



LEE COUNTY BOARD OF COUNTY COMMISSIONERS

ZONING HEARING AGENDA

Wednesday, April 6, 2022

9:30AM

DCI2021-00023
Z-21-025

Hampton Inn & Suites

REZ2021-00010
Z-22-003

Meadowbrook Estates Rezone, Block 62

REZ2021-00011
Z-22-004

Meadowbrook Estates Rezone, Block 65

REZ2021-00012
Z-22-005

Meadowbrook Estates Rezone, Block 71

DCI2021-00004
Z-21-022

Pine Lakes Country Club II (AKA French Property)

NOTICE OF PUBLIC HEARING

The Lee County Board of County Commissioners will hold a public hearing at 9:30 am on Wednesday, April 6, 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 case(s) below.

DCI2021-00023 / Hampton Inn & Suites

Request to rezone 2.02± acres from Commercial (C-1) to Commercial Planned Development (CPD) to allow for a hotel with up to 131 rooms with accessory and ancillary uses.

Located at 12991 Crystalyn Drive, South Fort Myers Planning Community, Lee County, FL.

REZ2021-00010 / Meadowbrook Estates Rezone, Block 62

Request to rezone 0.64± acres from Single Family Residential (RS-1) to Multifamily Residential (RM-8).

Located at Lots 15 and 16, Block 62, at the intersection of the west side of Glenn Avenue and the south side of George Canal, Unit 4, Meadowbrook Estates, Lehigh Acres Planning Community, Lee County, FL

REZ2021-00011 / Meadowbrook Estates Rezone, Block 65

Request to rezone 3.55± acres from Single Family Residential (RS-1) to Multifamily Residential (RM-8).

Located at Lots 11 and 12, Block 64, on north side of 7th Street between Broadway Avenue and Glenn Avenue; Lots 4 through 12, Block 65, Along east side of Broadway Avenue north of 7th Street; Lot 5, Block 66, in northwest corner of intersection of Broadway Avenue and Fiesta Street, Unit 4, Meadowbrook Estates, Lehigh Acres Planning Community, Lee County, FL.

REZ2021-00012 / Meadowbrook Estates Rezone, Block 71

Request to rezone 1.52± acres from Single Family Residential (RS-1) to Multifamily Residential (RM-8).

Located at Lot 1, Block 61, at intersection of North Avenue and the George Canal; Lots 1 through 4, Block 71 (714 -718 North Avenue), Unit 3, Meadowbrook Estates, Lehigh Acres Planning Community, Lee County, FL.

DCI2021-00004 / Pine Lakes Country Club II (AKA French Property)

Rezone approximately 83± acres from Agricultural (AG-2) to Mobile Home Planned Development (MHPD) to allow for a manufactured home community with a maximum of 400 units and accessory uses adjacent to an existing manufactured home community.

Located at 10031 & 10021 French Creek Lane, North Fort Myers 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.

DCI2021-00023
HAMPTON INN
& SUITES

Staff Summary

CASE NUMBER & NAME: DCI2021-00023 / Hampton Inn & Suites

REQUEST: Request to rezone 2.02± acres from Commercial (C-1) to Commercial Planned Development (CPD) to allow for a hotel with up to 131 rooms with accessory and ancillary uses.

RESOLUTION NUMBER: Z-21-025

LOCATION: 12991 Crystalyn Drive, South Fort Myers Planning Community, Lee County, FL.

OWNER: FM Hotel / Office Venture, L.P. c/o Cooper Hotels

APPLICANT: Haley Ward, Inc. / Ahmad R. Kareh, P.E.

AGENT: Haley Ward, Inc. / Ahmad R. Kareh, P.E.
13041 McGregor Blvd.
Fort Myers, FL 33919

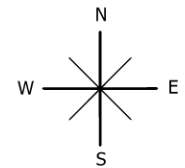
HEARING EXAMINER
RECOMMENDATION: Approve, with conditions and deviations

PARTICIPANTS (0): None

DCI2021-00023

Aerial

 Subject Property



0 250
Feet



Summary of Hearing Examiner Recommendation

HAMPTON INN & SUITES

(by Haley Ward, Inc., in reference to Hampton Inn & Suites CPD)

Request:	Rezone from Commercial (C-1) to Commercial Planned Development (CPD) to allow a hotel with 131 rooms and accessory/ancillary uses
Location:	12991 Crystalyn Drive (aka 5240 Christiana Way) South Fort Myers Planning Community (District 2)
Size:	2.02± acres
Recommendation:	Approve
Deviations:	None
Conditions of Note:	None
Public Concerns:	None

Hearing Examiner Remarks:



Applicant seeks to develop a hotel on vacant land near the Bell Tower Shops. The request continues established development patterns consistent with Lee Plan directives.

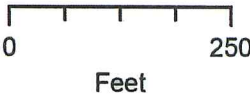
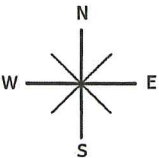
Detailed recommendation follows



DCI2021-00023

Future Land Use

-  Subject Property
-  Intensive Development
-  Central Urban



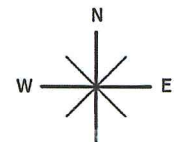


DCI2021-00023

Aerial

ATTACHMENT B

 Subject Property



ATTACHMENT B



0 250
Feet

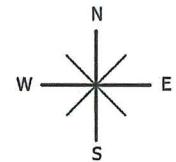




DCI2021-00023

Mixed Use Overlay

-  Subject Property
-  Mixed Use Overlay



0 250
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2021-00023

Regarding: HAMPTON INN & SUITES

Location: 12991 Crystalyn Drive (aka 5240 Christiana Way)

South Fort Myers Planning Community
(District 2)

Hearing Date: December 16, 2021

Record Closed: December 17, 2021

I. Request

Rezone 2.02± acres from Commercial (C-1) to Commercial Planned Development (CPD) to allow a 131 room hotel with accessory/ancillary uses.

The property's legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval, subject to the 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 satisfaction of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone to CPD.

In preparing a recommendation to the Board, the Hearing Examiner must consider the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other applicable County regulations to the facts presented in a rezoning request.² Specifically, the Hearing Examiner must find the request compatible with surrounding uses and complies with Lee Plan and LDC requirements relating to such items as transportation facilities, natural resources, and urban services.³ The Hearing Examiner may take judicial notice of previous Board decisions in the

¹ LDC 34-145(d)(1)(a) & (2)(a).

² LDC 34-145(d)(3).

³ LDC 34-145(d)(4).

context of reviewing zoning requests and preparing recommendations to the Board.⁴ The Hearing Examiner's recommendation must be based on competent and substantial evidence.⁵

Discussion supporting the recommendation of approval of the Hampton Inn & Suites CPD follows below.

Zoning Review Criteria

Before recommending approval for rezoning to the Board, the Hearing Examiner must find the request:

- A. Complies with the Lee Plan;
- B. Meets the LDC 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. Addresses expected impacts on transportation facilities through existing County regulations or 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.⁶

If the request involves planned development zoning, the Hearing Examiner must also find:

- H. The proposed use or mix of uses is 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; and
- J. Each requested deviation (1) enhances the achievement of the objectives of the planned development, and (2) preserves and promotes

⁴ Lee Co. Admin. Code 2-6.

⁵ Lee Co. Admin. Code 2-6, 3.3(A)(2); LDC 34-83(a)(4)(a)(1)(a).

⁶ LDC 34-145(d)(4)(a)(1).

the general intent of the LDC to protect the public health, safety, and welfare.⁷

Synopsis of Request

The property is zoned Commercial (C-1) and remains vacant. Applicant seeks to rezone to CPD to develop a hotel on the 2.02± acre site.



Staff recommended approval, finding the CPD satisfied LDC review criteria.

Lee Plan Consistency/Compatibility

All planned developments must be consistent with the Lee Plan.⁸ Requests for rezoning must be compatible with existing/planned uses in the surrounding area.⁹

⁷ LDC 34-145(d)(4)(a)(2).

⁸ LDC 34-411(a).

⁹ LDC 34-145(d)(4)(a).

Planned developments must be located to minimize negative effects of proposed uses on neighboring properties.¹⁰

The property is located within the Intensive Development future land use category in the South Fort Myers Planning Community.¹¹ Intensive Development properties are encouraged to develop with high densities and intensities.¹²

Intense development surrounds the 2.02± acre vacant property.¹³ The site is just north of Bell Tower Shops. Hotels occupy properties to the east and south.¹⁴ A large shopping/office plaza lies to the west. Single family residences adjoin to the north.

The requested hotel develops an infill parcel adjacent to a hotel and intense commercial uses.¹⁵ Residential uses are appropriately buffered from project impacts.¹⁶ The proposed development promotes contiguous and compact growth consistent with Lee Plan directives.¹⁷

The property is also within the Mixed Use Overlay.¹⁸ The project proposes pedestrian and vehicular interconnections promoting accessibility in furtherance of Lee Plan directives for development within the Overlay.¹⁹

The requested rezoning is consistent with the Lee Plan and compatible with the surrounding area.

Environmental/Natural Resources

Planned development design should reflect creative use of open space.²⁰ Developers must make an effort to protect and preserve natural site features.²¹

¹⁰ LDC 34-411(c) and (i).

¹¹ Lee Plan Map 1A-B, Policy 1.1.2.

¹² Lee Plan Policy 1.1.2.

¹³ See Staff Report (Attachment B).

¹⁴ Applicant's sister hotel, the Homewood Suites, adjoins to the east. Crowne Plaza sits just south of the site along Big Pine Way.

¹⁵ See Lee Plan Policies 6.1.3, 6.1.4.

¹⁶ See Lee Plan Policy 5.1.5; Staff Report (Attachment D: MCP). The MCP reflects an existing wall between the property and adjacent residences. Applicant will provide a Type B buffer with required vegetation on the residential side of the wall. *Id.* Applicant seeks no deviation from buffer requirements.

¹⁷ See Lee Plan Objectives 2.1, 2.2, Policies 2.1.1, 2.2.1, 6.1.7, 11.2.2.

¹⁸ See Staff Report (pg. 3); Lee Plan Map 1C, Objective 11.2.

¹⁹ See Lee Plan Objective 11.2, Policy 11.2.1, 11.2.2.

²⁰ LDC 34-411(h).

²¹ LDC 34-411(g).

The request has no impact on environmental features or natural resources.²² Site design complies with open space requirements.²³

Transportation Facilities/Traffic

Planned developments must have access to roads with sufficient capacity to support proposed intensity.²⁴ Existing regulations or conditions of approval must address expected transportation impacts.²⁵

The project proposes two access points on Crystalyn Drive.²⁶ The site plan also provides interconnection to the hotel to the east.²⁷

Staff determined the property has adequate frontage to accommodate access.²⁸

Urban Services

Urban services are the facilities, capital improvements, and infrastructure necessary to support development.²⁹ The Lee Plan requires urban service evaluation for rezoning.³⁰

The request constitutes infill development in an area served by a host of urban services and infrastructure including roads, potable water, sanitary sewer, police, fire, and emergency medical services.³¹

Conditions

The county must administer the zoning process so proposed uses acceptably minimize adverse impacts to adjacent property. Conditions must plausibly relate to impacts anticipated from the proposed development and must be pertinent to mitigating those impacts for the public health, safety, and welfare.³²

²² See Staff Report (pg. 2, Attachment F).

²³ See Staff Report (Attachment D: MCP). The Site Area Data Table reflects the project meets LDC open space requirements for a small development. See LDC 10-1, 10-425.

²⁴ LDC 34-145(d)(4)(a)(1)(d); 34-411(d)(1).

²⁵ LDC 34-145(d)(4)(a)(1)(e); 34-411(d)(2).

²⁶ See Staff Report (Attachment E). Crystalyn Drive is a minor collector roadway maintained by the county. *Id.* The northern access point exists, the southern access is proposed. Testimony of Ahmad Kareh.

²⁷ See Staff Report (Attachment D: MCP); Testimony of Ahmad Kareh and Chahram Badamtchian.

²⁸ See Staff Report (pg. 2, Attachment E); Lee Plan Objective 39.1, Policy 39.1.1; Applicant's Post-Hearing Submittal, Traffic Impact Statement dated June 18, 2021.

²⁹ Lee Plan Glossary; Urban services include; public water and sewer, paved streets and roads, public transit, parks and recreation facilities, urban levels of police, fire and emergency services, urban surface water management, schools, employment, industrial, and commercial centers, institutional, public, or administrative facilities, community facilities such as senior citizens centers, libraries and community centers.

³⁰ Lee Plan Policy 2.2.1.

³¹ See Staff Report (pg. 2-3).

³² LDC 34-932(b).

The CPD will be subject to several conditions of approval. The conditions relate to impacts anticipated from the project.³³ The Hearing Examiner recommends revisions to conditions to improve clarity.

Public

No members of the public attended the hearing.

Conclusion

The Hearing Examiner concurs with staff's analysis and recommendation that the requested Hampton Inn & Suites CPD meets LDC approval criteria.

IV. Findings and Conclusions

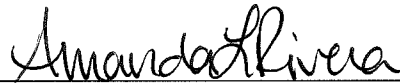
The Hearing Examiner makes the following findings and conclusions based on testimony and evidence in the record:

- A. As conditioned herein, the proposed Hampton Inn & Suites CPD:
1. Complies with the Lee Plan. See Lee Plan Goals 2, 4, 5, 6, 11, Objective 2.1, 2.2, 5.1, 11.1, 11.2, and Policies 1.1.2, 1.7.6, 2.1.1, 2.2.1, 5.1.5, 11.1.2; Lee Plan Maps 1A-B.
 2. Complies with the LDC and other County regulations. See, LDC 10-1, 10-425, 34-934.
 3. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.2, 2.1.1, 2.1.2, 2.2.1, 5.1.5, 6.1.1, 6.1.3, 6.1.4, 6.1.6, 6.1.7, 11.2.2; LDC 34-411(c), (i), and (j).
 4. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goal 77, Objectives 4.1, 77.2; and LDC 34-411(h).
 5. Will be served by urban services. See, Lee Plan Glossary, Maps 4A-B, Goal 2; Objectives 2.1, 2.2, 4.1; Policies 2.2.1, 6.1.4, and Standards 4.1.1 and 4.1.2; LDC 34-411(d).
- B. The Master Concept Plan reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. See, Lee Plan Goal 39, Policy 6.1.5; LDC 34-411(d).

³³ LDC 34-83(b)(4)a.3.

- C. The proposed mix of uses is appropriate at the proposed location. See, Lee Plan Policies 1.1.2, 2.1.1, 5.1.3, 6.1.1, and 6.1.7.
- D. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See, Lee Plan Policy 6.1.1; See *also*, LDC Chapters 10 and 34.
- E. As conditioned herein, the deviations:
 - 1. Enhance the objectives of the planned development; and
 - 2. Promote the intent of the LDC to protect the public health, safety and welfare. See, 34-377(b)(4).

Date of Recommendation: February 7, 2022.



Amanda L. Rivera
Deputy Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

EXHIBIT A



Engineers ♦ Environmental Scientists ♦ Surveyors

DCI2021-00023 Lee County ePlan

Description of A Parcel of Land
Lying in
Section 24, Township 45 South, Range 24 East
Lee County, Florida
(Boundary)

A parcel of land situated in the State of Florida, County of Lee, being a part of Section 24, Township 45 South, Range 24 East, and further described as follows:


Commencing at the Southwest corner of Lot 41, Block 61, Unit no. 5, part 5, Fort Myers Villas, according to a plat thereof recorded in Plat Book 23, at page 78, of the public records of Lee County, Florida; thence North 89°10'00" East along the Southerly line of said subdivision for 655.00 feet to the Point of Beginning; thence continue North 89°10'00" East along said southerly line and the southerly line of Unit No. 5, part of 3, Fort Myers Villas, according to a plat thereof recorded in Plat Book 17, Page 130, of the Public Records of Lee County, Florida, for 254.00 feet; thence South 01°12'46" East for 346.96 feet; thence South 89°10'00" West for 254.00 feet to the easterly line of Bell Tower Drive (50 feet wide) as recorded in Official Records Book 2207, at Page 3321; thence North 01°12'46" West along said easterly line for 346.96 feet to the Point of Beginning.

Bearings are based on the record plat of Unit No. 5, part 5, Fort Myers Villas (Plat Book 23, at Page 78) with the north line of Section 24 bearing North 89°10'00" East.

CES, Inc. (LB 8267)

Scott C.
Whitaker

Digitally signed by
Scott C. Whitaker
Date: 2021.06.17
09:45:14 -04'00'


Scott C. Whitaker, P.S.M. 4324
Professional Surveyor and Mapper
State of Florida

May 11, 2020

REVIEWED
DCI2021-00023
Hunter Searson, GIS
Planner
Lee County Government
10/20/2021

609.003_desc_boundary.docx|05.11.20|Sheet 1



Sensible Solutions | www.cesincusa.com

13041 McGregor Boulevard
Fort Myers, FL 33919-5910
T 239.481.1331
F 239.481.1073

SKETCH TO ACCOMPANY DESCRIPTION

OF A PARCEL OF LAND
LYING IN

SECTION 24, TOWNSHIP 45 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA.

0 80 160 240

N

POINT OF COMMENCEMENT

S.W. CORNER LOT 41 BLOCK 61
UNIT NO. 5 PART 5 FORT MYERS
VILLAS PLAT BOOK 23 PAGE 78

POINT OF BEGINNING

N: 806914.91
E: 698865.35
SPCS

UNIT NO. 5 PART 3
FORT MYERS VILLAS
PLAT BOOK 17 PAGE 130

UNIT NO. 5 PART 5
FORT MYERS VILLAS
PLAT BOOK 23 PAGE 78

TAMIAMI TRAIL-S.R. NO. 45
EASTERLY R/W U.S. 41

N89°10'00"E 655.00'
(BEARING BASIS)

CHRISTIANA WAY S.E. (50')

R/W

R/W
CHRISTIANA WAY S.E. (50')

BELL TOWER DRIVE (D)

DEED TO LEE COUNTY
(O.R. 2207 PG. 3321)

N01°12'46"W
N01°12'32"W (D)

N: 806568.04
E: 698873.06
SPCS

S89°10'00"W 254.00'

STRAP NO. 24-45-24-00-00005.002A
MINTON BUILDING CORPORATION
O.R. 2250 PG. 4345

NORTH R/W

BIG PINE WAY

N89°10'00"E 254.00'

SECTION 13
SECTION 24

SUBJECT PARCEL

STRAP NO. 24-45-24-00-00005.002D
FM HOTEL/OFFICE VENTURE LP
O.R. 3265 PG. 3326

88,125 SF (2.02 ACRES)

346.96'
S01°12'46"E

STRAP NO. 24-45-24-00-00005.0020
FM HOTEL/OFFICE VENTURE LP O.R.
3265 PG. 3329

BEARINGS ARE BASED ON THE RECORD PLAT
OF UNIT NO. 5, PART 5, FORT MYERS
VILLAS (PLAT BOOK 23, AT PAGE 78) WITH
THE NORTH LINE OF SECTION 24 AS BEARING
NORTH 89°10'00" EAST.

LEGEND:

DE = DRAINAGE EASEMENT
FND = FOUND
N/D = NAIL & DISK
OR = OFFICIAL RECORD BOOK
PB = PLAT BOOK
PC = POINT OF CURVE
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
PRC = POINT OF REVERSE CURVE
PG = PAGE
PUE = PUBLIC UTILITY EASEMENT
R/W = RIGHT-OF-WAY
SPCS = STATE PLANE CO-ORDINATE
SYSTEM 83/2011
Δ = DELTA ANGLE

*** THIS IS NOT A SURVEY ***
CES, INC.

Scott C. Whitaker

SCOTT C. WHITAKER, P.S.M.
FLORIDA CERTIFICATION NO. 4324

FM HOTEL / OFFICE VENTURE LP

CESinc

Engineers • Environmental Scientists • Surveyors

13041 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33919

PH (239) 481-1331

2010609.003SK.DWG

FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS EB32664 & LB8267

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-T-R)
05-11-20	609.003	RC	1" = 80'	1 OF 1	24-45-24



DCI2021-00023

Zoning

 Subject Property

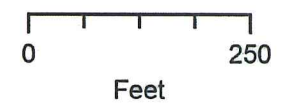
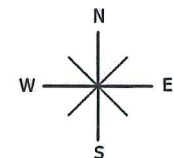


Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

1. Master Concept Plan (MCP)/Development Parameters

- (a) MCP. Development must be substantially consistent with the one-page Master Concept Plan (MCP) entitled “Hampton Inn & Suites” dated June 10, 2020 and revised on September 9, 2021, (Exhibit B1), except as modified by the conditions below.
- (b) LDC and Lee Plan. Development must comply with all requirements of the LDC and Lee Plan at time of local development order approval. Subsequent amendments to this zoning resolution may require further development approvals.
- (c) Development Parameters. This CPD permits development of a maximum of 131 hotel rooms with ancillary/accessory uses.

2. Uses and Site Development Regulations

(a) Schedule of Uses

Accessory Uses and Structures

Accessory and Ancillary uses to the hotel use:

- Administrative Office
- Bar and cocktail Lounge
- Business Services, Group I
- Consumption on premises, indoor and outdoor
- Food store, Group I
- Laundry or Dry Cleaning, Group I
- Personal Services, Groups I and II
- Recreational Facilities, Private on-site
- Restaurant, Groups I, II and III
- Specialty Retail, Groups I and II
- Transportation Services, Groups II and III
- Caretaker's Residence (Limited to 1,200 square feet)

Essential Services

- Essential Service Facilities, Group I
- Excavation Water Retention
- Fences, Wall
- Hotel
- Parking Lot, Accessory
- Signs

Temporary Uses

(b) Site Development Regulations

Minimum Lot Area and Dimensions

Lot Size:	2.02 Acres
Lot Width:	346 feet
Lot Depth	250 feet

Minimum Setbacks

Street	25 feet
Side	42.5 feet
Rear	42.5 feet

Minimum Open Space:	10%
Maximum Building Height:	80 feet

3. Utility Extension

Developer may be required to extend 10 inch diameter water mains to replace existing 6 inch mains from the corner of Big Pine Way to the property. Commercial buildings require 10 inch water mains for fire protection.

4. Existing Easements

Developer must vacate, relocate, or modify existing easements in conflict with the proposed development. Specifically, the 58 foot drainage/utility/access easement along north and west property lines must be addressed before development order approval.

5. Cross-Access Easements

Developer must record cross-access easements between the property and the parcel to the east to access parking spaces on the east side prior to development order approval.

DEVIATIONS

None

Exhibits to Conditions:
B1 Master Concept Plan

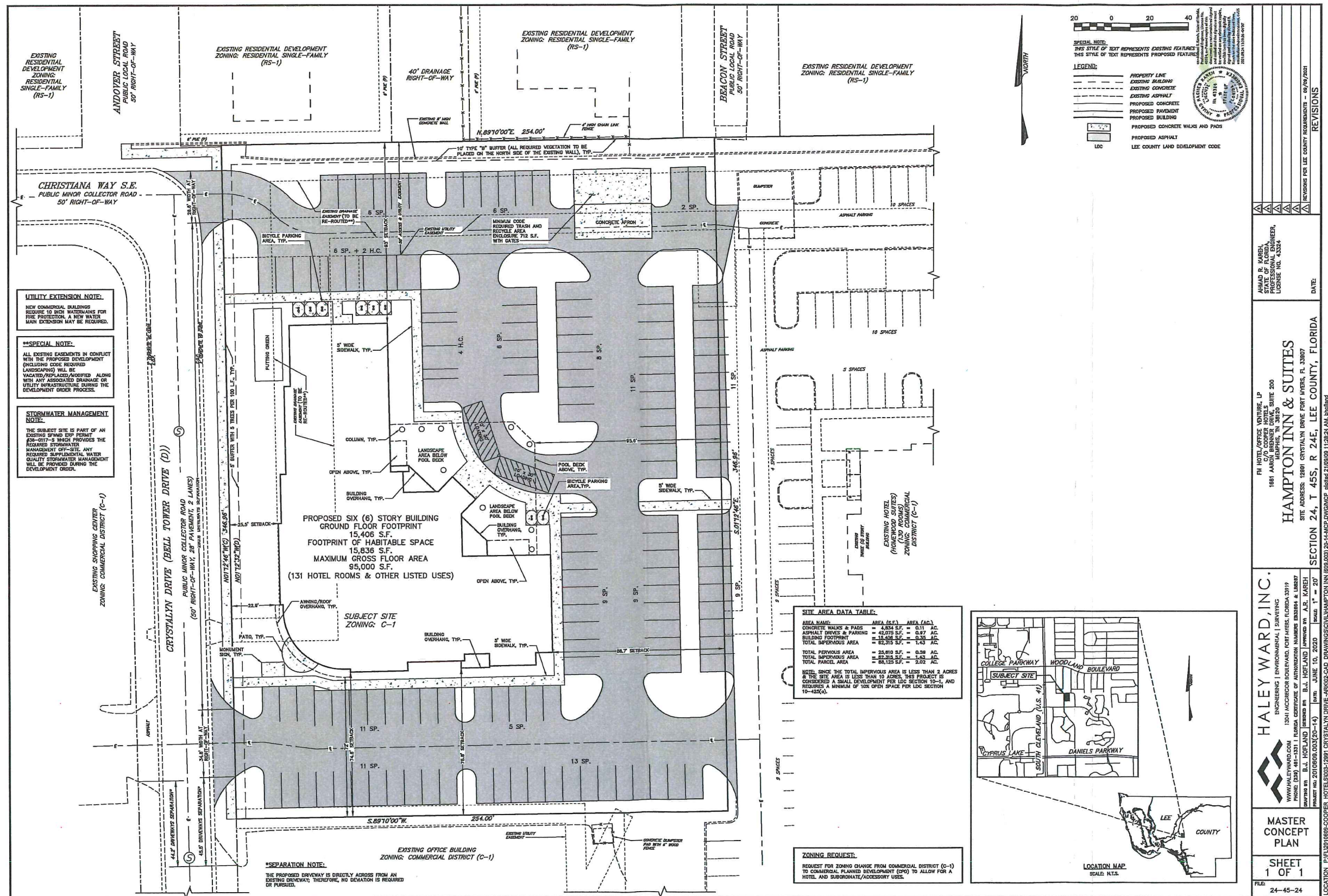


Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Chahram Badamtchian, Senior Planner, date stamped received December 2, 2021 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *Written Submission:* Email from Chahram Badamtchian, to Hearing Examiner, dated Thursday, December 16, 2021 (multiple pages – 8.5"x11")

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Ahmad Kareh, to Hearing Examiner, with copies to Maria Perez, dated Tuesday, December 14, 2021 2:40 PM, submitting Applicant's Exhibit List (3 pages – 8.5"x11")
- b. *Second 48-Hour Notice:* Email from Ahmad Kareh, to Hearing Examiner, with copies to Michael Jacob, Esq., Maria Perez, & Chahram Badamtchian, dated Tuesday, December 14, 2021 2:45 PM (3 pages – 8.5"x11")
1. *Written Submission:* Email from Ahmad Kareh, with Haley Ward, to Maria Perez, with copies to Chahram Badamtchian, dated Thursday, December 16, 2021 (multiple pages – 8.5"x11")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Chahram Badamtchian

Applicant Representatives:

1. Ahmad R. Kareh, P.E.

Public Participants:

None

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.

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

TYPE OF CASE:	PLANNED DEVELOPMENT/DCI
CASE NUMBER:	DCI2021-00023
HEARING EXAMINER DATE:	December 16, 2021
SUFFICIENCY DATE:	October 20, 2021

APPLICATION SUMMARY

Applicant: Haley Ward, Inc. in reference to Hampton Inn & Suites CPD

Request: Request to rezone 2.02± acres from Commercial (C-1) to Commercial Planned Development (CPD) to allow for a hotel with up to 131 rooms with accessory and ancillary uses.

Location: The subject property is located at 12991 Crystalyn Drive, South Fort Myers Planning Community, Lee County, FL (District #2). The applicant indicates the STRAP number is: 24-45-24-00-00005.002D.

Summary

Staff recommends approval of the applicant's request for rezoning from Commercial (C-1) to Commercial Planned Development (CPD) with the conditions found in Attachment C.

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

The applicant is not requesting any deviations with this rezoning request.

Character of the Area

The area is mostly developed with commercial uses along South Cleveland Avenue. There is a large residential development to the north of this site, zoned RS-1. Bell Tower Shops is located within a walking distance to this site. There is a supermarket (Publix), a Target Store and Costco wholesale within close proximity of the site.

The site is surrounded by commercial and residential zoning and uses. To the north it abuts a residential single-family development, zoned Residential Single-family (RS-1). To the east it abuts a hotel (Homewood Suites), zoned Commercial (C-1). To the south, it abuts an office/medical building and across Big Pine Way there is a hotel (Crown Plaza) both zoned Commercial (C-1). To the west, there is a shopping center, zoned Commercial (C-1).

Analysis

The subject site, consisting of 2.02± acres, is currently zoned Commercial (C-1) and is vacant. The request is to rezone from Commercial (C-1) to Commercial Planned Development (CPD) to develop the site with a hotel with 131 rooms with accessory and ancillary uses. This site will provide cross-access to the existing Homewood Suites Hotel to the east.

The area is highly developed with commercial uses and there are several hotels already in the area. There are several large shopping centers within walking distance of this site. The access to this hotel will be from Crystalyn Way and Christiana Way. This site will provide access to the existing Homewood Suites Hotel to the east.

This project is located within the Mixed Use Overlay which encourages higher intensity mixed use developments by allowing for reduced setbacks, buffers, parking space requirements, open space requirements, and increased lot coverage.

Environmental

Environmental staff has reviewed this request and recommended approval with no conditions.

Transportation

Development Services staff has reviewed this project and has recommended approval (Attachment E).

Lee Plan

The subject property is located in the Intensive Development Future Land Use category and the following Goals, Objectives, Policies and Standards are applicable to this rezoning request.

The request is to rezone the subject property from Commercial (C-1) to Commercial Planned Development (CPD) to allow for the site to be developed with a hotel. The Intensive Development Future Land Use designation allows commercial uses and developments. Staff finds the request CONSISTENT with Policy 1.1.2 of the Lee Plan.

As an infill development, the proposed development promotes contiguous and compact growth patterns, limits urban sprawl and minimizes the costs of services. Adequate public services exist to serve this development, and water and sewer services are available to the site. The property has access to South Cleveland Avenue through Crystalyn Drive and Big Pine Way. Therefore, the request is consistent with Objectives 2.1 and 2.2 and Policies 2.1.1 and 2.2.1 of the Lee Plan.

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

The applicant proposes to develop the site with a hotel. Provisions are made for pedestrians, automobile traffic, and parking. The requested rezoning, as conditioned, is CONSISTENT with POLICY 6.1.3 of the Lee Plan.

There are limited compatibility issues as most properties surrounding this site are used for commercial uses, including hotel uses. There are adequate public services and facilities in proximity to the property. The requested rezoning, as conditioned, is CONSISTENT with POLICY 6.1.4 of the Lee Plan.

The property will interconnect with the development to the east as encouraged by the Mixed Use Overlay. The requested rezoning, as conditioned, is CONSISTENT with POLICY 11.2.2 of the Lee Plan.

Urban Services

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

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

Paved streets and roads: The subject property fronts on Crystalyn Road, providing adequate access to the site.

Public transit: LeeTran has several bus line and bus stops within close proximity of this site. Bus Routes 30, 50, 80, 140, and 240 provide rides from Bell Tower area to different areas of the County.

Parks and recreation facilities/Community facilities: Lakes Regional Park is located on Gladiolus Drive. Kelly Road Soccer Fields, Wa-Ke Hatchee Center Park and Rutenburg Park are also within close proximity of this site.

Urban levels of police, fire, and emergency services: The subject property will be provided urban levels of police, fire and emergency services. Fire protection is provided by South Trail Fire Rescue District, located 5531 Halifax Avenue. This fire station also contains an EMS station.

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

Schools: This site is located within the Lee County Public Schools East Choice Zone S1. This hotel is not expected to generate any needs for public schools.

Employment and commercial centers: The subject property is in close proximity of existing commercial uses on South Cleveland. These commercial centers provide employment and shopping opportunities in the area.

PLANNING COMMUNITY MAP AND ALLOCATION TABLE

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

The subject property is located in the South Fort Myers Planning Community. The Planning Community Year 2030 Allocations indicate that 2,100 acres are allocated to commercial uses in the South Fort Myers Planning Community. From that number, 638 acres of commercial lands are still available. Staff finds the request CONSISTENT with the allocations for the South Fort Myers Planning Community.

Deviations

No deviations are requested with this request.

Findings and Conclusions

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

The request, as conditioned:

- a) Complies with Lee Plan as discussed in the Lee Plan analysis section of this report, specifically Lee Plan Policies 1.1.2, 2.1.1, 2.2.1, 6.1.3, 6.1.4, and 11.2.2; Objectives 2.1 and 2.2 Standards 4.1.1 and 4.1.2;
- 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 and the expected impacts on existing or planned transportation facilities will be mitigated through existing County regulations or conditions of approval;
- e) Will not adversely affect environmentally critical or sensitive areas and natural resources;
- f) Will be served by urban services, as defined in the Lee Plan;
- g) The proposed mix of uses is appropriate at the proposed location; and
- h) 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.

Closing Remarks

Lee County staff has reviewed the proposed rezoning request and recommends approval of the CPD zoning with conditions. The applicant is not seeking any deviations from the Lee County Land Development Code. The uses and intensity proposed by this request are consistent with the Lee Plan and compatible with surrounding existing land uses.

ATTACHMENTS:

- A. Expert Witness Information
- B. Maps: surrounding zoning, future land use and aerial photograph
- C. Recommended Conditions
- D. Master Concept Plan
- E. Memorandum from Lee County Section of Infrastructure Planning
- F. Bus Route Maps
- G. Letter of availability for water and sewer
- H. Application and narrative
- I. Legal Description

cc: Applicant
County Attorney
Zoning File

DCI2021-00023, Hampton Inn & Suites CPD

Conditions

A. Conditions

1. MASTER CONCEPT PLAN/DEVELOPMENT PARAMETERS

The development of this project must be consistent with the one-page Master Concept Plan entitled "Hampton Inn & Suites" dated June 10, 2020 and revised on September 9, 2021, except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (LDC) at time of local Development Order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

This planned development will allow a maximum of 131 hotel rooms with ancillary and accessory uses on.

2. USES AND SITE DEVELOPMENT REGULATIONS

a. Schedule of Uses

Accessory Uses and Structures

Accessory and Ancillary uses to the hotel use:

Administrative Office

ATM

Bar and cocktail Lounge

Business Services, Group I

Consumption on premises, indoor and outdoor

Food store, Group I

Laundry or Dry Cleaning, Group I

Personal Services, Groups I and II

Recreational Facilities, Private on-site

Restaurant, Groups I, II and III

Specialty Retail, Groups I and II

Transportation Services, Groups II and III

Caretaker's Residence (Limited to 1,200 square feet)

Essential Services

Essential Service Facilities, Group I

Excavation Water Retention

Fences, Wall

Hotel

Parking Lot, Accessory

Signs

Temporary Uses

b. Site Development Regulations

Minimum Lot Area and Dimensions

Lot Size:	2.02 Acres
Lot Width:	346feet
Lot Depth	250 feet

Minimum Setbacks

Street	25 feet
Side	42.5 feet
Rear	42,5 feet

Minimum Open Space:	10%
Maximum Building Height:	60 feet

3. Utility Extension

Existing water mains serving this parcel are 6 inches diameter. Commercial buildings require 10 inch water mains for fire protection. A new water main extension may be required from the corner of Big Pine Way.

4. Existing Easements

Prior to local development order approval, all existing easements in conflict with the proposed development, including a 58 foot wide drainage/utility/access easement along the north and west property lines, must be vacated, relocated or modified as not to interfere with the development of the site.

Cross-Access Easements

Prior to local development order approval, all necessary cross-access easements between the subject site and the property to the east must be recorded allowing legal access to the parking spaces on the east side of the subject site.

B. **DEVIATIONS:**

No deviations have been requested with this rezoning.

REZ2021-00010
MEADOWBROOK
ESTATES
REZONE, BLOCK
62

Staff Summary

CASE NUMBER & NAME: REZ2021-00010 / Meadowbrook Estates REZ, Block 62

REQUEST: Request to rezone 0.64 acres from Single Family Residential (RS-1) to Multifamily Residential (RM-8).

RESOLUTION NUMBER: Z-22-003

LOCATION: Lots 15 and 16, Block 62, at the intersection of the west side of Glenn Avenue and the south side of George Canal, Unit 4, Meadowbrook Estates, Lehigh Acres Planning Community, Lee County, FL

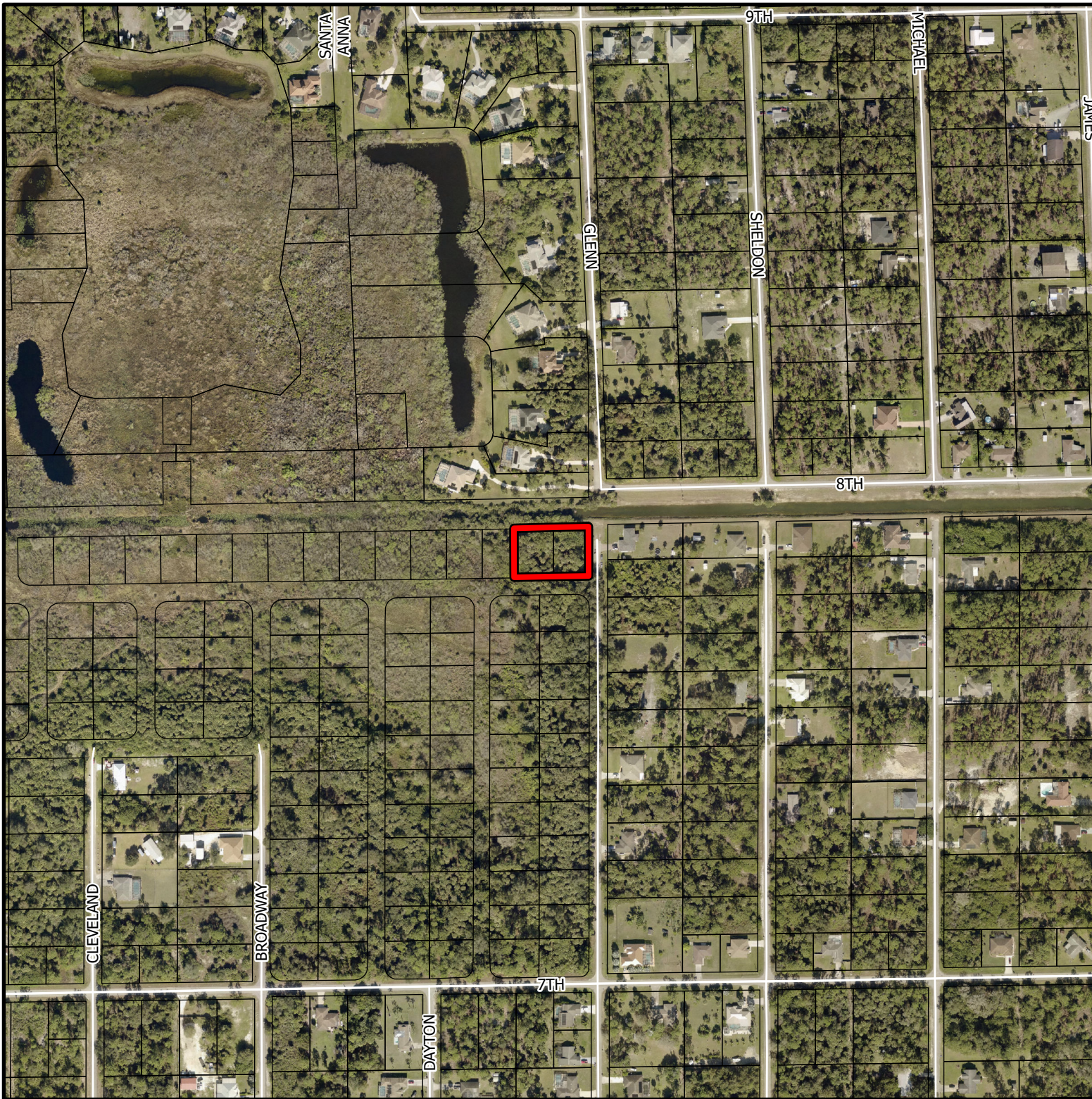
OWNER: Meadowbrook Park Holdings, LLC

APPLICANT: Quattrone & Associates, Inc.

AGENT: Quattrone & Associates, Inc.
4301 Veronica Showmaker Blvd.
Fort Myers, FL 33916

HEARING EXAMINER
RECOMMENDATION: Approve

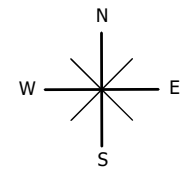
PARTICIPANTS (2):
1. Chris Huber
2. Donald Stein



REZ2021-00010

Aerial

 Subject Property



0 250 500 750
Feet



Summary of Hearing Examiner Recommendation

MEADOWBROOK ESTATES REZONE BLOCK 62

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

Request:	Rezone from Single Family (RS-1) to Multi Family Residential (RM-8)
Location:	Northwest Quadrant of Glenn Avenue, at Arbutus Street (unimproved right-of-way) Lehigh Acres Planning Community (District 5)
Size:	0.64± acres
Recommendation:	Approve

Hearing Examiner Remarks:

The request seeks rezoning to develop duplexes/two-family attached homes.

Applicant is pursuing four rezoning cases in Meadowbrook Estates. Each request must be evaluated on its own merits.

The Board recently approved the first request on ten lots south of the site.¹ This is the second request presented to the Board. The remaining two will immediately follow.

The property sits in an area dominated by residential uses. Proposed uses remain compatible with the area's residential development patterns.

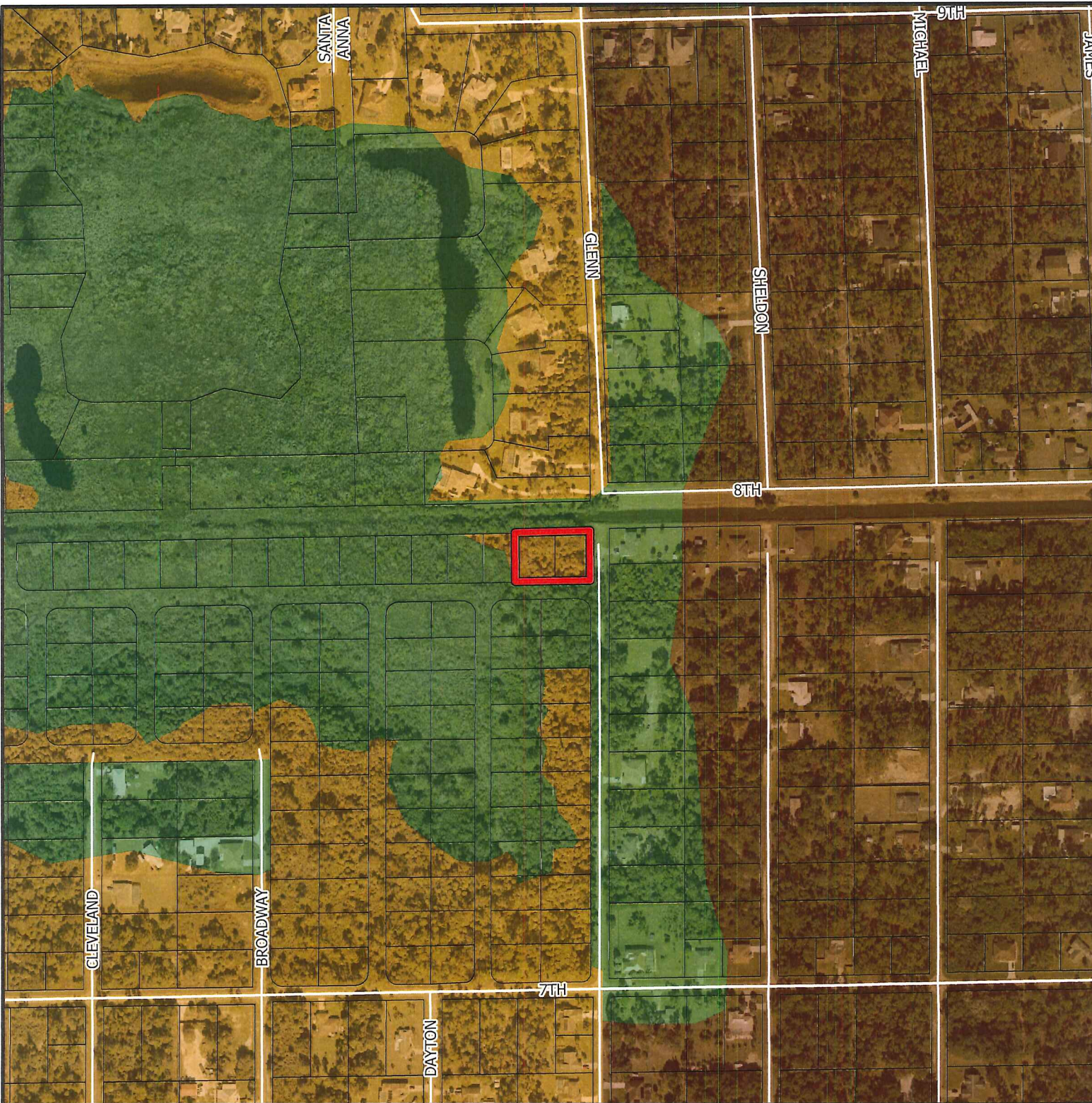
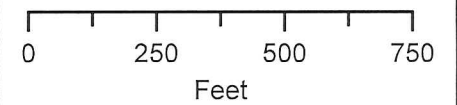
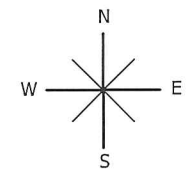
Detailed recommendation follows

¹ The Zoning Map in the Staff Report, and subsequently this Recommendation, does not reflect that change to RM-8.

REZ2021-00010

Future Land Use

-  Subject Property
-  Central Urban
-  Urban Community
-  Wetlands

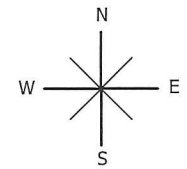




REZ2021-00010

Aerial

 Subject Property



0 250 500 750
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: REZ2021-00010

Regarding: MEADOWBROOK ESTATES REZONE BLOCK 62

Location: Northwest Quadrant of Intersection of Glenn Avenue and Arbutus Street right-of-way

Lehigh Acres Planning Community
(District 5)

Hearing Date: January 13, 2022

I. Request

Rezone 0.64± acres from Single Family Residential (RS-1) to Multi-Family Residential (RM-8).

The property's legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval.

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.² In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone 0.64± acres to the RM-8 district.

In preparing a recommendation to the Board, the Hearing Examiner is tasked to apply the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other County regulations to the facts presented in a rezoning request.³ The record must contain competent substantial evidence to support the Hearing Examiner's recommendation.⁴

² LDC 34-145(d)(1)a.

³ LDC 34-145(d)(3)-(4)(a)(1).

⁴ Lee Co. Admin. Code §2-6, 3.3(A)(2).

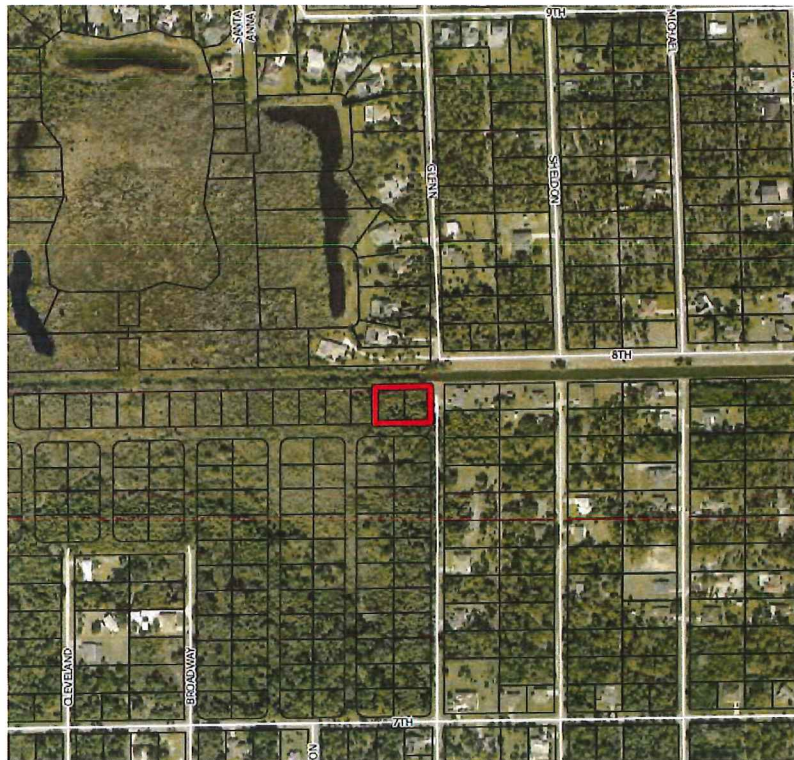
Discussion supporting the Hearing Examiner's recommendation of approval follows below.

Synopsis of Request/Character of the Area

Applicant seeks to rezone two contiguous lots to permit duplex or two-family attached homes.⁵ The Board recently approved an identical request on ten lots to the south.⁶

The vacant property is located in a predominantly residential area of Lehigh Acres.⁷ Scattered single family homes, wetlands, vacant lands, Glenn Avenue, and the George Canal surround the site.⁸ Joel Boulevard sits farther east, hosting multi-family and commercial uses.⁹

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



⁵ Applicant intends to develop single family, two-family, and duplex homes utilizing Alternate Property Development Regulations pursuant to LDC 34-713. See Applicant's Ex. 1 (slide 4); Testimony of Al Quattrone.

⁶ See Staff Report (pg. 1), referencing REZ2020-00017, adopted by the Board on Nov. 3, 2021 in Z-21-013, rezoning Lots 11 through 20, Block 63, Unit 4 of Meadowbrook Estates Plat (PB 18, Pages 163-67).

⁷ See Staff Report (pg. 1-2, Attachments B & C).

⁸ See Applicant's Ex. 1 (slide 5-7); Staff Ex. 2 (slide 2-4); Staff Report (pg. 1-2, Attachment B).

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

Lee Plan Consistency/Compatibility

Before recommending approval of a rezoning, the Hearing Examiner must find the request complies with the Lee Plan and is compatible with surrounding uses.¹⁰

Wetlands, Urban Community, and Central Urban future land uses characterize the area.



Lee Plan maps designate the property in the Urban Community category and the Lehigh Acres Planning Community.¹¹

Urban Community areas have a distinctly urban character, hosting a mix of relatively intense commercial and residential uses.¹² The Urban Community classification permits a standard density of 1-6 units per acre.¹³ The proposed RM-8 district is consistent with the Urban Community classification.¹⁴

¹⁰ LDC 34-145(d)(4)(a).

¹¹ Lee Plan Map 1-A, 1-B. The Lehigh Acres community plan is largely inapplicable since the property avoids classification within overlays. See Staff Ex. 2 (slide 6).

¹² Lee Plan Policy 1.1.4.

¹³ *Id.* Density can be maximized to 10 units per acre, or 15 units per acre utilizing Greater Pine Island Transfer of Development Units. Applicant must develop within permitted density ranges. LDC 34-491.

¹⁴ See Staff Report (pg. 5); Testimony of Peter Blackwell; Staff Ex. 2 (slide 6-8).

The requested RM-8 district retains residential zoning and does not alter underlying density.¹⁵ Staff concluded site constraints prohibit high density multi-family development.¹⁶

Further, rezoning to RM-8 satisfies Lee Plan directives by providing diverse housing opportunities.¹⁷ Permitting duplexes/two-family attached homes compliments existing and planned uses in the area.¹⁸

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

Meets LDC and Other Applicable County Regulations

Requests to rezone must meet the LDC and applicable County regulations or qualify for deviations.¹⁹

Applicant seeks to rezone to another conventional zoning district.²⁰ Therefore, it is not possible to impose conditions on approval. Rather, the RM-8 use regulation table will govern permitted uses.²¹ Applicant intends to utilize Alternate Property Development Regulations for duplex and two-family attached homes.²² Deviations from LDC requirements must be granted by variance.²³

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

Transportation

Rezoning requests must demonstrate access to existing or proposed roads with sufficient capacity to support the proposed intensity.²⁴ Expected impacts on transportation facilities must be addressed by existing regulations.²⁵

¹⁵ RS-1 and RM-8 are both residential zoning districts. See LDC Chapter 34, Article VI, Division 3. Density for the site is controlled by the future land use designations, which remain unaffected by the request. See Lee Plan Policies 1.1.4.

¹⁶ Testimony of Peter Blackwell (Transcript pg. 29); See Staff Report (pg. 5).

¹⁷ See Lee Plan Goals 25 and 135.

¹⁸ Providing alternative housing types is encouraged throughout the Lee Plan. See Goal 135.

¹⁹ LDC 34-145(d)(4)(a)(1)(b).

²⁰ LDC 34-612(1).

²¹ LDC 34-621(b), LDC 34-694.

²² See LDC 34-713. Alternate Property Development regulations require a minimum area of 2,400 square feet per unit, compliance with RM-8 lot coverage/area/width/depth requirements, and covenants regarding open space protection.

²³ LDC 34-621(a)(2); LDC 33-1403.

²⁴ LDC 34-145(d)(4)(a)(1)(d).

²⁵ LDC 34-145(d)(4)(a)(1)(e).

Two lots comprise the request (lots 15 and 16).²⁶ Lot 16 sits at the intersection of Glenn Avenue and Arbutus Street.²⁷ Glenn Avenue is a minor collector roadway.²⁸ Arbutus Street is an unimproved platted right-of-way.²⁹

Lot 15 accesses Glenn Avenue through Lot 16.³⁰ Applicant must improve Arbutus Street to access lot 15 directly.³¹

The property has adequate access to accommodate the proposed development.³²

Urban Services

Properties proposed for rezoning must be served by urban services if located in a Future Urban category.³³

The site is designated Urban Community but does not yet receive the full complement of urban services. Potable water and sanitary sewer do not service the area.³⁴ Accordingly, Applicant must either extend services or utilize well and septic.³⁵ Lehigh Acres Fire District, Lee County EMS, and Lee County Sheriff serve the site.³⁶

Environmental

A rezoning request cannot be approved if it adversely affects environmentally critical areas and natural resources.³⁷

The site contains no rare or unique habitats.³⁸ Future development must comply with LDC requirements.

²⁶ See Staff Report (pg. 1, Attachment D).

²⁷ See Staff Report (pg. 5).

²⁸ See Applicant's Ex. 1 (slide 5).

²⁹ See Staff Report (pg. 5, Attachment F).

³⁰ Lot 16 is the corner lot. Lot 15 is the adjoining lot.

³¹ See *Id.*; Testimony of Al Quattrone (Transcript pg. 19-20), Peter Blackwell (Transcript pg. 29-30).

³² *Id.*; Testimony of Peter Blackwell; See Staff Report (pg. 5); Staff Ex. 2 (slide 9-10); Lee Plan Objective 39.1, Policy 39.1.1.

³³ LDC 34-145(d)(4)(a)(1)(g).

³⁴ See Staff Report (pg. 6).

³⁵ The Lee Plan and LDC set forth connection requirements to determine whether development warrants potable water/sewer connectivity. Lee Plan Policy 2.2.1, Standard 4.1.1, 4.1.2; See Staff Report (pg. 6); Staff Ex. 2 (slide 12). Applicant indicated it will not trigger connection requirements, and will rely upon well and septic. Testimony of Al Quattrone.

³⁶ Lehigh Fire Station 101 is approximately 4,000 feet to the northeast and houses Lee County ALS Station 101. The property is within Sheriff's East District E3 and Lee County School District 5. See Staff Report (pg. 6); Lee Plan Policy 2.2.1.

³⁷ LDC 34-145(d)(4)(a)(1)(f).

³⁸ See Staff Report (pg. 6); Staff Ex. 2 (slide 11); Testimony of Peter Blackwell (Transcript pg. 31).

Public

Two neighbors spoke at hearing.³⁹ Applicant conducted a community meeting in Lehigh Acres as mandated by the LDC.⁴⁰ No attendees objected to the request.⁴¹

Conclusion

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

IV. Findings and Conclusions

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

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

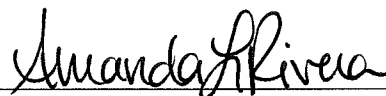
- A. Complies with the Lee Plan. See Lee Plan Goals 1, 2, 4, 5, 25, 135, Objectives 2.1, 2.2, and Policies 1.1.1, 1.1.4, 1.7.6, 2.1.1, 2.2.1, 5.1.2, 5.1.5, Maps 1-A, 1-B and Table 1(b);
- B. Meets the LDC and other applicable County regulations. See Lee Plan Objectives 2.1, 2.2 and Policy 2.1.2;
- C. Is compatible with existing and planned uses in the surrounding area. See Lee Plan Objective 2.1, Policies 1.1.4, 2.1.1, and 5.1.5, 135.1.9, 135.9.5;
- D. Provides sufficient access to support development intensity;
- E. Expected impacts on transportation facilities will be addressed by existing county regulations;
- F. Will not adversely affect environmentally critical or sensitive areas or natural resources; and
- G. Will be served by adequate urban services. See Lee Plan Glossary, Goal 4, Objective 2.2, Policies 1.1.4, 2.2.1, Standards 4.1.1, 4.1.2.

³⁹ One speaker did not object and simply asked questions. See Transcript (pg. 34-35).

⁴⁰ See LDC 33-1401; See Staff Report (Attachment E); Staff Ex. 2 (slide 5). Applicant held the meeting on Dec. 17, 2020.

⁴¹ See Staff Report (Attachment E).

Date of Recommendation: March 9, 2022.



Amanda L. Rivera
Deputy Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

EXHIBIT A

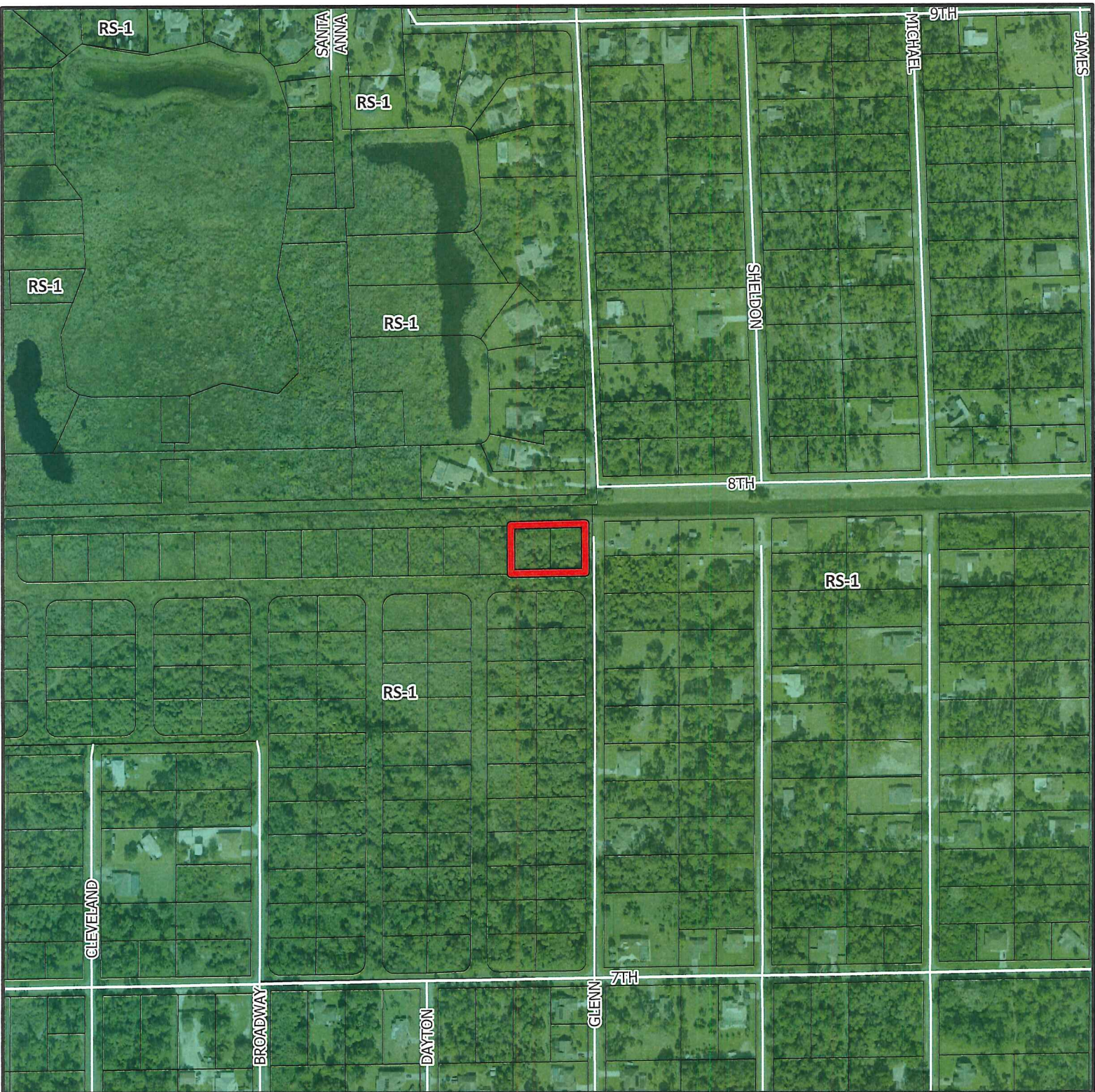
Legal Description

Lots 15 & 16, Block 62;

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

REVIEWED
REZ2021-00010
Hunter Searson, GIS
Planner
Lee County Government
9/1/2021

BROWNIE, INC.



REZ2021-00010

Zoning

 Subject Property

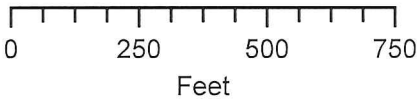
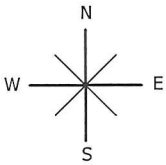


Exhibit B

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Peter Blackwell, Planner, date stamped received December 30, 2021 (multiple pages – 8.5"x11" and 11"x14") [black & white, color]
2. *PowerPoint Presentation:* Prepared for REZ2021-00010, Meadowbrook Estates Staff Report (multiple pages – 8.5" and 11")[color]

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Al Quattrone, with Quattrone and Associates, to Maria Perez and Peter Blackwell, with copies to Sharon Hrabak, dated Wednesday, January 12, 2022 4:13 PM (3 pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared for Meadowbrook Estates Rezone, REZ2021-00010, Lee County Hearing Examiner, Public Hearing, Thursday, January 13, 2022
2. *Location Map:* Prepared by Quattrone and Associates, Inc., for Meadowbrook Estates REZ, located in Section 27, Township 44-S, Range 27-E, Lee County, Florida, plotted by Donald, THUR. 6-24-2021 12:42 PM (1 page – 24"x36")[color]

Exhibit C

HEARING PARTICIPANTS

County Staff:

1. Peter Blackwell

Applicant Representatives:

1. Al Quattrone

Public Participants:

1. Chris Huber
2. Donald Stein

Exhibit D
INFORMATION

UNAUTHORIZED COMMUNICATIONS

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

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

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

COPIES OF TESTIMONY AND TRANSCRIPTS

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

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

Case Number: REZ2021-00010
Case Name: Meadowbrook Estates Rezone
Area to be Rezoned: +/- 0.64 Acres
Type of Case: Conventional Rezoning
Hearing Date: January 13, 2022
Found Sufficient: November 17, 2021

Request

The applicant, Al Quattrone, on behalf of the property owner Meadowbrook Park Holdings, LLC has filed an application to rezone approximately 0.64 acres of land west of Glenn Avenue and north of Arbutus Street from Single Family Residential (RS-1) to Multi-Family Residential (RM-8).

The subject property consists of 2 contiguous platted lots located at the northwest quadrant of the intersection of Glenn Avenue and the right of way for Arbutus Street in a residential neighborhood lying west of Joel Boulevard in Lehigh Acres. The STRAP numbers associated with the subject property are: 27-44-27-22-00062.0150 and 27-44-27-22-00062.0160. A legal description of the subject property is attached as Attachment D.

Recommendation

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

Concurrent Cases

This case is one of four rezoning requests by the applicant in the Meadowbrook Estates subdivision. The first case, REZ2020-00017, is located along Glenn Avenue and was approved by the Board of County Commissioners by Zoning Resolution Z-21-013 on November 3, 2021. The other two requests are still pending and are requesting similar rezoning from Single Family Residential (RS-1) to Multi-family Residential (RM-8). Although these cases are from the same applicant, are located in close proximity, and are requesting similar rezoning, each case will be evaluated by staff on its own merit as a separate case.

Property History and Character

The subject property consists of 2 contiguous lots (Lots 15 and 16, Block 62) from Unit 4 of the Meadowbrook Estates Plat, a platted subdivision recorded in Plat Book 18 Pages 163-167 in 1964. However, Glenn Avenue was platted as part of the 1956 Lehigh Acres Unit 10 Plat recorded in Deed Book 254 Page 35 (See Attachment "D"). Each lot has 103 feet of frontage and is 136 feet deep, with a lot area of 14,008 square feet. The subject property was acquired by the applicant in February of 2021. Unit 4 extends from Glenn Avenue on the east to Cleveland Avenue on the west and from Olivet Avenue on the north to East 7th Street on the South. The George Canal runs across the northern portion of Unit 4, and the portion of the unit north of the canal has been subsequently replatted (See Attachment "F").

Unit 4 is roughly L-shaped, with the main section aligned north-south and a smaller section extending west from the northern portion of the main section. The subject property is located in the northeastern corner of Unit 4. The applicant owns the entirety of Unit 4 apart from the four northernmost lots of Block 63, which are located south of the subject property across the Arbutus Street right of way. At this time, the entirety of Unit 4 is undeveloped. Several platted roads cross Unit 4, but none of them have been constructed, including Cleveland Avenue, the western boundary of the Unit.

A large portion of Meadowbrook Estates Unit 4 is in the Wetlands Future Land Use Category as designated by the Lee Plan. Neither of the subject lots have any amount of the Wetlands Future Land Use Category within them (See Attachment "B3").

Character of the Area

Meadowbrook Estates is deep within the large extent of platted single family lots that characterize much of Lehigh Acres. Unit 4 is approximately 2,300 feet west of Joel Boulevard. The area of Lehigh Acres surrounding Unit 4 is moderately developed with single family homes. This development is piecemeal in nature, and reflects the individual construction of residences rather than the efforts of any large cohesive residential development. Along the east side of Glenn Avenue, 5 of the 12 originally platted lots are developed with single family residences. The entirety of the immediately surrounding area is zoned Single Family Residential (RS-1) (See Attachment "B2"). The only nearby areas that are not zoned RS-1 lay along Joel Boulevard, and consist of Multi-family Residential (RM-2) and Commercial (C-2) districts. This area is over 2,000 feet east of the subject property. The main access route to the subject property is via East 7th Street which runs east to Joel Boulevard.

The future land use of the subject property is Urban Community, but is almost completely surrounded by the Wetlands category. The 2 platted lots to the west of the subject property are a mix of Urban Community and Wetlands category. Beyond the George Canal to the north, which is in the Wetlands category, the platted lands are designated Urban Community. There are extensive areas to the west and southwest of the subject property that are also designated Wetlands. Beyond the Wetlands area to the east, the land is designated in the Central Urban Future Land Use Category.

Analysis

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

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

- a) Complies with the Lee Plan;
- b) Meets the Land Development Code and other applicable County regulations or qualifies for deviations;

- c) Is compatible with existing and planned uses in the surrounding area;
- d) Will provide access sufficient to support the proposed development intensity;
- e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- g) Will be served by urban services, defined in the Lee Plan, if located in a Future urban area category.

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

Lee Plan Compliance

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

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

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

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

Goal 4 of the Lee Plan establishes water and sewer development standards for new development. Residential development that exceeds 2.5 dwelling units per acre must connect to a public water system and a sanitary sewer system. The subject property is within the FGUA service area but is not currently served by potable water or sanitary sewer service lines. The applicant has stated that development of the property will utilize well water and septic systems. Under Goal 4, single family homes, duplexes, and two-

family attached dwellings can be developed without being required to connect to central water and sewer. Multi-family buildings require connection if the development exceeds a 2.5 unit per acre threshold. Therefore, Standards 4.1.1 and 4.1.2 act as controls on the form of development for the property. Multi-family residential development would not be possible until the property has sufficient utility service while other, lower-density forms of residential development would be permitted immediately.

Policy 5.1.5 addresses the encroachment of incompatible of uses into residential areas. The area surrounding the subject property is entirely zoned as Residential Single Family (RS-1) which permits only single family residential development. In addition to single family residences, the proposed RM-8 zoning district permits a wide variety of dwelling unit types, including duplexes and two-family attached units, townhouses, and multi-family buildings. Of these, only multi-family buildings could be considered inappropriate for the area. However, the size of the subject property prevents the development of extensive multi-family residential units. The Urban Community Future Land Use Category permits a maximum of 6 dwelling units per acre, which would allow for a maximum of 4 dwelling units on the 0.64 acre subject property. From a Lee Plan perspective, rezoning from one residential district to another residential district does not create an incompatibility because the underlying residential density and use remains unchanged. Therefore, the proposed rezoning conforms to Policy 5.1.5.

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

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

Land Development Code Compliance

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

LDC Section 34-491 requires all rezoning requests to comply with the Goals, Objectives and Policies of The Lee Plan. The subject request complies with the Lee Plan. In particular, the proposed rezoning conforms to the Future Land Use Category for the property. Therefore, the proposed rezoning meets the criteria of LDC Section 34-491.

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

Compatibility with Surrounding Uses

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

It should be noted that the ability to develop a multi-family building on the subject property is prevented by the total size of the platted lots. Although both of the lots are abutting and located along Arbutus Street, the total square footage of the property is only 28,016 square feet. This is insufficient to create a significant multi-family building project. Under current residential density regulations, the property is only large enough for a total of four units. This is enough for two duplex or two-family attached units, but is impractical for a multi-family development.

The other permitted dwelling unit types within the RM-8 Zoning District, including duplexes, townhouses, and two-family attached residences are much more compatible with the single family development pattern of the surrounding area and as such do not create a significant conflict with the neighborhood.

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

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

Sufficiency of Access and Transportation Impacts

Access to the subject property is from Glenn Avenue. Although Lot 16 has access to a paved roadway along Glenn Avenue, Lot 15 will require the construction of a sufficient roadway along its frontage on Arbutus Street. A Traffic Impact Study is not required for the case.

Environmental Impacts

The subject property appears to have always been vacant. None of the subject property is shown in the Wetlands Future Land Use Category. No rare or unique habitats have been identified on the site.

Access to Urban Services

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

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

Conclusion

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

Attachments

- A. Expert Witness List
- B. Aerial, Current Zoning, and Future Land Use Maps
- C. Request Statement
- D. Legal Description
- E. Public Meeting Minutes
- F. Original Plat of Unit 4

REZ2021-00011
MEADOWBROOK
ESTATES
REZONE, BLOCK
65

Staff Summary

CASE NUMBER & NAME: REZ2021-00011 / Meadowbrook Estates REZ, Block 65

REQUEST: Request to rezone 3.55 acres from Single Family Residential (RS-1) to Multifamily Residential (RM-8).

RESOLUTION NUMBER: Z-22-004

LOCATION: Lots 11 and 12, Block 64, on north side of 7th Street between Broadway Avenue and Glenn Avenue; Lots 4 through 12, Block 65, Along east side of Broadway Avenue north of 7th Street; Lot 5, Block 66, in northwest corner of intersection of Broadway Avenue and Fiesta Street, Unit 4, Meadowbrook Estates, Lehigh Acres Planning Community, Lee County, FL.

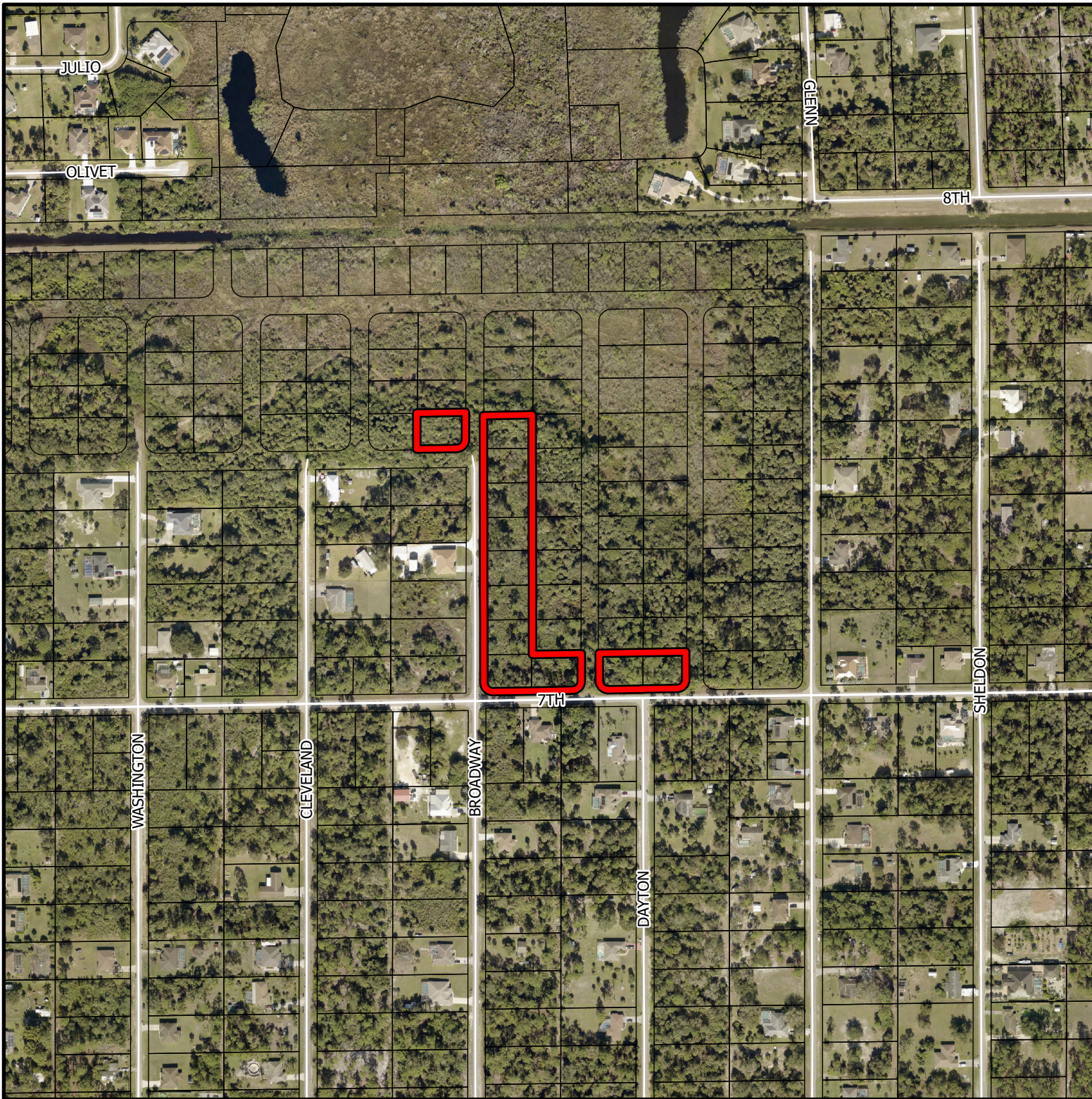
OWNER: Meadowbrook Park Holdings, LLC

APPLICANT: Quattrone & Associates, Inc.

AGENT: Quattrone & Associates, Inc.
4301 Veronica Showmaker Blvd.
Fort Myers, FL 33916

HEARING EXAMINER
RECOMMENDATION: Approve

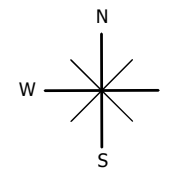
PARTICIPANTS (2):
1. Frank Dilonardo
2. Robyn East
3. Debra Shuman
4. Donald Stein
5. Raul Torres



REZ2021-00011

Aerial

 Subject Property



0 250 500 750
Feet



Summary of Hearing Examiner Recommendation

MEADOWBROOK ESTATES REZONE BLOCK 65

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

Request:	Rezone from Single Family (RS-1) to Multi-Family Residential (RM-8)
Location:	Broadway Avenue, North of East 7 th Street Lehigh Acres Planning Community (District 5)
Size:	3.55± acres
Recommendation:	Approve
Public Concerns:	Compatibility

Hearing Examiner Remarks:

The request seeks rezoning to develop duplexes/two-family attached homes. Proposed uses remain compatible with the area's established development patterns.

Applicant is pursuing four rezoning cases in Meadowbrook Estates.¹ This is the third case presented. Each request must be evaluated on its own merits.

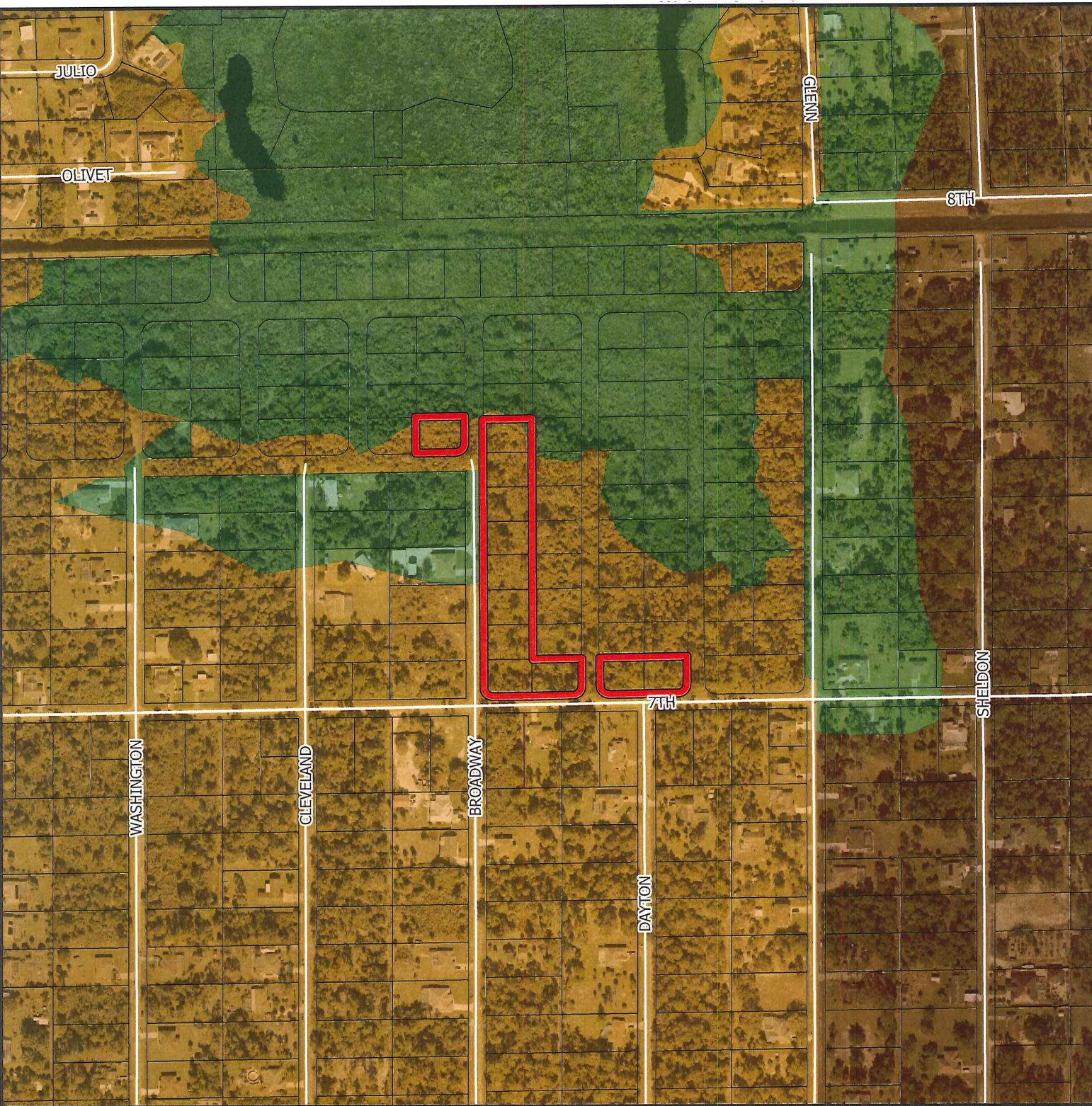
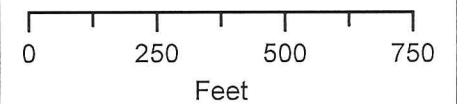
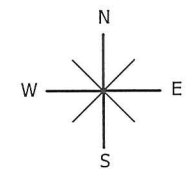
Detailed recommendation follows

¹ The Zoning Map in the Staff Report, and subsequently this Recommendation, does not reflect the Board's recent rezoning to RM-8 for 10 lots to the east.

REZ2021-00011

Future Land Use

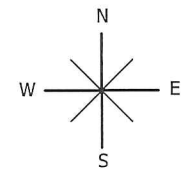
-  Subject Property
-  Central Urban
-  Urban Community
-  Wetlands



REZ2021-00011

Aerial

 Subject Property



0 250 500 750
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: REZ2021-00011

Regarding: MEADOWBROOK ESTATES REZONE BLOCK 65

Location: Broadway Avenue, North of East 7th Street
Lehigh Acres Planning Community
(District 5)

Hearing Date: January 13, 2022

I. Request

Rezone 3.55± acres from Single Family (RS-1) to Multi-Family Residential (RM-8).

The property's legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.² In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone 3.55± acres to the RM-8 district.

In preparing a recommendation to the Board, the Hearing Examiner is tasked to apply the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other County regulations to the facts presented in a rezoning request.³ The record must contain competent substantial evidence to support the Hearing Examiner's recommendation.⁴

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

² LDC 34-145(d)(1)a.

³ LDC 34-145(d)(3)-(4)(a)(1).

⁴ Lee Co. Admin. Code §2-6, 3.3(A)(2).

Synopsis of Request/Character of the Area

Applicant seeks to rezone 12 lots to permit duplex or two-family attached homes.⁵ The Board recently approved an identical request on ten lots to the east.⁶ Two companion requests for nearby properties accompany this request. Each case must be evaluated on its own merits.

The vacant property is located in a predominantly residential area of Lehigh Acres.⁷ Scattered single family homes, wetlands, and vacant lands surround the site.⁸ Joel Boulevard sits farther east, hosting multi-family and commercial uses.⁹

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



Lee Plan Consistency/Compatibility

Before recommending rezoning approval, the Hearing Examiner must find the request complies with the Lee Plan and is compatible with surrounding uses.¹⁰

⁵ Applicant intends to develop single family, two-family, and duplex homes utilizing Alternate Property Development Regulations pursuant to LDC 34-713. See Applicant's Ex. 1 (slide 4); Testimony of Al Quattrone.

⁶ See Staff Report (pg. 1), referencing REZ2020-00017, adopted by the Board on Nov. 3, 2021 in Z-21-013, rezoning Lots 11 through 20, Block 63, Unit 4 of Meadowbrook Estates Plat (PB 18, Pages 163-67).

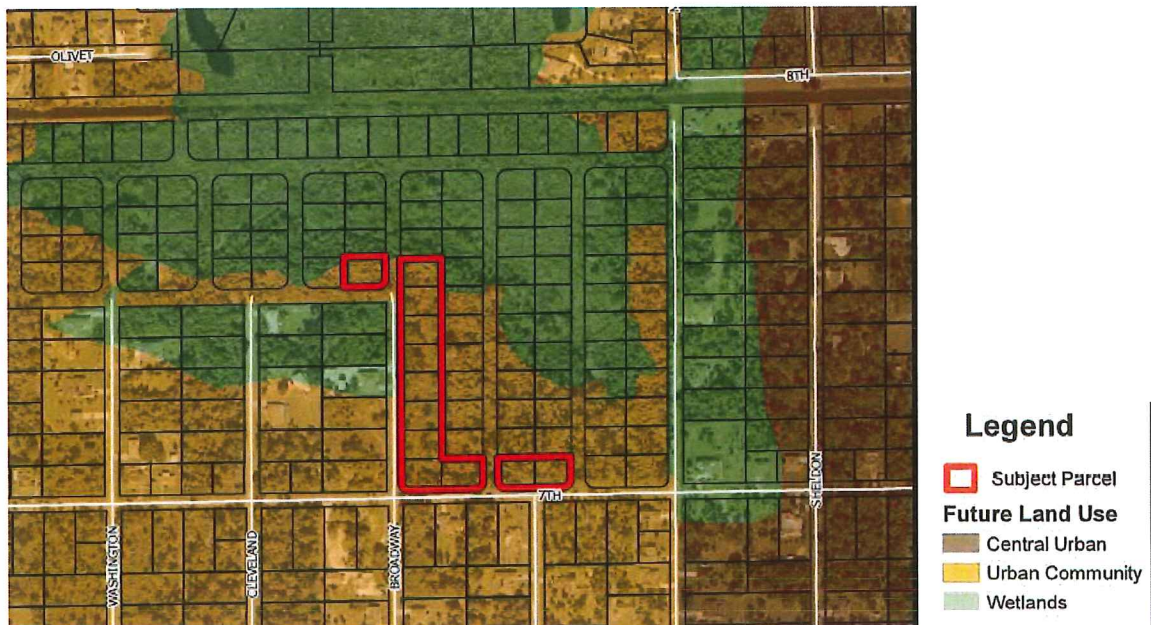
⁷ See Staff Report (pg. 1-2, Attachments B & C).

⁸ See Applicant's Ex. 1 (slide 5-7); Staff Ex. 2 (slide 2-4); Staff Report (pg. 1-2, Attachment B).

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

¹⁰ LDC 34-145(d)(4)(a).

Wetlands, Urban Community, and Central Urban future land uses characterize the area.



Lee Plan maps designate the property in the Urban Community category and the Lehigh Acres Planning Community.¹¹

Urban Community areas have a distinctly urban character, hosting a mix of relatively intense commercial and residential uses.¹² The Urban Community classification permits a standard density of 1-6 units per acre.¹³ The proposed RM-8 district is consistent with the Urban Community classification.¹⁴

The requested RM-8 district retains residential zoning and does not alter underlying density.¹⁵ Staff concluded site constraints prohibit high density multi-family development.¹⁶

¹¹ Lee Plan Map 1-A, 1-B. The Lehigh Acres community plan is largely inapplicable since the property avoids classification within overlays. See Staff Ex. 2 (slide 6).

¹² Lee Plan Policy 1.1.4.

¹³ *Id.* Density can be maximized to 10 units per acre, or 15 units per acre utilizing Greater Pine Island Transfer of Development Units. Applicant must develop within permitted density ranges. LDC 34-491.

¹⁴ See Staff Report (pg. 3-5); Testimony of Peter Blackwell; Staff Ex. 2 (slide 6-8).

¹⁵ RS-1 and RM-8 are both residential zoning districts. See LDC Chapter 34, Article VI, Division 3. Density for the site is controlled by the future land use designations, which remain unaffected by the request. See Lee Plan Policies 1.1.4.

¹⁶ Testimony of Peter Blackwell (Transcript pg. 20-21); See Staff Report (pg. 5-6).

Further, rezoning to RM-8 satisfies Lee Plan directives by providing diverse housing opportunities.¹⁷ Permitting duplexes/two-family attached homes compliments existing and planned uses in the area.¹⁸

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

Meets LDC and Other Applicable County Regulations

Requests to rezone must meet the LDC and applicable County regulations, or qualify for deviations.¹⁹

Applicant seeks to rezone to RM-8, a conventional zoning district.²⁰ Therefore, it is not possible to impose conditions on approval. Rather, the RM-8 use regulation table will govern permitted uses.²¹ Applicant may utilize Alternate Property Development Regulations for duplex and two-family attached homes.²² Deviations from LDC requirements must be granted by variance.²³

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

Transportation

Rezoning requests must demonstrate access to existing or proposed roads with sufficient capacity to support the proposed intensity.²⁴ Existing regulations must address expected transportation facility impacts.²⁵

Twelve lots comprise the request.²⁶ Four lots front East 7th Street, while the remaining lots front Broadway Avenue.²⁷

The property has adequate access to accommodate the proposed development.²⁸

¹⁷ See Lee Plan Goals 25 and 135.

¹⁸ Providing alternative housing types is encouraged throughout the Lee Plan. See Goal 135.

¹⁹ LDC 34-145(d)(4)(a)(1)(b).

²⁰ LDC 34-612(1).

²¹ LDC 34-621(b), LDC 34-694.

²² See LDC 34-713. Alternate Property Development regulations require a minimum area of 2,400 square feet per unit, compliance with RM-8 lot coverage/area/width/depth requirements, and covenants regarding open space protection.

²³ LDC 34-621(a)(2); LDC 33-1403.

²⁴ LDC 34-145(d)(4)(a)(1)(d).

²⁵ LDC 34-145(d)(4)(a)(1)(e).

²⁶ See Staff Report (pg. 1, Attachment D).

²⁷ Applicant may need to improve Broadway Avenue or Fiesta Street to access Lot 5, Block 66 and Lot 4, Block 65. Testimony of Al Quattrone (Transcript pg. 15).

²⁸ *Id.*; Testimony of Peter Blackwell; See Staff Report (pg. 6); Staff Ex. 2 (slide 9-10); Lee Plan Objective 39.1, Policy 39.1.1.

Urban Services

Properties proposed for rezoning must be served by urban services if located in a Future Urban category.²⁹

The site is designated Urban Community but does not yet receive the full complement of urban services. Potable water and sanitary sewer do not service the area.³⁰ Accordingly, Applicant must either extend services or utilize well and septic.³¹ Lehigh Acres Fire District, Lee County EMS, and Lee County Sheriff serve the site.³²

Environmental

A rezoning request cannot be approved if it adversely affects environmentally critical areas and natural resources.³³

The site contains no rare or unique habitats.³⁴ Future development must comply with LDC requirements.

Public

Five neighbors voiced concerns regarding compatibility of intensifying the property to multi-family development.³⁵ The parties adequately addressed the concerns.³⁶

²⁹ LDC 34-145(d)(4)(a)(1)(g).

³⁰ See Staff Report (pg. 6).

³¹ The Lee Plan and LDC set forth connection requirements to determine whether development warrants potable water/sewer connectivity. Lee Plan Policy 2.2.1, Standard 4.1.1, 4.1.2; See Staff Report (pg. 6); Staff Ex. 2 (slide 12). Applicant indicated it will not trigger connection requirements, and will rely upon well and septic. Testimony of Al Quattrone (Transcript pg. 25-26).

³² Lehigh Fire Station 101 is approximately 4,000 feet to the northeast and houses Lee County ALS Station 101. The property is within Sheriff's East District E3 and Lee County School District 5. See Staff Report (pg. 6); Lee Plan Policy 2.2.1.

³³ LDC 34-145(d)(4)(a)(1)(f).

³⁴ See Staff Report (pg. 6); Staff Ex. 2 (slide 11); Testimony of Peter Blackwell (Transcript pg. 24).

³⁵ Other concerns raised included aquifer impacts, property values, criminal activity, flooding, traffic, height, and high density development. See Transcript pg. 28-46.

³⁶ Applicant and Staff explained: (1) RM-8 is actually a more restrictive category than RM-2 because it requires a larger minimum lot size [10,000 sq. ft. rather than 7,500 sq. ft.]; (2) construction impacts of duplex/two-family attached homes would not be markedly more than single family homes currently permitted on each lot; (3) drainage will improve in this area due to stormwater improvements Applicant is making in partnership with LAMSID; and (4) current road infrastructure meets LDC requirements for the level of development proposed - if additional development occurs, the LDC must be satisfied to accommodate that level of development. See Testimony of Al Quattrone and Peter Blackwell; Applicant's Ex. 1; Staff's Ex. 2.

Applicant conducted a community meeting in Lehigh Acres as mandated by the LDC.³⁷ No attendees objected to the request.³⁸

Conclusion

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

IV. Findings and Conclusions

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

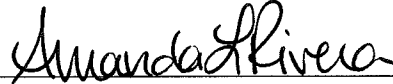
The requested Multi-Family Residential (RM-8) zoning district:

- A. Complies with the Lee Plan. See Lee Plan Goals 1, 2, 4, 5, 25, 135, Objectives 2.1, 2.2, and Policies 1.1.1, 1.1.4, 1.7.6, 2.1.1, 2.2.1, 5.1.2, 5.1.5, Maps 1-A, 1-B and Table 1(b);
- B. Meets the LDC and other applicable County regulations. See Lee Plan Objectives 2.1, 2.2 and Policy 2.1.2;
- C. Is compatible with existing and planned uses in the surrounding area. See Lee Plan Objective 2.1, Policies 1.1.4, 2.1.1, and 5.1.5, 135.1.9, 135.9.5;
- D. Provides sufficient access to support development intensity;
- E. Expected impacts on transportation facilities will be addressed by existing county regulations;
- F. Will not adversely affect environmentally critical or sensitive areas or natural resources; and
- G. Will be served by adequate urban services. See Lee Plan Glossary, Goal 4, Objective 2.2, Policies 1.1.4, 2.2.1, Standards 4.1.1, 4.1.2.

³⁷ See LDC 33-1401; See Staff Report (Attachment E); Staff Ex. 2 (slide 5). Applicant held the meeting on Dec. 17, 2020.

³⁸ See Staff Report (Attachment E).

Date of Recommendation: March 9, 2022.

A handwritten signature in black ink, reading "Amanda L. Rivera", written over a horizontal line.

Amanda L. Rivera
Deputy Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

EXHIBIT A

Legal Description

Lots 11 through 12, inclusive, Block 64; Lots 4 through 12, inclusive, Block 65; Lot 5, Block 66

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

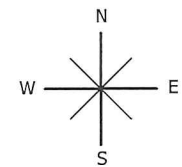
REVIEWED
REZ2021-00011
Hunter Searson, GIS
Planner
Lee County Government
9/1/2021

BROWNIE, INC.

REZ2021-00011

Zoning

 Subject Property



0 250 500 750
Feet

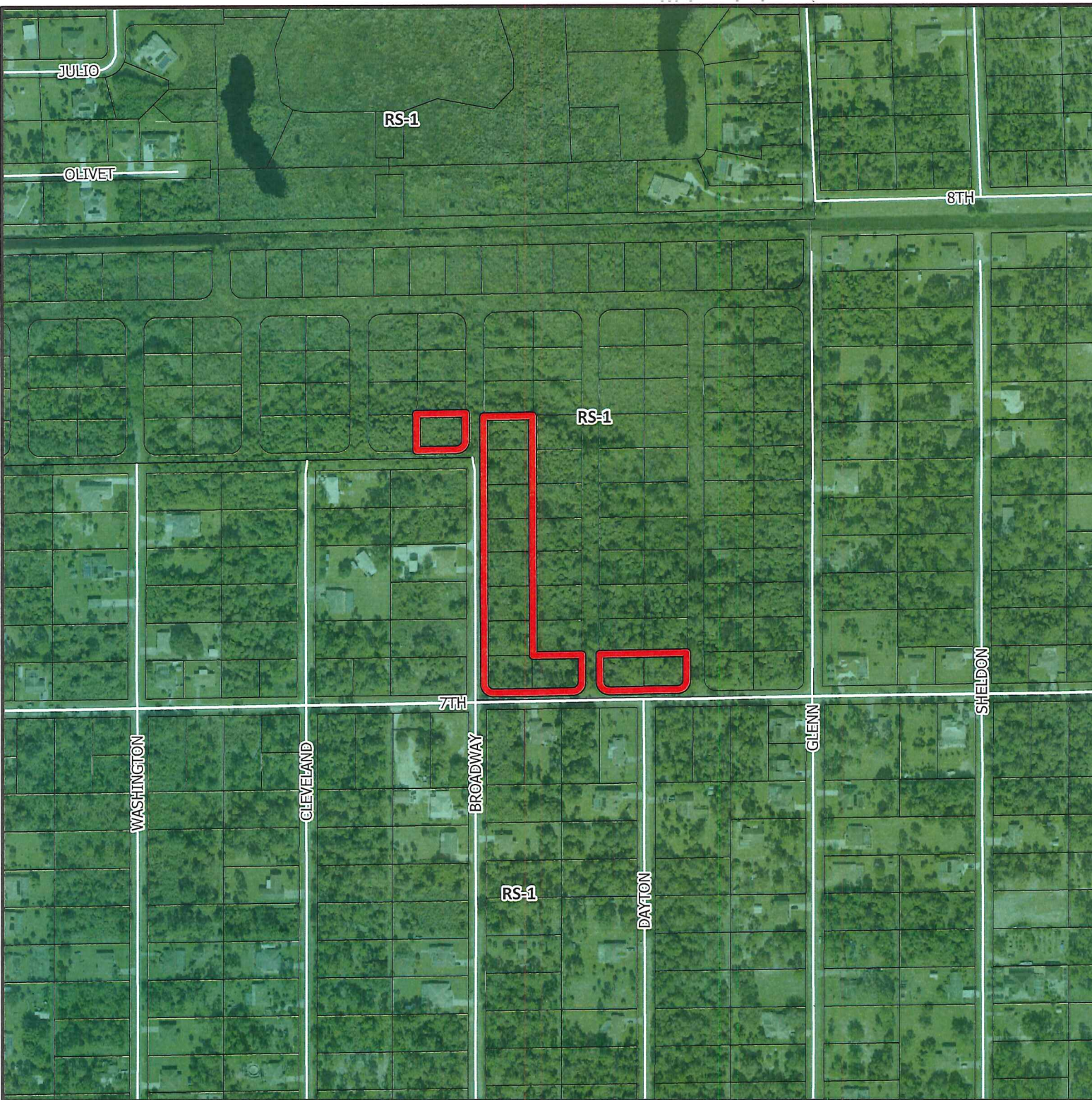


Exhibit B

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Peter Blackwell, Planner, date stamped received December 30, 2021 (multiple pages – 8.5"x11" and 11"x14") [black & white, color]
2. *PowerPoint Presentation:* Prepared for REZ2021-00011, Meadowbrook Estates Staff Report (multiple pages – 8.5" and 11")[color]

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Al Quattrone, with Quattrone and Associates, to Maria Perez and Peter Blackwell, with copies to Sharon Hrabak, dated Wednesday, January 12, 2022 4:13 PM (3 pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared for Meadowbrook Estates Rezone, REZ2021-00011, Lee County Hearing Examiner, Public Hearing, Thursday, January 13, 2022 (multiple pages – 8.5"x11")[color]
2. *Location Map:* Prepared by Quattrone and Associates, Inc., for Meadowbrook Estates REZ, located in Section 27, Township 44-S, Range 27-E, Lee County, Florida, plotted by Donald, THUR. 6-24-2021 12:42 PM (1 page – 24"x36")[color]

OTHER EXHIBITS

Frank Dilonardo

1. *Photographs:* Of Meadowbrook Estates (Blue Notebook)

Exhibit C

HEARING PARTICIPANTS

County Staff:

1. Peter Blackwell

Applicant Representatives:

1. Al Quanttrone

Public Participants:

1. Frank Dilonardo
2. Robyn East
3. Debra Shuman
4. Donald Stein
5. Raul Torres

Exhibit D
INFORMATION

UNAUTHORIZED COMMUNICATIONS

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

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

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

COPIES OF TESTIMONY AND TRANSCRIPTS

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

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

Case Number: REZ2021-00011
Case Name: Meadowbrook Estates Rezone
Area to be Rezoned: +/- 3.04 Acres
Type of Case: Conventional Rezoning
Hearing Date: January 13, 2022
Found Sufficient: November 17, 2021

Request

The applicant, Al Quattrone, on behalf of the property owner Meadowbrook Park Holdings, LLC has filed an application to rezone approximately 3.55 acres of land along Broadway Avenue north of East 7th Street from Single Family Residential (RS-1) to Multi-Family Residential (RM-8).

The subject property consists of 12 contiguous platted lots located north of East 7th Street along East 7th Street, Broadway Avenue, and Fiesta Street in a residential neighborhood lying west of Joel Boulevard in Lehigh Acres. The STRAP numbers associated with the subject property are: 27-44-27-22-00064.0110, 27-44-27-22-00064.0120, 27-44-27-22-00065.0040, 27-44-27-22-00065.0050, 27-44-27-22-00065.0060, 27-44-27-22-00065.0070, 27-44-27-22-00065.0080, 27-44-27-22-00065.0090, 27-44-27-22-00065.0100, 27-44-27-22-00065.0110, 27-44-27-22-00065.0120, and 27-44-27-22-00066.0050. A legal description of the subject property is attached as Attachment D.

Recommendation

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

Concurrent Cases

This case is one of four rezoning requests by the applicant in Units 3 and 4 of the Meadowbrook Estates subdivision. The first case, REZ2020-00017, is located along Glenn Avenue and was approved by the Board of County Commissioners by Zoning Resolution Z-21-013 on November 3, 2021. The other two requests are still pending and are requesting similar rezoning from Single Family Residential (RS-1) to Multi-family Residential (RM-8). Although these cases are from the same applicant, are located in close proximity, and are requesting similar rezoning, each case will be evaluated by staff on its own merit as a separate case.

Property History and Character

The subject property consists of 12 contiguous lots (Lots 11 and 12, Block 64, Lot 5, Block 65, and Lots 4-12, Block 66) from Unit 4 of the Meadowbrook Estates Plat, a platted subdivision recorded in Plat Book 18 Pages 163-167 in 1964 (See Attachment "F"). However, Glenn Avenue was platted as part of the 1956 Lehigh Acres Unit 10 Plat recorded in Deed Book 254 Page 35 (See Attachment "D"). Each lot has 95 feet of frontage and is 135 feet deep with an area of 12,825 square feet. The subject property was acquired by the applicant in February of 2021. Unit 4 extends from Glenn Avenue on

the east to Cleveland Avenue on the west and from Olivet Avenue on the north to East 7th Street on the South. The George Canal runs across the northern portion of the unit, and the portion of the unit north of the canal has been subsequently replatted.

Unit 4 is roughly L-shaped, with the main section aligned north-south and a smaller section extending west from the northern portion of the main section. The subject property is located in the northeastern corner of Unit 4. The applicant owns the entirety of Unit 4 apart from the four northernmost lots of Block 63, which are located south of the subject property across the Arbutus Street right of way. At this time, the entirety of Unit 4 is undeveloped. Several platted roads cross Unit 4 but none of them have been constructed, including Cleveland Avenue, the western boundary of the Unit.

A large portion of Meadowbrook Estates Unit 4 is in the Wetlands Future Land Use Category as designated by the Lee Plan. Some of the subject lots have small amounts of the Wetlands Future Land Use Category within them, but not enough to preclude residential development.

Character of the Area

Meadowbrook Estates is deep within the large extent of platted single family lots that characterize much of Lehigh Acres. Unit 4 is approximately 2,300 feet west of Joel Boulevard. The area of Lehigh Acres surrounding Unit 4 is moderately developed with single family homes. This development is piecemeal in nature, and reflects the individual construction of residences rather than the efforts of any large cohesive residential development. Along the south side of East 7th Street, 3 of the 8 platted lots are developed with single family residences as are 3 of the 12 lots in the block north of East 7th Street between Broadway Avenue, Cleveland Avenue, and Fiesta Street. Almost the entirety of the immediately surrounding area is zoned Single Family Residential (RS-1), with only an area on the east side of Unit 4 that was recently rezoned from RS-1 to RM-8. The only other nearby areas that are not zoned RS-1 lay along Joel Boulevard, and consist of Multi-family Residential (RM-2) and Commercial (C-2) districts. This area is over 2,000 feet east of the subject property. The main access route to the subject property is via East 7th Street which runs east to Joel Boulevard.

The future land use of the subject property is Urban Community, but is abutting a large area in the Wetlands category to the east and north. The 12 platted lots skirt the southern and western edge of the wetland area. There is also an area of wetlands to the west and southwest of the subject property in the block bounded by East 7th Street, Cleveland Avenue, and Broadway Avenue. Beyond this Wetlands area to the west, the land is designated in the Central Urban Future Land Use Category.

Analysis

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

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

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

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

Lee Plan Compliance

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

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

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

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

neighborhood. The request is consistent with Objectives 2.1 and 2.2 and Policies 2.1.1 and 2.2.1 of the Lee Plan.

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

Policy 5.1.5 addresses the encroachment of incompatible of uses into residential areas. The area surrounding the subject property is entirely zoned as Residential Single Family (RS-1) which permits only single family residential development. In addition to single family residences, the proposed RM-8 zoning district permits a wide variety of dwelling unit types, including duplexes and two-family attached units, townhouses, and multi-family buildings. Of these, only multi-family buildings could be considered inappropriate for the area. However, the spatial layout of the subject property prevents the development of extensive multi-family residential units. The Urban Community Future Land Use Category permits a maximum of 6 dwelling units per acre, which would allow for a maximum of 21 dwelling units on the 3.55 acre subject property if it were entirely within the Urban Community category. However, a small portion of the subject property is in the Wetlands Future Land Use Category, which reduces the potential number of units. In particular, Lot 4, Block 66 only has enough upland to permit a single residential unit. Additionally, the linear configuration of the subject property would make multi-family development difficult due to the site requirements for parking, buffering, storm water management, open space, and other site improvements. The physical layout of the site prevents the development of incompatible dwelling types. From a Lee Plan perspective, rezoning from one residential district to another residential district does not create an incompatibility because the underlying residential use and density remains unchanged. Therefore, the proposed rezoning conforms to Policy 5.1.5.

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

Goal 135 is the Housing Element of the Lee Plan and addresses the residential needs of the County. The proposed rezoning would allow for different residential dwelling unit types in an area that is lacking in variety. The existing RS-1 zoning permits only single family residences, whereas the RM-8 district permits duplexes, two-family attached units,

town homes and multi-family residences in addition to single family residences. Two-family attached and duplex units may potentially provide lower-cost housing than is usually found in a single family residential area. This conforms to the intent of Policies 135.1.8 and 135.1.14 and Objective 135.4.

Land Development Code Compliance

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

LDC Section 34-491 requires all rezoning requests to comply with the Goals, Objectives and Policies of The Lee Plan. The subject request complies with the Lee Plan. In particular, the proposed rezoning conforms to the Future Land Use Category for the property. Therefore, the proposed rezoning meets the criteria of LDC Section 34-491.

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

Compatibility with Surrounding Uses

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

It should be noted that the ability to develop a multi-family building on the subject property is severely curtailed by the spatial layout of the platted lots. The 12 lots are arranged linearly along East 7th Street, Broadway Avenue, and Fiesta Street. This results in a parcel that is both sinuous and only 100 to 135 feet deep for most of its length. This presents difficulty with respect to developing a multi-family development while accommodating site design elements such as parking, open space, and storm water management. The subject property is in the Urban Community Future Land Use Category, which would allow for a maximum of 21 dwelling units on the 3.55-acre site. A portion of the site is in the Wetlands Future Land Use Category, which reduces the number of potential dwelling units even further.

The other permitted dwelling unit types within the RM-8 Zoning District, including duplexes, townhouses, and two-family attached residences are much more compatible with the single family development pattern of the surrounding area.

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

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

Sufficiency of Access and Transportation Impacts

Access to the subject property is from East 7th Street. Although the majority of the lots have paved access via East 7th Street and Broadway Avenue, Lot 5, Block 66 may require the construction of a sufficient roadway along its frontage on Fiesta Street. A Traffic Impact Study is not required for the case.

Environmental Impacts

The subject property appears to have always been vacant. A very small portion of the subject property is shown in the Wetlands Future Land Use Category. No rare or unique habitats have been identified on the site. Development of the property will require compliance with Lee Plan Goal 124 and any required state permits.

Access to Urban Services

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

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

Conclusion

The requested rezoning from Residential Single Family (RS-1) to Residential Multi-Family (RM-8) is substantially consistent with the Lee Plan. The proposed rezoning is consistent with the Land Development Code to the extent that it promotes uses compatible with established land use and development patterns. The proposed rezoning is intended to allow greater variety of residential uses on the subject property, while remaining compatible with the neighboring area. The subject property has sufficient access via East 7th Street to Joel Boulevard, and is not expected to significantly impact traffic. The proposed RM-8 district is not significant with respect to environmental impacts. The rezoning will not result in any negative impacts to urban services or infrastructure. The

subject property is sufficiently served by fire, police, and emergency services personnel. The request will not impact any aquatic preserves, or flood hazard areas. Based on the general compatibility of the proposed RM-8 zoning district with the Future Land Use Category, neighboring zoning districts, and neighboring uses, staff recommends **approval** of the proposed rezoning.

Attachments

- A. Expert Witness List
- B. Aerial, Current Zoning, and Future Land Use Maps
- C. Request Statement
- D. Legal Description
- E. Public Meeting Minutes
- F. Attachment F Plat of Unit 4

REZ2021-00012
MEADOWBROOK
ESTATES
REZONE, BLOCK
71

Staff Summary

CASE NUMBER & NAME: REZ2021-00012 / Meadowbrook Estates REZ, Block 71

REQUEST: Request to rezone 1.52 acres from Single Family Residential (RS-1) to Multifamily Residential (RM-8).

RESOLUTION NUMBER: Z-22-005

LOCATION: Lot 1, Block 61, at intersection of North Avenue and the George Canal; Lots 1 through 4, Block 71 (714 -718 North Avenue), Unit 3, Meadowbrook Estates, Lehigh Acres Planning Community, Lee County, FL..

OWNER: Meadowbrook Park Holdings, LLC

APPLICANT: Quattrone & Associates, Inc.

AGENT: Quattrone & Associates, Inc.
4301 Veronica Showmaker Blvd.
Fort Myers, FL 33916

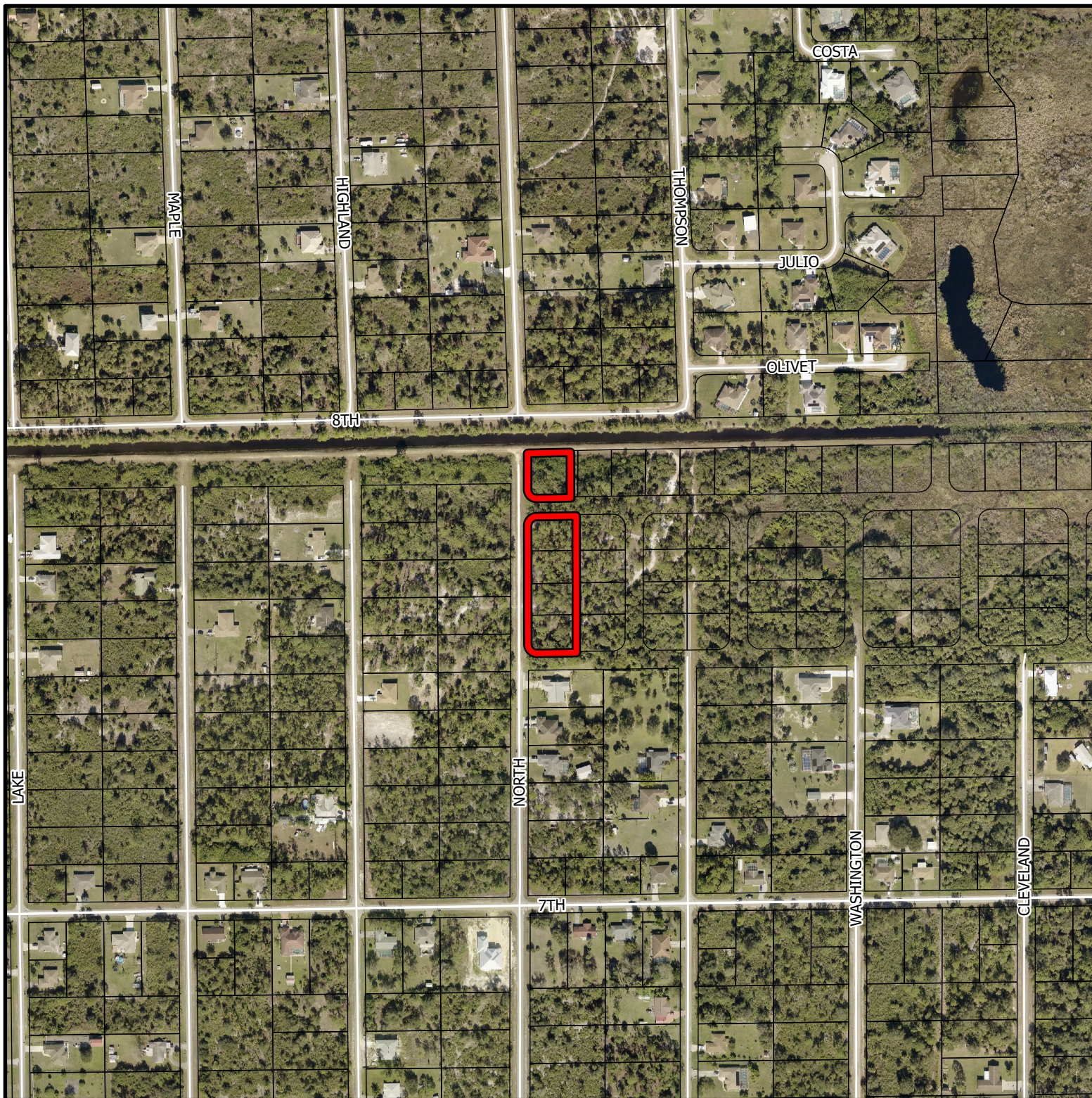
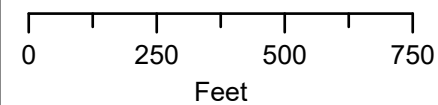
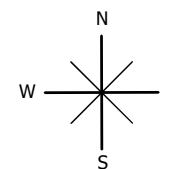
HEARING EXAMINER
RECOMMENDATION: Approve

PARTICIPANTS (0): None

REZ2021-00012

Aerial

 Subject Property



Summary of Hearing Examiner Recommendation

MEADOWBROOK ESTATES REZONE BLOCK 71

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

Request:	Rezone from Single Family (RS-1) to Multi-Family Residential (RM-8)
Location:	East side of North Avenue, South of the George Canal Lehigh Acres Planning Community (District 5)
Size:	1.52± Acres
Recommendation:	Approve

Hearing Examiner Remarks:

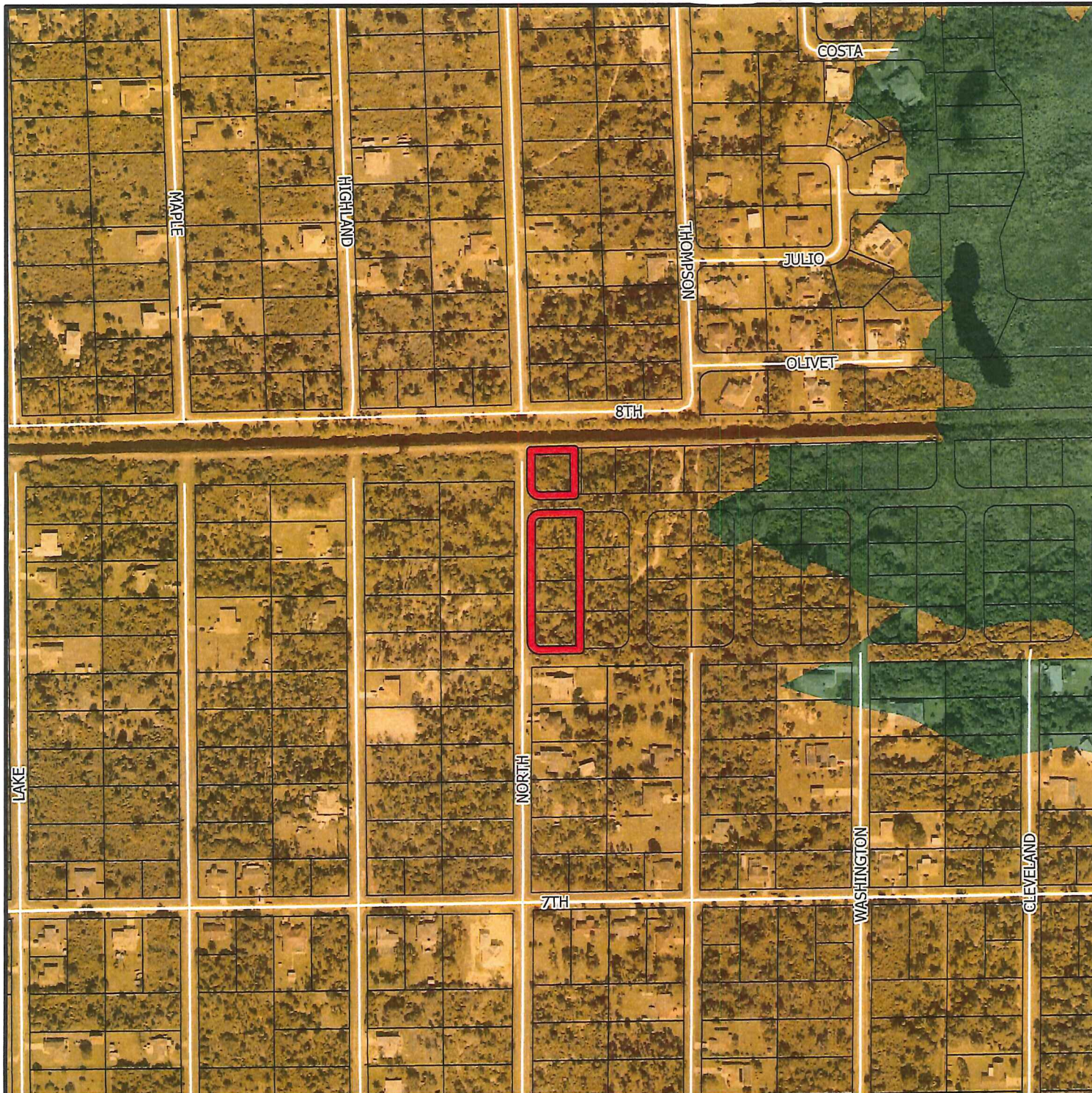
The request seeks rezoning to develop duplexes/two-family attached homes. Proposed uses remain compatible with the area's established development patterns.

Applicant is pursuing four rezoning cases in Meadowbrook Estates. This is the fourth case presented. Each request must be evaluated on its own merits.

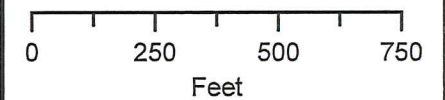
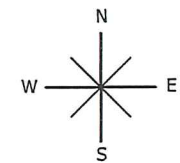
Detailed recommendation follows

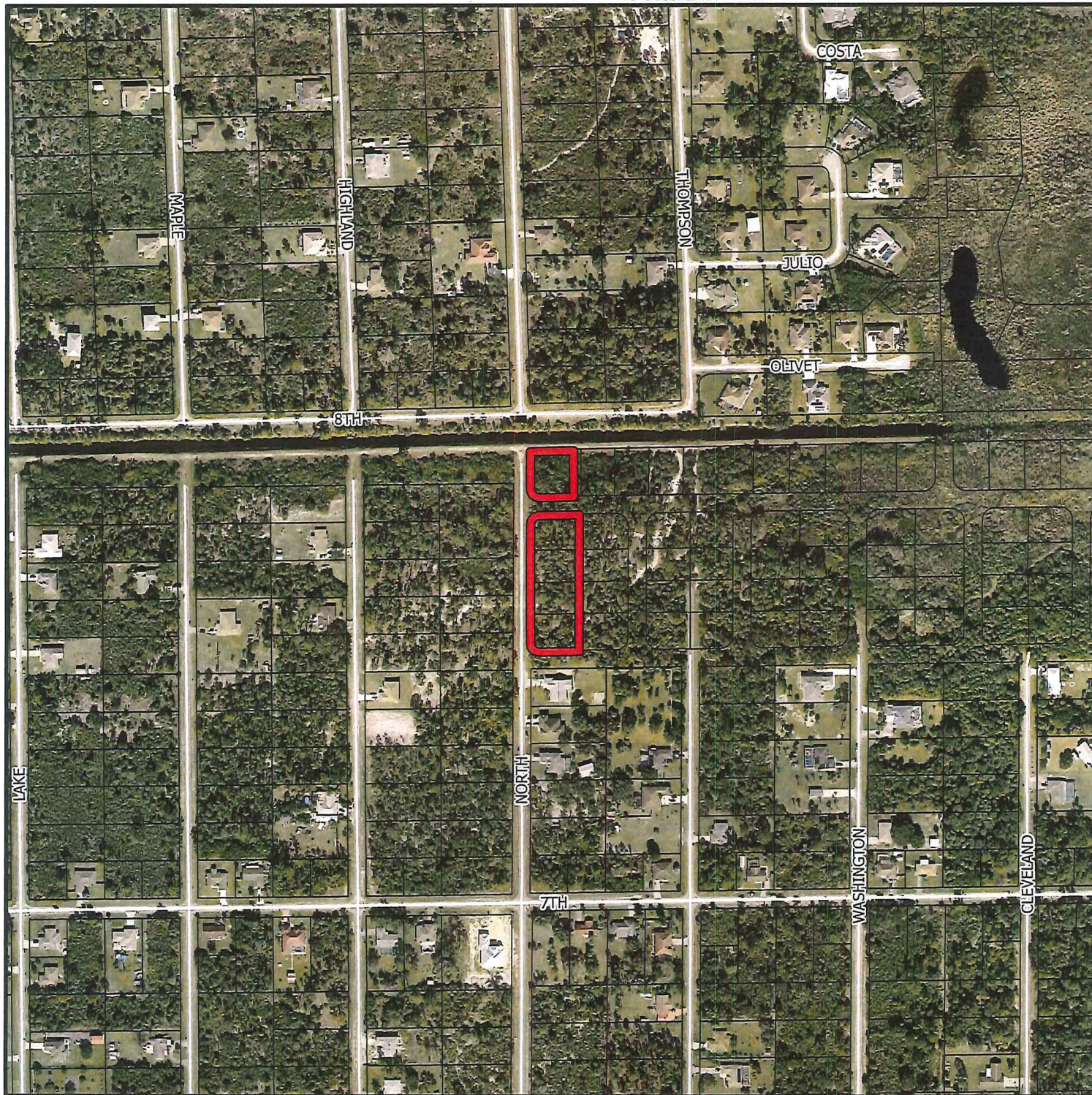
REZ2021-00012

Future Land Use



-  Subject Property
-  Urban Community
-  Wetlands

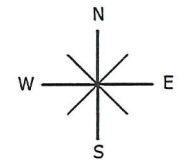




REZ2021-00012

Aerial

 Subject Property



0 250 500 750
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: REZ2021-00012

Regarding: MEADOWBROOK ESTATES REZONE BLOCK 71

Location: East side of North Avenue, South of the George Canal
Lehigh Acres Planning Community
(District 5)

Hearing Date: January 13, 2022

I. Request

Rezone 1.52± acres from Single Family (RS-1) to Multi Family Residential (RM-8).

The property's legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.¹ In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone 1.52± acres to the RM-8 district.

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

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

¹ LDC 34-145(d)(1)a.

² LDC 34-145(d)(3)-(4)(a)(1).

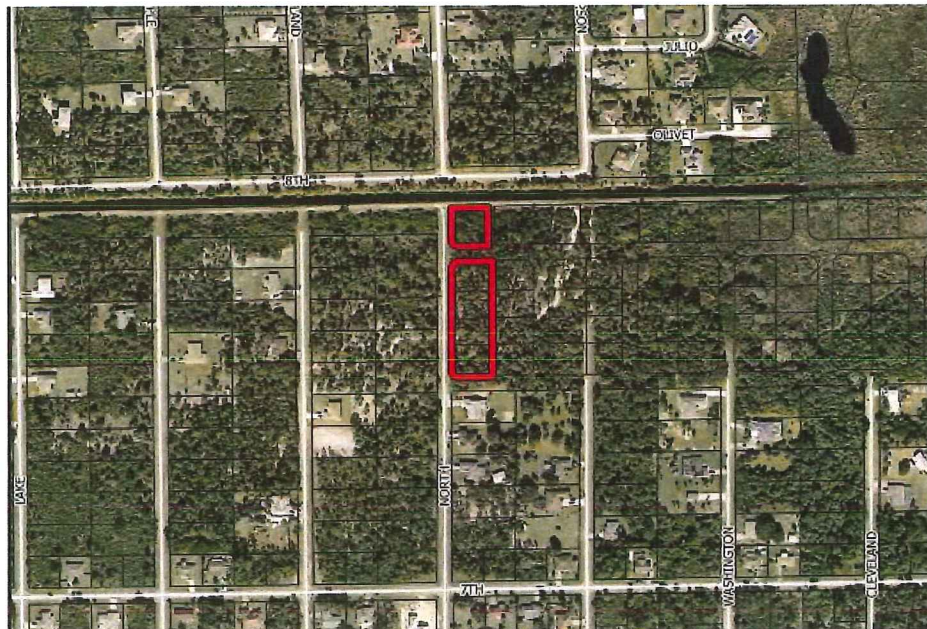
³ Lee Co. Admin. Code §2-6, 3.3(A)(2).

Synopsis of Request/Character of the Area

Applicant seeks to rezone five lots to permit duplex or two-family attached homes.⁴ The Board recently approved an identical request on ten lots to the east.⁵ Two companion requests for nearby properties accompany this request.⁶ Each case must be evaluated on its own merits.

The vacant property is located in a predominantly residential area of Lehigh Acres.⁷ Scattered single family homes, vacant lands, and the George Canal surround the site.⁸ Joel Boulevard sits farther east, hosting multi-family and commercial uses.⁹

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



⁴ Applicant intends to develop single family, two-family, and duplex homes utilizing Alternate Property Development Regulations pursuant to LDC 34-713. See Applicant's Ex. 1 (slide 4); Testimony of Al Quattrone.

⁵ See Staff Report (pg. 1), referencing REZ2020-00017, adopted by the Board on Nov. 3, 2021 in Z-21-013, rezoning Lots 11 through 20, Block 63, Unit 4 of Meadowbrook Estates Plat (PB 18, Pages 163-67).

⁶ Applicant presented an exhibit showing a master development plan placing many lots under conservation easement and partnering with LAMSID to construct lakes for stormwater management. See Applicant's Ex. 2. However, as this is a conventional rezoning request no conditions guaranteeing this development plan can be imposed.

⁷ See Staff Report (pg. 1-2, Attachments B & C).

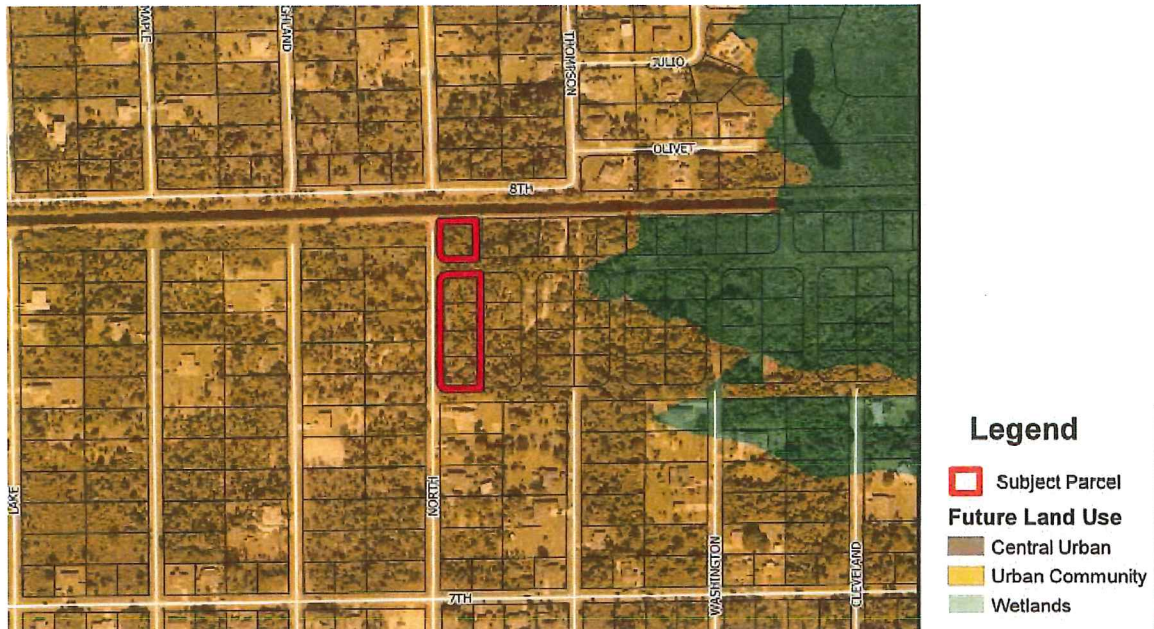
⁸ See Applicant's Ex. 1 (slide 5-7); Staff Ex. 2 (slide 2-4); Staff Report (pg. 1-2, Attachment B).

⁹ See Staff Report (pg. 2); Staff Ex. 2 (slide 2); Applicant's Ex. 1 (slide 5). The property is located 3,900 feet west of Joel Boulevard. See Staff Report Ex. 2 (slide 2).

Lee Plan Consistency/Compatibility

Before recommending rezoning approval, the Hearing Examiner must find the request complies with the Lee Plan and is compatible with surrounding uses.¹⁰

Urban Community and Wetlands future land uses characterize the area.



Lee Plan maps designate the property in the Urban Community category and the Lehigh Acres Planning Community.¹¹

Urban Community areas have a distinctly urban character, hosting a mix of relatively intense commercial and residential uses.¹² The Urban Community classification permits a standard density of 1-6 units per acre.¹³ The proposed RM-8 district is consistent with the Urban Community classification.¹⁴

¹⁰ LDC 34-145(d)(4)(a).

¹¹ Lee Plan Map 1-A, 1-B. The Lehigh Acres community plan is largely inapplicable since the property avoids classification within overlays. See Staff Ex. 2 (slide 6).

¹² Lee Plan Policy 1.1.4.

¹³ *Id.* Density can be maximized to 10 units per acre, or 15 units per acre utilizing Greater Pine Island Transfer of Development Units. Applicant must develop within permitted density ranges. LDC 34-491.

¹⁴ See Staff Report (pg. 3-5); Testimony of Peter Blackwell; Staff Ex. 2 (slide 6-8).

The requested RM-8 district retains residential zoning and does not alter underlying density.¹⁵ Staff concluded site constraints prohibit high density multi-family development.¹⁶

Further, rezoning to RM-8 satisfies Lee Plan directives by providing diverse housing opportunities.¹⁷ Permitting duplexes/two-family attached homes compliments existing and planned uses in the area.¹⁸

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

Meets LDC and Other Applicable County Regulations

Requests to rezone must meet the LDC and applicable County regulations, or qualify for deviations.¹⁹

Applicant seeks to rezone to RM-8, a conventional zoning district.²⁰ Therefore, it is not possible to impose conditions on approval. Rather, the RM-8 use regulation table will govern permitted uses.²¹ Applicant may utilize Alternate Property Development Regulations for duplex and two-family attached homes.²² Deviations from LDC requirements must be granted by variance.²³

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

Transportation

Rezoning requests must demonstrate access to existing or proposed roads with sufficient capacity to support the proposed intensity.²⁴ Existing regulations must address expected transportation facility impacts.²⁵

¹⁵ RS-1 and RM-8 are both residential zoning districts. See LDC Chapter 34, Article VI, Division 3. Density for the site is controlled by the future land use designations, which remain unaffected by the request. See Lee Plan Policies 1.1.4.

¹⁶ Testimony of Peter Blackwell (Transcript pg. 11-12); See Staff Report (pg. 5-6).

¹⁷ See Lee Plan Goals 25 and 135.

¹⁸ Providing alternative housing types is encouraged throughout the Lee Plan. See Goal 135.

¹⁹ LDC 34-145(d)(4)(a)(1)(b).

²⁰ LDC 34-612(1).

²¹ LDC 34-621(b), LDC 34-694.

²² See LDC 34-713. Alternate Property Development regulations require a minimum area of 2,400 square feet per unit, compliance with RM-8 lot coverage/area/width/depth requirements, and covenants regarding open space protection.

²³ LDC 34-621(a)(2); LDC 33-1403.

²⁴ LDC 34-145(d)(4)(a)(1)(d).

²⁵ LDC 34-145(d)(4)(a)(1)(e).

The property fronts North Avenue, north of East 7th Street.²⁶ Joel Boulevard is an arterial road intersecting 7th Street to the east.²⁷

The property has adequate access to accommodate the proposed development.²⁸

Urban Services

Properties proposed for rezoning must be served by urban services if located in a Future Urban category.²⁹

The site is designated Urban Community but does not yet receive the full complement of urban services. Potable water and sanitary sewer do not service the area.³⁰ Accordingly, Applicant must either extend services or utilize well and septic.³¹ Lehigh Acres Fire District, Lee County EMS, and Lee County Sheriff serve the site.³²

Environmental

A rezoning request cannot be approved if it adversely affects environmentally critical areas and natural resources.³³

The site contains no rare or unique habitats.³⁴ Future development must comply with LDC requirements.

Public

No members of the public appeared at hearing.

Applicant conducted a community meeting in Lehigh Acres as mandated by the LDC.³⁵ No attendees objected to the request.³⁶

²⁶ See Staff Report (pg. 6).

²⁷ See Applicant's Ex. 1 (slide 5, 10).

²⁸ *Id.*; Testimony of Peter Blackwell (Transcript pg. 11); See Staff Report (pg. 6); Staff Ex. 2 (slide 9-10); Lee Plan Objective 39.1, Policy 39.1.1.

²⁹ LDC 34-145(d)(4)(a)(1)(g).

³⁰ See Staff Report (pg. 6).

³¹ The Lee Plan and LDC set forth connection requirements to determine whether development warrants potable water/sewer connectivity. Lee Plan Policy 2.2.1, Standard 4.1.1, 4.1.2; See Staff Report (pg. 6); Staff Ex. 2 (slide 12); Testimony of Peter Blackwell (Transcript pg. 11-12).

³² Lehigh Fire Station 101 is to the northeast and houses Lee County ALS Station 101. The property is within Sheriff's East District E3 and Lee County School District 5. See Staff Report (pg. 6); Lee Plan Policy 2.2.1.

³³ LDC 34-145(d)(4)(a)(1)(f).

³⁴ See Staff Report (pg. 6); Staff Ex. 2 (slide 11); Testimony of Peter Blackwell (Transcript pg. 11).

³⁵ See LDC 33-1401; See Staff Report (Attachment E); Staff Ex. 2 (slide 5). Applicant held the meeting on Dec. 17, 2020.

³⁶ See Staff Report (Attachment E).

Conclusion

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

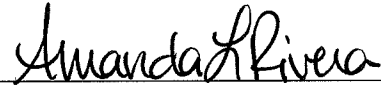
IV. Findings and Conclusions

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

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

- A. Complies with the Lee Plan. See Lee Plan Goals 1, 2, 4, 5, 25, 135, Objectives 2.1, 2.2, and Policies 1.1.1, 1.1.4, 1.7.6, 2.1.1, 2.2.1, 5.1.2, 5.1.5, Maps 1-A, 1-B and Table 1(b);
- B. Meets the LDC and other applicable County regulations. See Lee Plan Objectives 2.1, 2.2 and Policy 2.1.2;
- C. Is compatible with existing and planned uses in the surrounding area. See Lee Plan Objective 2.1, Policies 1.1.4, 2.1.1, and 5.1.5, 135.1.9, 135.9.5;
- D. Provides sufficient access to support development intensity;
- E. Expected impacts on transportation facilities will be addressed by existing county regulations;
- F. Will not adversely affect environmentally critical or sensitive areas or natural resources; and
- G. Will be served by adequate urban services. See Lee Plan Glossary, Goal 4, Objective 2.2, Policies 1.1.4, 2.2.1, Standards 4.1.1, 4.1.2.

Date of Recommendation: March 9, 2022.

A handwritten signature in black ink, reading "Amanda L. Rivera", is positioned above a horizontal line.

Amanda L. Rivera
Deputy Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

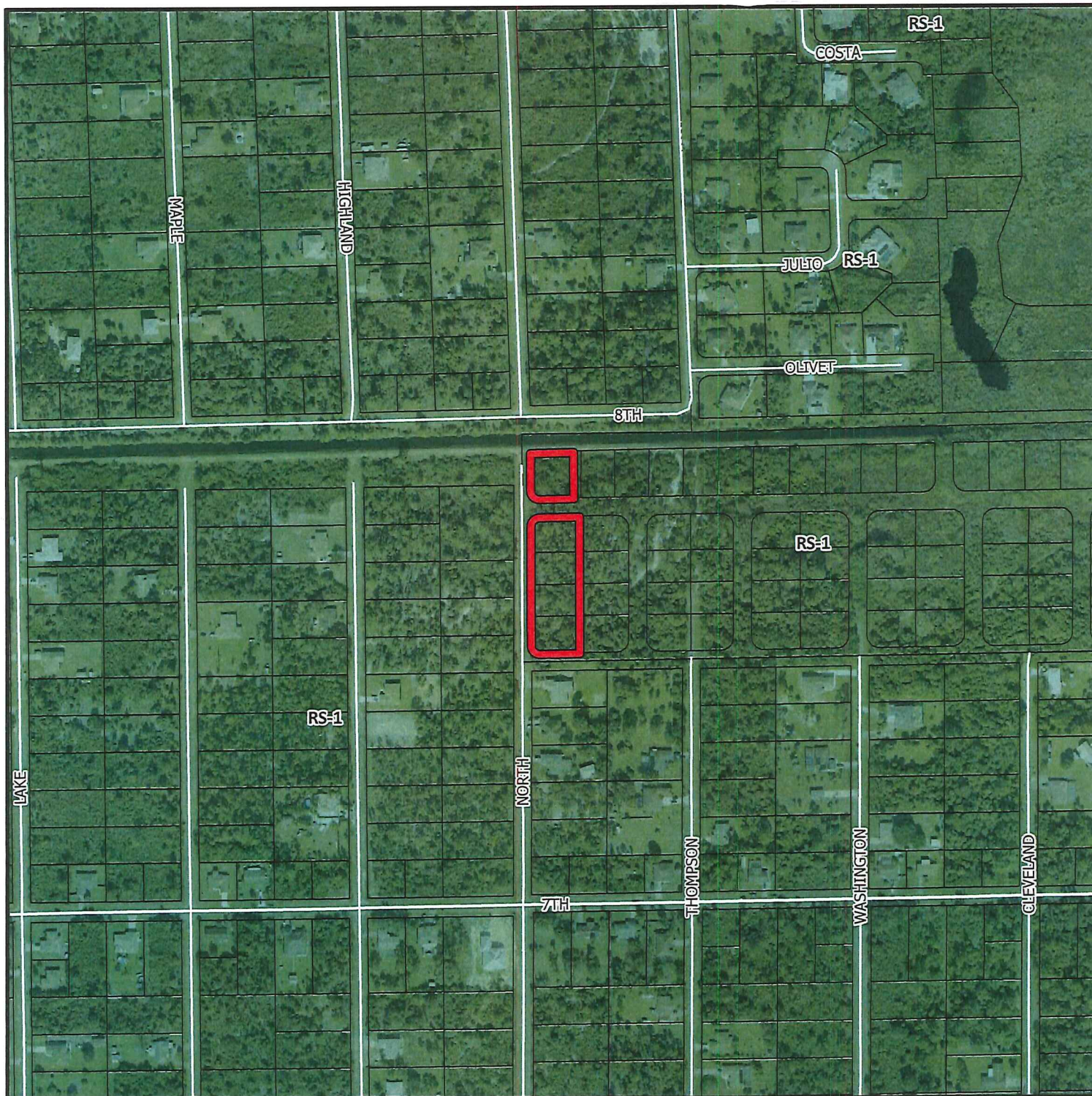
Legal Description

Lot 1, Block 61; Lots 1 through 4, inclusive, Block 71

All of the Plat of Unit 3, MEADOWBROOK ESTATES, Section 27, Township 44 South, Range 21 East, a subdivision of Lehigh Acres, Lee County, Florida recorded in Plat Book 18, at Page 166, of the Public Records of Lee County, Florida.

REVIEWED
REZ2021-00012
Hunter Searson, GIS
Planner
Lee County Government
9/1/2021

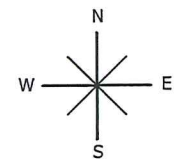
BROWNIE, INC.



REZ2021-00012

Zoning

 Subject Property



0 250 500 750
Feet



Exhibit B

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Peter Blackwell, Planner, date stamped received December 30, 2021 (multiple pages – 8.5"x11" and 11"x14") [black & white, color]
2. *PowerPoint Presentation:* Prepared for REZ2021-00012, Meadowbrook Estates Staff Report (multiple pages – 8.5" and 11")[color]

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Al Quattrone, with Quattrone and Associates, to Maria Perez and Peter Blackwell, with copies to Sharon Hrabak, dated Wednesday, January 12, 2022 4:13 PM (3 pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared for Meadowbrook Estates Rezone, REZ2021-00012, Lee County Hearing Examiner, Public Hearing, Thursday, January 13, 2022 (multiple pages – 8.5"x11")[color]
2. *Location Map:* Prepared by Quattrone and Associates, Inc., for Meadowbrook Estates REZ, located in Section 27, Township 44-S, Range 27-E, Lee County, Florida, plotted by Donald, THUR. 6-24-2021 12:42 PM (1 page – 24"x36")[color]

Exhibit C

HEARING PARTICIPANTS

County Staff:

1. Peter Blackwell

Applicant Representatives:

1. Al Quattrone

Public Participants:

None

Exhibit D
INFORMATION

UNAUTHORIZED COMMUNICATIONS

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

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

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

COPIES OF TESTIMONY AND TRANSCRIPTS

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

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

Case Number: REZ2021-00012
Case Name: Meadowbrook Estates Rezone
Area to be Rezoned: +/- 1.52 Acres
Type of Case: Conventional Rezoning
Hearing Date: January 13, 2022
Found Sufficient: November 17, 2021

Request

The applicant, Al Quattrone, on behalf of the property owner Meadowbrook Park Holdings, LLC has filed an application to rezone approximately 1.52 acres of land along North Avenue and south of the George Canal from Single Family Residential (RS-1) to Multi-Family Residential (RM-8).

The subject property consists of 5 contiguous platted lots located along the east side of North Avenue between the George Canal and Fiesta Street in a residential neighborhood lying west of Joel Boulevard in Lehigh Acres. The STRAP numbers associated with the subject property are: 27-44-27-21-00061.0010, 27-44-27-21-00071.0010, 27-44-27-21-00071.0020, 27-44-27-21-00071.0030, and 27-44-27-21-00071.0040. A legal description of the subject property is attached as Attachment D.

Recommendation

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

Concurrent Cases

This case is one of four rezoning requests by the applicant in the Meadowbrook Estates subdivision. The first case, REZ2020-00017, is located along Glenn Avenue and was approved by the Board of County Commissioners by Zoning Resolution Z-21-013 on November 3, 2021. The other two requests are still pending and are requesting similar rezoning from Single Family Residential (RS-1) to Multi-family Residential (RM-8). Although these cases are from the same applicant, are located in close proximity, and are requesting similar rezoning, each case will be evaluated by staff on its own merit as a separate case.

Property History and Character

The subject property consists of 5 contiguous lots (Lot 1, Block 61 and Lots 1 through 4, Block 71) from Unit 3 of the Meadowbrook Estates Plat, a platted subdivision recorded in Plat Book 18 Pages 163-167 in 1964 (See Attachment "D"). The lots range between 90 to 125 feet of frontage and between 119 to 134 feet of depth. This results in lots varying from 12,060 to 14,875 square feet in area (See Attachment "F"). The subject property

was acquired by the applicant in February of 2021. Unit 3 extends from Cleveland Avenue on the east to North Avenue on the west and from Olivet Street on the north to Fiesta Street on the South. The George Canal separates the section along Olivet Street from the rest of the unit.

Unit 3 is roughly rectangular, running east-west. It consists of Blocks 60 and 61 and 68 through 71 of Meadowbrook Estates. The subject property is located in the northwestern corner of Unit 3. The applicant owns the entirety of Unit 3 apart from one lot of Block 68 and two lots of Block 69, which are located at the intersection of Fiesta Street and Washington Avenue. At this time, the entirety of Unit 3 that is owned by the applicant is undeveloped. Several platted roads cross Unit 3 but none of them have been constructed, including Cleveland Avenue, the western boundary of the Unit.

The eastern portion of Meadowbrook Estates Unit 3 is in the Wetlands Future Land Use Category as designated by the Lee Plan, with the rest in the Urban Community Future Land Use Category. None of the subject lots have any amount of the Wetlands Future Land Use Category within them.

Character of the Area

Meadowbrook Estates is deep within the large extent of platted single family lots that characterize much of Lehigh Acres. Unit 3 is approximately 3,900 feet west of Joel Boulevard. The area of Lehigh Acres surrounding Unit 3 is moderately developed with single family homes. This development is piecemeal in nature, and reflects the individual construction of residences rather than the efforts of any large cohesive residential development. Along the east side of North Avenue south of the subject property, 3 of the 6 platted lots are developed with single family residences. The platted lots across North Avenue from the subject property are currently undeveloped. The entirety of the immediately surrounding area is zoned Single Family Residential (RS-1). The only nearby areas that are not zoned RS-1 lay along Joel Boulevard, and consist of Multi-family Residential (RM-2) and Commercial (C-2) districts. This area is over 2,000 feet east of the subject property. The main access route to the subject property is via East 7th Street which runs east to Joel Boulevard.

The future land use of the subject property is Urban Community, as are all of the abutting lots. The nearest lots that are in the Wetlands Future Land Use Category are approximately 300 feet east of the subject property. The wetlands identified in Unit 3 occupy the east half of Block 61, most of Block 68, the northern portion of Block 69, and a small portion of Block 70 (See Attachment "B3").

Analysis

The intent of this request is to rezone the subject property from Single Family Residential (RS-1) to Multi-Family Residential (RM-8) to allow for two-family attached residential development using the Alternate Property Development Regulations under LDC Section

34-713, per the applicant's narrative (See Attachment "C"). The RM-8 zoning district permits such development.

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

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

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

Lee Plan Compliance

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

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

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

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

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

Policy 5.1.5 addresses the encroachment of incompatible of uses into residential areas. The area surrounding the subject property is entirely zoned as Residential Single Family (RS-1) which permits only single family residential development. In addition to single family residences, the proposed RM-8 permits a wide variety of dwelling unit types, including duplexes and two-family attached units, townhouses, and multi-family buildings. Of these, only multi-family buildings could be considered inappropriate for the area. However, the size and spatial layout of the subject property prevent the development of extensive multi-family residential units. The Urban Community Future Land Use Category permits a maximum of 6 dwelling units per acre, which would allow for a maximum of 10 multi-family units on the 1.52 acre subject property when rounding up. Additionally, the linear configuration of the subject property would make multi-family development difficult due to the site requirements for parking, buffering, storm water management, open space, and other site improvements. The physical layout of the site prevents the development of incompatible dwelling types. From a Lee Plan perspective, rezoning from one residential district to another residential district does not create an incompatibility because the underlying residential use and density remains unchanged. Therefore, the proposed rezoning conforms to Policy 5.1.5.

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

commercial or other non-residential uses, according to the Lee Plan. Overall, the objectives and policies of Goal 25 are not applicable to the applicants request.

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

Land Development Code Compliance

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

LDC Section 34-491 requires all rezoning requests to comply with the Goals, Objectives and Policies of The Lee Plan. The subject request complies with the Lee Plan. In particular, the proposed rezoning conforms to the Future Land Use Category for the property. Therefore, the proposed rezoning meets the criteria of LDC Section 34-491.

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

Compatibility with Surrounding Uses

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

It should be noted that the ability to develop a multi-family building on the subject property is severely curtailed by the configuration and total size of the platted lots. Although all of the lots are abutting and located along North Avenue, the total square footage of the

property is only 66,211 square feet. The parcel varies between 119 and 135 feet deep for most of its length, which presents difficulty with respect to developing a multi-family development while accommodating site design elements such as parking, open space, and storm water management. The subject property is in the Urban Community Future Land Use Category, which would allow for a maximum of 10 dwelling units on the 1.52-acre site.

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

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

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

Sufficiency of Access and Transportation Impacts

Access to the subject property is from East 7th Street via North Avenue. The entire subject property fronts on paved streets and no new road construction is required. A Traffic Impact Study is not required for the case.

Environmental Impacts

The subject property appears to have always been vacant. None of the subject property is shown in the Wetlands Future Land Use Category. No rare or unique habitats have been identified on the site.

Access to Urban Services

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

The subject property is served by Lehigh Acres Fire Station 101, which is approximately 4,000 feet to the northeast on Joel Boulevard, which also contains Lee County ALS

Station 101. The subject property is within the Lee County Sheriff's East E3 District. The subject property is located within the Lehigh Acres Fire District, and is served by Lee County School District 5.

Conclusion

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

Attachments

- A. Expert Witness List
- B. Aerial, Current Zoning, and Future Land Use Maps
- C. Request Statement
- D. Legal Description
- E. Public Meeting Minutes
- F. Plat of Meadowbrook Estates Unit 3

DCI2021-00004
PINE LAKES
COUNTRY
CLUB II (AKA
FRENCH
PROPERTY)

Staff Summary

CASE NUMBER & NAME: DCI2021-00004 / Pine Lakes Country Club II (AKA French Property)

REQUEST: Rezone approximately 83± acres from Agricultural (AG-2) to Mobile Home Planned Development (MHPD) to allow for a manufactured home community with a maximum of 400 units and accessory uses adjacent to an existing manufactured home community.

RESOLUTION NUMBER: Z-21-022

LOCATION: 10031 & 10021 French Creek Lane, North Fort Myers Planning Community, Lee County, FL.

OWNER: Louise French Revocable Trust Dated July 10, 2000

APPLICANT: Leslie Register, Regional Vice President, Equity Lifestyles Property, Inc.

AGENT: Kelley Klepper, AICP
Kimley-Horn & Associates
1412 Jackson Street, Suite 2
Fort Myers, FL 33901

HEARING EXAMINER RECOMMENDATION: Approve, with conditions and deviations

PARTICIPANTS (35):

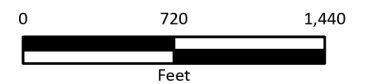
1. Jackie Bartilucci
2. Ralph Brooks, Esq.
3. Wayne Brown
4. Robert Burandt
5. Tonie Calvin
6. Tom Clark
7. Patricia Dieringer
8. Ray Dunlap
9. Max Forgey
10. Rebecca Gloss
11. Michael Gloss
12. Michael Hayes
13. Matt Heier
14. Jan Hippler
15. Pamela Johnson
16. Pam Krohn
17. Robert Konetzny
18. Mario J. Magnette

19. John McDonald
 20. Kristin Mellott
 21. Thomas Minahan
 22. Gary Nicolini
 23. Charles Orvik
 24. Charles Rimlinger
 25. Richard Saniti
 26. Johnnie Stanley
 27. Ron Thoreson
 28. Frank Tivnan
 29. Mary Tivnan
 30. Charles Wakefield
 31. Pamela Wagner
 32. Betty White
 33. Bruce Wrede
 34. Bonnie Wright
 35. Jacquelyn Yablonsky
-

DCI2021-00004

Aerial

 Subject Property



Summary of Hearing Examiner Recommendation

PINE LAKES COUNTRY CLUB II (AKA FRENCH PROPERTY)

(by Kimley-Horn & Associates on behalf of
Equity Lifestyle Properties, Inc.)

Request:	Rezone 83± acres from Agricultural (AG-2) to Mobile Home Planned Development (MHPD) to allow 400 mobile home units with accessory uses and amenity areas
Location:	10031 & 10021 French Creek Lane North Fort Myers Planning Community (District 4)
Size:	83± acres
Recommendation:	Approval
Deviations:	1
Conditions of Note:	Vehicular Access to Pine Lakes
Public Concerns:	Access to Pine Lakes, Over-burdening amenities

Hearing Examiner Remarks

Applicant seeks to develop 400 mobile home sites on vacant land adjacent to the Pine Lakes community in North Fort Myers. Staff recommended approval.

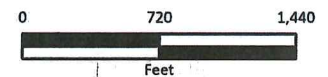
Many Pine Lakes residents oppose the request. The majority of the concerns are outside the scope of zoning review.

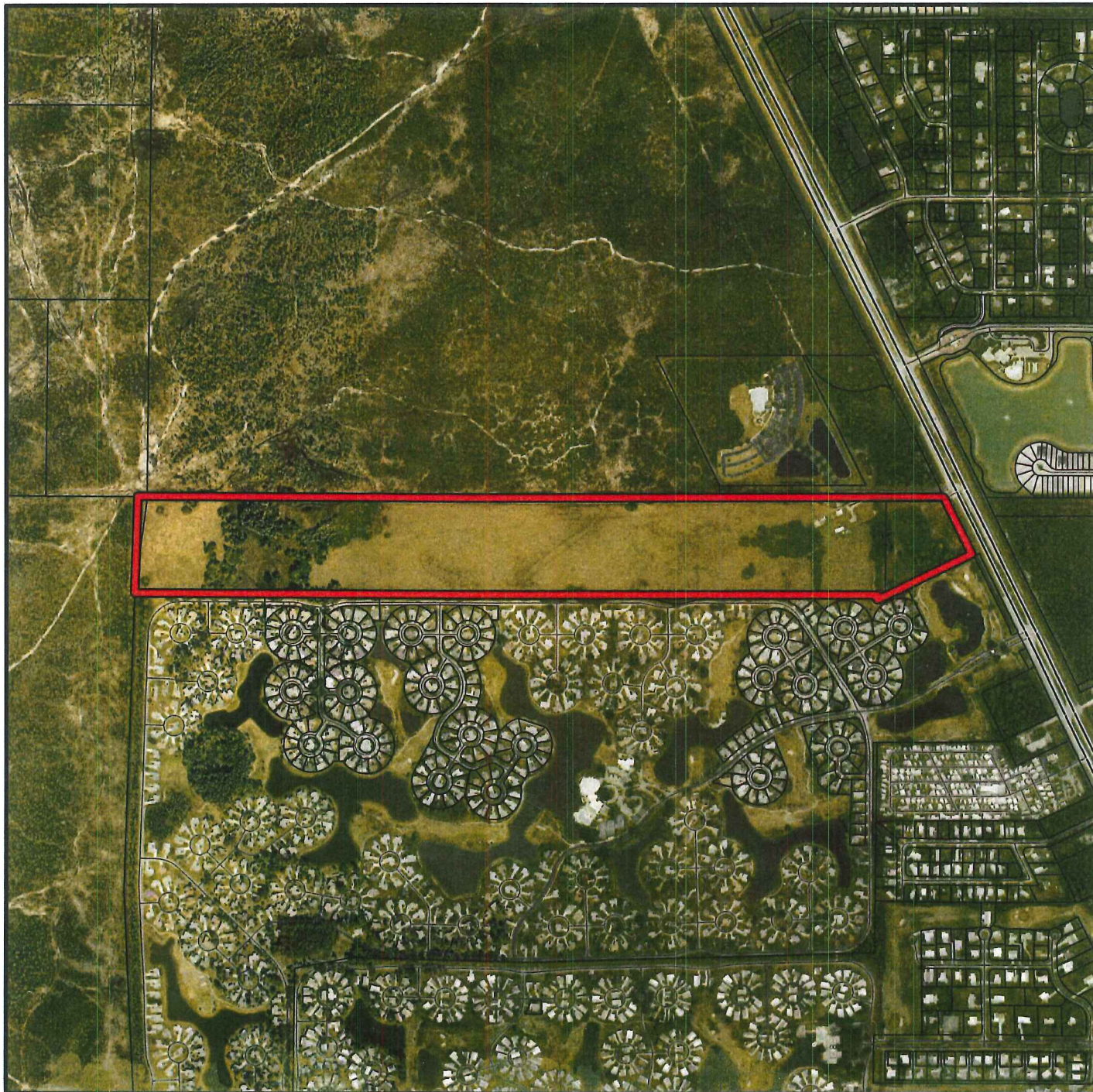
Detailed recommendation follows

DCI2021-00004

Future Land Use

-  Subject Property
-  Suburban
-  Outlying Suburban
-  Open Lands
-  Wetlands





DCI2021-00004

Aerial

 Subject Property



0 720 1,440
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2021-00004

Regarding: PINE LAKES COUNTRY CLUB II (AKA FRENCH PROPERTY)

Location: 10031 & 10021 French Creek Lane

North Fort Myers Planning Community
(District 4)

Hearing Dates: December 1 & 2, 2021

Record Closed: December 10, 2021

I. Request

Rezone 83± acres from Agricultural (AG-2) to Mobile Home Planned Development (MHPD) to allow development of 400 mobile home dwelling units with accessory uses and amenity areas.

The property's legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval, subject to the 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 satisfaction of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone to MHPD.

In preparing a recommendation to the Board, the Hearing Examiner must consider the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other applicable County regulations to the facts presented in a rezoning request.² Specifically, the Hearing Examiner must find the request compatible with surrounding uses and complies with Lee Plan and LDC requirements relating to such items as transportation facilities, natural resources, and urban services.³ The

¹ LDC 34-145(d)(1)(a) & (2)(a).

² LDC 34-145(d)(3).

³ LDC 34-145(d)(4).

Zoning Review Criteria

Before recommending approval, the Hearing Examiner must find the request:

- A. Complies with the Lee Plan;
- B. Meets the LDC 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. Addresses impacts on transportation facilities through County regulations or conditions of approval;
- F. Will not adversely affect environmentally critical/sensitive areas or natural resources; and
- G. Will be served by urban services if located in a Future Urban area.¹⁰

When the requested zoning action is a planned development, the Hearing Examiner must also find:

- H. The proposed use/mix of uses is appropriate at the proposed location;
- I. Recommended conditions (1) provide sufficient safeguards to the public interest, and (2) reasonably relate to impacts on the public interest expected from the proposed development; and
- J. Requested deviations (1) enhance achievement of the objectives of the planned development, and (2) promote the LDC's intent to protect public health, safety, and welfare.¹¹

Character of the Area

The property is located east of US 41, south of the Lee/Charlotte County line.¹² Vacant lands within the City of Cape Coral abut to the north and west.¹³ Municipal regulations permit intense mixed use development on these properties.¹⁴

¹⁰ LDC 34-145(d)(4)(a)(1).

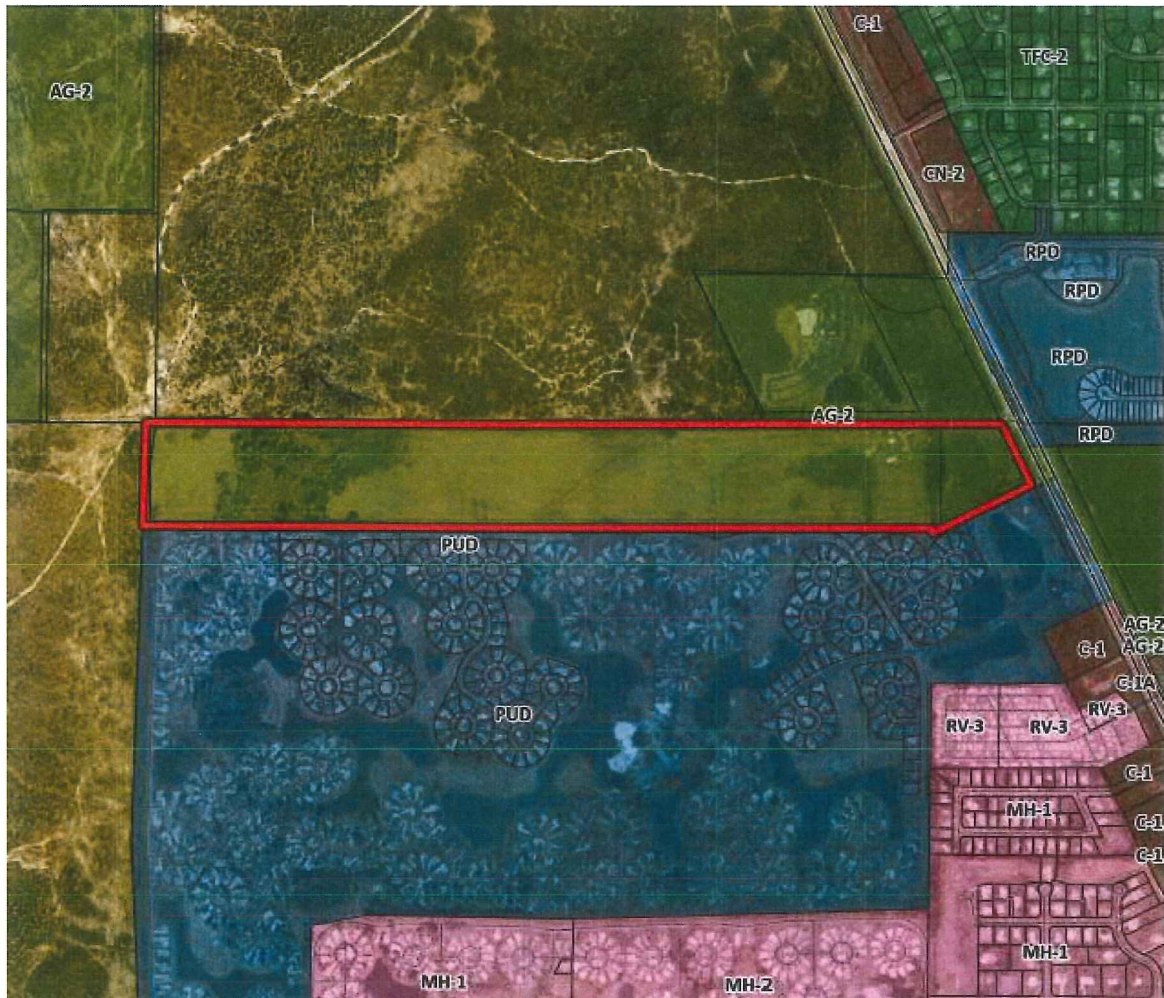
¹¹ LDC 34-145(d)(4)(a)(2).

¹² See Staff Report (Attachment B).

¹³ *Id.*; Applicant's Ex. 1 (slide 9).

¹⁴ See Applicant's Ex. 5.

St. Therese Catholic Church sits immediately north. Commercial parcels are concentrated along the US 41 corridor. Mobile home residential uses dominate the area.¹⁵



Lee Plan Consistency and Compatibility

All planned developments must be consistent with the Lee Plan.¹⁶ Requests for rezoning must be compatible with existing/planned uses in the surrounding area.¹⁷ Planned developments must be located to minimize negative effects of proposed uses on neighboring properties.¹⁸

¹⁵ See Applicant's Ex. 1 (slide 10-11); Staff Report (pg. 1-2); Testimony of Peter VanBuskirk (Transcript Dec. 1, 2021, pg. 18-20).

¹⁶ LDC 34-411(a).

¹⁷ LDC 34-145(d)(4)(a).

¹⁸ LDC 34-411(c) and (i).

The Lee Plan Future Land Use Map classifies the site as Suburban.¹⁹ Suburban areas are predominantly residential, providing housing near more urban areas.²⁰ The standard density range is one to six units per acre.²¹ Applicant proposes a residential use below maximum permitted density.²² The request is consistent with the Suburban category.

The site lies within the North Fort Myers Planning Community.²³ The proposal to diversify residential use types complies with planning community directives and continues established development patterns.²⁴

Applicant provided sufficient evidence to demonstrate the request is consistent with the Lee Plan.

To secure zoning approval, Applicant must also establish the request is compatible with existing/planned uses in the surrounding area.²⁵ The request places mobile home sites next to an existing mobile home community. The requested use is inherently compatible. Opponents concede the use is compatible, but argue the proposed intensity is incompatible with Pine Lakes.²⁶

Applicant demonstrated the proposed development is sufficiently buffered from Pine Lakes residences.²⁷ The site plan clusters and centralizes development.²⁸

Compatibility does not demand the request be identical to adjoining developments. Rather, compatibility requires the requested use/zoning exhibit a positive or neutral relationship on surrounding properties.²⁹ Applicant provided competent substantial

¹⁹ See Lee Plan Map 1-A, Policy 1.1.5, 1.5.1; Staff Report (Attachment B).

²⁰ Lee Plan Policy 1.1.5.

²¹ *Id.*

²² Applicant proposes a density of 4.82 units per acre. Testimony of Kelley Klepper (Transcript pg. 42); Applicant's Ex. 1 (Slide 25). Opponents argue the site is inappropriate for this density because of its location on the "urban fringe." Testimony of Mr. Forgey (Transcript Dec. 1, 2021 pg. 122-124). Mr. Danley clarified this terminology reflects merely the site's proximity to county boundaries rather than actual area development patterns. Testimony of Dirk Danley Jr. (Transcript Dec. 1, 2021 pg. 73-75). Applicant submitted evidence demonstrating adjoining municipal lands are programmed for high intensity mixed uses as well as its placement along a heavily developed corridor. See Applicant's Ex. 6.

²³ Lee Plan Map 1-B and 2-A; Lee Plan Goal 30; LDC 33-1531 *et. seq.*

²⁴ Lee Plan Goal 30, Objectives 2.1, 2.2, 30.1, 135.1, Policies 2.2.1, 2.2.2, 30.1.3, 30.1.4, 135.1.9, 158.1.9; Applicant's Ex. 1 (slide 28); Staff Ex. 1 (slide 16); Testimony of Dirk Danley, Jr. (Transcript Dec. 1, 2021 pg. 65). Mr. Danley noted the request addresses a county-wide need for attainable housing given rising market costs for single family homes.

²⁵ LDC 34-145(d)(4)a.1(c).

²⁶ Testimony of Mr. Forgey (Transcript Dec. 1, 2021 pg. 131).

²⁷ Testimony of Peter VanBuskirk (Transcript Dec. 1, 2021 pg. 25-26). Mr. VanBuskirk recounted the existing Pine Lakes community has 40 feet of open space along its northern boundary, in addition to the Circle Pine Road right-of-way. Combined this yields 60 feet of separation from existing residences and proposed mobile home lots.

²⁸ Lee Plan Objective 2.1, 2.2, Policies 2.1.1, 2.2.2; Applicant's Ex. 1 (slide 26).

²⁹ LDC 34-2. Opponents proffer a different definition and legal standard to determine compatibility. Testimony of Max Forgey (Transcript Dec. 1, 2021 pg. 134-135). The Hearing Examiner does not have

evidence demonstrating compatibility.³⁰ The project is adjacent to an established residential neighborhood. Proposed dwellings are similar in character and compatible with proximate mobile home communities.

The request is compatible with neighboring uses and consistent with the Lee Plan.³¹

Transportation/Traffic

Planned developments must have access to roads with sufficient capacity to support proposed intensity.³² Existing regulations or conditions of approval must address expected impacts on transportation facilities.³³

Access

The proposed project will access US 41 and Circle Pine Road. US 41 is an arterial road maintained by the State of Florida.³⁴ Circle Pine Road is a privately maintained road internal to the Pine Lakes community.³⁵

The LDC requires more than one access for residential projects greater than five acres.³⁶ Applicant asserts primary access will be on US 41.³⁷

To satisfy the additional access requirement, Applicant proposes interconnection to Pine Lakes via Circle Pine Road.³⁸ Residents dispute that Applicant has legal right to this roadway.

liberty to adopt alternative definitions, and must apply the plain language of the LDC in evaluating compatibility. See *Id.*; LDC 34-145(d).

³⁰ See comprehensive testimony of Kelley Klepper; Applicant's Ex. 1, 5.

³¹ See Staff Report; Testimony of Dirk Danley, Jr. (Transcript Dec. 1, 2021 pg. 65); Staff Ex. 1 (slides 11-18).

³² LDC 34-145(d)(4)(a)(1)(d); 34-411(d)(1).

³³ LDC 34-145(d)(4)(a)(1)(e); 34-411(d)(2).

³⁴ See Staff Report (Attachment J); Testimony of Peter VanBuskirk (Transcript Dec. 1, 2021 pg. 23). Applicant had preliminary conversations with FDOT staff. That access point is not guaranteed. Staff testified they anticipated FDOT would likely grant some form of access to US 41. Testimony of Dirk Danley, Jr. (Transcript Dec. 1, 2021 pg. 55-58).

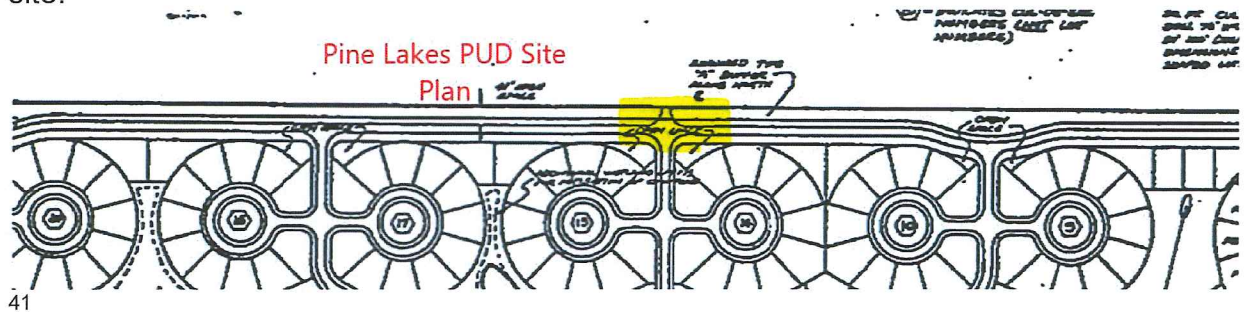
³⁵ Many residents and their counsel questioned ownership. Applicant provided testimony and evidence supporting ownership. Testimony of Jim Murray (Transcript Dec. 2, 2021 pg. 329-331); Testimony of Jason Russo (Transcript Dec. 2, 2021 pg. 331, 333); Testimony of Mallory Clancy (Transcript Dec. 2, 2021 pg. 348-349); Testimony of Kelly Klepper (Transcript Dec. 2, 2021 pg. 346-349); Applicant's Ex. 8.

³⁶ See LDC 10-291(3). If Applicant cannot provide a second access, a deviation/variance must be obtained through the public hearing process, and notice must be recorded articulating an emergency access plan. *Id.*

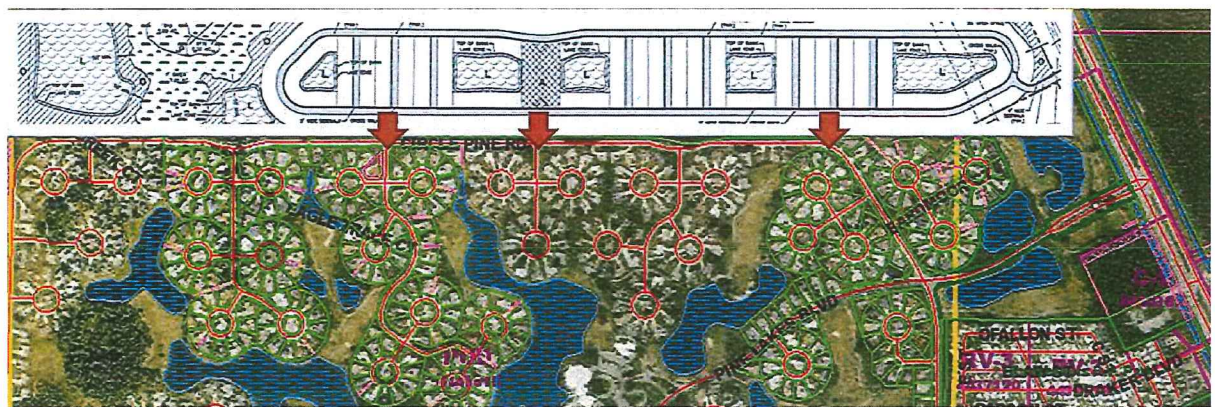
³⁷ Testimony of Addie Clark (Transcript Dec. 2, 2021 pg. 319). FDOT controls US 41 and has not yet approved this connection. Testimony of Peter Van Buskirk (Transcript Dec. 1, 2021 pg. 27); Testimony of Dirk Danley (Transcript Dec. 1, 2021 pg. 55-58). The parties indicated approval is likely though not guaranteed. If US 41 access is not granted, then access to Circle Pine Road becomes imperative.

³⁸ Residents urged the project should use an easement that runs along the property's northern boundary. Applicant recounted attempts to utilize an easement, but has not yet secured access rights. Testimony of

Record evidence indicates the property has access to Circle Pine Road.³⁹ The Pine Lakes PUD site plan shows an interconnection from Circle Pine Road to the site.⁴⁰



Applicant is pursuing an amendment to the Pine Lakes PUD to authorize two additional interconnections.⁴² This illustration shows the MCP overlaid on an aerial with all proposed connections.⁴³



Peter Van Buskirk (Transcript Dec. 1, 2021 pg. 49-50); Testimony of Kelley Klepper (Transcript Dec. 2, 2021 pg. 55-57); Applicant's Ex. 9.

³⁹ See Applicant's Ex. 3; Staff's Ex. 1 (slide 5-6, 8-10). Applicant's Ex. 1 (slide 13-14); Pine Lakes PUD Site Plan. Applicant's attorney stated the Pine Lakes PUD required the interconnection to the north on recommendation by the county engineer during the 1984 approval. Neale Montgomery (Transcript Dec. 1, 2021 pg. 48); Applicant's Ex. 4; Zoning Resolution ZAB-84-269, ZAB-85-097; Testimony of Dirk Danley, Jr. (Transcript Dec. 1, 2021 pg. 53-54); Staff Ex. 1 (slides 5-6, 8-9).

⁴⁰ *Id.*

⁴¹ See Staff Ex. 2 (slide 7 *highlight and label added*).

⁴² Testimony of Peter VanBuskirk (Transcript Dec. 1, 2021 pg. 23-25); Testimony of Dirk Danley, Jr. (Transcript Dec. 1, 2021 pg. 58-60). See Staff Report (pg. 3, referencing ADD2021-00147). The PUD amendment is subject to review under LDC 34-1037. At time of hearing, staff required an additional public information meeting before finding the application sufficient. See Staff Ex. 1 (slide 10). Residents advocate that application should have been considered through the public hearing process. The Hearing Examiner does not have authority to make that determination in this request. LDC 34-145(d). The LDC sets forth separate review criteria for jurisdictional items before the Hearing Examiner. The Hearing Examiner cannot unilaterally seize jurisdiction of a pending administrative appeal. Further, standing for appellate actions before the Hearing Examiner is limited to the applicant. LDC 34-145(a)(3).

⁴³ Staff Ex. 1 (slide 9).

The parties agreed to a condition of approval ensuring compliance with the approved single access to Circle Pine Road and any additional access granted by the pending administrative amendment.⁴⁴

Project Impact

The Traffic Impact Statement concludes affected roadways will operate at acceptable levels of service after project buildout.⁴⁵ Intersection improvements, if needed, will be addressed during development order review.⁴⁶

Applicant demonstrated the request provides sufficient access to support proposed development.⁴⁷ The county will evaluate site related impacts and bicycle/pedestrian facilities during development order review.⁴⁸

Environmental and Natural Resources

Planned development design should reflect creative use of open space.⁴⁹ Developers must make an effort to protect and preserve natural site features.⁵⁰ New development must not degrade surface water quality.⁵¹

The site is mostly improved pasture for cattle grazing.⁵² The MCP denotes enhanced preserve areas on the western portion of the site.⁵³

The proposed development meets LDC open space requirements.⁵⁴ The MCP also reflects adequate buffers to minimize off-site impacts.⁵⁵ Notably, there is a buffer along the northern boundary although none is required.⁵⁶

⁴⁴ Providing access to US 41 and Pine Circle Road achieves LDC directives. See LDC 10-291; Condition 5; Post-Hearing Written Submission Dated Dec. 10, 2021 from Dirk Danley, Jr. Granting additional accesses satisfies public safety objectives by: (1) expanding emergency access; (2) improving traffic circulation; and (3) avoiding a single chokepoint. See LDC 10-291.

⁴⁵ See Staff Report (Attachment I).

⁴⁶ See Staff Report (pg. 5, Attachment J).

⁴⁷ LDC 34-145(d)(4)(a)(1)(d); Applicant's Ex. 1 (slides 18-19); Staff Report (pg. 6, Attachment I, J).

⁴⁸ Site related improvements include capital improvements and right-of-way dedications for "direct access" improvements. Direct access improvements include improvements whose primary purpose at the time of construction is to provide access to the development. Lee Plan Glossary and LDC 2-264; Lee Plan Objective 39.1, Policy 39.1.1; Lee Co. Admin. Code 13-17; LDC 2-66 *et. seq.* See also Staff Report (pg. 6), frontage along US 41 is designated for bicycle and pedestrian facilities. Lee Plan Map 3D.

⁴⁹ LDC 34-411(h).

⁵⁰ LDC 34-411(g).

⁵¹ Lee Plan Policy 125.1.2.

⁵² Testimony of Mallory Clancy (Transcript Dec. 1, 2021 pg. 33-34); Applicant's Ex. 1 (slide 21).

⁵³ See Applicant's Ex. 2: MCP; Applicant's Ex. 1 (slides 21); Lee Plan Objective 124.1. Applicant located wetlands through permitting review and addressed them consistent with Lee Plan Goal 124. Testimony of Dirk Danley, Jr. (Transcript Dec. 1, 2021 pg. 61-62).

⁵⁴ Lee Plan Goal 77, Objective 77.2; See Applicant's Ex. 2: MCP; Testimony of Peter VanBuskirk (Transcript Dec. 1, 2021, pg. 21).

⁵⁵ See Applicant's Ex. 2: MCP; Staff Report (Attachment E).

⁵⁶ Testimony of Peter VanBuskirk (Transcript Dec. 1, 2021 pg 22-23); Applicant's Ex. 2: MCP.

Some speakers expressed concern over bird and tree habitats. Applicant's environmental engineer testified County and South Florida Water Management District regulations address protective measures for identified habitats.⁵⁷

The proposed stormwater design maintains predevelopment conditions and enhances water quality.⁵⁸ Currently, surface waters flow from the north into Pine Lakes.⁵⁹ Applicant proposes a stormwater management plan that provides detention and treatment prior to discharge into Pine Lakes.⁶⁰

Urban Services

Urban services are the facilities, capital improvements, and infrastructure necessary to support development.⁶¹ The Lee Plan requires an evaluation of available urban services during the rezoning process.⁶²

A host of urban services and infrastructure serve the property including roads, potable water, sanitary sewer, police, fire, and emergency medical services.⁶³

Deviations

"Deviations" are departures from LDC regulations.⁶⁴ Applicant seeks one deviation for driveway separation requirements along US 41.⁶⁵ Staff supports the requested deviation.⁶⁶

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

1. Enhances achievement of objectives of the planned development; and

⁵⁷ Testimony of Mallory Clancy (Transcript Dec. 2, 2021 pg. 326-27).

⁵⁸ Testimony of Mallory Clancy (Transcript Dec. 1, 2021 pg. 34, 37-38); Applicant's Ex. 1 (slide 22-23), Lee Plan Policy 125.1.2.

⁵⁹ *Id.* Two drainage structures on Circle Pine Road accept the untreated/uncontrolled runoff.

⁶⁰ *Id.* at 35, slide 23.

⁶¹ Lee Plan Glossary. Urban services include public water and sewer, paved streets and roads, public transit, parks and recreation facilities, urban levels of police, fire and emergency services, urban surface water management, schools, employment, industrial, and commercial centers, institutional, public, or administrative facilities, community facilities such as senior citizens centers, libraries, and community centers.

⁶² Lee Plan Policy 2.2.1.

⁶³ Applicant's Ex. 1 (slide 15-16, 27); Staff Report (pg. 6); Lee Plan Standards 4.1.1, 4.1.2, Policy 2.2.1.

⁶⁴ LDC 34-2.

⁶⁵ Testimony of Peter VanBuskirk (Transcript Dec. 1, 2021 pg. 24).

⁶⁶ See Staff Report (pg. 6, Attachment C); Testimony of Dirk Danley, Jr. (Transcript pg. 67-68). The deviation request was originally limited to separation from the northern access to the church. However, a deviation is also necessary from the south. Staff supported the deviation with relief granted for separation from both access points. *Id.*

2. Preserves and promotes the general intent of the LDC to protect the public health, safety, and welfare.⁶⁷

Applying LDC deviation standards of review to testimony and evidence in the record, the Hearing Examiner concludes the requested deviation meets approval criteria.⁶⁸

Conditions

The county must administer the zoning process so proposed land uses acceptably minimize adverse impacts to adjacent property. Conditions must plausibly relate to anticipated impacts from the proposed development and must be pertinent to mitigation of those impacts on the public health, safety, and welfare.⁶⁹

The MHPD will be subject to several conditions of approval. The conditions relate to impacts anticipated from the project.⁷⁰ The Hearing Examiner recommends:

1. Revisions to conditions to improve clarity; and
2. Deletion of conditions that restate LDC standards and criteria applicable to the project pursuant to Condition 1.

Public

The LDC requires zoning applicants hold an informational meeting in the North Fort Myers Planning Community.⁷¹ Applicant held two meetings.⁷²

Many members of the public attended the hearing.⁷³ Some residents generally supported rezoning to permit mobile homes, but objected to the site design and access to Circle Pine Road.⁷⁴

Residents testified on matters relating to overburdening amenities, prospectus disclosure requirements, mobile home park expansion concerns, homeowner consent, and lot rent assessments.⁷⁵ These concerns are outside the scope of

⁶⁷ LDC 34-145(d)(4).

⁶⁸ LDC 34-377(a)(4).

⁶⁹ LDC 34-932(b).

⁷⁰ LDC 34-83(b)(4)a.3.

⁷¹ LDC 33-1532. The meeting must be held before county staff can deem the application sufficient.

⁷² The first meeting was held on June 22, 2021, with a subsequent meeting on November 3, 2021. See Staff Report Attachment L; Applicant's Ex. 1 (slide 6); Testimony of Kelley Klepper (Trans. Dec. 1, 2021 pg. 14-15). In addition, Applicant conducted additional community outreach. *Id.*

⁷³ Staff entered voluminous e-mails from residents as well, over Applicant's objection. See Staff Ex. 2.

⁷⁴ Testimony of Mr. Konetzny (Transcript Dec. 1, 2021 pg. 139). Mr. Konetzny stated Pine Lakes residents do not oppose the rezoning from agricultural to permit mobile homes. *Id.*

⁷⁵ Testimony of the public (Transcript Dec. 1, 2021 pg. 77-292, Transcript Dec. 2, 2021 pg. 300-10).

LDC review guidelines.⁷⁶ Further, these matters are statutorily preempted by state law.⁷⁷

Florida statutes preempt local governments from the mobile home landlord-tenant relationship.⁷⁸ Accordingly, resident complaints against landlords are not properly before the Hearing Examiner for review.⁷⁹

Conclusion

The Hearing Examiner concurs with staff's analysis and recommendation the requested rezoning to MHPD meets LDC approval criteria.

IV. Findings and Conclusions

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

A. *As conditioned herein*, the proposed rezoning to MHPD:

1. Complies with the Lee Plan. See, Lee Plan Goals 2, 4, 5, 30, 39, 77, 124, 125, Objectives 2.1, 2.2, 5.1, 30.1, 135.1, and Policies 1.1.5, 2.1.1, 2.1.2, 2.2.1, 5.1.2, 5.1.5, 30.1.3, 30.1.4, 125.1.2, 135.1.9, 135.9.7; Lee Plan Maps 1A-B, 2A.
2. Complies with the LDC and other County regulations. See, LDC Chapters 10 and 34; 33-1531 *et. seq.*
3. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.5, 2.1.1, 2.1.2, 2.2.1, 5.1.5, 135.1.9, 135.9.5; LDC 34-411(c), (i), and (j).
4. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goals 77, Objectives 4.1, 77.1, Policy 5.1.2, Standard 4.1.4, LDC 34-411(h).
5. Will be served by urban services. See, Lee Plan Glossary, Map 4A-B, Goal 2; Objectives 2.1, 2.2, 4.1, 53.1, 56.1; Policies 2.2.1, 135.9.7 and Standards 4.1.1 and 4.1.2; LDC 34-411(d).

⁷⁶ The Hearing Examiner's authority in zoning cases is set forth in LDC 34-145(d).

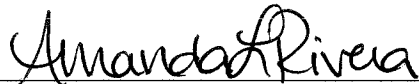
⁷⁷ F.S. ch. 723, §723.004 (2021); Testimony of Dirk Danley Jr. (Transcript Dec. 1, 2021 pg. 71-72); Staff Ex. 4.

⁷⁸ F.S. §723.004 (2021). The Hearing Examiner's authority is afforded under the LDC. Some speakers urged extending protections afforded under Lee Plan Policy 5.1.5 to include Pine Lakes' internal operations. The Hearing Examiner finds this would be an over-reaching of county zoning authority.

⁷⁹ Statutes delegate these matters to other state agencies for residents' recourse.

- B. The Master Concept Plan reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. See, Lee Plan Goal 39, Objective 39.1; LDC 34-411(d).
- C. The proposed mix of uses is appropriate at the proposed location. See, Lee Plan Policies 1.1.5, 2.1.1, 5.1.5, and 135.1.9.
- D. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See, Lee Plan Policies 5.1.5, 135.9.6; See *a/so*, LDC Chapters 10, 33, and 34.
- E. As conditioned herein, the deviations:
 - 1. Enhance the objectives of the planned development; and
 - 2. Promote the intent of the LDC to protect the public health, safety, and welfare. See, 34-377(b)(4).

Date of Recommendation: February 24, 2022.



Amanda L. Rivera
Deputy Hearing Examiner

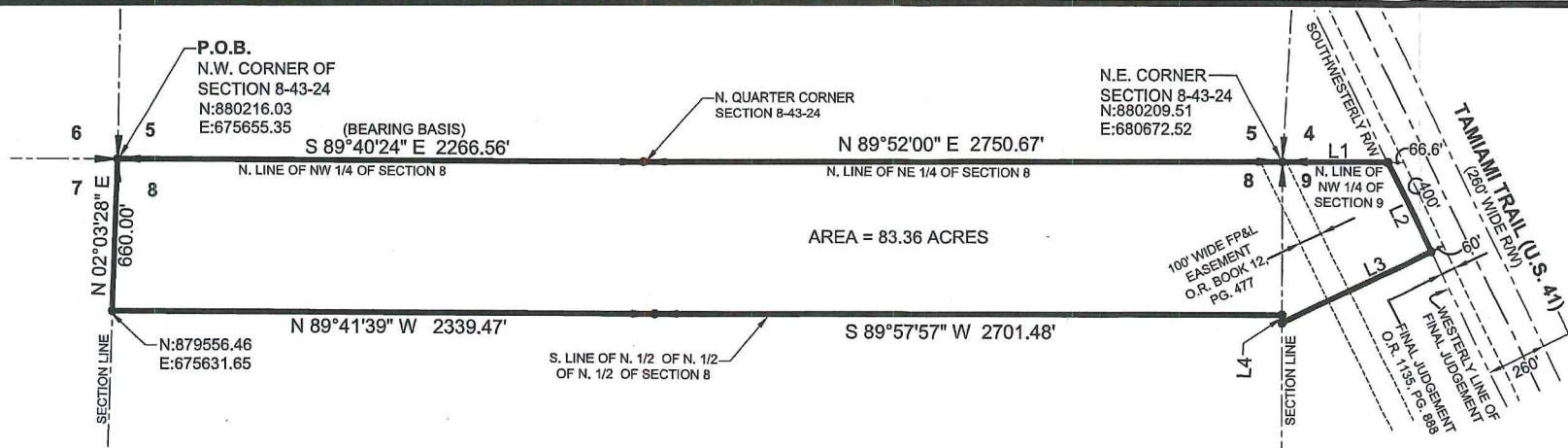
Lee County Hearing Examiner
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

**DESCRIPTION**

A PARCEL OF LAND LYING IN SECTIONS 8 AND SECTION 9, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 8; THENCE S 89°40'24"E ALONG THE NORTH LINE OF SAID SECTION 8, A DISTANCE OF 2,266.56 FEET TO THE NORTH-QUARTER CORNER OF SAID SECTION 8; THENCE N 89°52'00" E CONTINUING ALONG THE NORTH LINE OF SAID SECTION 8, A DISTANCE OF 2,750.67 FEET TO THE NORTHEAST CORNER OF SAID SECTION 8; SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID SECTION 9 THENCE N 89°58'08" E ALONG THE NORTH LINE OF SAID SECTION 9, A DISTANCE OF 449.81 FEET TO AN INTERSECTION WITH THE WESTERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN A FINAL JUDGEMENT RECORDED IN OFFICIAL RECORDS BOOK 1135, PAGE 888, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S 26°04'36"E ALONG SAID WESTERLY BOUNDARY, BEING ALSO THE SOUTHWESTERLY RIGHT-OF-WAY LINE (260 FOOT WIDE RIGHT-OF-WAY) OF TAMIAMI TRAIL (U.S. 41), A DISTANCE OF 429.78 FEET; THENCE S 63°56'09"W, LEAVING SAID U.S. 41 RIGHT-OF-WAY. A DISTANCE OF 711.00 FEET TO AN INTERSECTION WITH THE EASTERLY LINE OF SAID SECTION 9; THENCE N 00°00'12"W, ALONG SAID SECTION LINE, A DISTANCE 34.25 FEET; THENCE S.89°57'57"W, ALONG THE SOUTH LINE OF THE NORTH HALF OF THE NORTH HALF OF THE NORTH HALF OF SAID SECTION 8, A DISTANCE OF 2,701.48 FEET; THENCE N.89°41'39"W, CONTINUING ALONG SAID SOUTH LINE OF THE NORTH HALF OF THE NORTH HALF OF THE NORTH HALF OF SECTION 8, A DISTANCE OF 2,339.47 FEET TO AN INTERSECTION WITH THE WEST LINE OF SAID SECTION 8; THENCE N.02°03'28"N, ALONG SAID SECTION LINE, A DISTANCE OF 660.00 FEET TO THE SAID **POINT OF BEGINNING** OF THIS DESCRIPTION. CONTAINING 83.36 ACRES, MORE OR LESS.

SURVEY NOTES:

THE DESCRIPTION SHOWN HEREON IS NEW.

MAP AND DESCRIPTION PREPARED IN ACCORDANCE WITH THE STATE OF FLORIDA'S STANDARDS OF PRACTICE FOR SURVEYING, RULE 5J-17 F.A.C.

BEARINGS BASED ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 43 S., RANGE 24 E. AS BEARING S 89°40'24" E.

COORDINATES SHOWN HEREON BASED ON FLORIDA GRID, WEST ZONE, NAD 83/(2011).

WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER, AND ALL SHEETS ARE INCLUDED, THIS MAP IS NOT VALID.

THIS IS NOT A SURVEY!

REVIEWED
DCI2021-00004
Hunter Searson, GIS
Planner
Lee County Government
8/3/2021

PREPARED BY:

LINE	BEARING	DISTANCE
L1	N 89°58'08" E	449.81'
L2	S 26°04'36" E	429.78'
L3	S 63°56'09" W	711.00'
L4	N 00°00'12" W	34.25'

ABBREVIATIONS

FP&L = FLORIDA POWER AND LIGHT
INSTR. = INSTRUMENT
LB = LICENSED BUSINESS
O.R. = OFFICIAL RECORDS
PG. = PAGE
P.O.B. = POINT OF BEGINNING
R/W = RIGHT OF WAY



PSM 6347

Digitally signed by
Thomas M. Rooks Jr.
Date: 2021.04.23
16:41:32 -04'00'

THOMAS M. ROOKS JR., P.S.M. DATE
FLORIDA CERTIFICATE NO. 6347

PROJECT:

**LOUIS FRENCH
PARCEL**

LOCATION:

A PARCEL OF LAND
LYING IN SECTIONS
8 & 9, T. 43 S., R. 24 E.,
LEE COUNTY, FLORIDA

CLIENT:

**EQUITY LIFESTYLE
PROPERTIES, INC**
TWO NORTH RIVERSIDE PLAZA,
SUITE 800, CHICAGO, ILLINOIS 60606

CONSULTANT:

MORRIS
DEPEW
ENGINEERS • PLANNERS • SURVEYORS
LANDSCAPE ARCHITECTS
FL. CA. NO. 0532 / FL. CERT. NO. LB8861 / LC28000330

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REVISIONS DATE

PROJECT MANAGER: TMR

DRAWING BY: TAB

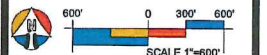
JURISDICTION: LEE COUNTY

DATE: 04-23-2021

SHEET TITLE:

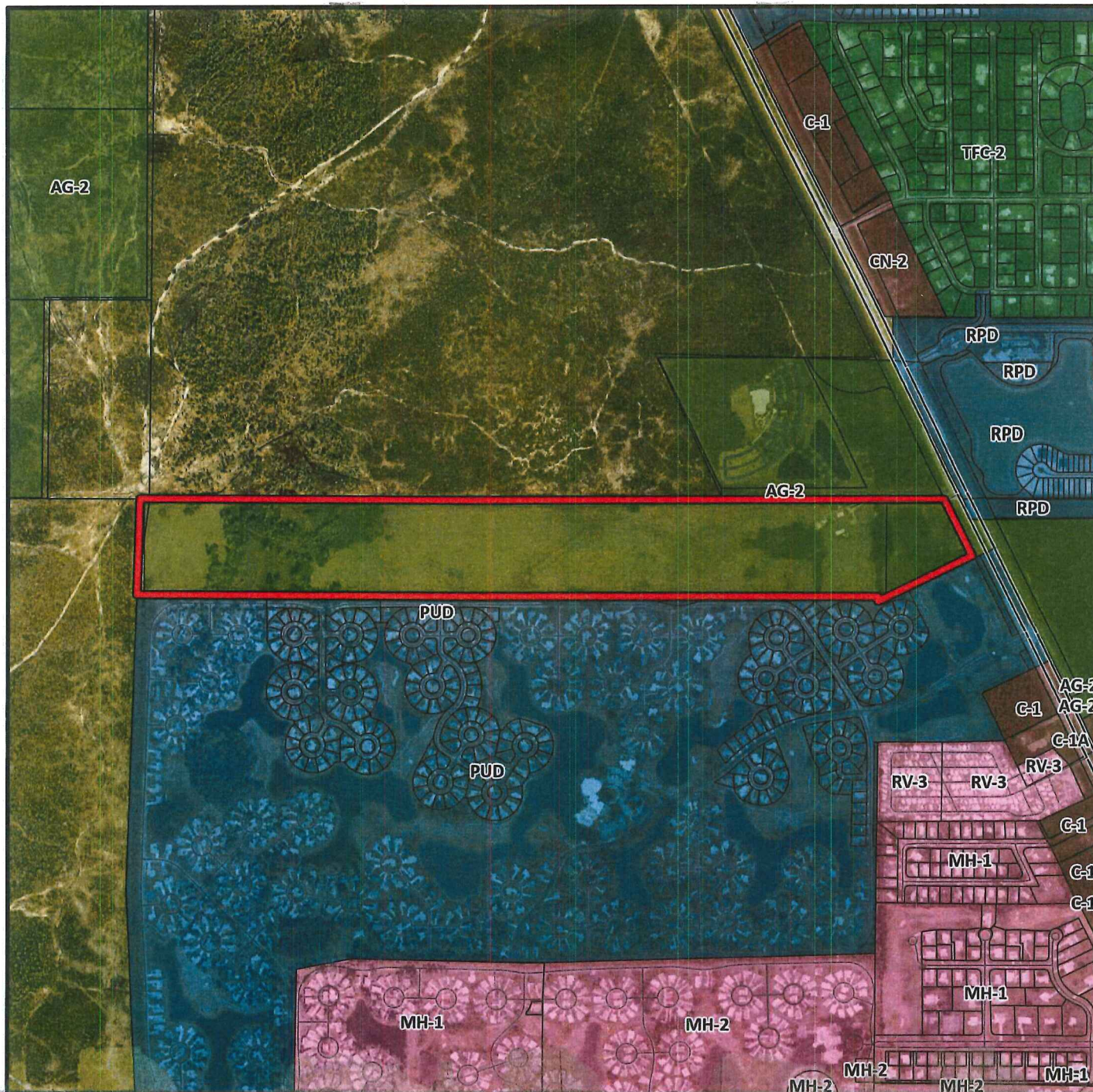
**DESCRIPTION
DRAWING**

SHEET NUMBER: 1 OF 1



JOB/FILE NUMBER: 21040

EXHIBIT A



DCI2021-00004

Zoning

 Subject Property

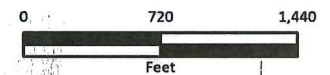


Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

1. Master Concept Plan (MCP)/Development Parameters
 - a) MCP: Development must be substantially consistent with the one-page MCP entitled "Pine Lakes Country Club II, Master Concept Plan," prepared by Kimley Horn and Associates, date stamped July 16, 2021 (Exhibit B1), except where modified by the conditions below.
 - b) Land Development Code (LDC) and Lee Plan: Development must comply with the LDC and Lee Plan at the time of local development order approval, except where deviations are approved herein. Subsequent amendments to the MCP, conditions, or deviations may require further development approvals.
 - c) Development Parameters: This MHPD is limited to a maximum of 400 mobile home dwelling units and accessory uses.
2. Uses and Site Development Regulations
 - a) Schedule of Uses

Accessory Uses and Structures
Administrative Office
Agricultural Uses (See Condition 3)
Caretaker's Residence
Clubs, Private, Country
Dwelling Unit, Mobile Home
Entrance Gates and Gatehouses
Essential Services
Essential Services Facilities, Group I
Excavation - Water Retention
Fences and Walls
Home Occupation
Models: Model Unit, Model Home (LDC 34-1954) (Condition 4)
Parks, Group I
Parking Lot, Accessory
Real Estate Sales Office (See Condition 4)
Recreation Facilities, Private, On-Site, Personal
Rental or Leasing Establishment, Groups I and II (LDC 34-937)

Residential Accessory Uses
Signs
Storage, Indoor
Temporary uses

b) Site Development Regulations

Residential Development
Lot Size

Minimum Lot Area:	4,250 square feet
Minimum Lot Depth:	85 feet
Minimum Lot Width:	50 feet

Setbacks

Development Perimeter	5 feet
Street (public)	25 feet
Street (private)	15 feet
Side	5 feet
Rear	5 feet
Waterbody	5 feet

Accessory uses and setbacks must comply with LDC 34-1174 *et seq.* and LDC 34-2194.

<u>Maximum Lot Coverage</u>	60%
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<u>Maximum Height</u>	35 feet
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Nonresidential Uses

Lot Size

Minimum Lot Area:	10,000 square feet
Minimum Lot Depth:	100 feet
Minimum Lot Width:	100 feet

Setbacks

Development Perimeter	15 feet
Street (public)	25 feet
Street (private)	20 feet
Side	15 feet
Rear	20 feet
Water body	20 feet

Minimum building separation: 20 feet or one-half the building height for structures greater than 40 feet

<u>Maximum Lot Coverage</u>	45%
<u>Maximum Height</u>	35 feet

3. Agricultural Uses

Existing bona fide agricultural uses in the form of cattle pasture may continue on the property subject to the following:

- a) Termination of Agricultural Use. Agricultural uses must terminate on project areas receiving development order approval for vertical development and prior to county issuance of a vegetation removal permit. Development order approvals for plats, infrastructure improvements, landscaping, surface water management, or other non-vertical development do not trigger termination.
- b) Additional Clearing Prohibited. Clearing of native trees or other native vegetation, including understory, in agricultural areas is prohibited. Existing areas of bona fide agricultural use that include existing grass pasture(s) may be mowed, but may not be cleared or expanded. This prohibition does not preclude County approved requests for removal of invasive exotic vegetation.
- c) Proof of Termination. Upon approval of a local development order for vertical development and prior to issuance of a vegetation removal permit, the property owner must provide written proof of the following, subject to approval by the County Attorney's Office:
 - 1) Affidavit. Sworn affidavit from the property owner confirming:
 - a. Date agricultural uses ceased;
 - b. Legal description of the property subject to the development order approved for vertical development;
 - c. An affirmative statement acknowledging and agreeing agricultural uses are illegal and prohibited on the property, and that the owner covenants with the County they will not allow agricultural uses to resume until the property is rezoned to permit agriculture; and
 - d. The affidavit constitutes a covenant between the property owner and the County binding on the owner and its successors. The covenant must be properly recorded in the public records of the County at the owner's expense.

- 2) Termination of Tax Exemption. Termination of the agricultural tax exemption for portions of the property subject to development order for vertical development. Proof of termination must include a copy of the request to terminate the tax exemption submitted to the Lee County Property Appraiser.
4. Model Units/Real Estate Sales
Real Estate Sales are limited to clubhouses and model units. Daily hours of operation are 8 a.m. to 8 p.m.
5. Vehicular Ingress and Egress
Ingress/egress points from the MHPD to the existing Pine Lakes Community must be consistent with either: (a) Resolution ZAB-85-097, allowing one access point; or (b) ADD2021-00147, if approved, allowing up to three access points. Modification of the access points depicted on the MCP must be approved in accordance with the LDC.
6. Consistency with State Statute
Approval of this MHPD does not contravene Florida Statutes Chapter 723. Development must remain consistent with applicable state laws.

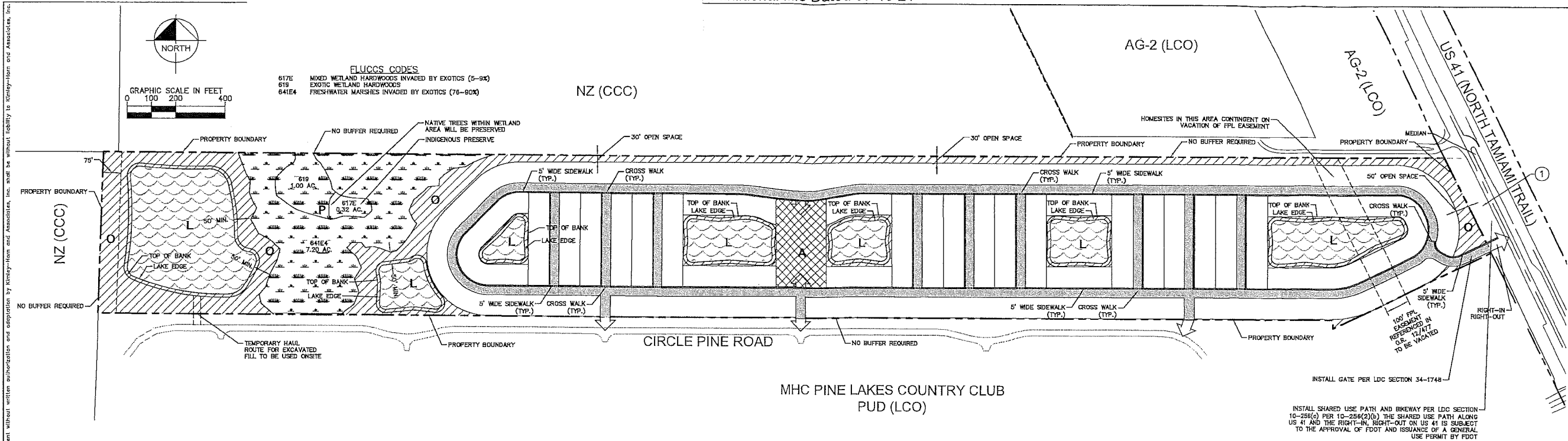
DEVIATIONS

1. Connection Separation. Deviation (1) seeks relief from LDC 10-285 Table 1, Connection Separation, which requires a minimum separation of 660 feet for Principal Arterial roadways in Future Suburban Areas, to allow a minimum separation of 400 feet.

HEX Recommendation: Approval, *subject to* the following condition:

The proposed access point deviation on North Tamiami Trail/US 41 is subject to approval by Florida Department of Transportation.

Exhibits to Conditions:
B1 Master Concept Plan



Kimley»Horn

© 2021 KIMLEY-HORN AND ASSOCIATES, INC.
1412 JACKSON STREET, SUITE 2, FORT MYERS, FL 33901
PHONE: 238-271-2650 FAX: 941-379-4352
WWW.KIMLEY-HORN.COM REGISTRY No. 696

MASTER CONCEPT PLAN

PINE LAKES COUNTRY CLUB II
PREPARED FOR
EQUITY LIFESTYLE PROPERTIES, INC.

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

- a. *DCD Staff Report with attachments for DCI:* Prepared by Dirk Danley, Jr., Senior Planner, dated November 16, 2021 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
1. *PowerPoint Presentation:* Prepared by DCD Staff, for Pine Lakes Country Club II MHPD, DCI2021-00015, Planned Development Rezoning Request (multiple pages – 8.5"x11")[color]
2. *Emails:* From Residents (multiple pages – 8.5"x11")[color]
3. *Notebook:* (multiple pages – 8.5"x11" and thumb drive)[color]
4. *Email:* From Joseph Adams, to Dirk Danley, Jr., dated Tuesday, November 23, 2021 10:59 AM (5 pages – 8.5"x11")
5. *Written Submissions:* Email from Dirk Danley, Jr., to Maria Perez, with copies to Jamie Prining, & Neale Montgomery, Esq., dated Friday, December 10, 2021 4:11 PM (2 pages – 8.5"x11"){post hearing submittal}

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Mallory Clancy, with Kimley-Horn, to Maria Perez & Dirk Danley, Jr., with copies to Kelly Klepper, Neale Montgomery, Esq., Jim Murray, Leslie Register, Addie Clark, & Peter Vanbuskirk, dated Monday, November 29, 2021 9:04 AM (multiple pages – 8.5"x11")
- b. *Revised 48-Hour Notice:* Email from Mallory Clancy, with Kimley-Horn, to Maria Perez & Dirk Danley, Jr., with copies to Kelly Klepper, Neale Montgomery, Esq., Jim Murray, Leslie Register, Addie Clark, & Peter Vanbuskirk, dated Monday, November 29, 2021 12:43 PM (multiple pages – 8.5"x11")
- c. *Second 48-Hour Notice:* Email from Mallory Clancy, with Kimley-Horn, to Maria Perez & Dirk Danley, Jr., with copies to Kelly Klepper, Neale Montgomery, Esq., Jim Murray, Leslie Register, Addie Clark, & Peter Vanbuskirk, dated Monday, November 30, 2021 4:05 PM (multiple pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared by Kimley-Horn & Associates, for Pine Lakes Country Club II (aka Louise French Trust Property0, DCI2021-00004 (multiple pages – 8.5"x11")[color]

2. *Master Concept Plan*: Prepared by Kimley Horn, for Pine Lakes Country Club II (1 page – 11"x17")
3. *Planned Unit Development Site Plan*: Prepared by Johnson Engineering, Inc., dated DEC.1985 (1 page – 11"x17")
4. *Staff Report*: Case number 84-5-4 (DCI), Pine Lakes Country Club, report dated November 21, 1984 (multiple pages – 8.5"x11")
5. *Florida Statute*: The 2021 Chapter 163 (multiple double-sided pages – 8.5"x11")
- 6(a). *Future Land Use Element*: (multiple double-sided pages – 8.5"x11")
- 6(b). *Lee Plan*: Section 4.1.2, Establishing of zoning districts (2 pages – 8.5"x11")
- 6(c). *Lee Plan*: Section 4.1.3, Zoning district development dimensional standards (multiple pages – 8.5"x11")
- 6(d). *Use Table*: (multiple pages – 8.5"x11")
- 6(e). *Future Land Use 2040*: City of Cape Coral Future Land Use (1 page – 11"x17")
7. *Lee Plan As amended through November 2021*: (multiple pages – 8.5"x11")
8. *Lee County Property Data*: For MHC Pine Lakes Country Club, c/o Duff & Phelps A Kroll, Business, property address 10200 Pine Lakes Blvd, North Fort Myers, Florida 33903, Strap number 08-43-24-04-0000A.0000 (multiple pages – 8.5"x11")
9. *Cross Easement Agreement*: Prepared by Denis H. Noah, Esq., with Henderson, Franklin, Starnes & Holt, P.A., dated February 2, 2005 (multiple pages – 8.5"x11")
- 10(a). *Letter*: From B. Kelley Klepper, with Kimberley/Horn, to Anthony Rodriguez, with Lee County Community Development, dated February 5, 2021, regarding Application for Planned Development Public Hearing, Pine Lakes Country Club II, Project Number 048231100 (multiple pages – 8.5"x11")
- 10(b). *Application for Planned Development Public Hearing Unincorporated Areas Only*: Project Name Pine Lakes Country Club II (aka French Property), to rezone from AG-2 to MHPD (multiple pages – 8.5"x11")
- 10(c). *Application for Planned Development Public Hearing Unincorporated Areas Only*: Project Name Pine Lakes Country Club II (aka French Property), to rezone from AG-2 to MHPD (multiple pages – 8.5"x11")

- 10(d). *Conceptual Sketch Plan & Documents*: Preliminary drawing for French Property (multiple pages – 8.5"x11")
- 10(e). *Ron Thoreson's Ask a Question*: (6 Pages – 8.5"x11")
11. *Letter*: To Pine Lakes Country Club residents, from Leslie Register, with Pine Lakes Country Club

OTHER EXHIBITS

Ralph Brooks, Esq.

1. *Documents*: (multiple pagers - 8.5"x11" & 11"x17")
2. *Letter & Documents*: Fromm Ralph Brooks, Esq., to Donna Marie Collins, Chief Hearing Examiner & Michael Jacob, Esq., with the County Attorney's Office, with copies to Robert Burandt, Dirk Danley, Jr., & Max Forgey, dated November 29, 2021 (multiple pages – 8.5"x11")

Max Forgey

1. *Documents*: Expert Planners' Report, The Caser for Denial of Lakes Country Club II, in Unincorporated Lee County, DCI2021-00004, FP Case 2021-06-03, dated November 30, 2021; Attachment A, Lee Plan 2021, Table 1(b) Year 2045 Allocations, 2 pgs.; and Attachment B, Résumé of Daryl Max Forgey, AICP, 6 pgs (multiple pages – 8.5"x11")

Robert Konetzny

1. *Presentation for HEX Hearing Meeting*: (multiple pages – 8.5"x11")

Charles Orvik

1. *Document*: Questions of Neighborhood Issuers of Concern to Lee County & Equity Lifestyles Properties (ELS); and Mr. Orvik's presentation (1 page – 8.5"x11")

Frank Tivnan

1. *Presentation*: (1 page – 8.5"x11")

Betty White

1. *Presentation & Photographs*: (4 pages – 8.5"x11" – 3 pages – 4"x6") [color]

Ron Thoreson

1. *PowerPoint Presentation*: (multiple pages – 8.5"x11") [color]

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Dirk Danley, Jr.

Applicant Representatives:

1. Mallory Clancy
2. Addie Clark
3. Kelly Klepper
4. Neale Montgomery, Esq.
5. Jim Murray
6. Jason Russo
7. Peter Van Buskirk

Public Participants:

1. Jackie Bartilucci
2. Ralph Brooks, Esq.
3. Wayne Brown
4. Robert Burandt
5. Tonie Calvin
6. Tom Clark
7. Patricia Dieringer
8. Ray Dunlap
9. Max Forgey

10. Rebecca Gloss
11. Michael Gloss
12. Michael Hayes
13. Matt Heier
14. Jan Hippler
15. Pamela Johnson
16. Pam Krohn
17. Robert Konetzny
18. Marlo J. Magnette
19. John McDonald
20. Kristin Mellott
21. Thomas Minahan
22. Gary Nicolini
23. Charles Orvik
24. Charles Rimlinger
25. Richard Saniti
26. Johnnie Stanley
27. Ron Thoreson
28. Frank Tivnan
29. Mary Tivnan
30. Charles Wakefield
31. Pamela Wagner

- 32. Betty White
- 33. Bruce Wrede
- 34. Bonnie Wright
- 35. Jacquelyn Yablonsky

Exhibit E
INFORMATION

UNAUTHORIZED COMMUNICATIONS

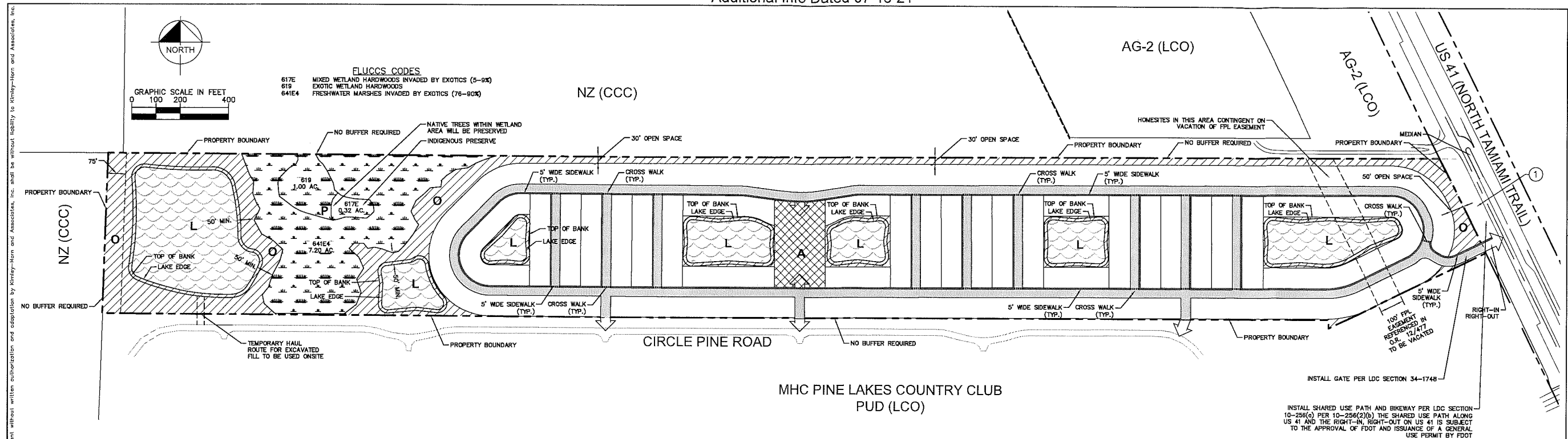
The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

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

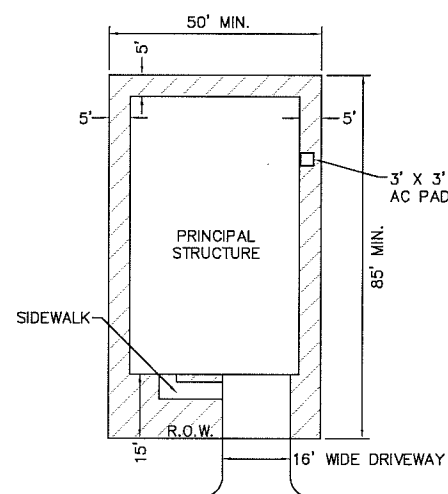
- A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.
- B. A verbatim transcript may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



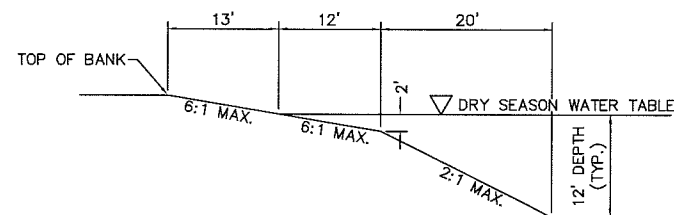
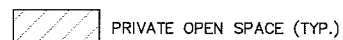
LEGEND

- | | |
|---|--|
|  | 40' WIDE PRIVATE ROAD EASEMENT
WITH CLOSED DRAINAGE |
|  | PRESERVED WETLANDS |
|  | COMMON OPEN SPACE |
|  | AMENITY AREA |
|  | LAKES |
|  | FPL EASEMENT |
|  | DEVIATION REQUEST |

PRIVATE OPEN SPACE DIAGRAM
(N.T.S.)



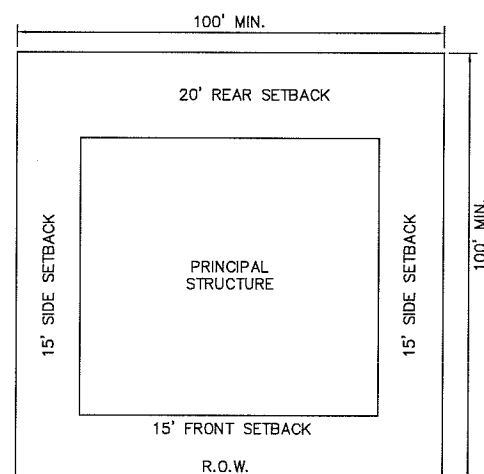
MIN. LOT AREA = 4,250 SF
MAX. BUILDING AREA = 2,600 SF
DRIVEWAY AREA = 240 SF
SIDEWALK AREA = 70 SF
AC PAD AREA = 9 SF
AREA AVAILABLE FOR PRIVATE OPEN SPACE = 1,331 SF
MIN. 10% ONSITE OPEN SPACE = 425 SF



TYPICAL LAKE SECTION
N.T.S.

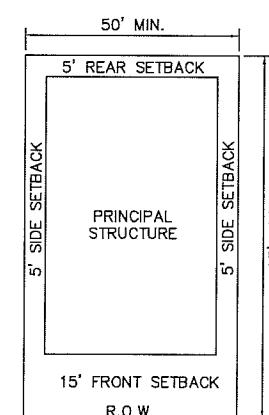
TYPICAL NON-RESIDENTIAL SITE INFORMATION
(N.T.S.)

NOTE: 25' SETBACK FOR OFFSITE STREETS



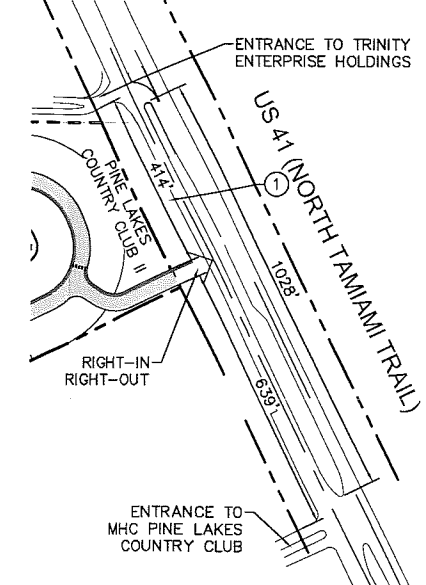
TYPICAL RESIDENTIAL SITE INFORMATION
(N.T.S.)

NOTE: 25' SETBACK FOR OFFSITE STREETS



ADJACENT ACCESS POINT DETAIL

SCALE: 1" = 200'



LAND USE SUMMARY

SITE DATA SUMMARY	
USE	AREA (AC.)
PRESERVE	8.52
ROADWAY	11.39
LAKES	11.09
RESIDENTIAL SITES	37.96
AMENITY AREA	1.70
COMMON OPEN SPACE	12.70
TOTAL	83.36

OPEN SPACE SUMMARY			
REQUIRED			
OPEN SPACE REQUIREMENTS: 30% OF PROJECT AREA AS COMMON OPEN SPACE WITH 10% ADDITIONAL OPEN SPACE TO BE DISTRIBUTED AS PRIVATE OPEN SPACE WITHIN INDIVIDUAL RESIDENTIAL SITES.			
OPEN SPACE REQUIRED:		83.36 AC. X 0.40 = 33.34 AC.	
INDIGENOUS PRESERVE REQUIRED:		33.34 AC X 0.50 = 16.67 AC.	
INDIGENOUS LAND USE AREA AVAILABLE:		0.32 AC.	
PROVIDED			
LANDS*		8.33 AC.	
OTHER OPEN SPACES	INDIGENOUS PRESERVE	0.32 AC.	
	OTHER PRESERVE	8.20 AC.	
	COMMON OPEN SPACE	12.70 AC.	
	PRIVATE OPEN SPACE	3.78 AC.	
TOTAL OPEN SPACE PROVIDED		33.34 AC.	

* LAKES CAN PROVIDE UP TO 25% OF REQUIRED OPEN SPACE. THEREFORE OF THE 11.09 A.C. OF LAKES ONLY 8.33 A.C. IS USED TO PROVIDE OPEN SPACE.

SETBACK TABLE	
TYPICAL NON-RESIDENTIAL SITE	
FRONT SETBACK	15'
REAR SETBACK	20'
SIDE SETBACK	15'
TYPICAL RESIDENTIAL SITE	
FRONT SETBACK	15'
REAR SETBACK	5'
SIDE SETBACK	5'
EXCAVATION SETBACKS	
LOCAL STREET EASEMENT	25'
ARTERIAL OR COLLECTOR STREET	50'

NOTE: ALL EXCAVATION SETBACKS ARE MEASURED FROM THE MEAN HIGH WATER

A. Conditions

1. Development must be consistent with the one-page Master Concept Plan (MCP) entitled "Pine Lakes Country Club II, Master Concept Plan," prepared by Kimley Horn and Associates, dated stamped July 16, 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 400 mobile home 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
 Agricultural Uses (See Condition 3)
 Caretaker's Residence
 Clubs, Private, Country
 Dwelling Unit, Mobile Home
 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 4)
 Parks, Group I
 Parking Lot, Accessory
 Real Estate Sales Office (See Condition 4)
 Recreation Facilities, Private, On Site, Personal
 Rental or Leasing Establishment, Group I and II (Subject to LDC Section 34-937)
 Residential Accessory Uses
 Signs
 Storage, Indoor
 Temporary uses

- b. Site Development Regulations

Residential Development

Lot Size

Minimum Lot Area:	4,250 square feet
Minimum Lot Depth:	50 feet
Minimum Lot Width:	85 feet

Setbacks

Development Perimeter	5 feet
Street (public)	25 feet
Street (private)	15 feet
Side	5 feet
Rear	5 feet
Water body	5 feet

Accessory uses and setbacks must comply with the LDC§ 34-1174 *et seq.* and LDC§ 34-2194.

Maximum Lot Coverage 60 percent

Maximum Height 35 feet

Nonresidential Uses

Lot Size

Minimum Lot Area:	10,000 square feet
Minimum Lot Depth:	100 feet
Minimum Lot Width:	100 feet

Setbacks

Development Perimeter	15 feet
Street (public)	25 feet
Street (private)	20 feet
Side	15 feet
Rear	20 feet
Water body	20 feet

Minimum building separation: 20 feet or one-half the building height for structures greater than 40 feet

Maximum Lot Coverage 45 percent

Maximum Height 35 feet

3. Agricultural Uses

- a. Bona fide agricultural uses consisting of “grazing lands”, which were in existence when the application for this project was filed, may continue in accordance with the Agricultural Use Affidavit filed with the zoning application until such time as a local development order is approved for the area that contains these uses.
- b. Clearing or injury of native trees and/or other native vegetation, including understory, in agricultural areas is prohibited. Existing areas of bona fide agricultural use that include existing grass pasture(s) may be mowed, but may not be cleared or expanded. This prohibition of clearing or expansion is not intended to preclude County approved requests

for removal of invasive exotic vegetation. Violations of this condition will require restoration in accordance with Section 10-423 of the LDC.

- c. Prior to issuance of a local development order, the applicant, its successors or assigns must provide written proof, subject to approval by the Lee County Attorney's Office, of the following:

- 1) Termination of all agricultural use on any portion of the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:

- a. The date the agricultural uses ceased;
- b. The legal description of the property subject to the development order approval;
- c. An affirmative statement that the applicant, its successors or assigns acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the County that they will not allow any such uses on the property unless and until the property is rezoned to permit such uses; and,
- d. That the affidavit constitutes a covenant between the applicant, its successors or assigns, and the County that is binding on the applicant, its successors or assigns. The covenant must be properly recorded in the public records of the County at the expense of the applicant, its successors or assigns.

- 2) Termination of the agricultural tax exemption for any portion of the property included in the development order application/approval. Proof as to the termination must include a copy of the request to terminate the tax exemption submitted to the property appraiser.

4. 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.

5. Vehicular Ingress and Egress

Access to the development to existing Pine Lakes Community must be consistent with the approval of ADD2021-00147. Modification of the access points depicted on the attached Master Concept Plan must be approved in accordance with the LDC.

6. Consistency with State Statute

Approval of this Planned Development is not intended to contravene with Florida Statutes Chapter 723. Development of the subject property must remain consistent with all applicable Florida Statutes.

B. Deviations

1. Deviation (1) seeks relief from LDC Section 10-285 Table 1, Connection Separation, which requires a minimum separation of 660 feet for Principal Arterial roadways in Future Suburban Areas, to allow a minimum separation of 400 feet.

Staff recommends **approval** of this deviation with the following condition:

- a. This deviation for the proposed access point on North Tamiami Trail (US 41) is subject to approval by Florida Department of Transportation.

Exhibits:

Exhibit A – Agricultural Affidavit

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

CASE NUMBER: DCI2021-00004

CASE NAME: PINE LAKES COUNTRY CLUB II MHPD

TYPE OF CASE: MINOR PLANNED DEVELOPMENT

HEARING EXAMINER DATE: DECEMBER 1, 2021

SUFFICIENCY DATE: OCTOBER 11, 2021

REQUEST:

An application has been submitted by Kelley Klepper, AICP of Kimley-Horn and Associates on behalf of Leslie Register of Equity Lifestyle Properties, Inc. to request a rezoning of approximately 83 acres from Agricultural District (AG-2) to Mobile Home Planned Development (MHPD) to allow for the development of up to 400 dwelling units with accessory uses and amenity areas.

The subject property is located at 10031 and 10021 French Creek Lane, North Fort Myers Planning Community, Lee County, FL. (District #4), STRAP Numbers 08-43-24-00-00001.0000 and 09-43-24-00-00001.0000.

SUMMARY:

Staff recommends **APPROVAL** of the applicant's request, with the Conditions found in Attachment C. The applicant seeks a deviation for connection separation for the access point along US 41. Staff recommends approval of this deviation.

HISTORY OF PARCEL AND CHARACTER OF THE AREA:

The subject property is located at the southwest corner of the intersection of North Tamiami Trail (US 41) and French Creek Lane, and is currently developed with a single-family home and undeveloped agricultural land. The western portion of the property is constrained by wetland areas. Prior to this rezoning request, no significant zoning action has taken place on this property.

The subject property extends along the northern boundary of the Pine Lakes Mobile Home Community to the south. Pine Lakes Country Club was rezoned to Planned Unit Development (PUD) by ZAB-84-269, which allowed up to 867 mobile home sites. Resolution ZAB-85-097 approved the Final Plan Approval for the Pine Lakes Country Club (Attachment G). The Final PUD Plan approved mobile home residential development oriented around culs-de-sac throughout the development. Portions of Pine Lakes are owner-occupied units on fee simple lots, and other portions are rental units.

The majority of the lands to the north and west of the subject property are within the City of Cape Coral, and are undeveloped. The property nearest to North Tamiami Trail is zoned Agricultural (AG-2) and is developed with a place of worship.

Property to the east is separated by North Tamiami Trail and is zoned Residential Planned Development (RPD) and Agricultural (AG-2). The property zoned Residential Planned Development (RPD) was approved under Resolution Z-14-006 which allows 404 residential dwelling units, on approximately 132 acres (Attachment H).

The subject property is also located in the North Fort Myers Community Plan Area and are subject to the Objectives and Policies of Goal 30 of the Lee Plan.

ANALYSIS

The applicant has provided a request statement that describes the nature of the request (Attachment D). The subject property is currently zoned Agricultural (AG-2) and contains a single-family home and cattle grazing land. The applicant seeks to rezone the subject property to Mobile Home Planned Development (MHPD) to allow for up to 400 mobile home units and an amenity area. Ingress and egress is proposed through an access point on US 41 and through proposed vehicular connections to the existing Pine Lakes Community to the south.

Planned Development Rezoning:

Section 34-612 of the Lee County Land Development Code (LDC) 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 Master Concept Plan which depicts vehicular circulation, location of lots, water retention, wetland and preserve areas, and amenity areas (Attachment M). The applicant proposes areas specified for residential development to remain east of the wetland area. Additionally, there is a 100-foot FP&L easement depicted on the Master Concept Plan as described on Official Record Book 12, Page 477. At the time of this request, the applicant proposes to vacate this easement. Access to the subject property from US 41 is proposed in the southeast corner of the property. Three access points are proposed into the existing Pine Lakes Community. Additionally, at the center of the development area, the applicant proposes an amenity area for future development. Specific amenities have not been determined at this time.

Concurrent Zoning Action:

The applicant has filed an additional zoning action for the Pine Lakes Community to the south under Case Number ADD2021-00147. This Planned Unit Development (PUD) Amendment has been requested pursuant to LDC Section 34-1038 to depict access points on the approved Final PUD Plan consistent with the access points depicted on the Master Concept Plan for the subject property. There is currently a single approved access point shown on the Pine Lakes PUD map that connects to the north, but the applicant proposes two additional access points to connect to the subject property. This case is still under review at the time of publication of this staff report.

Development Pattern Considerations:

The subject property is in the Suburban future land use category, which is described in Lee Plan Policy 1.1.5 as a predominantly residential area on the fringe of urban areas around the County. Density considered in the Suburban Future Land Use Category is a maximum of 6 dwelling units per acre. The proposed mobile home community is consistent with the intent of the Suburban future land use category and the maximum density for the future land use category. Staff finds the proposed use consistent with Policy 1.1.5.

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 along an arterial corridor where the development pattern includes a mix of residential uses and undeveloped properties. There is existing development to the north and south of 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. This is evidenced by the letter of utility availability and the Traffic Impact Statement (Attachments K and I). The subject property is located along US 41 in the North Fort Myers Community Plan Area, where similar development patterns exist to the south and east of the subject property. 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 projected population to the year 2030 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 requires 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. There is an existing wetland on the western portion of the subject property that the applicant intends to preserve. The subject property is not located in a Coastal High Hazard Area and is located in Flood Insurance Rate Map (FIRM) Zone 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. This includes the determination of necessary hurricane sheltering, and mitigation of impacts to state evacuation times. Staff finds the proposed development consistent with Lee Plan Policy 5.1.2.

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 applicant seeks to develop the subject property with a mobile home residential development that would be integrated into the existing Pine Lakes residential development to the south. Staff finds that although the orientation of roadways and lots is not generally consistent with the existing Pine Lakes community, the uses are generally consistent with each other in a way that is not destructive to the existing community. Staff notes that concerns over traffic, the inclusion of amenity areas, and hurricane preparation for the entire community have been raised by the residents of Pine Lakes. As this community will ultimately be integrated into the existing Pine Lakes Community, failure to address these concerns may result in impacts to the character and integrity of the existing community. The proposed Master Concept Plan does include an amenity area as a development tract that is large enough to provide additional facilities for the existing community and the proposed expansion. As stated above, the applicant will be required to address any hurricane impacts as required in the LDC. Regarding transportation impacts on the existing roadway network in Pine Lakes, staff will review impacts to the roadways as part of the Development Order process, at which point staff will determine what type of improvements, if any, will be required to be consistent with the requirements of the Land Development Code. Some components of this review will also take place during the review of the PUD Amendment under Case Number ADD2021-00147. Staff finds the proposed rezoning consistent with Lee Plan Policy 5.1.5.

Objective 30.1 establishes policies to create and maintain affordable housing options within North Fort Myers. Policy 30.1.3 encourages a diversity of housing types and supporting mixed use projects. This rezoning proposes mobile home development which is consistent with the variety of housing product types found in North Fort Myers. Staff finds the proposed rezoning consistent with Objective 30.1 and Policy 30.1.3.

Policy 115.1.2 requires new development and additions to existing development to not degrade surface and ground water quality. No additional impacts to surface and ground water quality are anticipated as part of this request. Future development of the property will require an Environmental Resource Permit from the South Florida Water Management District, and 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. Staff finds this planned development rezoning request consistent with Policy 115.1.2.

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 requests up to 400 mobile home dwelling units. The surrounding development pattern is characterized by a mix of low and moderate density housing types, most of which are single-family and mobile homes. The proposed rezoning furthers the demands for housing types 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.

The applicant states that there are wetlands in the western area of the subject property. Goal 124 establishes Objectives and Policies for development in wetlands that works with existing state and federal permitting processes, while protecting the fragile ecological characteristics of wetland systems. Objective 124.1 aims to protect and conserve wetlands by limiting uses in wetland areas to low density residential uses, low impact recreational uses, and conservation areas. The applicant's proposed MCP aims to protect and preserve wetlands and designate these areas as open space and preserve areas while configuring development around the existing wetland. During the Development Order process, the applicant will be required to demonstrate compliance with the criteria in state and federal permitting procedures, while demonstrating compliance with the criteria found in Chapters 10, 14 and 34 of the LDC for open space and wetland areas. Staff finds the proposed rezoning consistent with Goal 124, Objective 124.1, and Policy 124.1.1.

Public Input:

Staff has received significant public input from the existing Pine Lakes Community expressing concerns over the proposed rezoning request. Correspondence from the community includes concerns over the existing amenity areas, drainage, additional traffic in the existing Pine Lakes Community, and hurricane preparedness. The community has also expressed concern over the provisions of Chapter 723 Florida Statutes regarding Mobile Home Park Tenancies. A public information meeting was completed by the applicant on June 22, 2021 in accordance with LDC Section 33-1532. Copies of the meeting advertisement, minutes, and list of attendees have been provided with this staff report (Attachment L).

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 I). Infrastructure planning staff has provided an analysis of the applicant's traffic impact statement (Attachment J). Staff concluded that many roadway sections that are affected by this request will operate at an acceptable level of service with the approval of this project. The eastbound approach of the intersection of US 41 and Pine Lakes Boulevard, however, is expected to be significantly impacted with the inclusion of this project. This approach is currently operating at a Level of Service E and in 2025, the intersection is expected to operate at a Level of Service "F" with the inclusion of this project.

Measures to mitigate traffic related impacts are not generally determined at time of rezoning. Staff will determine what improvements and mitigating measures, if any, are required as part of the development order process. This includes repair and maintenance of existing roadway sections within the Pine Lakes community.

Bicycle and Pedestrian Facilities:

The subject property fronts North Tamiami Trail (US 41), which is designated on Lee Plan Map 3D as a roadway with existing or programmed bicycle and pedestrian facilities. Records indicate that US 41 is developed with bicycle facilities on the north and southbound directions 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 North Fort Myers Fire and EMS station, which is approximately 1.7 miles south, and a Sheriff's station 6.8 miles south of the property. The proposed development will have access to Lee County Utilities for water and Florida Governmental Utility Authority (FGUA) for wastewater (Attachment K). The request is consistent with Lee Plan Standards 4.1.1 and 4.1.2.

DEVIATION REQUEST:

The applicant seeks the following deviation for consideration as part of this Planned Development Rezoning (Attachment F):

1. Deviation (1) seeks relief from LDC Section 10-285 Table 1. Connection Separation, which requires a minimum separation of 660 feet for Principal Arterial roadways in Future Suburban Areas, to allow a minimum separation of 400 feet.

The applicant seeks a reduction in connection separation to accommodate the single access point proposed along US 41. The master concept plan depicts the access point on the southern portion of the property to allow for the greatest separation possible, which still has a separation of 400 feet from the nearest access point to the north. Access to US 41 is ultimately approved by the Florida Department of Transportation (FDOT) and staff recommends conditions to consider the final approval of the access point by FDOT. Staff recommends **approval** of this deviation.

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 is compatible with existing and proposed uses, and meets or exceeds the objectives and policies above.

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

The applicant seeks a single deviation regarding the connection separation of access points along US 41. Staff recommends approval of this deviation pending approval of the location of the proposed access point onto US 41 by FDOT.

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

The mix of uses surrounding the subject property includes residential uses, churches, and agricultural 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 US 41 and through three proposed access points along the northern boundary of the existing Pine Lakes subdivision. Pending approval of ADD2021-00149, staff finds that there is sufficient access to support the development intensity.

- 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 requirements of the Land Development Code and Lee Plan, as well as recommended conditions of approval, sufficiently protect 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,

- 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 as conditioned the public's interests are sufficiently addressed.

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

There is only one requested deviation, and staff recommends approval of this deviation.

Staff, therefore, recommends approval of this rezoning request from Agricultural (AG-2) to Mobile Home Planned Development (MHPD) 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. Staff Proposed Deviation Conditions
- G. Pine Lakes PUD
 - Resolution ZAB-84-269
 - Resolution ZAB-85-097
- H. Resolution Z-14-006
- I. Traffic Impact Statement
- J. Infrastructure Planning Memorandum
- K. Letter of Utility Availability
- L. North Fort Myers Meeting Minutes
- M. Master Concept Plan