



## LEE COUNTY BOARD OF COUNTY COMMISSIONERS

### ZONING and COMPREHENSIVE PLAN AMENDMENT HEARING AGENDA

Wednesday, May 7, 2025  
9:30AM

DCI2023-00053  
Z-25-004

Babcock Lee Mixed Use Planned Development

DCI2024-00016  
Z-25-007

Modern Services CPD

CPA2024-00007

House Bill 1379 (2023) Update - Adoption

## **NOTICE OF PUBLIC HEARING**

The Lee County Board of County Commissioners will hold a public hearing at 9:30 am on Wednesday, May 7, 2025 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.

### **DCI2023-00053 / Babcock Lee Mixed Use Planned Development**

Request to amend the 4,157.2 ± acre Babcock Mixed Use Planned Development (MPD) (Resolution Z-17-026, as amended) to increase the number of dwelling units from 1,630 to 2,078; reduce the number of hotel rooms from 600 to 250 rooms; and increase the on site preservation area, including increases to both upland and wetland areas.

Located at Northeast corner of SR 31 and North River Road, Northeast Lee County Planning Community, Lee County, FL.

### **DCI2024-00016 / Modern Services CPD**

Request to rezone 1.3± acres from Agricultural (AG 2) to Commercial Planned Development (CPD) to allow for 16,000 SF of Business Services, Group I (Contractors Office) and accessory warehousing with a maximum building height of 35 feet.

Located at 11550 & 11570 Palm Beach Blvd., Fort Myers Shores 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 (BCherry2@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](mailto: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.

**NOTICE OF PROPOSED AMENDMENT TO THE  
LEE COUNTY COMPREHENSIVE LAND USE PLAN  
(ADOPTION HEARING)**

The Lee County Board of County Commissioners will hold a public hearing to consider the adoption of proposed amendments to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, May 7, 2025. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers, 2120 Main Street in Downtown Fort Myers.

The Board proposes to adopt an ordinance amending the Lee Plan as follows:

CPA2024-00007 House Bill 1379 (2023) Update - Amend Lee Plan to implement House Bill 1379. House Bill 1379 is a wide-ranging amendment to Florida Statutes related to environmental protection in the areas of wastewater management, septic systems, sanitary sewer services and planning, Basin Management Action Plans (BMAP), and the wastewater grant program. Amendments to the Lee Plan are required to maintain consistency with Florida Statutes. Additional minor amendments have also been identified to update cross-references to various County ordinances and plans.

Documentation for the Proposed Comprehensive Plan Amendment is available at <https://www.leegov.com/dcd/planning/cpa> or at the Department of Community Development located at 1500 Monroe Street, Fort Myers, Florida. This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

Lee County will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income or family status. To request language interpretation, document translation or an ADA-qualified reasonable modification at no charge to the requestor, contact the ADA Coordinator, Ranice Monroe, 239-533-0255, [ADArequests@leegov.com](mailto:ADArequests@leegov.com), Florida Relay Service 711, at least five business days in advance. El Condado de Lee brindará servicios de traducción sin cargo a personas con el idioma limitado del inglés.

**DCI2023-00053  
BABCOCK LEE  
MIXED PLANNED  
DEVELOPMENT**

# **Staff Summary**

CASE NUMBER & NAME: DCI2023-00053/Babcock Lee Mixed Use Planned Development

REQUEST: Request to amend the 4,157.2 ± acre Babcock Mixed Use Planned Development (MPD) (Resolution Z-17-026, as amended) to increase the number of dwelling units from 1,630 to 2,078; reduce the number of hotel rooms from 600 to 250 rooms; and increase the on-site preservation area, including increases to both upland and wetland areas.

RESOLUTION NUMBER: Z-25-004

LOCATION: Northeast corner of SR 31 and North River Road, Northeast Lee County Planning Community, Lee County, FL.

OWNER: BABCOCK PROPERTY HOLDINGS LLC

APPLICANT: Babcock Property Holdings, LLC

AGENT: Tom Sacharski, AICP  
RVi Planning + Landscape Architecture  
8725 Pendery Place, Suite 101  
Babcock Ranch, FL 33982

HEARING EXAMINER  
RECOMMENDATION: Approval, subject to conditions and deviations set forth in Exhibit B.

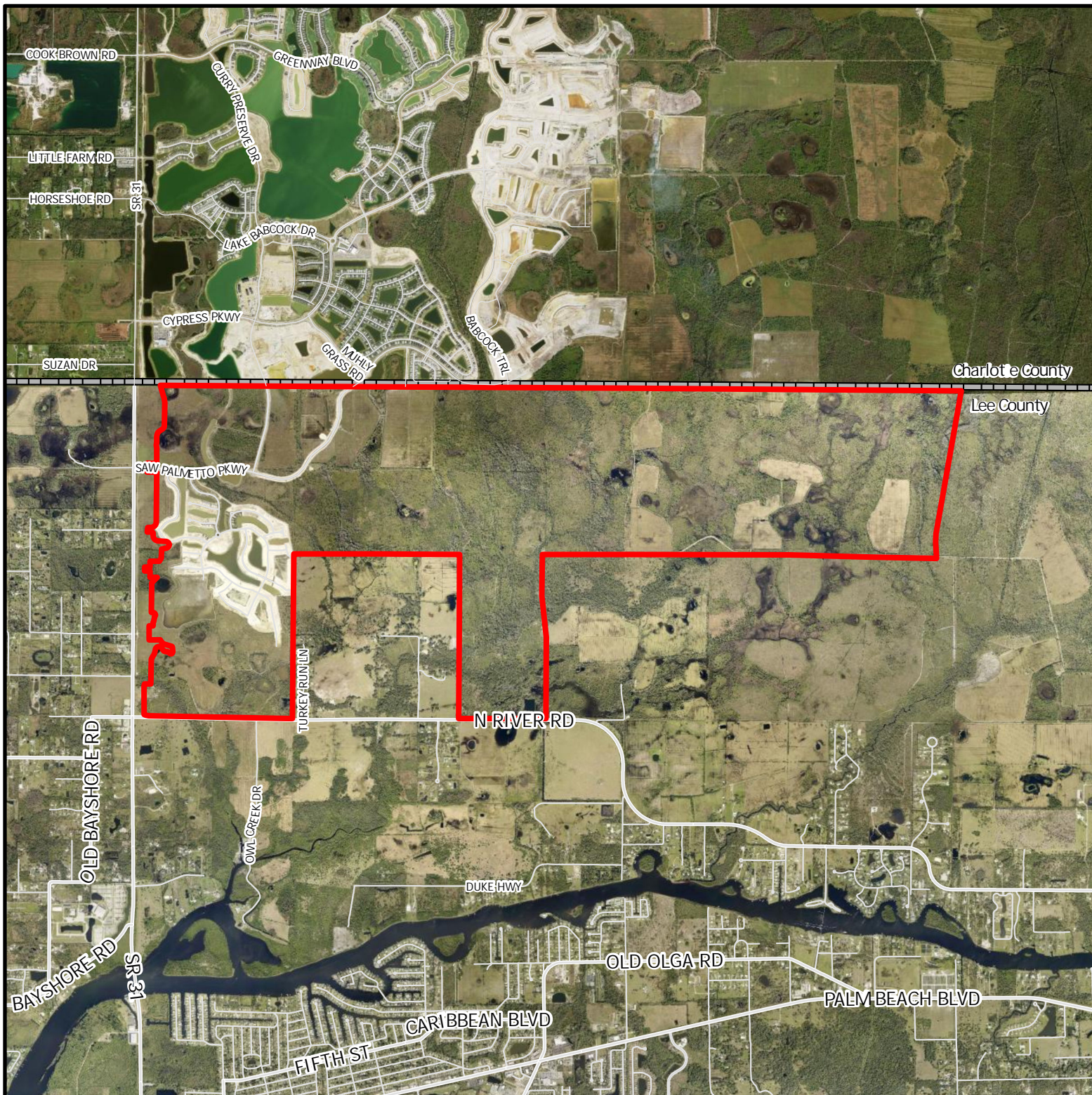
PARTICIPANTS: None

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DCI 2023-00053

Aerial

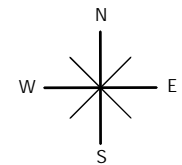


Charlotte County

Lee County

 Subject Property

 County Boundary



0 0.5 1 1.5  
Miles





## Summary of Hearing Examiner Recommendation

# **BABCOCK LEE MIXED USE PLANNED DEVELOPMENT**

Applicant seeks to alter Babcock Lee MPD zoning approvals to:

- Increase preservation areas by 234± acres;
- Increase density by 448 units (yielding a project density of 1 unit per 1.9 acres);
- Reduce hotel rooms by 350 rooms;
- Create seven new wetland acres; and
- Decrease project acreage from 4,157 to 4,003 acres to reflect land taken by FDOT for SR 31 expansion.

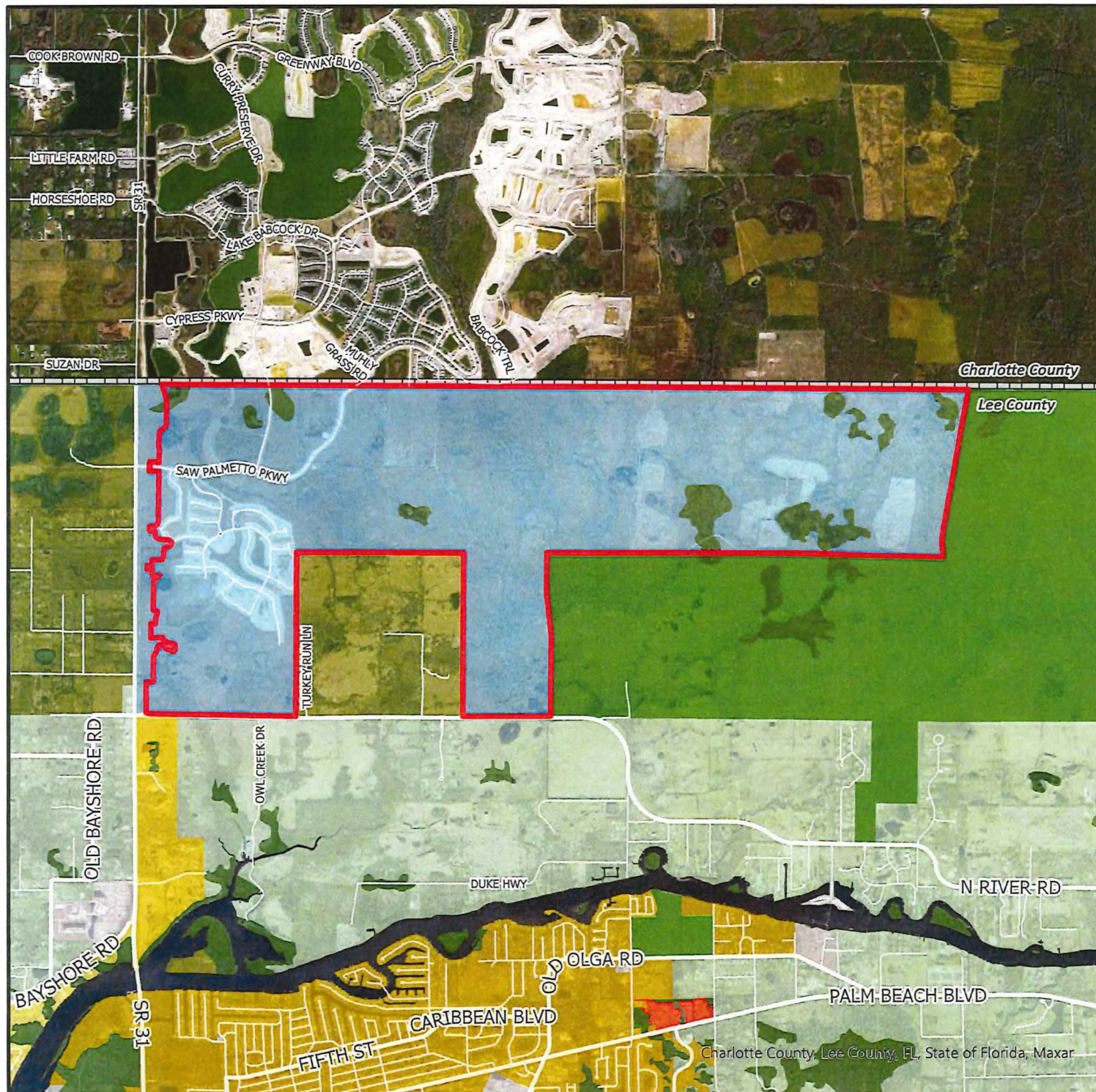
No change to the non-residential intensity of 1,170,000 square feet is proposed. Permitted height remains unchanged at 65 feet.

The Hearing Examiner recommends approval, subject to conditions. No members of the public attended the hearing.


*Detailed recommendation follows*


DCI2023-00053

## Future Land Use





 Subject Property

 County Boundary

 Urban Community

 Suburban

 Outlying Suburban


 Sub-Outlying Suburban

 Commercial

 Public Facilities

 New Community


 Rural

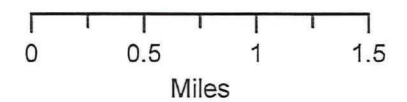
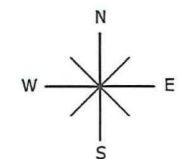
 Outer Island

 Density Reduction/Groundwater Resource

 Conservation Lands - Upland

 Wetlands

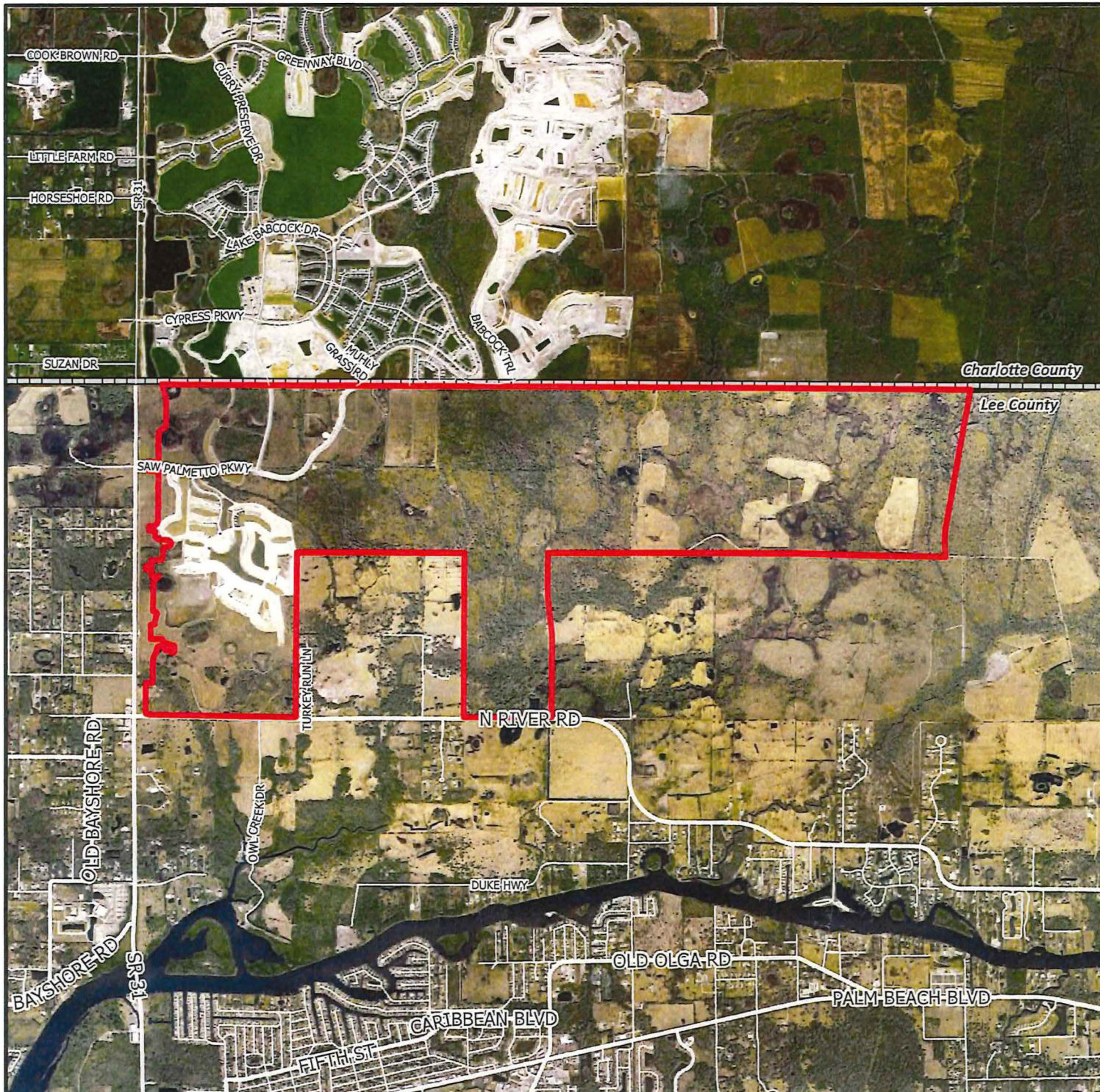
 Conservation Lands - Wetland






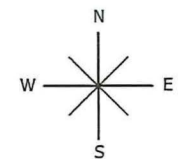
DCI2023-00053

Aerial



 Subject Property

 County Boundary



0 0.5 1 1.5  
Miles





OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

**REZONING:** DCI2023-00053

**Regarding:** **BABCOCK LEE MIXED USE PLANNED DEVELOPMENT**

**Location:** Northeast Corner of SR31/North River Road  
Northeast Lee County Planning Community  
(District 5)

**Hearing Date:** February 12, 2025

**I. Request**

Amend the 4,157± acre Mixed Use Planned Development (MPD) to increase the number of dwelling units from 1,630 to 2,078, reduce the number of hotel rooms from 600 to 250 rooms, and increase the on-site preservation area on Tracts R-2 and R-3, including increases to upland and wetland areas.

The property legal description is set forth in Exhibit A.

**II. Hearing Examiner Recommendation**

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

**III. Discussion**

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.<sup>1</sup> In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone 4,003± acres in the Babcock Lee MPD.<sup>2</sup>

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

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

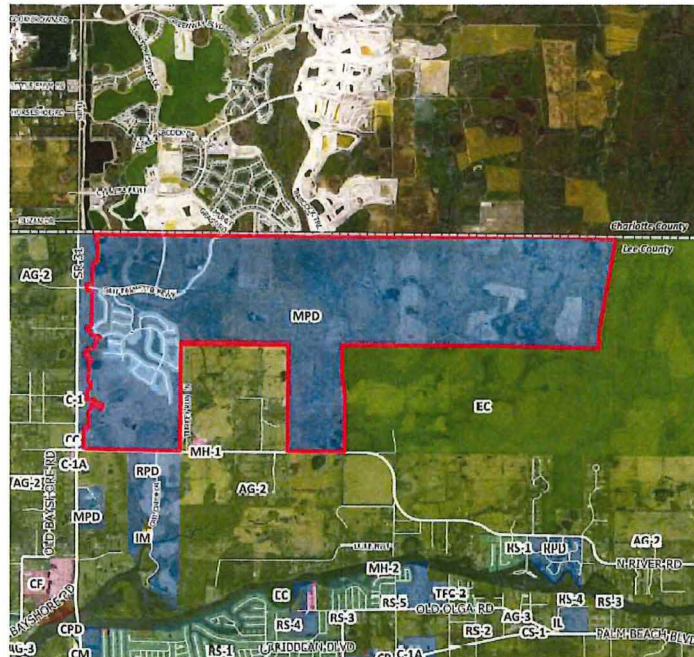
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<sup>1</sup> LDC §34-145(d)(4)a.

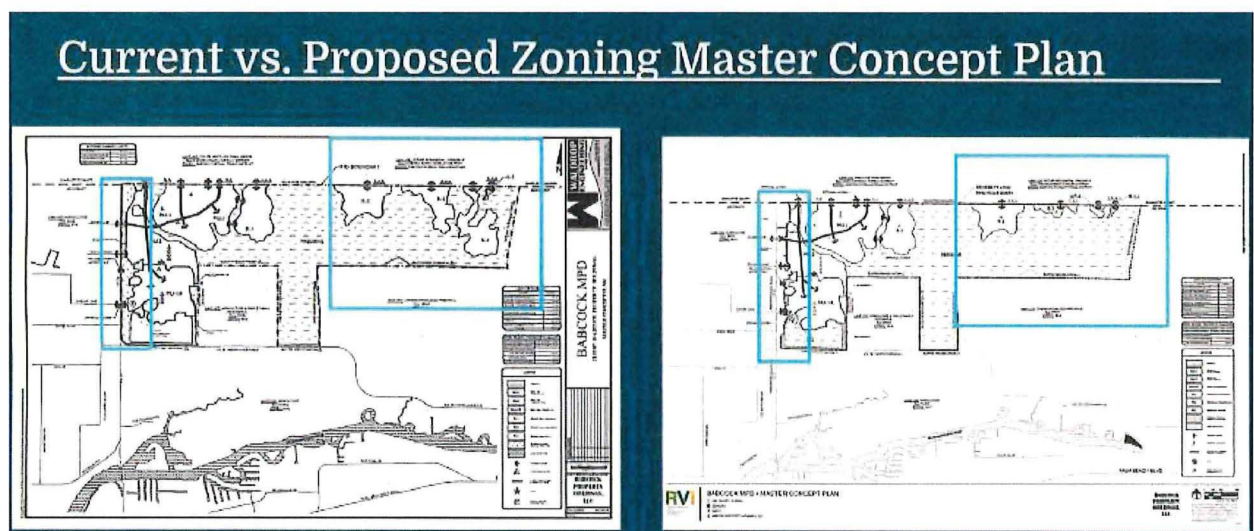
<sup>2</sup> Modified project acreage reflects a reduction of 154 acres taken by FDOT.



Requested density yields one unit per 1.9 acres.<sup>7</sup> The project is currently approved for one unit per 2.5 acres.<sup>8</sup> The request clusters additional units on lands slated for development while reducing developable area to designate new preserve areas.



The proposed Master Concept Plan (MCP) poses no changes to project access. Building heights also remain unchanged. Notably, the amendment preserves more than 2,600 acres, or 65% of the site.



<sup>7</sup> See CPA2023-00012. Requested density is consistent with current New Community standards. See *Id.*; Lee Plan Policy 1.1.15.

<sup>8</sup> Z-17-026.

Staff recommended approval, finding the request satisfies LDC review criteria.

### **Babcock Ranch Zoning History**

Babcock Ranch covers more than 90,000 acres spanning two counties. The Charlotte County portion was approved as a Development of Regional Impact (DRI) comprised of 17,870 dwelling units, 6 million square feet of non-residential uses, 600 hotel rooms, 177 hospital beds, 418 assisted living facility units, educational facilities, recreational uses, and civic space.

The 4,003± acre portion in Lee County received zoning approval in 2018 for 1,630 dwelling units, 1,170,000 square feet of commercial uses, and 600 hotel rooms.<sup>9</sup> The Board approved a companion Lee Plan amendment to designate the property within the New Community future land use classification, permitting density at one unit per 2.5 acres.<sup>10</sup>

Subsequent administrative amendments followed.<sup>11</sup> Site development has commenced with construction of the TerraWalk residential community, clearing for commercial areas, and extension of the spine road connecting the Lee and Charlotte County portions.<sup>12</sup>

In 2025, the Board amended the New Community category to permit density at one unit per 1.9 acres.<sup>13</sup>

### **Character of Surrounding Area**

The property sits east of SR 31, between Bayshore Road and the Charlotte County line. The area is in a state of transition as development patterns emerge with the mixed-use Town of Babcock Ranch, suburban development along Bayshore Road, and rural areas within the North Olga community. Abutting lands are comprised of the following:

- North: The Charlotte County portion of Babcock Ranch.
- South: North River Road.
- East: Telegraph Creek Preserve.
- West: SR 31.

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<sup>9</sup> Z-17-026 (Staff Report, Attachment G).

<sup>10</sup> See Staff Report (pg. 2).

<sup>11</sup> ADD2021-00073: Modified the MCP, Schedule of Uses, and Conditions (Staff Report Attachment G); ADD2021-00188: Amended the MCP for the Fire/EMS substation, designated consumption on premises on tracts MU-2 and MU-1/R and eliminated emergency access on North River Road (Staff Report Attachment G).

<sup>12</sup> See Staff Report (pg. 2).

<sup>13</sup> See CPA2023-00012.



### **Lee Plan Consistency/Compatibility**

Planned developments must be consistent with the Lee Plan and minimize negative effects on neighboring land uses.<sup>14</sup>

The property is within the New Community future land use category in the Northeast Lee County/North Olga Planning Communities.<sup>15</sup>

New Community lands are cohesive development units that achieve conservation of important environmental resources and area wide surface water management.<sup>16</sup> The Board amended the category in January 2025 to achieve the requested development program.<sup>17</sup>

Expert testimony confirmed requested changes to remove lands from development pods and place them into preservation achieves New Community goals.<sup>18</sup> The requested increase in dwelling units further supports Lee Plan directives to provide a diversity of housing types for county residents.<sup>19</sup>

The request does not alter the Board's prior findings that the MPD is consistent with the Lee Plan and compatible with the surrounding area.

### **Traffic/Transportation**

Planned developments must have access to roads with sufficient capacity to support proposed intensity.<sup>20</sup> Existing regulations or conditions of approval must address expected impacts on transportation facilities.<sup>21</sup>

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<sup>14</sup> Lee Plan Policy 2.1.2; LDC §34-411(a), §34-491.

<sup>15</sup> Lee Plan Map 1-A, 1-B, 2-A, Goal 27, 29, Policy 1.1.15.

<sup>16</sup> Lee Plan Policy 1.1.15.

<sup>17</sup> See CPA2025-00012, Staff Report (Attachment E). The Board unanimously adopted the Lee Plan amendment on January 22, 2025. See Applicant Ex. 3 (slide 13).

<sup>18</sup> Increasing preservation areas conserves more land and enhances water management. Policy 1.1.15. Hearing Testimony (pg. 14-44, 58-74).

<sup>19</sup> Lee Plan 29.1.1, 135.1.9. Additional proposed units can be single-family, multi-family, or assisted living facility units.

<sup>20</sup> LDC §34-145(d)(4)(a)(1)(d); §34-411(d)(1).

<sup>21</sup> LDC §34-145(d)(4)(a)(1)(e); §34-411(d)(2).

### Access

The property has more than two miles of frontage on SR 31.<sup>22</sup> The MCP retains three approved access points on SR 31 and several internal connections to Babcock Ranch in Charlotte County.<sup>23</sup> There is no access on North River Road.<sup>24</sup>

The request proposes no change to approved access. Internal roads provide connectivity within Babcock Ranch to relieve traffic on the broader county road network.

There is sufficient access to support the requested amendment.

### Transportation Impacts

The Traffic Impact Statement (TIS) demonstrated the request does not trigger additional transportation improvements beyond those identified in the approved zoning.<sup>25</sup> The TIS concluded the additional units will increase project trip generation by 13 percent during peak hours.<sup>26</sup>

Expert testimony detailed road improvement projects the Florida Department of Transportation (FDOT) is overseeing on affected roads that will further mitigate off-site impacts.<sup>27</sup> Specifically, work is underway to widen SR 31 from two lanes to six lanes.<sup>28</sup> Applicant conveyed 154± acres from the MPD western boundary to accommodate the widening project.<sup>29</sup>

Transportation experts confirmed Applicant will fully mitigate traffic impacts through road impact fees.<sup>30</sup> Site-related improvements will be evaluated at the time of development order permitting.

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<sup>22</sup> SR 31 is a two-lane State arterial road governed by the Florida Department of Transportation (DOT). See Staff Report (Attachment J).

<sup>23</sup> Access points align with Busbee Lane, Shirley Lane, and Fox Hill Road. See MCP. Mr. Leung illustrated intersection control measures at each, including signalization at Shirley Lane and Busbee Lane, and a roundabout at Fox Hill Road.

<sup>24</sup> Original approvals showing an emergency access to North River Road have been administratively amended to remove that access. Testimony confirms the MPD does not have direct access to North River Road. Sacharski Testimony (Transcript pg. 24).

<sup>25</sup> Leung Testimony (Transcript pg. 45-51). See Staff Report (Attachments F & J).

<sup>26</sup> Leung Testimony at 46; Staff Report (Attachment F).

<sup>27</sup> *Id.*; Applicant Ex. 3 (slides 41-44).

<sup>28</sup> Applicant Ex. 3 (slide 41). Mr. Leung reported an anticipated completion date in 2027. Transcript at pg. 47.

<sup>29</sup> The western boundary line is being updated in this request to reflect the resulting configuration after conveyance to FDOT. Sacharski and Workman Testimony (Transcript pg. 16, 60); Staff Ex. 3 (slide 5).

<sup>30</sup> See LDC §2-261 *et. seq.* Mr. Leung estimates Applicant will contribute road impact fees of \$34.5 million. Testimony at pg. 46; Applicant Ex. 1 (slide 40); Staff Report (Attachments F & J).

### **LDC Compliance/Deviations**

Rezoning requests must meet the LDC and other applicable County regulations or qualify for deviations.<sup>31</sup> “Deviations” are departures from land development regulations.<sup>32</sup> Applicants must demonstrate deviations enhance the planned development and protect public health, safety, and welfare.<sup>33</sup>

Applicant carries forward 13 approved deviations and seeks two new deviations.<sup>34</sup> Deviations are carried forward from prior approvals without modification. Newly requested deviations pertain to roadway segments and parking buffer locations.<sup>35</sup> Staff supports the requested deviations.<sup>36</sup>

Applying LDC deviation standards of review to testimony and evidence in the record, the Hearing Examiner concludes requested deviations meet approval criteria.<sup>37</sup>

The project will be subject to impact fees at the time of site development.<sup>38</sup>

### **Environmental**

Planned development design should reflect creative use of open space.<sup>39</sup> Developers must attempt to protect and preserve natural site features.<sup>40</sup>

The request poses no adverse impacts to environmentally critical areas or natural resources. Rather, the request increases preserve areas. Removing lands currently approved for development and placing them into preserves results in a

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<sup>31</sup> LDC §34-145(d)(4)a.1(b).

<sup>32</sup> LDC §34-2.

<sup>33</sup> LDC §34-373(a)(9).

<sup>34</sup> Applicant Ex. 3 (slides 15-17).

<sup>35</sup> See Deviations 14-15, seeking relief from LDC §10-296(e) and §33-1667, respectively. Applicant corrected deviation requests identified in the Staff Report in its pre-hearing memorandum. See Applicant Ex. A: 48-Hour Memorandum dated February 7, 2025. At hearing, Applicant further clarified Deviation 15 seeks a reduction from 25 feet to 20 feet, not 15 feet as noted in the pre-hearing memorandum. Sacharski Testimony (Transcript pg. 18).

<sup>36</sup> Workman Testimony (Transcript pg. 66-71). Staff supports both deviation requests but raised concern as to whether the requested deviation from parking buffer location standards triggers variance analysis. The Lee Plan imposes variance review criteria on deviations relating to landscaping in the North Olga Community. See Lee Plan Policy 29.1.4. Applicant maintains LDC §33-1667 is a locational parking standard and not a landscaping edict. The Parties agree the policy directive to impose strict landscaping standards in North Olga is aimed to protect the public experience with new development along *external* roadways. Here, the requested deviation is needed to address locational concerns *internal* to the project. Hearing testimony confirms the project will continue to meet landscape and setback requirements from external roadways without injury to the public. Staff agrees no public injury will occur in this instance. The Hearing Examiner modified Deviation 15 to clarify requested relief applies solely to internal rights-of-way.

<sup>37</sup> LDC §34-377(a)(4).

<sup>38</sup> LDC Chapter 2, Article VI, Divisions 2 and 5.

<sup>39</sup> LDC §34-411(h).

<sup>40</sup> LDC §34-411(g).

larger wildlife and ecological corridor.<sup>41</sup> Preservation areas will be placed under conservation easement to ensure perpetual protection.<sup>42</sup> Detailed conditions of approval further protect sensitive lands through restoration and mitigation monitoring.

In addition to increasing preservation acreage, Applicant is creating seven acres of new wetlands.<sup>43</sup> Multiple state and federal agencies exercise regulatory oversight of wetland functionality in addition to local regulation.<sup>44</sup>

Applicant's ecologist detailed the positive impact the request produces on wildlife, including creation of protected species habitat and providing a continuous wildlife corridor with adjacent state lands.<sup>45</sup> Protected Species, Habitat Management, and Human/Wildlife Coexistence Plans remain intact.<sup>46</sup>

Applicant's expert engineer concluded the request poses no off-site impacts to the existing water management system.<sup>47</sup> Water quality monitoring will remain consistent with State and County permitting requirements.<sup>48</sup>

The proposed MPD amendments to increase preserve areas and create additional wetlands enhance the project's environmental impacts over current approvals.

### **Public/Urban Services**

Public/urban services are the facilities, capital improvements, and infrastructure necessary to support development.<sup>49</sup> The Lee Plan requires an evaluation of available services during the rezoning process.<sup>50</sup>

A host of public services and infrastructure serve the property, including roads, potable water, police, fire, and emergency medical services.<sup>51</sup> Babcock Ranch

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<sup>41</sup> Herrero Testimony (Transcript pg. 26).

<sup>42</sup> Applicant Ex. 3 (slides 25-26); Herrero Testimony (Transcript pg. 28-29).

<sup>43</sup> Herrero Testimony (Transcript pg. 30-32); Applicant Ex. 3 (slides 27-30).

<sup>44</sup> Applicant's ecologist identified various agencies that receive monitoring reports of environmental activities within the project, including South Florida Water Management District, Florida Department of Environmental Protection, and the U.S. Army Corps of Engineers. *Id.* at 32.

<sup>45</sup> The request yields a continuous wildlife corridor from Charlotte Harbor to Lake Okeechobee. *Id.* at 33.

<sup>46</sup> Plans are updated solely to reflect additional preserve acreage. *Id.*

<sup>47</sup> Mercer Testimony (Transcript pg. 40-44); Applicant Ex. 1 (slides 36-38). Applicant submitted an updated Surface Water Management Plan dated June 2024 (Staff Report Attachment F).

<sup>48</sup> *Id.* Both Lee County and the SFWMD impose monitoring requirements. *Id.*

<sup>49</sup> Lee Plan Glossary: Public services include public water/sewer, paved streets/roads, public transit, parks/recreation facilities, urban levels of police, fire, and emergency services, urban surface water management, schools, employment, industrial, and commercial centers, institutional, public, or administrative facilities, community facilities such as senior citizens centers, libraries, and community centers.

<sup>50</sup> Lee Plan Policy 2.2.1.

<sup>51</sup> See Staff Report (pg. 3-4, Attachments F & H).



Independent Special District services the MPD and provided letters of availability evidencing sufficient capacity to support the requested development.<sup>52</sup>

The proposed amendments to the MPD do not alter the Board's previous finding there are adequate public services and infrastructure to serve the project.

### **Conditions**

The County must administer the zoning process so that proposed land uses acceptably minimize adverse impacts to adjacent residential properties.<sup>53</sup>

Conditions imposed on the MPD plausibly relate to impacts anticipated from the proposed development and mitigate those impacts on public health, safety, and welfare.<sup>54</sup> Approved conditions are carried forward without substantive modification. The Hearing Examiner recommends minor wording changes to improve clarity.<sup>55</sup>

### **Public Participation**

The LDC requires two public input meetings for zoning actions within the Northeast Lee County Planning Community.<sup>56</sup> Applicant conducted multiple community meetings and hosted a website dedicated to the project and requested amendment.<sup>57</sup>

No members of the public participated at the Hearing Examiner hearing.

### **Conclusion**

The Hearing Examiner recommends approval of the MPD amendment, subject to conditions set forth in Exhibit B.

## **IV. Findings and Conclusions**

Based on the testimony and evidence presented in the record, the Hearing Examiner makes the following findings and conclusions. The requested MPD amendment, as conditioned:

- A. Complies with the Lee Plan. Lee Plan Goals 1, 2, 4, 5, 6, 17, 27, 29, 60, 71, 123, 124, 125, 135, 158; Objectives 1.5, 2.1, 2.2, 4.1, 5.1, 17.3, 27.1, 29.9,

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<sup>52</sup> See Staff Report (Attachment H). Applicant submitted letters of availability from Babcock Ranch Community Independent Special District, Waste Pro, Lee County Sheriff, Bayshore Fire Protection and Rescue Service District, and the Lee County School District.

<sup>53</sup> Lee Plan Policy 135.9.6.

<sup>54</sup> LDC §34-932.

<sup>55</sup> Recommended changes are designed to facilitate understanding, implementation, and compliance.

<sup>56</sup> Lee Plan 17.3.5, 27.1.8, LDC §33-1663.

<sup>57</sup> Applicant Ex. 3 (slide 49).

60.4, 71.1, 125.1; Policies 1.1.5, 1.5.1, 1.5.2, 2.1.1, 2.1.2, 2.2.1, 5.1.2, 5.1.5, 60.4.1, 60.4.2, 60.4.3, 61.4.4, 125.1.2, 135.1.9, 160.1.3, Standards 4.1.1, 4.1.2, 4.1.4; Lee Plan Maps 1-A, 1-B, 2-A.

- B. Meets the Land Development Code and other County regulations or qualifies for deviations. LDC §34-145(d), §34-341, §34-378, §34-411, §34-491, §34-612(2), §34-932, §34-936.
- C. Is compatible with existing and planned uses. Lee Plan Objectives 2.1, 2.2, Policies 1.1.15, 5.1.2, 5.1.5, 135.1.9; LDC §34-411.
- D. Provides access sufficient to support the proposed development intensity. Expected impacts to transportation facilities will be addressed by the conditions of approval and County regulations. Lee Plan Policies 39.1.1; LDC §2-261 *et seq.*, §10-287, §34-411(d).
- E. Will not adversely affect environmentally critical/sensitive areas and natural resources. Lee Plan Goals 60, 77, 123, 125; Objectives 71.1, 77.1, 77.3, 126.2; Policies 1.5.1, 1.5.2, 5.1.2, 60.4.1, 60.4.2, 60.4.3, 61.4.4, 124.1.1, 125.1.2, 125.1.3, Standard 4.1.4; and LDC §34-411(h).
- F. Will be served by urban services adequate to serve the proposed land use. Lee Plan Glossary, Lee Plan Maps 4-A, 4-B, Goals 2, 4, Objectives 2.1, 2.2, 4.1, and Standards 4.1.1 and 4.1.2; LDC §34-411(d).
- G. The proposed mix of uses is appropriate at the proposed location. Lee Plan Goals 2, 5; Policies 1.1.15, 2.1.1, 2.2.2, 5.1.2, 5.1.5, 135.1.9, 160.1.3.
- H. Recommended conditions and applicable regulations provide sufficient safeguards to protect the public interest. Lee Plan Policies: 1.1.15, 5.1.5, 5.1.6, 125.1.2, 126.2.1, and 135.9.6; LDC §34-411, §34-932, §34-936.
- I. Newly requested deviations, as conditioned:
  - 1. Enhance planned development objectives, and
  - 2. Protect public health, safety, and welfare.

Date of Recommendation: April 11, 2025.

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

Amanda L. Rivera  
Deputy Hearing Examiner

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

**Exhibits to Hearing Examiner's Recommendation**

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

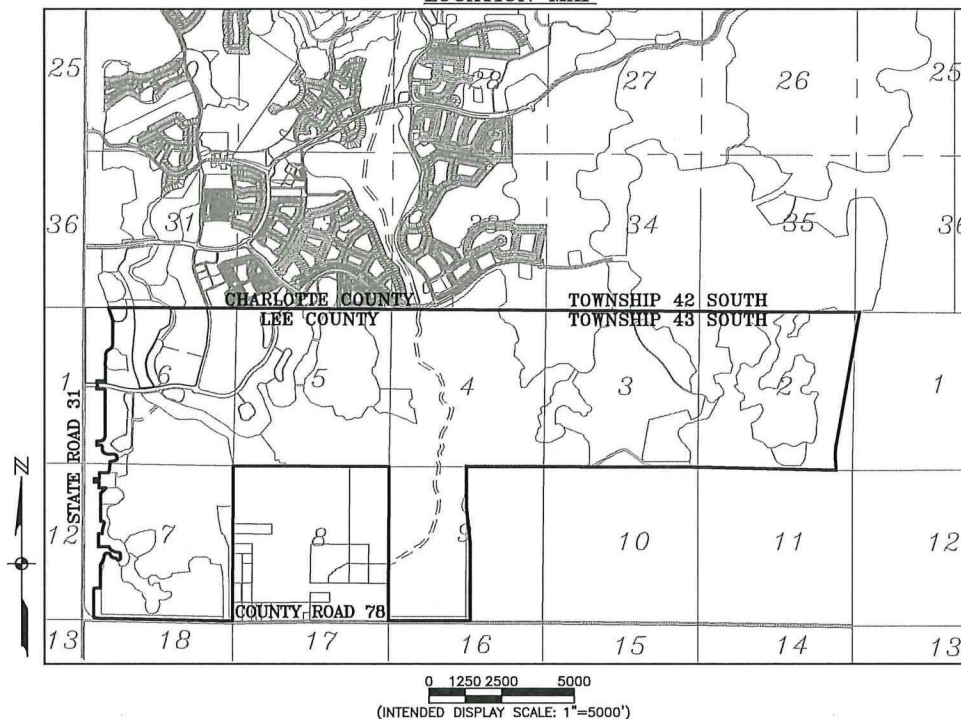
**Exhibit A**

**LEGAL DESCRIPTION AND VICINITY MAP**

## Exhibit A

SKETCH & DESCRIPTION  
**BABCOCK RANCH COMMUNITY**  
**LEE COUNTY PHASE 1 & OWLCREEK REMAINDER**  
 SECTIONS 1 THROUGH 7 & 9, TOWNSHIP 43 SOUTH, RANGE 26 EAST  
 LEE COUNTY, FLORIDA

LOCATION MAP



**REVIEWED**  
 DCI2023-00053  
 Rick Burris, Principal  
 Planner  
 Lee County DCD/Planning  
 12/18/2024

I HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THE LEGAL DESCRIPTION AND ATTACHED SKETCH WERE PREPARED IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF CHAPTER 5J-17.05, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472, FLORIDA STATUTES.

**LEGEND:**

N = NORTHING (FEET)  
 E = EASTING (FEET)  
 P.O.C. = POINT OF COMMENCEMENT  
 P.O.B. = POINT OF BEGINNING  
 STRAP = LEE COUNTY PARCEL NUMBER  
 INST# = OFFICIAL RECORDS INSTRUMENT NUMBER  
 R.O.W. = RIGHT-OF-WAY

**NOTES:**

- THIS IS NOT A BOUNDARY SURVEY, NOR IS IT INTENDED TO BE USED AS ONE.
- COORDINATES AND HORIZONTAL DATA SHOWN HEREON ARE IN FEET AND ARE PROJECTED ONTO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983 (NAD83), 1999 ADJUSTMENT.
- BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE PLAT OF BABCOCK RANCH COMMUNITY, LEE COUNTY PHASE 1 BEING S89°42'04"E.
- PARCEL CONTAINS 4,002.61 ACRES, MORE OR LESS.

NOT VALID WITHOUT ALL SHEETS IN SET

THIS SKETCH HAS BEEN DIGITALLY SIGNED BY:  
 KEVIN M. RISCASSI (FOR THE FIRM L.B. 642)  
 PROFESSIONAL SURVEYOR AND MAPPER  
 FLORIDA CERTIFICATE NO. 6433  
 ON THE DATE ADJACENT TO THE SEAL.

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED, AND THE DIGITAL SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

**JOHNSON**  
**ENGINEERING**

JOHNSON ENGINEERING, INC.  
 2122 JOHNSON STREET  
 FORT MYERS, FLORIDA 33902-1550  
 PHONE: (239) 334-0046  
 E.B. #642 & L.B. #642

## SKETCH &amp; DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
4/18/2024	20192003-030	06-43-26	1" = 5000'	1 OF 5

\\fms01\Drawings\2019\20192003-030\Surveying\Sketches\Lee County\Lee County & Owlcreek SR31 Remainder S&O.dwg (S(1)) tjj Apr 18, 2024 - 12:52pm



DESCRIPTION  
A PARCEL OF LAND  
LYING INSECTIONS 1 THROUGH 7, & 9, TOWNSHIP 43 SOUTH, RANGE 26 EAST  
LEE COUNTY, FLORIDAREVIEWED  
DCI2023-00053  
Rick Burris, Principal  
Planner  
Lee County DCD/Planning  
12/18/2024

A TRACT OR PARCEL OF LAND LYING IN SECTIONS 1 THROUGH 7, &amp; 9, TOWNSHIP 43 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE PLAT OF BABCOCK RANCH COMMUNITY LEE COUNTY PHASE 1, AS RECORDED IN OFFICIAL RECORDS INSTRUMENT NUMBER 2022000234859, PUBLIC RECORDS LEE COUNTY, FLORIDA; THENCE S.89°41'45"E., ALONG THE NORTH LINE OF SAID PLAT, A DISTANCE OF 779.36 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ON SAID NORTH LINE FOR THE FOLLOWING SIX (6) COURSES: (1) S.89°41'45"E., A DISTANCE OF 4,410.38 FEET; (2) S.89°41'45"E., A DISTANCE OF 5,306.08 FEET; (3) S.89°37'16"E., A DISTANCE OF 5,289.11 FEET; (4) S.89°35'44"E., A DISTANCE OF 5,294.60 FEET; (5) S.89°35'44"E., A DISTANCE OF 5,294.60 FEET; (6) S.89°35'44"E., A DISTANCE OF 155.76 FEET; THENCE ON THE EAST LINE OF SAID PLAT FOR THE FOLLOWING THREE (3) COURSES: (1) S.09°58'52"W., A DISTANCE OF 4,667.96 FEET; (2) S.04°10'14"W., A DISTANCE OF 283.52 FEET; (3) S.03°53'19"E., A DISTANCE OF 515.32 FEET; THENCE ON THE SOUTHERLY LINE OF SAID PLAT FOR THE FOLLOWING SEVENTEEN (17) COURSES: (1) N.88°38'22"W., A DISTANCE OF 2,084.07 FEET; (2) N.88°38'42"W., A DISTANCE OF 2,642.06 FEET; (3) N.89°51'49"W., A DISTANCE OF 5,300.09 FEET; (4) N.89°51'54"W., A DISTANCE OF 2,650.09 FEET; (5) S.00°23'25"W., A DISTANCE OF 1,330.65 FEET; (6) S.06°02'41"E., A DISTANCE OF 1,338.36 FEET; (7) S.00°22'58"W., A DISTANCE OF 2,611.56 FEET; (8) N.89°54'54"W., A DISTANCE OF 150.26 FEET; (9) N.89°54'44"W., A DISTANCE OF 2,648.95 FEET; (10) N.00°22'31"E., A DISTANCE OF 2,612.02 FEET; (11) N.00°21'56"E., A DISTANCE OF 2,663.13 FEET; (12) N.89°52'00"W., A DISTANCE OF 2,666.70 FEET; (13) N.89°50'47"W., A DISTANCE OF 2,667.42 FEET; (14) S.00°23'16"W., A DISTANCE OF 5,294.00 FEET; (15) ON THE ARC OF A NON TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 11,339.17 FEET, (DELTA 00°53'52") (CHORD BEARING N.89°19'12"W.), (CHORD 177.69 FEET) FOR A DISTANCE OF 177.69 FEET; (16) N.88°52'16"W., A DISTANCE OF 4,406.33 FEET; (17) ON THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 522.94 FEET, (DELTA 21°54'50") (CHORD BEARING N.77°54'51"W.), (CHORD 198.79 FEET) FOR A DISTANCE OF 200.01 FEET; THENCE, N.00°19'46"E., DEPARTING SAID SOUTHERLY LINE, A DISTANCE OF 915.56 FEET; THENCE N.10°07'18"E., A DISTANCE OF 74.79 FEET; THENCE S.89°40'03"E., A DISTANCE OF 206.79 FEET; THENCE N.00°19'52"E., A DISTANCE OF 777.10 FEET; THENCE ON THE ARC OF A NON TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 495.00 FEET, (DELTA 12°09'15") (CHORD BEARING N.27°49'16"E.), (CHORD 104.81 FEET) FOR A DISTANCE OF 105.00 FEET; THENCE ON THE ARC OF A NON TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 516.11 FEET, (DELTA 26°50'27") (CHORD BEARING N.20°10'36"E.), (CHORD 239.57 FEET) FOR A DISTANCE OF 241.78 FEET; THENCE ON THE ARC OF A NON TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 117.18 FEET, (DELTA 149°20'43") (CHORD BEARING N.81°26'14"E.), (CHORD 226.02 FEET) FOR A DISTANCE OF 305.44 FEET; THENCE ON THE ARC OF A NON TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 164.97 FEET, (DELTA 65°35'26") (CHORD BEARING S.56°21'52"E.), (CHORD 178.71 FEET) FOR A DISTANCE OF 188.85 FEET; THENCE ON THE ARC OF A NON TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 95.98 FEET, (DELTA 51°24'56") (CHORD BEARING S.63°08'20"E.), (CHORD 83.27 FEET) FOR A DISTANCE OF 86.13 FEET; THENCE ON THE ARC OF A NON TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 65.00 FEET, (DELTA 144°58'00") (CHORD BEARING N.70°05'06"E.), (CHORD 123.97 FEET) FOR A DISTANCE OF 164.46 FEET; THENCE N.02°23'54"W., A DISTANCE OF 123.22 FEET; THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 60.00 FEET, (DELTA 74°59'01") (CHORD BEARING N.39°53'25"W.), (CHORD 73.04 FEET) FOR A DISTANCE OF 78.52 FEET; THENCE N.77°22'55"W., A DISTANCE OF 150.36 FEET; THENCE ON THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 290.00 FEET, (DELTA 54°50'10") (CHORD BEARING N.49°57'50"W.), (CHORD 267.08 FEET) FOR A DISTANCE OF 277.55 FEET; THENCE, S.89°59'59"W., A DISTANCE OF 355.64 FEET; THENCE N.00°00'25"W., A DISTANCE OF 443.25 FEET; THENCE S.89°57'05"E., A DISTANCE OF 131.09 FEET; THENCE N.00°00'00"E., A DISTANCE OF 84.32 FEET; THENCE ON THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 200.00 FEET, (DELTA 14°24'47") (CHORD BEARING N.07°12'24"E.), (CHORD 50.18 FEET) FOR A DISTANCE OF 50.31 FEET; THENCE N.14°24'47"E., A DISTANCE OF 140.52 FEET; THENCE ON THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 200.00 FEET, (DELTA 08°17'56") (CHORD BEARING N.18°33'45"E.), (CHORD 28.94 FEET) FOR A DISTANCE OF 28.97 FEET; THENCE N.22°42'43"E., A DISTANCE OF 39.40 FEET; THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 65.00 FEET, (DELTA 112°22'55") (CHORD BEARING N.33°28'44"W.), (CHORD 108.02 FEET) FOR A DISTANCE OF 127.49 FEET; THENCE N.89°40'11"W., A DISTANCE OF 64.30 FEET; THENCE N.00°19'48"E., A DISTANCE OF 957.19 FEET; THENCE N.45°47'46"E., A DISTANCE OF 258.19 FEET TO A POINT OF INTERSECTION WITH THE BOUNDARY LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS INSTRUMENT NUMBER 2021000402599; THENCE ON SAID BOUNDARY LINE FOR THE FOLLOWING THREE (3) COURSES: (1) N.89°40'11"W., A DISTANCE OF 238.63 FEET; (2) N.00°19'49"E., A DISTANCE OF 197.50 FEET; (3) N.89°40'11"W., A DISTANCE OF 167.91 FEET; THENCE N.00°19'49"E., DEPARTING SAID BOUNDARY LINE, A DISTANCE OF 125.00 FEET TO A POINT OF INTERSECTION WITH SAID BOUNDARY LINE; THENCE ON SAID BOUNDARY LINE FOR THE FOLLOWING THREE (3) COURSES: (1) S.89°40'11"W., A DISTANCE OF 167.91 FEET; (2) N.00°19'49"E., A DISTANCE OF 197.50 FEET; (3) S.89°40'11"E., A DISTANCE OF 306.44 FEET; THENCE N.26°57'18"E., DEPARTING SAID BOUNDARY LINE, A DISTANCE OF 110.45 FEET; THENCE N.04°11'41"E., A DISTANCE OF 288.03 FEET; THENCE N.79°13'08"E., A DISTANCE OF 148.88 FEET; THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 110.00 FEET, (DELTA 165°59'34") (CHORD BEARING N.03°46'38"W.), (CHORD 218.36 FEET) FOR A DISTANCE OF 318.68 FEET; THENCE N.86°46'25"W., A DISTANCE OF 242.89 FEET; THENCE ON THE ARC OF A NON TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 175.00 FEET, (DELTA 86°52'39") (CHORD BEARING N.43°20'11"W.), (CHORD 240.65 FEET) FOR A DISTANCE OF 265.35 FEET; THENCE, N.00°31'03"E., A DISTANCE OF 67.57 FEET; THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 50.00 FEET, (DELTA 89°53'04") (CHORD BEARING N.44°25'29"W.), (CHORD 70.64 FEET) FOR A DISTANCE OF 78.44 FEET; THENCE N.89°22'01"W., A DISTANCE OF 134.12 FEET; THENCE N.00°19'00"E., A DISTANCE OF 145.04 FEET; THENCE S.89°25'16"E., A DISTANCE OF 113.33 FEET; THENCE ON THE ARC OF A NON TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 164.97 FEET, (DELTA 90°16'03") (CHORD BEARING N.45°26'48"E.), (CHORD 233.85 FEET) FOR A DISTANCE OF 259.90 FEET; THENCE, N.00°18'52"E., A DISTANCE OF 1,595.70 FEET; THENCE ON THE ARC OF A NON TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1,860.00 FEET, (DELTA 06°54'50") (CHORD BEARING N.86°13'41"W.), (CHORD 224.31 FEET) FOR A DISTANCE OF 224.45 FEET; THENCE N.89°41'06"W., A DISTANCE OF 70.69 FEET; THENCE N.00°18'54"E., A DISTANCE OF 80.20 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF TRACT A-52 OF SAID PLAT; THENCE S.89°40'11"E., ALONG SAID SOUTH LINE, A DISTANCE OF 23.46 FEET; THENCE N.00°20'10"E., DEPARTING SAID SOUTH LINE, A DISTANCE OF 120.00 FEET TO THE NORTH LINE OF SAID TRACT A-52; THENCE N.89°40'11"W., ALONG SAID NORTH LINE, A DISTANCE OF 23.50 FEET; THENCE N.00°18'54"E., DEPARTING SAID NORTH LINE, A DISTANCE OF 84.80 FEET; THENCE S.89°41'06"E., A DISTANCE OF 70.69 FEET; THENCE ON THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2,145.00 FEET, (DELTA 06°09'40") (CHORD BEARING S.86°36'16"E.), (CHORD 230.54 FEET) FOR A DISTANCE OF 230.66 FEET; THENCE, N.00°19'34"E., A DISTANCE OF 447.72 FEET; THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 370.00 FEET, (DELTA 12°04'10") (CHORD BEARING N.05°42'31"W.), (CHORD 77.80 FEET) FOR A DISTANCE OF 77.94 FEET; THENCE ON THE ARC OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 330.00 FEET, (DELTA 24°08'20") (CHORD BEARING N.00°19'34"E.), (CHORD 138.00 FEET) FOR A DISTANCE OF 139.03 FEET; THENCE ON THE ARC OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 370.00 FEET, (DELTA 12°04'10") (CHORD BEARING N.06°21'39"E.), (CHORD 77.80 FEET) FOR A DISTANCE OF 77.94 FEET; THENCE N.00°19'34"E., A DISTANCE OF 134.98 FEET; THENCE ON THE ARC OF A NON TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 230.00 FEET, (DELTA 54°12'32") (CHORD BEARING N.27°36'29"E.), (CHORD 209.58 FEET) FOR A DISTANCE OF 217.61 FEET; THENCE, N.57°35'06"E., A DISTANCE OF 91.72 FEET; THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 140.00 FEET, (DELTA 57°01'16") (CHORD BEARING N.29°04'28"E.), (CHORD 133.65 FEET) FOR A DISTANCE OF 139.33 FEET; THENCE N.00°33'50"E., A DISTANCE OF 731.98 FEET; THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 665.97 FEET, (DELTA 18°41'22") (CHORD BEARING N.08°46'51"W.), (CHORD 216.27 FEET) FOR A DISTANCE OF 217.24 FEET; THENCE N.18°07'33"W., A DISTANCE OF 354.91 FEET TO THE POINT OF BEGINNING.

DESCRIBED PARCEL CONTAINS 4,002.61 ACRES, MORE OR LESS.

BEARINGS SHOWN HEREON ARE BASED ON THE NORTH LINE OF THE PLAT OF BABCOCK RANCH COMMUNITY, LEE COUNTY PHASE 1, WHEREIN SAID NORTH LINE BEARS S89°42'04"E.

NOT VALID WITHOUT ALL SHEETS IN SET

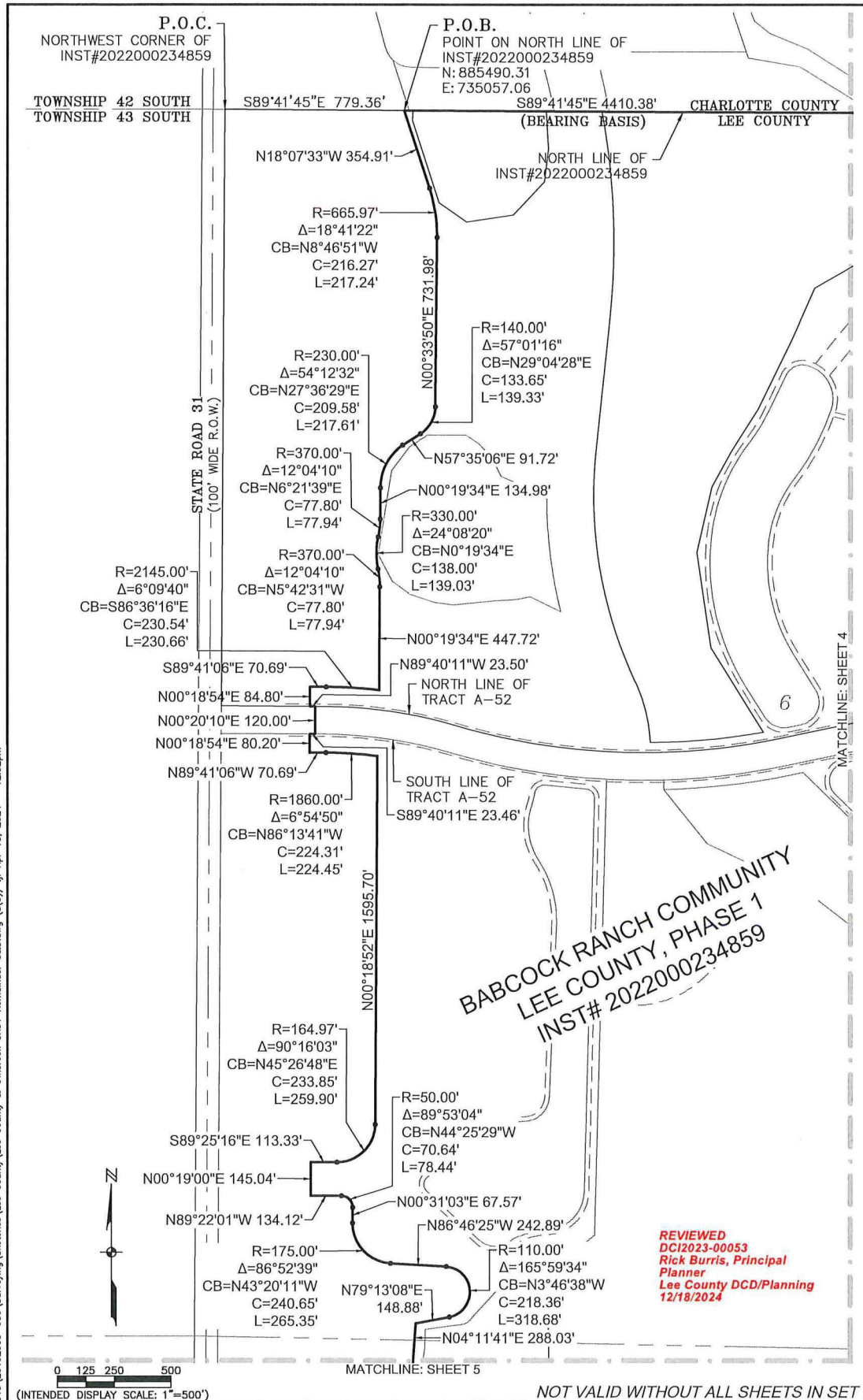
JOHNSON ENGINEERING, INC.  
2122 JOHNSON STREET  
FORT MYERS, FLORIDA 33902-1550  
PHONE: (239) 334-0046  
E.B. #642 & L.B. #642

## SKETCH &amp; DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
4/18/2024	20192003-030	06-43-26	N/A	2 OF 5

\\fms01\Drawings\2019\20192003-030\Surveying\Sketches\Lee County\Lee County &amp; Oakcreek SR31 Remainder S&amp;D.dwg (S2) tiff Apr 18, 2024 - 12:52pm





**JOHNSON**  
ENGINEERING

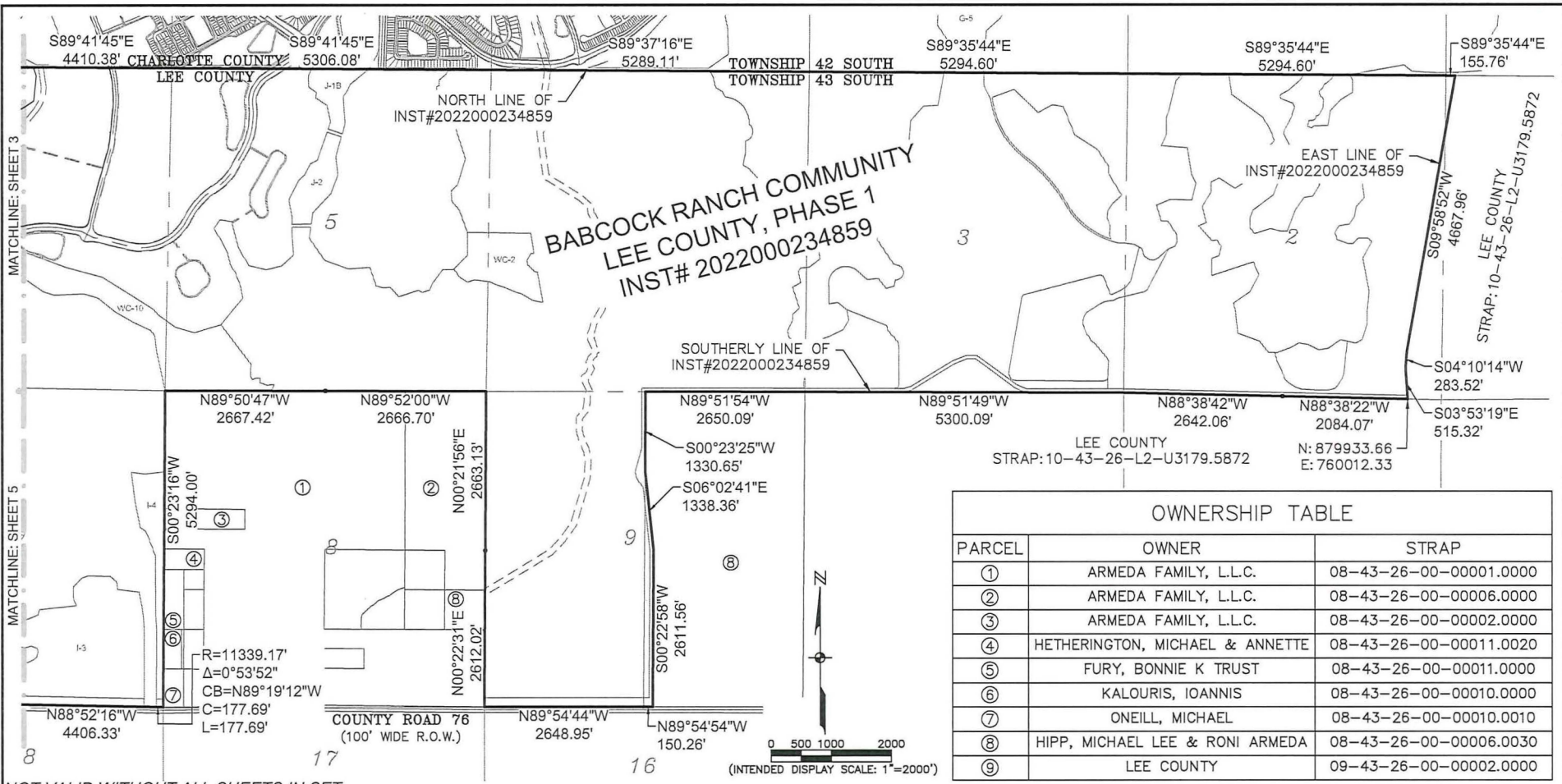
JOHNSON ENGINEERING, INC.  
2122 JOHNSON STREET  
FORT MYERS, FLORIDA 33902-1550  
PHONE: (239) 334-0046  
E.B. #642 & L.B. #642

SKETCH & DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
4/18/2024	20192003-034	06-43-26	1" = 500'	3 OF 5

\\fms01\Drawings\2019\20192003-034\Surveying\Sketches\Lee County & Okeechobee SR31 Remainder S&D.dwg (S(3)) tiff Apr 18, 2024 - 12:52pm

\\lms01\Drawings\2019\202303-030\Surveying\Sketches\Lee County & Oilerank SR31 Remainder S30.dwg (S(4)) Jf Apr 18, 2024 - 12:52pm



NOT VALID WITHOUT ALL SHEETS IN SET

OWNERSHIP TABLE		
PARCEL	OWNER	STRAP
①	ARMEDA FAMILY, L.L.C.	08-43-26-00-00001.0000
②	ARMEDA FAMILY, L.L.C.	08-43-26-00-00006.0000
③	ARMEDA FAMILY, L.L.C.	08-43-26-00-00002.0000
④	HETHERINGTON, MICHAEL & ANNETTE	08-43-26-00-00011.0020
⑤	FURY, BONNIE K TRUST	08-43-26-00-00011.0000
⑥	KALOURIS, IOANNIS	08-43-26-00-00010.0000
⑦	ONEILL, MICHAEL	08-43-26-00-00010.0010
⑧	HIPP, MICHAEL LEE & RONI ARMEDA	08-43-26-00-00006.0030
⑨	LEE COUNTY	09-43-26-00-00002.0000

REVIEWED  
DCI2023-00053  
Rick Burris, Principal  
Planner  
Lee County DCD/Planning  
12/18/2024



JOHNSON ENGINEERING, INC.  
2122 JOHNSON STREET  
FORT MYERS, FLORIDA 33902-1550  
PHONE: (239) 334-0046  
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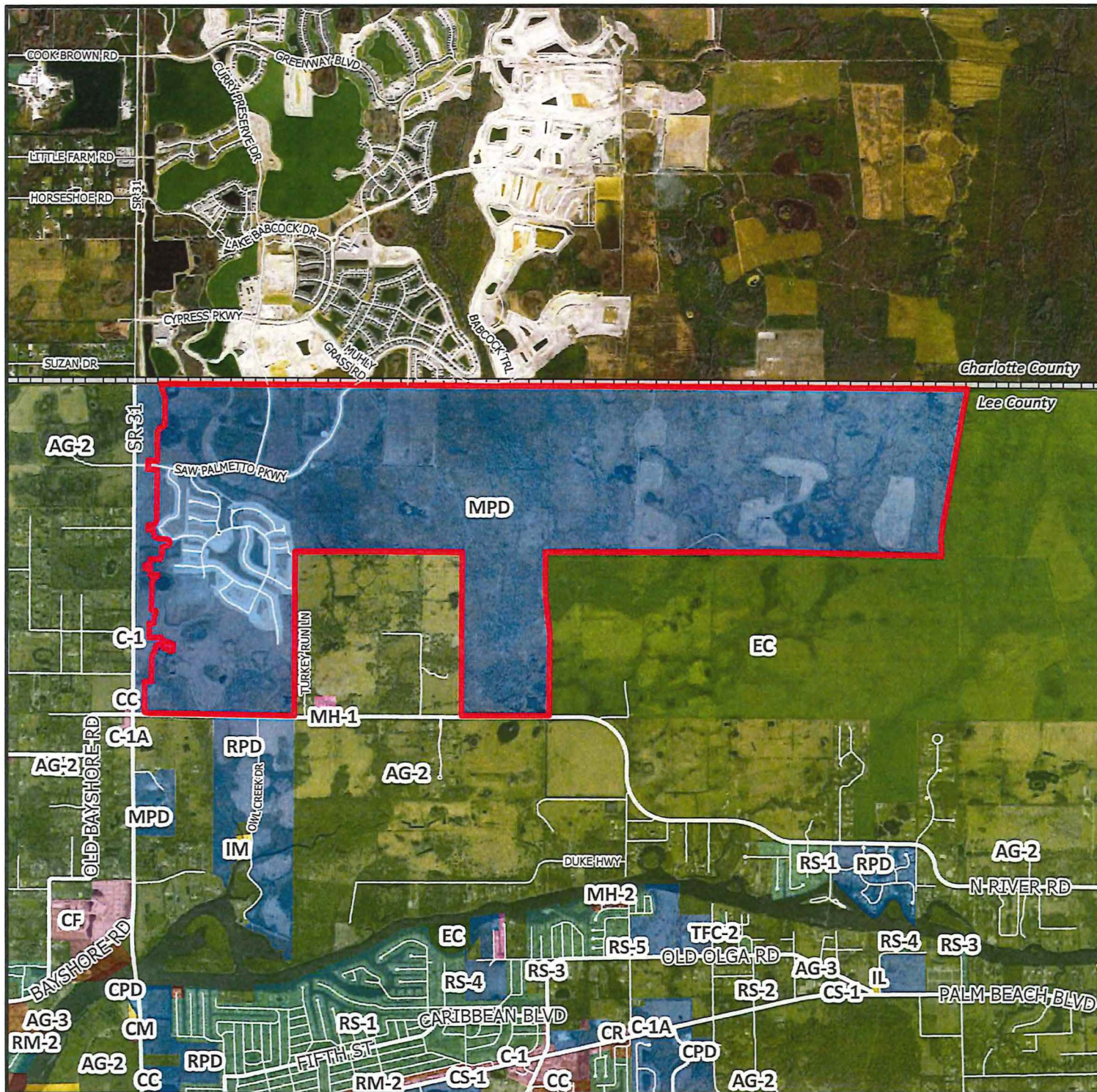
SKETCH OF DESCRIPTION

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
4/18/2024	20192003-030	06-43-26	1"=2000'	4 of 5



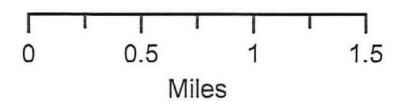
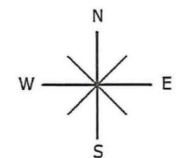
DCI2023-00053

## Zoning



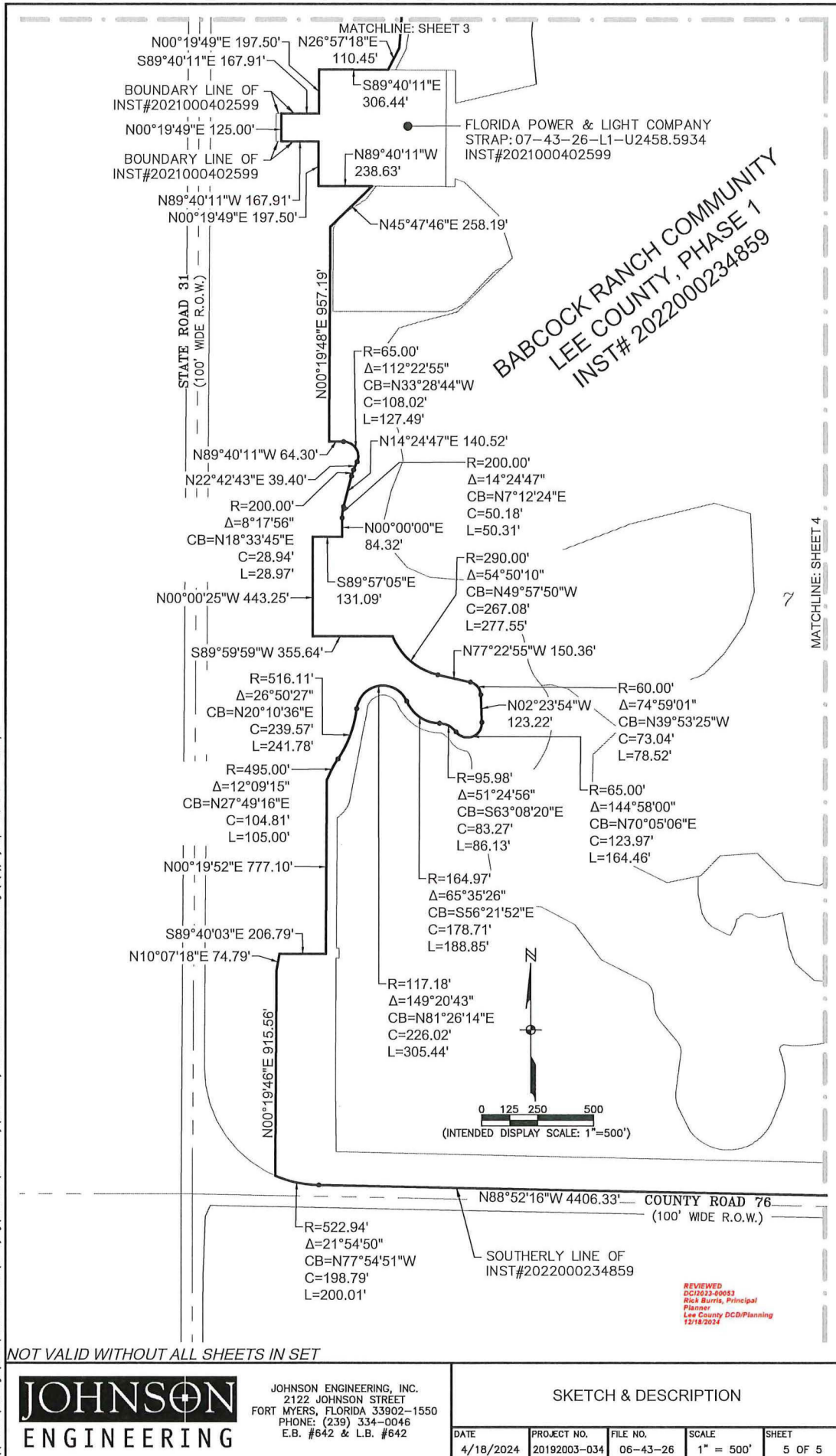
 Subject Property

 County Boundary





\\fms01\Drawings\2019\20192003-030\Surveying\Sketches\Lee County\Lee County & Owl Creek SR31 Remainder S&D.dwg (S(5)) tjr Apr 18, 2024 - 12:52pm



## Exhibit B

### RECOMMENDED CONDITIONS AND DEVIATIONS

#### 1. Master Concept Plan (MCP)/Development Parameters

- a. MCP. Development must be consistent with the one-page MCP prepared by RVI entitled "Babcock MPD," received February 12, 2025 (Exhibit B1).
- b. Lee Plan and LDC. Development must comply with the Lee Plan and LDC at time of local development order approval, except where deviations are granted herein. Subsequent changes may require further development approvals.
- c. Development Parameters. The MPD is limited to:
  - i. 2,078 residential dwelling units,
  - ii. 250 hotel rooms, and
  - iii. 1,170,000 square feet of commercial office and retail uses (See Condition 11).

#### 2. Uses and Site Development Regulations

##### a. Schedule of Uses

##### MIXED-USE/RESIDENTIAL (MU-1/R) & MIXED-USE (MU-1 & MU-2):

Accessory apartment  
Administrative offices  
Agricultural Uses (subject to Condition 8)  
Animals, clinic or kennel  
Assisted living facilities  
ATM  
Auto parts store  
Automobile repair and service  
Automobile service station  
Bait and tackle shop  
Banks and financial establishments, Group I  
Bar or cocktail lounge  
Bed and breakfast, included in 2,078 residential dwelling units  
Boat parts store  
Building material sales  
Business services, Group I  
Caretaker's residence  
Car wash  
Cleaning and maintenance services

Clothing stores, general

Clubs:

Commercial

Fraternal, membership organization

Private

Community gardens

Computers, data processing

Consumption on premises

Convenience food and beverage store with fuel pumps, limited to 4 stores,  
each with up to 24 fuel pumps.

Cultural facilities

Day Care, child and adult

Department store

Dormitory

Drive-through facility for any permitted use

Drugstore, pharmacy

Dwelling units:

Live work

Single-family

Two-family attached

Townhouse

Multiple-family building

Zero lot line

EMS, fire, or sheriff's station

Essential Services

Essential Service Facilities, Group I and II

Entrance gates and gatehouses

Excavation, water detention and retention

Farm equipment, sales, storage, rental or service

Fences, walls

Flea market, open and indoor

Food and beverage services, limited

Food stores, Group I

Forestry tower

Gift and souvenir shop

Golf driving range

Hardware store

Healthcare facilities, Groups I, II & III

Hobby, toy and game shops

Home occupation

Hospice

Hotel/motel- limited to 250 rooms

Household and office furnishings, Group I

Independent living facilities

Insurance Companies

Laundry and dry cleaning, Group I

- Lawn & garden supply store
- Library
  - Manufacturing, food and kindred products, Group II (limited to malt beverages, wine, brandy, and brandy spirits)
- Medical office, including urgent care
- Model homes, model display center
- Night Clubs
- Non-store retailers, Group I
- Package store
- Paint, glass and wallpaper stores
- Parks, Groups I and II
- Parking Lot:
  - Accessory
  - Commercial
  - Park-and-ride
  - Temporary
- Personal Services, Groups I, II (excluding massage parlors and steam or Turkish bath)
- Pet services
- Pet shop
- Photofinishing laboratory
- Place of worship
- Post Office
- Printing and publishing
- Real estate sales office
- Recreation facilities, commercial, Groups I-IV
- Recreational facilities, personal, private on-site, private off-site
- Religious facilities
- Rental or leasing establishments, Group I, II, III
- Repair shops, all groups
- Research and development laboratories, Groups I, II
- Residential accessory uses
- Restaurants, fast food
- Restaurants, all groups
- Schools, commercial and non-commercial
- Self-service fuel pumps
- Signs
- Social services, all groups
- Specialty retail shops, all groups
- Stable:
  - Boarding
  - Commercial
  - Private
- Storage, Indoor
- Studios
- Temporary uses

- Theater, indoor and outdoor
- Timeshare units
- Transportation services, Groups II, III
- Used merchandise store, Group I
- Variety store
- Vehicle and equipment dealers, Groups II, III
- Warehouse:
  - Public
  - Private
  - Mini
- Wireless communication facility

**RESIDENTIAL TOWN CENTER (R-1)**

- Administrative office
- Agricultural uses (subject to Condition 8)
- Clubs, private
- Community gardens
- Consumption on Premises in conjunction with recreational facilities
- Dwelling units:
  - Single-family detached
  - Two-family attached
  - Townhome
  - Multi-family buildings
  - Zero lot line
- EMS, Fire, or Sheriff's Station
- Entrance gates and gatehouses
- Essential services
- Essential service facilities, Group I
- Excavation – water detention and retention
- Fences, walls
- Home occupation
- Models, model home, display center, sales center
- Parking lot:
  - Accessory
  - Temporary
- Parks, Groups I and II
- Real estate sales office
- Recreational facilities, personal & private, on-site and off-site
- Residential accessory uses and structures
- Signs
- Stable:
  - Boarding
  - Commercial
  - Private

Temporary Uses  
Wireless communication facility

**RESIDENTIAL NEIGHBORHOOD (R-2):**

Administrative office  
Agricultural uses (subject to Condition 8)  
Clubs, private  
Community gardens  
Consumption on Premises in conjunction with recreational facilities  
Dwelling units:  
    Single-family detached  
    Two-family attached  
    Townhouse  
    Zero lot line  
Entrance gates and gatehouses  
Essential services  
Essential service facilities, Group I  
Excavation -water detention and retention  
Fences, walls  
Home Occupation  
Models, model home, display center, sales center  
Parking lot:  
    Accessory  
    Temporary  
Parks, Groups I and II  
Real estate sales office  
Recreational facilities, personal, private, on-site and off-site  
Residential accessory uses and structures  
Signs  
Stable:  
    Boarding  
    Commercial  
    Private  
    Temporary Uses  
    Wireless communication facility

**RESIDENTIAL ESTATES (R-3):**

Agricultural uses (subject to Condition 8)  
Clubs, private  
Community administrative office  
Community gardens  
Consumption on Premises in conjunction with recreational facilities  
Dwelling units: Single-family detached only  
Entrance gates and gatehouses

- Essential services
- Essential service facilities, Group I
- Excavation - water detention and retention
- Fences, walls
- Home occupation
- Models, model home, display center, sales center
- Parking lot:
  - Accessory
  - Temporary
- Parks, Groups I and II
- Real estate sales office
- Recreational facilities, personal & private, on-site and off-site
- Residential accessory uses and structures
- Signs
- Stable:
  - Boarding
  - Commercial
  - Private
- Temporary Uses
- Wireless communication facility

b. **Property Development Regulations**

See Exhibit B2

Applicant must provide a clean version of this Exhibit prior to Board hearing.

3. **Environmental Conditions**

- a. Human-Wildlife Coexistence and Protected Species Management Plans. The local development order approval must include a Human-Wildlife Coexistence Plan and Protected Species Management Plan. These plans must include the following items:
- i. Lighting. Developer and future property owners must ensure lighting from developed areas does not directly illuminate indigenous preserve and restoration areas by shielding fixtures and eliminating up lighting. Developer must include these lighting standards in the indigenous management plan, deed restrictions, and on development order plans.
  - ii. Prescribed Burning. Prior to prescribed burn management activities on the adjacent public preserve lands, if notified by park staff, the Homeowner's Association must notify all residents of prescribed burn activities. Developer must include in the deed restrictions



information on prescribed burning land management techniques for the subject property as well as the Conservation 20/20 Lands.

- iii. Internal Trail System. Provide documentation from Lee County Conservation 20/20 regarding proposed recreational connections to adjacent public conservation lands and show connections on development order plans.
  - iv. Wildlife Crossings. Development order plans must illustrate wildlife crossings within the Lee County portion of the Babcock Ranch Community, to promote wildlife movement.
  - v. Panther and Black Bear. Developer must submit a Florida Panther and Florida Black Bear Management plan for approval. This management plan must require Developer to provide the residents with educational brochures that details how the preserves will be maintained as panther and bear habitat and also require bear proof dumpsters and bear proof individual trash receptacles for residential units. Developer must include these requirements in the deed restrictions.
  - vi. American Alligator/Wading Birds. Developer must submit management plans for American Alligator and listed wading bird species in compliance with the LDC for review and approval by the Lee County Division of Environmental Sciences. The management plans must include informational brochures for residents on living with alligators and wading birds as well as the importance of the littoral areas and adjacent preserves which provide for nesting and foraging habitat.
  - vii. Informational Signs. The development order plans, must include the location and details of signs installed between the lake, preserve, and residential buildings warning residents and members of the public that alligators may be present and that it is dangerous and illegal to feed or harass alligators. The developer must also include these warning in the deed restrictions.
- b. Vegetation Removal Permit. The developer must submit updated species surveys identifying the location of protected species nests and clearing limit protection zones prior to the approval of a Vegetation Removal Permit for each phase of development.
  - c. Open Space. Prior to development order approval, the development order plans must demonstrate 60% open space, of which 50% of the property must be indigenous preserve area, and 10% open space per development area.

- i. Ten trees per 100 linear feet installed at 14 feet, four 4-inch caliper, and 8-foot canopy spread;
  - ii. Twenty-five shrubs per 100 linear feet installed at 48 inches in height;
  - iii. Height of plant material must be measured from the grade of SR-31;
  - iv. Plant material must be 100% native and provided with an automatic irrigation system with rain sensor; and
  - v. The use of existing native vegetation to meet buffer requirements is permissible at a 1:1 ratio as long as the existing vegetation is healthy and meets code-mandated heights.
- i. Prior to development order approval, an enhanced 100-foot-wide buffer must be provided adjacent to North River Road containing the following.
  - i. Ten trees per 100 linear feet installed at 14 feet, 4-inch caliper, and 8-foot canopy spread;
  - ii. Twenty-five shrubs per 100 linear feet installed at 48 inches in height;
  - iii. Height of plant material must be measured from the grade of North River Road;
  - iv. Plant material must be 100% native and provided with an automatic irrigation system with rain sensor; and
  - v. The developer may use existing native vegetation to satisfy buffer conditions at a 1:1 ratio as long as the vegetation meets the height requirement and is healthy.
- j. Buffering Adjacent Property. Prior to development order approval, a tree survey must be provided to demonstrate that the existing vegetation along the north and eastern boundary adjacent to the residential use meet the LDC buffer requirements. If this area cannot meet the LDC, the landscape plan must illustrate buffer plantings to meet the code.
- k. Enhanced Buffering of Adjacent Property. Prior to development order approval, the boundary adjacent to Turkey Run Lane (residential use) must provide a Type F buffer to meet the LDC. The developer may use the existing native vegetation to meet this buffer requirement at 1:1 ratio, as long as the vegetation meets the height requirement and is healthy.
- l. Indigenous Preserves. Prior to local development order approval for portions of the project that include indigenous preserves, the developer must:
  - i. Submit a detailed site plan depicting the location of pedestrian trails, kiosks, shelters, and offsite connections, and
  - ii. Submit an indigenous management plan with a long-term plan for maintenance of pedestrian trail systems.

- d. Native Landscaping. Prior to development order approval, all required landscaping proposed in common open space areas must be 100% native species.
- e. Compliance with Management Plans. Prior to development order approval, development order plans must be in substantial compliance with the following:
  - i. Listed Species Management Plans & Human-Wildlife Coexistence Plan last updated June 2022.
  - ii. Preserve Management and Mitigation Monitoring Plan / Ecological & Hydrological Plan dated March 2024 (aka Indigenous Preserve Management Plan)
  - iii. Supplemental Planting Plan and Success Criteria included as attachments to the March 2024 Preserve Management and Mitigation Monitoring Plan / Ecological & Hydrological Plan
  - iv. Environmental Impacts/Benefits Analysis last updated March 2024.
- f. Conservation Easement Phasing Schedule. Prior to each development order approval, the phasing schedule must provide the following Conservation Easement ratios and indigenous management plan to be equal to or greater than the area of land approved for development on a cumulative basis:
  - i. 125% of Mixed Use/Residential (MU-1/R) proposed
  - ii. 150% of Mixed Use 1 (MU-1) proposed
  - iii. 200% of Mixed Use 2 (MU-2) proposed
  - iv. 125% of Residential 1 (R-1)
  - v. 50% of Residential 2 (R-2)
  - vi. 15% of Residential 3 (R-3)
  - vii. Preserve restoration and/or management must be completed within five years of development order approval.
- g. Platting and Maintenance of Open Space. Concurrent with each development order approval, the developer must submit a plat showing open space areas platted in separate tracts, outside of privately owned lots, and dedicated to an appropriate maintenance entity. The developer must create a Community Development District (CDD), Independent Special District (ISD), or a master property owners association to accept responsibility for perpetual maintenance of project open space areas.
- h. State Road 31 Buffer. Prior to development order approval, the developer must provide an enhanced 50-foot-wide Type D buffer must be provided adjacent to the future State Road 31 (SR-31), containing the following:

#### 4. Natural Resources

- a. Surface Water and Groundwater Monitoring Plan. The developer must submit a Water Quality and Quantity Monitoring Plan for review and approval by the County staff prior to the first development order approval. The design of the storm water management system must demonstrate through construction, monitoring or other means that water leaving the development meets state and federal water quality standards. The Water Quality Monitoring Plan must, at a minimum, address issues related to quality of reclaimed water used for landscape irrigation, annual assessment of water quality data, trend analysis, identification of potential problems, and recommended corrective actions.

The developer must start an annual monitoring of groundwater levels and water quality in the Sandstone Aquifer at least one year prior to developing that aquifer as a supplemental irrigation source. The developer must provide all monitoring data to the Division of Natural Resources (DNR) in an approved Electronic Data Deliverable (EDD) format upon request.

- b. Stormwater Management System. The stormwater management system must demonstrate at the time of development order approval that water leaving the development will meet or exceed the requirements set forth in the applicable South Florida Water Management District Permits.
- c. Function of Water Management Systems. The developer must design the water management system to reduce existing flow rates prior to leaving the property to move the system towards the function of a natural system.
- d. Pre-Treatment of Stormwater. The project will use the South Florida Water Management District standard for water quality treatment volume being equal to the greater of 1 inch of runoff from the entire drainage area or 2.5 time the percent Impervious. Development order plans must demonstrate the improvements will provide an additional 50% treatment beyond the required treatment for individual control basins.
- e. Discharge Rates. The developer must design the project to reduce the peak allowable discharge across the developed Lee County lands to 82.2CMS from the existing 194.9CSM allowable discharge rate.
- f. Central Water and Sewer Service. The project must connect to centralized potable water and sewer service, with the exception of interim facilities used on a temporary basis during construction, and unmanned essential services on a temporary basis until water and sewer is extended to the development. The project must connect to reclaimed water, if available at the time of development order approval.



- g. Water Quality Monitoring Plan. The developer must demonstrate the design of the water management system ensures water leaving the project meets state and federal water quality standards. Outfall monitoring will be required on a quarterly basis for a minimum of 5 years from the date of acceptance of construction of the water management system by the South Florida Water Management District. The County will re-evaluate the frequency of monitoring after 5 years of the water quality standards are met. The local development order submittal for the first phase of development must include a Water Quality Monitoring Plan. Approval of the Water Quality Monitoring Plan by Lee County Division of Natural Resource is required prior to discharging project storm water in the County's MS4 system.
- h. Lake Management Plan.
  - i. The developer must submit a Lake Management Plan for review and approval by the County DNR staff prior to the first development order. The Lake Management Plan must incorporate the Lake Maintenance Plan and the Water Quality Monitoring Plan. The developer or its successors shall review the Lake Management Plan annually and take remedial actions, if necessary. Any changes to the Lake Management Plan must be approved by the DNR staff.
  - ii. The developer must submit a lake management plan at the time of local development order to address the following:
    - (1) Applies best management practices (BMPs) fertilizers and pesticides:
    - (2) Provides erosion control and bank stabilization: and
    - (3) Establishes lake maintenance requirements and deep lake management for lakes exceeding 12 feet below lake surface (BLS).
  - iii. Landscape Management Plan. The developer must submit a Landscape Management Plan for review and approval by the County DNR staff prior to first development order. Homeowners Association documents including Declarations and Covenants must allow only licensed landscape or other professionals authorized by Lee County to perform activities including application of fertilizers, pesticides, insecticides, herbicides, nematicides, or other chemicals on the property. The Landscape Management Plan must include A list of BMPs to address potential degradation of surface or groundwater due to use of regulated substances on site.
  - iv. Ecological and Hydrological Plan. The developer must submit a site-specific ecological and hydrological plan that includes the following: preliminary excavation and grading plans, exotic removal and

maintenance plan, supplemental planting plan, and success criteria for meeting established goals.

- v. Irrigation. The developer and its successors must first utilize reuse and then surface water generated by the project to meet the irrigation demands of the recreation and development areas, if reuse is available. Until reuse is available, the developer must meet the requirements of the Water Conservation Ordinance (Ord. # 24-01), as amended.

**5. Vehicular/Pedestrian Impacts**

- a. Access points shown on the MCP are conceptual and subject to change/shift based upon final approval from Florida Department of Transportation.
- b. Entrance gates and gatehouses are limited to internal sub-neighborhoods. Developer may not gate the Access to the MPD from SR 31. Access to the MPD from SR 31 must be open to the public.
- c. The project must provide public access to the internal trail systems. Developer must coordinate external connections to Lee County conservation land with Lee County Parks and Recreation and Conservation 20/20.
- d. The project must provide sufficient right-of-way to accommodate an 8-foot-wide multi-purpose pathway along the SR 31 and CR 78 roadway frontages.
- e. Zoning approval 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.

**6. Lee Plan Consistency**

Zoning approval does not guarantee local development order approval. Future development order must comply with the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), as well the remainder of the Lee Plan.

**7. Concurrency**

Zoning approval does not constitute a finding that the proposed project meets the concurrency requirements set forth in the Lee Plan or LDC. The developer must demonstrate compliance with concurrency requirements prior to issuance of a local development order.

## 8. **Agricultural Uses**

Agricultural Uses: Existing bona fide agricultural uses may continue as follows:

- a Bona fide agricultural uses consisting of grazing, sod farming, and row cropping in existence at the time the zoning application, may continue in areas depicted on Exhibit L until local development order approval for the area containing the agricultural uses.
- b Clearing or injury of native trees or other native vegetation, including understory, in agricultural areas is prohibited. Areas of bona fide agricultural use that include existing grass pasture(s) may be mowed but may not be cleared or expanded. Violations of this condition will require restoration in accordance with the LDC. This prohibition of clearing or expansion of agricultural use does not preclude County approved requests for removal of invasive exotic vegetation.
- c Existing agricultural uses within a tract or phase must be discontinued upon local development order approval for development defined in LDC Chapter 34. Development not included within the Chapter 34 definition but that requires a development order under Chapter 10 (including but not limited to plats, lots splits, and lot re-combinations) will not trigger the requirement to discontinue agricultural uses. The property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
  - i. Termination of all agricultural use on the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the property that specifically provides:
    - a) The date the agricultural uses ceased;
    - b) The legal description of the property subject to the development order approval;
    - c) An affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the county that they will not allow agricultural uses on the property until the property is re-zoned to permit agricultural uses; and ,
    - d) That the affidavit constitutes a covenant between the owner and the county that is binding on the owner, their assignees and successors in interest.

The affidavit must be properly recorded in the public of the county at the owner's expense.

- ii. Proof of termination of the agricultural tax exemption for the portion of the property included in the agricultural use phasing schedule attached to the development order application/approval. Proof of termination must include a copy of the owner's request to terminate the tax exemption provided to the Property Appraiser.

**9. Development Permits**

Issuance of a development permit by the county does not establish a right to obtain permits from state or federal agencies. Further, it does not establish liability on the part of the County if the developer : (a) does not obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or (b) undertake actions that result in a violation of state or federal law.

**10. EMS**

Prior to the first development order approval for vertical development, the developer must enter into a development agreement with the County to ensure that Emergency Medical Services will be available to serve the project within adopted response times. If site work commences before finalizing the development agreement, the developer must communicate the site access and access limitations to the Lee County Department of Public Safety.

**11. Development limits**

- a. Commercial uses. Commercial uses permitted within this MPD may not exceed 1,170,000 square feet and 250 hotel rooms. Further, when combined with commercial development in the Charlotte County Babcock Ranch DRI, commercial development within the MPD may not exceed the total commercial use approved in the Babcock Ranch Community Master Development of Regional Impact (DRI) Development Order (4,900,000 square feet, as may be modified by the DRI's adopted conversion matrix).

Developer must submit the following monitoring reports to Lee County to demonstrate compliance with this condition until project build out:

- i. With every Lee County development order application for commercial use, the developer must submit a report itemizing the square footage of commercial use permitted to date in Charlotte and Lee Counties.
- ii. The developer must submit a biennial tabulation documenting the cumulative total of commercial development permitted in Lee and Charlotte Counties.



2. Deviation (2) seeks relief from the LDC §10-416(d)(1) requirement to provide internal buffers within the MPD boundary, to allow for no internal perimeter buffers around different use areas within the Mixed-Use areas (MU-1 & MU-2), and the western-most Residential Town Center (R-1). The deviation will allow for a cohesive and unified development. This deviation is APPROVED.
3. Deviation (3) seeks relief from the LDC §10-416(d) requirement to provide a 30-foot-wide Type "F" buffer where development abuts public preserve lands, to allow retention of existing, native vegetation along the southern and eastern MPD boundaries where proposed preserve areas abut 20/20 conservation lands. The deviation encourages habitat connectivity. This deviation is APPROVED.
4. Deviation (4) seeks relief from LDC §33-1673 requirement to provide new developments with frontage on North River Road to provide a 25-foot-wide right-of-way buffer, planted with native canopy trees, such as Live Oaks and Laurel Oaks, to allow retention of the existing native vegetation along the North River Road frontage where proposed preserve areas abut right-of-way. This deviation is APPROVED SUBJECT TO condition 3i.
5. Deviation (5) seeks relief from the LDC §34-935(b)(1) requirement to provide a minimum of 25-foot setbacks for all structures and buildings from the planned development boundary, to allow no perimeter setback where the development abuts future development areas within the Town of Babcock Ranch in Charlotte County. This deviation is APPROVED.
6. Deviation (6) seeks relief from the LDC §34-935(f) requirement which limits maximum building height in Suburban, and Rural land use categories, and in other land use categories to 45 feet/three stories above minimum flood elevation, to allow maximum building heights of 65 feet/five stories in Mixed use areas (MU-1 & MU-2). The requested building height applies to two mixed-use development pods that are set back a large distance from external roadways and private properties outside the project. This deviation is APPROVED.
7. Deviation (7) sees relief from the LDC §34-2194(b) requirement to provide a minimum 25-foot setback between buildings and structures and bodies of water, to allow a 0-foot setback between private on-site and off-site recreational facilities and internal artificial bodies of water. This deviation will allow recreational facilities and other amenities to be closer to the edge of water and take advantage of the view and allow for recreational activities such as fishing, boating, etc. This deviation is APPROVED SUBJECT TO condition 13.
8. Deviation (8) seeks relief from LDC §10-291(3) requirement to provide residential developments of more than five acres to provide more than one means of ingress and egress for the development, to allow one (1) access point from Charlotte County for Tracts R-1, R-2, and R-3. The deviation applies to four individual

Based upon the above documentation, the County may require additional assurances the developer will not exceed these limitations before permitting further commercial development. Assurances include: (1) a binding development agreement between the developer and Lee County further limiting commercial development within the MPD; or (2) administrative reduction of the commercial development parameters approved by this MPD. The County may discontinue further commercial development permitting until the developer provides these assurances.

- b. Residential Use. The residential unit count may not exceed 2,078 dwelling units using LDC density equivalents for dormitories, bed and breakfast, timeshare units, assisted living facilities, independent living facilities, accessory apartments and caretaker residences. Of the 2,078 units, multi-family and ALF beds (utilizing the density equivalents) are limited to development within the MU-1 and MU-2 tracts only.

## **12. Waterbody Setback**

A maximum of 20% of individual lake shorelines may have a zero-foot setback for private on-site recreational facilities and other amenities (See Deviation 7).

## **13. Developer Agreement**

Prior to issuance of a Development Order for the easternmost R-2 and both R-3 tracts, the Babcock Ranch Developer's Agreement must be revised and approved by the Board of County Commissioners to reflect 2,078 dwelling units and 250 hotel units consistent with this zoning resolution.

## **14. Land Use Map Boundary Adjustment**

Prior to issuance of a Development Order for the easternmost R-2 and both R-3 tracts, Developer or its successor must obtain approval of Land Use Map Boundary Adjustment to revise wetlands and uplands future land use areas.

## **DEVIATIONS**

**Deviations 1-13** are carried forward from prior approvals without modification. The Hearing Examiner recommends continued APPROVAL of these deviations.

**Deviations 14-15** are newly requested in this application.

1. Deviation (1) seeks relief from LDC §10-416(d)(1), which requires a buffer along the entire perimeter of the proposed development whenever the proposed development abuts a different use, to allow for no perimeter buffers where the proposed development abuts future development within the Town of Babcock Ranch immediately north of the Lee-Charlotte County line. This deviation is APPROVED.

development pods that are components of larger developments pods in Charlotte County with multiple access points. Preserve areas surrounding the four pods makes it impossible to access those pods from Lee County. This deviation is APPROVED.

9. Deviation (9) seeks relief from the LDC §10-416(d) requirement to provide 30-foot-wide Type "F" buffer where proposed commercial and mixed-use development areas abut single-family residential dwelling units, to allow retention of existing, native vegetation along the eastern and southern MPD boundaries where proposed preserve areas abut existing single-family residential uses on Turkey Run Lane. This deviation is APPROVED for north and eastern cutout subject to Condition 3.j and 3.k. If at the time of development order application, the developer demonstrates existing native vegetation along the western boundary meets the Type "F" 30-foot buffer standards, then the deviation is also approved along the boundary in lieu of installing the code-required buffer.
10. Deviation (10) seeks relief from LDC §34-934, Note 48, which requires existing agricultural uses within any tract or phase of a planned development to be discontinued upon local development order approval for that tract or phase, to allow existing agricultural uses to be discontinued upon commencement of vertical development. This deviation is APPROVED SUBJECT TO condition 8.
11. Deviation (11) seeks relief from LDC §10-296(k)(1), which requires dead end streets to be closed at one end by a circular turn around, to allow a hammerhead terminus design in locations depicted on the Master Concept Plan. This deviation is APPROVED.
12. Deviation (12) seeks relief from LDC §10-384(1), which requires water mains for one- and two-story residential buildings between one and six dwelling units per building to be constructed in an external loop connected to the intersecting water mains, to allow for the deferral of the external loop connection until such time that the adjacent commercial parcel is developed. The requested deferral is specific to MU-2 & MU-1/R tracts of the MPD. This deviation is APPROVED.
13. Deviation (13) seeks relief from LDC §34-2020(b), which provides specific parking requirements for nonresidential uses, including clubhouses, pools, and sports courts associated with private, on-site recreational amenities, to allow the reduction of the number of required parking spaces by five percent (5%) of the required parking space to golf cart spaces for the private, on-site amenities uses. This deviation is being sought in accordance with the LDC Section 34-2020(c)(3) & (4), which allows administrative approval of the reduction of the minimum required number of parking spaces not to exceed 10 percent of the required parking spaces. This parking reduction is specific to the on-site amenities of Tracts MU-2 and MU-1/R of the MPD.

14. Deviation (14) seeks relief from LDC §10-296(e), which requires roadway segments to be designated as rural, to allow roadways within the Babcock Ranch MPD to be designated as Suburban.

**HEX Recommendation:** Approval

15. Deviation (15) seeks relief from LDC §33-1667, which requires a 25-foot-wide Type D buffer between parking areas and adjacent rights-of-way if more than 50% of the required parking spaces, or more than 10 parking spaces, is located between the street right-of-way and the principal structure of on the side of building, to allow a 20-foot-wide Type D buffer between the parking area and adjacent internal rights-of-way and allow for parking to be distributed in a manner that best supports the mix of uses, pedestrian accessibility, and overall site design.

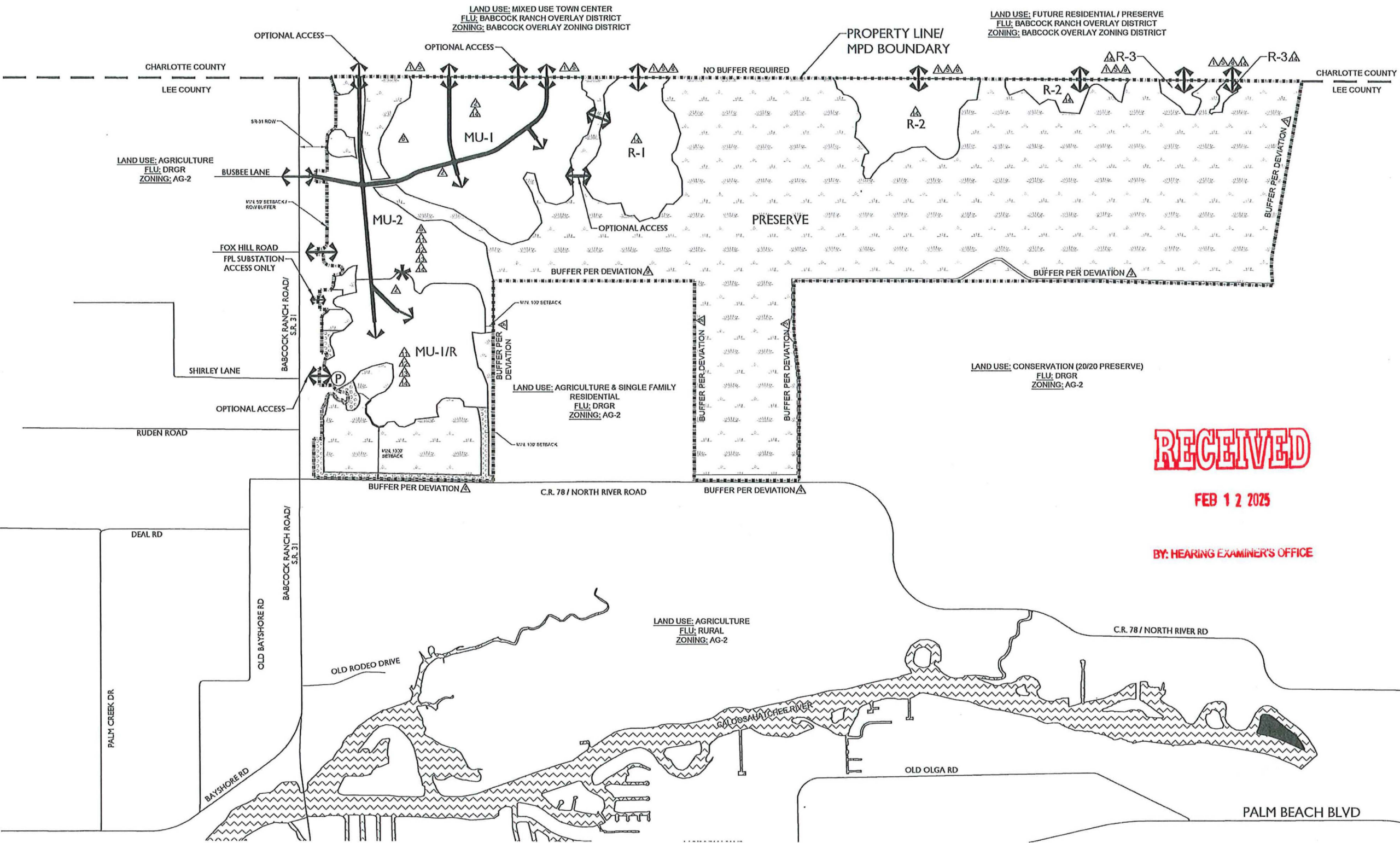
**HEX Recommendation:** Approval

Exhibits to Conditions:

B1 Master Concept Plan received February 12, 2025

B2 Property Development Regulations





LAND USE SUMMARY	
LAND USE	ACREAGE
MIXED USE RESIDENTIAL (MU-1/R)	214 AC
MIXED USE TOWN CENTER 1 (MU-1)	416 AC
MIXED USE TOWN CENTER 2 (MU-2)	219 AC
RESIDENTIAL TOWN CENTER (R-1)	241 AC
RESIDENTIAL NEIGHBORHOOD (R-2)	111 AC
RESIDENTIAL ESTATES (R-3)	22 AC
PRESERVE	2,613 AC
OTHER OPEN SPACE / BUFFERS	11 AC
TOTAL	4,003 AC

OPEN SPACE / PRESERVE SUMMARY	
OVERLAY REQUIRED OPEN SPACE	4,003 AC x 6% = 2,402 AC
OVERLAY REQUIRED PRESERVE	4,003 AC x 50% = 2,002 AC
PROVIDED OPEN SPACE / PRESERVE	
TOTAL PRESERVE PROVIDED	2,613 AC
TOTAL OPEN SPACE PROVIDED	2,614 AC

LEGEND	
	PRESERVE
	MIXED USE TOWN CENTER 1
	MIXED USE TOWN CENTER 2
	MIXED USE / RESIDENTIAL
	RESIDENTIAL TOWN CENTER
	RESIDENTIAL NEIGHBORHOOD
	RESIDENTIAL ESTATES
	ROADWAY SETBACK / GENERAL OPEN SPACE
	LAKE / WATER BODY
	EGRESS / EGRESS
	DEVIATION LOCATION
	CONCEPTUAL INTERNAL ROADWAY NETWORK
	C.O.P.
	PUBLIC FACILITIES (PRESERVE FACILITY)

RECEIVED

FEB 12 2025

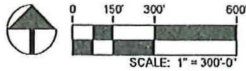
BY: HEARING EXAMINER'S OFFICE



BABCOCK MPD • MASTER CONCEPT PLAN

LEE COUNTY, FLORIDA  
2025-02-03  
548-01  
BABCOCK PROPERTY HOLDINGS, LLC

BABCOCK  
PROPERTY  
HOLDINGS,  
LLC



Information furnished regarding this property is from sources believed reliable. RVI has not made an independent investigation of this accuracy and no warranty is made as to their accuracy or completeness. This plan is conceptual, subject to change, and does not represent any regulatory approval.

# Babcock MPD

## Site Development Regulations

**REVISED April 2025**

MPD PERIMETER SETBACKS <sup>(1)</sup>	
State Road 31 <sup>(2)</sup>	50'
North River Road/County Road 78	1,000'
Conservation 20/20 Lands	750'
Other (All Other PD boundaries) <sup>(3)(4)</sup>	50'

(1) Excludes accessory structures, signage, essential services, and essential service facilities

(2) Setback measured from MPD property line

(3) No setback required from northern boundary (Lee/Charlotte county line) where development abuts Town of Babcock Ranch development areas. See Deviation  
2

<b>RESIDENTIAL TOWN CENTER - RESIDENTIAL (R-1)</b>											
Dwelling Type	Min. Lot Size	Min. Lot Width	Min. Lot Depth	Min. Front Setback <sup>(1)</sup>	Side Setback	Rear Setback	Accessory Setback <sup>(2)</sup>	Max. Bldg. Height	Min. Bldg. Separation	Max. Lot Coverage	Waterbody <sup>(4)</sup>
Single-Family Detached	3,500 SF	35'	100'	20'/15'/10'	5'	10'/0' <sup>(5)</sup>	5'/0'	35'	10'	55%	20'/0'
Zero Lot Line	3,500 SF	35'	100'	20'/15'/10'	10'/0'	10'	5'/0'	35'	10'	60%	20'/0'
Two-Family Attached	3,000 SF	30'	100'	20'/10'	5'/0'	10'	5'/0'	35'	10'	60%	20'/0'
Townhouse	1,800 SF	18'	100'	20'/10'	7.5'/0'	10'	5'/0'	45'	15' <sup>(3)</sup>	65%	20'/0'
Multi-Family Building	7,500 SF	75'	100'	20'	N/A	10'	5'/0'	65'	15' <sup>(3)</sup>	50%	20'/0'
Recreation Buildings/ Clubhouse	N/A	N/A	N/A	20'	10'	10'	5'/0'	45'	10'	50%	20'/0'

(1) 20' min. front setback for front-loaded garages. 15' min. front setback for side loaded garages. 10' min. front setback for rear-loaded/alley lots and secondary front setback on corner lots

(2) 0' accessory setback where rear lot line abuts platted lake maintenance easement or landscape buffer easement

(3) 15' minimum building separation for structures 35' in height or less. For structures greater than 35' in height, the minimum building separation will be ½ of the building height.

(4) 0' waterbody setback for recreational/amenity structures at the lake control elevation for non-sea walled artificial bodies of water. See Deviations 9 & 10

(5) 0' rear yard setback only for rear-loaded/alley accessible lots

<b>RESIDENTIAL NEIGHBORHOOD - RESIDENTIAL (R-2)</b>											
Dwelling Type	Min. Lot Size	Min. Lot Width	Min. Lot Depth	Min. Front Setback <sup>(1)</sup>	Side Setback	Rear Setback	Accessory Setback <sup>(2)</sup>	Max. Bldg. Height	Min. Bldg. Separation	Max. Lot Coverage	Waterbody <sup>(4)</sup>
Single-Family Detached	4,000 SF	40'	100'	20'/15'/10'	5'	10'	5'/0'	35'	10'	55%	20'/0'
Zero Lot Line	3,500 SF	30'	100'	20'/10'	10'/0'	10'	5'/0'	35'	10'	60%	20'/0'
Two-Family Attached	3,000 SF	30'	100'	20'/10'	5'/0'	10'	5'/0'	35'	10'	60%	20'/0'
Townhouse	1,800 SF	18'	100'	20'/10'	7.5'/0'	10'	5'	45'	15' <sup>(3)</sup>	65%	20'/0'
Recreation Buildings/ Clubhouse	N/A	N/A	N/A	20'	10'	10'	5'/0'	45'	10'	50%	20'/0'

(1) 20' min. front setback for front-loaded garages. 15' min. front setback for side loaded garages. 10' min. front setback for rear-loaded/alley lots and secondary front setback on corner lots

(2) 0' accessory setback where rear lot line abuts platted lake maintenance easement or landscape buffer easement

(3) 15' minimum building separation for structures 35' in height or less. For structures greater than 35' in height, the minimum building separation will be ½ of the building height

(4) 0' waterbody setback for recreational/amenity structures at the lake control elevation for non-sea walled artificial bodies of water. See Deviations 9 & 10



<b>RESIDENTIAL ESTATES - RESIDENTIAL (R-3)</b>											
Dwelling Type	Min. Lot Size	Min. Lot Width	Min. Lot Depth	Min. Front Setback	Side Setback	Rear Setback	Accessory Setback	Max. Bldg. Height	Min. Bldg. Separation	Max. Lot Coverage	Waterbody <sup>(2)</sup>
Single-Family Detached	1 acre	100'	100'	20'	10'	20'	10'	35'	N/A	30%	20'/0'
Recreation Buildings/ Clubhouse	N/A	N/A	N/A	20'	10'	10'	5'/0' <sup>(1)</sup>	35'	10'	50%	20'/0'

(1) 0' accessory setback where rear lot line abuts platted lake maintenance easement or landscape buffer easement

(2) 0' waterbody setback for recreational/amenity structures at the lake control elevation for non-sea walled artificial bodies of water. See Deviations 9 & 10

<b>RESIDENTIAL – MIXED USE TOWN CENTERS (MU-1 &amp; MU-2) AND MIXED USE RESIDENTIAL (MU-1/R)</b>											
Dwelling Type	Min. Lot Size	Min. Lot Width	Min. Lot Depth	Min. Front Setback <sup>(1)</sup>	Side Setback	Rear Setback	Accessory Setback <sup>(2)</sup>	Max. Bldg. Height	Min. Bldg. Separation	Max. Lot Coverage	Waterbody <sup>(4)</sup>
Single-Family Detached	3,500 SF	35'	100'	20'/15'/10'	5'	10'/0' <sup>(5)</sup>	5'/0'	35'	10'	55%	20'/0'
Zero Lot Line	3,500 SF	35'	100'	20'/15'/10'	10'/0'	10'	5'/0'	35'	10'	60%	20'/0'
Two-Family Attached	3,000 SF	30'	100'	20'/10'	5'/0'	10'	5'/0'	35'	10'	60%	20'/0'
Townhouse	1,800 SF	18'	100'	20'/10'	7.5'/0'	10'	5'/0'	45'	15' <sup>(3)</sup>	65%	20'/0'
Multi-Family Building	7,500 SF	75'	100'	20'	N/A	10'	5'/0'	65'	15' <sup>(3)</sup>	50%	20'/0'
Recreation Buildings/ Clubhouse	N/A	N/A	N/A	20'	10'	10'	5'/0'	45'	10'	50%	20'/0'

(1) 20' min. front setback for front-loaded garages. 15' min. front setback for side loaded garages. 10' min. front setback for rear-loaded/alley lots and secondary front setback on corner lots

(2) 0' accessory setback where rear lot line abuts platted lake maintenance easement or landscape buffer easement

(3) 15' minimum building separation for structures 35' in height or less. For structures greater than 35' in height, the minimum building separation will be ½ of the building height

(4) 0' waterbody setback for recreational/amenity structures at the lake control elevation for non-sea walled artificial bodies of water. See Deviations 9 & 10

(5) 0' rear yard setback only for rear-loaded/alley accessible lots

<b>NON-RESIDENTIAL – MIXED USE TOWN CENTERS (MU-1 &amp; MU-2) AND MIXED USE RESIDENTIAL (MU-1/R)</b>										
Land Use	Min. Lot Size	Min. Street Setback (SR 31) (1)(2)	Min. Street Setback (CR 78) (1)	Min. Street Setback (Private/Internal)	Side Setback	Rear Setback	Accessory Setback	Max. Building Height (2)	Max. Lot Coverage	Waterbody (3)
Recreation	N/A	50'	1,000'	0'	0'	0'	0'	65'	50%	20'/0'
Retail	N/A	50'	1,000'	0'	0'	0'	0'	65'	50%	20'/0'
Office	N/A	50'	1,000'	0'	0'	0'	0'	65'	50%	20'/0'
Hotel	N/A	50'	1,000'	0'	0'	0'	0'	65'	50%	20'/0'
Mixed Use Buildings	N/A	50'	1,000'	0'	0'	0'	0'	65'	50%	20'/0'

(1) Excludes accessory structures, essential services, essential service facilities, and signage

(2) Minimum setback from SR 31 is 50' for structures 35' in height or less. For structures exceeding 35' in height, the minimum setback will be increased 2 feet for every foot in excess of 35'

(3) 0' waterbody setback for recreational/amenity structures at the lake control elevation for non-sea walled artificial bodies of water. See Deviations 9 & 10

# Babcock MPD

## Site Development Regulations

REVISED SEPTEMBER 2024

MPD PERIMETER SETBACKS <sup>(1)</sup>	
State Road 31 <sup>(2)</sup>	100'-50'
North River Road/County Road 78	1,000'
Conservation 20/20 Lands	750'
Other (All Other PD boundaries) <sup>(3)(4)</sup>	50'

- (1) Excludes accessory structures, signage, essential services, and essential service facilities
- (2) Setback measured from ~~MPD property line~~ future SR 31 right-of-way after conveyance of additional right-of-way for roadway widening
- (3) No setback required from northern boundary (Lee/Charlotte county line) where development abuts Town of Babcock Ranch development areas. See Deviation 2.



RESIDENTIAL TOWN CENTER - RESIDENTIAL (R-1)											
Dwelling Type	Min. Lot Size	Min. Lot Width	Min. Lot Depth	Min. Front Setback <sup>(1)</sup>	Side Setback	Rear Setback	Accessory Setback <sup>(2)</sup>	Max. Bldg. Height	Min. Bldg. Separation	Max. Lot Coverage	Waterbody <sup>(4)</sup>
Single-Family Detached	3,500 SF	35'	100'	20'/15'/10'	5'	10'/0' <sup>(5)</sup>	5'/0'	35'	10'	55%	20'/0'
Zero Lot Line	3,500 SF	35'	100'	20'/15'/10'	10'/0'	10'	5'/0'	35'	10'	60%	20'/0'
Two-Family Attached	3,000 SF	30'	100'	20'/10'	5'/0'	10'	5'/0'	35'	10'	60%	20'/0'
Townhouse	1,800 SF	18'	100'	20'/10'	7.5'/0'	10'	5'/0'	45'	15' <sup>(3)</sup>	65%	20'/0'
Multi-Family Building	7,500 SF	75'	100'	20'	N/A	10'	5'/0'	65'	15' <sup>(3)</sup>	50%	20'/0'
Recreation Buildings/ Clubhouse	N/A	N/A	N/A	20'	10'	10'	5'/0'	45'	10'	50%	20'/0'

- (1) 20' min. front setback for front-loaded garages. 15' min. front setback for side loaded garages. 10' min. front setback for rear-loaded/alley lots and secondary front setback on corner lots
- (2) 0' accessory setback where rear lot line abuts platted lake maintenance easement or landscape buffer easement
- (3) 15' minimum building separation for structures 35' in height or less. For structures greater than 35' in height, the minimum building separation will be ½ of the building height.
- (4) 0' waterbody setback for recreational/amenity structures at the lake control elevation for non-sea walled artificial bodies of water. See Deviations 7, 9 & 10.
- (5) 0' rear yard setback only for rear-loaded/alley accessible lots.

RESIDENTIAL NEIGHBORHOOD - RESIDENTIAL (R-2)											
Dwelling Type	Min. Lot Size	Min. Lot Width	Min. Lot Depth	Min. Front Setback <sup>(1)</sup>	Side Setback	Rear Setback	Accessory Setback <sup>(2)</sup>	Max. Bldg. Height	Min. Bldg. Separation	Max. Lot Coverage	Waterbody <sup>(4)</sup>
Single-Family Detached	4,000 SF	40'	100'	20'/15'/10'	5'	10'	5'/0'	35'	10'	55%	20'/0'
Zero Lot Line	3,500 SF	30'	100'	20'/10'	10'/0'	10'	5'/0'	35'	10'	60%	20'/0'
Two-Family Attached	3,000 SF	30'	100'	20'/10'	5'/0'	10'	5'/0'	35'	10'	60%	20'/0'
Townhouse	1,800 SF	18'	100'	20'/10'	7.5'/0'	10'	5'	45'	15' <sup>(3)</sup>	65%	20'/0'
Recreation Buildings/ Clubhouse	N/A	N/A	N/A	20'	10'	10'	5'/0'	45'	10'	50%	20'/0'

(1) 20' min. front setback for front-loaded garages. 15' min. front setback for side loaded garages. 10' min. front setback for rear-loaded/alley lots and secondary front setback on corner lots

(2) 0' accessory setback where rear lot line abuts platted lake maintenance easement or landscape buffer easement

(3) 15' minimum building separation for structures 35' in height or less. For structures greater than 35' in height, the minimum building separation will be ½ of the building height.

(4) 0' waterbody setback for recreational/amenity structures at the lake control elevation for non-sea walled artificial bodies of water. See Deviations 7 9 & 10.

RESIDENTIAL ESTATES - RESIDENTIAL (R-3)											
Dwelling Type	Min. Lot Size	Min. Lot Width	Min. Lot Depth	Min. Front Setback	Side Setback	Rear Setback	Accessory Setback	Max. Bldg. Height	Min. Bldg. Separation	Max. Lot Coverage	Waterbody <sup>(2)</sup>
Single-Family Detached	1 acre	100'	100'	20'	10'	20'	10'	35'	N/A	30%	20'/0'
Recreation Buildings/ Clubhouse	N/A	N/A	N/A	20'	10'	10'	5'/0' <sup>(1)</sup>	35'	10'	50%	20'/0'

(1) 0' accessory setback where rear lot line abuts platted lake maintenance easement or landscape buffer easement

(2) 0' waterbody setback for recreational/amenity structures at the lake control elevation for non-sea walled artificial bodies of water. See Deviations-7 9 & 10.

<b>RESIDENTIAL – MIXED USE TOWN CENTERS (MU-1 &amp; MU-2) AND MIXED USE RESIDENTIAL (MU-1/R)</b>											
Dwelling Type	Min. Lot Size	Min. Lot Width	Min. Lot Depth	Min. Front Setback <sup>(1)</sup>	Side Setback	Rear Setback	Accessory Setback <sup>(2)</sup>	Max. Bldg. Height	Min. Bldg. Separation	Max. Lot Coverage	Waterbody <sup>(4)</sup>
Single-Family Detached	3,500 SF	35'	100'	20'/15'/10'	5'	10'/0' <sup>(5)</sup>	5'/0'	35'	10'	55%	20'/0'
Zero Lot Line	3,500 SF	35'	100'	20'/15'/10'	10'/0'	10'	5'/0'	35'	10'	60%	20'/0'
Two-Family Attached	3,000 SF	30'	100'	20'/10'	5'/0'	10'	5'/0'	35'	10'	60%	20'/0'
Townhouse	1,800 SF	18'	100'	20'/10'	7.5'/0'	10'	5'/0'	45'	15' <sup>(3)</sup>	65%	20'/0'
Multi-Family Building	7,500 SF	75'	100'	20'	N/A	10'	5'/0'	65'	15' <sup>(3)</sup>	50%	20'/0'
Recreation Buildings/ Clubhouse	N/A	N/A	N/A	20'	10'	10'	5'/0'	45'	10'	50%	20'/0'

(1) 20' min. front setback for front-loaded garages. 15' min. front setback for side loaded garages. 10' min. front setback for rear-loaded/alley lots and secondary front setback on corner lots

(2) 0' accessory setback where rear lot line abuts platted lake maintenance easement or landscape buffer easement

(3) 15' minimum building separation for structures 35' in height or less. For structures greater than 35' in height, the minimum building separation will be ½ of the building height.

(4) 0' waterbody setback for recreational/amenity structures at the lake control elevation for non-sea walled artificial bodies of water. See Deviations 7, 9 & 10.

(5) 0' rear yard setback only for rear-loaded/alley accessible lots.



NON-RESIDENTIAL – MIXED USE TOWN CENTERS (MU-1 & MU-2) AND MIXED USE RESIDENTIAL (MU-1/R)										
Land Use	Min. Lot Size	Min. Street Setback (SR 31) (1)(2)	Min. Street Setback (CR 78) (1)	Min. Street Setback (Private/Internal)	Side Setback	Rear Setback	Accessory Setback	Max. Building Height (2)	Max. Lot Coverage	Waterbody (3)
Recreation	N/A	<del>100'</del> 50'	1,000'	0'	0'	0'	0'	65'	50%	20'/0'
Retail	N/A	<del>100'</del> 50'	1,000'	0'	0'	0'	0'	65'	50%	20'/0'
Office	N/A	<del>100'</del> 50'	1,000'	0'	0'	0'	0'	65'	50%	20'/0'
Hotel	N/A	<del>100'</del> 50'	1,000'	0'	0'	0'	0'	65'	50%	20'/0'
Mixed Use Buildings	N/A	<del>100'</del> 50'	1,000'	0'	0'	0'	0'	65'	50%	20'/0'

(1) Excludes accessory structures, essential services, essential service facilities, and signage

(2) Minimum setback from future SR 31 is ~~100'~~ 50' for structures 35' in height or less. For structures exceeding 35' in height, the minimum setback will be increased 2 feet for every foot in excess of 35'.

(3) 0' waterbody setback for recreational/amenity structures at the lake control elevation for non-sea walled artificial bodies of water. See Deviations 7, 9 & 10.

## Exhibit C

### EXHIBITS PRESENTED AT HEARING

#### **STAFF EXHIBITS**

1. *DCD Staff Report with attachments:* Prepared by Elizabeth Workman, Principal Planner, date received January 28, 2025 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *Legal Notice Scrivener's Error:* Memorandum from Joseph Adams, Esq., with the County Attorney's office, to Amanda L. Rivera, Deputy Hearing Examiner, dated February 7, 2025 (multiple pages – 8.5"x11")
3. *PowerPoint Presentation:* Prepared by Lee County Staff for DCI2023-00053, Babcock Lee MPD, dated February 12, 2025 (multiple pages – 8.5"x11")[color]

#### **APPLICANT EXHIBITS**

- a. *48-Hour Notice:* Email from Tom Sacharski to Hearing Examiner and Elizabeth Workman, with copies to Richard Akin, Esq., E. Woods, John Broderick, and Alexis Crespo, dated Friday, February 7, 2025, 11:54 AM (multiple pages – 8.5"x11" and 11"x17")
1. *48-Hour Notice:* Letter and Attachments to Ms. Amanda Rivera from Tom Sacharski, dated February 7, 2025 (multiple doubled-sided pages – 8.5"x11")
2. *Master Concept Plan:* Prepared by RVI Planning for Babcock MPD (1 page – 11"x17" and 24"x36")
3. *PowerPoint Presentation:* Prepared for DCI2023-00053, Babcock Lee MPD, dated February 12, 2025 (multiple pages – 8.5"x11")[color]

**Exhibit D**

**HEARING PARTICIPANTS**

**County Staff:**

1. Elizabeth Workman

**Applicant Representatives:**

1. Richard Akin, Esq.
2. Alexis Crespo
3. Laura Herrero
4. Stephen Leung
5. David Mercer
6. Tom Sacharski
7. Erica Woods

**Public Participants:**

None

**Exhibit E**  
**INFORMATION**

**UNAUTHORIZED COMMUNICATIONS**

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

**HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS**

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



## BABCOCK MPD AMENDMENT

### A. Conditions:

#### 1. Master Concept Plan/Development Parameters

The development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled "Babcock MPD," stamped received October 17, 2024, and attached hereto as Exhibit C, except as modified by the conditions below.

Development must comply with all requirements of the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursuant, appropriate approvals will be necessary.

Approved development parameters: \*(Subject to Condition 12)

2,078 residential dwelling units

250 hotel rooms

1,170,000 square feet of commercial office and retail uses.

#### 2. Uses and Site Development Regulations

The following Limits apply to the project and uses:

##### a. Schedule of Uses

##### MIXED-USE/RESIDENTIAL (MU-1/R) & MIXED-USE (MU-1 & MU-2):

Accessory apartment

Administrative offices

Agricultural Uses (subject to Condition 8)

Animals, clinic or kennel

Assisted living facilities

ATM

Auto parts store

Automobile repair and service

Automobile service station

Bait and tackle shop

Banks and financial establishments, Group I

Bar or cocktail lounge

Bed and breakfast, included in 2,078 residential dwelling units

Boat parts store

Building material sales

Business services, Group I

Caretaker's residence

Car wash

Cleaning and maintenance services

Clothing stores, general

Clubs:

Commercial

- Fraternal, membership organization
- Private
- Community gardens
- Computers, data processing
- Consumption on premises
- Convenience food and beverage store with fuel pumps, limited to 4 stores, each with up to 24 fuel pumps.
- Cultural facilities
- Day Care, child and adult
- Department store
- Dormitory
- Drive-through facility for any permitted use
- Drugstore, pharmacy
- Dwelling units:
  - Live work
  - Single-family
  - Two-family attached
  - Townhouse
  - Multiple-family building
  - Zero lot line
- EMS, fire, or sheriff's station
- Essential Services
- Essential Service Facilities, Group I and II
- Entrance gates and gatehouses
- Excavation, water detention and retention
- Farm equipment, sales, storage, rental or service
- Fences, walls
- Flea market, open and indoor
- Food and beverage services, limited
- Food stores, Group I
- Forestry tower
- Gift and souvenir shop
- Golf driving range
- Hardware store
- Healthcare facilities, Groups I, II & III
- Hobby, toy and game shops
- Home occupation
- Hospice
- Hotel/motel- limited to 250 rooms
- Household and office furnishings, Group I
- Independent living facilities
- Insurance Companies
- Laundry and dry cleaning, Group I
- Lawn & garden supply store
- Library
- Manufacturing, food and kindred products, Group II (limited to malt beverages, wine, brandy, and brandy spirits)
- Medical office, including urgent care
- Model homes, model display center
- Night Clubs
- Non-store retailers, Group I
- Package store
- Paint, glass and wallpaper stores
- Parks, Groups I and II

- Parking Lot,
  - Accessory
  - Commercial
  - Park-and-ride
  - Temporary
- Personal Services, Groups I, II (excluding massage parlors and steam or Turkish bath)
- Pet services
- Pet shop
- Photofinishing laboratory
- Place of worship
- Post Office
- Printing and publishing
- Real estate sales office
- Recreation facilities, commercial, Groups I-IV
- Recreational facilities, personal, private on-site, private off-site
- Religious facilities
- Rental or leasing establishments, Group I, II, III
- Repair shops, all groups
- Research and development laboratories, Groups I, II
- Residential accessory uses
- Restaurant, fast food
- Restaurants, all groups
- Schools, commercial and non-commercial
- Self-service fuel pumps
- Signs
- Social services, all groups
- Specialty retail shops, all groups
- Stable
  - Boarding
  - Commercial
  - Private
- Storage, Indoor
- Studios
- Temporary uses
- Theater, indoor and outdoor
- Timeshare units
- Transportation services, Groups II, III
- Used merchandise store, Group I
- Variety store
- Vehicle and equipment dealers, Groups II, III
- Warehouse:
  - Public
  - Private
  - Mini
- Wireless communication facility

## **RESIDENTIAL TOWN CENTER (R-1)**

- Administrative office
- Agricultural uses (subject to Condition 8)
- Clubs, private
- Community gardens
- Consumption on Premises in conjunction with recreational facilities

Dwelling units:  
    Single-family detached  
    Two-family attached  
    Townhome  
    Multi-family buildings  
    Zero lot line  
EMS, Fire, or Sheriff's Station  
Entrance gates and gatehouses  
Essential services  
Essential service facilities, Group I  
Excavation – water detention and retention  
Fences, walls  
Home occupation  
Models, model home, display center, sales center  
Parking lot,  
    Accessory  
    Temporary  
Parks, Groups I and II  
Real estate sales office  
Recreational facilities, personal & private, on-site and off-site  
Residential accessory uses and structures  
Signs  
Stable,  
    Boarding  
    Commercial  
    Private  
Temporary Uses  
Wireless communication facility

**RESIDENTIAL NEIGHBORHOOD (R-2):**

Administrative office  
Agricultural uses (subject to Condition 8)  
Clubs, private  
Community gardens  
Consumption on Premises in conjunction with recreational facilities  
Dwelling units:  
    Single-family detached  
    Two-family attached  
    Townhouse  
    Zero lot line  
Entrance gates and gatehouses  
Essential services  
Essential service facilities, Group I  
Excavation -water detention and retention  
Fences, walls  
Home occupation  
Models, model home, display center, sales center  
Parking lot,  
    Accessory  
    Temporary  
Parks, Groups I and II  
Real estate sales office

Recreational facilities, personal, private, on-site and off-site  
Residential accessory uses and structures  
Signs  
Stable  
    Boarding  
    Commercial  
    Private  
Temporary Uses  
Wireless communication facility

**RESIDENTIAL ESTATES (R-3):**

Agricultural uses (subject to Condition 8)  
Clubs, private  
Community administrative office  
Community gardens  
Consumption on Premises in conjunction with recreational facilities  
Dwelling units:  
    Single-family detached only  
Entrance gates and gatehouses  
Essential services  
Essential service facilities, Group I  
Excavation - water detention and retention  
Fences, walls  
Home occupation  
Models, model home, display center, sales center  
Parking lot  
    Accessory  
    Temporary  
Parks, Groups I and II  
Real estate sales office  
Recreational facilities, personal & private, on-site and off-site  
Residential accessory uses and structures  
Signs  
Stable  
    Boarding  
    Commercial  
    Private  
Temporary Uses  
Wireless communication facility

**b. Property Development Regulations**

See Exhibit K.

**3. Environmental Conditions**

- a. Human-Wildlife Coexistence and Protected Species Management Plans. The local development order approval must include a Human-Wildlife Coexistence Plan and Protected Species Management Plan. These plans must include the following items:



- i. Lighting. The developer and future property owners must ensure lighting from developed areas does not directly illuminate indigenous preserve and restoration areas by shielding fixtures and eliminating up lighting. The developer must include these lighting standards in the indigenous management plan, deed restrictions, and on development order plans.
- ii. Prescribed Burning. Prior to prescribed burn management activities on the adjacent public preserve lands, if notified by park staff, the Homeowner's Association must notify all residents of the prescribed burn activities. The developer must include in the deed restrictions information on prescribed burning land management techniques for the subject property as well as the Conservation 20/20 Lands.
- iii. Internal Trail System. Provide documentation from Lee County Conservation 20/20 regarding proposed recreational connections to adjacent public conservation lands and show connections on development order plans.
- iv. Wildlife Crossings. The development order plans must illustrate wildlife crossings within the Lee County portion of the Babcock Ranch Community, to promote wildlife movement.
- v. Panther and Black Bear. The developer must submit a Florida Panther and Florida Black Bear Management plan for approval. This management plan must require the developer to provide the residents with educational brochures that details how the preserves will be maintained as panther and bear habitat and also require bear proof dumpsters and bear proof individual trash receptacles for residential units. The developer must include these requirements in the deed restrictions.
- vi. American Alligator/Wading Birds. The developer must submit management plans for American Alligator and listed wading bird species in compliance with the LDC for review and approval by the Lee County Division of Environmental Sciences. The management plans must include informational brochures for residents on living with alligators and wading birds as well as the importance of the littoral areas and adjacent preserves which provide for nesting and foraging habitat.
- vii. Informational Signs. The development order plans, must include the location and details of signs installed between the lake, preserve, and residential buildings warning residents and members of the public that alligators may be present and that it is dangerous and illegal to feed or harass alligators. The developer must also include these warning in the deed restrictions.
- b. Vegetation Removal Permit. The developer must submit updated species surveys identifying the location of protected species nests and clearing limit protection zones prior to the approval of a Vegetation Removal Permit for each phase of development.
- c. Open Space. Prior to development order approval, the development order plans must demonstrate 60% open space, of which 50% of the property must be indigenous preserve area, and 10% open space per development area.
- d. Native Landscaping. Prior to development order approval, all required landscaping proposed in common open space areas must be 100% native species.

- e. Compliance with Management Plans. Prior to development order approval, development order plans must be in substantial compliance with the following:
  - i. Listed Species Management Plans & Human-Wildlife Coexistence Plan last updated June 2022.
  - ii. Preserve Management and Mitigation Monitoring Plan / Ecological & Hydrological Plan dated March 2024 (aka Indigenous Preserve Management Plan)
  - iii. Supplemental Planting Plan and Success Criteria included as attachments to the March 2024 Preserve Management and Mitigation Monitoring Plan / Ecological & Hydrological Plan
  - iv. Environmental Impacts/Benefits Analysis last updated March 2024.
- f. Conservation Easement Phasing Schedule. Prior to each development order approval, the phasing schedule must provide the following Conservation Easement ratios and indigenous management plan to be equal to or greater than the area of land approved for development on a cumulative basis:
  - i. 125% of Mixed Use/Residential (MU-1/R) proposed
  - ii. 150% of Mixed Use 1 (MU-1) proposed
  - iii. 200% of Mixed Use 2 (MU-2) proposed
  - iv. 125% of Residential 1 (R-1)
  - v. 50% of Residential 2 (R-2)
  - vi. 15% of Residential 3 (R-3)
  - vii. Preserve restoration and/or management must be completed within five years of development order approval.
- g. Platting and Maintenance of Open Space. Prior to each development order approval, the developer must submit a plat showing open space areas platted in separate tracts, outside of privately owned lots, and dedicated to an appropriate maintenance entity. The developer must create a Community Development District (CDD), Independent Special District (ISD), or a master property owners association to accept responsibility for perpetual maintenance of project open space areas.
- h. State Road 31 Buffer. Prior to development order approval, the developer must provide an enhanced 50-foot-wide Type D buffer must be provided adjacent to the future State Road 31 (SR-31), containing the following:
  - i. Ten trees per 100 linear feet installed at 14 feet, four 4-inch caliper, and 8-foot canopy spread;
  - ii. Twenty-five shrubs per 100 linear feet installed at 48 inches in height;
  - iii. Height of plant material must be measured from the grade of SR-31;
  - iv. Plant material must be 100% native and provided with an automatic irrigation system with rain sensor; and
  - v. The use of existing native vegetation to meet buffer requirements is permissible at a 1:1 ratio as long as the existing vegetation is healthy and meets code-mandated heights.
- i. Prior to development order approval, an enhanced 100-foot wide buffer must be provided adjacent to North River Road containing the following.
  - i. Ten trees per 100 linear feet installed at 14 feet, 4-inch caliper, and 8-foot canopy spread;
  - ii. Twenty-five shrubs per 100 linear feet installed at 48 inches in height;
  - iii. Height of plant material must be measured from the grade of North River Road;

- iv. Plant material must be 100% native and provided with an automatic irrigation system with rain sensor; and
  - v. The developer may use existing native vegetation to satisfy buffer conditions at a 1:1 ratio as long as the vegetation meets the height requirement and is healthy.
- j. Buffering Adjacent Property. Prior to development order approval, a tree survey must be provided to demonstrate that the existing vegetation along the north and eastern boundary adjacent to the residential use meet the LDC buffer requirements. If this area cannot meet the LDC, the landscape plan must illustrate buffer plantings to meet the code.
  - k. Enhanced Buffering of Adjacent Property. Prior to development order approval, the boundary adjacent to Turkey Run Lane (residential use) must provide a Type F buffer to meet the LDC. The developer may use the existing native vegetation to meet this buffer requirement at 1:1 ratio, as long as the vegetation meets the height requirement and is healthy.
  - l. Indigenous Preserves. Prior to local development order approval for portions of the project that include indigenous preserves, the developer must:
    - i. Submit a detailed site plan depicting the location of pedestrian trails, kiosks, shelters, and offsite connections, and
    - ii. Submit an indigenous management plan with a long-term plan for maintenance of pedestrian trail systems.

#### 4. Natural Resources

- a. Surface Water and Groundwater Monitoring Plan. The developer must submit a Water Quality and Quantity Monitoring Plan for review and approval by the County staff prior to the first development order approval. The design of the storm water management system must demonstrate through construction, monitoring or other means that water leaving the development meets state and federal water quality standards. The Water Quality Monitoring Plan must, at a minimum, address issues related to quality of reclaimed water used for landscape irrigation, annual assessment of water quality data, trend analysis, identification of potential problems, and recommended corrective actions.

The developer must start an annual monitoring of groundwater levels and water quality in the Sandstone Aquifer at least one year prior to developing that aquifer as a supplemental irrigation source. The developer must provide all monitoring data to the Division of Natural Resources (DNR) in an approved Electronic Data Deliverable (EDD) format upon request.

- b. Stormwater Management System. The stormwater management system must demonstrate at the time of development order approval that water leaving the development will meet or exceed the requirements set forth in the applicable South Florida Water Management District Permits.
- c. Function of Water Management Systems. The developer must design the water management system to reduce existing flow rates prior to leaving the property to move the system towards the function of a natural system.
- d. Pre-Treatment of Stormwater. The project will use the South Florida Water Management District standard for water quality treatment volume being equal to the greater of 1 inch of runoff from the entire drainage area or 2.5 time the percent Impervious. Development order plans must

demonstrate the improvements will provide an additional 50% treatment beyond the required treatment for individual control basins.

- e. Discharge Rates. The developer must design the project to reduce the peak allowable discharge across the developed Lee County lands to 82.2CMS from the existing 194.9CSM allowable discharge rate.
- f. Central Water and Sewer Service. The project must connect to centralized potable water and sewer service, with the exception of interim facilities used on a temporary basis during construction, and unmanned essential services on a temporary basis until water and sewer is extended to the development. The project must connect to reclaimed water, if available at the time of development order approval.
- g. Water Quality Monitoring Plan. The developer must demonstrate the design of the water management system ensures water leaving the project meets state and federal water quality standards. Outfall monitoring will be required on a quarterly basis for a minimum of 5 years from the date of acceptance of construction of the water management system by the South Florida Water Management District. The County will re-evaluate the frequency of monitoring after 5 years of the water quality standards are met. The local development order submittal for the first phase of development must include a Water Quality Monitoring Plan. Approval of the Water Quality Monitoring Plan by Lee County Division of Natural Resource is required prior to discharging project storm water in the County's MS4 system.
- h. Lake Management Plan.
  - i. The developer must submit a Lake Management Plan for review and approval by the County DNR staff prior to the first development order. The Lake Management Plan must incorporate the Lake Maintenance Plan and the Water Quality Monitoring Plan. The developer or its successors shall review the Lake Management Plan annually and take remedial actions, if necessary. Any changes to the Lake Management Plan must be approved by the DNR staff.
  - ii. The developer must submit a lake management plan at the time of local development order to address the following:
    - (1) Applies best management practices (BMPs) fertilizers and pesticides:
    - (2) Provides erosion control and bank stabilization: and
    - (3) Establishes lake maintenance requirements and deep lake management for lakes exceeding 12 feet below lake surface (BLS).
- i. Landscape Management Plan. The developer must submit a Landscape Management Plan for review and approval by the County DNR staff prior to first development order. Homeowners Association documents including Declarations and Covenants must allow only licensed landscape or other professionals authorized by Lee County to perform activities including application of fertilizers, pesticides, insecticides, herbicides, nematicides, or other chemicals on the property. The Landscape Management Plan must include A list of BMP's to address potential degradation of surface or groundwater due to use of regulated substances on site.
- j. Ecological and Hydrological Plan. The developer must submit a site-specific ecological and hydrological plan that includes the following: preliminary excavation and grading plans, exotic removal and maintenance plan, supplemental planting plan, and success criteria for meeting established goals.

- k. Irrigation. The developer and its successors must first utilize reuse and then surface water generated by the project to meet the irrigation demands of the recreation and development areas, if reuse is available. Until reuse is available, the developer must meet the requirements of the Water Conservation Ordinance (Ord. # 24-01), as amended.

5. Vehicular/Pedestrian Impacts

- a The access points shown on the MCP are conceptual in nature and subject to change/shift based upon final approval from Florida Department of Transportation.
- b Entrance gates and gatehouses are limited to internal sub-neighborhoods. The developer may not gate the Access to the MPD from SR 31. Access to the MPD from SR 31 must be open to the general public.
- c The project must provide public access to the internal trail systems. The developer must coordinate external connections to Lee County conservation land with Lee County Parks and Recreation and Conservation 20/20.
- d The project must provide sufficient right-of-way to accommodate an 8-foot-wide multi-purpose pathway along the SR 31 and CR 78 roadway frontages.
- e Zoning approval 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.

6. Lee Plan Consistency

Zoning approval does not guarantee local development order approval. Future development order must comply with the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), as well the remainder of the Lee Plan.

7. Concurrency

Zoning approval does not constitute a finding that the proposed project meets the concurrency requirements set forth in the Lee Plan or LDC. The developer must demonstrate compliance with concurrency requirements prior to issuance of a local development order.

8. Agricultural Uses

Agricultural Uses: Existing bona fide agricultural uses may continue as follows:

- a Bona fide agricultural uses consisting of grazing, sod farming, and row cropping in existence at the time the zoning application, may continue in areas depicted on Exhibit L until local development order approval for the area containing the agricultural uses.
- b Clearing or injury of native trees or other native vegetation, including understory, in agricultural areas is prohibited. Areas of bona fide agricultural use that include existing grass pasture(s) may be mowed but may not be cleared or expanded. Violations of this condition will require restoration in accordance with the LDC. This prohibition of clearing or expansion of agricultural use does not preclude County approved requests for removal of invasive exotic vegetation.
- c Existing agricultural uses within a tract or phase must be discontinued upon local development order approval for development defined in LDC Chapter 34. Development not included within the Chapter 34 definition but that requires a development order under Chapter 10 (including but not limited to plats, lots splits, and lot re-combinations) will not trigger the requirement to



discontinue agricultural uses. The property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:

- i. Termination of all agricultural use on the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the property that specifically provides:
  - a) The date the agricultural uses ceased;
  - b) The legal description of the property subject to the development order approval;
  - c) An affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the county that they will not allow agricultural uses on the property until the property is re-zoned to permit agricultural uses; and ,
  - d) That the affidavit constitutes a covenant between the owner and the county that is binding on the owner, their assignees and successors in interest.

The affidavit must be properly recorded in the public of the county at the owner's expense.

- ii. Proof of termination of the agricultural tax exemption for the portion of the property included in the agricultural use phasing schedule attached to the development order application/approval. Proof of termination must include a copy of the owner's request to terminate the tax exemption provided to the Property Appraiser.

#### 9. Development Permits

Issuance of a development permit by does not establish a right to obtain permits from state or federal agencies. Further, it does not establish liability on the part of the County if the developer : (a) does not obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or (b) undertake actions that result in a violation of state or federal law.

#### 10. EMS

Prior to the first development order approval for vertical development, the developer must enter into a development agreement with the County to ensure that Emergency Medical Services will be available to serve the project within adopted response times. If site work commences before finalizing the development agreement, the developer must communicate the site access and access limitations to the Lee County Department of Public Safety.

#### 12. Development limits

- a. Commercial uses. The commercial uses permitted within this MPD may not exceed 1,170,000 square feet and 250 hotel rooms. Further, when combined with commercial development in the Charlotte County Babcock Ranch DRI, commercial development within the MPD may not exceed the total commercial use approved in the Babcock Ranch Community Master Development of Regional Impact (DRI) Development Order (4,900,000 square feet, as may be modified by the DRI's adopted conversion matrix).

The developer must submit the following monitoring reports to Lee County to demonstrate compliance with this condition until project build out:

- i. With every Lee County development order application for commercial use, the developer must submit a report itemizing the square footage of commercial use permitted to date in Charlotte and Lee Counties.
- ii. The developer must submit a biennial tabulation documenting the cumulative total of commercial development permitted in Lee and Charlotte Counties.

Based upon the above documentation, the County may require additional assurances the developer will not exceed these limitations before permitting further commercial development. Assurances include: (1) a binding development agreement between the developer and Lee County further limiting commercial development within the MPD; or (2) administrative reduction of the commercial development parameters approved by this MPD. The County may discontinue further commercial development permitting until the developer provides these assurances.

- b. Residential Use. The residential unit count may not exceed 2,078 dwelling units using the LDC density equivalents for dormitories, bed and breakfast, timeshare units, assisted living facilities, independent living facilities, accessory apartments and caretaker residences. Of the 2,078 units, multi-family and ALF beds (utilizing the density equivalents) are limited to development within the MU-1 and MU-2 tracts only.

### 13. Waterbody setback.

A maximum of 20% of individual lake shorelines may have a 0-foot setback for private on-site recreational facilities and other amenities. See, Deviation 7.

### 14. Developer Agreement

Prior to the issuance of a Development Order for Residential Tracts RU-2 and RU-3, the Babcock Ranch Developer's Agreement must be revised and approved by the Board of County Commissioners to reflect the 2,078 dwelling units and 250 hotel units per the subject zoning resolution.

### 15. Land Use Map Boundary Adjustment

Prior to the issuance of a Development Order for Residential Tracts RU-2 and RU-3, the applicant or successor must submit and obtain approval of Land Use Map Boundary Adjustment to revise the wetlands and uplands future land use areas.

## B. Deviations:

1. Deviation (1) seeks relief from Land Development Code (LDC) Section 10-416(d)(1), which requires a buffer along the entire perimeter of the proposed development whenever the proposed development abuts a different use, to allow for no perimeter buffers where the proposed development abuts future development within the Town of Babcock Ranch immediately north of the Lee-Charlotte County line. This deviation is APPROVED.
2. Deviation (2) seeks relief from the LDC Section 10-416(d)(1) requirement to provide internal buffers within the MPD boundary, to allow for no internal perimeter buffers around different use areas within the Mixed-Use areas (MU-1 & MU-2), and the western-most Residential Town Center (R-1). The deviation will allow for a cohesive and unified development. This deviation is APPROVED.
3. Deviation (3) seeks relief from the LDC Section 10-416(d) requirement to provide a 30-foot-wide Type "F" buffer where development abuts public preserve lands, to allow retention of existing, native vegetation along the southern and eastern MPD boundaries where proposed preserve areas abut

20/20 conservation lands. The deviation encourages habitat connectivity. This deviation is APPROVED.

4. Deviation (4) seeks relief from LDC Section 33-1673 requirement to provide new developments with frontage on North River Road to provide a 25-foot-wide right-of-way buffer, planted with native canopy trees, such as Live Oaks and Laurel Oaks, to allow retention of the existing native vegetation along the North River Road frontage where proposed preserve areas abut right-of-way. This deviation is APPROVED SUBJECT TO condition 3i.
5. Deviation (5) seeks relief from the LDC Section 34-935(b)(1) requirement to provide a minimum of 25-foot setbacks for all structures and buildings from the planned development boundary, to allow no perimeter setback where the development abuts future development areas within the Town of Babcock Ranch in Charlotte County. This deviation is APPROVED.
6. Deviation (6) seeks relief from the LDC Section 34-935(f) requirement which limits maximum building height in Suburban, and Rural land use categories, and in other land use categories to 45 feet/three stories above minimum flood elevation, to allow maximum building heights of 65 feet/five stories in Mixed use areas (MU-1 & MU-2). The requested building height applies to two mixed-use development pods that are set back a large distance from external roadways and private properties outside the project. This deviation is APPROVED.
7. Deviation (7) seeks relief from the LDC Section 34-2194(b) requirement to provide a minimum 25-foot setback between buildings and structures and bodies of water, to allow a 0-foot setback between private on-site and off-site recreational facilities and internal artificial bodies of water. This deviation will allow recreational facilities and other amenities to be closer to the edge of water and take advantage of the view and allow for recreational activities such as fishing, boating, etc. This deviation is APPROVED SUBJECT TO condition 13.
8. Deviation (8) seeks relief from LDC Section 10-291(3) requirement to provide residential developments of more than five acres to provide more than one means of ingress and egress for the development, to allow one (1) access point from Charlotte County for Tracts R-1, R-2, and R-3. The deviation applies to four individual development pods that are components of larger development pods in Charlotte County with multiple access points. Preserve areas surrounding the four pods makes it impossible to access those pods from Lee County. This deviation is APPROVED.
9. Deviation (9) seeks relief from the LDC Section 10-416(d) requirement to provide 30-foot-wide Type "F" buffer where proposed commercial and mixed-use development areas abut single-family residential dwelling units, to allow retention of existing, native vegetation along the eastern and southern MPD boundaries where proposed preserve areas abut existing single-family residential uses on Turkey Run Lane. This deviation is APPROVED for north and eastern cutout subject to Condition 3.j and 3.k. If at the time of development order application, the developer demonstrates existing native vegetation along the western boundary meets the Type "F" 30-foot buffer standards, then the deviation is also approved along the boundary in lieu of installing the code-required buffer.
10. Deviation (10) seeks relief from LDC Section 34-934, Note 48, which requires existing agricultural uses within any tract or phase of a planned development to be discontinued upon local development order approval for that tract or phase, to allow existing agricultural uses to be discontinued upon commencement of vertical development. This deviation is APPROVED SUBJECT TO condition 8.
11. Deviation (11) seeks relief from LDC Section 10-296(k)(1), which requires dead end streets to be closed at one end by a circular turn around, to allow a hammerhead terminus design in locations depicted on the Master Concept Plan. This deviation is APPROVED.

12. Deviation (12) seeks relief from LDC Section 10-384(1), which requires water mains for one- and two-story residential buildings between one and six dwelling units per building to be constructed in an external loop connected to the intersecting water mains, to allow for the deferral of the external loop connection until such time that the adjacent commercial parcel is developed. The requested deferral is specific to MU-2 & MU-1/R tracts of the MPD. This deviation is APPROVED.
13. Deviation (13) seeks relief from LDC Section 34-2020(b), which provides specific parking requirements for nonresidential uses, including clubhouses, pools, and sports courts associated with private, on-site recreational amenities, to allow the reduction of the number of required parking spaces by five percent (5%) of the required parking space to golf cart spaces for the private, on-site amenities uses. This deviation is being sought in accordance with the LDC Section 34-2020(c)(3) & (4), which allows administrative approval of the reduction of the minimum required number of parking spaces not to exceed 10 percent of the required parking spaces. This parking reduction is specific to the on-site amenities of Tracts MU-2 and MU-1/R of the MPD.
14. Withdrawn.
15. Withdrawn.

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

**Case Number: DCI2023-00053**

**Case Name: Babcock Lee Mixed Use Planned Development**

**Area Subject to Request: +/- 4,003 Acres**

**Case Type: Major Planned Development Amendment**

**Sufficiency Date: November 8, 2024**

**Hearing Date: February 12, 2025**

**REQUEST:**

RVi Planning + Landscape Architecture, on behalf of the Babcock Property Holdings, LLC, has filed an application to amend the Babcock Lee Mixed Use Planned Development (MPD)(Resolution Z-17-026, as amended) to increase the number of dwelling units (DUs) from 1,630 to 2,078; reduce the number of hotel rooms from 600 to 250 rooms; and increase the on-site preservation area in development tracts R-2 and R-3 on the eastern portion of the site, which includes increases to both upland and wetland areas. The amendment also includes removing lands along State Road 31 (SR 31) that have been conveyed to the Florida Department of Transportation for the SR 31 roadway expansion which reduces the MPD acreage from 4,157 acres to 4,003 acres (Attachment D). The request provides updated environmental maps and revised Master Concept Plan to reflect the reduction in acreage and the changes to the on-site preservation areas. The applicant is not changing the non-residential intensity of 1,170,000 square feet or a maximum proposed building height of 65 feet.

The subject property is located at the northeast corner of SR 31 and North River Road and extends north to the Charlotte County line and west of Telegraph Creek and Bob Janes Conservation 20/20 lands in Northeast Lee County. The parcel is located within the New Community and Wetlands Future Land Use Categories (FLUC) and the Northeast Lee County and North Olga Community Plan areas. A Board of County Commissioners adoption hearing for the concurrent Comprehensive Plan Text Amendment (CPA2023-00012) to amend the New Community FLUC Lee Plan Policy 1.6.1, Lee Plan Objective 35.11 and subsequent policies within North Olga Planning Area related to New Community FLUC and to address the proposed changes to the density and hotel units was approved on January 22, 2025 (Attachment E). The applicant conducted a public information meeting, which is required per the Lee Plan and Land Development Code (LDC) (see Attachment E). A sketch and description of the subject property is attached as Attachment B of the staff report.

**SUMMARY:**

Staff recommends **APPROVAL** of the applicant's request to amend the Babcock Lee Mixed Use Planned Development (MPD) revised conditions, previously approved deviations, and new deviations attached as Attachment F. The applicant has requested two new deviations from LDC Sections 34-3052(c)(5) and 34-3041(a) regarding location of mobile food vending within the MPD and to allow community events without

temporary use permits and overnight mobile food truck parking (Attachment F). Staff is recommending the applicant withdraw Deviations 14 and 15.

### **HISTORY OF PARCEL:**

Babcock Ranch covers over 90,000 acres and occupies both Charlotte and Lee Counties. Approximately 18,000 acres are allocated for the development of Babcock Ranch and the remaining land has been conveyed to the State of Florida for permanent preservation. The Charlotte County portion of Babcock Ranch was developed as a Development of Regional Impact (DRI). The DRI allows for the development of 17,870 dwelling units, 6 million square feet of non-residential uses, 600 hotel rooms, 177 hospital beds, 418 assisted living facility units, educational facilities, recreational uses, and civic space. In 2018, the FLUC for the 4,003-acre portion of Babcock Ranch within Lee County was changed to New Community, which allowed a density of one dwelling unit per two-and-a-half acres (1DU/2.5 acres) of uplands for a maximum of 1,630 dwelling units along with other non-residential uses. A companion rezone to MPD was approved per Resolution Z-17-026, which approved 1,630 dwelling units, 1,170,000 square feet of commercial uses and 600 hotel rooms at a maximum building height of 65 feet (Attachment G).

In 2021, the applicant submitted an administrative amendment (ADD2021-00073) to change the master concept plan, revise the Schedule of Uses, and revise approved conditions to be consistent with the development patterns of the project (Attachment G). In 2021, an administrative amendment (ADD2021-00188) was submitted requesting changes to the master concept plan for the Fire/EMS substation, designation of Consumption on Premises within tracts MU-2 and MU-1/R, and to eliminate the emergency access onto North River Road. The applicant requested three additional deviations regarding internal road and utility design (Attachment G).

Development has started on the Lee County side of Babcock Ranch with the TerraWalk community, clearing of commercial areas, and construction of infrastructure including the spine road connecting Babcock Lee to Babcock Charlotte.

### **CHARACTER OF THE AREA:**

The subject property is in Northeast Lee County which is in a transitional area with suburban development south of the Caloosahatchee River and rural and agricultural lands within the North Olga community. Since the original rezoning of Babcock Lee, the area north of the Caloosahatchee and east of SR 31 has been changed from Rural and Wetlands FLUCs to Outlying Suburban and Wetlands FLUCs per CPA2021-00015. The comprehensive plan amendment also added this area to the Lee County Utilities Future Water Service Area so that public services could be extended to future developments. Property immediately surrounding the subject property is depicted in Attachment B of this report and can be characterized as follows:

#### North

The subject property abuts the Charlotte County portion of Babcock Ranch to the north.



### East

The east property line abuts Telegraph Creek Preserve and Bob Janes Preserve that is Conservation 20/20 lands.

### South

The south property line abuts North River Road, which is a County-maintained two-lane arterial road. There are a couple segments of the south property line that abut agricultural zoned land used for agricultural uses except for four single-family properties that are five to 7.5 acres along Turkey Run Lane.

### West

The west property line abuts SR 31, which is currently a two-lane arterial road. FDOT has begun the SR 31 widening project that will result in a four-to-six lane road from North River Road to Greenways Boulevard and Cook Brown Road.

## **AVAILABILITY OF URBAN 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:

Utilities: The proposed project is governed by the Babcock Ranch Community Independent Special District (BRCISD) which provides the governing, financing, construction, operation and maintenance of essential public services and facilities within Babcock Ranch. BRCISD provided an availability of services letter stating that sanitary sewer, potable water, and reuse water will be available to meet the needs for the 2,078 dwelling units, 250 hotel units, and 1,170,000 commercial square feet (Attachment H).

Solid Waste: Waste Pro of Florida serves the Babcock Lee portion of Babcock Ranch and provided a letter as part of the comprehensive plan amendment application stating they do not have any objection to the increase in density and Waste Pro of Florida’s ability to serve (Attachment H).

Fire and EMS: The Bayshore Fire District stated in a February 9, 2023, letter that they are aware of Babcock Lee’s request to increase density and can provide services to the proposed development. Bayshore Fire District is basing availability to serve with the understanding that the District, and Lee County EMS will be building a Fire/EMS facility, and providing services on land donated by Babcock within the development (Attachment H). Administrative Amendment ADD2021-00188 was approved to revise the MCP to allow the Fire/EMS substation use (Attachment G).

Police: The Lee County Sheriff will provide law enforcement services from the North District offices in North Fort Myers. The Sheriff indicated in a letter dated November 28, 2023, that the proposed amendment will not affect the ability of the Lee County Sheriff’s Office to provide law enforcement services to the area. The Sheriff is requiring at the time of application for new developments or building permits, the applicant shall provide a Crime Prevention Through Environmental Design report.

Schools: The School District of Lee County has provided a letter on December 22, 2023, as part of the comprehensive plan amendment, stating that capacity is an issue within the Concurrency Service Area (CSA) at the elementary school level. However, capacity is available in the adjacent CSA. The portion of Babcock Ranch within Charlotte County contains a K-8 and a 9-12 school that accepts out-of-county students who live within 4 miles of the school property through a lottery system (Attachment H).

Public Transit: The subject property is not within one-quarter mile of a fixed-route corridor, the closest bus stop is not within one-quarter mile, and the 2016 Transit Development Plan does not identify the need for enhanced or additional transit services in the area.

#### **PROPERTY DEVELOPMENT REGULATIONS & OFF-STREET PARKING:**

The applicant proposes property development regulations that include a change from a 100-foot to 50-foot setback from SR 31 as measured from the MPD boundary. No changes to the previous approval for maximum heights, minimum setbacks, maximum lot coverage are proposed by the request (Attachment F). Staff finds the proposed property development appropriate to facilitate development in accordance with the MCP.

#### **DEVIATIONS:**

Deviations #1 through #13 were previously approved per Resolution Z-17-026 and ADD2021-00188. Staff has codified the approved deviations to be included in the Conditions and Deviations document (Attachment C).

The applicant has requested two new deviations in addition to the 13 previously approved deviations. The two additional deviations (Deviations 14 and 15) are from LDC Sections 34-3052(c)(5) and 34-3041(a) (Attachment E). Deviation #14 seeks relief from LDC Section 34-3052(c)(5), which requires mobile food vendors to be located on any lot within an portion of a Residential, Commercial, or Mixed-Use Planned Development Zoning District designated on the approved Master Concept Plan as a recreation facility or other similar amenity, to allow for mobile food vending in recreation facilities, without designating specific locations in the MU-1/R, R-1, R-2, and R-3 development tracts (Attachment F). Staff recommends revising the MCP to provide a note stating that Mobile Food Vending will be in accordance with LDC Section 3052(c)(5). Babcock Lee encompasses 4,003 acres with various mixed-use centers, residential and multi-family tracts. The Schedule of Uses list Parks, Groups I and II in each tract. Babcock Lee is being designed as a Mixed-Planned Development with nature preserves, community gardens, and neighborhood parks in each tract that are publicly accessed. These areas are intended to be used for events. The MCP is provided to depict the location of each tract in conjunction with the Schedule of Uses providing the potential park and amenity uses in each tract. By providing a note on the MCP stating that the mobile food vending will be limited to recreation facilities or other similar amenity, the applicant is in compliance with LDC 34-3052(c)(5).

**Staff recommends the applicant withdraw Deviation #14 and revise the Master Concept Plan stating that each tract will be in compliance with LDC Section 34-3052(c)(5).**

Deviation #15 is being requested from LDC Section 34-3041(a) which states that no temporary use may be established until a temporary use permit has been obtained from the Department. Events that have a duration less than six hours, not occurring more than once a month, and not in conjunction with an alcoholic beverage permit, such as ribbon cuttings, company events or other similar uses, are not required to obtain a temporary use permit. The applicant is requesting to allow two community events with mobile food trucks per month within Babcock Ranch property without a temporary use permit and with overnight mobile food truck parking. The applicant is requesting Deviation #15 because Babcock Ranch Independent Special District (ISD) hosts several community events throughout the year that are open to the public and Babcock Ranch residents. These events include passive and recreational activities that include mobile vending trucks that remain onsite throughout the duration of the event. These types of activities are considered Special Events which is defined in the Lee County Special Events Permitting Ordinance Section 19-184 as the following:

*Special Events means a temporary preplanned gathering or event of an entertainment, cultural, recreational, educational, political, religious, or sporting nature, or any other nature, that is sponsored by an individual or entity and is open to the public in general with an expected attendance of 1,000 or more, whether on public or private property.*

The applicant has indicated in the deviation justification that the community events are sanctioned by the Babcock Ranch ISD with proper precautions to protect the community. The Special Event permit must be submitted 30 days prior to the scheduled start time of the event and provide descriptive plans for all arrangements. There are no blackout dates for consecutive Special Event permits as there are with temporary use permits and mobile food vending would be covered as a use under the umbrella of the Special Event Permit.

**Staff recommends the applicant withdraw Deviation #15.**

#### **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 (see Attachment F). The following provides staff's analysis of the request, as measured against the established criteria.

#### **REVIEW CRITERIA ANALYSIS:**

The subject property is currently within the New Community Future Land Use Category (FLUC) per the Lee Plan with density based on one dwelling unit per 2.5 acres of uplands and one dwelling unit per 20 acres of impacted wetlands. The Board of County Commissioners approved a concurrent Comprehensive Plan Text Amendment (CPA2023-00012) to change the density ratio to one dwelling unit per 1.90 acres on January 22, 2025 (Attachment E). The text amendment allows for an increase of 534 DUs within the 4,003 acres of the Lee County portion of Babcock Ranch. The text and zoning amendments will continue to allow for clustered mixed-use development in a manner that supports specific and measurable enhancements relating to protection, conservation, enhancement and restoration of natural resources, as well as furthering the County's defined economic development goals, all of which result in significant regional benefits. The increase in density will facilitate additional residential units in Babcock Lee for a variety of housing types. Staff finds the request, as conditioned, to be **CONSISTENT with Policy 1.1.15**.

Lee Plan **Objective 1.5** state that the County will designate lands that are identified as wetlands according to state statute with a Wetland FLUC that, per **Policy 1.5.1**, restricts permitted uses to very low-density residential uses and recreational uses that will not adversely affect the ecological functions of the wetlands. The applicant is proposing to increase the preservation area, as delineated on the MCP Land Use Summery, from 2,079 acres to 2,613 acres while decreasing acreage of development. This change includes increases to both wetland and upland preserve areas. The increase furthers the environmental benefits by providing connections for surface water management and habitat for wildlife. The applicant will be adding seven acres of wetlands to the Future Land Use Category Map through the Administrative Interpretation process per **Policy 1.5.2**. The density calculations are based on one DU per 20 acres of impacted wetlands, which account for a total of three DUs from impacted wetlands. The remaining density

is derived from approximately 4,101 acres of uplands and preserved wetlands. Staff finds the request, as conditioned, to be **CONSISTENT with Objective 1.5 and Policies 1.5.1 and 1.5.2.**

**Goal 2** of the Lee Plan pertains to Growth Management within the county. The applicant indicates in the application that the proposed density increase will only occur in areas already approved for development, and the densest areas will be located close to other areas within the community with higher density and intensity. The Schedule of Uses reflects this development design by the types of uses that area listed in the various tracts depicted on the MCP (Attachment C).

The subject request complies with **Objectives 2.1 and 2.2** for development location and timing due to the additional density being proposed in previously approved development tracts with no impacts to the preserve or open space areas previously approved. The infrastructure is shared with the Charlotte County portion of Babcock Ranch. The surrounding infrastructure has capacity to support the additional density, and an EMS/Fire Station is proposed within Babcock Lee along SR31. The applicant has provided a map depicting the locations of Fire, EMS, and sheriff's stations that are located within three miles of the subject property (Attachment H). The Lee and Charlotte County portions of Babcock Ranch are being designed to integrate the natural features into the proposed uses with Babcock Lee providing over 60 percent of the site in indigenous and restored preservation. The Staff finds the proposed project in compliance with **Lee Plan Objectives 2.1 and 2.2 and Policy 2.2.1 and Standards 4.1.1, 4.1.2, and 4.1.4.**

**GOAL 5 of the Lee Plan** is to ensure that residential uses needed to accommodate the project population of Lee County in the year 2045 are provided in appropriate locations, guided by the Future Land Use Map, and in attractive and safe neighborhoods, with a variety of price ranges and housing types. The request is intended to result in the development of a mix of residential housing types. The concurrent CPA amended the future land use category to increase the allowable density to help accommodate future housing needs within the future land use category. Staff finds the request, as conditioned, to be consistent with **Goal 5** and is further supported by the Housing and Economic Elements of the Lee Plan, specifically **Lee Plan Policies 135.1.9 and 160.1.3**, which seek to ensure a mix of residential types and designs of housing County-wide to support a diverse workforce.

**Lee Plan Policy 5.1.2** prohibits residential development from being located where “physical constraints or hazards exist.” Constraints or hazards may include but are not limited to flood, storm, or hurricane hazards; unstable soil or geologic conditions; or environmental limitations. The applicant is revising the MCP to reduce development in the residential tracts and add the land to the wetland and upland preservation areas. These areas will be integrated into the hydrological design and habitat for wildlife connectivity which provides areas to absorb flood, storm, or hurricane hazards. Staff recommends a condition tied to the development of R-2 and R-3 tracts that requires a Future Land Use Map Boundary Adjustment application to add the uplands and wetlands on the FLUM. Staff finds the request, as conditioned, to be consistent with the **Lee Plan Policy 5.1.2.**

**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 requesting to revise the density and reduce the development area by adding land into the wetland and upland preservation areas. The MCP also depicts revised MPD boundary along the west, where FDOT has acquired

property through a warranty deed is proposing to widen SR 31 (Attachment D). The request will not increase the development area, and the applicant has provided an updated Traffic Impact Statement (TIS) demonstrating how the roads will be affected with or without the increased density. The TIS takes into consideration SR 31 road widening and intersection improvements at North River Road and SR 31 and Bayshore Road and SR 31. The TIS compares the Level of Service without Babcock Lee, with the current zoning approval, and with the subject approval providing a complete updated analysis see Attachment F. Staff finds the request, as conditioned, to be consistent with the **Lee Plan Policy 5.1.5**.

**Lee Plan Objectives 60.4 and Policies 60.4.1, 60.4.2, 60.4.3, and 61.4.4** all speak to the design of the stormwater management system, utilization of green infrastructure to filter pollutants, preservation of existing natural flow-ways, and inclusion of flow-ways as part of the surface water management plan with depictions of the watersheds and their trunk and major tributaries. The applicant submitted a revised Surface Water Management Plan dated June of 2024 to provide updated maps associated with the plan (Attachment F). Staff is recommending a change to Condition 4.K to reflect the recently adopted Water Conservation Ordinance #24-01 (Attachment I). Staff finds the request, as conditioned, to be consistent with **Lee Plan Objective 60.4 and Policies 60.4.1, 60.4.2, 60.4.3, and 61.4.4**.

**Lee Plan Policy 125.1.2** states that new development and additions to existing development must not degrade surface and ground water quality. As stated, the applicant has provided updated Surface Water Management and Environmental Preserve and Restoration Maps to reflect the changes to the MCP and FLUM (Attachments F). The Surface Water Management Plan is not changing and will not degrade surface and ground water quality.

#### Land Development Code Compliance

Staff finds the proposed planned development amendment request, as conditioned, to be in compliance with the LDC. 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.

#### Compliance with LDC Section 34-145(d)(4)

##### **a) Complies with Lee Plan.**

The proposed planned development amendment is consistent with the Lee Plan as demonstrated in the analysis.

##### **b) Meets this Code and other applicable County regulations or qualifies for deviations.**

The applicant currently has development order approval for the backbone infrastructure and portions of Tract MU-1 and R-1 under review. The subject application is to revise the MPD boundary to reflect the SR 31 widening, reduce development areas R-2 and R-3, and increase the density and reduce the hotel



units per the CPA. The two deviations being requested by the applicant are recommended for withdrawal by staff is recommending the applicant withdraw per the analysis herein.

**c) Compatibility with existing and planned uses in the surrounding area.**

As previously stated above, the planned development is compatible with the surrounding land uses.

**d) Sufficiency of Access and Transportation Impacts.**

Babcock Lee MPD has access to SR 31 in three locations. FDOT is proposing to widen SR 31 to accommodate the traffic in the area. The applicant provided an updated Traffic Impact Statement to provide updated analysis associated with the SR 31 road widening, analysis for the proposed improvements at North River Road and SR 31, Bayshore Road and SR 31, and the varying intersections connecting Babcock Ranch to SR 31 (Attachment F). Staff has reviewed the updated TIS and provided a memorandum analyzing the Level of Service without the MPD, and future levels of service with the currently approved MPD and the future with Proposed MPD (Attachment J). Arterial and collector roadway sections adjacent to the site will be impacted with or without the MPD due to FDOT widening of SR 31. Improvements to these roadway segments may need to be evaluated as more development orders are submitted in the future. Roadway segments such as Broadway Street in Alva and Buckingham Road north of Orange River Boulevard are being impacted regardless of the development of Babcock Ranch.

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

As stated previously, regardless of Babcock Ranch being developed, the roadway network would be impacted due to FDOT proposing to widen SR 31.

**f) No adverse impacts to environmentally critical or sensitive areas and natural resources**

The proposed amendment adds more wetland and upland preservation lands to the project.

**g) 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.

**h) 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;
- 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 deviation #14 and #15 are being recommended to be withdrawn.

## **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. The Mixed Use Planned Development amendment is consistent with the New Community future land use designation and the applicable goals, objectives and policies of the Lee Plan as proposed in the companion CPA2023-00012. The request, as conditioned, is appropriate in the context of its surroundings. Staff recommends **APPROVAL** of the request to amend the Mixed Use Planned Development to increase the number of dwelling units (DUs) from 1,630 to 2,078; reduce the number of hotel rooms from 600 to 250 rooms; and increase the on-site preservation area in development tracts R-2 and R-3 on the eastern portion of the site, which includes increases to both upland and wetland areas. The amendment also includes removing lands along State Road 31 (SR 31) that have been conveyed to the Florida Department of Transportation for the SR 31 roadway expansion, which reduces the MPD acreage from 4,157 acres to 4,003 acres (Attachment D). The request provides updated environmental maps and revised a Master Concept Plan to reflect the reduction in acreage and the changes to the on-site preservation areas. The applicant is not changing the non-residential intensity of 1,170,000 square feet or the maximum proposed building height of 65 feet. The approval is subject to the conditions attached as Attachment C of this report.

## **ATTACHMENTS:**

- A. Expert Witness Information
- B. Sketch and Description, Boundary Survey, and Case Maps
- C. Conditions, Deviations, and Master Concept Plan
- D. FDOT State Road 31 Warranty Deed
- E. Comprehensive Plan Amendment CPA2023-00012
- F. Applicant's Narrative
  - Public Information Meeting March 16, 2024
  - Deviations and Justifications includes previously approved and new requests
  - Property Development Regulations
  - Revised Resolution Z-17-026 and ADD2021-00073 Conditions
  - Stormwater Management Report updated June 2024
  - Listed Species Management Plans and Human Wildlife Coexistence Plans updated June 2022
  - Environmental Impacts/Benefit Analysis updated November 2023
  - Pre-Construction Protected Species Survey for Spine Road Phase 3 updated August 2023
  - Traffic Impact Statement updated October 16, 2024
- G. Previous zoning approvals (Z-17-026, ADD2021-00073 & ADD2021-0188)
- H. Babcock Ranch Community Development Independent Special District and Town and Country Utilities, LLC letter dated September 27, 2024

Waste Pro of Florida letter dated February 21, 2024

Bayshore Fire Protection and Rescue Service District letter dated February 9, 2023

Letter of Service Lee County Sheriff letter dated November 28, 2023

Letter of Service School District letter dated December 12, 2023

- I. Natural Resources Staff Report
- J. Transportation Staff Report
- K. Property Development Regulations
- L. Agricultural Affidavit

DCI2024-00016  
MODERN  
SERVICES CPD

# **Staff Summary**

CASE NUMBER & NAME: DCI2024-00016/Modern Service CPD

REQUEST: Request to rezone 1.3± acres from Agricultural (AG 2) to Commercial Planned Development (CPD) to allow for 16,000 SF of Business Services, Group I (Contractors Office) and accessory warehousing with a maximum building height of 35 feet.

RESOLUTION NUMBER: Z-25-007

LOCATION: 11550 & 11570 Palm Beach Blvd., Fort Myers Shores Planning Community, Lee County, FL.

OWNER: George R. Grosse for Corene Grosse Trust

APPLICANT: Modern Mechanical Services, LLC c/o Derek Beck

AGENT: Alexis Crespo  
RVi Planning + Landscape Architecture  
28100 Bonita Grande Drive, Suite 301  
Bonita Springs, FL 34135

HEARING EXAMINER RECOMMENDATION: Approval, subject to the conditions and deviations set forth in Exhibit B.

PARTICIPANTS: 1. Deneen Seguro  
2. Savannah Letter

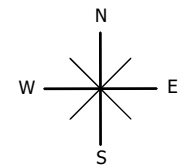
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DCI2024-00016

Aerial

 Subject Property



0 500  
Feet





## Summary of Hearing Examiner Recommendation

### **MODERN SERVICES CPD**

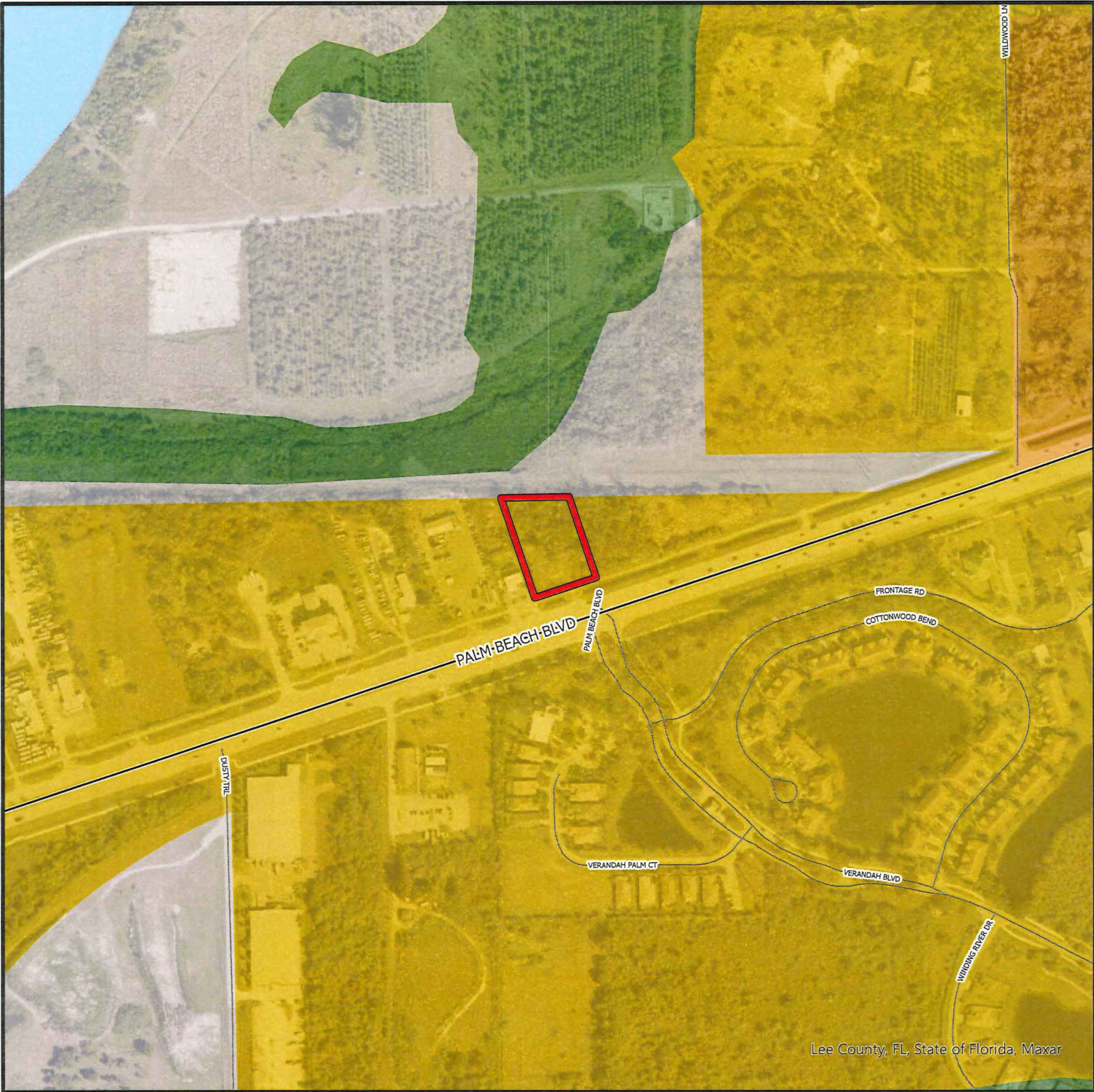
Applicant seeks to relocate an existing business to vacant land north of S.R. 80/Palm Beach Boulevard. Proposed uses are limited to Business Services and Builders/Contractors with ancillary office and storage.

The property is well suited for the proposed use. The request infills development among similar commercial activity along the S.R. 80 corridor. Proposed uses support surrounding residents and businesses in accordance with Lee Plan directives.

The Hearing Examiner recommends approval of the request, with conditions.

*Detailed recommendation follows*

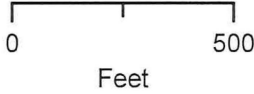
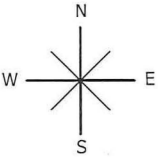




DCI2024-00016

Future Land Use

-  Subject Property
-  Urban Community
-  Suburban
-  Public Facilities
-  Wetlands



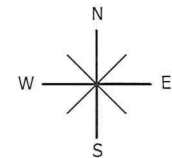




DCI2024-00016

Aerial

 Subject Property



0 500  
Feet





OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

**REZONING:** DCI2024-00016

**Regarding:** **MODERN SERVICES CPD**

**Location:** 11550 & 11570 Palm Beach Blvd.  
Fort Myers Shores Planning Community  
(District 5)

**Hearing Date:** March 26, 2025

**I. Request**

Rezone 1.36± acres from Agricultural (AG-2) to Commercial Planned Development (CPD) to allow 16,000 square feet of Business Services and Contractors/Builders, with storage. Maximum building height is 35 feet.

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

**II. Hearing Examiner Recommendation**

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

**III. Discussion**

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone land to a planned development district.<sup>1</sup> In satisfaction of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone 1.36± acres to CPD.

In preparing a recommendation to the Board, the Hearing Examiner must consider the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other applicable County regulations to the facts presented in a rezoning request.<sup>2</sup> Specifically, the Hearing Examiner must find the request is compatible with surrounding uses and complies with Lee Plan and LDC requirements relating to such items as transportation facilities, natural resources, and urban services.<sup>3</sup> The Hearing Examiner may take judicial notice of previous Board decisions.<sup>4</sup> The

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<sup>1</sup> LDC §34-145(d)(1)(a) & (2)(a).

<sup>2</sup> LDC §34-145(d)(3).

<sup>3</sup> LDC §34-145(d)(4).

<sup>4</sup> Lee Co. Admin. Code 2-6 §2.3.D(4)(b).

Hearing Examiner's recommendation must be based on competent and substantial evidence.<sup>5</sup>

Discussion supporting the recommendation of approval of the CPD follows below.

### **Synopsis of Request**

The property sits north of Palm Beach Boulevard/State Road 80 at the intersection of Verandah Boulevard.<sup>6</sup>

Applicant operates an HVAC company in Lee County and desires to expand operations to the property.

The request seeks to develop a 16,000 square foot building on vacant land. Proposed uses are limited to Contractors' and Builders' offices with associated storage. The proposed Master Concept Plan reflects the building's central location surrounded by parking and open space. The rear of the site is reserved for open storage. Proposed building height is 35 feet.

Department of Community Development staff recommended approval, with conditions.

### **Zoning Review Criteria**

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

- A. Complies with the Lee Plan;
- B. Meets the LDC and other applicable County regulations or qualifies for deviations;
- C. Is compatible with existing and planned uses in the surrounding area;
- D. Will provide access sufficient to support the proposed development intensity;
- E. Addresses impacts on transportation facilities by County regulations or conditions of approval;
- F. Will not adversely affect environmentally critical/sensitive areas or natural resources; and
- G. Will be served by urban services if located in a Future Urban area.<sup>7</sup>

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<sup>5</sup> Lee Co. Admin. Code 2-6 §3.3.A(2); LDC §34-83(a)(4)(a)(1)(a).

<sup>6</sup> Future instances of "State Route" will be abbreviated as S.R.

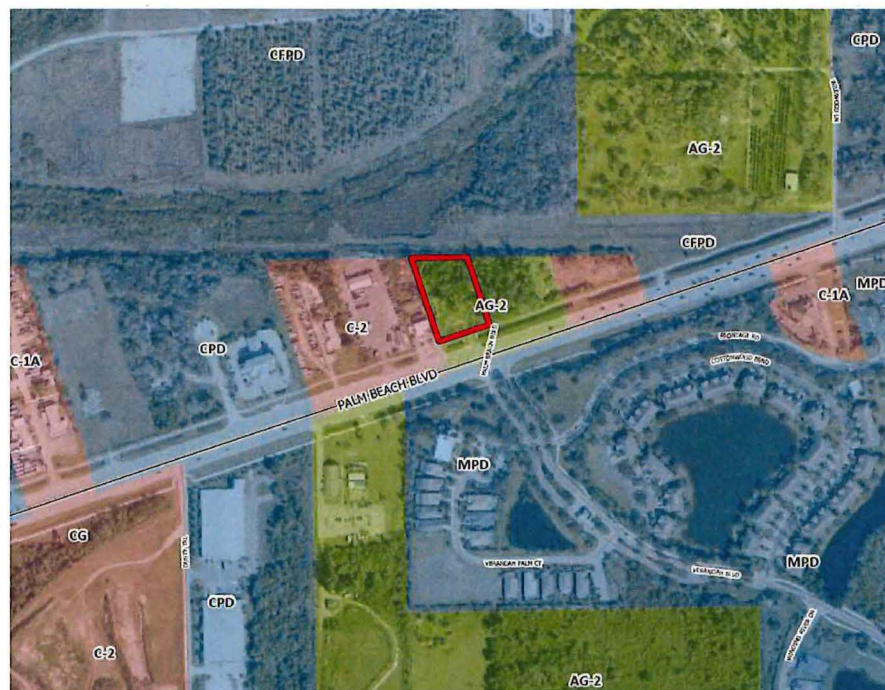
<sup>7</sup> LDC §34-145(d)(4)(a)(1).

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

- H. The proposed use/mix of uses is appropriate at the proposed location;
- I. Recommended conditions (1) provide sufficient safeguards to the public interest, and (2) reasonably relate to impacts on the public interest expected from the proposed development; and
- J. Requested deviations (1) enhance achievement of the objectives of the planned development, and (2) protect public health, safety, and welfare.<sup>8</sup>

### **Character of the Area**

The property fronts S.R. 80/Palm Beach Boulevard at its intersection with Verandah Boulevard. Commercial property to the west hosts an automotive repair service.<sup>9</sup> Properties to the north and east are owned by Florida Power and Light (FP&L) and zoned Community Facilities Planned Development (CFPD) and AG-2.<sup>10</sup>



<sup>8</sup> LDC §34-145(d)(4)(a)(2).

<sup>9</sup> The record indicates the property is solely commercial, but public testimony at hearing indicates residential use as well.

<sup>10</sup> See Staff Report (pg. 2, Attachment P); Z-24-004.

### **Lee Plan Consistency and Compatibility**

Planned developments must be consistent with the Lee Plan and minimize negative effects of proposed uses on neighboring properties.<sup>11</sup>

Lee Plan Maps designate the property as Suburban in the Caloosahatchee Shores Planning Community.<sup>12</sup>

The Suburban category contemplates predominantly residential uses on the fringe of urban areas.<sup>13</sup> Industrial activities are prohibited.<sup>14</sup> The CPD tailors requested uses be consistent with this category. Permitted uses have been narrowed to Administrative Office, Contractor/Builders, and Open/Indoor Storage.<sup>15</sup> Proposed uses are suitable at the site due to its location amid an established commercial node along a major transportation corridor.<sup>16</sup>

The Caloosahatchee Shores Planning Community aims to protect its existing character while promoting new development.<sup>17</sup> The Plan directs new commercial uses to specified locations and encourages uses that service the needs of area residents.<sup>18</sup> The request meets Community standards by locating on Suburban lands adjacent to S.R. 80.<sup>19</sup> The proposed CPD infills development with uses that offer employment opportunities and provide building/contractor services to area residents.<sup>20</sup>

The property lies within the Coastal High Hazard Area (CHHA).<sup>21</sup> The site has 0.24± acres of wetlands.<sup>22</sup> The Lee Plan restricts development in the CHHA to uplands.<sup>23</sup> Conditions of approval ensure no development commences prior to State permit issuance if wetland impacts are proposed.<sup>24</sup>

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<sup>11</sup> LDC §34-411(a), (c) and (i).

<sup>12</sup> Lee Plan Map 1-A, 1-B, 2-A; Policy 1.1.5.

<sup>13</sup> Lee Plan Policy 1.1.5.

<sup>14</sup> *Id.*

<sup>15</sup> See Condition 2. Contractors/Builders uses are limited to Groups I and II. Group I permits offices and indoor storage but excludes fabrication work. Group II permits light fabrication work and outdoor storage but prohibits heavy construction equipment. LDC §34-622(9).

<sup>16</sup> See Lee Plan Policy 6.1.1, 6.1.2, 6.1.4, Staff Report (pg. 9).

<sup>17</sup> Lee Plan Goal 21.

<sup>18</sup> Lee Plan Goal 21, Objective 21.2. New commercial uses are limited to S.R. 80/I-75 and S.R. 80/S.R. 31 intersections, S.R. 80 Corridor Overlay, Verandah Boulevard commercial node, and the Commercial/Central Urban/Suburban future land use lands adjacent to S.R. 80.

<sup>19</sup> Lee Plan Objective 21.2. New commercial zoning must also go through the planned development process. The requested CPD satisfies this criterion. See Lee Plan Glossary. The property is *not* within the S.R. 80 Corridor Overlay. See LDC Appendix I, Map 15.

<sup>20</sup> See Lee Plan Goal 21, 158, Objective 21.2.

<sup>21</sup> Lee Plan Map 5-A, Goal 101.

<sup>22</sup> See Staff Report (Attachment E, M).

<sup>23</sup> Lee Plan Policy 101.3.2. There is a limited exception for public facilities inapplicable to the request.

<sup>24</sup> See Condition 3.



### Compatibility

The LDC defines *compatible* to mean the state wherein two land uses/buildings/structures/zoning districts exhibit either: (1) a positive relationship based on fit, similarity or reciprocity of characteristics; or (2) a neutral relationship based on a relative lack of conflict or on a failure to communicate negative/harmful influences on one another.<sup>25</sup>

Commercial zoning predominates lands along S.R. 80.<sup>26</sup> Proximate properties host intense commercial uses including an automotive repair shop, utility substation, landscaping company, and outdoor storage of vehicles/equipment.<sup>27</sup>

Site design ensures consistency with abutting lands by maintaining LDC required buffers.<sup>28</sup> Applicant must comply with enhanced screening measures for outdoor storage uses to further protect neighboring properties.<sup>29</sup>

The Schedule of Uses has been tailored to prohibit uses that are very intense or infeasible on the property. Uses proposed in the CPD are consistent with the Lee Plan and compatible with the surrounding area.<sup>30</sup>

### Transportation

Planned developments must have access to roads with sufficient capacity to support proposed intensity.<sup>31</sup> Existing regulations or conditions of approval must address expected impacts on transportation facilities.<sup>32</sup>

The project is located at the intersection of S.R. 80 and Verandah Boulevard. Applicant proposes one access to S.R. 80 and two interconnections to adjacent properties.<sup>33</sup> Florida Department of Transportation (FDOT) has sole authority over access onto state roads.<sup>34</sup>

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<sup>25</sup> LDC §34-2.

<sup>26</sup> See Staff Report (Attachment D); Aerial zoning map *infra*.

<sup>27</sup> The record indicates the western property is solely commercial. However, hearing testimony revealed residential use also occupies the site.

<sup>28</sup> See MCP; Crespo and Groth Testimony.

<sup>29</sup> See *generally* LDC §34-3005. Outdoor storage must be shielded behind a continuous visual screen at least eight feet in height when visible from a residential use and six feet from any right-of-way/easement.

<sup>30</sup> Lee Plan Goals 6, 7, 158, Objective 2.1, 2.2, 11.1, Policy 1.1.5, 2.1.1, 6.1.6, 6.1.7. Lee Plan Objectives 2.2, 21.2, Policies 2.1.1, 2.1.2, 2.2.1, 6.1.1, 6.1.4, 6.1.7, 6.1.8, LDC §34-145(d), §34-411.

<sup>31</sup> LDC §34-145(d)(4)(a)(1)(d); §34-411(d)(1).

<sup>32</sup> LDC §34-145(d)(4)(a)(1)(e); §34-411(d)(2).

<sup>33</sup> The MCP reflects interconnections to properties both east and west. Condition 4 is recommended to bolster the provision of access easements over both interconnections. See *generally* LDC §10-295.

<sup>34</sup> See Staff Report (pg. 7, Attachment G, L).

Transportation experts prepared a Traffic Impact Study (TIS) to analyze the impact the proposed development will have on the surrounding road network.<sup>35</sup> The TIS utilized conservative development parameters that likely over-estimate project trip generation.<sup>36</sup> Experts concluded area roadways will continue to operate at acceptable levels of service post development.<sup>37</sup>

Applicant will address site related improvements during development order review.<sup>38</sup>

### **Environmental**

Planned development design should reflect creative use of open space.<sup>39</sup> Developers must protect and preserve natural site features.<sup>40</sup>

The site has been partially cleared for a single-family home.<sup>41</sup> Environmental review indicates the site contains 0.24± acres of low quality wetlands.<sup>42</sup> No protected species have been observed on site.<sup>43</sup> Applicant must conduct further environmental review prior to site development. Conditions of approval ensure wetland impacts are addressed during development order review.

The Master Concept Plan confirms compliance with LDC open space and buffer requirements.<sup>44</sup>

### **Public Services**

Public/urban services are the facilities, capital improvements, and infrastructure necessary to support development.<sup>45</sup> The Lee Plan requires an evaluation of available urban services during the rezoning process.<sup>46</sup>

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<sup>35</sup> See Staff Report (Attachment K: TIS prepared by TR Transportation Consultants, Inc. dated February 24, 2024); See also Lee Co. Admin. Code 13-17.

<sup>36</sup> Bykau Testimony. The TIS examined generation based on Land Use Code 710 (General Office Building) under the ITE, 11<sup>th</sup> Edition. Applicant's proposed development program includes 4,000 square feet of office space with the remaining 12,000 square feet used for storage. Crespo and Bykau Testimony.

<sup>37</sup> *Id.*; Staff Report (Attachment K-L).

<sup>38</sup> LDC §10-286, Lee Plan Glossary.

<sup>39</sup> LDC §34-411(h).

<sup>40</sup> LDC §34-411(g).

<sup>41</sup> The house will be removed prior to site development. Crespo Testimony.

<sup>42</sup> See Staff Report (pg. 5, Attachment E, N). Staff observed additional possible wetland acreage. Applicant must conduct further environmental review during the development order process.

<sup>43</sup> See *Id.*

<sup>44</sup> See MCP; LDC §10-415. Applicant must reserve 20% of land area for open space.

<sup>45</sup> Lee Plan Glossary: Public services include public water/sewer, paved streets/roads, public transit, parks/recreation facilities, urban levels of police, fire, and emergency services, urban surface water management, schools, employment, industrial, and commercial centers, institutional, public, or administrative facilities, community facilities such as senior citizens centers, libraries, and community centers.

<sup>46</sup> Lee Plan Policy 2.2.1.

A host of services and infrastructure serve the property including roads, potable water, sanitary sewer, police, fire, and emergency medical services.<sup>47</sup> Applicant provided letters from Lee County Utilities evidencing potable water and wastewater lines are in operation adjacent to the site.<sup>48</sup> Transit facilities are in proximity.<sup>49</sup>

Development will be subject to impact fees.<sup>50</sup>

### **Conditions**

The county must administer the zoning process so proposed uses acceptably minimize adverse impacts to adjacent property. Conditions must plausibly relate to mitigating anticipated impacts on public health, safety, and welfare.<sup>51</sup>

The CPD will be subject to many conditions of approval. Conditions relate to impacts anticipated from the project.<sup>52</sup> The Hearing Examiner recommends revisions to conditions to improve clarity and to clarify access easement location.<sup>53</sup>

### **Deviations**

“Deviations” are departures from the land development regulations.<sup>54</sup> The proposed CPD seeks one deviation from LDC connection separation requirements. Staff supports the requested deviation.

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

1. Enhances achievement of objectives of the planned development; and
2. Protects public health, safety, and welfare.<sup>55</sup>

Applying LDC deviation standards of review to testimony and evidence in the record, the Hearing Examiner concludes requested deviation meets approval criteria.<sup>56</sup>

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<sup>47</sup> See Staff Report (pg. 9, Attachment J), Lee Plan Maps 4A-B. The site is serviced by Fort Myers Shores Fire & Rescue District, Station #81, approximately one mile away. The nearest Lee County Sheriff's office is approximately nine miles away. Lee Plan Objective 158.3, Policies 2.2.1, 158.3.1.

<sup>48</sup> See Staff Report (Attachment J). There are no reuse mains in the vicinity. Sanitary sewer service will be provided by the City of Fort Myers Central Water Reclamation Facility.

<sup>49</sup> LeeTran Route 100 offers a stop one-half mile from the site. Staff Report (pg. 9).

<sup>50</sup> LDC Chapter 2, Article VI.

<sup>51</sup> LDC §34-932(b).

<sup>52</sup> LDC §34-83(b)(4)a.3.

<sup>53</sup> Condition 4 required an access easement over the western connection but did not include the eastern connection. Discussion at hearing identified need for an easement at both locations to ensure future connectivity should the eastern property develop commercially.

<sup>54</sup> LDC §34-2.

<sup>55</sup> LDC §34-145(d)(4).

<sup>56</sup> LDC §34-377(a)(4).

### **Public Participation**

Applicant held a community meeting consistent with the LDC.<sup>57</sup> Two members of the public attended the hearing before the Hearing Examiner.<sup>58</sup>

### **IV. Findings and Conclusions**

Based on the testimony and evidence presented in the record, the Hearing Examiner finds and concludes that as conditioned herein, the proposed CPD:

- A. Complies with the Lee Plan. See Lee Plan Goals 2, 4, 6, 21, 61, 77, 101, 158, 159, Objectives 2.1, 2.2, 6.1, 17.3, 21.2, 158.2, and Policies 1.1.5, 1.6.5, 2.1.1, 2.2.1, 6.1.1, 6.1.2, 6.1.3, 6.1.4, 17.3.5, 61.1.1, 101.1.1, 101.3.2, 125.1.2, Standards 4.1.1, 4.1.2, 4.1.4; Lee Plan Maps 1A-B, 2-A, 5-A;
- B. Meets the LDC and other County regulations or qualifies for deviations. LDC §33-1482, §34-411, §34-612(2), §34-936;
- C. Is compatible with existing and planned uses in the area. See Lee Plan Objective 21.2, Policies 1.1.5, 2.1.1, 2.1.2, 2.2.1, 6.1.4; LDC §34-411;
- D. Provides sufficient access to support the proposed development intensity, with expected impacts on transportation facilities addressed by existing County regulations or conditions of approval. See Lee Plan Policy 6.1.1, 6.1.5, 39.1.3;
- E. Will not adversely affect environmentally critical areas and natural resources. See Lee Plan Goals 77, 125, 127, Objectives 4.1, 77.1, 77.2, Policy 6.1.1, 6.1.6, 101.1.1, 101.3.2, Standard 4.1.4, LDC §34-411;
- F. Will be served by urban services. See Lee Plan Glossary, Map 4A-B, Goal 2; Objectives 2.1, 2.2, 4.1, 6.1, 53.1, 56.1; Policies 2.2.1, 6.1.4, 21.2.1, and Standards 4.1.1 and 4.1.2; LDC §34-411;
- G. The proposed use/mix of uses is appropriate at the proposed location. See Lee Plan Objective 2.2, 21.2, Policies 1.1.5, 2.1.1, 6.1.1, 6.1.4, 6.1.7, 6.1.8, and 21.2.1.
- H. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See LDC Chapters 10, 33, and 34: and

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<sup>57</sup> Lee Plan Policy 17.3.5; LDC §33-1482. Applicant presented the requested CPD amendment at meeting in the Caloosahatchee Shores community on January 3, 2025. See Staff Report (Attachment O).

<sup>58</sup> Speakers expressed flooding concerns affecting the area but did not object to the request.

- I. As conditioned herein, the deviations:
1. Enhance the objectives of the planned development; and
  2. Protect public health, safety, and welfare. See §34-145(d)(4)a.2, §34-377(b)(4).

Date of Recommendation: March 28, 2025.



Amanda L. Rivera  
Deputy Hearing Examiner

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

**Exhibits to Hearing Examiner's Recommendation**

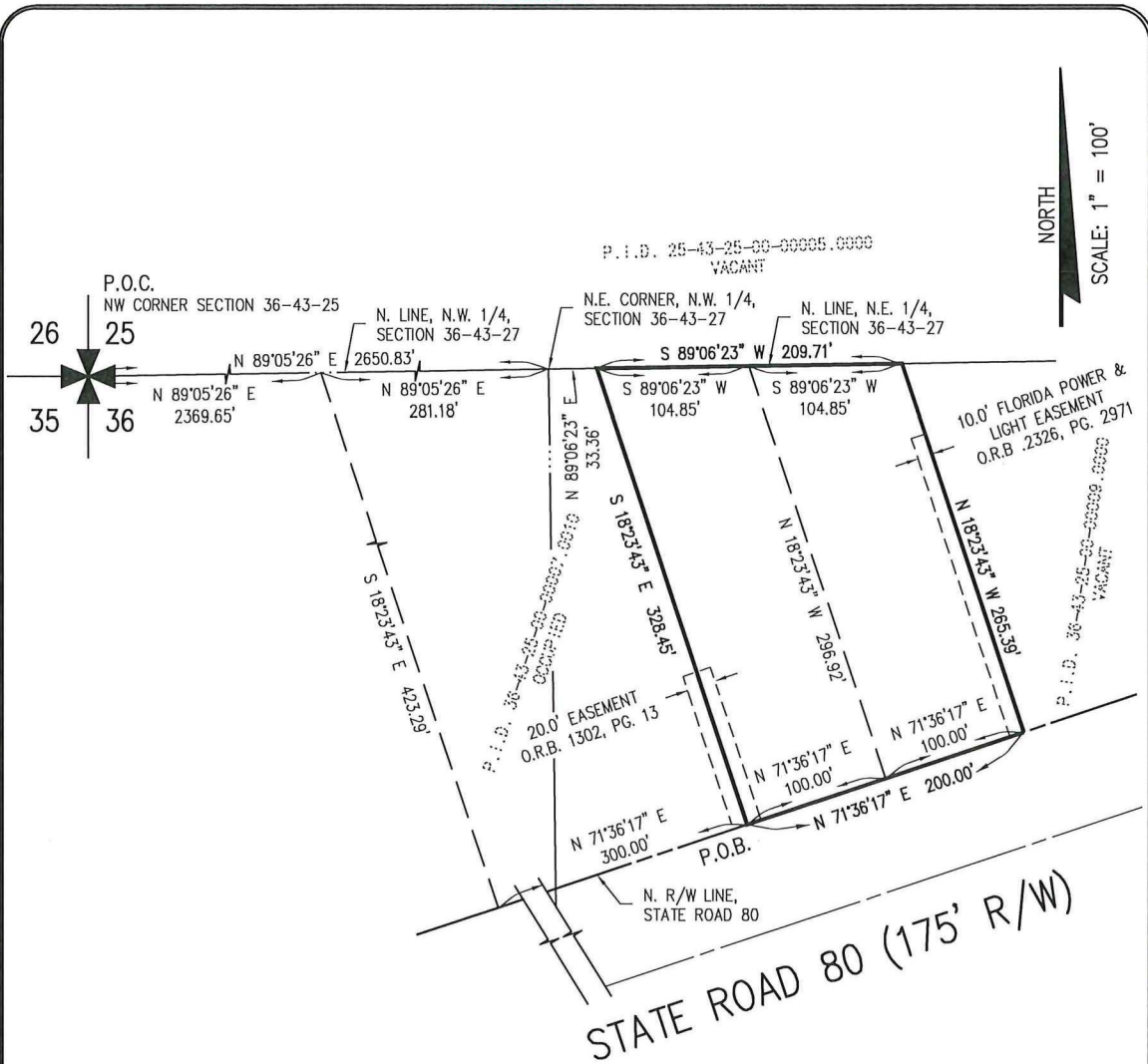
Exhibit A Legal Description and Vicinity Map  
Exhibit B Recommended Conditions and Deviations  
Exhibit C Exhibits Presented at Hearing  
Exhibit D Hearing Participants  
Exhibit E Information

**Exhibit A**

**LEGAL DESCRIPTION AND VICINITY MAP**



# Exhibit A



## ABBREVIATIONS

D. & P.U.E. = DRAINAGE & PUBLIC UTILITY EASEMENT  
M = MEASURED  
R = RECORDED  
R&M = RECORDED & MEASURED  
R/W = RIGHT OF WAY  
WM = WATER METER  
C/S = CONCRETE SLAB  
C/W = CONCRETE WALK  
EM = ELECTRIC METER  
I.R. = IRON ROD  
FD = FOUND  
C OR CL = CENTERLINE  
CM = CONCRETE MONUMENT  
I.D. = IDENTIFICATION  
FIP = FOUND IRON PIPE  
TEL = TELEPHONE  
UGE = UNDERGROUND ELECTRIC  
O.R.B. = OFFICIAL RECORDS BOOK  
P.O.C. = POINT OF COMMENCEMENT  
P.O.B. = POINT OF BEGINNING  
P.I.D. = PARCEL IDENTIFICATION

I HEREBY CERTIFY THAT THIS SKETCH OF A DESCRIPTION WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17.050-.052, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.  
FOR: H.L. BENNETT & ASSOCIATES, INC. LB #7632

Hal L. Bennett

Digitally signed by Hal L. Bennett  
Date: 2024.10.30 06:57:55 -04'00'

H.L. BENNETT, FLORIDA REG. NO. 3403  
HAL L. BENNETT FLORIDA REG. NO. 6546

DATE

REVIEWED  
DCI2024-00016  
Rick Burris, Principal  
Planner  
Lee County DCD/Planning  
1/14/2025

"NOT A SURVEY"

THIS SHEET NOT VALID UNLESS ACCOMPANIED BY SHEET 2 OF 2

REVISED PER COUNTY COMMENTS 10/28/24 LM

REVISED SHEET NUMBERING 08/20/24 LM

REVISIONS

DWN BY: LM DATE: 08/08/24 CHKD BY: DWG. ID: 24038DESC082024

CLIENT: BECK SHEET: 1 OF 2

PROJECT NUMBER: 24038 SECTION 36, TOWNSHIP 43 S, RANGE 25 E.



H. L. BENNETT & ASSOCIATES, INC.

241 YEOMANS AVENUE - P.O. DRAWER 2137  
LABELLE, FLORIDA 33975 PH (863) 675-8882

SKETCH OF DESCRIPTION  
OF A PARCEL IN  
LEE COUNTY, FLORIDA

DESCRIPTION:

A PARCEL OF LAND LYING AND BEING IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SECTION 36, THENCE N 89°05'26" E, ALONG THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 2369.65 FEET; THENCE S 18°23'43" E, A DISTANCE OF 423.29 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF THE STATE ROAD 80; THENCE N 71°36'17 E, ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 300.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N 71°36'17 E, 200.00 FEET; THENCE N 18°23'43" W, A DISTANCE OF 265.39 FEET TO THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 36; THENCE S 89°06'23" W 209.71 FEET; THENCE S 18°23'43" E A DISTANCE OF 328.45 FEET TO THE POINT OF BEGINNING. CONTAINING A COMPUTED AREA OF 1.36 ACRES MORE OR LESS.

SUBJECT TO AND TOGETHER WITH AN EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1302, PAGE 13 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

AND

SUBJECT TO AN EASEMENT TO FLORIDA POWER AND LIGHT MORE AS DESCRIBED IN OFFICIAL RECORDS BOOK 2326, PAGE 2971, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

ABBREVIATIONS

D. & P.U.E. = DRAINAGE & PUBLIC UTILITY EASEMENT  
M = MEASURED  
R = RECORDED  
R&M = RECORDED & MEASURED  
R/W = RIGHT OF WAY  
WM = WATER METER  
C/S = CONCRETE SLAB  
C/W = CONCRETE WALK  
EM = ELECTRIC METER  
I.R. = IRON ROD  
FD = FOUND  
C OR CL = CENTERLINE  
CM = CONCRETE MONUMENT  
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P.O.C. = POINT OF COMMENCEMENT  
P.O.B. = POINT OF BEGINNING  
P.I.D. = PARCEL IDENTIFICATION

REVIEWED  
DCI2024-00016  
Rick Burris, Principal  
Planner  
Lee County DCD/Planning  
1/14/2025

I HEREBY CERTIFY THAT THIS SKETCH OF A DESCRIPTION WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17.050-.052, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

FOR: H.L. BENNETT & ASSOCIATES, INC. LB #7632

Hal L. Bennett

Digitally signed by Hal L. Bennett  
Date: 2024.10.30 06:57:36 -04'00'

H.L. BENNETT, FLORIDA REG. NO. 3403  
HAL L. BENNETT FLORIDA REG. NO. 6546

DATE

"NOT A SURVEY"

THIS SHEET NOT VALID UNLESS ACCOMPANIED BY SHEET 1 OF 2

REVISED PER COUNTY COMMENTS 10/28/24 LM

REVISED SHEET NUMBERING 08/20/24 LM

REVISIONS

DWN BY: LM DATE: 08/08/24 CHKD BY: DWG. ID: 24038DESC102824

CLIENT: BECK SHEET: 2 OF 2

PROJECT NUMBER: 24038 SECTION 36, TOWNSHIP 43 S, RANGE 25 E.



H. L. BENNETT & ASSOCIATES, INC.

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LABELLE, FLORIDA 33975 PH (863) 675-8882

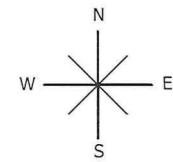
SKETCH OF DESCRIPTION  
OF A PARCEL IN  
LEE COUNTY, FLORIDA



DCI2024-00016

## Zoning

 Subject Property



0 500  
Feet



## Exhibit B

### RECOMMENDED CONDITIONS AND DEVIATIONS

References to uses are defined in the Lee County Land Development Code (LDC).

#### CONDITIONS

##### 1. Master Concept Plan (MCP)/Development Parameters

MCP. Development must be consistent with the one-page MCP entitled “Modern Services CPD” received March 26, 2025 (Exhibit B1).

LDC 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 approvals.

Development Parameters. The CPD is limited to 16,000 square feet of commercial intensity.

##### 2. Uses and Site Development Regulations

###### a. Schedule of Uses

Accessory Uses and Structures  
Administrative Offices  
Business Services: Group I (Contractors Office)  
Contractors and Builders: Groups I and II  
Essential Services  
Excavation: Water Retention Only  
Fences and Walls  
Parking Lot, Accessory  
Signs  
Storage, Open and Indoor

###### b. Site Development Regulations

Minimum Lot Size:	1.3 acres
Minimum Lot Depth:	100 feet
Minimum Lot Width:	100 feet
Maximum Building Height:	35 feet
Maximum Lot Coverage:	60 percent
Minimum Open Space:	20 percent

###### Minimum Setbacks:

Street:	50 feet
Side:	20 feet
Rear:	20 feet



**3. Environmental Conditions**

Developer may not commence construction on development impacting wetlands until issuance of required permits. Development activity must comply with state wetland permits and applicable local permits. If the State does not approve wetland impacts or if the State wetland permits are not consistent with proposed wetland impacts reflected in County development permits, Developer must amend local development permit approvals to be consistent with State wetland permits or applicable Lee Plan and LDC regulations regarding development within wetlands.

**4. Transportation Conditions**

Developer must provide a cross-access easement extending to abutting east and west properties. The access easements must be depicted on development order plans. A legal description and sketch must be provided with the draft easement. The easement must be recorded in the Public Records of Lee County prior to issuance of a Certificate of Compliance.

**5. Development Permits.**

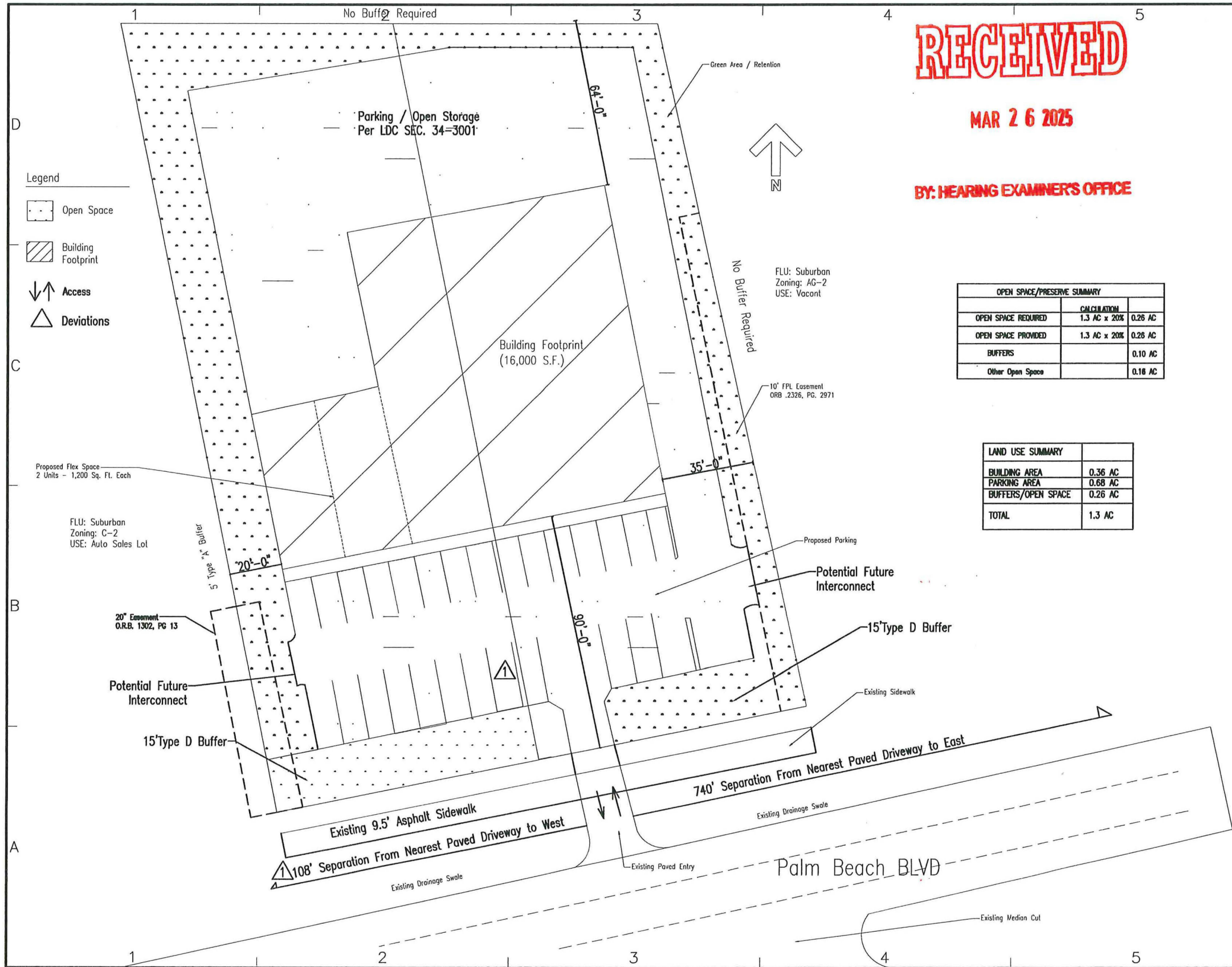
County development permits do not create rights to obtain permits from state/federal agencies. Further, County development permits do not create liability on the part of the County if Applicant fails to obtain requisite approvals or fulfill obligations imposed by federal/state agencies or undertakes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

**DEVIATIONS**

1. **Minimum Connection Separation.** Deviation 1 seeks relief from LDC §10-285, which requires a connection separation of 660 feet on arterial roads in Future Urban Areas, to allow a connection separation of 108 feet to the nearest driveway to the west on State Road 80/Palm Beach Boulevard.

**HEX Recommendation:** Approve, subject to Condition 4.

Exhibits to Conditions:  
B1 Master Concept Plan



RECEIVED

MAR 26 2025

BY: HEARING EXAMINER'S OFFICE

OPEN SPACE/PRESERVE SUMMARY		
	CALCULATION	
OPEN SPACE REQUIRED	1.3 AC x 20%	0.26 AC
OPEN SPACE PROVIDED	1.3 AC x 20%	0.26 AC
BUFFERS		0.10 AC
Other Open Space		0.16 AC

LAND USE SUMMARY	
BUILDING AREA	0.36 AC
PARKING AREA	0.68 AC
BUFFERS/OPEN SPACE	0.26 AC
TOTAL	1.3 AC



Master Concept Plan

MODERN SERVICES CPD

OWNER

MARK	DATE	DESCRIPTION
PROJECT NO.	11111	
CAD DWG FILE:	A-100.2 MCP-2.DWG	
DRAWN BY:	XXX	
CHECK'D BY:	XXX	
COPYRIGHT:		
SHEET TITLE		
MCP-2		
SHEET A-100.2 OF -		

EXHIBIT B-1



## Exhibit C

### EXHIBITS PRESENTED AT HEARING

#### STAFF EXHIBITS

1. *DCD Staff Report with attachments:* Prepared by MarySue Groth, Senior Planner, date received May 11, 2025 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *Affidavit of Publication:* For DCI2024-00016, Modern Services CPD (1 page – 8.5"x11")
3. *PowerPoint Presentation:* Prepared by Lee County Staff for DCI2024-00016, Modern Services CPD, dated March 26, 2025 (multiple pages – 8.5"x11")[color]

#### APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Alexis Crespo to Maria Perez, Dereck Beck, and MarySue Groth, dated Monday, March 24, 2025, 8:28 AM (4 pages 8.5"x11")
1. *PowerPoint Presentation:* Prepared by RVi Planning & Landscape Architecture for DCI2024-00016, Modern Services CPD, dated March 26, 2025 (multiple pages – 8.5"x11")[color]
2. *Master Concept Plan:* Prepared by Beck Companies for Modern Services CPD (1 page – 8.5"x11")
3. *Résumé:* For Stephanie Caldwell, P.E., LEED, AP, President/Project Engineer with Greensite Engineering, Inc. (1 page – 8.5"x11")

**Exhibit D**

**HEARING PARTICIPANTS**

County Staff:

1. MarySue Groth

Applicant Representatives:

1. Derek Beck
2. Yury Bykau
3. Stephanie Caldwell
4. Alexis Crespo
5. Barrett Stejskal

Public Participants:

1. Savannah Letter
2. Deneen Seguro

**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

Modern Services CPD – DCI2024-00016

### Attachment C – Conditions and Deviations

#### CONDITIONS

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

##### 1. MCP/Development Parameters

MCP. Development must be consistent with the one-page MCP entitled “Modern Services CPD” dated October 2024 (Attachment H), except as modified by the conditions below.

LDC 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 require appropriate approvals.

Development Parameters. The CPD is limited to 16,000 square feet of commercial intensity, and a building height of 35 feet.

##### 2. Uses and Site Development Regulations

###### a. Schedule of Uses

Accessory Uses and Structures  
Administrative Offices  
Business Services: Group I (Contractors Office)  
Contractors and Builders: Groups I and II  
Essential Services  
Excavation: Water Retention Only  
Fences and Walls  
Parking Lot, Accessory  
Signs  
Storage, Open and Indoor

###### b. Site Development Regulations

Minimum Lot Size:	1.3 acres
Minimum Lot Depth:	100 feet
Minimum Lot Width:	100 feet
Maximum Building Height:	35 feet
Maximum Lot Coverage:	605 percent
Minimum Open Space:	20 percent

###### Minimum Setbacks:

Street:	50 feet
Side:	20 feet
Rear:	20 feet

3. Environmental Conditions

- a. Developer may not commence construction on development impacting wetlands until issuance of required permits. Development activity must comply with state wetland permits and applicable local development permits. If the State does not approve wetland impacts or if the State wetland permits are not consistent with proposed wetland impacts reflected in County development permits, then developer must amend local development permit approvals to be consistent with State wetland permits or applicable Lee Plan and LDC regulations regarding development within wetlands.

4. Transportation Conditions

- a. Prior to the issuance of a development order, a cross-access easement extending to the abutting property to the west must be depicted on the development order plans. A legal description and sketch must be provided with the draft easement. The easement must be recorded in the Public Records prior to the issuance of a Certificate of Compliance.

DEVIATIONS

1. Minimum Connection Separation: Deviation 1 seeks relief from LDC Section 10-285, which requires a connection separation of 660 feet on arterial roads in Future Urban Areas, to allow a connection separation of 108 feet to the nearest driveway to the west on State Road 80/Palm Beach Boulevard.

This deviation is APPROVED with Condition 4.a.

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

**CASE NUMBER: DCI2024-00016**

**TYPE OF CASE: Planned Development Rezoning**

**CASE NAME: Modern Services CPD**

**TOTAL ACREAGE AFFECTED BY REQUEST: 1.3+/-acres**

**SUFFICIENCY DATE: January 28, 2025**

**HEARING EXAMINER DATE: March 26, 2025**

**Request:**

Rvi Planning + Landscape Architecture, on behalf of Modern Mechanical Services, LLC, has filed an application to rezone the properties located at 11550 & 11570 Palm Beach Boulevard, Fort Myers, from Agricultural (AG-2) to Commercial Planned Development (CPD). The applicant is proposing development of a 16,000-square-foot building with a maximum building height of 35 feet for contractor offices and associated warehouses. The CPD will be accessed through a single point of ingress/egress directly from State Road 80, and connection will require approval from the Florida Department of Transportation (FDOT).

The subject properties consist of two STRAP numbers (36-43-25-00-00007.0020 and 36-43-25-00-00008.0000) and reside within the Suburban Future Land Use Category, and the Caloosahatchee Shores Community Plan Area as established by the Lee County Comprehensive Plan (the Lee Plan). The sketch and legal description for the properties may be found as Attachment B.

The applicant has requested one (1) deviation from Lee County Land Development Code (LDC) Section 10-285, which requires a connection separation of 660 feet on arterial roads in Future Suburban Areas, to allow a connection separation of 108 feet to the nearest driveway to the west on State Road 80/Palm Beach Boulevard.

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

**CHARACTER OF THE AREA:**

The objective of the Caloosahatchee Shores Community area as established through the Lee Plan in **Goal 21** is to protect the existing character, natural resources and quality of life in the Caloosahatchee Shores Community Plan area, while promoting new development, redevelopment, and maintaining a more rural identity for the neighborhoods east of I-75 by establishing minimum aesthetic requirements, planning the location and intensity of future commercial and residential uses, and providing incentives for redevelopment, mixed use development and pedestrian safe environments.



The Comprehensive Plan language was originally adopted into the Lee Plan in 2003 and remains an appropriate description of the areas surrounding the subject property. The property is located east of Interstate 75 and west of Wildwood Lane. The properties immediately surrounding the subject property can be characterized as follows:

North

The property to the north of the subject property, 11150 Palm Beach Boulevard, is zoned Community Facilities Planned Development (CFPD), in reference to the Florida Power & Light (FP&L) Verandah Transmission Substation, by Resolution Z-24-004 (see Attachment P). The Caloosahatchee River runs adjacent to the north property line. This property resides within the Public Facilities, Suburban and Wetlands Future Land Use Categories, and is developed with an FP&L substation.

South

Lands to the south of the subject property, across Palm Beach Boulevard (State Road 80), are zoned Mixed Use Planned Development (MPD) by Resolution Z-05-081 (see Attachment P), titled Verandah, with multiple subsequent amendments. The approximate 1,456-acre Verandah MPD resides within the Suburban Future Land Use Category and is completely developed east to Buckingham Road.

East

Land directly east of the subject property is located in the Suburban Future Land Use Category and is zoned Agricultural (AG-2). This property is currently undeveloped.

West

The properties to the west of the subject property are located in the Suburban Future Land Use Category and are zoned Commercial (C-2). The properties located at 11500 and 11520 Palm Beach Boulevard directly to the west of the subject property are currently developed with an automotive repair services use.

**ANALYSIS:**

LDC Section 34-145 establishes the review criteria for requests to rezone property 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 analysis of the request against these decision-making criteria (Attachment E). 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 Suburban Future Land Use Category, described by **Policies 1.1.5** of the Lee Plan. *"The Suburban future land use category will consist of predominantly residential areas that are either on the fringe of the Central Urban or Urban Community future land use categories or in areas where it is appropriate to protect existing or emerging residential neighborhoods."* The property lies along State Road 80/Palm Beach Boulevard, a state-maintained arterial road. To the south of the subject property, across Palm Beach Boulevard, lies the Mixed Use Planned Development (MPD) The Verandah, which contains a total of 1,700 residential single and multi-family units. The minimal uses requested within the Schedule of Uses (Attachment F) limit commercial activity in a manner that is not destructive to the character of The Verandah community. The property to the north of the subject property is zoned Community Facilities Planned Development (CFPD), and properties to the west are zoned Commercial (C-2), providing compatibility with existing non-residential uses. The property directly east of the subject property is zoned Agricultural (AG-2), and the applicant's Master Concept Plan (MCP) provides adequate buffering for protection of the agricultural environment to the east (Attachment H), all providing consistency with **Policy 1.1.5** for the Suburban FLU. Staff finds the request is consistent with **Policy 1.1.5** of the Lee Plan.

**Objective 2.1** of the Lee Plan promotes contiguous and compact growth to contain urban sprawl. The proposed 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 where adequate public facilities exist or are assured. The property is located along the four-lane, state-maintained arterial roadway of State Road 80/Palm Beach Boulevard. Existing infrastructure of water and sewer are in place, and utilities are available to the site (see Attachment J). Adequate public facilities including fire, police, EMS, solid waste, and public transit 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 Lee County Utilities stating potable water lines are in operation adjacent to the property (Attachment J), and that sufficient capacity exists to provide service depending on the estimated flow demand. Further, Lee County Utilities indicated there are no reuse mains in the vicinity of the parcel, fulfilling requirements of **Standards 4.1.1 and 4.1.2** of the Lee Plan. The applicant provided the required Protected Species Survey, FLUCCS Map, Soils Map, Rare and Unique Habitat Map, Topographic Map, and Existing Historic Flow Ways Map (Attachment N). Environmental Staff completed historical research of the property pertaining to vegetation and clearing and completed a site inspection to confirm species and plant communities. Staff noted discrepancies in the applicant's provided environmental report in the Environmental Staff Report (Attachment M), that includes FLUCCS designations, and a ditch/swale not noted on the protected species survey, with the potential of wetlands communities on the property. Environmental Staff recommended a condition for compliance with **Policy 4.1.4 for Environmental Factors** and to assure the request does not impact environmentally sensitive lands and natural resources noted later in this report. Staff finds the request, as conditioned, consistent with **Standards 4.1.1, 4.1.2, and 4.1.4** 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 in the Caloosahatchee Shores Community Plan area, and the request will facilitate commercial uses consistent with other nearby existing commercial zoned districts. Access to the proposed development will be facilitated through two interconnection driveways shared with the C-2 property to the west, and the AG-2 property to the east of the subject property, with one access point onto the state-maintained arterial roadway of Palm Beach Boulevard/SR 80. The Lee County Department of Transportation (LCDOT) provided a transportation-related analysis noting the proposed project is not anticipated to adversely affect the surrounding roadway system (Attachment L). LCDOT further stated State Road 80/Palm Beach Boulevard is a state-maintained arterial roadway and is subject to approval from FDOT, and the county has no jurisdiction over the roadway to address the requested deviation for connection separation. Within the applicant's provided Deviation and Justification (Attachment G), the applicant also provided the Florida Department of Transportation's Access Management approval addressing the deviation request and indicated consideration should be given to granting the neighbor to the west access to State Road 80 via future north leg/driveway at the SR 80/Verandah Boulevard intersection should a signal be constructed here based on recent signal warrant analysis study. The existing driveways for the neighbor to the west would then need to be closed as a safety upgrade. The applicant provided a stub-out to the western property on the MCP (Attachment H), but indicated in the justification the western property owner declined the cross access, fulfilling **Policy 6.1.1.1**. Staff has approved Deviation 1 for connection separation with the following condition:

*Prior to the issuance of a development order, a cross-access easement extending to the abutting property to the west must be depicted on the development order plans. A legal description and sketch must be provided with the draft easement. The easement must be recorded in the Public Records prior to the issuance of a Certificate of Compliance.*

As previously stated, adequate landscaping and buffering will be provided at time of development, pursuant to **Policy 6.1.1.2, and 6.1.1.3**. Urban services such as potable water, sanitary sewer, fire/EMS and police protection, and public transit are available to serve the proposed development, fulfilling **Policy 6.1.1.4**. Staff finds the request, as conditioned, consistent with **Lee Plan Goal 6, Objective 6.1, and Policies 6.1.1.1., 6.1.1.2, 6.1.1.3, and 6.1.1.4**.

As previously stated, the subject property is located in the Caloosahatchee Shores Community Plan area established by Lee Plan **Goal 21**. The goal of the planning area is to *“protect the existing character, natural resources and quality of life in the Caloosahatchee Shores Community Plan area, while promoting new development, redevelopment and maintaining a more rural identity for the neighborhoods east of I-75 by establishing minimum aesthetic requirements, planning the location and intensity of future commercial and residential uses, and providing incentives for redevelopment, mixed use development and pedestrian safe environments.”* The applicant held the required Public Information Meeting on January 3, 2025, and provided the required documentation summarizing the meeting in compliance with LDC Section 33-1401 (Attachment O). Consistent with **Policy 21.1.1**, the applicant indicated the CPD will comply with all of the required landscaping, signage and architectural standards. **Objective 21.2** for Commercial Land Uses in the Caloosahatchee Shores planning community promotes commercial uses along the State Road 80 Corridor Overlay, the Verandah Boulevard commercial nodes, and Suburban FLUC adjacent to State Road 80. The proposed rezone to CPD includes limited, low intensity commercial uses that provide local employment and services to the surrounding area. Staff finds the request consistent with **Lee Plan Goal 21, Policy 21.1, and Objective 21.2**.

**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. **Policy 61.1.1** requires that freshwater resources be managed and maintained to ensure sufficient water is available to maintain or restore natural systems. The applicant indicated the CPD will obtain the required approvals from the South Florida Water Management District to ensure water quality, storage, and attenuation standards are met. Staff finds the request consistent with **Lee Plan Goal 61, and Policy 61.1.1**.

The property resides in the Coastal High Hazard Area, as established by **Goal 101 of the Lee Plan**. **Policy 101.1.1** requires that development within the Coastal High Hazard Area be compatible with natural systems, such as, water retention and purification, wildlife habitat, primary productivity, and defense against coastal flooding. The applicant indicated that the site would meet all required open space and buffering requirements, and all development will be constructed to all FEMA and SFWMD current standards. Pursuant to Lee Plan **Policy 101.3.2**, development in the Coastal High Hazard Area is restricted to only uplands except as needed for the provision of public facilities. The applicant indicated the site contains approximately 0.24 acres of low-quality wetlands, as referenced in the provided FLUCCS Map and Environmental report. As previously mentioned, Environmental Staff’s site inspection noted discrepancies in the provided Environmental Report, including a FLUCCS designation where the consultant identified an area as FLUCCS 420 E4, where staff noted evidence of hydraulic conditions with the potential of being identified as wetlands. In addition, staff also identified a ditch/swale not noted on the protected

species survey where surface waters were present at the time of inspection. As noted above, Environmental Staff recommended a condition for compliance with **Standard 4.1.4, and Policy 101.3.2.**

**Policy 125.1.2** states new development and additions to existing development must not degrade surface and ground water quality, and the applicant has indicated they will obtain the required approval from the South Florida Water Management District to ensure standards are met. The development will be designed to maintain the historical flow of drainage while ensuring runoff is attenuated at acceptable discharge rates and properly treated to conform with all water quality standards (see Attachment I), fulfilling **Policy 125.1.4.** Staff finds the request consistent with **Lee Plan Policies 125.1.2 and 125.1.4.**

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

The applicant has acknowledged that at the time of development, LDC and other applicable county regulations will be required and considered. The applicant has requested one (1) deviation from LDC Section 10-285, which requires a connection separation of 660 feet on arterial roads in Future Suburban Areas, to allow a connection separation of 108 feet to the nearest driveway to the west on State Road 80/Palm Beach Boulevard. LCDOT provided a Transportation-Related Analysis (Attachment L) stating State Road 80/Palm Beach Boulevard is a state-maintained arterial roadway and is subject to approval from FDOT, and the county has no jurisdiction over the roadway to address the requested deviation for connection separation. Within the Deviation and Justification (Attachment G), the applicant provided the Florida Department of Transportation (FDOT) Access Management approval addressing the deviation request and indicated consideration should be given to granting the neighbor to the west access to State Road 80 via future north leg/driveway at the SR 80/Verandah Boulevard intersection should a signal be constructed here based on recent signal warrant analysis study. The existing driveways for the neighbor to the west would then need to be closed as a safety upgrade. The applicant provided a stub-out to the western property on the MCP (Attachment H), but indicated in the justification the western property owner declined the cross access. Staff has approved Deviation 1 for connection separation with the condition noted in the analysis of Goal 6 contained within this report.

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

The property is located within the Suburban Future Land Use category with other nearby existing commercial zoned properties. The side is designed to provide compatibility with the residential uses across Palm Beach Boulevard and surrounding residential uses. The applicant's Schedule of Uses is limited and includes Accessory Uses and Structures, Administrative Offices, Business Services Group I, Essential Services, Excavation: Water Retention Only, Fences and Walls, Accessory Parking Lot, Pet Services, Signs, and Indoor and Outdoor Storage Uses (Attachment F). All uses are compatible with the surrounding area.

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

Access to the proposed development will be facilitated through two interconnection driveways shared with the C-2 property to the west, and the AG-2 property to the east of the subject property, with one access point onto the state-maintained arterial roadway of Palm Beach Boulevard/SR 80, which is sufficient to support the development intensity proposed by this request.

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

The applicant provided the required Traffic Impact Statement (TIS) (Attachment K). The Lee County Department of Transportation (LCDOT) provided a transportation-related analysis noting the proposed project is not anticipated to adversely affect the surrounding roadway system (Attachment L). LCDOT further stated State Road 80/Palm Beach Boulevard is a state-maintained arterial roadway and is subject to approval of FDOT. The FDOT provided Access Management Permit approval, provided by the applicant in the Deviation and Justification (Attachment G), stated that since the development will not generate more than 600 VTPD a Traffic Impact Analysis (TIA) will not be required.

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

The applicant provided a Surface Water Management Plan Narrative (Attachment I) stating the CPD will utilize on-site water detention areas, in the form of dry detention, to collect and treat on-site surface water. Water will be directed from the development area/parking lot into the dry detention areas, where the water will be treated to meet the SFWMD standards. The water will eventually outfall off-site in accordance with historical drainage patterns. The project and surface water management system will also be reviewed in detail at the time of local Development Order. The applicant also provided the required Protected Species Survey, FLUCCS Map, Soils Map, Rare and Unique Habitat Map, Topographic Map, and Existing Historic Flow Ways Map (Attachment N). Environmental Staff completed historical research of the property pertaining to vegetation and clearing and completed a site inspection to confirm species and plant communities. Staff noted discrepancies in the provided environmental report in the Environmental Staff Report (Attachment M), including a FLUCCS designations, and a ditch/swale not noted on the protected species survey, that indicate the possibility of wetlands communities on the property. Environmental Staff recommended the following condition noted in the analysis of **Policy 4.1.4**, for compliance with **Policy 101.3.2**:

*Developer may not commence construction on development impacting wetlands until issuance of required permits. Development activity must comply with State wetland permits and applicable local development permits. If the State does not approve wetland impacts or if the State wetland permits are not consistent with proposed wetland impacts reflected in County development permits, then developer must amend local development permit approvals to be consistent with State wetland permits or applicable Lee Plan and LDC regulations regarding development within wetlands.*

Environmental Staff also provided the following information:



### Open Space

The project meets the small development definition, from LDC Section 10-1. LDC Section 10-415(a) requires the applicant to provide 20 percent open space for small commercial developments. The total required open space is 11,325 square feet (0.26 acres) and the applicant is providing 11,325 sq. ft. or 0.26 acres of open space. No condition for open space is provided.

### Indigenous Open Space Preservation

The Land Development Code requires that a large development must provide 50 percent of the open space percentage requirement through onsite preservation of existing native vegetation communities (LDC Section 10-415(b)). The subject property is less than ten acres in size and is considered a small development per LDC Sections 10-1 and 10-415(a). No indigenous open space is required.

### Buffers

The proposed development abuts the Palm Beach Boulevard right-of-way to the south, an AG-2 zoned property to the east, a C-2 zoned property to the west, and to the North a Communities Facilities Planned Development (CFPD). The applicant has provided sufficient buffer requirements, as follows:

- North – The north property line abuts a CFPD zoned property owned by Florida Power & Light. Based on the site inspection and the aerial imagery, the property is being used as a tree farm. This use is agricultural, and therefore pursuant to LDC Section 10-416(d), no buffer is required.
- South – The south property line abuts the right of way for Palm Beach Blvd (State Road 82). Pursuant to LDC Section 10-416(d), when commercial uses are being proposed adjacent to a right of way, a Type-D buffer is required to buffer the use. The applicant is in compliance with the buffer requirement along the southern boundary.
- West – The west property line abuts a conventionally zoned Commercial (C-2). Pursuant to LDC Section 10-416(d), commercial to commercial uses are required to provide a Type-A Buffer. The applicant has provided a Type-A Buffer on the MCP along the western boundary.
- East – The east property line abuts an undeveloped Agricultural (AG-2) zoned property. Pursuant to LDC Section 10-416(d), no buffer is required when a proposed commercial use abuts an agricultural use. The applicant is in compliance with the buffer requirements along the eastern boundary.

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

The subject property is located in the Suburban Future Land Use Category, which per Lee Plan **Policy 1.1.5** is described as “...predominantly residential areas that are either on the fringe of the Central Urban or Urban Community future land use categories or in areas where it is appropriate to protect existing or

*emerging residential neighborhoods.”* The property lies along State Road 80/Palm Beach Boulevard, a state-maintained arterial road. The following services are available to accommodate the request:

#### Utilities

The applicant has provided a Letter of Availability from the Lee County Utilities stating potable water and wastewater lines are in operation adjacent to the property, and that sufficient capacity exists to provide service depending on the estimated flow demand (Attachment J). Further, there are no reuse mains in the vicinity of the parcel. The applicant indicated the development of the project will connect to both public water and public sewer.

#### Fire and EMS

Fort Myers Shores Fire and Rescue, Station #81, located at 12345 Palm Beach Boulevard, is approximately 1.00 mile away.

#### Sheriff

Lee County Sheriff's Department, located at 121 Pondella Road, is approximately 9.05 miles away.

#### Solid Waste

The property is within the Unincorporated Lee County Solid Waste area.

#### Public Transit

Lee Tran Route 100, Stop ID #2372 is the closest bus stop approximately 0.5 miles south of the entrance of the subject property, across Palm Beach Boulevard. This bus stop provides access to Route 100, which provides service via SR 80 between Buckingham Road and Downtown Fort Myers.

#### Public Schools

The property is within the Lee County School District East Zone, District Area 2. The project will have no impact on the school district.

#### Supplemental Criteria 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 the Suburban Future Land Use category with other nearby existing commercial zoned properties. The site has been designed to provide compatibility with the residential uses across Palm Beach Boulevard. The applicant's Schedule of Uses is limited and includes Accessory Uses and Structures, Administrative Offices, Business Services Group I, Essential Services, Excavation: Water Retention Only, Fences and Walls, Accessory Parking Lot, Pet Services, Signs, and Indoor and Outdoor Storage Uses (Attachment F). All uses are compatible with the surrounding area.

- 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 applicant's provided Master Concept Plan (Attachment H) is compatible with the surrounding area. The limited Schedule of Uses (Attachment F) and recommended conditions will protect the public's interest as it relates to impacts generated by the request.

- 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 one (1) deviation from LDC Section 10-285, which requires a connection separation of 660 feet on arterial roads in Future Urban Areas, to allow a connection separation of 108 feet to the nearest driveway to the west on State Road 80/Palm Beach Boulevard. Staff recommends approval with the following condition:

*Prior to the issuance of a development order, a cross-access easement extending to the abutting property to the west must be depicted on the development order plans. A legal description and sketch must be provided with the draft easement. The easement must be recorded in the Public Records prior to the issuance of a Certificate of Compliance.*

The deviation, as conditioned, enhances the achievement of the objectives of the planned development, and preserves and promotes the general intent of this Code to protect the public health, safety and welfare.

## CONCLUSION

The request to rezone the subject property from Agricultural (AG-2) to Commercial Planned Development (CPD) is consistent with the Lee Plan and Land Development Code. The proposed development is consistent and compatible with the existing non-residential development surrounding the subject property. Staff has concluded that the rezone, as conditioned, will not result in negative impacts to urban services, infrastructure, or surrounding property. The subject properties are sufficiently served by urban services. The request will not adversely affect environmentally critical or sensitive areas and natural resources. The rezone is appropriate for the location and establishes sufficient safeguards to the public interest. The applicant has requested one deviation from the LDC, and as conditioned, approval of this deviations enhances the achievement and objectives of the planned development and promotes the general intent of this Code 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 – Legal Description

Attachment C – Conditions

Attachment D – Case Maps

Attachment E – Applicant’s Narrative

Attachment F – Applicant’s Schedule of Uses and Property Development Regulations

Attachment G – Applicant’s Deviation and Justification

Attachment H – Master Concept Plan

Attachment I – Surface Water Management Narrative

Attachment J – Utility Letters of Availability

Attachment K – Traffic Impact Statement

Attachment L – LCDOT Traffic-Related Analysis

Attachment M – Environmental Staff Report

Attachment N – Protected Species, Topographic, Soils, FLUCCS Maps

Attachment O – Public Information Meeting

Attachment P – Surrounding Property Resolutions

- Florida Power & Light Verandah Substation – Z-24-004
- The Verandah Mixed Use Planned Development - Z-05-081

CPA2024-00007

House Bill 1379  
(2023) Update

**SUMMARY SHEET**  
**CPA2024-00007 – HOUSE BILL 1379 (2023) AMENDMENTS**  
**ADOPTION HEARING**

**BOARD DIRECTION:**

The Board of County Commissioners (BoCC) directed staff to amend the Lee Plan to maintain consistency with State Statutes, as amended by HB 1379, on May 7, 2024. Based on this direction, staff analyzed the entire Lee Plan to identify inconsistencies and amendments required to maintain consistency with the amended Statutes.

**SUMMARY:**

House Bill 1379 from Florida’s 2023 Legislative Session is related to environmental protection. It includes amendments to existing State Statutes addressing wastewater treatment, septic systems, sanitary sewer services and planning, Basin Management Action Plans (BMAPs), and the wastewater grant program. The proposed amendments update the Lee Plan consistent with the legislation.

**TRANSMITTAL HEARING:**

Staff provided a presentation addressing Board of County Commissioners’ direction, requirements added to the Florida Statutes by House Bill 1379, proposed amendments, the LPA recommendation and Staff’s response to the LPA’s recommendation.

Six (6) members of the public addressed the Board of County Commissioners concerning the proposed amendment. One of the speakers stated the amendments were improved after working with staff on their concerns. Other members spoke in opposition to the amendments, expressing concerns due to potential of more development in Northeast Lee County, lack of need for sewer facilities in rural areas, and potential cost of sewer connections to residents.

A motion was made to transmit CPA2024-00007 as recommended. The motion passed 4 to 0.

<b>MIKE GREENWELL</b>	<u><b>AYE</b></u>
<b>BRIAN HAMMAN</b>	<u><b>AYE</b></u>
<b>DAVID MULICKA</b>	<u><b>AYE</b></u>
<b>CECIL L. PENDERGRASS</b>	<u><b>AYE</b></u>
<b>KEVIN RUANE</b>	<u><b>ABSENT</b></u>

**STATE REVIEW:**

Lee County received responses from FloridaCommerce, Florida Fish and Wildlife Conservation Commission (FWC), and Florida Department of Environmental Protection (FDEP) addressing the proposed amendment. There were no objections concerning the amendment.

**STAFF RECOMMENDATION:**

Staff recommends the BoCC **adopt** the amendments as transmitted and as provided in Attachment 1 to the Staff Report.



**LEE COUNTY ORDINANCE NO. 25-XX**

(House Bill 1379)

(CPA2024-00007)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE “LEE PLAN,” ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AN AMENDMENT PERTAINING TO HOUSE BILL 1379 (CPA2024-00007) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED MAP AND TEXT; LEGAL EFFECT OF “THE LEE PLAN”; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER’S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan (“Lee Plan”) and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners (“Board”); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency (“LPA”) held a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on December 9, 2024; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on February 19, 2025. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to House Bill 1379 (CPA2024-00007) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the February 19, 2025 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies’ written comments; and,

WHEREAS, on May 7, 2025, the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:**

**SECTION ONE: PURPOSE, INTENT AND SHORT TITLE**

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt map and text amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "House Bill 1379 Ordinance (CPA2024-00007)."**

## SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, which amends the Lee Plan to implement House Bill 1379. House Bill 1379 is a wide-ranging amendment to Florida Statutes related to environmental protection in the areas of wastewater management, septic systems, sanitary sewer services and planning, Basin Management Action Plans (BMAP), and the wastewater grant program. Amendments to the Lee Plan are required to maintain consistency with Florida Statutes. Additional minor amendments have also been identified to update cross-references to various County ordinances and plans.

The corresponding Staff Reports and Analysis, along with all attachments and application submittals for this amendment are adopted as "Support Documentation" for the Lee Plan. Proposed amendments adopted by this Ordinance are attached as Exhibit A.

## SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

## SECTION FOUR: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

## SECTION FIVE: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

## SECTION SIX: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

#### SECTION SEVEN: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

#### SECTION EIGHT: EFFECTIVE DATE

The plan amendments adopted herein are not effective until 31 days after the State Land Planning Agency notifies the County that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the State Land Planning Agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status.

THE FOREGOING ORDINANCE was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_. The vote was as follows:

Kevin Ruane	_____
Cecil L Pendergrass	_____
David Mulicka	_____
Brian Hamman	_____
Mike Greenwell	_____

DONE AND ADOPTED this 7<sup>th</sup> day of May 2025.

ATTEST:  
KEVIN C. KARNES  
CLERK OF CIRCUIT COURT

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY FLORIDA

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Kevin Ruane, Chair

DATE: \_\_\_\_\_

APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY

\_\_\_\_\_  
County Attorney's Office

Exhibit A (Adopted by BOCC May 7, 2025):  
Adopted revisions to Text  
Adopted revisions to Table 6

CAO Draft 2/4/2025 10:58:16 AM

## **EXHIBIT A**

**Note: Text depicted with underscore represents additions to the Lee Plan.  
Strike-through text represents deletions from the Lee Plan.**

**Text Amendments:****II Future Land Use Element**

**POLICY 1.4.1:** The Rural future land use category are areas that are to remain predominantly rural – that is, low density residential, agricultural uses, and minimal non-residential land uses that are needed to serve the rural community. Natural resource extraction may be permitted in accordance with Policy 10.1.4. ~~These areas are not to be programmed to receive urban type capital improvements, and they can anticipate a continued level of public services below that of the urban areas.~~ Maximum density in the Rural future land use category is one dwelling unit per acre (1 du/acre). See Policy 123.2.17 for a potential density incentive resulting from preservation and/or restoration of Rare and Unique Upland Habitat. (Ord. No. [97-17](#), [98-09](#), [00-22](#), [07-12](#), [10-20](#), [22-25](#), [22-29](#))

.....

**POLICY 1.4.3:** The Rural Community Preserves future land use category requires special design approaches to maintain existing rural character, for example: conservation easements, flexible road design standards (including relocation of future arterials not serving the rural community), special fencing and commercial sign standards, and retention of historic rural uses. ~~These areas are not programmed to receive urban type capital improvements.~~ Lands within this category are not to be converted to future urban or suburban areas; rather, they are to remain permanently rural in character and use. These areas are restricted to low density residential uses (with minimum lot size requirements), agricultural uses, and minimal non-residential uses that are needed to serve the rural community. Property in this category may not be rezoned to any RV district. Maximum density is one dwelling unit per acre (1 du/acre). (Ord. No. [91-19](#), [94-30](#), [17-13](#), [18-14](#))

.....

**POLICY 2.1.1:** Most residential, commercial, ~~and industrial, and public~~ development is expected to occur within the designated future urban areas on the Future Land Use Map through the assignment of very low densities to the non-urban categories.

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**STANDARD 4.1.2: SEWER.**

7. Prohibit the installation of new onsite sewage treatment and disposal systems, as defined by State Statute, constructed within a basin management action plan area, a reasonable assurance plan, or a pollution reduction plan where connection to a publicly owned or investor-owned sewerage system is available as defined in F.S. 381.0065 (2)(a).

8. On lots of one acre or less within a basin management action plan area, a reasonable assurance plan, or a pollution reduction plan, where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems, as defined by State Statute, or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction is required.

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**OBJECTIVE 18.3: SEWER AND WATER.** Given the desire to maintain a low residential density, new central sewage service is not economically feasible and is discouraged north of Bayshore Road within the future non-urban land use categories except to the areas identified by Lee Plan Table 6, “10-Year Sanitary Sewer Service Feasibility Plan.” Central water service for enhanced fire protection will be encouraged where economically feasible. (Ord. No. [03-02](#), [18-18](#))

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**POLICY 20.3.1:** In order to discourage unwanted urban development, central sewer lines will not be extended into the Buckingham Community Plan area, except to the areas identified by Lee Plan Map 4-B as Future Sanitary Sewer Service Areas, areas identified by Lee Plan Table 6, “10-Year Sanitary Sewer Service Feasibility Plan”, the existing Resource Recovery Facility, the adjacent Lee County Parks and Recreation Facility, and any future public facility. Under no circumstances will the availability of central sewer lines be accepted as justification for a density or intensity increase, or reduction of lot size requirements (except as provided in Policy 20.1.5), within the Rural Community Preserve. (Ord. No. 10-15, 18-18)

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#### IV Community Facilities and Services Element

**POLICY 56.1.3:** All utilities are encouraged to construct and install sufficient treatment facilities and collection systems that will meet or exceed the minimum acceptable service standards. These facilities will have capacity to service the demand so generated and will meet or exceed the minimum requirements of the Florida Department of Environmental Protection (DEP), Florida Department of Health, U.S. Environmental Protection Agency (USEPA), or local ordinances that exceed those requirements with priority given to advanced waste treatment. All utilities will advise the County of system expansions or modification to ensure coordination. (Ord. No. 92-35, 94-30, 17-19, 21-09)

.....

**POLICY 56.1.8:** Sewage disposal facilities that dispose of waste into waterbodies that are currently not attaining nutrient or nutrient-related standards, as defined by State Statute, or that are subject to a nutrient or nutrient-related basin management plan will provide advanced waste treatment by January 1, 2033.

**POLICY 56.1.9:** Sewage disposal facilities that dispose of waste into waterbodies determined not to be attaining nutrient or nutrient-related standards, as defined by State Statute, after July 1, 2023, or subject to a nutrient or nutrient-related basin management plan, or adopted reasonable assurance plan after July 1, 2023, will provide advance water treatment within 10 years after such determination or adoption.

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**POLICY 56.2.2:** The County will, annually, provide to the Florida Department of Environmental Protection a status of the construction of sanitary sewers within basin management action plans (BMAP) or within the basin of a waterbody not attaining nutrient or nutrient-related standards as defined by State Statute.

**POLICY 56.2.3:** The County will assess the feasibility of providing central sewer service to areas of more than 50 residential lots, built or unbuilt, with more than one onsite septic system located at

more than 1 per acre within the unincorporated areas consistent with F.S. 163.31773(a)(6)(c)(3). These areas are identified in Table 6, 10-Year Sanitary Sewer Service Feasibility.

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## **VII Conservation and Coastal Management Element**

Goal 125: Water Quality

**POLICY 125.1.9:** Encourage the use of the water quality improvement grant established within the Department of Environmental Protection to address wastewater, stormwater, and agricultural sources of nutrient loading to fund projects that will improve the quality of waterbodies.

### **Table Amendments:**

- **Table 6 – 10-Year Sanitary Sewer Service Feasibility (New Table)**

**Table 6: 10-Year Sanitary Sewer Service Feasibility**

Residential Development	# of Parcels	Development Location	Facility Name	Facility Address	Facility Capacity	Projected Facility Flow in 20 years	Feasibility	Timeline
Alden Pines/Sundiet Village	602	Stringfellow Rd/Sundiet Blvd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Bayshore Estates	82	Bayshore Rd/Willow Stream Ln	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Bayshore Gardens	50	Donald Rd/Gardenia Cir	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Bayshore Pines	52	Glick Dr/Donna Ln	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Bellaire/San Carlos Grove	153	Pine Rd/Bristol Rd	Three Oaks WRF	18521 Three Oaks Pkwy, 33967	6.0 MGD	7.4 MGD	Not feasible based on curent conditions.	N/A
Blackhawk/Hidden Pines	86	Blackhawk Dr/Briarcliff Rd	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
Bocilla Lane	54	Bocilla Ln/Stringfellow Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Bokeelia	108	Stringfellow Rd/Main St	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Buckingham Airpark East	128	North Dr/Cherokee Ave	FGUA - Lehigh Acres WWTF	550 Construction Ln, 33971	3.0 MGD	3.83 MGD	Not feasible based on curent conditions.	N/A
Buckingham Park	494	Astoria Ave/Cherrydale St	FGUA - Lehigh Acres WWTF	550 Construction Ln, 33971	3.0 MGD	3.83 MGD	Not feasible based on curent conditions.	N/A
Cabana City/Rivers Edge	171	River Rd/Cabana Ave	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Calusa Woods/Northdale	86	Carolyn Ln/Bayshore Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Captains Harbor	76	Nautical Way/Captains Harbor	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Central Pine Island	166	Stringfellow Rd/Fairbanks Dr	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Charleston Park	163	Palm Beach Blvd/1st St	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Coastal Estates	99	Pine Ridge Rd/Bombay Ln	Fort Myers Beach WRF	17155 Pine Ridge Rd, 33931	6.0 MGD	2.5 MGD	Not feasible based on curent conditions.	N/A
Collier+Rupert/Pine Tree Estates	219	Laurel Dr/N 2nd St	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Colonial Pines	56	Leetana Rd/Boonesboro Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Cypress Lake Country Club Estates	145	Overlook Dr/Brentwood Rd	LCU - Fiesta Village WRF	1366 San Souci Dr, 33919	5.0 MGD	4.0 MGD	Not feasible based on curent conditions.	N/A
Doughtreys Creek	199	Bayshore Rd/Sean Ln	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Deep Lagoon	60	McGregor Blvd/Bay Dr	LCU - Fiesta Village WRF	1366 San Souci Dr, 33919	5.0 MGD	4.0 MGD	Not feasible based on curent conditions.	N/A
Eagle Lake Estates	50	Stringfellow Rd/Eagle Lake Dr	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
East Lake Colony	80	Tarpon Way/Bayshore Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Edgewater Gardens/Belle Aire Lagoon	177	Pondella Rd/Sabal Gardens Dr	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Flamingo Bay	363	Flamingo Dr/Mallard Ave	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Florimond Manor	361	Plantation Rd/Idlewild St	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
Fort Myers	206	Maravilla/US 41	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Fort Myers Gulf Acres	122	Whitecap Cir/Orange Grove Blvd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Gramac/Tamiami Estates/Berts Bayshore Manor	379	Bayline Dr/Old Bridge Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Helen Lane Condo	64	Helen Ln/Main St	Fort Myers Beach WRF	17155 Pine Ridge Rd, 33931	6.0 MGD	2.5 MGD	Not feasible based on curent conditions.	N/A
Hendry Creek	120	Hendry Creek Dr/Chloe Cir	LCU - Fiesta Village WRF	1366 San Souci Dr, 33919	5.0 MGD	4.0 MGD	Not feasible based on curent conditions.	N/A
Heritage Farms 1st Addition/Heritage Pines/Lucas Landing/Stone Ridge	65	Liberty Square/Cindy Ct	LCU - Fiesta Village WRF	1366 San Souci Dr, 33919	5.0 MGD	4.0 MGD	Not feasible based on curent conditions.	N/A
Idalia	98	Old Olga Rd/W Court Pl	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Island Park/Tidewater Island/Mullock Creek	325	Park Rd/Pioneer Rd	Three Oaks WRF	18521 Three Oaks Pkwy, 33967	6.0 MGD	7.4 MGD	Not feasible based on curent conditions.	N/A
Jade Estates	63	Jade Ct/Coon Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Kings Bay Estates	49	Coastal View Dr/Bayshore Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Knights Bokeelia/Sandy Shoals/Eagles Nest	366	Barrancas Ave/Bowline St	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Lakeville	248	Lakeville Dr/Edgewood Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Lehigh Acres	110,795	East Lee County	FGUA - Lehigh Acres WWTF	550 Construction Ln, 33971	3.0 MGD	3.83 MGD	Not feasible based on curent conditions.	N/A
Littlegroves/Powell	171	Powell Dr/Ikora Dr	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Lobean	75	Barrancas Ave/Quail Trl	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Luloma Acres	65	Stringfellow Rd/Luloma Ln	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
McGregor Pines/McGregor Vista/Deep Lagoon Heights	76	McGregor Blvd/Martin Dr	LCU - Fiesta Village WRF	1366 San Souci Dr, 33919	5.0 MGD	4.0 MGD	Not feasible based on curent conditions.	N/A
Mirror Lakes	193	Blackstone Dr/Lasalle Ave	FGUA - Lehigh Acres WWTF	550 Construction Ln, 33971	3.0 MGD	3.83 MGD	Not feasible based on curent conditions.	N/A
Mobile Manor	370	Bayshore Rd/Lantern Ln	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Nancy Lane Condo	75	Nancy Ln/Main St	Fort Myers Beach WRF	17155 Pine Ridge Rd, 33931	6.0 MGD	2.5 MGD	Not feasible based on curent conditions.	N/A
Oakdale/United Fruit	56	Butler Rd/Reymoor Dr	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Orange River Hills	69	Sunkist Way/Orange River Blvd	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Page Park	162	Center Rd/1st St	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
Palm Creek	63	Palm Creek Dr/Pioneer Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Palmona Park	819	Pine Island Rd/Atlantic Ave	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Paradise Shores	394	Bigelow Rd/Old Olga Rd	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Peaceful Pines	50	N Tamiami Trl/Avenue A	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A

**Table 6: 10-Year Sanitary Sewer Service Feasibility**

Pine Island Center East	231 Phillips St/Avenue E	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pine Island Center West	161 Russell Rd/Holly Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pine Island Estates/Kreamers Avocado	490 Stringfellow Rd/Harbor Dr	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pine Island Ridge/Serenity Cove/Charlotte Shores/Pine Island Villas	801 Marina Rd/Dolphin Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pine Island Tropical Homesites	572 Stringfellow Rd/Tangelo Dr	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pine Island Village	70 Turtle Trail Ln/Stringfellow Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pinehurst Acres/Kreamers Avocado	380 Kreamers Dr/Stringfellow Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pinehurst Estates/Camelot	105 Pine Villa Ln/Daniels Pkwy	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
Plantation Pines/The Rookery/Highland Pines Estates	228 Plantation Rd/Plantation Pines Blvd	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
Pondella Acres/Travis/Pine Acres/Blue Water Shores/Hancock Estates/Aqua Cove/Marine Homes/Wards Landing	209 Moody Rd/Hancock Bridge Pkwy	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Pondella Heights	50 Westwood Dr/Pondella Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Pondella Shores	91 Pondella Rd/Betmar Blvd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Port Carlos Cove	155 Spanish Main St/Galleon Way	Fort Myers Beach WRF	17155 Pine Ridge Rd, 33931	6.0 MGD	2.5 MGD	Not feasible based on curent conditions.	N/A
Port Edison/Northwood	296 Brooks Rd/Evalena Ln	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
River Oaks	159 Iverson Dr/Charles St	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Riverbend	217 Riverbend Blvd/Indian Creek Dr	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Saint James City	1769 Sanibel Blvd/Stringfellow Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
San Carlos Park	6,207 San Carlos Blvd/Lee Rd	Three Oaks WRF	18521 Three Oaks Pkwy, 33967	6.0 MGD	7.4 MGD	Not feasible based on curent conditions.	N/A
September Estates/Coconut Grove/Pinehurst Acres	140 Stringfellow Rd/Helen Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Shady Grove/Verona Heights/Mariana Heights/Moss Park/Glenwood Park/Melody Park/Autumn Oaks/Autumn Acres/Maranatha Park/Evergreen Acres/	264 W Mariana Ave/Piney Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Sheltering Pines Mobile Home Village	120 Unique Cir/S Tamiami Trl	Three Oaks WRF	18521 Three Oaks Pkwy, 33967	6.0 MGD	7.4 MGD	Not feasible based on curent conditions.	N/A
Skyline Woods/River Manor/Overriver Shores/Tropic Shores Estates	75 Moody Rd/Skyline Dr	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Suncoast Estates	1564 Suncoast Dr/Gish Ln	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
The Timbers	61 Penzance Blvd/Timberline Cir	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
The Willows	94 Willow Lake Cir/Plantation Rd	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
Timberbend	78 Bayshore Rd/Tallulah Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Town and River Estates Subdivision	182 McGregor Blvd/N Town and River Dr	LCU - Fiesta Village WRF	1366 San Souci Dr, 33919	5.0 MGD	4.0 MGD	Not feasible based on curent conditions.	N/A
Town of Alva	98 Pearl St/Julia St	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
West Bayshore Road	182 E Mariana Ave/Ixora Dr	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Yacht Club Colony	264 Winston Rd/N Westwood Dr	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A

# STAFF REPORT FOR CPA2024-00007: House Bill 1379 Amendments

County Initiated Text Amendments to the Lee Plan



## Amendment Type:

County Initiated  
Direction: 05/07/2024

## Recommendation:

Transmit

## Applicant:

Lee County Board of  
County Commissioners  
(Publicly Initiated)

## Representative:

Lee County Department of  
Community Development  
and Lee County Utilities

## Amended Element(s):

- Future Land Use
- Community Facilities and Services
- Conservation and Coastal Management

## Hearing Dates:

LPA: 12/09/2024  
BoCC #1: 02/19/2025  
BoCC #2: 05/07/2025

## Attachments:

1: Proposed Text  
Amendments

## PURPOSE

Amend the Lee Plan to implement the changes in Florida Statutes as amended by House Bill 1379 (2023). The proposed changes include the following amendments:

- Amend Objective 18.3<sup>1</sup>
- Amend Policies 1.4.1, 1.4.3, 2.1.1, ~~18.3.1<sup>2</sup>~~ and 20.3.1<sup>1</sup>.
- Amend Standard 4.1.2
- Add Policies 56.1.8, 56.1.9, 56.2.2, 56.2.3<sup>1</sup>, and 125.9.
- Add Table 6, "10-Year Sanitary Sewer Service Feasibility Plan"

These amendments are discussed in detail in the "Amendments" section of this report.

## SUMMARY

House Bill 1379 from Florida's 2023 Legislative Session is related to environmental protection. It includes amendments to existing State Statutes addressing wastewater treatment, septic systems, sanitary sewer services and planning, Basin Management Action Plans (BMAPs), and the wastewater grant program. The proposed amendments update the Lee Plan consistent with the legislation.

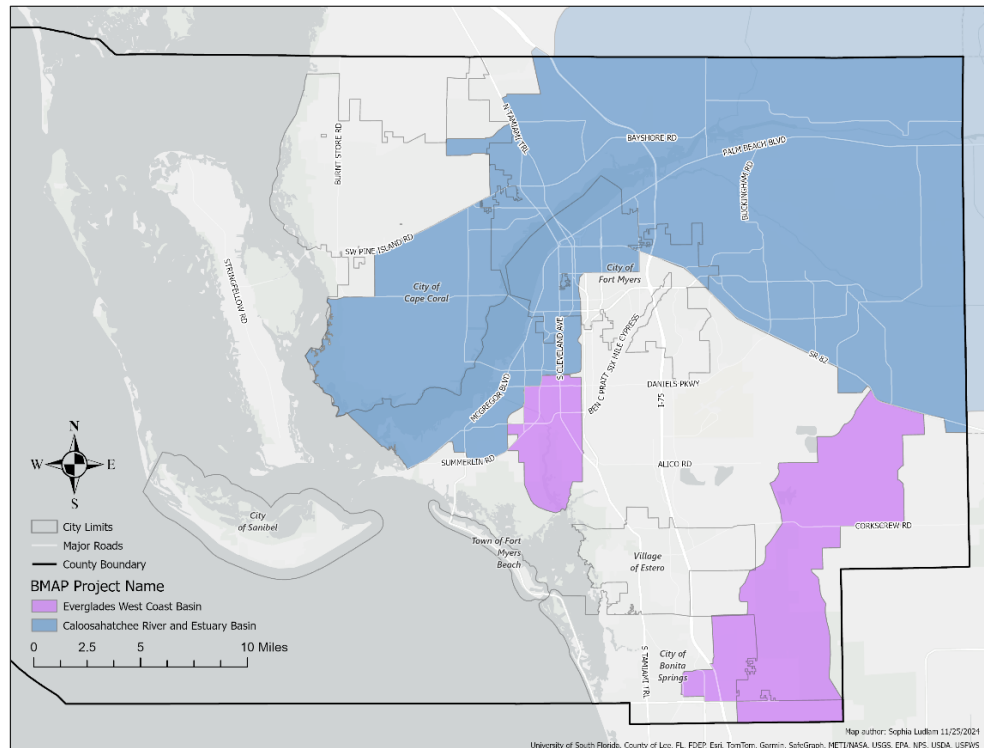


Figure 1 – BMAP boundaries in Lee County

## RECOMMENDATION

Staff recommends that the Board of County Commissioners **adopt** the amendments as transmitted, and based on the analysis and findings provided in this staff report.

<sup>1</sup> See Part 2 and Attachment 1 for revised recommendation.

<sup>2</sup> Amendments are no longer recommended to this policy.

## PART 1

### **BACKGROUND**

The Florida Legislature passed House Bill (HB) 1379 on May 3, 2023, which went into effect July 1, 2023. The Bill amended several sections of the State Statutes related to environmental protection, which include the identifying the feasibility of providing sanitary sewer services to certain areas, prioritizing upgrades to existing treatment facilities, identifying projects to meet pollution reduction milestones, specifying Florida requirements for advanced septic systems within a Basin Management Action Plan (BMAP), creating minimum nutrient removal standards, planning for advanced water treatment to meet future requirements, and annual reporting on the status of sewer services in areas subject to a BMAP.

Lee County is subject to the Caloosahatchee River and Estuary Basin Management Action Plan (BMAP) and Everglades West Coast BMAP. The boundaries of those BMAPs are shown in Figure 1 on page 1 of this report. HB 1379 directly impacts areas of the county that are within a protected BMAP by requiring advanced wastewater treatment, advanced septic systems and annual reporting of the feasibility of providing sewer services.

The requirements in HB 1379 conflict with several requirements of the Lee Plan. The Board of County Commissioners directed staff to amend the Lee Plan to maintain consistency with State Statutes, as amended by HB 1379, on May 7, 2024.

### **AMENDMENTS**

HB 1379 resulted in eight (8) changes to State Statutes that require amendments to the Lee Plan. The amended statutes, staff analysis, and proposed Lee Plan amendments are provided below.

1. *F.S. 163.3177(3)(a)(4)(b) – The Capital Improvement Plan must be revised to include a list of projects necessary to achieve pollutant load reductions, attributable to the local government, as established, in a basin management actions plan.*

Staff coordinated with the Lee County Division of Natural Resources and reviewed Lee Plan Table 3(a) – Capital Improvement Program Detailed Report and compared that to ongoing and planned projects. The Division of Natural Resources currently has four projects planned or underway that were partially grant funded for the purpose of reducing nutrient loading in BMAP areas that, when completed, will result in pollutant load reductions as well as achieving other environmental benefits. These projects include Lakes Park Phase III, Sunniland/Nine Mile Run Drainage Improvements, Bob Janes Restoration and Palm Creek Lower Filter Marsh. Table 3(a) – Capital Improvements Detail Report FY23/24 – FY27/28 currently includes those projects. Additionally, the “Caloosahatchee Estuary BMAP 5-Year Review (2022)” shows a total reduction of 249% of the total nitrogen (TN Required Reduction (lbs/yr)) attributable to Lee County was achieved as of December 31, 2021. **No additional action to amend the Lee Plan is required.**

2. *F.S. 163.3177(3)(a)(6)(c)(2) - The element must address coordinating the extension of, increase in the capacity of, or upgrade in treatment of facilities to meet future needs; prioritizing advanced waste treatment.*

Policy 56.1.3 in the Community Services and Facilities Element encourages all utilities to construct and install sufficient treatment facilities and collections systems that meet or exceed the minimum LOS standards and FDEP requirements. As part of this amendment, staff proposes adding additional language to this policy to prioritize advanced waste treatment.



**POLICY 56.1.3:** All utilities are encouraged to construct and install sufficient treatment facilities and collection systems that will meet or exceed the minimum acceptable service standards. These facilities will have capacity to service the demand so generated and will meet or exceed the minimum requirements of the Florida Department of Environmental Protection (DEP), Florida Department of Health, U.S. Environmental Protection Agency (USEPA), or local ordinances that exceed those requirements with priority given to advanced waste treatment. All utilities will advise the County of system expansions or modification to ensure coordination. (Ord. No. 92-35, 94-30, 17-19, 21-09)

3. *F.S. 163.31773(a)(6)(c)(3) - Within the local government's jurisdiction, for any development of more than 50 residential lots, whether built or unbuilt, with more than one onsite sewage treatment and disposal system per 1 acre, the element must consider the feasibility of providing sanitary sewer services within a 10-year planning horizon and must identify the name and location of the wastewater facility that could receive sanitary sewer flows after connection; the capacity of the facility and any associated transmission facilities; the projected wastewater flow at that facility for the next 20 years, including expected future new construction and connections of onsite sewage treatment and disposal systems to sanitary sewer; and a timeline for the construction of the sanitary sewer system. An onsite sewage treatment and disposal system is presumed to exist on a parcel if sanitary sewer services are not available at or adjacent to the parcel boundary...*

Staff is proposing amendments to existing Objective 18.3 and Policies 1.4.1, 1.4.3, 2.1.1, 18.3.1, 20.3.1 and Objective 18.3 to accommodate possible expansion of central sewer systems in accordance with the Statutes as amended by HB 1379. The current language does not prohibit public water and sewer facilities, but states that urban-type capital improvements are not anticipated or programmed in these areas. The proposed amendments strike that language to accommodate the possibility that, in the future, the County may be required to convert portions of these areas from septic to centralized sewer. The strikethrough and underline of these policies are shown below.

**POLICY 1.4.1:** The Rural future land use category are areas that are to remain predominantly rural—that is, low density residential, agricultural uses, and minimal non-residential land uses that are needed to serve the rural community. Natural resource extraction may be permitted in accordance with Policy 10.1.4. ~~These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas.~~ Maximum density in the Rural future land use category is one dwelling unit per acre (1 du/acre). See Policy 123.2.17 for a potential density incentive resulting from preservation and/or restoration of Rare and Unique Upland Habitat. (Ord. No. [97-17](#), [98-09](#), [00-22](#), [07-12](#), [10-20](#), [22-25](#), [22-29](#))

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**POLICY 1.4.3:** The Rural Community Preserves future land use category requires special design approaches to maintain existing rural character, for example: conservation easements, flexible road design standards (including relocation of future arterials not serving the rural community), special fencing and commercial sign standards, and retention of historic rural uses. ~~These areas are not programmed to receive urban-type capital improvements.~~ Lands within this category are not to be converted to future urban or suburban areas; rather, they are to remain permanently rural in character and use. These areas are restricted to low density residential uses (with minimum lot size requirements), agricultural uses, and minimal non-residential uses that are needed to serve the rural

community. Property in this category may not be rezoned to any RV district. Maximum density is one dwelling unit per acre (1 du/acre). (Ord. No. [91-19](#), [94-30](#), [17-13](#), [18-14](#))

.....

**POLICY 2.1.1:** Most residential, commercial, ~~and industrial, and public~~ development is expected to occur within the designated future urban areas on the Future Land Use Map through the assignment of very low densities to the non-urban categories.

.....

**OBJECTIVE 18.3: SEWER AND WATER.** Given the desire to maintain a low residential density, new central sewage service is not economically feasible and is discouraged north of Bayshore Road within the future non-urban land use categories unless required by State Statute. Central water service for enhanced fire protection will be encouraged where economically feasible. (Ord. No. [03-02](#), [18-18](#))

**POLICY 18.3.1:** No landowner will be required to connect to central sewer or water utilities or be assessed for same unless a threat to public health can be documented, or if a new development proposes an intensity that exceeds the thresholds in Standards 4.1.1 and 4.1.2, or if required by State Statute. (Ord. No. [03-02](#), [18-18](#))

.....

**POLICY 20.3.1:** ~~In order to discourage unwanted urban development, central sewer lines will not be extended into the Buckingham Community Plan area, except to the areas identified by Lee Plan Map 4 B as Future Sanitary Sewer Service Areas, the existing Resource Recovery Facility, the adjacent Lee County Parks and Recreation Facility, and any future public facility. Under no circumstances will the~~ The availability of central sewer lines will not be accepted as justification for a density or intensity increase, or reduction of lot size requirements (except as provided in Policy 20.1.5), within the Rural Community Preserve. (Ord. No. [10-15](#), [18-18](#))

Additionally, staff recommends new Policy 56.2.3 and Table 6, which addresses the feasibility of providing sanitary sewer services within a 10-year planning horizon. Table 6 identifies the required information in the amended statute. Additional discussion on the development of Table 6 and the process utilized to identify development meeting the amended statute's criteria and service feasibility is provided in more detail on page 6 through 8 of this report and proposed Policy 56.2.3 is on page 8.

4. *F.S. 403.067(7)(a)(10) - The installation of new onsite sewage treatment and disposal systems constructed within a basin management action plan area adopted under this section, a reasonable assurance plan, or a pollution reduction plan is prohibited where connection to a publicly owned or investor-owned sewerage system is available as defined in s. 381.0065(2)(a). On lots of 1 acre or less within a basin management action plan adopted under this section, a reasonable assurance plan, or a pollution reduction plan where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction is required.*

Proposed changes to Standard 4.1.2 will add numbers 7 and 8, to address this requirement. The standards recommended below are not new requirements by Lee County, but recognize requirements implemented and enforced by state agencies.

#### STANDARD 4.1.2: SEWER.

7. The installation of new onsite sewage treatment and disposal systems, as defined by State Statute, constructed within a basin management action plan area, a reasonable assurance plan, or a pollution reduction plan is prohibited where connection to a publicly owned or investor-owned sewerage system is available as defined in F.S. 381.0065 (2)(a).

8. On lots of one acre or less within a basin management action plan area, a reasonable assurance plan, or a pollution reduction plan, where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems, as defined by State Statute, or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction is required.

5. *F.S. 403.067(7)(a)(12) - Annually, local governments subject to a basin management action plan or located within the basin of a waterbody not attaining nutrient or nutrient-related standards must provide to the department an update on the status of construction of sanitary sewers to serve such areas, in a manner prescribed by the department.*

The proposed changes add Policy 56.2.2 address this requirement.

**POLICY 56.2.2:** The County will, annually, provide to the Florida Department of Environmental Protection a status of the construction of sanitary sewers within basin management action plans (BMAP) or within the basin of a waterbody not attaining nutrient or nutrient-related standards as defined by State Statute.

6. *F.S. 403.086(1)(c)(1)(c) - By January 1, 2033, waterbodies that are currently not attaining nutrient or nutrient-related standards or that are subject to a nutrient or nutrient-related basin management action plan adopted pursuant to s. 403.067 or adopted reasonable assurance plan.*

HB 1379 amended parts of F.S. 403.086 which addresses sewage disposal facilities by requiring the use of advanced waste treatment prior to disposal in certain waterbodies. The effected waterbodies included those that are not currently attaining nutrient or nutrient-related standards or are subject to a nutrient-related basin management plan. The proposed changes add Policy 56.1.8 addresses this requirement.

**POLICY 56.1.8:** Sewage disposal facilities that dispose of waste into waterbodies that are currently not attaining nutrient or nutrient-related standards, as defined by State Statute, or that are subject to a nutrient or nutrient-related basin management plan will provide advanced waste treatment by January 1, 2033.

7. *F.S. 403.086(1)(c)(2) - For any waterbody determined not to be attaining nutrient or nutrient-related standards after July 1, 2023, or subject to a nutrient or nutrient-related basin management action plan adopted pursuant to s. 403.067 or adopted reasonable assurance plan after July 1, 2023, sewage disposal facilities are prohibited from disposing any wastes into such waters without providing advanced waste treatment, as defined in subsection (4), as approved by the department within 10 years after such determination or adoption.*

The proposed changes add Policy 56.1.9 address this requirement.

**POLICY 56.1.9:** Sewage disposal facilities that dispose of waste into waterbodies determined not to be attaining nutrient or nutrient-related standards, as defined by State Statute, after July 1, 2023, or subject to a nutrient or nutrient-related basin management plan, or adopted reasonable assurance plan after July 1, 2023, will provide advance water treatment within 10 years after such determination or adoption.

8. *F.S. 403.0673 - Water quality improvement grant program.—A grant program is established within the Department of Environmental Protection to address wastewater, stormwater, and agricultural sources of nutrient loading to surface water or groundwater.*

HB 1379 amended F.S. 403.0673 to rename the wastewater grant program as the water quality improvement program, revised the program's purpose, and provided specificity regarding the types of projects eligible for grants. Staff recommends adding Policy 125.1.9 in the Conservation and Coastal Management Element to encourage the use of the grant.

**POLICY 125.1.9:** Encourage the use of the water quality improvement grant established within the Department of Environmental Protection to address wastewater, stormwater, and agricultural sources of nutrient loading to fund projects that will improve the quality of waterbodies.

**TABLE 6**

As required by F.S. 163.31773(a)(6)(c)(3), Lee County must identify any development of more than 50 residential lots, whether built or unbuilt, with more than one onsite sewage treatment and disposal system per one acre to determine the feasibility of providing sanitary sewer services within a 10-year planning horizon. Staff is proposing to add Table 6: 10-Year Sanitary Sewer Service Availability to the appendices of the Lee Plan.

The development of Table 6 involved the following detailed mapping and identification process to locate areas within the county subject to the Statute, identify the data required by the State, and determine the feasibility of providing sanitary sewer services to the subject areas:

1. Identify all parcels within County jurisdiction of less than 1 acre utilizing ArcGIS and parcel data.
2. Identify areas with existing or potential residential development of more than 50 lots on parcels of less than 1 acre each. All other parcels were removed.
3. Identify areas serviced by Lee County Utilities and Florida Governmental Utility Authority wastewater infrastructure. Areas currently serviced by central sewer were removed from the map.
4. Review development order and zoning files to determine if any planned or recently approved development would meet the Statute requirements. Any areas meeting Statute criteria were added to the map.
5. All FDEP permits that approved on-site domestic WWTPs were reviewed, and the areas served by these WWTPs were removed from the map.
6. Estimated septic permit and well permit locations based on State and local data were mapped to identify additional areas and used to cross-check previously identified areas.
7. All Ordinance #86-36 mobile home sites were mapped to verify that sewer service was available. Although these sites did not meet the strict criteria of the statute (i.e., parcels of less than 1 acre as most are a single parcel with multiple mobile home sites), the density of the mobile homes on these sites, if serviced by septic, would exceed one septic system per acre for more than 50 residential units. Ordinance #86-36 changed the lot of record requirements for mobile home and recreational vehicle (RV) parks that existed prior to certain dates but which failed to conform to minimum lot size

requirements established by the Land Development Code. Because of the age of these mobile homes and RV parks, the use of septic systems was a concern for staff due to a variety of factors, including, but not limited to, site location (i.e. separation from water resources) and long-term maintenance.

8. Reviewed the Countywide Wastewater Management Plan priority ranking of potential areas for septic conversion to ensure all areas meeting State criteria were captured and represented in the map.

At the conclusion of the process, eighty-four (84) areas were identified as meeting the Statute requirements and are identified in Table 6. Table 6 also includes the name and location of the wastewater facility that could receive sanitary sewer flows after connection, the capacity of the facility, the projected wastewater flow at that facility for the next 20 years, including expected future new construction and connections of onsite sewage treatment and disposal systems to a sanitary sewer, and a timeline for the construction of the sanitary sewer system, if feasible, consistent with the requirements of F.S. 163.31773(a)(6)(c)(3).

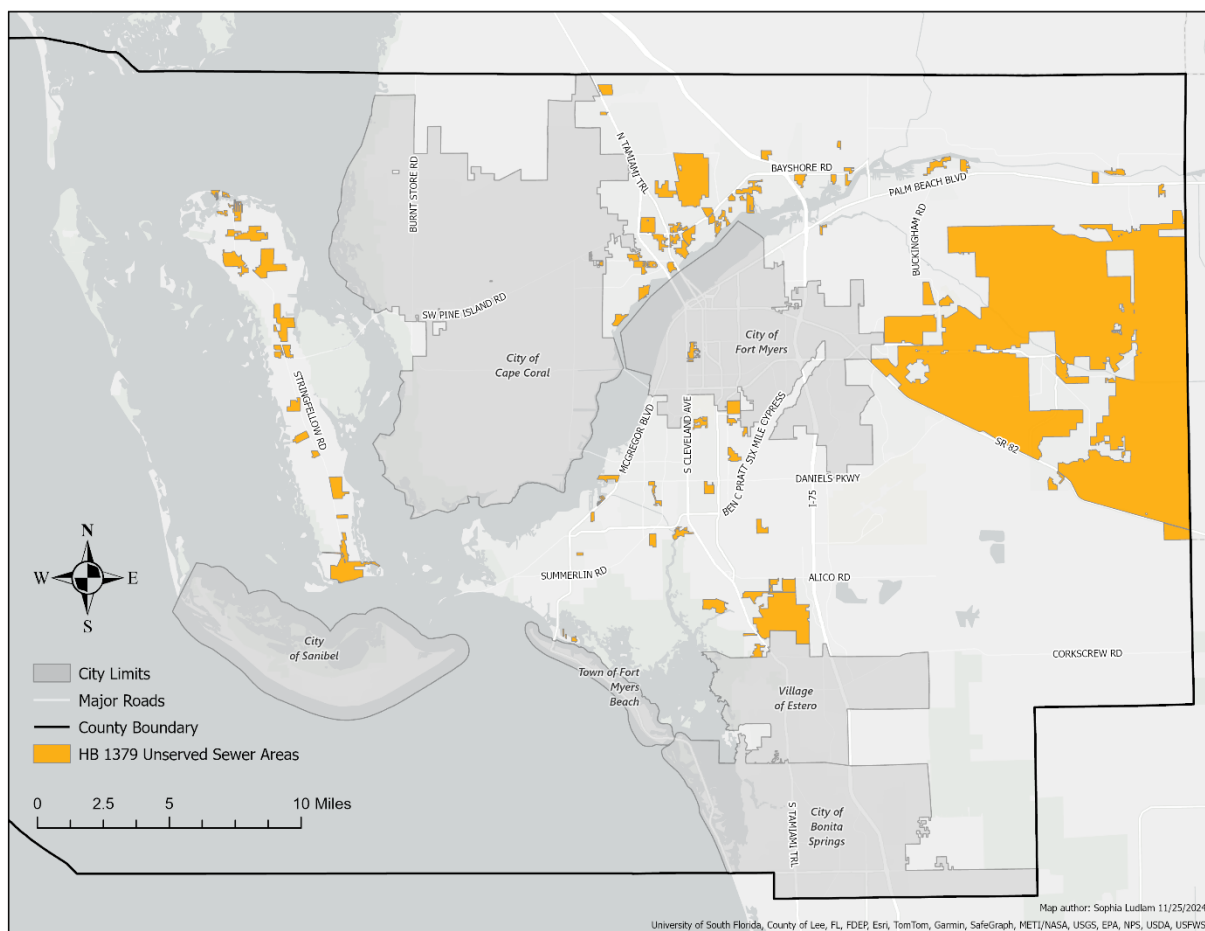


Figure 2 – Developments or potential developments of more than 50 residential lots on less than 1 acre not served by central sanitary sewer service.

Staff is also proposing Policy 56.2.3 which identifies the statutory requirement for Table 6 and the criteria for inclusion on the table.

**POLICY 56.2.3:** The County will assess the feasibility of providing central sewer service to areas on septic when more than 50 onsite sewage treatment or disposal systems are located at more than 1 per acre within the unincorporated areas consistent with F.S. 163.31773(a)(6)(c)(3). These areas are identified in Table 6, 10-Year Sanitary Sewer Service Feasibility.

## **CONCLUSIONS**

HB 1379 amended several State Statutes and revised the required components of the local government comprehensive plan capital improvement element, general sanitary sewer, solid waste, drainage, potable water, and groundwater recharge elements. The proposed amendments:

- maintain consistency with State Statute.
- are internally consistent with other requirements of the Lee Plan.
- provide additional planning and coordination with other agencies to strengthen protections in BMAPs.
- provide planning tools for future expansion of sanitary sewer service aimed at protecting and improving water quality in Lee County.
- encourage the use of the Wastewater Grant Program for projects in Lee County.

Staff recommends that the Local Planning Agency **transmit** the proposed amendment as shown in Attachment 1.

## **PART 2 LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: December 9, 2024

### **A. LOCAL PLANNING AGENCY REVIEW**

Staff provided a presentation addressing the requirement to amend the Lee Plan, amendments to State Statute in House Bill 1379 (2023) that impact the Lee Plan, and the specific amendments and changes required to the Lee Plan to ensure consistency with State Statute.

Members of the LPA asked if the amendment is State mandated, how it might impact someone that is not connected to central sewer and does not want to connect, the financial implications of connection to central sewer service, the proposed language in Policy 56.2.3 and its relation to State Statute, and the number of lots that were impacted by Table 6.

Sixteen (16) members of the public addressed the Local Planning Agency, expressing opposition to several of the proposed amendments. Public comments addressed several main themes, including: disregard of community plans, encouragement of more development, cost of sewer connections to residents, and being overly broad (should be more focused to exclude rural areas).

### **B. LOCAL PLANNING AGENCY RECOMMENDATION**

A motion was made to recommend that the Board of County Commissioners **transmit** CPA2024-00007 with the exception of amendments to Objective 18.3 and Policies 1.4.1, 1.4.3, 18.3.1 and 20.3.1. The motion passed 6 to 0.



RAYMOND BLACKSMITH	<u>AYE</u>
JENNIFER SAPEN	<u>AYE</u>
DUSTIN GARDNER	<u>AYE</u>
DAWN RUSSELL	<u>AYE</u>
DON SCHROTENBOER	<u>AYE</u>
STAN STOUDE	<u>AYE</u>
HENRY ZUBA	<u>ABSENT</u>

**C. STAFF RESPONSE TO LPA RECOMMENDATION AND PUBLIC COMMENT**

One of the primary concerns expressed by the public during the LPA Hearing is that they would be required to connect to public sanitary sewer service if lines are extended to or in close proximity to their properties and the expense and disruption that could bring. While staff recognizes these concerns there are both technical and legal reasons this is not likely to happen – especially on properties that exceed one acre in size, which is the typical density allowed within both the Rural and Rural<sup>3</sup> Community Preserve future land use categories.

Section 381.0065 provides the following in determining if a publicly owned sewer system is available:

*(a) “Available,” as applied to a publicly owned or investor-owned sewerage system, means that the publicly owned or investor-owned sewerage system is capable of being connected to the plumbing of an establishment or residence, is not under a Department of Environmental Protection moratorium, and has adequate permitted capacity to accept the sewage to be generated by the establishment or residence; and:*

*1. For a residential subdivision lot, a single-family residence, or an establishment, any of which has an estimated sewage flow of 1,000 gallons per day or less, a gravity sewer line to maintain gravity flow from the property’s drain to the sewer line, or a low pressure or vacuum sewage collection line in those areas approved for low pressure or vacuum sewage collection, exists in a public easement or right-of-way that abuts the property line of the lot, residence, or establishment.*

This is consistent with staff comments made during the LPA hearing, stating that if there is a gravity sewer that runs along the frontage of the property, then it is considered to be available, however the majority of the existing lots would not have gravity sewer running in front of them. There would be pressurized force mains to transmit flows from communities to the County’s treatment facilities. In that case, the State considers it to be an undue burden, and not available.

Additionally, staff interpretation of the Lee Plan is that unless specifically required to connect to sewer lines by state statute, sewer service is not available to properties unless they are identified on Lee Plan Map 4-B – even if the transmission line is adjacent to their property.

In response to the LPA’s recommendation and the public’s comments, staff reviewed the proposed amendments to the Objective and Policies not recommended for transmittal by the LPA (Objective 18.3 and Policies 1.4.1, 1.4.3, 18.3.1 and 20.3.1) and has provided additional analysis to support the

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<sup>3</sup> Policy 123.2.17 allows for higher densities in the Rural future land use category as an incentive to preserving or restoring Rare and Unique upland habitats but requires developments to be connected to public water and sewer facilities.

recommended amendments or revised the recommendations where appropriate. In addition, staff has proposed changes to the recommendation for Policy 56.2.3 based on LPA discussion and comments.

#### POLICY 1.4.1

Policy 1.4.1 describes areas that are within the Rural future land use category. The language staff has proposed to be deleted provides “These areas are not to be programmed to receive urban-type capital improvement, and they can anticipate a continued level of public services below that of the urban areas.” The language proposed to be deleted does not specifically address sewer connections and could be interpreted to prohibit any capital improvements such as roads, EMS, parks, and libraries. For this reason, **staff continues to recommend the amendments to Policy 1.4.1, as proposed at the LPA hearing.**

**POLICY 1.4.1:** The Rural future land use category are areas that are to remain predominantly rural – that is, low density residential, agricultural uses, and minimal non-residential land uses that are needed to serve the rural community. Natural resource extraction may be permitted in accordance with Policy 10.1.4. ~~These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas.~~ Maximum density in the Rural future land use category is one dwelling unit per acre (1 du/acre). See Policy 123.2.17 for a potential density incentive resulting from preservation and/or restoration of Rare and Unique Upland Habitat. (Ord. No. [97-17](#), [98-09](#), [00-22](#), [07-12](#), [10-20](#), [22-25](#), [22-29](#))

#### POLICY 1.4.3

Policy 1.4.3 describes areas that are within the Rural Community Preserve future land use category. The language staff has proposed to be deleted provides “These areas are not programmed to receive urban-type capital improvement.” The language proposed to be deleted does not specifically address sewer connections and could be interpreted to prohibit any capital improvements such as roads, EMS, parks, and libraries. **For this reason, staff continues to recommend the amendments to Policy 1.4.3, as proposed at the LPA hearing.**

**POLICY 1.4.3:** The Rural Community Preserves future land use category requires special design approaches to maintain existing rural character, for example: conservation easements, flexible road design standards (including relocation of future arterials not serving the rural community), special fencing and commercial sign standards, and retention of historic rural uses. ~~These areas are not programmed to receive urban-type capital improvements.~~ Lands within this category are not to be converted to future urban or suburban areas; rather, they are to remain permanently rural in character and use. These areas are restricted to low density residential uses (with minimum lot size requirements), agricultural uses, and minimal non-residential uses that are needed to serve the rural community. Property in this category may not be rezoned to any RV district. Maximum density is one dwelling unit per acre (1 du/acre). (Ord. No. [91-19](#), [94-30](#), [17-13](#), [18-14](#))

#### OBJECTIVE 18.3

In response to public input, staff has revised the proposed language to provide a more narrowly defined solution that only addresses properties Lee County is required to identify on the 10-Year Sanitary Sewer Service Feasibility Plan. This change will address the public’s concern that the amendments were overly broad in how they addressed provisions affecting Lee County’s Future Non-Urban Areas. All differences in the recommended language between the LPA Hearing and the BoCC Transmittal Hearing are highlighted below. Newly proposed language is shown with double-

underlining and language that was previously proposed, but is no longer recommended, is shown with both ~~single underline and strikethrough~~. **Staff recommends Objective 18.3 be revised and transmitted as shown below.**

**OBJECTIVE 18.3: SEWER AND WATER.** Given the desire to maintain a low residential density, new central sewage service is not economically feasible and is discouraged north of Bayshore Road within the future non-urban land use categories except to the areas identified by Lee Plan Table 6, “10-Year Sanitary Sewer Service Feasibility Plan” unless required by State Statute. Central water service for enhanced fire protection will be encouraged where economically feasible. (Ord. No. 03-02, 18-18)

#### POLICY 18.3.1

In response to public input, staff has reviewed the proposed amendments to Policy 18.3.1 and determined these amendments are not necessary based on the revisions proposed to Objective 18.3. All differences in the recommended language between the LPA Hearing and the BoCC Transmittal Hearing are highlighted below. Language that was previously proposed, but is no longer recommended, is shown with both ~~single underline and strikethrough~~. **Staff is no longer recommending the amendments originally proposed to Objective 18.3 be transmitted.**

**POLICY 18.3.1:** No landowner will be required to connect to central sewer or water utilities or be assessed for same unless a threat to public health can be documented, or if a new development proposes an intensity that exceeds the thresholds in Standards 4.1.1 and 4.1.2, or if required by State Statute. (Ord. No. 03-02, 18-18)

#### POLICY 20.3.1

In response to public input and LPA recommendation, staff recommends retaining the previous language recommended for deletion and propose an exception to allow central sewer lines to be extended into the Buckingham Community Plan Area to areas identified by Lee Plan Table 6. This newly proposed language keeps previous Community Plan Area language in place and only provides an additional exception for areas identified in Lee Plan, Table 6, addressing the public’s concerns at the LPA hearing. All differences in the recommended language between the LPA Hearing and the BoCC Transmittal Hearing are highlighted below. Newly proposed language is shown with double-underlining and language that was previously proposed, but is no longer recommended, is shown with both ~~single underline and strikethrough~~. Language that had been proposed to be deleted that staff no longer recommends be deleted is highlighted, but not shown with any strikethrough or underline formatting. **Staff recommends Policy 20.3.1 be revised and transmitted as shown below.**

**POLICY 20.3.1:** In order to discourage unwanted urban development, central sewer lines will not be extended into the Buckingham Community Plan area, except to the areas identified by Lee Plan Map 4-B as Future Sanitary Sewer Service Areas, areas identified by Lee Plan Table 6, “10-Year Sanitary Sewer Service Feasibility Plan”, the existing Resource Recovery Facility, the adjacent Lee County Parks and Recreation Facility, and any future public facility. Under no circumstances will the ~~The~~ availability of central sewer lines will not be accepted as justification for a density or intensity increase, or reduction of lot size requirements (except as provided in Policy 20.1.5), within the Rural Community Preserve. (Ord. No. 10-15, 18-18)

### POLICY 56.2.3

Staff recommended adding Policy 56.2.3 to add a policy reference to proposed Table 6, 10-Year Sanitary Sewer Service Feasibility to ensure consistency with Section 163.31773(a)(6)(c)(3) of the Florida Statutes. **Following comments and discussion between members of the LPA and staff, staff rewrote the policy to closely align with the language in the Florida Statutes, as shown below.**

~~**POLICY 56.2.3:** The County will assess the feasibility of providing central sewer service to areas on septic when more than 50 onsite sewage treatment or disposal systems are located at more than 1 per acre within the unincorporated areas consistent with F.S. 163.31773(a)(6)(c)(3). These areas are identified in Table 6, 10-Year Sanitary Sewer Service Feasibility.~~

**POLICY 56.2.3:** The County will assess the feasibility of providing central sewer service to areas of more than 50 residential lots, built or unbuilt, with more than one onsite septic system located at more than 1 per acre within the unincorporated areas consistent with F.S. 163.31773(a)(6)(c)(3). These areas are identified in Table 6, 10-Year Sanitary Sewer Service Feasibility.

### **D. STAFF RECOMMENDATION**

Staff recommends that the BoCC transmit the proposed amendment as provided in Attachment 1, which represents a complete and up-to-date recommendation, including the Objective and Policies as discussed above.

## PART 3 BOARD OF COUNTY COMMISSIONERS TRANSMITTAL HEARING

DATE OF PUBLIC HEARING: February 19, 2025

### **A. BOARD REVIEW:**

Staff provided a presentation addressing Board of County Commissioners' direction, requirements added to the Florida Statutes by House Bill 1379, proposed amendments, the LPA recommendation and Staff's response to the LPA's recommendation.

Six (6) members of the public addressed the Board of County Commissioners concerning the proposed amendment. One of the speakers stated the amendments were improved after working with staff on their concerns. Other members spoke in opposition to the amendments, expressing concerns due to potential of more development in Northeast Lee County, lack of need for sewer facilities in rural areas, and potential cost of sewer connections to residents.

### **B. BOARD ACTION:**

A motion was made to **transmit** CPA2024-00007 as recommended by staff. The motion passed 4 to 0.

MIKE GREENWELL	<u>AYE</u>
BRIAN HAMMAN	<u>AYE</u>
DAVID MULICKA	<u>AYE</u>
CECIL L. PENDERGRASS	<u>AYE</u>
KEVIN RUANE	<u>ABSENT</u>

**PART 4**  
**STATE REVIEWING AGENCIES'**  
**OBJECTIONS, RECOMMENDATIONS, AND COMMENTS**

Comments from the State reviewing Agencies were due to Lee County by March 23, 2025

**A. OBJECTIONS, RECOMMENDATIONS AND COMMENTS:**

Lee County received responses from the following review agencies addressing the proposed amendment:

- FloridaCommerce,
- Florida Fish and Wildlife Conservation Commission (FWC), and
- Florida Department of Environmental Protection (FDEP)

There were **no objections** concerning the amendment.

**B. STAFF RECOMMENDATION**

Staff recommends that the Board of County Commissioners ***adopt*** the amendments to the Lee Plan, as provided in Attachment 1.

**Text Amendments:****II Future Land Use Element**

**POLICY 1.4.1:** The Rural future land use category are areas that are to remain predominantly rural – that is, low density residential, agricultural uses, and minimal non-residential land uses that are needed to serve the rural community. Natural resource extraction may be permitted in accordance with Policy 10.1.4. ~~These areas are not to be programmed to receive urban type capital improvements, and they can anticipate a continued level of public services below that of the urban areas.~~ Maximum density in the Rural future land use category is one dwelling unit per acre (1 du/acre). See Policy 123.2.17 for a potential density incentive resulting from preservation and/or restoration of Rare and Unique Upland Habitat. (Ord. No. [97-17](#), [98-09](#), [00-22](#), [07-12](#), [10-20](#), [22-25](#), [22-29](#))

- Delete language prohibiting capital improvements in the Rural future land use category. Capital improvements may be necessary in the future to comply with F.S. 163.3177(3)(a)(6)(c)(3), as amended in HB 1379, which requires local governments to provide a timeline for the construction of sanitary sewer systems for any development of more than 50 residential lots, whether built or unbuilt, with more than one onsite sewage treatment and disposal system (septic system) per 1 acre.
- The language proposed to be deleted does not specifically address sewer connections and could be interpreted to prohibit any capital improvements such as roads, EMS, parks, and libraries. For these reasons staff continues to recommend the amendment as proposed at the LPA hearing.

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**POLICY 1.4.3:** The Rural Community Preserves future land use category requires special design approaches to maintain existing rural character, for example: conservation easements, flexible road design standards (including relocation of future arterials not serving the rural community), special fencing and commercial sign standards, and retention of historic rural uses. ~~These areas are not programmed to receive urban type capital improvements.~~ Lands within this category are not to be converted to future urban or suburban areas; rather, they are to remain permanently rural in character and use. These areas are restricted to low density residential uses (with minimum lot size requirements), agricultural uses, and minimal non-residential uses that are needed to serve the rural community. Property in this category may not be rezoned to any RV district. Maximum density is one dwelling unit per acre (1 du/acre). (Ord. No. [91-19](#), [94-30](#), [17-13](#), [18-14](#))

- Delete language prohibiting capital improvements in the Rural Community Preserve future land use category. Capital improvements may be necessary in the future to comply with F.S. 163.3177(3)(a)(6)(c)(3), as amended in HB 1379, which requires local governments to provide a timeline for the construction of sanitary sewer systems for any development of more than 50 residential lots, whether built or unbuilt, with more than one onsite sewage treatment and disposal system (septic system) per 1 acre.
- The language proposed to be deleted does not specifically address sewer connections and could be interpreted to prohibit any capital improvements such as roads, EMS, parks, and libraries. For these reasons staff continues to recommend the amendment as proposed at the LPA hearing.



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**POLICY 2.1.1:** Most residential, commercial, and industrial, and public development is expected to occur within the designated future urban areas on the Future Land Use Map through the assignment of very low densities to the non-urban categories.

- Modify language to allow for public facilities in non-urban future land use categories. Capital improvements may be necessary in the future to comply with F.S. 163.3177(3)(a)(6)(c)(3), as amended in HB 1379, which requires local governments to provide a timeline for the construction of sanitary sewer systems for any development of more than 50 residential lots, whether built or unbuilt, with more than one onsite sewage treatment and disposal system (septic system) per 1 acre.
- .....

**STANDARD 4.1.2: SEWER.**

7. Prohibit the installation of new onsite sewage treatment and disposal systems, as defined by State Statute, constructed within a basin management action plan area, a reasonable assurance plan, or a pollution reduction plan where connection to a publicly owned or investor-owned sewerage system is available as defined in F.S. 381.0065 (2)(a).

- Additional language to comply with the requirement of F.S. 403.067(7)(a)(10), as amended by HB 1379. This is not a new requirement by Lee County, but recognizes requirements implemented and enforced by state agencies.

8. On lots of one acre or less within a basin management action plan area, a reasonable assurance plan, or a pollution reduction plan, where a publicly owned or investor-owned sewerage system is not available, the installation of enhanced nutrient-reducing onsite sewage treatment and disposal systems, as defined by State Statute, or other wastewater treatment systems that achieve at least 65 percent nitrogen reduction is required.

- Additional language to comply with the requirement of F.S. 403.067(7)(a)(10), as amended by HB 1379. This is not a new requirement by Lee County, but recognizes requirements implemented and enforced by state agencies.
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**OBJECTIVE 18.3: SEWER AND WATER.** Given the desire to maintain a low residential density, new central sewage service is not economically feasible and is discouraged north of Bayshore Road within the future non-urban land use categories except to the areas identified by Lee Plan Table 6, “10-Year Sanitary Sewer Service Feasibility Plan.” Central water service for enhanced fire protection will be encouraged where economically feasible. (Ord. No. [03-02](#), [18-18](#))

- Central sewer may be necessary in the future to comply with F.S. 163.3177(3)(a)(6)(c)(3), as amended in HB 1379, which requires local governments to provide a timeline for the construction of sanitary sewer systems for any development of more than 50 residential lots, whether built or unbuilt, with more than one onsite sewage treatment and disposal system (septic system) per 1 acre.

- In response to public input at the Local Planning Agency, staff revised the proposed language to specifically address the areas identified in Lee Plan Table 6. This change will address the public's concern of weakening the protections of the Community Plan Area through overly broad changes.

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**POLICY 20.3.1:** In order to discourage unwanted urban development, central sewer lines will not be extended into the Buckingham Community Plan area, except to the areas identified by Lee Plan Map 4-B as Future Sanitary Sewer Service Areas, areas identified by Lee Plan Table 6, "10-Year Sanitary Sewer Service Feasibility Plan", the existing Resource Recovery Facility, the adjacent Lee County Parks and Recreation Facility, and any future public facility. Under no circumstances will the availability of central sewer lines be accepted as justification for a density or intensity increase, or reduction of lot size requirements (except as provided in Policy 20.1.5), within the Rural Community Preserve. (Ord. No. 10-15, 18-18)

- Delete language prohibiting capital improvements in the Rural future land use category. Central sewer lines may be necessary in the future to comply with F.S. 163.3177(3)(a)(6)(c)(3), as amended in HB 1379, which requires local governments to provide a timeline for the construction of sanitary sewer systems for any development of more than 50 residential lots, whether built or unbuilt, with more than one onsite sewage treatment and disposal system (septic system) per 1 acre.
- In response to public input at the Local Planning Agency, staff has revised the recommended language. The new recommended language will keep the language previously proposed for deletion and recommend language to allow central sewer lines to be extended to areas identified by Table 6, "10-Year Sanitary Sewer Service Feasibility Plan." This will address the public's concern of weakening the Community Plan Area protections with overly broad changes while still allowing central sewer lines to be extended to the areas identified in Table 6.

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#### IV Community Facilities and Services Element

**POLICY 56.1.3:** All utilities are encouraged to construct and install sufficient treatment facilities and collection systems that will meet or exceed the minimum acceptable service standards. These facilities will have capacity to service the demand so generated and will meet or exceed the minimum requirements of the Florida Department of Environmental Protection (DEP), Florida Department of Health, U.S. Environmental Protection Agency (USEPA), or local ordinances that exceed those requirements with priority given to advanced waste treatment. All utilities will advise the County of system expansions or modification to ensure coordination. (Ord. No. 92-35, 94-30, 17-19, 21-09)

- Additional language to comply with F.S. 163.3177(3)(a)(6)(c)(2), which requires priority to be given to advanced waste treatment facilities.

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**POLICY 56.1.8:** Sewage disposal facilities that dispose of waste into waterbodies that are currently not attaining nutrient or nutrient-related standards, as defined by State Statute, or that are subject to

a nutrient or nutrient-related basin management plan will provide advanced waste treatment by January 1, 2033.

- Additional language to comply with the requirement of F.S. 403.0861(1)(c)(1)(c) as amended by HB 1379.

**POLICY 56.1.9:** Sewage disposal facilities that dispose of waste into waterbodies determined not to be attaining nutrient or nutrient-related standards, as defined by State Statute, after July 1, 2023, or subject to a nutrient or nutrient-related basin management plan, or adopted reasonable assurance plan after July 1, 2023, will provide advance water treatment within 10 years after such determination or adoption.

- Additional language to comply with the requirement of F.S. 403.0861(1)(c)(2) as amended by HB 1379.

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**POLICY 56.2.2:** The County will, annually, provide to the Florida Department of Environmental Protection a status of the construction of sanitary sewers within basin management action plans (BMAP) or within the basin of a waterbody not attaining nutrient or nutrient-related standards as defined by State Statute.

- Additional language to comply with the requirement of F.S. 403.067(7)(a)(12) as amended by HB 1379.

**POLICY 56.2.3:** The County will assess the feasibility of providing central sewer service to areas of more than 50 residential lots, built or unbuilt, with more than one onsite septic system located at more than 1 per acre within the unincorporated areas consistent with F.S. 163.31773(a)(6)(c)(3). These areas are identified in Table 6, 10-Year Sanitary Sewer Service Feasibility.

- Additional language to comply with the requirement of F.S. 163.31773(a)(6)(c)(3) as amended by HB 1379.
- Following comments between members of the LPA and staff, staff revised the policy to closely align with the State Statute.

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## VII Conservation and Coastal Management Element

### Goal 125: Water Quality

**POLICY 125.1.9:** Encourage the use of the water quality improvement grant established within the Department of Environmental Protection to address wastewater, stormwater, and agricultural sources of nutrient loading to fund projects that will improve the quality of waterbodies.

- Additional language to encourage the use of the water quality improvement grant, formerly known as the wastewater grant program. HB 1379 amended F.S. 403.0673 to expand grant opportunities to include stormwater and agricultural sources of nutrient loading to surface

water and groundwater. The additional language will encourage the use of the grant to fund applicable projects in the future.

**Table Amendments:**

- **Table 6 – 10-Year Sanitary Sewer Service Feasibility (New Table)**

**Table 6: 10-Year Sanitary Sewer Service Feasibility**

Residential Development	# of Parcels	Development Location	Facility Name	Facility Address	Facility Capacity	Projected Facility Flow in 20 years	Feasibility	Timeline
Alden Pines/Sundiet Village	602	Stringfellow Rd/Sundiet Blvd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Bayshore Estates	82	Bayshore Rd/Willow Stream Ln	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Bayshore Gardens	50	Donald Rd/Gardenia Cir	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Bayshore Pines	52	Glick Dr/Donna Ln	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Bellaire/San Carlos Grove	153	Pine Rd/Bristol Rd	Three Oaks WRF	18521 Three Oaks Pkwy, 33967	6.0 MGD	7.4 MGD	Not feasible based on curent conditions.	N/A
Blackhawk/Hidden Pines	86	Blackhawk Dr/Briarcliff Rd	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
Bocilla Lane	54	Bocilla Ln/Stringfellow Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Bokeelia	108	Stringfellow Rd/Main St	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Buckingham Airpark East	128	North Dr/Cherokee Ave	FGUA - Lehigh Acres WWTF	550 Construction Ln, 33971	3.0 MGD	3.83 MGD	Not feasible based on curent conditions.	N/A
Buckingham Park	494	Astoria Ave/Cherrydale St	FGUA - Lehigh Acres WWTF	550 Construction Ln, 33971	3.0 MGD	3.83 MGD	Not feasible based on curent conditions.	N/A
Cabana City/Rivers Edge	171	River Rd/Cabana Ave	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Calusa Woods/Northdale	86	Carolyn Ln/Bayshore Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Captains Harbor	76	Nautical Way/Captains Harbor	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Central Pine Island	166	Stringfellow Rd/Fairbanks Dr	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Charleston Park	163	Palm Beach Blvd/1st St	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Coastal Estates	99	Pine Ridge Rd/Bombay Ln	Fort Myers Beach WRF	17155 Pine Ridge Rd, 33931	6.0 MGD	2.5 MGD	Not feasible based on curent conditions.	N/A
Collier+Rupert/Pine Tree Estates	219	Laurel Dr/N 2nd St	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Colonial Pines	56	Leetana Rd/Boonesboro Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Cypress Lake Country Club Estates	145	Overlook Dr/Brentwood Rd	LCU - Fiesta Village WRF	1366 San Souci Dr, 33919	5.0 MGD	4.0 MGD	Not feasible based on curent conditions.	N/A
Doughtreys Creek	199	Bayshore Rd/Sean Ln	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Deep Lagoon	60	McGregor Blvd/Bay Dr	LCU - Fiesta Village WRF	1366 San Souci Dr, 33919	5.0 MGD	4.0 MGD	Not feasible based on curent conditions.	N/A
Eagle Lake Estates	50	Stringfellow Rd/Eagle Lake Dr	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
East Lake Colony	80	Tarpon Way/Bayshore Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Edgewater Gardens/Belle Aire Lagoon	177	Pondella Rd/Sabal Gardens Dr	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Flamingo Bay	363	Flamingo Dr/Mallard Ave	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Florimond Manor	361	Plantation Rd/Idlewild St	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
Fort Myers	206	Maravilla/US 41	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Fort Myers Gulf Acres	122	Whitecap Cir/Orange Grove Blvd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Gramac/Tamiami Estates/Berts Bayshore Manor	379	Bayline Dr/Old Bridge Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Helen Lane Condo	64	Helen Ln/Main St	Fort Myers Beach WRF	17155 Pine Ridge Rd, 33931	6.0 MGD	2.5 MGD	Not feasible based on curent conditions.	N/A
Hendry Creek	120	Hendry Creek Dr/Chloe Cir	LCU - Fiesta Village WRF	1366 San Souci Dr, 33919	5.0 MGD	4.0 MGD	Not feasible based on curent conditions.	N/A
Heritage Farms 1st Addition/Heritage Pines/Lucas Landing/Stone Ridge	65	Liberty Square/Cindy Ct	LCU - Fiesta Village WRF	1366 San Souci Dr, 33919	5.0 MGD	4.0 MGD	Not feasible based on curent conditions.	N/A
Idalia	98	Old Olga Rd/W Court Pl	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Island Park/Tidewater Island/Mullock Creek	325	Park Rd/Pioneer Rd	Three Oaks WRF	18521 Three Oaks Pkwy, 33967	6.0 MGD	7.4 MGD	Not feasible based on curent conditions.	N/A
Jade Estates	63	Jade Ct/Coon Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Kings Bay Estates	49	Coastal View Dr/Bayshore Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Knights Bokeelia/Sandy Shoals/Eagles Nest	366	Barrancas Ave/Bowline St	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Lakeville	248	Lakeville Dr/Edgewood Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Lehigh Acres	110,795	East Lee County	FGUA - Lehigh Acres WWTF	550 Construction Ln, 33971	3.0 MGD	3.83 MGD	Not feasible based on curent conditions.	N/A
Littlegroves/Powell	171	Powell Dr/Ikora Dr	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Lobean	75	Barrancas Ave/Quail Trl	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Luloma Acres	65	Stringfellow Rd/Luloma Ln	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
McGregor Pines/McGregor Vista/Deep Lagoon Heights	76	McGregor Blvd/Martin Dr	LCU - Fiesta Village WRF	1366 San Souci Dr, 33919	5.0 MGD	4.0 MGD	Not feasible based on curent conditions.	N/A
Mirror Lakes	193	Blackstone Dr/Lasalle Ave	FGUA - Lehigh Acres WWTF	550 Construction Ln, 33971	3.0 MGD	3.83 MGD	Not feasible based on curent conditions.	N/A
Mobile Manor	370	Bayshore Rd/Lantern Ln	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Nancy Lane Condo	75	Nancy Ln/Main St	Fort Myers Beach WRF	17155 Pine Ridge Rd, 33931	6.0 MGD	2.5 MGD	Not feasible based on curent conditions.	N/A
Oakdale/United Fruit	56	Butler Rd/Reymoor Dr	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Orange River Hills	69	Sunkist Way/Orange River Blvd	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Page Park	162	Center Rd/1st St	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
Palm Creek	63	Palm Creek Dr/Pioneer Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Palmona Park	819	Pine Island Rd/Atlantic Ave	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Paradise Shores	394	Bigelow Rd/Old Olga Rd	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Peaceful Pines	50	N Tamiami Trl/Avenue A	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A

**Table 6: 10-Year Sanitary Sewer Service Feasibility**

Pine Island Center East	231 Phillips St/Avenue E	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pine Island Center West	161 Russell Rd/Holly Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pine Island Estates/Kreamers Avocado	490 Stringfellow Rd/Harbor Dr	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pine Island Ridge/Serenity Cove/Charlotte Shores/Pine Island Villas	801 Marina Rd/Dolphin Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pine Island Tropical Homesites	572 Stringfellow Rd/Tangelo Dr	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pine Island Village	70 Turtle Trail Ln/Stringfellow Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pinehurst Acres/Kreamers Avocado	380 Kreamers Dr/Stringfellow Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Pinehurst Estates/Camelot	105 Pine Villa Ln/Daniels Pkwy	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
Plantation Pines/The Rookery/Highland Pines Estates	228 Plantation Rd/Plantation Pines Blvd	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
Pondella Acres/Travis/Pine Acres/Blue Water Shores/Hancock Estates/Aqua Cove/Marine Homes/Wards Landing	209 Moody Rd/Hancock Bridge Pkwy	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Pondella Heights	50 Westwood Dr/Pondella Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Pondella Shores	91 Pondella Rd/Betmar Blvd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Port Carlos Cove	155 Spanish Main St/Galleon Way	Fort Myers Beach WRF	17155 Pine Ridge Rd, 33931	6.0 MGD	2.5 MGD	Not feasible based on curent conditions.	N/A
Port Edison/Northwood	296 Brooks Rd/Evalena Ln	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
River Oaks	159 Iverson Dr/Charles St	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Riverbend	217 Riverbend Blvd/Indian Creek Dr	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
Saint James City	1769 Sanibel Blvd/Stringfellow Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
San Carlos Park	6,207 San Carlos Blvd/Lee Rd	Three Oaks WRF	18521 Three Oaks Pkwy, 33967	6.0 MGD	7.4 MGD	Not feasible based on curent conditions.	N/A
September Estates/Coconut Grove/Pinehurst Acres	140 Stringfellow Rd/Helen Rd	Pine Island WRF	6928 Stringfellow Rd, 33956	0.383 MGD	0.22 MGD	Not feasible based on curent conditions.	N/A
Shady Grove/Verona Heights/Mariana Heights/Moss Park/Glenwood Park/Melody Park/Autumn Oaks/Autumn Acres/Maranatha Park/Evergreen Acres/	264 W Mariana Ave/Piney Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Sheltering Pines Mobile Home Village	120 Unique Cir/S Tamiami Trl	Three Oaks WRF	18521 Three Oaks Pkwy, 33967	6.0 MGD	7.4 MGD	Not feasible based on curent conditions.	N/A
Skyline Woods/River Manor/Overriver Shores/Tropic Shores Estates	75 Moody Rd/Skyline Dr	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Suncoast Estates	1564 Suncoast Dr/Gish Ln	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
The Timbers	61 Penzance Blvd/Timberline Cir	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
The Willows	94 Willow Lake Cir/Plantation Rd	CFM - Fort Myers South AWWTP	1618 Matthew Dr, 33907	6.96 MGD	6.5 MGD	Not feasible based on curent conditions.	N/A
Timberbend	78 Bayshore Rd/Tallulah Rd	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Town and River Estates Subdivision	182 McGregor Blvd/N Town and River Dr	LCU - Fiesta Village WRF	1366 San Souci Dr, 33919	5.0 MGD	4.0 MGD	Not feasible based on curent conditions.	N/A
Town of Alva	98 Pearl St/Julia St	CFM - Fort Myers Central AWWTP	1501 Raleigh St, 33916	4.51 MGD	3.7 MGD	Not feasible based on curent conditions.	N/A
West Bayshore Road	182 E Mariana Ave/Ixora Dr	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A
Yacht Club Colony	264 Winston Rd/N Westwood Dr	FGUA - Del Prado WWTF	4100 Del Prado Blvd N, 33917	4.8 MGD	4.17 MGD	Not feasible based on curent conditions.	N/A