearing Examiner & Jamie Prining, with copies to Al Quattrone, dated Tuesday, September 28, 2021 9:47 AM
1. *PowerPoint Presentation:* Prepared by Quattrone & Associates, for Gator-Domestic Industrial Center, Lee County Hearing Examiner Public Hearing, dated December 7, 2021 (multiple pages – 8.5"x11")[color]
2. *Written Submissions:* Email from Al Quattrone, to Sharon Hrabak & Shelly Stalnos, dated Tuesday, December 7, 2021 3:29 PM, Hand Delivered to Hearing Examiner December 8, 2021 (2 pages – 8.5"x11" & 1 page – 11"x 17" & 1 CD){post hearing submittal}

Exhibit E

HEARING PARTICIPANTS

County Staff:

1. Earl Hahn

Applicant Representatives:

1. Al Quattrone

Public Participants:

1. William Daubmann
2. Kelly Hirt
3. Kenneth Lee
4. Mark Wiles

Exhibit F
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.

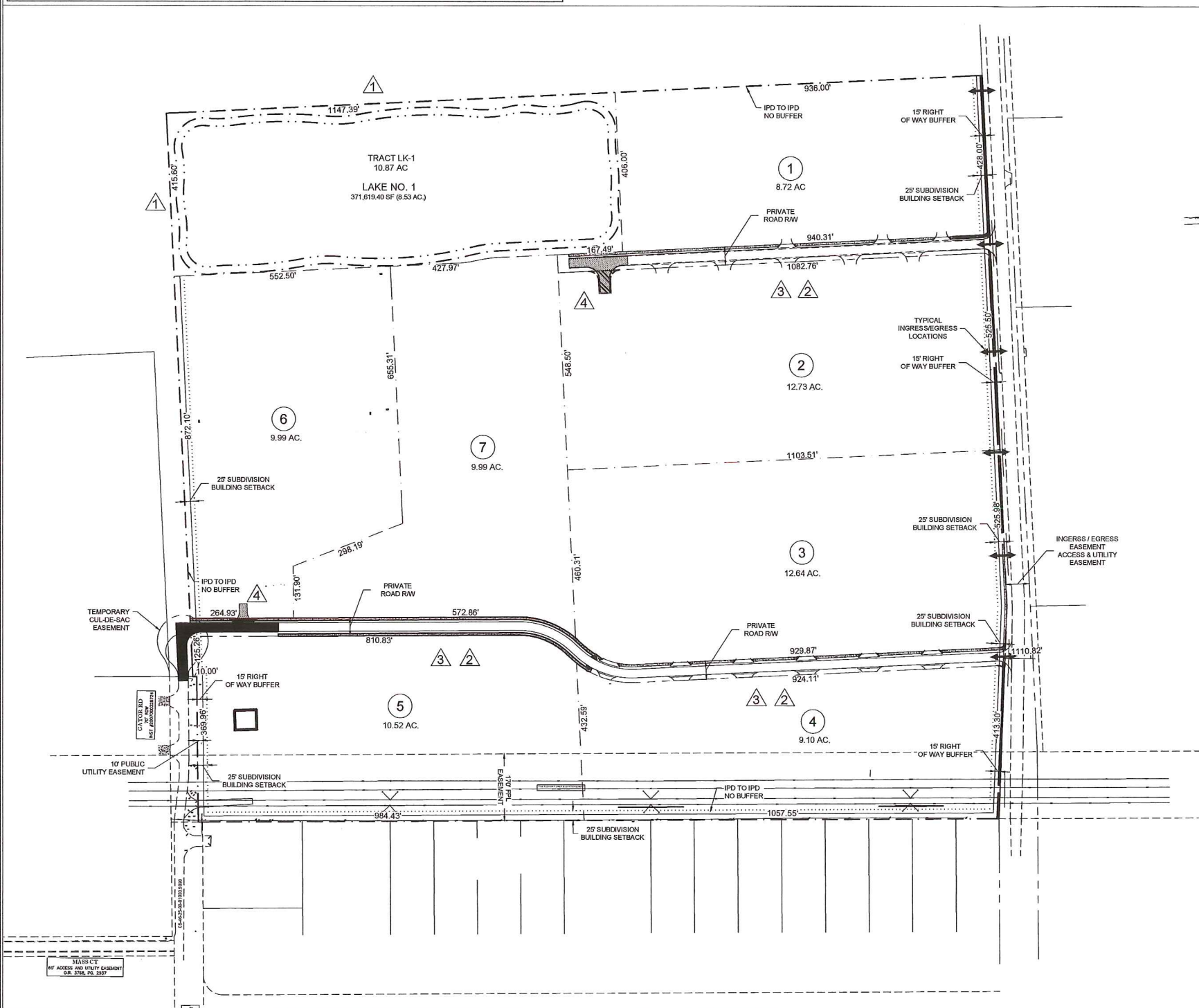
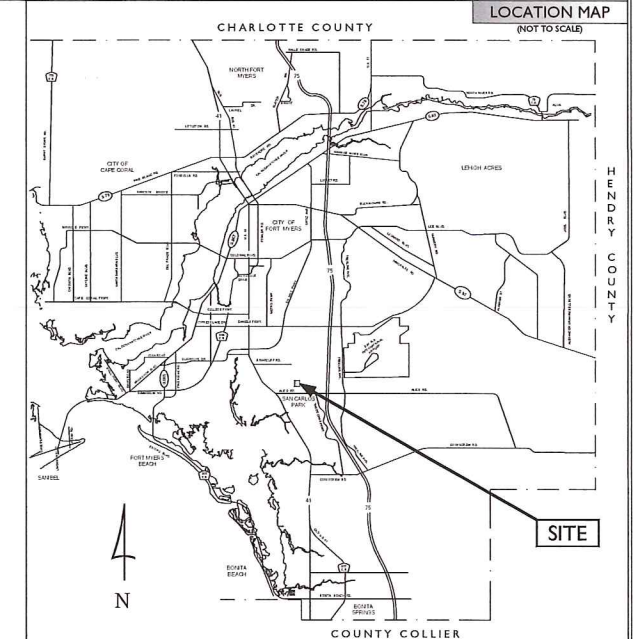
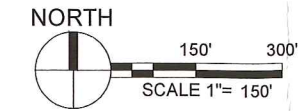
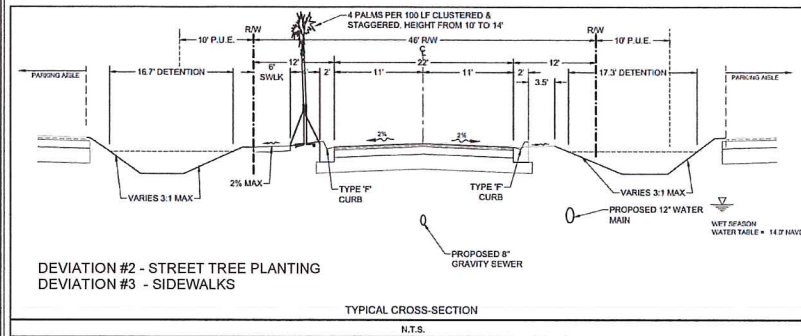
HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

- 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.

LOCATED IN SECTION 05, TOWNSHIP 46-S, RANGE 25-E, LEE COUNTY, FLORIDA



MASTER CONCEPT PLAN

PROJECT SUMMARY:

ZONING/REZONING

IPD to IPD

STRAP #'s

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(25% OF REQUIRED PROVIDED BY WATER)

REMAINDER OF LAKE TRACT: 2.28 AC (99,316 SF)

LOTS: 10.94 AC (476,546 SF)

(10.94 AC / 73.09 AC DEVELOPABLE LOT AREA = 15% OPEN SPACE PROVIDED PER LOT)

① LOT NUMBERS

 DEVIATION SYMBOL

Q **Quattrone & Associates, Inc.**
Engineers, Planners, & Development Consultants
4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QAInc.net

ATTACHMENT UA

Revised Conditions and Deviations Document

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. Master Concept Plan/Development Parameters

Development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled "Gator-Domestic Industrial Center IPD", ~~stamped received March 5, 2013, last revised March 4, 2013~~ prepared by ~~Metron surveying & Mapping, LLC, last revised 01-15-13, and previously approved by ADD2019-00106~~ and attached hereto as ~~Exhibit C Attachment B~~, except as modified by the conditions below. Development must comply with all requirements of the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

This development will allow a maximum floor area of ~~900,000~~ 700,000 square feet.

2. Uses and Site Development Regulations

The following Limits apply to the project and uses:

a. Schedule of Uses

Accessory uses and structures
Administrative offices
Animals: Clinic or kennel
Auto repair and service, all groups
Boats: Boat repair and service
Broadcast studio, commercial radio and television
Building materials sales
Business services: Group II (non-retail)
Bus station/depot
Cleaning and maintenance services
Cold storage, pre-cooling, warehouse and processing plant
Computer and data processing services
Contractors and builders, all groups (non-retail, offices ancillary to trade contractors, builders)
Entrance gates and gatehouse
Emergency operations center
EMS, fire or sheriff's station
Essential services
Essential service facilities: Group I

ATTACHMENT UA

Revised Conditions and Deviations Document

Excavation: Water retention
Fences, walls
Freight and cargo handling establishments
Gasoline dispensing system, special
Government maintenance facility
Manufacturing of:
 Apparel products
 Chemical and allied products: Groups I and II
 Electrical machinery and equipment
 Fabricated metal products: Groups I, II, and III
 Food and kindred products: Group III
 Furniture and fixtures
 Leather products: Group II
 Lumber and wood products: Groups I, II, III, IV, V and VI
 Machinery, Groups I, II, and III
 Measuring, analyzing and controlling instruments
 Novelties, jewelry, toys and signs, all groups
 Rubber and plastic products: Group II
 Stone, clay, glass and concrete products: Group I, II, III, and IV
 Textile mill products, Groups I, II, and III
 Transportation equipment: Groups I, II, III and IV
Motion picture production studio
Nonstore retailers, all groups
Parcel and express services
Parking lot:
 Accessory
 Commercial
 Garage, public parking
 Temporary
Printing and publishing
Processing and warehousing
Recreation facilities: Personal
Recycling facility
Rental or leasing establishment: Group IV
Repair shops: Groups I, II, III, IV, and V
Research and development laboratories: Group IV
Retail and wholesale sales, when clearly incidental and subordinate to a permitted principal use on the same premises
Salvage and disposal of materials - limited to crushed rock, concrete and dirt
 (Subject to Condition #10)
Schools: Commercial
Shredding and composting of vegetative matter added by ADD2019-00106
Signs in accordance with chapter 30

ATTACHMENT UA

Revised Conditions and Deviations Document

Social services: Group II
Storage: Indoor only
Storage, open
Studios
Transportation services: Groups II, III, and IV
Vehicle and equipment dealers: Group V
Warehouse: Mini-warehouse
Private
Public
Wholesale establishments: Groups I, II, and IV

b. Site Development Regulations

Minimum Area Dimensions:

Minimum Lot Size:	45,000 sq. ft.
Minimum Lot Depth:	200 ft.
Minimum Lot Width:	100 ft.

Minimum setbacks:

Street:

Public:	25 ft.
Private:	20 ft.

Side:	20 ft.
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Rear:	15 ft.
-------	--------

Waterbody:	25 ft.
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Development Perimeter:	25 ft.
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Accessory Structures:	Per LDC §§ 34-1171 & 34-2194
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Maximum Building Height:	45 ft.
--------------------------	--------

Maximum Lot Coverage:	40%
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Minimum Open Space:	20%
---------------------	-----

Minimum Open Space per Lot:	15%
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3. Environmental Conditions:

- a. The development order plans must delineate a minimum of 15 percent open space for each lot.
- b. The development order plans must demonstrate the use of 100 percent native vegetation for all required landscaping on site.
- c. The development order plans must demonstrate a common landscape

ATTACHMENT UA

Revised Conditions and Deviations Document

theme for the Type “D” buffer plantings along Domestic Avenue.

4. Traffic Conditions

- a. ~~At the time of local development order submittal for the site infrastructure, an intersection analysis at the Alico Road/Gator Road and Alico Road/Domestic Avenue intersection is required.~~

Staff note: Staff recommends deleting this condition because the intersection analysis already has been satisfied.

- b. ~~Should the intersection analysis indicate the need to widen the southbound approach on Gator Road to two lanes, the developer will be required to add a southbound left turn lane on the approach to Alico Road.~~

Staff note: Staff recommends this condition be deleted because AC-13-17 no longer allows impacts to the Gator Road/Alico Road intersection to be considered and a new modified condition is being added.

- c. ~~Should the intersection analysis indicate the need for signalization of the Alico Road/Gator Road intersection, the developer will be required to sign an agreement with Lee County to pay a proportionate share of any necessary signalization improvements.~~

Staff note: Staff recommends deleting this condition because installation of a traffic signal already has been satisfied.

As a condition of and prior to development order approval, the Owner, its successors, or assigns shall pay to the Gator Road Maintenance Association, Inc. (GRMAI) a proportionate share payment for the cost of the design, permitting, and construction of a southbound left turn lane on the approach to Alico Road. The methodology for determining the proportionate share payment amount shall be substantially based on AC-13-16 for Transportation Proportionate Share Calculations for New Development Projects, and the payment amount shall be subject to the review and approval of County staff.

Staff note: The Applicant has proffered via e-mail dated September 27, 2021 a new condition, which has been modified by staff to assure that sufficient access is provided to support the proposed development intensity and that sufficient safeguards exist to protect the public interest.

5. Vehicular/Pedestrian Impacts

ATTACHMENT UA

Revised Conditions and Deviations Document

~~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.~~

6. Lee Plan Consistency

~~Approval of this zoning request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1 (b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.~~

7. Concurrency

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

Staff note: Staff recommends deletion of these three conditions as they have either been addressed or are not applicable.

5. Solid Waste Management

As part of any local development order approval for vertical development, the development order plans must include facilities in compliance with LDC §10-261 and Solid Waste Ordinance #11-27 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of local development order application.

6. Tall Buildings

The development must comply with Land Development §§ 34-1009 and 34-1010 Code § 34-2175 for tall structures including permanent buildings, antenna, tower, and temporary cranes.

Staff note: The cross-reference is updated to the current LDC Section.

7. Salvage and Disposal of Material

The use "Salvage and disposal of material" is limited to concrete (without rebar) or crushed rock and dirt. This use is limited to the filling of the on-site, man-made

ATTACHMENT UA

Revised Conditions and Deviations Document

lakes. Upon completion of the filling of these lakes, this use is no longer a permitted use within this Planned Development.

8. Truck wash

As part of the local development order to fill the lakes, truck wash(es) must be provided. The location of the wash(es) will be determined by Development Services Staff at the time of local development order.

9. Utilities

Prior to local development order approval for vertical construction, public water and sewer facilities must be provided to the subject property, and all parcels must connect to those services.

SECTION C. DEVIATION:

1. Deviation (1) seeks relief from the LDC §10-329(d)1(a)3 requirement to provide a setback of 50 feet from any property line under separate ownership, to allow a 25-foot lake setback from properties to the north and west of the subject site (the balance of the original 290-acre IPD). This deviation is APPROVED.
2. Deviation (2) seeks relief from LDC §10-296(e)(2)d. Tree and Palm Spacing in Roadway Planting Areas (Street Trees) requiring that Street Trees must be planted on both sides of the road, that palm trees may only be substituted for a maximum of 50 percent of the required small trees, and that the trees must be spaced evenly along the frontage and not clustered, to allow the trees required per this section of the code to be planted on one side of the road, to allow 100 percent of the trees to be palm trees, and to allow the palm trees to be clustered with an enhancement to the code that the palms must be staggered in height from 10 feet to 14 feet.

This deviation was APPROVED by ADD2019-00106.

3. Deviation (3) seeks relief from the requirement to provide a pedestrian facility in accordance with the Table 15 for suburban local streets per LDC § 10-296(e)(2)e which requires a six-foot-wide sidewalk to only provide a 6 foot sidewalk on one side of the internal roads and/or shared access easements.

This deviation was APPROVED by ADD2019-00106, subject to complying with the detail provided for Deviation 3 found in ADD2019-00106.

4. Deviation (4) seeks relief from LDC §10-295 requiring street stubs or an interconnection to adjoining areas, to provide street stubs may be provided with a

ATTACHMENT UA
Revised Conditions and Deviations Document

temporary cul-de-sac turnaround within the minimum required platted right-of-way.

This deviation was APPROVED by ADD2019-00106.

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

CASE NUMBER: DCI2021-00020
CASE NAME: Gator-Domestic Industrial Center IPD
TYPE OF CASE: Minor Planned Development Amendment
HEARING EXAMINER DATE: December 7, 2021 (continued from September 30, 2021 and November 16, 2021)
SUFFICIENCY DATE: August 5, 2021
PROPERTY SIZE: 88.16± acres

I. REQUEST

Quattrone and Associates, Inc., on behalf of the landowner USA Fort Myers Holding Company, LLC has filed a Minor Planned Development amendment application to eliminate three conditions requiring: i) a traffic analysis at the Alico Road/Gator Road and Alico Road/Domestic Avenue intersections; ii) the southbound widening of Gator Road to add a left-turn lane if the intersection analysis demonstrates the need; and iii) act on an agreement to pay a proportionate share of any necessary signalization improvements. The application is for an 88.16± acre site located at 16575/579 Gator Road. The application applies to the entire property and is related to ADD2019-00106. The STRAP Numbers associated with the property are 05-46-25-00-01000.5080 and 05-46-25-00-01000.5100 and GEN2021-00130 waived the requirement for the legal description, Master Concept Plan, and three maps (see Attachment A).

II. SUMMARY

This application was initially scheduled to be heard on September 30, 2021 but at the request of the parties the Hearing Examiner continued the matter to November 16, 2021 (see Attachment V). On October 18, 2021, Applicant submitted a revised request statement (see Attachment NA-1) and a Traffic Impact Analysis (TIA) dated September 2021 for the above-described project, which reduced the floor area from 900,000 square feet to 700,000 square feet of industrial space (see Attachment NE). At the November 16, 2021 hearing, the parties requested and the Hearing Examiner approved the continuance of the hearing to December 7, 2021 (see Attachment W). In summation, staff finds the TIA confirms that the floor area reduction no longer triggers an intersection analysis and, therefore, no mechanism exists for Staff to require a southbound left turn lane on the approach to Alico Road.

This Revised Staff Report supplements and is in addition to the initial staff report. The findings, conclusions, and recommendations herein supersede the findings, conclusions and recommendations in the initial staff report to the extent that there is a conflict among the reports. Based upon Staff findings and conclusions as documented herein, Staff now recommends **APPROVAL** for the elimination of the three conditions. Notwithstanding the above, the Applicant has proffered via e-mail dated September 27, 2021 (see Attachment X) a new condition assuring that sufficient access is provided to support the proposed development intensity, that sufficient safeguards exist to protect the public interest, and that the condition is reasonably related to the

impact on the public interest expected from the proposed development. Staff has modified this proffered condition to read as follows:

As a condition of and prior to development order approval, the Owner, its successors, or assigns shall pay to the Gator Road Maintenance Association, Inc. (GRMAI) a proportionate share payment for the cost of the design, permitting, and construction of a southbound left turn lane on the approach to Alico Road. The methodology for determining the proportionate share payment amount shall be substantially based on AC-13-16 for Transportation Proportionate Share Calculations for New Development Projects, and the payment amount shall be subject to the review and approval of County staff.

The application does not include any deviations; however, an initial deviation was granted under Resolution No. Z-13-010 and three (3) deviations subsequently were approved under ADD2019-00106 and are codified herein in the proposed conditions.

III. REVISED ANALYSIS

On May 18th, 2021, Applicant filed an application to amend the IPD to eliminate Conditions #4.a, 4.b., and 4.c of the approved zoning resolution Z-13-010 (see Attachment N), which provide:

- 4.a. At the time of local government development order submittal for the site infrastructure, an intersection analysis at the Alico Road/Gator Road and Alico Road/Domestic Avenue intersection is required;
- 4.b. Should the intersection analysis indicate the need to widen the southbound approach on Gator Road to two lanes, the developer will be required to add a southbound left turn lane on the approach to Alico Road;
- 4.c. Should the intersection analysis indicate the need for signalization for the Alico Road/Gator Road intersection, the developer will be required to sign an agreement with Lee County to pay a proportionate share of any necessary signalization improvements.

While the Applicant provides a discussion related to Condition 4.a, staff finds the study already has been performed, thereby rendering the condition moot.

Applicant's Request Statement argues Condition 4.b should be eliminated for the following reasons:

- The project does not exceed the LDC Section 10-286 threshold (i.e., 300 peak-hour trips) for having to analyze offsite roads and/or intersections;
- The condition is unfair because the intersection is already failing and it places the burden solely on the applicant to improve the intersection;
- Gator Road is privately-owned and maintained by the Gator Road Maintenance Association, Inc. (GRMAI) and the Applicant lacks authority to conduct work on the road;
- The Gator Road southbound approach lane would cross the Seminole Gulf Railway (SGR), only the GRMAI has authority to seek SGR approval, and the work would require amending the SGR lease area; and
- Unless deviations from turn lane widths and radii are allowed, the existing railroad cross arms may have to be relocated resulting in substantial costs.

Administrative Code Number AC-13-1, Traffic Study Guidelines for Planned Development Rezonings 7, provides that if a project generates over 300 peak hour trips, an urban or suburban arterial analysis shall be made utilizing entrances and all other intersections and roadway links within the area of influence. However, if the project generates between 100 and 300 peak hour trips, a link level of service for all links within the area of influence shall be made. Further, site access and all intersections within one-quarter of a mile shall be analyzed. While the initial TIA showed that 360 AM and PM peak-hour trips were created (see Attachment ND), Staff now finds the September 2021 TIA demonstrates that the project generates 280 peak AM and PM vehicle trips onto the adjacent road system (see Attachment NE). Since the peak hour trips are now less than 300 and since the Gator Road intersection with Alico Road is located 0.45± miles away, impacts to the Gator Road/Alico Road intersection cannot be considered. Consequently, Staff concurs with the elimination of Condition 4.b.

Finally, Applicant argues Condition 4.c should be eliminated because the traffic signal already has been installed and, therefore, the condition is moot. Staff concurs.

LDC Section 34-145(d)(4)a.1 provides that before recommending approval of a rezoning the Hearing Examiner must find the request complies with seven (7) criteria. The seven (7) criteria and staff's analysis of conformance to these criteria are analyzed below. Staff finds the Applicant has established conformance with these seven (7) criteria.

- A. *Complies with the Lee Plan.* Staff finds the intersection analysis required by Condition 4.a (see Attachment NC) and the Gator Road/Alico Road traffic signal improvement required by Condition 4.c have been performed and, consequently, staff concludes those conditions are no longer necessary and can be removed. With regard to condition 4.b, staff concludes the condition can be eliminated because AC-13-17 does not allow impacts to intersections beyond one-quarter of a mile to be considered, and the intersection is more than one-quarter of a mile from the subject property.

GOAL 7: INDUSTRIAL LAND USES. *To promote opportunities for well-planned industrial development at suitable locations within the county.* Staff now finds and concludes the application promotes opportunities for well-planned industrial development at suitable locations because the proposed intensity no longer adversely affects the Gator Road/Alico Road intersection.

OBJECTIVE 7.1: *All development approvals for industrial land uses must be consistent with the following policies, the general standards under Goal 4, and other provisions of this plan.* As documented below, elimination of Condition 4.b is in conformance with Policy 7.1.1.j and k.

POLICY 7.1.1: *In addition to the standards required herein, the following factors apply to industrial rezoning and development order applications:*

5. *Applications for industrial development will be reviewed and evaluated as to:*
 - j. *impacts on transportation facilities and access points (rezoning and development orders);*

- k. *access to rail, major thoroughfares, air, and, if applicable, water (rezoning and development orders);*

POLICY 7.1.2: *Industrial developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as Planned Developments designed to arrange uses as an integrated and cohesive unit in order to:*

- 5. *avoid negative impacts on surrounding land uses and traffic circulation; and*
- 7. *provide necessary facilities and services where they are inadequate to serve the proposed use.*

POLICY 7.1.3: *Industrial land uses must be located in areas appropriate to their special needs and constraints, including, but not limited to, considerations of: ... access by truck, air, deep water, and rail; and compatibility with neighboring uses.*

POLICY 7.1.5: *The timing and location of industrial development will be permitted only with the availability and adequacy of existing or planned services and facilities.*

POLICY 7.1.10: *All county actions relating to industrial land uses must be consistent with the goals, objectives, and policies of the Economic element of this Plan.*

POLICY 158.1.10: *Evaluate the current land development regulatory and fiscal structure to identify and remove where appropriate the unwanted impediments to ensuring development is fiscally beneficial.*

Lee Plan Objective 39.1 provides for maintaining “development practices that identify developer transportation system responsibilities, including site-related and proportionate share contributions; and establish criteria or thresholds to determine the scope of the traffic impact statement.”

As noted previously, since the peak hour trips are now less than 300 and since the Gator Road intersection with Alico Road is located 0.45± miles away from the subject property, AC-13-17 no longer allows impacts to the Gator Road/Alico Road intersection to be considered. Furthermore, the applicant has proposed the payment of a proportionate share of the cost of improving the Gator Road/Alico Road intersection with a dedicated left turn lane. Consequently, Staff now finds and concludes the application is in conformance with the above-described Lee Plan Goal, Objectives and Policies and recommends approval of the request, as conditioned.

- B. *Meets this Code and other applicable County regulations or qualifies for deviations.* Staff supports the elimination of Conditions 4.a and 4.c because those conditions already have been satisfied. Staff also recommends the elimination of Condition 4.b because AC-13-17 no longer allows impacts to the Gator Road/Alico Road intersection to be considered as part of the analysis of the subject request and because the applicant proposes to pay a proportionate share of the cost to improve the Gator Road/Alico Rd intersection. Thus, staff finds and concludes the application is consistent with the below described LDC regulations.

LDC Section 10-287, Traffic Impact Mitigation Plan (TIMP), provides *the function of the TIMP is to: i) Identify the responsibility for various road improvements falling to the several participants in the development process; ii) Relate the various needed improvements to the occupancy and use of developed land, particularly regarding the relative timing of occupancy and availability of the road improvements; and iii) Clearly identify the parties who will be responsible for the costs of the improvements.*

LDC Section 10-288, Turn lanes, provides *“Access to streets will not be permitted unless turn lanes are constructed by the applicant where turning volumes make such improvements necessary to protect the health, safety and welfare of the public or to reduce adverse traffic impacts on the adjacent street system.”*

LDC Section 10-293, private streets, provides *“Private streets may be permitted and approved provided: ... The private streets are maintained through a covenant that runs with the land in the form of, but not limited to, a homeowners' or condominium association declaration or such other legal mechanisms providing assurance to the owners of the contiguous property that the street will be continually maintained. The owners of the contiguous property must be provided with a legal right to enforce the assurance that the road be continually maintained.”*

- C. *Is compatible with existing and planned uses in the surrounding area.* Staff finds and concludes that the proposed industrial development is compatible with existing and planned industrial uses in the surrounding area because the impacts to the Gator Road/Alico Road intersection can no longer be considered and because a proportionate share of the cost of improving the Gator Road/Alico Road intersection is proposed to be paid by the applicant.
- D. *Will provide access sufficient to support the proposed development intensity.* Staff finds and concludes that access sufficient to support the proposed development intensity is provided.
- E. *The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval.* Staff finds and concludes the expected impacts on transportation facilities are addressed by existing County regulations. Furthermore, staff finds and concludes the proposed condition further reduces expected impacts to the Gator Road/Alico Road intersection.
- F. *Will not adversely affect environmentally critical or sensitive areas and natural resources.* Staff finds the elimination of traffic-related conditions has little if any adverse impacts upon environmentally critical or sensitive areas and natural resources and, therefore, concludes the application is in conformance with this criterion.
- G. *Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.* Staff finds the existing development is being served by urban services and, therefore, concludes the application is in conformance with this criterion.

LDC Section 34-145(d)(4)a.2 provides that before recommending approval of a planned development rezoning the Hearing Examiner must also find the request complies with four (4) additional criteria. The four (4) criteria and staff's analysis of conformance to these criteria are analyzed below.

- H. The proposed use or mixes of uses is appropriate at the proposed location.* Staff finds the application does not propose any change to the existing approved schedule of uses and, therefore, concludes the application is in conformance with this criterion because the mix of uses previously has been determined to be appropriate at the proposed location.
- I. 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.* As noted elsewhere herein, Staff finds and concludes the proposed condition based on the Applicant's proposal provides additional safeguards to the public interest and is reasonably related to the impacts on the public's interest expected from the proposed development's impacts to the Gator Road/Alico Road intersection.
- J. If the application includes deviations pursuant to section 34-373(a)(9), that each requested deviation: 1) Enhances the achievement of the objectives of the planned development; and 2) Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.* The application does not provide for deviations and, consequently, this criterion is inapplicable.

IV. CONDITIONS

Staff supports the elimination of Conditions 4.a, 4.b, and 4.c as shown below.

- ~~4.a. At the time of local development order submittal for the site infrastructure, an intersection analysis at the Alico Road/Gator Road and Alico Road/Domestic Avenue intersection is required.~~
- ~~4.b. Should the intersection analysis indicate the need to widen the southbound approach on Gator Road to two lanes, the developer will be required to add a southbound left turn lane on the approach to Alico Road.~~
- ~~4.c. Should the intersection analysis indicate the need for signalization of the Alico Road/Gator Road intersection, the developer will be required to sign an agreement with Lee County to pay a proportionate share of any necessary signalization improvements.~~

Staff also supports and recommends the below-described condition based on the Applicant's proffered template:

As a condition of and prior to development order approval, the Owner, its successors, or assigns shall pay to the Gator Road Maintenance Association, Inc. (GRMAI) a proportionate share payment for the cost of the design, permitting, and construction of a southbound left turn lane on the approach to Alico Road. The methodology for determining the proportionate share payment amount shall be

substantially based on AC-13-16 for Transportation Proportionate Share Calculations for New Development Projects, and the payment amount shall be subject to the review and approval of County staff.

V. CONCLUSION

In closing, staff finds and concludes that the elimination of Conditions 4.a, 4.b, and 4.c are in conformance with the criteria in LDC Section 34-145(d)(4)a.1 and with the criteria in LDC Section 34-145(d)(4)a.2. Consequently, based on the findings and conclusions herein, staff recommends the Hearing Examiner **APPROVE** the Applicant's request to eliminate Conditions 4.a, 4.b and 4.c. Staff also recommends the Hearing Examiner **APPROVE** the below-described condition based on the Applicant's proffered template:

As a condition of and prior to development order approval, the Owner, its successors, or assigns shall pay to the Gator Road Maintenance Association, Inc. (GRMAI) a proportionate share payment for the cost of the design, permitting, and construction of a southbound left turn lane on the approach to Allico Road. The methodology for determining the proportionate share payment amount shall be substantially based on AC-13-16 for Transportation Proportionate Share Calculations for New Development Projects, and the payment amount shall be subject to the review and approval of County staff.

Revised List of Attachments

- A. GEN2021-00130
- B. Planned Development Map of Affected Area
- C. 2005 Aerial Photograph of Affected Area
- D. Master Concept Plan for Resolution No. Z-06-057
- E. Resolution No. Z-13-010
- F. ADD2019-00106
- G. Future Land Use Map, excerpt
- H. DOS2019-00047
- I. LDO2020-00246
- J. Lee County Property Appraiser Property Data for 05-46-25-00-01000.5080
- K. Lee County Property Appraiser Property Data for 05-46-25-00-01000.5100
- L. Zoning District Map, excerpt
- M. 2021 Aerial Photograph
- N. DCI2021-00020 Gator-Domestic Industrial Center Application
 - NA Request Statement
 - NA1 Revised Request Statement dated October 18, 2021
 - NB June 2, 2020 Traffic Impact Statement
 - NC March 19, 2020 memorandum from Reid C. Fellows re: Intersection Analysis
 - ND July 2021 Traffic Impact Analysis prepared by Joshua Eisenoff, E.I.
 - NE September 2021 Traffic Impact Analysis
- O. AC-13-17, Traffic Study Guidelines for Planned Development Rezonings
- P. August 16, 2021 memo from Lili Wu, Senior Planner, to Earl Hahn, Principal Planner
- Q. Hearing Examiner Recommendation for DCI2013-00004
- R. Lee County Plan Map 3D, Lee County Walkways & Bikeways

- S. March 28, 2021 letter from Jorge J. Puente, Service Planner with Lee County Transit to Earl Hahn
- T. May 24, 2021 memorandum from Donna Ellis, Planning Specialist with the School District of Lee County to Earl Hahn
- U. Conditions and Deviations Document
UA Revised Conditions and Deviations Document
- V. Order of Continuance dated September 30, 2021
- W. Order of Continuance dated November 16, 2021
- X. September 27, 2021 Memo from Al Quattrone to Anthony Rodriguez and Earl Hahn with attached sample cost share agreement