LEE COUNTY BOARD OF COUNTY COMMISSIONERS

ZONING HEARING AGENDA

Wednesday, June 18, 2025
9:30AM

DCI2024-00020 Z-25-006	Bayshore Rezone
DCI2024-00034 Z-25-012	Arthrex at Plantation
DCI2025-00002 Z-25-011	Seagate Mine

NOTICE OF PUBLIC HEARING

The Lee County Board of County Commissioners will hold a public hearing at 9:30 am on Wednesday, June 18, 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.

DCI2024-00020 / Bayshore Rezone

Request to rezone 1.08± acres from Agricultural (AG-2) to Commercial Planned Development (CPD) to allow for a maximum of 10,000 square feet of commercial uses.

Located at 9461 Bayshore Road, Bayshore Planning Community, Lee County, FL.

DCI2024-00034 / Arthrex at Plantation

Request to rezone 37.7± acres from Industrial Planned Development (IPD) and Residential Planned Development (RPD) to Mixed-Use Planned Development (MPD) to allow for up to 510,000 square feet of industrial uses, 5,000 square feet of medical office, and 105,000 square feet of general office (or 80,000 square feet of retail commercial and general office), or alternatively, 464 multiple-family residential dwelling units, including 168 Bonus Density Units, and 30,000 square feet of retail commercial and general office uses.

Located at 14550 Plantation Rd. (just north of the intersection with Six Mile Cypress Pkwy.) South Fort Myers Planning Community, Lee County, FL.

DCI2025-00002 / Seagate Mine

Amendment to an existing approved IPD to increase the maximum depth of Extraction from 40 feet to 60 feet. No other amendments are proposed.

Located at 21260 State Road 82, Southeast Lee County 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 the ADA Coordinator, (239) 533-8782, ADArequests@leegov.com or Florida Relay Service 711. Accommodation will be provided at no cost to the requestor. Requests should be made at least five business days in advance.

Comprehensive Plan Amendment
and
Zoning Hearing Agenda

Wednesday, June 18, 2025

List of Hearing Attendees by Case

Case Number	Name	Party
DCI2024-00020 Bayshore Rezone	Steve Darby, PE Darby Engineering	Applicant
DCI2024-00034 Arthrex at Plantation	Richard Akin, Esq. Henderson Franklin	Applicant
	Jim Banks, PE JMB Transportation	Applicant
	David Bumpous Arthrex	Applicant
	Jim Carr, PE LJA Engineering	Applicant
	Margaret Emblidge, AICP LJA Engineering	Applicant
	Jeremy Sterk EarthTech Environmental	Applicant
DCI2025-00002 Seagate Mine	Richard Akin, Esq. Henderson Franklin	Applicant
	Alexis Crespo, AICP RVi Planning + Landscape Architecture	Applicant
	Kirk Martin Water Science Associates	Applicant
	Matt Price Seagate Development	Applicant
	Ted Treesh, PE TR Transportation Consultants	Applicant
	Randall R. Johnson	Public Participant

DCI2024-00020
Bayshore Rezone

Staff Summary

CASE NUMBER & NAME:	DCI2024-00020 / Bayshore Rezone
REQUEST:	Request to rezone 1.08± acres from Agricultural (AG-2) to Commercial Planned Development (CPD) to allow for a maximum of 10,000 square feet of commercial uses.
RESOLUTION NUMBER:	Z-25-006
LOCATION:	9461 Bayshore Road, Bayshore Planning Community, Lee County, FL.
OWNER:	KEVJO PROPERTIES LLC
APPLICANT:	Alex Jusko
AGENT:	Steven L. Darby, P.E. Darby Engineering, Inc. 2638 Stonyhill Court Cape Coral, Florida 33991
HEARING EXAMINER RECOMMENDATION:	Approval, subject to conditions and deviations.
PARTICIPANTS:	None

DCI2024-00020

Aerial

Subject Property

N
W E
S

0 500
Feet

Lee County
Southwest Florida

Summary of Hearing Examiner Recommendation

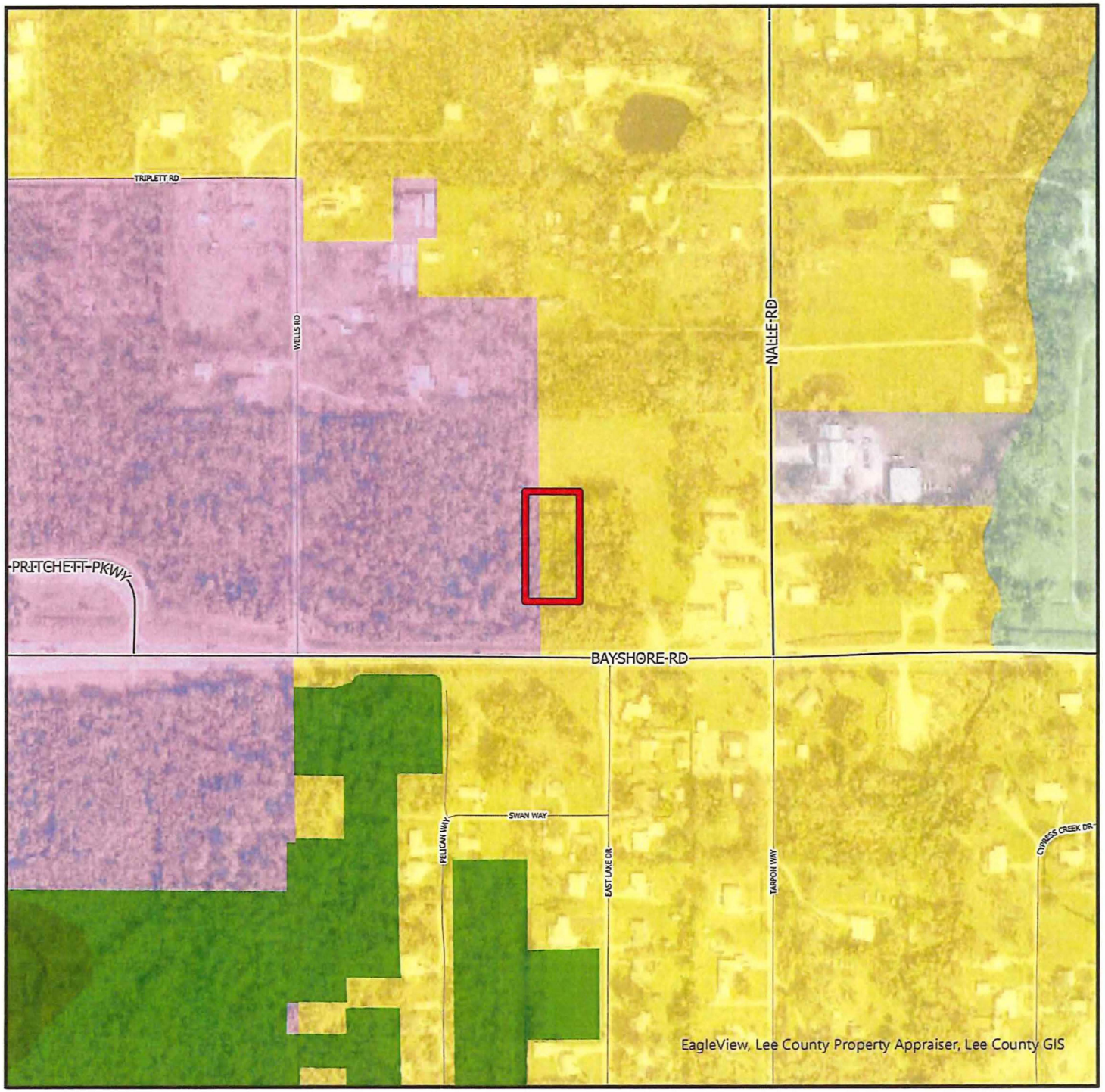
BAYSHORE REZONE

The request infills development north of Bayshore Road on land surrounded by commercial planned developments. Proposed uses are narrowly tailored to provide office/storage space for builders/contractors within the Bayshore Planning Community. Applicant seeks no deviations from LDC development standards.

No members of the public appeared at hearing.

The Hearing Examiner recommends approval, with conditions.

Detailed recommendation follows



DCI2024-00020

Future Land Use

- Subject Property
- Sub-Outlying Suburban
- Public Facilities
- General Interchange
- Rural
- Conservation Lands - Upland
- Wetlands
- Conservation Lands - Wetland

N
W E
S

0 500
Feet

Lee County
Southwest Florida

DCI2024-00020

Aerial

Subject Property

N
W E
S

0 500
Feet

Lee County
Southwest Florida

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2024-00020

Regarding: **BAYSHORE REZONE**

Location: 9461 Bayshore Road
Bayshore Planning Community
(District 5)

Hearing Date: March 6, 2025

I. Request

Rezone 1.08± acres from Agricultural (AG-2) to Commercial Planned Development (CPD) to allow a maximum of 10,000 square feet of commercial uses.

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

II. Hearing Examiner Recommendation

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

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone to planned development districts.[1] In satisfaction of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone agriculturally zoned land to CPD.

In preparing a recommendation to the Board, the Hearing Examiner must consider the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other applicable County regulations to the facts presented in a rezoning request.[2] Specifically, the Hearing Examiner must find the request 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.[3] The Hearing Examiner may take judicial notice of previous Board decisions.[4] The

[1] LDC §34-145(d)(1)(a) & (2)(a).
[2] LDC §34-145(d)(3).
[3] LDC §34-145(d)(4).
[4] Lee Co. Admin. Code 2-6 §2.3.D(4)(b).

Hearing Examiner's recommendation must be based on competent and substantial evidence.[5]

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

Request Synopsis

The 1.08± acre property is separated from Bayshore Road/SR 78 by an area taken by the Florida Department of Transportation (FDOT) for road expansion.[6] The site remains vacant and heavily vegetated.

Applicant seeks to develop 10,000 square feet of flexible commercial space to accommodate offices and storage for builders/contractors.[7] The proposed site plan reflects a single building with parking at the project entrance. Maximum height is 35 feet. The request seeks no deviations from LDC development standards.

The project contemplates access to Bayshore Road through interconnections to adjacent commercial properties. FDOT exercises authority over direct connections to Bayshore Road and will determine access points based on development timing.

Staff recommended approval, finding the proposed CPD satisfies LDC review criteria.

[5] Lee Co. Admin. Code 2-6 §3.3.A(2); LDC §34-83(a)(4)(a)(1)(a).
[6] Hearing testimony indicated proximate areas similarly taken by FDOT for road expansion. Darby Testimony.
[7] The Schedule of Uses is limited. *See* Condition 2a. *See* LDC §34-622(c)(9).

Character of Area

The property sits north of Bayshore Road, between I-75 and Nalle Road. Land uses along this section of Bayshore Road feature a church and gas station, with most land remaining vacant. Properties from Wells Road to Nalle Road are zoned for commercial use, except for this property. The site is uniquely positioned between two CPDs. Single family land uses and the Seminole Campground RV Park are north of the Interchange Area.

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.[8]

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.[9]

[8] LDC §34-145(d)(4)(a)(1).
[9] LDC §34-145(d)(4)(a)(2).

Lee Plan

Planned developments must be consistent with the Lee Plan.[10]

Lee Plan maps designate the property within the General Interchange and Sub-Outlying Suburban future land use categories.[11] The site is also located within the Bayshore Planning Community.[12]

Most of the site is classified as Sub-Outlying Suburban.[13] Sub-Outlying Suburban lands are characterized by low density residential areas. A small western portion of the property is designated as General Interchange. Interchange areas are primarily intended for uses serving the traveling public including service stations, hotels/motels, restaurants, and a range of other commercial land uses.[14]

The Lee Plan aspires to protect the Bayshore community's rural character by allowing minimal commercial activity.[15] The request meets Community Plan objectives as follows:

- The County is directed to ensure separation of urban and rural land uses.[16] Surrounding lands are classified as either Sub-Outlying Suburban or General Interchange.[17] The Future Land Use Map shows no Rural lands within the vicinity.

- The Bayshore Plan permits minor commercial uses at the Nalle Road/Bayshore Road intersection.[18] Requested uses are narrowly tailored to Contractors/Builders use groups, recognized as light commercial activity.[19] The proposed schedule of uses does not include a retail component.[20]

- The Bayshore Plan permits non-retail commercial uses "consistent with the Lee Plan and LDC."[21] Proposed uses are consistent with the General Interchange category and compatible with adjacent CPDs approved for more intense development programs.

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[10] F.S. §163.3194(1)(a); LDC §§34-411(a), §34-491.
[11] Lee Plan Map 1-A.
[12] Lee Plan Map 2-A.
[13] *See* Lee Plan Map 1-A; Staff Report (pg. 3, Attachment D).
[14] Lee Plan Policy 1.3.2; *See also* Goal 6.
[15] Lee Plan Goal 18. Four objectives guide review of development applications: Land Use, Transportation, Sewer and Water, and Parks and Recreation.
[16] Lee Plan Objective 18.1: Land Use.
[17] *See* Lee Plan Map 1-A; Staff Report (Attachment D). The General Interchange category occupies lands from I-75 to the property. Sub-Outlying Suburban lands lie east and south. Conservation lands lie farther south across Bayshore Road.
[18] Lee Plan Policy 18.1.1. Retail commercial uses are limited to Interstate Interchange Areas.
[19] *See* Staff Report (pg. 3).
[20] *See* Condition 2a.
[21] Lee Plan Policy 18.1.1.

The request infills development along an arterial road.[22] Locating contractors/builders at this location supports the Bayshore community by positioning service providers within proximity to area residents and businesses.

The Lee Plan Economic Element encourages commercial uses to expand the County's economic base.[23] The request contributes to a positive business climate, creating additional employment opportunities. The property's location between commercially zoned lands makes it well suited for commercial uses.[24]

Based on the foregoing analysis, the Hearing Examiner concludes the request is consistent with the Lee Plan and compatible with the surrounding area.

LDC

Requests to rezone to a planned development must comply with the LDC and other County regulations. [25]

The request must meet the LDC and other County regulations or qualify for deviations.[26] "Deviations" are departures from land development regulations.[27] As Applicant seeks no deviations, development must comply with the LDC.

The project will be subject to road, fire, and emergency services impact fees.[28]

Environmental/Natural Resources

Requests to rezone property may not adversely affect environmentally critical/sensitive areas or natural resources.

The property is vacant and covered with native vegetation.[29] Despite indigenous vegetation, the Protective Species Survey disclosed no evidence of listed or

[22] Lee Plan Objective 2.1, 2.2.
[23] Lee Plan Goal 159, Objective 158.2.
[24] Lee Plan Policy 161.4.3
[25] LDC §34-2: Development of County Impact means developments that may have a substantial effect upon the health, safety, and welfare of the citizens of the County or natural resources. *See also* LDC §§34-341(a), 34-411(a), 34-612(2). Lee Plan Policies 2.1.2, 2.1.1, 6.1.3. The planned development district affords flexibility in site design.
[26] Development will be subject to further permitting under the LDC.
[27] LDC §34-2.
[28] LDC Chapter 2.
[29] *See* Staff Report (pg. 5-7, Attachment M-N). The record contains competing evidence of FLUCCS designations to be resolved through the development order process.

protected species.[30] Staff noted discrepancies with Applicant's environmental review that will be addressed during the development order process.[31]

As a small project, site design must devote a minimum of 20% of the acreage to open space.[32] The Master Concept Plan ("MCP") reflects compliance with this standard. The MCP also reflects compliance with LDC buffer requirements.[33]

Wellfield Protection

The Lee Plan requires the County to protect groundwater supplies from activity that may degrade those supplies.[34] The County regulates development activity within wellfield protection zones. Land uses/activities are subject to periodic inspection by wellfield protection officers.[35]

The property lies within travel time of a 5-Year Wellfield Protection Zone.[36] Travel times represent the time it takes for a pollutant to reach a wellfield based on groundwater flow and withdrawal models.

Certain uses have the potential to adversely impact public water supply wells if located within the 1-Year travel time.[37] The County Hydrogeologist reviewed the request and removed potentially harmful uses prior to hearing.[38] Staff found remaining uses consistent with Lee Plan Wellfield Protection directives.[39]

The Hearing Examiner finds the requested CPD will not harm environmentally critical/sensitive areas or natural resources.[40]

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[30] *See* Staff Report (Attachment M-N). The Protected Species Survey erroneously references a North Port property, but Staff confirmed the report evaluated the correct property and agreed with its findings. *See* Staff Report (Attachment M); Groth Testimony.

[31] *See* Staff Report (Attachment M); Staff Ex. 3 (slide 24); Groth Testimony. Staff recommends a jurisdictional wetland determination prior to site development. The LDC imposes this requirement, so a condition of approval is not warranted.

[32] LDC §10-415. Based upon 1.08 acres, required open space amounts to 0.22 acres. The Staff Report included a condition imposing a more stringent open space standard based on prior MCP submittals but removed the condition at hearing. Groth Testimony.

[33] The project provides 5-foot Type A buffers along the west, north, and east boundaries and a 15-foot Type D buffer along the southern boundary.

[34] Lee Plan Goals 63, 123, 125, Objective 63.2, Policies 125.1.1, 125.1.2.

[35] Lee Plan Policies 63.1.2, 125.1.6, LDC §14-252.

[36] *See* Staff Report (pg. 5-6, Attachment L). *See also* Lee Plan Map 4-C and LDC Appendix N.

[37] *Id.*

[38] Staff removed Laundry and Drycleaning, Groups I and II prior to hearing. *See* Staff Report (pg. 6, Attachment L); Groth Testimony.

[39] *See* Staff Report (Attachment L); Lee Plan Goals 63, 125, Objective 63.1, Policy 63.1.2. Staff will review the request against the Wellfield Protection Ordinance again prior to site development.

[40] Lee Plan Goals 63, 77, 125; LDC §34-411(g),(h).

Transportation

Zoning actions must demonstrate sufficient access to support development intensity. Expected impacts to the road network must be addressed by existing county regulations and conditions of approval.[41]

The MCP proposes access to Bayshore Road/SR 78 via interconnections with adjacent commercial properties.[42] Bayshore Road is a two-lane arterial roadway connecting I-75 to SR 31. As a state-maintained facility, FDOT has permit authority over driveway access location.

The Traffic Impact Statement (TIS) assumed project buildout in 2026.[43] The TIS concluded the project will not adversely affect the surrounding roadway network.[44] Indeed, projected trip generation results in a *de minimis* impact on adjacent roads.[45]

Hearing testimony reflects FDOT is conducting a PD&E study to widen Bayshore Road between I-75 and SR 31.[46] The study determines right-of-way needs and cross-sections necessary to widen the road to a four-lane divided highway.[47]

Applicant demonstrated FDOT's planned cross-section is an "urban" design with two travel lanes in each direction, raised median with curbs and gutter, and a shared use path on each side.[48] FDOT took land between the property and Bayshore Road presumably to satisfy right-of-way expansion.

Public Services

Availability of public services and infrastructure must be analyzed during rezoning.[49]

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[41] LDC §34-145(d).
[42] The MCP reflects optional access to the east. Discussion at hearing identified that access easements should be provided to both western and eastern access points to ensure connectivity and relieve trip generation on Bayshore Road.
[43] *See* Staff Report (Attachment J: Traffic Impact Statement for Bayshore Flex Space prepared by JMB Transportation Engineering, Inc., dated May 20, 2024).
[44] *Id.*
[45] Forecasted generation yields less than 1% increase on the adjacent road network. *See Id. See also* Staff Report (Attachment K).
[46] Darby Testimony.
[47] Upon completion of the PD&E Study, the project will proceed to right-of-way acquisition, design, and construction.
[48] Darby Testimony; Applicant Ex. 1 (slide 4).
[49] Lee Plan Policy 2.2.1.

Public services include services, facilities, capital improvements, and infrastructure necessary to support development.[50] The property has access to public water, sanitary sewer, police, fire, and emergency medical services.[51]

The request is suitable at its location amid public services and infrastructure.

Conditions

The County must administer the zoning process to minimize impacts of proposed land uses on adjacent property and protect natural resources.[52] Conditions must plausibly relate to anticipated impacts, and be pertinent to mitigating impacts to public health, safety, and welfare.[53]

Proposed conditions limit permitted uses, define development parameters, and ensure compliance with the Lee Plan and LDC. The Staff Report included a condition relating to open space that the Parties removed at hearing.[54]

The Hearing Examiner recommends a condition highlighting interconnectivity with adjacent commercial parcels.[55] The LDC encourages interconnection as a means to reduce new trips on arterial roads and to improve traffic circulation.[56]

Public Participation

No members of the public attended the hearing before the Hearing Examiner.

Conclusion

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

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[50] Lee Plan Glossary.

[51] Lee Plan Objectives 2.2, 4.1, 53.1, 56.1, 56.2, 66.1, Policies 2.2.1, 56.1.4. The property is located within the Lee County Utilities franchise area for potable water service with infrastructure adjacent to the site. Florida Governmental Utilities Authority has infrastructure in the area with capacity to provide sanitary sewer. Bayshore Fire District Station 131 and Emergency Medical Services are located a quarter mile from the site. Law enforcement services are available from the Lee County Sheriff's North District offices on Pondella Road. The property has access to paved roadways, including a state maintained arterial. *See* Staff Report (pg. 8-9, Attachment I).

[52] Lee Plan Policy 135.9.6; LDC §§34-145(d)(4), 34-377, 34-932.

[53] LDC §34-932(c).

[54] Applicant originally submitted a MCP showing open space in exceedance of LDC requirements. Applicant revised the MCP to reflect consistency with the LDC 20% open space standard. LDC §10-415.

[55] The property is uniquely positioned due to (1) FDOT taking land that separates the property from Bayshore Road, and (2) its location abutting two different CPDs. The Bayshore Village CPD to the west is subject to alternative MCPs that contemplate connection to the property under various scenarios. *See* Staff Report (Attachment O: Z-23-034). Public benefit derives from providing easements for interconnections east and west to accommodate future commercial development and relieve safety concerns along Bayshore Road.

[56] *See generally* LDC §10-295.

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. Lee Plan Goals 2, 6, 18, 60, 61, 63, 77, 125, 158; Objectives 2.1, 2.2, 4.1, 18.1, 77.2, 125.1, 158.2, and Policies 1.1.11, 1.3.2, 1.6.5, 2.1.1, 2.1.2, 2.2.1, 6.1.1, 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 18.1.1, 125.1.2, 125.1.3, Standards 4.1.1, 4.1.2, 4.1.4; Lee Plan Maps 1-A, 1-B, 2-A, 4-A, 4-B, 4-C, Table 1(b).

B. Meets the LDC and other County regulations. LDC Chapters 2, 10, 34.

C. Is compatible with existing and planned uses in the area. *See* Lee Plan Goals 2, 6, 18, Objectives 2.1, 2.2, 18.1, and Policies 2.1.1, 6.1.1, 6.1.4, 6.1.5, 6.1.6, and LDC §34-411(j).

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 Objective 39.1, Policies 6.1.1, 6.1.5; and LDC §§2-261 *et seq.*, 10-286, 10-295, 34-411(d).

E. Will not adversely affect environmentally critical areas or natural resources. *See* Lee Plan Goal 60, 63, 77, 125, Objectives 77.2, 77.3, Policies 6.1.1, 6.1.6, 54.1.3, 61.3.6, 77.3.2, 77.3.3, 77.3.5, 123.2.4, 125.1.2, 125.1.3, 125.1.6, and Standard 4.1.4, Lee Plan Map 4-C.

F. Will be served by urban services. *See* Lee Plan Objectives 2.1, 2.2, 4.1, 6.1, Policies 2.2.1, 6.1.1, 6.1.4, 53.1.5, 56.1.4; Standards 4.1.1, 4.1.2, Lee Plan Maps 4-A, 4-B.

G. Proposed uses are appropriate at the location. *See* Lee Plan Goal 2, 6, 18, Objectives 1.1, 2.1, 2.2, 18.1, Policies 1.1.11, 1.3.2, 2.1.1, 2.2.2, 6.1.4, 6.1.7, 18.1.1, Table 1(b); and LDC §34-411.

H. Recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. *See* LDC Chapters 10 and 34.

Date of Recommendation: May 2, 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

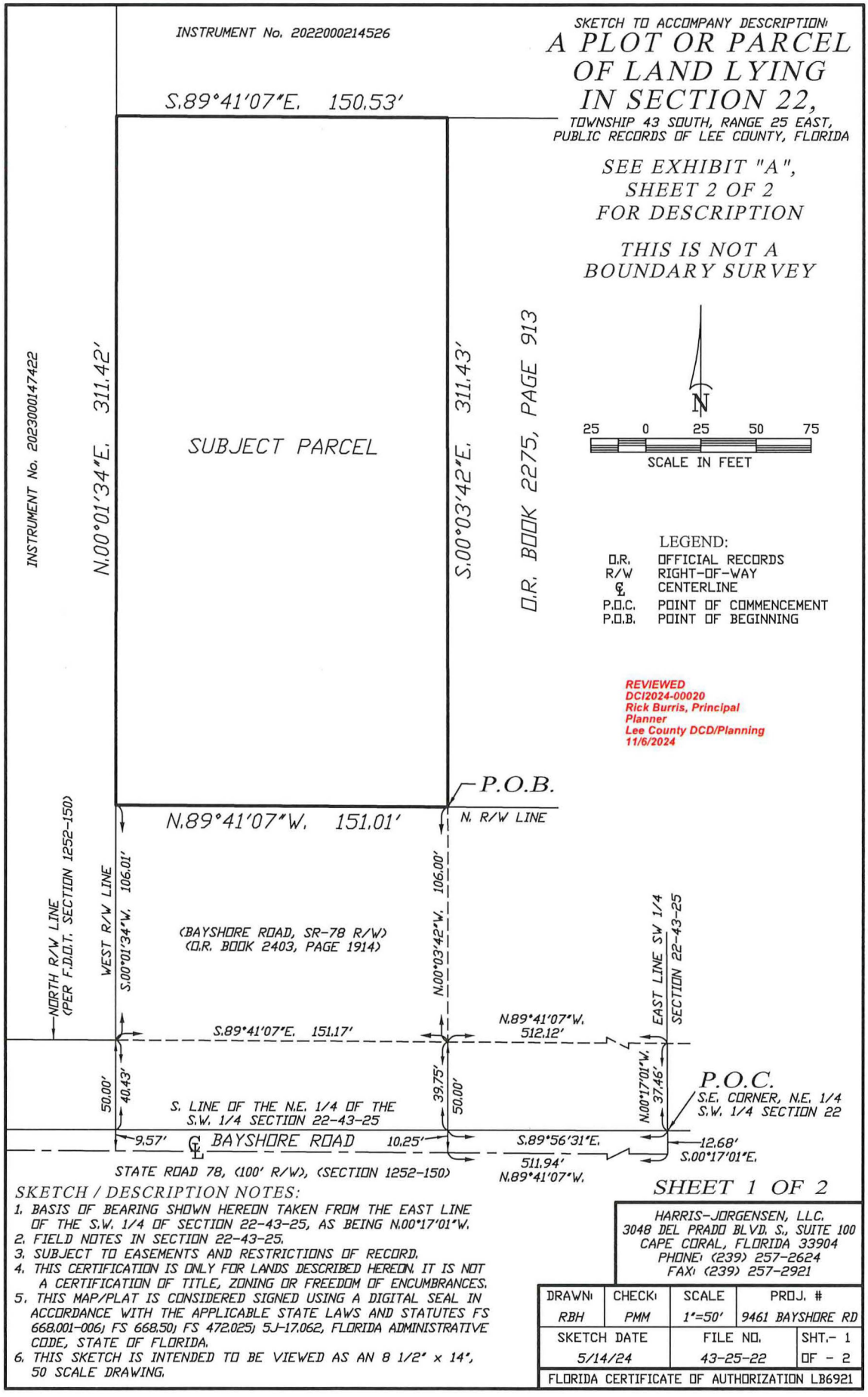
Exhibit A Legal Description and Vicinity Map
Exhibit B Recommended Conditions and Deviations
Exhibit C Exhibits Presented at Hearing
Exhibit D Hearing Participants
Exhibit E Information

Case: DCI2024-00020

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A



SHEET 1 OF 2

SKETCH / DESCRIPTION NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE EAST LINE OF THE S.W. 1/4 OF SECTION 22-43-25, AS BEING N.00°17'01"W.
2. FIELD NOTES IN SECTION 22-43-25.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES FS 668.001-006; FS 668.50; FS 472.025; 5J-17.062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA.
6. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14", 50 SCALE DRAWING.

HARRIS-JORGENSEN, LLC.
3048 DEL PRADO BLVD. S., SUITE 100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

DRAWN:	CHECK:	SCALE	PROJ. #
RBH	PMM	1"=50'	9461 BAYSHORE RD
SKETCH DATE		FILE NO.	SHT.- 1
5/14/24		43-25-22	OF - 2

FLORIDA CERTIFICATE OF AUTHORIZATION LB6921

DESCRIPTION TO ACCOMPANY SKETCH

EXHIBIT "A"

A PLOT OR PARCEL OF LAND LYING IN THE E. 1/2 OF THE N.E. 1/4 OF THE S.W. 1/4 OF SECTION 22

TOWNSHIP 43 SOUTH, RANGE 25 EAST,
PUBLIC RECORDS OF LEE COUNTY, FLORIDA

DESCRIPTION:

A PLOT OR PARCEL OF LAND LYING IN SECTION 22, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, SAID PLOT OR PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 22; THENCE RUN N.00°17'01"W. ALONG THE EAST LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 22 TO A POINT ALONG THE NORTH RIGHT OF WAY LINE OF BAYSHORE ROAD (STATE ROAD 78) (100 FEET WIDE (PER FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), SECTION 1252-150)) FOR 37.46 FEET; THENCE RUN N.89°41'07"W. ALONG SAID RIGHT OF WAY FOR 512.12 FEET; THENCE RUN N.00°03'42"W. FOR 106.00 FEET TO THE POINT OF BEGINNING; THENCE RUN N.89°41'07"W. FOR 151.01 FEET; THENCE RUN N.00°01'34"E. FOR 311.42 FEET; THENCE RUN S.89°41'07"E. FOR 150.53 FEET; THENCE RUN S.00°03'42"E. FOR 311.43 FEET TO THE POINT OF BEGINNING.

CONTAINS 46,952 SQUARE FEET OR 1.08 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE AFORESAID EAST LINE OF THE SOUTHWEST QUARTER (S.W. 1/4) OF SECTION 22, AS BEING N.00°17'01"W.

Phillip M Mould, LS6515, State of Florida

Digitally signed by Phillip M Mould, LS6515, State of Florida
Date: 2024.05.14 14:02:47 -04'00'

PHILLIP M. MOULD
LS6515
MAY 14, 2024

REVIEWED
DCI2024-00020
Rick Burris, Principal Planner
Lee County DCD/Planning
11/6/2024

9461 BAYSHORE RD

DCI2024-00020

Zoning

Subject Property

N
W
E
S

0 500

Feet

Lee County
Southwest Florida

Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

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

1. MCP/Development Parameters

a. MCP. Development must be consistent with the one-page MCP entitled "Bayshore Flexspace Master Concept Plan," received March 4, 2025 (Exhibit B).

b. 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.

c. Development Parameters. The CPD is limited to 10,000 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
Cleaning and Maintenance Services
Contractors and Builders, Groups I and II
Storage, Indoor and Open
Fences and Walls
Parking Lot, Accessory
Pet Services – no outdoor runs
Signs
Temporary Uses

b. Site Development Regulations

Minimum Lot Size:	1.08 acres
Minimum Lot Depth:	100 feet
Minimum Lot Width:	75 feet
Maximum Building Height:	35 feet
Maximum Lot Coverage:	45 percent
Minimum Open Space:	20 percent

Minimum Setbacks	
Street:	25 feet
Side:	15 feet
Rear:	25 feet

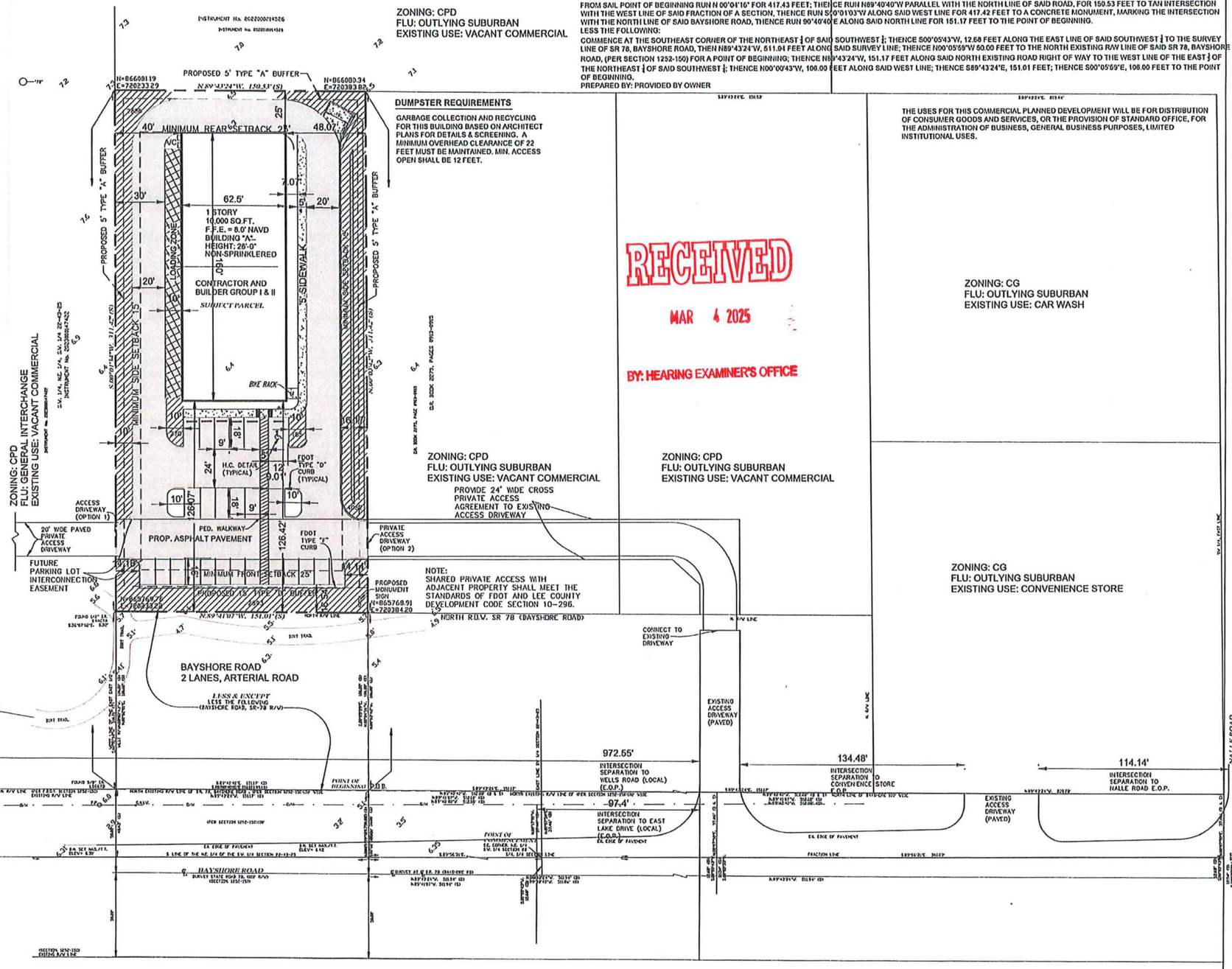
Minimum Building Separation:	35 feet
Minimum Development Perimeter:	25 feet

3. Vehicular Interconnection
Developer must provide interconnections with access easement to the parcels to the east and west consistent with the MCP. Interconnections may be fenced/gated until adjoining properties develop to utilize the connections.

4. Development Permits
Issuance of a County development permit 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 obligations imposed by state or federal agencies or (b) undertakes actions that result in a violation of state or federal law.

Exhibits to Conditions:
B1 MCP received March 4, 2025

EXHIBIT B-1



DESCRIPTION: (INSTRUMENT NO. 2023000052831)
A TRACT OR PARCEL OF LAND LYING IN THE EAST HALF (E ½) OF THE NORTHEAST QUARTER (NE ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SECTION 22, TOWNSHIP 42 S, RANGE 25 E, LYING AND BEING IN LEE COUNTY, FLORIDA WHICH TRACT OR PARCEL IS DESCRIBED AS FOLLOWS:
FROM THE SOUTHEAST CORNER OF SAID FRACTION OF THE A SECTION, RUN N 00°07'50" E ALONG THE EAST LINE THEREOF FOR 37.46 FEET TO A CONCRETE MONUMENT MARKING THE INTERSECTION WITH THE NORTH LINE OF BAYSHORE ROAD (100 FEET WIDE); THENCE RUN N 89°40'40"W ALONG THE NORTH LINE OF SAID RAOD FOR 512.08 FEET TO THE POINT OF BEGINNING.
FROM SAIL POINT OF BEGINNING RUN N 00°04'16" FOR 417.43 FEET; THENCE RUN N89°40'40"W PARALLEL WITH THE NORTH LINE OF SAID ROAD, FOR 150.53 FEET TO TAN INTERSECTION WITH THE WEST LINE OF SAID FRACTION OF A SECTION, THENCE RUN S 00°01'03"W ALONG SAID WEST LINE FOR 417.42 FEET TO A CONCRETE MONUMENT, MARKING THE INTERSECTION WITH THE NORTH LINE OF SAID BAYSHORE ROAD, THENCE RUN 90°40'40" E ALONG SAID NORTH LINE FOR 151.17 FEET TO THE POINT OF BEGINNING.
LESS THE FOLLOWING:
COMMENCE AT THE SOUTHEAST CORNER OF THE NORTHEAST ¼ OF SAID SOUTHWEST ¼; THENCE S00°05'43"W, 12.68 FEET ALONG THE EAST LINE OF SAID SOUTHWEST ¼ TO THE SURVEY LINE OF SR 78, BAYSHORE ROAD, THEN N89°43'24"W, 511.04 FEET ALONG SAID SURVEY LINE; THENCE N00°05'59"W 50.00 FEET TO THE NORTH EXISTING RAW LINE OF SAID SR 78, BAYSHORE ROAD, (PER SECTION 1252-150) FOR A POINT OF BEGINNING; THENCE N89°43'24"W, 151.17 FEET ALONG SAID NORTH EXISTING ROAD RIGHT OF WAY TO THE WEST LINE OF THE EAST ½ OF THE NORTHEAST ¼ OF SAID SOUTHWEST ¼; THENCE N00°00'43"W, 108.00 FEET ALONG SAID WEST LINE; THENCE S89°43'24"E, 151.01 FEET; THENCE S00°05'59"E, 108.00 FEET TO THE POINT OF BEGINNING.
PREPARED BY: PROVIDED BY OWNER

DUMPSTER REQUIREMENTS

GARBAGE COLLECTION AND RECYCLING FOR THIS BUILDING BASED ON ARCHITECT PLANS FOR DETAILS & SCREENING. A MINIMUM OVERHEAD CLEARANCE OF 22 FEET MUST BE MAINTAINED. MIN. ACCESS OPEN SHALL BE 12 FEET.

THE USES FOR THIS COMMERCIAL PLANNED DEVELOPMENT WILL BE FOR DISTRIBUTION OF CONSUMER GOODS AND SERVICES, OR THE PROVISION OF STANDARD OFFICE, FOR THE ADMINISTRATION OF BUSINESS, GENERAL BUSINESS PURPOSES, LIMITED INSTITUTIONAL USES.

RECEIVED
MAR 4 2025
BY: HEARING EXAMINER'S OFFICE

PAVEMENT LEGEND

- NEW ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- LOADING ZONES

GRAPHIC SCALE
0 30 60

SITE DATA:

SITE ADDRESS: 9461 BAYSHORE ROAD, NORTH FORT MYERS, FLORIDA 33917
STRAP NUMBER: 22-43-25-00-00011.0130
TOTAL SITE AREA: 1.08 ACRES
PROPOSED USE: CONTRACTORS AND BUILDERS, GROUP 1 AND II
MAX. HEIGHT 35 FEET, BUILDING FOOTPRINT MAX. 10,000 SQ.FT.
ALL ENCLOSED STORAGE WITH OVERHEAD DOOR NOT FACING BAYSHORE ROAD
SITE WILL SATISFY LEE PLAN REQUIREMENTS. BUILDING FACADE WILL BE IN SUBSTANTIAL COMPLIANCE WITH THE "OLD FLORIDA" ARCHITECTURAL STYLE.

SITE INFORMATION

ZONING:		EXISTING AG-2, PROPOSED CPD
FUTURE LANDUSE:		GENERAL INTERCHANGE
TOTAL ACREAGE:		1.08 ACRES
MINIMUM SETBACKS		
STREET	=	25 FEET
SIDE	=	15 FEET
REAR	=	15 FEET
WATER BODIES	=	20 FEET

BUILDING INFORMATION

NUMBER OF BUILDINGS	=	1
MAX. BUILDING HEIGHT	=	35 FEET
MIN. FIN. FLOOR ELEVATION	=	11.0 FEET N.A.V.D. (13.0' N.G.V.D.)

PARKING REQUIREMENTS

STORAGE	= 7000 SF / 500 1 SP PER SF	=	14 REQUIRED SPACES 14 SPACES PROVIDED
OFFICE (SINGLE-USE)	= 3000 SF / 300 1 SP PER SF	=	10 REQUIRED SPACES 10 SPACES PROVIDED 1 H/C SPACES INCLUDED
REQUIRED PARKING	= 24 SPACES 1 H.C.		
PROVIDED PARKING	= 25 SPACES INC. 1 H.C.		

SOILS:
WABASSO SAND - URBAN LAND COMPLEX
POSSIBLE SMALL PORTION OF OLDSMARS SAND - URBAN LAND COMPLEX ON NORTHWEST CORNER.
URBAN LAND COMPLEX SOIL DESCRIPTION INDICATES THAT A LARGE PERCENTAGE OF THE SOILS ON THE SITE HAVE BEEN ALTERED BY DEVELOPMENT.

LAND USE & COVER (FLUCCS):
CURRENT VEGETATION MATCHES THE FDOT FLUCCS 436 UPLAND SCRUB, AND HARDWOODS, WHICH IS TYPICAL VEGETATION FOR AREAS THAT HAVE BEEN CLEARED AND ALLOWED TO NATURALLY REGENERATE. SOURCE SUNCOAST ECOLOGICAL SERVICES, LLC

EXISTING SITE ZONING:
THE SITE CURRENTLY HAS TWO ZONING CLASSIFICATIONS AS FOLLOWS:
1. GENERAL INTERCHANGE ALONG THE ENTIRE WEST PROPERTY BOUNDARY OF 26.73½ OR 39.73' OR 0.284 AC.
2. SUB-OUTLYING SUBURBAN FOR THE REMAINING PORTION OF THE SITE OF 73.67½ OR 0.796 AC.

NO SIGNIFICANT AREA OF RARE AND UNIQUE UPLAND HABITATS AS DEFINED IN THE LEE PLAN WAS OBSERVED.

BOUNDARY, DESCRIPTION, AND TOPOGRAPHIC SPOT ELEVATIONS BASED ON SURVEY PROVIDED BY OWNER FROM HARRIS-JORGENSEN, LLC, FILE NUMBER 43-25-22 DATED 3/4/2024 IN DATUM N.A.V.D. '88

SITE DEVELOPMENT DATA

BUILDING (NEW)	=	10000 SF	0.23 AC	21.3 %
PAVEMENT (NEW)	=	22686 SF	0.52 AC	48.3 %
WALKS (NEW)	=	1156 SF	0.03 AC	2.5 %
PERVIOUS	=	13144.00 SF	0.30 AC	28.0 %
TOTAL SITE	=	46986 SF	1.08 AC	100.0 %

1. BICYCLE REQUIRED PARKING SPACES 5% OF REQUIRED VEHICLE = 2 SPACES.
2. LOADING ZONES ARE BASED ON SERVICE BAY SQUARE FOOTAGE OF 10,000 REQUIRING 1 SPACE PER FIRST 10,000 SQ.FT., THEN 1 SPACE FOR EVERY 20,000 SQ.FT. AFTER REQUIRING A LOADING ZONE SPACE LOCATED IN FRONT OF THE OVERHEAD DOORS.

OPEN SPACE CALCULATIONS ▨ OPEN SPACE

NET AREA: 46,986 SQ.FT.
OPEN SPACE REQUIRED AND PROVIDED: 46,986 SQ.FT. X 20% = 9,397 SQ.FT. (20%)

INDIGENOUS OPEN SPACE CALCULATIONS

NET REQUIRED OPEN SPACE AREA: 9,397 SQ.FT.
INDIGENOUS REQUIRED: 9,397 SQ.FT. X 50% = 4,699 SQ.FT. (10%)
INDIGENOUS PROVIDED: APPLYING THE INDIGENOUS INCENTIVE CREDITS ALLOWED BY LDC 10-415(b)(3), A RATE OF 125% IS APPLIED DUE TO THE PRESERVE MINIMUM WIDTH OF 75 FEET AND A MINIMUM AREA OF ONE ACRE CANNOT BE MET.

DESIGN BY: SLD	SCALE: 1" = 30'	REVISIONS			
DRAWN BY: SLD	DATE: FEB. 2025	SEPT. 2024	PERMIT REVIEW SET		
CHECK BY: SLD					

ALEX JUSKO
1676 W. MARION AVE., SUITE 112
PUNTA GORDA, FLORIDA 33950
239.471.8575

STEVEN L. DARBY, P.E.
FL. REG. # 45190
NOT VALID UNLESS SIGNED & EMBOSSED SEALED

DEI Civil Engineers & Planners
CERTIFICATE OF AUTHORIZATION NO. 26460
2638 STONYHILL COURT, CAPE CORAL, FLORIDA 33991
(239) 945-0551 FAX: (239) 772-0141 WEBSITE: WWW.DEI-FLA.COM

BAYSHORE FLEXSPACE

MASTER CONCEPT PLAN

DEI PROJECT NO.: 24-100-01

SHEET NO.: MCP

Feb 20, 2025 - 4:51pm C:\Users\Darby Engineering\Dropbox\Darby Engineering Active Projects\Bayshore Rezoning\Bayshore rezoning Planning\Planning CDP\DWGS\00-000-00 SITE PLAN.dwg Darby Engineering

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by MarySue Groth, Senior Planner, date received February 19, 2025 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

2. *Affidavit of Publication:* For Zoning Case DCI2024-00020, Bayshore Rezone (1 page – 8.5"x11")

3. *PowerPoint Presentation:* Prepared by Lee County Staff for DCI2024-00020, Bayshore Rezone, date March 6, 2025 (multiple pages – 8.5"x11")[color]

APPLICANT EXHIBITS

a. 48-Hour Notice: Email from Steve Darby to Maria Perez, Hearing Examiner, MarySue Groth, and Alex Jusko, dated Tuesday, March 5, 2025, 6:20 AM (multiple pages – 8.5"x11")

1. *PowerPoint Presentation:* Prepared for DCI2024-00020, Bayshore Rezone (multiple pages – 8.5"x11")[color]

Case: DCI2024-00020

Exhibit D

HEARING PARTICIPANTS

County Staff:

MarySue Groth

Applicant Representatives:

Steve Darby

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.

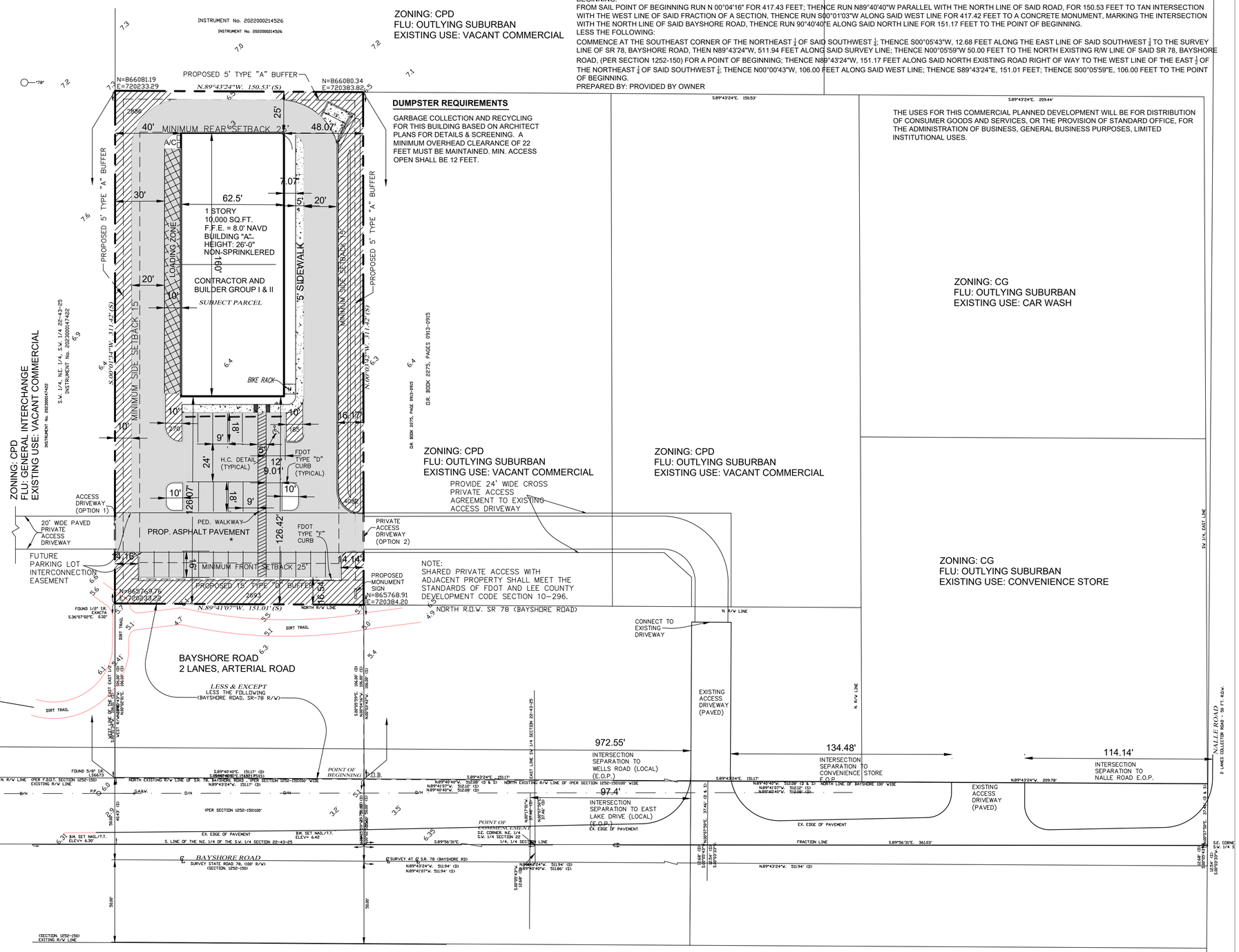
B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation 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.



DUMPSTER REQUIREMENTS

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PREPARED BY: PROVIDED BY OWNER

THE USES FOR THIS COMMERCIAL PLANNED DEVELOPMENT WILL BE FOR DISTRIBUTION OF CONSUMER GOODS AND SERVICES, OR THE PROVISION OF STANDARD OFFICE, FOR THE ADMINISTRATION OF BUSINESS, GENERAL BUSINESS PURPOSES, LIMITED INSTITUTIONAL USES.

PAVEMENT LEGEND

- NEW ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- LOADING ZONES

SITE DATA:

SITE ADDRESS: 9461 BAYSHORE ROAD, NORTH FORT MYERS, FLORIDA 33917
STRAP NUMBER: 22-43-25-00-00011.0130
TOTAL SITE AREA: 1.08 ACRES
PROPOSED USE: CONTRACTORS AND BUILDERS, GROUP 1 AND II
MAX. HEIGHT 35 FEET, BUILDING FOOTPRINT MAX. 10,000 SQ.FT.
ALL ENCLOSED STORAGE WITH OVERHEAD DOOR NOT FACING BAYSHORE ROAD
SITE WILL SATISFY LEE PLAN REQUIREMENTS. BUILDING FACADE WILL BE IN SUBSTANTIAL COMPLIANCE WITH THE "OLD FLORIDA" ARCHITECTURAL STYLE.

GRAPHIC SCALE
0 30 60

SITE INFORMATION

ZONING:		EXISTING AG-2, PROPOSED CPD
FUTURE LANDUSE:		GENERAL INTERCHANGE
TOTAL ACREAGE:		1.08 ACRES
MINIMUM SETBACKS		
STREET	=	25 FEET
SIDE	=	15 FEET
REAR	=	15 FEET
WATER BODIES	=	20 FEET

BUILDING INFORMATION

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MAX. BUILDING HEIGHT	=	35 FEET
MIN. FIN. FLOOR ELEVATION	=	11.0 FEET N.A.V.D. (13.0' N.G.V.D.)

PARKING REQUIREMENTS

STORAGE	=	7000 SF / 500 1 SP PER SF	=	14 REQUIRED SPACES 14 SPACES PROVIDED
OFFICE (SINGLE-USE)	=	3000 SF / 300 1 SP PER SF	=	10 REQUIRED SPACES 10 SPACES PROVIDED 1 H/C SPACES INCLUDED
REQUIRED PARKING	=	24 SPACES 1 H.C.		
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WABASSO SAND - URBAN LAND COMPLEX
POSSIBLE SMALL PORTION OF OLDSMARS SAND - URBAN LAND COMPLEX ON NORTHWEST CORNER.
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BOUNDARY, DESCRIPTION, AND TOPOGRAPHIC SPOT ELEVATIONS BASED ON SURVEY PROVIDED BY OWNER FROM HARRIS-JORGENSEN, LLC, FILE NUMBER 43-25-22 DATED 3/4/2024 IN DATUM N.A.V.D. '88

* DEVIATION REQUEST FOR PARKING LOT ACCESS FOR VEHICLES INTO A PRIVATE CROSS ACCESS EASEMENT.

SITE DEVELOPMENT DATA

BUILDING (NEW)	=	10000 SF	0.23 AC	21.3 %
PAVEMENT (NEW)	=	22686 SF	0.52 AC	48.3 %
	=		#### AC	#### %
WALKS (NEW)	=	1156 SF	0.03 AC	2.5 %
	=		#### AC	### %
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TOTAL SITE	=	46986 SF	1.08 AC	100.0 %

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2. LOADING ZONES ARE BASED ON SERVICE BAY SQUARE FOOTAGE OF 10,000 REQUIRING 1 SPACE PER FIRST 10,000 SQ.FT., THEN 1 SPACE FOR EVERY 20,000 SQ.FT. AFTER REQUIRING A LOADING ZONE SPACE LOCATED IN FRONT OF THE OVERHEAD DOORS.

OPEN SPACE CALCULATIONS ▨ OPEN SPACE

NET AREA: 46,986 SQ.FT.
OPEN SPACE REQUIRED: 46,986 SQ.FT. X 20% = 9,397 SQ.FT. (20%)
OPEN SPACE PROVIDED: 10,116 SQ.FT. (21.53%)

INDIGENOUS OPEN SPACE CALCULATIONS

NET REQUIRED OPEN SPACE AREA: 9,397 SQ.FT.
INDIGENOUS REQUIRED: 9,397 SQ.FT. X 50% = 4,699 SQ.FT. (10%)
INDIGENOUS PROVIDED: APPLYING THE INDIGENOUS INCENTIVE CREDITS ALLOWED BY LDC 10-415(b)(3), A RATE OF 125% IS APPLIED DUE TO THE PRESERVE MINIMUM WIDTH OF 75 FEET AND A MINIMUM AREA OF ONE ACRE CANNOT BE MET.

Jan 31, 2025 - 1:15pm C:\Users\Darby Engineering\Dropbox\Darby Engineering Active Projects\Bayshore Rezoning\Bayshore rezoning Planning\Planning CDP\DWGS\100-000-00 SITE PLAN.dwg Darby Engineering

DESIGN BY: SLD	SCALE: 1" = 30'	REVISIONS			
DRAWN BY: SLD		SEPT. 2024	PERMIT REVIEW SET		
CHECK BY: SLD	DATE: OCT. 2024				

ALEX JUSKO
1675 W. MARION AVE., SUITE 112
PUNTA GORDA, FLORIDA 33950
239.471.8575

STEVEN L. DARBY, P.E.
FL. REG. # 45190
NOT VALID UNLESS
SIGNED & EMBOSSED SEALED

DEI Civil Engineers & Planners
CERTIFICATE OF AUTHORIZATION NO. 26460
2638 STONYHILL COURT, CAPE CORAL, FLORIDA 33991
(239) 945-0551 FAX: (239) 772-0141 WEBSITE: WWW.DEI-FLA.COM

BAYSHORE FLEXSPACE

DEI PROJECT NO.: 24-100-01

MASTER CONCEPT PLAN (EXHIBIT C)

SHEET NO.:
MCP

Bayshore Rezone – DCI2024-00020

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 "Bayshore Flexspace Master Concept Plan" dated October 2024 (Attachment G), 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 10,000 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
      Cleaning and Maintenance Services
      Contractors and Builders, Groups I and II
      Storage, Indoor and Open
      Fences and Walls
      Parking Lot, Accessory
      Pet Services – no outdoor runs
      Signs
      Temporary Uses

   b. Site Development Regulations

Minimum Lot Size:	1.08 acres
Minimum Lot Depth:	100 feet
Minimum Lot Width:	75 feet
Maximum Building Height:	35 feet
Maximum Lot Coverage:	45 percent
Minimum Open Space:	20 percent

      Minimum Setbacks:

Street:	25 feet

Side:	15 feet
Rear:	25 feet
Minimum Building Separation	35 feet
Minimum Development Perimeter	25 feet

3. Environmental Conditions
    a. Prior to the issuance of a development order, plans must depict open space of 21.53 percent (0.23-acres).

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

CASE NUMBER: DCI2024-00020
TYPE OF CASE: Commercial Planned Development
CASE NAME: Bayshore Rezone
TOTAL ACREAGE AFFECTED BY REQUEST: 1.08+/-acres
SUFFICIENCY DATE: January 8, 2025
HEARING EXAMINER DATE: March 6, 2026

Request:
Darby Engineering, Inc. on behalf of Kevjo Properties LLC, has filed an application to rezone the property located at 9461 Bayshore Road, North Fort Myers, from Agricultural (AG-2) to Commercial Planned Development (CPD). The applicant is proposing a maximum of 10,000 square feet of commercial uses.

The subject property consists of one STRAP number (22-43-25-00-00011.0130) and resides within the Sub-Outlying Suburban and General Interchange Future Land Use Categories, and the Bayshore 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.

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

CHARACTER OF THE AREA:
The objective of the Bayshore Community area as established through the Lee Plan in **Goal 18** is to protect the existing rural residential, agriculture and equestrian oriented with minimal commercial activities in the surrounding Bayshore Community interchange area. 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 Nalle Road. The property falls within the 5-year Wellfield Protection travel time zone and is approximately 200 feet north of a Lee County Public Water Supply well. Property immediately surrounding the subject property can be characterized as follows:

North
The property to the north of the subject property, 9481 Bayshore Road, is zoned Commercial Planned Development (CPD), titled W and W Service Park, by Resolution Z-10-036 (see Attachment O). This T-shaped property located at 9481 Bayshore Road also encompasses the northern portion of the property to the east of the subject property. Beyond the CPD to the north are Agricultural (AG-2) zoned districts containing single-family residences along Nalle Road. These properties all lie within the Sub-Outlying Suburban and General Interchange Future Land Use Categories.

South

Lands to the south of the subject property, across Bayshore Road (State Road 78), were zoned Commercial (C-1A) by Resolution Z-75-269, and reside within the Sub-Outlying Suburban Future Land Use Category. These approximately 1.4+/- acres are cleared and undeveloped apart from an existing billboard structure.

East

Land directly east of the subject property is located in the Sub-Outlying Suburban Future Land Use Category and is zoned Commercial Planned Development (CPD), titled SPC Interchange Store CPD, by Resolution Z-92-061 (see Attachment O). This CPD is currently approved for a small mixed-use commercial center with a maximum gross floor area of 3,570 square feet but is currently undeveloped.

West

The property to the west of the subject property is located in the General Interchange Future Land Use Category, and is zoned Commercial Planned Development (CPD), titled Bayshore Village, by Resolution Z-06-046, as most recently amended by Z-23-034. The approximate 9.25-acre parcel of land is currently approved for 100,000 square feet of commercial development intensity, up to 125 hotel units, and a variety of allowable commercial uses (see Attachment O).

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 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 Sub-Outlying Suburban and General Interchange Future Land Use Categories, described by **Policies 1.1.11 and 1.3.2** of the Lee Plan. *"The Sub-Outlying Suburban future land use category is characterized by low density residential areas. Generally, the infrastructure needed for higher density development is not planned or in place. This future land use category will be placed in areas where higher densities would be incompatible or where there is a desire to retain a low-density community character."* The property lies along Bayshore Road, a state-maintained arterial road. To the south, east, and west of the subject property are existing Commercial Planned Developments making the request compatible with surrounding development. 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 Bayshore rural residential and agricultural environments, all providing consistency with **Policy 1.1.11** for the Sub-Outlying Suburban Future Land Use Category. A small part of the western portion of the property resides within the General Interchange Future Land Use Category, described as *"areas intended primarily for land uses that serve the traveling public: service stations, hotel, motel, restaurants, and gift shops. But because of their location, market attractions, and desire for flexibility, these interchange uses permit a broad range of land uses that include tourist commercial, general commercial, light industrial /commercial, and multi-family dwelling units."* The request includes lighter commercial uses allowable in many of the conventional commercial zoned districts, which are compatible with the uses permitted in the existing adjacent Commercial Planned Developments and are consistent with **Policy 1.3.2** for the General Interchange. Staff finds the request is consistent with **Policies 1.1.11 and 1.3.2** 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 two-lane, state-maintained arterial road of Bayshore Road. Existing infrastructure of water and sewer is in place, and utilities are available to the site (see Attachment I). Adequate public facilities including fire, police, EMS, solid waste, public transit, public schools and parks 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, and that sufficient capacity exists to provide service depending on the estimated flow demand, which the applicant did not provide at time of the request. Further, Lee County Utilities indicated there are no reuse mains in the vicinity of the parcel. The applicant also provided a Letter of Availability from the Florida Governmental Utility Authority (FGUA) confirming sanitary sewer lines are in operation adjacent to the subject property, and the applicant indicates the development of the project will connect to both public water and public sewer, 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. 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's noted discrepancies in the provided environmental reports are addressed in the Environmental Staff Report (Attachment M), and include FLUCCS designations, previous development and clearing activity, and the possibility of present wetland communities, in compliance with **Standard 4.1.4: Environmental Factors**. Staff finds the request is consistent with **Standards 4.1.1, 4.1.2, and 4.1.4** of the Lee Plan.

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 Bayshore Community Plan area, and the request will facilitate commercial uses consistent with other nearby existing CPD's. Access to the proposed development will be facilitated through an interconnection driveway shared with both CPD districts to the east of the subject property, with one access point onto the state-maintained arterial roadway of Bayshore Road. A private cross-access is also provided connecting the property to the west. The Lee County Department of Transportation (LCDOT) provided a transportation-related analysis noting that the project generates 17 weekday AM peak hour trips, and 19 weekday PM trips, and indicated since the proposed use generates less than 100 trips per hour, the roadways and intersections level of service analysis are not required according Administrative Code AC-13-17 (Attachment K). LDCOT further stated Bayshore Road from Interstate 75 to State Road 31 is currently operating at LOS "C", and that the proposed access to Bayshore Road, maintained by the State, is subject to approval of FDOT. As previously stated, adequate landscaping and buffering will be provided at time of development. Urban services such as potable water, sanitary sewer, fire/EMS and police protection, public parks and public transit are available to serve the proposed development. Staff finds the request consistent with **Lee Plan Goal 6, Objective 6.1, and Policies 6.1.1, 6.1.3, 6.1.4, 6.1.5, 6.1.6, and 6.1.7.**

As previously stated, the objective of the Bayshore Community Plan area as established through Lee Plan **Goal 18** is to protect the existing rural residential, agriculture and equestrian oriented with minimal commercial activities in the surrounding Bayshore Community interchange area. Consistent with **Goal 18, Objective 18.1,** and **Policy 18.1.1**, the western portion of the subject property is located within the General Interchange Future Land Use Category, at Bayshore and Interstate 75, and near Nalle Road where minor commercial uses are encouraged. Properties to the west approximately one (1) mile beyond Interstate 75 are designated as General Interchange. The remainder of the subject property is designated Sub-Outlying Suburban, as are properties along the north side of Bayshore Road approximately a quarter of a mile, and over 1.5 miles to the north, where the FLU changes to Rural. The provision of additional commercial intensity and uses in this area of the Bayshore Community, which already has sites approved for commercial development, will help to protect the existing rural and agricultural character by expanding commercial development where it already exists and is permitted by the FLU. The requested rezoning does not contemplate retail commercial uses as restricted by Policy 18.1.1, which allows non-retail commercial uses as permitted by the Lee Plan and LDC. Staff finds the request, as conditioned, consistent with **Lee Plan Goal 18, Objective 18.1, and Policy 18.1.1**

Goal 60 of the Lee Plan is to protect or improve the quality of receiving waters and surrounding natural areas and the function of natural groundwater aquifer recharge areas while also providing flood protection for existing and future development. **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 125.1.6** requires development to maintain a wellfield protection program to prevent the contamination of shallow wells by pollutant generating development. The applicant provided Surface Water Management Plan (Attachment H), states existing conditions are flat lands with minimum run-off during storm events, and the run-off from the site will sheet flow to proposed dry detention areas and discharge to a control structure to the FDOT right-of-way. The FDOT right-of-way has conveyance ditches to flow collected run-off into their collection system. Further, the estimated seasonal high-water table will be established and remain unchanged with dry detention areas meeting the SFWMD criteria for one-foot separation above the dry detention area. Natural Resources Staff evaluated the request and determined one of the proposed uses, Laundry or Drycleaning, Groups I and II, had the potential to adversely impact the nearby Public Water Supply well if located within the 1-year travel time. Natural Resources provided a staff report (Attachment L) indicating the property falls within the 5-year Wellfield Protection Zone travel time. The travel time represents the amount of time it takes a potential pollutant to reach the wellfield and is based on groundwater flow and withdrawal models. **Goal 63** requires the protection of the Lee County's groundwater supplies from those activities having the potential to deplete or degrade those supplies. **Policy 125.1.2** states new development and additions to existing development must not degrade surface and ground water quality. The applicant removed Laundry and Drycleaning, Groups I and II from the Schedule of Uses, and the remaining uses are compatible with the Wellfield Protection travel time zone, the surrounding Commercial Planned Developments, and the neighboring agricultural zoning. Staff finds the request consistent with **Lee Plan Goal 60, Goal 61, Goal 63, and Policies 125.1.2, and 125.1.6.**

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

The applicant has acknowledged that at the time of development, Land Development Code and other applicable county regulations will be required and considered. No deviations are sought by this request.

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

The property is located within the General Interchange and Sub-Outlying Suburban Future Land Use categories with other nearby existing Commercial Planned Developments (CPD). The applicant's Schedule of Uses is limited and includes Accessory Uses and Structures, Administrative Offices, Cleaning and Maintenance Services, Contractors and Builders, Groups I and II, Indoor Storage, Fences and Walls, Accessory Parking Lot, Pet Services, Signs, and Temporary 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 an interconnection driveway shared with both CPD districts to the east of the subject property, with one access point onto the state-maintained arterial roadway of Bayshore Road. A private cross-access is also provided connecting the property to the west, 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 J). LCDOT provided a transportation-related analysis indicating that the project generates 17 weekday AM peak hour trips, and 19 weekday PM trips, and indicated since the proposed use generates less than 100 trips per hour, the roadways and intersections level of service analysis are not required according Administrative Code AC-13-17 (Attachment K). LDCOT further stated Bayshore Road from Interstate 75 to State Road 31 is currently operating at LOS "C", and that the proposed access to Bayshore Road, maintained by the State, is subject to approval of FDOT.

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

The applicant provided a Surface Water Management Plan Narrative (Attachment H) stating existing conditions are flat lands with minimum run-off during storm events, and the run-off from the site will sheet flow to proposed dry detention areas and discharge to a control structure to the FDOT right-of-way. The FDOT right-of-way has conveyance ditches to flow collected run-off into their collection system. Further, the estimated seasonal high-water table will be established and remain unchanged with dry detention areas meeting the SFWMD criteria for one-foot separation above the dry detention area.

Natural Resources staff evaluated the request and determined one of the proposed uses, Laundry or Drycleaning, Groups I and II, had the potential to adversely impact the nearby Public Water Supply well if located within the 1-year travel time. Natural Resources provided a staff report (Attachment L) indicating the property falls within the 5-year Wellfield Protection Zone travel time. The travel time represents the amount of time it takes a potential pollutant to reach the wellfield and is based on groundwater flow and withdrawal models. **Goal 63** requires the protection of the Lee County's groundwater supplies from those activities having the potential to deplete or degrade those supplies. **Policy 125.1.2** states new development and additions to existing development must not degrade surface and ground water quality. The applicant removed Laundry and Drycleaning, Groups I and II from the Schedule of Uses, and the remaining uses are compatible with the Wellfield Protection travel time zone, the surrounding Commercial Planned Developments, and the neighboring agricultural communities.

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. Environmental Staff completed a site inspection on January 24, 2025 and provided findings in Attachment M. After completing historical research and imagery of the subject property, staff noted there was not sufficient evidence that the land

was all previously cleared, as identified in the applicant's provided environmental report. Large oaks and large pines remain on the site, indicating the property was no longer receiving fire at the natural intervals to maintain healthy vegetation communities. LDC 10-415 (b)(2) states, Open Space areas must be designed to incorporate as many of the existing large native trees and sabal palms. Healthy native trees with a minimum caliper of four inches at 4 and ½ feet above the ground may be relocated on site for five credits. The applicant may choose to relocate these trees at the time of development order in accordance with this provision.

In addition, FLUCCS 436 Upland Scrub, Pine and Hardwoods provided on the applicant's environmental report were not observed on the site during the staff's inspection. More appropriately identified codes would include FLUCCS 411 in the north and western portion of the property, and FLUCCS 427 to the south and eastern portion of the property. Within the FLUCCS 427 area, staff identified the potential of wetland habitat, contrary to the environmental report.

Environmental Staff also provided the following information:

Open Space

The proposed project is considered a small development because it is less than ten acres in size, and pursuant to LDC Section 10-415(a), is required to demonstrate 20% open space. Given the site is 1.08 acres, 20% open space equates to 0.22 acres, or 9,397 sq. ft. The applicant has shown more than what is required by code and the project is demonstrating on the MCP 21.53 % open space, or 0.23 acres. Staff recommends the following condition to memorialize the project open space:

Prior to the issuance of a development order, plans must depict 21.53% (0.23 acres) of open space as demonstrated on the Master Concept Plan.

Indigenous Open Space Preservation

The Land Development Code requires that large projects 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(b). No indigenous open space is required.

Buffers

The proposed development abuts the Bayshore Road right-of-way along the south, and CPDs along the west, east and north property lines. The required buffers are as follows:

> West - Pursuant to LDC Section 10-416 (d), a Type A Buffer is required between commercial uses.
>
> North – Pursuant to LDC Section 10-416 (d), a Type A Buffer is required between commercial uses.

South – Pursuant to LDC Section 10-416 (d), a Type D Buffer is required for commercial uses that abut a right-of-way.

East - Pursuant to LDC Section 10-416 (d), a Type A Buffer is required between commercial uses.

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

The majority of the parcel is located in the Sub-Outlying Suburban Future Land Use Category, which per Lee Plan **Policy 1.1.11** is characterized, "*…by low density residential areas. Generally, the infrastructure needed for higher density development is not planned or in place. This future land use category will be placed in areas where higher densities would be incompatible or where there is a desire to retain a low-density community character."* The property lies along Bayshore Road, 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 lines are in operation adjacent to the property, and that sufficient capacity exists to provide service depending on the estimated flow demand, which the applicant did not indicate at time of the request. Further, Lee County Utilities indicated there are no reuse mains in the vicinity of the parcel. The applicant also provided a Letter of Availability from Florida Governmental Utility Authority (FGUA) confirming sanitary sewer lines are in operation adjacent to the subject property (Attachment I), and the applicant indicated the development of the project will connect to both public water and public sewer.

Fire and EMS

Bayshore Fire Department and Rescue, Station #131, located at 17350 Nalle Road, is approximately 0.24 miles away, and includes a collocated EMS station.

Sheriff

Lee County Sheriff's Department, located at 121 Pondella Road, is approximately 8.5 miles away.

Solid Waste

The property is within Lee County Solid Waste Franchise Area 5 and is served by Waste Pro.

Public Transit

Lee Tran Route 590, Stop ID #2297 is the closest bus stop approximately 3.3 miles west of the entrance of the subject property.

Public Schools

The property is within the Lee County School District East Zone, District Area 1. The project will have no impact on the school district.

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 lies along Bayshore Road, and is surrounded to the north, east, and west by existing Commercial Planned Developments, making the request compatible with surrounding development. 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 Bayshore Community Plan areas rural residential and agricultural environments.

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 G) was designed to be compatible with the surrounding area. The limited Schedule of Uses 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.*

No deviations from the Land Development Code have been requested.

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 residential and commercial 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 impact any wetland preserves, or flood hazard areas; or 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. There are no requested deviations,

and the request 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
Attachment G – Master Concept Plan
Attachment H – Surface Water Management Narrative
Attachment I – Utility Letters of Availability
Attachment J – Traffic Impact Statement
Attachment K – LCDOT Traffic-Related Analysis
Attachment L – Natural Resources Staff Report
Attachment M – Environmental Staff Report
Attachment N – Protected Species, Topographic, Soils, FLUCCS Maps
Attachment O – Surrounding Zoning Entitlements

- Bayshore Village CPD (Z-23-034)
- W and W Service Park CPD (Z-10-036)
- SPC Interchange Store CPD (Z-92-061)

DCI2024-00034
Arthrex at Plantation

Staff Summary

CASE NUMBER & NAME:	DCI2024-00034 / Arthrex at Plantation
REQUEST:	Request to rezone 37.7± acres from Industrial Planned Development (IPD) and Residential Planned Development (RPD) to Mixed-Use Planned Development (MPD) to allow for up to 510,000 square feet of industrial uses, 5,000 square feet of medical office, and 105,000 square feet of general office (or 80,000 square feet of retail commercial and general office), or alternatively, 464 multiple-family residential dwelling units, including 168 Bonus Density Units, and 30,000 square feet of retail commercial and general office uses.
RESOLUTION NUMBER:	Z-25-012
LOCATION:	14550 Plantation Rd. (just north of the intersection with Six Mile Cypress Pkwy.) South Fort Myers Planning Community, Lee County, FL.
OWNER:	RES Myers Holdings LLC & Earthwork Myers LLC
APPLICANT:	RES Myers Holdings LLC & Earthwork Myers LLC
AGENT:	Margaret Emblidge, AICP LJA Engineering, Inc 7400 Trail Boulevard Suite 200 Naples, Florida 34108
HEARING EXAMINER RECOMMENDATION:	Approval, subject to conditions.
PARTICIPANTS:	None

DCI2024-00034

Aerial

Subject Property

N
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0 500 1,000
Feet

Lee County
Southwest Florida

Summary of Hearing Examiner Recommendation

ARTHREX AT PLANTATION

The request seeks to rezone two parcels comprised of 37.7± acres from Industrial Planned Development (IPD) and Residential Planned Development (RPD) to Mixed-Use Planned Development (MPD) to allow:

> Scenario A: 510,000 square feet industrial uses, 5,000 square feet medical office, and 105,000 square feet of general office, or 80,000 square feet of retail commercial and general office; or
>
> Scenario B: 464 multiple-family residential dwelling units, including 168 Bonus Density Units, and 30,000 square feet of retail commercial/general office uses. [1]

The purpose of the alternative development scenarios is to afford maximum flexibility to respond to future market demand.

The property is in the Intensive Development Future Land Use category, which permits the most intense development possible under the Lee Plan. These areas are suited for intense development patterns.

The site is also located within a Mixed Use Overlay. The Overlay is desirable for mixed-use development due to the proximity of public transit, shopping, and employment centers.

The Hearing Examiner recommends approval with conditions.

Detailed recommendation follows

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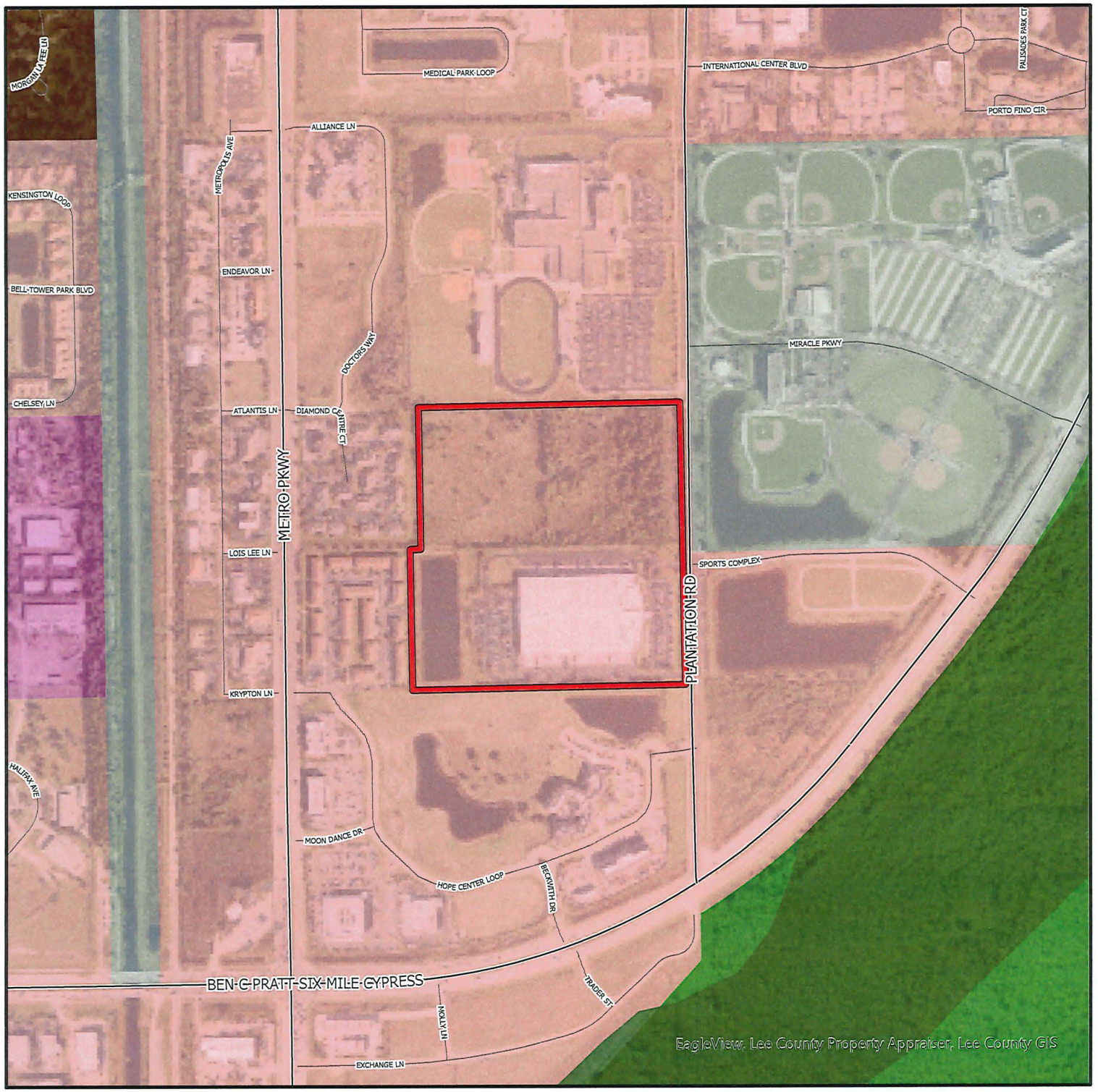
[1] Bonus density means an increase in density above the standard range permitted by the Lee Plan. Density bonus may be achieved through the County's "Bonus Density Housing Program" and Transfer Development Rights (TDR) credits. Applicant intends to use a combination of both. LDC §2-143. Applicant's density request accounts for impacts to wetlands. Applicant will adjust the unit count if the formal jurisdictional wetland determination from the water management district indicates greater impacts than initially assumed.



DCI2024-00034

Future Land Use

- Subject Property
- Intensive Development
- Central Urban
- Industrial
- Public Facilities
- Conservation Lands - Upland
- Wetlands
- Conservation Lands - Wetland

N
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Lee County
Southwest Florida

DCI2024-00034

Mixed Use Overlay

Subject Property

Mixed Use Overlay

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Lee County
Southwest Florida

DCI2024-00034

Aerial

Subject Property

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Feet

Lee County
Southwest Florida

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2024-00034

Regarding: **ARTHREX AT PLANTATION**

Location: 14550 Plantation Road
South Fort Myers Planning Community
(District 2)

Hearing Date: May 22, 2025

I. Request

Rezone two parcels comprised of 37.7± acres from Industrial Planned Development (IPD) and Residential Planned Development (RPD) to Mixed-Use Planned Development (MPD) to allow:

Scenario A: 510,000 square feet industrial uses, 5,000 square feet medical office, and 105,000 square feet of general office or 80,000 square feet of retail commercial and general office; or

Scenario B: 464 multiple-family residential dwelling units, including 168 Bonus Density Units, and 30,000 square feet of retail commercial/general office uses.

Maximum building height will be 55 feet.

Staff recommended approval with conditions.

The property legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval, subject to conditions.

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.[2] In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on an application to rezone property to the Mixed Use Planned Development District.

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

Discussion supporting the recommendation of approval follows below.

History

The property is located in south Fort Myers on Plantation Road north of Six Mile Cypress Parkway. The Board rezoned the south 19.28 acres of the site to the IPD district in 2004.[3] The approval authorized development of 47,000 square feet office and 235,600 square feet private warehouse. Maximum approved building height was 50 feet above finished floor elevation. Existing site improvements on the south parcel include the Arthrex Logistics Center, a global distribution center.

In 2007, the Board rezoned the north 18.52 acres of the site to the RPD district, authorizing construction of 219 multi-family dwellings. [4] The north parcel is currently vacant and partially covered with vegetation.

Administrative amendments reduced required open space in 2004 and 2012.[5]

The request seeks to expand development parameters to respond to market demands.

Character of Area

The site is in the Intensive Development land use category, surrounded by property with existing development entitlements.[6] Gulf Coast Hospital has been the catalyst

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[2] LDC §34-145(d)(4)a.

[3] Z-03-071 approved February 16, 2004.

[4] Z-06-093 approved March 19, 2007.

[5] ADD 2004-00113 and ADD 2012-00115. The latter approval required Applicant to plant an additional 200 native wetland trees within the stormwater lake.

[6] Lee Plan Map 1-A: Future Land Use Map.

of development in the area, which includes medical and commercial offices, assisted living, multi-family residential, and a public high school.

Across Plantation Road is the Century Link Sports Complex and Gator Recreation MPD. The Gator Recreation MPD authorizes 90,000 square feet of commercial, office, and retail land uses, 70,000 square feet of commercial recreation, 250 hotel rooms, and 210 multi-family units. [7]

Lee Plan

The Lee Plan regulates land development activity in the County.[8] The Plan's Future Land Use Map divides the County into future urban, non-urban, and environmentally sensitive areas. Planned developments must be consistent with the Lee Plan.[9]

The property is in the Intensive Development Future Land Use category, the most intense under the Lee Plan. Intensive Development areas are located along major arterial roads with access to public services. Property classified Intensive Development is suited for intense development.[10]

The site is also within a Mixed Use Overlay.[11] Property in the Mixed Use Overlay is desirable for mixed use due to proximity to transit, residential, shopping, and employment centers. Much of Plantation Road and Metro Parkway Corridors lie within the Mixed Use Overlay.

The property is surrounded by a compact and contiguous development pattern comprised of light industrial, commercial, medical, residential, and public/civic uses.[12] Gulf Coast Hospital lies to the north at the intersection of Metro and Daniels Parkway. Commercial shopping centers are located at the intersections of Six Mile Cypress Parkway, U.S. 41, and Daniels Parkway. The requested development parameters are consistent with land uses in the area.[13]

A shared use path for pedestrians and cyclists runs the length of Plantation Road from Six Mile Cypress to Daniels Parkways, with a single hiatus. The hiatus lies

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[7] Z-23-017 (Gator Recreation MPD approved August 2, 2023). The resolution approving 210 dwelling units includes 111 bonus density units.

[8] LDC §34-491.

[9] Lee Plan Policy 2.1.2; LDC §§34-411(a), 34-491: Rezonings must be consistent with Lee Plan goals, objectives, and policies. Potential conflicts between the Lee Plan and the LDC must be resolved in favor of the Lee Plan.

[10] *See* Lee Plan Table 1(a).

[11] Lee Plan Map 1-C: Mixed Use Overlay established May 16, 2007, by Lee County Ordinance 07-15.

[12] The request constitutes infill development that continues existing development patterns along the Metro Parkway and Plantation Road corridors. Lee Plan Objectives 2.1, 2.2, Policies 2.2.2, 6.1.7, 11.2.6.

[13] Lee Plan Goal 11, Objectives 2.1, 2.2, 11.1,11.2, Policy 1.1.2.

along the frontage of the vacant north parcel of the subject request.[14] Lee Tran provides service along the Plantation Road corridor.[15]

The School Board anticipates the dwelling units proposed under Development Scenario B will generate 64 school aged children.[16] Designing the project to accommodate safe school bus access by children and bicycles is prudent since the project will generate a significant number of students.[17]

Applicant offered a condition to ensure project design accommodates safe school bus access at the time of development order permitting. Lee Plan directives require new residential developments to provide pedestrian and bicycle access for school children.[18] Conditioning project design *at the outset* reduces the likelihood of future design conflicts.[19]

Bonus Density

Standard density permits up to 14 dwelling units in the Intensive Development land use category.[20] Applicant proposes an additional 168 units using bonus density. Bonus density raises the potential unit count to 464 multifamily dwellings.

Density bonus is achievable through Affordable Housing Programs or Transfer of Development Rights.[21] The Affordable Housing Program allows bonus density via site built affordable housing or by contributing to the County's Affordable Housing Trust Fund. Transferable development units may be achieved from sending parcels located in the Greater Pine Island Planning Community, the Southeast Lee County DR/GR, or wetlands.

A transferable development unit is a dwelling unit severed from a sending parcel and transferred to a receiving parcel. Properties located outside the Coastal High Hazard Area are expressly preferred receiving areas for TDU credits. Greater Pine

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[14] Lee Plan Policies 39.6.4, 43.1.1, Lee Plan Map 3-D: Lee County Walkways & Bikeways.

[15] Lee Plan Policy 39.1.3.

[16] Staff Report Attachment H: Correspondence dated Aprill 22, 2025 from Jacqueline Heredia, District Planning Specialist, Lee County School District.

[17] Developing the site to provide safe access to school buses is consistent with the transportation and Community Facilities and Services elements of the Lee Plan. *See* Lee Plan Policies 39.3.2, 67.3.7, 68.3.7.

[18] Lee Plan Policy 67.3.7.

[19] In addition to Lee Plan directives in Policy 67.3.7, internal sidewalks connecting to future school bus stops will achieve Lee Plan directives for bicycle and pedestrian interface with transit. *See* Lee Plan Policies 43.1.1. (*Provide access for bicycle and pedestrian interface with transit by linking bicycle/pedestrian facilities with bus stops.*), 43.1.2.(*maintain efforts to provide construction of bus stop amenities*), 43.3.3. The site is in the heart of an emerging activity center evidenced by its proximity to the airport, university, and transit routes connecting residential, commercial, recreation, and educational facilities

[20] Intensive Development areas may develop up to 14 units per acre by right, with a maximum total density of 22 dwellings per acre. Maximum total density may be further increased to 30 dwellings per acre utilizing Greater Pine Island Transfer of Development Units. Lee Plan Policy 1.1.2.

[21] LDC Chapter 2 Article IV (Bonus Density), Division 2 (Bonus Density Program), and Division 3 (Transferable Development Units). *See* LDC §2-143(a). *See also* Lee County Administrative Code 13-5.

Island Transfer of Development Units provide the greatest bonus density, incentivizing growth on inland sites served by public services and infrastructure.[22]

Requests for bonus density must meet the following criteria:

(1) Additional traffic will not travel through areas with significantly lower densities to reach the nearest collector/arterial road. Record evidence confirms project traffic will directly access Plantation Road.
(2) Existing/committed public facilities are not so overwhelmed that a density increase would be contrary to public interest. Record evidence confirms there are adequate public services and infrastructure to serve the proposed number of units.
(3) Storm shelters or other mitigation are provided if the development is in a Coastal High Hazard Area. The property is not in the Coastal High Hazard Area.
(4) Resulting development will be compatible with existing/planned land uses in the area.[23]

Record evidence demonstrates the proposed MPD, including bonus density, meets stated criteria.[24]

Compatibility

The County evaluates compatibility during the zoning process.[25] Compatibility exists when land uses exist in proximity and no one use unduly negatively impacts another use.[26] Appropriate intensity is determined on a case-by-case basis in accordance with uses permitted by the Lee Plan and the nature of land uses surrounding the project.[27]

The Board has discretion to approve the rezoning with or without bonus density.[28] The Board also has discretion to approve less bonus density and impose reasonable conditions, if requested density is contrary to public health, safety, and welfare.[29]

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[22] Hereinafter, "TDUs." LDC §§ 2-151, 2-152. The County's land development regulations encourage increased densities in intense future land use categories outside coastal high hazard areas with access to services and infrastructure.
[23] *See* discussion on compatibility *infra*.
[24] Lee Plan Policy 11.2.6.
[25] LDC §34-145(d)(4).
[26] Florida Statutes s. 163.3164(9).
[27] LDC §34-413.
[28] LDC §2-147(b)(4).
[29] LDC §2-147(c).

Planned development zoning is a useful tool when integrating new development with surrounding land uses because it offers flexibility in site design to address potential incompatibilities with neighboring development.[30]

The property is ideally located for mixed use development.[31] Services and infrastructure are available to serve the property, including potable water, sewer, transit, medical facilities, libraries, schools, parks, law enforcement, fire, and emergency medical services.[32] The proposed development parameters are consistent with the Lee Plan, which encourages the County to direct high intensity land uses to parcels with access to transit.[33] A mixed use development comprised of industrial, commercial, and residential land uses is compatible with development patterns in the area.[34]

LDC

A planned development zoning district is a way to integrate development with surrounding land uses.[35] Planned developments further Lee Plan goals and provide flexibility in planning and design.[36]

Development must comply with County land development regulations or seek deviations. A "deviation" is a departure from a land development regulation.[37] An Applicant requesting relief from development standards must demonstrate the deviation enhances the planned development and will not cause a detriment to the public.[38]

The LDC requires the Hearing Examiner to approve, approve with modifications, or deny of a requested deviation based upon findings that the deviation (1) enhances the planned development and, (2) preserves/promotes public health, safety, and welfare.[39]

Applicant requests a single deviation from LDC buffer planting requirements within a 100 foot FPL easement. The Code requires five trees per 100 linear feet within a five foot wide area. Applicant seeks to replace required trees with a single hedge in the easement to avoid conflicts with FPL operations.[40]

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[30] LDC §34-612(2).
[31] Lee Plan Goal 11, Objectives 2.1, 2.2, 11.1, 11.2.
[32] Lee Plan Goal 66, Objectives 2.1 and 2.2.
[33] Lee Plan Policies 39.1.3, 39.2.1, 43.1.3. There are two transit stops in proximity to the property.
[34] Lee Plan Goals 5, 6, 11, Objectives 11.1, 11.2, Policies 6.1.7, 11.1.1, 11.1.2, 11.2.1, 11.2.6, 11.2.7, 39.1.3.
[35] LDC §34-612(2).
[36] LDC §§34-411(a), 34-612(2), Lee Plan Policy 2.1.2.
[37] LDC §34-2.
[38] LDC §34-373(a)(9).
[39] *Id.*
[40] The hedge would be planted at 24 inches in height and maintained at 48 inches in height.

Applicant offered testimony and evidence in support of the deviation.[41] Staff recommends approval, subject to submission of a Letter of No Objection from FPL.

The project will be subject to road, park, school, fire, and emergency medical services impact fees.[42]

Transportation

The Master Concept Plan (MCP) depicts two driveways to Plantation Road, a County maintained arterial roadway.[43] Staff and Applicant evaluated traffic impacts based on project buildout in 2028.

The request increases trip generation but does not adversely impact the surrounding road network.[44] The Traffic Impact Statement reveals affected roadways will operate at adopted levels of service.[45] The intersection of Plantation Road and Six Mile Cypress Parkway will operate below adopted levels of service at buildout, but this condition exists with and without the requested increase in development intensity.[46]

Applicant agrees to enter a Signalization Agreement with the County and other developers in the area to contribute a proportionate share of the cost of a signal at the intersection of Plantation Road and Six Mile Cypress Parkway.[47]

The County evaluates necessary site related improvements, including turn lanes, during development order review.[48]

Environmental

Applications to rezone property must not adversely affect environmentally critical areas and natural resources.[49]

There are no indigenous vegetative communities or protected species on the property.[50] Historically, there have been three wetland areas on the site. Applicants applied for a jurisdictional wetland determination from the South Florida Water Management District. If the District concludes State wetlands are present,

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[41] LDC §34-377(a)(4).
[42] LDC §2-261 *et seq.*, 2-301 *et seq.*, 2-341 *et seq.*, 2-381 *et seq.*
[43] Lee County Administrative Code 11-1. The MCP shows two driveways serving the property from Plantation Road. Plantation Road has a posted speed limit of 45 mph.
[44] Staff Report Attachment F: Arthrex at Plantation Transportation-Related Analysis Memorandum from Lili Wu, Senior Planner, dated March 325, 2025.
[45] Staff Report Attachment J: Traffic Impact Statement for Arthrex Logistics Center prepared by TR Transportation Consultants, Inc., revised January 27, 2025.
[46] *Id.*
[47] The County will determine timing of signal installation.
[48] Lee Plan Objective 39.1, Policy 39.1.1.
[49] LDC §34-145(d)(4)a.1.f).
[50] Staff Report Attachment E: Environmental Staff Report.

Applicants may be required to adjust density calculations to reflect appropriate density consistent with Lee Plan directives.[51] Applicant will mitigate wetland impacts offsite.

The LDC requires projects in the Mixed Use Overlay to provide 20% open space.[52] The MCP complies with this requirement.[53]

Applicant requests one deviation from LDC buffer requirements for the planted buffer within the 100 foot FPL easement on the east property line.

Public Infrastructure and Services

The Lee Plan requires evaluation of services and infrastructure during the zoning process.[54] Public services include services, facilities, capital improvements, and infrastructure necessary to support development.[55]

A broad range of services and infrastructure are available to serve the project Including: paved roads, pedestrian/bike paths, public water and sewer, transit, medical facilities, law enforcement, recreation, libraries, libraries, fire, and emergency medical service.[56] Lee Tran Route 80 runs along Plantation, Six Mile Cypress, and Metro Parkways.[57]

Several healthcare-related employment centers are within a short distance. The project will be integrated with surrounding development via automotive, transit, pedestrian, and bicycle connections.[58]

Conditions

The MPD will be subject to several conditions of approval. The conditions reasonably relate to the impacts anticipated from the development.[59] The Hearing Examiner recommends inclusion of a condition required by Florida Statutes pertaining to future permitting.

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[51] Lee Plan Policy 1.5.1 allows maximum density of one unit per 20 acres on wetlands. The remaining acreage may yield densities consistent with the future land use classification of Intensive Development.
[52] LDC §10-415.
[53] LDC §10-425(a).
[54] LDC §34-145(d)(4)a.1.g). *See* Lee Plan Objectives 2.1, 4.1, Policies 2.2.2, 5.1.3.
[55] Lee Plan Glossary definition of "Public Services".
[56] Lee Plan Objectives 2.1, 2.2, Policies 2.2.1, 2.2.2. Fire protection services provided by South Trail Fire & Rescue Services District. Emergency Medical Services provided by Medic Station 80. Law Enforcement will be supplied by Lee County Sheriff. Lee County Utilities has potable water and sanitary sewer infrastructure adjacent to the site. Applicant will complete a gap in the sidewalk on the west side of Plantation Road fronting the north parcel.
[57] Lee Plan Map 3-C: 2045 Financially Feasible Transit Network. *See* Lee Plan Policy 43.1.1.
[58] The site is served by access to an arterial roadway, Lee Tran Route 80, and a shared use path on Plantation Road. Lee Plan Policies 39.2.1, 43.1.3.
[59] LDC §34-83(b)(4)a.3.

Conclusion

The Hearing Examiner concurs with staff's finding the requested MPD meets LDC approval criteria.

IV. Findings and Conclusions

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

A. The proposed MPD complies with the Lee Plan. Lee Plan Goals 2, 4, 5, 6, 11, 53, 56, 59, 77, 125, 158, Objectives 2.1, 2.2, 5.1, 11.1, 11.2, 39.1, 39.2, 77.2, Policies 1.1.2, 2.1.1, 2.1.2, 5.1.1, 5.1.3, 5.1.5, 5.1.6, 6.1.3, 11.1.1, 11.1.2, 11.2.1, 11.2.6, 11.2.7, 39.1.3, 39.2.1, 67.3.1, 67.3.5, 67.3.7, 123.2.4, 125.158.1.2, Maps 1, 3-D, 4-A, and 4-B.

B. *As conditioned herein*, the MPD:

1. Meets the LDC and other county regulations or qualifies for deviations. LDC Chapters 2, 10, and 34;

2. Is compatible with existing and planned uses in the surrounding area. Lee Plan Goals 5, 6, 11, Policies 1.1.2, 2.1.1, 2.1.2, 2.2.1, 6.1.4, 6.1.7, 11.1.1, 11.2.6, 67.3.1, 67.3.5;

3. Provides sufficient access to support the proposed development intensity. Expected impacts on transportation facilities will be addressed by county regulations and conditions of approval. Lee Plan Objectives 11.2, 39.1, Policies 2.2.1, 6.1.1, 6.1.3, 6.1.5, 11.2.1, 39.1.1, 39.2.1; LDC §34-411(d) and (e);

4. Will not adversely affect environmentally critical areas and natural resources. Lee Plan Goals 60, 77, Objectives 60.4, 77.2, 77.3, Policies 5.1.6, 6.1.6, 6.1.7, 61.2.4, 61.3.11, 77.3.1, 77.3.2, 77.3.5, 123.2.4, Standard 4.1.4; and

5. Will be served by public services including paved roads, potable water, sanitary sewer, urban surface water management, transit, police, fire, and emergency services. Lee Plan Goals 2, 4, 6, 11, 53, 56, Objectives 2.1, 6.1, 11.1, Policies 2.2.1, 6.1.4, 11.2, 39.1.3, 43.1.1, 43.1.3, Standards 4.1.1, 4.1.2, and Maps 3-D, 4-A, 4-B; LDC 34-411(d).

C. The proposed mix of uses is appropriate at the proposed location. Lee Plan Goals 2, 4, 5, 6, 11, 158, Objectives 2.1, 11.1, 11.2, Policies 1.1.2, 2.1.1, 2.1.2, 6.1.1, 6.1.2, 6.1.4, 6.1.7, 11.2.1, 11.2.6, 39.1.3, 158.1.2.

D. The recommended conditions and applicable regulations provide sufficient safeguards to protect the public interest. Further, recommended conditions reasonably relate to impacts expected from the proposed development. Lee Plan Goal 77, Policies 6.1.3, 67.3.7, 77.3.2, 77.3.5; LDC §§34-377(a)(3), 34-411, 34-932.

E. As conditioned, the deviation:

1. Enhances the planned development, and

2. Preserves and promotes the LDC's intent to protect public health, safety, and welfare.

Date of Recommendation: May 23, 2025.

Donna Marie Collins
Chief Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A

DESCRIPTION

A PORTION OF SECTION 30, TOWNSHIP 45 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE CENTER OF SAID SECTION 30; THENCE S88°54'54"W ALONG THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 30, FOR A DISTANCE OF 50.00 FEET, TO THE SOUTHEAST CORNER OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 2410, PAGE 874 LEE COUNTY, FLORIDA, AND THE WEST RIGHT-OF-WAY LINE OF PLANTATION ROAD (100 FEET WIDE), AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HERIN DESCRIBED;
THENCE CONTINUE S88°54'54"W ALONG THE SOUTH LINE OF SAID LANDS, AND THE SOUTH LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 30, FOR A DISTANCE OF 1273.15 FEET TO THE SOUTHWEST CORNER OF SAID LANDS, AND THE WEST LINE OF DIAMOND PROFESSIONAL CENTER A CONDOMINIUM, ACCORDING TO THE DECLARATION OF CONDOMINIUM AS RECORDED IN OFFICIAL RECORD BOOK 3294 AT PAGE 2623 LEE COUNTY, FLORIDA, TOGETHER WITH AMENDMENTS THERETO, AND THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 30;
THENCE N01°05'41"W ALONG THE EAST LINE OF SAID CONDOMINIUM, AND THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 30, FOR A DISTANCE OF 660.27 FEET TO THE NORTHWEST CORNER OF SAID LANDS;
THENCE N88°55'40"E ALONG THE NORTH LINE OF SAID LANDS, FOR A DISTANCE OF 50.00 FEET TO THE SOUTHWEST CORNER OF A PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 3122 PAGE 1357 LEE COUNTY, FLORIDA, SAID CORNER LYING 50.00 FEET EAST OF THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 30; THENCE N01°05'41"W ALONG THE WEST LINE OF SAID PARCEL, AND THE EAST LINE OF SAID CONDOMINIUM, LYING 50.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 30, FOR A DISTANCE OF 660.26 FEET TO THE NORTHWEST CORNER OF SAID PARCEL AND THE SOUTH LINE OF LEE COUNTY SCHOOL DISTRICT;
THENCE N88°56'27"E ALONG THE NORTH LINE OF SAID PARCEL, AND THE SOUTH LINE OF SAID DISTRICT, FOR A DISTANCE OF 1221.17 FEET TO THE INTERSECTION WITH SAID WEST RIGHT-OF-WAY LINE OF PLANTATION ROAD AND THE NORTHEAST CORNER OF SAID PARCEL;
THENCE S01°10'51"E ALONG SAID RIGHT-OF-WAY LINE, AND SAID PARCEL, FOR A DISTANCE OF 659.98 FEET TO A CORNER COMMON TO SAID PARCEL AND SAID LANDS;
THENCE S01°10'51"E ALONG SAID RIGHT-OF-WAY LINE AND SAID LANDS, FOR A DISTANCE OF 659.98 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED.

CONTAINING 37.8 ACRES MORE OR LESS.

REVIEWED
DCI2024-00034
Rick Burris, Principal Planner
Lee County DCD/Planning
11/12/2024

Mark Texter

Digitally signed by Mark Texter
Date: 2024.09.27 10:45:44 -04'00'

NO. _____ DATE _____

THIS SKETCH AND DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. THIS SKETCH AND DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTIES WITHOUT THE WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES IS PROHIBITED BY CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE.

MARK TEXTER
LICENSE
No.6392
STATE OF
FLORIDA
PROFESSIONAL SURVEYOR & MAPPER

for:	ARTHREX INC
title:	SKETCH AND DESCRIPTION A PORTION OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 30, TOWNSHIP 45 S & RANGE 25 E LEE COUNTY, FLORIDA

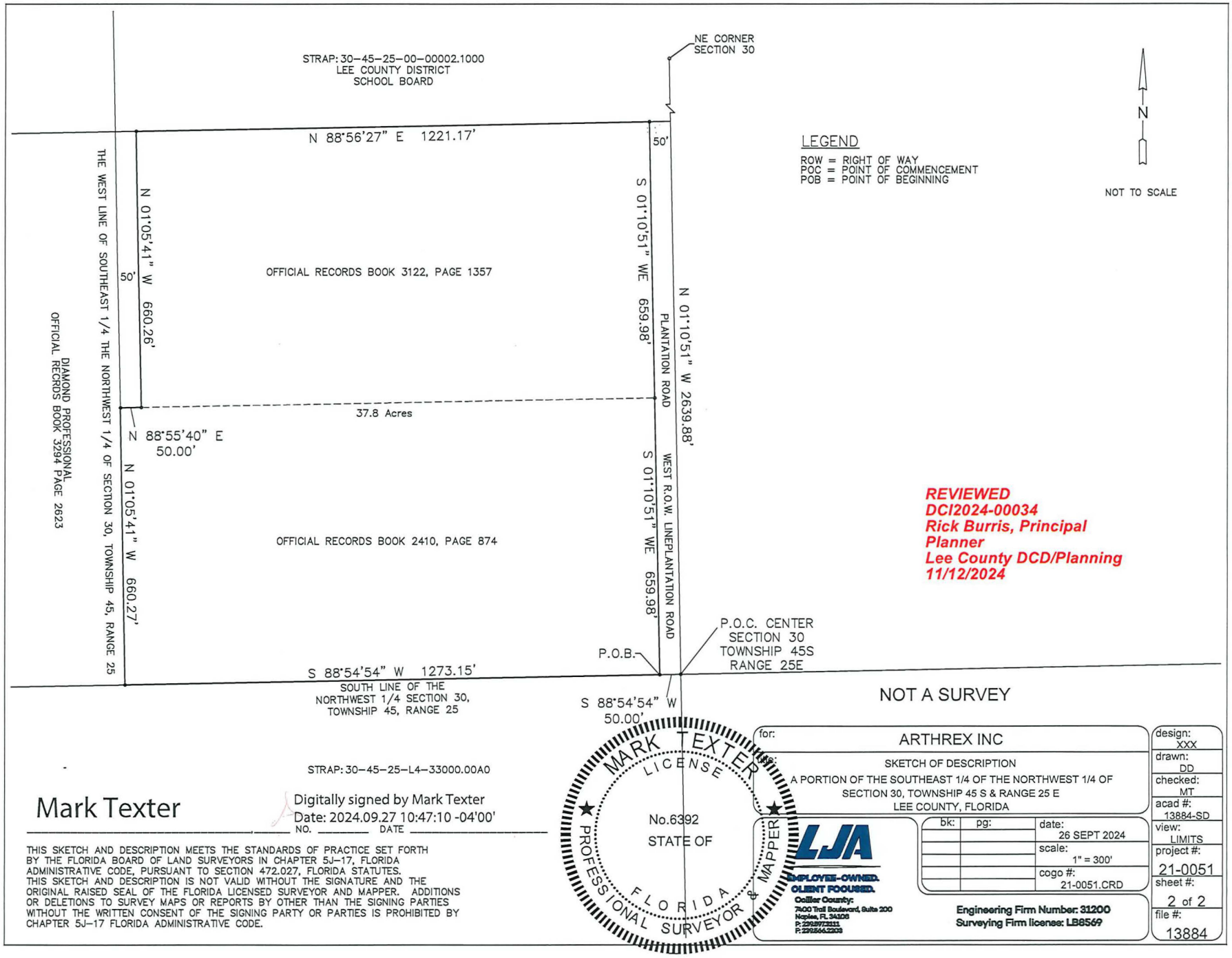
LJA
EMPLOYEE-OWNED.
CLIENT FOCUSED.
Collier County:
7900 Trail Boulevard, Suite 200
Naples, FL 34108
P: 239.597.3111
F: 239.566.2203

bk:	pg:	date: 26 SEPT 2024
		scale: 1" = 300'
		cogo #: 21-0051.CRD

Engineering Firm Number: 31200
Surveying Firm license: LB8569

design:	XXX
drawn:	DD
checked:	MT
acad #:	13884-SD
view:	LIMITS
project #:	21-0051
sheet #:	1 of 2
file #:	13884

Exhibit A



STRAP: 30-45-25-L4-33000.00A0

Mark Texter

Digitally signed by Mark Texter
Date: 2024.09.27 10:47:10 -04'00'

NO. _____ DATE _____

THIS SKETCH AND DESCRIPTION MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. THIS SKETCH AND DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER. ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTIES WITHOUT THE WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES IS PROHIBITED BY CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE.

MARK TEXTER LICENSE No.6392 STATE OF FLORIDA PROFESSIONAL SURVEYOR & MAPPER

for: ARTHREX INC

title: SKETCH OF DESCRIPTION
A PORTION OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 30, TOWNSHIP 45 S & RANGE 25 E
LEE COUNTY, FLORIDA

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LJA
EMPLOYEE-OWNED. CLIENT FOCUSED.
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design:	XXX
drawn:	DD
checked:	MT
acad #:	13884-SD
view:	LIMITS
project #:	21-0051
sheet #:	2 of 2
file #:	13884

DCI2024-00034

Zoning

Subject Property

N
W
E
S

0 500 1,000
Feet

Lee County
Southwest Florida

Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

1. Project Approval

Master Concept Plan (MCP). Development must be consistent with the two-page MCP entitled "Arthrex Logistics Center," last revised May 22, 2025, except where modified by conditions in this resolution. (MCP attached as Exhibit B1)

Compliance with Lee Plan and Land Development Code (LDC). Development must comply with the Lee Plan and LDC at time of Development Order permitting, except where deviations have been approved herein. Modifications to approved uses, conditions or the MCP require further development approvals.

Approved Development Parameters: This planned development will allow a maximum 510,000 square feet of industrial uses, 5,000 square feet of medical office, and 105,000 square feet of general office (or 80,000 square feet of retail commercial and general office); or alternatively, 464 multiple-family residential dwelling units, including 168 Bonus Density Units, and 30,000 square feet of retail commercial and general office uses.

2. Permitted Uses and Site Development Regulations

a. Schedule of Permitted Uses

Accessory Uses and Structure
Administrative Offices
Banks and Financial Establishments: Group I and II
Broadcast Studio, Commercial Radio, and Television
Business Services: Group I and II
Cleaning and Maintenance Services
Clothing Stores, General
Clubs: All
Cold Storage, Precooling, Warehouse, and Processing Plant- No Meat, No Fish
Communication Facility, Wireless (with Special Exception approval)
Computer and Data Processing Services
Consumption On Premises (in conjunction with Restaurant Group III)
Convenience Food and Beverage Store, no fuel pumps
Day Care Center, Child, Adult
Drive-Through Facility for Any Permitted Use
Drugstore, Pharmacy

Dwelling Unit: Multiple-Family (Development Scenario B only, limited to 464 units, including Bonus Density)
Emergency Operations Center
EMS, Fire, or Sheriff's Station
Entrance Gates and Gatehouse
Essential Services
Essential Service Facilities: Group I
Factory Outlets (Point of Manufacture Only)
Fences, Walls
Food and Beverage, Limited
Food Stores: Group I
Freight and Cargo Handling Establishments
Furniture and Fixtures, Manufacturing
Gasoline Dispensing System, Special
Gift and Souvenir Shop
Hardware Store
Health Care Facilities: All Groups
Hobby, Toy, and Games Shops
Household and Office Furnishings: All Groups
Insurance Companies
Laundry or Dry Cleaning: Group I
Leather and Leather Products, Manufacturing, Group II
Library
Measuring, Analyzing, and Controlling Instruments, Manufacturing
Medical Office
Models: Units
Motion Picture Production Studio
Non-Store Retailers: All Groups
Parcel and Express Services
Paint, Glass, and Wallpaper
Parking Lot and Parking garage, Accessory
Personal Services: Group II
Photo Finishing Laboratories
Place of Worship
Post Office
Printing and Publishing Services
Processing and Warehousing
Real Estate Sales Office
Religious Facilities
Repair Shops: Groups I, II, III
Research and Development Laboratories: Groups II, IV
Residential Accessory Uses
Restaurant: Fast Food
Restaurants: Groups I, II, III
Retail And Wholesale Sales, when incidental and subordinate to permitted use(s) on the same premises

Rubber and Plastics Products, Manufacturing Group II
Schools, Commercial
Signs
Social Services: Groups I, II
Specialty Retail Shops: All Groups
Storage: Indoor & Open
Studios
Temporary Uses
Textile Mill Products, Manufacturing Groups I, II
Theater, Indoor
Used Merchandise Stores: Groups I, II
Variety Store
Warehouse: All
Wholesale establishments: Group III

b. Site Development Regulations

Minimum Lot Area and Dimensions:

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

Minimum Setbacks Residential:

Internal Street:	10 feet
Side:	20 or 0 feet
Rear:	10 feet
Building separation:	20
Waterbody Setback:	10 feet from LME

Minimum Setbacks Non-Residential:

Street:	25 feet
Side:	15 feet
Rear:	5 feet
Building Separation	20 feet
Waterbody:	20 feet from LME

Maximum Building Height: 55 feet
Maximum Lot Coverage: 60%
Minimum Open Space: 20%
Minimum Development Perimeter Boundary Setback: 25 feet

3. Transportation

Developer must enter a Signalization Agreement to contribute a proportionate share towards design and installation/construction of traffic signal facilities at the intersection of Six Mile Cypress Pkwy and Plantation Rd as a part of the initial approval for Development. The Proportionate Share Traffic Signal Agreement will be subject to review and approval Lee County Department of Transportation and County Attorney's Office. Once executed, the Agreement must be recorded in the Public Records of Lee County prior to issuance of the first certificate of occupancy for development.

4. Environmental

a. Wetland Impacts. For development that proposes impact to wetlands, construction may not commence until the issuance of required permits. Development activity must remain in compliance with applicable state wetland permits and applicable local development permits. If impacts to wetlands are not permitted by the State, or if issued state wetland permits are inconsistent with the proposed impacts to wetlands depicted within the local development order permit approvals, Developer must amend local development permit approvals to be consistent with issued state wetland permits or applicable Lee Plan and Land Development Code regulations pertaining to development within wetlands.

b. Wetland Mitigation. The development order submittals must include receipt of payment for wetland mitigation, if applicable.

c. West Property Line Buffer. Development order submittals must depict a five-foot-wide buffer along the west property line with a single hedge row of native shrubs specified at 48-inches high and maintained at 64-inches-in-height.

d. Buffer Plantings within FPL Easement. Prior to the issuance of a local development order, the applicant must submit a letter of no objection from Florida Power and Light (FPL) stating that a five-foot-wide buffer with shrubs installed 24 inches high and 36 inches on center to be maintained at 48 in height are allowed within the 100-foot-wide FPL easement along the east property line.

e. Lake. Development order submittals must include the following for the existing 2.37-acre lake:

   i. Three aerators for lake destratification; and
   ii. 1,850 herbaceous littorals in 2-inch liners that include blue flag iris (Iris Hexagona), Southern Swamp Lily (Crinum Americanum),

pickerel weed (Pentaderia cordata), and Spartina (Spartina Bakeri); and

iii. Seventeen (17) deep lake management trees installed at 10-foot-tall, two-inch caliper, and a four-foot canopy spread.

5. Pedestrian and Bicycle Access to School Bus

Development Order plans for multi-family residential dwellings must include safe pedestrian and bicycle access to school bus stops. The site plan must depict locations for school buses to stop, load and unload students. Plans must also include a dedicated area for students to wait for the school bus. These waiting areas must be outside road rights-of-way and coordinated with the Lee County School District.

6. State/Federal Permits

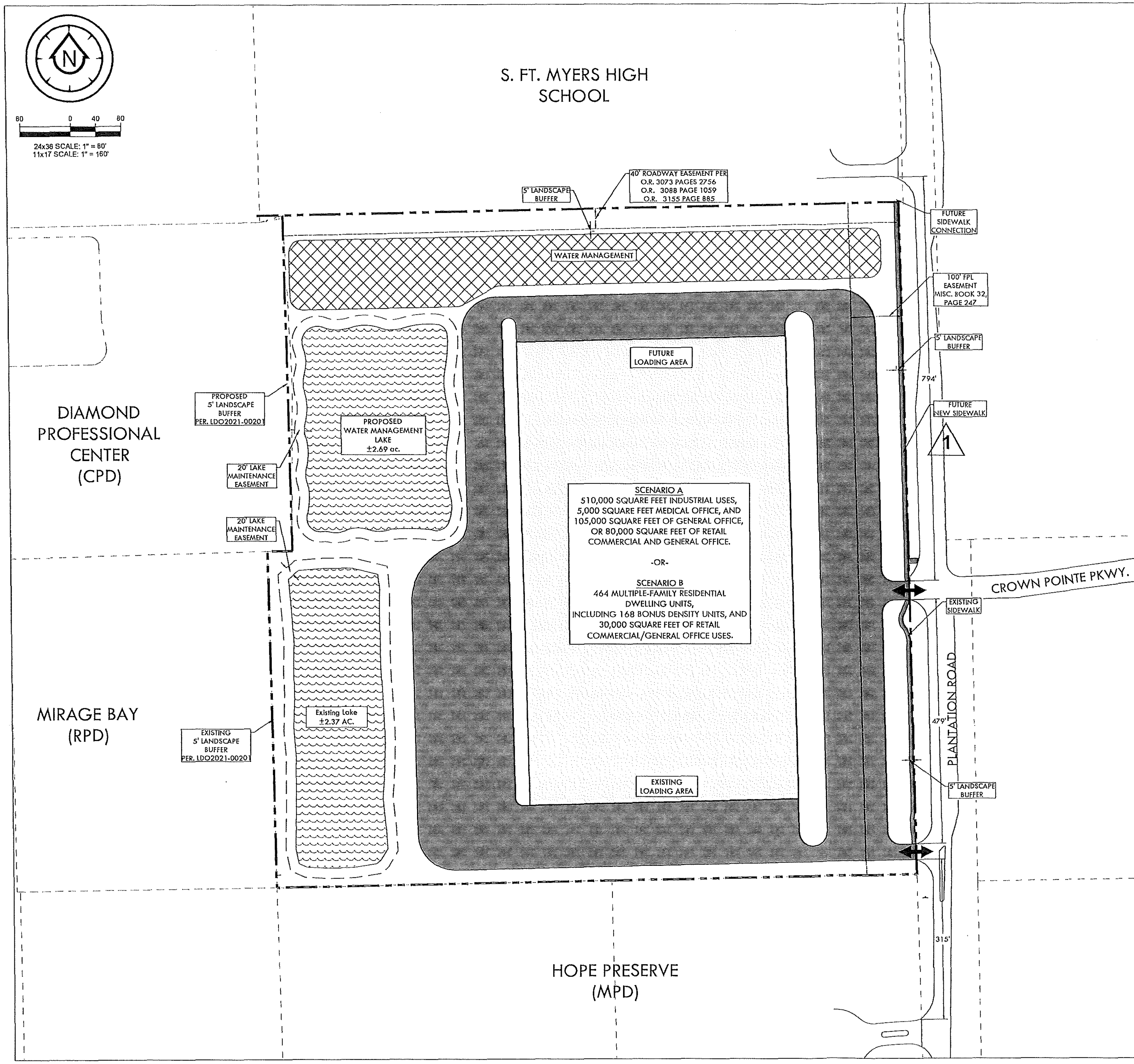
Issuance of a County development permit does not establish rights to permits from state or federal agencies. Further, it does not establish liability on the County if the Developer (a) does not obtain requisite approvals or fulfill obligations imposed by state and federal agencies, or (b) undertakes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

Deviation

1. Buffer. A deviation from LDC §10-425(f)(1), which requires a five-foot-wide buffer with five trees per 100 linear feet, to allow a five-foot-wide buffer within the 100-foot FPL easement on the east property line to consist of a single hedge.

   Deviation approved subject to Condition 4.d.

Exhibits to Conditions:
B1 Master Concept Plan entitled "Arthrex Logistics Center" last revised May 22, 2025



Legend

- Lake
- Building
- Paved Circulation
- Stormwater Management Areas
- Vehicular Ingress & Egress (Existing)
- Heritage Tree (Laurel Oak)

Proposed Land Use Table

Parcel Total Acres	± 37.7 ac.
Open Space (20% required)	± 7.54 ac.
Multi-Family Units	Maximum 464.59 dwelling units including 168.64 bonus density units
Commercial	110,000 sf.
Industrial	510,000 sf.

Proposed Zoning:

Mixed Use Planned Development (MPD)

Existing Land Use:

Office:	±46,000 sf.
Warehouse:	±210,000 sf.

Existing Zoning:

RPD & IPD

Existing Future Land Use:

- Intensive
- Mixed Use Overlay

Deviations:

△1

LJA
EMPLOYEE-OWNED. CLIENT FOCUSED.

CLIENT NAME: RES MEYERS HOLDINGS, LLC
1370 CREEKSIDE BLVD
NAPLES, FL 34108

PROJECT NAME: ARTHREX LOGISTICS CENTER

DRAWING TITLE: MASTER CONCEPT PLAN

DESIGNED BY: LJA
DRAWN BY: BLB
CHECKED BY: JAC
REVIEWED BY: JAC
DATE: May 2025
DATUM: NAVD = NGVD + 1.17'

ACAD FILE NAME:

LJA PROJECT # 23-0001

PLOT VIEW \ LAYOUT: CONCEPT 2

SHEET 01 OF 01

ACAD FILE #

EXHIBIT B-1

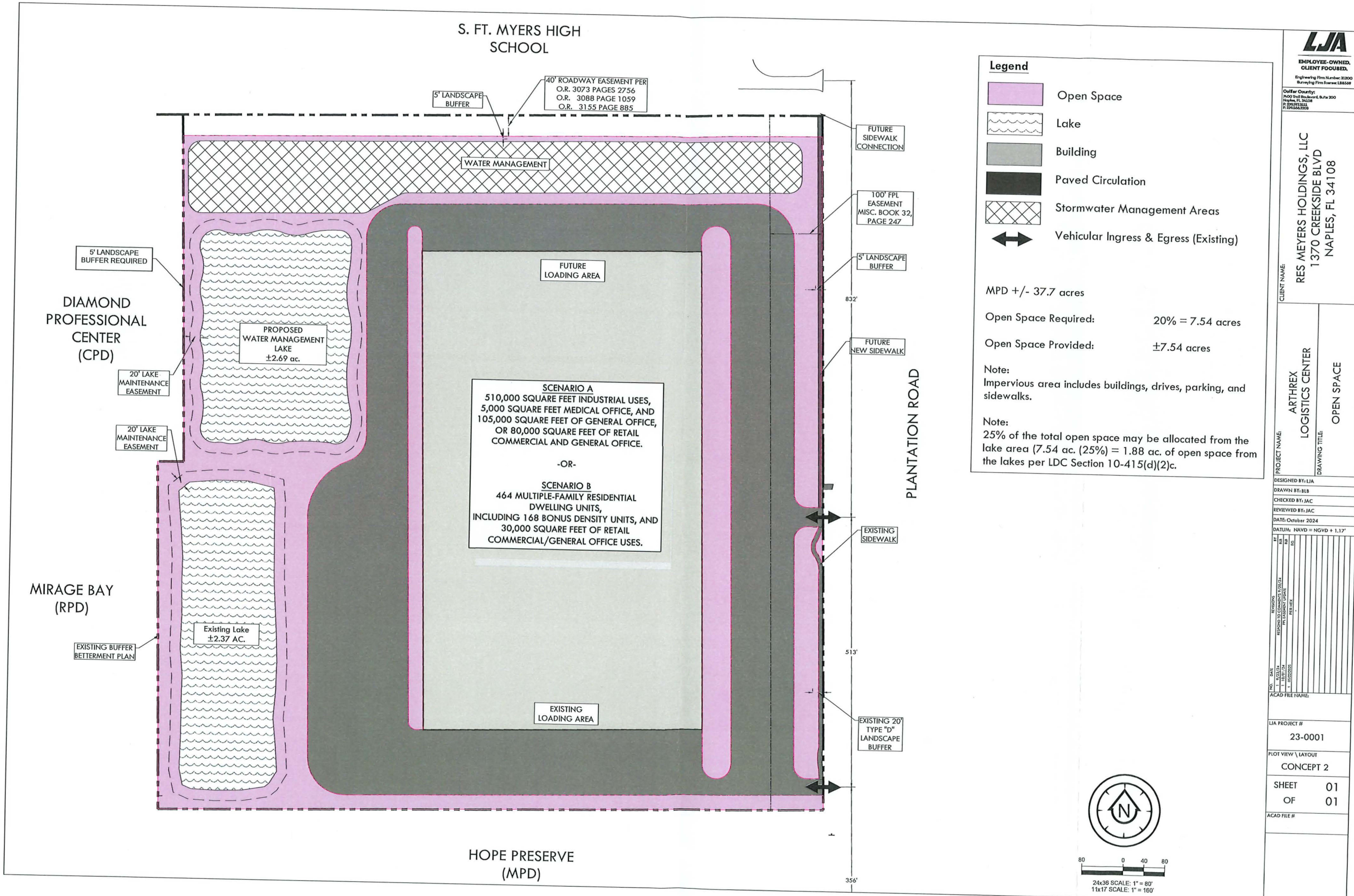

S. FT. MYERS HIGH SCHOOL
5' LANDSCAPE BUFFER
40' ROADWAY EASEMENT PER O.R. 3073 PAGES 2756 O.R. 3088 PAGE 1059 O.R. 3155 PAGE 885
WATER MANAGEMENT
FUTURE SIDEWALK CONNECTION
100' FPL EASEMENT MISC. BOOK 32, PAGE 247
5' LANDSCAPE BUFFER
5' LANDSCAPE BUFFER REQUIRED
DIAMOND PROFESSIONAL CENTER (CPD)
PROPOSED WATER MANAGEMENT LAKE ±2.69 ac.
20' LAKE MAINTENANCE EASEMENT
20' LAKE MAINTENANCE EASEMENT
FUTURE LOADING AREA
SCENARIO A
510,000 SQUARE FEET INDUSTRIAL USES, 5,000 SQUARE FEET MEDICAL OFFICE, AND 105,000 SQUARE FEET OF GENERAL OFFICE, OR 80,000 SQUARE FEET OF RETAIL COMMERCIAL AND GENERAL OFFICE.
-OR-
SCENARIO B
464 MULTIPLE-FAMILY RESIDENTIAL DWELLING UNITS, INCLUDING 168 BONUS DENSITY UNITS, AND 30,000 SQUARE FEET OF RETAIL COMMERCIAL/GENERAL OFFICE USES.
FUTURE NEW SIDEWALK
832'
PLANTATION ROAD
EXISTING SIDEWALK
MIRAGE BAY (RPD)
Existing Lake ±2.37 AC.
EXISTING BUFFER BETTERMENT PLAN
EXISTING LOADING AREA
513'
EXISTING 20' TYPE "D" LANDSCAPE BUFFER
HOPE PRESERVE (MPD)
356'
Legend
Open Space
Lake
Building
Paved Circulation
Stormwater Management Areas
Vehicular Ingress & Egress (Existing)
MPD +/- 37.7 acres
Open Space Required: 20% = 7.54 acres
Open Space Provided: ±7.54 acres
Note:
Impervious area includes buildings, drives, parking, and sidewalks.
Note:
25% of the total open space may be allocated from the lake area (7.54 ac. (25%) = 1.88 ac. of open space from the lakes per LDC Section 10-415(d)(2)c.
N
80 0 40 80
24x36 SCALE: 1" = 80'
11x17 SCALE: 1" = 160'
LJA
EMPLOYEE-OWNED. CLIENT FOCUSED.
Engineering Firm Number: 31200
Surveying Firm license: LB8569
Collier County:
7400 Trail Boulevard, Suite 200
Naples, FL 34108
CLIENT NAME:
RES MEYERS HOLDINGS, LLC
1370 CREEKSIDE BLVD
NAPLES, FL 34108
PROJECT NAME:
ARTHREX LOGISTICS CENTER
DRAWING TITLE:
OPEN SPACE
DESIGNED BY: LJA
DRAWN BY: BLB
CHECKED BY: JAC
REVIEWED BY: JAC
DATE: October 2024
DATUM: NAVD = NGVD + 1.17'
ACAD FILE NAME:
LJA PROJECT #
23-0001
PLOT VIEW \ LAYOUT
CONCEPT 2
SHEET 01
OF 01
ACAD FILE #

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments:* Prepared by Chahram Badamtchian, Senior Planner, date received May 7, 2025 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

2. *Affidavit of Publication:* For Zoning Case DCI2024-00034 Arthrex at Plantation (1 page – 8.5"x11")

APPLICANT EXHIBITS

a. *48-Hour Notice:* Email from Margaret Emblidge to Maria Perez and Hearing Examiner, with copies to Richard Akin, Esq., and Chahram Badamtchian, dated Monday, May 19, 2025, at 9:25 AM (4 pages – 8.5"x11")

1. *PowerPoint Presentation:* Prepared for Arthrex at Plantation, DCI2024-00034, Lee County Hearing Examiner Hearing, dated May 22, 2025 (multiple pages – 8.5"x11")[color]

2. *Master Concept Plan:* Prepared for Arthrex at Plantation, DCI2024-00034 (11"x17")

3. *Proposed Condition:* (1 page – 8.5"x11")

4. *Written Submissions:* Email from Margaret Emblidge to Maria Perez, Davi Bumpous, Jim Car, Jeremy Sterk, Jim Banks, P.E., Chahram Badamtchian, and Hearing Examiner, dated Thursday, May 22, 2025, at 4:14 PM (2 pages – 8.5"x11" and 1 page – 11"x24"){post hearing submittal}

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Chahram Badamtchian, Senior Planner

Applicant Representatives:

1. Richard Akin, Esq.
2. Jim Banks, P.E.
3. David Bumpous
4. Jim Carr, P.E.
5. Margaret Emblidge, AICP
6. Jeremy Sterk

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.

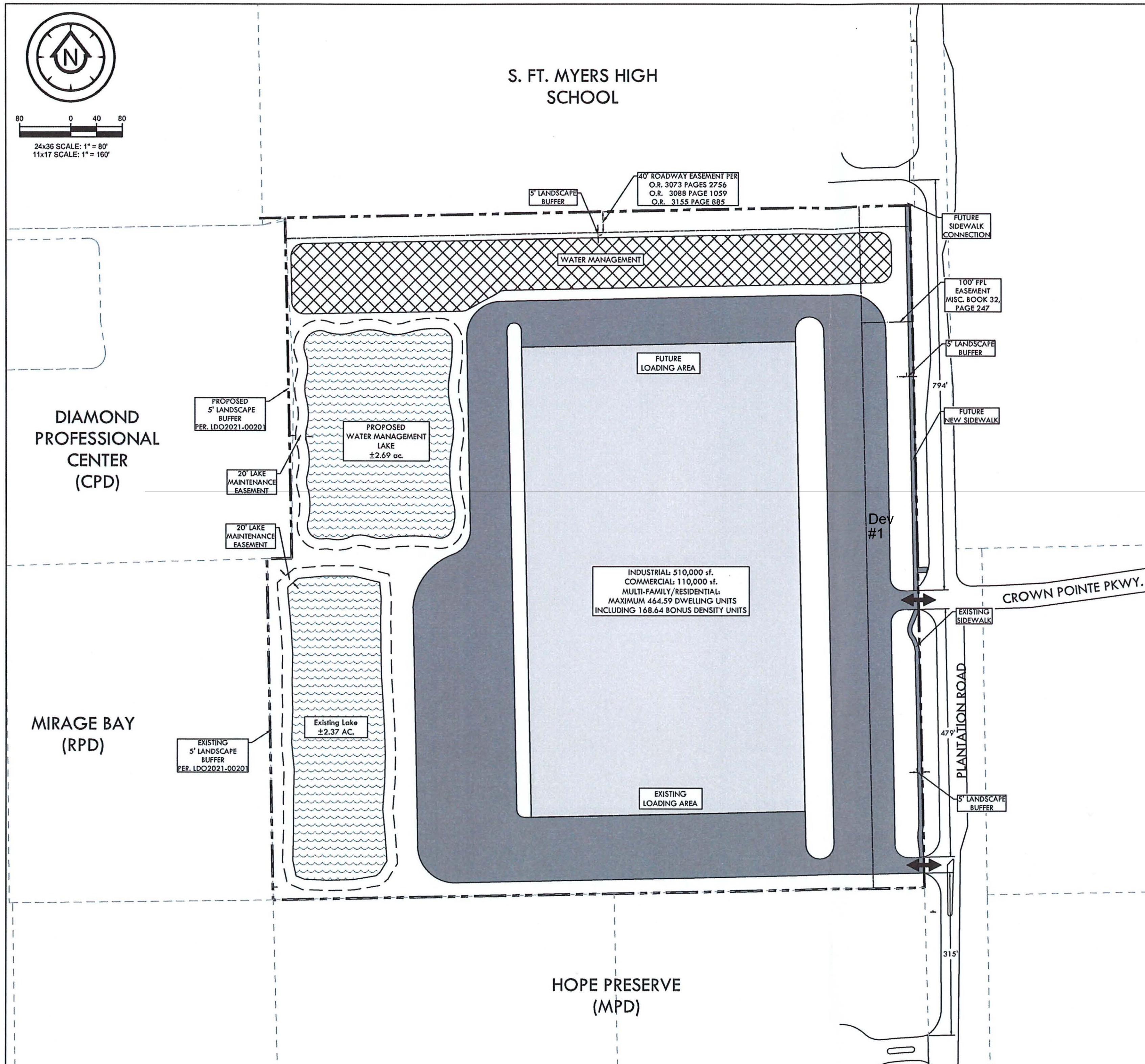
B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation 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 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.



Legend

- Lake
- Building
- Paved Circulation
- Stormwater Management Areas
- Vehicular Ingress & Egress (Existing)
- Heritage Tree (Laurel Oak)

Proposed Land Use Table

Parcel Total Acres	± 37.7 ac.
Open Space (20% required)	± 7.54 ac.
Multi-Family Units	Maximum 464.59 dwelling units including 168.64 bonus density units
Commercial	110,000 sf.
Industrial	510,000 sf.

Proposed Zoning:

Mixed Use Planned Development (MPD)

Existing Land Use:

Office:	±46,000 sf.
Warehouse:	±210,000 sf.

Existing Zoning:

RPD & IPD

Existing Future Land Use:

- Intensive
- Mixed Use Overlay

LJA
EMPLOYEE-OWNED. CLIENT FOCUSED.

CLIENT NAME: RES MEYERS HOLDINGS, LLC
1370 CREEKSIDE BLVD
NAPLES, FL 34108

PROJECT NAME: ARTHREX LOGISTICS CENTER

DRAWING TITLE: CONCEPT PLANE SPACE STUDY

DESIGNED BY: LJA
DRAWN BY: BLB
CHECKED BY: JAC
REVIEWED BY: JAC
DATE: December 2024
DATUM: NAVD = NGVD + 1.17'

ACAD FILE NAME:

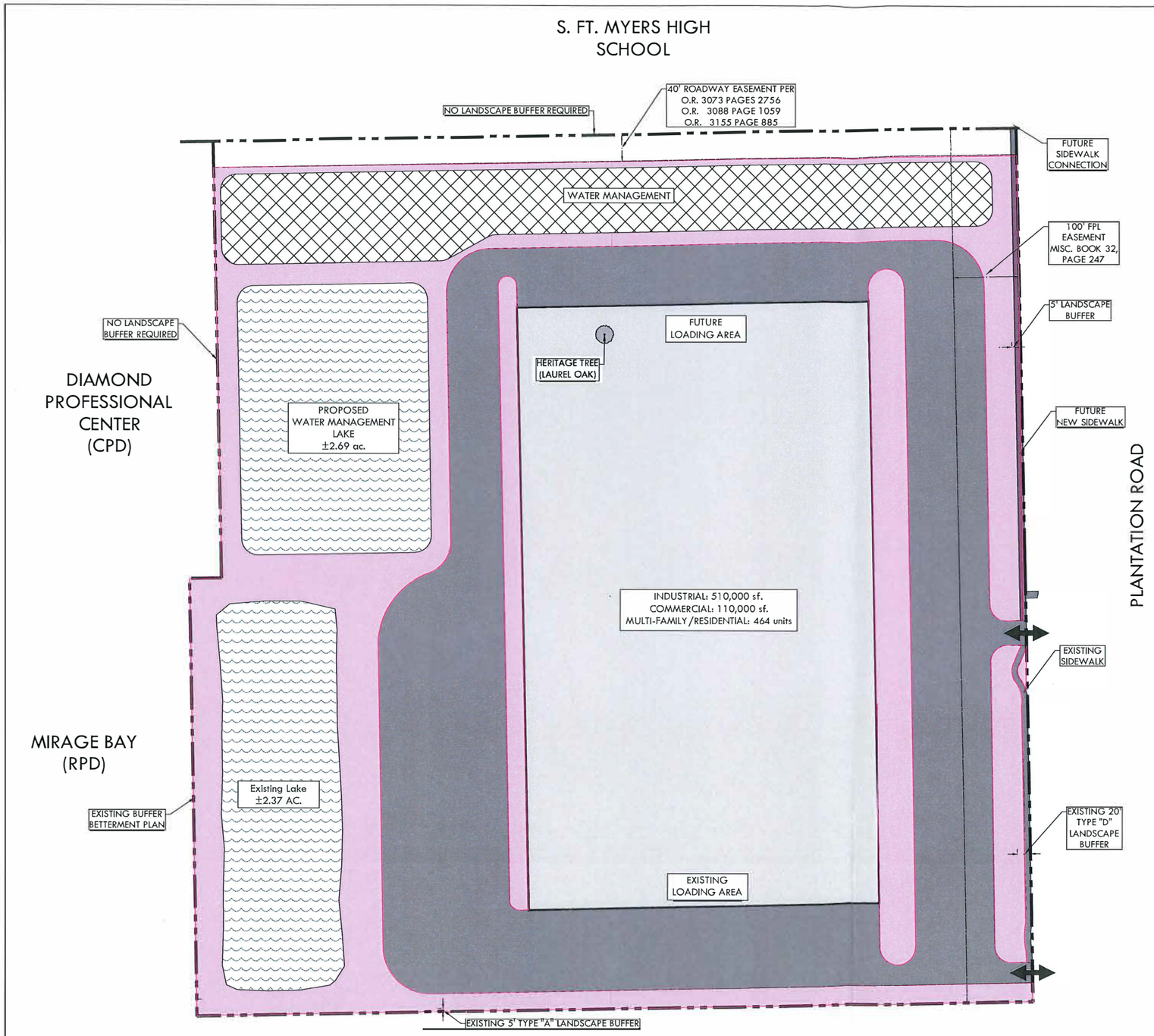
LJA PROJECT #
23-0001

PLOT VIEW \ LAYOUT
CONCEPT 2

SHEET 01
OF 01

ACAD FILE #

Attachment D



Legend

- Open Space
- Lake
- Building
- Paved Circulation
- Stormwater Management Areas
- Vehicular Ingress & Egress (Existing)

MPD +/- 37.7 acres

Open Space Required: 20% = 7.54 acres

Open Space Provided: ±7.54 acres

Note:
Impervious area includes buildings, drives, parking, and sidewalks.

Note:
Open space areas include buffers, 25% lake, dry detention areas, grassed area, landscaped areas.

80 0 40 80

24x36 SCALE: 1" = 80'
11x17 SCALE: 1" = 160'

AGNOLI BARBER & BRUNDAGE, INC.
Professional Engineers, Planners, Surveyors & Landscape Architects
Certificate of Authorization Nos. EB 3664, EB 3664, and LC26000630
Collier County:
7400 Trail Boulevard, Suite 200
Naples, FL 34108
Phone: (239)597-3111
Fax: (239)566-2203

CLIENT NAME:
RES MEYERS HOLDINGS, LLC
1370 CREEKSIDE BLVD
NAPLES, FL 34108

PROJECT NAME:
ARTHREX
LOGISTICS CENTER

DRAWING TITLE:
OPEN SPACE

DESIGNED BY: ABB INC.
DRAWN BY: BLB
CHECKED BY: JAC
REVIEWED BY: AO
HOR. SCALE: 1" = 60'
VERT SCALE: 1" = 60'
DATE: July 2024
DATUM: NAVD = NGVD + 1.17'

REVISIONS
NO. DATE

ACAD FILE NAME:

ABB PROJECT #
23-0001

PLOT VIEW \ LAYOUT
CONCEPT 2

SHEET 01
OF 01

ACAD FILE #

Attachment C

DCI2024-00034, Arthrex at Plantation MPD
Conditions and Deviations

A. Conditions

1. MASTER CONCEPT PLAN/DEVELOPMENT PARAMETERS

The development of this project must be consistent with the two-page Master Concept Plan, dated December 2024 (attached hereto as Attachment "D"), except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (LDC) at time of local Development Order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

This planned development will allow a maximum 510,000 square feet of industrial uses, 5,000 square feet of medical office, and 105,000 square feet of general office (or 80,000 square feet of retail commercial and general office); or alternatively, 464 multiple-family residential dwelling units, including 168 Bonus Density Units, and 30,000 square feet of retail commercial and general office uses.

2. USES AND SITE DEVELOPMENT REGULATIONS

a. Schedule of Uses

Accessory Uses and Structure
Administrative Offices
~~Atm (Automatic Teller Machine)~~
Banks and Financial Establishments: Group I and II
Broadcast Studio, Commercial Radio, and Television
Business Services: Group I and II
~~Caterers~~
Cleaning and Maintenance Services
Clothing Stores, General
Clubs: All
Cold Storage, Precooling, Warehouse and Processing Plant- No Meat, No Fish
Communication Facility, Wireless (requires a Special Exception approval)
Computer and Data Processing Services
Consumption On Premises (in conjunction with Restaurant Group III)
Convenience Food and Beverage Store no fuel pumps
Day Care Center, Child, Adult
Drive-Through Facility for Any Permitted Use
Drugstore, Pharmacy

Dwelling Unit: Multiple-Family (Development alternative #2 only, and limited to 464 units, including Bonus Density units)
Emergency Operations Center
EMS, Fire or Sheriff's Station
Entrance Gates and Gatehouse
Essential Services
Essential Service Facilities: Group I
Factory Outlets (Point of Manufacture Only)
Fences, Walls
Food and Beverage, Limited
Food Stores: Group I
Freight and Cargo Handling Establishments
Furniture and Fixtures, Manufacturing
Gasoline Dispensing System, Special
Gift and Souvenir Shop
Hardware Store
Health Care Facilities: All Groups
Hobby, Toy and Games Shops
Household and Office Furnishings: All Groups
Insurance Companies
Laundry or Dry Cleaning: Group I
Leather and Leather Products, Manufacturing, Group II
Library
Measuring, Analyzing and Controlling Instruments, Manufacturing
Medical Office
Models: ~~Display Center and~~ Units
Motion Picture Production Studio
Non-Store Retailers: All Groups
Parcel and Express Services
Paint, Glass, and Wallpaper
~~Parks: Group I~~
Parking Lot and Parking garage, Accessory
Personal Services: Group II
Photo Finishing Laboratories
Place of Worship
Post Office
Printing and Publishing Services
Processing and Warehousing
Real Estate Sales Office
Religious Facilities
Repair Shops: Groups I, II, III
Research and Development Laboratories: Groups II and IV
Residential Accessory Uses
Restaurant: Fast Food
Restaurants: Groups I, II, III

Retail And Wholesale Sales, when clearly incidental and subordinate to a permitted use on the same premises
Rubber and Plastics Products, Manufacturing Group II
Schools, Commercial~~, Noncommercial~~
Signs
Social Services: Groups I and II
Specialty Retail Shops: All Groups
Storage: Indoor & Open
Studios
Temporary Uses
Textile Mill Products, Manufacturing Groups I and II
Theater, Indoor
Used Merchandise Stores: ~~All Groups~~ Groups I and II
Variety Store
Warehouse: All
Wholesale establishments: Group III

b. Site Development Regulations

Minimum Lot Area and Dimensions:

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

Minimum Setbacks Residential:

Internal Street:	10 feet
Side:	~~5~~ 20 or 0 feet
Rear:	10 feet
Building separation:	20
Waterbody Setback:	10 ~~or 0~~ feet from LME

Minimum Setbacks Non-Residential:

Street:	25 feet
Side:	15 feet
Rear:	5 feet
Building Separation	20 ~~or 0~~ feet
Waterbody:	20 ~~or 0~~ feet from LME

Maximum Building Height:	55 feet
Maximum Lot Coverage:	60%
Minimum Open Space:	20%

Minimum Development Perimeter Boundary Setback: 25 feet

3. Transportation

The applicant/developer must enter into a Signalization Agreement for the proportionate share contribution towards the design and installation/construction of traffic signal facilities at the intersection of Six Mile Cypress Pkwy and Plantation Rd as a part of the initial approval for Development. The proportionate share traffic signal agreement must be reviewed and approved by Lee County Department of Transportation and County Attorney's Office, executed, and recorded by the Lee County Clerk of Court prior to issuance of the first certificate of occupancy for development permitted under that development order.

4. Environmental

a. For development that proposes impact to wetlands, construction may not commence until the issuance of required permits. Development activity must remain in compliance with applicable state wetland permits and applicable local development permits. If impacts to wetlands are not permitted by the State, or if issued state wetland permits are inconsistent with the proposed impacts to wetlands depicted within the local development order permit approvals, Developer must amend local development permit approvals to be consistent with issued state wetland permits or applicable Lee Plan and Land Development Code regulations pertaining to development within wetlands.

b. Prior to the issuance of a local development order, the applicant must submit receipt of payment for wetland mitigation, if applicable.

c. Prior to the issuance of a local development order, the development order plans must depict a five-foot-wide buffer along the west property line that includes a single hedge row of native shrubs specified at 48-inches high and maintained at 64-inches-in-height.

d. Prior to the issuance of a local development order, the applicant must submit a letter of no objection from Florida Power and Light (FPL) stating that a five-foot-wide buffer with shrubs installed 24 inches high and 36 inches on center to be maintained at 48 in height are allowed within the 100-foot-wide FPL easement along the east property line.

e. Prior to any development order approval, the development order plans must depict the following for the existing 2.37-acre lake:

   I. A total of three aerators for destratification of the lake; and
   II. 1,850 herbaceous littorals in 2-inch liners that include blue flag iris (Iris Hexagona), Southern Swamp Lily (Crinum Americanum), pickerel weed (Pentaderia cordata), and Spartina (Spartina Bakeri); and
   III. Seventeen (17) deep lake management trees installed at 10-foot-tall, two-inch caliper, and a four-foot canopy spread.

B. DEVIATION:

A deviation from LDC Section 10-425(f)(1), which requires a five-foot-wide buffer with five trees per 100 linear feet, to allow the five-foot-wide buffer within the 100-foot FPL easement along the east property line to include a single hedge.

This deviation is a staff proposed deviation in conjunction with condition 4-d of this staff report.

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

TYPE OF CASE: **PLANNED DEVELOPMENT**
CASE NUMBER: **DCI2024-00034**
HEARING EXAMINER DATE: **May 22, 2025**

APPLICATION SUMMARY

Applicant: Margaret Emblidge, AICP from LJA Engineering, Inc. Representing RES Myers Holdings, LLC and Earthwork Myers, LLC in reference to Arthrex at Plantation MPD.

Request: Request to rezone 37.7± acres from Industrial Planed Development (IPD) and Residential Planned Development (RPD) to Mixed-Use Planned Development (MPD) to allow for up to 510,000 square feet of industrial uses, 5,000 square feet of medical office, and 105,000 square feet of general office (or 80,000 square feet of retail commercial and general office), or alternatively, 464 multiple-family residential dwelling units, including 168 Bonus Density Units, and 30,000 square feet of retail commercial and general office uses.

Location: The subject property is located at 14550 Plantation Road and an existing18.52±-acre property abutting to the north, South Fort Myers Planning Community, Lee County, FL. (District #2). A legal description of the subject property is attached as Attachment "N".

BACKGROUND:

This is a request to rezone two parcels with a combined area 37.7± acres from Industrial Planned Development (Z-03-071, as amended) and Residential Planned Development (Z-06-093) to Mixed-Use Planned Development (MPD).

The subject property abuts Plantation Road, which is an arterial road. This property and most of its surroundings are in the Intensive Development Future Land Use category and the Mixed Use Overlay and as such, it is expected to be developed with high density and intensity uses. Gulf Coast Hospital is located to the north of this site.

ANALYSIS:

The proposed MPD (Arthrex Plantation), affects 37.7± acres of land on the west side of Plantation Road, directly south of South Fort Myers High School. The request proposes two development schemes; one plan is for the site to be developed with 510,000 square feet of industrial uses, 5,000 square feet of medical office, and 105,000 square feet of general office (or 80,000 square feet of retail commercial and general office). Second scheme will allow the development of the site with 464 multiple-family residential dwelling units, including 168 Bonus Density Units, and 30,000 square feet of retail commercial and general office uses.

The applicant requests 168 bonus density units for scheme number 2. Lee County Land Development Code Section 2-147(4) states: If an application for a planned development or conventional rezoning proposes to use bonus density to increase densities above the Lee Plan

standard density range, the application for the rezoning must specifically request the use of bonus density. The project must comply with the criteria set forth in section 34-145(d)(4). The rezoning may be approved with or without the bonus density at the discretion of the Board of County Commissioners. The Board's action taken on the bonus density request will be noted in the final zoning resolution.

Furthermore, the following criteria listed in Land Development Code Section 2-146(b) must be met before a request for Bonus Density can be approved:

(1) The additional traffic will not be required to travel through areas with significantly lower densities before reaching the nearest collector or arterial road.

(2) Existing and committed public facilities are not so overwhelmed that a density increase would be contrary to the overall public interest.

(3) Storm shelters or other appropriate mitigation is provided if the development is located within the coastal high hazard area as defined in section 2-483.

(4) The resulting development will be compatible with existing and planned surrounding land uses.

The area is developed with mostly with residential, commercial, public facilities and medical developments. The applicant is proposing a maximum building height of 55 feet and should not create any incompatibility with its surroundings.

Surrounding Zoning and Land Use

The subject property abuts developed properties on all sides. To the west it abuts two properties, a residential multiple-family development with 137 dwelling units on 7.99 acres with 26 bonus density units. This property is zoned RPD and was approved by Resolution Z-14-003. A second property abutting this site to the west is a Commercial Planned Development approved by Resolution Z-92-050 for 80,000 square feet of commercial uses on 8.09 acres. To the north, it abuts South Fort Myers High School. To the east, across Plantation Road, it abuts CenturyLink Sports Complex (Hammond Stadium), zoned CF and CPD. To the south, it abuts a large Mixed Use Planned Development known as Hope Preserve approved by Resolution Z-12-012 allowing ALF and memory care facility, 70,000 square feet of medical and general office, 109,000 square feet of commercial retail, 90,000 square feet of accessory uses, a hotel, a daycare, and employee housing on 46.4 acres of land with a maximum building height of 125 feet.

Lee Plan

The Future Land Use designation of the property is “Intensive Development”. This property is also in the Mixed-Use Overlay.

The Intensive Development Land Use category encourages developments with higher density and intensity and allows residential, commercial and light industrial uses. The proposed uses include 510,000 square feet of industrial uses, 5,000 square feet of medical office, and 105,000 square feet of general office (or 80,000 square feet of retail commercial and general office), or alternatively, 464 multiple-family residential dwelling units, including 168 Bonus Density Units, and 30,000 square feet of retail commercial and general office uses. The proposed density and intensity of the project is within the allowed densities and intensities in the Intensive Development Future Land Use category of the Lee Plan. The proposed uses are similar and compatible with the surrounding developments. The request is consistent with Policy 1.1.2 of the Lee Plan.

The proposed development promotes contiguous and compact growth patterns, containing urban sprawl and minimizing the costs of services. Adequate public services exist. Sewer and water are available to the site. The property has access to Plantation Road, an Arterial Road, and Fire protection services will be provided by South Trail Fire and Rescue District. Therefore, the request is consistent with Objectives 2.1, and 2.2 and Policy 2.1.1 of the Lee Plan.

This project meets the thresholds for a planned development and is proposed to be rezoned to MPD. This is a mixed-use development, which will contain residential, commercial, and some light industrial uses. The area is developed with industrial, commercial and some residential uses. The subject property is near employment centers such as the surrounding commercial and industrial developments. This mixed-use project, when developed, also has the potential to be an employment center, as well as a residential development. Therefore, the request is consistent with Objective 5.1 and Policies 5.1.1, 5.1.3, 5.1.5, 5.1.7 and 6.1.3 of the Lee Plan.

Water and sewer services from Lee County Utilities are available to the site and the site will be connected to those services. Therefore, the request is consistent with Standards 4.1.1 and 4.1.2 of the Lee Plan (Attachment "G").

This project is a mixed-use development and will integrate multiple land uses including residential, commercial, and light industrial. The connectivity to the adjacent area is provided via an existing sidewalk and proposed sidewalk connection to the north. This connection will provide direct access to an existing LeeTran bus stop located in front of the South Fort Myers High School. Therefore, the request is consistent with Goal 11 and Objective11.1 of the Lee Plan.

This development will be designed to pretreat the stormwater water before it is discharged off-site. This will ensure that water quality is maintained or improved for the protection of the environment. Therefore, the request is consistent with Goal 125 of the Lee Plan.

Neighborhood Compatibility

The neighborhood is mostly developed with commercial, light industrial and residential uses. Proposed uses for this development include commercial, light industrial and residential uses, which are very similar to the existing uses in the area.

Environmental

The applicant has provided an Open Space Exhibit that provides that depicts the development scheme, which is attached as page two of the Master Concept Plan as (Attachment D). LDC Section 10-415 requires development over ten acres in size to provide 30 percent of the development area as open space (green space) when residential is being proposed. (Attachment "E").

Transportation

The site will generate 660 total AM Peak Hour and 300 PM Peak Hour trips per day. Plantation Road is currently operating at Level of Service "C" and is anticipated that with the addition of traffic from this development this road will operate at Level of Service "D" (Attachment "F").

Urban Services

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

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

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

Public transit: Bus Route 80 has a stop to the south of the subject site along Plantation Road. This bus route begins at South Fort Myers Transfer Station, turns east to Daniels Parkway then south to Plantation Road and west to Metro Parkway and to Edison Mall (Attachment "K").

Parks and recreation facilities/community facilities: Lakes Park located on Gladiolus Dive, west of South Tamiami Trail is about 2 miles from the site, and Lakes Regional Library located at 15290 Bass Road is about 4 miles from this site.

Urban levels of police, fire, and emergency services: The subject property will be provided urban levels of police, fire and emergency services. Fire protection is provided by South Trail Fire Protection and Rescue District, located at 5531 Halifax Avenue Road approximately 1.2 miles from this site. Ambulance services are located at 14750 Ben C Pratt Six Mile Cypress Parkway, approximately one mile from this site.

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

Schools: Adequate capacity is available in elementary, middle and high schools in the area for the anticipated 65 school-aged children who will reside within this development (Attachment "H").

Employment and commercial centers: The subject property is in close proximity of existing commercial, industrial and healthcare facilities on Daniels Parkway, Plantation Road and Metro Parkway, providing employment and shopping opportunities in the area. This project itself will be a major employment center.

Planning Community Map and Allocation Table
POLICY 1.6.5: The Planning Communities Map and Acreage Allocation Table (see Map 1-B and Table 1(b)) depict the proposed distribution, extent, and location of generalized land uses for the year 2045.

Deviations
The applicant has not requested any deviations; however, staff is recommending a deviation from LDC Section 10-425(f)(1), which requires a five-foot-wide buffer with five trees per 100 linear feet, to allow the five-foot-wide buffer within the 100-foot FPL easement along the east property line to include a single hedge.

Findings and conclusion:
Based upon an analysis of the application and the standards for approval of planned development rezonings, staff makes the following findings:

a) Complies with the Lee Plan, specifically Goals 11 and 125, Objectives 2.1, 2.2, 5.1, and 11.1, Policies 1.1.2, 2.1.1. 5.1.1, 5.1.3, 5.1.5, 5.1.7 and 6.1.3,

b) Meets the requirements of the Land Development Code and other applicable County regulations;

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

d) Will provide access sufficient to support the proposed development intensity and the expected impacts on existing or planned transportation facilities will be mitigated through existing County regulations or conditions of approval;

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

f) Will be served by urban services, defined in the Lee Plan;

g) The approved and proposed mix of uses is appropriate at the proposed location;

h) The approved 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.

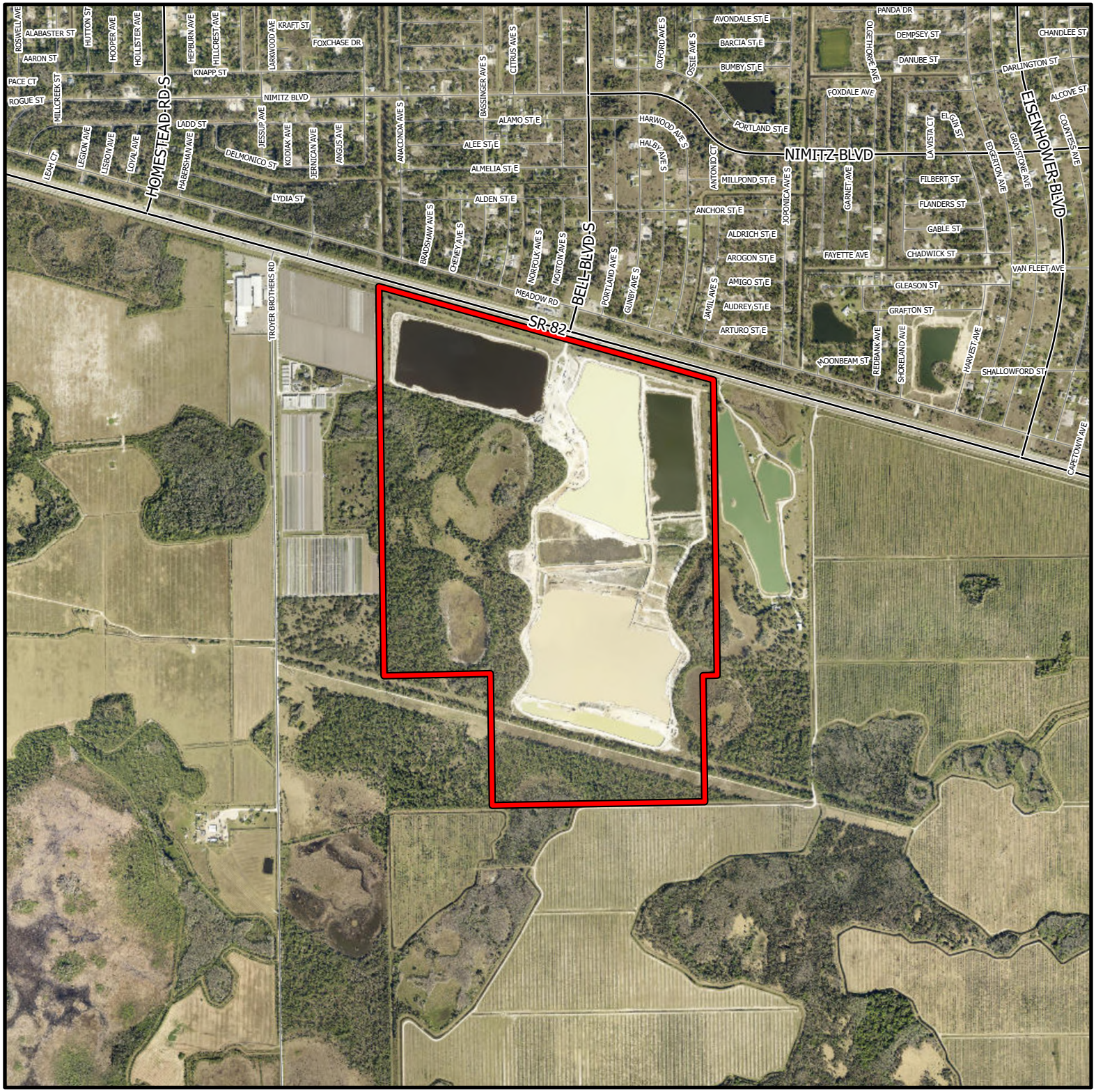
ATTACHMENTS:

A. Expert Witness Information
B. Maps: surrounding zoning, future land use and aerial photograph
C. Conditions and Deviations
D. Master Concept Plan
E. Memorandum from Section of Zoning Environmental Staff
F. Memorandum from Department of Transportation
G. Memorandum from Lee County Utilities
H. Memorandum From Lee County School District
I. Bus Route Maps
J. TIS
K. Z-03-071
L. Z-06-093
M. Application and Applicant’s Narrative
N. Legal Description

DCI2025-00002
Seagate Mine

Staff Summary

CASE NUMBER & NAME:	DCI2025-00002 / Seagate Mine
REQUEST:	Amendment to an existing approved IPD to increase the maximum depth of Extraction from 40 feet to 60 feet. No other amendments are proposed.
RESOLUTION NUMBER:	Z-25-011
LOCATION:	21260 State Road 82, Southeast Lee County Planning Community, Lee County, FL
OWNER:	Seagate Mine, LLC
APPLICANT:	Seagate Mine (f/k/a Bell Road Mine)
AGENT:	Tina M Ekblad, AICP Sage Entitlements, LLC 97 Nickajack N Santa Rosa Beach, Florida 32459
HEARING EXAMINER RECOMMENDATION:	Approval, subject to conditions and deviations.
PARTICIPANTS:	Randall R. Johnson



DCI2025-00002

Aerial

Subject Property

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0 1,000 2,000 3,000
Feet

Lee County
Southwest Florida

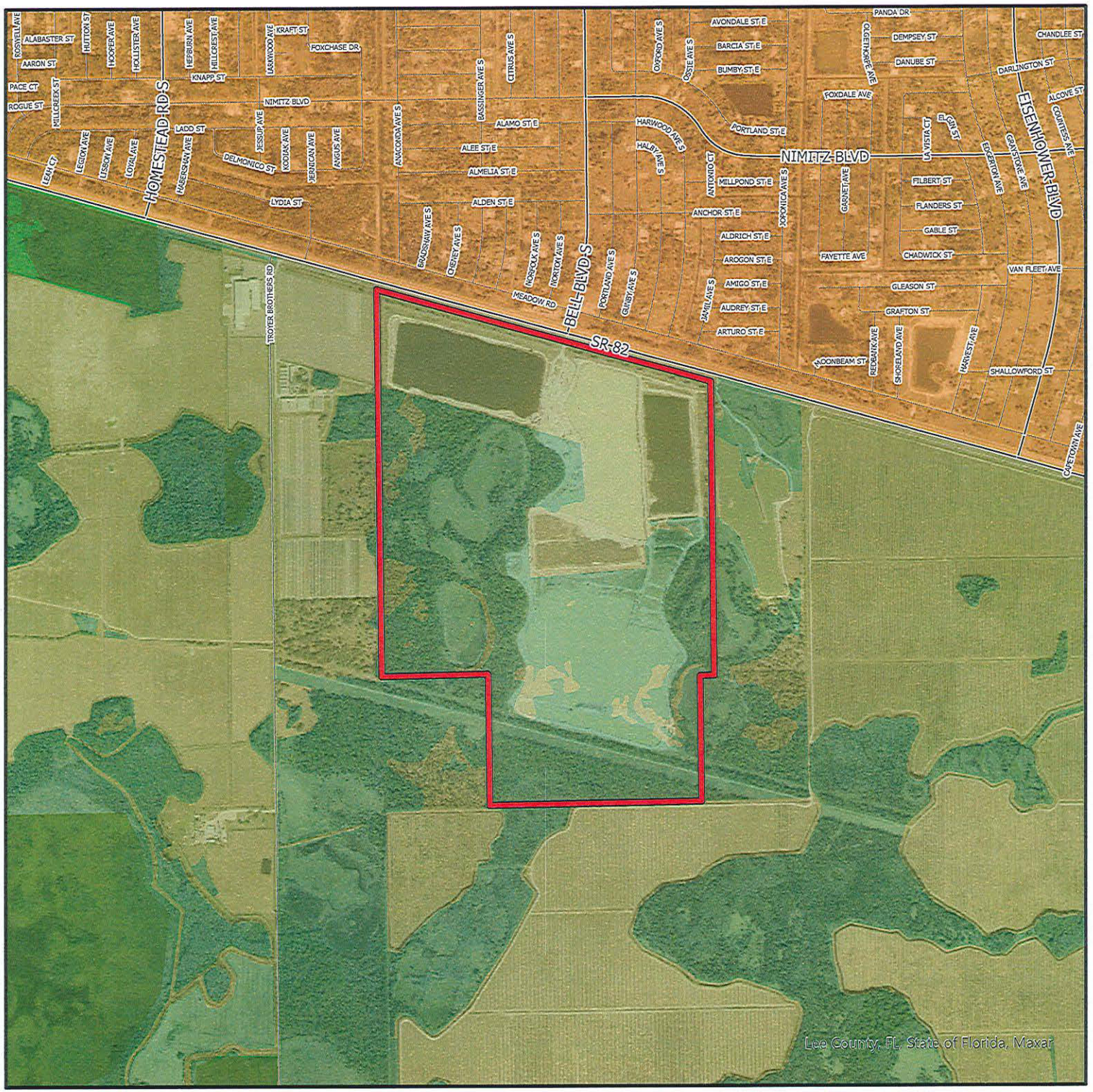
Summary of Hearing Examiner Recommendation

SEAGATE MINE

The requested IPD amendment increases the depth of an existing mining operation from 40 to 60 feet. The request does not expand the mining footprint, modify operations, or seek deviations from the LDC.

The Hearing Examiner recommends approval, as conditioned.

Detailed recommendation follows



DCI2025-00002

Future Land Use

- Subject Property
- Urban Community
- Density Reduction/Groundwater Resource
- Conservation Lands - Upland
- Wetlands
- Conservation Lands - Wetland

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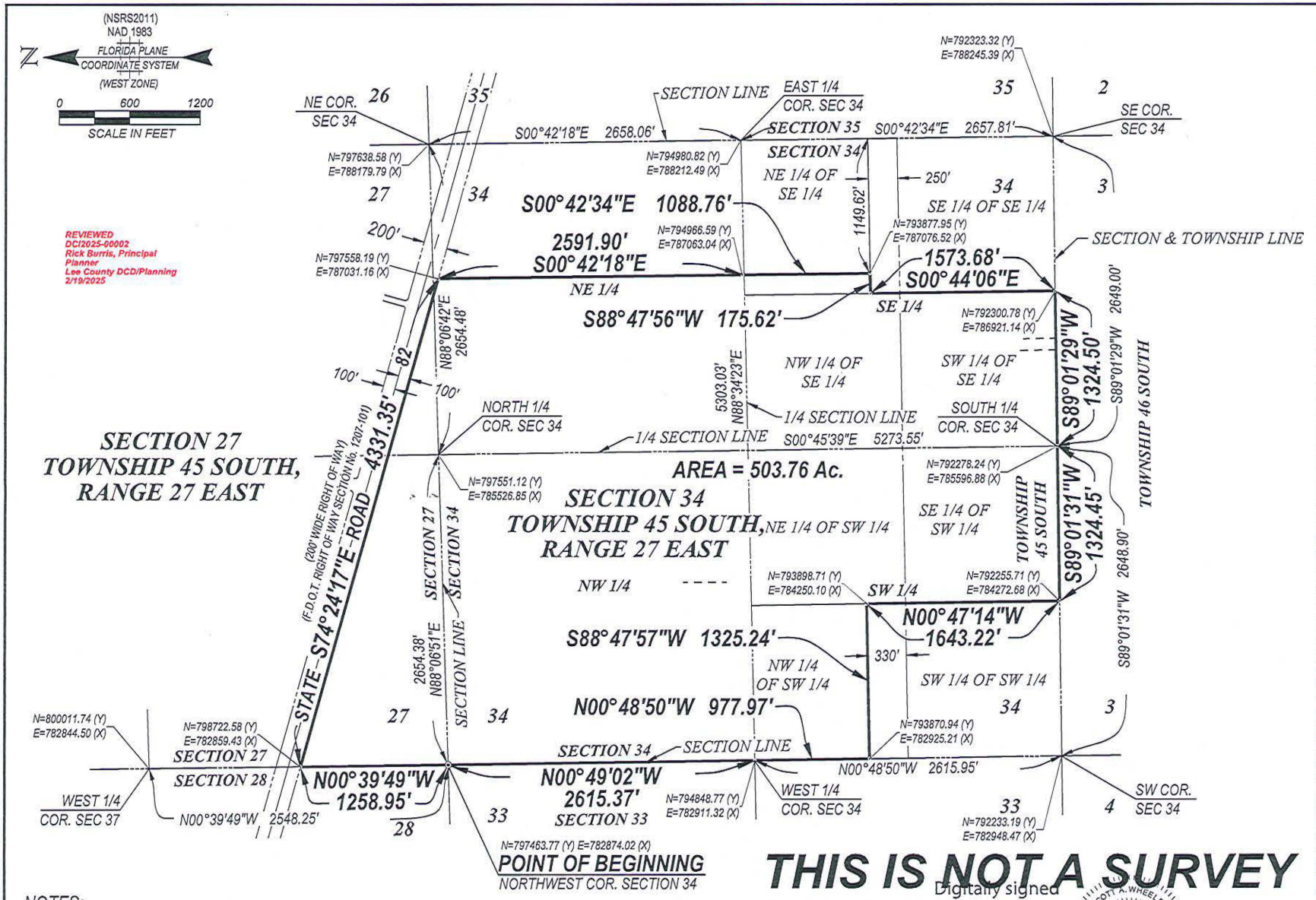
0 1,000 2,000 3,000
Feet

Lee County
Southwest Florida



THIS IS NOT A SURVEY

Digitally signed by Scott A Wheeler
Date: 2025.01.15 '10:57:41 -05'00

SCOTT A. WHEELER (FOR THE FIRM - LB-6940)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 5949

DATE SIGNED:

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED OR DIGITAL SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

NOTES:

1. ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF. UNLESS OTHERWISE NOTED DISTANCES ARE ALSO (U.S. SURVEY FEET) GROUND AND CAN BE MULTIPLIED BY 0.9999605 TO OBTAIN GRID DISTANCES.
2. INST. No.- DENOTES INSTRUMENT NUMBER, LEE COUNTY PUBLIC RECORDS.
3. O.R. - DENOTES OFFICIAL RECORD BOOK, LEE COUNTY PUBLIC RECORDS.
4. (P) - DENOTES PLAT.
5. P.B. - DENOTES PLAT BOOK.
6. PG. - DENOTES PAGE.
7. BEARINGS AND COORDINATES HEREON ARE STATE PLANE FLORIDA WEST ZONE (NAD1983 (NSRS 2011)) AND ARE BASED THE WEST LINE OF THE NORTHWEST QUARTER (NW 1/4) OF THE SECTION 34 TO BEAR N00°49'02"W.
8. DESCRIPTION IS ATTACHED.

Barraco and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING
www.barraco.net
2271 McGREGOR BLVD., SUITE 100
POST OFFICE DRAWER 2800
FORT MYERS, FLORIDA 33902-2800
PHONE (239) 481-3170
FORT MYERS | PANAMA CITY BEACH
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

SEAGATE DEVELOPMENT GROUP

SEAGATE DEVELOPMENT GROUP
9921 INTERSTATE COMMERCE DRIVE
FORT MYERS, FL 33913
PHONE (239) 738-7900

PROJECT DESCRIPTION

A PARCEL OF LAND IN SECTIONS 27 & 34, TOWNSHIP 45 SOUTH, RANGE 27 EAST, LEE COUNTY, FLORIDA

PROJECT SURVEYOR

SCOTT A. WHEELER LICENSE NUMBER 5949 STATE OF FLORIDA PROFESSIONAL SURVEYOR AND MAPPER

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED OR DIGITAL SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

FILE NAME	24084SK01.DWG
LAYOUT	2
LOCATION	J:\24084\DWG\SURVEYING\SKETCH\
PLOT DATE	WED. 1-15-2025 - 10:52 AM
PLOT BY	PETER OLSEN

DRAWING DATA

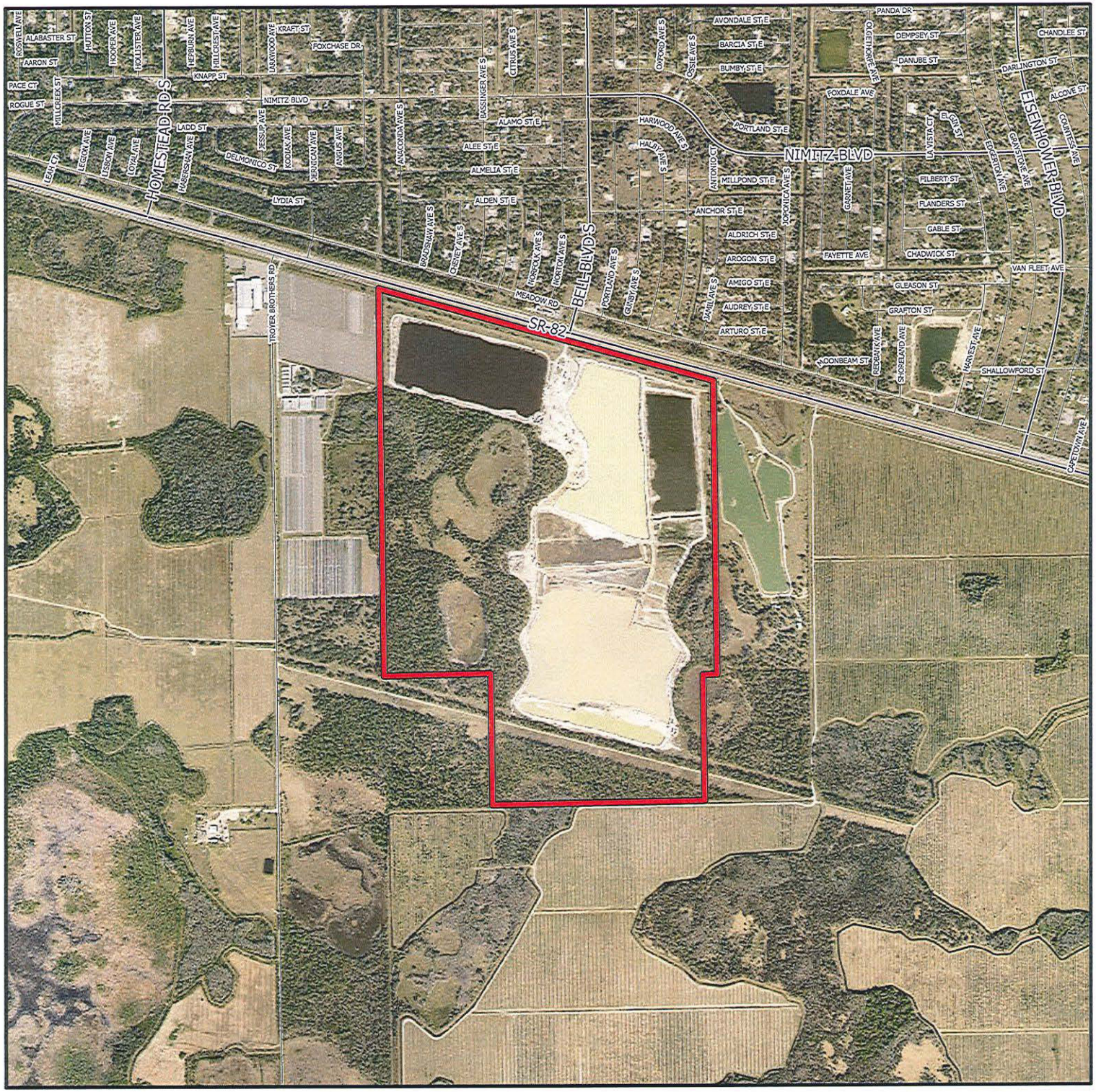
SURVEY DATE	01-15-2025
DRAWN BY	P. OLSEN
CHECKED BY	SAW
SCALE	1"=1200'
FIELD BOOK	

PLAN REVISIONS

STRAP NUMBERS

SKETCH TO ACCOMPANY DESCRIPTION

PROJECT / FILE NO.	SHEET NUMBER
24084 34-45-27	2 OF 2



DCI2025-00002

Aerial

Subject Property

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W E
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Feet

Lee County
Southwest Florida

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2025-00002

Regarding: **SEAGATE MINE**

Location: 21260 State Road 82
Southeast Lee County Planning Community
(District 2)

Hearing Date: **May 12, 2025**

I. Request

Amend existing Industrial Planned Development (IPD) to increase the maximum depth of extraction from 40 feet to 60 feet or the top of the confining layer, whichever is reached first. There is no proposed change to the existing mine footprint.

The property's legal description is set forth in Exhibit A. [1]

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.[2] In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to amend IPD zoning on 503.75± acres to increase mine depth from 40 to 60 feet.

In preparing a recommendation to the Board, the Hearing Examiner applies the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other County regulations to the testimony and evidence in the hearing record. The record must include competent substantial evidence to support the recommendation.

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[1] The legal description reflects total site acreage of 503.76 acres, although other materials in the record indicate project acreage of 503.75 acres. *See* Staff Report (Attachment C).
[2] LDC §34-145(d)(4)a.

Discussion supporting the Hearing Examiner's recommendation on the Seagate Mine IPD follows.

Summary of the Request

The request seeks to increase excavation depth on 503.75± acres zoned IPD without increasing the mining footprint.[3] There are no proposed changes to the mine operation, truck wash, scales/ticket booth, processing equipment, excavation slopes, access, landscaping, buffering, or equipment used to excavate the material. [4]

The site fronts S.R. 82 along its northern boundary. The S.R. 82/Daniels Parkway intersection is approximately 7.8 miles to the west.[5]

The Mine Site Plan reflects excavation in six phases.[6] Site features include administrative offices, caretakers' residence, scale house, staging areas, vehicle/equipment storage, and wetland/preservation areas. Access is limited to a single point on S.R. 82. Mining areas are separated from adjacent parcels by preserve areas.

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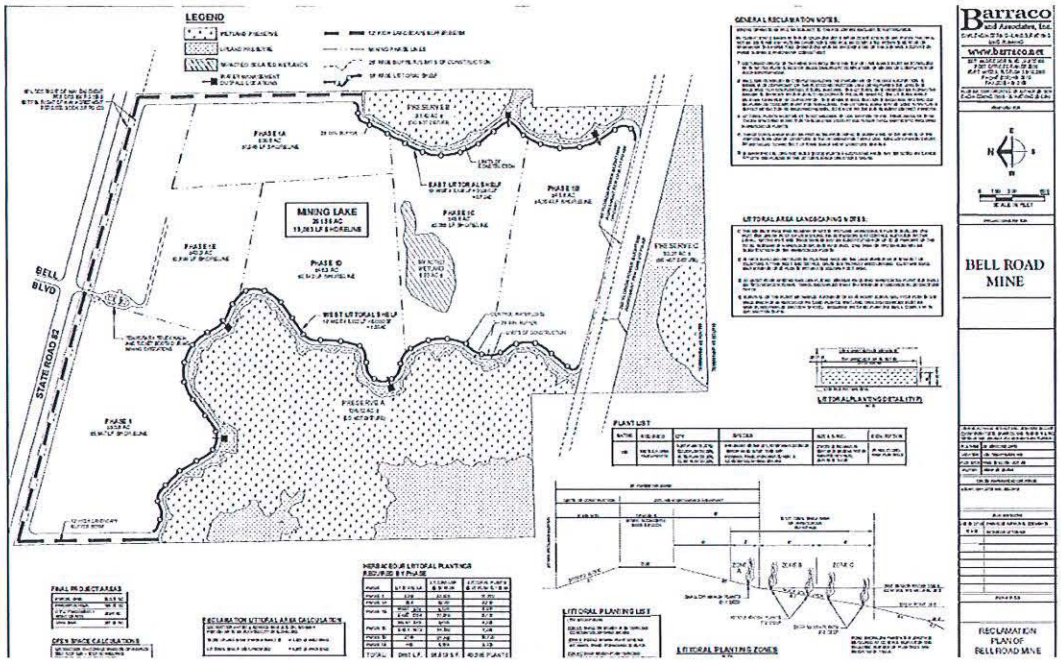
[3] Two parcels comprise the property: 34-45-27-00-00001.0040 (447.95 acres) and 27-45-27-00-00001.0000 (55.8 acres).
[4] *See* Staff Report (pg. 4-5).
[5] *See* Staff Report (Attachment T).
[6] Phases are identified as 1, 1A, 1B, 1C, 1D, and 1E.



The governing zoning resolution authorized mine operation until October 24, 2034.[7] Subsequent extensions through gubernatorial Executive Orders secured a mining expiration date currently set through September 13, 2041.[8]

Applicant seeks approval to excavate material at depths to 60 feet, or the top of the confining layer, whichever is reached first. The LDC narrows review when existing mines request depth increases within the approved mining footprint.[9] County review is therefore limited in scope as compared to a new mining application.[10]

The Seagate Mine IPD meets the definition of an existing mine eligible for amendment.[11] Accordingly, review of the subject request is limited to:

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[7] Z-20-024.

[8] *See* Staff Report (Attachment E). State statutes do not limit the number of extensions a permit holder can seek through State of Emergency executive orders issued by the governor, making expiration a rolling target. *See* F.S. §252.363 (2024).

[9] *See* LDC §12-121(a) & (j). Existing mines must have been approved before September 1, 2008, and must meet qualifying criteria. The Seagate Mine (f/k/a Bell Road Mine) was first approved in 1990 and again in 2004. *See* Z-90-017, Z-90-017A, and Z-04-047.

[10] LDC §12-110 provides expansive application requirements for new Mine Excavation Planned Development (MEPD) requests. The request qualifies for limited review under §12-121 as the IPD was approved in 1990/2004 and remains valid under its attendant Master Concept Plan (MCP) and development order. *See* Staff Report (pg. 2-5).

[11] *See* LDC §12-121(a). The IPD was originally approved in 1990 and has a current Master Concept Plan.

1) Traffic;[12]
2) Surface/Groundwater Modeling;[13]
3) Soil Boring;[14]
4) Surrounding Properties;[15]
5) Impacts;[16] and
6) Permits.[17]

Staff recommended approval of the request with conditions.

The Hearing Examiner recommends approval, finding Applicant satisfied LDC review criteria for a limited amendment to an existing mine.

History

In 1990, the Board approved IPD zoning to permit excavation/mining activity on the property to a depth of 40 feet.[18] Various zoning and development approvals followed:

- 1990 Resolution Z-90-075 approved Phases 2 through 5.[19]
- 1991 Resolution Z-91-090 eliminated the blasting restriction.[20]
- 2004 Resolution Z-04-047 resumed mining activity and modified conditions.[21]
- 2006 Limited Development Order LDO2003-00403 approved hauling material off-site.[22]
- 2014 Amendment ADD2014-00172 replaced mine duration with a 20-year time limitation.[23]

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[12] LDC §12-121(j)(1)c.1: An updated traffic impact statement (TIS) that addresses traffic associated with the increased production of mining that is projected to result from the proposed depth increase. The updated TIS must include an updated level of service analysis and evaluation of site-related improvements, if any, necessitated by the increased production.
[13] LDC §12-121(j)(1)c.2: Integrated surface and groundwater modeling must be provided that analyzes the impacts of the additional mine depth on groundwater and surface water resources and natural systems.
[14] LDC §12-121(j)(1)c.3: Soil boring analysis demonstrating the depth of limerock materials and the depth of the confining layer.
[15] LDC §12-121(j)(1)c.4: A list of surrounding property owners and map.
[16] LDC §12-121(j)(1)c.5: A narrative describing impacts on: (i) mine operations/equipment including updated quantity of material, changes in approved hours of operation, and hazardous materials emergency plan; (ii) neighboring uses; (iii) hydrogeologic conditions; (iv) wetlands and watershed protection; (v) wildlife conservation; and (vi) transportation routes.
[17] LDC §12-121(j)(1)c.6: A complete copy of existing permits, pending permit applications, and correspondence with federal and state permitting agencies.
[18] Z-90-017, corrected by Z-90-017A. *See* Staff Report (Attachment F).
[19] *See* Staff Report (Attachment G).
[20] *See* Staff Report (Attachment H).
[21] See Staff Report (Attachment I).
[22] *See* Staff Report (Attachment M). This DO pre-dated adoption of Chapter 12 in the Land Development Code. The current expiration for this LDO is June 27, 2034. *See Id.* at pg. 2-3.
[23] *See* Staff Report (Attachment K).

- 2016 Mine Operations Permit MOP2016-00001 issued.[24]
- 2020 Resolution **Z-20-024** extended MCP expiration to October 24, 2034.[25]
- 2021 Settlement Agreement executed that acknowledged depth increase to 60 feet.[26] Amendment **ADD2021-00074** added conditions to comply with the terms of the Settlement Agreement.[27]

Mining operations occur on the site under an active development order and various mining permits.[28] Applicant maintains required buffers, paved entrance road, truck tire wash, scale house, and turn lanes consistent with prior approvals.[29] If approved by the Board, this zoning action codifies and supersedes prior zoning approvals.

Character of Area

The property is in the Density Reduction/Groundwater Resource (DR/GR) land use category. Surrounding lands host a broad range of uses including limerock mining, conservation, agriculture, and commercial/residential uses.

A detailed summary of surrounding land uses follows below.

North: S.R. 82 abuts the property's northern boundary. Lands across S.R. 82 are zoned C-2/CPD with residential uses beyond the commercial frontages. S.R. 82 serves as a dividing line between the Urban Community designation to the north and DR/GR lands south of the road.

South: The 6,675± acre property to the south is the Kingston Development. A settlement agreement allows 10,000 dwelling units with amenities, 700,000 square feet of commercial uses, public facilities, and 240 hotel/transient lodging units.[30] Land abutting the property is identified for preservation use within the Kingston Development.[31]

East: Agriculturally zoned lands to the east are in the DR/GR, operated as Eden Ski Lake.[32]

West: Properties along the western boundary are zoned AG-2 in the DR/GR and Wetlands future land use categories. The Sakata Seed Corporation property abuts to the west. The Troyer Brothers mine sits farther west/south.

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[24] *See* Staff Report (pg. 3, Attachment N). Currently set to expire November 30, 2040.
[25] *See* Staff Report (Attachment J). This Resolution also removed construction materials prohibition, littoral shelf area reclamation plan, and added water quality monitoring.
[26] *See* Staff Report (Attachment O, recorded at Instrument No. 2021000195562 on 6/14/21). The Agreement modified various parameters affecting mine operations.
[27] *See* Staff Report (Attachment L).
[28] *See* Staff Report (pg. 2-3, Attachments E-O).
[29] *See* Staff Report (Attachment R).
[30] *See* Staff Report (pg. 4).
[31] Workman Testimony (Transcript pg. 70).
[32] The Eden Ski Lake was previously mined property. Staff Ex. 3 (slide 23).

Lee Plan

Planned developments must be consistent with the Lee Plan.[33] Zoning approval is consistent with the Lee Plan if proposed uses further the goals, objectives, and policies of the Lee Plan.[34] Mining activities must adhere to specified Lee Plan policies.[35]

Lee Plan maps designate the property within the Southeast Lee County Planning Community.[36] Natural resource extraction operations are expressly permitted within this community.[37]

The Lee Plan encourages industrial development opportunities in suitable locations.[38] The Plan also directs protection of areas with commercially valuable natural resources while minimizing adverse effects of extraction through efficient use of land.[39]

Mines are the primary providers of building materials such as ready-mix concrete, road base, asphalt, and concrete blocks. These materials are necessary to support regional construction projects.

The DR/GR area was established to protect surface and groundwater.[40] The Plan requires land uses in the DR/GR to be compatible with maintaining surface and ground water at historic levels.[41]

The request meets Lee Plan's directives as follows:

- Soil borings identified the site as a valuable source of limerock.[42]
- Deepening excavation within the mine's existing footprint maximizes the opportunity to meet regional resource demands while mitigating the need to open new lands to mining activity. This results in more efficient use of land.[43]
- Mining depth is conditioned to prevent breach of the confining layer.[44]
- Preservation areas have been placed under conservation easement, comprising 38% of the property.[45]

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[33] LDC §34-378(a), §34-411(a), §34-491, & §34-901(2).
[34] Lee Plan Chapter XIII.a.
[35] *See* LDC §12-107.
[36] Lee Plan Maps 1-B, 2-A, Goal 33.
[37] Lee Plan Goal 33.
[38] Lee Plan Goal 7.
[39] Lee Plan Goal 10.
[40] Lee Plan Policy 1.4.5; *See* Goal 63.
[41] *Id.*
[42] Lee Plan Goal 10; Staff Report (Attachment V).
[43] Crespo Testimony (Transcript pg. 22).
[44] Lee Plan Policy 10.1.1; *See* Condition 1.
[45] Lee Plan Policy 10.2.5.

- The mine's adopted surface/groundwater monitoring program will continue and expand with deeper excavation.[46]
- The request provides a finite resource needed to meet regional growth demands.[47]
- The mine provides jobs through resource extraction as well as construction projects that utilize the extracted material.[48]

Traffic[49]

Applicants seeking to increase depth of an approved mine footprint must provide a traffic impact statement (TIS).[50] The TIS must include an updated level of service analysis and evaluation of site-related impacts.[51]

Trip Generation

Mine trip generation rates are directly proportional to demand for material.[52] Applicant's TIS concluded the request does not produce additional trips or affect levels of service on S.R. 82.[53]

Applicant's transportation expert testified the request prolongs the life of the mine but does not increase its processing capacity.[54] The TIS concludes depth increases alone do not increase trip generation because the processing facility capacity controls the quantity of material transported from the site.[55] The request does not seek modification to existing facilities or number of scales, leading to the conclusion that the amount of material available to be hauled from the site remains consistent regardless of mine depth.[56]

Staff agreed the request does not result in new traffic impacts beyond what current approvals contemplate.[57] Applicant is subject to annual traffic monitoring pursuant to its development order and will continue to be held to this requirement.[58]

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[46] Lee Plan Policies 10.2.1, 10.2.2.
[47] Crespo Testimony (Transcript pg. 42).
[48] Lee Plan Goal 158.
[49] Applicant's transportation expert was Ted Treesh, President of TR Transportation Consultants, Inc.
[50] LDC §12-121(j)(1)c.1.
[51] *Id.*
[52] *See* Staff Report (Attachment T: Traffic Impact Statement prepared by TR Transportation Consultants, Inc., dated January 24, 2025).
[53] *Id.*
[54] Treesh Testimony (Transcript pg. 23-32); *See also* Staff Report (Attachment T).
[55] *Id.* at pg. 4-5. The TIS notes the processing plant/scale operations dictate the number of trucks that can depart the site with a full load of mine/processed material. *Id.* at pg. 4.
[56] *Id.* at pg. 4.
[57] *See* Staff Report (Attachment U), Workman Testimony (Transcript pg 52-75). The mine currently generates an average of 442 daily truck trips. *See* Staff Report (Attachment T at pg. 5).
[58] The request does not negate the existing development order imposing this requirement. Treesh and Akin Testimony (Transcript pg. 46-47).

Access/Level of Service

The request retains a single access point to S.R. 82. Applicant installed turn lanes on S.R. 82 pursuant to prior development approvals.[59] Florida Department of Transportation (FDOT) constructed improvements to S.R. 82 since the mine first obtained IPD approval.[60] These improvements enhanced safety for the traveling public.

Traffic studies reflect S.R. 82 operates at acceptable levels of service with the requested mine depth increase.[61]

Surface/Groundwater Modeling[62]

The record demonstrates the requested depth increase would not affect surface or groundwater levels.[63]

The property has been approved for mining since 1990.[64] Applicant obtained an environmental resource permit from the Florida Department of Environmental Protection ("FDEP") in 2006 consistent with prior zoning approvals.[65] The permit conditions stormwater containment, water quality monitoring, site reclamation, wetland creation, and other impacts to surface waters.[66] The FDEP approved Applicant's permit amendment to increase mining depth to 60 feet.[67]

The requested depth increase does not alter IPD lake configurations. Accordingly, the increase to mining depth does not change the current water management system or present off-site impacts.[68]

Applicant's hydrogeologist expert conducted groundwater modeling using site data to determine the impact of deepening the mine on aquifer water levels and water quality.[69]

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[59] *See* Staff Report (Attachment T).
[60] *See* Staff Report (Attachment T at pg. 3).
[61] *See Id.;* Applicant's Ex. 1 (slide 11).
[62] Applicant provided expert testimony from W. Kirk Martin, PG, from Water Sciences Associates.
[63] Lee Plan Goal 63; Martin Testimony (Transcript pg. 33-39).
[64] Z-90-017, corrected by Z-90-017A.
[65] FDEP Permit # MMR_225217-001; *See* Staff Report (Attachment W).
[66] Lee Plan Objective 10.2, Policy 10.2.6
[67] FDEP Permit # MMR_225217-001, issued Jan. 21, 2020; Staff Report (Attachment W). Environmental Resource Permits (ERPs) are required to prevent flooding, protect water quality from stormwater pollution, and protect wetlands and other surface waters. This permitting process entails detailed review by engineers, geologists, and environmental professionals. Issuance of a permit is an indication that the project would be consistent with the Florida Coastal Zone Management Program and the Clean Water Act.
[68] *See* Staff Report (pg. 10, Attachment V-W).
[69] Lee Plan Objective 10.2, Policy 33.2.7. Applicant utilized four monitoring wells and agreed to install a fifth monitoring well. Applicant had over a decade of site-specific data from monitoring wells to apply site-specific data along with data from regional sources in the models. *See* Applicant's Ex. 2 (slides 18-25); Staff Report (Attachment V-W).

Modeling evaluates changes in water levels resulting from the proposed increase in mine depth.[70] The model simulations allow comparisons between existing conditions and during/post mining. *In all simulations,* modeling results demonstrated no adverse effect to ground water levels, wetlands, or flow-ways.[71] Dewatering has not occurred on-site and is not included in the schedule of permitted uses.[72]

Applicant remains subject to water quality monitoring under existing State and County permits.[73] Proposed conditions require installation of an additional monitoring well to monitor the deeper limestone portion of the water table aquifer.[74]

Soil Boring

The LDC requires soil boring analysis demonstrating the depths of limerock materials and the confining layer.[75]

Applicant's geotechnical expert compiled comprehensive data on the site's geology, which confirmed the presence of aggregate quality limestone.[76] Core samples confirmed the presence of limestone at depths to 60 feet, with the top of the confining layer at 70-80 feet.[77] The depth limitation to 60 feet ensures integrity of the confining unit and avoids direct connections between the water table aquifer and the underlying sandstone aquifer.[78]

Surrounding Properties[79]

Applicant provided a list of surrounding property owners and map consistent with this requirement.[80]

Lee Plan Policy 33.2.7; Groundwater models are simulations of an area's water budget. Models are tools to assess impacts to a hydrologic system. Applicant used the recently calibrated MIKE SHE/MIKE11 model for South Lee County, completed as part of the South Lee County Watershed Initiative. Martin Testimony (Transcript pg. 33-39); Staff Report (Attachment V); Applicant's Ex. 3.

[70] All models considered the gradients of the water table aquifer in the region as well as fluctuations in the water table.

[71] *See* Staff Report (Attachment V: Water Science Associates Technical Memorandum, dated Jan. 28, 2025).

[72] *See* Condition 12.

[73] The request does not alter existing water quality monitoring requirements.

[74] *See* Condition 17; Applicant Ex. 2 (slide 24).

[75] LDC §12-121(1)(j)(1)c.3.

[76] Data collection included three geotechnical investigations in 2003, 2017, and 2019 to depths of 55-60 feet, 40-50 feet, and 80-90 feet, respectively, with detailed lithologic assessment. Data confirmed limestone to depths ranging from 80 – 140 feet. *See* Staff Report (Attachment V); Applicant's Ex. 2 (slides 19-20); Martin Testimony (Transcript pg. 35).

[77] *Id.*

[78] LDC §12-121(1)(j)(1)c.4. Lee Plan Policy 10.2.3. Confining units are composed of clay material with low hydraulic conductivity.

[79] LDC §12-121(j)(1)c.4.

[80] *See* Staff Report (Attachment P & V, noting this item was under County review).

Impacts[81]

The LDC requires applicants for excavation depth increases to describe impacts anticipated from the request.[82]

Mine Operations[83]

Mine operations occur on the property as authorized by County and State permits.[84] On-going activities include extracting limerock for mobile processing and off-site removal. Excavated material is placed adjacent to the dragline in piles and allowed to dry before loading onto haul trucks to a central location for temporary storage. Stored material is then loaded onto trucks when ready for commercial sale and exported off-site. Mobile crushing is utilized near the stockpiles proximate to the dragline to produce base material that does not require further processing. The property does not have a permanent processing facility.[85]

The request poses no changes to mine operations, equipment used, or hours of operation. The requested depth increases the quantity of excavated material by approximately seven million cubic yards.[86]

Neighboring Uses[87]

The LDC requires an analysis of the proposed depth increase on *existing* neighboring uses.[88] The Lee Plan directs the County to promote opportunities for industrial development in suitable locations.[89] Industrial land uses must be located in areas appropriate for their special needs and constraints, including compatibility with neighboring uses.[90]

Mining operations have occurred on-site for decades without reported incident.[91] Existing setbacks accomplish the Lee Plan directive to protect neighboring land

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[81] LDC §12-121(j)(1)c.5.
[82] *Id.*
[83] LDC §12-121(j)(1)c.5.i.
[84] Lee County issued IPD zoning, limited development order, and Mine Operations Permit approvals. The State issued permits through the South Florida Water Management District, Department of Environmental Protection, and other regulatory agencies. *See* Staff Report (Attachment R).
[85] The IPD does not list a processing facility on the Schedule of Uses. Staff confirmed adding the use would trigger rezoning to MEPD consistent with the LDC. Workman Testimony (Transcript pg. 63); *See generally* LDC ch. 12.
[86] Akin Testimony (Transcript pg. 79).
[87] LDC §12-121(j)(1)c.5.ii.
[88] *Id.*
[89] Lee Plan Goal 7.
[90] Lee Plan Policy 7.1.3.
[91] The record is devoid of evidence of reported complaints from IPD operations.

uses.[92] Applicant entered into a Settlement Agreement with neighboring landowners that contemplates excavation depths of 60 feet.[93]

Hydrogeologic Conditions[94]

Applicant's expert concluded the proposed increase to 60 feet or the confining layer presents no adverse impact to hydrogeologic conditions.[95]

Environmental[96]

Applicants seeking to increase mine depths within existing footprints must describe impacts to wetlands/watershed protection and wildlife conservation.[97]

Indigenous upland and wetland preserves are encumbered under conservation easements comprising 189.76 acres (38%) of the property.[98] FDEP inspected and released conservation areas to the maintenance and monitoring stage.[99] Remaining preservation areas are part of the reclamation to be completed once mining activities cease.[100]

Environmental staff concluded the request does not negatively affect preserve areas or listed species.[101]

Transportation Routes[102]

The request proposes no changes that impact existing transportation routes.[103]

Permits

Applications for depth increases must include a complete copy of existing permits and pending permit applications.[104]

Applicant provided the requisite information to satisfy this requirement.[105]

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[92] Lee Plan Policies 5.1.5 and 10.2.4. Adjacent properties host caretakers' residences but there are no other neighboring residential uses.
[93] *See* Staff Report (Attachment O).
[94] LDC §12-121(j)(1)c.5.iii.
[95] Martin Testimony (Transcript pg. 33-39).
[96] LDC §12-121(j)(1)c.5.iv-v.
[97] LDC §312-121(j)(1)c.5.iv-v.
[98] *See* Staff Report (Attachment P). Conservation easements have been granted to FDEP consistent with prior zoning approvals. Lee Plan Policy 123.2.8.
[99] *See* Staff Report (Attachment X).
[100] *See* Staff Report (pg. 7).
[101] *See* Staff Report (pg. 11, 13). Staff found no additional environmental conditions are needed.
[102] LDC §12-121(j)(1)c.5.vi. .
[103] Treesh Testimony (Transcript pg. 27-28, 46).
[104] LDC §12-121(1)(j)(1)c.6.
[105] *See* Applicant's Ex. 2 (slides 10-12).

Public Services

The IPD has access to a host of urban services including paved roads, fire protection, emergency medical services, and law enforcement.[106] The site accesses S.R. 82, a state-maintained arterial road.

Lehigh Acres Fire Control and Rescue District provides fire protection and emergency medical services.[107] The Lee County Sheriff's South District serves the project.

Deviations

"Deviations" are departures from the land development regulations.[108] Applicant does not seek deviations from the LDC in this request.

Conditions

The County must administer the zoning process so proposed land uses minimize adverse impacts on adjacent property and protect the county's water resources.[109] Conditions must plausibly relate to anticipated impacts and be pertinent to mitigating impacts to public health, safety, and welfare.[110]

The IPD is subject to several conditions designed to address impacts reasonably anticipated from the mine operation.[111] Previously approved conditions are carried forward without modification. Proposed conditions relate to the limited request to deepen excavation.

Public

One member of the public spoke at hearing.[112]

Conclusion

The Lee Plan and LDC require mine requests to balance the critical need for material resources with the potential effects of extraction on the human/natural

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[106] The DR/GR is not classified as a future urban area, so analysis of wastewater/potable water is not required. Lee Plan Glossary, Objective 56.1.
[107] *See* Staff Report (pg. 15). Lehigh Fire Station 105 is 2.3± miles away. The nearest Lee County Sheriff station is 10± miles to the northwest.
[108] LDC §34-2.
[109] Lee Plan Goal 10, Objective 10.1, Policies 5.1.5, 7.1.1, 7.1.2, LDC §34-145(d)(4)a.2.(b), LDC §34-377(a)(3), §34-411, and §34-932(c).
[110] LDC §34-932(b).
[111] LDC §34-83(a)(4)a.3, §34-377(a)(3); Lee Plan Goals 10, 61, Objective 62.2, Policies 5.1.5, 60.1.1, 61.2.6.
[112] The speaker expressed regional traffic concerns.

environments and hydrology of the surrounding area. Applicant provided competent substantial evidence to support finding this balance is met, as conditioned.[113]

The Hearing Examiner recommends approval, finding the requested depth increase is consistent with the Lee Plan and meets LDC review criteria.

IV. Findings and Conclusions

Based upon testimony and evidence in the record, the Hearing Examiner finds the Seagate Mine IPD amendment meets the following review criteria:

A. The amendment to increase excavation depth in the IPD, *as conditioned:*

1. Complies with the Lee Plan. (Goals 4, 7, 10, 60, 61, 63, 69, 123, 124, 125, 126, 127, 158, Objectives 1.4, 1.5, 4.1, 5.1, 10.1, 10.2, 33.1, 61.3, 124.1, Policies 1.4.5, 7.1.3, 7.1.6, 10.1.1, 10.1.6, 10.2.4, 10.2.8, 33.1.7, 125.1.2, 125.1.3, 125.1.4, 126.1.4, Standard 4.1.4).

2. Meets the LDC and other applicable County regulations or qualifies for deviation.

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

4. Will provide access sufficient to support the proposed development intensity. (Lee Plan Policy 7.1.3).

5. The expected impacts on transportation facilities will be addressed by County regulations and conditions of approval. (Lee Plan Policies 7.1.1, 7.1.2, 7.1.3, 39.1.1).

6. Will not adversely affect environmentally critical or sensitive areas and natural resources. (Lee Plan Policy 10.2.4, 33.1.7, 125.1.2, 125.1.4, 125.1.3, 126.1.4, Standard 4.1.4).

7. Will be served by urban services including paved roads, fire, EMS, and police, even though not located in an urban area. (Lee Plan Policies 7.1.1, 7.1.3).

8. The proposed mix of uses is appropriate at the proposed location. (Lee Plan Goals 7, 10, 33, 158, Objective 10.1, Policies 1.4.5, 7.1.3, 10.1.1, LDC §34-145(d)(4)a.2.a).

[113] The record contains documentary evidence and testimony detailing proposed impacts of the requested depth increase.

9. 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. (Lee Plan Objective 69.3, Policy 10.2.4, LDC §34-145(d)(4)a.2.b), §34-932).

Date of Recommendation: May 20, 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

Case: DCI2025-00002

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A

Barraco and Associates, Inc.
www.barraco.net
Civil Engineers, Land Surveyors and Planners

DESCRIPTION

Parcel in
Sections 27 and 34,
Township 45 South, Range 27 East,
Lee County, Florida

A tract or parcel of land lying in Sections 27 and 34, Township 45 South, Range 27 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Beginning at the Northwest corner of said Section 34 run N00°39'49"W along the West line of the Southwest Quarter (SW 1/4) of said Section 27 for 1,258.95 feet to an intersection with the Southwesterly right of way line of State Road 82 (F.D.O.T. right of way Section No. 1207-101) (200 feet wide right of way); thence run S74°24'17"E along said Southwesterly right of way line for 4,331.35 feet; thence run parallel to the East line of said Section 34 the following two (2) courses: S00°42'18"E for 2,591.90 feet and S00°42'34"E for 1,088.76 feet to an intersection with the North line of the South 250 feet of the Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of said Section 34, being 1,149.62 feet Westerly as measured along said North line from the East line of said Section 34; thence run S88°47'56"W along said North line for 175.62 feet to an intersection with the West line of said Northeast Quarter (NE 1/4) of the Southeast Quarter (SE 1/4) of Section 34; thence run S00°44'06"E along said West line and continuing along the West line of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of said Section 34 for 1,573.68 feet to an intersection with the South line of the Southeast Quarter (SE 1/4) of said Section 34; thence run S89°01'29"W along said South line for 1,324.50 feet to the South Quarter corner of said Section 34; thence run S89°01'31"W along the South line of the Southwest Quarter (SW 1/4) of said Section 34 for 1,324.45 feet to an intersection with the East line of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section 34; thence run N00°47'14"W along said East line and continuing along the East line of the Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of said Section 34 for 1,643.22 feet to an intersection with the North line of the South 330 feet of said Northwest Quarter (NW 1/4) of the Southwest Quarter (SW 1/4) of Section 34; thence run S88°47'57"W along said North line for 1,325.24 feet to an intersection with the West line of said Southwest Quarter (SW 1/4) of Section 34; thence run N00°48'50"W along said West line for 977.97 feet to the West Quarter corner of said Section 34; thence run N00°49'02"W along the West line of the Northwest Quarter (NW 1/4) of said Section 34 for 2,615.37 feet to the POINT OF BEGINNING.
Containing 503.76 acres, more or less.

Bearings hereinabove mentioned are State Plane for the West Zone (1983/NSRS 2011) and are based on the West line of the Northwest Quarter (NW 1/4) of Section 34 to bear N00°49'02"W.

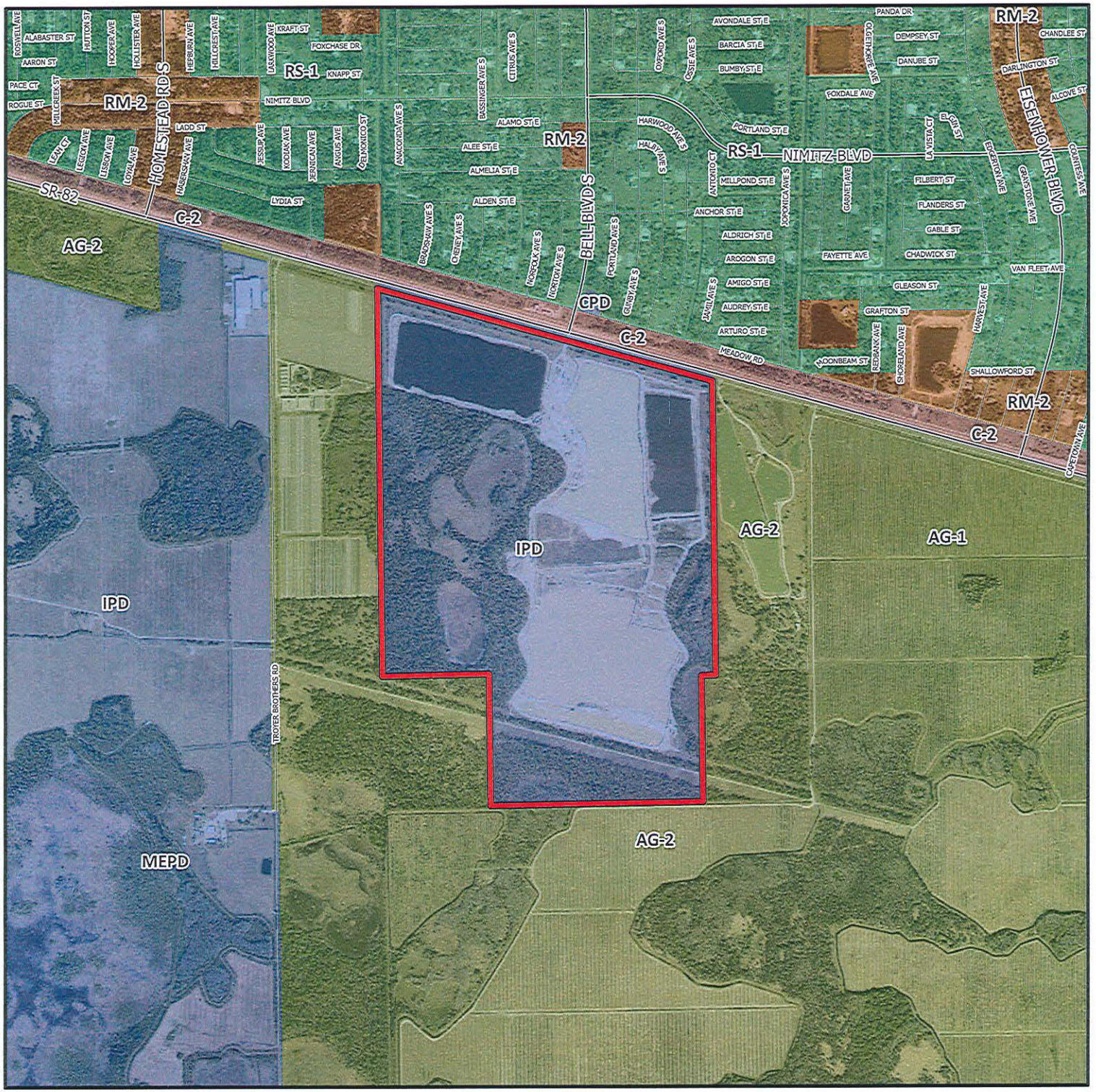
REVIEWED
DCI2025-00002
Rick Burris, Principal Planner
Lee County DCD/Planning
2/19/2025

Digitally signed by Scott A Wheeler
Date: 2025.01.15 '10:57:25 -05'00

SCOTT A. WHEELER ☆ LICENSE NUMBER 5949 ☆ STATE OF FLORIDA ☆ PROFESSIONAL SURVEYOR AND MAPPER

Scott A. Wheeler (For The Firm)
Professional Surveyor and Mapper
Florida Certificate No. 5949

L:\24084 - Bell Road Mine\survey\Descriptions\Sketch\24084SK01.doc



DCI2025-00002

Zoning

Subject Property

N
W
E
S

0 1,000 2,000 3,000
Feet

Lee County
Southwest Florida

Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

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

1. **Master Concept Plan (MCP) and Mine Operations**

   a. MCP. Development must be consistent with the six-page MCP composite consisting of "Bell Road Mine", Sheet 3 of 7, dated 10-12-04, "Reclamation Plan of Bell Road Mine" dated 11-8-19, "Bell Road Mine Monitoring Well Locations" dated April 2025, Settlement Agreement "Crushing Plant Exclusion Area Exhibit", and the two-page "Barrier Trench Interface", dated 1-11-21 (Exhibit B1).

   b. LDC and Lee Plan Compliance. Development must comply with the LDC and Lee Plan at time of local development order approval, except as may be granted by deviation as part of this planned development. Subsequent changes to the MCP may require additional approvals.

   c. Mine Duration. The MCP and approval for excavation, mining, and associated uses expire on September 13, 2041, unless additional extensions are authorized by State or Local regulations.

   d. Hours of Operation.

      i) Business/Excavation. Business transactions and excavation operations are permitted between 6:00 a.m. to 4:00 p.m., Monday through Saturday. Operations are prohibited on County observed holidays. Trucks may enter and leave the site with excavated materials only during these business hours.

      ii) Rock Crushing. Rock crushing operations are permitted only from 8:00 a.m. to 4:00 p.m., Monday through Friday.

      iii) Dragline Operations. Dragline operations are permitted from 4:00 p.m. to 6:00 p.m., Monday through Saturday. Blasting must be in accordance with the office of the Florida State Fire Marshall rules and regulations.

   e. Maximum Depth. Maximum permitted excavation depth is the lesser of 60 feet below existing ground elevation or the top of the confining layer.

2. Schedule of Uses and Development Regulations

a. Schedule of Uses

Excavation, Mining
Accessory Uses to the permitted Excavation, Mining Use
Administrative Offices
Agricultural Uses (as limited in Condition 11)
Caretaker's Residence
Entrance Gates and Gatehouse (LDC §34-1741 *et seq.*)
Essential Services (LDC §§ 34-1611 *et seq.*, and 34-1741 *et seq.*)
Essential Service Facilities (LDC §34-622(c)(13)):Group I (LDC §§ 34-1611 *et seq.*, 34-1741 *et seq.*, and 34-2141 *et seq.*)
Excavation, Water Retention
Fences, Walls (LDC §34-1741)
Gasoline Dispensing System, Special
Parking Lot: Accessory
Rock Crushing and Storage of Excavated Materials
Signs, In Accordance with LDC Chapter 30
Storage: Storage, Open, (LDC §34-3001 e*t seq.*)

b. Property Development Regulations

Excavation Setbacks:

Existing Right-of-way:	150 feet
Private Property Line:	100 feet

Excavation Depth:
Maximum Excavation Depth:

The maximum permitted depth of this mining operation is 60 feet or to the confining layer, whichever occurs first. Drilling, trenching, or any other penetration of the earth beyond this depth is strictly prohibited.

Structure Setbacks:

Existing Right-of-way:	25 feet
Private Property Line:	25 feet
Maximum Height of Structures:	35 feet

3. Species Survey

Prior to issuance of a Vegetation Removal Permit for any area containing trees, Developer must conduct a survey for Big Cypress fox squirrel nests within 15 days prior to clearing. The survey must be submitted for the Division of Environmental Sciences staff review, field verification, and approval. If active nests are located, Developer must provide a 125-foot buffer area until the nest is deemed inactive by an environmental consultant and verified by the Division of Environmental Sciences.

4. **Preserve Area**
Development order plans must delineate approximately 189 acres of open space as preserve area in substantial compliance with the MCP. Preserve areas must be fenced to exclude grazing by cattle or other domesticated animals prior to the issuance of a Vegetation Removal Permit for any phase of the mine.

[NOTE: This condition was accomplished to obtain Lee County Development Order LDO2003-00403. The preserve area was placed in a conservation easement to the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, Lee County Instrument 20060000143098, and Lee County Instrument 2020000161290]

5. **Reclamation Plan**
Reclamation of the post-mining lake banks must be in accordance with the revised Reclamation Plan attached as MCP sheet 2 (Exhibit B1).

6. **Exotics Removal**
Developer must submit an exotics removal plan for the preserve areas including the method of removal and a time frame for completing exotic removal for the Division of Environmental Sciences staff review/approval. Exotics removal must be completed for all preserve areas within two years of issuance of the first development order for the mine.

[NOTE: This condition was accomplished to obtain Lee County Development Order LDO2003-00403 and the completion of the Fifth Annual Maintenance and Monitoring activity as documented in the Fifth Annual Monitoring Report prepared by Boylan Environmental Consultants, Inc. dated August 2017.]

7. **Truck Wash Facility**
As part of the local development order and throughout the duration of the project, a vehicular wash down facility must be approved, installed, and operated for all exiting traffic. The facility must be located at least 125 feet from the roadway, be a paved surface from the roadway to the facility, and be included in the Storm Water Pollution Prevention Plan (SWP3). The plans for the facility must be submitted to the Natural Resources Division for review/approval. Compliance will be a performance measure based on no visible tracking onto the public roadway.

[NOTE: This facility was constructed and is in operation to obtain Lee County Development Order LDO2003-00403.]

8. **S.R. 82 Buffer**
Developer must provide, as part of the first phase of the mining operation, a buffer along S.R. 82, and the east and west boundaries south from S.R. 82 to the preserve areas, consisting of a 12-foot-high berm with landscaping. Landscaping

must consist of five trees and hedge per 100 lineal feet (per LDC § 10-416). Berms and buffers must be established prior to the removal of material from the site.

[NOTE: This condition was accomplished pursuant to Lee County Development Order LDO2003-00403 and issued a Letter of Substantial Compliance by Lee County on May 9, 2007.]

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

10. **Development Order Approvals**
Approval of this rezoning does not guarantee local development order approval. Development order approvals must satisfy requirements of the Lee Plan Acreage Allocation Table 1(b).

11. **Agricultural Uses**
Existing bona fide agricultural uses are allowed only in strict compliance with the following:

a. Bona fide agricultural uses that are in existence at the time the application for this request was filed may continue until approval of a local development order for the area of the project containing those uses.

b. Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County-approved requests for the removal of invasive exotic vegetation.

c. Developer must terminate the agricultural tax exemption for any portion of the property that receives a local development order. The agricultural use must cease by December 31st of the calendar year in which the local development order is issued. The exemption termination must be filed with the Property Appraiser's Office by December 31st of the calendar year in which the local development order is issued. A copy of the exemption termination must be provided to the Office of the County Attorney.

12. **Dewatering**
Dewatering is subject to review/approval by the South Florida Water Management District (SFWMD). If SFWMD approves dewatering, the following conditions apply:

a. Dewatering activities must be in accordance with the SFWMD dewatering permit.

b. On-site water storage and conveyance will be controlled to minimize potential for adverse hydraulic impacts on adjacent properties and preserve areas. Controls will include water infiltration areas between active excavation and on-site preserves and property boundaries. On-site storage and infiltration areas will have back-up overflow containment.

c. A monitoring program, including baseline monitoring, will be implemented at key locations during the life of the mining project. The number and location of the proposed monitoring points will be reviewed and approved by the Division of Natural Resources (DNR) prior to commencement of dewatering activities and will monitor both the surficial and sandstone aquifers. Monitoring locations will be provided off site at locations approved by DNR, if permission is granted by the off-site owners. Monitoring data and reports will be filed with DNR, and DNR staff will be granted access to the site during reasonable hours for inspection purposes.

   If Lee County DNR concludes a problem exists, the dewatering activity must cease until the problem is remedied to the satisfaction of DNR and other appropriate agencies.

d. Dewatering may not occur within 300 feet of the Sakata Seed America, Inc. property located immediately west of the property.

13. Permit Modification

Developer must modify Limited Review Development Order LDO2003-00403 and Mine Operation Permit MOP2016-00001 to reflect the revised reclamation plan and lake cross-section incorporated herein. No other modifications of LDO2003-00403 and MOP2016-00001 are required for this depth increase.

14. Dust Mitigation

On-site haul roads must be watered on a regular basis to avoid creating dust exceeding Florida Department of Environmental Protection standards.

15. Water Quality Monitoring

Developer must complete initial baseline water quality sampling at monitoring well, MW-2, as shown on sheet 3 of the MCP Composite attached as Exhibit B1, which is down-gradient of the excavation area. Baseline sampling parameters must include iron, gross alpha, combined nitrite and nitrate total dissolved solids, chloride, pH, sulfate, turbidity, temperature, specific conductivity, and dissolved oxygen. Baseline sampling will occur quarterly for the first year after issuance of the FDEP Environmental Resource Permit which also includes water quality monitoring. The monitoring report detailing the results of initial quarterly water quality monitoring, along with the certified laboratory analysis worksheets, must be submitted with the quarterly water level monitoring reports. The final baseline value must be calculated as the average of the first four quarterly readings. After the first year of monitoring, levels of each parameter must not exceed the baseline values for subsequent annual sampling events.

a. Thereafter, sampling must be conducted on an annual basis for iron, gross alpha, combined nitrite and nitrate total dissolved solids, chloride, pH, Sulfate, turbidity, temperature, specific conductivity, and dissolved oxygen. The Department of Natural Resources (DNR) will work with Developer to adjust the necessary analytes to be monitored going forward if requested. The monitoring report detailing the results of the annual water quality monitoring, along with the certified laboratory analysis worksheets, must be submitted annually. The monitoring may discontinue one year after all extraction has ended.

b. If the water quality monitoring well becomes damaged or inoperable, Developer must notify the DNR immediately and a detailed written report must follow within seven days. The written report must detail what problem occurred and remedial measures that have been taken to prevent recurrence. All water quality monitoring well replacement must be approved by the DNR prior to installation.

c. The well must be sampled in accordance with the current version of FDEP standard operating procedure (SOP) DEP-SOP-001/01, FS 2200 Groundwater Sampling. A Groundwater Sampling Log (included in the referenced SOP) must be completed for each well sampled. The groundwater samples must be analyzed by a NELAC-certified laboratory.

16. Baseline Valuation

At the water quality monitoring well for the site, Developer must establish a baseline value for each monitored parameter by calculating average measured values. The baseline value at the monitoring well must be calculated as the average of the first four quarterly readings. After the first year of monitoring, levels of each parameter must not exceed the baseline values for subsequent annual sampling events. If baseline values are exceeded for any annual sampling event, Developer must contact the DNR within seven days of the analysis. If any value exceeds or is trending toward exceeding the standards set in rule 62-520.420(1), F.A.C., Developer must contact the DNR within seven days of the analysis. Should potential areas of concern be attributed to onsite conditions or activities, Developer must coordinate with the DNR to aid in identifying potential causes and needs to modify monitoring parameters, frequency, or reporting. The DNR must review the data and determine a remedial course of action in conjunction with Developer.

17. Additional Monitoring Well

Prior to local development order approval authorizing deepening of the mine, Developer must construct a fifth monitoring well on the south side of the mine to the limestone portion of the water table aquifer. Baseline water level monitoring data from the fifth monitoring well must be provided to the DNR. Data collected from this monitoring well must be provided as part of the annual water quality and quarterly groundwater level monitoring reports.

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

DEVIATIONS

None

Exhibits to Conditions:
B1 Six Page Composite Master Concept Plan, six pages

LEGEND

WETLAND PRESERVE

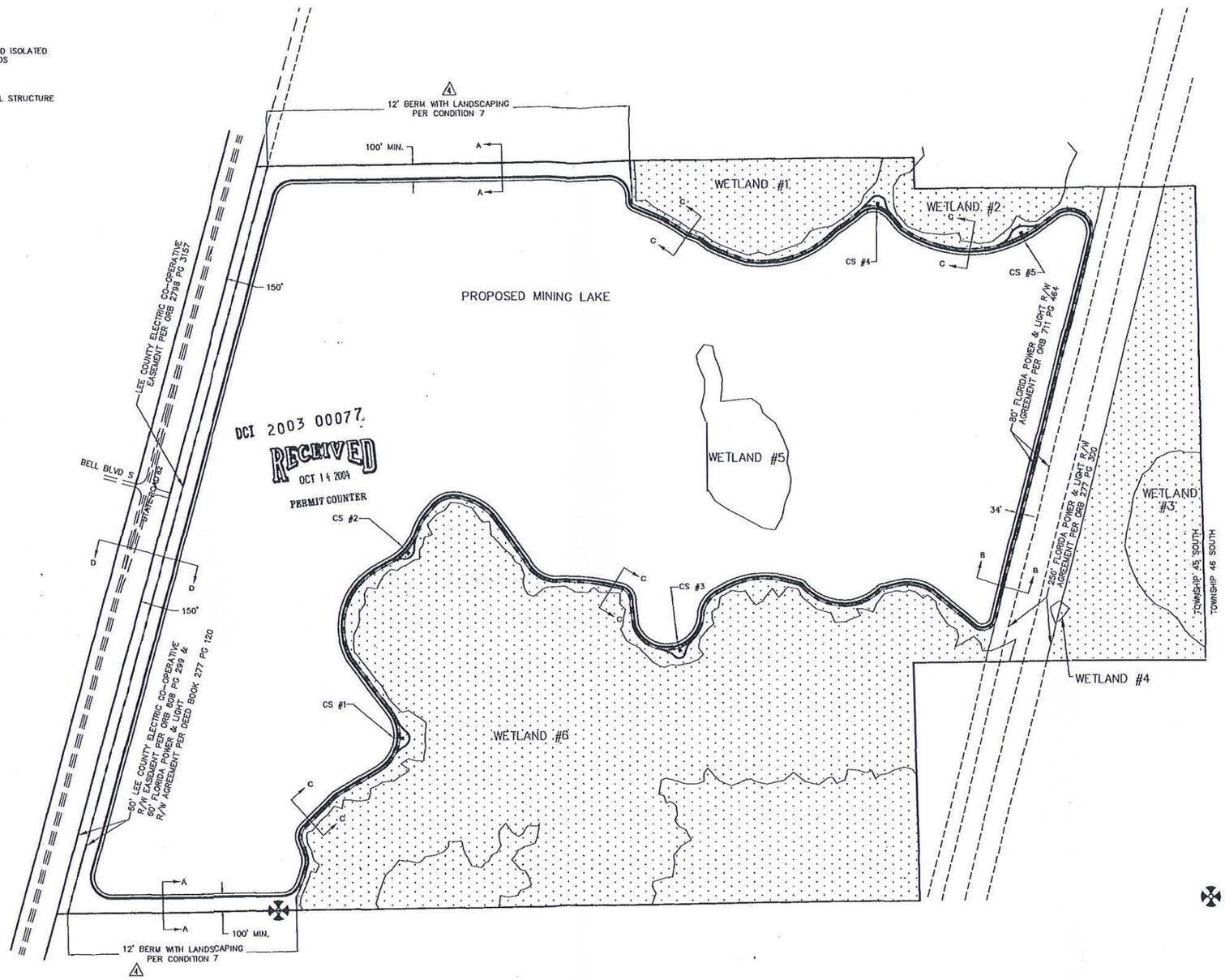
IMPACTED ISOLATED WETLANDS

UPLAND PRESERVE

CONTROL STRUCTURE

FINAL PROJECT AREAS

PARCEL AREA = 503.75 AC +/-
PRESERVE AREA = 189.76 AC +/-
UTILITY ESMT OR R/W = 26.76 AC +/-
LAKE AREA = 265.35 AC +/-
PERVIOUS AREA = 21.87 AC +/-



DCI 2003 00077

RECEIVED
OCT 14 2004
PERMIT COUNTER

APPROVED
Master Concept Plan
DCI Case # 04-047 Page 1 of 1
Subject to conditions in Resolution Z-04-047
Case # DCI2003-00077

EXHIBIT B-1

No.	Date	Revisions
1	12/03	MODIFIED SITE PLAN BASED ON JURISDICTIONAL DETERMINATION
2	2/04	REVISIONS BASED ON COUNTY COMMENTS
3	7/04	REVISIONS PER STAFF REPORT CONDITIONS
4	9/04	REVISIONS PER COUNTY COMMENTS
5	10/04	REVISIONS PER COUNTY COMMENTS

date 10-17-03
drawn CGY
file name: MCP
job BELLRD

community engineering services, inc.
civil engineering • surveying • project management
EB-0006613
8991 Daniels Center Drive, Suite 103
Fort Myers, Florida 33912
Telephone (239) 936-9777 Fax (239) 936-0064

MASTER CONCEPT PLAN
OF
BELL ROAD MINE

FOR
LAKE LINCOLN, LLC
5771 HALIFAX AVENUE
FORT MYERS, FL 33912
(239) 482-8008 FAX (239) 454-2773

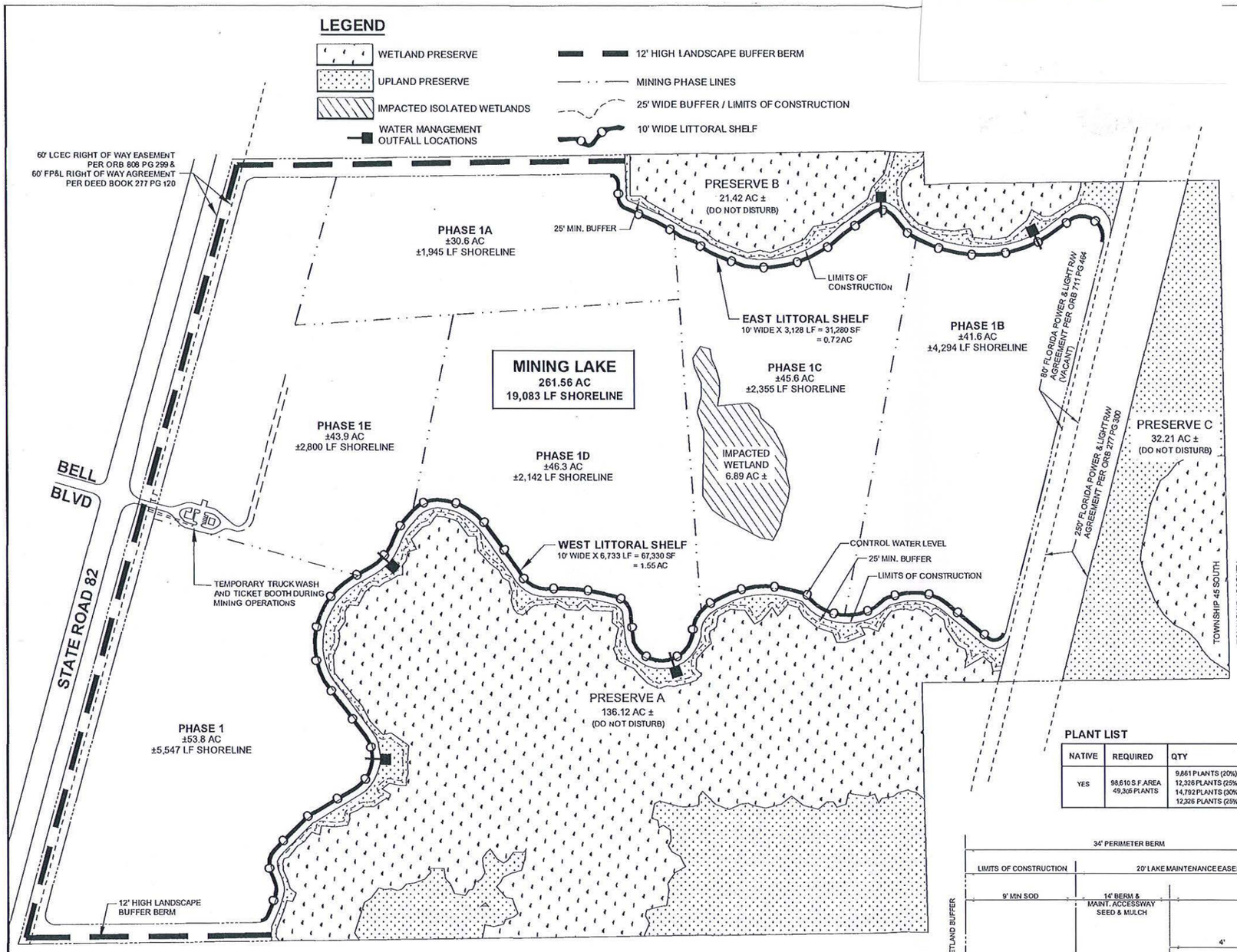
scale: 1"=300'

SHEET 3 OF 7

date 10-12-04

T:\ENG\Bell Road (4me_zoning\2nd Resub\MCP.dwg, Layout1, 10/12/2004 11:04:13 AM, lgl

EXHIBIT B-1



GENERAL RECLAMATION NOTES:

MINING OPERATIONS WILL BE SUBJECT TO THE FOLLOWING RECLAMATION STANDARDS.

RECLAMATION TO BEGIN WITHIN 30 CALENDAR DAYS AFTER COMPLETION OF ANY PHASE THAT WILL NOT BE DISTURBED BY FUTURE OPERATIONS, AND WILL BE COMPLETED WITHIN 12 MONTHS OR WHENEVER THE PERMITTED OPERATIONS HAVE BEEN COMPETED OR THE GENERAL EXCAVATION PERMIT EXPIRES, WHICHEVER COMES FIRST.

1) DISTURBED AREAS OF THE MINE SITE INCLUDING THE TOP OF LAKE BANKS MUST BE STABILIZED WITH NATIVE PLANTS, SOD OR GRASS SEEDING AT COMPLETION OF MINING OR COMPLETION OF EACH MINING PHASE.

2) RECLAMATION MUST BE COMPLETED ALONG THE PERIMETER OF THE LAKE EXCAVATION. A MINIMUM OF 25 PERCENT OF THE POST CONSTRUCTION LAKE (MINE) PERIMETER LENGTH IS REQUIRED TO HAVE PLANTED LITTORAL SHELVES. THE LITTORAL SHELVES MUST BE A CREATIVE DESIGN TO IMPROVE WATER QUALITY AND CREATE WILDLIFE HABITAT, THE LITTORAL SHELF MUST BE A MINIMUM OF 10 FEET WIDE. THIS MINIMUM RECLAMATION IS REQUIRED AND SHOULD BE PLANNED TO COMPLIMENT POST MINE USES. THE LITTORAL SHELF MAY BE USED AT WETLAND IMPACT MITIGATION AS REQUIRED FEDERAL, STATE OR WATER MANAGEMENT DISTRICT PERMITS.

3) LITTORAL PLANTS MUST MEET THE STANDARDS OF LDC SECTION 10-418. TREES SMALLER THAN THOSE SPECIFIED IN SECTION 10-420 MAY BE USED AT EQUIVALENT VALUE RATIOS TO REQUIRED HERBACEOUS PLANTS.

4) THE LITTORAL SHELF MUST BE PROTECTED FROM IMPACTS DURING AND AFTER MINING, IF THE AGRICULTURE USE OF LIVESTOCK IS THE INTENDED POST MINE USE, ADEQUATE FENCING MUST BE INSTALLED TO PROTECT LITTORAL SHELF FROM LIVESTOCK DAMAGE.

5) IF APPROPRIATE, ORGANIC SOILS (MUCK) MUST BE EXCAVATED FROM ANY IMPACTED WETLANDS ON SITE AND PLACES IN THE LITTORAL SHELF CREATIONS AREAS.

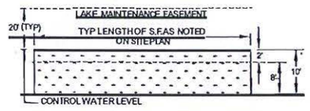
LITTORAL AREA LANDSCAPING NOTES:

1) THE MINIMUM REQUIRED NUMBER OF NATIVE WETLAND HERBACEOUS PLANTS SHALL BE ONE PLAT PER LINEAR FOOT OF LAKE SHORELINE AS MEASURED AT CONTROL ELEVATION WATER LEVEL. NATIVE WETLAND TREES SHRUBS MAY BE SUBSTITUTED FOR UP TO 25 PERCENT OF THE TOTAL NUMBER OF HERBACEOUS PLANTS REQUIRED. ONE TREE OR TWO SHRUBS MAY BE SUBSTITUTED FOR TEN HERBACEOUS PLANTS.

2) PLANTS SHALL BE INSTALLED IN CLUSTERS AROUND THE LAKE PERIMETER PLACEMENT OF CLUSTERS AT THE INLET AND OUTFALL AREAS IS STRONGLY ENCOURAGED. CLUSTERS SHALL BE A MINIMUM OF 25 PLANTS WITHIN A 50 SQUARE FOOT AREA.

3) AT LEAST FOUR SPECIES SHALL BE PLATED. MINIMUM REQUIRED HERBACEOUS PLANT SIZE SHALL BE TWO INCH CONTAINER. TREES AND SHRUBS MEET THE MINIMUM STANDARDS IN LDC SECTIONS 10-418

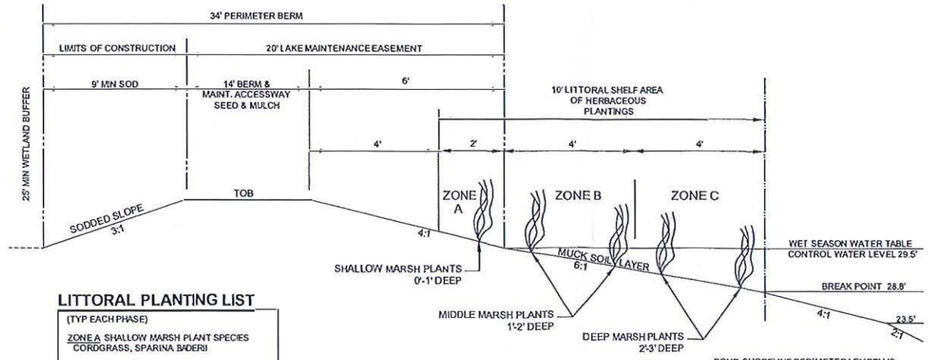
4) SURVIVAL OF THE PLANT MATERIALS. A MINIMUM OF 60 PERCENT SURVIVABILITY OF PLANTING IS REQUIRED FOR HERBACEOUS WETLAND PLANTS. WETLAND TREES AND SHRUBS MUST BE MAINTAINED PER LDC SECTION 10-418(C). REQUIRED WETLAND PLANTING SHALL COMPLY WITH LDC SECTION 10-419.



LITTORAL PLANTING DETAIL (TYP)
N.T.S

PLANT LIST

NATIVE	REQUIRED	QTY	SPECIES	SIZE & SPEC.	DESCRIPTION
YES	98,610 S.F. AREA 49,305 PLANTS	9,861 PLANTS (20%) 12,326 PLANTS (25%) 14,792 PLANTS (30%) 12,326 PLANTS (25%)	FRAGRANT WATER LILY, NYMPHAEA ODORATA ARROW HEAD, SAGITTARIA SPP. PICKERAL WEED, PONDERIA CORDATA CORDGRASS, SPARNA BAKERII	2" POTS 24 INCHES ON CENTER IN MASSES WITHIN RETENTION PONDS, 25 PLANTS / 50 SF	POND LITTORAL AREA PLANTINGS



POND SHORELINE PERIMETER LENGTH IS MEASURED AT CONTROL ELEVATION AND REQUIRED NUMBER OF PLANTINGS ARE INDICATED IN TABLE.

LITTORAL PLANTING LIST

(TYP EACH PHASE)

ZONE A SHALLOW MARSH PLANT SPECIES
CORDGRASS, SPARINA BADERII

ZONE B MIDDLE MARSH PLANT SPECIES
PICKERAL WEED, PONEDERIA CORDATA

ZONE C DEEP MARSH PLANT SPECIES
FRAGRANT WATER LILY, NYMPHAE ORDORATA
ARROW HEAD, SAGITTARIA SPP.

LITTORAL PLANTING ZONES
N.T.S

FINAL PROJECT AREAS

PARCEL AREA:	503.75 AC
PRESERVE AREA:	189.76 AC
UTILITY EASEMENT/ RIGHT OF WAY:	26.96 AC
LAKE AREA	261.56 AC

OPEN SPACE CALCULATIONS

LDC SECTION 10-415 REQUIRES 20% OPEN SPACE
503.7 AC X 0.20 = 100.7 AC REQUIRED
PROVIDED: 189.7 AC (PRESERVE)

RECLAMATION LITTORAL AREA CALCULATION

LDC SECTION 34-1661 (cX2) REQUIRES 25% OF LAKE BANK PERIMETER TO BE PLANTED LITTORAL SHELVES

19,290 LF LAKE BANK PERIMETER X 0.25	= 4,823 LF REQUIRED
LITTORAL SHELF AREA PROVIDED	= 9,661 LF PROVIDED

HERBACEOUS LITTORAL PLANTINGS REQUIRED BY PHASE

PHASE	LITTORAL L.F.	LITTORAL SF @ 10' WIDE	LITTORAL PLANTS @ 25 PLANTS / 50 SF
PHASE 1	2302	23,020	11,510
PHASE 1A	502	5,020	2,510
PHASE 1B	WEST 974	9,740	4,870
	EAST 1154	11,540	5,770
PHASE 1C	WEST 845	8,450	4,225
	EAST 1472	14,720	7,360
PHASE 1D	2146	21,460	10,730
PHASE 1E	466	4,660	2,330
TOTAL:	9861 L.F.	98,610 S.F.	49,305 PLANTS

APPLICANT'S EXHIBIT #1 Composite

Barraco and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING
www.barraco.net
2271 McGREGOR BLVD., SUITE 100
POST OFFICE DRAWER 2800
FORT MYERS, FLORIDA 33902-2800
PHONE (239) 461-3170
FAX (239) 461-3169
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

E N S W

0 150 300 600
SCALE IN FEET

PROJECT DESCRIPTION

BELL ROAD MINE

FILE NAME	23738REC-X00.DWG
LOCATION	J:\23738\DWG\ZONING\
PLOT DATE	WED. 12-4-2019 - 3:31 PM
PLOT BY	JENNIFER SAPEN

CROSS REFERENCED DRAWINGS

BASE PLAN = 23738REC-A00.DWG

PLAN REVISIONS

2-06 AND 7-06	PREVIOUS APPROVAL COMMENTS
11-8-19	INCREASE LIITORALS

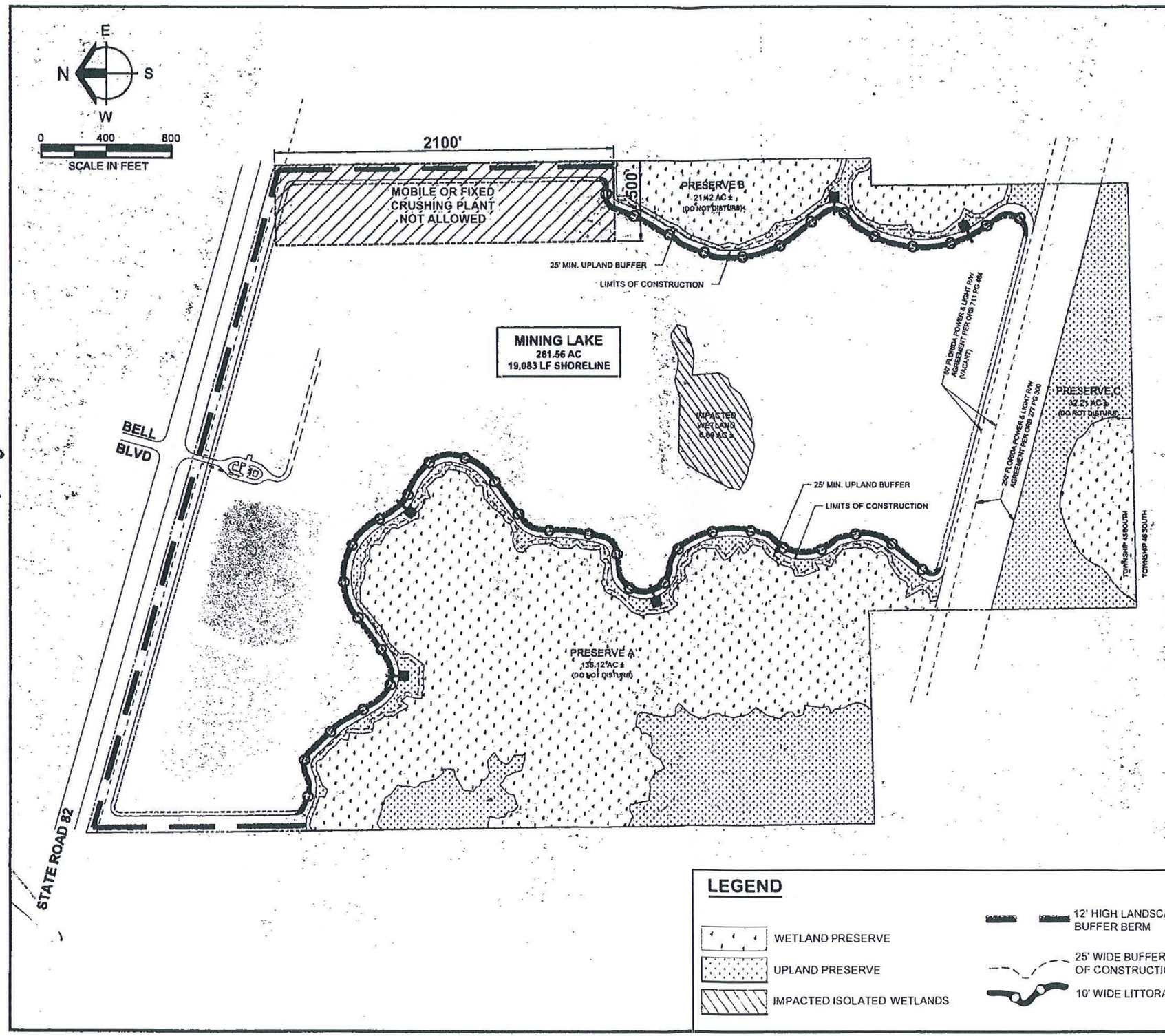
PLAN STATUS

RECLAMATION PLAN OF BELL ROAD MINE

PROJECT / FILE NO.	SHEET NUMBER
23738	8 OF 11

FIGURE 3. PERTINENT FEATURES MAP

EXHIBIT B-1



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PHONE (239) 461-3170
FAX (239) 461-3169
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6990

PREPARED FOR

MCIN BELL, LLC

5571 HALIFAX AVE.
FORT MYERS, FL 33912

PROJECT DESCRIPTION

BELL ROAD MINE

PART OF SECTION 34,
TOWNSHIP 45 SOUTH, RANGE 27 EAST
LEE COUNTY, FLORIDA

THIS PLAN IS PRELIMINARY AND INTENDED FOR CONCEPTUAL PLANNING PURPOSES ONLY.

SITE LAYOUT AND LAND USE INTENSITIES OR DENSITIES MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENGINEERING, ENVIRONMENTAL AND / OR REGULATORY CONSTRAINTS AND / OR OPPORTUNITIES.

FILE NAME	23738 BELL RD MAT EXH 8X11.DWG
LAYOUT	LAYOUT1
LOCATION	J:\23738\DWG\EXHIBITS\
PLOT DATE	MON, 3-08-2021 - 8:55 AM
PLOT BY	WES KAYNE
DESIGN BY	JENNIFER SAFEN
XREF1	BASEPLAN + 23738REC-ADD.DWG
XREF2	
XREF3	
XREF4	
XREF5	
XREF6	

PLAN REVISIONS

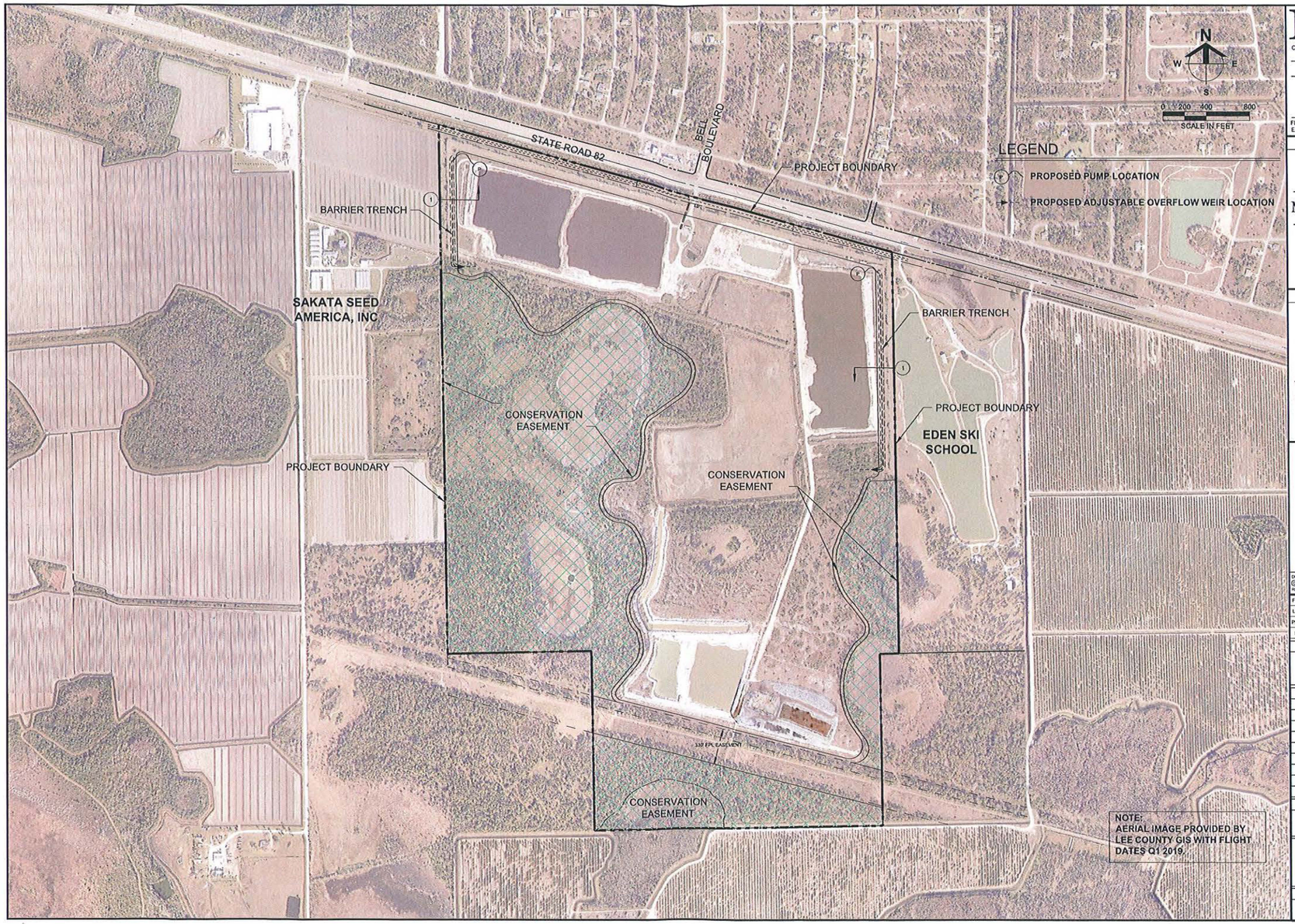
PLAN STATUS

CRUSHING PLANT EXCLUSION AREA EXHIBIT

PROJECT / FILE NO.	SHEET NUMBER
23738	EXHIBIT G

EXHIBIT B-1

1-6



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PHONE (239) 461-3170
FAX (239) 461-3169
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB 6940

PREPARED FOR

MCIN BELL, LLC

5571 HALIFAX AVE.
FORT MYERS, FL 33912

PROJECT DESCRIPTION

BELL ROAD MINE

PART OF SECTION 34,
TOWNSHIP 45 SOUTH, RANGE 27 EAST
LEE COUNTY, FLORIDA

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FILE NAME	23738 BARRIER TRENCH EXHIBIT2.DWG
LOCATION	J:\23738\DWG\EXHIBITS\
CROSS REFERENCED DRAWINGS	
PLOT DATE	MON, 1-11-2021 - 5:26 PM
PLOT BY	WES KAYNE

CROSS REFERENCED DRAWINGS

PLAN REVISIONS

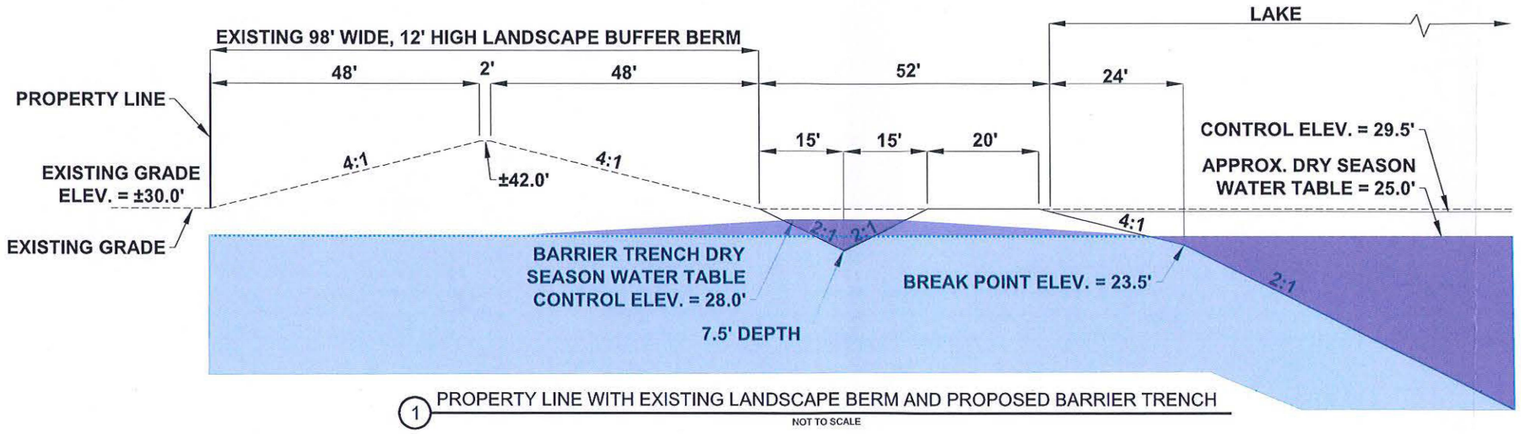
PLAN STATUS

EXHIBIT

BARRIER TRENCH INTERFACE EXHIBIT G

PROJECT / FILE NO.	SHEET NUMBER
23738	EX

EXHIBIT B-1



1 PROPERTY LINE WITH EXISTING LANDSCAPE BERM AND PROPOSED BARRIER TRENCH
NOT TO SCALE

Hydraulic Barrier Active

= Suface Water

= Groundwater

= Raised Groundwater

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PREPARED FOR

MCIN BELL, LLC

5571 HALIFAX AVE.
FORT MYERS, FL 33912

PROJECT DESCRIPTION

BELL ROAD MINE

PART OF SECTION 34,
TOWNSHIP 45 SOUTH, RANGE 27 EAST
LEE COUNTY, FLORIDA

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PLOT DATE	FRI. 1-22-2021 - 5:09 PM
PLOT BY	WES KAYNE

CROSS REFERENCED DRAWINGS

PLAN REVISIONS

PLAN STATUS

EXHIBIT

BARRIER TRENCH INTERFACE SECTION EXHIBIT G

PROJECT / FILE NO.	SHEET NUMBER
23738	EX

EXHIBIT B-1

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Elizabeth Workman, Principal Planner, date received April 23, 2025 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

2. *Affidavit of Publication:* For zoning Case DCI2025-00002 Seagate Mine, dated May 12, 2025 (1 page – 8.5"x11")

3. *PowerPoint Presentation:* Prepared by DCD Staff for DCI2025-00002 Seagate Mine, dated May 12, 2025 (multiple pages – 8.5"x11") [color]

4. *Letter of Authorization:* (1 page – 8.5"x11")

5. *Revised Conditions:* (multiple pages – 8.5"x11")

APPLICANT EXHIBITS

a. *48-Hour Notice:* Email from Alexis Crespo to Maria Perez, with copies to Richard Akin, Esq., Matt Price, Tina Ekblad, Kirk Martin, and Ted Trees, dated Tuesday, May 6, 2025, 1:10 PM

1. *Revised Master Concept Plan:* Prepared by Barraco and Associates, Inc., for Bell Road Mine, date received May 12, 2025 (multiple pages – 11"x17")

2. *PowerPoint Presentation:* Prepared for DCI2025-00002 Seagate Mine, dated May 12, 2025 (multiple pages – 8.5"x11") [color]

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Elizabeth Workman

Applicant Representatives:

1. Richard Akin
2. Alexis Crespo
3. Kirk Martin
4. Matt Price
5. Ted Treesh

Public Participants:

1. Randall R. Johnson

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.

LEGEND

WETLAND PRESERVE

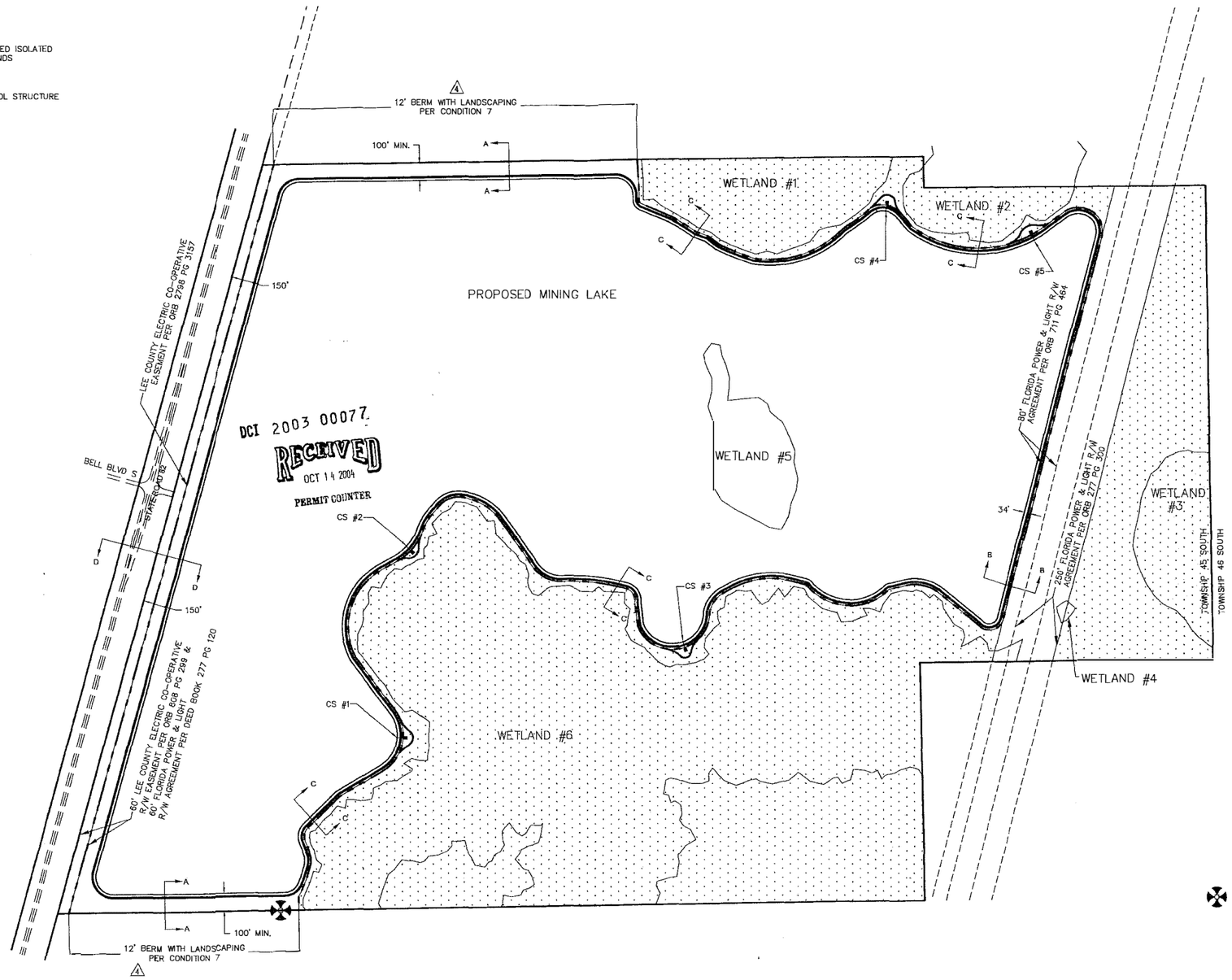
IMPACTED ISOLATED WETLANDS

UPLAND PRESERVE

CONTROL STRUCTURE

FINAL PROJECT AREAS

PARCEL AREA = 503.75 AC +/-
PRESERVE AREA = 189.76 AC +/-
UTILITY ESMT OR R/W = 26.76 AC +/-
LAKE AREA = 265.35 AC +/-
PERVIOUS AREA = 21.87 AC +/-



APPROVED
Master Concept Plan
Resolution # 04-047 Page 1 of 1
Subject to conditions in Resolution Z-04-047
Case # DCI2003-00077

date	10-17-03
drawn	CGY
file name	MCP
job	BELLRD

No.	Date	Revisions
1	12/03	MODIFIED SITE PLAN BASED ON JURISDICTIONAL DETERMINATION
2	2/04	REVISIONS BASED ON COUNTY COMMENTS
3	7/04	REVISIONS PER STAFF REPORT CONDITIONS
4	9/04	REVISIONS PER COUNTY COMMENTS
5	10/04	REVISIONS PER COUNTY COMMENTS

community engineering services, inc.
civil engineering • surveying • project management
EB-0006613
8991 Daniels Center Drive, Suite 103
Fort Myers, Florida 33912
Telephone (239) 936-9777 Fax (239) 936-0064

MASTER CONCEPT PLAN
OF
BELL ROAD MINE

FOR
LAKE LINCOLN, LLC
5771 HALIFAX AVENUE
FORT MYERS, FL 33912
(239) 482-8008 FAX (239) 454-2773

scale: 1"=300'

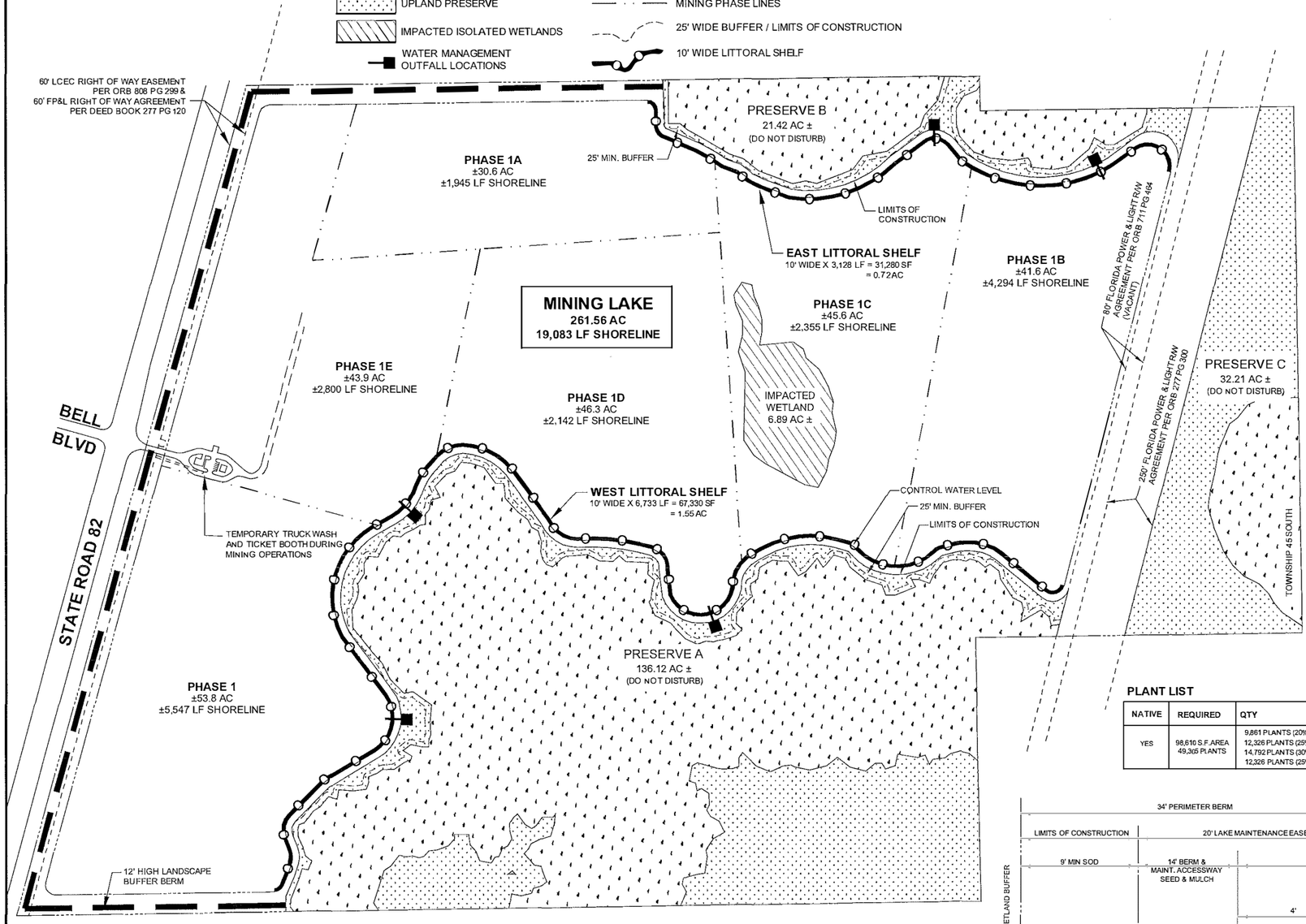
SHEET
3 OF 7

date 10-12-04

T:\ENG\Bell Road Mine\zoning\2nd Resub\MCP.dwg, Layout1, 10/12/2004 11:04:13 AM, tjt

LEGEND

- WETLAND PRESERVE
- UPLAND PRESERVE
- IMPACTED ISOLATED WETLANDS
- WATER MANAGEMENT OUTFALL LOCATIONS
- 12' HIGH LANDSCAPE BUFFER BERM
- MINING PHASE LINES
- 25' WIDE BUFFER / LIMITS OF CONSTRUCTION
- 10' WIDE LITTORAL SHELF



GENERAL RECLAMATION NOTES:

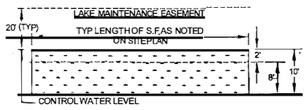
MINING OPERATIONS WILL BE SUBJECT TO THE FOLLOWING RECLAMATION STANDARDS.

RECLAMATION TO BEGIN WITHIN 30 CALENDAR DAYS AFTER COMPLETION OF ANY PHASE THAT WILL NOT BE DISTURBED BY FUTURE OPERATIONS, AND WILL BE COMPLETED WITHIN 12 MONTHS OR WHENEVER THE PERMITTED OPERATIONS HAVE BEEN COMPETED OR THE GENERAL EXCAVATION PERMIT EXPIRES, WHICHEVER COMES FIRST.

1) DISTURBED AREAS OF THE MINE SITE INCLUDING THE TOP OF LAKE BANKS MUST BE STABILIZED WITH NATIVE PLANTS, SOD OR GRASS SEEDING AT COMPLETION OF MINING OR COMPLETION OF EACH MINING PHASE.
2) RECLAMATION MUST BE COMPLETED ALONG THE PERIMETER OF THE LAKE EXCAVATION. A MINIMUM OF 25 PERCENT OF THE POST CONSTRUCTION LAKE (MINE) PERIMETER LENGTH IS REQUIRED TO HAVE PLANTED LITTORAL SHELVES. THE LITTORAL SHELVES MUST BE A CREATIVE DESIGN TO IMPROVE WATER QUALITY AND CREATE WILDLIFE HABITAT, THE LITTORAL SHELF MUST BE A MINIMUM OF 10 FEET WIDE. THIS MINIMUM RECLAMATION IS REQUIRED AND SHOULD BE PLANNED TO COMPLIMENT POST MINE USES. THE LITTORAL SHELF MAY BE USED AT WETLAND IMPACT MITIGATION AS REQUIRED FEDERAL, STATE OR WATER MANAGEMENT DISTRICT PERMITS.
3) LITTORAL PLANTS MUST MEET THE STANDARDS OF LDC SECTION 10-418. TREES SMALLER THAN THOSE SPECIFIED IN SECTION 10-420 MAY BE USED AT EQUIVALENT VALUE RATIOS TO REQUIRED HERBACEOUS PLANTS.
4) THE LITTORAL SHELF MUST BE PROTECTED FROM IMPACTS DURING AND AFTER MINING, IF THE AGRICULTURE USE OF LIVESTOCK IS THE INTENDED POST MINE USE, ADEQUATE FENCING MUST BE INSTALLED TO PROTECT LITTORAL SHELF FROM LIVESTOCK DAMAGE.
5) IF APPROPRIATE, ORGANIC SOILS (MUCK) MUST BE EXCAVATED FROM ANY IMPACTED WETLANDS ON SITE AND PLACES IN THE LITTORAL SHELF CREATIONS AREAS.

LITTORAL AREA LANDSCAPING NOTES:

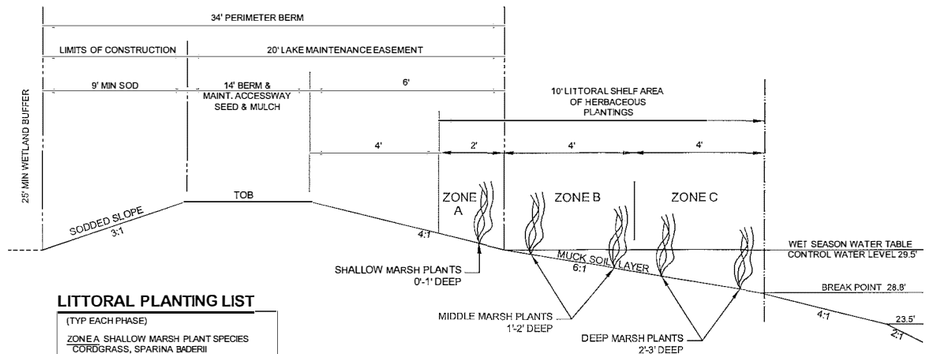
1) THE MINIMUM REQUIRED NUMBER OF NATIVE WETLAND HERBACEOUS PLANTS SHALL BE ONE PLAT PER LINEAR FOOT OF LAKE SHORELINE AS MEASURED AT CONTROL ELEVATION WATER LEVEL. NATIVE WETLAND TREES SHRUBS MAY BE SUBSTITUTED FOR UP TO 25 PERCENT OF THE TOTAL NUMBER OF HERBACEOUS PLANTS REQUIRED. ONE TREE OR TWO SHRUBS MAY BE SUBSTITUTED FOR TEN HERBACEOUS PLANTS.
2) PLANTS SHALL BE INSTALLED IN CLUSTERS AROUND THE LAKE PERIMETER PLACEMENT OF CLUSTERS AT THE INLET AND OUTFALL AREAS IS STRONGLY ENCOURAGED. CLUSTERS SHALL BE A MINIMUM OF 25 PLANTS WITHIN A 50 SQUARE FOOT AREA.
3) AT LEAST FOUR SPECIES SHALL BE PLATED. MINIMUM REQUIRED HERBACEOUS PLANT SIZE SHALL BE TWO INCH CONTAINER. TREES AND SHRUBS MEET THE MINIMUM STANDARDS IN LDC SECTIONS 10-418
4) SURVIVAL OF THE PLANT MATERIALS. A MINIMUM OF 80 PERCENT SURVIVABILITY OF PLANTING IS REQUIRED FOR HERBACEOUS WETLAND PLANTS. WETLAND TREES AND SHRUBS MUST BE MAINTAINED PER LDC SECTION 10-418(C). REQUIRED WETLAND PLANTING SHALL COMPLY WITH LDC SECTION 10-419.



LITTORAL PLANTING DETAIL (TYP)
N.T.S

PLANT LIST

NATIVE	REQUIRED	QTY	SPECIES	SIZE & SPEC.	DESCRIPTION
YES	98,610 S.F. AREA 49,305 PLANTS	9,861 PLANTS (20%) 12,326 PLANTS (25%) 14,792 PLANTS (30%) 12,326 PLANTS (25%)	FRAGRANT WATER LILY, NYMPHAEA ODORATA ARROW HEAD, SAGITTARIA SPP. PICKERAL WEED, PONDERIA CORDATA CORDGRASS, SPARINA BAKERII	2" POTS 24 INCHES ON CENTER IN MASSES WITHIN RETENTION PONDS, 25 PLANTS / 50 SF	POND LITTORAL AREA PLANTINGS



POND SHORELINE PERIMETER LENGTH IS MEASURED AT CONTROL ELEVATION AND REQUIRED NUMBER OF PLANTINGS ARE INDICATED IN TABLE.

LITTORAL PLANTING LIST

(TYP EACH PHASE)

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CORDGRASS, SPARINA BADERII

ZONE B MIDDLE MARSH PLANT SPECIES
PICKERAL WEED, PONEDERIA CORDATA

ZONE C DEEP MARSH PLANT SPECIES
FRAGRANT WATER LILY, NYMPHAE ORDORATA
ARROW HEAD, SAGITTARIASPP.

LITTORAL PLANTING ZONES
N.T.S

HERBACEOUS LITTORAL PLANTINGS REQUIRED BY PHASE

PHASE	LITTORAL L.F.	LITTORAL SF @ 10' WIDE	LITTORAL PLANTS @ 25 PLANTS / 50 SF
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TOTAL:	9861 L.F.	98,610 S.F.	49,305 PLANTS

FINAL PROJECT AREAS

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PRESERVE AREA:	189.76 AC
UTILITY EASEMENT / RIGHT OF WAY:	26.96 AC
LAKE AREA	261.56 AC

OPEN SPACE CALCULATIONS

LDC SECTION 10-415 REQUIRES 20% OPEN SPACE
503.7 AC X 0.20 = 100.7 AC REQUIRED
PROVIDED: 189.7 AC (PRESERVE)

RECLAMATION LITTORAL AREA CALCULATION

LDC SECTION 34-1661 (cX2) REQUIRES 25% OF LAKE BANK PERIMETER TO BE PLANTED LITTORAL SHELVES

19,290 LF LAKE BANK PERIMETER X 0.25 = 4,823 LF REQUIRED

LITTORAL SHELF AREA PROVIDED = 9,861 LF PROVIDED

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PHONE (239) 461-3170
FAX (239) 461-3169
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

E
N S
W

0 150 300 600
SCALE IN FEET

PROJECT DESCRIPTION

BELL ROAD MINE

FILE NAME	23738REC-X00.DWG
LOCATION	J:\23738\DWG\ZONING\
PLOT DATE	WED, 12-4-2019 - 3:31 PM
PLOT BY	JENNIFER SAPEN

CROSS REFERENCED DRAWINGS

BASE PLAN = 23738REC-A00.DWG

PLAN REVISIONS

2-06 AND 7-05	PREVIOUS APPROVAL COMMENTS
11-8-19	INCREASE LITTORALS

PLAN STATUS

RECLAMATION PLAN OF BELL ROAD MINE

PROJECT / FILE NO.	SHEET NUMBER
23738	8 OF 11

Water Science Associates	PROJECT NAME: BELL ROAD MINE	COA 30437	N 0 500 1,000 Feet
	PROJECT NUMBER: 14919-01	SEPTEMBER 2020	

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FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

MCIN BELL, LLC

5571 HALIFAX AVE.
FORT MYERS, FL 33912

PROJECT DESCRIPTION

BELL ROAD MINE

PART OF SECTION 34,
TOWNSHIP 45 SOUTH, RANGE 27 EAST
LEE COUNTY, FLORIDA

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FILE NAME	23738 BARRIER TRENCH EXHIBIT2.DWG
LOCATION	J:\23738\DWG\EXHIBITS\
PLOT DATE	MON. 1-11-2021 - 5:26 PM
PLOT BY	WES KAYNE

CROSS REFERENCED DRAWINGS

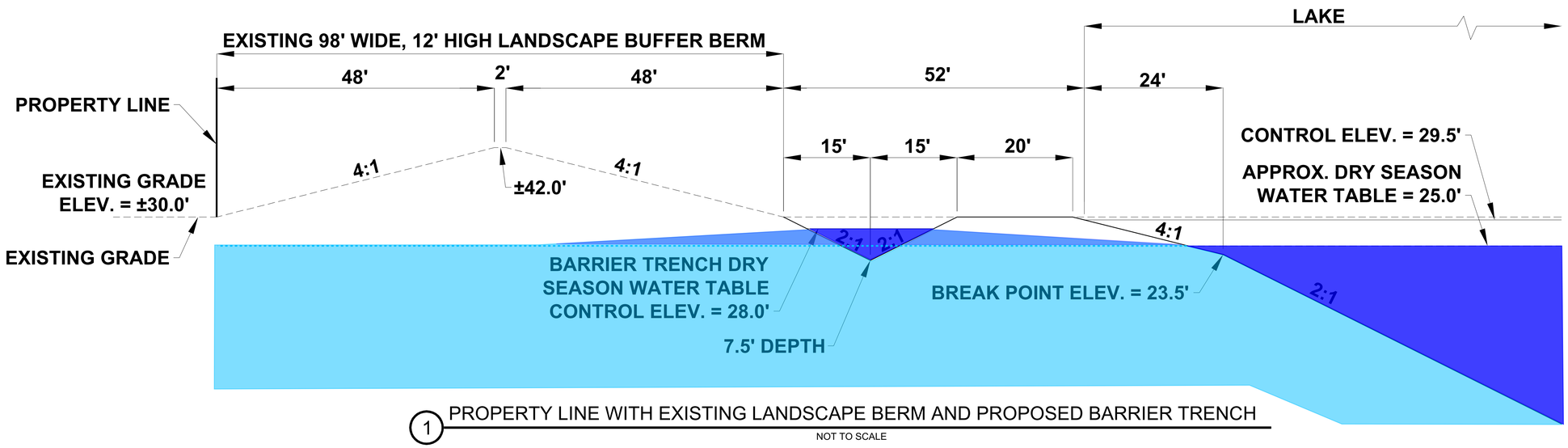
PLAN REVISIONS

PLAN STATUS

EXHIBIT

BARRIER TRENCH INTERFACE EXHIBIT G

PROJECT / FILE NO.	SHEET NUMBER
23738	EX



1 PROPERTY LINE WITH EXISTING LANDSCAPE BERM AND PROPOSED BARRIER TRENCH

NOT TO SCALE

Hydraulic Barrier Active

= Suface Water

= Groundwater

= Raised Groundwater

Barraco and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING
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ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

MCIN BELL, LLC

5571 HALIFAX AVE.
FORT MYERS, FL 33912

PROJECT DESCRIPTION

BELL ROAD MINE

PART OF SECTION 34,
TOWNSHIP 45 SOUTH, RANGE 27 EAST
LEE COUNTY, FLORIDA

THIS PLAN IS PRELIMINARY AND INTENDED FOR CONCEPTUAL PLANNING PURPOSES ONLY.

SITE LAYOUT AND LAND USE INTENSITIES OR DENSITIES MAY CHANGE SIGNIFICANTLY BASED UPON SURVEY, ENGINEERING, ENVIRONMENTAL AND / OR REGULATORY CONSTRAINTS AND / OR OPPORTUNITIES.

FILE NAME	23738 BARRIER TRENCH EXHIBIT2.DWG
LOCATION	J:\23738\DWG\EXHIBITS\
PLOT DATE	FRI. 1-22-2021 - 5:09 PM
PLOT BY	WES KAYNE

CROSS REFERENCED DRAWINGS

PLAN REVISIONS

PLAN STATUS

EXHIBIT

BARRIER TRENCH INTERFACE SECTION EXHIBIT G

PROJECT / FILE NO.	SHEET NUMBER
23738	EX

ATTACHMENT D

SECTION A. REQUEST

The applicant has filed a request to amendment Zoning Resolution Z-20-024 to allow an increase of the maximum excavation depth from 40 feet to the lesser of 60 feet, the depth of the confining layer, or the permitted depth approved by the Florida Department of Environmental Protection. No changes to the Master Concept Plan are proposed by this request to continue the use of the property as a mining operation for excavation, rock crushing and screening, open storage of materials and equipment, on-site water retention, administrative offices, and a caretaker's residence.

The property is in the Density Reduction/Groundwater Resource and Wetlands Future Land Use Categories and is legally described in attached Attachment C. The request is APPROVED, SUBJECT TO the conditions specified in Section B below.

SECTION B. CONDITIONS:

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

1. a. Development must be consistent with the six-page Master Concept Plan (MCP) composite consisting of "Bell Road Mine", Sheet 3 of 7, dated 10-12-04, "Reclamation Plan of Bell Road Mine dated 11-8-19, Bell Road Mine Monitoring Well Locations dated September 2020, Settlement Agreement Exhibit G "Crushing Plant Exclusion Area Exhibit, and the two-page "Barrier Trench Interface Exhibit G", dated 1-11-21, except as modified by the conditions below. Development must comply with all requirements of the Lee County LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

   b. The Master Concept Plan and approval for excavation, mining, and associated uses will expire on September 13, 2041, unless additional extensions are authorized by State or Local regulations.

   c. Hours of Operation: The operation may be open for business transactions and perform excavation operations between the hours of 6:00 a.m. to 4:00 p.m., Monday through Saturday, excluding holidays. No business transactions can be conducted on Sunday or County observed holidays. Trucks may enter and leave the site with excavated materials only during these business hours. Rock crushing operations are only allowed from 8:00 a.m. to 4:00 p.m., Monday through Friday. Dragline operations may operate Monday through Saturday for an additional two hours from 4:00 p.m. to 6:00 p.m. Blasting will be in accordance with the office of the Florida State Fire Marshall rules and regulations.

   d. Maximum permitted depth of this mining operation is 60 feet below existing ground elevation.

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

   a. Schedule of Uses
   Excavation, Mining
   Accessory Uses to the permitted Excavation, Mining Use
   Administrative Offices
   Agricultural Uses (as limited in Condition 11)
   Caretaker's Residence
   Entrance Gates and Gatehouse (LDC §34-1741 *et seq*.)
   Essential Services (LDC §§ 34-1611 *et seq*., and 34-1741 *et seq*.)
   Essential Service Facilities (LDC §34-622(c)(13)):Group I (LDC §§ 34-1611 *et seq*., 34-1741 *et seq*., and 34-2141 *et seq*.)
   Excavation, Water Retention
   Fences, Walls (LDC §34-1741)
   Gasoline Dispensing System, Special
   Parking Lot: Accessory
   Rock Crushing and Storage of Excavated Materials
   Signs, In Accordance with LDC Chapter 30
   Storage: Storage, Open, (LDC §34-3001 e*t seq*.)

   b. Property Development Regulations
   Excavation Setbacks:
   Existing Right-of-way: 150 feet
   Private Property Line: 100 feet

   Excavation Depth:
   Maximum Excavation Depth:
   The maximum permitted depth of this mining operation is 60 feet or to the confining layer, whichever occurs first. Drilling, trenching, or any other penetration of the earth beyond this depth is strictly prohibited.

   Structure Setbacks:

Existing Right-of-way:	25 feet
Private Property Line:	25 feet
Maximum Height of Structures:	35 feet

3. Prior to issuance of a Vegetation Removal Permit for any area containing trees, the developer must conduct a survey for Big Cypress fox squirrel nests within 15 days prior to the clearing. The survey must be submitted for the Division of Environmental Sciences staff review, field verification, and approval. If any active nests are located, then the developer must provide a 125-foot buffer area until the nest is deemed inactive by an environmental consultant and verified by the Division of Environmental Sciences staff.

4. Prior to local development order approval, the development order plans must delineate approximately 189 acres of open space as preserve area in substantial compliance with the MCP. All the preserve areas must be fenced to exclude any grazing by cattle or other domesticated animals prior to the issuance of a Vegetation Removal Permit for any phase of the mine.

[NOTE: This condition was accomplished to obtain Lee County Development Order LDO2003-00403. In addition, the preserve area was placed in a conservation easement to the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, Lee County Instrument 20060000143098 and Lee County Instrument 2020000161290]

5. Reclamation of the post-mining lake banks will be in accordance with the revised Reclamation Plan attached as Master Concept Plan sheet 2, attached as Attachment "Q".

6. Prior to local development order approval, the developer must submit an exotics removal plan for the preserve areas including the method of removal and a time frame for completing the exotic removal for the Division of Environmental Sciences staff review and approval. The exotics removal must be completed for all preserve areas within two years of issuance of the first development order for the mine.

   [NOTE: This condition was accomplished to obtain Lee County Development Order LDO2003-00403 and the completion of the Fifth Annual Maintenance and Monitoring activity as documented in the Fifth Annual Monitoring Report prepared by Boylan Environmental Consultants, Inc. dated August 2017.]

7. As part of the local development order and throughout the duration of the project, a vehicular wash down facility must be approved, installed, and operated for all exiting traffic. The facility must be located at least 125 feet from the roadway, be a paved surface from the roadway to the facility, and be included in the Storm Water Pollution Prevention Plan (SWP3). The plans for the facility must be submitted to the Natural Resources Division for review and approval. Compliance will be a performance measure based on no visible tracking onto the public roadway.

   [NOTE: This facility was constructed and is in operation to obtain Lee County Development Order LDO2003-00403.]

8. The developer must provide, as part of the first phase of the mining operation, a buffer along State Route 82, and the east and west boundaries south from State Route 82 to the preserve areas, consisting of a 12-foot-high berm with landscaping. The landscaping must consist of five trees and hedge per 100 lineal feet (per LDC § 10-416). These berms and buffers must be established prior to the removal of material from the site.

   [NOTE: This condition was accomplished pursuant to Lee County Development Order LDO2003-00403 and issued a Letter of Substantial Compliance by Lee County on May 9, 2007.]

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

10. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b).

11. Existing bona fide agricultural uses on this site are allowed only in strict compliance with

the following:

a. Bona fide agricultural uses that are in existence at the time the application for this project was filed, ~~and as shown on Exhibit B attached hereto,~~ may continue until approval of a local development order for the area of the project containing those uses.

b. Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County-approved requests for the removal of invasive exotic vegetation.

c. The property owner must terminate the agricultural tax exemption for any portion of the property that receives a local development order. The agricultural use must cease by December 31st of the calendar year in which the local development order is issued. The exemption termination must be filed with the Property Appraiser's Office by December 31st of the calendar year in which the local development order is issued. A copy of the exemption termination must be provided to the Office of the County Attorney.

12. Although the application indicates that the mine could be dewatered, approval of this zoning request is not explicitly allowing dewatering as an activity. Approval or denial of dewatering is subject to review and approval by the South Florida Water Management District (SFWMD). In the event the mine operator obtains approval from the SFWMD for dewatering, dewatering is subject to the following conditions:

a. All dewatering activities must be in accordance with the SFWMD dewatering permit.

b. On-site water storage and conveyance will be controlled so as to minimize the potential for adverse hydraulic impacts on adjacent properties and preserve areas. Controls will include providing for water infiltration areas between active excavation and on-site preserves and property boundaries. On-site storage and infiltration areas will have back-up overflow containment.

c. A monitoring program, including baseline monitoring, will be implemented at key locations during the life of the mining project. The number and location of the proposed monitoring points will be reviewed and approved by the Division of Natural Resources (DNR) prior to the commencement of any dewatering activities and will monitor both the surficial and sandstone aquifers. Monitoring locations will be provided off site at locations approved by DNR, if permission is granted by the off- site owners. Monitoring data and reports will be filed with DNR, and DNR staff will be granted access to the site during reasonable hours for inspection purposes.

   If Lee County DNR concludes a problem exists, the dewatering activity must cease until problem is remedied to the satisfaction of DNR and other appropriate agencies.

d. Dewatering may not occur within 300 feet of the Sakata Seed America, Inc., property located immediately west of the project site.

13. Applicant will modify the Limited Review Development Order LDO2003-00403 and Mine

Operation Permit MOP2016-00001 for the revised reclamation plan and the revised lake cross-section incorporated herein. No other modifications of LDO2003-00403 and MOP2016-00001 will be required.

14. All on-site haul roads must be watered on a regular basis to avoid creating dust in excess of the Department of Environmental Regulation standards.

15. The applicant shall complete initial baseline water quality sampling at monitoring well, MW-2, as shown on sheet 3 of the Master Concept Plan Composite attached as Attachment "Q", which is down-gradient of the existing and future excavation area. Baseline sampling parameters shall include iron, gross alpha, combined nitrite and nitrate total dissolved solids, chloride, pH, sulfate, turbidity, temperature, specific conductivity, and dissolved oxygen. Baseline sampling will occur quarterly for the first year after issuance of the FDEP Environmental Resource Permit which also includes water quality monitoring. The monitoring report detailing the results of initial quarterly water quality monitoring, along with the certified laboratory analysis work sheets, shall be submitted with the quarterly water level monitoring reports. The final baseline value shall be calculated as the average of the first four quarterly readings. After the first year of monitoring, levels of each parameter shall not exceed the baseline values for subsequent annual sampling events.

    a. Thereafter, sampling shall be conducted on an annual basis for iron, gross alpha, combined nitrite and nitrate total dissolved solids, chloride, pH, Sulfate, turbidity, temperature, specific conductivity, and dissolved oxygen. The Department of Natural Resources will work with the applicant to adjust the necessary analytes to be monitored going forward if requested. The monitoring report detailing the results of the annual water quality monitoring, along with the certified laboratory analysis work sheets, shall be submitted annually. The monitoring may be discontinued one (1) year after all extraction has ended on the site.

    b. If the water quality monitoring well becomes damaged or inoperable, the permittee shall notify the Department of Natural Resources immediately and a detailed written report shall follow within seven days. The written report shall detail what problem occurred and remedial measures that have been taken to prevent recurrence. All water quality monitoring well replacement shall be approved by the Department of Natural Resources prior to installation.

    c. The well shall be sampled in accordance with the current version of Florida Department of Environmental Protection standard operating procedure (SOP) DEP-SOP-001/01, FS 2200 Groundwater Sampling. A Groundwater Sampling Log (included in the referenced SOP) shall be completed for each well sampled. The groundwater samples shall be analyzed by a NELAC-certified laboratory.

16. At the water quality monitoring well for the site, the permittee shall establish a baseline value for each monitored parameter by calculating average measured values. The baseline value at the monitoring well shall be calculated as the average of the first four quarterly readings. After the first year of monitoring, levels of each parameter shall not exceed the baseline values for subsequent annual sampling events. If baseline values are exceeded for any annual sampling event, the permittee shall contact the Department within seven days of the analysis. If any value exceeds or is trending toward exceeding the standards set in rule 62-520.420(1), F.A.C., the permittee shall contact the Department of Natural Resources within seven days of the analysis. Should potential areas of concern

be attributed to onsite conditions or activities, the permittee will coordinate with the Department of Natural Resources to aid in identifying potential causes and potential needs to modify monitoring parameters, frequency, and/or reporting. The Department of Natural Resources shall review the data and determine a remedial course of action, in conjunction with permittee.

17. Prior to local development order approval authorizing deepening of the mine, a fifth monitoring well on the south side of the mine must be constructed to the limestone portion of the water table aquifer and baseline water level monitoring data from the fifth monitoring well must be provided to Lee County Division of Natural Resources. Data collected from this monitoring well must continue to be provided as part of the annual water quality and quarterly groundwater level monitoring reports.

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

CASE NUMBER: DCI2025-00002
CASE NAME: SEAGATE MINE IPD (FORMER BELL ROAD MINE)
TYPE OF CASE: INDUSTRIAL PLANNED DEVELOPMENT - AMENDMENT
HEARING EXAMINER DATE: MAY 12, 2025
SUFFICIENCY DATE: MARCH 21, 2025
COMMISSIONER DISTRICT 2: COMMISSIONER PENDERGRASS

REQUEST:

The applicant seeks to amend an existing approved construction materials mine totaling approximately 503.75± acres to allow for an increase in mine extraction depth from 40 feet to 60 feet, or the top of the confining layer, whichever is reached first. There is no proposed change to the existing mine footprint previously approved.

The subject property is located at 21260 State Road 82, Southeast Lee County Planning Community, Lee County, FL. The subject property is within the Density Reduction/Groundwater Resource (DR/GR) and Wetlands future land use categories and is zoned Industrial Planned Development (IPD).

The legal description for this property can be found in Attachment "C."

SUMMARY:

Staff recommends APPROVAL of the applicant's request, with the Conditions found in Attachment "D." In addition to the increased depth, the applicant is requesting to update the expiration date of the mine to September 13, 2041, to be consistent with the approved extension request, ZEX2024-00001 per Hurricane Nicole Executive Order (Attachment "E"). The applicant is not requesting additional deviations as part of this amendment.

HISTORY OF PARCEL

The subject property is located, in Sections 27 and 34, Township 45 South, Range 27. The property is approximately 503.75± acres and includes two STRAP numbers.

Table 1 - STRAP Numbers & Ownership per the Lee County Property Appraiser

STRAP NUMBER	OWNER OF RECORD	ACREAGE
34-45-27-00-00001.0040	Seagate Mine, LLC	447.95
27-45-27-00-00001.0000	Seagate Mine, LLC	55.8

The subject parcel was originally 596 acres and was rezoned from Agricultural (AG-2) to Industrial Planned Development (IPD) per Resolution Z-90-017, which allowed a maximum excavation depth of 40 feet below current ground level or to the confining layer, whichever shall first occur (Attachment "F"). The resolution prohibited blasting. The County issued corrective Resolution Z-90-017A to correct an error in the legal description of the partially approved Phase I, consisting of 60 acres, for Sun State Excavation (Attachment "F"). Resolution Z-90-075 subsequently approved Phases two through five in the remaining 447 acres and the maximum excavation depth remained at 40 feet below the current ground level or to the confining layer, whichever shall first occur (Attachment "G").

The 1990 zoning approvals were amended by Resolution Z-91-090 to eliminate the restriction on blasting again for the excavation/mining operation and maintain the 40-foot minimum depth (Attachment "H").

Resolution Z-04-047 was approved to allow mining activities to resume and maintain the maximum depth of 40 feet (Attachment "I"). The resolution also approved specific uses, setbacks, landscape and open space conditions, and dewatering conditions.

ADD2014-00172 (Attachment K), approved the removal of Condition 1.b. to eliminate the maximum duration of the mining operation and related Phasing Schedule which was approved as part of Resolution Number Z-04-047. Approval of the administrative amendment rendered the mine subject to a twenty-year time limitation required by LDC Sec. 12-109(e)(1).

Resolution Z-04-047 was amended by Resolution Z-20-024 to extend the expiration of the Master Concept Plan to October 24, 2034 for the existing mine and maintain the maximum excavation depth of 40 feet (Attachment "J"). Resolution Z-20-024 also removed construction materials prohibition, littoral shelf area of reclamation plan and added water quality monitoring.

ADD2021-00074 was approved to add conditions to Resolution Z-20-024 to comply with Settlement Agreement 2021000195562, attached hereto as Attachment "O", to prohibit dewatering to facilitate removal of earth materials, to prohibit rock crushing in certain areas, and to delay excavation in certain areas on the property (Attachment "L").

Limited Development Order LDO2003-00403 was issued in 2006, prior to the adoption of LDC Chapter 12, which requires Mining Development Orders for excavation and Mining Operation Permits, to approve the hauling of material off the site (Attachment "M"). LDO2003-00403

allowed onsite excavation and offsite hauling. The LDO approved all required preserves, buffers, turn lanes, and buildings on the site to allow excavation to begin. In 2020, LDO2003-00403 was amended to demonstrate compliance with Resolution Z-20-024 and expires on June 27, 2034.

In 2016, a Mine Operation Permit (MOP) for the entire property was issued (MOP2016-00001). The MOP allows the owner to transport the construction material from the site to be used offsite. The MOP has been renewed and amended to be consistent with the zoning and term length. Currently, the MOP expires November 30, 2040 (Attachment "N").

Land Development Code (LDC) Section 12-121(j) allows limited amendments to existing mine zoning approvals. The Land Development Code defines existing mines in Section 12-121(a) as mine operations approved by the Board of County Commissioners or Hearing Examiner prior to September 1, 2008, and meeting the following criteria:

(1) Approved by special exception under Chapter 34; or
(2) Approved as an Industrial Planned Development under Chapter 34 and has a valid/current master concept plan in place; and
(3) The right to pursue mining activity has not expired under the terms and conditions of the zoning approval.

The current mining operation meets the existing mine definition requirements and is eligible to pursue an increase in depth through the limited amendment process as detailed in LDC Section 12-121(j)(1)c.

CHARACTER OF AREA

Seagate Mine is located within Southeast Lee County Community Plan area and is adjacent to State Road 82 and the Lehigh Acres Community Plan area. The previous owner of the subject property, MCIN Bell, LLC received input from Eden's Team, LLC to the east and Sakata Seed Corporation to the west regarding the request to excavate to 60 feet below the land surface, which is documented in the Settlement Agreement with MCIN recorded in Lee County Instrument 2021000195562 and attached as Attachment "O".

To the west of the subject property are lands owned by Sakata Seed Corporation. These lands are in the Density Reduction/Groundwater Resource (DR/GR) and Wetlands future land use categories, are zoned Agricultural (AG-2), and include lands used for farming, accessory buildings to support the farm operation, and workforce housing. The accessory buildings and workforce housing are buffered from the mining operation by a wetland that straddles the two properties.

The subject property abuts State Road (SR) 82 on the north boundary. Further to the north is property zoned Commercial (C-2) and Residential (RS-1) within in the Urban Community future land use category. The Commercial properties abut SR 82 and the commercial parcel to the north of the Seagate Mine access has been developed as a 7-Eleven. The residential properties north

of the commercially-zoned properties include quarter-to half-acre lots. Most of the lots are vacant with interspersed single-family residences.

To the east of the subject property are lands owned by Edens Team, LLC and MCIN Bell, LLC. The parcel to the northeast is zoned Agricultural (AG-2) and is permitted for Youbi Ski Academy (DOS2015-00036). The Youbi Ski property has a linear lake with a clubhouse and accessory buildings. The property to the southeast is vacant property zoned Agricultural (AG-2) owned by MCIN Bell, LLC. Further east is currently zoned AG-2 and owned by Corkscrew Grove Limited Partnership and under development review for public facilities within the Kingston property.

The property to the south is zoned Agricultural (AG-2) and was the subject of a request to rezone the property to IPD with a companion general mining permit. This request (known as Corkscrew Plantation) was denied by Resolution Z-18-008. The property is now known as Kingston Development. A Development Agreement, pursuant to stipulation of settlement, was recorded on June 22, 2022, and allows for the development of up to 10,000 residential units with amenities, 700,000 square feet of commercial floor area, public facilities and 240 hotel or other transient lodging units on approximately 6,675 +/- acres to the north and east of the subject property.

Table 2 – Abutting Zoning, Future and Existing Land Use

	Future Land Use	Zoning	Existing Land Use
North	Urban Community	C-2 RS-1	Vacant commercial and 7-Eleven Vacant and Single-Family Residential
South	DR/GR* & Wetlands	AG-2	Citrus Grove Z-18-008 Denied (Old Corkscrew Plantation)
East	DR/GR* & Wetlands	AG-2	Kingston Development, Eden's Team LLC Youbi Ski Resort, vacant Agricultural
West	DR/GR* & Wetlands	AG-2	Sakata Seed Corporation agricultural uses

* DR/GR – Density Reduction/Groundwater Resource

ANALYSIS

Section 12-121(j)(2) of the LDC requires a request for a limited amendment to an existing mine to be processed in accordance with the procedures set forth in Sections 34-83 and 34-145, including the review criteria regarding Hearing Examiner and Board review and action on the request.

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

a) Complies with the Lee Plan;

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

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

a) The proposed use or mix of uses is appropriate at the proposed location;
b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and
c) That each requested deviation:
    1) Enhances the achievement of the objectives of the planned development; and
    2) Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.

The applicant has provided a request statement that describes the nature of the application (Attachment "P"). In the request statement, the applicant notes the intent of the project is to amend the existing Industrial Planned Development (IPD) zoning to allow for an increase in mine depth to 60 feet, or the top of the confining layer, whichever is reached first. The current approval limits mining depth to 40 feet.

The applicant has provided soil boring data, which is Attachment 1 of the Natural Resources Staff Report attached as Attachment "V", which were collected in 2003 and were completed to depths from 55 feet to 60 feet below the existing ground surface. The soil borings demonstrate that there are varying hardness and depths of limestone that extend beyond the currently approved depth of 40 feet. Figure 1 depicts the stratigraphic column that is below the land surface Seagate Mine to describe the soil types at certain depths. There are no proposed changes to the mine operation, physical plant, processing equipment, or equipment used to excavate the material.

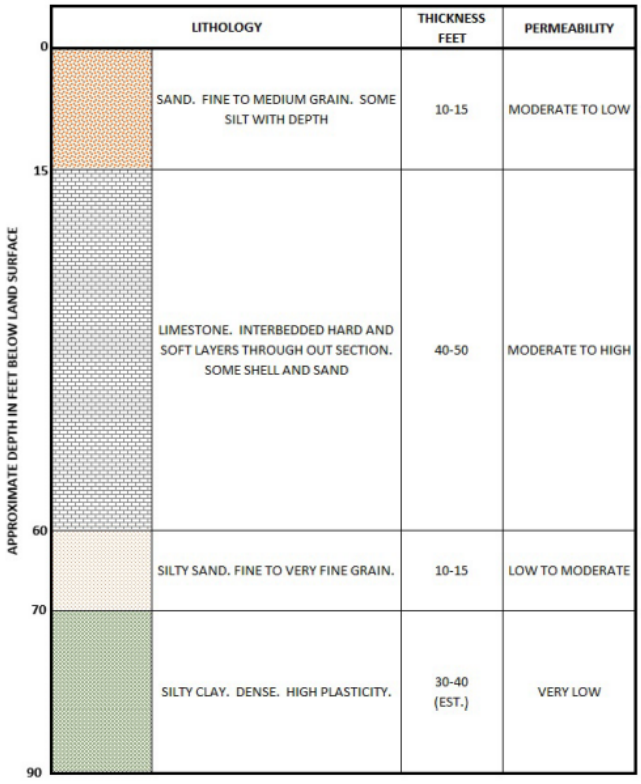
The applicant has indicated that the Master Concept Plan and Reclamation Plan are not proposed to be amended/altered as part of the subject application. The changes that are being proposed as part of this request are to reflect existing expiration dates per ZEX2024-00001 and bring the operation into greater conformity with the current LDC. The Master Concept Plan approved per Resolution Z-20-024 and ADD2021-00074 have been brought forward as part of the subject request. The MCP is attached as Attachment "P," and does not show any change to the mine

footprint, excavation slopes, barrier trench interface and cross section, temporary truck wash and ticket booth, access, landscaping or buffering.

Development Pattern Considerations:

The subject parcel is in the Southeast Lee County Community Plan area (Goal 33) as defined in the Lee Plan. The Southeast Lee County Community Plan area includes natural resource extraction operations as an allowable land use. Additionally, it seeks to enhance and protect natural resources such as regional flow-ways and natural habitat corridors. The applicant is requesting an increase of the excavation depth to a maximum of 60 feet, or the top of the confining layer, whichever is reached first. There are no additional impacts proposed to flow-ways or natural habitat corridors. A Technical Memorandum, provided by Water Science Associates is included as Attachment 1 in the Natural Resources Staff Report (Attachment "V"). This memorandum addresses the requirements in LDC Section 12-121(j)(1)c.2 and includes integrated surface and groundwater models assessing potential adverse impacts and delineation underlying lithologies, thereby documenting that the proposed depth will not breach the confining layer. The model also provides historic water level data and a description of the monitoring system for surface and groundwater levels. Figure 1 below is from Water Science Associates Technical Memorandum.

Figure 1. Type of Soils Below Land Surface



LITHOLOGY	THICKNESS FEET	PERMEABILITY
SAND. FINE TO MEDIUM GRAIN. SOME SILT WITH DEPTH	10-15	MODERATE TO LOW
LIMESTONE. INTERBEDDED HARD AND SOFT LAYERS THROUGH OUT SECTION. SOME SHELL AND SAND	40-50	MODERATE TO HIGH
SILTY SAND. FINE TO VERY FINE GRAIN.	10-15	LOW TO MODERATE
SILTY CLAY. DENSE. HIGH PLASTICITY.	30-40 (EST.)	VERY LOW

Policy 1.4.5: The Density Reduction/Groundwater Resource (DR/GR) future land use category includes upland areas that provide substantial recharge to the aquifer and are suitable for wellfield development. The Lee Plan requires new land uses that require rezoning or a development order to maintain surface and groundwater levels at historic levels and to demonstrate this requirement by utilizing hydrologic modeling. This model must show no adverse impact will occur to properties located upstream, downstream or adjacent to the site. In compliance with Lee Plan policies 1.4.5(1), 33.1.7, and Section 12-121(j)(1)c.2 of the LDC, the applicant provided an integrated surface and groundwater model demonstrating that the proposed development will maintain surface and groundwater levels at their historic levels. As outlined in the attached Water Science Associates Technical Memorandum, dated January 28, 2025, (Attachment 1 of Attachment "V"), the model demonstrated that water table aquifer levels do not change as a result of deepening the mine from 40 to 60 feet. To come to this conclusion, the applicant selected four model observation points outside the mining footprint, as depicted in the figure on page 4 of the WSA Technical Memorandum, to determine if impacts to the water table aquifer occur due to the proposed change in excavation depth. The modeling demonstrates compliance with Lee Plan policies 1.3.4(1), 33.1.7, and LDC Section 12-121(j)(1)c.2.

Objective 1.5: The lands designated Wetlands on the Future Land Use Map are lands designated as such in accordance with Sec. 373.019(27), Fla. Stat. using the unified state delineation methodology. All development in Wetlands must be consistent with Goal 124 of the Lee County Comprehensive Plan. The subject property does not propose any additional wetland impacts to the area identified as wetlands and delineated for conservation in prior approvals as part of this request. Additionally, the requested increase in the excavation depth to 60 feet has been approved by the Florida Department of Environmental Protection in Permit Number MMR_225217-013, dated January 21, 2020, attached as Attachment "W". The indigenous upland and wetland preserves are in a recorded conservation easement and approximately 186 acres of conservation area has been inspected and released by FDEP to advance to the maintenance and monitoring stage (Attachment "X"). The remaining preservation areas are part of the reclamation activities that must be completed per the zoning conditions once mining has ceased. The County has received water quality monitoring and preserve monitoring reports from the previous owner. Staff finds that the proposed request is consistent with Objective 1.5 and Goal 124 of the Lee County Comprehensive Plan.

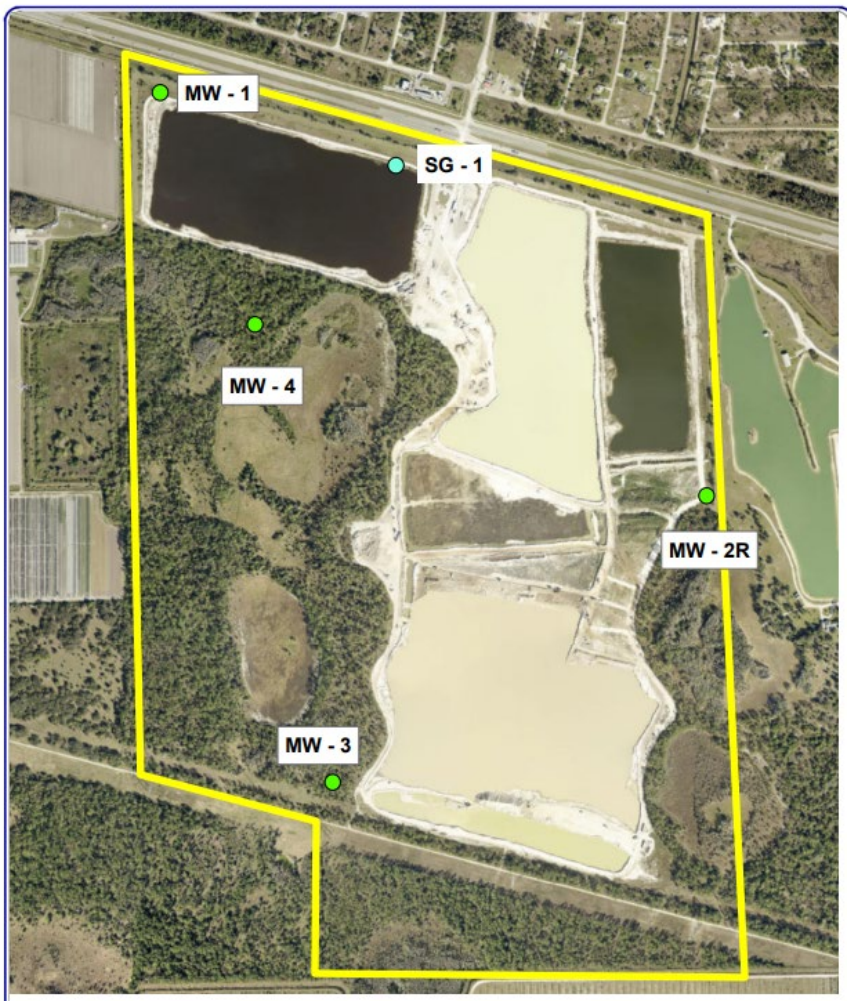
Standard 4.1.4 requires developers/applicants to prepare an environmental assessment to examine existing conditions, address existing or anticipated environmental problems, and propose means to protect, conserve, or preserve the environment and natural resources. As detailed above, the applicant did provide a hydrological analysis. The reports concluded that the amendment request does not create any anticipated environmental impacts resulting from the request to increase the mine depth to 60 feet. There are no additional structures or changes to the natural features of the site. Staff finds that the proposed request is consistent with Standard 4.1.4 of the Lee County Comprehensive Plan.

Objective 5.1: This objective requires all development approvals for residential, commercial and industrial land uses to be consistent with Policies 5.1.1 through 5.1.10 and the general standards in Goal 4. Policy 5.1.5 is applicable to the proposed development and seeks to protect existing and future residential areas from the encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Existing and future residential development includes single-family residential to the north, Eden's Team, LLC to the east, Sakata Seed to the west, and Kingston to the south and east. Kingston is in the planning stages and has not yet received development order approvals. The proposed amendment does not change the existing mine footprint or mine operation and will not encroach further on existing or future residential development. Staff finds that the proposed request is consistent with Objective 5.1 and its attendant policies.

Goal 7: The purpose of Goal 7 is to promote opportunities for well-planned industrial development at suitable locations within the County. The proposed rezoning does not seek to add any additional industrial uses and will utilize the previously approved processing facilities associated with the existing resource excavation activities. Staff finds that the proposed request is consistent with Goal 7.

Goal 10: Seeks to protect areas containing commercially valuable natural resources from incompatible urban development while ensuring natural resource extraction operations minimize or eliminate adverse effects on surrounding land uses and other natural resources. The request seeks to allow an increased excavation depth for the existing mining operation and does not propose a change in the mining footprint, physical plant, buffering, or landscaping from previous approvals. The increase in depth will provide additional resources without expanding the mining operation, which reduces the potential to create adverse impacts on surrounding land uses and other natural resources. Objective 10.1 requires natural resource extraction operations to minimize or eliminate adverse effects through efficient use of land, natural resources, and reclamation. The specific goal of this request is to increase the allowable excavation depth, within the existing footprint, to allow extraction of critical resources through the efficient use of the land. The mining depth will be conditioned to prevent any breach of the confining layer in accordance with Policy 10.1.1. Existing preserve areas and indigenous areas will continue to provide wildlife habitat and connect to abutting natural systems. There is no impact proposed to the previously approved existing wetlands and indigenous areas; therefore, the requested amendment will not create adverse effects to wildlife in accordance with Policy 10.1.5. Policy 10.2.1 requires natural resource extraction operations to provide a monitoring system to measure surface and groundwater levels and quality to assess any degradation of surface and groundwater resources. The mine maintains a quarterly water quality and groundwater level monitoring program which began in 2014. Baseline groundwater quality data was collected from a monitoring well MW-2 and documented historic water levels at the site. The monitoring locations consist of a single staff gauge and four groundwater monitoring wells as depicted below.

Figure 2. Monitoring Well Locations per Water Science Associates Memorandum



As seen above, there is not a monitoring well on the south side of the mine. Staff has requested that the applicant add another monitoring well on the south side of the mine to monitor reactions to the proposed deepening of the mine. The applicant indicated in their response letter that a fifth monitoring well, near the southern part of the mine, will be constructed to tap the limestone portion of the water table aquifer. To address consistency with Lee Plan Policies 125.1.2, 125.1.4, and 126.1.4 and ensure that this additional monitoring well is constructed, Staff recommends a condition to ensure that prior to the issuance of a local development order to deepen the mine, a fifth monitoring well must be approved on the south side of the mine (Attachment "D").

Mining pit depths are determined on case-by-case basis depending on neighboring uses, hydrogeologic conditions, wetland and watershed protections, wildlife and transportation routes in accordance with Policy 10.2.4. The applicant has provided geotechnical borings demonstrating that limerock is available to the requested depth and has provided a technical analysis that concludes that there will be no adverse impacts to onsite or off-site water levels,

wetland hydroperiods, flow-way performance, or adjacent land uses. Additionally, there is no proposed change to the wetlands or surface features that were previously approved. Policy 10.2.8 requires expanded sites to submit a reclamation plan. The increase in depth proposed by this amendment will not impact the previously approved reclamation plan that will be implemented at the conclusion of mining activities. Based on the above information, Staff finds that the proposed request is consistent with Goal 10 and its attendant objectives and policies.

Goals 60, 61, and 63: The existing development was authorized by the Florida Department of Environmental Protection (FDEP) through Permit Number MMR_ 225217-001 (Attachment "W"). The approval permitted the construction and operation of a limestone mine serving 503.75 acres. On January 21, 2020, MCIN Bell, LLC submitted a request to modify an existing FDEP permit to expand the permitted depth of excavation from 40 feet below existing grade to 60 feet below existing grade with a mining limitation no deeper than within five feet of the upper surface of the Intermediate Confining Unit (Attachment "W"). The proposed amendment has been reviewed by Environmental and Natural Resources Staff with regard to surface water management, land use planning on a watershed basis, protection of water resources, and potential groundwater impacts. Natural Resources Staff have provided a supplementary report that is attached as Attachment "V". The applicant has provided a hydrogeologic report which was reviewed by Staff and is detailed in the discussion of Goal 10 above. The proposed amendment is for an increase in depth only and proposes no changes to the previously approved surface water management system. The development proposal will restrict regulated substances within the extension area in quantities greater than those listed in LDC Section 14-208. There will be no wastewater effluent disposal, liquid waste disposal or solid waste disposal associated with the increase in depth. Staff finds that the proposed request is consistent with Goals 60, 61, and 63.

Goals 125, 126 and 127: Require that water quality be maintained or improved for the protection of the environment and people of Lee County by maintaining high water quality, identifying, controlling and eliminating water pollution, preventing degradation of ground water quality, and providing for monitoring, wellfield protection and maintenance of the best possible air quality. The applicant has provided ground water monitoring wells, a hydrogeologic report, and surface water monitoring locations. Staff finds that the proposed request is consistent with Goals 125, 126, and 127.

Goal 158: Lee County will achieve and maintain a diversified and stable economy by providing a positive business climate that assures maximum employment opportunities while maintaining a high quality of life. The subject mining operation has been active in Lee County since 1990 and provides employment opportunities for its residents as well as residents in surrounding counties. The subject mining operation supports Lee County by providing much needed resources and is a regional supplier of limerock for seven counties. Staff finds that the proposed request is consistent with Goal 158.

Natural Resources Considerations:

Natural Resources Staff has provided a Staff Report (Attachment "V") for the proposed amendment. In that report, Natural Resources Staff notes compliance with several Lee Plan requirements previously discussed above. The Staff Report notes that the applicant has maintained a quarterly water quality and groundwater level monitoring program which began in 2014. This includes groundwater level monitoring data and a surface water monitoring program consisting of monitoring wells, piezometers, and staff gauges.

To evaluate any future potential change in water level as a result for the requested increase in the excavation depth, the applicant provided an analysis of four model locations. The proposed model simulations mirrored the currently permitted simulations at all four locations. Based on this analysis, the proposed deepening of the mine excavation will not result in adverse impacts to existing legal uses or environmental receptors.

In summary, the Natural Resources Staff report concludes that the proposed request is consistent with the requirements of the Lee Plan and Land Development Code.

Environmental Considerations:

The proposed request does not change the mine footprint, existing wetlands or indigenous uplands. The existing 189.76-acre mitigation and preservation areas within a conservation easement dedicated to Florida Department of Environmental Protection (FDEP) will not be impacted. On January 21, 2020, MCIN Bell, LLC submitted a request to modify an existing FDEP permit to expand the permitted depth of excavation from 40 feet below existing grade to 60 feet below existing grade with a mining limitation no deeper than within five feet of the upper surface of the Intermediate Confining Unit (Attachment "W"). The preserves were inspected for maintenance release per ERP No. MMR_225217-001 attached hereto as Attachment "X". Environmental Staff concluded that no additional conditions are needed and that an increase in the mine depth will not negatively affect the preserve areas or listed species.

Transportation Considerations:

The subject site has a single direct access to State Road 82 as shown on the approved Master Concept Plan associated with Resolution Z-20-024 and approved development order (LDO2003-00403). Department of Transportation Staff has reviewed the Applicant's Traffic Impact Statement (Attachment "T") to support the proposed amendment and has provided a transportation-related analysis attached as Attachment "U". The amendment does not propose any changes to the mining footprint and will not impact the trip generation of the site. No additional processing operations are proposed. The analysis concluded that the proposed amendment to allow an increase in the excavation depth will not increase the trip generation potential of the mining operation.

Urban Services:

The subject property is serviced by Lehigh Acres Fire Control and Rescue District. Lehigh Fire Station 105 is located approximately 2.3 miles to the to the north at the corner of Bell Boulevard South and Milwaukee Boulevard. The subject property is in the Lee County Sheriff's South District and the nearest Sheriff's station is approximately 10 miles to the northwest of the subject property. The proposed development includes a temporary truck wash and ticket booth to support mining operations. The DR/GR is not classified as a Future Urban Area and therefore does not require analysis of wastewater and potable water. The request, as conditioned, is consistent with Lee Plan Standards 4.1.1 and 4.1.2.

Master Concept Plan and Deviations:

There are no proposed deviations or previously approved deviations being codified. The approved MCP per Resolution Z-20-024 depicted the ticket booth and truck wash, the phasing of the mining pits, and preserve areas. ADD2021-00074 amended Resolution Z-20-024 to include specific conditions and exhibits to clarify the hydraulic barrier and specify areas where rock crushing is prohibited. Staff has provided a codified conditions document that incorporates conditions from Resolution Z-20-024 and ADD2021-00074, which also includes new conditions stemming from the increase in mining depth proposed by this request (Attachment "D").

CONCLUSION:

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

a) Complies with the Lee Plan;

   Based on the analysis above, staff finds that the request is consistent with the Lee Plan. The proposed increase in extraction depth and existing use are compatible with existing and proposed uses, and meets or exceeds the objectives and policies above.

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

   The applicant is not seeking any new deviations as part of this request.

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

   The request is to allow a deeper mine depth for an existing mining operation that has been in operation since 2003 and was originally approved for mining operation in 1990.

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

There is access provided to the property via State Road 82. Staff finds that there is sufficient access to the proposed development.

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

This amendment does not propose any change to the current mine operation plan, rock crushing activity, or mining equipment. As a result, Staff has determined that the amendment will not have a detrimental impact on the surrounding roadways.

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

Staff has reviewed the potential environmental impacts and has determined that additional conditions are not needed to protect the existing conservation easement, indigenous area, or protected species.

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

The subject property is not within a Future Urban Area.

Additionally,

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

The proposed mining operations are appropriate at their location given the consistency with the Lee Plan Policies for development in the Density Reduction/Groundwater Resource, and the Southeast Lee County Community Plan Area. The subject property is currently an existing mining operation.

b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and

Staff finds the proposed conditions appropriate for approval and, as conditioned, the public's interests are sufficiently addressed.

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

There are no previously approved or new deviations requested as part of this zoning request.

Staff, therefore, recommends approval of this amendment to the planned development, as conditioned in Attachment "D."

ATTACHMENTS:

A. Expert Witness Information
B. Maps
   - Location
   - Aerial
   - Future Land Use
   - Zoning
C. Legal Description
D. Recommended Conditions
E. Executive Order Extension ZEX2024-00001
F. Resolution Z-90-017
   Resolution Z-90-017A
G. Resolution Z-90-075
H. Resolution Z-91-090
I. Resolution Z-04-047
J. Resolution Z-20-024
K. Administrative Amendment ADD2014-00172
L. Administrative Amendment ADD2021-00074
M. Development Order LDO2003-00403
N. Mining Operations Permit MOP2016-00001
O. Sakata Seed and Eden's Team, LLC Settlement Agreement Instrument No. 2021000195562
P. Applicant's Request Statement
Q. Master Concept Plan Composite from Resolution Z-20-024 and ADD2021-00074
R. Applicant's Mine Operations Narrative
S. Applicant's Lee Plan Analysis
T. Applicant's Traffic Impact Analysis Report
U. Memorandum from Department of Transportation, March 24, 2025
V. Natural Resources Staff Report and Conditions, March 24, 2025
   - Attachment 1 – Technical Memorandum, January 28, 2025
W. FDEP_ERP_MMR_225217-013, January 21, 2020
X. FDEP_Conservation Easement Maintenance and Monitoring Release, August 24, 2020