



LEE COUNTY BOARD OF COUNTY COMMISSIONERS

ZONING HEARING AGENDA

Wednesday, February 18, 2026

9:30AM

DCI2025-00006
Z-25-026

Ted Allen CPD

DCI2024-00017
Z-25-025

Cabana Cove CPD

DCI2023-00040
Z-25-019

Upper Captiva Carriage Club CPD

DCI2023-00011
Z-23-035

Southeast Water Reclamation Facility (Remand)

NOTICE OF PUBLIC HEARING

The Lee County Board of County Commissioners will hold a public hearing at 9:30 am on Wednesday, February 18, 2026 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.

DCI2025-00006 / Ted Allen CPD

Request to rezone +/- 1.4 acres from Agricultural (AG-2) to Commercial Planned Development (CPD). Located at 3640 SW Pine Island Road, Cape Coral Planning Community, Lee County, FL. Property Owner: Ted Allen. Property Owner's Representative: Fred Drovdlc, (239) 318-6707.

DCI2024-00017 / Cabana Cove CPD

Request to amend the Hancock Bridge Marina Commercial Planned Development (CPD) approved by Resolution Z-05-030. Located at 3480 Hancock Bridge Pkwy., North Fort Myers Planning Community, Lee County, FL. Property Owner: Brumco, LLC. Property Owner's Representative: Cindy Leal Brizuela & Brian Smith, (239) 226-0024.

DCI2023-00040 / Upper Captiva Carriage Club CPD

Request to rezone 3.69± acres from Agricultural (AG-2) to Commercial Planned Development (CPD). Located at 9101 Stringfellow Rd., Pine Island Planning Community, Lee County, FL. Property Owner: Upper Captiva Carriage Club, LLC. Property Owner's Representative: Fred Drovdlc, 239-989-3370.

DCI2023-00011 / Southeast Water Reclamation Facility (Remand)

Request to rezone 112 +/- acres from Agricultural (AG-2) to Community Facilities Planned Development (CFPD) to allow for the development of an Advanced Water Reclamation Facility and supportive infrastructure. The case was remanded to the Hearing Examiner for the limited purpose of addressing findings of the 20th Circuit Court in its order dated October 25, 2025. Located at 18940 Green Meadow Road, Southeast Lee County, Lee County, FL. Property Owner: Lee County. Applicant's Representative: Alexis Crespo, (239) 850-8525.

Copies of the Hearing Examiner's recommendation may be obtained or the file reviewed at the Zoning Section, 1500 Monroe St., Ft. Myers, FL. Call Brianna Schroeder for DCI2025-00006, Adam Mendez for DCI2024-00017, Beth Workman for DCI2023-00040, or Anthony Rodriguez for DCI2023-00011 at 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, Ranice Monroe, (239) 533-0255, 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, February 18, 2026

List of Hearing Attendees by Case

Case Number	Name	Party
DCI2025-00006 Ted Allen CPD	Ted Allen Story Roofing Co, Inc.	Applicant
	Paul Debeer Story Roofing Co, Inc.	Applicant
	Fred Drovdlc RVI Planning + Landscape Architecture	Applicant
DCI2024-00017 Cabana Cove CPD	Cindy Leal Brizuela, AICP EnSite, Inc.	Applicant
	Yury Bykau TR Transportation Consultants, Inc.	Applicant
	Christian Casey Atwell	Applicant
	Neal Montgomery, Esq. Pavese Law Firm	Applicant
	Brian R. Smith EnSite, Inc.	Applicant
	Hans Wilson, P.E. HWA	Applicant
	Bill Davin	Public Participant
	James Martin	Public Participant
	Mike Pomper	Public Participant
	Amber Williams, Esq.	Public Participant
DCI2023-00040 Upper Captiva Carriage Club CPD	Fred Drovdlc RVI Planning + Landscape Architecture	Applicant
	Charles Wainright Upper Captiva Carriage Club	Applicant
	Tyler Wainright Upper Captiva Carriage Club	Applicant
	Christine Blum	Public Participant
	Skylynn Brown	Public Participant
	Susan Dahod	Public Participant
	Chris Hinkle	Public Participant
	Christopher Holtem	Public Participant
	Alex Murphy	Public Participant
	Martha Uhlar	Public Participant
	Tim Uhlar	Public Participant

Comprehensive Plan Amendment
and
Zoning Hearing Agenda
Wednesday, February 18, 2026

List of Hearing Attendees by Case

Case Number	Name	Party
DCI2023-00011 Southeast Water Reclamation Facility	Mike Avoglia Lee County Utilities	Applicant
	Nathan Beals Lee County Utilities	Applicant
	Alexis Crespo, AICP RVI Planning + Landscape Architecture	Applicant
	Laura Herrero Johnson Engineering, Inc.	Applicant
	Josh Hilderbrand Johnson Engineering, Inc.	Applicant
	Ben Smith, AICP Morris-Depew Associates, Inc.	Applicant
	Erik Howard Johnson Engineering, Inc.	Applicant
	Kenneth Doo	Public Participant
	Marsha Ellis	Public Participant
	Derek Felder	Public Participant
	Britt Gladwell	Public Participant
	Julia Lambert	Public Participant
	Neal Montgomery, Esq.	Public Participant
	Peter Spahn	Public Participant
	Serge Thomas	Public Participant
	Patty Whitehead	Public Participant

DCI2025-00006

Ted Allen CPD



CASE NUMBER & NAME: DCI2025-00006 / Ted Allen CPD

REQUEST: Request to rezone +/- 1.4 acres from Agricultural (AG-2) to Commercial Planned Development (CPD).

RESOLUTION NUMBER: Z-25-026

LOCATION: 3640 SW Pine Island Road, Cape Coral Planning Community, Lee County, FL.

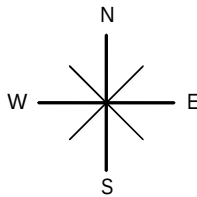
OWNER: Ted Allen

APPLICANT: Ted Allen

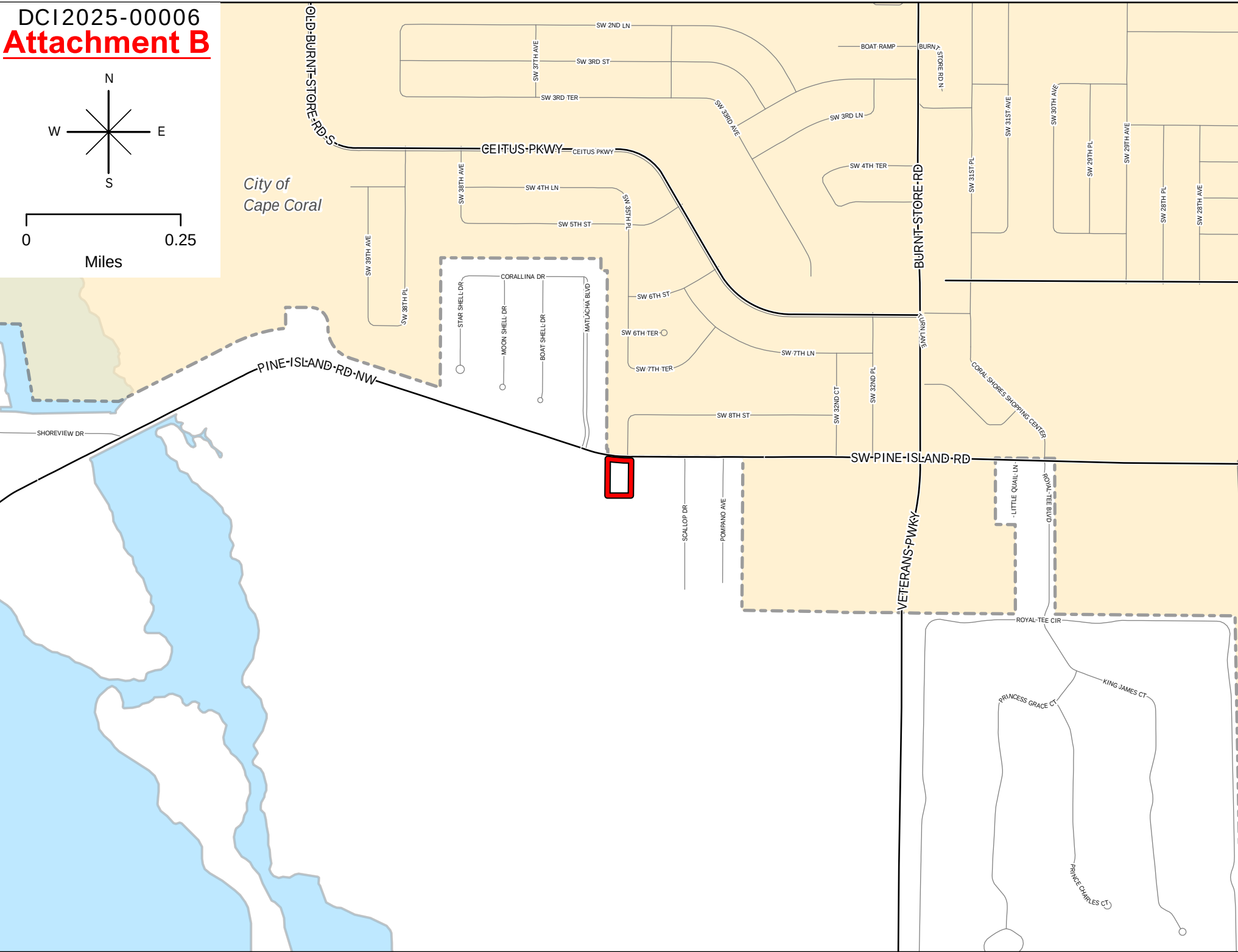
AGENT: Fred Drovdlc, AICP
RVI Planning + Landscape Architecture
1514 Broadway, Suite 201
Fort Myers, FL 33901

HEARING EXAMINER
RECOMMENDATION: Approval, subject to conditions and deviations.

PARTICIPANTS: None



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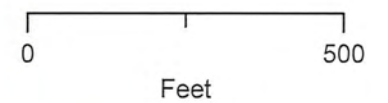
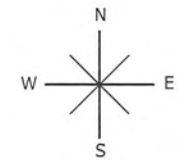




DCI2025-00006

Future Land Use

-  Subject Property
-  Urban Community
-  Commercial
-  Rural
-  Conservation Lands - Upland
-  Wetlands
-  Conservation Lands - Wetland
-  City Limits



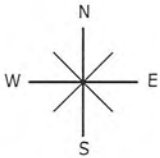


DCI2025-00006

Aerial

 Subject Property

 City Limits



0 500
Feet



Summary of Hearing Examiner Recommendation

TED ALLEN CPD

Applicant requests CPD zoning on a parcel south of Pine Island Road that historically housed the Chamber of Commerce. The existing building is proposed for Contractors/Builders use with the ability to expand to 3,000 square feet with limited permitted uses.

The Board assigned the parcel to the Commercial future land use category in 2022. The CPD district aligns the site's zoning with its Commercial land use designation. Site design retains the existing development footprint while dedicating over half of the property to open space.

The request seeks no deviations from land development regulations. No members of the public participated at hearing.

Detailed recommendation follows

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2025-00006

Regarding: **TED ALLEN CPD**

Location: 3640 Southwest Pine Island Road
Pine Island Planning Community
(District 1)

Hearing Date: December 18, 2025

Record Closed: **December 19, 2025**

I. Request

Rezone 1.4± acres from the Agricultural (AG-2) zoning district to a Commercial Planned Development (CPD) to allow redevelopment of an existing 1,250± square foot building utilized as an office for Contractors and Builders, Groups I and II, and potential expansion to 3,000 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

¹ LDC §34-145(d)(1)a & (d)(2)a.

² LDC §34-145(d)(3).

³ LDC §34-145(d)(4).

The Hearing Examiner's recommendation must be based on competent and substantial evidence.⁴

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

Request Synopsis

The 1.4± acre property sits south along Pine Island Road near Matlacha. The site is partially developed with a 1,250± square foot building historically used as the Chamber of Commerce.

Applicant seeks to repurpose the existing building to operate a Building/Contractor business.⁵ The request includes opportunity to expand the building footprint to 3,000 square feet with a narrowly tailored list of permitted uses.⁶

The proposed site plan reflects a single building surrounded by parking. Over half of the site is devoted to open space.⁷

The request seeks no deviations from LDC development standards. Maximum height remains at 35 feet.⁸

The property historically offered two access points to Pine Island Road. The project contemplates a single access to align with SW 35th Place and eliminates the second access point.

The property is subject to multiple Code Enforcement violations for unpermitted uses and related site activity.⁹ The requested rezoning is subject to conditions tied to abatement of several violations.¹⁰

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

Zoning History

The site retains its agricultural zoning designation assigned since inception of County zoning districts. Lee Plan Maps identified the property within the Rural future land use category until 2022, when the Board re-classified the site to the

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

⁵ Applicant operates a roofing business with several locations. Allen Testimony (Transcript pg. 31-34).

⁶ Condition 2(a) presents a limited Schedule of Uses.

⁷ The MCP reflects 57% open space. See Condition 6.

⁸ Condition 2(b); LDC §34-654.

⁹ See Staff Report (pg. 2, listing eight open violations). The Hearing Examiner encouraged prompt abatement of violations unrelated to this zoning action (VIO2024-06672, VIO2024-06764, & VIO2024-06668).

¹⁰ CPA2021-00010 adopted May 19, 2022 (Lee Co. Ord. 22-13).

Commercial category. The amendment also added the property to the Lee County Utilities Future Sewer Service Area.¹¹

In 2023, the Board denied Applicant's attempt to rezone the property to CPD for use as a vehicle/equipment sales center.¹²

Character of Area

The property sits south of Pine Island Road, west of Veterans Parkway/Burnt Store Road. The Pine Island Road/Burnt Store Road intersection is an emerging hub of non-residential entitlements secured by annexation into the City of Cape Coral.¹³

A patchwork of residential and non-residential uses surround the site. State owned conservation lands abut to the west, positioning the property as the last developable parcel south of Pine Island Road before entrance to Matlacha.

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. Provides sufficient access 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.¹⁴

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

¹¹ Lee Plan Map 4-B.

¹² Z-23-001. The Board denied the request based on compatibility and environmental concerns. LDC §34-205(a)(2) permits applicants to refile a request 12 months from the date of denial. Applicant submitted the subject request on March 24, 2025 in compliance with the LDC. See Staff Report (pg. 1).

¹³ See Applicant Ex. 2 (slides 4 & 6).

¹⁴ LDC §34-145(d)(4)a.1.

- 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.¹⁵

Lee Plan

Planned developments must be consistent with the Lee Plan.¹⁶

The Board approved a Lee Plan map amendment to designate the property within the Commercial future land use category in 2022.¹⁷

Commercial lands are located along major travel corridors where residential uses are discouraged due to overabundance of existing residential development or location within the Coastal High Hazard Area.¹⁸ Retail, hotels/motels, banks, office development, research/development, and public uses dominate the Commercial future land use category.¹⁹ Limited light industrial uses are permitted, yet outdoor storage and residential uses are prohibited.²⁰

The Lee Plan mandates that the planned development rezoning process be used for applications within the Commercial category to prevent adverse impacts to surrounding areas and to ensure appropriate land development regulations are incorporated into site development plans.²¹

The proposed CPD authorizing limited commercial uses is consistent with the property's Commercial designation. Notably, CPD zoning brings the site into greater alignment with its Commercial future land use designation than existing agricultural zoning.

Further, the request infills development on an arterial road.²² Neighborhood commercial uses at this location support the community by providing services/goods within proximity to area residents.

¹⁵ LDC §34-145(d)(4)a.2.

¹⁶ F.S. §163.3194(1)(a); LDC §§34-411(a), §34-491.

¹⁷ CPA2021-00010; Lee Plan Map 1-A.

¹⁸ Lee Plan Policy 1.1.10. The property is within the Coastal High Hazard Area. Lee Plan Map 5-A.

¹⁹ *Id.*

²⁰ *Id.* Outdoor storage of materials/equipment is permitted under Contractors/Builders Group II "if enclosed." See LDC §34-622(9). Heavy equipment is expressly prohibited. See *Id.*

²¹ Lee Plan Policy 1.1.10.

²² Lee Plan Objectives 2.1 & 2.2.

The Lee Plan Economic Element encourages commercial uses to expand the County's economic base.²³ The property's location amid commercially zoned lands makes it well suited for low-impact commercial use, such as Contractors/Builders and the proposed limited Schedule of Uses.²⁴

Based on the foregoing, the Hearing Examiner finds the requested CPD is consistent with the Lee Plan.

Compatibility

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

Planned development zoning is a useful tool to integrate new development with surrounding land uses.²⁶ The PD districts allow flexibility in site design while providing a process and record on which the public can rely.²⁷

The proposed CPD district is compatible with existing development patterns. Commercial uses adjoin the south and east, proximate to an emerging corridor hosting a broad range of uses. Conditions of approval narrowly tailor permitted uses in recognition of the unique position of the site between Matlacha and a burgeoning intersection.

Based on the foregoing analysis, the Hearing Examiner concludes the request is consistent with the Lee Plan and compatible with the surrounding area.²⁸

LDC

Requests to rezone to a planned development must comply with the LDC and other County regulations.²⁹

²³ Lee Plan Goals 158 & 159.

²⁴ See Condition 2(a).

²⁵ LDC §34-2.

²⁶ LDC §34-612(2)(b).

²⁷ LDC §34-612(2)(h).

²⁸ Lee Plan Policy 5.1.5.

²⁹ 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.

The request must meet the LDC and other County regulations or qualify for deviations.³⁰ “Deviations” are departures from land development regulations.³¹ As Applicant seeks no deviations, development must comply with the LDC.

The project will be subject to road, fire, and emergency services impact fees.³²

Environmental/Natural Resources

Requests to rezone property may not adversely affect environmentally critical/sensitive areas or natural resources.³³

The property is partially developed with an existing building and associated parking. Environmental Site Assessments identify the remainder of the site as tidally influenced, consisting of Hydric Australian Pine and Saltwater Marsh.³⁴ Lee Plan Maps designate the property within the Coastal High Hazard Area.³⁵ Conditions of approval ensure Applicant complies with state/local permitting if wetland impacts are proposed.³⁶

The Species Survey Report disclosed no evidence of listed or protected species.³⁷

As a small project, site design must devote a minimum of 20% of the acreage to open space.³⁸ The Master Concept Plan (“MCP”) dedicates 57% of the site to open space, exceeding the Code requirement.³⁹ Applicant amended the MCP post-hearing to demarcate preserve areas along the eastern and southern boundaries.⁴⁰ The MCP also reflects compliance with LDC buffer requirements.⁴¹

The Hearing Examiner finds the requested CPD will not harm environmentally critical/sensitive areas or natural resources.⁴²

³⁰ Development will be subject to further permitting under the LDC.

³¹ LDC §34-2.

³² LDC Ch. 2.

³³ LDC §34-145(d)(4)a.1(f).

³⁴ See Staff Report (pg. 10, Attachment M & Q).

³⁵ Lee Plan Map 5-A.

³⁶ Applicant has not yet completed a formal wetland jurisdictional determination. The LDC does not require such a determination for a zoning application, and state law preempts local governments from imposing state permitting requirements in local zoning approvals. Conditions of approval ensure compliance with the Lee Plan, including Goals 101 and 124, which restrict development to uplands. See Lee Plan Policies 101.3.2 & 124.1.1; See also F.S. §125.022(7).

³⁷ See *Id.*

³⁸ LDC §10-415(a). The Code classifies projects under 10 acres in size or two acres of impervious as a “small development.” *Id.*

³⁹ Condition 3(a) codifies the open space exceedance.

⁴⁰ See Applicant Ex. 4: Post-Hearing Written Submission, dated December 19, 2025.

⁴¹ See MCP & Staff Report (Attachment J). Applicant seeks no deviations in this request. Conditions of approval impose Type A buffers along the eastern and southern boundaries, Type F buffer on the western boundary, and a Type D buffer along Pine Island Road. See Condition 5.

⁴² 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.⁴³

The site currently offers two access points to Pine Island Road. The MCP proposes a single access point to align with SW 35th Place. Pine Island Road is a County-maintained principal arterial.⁴⁴ Veterans Parkway/Burnt Store Road intersects Pine Island Road just east of the site.⁴⁵ The elimination of an existing access along a heavily trafficked corridor promotes public safety.

The MCP reserves a stub-out for future interconnection to the abutting commercial property to the east.⁴⁶ The LDC prioritizes interconnection as a means to relieve traffic from arterial/collector roadways.⁴⁷

The Traffic Impact Statement (TIS) analyzed transportation impacts based upon a conservative development program of a 3,000 square foot retail plaza.⁴⁸ Analysts evaluated traffic conditions assuming project buildout by 2028.⁴⁹ The TIS concluded the project will not adversely affect the surrounding roadway network.⁵⁰ Indeed, projected trip generation results in a *de minimis* impact on adjacent roads.⁵¹

Site related improvements will be addressed during development order review.

Public Services

Availability of public services and infrastructure must be analyzed during rezoning.⁵²

⁴³ LDC §34-145(d)(4)a.1.

⁴⁴ Lee Co. Admin. Code 11-1.

⁴⁵ Veterans Parkway is a County maintained expressway south of the Pine Island Road intersection, and a County maintained controlled access facility north of the intersection. Lee Co. Admin. Code 11-1.

⁴⁶ See MCP; LDC §10-295.

⁴⁷ See generally LDC §10-295 & 10-610.

⁴⁸ See Staff Report (Attachment L: Traffic Impact Statement prepared by T.R. Transportation Consultants, Inc., dated May 23, 2025). Hearing testimony demonstrated expected traffic generation will be lower than the TIS analyzed based upon the proposed development program. (Transcript pg. 27-28).

⁴⁹ See Staff Report (Attachment L: Traffic Impact Statement prepared by T.R. Transportation Consultants, Inc., dated May 23, 2025).

⁵⁰ *Id.*; See also Staff Report (pg. 9-10, Attachments L & N).

⁵¹ Forecasted generation yields less than 100 peak hour trips on the adjacent road network. See *Id.*; See also Staff Report (Attachment N).

⁵² Lee Plan Policy 2.2.1.

Public services include services, facilities, capital improvements, and infrastructure necessary to support development.⁵³ The property has access to public water, sanitary sewer, police, fire, and emergency medical services.⁵⁴

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.⁵⁵ Conditions must plausibly relate to anticipated impacts, and be pertinent to mitigating impacts to public health, safety, and welfare.⁵⁶

Proposed conditions limit permitted uses, define development parameters, address abatement of Code Violations, and ensure compliance with the Lee Plan and LDC. The Hearing Examiner modified the condition relating to open space consistent with hearing testimony.⁵⁷

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.

IV. Findings and Conclusions

Based on 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, 77, 101, 124, 158, 159; Objectives 2.1, 2.2, 4.1, 6.1, 77.2, 124.1, 158.2, Policies 1.1.10, 1.6.5, 2.1.1, 2.1.2, 2.2.1, 5.1.5, 6.1.1, 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 60.4.1, 61.3.6,

⁵³ Lee Plan Glossary.

⁵⁴ See Staff Report (pg. 12, Attachments J & K). 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 served by the Greater Pine Island Water Association for potable water. Lee County Utilities has infrastructure in the area with capacity to provide sanitary sewer. Matlacha-Pine Island Fire Station #154 and Emergency Medical Services Station #28 are located one-half and four miles from the site, respectively. Law enforcement services are available from the Lee County Sheriff's station, approximately 7.5 miles away. New development in the Commercial category must connect to a potable water and sanitary sewer system. Lee Plan Policy 1.1.10.

⁵⁵ Lee Plan Policy 135.9.6; LDC §§34-145(d)(4), 34-377, 34-932.

⁵⁶ LDC §34-932(c).

⁵⁷ Condition 6 originally imposed 30 percent open space, while the MCP reflected 57 percent. The parties agreed at hearing to revise Condition 6 and Applicant revised the MCP accordingly. See Applicant Ex. 4: Post-Hearing Written Submittal dated 12/19/25.

101.3.2, 124.1.1, 135.9.5, 135.9.6, Standards 4.1.1, 4.1.2, 4.1.4; Lee Plan Maps 1-A, 1-B, 5-A, 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, Objectives 2.1, 2.2, 6.1, and Policies 1.1.10, 2.1.1, 5.1.5, 6.1.1, 6.1.4, 6.1.5, 6.1.6, 135.9.5, 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, 61, 77, 124, Objectives 77.2, 77.3, Policies 6.1.1, 6.1.6, 6.1.3.6, 77.3.2, 77.3.3, 77.3.5, 124.1.1, 125.1.2, 125.1.3, and Standard 4.1.4.
- F. Will be served by urban services. See Lee Plan Objectives 2.1, 2.2, 4.1, 6.1, Policies 1.1.10, 2.2.1, 6.1.1, 6.1.4; 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, Objectives 1.1, 2.1, 2.2, Policies 1.1.10, 2.1.1, 2.2.2, 5.1.5, 6.1.4, 6.1.7, 135.9.5, 135.9.6, 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 & 34.

Date of Recommendation: January 7, 2026.



Amanda L. Rivera
Deputy Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

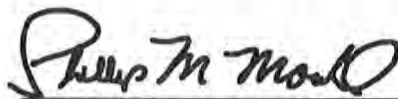
EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH:

*A PLOT OR PARCEL OF LAND LYING IN THE
NORTHEAST QUARTER (NE $\frac{1}{4}$),
SECTION 19, TOWNSHIP 44 SOUTH, RANGE 23
EAST, LEE COUNTY, FLORIDA*

DESCRIPTION:

A PLOT OR PARCEL OF LAND LYING IN A PORTION OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF SECTION 19, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA, SAID PLOT OR PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$), OF THE AFORESAID SECTION 19, TOWNSHIP 44 SOUTH, RANGE 23 EAST, LEE COUNTY, FLORIDA,, THENCE RUN S.00°17'13"W. ALONG THE WEST LINE SAID NORTHEAST QUARTER (NE $\frac{1}{4}$) OF SECTION 19, TO A POINT ALONG THE SOUTH RIGHT OF WAY LINE OF STATE ROAD No. 78 (ALSO KNOWN AS S.W. PINE ISLAND ROAD), FOR 18.84 FEET TO A POINT OF CUSP OF CURVATURE AND THE POINT OF BEGINNING, THENCE RUN ALONG SAID SOUTH RIGHT OF WAY LINE, BEING THE ARC OF A CURVE CONCAVE TO THE NORTH, FOR 183.52 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 1187.43 FEET, A CENTRAL DELTA ANGLE OF 08°51'19", A CHORD THAT BEARS S.85°25'02"E., AND A CHORD DISTANCE OF 183.34 FEET; THENCE RUN S.89°49'39"E. FOR 17.18 FEET; THENCE RUN S.00°17'13"W. FOR 300.00 FEET; THENCE RUN N.89°50'39"W. TO A POINT ALONG THE AFORESAID WEST LINE OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF SECTION 19, FOR 200.00 FEET; THENCE RUN N.00°17'13"E. ALONG THE WEST LINE SAID NORTHEAST QUARTER (NE $\frac{1}{4}$) OF SECTION 19, TO A POINT ALONG THE SOUTH RIGHT OF WAY LINE OF STATE ROAD No. 78 (ALSO KNOWN AS S.W. PINE ISLAND ROAD), FOR 314.15 FEET, TO THE POINT OF BEGINNING,
CONTAINING 60,860.18 SQUARE FEET, OR 1.4 ACRES, MORE OR LESS.



PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA
09/16/2021

SHEET 2 OF 2

REVIEWED

Project: DCI2025-00006

By: Richard Burris

Dept: Legal Review

Date: 06/24/2025

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

SKETCH TO
ACCOMPANY
DESCRIPTION
SEE EXHIBIT "A"
SHEET 2 OF 2 FOR
DESCRIPTION TO
ACCOMPANY THIS
SKETCH

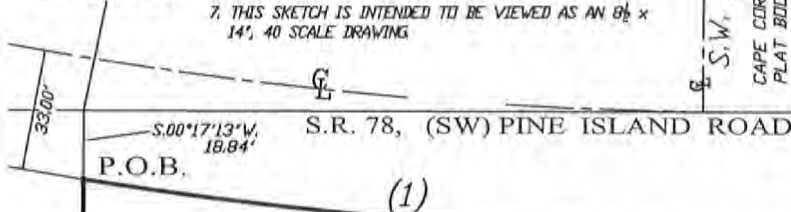
SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE NORTH RIGHT-OF-WAY LINE OF PINE ISLAND ROAD, AS BEING "ASSUMED" S.89°50'39"E.
2. FIELD NOTES IN N.W. 1/4, OF THE N.E. 1/4, SECTION 19-44-23.
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 SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. THIS SKETCH/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
7. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14", 40 SCALE DRAWING

SKETCH TO ACCOMPANY
DESCRIPTION

A PLOT OR PARCEL
OF LAND LYING IN
THE NORTHEAST
QUARTER (NE 1/4),
SECTION 19,
TOWNSHIP 44
SOUTH, RANGE 23
EAST, LEE COUNTY,
FLORIDA

P.O.C.
N. 1/4 CORNER
SEC 19-44-23



S. LINE SECTION 18-44-23
N. LINE SECTION 19-44-23

SOUTH
R/W LINE

Curve number 1

Radius= 1187.43'
Delta= 08°51'19"
Arc= 183.52'
Tangent= 91.94'
Chord= 183.34'
Chord Brg.= S.85°25'02"E.

S.89°49'39"E.
17.18'

REVIEWED
Project: DC12015-00009
By: Richard Harris
Dept: Legal Review
Date: 06/26/2021

SUBJECT PARCEL

S.00°17'13"W. 300.00'

(D.R. BOOK 2730, PAGE 3922)

LEGEND:

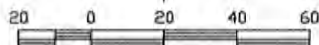
P.O.B POINT OF BEGINNING
P.O.C. POINT OF COMMENCEMENT
R/W RIGHT-OF-WAY
CL CENTERLINE
(1) CURVE NUMBER

N.89°50'39"W. 200.00'

(D.R. BOOK 2730, PAGE 3922)

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

"NOT A BOUNDARY SURVEY"



DRAWN:	CHECK:	SCALE:	PROJ. #
PMH	FBH	1"=40'	3640 SW PIR
SKETCH DATE	FILE NO.	SHT. -	OF -
09/16/2021	44-23-19	1	2

FLORIDA CERTIFICATE OF AUTHORIZATION LB6921

LANDS OF STATE OF FLORIDA
INSTRUMENT No. 2010000154573
WEST LINE OF N.E. 1/4, SECTION 19-44-23

N.00°17'13"E. 314.15'

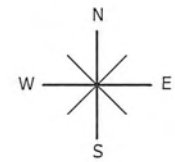


DCI2025-00006

Zoning

 Subject Property

 City Limits



0 500
Feet



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)/Development Parameters**

- a) MCP. Development must be substantially consistent with the one-page MCP entitled "Ted Allen CPD" stamped received December 19, 2025, and prepared by RVi Planning (Exhibit B1).
- 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 may require additional zoning approval.
- c) Development Parameters. The CPD is limited to a maximum of 1,250 square feet of Commercial development, or up to 3,000 square feet consistent with Condition 3.

2) **Schedule of Uses and Property Development Regulations**

- a) Schedule of Uses
 - Accessory Uses and Structures
 - Administrative Office
 - ATM (Automatic Teller Machine)
 - Business Services, Group I
 - Contractors and Builders, Groups I and II
 - Essential Services Facilities, Group I
 - Fences, Walls
 - Hobby, Toy, and Game Shops
 - Household and Office Furnishings: Group I
 - Insurance Companies
 - Medical Office
 - Personal Services: Group I (Not including Laundromats, Coin-Operated Laundries, and Message Establishments)
 - Restaurants: Group I
 - Signs
 - Specialty Retail Shops: Groups I and II
 - Studios
 - Temporary Uses
 - Used Merchandise Stores: Groups I and II

b) Property Development Regulations

Maximum Lot Coverage: 60 percent
Maximum Building Height: 35 feet
Minimum Lot Area: 10,000 square feet
Minimum Lot Width: 100 feet
Minimum Lot Depth: 100 feet

Setbacks:
Street: 50 feet
Side: 40 feet
Rear: 40 feet

3) Coastal High Hazard Area

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

4) Code Enforcement.

Within 120 days of adoption of this zoning resolution, Developer must:

- a) Obtain a development order consistent with the MCP and conditions herein. Development order plans must depict improvements to abate VIO2019-07706, VIO2019-10913, and VIO2021-00679. One extension of this requirement may be reviewed through the Administrative Amendment process to this CPD; or
- b) Obtain an amendment or minor change to LDO2019-00520 to include the removal of the fill to natural grade, establish a restoration planting plan for the area in the southern portion of the property, and depict required landscaping and abatement plants per VIO2019-07706, VIO2019-10913, and VIO2021-00679.
- c) A Certificate of Compliance for the development order must be issued within 180 days of development order issuance or the amendment to LDO2019-00250.

5) Buffers

Landscape plans must depict the following landscape buffers:

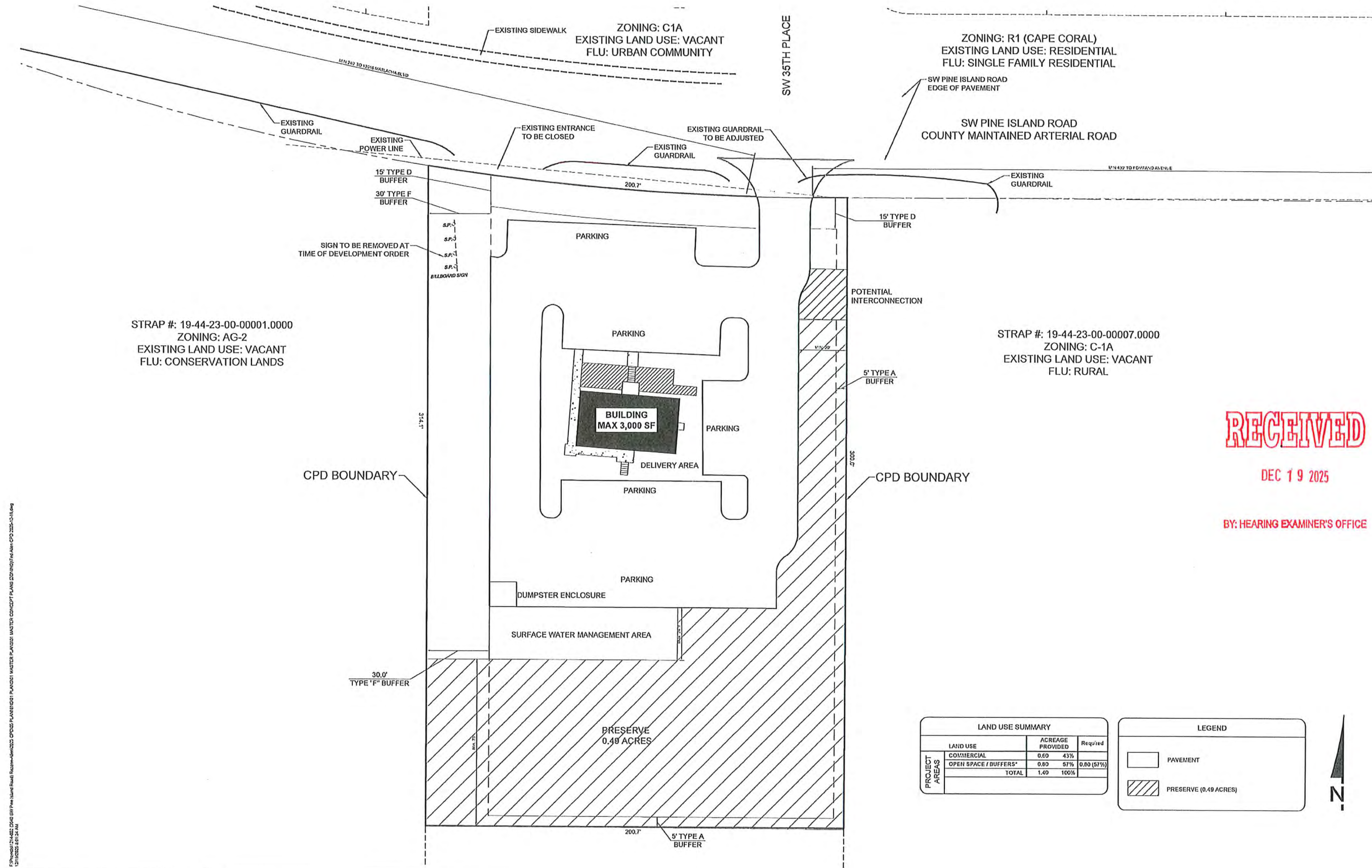
- a) North: 15-foot-wide buffer with five trees per 100 linear feet and a double hedge row (Type-D buffer).

- b) South: 5-foot-wide buffer with four trees per 100 linear feet (Type-A buffer).
 - c) West: 30-foot-wide buffer with 10 trees per 100 linear feet and a double hedge row. The double hedge must be installed at 48 inches and maintained at 60 inches (Type-F buffer).
 - d) East: 5-foot-wide buffer with four trees per 100 linear feet (Type-A buffer).
- 6) **Open Space**
Development order plans must depict 57 percent open space (0.8 acres).
- 7) **Indigenous Open Space**
Development order plans must depict a preserve area in substantial compliance with the MCP.
- 8) **Billboard**
Developer must demonstrate that the billboard is removed consistent with the MCP prior to development order issuance.
- 9) **Development Permits**
County development permits do not create rights to obtain permits from state/federal agencies. Further, County development permits do not create liability on the part of the County if Applicant fails to obtain requisite approvals or fulfill obligations imposed by federal/state agencies or undertakes actions in violation of state/federal law. Applicant must obtain applicable state/federal permits prior to commencing development.

DEVIATIONS

None

Exhibits to Conditions:
B1 Master Concept Plan, dated 12/19/2025



F:\Projects\174403_0001_0001_Pine Island Road\Reserve-Areas\2025 CPD\CPD Planning\PLAN001 MASTER PLAN\2025 MASTER CONCEPT PLAN\CDP\2025-11-10.dwg
12/19/2025 8:51:34 AM

RECEIVED

DEC 19 2025

BY: HEARING EXAMINER'S OFFICE

EXHIBIT B-1



TED ALLEN CPD - MASTER CONCEPT PLAN
LEE COUNTY, FLORIDA
2025-12-18
Ted Allen

Information is provided regarding this property is from public records only. RVI has not conducted a field investigation of the property and cannot be held responsible for the accuracy of the information. The information is provided for informational purposes only and is not intended to be used for any other purpose.

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Brianna Schroeder, Planner, date received December 3, 2025 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. 48-Hour Notice: Email from Brianna Schroeder, Planner, to Maria Perez, Ted Allen, Fred Drovdlc, and Yury Bykau, with copies to Rebecca Sweigert, Brienne Cherry, Anthony Rodriguez, and Joseph Adams, Esq., dated Tuesday, December 16, 2025, 10:52 AM (4 pages – 8.5"x11")
3. PowerPoint Presentation: Prepared by Lee County Staff for DCI2025-00006, Ted Allen CPD (multiple pages – 8.5"x11")[color]

APPLICANT EXHIBITS

1. 48-Hour Notice: Email from Fred Drovdlc, to Maria Perez, Ted Allen, and Brianna Schroeder, with copies to Rebecca Sweigert, Tracy Toussiant, Elizabeth Workman, Audra Ennis, Nicholas DeFilippo, Abby Henderson, Lee Werst, Jennifer Rodriguez, Brienne Cherry, Phil Gillogly, Warren Baucom, Mikki Rozdolsky, Anthony Rodriguez, and Robert Bodach, dated Tuesday, December 16, 2025, 9:41 AM (2 pages – 8.5"x11" & 1 page – 11"x17")
2. PowerPoint Presentation: Prepared for DCI2025-00006, Ted Allen CPD (multiple pages – 8.5"x11")[color]
3. Master Concept Plan: Prepared for Ted Allen CPD by RVi (1 page – 11"x17" and 24"x 36")
4. Written Submissions: Email from Fred Drovdlc to Maria Perez, with copies to Brianna Schroeder and Ted Allen, dated Friday, December 19, 2025, 3:18 PM (2 pages – 8.5"x11" & 1 page – 11"x17"){post hearing submittal}

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Brianna Schroeder
2. Elizabeth Workman

Applicant Representatives:

1. Ted Allen
2. Fred Drovdlc

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. Presentations 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.

DCI2024-00017
Cabana Cove CPD



CASE NUMBER & NAME: DCI2024-00017 / Cabana Cove CPD

REQUEST: Request to amend the Hancock Bridge Marina Commercial Planned Development (CPD) approved by Resolution Z-05-030.

RESOLUTION NUMBER: Z-25-025

LOCATION: 3480 Hancock Bridge Pkwy., North Fort Myers Planning Community, Lee County, FL

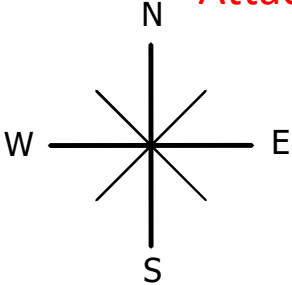
OWNER: Brumco, LLC

APPLICANT: Brumco, LLC

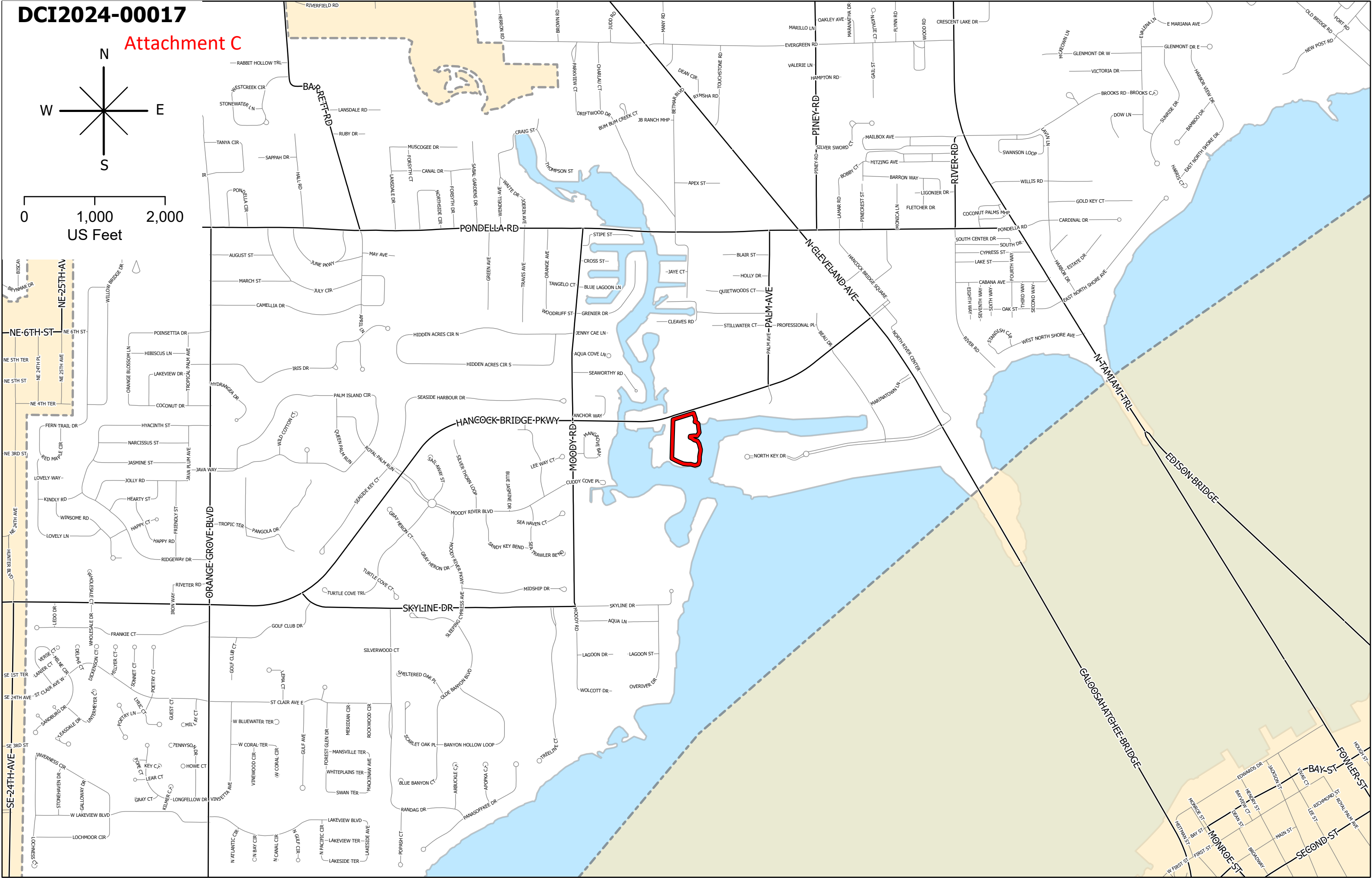
AGENT: Cindy Leal Brizuela, MURP & Brian Smith
EnSite, Inc.
2401 First Street, Suite 201
Fort Myers, FL 33991

HEARING EXAMINER RECOMMENDATION: Approve, subject to conditions and deviations.

PARTICIPANTS: 1. Bill Davin
2. James Martin
3. Mike Pomper
4. Amber Williams, Esq.



0 1,000 2,000
US Feet



Summary of Hearing Examiner Recommendation

CABANA COVE CPD

The property is located south of Hancock Bridge Parkway in North Fort Myers.¹

The project was first approved in 1991 as the Hancock Bridge Marina DRI with corresponding Hancock Bridge Marina CPD. Existing development approvals authorize a marina with wet and dry boat slips, 5,864 square feet of office use, and maximum building heights of 50 feet.

The parcel is vacant and unimproved.

The zoning request renames the CPD to Cabana Cove and seeks approval for:

Boat slips 210

Commercial use 8,752 sq. feet

Food Truck Plaza 980 sq feet (limited to three food trucks)

Outdoor Display limited to 10,000 sq. feet

Bar and Cocktail Lounge limited to 1,500 sq. feet

Building heights: 135 feet for dry boat storage building.
35 feet for other buildings.

Intense development patterns lie to the north and east. The vacant property is ripe for development due to access to navigable water and long standing approval for water related uses.

Detailed recommendation follows

¹ Site address is 3480 Hancock Bridge Parkway, North Fort Myers.



DCI2024-00017

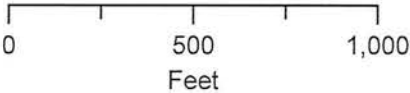
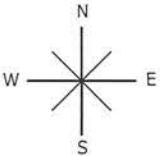
Future Land Use



DCI2024-00017

Aerial

 Subject Property



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2024-00017

Regarding: **CABANA COVE CPD**

Location: 3480 Hancock Bridge Pkwy
North Fort Myers Planning Community
(District 4)

Hearing Date: December 10, 2025
Record Closed: **December 19, 2025**

I. Request

Amend the 5.53-acre Hancock Bridge Marina Commercial Planned Development to revise the Master Concept Plan, property development regulations, and accessory uses.

The legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approve, subject to conditions and deviations in Exhibit B.

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners on applications to rezone property to the planned development zoning district.² In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on an application to amend the Hancock Bridge Marina Commercial Planned Development (CPD) zoning approvals.³ Staff recommended approval with conditions.

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

² LDC §34-145(d)(4) a.

³ The request amends the project name to Cabana Cove CPD.

Discussion on the Hearing Examiner's recommendation of approval is set forth below.⁴

History

The property is located south of Hancock Bridge Parkway in North Fort Myers.⁵

The project was first approved in 1991 as the Hancock Bridge Marina DRI with corresponding Hancock Bridge Marina CPD.⁶ The Board later amended the CPD in June 2005. The amendment authorized a marina with up to 352 dry boat slips, 24 wet slips, and up to 5,864 square feet of office use with maximum building heights of 50 feet.⁷

DRI approvals expired due to failure to commence development.⁸

The parcel retains development entitlements under the CPD zoning resolution but remains vacant and unimproved.

Request

Amend the 5.53-acre Hancock Bridge Marina CPD, including the Master Concept Plan (MCP). The amendment renames the CPD to Cabana Cove.

The request seeks the following development parameters:

Boat slips 210

Commercial use 8,752 sq. feet

Food Truck Plaza 980 sq feet (limited to three food trucks)

Outdoor Display limited to 10,000 sq. feet

Bar and Cocktail Lounge limited to 1,500 sq. feet

Maximum building heights: 135 feet for the dry boat storage building. Other buildings may not exceed 35 feet in height.

Staff recommended approval with conditions.

⁴ Hearing Examiner codified conditions and deviations from prior approvals, eliminating those no longer applicable.

⁵ Site address is 3480 Hancock Bridge Parkway, North Fort Myers.

⁶ Resolution Z-91-048.

⁷ Z-05-030 approved June 2005.

⁸ The DRI expired July 7, 2008.

Lee Plan

The Lee Plan regulates land development in Lee County.⁹ The Plan's Future Land Use Map divides the County into future urban, non-urban, and environmentally sensitive areas. Development must be consistent with the Lee Plan.¹⁰

The property's future land use designation is Intensive Development and Wetlands.¹¹ Intensive Development areas are typically found along major arterial roadways with access to public services and infrastructure.¹² These areas are suited for intense development.¹³ Wetlands may include low density residential and recreational uses that do not adversely affect the ecological function of wetlands.¹⁴

The site is surrounded by intense development patterns to the north and east. The Lee Plan encourages compact and contiguous development in areas with services and infrastructure.¹⁵ The site is ripe for development due to its location in an intensely developed area and access to navigable water.

Community Plan

The Lee Plan includes community plans to address conditions unique to specific areas within the County. The vision for each community plan area is incorporated as a Goal in the Future Land Use Element.¹⁶ Development in North Fort Myers is subject to a Community Plan that prioritizes livability, economic vitality, and revitalization of commercial corridors.¹⁷

The CPD features a mix of land uses that offers employment and recreation opportunities in the community.¹⁸

⁹ LDC §34-491.

¹⁰ 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.

¹¹ Property designated Intensive Development are Future Urban Areas. See Lee Plan Chapter XIV: Glossary definition of Future Urban Areas.

¹² Lee Plan Policy 1.1.2.

¹³ Lee Plan Objectives 2.1, 2.2, Policies 1.1.2, 6.1.7.

¹⁴ Lee Plan Policy 124.1.1. Non-residential uses permitted in the Wetlands category include recreation, open space, and conservation.

¹⁵ The project constitutes infill development consistent with development patterns along Hancock Bridge Parkway. Lee Plan Objectives 2.1, 2.2, Policies 1.1.2, 2.2.1, 2.2.2, 6.1.1, 6.1.7, See Lee Plan Glossary definition - infill.

¹⁶ Lee Plan Vision Statement.

¹⁷ The Board adopted the North Fort Myers Community Plan in 2009. Lee County Ordinance 09-11. See Lee Plan Goal 30.

¹⁸ The Lee Plan encourages mixed-use development with two or more land uses in future urban areas. Lee Plan Policies 1.1.2, 11.1.1, 11.1.2, See *a/so* Lee Plan Goal 30, Objective 11.1.

Water Dependent Overlay

The Lee Plan designates the site within a Water Dependent Overlay zone where water-dependent land uses are a priority.¹⁹ The Lee Plan encourages enhancement and protection of water dependent uses and promotes maximum use of dry storage.²⁰ The Plan also encourages expanding opportunities for recreation, water access, and water recreation areas.²¹ Dry boat storage and marinas are integral to the Water Dependent Overlay.²² Development of wet slips, dry boat storage, and commercial land uses enhance opportunities for public access to boating.²³

The site has deep water access via a marked navigation channel.²⁴ Consistent with Lee Plan directives, the CPD presents an opportunity to increase public access to water by providing boat storage in proximity to navigable channels.²⁵ The area benefits from favorable flushing from Hancock Creek and corresponding upland watershed.²⁶ The request expands opportunities to enjoy the Caloosahatchee River waterfront.²⁷

Marine-oriented land uses must comply with Lee Plan requirements in the Ports, Aviation and Related Facilities sub-element.²⁸ Recommended conditions require submittal of management plans to protect the public and environment.

Development in Coastal Areas.

The property lies in a Coastal High Hazard Area.²⁹ Development in coastal areas is subject to policies in the Lee Plan's Conservation & Coastal Management Element.³⁰ The Element directs the County to protect human life and development from impacts of coastal flooding.³¹

¹⁹ Lee Plan Map 1-H, site 29. The Lee Plan emphasizes the importance of maintaining water-dependent uses. Lee Plan Goal 128, Objectives 124.4, 124.5, 128.1, 128.4, Policies 1.7.5, 128.1.1, 128.1.2, 128.1.3, 128.4.2, 128.6.16 (encourages maximum dry storage). See also Goals 80, 82, Policy 82.1.2.

²⁰ Given limited opportunities for public access to water, the County favors maintaining and increasing water dependent uses. Lee Plan Goal 128 and Objectives 128.1, 128.3, Policy 128.1.3.

²¹ The Lee Plan directs the County increase the recreation potential of natural waterways. Lee Plan Policy 30.5.3. See also Lee Plan Goals 79, 80, 128, Policy 79.1.1.

²² Lee Plan Policy 128.1.3.

²³ Lee Plan Goal 79, Policies 128.1.3, 128.4.2, 128.4.4, 128.4.8, 161.1.3

²⁴ Testimony of Hans Wilson, PE.

²⁵ Lee Plan Policies 128.1.3, 128.5.13.

²⁶ *Id.* See also Applicant Hearing Exhibit 1: PowerPoint Presentation.

²⁷ Lee Plan Map 3-E.

²⁸ Lee Plan Objectives 8.2, 128.4, 128.5.

²⁹ Coastal High Hazard Areas are areas below the elevation of the category 1 storm surge line established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model and delineated by Lee Plan Map 5-A. Lee Plan Glossary. See §§163.3177(6)(a)10,c(VI), and 163.3178(2)(h), F.S. The property is within Storm Surge/Tide area and Evacuation Zone A. Staff 48 Hour Submittal.

³⁰ Lee Plan Objective 2.6. See Goals 59, 72, 101, Objective 101.3, Policy 101.1.1.

³¹ Lee Plan Goal 101.

The Plan limits development in Coastal High Hazard Areas to uplands.³² Further, development must be compatible with natural systems and is subject to regulations designed to reduce vulnerability from natural disasters (hurricanes and flooding).³³

Economic Element

The Lee Plan Economic Element strives for a diversified economy to ensure maximum employment opportunities.³⁴ Development creates jobs, increases property values, generates tax revenue, and contributes to economic growth. The Lee Plan also encourages promotion of tourism.³⁵

The proposed CPD includes uses that contribute to a positive business climate and create employment opportunities.³⁶ The proposed consumption on premises supports leisure tourism, further strengthening the County's economy.³⁷

Compatibility

The County evaluates compatibility during the zoning process.³⁸ Appropriate intensity is determined on a case-by-case basis in accordance with Lee Plan policies and nature of surrounding land uses.³⁹ Compatibility exists when land uses exist in proximity without undue negative impacts.⁴⁰ Planned development zoning is useful when integrating new development with surrounding land uses because it allows flexibility in site design to address potential incompatibilities.⁴¹

The property is adjacent to mid- and high-rise dwellings, docks, restaurants, and offices. Sunset Harbour, formerly known as Marintown, includes wet slips with live aboard vessels, offices, restaurants, and outdoor entertainment. The area is accustomed to boat traffic on the waterway. Multi-family residential land uses have co-existed with the entertainment venue for many years.

The request reduces the intensity of the current approvals, demonstrated by reductions in trip generation and an increase in green space.⁴² The North Fort Myers Community Plan architectural design requirements ensure visual harmony.

³² Lee Plan Policy 101.3.2. There is a limited exception for public facilities inapplicable to the request.

³³ Lee Plan Goals 59, 72, 101, Objectives 72.2, 101.3, Policies 101.1.1, 101.1.2; LDC §2-481 *et seq.* FEMA regulations require a minimum finished floor elevation to be one foot above base flood.

³⁴ Lee Plan Goal 158, Objective 158.2, Policy 158.2.1

³⁵ Lee Plan Goal 161, Objective 161.1, Policy 161.1.3.

³⁶ Lee Plan Goals 30, 158, 161.

³⁷ Lee Plan Goal 161, Objectives 161.1, 161.3, Policies 161.1.1, 161.1.3.

³⁸ LDC §34-145(d)(4).

³⁹ LDC §34-413.

⁴⁰ Florida Statutes s.163.3164(9); Lee Plan Policy 135.9.6.

⁴¹ LDC §34-612(2).

⁴² The MCP employs creative site design to protect surrounding land uses, locating open space, landscaping and water management areas close to the perimeter. Staff Report Attachment D: MCP. See also Lee Plan Policy 61.3.8.

The MCP employs buffering and setbacks to distance food trucks and bar/cocktail service from residential uses in the area. Proposed restrictions on hours of operation ensure activities are consistent with bars and restaurants in nearby Sunset Harbor.

Development must be consistent with desired community character. Public participants expressed concerns regarding the height of the dry boat storage building. Testimony at hearing demonstrated building heights in the immediate area range from four to 13 stories in height.⁴³

The difference in height between existing and proposed structures does not warrant a finding of incompatibility.⁴⁴ The Lee Plan and LDC do not require heights of adjacent buildings/properties to match. Height variation between developments and even within a single development is commonplace throughout the County, particularly within the Intensive Development future land use category. The Dry boat storage building is compatible with intense development patterns in the area.⁴⁵

The MCP and proposed conditions address compatibility with nearby land uses via site design and conditioning.⁴⁶ Conditions address:

- Placement and orientation of boat storage building
- Limitations on activities within the dry boat storage building
- Permissible location of open storage
- Building Setbacks
- Green space
- Limitations on Consumption on Premises and use of amplified sound
- No interconnection with adjacent property
- Enhanced buffers

The Hearing Examiner finds the proposed amendments to the site plan and development parameters are compatible with surrounding development.

LDC

The North Fort Myers Community Plan establishes Corridor Overlay Districts including Hancock Bridge Parkway.⁴⁷ Development within the Districts is subject

⁴³ Testimony of Adam Mendez. Staff Hearing Exhibit 3: PowerPoint Presentation.

⁴⁴ Maximum building heights will be 135 feet.

⁴⁵ Lee Plan Goal 128, Policies 6.1.4, 128.5.13, 128.5.16.

⁴⁶ Lee Plan Policies 5.1.5, 6.1.4, LDC 34-411(i).

⁴⁷ Lee Plan Objective 30.2, LDC §§33-1537(d), 33-1566(d).

to enhanced building setbacks, landscaping, buffering, and architecture.⁴⁸ Site design may also implement standards permissible within the Mixed-Use Overlay.⁴⁹

Development must comply with the LDC or seek deviations. A “deviation” is a departure from a land development regulation.⁵⁰ Applicants seeking deviations from general LDC requirements must demonstrate how each deviation enhances the objectives of the planned development and not cause detriment to the public.⁵¹ Relief from North Fort Myers Planning Community’s landscaping, buffering, signage, or architectural requirements must meet LDC approval criteria for variances.⁵²

Applicant requests four deviations. The deviations seek relief from LDC standards pertaining to preservation of native vegetation, interconnection to adjacent development, separation between businesses serving alcohol and dwelling units, and driveway separation on Hancock Bridge Parkway.⁵³

The LDC requires the Hearing Examiner to recommend approval, approval with modifications, or denial of requested deviations. Recommendations of approval must be based upon finding the deviation (1) enhances the planned development and (2) preserves/promotes public health, safety, and welfare.⁵⁴ Applicant offered testimony and evidence in support of the requested deviations.⁵⁵ Staff recommended approval of all four deviations, imposing conditions on some.⁵⁶

Development in North Fort Myers is subject to the North Fort Myers Community Plan.⁵⁷ Community specific LDC regulations require zoning applications to conduct

⁴⁸ The Lee Plan requires development in North Fort Myers Corridor Overlay Districts to comply with LDC provisions requiring enhanced landscaping, greater buffering and shading of parking areas, improved commercial signage, enhanced standards to ensure architectural quality and compatibility. Lee Plan Policy 30.2.5. See LDC §§33-1571 *et seq.* (requirements include minimum building setbacks, publicly accessible open space, and parking) and LDC §§33-1576, 33-1581, 33-1598 *et seq.* (enhanced architectural standards, buffering, and sign regulations).

⁴⁹ Lee Plan Policy 30.2.6.

⁵⁰ LDC §34-2.

⁵¹ The North Fort Myers Community Plan requires deviations to meet LDC requirements. LDC §§10-104(b), 33-1535, 34-373(a)(9).

⁵² Lee Plan 30.2.5.

⁵³ The LDC requires a minimum of 440 feet separation between access points on arterial roadways in a future urban area. The access to the existing multi-family development to the east is 274 feet from the site’s access drive. The proposed project entry is designed to align with the median opening on Hancock Bridge Parkway.

⁵⁴ *Id.*

⁵⁵ LDC §34-377(a)(4).

⁵⁶ Staff imposed conditions on two of the deviations. The conditioned deviations pertain to consumption on premises and connection separation on Hancock Bridge Parkway. The Hearing Examiner may recommend approval, approval with modifications or denial of deviations based on finding the deviation (1) enhances the planned development and, (2) preserves/promotes public health, safety, and welfare. LDC §34-377(a)(4).

⁵⁷ Lee Plan Goal 30 and supplemental development regulations in LDC §33-1531 *et seq.* Future development permits, including development orders, must comply with community standards.

a public hearing in the community prior to the hearing before the Hearing Examiner.⁵⁸ Applicant attended the requisite community meeting.⁵⁹ Future development orders will also be subject to review by the community.⁶⁰

The approval of the original Hancock Bridge Marina CPD predated adoption of the North Fort Myers Community Plan and corresponding LDC regulations.⁶¹ Developers of existing planned developments may voluntarily comply with subsequently adopted community specific development criteria.⁶² The proposed MCP and conditions of approval reflect an intent to comply with the North Fort Myers Community development criteria.

Environmental/Natural Resources

Rezoning requests must not adversely affect environmentally critical/sensitive areas or natural resources.⁶³ The site includes 2.05 acres of wetlands and mangroves.⁶⁴ Development impacting wetlands requires an environmental resource permit.⁶⁵ Testimony at hearing confirmed no plans to impact onsite wetlands other than removal of exotic vegetation.⁶⁶

Prior to development order approval, the developer must submit a Hazardous Materials Emergency Plan, Hurricane Preparedness Plan, and Marina Management Plan to demonstrate minimization of environmental impacts.⁶⁷

Manatee Protection

Boat access facilities in critical manatee habitats must comply with a variety of requirements during the development review process. The Lee Plan requires a broad-based approach to manatee protection, and to this end, the County adopted the Manatee Protection Plan (MPP).⁶⁸ Since its adoption in 2004, construction of

⁵⁸ LDC §33-1532.

⁵⁹ Staff Report Attachment P: Public Informational Meeting Summary. Meeting held before the North Fort Myers Design Review Panel on August 6, 2024. LDC §33-1532(b).

⁶⁰ The LDC requires development order and building permit applications to comply with the North Fort Myers Planning Community regulations. LDC §33-1531 *et seq.*

⁶¹ The Board first adopted the North Fort Myers Community Plan LDC regulations on January 10, 2012 (Ordinance 12-01).

⁶² LDC §33-1534.

⁶³ LDC §34-145(d).

⁶⁴ Testimony of Christian Casey.

⁶⁵ LDC §14-293. The County does not independently review impacts to wetlands. Developers must obtain an ERP permit from the State Department of Environmental Protection or South Florida Water Management District.

⁶⁶ The LDC requires removal of exotic vegetation. LDC §10-420. The Lee Plan requires parking, dry storage, and non-water dependent facilities to be built on uplands. Lee Plan Policy 128.5.5. Mangroves are subject to protections under LDC §14-451 *et seq.* Alteration of mangroves requires permits. LDC §14-455.

⁶⁷ Objective 128.5.

⁶⁸ The Board of County Commissioners approved the Manatee Protection Plan (MPP) by resolution on June 29, 2004. Lee Plan Objective 123.7, Policy 128.5.6, LDC §34-1863.

marine facilities must comply with the MPP.⁶⁹ Development is subject to review criteria under the MPP, Lee Plan, and LDC to ensure protection of manatees and water quality.⁷⁰

The number of slips permissible at the Hancock Bridge Marina is based on linear footage of shoreline. The MPP allows additional dry boat slips using boat slip credits from other locations.⁷¹ The developer must secure boat slip credits to construct the proposed dry boat storage facility.⁷²

The Hearing Examiner finds the amended CPD will not harm environmentally critical/sensitive areas or natural resources.⁷³

Transportation

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

The property is located on the south side of Hancock Bridge Parkway.⁷⁴ The MCP depicts one access drive aligned with an existing median opening.

The Traffic Impact Statement (TIS) is based on highest trip generation rates associated with the desired development parameters.⁷⁵ The proposed development parameters generate less trips than existing approvals.⁷⁶

⁶⁹ Marina facilities are subject to six review criteria under the MPP. The review criteria determine the number of slips permissible on property (wet and dry) and method to acquire rights to construct slips. LDC §26-80(a). Lee Plan Objective 123.7, Policies 123.7.4, 123.7.5, 124.4.6; LDC §34-1863.

⁷⁰ Lee Plan Policies 128.4.1, 128.4.12, LDC §§26-79, 26-111 *et seq.*

⁷¹ The MPP classifies property as "Donor Properties" or "Recipient Properties." Donor properties are in manatee vulnerable areas where boat facilities could be developed, but do not exist. Donor properties are typically in areas of appreciable manatee activity. Donor properties may transfer rights to construct boat slips in exchange for placing a conservation easement over the property. In contrast, Recipient properties are deemed less impactful to manatees. Features of Recipient properties include marked channels, limited submerged aquatic vegetation, deep water access, and well flushed areas. The County's Division of Natural Resources approves the number of slips transferred to Recipient Properties. LDC §26-80(a).

⁷² Testimony of Hans Wilson, PE. Applicant will acquire boat slip credits from property in areas of higher density of manatee activity.

⁷³ Lee Plan 125.1.2.

⁷⁴ Hancock Bridge Parkway is a County maintained arterial. Lee County Administrative Code AC 11-1.

⁷⁵ Staff Report Attachment L: Traffic Impact Statement for Cabana Cove prepared by TR Transportation Consultants, Inc., revised August 11, 2024, and Staff Report Attachment M: Lee County DOT Staff Memo prepared by Lili Wu, Principal Planner, dated October 24, 2025. The DOT memo notes since the proposed development parameters generates less than 100 trips per hour, no level of service analysis is required by the LDC. The County will review traffic impacts in greater detail during development order permitting.

⁷⁶ Testimony of Yury Bykau, PE.

Road impact fees will adequately address project impacts to the County network.⁷⁷ Further analysis of transportation impacts, including site-related turn lane improvements, will occur during development order permitting.

Public Services and Infrastructure

Public services include facilities, capital improvements, and infrastructure necessary to support development.⁷⁸ The Lee Plan requires an evaluation of public services during the rezoning process.⁷⁹

A range of infrastructure and services are available to the property, including potable water, sanitary sewer, law enforcement, fire, and emergency medical services.⁸⁰

Public services and infrastructure are available to serve the site.⁸¹ The project will have access to the County road network via Hancock Bridge Parkway. Sidewalks/shared use paths on the Hancock Bridge corridor connect to similar facilities on North Cleveland Avenue.⁸²

Lee County Utilities will provide potable water and sanitary sewer service.⁸³ The North Fort Myers Fire District is available to provide fire protection and emergency medical services. Lee County Sheriff provides law enforcement services.

Development will be subject to road, fire, and emergency medical services impact fees.⁸⁴

Conditions

The County must administer the zoning process so proposed land uses minimize adverse impacts on adjacent property and protect County resources.⁸⁵ Conditions must plausibly relate to anticipated impacts, and pertinent to mitigating impacts to the public.⁸⁶ The proposed conditions address impacts reasonably anticipated from the development.⁸⁷

⁷⁷ Lee Plan Goal 39, Objectives 39.1, 95.3, Policies 38.1.1, 95.3.1.

⁷⁸ Public services and infrastructure available to serve the project will include public water and sewer, paved streets, parks and recreation facilities, libraries, police, fire and emergency services, urban surface water management, and schools. Lee Plan Objective 4.1, Standards 4.1.1, 4.1.2, 4.1.4.

⁷⁹ Lee Plan Policy 2.2.1.

⁸⁰ Lee Plan Objectives 2.1, 2.2. and 4.1

⁸¹ Lee Plan Goal 95, Policies 2.2.1, 5.1.3, 6.1.1, 6.1.4, Standards 4.1.1, 4.1.2., 4.1.3.

⁸² Lee Plan Policies 39.2.1, 39.6.4, 43.1.1, Lee Plan Map 3-D: Lee County Walkways & Bikeways.

⁸³ Lee Plan Objective 4.1, Standards 4.1.1, 4.1.2.

⁸⁴ LDC Chapter 2, Article VI.

⁸⁵ Lee Plan Policies 5.1.5, 6.1.4, 135.9.6; LDC §§34-145(d)(4) a.2.(b), 34-377(a)(3), 34-411, and 34-932(c).

⁸⁶ LDC §34-932(b).

⁸⁷ LDC §§34-83(b)(4) a.3, 34-377(a)(2)c; Lee Plan Objective 77.3, Policies 5.1.5, 6.1.4.

Hearing Examiner revised conditions/deviations for clarity, compliance with state law, and to remove LDC references applicable to development by Condition 1.⁸⁸

Public

Five members of the public spoke at hearing. Concerns centered on traffic, building height, hours of operation, and noise.

Conclusion

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

The Hearing Examiner finds the amendments meet LDC criteria and, as conditioned, the request is compatible with surrounding development.⁸⁹

IV. Findings and Conclusions

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

- A. The requested amendment to the CPD is consistent with the Lee Plan. Lee Plan Goals 2, 4, 6, 11, 30, 77, 95, 158, 159, 160, 161, Objectives 2.1, 2.2, 4.1, 6.1, 11.1, 126.2, 158.2, 158.3, 159.2, 160.1, 161.1, and Policies 1.1.2, 2.1.1, 2.1.2, 2.2.1, 2.2.2, 5.1.5, 6.1.1, 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 11.1.2, 135.9.5, 135.9.6, 158.2.1, 159.1.4, 161.1.3, Lee Plan Maps 1-A, 1-B, 1-H, 2-A, 3-D, 3-E, Table 1(b).
- B. As conditioned, the CPD amendment:
 - 1. Is consistent with the LDC or qualifies for deviations. LDC Chapters 2, 10, 33, and 34.
 - 2. Is compatible with existing or planned uses in the surrounding area. Lee Plan Objectives 2.1, 2.2, 11.1, and Policies 1.1.2, 2.1.1, 5.1.5, 6.1.4, 11.1.1, 135.9.5, 135.9.6, 161.1.3; LDC §§34-411, 34-413.
 - 3. Provides sufficient road access to support proposed development intensity. Lee Plan Objective 39.1, Policies 6.1.5, 39.1.3, 39.2.1, 39.6.4, 43.1.1, 158.3.1.
 - 4. Expected impacts on transportation facilities will be addressed by County regulations and conditions of approval. Lee Plan Objectives

⁸⁸ LDC 34-145(d)(1)c. and LDC 34-377(a)(2) and (3).

⁸⁹ Lee Plan Policy 6.1.4.

- 39.1, Policies 6.1.5, 38.1.1, 39.1.1, 39.2.1, 43.1.1, 43.1.3, 158.3.1; LDC §§2-261 *et seq.*, 34-411.
5. Will not adversely affect environmentally sensitive areas or natural resources. Lee Plan Goals 60, 61, 77, Objectives 61.2, 77.2, 77.3, 123.7, 126.2, Policies 6.1.6, 61.3.11, 61.3.13, 77.3.1, 77.3.4, 123.7.5, 126.1.4, 126.2.1, Standard 4.1.4; and
6. Public services and infrastructure will be available to serve the development. Goals 2, 4, 6, 95, Objectives 2.1, 2.2, 4.1, Policies 2.2.1, 6.1.4, Standards 4.1.1, 4.1.2.
- C. The proposed uses are appropriate at the location. Lee Plan Goals 2, 4, 6, 30; Objectives 2.1, 2.2, 11.1, Policies 1.1.2, 2.1.1, 2.1.2, 6.1.4, 6.1.7, 6.1.8, 135.9.5, 135.9.6, 158.2.1, 161.1.3, 161.4.3.
- D. The County regulations and recommended conditions provide sufficient safeguards to protect the public interest and relate to impacts expected from the proposed development. Lee Plan Policies 5.1.5, 6.1.4, 53.1.5, 56.1.4, 135.9.5, 135.9.6; LDC §§34-377(a)(3), 34-411 and 34-932(c).

Date of Recommendation: January 20, 2026.



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

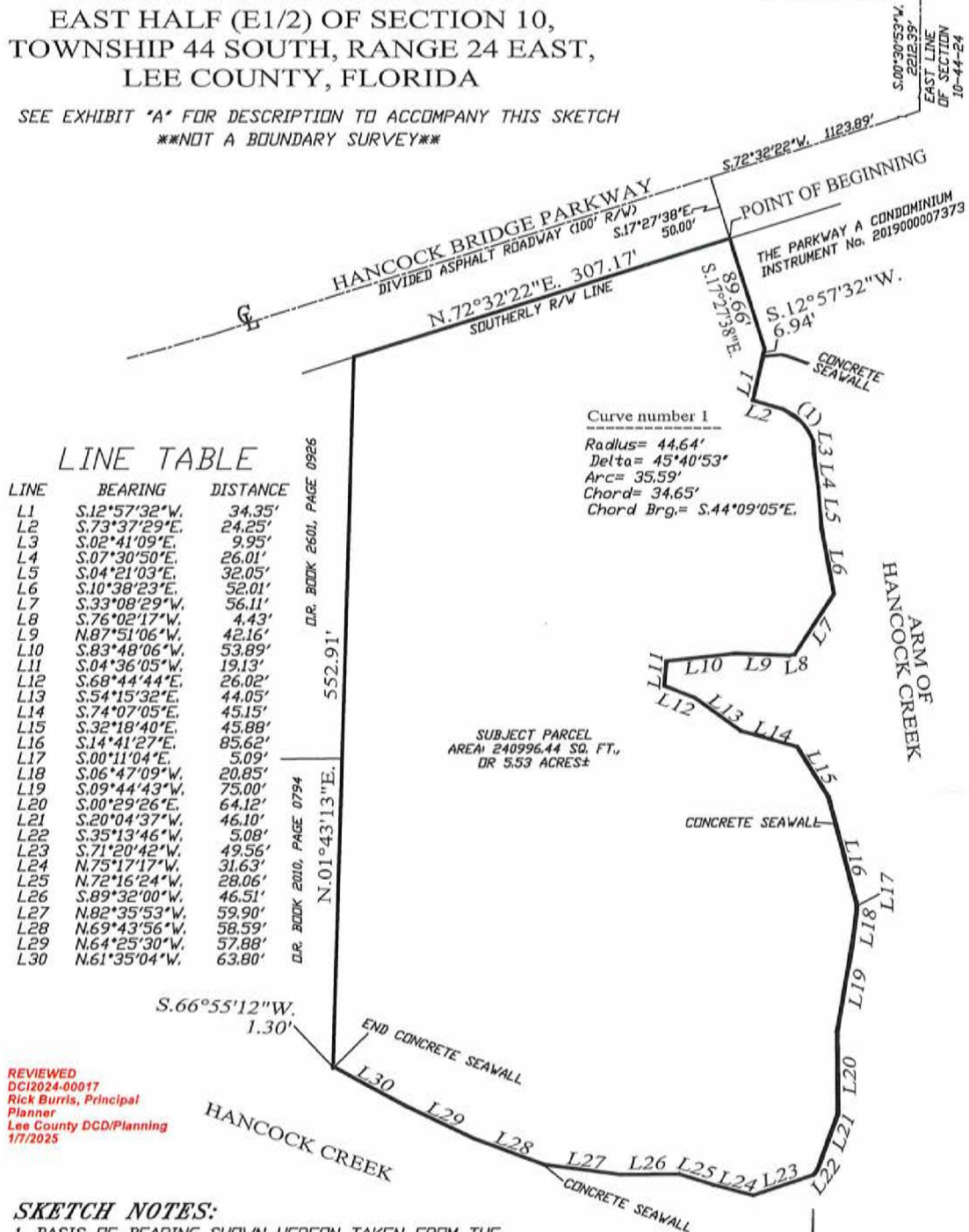
LEGAL DESCRIPTION AND VICINITY MAP

SKETCH TO ACCOMPANY DESCRIPTION

A PLOT OR PARCEL OF LAND
LYING IN A PORTION OF THE
EAST HALF (E1/2) OF SECTION 10,
TOWNSHIP 44 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA

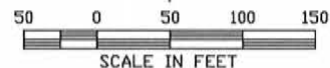
SEE EXHIBIT "A" FOR DESCRIPTION TO ACCOMPANY THIS SKETCH
NOT A BOUNDARY SURVEY

POINT OF COMMENCEMENT
N.E. CORNER
SECTION 10-44-24



SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREDON TAKEN FROM THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF HANCOCK BRIDGE PARKWAY, AS BEING 'ASSUMED' N.72°32'22"E.
2. FIELD NOTES IN EAST 1/2, EAST 1/2 OF SECTION 10-44-24.
3. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREDON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
4. 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.
5. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
6. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2 X 14, (LEGAL) 100 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: PMM	CHECK: FBH	SCALE: 1"=100'	PROJ. # 3480 HANCOCK BRIDGE
SKETCH DATE 10-15-2024	FILE NO. 44-24-10	SHT.- 1 OF - 2	

EXHIBIT A

EXHIBIT "A"**DESCRIPTION TO ACCOMPANY SKETCH**

**A PLOT OR PARCEL OF LAND
LYING IN A PORTION OF THE EAST HALF (E1/2) OF
SECTION 10, TOWNSHIP 44 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA**

DESCRIPTION:

A PLOT OR PARCEL OF LAND LYING IN A PORTION OF THE EAST (1/2) OF SECTION 10, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, SAID PLOT OR PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE NORTHEAST CORNER OF SECTION 10, TOWNSHIP 44 SOUTH, RANGE 24 EAST, SAID POINT BEING 5.65 FEET NORTH OF THE CENTERLINE OF PONDELLA ROAD; THENCE RUN S.00°30'53"W. ALONG THE EAST LINE OF SAID SECTION 10, AND THE CENTERLINE OF PALM AVENUE FOR 2212.39 FEET TO A POINT ALONG THE CENTERLINE OF HANCOCK BRIDGE PARKWAY (100 FEET WIDE); THENCE RUN S.72°32'22"W. ALONG THE CENTERLINE OF SAID HANCOCK BRIDGE PARKWAY FOR 1123.89 FEET; THENCE RUN S.17°27'38"E. TO A POINT ALONG THE SOUTHERLY RIGHT OF WAY LINE OF SAID HANCOCK BRIDGE PARKWAY FOR 50.00 FEET, TO THE POINT OF BEGINNING; THENCE RUN S.17°27'38"E. FOR 89.66 FEET; THENCE RUN S.12°57'32"W. TO A POINT ALONG A CONCRETE SEAWALL FOR 6.94 FEET; THENCE RUN ALONG SAID CONCRETE SEAWALL THE FOLLOWING BEARINGS AND DISTANCES; S.12°57'32"W. 34.35 FEET; THENCE RUN S.73°37'29"E. FOR 24.25 FEET TO A POINT OF CUSP OF A CURVE; THENCE RUN ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST, LYING ALONG SAID CONCRETE SEAWALL, FOR 35.59 FEET, SAID CURVE HAVING THE FOLLOWING ELEMENTS, A RADIUS OF 44.64, A CENTRAL DELTA ANGLE OF 45°40'53", A CHORD THAT BEARS S.44°09'05"E, AND A CHORD DISTANCE OF 34.65 FEET; THENCE CONTINUE ALONG SAID CONCRETE SEAWALL THE FOLLOWING BEARINGS AND DISTANCES; S.02°41'09"E. 9.95 FEET; S.07°30'50"E. 26.01 FEET; S.04°21'03"E. 32.05 FEET; S.10°38'23"E. 52.01 FEET; S.33°08'29"W. 56.11 FEET; S.76°02'17"W. 4.43 FEET; N.87°51'06"W. 42.16 FEET; S.83°48'06"W. 53.89 FEET; S.04°36'05"W. 19.13 FEET; S.68°44'44"E. 26.02 FEET; S.54°15'32"E. 44.05 FEET; S.74°07'05"E. 45.15 FEET; S.32°18'40"E. 45.88 FEET; S.14°41'27"E. 85.62 FEET; S.00°11'04"E. 5.09 FEET; S.06°47'09"W. 20.85 FEET; S.09°44'43"W. 75.00 FEET; S.00°29'26"E. 64.12 FEET; S.20°04'37"W. 46.10 FEET; S.35°13'46"W. 5.08 FEET; S.71°20'42"W. 49.56 FEET; N.75°17'17"W. 31.63 FEET; N.72°16'24"W. 28.06 FEET; S.89°32'00"W. 46.51 FEET; N.82°35'53"W. 59.90 FEET; N.69°43'56"W. 58.59 FEET; N.64°25'30"W. 57.88 FEET; N.61°35'04"W. 63.80 FEET; THENCE DEPARTING SAID CONCRETE SEAWALL, RUN S.66°55'12"W. TO A POINT THAT LIES S.01°43'13"W. AND 552.91 FEET, FROM THE AFORESAID SOUTHERLY RIGHT OF WAY LINE OF HANCOCK BRIDGE PARKWAY (100 FEET WIDE), FOR 1.30 FEET, THENCE RUN N.01°43'13"E. TO A POINT LYING ALONG THE AFORESAID SOUTHERLY RIGHT OF WAY LINE OF HANCOCK BRIDGE PARKWAY (100 FEET WIDE), FOR 552.91 FEET; THENCE RUN N.72°32'22"E. ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR 307.17 FEET, TO THE POINT OF BEGINNING.

CONTAINING: 240,996.44 SQUARE FEET, OR 5.53 ACRES, MORE OR LESS.

**Phillip M
Mould,
LS6515,
State of
Florida**

Digitally signed
by Phillip M
Mould, LS6515,
State of Florida
Date: 2024.10.15
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REVIEWED
DCI2024-00017
Rick Burris, Principal
Planner
Lee County DCD/Planning
1/7/2025

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA
OCTOBER 15, 2024

SHEET 2 OF 2

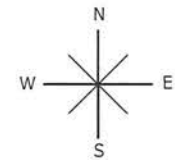
HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S., SUITE 100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921



DCI2024-00017

Zoning

 Subject Property



0 500 1,000
Feet

Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

As revised by the Hearing Examiner

CONDITIONS

1. **Master Concept Plan and Development Parameters**

- a. Master Concept Plan (MCP). Development must be substantially consistent with the two-page MCP entitled Cabana Cove, last revised 10/27/2025 and attached hereto as Exhibit B-1.
- b. Lee Plan and Land Development Code (LDC). Development must comply with the Lee Plan and LDC except where deviations have been approved herein. Subsequent amendments to the MCP, permitted uses, or conditions/deviations are subject to LDC procedures for amending the planned development.
- c. Approved Development Parameters. The project may develop a marina with 50 wet slips, 160 dry slips, and 8,752 square feet of subordinate commercial use floor area. Maximum building height is 135 feet, and further subject to Condition 14.
- d. Superseding Resolution. This resolution supersedes Resolutions Z-91-048 and Z-05-030.

2. **Schedule of Permitted Uses and Property Development Regulations**

a. Schedule of Permitted Uses

Principal Use:

Marina (subject to Condition 16)

Subordinate and Accessory Uses (subject to Condition 11):

Administrative Offices

ATM (Automatic Teller Machine)

Bait and Tackle Shop

Bar or Cocktail Lounge (subject to Deviation 3)

Boats:

Boat Parts Store

Boat Rental

Boat Storage, Dry Exceeding 18 feet above grade (subject to Condition 8)

Consumption on Premises (subject to Deviation 3)

Entrance Gates and Gatehouse

Essential Services

Essential Service Facilities, Group I

Excavation:

Water Retention

Food Truck Park (subject to Condition 15)

Gift and Souvenir Shop

Marina Accessory Uses

Parking Lot:

Accessory

Schools, commercial (limited to sailing/marine-oriented outdoor lifestyle)

Signs

Storage, Indoor

Storage, Open (subject to Condition 17).

Temporary Uses

Transportation Services, Group 1-A

Vehicle and Equipment Dealers, Groups I-V

b. Site Development Regulations

Minimum Lot Size: 20,000 square feet

Minimum Lot Width: 100 feet

Minimum Lot Depth: 100 feet

Minimum Setbacks, Maximum Building Height and Lot Coverage

Street: 25 feet

Side: 20 feet

Rear: 20 feet

Waterbody 25 feet

Maximum building height: 135 feet (subject to Condition 14)

Lot coverage: 40 percent

3. Open Space and Indigenous Preservation

Development order plans must depict open space substantially consistent with the MCP. Open space and indigenous preservation areas must meet or exceed the following minimums:

a. Total open space: 2.31 acres (42%)

b. Indigenous preservation (within open space): 0.57 acres.

4. Marina Management Plan

Development order submittals must include a Marina Management Plan.

The Marina Management Plan must ensure no degradation of water quality from marina operations and address the following:

- a. Spill and Contamination Contingency Plan: The Spill and Contamination Contingency Plan must address the following:
 - i. method of collecting and treating runoff from fueling and maintenance activities prior to discharge,
 - ii. measures to reduce contamination of water bodies from boat refueling and maintenance, and
 - iii. emergency clean up procedures.
 - b. Emergency Preparedness Plan. The Emergency Preparedness Plan must comply with Lee County Administrative Code 7-7.
 - c. Educational Material and Signs. Development order submittals must include examples of educational materials and signs to notify patrons on manatee protection. Developer must install the educational signs prior to County issuance of Certificate of Compliance on the docking facility.
 - d. Public Access. The marina must be open to the public.
5. **Fuel Tanks**
Development Order submittals must depict the location of fuel tanks on existing uplands.
6. **Utility Connections**
Development must connect to public utilities for water and wastewater services.
7. **Boat Slips**
Development order submittals must include documentation of slip transfer credits obtained consistent with the Manatee Protection Plan for slips exceeding 50 in number.
- Live-aboard vessels are permitted in wet slips.
8. **Pump-Out Stations**
The marina must install shore-side pump-out stations to serve live-aboard vessels and ensure adequate facilities for transfer and treatment of boat sewage.
9. **Mangroves**
Development order submittals must include a revised protected species survey confirming location of mangrove trees meeting the LDC definition of heritage tree.
10. **State and Federal Permits**
 - a. Generally. County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if the developer fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or if the developer undertakes actions resulting in a violation of state or federal law. Developer must obtain applicable state/federal permits prior to commencing construction.

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

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

11. Subordinate and Accessory Uses

Developer may not commence subordinate, or accessory uses prior to establishing the marina use.

12. North Fort Myers Design Standards

Development orders and building permits must comply with the North Fort Myers Community Plan LDC requirements, unless a deviation has been approved. Departures from landscaping, signage and architectural regulations in the Community Plan may be approved amending the CPD via the public hearing process.

13. Coastal High Hazard Area

Development order submittals must include calculations quantifying flood storage volume provided by impacted wetlands within the Coastal High Hazard Area. Development order submittals must demonstrate compensatory flood storage volume within the project on the engineer plans.

14. Building Height

The maximum height for dry storage building is 135 feet. Other buildings and structures may not exceed 35 feet.

15. Food Truck Park

The food truck park is limited to a maximum of three trucks in the area depicted on the MCP and must comply with LDC supplemental regulations for the use.

16. Marina Operations

Marina operations are subject to the following conditions:

- a. Forklift and conveyor belt system activity is prohibited before 6:00 a.m. and after 9:00 p.m.
- b. Forklifts must be equipped with mufflers or sound dampening equipment to reduce noise levels. If available and appropriate for this operation, non-diesel-powered forklifts may be used to meet this requirement.

- c. Forklifts and similar equipment for boat handling must provide the operator with full operational visibility and utilize safety features that avoid tonal or high-intensity backup alarms projecting beyond the site. Equipment may use broadband warning devices, visual alerts, or alternative safety technologies to provide equivalent or improved pedestrian safety.
- d. Public address systems are prohibited.
- e. Boat maintenance activities including small engine repair, must be performed within the dry storage building. Boat painting and hull repair are prohibited.
- f. Developer must install sound absorbing/dampening materials on the east and west walls of the dry storage building to reduce operational noise within the building.

17. Open Storage

Open storage must be accessory to an approved principal use and must be shown on a revised MCP. Open storage must be located behind the dry storage building or in an area providing the greatest visual screening from adjacent multi-family buildings. Screening must comply with the LDC.

DEVIATIONS

1. Indigenous Native Vegetation and Trees. Deviation 1 seeks relief from LDC §10-415(b)(1)b, which requires 50 percent of the minimum open space requirement to be met through the on-site preservation of existing native trees, to allow a minimum of 34 percent.

The deviation is approved.

2. Interconnection Between Properties. Deviation 2 seeks relief from LDC §33-1573(c)(2), which requires commercial development adjacent to multifamily development provide automobile interconnections, to allow no automobile interconnection with the multi-family development to the east.

The deviation is approved.

3. Location of Consumption on Premises. Deviation 3 seeks relief from LDC §34-1264(b)(1)a, which states establishments offering alcoholic beverages for consumption on premises may not be located within 500 feet of a dwelling unit under separate ownership, to allow a separation distance of 340 feet.

The deviation is approved, subject to the following conditions:

- a. Use. Approval is limited to a bar/cocktail lounge. Request for a different establishment serving alcohol requires further development approval(s).

- b. Limits of COP. Sale and service of alcoholic beverages are restricted to the 1,500-square-foot hatched COP area depicted on the MCP. Increases to the COP area or reductions to the 340-foot separation from dwelling units require approval via the public hearing process.
- c. Hours of Operation. Service and consumption of alcoholic beverages are permitted between the hours of 11:00 a.m. and 11:00 p.m. Sunday through Thursday, and 11:00 a.m. to 12:00 (midnight) Friday and Saturday. Outdoor speakers must also cease when hours permitted for service and consumption lapse.
- d. Entertainment. Outdoor live entertainment is permitted between 11:00 a.m. and 9:00 p.m. Sunday through Thursday, and 11:00 a.m. to 11:00 p.m. Friday and Saturday.
- e. Outdoor Speakers. "Live entertainment" includes live performances, singing, or DJ activities. "Outdoor speakers" includes piped, recorded, or background sound customarily ancillary to restaurant, bar, or outdoor tiki operations.

Outdoor speakers must be oriented toward the interior of the site to minimize sound transmission toward adjacent properties and reduce off-site noise impacts. Site-related noise is further subject to the Lee County Noise Control Ordinance, as amended.

- 4. Connection Separation. Deviation 4 seeks relief from LDC §10-285(a), which requires a minimum of 440 feet of connection separation between access points on an arterial within Future Urban Areas to allow for 274 feet between access points.

The deviation is approved, subject to the following condition:

- a. The project entrance must align with the existing median opening on Hancock Bridge Parkway. Final project access design is subject to Lee County DOT approval.

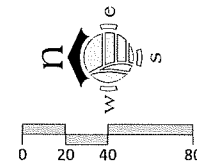
Exhibits to Conditions:

B1 Two-page Master Concept Plan entitled Cabana Cove, last revised 10/27/2025.

ensite
2401 FIRST STREET, SUITE 201
FORT MYERS, FLORIDA 33901
PH: (239)-226-0024
EB-26544 CA-1C26000374

CLIENT NAME AND ADDRESS

PROJECT NAME AND LOCATION



<u>OPEN SPACE CALCULATIONS:</u>	
TOTAL PROJECT AREA	±5.53 AC.
COMMERCIAL OPEN SPACE REQUIREMENT (30%) REQUIRED: (50% OF REQ'D OPEN SPACE INDIGENOUS	±1.65 AC. ±0.83 AC.)
1 MIN. PROVIDED:	±2.31 AC. (42%)
UPLAND BUFFER AREA:	±0.34 AC.
*INDIGENOUS/WETLAND AREA: (34% OF THE REQUIRED OPEN SPACE)	±0.57 AC.
OTHER OPEN SPACE	±1.40 AC.
*INDIGENOUS/WETLAND AREA: REQUIRED (50% OF REQUIRED OPEN SPACE) INDIGENOUS AREA PRESERVED	±0.83 AC. ±0.57 AC.

THE PLANNED DEVELOPMENT COMPLIES OR WILL COMPLY WITH ALL APPLICABLE PORTIONS OF LAND DEVELOPMENT CODE, INCLUDING BUT NOT LIMITED TO, ARTICLE IV - PLANNED DEVELOPMENT DISTRICTS. THE INTERNAL MECHANISMS OF THE SITE, SUCH AS WATER MANAGEMENT, ARE ALSO SUBJECT TO OTHER AGENCY PERMITTING REQUIREMENT. ALL OUTDOOR LIGHTING MUST COMPLY WITH SECTION 34-625.

LANDSCAPE BUFFERS	PROPOSED
NORTH (STREET)	5'
EAST (SIDE)	15' OR 30'
EAST (WATER BODY)	N/A
SOUTH (WATER BODY)	N/A
WEST (SIDE)	N/A
* 100% NATIVE VEGETATION TO BE UTILIZED	

BEACH / GRASS / OPEN SPACE RECREATION AREA

WETLANDS

VEHICULAR / PARKING CIRCULATION

INTERNAL PEDESTRIAN CIRCULATION

BOAT / VEHICLE DISPLAY AREA

UPLAND BUFFER AREA

INDIGENOUS / WETLAND AREA

COP LIMITS

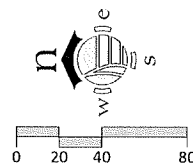
1	DEVIATION FROM LDC SECTION 10-415(b)(1)(b) WHERE 50% OF OPEN SPACE SHALL BE PRESERVED AS INDIGENOUS OPEN SPACE, TO ALLOW FOR 34% INDIGENOUS OPEN SPACE.
2	DEVIATION FROM LDC SEC. 33-1573(c)(2) WHICH REQUIRES AUTOMOBILE INTERCONNECTIONS BETWEEN COMMERCIAL AND MULTI-FAMILY USES TO ALLOW AN ENCLOSED PARKING LOT WITHOUT CONNECTIONS.
3	DEVIATION FROM LDC SEC. 34-1264 WHICH REQUIRES A MINIMUM OF 500 FT BETWEEN CONSUMPTION ON PREMISE AND A DWELLING UNIT UNDER SEPARATE OWNERSHIP TO ALLOW FOR CONSUMPTION ON PREMISE WITHIN 340 FT OF A MULTI-FAMILY CONDOMINIUM.
4	DEVIATION FROM LDC SEC. 10-285(a) WHICH REQUIRES A MINIMUM OF 440 FT BETWEEN ACCESS POINTS ON AN ARTERIAL WITHIN A FUTURE URBAN AREA TO ALLOW FOR 274 FT. BETWEEN ACCESS POINTS.

MASTER CONCEPT PLAN

SHEET TITLE

C-01

SHEET NUMBER



CLIENT NAME AND ADDRESS

PROJECT NAME AND LOCATION

REVISIONS DESCRIPTION

SHEET TITLE

SHEET NUMBER



1

2

3

4

1

INDIGENOUS / WETLAND AREA

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. DCD Staff Report with attachments: Prepared by Adam Mendez, Principal Planner, received November 24, 2025 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. 48-Hour Notice: Email from Adam Mendez to Maria Perez, Cindy Leal, and Hearing Examiner, with copies to Brian Smith, Neale Montgomery, Esq., Laurie Plue, Marza Hiatt, and Jennifer Graham, dated Monday, December 8, 2025, 11:50 AM (multiple pages – 8.5"x11")[color]
3. PowerPoint Presentation: Prepared by Lee County Staff for Cabana Cove CPD, DCI2024-00017 (multiple pages – 8.5"x11")

APPLICANT EXHIBITS

1. 48-Hour Notice: Email from Cindy Leal to Maria Perez, with copies to Brian Smith, dated Monday, December 8, 2025, 10:35 AM (multiple pages – 8.5"x11")
2. PowerPoint Presentation: Prepared by for Cabana Cove CPD, DCI2024-00017 (multiple pages – 8.5"x11")
3. Written Submissions: Email from Adam Mendez to Maria Perez and Brienne Cherry, with copies to Brian Smith, Neale Montgomery, Esq., and Cindy Leal, dated Tuesday, December 16, 2025. 4:41 PM (multiple pages – 8.5"x11")

OTHER EXHIBITS

Amber Williams, Esq.

1. Letter: To Adam Mendez, Principal Planner from Amber Williams, Esq., dated December 10, 2025 (multiple pages – 8.5"x11")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Adam Mendez, Principal Planner

Applicant Representatives:

1. Cindy Leal Brizuela, AICP
2. Yury Bykau, P.E.
3. Christian Casey
4. Neale Montgomery, Esq.
5. Brian R. Smith
6. Hans Wilson, P.E.

Public Participants:

1. Bill Davin
2. James Martin
3. Mike Pomper
4. Amber Williams, Esq.

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 provides 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 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. Presentations 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 are part of the case file maintained by the Department of Community Development. The case file is available for public examination Monday through Friday between 8:00 a.m. and 4:00 p.m.
- B. A verbatim transcript may also be available for purchase from the court reporting service.

DCI2023-00040

Upper Captiva

Carriage Club

CPD



CASE NUMBER & NAME: DCI2023-00040 / Upper Captiva Carriage Club CPD

REQUEST: Request to rezone a 3.69± acres from Agricultural (AG 2) to Commercial Planned Development (CPD).

RESOLUTION NUMBER: Z-25-019

LOCATION: 9101 Stringfellow Rd., Pine Island Planning Community, Lee County, FL

OWNER: Upper Captiva Carriage Club, LLC

APPLICANT: Chuck Wainright

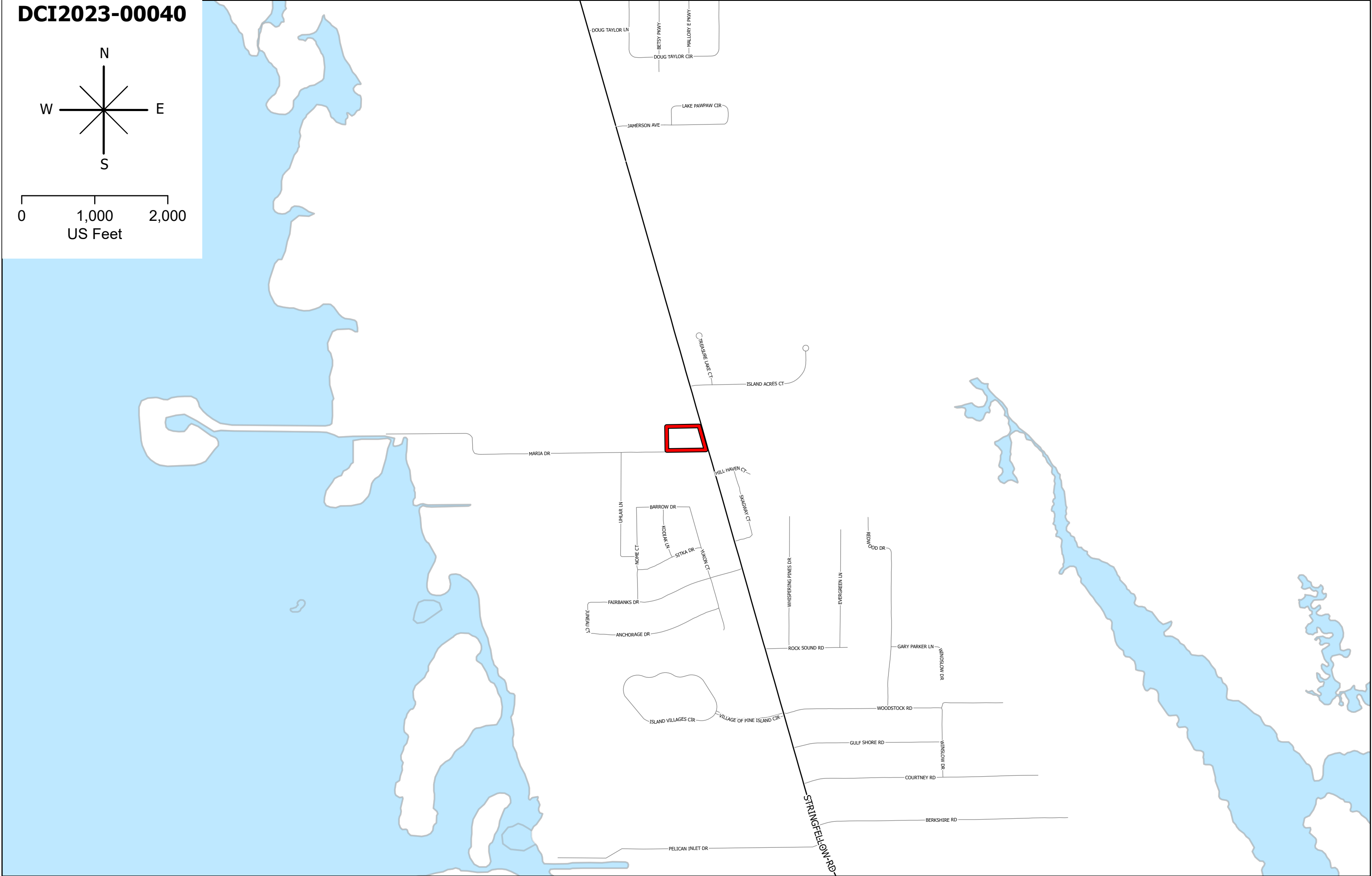
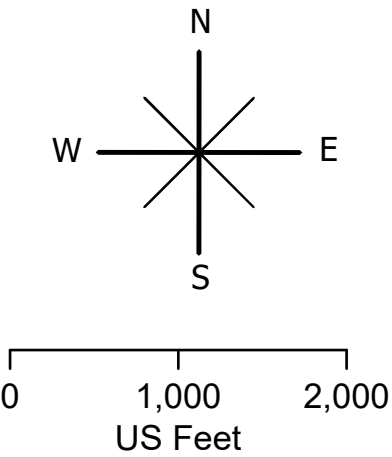
AGENT: Fred Drovdic, AICP
RVi Planning + Landscape Architecture
1514 Broadway, Suite 201
Fort Myers, FL 33901

HEARING EXAMINER RECOMMENDATION: Approve, subject to conditions and deviations.

PARTICIPANTS:

1. Christine Blum
2. Skylynn Brown
3. Susan Dahod
4. Chris Hinkle
5. Christopher Holtem
6. Alex Murphy
7. Martha Uhlar
8. Tim Uhlar

DCI2023-00040



Summary of Hearing Examiner Recommendation

UPPER CAPTIVA CARRIAGE CLUB CPD

The request seeks to develop the northwest corner of the Stringfellow Road/Maria Drive intersection with a commercial parking and delivery processing facility.

The project has undergone substantial changes since Applicant first presented the request to the community. Site design now serves residents, service providers, and visitors by providing long-term parking and a waypoint to receive deliveries for the outer islands.

Proposed uses streamline delivery collection to capture and reduce trips already on the roadways. As presented, the CPD does not offer a destination use attracting new traffic to the area.

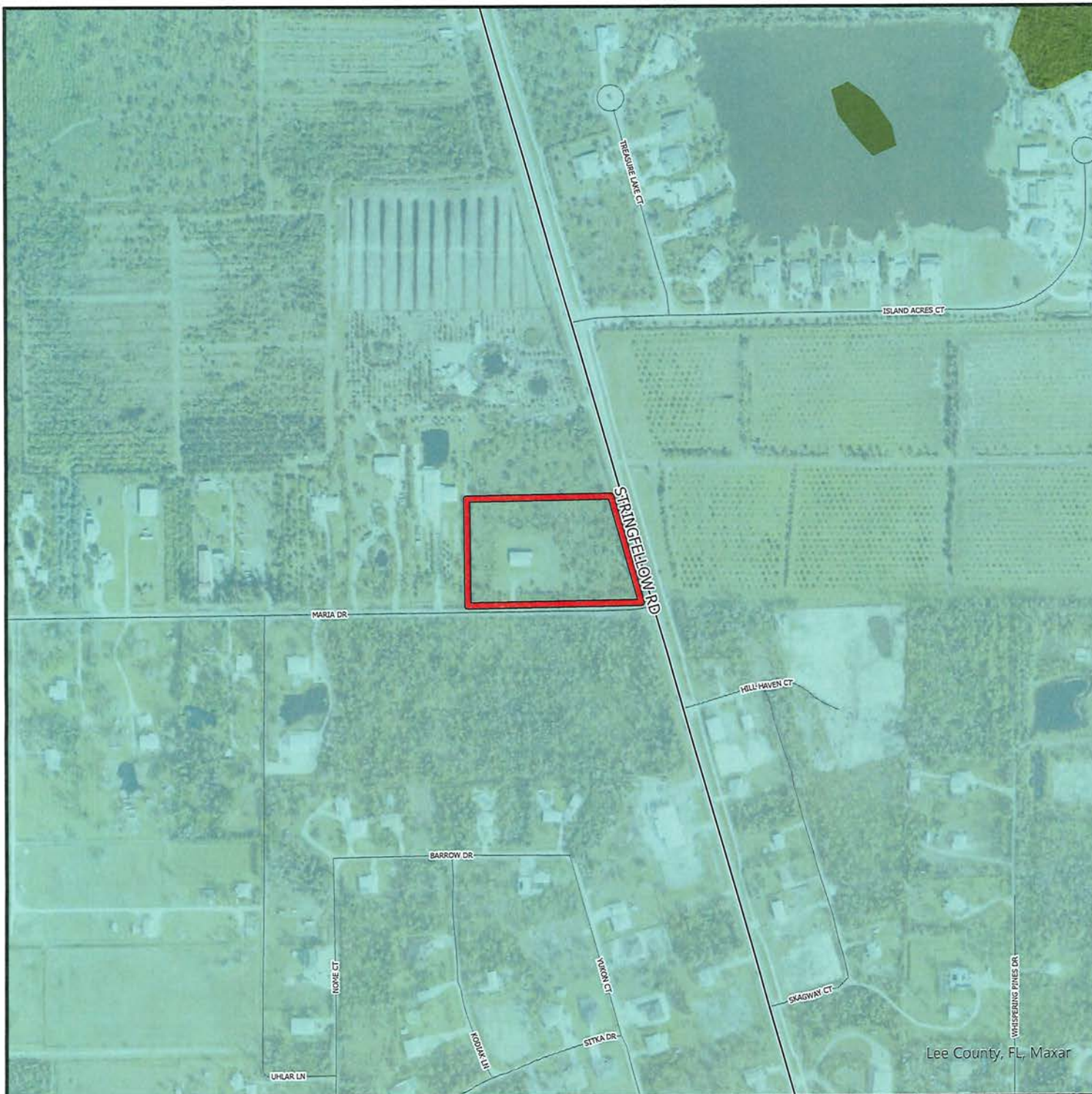
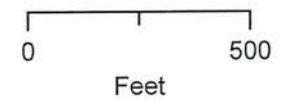
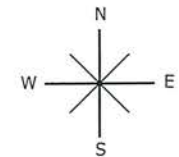
Conditions of approval impose enhanced landscaping to shield residents from site activity. Environmental conditions require Indigenous and Protected Species Management Plans to ensure protection of sensitive resources.

Detailed recommendation follows

DCI2023-00040

Future Land Use

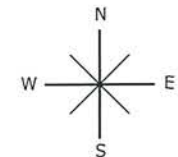
-  Subject Property
-  Coastal Rural
-  Wetlands



DCI2023-00040

Aerial

 Subject Property



0 500
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2023-00040

Regarding: UPPER CAPTIVA CARRIAGE CLUB CPD

Location: 9101 Stringfellow Rd
Pine Island Planning Community
(District 1)

Hearing Date: August 28, 2025 (Not Heard)
Continued Date: October 24, 2025 (Heard)
Record Closed: November 7, 2025

I. **Request**

Rezone 3.69± acres from Agriculture (AG-2) to Commercial Planned Development (CPD) to allow 5,000 square feet of administrative offices, closed/open storage, and commercial parking.

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 public services.³

¹ LDC §34-145(d)(1)a & (d)(2)a.

² LDC §34-145(d)(3).

³ LDC §34-145(d)(4).

The Hearing Examiner's recommendation must be based on competent and substantial evidence.⁴

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

Request Synopsis

The 3.69± acre property sits west of Stringfellow Road in St. James City, approximately one and a half miles south of the Pine Island Road intersection. The site is partially developed with a 2,400± square foot building historically used as a seafood processing facility. Lee County Parks and Recreation Department operates the Pine Island Commercial Marina (PICM) less than a mile west of the site.

Applicant seeks to repurpose the existing building to operate a parking/storage facility and delivery depot for residents/visitors. The request envisions 95 long-term parking spaces and a delivery processing service designed to divert traffic from Maria Drive.⁵ As described, deliveries destined for PICM will be collected on-site before transporting in bulk to limit trips to the marina.⁶

The proposed site plan reflects two buildings surrounded by parking. The existing building will support administrative functions, while the second building will process/store deliveries for patrons. Open space and preserve areas line the project perimeter.

The request seeks two deviations from LDC development standards to accommodate site access and dumpster requirements.⁷ Maximum height remains at 35 feet.⁸

Site design proposes gated access to Maria Drive and delivery vehicle access on Stringfellow Road.

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

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

⁵ 92 parking spaces accommodate standard vehicles, while three spaces are reserved for boat trailers or recreation vehicles.

⁶ Hearing testimony reflects the project is designed to offer long-term parking for Pine Island and outer island residents/visitors who do not/cannot take automobiles to their destination. The delivery depot serves the same population to centralize deliveries off island transported by barge from the marina. Drovdlc Testimony (Transcript pg. 13-20). Additional users include contractors, charter guests, and service providers. *Id.* at 23; Applicant Ex. 3 (slide 13).

⁷ The Staff Report identifies a deviation addressing internal parking requirements, which Applicant revised prior to hearing. Transcript pg. 36-39.

⁸ Condition 2(b); LDC §34-654.

- 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. Provides sufficient access 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.¹¹

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.¹²

Lee Plan

Planned developments must be consistent with the Lee Plan.¹³

Lee Plan maps designate the property within the Coastal Rural future land use category in the Pine Island Planning Community.¹⁴

The Coastal Rural designation acknowledges Pine Island's predominantly rural character, coastal environment, existing agricultural uses, limited infrastructure, and proximity to Coastal High Hazard and Hurricane Vulnerability Zones.¹⁵ Residential developments in this category must be low density and reviewed through the planned development process.¹⁶ Non-residential uses are limited to marinas, fish houses, and minor commercial uses that serve island residents and visitors.¹⁷

¹¹ LDC §34-145(d)(4)a.1. The property is in a Non-Urban Area. See Lee Plan Glossary (Future Non-Urban Areas).

¹² LDC §34-145(d)(4)a.2.

¹³ F.S. §163.3194(1)(a); LDC §§34-411(a), §34-491.

¹⁴ Lee Plan Maps 1-A, 1-B, & 2-A.

¹⁵ Lee Plan Policy 1.4.7. Lee Plan Map 5-A.

¹⁶ Lee Plan Policy 1.4.7.

¹⁷ Policy 1.4.7 incorporates Policy 24.4.4 by reference.

The Lee Plan mandates that commercial projects in the Coastal Rural category pursue planned development zoning within identified development parameters.¹⁸ The requested CPD meets the specified standards. The site sits outside the Coastal High Hazard Area.¹⁹

The site's location within the Greater Pine Island Planning Community triggers supplemental standards governing most every aspect of development.²⁰ Its Coastal Rural designation subjects the project to further scrutiny in design standards.²¹ Applicant provided competent substantial evidence demonstrating compliance with these criteria.²²

The request infills development on an arterial road.²³ Proposed uses at this location support the community by providing parking and streamlined delivery proximate to the marina.

The Lee Plan Economic Element encourages commercial uses to expand the County's economic base.²⁴ The property's location along an arterial road and near the PICM makes it well suited for the proposed low-impact commercial use.

The proposed CPD authorizing limited commercial uses is consistent with the Lee Plan.

Compatibility

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

Planned development zoning is a useful tool to integrate new development with surrounding land uses.²⁶ The PD districts allow flexibility in site design while providing a process and record on which the public can rely.²⁷ This becomes particularly important when the introduction of commercial uses amid residential and agricultural areas presents compatibility concerns.

¹⁸ Policy 24.4.4 imposes a total building area to 5,000 square feet, two acres of impervious area, and ensures uses remain consistent with the Coastal Rural character. Listed uses envision retail and restaurants which generate more site activity than the requested long-term parking facility.

¹⁹ Lee Plan Map 5-A.

²⁰ LDC §§33-1001 *et. seq.*

²¹ LDC §§33-1051 *et. seq.*

²² Drovdic Testimony (Transcript pg. 32-34); Applicant Ex. 3 (slide 20); Staff Report (Attachment D).

²³ Lee Plan Objectives 2.1 & 2.2.

²⁴ Lee Plan Goals 158 & 159.

²⁵ LDC §34-2.

²⁶ LDC §34-612(2)(b).

²⁷ LDC §34-612(2)(h).

The project addresses compatibility concerns through screening with a vegetative buffer for outdoor storage abutting residential use.²⁸ The site will be secured by fencing rather than a masonry wall to reduce visual impact for neighboring properties.²⁹ Vegetative opacity will obstruct view of the fencing to preserve the existing pass-by experience for roadway travelers.³⁰

Conditions of approval narrowly tailor the list of permitted uses to provide services for residents/visitors along an arterial road.³¹ As proposed, the project reduces delivery traffic along Maria Drive and captures trips along Stringfellow Road without need to traverse Maria Drive or disrupt the residences between the site and the marina. Subsequent requests to change the Schedule of Uses would prompt another zoning review.³²

Based on the foregoing analysis, the Hearing Examiner concludes the request is consistent with the Lee Plan and compatible with the surrounding area.³³

LDC

Requests to rezone to a planned development must comply with the LDC and other County regulations.³⁴

The request must meet the LDC and other County regulations or qualify for deviations.³⁵ “Deviations” are departures from land development regulations.³⁶ Applicant seeks two deviations addressing connection separation and solid waste disposal.³⁷

The record indicates granting the deviations meets the spirit of the Code. Requested deviations remain consistent with the intent of the LDC despite not meeting the letter of the Code. Connection separation cannot be met given the

²⁸ Transcript pg. 59 & 72.

²⁹ Hearing testimony reflected neighbors preferred fencing to a walled facility. Transcript pg. 21. Enhanced buffers line the northern and western boundaries. Drovdlid Testimony (Transcript pg. 26-27); Applicant Ex. 3 (slide 17). The LDC does not require a buffer along the northern boundary.

³⁰ *Id.*

³¹ Condition 2(a) presents a limited Schedule of Uses.

³² If approved, the CPD permits only the uses identified in Condition 2(a). Attempts by the Applicant or subsequent owners would prompt separate zoning action, either administrative or by public hearing depending on the nature of the newly requested use.

³³ Lee Plan Policy 5.1.5.

³⁴ 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.

³⁵ Development will be subject to further permitting under the LDC.

³⁶ LDC §34-2.

³⁷ Requested deviations seek relief from LDC §10-285(a) and §10-261. See Post-Hearing Written Submissions evidencing no objection from Lee County Solid Waste Department. Staff Ex. 7

site's depth. Lee County Solid Waste provided a Letter of No Objection to permitting alternative disposal containers.³⁸

Staff recommended approval of both deviations. The Hearing Examiner agrees with Staff's recommendation of approval.

The project will be subject to road, fire, and emergency services impact fees.³⁹

Environmental/Natural Resources

Requests to rezone property may not adversely affect environmentally critical/sensitive areas or natural resources.⁴⁰

The property is partially developed with an existing building. Applicant conducted a Protected Species Survey and provided indigenous open space, although the LDC does not require either for this project.⁴¹ Applicant proposes to preserve the beautiful Paw Paw's onsite and protect gopher tortoise zones.⁴²

The Master Concept Plan ("MCP") dedicates half of the site to open space and a quarter of the site to indigenous preserves.⁴³ The MCP also reflects buffers that meet or exceed LDC requirements.⁴⁴

Applicant's engineer prepared a Surface Water Management Plan demonstrating the request will not impact existing groundwater elevations.⁴⁵ Site design provides onsite dry detention with discharge to existing roadside swales to maintain the historical drainage pattern.⁴⁶

The Hearing Examiner finds the requested CPD will not harm environmentally critical/sensitive areas or natural resources.⁴⁷

³⁸ See Staff Ex. 7

³⁹ LDC Ch. 2.

⁴⁰ LDC §34-145(d)(4)a.1(f).

⁴¹ These studies are not required since the project is classified as a small development. See Staff Report (Attachment J); LDC §34-415; Workman Testimony (Transcript pg. 62).

⁴² Drovdlc Testimony (Transcript pg. 27-

⁴³ Condition 3 codifies open space compliance with the MCP. The LDC does not require indigenous preserves for this project. See Condition 4. Drovdlc Testimony (Transcript pg. 28).

⁴⁴ See MCP & Staff Report (Attachment J). Condition 9 imposes buffers consistent with the MCP: Type B buffer along the norther boundary (LDC §10-416(d) does not require a buffer when a commercial use abuts vacant agricultural property), Type F buffer on the western boundary, and Type D buffers along Maria Drive and Stringfellow Road.

⁴⁵ See Staff Report (Attachment K).

⁴⁶ See *Id.*; Hearing Testimony (Transcript pg. 75-76, & 109).

⁴⁷ 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.⁴⁸

The site currently offers an access point to Maria Drive.⁴⁹ The MCP proposes a gated access with a second point reserved for egress on Maria Drive. An access restricted to delivery vehicles provides direct connection to Stringfellow Road. Stringfellow Road is a County-maintained arterial, while Maria Drive is a County-maintained local road.⁵⁰

Conditions of approval require Applicant to reserve an interconnection with property to the north and relocate the Stringfellow Road access if development order review determines turn lanes are warranted.⁵¹

The Traffic Impact Statement (TIS) analyzed transportation impacts based upon a conservative development program.⁵² Analysts evaluated traffic conditions projected for 2028 and 2045.⁵³ Staff reviewed the TIS and concluded the project will not adversely affect the surrounding roadway network.⁵⁴

Site related improvements will be addressed during development order review.⁵⁵

Public Services

Public services include services, facilities, capital improvements, and infrastructure necessary to support development.⁵⁶ The property has access to potable water.

⁴⁸ LDC §34-145(d)(4)a.1.

⁴⁹ The MCP shifts the existing access to optimize traffic circulation and avoid gopher tortoise burrows and preserve areas. Drovdlc Testimony (Transcript pg. 25).

⁵⁰ Lee Co. Admin. Code 11-1; Lee Plan Policy 6.1.2.

⁵¹ Staff requested the interconnection should the northern property develop commercially to relieve traffic on Stringfellow Road. *See generally* LDC §10-295.

⁵² *See* Staff Report (Attachment M: Traffic Impact Statement prepared by Quattrone & Associates, Inc., dated September 2023). Hearing testimony demonstrated expected traffic generation will be lower than the TIS analyzed based upon the proposed development program. (Transcript pg. 34 & 60-61).

⁵³ *See Id.*

⁵⁴ *Id.*; *See also* Staff Report (pg. 9-10, Attachments L & N). Projected trip generation is under 100 trips.

⁵⁵ Applicant is required to submit a more detailed traffic analysis during the development order phase. Condition 10 addresses site design modifications should that review find need for turn lane improvements.

⁵⁶ Lee Plan Glossary.

police, fire, and emergency medical services.⁵⁷ Project parameters do not require connection to sanitary sewer.⁵⁸

The property is near a shared use path on the Lee County Walkways and Bikeways Map and the Pine Island-Hendry Trail Lee County Greenways Master Plan.⁵⁹ Accordingly, Applicant will install a sidewalk along Stringfellow Road.⁶⁰

The request is suitable at its location amid public services and infrastructure.⁶¹

Conditions

The County must administer the zoning process to minimize impacts of proposed land uses on adjacent property and protect natural resources.⁶² Conditions must plausibly relate to anticipated impacts, and be pertinent to mitigating impacts to public health, safety, and welfare.⁶³

Proposed conditions limit permitted uses, define development parameters, impose enhanced buffering, require environmental management plans, and ensure compliance with the Lee Plan and LDC.

Public Participation

Applicant conducted a public meeting consistent with LDC requirements for rezoning applications in the Greater Pine Island community.⁶⁴

Several members of the public spoke at hearing in opposition to the request.⁶⁵ Concerns centered on compatibility, traffic, noise, environmental impact, crime, need for the proposed facility/use, and flooding.⁶⁶

⁵⁷ See Staff Report (pg. 3, 11, & Attachment G). Lee Plan Policy 24.4.4, Standards 4.1.1 & 4.1.2. The property is served by the Greater Pine Island Water Association for potable water. Matlacha-Pine Island Fire Station #151 and Emergency Medical Services Station #10 are located less than two miles from the site. Law enforcement services are available from the Lee County Sheriff's station, less than one mile away. The property is not within the Future Sewer and Water Service Areas. See Lee Plan Maps 4-A & 4-B.

⁵⁸ See Staff Report (pg. 3, 11, & Attachment G); Standard 4.1.2. Lee Plan Policy 24.4.4 limits development size such that the proposal does not generate the threshold 5,000 gallons of daily sewage to warrant sewer connection.

⁵⁹ Lee Plan Maps 3-D & 4-E.

⁶⁰ See Staff Ex. 3 (slide 19).

⁶¹ Notably, the site is within a Non-Urban area rendering LDC §34-145(d)(4)a.1(g) inapplicable.

⁶² Lee Plan Policy 135.9.6; LDC §§34-145(d)(4), 34-377, 34-932.

⁶³ LDC §34-932(c).

⁶⁴ LDC §33-1003. Applicant recounted changes to the initial request to address public concerns, including reduction of parking spaces and removal of short-term parking. Drovdllic Testimony (Transcript pg. 14); Applicant Ex. 3 (slides 11-12).

⁶⁵ Transcript pg. 76-105. Staff entered written objections into the record from neighbors unable to attend the hearing. Staff Ex. 5. Staff testified that many comments were received based upon initial project design which was of much greater scope. Workman Testimony (Transcript pg. 55).

⁶⁶ Public Testimony (Transcript pg. 77-104).

If the Board approves this rezoning request, Applicant must undergo community review again to present its development order application.⁶⁷

Conclusion

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

IV. Findings and Conclusions

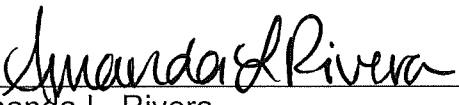
Based on testimony and evidence presented in the record, the Hearing Examiner finds and concludes that, as conditioned herein, the proposed CPD:

- A. Complies with the Lee Plan. Lee Plan Goals 2, 6, 77, 158, 159; Objectives 2.1, 2.2, 4.1, 6.1, 77.2, Policies 1.4.7, 1.6.5, 2.1.1, 2.1.2, 2.2.1, 5.1.5, 6.1.1, 6.1.2, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 24.4.4, 60.4.1, 61.3.6, 135.9.5, 135.9.6, Standards 4.1.1, 4.1.2, 4.1.4; Lee Plan Maps 1-A, 1-B, 2-A, 3-D, 4-E, Table 1(b).
- B. Meets the LDC and other County regulations. LDC Chapters 2, 10, 33, & 34.
- C. Is compatible with existing and planned uses in the area. See Lee Plan Goals 2, 6, Objectives 2.1, 2.2, 6.1, and Policies 1.4.7, 2.1.1, 5.1.5, 6.1.1, 6.1.2, 6.1.4, 6.1.5, 6.1.6, 135.9.5, 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, 6.1.2, 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, 61, 77, Objectives 77.2, 77.3, Policies 6.1.1, 6.1.6, 24.1.6, 60.4.1, 60.4.2, 60.4.3, 60.4.4, 61.3.6, 77.3.2, 77.3.3, 77.3.5, 125.1.2, 125.1.3, and Standard 4.1.4.
- F. Will be served by urban services, although the property is located within a Future Non-Urban category. See Lee Plan Glossary, Objectives 2.1, 2.2, 4.1, 6.1, Policies 1.4.7, 2.2.1, 6.1.1, 6.1.4; Standards 4.1.1 & 4.1.2.
- G. Proposed uses are appropriate at the location. See Lee Plan Goal 2, 6, Objectives 1.1, 2.1, 2.2, Policies 1.4.7, 2.1.1, 2.2.2, 5.1.5, 6.1.4, 6.1.7, 135.9.5, 135.9.6, Table 1(b); and LDC §§34-411 & 34-936.

⁶⁷ LDC §33-1003.

- H. Recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See LDC Chapters 10, 33, & 34.

Date of Recommendation: January 28, 2026.


Amanda L. Rivera
Deputy Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

SKETCH AND DESCRIPTION

INSTRUMENT NUMBER

NOT A SURVEY

LEGAL DESCRIPTION:

A parcel of land lying in the Southeast Quarter (SE $\frac{1}{4}$) of Section 33, Township 44 South, Range 22 East, Lee County, Florida, described as follows:

Commence at the Southeast corner of said Southeast Quarter; thence S89°04'09"W, along the South line of said Southeast Quarter, a distance of 802.33 feet to the West Right of Way Line of Stringfellow Road S.R. 767; thence N15°58'10"W, along said West Right of Way Line, a distance of 25.89 feet to the North Right Of Way Line of Maria Drive (50 feet wide) and the Point of Beginning; thence S89°04'09"W, along said North Right Of Way Line of Maria Drive (50 feet wide), a distance of 533.74 feet; thence N00°42'09"W a distance of 328.71 feet; thence N89°04'15"E a distance of 444.12 feet to a point on the Westerly Right of Way Line of said Stringfellow Road S.R. 767; thence S15°58'10"E, along said Westerly Right of Way Line of said Stringfellow Road S.R. 767, a distance of 340.35 feet to the Point of Beginning.

SKETCH AND DESCRIPTION FOR
9101 STRINGFELLOW ROAD
SAINT JAMES CITY, FLORIDA 33956

REVIEWED

Project: DCI2023-00040

By: Richard Burris

Dept: Legal Review

Date: 06/11/2025

The seal appearing on this document was authorized by Charles DeGraff PSM 4706 on March 10, 2025.



Charles
DeGraff

Digitally signed by
Charles DeGraff
Date: 2025.03.11
20:29:52 -04'00'

CHARLES DEGRAFF
Surveyor & Mapper Number 4706

SEE SHEET TWO FOR SKETCH
NOT VALID WITHOUT SHEETS ONE AND TWO

AFFORDABLE SURVEYS OF SWFL LLC.

3366 Stringfellow Road
Saint James City, FL 33956
239-283-1518

CHARLESCORDISCO@GMAIL.COM
239-691-0537
LB 8580

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO.
03/11/25		CLD	1"=100'	1 OF 2	

SKETCH AND DESCRIPTION
NOT A SURVEY

INSTRUMENT NUMBER

REVIEWED

Project: DCI2023-00040

By: Richard Burris

Dept: Legal Review

Date: 06/11/2025



N89°04'15"E

444.12'

N0°42'09"W 328.71'

LOT 1-D
3.7 Acres.
160710 Sq.ft.

S15°58'10"E

RIGHT OF WAY

340.35'

N15°58'10"W

POINT OF BEGINNING

S89°04'09"W

533.74'

SOUTH LINE OF SECTION 33-44-22

MARIA DRIVE

RIGHT OF WAY

POINT OF COMMENCEMENT
SOUTHEAST CORNER OF THE SOUTHEAST QUARTER
OF SECTION 33, TOWNSHIP 44 SOUTH, RANGE 22 EAST

N89°04'09"E
802.33'

SEE SHEET ONE FOR LEGAL DESCRIPTION
NOT VALID WITHOUT SHEET ONE AND TWO



AFFORDABLE SURVEYS OF SWFL LLC.

3386 Stringfellow Road
Saint James City, FL 33958
239-283-1518

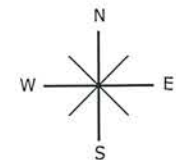
CHARLESCORDISCO@GMAIL.COM
239-691-0537
LB 8580

DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO.
03/11/25			1"=100'	2 OF 2	

DCI2023-00040

Zoning

 Subject Property



0 500
Feet



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 Development Parameters

- a. MCP. Development must be consistent with the one-page MCP entitled “Upper Captiva Carriage Club CPD Master Concept Plan,” prepared by J&L Industries, revised 10/22/2025 (Exhibit B1).
- b. Lee Plan and LDC. Development must comply with the LDC and Lee Plan at time of local development order, except as may be granted by deviation herein. Subsequent changes may require additional zoning approval.
- c. Development Parameters. The CPD is limited to a maximum of 5,000 square feet of commercial floor area, a maximum of 1.70 acres of impervious area, 92 commercial parking spaces, and three outdoor storage spaces, subject to conditions herein.

2. Uses and Site Development Regulations

a. Schedule of Uses

Accessory uses, buildings, and structures
Administrative Offices
Entrance gates and gatehouse
Essential services
Excavation: Water retention
Fences, Walls
Parking Lot: Commercial
Signs
Storage, Indoor (walk-in coolers)
Storage, Open for recreational vehicles or other personal vehicles

b. Site Development Regulations

General Parameters
Minimum Lot Coverage: 50 percent
Maximum Building Height: 35 feet
Minimum Open Space: 50 percent
Minimum Lot Area: 10,000 square feet
Minimum Lot Dimensions: Width: 100 feet

Depth:	100 feet
Minimum Planned Development:	50 feet
Perimeter Setback:	

3. **Open Space**

Development order plans must depict 1.98 acres of open space, comprised of 0.88 acres of indigenous open space and 1.10 acres of general open space.

4. **Indigenous Management Plan**

Development order plans must include an Indigenous Management Plan describing the method and frequency of indigenous preserve management to include beautiful pawpaw (*Deeringothamnus pulchellus*).

5. **Protected Species Management Plan**

Development order plans must include a Protected Species Management Plan describing methods to relocate gopher tortoises and beautiful pawpaw within the development area and the method of protection for protected species outside of the development area.

6. **Vegetation Removal Permit**

Prior to site disturbance, a Vegetation Removal Permit must be submitted that includes an indigenous preserve point map that includes protected species protection zones for gopher tortoises and beautiful pawpaw.

7. **Manatee Protection Plan**

Use of the storage yard to facilitate daily boat launching at the Pine Island Commercial Marina requires further development approval to ensure compliance with the Manatee Protection Plan.

8. **Pine Island Commercial Marina Lease Agreement**

Developer must submit an updated lease agreement with the development order.

9. **Landscape Buffers and Open Storage Screening**

Development order plans must depict the following buffers:

North Buffer:	Type B buffer that is 15 feet wide and contains five trees per 100 linear feet and a double hedge (shrubs must be eight-foot-high). Indigenous preserve may serve as the buffer, subject to compliance with the planting requirements. If the buffer does not meet the planting requirements once exotics are removed, a development order minor change or amendment will be required to demonstrate compliance with planting requirements.
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South Buffer:	Modified Type D buffer that is 25 feet wide and contains five canopy trees and 55 shrubs per 100 linear feet. Canopy trees
---------------	--

and shrubs must be clustered to mimic the natural environment. Shrubs must be specified on the landscape plan at six-feet-high.

East Buffer: Modified Type D buffer that is 25 feet wide and contains five canopy trees and 55 shrubs per 100 linear feet. Canopy trees and shrubs must be clustered to mimic the natural environment. Shrubs must be specified on the landscape plan at six-feet-high.

West Buffer: Type F buffer that is 30 feet wide and contains ten trees per 100 linear feet and a double hedge installed at eight-feet-high. Indigenous preserve may serve as the buffer, subject to compliance with the planting requirements. If the buffer does not meet the planting requirements once exotics are removed, a development order minor change or amendment will be required to demonstrate compliance with planting requirements.

Open Storage Screening: Open storage visible from street rights-of-way must be screened by six-foot-high shrubs along the east and south property lines. Open storage visible from a residential use must be screened by eight-foot-high shrubs along the west and north property lines. Applicant must demonstrate compliance with the shrub specifications within the indigenous preserve areas. The development order plans must specify the six-foot and eight-foot shrubs on the landscape plans.

Landscape Vegetation: Required landscaping must be native to Southwest Florida.

10. Transportation

- a. Development order plans must reflect a future interconnection with the property to the north on Stringfellow Road. The development order must provide a cross-access easement to the property adjacent to the north on Stringfellow Road, should that property rezone in the future. The location and width of the cross-access easement must be determined as part of the development order approval.
- b. If it is determined during development order review that a turn lane is warranted for the proposed site development, no deviation or variance to the requirements in Administrative Code 11-4 (Turn Lane Policy) will be granted. The access drive location on Stringfellow Road must be relocated or eliminated to accommodate construction of required turn lane(s).

11. Development Permits

This approval does not establish a right to obtain permits from state or federal agencies. Further, approval does not establish county liability if Applicant: (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 laws.

DEVIATIONS

1. **Connection Separation.** Deviation (1) seeks relief from LDC §10-285(a), which requires privately maintained streets, access roads, or accessways to be separated from arterial roads in a future non-urban area by 660 feet, to allow a minimum 255-foot intersection separation between the proposed Stringfellow Road access and Maria Drive and a minimum 350-foot intersection separation between the proposed Stringfellow Road and the closest driveway to the north.

HEX Recommendation: Approve, subject to Condition 10.

2. **Solid Waste Disposal.** Deviation (2) seeks relief from LDC §10-261, which requires dumpster enclosures, to allow for “roll out totes” as an alternative waste disposal system.

HEX Recommendation: Approve

Exhibits to Conditions:

B1 Master Concept Plan revised 10/22/2025

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. DCD Staff Report with attachments for DCI: Prepared by Elizabeth Workman, Principal Planner, received August 13, 2025 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. 48-Hour Notice: Email from Elizabeth Workman to Hearing Examiner, with copies to Fred Drovdlc, Chuck Wainright, Tyler Wainright, Anthony Rodriguez, Joseph Adams, Esq., and Mikki Rodolski, dated Tuesday, August 26, 2025, 9:39 AM (3 pages – 8.5"x11")
3. Revised DCD Staff Report with attachments for DCI: Prepared by Elizabeth Workman, Principal Planner, received October 8, 2025 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
4. Affidavit of Publication: For Zoning Case DCI2023-00040, Upper Captiva Carriage Club CPD (1 page – 8.5"x11")
5. Members of the Public Emails: (multiple pages – 8.5"x11")
6. PowerPoint Presentation: Prepared by Lee County Staff for DCI2023-00040, Upper Captiva Carriage Club CPD, dated October 23, 2025 (multiple pages – 8.5"x11") [color]
7. Written Submissions: Email from Elizabeth Workman to Maria Perez, Fred Drovdlc, Chuck Wainright, Yury Bykau, and Tyler Wainright, dated Tuesday, October 28, 2025, 11:01 AM (multiple pages – 8.5"x11")

APPLICANT EXHIBITS

1. 48-Hour Notice: Email from Fred Drovdlc to Hearing Examiner, with copies to Elizabeth Workman, Chuck Wainright, and Tyler Wainright, dated Tuesday, August 26, 2025, 8:24 AM (3 pages – 8.5"x11")
2. Second 48-Hour Notice: Email from Fred Drovdlc to Hearing Examiner, with copies to Elizabeth Workman, Chuck Wainright, and Tyler Wainright, dated Wednesday, October 22, 2025, 1:29 PM (3 pages – 8.5"x11")
3. PowerPoint Presentation: Prepared for Upper Captiva Carriage Club CPD, DCI2023-00040, dated October 24, 2025 (multiple pages – 8.5"x11") [color]

4. Lease Agreement: From Commercial Wet Slip Lease Agreement, Pine Island Commercial Marina, dated December 11, 2024, between Parks & Recreational of Lee County and Logistical Nemesis LLC (multiple pages – 8.5"x11")
5. Revised Master Concept Plan: Prepared for Upper Captiva Carriage Club CPD, dated September 13, 2023 (1 page – 11"x17" & 24"x36")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Elizabeth Workman

Applicant Representatives:

1. Fred Drovdlc
2. Tyler Wainright

Public Participants:

1. Christine Blum
2. Skylynn Brown
3. Susan Dahod
4. Chris Hinkle
5. Christopher Holtem
6. Alex Murphy
7. Martha Uhlar
8. Tim Uhlar

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.

DCI2023-00011
Southeast Water
Reclamation
Facility



CASE NUMBER & NAME: DCI2023-00011 / Southeast Water Reclamation Facility (Remand)

REQUEST: Rehearing of request to rezone 112 ± acres from Agricultural (AG-2) to Community Facilities Planned Development (CFPD) to allow for the development of an Advanced Water Reclamation Facility in accordance with court order in Spahn, et. al., v. Lee County, Case No. 24-CA-1479.

RESOLUTION NUMBER: Z-23-035

LOCATION: 18940 Green Meadow Road, Southeast Lee County, Lee County, FL

OWNER: Lee County - Lee County Utilities

APPLICANT: Lee County - Lee County Utilities

AGENT: Alexis Crespo, AICP
RVi Planning + Landscape Architecture, Inc.
28100 Bonita Grande Drive Suite 305
Bonita Springs, FL 34135

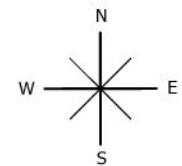
HEARING EXAMINER RECOMMENDATION: Approval, subject to conditions and deviations.

PARTICIPANTS: 1. Kenneth Doo
2. Marsha Ellis
3. Derek Felder
4. Britt Gladwell
5. Julia Lambert
6. Neale Montgomery
7. Peter Spahn
8. Serge Thomas
9. Patty Whitehead

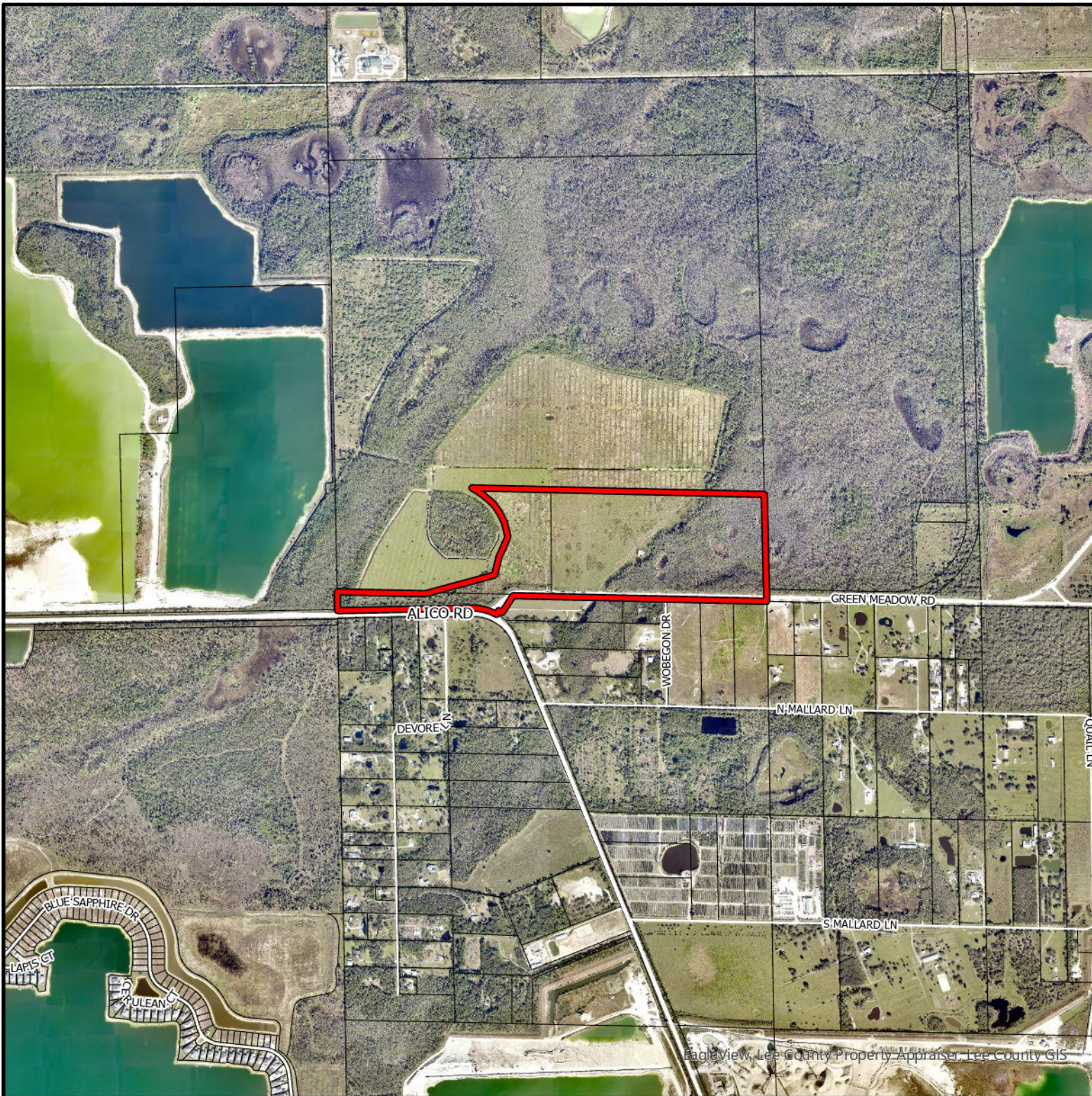
DCI2023-00011

Aerial

 Subject Property



0 1,000 2,000 3,000
Feet



EagleView, Lee County Property Appraiser, Lee County GIS

M E M O R A N D U M
FROM
THE OFFICE OF THE
LEE COUNTY HEARING EXAMINER

DATE: January 30, 2026

TO: Board of County Commissioners

FROM: Maria D. Perez *Maria Perez*
Executive Assistant

RE: DCI2023-00011 – SOUTHEAST WATER RECLAMATION FACILITY (REMAND)
Modification to Hearing Examiner Recommendation

The Hearing Examiner's Recommendation is modified as follows:

Exhibit B

REMAND HEARING PARTICIPANTS

Public Participants:

1. Kenneth Doo
2. Marsha Ellis
3. Derek Felder
4. Britt Gladwell
5. Julia Lambert
6. Neale Montgomery, Esq.
7. Peter Spahn
8. Serge Thomas

Copies Provided to: Michael Jacob, Deputy County Attorney
Joseph Adams, Assistant County Attorney
Anthony Rodriguez, Zoning Manager
Tracy Toussaint, Community Development
Applicant/Applicant's Representative(s)
Hearing Participants

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2023-00011

Regarding: **SOUTHEAST WATER RECLAMATION FACILITY
(REMAND)**

Location: 18940 Green Meadow Road
Southeast Lee County Planning Community
(District 2)

Remand Hearing Date: **January 15, 2026**

Legal Framework for Hearing Examiner Review

The Hearing Examiner (HEX) derives zoning authority from the duties codified in the Land Development Code (LDC) and Lee County Administrative Code.¹ The bounds of HEX authority are clearly defined and do not permit discretionary action. Accordingly, the HEX may consider only what is authorized by the LDC.

In zoning actions, parameters of HEX review are codified in LDC §34-145(d). Generally, the HEX is tasked with rendering a Recommendation to the Board of County Commissioners (Board) including findings of facts and conclusions of law. Findings and conclusions must relate to compatibility, consistency with the LDC and Lee Plan, environmental concerns, and transportation impacts.²

The HEX conducts quasi-judicial hearings on rezoning applications after County staff deems an application sufficient/ripe for review. The Parties present the request, and participants are given opportunity to comment.³ The HEX then issues a Recommendation to the Board.

The Board considers the HEX Recommendation at another quasi-judicial hearing.⁴ The Board must consider Staff and HEX recommendations, participant testimony, and evidence included with the HEX Recommendation.⁵ The Board may approve, deny, or remand the matter for further hearings.⁶

¹ LDC §34-145, stating "The Hearing Examiner is limited to the authority that is conferred by the following..."; See also *Id.* at (d)(1); Lee Co. Admin. Code 2-2 & 2-6.

² LDC §34-145(d)(4).

³ Lee Co. Admin. Code 2-6 §2.3.

⁴ LDC §34-83(a)(1).

⁵ LDC §34-83(a)(2).

⁶ LDC §34-83(4)a.

The LDC permits the Board to remand a case to the HEX for review of specific issues.⁷ The scope of a remanded hearing is limited to the issues identified by the Board.⁸

Procedural Summary

In 2023, Lee County Utilities initiated a request to rezone 112.21± acres from Agricultural to Community Facilities Planned Development for a water treatment facility.⁹ The property is located north of Alico Road and Green Meadow Road.¹⁰

The development program consists of 25,000 square feet of office, maintenance, and administration buildings, and infrastructure for treatment of up to 10 million gallons of wastewater per day.

Department of Community Development (DCD) staff found the application sufficient for hearing.¹¹ An evidentiary hearing before the HEX followed.¹² At hearing, County staff and retained experts testified to the need for additional utility capacity, site suitability, compatibility with surrounding uses, and compliance with LDC review criteria. Five participants testified and submitted materials in opposition.

The HEX issued a written Recommendation of approval, finding the application consistent with the Lee Plan, satisfied LDC review criteria, and supported by competent substantial evidence in the record.¹³

The Board subsequently approved the rezoning request.¹⁴

Three participants of record filed a Petition for Writ of Certiorari in Circuit Court challenging the Board's approval.¹⁵

The Circuit Court entered an Order Granting the Petition for Writ of Certiorari and quashed the Board's zoning approval.¹⁶

⁷ LDC §34-83(a)(4)a.1(b); Lee Co. Admin. Code 2-6 §4.

⁸ LDC §34-83(a)(4)a.1(b); Lee Co. Admin. Code 2-6 §4.1.D.

⁹ The proposed use is classified as Essential Service Facility, Group II. See LDC §34-622(c)(13).

¹⁰ The three parcels are identified by STRAP numbers 04-46-26-00-00001.1010, 04-46-26-00-00001.0010, and 09-46-26-00-00001.0170.

¹¹ Staff found the application sufficient on August 1, 2023. See Staff Report (pg. 1).

¹² The HEX conducted a hearing on the matter on October 19, 2023.

¹³ See Staff Report (Attachment C). The Recommendation was issued December 6, 2023.

¹⁴ The Board approved the request on January 17, 2024. LDC §34-82(a); Z-23-035; See also Staff Report (Attachment D). Applicant submitted a development order application on September 26, 2024, consistent with the approved zoning. DCD staff issued the development order on May 14, 2025. The property is under active development in accordance with development order DOS2024-00135.

¹⁵ Staff Report (Attachment J). The Petition is dated February 16, 2024.

¹⁶ Staff Report (Attachment K). The Order was issued October 25, 2025.

The Board remanded the zoning request to the HEX to address legal inconsistencies identified by the Court, specifically:¹⁷

1. Basis for Approval: The Court found the zoning approval improperly departed from the record created at the quasi-judicial hearing.
2. Previous Board Action: The Court found previous Board actions demonstrated prejudice and bias for a predetermined outcome.
3. Federal Aviation Administration (FAA) Advisory Circulars: The Court found the County failed to consider the most recent and restrictive FAA Advisory Circulars identified in LDC §34-1102.¹⁸

The first two findings instruct the Board to reach a decision on the merits of the zoning request based solely on competent substantial evidence in the case record. The third finding directs full consideration of FAA Advisory Circulars consistent with the LDC.¹⁹

The Board remanded the case to the HEX with instruction to conduct an evidentiary hearing limited to those three points. The LDC and Administrative Code limit the Hearing Examiner's scope of review on remand to the identified points of inquiry. The HEX held the remand hearing as instructed.²⁰

Basis for Approval and Previous Board Action

The LDC establishes the framework for review of applications to rezone property within unincorporated Lee County.²¹ Board and HEX jurisdiction are limited to evaluating whether 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. Provides sufficient access to support the proposed development intensity;

¹⁷ The Board remanded the case on December 3, 2025.

¹⁸ The Board directed remand of consideration of FAA Advisory Circular 150/5190-4B. LDC §34-1102 does not specifically identify that Advisory.

¹⁹ LDC §34-1102.

²⁰ The remand hearing occurred on January 15, 2026. Lee Co. Admin. Code 2-6 §4.1.D. Parties and participants were afforded procedural due process. Procedural due process requires notice of hearing and opportunity to be heard. Lee Co. Admin. Code 2-6 §2-3.D(1). The HEX provided all attendees an opportunity to speak, while refusing to hear testimony that was irrelevant or repetitive. Lee Co. Admin. Code 2-6 §2.3.C(2); Lee Co. Admin. Code 2-6 §2 & §4; *Carillon Community Residential v. Seminole County*, 45 So. 3d 7 (Fla. 5th DCA 2010). The record is comprised of the entirety of proceedings before the HEX and Board. The record contains written evidence and testimony received during the HEX hearing on October 19, 2023, the Board Hearings on January 17, 2024, and December 3, 2025, and the HEX remand hearing on January 15, 2026. References to the Staff Report in this document refer to the Remand Staff Report issued December 23, 2025.

²¹ LDC §34-83(a)(3)a; §34-145(d).

- 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.²²

When the requested zoning action is a planned development, the Board and HEX 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.²³

Board legislative action does not dictate approval in subsequent zoning actions.²⁴ LDC review criteria apply to *all* applicants, including the County. When reviewing a County-initiated rezoning application, the Board must separate legislative and quasi-judicial functions to ensure approval is based solely on competent substantial evidence in the record.

The LDC does not authorize the Board or HEX to revisit site selection in rezoning actions. They must review each request *as submitted* and evaluate against adopted review criteria.²⁵

The HEX Recommendation relied solely on competent substantial evidence presented in the record.²⁶ Based on the documentary and testimonial evidence presented, the Hearing Examiner affirms the Recommendation of approval, finding competent substantial evidence in the record to support approval.

Federal Aviation Administration (FAA) Advisory Circulars

The FAA issues Advisory Circulars to inform the public of nonregulatory material. Each Circular contains this statement:

This [Advisory Circular] does not constitute a regulation, is not mandatory, and is not legally binding in its own right.²⁷

²² LDC §34-145(d)(4)a.1.

²³ LDC §34-145(d)(4)a.2.

²⁴ The Board sits in a quasi-judicial capacity when evaluating zoning requests.

²⁵ See generally LDC §§34-83(a)(3) & 34-145(d)(4).

²⁶ The record is incorporated by reference on remand, including extensive evidence demonstrating compliance with LDC review criteria. See LDC §34-145(d)(4).

²⁷ FAA AC 150/5200-33C, 150/5190-4B, & 150/5300-13B.

The LDC incorporates FAA Advisory Circulars 150/5300-13A/B and 150/5200-33B/C by reference.²⁸ On remand, the Board directed the HEX to review and render a finding of applicability of both Circulars, as well as Circular 150/5190-4B.

Hearing testimony confirms staff evaluated the request for consistency with the LDC during its initial review, including applicable Advisory Circulars.²⁹ On remand, Staff further reviewed the request against applicable Circulars.³⁰

FAA Advisory Circular 150/5200-33C³¹

This Circular establishes advisory guidance for hazardous wildlife attractants on/near airports. The Circular recommends wastewater treatment facilities be located 10,000 feet from an Airport Operations Area. The Circular also advises a distance of five miles between the Airport Operations Area and hazardous wildlife attractants *if* the attractant could cause hazardous wildlife movement into/across approach or departure space.³²

The record confirms the request complies with this Advisory Circular. The property is located outside the 10,000-foot Airport Operations Area for the Southwest Florida International Airport (RSW) and is outside approach and departure paths of arriving/departing aircraft.³³

Additionally, the Lee County Port Authority (LCPA) reviewed the request and issued a Letter of No Objection.³⁴ The LCPA letter details extensive review undertaken to ensure compliance with the Circular, including coordinated efforts with the FAA and LCPA Hazardous Wildlife Working Group.³⁵ The LCPA review found “the project is not expected to create a hazardous wildlife attractant of impact to the airport.”³⁶

²⁸ The LDC reflects prior versions of each Circular while providing for amendment/renumbering.

²⁹ Staff confirmed their review applied LDC §34-1102 to the request. Rodriguez Testimony.

³⁰ See Staff Report (pg. 6-10, Attachment E-I); Staff Ex. 7 (slides 8-18). Applicant's expert ecologist is an FAA Qualified Airport Wildlife Biologist. Herrero Testimony (referencing resume on file). Ms. Herrero testified the request is compliant with LDC §34-1102.

³¹ Incorporated by reference in LDC §34-1102.

³² The FAA recommends against the construction of new wastewater treatment facilities or associated settling ponds within these areas. However, in instances where facilities are sited within this radius, proposed facility plans should be reviewed by a Qualified Airport Wildlife Biologist to identify measures to avoid or reduce the facility's potential to attract hazardous wildlife. If appropriate measures cannot be incorporated to reduce potential wildlife hazards, airport operators should document their opposition in a letter to the local jurisdiction. The record includes a Letter of No Objection from LCPA that identifies collaboration with the FAA and Qualified Airport Wildlife Biologists. See Staff Report (Attachment F).

³³ The property is 18,800 feet from the eastern end and 19,500 feet from the western end of existing runways. Further, the site is over 13,000 feet from the proposed runway. See Staff Report (pg. 7); See also Staff Ex. 7 (slide 8-9).

³⁴ See Staff Report (Attachment F).

³⁵ The LCPA Hazardous Wildlife Working Group includes FAA qualified Wildlife Biologists as recommended by the Circular. See Staff Report (pg. 7, Attachment F).

³⁶ See Staff Report (Attachment F).

FAA Advisory Circular 150/5190-4B³⁷

This Circular establishes advisory guidance on airport land use compatibility planning.³⁸ It establishes six core characteristics to evaluate when assessing compatibility.³⁹ The record demonstrates compliance with each criterion:

1. Aviation Noise

Aviation noise is a primary concern when addressing airport land use compatibility.⁴⁰ County staff determined the request is compatible given the property's distance from airport runways and the limited occupancy of the wastewater treatment facility.⁴¹

2. Effects on Airspace

The Circular prioritizes maintaining unobstructed airspace, protecting navigational facilities, and protecting existing/future airport capacity.⁴²

The request proposes development more than 18,000 feet from the existing runway.⁴³ The property is not within aircraft approach or departure zones. In addition, it is outside LCPA Airport Obstruction Notification Zones.⁴⁴ Conditions of approval limit building heights to 60 feet, protecting airport capacity beyond the Airport Obstruction Notification Zone.

³⁷ This Circular is not cited in LDC §34-1102.

³⁸ The Circular acknowledges the importance of planning for compatible development around airports, noting that this planning exercise provides opportunities for airport-related development (both aeronautical and non-aeronautical), preserves airport and aircraft operations, protects airport approach and departure zones, reduces potential for litigation related to land use compatibility, assures compliance with airport design standards, avoids hazardous wildlife attractants, and reduces noise exposure.

³⁹ FAA AC 150/5190-4B, 2-1.

⁴⁰ *Id.* Noise associated with airports can affect land use compatibility when considering proximity to flight patterns and times, the number of take-offs and landings from an airport, individuals' sensitivity to noise, type of construction materials used for buildings nearby to airport operations, and the type of aircraft using the airport.

⁴¹ See Staff Ex.7 (slide 11).

⁴² *Id.*; FAA AC 150/5190-4B, 2-3.

⁴³ The property is more than 13,000 feet from the future runway. See Staff Ex. 7 (slide 9).

⁴⁴ See Staff Report (Attachment I).

3. Visual/Atmospheric Interference

Maintaining an unobstructed view for pilots is a critical element of land use compatibility.⁴⁵ Of particular concern are uses producing dust, glare, or light.⁴⁶

The proposed facility presents no long-term concerns related to visual or atmospheric interference. Short-term construction impacts are mitigated by the property's distance from the airport.⁴⁷ The facility is designed to collect, treat, and discharge wastewater in a primarily closed system, generating negligible visual and atmospheric impacts.⁴⁸

4. Wildlife

The majority of strikes occur at/below 500 feet above ground level, with nearly twice as many strikes during the landing phase of flight than during takeoff run and climb.⁴⁹ Certain land uses such as mining, waste disposal, wastewater treatment facilities, and wetlands have the potential to act as wildlife attractants due to propensity to provide wildlife with food, water, or shelter.⁵⁰

Although the request contemplates a wastewater treatment facility specifically identified as a wildlife attractant, the property is *outside* the Airport Operations Area. The property is outside RSW's existing *and* future Runway Protection Zones, *and* aircraft approach/departure paths.⁵¹ As noted above, the LCPA issued a Letter of No Objection.⁵² Accordingly, the request, as conditioned, is consistent with FAA guidance regarding airport land use compatibility.

5. Protection of People and Property

The Circular encourages protection of people and property through Runway Protection Zones. The property is outside RSW's Runway Protection Zones. It presents no impact to the zone, consistent with this Circular.

⁴⁵ The Circular aims to ensure a safe airport approach and allow a pilot to safely transition from aircraft instruments to the visual segment of a flight plan. To preserve pilot control, it is recommended to limit both atmospheric interference (e.g., air turbulence from thermal plumes) and electronic interference that may result from high-energy use, production, or transmission facilities.

⁴⁶ Specific examples include open mining or construction activities, large billboards using flashing/changeable messaging, laser light devices, and source-points of smoke or steam. *Id.* at 2-9 and 2-10.

⁴⁷ Dust generated by construction activities is mitigated by the distance from the airport. Rodriguez Testimony.

⁴⁸ See Staff Ex. 7 (slide 13).

⁴⁹ *Id.*; FAA AC 150/5190-4B, 2-11.

⁵⁰ The Circular references the definition of wildlife attractant established in AC 150/5200-33C: "any human-made structure, land use practice, or human-made or natural geographic feature that can attract or sustain hazardous wildlife *within the landing or departure airspace, or Airport Operations Area* (emphasis added). *Id.*, FAA AC 150/5190-4B, 2-12.

⁵¹ See Staff Report (Attachment H).

⁵² See Staff Report (Attachment F).

6. Development Density

The Circular seeks to limit the number of structures or people in areas close to an airport to protect against accidents during descent or loss of control.⁵³ The Circular recommends low densities around airports.

The Circular concludes utilities present no impact with respect to noise sensitivity and concentration of people.⁵⁴

In sum, the property is located a sufficient distance from RSW's Airport Operation Area, outside of RSW's existing/future Runway Protection Zones, and outside of RSW's Airport Obstruction Notification Zones. As such, the request is consistent with this Circular.⁵⁵

FAA Advisory Circular 150/5300-13B⁵⁶

This Circular provides guidelines to address safety, efficiency, and capacity for airport design.⁵⁷

The Advisory Circular is inapplicable because the wastewater treatment facility is not located on airport property.⁵⁸

Conclusion

The HEX remand hearing provided procedural due process and preserved essential requirements of the law.⁵⁹ The Hearing Examiner affirms the Recommendation of Approval based solely upon competent substantial evidence within the record.

⁵³ The Circular defines "usage density" as the number of structures or people per acre.

⁵⁴ The Circular further concludes utility projects present possible impact to wildlife attractants and likely impacts to tall structures/visual obstructions. Staff explained that the request does not pose wildlife or height concerns within the specified review perimeter.

⁵⁵ See Staff Report (pg. 7-10); Rodriguez Testimony (Transcript pg. 19-28).

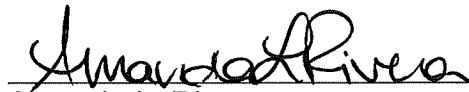
⁵⁶ Advisory Circular FAA AC 150/5300-13B, issued in 2022, replaced FAA AC 150/5300-13A, issued in 2012.

⁵⁷ FAA AC 150/5300-13B, ¶1.

⁵⁸ See Staff Report (pg. 10); Rodriguez Testimony (Transcript pg. 28).

⁵⁹ Participants testified to many matters outside the scope of limited remand review. The Hearing Examiner cannot consider evidence or testimony outside the scope of authority vested by the Code. See LDC §34-145(d); Lee Co. Admin. Code 2-6 §§2.3.C & 4.1.D.

Date Rendered: January 29, 2026.

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

Amanda L. Rivera
Deputy Hearing Examiner

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

Exhibits

- Exhibit A Exhibits Presented at Remand Hearing
- Exhibit B Remand Hearing Participants
- Exhibit C Information
- Exhibit D Hearing Examiner Recommendation dated December 6, 2023 (w/ Exhibits)

Exhibit A

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

- a. 48-Hour Notice: Memorandum from Dirk Danley, Jr., to Amanda L. Rivera, dated October 18, 2023 (multiple pages – 8.5"x11")
1. DCD Staff Report with attachments for DCI: Prepared by Dirk Danley, Jr., Principal Planner, date received October 4, 2023 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. Land Development Code: Section 10-351, General Provisions (1 page – 8.5"x11")
3. PowerPoint Presentation: Prepared by Lee County Staff for DCI2023-00011, Southeast Advanced Water Reclamation Facility, Staff Presentation, dated October 19, 2023 (multiple pages – 8.5"x11")[color]
4. Future Land Use Map: Generated October 2023, for CPA2023-00003 (1 page – 8.5"x11")[color]

STAFF'S EXHIBITS PRESENTED AT REMAND HEARING

5. DCD Staff Report (Remand) with attachments for DCI: Prepared by Anthony Rodriguez, Manager, date received December 23, 2025 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
6. 48-Hour Notice (Remand): Memorandum from Anthony Rodriguez, Zoning Manager, to Amand Rivera, Deputy Hearing Examiner, dated January 12, 2026 (2 pages 8.5"x11")
7. PowerPoint Presentation: Prepared by Lee County Staff for DCI2023-00011, Southeast Water Reclamation Facility (Remand) , Staff Presentation, dated January 15, 2026 (multiple pages – 8.5"x11")[color]

APPLICANT EXHIBITS

- a. 48-Hour Notice: Email from Josephine Medina, to Hearing Examiner, with copies to Diana Francois, Jordan L. Varble, Laura Herrero, Nathan Beals, Alexis Crespo, Kerstin Kenty, Erik Howard, Bill Beddow, Randy Boe, Matthew Tennant, Michael Avoglia, Pamela Keyes, Anthony Rodriguez, Dirk Danley, Jr., and Amanda Swindle, Esq., dated Monday, October 16, 2023 4:18 PM (multiple pages – 8.5"x11")[color]

1. PowerPoint Presentation: Prepared by RVI Planning for Southeast Advanced Reclamation Facility, DCI2023-00011, dated October 19, 2023 (multiple pages – 8.5"x11")[color]

APPLICANT'S EXHIBITS PRESENTED AT REMAND HEARING

2. 48-Hour Notice: Email from Alexis Crespo to Maria Perez, with copies to Talya Bickle, Michael Avoglia, Laurah Walker, Amanda Swindle, Esq., Jessica Wilkerson, and Anthony Rodriguez, dated Wednesday, January 7, 2026, 12:45 PM (3 pages – 8.5"x11")

OTHER EXHIBITS

Marsha Ellis

- 1(a) PowerPoint Presentation: Prepared for Southeast Advanced Reclamation Facility, DCI2023-00011(multiple double-sided pages – 8.5"x11")[color]
- 1(b) Letter: From Marsha Ellis, Lee County resident, to Commissioners, dated October 18, 2023, regarding Small Scale Amendment CPA2023-00003 SEAWF BOCC Zoning and Comprehensive Plan Hearing (2 pages – 8.5"x11")

PUBLIC'S EXHIBITS PRESENTED AT REMAND HEARING

Marsha Ellis

- 1 PowerPoint Presentation: Prepared for Southeast Reclamation Facility, DCI2023-00011(Remand) (multiple double-sided pages – 8.5"x11")[color]
2. PowerPoint Presentation: DR/GR 83,000 acres (multiple double-sided pages – 8.5"x11")[color]

Neale Montgomery

1. Memorandum: From Neale Montgomery, Esq., to Donna Marie Collins, dated January 14, 2026 (multiple pages – 8.5"x11")
2. The 2025 Florida States: (multiple pages – 8.5"x11")
3. Table 3(a): Capital Improvement Program Detail Report FY23/24/-FY27/28 (multiple pages – 8.5"x11")

Exhibit B

REMAND HEARING PARTICIPANTS

County Staff:

1. Anthony Rodriguez

Applicant Representatives:

1. Alexis Crespo
2. Laura Herrero

Public Participants:

1. Kenneth Doo
2. Marsha Ellis
3. Derek Felder
4. Britt Gladwell
5. Julia Lambert
6. Peter Spahn
7. Serge Thomas

Exhibit C
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. Presentations 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.

Exhibit D

HEARING EXAMINER RECOMMENDATION ISSUED 12/6/2023 (w/ Exhibits)

EXHIBIT D
HEARING EXAMINER RECOMMENDATION
DATED 12/6/2023 (w/Exhibits)

Summary of Hearing Examiner Recommendation

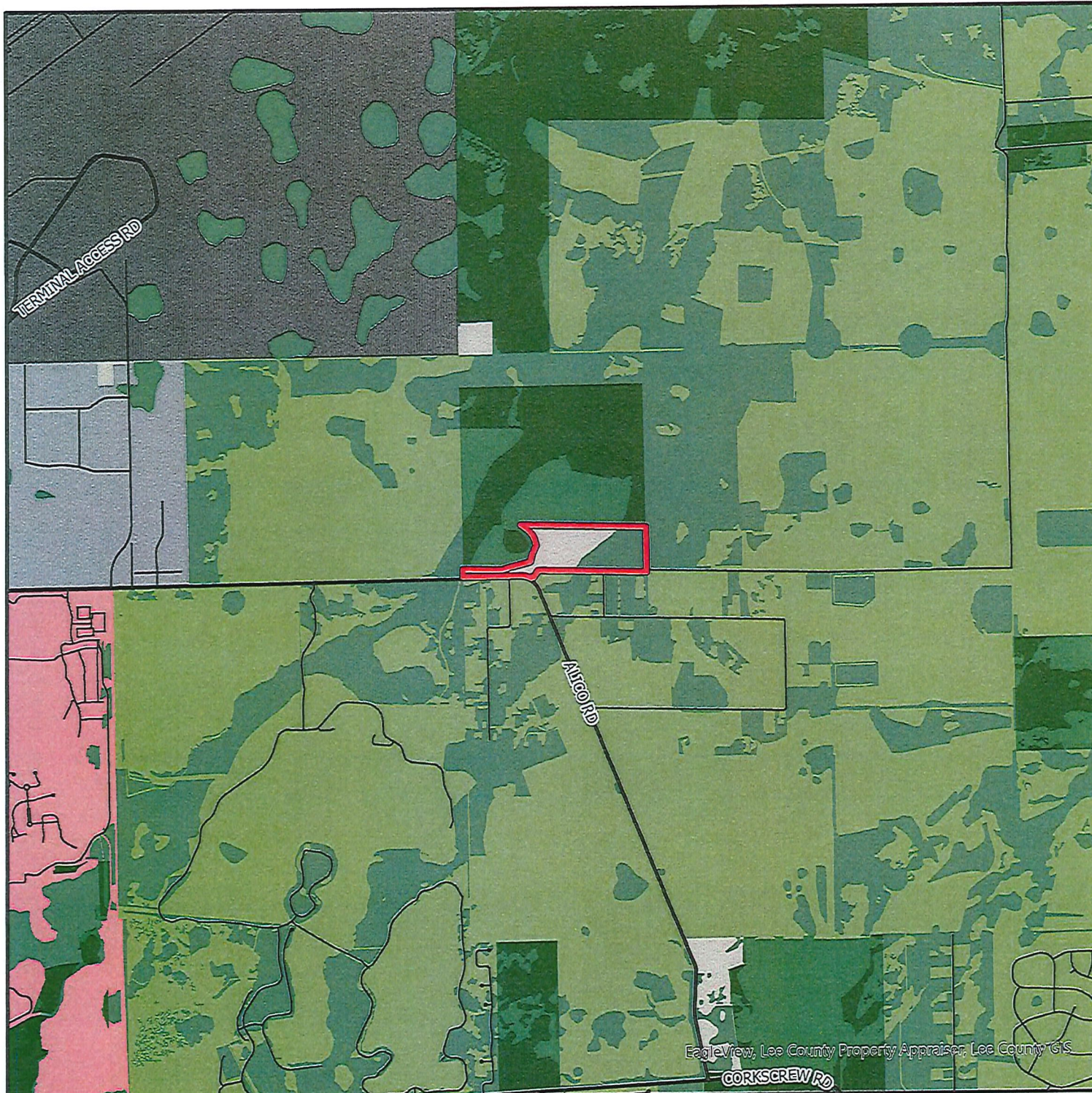
**SOUTHEAST ADVANCED WATER
RECLAMATION FACILITY**

Lee County Utilities seeks to construct a water reclamation facility north of Alico Road to service existing and emerging development.

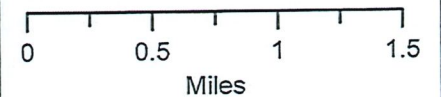
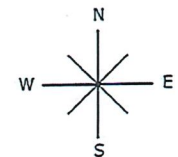
Detailed recommendation follows

DCI2023-00011

Future Land Use

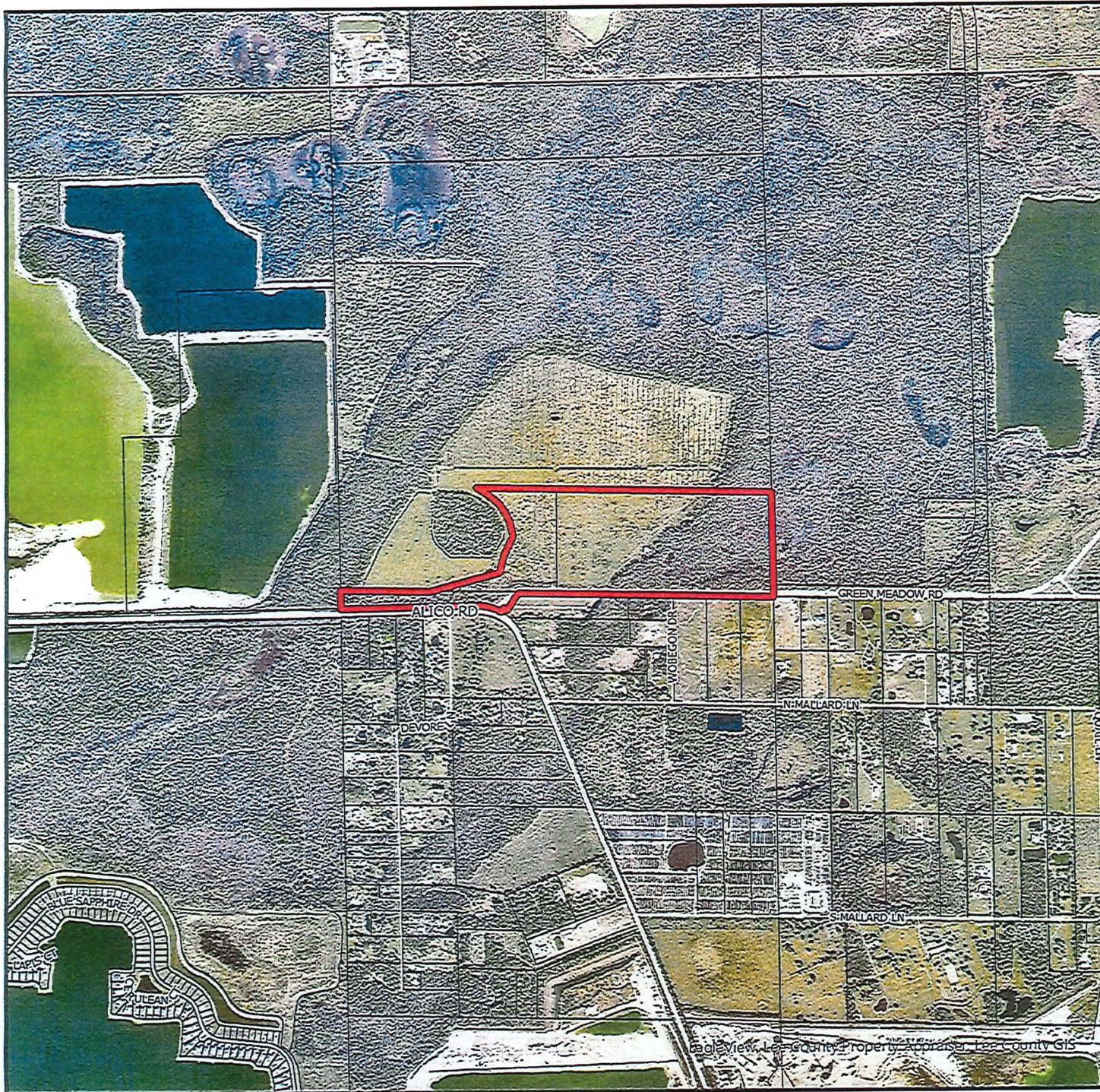


- Subject Property
- Public Facilities
- University Community
- Tradeport
- Airport
- Density Reduction/
Groundwater Resource
- Conservation Lands - Upland
- Wetlands
- Conservation Lands - Wetland



EagleView, Lee County Property Appraiser, Lee County GIS

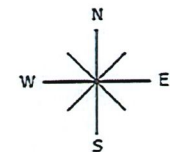
CORKSCREW RD



DCI2023-00011

Aerial

 Subject Property



0 1,000 2,000 3,000
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2023-00011

Regarding: SOUTHEAST ADVANCED WATER RECLAMATION FACILITY

Location: 18940 Green Meadow Road
Southeast Lee County Planning Community
(District 2)

Hearing Date: October 19, 2023

I. Request

Rezone 112.21± acres from Agricultural (AG-2) to Community Facilities Planned Development (CFPD) to allow Essential Services Facilities, Group II (Wastewater Treatment Plant), including 25,000 square feet of office, maintenance, administration buildings, and infrastructure necessary for the treatment of up to 10 million gallons of wastewater per day (MGD).

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

II. Hearing Examiner Recommendation

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

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.¹ In satisfaction of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone to CFPD.

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

¹ LDC §34-145(d)(1)(a) & (2)(a).

² LDC §34-145(d)(3).

³ LDC §34-145(d)(4).

Hearing Examiner may take judicial notice of previous Board decisions.⁴ The Hearing Examiner's recommendation must be based on competent and substantial evidence.⁵

Discussion supporting the recommendation of approval of the proposed CFPD follows below.

Request Synopsis

Lee County Utilities (LCU) seeks to construct a water reclamation facility on 112.21± acres to serve existing and emerging development.⁶ The area is developing at a rapid pace. Recent approvals permit 15,208 new dwelling units and 800,000 square feet of commercial development in need of utilities.⁷ The proposed treatment facility is designed to meet anticipated demand with a capacity of 10 MGD.⁸

Site design proposes 25,000 square feet of office, maintenance, and administration buildings with supporting infrastructure. The Green Meadow Road/future Alico Road extension provides sole access, with a maintenance access to adjoining Conservation 20/20 lands.⁹

The Board recently adopted a Lee Plan amendment to re-designate the property from Density Reduction/Ground Water Resource (DR/GR) to Public Facilities.¹⁰ The site remains vacant except for a wireless communication facility.¹¹

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;

⁴ Lee Co. Admin. Code 2-6, §2.3.D(4)(b).

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

⁶ See Staff Report (pg. 1-2, Attachment D).

⁷ See Staff Report (pg. 2, Attachments I-J, referencing the FFD and Kingston settlement agreements).

⁸ See Staff Report (pg. 3).

⁹ See Staff Report (Attachment D); MCP.

¹⁰ Lee Co. Ord. 23-28. Applicant is seeking a concurrent Lee Plan amendment to change the property's future land use designation from DR/GR to Public Facilities. CPA2023-00003; Staff Report (Attachment K).

¹¹ See Staff Report (pg. 1, citing SEZ2008-00013).

- 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.¹²

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

- H. The proposed use/mix of uses is appropriate at the proposed location;
- I. Recommended conditions (1) provide sufficient safeguards to the public interest, and (2) reasonably relate to impacts on the public interest expected from the proposed development; and
- J. Requested deviations (1) enhance achievement of the objectives of the planned development, and (2) promote the LDC's intent to protect public health, safety, and welfare.¹³

Site History

The property has been cleared and used for agricultural pursuits since the 1960s. Row crops historically occupied the site until cattle grazing commenced in 2002.¹⁴ In 2008, the site received special exception approval for a wireless communication facility.¹⁵

In 2016, the county completed the Corkscrew Overlay Area Wastewater Master Planning Report (the "Report").¹⁶ The Report identified a need to construct a wastewater treatment plant in Southeast Lee County to meet existing and emerging growth. The Report analyzed two potential sites, adding the subject property in a 2017 addendum.¹⁷ County staff reviewed siting options, ultimately selecting this location after extensive due diligence.¹⁸

Applicant submitted a zoning request in 2018 to develop a wastewater treatment plant on the site with a collocated solid waste transfer station.¹⁹ Staff withdrew the

¹² LDC §34-145(d)(4)(a)(1).

¹³ LDC §34-145(d)(4)(a)(2).

¹⁴ See Staff Report (Attachment K).

¹⁵ SEZ2008-00013 and LDO2009-00045; See Staff Report (Attachment K).

¹⁶ See Staff Report (Attachment K, pg. 6).

¹⁷ See *Id.*

¹⁸ See *Id.*

¹⁹ See Staff Report (pg. 1, Attachment K).

request to address public concerns and evaluate design alternatives. Since then, public utilities demand has continued to increase.²⁰

The current request *does not include* a solid waste component.²¹

Surrounding Area²²

Lands to the north, east, and west are zoned agricultural within the DR/GR. These lands are vacant, predominantly restoration areas under conservation easements prohibiting future development. The Florida Rock mine sits farther east.²³

Green Meadow Road abuts to the south. Properties south of the road are a mix of residential and agricultural uses on large lots. The nearest residence is 350 feet southeast.²⁴

Lee Plan Consistency

Rezoning requests must be compatible with existing/planned uses in the surrounding area.²⁵ Planned developments must be consistent with the Lee Plan²⁶ and located to minimize negative effects of proposed uses on neighboring properties.²⁷

The Lee Plan designates the property within the Public Facilities and Wetlands future land use categories in the Southeast Lee County Planning Community.²⁸ Applicant recently secured a Lee Plan amendment to change 36± acres of the property from the DR/GR future land use designation to Public Facilities.²⁹ Proposed development occurs on Public Facilities lands.³⁰

²⁰ The FFD and Kingston Settlement Agreements approve a combined 15,208 dwelling units, 800,000 square feet commercial uses, and 240 hotel rooms in the service area. See Staff Report (Attachment D, I, J, K).

²¹ The removal of the solid waste transfer station is paramount in distinguishing this request from the 2018 request. Compatibility concerns raised by that request were primarily related to the solid waste component. Applicant explained there is no longer space for the solid waste transfer facility on the MCP, and the Schedule of Uses does not include this use.

²² See Staff Report (pg. 1-2).

²³ See Staff Report (Attachment H: Z-12-003).

²⁴ See Staff Report (pg. 5); Applicant Ex. 1 (slide 24).

²⁵ LDC §34-145(d)(4)(a).

²⁶ LDC §34-411(a).

²⁷ LDC §34-411(c) and (i).

²⁸ Lee Plan Map 1-A.

²⁹ CPA2023-00003; Staff Report (Attachment K).

³⁰ See Staff Report (pg. 4, Attachment B).

Public Facilities areas are publicly owned lands hosting uses including parks, schools, airports, and other governmental facilities.³¹ Public utility facilities such as the proposed water treatment plant are permitted in all land use categories.³²

Much of the site remains within the Wetlands category. Permitted uses in Wetlands consist of low density residential and recreational uses that do not adversely affect wetland ecological function. The request does not propose development within Wetlands areas.³³

The Southeast Lee County Community Plan endeavors to protect natural resources through acquisition/restoration efforts.³⁴ Public facilities are an identified permitted use in this community.³⁵ Allowable uses must be compatible with protecting the community's environment.³⁶ Applicant designed the proposed facility to avoid on-site wetlands and preserve historic flowways and associated habitat.³⁷ Applicant provided surface/groundwater models in satisfaction of Lee Plan directives.

The Lee Plan highlights the need to provide wastewater treatment/disposal throughout the county.³⁸ Utilities must construct sufficient treatment facilities to meet/exceed acceptable service standards.³⁹ The requested facility is necessary to supplement the Three Oaks Water Reclamation Facility and meet wastewater demand in the region.⁴⁰

Compatibility/Master Concept Plan (MCP)

Site design divides the property into three tracts:

- Tract A occupies 50.57± acres and contains the development footprint: the wastewater treatment plant, storage tanks, pump station, injection well, maintenance/administration buildings, and supporting infrastructure.⁴¹
- Tract B is reserved for future Alico Road Extension right-of-way.
- Tract C runs along the eastern border, comprised of wetland preserves.

³¹ Lee Plan Policy 1.1.8.

³² Lee Plan Policy 2.1.3; Goal 33.

³³ Preserved areas remain within the Wetlands categories.

³⁴ Lee Plan Goal 33.

³⁵ *Id.*

³⁶ *Id.*

³⁷ See MCP; Lee Plan Goal 33, Policies 33.1.7, 60.1.1, 60.1.2.

³⁸ Lee Plan Goal 56.

³⁹ Lee Plan Policy 56.1.3.

⁴⁰ See Staff Report (pg. 5). That facility is not suited to meet demands within the service area.

⁴¹ See Staff Report (Attachment D).

- Development is setback more than 100 feet from property lines and 200 feet from the Alico Road Extension right-of-way;
- The facility will be bordered by an eight-foot-tall fence with landscaping along the fence exterior;
- Nearest residents are separated by a sizable water detention area, enhanced Type D buffer on Tract A. Tract C is separated by a 50-foot right-of-way tree preservation buffer;
- Structures are located as far north as possible to minimize visual impacts;
- Limits height to 35-60 feet, although utilities structures are generally exempt from height requirements;⁴³ and
- Committed to use best management practices to limit odor.

Transportation

Planned developments must have access to roads with sufficient capacity to support proposed intensity.⁴⁶ Existing regulations or conditions of approval must address expected impacts on transportation facilities.⁴⁷

⁴⁷ LDC §34-145(d)(4)(a)(1)(e); §34-411(d)(2).

The MCP denotes a single access point to Green Meadow Road/Alico Road extension. Applicant demonstrated the request provides sufficient access to support proposed development.

Applicant's transportation expert prepared a Traffic Impact Statement (TIS) to assess transportation impacts of the proposed facility.⁴⁸ The TIS conservatively estimated the request generates 166 daily peak trips.⁴⁹ Expert testimony reflected the request will likely generate less trips based upon limited staffing and the nature of the use. Access is confined primarily to employees and service vehicles.⁵⁰ The facility will be staffed by two to three employees per shift, with three shifts per day to ensure constant operation.⁵¹ Staff reviewed the TIS and concluded the request will not adversely impact the surrounding roadway system.⁵²

Site related impacts will be evaluated during development order review.⁵³

Environmental and Natural Resources

Planned development design should reflect creative use of open space.⁵⁴ Developers must try to protect and preserve natural site features.⁵⁵

Site design limits development to upland disturbed areas. Conservation 20/20 lands abut the property to the north and west. The site plan protects onsite jurisdictional wetlands as preserves. Thirty acres of indigenous preserves maintain connectivity with the historic wetland slough.⁵⁶ On-site preserves connect to off-site preservation lands to maintain vital connections. Record evidence demonstrates the request poses no impacts to on-site wetlands/preserves or to off-site conservation lands.⁵⁷

⁴⁸ Traffic Circulation Analysis prepared by Johnson Engineering, dated June 2023. Applicant Ex. A: 48-Hour Memorandum dated October 16, 2023. The study reflects a daily generation of 166 peak hour trips.

⁴⁹ Traffic Circulation Analysis prepared by Johnson Engineering, dated June 2023. Applicant Ex. A: 48-Hour Memorandum dated October 16, 2023.

⁵⁰ Hildebrand and Howard Testimony (Transcript pg. 59-60). The facility is staffed with two to three operators at all times across three shifts. *Id.*

⁵¹ *Id.*

⁵² See Staff Report (pg. 8, Attachment P). Applicant's expert opined the TIS anticipates far more trips than comparable LCU facilities produce.

⁵³ Site related improvements include capital improvements and right-of-way dedications for "direct access" improvements to the project. Direct access improvements include site driveways/roads, median cuts made necessary by driveways/roads, right-turn, left-turn and deceleration/acceleration lanes serving driveways/roads, traffic control measures, and roads/intersection improvements whose primary purpose at the time of construction is to provide access to the development. See, Lee Plan Glossary and LDC §2-264; Lee Plan Objective 39.1, Policy 39.1.1. LDC §2-66 *et. seq.*

⁵⁴ LDC §34-411(h).

⁵⁵ LDC §34-411(g).

⁵⁶ See Staff Report (Attachment D).

⁵⁷ See Staff Report (pg. 6, Attachment D, M); Herrero Testimony (Transcript pg. 43-56).

Applicant's ecologist observed no protected species during environmental assessment.⁵⁹ Site design incorporates two wildlife crossings connecting the property to conservation lands to preserve ecological corridors.⁶⁰

Integrated surface and groundwater modeling demonstrates proposed development will maintain historic levels.⁶¹ Record submittals evidence the facility will not impact adjacent properties.⁶² Proposed conditions of approval require Applicant to submit a Water Quality Monitoring Plan.⁶³

The site plan doubles LDC open space requirements.⁶⁴ Substantial buffers separate development from adjoining lands.

Public Services

Public/urban services are the facilities, capital improvements, and infrastructure necessary to support development.⁶⁵ The Lee Plan requires an evaluation of available urban services during the rezoning process.⁶⁶

The proposed wastewater treatment plant is infrastructure that will provide sanitary sewer service to the surrounding area.⁶⁷

There are adequate public services to support the proposed development.⁶⁸ The property directly accesses Green Meadow Road/Future Alico Road extension. Lee County Utilities services the site with sufficient capacity.⁶⁹ Emergency service providers can accommodate the requested development.⁷⁰

⁵⁹ See Staff Report (Attachment M).

⁶⁰ See Staff Report (pg. 6). The Staff Report references a proposed condition requiring this connection. Applicant testified the crossing is part of the Alico Road extension project plans rather than the CFPD. Crespo Testimony (Transcript pg. 11). Herrero Testimony (Transcript pg. 46-48).

⁶¹ See Staff Report (pg. 6, Attachment N); Howard Testimony (Transcript pg. 41-42).

⁶² See *Id.* Mr. Howard testified the injection zone is 2,000 feet with the nearest residential well more than 800 feet away. His expert opinion concluded no supply wells will be affected by the request. Transcript pg. 40.

⁶³ See Condition 4; Howard Testimony (Transcript pg. 42).

⁶⁴ The LDC requires 24.3± acres open space, the MCP reflects 48.82± acres. See Staff Report (Attachment D). Testimony reflects 37% of development area will be indigenous preserve. Herrero Testimony (Transcript pg. 49).

⁶⁵ Lee Plan Glossary: Public services include public water/sewer, paved streets/roads, public transit, parks/recreation facilities, urban levels of police, fire, and emergency services, urban surface water management, schools, employment, industrial, and commercial centers, institutional, public, or administrative facilities, community facilities such as senior citizens centers, libraries, and community centers.

⁶⁶ Lee Plan Policy 2.2.1.

⁶⁷ See Staff Report (Attachment L).

⁶⁸ See Staff Report (Attachment D, pg. 6-7).

⁶⁹ See Staff Report (Attachment D, L). Developer funded improvements may be required to connect to potable water lines. See *Id.* at Attachment L.

⁷⁰ See Staff Report (Attachment D, pg. 7 & Attachment K, pg. 8).

Public

Applicant conducted public outreach including an information session to discuss the proposed facility and a website dedicated to the request.⁷⁰ Applicant reported the session was well-attended, and the website was routinely updated to reflect current application materials.

Several members of the public appeared at hearing.⁷¹ Speakers provided extensive testimony on traffic, environmental impact, and compatibility concerns.⁷²

Deviations

"Deviations" are departures from LDC regulations.⁷³ The request seeks four deviations relating to buffers, bank slopes/plantings, and access. Staff recommended approval of all deviations.

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

1. Enhances achievement of objectives of the planned development; and
2. Preserves and promotes the general intent of the LDC to protect the public health, safety, and welfare.⁷⁴

Applying LDC deviation standards of review to testimony and evidence in the record, the Hearing Examiner concludes requested deviations meet approval criteria.⁷⁵

Conditions

The county must administer the zoning process so proposed land uses acceptably minimize adverse impacts to adjacent property. Conditions must plausibly relate to anticipated impacts from the proposed development and must be pertinent to mitigation of those impacts on public health, safety, and welfare.⁷⁶

The CFPD will be subject to conditions of approval. The conditions relate to impacts anticipated from the project.⁷⁷ The Hearing Examiner recommends:

1. Revisions to conditions to improve clarity; and

⁷⁰ Applicant detailed community outreach efforts, including open house style session and website. Crespo Testimony (Transcript pg. 60-61); Applicant Ex. 1 (slide 70).

⁷¹ Five speakers offered testimony on the record. See Transcript (pg. 79-203).

⁷² Some testimony touched on matters outside the scope of Hearing Examiner review. See LDC §34-145(d)(1)&(4), (f).

⁷³ LDC §34-2.

⁷⁴ LDC §34-145(d)(4).

⁷⁵ LDC §34-377(a)(4).

⁷⁶ LDC §34-932(b).

⁷⁷ LDC §34-83(b)(4)a.3.

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

Conclusion

The Hearing Examiner concurs with staff's analysis and recommendation of approval.

IV. Findings and Conclusions

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

A. *As conditioned herein*, the proposed CFPD:

1. Complies with the Lee Plan. See, Lee Plan Goals 2, 4, 33, 56, 77, 115, 124, 125, Objectives 1.5, 2.1, 2.2, 125.1, 158.3, and Policies 1.1.8, 2.2.1, 5.1.5, 33.1.7, 56.1.3, 60.1.1, 60.1.2, 123.2.3, 125.1.2, 125.1.3, 126.1.1, Standards 4.1.1, 4.1.2, 4.1.4; Lee Plan Maps 1A-B, 4B.
2. Complies with the LDC and other County regulations or qualifies for deviations. See, LDC Chapters 10 and 34.
3. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.8, 2.1.1, 2.1.2, 2.2.1; LDC 34-411(c), (i), and (j).
4. Provides sufficient access to support the proposed development intensity, with expected impacts on transportation facilities addressed by existing County regulations or conditions of approval. See Lee Plan Policy 37.3.3, 39.1.1.
5. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goals 77, 124, 125, Objectives 1.5, 4.1, 77.1, Policy 124.1.2, 125.1.2, 125.1.3, Standard 4.1.4, LDC 34-411(h).
6. Will be served by urban services. See, Lee Plan Glossary, Map 4A-B, Goal 2; Objectives 2.1, 2.2, 4.1, 53.1, 56.1; Policies 2.2.1, and Standards 4.1.1 and 4.1.2; LDC 34-411(d).

- B. The Master Concept Plan reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. See, Lee Plan Goal 39, Objective 39.1; LDC 34-411(d).

- C. The proposed mix of uses is appropriate at the proposed location. See, Lee Policies 1.1.8, 2.1.1.
- D. The 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.
- E. As conditioned herein, the deviations:
 - 1. Enhance the objectives of the planned development; and
 - 2. Promote the intent of the LDC to protect public health, safety, and welfare. See, 34-377(b)(4).

Date of Recommendation: December 6, 2023.



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: DCI2023-00011

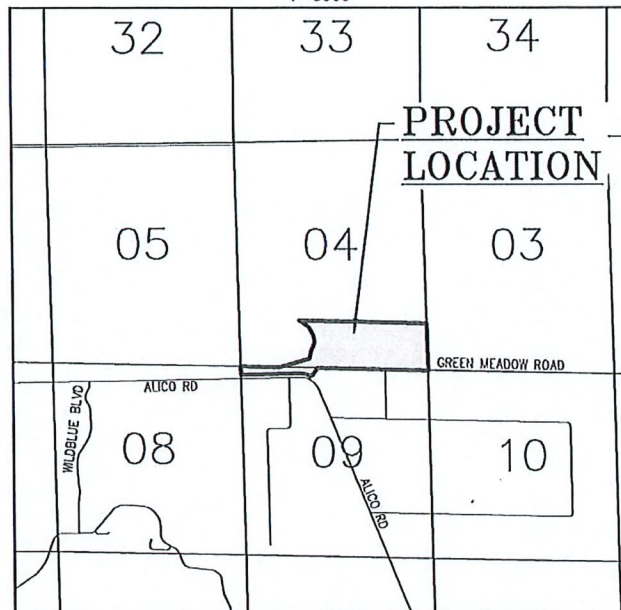
Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

SKETCH AND DESCRIPTION SOUTHEAST ADVANCED WATER RECLAMATION FACILITY (SEAWRF)

A PARCEL OF LAND LYING IN
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST,
LEE COUNTY, FLORIDA

VICINITY MAP
1"=5000'



REVIEWED
DCI2023-00011
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/24/2023

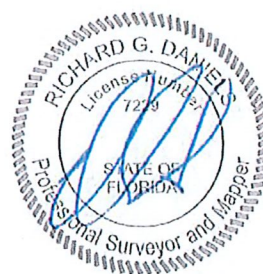
0 1250 2500 5000
(INTENDED DISPLAY SCALE: 1"=5000')

THIS IS NOT A SURVEY.

NOTES:

1. THIS IS NOT A BOUNDARY SURVEY, NOR IS IT INTENDED TO BE USED AS ONE.
2. HORIZONTAL DATA AND COORDINATES SHOWN HEREON ARE IN FEET AND ARE PROJECTED ONTO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983 (NAD83), 2011 ADJUSTMENT.
3. BEARINGS SHOWN HEREON ARE BASED ON THE SOUTHERLY BOUNDARY OF THE SOUTHEAST 1/4 OF SECTION 4, WHEREIN SAID BOUNDARY BEARS N88°44'03"W.
4. PARCEL CONTAINS 112.21 ACRES, MORE OR LESS.
5. P.O.B. = POINT OF BEGINNING
6. ORB = OFFICIAL RECORDS BOOK
7. ORI = OFFICIAL RECORDS INSTRUMENT
8. PG = PAGE
9. ROW, R/W = RIGHT-OF-WAY
10. SQ. FT. = SQUARE FEET
11. N: = NORTHING
12. E: = EASTING
13. CL = CENTERLINE
14. DESCRIPTION ON SHEETS 4 AND 5.
15. NOT VALID WITHOUT SHEETS 1 THROUGH 5 OF 5.
16. DESCRIPTION PER A BOUNDARY SURVEY OF THE SUBJECT PARCEL BY BWLK ENGINEERS, DATED 10/19/2018, AS PROVIDED BY LEE COUNTY.

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



Digitally signed by
Richard G. Daniels
LS7229 State of
Florida
Date: 2023.02.06
13:55:15 -05'00'

THIS SKETCH HAS BEEN DIGITALLY SIGNED BY:
RICHARD G. DANIELS (FOR THE FIRM L.B. 642)
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 7229
ON THE DATE ADJACENT TO THE SEAL.

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

JOHNSON
ENGINEERING

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P.O. BOX 1550
FORT MYERS, FLORIDA 33902-1550
PHONE: (239) 334-0046
E.B. #642 & L.B. #642

SKETCH AND DESCRIPTION
SEAWRF
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

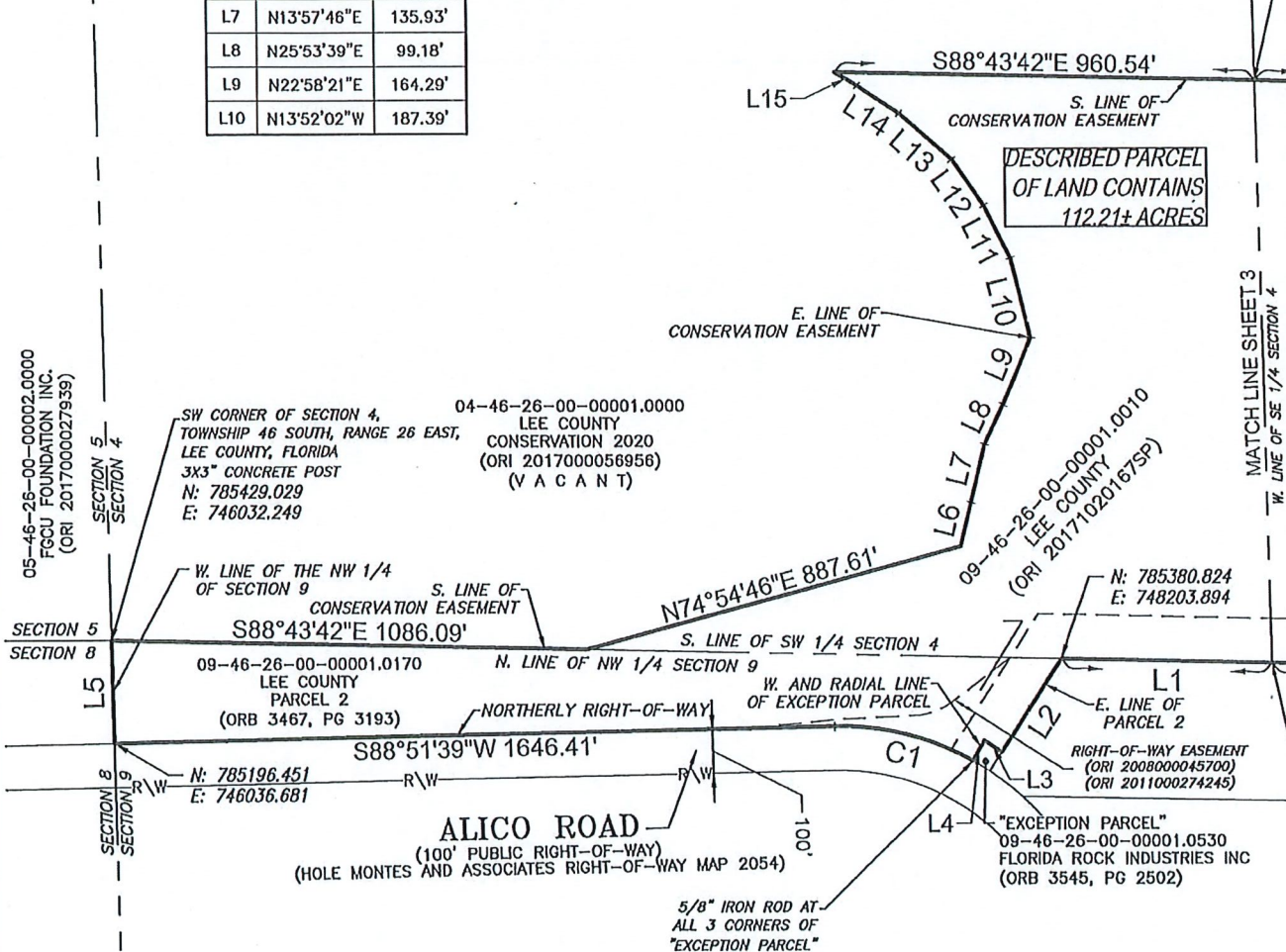
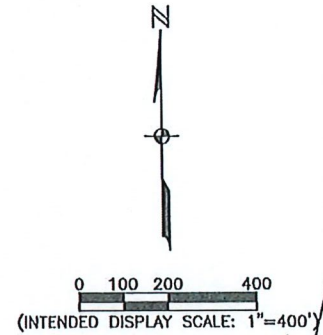
DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
01/31/2023	20181232-001	4-46-26	AS SHOWN	1 OF 5

REVIEWED
DCI2023-00011
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/24/2023

CURVE TABLE					
CURVE	RADIUS	DELTA	CHORD BEARING	CHORD	LENGTH
C1	621.78'	30°23'54"	N75°56'24"W	326.03'	329.89'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N88°43'42"W	479.91'
L2	S33°20'29"W	252.32'
L3	N56°39'29"W	48.06'
L4	S29°15'33"W	53.27'
L5	N01°05'30"W	232.62'
L6	N13°37'39"E	102.68'
L7	N13°57'46"E	135.93'
L8	N25°53'39"E	99.18'
L9	N22°58'21"E	164.29'
L10	N13°52'02"W	187.39'

LINE TABLE		
LINE	BEARING	DISTANCE
L11	N26°44'22"W	133.22'
L12	N34°43'47"W	127.36'
L13	N49°07'04"W	159.47'
L14	N56°07'08"W	114.44'
L15	N59°55'40"W	59.60'



THIS IS NOT A SURVEY.

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SKETCH AND DESCRIPTION
SEAWRF
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
01/31/2023	20181232-001	4-46-26	AS SHOWN	2 OF 5

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DCI2023-00011
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/24/2023



0 100 200 400
(INTENDED DISPLAY SCALE: 1"=400')

NW CORNER OF 1319.318' OF SE 1/4
OF SECTION 4, TOWNSHIP 46 SOUTH,
RANGE 26 EAST,
LEE COUNTY, FLORIDA
N: 786690.442
E: 748655.241

SOUTH LINE OF
CONSERVATION EASEMENT

04-46-26-00-00001.0000
LEE COUNTY
CONSERVATION 2020
(ORI 2017000056956)

S88°44'03"E 2650.53'

NORTHERLY LINE OF SOUTH
1319.318' OF SE 1/4

N: 786631.892
E: 751305.120

DESCRIBED PARCEL
OF LAND CONTAINS
112.21+ ACRES

04-46-26-00-00001.1010
LEE COUNTY
(ORI 2019000218750)

SOUTH 1319.318 FEET OF
THE SE 1/4 OF SECTION 4

75'x75' LEASE AREA
(ORI 2008000045700)
(ORI 2008000163408)
(ORI 2009000067153)
(ORI 2016000121155)
(ITEM 5.)

20' ACCESS EASEMENT
(ORI 2008000045700)
(ORI 2008000163408)
(ORI 2009000067153)
(ORI 2016000121155)

20'x30' LEASE AREA LAND SPACE
(ORI 2009000207699)

20' ACCESS EASEMENT
(ORI 2009000291211)

100' RIGHT-OF-WAY EASEMENT
(ORB 1265, PG 2133)
(ORB 1278, PG 928)
(ORB 1839, PG 2871)
(ORB 1860, PG 755)

34-45-26-L3-U3029.3279
LEE COUNTY
(ORI 2020000212962)

SOUTH BOUNDARY OF SECTION 4

09-46-26-00-00001.0100
HARPER PROPERTY
HOLDINGS 3 LLC
(ORI 2011000274245)

N88°44'03"W 2652.51'
(BASIS OF BEARINGS)

09-46-26-00-00001.0248
PETER J SPAHN
(ORB 1858, PG 4518)

09-46-26-00-00001.0250
MBW HOLDINGS LLC
(ORI 2017000121696)

09-46-26-00-00001.0390
MBW HOLDINGS LLC
(ORI 2017000121661)

09-46-26-00-00001.0270
MBW HOLDINGS LLC
(ORI 2017000121661)

SW CORNER SE 1/4 OF SECTION 4,
TOWNSHIP 46 SOUTH, RANGE 26 EAST,
LEE COUNTY, FLORIDA
4X4" CONCRETE MONUMENT
STAMPED "LB642"

P.O.B.

SE CORNER OF SECTION 4,
TOWNSHIP 46 SOUTH, RANGE 26 EAST,
LEE COUNTY, FLORIDA
4X4" CONCRETE MONUMENT
WITH "X" TOP
N: 785311.580
E: 751335.550

THIS IS NOT A SURVEY.

JOHNSON
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PHONE: (239) 334-0046
E.B. #642 & L.B. #642

SKETCH AND DESCRIPTION
SEAWRF
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
01/31/2023	20181232-001	4-46-26	AS SHOWN	3 OF 5

\\FMS01\Drawings\2018\20181232-001\Surveying\Sketches\SOUTHEAST ADVANCED WATER RECLAMATION FACILITY (SEAWRF) Overall.dwg (S3) RGD Feb 06, 2023 -- 1:24pm

REVIEWED
DCI2023-00011
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/24/2023

DESCRIPTION

SOUTHEAST ADVANCED WATER RECLAMATION FACILITY (SEAWRF)
PARCEL LYING IN
SECTIONS 4 AND 9, TOWNSHIP 46 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA
(AS PROVIDED BY LEE COUNTY)

A PARCEL OF LAND LYING IN SECTIONS 4 AND 9, TOWNSHIP 46 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA. (OVERALL PARCEL-UTILITIES WASTEWATER TREATMENT PLANT AND SOLID WASTE TRANSFER STATION)

A PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, BEING THE SOUTH 1319.318 FEET OF THE SOUTHEAST QUARTER (SE 1/4) AND THAT PORTION OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST LYING SOUTH AND EAST OF THE CONSERVATION EASEMENT PARCEL AS RECORDED IN INSTRUMENT NUMBER 2017000056956 AND ALSO PARCEL NUMBER 2 AS RECORDED IN OFFICIAL RECORD BOOK 3467 AT PAGE 3193, BEING A PARCEL OF LAND LYING NORTH OF ALICO ROAD IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 9, TOWNSHIP 46 SOUTH, RANGE 26 EAST, AND FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A 4" X 4" CONCRETE MONUMENT WITH "X" ON TOP MARKING THE SOUTHEAST CORNER OF SAID SECTION 4; THENCE N88°44'03"W ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF SAID SECTION 4 FOR 2652.51 FEET TO A 4" X 4" CONCRETE MONUMENT STAMPED "LB642" MARKING THE SOUTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 4; THENCE CONTINUE N88°43'42"W ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 4 FOR 479.91 FEET TO THE NORTHEAST CORNER OF SAID PARCEL NUMBER 2 AS RECORDED IN OFFICIAL RECORD BOOK 3467 AT PAGE 3193; THENCE S33°20'29"W ALONG THE EAST LINE OF SAID PARCEL NUMBER 2 FOR 252.32 FEET TO A 5/8" IRON ROD MARKING THE NORTHEAST CORNER OF AN EXCEPTION PARCEL AS DESCRIBED IN SAID OFFICIAL RECORD BOOK 3467 AT PAGE 3193 FOR PARCEL NUMBER 2; THENCE N56°39'29"W ALONG THE NORTH LINE OF SAID EXCEPTION PARCEL FOR 48.06 FEET TO A 5/8" IRON ROD MARKING THE NORTHWEST CORNER OF SAID EXCEPTION PARCEL; THENCE S29°15'33"W ALONG A RADIAL LINE AND ALONG THE WEST LINE OF SAID EXCEPTION PARCEL FOR 53.27 FEET TO A 5/8" IRON ROD MARKING AN INTERSECTION WITH A CURVE LYING ON THE NORTHERLY RIGHT-OF-WAY LINE OF ALICO ROAD CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 621.78 FEET AND TO WHICH POINT A RADIAL LINE BEARS N29°15'33"E; THENCE CONTINUE NORTHWESTERLY AND WESTERLY ALONG SAID NORTHERLY RIGHT-OF-WAY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 30°23'54" (CHORD BEARING N75°56'24"W) FOR AN ARC DISTANCE OF 329.89 FEET TO A POINT OF TANGENCY; THENCE S88°51'39"W ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID ALICO ROAD FOR 1646.41 FEET TO THE WEST LINE OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 9, BEING THE SOUTHWEST CORNER OF SAID PARCEL NUMBER 2 AS RECORDED IN OFFICIAL RECORD BOOK 3467 AT PAGE 3193; THENCE N01°05'30"W ALONG THE WEST LINE OF SAID NORTHWEST ONE QUARTER (NW 1/4) OF SAID SECTION 9 FOR 232.62 FEET TO A 3"x3" CONCRETE POST MARKING THE SOUTHWEST CORNER OF SAID SECTION 4, THE SAME BEING THE SOUTHWEST CORNER OF A CONSERVATION EASEMENT PARCEL AS RECORDED IN INSTRUMENT NO. 2017000056956; THENCE S88°43'42"E ALONG THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF SAID SECTION 4 AND ALONG THE SOUTH LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 1086.09 FEET; THENCE N74°54'46"E ALONG THE SOUTH LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 887.61 FEET; THENCE N13°37'39"E ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 102.68 FEET; THENCE N13°57'46"E ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 135.93 FEET; THENCE N25°53'39"E ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 99.18 FEET; THENCE N22°58'21"E ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 164.29 FEET; THENCE N13°52'02"W ALONG THE EAST LINE OF SAID (CONTINUED ON SHEET 5)

THIS IS NOT A SURVEY.



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SKETCH AND DESCRIPTION
SEAWRF
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
01/31/2023	20181232-001	4-46-26	AS SHOWN	4 OF 5

\\FMS01\Drawings\2018\20181232-001\Surveying\Sketches\SOUTHEAST ADVANCED WATER RECLAMATION FACILITY (SEAWRF) Overall.dwg (54) RGD Feb 06, 2023 - 1:24pm

\\FTMS01\Drawings\2018\20181232-001\Surveying\Sketches\SEAWRF\Overall.dwg (SE) RSD Feb 06, 2023 - 1:24pm

DESCRIPTION

SOUTHEAST ADVANCED WATER RECLAMATION FACILITY (SEAWRF)
PARCEL LYING IN
SECTIONS 4 AND 9, TOWNSHIP 46 SOUTH, RANGE 26 EAST
LEE COUNTY, FLORIDA
(AS PROVIDED BY LEE COUNTY)

(CONTINUED FROM SHEET 4)
CONSERVATION EASEMENT PARCEL FOR 187.39 FEET; THENCE N26°44'22"W ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 133.22 FEET; THENCE N34°43'47"W ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 127.36 FEET; THENCE N49°07'04"W ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 159.47 FEET; THENCE N56°07'08"W ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 114.44 FEET; THENCE N59°55'40"W ALONG THE EAST LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 59.60 FEET TO AN INTERSECTION WITH A LINE BEARING N88°43'42"W (BEING PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST (SW 1/4) OF SAID SECTION 4) AND PASSING THROUGH THE NORTHWEST CORNER OF THE SOUTH 1319.318 FEET OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 4; THENCE CONTINUE S88°43'42"E ALONG SAID PARALLEL LINE AND ALONG THE SOUTH LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 960.54 FEET TO THE NORTHWEST CORNER OF THE SOUTH 1319.318 FEET OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 4; THENCE CONTINUE S88°44'03"E ALONG THE NORTH LINE OF THE SOUTH 1319.318 FEET OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 4 AND ALONG THE SOUTH LINE OF SAID CONSERVATION EASEMENT PARCEL FOR 2650.53 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE S01°19'13"E ALONG THE EAST LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 4 FOR 1320.66 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 4 AND THE POINT OF BEGINNING.

CONTAINING 112.21 ACRES, MORE OR LESS.

BEARINGS ARE STATE PLANE GRID (FLORIDA WEST ZONE) WITH THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 4 AS BEARING N88°43'42"W

REVIEWED
DCI2023-00011
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/24/2023

THIS IS NOT A SURVEY.



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

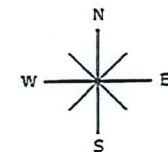
SKETCH AND DESCRIPTION				
SEAWRF				
SECTION 4, TOWNSHIP 46 SOUTH, RANGE 26 EAST				
LEE COUNTY, FLORIDA				
DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
01/31/2023	20181232-001	4-46-26	AS SHOWN	5 OF 5



DCI2023-00011

Zoning

 Subject Property



0 1,000 2,000 3,000
Feet



Eagleview, Lee County Property Appraiser, Lee County GIS

Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

1. Master Concept Plan/Development Parameters

- a. MCP. Development must be substantially consistent with the one-page MCP entitled "Southeast Advanced Water Reclamation Facility" dated October 2023, except as modified by the conditions below.
- b. LDC and Lee Plan. Development must comply with the LDC and Lee Plan at the time of local development order approval, except as may be granted by deviation as part of this planned development. Subsequent amendments to the Master Concept Plan or the conditions or deviations attached thereto are subject to the planned development amendment process established by the Land Development Code.
- c. Development Parameters. Project intensity is limited to a maximum intensity of 25,000 square feet of office, maintenance, and administration buildings, and the infrastructure necessary for up to 10 million gallons of wastewater per day.

2. Uses and Site Development Regulations

a. Schedule of Uses

Accessory Uses and Structures
Administrative Offices
Communication Facility, Wireless (LDC §34-1441 *et. seq.*),
See Condition 3
Entrance Gates and Gatehouse
Essential Services
Essential Service Facilities: Groups I and II (Excluding Solid Waste Transfer Facilities)
Excavation: Water Retention Only
Fences, Walls
Government Agencies, Offices Only
Maintenance Facility (Government)
Parking Lot, accessory
Signs
Storage, Indoor
Water Retention/ Detention

b. Site Development Regulations

Minimum lot area and dimensions:

Lot area: 39,500 Square Feet

Lot width: 100 feet

Lot Depth: 130 feet

Setbacks:

Wastewater Treatment Plant: In accordance with LDC §10-351

Street: 200 feet (Alico Road ROW)
100 feet (All other Perimeter Boundaries)

Waterbody, other: 25 feet

Maximum height: 45 feet except for structures referenced
in LDC §34-2173 are limited to 60 feet

Minimum Open Space: 30%

Maximum lot coverage: 35%

3. Wireless Communication Facility

The Wireless Communication Facility approved in the Hearing Examiner's Decision SEZ2008-00013 remains in full force and effect.

4. Water Quality Monitoring

The Water Quality Monitoring Plan for Southeast Advanced Water Reclamation Facility (dated August 2023) must be provided for Lee County Division of Natural Resources approval prior to development order issuance.

5. Open Space

Development order plans must depict 60.3% (48.82 acres) of open space.

6. Environmental Conditions

a. Development order plans must include:

- i. A site plan depicting 31.39 acres of indigenous open space.
- ii. An indigenous management plan, consistent with LDC §10-415(b)4, over the entire preservation area, including supplemental plantings if required by the habitat type and removal of exotics. Development services staff must approve plans prior to the issuance of the first development order.

- iii. A map depicting where mechanical and hand-removal methods of exotic vegetation removal will be located. Mechanical clearing must be limited to non-indigenous areas. Native vegetation must be protected by tree barricades.
 - iv. The indigenous management plan must demonstrate hand removal/treatment within saturated areas of the proposed preserve to avoid grade change.
 - v. A vegetation removal permit with a survey point map depicting the preservation and restoration areas and mechanical clearing limits.
 - vi. An indigenous monitoring plan for five years after the initial time zero report.
 - vii. A schedule for exotic removal and restoration of indigenous habitat to begin concurrently with improvements to land.
 - viii. A schedule for the indigenous preservation and restoration to be completed within the first five years.
 - ix. Landscape plans depicting native species for the required supplemental plantings.
- b. No development in wetlands regulated by the State of Florida may be commenced without the appropriate state agency permit/authorization. Development orders/permits authorizing development within wetlands or lands located within the Wetlands future land use category may be issued subject to a condition that construction may not commence until issuance of required state permits.
- c. Prior to the issuance of a Certificate of Compliance, if the proposed restoration plantings fail, Applicant must provide temporary irrigation approved by Lee County Development Services Staff.

7. Buffer Conditions

Development order plans must depict a:

- a. 30-foot Type D right-of-way buffer along the south property line;
- b. 30-foot Type F buffer along the southern portion of the west property line; and
- c. 20-foot buffer with an 8-foot-tall fence and a 6-foot double hedge row to be planted at 48 inches tall and maintained at 72 inches tall along the northern property line.

8. Development Permits

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

state/federal law. Applicant must obtain applicable state/federal permits prior to commencing development.

DEVIATIONS

1. Buffer. Deviation 1 seeks relief from LDC §10-416(d)(3), which requires a 30-foot Type F Buffer for wastewater treatment plants when abutting public preserve lands for conservation and/or passive recreation, to allow a 30-foot Type F buffer with an 8-foot tall fence extending from the southwest corner of Tract A northward for approximately 300 feet and a 20-foot buffer with an 8-foot tall fence and a 5-foot double hedge row to be planted at 48 inches tall and maintained at 60 inches tall along the remaining west and north boundary of Tract A.

HEX Recommendation: Approved, subject to the following condition:

Prior to the issuance of the first development order, development order plans must depict a 20-foot buffer with an 8-foot-tall fence and a 6-foot double hedge row to be planted at 48 inches tall and maintained at 72 inches tall along the northern property line.

2. Lake Bank Slope. Deviation 2 seeks relief from LDC §10-329 (d)(4) which requires a 6:1 lake bank slope to allow for a 4:1 lake bank slope with enhanced slope protection measures for retention/detention areas within the project.

HEX Recommendation: Approve, subject to the following condition:

Prior to the approval of a development order, a cross-section demonstrating the reinforcement or turf mats must be submitted and signed/sealed by a licensed engineer. The cross-section must be approved by Development Services Staff.

3. Littoral Shelf. Deviation 3 seeks relief from LDC §10-418(2)(c), which requires a 20-foot-wide planted littoral shelf extending waterward of the control elevation at a depth no greater than 2 feet below the control elevation, to allow no planted littoral shelf.

HEX Recommendation: Approve, subject to the following condition:

Applicant must demonstrate compliance with Florida Statute's surface water quality standards.

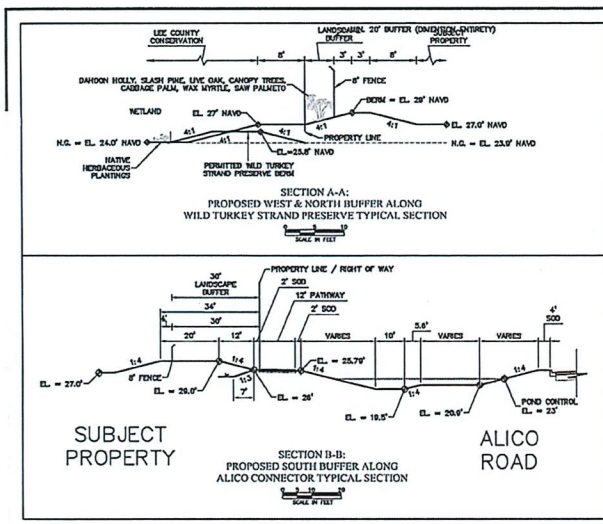
4. Access. Deviation 4 seeks relief from LDC §10-291(3), which requires commercial or industrial development of more than ten acres to provide more than one means of ingress or egress for the development, to allow for only one means of ingress or egress from the facility.

HEX Recommendation: Approved, subject to the following condition:

The developer must record a notice to all future property owners, in the public record, prior to issuance of a local development order allowing construction of the access to the development. The notice must detail the emergency access plan and provide information as to where a copy of this plan may be obtained from the developer or developer's successor.

Exhibits to Conditions:

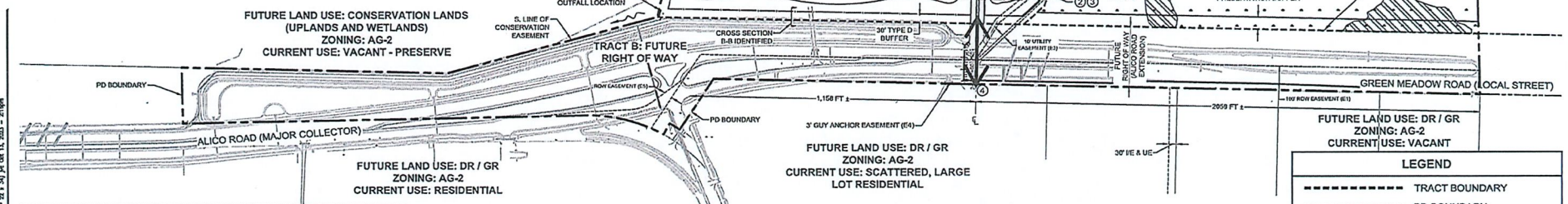
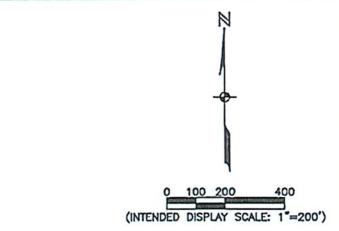
B1 Master Concept Plan dated October 2023



PD SUMMARY:
TRACT A: 50.56 ACRES
TRACT B: 31.21 ACRES
TRACT C: 30.43 ACRES
TOTAL: 112.21 ACRES

FUTURE LAND USE: CONSERVATION LANDS (UPLAND)
ZONING: AG-2
CURRENT USE: VACANT - PRESERVE

EASEMENT:
E1: ORB 1265, PG 2133
ORB 1278, PG 928
ORB 1839, PG 2871
ORB 1860, PG 755
E2: ORI 2008000045700
ORI 2008000163408
ORI 2009000067153
ORI 2009000291211
E3: ORI 2009000291211
E4: ORI 2009000291211
E5: ORI 2008000045700
ORI 201000274245
E6: ORI 2008000045700
ORI 2008000163408
ORI 2009000067153
ORI 2010000121155
E7: ORI 2009000291211
ORI 2009000291211



OPEN SPACE AND INDIGENOUS PRESERVE	
OPEN SPACE REQUIRED	(81 x 0.30) = 24.30 AC
OPEN SPACE PROVIDED	48.82 AC
INDIGENOUS PRESERVE REQUIRED	(24.30 x 0.5) = 12.15 AC
INDIGENOUS PRESERVE PROVIDED	31.39 AC
EXISTING INDIGENOUS PRESERVE	28.55 AC
INDIGENOUS PRESERVE WITH RESTORATION	2.84 AC
DETAILED OPEN SPACE / INDIGENOUS PRESERVE CALCULATIONS	
WETLAND PRESERVE (INDIGENOUS PRESERVE)	30.43 AC
25' WETLAND BUFFERS (INDIGENOUS PRESERVE)	0.96 AC
PERIMETER BUFFERS	1.43 AC
INTERNAL OPEN SPACE	16.00 AC
TOTAL	48.82 AC

- NOTES:
- THIS MASTER CONCEPT PLAN (MCP) IS CONCEPTUAL IN NATURE AND SUBJECT TO CHANGES DUE TO AGENCY REVIEW AND SITE CONDITIONS.
 - TOTAL DEVELOPMENT AREA: 112.21 ACRES MINUS FUTURE RIGHT OF WAY (31.21 ACRES) IS 81 ACRES.
 - THE DESIGN, LOCATION, AND CONFIGURATION OF THE PROPOSED DEVELOPMENT AREA TRACTS, INTERNAL AND EXTERNAL INGRESS/EGRESS POINT LOCATIONS, DRIVES, LAND IMPROVEMENTS AND STRUCTURES ARE APPROXIMATE AND SUBJECT TO ALTERATION AT TIME OF DEVELOPMENT ORDER FOR EACH TRACT. CHANGES TO THE MCP THAT ARE CONSISTENT WITH THE INTENT, CHARACTER, AND PROPERTY DEVELOPMENT REGULATIONS OF THIS CFPD CAN BE APPROVED ADMINISTRATIVELY.
 - FUTURE LAND USE DESIGNATION: PUBLIC FACILITIES, WETLANDS, AND DR/GR
 - PHASING PROGRAM: THIS IS A MULTI-PHASED PROJECT. PLEASE REFER TO THE PHASING PROGRAM NARRATIVE.
 - THE WETLAND PRESERVE AREA WILL PROVIDE FOR AND EXCEED THE REQUIRED 30' TYPE "F" BUFFER REQUIREMENT ALONG A PORTION OF THE NORTHERN AND ENTIRE EASTERN PROPERTY BOUNDARY AS WELL AS THE REQUIRED 50' RIGHT-OF-WAY TREE PRESERVATION BUFFER ALONG A PORTION OF THE SOUTHERN PROPERTY BOUNDARY.
 - FOR PURPOSES OF CALCULATING OPEN SPACE REQUIRED AND PROVIDED, THE PROPERTY AREA USED IS ONLY THAT PORTION OF THE PLANNED DEVELOPMENT WITHIN TRACTS A AND C DUE TO THE REDUCED LAND AREA AS A RESULT OF THE LAND TO BE UTILIZED FOR THE FUTURE ALICO ROAD EXTENSION RIGHT OF WAY.
 - DEVIATIONS 2 & 3 APPLY TO ALL LAKES.
 - AN ONSITE AREA FOR THE DISPOSAL OF SOLID WASTE IN ACCORDANCE WITH LDC SECTION 10-261 WILL BE PROVIDED AT TIME OF DEVELOPMENT ORDER.
 - MAXIMUM HEIGHT OF STRUCTURES, HABITABLE AND NON-HABITABLE SHALL NOT EXCEED 60 FEET MEASURED FROM MINIMUM FLOOD ELEVATION.

LEGEND	
---	TRACT BOUNDARY
---	PD BOUNDARY
↔	PROJECT INGRESS/EGRESS
#	DEVIATION LOCATIONS
...	WETLAND PRESERVE AREA
▨	INDIGENOUS PRESERVE WITH RESTORATION
○	PHASE 1 (6 MGD)
▨	PHASE 2 (8 MGD)
▨	PHASE 3 (10 MGD)

REVISIONS

RVi Planning + Landscape Architecture

Jacobs

JOHNSON ENGINEERING

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FORT MYERS, FLORIDA 33902-1550
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DAVID LEE HOWARD, PE
FL License No. 60574

SOUTHEAST ADVANCED WATER RECLAMATION FACILITY
Lee County Utilities
CFPD
Master Concept Plan

DATE	PROJECT NO.	FILE NO.	SCALE	SHEET
October 2023	20101232-002		As Shown	

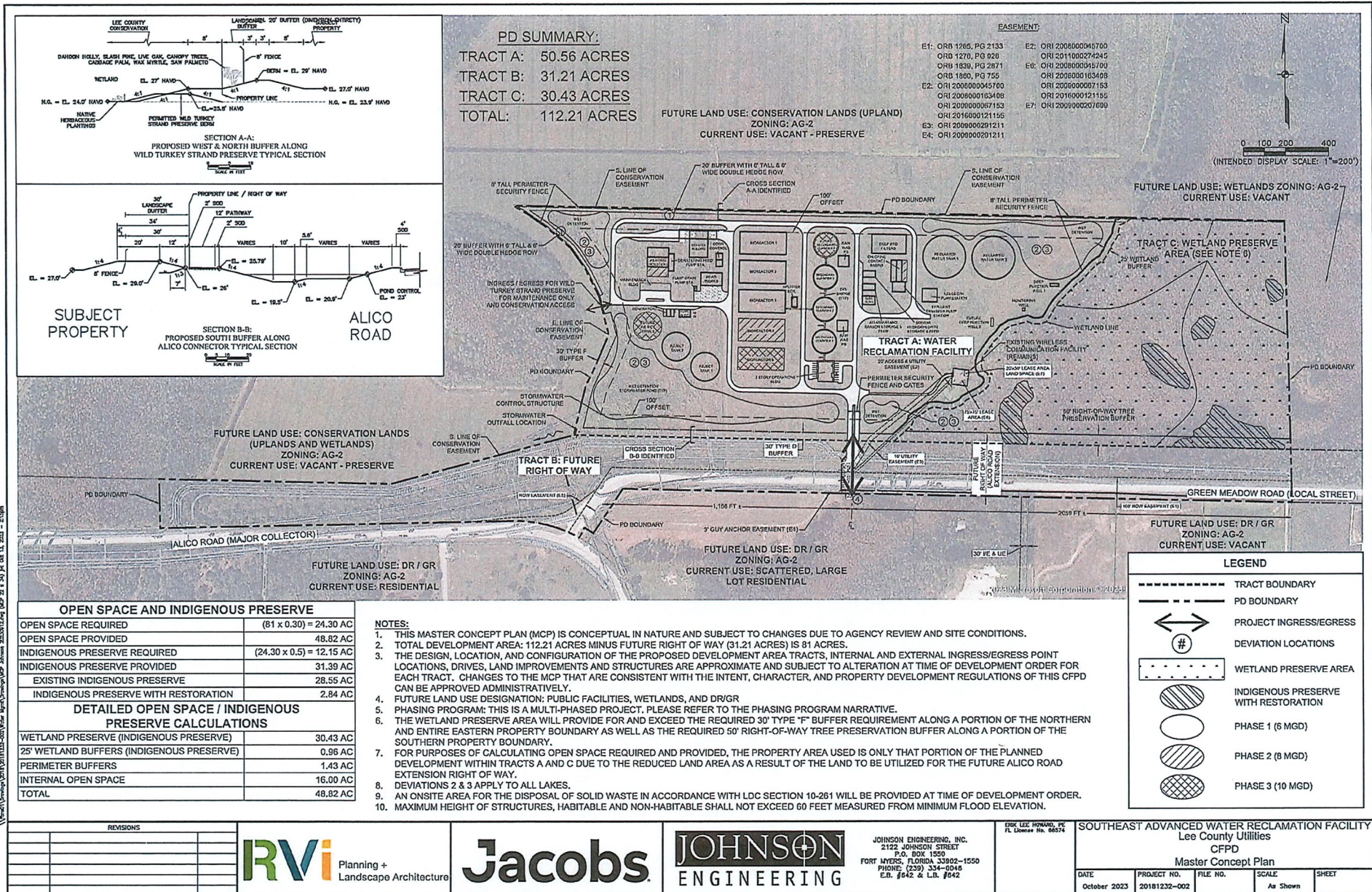


Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

- a. *48-Hour Notice*: Memorandum from Dirk Danley, Jr., to Amanda L. Rivera, dated October 18, 2023 (multiple pages – 8.5"x11")
1. *DCD Staff Report with attachments for DCI*: Prepared by Dirk Danley, Jr., Principal Planner, date received October 4, 2023 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *Land Development Code*: Section 10-351, General Provisions (1 page – 8.5"x11")
3. *PowerPoint Presentation*: Prepared by Lee County Staff for DCI2023-00011, Southeast Advanced Water Reclamation Facility, Staff Presentation, dated October 19, 2023 (multiple pages – 8.5"x11")[color]
4. *Future Land Use Map*: Generated October 2023, for CPA2023-00003 (1 page – 8.5"x11")[color]

APPLICANT EXHIBITS

- a. *48-Hour Notice*: Email from Josephine Medina, to Hearing Examiner, with copies to Diana Francois, Jordan L. Varble, Laura Herrero, Nathan Beals, Alexis Crespo, Kerstin Kenty, Erik Howard, Bill Beddow, Randy Boe, Matthew Tennant, Michael Avoglia, Pamela Keyes, Anthony Rodriguez, Dirk Danley, Jr., and Amanda Swindle, Esq., dated Monday, October 16, 2023 4:18 PM (multiple pages – 8.5"x11")[color]
1. *PowerPoint Presentation*: Prepared by RVI Planning for Southeast Advanced Reclamation Facility, DCI2023-00011, dated October 19, 2023 (multiple pages – 8.5"x11")[color]

OTHER EXHIBITS

- 1(a) *PowerPoint Presentation*: Prepared for Southeast Advanced Reclamation Facility, DCI2023-00011(multiple double-sided pages – 8.5"x11")[color]
- 1(b) *Letter*: From Marsha Ellis, Lee County resident, to Commissioners, dated October 18, 2023, regarding Small Scale Amendment CPA2023-00003 SEAWF BOCC Zoning and Comprehensive Plan Hearing (2 pages – 8.5"x11")

Exhibit D
HEARING PARTICIPANTS

County Staff:

1. Dirk Danley, Jr.

Applicant Representatives:

1. Nathan Beals
2. Alexis Crespo
3. Laura Herrero
4. Josh Hilderbrand
5. Erik Howard
6. Matthew Tennant

Public Participants:

1. Marsha Ellis
2. Julia Lambert
3. Peter Spahn
4. Serge Thomas
5. Patty Whitehead

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.