LEE COUNTY BOARD OF COUNTY COMMISSIONERS

ZONING HEARING AGENDA

Wednesday, June 5, 2024
9:30AM

DCI2023-00044 Z-23-044	Town Lakes CPD Amendment
DCI2023-00010 Z-24-012	Sunniland Town Center CPD

NOTICE OF PUBLIC HEARING

The Lee County Board of County Commissioners will hold a public hearing at 9:30 am on Wednesday, June 5, 2024, 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.

DCI2023-00044 / Town Lakes CPD Amendment

Request to amend the Town Lakes RPD/CPD (Resolution Z-99-022, as amended) to allow an additional 140,000 square feet of floor area for mini-warehouse and hybrid warehouse uses on Tract A-N, add warehouse, hybrid, and storage, open to the approved Schedule of Uses for Tract A-N, and establish a maximum building height of 45 feet for Tract A-N.

Located At 619/625 Williams Ave., Lehigh Acres Planning Community, Lee County, FL.

DCI2023-00010 / Sunniland Town Center CPD

Request to amend the Sunniland Town Centre CPD (Resolution Z-06-090) to revise the master concept plan to permit a mixed use commercial and residential development consisting of either 265,000 square feet of commercial and 100,000 square feet of Warehouse (Mini) uses; or 100,000 square feet of commercial uses and 300 residential dwelling units.

Located At 3614 & 3650 5th St. West, Lehigh Acres 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.

Any document that a participant of record intends to submit must have been submitted as part of the record in the hearing before the Hearing Examiner or the document is relevant new evidence that was not known or could not have been reasonably discovered by the participant at the time of the hearing before the Hearing Examiner. All other documents will not be accepted by the Board. To ensure compliance with these regulations, copies of documents not submitted as part of the record before the Hearing Examiner must be provided to the Applicant and County Staff (JPrincing@leegov.com) not less than 2 days before the date of the zoning hearing.

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 Raphaela Morais-Peroba, (239) 533-8782, 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.

DCI2023-00044
TOWN LAKES CPD AMENDMENT

Staff Summary

CASE NUMBER & NAME:	DCI2023-00044 / Town Lakes CPD Amendment
REQUEST:	Request to amend the Town Lakes RPD/CPD (Resolution Z-99-022, as amended) to allow an additional 140,000 square feet of floor area for mini-warehouse and hybrid warehouse uses on Tract A-N, add warehouse, hybrid and storage, open to the approved Schedule of Uses for Tract A-N, and establish a maximum building height of 45 feet for Tract A-N.
RESOLUTION NUMBER:	Z-24-013
LOCATION:	619/625 Williams Ave., Lehigh Acres Planning Community, Lee County, FL.
OWNER:	Providence Church of Lehigh Acres Florida, Inc.
APPLICANT:	Arcland Property Company, LLC
AGENT:	Fred Drovdlic, AICP RVi Planning & Landscape Architecture 1514 Broadway, Suite 201 Fort Myers, FL 33901
HEARING EXAMINER RECOMMENDATION:	Approve, subject to the conditions and deviations set forth in Exhibit B.
PARTICIPANTS (1):	1. Derek Felder

DCI2023-00044

Aerial

Subject Property

N
W E
S

0 300 600 900

Feet

Lee County
Southwest Florida

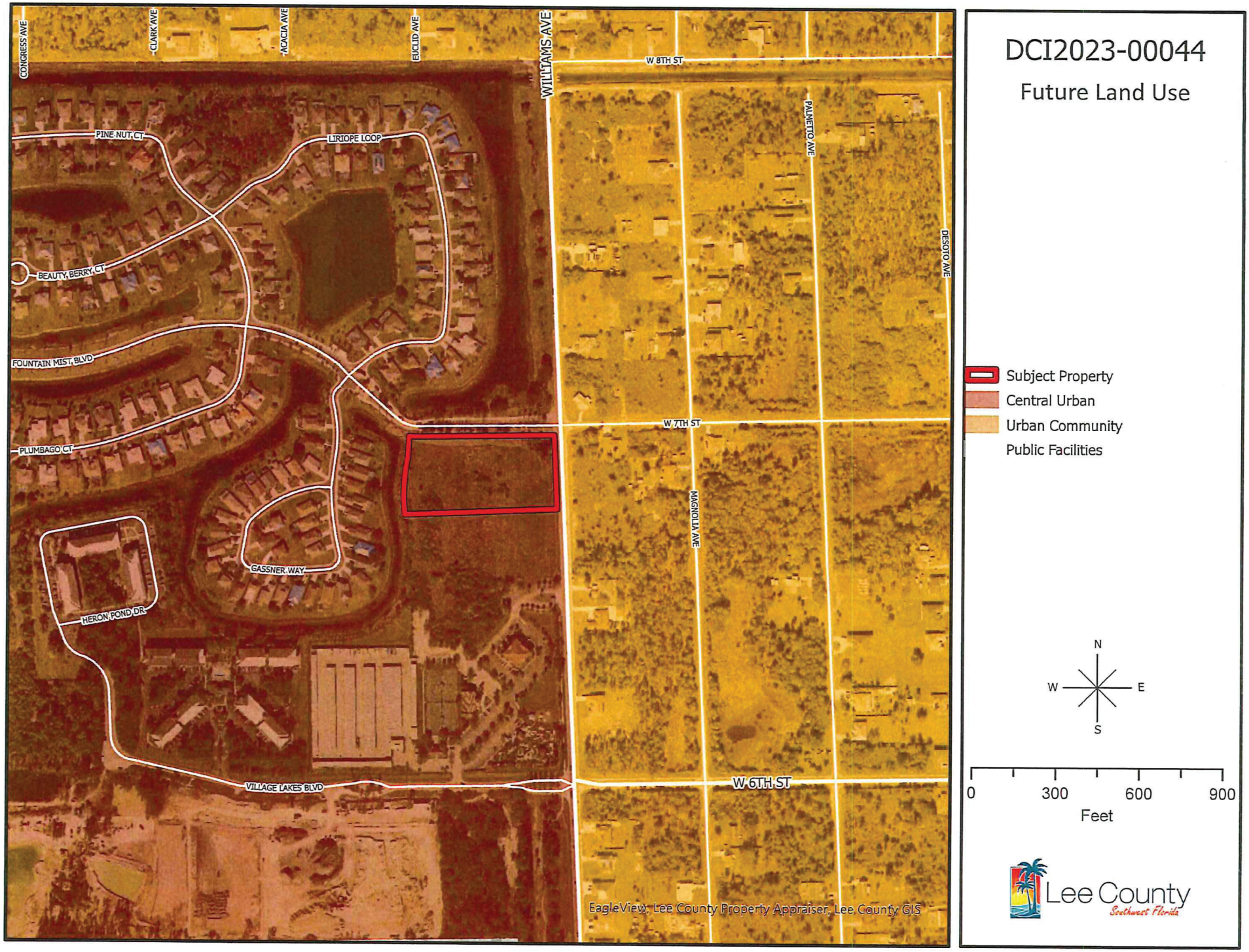
Summary of Hearing Examiner Recommendation

TOWN LAKES CPD AMENDMENT

The request seeks to increase approved square footage of mini-warehouses within the CPD. Specifically the proposal is to increase permissible square footage from 80,000 to 220,000. The proposed increase is not anticipated to create objectionable impacts to the surrounding community.

The Master Concept Plan employs creative site design to protect residential land uses by locating open space, dry stormwater management areas, and landscaped buffers along property boundaries. Applicant agreed to limit building heights to 35 feet, abandoning an earlier request for heights up to 45 feet. Applicant also agreed to forgo access to Fountain Mist Boulevard and limit hours of operation to address neighbor concerns. These measures address potential incompatibilities surrounding residential land uses.

Detailed recommendation follows



DCI2023-00044

Future Land Use

- Subject Property
- Central Urban
- Urban Community
- Public Facilities

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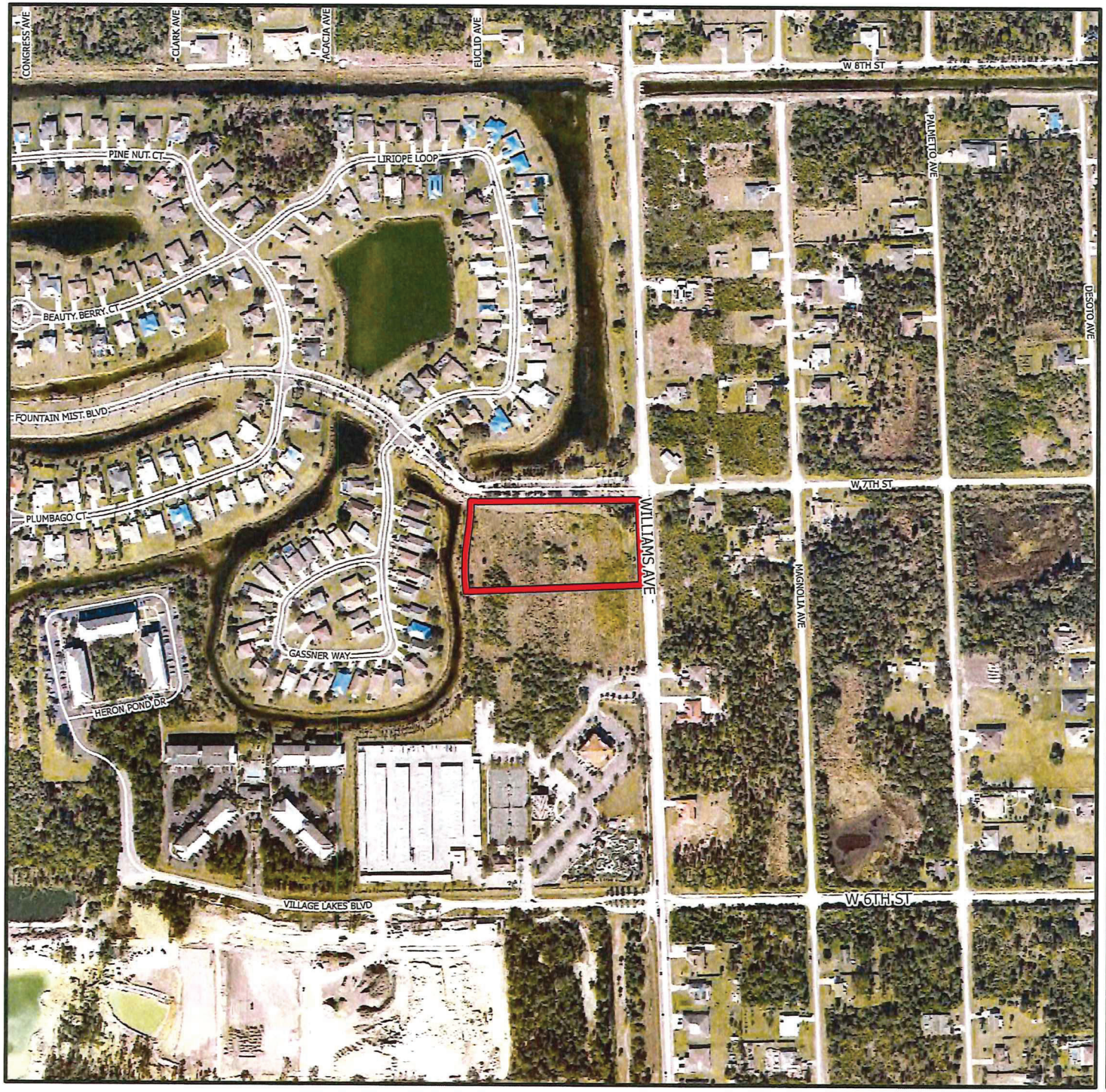
Lee County
Southwest Florida



DCI2023-00044

Aerial

Subject Property

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Feet

Lee County
Southwest Florida

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2023-00044

Regarding: **TOWN LAKES CPD AMENDMENT**

Location: 619/625 Williams Avenue
Lehigh Acres Planning Community
(District 5)

Hearing Date: May 2, 2024
Record Closed: May 6, 2024

I. Request

Amend Town Lakes CPD to allow 220,000 square feet of Mini-warehouse and Storage, open, for RV/boat storage, and limit building heights to 35 feet on a 3.39+/- acre parcel within the CPD identified as Parcel A-N.

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

II. Hearing Examiner Recommendation

Approve, 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 to the planned development zoning district.[1] In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on an application to amend the zoning approvals of the 21.11 acre Town Lakes Commercial Planned Development (CPD). Staff recommended approval with conditions.

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

[1] LDC §34-145(d)(4) a.

Discussion supporting the recommendation of approval with conditions follows below.[2]

Request

Applicant seeks to amend the 21.11 acre Town Lakes CPD zoning to permit a 3.39 acre parcel within the CPD to be developed with mini-warehouse and open storage for boats and RVs. The request also seeks to eliminate the two story limitation on buildings but maintain the cap on building heights of 35 feet.[3]

Existing development approvals currently limit mini-warehouse square footage to 80,000 square feet and height to the lesser of two stories or 35 feet. If approved, total permissible mini-warehouse will increase by 140,000 square feet to a total of 220,000 square feet.

The proposed Master Concept Plan (MCP) depicts existing and proposed development within the CPD.[4] MCP page 2 depicts the 3.39 acre site served by a single shared access from Williams Avenue.

Applicant's request statement identified the requested use of the property as "mini-warehouse with an open storage area." However, Applicant's PowerPoint presentation included a multi-story building with storage units accessible from inside. A multi-story self-storage facility of this type is known as "public warehouse" under the LDC, not mini-warehouse.[5] Mini-warehouse is a storage structure with storage space accessible solely from exterior doors.

The Hearing Examiner examined the publication notice. The notice publicized mini-warehouse and open storage.[6] Public warehouse was not included among the requested uses. The content of the notice dictates the uses the Hearing Examiner may consider.[7] A separate amendment is necessary to authorize public warehouse.[8]

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[2] Hearing Examiner codified conditions and deviations from prior approvals.
[3] Testimony of Fred Drovdlic, AICP Transcript page 9 (May 2, 2024).
[4] Town Lakes CPD Amendment (Page 2 of 2) dated May 5, 2024.
[5] The LDC defines storage facilities of this type as: Warehouse, public indoor storage units available to the general public at a fee for the dead storage of farm products, furniture, and other household goods or commercial or private goods of any nature. *Access to the storage units is from interior doors and individual exterior overhead doors are not provided.* Emphasis supplied. LDC §34-2. *See also* LDC §34-935 (Use regulations table for planned development zoning districts).
[6] Staff Exhibit 2.
[7] The Hearing Examiner would recommend approval of public warehouse on the property if Applicant requested the use and, more importantly, the published notice of hearing included public warehouse.
[8] The amendment may be achieved administratively or by public hearing process.

History

The Board approved the 21.11 acre Town Lakes CPD approved in 1999.[9] The CPD authorized development of 20,000 square feet retail commercial, 20,000 square feet office and 80,000 square feet mini-warehouse, not to exceed 35 feet in height.[10] Original and subsequent administrative approvals authorized several deviations from the LDC.[11]

The CPD is nearing buildout with the final parcels anticipated to complete construction in the near future.[12]

Lee Plan

The Lee Plan regulates land development activity in the County.[13] The Plan's Future Land Use Map divides the County into future urban, nonurban, and environmentally sensitive areas. All development must be consistent with the Lee Plan including the Future Land Use Map.[14]

The property is located at the intersection of Fountain Mist Boulevard and Williams Avenue with a future land use designation of Central Urban.[15] Central Urban areas are heavily settled with access to the greatest range and highest levels of public services.[16] A wide array of land uses are permissible in Central Urban areas.[17]

Development in Lehigh Acres is subject to a Community Plan. The Lehigh Acres Community Plan emphasizes development of vibrant commercial and employment centers, and pedestrian friendly mixed use activity centers.[18] The Lee Plan Economic Element directs the County to strive for a diversified economy to ensure maximum employment opportunities.[19] The proposed expansion of commercial use is consistent with both Lee Plan directives.

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[9] Z-99-022 approved June 21, 1999. The original zoning resolution also rezoned approximately 264.61 acres to RPD.
[10] Approximately 67,758 square feet mini-warehouse have been constructed.
[11] Z-99-022, ADD-00003, ADD-2011-00005, ADD2011-00081, ADD 2017-00095.
[12] The 3.39 parcel proposed for mini-warehouse and open storage is one of two undeveloped parcels remaining within the CPD.
[13] LDC §34-491.
[14] Lee Plan Policy 2.1.2; LDC §§34-411(a), 34-491: Rezonings must be consistent with Lee Plan goals, objectives, and polices. Potential conflicts between the Lee Plan and the LDC must be resolved in favor of the Lee Plan.
[15] Property designated Central Urban are considered Future Urban Areas. *See* Lee Plan Chapter XIV: Glossary definition of Future Urban Areas.
[16] Lee Plan Policy 1.1.3.
[17] Residential, commercial, public and quasi-public, and limited light industrial land uses are permissible in the Central Urban category. *Id.*
[18] Goal 25, *see also* Goal 158. The Board adopted the Lehigh Acres Planning Community LDC regulations in 2012. Existing approved planned developments may be voluntarily brought into compliance with the community plan. LDC §33-1402.
[19] Lee Plan Goal 158. Objective 158.2, Policy 158.2.1.

The property lies within a Commercial Overlay zone.[20] Property in the Lehigh Commercial Overlay is desirable for mixed use development due to its proximity to public transit, shopping, and employment centers.[21]

Compatibility

The County evaluates compatibility during the zoning process.[22] Compatibility exists when land uses exist in proximity and no one use unduly negatively impacts another.[23]

Appropriate development intensity is determined on a case-by-case basis in accordance with the Lee Plan and surrounding land uses.[24] The planned development zoning district is useful when integrating new development with surrounding land uses because it allows flexibility in site design to address potential incompatibility with neighboring development.[25]

The MCP employs creative site design to protect nearby residential land uses by locating open space, dry stormwater management areas, and landscaped buffers along property boundaries.[26] Applicant agreed to limit building heights to 35 feet, abandoning an earlier request for heights up to 45 feet.[27] Applicant also agreed to forgo access to Fountain Mist Boulevard and limit hours of operation to address neighbor concerns.[28] These measures address potential incompatibilities with the adjacent residential community.[29]

Mini-warehouse use is already permitted within the CPD.[30] The revised development parameters increase permissible square footage of mini-warehouse from 80,000 to 220,000. The proposed increase is not anticipated to create objectionable noise, glare, or traffic, as mini-warehouse is a low traffic generator.

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[20] Lee Plan Objective 25.6, Policy 25.6.1. Lee Plan Map 2-B.
[21] Lee Plan Policy 39.2.1 *See* Lee Plan Goal 25.
[22] LDC §34-145(d)(4).
[23] Florida Statutes s. 163.3164(9); Lee Plan Policy 135.9.6.
[24] LDC §34-413.
[25] LDC §34-612(2).
[26] Staff Report Attachment: MCP. *See* Lee Plan Objective 77.2.
[27] The Lehigh Community planning regulations limit the height of buildings outside of Lehigh's Specialized Mixed-Use Nodes to a maximum of three stories or 45 feet unless greater heights are approved by deviation LDC §33-1417. Applicant's representative testified at hearing that height on Parcel A-N will be limited to 35 feet. Transcript page 9. (May 2, 2024).
[28] Testimony of Fred Drovdlic, AICP Transcript Pages 30 - 32. (May 2, 2024).
[29] Lee Plan Policies 5.1.5, 6.1.4.
[30] *Mini-warehouses are buildings designed to provide induvial storage units with separate exterior doors as the primary means of access. The storage units must be used solely as dead storage depositories for personal property, inventory, and equipment and not for other uses.* Mini-warehouses are regulated by LDC §§34-3001 et seq, and 34-2020(b) which address lighting, setbacks, and parking.

Architectural requirements in Lehigh Acres ensure buildings include architectural features facing roadways.[31]

The Lee Plan encourages compact and contiguous development patterns.[32] The site has access to necessary infrastructure and services including potable water, sewer, transit, medical facilities, law enforcement, fire, and emergency medical services.[33]

LDC

Development must comply with the LDC or seek deviations. A "deviation" is a departure from a land development regulation.[34]

The request seeks three new deviations. Applicants must demonstrate deviations enhance the project and will not cause a detriment to the public.[35] Newly requested deviations pertain to the refuse/recycle storage area, parking, and access.[36] Staff recommended approval of the new deviations. The Hearing Examiner agrees with staff's recommendation. [37]

Development in the Lehigh Acres Planning District is subject to the Lehigh Acres Community Plan.[38] Community specific LDC regulations require zoning applications to conduct a public hearing in the community to inform the public prior to the hearing before the Hearing Examiner.[39] Applicant conducted two advertised meetings in Lehigh Acres before the Lehigh Acres Architectural, Planning & Zoning

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[31] LDC 33-1416(1), see also 10-620(c).
[32] Surrounding properties are zoned RPD, CPD RS-1 and CFPD. The site is a short distance from the Lehigh Acres Park zoned CFPD. The project constitutes infill development and is consistent with development patterns in the area. Surrounding properties are zoned RPD, CPD RS-1 and CFPD. The site is a short distance from the Lehigh Acres Park zoned CFPD. Lee Plan Objectives 2.1, 2.2, Policies 1.1.3, 2.2.1, 2.2.2, 6.1.1, 6.1.7, 39.1.3, *See* Lee Plan Glossary definition - infill.
[33] Lee Plan Objectives 2.1 and 2.2. The site is located within Lee Tran's ULTRA on Demand Transit service zone, which provides door to door transit service and connects passengers to Lee Tran fixed bus routes.
[34] LDC §34-2.
[35] LDC §34-373(a)(9).
[36] The first deviation seeks to reduce dimensions of the dumpster area to accommodate only office operations. The second deviation seeks a 5% reduction in parking and the third deviation seeks relief from code to permit direct access to Williams Avenue.
[37] The Hearing Examiner may recommend approval, approval with modifications or denial of deviations based on findings that a deviation (1) enhances the planned development and, (2) preserves/promotes public health, safety, and welfare. LDC §34-377(a)(4).
[38] Lee Plan Goal 25 and supplemental development regulations in LDC §33-1400 *et seq*. Future development permits, including development orders, must comply with community standards.
[39] LDC §33-1401(a)(2).

Review Board.[40] Future development orders will also be subject to community review.[41]

The CPD's original 1999 approval predated adoption of the Lehigh Community Plan and corresponding LDC regulations.[42] New requests to revise permitted uses must comply with the community plan.[43]

Environmental/Natural Resources

Rezoning requests must not adversely affect environmentally critical/sensitive areas or natural resources.

The property is cleared and partially wooded. The CPD devotes 30% of the site to open space.[44] The 3.39 acre parcel will provide 1.02 acres of open space.[45] The original Town Lakes RPD/CPD Master Concept Plan includes a gopher tortoise preserve on the RPD portion of the project.

An updated protected species survey disclosed no indigenous vegetation or protected species on the 3.39 acre parcel. Accordingly, the revised MCP for Tract A-N does not include indigenous preserves on the parcel.[46]

The MCP exceeds LDC landscape buffer requirements along the west boundary of the property. In Lehigh Acres, the LDC requires a 25 foot wide buffer when commercial developments abut single family land uses.[47] However, the original 1999 zoning approvals impose an enhanced buffer along the entire boundary between the CPD and RPD.[48] Buffers along roadways and commercial property to the south meet or exceed LDC requirements. Development order submittals ensure buffers and landscaped areas follow Xeriscape principles.[49]

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[40] Staff Report Attachment P: Public Informational Meeting Summary. Meeting held on November 16, 2023. *See also* Applicant PowerPoint page 13: meetings conducted on November 16, 2023, and January 24, 2024.

[41] The LDC requires development order and building permit applications to comply with the Lehigh Acres Planning Community regulations. LDC §33-1400(d). See also §33-1401(a).

[42] The Board adopted the Lehigh Community Plan March 3, 2010 (Ordinance 10-16) and corresponding LDC regulations on January 10, 2012 (Ordinance 12-01).

[43] LDC 33-1400(b).

[44] Staff Report Attachment L: Environmental Staff Report.

[45] Lee Plan Goal 77, Objective 77.2.

[46] Staff Report Attachment L: Environmental Staff Report.

[47] LDC 33-1405.

[48] Resolution Z-99-022 requires a 30 foot wide Type F buffer between the CPD and RPD, exceeding the width required by 33-1405 by five feet. The buffer will consist of a minimum of 10 trees and a double staggered hedgerow installed at 4 inches in height and maintained at 60 inches to provide a continuous visual screen between residential and commercial land uses.

[49] Lee Plan Objective 126.2, Policy 126.2.1. Required landscape buffers must consist of native landscape to conserve water.

There is no water retention on the 3.39 acre parcel because the CPD is part of a master drainage plan. Onsite water management features include conveyance swales to the master system.[50]

The Hearing Examiner finds the requested amendments to the Town Lakes CPD will not harm environmentally critical/sensitive areas or natural resources.[51]

Transportation

Requests to rezone property must provide access sufficient to support the development intensity and address expected impacts to transportation facilities with County regulations and conditions of approval.

The property is located at the intersection of Fountain Mist Boulevard and Williams Avenue. There is an existing curb cut to Fountain Mist Boulevard proposed for closure and replacement with a shared access to Williams Avenue, a two lane County maintained collector road.[52]

The proposed mini-warehouse facility requires an increase in the approved square footage for the use.[53] Mini-warehouses are low traffic generators. Projected trip generation suggest that area roadways will continue to operate within acceptable levels of service.[54]

Site related improvements such as turn lanes will be addressed during development order permitting.

Public Services and Infrastructure

Public services include facilities, capital improvements, and infrastructure necessary to support development.[55] The Lee Plan requires an evaluation of public services during the rezoning process.[56]

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[50] Staff Report Attachment G: Applicant Narrative; Testimony of Fred Drovdlic, AICP. The CPD is part of an existing Environmental Resource Permit and master drainage system. Modifications to the existing system will be necessary to accommodate development on the 3.39 acre parcel.
[51] Lee Plan 125.1.2.
[52] Staff Report Attachment G: Applicant Narrative. *See* Lee County Administrative Code AC 11-1.
[53] The request seeks to increase approved mini-warehouse square footage by 140, 000 square feet.
[54] Staff Report Attachment M: Trip Generation Analysis Town Lakes Commercial Planned Development dated September 29, 2023, prepared by Quattrone & Associates, Inc. and Staff Report Attachment N, Memorandum from Md Rakibul Alam, Principal Transportation Planner, Department of Transportation dated April 2, 2024.
[55] Public services and infrastructure available to serve the project will include public water and sewer, paved streets, parks and recreation facilities, libraries, police, fire and emergency services, urban surface water management, and schools.
[56] Lee Plan Policy 2.2.1.

Public services and infrastructure are available to serve the site.[57] The project fronts on Williams Avenue, a County maintained collector road.[58] Florida Governmental Utility Authority (FGUA) has potable water and sanitary sewer service infrastructure available to serve development.[59] Reuse water is also available and the site will connect to reuse water for irrigation.[60]

The Lehigh Acres Fire Control and Rescue District will provide fire protection and emergency medical services. Lee County Sheriff will provide law enforcement services. The site lies within a Lee Tran ULTRA on Demand Transit service zone, which provides door to door transit service and connects passengers to Lee Tran fixed bus routes.

Development will be subject to road, fire, and emergency medical services impact fees.[61]

Conditions

The County must administer the zoning process so proposed land uses minimize adverse impacts on adjacent property and protect County resources.[62] Conditions must be plausibly related to anticipated impacts, and pertinent to mitigating impacts to the public.[63] The CPD is subject to several conditions addressing impacts anticipated from development.[64] These conditions include:

- closing access to Fountain Mist Boulevard and relocating project entrance to Williams Ave,
- limiting building heights on the 3.39 acre parcel to 35 feet,
- limiting hours of operation on storage uses on the 3.39 acre parcel to 6 AM to 10 PM,
- retaining the Town Lakes neighborhood entrance sign located on the 3.39 acre parcel and maintaining the associated landscaping,
- providing a 30 foot wide Type F buffer on the west property line,
- locating water management along west property line,
- enclosing boat and RV storage structure on three sides.[65]

The Hearing Examiner revised conditions/deviations for clarity, compliance with state law and to remove LDC references applicable pursuant to Condition 1.

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[57] Staff Report Pg. 9, *See* Lee Plan Goal 95, Objective 4.1, Policies 2.2.1, 6.1.1, 6.1.4, Standards 4.1.2, 4.1.3.
[58] Lee County Administrative Code 11-1.
[59] Lee Plan Policy 25.9.1.
[60] Lee Plan Policy 54.1.6. Staff Report Attachment G: Applicant's Narrative.
[61] LDC Chapter 2, Article VI.
[62] Lee Plan Policies 5.1.5, 135.9.6; LDC §§34-145(d)(4) a.2.(b), 34-377(a)(3), 34-411, and 34-932(c).
[63] LDC §34-932(b).
[64] LDC §§34-83(b)(4) a.3, 34-377(a)(2)c; Lee Plan Objective 77.3, Policies 5.1.5, 6.1.4.
[65] These commitments are set forth in conditions 2.b., 14, 19 – 23. *See also* MCP and Testimony of Fred Drovdlic, AICP transcript pages 31-33. (May 2, 2024).

Public

One member of the public spoke at hearing.

Conclusion

The Hearing Examiner recommends approval of the requested amendments to the Town Lakes CPD, subject to conditions in Exhibit B.

The Hearing Examiner finds the amendments to the CPD meets LDC criteria and, as conditioned, is compatible with surrounding development.[66]

IV. Findings and Conclusions

Based on the testimony and exhibits presented in the record, the Hearing Examiner finds:

A. The requested amendment to the Town Lakes CPD is consistent with the Lee Plan. Lee Plan Goals 2, 4, 5, 6, 25, 61, 77, 95, 125, 158, Objectives 2.1, 2.2, 4.1, 6.1, 25.6, 25.9, 77.2, 126.2, 158.2, 160.1, and Policies 1.1.3, 2.1.1, 2.1.2, 2.1.3, 2.2.1, 2.2.2, 5.1.5, 6.1.1, 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 25.6.1, 25.9.2, 39.1.3, 135.9.6, 158.2.1, Lee Plan Maps 1-A, 1-B, 1-C, 2-A, 2-B, 3-C, 3-D, Table 1(a), 1(b)

B. As conditioned, the amendment to the Town Lakes CPD:

1. Is consistent with the LDC or qualifies for deviations. LDC Chapters 2, 10, 33, and 34.

2. Is compatible with existing or planned uses in the surrounding area. Lee Plan Objectives 2.1, 2.2, and Policies 1.1.3, 5.1.5, 6.1.4, 25.6.1, 135.9.5, 135.9.6; LDC §§34-411, 34-413.

3. Provides sufficient road access to support proposed development intensity. Lee Plan Objective 25.8, Policies 6.1.5, 39.6.4, 43.1.1, 158.3.1.

4. Expected impacts on transportation facilities will be addressed by County regulations and conditions of approval. Lee Plan Objectives 11.2, 39.1, Policies 38.1.1, 39.1.3, 39.2.1, 43.1.3, 158.3.1; LDC §§2-261 *et seq.*, 34-411.

5. Will not adversely affect environmentally sensitive areas or natural resources. Lee Plan Goals 60, 61, 77, 125, Objectives 25.10, 60.2,

[66] Lee Plan Policy 6.1.4.

60.3, 77.2, 77.3, 126.2, Policies 6.1.6, 60.4.1, 60.4.2, 123.8.1, 125.1.2, 126.1.4, 126.2.1, Standard 4.1.4; and

6. Public services and infrastructure will be available to serve the development. Goals 2, 4, 6, 25, 95, Objectives 2.1, 2.2, 4.1, Policies 2.2.1, 6.1.4, 25.9.1, 25.9.2, 39.1.3, 54.1.6, Standards 4.1.1, 4.1.2.

C. The proposed uses are appropriate at the location. Lee Plan Goals 2, 4, 6, 25; Objectives 2.1, 2.2, Policies 1.1.3, 2.1.1, 2.1.2, 6.1.7, 6.1.8, 25.6.1, 25.9.2,135.9.5, 135.9.6, 158.2.1.

D. The County regulations and recommended conditions provide sufficient safeguards to protect the public interest and relate to impacts expected from the proposed development. Lee Plan Objectives 77.2, 126.2, Policies 5.1.5, 6.1.4, 53.1.5, 56.1.4, 135.9.5, 135.9.6: LDC §§34-377(a)(3), 34-411 and 34-932(c).

E. Deviations recommended for approval enhance the planned development and preserve public health, safety, and welfare. LDC §§34-373(a)(9), 34-377(a)(4).

Date of Recommendation: May 8, 2024.

Donna Marie Collins
Chief Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

EXHIBIT "A"

LEGAL DESCRIPTION RPD ZONING

A TRACT OR PARCEL OF LAND LYING IN SECTION 30, TOWNSHIP 44 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 30, RUN NORTH 02° 23' 27" WEST ALONG THE EAST LINE OF SAID SECTION 30 FOR 3858.76 FEET TO THE POINT OF BEGINNING, BEING ON THE WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE (50 FEET WIDE); THENCE RUN SOUTH 89° 03' 17" WEST FOR 600.00 FEET; THENCE RUN SOUTH 02° 23' 20" EAST FOR 694.40 FEET; THENCE RUN SOUTH 89° 03' 17" WEST FOR 706.86 FEET; THENCE RUN NORTH 02° 23' 20" WEST FOR 446.80 FEET; THENCE RUN SOUTH 89° 03' 17" WEST FOR 550.00 FEET; THENCE RUN SOUTH 44° 03' 17" WEST FOR 240.00 FEET; THENCE RUN SOUTH 89° 03' 17" WEST FOR 180.00 FEET; THENCE RUN SOUTH 02° 23' 20" EAST FOR 779.60 FEET; THENCE RUN NORTH 89° 26' 10" WEST FOR 322.17' ; THENCE RUN SOUTH 27° 06' 41" WEST FOR 628.71 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF ABLE CANAL (220 FEET WIDE); THENCE RUN NORTH 62° 53' 19" WEST ALONG SAID CANAL RIGHT-OF-WAY LINE FOR 1627.42 FEET; THENCE CONTINUE RUNNING NORTH 37° 47' 38" WEST ALONG SAID CANAL RIGHT-OF-WAY LINE FOR 1733.63 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 30; THENCE RUN NORTH 00° 37' 00" WEST ALONG THE WEST LINE OF SAID SECTION 30 FOR 983.51 FEET TO THE NORTHWEST CORNER OF SAID SECTION 30; THENCE RUN NORTH 89° 25' 03" EAST ALONG THE NORTH LINE OF SAID SECTION 30 FOR 5234.41 FEET TO THE NORTHEAST CORNER OF SAID SECTION 30 AND THE WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE; THENCE RUN SOUTH 02° 23' 27" EAST ALONG THE EAST LINE OF SAID SECTION 30 AND THE WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE FOR 1360.60 FEET TO THE POINT OF BEGINNING;

CONTAINING 253.50± ACRES, MORE OR LESS.

BEARING ARE BASED ON THE EAST LINE OF SAID SECTION 30 AS BEARING NORTH 02° 23' 27" WEST.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHT-OF-WAYS OF RECORD.

REVIEWED
DCI2023-00044
Rick Burris, Principal Planner
Lee County DCD/Planning
4/30/2024

EXHIBIT "A"

LEGAL DESCRIPTION FOR CPD ZONING

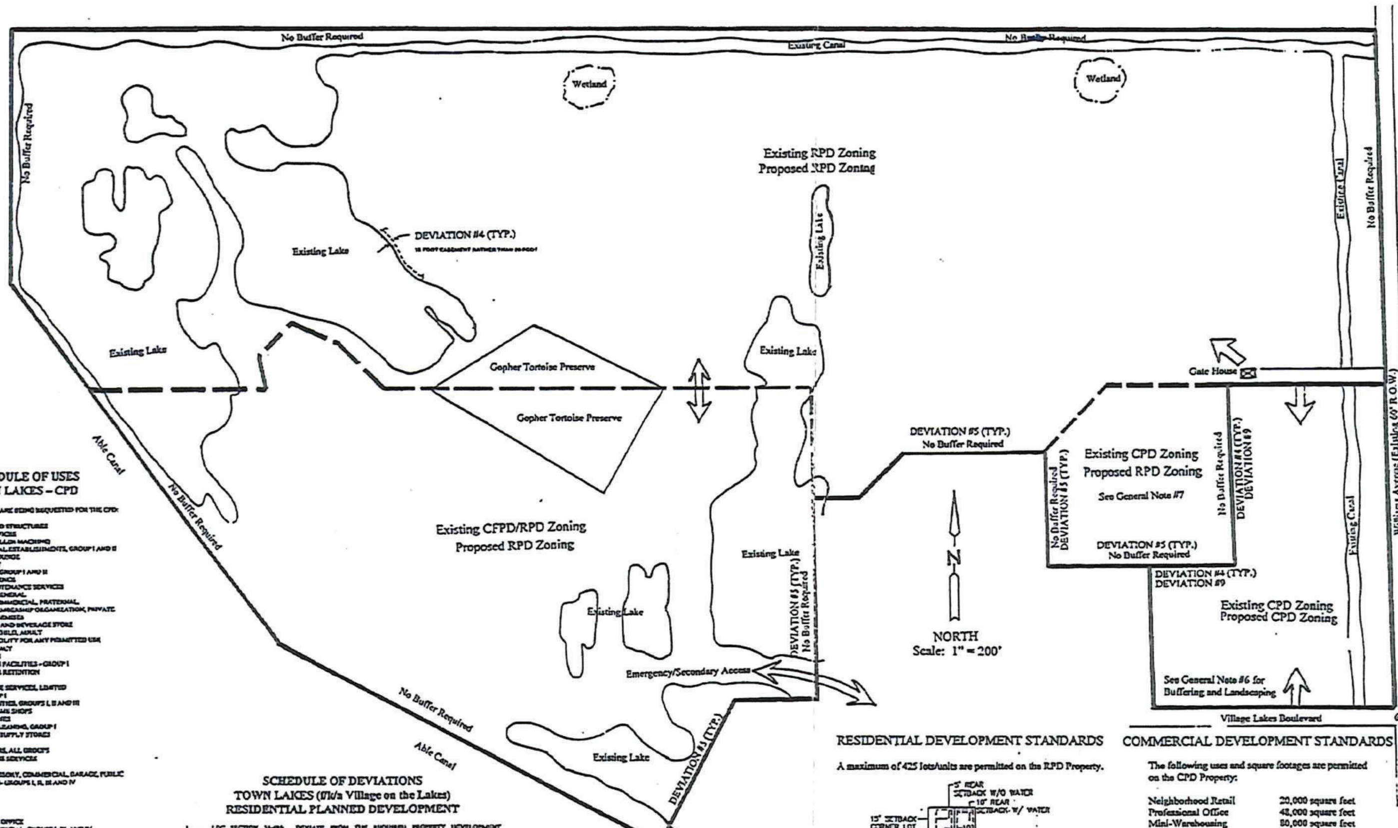
A TRACT OR PARCEL OF LAND LYING IN SECTION 30, TOWNSHIP 44 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 30, RUN NORTH 02° 23' 27" WEST ALONG THE EAST LINE OF SAID SECTION 30 FOR 2620.84 FEET TO THE POINT OF BEGINNING, BEING ON THE WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE (50 FEET WIDE); THENCE RUN SOUTH 89° 03' 17" WEST FOR 925.55 FEET; THENCE RUN NORTH 02° 23' 20" WEST FOR 543.52 FEET; THENCE RUN NORTH 89° 03' 17" EAST FOR 325.51 FEET; THENCE RUN NORTH 02° 23' 20" WEST FOR 694.40 FEET; THENCE RUN NORTH 89° 03' 17" EAST FOR 600.00 FEET TO SAID EAST LINE OF SECTION 30 AND WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE; THENCE RUN SOUTH 02° 23' 27" EAST ALONG SAID EAST LINE OF SECTION 30 AND WEST RIGHT-OF-WAY LINE FOR 1237.92 FEET TO THE POINT OF BEGINNING.

CONTAINING 21.11± ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE EAST LINE OF SAID SECTION 30 AS BEARING NORTH 02° 23' 27" WEST.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHT-OF-WAYS OF RECORD.

REVIEWED
DCI2023-00044
Rick Burris, Principal Planner
Lee County DCD/Planning
4/30/2024



LEGAL DESCRIPTION FOR "RPD" ZONING:

A TRACT OR PARCEL OF LAND LYING IN SECTION 30, TOWNSHIP 44 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 30, RUN NORTH 02°23'27" WEST ALONG THE EAST LINE OF SAID SECTION 30 FOR 3838.76 FEET TO THE POINT OF BEGINNING, BEING ON THE WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE (30 FEET WIDE); THENCE RUN SOUTH 89°03' 17" WEST FOR 600.00 FEET, THENCE RUN SOUTH 02°23' 28" EAST FOR 694.40 FEET; THENCE RUN SOUTH 89°03' 17" WEST FOR 706.86 FEET; THENCE RUN NORTH 02°23' 28" WEST FOR 444.80 FEET, THENCE RUN SOUTH 89°03' 17" WEST FOR 530.00 FEET; THENCE RUN SOUTH 44°03' 17" WEST FOR 240.00 FEET; THENCE RUN SOUTH 89°03' 17" WEST FOR 180.00 FEET; THENCE RUN SOUTH 02°23' 28" EAST FOR 779.60 FEET; THENCE RUN NORTH 89°26' 10" WEST FOR 322.17'; THENCE RUN SOUTH 27°06' 41" WEST FOR 628.71 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF ABLE CANAL (120 FEET WIDE); THENCE RUN NORTH 62°53' 19" WEST ALONG SAID CANAL RIGHT-OF-WAY LINE FOR 1627.42 FEET; THENCE CONTINUE RUNNING NORTH 37°47' 38" WEST ALONG SAID CANAL RIGHT-OF-WAY LINE FOR 1733.83 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 30, THENCE RUN NORTH 00°37' 09" WEST ALONG THE WEST LINE OF SAID SECTION 30 FOR 983.51 FEET TO THE NORTHWEST CORNER OF SAID SECTION 30; THENCE RUN NORTH 89°25' 03" EAST ALONG THE NORTH LINE OF SAID SECTION 30 FOR 5224.41 FEET TO THE NORTHEAST CORNER OF SAID SECTION 30 AND THE WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE; THENCE RUN SOUTH 02°23' 27" EAST ALONG THE EAST LINE OF SAID SECTION 30 AND THE WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE FOR 1340.80 FEET TO THE POINT OF BEGINNING;
CONTAINING 253.39± ACRES, MORE OR LESS.
BEARING ARE BASED ON THE EAST LINE OF SAID SECTION 30 AS BEARING NORTH 02°23' 27" WEST.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHT-OF-WAYS OF RECORD.

LEGAL DESCRIPTION FOR "CPD" ZONING:

A TRACT OR PARCEL OF LAND LYING IN SECTION 30, TOWNSHIP 44 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 30, RUN NORTH 02°23'27" WEST ALONG THE EAST LINE OF SAID SECTION 30 FOR 2420.84 FEET TO THE POINT OF BEGINNING, BEING ON THE WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE (30 FEET WIDE); THENCE RUN SOUTH 89°03' 17" WEST FOR 923.33 FEET; THENCE RUN NORTH 02° 23'28" WEST FOR 543.52 FEET; THENCE RUN NORTH 89°03'17" EAST FOR 323.31 FEET; THENCE RUN NORTH 02°23'28" WEST FOR 694.40 FEET; THENCE RUN NORTH 89°03'17" EAST FOR 600.00 FEET TO SAID EAST LINE OF SECTION 30 AND WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE; THENCE RUN SOUTH 02°23'27" EAST ALONG SAID EAST LINE OF SECTION 30 AND WEST RIGHT-OF-WAY LINE FOR 1237.92 FEET TO THE POINT OF BEGINNING.
CONTAINING 21.11± ACRES, MORE OR LESS.
BEARING ARE BASED ON THE EAST LINE OF SAID SECTION 30 AS BEARING NORTH 02°23' 27" WEST.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHT-OF-WAYS OF RECORD.

OPEN SPACE TABLE
TOWN LAKES
COMMERCIAL PLANNED DEVELOPMENT

LDC SECTION 10-415(a): LARGE COMMERCIAL DEVELOPMENTS ARE REQUIRED TO PROVIDE 30% OPEN SPACE.

21.11± ACRES x 30% OPEN SPACE = 6.33± ACRES OPEN SPACE TO BE PROVIDED

LDC SECTION 10-415(c)(1): LARGE DEVELOPMENTS WITH EXISTING INDIGENOUS NATIVE VEGETATION, AT LEAST 50 PERCENT OF THE REQUIRED OPEN SPACE MUST BE DESIGNED TO PRESERVE THE EXISTING INDIGENOUS NATIVE VEGETATION.

6.33± ACRES OPEN SPACE TO BE PROVIDED x 50% TO BE EXISTING INDIGENOUS NATIVE VEGETATION = 3.17± ACRES OF INDIGENOUS NATIVE VEGETATION MUST BE PROVIDED.

LDC SECTION 10-415(c)(2) ALLOWS FOR INCENTIVES TO PRESERVE INDIGENOUS NATIVE UPLAND PLANT COMMUNITIES IN LARGE TRACTS, AND THIS WILL APPLY TO THIS DEVELOPMENT IF IN COMPLIANCE WITH THIS SECTION.

A MINIMUM OF 10% OPEN SPACE IS REQUIRED TO REMAIN ON-SITE. UP TO 90% OF THE OPEN SPACE AND PRESERVATION OF INDIGENOUS NATIVE VEGETATION CAN BE LOCATED ON THE RPD PROPERTY OR TO THE GOPHER TORTOISE PERSERVE.

SCHEDULE OF USES TOWN LAKES – CPD

THE FOLLOWING USES ARE BEING REQUESTED FOR THE CPD:

ACCESSORY USES AND STRUCTURES
ADMINISTRATIVE OFFICES
ATM (AUTOMATIC TELLER MACHINE)
BANKS AND FINANCIAL ESTABLISHMENTS, GROUP I AND II
BAR OR COCKTAIL LOUNGE
BED AND BREAKFAST
BUSINESS SERVICES, GROUP I AND II
CARETAKER'S RESIDENCE
CLEANING AND MAINTENANCE SERVICES
CLOTHING STORES, GENERAL
CLUBS, COUNTRY, COMMERCIAL, FRATERNAL, MEMBERSHIP ORGANIZATION, PRIVATE
CONSUMPTION ON PREMISES
CONVENIENCE FOOD AND BEVERAGE STORE
DAY CARE CENTER, CHILD, ADULT
DRIVE-THROUGH FACILITY FOR ANY PERMITTED USE
DRUGSTORE, PHARMACY
ESSENTIAL SERVICES
ESSENTIAL SERVICES FACILITIES – GROUP I
EXCAVATION/WATER RETENTION
FENCES, WALLS
FOOD AND BEVERAGE SERVICES, LIMITED
FOOD STORES, GROUP I
HEALTH CARE FACILITIES, GROUPS I, II AND III
HOBBY, TOY AND GAME SHOPS
INSURANCE COMPANIES
LAUNDRY OR DRY CLEANING, GROUP I
LAWN AND GARDEN SUPPLY STORES
MEDICAL OFFICE
NONSTORE RETAILERS, ALL GROUPS
PARCEL AND EXPRESS SERVICES
PACKAGE STORE
PARKING LOT, ACCESSORY, COMMERCIAL, GARAGE, PUBLIC
PERSONAL SERVICES – GROUPS I, II, III AND IV
PET SHOP
PHARMACY
PLACE OF WORSHIP
POST OFFICE
REAL ESTATE SALES OFFICE
RECREATION, COMMERCIAL, GROUPS I, III, AND IV
REPAIR SHOPS – GROUPS I AND II
RESTAURANT – GROUPS I, II AND III
RETAIL AND WHOLESALE SALES, WHEN CLEARLY INCIDENTAL AND SUBORDINATE TO A PERMITTED PRINCIPAL USE ON THE SAME PREMISES
SELF SERVICE FUEL PUMPS
SIGNS – IN ACCORDANCE WITH CHAPTER 30 OF LDC
SPECIALTY RETAIL SHOPS – GROUPS I, II, III AND IV
TEMPORARY USES
VARIETY STORE
WAREHOUSES – MINI-WAREHOUSES

SCHEDULE OF USES TOWN LAKES – RPD

THE FOLLOWING USES ARE BEING REQUESTED FOR THE RPD:

ACCESSORY USES AND STRUCTURES
ACCESSORY APARTMENT
ADMINISTRATIVE OFFICES
CLUB – COUNTRY, PRIVATE
BED AND BREAKFAST
DWELLING UNITS – DUPLEX, SINGLE-FAMILY, TWO-FAMILY ATTACHED
ENTRANCE GATES AND/OR GATEHOUSES
ESSENTIAL SERVICES
ESSENTIAL SERVICES FACILITIES – GROUP I
EXCAVATION/WATER RETENTION
FENCES, WALLS
HOME OCCUPATION
MODEL HOME, UNIT, DISPLAY CENTER
REAL ESTATE SALES OFFICE – TEMP
RECREATIONAL FACILITIES – PERS
RESIDENTIAL ACCESSORY USES
SIGNS – IN ACCORDANCE WITH CH
TEMPORARY USES

SCHEDULE OF DEVIATIONS TOWN LAKES (f/k/a Village on the Lakes) RESIDENTIAL PLANNED DEVELOPMENT

1. LDC SECTION 34-695 DEVIATE FROM THE REQUIRED PROPERTY DEVELOPMENT REGULATIONS FOR ONE AND TWO FAMILY RESIDENTIAL DISTRICTS:

MINIMUM LOT DIMENSIONS

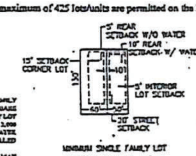
MINIMUM LOT AREA = 6,500 S.F.
MINIMUM LOT SIZE = 50' x 130'
MINIMUM CORNER LOT SIZE = 60' x 130'
FRONT SETBACK FROM STREET = 20'
SIDE SETBACK FROM STREET = 15'
SIDE SETBACK = 5'
REAR SETBACK = 5'
SETBACK FROM WATERBODY = 10'
MAXIMUM BUILDING HEIGHT = 35'
MAXIMUM LOT COVERAGE = 40%

2. LDC SECTION 34-2(b)(1) DEVIATE FROM THE REQUIRED MINIMUM SEPARATION OF BUILDINGS SHALL BE ONE-HALF THE SUM OF THEIR HEIGHTS, OR 20 FEET, WHICHEVER IS GREATER; TO ALLOW THE MINIMUM SEPARATION OF BUILDINGS TO BE 10 FEET.
3. LDC SECTION 34-2221(1): DEVIATE FROM THE REQUIRED CORNER LOTS TO INCREASE THE MINIMUM SPECIFIED LOT WIDTH BY 15 FEET IN ALL ZONING DISTRICTS WHICH HAVE A MINIMUM REQUIRED LOT WIDTH OF 100 FEET OR LESS; TO ALLOW FOR AN INCREASE OF THE MINIMUM SPECIFIED LOT WIDTH BY 10 FEET IN ALL ZONING DISTRICTS WHICH HAVE A MINIMUM REQUIRED LOT WIDTH OF 100 FEET OR LESS.
4. LDC SECTION 10-329(a): DEVIATE FROM THE REQUIRED 20 FEET MAINTENANCE EASEMENT AROUND WATERCOURSES, DRAINAGEWAYS, CANALS, LDIA EASEMENTS, LAKES PONDS OR STREAMS; TO ALLOW FOR A 15 FEET MAINTENANCE EASEMENT.
5. LDC SECTION 10-329(a)(3)a.3: DEVIATE FROM THE REQUIRED 20 FEET SETBACK FOR WATER RETENTION FOR ANY PRIVATE PROPERTY LINE UNDER SEPARATE OWNERSHIP; TO ALLOW FOR A 0 FEET SETBACK FOR WATER RETENTION FOR ANY PRIVATE PROPERTY LINE UNDER SEPARATE OWNERSHIP AS LONG AS THERE IS AN AGREEMENT BETWEEN BOTH PROPERTY OWNERS FOR THE OPERATION AND MAINTENANCE OF WATER RETENTION AREA.
6. LDC SECTION 10-415(a)(1): DEVIATE FROM THE LANDSCAPE REQUIREMENT FOR SINGLE-FAMILY DETACHED AND TWO-FAMILY RESIDENTIAL DEVELOPMENTS TO PROVIDE ONE TREE PER 3,500 SQUARE FEET OF DEVELOPMENT AREA, WHICH MUST INCLUDE A MINIMUM OF TWO TREES PER SINGLE-FAMILY LOT INSTALLED PRIOR TO ISSUANCE OF THE CERTIFICATE OF OCCUPANCY; TO REQUIRE ONE TREE PER 2,000 SQUARE FEET OF DEVELOPMENT AREA (233.34± ACRES), NOT INCLUDING THE EXISTING BODIES OF WATER (33.30± ACRES), WHICH MUST INCLUDE A MINIMUM OF THREE TREES PER SINGLE-FAMILY LOT INSTALLED PRIOR TO ISSUANCE OF THE CERTIFICATE OF OCCUPANCY.
7. LDC SECTION 10-417(b)(3) – DEVIATE FROM UTILITY, POWER, OR DRAINAGE EASEMENTS MAY OVERLAP REQUIRED LANDSCAPED STRIPS OR BUFFERS, HOWEVER, NO REQUIRED TREES OR SHRUBS MAY BE LOCATED IN ANY UTILITY, POWER OR STREET EASEMENT OR RIGHT-OF-WAY; TO UTILITY, POWER, OR DRAINAGE EASEMENT MAY OVERLAP REQUIRED LANDSCAPED STRIPS OR BUFFERS, AND THE REQUIRED TREES OR SHRUBS TO BE LOCATED WITHIN THE UTILITY, POWER OR STREET EASEMENT OR RIGHT-OF-WAY AS LONG AS TREES ARE NOT PLANTED UNDER ANY OVERHEAD POWER LINES.
8. LDC SECTION 10-418(a)(3)b – DEVIATE FROM THE MINIMUM REQUIRED NUMBER OF NATIVE WETLAND HERBACEOUS PLANTS OF ONE PLANT PER LINEAR FOOT OF LAKE SHORELINE AS MEASURED AT THE CONTROL ELEVATION WATER LEVEL. NATIVE WETLAND TREES OR SHRUBS MAY BE SUBSTITUTED FOR UP TO 25 PERCENT OF THE TOTAL NUMBER OF HERBACEOUS PLANTS REQUIRED. ONE TREE OR TWO SHRUBS MAY BE SUBSTITUTED FOR TEN HERBACEOUS PLANTS; TO THE MINIMUM REQUIRED NUMBER OF NATIVE WETLAND HERBACEOUS PLANTS OF ONE PLANT PER LINEAR FOOT OF LAKE SHORELINE AS MEASURED AT THE CONTROL ELEVATION WATER LEVEL, LESS THE SHORELINE LENGTH ON THE NORTHERN BOUNDARY OF GEORGE CANAL AND THE LARGE LAKE IN THE NORTHWESTERN CORNER OF THE PROPERTY. NATIVE WETLAND TREES OR SHRUBS MAY BE SUBSTITUTED FOR UP TO 50% OF THE TOTAL NUMBER OF HERBACEOUS PLANTS REQUIRED. ONE TREE OR FIVE SHRUBS MAY BE SUBSTITUTED FOR FIFTY HERBACEOUS PLANTS.
9. LDC SECTION 10-416(c) – DEVIATE FROM THE REQUIREMENT OF COMMERCIAL DEVELOPMENTS THAT ADJOIN EXISTING RESIDENTIAL DEVELOPMENTS MUST INCLUDE A BUFFER OF NO LESS THAN 15 FEET IN WIDTH ADJACENT TO ALL RESIDENTIAL USES AND PROPERTY LINES. THE BUFFER MUST CONTAIN A SOLID WALL, OR COMBINATION BERM AND SOLID WALL THAT IS NO LESS THAN EIGHT FEET IN HEIGHT, AND INCLUDE 5 TREES AND 18 SHRUBS PER 100 LINEAR FEET; TO THE REQUIREMENT OF COMMERCIAL DEVELOPMENTS THAT ADJOIN EXISTING RESIDENTIAL DEVELOPMENTS MUST INCLUDE A BUFFER OF NO LESS THAN 15 FEET IN WIDTH ADJACENT TO ALL RESIDENTIAL USES AND PROPERTY LINES. THE BUFFER MUST INCLUDE 5 TREES AND 18 SHRUBS PER 100 LINEAR FEET.

REVIEWED
DCI2023-00044
Rick Burris, Principal Planner
Lee County DCD/Planning
4/30/2024

RESIDENTIAL DEVELOPMENT STANDARDS

A maximum of 425 lots/units are permitted on the RPD Property.



MINIMUM SINGLE FAMILY LOT
DEVIATION #1, #2, #3

COMMERCIAL DEVELOPMENT STANDARDS

The following uses and square footages are permitted on the CPD Property:

Neighborhood Retail	20,000 square feet
Professional Office	48,000 square feet
Mini-Warehousing	80,000 square feet

Property Development Regulations for the Commercial Planned Development will be in accordance with the CC, CG zoning district as listed in Table 34-844 of the Land Development Code.

General Notes:
1. The subject property is currently zoned RPD, CFPD/RPD, and CPD. These zoning categories where approved in Zoning Resolution Number Z-95-015.
2. An Administrative Amendment to the above Zoning Resolution was made in December, 1997 and approved in Administrative Amendment PD-97-058.
3. This Rezoning request is to: A. Rezone 73.50± acres of land from Community Facilities Planned Development/Residential Planned Development (CFPD/RPD), 170± acres of land from Residential Planned Development (RPD), and 10.0± acres of Commercial Planned Development (CPD) to Residential Planned Development (RPD); and B. Rezone 21.11± acres of land from Commercial Planned Development (CPD) to Commercial Planned Development (CPD).
4. There are no structures on site.
5. Structures within the CPD shall be designed to be internally architecturally compatible and generally compatible with both the RPD and CFPD/RPD.
6. Open space shall be in accordance with the Land Development Code Section 34-935(g)(1) For the RPD - Single Family lots of not less than 6,500 square feet are not required to provide open space. For the CPD - Commercial developments, the percentage of open space must be 30 percent for large projects. Open Space will be also be in accordance with the Open Space Table on this plan. Buffering and Landscaping shall be in accordance with the Land Development Code Sections 10-414 and 10-415, with the exception of Deviation #9.
7. In the 10± acres that is marked as "Existing CPD Zoning, Proposed RPD Zoning", will be allowed to have all uses listed under the Schedule of Uses Town Lakes – RPD. However, only lots of smaller than 75' in width will be allowed on this property. This will make this area in compliance with the Lee Plan.

Town Lakes Planned Development (f/k/a Village on the Lakes) Master Concept Plan

Exhibit IV-E
March 28, 1998
Revised: August 13, 1998
September 27, 1998
January 16, 1999

Prepared For:
Enterprise Lehigh, Inc.
Gassner Development, Inc.
Village Associates, Inc.

Prepared By:
Kathy L. Morgan
Land Development Consultant
6747 Plantation Manor Loop
Fort Myers, Florida 33912
(941) 768-6677

Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

As revised by the Hearing Examiner

CONDITIONS

1. Master Concept Plan/Development Parameters

Master Concept Plan (MCP). The development of the CPD must be consistent with the six-page MCP entitled "Townlakes CPD" Pages 1, 3, 4 dated January 12, 2024, Page 2 dated May 6, 2024, Page 5 dated January 20, 1999, Page 6 dated January 19, 2010, except as modified by conditions below. Development within the RPD must be consistent with the MCP approved by Resolution Z-99-022, as amended by ADD2010-00003.

Lee Plan and Land Development Code (LDC). Development must comply with the Lee Plan and LDC at time of development order approval, except where deviations have been granted herein. Subsequent changes may require further zoning approvals.

Approved Development Parameters.

a. RPD: 425 dwelling units
b. CPD: Up to 20,000 square feet retail, 48,000 square feet office, and 220,000 square feet of mini-warehouse; and
c. Development within the remainder of the CFPD/RPD approved by Resolution Z-95-015 is limited to the units approved by ADD2000-00165.

2. Uses and Site Development Regulations

a. Schedule of Uses:

RPD
Accessory Uses and Structures
Accessory Apartment
Administrative Offices
Bed & Breakfast
Country Club, Private
Dwelling Units – maximum of 425 units, Duplex, Single-Family, Two-Family Attached
Entrance Gates and Gatehouses
Essential Service Facilities, Group I
Essential Services
Excavation, Water Retention

Fences & Walls
Home Occupations
Model Homes, Units, Display Center
Real Estate Sales Office, Temporary
Recreational Facilities, Personal, Private
Residential Accessory Uses
Signs
Temporary Uses

CPD
Accessory Uses and Structures
Administrative Offices
Automatic Teller Machine (ATM)
Banks and Financial Establishments, Groups I & II
Bed & Breakfast
Business Services, Group I & II
Caretaker's Residence
Cleaning & Maintenance Services
Clothing Stores, General
Clubs, Country, Commercial, Fraternal, Membership Organization, Private
Consumption on Premises
Convenience Food & Beverage Store
Day Care, Child & Adult
Drive Thru Facility
Drugstore/Pharmacy
Essential Services
Essential Services Facilities, Group I
Excavation, Water Retention
Fences & Walls
Food & Beverage Services, Limited
Food Stores, Group I
Health Care Facilities, Groups I, II & III
Hobby, Toy, and Game Shops
Insurance Companies
Laundry or Dry Clean, Group I
Lawn & Garden Supply Stores
Medical Office
Non-store Retailers, All Groups
Package Store
Parcel & Express Services
Parking Lot, Accessory, Commercial, Garage, Public
Personal Services, Groups I, II, III & IV
Pet Shop
Place of Worship
Post Office
Real Estate Sales Office

Recreation, Commercial, Groups I, III & IV

Repair Shops, Groups I & II
Restaurant, Groups I, II, III
Retail & Wholesale Sales, only when incidental & subordinate to a permitted principal use
on the same premises
Self Service Fuel Pumps
Signs
Specialty Retail Shops, Groups I, II, III & IV
Storage, Indoor and Open
Temporary Uses
Variety Store
Warehouse, Mini-warehouse

b. Property Development Regulations.

RPD

Minimum lot area:	6,500 square feet *
Minimum lot width:	50 feet *
Minimum lot depth:	130 feet *
Minimum Street setback, front:	20 feet
Minimum Street setback, side:	15 feet
Minimum Side setback:	5 feet
Minimum Rear setback:	5 feet
Minimum Waterbody setback:	10 feet
Maximum building height:	35 feet or two stories, whichever is less
Maximum building coverage:	60 percent
Minimum Open Space:	The residential tracts are not required to provide open space if the single-family lots have a minimum dimension of 6,500 square feet and the two-family attached provide an individual lot of 3,750 square feet for each dwelling unit. Forty percent open space must be provided if the residential lots do not meet minimum requirements of LDC §10-415, and 50 percent of that open space must be existing indigenous preservation.

CPD

CPD Property Development Regulations

Tracts:	A-N	A-S	B	C	D	E	F
Min. Lot Size	20,000SF	20,000SF	20,000SF	20,000SF	20,000SF	20,000SF	20,000SF
Min. Lot Depth	100 FT	100 FT	100 FT	100 FT	100 FT	100 FT	100FT
Min. Lot Width	100 FT	100 FT	100 FT	100 FT	100 FT	100 FT	100 FT
Setback, accessory	5 FT	5 FT	5 FT	5 FT	5 FT	5 FT	5 FT
Setback, street front	20 FT (1)	20 FT	20 FT	20 FT	20 FT	20 FT	20 FT
Setback, street side	15 FT (2)	15 FT	15 FT	15 FT	10 FT	15 FT	15 FT
Setback, min. side	15 FT	15 FT	15 FT	15 FT	10 FT	15 FT	15 FT
Setback, min. rear	25 FT (3)	25 FT	25 FT	25 FT	15 FT	25 FT	15 FT
Setback, min. waterbody	25 FT	25 FT	25 FT	25 FT	25 FT	25 FT	25 FT
Max. Bldg. Height	35 FT	35 FT	35 FT	35 FT	35 FT	35 FT	35 FT
Max. Bldg. Coverage	45%	45%	45%	45%	45%	45%	45%
Min. Open Space	30%	30%	30%	30%	30%	19%	29%

3. Environmental Conditions

a. The development order application for each parcel must include a Gopher Tortoise Management Plan (GTMP) if gopher tortoises have been documented within that parcel. The GTMP must consist of on-site preservation within suitable native indigenous habitat or off-site mitigation as permitted by the Fish and Wildlife Conservation Commission (FWC). Gopher tortoise management plans must be approved by Development Services and must include, but are not limited to, the following elements:

i. On-site Preservation: The amount of gopher tortoise preservation areas within the planned development will be based upon occupied gopher tortoise habitat. The gopher tortoise preservation areas may be located within the parcel in which the tortoises are existing, or, in the alternative, gopher tortoise preservation areas may be situated within suitable habitat in other areas of the RPD, where tortoises may be relocated subject to permits from the FWC. Development Services staff must review and approve all proposed gopher tortoise preservation areas. The suitability of proposed preservation areas will be based upon the quality of foraging and burrowing habitat, the

existence of gopher tortoises, the abutting proposed, or existing development uses, and proposed habitat management. Gopher Tortoise preservation areas may overlap with indigenous open space areas. The Developer will connect this preserve area to the existing gopher tortoise preserve area (to the north) as shown on the MCP.

ii. Off-site Mitigation: If the developer obtains an "incidental take" permit for off-site mitigation from the FWC to "take" any gopher tortoises within the property, the Developer must relocate the displaced tortoises out of harm's way during construction activities. If ~~Florida~~ FWC denies an "incidental take" permit, the Developer must comply with the "On-site Preservation" provisions of this condition.

b. The lake enhancement planting plan that provides improved habitat for the Everglades kite entitled "Village at Lehigh Lakes Enhancement Plan" prepared by Boylan Environmental dated October 27, 1997, and revised November 21, 1997, is adopted, and must be implemented prior to issuance of a Certificate of Compliance for the phase of development containing the lake to be enhanced per the adopted plan.

4. Emergency Preparedness

a. Prior to local development order approval, the Developer/Applicant must establish a property owners' or residents' association for each residential component of this project. Th association must provide an educational program on an annual basis, in conjunction with the staff of Emergency Management, who will provide literature, brochures and speakers for Hurricane Awareness/Preparedness Seminars, describing the risks of natural hazards. The intent of this recommendation is to provide a mechanism to educate residents concerning the actions they should take to mitigate the dangers inherent in these hazards.

b. Prior to local development order approval, the Developer/Applicant must formulate an emergency hurricane notification and evacuation plan. This plan will be subject to review and approval by the Lee County Office of Emergency Management.

c. If access to this development or into portions of this development is through a security gate or similar device that is not manned 24 hours a day, the gate or device must be equipped with an override switch installed in a glass-covered box to be used by drivers of emergency vehicles to gain entry consistent with LDC §34-1749.

d. The purchaser/end user of any parcel that will be used to store, manufacture, or use hazardous materials, must contact the Lee County Office of Emergency Management Hazardous Material Representative, to discuss the proposed development in relation to the potential type, use, and

storage of hazardous materials, which will be located on the premises. The Developer/Applicant must provide proof to Lee County Development Services staff to show compliance with this condition prior to the issuance of occupancy approval for any parcel that could house such use.

e. The Applicant must establish an emergency notification system for its residents and commercial employees to be used in the event of a hazardous material release. The Developer/Applicant must provide proof to Lee County Development Services staff to show compliance with this condition prior to the issuance of occupancy approval for any parcel that could house such use.

f. Purchaser/end users of the RPD must cooperate with the Emergency Management in determining and participating in a means to lessen this project's adverse impacts on the County's hurricane preparedness process and public safety. This could include the provision of equipment, money in lieu of equipment, or such other goods, material or actions deemed appropriate by Emergency Management that results in the provision of additional shelters, or the improvement of roads for use as additional evacuation routes. Final decision as to the choice of "means" rests with the purchaser/end-user.

5. The Emergency/Secondary Access Road shown on the MCP for the RPD must be paved to match the road standards in the remainder of the development.

6. Hours of operation for the following uses are limited to 6:00 a.m. to 11:00 p.m.:

Business Services, Group II
Convenience Food & Beverage Store
Personal Services, Group IV
Recreation Facilities, Commercial, any Group
Self Service Fuel Pumps
Specialty Retail, all Groups

7. Any 24-hour use for commercial recreation facilities, or any fast-food restaurant must be located at least 250 feet from the property line of any residential use within the subject property, and at least 175 feet from the property line of any off-site abutting residential use. This distance limitation includes parking areas to support such uses.

8. Outside speaker systems, loudspeakers, or public address systems for any use other than to facilitate a drive-thru operation are prohibited. Outside speaker systems, loudspeakers, or public address systems associated with any drive-thru use must be located a minimum of 250 feet away from any RPD zoned perimeter property line, and at least 175 feet from any off-site abutting residential use. Sound must be directed away from those perimeter property lines.

9. Consumption on Premises use is approved in conjunction with a full-service restaurant only, and further:

   a. Outdoor seating in conjunction with a Consumption on Premises is prohibited; and

   b. Hours of operation are limited to 10:30 a.m. to 11:00 p.m.

10. Deliveries to any businesses on this site between the hours of 10:00 p.m. and 6:00 a.m. are prohibited.

11. Garbage or grease dumpsters may not be located within 200 feet of any RPD perimeter property line, or 200 feet of any off-site abutting residential use.

12. Interior (project) lighting must comply with LDC §§34-936(a) and 10-610(b), must be of the lowest intensity meeting life safety codes, and shielded and directed away from the adjacent residential area.

13. Roadways must be built to county standards without deviations in order to be considered for acceptance for county maintenance. Acceptance for county maintenance is at the discretion of the Board of County Commissioners.

14. A Type "F" buffer must be provided along the entire boundary between the CPD and RPD areas.

15. This property was the subject of a lawsuit captioned Lehigh Corporation v. Lee County, Case No. 85-5843 CA-EOF. The resulting Settlement Agreement executed in 1988 vested various un-platted parcels throughout Lehigh for urban densities and intensities. The County Attorney's Office has opined that the property subject to that Agreement is considered to be vested and exempt from the limitations imposed by the Lee Plan Planning Communities Map and Acreage Allocation Table. (Map 16 and Table 1(b)). Accordingly, acreage allocations for various land uses in the corresponding subdistrict does not restrict the issuance of development approvals for this parcel.

16. Prior to issuance of a local development order for Tract A-S, a Type A buffer (five feet on width with four trees per 100 linear feet) must be provided adjacent to Tracts B-F. (Condition approved by ADD2011-00081 and modified to be consistent with amended MCP)

17. Tract D may be permitted one ground mounted sign limited to a maximum of 100 square feet and a maximum height of 10 feet.

18. Open Space. Development order plans must depict 6.69 acres of open space over the entirety of the CPD. Open space on individual tracts within the CPD must be substantially consistent with the Open Space Plan provided as Sheet 4 of the MCP.

19. Screening Storage Uses. Development order plans for Tract A-N must demonstrate commercial storage will be shielded behind a continuous visual screen at least eight feet in height when visible from residential uses or residential zoning district, and six feet in height when visible from street rights-of-way or street easements.

20. Hours of Operation for Storage uses on Parcel A-N.
Hours of operation on storage uses on parcel A-N are limited to 6 AM to 10 PM.

21. Retention of Town Lakes Entrance Sign.
The Town Lakes entrance sign and associated landscaping will remain on Parcel A-N.

22. Open Storage on Parcel A-N.

The structure accommodating storage of boats and RVs on the 3.39 acre Parcel A-N must be enclosed on three sides.

23. Closure of Access to Fountain Mist Boulevard.
The 3.39 acre Parcel A-N will not have access to Fountain Mist Boulevard and will rely on a shared access to Williams Ave to the south.

24. State and Federal Permits
County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if applicant fails to obtain necessary approvals or fulfill obligations imposed by state/federal agencies or if applicant undertakes actions resulting in a violation of state or federal law. Applicant must obtain applicable state/federal permits prior to commencing development.

DEVIATIONS

1. Withdrawn.

2. Property Development Regulations. Deviation 2 seeks relief from the LDC §34-935(e)(4) requirement to provide a minimum building separation of one-half the sum of the building heights or 20 feet, to allow a 10-foot minimum separation between buildings. Approved by Z-99-022.

3. Property Development Regulations: Deviation 3 seeks relief from the LDC §34-2222(1) requirement that corner lots have a 15-foot increased lot width, to allow for an increase of only 10 feet. Approved by Z-99-022.

4. Property Development Regulations. Deviation 4 seeks relief from the LDC §10-328(a) requirement to provide a 20-foot-wide maintenance easement around water

ways, to allow a 15-foot-wide maintenance easement. This deviation is approved subject to the following condition:

The applicant/developer must submit suitable documentation of "no objection" to the reduced easement width from the South Florida Water Management District, prior to development order approval. Deviation approved by Z-99-022.

5. Property Development Regulations. Deviation 5 seeks relief from the LDC §10-329(d)(1)a.3. requirement to provide a 50-foot-wide setback for water retention lakes from any private property line under separate ownership, to delete this requirement within the overall Town Lakes project boundaries only. This deviation is approved, subject to the applicant/developer establishing covenants pertaining to the continued maintenance and operation of the water retention areas, prior to development order approval. These covenants must be reviewed and approved by Development Services Staff and the County Attorney's Office prior to recording in the public records. Recording costs will be the developer's responsibility. Approved by Z-99-022.

6. Withdrawn.

7. Property Development Regulations. Deviation 7 seeks relief from the LDC §10-421 (a)(5) [*note citation is different than that shown on the MCP*], provision prohibiting the placement of required trees or shrubs in any utility, power or street easement or right-of-way, to allow required trees or shrubs to be planted within an easement or right-of-way area.

Deviation approved, subject to the following conditions:

1) If any of the required buffer plantings that are installed within an easement have to be removed, the developer or property owner must replace these plantings with like size (at the time replacement is required) and species at no expense to Lee County. This requirement must be clearly stated in any deed restriction documents.
2) To avoid conflicts with overhead utility lines, only small trees, less than 20 feet in height at maturity, may be used directly adjacent to an overhead line.

Approved by Z-99-022.

8. Property Development Regulations. Deviation 8 seeks relief from the LDC §10-418(2) provisions setting forth the minimum requirements for native wetland herbaceous plants, to:

a) Exempt the shoreline length of the northern boundary of George Canal and the large lake in the northwestern corner of the property from this requirement; and

b) Allow native wetland trees to be substituted for up to 50 percent rather than the required 25 percent of the total number of required herbaceous plants; and

c) Allow one tree or five shrubs to be substituted for fifty herbaceous plants rather than the required ten herbaceous plants.

Deviation approved, on the condition that up to 50 percent of the required littoral planting is provided by trees and/or shrubs, with one tree or two shrubs being substituted for every ten of the required herbaceous plants. Approved by Z-99-022.

9. Withdrawn.

10. Turn-around. Deviation 10 requests relief from LDC §34-1748(5) which requires a paved turn-around provided on the ingress side of the gate or gatehouse, having a turning radius sufficient to accommodate a U-turn for a single unit truck (SU) as specified in the AASHTO Green Book current addition, to allow development of an alternate turn-around, as depicted on the site plan approved by ADD2010-00003. This deviation is approved subject to the condition that the proposed access gate must be an electric gate opener that is acceptable to Lee County and the Lehigh Acres Fire Control & Rescue District, and the gate is subsequently maintained by the homeowner's association to permit access for the residents of the development and the fire district. Approved by ADD2010-00003.

11. Buffers. Deviation 11 seeks relief from LDC §10-416(d)(3), which requires commercial use abutting a commercial use to provide a Type 'A' buffer between the uses, to allow no required buffers between tract/lots. Approved by ADD2011-00081.

12. Parking. Deviation 12 seeks relief from LDC §34-2020(2), which requires minimum parking spaces for types of uses per development, to allow the parking calculations to be totaled not by tract/lot, but according to the overall parking for the entire CPD. Approved by ADD2011-00081.

13. Street Access. Deviation 13 seeks relief from LDC §10-291(1), which requires street access designed so as not to create remnants and landlocked areas, unless those areas are established as common areas, to allow Tract D as a commercial lot. Approved by ADD2011-00081.

14. Signs. Deviation 14 seeks relief from LDC §30-153(2)(c), which restricts individual occupants to have individual ground-mounted identification signs, to allow each lot to have one ground-mounted identification sign not to exceed 100 square feet and 10 feet in height.

Approved for Tract D only, subject to Condition 17 by ADD2011-00081.

15. Outdoor Storage. Deviation 15 seeks relief from LDC §34-1352(c)(1), which requires all buildings and structures part of a development engaged in the outdoor storage of vehicles (for rent) be set back 50 feet from the street and 40 feet from the side yard, to allow the existing mini-warehouse building on the eastern border to remain set back at 15.87 feet and the existing building on the western border to remain setback at 27.67 feet. Approved by ADD2014-00095.

16. Outdoor Storage. Deviation 16 seeks relief from LDC §34-1352(c)(3), which requires all buildings and items covered by this section that are displayed or offered for rent must be setback 100 feet from any existing residence or residentially zoned property, to allow the proposed open storage of rental vehicles to be located behind the 8-foot high wall at 81.41 feet from the abutting RPD to the north. Approved by ADD2014-00095.

17. Refuse and Recyclable Storage. Deviation 17 seeks relief from LDC §10-261(a), which requires new construction of commercial businesses to provide 216 square feet for the first 25,000 square feet of building area plus 8 square feet for each additional 1,000 square feet of building area for placement of garbage/recyclable receptables, to allow a reduction based solely on the first 25,000 square feet.

    Hearing Examiner Recommendation: Deviation approved subject to the following conditions: The refuse area may be limited in size to support only the office operations. Development order submittals must include a copy of the lease agreement stating tenants are prohibited from using on-site dumpsters. This deviation is limited to warehouse use on Tract A-N.

18. Parking. Deviation 18 seeks relief from LDC §34-2020(b), which requires mini-warehouse uses to have one parking space per 25 storage units, to allow a five percent reduction in required parking spaces, pursuant to LDC §34-2020(c)(3).

    Hearing Examiner Recommendation: Approved

19. Access. Deviation 19 seeks relief from LDC §10-285(a), which states lots in urban areas with access alternatives will not be granted access to an arterial or major collector, to allow an access on Williams Avenue and closure of the access on Fountain Mist Boulevard/Liriope Loop.

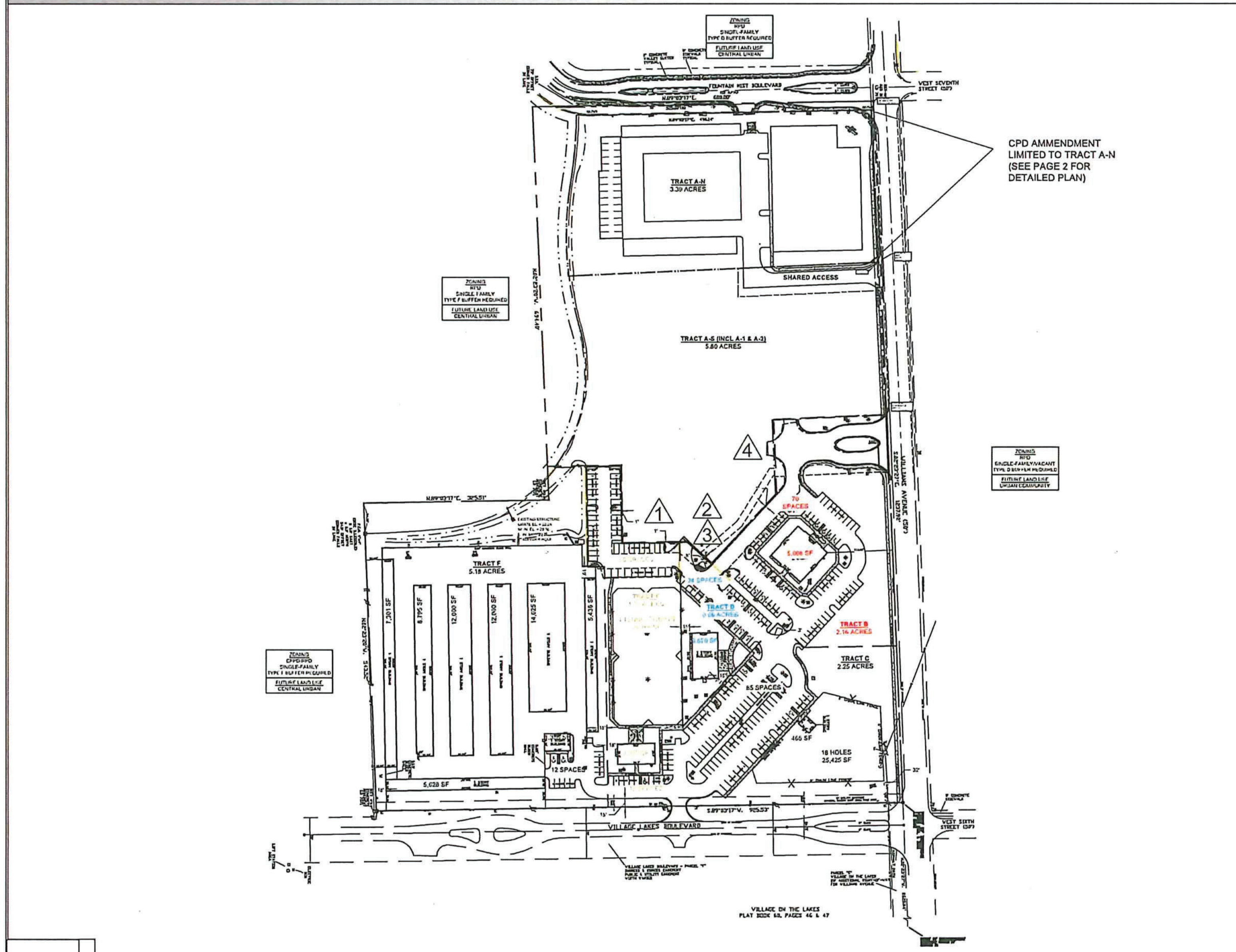
    Hearing Examiner Recommendation: Approved, limited to Tract A-N.

Exhibits to Conditions:
B1 Master Concept Plan for Sunniland CPD Pages 1 - 6.

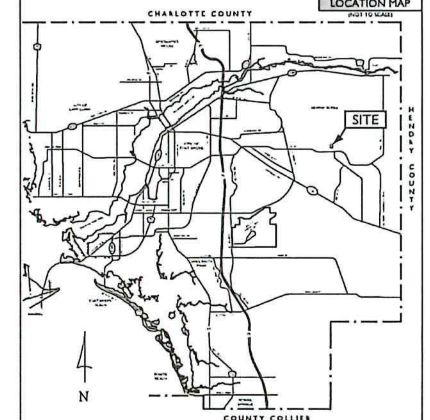
EXHIBIT B-1

TOWNLAKES CPD AMMENDMENT

LOCATED IN SECTION 30, TOWNSHIP 44-S, RANGE 27-E, LEE COUNTY, FLORIDA



MASTER CONCEPT PLAN



TOWNLAKES COMMERCIAL ADD

PROJECT SUMMARY:

ZONING/REZONING
Administrative Amendment to Townlakes RPD/CPD (Z-99-022)

STRAP #'s
30-44-27-00-00001.0300
30-44-27-00-00001.0360
30-44-27-00-00001.0370
30-44-27-00-00001.0380

TOTAL RPD/CPD ACREAGE
274.61 ACRES

PROJECT ACREAGE
21.1 ACRES

TRACT			
~~A~~	~~[illegible] SF~~	A-N	147,885 SF
B	94,188 SF	A-S, A-1 & A-2	252,821 SF
C	97,941 SF		
D	28,827 SF		
E	72,110 SF		
F	225,812 SF		

DEVIATIONS

ORIGINAL CONCEPT PLAN PER ADD2011-00081

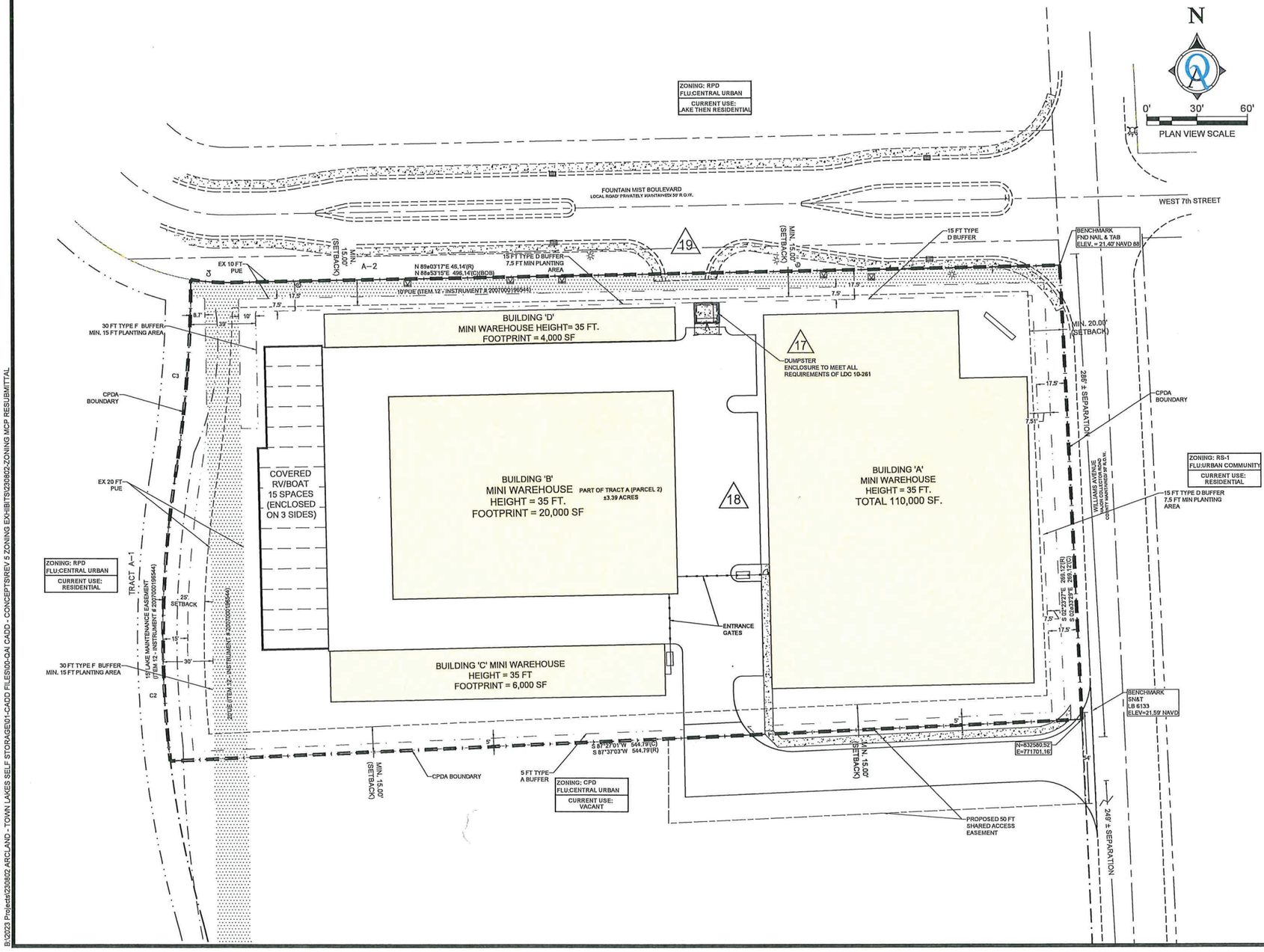
Quattrone & Associates, Inc.
Engineers, Planners, & Development Consultants

TOWNLAKES CPD AMENDMENT

LOCATED IN SECTION 30, TOWNSHIP 44-S, RANGE 27-E, LEE COUNTY, FLORIDA

DCI2023-00044 - Post Hearing Written Submission
Dated 05-06-2024

MASTER CONCEPT PLAN



PROJECT SUMMARY:

ZONING/REZONING
CPD - AMMENDMENT

STRAP #'s & ADDRESS
30-44-27-17-0000A.0000
619/625 WILLIAMS AVE, LEHIGH ACRES FL 33972

PROJECT ACREAGE
3.39 ACRES

PROJECT INTENSITY
140,000 SF STORAGE + COVERED BOAT/RV

PROPERTY DEVELOPMENT REGULATIONS (NON-RESIDENTIAL)
TRACT A

MIN. LOT AREA*	20,000 SF
MIN LOT WIDTH*	100 FT
MIN LOT DEPTH*	100 FT
STREET FRONT SETBACK	20 FT (WILLIAMS AVE)
STREET SIDE SETBACK	15 FT (FOUNTAIN MIST BLVD)
MIN SIDE SETBACK	15 FT (SOUTH P/L)
MIN REAR SETBACK	25 FT (WEST P/L)
MAX BLDG HEIGHT	35 FT (3 STORY)
MAX LOT COVERAGE	45%
MIN OPEN SPACE	30%

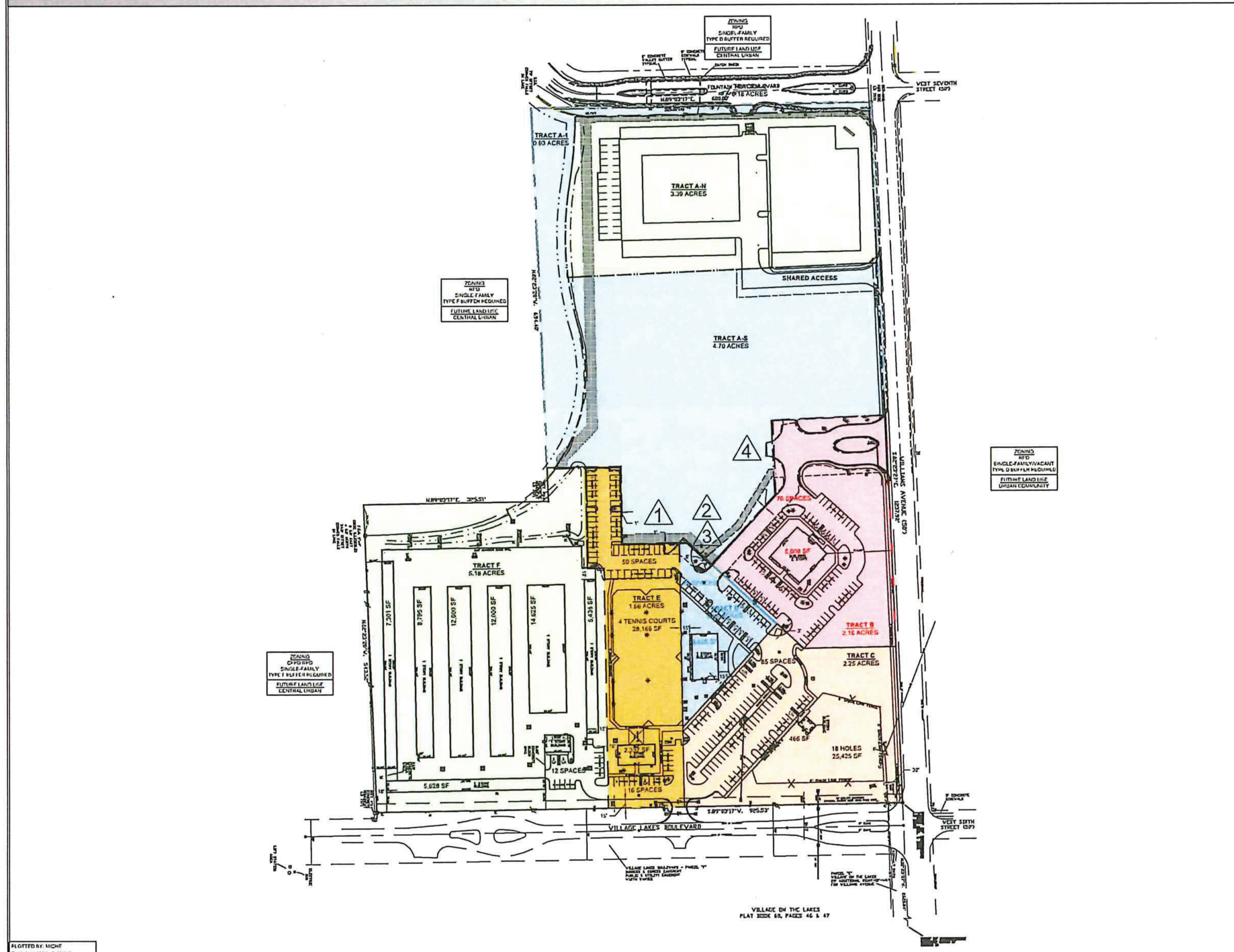
△ # DEVIATIONS

Quattrone & Associates, Inc.
Engineers, Planners & Development Consultants

B:\2023 Projects\230802 ARCLAND - TOWN LAKES SELF STORAGE\01-CADD FILES\00-QAI CADD - CONCEPTS\REV 5 ZONING EXHIBITS\230802-ZONING MCP RESUBMITTAL

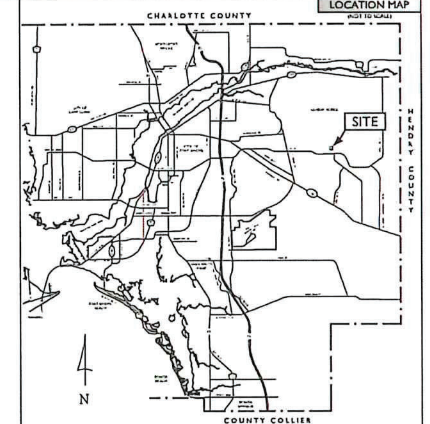
TOWNLAKES CPD AMMENDMENT

LOCATED IN SECTION 30, TOWNSHIP 44-S, RANGE 27-E, LEE COUNTY, FLORIDA



TRACT EXHIBIT

LOCATION MAP



TOWNLAKES COMMERCIAL ADD

PROJECT SUMMARY:

ZONING/REZONING
Administrative Amendment to Townlakes RPD/CPD (Z-99-022)

STRAP #'s
30-44-27-00-00001.0300
30-44-27-00-00001.0360
30-44-27-00-00001.0370
30-44-27-00-00001.0380

TOTAL RPD/CPD ACREAGE
274.61 ACRES

PROJECT ACREAGE
21.1 ACRES

TRACT			
~~A~~	~~400,706 SF~~	A-N	147,885 SF
		A-S, A-1 & A-2	252,821 SF
B	94,188 SF		
C	97,941 SF		
D	28,827 SF		
E	72,110 SF		
F	225,612 SF		

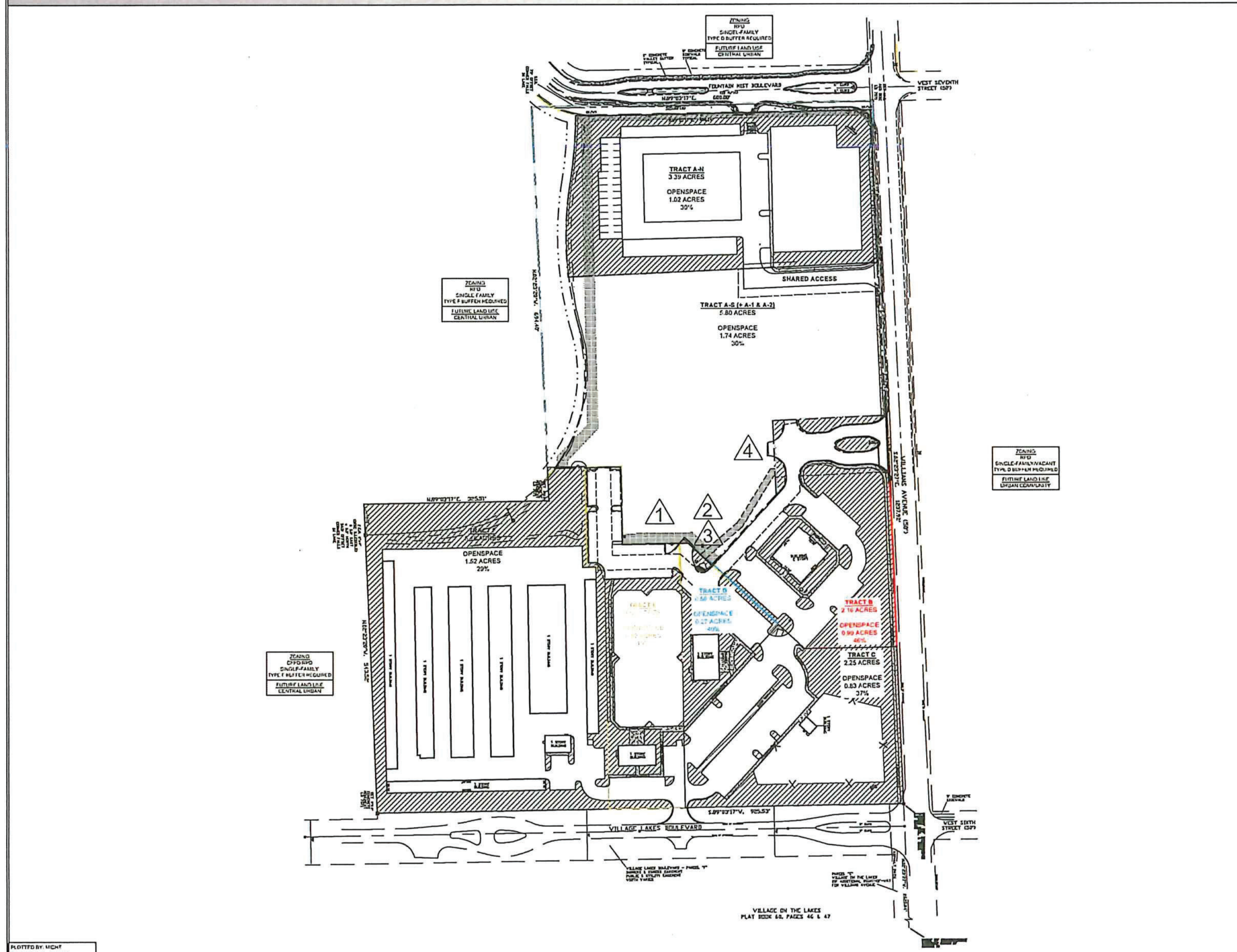
DEVIATIONS

ORIGINAL CONCEPT PLAN PER
ADD2011-00081

Quattrone & Associates, Inc.
Engineers, Planners, & Development Consultants

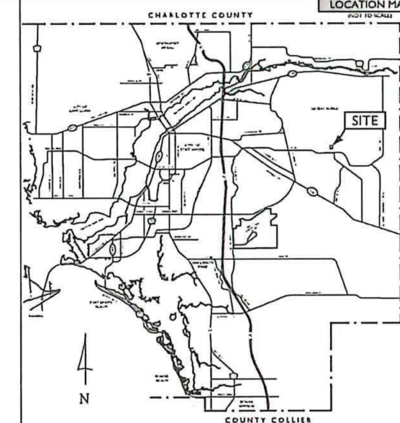
TOWNLAKES CPD AMMENDMENT

LOCATED IN SECTION 30, TOWNSHIP 44-S, RANGE 27-E, LEE COUNTY, FLORIDA



OPEN SPACE EXHIBIT

LOCATION MAP



TOWNLAKES COMMERCIAL ADD

PROJECT SUMMARY:

ZONING/REZONING
Administrative Amendment to Townlakes RPD/CPD (Z-99-022)

STRAP #'s
30-44-27-00-00001.0370, 30-44-27-00-00001.0300, 30-44-27-00-00001.0380, 30-44-27-00-00001.0360

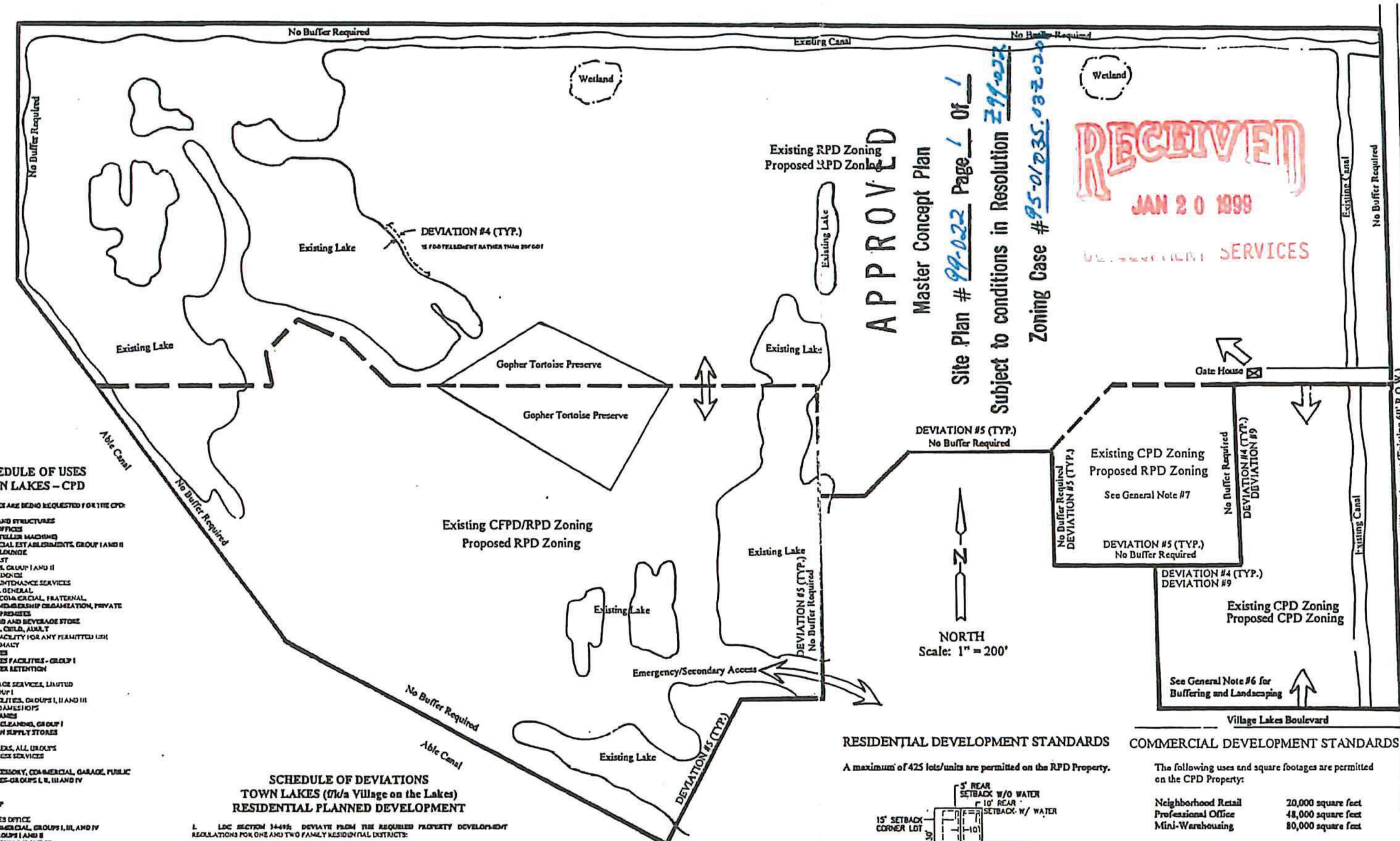
CPD/RPD ACREAGE
274.61 ACRES

PROJECT ACREAGE
21.1 ACRES (919,385.3 SF)

OVERALL OPEN SPACE
6.69 ACRES (291,416.6 SF)
31.7%

ORIGINAL CONCEPT PLAN PER
ADD2011-00081

Quattrone & Associates, Inc.
Engineers, Planners, & Development Consultants



SCHEDULE OF USES
TOWN LAKES – CPD

THE FOLLOWING USES ARE BEING REQUESTED FOR THE CPD:

- ACCESSORY USES AND STRUCTURES
- ADMINISTRATIVE OFFICES
- ATM (AUTOMATIC TELLER MACHINE)
- BANKS AND FINANCIAL ESTABLISHMENTS, GROUP I AND II
- BAR OR COCKTAIL LOUNGE
- BED AND BREAKFAST
- BUSINESS SERVICES, GROUP I AND II
- CARETAKER'S RESIDENCE
- CLEANING AND MAINTENANCE SERVICES
- CLOTHING STORES, GENERAL
- CLUBS, COUNTRY, COMMERCIAL, FRATERNAL, MEMBERSHIP ORGANIZATION, PRIVATE
- CONSUMPTION ON PREMISES
- CONVENIENCE FOOD AND BEVERAGE STORE
- DAY CARE CENTER, CHILD, ADULT
- DRIVE-THROUGH FACILITY FOR ANY PERMITTED USE
- DRUGSTORE, PHARMACY
- ESSENTIAL SERVICES
- ESSENTIAL SERVICES FACILITIES - GROUP I
- EXCAVATION/WATER RETENTION
- FENCES, WALLS
- FOOD AND BEVERAGE SERVICES, LIMITED
- FOOD STORES, GROUP I
- HEALTH CARE FACILITIES, GROUPS I, II AND III
- HOBBY, TOY AND GAME SHOPS
- INSURANCE COMPANIES
- LAUNDRY OR DRY CLEANING, GROUP I
- LAWN AND GARDEN SUPPLY STORES
- MEDICAL OFFICE
- NONSTORE RETAILERS, ALL GROUPS
- PARCEL AND EXPRESS SERVICES
- PACKAGE STORE
- PARKING LOT, ACCESSORY, COMMERCIAL, GARAGE, PUBLIC
- PERSONAL SERVICES - GROUPS I, II, III AND IV
- PET SHOP
- PHARMACY
- PLACE OF WORSHIP
- POST OFFICE
- REAL ESTATE SALES OFFICE
- RECREATION, COMMERCIAL, GROUPS I, III, AND IV
- REPAIR SHOPS - GROUPS I AND II
- RESTAURANT - GROUPS I, II AND III
- RETAIL AND WHOLESALE SALES, WHEN CLEARLY INCIDENTAL AND SUBORDINATE TO A PERMITTED PRINCIPAL USE ON THE SAME PREMISES
- SELF SERVICE FUEL PUMPS
- SIGNS - IN ACCORDANCE WITH CHAPTER 30 OF LDC
- SPECIALTY RETAIL SHOPS - GROUPS I, II, III AND IV
- TEMPORARY USES
- VARIETY STORE
- WAREHOUSES - MINI-WAREHOUSES

SCHEDULE OF USES
TOWN LAKES – RPD

THE FOLLOWING USES ARE BEING REQUESTED FOR THE RPD:

- ACCESSORY USES AND STRUCTURES
- ACCESSORY APARTMENT
- ADMINISTRATIVE OFFICES
- CLUB – COUNTRY, PRIVATE
- BED AND BREAKFAST
- DWELLING UNITS - DUPLEX, SINGLE-FAMILY, TWO-FAMILY ATTACHED
- ENTRANCE GATES AND/OR GATEHOUSES
- ESSENTIAL SERVICES
- ESSENTIAL SERVICES FACILITIES - GROUP I
- EXCAVATION/WATER RETENTION
- FENCES, WALLS
- HOME OCCUPATION
- MODEL HOME, UNIT, DISPLAY CENTER
- REAL ESTATE SALES OFFICE - TEMPORARY
- RECREATIONAL FACILITIES - PERSONAL, PRIVATE
- RESIDENTIAL ACCESSORY USES
- SIGNS - IN ACCORDANCE WITH CHAPTER 30 OF LDC
- TEMPORARY USES

SCHEDULE OF DEVIATIONS
TOWN LAKES (f/k/a Village on the Lakes)
RESIDENTIAL PLANNED DEVELOPMENT

1. LDC SECTION 34-695: DEVIATE FROM THE REQUIRED PROPERTY DEVELOPMENT REGULATIONS FOR ONE AND TWO FAMILY RESIDENTIAL DISTRICTS:

   MINIMUM LOT DIMENSIONS

   MINIMUM LOT AREA = 6,500 S.F.
   MINIMUM LOT SIZE = 50' x 130'
   MINIMUM CORNER LOT SIZE = 60' x 130'
   FRONT SETBACK FROM STREET = 20'
   SIDE SETBACK FROM STREET = 15'
   SIDE SETBACK = 5'
   REAR SETBACK = 5'
   SETBACK FROM WATERBODY = 10'
   MAXIMUM BUILDING HEIGHT = 35'
   MAXIMUM LOT COVERAGE = 60%

2. LDC SECTION 34-935(e)(4): DEVIATE FROM THE REQUIRED MINIMUM SEPARATION OF BUILDINGS SHALL BE ONE-HALF THE SUM OF THEIR HEIGHTS, OR 20 FEET, WHICHEVER IS GREATER; TO ALLOW THE MINIMUM SEPARATION OF BUILDINGS TO BE 10 FEET.
3. LDC SECTION 34-2223(1): DEVIATE FROM THE REQUIRED CORNER LOTS TO INCREASE THE MINIMUM SPECIFIED LOT WIDTH BY 15 FEET IN ALL ZONING DISTRICTS WHICH HAVE A MINIMUM REQUIRED LOT WIDTH OF 100 FEET OR LESS; TO ALLOW FOR AN INCREASE OF THE MINIMUM SPECIFIED LOT WIDTH BY 10 FEET IN ALL ZONING DISTRICTS WHICH HAVE A MINIMUM REQUIRED LOT WIDTH OF 100 FEET OR LESS.
4. LDC SECTION 10-329(a): DEVIATE FROM THE REQUIRED 20 FEET MAINTENANCE EASEMENT AROUND WATERCOURSES, DRAINAGEWAYS, CANALS, I.D.D. EASEMENTS, LAKES PONDS OR STREAMS; TO ALLOW FOR A 15 FEET MAINTENANCE EASEMENT.
5. LDC SECTION 10-329(e)(1)a.2: DEVIATE FROM THE REQUIRED 50 FEET SETBACK FOR WATER RETENTION FOR ANY PRIVATE PROPERTY LINE UNDER SEPARATE OWNERSHIP; TO ALLOW FOR A 0 FEET SETBACK FOR WATER RETENTION FOR ANY PRIVATE PROPERTY LINE UNDER SEPARATE OWNERSHIP AS LONG AS THERE IS AN AGREEMENT BETWEEN BOTH PROPERTY OWNERS FOR THE OPERATION AND MAINTENANCE OF WATER RETENTION AREA.
6. LDC SECTION 10-415(a)(7): DEVIATE FROM THE LANDSCAPE REQUIREMENT FOR SINGLE-FAMILY DETACHED AND TWO-FAMILY RESIDENTIAL DEVELOPMENTS TO PROVIDE ONE TREE PER 3,000 SQUARE FEET OF DEVELOPMENT AREA, WHICH MUST INCLUDE A MINIMUM OF TWO TREES PER SINGLE-FAMILY LOT INSTALLED PRIOR TO ISSUANCE OF THE CERTIFICATE OF OCCUPANCY; TO REQUIRE ONE TREE PER 3,000 SQUARE FEET OF DEVELOPMENT AREA (253.50± ACRES), NOT INCLUDING THE EXISTING BODIES OF WATER (73.50± ACRES), WHICH MUST INCLUDE A MINIMUM OF THREE TREES PER SINGLE-FAMILY LOT INSTALLED PRIOR TO ISSUANCE OF THE CERTIFICATE OF OCCUPANCY.
7. LDC SECTION 10-417(b)(2): DEVIATE FROM UTILITY, POWER, OR DRAINAGE EASEMENTS MAY OVERLAP REQUIRED LANDSCAPED STRIPS OR BUFFERS, HOWEVER, NO REQUIRED TREES OR SHRUBS MAY BE LOCATED IN ANY UTILITY, POWER OR STREET EASEMENT OR RIGHT-OF-WAY; TO UTILITY, POWER, OR DRAINAGE EASEMENT MAY OVERLAP REQUIRED LANDSCAPED STRIPS OR BUFFERS, AND THE REQUIRED TREES OR SHRUBS TO BE LOCATED WITHIN THE UTILITY, POWER OR STREET EASEMENT OR RIGHT-OF-WAY AS LONG AS TREES ARE NOT PLANTED UNDER ANY OVERHEAD POWER LINES.
8. LDC SECTION 10-418(a)(2)a. – DEVIATE FROM THE MINIMUM REQUIRED NUMBER OF NATIVE WETLAND HERBACEOUS PLANTS OF ONE PLANT PER LINEAR FOOT OF LAKE SHORELINE AS MEASURED AT THE CONTROL ELEVATION WATER LEVEL. NATIVE WETLAND TREES OR SHRUBS MAY BE SUBSTITUTED FOR UP TO 25 PERCENT OF THE TOTAL NUMBER OF HERBACEOUS PLANTS REQUIRED. ONE TREE OR TWO SHRUBS MAY BE SUBSTITUTED FOR TEN HERBACEOUS PLANTS; TO THE MINIMUM REQUIRED NUMBER OF NATIVE WETLAND HERBACEOUS PLANTS OF ONE PLANT PER LINEAR FOOT OF LAKE SHORELINE AS MEASURED AT THE CONTROL ELEVATION WATER LEVEL, LESS THE SHORELINE LENGTH ON THE NORTHERN BOUNDARY OF GEORGE CANAL AND THE LARGE LAKE IN THE NORTHWESTERN CORNER OF THE PROPERTY. NATIVE WETLAND TREES OR SHRUBS MAY BE SUBSTITUTED FOR UP TO 50% OF THE TOTAL NUMBER OF HERBACEOUS PLANTS REQUIRED. ONE TREE OR FIVE SHRUBS MAY BE SUBSTITUTED FOR FIFTY HERBACEOUS PLANTS.
9. LDC SECTION 10-416(a) – DEVIATE FROM THE REQUIREMENT OF COMMERCIAL DEVELOPMENTS THAT ADJOIN EXISTING RESIDENTIAL DEVELOPMENTS MUST INCLUDE A BUFFER OF NO LESS THAN 15 FEET IN WIDTH ADJACENT TO ALL RESIDENTIAL USES AND PROPERTY LINES. THE BUFFER MUST CONTAIN A SOLID WALL, OR COMBINATION BERM AND SOLID WALL THAT IS NO LESS THAN EIGHT FEET IN HEIGHT, AND INCLUDE 5 TREES AND 18 SHRUBS PER 100 LINEAR FEET; TO THE REQUIREMENT OF COMMERCIAL DEVELOPMENTS THAT ADJOIN EXISTING RESIDENTIAL DEVELOPMENTS MUST INCLUDE A BUFFER OF NO LESS THAN 15 FEET IN WIDTH ADJACENT TO ALL RESIDENTIAL USES AND PROPERTY LINES. THE BUFFER MUST INCLUDE 5 TREES AND 18 SHRUBS PER 100 LINEAR FEET.

RESIDENTIAL DEVELOPMENT STANDARDS

A maximum of 425 lots/units are permitted on the RPD Property.

5' REAR SETBACK W/O WATER
10' REAR SETBACK W/ WATER
15' SETBACK CORNER LOT
130'
5' INTERIOR LOT SETBACK
20' STREET SETBACK
50'

MINIMUM SINGLE FAMILY LOT
DEVIATION #1, #2, #3

COMMERCIAL DEVELOPMENT STANDARDS

The following uses and square footages are permitted on the CPD Property:

Neighborhood Retail	20,000 square feet
Professional Office	48,000 square feet
Mini-Warehousing	80,000 square feet

Property Development Regulations for the Commercial Planned Development will be in accordance with the CC, CG zoning district as listed in Table 34-844 of the Land Development Code.

General Notes:

1. The subject property is currently zoned RPD, CFPD/RPD, and CPD. These zoning categories where approved in Zoning Resolution Number Z-95-015.
2. An Administrative Amendment to the above Zoning Resolution was made in December, 1997 and approved in Administrative Amendment PD-97-058.
3. This Rezoning request is to: A. Rezone 73.50± acres of land from Community Facilities Planned Development/Residential Planned Development (CFPD/RPD), 170± acres of land from Residential Planned Development (RPD), and 10.0± acres of Commercial Planned Development (CPD) to Residential Planned Development (RPD); and B. Rezone 21.11± acres of land from Commercial Planned Development (CPD) to Commercial Planned Development (CPD).
4. There are no structures on site.
5. Structures within the CPD shall be designed to be internally architecturally compatible and generally compatible with both the RPD and CFPD/RPD.
6. Open space shall be in accordance with the Land Development Code Section 34-935(g)(1) For the RPD - Single Family lots of not less than 6,500 square feet are not required to provide open space. For the CPD - Commercial developments, the percentage of open space must be 30 percent for large projects. Open Space will be also be in accordance with the Open Space Table on this plan. Buffering and Landscaping shall be in accordance with the Land Development Code Sections 10-414 and 10-415, with the exception of Deviation #9.
7. In the 10± acres that is marked as "Existing CPD Zoning, Proposed RPD Zoning", will be allowed to have all uses listed under the Schedule of Uses Town Lakes – RPD. However, only lots of smaller than 75' in width will be allowed on this property. This will make this area in compliance with the Lee Plan.

LEGAL DESCRIPTION FOR "RPD" ZONING:

A TRACT OR PARCEL OF LAND LYING IN SECTION 30, TOWNSHIP 44 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 30, RUN NORTH 02°23'27" WEST ALONG THE EAST LINE OF SAID SECTION 30 FOR 3838.76 FEET TO THE POINT OF BEGINNING, BEING ON THE WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE (50 FEET WIDE); THENCE RUN SOUTH 89°03' 17" WEST FOR 600.00 FEET; THENCE RUN SOUTH 02°23' 20" EAST FOR 694.40 FEET; THENCE RUN SOUTH 89°03' 17" WEST FOR 700.14 FEET; THENCE RUN NORTH 02°23' 20" WEST FOR 444.80 FEET; THENCE RUN SOUTH 89°03' 17" WEST FOR 550.00 FEET; THENCE RUN SOUTH 44°07' 17" WEST FOR 240.00 FEET; THENCE RUN SOUTH 89°03' 17" WEST FOR 180.00 FEET; THENCE RUN SOUTH 02°23' 20" EAST FOR 779.60 FEET; THENCE RUN NORTH 89°26' 10" WEST FOR 322.17'; THENCE RUN SOUTH 27°06' 41" WEST FOR 628.71 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF ABLE CANAL (220 FEET WIDE); THENCE RUN NORTH 62°53' 19" WEST ALONG SAID CANAL RIGHT-OF-WAY LINE FOR 1627.42 FEET; THENCE CONTINUE RUNNING NORTH 37°47' 38" WEST ALONG SAID CANAL RIGHT-OF-WAY LINE FOR 1733.63 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 30; THENCE RUN NORTH 00°37' 00" WEST ALONG THE WEST LINE OF SAID SECTION 30 FOR 983.51 FEET TO THE NORTHWEST CORNER OF SAID SECTION 30; THENCE RUN NORTH 89°25' 03" EAST ALONG THE NORTH LINE OF SAID SECTION 30 FOR 5234.41 FEET TO THE NORTHEAST CORNER OF SAID SECTION 30 AND THE WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE; THENCE RUN SOUTH 02°23' 27" EAST ALONG THE EAST LINE OF SAID SECTION 30 AND THE WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE FOR 1360.60 FEET TO THE POINT OF BEGINNING;
CONTAINING 253.50± ACRES, MORE OR LESS.
BEARING ARE BASED ON THE EAST LINE OF SAID SECTION 30 AS BEARING NORTH 02°23' 27" WEST.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHT-OF-WAYS OF RECORD.

LEGAL DESCRIPTION FOR "CPD" ZONING:

A TRACT OR PARCEL OF LAND LYING IN SECTION 30, TOWNSHIP 44 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 30, RUN NORTH 02°23'27" WEST ALONG THE EAST LINE OF SAID SECTION 30 FOR 2670.84 FEET TO THE POINT OF BEGINNING, BEING ON THE WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE (50 FEET WIDE); THENCE RUN SOUTH 89°03' 17" WEST FOR 923.55 FEET; THENCE RUN NORTH 02° 23'20" WEST FOR 543.52 FEET; THENCE RUN NORTH 89°01'17" EAST FOR 325.51 FEET; THENCE RUN NORTH 02°23'20" WEST FOR 694.40 FEET; THENCE RUN NORTH 89°03'17" EAST FOR 600.00 FEET TO SAID EAST LINE OF SECTION 30 AND WEST RIGHT-OF-WAY LINE OF WILLIAMS AVENUE; THENCE RUN SOUTH 02°23'27" EAST ALONG SAID EAST LINE OF SECTION 30 AND WEST RIGHT-OF-WAY LINE FOR 1237.92 FEET TO THE POINT OF BEGINNING.
CONTAINING 21.11± ACRES, MORE OR LESS.
BEARING ARE BASED ON THE EAST LINE OF SAID SECTION 30 AS BEARING NORTH 02°23' 27" WEST.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHT-OF-WAYS OF RECORD.

OPEN SPACE TABLE
TOWN LAKES
COMMERCIAL PLANNED DEVELOPMENT

LDC SECTION 10-413(a): LARGE COMMERCIAL DEVELOPMENTS ARE REQUIRED TO PROVIDE 30% OPEN SPACE.

21.11± ACRES x 30% OPEN SPACE = 6.33± ACRES OPEN SPACE TO BE PROVIDED

LDC SECTION 10-413(c)(1): LARGE DEVELOPMENTS WITH EXISTING INDIGENOUS NATIVE VEGETATION, AT LEAST 50 PERCENT OF THE REQUIRED OPEN SPACE MUST BE DESIGNED TO PRESERVE THE EXISTING INDIGENOUS NATIVE VEGETATION.

6.33± ACRES OPEN SPACE TO BE PROVIDED x 50% TO BE EXISTING INDIGENOUS NATIVE VEGETATION = 3.17± ACRES OF INDIGENOUS NATIVE VEGETATION MUST BE PROVIDED.

LDC SECTION 10-413(c)(2) ALLOWS FOR INCENTIVES TO PRESERVE INDIGENOUS NATIVE UPLAND PLANT COMMUNITIES IN LARGE TRACTS, AND THIS WILL APPLY TO THIS DEVELOPMENT IF IN COMPLIANCE WITH THIS SECTION.

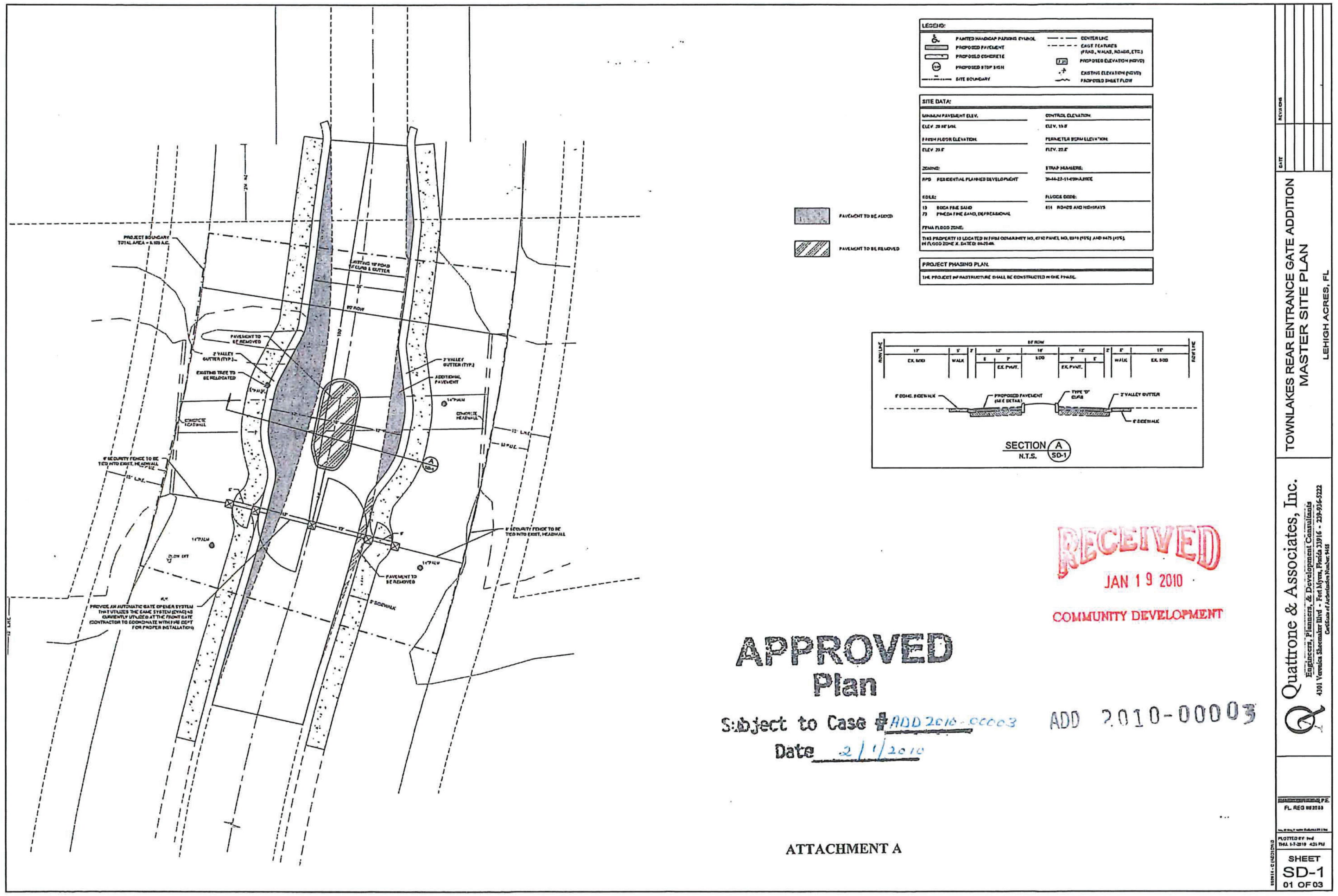
A MINIMUM OF 10% OPEN SPACE IS REQUIRED TO REMAIN ON-SITE. UP TO 90% OF THE OPEN SPACE AND PRESERVATION OF INDIGENOUS NATIVE VEGETATION CAN BE LOCATED ON THE RPD PROPERTY OR TO THE GOPHER TORTIOSE PERSERVE.

Town Lakes Planned Development (f/k/a Village on the Lakes) Master Concept Plan

Exhibit IV-E
March 28, 1998
Revised: August 13, 1998
September 27, 1998
January 16, 1999

Prepared For:
Enterprise Lehigh, Inc.
Gassner Development, Inc.
Village Associates, Inc.

Prepared By:
Kathy L. Morgan
Land Development Consultant
6747 Plantation Manor Loop
Fort Myers, Florida 33912
(941) 768-6677



APPROVED
Plan
Subject to Case # ADD 2010-00003
Date 2/1/2010

RECEIVED
JAN 19 2010
COMMUNITY DEVELOPMENT

ADD 2010-00003

ATTACHMENT A

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

a. *48-Hour Notice:* Email from MarySue Groth to Maria Perez and Hearing Examiner, with copies to Fred Drovdlic, Anthony Rodriguez, and Jamie Princing, dated Tuesday, April 30, 2024, 1:16 PM (multiple pages – 8.5"x11")

1. *DCD Staff Report with attachments:* Prepared by MarySue Groth, Planner, date received April 17, 2024 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

2. *Notice of Public Hearing:* For case number DCI2023-0004, Town Lakes CPD Amendment, date of hearing May 2, 2024, date of publication April 18, 2024 (1 page – 8.5"x11")

3. *PowerPoint Presentation:* Prepared by Lee County Staff for DCI2023-00044, Town Lakes CPD Amendment, dated May 2, 2024 (multiple pages – 8.5"x11")[color]

4. *Correspondence from Public:* Emails from Members of the Public to MarySue Groth (multiple pages – 8.5"x11")

APPLICANT EXHIBITS

1. *PowerPoint Presentation:* Prepared by RVI Planning and Landscape Architecture, for DCI2023-00044, Town Lakes CPD Amendment, Lee County Hearing Examiner, dated May 2, 2024 (multiple pages – 8.5"x11")[color]

2. *Master Concept Plan:* Prepared by Quattrone & Associates, Inc., for Town Lakes CPD Amendment (4 pages – 11"x17")[color]

3. *Master Concept Plan:* Prepared by Quattrone & Associates, Inc., for Town Lakes CPD Amendment (4 pages – 24"x36")[color]

4. *Written Submissions:* Email from Fred Drovdlic with RVI Planning and Landscape Architecture, to Maria Perez, Steve Cratin, Michelle Salberg, Al Quattrone, MarySue Groth, Rebecca Sweigert, Tracy Toussaint, Jamie Princing, Elizabeth Workman, Audra Ennis, Nicholas DeFlippo, Ohdet Kleinmann, Abby Henderson, Lee Werst, Warren Baucom, Mikki Rozdolski, Anthony Rodriguez, Dirk Danley, Jr, Phil Gillogly, Marcus Evans, and Jennifer Rodriguez, dated Monday, May 6, 2024, 10:41 AM (multiple pages – 8.5"x11" and 1 page 11"x17")[color]{post hearing submittal}

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. MarySue Groth

Applicant Representatives:

6. Steve Cratin

7. Fred Drovdlic

Public Participants:

8. Derek Felder

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.

C. Participants may not submit documents to the Board of County Commissioners unless they were marked as Exhibits by the Hearing Examiner. Documents must have the Exhibit number assigned at 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.

ATTACHMENT C

Town Lakes CPD Amendment – DCI2023-00044

Attachment C – Conditions and Deviations

A. CONDITIONS

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

6. Master Concept Plan/Development Parameters

MCP. The development of the CPD must be consistent with the four-page Master Concept Plan entitled "Townlakes CPD Amendment" except as modified by the conditions below. Development within the RPD must be consistent with the MCP approved by Resolution Z-99-022, as amended by ADD2010-00003.

Land Development Code and Lee Plan. Development must comply with the LDC and Lee Plan at time of development order approval, except as may be granted by deviation herein. Subsequent changes may require additional zoning approval.

Development Parameters:

a. Development within the RPD portion is limited to 425 dwelling units within the RPD approved by Resolution Z-99-022; and
b. Development within the CPD is limited to a maximum of 20,000 square feet of retail, 48,000 square feet of office, and ~~80,000~~ 220,000 square feet of mini-warehouse; and
c. Development within the remainder of the CFPD/RPD approved by Resolution Z-95-015 is limited to the units approved by ADD2000-00165.

7. Uses and Site Development Regulations

a. Schedule of Uses:

RPD
Accessory Uses and Structures
Accessory Apartment
Administrative Offices
Bed & Breakfast
Country Club, Private
Dwelling Units – maximum of 425 units, Duplex, Single-Family, Two-Family Attached
Entrance Gates and Gatehouses
Essential Service Facilities, Group I
Essential Services
Excavation, Water Retention
Fences & Walls
Home Occupations
Model Homes, Units, Display Center
Real Estate Sales Office, Temporary
Recreational Facilities, Personal, Private

Residential Accessory Uses
Signs
Temporary Uses

CPD
Accessory Uses and Structures
Administrative Offices
Automatic Teller Machine (ATM)
Banks and Financial Establishments, Groups I & II
Bed & Breakfast
Business Services, Group I & II
Caretaker's Residence
Cleaning & Maintenance Services
Clothing Stores, General
Clubs, Country, Commercial, Fraternal, Membership Organization, Private Consumption on Premises
Convenience Food & Beverage Store
Day Care, Child & Adult
Drive Thru Facility
Drugstore/Pharmacy
Essential Services
Essential Services Facilities, Group I
Excavation, Water Retention
Fences & Walls
Food & Beverage Services, Limited
Food Stores, Group I
Health Care Facilities, Groups I, II & Ill
Hobby, Toy and Game Shops
Insurance Companies
Laundry or Dry Clean, Group I
Lawn & Garden Supply Stores
Medical Office
Non-store Retailers, All Groups
Package Store
Parcel & Express Services
Parking Lot, Accessory, Commercial, Garage, Public
Personal Services, Groups I, II, Ill & IV
Pet Shop
Place of Worship
Post Office
Real Estate Sales Office
Recreation, Commercial, Groups I, Ill & IV
Repair Shops, Groups I & II
Restaurant, Groups I, II, Ill
Retail & Wholesale Sales, only when incidental & subordinate to a permitted principal use on the same premises
Self Service Fuel Pumps
Signs

Specialty Retail Shops, Groups I, II, Ill & IV
Storage, Indoor and Open
Temporary Uses
Variety Store
Warehouse, Mini-warehouse

b. Property Development Regulations:

RPD

Minimum lot area:	6,500 square feet *
Minimum lot width:	50 feet *
Minimum lot depth:	130 feet *
Minimum Street setback, front:	20 feet
Minimum Street setback, side:	15 feet
Minimum Side setback:	5 feet
Minimum Rear setback:	5 feet
Minimum Waterbody setback:	10 feet
Maximum building height:	35 feet or two stories, whichever is less
Maximum building coverage:	60 percent

Minimum Open Space: The residential tracts are not required to provide open space if the single-family lots have a minimum dimension of 6,500 square feet and the two-family attached provide an individual lot of 3,750 square feet for each dwelling unit. Forty percent open space must be provided if the residential lots do not meet minimum requirements of LDC Section 10-415, and 50 percent of that open space must be existing indigenous preservation.

*Corner Lot: 7,800 square feet, 60-foot width and 130-foot depth.

CPD

Property Development Regulations								
Tracts:	**A-N**	**A-S**	~~**A**~~	**B**	**C**	**D**	**E**	**F**
Min. Lot Size	20,000SF	20,000SF	~~20,000SF~~	20,000SF	20,000SF	20,000SF	20,000SF	20,000SF
Min. Lot Depth	100 FT	100 FT	~~100 FT~~	100 FT	100 FT	100 FT	100 FT	100FT
Min. Lot Width	100 FT	100 FT	~~100 FT~~	100 FT	100 FT	100 FT	100 FT	100 FT
Setback, accessory	5 FT	5 FT	~~5 FT~~	5 FT	5 FT	5 FT	5 FT	5 FT
Setback, street front	20 FT (1)	20 FT	~~20 FT~~	20 FT	20 FT	20 FT	20 FT	20 FT
Setback, street side	15 FT (2)	15 FT	~~15 FT~~	15 FT	15 FT	10 FT	15 FT	15 FT
Setback, min. side	15 FT	15 FT	~~15 FT~~	15 FT	15 FT	10 FT	15 FT	15 FT
Setback, min. rear	25 FT (3)	25 FT	~~25 FT~~	25 FT	25 FT	15 FT	25 FT	15 FT
Setback, min. waterbody	25 FT	25 FT	~~25 FT~~	25 FT	25 FT	25 FT	25 FT	25 FT
Max. Bldg. Height	45 FT	35 FT	~~35 FT~~	35 FT	35 FT	35 FT	35 FT	35 FT
Max. Bldg. Coverage	45%	45%	~~45%~~	45%	45%	45%	45%	45%
Min. Open Space	30%	30%	~~30%~~	30%	30%	30%	19%	29%

Notes:
(1) Williams Avenue
(2) Fountain Mist Boulevard
(3) West property line

3. Environmental Conditions

a. The development order application for each parcel must include a Gopher Tortoise Management Plan (GTMP) if gopher tortoises have been documented within that parcel. The GTMP must consist of on-site preservation within suitable native indigenous habitat or off-site mitigation as permitted by the ~~Florida Game and Fresh Water Fish Commission~~ Fish and Wildlife Conservation Commission (FWC). Gopher tortoise management plans must be approved by ~~Environmental Sciences~~ Development Services and must include, but are not limited to, the following elements:

i. On-site Preservation: The amount of gopher tortoise preservation areas within the planned development will be based upon occupied gopher tortoise habitat. The gopher tortoise preservation areas may be located within the parcel in which the tortoises are existing, or, in the alternative, gopher tortoise preservation areas may be situated within suitable habitat in other areas of the RPD, where tortoises may be relocated subject to permits from the ~~Florida Game and Fresh Water Fish Commission~~ FWC. ~~Environmental Sciences~~ Development Services staff must review and approve all proposed gopher tortoise preservation areas. The suitability of proposed preservation areas will be based upon the quality of foraging and burrowing habitat, the existence of gopher tortoises, the abutting proposed, or existing development uses, and proposed habitat management. Gopher Tortoise preservation areas may overlap with indigenous open space areas. The Developer will connect this preserve area to the existing gopher tortoise preserve area (to the north) as shown on the MCP.

ii. Off-site Mitigation: If the developer obtains an "incidental take" permit for off-site mitigation from the ~~Florida Game and Fresh Water Fish Commission~~ FWC to "take" any gopher tortoises within the property, the Developer must relocate the displaced tortoises

out of harm's way during construction activities. If ~~Florida Game and Fresh Water Fish Commission~~ FWC denies an "incidental take" permit, the Developer must comply with the "On-site Preservation" provisions of this condition.

(Staff Note: Existing condition approved by Resolution Z-99-022)

b. The lake enhancement planting plan that provides improved habitat for the Everglades kite entitled "Village at Lehigh Lakes Enhancement Plan" prepared by Boylan Environmental dated October 27, 1997 and revised November 21, 1997 is adopted, and must be implemented prior to issuance of a Certificate of Compliance for the phase of development containing the lake to be enhanced per the adopted plan.

(Staff Note: Existing condition approved by Resolution Z-99-022. Attachment R to the Staff Report)

4. Emergency Preparedness

a. Prior to local development order approval, the Developer/Applicant must establish a property owners' or residents' association for each residential component of this project. Th association must provide an educational program on an annual basis, in conjunction with the staff of Emergency Management, who will provide literature, brochures and speakers for Hurricane Awareness/Preparedness Seminars, describing the risks of natural hazards. The intent of this recommendation is to provide a mechanism to educate residents concerning the actions they should take to mitigate the dangers inherent in these hazards.
(Staff Note: Existing condition approved by Resolution Z-99-022)

b. Prior to local development order approval, the Developer/Applicant must formulate an emergency hurricane notification and evacuation plan. This plan will be subject to review and approval by the Lee County Office of Emergency Management.
(Staff Note: Existing condition approved by Resolution Z-99-022)

c. If access to this development or into portions of this development is through a security gate or similar device that is not manned 24 hours a day, the gate or device must be equipped with an override switch installed in a glass-covered box to be used by drivers of emergency vehicles to gain entry consistent with LDC Section 34-1749.
(Staff Note: Existing condition approved by Resolution Z-99-022)

d. The purchaser/end user of any parcel that will be used to store, manufacture, or use hazardous materials, must contact the Lee County Office of Emergency Management Hazardous Material Representative, to discuss the proposed development in relation to the potential type, use, and storage of hazardous materials, which will be located on the premises. The Developer/Applicant must provide proof to Lee County Development Services staff to show compliance with this condition prior to the issuance of occupancy approval for any parcel that could house such use.
(Staff Note: Existing condition approved by Resolution Z-99-022)

e. The Applicant must establish an emergency notification system for its residents and commercial employees to be used in the event of a hazardous material release. The

Developer/Applicant must provide proof to Lee County Development Services staff to show compliance with this condition prior to the issuance of occupancy approval for any parcel that could house such use.
(Staff Note: Existing condition approved by Resolution Z-99-022)

f. Purchaser/end users of the RPD must cooperate with the Emergency Management in determining and participating in a means to lessen this project's adverse impacts on the County's hurricane preparedness process and public safety. This could include the provision of equipment, money in lieu of equipment, or such other goods, material or actions deemed appropriate by Emergency Management that results in the provision of additional shelters, or the improvement of roads for use as additional evacuation routes. Final decision as to the choice of "means" rests with the purchaser/end-user.
(Staff Note: Existing condition approved by Resolution Z-99-022)

5. The Emergency/Secondary Access Road shown on the Master Concept Plan for the RPD must be paved to match the road standards in the remainder of the development.

(Staff Note: Existing condition approved by Resolution Z-99-022)

6. Hours of operation for the following uses are limited to 6:00 a.m. to 11:00 p.m. only:

Business Services, Group II
Convenience Food & Beverage Store
Personal Services, Group IV
Recreation Facilities, Commercial, any Group
Self Service Fuel Pumps
Specialty Retail, all Groups
(Staff Note: Existing condition approved by Resolution Z-99-022)

7. Any 24-hour use for commercial recreation facilities, or any fast-food restaurant must be located at least 250 feet from the property line of any residential use within the subject property, and at least 175 feet from the property line of any off-site abutting residential use. This distance limitation includes parking areas to support such uses.
(Staff Note: Existing condition approved by Resolution Z-99-022)

8. Outside speaker systems, loudspeakers, or public address systems for any use other than to facilitate a drive-thru operation are prohibited. Outside speaker systems, loudspeakers, or public address systems associated with any drive-thru use must be located a minimum of 250 feet away from any RPD zoned perimeter property line, and at least 175 feet from any off-site abutting residential use. Sound must be directed away from those perimeter property lines.
(Staff Note: Existing condition approved by Resolution Z-99-022)

9. Consumption on Premises use is approved in conjunction with a full-service restaurant only, and further:
    a. Outdoor seating in conjunction with a Consumption on Premises is prohibited; and
    b. Hours of operation are limited to 10:30 a.m. to 11:00 p.m.

(Staff Note: Existing condition approved by Resolution Z-99-022)

10. Deliveries to any businesses on this site between the hours of 10:00 p.m. and 6:00 a.m. are prohibited.
    (Staff Note: Existing condition approved by Resolution Z-99-022, attached to Staff Report as Attachment D)

11. Garbage or grease dumpsters may not be located within 200 feet of any RPD perimeter property line, or 200 feet of any off-site abutting residential use.
    (Staff Note: Existing condition approved by Resolution Z-99-022)

12. Interior (project) lighting must comply with LDC Sections 34-936(a) and 10-610(b), must be of the lowest intensity meeting life safety codes, and shielded and directed away from the adjacent residential area.
    (Staff Note: Existing condition approved by Resolution Z-99-022)

~~13. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.~~
    (Staff Note: Existing condition approved by Resolution Z-99-022. Condition has been struck as the statement is covered in the LDC)

13. Roadways must be built to county standards without deviations in order to be considered for acceptance for county maintenance. Acceptance for county maintenance is at the discretion of the Board of County Commissioners.
    (Staff Note: Existing condition approved by Resolution Z-99-022)

14. A Type "F" buffer must be provided along the entire boundary between the CPD and RPD areas.
    (Staff Note: Existing condition approved by Resolution Z-99-022)

~~15. Further development approvals for this project will be granted only upon a clear showing that the development is consistent with Lee Plan Goal 3 and will not cause the mandatory levels of service in Lee Plan Policy 70.1.3. to be exceeded. The granting of a Development Order will not release the property owner from obligations under the Privately Funded Infrastructure Overlay.~~
    (Staff Note: Existing condition approved by Resolution Z-99-022. Condition has been struck as concurrency requirements have been removed from the Lee Plan)

15. This property was the subject of a lawsuit captioned Lehigh Corporation v. Lee County, Case No. 85-5843 CA-EOF. The resulting Settlement Agreement executed in 1988 vested various unplatted parcels throughout Lehigh for urban densities and intensities. The County Attorney's Office has opined that the property subject to that Agreement is considered to be vested and exempt from the limitations imposed by the Lee Plan Planning Communities Map and Acreage Allocation Table. (Map 16 and Table 1(b)). Accordingly, acreage allocations for various land uses in the corresponding subdistrict does not restrict the issuance of development approvals for this parcel.
    (Staff Note: Existing condition approved by Resolution Z-99-022)

~~16. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.~~

(Staff Note: Existing condition approved by Resolution Z-99-022. Condition has been struck as the statement is covered in the LDC)

~~17. The "Bar & Cocktail Lounge" use was withdrawn from the Schedule of Uses by Applicant at the public hearing, but the MCP has not been revised to indicate such withdrawal.~~

(Staff Note: Existing condition approved by Resolution Z-99-022. Condition has been met)

~~18. Prior to the issuance of a local development order, the open space must be consistent with Exhibit H-2. B-1 regarding open space and parking dated December 1, 2011. (Attachment C).~~

(Staff Note: Existing condition approved by ADD2011-00081 modified to reflect new MCP, attached as Attachment D)

16. ~~Deviation 1 is approved for interior property lines with the exception of Tract A.~~ Prior to the issuance of a local development order for Tract A-S, a Type A buffer (five feet on width with four trees per 100 linear feet) must be provided adjacent to Tracts B -F.

(Staff Note: Existing condition approved by ADD2011-00081 modified to be consistent with new MCP)

~~19. Deviation 2 above is approved permitting shared parking within the entire CPD, subject to demonstrating that all future development and use of this property must provide off-street parking in accordance with the Lee County Land Development Code.~~

(Staff Note: Existing condition approved by ADD2011-00081. Condition has been struck as the statement is covered in the LDC)

17. ~~Deviation 4 is approved for Tract D only. This tract~~ Tract D may be permitted one (1) ground mounted sign limited to a maximum of 100 square feet and a maximum height of 10 feet.

(Staff Note: Existing condition approved by ADD2011-00081)

18. Prior to issuance of the first development order, the development order plans must depict 6.69 acres of open space over the entirety of the CPD. Open space on individual tracts within the CPD must be substantially consistent with the Open Space Plan provided as Sheet 4 of the Master Concept Plan.

19. Prior to the issuance of the first development order, the development order plans must demonstrate all commercial storage will be shielded behind a continuous visual screen at least eight feet in height when visible from a residential use or Residential Zoning District, and six feet in height when visible from any street right-of-way or street easement.

B. DEVIATIONS

1. WITHDRAWN. ~~Property Development Regulations: Deviation (1) seeks relief from LDC Section 34-695 establishing the property development regulations for conventional one- and two-family residential districts, to allow the adoption of the Property Development Regulations shown on the MCP.~~

(Staff Note: Existing deviation approved by Z-99-022. Withdrawn. LDC allows for planned developments to create property development regulations)

2. Property Development Regulations: Deviation (2) seeks relief from the LDC Section 34-935(e)(4) requirement to provide a minimum building separation of one-half the sum of the building heights or 20 feet, to allow a 10-foot minimum separation between buildings.
   (Staff Note: Existing deviation approved by Z-99-022)

3. Property Development Regulations: Deviation (3) seeks relief from the LDC Section 34-2222(1) requirement that corner lots have a 15-foot increased lot width, to allow for an increase of only 10 feet.
   (Staff Note: Existing deviation approved by Z-99-022)

4. Property Development Regulations: Deviation (4) seeks relief from the LDC Section 10-328(a) requirement to provide a 20-foot-wide maintenance easement around water ways, to allow a 15-foot-wide maintenance easement. This deviation is approved subject to the following condition:

   The applicant/developer must submit suitable documentation of "no objection" to the reduced easement width from the South Florida Water Management District, prior to development order approval.
   (Staff Note: Existing deviation approved by Z-99-022)

5. Property Development Regulations: Deviation (5) seeks relief from the LDC Section 10-329(d)(1)a.3. requirement to provide a 50-foot-wide setback for water retention lakes from any private property line under separate ownership, to delete this requirement within the overall Town Lakes project boundaries only. This deviation is approved, subject to the applicant/developer establishing covenants pertaining to the continued maintenance and operation of the water retention areas, prior to development order approval. These covenants must be reviewed and approved by Development Services Staff and the County Attorney's Office prior to recording in the public records. Recording costs will be the developer's responsibility.
   (Staff Note: Existing deviation approved by Z-99-022)

6. WITHDRAWN: Deviation (6) - WITHDRAWN AT PUBLIC HEARING

7. Property Development Regulations: Deviation (7) seeks relief from the LDC Section 10-421 (a)(5) [note citation is different than that shown on the MCP], provision prohibiting the placement of required trees or shrubs in any utility, power or street easement or right-of-way, to allow required trees or shrubs to be planted within an easement or right-of-way area.

   This deviation is APPROVED, subject to the following conditions:

   1) If any of the required buffer plantings that are installed within an easement have to be removed, the developer or property owner must replace these plantings with like size (at the time replacement is required) and species at no expense to Lee County. This requirement must be clearly stated in any deed restriction documents.

2) To avoid conflicts with overhead utility lines, only small trees, less than 20 feet in height at maturity, may be used directly adjacent to an overhead line.
(Staff Note: Existing deviation approved by Z-99-022)

8. Property Development Regulations: Deviation (8) seeks relief from the LDC Section 10-418(2) provisions setting forth the minimum requirements for native wetland herbaceous plants, to:

   a) Exempt the shoreline length of the northern boundary of George Canal and the large lake in the northwestern corner of the property from this requirement; and

   b) Allow native wetland trees to be substituted for up to 50 percent rather than the required 25 percent of the total number of required herbaceous plants; and

   c) Allow one tree or five shrubs to be substituted for fifty herbaceous plants rather than the required ten herbaceous plants.

   This Deviation is APPROVED, on the condition that up to 50 percent of the required littoral planting is provided by trees and/or shrubs, with one tree or two shrubs being substituted for every ten of the required herbaceous plants.
   (Staff Note: Existing deviation approved by Z-99-022)

9. WITHDRAWN: Deviation (9) - WITHDRAWN AT PUBLIC HEARING.

10. TURN-AROUND: Deviation (10) requests relief from LDC Section 34-1748(5) which requires a paved turn-around provided on the ingress side of the gate or gatehouse, having a turning radius sufficient to accommodate a U-turn for a single unit truck (SU) as specified in the AASHTO Green Book current addition, to allow development of an alternate turn-around, as depicted on the site plan approved by ADD2010-00003.

    This deviation is approved subject to the condition that the proposed access gate must be an electric gate opener that is acceptable to Lee County and the Lehigh Acres Fire Control & Rescue District, and the gate is subsequently maintained by the homeowner's association to permit access for the residents of the development and the fire district.
    (Staff Note: Existing deviation approved by ADD2010-00003)

11. BUFFERS: Deviation (11) seeks relief from LDC Section 10-416(d)(3), which requires commercial use abutting a commercial use to provide a Type 'A' buffer between the uses, to allow no required buffers between tract/lots.
    (Staff Note: Existing deviation approved by ADD2011-00081)

12. PARKING: Deviation (12) seeks relief from LDC Section 34-2020(2), which requires minimum parking spaces for types of uses per development, to allow the parking calculations to be totaled not by tract/lot, but according to the overall parking for the entire CPD.
    (Staff Note: Existing deviation approved by ADD2011-00081)

13. STREET ACCESS: Deviation (13) seeks relief from LDC Section 10-291(1), which requires street access designed so as not to create remnants and landlocked areas, unless those areas are established as common areas, to allow Tract D as a commercial lot.

(Staff Note: Existing deviation approved by ADD2011-00081)

14. SIGNS: Deviation (14) seeks relief from LDC Section 30-153(2)(c), which restricts individual occupants to have individual ground-mounted identification signs, to allow each lot to have one ground-mounted identification sign not to exceed 100 square feet and 10 feet in height.

    This deviation was approved for Tract D only, subject to condition 17.
    (Staff Note: Existing deviation approved by ADD2011-00081)

15. OUTDOOR STORAGE: Deviation (15) seeks relief from LDC Section 34-1352(c)(1), which requires all buildings and structures part of a development engaged in the outdoor storage of vehicles (for rent) be set back 50 feet from the street and 40 feet from the side yard, to allow the existing mini warehouse building on the eastern border to remain set back at 15.87 feet and the existing building on the western border to remain setback at 27.67 feet.
    (Staff Note: Existing deviation approved by ADD2014-00095)

16. OUTDOOR STORAGE: Deviation (16) seeks relief from LDC Section 34-1352(c)(3), which requires all buildings and items covered by this section that are displayed or offered for rent must be setback 100 feet from any existing residence or residentially zoned property, to allow the proposed open storage of rental vehicles to be located behind the 8-foot wall at 81.41 feet from the abutting RPD to the north.
    (Staff Note: Existing deviation approved by ADD2014-00095)

17. REFUSE AND RECYCLABLE STORAGE: Deviation (17) seeks relief from LDC Section 10-261(a), which requires all new construction of commercial businesses to provide 216 square feet for the first 25,000 square feet of building area plus 8 square feet for each additional 1,000 square feet of building area of sufficient on-site space for the placement of garbage containers or receptables, to allow a reduction based on the first 25,000 square feet only.

    This deviation is approved subject to the following conditions: Use of the refuse area is limited to office operations only. At time of development order, a copy of the lease agreement showing that tenants are prohibited from the use of the on-site dumpsters must be submitted. The deviation is limited to the warehouse use only on Tract A-N.

18. PARKING: Deviation (18) seeks relief from LDC Section 34-2020(b), which requires mini-warehouse uses to have one parking space (1) space per 25 storage units, to allow a five (5) percent reduction in required parking spaces, pursuant to criteria in LDC Section 34-2020(c)(3) for bicycle and pedestrian facilities.

    Staff recommends approval of the deviation.

19. ACCESS: Deviation (19) seeks relief from LDC Section 34-2013(b)(3), which requires a 35-foot maximum entrance width at the property line, to allow a 54-foot entrance width at Williams Avenue right-of-way boundary.

    Staff recommends denial of the deviation.

20. ACCESS: Deviation (20) seeks relief from LDC Section 10-285(a), which states all lots in urban areas with access alternatives will not be granted access to an arterial or major collector, to allow an access on Williams Avenue and closure of the access on Fountain Mist Boulevard/Liriope Loop.

Staff recommends approval of the deviation limited to Tract A-N only.

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

CASE NUMBER: DCI2023-00044
TYPE OF CASE: Commercial Planned Development Amendment
CASE NAME: Town Lakes CPD Amendment
TOTAL ACREAGE AFFECTED BY REQUEST: 3.39+/- acres
SUFFICIENCY DATE: February 28, 2024
HEARING EXAMINER DATE: May 2, 2024

REQUEST:
Rvi Planning + Landscape Architecture on behalf of Arcland Property Company, LLC, has filed an application to amend the Town Lakes CPD (Resolution Z-99-022, as amended), to allow a maximum of 220,000 square feet of floor area dedicated to Mini-warehouse and Storage, open, for RV/boat storage and allow 35-foot building heights on 3.39+/- acres identified as Parcel A-N of the Master Concept Plan (Attachment D), located at 619/625 Williams Avenue in Lehigh Acres.

The subject property is within the Central Urban Future Land Use Category established by the Lee County Comprehensive Plan (the Lee Plan). The STRAP number of the subject property is 30-44-27-17-0000A.0000. The sketch and legal description for the property may be found as Attachment Q.

The applicant has requested four (4) deviations from Land Development Code (LDC) requirements related to refuse and solid waste disposal facilities, parking, access width, and required street access (Attachment I).

The applicant held a public information meeting for the request pursuant to the requirements of **LDC Section 33-1401** and provided staff with minutes from the meeting (Attachment P). The meeting was advertised in the Ft. Myers News-Press on November 11, 2023, and held on November 16, 2023, at the Lehigh Acres Architectural, Planning and Zoning Review Board (LAAPZRB).

The applicant has provided an approved Submittal Requirement Waiver (GEN2023-00366 – Attachment J) for Soils Maps, Existing Flowways Map, FLUCCS Map(s), Rare and Unique Habitat Map, Environmental Report & Protected Species, and Traffic Impact Statement (TIS). Staff approved the waiver for the Soils Map, Existing Flowways Map, Topography and Rare & Unique Habitat Map, but denied the request to waive the FLUCCS Map and Environmental Report & Protected Species Survey. The TIS waiver request was approved with the condition the applicant provide supplementary documentation that demonstrates the reduction of traffic-related effects resulting from the proposed development.

SUMMARY:
Staff recommends **APPROVAL** of the applicant's request and deviations with Conditions found in Attachment C.

PARCEL HISTORY:
Approximately 21.1+/-acres of land, including the subject property, were rezoned from Agricultural (AG-2) to Residential Planned Development, Commercial Planned Development (CPD), and Community

Facilities Planned Development (CFPD) by Resolution Z-95-015. Resolution PD-97-058 amended the Schedule of Uses by reducing the Senior Housing component from 900 units to 575 units, and the Neighborhood Retail use from 48,000 square feet to 20,000 square feet and increased the Single-Family Housing component from 105 units to 425 units. The amendment also reduced the Single-Family Estate minimum lot size from 20,000 square feet to a minimum lot size of 7,500. Resolution Z-99-022 rezoned 73.5 acres from the CFPD/RPD, 170 acres from RPD, and 10 acres from CPD to an RPD, and rezoned 21.1 acres including the subject property from the CPD to CPD to allow a maximum of 20,000 square feet of office and 80,000 square feet of mini-warehouse uses, as depicted in Attachment E. Subsequent amendments to Resolution Z-99-022 are as follows:

Table 1: Amendments to Resolution Z-99-022

Case Number	Summary
ADD2011-00005	Approved addition of Consumption on Premises with the use of Club, fraternal.
ADD2011-00081	Amended the Master Concept Plan establishing Lots A-F, and revised property development regulations.
ADD2014-00095	Approved addition of Rental or Leasing Establishments, Groups III and IV, and Storage, open, to the schedule of uses.

The subject parcel lies within the northern portion of the CPD and is the last remaining undeveloped parcel in the CPD. The following table depicts previously approved development orders for the commercial planned development.

Existing Development Table

Case Number	Project Name	Description	Square Feet
DOS2002-00110	Town Lakes Commercial PHAA	Approved mini-warehouse square footage, 2-story office building, multi-purpose recreational facility, tennis pro-shop, lockers and courts, restaurant and parking, and infrastructure improvements.	65,825 SF
LDO2014-00440	Town Lakes Mini-Storage	Approved open storage for abatement of violation.	0 SF
DOS2021-00079	Providence Church	Approved two-phase construction of infrastructure for two buildings (12,625-square-foot and 15,000-square-foot, single-story buildings) associated with a place of worship.	27,625 SF

EXISTING CONDITIONS:

As previously stated, the subject property is the last remaining undeveloped parcel with the CPD. Surrounding development includes the Town Lakes RPD to the north and west, and a fraternity club, a tennis facility, and a storage facility with a parking lot within the same CPD to the south, and single-family residential (RS-1) properties to the east.

ANALYSIS:
LDC Section 34-145 establishes the review criteria for requests for amendments to a planned development. Before recommending approval, 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.

The applicant has provided a request statement addressing the motive of the amendment and analysis of the decision-making criteria (Attachment G). The following sections provide staff's analysis of the request, as measured by the review criteria.

a. Lee Plan Compliance

The parcel is located in the Central Urban Future Land Use Category, as established by the Lee Plan. The Central Urban future land use category is described as *"the "urban core" of the County. These areas are already the most heavily settled and have, or will have, the greatest range and highest level of public services."* Pursuant to **Policy 1.1.3***,* the project site is in an area that encourages mixed use development, and the proposed project provides service to the surrounding community. Mini-warehouse, and Storage, open are existing allowable uses within the Schedule of Uses in the CPD, and the increase in square footage is consistent with the goals of the Central Urban future land use category. The proposed development will serve the surrounding community and will remain compatible with other uses in the area. Staff finds the proposed amendment to the CPD, as conditioned, consistent with **Policy 1.1.3** of the Lee Plan.

Objective 2.1 of the Lee Plan promotes contiguous and compact growth to contain urban sprawl. The proposed increase in commercial square footage in the CPD will allow infill development that promotes compact growth patterns. **Objective 2.2** and **Policy 2.2.1** discuss new growth in future urban areas in proximity to available road networks and where adequate public facilities exist or are assured. The

planned development is located on the southwest corner of Fountain Mist Boulevard/Liriope Loop and Williams Avenue. Access is proposed to be provided from Williams Avenue via a shared access that will be constructed on the property to the south. Existing infrastructure of water and sewer is in place, and utilities are available to the site. Adequate public facilities including fire, police, EMS, and solid waste serve the property. Staff finds the request consistent with **Objective 2.1, Objective 2.2, and Policy 2.2.1** of the Lee Plan.

The applicant has provided a Letter of Availability from the Florida Governmental Utility Authority, Attachment O, stating potable water and sewer lines are in operation adjacent to the property, and that sufficient capacity exists to provide service based on the estimated flow demand provided at time of submittal, fulfilling requirements of **Standards 4.1.1 and 4.1.2** of the Lee Plan. The applicant provided an approved waiver for submittal requirements (GEN2023-00366) for providing a Soils Map, Existing and Historic Flow Ways Map, Rare and Unique Habitat Map, and Topographic Map. An updated Protected Species Survey and FLUCCS Map were provided, Attachment K, in compliance with **Standard 4.1.4: Environmental Factors**. Staff finds the request is consistent with **Standards 4.1.1, 4.1.2, and 4.1.4** of the Lee Plan.

A 30-foot Type F Buffer is proposed along the western boundary at the subject property, abutting the Town Lakes Subdivision. The development design places water management between the subdivision and the closest building, leaving a minimum of 200 feet from residential uses to the single-story storage building. Business hours of the storage facility are proposed to be limited to 6am to 10pm. The mini-warehouse and storage, open use are existing allowable uses with the Town Lakes CPD and have already been determined to be compatible with existing and planned residential uses, pursuant to **Policy 5.1.5**. Staff finds the request consistent with **Policy 5.1.5** of the Lee Plan.

Goal 6 of Lee Plan seeks to permit orderly and well-planned commercial development at appropriate locations within the County. The property is located within an established CPD, with other nearby existing CPD, CFPD, RPD, and RS-1 zoning districts. The applicant has provided a trip generation analysis for the proposed amendment that concluded a reduction of 1,700 square feet of retail use in the CPD will allow for a decrease in overall trips from the original Town Lakes CPD approval with the requested amendment (See Attachment M). The applicant provided an MCP (Attachment D) depicting adequate landscaping and buffering. Urban services such as potable water, sanitary sewer, fire/EMS, police protection, public parks and public transit are available to serve the proposed development. As previously mentioned, mini-warehouse and storage, open are already established allowable uses within the CPD, and the applicant has modified the design based on the public input from the public information meeting to assure compatibility. There are no wetlands on the site, and drainage has been established as part of the plat, fulfilling **Policy 6.1.1.** As previously mentioned, the parcel is located within an existing CPD, which abuts the same CPD to the south, RS-1 properties to the east and north, along with CFPD/RPD to the west, consistent with **Policy 6.1.4 and Policy 6.1.7**. The current roadway network is adequate to support the proposed development, and the applicant provided a traffic memo concluding that a reduction in retail use will allow a decrease in overall trips, and that no additional impacts will result from the request, fulfilling **Policy 6.1.5.** Staff finds the request consistent with **Lee Plan Goal 6, Objective 6.1, and Policies 6.1.1, 6.1.4, 6.1.5, and 6.1.7.**

Goal 25 establishes the Lehigh Acres Community Plan, ensuring that continued development and redevelopment converts the largely single use, antiquated pre-platted area into a vibrant residential and commercial community. The subject property resides in the Commercial Overlay Zone as depicted on Lee

Plan Map 2-B, where commercial uses are permitted, per **Policy 25.6.1.** Access to the development will be located on Williams Avenue. These design considerations fulfill the requirements of providing adequate access to the site established by Lee Plan **Objective 25.8**. Per the provided Florida Governmental Utility Authority letter (Attachment O), potable water and sanitary sewer capacity are available pursuant to **Policy 25.9.1**. The applicant held a public information meeting pursuant to the requirements of **LDC Section 33-1401** for the request and provided staff with minutes from the meeting (Attachment P). The meeting was advertised in the Ft. Myers News Press on November 11, 2023, and held on November 16, 2023, at the Lehigh Acres Architectural, Planning and Zoning Review Board (LAAPZRB). Staff finds the request is consistent with **Goal 25, Policy 25.6.1, Objective 25.8, and Policy 25.9.1** of the Lee Plan.

Goal 61 of the Lee Plan is to provide sufficient performance and/or design standards for development protective of the function of natural drainage systems. The applicant indicated the site is part of a master drainage system and will be served by conveyance swales to the system, fulfilling **Policy 61.1.1**. Staff finds the request consistent with **Policy 61.1.1.**

Goal 125: Water Quality is to ensure that water quality is maintained or improved for the protection of the environment and people of Lee County. As previously mentioned, the applicant stated the amendment to the existing CPD will not change the current development and the established water management system will need to comply with water quality requirements at time of local development order, fulfilling **Policy 125.1.2. and Policy 125.1.3.** Staff finds the request consistent with **Goal 125 and Policy 125.1.2 and Policy 125.1.3.**

Goal 158 states Lee County will achieve and maintain a diversified and stable economy by providing positive business climate that assures maximum employment opportunities while maintaining high quality of life. The proposed mini-storage allows for business and employment opportunities to the Lehigh Acres area, while providing a service to the surrounding community. Through public input, the applicant modified the access design to ensure safety to the abutting residential neighborhoods, ensuring quality of life. Staff finds the request consistent with **Goal 158**.

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

The applicant has acknowledged that at the time of development, Land Development Code and other applicable county regulations will be required and considered. The applicant has requested and justified the following four (4) deviations for the request (Attachment I):

Deviation 17 seeks relief from LDC Section 10-261(a), which requires all new construction of commercial businesses to provide 216 square feet for the first 25,000 square feet of building area plus 8 square feet for each additional 1,000 square feet of building area for sufficient on-site space for the placement of garbage containers or receptables, to allow a reduction based on the first 25,000 square feet only. The applicant has justified the request stating the rules regarding the size of a dumpster enclosure are based on retail and office developments that create a larger amount of garbage. Self-storage facilities are intended for the purpose of storing personal property and attract low foot traffic, which in turn, produces less garbage than a typical retail facility. The proposed 140,000-square-foot building would require an 1,136-square-foot area for solid waste and recyclables. The applicant stated only office staff will be permitted to access the refuse area, and tenants will be prohibited from use of the dumpster, justifying a 128-square-foot area for the dumpster and recycling space. The applicant stated Waste Management recommended a 1-to-4-yard garbage dumpster with one (1) pickup per week, and a 1-to-2-yard recycle

dumpster with one (1) pickup per week. The deviation will not negatively impact public health, safety or welfare based upon the nature of the commercial usage and limitations.

Staff recommends approval of the deviation subject to a condition limiting use of the refuse area to office operations only. At time of development order, a copy of the lease agreement showing that tenants are prohibited from the use of the on-site dumpsters must be submitted. The deviation shall apply to the mini-warehouse use only on Tract A-N.

Deviation 18 seeks relief from LDC Section 34-2020(b), which requires mini-warehouse uses to have one (1) space per 25 storage units, to allow a five (5) percent reduction in required spaces, pursuant to criteria from LDC Section 34-2020(c)(3) for bicycle and pedestrian facilities. The applicant's justification states the project abuts Williams Avenue, which has a sidewalk on the west side of Williams Avenue abutting the property, which connects directly to a shared use path along Lee Boulevard, just over one-half mile south according to Lee Plan Map 3-D. At time of development order, the project will be required to have a link between the Williams Avenue sidewalk and the building, as well as a bike rack at the building entrance.

Staff recommends approval of the deviation.

Deviation 19 seeks relief from LDC Section 34-2013(b)(3), which requires a 35-foot maximum entrance width at the property line, to allow a 54-foot entrance width at the Williams Avenue right-of-way boundary. The applicant's justification states that the limited right-of-way and entrance radius required for proper circulation of fire trucks requires a wider entrance design.

Staff recommends DENIAL of the deviation based on the limited information provided to demonstrate that the request will protect the public health, safety, and welfare. The applicant may pursue this deviation at time of development order.

Deviation 20 seeks relief from LDC Section 10-285(a), which states all lots in urban areas with access alternatives will not be granted access to an arterial or major collector, to allow access on Williams Avenue and the closure of the access on Fountain Mist Boulevard/Liriope Loop. The applicant's justification notes that the Town Lakes CPD has an established access onto Fountain Mist Boulevard/Liriope Loop from original zoning Resolution Z-95-015 (Attachment E). The applicant held the required public information meeting with the Lehigh Acres Area Planning and Zoning Review Board on November 16, 2023, where members from the Town Lakes RPD spoke of their concern of traffic and endangering child safety with access from the Fountain Mist Boulevard/Liriope Loop existing access (Attachment P). Fountain Mist Boulevard is the primary entrance for the RPD, and the road also serves as a primary pickup and drop off point for the Lee County School District. The public stated that approximately 25 different bus stops occur daily in the morning and afternoon for elementary and middle school aged children, and due to this concern, the LAAPZRB did not approve the initial design of the proposed project. The applicant subsequently revised the purchase contract to allow for a shared driveway to be placed on the abutting property to the south (Providence Church) that would be constructed by the applicant to remove commercial traffic from Fountain Mist Boulevard. The applicant revised the MCP and site design to accommodate the change and presented again to the LAAPZRB and public on January 23, 2024, where the new design was unanimously approved.

Staff recommends approval of the deviation based on applicant justification, which is responsive to the public input received as part of the public information session.

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

The property is located within an established Commercial Planned Development (CPD), with other nearby existing CFPD/RPD, CPD, and RPD zoned districts. All uses, as conditioned, are compatible with the surrounding area. The property also resides within the Commercial Overlay District, and the mini-warehouse development will provide the services needed to the surrounding community.

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

The planned development is located on the southwest corner of Fountain Mist Boulevard/Liriope Loop and Williams Avenue, with proposed access from Williams Avenue. The Lee County Department of Transportation provided a Transportation-Related Analysis (Attachment N) stating the proposed project will adversely affect the surrounding roadway system.

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

The applicant provided an approved waiver (GEN2023-00366) from providing the required Traffic Impact Statement with a condition that the applicant provide supplementary documentation that demonstrates the reduction of traffic-related effects resulting from the proposed development. The applicant provided a trip generated analysis (Attachment M) that stated a reduction in 1,700 square feet of retail use in the CPD would allow for the construction of 140,000 square feet of mini warehouse uses and would represent a decrease in overall trips from what was approved in the original Town Lakes CPD approval. Staff recommends a modification to the previously approved development parameters to reflect this analysis (Attachment C). In addition, the applicant's traffic analysis states the surrounding road network is adequate to support the proposed development (Attachment M).

f. Will not adversely affect environmentally critical or sensitive areas and natural resources:

As previously mentioned, the applicant provided an approved waiver from submittal requirements (GEN2023-00366) for providing a Soils Map, Existing Historic Flow Ways Map, Rare and Unique Habitat Map, and Topographic Map. The applicant provided an updated Protected Species Survey and FLUCCS Map (Attachment K). The applicant indicated the site is part of a master drainage plan, and that the existing ERP will be amended at the time of development to meet local and state requirements.

County environmental staff provided a report analyzing the request (Attachment L), and made the following findings:

Open Space

Resolution Z-99-022 requires 30 percent open space for large commercial developments, per the associated MCP, and required the entirety of the CPD area to provide 6.33 acres of open space. The development regulations stated 90 percent of the open space and preservation areas can be located on the RPD property and existing gopher tortoise preserve. Subsequent amendment ADD2011-00081 required 6.69 acres of open space for the CPD area. The CPD area is providing 6.69 acres of open space, which meets the minimum required open space criteria. The following breakdown lists the open space being provided for each Tract:

- Tract A-N = 1.02 acres
- Tract A-S (A-1 & A-2) = 1.74 acres
- Tract B = 0.99 acres
- Tract C = 0.83 acres
- Tract D = 0.27 acres
- Tract E = 0.32 acres
- Tract F = 1.52 acres

Staff recommends the following open space condition to ensure that 6.69 acres of open space is provided:

Prior to the issuance of the first development order, the development order plans must depict 6.69 acres of open space over the entirety of the CPD. Open space on individual tracts within the CPD must be substantially consistent with the Open Space Plan provided as Sheet 4 of the Master Concept Plan (Attachment D).

Indigenous Open Space Preservation

Resolution Z-99-022 demonstrated a gopher tortoise preserve on the RPD portion of the planned development. The environmental consultant did not observe any indigenous vegetation or protected species on the subject parcel (Attachment K). The CPD has already established open space and follows the prior resolution. There are no indigenous habitats on the CPD portion of the property. Per LDC Section 10-415(b), no indigenous preserve is required within the CPD boundary of the planned development.

Buffers

The proposed development (Tract A-N) abuts single-family residential along the west, a right-of-way to the north and east, and commercial to the south. The required buffers are as follows:

East – Williams Avenue right-of-way is located along the east property boundary. LDC Section 10-416(d) requires a 15-foot Type D buffer. The applicant is demonstrating compliance with LDC Section 10-416(d).

West – Resolution Z-99-022 required a Type F buffer along the entire boundary between the CPD and RPD. LDC Section 33-1405 typically requires a 25-foot buffer where commercial developments abut single-family uses. The conditioned buffer from Resolution Z-99-022 is greater than the required buffer per current Land Development Code standards. The applicant is providing the required enhanced buffer per Condition 15 of Resolution Z-99-022. (Condition 15 as codified in Attachment C).

North – Fountain Mist Boulevard right-of-way is located along the north property boundary. LDC Section 10-416(d) requires a 15-foot Type D buffer. The applicant is demonstrating compliance with LDC Section 10-416(d).

South – LDC Section 10-416(d) and 33-1405(c)(3) require a 5-foot Type A buffer when commercial uses abut commercial uses. The applicant is providing a 5-foot Type A buffer along the commercial property to the south.

Staff recommends the following buffering/screening condition to ensure that open storage is being screened appropriately:

Prior to the issuance of the first development order, the development order plans must demonstrate all commercial storage will be shielded behind a continuous visual screen at least eight feet in height when visible from a residential use or Residential Zoning District, and six feet in height when visible from any street right-of-way or street easement.

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

The parcel is located in the Central Urban Future Land Use Category, as established by the Lee Plan. The following services are available to accommodate the request:

Utilities
The applicant has provided a Letter of Availability from the Florida Governmental Utility Authority stating potable water and sewer lines are in operation adjacent to the property, and that sufficient capacity exists to provide service based on the estimated flow demand provided at time of submittal (Attachment O).

Fire and EMS
Lehigh Acres Fire District, Station #102, located at 44 Homestead Road is approximately 2.11 miles away.

Sheriff
Lee County Sheriff's East District is located at 1299 Homestead Road approximately 1.1 miles away.

Solid Waste
The property is within Unincorporated Lee County Solid Waste's service area.

Public Transit
The nearest Lee Tran Bus Stop is number 10852 at Lee Boulevard and Hazelwood Avenue, approximately 1.33 miles away.

Public Schools
The property is within the Lee County School District South Zone, District Area 5. There is no residential development proposed by this request.

Planned Development Findings and Conclusion:

Staff has reviewed the request and finds:

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

The property is located within an established Commercial Planned Development (CPD), with other nearby existing CFPD/RPD, CPD, RPD, and RS-1 zoning districts. The project site is in a designated area for varying intensities that provides a full range of commercial uses as established in the Town Lakes CPD. Mini-warehouse, and Storage, open are existing uses consistent with the CPD and the Lee Plan.

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

The recommended conditions provide sufficient safeguards to the public interest and relate to the impact the request will have on the surrounding land uses.

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.

The applicant has requested four (4) deviations from Land Development Code (LDC) requirements, (Attachment I).

Staff recommends approval of the deviations with conditions set forth in Attachment C, finding that the deviations meet the criteria for approval.

CONCLUSION

The requested amendment to allow a maximum of 220,000 square feet of self-storage uses (mini-warehouse and storage, open) in the existing Town Lakes CPD is consistent with the Lee Plan and Land Development Code as conditioned. The proposed amendment is consistent with the surrounding commercial development within the Central Urban Future Land Use category as established by Lee Plan, and the Town Lakes CPD. Staff has concluded that the request, as conditioned, will not result in negative impacts to urban services, infrastructure, or surrounding property. The subject property is sufficiently served by urban services. The request will not impact any wetland preserves or flood hazard area; or adversely affect environmentally critical or sensitive areas on natural resources. The request allows for support of existing mixed uses and is appropriate for the location and establishes sufficient safeguards to the public interest. Each requested deviation enhances the achievement of the objectives of the planned development and preserves and promotes the general intent of the LDC to protect the public health, safety, and welfare. Therefore, staff recommends **APPROVAL** of the applicant's request, as conditioned in Attachment C.

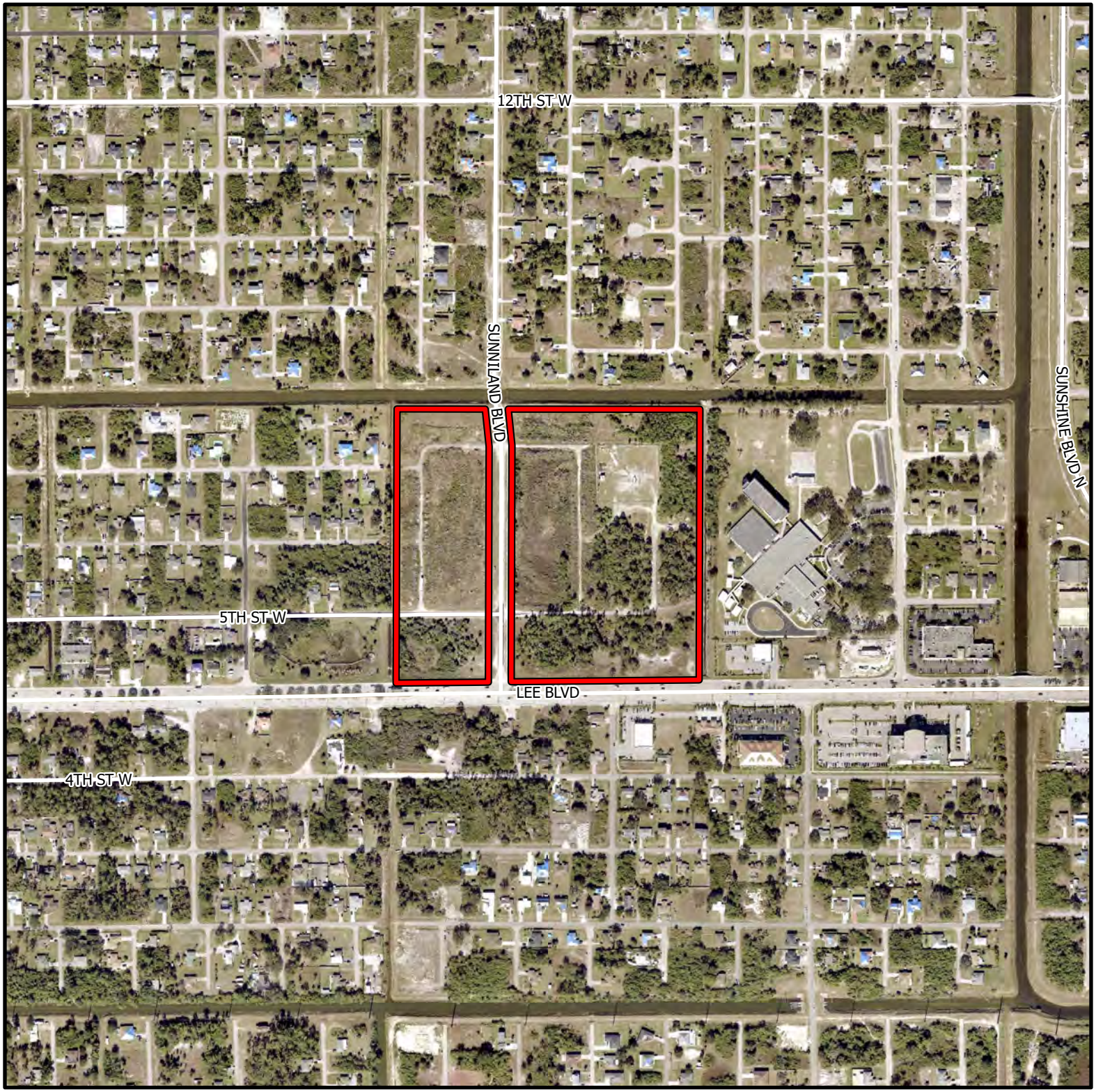
ATTACHMENTS

Attachment A – Lee County Expert Witness Information
Attachment B – Case Maps
Attachment C – Conditions and Deviations
Attachment D – Master Concept Plan Composite (Townlakes CPD Amendment, MCP Resolution Z-99-022, ADD2010-00003)
Attachment E – Prior Zoning Approvals (Resolution Z-95-015, PD-97-058, Resolution Z-99-022, ADD2010-00003, ADD2011-00005, ADD2011-00081, and ADD2014-00095)
Attachment F – Plat (Town Lakes Commercial, Instrument Number 2013000076648)
Attachment G – Applicant's Narrative
Attachment H – Applicant's Schedule of Uses and Site Development Regulations
Attachment I – Applicant's Deviations and Justifications
Attachment J - Waiver Approval (GEN2023-00366)
Attachment K – Protected Species Survey and FLUCCS
Attachment L - Environmental Staff Report
Attachment M – Trip Analysis
Attachment N – DOT Transportation-Related Analysis
Attachment O – Letter of Availability
Attachment P – Public Information Meeting Summary
Attachment Q – Legal Description
Attachment R – Villages at Lehigh Lakes Enhancement Plan

DCI2023-00010 SUNNILAND TOWN CENTER CPD

Staff Summary

CASE NUMBER & NAME:	DCI2023-00010 / Sunniland Town Center CPD
REQUEST:	Request to amend the Sunniland Town Centre CPD (Resolution Z-06-090) to revise the master concept plan to permit a mixed use commercial and residential development consisting of either 265,000 square feet of commercial and 100,000 square feet of Warehouse (Mini) uses; or 100,000 square feet of commercial uses and 300 residential dwelling units.
RESOLUTION NUMBER:	Z-24-012
LOCATION:	3614 & 3650 5th St. West, Lehigh Acres Planning Community, Lee County, FL.
OWNER:	Jes Family, LLC and Lee Sunniland, LLC
APPLICANT:	WMG Development
AGENT:	Daniel DeLisi, AICP DeLisi, Inc. 520 27th Street West Palm Beach, FL 33407
HEARING EXAMINER RECOMMENDATION:	Approve, subject to the conditions and deviations set forth in Exhibit B.
PARTICIPANTS (4):	1. Rahim Ahmadi 2. Marsha Ellis 3. Derek Felder 4. Deborah Wilkison



DCI2023-00010

Aerial

Subject Property

N
W E
S

0 250 500 750 1,000
Feet

Lee County
Southwest Florida

Summary of Hearing Examiner Recommendation

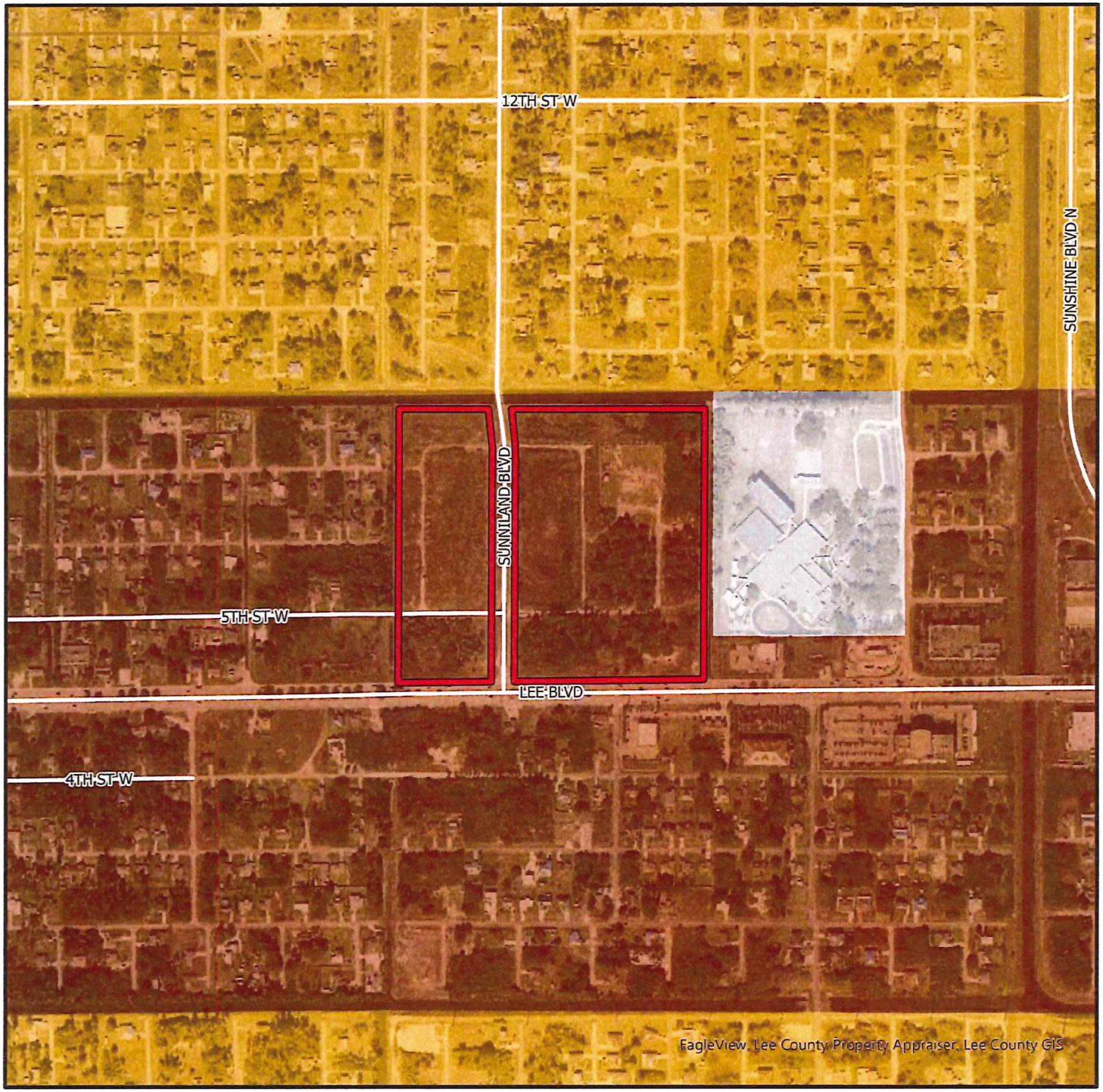
SUNNILAND TOWN CENTER CPD
Amendment

The request seeks to amend a CPD first approved by the Board in 2006. Proposed development parameters include commercial, mini-warehouse, and potentially up to 300 multi-family dwelling units. Maximum building heights will be 45 feet for residential uses and 35 feet for commercial.

The property is located at the confluence of two intense land use designations: Central Urban and Mixed Use Overlay. This combination of land designations are suitable for high density and mixed use development.

The Economic Element of the Lee Plan directs the County to strive for a diversified economy to ensure maximum employment opportunities. The element also directs the county to ensure development of a variety of housing options to support a diverse workforce. The proposed amendment to the CPD features a mixed use project incorporating commercial and residential land uses in furtherance of these Lee Plan directives.

Detailed recommendation follows



DCI2023-00010

Future Land Use

Subject Property

Central Urban

Urban Community

Public Facilities

N

W E

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0 250 500 750 1,000

Feet

Lee County

Southwest Florida

DCI2023-00010

Aerial

Subject Property

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0 250 500 750 1,000
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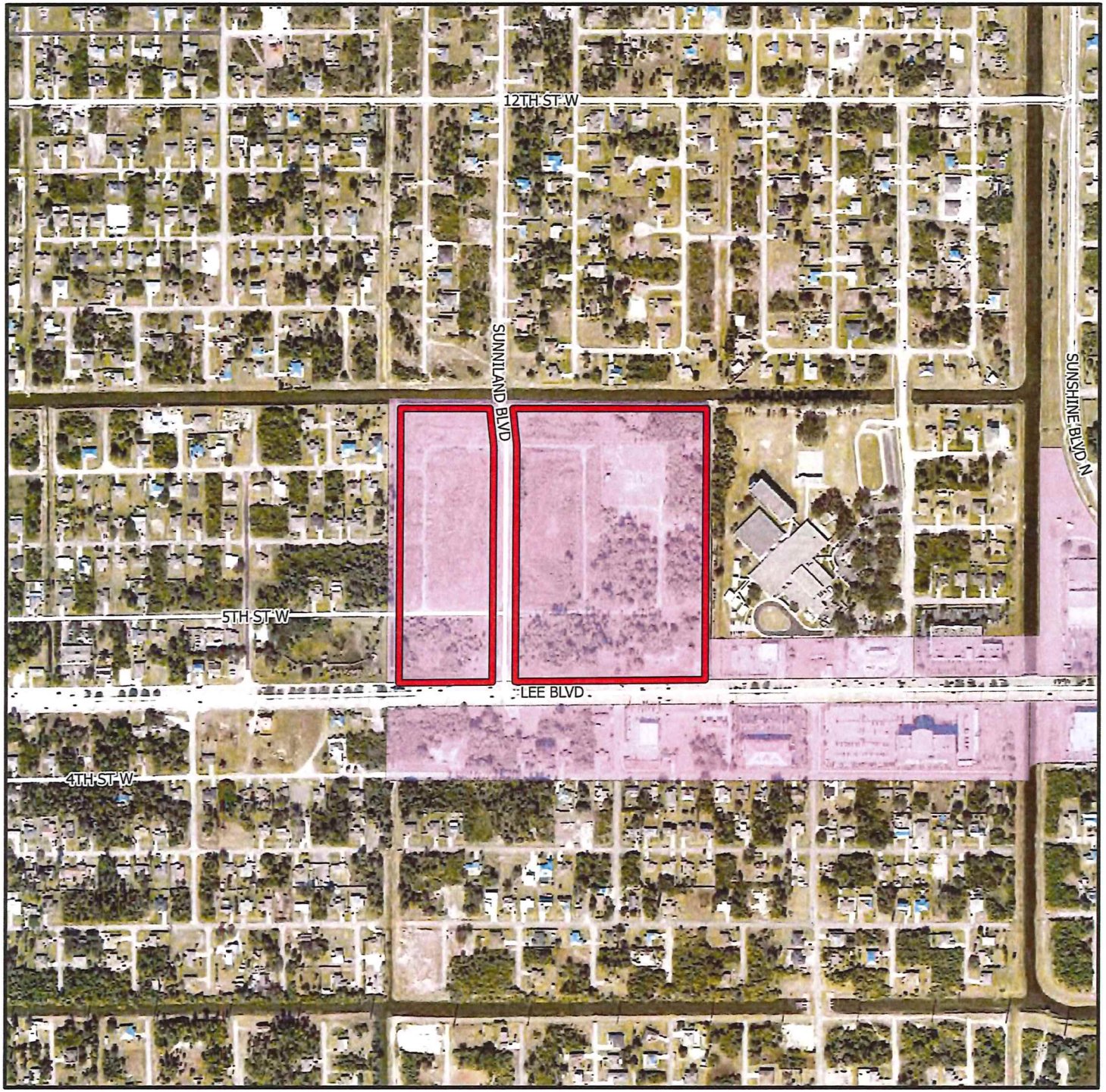
Lee County
Southwest Florida



DCI2023-00010

Mixed Use Overlay

Subject Property

Mixed Use Overlay

N
W E
S

0 250 500 750 1,000
Feet

Lee County
Southwest Florida

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2023-00010

Regarding: **SUNNILAND TOWN CENTER CPD**

Location: 3614 and 3650 5th Street West
Lehigh Acres Planning Community
(District 5)

Hearing Date: April 25, 2024
Record Closed: May 6, 2024

I. Request

Amend Sunniland Town Center CPD to change schedule of uses, property development regulations, provide restoration to abate violations, and revise Master Concept Plan (MCP).

The application pursues two development options.

Option One: 265,000 square feet of commercial floor area and 100,000 square feet of Mini Warehouse uses.

Option Two: 100,000 square feet of commercial floor area, 100,000 square feet of Mini Warehouse, and 300 residential dwelling units.

The property legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approve, subject to the conditions and deviation 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 to the planned development zoning district.[1] In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on an application to amend the zoning approvals

[1] LDC §34-145(d)(4) a.

of the Sunniland Commercial Planned Development (CPD). Staff recommended approval with conditions.

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

Discussion supporting the Hearing Examiner's recommendation of approval with conditions follows below.[2]

Request

Applicant seeks to amend the 33.31 acre Sunniland CPD zoning approvals including its MCP.[3] The zoning request also addresses outstanding code violations through conditioning. Sunniland Boulevard bisects the property forming two separate development tracts. The proposed MCP divides the west tract into an anchor parcel and two outparcels.[4] The tract east of Sunniland Boulevard hosts an anchor parcel with three outparcels.[5] All outparcels front on Lee Boulevard.

The MCP reflects the following development parameters:

Option One: 265,000 sq. feet commercial floor area and 100,000 sq. feet mini-warehouse.

Option Two: 100,000 sq. feet commercial floor area, 100,000 sq. feet mini-warehouse, and 300 multifamily dwelling units

The west anchor parcel is designated for commercial land uses. The east anchor parcel is designated for up to 300 multi-family residential units or commercial.

Maximum building heights by land use: 45 feet residential, 35 feet commercial.[6]

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[2] Hearing Examiner codified conditions and deviations from prior approvals, eliminating those no longer applicable.

[3] Parcel size derived from legal description provided by the Applicant. *See* Staff Report Attachment B: Legal Description

[4] The west portion of the CPD is roughly 11.7 +/- acres and includes an area butting Angelfish Canal denoted as dry detention and restoration.

[5] The east portion of the CPD is roughly 20.5 +/- acres. The MCP depicts a dry detention and restoration area along the north boundary abutting Angelfish Canal. A 1.2 acre preserve lies midway between Angelfish Canal and Lee Boulevard. *See* MCP.

[6] Buildings outside of Lehigh's Specialized Mixed-Use Nodes are limited to a maximum of three stories or 45 feet unless greater heights are approved by deviation. LDC 33-1417.

History

The property is located at 3614 and 3650 5th Street W Lee Boulevard in Lehigh Acres.

The Sunniland CPD is located north of Lee Boulevard, approximately ½ mile west of Sunshine Boulevard. The property is vacant, partially cleared, and with native and exotic vegetation. The original CPD approved in 2006 authorized up to 232,000 square feet of commercial uses not to exceed 35 feet in height.[7] Original approvals included two deviations from the LDC.[8]

The Board adopted the Lehigh Acres Planning Community LDC regulations in 2012, and later designated the entire property within the Mixed Use Overlay. [9]

The property owner closed an onsite oil well in 2023.[10]

The property is subject to outstanding code violations pertaining to land clearing without permits and a nuisance accumulation of horticultural and other debris.[11]

Lee Plan

The Lee Plan regulates land development activity.[12] The Future Land Use Map divides the County into future urban, nonurban, and environmentally sensitive areas. All development must be consistent with the Lee Plan including the Future Land Use Map.[13]

The property's future land use designation is Central Urban.[14] Central Urban areas are heavily settled with access to the greatest range and highest levels of public services.[15] An array of land uses are permissible in Central Urban area.[16] The Lee Plan encourages mixed use development in this category.[17] Standard density

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[7] Z-06-090 approved January 29, 2007.
[8] *Id.*
[9] Existing approved planned developments may be voluntarily brought into compliance with the community plan. LDC 33-1402.
[10] Staff Report Attachment G: FDEP Oil & Gas Program Oil Well Plug. Florida Department of Environmental Protection Oil and Gas Program monthly inspection checklist for Permit #841 notes placement of a well cap on June 5, 2023.
[11] VIO 2021-00378, VIO 2021-06268, and VIO 2021-06269.
[12] LDC §34-491.
[13] Lee Plan Policy 2.1.2; LDC §§34-411(a), 34-491: Rezonings must be consistent with Lee Plan goals, objectives, and polices. Potential conflicts between the Lee Plan and the LDC must be resolved in favor of the Lee Plan.
[14] Property designated Central Urban are considered Future Urban Areas. *See* Lee Plan Chapter XIV: Glossary definition of Future Urban Areas.
[15] Lee Plan Policy 1.1.3.
[16] Residential, commercial, public and quasi-public, and limited light industrial land uses are permissible in the Central Urban category. *Id.*
[17] Lee Plan Policies 1.1.3, 11.1.1, 11.1.2, *See also* Lee Plan Objective 11.1.

ranges from four to 10 units per acre. Maximum total density is typically 15 units per acre but may be as high as 20 units per acre using Greater Pine Island Transfer of Development Units.[18] The request seeks a project density of 10 units per acre using the entire site acreage as permitted in the Mixed Use Overlay.[19]

Development in Lehigh Acres is subject to a Community Plan. The Lehigh Acres Community Plan emphasizes development of vibrant commercial and employment centers, and pedestrian friendly mixed use activity centers.[20] The property also lies within a Commercial Overlay zone.[21]

The Lee Plan Economic Element directs the County to strive for a diversified economy to ensure maximum employment opportunities.[22] The element also directs the county to ensure development of a variety of housing options to support a diverse workforce.[23] The CPD amendment proposes a mixed use project incorporating commercial and residential land uses in furtherance of these Lee Plan directives.

Mixed Use Overlay

The site is located within the Lehigh Commercial Overlay and Mixed Use Overlay, where the Lee Plan encourages an integrated mix of uses.[24] Property in the Mixed Use Overlay is desirable for mixed use development due to proximity to transit, shopping, and employment centers.[25] The 33.31 acre site provides opportunities for large scale commercial/mixed use development within a community otherwise dominated by single family platted lots.[26]

A range of infrastructure and services are available to the property, including potable water, sanitary sewer, transit, medical facilities, schools, law enforcement, fire, and emergency medical services.[27] Lee Tran Route 110 travels along Lee Boulevard with an existing transit stop in front of the site.[28] Sidewalks and a shared use path connect to similar facilities on Gunnery Road.[29]

The property is located at the confluence of two intense land use designations: Central Urban and Mixed Use Overlay. This combination of land designations are

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[18] Lee Plan Policy 1.1.3.
[19] Lee Plan Objectives 11.1, 11.2, Policies 5.1.6, 11.1.1, 11.1.2, 11.2.1, 11.2.7.
[20] Lee Plan Goal 25. *See also* Goal 158.
[21] Lee Plan Objective 25.6, Policy 25.6.1. Lee Plan Map 2-B.
[22] Lee Plan Goal 158. Objective 158.2, Policy 158.2.1.
[23] Lee Plan Objective 160.1, Policy 160.1.3.
[24] Lee Plan Map 1-C: Mixed Use Overlay. The Mixed Use Overlay allows urban forms of development, which encourages maximizing land area on the site. Lee Plan Policy 11.2.5.
[25] Lee Plan Objectives 11.1 , 11.2, Policies 11.2.1, 39.1.3, 39.2.1, *See* Lee Plan Goal 25, Policies 25.3.1, 25.4.1.
[26] Lee Plan Goal 25; Staff Report Attachment W: Environmental Staff Report. *See* LDC §34-145(d)(4)a.2.a)
[27] Lee Plan Objectives 2.1, 2.2. and 4.1.
[28] Lee Plan Policy 39.1.3.
[29] Lee Plan Policies 39.6.4, 43.1.1, Lee Plan Map 3-D: Lee County Walkways & Bikeways.

suitable for high density and mixed use development.[30] The Lee Plan encourages compact and contiguous development patterns in areas with services and infrastructure.[31] Therefore, the property is ideally suited for intense development.[32]

Compatibility

The County evaluates compatibility during zoning.[33] Compatibility exists when land uses exist in proximity and no one use unduly negatively impacts another.[34] Planned development zoning is useful when integrating new development with surrounding land uses.[35] The planned development zoning district allows flexibility in site design to address potential incompatibilities with neighboring development.[36]

Properties surrounding the site are zoned for residential and commercial development.[37] Angelfish Canal forms the north boundary of CPD.[38] Development patterns north of the canal consist of platted single family lots, some of which are developed with homes. Lee Boulevard lies to the south followed by platted single family lots and a Family Dollar store. Sunshine Elementary and a CPD lie to the east.[39] A Lehigh Acres Municipal Services Improvement District (LAMSID) drainageway forms the west boundary of the property. Further west is LAMSID property improved with a boardwalk and nature trails.[40] Property north of the LAMSID park includes scattered residential land uses on platted lots.

Appropriate intensity is determined on a case-by-case basis in accordance with the Lee Plan and nature of surrounding land uses.[41] Proposed development parameters include commercial, mini-warehouse, and potentially up to 300 multi-family dwelling units. Maximum building heights will be 45 feet for residential uses and 35 feet for commercial.[42]

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[30] Lee Plan Goal 24, Policy 5.1.6.
[31] The project constitutes infill development . Lee Plan Objectives 2.1, 2.2, Policies 1.1.3, 2.2.1, 2.2.2, 6.1.1, 6.1.7, 39.1.3, *See* Lee Plan Glossary definition - infill.
[32] Lee Plan Objectives 2.1, 2.2, Policies 1.1.3, 6.1.7; The request is consistent with the Central Urban future land use designation and location in a Mixed Use Overlay.
[33] LDC §34-145(d)(4).
[34] Florida Statutes s. 163.3164(9); Lee Plan Policy 135.9.6.
[35] LDC §34-612(2).
[36] *Id.*
[37] Surrounding properties and zoned RS-1 and CPD. The project constitutes infill development and is consistent with development patterns in the area.
[38] The Lehigh Acres Municipal Service Improvement District (LAMSID) manages the canals.
[39] The CPD is improved with an Automobile Repair and Service operation.
[40] LAMSID owns and manages the preserve area.
[41] LDC §34-413.
[42] The Lehigh Community planning regulations limit building height outside Lehigh's Specialized Mixed-Use Nodes to a maximum of three stories or 45 feet unless greater heights are approved by deviation. LDC §33-1417. The request does not request a deviation from height limitation.

The MCP uses creative site design to protect neighboring residential land uses with open space, stormwater management areas, and landscaping.[43] The design addresses potential incompatibilities with surrounding land uses.[44] Mini-warehouse is a low traffic generator, and not anticipated to create offsite impacts.[45]

Architectural requirements in Lehigh Acres ensure building facades include architectural relief.[46]

LDC

Development must comply with the LDC or request deviations. A "deviation" is a departure from a land development regulation.[47]

The requested amendment includes one deviation. Applicants must demonstrate deviations enhance the project and will not cause a detriment to the public.[48] Staff recommended approval of the deviation. The Hearing Examiner agrees with this recommendation. [49]

Development in the Lehigh Acres Planning District is subject to the Lehigh Acres Community Plan.[50] Community specific LDC regulations require zoning applications to conduct a public hearing in the community prior to the Hearing Examiner hearing.[51] Applicant conducted an advertised neighborhood meeting at LAMSID Offices.[52] Future development orders will also be subject to community review.[53]

The 2006 approval of the Sunniland Town Centre CPD predated adoption of the Lehigh Community Plan and corresponding LDC regulations.[54] Developers of

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[43] Staff Report Attachment MCP. The MCP depicts buffers in accordance with LDC §§10-425, 33-1405(c) and 34-411(h). *See also* Lee Plan Policy 61.3.8.
[44] Lee Plan Policies 5.1.5, 6.1.4, LDC §34-411(i).
[45] *Mini-warehouses are buildings designed to provide induvial storage units with separate exterior doors as the primary means of access. The storage units must be used solely as dead storage depositories for personal property, inventory, and equipment and not for other uses. Mini-warehouses further regulated by LDC §§34-3001* et seq, *and 34-2020(b) which address lighting, setbacks, and parking.*
[46] LDC §33-1416(1). *See also* LDC §10-620(c).
[47] LDC §34-2.
[48] LDC §34-373(a)(9).
[49] The Hearing Examiner may recommend approval, approval with modifications or denial of deviations based on findings that a deviation (1) enhances the planned development and, (2) preserves/promotes public health, safety, and welfare. LDC §34-377(a)(4).
[50] Lee Plan Goal 25 and supplemental development regulations in LDC §33-1400 *et seq*. Future development permits, including development orders, must comply with community standards.
[51] LDC §33-1401(a)(2).
[52] Staff Report Attachment R: Public Informational Meeting Summary. Meeting held at Lehigh Acres Municipal Services Improvement District Offices on June 22, 2023.
[53] The LDC requires development order and building permit applications to comply with the Lehigh Acres Planning Community regulations. LDC §33-1400(d). *See also* LDC §33-1401(a).
[54] The Board adopted the Lehigh Community Plan March 3, 2010 (Ordinance 10-16) and corresponding LDC regulations on January 10, 2012 (Ordinance 12-01).

existing planned developments may *voluntarily* comply with subsequently adopted community specific development criteria.[55]

Environmental/Natural Resources

Rezoning requests must not adversely affect environmentally critical/sensitive areas or natural resources.

The site is vacant with native and exotic vegetation. The MCP devotes over 23% of the site to open space, more than half of which will consist of indigenous vegetation.[56] The proposed Preservation Area Management Plan restores 2.3 acres of uplands with native vegetation typically found in indigenous pine flatwood habitats.[57]

Applicant's protected species survey disclosed 28 Gopher Tortoise burrows.[58] The gopher tortoise and its burrow are protected by Florida law.[59] The law requires relocation of gopher tortoises prior to development activity. The property owner must secure authorization from the Florida Wildlife Commission (FWC) to relocate gopher tortoises to an approved recipient site in accordance with FWC Gopher Tortoise Permitting Guidelines.[60]

Development of the property will impact a small quantity of wetlands. Applicant must secure a formal jurisdictional determination from the South Florida Water Management District prior to construction.[61]

Restoration areas along the north property line will screen the project from dwellings north of Angelfish Canal. The MCP complies with or exceeds LDC landscape buffer requirements along remaining project boundaries. Development order submittals ensure buffers and landscaped areas follow Xeriscape principles.[62]

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[55] LDC §33-1402.
[56] Lee Plan Goal 77, Objective 77.2, Staff Report MCP depicts 8.14 acres of open space representing 23% of the site. Approximately 3.5 acres of the open space will be indigenous preservation and restoration areas.
[57] Lee Plan Policy 25.10.4; Restored uplands will be located within dry detention areas. Proposed vegetation will be species adapted to frequent short term inundation and long periods of dry conditions. *See* Staff Report Attachment U: Sunniland Preservation Area Management Plan dated October 2023 prepared by Owen Environmental Consulting, LLC.
[58] Staff Report Attachment W: Environmental Staff Report and Protected Species Survey & Florida Bonneted Bat Roost Survey for Lehigh Sunniland dated May 2023 prepared by Owen Environmental Consulting, Inc. The survey disclosed no other protected species on the property.
[59] Chapter 68A-27 FAC.
[60] Lee Plan Policy 123.8.1. An updated species survey is required during development order permitting.
[61] *Id.* If the districts determines there are more wetlands than the environmental consultant observed, Applicant must update the MCP or mitigate through state and federal permitting procedures.
[62] Lee Plan Objective 126.2, Policy 126.2.1. Required landscape buffers must consist of native landscape to conserve water.

Perimeter dry detention areas will provide water quantity, quality, and attenuation of storm water flow.[63]

Evidence in the record confirmed decommissioning of an onsite oil well in 2023. Applicant's representative testified that Environmental Site Assessments conducted on the property disclosed no evidence of contamination.[64]

The Hearing Examiner finds the requested amendments to the CPD will not harm environmentally critical/sensitive areas or natural resources.[65]

Transportation

Requests to rezone property must provide access sufficient to support the proposed development and address impacts to transportation facilities through County regulations and conditions of approval.

The property is located at the intersection of Lee and Sunniland Boulevards.[66] Lehigh Acres planning community regulations discourage direct access to Lee Boulevard.[67] Accordingly, the MCP depicts access drives to Sunniland Boulevard and connections to Fifth Street West.[68]

The Traffic Impact Statement (TIS) is based on the highest trip generation rates associated with the development.[69] As a mixed use project, interaction between uses potentially reduces trip generation. This interaction is called "internal capture." Internal capture means trips typically coming from external sources will originate from the project, reducing project impact on surrounding roadways.

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[63] Lee Plan Policies 25.10.4, 61.3.8, 61.3.11, 61.3.12, 125.1.3 .

[64] Testimony of Darenda Marvin: Transcript Pages 171-172. Ms. Marvin testified two recent Phase One Environmental Site Assessments on the Sunniland site confirmed no evidence of contamination. One of the Environmental Site Assessments pertained specifically to the oil well parcel because of its history of contamination due to a spill. Ms. Marvin testified that the property owner took corrective action to remediate the spill, which was accepted by the State. She testified the more recent Phase One Environmental Site Assessment of the oil well parcel disclosed no evidence of contamination.

[65] Lee Plan 125.1.2.

[66] Lee Boulevard is a County maintained arterial. Sunniland Boulevard is a county maintained collector roadway. Lee County Administrative Code AC 11-1.

[67] Lee Plan Policy 25.8.1; LDC §33-1414(1). Commercial development adjacent to Lee Boulevard must provide access to Fifth Street West or other roadway. Direct vehicular access to Lee is permissible if the property has no direct or indirect access to public roadways and the driveway is shared with cross access to adjacent parcels.

[68] The MCP depicts an extension of Fifth Street West from its current terminus to the east property boundary. *See* MCP and Staff Report Attachment Q: LCDOT Staff Memo prepared by Md Rakibul Alam, Transportation Planner, Principal dated March 25, 2024.

[69] The combination of uses generating the greatest trips was of 265,000 square feet of retail land uses and 100,000 square feet of mini-storage. Staff Report Attachment P: Traffic Impact Statement for Sunniland CPD Lehigh Acres prepared by TR Transportation Consultants, Inc. revised January 4, 2024, and Staff Report Attachment Q: LCDOT Staff Memo prepared by Md Rakibul Alam, Transportation Planner, Principal dated March 25, 2024.

The TIS projects Gunnery Road will operate at poor LOS at buildout in 2028 both with and without the proposed development. For this reason, Gunnery Road is considered a pre-existing transportation deficiency. As such, the project is not responsible for mitigating impacts to the roadway.[70]

Similarly, the TIS projects the intersection of Lee and Sunniland Boulevards will operate below adopted levels of service. Although this condition is also considered a pre-existing deficiency, staff and Applicant agreed to a condition requiring submittal of a signal warrant projection based on buildout traffic conditions.[71]

The TIS concludes the project will not negatively impact area roadways at buildout.[72] The County's transportation planner concurred with this assessment subject to the recommended condition on signalization of the Sunniland intersection.[73]

Road impact fees will adequately address project impacts to the County network. Further analysis of transportation impacts, including site related turn lane improvements, will occur during development order permitting.

The proposed CPD amendment is consistent with Lee Plan directives to develop high intensity land uses on parcels abutting transit corridors.[74] Lee Tran Route 110 runs along Lee Boulevard.[75] Project design must comply with LDC requirements to facilitate transit access.[76]

Public Services and Infrastructure

Public services include facilities, capital improvements, and infrastructure necessary to support development.[77] The Lee Plan requires an evaluation of public services during the zoning process.[78]

Public services and infrastructure are available to serve the site.[79] The project will have access to the road network via Sunniland Boulevard. Florida Governmental

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[70] *Id.*
[71] *See* Exhibit B, Condition 8.
[72] Staff Report Attachment P.
[73] Staff Report Attachment Q.
[74] Lee Plan Policies 39.1.3, 39.2.1, 43.1.3; *See also* Lee Plan Policy 158.3.1.
[75] Lee Plan Map 3-C: 2045 Financially Feasible Transit Network. *See* Lee Plan Policy 43.1.1.
[76] LDC §10-442(b) requires projects proposing 30,000 square feet or greater commercial floor area must provide a paved walkway to the nearest bus stop and install a bicycle storage rack, signage, and a landing pad within the road right of way or dedicated easement. *See also* Lee Plan Policy 43.1.1.
[77] Public services and infrastructure available to serve the project will include public water and sewer, paved streets, parks and recreation facilities, libraries, police, fire and emergency services, urban surface water management, and schools. Lee Plan Objective 4.1, Standards 4.1.1, 4.1.2, 4.1.4.
[78] Lee Plan Policy 2.2.1.
[79] Staff Report Attachments G, L. *See* Lee Plan Goal 95, Policies 2.2.1, 5.1.3, 6.1.1, 6.1.4, Standards 4.1.2., 4.1.3.

Utility Authority (FGUA) will provide potable water and sanitary sewer service.[80] The Lehigh Acres Fire District is available to provide fire protection and emergency medical services from Stations 103 and 104 on Gunnery Road and 16th Street SW. Lee County Sheriff provides law enforcement services from a station located on Homestead Road.

Lee Tran operates a bus route 110 on Lee Boulevard.[81] The project will be integrated with surrounding development by automobile, transit, pedestrian, and bicycle connections.[82] Lee Boulevard is also improved with sidewalks and on-road bikeways.[83]

Development will be subject to road, park, school, fire, and emergency medical service impact fees.[84]

Conditions

The County must administer the zoning process so proposed land uses minimize adverse impacts on adjacent property and protect County resources.[85] Conditions must be plausibly related to the project's anticipated impacts, and pertinent to mitigating impacts to the public.[86] The CPD is subject to conditions addressing impacts anticipated from development.[87] Notable conditions include participation in a Signalization Agreement, sidewalk improvements, and buffers.

Hearing Examiner revised conditions/deviation for clarity, compliance with state law and to remove LDC references applicable to development by Condition 1.

Public

Four members of the public spoke at hearing. Concerns centered on compatibility, traffic, and disruption of gopher tortoise habitat.

Conclusion

The Hearing Examiner recommends approval of the requested amendments to the Sunniland CPD, subject to conditions in Exhibit B.

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[80] Staff Report Attachment L. Lee Plan Objective 4.1, Policy 25.9.1, Standards 4.1.1, 4.1.2.
[81] Lee Tran Route 110 originates at the Edison Mall and continues to Homestead Road. *See* Staff Report Pages 4,7. Lee Plan Policy 39.2.1.
[82] Lee Plan Policies 39.1.3, 39.2.1.
[83] The road corridor is also part of the Charlotte-Lee-Hendry Trail. Lee Plan Maps 3-D, 4-E.
[84] LDC Chapter 2, Article VI.
[85] Lee Plan Policies 5.1.5, 135.9.6; LDC §§34-145(d)(4) a.2.(b), 34-377(a)(3), 34-411, and 34-932(c).
[86] LDC §34-932(b).
[87] LDC §§34-83(b)(4) a.3, 34-377(a)(2)c; Lee Plan Objective 77.3, Policies 5.1.5, 6.1.4.

The Hearing Examiner finds the proposed CPD amendments meet LDC criteria and, as conditioned, is compatible with surrounding development.[88]

IV. Findings and Conclusions

Based on the testimony and exhibits presented in the record, the Hearing Examiner finds:

A. The requested amendment to the Sunniland CPD is consistent with the Lee Plan. Lee Plan Goals 2, 4, 5, 6, 11, 25, 77, 95, 158, Objectives 2.1, 2.2, 4.1, 5.1, 6.1, 11.2, 25.6, 25.8, 77.2, 126.2, 158.2, 160.1, and Policies 1.1.3, 2.1.1, 2.1.2, 2.1.3, 2.2.1, 2.2.2, 5.1.2, 5.1.3, 5.1.5, 6.1.1, 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 11.1.2, 11.2.1, 11.2.5, 11.2.7, 25.6.1, 39.1.3, 135.9.6, 158.2.1, 160.1.3, Lee Plan Maps 1-A, 1-B, 1-C, 2-A, 2-B, 3-C, 3-D, Table 1(a), 1(b)

B. As conditioned, the CPD amendment:

1. Is consistent with the LDC or qualifies for deviations. LDC Chapters 2, 10, 33, and 34.

2. Is compatible with existing or planned uses in the surrounding area. Lee Plan Objectives 2.1, 2.2, 11.1, 11.2, and Policies 1.1.3, 5.1.3, 5.1.5, 5.1.6, 6.1.4, 11.1.1, 11.2.1, 25.6.1, 135.9.5, 135.9.6; LDC §§34-411, 34-413.

3. Provides sufficient road access to support proposed development intensity. Lee Plan Objective 25.8, Policies 6.1.5, 25.8.1, 39.6.4, 43.1.1, 158.3.1.

4. Expected impacts on transportation facilities will be addressed by County regulations and conditions of approval. Lee Plan Objectives 11.2, 39.1, Policies 38.1.1, 39.1.3, 39.2.1, 43.1.1, 43.1.3, 158.3.1; LDC §§2-261 *et seq.*, 34-411.

5. Will not adversely affect environmentally sensitive areas or natural resources. Lee Plan Goals 60, 61, 77, Objectives 25.10, 60.2, 60.3, 77.2, 77.3, 126.2, Policies 6.1.6, 25.10.1, 25.10.4, 60.4.1, 60.4.2, 123.8.1, 125.1.2, 126.1.4, 126.2.1, Standard 4.1.4; and

6. Public services and infrastructure will be available to serve the development. Goals 2, 4, 6, 25, 95, Objectives 2.1, 2.2, 4.1, Policies 2.2.1, 6.1.4, 25.9.1, 25.9.2, 39.1.3, Standards 4.1.1, 4.1.2.

[88] Lee Plan Policy 6.1.4.

C. The proposed uses are appropriate at the location. Lee Plan Goals 2, 4, 6, 11, 25; Objectives 2.1, 2.2, 11.1, 11.2, Policies 1.1.3, 2.1.1, 2.1.2, 5.1.2, 5.1.3, 5.1.6, 6.1.7, 6.1.8, 11.2.1, 25.6.1, 25.9.2,135.9.5, 135.9.6, 158.2.1, 160.1.3.

D. The County regulations and recommended conditions provide sufficient safeguards to protect the public interest and relate to impacts expected from the proposed development. Lee Plan Objectives 77.2, 126.2, Policies 5.1.5, 6.1.4, 53.1.5, 56.1.4, 135.9.5, 135.9.6: LDC §§34-377(a)(3), 34-411 and 34-932(c).

E. Deviations recommended for approval enhance the planned development and preserve public health, safety, and welfare. LDC §§34-373(a)(9), 34-377(a)(4).

Date of Recommendation: May 9, 2024.

Donna Marie Collins
Chief Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A

BANKS ENGINEERING

Professional Engineers, Planners & Land Surveyors

DESCRIPTION
OF
A TRACT OR PARCEL OF LAND LYING IN
SECTION 26, TOWNSHIP 44 SOUTH, RANGE 26 EAST,
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 26, TOWNSHIP 44 SOUTH, RANGE 26 EAST, BEING PORTIONS OF THE VACATED REPLAT OF TRACT 4 UNIT 6, LEHIGH ACRES AS RECORDED IN PLAT BOOK 26, PAGE 155, VACATED PER OFFICIAL RECORDS BOOK 2710, PAGE 3442, OF THE PUBLIC RECORDS OF LEE COUNTY FLORIDA, AND BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

PARCEL 1

BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF LEE BOULEVARD (C.R. 884 / S-82B – 106 FEET WIDE) AND THE WEST RIGHT OF WAY LINE OF SUNNILAND BOULEVARD (100 FEET WIDE); THENCE N 00°11'05" E ALONG SAID WEST RIGHT OF-WAY LINE FOR 1,027.48 FEET; THENCE N 05°50'38" W ALONG SAID WEST RIGHT-OF-WAY LINE FOR 164.56 FEET TO AN INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF A CANAL; THENCE N 89°55'09" W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 384.98 FEET TO AN INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF A CANAL; THENCE S 00°11'05" W ALONG SAID EAST RIGHT-OF-WAY LINE FOR 1,196.06 FEET TO AN INTERSECTION WITH SAID NORTH RIGHT-OF-WAY LINE OF LEE BOULEVARD; THENCE N 89°23'01" E ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 402.30 FEET TO THE **POINT OF BEGINNING**.

AND

PARCEL 2

BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF LEE BOULEVARD (C.R. 884 / S-82B – 106 FEET WIDE) AND THE EAST RIGHT-OF-WAY LINE OF SUNNILAND BOULEVARD (100 FEET WIDE); THENCE N 00°11'05" E ALONG SAID EAST RIGHT-OF-WAY LINE FOR 1,031.38 FEET; THENCE N 05°50'38" W ALONG SAID EAST RIGHT-OF-WAY LINE FOR 159.42 FEET TO AN INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF A CANAL; THENCE S 89°55'09" E ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 835.96 FEET TO AN INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF A CANAL; THENCE S 00°09'42" W ALONG SAID WEST RIGHT-OF-WAY LINE FOR 1,179.97 FEET TO AN INTERSECTION WITH SAID NORTH RIGHT-OF-WAY LINE OF LEE BOULEVARD; THENCE S 89°23'01" W ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 819.77 FEET TO THE **POINT OF BEGINNING**.

SUBJECT PARCEL CONTAINS: 33.31 ACRES, MORE OR LESS.

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

BEARINGS AND DISTANCES, UNLESS OTHERWISE NOTED, ARE BASED ON THE "STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83/2011 (CORS), WHEREIN THE NORTH RIGHT-OF-WAY LINE OF LEE BOULEVARD BEARS N 89°23'01" E. THE SCALE FACTOR IS 0.99994666.

DESCRIPTION PREPARED: 05-10-2023
DESCRIPTION REVISED: 01-09-2024

Digitally signed by Allen M Vose III
Date: 2024.01.09 12:00:01 -05'00'

ALLEN M. VOSE III, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATION NO. 7191
DATE SIGNED 01-09-2024
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REVIEWED
DCI2023-00010
Rick Burris, Principal Planner
Lee County DCD/Planning
2/5/2024

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FT. MYERS, FLORIDA 33966
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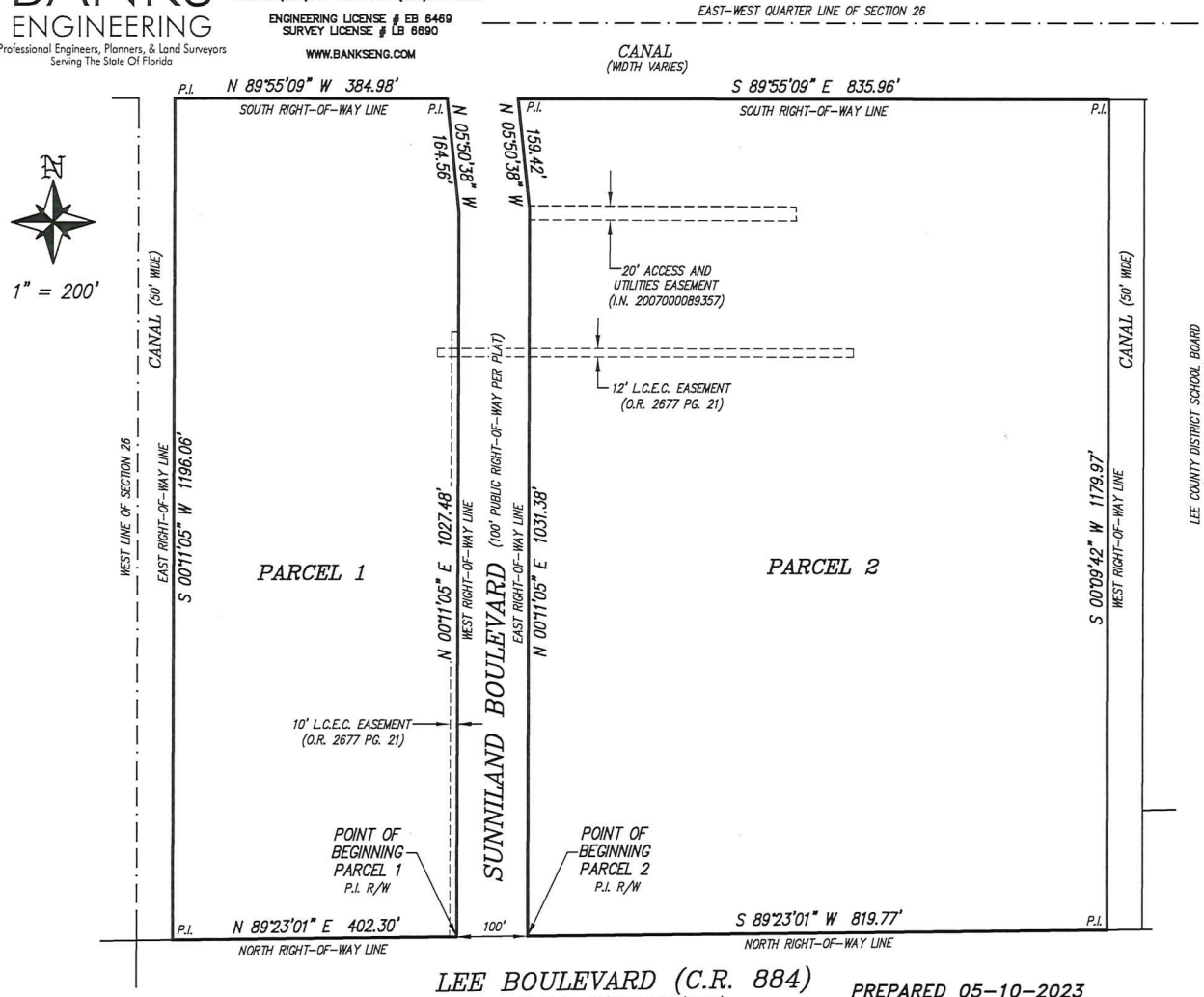
SURVEY LICENSE # LB 6690

WWW.BANKSENG.COM

SKETCH OF DESCRIPTION

OF
A TRACT OR PARCEL OF LAND LYING IN
SECTION 26, TOWNSHIP 44 SOUTH, RANGE 26 EAST,
LEE COUNTY, FLORIDA



NOTES:

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

2.) BEARINGS AND DISTANCES, UNLESS OTHERWISE NOTED, ARE BASED ON THE "STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83/2011 (CORS), WHEREIN THE NORTH RIGHT-OF-WAY LINE OF LEE BOULEVARD BEARS N 89°23'01" E. THE SCALE FACTOR IS 0.99994666.

3.) ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.

4.) SUBJECT PARCEL CONTAINS: 33.31 ACRES, MORE OR LESS.

LEGEND:

PG.	INDICATES PAGE
C.R.	INDICATES COUNTY ROAD
R/W	INDICATES RIGHT-OF-WAY
C.R.	INDICATES COUNTRY ROAD
O.R.	INDICATES OFFICIAL RECORDS
LB	INDICATES LICENSED BUSINESS
I.N.	INDICATES INSTRUMENT NUMBER
P.I.	INDICATES POINT OF INTERSECTION
L.C.E.C.	INDICATES LEE COUNTY ELECTRIC CO-OPERATIVE
P.S.M.	INDICATES PROFESSIONAL SURVEYOR AND MAPPER
CORS	INDICATES CONTINUOUSLY OPERATING REFERENCE STATION

REVIEWED
DCI2023-00010
Rick Burris, Principal Planner
Lee County DCD/Planning
2/5/2024

SEE SHEET 1 OF 2 FOR COMPLETE METES AND BOUNDS DESCRIPTION.

THIS SKETCH OF DESCRIPTION IS NOT A BOUNDARY SURVEY

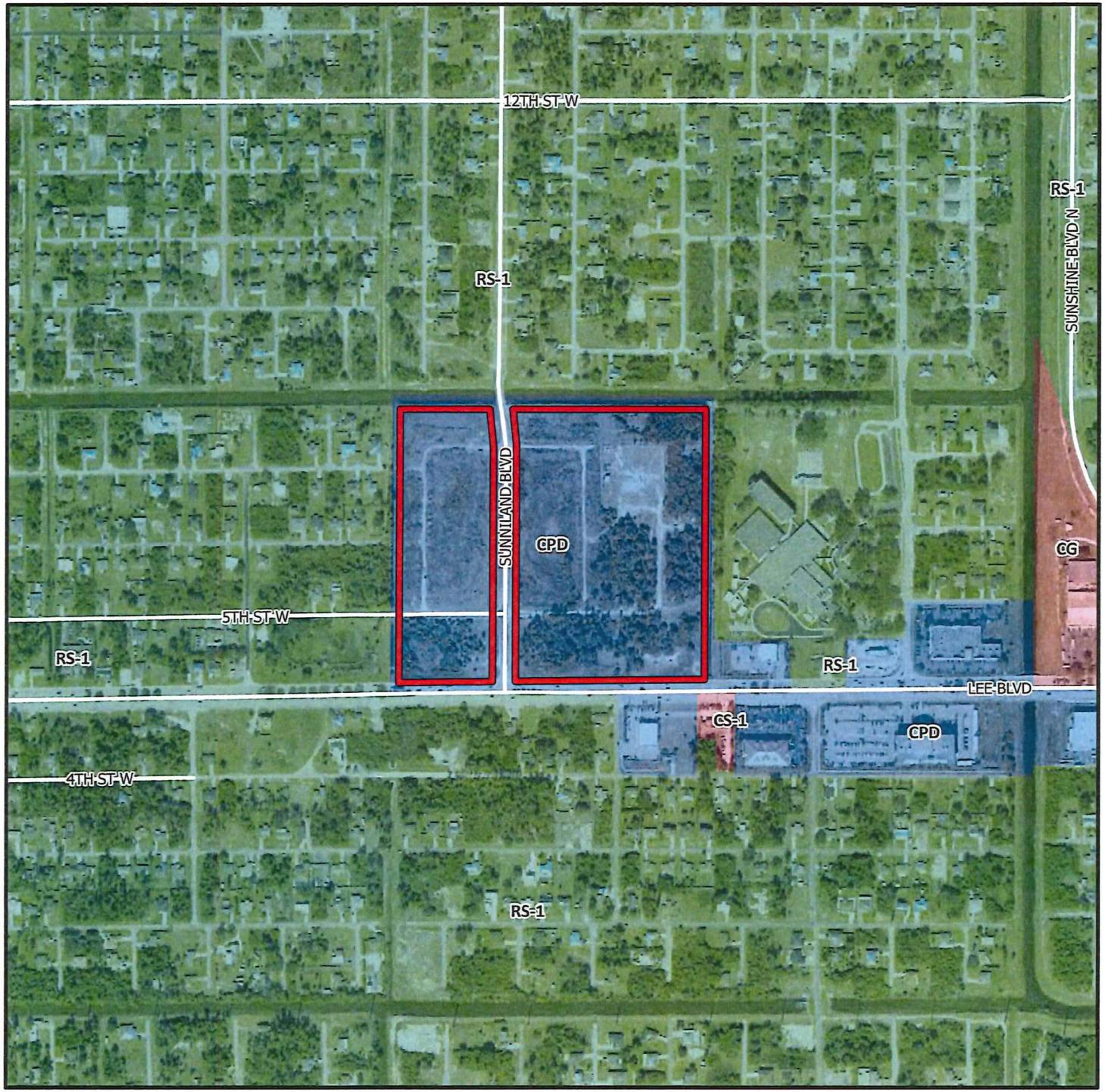
Digitally signed by Allen M Vose III
Date: 2024.01.09 12:00:21 -05'00'

ALLEN M. VOSE III * LICENSE NUMBER 7191 * STATE OF FLORIDA * PROFESSIONAL SURVEYOR & MAPPER

ALLEN M. VOSE III, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATION NO. 7191
- DATE SIGNED: 01-09-2024
- THIS SKETCH OF DESCRIPTION IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

S:\JOBS\88XX\8844\SURVEYING\DESCRIPTIONS\8844 SUNNILAND REV LGL.DOC
S:\JOBS\88XX\8844\SURVEYING\DESCRIPTIONS\8844 SUNNILAND REV SKT.DWG

PREPARED 05-10-2023
REVISED 01-09-2024
SHEET 2 OF 2



DCI2023-00010

Zoning

Subject Property

N
W E
S

0 250 500 750 1,000
Feet

Lee County
Southwest Florida

Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

As revised by the Hearing Examiner

CONDITIONS

1. Master Concept Plan (MCP). Development must be consistent with one-page MCP entitled "Sunniland" last revised May 1, 2024, except where modified by conditions below.

   Lee Plan and Land Development Code (LDC). Development must comply with the Lee Plan and LDC. Changes to the MCP, conditions or deviations may require further development approvals.

   Approved Development Parameters.

   Option One: 265,000 sq. feet commercial floor area and 100,000 sq. feet Mini Warehouse, or

   Option Two: 100,000 sq. feet commercial uses, 100,000 sq. feet of Mini Warehouse and 300 dwelling units (only on Parcel 2).

2. Permitted Uses and Property Development Regulations

   a. Schedule of Uses

   Accessory uses, buildings, and structures
   Administrative Offices
   Amusement Parks
   Animal Clinic or Kennel
   Auto Parts Store
   ATM (Automatic Teller Machine)
   Automobile Repair & Service, Group I
   Automobile Service Station
   Bait & Tackle Shop
   Banks and Financial Establishments, Groups I, II
   Bar and Cocktail Lounge
   Boat Parts Store
   Broadcast Studio, Commercial Radio & Television
   Building Materials Sales
   Business Services, Groups I, II
   Car Wash
   Cleaning & Maintenance Services (no repairs)
   Clothing Stores, General

Clubs: Commercial, Fraternal, and Private
Continuing Care Facilities
Consumption on Premises (limited to outparcels along Lee Boulevard)
Contractors & Builders, Group I & II
Convenience Food and Beverage Store limited to one with a maximum 24 self-service fuel pumps
Cultural Facilities
Department Store
Day Care Center, Child or Adult
Drive-through Facility for any permitted use
Drugstore, Pharmacy
Dwelling Units, Multi-Family (Parcel 2 only)
EMS, Fire, or Sheriff's Station
Essential Services
Entrance Gates and Gatehouse (Parcel 2 only)
Excavation, Water Retention
Fences and Walls
Food Stores, Groups I, II
Food and Beverage Service, Limited
Funeral Home (without a crematory)
Gift and Souvenir Shop
Hardware Store
Health Care Facilities, All Groups
Hobby, Toy, and Game Shops
Home Occupation
Household and Office Furnishings, All Groups
Insurance Companies
Laundromat
Laundry or Dry Cleaning, Group I
Lawn and Garden Supply Stores
Library
Medical Office
Motion Picture Production Studio
Nightclubs
Non-store Retailers
Package Store – limited to two for entire CPD
Paint, Glass and Wallpaper
Parking Lot, Accessory
Personal Services, Groups I, II, & III
Pet Services
Pet Shops
Pharmacy
Place of Worship
Post Office
Printing and Publishing
Real Estate Sales Office

Recreation Facilities, Private on-site (for Parcel 2 only, in conjunction with multi-family use)
Recreation Facilities, Commercial, Group I
Religious Facilities
Rental and Leasing Establishment, Groups I. II
Repair Shops, Groups I, II
Research and Development Laboratories, Group II
Restaurants, Groups I, II, & III
Restaurants, Fast Food
Schools, Commercial and Noncommercial
Signs
Specialty Retail Shops, All Groups
Social Services, Group I
Storage, Indoor
Transportation Services, Group II
Theater, Indoor
Used Merchandise Stores, Groups I
Variety Store
Vehicle & Equipment Dealers, Groups II
Warehouse, Mini-Warehouse

b. Site Development Regulations

Anchor Parcels

Minimum lot size:	2.5 acres
Minimum lot width:	200 feet
Minimum lot depth:	200 feet

Outparcels:

Minimum lot size:	10,000 square feet
Minimum lot width:	100 feet
Minimum lot depth:	100 feet

Maximum lot coverage: 45 percent

Maximum Building Height:

Residential	45 feet
Commercial	35 feet

Minimum Building Separation: 20 feet

Setbacks:

Development Perimeter	25 feet
Street	25 feet
Side	20 feet
Rear	20 feet

Waterbody	25 feet
Preserve	20 feet (30 feet for fire dependent indigenous plant communities)
Minimum Open Space	20 percent

3. Sidewalk Improvements

Developer must install a five-foot sidewalk along Sunniland Boulevard prior to issuance of a Certificate of Completion for any development order approved following the Limited Development Order issued to address outstanding code violations on Parcels 1 and 2,

The sidewalk must extend along the project's entire frontage on Sunniland Boulevard. This site-related improvement is not eligible for Road impact fee credits.

4. Open Space

Development order landscape plans must depict 7.0 acres of open space with 3.5 acres comprised of restored and preserved indigenous open space.

5. Abatement of Code Violations

The condition below codifies actions required to abate violations VIO2021-06268 and VIO2021-06269. If the conditions are not met, LDC Chapter 14 restoration criteria will apply and monitored consistent with 5.b.

a. Prior to the issuance of development order(s) for properties subject to code violations, landscape plans for each violation must depict:

1. New abatement plantings consisting of 215 Cabbage Palms, 49 Live Oaks, and four South Florida slash pines. Live oaks and South Florida slash pines must be Florida No. 1 or better per amended Grades and Standards for Nursery Plants, Parts I and II. The trees must be a minimum six feet in height with a minimum trunk diameter of one inch measured at three feet above the ground and a minimum canopy diameter of two feet at installation.

2. Nine Live Oaks specified at 20 feet in height with a minimum of four-inch caliper and a minimum eight-foot canopy installed to replace the removed heritage trees.

3. An above-ground irrigation system in restoration areas. The irrigation system may be removed one year after issuance of a Certificate of Compliance.

b. Development Orders must include a five-year monitoring plan for restoration areas with monitoring reports describing the conditions of the restored areas to be submitted annually for five years.

6. Gopher Tortoises

Machines are prohibited within the 1.2-acre preservation area.

7. Buffers

a. Parcel 1. Development order plans for Parcel 1 must depict the following:

1. North Property Line. A ten-foot-wide Type B buffer with five trees per 100 linear feet and double hedge row; and

2. West Property Line. A 25-foot-wide buffer with seven trees and 33 groundcovers per 100 linear feet and a double hedge row. Palms are limited to a maximum of 25 percent of the buffer tree requirement. Hedges must be 48 inches in height at installation and maintained at 72 inches in height. Groundcovers must be a minimum one-gallon container size at planting.

b. Parcel 2. Development order plans for Parcel 2 must depict:

1. North Property Line Buffer. A ten-foot-wide Type B buffer with five trees per 100 linear feet and a double hedge row; and

2. East Property Line Buffer. A five-foot-wide buffer with five trees per 100 linear feet.

8. Transportation Conditions.

The first development order for vertical construction must include design for a traffic signal including required turn lands at the intersection of Sunniland and Lee Boulevards. For the purposes of this condition, vertical construction includes buildings/structures generating traffic.

Concurrent with development order review, Developer and County will enter into a Signalization Agreement that includes turn lane designs or, a development order stipulation specifying the respective proportionate share contributions/obligations of the County and Developer for the design and construction of a traffic signal and required turn lanes. The Signalization Agreement must be executed by all parties prior to issuance of a Certificate of Occupancy on the first dwelling unit or a Certificate of Completion on vertical commercial construction.

9. State and Federal Permits

a. Generally. County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or if applicant undertakes actions resulting in a violation of state or federal law. Applicant must obtain applicable state/federal permits prior to commencing development.

b. State Wetland Permits. Developer may not commence construction on development impacting wetlands until issuance of required state permits. Development activity must comply with state wetland permits and applicable local development permits.

If the State does not approve wetland impacts or if State wetland permits are not consistent with proposed wetland impacts reflected in County development permits, then Developer must amend County development permit approvals to be consistent with state wetland permits and applicable Lee Plan and LDC regulations regarding development within wetlands.

DEVIATION

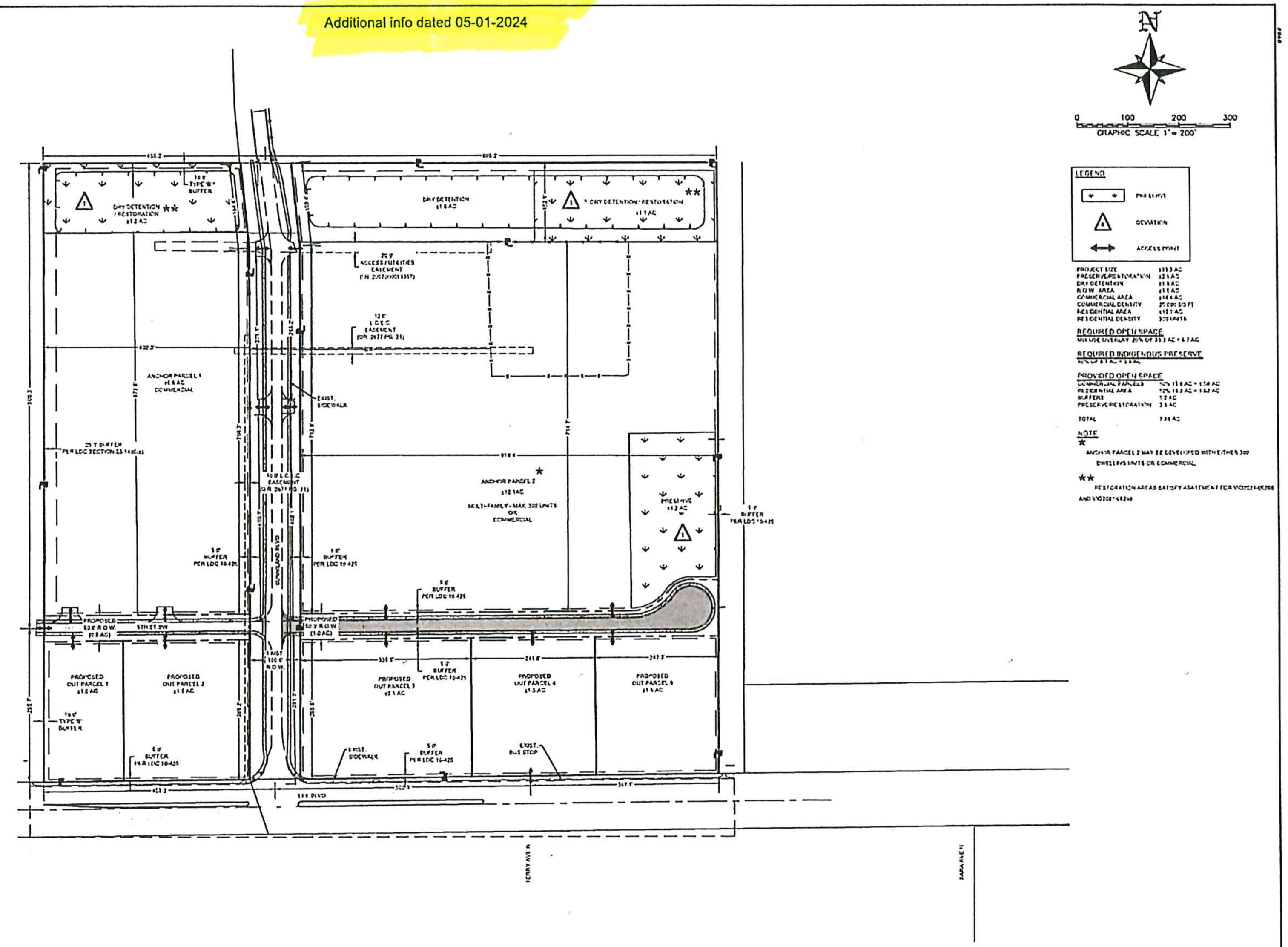
1. Open Space – Indigenous Vegetation and Trees. Deviation 1 seeks relief from LDC §10-415(b), which requires large developments with existing indigenous native vegetation communities to devote 50 percent of required open space to preservation of onsite indigenous vegetation, to allow this requirement to be satisfied with a combination of onsite indigenous native vegetation and areas restored to create indigenous vegetation.

Hearing Examiner Recommendation: Deviation approved, subject to Condition 5.

Exhibits to Conditions:
B1 Master Concept Plan last revised May 1, 2024

DCI2023-00010 Lee County ePlan

Additional info dated 05-01-2024



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PREPARED FOR:

WMG DEVELOPMENT
1200 NETWORK CENTRE DRIVE, SUITE 3
EFFINGHAM, IL 62401

NO.	DATE	REVISION DESCRIPTION	BY
02	4-30-2024	REVISED PER HEX	KG
01	9-5-2023	REVISED PER COUNTY COMMENTS	KG

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SURVEY LICENSE # LB 6690
WWW.BANKSENG.COM

MASTER CONCEPT PLAN
SUNNILAND
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
1/8/2023	8844	_MCP		KG		AS SHOWN	01

EXHIBIT B-1

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

a. *48-Hour Notice:* Email dated Tuesday, April 23, 2024, 10:32 AM from Jamie Princing to Hearing Examiner, Neale Montgomery, Esq., Daniel DeLisi, Elizabeth Workman, Anthony Rodriguez, Marcus Evans, Rakibul Alam, Md, Brandon Dunn, Katherine Woellner, Phil Gillogly, Rebecca Sweigert, Nicholas DeFilippo, and Maria Perez. (multiple pages – 8.5"x11")

1. *DCD Staff Report with attachments for DCI:* Prepared by Elizabeth Workman, Principal Planner, date received April 10, 2024 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

2. *PowerPoint Presentation:* Prepared by Lee County Staff dated April 25, 2024 (multiple pages – 8.5"x11")[color]

3. *Florida Department of Environmental Protection Oil & Gas Program:* Permit #841 Well Number and Name CTLC 26-2, Well Type II, MMR/PA Number 306470, Operator Breitburn Florida, Field Lehigh Park, County Lee, API Number 09-071-20063, dated June 5, 2023 (2 pages – 8.5"x11")[color]

APPLICANT EXHIBITS

a. *48-Hour Notice:* Email dated Tuesday, April 23, 2024, 8:57 AM from Olga Ramos to Hearing Examiner and Maria Perez, (multiple pages – 8.5"x11" and 1 page 11"x17")

1. *PowerPoint Presentation:* Prepared for Hearing Examiner Hearing dated April 25, 2024 (multiple pages – 8.5"x11")[color]

2. *News-Press Affidavit:* Notice of Public Hearing for Petition to Vacate #95-12-183.03R (multiple pages – 8.5"x11")

3. *Written Submissions:* Email dated Monday, May 6, 2024, 2:33 PM from Olga Ramos to Hearing Examiner, Elizabeth Workman, Jamie Princing, Robert Price, Jillian Scholler, Rakibul Alam Md, with copies to Maria Perez and Neale Montgomery, Esq. (multiple pages – 8.5"x11' and 1 page – 11"x17"){post hearing}

OTHER EXHIBITS

Rahim Ahmadi

1. *Document with Aerial Photographs:* (2 double sided pages – 8.5"x11")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Marcus Evans
2. Robert Price, PE
3. Jullian Scholler, PE
4. Elizabeth Workman, AICP

Applicant Representatives:

1. Brent Addison, PE
2. Dan DeLisi, AICP
3. Darenda Marvin
4. Neale Montgomery, Esq.
5. Paul Owen
6. Ted Treesh

Public Participants:

1. Rahim Ahmadi
2. Marsha Ellis
3. Derek Felder
4. Deborah Wilkison

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 the recommendation to the Board of County Commissioners.

B. The Board will conduct a final hearing to consider the Recommendation and record before the Hearing Examiner. The Department of Community Development will notify hearing participants of the Board 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 accuracy of the Findings of Fact or Conclusions of Law 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.

C. Participants may not submit documents to the Board of County Commissioners unless marked as Exhibits by the Hearing Examiner. Documents must have the Exhibit number assigned at 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.

Amended Conditions

SECTION B. CONDITIONS:

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

1. The development of this project must be consistent with the 1-page Master Concept Plan (MCP) entitled "Sunniland Town Center, Master Concept Plan," dated (insert revision date) ~~07/10/06, last revised 3/26/07, date stamped "Received Mar 28 2007 Community Development,"~~ except as modified by the conditions below. This development must comply with all requirements of the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

   A maximum of ~~232,000~~265,000 square feet of commercial and 100,000 square feet of Self Storage/Mini Warehouse uses are permitted, or 100,000 square feet of commercial use, 100,000 square feet of Self Storage/Mini Warehouse and 300 residential units.

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

   b. Site Development Regulations

Minimum Lot Width:	200 feet
Minimum Lot Depth:	200 feet
Minimum Lot Area:	2.5 acres
Outparcels:	
Minimum Lot Width	100 feet
Minimum Lot Depth	100 feet
Minimum Lot Area	10,000 square feet
Maximum Lot Coverage:	45 percent
Maximum Residential Building Height	~~35~~ 45 feet ~~or two stories~~
Maximum Commercial Building Height	35 feet
Minimum Building Separation	20 feet
Setbacks:	
Development Perimeter	25 feet
Street:	25 feet
Side:	20 feet
Rear:	20 feet
Waterbody	25 feet

3. The subject property may only be subdivided subsequent to recording of a plat of the property in the Official Records of Lee County, Florida.

4. Where vehicular asphalt is within 125 feet of a residential zoned property the applicant must install an enhanced Type "D" buffer. This buffer must be planted with a double-staggered hedge row with a minimum 24-inch height at the time of planting and maintained at no less than 48-inches high. The buffer must also be planted with five trees every 100 linear feet with a clear trunk height of 12 feet. At least 50 percent of the required buffer trees must be Live Oaks.

5. ~~A single package store is permitted within the proposed development. The~~Any Package Store must be located greater than 500 feet away from the property line of Sunshine Elementary School.

~~6. Consumption on Premises (COP) in conjunction with a Group III Restaurant is approved, but limited to the following conditions:~~

~~A. Hours of operation for indoor seating are approved between the hours of 10:00 A.M. and 12:00 P.M., Monday through Sunday.~~

~~B. Hours of Operation for outdoor seating are approved between the hours of 10:00 A.M. and 10:00 P.M., Monday through Sunday. Outdoor entertainment is limited to piped~~

~~music during the same hours of operation for consumption on premises. Music must remain at or below a normal conversation level.~~

7. The reduced setback area for the water management lakes, as outlined in Deviation 1, must be planted with a landscaped buffer and will provide berms, guardrails or other acceptable materials in this area to provide for the protection of wayward vehicles.

8. Prior to the issuance of the certificate of completion for Parcel 1 and Parcel 2, a 5-foot wide sidewalk must be installed along that side of Sunniland Boulevard. The sidewalk must extend along the project~~"~~s entire frontage on Sunniland Boulevard. This is a site-related improvement and not eligible for Road Impact Fee Credits.

9. Approval of this zoning request does not address mitigation of the project~~"~~s vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

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

~~10.~~11. Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee County Comprehensive Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

~~11.~~12. ~~Traffic calming devices, acceptable to Lee County Development Services, must be installed along the parking aisle which extends between 5th Street West and Sunniland Boulevard. The Applicant will identify to Lee County Development Services the traffic calming devises it proposes to employ for this purpose at the time of request for the development order for the first parcel that contains, or is adjacent to, the subject parking aisle.~~

~~12.~~13. Bike racks must be installed on each commercial parcel located on both the east and west sides of Sunniland Boulevard. A bike rack must be installed on each commercial parcel prior to the issuance of the first Certificate of Occupancy for the business on each respective parcel.

~~13.~~14. Prior to local development order approval, a detailed gopher tortoise management plan must be submitted for the Division of Environmental Sciences Staff review and approval. This management plan must include details of the existing vegetative cover, any enhancements that are needed including the planting of gopher tortoise forage vegetation, and the type of permanent protective barriers to be provided between the commercial development and the gopher tortoise preserve. The development order plans must delineate a gopher tortoise preserve in substantial compliance with the area shown on the MCP.

~~14.~~15. Prior to local development order approval, the landscape plans must include the delineation of: ~~(1) thirty percent (30%) or 10~~ 7.0 acres of open space; ~~(2) 2.29 acres of native tree preservation areas and 2.27 acres of gopher tortoise habitat in substantial compliance with the MCP; and (3) a South Florida Slash Pine (minimum 20-foot height) in the southeast gopher tortoise preserve~~and 3.5 acres of indigenous preserve, consistent with the Master Concept Plan.

~~15. The on-site oil well must be plugged or capped within six months of the permanent cessation of oil production activities, and during that six-month period the wellhead must be fenced (with a chainlink fence) in such a manner so as to preclude access to the wellhead by unauthorized individuals.~~

SECTION C. DEVIATIONS:

~~1. Deviation (1) seeks relief from the §10-329(d)(1)a.2. requirement to provide a minimum waterbody setback of 50 feet from an existing right-of-way line for a collector or arterial~~

~~road, to allow a setback of 35 feet. This deviation is APPROVED, SUBJECT TO Condition 7 above.~~

Withdrawn

2. Deviation (2) seeks relief from the §10-416(d)(6) requirement to provide a 25-foot-wide buffer with a wall when vehicular pavement is proposed within 125 feet of a residentially zoned parcel, to allow a 15-foot wide Type "D" buffer along the ~~southeastern~~ western portion of the subject property. This deviation is APPROVED, SUBJECT TO Condition 4 above.

3. Deviation (3) seeks relief from **LDC Section 10-415(b)**, which requires that large developments with existing indigenous native vegetation communities must provide 50 percent of their open space percentage requirement through the onsite preservation of existing native vegetation communities, to allow for the indigenous preservation to be met through the combination of preservation of on-site indigenous areas and the restoration of areas that do not meet the definition of indigenous vegetation.

Schedule of Deviations

1. Withdrawn

2. Deviation (2) seeks relief from the §10-416(d)(6) requirement to provide a 25-foot-wide buffer with a wall when vehicular pavement is proposed within 125 feet of a residentially zoned parcel, to allow a 15-foot wide Type "D" buffer along the western portion of the subject property. This deviation is APPROVED, SUBJECT TO Condition 4 above.

3. Deviation (3) seeks relief from **LDC Section 10-415(b)**, which requires that large developments with existing indigenous native vegetation communities must provide 50 percent of their open space percentage requirement through the onsite preservation of existing native vegetation communities, to allow for the indigenous preservation to be met through the combination of preservation of on-site indigenous areas and the restoration of areas that do not meet the definition of indigenous vegetation.

   Justification for Deviation

   The proposed Preservation Area Management Plan has been modified to include the preservation of 1.2 acres of native habitat consisting of pine flatwoods habitat that include mature and two heritage slash pine trees and several mature live oaks and cabbage palms in addition to many native shrub and ground cover species in those strata. The Preservation Area Management Plan also includes the restoration of 2.3 acres of uplands within two proposed dry detention areas. The proposed upland habitat restoration areas are within two dry detention areas and will be planted with native vegetation that is typically found in indigenous pine flatwood habitats adapted to frequent short-term inundation and long periods of dry conditions. Restoration plantings including 310 trees and 1,002 shrubs and ground cover species along with the 711 replacement trees will be planted in the 2.3-acre restoration area. The combined number of planted trees will result in trees at approximately 9.9' centers and shrubs and ground cover species on 10' centers. This will restore native habitat for the urbanized wildlife which are common in this part of Lehigh Acres.

   The subject property is within the County's Mixed-Use Overlay and the Lehigh Commercial Overlay. This property is one of only a few opportunities for commercial or mixed-use development within the entire community. The existing indigenous areas on the property are located where they would either significantly impact the ability to develop the site or significantly diminish view corridors into the property from Lee Boulevard, a necessity for a successful commercial development that serves the needs of the community.

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

Case Number: DCI2023-00010
Case Name: Sunniland Town Center CPD
Area Subject to Request: +/- 34.9 Acres
Case Type: Major Planned Development Amendment
Sufficiency Date: February 16, 2024
Hearing Date: April 25, 2024

REQUEST:

DeLisi, Inc. has filed an application to amend the Sunniland Town Center CPD (Resolution Z-06-090) to change the schedule of uses, property development regulations, provide restoration to abate violations, and revise the Master Concept Plan. The applicant is requesting two different development options. The first option is to develop 265,000 square feet of commercial floor area and add 100,000 square feet of Mini Warehouse uses. The second option is to develop 100,000 square feet of commercial floor area, 100,000 square feet of Mini Warehouse and 300 residential dwelling units.

The subject property is 34.9 +/- acres in area and located along the north side of Lee Boulevard approximately ½ mile west of Sunshine Boulevard in Lehigh Acres. The subject property is located within the Central Urban Future Land Use Category and Mixed Use Overlay according to the Lee Plan. The site is also located within the Lehigh Acres Community Plan area and Lehigh Commercial Overlay Area. A legal description and boundary survey of the subject property are attached as Attachment B of the staff report.

SUMMARY:

Staff recommends **APPROVAL** of the applicant's request, as conditioned, to amend the Commercial Planned Development to allow either 265,000 square feet of commercial floor area and 100,000 square feet of Mini Warehouse uses; or 100,000 square feet of commercial floor area, 100,000 square feet of mini warehouse and 300 residential dwelling units. The maximum building height is proposed to be 45 feet for residential multi-family uses and 35 feet for commercial uses (Attachment D). The applicant has requested two deviations, with one deviation previously approved per Resolution Z-06-090 (Attachment E), and a second deviation being requested from the indigenous open space requirement as part of this request (Attachment F).

HISTORY OF PARCELS:

The subject property was originally rezoned to Commercial Planned Development in 2006 (Resolution Z-06-090). The resolution allows for a mix of office and retail uses with a total commercial area of 232,000 square feet on two separate parcels separated by the Sunniland Boulevard right-of-way, which bisects the property (Attachment E). The subject property has an existing oil well located in the northeast corner of the eastern parcel (Parcel 2). The approved Master Concept Plan depicts office uses and restaurants within the

western parcel (Parcel 1) and retail uses within the eastern parcel, excluding the oil well area (Parcel 2). Indigenous preservation areas are proposed on both parcels with sabal palm preservation on Parcel 1 and gopher tortoise habitat preservation on Parcel 2. There is an existing oil well that was not part of 33.3-acre CPD approved by Resolution Z-06-090. The applicant has added the oil well area to the request and has provided documentation that the oil well has been plugged (Attachment G). There are access and utility easements noted on the MCP that connect to the oil well site, that may be subject to future vacation (Attachment K).

VIOLATIONS:

Parcel 2

In 2021, two violations were issued for nuisance accumulation (VIO2021-00378) and onsite work without an approved development not in compliance with Resolution Z-06-090 (VIO2021-06268) (Attachments H & I). Staff inspected the site 15 days after the Notice of Violation for VIO2021-00378 was issued and concluded that the violation had not been corrected (Attachment H). During this time, ownership of the subject property changed. VIO2021-00378 has also not been abated. South Florida Water Management District (SFWMD) cited the property owner for debris impacting the State wetlands located on site. The debris was removed from the wetland areas, thereby abating the code enforcement case with SFWMD (Attachment O). Staff inspected the site and found that the indigenous areas, including the sabal palm preserve and gopher tortoise preserve areas, were cleared during the debris removal. Staff cited the owner for site work without a development order not in compliance with Resolution Z-06-090 (VIO2021-06268) (Attachment I). Violation VIO2021-06268 conditioned required replanting for restoration purposes to be completed within 30 days of the receipt of the Notice of Violation. The subject request was submitted March 8, 2023, and includes the replanting required by VIO2021-06268 within a designated abatement area on the proposed Master Concept Plan (Attachment D).

Parcel 1

In 2021, a violation was issued for work without a Development Order, land clearing without permits, and lack of compliance with Resolution Z-06-090 (VIO2021-06269) (Attachment J). As noted above, the subject request was submitted on March 8, 2023, and includes abatement planting as depicted on the proposed Master Concept Plan (Attachment K).

A Limited Development Order (LDO2022-00621) for the restoration required by VIO2021-06268 and VIO2021-06269 was submitted to abate the violations but was withdrawn due to the noted change in ownership. The applicant proposed to abate the violations through the zoning action (Attachment D).

CHARACTER OF THE AREA:

The subject property is in Lehigh Acres in an area with primarily platted single-family lots. The property is in the Central Urban Future Land Use Category which extends to the properties along the west, south, and a portion of the east. The Urban Community Future Land Use Category is located to the north and the Public Facilities Future Land Use Category abuts a portion of the east property line. The surrounding zoning districts are Residential (RS-1) and Commercial Planned Development (CPD). Property immediately

surrounding the subject property is depicted in Attachment C of this report and can be characterized as follows:

North

The subject property abuts a Lehigh Acres Municipal Improvement District (LAMSID) canal known as Angelfish Canal. North of the LAMSID canal is a mix of vacant and developed single-family platted residential lots.

East

The subject property abuts Lee County School Board property (Sunshine Elementary School) and a Commercial Planned Development to the east. The CPD was originally rezoned (Resolution Z-13-011) to allow commercial and retail uses ranging from commercial with drive through to automobile dealership with two different Master Concept Plans. ADD2017-00114 amended Resolution Z-13-011 Master Concept Plan B to add Automobile Repair and Service use, which is the current use of the parcel.

South

The subject property abuts Lee Boulevard to the south, which is an arterial road. Further south are platted residential single-family lots and a CPD (Resolution Z-08-045). The resolution was approved for an array of commercial uses and amended (ADD2010-00090A) to revise the design, reduce the number of buildings, and revise the property development regulations to enable the subdivision of the site. A Family Dollar variety store was approved for development on the east parcel within the CPD.

West

The subject property abuts a LAMSID canal along the west property line and is connected via pedestrian bridge to a property along Lee Boulevard that is zoned RS-1 that has a boardwalk and nature trails. Further west are vacant and developed residential platted lots zoned Residential (RS-1).

Sunniland Boulevard and Internal Rights-of-Way

Sunniland Boulevard bisects the project into Parcels 1 and 2 as depicted on the Master Concept Plan. Sunniland Boulevard is a County-maintained collector road. Parcel 1 has two internal roads (7th Street West and Venice Avenue North), which are both non-County maintained local roads. Parcel 2 has four internal roads (5th Street West, 7th Street West, Unice Avenue North and Terry Avenue North), which are both non-County maintained local roads.

Availability of Public Services

Public 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*." The level of urban services currently serving the subject property are as follows:

Public water and sewer: The applicant has provided a letter of availability for potable water and sanitary sewer from Florida Governmental Utility Authority (FGUA). Potable water and wastewater utility lines are

available in proximity to the subject property, with sufficient capacity available for 168 residential units and 48,848 square feet of commercial uses with availability distributed on a first come, first serve basis which will be determined once impact fees have been paid (Attachment L). The applicant will need to provide an updated Letter of Availability that cites the correct scope of the proposed project prior to approval of this rezoning request.

Public transit and pedestrian facilities: The subject property is within the Lee Tran service area, which provides service via route 110 along Lee Boulevard from Lehigh Acres to Edison Mall. There is a bus stop (ID #12296) abutting the subject property.

Police, fire, and emergency services: Lehigh Acres Fire and EMS Station #103 is located less than two miles southwest of the subject property at 308 Gunnery Road South in Lehigh Acres. The Lee County Sheriff's Office is located approximately two miles to the north of the subject parcel.

Property Development Regulations & Off-Street Parking

LDC Section 34-935 establishes the property development regulations for each planned development zoning district. The applicant is requesting to rezone the property to Commercial Planned Development (CPD) to develop commercial and residential uses. LDC Section 34-935(b)(1)a. provides the building and structure setback requirements from the development perimeter as 15 feet for a CPD. LDC Section 34-935(e)(3) requires side and rear setbacks for all lots to be scheduled on the Master Concept Plan (MCP), except that, where a lot line is congruent with the development perimeter, the setback defined in LDC Section 34-935(b) must have priority. The applicant provided Property Development Regulations that are in compliance with LDC Section 34-935 (Attachment M).

SCHEDULE OF USES:

The applicant is proposing a mix of commercial uses on both parcels that are consistent with the allowable uses in a Commercial Planned Development per LDC Section 34-934. The applicant is proposing multi-family dwelling units, entrance gates, and private on-site recreational uses limited to Parcel 2. Residential multi-family dwelling units may be permitted in a CPD zoning district if the dwelling units are approved in conjunction with a CPD that is entitled for at least 50,000 square feet or more of commercial uses per LDC Section 34-934, Note 10. The applicant is proposing 100,000 square feet of commercial uses and 100,000 square feet of mini warehouse in conjunction with 300 multi-family residential dwelling units as one of two development concepts. The subject parcel was previously rezoned (Resolution Z-06-090) with a mix of commercial uses separated by parcel. The applicant has provided a strike-through and underlined Schedule of Uses document depicting the proposed uses to be removed, uses proposed to be added, and removing the separation between allowable uses in Parcel 1 and Parcel 2 (Attachment N). The applicant has noted which uses are limited to Parcel 2 in the Schedule of Uses.

DEVIATIONS:

Resolution Z-06-090 approved two deviations. Deviation 1 approved a 35-foot waterbody setback from a right-of-way and Deviation 2 approved relief from buffer requirements for roads or drives within 125 feet of

a residentially-zoned parcel. The subject request proposes to strike Deviation 1, revise Deviation 2, and add an additional deviation (Attachment F).

Deviation 1 (Deviation 2 of Resolution Z-06-090): Deviation 1 was previously approved and applied to the southeastern portion of the project, subject to condition 4 of Resolution Z-06-090. The applicant is requesting to revise the deviation to apply to the western portion of the subject property subject to condition 4 of Resolution Z-06-090. Since the previous rezoning case was approved, the Lehigh Acres Planning Community has adopted specific requirements pertaining to landscaping. In addition, Mixed Use Overlay has been adopted county-wide and applies to the subject property. The previously approved deviation from LDC Section 10-416(d)(6) applied to the southwestern portion of the property and was due to proximity of parking areas and roadways within 125 feet of single-family residential uses. LDC Section 33-1405(c)(4) states that LDC Section 10-416(d)(6) does not apply within the Lehigh Acres Planning Community. LDC Section 33-1405(c)(3) requires a 25-foot-wide buffer that contains seven trees, a double hedge row, and 33 groundcovers per 100 linear feet. Palms are limited to 25 percent of the buffer tree requirement. The applicant is complying with LDC Section 33-1405(c)(3). It should be noted that this project is within the Mixed Use Overlay, which does allow reduced buffering per LDC Section 10-425(f)(2). However, LDC Section 33-4 provides the order of review if there are conflicts between provisions; therefore, if the Lee Plan is silent, then the provisions of Chapter 33 control. The Lee Plan is silent to the buffer criteria; therefore, the applicant is in compliance with the Land Development Code and staff recommends withdrawing Deviation 1 (Previously Deviation 2).

Deviation 2: The applicant is requesting relief from LDC Section 10-415(b), which requires large developments with existing indigenous native vegetation communities to provide 50 percent of the required open space percentage as onsite indigenous preservation, to allow preservation of indigenous native vegetation communities and areas that do not meet the indigenous definition but are restored to create indigenous areas onsite to be included in the 50 percent indigenous native vegetation requirement. The applicant is required to provide 20 percent open space with 10 percent of the open space provided as indigenous preservation per LDC Section 10-425(a). The applicant has two code violations for clearing without permits (Attachment I & J). The applicant has depicted restoration areas on the Master Concept Plan located along the north property line of each parcel (Attachment K). Staff is recommending approval of Deviation 2 subject to condition 8 and per VIO2021-06268 and VIO2021-06269 (see Attachment F).

Review Criteria

LDC Section 34-145 establishes the review criteria for 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.

The applicant has provided a narrative that addresses the planned development rezoning request with analysis against the applicable criteria (Attachment D). The following provides staff's analysis of the request, as measured against the established criteria.

REVIEW CRITERIA ANALYSIS:

The subject property is in the Central Urban future land use category (FLUC) per the Lee Plan. **Lee Plan Policy 1.1.3** characterizes the Central Urban FLUC as the "urban core" of the County. Land within this category is heavily settled and have or will have the highest level and range of public services. Residential, commercial, public, and quasi-public, and limited light industrial land uses will predominate. New development is encouraged to be mixed use. The applicant is proposing a mix of commercial uses as described in the Schedule of Uses, with multi-family residential proposed in Parcel 2. The uses are consistent with the allowable uses for a Commercial Planned Development in accordance with LDC Section 34-934 and the commercial floor area meets the minimum to allow multi-family residential per LDC Section 34-934, Note 10. The subject parcel is in an area of Lehigh Acres that has sufficient infrastructure to support the proposed uses. Staff finds the request, as conditioned, to be **CONSISTENT with Policy 1.1.3.**

The applicant is proposing two options for the project. The first option includes commercial uses for Parcel 1 and 2 and the second option is commercial on both parcels and multi-family residential use limited to Parcel 2. Either option would provide employment opportunities and services to the surrounding residential uses and the multi-family residential use would provide a housing alternative for residents who are employed within the area. The site will be designed to provide connectivity through pedestrian sidewalks and vehicular connections internal to the site. The subject property is bisected by Sunniland Boulevard, which is a County-maintained arterial road. The applicant has provided a letter of availability stating that there is water and sewer available to support the uses but must provide an updated letter reflecting proposed development prior to approval of request. A LeeTran bus stop is located along Lee Boulevard with access to bus route

110. Fire, EMS, and Sheriff stations are within two miles of the subject property. Sunshine Elementary School abuts the east property line and Palm Acres Charter High School is located ¼ mile to the west. The location of the development, the proposed uses, and the availability of public services demonstrates compliance with **Lee Plan Objectives 2.1 and 2.2 and Policies 2.1.1**.

Lee Plan Standard 4.1.1 requires new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial development more than 30,000 square feet of gross leasable floor area per parcel, to connect to a public water system. **Lee Plan Standard 4.1.2** requires any new residential development that exceeds 2.5 dwelling units per gross acre or any new single commercial development that generates more than 5,000 gallons of sewage per day to connect to a sanitary sewer system. The applicant is proposing to connect to potable water and sewer and has provided a letter of availability from FGUA stating that currently they have capacity to accommodate 168 residential units and 48,848 square feet of commercial intensity. The zoning request is for 300 residential dwelling units and over 365,000 square feet of commercial uses. To be found consistent with the Lee Plan, a new FGUA Letter of Availability demonstrating the requested capacity must be provided. Once the accurate letter of availability has been provided, staff finds the proposed project **consistent with Lee Plan Standard 4.1.1 and 4.1.2**.

Lee Plan Standard 4.1.4 requires an environmental assessment that examines the existing conditions and proposed means and mechanisms to protect, conserve, or preserve the environmental and natural resources. The applicant has provided an environmental assessment. There are two wetlands onsite that are jurisdictional to South Florida Water Management District (SFWMD). The applicant has indicated that the wetlands are poor quality non-indigenous as defined by LDC Section 10-1. The applicant is proposing to impact the wetlands and provide offsite mitigation. The site was impacted while abating VIO2021-00378 to remove the nuisance accumulation debris, thereby impacting native vegetation within the uplands and wetlands, and gopher tortoise burrows. SFMWD and Florida Fish and Wildlife Conservation Commission have abated the violations (Attachment O). The County maintains two violations for impacts to land without a development order and lack of compliance with Resolution Z-06-090. The subject zoning request includes areas on the Master Concept Plan that will be restored to abate the violation per the replanting plan associated with VIO2021-06268 and VIO2021-06269. Staff finds the request, as conditioned, to be **consistent with Lee Plan Standards 4.1.4**.

Lee Plan Goal 5 and subsequent Lee Plan policies pertain to residential land uses. **Lee Plan Policy 5.1.2** prohibits residential development where physical constraints or hazards exist such as floods, storm, or hurricane hazards. The proposed multi-family use is not located in an area prone to hazardous impacts. **Lee Plan Policy 5.1.3** focuses on the location of high density residential in relation to employment centers. The proposed multi-family dwelling units will be located to existing and planned commercial uses that are accessible to mass transit and pedestrian sidewalks along Lee Boulevard. **Lee Plan Policy 5.1.5** protects existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. The applicant is proposing a mix of commercial uses that will provide goods and services to the residentially-zoned properties to the north and south. The applicant is proposing two development scenarios with either a mix of commercial uses on both parcels or multi-family residential on Parcel 2 and commercial mix of uses on Parcels 1 and 2. The applicant is providing code compliant buffers per **LDC Sections 33-1405 and 10-425(f)**. The applicant is proposing restoration within the detention areas along the north property line that will provide visual screening between

the single-family residential uses to the north and LAMSID canal and the subject parcels. Staff finds the request, as conditioned, to be consistent with **Lee Plan Policy 5.1.2, 5.1.3, and 5.1.5 and LDC Sections 33-1405 and 10-425(f)**.

Lee Plan Objective 6.1 and Policies 6.1.1, 6.1.4, 6.1.5, 6.1.6, and 6.1.7 require commercial land uses to be consistent with policies that require the availability of essential services, site design standards to provide landscaping, open space, and buffering, proximity to other similar centers, traffic carrying capacity, and limit the impact on surrounding uses. The development is in an area that is served by central water and sewer, EMS, Fire, and Police protection. The existing zoning currently allows for commercial development and will continue to provide for commercial development. The applicant has provided a Master Concept Plan that depicts Land Development Code (LDC) required buffers and open space (Attachment K). The open space is in compliance with **LDC Section 10-425(a),** which requires 20 percent open space for large developments. The project is over ten acres in size and per **LDC Section 10-415,** the applicant is providing half of the required open space as indigenous open space. The MCP demonstrates code compliant open space. The buffers are in compliance with **LDC Section 33-1405** and **LDC 10-425(f).** The Traffic Impact Statement provided by the applicant and reviewed per the Institute of Transportation Engineers trip generation manual evaluated traffic for 265,000 square feet of commercial floor area and 100,000 square feet of self-storage use area, or a combination of 100,000 square feet of commercial floor area, 100,000 square feet of self-storage use, and 300 multi-family dwelling units (Attachment P). Lee County Department of Transportation has provided a staff memorandum and determined that the request will not have an adverse effect on the surrounding roadway system and that access to the site is subject to Florida Department of Transportation approval (Attachment Q). Staff finds the proposed project, as conditioned, to be consistent with the **Lee Plan Objective 6.1 and Policies 6.1.1, 6.1.4, 6.1.5, 6.1.6, and 6.1.7.**

Lee Plan Objective 11.2 encourages applicants to propose mixed use developments at various scales of intensity to provide a diversified land development; greater connectivity between housing, workplaces, retail businesses, and other destinations; reduce trip lengths; provide more transportation options; and facilitate pedestrian and bicycle-facility environments. The proposed development is being designed with an array of commercial uses with multi-family residential uses within the northern portion of Parcel 2. Since the property is located in the Mixed Use Overlay, density may be calculated from areas dedicated to non-residential uses in the density calculations per **Lee Plan Policy 11.2.7.** The Master Concept Plan includes an option for residential development within Parcel 2, which will integrate at least 50,000 square feet of commercial uses with the residential uses. The option to develop all commercial uses provides a mix of uses within the Lehigh Acres commercial corridor by supporting residential uses to the north and south that are connected by Sunniland Boulevard or Lee Boulevard. The applicant will be required to provide sidewalks along Sunniland Boulevard for pedestrian access per Condition 5, which was a condition approved by Resolution Z-06-090. Staff finds the proposed project, as conditioned, to be consistent with the **Lee Plan Objective 11.2 and Lee Plan Policy 11.2.7**.

The applicant held a public information meeting on June 22, 2023, at Lehigh Acres Municipal Services Improvement District (LAMSID) offices which is in the Lehigh Acres Planning Community in accordance with **LDC Section 33-1401** (Attachment R). Two members of the public attended the meeting. Their concerns were about traffic and if improvements were proposed such as turn lane and traffic signal at Sunniland and Lee Boulevard. A motion was made for commercial uses only.

The subject property is in the Lehigh Acres Commercial Overlay Area and **Lee Plan Policy 25.6.1** states that commercial uses are permitted on lands in the Lehigh Commercial Overlay once commercial zoning has been approved. Land in the Lehigh Acres Commercial Overlay may also be used for schools, parks, and other public facilities; and residential uses that provide housing alternatives to the typical ¼ to ½ acre subdivision lots. The subject property is in an area that is primarily single family or two-family attached residential subdivisions. The applicant is proposing an option to develop 300 multi-family dwelling units on Parcel 2 which would diversify the housing types within the area. If the applicant proposes all commercial uses, the subject zoning application would establish the commercial zoning district with the allowable commercial uses for both parcels. Staff finds the proposed project, as conditioned, to be consistent with **Lee Plan Policy 25.6.1**.

Lee Plan Objective 25.10 states that applicants with proposed projects within the Lehigh Acres Community Plan area should preserve, protect, and where possible, enhance the physical integrity, ecological values, and natural beauty of the planning area by maintaining the diverse and healthy native vegetation, and wildlife resources. Native vegetation and species have been impacted on the subject property. County has issued violations for site work without a development order and lack of compliance with Resolution Z-06-090. As a result, the applicant must restore the site with native vegetation per the restoration standards in VIO2021-06268 and VIO2021-06269. The Master Concept Plan depicts restoration areas within proposed dry detention and preservation areas along the north property line. Staff have recommended conditions establishing a deadline for abatement via the issuance of a Limited Development Order and Certificate of Compliance for the restoration and preservation areas prior to the issuance of a development order for infrastructure or vertical development (Attachment S). **Lee Plan Policy 25.10.1** encourages on-site preservation of indigenous plant communities and listed species habitat. Mitigation will be required to be provided within the Lehigh Acres Community and be of similar habitat. Development must also be consistent with Goal 77 and Objective 77.3. The applicant has provided a Master Concept Plan and Preservation Area Management Plan that depicts preserve areas along the north and east property lines (Attachment U). The Florida Land Use Cover and Classification System (FLUCCS) included in the Protected Species Survey depicts Mixed Exotic Uplands along the north property line and Pine Flatwoods with up to 50 percent exotic vegetation along the east property line (Attachment T). The Preservation Area Management Plan provides the methods and species restoration that is consistent with VIO2021-0628 and VIO2021-0629 (Attachments I and J). The applicant is required to provide 3.5 acres of indigenous open space and has requested a deviation (Deviation 2) to allow the restoration area to be used to meet the indigenous open space. Staff has recommended approval of Deviation 2 subject to Condition 8 (Attachment S). Staff finds the request, as conditioned, to be consistent with **Lee Plan Objective 25.10 and Lee Plan Policy 25.10.1**.

Lee Plan Objectives 60.2 and 60.3 and Policies 60.1.1, 60.4.1, 60.4.2, and 61.3.11 all speak to the design of the stormwater management system and the utilization of green infrastructure to filter pollutants and protect the surrounding natural environment. The applicant submitted a Surface Water Management Plan (Attachment V). The subject property abuts Lehigh Acres Municipal Services Improvement District (LAMSID) drainage canals along the east, west and north property lines. The site is vacant with existing roads within each parcel. The current surface water drainage pattern is to the perimeter of the property into the abutting canals. The proposed drainage system will be a closed design with drainage pipes conveying surface water to dry detention pretreatment areas that will discharge into Angelfish Canal to the

north. The wetland preserve is not being integrated into the surface water management system but is being restored through exotic removal and habitat restoration to abate violations (Attachment O). The proposal is consistent with **Lee Plan Policies 60.4.1 and 60.4.2** which encourage new developments to utilize green infrastructure in site designs. Staff finds the request, as conditioned, to be consistent with **Lee Plan Objectives 60.2 and 60.3 and Policies 60.1.1, 60.4.1, 60.4.2, and 61.3.11.**

Lee Plan Policy 123.8.1 protects gopher tortoise burrows wherever they are found. If unavoidable conflicts make on-site protection infeasible, off-site mitigation may be provided in accordance with Florida Fish and Wildlife Conservation Commission (FFWCC) requirements. The applicant provided a Protected Species Survey depicting the location of Gopher Tortoise burrows on the subject property (Attachment T). The Protected Species Survey Map depicts burrows within the limits of the 1.2-acre northeast restoration area and the 1.2-acre eastern preservation area. Staff has recommended Condition 9 for the 1.2-acre eastern preserve area to prohibit machines due to the existing indigenous vegetation within the preserve (Attachment S). The 1.2-acre restoration area is part of the proposed dry detention which will be impacted; therefore, the Gopher Tortoise burrows will need to be excavated for relocation. Staff finds the request, as conditioned, to be consistent with **Lee Plan Policy 123.8.1**.

Land Development Code Compliance

Staff finds the proposed planned development rezoning request, as conditioned, to be in compliance with the LDC, including regulations which pertain to:

- Use and corresponding supplemental regulations, such as parking;
- LDC Chapter 10 Development Standards; and
- Details required on the MCP and compliance with Division 9 of Article VI, Chapter 34, Planned Development Districts.

All relevant County regulations, which are not specifically deviated from as part of this planned development request, will apply, such as LDC, Code of Ordinances and Administrative Code provisions. If future deviations are proposed, each will be evaluated within the parameters of the established LDC review criteria.

Compatibility with existing and planned uses in the surrounding area.

Staff finds the request, as conditioned, to be compatible with existing and planned uses in the surrounding area. Rezoning the subject property will increase the commercial area to serve the Lehigh Acres community, which the Lee Plan encourages through the Commercial Overlay Area. The multi-family residential option on Parcel 2 will diversify the housing types and comply with the goals and objectives of the Mixed Use Overlay. The surrounding land uses are primarily vacant or single-family residential dwelling units, a Lee County Public School, or LAMSID property within the Central Urban, Urban Community and Public Facilities Future Land Use categories. Platted residential lots within the Urban Community Future Land Use category are located north of the subject property, which are separated from the subject property by Angelfish Canal, which is approximately 90 feet wide. The subject property is separated from the residential single-family lots to the west by a 30-foot canal. The

applicant has designed the site to provide preservation and restoration areas between the proposed multi-family residential units and single-family lots to the north. The applicant has provided Property Development Regulations that are consistent with **LDC Section 34-935(b)(1)a.,** with a maximum building height of 45 feet for the multi-family units and 35 feet for the commercial uses in accordance with **LDC Section 34-935(f)** (Attachment M). The Schedule of Uses is consistent with **LDC Section 34-934** (Attachment N). The applicant has provided a Master Concept Plan that demonstrates compliance with required buffers and open space per **LDC Sections 33-1405 and 10-425(f)** (Attachment K). The request will remain compatible with the surrounding uses and any enhanced buffers are conditioned (Attachment S). The following buffers are being proposed for Parcel 1 and Parcel 2:

Parcel 1

North - Abuts a canal that is more than 25 feet wide. Single-family residences are located north of the canal. Per LDC Section 10-1, the definition of abutting means "any property that is immediately adjacent to, or contiguous with, or that is located immediately across any street, canal, easement, or water body, not to exceed 25 feet from the other property." The applicant is providing a ten-foot-wide Type B buffer per LDC Section 10-425(f)(2) due to the single-family residences across the canal. The applicant is depicting the ten-foot-wide Type B buffer outside of the dry detention and abatement restoration limits. Staff has provided a condition that a Type B buffer will be provided in addition to the dry detention and abatement restoration planting area as an additional screening for compatibility (Attachment S).

South - Five-foot-wide buffer with five trees per 100 linear feet per LDC Section 10-425(f)(1) required and provided.

East - Five-foot-wide buffer with five trees per 100 linear feet per LDC Section 10-425(f)(1) required and provided.

West - Abuts a canal that is more than 25 feet wide. Single-family residences are located north of the canal. Per LDC Section 10-1, the definition of abutting means "any property that is immediately adjacent to, or contiguous with, or that is located immediately across any street, canal, easement, or water body, not to exceed 25 feet from the other property." No buffer is required along the west property line. The applicant is providing a 25-foot-wide buffer with seven trees and 33 groundcovers per 100 linear feet and a double hedge row. Palms are limited to a maximum of 25 percent of the buffer tree requirement. Hedges must be specified at 48 inches in height at time of installation and be maintained at 72 inches in height. Groundcovers must be a minimum one-gallon container size at time of planting. Staff has provided a condition for the enhanced screening to provided compatibility with the residential uses across the canal (Attachment S).

Parcel 2

North - Abuts a canal that is more than 25 feet wide. Single-family residences are located north of the canal. Per LDC Section 10-1, the definition of abutting means "any property that is immediately adjacent to, or contiguous with, or that is located immediately across any street, canal, easement, or water body, not to exceed 25 feet from the other property." No buffer is required along the west property line. The applicant is providing a 25-foot-wide buffer with seven trees and 33 groundcovers per 100 linear feet and a double hedge row. Palms are limited to a maximum of 25 percent of the buffer tree requirement. Hedges must be specified at 48 inches in height at time of installation and be maintained at 72 inches in height. Groundcovers must be a minimum one-gallon container size at time of planting. Staff has provided a condition for the enhanced screening to provided compatibility with the residential uses across the canal (Attachment S).

South - Five-foot-wide buffer with five trees per 100 linear feet per LDC Section 10-425(f)1 required and provided.

East - The property abuts a Lee County School and a commercial use to the east. LDC Section 10-425(f) does not require a buffer between commercial use and a Lee County School. The applicant depicts a five-foot-wide buffer per LDC Section 10-425. Staff has provided a condition to ensure that the five-foot-wide buffer with five trees per 100 linear feet is provided (Attachment S).

West - Five-foot-wide buffer with five trees per 100 linear feet per LDC Section 10-425(f)(1) required and provided.

Sufficiency of Access and Transportation Impacts.

The subject property is located on the north side of Lee Boulevard on both the east and west sides of Sunniland Boulevard just over a ½ mile west of Sunshine Boulevard. The access to the proposed development will be via Sunniland Boulevard with two access points, and connections to 5th Street West and an extension of 5th Street West to the east of Sunniland Boulevard. Sunniland Boulevard is a county-maintained major collector. No direct access to Lee Boulevard, which is a county-maintained arterial road, is proposed. The trip generation was based on two different proposed land use scenarios. The first is scenario the applicant is proposing 265,000 square feet retail use and 100,000 square feet self-storage use. The second scenario being proposed is for 100,000 square feet of retail use, 100,000 square feet of self-storage use, and 300 multi-family dwelling units. The trip generation for the proposed development is analyzed by using the Institute of Transportation Engineer's (ITE) Trip Generation 11th Edition Report. Lee County Department of Transportation has reviewed the Traffic Impact Statement and provided a staff memorandum that includes analysis of the proposed scenarios and recommended conditions to ensure that the development is in compliance with the Lee Plan, Land Development Code, and Administrative Code 13-17 (Attachment Q). The first scenario generates the greatest number of trips on the adjacent roadway system therefore; the first scenario was utilized in

the Traffic Impact Statement (TIS) to evaluate the impacts on the adjacent roadway network (Attachment P).

Table 2 of the staff memorandum indicates that there will be 9,093 new daily trips added to the adjacent roadway system from the proposed first scenario (LCU #1):

Table 2: Trip Generation

Land Use	Weekday A.M Peak Hour			Weekday P.M Peak Hour			Daily
	In	Out	Total	In	Out	Total	(2-Way)
Retail [ITE Code 820] (265,000 sq. ft.)	180	110	290	546	592	1,138	12,783
Self- Storage [ITE Code 151] (100,000 sq. ft.)	5	4	9	7	8	15	145
Less 30% Pass-By Trips [ITE Code 820]	-44	-44	-88	-171	-171	-342	-3,835
Net New Trips	141	70	211	382	429	811	9,093

Utilizing the daily trips and assuming that the development will be completed by 2028, the Level of Service (LOS) for the roadway links may be analyzed considering the traffic conditions with or without the proposed development as depicted in Table 3 of the staff memorandum below:

Table 3: Arterial/Collector Roadway Section(s) Adjacent to Site Expected to be Significantly Impacted by the Proposed Development

Roadway	Location	Significant Impact Expected	Level of Service		
			Existing	Future 2028	Future 2028 + Project
Sunshine Blvd.	S. of Lee Blvd.	Yes	C	C	C
Sunniland Blvd.	N. of Lee Blvd.	Yes	C	C	C
	N. of 12th St W.	Yes	C	C	C
Gunnery Rd.	N. of Lee Blvd.	No	C	F	F
	S. of Lee Blvd.	No	B	F	F

Table 3 indicates that the surrounding roadways with or without the development, the adjacent arterial and collector roadways will not be negatively impacted by the development.

The roadway network accesses and intersections were analyzed with their corresponding pre-project and post-project built-out level of service depicted in **Table 4** below:

Table 4: Site Access and Intersection Level of Service Analysis

Intersection		Traffic Control	Peak Hour	Level of Service		
Roadway A	Roadway B			Existing	Future (2028)	Future (2028) + Project
Lee Blvd.	Sunniland Blvd.	Two-Way Stop Controlled	PM	--	F	F
Lee Blvd.	Sunniland Blvd.	Signalized	PM	--	--	C
Sunniland Blvd.	5th St W.	Two-Way Stop Controlled	PM	--	F	--
Sunniland Blvd.	N. Site Access	Two-Way Stop Controlled	PM	--	B	--
Sunniland Blvd.	S. Site Access	Two-Way Stop Controlled	PM	--	F	--

The information provided in Table 4 is a projection for the level of service indicating that the intersection of Lee Boulevard and Sunniland Boulevard with a two-way stop is a level of service F and with signalization is a level of service C with the project. At time of development order, more detailed information will be provided with the level of service needed to support the proposed uses being built on the site per the submitted development order. Staff has recommended two conditions limiting the square feet of retail and mini-warehouse and requiring a signal warrant projection based on full buildout of the development (Attachment S).

No adverse impacts to environmentally critical or sensitive areas and natural resources.

The site has been impacted by land clearing without a development order. Notices of Violation, VIO2021-06268 and VIO2021-06269, provide the restoration requirements to abate the violations (Attachments I & J). The applicant has provided a Preservation Area Management Plan that is consistent with the restoration requirements in the Notices of Violation (Attachments H, I, J, & U). The applicant is proposing to restore 2.3 acres and preserve 1.2 acres of indigenous open space. Deviation 2 has been requested to allow the restoration area to be included in the ten percent indigenous open space requirement. Staff has recommended Condition 8 to ensure that a Limited Development Order is issued and certified to abate the violations prior to a development order being issued for infrastructure or vertical construction. The applicant's Protected Species Survey indicates that there are protected species onsite (Attachment T). Staff has recommended a condition to ensure no machines are used to excavate the Gopher Tortoise burrows within the 1.2-acre east preserve area, which would impact indigenous fauna species (Attachment S). Environmental Staff have provided a staff report containing analysis and findings to support staff recommended conditions (Attachment W).

The applicant submitted a Heritage Tree Survey Map that depicts the location of all the heritage trees, species of tree, and the diameter breast height of each species (Attachment X). Heritage trees are native trees that have at least a 20-inch diameter breast height. LDC Section 10-416(a)(4) requires large developments to preserve heritage trees but if a heritage tree must be removed, then a replacement native canopy tree with a minimum 20-foot height must be planted within an appropriate open space area. The applicant will be required to demonstrate preservation or replacement of heritage trees at time of development order.

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

As noted, and defined above, the subject property is located within a future urban area. The subject property has adequate access to urban services to accommodate the development proposed by the request. Future improvements required by the LDC at time of local development order approval will further improve urban services and pedestrian facilities surrounding the subject property.

Supplemental Planned Development Criteria.

Staff finds the request to be consistent with the following additional criteria:

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

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) The deviations enhance the achievement of the objectives of the planned development and protects the public health and safety.

OUTSTANDING ISSUES:

1. The applicant must revise the Master Concept Plan to note the restoration areas are "abatement for VIO2021-06268 and VIO2021-06269" within the illustration and open space calculation and revise the deviation notes.
2. Revise the Master Concept Plan to reference the deviations per the staff report.
3. A new Letter of Availability must be provided from FGUA stating that capacity is available for the maximum commercial square feet and multi-family dwelling units being proposed in the request.

CONCLUSION:

Based upon an analysis of the application and the standards for approval of planned development rezonings, staff finds the request to be consistent with the established review criteria. As conditioned, the request is consistent with the Central Urban future land use designation and the applicable goals, objectives, and policies of the Lee Plan. The request, as conditioned, is appropriate in the context of its surroundings. Staff recommends **APPROVAL** of the request to rezone the 34.90-acre property from CPD to CPD to allow either:

1. 265,000 square feet of commercial floor area and 100,000 square feet of mini-warehouse; or
2. 100,000 square feet of commercial floor area, 100,000 square feet of mini-warehouse, and 300 multi-family dwelling units (limited to Parcel 2 only) with a maximum height of 45 for multi-family residential uses and 35 feet for commercial uses, with the conditions attached as Attachment S of this report.

ATTACHMENTS:

A. Expert Witness Information
B. Boundary Survey and Legal Description
C. Location Aerial, Future Land Use, and Current Zoning Maps
D. Applicant's Request Narrative
E. Resolution Z-06-090 strike through and underline
F. Deviations and Justifications
G. Florida Department of Environmental Protection Oil and Gas Program Oil Well Plug
H. Violation VIO2021-00378
I. Violation VIO2021-06268
J. Violation VIO2021-06269
K. Master Concept Plan
L. Letter of Availability
M. Applicant Property Development Regulations
N. Applicant Schedule of Uses
O. South Florida Water Management Abatement Letter
P. Traffic Impact Statement
Q. Lee County Department of Transportation Staff Memorandum
R. Public Information Meeting Summary
S. Recommended Conditions
T. Protected Species Survey
U. Preservation Area Management Plan
V. Surface Water Management Plan
W. Environmental Sciences Staff Report
X. Heritage Tree Survey Map