

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

WHEREAS, an application was filed by United Way of Lee County, Inc. to rezone a 2.98±-acre parcel from Agricultural (AG-2) to Community Facilities Planned Development (CFPD) in reference to a project known as United Way; and,

WHEREAS, a public hearing was advertised and held on April 9, 2008, before the Lee County Zoning Hearing Examiner Diana Parker, who gave full consideration to the evidence in the record for Case #DCI2007-00041; and,

WHEREAS, a second public hearing was advertised and held on August 4, 2008, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 2.98±-acre parcel from AG to CFPD, to allow corporate offices, daycare, and social services, utilizing an existing 6,380 square-foot building and construction of a maximum 9,500 square-foot new building.

The property is located in the Urban Future Land Use Category and is legally described in attached Exhibit A.

The request is APPROVED SUBJECT TO the conditions and deviation specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. Development must be consistent with the one-page Master Concept Plan (MCP), entitled "UNITED WAY," date-stamped "RECEIVED AUG 11 2008 COMMUNITY DEVELOPMENT," and attached hereto as Exhibit C, except as modified by the conditions below.

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

Maximum Floor Area: Existing 6,380 square-foot building and construction of a new 9,500 square-foot building. Total: 15,880 square feet.

2. Uses and Site Development Regulations

The following limits apply to the project and uses:

a. Schedule of Uses:

Accessory Uses and Structures  
Administrative Offices  
Daycare Center, Adult, Child  
Essential Services  
Essential Service Facilities, Group I only  
Excavation, Water Retention. (Not to include removal of excavated material from site. No blasting. See Condition 4.)  
Fences, Walls  
Parking Lot, Accessory  
Signs in Accordance with Chapter 30  
Social Services, Groups I and II only

b. Site Development Regulations:

Minimum Lot Areas and Dimensions:

Lot Size:	2.98	acres
Lot Width:	320	feet
Lot Depth:	410	feet

Minimum Setbacks:

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

Accessory Use and Structure setbacks must comply with LDC §§34-1171 *et seq.* and 34-2194

Minimum Building Separation: 20 feet

Maximum Lot Coverage: 30 percent

Building Height: one story/35 feet

3. Concurrency. Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. Prior to issuance of a local development order, the developer is required to demonstrate compliance with all concurrency requirements, including traffic concurrency.

4. Blasting. Development blasting is not permitted as part of this project unless approved at a subsequent public hearing as an amendment to the planned development.
5. Traffic. Approval of this rezoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.
6. Lee Plan. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16, and Table 1(b), as well as all other Lee Plan provisions.
7. Agricultural Uses. Agricultural uses do not exist on this property, and are not approved as a part of this rezoning.
8. Water and Sewer. Development must connect to both public water and public sewer. At time of local development order approval, the developer must also demonstrate there is adequate water and sewer capacity to handle levels of development as proposed in the development order submittal.
9. Protected Species. Prior to any site work, the property must be surveyed specifically for active hawk nests and field verified by Lee County Division of Environmental Sciences Division(ES) staff. If an active hawk nest is identified, the project will comply with the requirements stipulated in the Migratory Bird Treaty Act (Title 50 CFR Part 21) as regulated by the Florida Fish and Wildlife Conservation Commission (FWC). Environmental Sciences staff must be copied on all correspondence with the FWC.
10. Open Space. Prior to local development order approval, the development order plans must delineate a minimum of 0.82 acres as open space, and does not include the areas of temporary overflow grass parking.
11. Indigenous Preservation. Prior to local development order approval, development order plans will depict the preservation of the three heritage slash pines located on the western portion of the property. These trees will be preserved to the extent that their preservation does not compromise the construction and operation of water management system of the property. The surface water management system berm will be located outside the drip line of the trees to be preserved to the extent possible. If the construction of the surface water management berm within the drip line is needed, the owner will diligently work to preserve these trees, however, if the trees do not survive, then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space area.

#### SECTION C. DEVIATION:

1. Intersection Separation. Deviation (1) seeks relief from the LDC §10-285(a) requirement to provide a 125-foot minimum separation for driveway connections along local roads, to allow a minimum driveway connection separation of 45 feet for the existing driveway. This DEVIATION is approved.

#### SECTION D. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description
- Exhibit B: Zoning Map (subject parcel identified with shading)
- Exhibit C: Master Concept Plan

The applicant has indicated that the STRAP numbers for the subject property are:

32-45-24-00-00025.0000  
32-45-24-00-00025.0030

#### SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning to CFPD by demonstrating compliance with the Lee Plan, the LDC, and other applicable codes or regulations.
2. The CFPD rezoning, as conditioned:
  - a. meets or exceeds the performance and locational standards set forth for the potential uses allowed by the request; and,
  - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
  - c. is compatible with existing or planned uses in the surrounding area; and,
  - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
  - e. will not adversely affect environmentally critical areas or natural resources.
3. The CFPD rezoning satisfies the following criteria:
  - a. the proposed use or mix of uses is appropriate at the subject location; and
  - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
  - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, will be available and adequate to serve the proposed land use.

5. The approved deviation, as conditioned, enhances achievement of the planned development objectives, and preserves and promotes the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

Commissioner Hall made a motion to adopt the foregoing resolution, seconded by Commissioner Mann. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Franklin Mann	Aye

DULY PASSED AND ADOPTED this 4<sup>th</sup> day of August 2008.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson  
Deputy Clerk

BY: Ray Judah  
Ray Judah, Chair



Approved as to form by:

Michael D. Jacob  
Michael D. Jacob  
County Attorney's Office

**DESCRIPTION**

Parcel in  
Section 32, Township 45 South, Range 24 East,  
Lee County, Florida

Exhibit A  
Legal Description  
Property located in Lee County,  
Florida  
Page 1 of 2

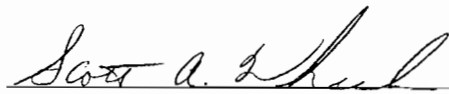
A tract or parcel of land lying in Section 32 Township 45 South, Range 24 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at a Northwest corner of the Southwest quarter (SW 1/4), of said Section 32 run N88°55'36"E along the North line of said fraction of a section for 1,560.94 feet; thence run S01°47'42"E for 30.00 feet to an intersection with the Southerly line of Former Iona Drainage District Canal No. C-5 (80 feet wide) as shown on the record plat for Little Harlem Park recorded in Plat Book 9 Page 10, Lee County Records and the **Point of Beginning**;

From said **Point of Beginning** run N88°55'36"E along said Southerly line for 408.44 feet to an intersection with the Westerly Right-of-Way line of Concourse Drive SW (60 feet wide); thence run S01°08'34"E along said Westerly Right-of-Way line for 321.87 feet to an intersection with the Southerly line of lands described in deed recorded in Official Record Book 2531, Page 3645, Lee County Records; thence run S89°32'53"W along said Southerly line for 336.99 feet; thence run N87°42'39"W for 68.02 feet; thence run N01°47'42"W for 314.25 feet to the **Point of Beginning**.

Containing 2.98 acres, more or less.

Bearings hereinabove are State Plane for the Florida West Zone (NAD 1983/99 Adjustment) and are based on the North line of the Southwest quarter (SW1/4), of Section 32 to bear N88°55'36"E.

 10/29/07  
Scott A. Wheeler (For The Firm)  
Professional Surveyor and Mapper  
Florida Certificate No. 5949

L:\22295 - United Way\descriptions\22295sko4DESC.DOC

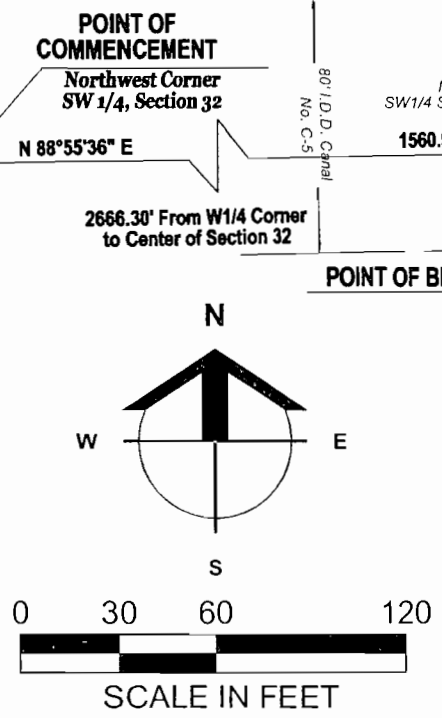
**RECEIVED**

OCT 31 2007

COMMUNITY DEVELOPMENT

Applicant's Legal Checked  
by CSJ 11-02-07

DCI 2007-00041



- NOTES:
1. ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.
  2. CH - DENOTES CHORD BEARING AND DISTANCE
  3. I.D.D. - DENOTES IONA DRAINAGE DISTRICT
  4. L.C.R. - DENOTES LEE COUNTY PUBLIC RECORDS.
  5. O.R. - DENOTES OFFICIAL RECORDS BOOK
  6. P.B. - DENOTES PLAT BOOK
  7. PG. - DENOTES PAGE
  8. BEARINGS HEREON ARE STATE PLANE FOR THE FLORIDA WEST ZONE (1983/99 ADJUSTMENT) AND ARE BASED ON THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 32 TO BEAR NORTH 88°55'36" EAST.
  9. DESCRIPTION IS ATTACHED.

**THIS IS NOT A SURVEY**

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

10/29/07  
DATE SIGNED:

Applicant's Legal Checked  
BY *CSG* 11-02-07

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

PARCEL AREA = 2.98 Acres +/-

United Way  
(O.R. 2531, PG. 3645)

Lee County Lands  
(O.R. 26, PG. 72)

Center Section 32

N 88°55'36" E  
696.58'

S 01°08'34" E  
30.00'

N 88°55'36" E  
408.44'

S 01°47'42" E  
30.00'

N 01°47'42" W  
314.25'

S 01°08'34" E  
321.87'

Concourse Drive SW (60' Wide)

17000-2002-100  
001 2007-00041

RECEIVED  
OCT 31 2007

**Barraco**  
and Associates, Inc.  
CIVIL ENGINEERING - LAND SURVEYING  
LAND PLANNING - LANDSCAPE DESIGN  
www.barraco.net  
2271 MAGREGOR BOULEVARD  
FORT MYERS, FLORIDA 33902-2800  
PHONE (239) 461-3170  
FAX (239) 461-3166  
FLORIDA CERTIFICATES OF AUTHORIZATION  
ENGINEERING 7806 - SURVEYING LB-6940

**United Way**  
A NOT-FOR-PROFIT ORGANIZATION

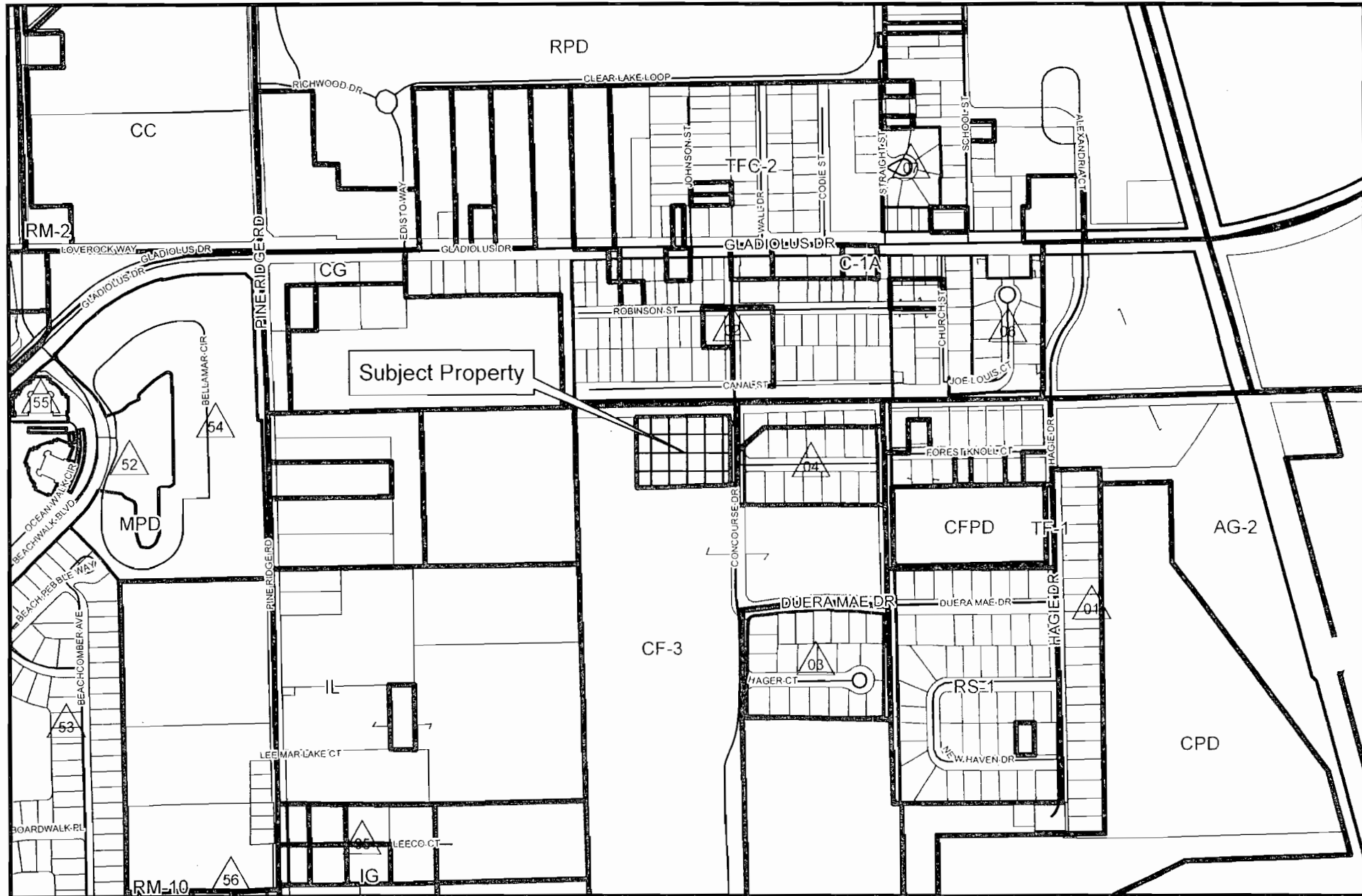
PROPERTY  
LOCATED IN  
SECTION 32,  
TOWNSHIP 45 SOUTH,  
RANGE 24 EAST,  
LEE COUNTY,  
FLORIDA

PROJECT SURVEYOR  
SCOTT A. WHEELER  
NO. 5949  
STATE OF FLORIDA  
LICENSED SURVEYOR AND MAPPER

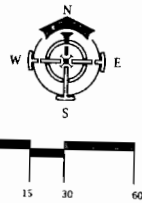
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

FILE NAME	22995-24E.DWG	
LAY OUT	LAY OUT 1	
LOCATION	17000-2002-100 SURVEYING SKETCH	
PLOT DATE	MON 10 29 2007 2:48 PM	
PLOT BY	SCOTT A. WHEELER	
DRAWING DATA		
SURVEY DATE	08-16-2007	
DRAWN BY	SWH	
CHECKED BY	SWH	
SCALE	AS SHOWN	
FIELD BOOK		
PLAN REVISIONS		
NO.	DATE	REVISION
1	11-02-07	REVISED
SHEET NUMBER		
2 OF 2		

# EXHIBIT B Zoning Map







CURRENT ZONING - RS-1  
CURRENT USE - RESIDENTIAL SINGLE FAMILY  
FUTURE LAND USE: URBAN COMMUNITY

**LAND USE SUMMARY:**

BUILDING	0.36 AC.	12.1 %
ROADWAY/PARKING/SIDEWALK	1.80 AC.	60.4 %
OPEN SPACE	0.82 AC.	27.5 %
TOTAL	2.98 AC.	100 %

**OPEN SPACE REQUIREMENT:**

REQUIRED OPEN SPACE	0.90 AC.	(29.9 %)
OPEN SPACE PROVIDED	0.82 AC.	(27.5 %)

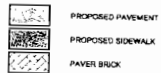
**PARKING CALCULATIONS:**

REQUIRED PARKING:	
COMMERCIAL:	
1 SPACES / 300 S.F. GFA OF 15,610 S.F.	52 SPACES REQUIRED
PARKING PROVIDED	78 SPACES

**FUTURE LAND USE:**

URBAN COMMUNITY

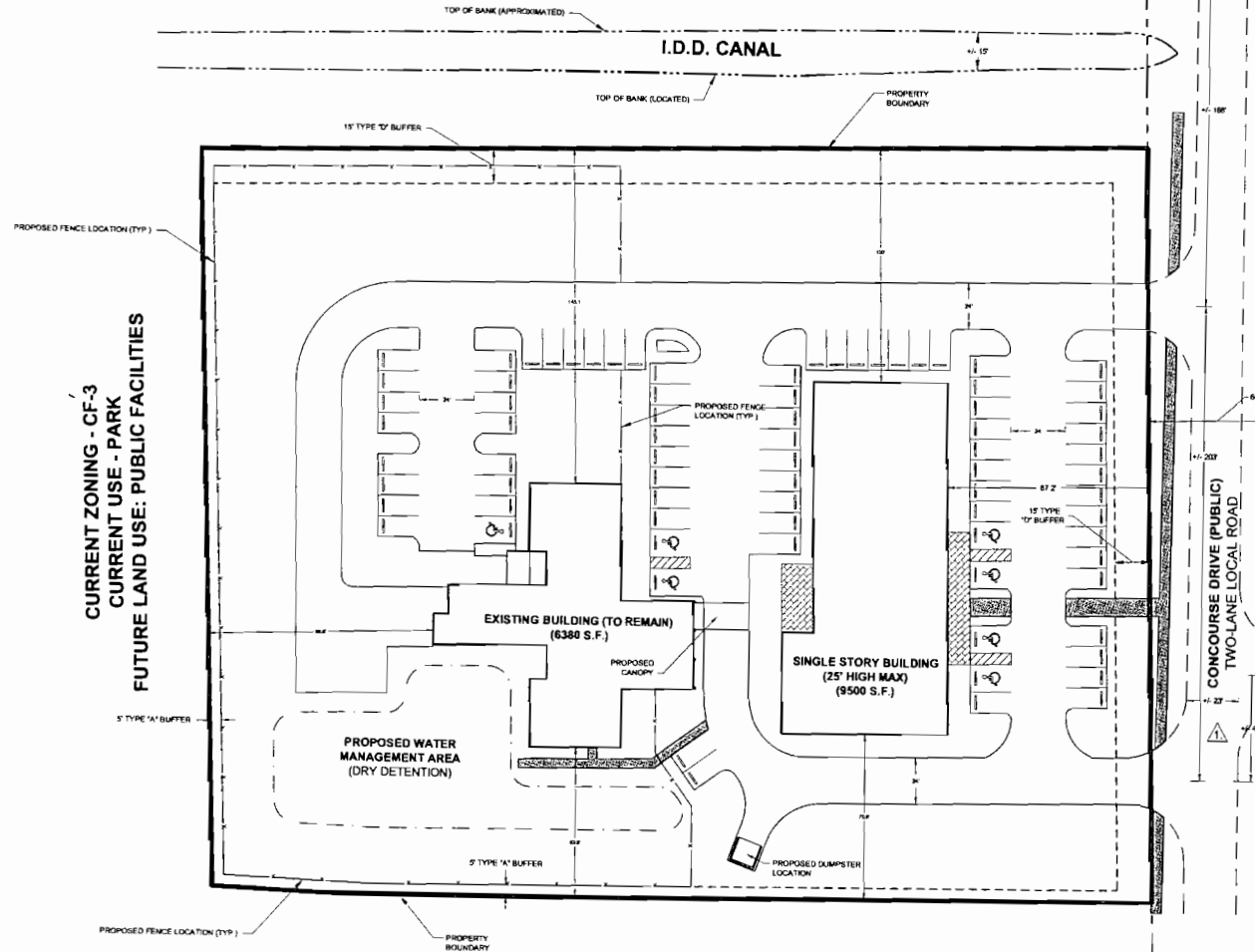
**LEGEND**



**DEVIATIONS:**



CURRENT ZONING - CF-3  
CURRENT USE - PARK  
FUTURE LAND USE: PUBLIC FACILITIES



CURRENT ZONING - CF-3  
CURRENT USE - PARK  
FUTURE LAND USE: PUBLIC FACILITIES

CURRENT ZONING - RS-1  
CURRENT USE - RESIDENTIAL SINGLE FAMILY  
FUTURE LAND USE: URBAN COMMUNITY

COOPER LANE  
DCI 2007-00041

RECEIVED  
AUG 11 2008

COMMUNITY DEVELOPMENT

Approved as Exhibit C  
MCP Page 1 of 1  
Resolution # Z-08-019

**DELISI FITZGERALD, INC.**  
Planning - Engineering - Project Management  
1500 Royal Palm Square Blvd., Suite 101  
Fort Myers, FL 33919  
239-418-0691 • 239-418-0692 fax  
Florida certificate of authorization:  
Engineering LB # 26978

OWNER/DEVELOPER  
UNITED WAY OF LEE COUNTY  
7275 CONCOURSE DRIVE  
FORT MYERS, FL 33908  
(239) 433-2000  
PROJECT:  
UNITED WAY

EXHIBIT C  
Page 1 of 1

NO.	DESCRIPTION
1	MASTER CONCEPT PLAN

Project Manager:	ADF
Checklist By:	JRF
Project Number:	21012
Cad File:	21012 MCP
Xref:	
Xref:	

Status:	MASTER CONCEPT PLAN
Sheet Number:	01

K:\21012 - United Way\CAD\21012 MCP.dwg, 8/11/2008 9:22:55 AM, kylea


**MEMORANDUM**  
**FROM THE**  
**OFFICE OF COUNTY ATTORNEY**

**DATE:** August 18, 2008

**To:** Dinah Johnson

Executive Assistant to  
Commissioner Ray Judah

**FROM:**



John J. Fredyma  
Assistant County Attorney

**RE: BOCC ZONING RESOLUTION FROM THE AUGUST 4, 2008 MEETING**  
**ZONING RESOLUTION Z-08-019 (UNITED WAY)**

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Attached is the original resolution adopted by the Board at the August 4, 2008 zoning meeting. The resolution has been reviewed and approved as to form and is ready for the Chairman's signature. After the Chairman signs the resolution, please forward to the Minutes Department for attestation and further processing.

Thank you for your assistance with respect to the above. Should you have any questions, please do not hesitate to contact me.

JJF/mms  
Attachment

**Via e-mail only:** Jamie Princing, Administrative Assistant, DCD/Administration & Support  
Lisa L. Pierce, Minutes Office Manager, Lee County Clerk of Courts  
Billie J. Jacoby, Administrative Support Supervisor, DCD