

GIS Tracking Sheet

Case No.: DC12007-00026

Intake Date: 4/3/07

Project Name: Pine Shadows Air Park

STRAP Number(s): 16-43-24-03-000000, E01A
16-43-24-03-000000, F000

Planner Name:

Tony

Ext.

8325

LEGAL DESCRIPTION VERIFICATION and INITIAL GIS MAPPING

Date: 7-31-08
12-17-07

INTAKE: DC107026

LEGAL SUFFICIENT

☒ YES

☐ NO

Initials: CSJ

If not, give brief explanation:

~~Need boundary survey tied to state plane coordinates a B.S.~~
~~was not supplied. — B.S. Warrant~~
~~Red Blotch on 4/11/03 — true has note under date~~
~~on legal & sketch — ok.~~

MAP UPDATE following FINAL ACTION

Date:

☐ Hearing Examiner Decision

☐ Administrative Approval

☐ Board of County Commissioner's Resolution

☐ Blue Sheet

Zoning Notes:

6-12-09
MAP UPDATED

☒ YES

☐ NO

Initials: CSJ

If not, give brief explanation:

ZONE: CDD 2 00 1334

SKETCH OF DESCRIPTION TO SHOW LIMITS OF REZONING THIS IS NOT A SURVEY

SHEET 2 OF 2 NOT VALID WITHOUT SHEET 1

A TRACT OR PARCEL OF LAND CONSISTING OF TWO PARCELS DESCRIBED TOGETHER FOR GOVERNMENTAL PURPOSES: SAID PARCEL BEING IN PORTIONS OF **SECTIONS 15 & 16, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA** AND SHOWN AS TRACT "E" OF **PINE SHADOWS AIR PARK**, AS RECORDED IN PLAT BOOK 34, PAGES 66 & 67, AND SHOWN AS TRACTS "E" & "F" OF **A REPLAT OF A PART OF PINE SHADOWS AIR PARK** AS RECORDED IN PLAT BOOK 39, PAGES 4, 5 & 6 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 15, BEING ALSO THE SOUTHEAST CORNER OF THE NORTHWEST CORNER OF SAID SECTION 16; THENCE N 89 degrees 57'53" E. FOR A DISTANCE OF 48.51 FEET ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 15, FOR A DISTANCE OF 48.51 FEET; THENCE N 00 degrees 13'26" W. FOR A DISTANCE OF 199.14 FEET; THENCE S 89 degrees 46'34" W. PASSING FROM SAID SECTION 15 INTO SAID SECTION 16, FOR A DISTANCE OF 1045.77 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 30.00 FEET; THENCE WEST, SOUTH AND SOUTHEAST ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 120 degrees 11'05". FOR A DISTANCE OF 62.93 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. 41, TAMiami TRAIL (300' WIDE); THENCE S 30 degrees 24'31" E. ALONG SAID RIGHT-OF-WAY LINE FOR 158.51 FEET TO AN ANGLE BREAK; THENCE S 28 degrees 38'36" E. ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 8.21 FEET TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 16; THENCE S 89 degrees 38'06" E. FOR A DISTANCE OF 939.64 FEET TO THE POINT OF BEGINNING.
THE NORTH PROPERTY LINE BEARS N 89 degrees 46'34" E AS PER PLATS CITED HEREON.
CONTAINING 4.6 ACRES, MORE OR LESS.

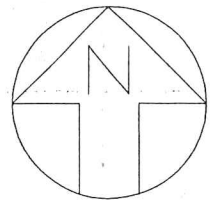
**ATTORNEY'S
REAL ESTATE
LAND SURVEYING
INC.**
1930 PARK MEADOWS DRIVE
SUITE 9
FORT MYERS, FLORIDA
(239) 277-7330
(239) 277-7332 FAX

REMOVED QUALIFIER FROM DESCRIPTION 7-29-2008
AMENDED SURVEYOR'S CERTIFICATION 7-17-2008
AMENDED SURVEYOR'S CERTIFICATION 4-7-2008
REVISION: SIMPLIFIED SKETCH 3-7-2008
FILE DISK: JULY 08-3

Applicant's Legal Checked
by CSJ 7-31-08

DATE: NOVEMBER 16, 2007
THIS SURVEY IS HEREBY CERTIFIED AS MEETING THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO CHAPTER 177, FLORIDA STATUTES, CHAPTER 472, FLORIDA STATUTES AND CHAPTER 61G17, FAC AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY IS A COMBINATION OF TWO PLATTED LOTS. THE CITED PLATS WERE RELIED UPON FOR EASEMENTS OF RECORD. THE PROPERTY WAS PHYSICALLY EXAMINED FOR SIGNS OF UNRECORDED EASEMENTS. THERE ARE NONE EXCEPT AS SHOWN, UNLESS IT BEARS THE ORIGINAL EMBOSSED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER. THIS DRAWING, SKETCH, PLAT, OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID. NO COPIES SHALL BE MADE WITHOUT WRITTEN AUTHORIZATION.
LARRY GARDNER, SURVEYOR AND MAPPER #4294
NOT VALID WITHOUT EMBOSSED SEAL
JOB NUMBER: 07-389CC

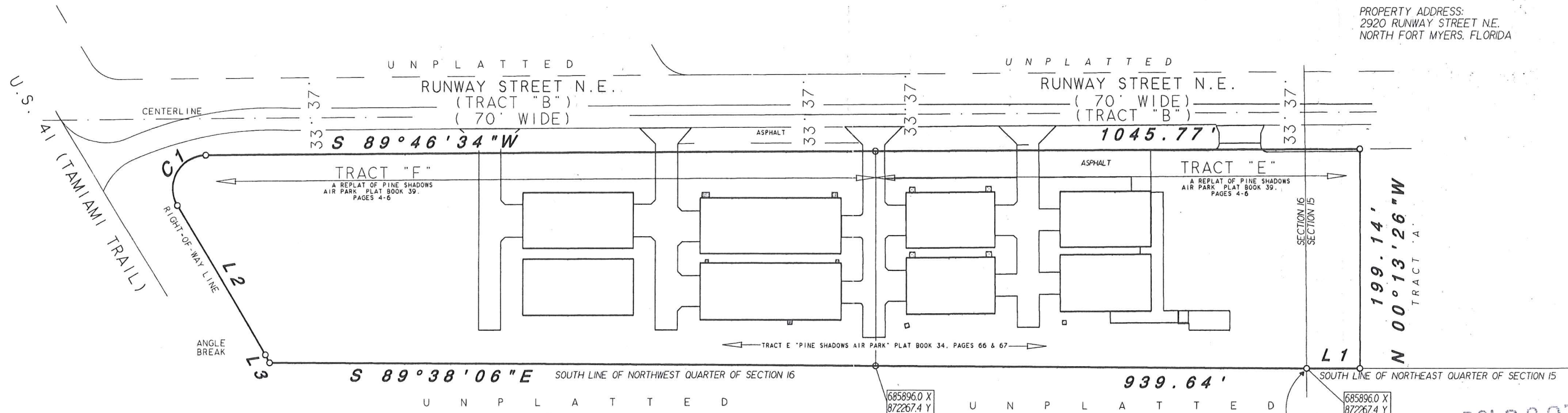
SKETCH OF DESCRIPTION TO SHOW LIMITS OF REZONING THIS IS NOT A SURVEY SHEET 1 OF 2 NOT VALID WITHOUT SHEET 2



SCALE 1 INCH = 100 FEET



PROPERTY ADDRESS:
2920 RUNWAY STREET NE.
NORTH FORT MYERS, FLORIDA



SURVEYORS NOTES:

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- 5)FCM = FOUND CONCRETE MONUMENT

CURVE	DELTA ANGLE	RADIUS	ARC	CHORD	CHORD BEARING
C 1	120°11'05"	30.00'	62.93'	52.01'	S 29°41'02"W
LINE	BEARING	DISTANCE			
L 1	N 89°57'53"E	48.51'			
L 2	S 30°24'31"E	158.51'			
L 3	S 28°38'36"E	8.21'			

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JOB NUMBER: 07-389CC

DCI 2007-00026

RECEIVED
JUL 23 2008

COMMUNITY DEVELOPMENT

LAND SURVEY

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THIS SURVEY IS CERTIFIED TO:

PINE SHADOWS STORAGE, L.L.C.,

THE PROPERTY SHOWN HEREON IS LYING IN ZONE AE OF
THE NATIONAL FLOOD INSURANCE PROGRAM. ELEVATION = 19'.

SURVEY DESCRIPTION:

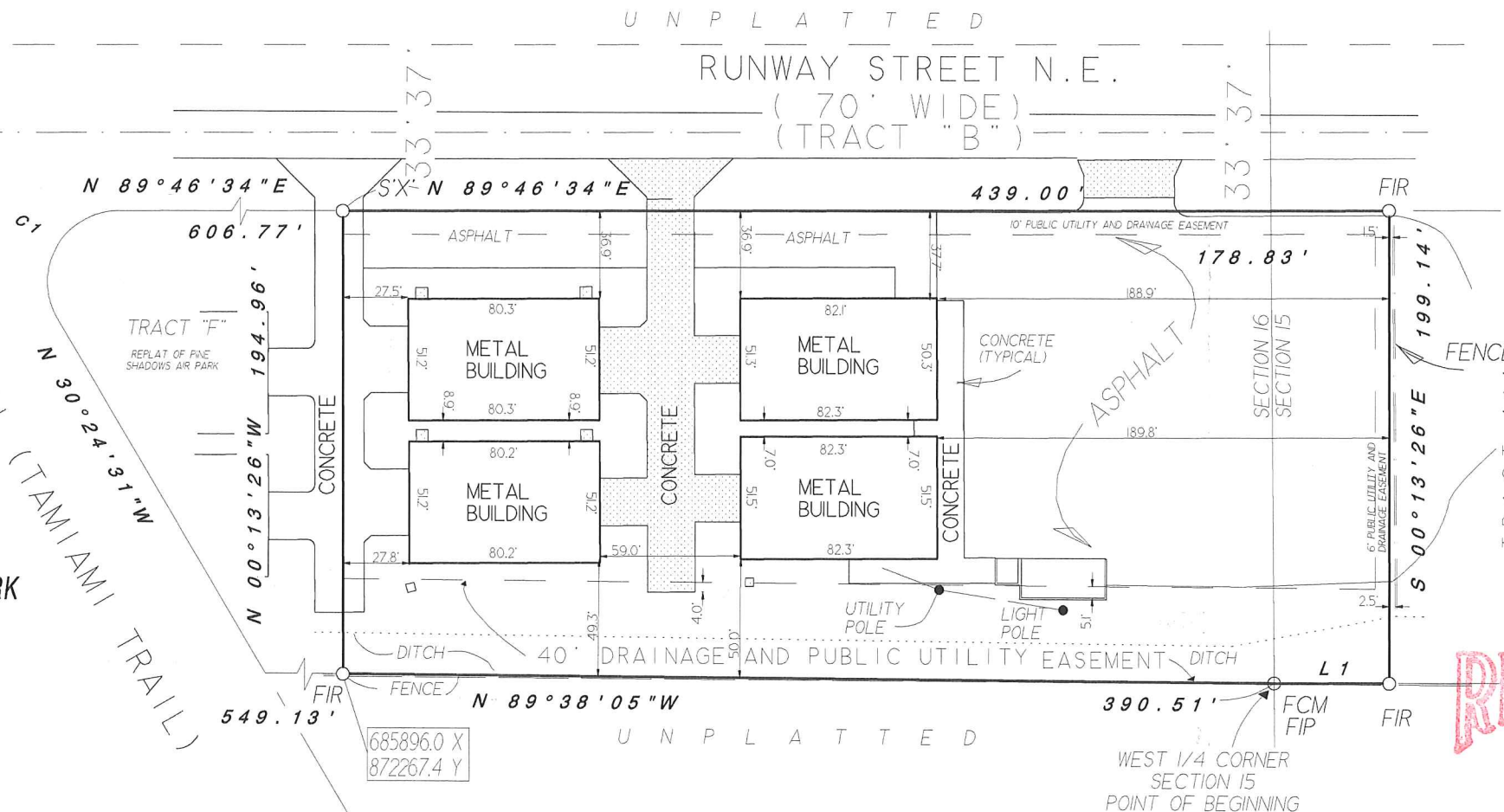
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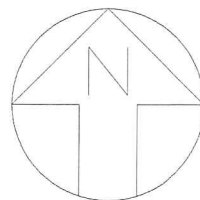
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NOVEMBER 20, 2007 REMOVED TANK

FILE DISK: NOVEMBER 07-1
CREW: RICE/MUNNS/RUSH

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CURVE	DELTA ANGLE	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
C 1	120°11'05"	30.00'	62.93'	52.16'	52.01'	N 29°41'02"E
LINE	BEARING	DISTANCE				
L 1	S 89°57'53"W	48.51'				



SCALE 1 INCH = 70 FEET
0 70 140

RECEIVED
FEB 19 2008

COMMUNITY DEVELOPMENT

DCI 2007-00026
Applicant's Survey Checked
By *21208*

DATE:
NOVEMBER 16, 2007

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TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY
WAS PREPARED WITH RELIANCE ON OLD REPUBLIC NATIONAL TITLE
INSURANCE COMPANY TITLE COMMITMENT NO. 05054638, DATED
JULY 26, 2005 AND THIS SURVEY IS NOT A CERTIFICATION OF
TITLE, ZONING OR FREEDOM FROM ENCUMBRANCES.
UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL
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L. LARRY GARDNER, SURVEYOR AND MAPPER #4294
NOT VALID WITHOUT EMBOSSSED SEAL

REFERENCE JOB NUMBERS 03-10824 & 051431

JOB NUMBER: 07-389

LAND SURVEY

PROPERTY ADDRESS:
2920 RUNWAY STREET NE.
NORTH FORT MYERS, FLORIDA

SURVEYORS NOTES:

1/8" IRON ROD, WITH CAP LB#6594.
2" BORE - SOUTH PROPERTY LINE - PLAT BEARING.
3/4" X 1/2" SET 'X' IN CONCRETE
4" IRON ROD
5" FCM - FOUND CONCRETE MONUMENT

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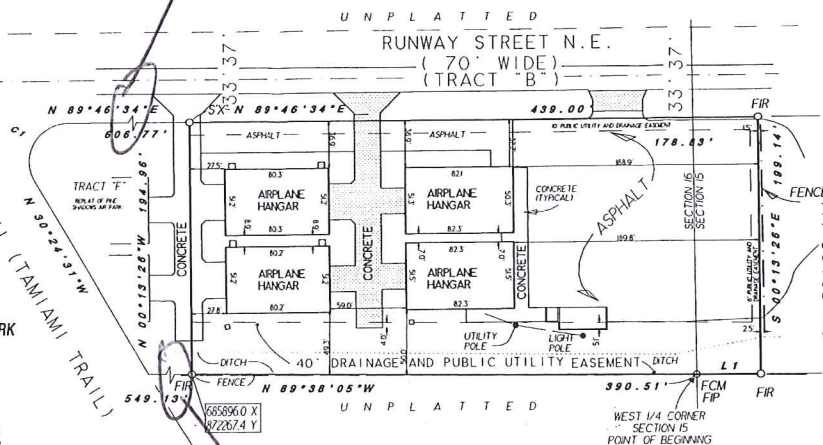
REVISION: NOVEMBER 20, 2007 REMOVED TANK

FILE DISK: NOVEMBER 07-1

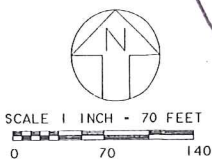
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CURVE	DELTA	ANGLE	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
G 1	120°	1'05"	30.00'	62.93'	52.16'	52.01'	N 29°41'02"E
LINE	BEARING		DISTANCE				
L 1	S 89°57'53"W		48.51'				



DATE: NOVEMBER 16, 2007

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LARRY GARDNER, SURVEYOR AND MAPPER #4294
NOT VALID WITHOUT EMBOSSED SEAL

REFERENCE JOB NUMBERS 03-10828 & 031431

JOB NUMBER 07-389

SUPERSEDED
BY PLAN DATED **MAR 13-2008**

Legal Description

Tract E and F, located in Section 15 & 16, Township 43 South, Range 24 East, A re-plat of a part of Pine Shadows Air Park, a subdivision according to the plat thereof on file and recorded in Plat Book 39 Page 6, of the Public Records of Lee county, Florida

Strap numbers:

16-43-24-03-00000.E01A

16-43-24-03-00000.F000

SUPERSEDED
BY PLAN DATED 7-31-08

Applicant's Legal Checked
by cgatanda 12/17/07

DCI 2007-00026

LAND SURVEY

PROPERTY ADDRESS:
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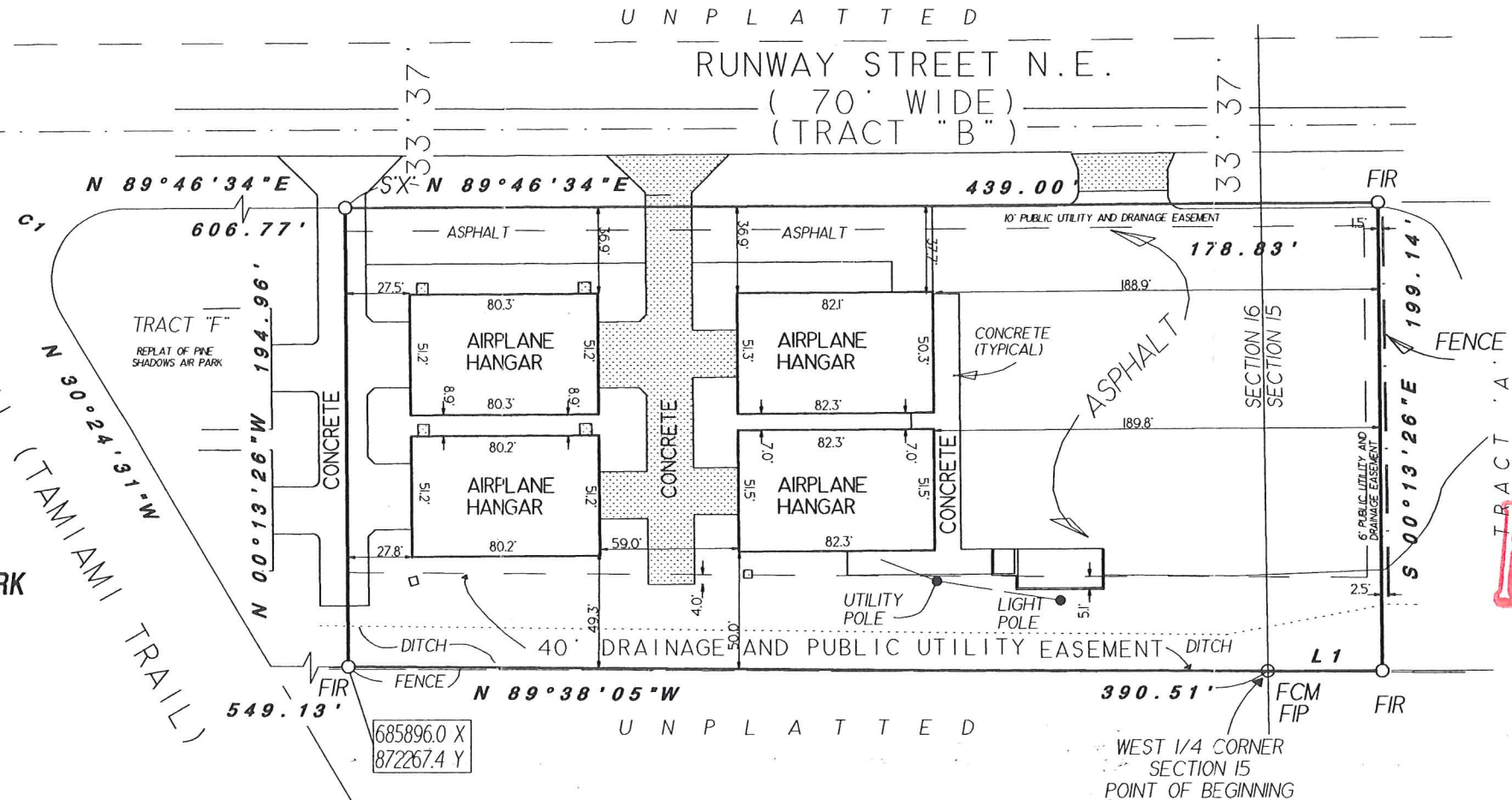
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SUPERSEDED
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SCALE 1 INCH = 70 FEET
0 70 140

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REFERENCE JOB NUMBERS 03-1082A & 051431

JOB NUMBER: 07-389

RECEIVED
DEC 13 2007

PERMIT COUNTER

DCI 2007-00026

Applicant's Survey Checked

By BS 12/17/07

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

RECEIVED
MAR 23 2009
ZONING

REZONING: DCI2007-00026
APPLICANT: JAY MACDUFF, in reference to PINE SHADOWS AIR PARK
HEARING DATE: DECEMBER 4, 2008
CONTINUED HRG DATE: JANUARY 23, 2009

I. APPLICATION:

This matter came before the Lee County Hearing Examiner as an Application for an Amendment to a Commercial Planned Development (CPD) pursuant to Lee County Land Development Code (LDC).

Filed by JAY MACDUFF, 2326 Del Prado Boulevard S., Cape Coral, Florida 33990 (Applicant); PINE SHADOWS STORAGE, LLC, c/o JAY A. MACDUFF, P.O. Box 101177, Cape Coral, Florida 33910 (Owner); KNOTT, CONSOER, EBELINI, HART & SWETT, P.A., c/o MICHAEL E. ROEDER, AICP, 1625 Hendry Street, Suite 301, Fort Myers, Florida 33901 (Agent).

Request is to Amend Zoning Resolution #Z-98-069 Pine Shadows Air Park Commercial Planned Development (CPD) on +/- 4.65 acres. The amendment seeks to allow open storage on the rear vacant parcel, add uses such as professional office and business services in front on U.S. 41, and modify the buffer requirements. No development blasting is requested. The entire development (existing and new) will hook up to public potable water and sanitary sewer service.

The subject property is located at 2920, 2860 Runway Street, in Section 16, Township 43 South, Range 24 East, Lee County, Florida (District #4).

II. STAFF REPORT AND RECOMMENDATION: APPROVE WITH CONDITIONS

The Department of Community Development Staff Report was prepared by Tony Palermo. The Staff Report is incorporated herein by this reference.

III. RECOMMENDATION OF HEARING EXAMINER:

The undersigned Lee County Hearing Examiner recommends that the Lee County Board of County Commissioners APPROVE the Applicant's request to Amend Zoning Resolution #Z-98-069 Pine Shadows Air Park Commercial Planned Development (CPD) for the real estate described in Section IX. Legal Description WITH THE FOLLOWING CONDITIONS AND DEVIATIONS:

A. CONDITIONS:

1. **MASTER CONCEPT PLAN:** The development of the subject property must be in substantial compliance with the approved Master Concept Plan which is a 2-page document entitled "Master Concept Plan for " Pine Shadows Airpark," stamped received at the Permit Counter on DECEMBER. 13, 2007.

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

Maximum Commercial Floor Area: SEE CONDITION #4.

2. **SCHEDULE OF USES:** The list of permitted uses is limited to the following:

Accessory Uses

Administrative Offices

Automobile Restoration - limited to restoration and maintenance of privately owned automobiles by their owners who are tenants of the property owner.

Business Services, Group I, limited to Parcel "A"

Caretaker's Residence

Essential Services

Essential Service Facilities - LDC Section 34-622(c)(13), Group I

Mini-Warehouse - Limited to Parcels B and C. See Condition 8.

Parking Lot, Accessory, Temporary

Signs, in accordance with Chapter 30

Storage, Open - limited to Parcel C - See Condition 29.

Warehouse, public - limited to existing structures only as depicted on the Master Concept Plan.

3. **PROPERTY DEVELOPMENT REGULATIONS:** Development of the subject property must comply with the following Property Development Regulations:

Minimum Setbacks - Buildings And Structures:

Street: 25 feet

Side: 15 feet

Rear: 25 feet

Water body: 25 feet

Maximum Lot Coverage: 40 percent

Maximum Building Height: Maximum Building Height: 2 stories / 25 feet above existing grade (all parcels).

Maximum Height for Open Storage: 15 feet maximum above existing grade

No architectural features are allowed that will cause the building height to exceed the maximum building height, and no additional height may be achieved through the use of LDC Section 34-2174 (additional permitted height when increased setbacks provided). The height of a building must also be measured from the vertical distance from existing grade to the highest point of the roof surface, regardless of roof type (See LDC Section 34-2171 Measurement).

4. **DEVELOPMENT LIMITS:** Development of the subject property is limited to a maximum of 15,000 square feet of floor area on Parcel "A" and a total square footage, including existing structures, not to exceed 55,000 square feet of floor area for the entire site. Open Storage may not exceed 40,000 square feet.

5. **NO RETAIL SALES:** No retail sales are permitted on the subject parcel.

6. **COMMERCIAL USE/STORAGE UNITS:** Commercial use of individual storage units and public warehouse space is prohibited. Commercial establishments may rent units or warehouse space for storage use only.

7. **OPEN STORAGE:** Open storage use is limited to Parcel C and must be comply with the conditions in Deviation #2 below (southside wall and vegetative landscape buffer required). Also see Deviation #3, relating to irrigation of landscape buffers.

An 8-foot-high decorative, opaque wall - other than wood - is required to the north, south and east per the approved Master Concept Plan, and as conditioned herein.

A 7.5-foot wide buffer, containing a minimum of five (5) trees and 12 shrubs per 100 linear feet, must be provided on the exterior side of the wall on the north side. In the event the public utility easement, lying along the north boundary, is vacated, Applicant may need to modify the location and length of the wall on Parcel C to ensure adequate access to the storage area.

No vegetative landscape buffer is required at the east boundary of the property - adjacent to the runway.

8. **MINI-WAREHOUSE:** The mini-warehouse use is limited to Parcels B and C.

9. **PARKING:** Required parking for all uses must be provided in accordance with LDC Section 34-2020. In addition to any new spaces, the parking spaces designated on the Master Concept Plan must be delineated and provided with parking blocks in accordance with LDC Section 34-2016.

10. **TRAFFIC:** This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions may be required at the time of local Development Order approval.

11. **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), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function (for commercial uses), as well as all other Lee Plan provisions.

12. **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. The developer is required to demonstrate compliance with all concurrency requirements, including traffic concurrency, prior to issuance of a local development order.

13. **NO BLASTING:** No development blasting is permitted as part of this project unless approved, at a subsequent public hearing, as an amendment to the planned development.

14. **ACCESSORY USES:** Within the Commercial Planned Development, accessory uses must be located on the same tract, parcel or outparcel where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel.

15. **AGRICULTURAL USES:** No agricultural uses exist on this property and none are approved as a part of this rezoning.

16. **WATER AND SEWER:** This project must connect to both public water and public sewer, for both existing and future uses. At the time of local development order, the developer must demonstrate there is adequate water and sewer capacity to handle the level of development proposed in the development order submittal. The Master Concept Plan must also be corrected to remove the reference to the septic tank mound.

The removal of the septic system and the connection to central sewer for the existing development must take place within one year of Applicant being formally notified by North Fort Myers Utilities of the requirement to so connect, or as part of the construction of the office building on Parcel A, whichever occurs first. At that time, the Developer must also demonstrate to the Department of Community Development there is adequate water and sewer capacity for the existing development to comply with this condition.

17. **SOLID WASTE/RECYCLING:** Prior to any local Development Order approval for vertical development, the developer must provide facilities in compliance with LDC Section 10-261 and Solid Waste Ordinance # 08-10 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of local Development Order application.

The existing solid waste facilities (dumpsters) must be enclosed in compliance with LDC Section 10-281 concurrent with the installation of the required buffer along the southern property line.

18. **ZONING RESOLUTION:** Upon approval of this zoning resolution, Zoning Resolution Z-98-069 shall become null and void.

19. **OPEN SPACE:** Prior to local development order approval, development order plans must delineate a minimum 1.56 acres of open space.

20. **DEVIATIONS:** The Master Concept Plan must accurately depict any approved deviations prior to final zoning resolution approval.

21. **WALL:** The Master Concept Plan must depict the appropriate wall approved through the deviation prior to final zoning resolution approval.

22. **BUFFER:** Prior to local development order approval, landscape plans must depict the proposed Type D right-of-way buffer along US 41 to include a minimum of 5 trees per 100 linear feet and hedges planted in double staggered rows to be maintained 36 inches in height and to provide continuous visual screening within one year after time of planting.

23. **TOTAL PROPERTY:** The total acreage as depicted on page 1 of the Master Concept Plan must be corrected to 4.65 ± acres.

24. **ZONING TO THE SOUTH:** The Master Concept Plan must be corrected to show the property to the south as zoned Environmentally Critical (EC), not "MHP vacant".

25. **NO OBSTRUCTION:** Due to the proximity to the Air Park runway, all buildings, including open storage, may only be approved if, after review by the Lee County Port Authority, they are found not to be an obstruction to air traffic, and to be in compliance with LDC Section 34-1004 "Flight Obstruction Surfaces."

26. **TALL STRUCTURES:** New development, including open storage, will be subject to the provisions of the Lee County LDC Section 34-1008, "Permit for Tall Structures." Depending on the height and location of the proposed structures, an application may need to be submitted for review and approval by the Lee County Port Authority to determine airspace impacts of proposed permanent buildings, open storage, and any temporary construction equipment (such as cranes) within the site.

27. **BUFFER PLANTINGS/HEIGHT:** All proposed buffer planting species and potential growth heights should compliment the Air Park runway usage.

28. **PROXIMITY TO PINE SHADOW AIR PARK RUNWAY:**

A. Prior to the issuance of the first development order for this project, the Applicant must record the following statement in the Public Records of Lee County, Florida:

Notification of Proximity to Air Strip - The property described in Exhibit A, attached hereto, is located proximate to an active aircraft landing strip. Future owners and/or tenants residing on or leasing the property in this development may experience aircraft over-flight activity, including noise, associated with the use of the land strip of Pine Shadows Airpark.

B. This statement must also be included in all lease, deed, covenant, and deed restriction documents for the proposed development.

29. **OPEN STORAGE**

A. No storage of construction equipment and vehicles, garbage trucks, school buses, large trucks, i.e. semi-trucks and/or trailers, etc., or solid waste dumpsters is allowed within the Open Storage area. Any windows or windshields exceeding 8 feet in height, or not screened by the wall along the eastern boundary, must be covered with a light-blocking material to prevent glare toward the Pine Shadows runway.

B. The Master Concept Plan must be corrected to depict the location of Open Storage where it currently depicts "Asphalt Parking".

C. The open storage area is limited to a maximum of 40,000 square feet.

D. The wall and buffer along the north and east sides of the open storage area must be installed within 12 months of the approval of this rezoning request, or

when the development order is approved for the open storage use, whichever occurs first. The location and planting of the north wall must be consistent with Deviation #3 hereinbelow.

B. DEVIATIONS:

Deviation 1 requests relief from Lee County Land Development Code (LDC) Section 10-415(b)(1), which requires a Type "D" landscape buffer located adjacent to all street rights-of-way, to allow the elimination of this requirement for the subject property along Runway Street. The Hearing Examiner recommends APPROVAL of this Deviation.

Deviation 2 requests relief from LDC Section 10-416(d)(3), which requires an 8-foot-high concrete wall (per Condition 7 of Z-98-069) with additional landscaping (Type "F" buffer) adjacent to a Lee County preserve, to allow an 8-foot-high concrete wall only where open storage (Parcel C) would abut a public preserve to the south. The Hearing Examiner recommends APPROVAL of this Deviation with the following conditions:

1. Prior to local development order approval, development order plans must depict, for review and approval by the Division of Environmental Sciences and Conservation 20/20 staff, the vegetative buffer and wall between the proposed/existing development and the 40-foot-wide drainage/public utility easement along the south boundary. That buffer and wall must be consistent with the attached ES Staff Buffer Exhibit (**Exhibit C**), in that:

a. the proposed two-story building on Parcel A must be reconfigured to provide the minimum 15-foot-wide plantable area for the required Type F buffer plantings; and

b. once the septic area is removed on Parcel A, the area must be used to provide a minimum 15-foot-wide plantable area for the required Type F buffer plantings; and

c. the 5- to 15-foot-wide area between the existing buildings/impervious driveways and drainage/public utility easement on Parcels B and C must be planted with a single hedge row (installed at 48 inches in height, maintained at 60 inches in height to provide continuous visual screening within 1 year after time of planting) and 5 trees per 100 linear feet, clustered at corners of buildings, to buffer drives and overhead doors; and

d. an 8-foot-high concrete block wall with no required vegetation must be installed within the 2- to 3-foot-wide area between the existing impervious surface and 40-foot-wide drainage/public utility easement on Parcel C; and

e. vegetation that is not compatible with Conservation 2020 Lands prescribed burning, such as wax myrtle, cabbage palms, and saw palmetto, may not be permitted or planted within the south buffer.

2. The buffer and wall along the south boundary of Parcels B and C must be installed within 12 months of the approval of this rezoning request, or when the development order is approved for the open storage use, whichever occurs first. The wall and buffer must be in substantial compliance with the attached ES Staff Buffer Exhibit. The installation of the wall and buffer along the south boundary of Parcel A (office building) must be included in the development order for the construction of the office building. The plantings and wall along the entire south boundary must not encroach into the platted 40-foot-wide drainage/public utility easement.

Deviation 3 requests relief from LDC Section 10-417 "Irrigation design standards" to provide for a temporary irrigation system (as conditioned) and not an automatic irrigation system for the required buffer on the exterior of the wall located along the north property line. The Hearing Examiner recommends APPROVAL of the request with the following conditions:

1. Prior to local development order approval, landscaping plans must depict a minimum of 7.5 feet of plantable area provided on the exterior side of the open storage wall located along the north property line. The plantings must meet the plant material and installation requirements of LDC Section 10-420 and 10-421. The landscape and temporary irrigation plans for this buffer area must depict and include:

- 100% native drought and cold-tolerant species;
- An available source of water;
- Temporary irrigation to be installed at grade;
- A buffering monitor plan to be reviewed and approved by Environmental Sciences Staff to include a watering schedule, buffer planting success criteria for establishment and long-term survival, and buffer monitoring report criteria;
- Bi-annual buffer monitoring reports provided to Environmental Sciences Staff for a minimum of five (5) years to determine buffer planting success;
- Temporary irrigation in place and utilized until Environmental Sciences Staff determines buffer plantings are established;
- Should die back of buffer plantings occur, then plantings must be replaced with like-size, approved species and the irrigation requirement may be revised by Environmental Sciences' Staff to ensure planting success.

2. In the event the public utility easement, lying along the north boundary, is vacated, Applicant may need to modify the location and length of the wall and buffer on Parcel C to ensure adequate access to the storage area. Such modification can be handled administratively.

IV. HEARING EXAMINER DISCUSSION:

This is a request to amend an existing Commercial Planned Development for a rectangularly shaped property located on the east side of US 41, just south of Trail Dairy Road. The subject property was zoned CPD in 1998, in which it was approved for open storage and warehouse uses. It is currently developed with eight hangar-style warehouse buildings and has a vacant paved area at the east end and a vacant green/grassy area at the west end. It is abutted on the north and northeast by residential uses and a fire station; on the east by the 3,200+-foot-long runway of the Pine Shadows Air Park community; on the south by a 40-foot-wide public utility/drainage easement and a large, developing County preserve/park; and on the west by the divided lanes of US 41 and then a mix of residential and commercial uses. It is designated Suburban in the Lee Plan.

Issues:

1. Applicant and Staff disagree with regard to the timing:

- of the installation of the buffer along the entire south property line;
- of the installation of the walls and buffer along the east and north property lines of Parcel C; and
- the removal of the on-site septic system and connection of the single bathroom into the public water and sewer lines.

2. The residents of the Pine Shadow Air Park raised compatibility issues relating to the open storage use being moved to the easternmost portion of the property, and safety concerns about having a 25-foot-high office building constructed on the westernmost portion of the property.

Background

The 4.65-acre subject property was initially part of the platted Pine Shadow Air Park subdivision (Air Park), which was granted an unusual use permit for the airstrip in 1981. In 1998, the subject property was rezoned from AG-2 to CPD to legitimize the seven hangars and storage uses that had been installed on the property over the previous 17 years. The hangars had been permitted as accessory uses to the airstrip, as they were intended to be used by residents of the Air Park for the storage of their planes. As some point, the residents decided to construct their hangars on their individual lots, and the seven hangars began to be used for other storage purposes.

The 1998 CPD approved a maximum of 55,000 square feet of commercial floor area for public, private and mini-warehouses. The open storage use was approved for the parcel abutting US 41 (Parcel A), and the paved area along the east boundary (Parcel C) was left vacant so that it could continue to serve the aircraft fueling station.

After Applicant purchased the subject property, he had the eighth hangar constructed, with a single bathroom, which is the only bathroom for all eight hangars. At some point around the time of this purchase, the aircraft fueling station was relocated from the subject property further eastward onto a portion of the taxi-way of the airstrip owned by the Air Park residents. A chain-link fence was installed at the eastern edge of the subject property, preventing access from this site onto the taxi-way and runway of the Air Park.

In 2007, Applicant filed a request to amend the CPD to add office uses to the Schedule of Uses, so they could construct an office building on the westernmost parcel (Parcel A). They explained that the new use will not increase the approved amount of commercial floor area, as the office building will be a 15,000-square-foot, 2-story (25-foot-high) structure sited adjacent to the northbound lanes of US 41. Parcel A had initially been approved for open storage, and that use will be relocated to the currently vacant, paved area of Parcel C. The open storage use will consist of 40,000 square feet and will lie between the hangar buildings and the taxi-way of the private airstrip.

At the time of the 1998 approval, a mobile home planned development was approved, but not developed, for the property immediately adjacent to the south boundary of the subject property. To the north, the Air Park and Trail Dairy subdivisions were both being developed with large-lot residential uses. Given the MHPD zoning, the subject property was not required,

in the 1998 approval, to provide a buffer along the south property line, but was required to provide the typical roadway buffering along US 41 (west boundary) and Runway Street (north boundary). Neither of those required buffers was ever installed on the site. (The Hearing Examiner noted, during her site visit, a single row of trees along the south boundary, but was unable to determine if those trees were on the subject property or on the drainage easement property.)

During the past 10 years, the MHPD zoning has been vacated, and that property has been purchased by Lee County to be developed as part of a 2,700+-acre equestrian and pedestrian park (Prairie Pines Preserve). The Trail Dairy and Air Park communities have continued to develop, and the other properties in the area fronting on US 41 are developing with commercial uses.

Applicant initially requested a 35-foot height for the Parcel A office building, but changed that request to a 25-foot/2-story height, which was what had been approved in the 1998 rezoning. They noted that the 25-foot height is the same height as the existing hangars, which have been on the property for many years. The hangars and the open storage area separate the office building from the runway, with the hangars being about 1,000 feet and the office building being located about 2,000 feet west of the end of the runway.

Applicant requested three Deviations - all relating to the buffers and walls being required by Staff. In the first Deviation, they were requesting no Type 'D' right-of-way buffer along Runway Street (north boundary) because of the 10-foot-wide public utility easement separating the subject property from Runway Street. There was no room on Parcels B and C between the pavement and that easement for a buffer.

Nevertheless, they intended to vacate that 10-foot-wide easement, which, if accomplished, would enable them to install the 7.5-foot-wide vegetative buffer, along the wall surrounding the open space area, that was being required by Staff in Deviation #3. If they were unable to vacate the easement, they would have only two alternatives for installing that 7.5-foot-wide buffer. They would either have to put it in the 10-foot-wide easement, or they would have to remove some of the existing pavement which served as the drive aisles along the north side of the hangars. They understood that the LDC regulations did not allow them to plant in the 10-foot-wide easement, but asserted that the removal of the existing pavement would interfere with, and create potentially hazardous conditions in, the use of the drive aisles along those hangars.

The second Deviation related to the 8-foot-high concrete wall and buffer on the south boundary of Parcel C, that was intended to buffer the County park from the open storage use. They were willing to enclose the open storage use with an 8-foot-high wall or fence and a Type A - not Type F - buffer, where it was possible to install plantings along that boundary. They explained that the 40-foot-wide drainage easement, between the subject property and the County's park, limits their ability to provide a 30-foot-wide Type F buffer. In addition, they asserted that there is, and will be, vegetation and trees growing along the banks of the drainage easement, which will provide some shielding for their property. For those reasons, they did not believe that it would be necessary or possible for them to provide a full Type F buffer along the south boundary of Parcel C.

Applicant's biggest objection to the conditions of Deviation #2 was the timing. They wanted to install the wall and vegetative buffer along the hangars when they obtained the development order for the construction of the office building, instead of having to install them within 6

months of the approval of this rezoning request. They argued that buffers are not required, in the LDC, until the development order is approved for the use.

The third Deviation related to Applicant providing a temporary irrigation system for the buffer on the exterior of the wall on the north property line. Applicant explained that, since the majority of the site is already paved and developed, they would have to dig up the pavement to install water lines, which would be very costly and would clearly interfere with the operation of the existing buildings and uses. They agreed to use native plants and short trees which, once established, would not require irrigation, but would be able to survive under natural conditions.

Staff recommended approval of the request, with conditions, finding that the request, as conditioned in the Staff Report, was consistent with the Lee Plan and the Land Development Code, and would be compatible with the surrounding mix of uses in the area. They also found that the request, as conditioned, would not be detrimental or injurious to the neighborhood or the public health, safety and welfare.

One of the conditions imposed by Staff was that Applicant connect the new office building and the existing restroom into the nearby public sewer and water lines. As the site was already served by public water, the public sewer connection was the only connection that needed to be made. However, they required the connection of that single restroom within 90 days of the approval of this rezoning request. The connection for the office building would occur when that building was constructed, as allowed by the LDC. They cited LDC Section 10-353 as the basis for the 90-day time frame in their condition. LDC Section 10-353 requires connection of "any residential, commercial or industrial development of any size where central sewer lines are or will be available within 90 days of the issuance of the development order."

Applicant objected to the timing of the connection, asserting that it was unreasonable to require them to install the necessary lines and equipment for just one bathroom. First, that one bathroom did not generate enough effluent to allow the system to work properly. Second, they have not fully designed the site, as yet, and were not certain where the lines would be. There was a chance the lines could be damaged during the construction of the office building.

Further, responding to the County Staff's assertions that they were required to connect by Lee County regulations, Applicant's attorney cited both the State statute and the Lee County ordinance that established the legal basis for the hook-up requirements.¹ Both the statute and

¹ Section 381.00655 (1)(a), Florida Statutes, sets out that:

the owner of a properly functioning onsite sewage treatment and disposal system, . . . must connect the system or the building's plumbing to an available publicly owned or investor-owned sewerage system within 365 days after written notification by the owner of the . . . sewerage system that the system is available for connection. The publicly owned or investor-owned sewerage system must notify the owner of the onsite sewage treatment and disposal system of the availability of the central sewerage system. No less than 1 year prior to the date the sewerage system will become available, the publicly owned or investor-owned sewerage system shall notify the affected owner of the onsite sewage treatment and disposal system of the anticipated availability of the sewerage system and shall also notify the owner that the owner will be required to connect to the sewerage system within 1 year of actual availability. (Emphasis added by Hearing Examiner)

Lee County Ordinance 91-09 also reflects the same time frame as the Statute:

. . . shall connect to a public, non-profit, or investor-owned central wastewater collection system within 365 days after notification by mail or by publication that such a system's collection lines have

the ordinance required the hook-up 365 days after the property owner was "officially" notified by the utility provider that the lines were in place and that the property owner was required to hook-up within the next 365 days. Applicant never received such notification.

Lee County Utilities' Staff argued that the letter from the utility stating available capacity for this project constituted that notification, adding that North Fort Myers Utilities does not send out letters of notification that require the property owners to connect within 365 days of the date of the letter. Applicant responded that they obtained the letter of available capacity from the utility, because they were required to provide that document as part of the rezoning packet. They argued that the availability letter did not meet the statutory or County requirements of "formal" notification of availability and required hook-up. The County Attorney's Office agreed with Applicant's argument that the zoning letter of availability was not the requisite notification for connection. Despite the County Attorney's agreement with Applicant's arguments, Utilities' Staff reiterated their intent that the hook-up of the hangar restroom take place within 90 days of the approval of the rezoning request.

With regard to the buffering matters, Environmental Staff explained that they were requiring the buffering of this site to be brought up to current code, even though a large portion of the site was already developed. They understood that it would mean that Applicant would have to do some reconfiguring or retrofitting to get these buffers into the site. They advised that the LDC required that properties being "redeveloped" be brought up to current code, as much as was possible. Since the previous property owner was required to - but did not - install buffers along the west and north boundaries in the 1998 approval, they believed that buffers - as modified in the Staff Report - should be installed by this property owner. These buffers would ensure the compatibility of the commercial uses with the residential and recreational uses lying on three sides of the property.

Parks and Recreation Staff, however wanted the buffers along the south boundary to be installed within 6 months of the approval date of this zoning amendment - regardless of whether any development orders had been obtained for the site. Applicant was amenable to providing the appropriate walls and buffers along the property's perimeters, to the extent possible on this site. However, they disagreed with Staff's condition that those buffers had to be installed before either the office or open storage uses were contemplated or actually approved through permitting. They stressed that the Land Development Code does not require buffers to be installed until the development plan is known and submitted for development order approval and permitting. They felt they were being treated differently than other developers in the County, because they abutted the as-yet unfinished County park to the south.

Staff also recommended approval of the three Deviations, with conditions, and Applicant objected to the timing conditions for the required buffering as discussed above.

Public

Numerous property owners within the Air Park attended the public hearing to object to the relocation of the open storage area closer to their homes, and the construction of an office building at the west end of the subject property. Many of these residents are pilots - owning a variety of propeller and small jet aircraft - and use the runway frequently. They provided a

been installed immediately adjoining the property served by the on-site system. . . .

document that indicated a total of 78 aircraft within the Air Park, and an average of 250 flights using the airstrip per month. (Madden Letter dated January 22, 2009).

They raised several aesthetic and compatibility concerns relating to the open storage, advising that they would be viewing this site on a daily basis, as it is right at the entrance to their development. They were also concerned about the type and height of items being stored there, asking that nothing over 15 feet tall (like construction cranes), and no construction equipment or vehicles, school buses, semi-tractor and trailers, etc., be allowed there. They also requested an 8-foot-high decorative masonry or concrete wall around the east and north ends of the open storage lot, as well as vegetative buffers along Runway Street and the east wall on Parcel C.

Their major concern, however, related the construction of the office building at the west end of the subject property. They strenuously objected to an inhabited structure occupying a portion of their approach zone/glide path, citing safety concerns for the pilots and the office workers. They stressed that the 25-foot-high building would interfere with their angle and height of approach on landings and take-offs. If something were to go wrong during their landing or take-off, they could crash into the building. Take-offs and landings are not an "exact science" and can be seriously affected by air currents, temperature, weather conditions, and faulty equipment.

They advised that this airstrip is used both day and night. At night, especially, they are required to rely on their altimeters to determine their above-ground height when they are attempting a landing. Several pilots testified that the industry standards allow altimeters to be as much as 50 feet "off" in their measurements. Thus, if they are attempting a landing at night or in inclement weather, they could actually be 50 feet lower than their equipment indicates.

In the industry, the allowable height of any structures within the 3,000-foot-long approach protection zone for an airstrip is calculated at 1-foot vertical rise to each 20-foot horizontal travel. No structure within that protection zone would be allowed to intrude into the glide path of the aircraft. These residents conceded that neither the office building nor the stored items at 15 feet or less in height would intrude into the glide path, but asserted their mere presence could create safety risks that the pilots were not currently experiencing.

They believed the stored items and the inhabited structure could be a serious health, safety and welfare risk to the occupants of the building, the pilots and passengers in the aircraft, and the operation of the airstrip. They calculated that there would only be about 65 feet of clearance between the plane and the office building, and only 17 feet of clearance between the items in the storage area and the plane. Their calculation was based on deleting 200 feet from the distance between the end of the runway and the structures - noting that the protective slope measurements actually begin 200 feet from the end of the runway. They stressed that these heights were much too close for safety purposes. (These calculated figures differ from those provided by the Port Authority - as the 200-foot deduction is used only for regulated airstrips - not for private airstrips. See the discussion below for more details.)

Hearing Examiner Analysis

The undersigned Hearing Examiner concurs with Staff's analysis, findings and recommendation of approval, as conditioned herein, finding that the request, as conditioned herein is consistent with the intent of the Lee Plan and the provisions of the Land Development

Code. She also finds that the request, as conditioned herein, is compatible with the surrounding uses and will not be detrimental to the neighborhood.

With regard to timing of the sewer connection, the Hearing Examiner concurs with Applicant and the County Attorney that Applicant is entitled to a formal notification letter from North Fort Myers Utilities, and the letter of availability obtained for the rezoning packet does not constitute such a notification. The fact that North Fort Myers Utilities has chosen not to send out the 365-day notification letter does not change the property owner's statutory right to have that letter sent out and to be afforded the "protections and obligations" of that letter. Nor does its choice not to send out the letter absolve North Fort Myers Utilities from complying with the statutory requirement of the 365-day notification of mandatory connection.

Setting aside the notification issue, the Hearing Examiner also points out that LDC Section 10-353(a)(5) requires the hook-up "within 90 days of the issuance of a development order." Utilities' Staff, on the other hand, is requiring that Applicant connect the hangar restroom to public sewer within 90 days of "the approval of this zoning amendment." Therefore, it is the Hearing Examiner's finding that Staff's condition is not consistent with either the State statute, Lee County Ordinance 91-01, nor the Land Development Code provisions. For that reason, the Hearing Examiner is recommending a revision to Condition 16 that requires Applicant to connect the hangar restroom within 365 days of a formal notification letter, or as part of the construction of the office building on Parcel A, whichever occurs first.

With regard to the timing of the buffering requirement, the undersigned Hearing Examiner does not agree wholeheartedly with Applicant's position regarding the timing of the wall and buffer around the open storage area on Parcel C. While she understands the costs involved and Applicant's purpose of not installing the wall and buffer until the area is being used for storage, she noted, during her site visit, numerous vehicles and trailers being "stored" around and among the eight hangars on both Parcels B and C. There was also testimony from the residents of the Air Park that the property is frequently unsightly and ill-maintained.

Further, it would be easy to "park" something on the paved area and then move it around the site, so that the "parking" would not be deemed "storage." Such a situation would very difficult for the County to monitor and regulate. For the reasons stated in these two paragraphs, the Hearing Examiner is recommending that Applicant provide the requisite wall and plantings - on the north, east and south sides of the open space area and the south sides of Parcels B and C - within 12 months of the approval of this zoning request or when the development order is approved for the open storage use, whichever occurs first.

Lastly, the Hearing Examiner needs to address the issues raised by the public. While she understands the safety concerns raised by the Air Park pilots, the Hearing Examiner must give greater weight in her considerations to the applicable laws, and the testimony and professional opinions of the Port Authority's witnesses.² It was explained that the Port Authority does not

² James Halley is employed by Lee County Port Authority as the Noise and Air Space Coordinator. His responsibilities include reviewing all tall structures, in proximity to the International Airport and the Page Field Airport, against Lee County LDC, FAA codes and FDOT codes to ensure the safe operation of the aircraft and the safety of the public. His testimony is found at pages 20 thru 43 of the January 23, 2009 transcript.

William Horner is employed by Lee County Port Authority Planning Department. His testimony is found at pages 133 through 141 of the January 23, 2009 transcript.

approve or deny the requested use - they only approve or deny the height of the structure that will be in the approach zone. Their review is to ensure the safety of the aircraft and the public by not allowing structures to encroach, intrude or obstruct the glide path of the regulated airstrip.

The following are important facts that bear consideration in this case:

1. Pine Shadow Air Park and other private airstrips in Florida are no longer regulated by FAA, FDOT or by the laws of Florida. In October 2003, the licensing and regulatory requirements for private airstrips were removed from Florida Statutes Chapter 330, such that "there are no longer any standards that cover or protect a private use registered airport." (Halley, Page 23, January 23rd transcript) As such, the Port Authority has no responsibility for reviewing or approving any request involving or relating to any private airstrip in Lee County.

2. Even when the private airstrip was regulated/licensed, the only regulatory standard used to determine safety was the calculation of the height of a structure within the trapezoidally shaped "approach zone." A structure could be such things as a tree, building, crane, tower, or antenna. That zone extends 3,000 feet from the end of the runway and extends from 50 feet wide at the runway end to about 700 feet wide at the end of the zone. The protected overflight area within that approach zone was calculated "at a 20:1 slope - rising 1 foot vertically for every 20 feet horizontally." (Staff Exhibit 7) This is basis for the "tall structures" permitting regulations in the Land Development Code. As noted above, those regulations no longer apply to this private airstrip.

3. As long as the structure in question did not intrude into the protected overflight area within the approach zone, the Port Authority had no objections to the structure being located at the end of runways, and issued the "requisite approval."

4. Lee County Port Authority - at the request of Staff for the Hearing Examiner - calculated the ascending height of the slope within the approach zone to determine whether the open storage area or the 25-foot-high office building would encroach into that protected overflight area. They determined the following:

A. The open storage area is 853 feet from the end of the runway (the intervening strip is the taxi-way to serve the fuel depot). (They did not reduce the length by 200 feet because that reduction is used only for regulated, licensed airstrips.) At the eastern edge of the property - the maximum allowable height would be 42.65 feet above the runway elevation. With a height limitation of 15 feet in the open storage area, there would be a minimum clearance of 27.65 feet at that point.

B. At Parcel A - the office building - is located more than 2,000 feet from the end of the runway. At that location, the maximum allowable building height would be about 100 feet above the runway elevation. With a height limitation of 25 feet - the same height as the existing hangars, there would be a minimum clearance of about 75 feet.

C. It was the finding of the Port Authority that "even using the previous state requirements," the proposed uses and structures are not an "obstruction" in the glide path of the private runway. (Horner, Page 140, January 23rd transcript.)

Given these facts and findings by the Port Authority and Zoning Staff, the Hearing Examiner cannot find a basis on which to deny Applicant's requested rezoning.

V. FINDINGS AND CONCLUSIONS:

Based upon the Staff Report, the testimony and exhibits presented in connection with this matter, the undersigned Hearing Examiner makes the following findings and conclusions:

- A. That the Applicant has proved entitlement to this requested amendment, as conditioned herein, by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes or regulations.
- B. That the requested amendment, as conditioned herein, will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request.
- C. That the requested amendment, as conditioned herein, is consistent with the intensities and general uses set forth in the Lee Plan, and is compatible with existing or planned uses in the surrounding area.
- D. That approval of the requested amendment, as conditioned herein, will not place an undue burden upon existing transportation or planned infrastructure facilities, and the development will be served by streets with the capacity to carry traffic it generates.
- E. That the proposed uses, as conditioned herein, will not adversely affect environmentally critical areas and natural resources.
- F. That the proposed mix of uses, as conditioned, are appropriate at the subject location.
- G. That the recommended conditions to the Master Concept Plan are reasonably related to the impacts anticipated from the proposed development, and, with other regulations, will provide sufficient safeguard to the public interest.
- H. That the approved Deviations, as conditioned herein, will enhance the objective of the proposed development, and will promote the protection of the public health, safety and welfare.
- I. That urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed development.
- J. That the Pine Shadow Air Park is no longer regulated or licensed by FAA, FDOT or Lee County Port Authority, as such regulations pertaining to all privately owned airstrips were repealed by the Florida Legislature in 2003.

VI. LIST OF EXHIBITS:

STAFF'S EXHIBITS

- 1 Aerial photograph, prepared by Lee County DCD, mapped October 29, 2008 (color)(24"X36")

- 2 Small aerial photograph, prepared by Lee County DCD, dated October 29, 2008 (8.5"X11")
- 3 Five photographs of subject property (color)(8.5"X11")
- 4 Property Appraiser Records and Ownership Records / Air Strip
- 5 Prairie Pines Preserve Site Plan, prepared by J.W. Ebner, P. E., dated July 2007, 24 pages (24"X36")
- 6 James R. Halley, III, Resume
- 7 Two aerial photographs, prepared by Lee County Port Authority, depicting the approach protection zone
- 8 Revised Conditions, dated February 6, 2009 (8.5" x 11") [post hearing submittal]

Résumés of Lee County Staff are on file with the Hearing Examiner's Office and are incorporated herein.

APPLICANT'S EXHIBITS

- 1 Master Concept Plan, two pages (24"X36")
- 2 Letter from Matthew Uhle, dated February 6, 2009, re: Revised Conditions (8.5" x 11") (multiple pages) [post hearing submittal]

Résumés of Applicant's consultants are on file with the Hearing Examiner's Office and are incorporated herein.

OTHER EXHIBITS

FIFE

- 1 Three sheets of four photograph copies (color)(8.5" x 11")

MADDEN

- 1 Letter from Joseph Madden, Esquire, dated February 6, 2009, re: Response to Staff's and Applicant's proposed revised conditions (8.5" x 11") [post hearing submittal]

MARZ

- 1 Zoning Map (8.5"X11")

YORDE

- 1 Presentation (text copy)(8.5" x 11")

VII. PRESENTATION SUMMARY:

See Official Court Reporter Transcripts (December 4, 2008 and January 23, 2009)

VIII. OTHER PARTICIPANTS AND SUBMITTALS:

ADDITIONAL APPLICANT'S REPRESENTATIVES:

1. Mike Roeder, c/o Knott, Consoer, Ebelini, Hart & Swett, 1625 Hendry Street, Suite 301, Fort Myers, Florida 33901
2. Matt Uhle, c/o Knott, Consoer, Ebelini Hart & Swett, 1625 Hendry Street, Suite 301, Fort Myers, Florida 33901

ADDITIONAL COUNTY STAFF:

1. Suzanne Derheimer, Environmental Sciences, P.O. Box 398, Fort Myers, Florida 33902
2. John Fredyma, Assistant County Attorney, P. O. Box 398, Fort Myers, Florida 33902
3. Jim Halley, Lee County Port Authority, P. O. Box 398, Fort Myers, Florida 33902
4. Bill Horner, Lee County Port Authority, P. O. Box 398, Fort Myers, Florida 33902
5. Cathy Olson, Parks and Recreation, P.O. Box 398, Fort Myers, Florida 33902
6. Mike Pavese, Public Works, P.O. Box 398, Fort Myers, Florida 33902

PUBLIC PARTICIPATION:

A. THE FOLLOWING PERSONS TESTIFIED OR SUBMITTED EVIDENCE FOR THE RECORD AT THE HEARING (SEE SECTION VII.):

For: NONE

Against:

1. Richard Dobson, 3740 Downwind, North Fort Myers, Florida 33917
2. Jerald Ellis, 18580 Baseleg Avenue, North Fort Myers, Florida 33917
3. Joseph Fife, 18736 Baseleg Avenue, North Fort Myers, Florida 33917
4. Patricia Fife, 18736 Baseleg Avenue, North Fort Myers, Florida 33917
5. Robert Foltz, 18631 Base Leg Avenue, North Fort Myers, Florida 33917
6. Antony Greene, 18502 Crosswind Avenue, North Fort Myers, Florida 33917
7. James Hiatt, 18891 Crosswind Avenue, North Fort Myers, Florida 33917

8. Robin Howton, 3651 Runway Street, North Fort Myers, Florida 33917
9. Joe Llamas, 18832 Crosswind Avenue, North Fort Myers, Florida 33917
10. Joseph Madden, 2277 Main Street, Fort Myers, Florida 33901
11. Barry Marz, 18735 Baseleg Avenue, North Fort Myers, Florida 33917
12. Tom Norton, 3641 Downwind Lane, North Fort Myers, Florida 33917
13. Glenn Novack, 18682 Crosswind Avenue, North Fort Myers, Florida 33917
14. Andrew Shaw, 18761 Baselet Avenue, North Fort Myers, Florida 33917
15. James "Jim" Whitty, 3641 Runway Street, North Fort Myers, Florida 33917
16. Linda Yorde, 18771 Crosswind Avenue, North Fort Myers, Florida 33917

B. THE FOLLOWING PERSONS SUBMITTED A LETTER/COMMENT CARD, OR OTHERWISE REQUESTED A COPY OF THE HEARING EXAMINER RECOMMENDATION:

For: NONE

Against:

1. Wayne D. Gray, 18501 Crosswind Avenue, North Fort Myers, Florida 33917
2. Christopher Kelley, 3741 Runway Street, North Fort Myers, Florida 33917
3. Bruce MacRitchie, 18584 Baseleg Avenue, North Fort Myers, Florida 33917
4. Carlton Moore, 18812 Baseleg Avenue, North Fort Myers, Florida 33917
5. Priscilla Shaw, 18761 Baselet Avenue, North Fort Myers, Florida 33917
6. Robert Zook, 18592 Crosswind Avenue, North Fort Myers, Florida 33917

General:

1. Melba Christensen, Post Office Box 3937, North Fort Myers, Florida 33918
2. Anthony Rivera, 2950 Trail Dairy Circle, North Fort Myers, Florida 33917

IX. LEGAL DESCRIPTION:

See Exhibit A (scanned legal description).

X. UNAUTHORIZED COMMUNICATIONS:

Unauthorized communications shall include any direct or indirect communication in any form, whether written, verbal or graphic, with the Hearing Examiner, or the Hearing Examiner's staff,

any individual County Commissioner or their executive assistant, by any person outside of a public hearing and not on the record concerning substantive issues in any proposed or pending matter relating to appeals, variances, rezonings, special exceptions, or any other matter assigned by statute, ordinance or administrative code to the Hearing Examiner for decision or recommendation. . . . [Administrative Code AC-2-5]

No person shall knowingly have or attempt to initiate an unauthorized communication with the Hearing Examiner or any county commissioner [or their staff]. . . . [LDC Section 34-52(a)(1), emphasis added]

Any person who knowingly makes or attempts to initiate an unauthorized communication . . . [may] be subject to civil or criminal penalties which may include: [Section 34-52(b)(1), emphasis added]

Revocation, suspension or amendment of any permit variance, special exception or rezoning granted as a result of the Hearing Examiner action which is the subject of the unauthorized communication. [LDC Section 34-52(b)(1)b.2.]; OR

A fine not exceeding \$500.00 per offense, by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. [LDC Section 1-5(c)]

XI. HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS:

A. This recommendation is made this 23RD day of March, 2009. Notice or copies will be forwarded to the offices of the Lee County Board of County Commissioners.

B. The original file and documents used at the hearing will remain in the care and custody of the Department of Community Development. The documents are available for examination and copying by all interested parties during normal business hours.

C. The Board of County Commissioners will hold a hearing at which they will consider the record made before the Hearing Examiner. The Department of Community Development will send written notice to all hearing participants of the date of this hearing before the Board of County Commissioners. Only participants, or their representatives, will be allowed to address the Board. The content of all statements by persons addressing the Board shall be strictly limited to the correctness of Findings of Fact or Conclusions of Law contained in the recommendation, or to allege the discovery of relevant new evidence which was not known by the speaker at the time of the earlier hearing before the Hearing Examiner and not otherwise disclosed in the record.

D. The original file containing the original documents used in the hearing before the Hearing Examiner will be brought by the Staff to the hearing before the Board of County Commissioners. Any or all of the documents in the file are available on request at any time to any County Commissioner.

XII. COPIES OF TESTIMONY AND TRANSCRIPTS:

A verbatim transcript of the testimony presented at the hearing can be purchased from the court reporting service under contract to the Hearing Examiner's Office. The original documents and file in connection with this matter are located at the Lee County Department of Community Development, 1500 Monroe Street, Fort Myers, Florida.



DIANA M. PARKER
LEE COUNTY HEARING EXAMINER
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, Florida 33902-0398
Telephone: 239/533-8100
Facsimile: 239/485-8406

SKETCH OF DESCRIPTION
TO SHOW LIMITS OF REZONING
THIS IS NOT A SURVEY
SHEET 2 OF 2 NOT VALID WITHOUT SHEET 1

A TRACT OR PARCEL OF LAND CONSISTING OF TWO PARCELS DESCRIBED TOGETHER FOR GOVERNMENTAL PURPOSES: SAID PARCEL BEING IN PORTIONS OF **SECTIONS 15 & 16, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA** AND SHOWN AS TRACT "E" OF **PINE SHADOWS AIR PARK**, AS RECORDED IN PLAT BOOK 34, PAGES 66 & 67, AND SHOWN AS TRACTS "E" & "F" OF **A REPLAT OF A PART OF PINE SHADOWS AIR PARK** AS RECORDED IN PLAT BOOK 39, PAGES 4, 5 & 6 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 15, BEING ALSO THE SOUTHEAST CORNER OF THE NORTHWEST CORNER OF SAID SECTION 16; THENCE N 89 degrees 57'53" E. FOR A DISTANCE OF 48.51 FEET ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 15, FOR A DISTANCE OF 48.51 FEET; THENCE N 00 degrees 13'26" W. FOR A DISTANCE OF 199.14 FEET; THENCE S 89 degrees 46'34" W. PASSING FROM SAID SECTION 15 INTO SAID SECTION 16, FOR A DISTANCE OF 1045.77 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 30.00 FEET; THENCE WEST, SOUTH AND SOUTHEAST ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 120 degrees 11'05", FOR A DISTANCE OF 62.93 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. 41, TAMiami TRAIL (300' WIDE); THENCE S 30 degrees 24'31" E. ALONG SAID RIGHT-OF-WAY LINE FOR 158.51 FEET TO AN ANGLE BREAK; THENCE S 28 degrees 38'36" E. ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 8.21 FEET TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 16; THENCE S 89 degrees 38'06" E. FOR A DISTANCE OF 939.64 FEET TO THE POINT OF BEGINNING.
THE NORTH PROPERTY LINE BEARS N 89 degrees 46'34" E AS PER PLATS CITED HEREON.
CONTAINING 4.6 ACRES. MORE OR LESS.

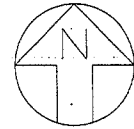
**ATTORNEY'S
REAL ESTATE
LAND SURVEYING
INC.**
1930 PARK MEADOWS DRIVE
SUITE 9
FORT MYERS, FLORIDA
(239) 277-7330
(239) 277-7332 FAX

REMOVED QUALIFIER FROM DESCRIPTION 7-29-2008
AMENDED SURVEYOR'S CERTIFICATION 7-17-2008
AMENDED SURVEYOR'S CERTIFICATION 4-7-2008
REVISION: SIMPLIFIED SKETCH 3-7-2008
FILE DISK: JULY 08-3

Applicant's Legal Checked
by CS 7-31-08

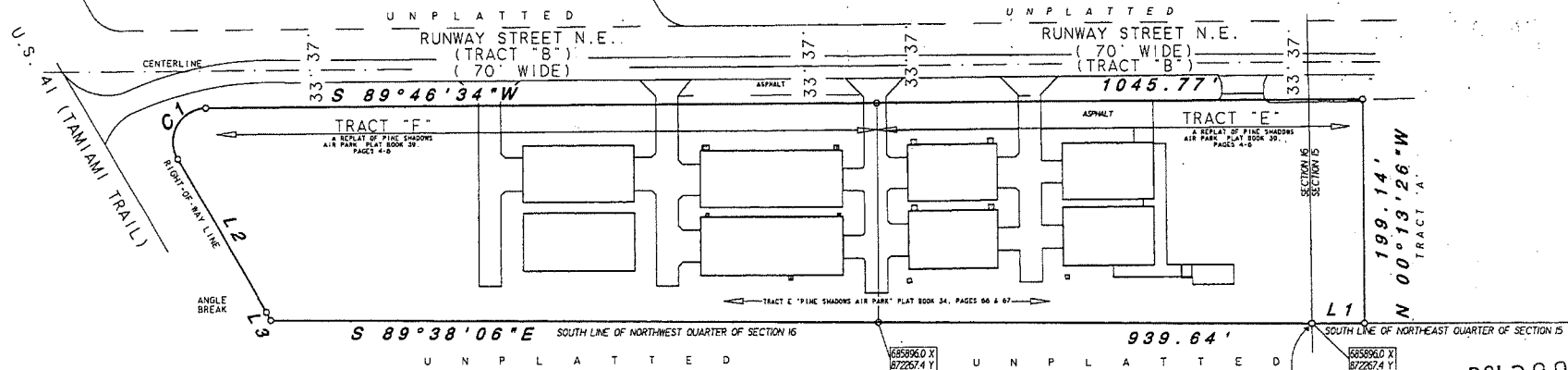
DATE: NOVEMBER 16, 2007
THIS SURVEY IS HEREBY CERTIFIED AS MEETING THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO CHAPTER 177, FLORIDA STATUTES, CHAPTER 472, FLORIDA STATUTES AND CHAPTER 61617, FAC AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY IS A COMBINATION OF TWO PLATTED LOTS. THE CITED PLATS WERE RELIED UPON FOR EASEMENTS OF RECORD. THE PROPERTY WAS PHYSICALLY EXAMINED FOR SIGNS OF UNRECORDED EASEMENTS. THERE ARE NONE EXCEPT AS SHOWN, UNLESS IT BEARS THE ORIGINAL EMBOSSED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER. THIS DRAFTER, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID. NO COPIES SHALL BE MADE WITHOUT WRITTEN AUTHORIZATION.
LARRY GARDNER, SURVEYOR AND MAPPER #4294
NOT VALID WITHOUT EMBOSSED SEAL
JOB NUMBER: 07-389CC

SKETCH OF DESCRIPTION TO SHOW LIMITS OF REZONING THIS IS NOT A SURVEY SHEET 1 OF 2 NOT VALID WITHOUT SHEET 2



SCALE 1 INCH = 100 FEET
0 100 200

PROPERTY ADDRESS:
2920 RUNWAY STREET N.E.
NORTH FORT MYERS, FLORIDA



SURVEYORS NOTES:

- 1)SIR - SET 1/2" IRON ROD, WITH CAP LB#6594.
- 2)BEARINGS - SOUTH PROPERTY LINE - PLAT BEARING.
- 3)S'X" - SET 'X'IN CONCRETE
- 4)FIR - FOUND IRON ROD
- 5)FCM - FOUND CONCRETE MONUMENT

CURVE	DELTA ANGLE	RADIUS	ARC	CHORD	CHORD BEARING
C 1	120°11'05"	30.00'	62.93'	52.01'	S 29°41'02"W
LINE	BEARING	DISTANCE			
L 1	N 89°57'53"E	48.51'			
L 2	S 30°24'31"E	158.51'			
L 3	S 28°38'36"E	8.21'			

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REAL ESTATE
LAND SURVEYING
INC.

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REMOVED QUALIFIER FROM DESCRIPTION 7-29-2008
AMENDED SURVEYOR'S CERTIFICATION 7-17-2008
AMENDED SURVEYOR'S CERTIFICATION 4-7-2008
REVISION: SIMPLIFIED SKETCH 3-7-2008
FILE DISK: JULY 08-3

Applicant's Legal Checked
by CSJ 7-31-08

DCI 2007-00026

COMMUNITY DEVELOPMENT

DATE: NOVEMBER 16, 2007

THIS SURVEY IS HEREBY CERTIFIED AS MEETING THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO CHAPTER 177, FLORIDA STATUTES, CHAPTER 472, FLORIDA STATUTES AND CHAPTER 61617, FAC AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY IS A COMBINATION OF TWO PLATTED LOTS. THE CITED PLATS WERE RELIED UPON FOR EASEMENTS OF RECORD. THE PROPERTY WAS PHYSICALLY EXAMINED FOR SIGNS OF UNRECORDED EASEMENTS. THERE ARE NONE EXCEPT AS SHOWN, UNLESS IT BEARS THE ORIGINAL EMBOSSED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER. THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID. NO COPIES SHALL BE MADE WITHOUT WRITTEN AUTHORIZATION.

LARRY GARDNER, SURVEYOR AND MAPPER #4294
NOT VALID WITHOUT EMBOSSED SEAL

JOB NUMBER: 07-389CC

MASTER CONCEPT PLAN FOR PINE SHADOWS AIRPARK

EXHIBIT B

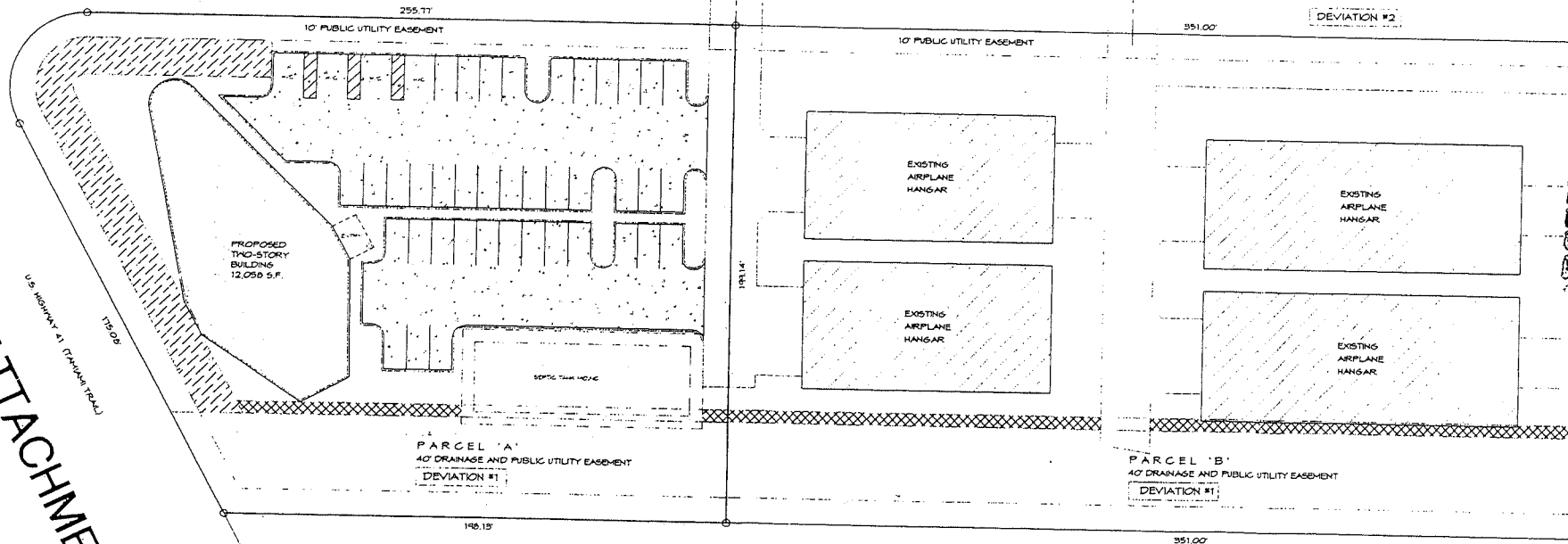
AG2 - S.F.R.

AG2 - NORTH FORT MYERS
FIRE STATION

AG2 - VACANT

RUNWAY STREET N.E. (10' WIDE)

RUNWAY STREET N.E. (10' WIDE)



ATTACHMENT B

PARCEL 'A'

TOTAL AREA = 1.14± ACRES
PARKING SPACES PROVIDED = 43 (4 HANDICAP)
OPEN SPACE REQUIRED = 0.34± ACRES (30%)
OPEN SPACE PROVIDED = 0.40± ACRES (35%)

ZONED: C.P.D.
LAND USE: SUBURBAN

MAXIMUM BUILDING HEIGHT = 35' (2 STORY)

LEGEND:

15' TYPE 'D' BUFFER

5' TYPE 'A' BUFFER WHERE PHYSICALLY POSSIBLE

M.H.P. VACANT - 2020 CONSERVATION LANDS

PARCEL 'B'

TOTAL AREA = 1.01± ACRES
TOTAL EXISTING BUILDINGS = 23,512 S.F.
OPEN SPACE PROVIDED = 0.06± ACRES (41%)

ZONED: C.P.D.
LAND USE: SUBURBAN

MAXIMUM BUILDING HEIGHT = 25' (2 STORY)

TOTAL PROPERTY

TOTAL AREA = 4.75± ACRES
OPEN SPACE PROVIDED = 1.56± ACRES (33%)

PARCELS ARE NOT ON LEE-TRAN ROUTE



SCALE: 1:20



RECEIVED
JUL 13 2007

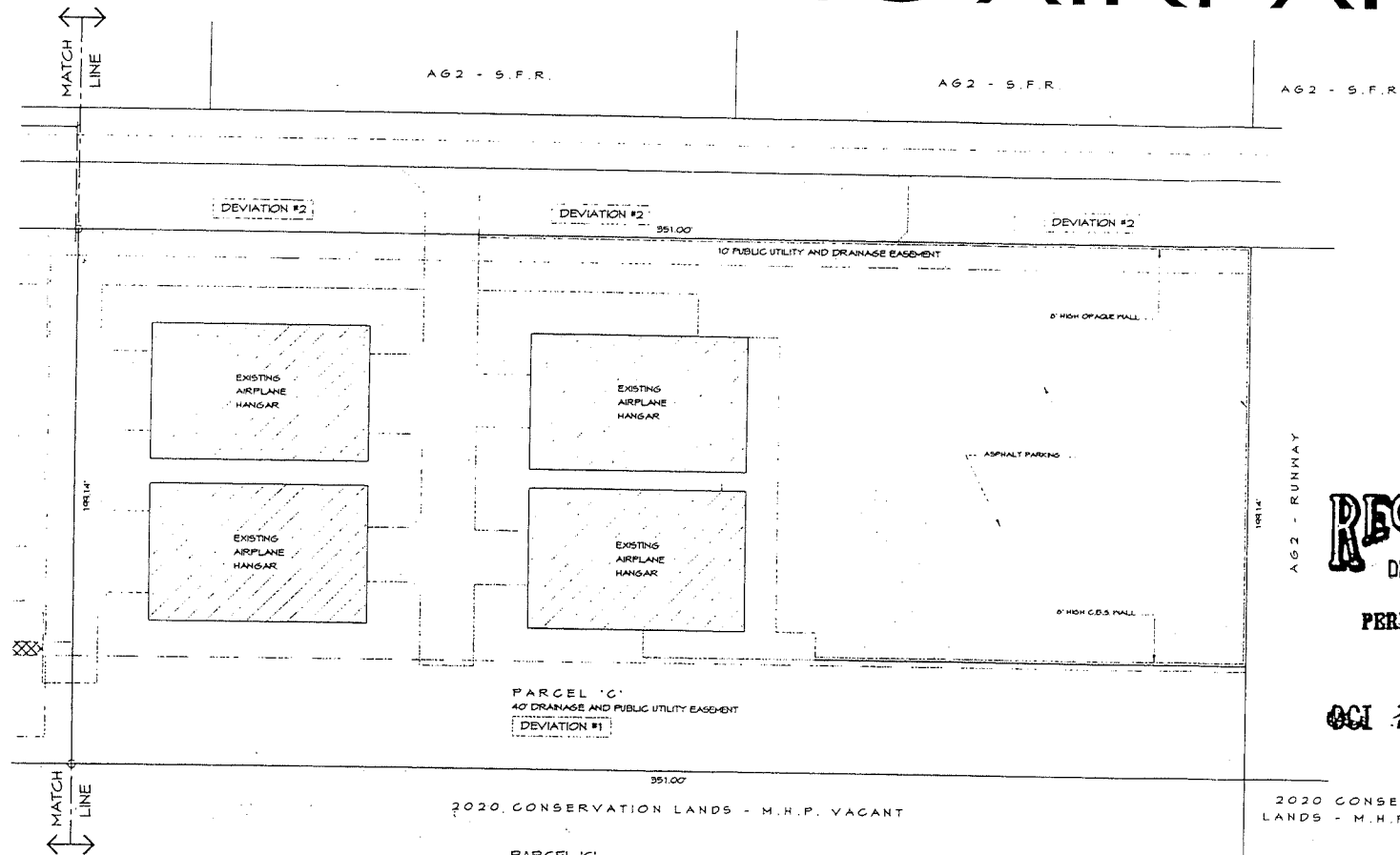
PLANNING DEPARTMENT

DCI 2007-00026

PREPARED BY:
david estes & associates, inc.
234.995.6231
06.21.2007

MASTER CONCEPT PLAN FOR PINE SHADOWS AIRPARK

ATTACHMENT B



PARCEL 'C'
40' DRAINAGE AND PUBLIC UTILITY EASEMENT
DEVIATION #1

PARCEL 'C'
TOTAL AREA = 2.01± ACRES
TOTAL EXISTING BUILDINGS = 10,606 S.F.
OPEN SPACE PROVIDED = 0.50± ACRES (25%)
ZONED: C.P.D.
LAND USE: SUBURBAN
MAXIMUM BUILDING HEIGHT = 25' (2 STORY)

PREPARED BY:
david estes & associates, inc.
239.995.6231
08.21.2007

RECEIVED
DEC 13 2007
PERMIT COUNTER

OCI 2007-00026

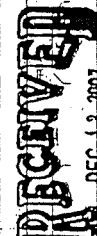
2020 CONSERVATION
LANDS - M.H.P. VACANT



SCALE: 1:20



EXHIBIT C



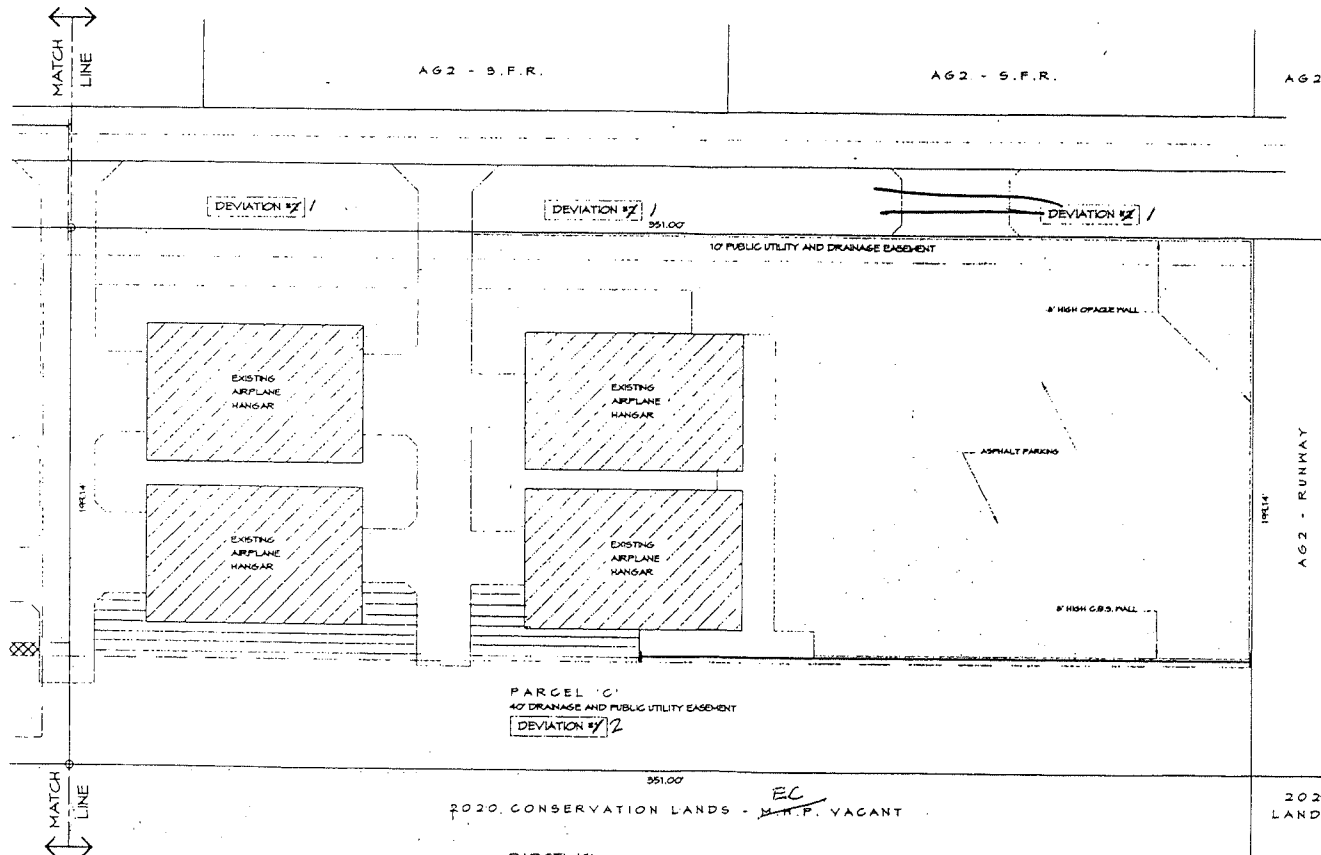
PERMITTING CONTINUED

DEC 13 2007

OCI 2007-00026

MASTER CONCEPT PLAN FOR PINE SHADOWS AIRPARK

ATTACHMENT C



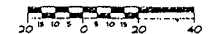
RECEIVED
DEC 13, 2007

PERMIT COUNTER

2020 CONSERVATION
LANDS - M.H.P. VACANT
EC



SCALE: 1:20



DCI 2007-00026

PREPARED BY:
david cates & associates, inc.
294.986.6231
08.21.2007

PARCEL 'C'
TOTAL AREA = 2.014 ACRES
TOTAL EXISTING BUILDINGS = 19,606 S.F.
OPEN SPACE PROVIDED = 0.301 ACRES (15%)
ZONED: C.P.D.
LAND USE: SUBURBAN
MAXIMUM BUILDING HEIGHT = 25' (2 STORY)

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

ORDER FOR CONTINUANCE

CASE NUMBER:	DCI2007-00026
APPLICANT:	JAY MACDUFF, in reference to PINE SHADOWS AIR PARK
PRIOR HEARING DATE(S):	DECEMBER 4, 2008
ADD'L. HEARING DATE(S):	JANUARY 23, 2009

The hearing on the above-styled case began as scheduled on December 4, 2008. At the conclusion of the presentations, the matter was continued to date and time set forth below to allow additional time for the Applicant, the Staff, and the public to present additional evidence and testimony. Any revisions to the Staff Report, proposed conditions or Applicant's 24-hour notice must be submitted to the Hearing Examiner at least 48 hours before the hearing.

Accordingly, this matter is continued to **FRIDAY, JANUARY 23, 2009, at 9:00 A.M.**, at the Hearing Examiner's Hearing Room, 1500 Monroe Street, Second Floor, Fort Myers, Florida. Copies of this Order will be mailed to the Staff, the Applicant, the Court Reporter, and all hearing participants.

DONE AND ORDERED this 5th day of December, 2008.



DIANA M. PARKER
LEE COUNTY CHIEF HEARING EXAMINER
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, Florida 33902-0398
Telephone: 239/533-8100
Facsimile: 239/485-8406

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the aforesaid Order was sent to all hearing participants, officially established as of the above Order date, either by U.S. Mail, Inter-County Mail, or Facsimile Transfer on the 5TH day of December, 2008.


Maria D. Perez/Administrative Assistant

LEE COUNTY, FLORIDA

ZONING DIVISION

STAFF REPORT

TYPE OF CASE: PLANNED DEVELOPMENT/DCI

CASE NUMBER: DCI2007-00026

HEARING EXAMINER DATE: DECEMBER 4, 2008

I. APPLICATION SUMMARY:

- A. Applicant: Jay MacDuff in reference to Pine Shadows Air Park
- B. Request: Amend Zoning Resolution #Z-98-069 Pine Shadows Air Park Commercial Planned Development (CPD) on +/- 4.65 acres. The amendment seeks to allow open storage on the rear vacant parcel, add uses such as professional office and business services in front on US 41, and modify the buffer requirements. No development blasting is requested. The entire development (existing and new) will hook up to public potable water and sanitary sewer service.
- C. Location: The subject property is located at 2920, 2860 Runway Street, in S16-T43S-R24E, Lee County, FL. (District #4)
- D. Future Land Use Plan Designation, Current Zoning and Use of Subject Property, Road Classification, Utilities, Planning Community:

Future Land Use: Suburban

Current Zoning: Commercial Planned Development (CPD) Resolution #Z-98-069.

Land Use: Pine Shadows Air Park, offices, auto restoration business, mini-warehouse buildings, open storage, other related uses. No agricultural uses or exemptions.

Road Classification: US 41, 4-lane arterial
Runway Street, 2-lane local, private road.

Utilities: Lee County Utilities, Water
North Fort Myers Utilities, Sewer

Planning Community North Fort Myers

NOVEMBER 18, 2008/ADP

U:\200811\DCI20070.002\6\PINE SHADOWS STAFF REPORT.WPD

Page 1 of 21

D. Surrounding Land Use:

Existing Zoning & Land Use

Future Land Use Map

North: Agricultural (AG-2), single family homes, North Fort Myers fire station.

Suburban

South: Environmentally Critical (EC) Prairie Pines Preserve.
Public preserve under development.

Conservation Lands/
Uplands

East: Agricultural (AG-2)
aircraft landing strip.

Suburban

West: US 41, then Mobile Home (MH-2)
mobile home park.

Suburban

F. Size of Property: 4.65 ± Acres

II. RECOMMENDATION

Staff recommends **APPROVAL** of the Applicant's request for an amendment to the Pine Shadows Commercial Planned Development (CPD) subject to conditions and deviations set forth below. **Recommended conditions and deviations are shown in strike-through underline format.**

A. Conditions

1. **MASTER CONCEPT PLAN:** The development of the subject property must be in substantial compliance with the approved Master Concept Plan which is a two-page document entitled "~~Pine Shadows Air Park~~ Master Concept Plan for "~~Pine Shadows Airpark~~" ~~dated March 16, 1998, and stamped received at the Permit Counter on May 12, 1998~~ DEC. 13, 2007.

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

Maximum Commercial Floor Area: SEE CONDITION #4.

2. **SCHEDULE OF USES:** The list of permitted uses is limited to the following:

Accessory Uses

Administrative Offices

Automobile Restoration - limited to restoration and maintenance of privately owned automobiles by their owners who are tenants of the property owner.

Business Services, Group I, limited to ~~Tract F-1~~ Parcel "A"

Caretaker's Residence

NOVEMBER 18, 2008/ADP

U:\200811\DCI20070.002\6\PINE SHADOWS STAFF REPORT.WPD

Page 2 of 21

Essential Services

Essential Service Facilities - LDC Section 34-622(c)(13), Group I

Mini-Warehouse - Limited to Tract F-1 and existing asphalt pad on Tract F-2,
Parcels B and C. See Condition 8.

Parking Lot, Accessory, Temporary

Signs, in accordance with Chapter 30

~~Self Service Fuel Pump, - limited to existing aircraft fuel dispensing system located on Tract E.~~

Storage, Open - limited to Parcel C ~~Tract F-1~~ and excluding construction equipment and large trucks, i.e. semi-trailers, etc

The master concept plan must be corrected to depict the location of Open Storage where it depicts "Asphalt Parking").

Limited to 40,000 square feet maximum.

Warehouse, public - limited to existing structures only as depicted on the MCP.

3. **PROPERTY DEVELOPMENT REGULATIONS:** Development of the subject property must comply with the following Property Development Regulations:

Minimum Setbacks - Buildings And Structures:

Street: 25 feet

Side: 15 feet

Rear: 25 feet

Water body: 25 feet

Maximum Lot Coverage: 40%

Maximum Building Height: Parcel A: 3 stories/35 feet

Parcels B & C: 2 stories/25 feet above grade

4. **DEVELOPMENT LIMITS:** ~~Future d~~Development of the subject property is limited to a total maximum of 15,000 square feet of floor area on Parcel "A" ~~Tract F-1, and a total of five thousand (5,000) square feet on the vacant asphalt pad on Tract F-2,~~ with the total square footage of including existing and approved structures not to exceed 55,000 square feet of floor area for the entire site. Open Storage may not exceed 40,000 square feet.
5. **NO RETAIL SALES:** No retail sales are permitted on the subject parcel except for those associated with ~~the existing~~ a single aircraft fuel dispensing system. ~~located on Tract E.~~
6. **COMMERCIAL USE/STORAGE UNITS:** Commercial use of individual storage units and public warehouse space is prohibited. Commercial establishments may rent units or warehouse space for storage use only.
7. **OPEN STORAGE:** Open storage use is limited to ~~Tract F-1~~ Parcel C and must be completely enclosed by an 8 foot high, painted, concrete (block or precast) masonry

~~wall. In addition, a 15 foot wide buffer containing a minimum of 5 trees and 12 shrubs per 100 linear feet must be provided on the exterior side of the masonry wall; in compliance with the conditions per Deviation #2 below.~~

8. **MINI-WAREHOUSE:** ~~The mini-warehouse use is limited to Tract F-1 and the existing asphalt pad located on Tract F-2. Parcels B and C.~~
9. **PARKING:** Required parking for all uses must be provided in accordance with LDC Section 34-2020. In addition to any new spaces, the parking spaces designated on the Master Concept Plan must be delineated and provided with parking blocks in accordance with LDC Section 34-2016.
10. **TRAFFIC:** This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions may be required at the time of local Development Order approval.
11. **LEE PLAN:** ~~Approval of this rezoning does not give the Developer an undeniable right to receive local Development Order approval. Future Development Order approvals must satisfy the requirements of the 2020 Planning Community's Acreage Allocations of the 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), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function (for commercial uses), as well as all other Lee Plan provisions.

12. ~~This development must comply with all of the requirements of the Lee County Land Development Code at the time of local Development Order approval, except as may be granted by deviation as part of this planned development.~~ **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. The developer is required to demonstrate compliance with all concurrency requirements, including traffic concurrency, prior to issuance of a local development order.
13. **NO BLASTING:** No development blasting is permitted as part of this project unless approved at a subsequent public hearing as an amendment to the planned development.
14. **ACCESSORY USES** Within the Commercial Planned Development, accessory uses must be located on the same tract, parcel or outparcel where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel.
15. **AGRICULTURAL USES** No agricultural uses exist on this property and none are approved as a part of this rezoning.

16. **WATER AND SEWER** Development of this project must connect to both public water and public sewer, for both existing and future uses. At time of local development order, the developer must also demonstrate there is adequate water and sewer capacity to handle the level of development as proposed in the development order submittal. The master concept plan must also be corrected to remove the reference to the septic tank mound.
17. **SOLID WASTE/RECYCLING:** Prior to any local Development Order approval for vertical development, the developer must provide facilities in compliance with LDC Section 10-261 and Solid Waste Ordinance # 08-10 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of local Development Order application.
18. **ZONING RESOLUTION:** Upon approval of this zoning resolution, Zoning Resolution Z-98-069 shall become null and void.
19. **OPEN SPACE:** Prior to local development order approval, development order plans must delineate a minimum 1.56 acres of open space.
20. **DEVIATIONS:** The Master Concept Plan must accurately depict any approved deviations prior to final zoning resolution approval.
21. **WALL:** The Master Concept Plan must depict the appropriate wall approved through the deviation prior to final zoning resolution approval.
22. **BUFFER:** Prior to local development order approval, landscape plans must depict the proposed Type D right-of-way buffer along US 41 to include a minimum of 5 trees per 100 linear feet and hedges planted in double staggered rows to be maintained 36 inches in height and to provide continuous visual screening within one year after time of planting.
23. **TOTAL PROPERTY:** The total acreage as depicted on page 1 master concept plan must be corrected to 4.65 ± acres.
24. **ZONING TO THE SOUTH:** The master concept plan must be corrected to show the property to the south zoned Environmentally Critical (EC), not "MHP vacant".

B. Deviations

Deviation #1 from LDC Section 10-415(b)(1) which required a Type "D" landscape buffer located adjacent to all street rights-of-way; to eliminate this requirement for the subject property along Runway Street. This deviation was approved per #Z-98-069. The applicant must provide a Type D buffer per the LDC on US 41. The applicant's MCP shows the Type "D" buffer extending to the proposed office building on both US 41 and a portion of Runway Street adjacent to the new building proposed. This is an appropriate method to buffer any new commercial development, while maintaining the status quo (for Runway Street) for existing development, and proposed open storage to be moved to the rear of the property. Staff recommends **APPROVAL** of the request.

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Deviation #2 from LDC Section 10-416(d)(3) requires an 8-foot concrete wall (per Condition #7 of Z-98-069) with additional landscaping (Type "F" buffer) adjacent to a Lee County preserve to require an 8-foot concrete wall only where open storage would abut a public preserve to the south. The applicant proposes the open storage area be enclosed with an opaque fence/wall 8-feet in height and a Type "A" buffer, where possible to the south. The applicant argues there is limited room for a vegetative buffer due to an existing drainage easement. Environmental Sciences staff expressed four concerns with the proposed deviation (See *Attachment C*). Environmental Sciences staff recommends a modified Type "F" buffer as depicted in their staff exhibit (also included with *Attachment C*). Staff recommends **APPROVAL** of the request with the following condition.

1. Prior to local development order approval, development order plans must depict for review and approval by the Division of Environmental Sciences and Conservation 20/20 staff the vegetation buffer and wall between the proposed/existing development and the 40 foot wide drainage/public utility easement consistent with the attached ES Staff Buffer Exhibit to include:
 - the proposed two-story building on Parcel A must be reconfigured to provide the minimum 15 feet of plantable area for the required Type F buffer plantings; and
 - once the septic area is removed on Parcel A, the area must be used to provide a minimum 15-feet of plantable area for the required Type F buffer plantings; and
 - the 5-15 foot wide area between the existing buildings/impervious driveways and drainage/public utility easement on Parcels B and C must be planted with a single hedge row (installed at 48 inches, maintained at 60 inches to provide continuous visual screening within 1 year after time of planting) and 5 trees per 100 linear feet, clustered at corners of buildings, to buffer drives and overhead doors; and
 - an 8-foot high concrete block wall with no required vegetation must be installed within the 2-3 foot wide area between the existing impervious surface and drainage/public utility easement on Parcel C; and
 - vegetation not compatible with Conservation 20/20 Lands prescribed burning; such as wax myrtle, cabbage palms, and saw palmetto; may not be permitted or planted within the south buffer.

C. Findings and Conclusions:

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

1. The applicant has proven entitlement to the amendment to a Commercial Planned Development (CPD) by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes and regulations.

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2. The requested zoning, as conditioned:
 - A) does meet all performance and locational standards set forth for the potential uses allowed by the request;
 - B) is consistent with the Lee Plan, specifically POLICY 1.7.6 POLICY 1.1.5. POLICY 2.2.1 ; POLICY 4.1.1; POLICY 5.1.5; POLICY 6.1.1 ; POLICY 6.1.2; POLICY 6.1.3; & POLICY 107.2.10; and
 - C) is compatible with existing or planned uses in the surrounding area; and
 - D) will not adversely affect environmentally critical areas or natural resources.
3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development, as conditioned.
4. Urban services, as defined in the Lee Plan, are adequate to serve the proposed land use, as conditioned.
5. The proposed mix of uses is appropriate at the subject location, as conditioned.
6. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.
7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
8. The deviations requested, as conditioned:
 - A. Do enhance the planned development; and
 - B. Do preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

III. BACKGROUND INFORMATION AND ANALYSIS:

The applicant seeks to amend the Pine Shadows Commercial Planned Development (CPD) to facilitate an office development on US 41 frontage, open storage in the rear, modify condition #7 relating to buffering to the south, request a deviation from required buffering to the south adjacent to a public preserve, and amend the schedule of uses. The request also modifies the height - allowing for a 3 story/35 foot building on US 41 frontage (25 feet was approved per #Z-98-069).

The property was rezoned in 1998 from Agricultural (AG-2) to Commercial Planned Development (CPD) to legitimize the existing commercial development (airport hangars and related uses) and to permit the development of 55,000 square feet of commercial floor area. The list of approved uses also included public and private warehousing and mini warehousing. The amount of floor area remains unchanged for the entire CPD per the amendment request.

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The subject property is part of the platted subdivision known as Pine Shadows Air Park. The property is also a portion of that which was granted an *unusual use permit* for an airstrip on May 4, 1981, per resolution #Z-81-183. The hangars on the subject property were developed as accessory uses to the airstrip and were restricted by the special permit to be used only for airplane storage by the residents of the Pine Shadows Air Park. Many of the homes constructed in the air park include private airplane hangars located on the individual residential parcels. Some of the hangars adjacent to Runway Street were and continue to be used as private storage space rented by non residents of the park. The rezoning to CPD brought the subject property into compliance with existing zoning regulations.

This application for an amendment to the CPD was received April 3, 2007. It was found sufficient by staff September 22, 2008. The property is not in the Coastal High Hazard Zone.

Staff is generally supportive of the idea of developing the US 41 frontage with an office use, and locating open storage to the rear of the property. However, two issues concern staff and must be addressed through conditions. First, the entire property should connect to both water and sewer service. As it stands, the property utilizes a septic system. Any new development must connect to water and sewer, and both services are readily available. When the new development connects to these services, the existing uses should also connect to these services. Second, the property to the south was zoned for mobile home uses when the CPD was approved in 1998. The property was acquired through Lee County's Conservation 20/20 program. The portion south the subject of this amendment was rezoned to Environmentally Critical (EC). It is now under development as a preserve and public recreation area (Prairie Pines Preserve). Protecting the integrity of this preserve, through buffering and other limitations, is important to protect this now-public resource. Staff is concerned about any potential for impact on the natural resources to the south and potential negative impacts on visitors to this valuable environmental resource.

Master Concept Plan

The proposed Master Concept Plan is a two-page document entitled "Master Concept Plan Pine Shadows Air Park." The MCP is similar to the CPD approved in 1998, and to existing development. It depicts a new office building on US 41, existing hangars, buffers, and deviation locations. Staff has identified and recommended a number of corrections needed to the MCP, including deviation numbers, specifying the location of open storage, staff's proposed buffering conditions, and the location of a septic tank mound (which staff recommends eliminating).

Utilities

Potable water is available via Lee County Utilities, per the April 30, 2008 letter from Lee County Utilities (Attachment L).

Currently, the site utilizes septic tanks for sewage service. North Fort Myers Utilities is the sewer provider for the area, and does have the capacity to serve this site, per the December 13, 2007 letter from North Fort Myers Utilities (Attachment M).

A map of the North Fort Myers Utilities Service Area shows a 12" force main on US 41 in proximity to the property, and service lines to nearby developments such as Tara Woods, Carefree Resort, Heritage Lakes, and Sabal Springs (Attachment N).

The applicant does not believe the existing development should be required to connect to central sewer service. Staff's opinion is that both new and existing businesses must connect to both potable water and central sewer service. Staff recommends a condition mandating both.

Connection to central sewer is mandatory within 365 days of the date that a connection point is available on site. This requirement is per F.S. Sec. 382.00655, and Lee County Ordinance 91-01. The applicant argues the amount of sewage required for treatment, with existing uses, is minimal. However, the mandatory connection requirement per Florida Statutes and Lee County Ordinance does not make any reference to a gallons per day threshold.

LDC Sec. 10-353(A)(5) says developments must connect to sanitary sewer operated by a franchise service provider, where service is available. Available is defined as located in a public right of way or easement adjacent to any portion of the property. This requirement is for any size development, residential, commercial or industrial.

To recommend new development connect to central sewer, while allowing existing development to utilize existing septic systems makes no sense, is not in the public interest, is not consistent with Lee Plan policies, Land Development Code requirements or State law, and would be potentially detrimental to the surrounding natural environment, including a public preserve. As such, staff recommends connection to water and sewer service for both existing and new development taking place on this property.

Attached are correspondences from the Director of Development Services, the County Attorney's office, and a County Attorney's Office opinion regarding the issue of mandatory connections (Attachments I, J, K).

Smart Growth Principles

Lee County has taken initiatives to incorporate the principles of "Smart Growth" into its planning processes and planning strategies. Smart Growth strikes a balance between no growth, and unfettered growth without limitation. Smart Growth is an approach to development meant to create and maintain great neighborhoods. In short, promoting the right growth, in the right place, at the right time. Staff has briefly evaluated this development based on 10 commonly accepted principles of Smart Growth.

- *Mix land uses.*

Residents of North Fort Myers could benefit from additional commercial uses to shop, work and get basic services. On its own, this development is not a true mixed use community. The commercial office uses are likely to capture customers from US 41, and some from the Pine Shadows community. This development does not further this smart growth principle significantly, but it does provide a somewhat better mix of uses overall.

- *Take advantage of compact building design.*

The proposed master concept changes little to the existing footprint already approved and constructed. Open space and maximum building coverage is per the Land Development Code and the existing zoning resolution. This development does not further this smart

growth principle significantly.

- *Create a range of housing opportunities and choices.*

This commercial development is within an existing residential community, but on its own does not provide for housing, other than a potential caretaker's residence.

- *Create walkable neighborhoods.*

The land development code will require sidewalks for a commercial development on arterial roads such as US 41. There is an existing residential neighborhood (Pine Shadows) within walking distance. However, This development does not further this smart growth principle significantly.

- *Foster distinctive, attractive communities with a strong sense of place.*

Any future development will be consistent with architectural design standards per Chapter 10 of the Land Development Code. Improved landscaping could be utilized to improve the look of the development, especially to the south. However, this development does not further this smart growth principle significantly.

- *Preserve open space, farmland, natural beauty, and critical environmental areas.*

The proposed master concept changes little to the existing footprint already approved and constructed. Open space is per the Land Development Code. This development does not further this smart growth principle significantly. Buffers are proposed to the south to protect a public preserve recently purchased by the county and under development.

- *Strengthen and direct development towards existing communities.*

This development is urban infill, located on a major arterial with commercial and residential development nearby. This development does further this smart growth principle.

- *Provide a variety of transportation choices.*

This development will be highly dependent on the automobile traffic on US 41. Lee Tran provides public transportation in North Fort Myers (Route #140), which does not extend to this property. The land development code will require sidewalks for a commercial development on arterial roads such as US 41. There is an existing residential neighborhood (Pine Shadows) within walking distance. This development does not further this smart growth principle significantly.

- *Make development decisions predictable, fair, and cost effective.*

Staff recommends approval with conditions and has worked with the applicant to resolve issues that the applicant was made aware of early in the process. Staff's conditions are

consistent with other similar commercial projects in North Fort Myers, and consistent with developments with access to water and sewer utilities, and consistent with developments in proximity to environmental preserves.

- *Encourage community and stakeholder collaboration in development decisions.*

The applicant met with the North Fort Myers Community Planning Panel. Such meetings are encouraged by staff. There is no Lee Plan or Land Development Code requirement to do so. The applicant made a good-faith effort to address the panel's concerns, and the panel recommended the commercial project be approved. Staff has also provided copies of plans and this staff report to the Lee County Port Authority for comments. No comments were received. This development furthers this smart growth principle, and the applicant went beyond the requirements of the Lee Plan and Land Development Code to involve the North Fort Myers Planning Panel. Community Development staff also coordinated with Lee County Public Works and the Parks and Recreation Department staff during sufficiency and substantive review of the zoning case.

Lee Plan Acreage Allocation

POLICY 1.7.6: *The Planning Communities Map and Acreage Allocation Table (see Map 16 and Table 1(b) and Policies 1.1.1 and 2.2.2) depicts the proposed distribution, extent, and location of generalized land uses for the year 20/20. Acreage totals are provided for land in each Planning Community in unincorporated Lee County. No final development orders or extensions to final development orders will be issued or approved by Lee County which would allow the acreage totals for residential, commercial or industrial uses contained in Table 1(b) to be exceeded.*

The subject property is located in the North Fort Myers Planning Community. The Planning Community Year 2030 Allocations, indicate that 1,687 acres in the Planning Community of North Fort Myers have been allocated for commercial use, and 682 acres have been inventoried by Planning Division staff. This leaves 1,005 acres of commercial acres in the North Fort Myers Planning Community remaining to be allocated. (See Table 1B, Year 2030 Allocations Attached). Staff finds the request **CONSISTENT** with the allocations for the Planning Community of North Fort Myers. This finding is not a guarantee that there will be sufficient allocations for residential development in the future. Such a determination will be made at time of local development order.

Lee Plan Considerations

POLICY 1.1.5: *The Suburban areas are or will be predominantly residential areas that are either on the fringe of the Central Urban or Urban Community areas or in areas where it is appropriate to protect existing or emerging residential neighborhoods. These areas provide housing near the more urban areas but do not provide the full mix of land uses typical of urban areas. The standard residential densities are the same as the Urban Community category. Higher densities, commercial development greater than neighborhood centers, and industrial land uses are not permitted. Bonus densities are not allowed. (Amended by Ordinance No. 94-30)*

This is an existing commercial development in the Suburban Future Land Use category. The commercial uses proposed are consistent with the land use category. The proposed changes include office uses on US 41 frontage and moving open storage to the rear of the property. This request, as conditioned, is **CONSISTENT** with **POLICY 1.1.5** of the Lee Plan.

OBJECTIVE 2.1: DEVELOPMENT LOCATION. *Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities. (Amended by Ordinance No. 94-30, 00-22)*

OBJECTIVE 2.2: DEVELOPMENT TIMING. *Direct new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in FS 163.3164(7)) will be granted only when consistent with the provisions of Sections 163.3202(2)(g) and 163.3180, Florida Statutes and the county's Concurrence Management Ordinance. (Amended by Ordinance No. 94-30, 00-22)*

The property is located in an area in proximity to commercial and residential development on a major arterial road. There is access to water and sewer. Amending the Planned Development does promote a contiguous growth pattern and is **CONSISTENT** with **OBJECTIVE 2.1**. It is **CONSISTENT** with **OBJECTIVE 2.2**, as conditioned.

POLICY 2.2.1: *Rezoning and development-of-regional-impact proposals will be evaluated as to the availability and proximity of the road network; central sewer and water lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare. (Amended by Ordinance No. 94-30, 00-22)*

The subject property is located in proximity to residential developments, parks, schools, and commercial shopping. It has the characteristics of urban infill. It has access to water and sewer service. Compatibility with the nearby conservation land is of concern to staff, which can be addressed through buffers and other conditions. The proposed project is **CONSISTENT** with **POLICY 2.2.1** of the Lee Plan, as conditioned.

POLICY 4.1.1: *Development designs will be evaluated to ensure that land uses and structures are well integrated, properly oriented, and functionally related to the topographic and natural features of the site, and that the placement of uses or structures within the development minimizes the expansion and construction of street and utility improvements. (Amended by Ordinance No. 91-19, 00-22)*

The plan provides for intensive commercial development in proximity to residential uses and a public preserve. The majority of the site is already developed. Staff can make findings that structures are well integrated and related to the natural features on this site, as conditioned (see Environmental Sciences comments). This proposed development is **CONSISTENT** with **POLICY 4.1.1** of the Lee Plan, as conditioned.

POLICY 5.1.5: *Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in Chapter 10 of the Land Development Code are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The Land Development Code will continue to require appropriate buffers for new developments. (Amended by Ordinance No. 94-30, 99-15, 00-22)*

The applicant proposes a commercial development near existing residential development and a public preserve. Buffering, especially to the south, can serve to address compatibility concerns between the proposed development and surrounding uses. The schedule of uses, as conditioned, also protects the surrounding uses from the more intensive proposed and existing uses. This proposed development is **CONSISTENT** with **POLICY 5.1.5** of the Lee Plan, as conditioned.

POLICY 139.9.5: *New development adjacent to areas of established residential neighborhoods must be compatible with or improve the area's existing character.*

The design of this site does take into consideration existing development patterns. There do appear to be adequate measures to protect the residential integrity of the existing neighborhood, and the drive-by experience on US 41, as conditioned. The request is **CONSISTENT** with **POLICY 139.9.5** of the Lee Plan, as conditioned.

STANDARD 11.1: WATER. *Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development in excess of 30,000 square feet of gross loadable (floor) area per parcel, must connect to a public water system (or a "community" water system as that is defined by Chapter 17-22, FAC.).*

STANDARD 11.2: SEWER. *Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development that generates more than 5,000 gallons of sewage per day, must connect to a sanitary sewer system.*

This development will have to connect to water and sewer as part of its development order. Letters from Lee County Utilities and North Fort Myers Utility verify availability of service, as well as adequate capacity. As conditioned, this proposed development is **CONSISTENT** with water and sewer standards of the Lee Plan (Also see *Utility Issues* regarding conditions requiring water and sewer service for the entire site).

POLICY 6.1.1. *All applications for commercial development will be reviewed and evaluated as to traffic; landscaping; screening and buffering; availability and adequacy of services and facilities; impact on adjacent uses; proximity to other similar centers; environmental considerations.*

POLICY 6.1.2: *All commercial development must be consistent with the location criteria in this policy, except where specifically excepted by this policy or by Policy 6.1.7, or in*

Lehigh Acres by Policies 1.8.1 through 1.8.3.

Commercial development must meet commercial site location standards and standards per Policy 6.1.1. No commercial retail uses are proposed. Proposed conditions address traffic, landscaping, screening and buffering, availability and adequacy of services and facilities, impact on adjacent uses, proximity to other similar centers and environmental considerations. Staff finds that the proposed development is **CONSISTENT** with **POLICIES 6.1.1 & 6.1.2** of the Lee Plan, as conditioned.

POLICY 6.1.3: *Commercial developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as commercial planned developments designed to arrange uses in an integrated and cohesive unit in order to: provide visual harmony and screening; reduce dependence on the automobile; promote pedestrian movement within the development; utilize joint parking, access and loading facilities; avoid negative impacts on surrounding land uses and traffic circulation; protect natural resources; and provide necessary services and facilities where they are inadequate to serve the proposed use. (Amended by Ordinance No. 94-30, 00-22)*

Staff can make a finding that this development will protect natural resource (See Environmental Sciences comments). There is a compatibility concern with the public preserve lands nearby under development, which can be addressed through conditions. This proposed development is **CONSISTENT** with **POLICY 6.1.3** of the Lee Plan, as conditioned.

GOAL 107: RESOURCE PROTECTION. *To manage the county's wetland and upland ecosystems so as to maintain and enhance native habitats, floral and faunal species diversity, water quality, and natural surface water characteristics.*

POLICY 107.2.10: *Development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas must protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations. (Amended by Ordinance No. 00-22)*

There are goals, objectives and policies in the Lee Plan calling for protection of public preserves and natural resources, such as the wetlands and natural habitat found at Prairie Pines Preserve, located to the south of the subject property. Policy 107.2.10 advocates protection of natural resources for the benefit of future generations. How this development, which includes open storage and intensive commercial uses, is buffered to the south is of considerable importance. Prairie Pines Preserve is a Conservation 20/20 acquisition, with a total of 2,709 acres. The preserve consists of several native plant communities, including wet and mesic flatwoods, depression marshes, wet prairies, and prairie hammock. Recreational activities anticipated at the site include hiking, horseback riding, bird watching and nature study/photography. Prairie Pines Preserve is currently in the planning and development stage for recreational amenities which will include parking, restrooms, boardwalks, hiking and equestrian trails. This application is **CONSISTENT** with **GOAL 107** and **POLICY 107.2.10** as conditioned.

North Fort Myers Community Planning Efforts

North Fort Myers is in the process of drafting goals, objectives and policies for the Lee Plan. The North Fort Myers Community Planning Panel has met several times and is working with a planning consultant and county staff on policies and planning issues. The applicant met with the North Fort Myers Planning Panel November 6, 2007 regarding this proposed amendment. The planning panel's comments were supportive of the proposed amendment. The minutes of this meeting are provided in *Attachment O*.

Neighborhood Compatibility

This property is located in the North Fort Myers Community Planning District. The North Fort Myers community is described in the Lee Plan as follows:

North Fort Myers - *This Community is located north of the Caloosahatchee River between the Alva Planning Community and the City of Cape Coral. This community includes a wide mix of Future Land Use designations from Intensive Development to Density Reduction/Groundwater Resource. The area between the two US 41 routes near the river will remain the core of this community. The old US 41 corridor will be redeveloped with new commercial uses and waterfront development taking advantage of this area's close proximity to downtown Fort Myers and its riverfront location. The US 41 corridor from Pondella Road north will continue to attract new commercial development that will serve the North Fort Myers community and other surrounding communities. Total commercial, service, and industrial uses will have doubled from the amount existing in 1996. These areas are surrounded by residential uses. Most of the North Fort Myers community will develop at residential densities less than what is allowed by the Lee Plan Future Land Use Map. Furthermore, much of this community is designated for low density development of less than one unit per acre. This community will not be one of the fastest growing areas, residentially, in Lee County. This area will add fewer than 3,000 new residents by the year 20/20. However, with a total permanent population of over 50,000 residents and nearly 65,000 residents in season, the North Fort Myers community will be the fourth largest community, in population, in the year 20/20. As stated in the Alva community, the Bayshore area does have characteristics differing from both the Alva and North Fort Myers community. The split in the Bayshore area between Alva and North Fort Myers was done to include properties which were most closely related to those respective communities. (Added by Ordinance No. 99-15)*

North of the subject property is Runway Street and then Agricultural (AG-2) zoning with residential uses, and a fire station. A Type "D" buffer is shown for new development proposed on US 41 frontage. A deviation, previously approved, provided relief from the requirement for a Type "D" buffer along Runway Street.

South is the Prairie Pines Preserve. The property to the south of the subject property is zoned Environmentally Critical (EC) and under development for a conservation and preserve area. The property was purchased through the Conservation 20/20 Program, as has been discussed in this staff report. The public preserve is currently under development. The applicant seeks to utilize a wall and Type "A" buffer to the south. The applicant proposes open storage, existing hangar uses, and a commercial building to be

constructed on US 41 frontage. All these uses could impact the preserve land to the south. Staff recommends buffering, per the recommendations of Environmental Sciences staff which were coordinated with the Lee County Department of Parks and Recreation.

East is the runway for Pine Shadows Air Park, zoned Agricultural (AG-2). The applicant's MCP shows appropriate buffering, including a wall to the east and open storage to the east.

West is US 41, then mobile home development. A Type "D" buffer is proposed and is appropriate.

As conditioned, staff finds this amendment to an existing Commercial Planned Development (CPD) compatible with the surrounding land uses.

Transportation Issues

The request does not propose an increase in intensity for the overall property. It amends the master concept plan and proposes changes in use and buffers. Since this application is a zoning amendment and the Traffic Impact Statement requirement was waived and there is no access issue, LCDOT have no substantive comments. The LOS on US 41 from Del Prado Blvd to County Line is "A" in 2007.

Environmental Issues

The Division of Environmental Sciences (ES) staff have reviewed the proposed amendment to Pine Shadows Air Park Commercial Planned Development (CPD) and offer the following comments and recommended conditions.

The application requests to amend Zoning Resolution Z-98-069 for Pine Shadows Air Park CPD to (1) remove Condition 7 which requires open storage use limited to Tract F-1 and to be completely enclosed by an 8-foot-high, painted, concrete (block or precast) masonry wall with a 15 foot wide buffer on the exterior side of the wall containing a minimum of five trees and 12 shrubs per 100 linear feet to allow the proposed open storage use on Tract F enclosed with a wall on only 3 sides and no 15 foot wide vegetated buffer, (2) add professional office and business service uses on Tract F-1 with an increased maximum height to 35 feet, and (3) continue to utilize septic tanks, and not connect to sanitary sewer service.

The parcel contains existing commercial development with some landscaping vegetation. No indigenous vegetative communities exists on site.

Land Development Code (LDC) Section 10-415(a) requires large commercial developments to provide 30% open space; therefore, the project is required to provide 1.40 acres (4.65 x 0.3) of open space. The Master Concept Plan depicts 1.56 acres open space provided which exceeds the minimum LDC requirement.

The following Lee County Comprehensive Plan (Lee Plan) Goal and Objective support ES Staff analysis and recommendations:

Lee Plan Goal 77: Development Design Requirements. To require new development to provide adequate open space for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

Objective 77.2: Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

The additional open space acreage provided is due to the site's drainage and public utility (PU) easements. Although the easement area may count toward the open space requirement, the planting of required vegetation is not allowed within the easement area as per LDC Section 10-421(a)(5). Thus, additional open space acreage must be provided outside the easements to accommodate general tree, parking landscaping, and buffer requirements. ES staff finds the project consistent with **Objective 77.2**.

ES staff recommend the following condition to ensure that the open space is as committed to by the applicant is provided:

Prior to local development order approval, development order plans must delineate a minimum 1.56 acres of open space.

(Deviation #2) The application requests to deviate from LDC Section 10-416(d)(3) requiring a 30 foot Type F buffer where commercial abuts public preserve lands for conservation and/or passive recreation to the south to allow a Type A buffer planting requirement where physically possible given existing conditions. In addition, the applicant request to revise Condition 7 of Z-98-069 which requires the open storage use to be completely enclosed by an 8 foot high painted, concrete (block or precast) masonry wall with a 15 foot wide buffer on the exterior side of the wall containing a minimum of five trees and 12 shrubs per 100 linear feet to allow an 8 foot in height wooden fence and no additional landscaping where the open storage abuts the Conservation 20/20 Lands to the south. The justification provided states that the concrete wall and landscape buffer will serve no purpose when adjacent to a vacant preserve that is already naturally vegetated.

ES staff have the following four concerns with the landscape buffers as proposed on the MCP and utilizes the below referenced Lee Plan Objective and LDC to support ES Staff analysis and recommendations:

Lee Plan Objective 77.3 requires new developments to use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing right-of-way. This objective is to be implemented through the zoning process.

Goal 107: Resource Protection. To manage the county's wetland and upland ecosystems so as to maintain and enhance native habitats, floral and faunal species diversity, water quality, and natural surface water characteristics.

Policy 107.2.10 requires development adjacent to aquatic and other nature preserves,

wildlife refuges, and recreation areas must protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.

LDC Section 10-416(d) requires buffering and screening to apply to all new development and existing landscapes that do not comply with the provision of this section to be brought into conformity to the maximum extent possible when the vehicle use area is altered or expanded and the building square footage is increased.

(1) The deviations requested within the application submittal do not correspond to the deviations depicted on the MCP, #1 and 2 are interchanged.

ES staff recommend the MCP accurately depict any approved deviations prior to final zoning resolution approval.

(2) The deviation requests to install a 8 foot high wooden fence along the south side of the proposed open storage area adjacent to the Conservation 20/20 Lands. The MCP depicts an 8 foot high C.B.S. Wall from the east property line to the west edge of the asphalt parking.

Given the proposed wall is adjacent to an area of natively vegetated Conservation 20/20 Lands and prescribed burns are a common stewardship practice on preserve lands, ES staff recommends that the wall must be of made of concrete block for safety issues.

ES staff recommend the MCP depict the appropriate wall approved through the deviation prior to final zoning resolution approval.

(3) An ES staff site visit revealed the existing US 41 right-of-way buffer consists of a partial single hedge row and ± 5 cabbage palms which does not meet Type D requirements of LDC Section 10-416(d)(4).

The MCP depicts the addition of a $\pm 12,058$ square feet professional office and business service building on Tract F-1 with an increased maximum height to 35 feet and associated parking area.

ES staff recommends the following condition to ensure the existing US 41 right-of-way buffer is brought into conformity with LDC Section 10-416(d)(4) Type D right-of-way buffer requiring a double hedge row and 5 trees per 100 linear feet:

Prior to local development order approval, landscape plans must depict the proposed Type D right-of-way buffer along US 41 to include a minimum of 5 trees per 100 linear feet and hedges planted in double staggered rows to be maintained 36 inches in height and to provide continuous visual screening within one year after time of planting.

(4) The MCP and deviation justification defines the adjacent preservation lands as zoned Mobile Home Planned Development (MHPD), vacant, and naturally vegetated. The abutting Conservation 20/20 Lands to the south of the CPD project are zoned

Environmental Critical (EC), are currently under construction for a passive park entrance, and only contain a minimal amount of native vegetation in the area adjacent to the CPD due to extensive exotic removal and clearing for the park entrance facilities. An on site field inspection conducted by ES staff April 12, 2007 and additional site observations thereafter also revealed exotics (Brazilian pepper and melaleuca) in the 40 foot drainage/PU easement along the south property line within the 4.65 acre project site have been removed and the 4.65 acre project site contains ± 4 immature live oaks along the western portion of the south property line. There is currently minimal native vegetation existing on both the 4.65 acre project site and the Conservation 20/20 Lands to provide adequate screening of the commercial activities to the passive recreation preserve.

ES staff understands there is existing development and a drainage/PU easement which may prevent the project from meeting the Type F buffer planting requirement but also identifies opportunities to meet the intent of the buffer requirement to the greatest extent feasible in order to adequately screen the proposed 35 foot in height professional offices/business services building and associated parking on Parcel A, the existing warehouse use on Parcel B, and the existing warehouse use and proposed open storage on Parcel C. In order to meet the intent of the buffer requirement, the 40 foot wide drainage/PU easement may be used to meet a portion of the required 30 foot width as allowed by LDC Section 10-421(a)(5), the proposed two-story building on Parcel A can be reconfigured to provide the minimum 15 feet of plantable area for the Type F buffer as required by LDC Section 10-421(a)(2) and if the septic area is to be removed a minimum 15 feet of plantable area for the Type F buffer can be provided, the 5-15 feet wide area of pervious green space between the existing buildings/impervious driveways and drainage/PU easement on Parcels B and C can be planted with buffer vegetation, and an 8 foot high concrete block wall with no required vegetation can be installed within the 2-3 foot wide area between the existing impervious surface and drainage/PU easement on Parcel C.

ES staff recommend the project be allowed to deviate from the Type F buffer requirement only where existing conditions conflict with the requirement and recommend the 4.65 acre project provide the modified Type F buffer and 8 foot high concrete wall along the south property line as depicted in the attached ES Staff Exhibit.

ES staff **recommend approval of Deviation #2** with the following condition to ensure compliance with LDC Section 10-416(d), consistency with Lee Plan Goal 77, Objective 77.3, Goal 107, and Policy 107.2.10 and the intent of the Type F buffer is met:

Prior to local development order approval, development order plans must depict for review and approval by the Division of Environmental Sciences and Conservation 20/20 staff the vegetation buffer and wall between the proposed/existing development and the 40 foot wide drainage/public utility easement consistent with the attached ES Staff Buffer Exhibit to include:

- ***the proposed two-story building on Parcel A to be reconfigured to provide the minimum 15 feet of plantable area for the required Type F buffer plantings; and***
- ***if the septic area is to be removed on Parcel A the area is to provide a minimum***

15 feet of plantable area for the required Type F buffer plantings; and

- the 5-15 foot wide area between the existing buildings/impervious driveways and drainage/public utility easement on Parcels B and C to be planted with a single hedge row (installed at 48 inches, maintained at 60 inches to provide continuous visual screening within 1 year after time of planting) and 5 trees per 100 linear feet, clustered at corners of buildings, to buffer drives and overhead doors; and**
- an 8 foot high concrete block wall with no required vegetation to be installed within the 2-3 foot wide area between the existing impervious surface and drainage/public utility easement on Parcel C; and**
- vegetation not compatible with Conservation 20/20 Lands prescribed burning; such as wax myrtle, cabbage palms, and saw palmetto; shall not be permitted within the south buffer.**

Conclusions

The amendment request is consistent with the Lee Plan, as conditioned. The request is compatible with the surrounding neighborhood, as conditioned. As conditioned, the mix of uses is appropriate. The amendment request, as conditioned, will not adversely affect environmentally critical areas or natural resources, including a public preserve to the south. Urban services are available, and connection to both water and sewer service for both existing and future uses is recommended. This is commercial infill on urban property on a major arterial road, near a public preserve, and in proximity to commercial and residential uses and zoning. Staff recommends approval, as conditioned.

IV. SUBJECT PROPERTY:

- A. **STRAP:** The applicant indicates the STRAP number is: 16-43-24-03-00000.E01A; 16-43-24-03-00000.F0000

V. ATTACHMENTS:

- A. Map of surrounding zoning.
- B. Master Concept Plan, 2 pages.
- C. Environmental Sciences Staff Report with exhibits.
- D. Prairie Pines Preserve, 2 pages from the Conservation 20/20 Land Program web site.
- E. Zoning Res. #98-069 Pine Shadows Air Park.
- F. Zoning Res. #81-183 Unusual Use for an Air Strip.
- G. LCDOT Comments.
- H. Public Works Comments.
- I. Email from Pete Eckenrode, Development Services Director to Mike Roeder, Applicant's Agent, Oct. 15, 2008.
- J. Email from John Fredyma, County Attorney's Office to Pam Houck, Zoning Director, Oct. 15, 2008.
- K. May 1, 2008 Memo from County Attorney David Owen to the Board of County Commissioners Regarding Mandatory Connection to Water & Wastewater Utilities.

- L. Lee County Utilities letter April 30, 2008, potable water.
- M. North Fort Myers Utilities letter Dec. 13, 2007, wastewater service.
- N. Map of North Fort Myers Utilities Service Area.
- O. North Fort Myers Community Planning Panel Design and Review Board, Minutes Nov. 6, 2007 meeting.
- P. Applicant's Lee Plan Compliance Narrative.

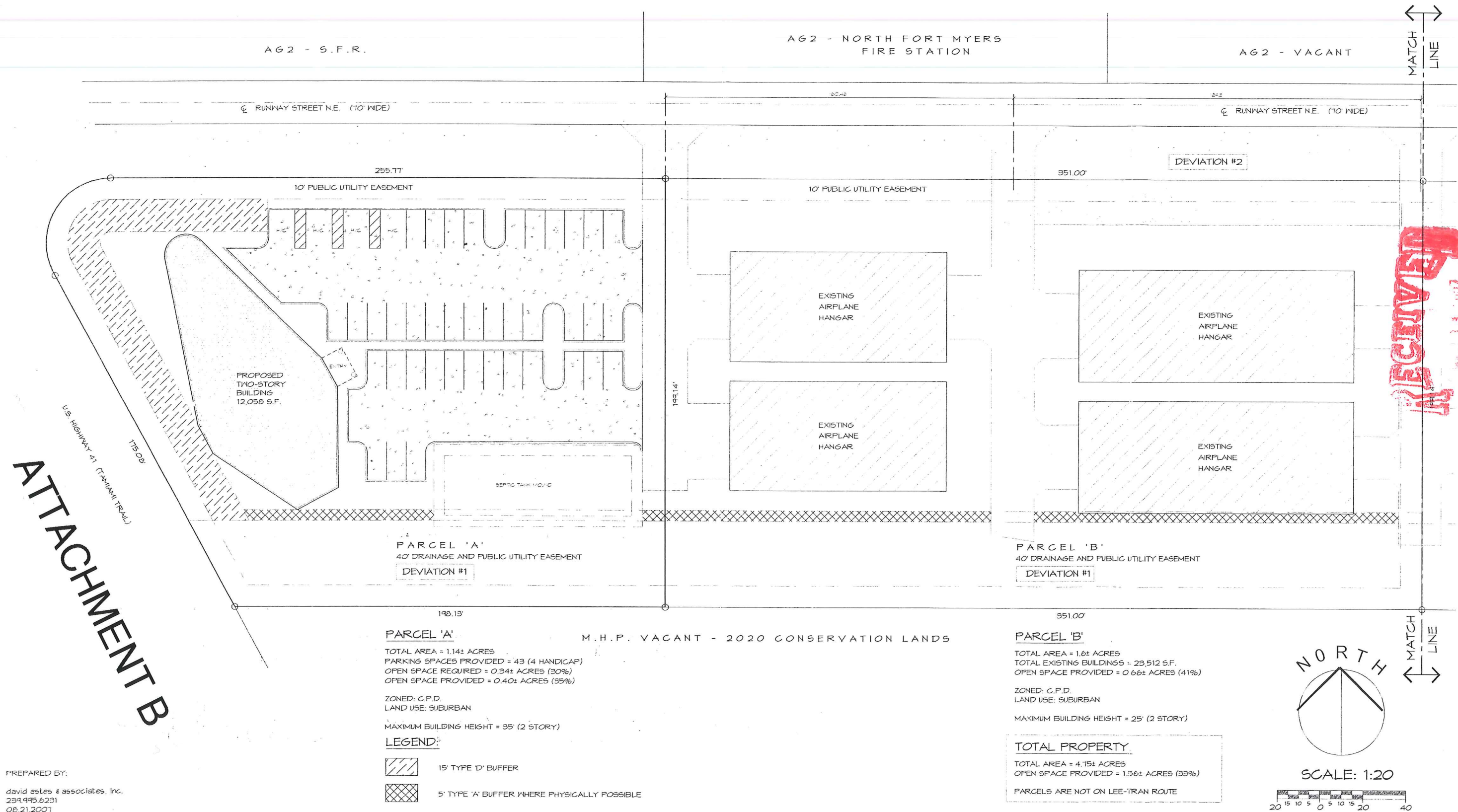
B. LEGAL DESCRIPTION: See Exhibit A

cc: Applicant
County Attorney
Zoning File
Mike Pavese, Public Works
Cathy Olsen, Parks and Recreation
Bill Horner, AICP, Port Authority

10/29/2008

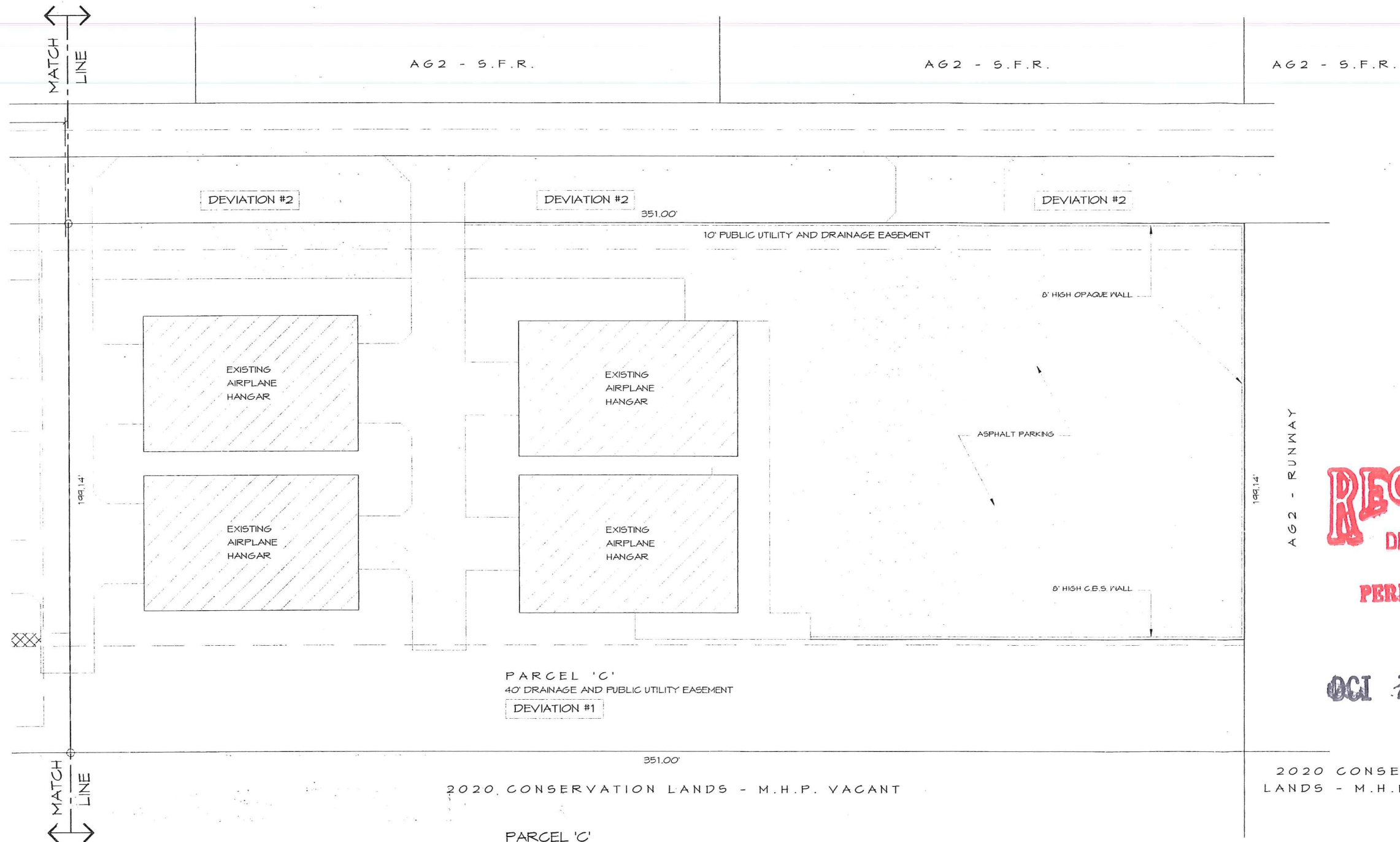


MASTER CONCEPT PLAN FOR PINE SHADOWS AIRPARK



MASTER CONCEPT PLAN FOR PINE SHADOWS AIRPARK

ATTACHMENT B



RECEIVED
DEC 13 2007

PERMIT COUNTER

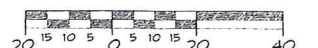
OCI 2007-00026

PARCEL 'C'
40' DRAINAGE AND PUBLIC UTILITY EASEMENT
DEVIATION #1

PARCEL 'C'
TOTAL AREA = 2.01± ACRES
TOTAL EXISTING BUILDINGS = 16,606 S.F.
OPEN SPACE PROVIDED = 0.50± ACRES (25%)
ZONED: C.P.D.
LAND USE: SUBURBAN
MAXIMUM BUILDING HEIGHT = 25' (2 STORY)



SCALE: 1:20



PREPARED BY:

david estes & associates, inc.
239.995.6231
08.21.2007

**STAFF REPORT
FROM
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF ENVIRONMENTAL SCIENCES**

Date: November 6, 2008

To: Tony Palermo, Senior Planner
From: Susie Derheimer, Environmental Planner 
Phone: (239) 533-8158
E-mail: sderheimer@leegov.com

Project: Pine Shadows Air Park CPD
Case: DCI2007-00026
STRAP: 16-43-24-03-00000.E01A & 16-43-24-03-00000.F000

The Division of Environmental Sciences (ES) staff have reviewed the proposed amendment to Pine Shadows Air Park Commercial Planned Development (CPD) and offer the following comments and recommended conditions:

PROJECT DESCRIPTION:

The application requests to amend Zoning Resolution Z-98-069 for Pine Shadows Air Park CPD to (1) remove Condition 7 which requires open storage use limited to Tract F-1 and to be completely enclosed by an 8-foot-high, painted, concrete (block or precast) masonry wall with a 15 foot wide buffer on the exterior side of the wall containing a minimum of five trees and 12 shrubs per 100 linear feet to allow the proposed open storage use on Tract F enclosed with a wall on only 3 sides and no 15 foot wide vegetated buffer, (2) add professional office and business service uses on Tract F-1 with an increased maximum height to 35 feet, and (3) continue to utilize septic tanks, and not connect to sanitary sewer service.

VEGETATION:

The parcel contains existing commercial development with some landscaping vegetation. No indigenous vegetative communities exists on site.

OPEN SPACE:

Land Development Code (LDC) Section 10-415(a) requires large commercial developments to provide 30% open space; therefore, the project is required to provide 1.40 acres (4.65 x 0.3) of open space. The Master Concept Plan depicts 1.56 acres open space provided which exceeds the minimum LDC requirement.

The following Lee County Comprehensive Plan (Lee Plan) Goal and Objective support ES Staff analysis and recommendations:

Lee Plan Goal 77: Development Design Requirements. To require new development to provide adequate open space for improved aesthetic appearance, visual relief, environmental quality, preservation of existing native trees and plant communities, and the planting of required vegetation.

Objective 77.2: Development regulations will continue to require that new commercial and industrial developments provide sufficient open space for the benefit of their patrons and the general public.

The additional open space acreage provided is due to the site's drainage and public utility (PU) easements. Although the easement area may count toward the open space requirement, the planting of required vegetation is not allowed within the easement area as per LDC Section 10-421(a)(5). Thus, additional open space acreage must be provided outside the easements to accommodate general tree, parking landscaping, and buffer requirements. ES staff finds the project consistent with **Objective 77.2**.

ES staff recommend the following condition to ensure that the open space as committed to by the applicant is provided:

Prior to local development order approval, development order plans must delineate a minimum 1.56 acres of open space.

LANDSCAPE BUFFERS AND DEVIATION #2:

The application requests to deviate from LDC Section 10-416(d)(3) requiring a 30 foot Type F buffer where commercial abuts public preserve lands for conservation and/or passive recreation to the south to allow a Type A buffer planting requirement where physically possible given existing conditions. In addition, the applicant requests to revise Condition 7 of Z-98-069 which requires the open storage use to be completely enclosed by an 8 foot high painted, concrete (block or precast) masonry wall with a 15 foot wide buffer on the exterior side of the wall containing a minimum of five trees and 12 shrubs per 100 linear feet to allow an 8 foot in height wooden fence and no additional landscaping where the open storage abuts the Conservation 20/20 Lands to the south. The justification provided states that the concrete wall and landscape buffer will serve no purpose when adjacent to a vacant preserve that is already naturally vegetated.

ES staff have the following four concerns with the landscape buffers as proposed on the MCP and utilizes the below referenced Lee Plan Objective and LDC to support ES Staff analysis and recommendations:

Lee Plan Objective 77.3 requires new developments to use innovative opens space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed and/or existing right-of-way. This objective is to be implemented through the zoning process.

Goal 107: Resource Protection. To manage the county's wetland and upland ecosystems so as to maintain and enhance native habitats, floral and faunal species diversity, water quality, and natural surface water characteristics.

Policy 107.2.10 requires development adjacent to aquatic and other nature preserves, wildlife refuges, and recreation areas must protect the natural character and public benefit of these areas including, but not limited to, scenic values for the benefit of future generations.

LDC Section 10-416(d) requires buffering and screening to apply to all new development and existing landscapes that do not comply with the provision of this section to be brought into conformity to the maximum extent possible when the vehicle use area is altered or expanded and the building square footage is increased.

(1) The deviations requested within the application submittal do not correspond to the deviations depicted on the MCP. #1 and 2 are interchanged.

ES staff recommend the MCP accurately depict any approved deviations prior to final zoning resolution approval.

(2) The deviation requests to install a 8 foot high wooden fence along the south side of the proposed open storage area adjacent to the Conservation 20/20 Lands. The MCP depicts an 8 foot high C.B.S. Wall from the east property line to the west edge of the asphalt parking.

Given the proposed wall is adjacent to an area of natively vegetated Conservation 20/20 Lands and prescribed burns are a common stewardship practice on preserve lands, ES staff recommends that the wall must be of made of concrete block for safety issues.

ES staff recommend the MCP depict the appropriate wall approved through the deviation prior to final zoning resolution approval.

(3) An ES staff site visit revealed the existing US 41 right-of-way buffer consists of a partial single hedge row and ±5 cabbage palms which does not meet Type D requirements of LDC Section 10-416(d)(4).

The MCP depicts the addition of a ±12,058 square feet professional office and business service building on Tract F-1 with an increased maximum height to 35 feet and associated parking area.

ES staff recommends the following condition to ensure the existing US 41 right-of-way buffer is brought into conformity with LDC Section 10-416(d)(4) Type D right-of-way buffer requiring a double hedge row and 5 trees per 100 linear feet:

Prior to local development order approval, landscape plans must depict the proposed Type D right-of-way buffer along US 41 to include a minimum of 5 trees per 100 linear feet and hedges planted in double staggered rows to be maintained 36 inches in height and to provide continuous visual screening within one year after time of planting.

(4) The MCP and deviation justification defines the adjacent preservation lands as zoned Mobile Home Planned Development (MHPD), vacant, and naturally vegetated. The abutting Conservation 20/20 Lands to the south of the CPD project are zoned Environmental Critical (EC), are currently under construction for a passive park entrance, and only contain a minimal amount of native vegetation in the area adjacent to the CPD due to extensive exotic removal and clearing for the park entrance facilities. An on site field inspection conducted by ES staff April 12, 2007 and additional site observations thereafter also revealed exotics (Brazilian pepper and melaleuca) in the 40 foot drainage/PU easement along the south property line within the 4.65 acre project site have been removed and the 4.65 acre project site contains ± 4 immature live oaks along the western portion of the south property line. There is currently minimal native vegetation existing on both the 4.65 acre project site and the Conservation 20/20 Lands to provide adequate screening of the commercial activities to the passive recreation preserve.

ES staff understands there is existing development and a drainage/PU easement which may prevent the project from meeting the Type F buffer planting requirement but also identifies opportunities to meet the intent of the buffer requirement to the greatest extent feasible in order to adequately screen the proposed 35 foot in height professional offices/business services building and associated parking on Parcel A, the existing warehouse use on Parcel B, and the existing warehouse use and proposed open storage on Parcel C. In order to meet the intent of the buffer requirement, the 40 foot wide drainage/PU easement may be used to meet a portion of the required 30 foot width as allowed by LDC Section 10-421(a)(5), the proposed two-story building on Parcel A can be reconfigured to provide the minimum 15 feet of plantable area for the Type F buffer as required by LDC Section 10-421(a)(2) and if the septic area is to be removed a minimum 15 feet of plantable area for the Type F buffer can be provided, the 5-15 feet wide area of pervious green space between the existing buildings/impervious driveways and drainage/PU easement on Parcels B and C can be planted with buffer vegetation, and an 8 foot high concrete block wall with no required vegetation can be installed within the 2-3 foot wide area between the existing impervious surface and drainage/PU easement on Parcel C.

ES staff recommend the project be allowed to deviate from the Type F buffer requirement only where existing conditions conflict with the requirement and recommend the 4.65 acre project provide the modified Type F buffer and 8 foot high concrete wall along the south property line as depicted in the attached ES Staff Exhibit.

ES staff **recommend approval of Deviation #2** with the following condition to ensure compliance with LDC Section 10-416(d), consistency with Lee Plan Goal 77 ,Objective 77.3, Goal 107, and Policy 107.2.10 and the intent of the Type F buffer is met:

Prior to local development order approval, development order plans must depict for review and approval by the Division of Environmental Sciences and Conservation 20/20 staff the vegetation buffer and wall between the proposed/existing development and the 40 foot wide drainage/public utility easement consistent with the attached ES Staff Buffer Exhibit to include:

- *the proposed two-story building on Parcel A to be reconfigured to provide the minimum 15 feet of plantable area for the required Type F buffer plantings; and*
- *if the septic area is to be removed on Parcel A the area is to provide a minimum 15 feet of plantable area for the required Type F buffer plantings; and*
- *the 5-15 foot wide area between the existing buildings/impervious driveways and drainage/public utility easement on Parcels B and C to be planted with a single hedge row (installed at 48 inches, maintained at 60 inches to provide continuous visual screening within 1 year after time of planting) and 5 trees per 100 linear feet, clustered at corners of buildings, to buffer drives and overhead doors; and*
- *an 8 foot high concrete block wall with no required vegetation to be installed within the 2-3 foot wide area between the existing impervious surface and drainage/public utility easement on Parcel C; and*
- *vegetation not compatible with Conservation 20/20 Lands prescribed burning; such as wax myrtle, cabbage palms, and saw palmetto; shall not be permitted within the south buffer.*

ATTACHMENT C

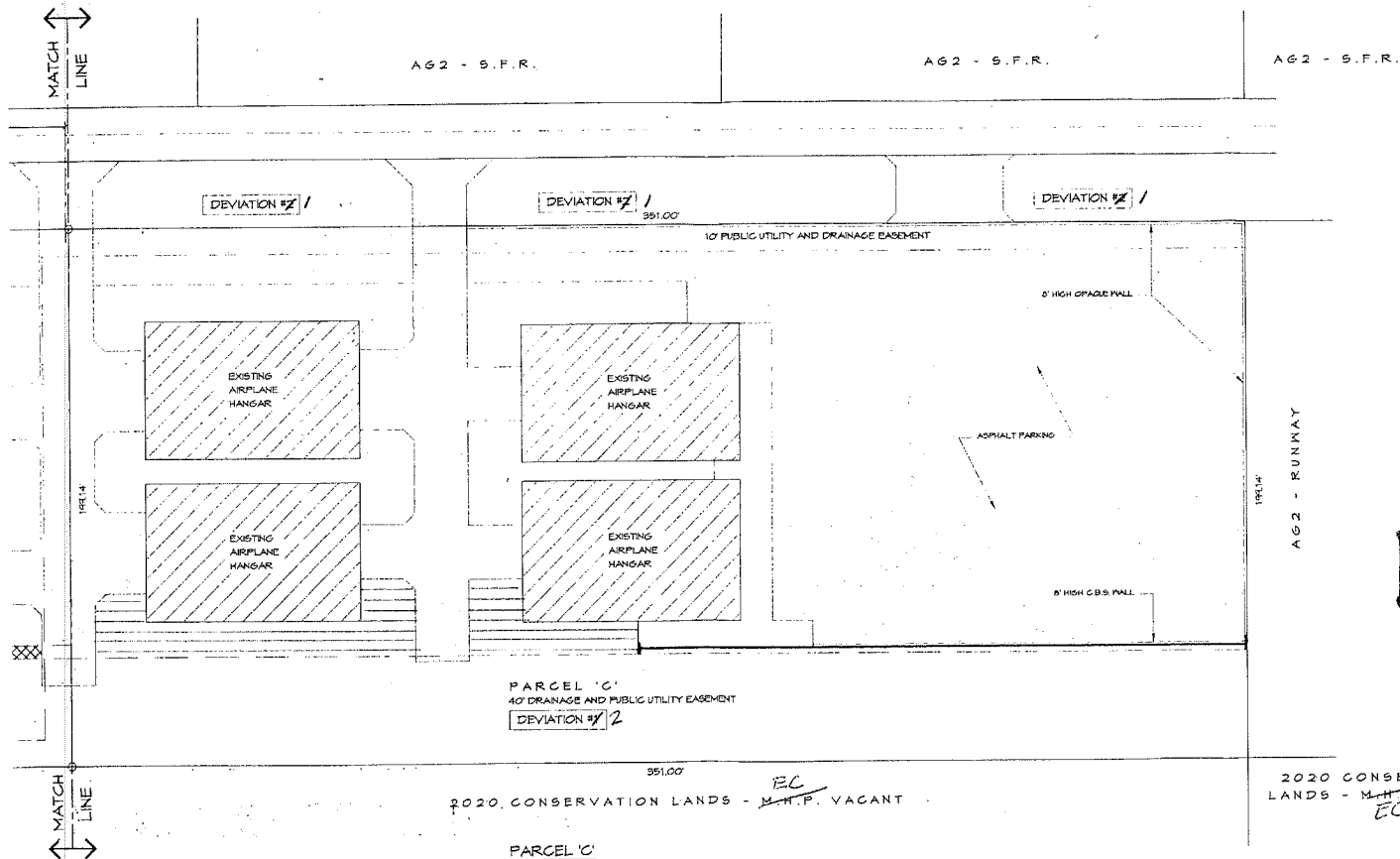


PERMIT NUMBER

DCI 2007-00026

MASTER CONCEPT PLAN FOR PINE SHADOWS AIRPARK

ATTACHMENT C



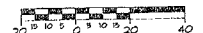
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DEC 13, 2007

PERMIT COUNTER

2020 CONSERVATION
LANDS - M.H.P. VACANT
EC



SCALE: 1:20



DCI 2007-00026

PREPARED BY:
david estes & associates, inc.
2311 RB, 6231
08.21.2007

PARCEL 'C'
TOTAL AREA = 2.014 ACRES
TOTAL EXISTING BUILDINGS = 18,808 S.F.
OPEN SPACE PROVIDED = 0.501 ACRES (2516)
ZONED: C.P.D.
LAND USE: SUBURBAN
MAXIMUM BUILDING HEIGHT = 25' (2 STORY)



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Prairie Pines Preserve



[Get Directions!](#)

Prairie Pines Preserve
18400 N Tamiami Trail
North Fort Myers, Florida 33903

Total Acres: 2709.05

Number of Parcels: 2

Total Cost: \$11,790,529.95

Date Acquired: Friday, April 27, 2001*

*Date first parcel was acquired.

[Additional Acquisition Information](#)
[Land Stewardship Plan](#)

Coordinator: Laura Greeno
Telephone: (239) 707-2206

Prairie Pines Preserve is located in north central Lee County, within Sections 1, 2, 3, 11, 12, 13, 14, 15, and 16 of Township 43 South, Range 24 East. It was acquired as two parcels in 2001 and 2003 for a total of 2,709 acres. The Preserve is bordered by an active railroad and I-75 on its northeast side, Lost Lane, which is unimproved, and a drainage ditch on its east side, Del Prado Extension/Mellow Drive and a drainage ditch on its south side. On the west side there is an abandoned railroad grade that is owned by the Division of Utilities, with 320 acres of the 2,709 acre Preserve extending west beyond this railroad grade towards US 41. The west, east and south boundaries are surrounded mainly by housing developments. The north boundary of the Preserve runs along the Lee/Charlotte County line.

The Preserve consists of a mosaic of several native plant communities, including wet and mesic flatwoods, depression marshes, wet prairies, prairie hammocks and a small baygall. Past agricultural practices have disturbed about 7% of the Preserve.

Recreation Opportunities:

Hiking, Horseback Riding, Bird Watching & Nature Study/Photography

Additional Information:

Prairie Pines Preserve is currently in the planning and development stage for recreational amenities which will include parking, restrooms, boardwalks, hiking and equestrian trails.

Preserve Links:

[Wildlife List](#)

[Plant List](#)

Preserve Map:



Preserve locations and maps are intended for reference purposes only.

© 2007 Lee County Conservation 20/20 Land Program

[Lee County Division of County Lands](#) & [Lee County Department of Parks & Recreation](#)

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[Site Administration](#)

ATTACHMENT D

RESOLUTION NUMBER Z-98-069

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

WHEREAS, Pine Shadows Hanger Group, Inc., filed an application to rezone a 4.64± acre parcel from Agricultural (AG-2) to Commercial Planned Development (CPD), in reference to Pine Shadows Air Park; and

WHEREAS, Pine Shadows Hanger Group, Inc. and Sentry Storage, Inc., the owners of the subject parcel, authorized Humphrey & Knott, P.A., to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held on September 2, 1998, before the Lee County Hearing Examiner who gave full consideration to the evidence in the record (Case # 98-05-101.02Z 01.01); and

WHEREAS, a second public hearing was advertised and held on October 19, 1998 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 the 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 4.64± acre parcel from Agricultural (AG-2) to Commercial Planned Development (CPD) in the Suburban Land Use Category. The legal description of the subject property is set forth in Exhibit A attached to this resolution. The request is hereby APPROVED subject to the conditions and deviations set forth in Sections B and C below.

SECTION B. CONDITIONS:

1. The development of the subject property must be in substantial compliance with the approved Master Concept Plan (MCP) which is a two-page document entitled "Pine Shadows Air Park Master Concept Plan," dated March 16, 1998, and stamped received at the permit counter on May 12, 1998.
2. The list of permitted uses is limited to the following:
 - Accessory uses
 - Administrative offices
 - Automobile restoration (limited to restoration and maintenance of privately owned automobiles by their owners who are tenants of the property owner)
 - Caretaker's residence
 - Essential services
 - Essential service facilities [LDC Section 34-622(c)(13)]: Group I
 - Mini-warehouse (limited to Tract F-1, and to existing asphalt pad on Tract F-2) (See

Condition 8.)

Self service fuel pump (limited to existing aircraft fuel dispensing system located on Tract E)

Storage, Indoor (including maintenance of privately owned planes by their owners)

Storage, Open (limited to Tract F-1 and excluding construction equipment and large trucks, i.e., semi-trailers, etc.)(See Condition 7.)

Warehouse, public (limited to existing structures only as depicted on the MCP)

3. Development of the subject property must comply with the following Property Development Regulations:

Minimum Setbacks - Buildings and Structures:

Street: 25 feet

Side: 15 feet

Rear: 25 feet

Water body: 25 feet

Maximum Lot Coverage: 40 percent

Maximum Building Height: 25 feet above grade

4. Future development of the subject property is limited to a total of 15,000 feet on Tract F-1 and a total of five thousand, (5,000) square feet on the vacant asphalt pad on Tract F-2, total square footage of existing and approved structures not to exceed 55,000 square feet.
5. No retail sales are permitted on the subject parcel except for those associated with the existing aircraft fuel dispensing system located on Tract E.
6. Commercial use of individual storage units and public warehouse space is prohibited. Commercial establishments may rent units or warehouse space for storage use only.
7. Open storage use is limited to Tract F-1 and must be completely enclosed by an 8-foot-high, painted, concrete (block or precast) masonry wall. In addition, a 15-foot-wide buffer containing a minimum of five trees and 12 shrubs per 100 linear feet must be provided on the exterior side of the masonry wall.
8. The mini-warehouse use is limited to Tract F-1 and the existing asphalt pad located on Tract F-2.
9. Required parking for all uses must be provided in accordance with LDC Section 34-2020. In addition to any new spaces, the parking spaces designated on the MCP must be delineated and provided with parking blocks in accordance with LDC Section 34-2016.
10. This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions may be required at the time of local development order approval.
11. Approval of this rezoning does not give the Developer an undeniable right to receive local

development order approval. Future development order approvals must satisfy the requirements of the 2020 Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b), of the Lee Plan.

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

SECTION C. DEVIATIONS:

Deviation (1) is a request to deviate from LDC Section 10-415(b)(1) which requires a 10-foot-wide landscape strip to be located adjacent to all street rights-of-way; to eliminate this requirement for the subject property. This deviation is APPROVED for the right-of-way along Runway Street only.

SECTION D. EXHIBITS:

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

- Exhibit A. The legal description and STRAP numbers of the subject property.
- Exhibit B. A reduced copy of the Pine Shadows Air Park Master Concept Plan.
- Exhibit C. A map depicting the subject parcel (shaded in) in relation to the surrounding area.

SECTION E. FINDINGS AND CONCLUSIONS:

1. The Applicant proved entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and any other applicable code or regulation.
2. The request, as conditioned:
 - a. will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area; and
 - d. will not adversely affect environmentally critical areas or natural resources.
3. The proposed use or mix of uses is appropriate at the subject location.
4. The development will not place an undue burden upon existing transportation or planned infrastructure facilities and it will be served by streets with the capacity to carry traffic generated by the development.
5. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest, and the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

6. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
7. The approved deviation, as conditioned, enhances the achievement of the objectives of the planned development, and preserves and promotes the general intent of Chapter 34, Land Development Code, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner Ray Judah, and seconded by Commissioner Andrew Coy and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 19th day of October, 1998.

ATTEST: BOARD OF
CHARLIE GREEN, CLERK

BY: *Dea D. Purce*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *J. Manning*
Chairman

Approved as to form by:

John D. Wilk
County Attorney's Office

MINUTES DEPARTMENT

bp

FILED OCT 26 1998

EXHIBIT A

LEGAL DESCRIPTION

Tracts E, PINE SHADOWS AIR PARK SUBDIVISION, as recorded in Plat Book 34, Page 61 and Tract F, PINE SHADOWS AIR PARK SUBDIVISION, as recorded in Plat Book 39, Page 6 of the Public Records of Lee County, Florida, lying in Section 16, Township 43 South, Range 24 East, Lee County, Florida.

STRAP NUMBER

The applicant has indicated the STRAP #'s of the subject property are 16-43-24-03-00000.E01A and 16-43-24-03-00000.F000.

EXHIBIT B Page 1 of 2

PERMITTED USES:
ADMINISTRATIVE OFFICE
AUTOMOBILE REPAIR AND SERVICE, GROUP 1
BOAT STORAGE, DRY
CLOTHES WAREHOUSE
GASOLINE DISPENSING SYSTEM, SPECIAL
WAREHOUSE
STORAGE, MOBILE AND OPEN
WAREHOUSE

LAND SUMMARY

PARCELS

TRACT "F"	16,044 sqft
TRACT "F"	13,111 sqft
Total	29,155 sqft

TRACTS

TRACT "F"	13,111 sqft
TRACT "F"	13,111 sqft
Total	26,222 sqft

LAND SUMMARY

TRACT "F"	16,177 sqft
TRACT "F"	13,111 sqft
Total	29,288 sqft

TRACTS

TRACT "F"	16,177 sqft
TRACT "F"	13,111 sqft
Total	29,288 sqft

TRACTS

TRACT "F"	16,177 sqft
TRACT "F"	13,111 sqft
Total	29,288 sqft

TRACTS

TRACT "F"	16,177 sqft
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TRACTS

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TRACT "F"	13,111 sqft
Total	29,288 sqft

TRACTS

TRACT "F"	16,177 sqft
TRACT "F"	13,111 sqft
Total	29,288 sqft

DEVELOPMENT CALCULATIONS

TRACTS

TRACT "F"	16,177 sqft	61.13 sqft Total Land Coverage
TRACT "F"	13,111 sqft	
Total	29,288 sqft	

TRACTS

TRACT "F"	13,111 sqft	36.13 sqft Total Land Coverage
TRACT "F"	13,111 sqft	
Total	26,222 sqft	

TRACTS

TRACT "F"	16,177 sqft	61.13 sqft Total Land Coverage
TRACT "F"	13,111 sqft	
Total	29,288 sqft	

TRACTS

TRACT "F"	16,177 sqft	61.13 sqft Total Land Coverage
TRACT "F"	13,111 sqft	
Total	29,288 sqft	

TRACTS

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TRACT "F"	13,111 sqft	
Total	29,288 sqft	

TRACTS

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TRACT "F"	13,111 sqft	
Total	29,288 sqft	

TRACTS

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TRACT "F"	13,111 sqft	
Total	29,288 sqft	

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TRACT "F"	13,111 sqft	
Total	29,288 sqft	

TRACTS

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Total	29,288 sqft	

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Total	29,288 sqft	

TRACTS

TRACT "F"	16,177 sqft	61.13 sqft Total Land Coverage
TRACT "F"	13,111 sqft	
Total	29,288 sqft	

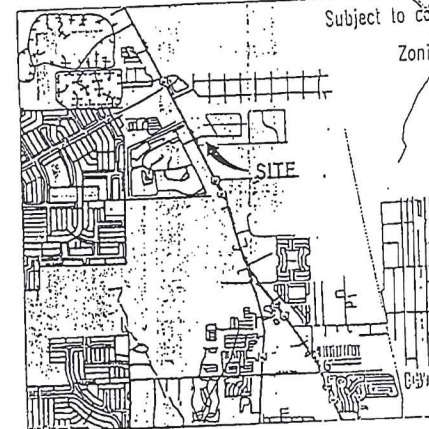
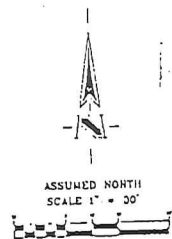
APPROVED

Master Concept Plan

Site Plan # 98-069 Page 1 of 2

Subject to conditions in Resolution Z-98-069

Zoning Case # 98-05-101.02Z 01-01



RUNWAY STREET N.E.

UNPLATTED

U.S. HWY 41 (MIAMI TRAIL)

ZONED UH - 2
DEL TURA DEVELOPMENT

ZONED C - 1A
VACANT

SURVEY DESCRIPTION:
TRACT "F" OF A REPLICA OF A PART OF THE SHADOWS AIR PARK
AS SHOWN IN PLAT BOOK 24, PAGES 8 - 9 (INCLUDING) OF THE
PUBLIC RECORDS OF THE COUNTY, FLORIDA

F-1

F-2

E

40' DRAINAGE AND
PUBLIC UTILITY EASEMENT

UNPLATTED

ZONED MPO
(VACANT LAND)

PROJECT # 98-05-101.02Z 01-01
PROJECT TYPE

MASTER CONCEPT PLAN

Date	16 MAR 98	Project No.	98-05-101.02Z 01-01	Sheet	11
Prepared By		Checked By		Drawn By	

ZONING MAP

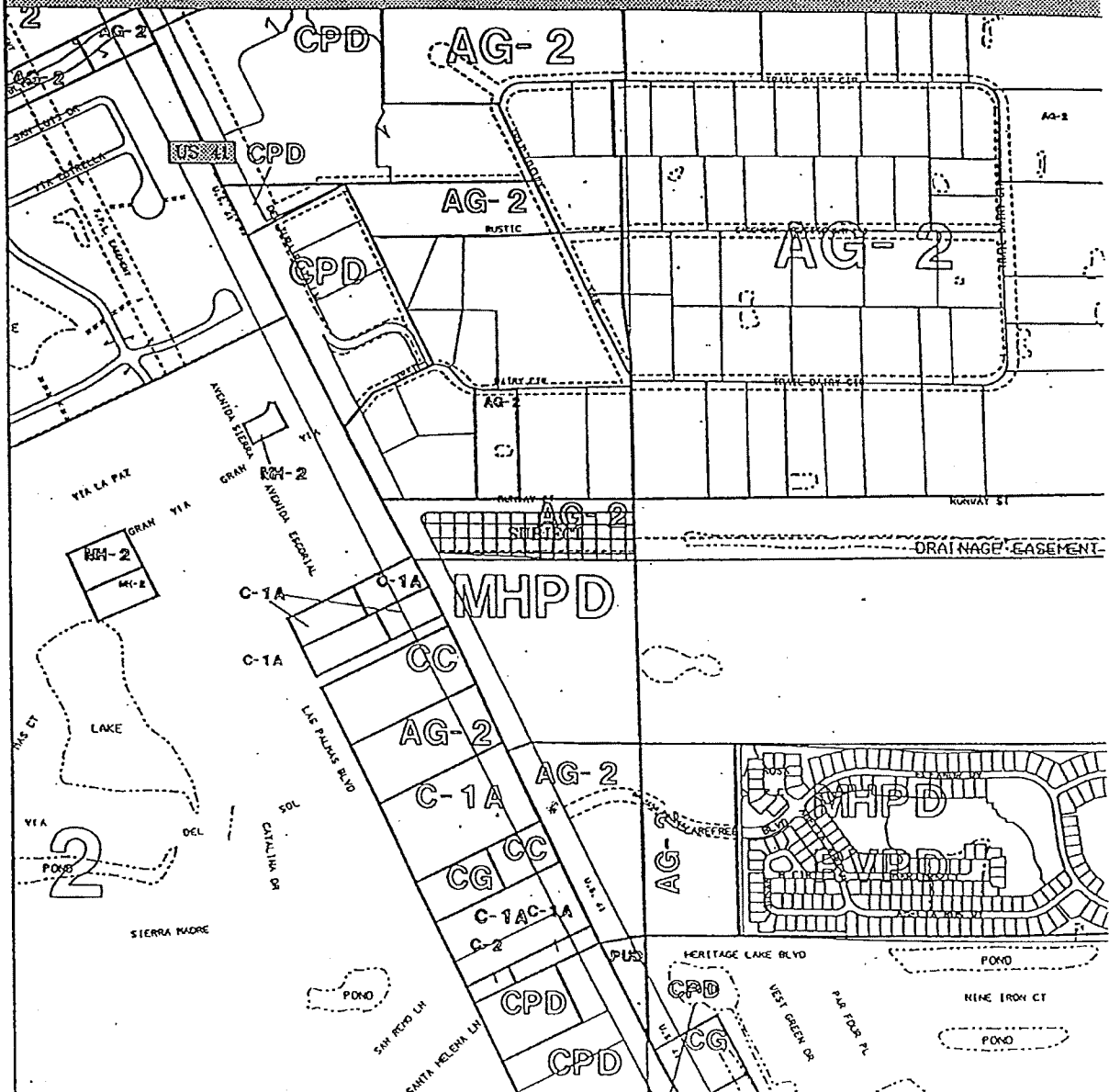


EXHIBIT C

The following resolution was adopted by the Lee County Zoning Board upon motion by Zoning Board Member BOWLES, and seconded by Zoning Board Member BISHOP, and upon poll of the members present the vote was as follows:

Thomas C. Smith	AYE	Robert Terrell	AYE
Thad Taylor	AYE	Truman A. Morris	AYE
Chuck Ross	AYE	Clyde Bowles	AYE
Monty Bishop	AYE		

WHEREAS PAUL E. TIEDT has requested a

AN UNUSUAL USE FOR AN AIR STRIP IN AN AG ZONE WITH A VARIANCE FROM SECTION AND

QUARTER SECTION LINE SETBACKS

SUBJECT PROPERTY: (SEE ATTACHED)

WHEREAS, A Public Hearing of the Lee County Zoning Board was duly advertised and held, as required by law, and after hearing all interested parties, after being duly sworn, and upon due and proper consideration having been given to the matter,

NOW THEREFORE BE IT RESOLVED by the Lee County Zoning Board, Lee County, Florida, that the petition be APPROVED

APPROVED AS

TO BE FOR

BY

COUNTY ATTORNEY

UPON APPEAL, the following resolution was offered by Commissioner , and seconded by Commissioner , and upon poll of the members present the vote was as follows:

Mike Roeder
Harry Rodda
Roland Q. Roberts
Wade H. Scaffe
Ernie Averill

WHEREAS, an appeal was filed by an aggrieved person and a Public Hearing of the Lee County Commissioners was duly advertised and held, as required by law, this Board after reviewing the records and the motion made by the Zoning Board and having given an opportunity to all interested persons to be heard, after being duly sworn, and upon due and proper consideration having been given to this matter, NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Lee County, Florida, that the motion of the Zoning Board NO APPEAL FILED

DCI 2007-00026

RECEIVED
DEC 13 2007

PERMIT COUNTED

PASSED AND ADOPTED THIS 4 DAY OF May, 19 81 by the Lee County Zoning Board.

PASSED AND ADOPTED THIS DAY OF , 19 by the Lee County Commissioners.

LEGAL DESCRIPTION

PAUL E. TIEDT

81-4-49

15,16-43-24

SUBJECT PROPERTY: A parcel of land lying in Sects 15 and 16 Twp 43S, Rge 24E Lee County, FL more particularly described as follows:
Commence at the E 1/4 crnr of the aforesaid Sec . 15 and run S 89 deg. 57 min. 51 sec. W along the S line of the N 1/2 of said Sect. 15 for 882.00 ft. to the POB; thence continue along the last described course for 4448.51 ft. to the W 1/4 crnr of said Sec . 15; thence run N 89 deg. 38 min. 06 sec. W along the S line of the NW 1/4 of the aforesaid Sect. 16 for 939.47 ft. to the intersection with the Ely R/W line of US 41 (Tamiami Trail); thence run N 30 deg. 24 min. 31 sec. W along said R/W line for 300.00 ft.; thence run N 89 deg. 46 min. 34 sec. E for 1211.15 ft.; thence run N 01 deg. 14 min. 51 sec. W for 2403.70 ft. to a point on the N line of the NW 1/4 of said Sec . 15; thence run N 89 deg. 43 min. 02 sec. E along said N line for 598.03 ft. to the N 1/4 crnr of said Sec . 15; thence run S 89 deg. 39 min. 48 sec. E along the N line of the NE 1/4 of said Sect. 15 for 1756.12 ft.; thence run S 00 deg. 08 min. 56 sec. E along a line 882.00 ft. W of and parallel with the E line of said Sect. 15 for 2670.37 ft. to the POB. Containing 162.00 acres, more or less. Together with the E 882.00 ft. of the NE 1/4 of said Sect. 15. Containing 54.07 acres, more or less.

RECEIVED
DEC 13 2007

PERMIT COUNTER

DCI 2007-00026

Palermo, Anthony D.

From: Wu, Lili
Sent: Tuesday, September 30, 2008 4:08 PM
To: Palermo, Anthony D.
Subject: Pine Shadows Air Park (DCI2007-00026)

Tony:

Since this application is a zoning amendment and TIS was waived and there is no access issue, LCDOT have no comments. The LOS on US 41 from Del Prado Blvd to County Line is "A" in 2007.

Wu

ATTACHMENT G

Palermo, Anthony D.

From: Pavese, Michael P.
Sent: Thursday, October 23, 2008 9:31 AM
To: Palermo, Anthony D.
Subject: DCI2007-00026 - Substantive

Tony, please include the following substantive condition with your recommendation in this case:

Prior to any local Development Order approval for vertical development, the developer must provide facilities in compliance with LDC Section 10-261 and Solid Waste Ordinance # 08-10 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of local Development Order application.

Should you have any questions you may call me. **Please confirm your receipt of these comments.** Thank you.

Michael P. Pavese
Principal Planner
Department of Public Works Administration
pavesemp@leegov.com
Phone: (239) 533-8360
Fax: (239) 485-8307

ATTACHMENT H

Palermo, Anthony D.

From: Eckenrode, Peter J.
Sent: Wednesday, October 15, 2008 4:30 PM
To: Mike Roeder
Cc: Matthew Uhle; Houck, Pamela E.; Palermo, Anthony D.; Osterhout, Thom; Fredyma, John J.
Subject: RE: dci2007-00026 pine shadows cpd amendment.

Mike,

I have looked into this and concur with staff's opinion that the existing buildings must discontinue their use of individual onsite wastewater treatment and disposal systems and connect to the central sewage system within 365 days of the date that a connection point is available on the site. This requirement is clearly stated in Section 381.00655 F.S. and is also provided for in Lee County Ord 91-01. This mandatory connection requirement in the Florida Statutes does not make reference to any GPD threshold and because the State standards are more restrictive than our current CH10 LDC requirements they must be viewed as superior and thus we are legally bound to require adherence to that standard. This position is also reinforced through a memo from the County Attorney to the BoCC dated May 1, 2008 which addresses this very issue.

I have discussed a construction technique that could be utilized to make this connection with Thom Osterhout at LCU. You may wish to have your engineer call Thom to discuss this before you make any final decision regarding the status of this case. The costs may be less than the figure you presented to me in a recent conversation we had on this subject.

regards,

Pete

Peter J. Eckenrode, Director
 Lee County Community Development
 Development Services Division
 1500 Monroe Street, 2nd Floor
 Fort Myers, FL 33901
 Phone (239) 533-8348
 Fax (239) 485-8341

ATTACHMENT I

From: Mike Roeder [mailto:MRoeder@knott-law.com]
Sent: Wednesday, October 15, 2008 3:07 PM
To: Eckenrode, Peter J.
Cc: Matthew Uhle; Houck, Pamela E.; Palermo, Anthony D.
Subject: FW: dci2007-00026 pine shadows cpd amendment.

Pete,

As you can see, this question is reaching a critical threshold. We do not agree that the existing development would (or should) tie into central sewer, and we had told the staff that we would probably withdraw the request before we would agree to that. In any event, this issue should not be foreordained by the wording of the request, and at the very least the HEX and BoCC should be able to hear the arguments pro and con. I don't know why the advertised request needs to include this information in any event. So I would appreciate any technical perspective you can provide. thanks

Michael E. Roeder, AICP
 Director of Zoning and Land Use Planning
 Knott, Consoer, Ebelini, Hart & Swett, P.A.
 239-334-2722
MRoeder@knott-law.com

From: Palermo, Anthony D. [mailto:APalermo@leegov.com]

10/16/2008

Sent: Wednesday, October 15, 2008 3:00 PM
To: Mike Roeder; Matthew Uhle
Subject: dci2007-00026 pine shadows cpd amendment.

Per the county attorney's request, I am changing the wording of the request. Water and sewer will be a substantive issue that my staff report will address.

Amend Zoning Resolution #Z-98-069 Pine Shadows Air Park Commercial Planned Development (CPD) on +/- 4.65 acres. The amendment seeks to allow open storage on the rear vacant parcel, add uses such as professional office and business services in front on US 41, and modify the buffer requirements. No development blasting is requested. The entire development (existing and new) will hook up to public potable water and sanitary sewer service.

Tony Palermo, Senior Planner, AICP
Lee County Department of Community Development
P.O. Box 398
Fort Myers, FL 33902
Ph. 239-533-8325
F. 239-485-8300
apalermo@leegov.com

Palermo, Anthony D.

From: Fredyma, John J.
Sent: Wednesday, October 15, 2008 2:38 PM
To: Houck, Pamela E.
Cc: Palermo, Anthony D.; Owen, David M.; Collins, Donna Marie
Subject: Pine Shadows Air Park DCI2007-00026

Pam,

Yet, another chapter is a very long round of sufficiency review for the above-referenced zoning case.

I have some real heartburn here with project request submitted by Mike Roeder on behalf of the property owner in this case.

In particular, I am referring to the issue about water and sewer service for the site. It is my understanding the public potable water and sanitary sewer lines now run right past the site, so they would have to hook up to both. Roeder is trying to argue that the sewer or septic gallonage "load" is less than a certain number, so they don't have to hook up – the LDC does NOT say this. Additionally, Utilities Staff do not agree with him on this issue.

The problem is that LDC Sec. 10-353(a)(5) says this project "must connect" to the sanitary sewer operated by franchise service provider, in this case NFM Utilities:

*" . . . **MUST connect** to that respective sewer system (NFM Utilities):*

Any residential, commercial or industrial development of any size where central sewer lines are or will be available within 90 days of the issuance of the development order. (Emphasis added)

For purposes of this subsection, the term "available" means located in a public right-of-way or easement adjacent to any portion of the property."

This also means the entire site has to hook up, not just the new building(s) or development.

This part of the applicant's request must be revised. Additionally, a deviation or variance is **not** available from this part of the LDC. Also, State law in Section 381.00655, F.S., and Lee County Ordinance No. 91-01 require hook-up of everything on this site.

Interestingly enough, even if they don't go forward with this case (a "threat" already made by Mike, also saying he'll go to a Commissioner about this issue to tell them why he had to withdraw the case – a violation of the *ex parte* communication prohibition with respect to a pending zoning action), the property owner still needs to hook up everything on the site because of the location of the potable water and sanitary sewer lines that run next to the project site.

Consequently, the request needs to be revised to remove the following language:

"Development will continue to utilize potable public water service. Development will continue to utilize septic tanks, and not connect to sanitary sewer service."

In its place, the following language needs to be added:

"The entire development (existing and new) will hook up to public potable water and sanitary sewer service."

This change must be made to the request or it is otherwise legally insufficient and it may not go to public hearing.

Please let me know if you have any questions.

John

John J. Fredyma
 Assistant County Attorney
 Lee County Attorney's Office
 P.O. Box 398
 Fort Myers, Florida 33902
 2115 Second Street - 33901)
 Tel. 239/533-2236

ATTACHMENT J

10/16/2008

Fax 239/485-2106

E-mail: fredymjj@leegov.com [Note: There is no "a" in the e-mail spelling of Fredyma.]

Please note: Florida has a very broad public records law. Most written communications to or from County employees and officials regarding County business are public records available to the public and media upon request. Your email communication may be subject to public disclosure.

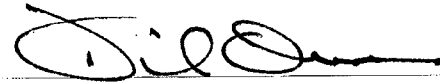
10/16/2008

**MEMORANDUM
FROM THE
OFFICE OF COUNTY ATTORNEY**

DATE: May 1, 2008

To: Board of County Commissioners

FROM:



David M. Owen
County Attorney

**RE: MANDATORY CONNECTION TO WATER AND WASTEWATER UTILITIES
BY NEW AND EXISTING RESIDENTIAL & COMMERCIAL / INDUSTRIAL
DEVELOPMENT**

Commissioners;

At last Monday's Zoning meeting, discussions were had with respect to the above matter; the result of which I advised that I would provide you with a writing in an effort to eliminate some confusion with respect to the variety of methodologies that come into play concerning residential and commercial connection to water and wastewater utilities.

In an attempt to clear up the application of the Land Development Code (LDC) rules and other regulations, I am offering the following:

NEW DEVELOPMENT

1. Zoning Requirements

Section 34-202 of the LDC at Subparagraph (8) contains the following water / wastewater requirement for zoning applications subject to the public hearing process:

- (8) *Potable water and sanitary sewer connection.* A letter from the appropriate utility entity indicating the utility entity's ability to provide service to support the proposed development.

This is the sole requirement from the zoning perspective for residential and commercial connection to water and wastewater utilities.

**RE: MANDATORY CONNECTION TO WATER AND WASTEWATER UTILITIES
BY NEW AND EXISTING RESIDENTIAL & COMMERCIAL / INDUSTRIAL
DEVELOPMENT**

2. Development Order Requirements

Section 10-8 and Sections 10-351 through 10-353 of the LDC address the County's requirements for new development connection to water and wastewater utilities (attached).

Section 10-8 sets out the requirement for new development connection to either public or regulated, private utilities, generally.

WATER

Section 10-351(c) advises that no Lee County Development Order may be issued without adequate provisions for water and wastewater services for the proposed development; "adequate" is defined as meeting all state regulations relating to potable water supply and sewage disposal.

i. LDC Section 10-352, Paragraphs (a) and (b) outline the Development Order threshold requirements for the connection of new development to central water systems.

Subsection (a)(1) of Section 10-352 relates to residential development and is the often quoted provision relating to the density of the development and the "1/4 mile rule" for connection.

Subsection (a), Paragraphs (2) through (4) relate to commercial / industrial development and set out the parameters for connection based upon square footage and gallonage use.

Subsection (a)(5) requires connection by both residential and commercial / industrial developments when central water is available or will be available within ninety (90) days from the issuance of the Development Order (text currently incorrectly states "sewer").

Subsection (b) of Section 10-352 addresses the water supply alternatives for developments that are not bound by the requirements of Subparagraph (a); of importance, is Subparagraph (b), which requires that the "self-service" for potable water be discontinued upon written notice from the utility in which the development is located that central water service is available at the boundary of the development, and that the connection is mandatory.

**RE: MANDATORY CONNECTION TO WATER AND WASTEWATER UTILITIES
BY NEW AND EXISTING RESIDENTIAL & COMMERCIAL / INDUSTRIAL
DEVELOPMENT**

WASTEWATER

ii. Section 10-353, Paragraphs (a) and (b) of the LDC outline the Development Order threshold requirements for connection of new development to central wastewater collection and disposal systems, and mirrors the requirements for potable water connection, above.

Again, these are Development Order Conditions; not requirements for zoning applications, nor conditions for zoning approval per our current regulations.

EXISTING DEVELOPMENT

Other Regulations

There is a state law and a County Ordinance that also may be applied for mandatory connections to central wastewater systems; particularly in those cases where the connection is made post-development of either the residence(s) or commercial enterprise.

- a. Florida law requires that the use of septic systems must cease within 365 days from the notification by the utility that serves the area that service is available (Section 381.00655, Florida Statutes (Public Health), attached). By its design, the County does not have jurisdiction to enforce this law.

However, the State Attorney General has opined in AGO 96-09 and AGO 00-71, that counties and municipalities may adopt an Ordinance providing for the enforcement of Section 381.00655, Florida Statutes, under their Home Rule powers.

- b. Prior to the issuance of both of those Attorney General Opinions, Lee County, in a pre-emptive mode, adopted Ordinance No. 91-01, which restates the principal parts of Section 381.00655, Florida Statutes, on the connection of existing septic systems to central wastewater facilities. The Ordinance also goes further and includes "non-compliant" package wastewater treatment systems in its scope.

**RE: MANDATORY CONNECTION TO WATER AND WASTEWATER UTILITIES
BY NEW AND EXISTING RESIDENTIAL & COMMERCIAL / INDUSTRIAL
DEVELOPMENT**

The purpose of all of this, Commissioners, is to outline the means by which the County can direct the connection(s) of residential and commercial / industrial development to central water and wastewater systems; both pre- and post-development.

If the Board desires any revisions to the LDC with respect to this matter, they can be discussed at a later time at your direction.

A "matrix" for the application of Sections 10-352 and 353, LDC is provided for your reference and convenience.

DMO/dm
Attachments

xc: Andrea R. Fraser, Deputy County Attorney
Donna Marie Collins, Acting Chief Assistant County Attorney
Mary Gibbs, Director, Community Development
Pam Houck, Zoning, Community Development
Peter Eckenrode, Director, Development Services
James Lavender, Director, Public Works Administration
Douglas Meurer, P.E., Director, Lee County Utilities

LDC § 34-202(b)(8) [ZONING]

- (8) *Potable water and sanitary sewer connection.* A letter from the appropriate utility entity indicating the utility entity's ability to provide service to support the proposed development.
-

LDC E 10-8

- (7) *Water and sewage systems.* The development must be proposed in such a way as to prevent any potential hazards to the health, safety and welfare of the public, especially with regard to the provision of potable water or sanitary sewage services. Unless otherwise excepted in this chapter, all new residential, commercial or industrial development proposed within the certificated or franchised service areas of regulated private (investor- or subscriber-owned) water or sewer utilities, or within the designated future water or sanitary sewer service areas of county utilities, as shown and specified in the Lee Plan, must connect to that water or sewer system. Where a development is permitted to stand free of established potable water or sanitary sewage systems, the water and sewage systems proposed to serve that development must be of sufficient capacity for the intended initial uses, and provisions must be made for expansion, increased capacity and extensions for any future uses through appropriate and binding legal commitments, including the commitment to connect to a central system at such time as it is created or extended to the development.

LDC 8 10-154

- (25) *Opinion of probable construction costs.* The developer's consultant must prepare and submit the estimated cost of installing all streets, drainage systems, water management systems, potable water treatment and distribution systems, sewage collection and treatment systems, bikeways, pedestrian ways, park and recreation improvements, landscaping and buffers as follows:

- a. Subdivisions: on-site and off-site improvements.
- b. All other developments: off-site improvements.

The opinion of probable cost must include an estimated date of completion for the work.

LD C Sec. 10-351. Generally.

- (a) Public water systems and public sewage systems shall be designed and constructed in accordance with county, state and federal standards, including the domestic requirements established by the appropriate state agency and the fire protection requirements established by the uniform county fire code, as they may be amended from time to time.
- (b) Public sewage systems shall be designed by an engineer in accordance with this chapter, and shall be designed, constructed and maintained in such a manner as not to adversely affect the water quality of any existing stream, lake or underground aquifer.
- (c) No development order may be issued for any development if adequate provisions for sanitary sewage disposal and potable water service have not been made. For purposes of this section, the term "adequate" is defined as satisfying the regulations of the State Department of Health and the State Department of Environmental Protection, as they may apply, and this chapter.
- (d) General location and installation standards are as follows:
 - (1) All treatment facilities shall be located and constructed to minimize noise, odor and other effects and impacts on the public health, welfare and safety.
 - (2) All aboveground or partially aboveground facilities (active or passive) shall be set back at least 100 feet from any perimeter property line.
 - (3) Belowground disposal facilities (drainfields, mound drainfields, injection wells, etc.) shall be no closer than 50 feet from the nearest residential lot.
 - (4) Location of all facilities shall be in accordance with the applicable local, state and federal regulations.

(Ord. No. 92-44, § 11(A), 10-14-92; Ord. No. 07-24, § 3, 8-14-07)

44C Sec. 10-352. Potable water systems.

- (a) *Connection to central system required for certain developments.* The following types of developments, when located within the boundaries of the certificated or franchised service area of any investor- or subscriber-owned water utility, or within the county utilities' future water service areas as defined in the Lee Plan, must connect to that respective water system:
- (1) Any residential development that exceeds 2.5 dwelling units per gross acre, except for a development that contains less than 10 dwelling units in any phase or combination of phases located more than one-quarter mile from a point of connection;
 - (2) Any commercial or industrial development that exceeds 30,000 square feet of gross floor area and any smaller such development that will use more than 5,000 gallons per day of water;
 - (3) Any commercial or industrial development that will use more than 1,000 gallons per day located adjacent to or within 50 feet of a connection point, as measured from the property line;
 - (4) Any commercial or industrial development subdivision consisting of more than 5 lots located less than one-quarter mile from a point of connection; or
 - (5) Any residential, commercial or industrial development of any size where central sewer lines are or will be available within 90 days of the issuance of the development order.

For purposes of this subsection, the term "available" means located in a public right-of-way or easement adjacent to any portion of the property.

The provisions of this subsection become effective for each investor-owned utility upon the execution of an agreement with the county demonstrating the availability of an equitable program of rebatable agreements.

- (b) *Private systems.* If the proposed development is not required to connect pursuant to section 10-252(a):
- (1) A development order may be issued upon satisfactory documentation that the development will itself provide water service in accordance with the regulations of the state department of health and rehabilitative services, the state department of environmental regulation and the South Florida Water Management District; and
 - (2) The water system approved under section 10-352(b)(1) must be removed or abated and connection to that utility must be made not more than 90 days from the date the utility provides written notice to the property owner that potable water service is available at the boundary of the development and connection is mandatory. An appropriate bond or equivalent security may, at the utility's option, be tendered to the affected utility to ensure compliance; and
 - (3) The private water system installed must comply with Chapter 64E-8 of the Florida Administrative Code, as such provisions now exist or may be amended.

(Ord. No. 92-44, § 11(B), 10-14-92; Ord. No. 94-07, § 11, 2-16-94; Ord. No. 07-24, § 3, 8-14-07)

LDC Sec. 10-353. Sanitary sewer systems generally.

- (a) *Connection to central system required for certain developments.* The following types of developments, when located within the boundaries of the certificated or franchised service area of any investor- or subscriber-owned utility, or within the county utilities' future sewer service areas as defined in the Lee Plan, must connect to that respective sewer system:
- (1) Any residential development that exceeds 2.5 dwelling units per gross acre, except for a development that contains less than 10 dwelling units in any phase or combination of phases located more than one-quarter mile from a point of connection;
 - (2) Any commercial or industrial development that exceeds 30,000 square feet of gross floor area and any smaller such development that will generate more than 5,000 gallons per day of sewage;
 - (3) Any commercial or industrial development that generates more than 1,000 gallons per day located adjacent to or within 50 feet of a connection point, as measured from the property line;
 - (4) Any commercial or industrial development subdivision consisting of more than five lots located less than one-quarter mile from a point of connection; or
 - (5) Any residential, commercial or industrial development of any size where central sewer lines are or will be available within 90 days of the issuance of the development order.

For purposes of this subsection, the term "available" means located in a public right-of-way or easement adjacent to any portion of the property.

The provisions of this subsection become effective for each investor-owned utility upon the execution of an agreement with the county demonstrating the availability of an equitable program of rebatable agreements.

- (b) *Individual sewage disposal systems.* If the proposed development is not required to connect pursuant to 10-353(a):
- (1) A development order may be issued upon satisfactory documentation that the development will itself provide sanitary sewer service in accordance with the regulations of the state department of environmental protection, or on-site sewage disposal in accordance with the regulations of the state department of health; and
 - (2) The system approved under 10-353(b)(1) must be removed or abated and connection to the utility must be made not more than 90 days from the date the utility provides written notice to the property owner that sanitary sewer service is available at the boundary of the development and connection is mandatory. An appropriate bond or equivalent security may, at the utility's option, be tendered to the affected utility to ensure compliance.
 - (3) The individual sewage disposal system installed must comply with Chapter 64E-6 of the Florida Administrative Code as the same now exists or as it may be

amended from time to time.

(Ord. No. 92-44, § 11(C), 10-14-92; Ord. No. 94-07, § 11, 2-16-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 07-24, § 3, 8-14-07)

**DEVELOPMENT ORDER REQUIREMENTS FOR CONNECTION TO CENTRAL
POTABLE WATER/SANITARY SEWER ¹**

CONNECT		NO CONNECT
1.	Residential development greater than 2.5 units/ac.	Residential development greater than 2.5. units/ac. consisting of nine dwelling units or less and located more than a quarter mile away from a point of connection. Residential development less than or equal to 2.5 units/ac. ^{2,3}
2.	Commercial/industrial development <u>exceeding</u> 30,000 sf of gross-floor area, or, Commercial/industrial development less than or equal to 30,000 sf of gross-floor area IF it uses or generates more than 5,000 gpd.	Commercial/industrial development less than or equal to 30,000 sf IF it uses or generates less than or equal to 5,000 gpd. ³
3.	Commercial/industrial subdivision using or generating greater than 1,000 gpd AND located adjacent to or within 50 feet of a connection point. Commercial/industrial development of more than five lots located within a quarter mile of a point of connection.	Commercial/industrial subdivision consisting of five or less lots located more than a quarter mile from a point connection. ^{2,3}

¹ When the development is located within the boundaries of the certificated or franchised service area of any investor or subscriber-owned utility, or within the County's utilities future service area as defined in the Lee Plan

² LDC 10-352(a)(2) and 10-353(b)(2) requires removal of private systems and connection to utility within 90 days of receipt of a letter from a utility that service is available at project boundary.

³ LDC 10-8(7) requires development order to require a commitment to connect to central system when it is created or extended to the development.

Select Year: 2007 

The 2007 Florida Statutes

[Title XXIX](#)
PUBLIC HEALTH[Chapter 381](#)
PUBLIC HEALTH: GENERAL PROVISIONS[View Entire Chapter](#)

✓ 381.00655 Connection of existing onsite sewage treatment and disposal systems to central sewerage system; requirements.--

(1)(a) The owner of a properly functioning onsite sewage treatment and disposal system, excluding an approved onsite graywater system, must connect the system or the building's plumbing to an available publicly owned or investor-owned sewerage system within 365 days after written notification by the owner of the publicly owned or investor-owned sewerage system that the system is available for connection. The publicly owned or investor-owned sewerage system must notify the owner of the onsite sewage treatment and disposal system of the availability of the central sewerage system. No less than 1 year prior to the date the sewerage system will become available, the publicly owned or investor-owned sewerage system shall notify the affected owner of the onsite sewage treatment and disposal system of the anticipated availability of the sewerage system and shall also notify the owner that the owner will be required to connect to the sewerage system within 1 year of the actual availability. The owner shall have the option of prepaying the amortized value of required connection charges in equal monthly installments over a period not to exceed 2 years from the date of the initial notification of anticipated availability. Nothing in this section shall operate to impair contracts or other binding obligations relating to payment schedules in existence as of October 1, 1993. Nothing in this paragraph limits the power of a municipality or county to enforce other laws for the protection of the public health and safety.

(b) The owner of an onsite sewage treatment and disposal system that needs repair or modification to function in a sanitary manner or to comply with the requirements of ss. 381.0065-381.0067 or rules adopted under those sections must connect to an available publicly owned or investor-owned sewerage system within 90 days after written notification from the department. In hardship cases, upon request of the owner, the department may approve an extension of not more than 90 days for sewerage connection. The department may approve only one extension. This paragraph does not authorize the owner of the onsite sewage treatment and disposal system to create or maintain a sanitary nuisance.

(2) The provisions of subsection (1) or any other provision of law to the contrary notwithstanding:

(a) The local governing body of the jurisdiction in which the owner of the onsite sewage treatment and disposal system resides may provide that any connection fee charged under this section by an investor-owned sewerage system may be paid without interest in monthly installments, over a period of time not to exceed 5 years from the date the sewerage system becomes available if it determines that the owner has demonstrated a financial hardship. The local governing body shall establish criteria for making this determination which take into account the owner's net worth, income, and financial needs.

(b) A publicly owned or investor-owned sewerage system may, with the approval of the department, waive the requirement of mandatory onsite sewage disposal connection if it determines that such connection is not required in the public interest due to public health considerations.

(c) A local government or water and sewer district responsible for the operation of a centralized sewer system under s. 153.62 may grant a variance to an owner of a performance-based onsite sewage treatment and disposal system permitted by the department as long as the onsite system is functioning properly and satisfying the conditions of the operating permit. Nothing in this paragraph shall be construed to require a local government or water and sewer district to issue a variance under any circumstance. Nothing in this paragraph shall be construed as limiting local government authority to enact ordinances under s. 4, chapter 99-395, Laws of Florida. A local government or water and sewer district located in any of the following areas shall not be required to issue a variance under any circumstance:

1. An area of critical state concern.
2. An area that was designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation.
3. An area in the South Florida Water Management District west C-11 basin that discharges through the S-9 pump into the Everglades.
4. An area designated by the Lake Okeechobee Protection Act.

History.--s. 2, ch. 93-151; s. 5, ch. 2006-252.

LEE COUNTY ORDINANCE NO. 91-01

AN ORDINANCE OF LEE COUNTY, FLORIDA, TO PROVIDE FOR THE MANDATORY CONNECTION OF ON-SITE SEWAGE DISPOSAL SYSTEMS TO PUBLICLY OWNED OR INVESTOR-OWNED WASTEWATER COLLECTION SYSTEMS AFTER NOTICE THAT SUCH A SYSTEM IS AVAILABLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR AN ADMINISTRATIVE WAIVER OF THE MANDATORY CONNECTION; PROVIDING FOR PENALTIES FOR VIOLATION; PROVIDING FOR REPEAL OF ORDINANCE 76-17; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Section 1, Chapter 69-234, Laws of Florida, 1969, provides that in accordance with the provisions of Article VIII, § 1 of the Florida Constitution, counties shall have all powers of local self government including government, corporate, and proprietary powers to enable them to conduct county government, perform county functions, and render county services, and may exercise any such powers for county purposes for health, safety, or welfare of its citizens not inconsistent with general or special law; and,

WHEREAS, the Board of County Commissioners have previously adopted a Lee County Comprehensive Plan (the "Lee Plan") which incorporates the valid state and federal law objectives, which include, respectively, re-use of treated sewage effluent for groundwater recharge purposes and the elimination of as many source points of pollution as possible, as is mandated by federal public law 92-500, and this ordinance is in furtherance thereof; and

WHEREAS, the Board of County Commissioners of Lee County, Florida, recognizes that Lee County currently has, and will continue to have in the foreseeable future, far too many

package sewage treatment plants and septic tanks to allow and provide for the continued protection, planning, and management of Lee County's water resources; and,

WHEREAS, the county desires to encourage the re-use of wastewater and to prevent the increasing degradation of Lee County's water resources, both surface and ground waters resulting in a lower quality of life and potentially substantial increases in cost for water and sewerage services in the future, and to protect and provide for the continued health, safety, and welfare of the citizens of Lee County; and

WHEREAS, the Board of County Commissioners recognizes that in the general interest of the public and to promote the general health and welfare of said public it is necessary to encourage the use of publicly owned or investor-owned sewerage systems and to minimize the use of on-site sewage disposal systems.

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

SECTION ONE: MANDATORY HOOKUPS TO CENTRAL SEWERAGE SYSTEMS

The Board of County Commissioners declares that it is the policy of Lee County to require that each on-site sewage disposal system in Lee County, developed under the provisions of applicable law (except approved on-site gray water systems developed under the provisions of law and administrative rules), shall connect to a public, non-profit, or investor-owned central wastewater collection system within 365 days after notification

by mail or by publication that such a system's collection lines have been installed immediately adjoining the property served by the on-site system. Upon such connection, the owner or beneficiary of such on-site system shall cease to use any other method for the disposal of sewage, sewage waste, or other polluting matter. All such connections shall be made in accordance with the applicable rules and regulations for such connections, which applicable rules and regulations may provide for, among other things, a charge for making any such connection in such reasonable amounts as shall be determined by the appropriate authority and pursuant to applicable law.

On-site sewage disposal systems other than standard septic tank systems shall be exempt from this section provided that such a system has maintained continuous compliance with all rules, orders, statutes, and/or regulations, relating to the operation and maintenance of the facility, of any regulatory agencies or governmental authorities having jurisdiction over that facility.

The Board of County Commissioners shall be the final administrative decision-making body with respect to all issues relating to the mandatory sewer connections pursuant to the terms and conditions of this Ordinance.

SECTION TWO: DEFINITIONS

(1) "Continuous Compliance" shall mean that the on-site sewage disposal system has not been out of compliance at any time during the preceding 12 months before the notification

by mail or by publication as referenced in Section One of this Ordinance, with any rule, order, statute, and/or regulation relating to the operation and maintenance of the facility of any regulatory agencies or governmental authorities having jurisdiction over that facility. If an equipment malfunction that causes a transitory or temporary violation is immediately repaired by the owners of any affected system, such malfunction shall not be deemed or construed to cause the system to be out of "continuous compliance" for purposes of Section One, herein.

(2) "On-site sewage disposal system" shall mean any sewage treatment or disposal facility not equipped for effluent re-use, whether serving individual buildings or units, or several buildings or units, which treats or disposes of human body or household type wastes. Such systems include, but are not limited to, standard septic tank systems, laundry wastewater systems, and individual "package" sewage treatment plants which are installed or proposed to be installed on land of the owner or on other land to which the owner or owners have the legal right to install a system and which primarily serves or proposes to serve the owner's property or development.

SECTION THREE: ADMINISTRATIVE WAIVER

The requirement of mandatory connection as set forth above may be waived administratively by the County Administrator if he or she, or an authorized representative or agent, with the approval of the Department of Health and Rehabilitative Services, determines that such connection should not be

required. Any such waiver shall be limited to a specified time period, not to exceed 365 days, and shall be based on a written finding that one or more of the following conditions exists:

(A) The central wastewater system does not have sufficient capacity to serve the additional demand; or

(B) Connection to the central wastewater system imposes an undue financial hardship if such connection is made within the time period as specified in this ordinance.

SECTION FOUR: PENALTIES

A violation of the provisions of this Ordinance shall constitute a misdemeanor of the second degree, punishable as provided by Florida Statutes, for each day or time of occurrence. Additionally, a violation of the provisions of this Ordinance may be punishable by a civil fine of up to \$1,000.00 per day for each day or time of occurrence.

SECTION FIVE: REPEALER

Lee County Ordinance No. 76-17 is superseded by this ordinance and is therefore repealed and of no further force and effect.

SECTION SIX: SEVERABILITY

If any section, subsection, sentence, clause, or phrase or if any portion of this Ordinance is found for any reason to be invalid, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate and distinct, an independent provisions, and such holding shall not affect the validity of any remaining portions thereof.

SECTION SEVEN: EFFECTIVE DATE

The provisions of this Ordinance shall become effective immediately upon receipt from the Secretary of State that said Ordinance has been duly filed with the Secretary of State of the State of Florida.

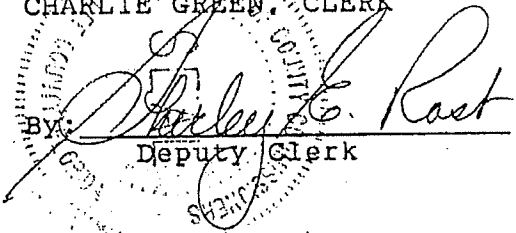
THE FOREGOING ORDINANCE was offered by Commissioner Judah, who moved its adoption. The motion was seconded by Commissioner St. Cerny, and being put to a vote, the vote was as follows:

JOHN E. MANNING	<u>AYE</u>
DOUG ST. CERNY	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
VICKI LOPEZ-WOLFE	<u>AYE</u>
DONALD SLISHER	<u>ABSENT</u>

DONE AND ADOPTED this 2nd day of January, 1991.

ATTEST:

CHARLIE GREEN, CLERK

By: 

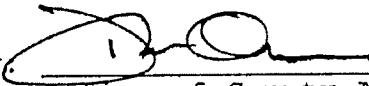
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: 

Vice-Chairman

APPROVED AS TO FORM:

By: 

Office of County Attorney

Charlie Green

Clerk Of Circuit Court
Lee County, Florida

STATE OF FLORIDA

COUNTY OF LEE

I, Charlie Green, Clerk of the Circuit Court, Lee County, and ex-Officio Clerk to the Board of County Commissioners, Lee County, Florida, do hereby certify that acknowledgment has been received from the Secretary of State on this 11th day of January, 1991, at 8:48 a.m., of the filing of Lee County Ordinance No. 91-01 duly adopted by the Board of County Commissioners at their meeting held on the 2nd day of January, 1991.

Given under my hand and seal, at Fort Myers, Florida, this 14th day of January, 1991.

CHARLIE GREEN
CLERK, Circuit Court
Lee County, Florida

By

Clara J. Wainwright
Deputy Clerk



LEE COUNTY

SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 533-8525

Bob Janas
District One

April 30, 2008

Brian Bigelow
District Two

Alison Stowe
Khott Consoer
1625 Hendry Street Suite 301
Fort Myers, FL 33901

Ray Judah
District Three

Tammy Hall
District Four

RE: POTABLE Water AVAILABILITY
Pine Shadows
STRAF #: 16-43-24-03-00000.E01A

Frank Mann
District Five

Donald D. Stilwell
County Manager

Dear Ms. Stowe:

David M. Owen
County Attorney

Potable water lines are in operation in the vicinity of the proposed project mentioned above. However, in order to provide service to the subject parcels, developer funded system enhancements such as line extensions may be required.

Diana M. Parker
County Hearing
Examiner

Your firm has indicated that this project will consist of 1 commercial unit with an estimated flow demand of approximately 1,808 gallons per day. Lee County Utilities presently has sufficient capacity to provide potable water service as estimated above.

Prior to beginning design work on this project, a meeting should be scheduled with Thom Osterhout to determine the best point of connection and discuss requirements for construction.

Availability of potable water service is contingent upon final acceptance of the infrastructure to be constructed by the developer. Upon completion and final acceptance of this project, potable water service will be provided through our North Lee County Water Treatment Plant.

This letter should not be construed as a commitment to serve, but only as to the availability of service. Lee County Utilities will commit to serve only upon receipt of all appropriate connection fees, a signed request for service and/or an executed service agreement, and the approval of all State and local regulatory agencies.

Further, This Letter Of Availability Of Water Service Is To Be Utilized For Development Review For This Project Only. Individual Letters Of Availability Will Be Required For The Purpose Of Obtaining Building Permits.

Sincerely,

LEE COUNTY UTILITIES

ATTACHMENT L

Melissa Bibeau
Engineering Tech., I
UTILITIES ENGINEERING

VIA FACSIMILE Original Mailed

DO - 00AAA MASTER



5660 Bayshore Road, Suite 51 -North Fort Myers, Florida 33917

Mailing Address: P.O. Box 2547 -Fort Myers, Florida 33902

(239) 543-1005

Fax (239) 543-2228

December 13, 2007

ATTACHMENT M

LEE COUNTY BUILDING DEPARTMENT
P. O. BOX 398
1820 HENDRY STREET
FT. MYERS, FL 33901

RE: Wastewater Service

STRAP #: 16-43-24-03-00000.F000; 16-43-24-03-00000.E01A

ADDRESS: 2860 & 2920 Runway Street

Please be advised that **Knott, Consocr, Ebclini, Hart & Swett, P.A.**, has requested wastewater service for the referred site. The onsite collection system and force main will be constructed by the developer for this project under the terms of a Developer's Agreement.

North Fort Myers Utility, Inc. has the capacity to provide 1,000 gallons per day from its wastewater treatment plant.

This letter should not be construed as a commitment to service, but only to the availability of wastewater service. The company will commit to serve only upon receipt of a signed request for service, executed Developer's Agreement, appropriate fees and charges and approval of all federal, state and local regulatory agencies. This wastewater service availability letter will expire should this project not be under contract within 12 months from the above date.

Yours truly,
North Fort Myers Utility, Inc.

A handwritten signature in black ink, appearing to read "A.A. Reeves", is written over the typed name.

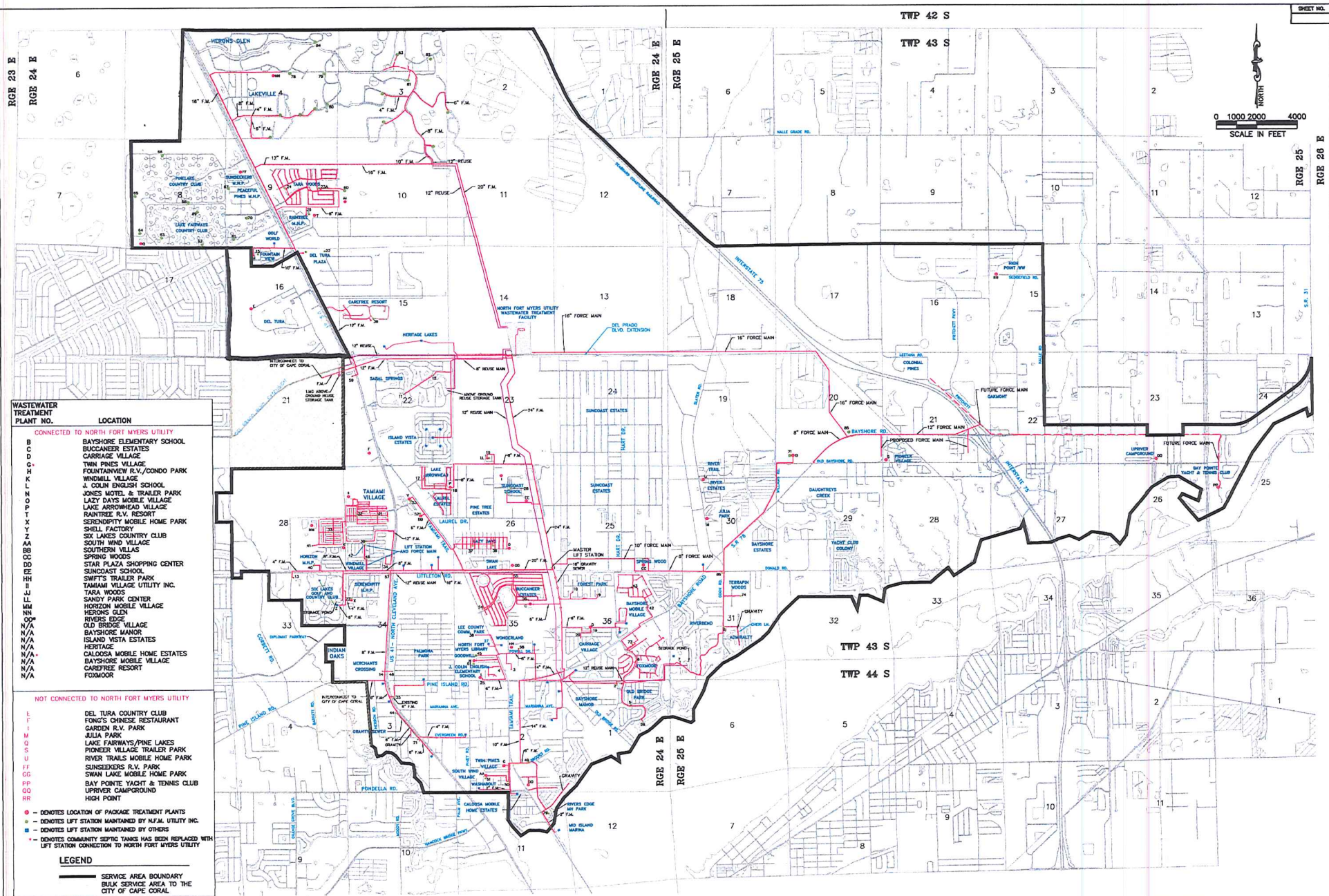
A.A. "Tony" Reeves
Utility Director

RECEIVED
DEC 13 2007

PERMIT COUNTER

DCI 2007-00026

A. ATTACHMENT N



\\110002332\\fromhennep-27-03.dwg (sheet 1) Jan 02, 2007 - 4:21pm

ATTACHMENT O

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Sea

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NORTH FORT MYERS COMMUNITY PLANNING PANEL- DESIGN AND REVIEW BOARD

MINUTES OF MEETING OF NOVEMBER 6, 2007

PLACE: U.S. 41 SELF STORAGE, 14150 N. FT. MYERS, FL

BOARD MEMBERS PRESENT: Scott Brenner, Alec Mylan, Thomas Hoolihan, Jared Beck, Maynard Houston, and Mike Land. Also present were Debbie Jackson, Mike Roeder, Steven Brown of Conservancy of S.W. FL., Jack Howerton, Gregg Makepeace, and Palarmo.

TIME: Meeting called to order by Scott Brenner at 6 pm and adjourned at 7:36 pm.

PROJECTS CONSIDERED:

LITTLETON CENTER, Presented by Troy Salsbury & Steven Pretzell, Esq. This is an entitlement process regarding a narrow 28' parcel at Littleton Road and diplomat on the east side of N. Tamiami Trail, just north of Pine Island, near the Park 41 proposed project, which is a residential project with a small amount of commercial. The sponsors stressed walkability, cross-walks to sidewalks, tree preservation and environmental concerns. The site contains 14 separate outparcels, and the proposed Master Concept envisions a hotel, a fast food restaurant, shopping center, retail, perhaps a gas station, and a medical center, with a total of 257,000 sq. ft. in buildings. The south parcel along Brown Road will contain a bank, fast food restaurant, and retail. The developers intend to use a Key West style architecture and design, with Bermuda shutters, white trim, dark accents, with brick stone siding. There will be deed restrictions within the development. They had a traffic study done and have been working with the county. Maynard Houston pointed out that the State Department of transportation has stated that the Developer needs a traffic signal. Alec Mylan recommended that the plan be revised to have the rear of the buildings against the perimeter of the project, with parking inside. Mr. Salsbury stated that they felt that because of existing residential use nearby it was best to have the parking in front of the buildings rather than inside a perimeter of building and that they would screen the deliveries. Mr. Brenner reminded the presenters of the Board's policy of trying to keep parking hidden. The presenters acknowledged that the new regulation for buffers is 50 feet wide, but they propose 35 feet, and will ask for a variance because the parcel is so narrow. They propose to do more extensive vegetative buffering, with emphasis on sound buffering in the fast food area and enhanced landscaping along Route 41.

BOARD CONCLUDED GENERAL APPROVAL OF THE CONCEPT, SUBJECT TO FURTHER REVIEW OF BUILDING DESIGN ARCHITECTURAL PLANS & EXHIBITS.

BAYVILLE-SAMVILLE C.P.D.-Presented by Charles J. Basinait, Esq.. Seeking approval for Master Concept Plan for shopping center consisting of six separate buildings on fifteen acre site. Applicants agreed to try to accommodate Old Florida style including tin roofs and siding, etc. Board members and those in attendance suggested moving some of the proposed buildings up to the high side with parking behind; moving the proposed 70,000 sq. ft. mini-warehouse consisting of three stories not to exceed 35' high away from the perimeter and adjacent residential projects, and into the middle of the project with shared use parking; changing the proposed 30,000 sq. ft. of single-story retail, to two-story buildings with offices upstairs, and 2-story office complexes to reduce the number of buildings from 6 to 3 or 4. BOARD CONCLUDED GENERAL APPROVAL OF THE CONCEPT SUBJECT TO ABOVE

the number of buildings from 6 to 5. BOARD CONCLUDED GENERAL APPROVAL OF THE CONCEPT, SUBJECT TO ABOVE SUGGESTIONS, FURTHER REVIEW OF BUILDING DESIGN ARCHITECTURE PLANS & EXHIBITS WITH OLD FLORIDA ARCHITECTURE AND ADDITIONAL REVIEW OF REVISED EXHIBITS.

BUCCANEER MOBILE HOME PARK, presented by Tracy Bear, Certified Planner, and Jordan Ruben, Equity Lifestyles, the Developer. This is an existing over-55 rental mobile home rental park, already zoned for this use. They have been in negotiations for a year with Lee County, and seek to expand onto 65 adjoining acres they already own, and build out an additional 240 units. They have a Notice of Proposed Change to the D.R.I. to extend the project an additional 7 years. They presented a Preliminary Plan with military straight rows of units on 50' x 80' lots. The manufactured homes are not on concrete slabs, but the Developer proposed tying them down and each dwelling unit will have an attached garage. There will be lakes in this area, and they are adding a fitness club, with a Clubhouse and a softball diamond planned. The County has an indigenous open space requirement along the top portion of the parcel. As the homes become obsolete, they will be replaced. There is a proposed gopher tortoise preserve area shown on the plans. There are 2 existing entrances, and no new ones planned. Board members suggested more breaks in the rows of homes and some cul de sacs.

BOARD CONCLUDED GENERAL APPROVAL OF THE CONCEPT, SUBJECT TO ABOVE SUGGESTIONS, FURTHER REVIEW OF BUILDING DESIGN ARCHITECTURE PLANS & EXHIBITS AND ADDITIONAL REVIEW OF REVISED EXHIBITS.

LAUREL CROSSING-DEVELOPER, THE RICHMAN GROUP OF FLORIDA, INC, Presenters were Harry Spotts, Sr. Project Manager, Barraco & Associates, and Alexis Crespo, Land Planner. This project was before our Board in September, and return having made changes: 1. The location of the houses to the south, including buffers and setbacks; 2. Secondary emergency exits; 3. reduction of the units in the multi-family buildings, reduction of the buildings from 6 to 5, narrowing of the buildings, and re-orienting the buildings. There will be approximately 100 ft. between the buildings. A small tot lot/playground is planned for the southeast corner of the project, increased buffers all around, the second exit will be emergency only, with an emphasis on palm and oak trees, the entry will be a turnaround, there will be an amenities center between 1200 to 1500 sq. ft. in an area approximately 1 acre in size including a pool, in the middle of the project. This is an affordable housing rental project, with the largest unit being 1250 sq. ft. and the developer will get state funding to keep the rents low. The Board suggested breaking up the parking with landscaping. BOARD CONCLUDED GENERAL APPROVAL OF THE CONCEPT, SUBJECT TO ABOVE SUGGESTIONS, FURTHER REVIEW OF BUILDING DESIGN ARCHITECTURE PLANS & EXHIBITS AND ADDITIONAL REVIEW OF REVISED EXHIBITS.

NORTH RIVER VILLAGE by The Bonita Bay Group, presentation by Susan Watts, Sr. Vice President, assisted by Paul Pass & Ann Guarina. Excellent presentation, with slides, who acknowledged that their project was outside but adjacent to the geographical bounds of our Board, but wanted us to know the general parameters of their project. She stressed environmental responsibility, conceding this project was many years away from being a reality, depending on how long before the real estate market improves. They hope to be able to get central water and sewer, and are in negotiations with Lee County as to the water and the sewer from N. Ft. Myers. This project will sit on 1,263 acres, with 2500 dwelling units anticipated, 2 units per acre, bounded by State Rt. 3 on the left, Caloosahatchie River on the right, Rt. 78 on the north, with the Veranda further south. It will have no golf course, 2 ponds, roads will be on the site, meeting at All Creek Marina, which will remain public, with a small parking lot that will accommodate cars to launch kayaks and canoes. It is near Babcock Ranch and Duke Highway is near the southern boundary. There might be a possible equestrian trail onsite. The architecture will be mainly Old Florida style, with rural style along Rt. 78. ten per cent of the units will be work force housing. Units will be a mix of single family, villas, condos and coach homes ranging in price from \$300,000 to \$1,500,000. They are hopeful construction will commence in 2010 and may take 12 years to complete depending on the real estate market. They will be requesting expansion of some roads including Rt. 31. They anticipate that transportation and impact fees to be between 8 and 12 million dollars. The Board approved of this proposal, in concept, while conceding we had no jurisdiction.

PINE SHADOWS AIRPARK, MASTER CONCEPT PLAN presented by Mike Roeder, Director of planning. This is an existing project on the east side of Rt. 41, which includes 8 existing metal warehouses. They intend to re-locate open storage to the rear of the project and construct a two-story office building, 12,000 sq. ft. in size, with some medical space, approximately 35 feet high along Rt. 41 with a 15 foot buffer in front of it, and parking behind it. They seek a masonry wall 8 feet high on the south side of the building and an 8 foot opaque fiberglass wall on the east side. BOARD CONCLUDED GENERAL APPROVAL OF THE CONCEPT, SUBJECT TO ABOVE SUGGESTIONS, FURTHER REVIEW OF BUILDING DESIGN ARCHITECTURE PLANS & EXHIBITS AND ADDITIONAL REVIEW OF REVISED EXHIBITS.

STEVEN BROWN, ENVIRONMENTAL POLICY SPECIALIST, representing CONSERVANCY OF SOUTHWEST FLORIDA, briefly introduced himself as having a background in city planning and community development, and explained that his organization, located next to the Naples Zoo, provides wildlife corridors and protects our unique environment. Although they had no specific project or proposal within the limits of North Ft. Myers, the Board thanked him for taking the time to acquaint us with this program.

Respectfully submitted,

Mike Land, Secretary

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Meetings Held At:
North Fort Myers Chamber of Commerce
2787 N Tamiami Trail
North Fort Myers, FL 33903
(239) 997-9111
email: nfmcpp@nfmcpp.org

ATTACHMENT P

Lee Plan Compliance, Design Standards Compliance, & Decision-Making Compliance EXHIBITS D-7-J, D-7-K & D-7-L

This 4.64 acre parcel was zoned to Commercial Planned Development in 1998 to recognize the hangars/storage sheds that were existing on the site and to provide for the reasonable on-going commercial use of the buildings and vacant land. The property was originally developed concurrent with Pine Shadows, and was apparently intended to provide hangar space for offsite aircraft owners that might use the runway at Pine Shadows. However, air strip is now restricted solely to the aircraft of residents of Pine Shadows, and the hangar/storage sheds are used for general storage and run independently of the Pine Shadows Air Park. There was also a fueling station at the eastern end of the property for the airplanes, but that is no longer in operation.

The original approval (Resolution Z-98-069) allowed open storage, but limited it to Tract F-1 which is in the front of the property along US 41. The current owner is requesting to amend that list of permitted uses to allow for open storage on Tract E to the rear of the parcel where it would be more appropriate. In addition, certain new office uses will be requested for Parcel F-1. A modification to Condition 7 is being requested which requires an 8-foot high concrete masonry wall surrounding the open storage use. It is being requested that where this open storage use would abut the 2020 Preserve, a simple wooden wall with no additional buffer would be required.

This property is located in the Suburban land use category which would allow for this type of use, and the existing buildings have already been found consistent with the Lee Plan and very minor changes are being proposed. In addition, since the site is virtually built-out, most of the criteria relating to Design Standards and Decision-making Compliance are not applicable, except to point out that there will be no additional impacts as a result of these revisions to the CPD, and a more appropriate use may be located in the front of the property on US 41.

RECEIVED
APR - 3 2007

COMMUNITY DEVELOPMENT

DCI 2007-00026

SKETCH OF DESCRIPTION TO SHOW LIMITS OF REZONING THIS IS NOT A SURVEY SHEET 2 OF 2 NOT VALID WITHOUT SHEET 1

A TRACT OR PARCEL OF LAND CONSISTING OF TWO PARCELS DESCRIBED TOGETHER FOR GOVERNMENTAL PURPOSES: SAID PARCEL BEING IN PORTIONS OF SECTIONS 15 & 16, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA AND SHOWN AS TRACT "E" OF PINE SHADOWS AIR PARK, AS RECORDED IN PLAT BOOK 34, PAGES 66 & 67, AND SHOWN AS TRACTS "E" & "F" OF A REPLAT OF A PART OF PINE SHADOWS AIR PARK" AS RECORDED IN PLAT BOOK 39, PAGES 4, 5 & 6 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 15, BEING ALSO THE SOUTHEAST CORNER OF THE NORTHWEST CORNER OF SAID SECTION 16: THENCE N 89 degrees 57'53" E. FOR A DISTANCE OF 48.51 FEET ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 15, FOR A DISTANCE OF 48.51 FEET: THENCE N 00 degrees 13'26" W. FOR A DISTANCE OF 199.14 FEET: THENCE S 89 degrees 46'34" W. PASSING FROM SAID SECTION 15 INTO SAID SECTION 16, FOR A DISTANCE OF 1045.77 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 30.00 FEET: THENCE WEST, SOUTH AND SOUTHEAST ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 120 degrees 11'05", FOR A DISTANCE OF 62.93 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. 41, TAMiami TRAIL (300' WIDE): THENCE S 30 degrees 24'31" E. ALONG SAID RIGHT-OF-WAY LINE FOR 158.51 FEET TO AN ANGLE BREAK: THENCE S 28 degrees 38'36" E. ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 8.21 FEET TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 16: THENCE S 89 degrees 38'06" E. FOR A DISTANCE OF 939.64 FEET TO THE POINT OF BEGINNING. THE NORTH PROPERTY LINE BEARS N 89 degrees 46'34" E AS PER PLATS CITED HEREON.
CONTAINING 4.6 ACRES. MORE OR LESS.

**ATTORNEY'S
REAL ESTATE
LAND SURVEYING
INC.**
1930 PARK MEADOWS DRIVE
SUITE 9
FORT MYERS, FLORIDA
(239) 277-7330
(239) 277-7332 FAX

REMOVED QUALIFIER FROM DESCRIPTION 7-29-2008
AMENDED SURVEYOR'S CERTIFICATION 7-17-2008
AMENDED SURVEYOR'S CERTIFICATION 4-7-2008

REVISION: SIMPLIFIED SKETCH 3-7-2008
FILE DISK: JULY 08-3

Applicant's Legal Checked
by CS 7-31-08

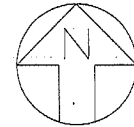
DATE: NOVEMBER 16, 2007

THIS SURVEY IS HEREBY CERTIFIED AS MEETING THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS PURSUANT TO CHAPTER 177, FLORIDA STATUTES, CHAPTER 472, FLORIDA STATUTES AND CHAPTER 61017, FAC AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY IS A COMBINATION OF TWO PLATTED LOTS. THE CITED PLATS WERE RELIED UPON FOR EASEMENTS OF RECORD. THE PROPERTY WAS PHYSICALLY EXAMINED FOR SIGNS OF UNRECORDED EASEMENTS. THERE ARE NONE EXCEPT AS SHOWN, UNLESS IT BEARS THE ORIGINAL EMBOSSED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER. THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID. NO COPIES SHALL BE MADE WITHOUT WRITTEN AUTHORIZATION.

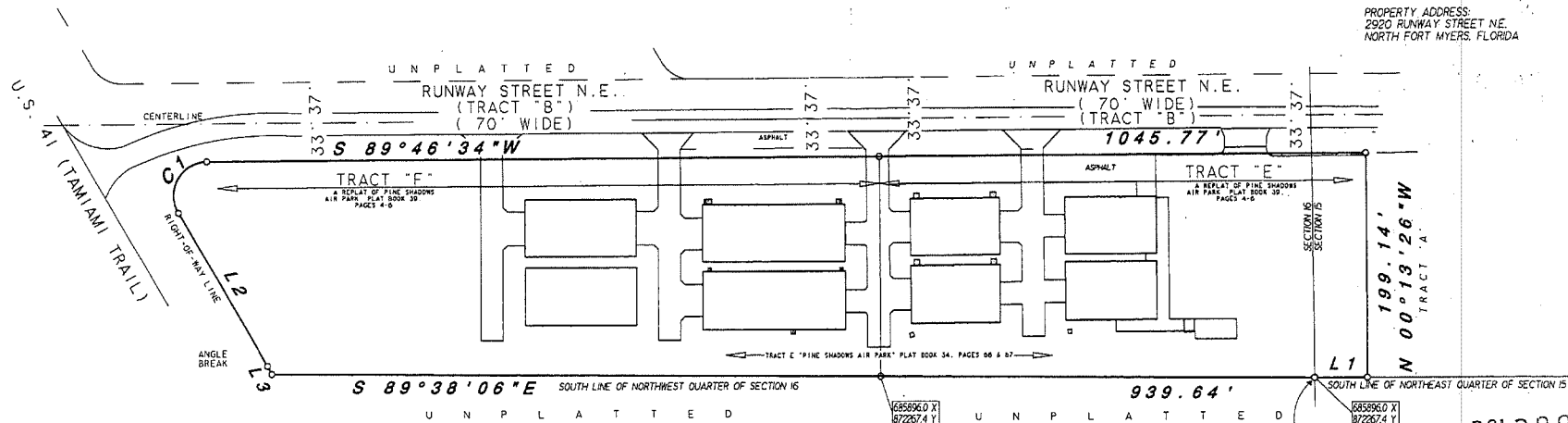
LARRY GARDNER, SURVEYOR AND MAPPER #4294
NOT VALID WITHOUT EMBOSSED SEAL

JOB NUMBER: 07-389CC

SKETCH OF DESCRIPTION TO SHOW LIMITS OF REZONING THIS IS NOT A SURVEY SHEET 1 OF 2 NOT VALID WITHOUT SHEET 2



SCALE 1 INCH = 100 FEET
0 100 200



PROPERTY ADDRESS:
2920 RUNWAY STREET NE.
NORTH FORT MYERS, FLORIDA

SURVEYORS NOTES:

- 1/12\"/>

CURVE	DELTA ANGLE	RADIUS	ARC	CHORD	CHORD BEARING
C 1	120°11'05"	30.00'	62.93'	52.01'	S 29°41'02\"/>

REMOVED QUALIFIER FROM DESCRIPTION 7-29-2008
AMENDED SURVEYOR'S CERTIFICATION 7-17-2008
AMENDED SURVEYOR'S CERTIFICATION 4-7-2008

REVISION: SIMPLIFIED SKETCH 3-7-2008
FILE DISK: JULY 08-3

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Applicant's Legal Checked
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LARRY GARDNER, SURVEYOR AND MAPPER #4294
NOT VALID WITHOUT EMBOSSED SEAL

JOB NUMBER: 07-389CC

DCI 2007-00026

INSTRUCTIONS

(Section, C.1.c., Lee County Administrative Code AC 2-8)

A zoning sign must be posted on the parcel subject to any zoning application for a minimum of fifteen CALENDAR (15) days in advance of the Hearing Examiner's Public Hearing and maintained through the Board of County Commissioners Hearing, if any. This sign will be provided by the Zoning Division in the following manner:

- Signs for case #DCI2007-00026 must be posted by **Tuesday, November 18, 2008**.
- The sign must be erected in full view of the public, not more than five (5) feet from the nearest street right-of-way or easement.
- The sign must be securely affixed by nails, staples or other means to a wood frame or to a wood panel and then fastened securely to a post, or other structure. The sign may not be affixed to a tree or other foliage.
- The applicant must make a good faith effort to maintain the sign in place, and readable condition until the requested action has been heard and a final decision rendered.
- If the sign is destroyed, lost, or rendered unreadable, the applicant must report the condition to the Zoning Division, and obtain duplicate copies of the sign from the Zoning Division.

The Division may require the applicant to erect additional signs where large parcels are involved with street frontages extending over considerable distances. If required, such additional signs must be placed not more than three hundred (300) feet apart.

When a parcel abuts more than one (1) street, the applicant must post signs along each street. When a subject parcel does not front a public road, the applicant must post the sign at a point on a public road which leads to the property, and the sign must include a notation which generally indicates the distance and direction to the parcel boundaries and the dimensions of the parcel.

NOTE: AFTER THE SIGN HAS BEEN POSTED, THE AFFIDAVIT OF POSTING NOTICE, BELOW, SHOULD BE RETURNED NO LATER THAN THREE (3) WORKING DAYS BEFORE THE INITIAL HEARING DATE TO LEE COUNTY ZONING DIVISION, 1500 MONROE ST., FT. MYERS, FL 33901.

(Return the completed Affidavit below to the Zoning Division as indicated in previous paragraph.)

AFFIDAVIT OF POSTING NOTICE

STATE OF FLORIDA
COUNTY OF LEE

BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED Jay MacDuff
WHO ON OATH SAYS THAT HE/SHE HAS POSTED PROPER NOTICE AS REQUIRED BY SECTION 34.236(b) OF THE
LEE COUNTY LAND DEVELOPMENT CODE ON THE PARCEL COVERED IN THE ZONING APPLICATION
REFERENCED BELOW:



SIGNATURE OF APPLICANT OR AGENT

NAME (TYPED OR PRINTED)

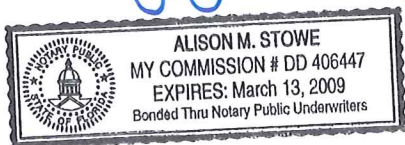
ST. OR PO BOX

CITY, STATE & ZIP

#DCI2007-00026/PINE SHADOWS AIR PARK /12/04/2008/CAK

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to and subscribed before me this 12th day of November,
2008, by Jay MacDuff, personally known to me or who produced
as identification and who did/did not take an oath.



Signature of Notary Public

Printed Name of Notary Public

My Commission Expires:
(Stamp with serial number)



LEE COUNTY
SOUTHWEST FLORIDA



APPLICATION FOR PUBLIC HEARING FOR ZONING ACTION UNINCORPORATED AREAS ONLY

Applicant's Name: Jay MacDuff

Project Name: Pine Shadows Air Park

STRAP Number(s): 16-43-24-03-00000.E01A & 16-43-24-03-00000.F000

TYPE OF APPLICATION

- ☐ Special Exception (attach Supplement A)
☐ Variance (attach Supplement B)
☐ Conventional Zoning (attach Supplement C)
☐ Planned Development (not PRFPD) (attach Supplement D)
☒ Amendment to built Planned Development (Supplement D may be required)
☐ Private Recreational Facilities Planned Development (attach Supplement D)
☐ Extension of a Master Concept Plan (attach Supplement E)
☐ Reinstatement of a Master Concept Plan (attach Supplement F)
☐ DRI - with rezoning (submit completed DRI Application Form {do not use this form} and Supplement D)
☐ DRI - without rezoning (submit completed DRI Application Form {do not use this form})

Is this project located in the Estero Planning Community, or the Captiva Planning Community, or in the Caloosahatchee Shores Planning Community ?

☐ YES* ☒ NO *If YES, please note PARTS 4G, 4.H, and 4.I below for meeting summary document requirements.

STAFF USE ONLY

Case Number: DCI 2007-00026 Commission District: 4
Current Zoning: CPD Fee Amount: \$5,000
Land Use Classification: Suburban Intake by: NFR
Planning Community: North Fort Myers

LEE COUNTY
COMMUNITY DEVELOPMENT
P.O. BOX 398 (1500 MONROE STREET)
FORT MYERS, FLORIDA 33902
PHONE (239) 479-8585

PART 1
APPLICANT\AGENT INFORMATION

A. Name of applicant: Jay MacDuff

Address: Street : 2326 Del Prado Blvd. S.

City: Cape Coral State: FL Zip: 33990

Phone: Area Code: 239 Number: 242-2000 Ext:

Fax: Area Code: 239 Number: 549-6182

E-mail address: jmacduff@swfla.rr.com

B. Relationship of Applicant to owner (check one):

NA Applicant (including an individual or husband & wife) is the sole owner of the property.
[34-201(a)(1)a.1.]

Notarized Affidavit of Authorization form is attached as Exhibit PH-1.B.2.
(See Part 1 Exhibit Form A1 attached hereto for suggested Affidavit Form for an individual.) [34-202(b)(1)c.]

✓ Applicant has been authorized by the owner(s) to represent them for this action.

✓ Notarized Affidavit of Authorization form is attached as Exhibit PH-1.B.2.
(Please select the appropriate Affidavit Form from the suggested forms in Part 1 Exhibits attached hereto.) [34-202(b)(1)c.]

NA Applicant is a contract purchaser/vendee. [34-202(b)(1)d.]

Notarized Affidavit of Authorization form is attached as Exhibit PH-1.B.2.
[34-202(b)(1)c.] (Please select the appropriate Affidavit Form from the suggested forms in Part 1 Exhibits attached hereto.)

NA Application is County initiated. BOCC authorization is attached as Exhibit PH-1.B.3

C. Authorized Agent: Name of the person who is to receive all County-initiated correspondence regarding this application. [34-202(b)(1)c.]

C.1. Company Name: Knott, Consoer, Ebelini, Hart & Swett, P.A.

Contact Person: Michael E. Roeder, AICP

Address: Street : 1625 Hendry Street, Suite 301

City: Fort Myers State: FL Zip: 33901

Phone: Area Code: 239 Number: 334-2722 Ext:

Fax: Area Code: 239 Number: 334-1446

E-mail address: mroeder@knott-law.com

C.2. NA Additional Agent(s): The names of other agents that the County may contact concerning this application are attached as Exhibit PH-1.C.2. [34-202(b)(1)c.]

**PART 2
PROPERTY OWNERSHIP**

A. **Property Ownership: Single owner (individual or husband & wife only)** [34-201(a)(1)a.1.]

A.1. **Name:** NA

Mailing Address: Street: _____
City: _____ State: _____ Zip: _____
Phone: Area Code: _____ Number: _____ Ext: _____
Fax: Area Code: _____ Number: _____
E-mail: _____

B. **Property Ownership: Multiple owners (Corporation, partnership, trust, association)** [34-201(a)(1)].

B.1. ☒ **Disclosure of (Ownership) Interests Form is attached as Exhibit PH-2.B.1.** [34-201(b)2]

C. **Multiple parcels**

C.1. ☒ **Property owners list is attached as Exhibit PH-2.C.1.** [34-202(a)(5)]

C.2. ☒ **Property owners map is attached as Exhibit PH-2.C.2.** [34-202(a)(5)]

D. **Date property was acquired by present owner(s):** 16-43-24-03-00000.E01A; 09/01/2005
16-43-24-03-00000.F000; 08/29/2003

**PART 3
PROPERTY INFORMATION**

A. **STRAP Number(s):** 16-43-24-03-00000.E01A
16-43-24-03-00000.F000

B. **Street Address of Property:** 2920 & 2860 Runway Street, North Fort Myers, FL 33917

C. **Legal Description**

- ☒ **Legal description (on 8 1/2" by 11" paper) is attached as Exhibit PH-3.C.1.** [34-202(a)(1)]
NA **Sealed sketch of the legal description is attached as Exhibit PH-3.C.2.** [34-202(a)(1)]
☒ **Electronic version of the legal description is attached as Exhibit PH-3.C.3.**

D. **Boundary Survey**

- NA **A Boundary survey, tied to the state plane coordinate system, is attached as Exhibit PH-3.D.1.**
[34-202(a)(2)]
☒ **The property consists of one or more undivided platted lots in a subdivision recorded in the Official County Plat Books. A copy of the applicable plat book page is attached as Exhibit PH-3.D.2.** [34-202(a)(2)]

E. **Planning Community:** North Fort Myers

F. General Location of Property:

F.1. ☒ Area location map (for all applications other than Planned Developments) is attached as Exhibit PH-3.F. [34-202(a)(4)] {NOTE: For Planned Development Applications see Supplement D [34-373(a)(4)b.]}

F.2. Directions to property: Take US 41 north over the Caloosahatchee Bridge; go about 7 miles.

Turn right onto Runway Street and end at the Pine Shadows Air Park.

G. Surrounding property owners:

G.1. ☒ List of surrounding property owners is attached as Exhibit PH-3.G.1. [34-202(a)(6)]

G.2. ☒ Map of surrounding property owners is attached as Exhibit PH-3.G.2. [34-202(a)(7)]

G.3. ☒ 2 sets of mailing labels are attached as Exhibit PH-3.G.3. [34-202(a)(6)]

H. Current Zoning of Property: CPD

I. Current use of property:

I.1. ☒ Current use(s) of the property are:

Airports, terminals

I.2. NA If buildings or structures exist on the property, an affidavit is required stating that buildings & structures will be removed or that the proposed use of buildings, structures and land is or will be in compliance with all requirements of the LCLDC. **Attach as Exhibit PH-3.I.2. and entitle "Affidavit Regarding Proposed Use".** [34-202(b)(3)]

I.3. NA If the property owner intends to continue an existing agricultural use on the property subsequent to the zoning approval an Existing Agricultural Use Affidavit is attached as **Exhibit PH-3.I.3. and entitled "Agricultural Uses at Time of Zoning Application".** [34-202(b)(7)]

J. Land Use Classification:

<u>Suburban</u>	<u>4.65</u>	Acres	<u>100</u>	% of total
<u></u>	<u></u>	Acres	<u></u>	% of total
<u></u>	<u></u>	Acres	<u></u>	% of total
<u></u>	<u></u>	Acres	<u></u>	% of total

K. Flood Hazard (write NA if not applicable) [34-202(a)(8)]

☒ The property is within an Area of Special Flood Hazard as indicated in the Flood Insurance Rate Maps (FIRM)s.

☒ The minimum elevation required for the first habitable floor is EL19 NGVD (MSL)

L. Deed Restrictions [34-202(b)(2)]

- L.1. ☒ There are no deed restrictions or other covenants on this property that affect this request. [34-202(b)(2)]
- L.2. NA Deed restrictions\ covenants that may affect this request are attached as **Exhibit PH-3.L.2.** [34-202(b)(2)]
- L.3. NA A narrative explanation as to how the deed restrictions or covenants may affect this request. is attached as **Exhibit PH-3.L.3** [34-202(b)(2)]

M. Property Dimensions [34-202(a)(8)]

- | | | | | |
|---|---------------|----------------------|---------------|--------|
| 1. Width (average if irregular parcel): | <u>992.50</u> | Feet | | |
| 2. Depth (average if irregular parcel): | <u>200</u> | Feet | | |
| 3. Total area: | <u>4.65</u> | Acres or square feet | | |
| 4. Frontage on road or street: | <u>1045</u> | Feet on | <u>Runway</u> | Street |
| 2 nd Frontage on road or street: | | Feet on | | Street |

**PART 4
ACTION REQUESTED**

A. Action Requested: [check applicable action(s)]

- NA Special Exception for _____ **Attached is Supplement A**
- NA Variance for _____ **Attached is Supplement B**
- NA Conventional Rezoning from: _____ to _____ **Attached is Supplement C**
- NA Planned Development Rezoning from _____ to _____
- _____ DCI - Major: **Attached is Supplement D**
- _____ DCI - Minor: **Attached is Supplement D**
- _____ Request is for PRFPD zoning in the Private Recreational Facilities Overlay Area. **Attached is Supplement D**
- ☒ **Planned Development Amendment. Attached is Supplement D**

B. Excavations:

- ☒ No blasting will be used in the excavation of lakes or other site elements.
- NA If blasting is proposed, Information Regarding Proposed Blasting (including soil borings, a map indicating the general location of the proposed blasting, and other required information) is attached as **Exhibit PH-4.B** [34-202(b)(6)]

C. Bonus Density: (put NA if not applicable)

- NA Bonus density will be used. Attached is **Exhibit PH-4.C** showing calculations. [34-202(b)(5)]

D. Hazardous materials: (put NA if not applicable)

- NA A Hazardous materials emergency plan is attached as **Exhibit PH-4.D** [34-202(b)(4)]

E. Mobile Home Park: (put NA if not applicable)

- NA Request includes rezoning of a Mobile Home Park. **Attached is Exhibit PH-4.E** [34-203(d)]

F. Aviation Hazard: (put NA if not applicable)

NA Property is subject to Airport Hazard District regulations. **Attached is Exhibit PH-4.F** [34-1001 et seq]

NA A tall structures permit will be required.

NA Property is located within Noise zone:

G. Estero Planning Community (put NA if not applicable)

NA A summary of public informational session. Attached is **Exhibit PH-4.G** [34-373(a)(10); Lee Plan Policy 19.5.3]

H. Captiva Planning Community (put NA if not applicable)

NA A summary of public informational session. Attached is **Exhibit PH-4.H** [Lee Plan Policy 13.1.7]

I. Caloosahatchee Shores Community Plan (put NA if not applicable)

NA A summary of public informational session. Attached is **Exhibit PH-4.I** [Lee Plan Policy 21.6.3]

J. Waivers from Application Submission Requirements: The following waivers, approved by the Director of Zoning Services, are attached as **Exhibit PH-4.J** [Section 34-202(a)]

Section Number	Name of item
34-373(a)(7)	Traffic Impact Statement
10-473	Protected Species Survey
34-373(a)(4)(e)(ii)	FLUCCS Map
34-373(a)(4)(e)(iii)	Rare and Unique Uplands Map
34-373(a)(4)(e)(iv)	Topographic Map
34-373(a)(4)(e)(v)	Existing and Historic Flowways Map

K. Potable Water & Central Sewer. Will the project be connected to potable water and central sewer as part of any development of the property? ☒ YES. ☐ NO.

If the answer is NO, please explain why the connection to potable water and/or central sewer is not planned. Label explanation as Exhibit PH 4-K.

If the answer is YES, please indicate the name of the Utility to which the connection(s) are proposed. Water - Lee County Utilities; Wastewater - North Fort Myers Utilities [BOCC POLICY]

**PART 6
SUBMITTAL REQUIREMENTS**

THE NUMBER OF COPIES REQUIRED FOR EACH EXHIBIT IS BASED ON THE ACTION REQUESTED AS INDICATED BELOW. TO BE SUBMITTED FOR EACH OF THE FOLLOWING EXHIBITS IS AS FOLLOWS:

Number of Copies*			Exhibit Number	SUBMITTAL ITEMS
Var.	Conv. Rez. or Spe. Exc.	PDs		
1	1	✓ 14		Completed application for Public Hearing [34-201(b)]
1	1	✓ 1		Filing Fee - [34-202(a)(9)]
Var.	Conv. Rez. or Spe. Exc.	PDs	SUP	SUPPLEMENTAL FORMS (select applicable request/form)
0	1	0	SUP A	Special Exception request
1	0	0	SUP B	Variance request
0	1	0	SUP C	Conventional Rezoning request
0	0	NA 14	SUP D	Planned Development Rezoning request
0	0	✓ 14	SUP D	Planned Development Amendment request
0	0	NA 14	SUP D	PRFPD in in Overlay Area Rezoning request
0	0	NA 8	SUP E	Master Concept Plan Extension request
0	0	NA 8	SUP F	Master Concept Plan Reinstatement request
Var.	Conv. Rez. or Spe. Exc.	PDs	Exhibit Number	SUBMITTAL ITEMS
1	1	✓ 3	PH-1.B.2	Notarized Affidavit of Authorization Form [34-202(b)(1)c]
1	1	NA 1	PH-1.B.3	BOCC authorization (if applicable)
1	1	NA 14	PH-1.C.2	Additional Agents [34-202(b)(1)c.]
1	1	✓ 3	PH-2.B.1	Disclosure of Interest Form [34-201(b)(2)a]
1	1	✓ 3	PH-2.C.1	Subject property owners list (if applicable) [34-202(a)(5)]
1	1	✓ 3	PH-2.C.2	Subject Property Owners map (if applicable) [34-202(a)(5)]
1	1	NA 14	PH-3.A.1	List of STRAP Numbers (if additional sheet is required) [34-202(a)(1)]
2	2	✓ 5	PH-3.C.1	Legal Description [34-202(a)(1)]
2	2	NA 5	PH-3.C.2	Sealed Sketch of the Legal Description [34-202(a)(1)]
1	1	✓ 1	PH-3.C.2	Electronic version of legal description (if available)
1	1	NA 5	PH-3.D.1	Boundary Survey (tied to State Plane Coordinate System) [34-202(a)(2)] {NOTE: This is a required submittal for all Planned Development Applications (see Supplement D for that requirement)} [34-373(a)(4)a.]}
1	1	✓ 5	PH-3.D.2	Copy of Plat Book Page (if applicable) [34-202(a)(1)]
1	1	0	PH-3.F	Area Location Map on 8 by 11 paper pursuant to LCLDC Section 34-202(a)(4). (Non Planned Developments)
0	0	✓ 14		Area Location Map for Planned Developments - see Supplement D [34-373(a)(4)b.]
1	1	✓ 3	PH-3.G.1	List of Surrounding Property Owners [34-202(a)(6)]

Number of Copies*			Exhibit Number	SUBMITTAL ITEMS
Var.	Conv. Rez. or Spe. Exc.	PDs		
1	1	✓ 3	PH-3.G.2	Map of Surrounding Property Owners [34-202(a)(7)]
2	2	✓ 2	PH-3.G.3	Mailing labels [34-202(a)(6)]
1	1	NA 3	PH-3.I.2.	Affidavit Regarding Proposed Use (if applicable) [34-202(b)(3)]
1	1	NA 3	PH-3.I.3.	Affidavit entitled " <u>Agricultural Uses at Time of Zoning Application</u> " (if applicable) [34-202(b)(7)]
1	1	NA 3	PH-3.L.2	Deed Restrictions\Covenants (if applicable) [34-202(b)(2)]
1	1	NA 3	PH-3.L.3	Narrative addressing effect of Deed Restrictions (if applicable) [34-202(b)(2)]
1	1	✓ 14		Completed Supplement Form appropriate to the action requested (see Supplemental Forms above)
1	1	NA 14	PH-4.B	Information Regarding Proposed Blasting (if applicable). [34-202(b)(6)]
0	0	NA 4	PH-4.C	Bonus Density units (if applicable) [34-202(b)(5)]
1	1	NA 4	PH-4.D	Hazardous materials emergency plan (if applicable) [34-202(b)(4)]
0	1	NA 4	PH-4.E	Mobile Home Park Information (if applicable) [34-203(d)]
1	1	NA 4	PH-4.F	Aviation Hazard (if applicable) [34-1001 et seq.]
0	0	NA 4	PH-4.G	Summary of Public Informational Session for Planned Development Applications located within Estero Planning Community [34-373-(a)(10); Lee Plan Policy 19.5.3]
1	1	NA 4	PH-4.H	Summary of Public Informational Session for rezoning, special exception and variance applications located within Captiva Planning Community [Lee Plan Policy 13.1.7)
0	0	NA 4	PH-4.I	Summary of Public Informational Session for Planned Development Applications located within Caloosahatchee Shores Planning Community [Lee Plan Policy 21.6.3]
1	1	✓ 14	PH-4.J	Approved Waivers.(if applicable) [34-202(a)]
0	0	NA 4	PH-4.K	Potable Water & Central Sewer. If the answer to Item 6.D was NO, an explanation must be attached providing the reason(s) why connection to potable water and central sewer system is not proposed as part of any development of the parcel subject to the rezoning request. [BOCC POLICY]

* At least one copy must be an original.

EXHIBIT PH-1.C.2
ADDITIONAL AGENTS

Company Name: _____

Contact Person: _____

Address: Street : _____

City: _____ State: _____ Zip: _____

Phone: Area Code: _____ Number: _____ Ext: _____

Fax: Area Code: _____ Number: _____

E-mail address: _____

Company Name: _____

Contact Person: _____

Address: Street : _____

City: _____ State: _____ Zip: _____

Phone: Area Code: Number: Ext:

Fax: Area Code: Number:

E-mail address:

Company Name:

Contact Person: _____

Address: Street :

City: _____ State: _____ Zip: _____

Phone: Area Code: Number: Ext:

Fax: Area Code: Number:

E-mail address:

Company Name:

Contact Person: _____

Address: Street : .

City: _____ State: _____ Zip: _____

Phone: Area Code: Number: Ext:

Fax: Area Code: Number:

E-mail address:

PART 1 AFFIDAVIT A2
(EXHIBIT PH-1.B.2)

RECEIVED
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AFFIDAVIT FOR PUBLIC HEARING
APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED
COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, * Jay A. MacDuff as Managing Member of Pine Shadows Storage, LLC, swear or affirm under oath, that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the County in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I am hereby authorizing the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Pine Shadows Storage, LLC

*Name of Entity (corporation, partnership, LLP, LC, etc)

Jay A. MacDuff
Signature

Jay A. MacDuff
(Type or printed name)

Managing Member
(title of signatory)

STATE OF Florida
COUNTY OF LEE

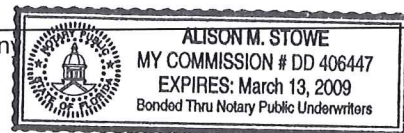
The foregoing instrument was sworn to (or affirmed) and subscribed before me this 18th day of Sept 2006 by Jay A. MacDuff as Managing Member of Pine Shadows Storage LLC (name of person providing oath or affirmation), who is personally known to me or who has produced FL Drivers License (type of identification) as identification.

Alison M. Stowe
Signature of person taking oath or affirmation

Alison M. Stowe
Name typed, printed or stamped

notary
Title or rank

Serial number, if any



*Notes:

- If the applicant is a corporation, then it is usually executed by the corp. pres. or v. pres.
- If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should typically be signed by the Company's "Managing Member."
- If the applicant is a partnership, then typically a partner can sign on behalf of the partnership.
- If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.
- If the applicant is a trustee, then they must include their title of "trustee."
- In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, estate, etc., and then use the appropriate format for that ownership.

STRAP NO. 16-43-24-03-00000.E01A CASE NO. _____

- Page 10 of 12

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name and Address	Percentage of Stock

Date of Contract: _____

6. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name and Address	

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest shall be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature: _____

Jay MacDuff

(Applicant)

Jay A. MacDuff

(Printed or typed name of applicant)

STATE OF FLORIDA
COUNTY OF LEE

DCI 2007-00026

The foregoing instrument was acknowledged before me this 10th day of Sept. 20 06

by Jay A. MacDuff as Managing Member
of Pine Shadows Storage, LLC

who is personally known to me or who has produced

FL Driver's License

as identification. .



Alison M. Stowe

Signature of Notary Public

Alison M. Stowe

Printed Name of Notary Public

PART 1 AFFIDAVIT A2
(EXHIBIT PH-1.B.2)

AFFIDAVIT FOR PUBLIC HEARING
APPLICATION IS SIGNED BY A CORPORATION, LIMITED LIABILITY COMPANY (L.L.C.), LIMITED
COMPANY (L.C.), PARTNERSHIP, LIMITED PARTNERSHIP, OR TRUSTEE

I, * Jay A. MacDuff as Trustee of the Jay A. MacDuff Trust, swear or affirm under oath,
that I am the owner or the authorized representative of the owner(s) of the property and that:

1. I have full authority to secure the approval(s) requested and to impose covenants and restrictions on the referenced property as a result of any action approved by the County in accordance with this application and the Land Development Code;
2. All answers to the questions in this application and any sketches, data or other supplementary matter attached hereto and made a part of this application are honest and true;
3. I am hereby authorizing the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application; and that
4. The property will not be transferred, conveyed, sold or subdivided unencumbered by the conditions and restrictions imposed by the approved action.

Jay A. MacDuff Trust
*Name of Entity (corporation, partnership, LLP, LC, etc)

DCI 2007-00026

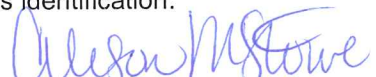

Signature
Trustee
(title of signatory)

Jay A. MacDuff
(Type or printed name)
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APR - 3 2007

STATE OF Florida
COUNTY OF LEE

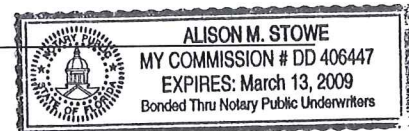
COMMUNITY DEVELOPMENT

The foregoing instrument was sworn to (or affirmed) and subscribed before me this 18th day of Sept. 2007 (date) by Jay A. MacDuff as Trustee of the Jay A MacDuff Trust (name of person providing oath or affirmation), who is personally known to me or who has produced FL Drivers License (type of identification) as identification.


Signature of person taking oath or affirmation
notary
Title or rank

Alison M. Stowe
Name typed, printed or stamped

Serial number, if any



*Notes:

- If the applicant is a corporation, then it is usually executed by the corp. pres. or v. pres.
- If the applicant is a Limited Liability Company (L.L.C.) or Limited Company (L.C.), then the documents should typically be signed by the Company's "Managing Member."
- If the applicant is a partnership, then typically a partner can sign on behalf of the partnership.
- If the applicant is a limited partnership, then the general partner must sign and be identified as the "general partner" of the named partnership.
- If the applicant is a trustee, then they must include their title of "trustee."
- In each instance, first determine the applicant's status, e.g., individual, corporate, trust, partnership, estate, etc., and then use the appropriate format for that ownership.

**EXHIBIT PH-2.B.1
DISCLOSURE OF INTEREST FORM FOR:**

STRAP NO. 16-43-24-03-00000.E01A **CASE NO.** _____

1. If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address	Percentage of Ownership
_____	_____
_____	_____
_____	_____
_____	_____

2. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name and Address	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____

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DCI 2007-00026

3. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address	Percentage of Interest
Jay A. MacDuff Trust	100%
c/o Jay A. MacDuff, Trustee	_____
PO Box 101177	_____
Cape Coral, FL 33910	_____
_____	_____
_____	_____

4. If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address	Percentage of Ownership
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name and Address	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract: _____

6. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name and Address	
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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COMMUNITY DEVELOPMENT

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest shall be filed.

The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature: _____

Jay A. MacDuff

(Applicant)

Jay A. MacDuff

(Printed or typed name of applicant)

STATE OF FLORIDA
COUNTY OF LEE

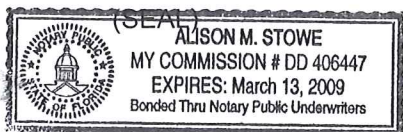
DCI 2007-00026

The foregoing instrument was acknowledged before me this 18th day of Sept 2006

by Jay A. MacDuff as Trustee of the Jay A. MacDuff Trust who is personally known to me or who has produced

FL. Drivers license

as identification. .



Alison M. Stowe
Signature of Notary Public

Alison M. Stowe
Printed Name of Notary Public



PUBLIC HEARING SUPPLEMENT D

ADDITIONAL REQUIRED INFORMATION FOR A PLANNED DEVELOPMENT APPLICATION UNINCORPORATED LEE COUNTY

Case Number:

DCI 2007-00026

Project Name: Pine Shadows Air Park

Applicant's Name: Jay MacDuff

STRAP Number(s): 16-43-24-03-00000.E01A

16-43-24-03-00000.F000

Select one application type only

☐ DRI (rezoning required)

☐ DCI-Major

☐ DCI-Minor

☐ DCI-Minor - Existing Development ⁽¹⁾

☐ DCI-Minor - Amendment to approved Master Concept Plan ⁽²⁾

☒ Amendment to built Planned Development meeting DCI threshold ⁽³⁾

☐ PRFPD in Private Recreational Facilities Overlay Area [(34-341(a)(2)]

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COMMUNITY DEVELOPMENT

Notes:

- (1) Existing development. A development that has already been developed but does not conform to the regulations for a conventional district and is requesting a rezoning to a Planned Development classification. It will be reviewed in the same manner as a minor Planned Development except that a Traffic Impact Statement will not be required. [34-341(b)(2)d.1.]
- (2) Amendments to approved Master Concept Plan. Application to amend an approved major or minor Master Concept Plan or its attendant documentation, or for the extension of a vacated Master Concept Plan originally approved prior to December 2, 1991 will be treated procedurally as minor Planned Developments. These applications will require only as much information, as deemed necessary by the Director, needed to describe the changes requested, to specify the incremental change in impacts expected from the amendment, and to detail the changes in development, environment and background (surrounding land use, traffic volumes, water, wastewater and other service availability, etc.), that have occurred since the original application. [34-341(b)(2)d.2.]

- (3) Amendments to built Planned Developments (PD). Any part or all of a Planned Development which is built may be the subject of an application for a variance or other approval covered by the provisions of the Lee County Land Development Code (LCLDC) wherein the subject property is the only part of the original Planned Development for which the approval is sought. If the subject property meets the threshold for a Development of County Impact (DCI), it will be reviewed in accordance with the provisions in the LCLDC which apply to Developments of County Impact. If the subject property is not a Development of County Impact, it will be reviewed in accordance with the provisions in the LCLDC which apply to conventional zoning districts. In either case, the applicant will be the owner of the subject property and the consent of the owners of the remainder of the original planned development will be unnecessary. However, these owners must be given notice of the application and other proceedings as if they were owners of property abutting the subject property regardless of their actual proximity to the subject property.

For purposes of this subsection, the term "built" means that all of the roads, utilities, buffering, open space, surface water management features and structures, common space, common amenities, common landscaping, gatehouses, entrance signs, entrance ways and other similar items identified as part of the final approved Master Concept Plan have been constructed and acknowledged by the County as complete. In the case of Residential Planned Developments or Mixed Developments which include residential structures, the term "built" does not mean that all residential structures must have been constructed on individual platted lots. [34-373(c)]

LEE COUNTY
COMMUNITY DEVELOPMENT
P.O. BOX 398 (1500 MONROE STREET)
FORT MYERS, FLORIDA 33902
PHONE (239) 479-8585

**PART 1
GENERAL INFORMATION**

A. Comprehensive Plan Amendments (check one):

- ☒ There are **NO** LEE Plan Amendments pending that could affect the future use of this property.
- ☐ NA The following LEE Plan Amendments **ARE** pending and could affect the future use of this property. (List uses and brief explanation of their effect on this application):

B. Archaeological/Historical (check one):

- ☒ There are **NO** known or recorded historical or archaeological sites on the property and no part of the property is located within a level 1 or level 2 zone of archaeological sensitivity pursuant to LCLDC Chapter 22 [22-106]. [34-373(a)(4)h.]
- ☐ NA There are known or recorded historical or archaeological sites on the property or part of the property is located within a level 1 or level 2 zone of archaeological sensitivity pursuant to LCLDC Chapter 22 [22-106]. Attached as **Exhibit D-1-B** is a map indicating the nature and location of known or recorded historical or archaeological or areas of the property located within level 1 or level 2 zones of archaeological sensitivity including the outline of historic buildings and approximate extent of archaeological sites. [34-373(a)(4)h.]

C. Public Transit (check one):

- ☒ Property is **NOT** within the Lee Tran public transit service area.
- ☐ NA Property is within the Lee Tran public transit service area. A map or other depiction of the property in relation to existing and proposed public transit routes, as well as to bus stops must be provided. Label as **Exhibit D-1-C**.

D. Density

- ☒ There are no residential dwelling units proposed for this development.
- ☐ NA The property is located within one or more Future Land Use categories. Density has been calculated in **Part 3** of this application and is summarized below:

Intensive Development	_____	Proposed dwelling units
Central Urban	_____	Proposed dwelling units
Urban Community	_____	Proposed dwelling units
Suburban	_____	Proposed dwelling units
Outlying Suburban	_____	Proposed dwelling units
TOTAL	_____	Proposed dwelling units

PART 2
TYPES OF LAND AREA ON PROPERTY

A.	Gross Acres (total area within described parcel)	<u>4.65</u>	Acres
1.	Submerged land subject to tidal influence: _____	Acres	
2.	Other non-freshwater Wetlands: _____	Acres	
3.	R-O-W providing access to non-residential uses: _____	Acres	
4.	Non-residential use areas ⁽¹⁾ _____	Acres	
B.	Total area not eligible as gross residential acreage. Items A.1. + A.2 + A.3. + A.4.	_____	Acres
C.	Gross residential acres. (A minus B) ⁽²⁾	_____	Acres
D.	Gross residential acres by Land Use Category		
1.	a. Intensive development - upland _____	Acres	
	b. Intensive development - freshwater wetland _____	Acres	
2.	a. Central Urban - upland _____	Acres	
	b. Central Urban - freshwater wetland _____	Acres	
3.	a. Urban Community or Suburban - upland _____	Acres	
	b. Urban Community or Suburban freshwater wetland _____	Acres	
4.	a. Outlying Suburban - upland _____	Acres	
	b. Outlying Suburban - freshwater wetland _____	Acres	
5.	a. Rural, Outer Island, Rural Community Preserve - upland _____	Acres	
	b. Rural, Outer Island, Rural Community Preserve - freshwater wetland _____	Acres	
6.	a. Open Lands - upland _____	Acres	
	b. Open Lands - freshwater wetland _____	Acres	
7.	a. DR/GR - upland _____	Acres	
	b. DR/GR - freshwater wetland _____	Acres	
8.	a. Wetlands - freshwater _____	Acres	
	b. Wetlands - not freshwater _____	Acres	
9.	a. New Community - Upland _____	Acres	
	b. New Community - freshwater wetland _____	Acres	
10.	a. University Community - upland _____	Acres	
	b. University Community - freshwater wetland _____	Acres	
11.	TOTAL (should equal "C" above) _____	Acres	

NOTES:

- (1) Lands for commercial, office, industrial uses, natural water bodies, and other non-residential uses must not be included.
- (2) Lands to be used for residential uses including land within the development proposed to be used for streets and street rights of way, utility rights-of-way, public and private parks, recreation and open space, schools, community centers, and facilities such as police, fire and emergency services, sewage and water, drainage, and existing man-made waterbodies.

**PART 3
RESIDENTIAL DEVELOPMENTS
PRELIMINARY DENSITY CALCULATIONS***

- * Note: i. Complete only if living units are proposed in a Future Land Use Category.
 ii. If more than one classification, calculations for each classification must be submitted.
 iii. If wetlands are located on the property, density calculations are considered preliminary pending a wetlands jurisdictional determination.

A. Intensive Development Category

1. Preliminary Standard Units	Maximum standard density	Units
a. Total upland Acres (from Part 2, D.1.a.)	_____ times 14 equals	_____
b. Total freshwater wetland Acres (from Part 2, D.1.b.)	_____ times 14 equals	_____
c. Preliminary Total Standard units (a. plus b.) ⁽¹⁾		_____
2. Maximum Permitted Units	Maximum permitted	Units
a. Total upland Acres (from Part 2, D.1.a.)	_____ times 18 equals	_____
3. Total allowed standard units (A.1.c. or A.2.a., whichever is less)		_____
4. Bonus Units ⁽²⁾		
a. Low-moderate housing density:		_____
b. TDR units:		_____
c. Sub-total (A.4.a. plus A.4.b.)		_____
5. Total Permitted Units (A.3. plus A.4.c.): ⁽¹⁾		_____

B. Central Urban Category

1. Preliminary Standard Units	Maximum standard density	Units
a. Total upland Acres (from Part 2, D.2.a.)	_____ times 10 equals	_____
b. Total freshwater wetland Acres (from Part 2, D.2.b.)	_____ times 10 equals	_____
c. Preliminary Total Standard units (a. plus b.) ⁽¹⁾		_____
2. Maximum Permitted Units	Maximum permitted	Units
a. Total upland Acres (from Part 2, D.2.a.)	_____ times 12.5 equals	_____
3. Total allowed standard units (B.1.c. or B.2.a., whichever is less)		_____
4. Bonus Units ⁽²⁾		
a. Low-moderate housing density:		_____
b. TDR units:		_____
c. Sub-total (B.4.a. plus B.4.b.)		_____
5. Total Permitted Units (B.3. plus B.4.c.): ⁽¹⁾		_____

Notes:

- (1) Subject to revision if wetlands jurisdictional determination indicates a different acreage of wetlands.
 (2) If low-moderate housing density credits or Transfer of Development Rights (TDRs) credits are included, attach the calculations and approvals hereto.

C. Urban Community Category

1.	Preliminary Standard Units	Maximum standard density	Units
a.	Total upland Acres (from Part 2, D.3.a.)	_____ times 6 equals	_____
b.	Total freshwater wetland Acres (from Part 2, D.3.b.)	_____ times 6 equals	_____
c.	Preliminary Total Standard units (a. plus b.) ⁽¹⁾		_____
2.	Maximum Permitted Units	Maximum permitted	Units
a.	Total upland Acres (from Part 2, D.3.a.)	_____ times 8 equals	_____
3.	Total allowed standard units (C.1.c. or C.2.a, whichever is less)		_____
4.	Bonus Units ⁽²⁾		
a.	Low-moderate housing density:		_____
b.	TDR units:		_____
c.	Sub-total (D.4.a. plus D.4.b.)		_____
5.	Total Permitted Units (C.3. plus C.4.c.): ⁽¹⁾		_____

Notes:

- (1) Subject to revision if wetlands jurisdictional determination indicates a different acreage of wetlands.
(2) If Low-moderate housing density credits or Transfer of Development Rights (TDRs) credits are included, attach the calculations and approvals hereto.

D. Suburban Category

1.	Preliminary Standard Units	Maximum standard density	Units
a.	Total upland Acres (from Part 2, D.3.a.)	_____ times 6 equals	_____
b.	Total freshwater wetland Acres (from Part 2, D.3.b.)	_____ times 6 equals	_____
c.	Preliminary Total Standard units (a. plus b.) ⁽¹⁾		_____
2.	Maximum Permitted Units	Maximum permitted	Units
a.	Total upland Acres (from Part 2, D.3.a.)	_____ times 8 equals	_____
3.	Total allowed standard units (D.1.c. or D.2.a., whichever is less)		_____

E. Outlying Suburban Category

1.	Preliminary Standard Units	Maximum standard density	Units
a.	Total upland Acres (from Part 2, D.4.a.)	_____ times 3 equals	_____
b.	Total freshwater wetland Acres (from Part 2, D.4.b.)	_____ times 3 equals	_____
c.	Preliminary Total Standard units (a. plus b.) ⁽¹⁾		_____
2.	Maximum Permitted Units	Maximum permitted	Units
a.	Total upland Acres (from Part 2, D.4.a.)	_____ times 4 equals ⁽¹⁾	_____
3.	Total allowed standard units (E.1.c. or E.2.a., whichever is less)		_____

Notes:

- (1) Outlying Suburban land located north of the Caloosahatchee River and east of Interstate-75, north of Pondella Road and south of Pine Island Road (SR 78), and in the Buckingham area (see Goal 19 of the LEE Plan): the maximum upland density is two (2) units per acre plus one (1) for a total of three (3) units per acre.

PART 4
COMMERCIAL, INDUSTRIAL, MINING, ASSISTED LIVING FACILITIES,
HOTELS & MOTELS
PRELIMINARY INTENSITY CALCULATIONS

A.	Commercial	Habitable Stories	Height	Total Floor Area
A.1.	Medical			Sq. Ft.
A.2.	General Office			Sq. Ft.
A.3.	Retail			Sq. Ft.
A.4.	Other			Sq. Ft.
A.5.	TOTAL FLOOR AREA			Sq. Ft.
B.	Industrial	Habitable Stories	Height	Total Floor Area
B.1.	Under Roof			Sq. Ft.
B.2.	Not under Roof	NA		Sq. Ft.
B.3.	TOTAL FLOOR AREA			Sq. Ft.
C.	Mining		Depth	Total Acres
C.1.	Area to be excavated	NA		Acres
D.	Assisted Living Facilities	Habitable Stories	Height	Total Number of Beds/Units
D.1.	Dependent Living Units			Beds/Units
D.2.	Independent Living Units			Beds/Units
D.3.	TOTAL BEDS/UNITS			Beds/Units
E.	Hotels/Motels			
	Room Size	Habitable Stories	Height	Number of Rental Units
E.1.	< 425 sq. ft.			Units
E.2.	426-725 sq. ft.			Units
E.3.	725 < sq. ft.			Units
E.4.	TOTAL UNITS			Units

**PART 5
ENVIRONMENTAL ISSUES**

A. Topography: Describe the range of surface elevations of the property:

NA

B. Sensitive Lands: Identify any environmentally sensitive lands, including, but not limited to, wetlands (as defined in the LEE Plan Section XII), flowways, creek beds, sand dunes, other unique land forms [see LEE Plan Policy 77.1.1 (2)] or listed species occupied habitat [see LCLDC Section 10-473].

NA

continued

C. **Preservation/Conservation of Natural Features:** Describe how the lands listed in PART 4.B. above will be protected by the completed project:

NA

D. **Shoreline Stabilization:** If the project is located adjacent to navigable natural waters, describe the method of shoreline stabilization, if any, being proposed:

NA

PART 6
SANITARY SEWER & POTABLE WATER FACILITIES

- A. **Special Effluent:** If the discharge of any special effluent is anticipated, please specify what it is and what strategies will be used to deal with its' special characteristics:

NA

- B. **Private On-Site Facilities:** If a private on-site wastewater treatment and disposal facility is proposed, please provide a detailed description of the system including:

1. Method and degree of treatment:

NA

2. Quality of the effluent:

NA

3. Expected life of the facility:

NA

4. Who will operate and maintain the internal collection and treatment facilities:

NA

5. Receiving bodies or other means of effluent disposal:

NA

continued

C. Spray Irrigation: If spray irrigation will be used, specify:

1. The location and approximate area of the spray fields:

NA

2. Current water table conditions:

NA

3. Proposed rate of application:

NA

4. Back-up system capacity:

NA

PART 7 - SUBMITTAL REQUIREMENTS

Copies* Required	Exhibits	Item
PUBLIC HEARING APPLICATION FORM		
✓ 14		Public Hearing Application Form (Application for Public Hearing for Zoning Action Form, OR, if a DRI with Rezoning, submit Application for Public Hearing for a DRI Form). [34-373(a)(1)]
✓ 1		Application Fee. [34-373(a)(2)]
DESCRIPTION OF EXISTING CONDITIONS		
✓ 4	D-1-B	Historical or Archaeological sites: The nature and location of any known or recorded historical or archaeological sites as listed on the Florida Master Site File or the Lee County Historical Site Survey, and the location of any part of the property that is located within level 1 or level 2 zones of archaeological sensitivity pursuant to LCLDC Chapter 22 [22-106]. The plan must show the outline of historic buildings and approximate extent of archaeological sites. A description of proposed improvements that may impact archaeological or historical resources must also be provided. [34-373(a)(4)h.]
NA 14	D-1-C	Public Transit. A map or other depiction of the property in relation to existing and proposed public transit routes, as well as to bus stops, if located within the Lee Tran public transit service area. [34-373(a)(4)g.]
NA 5	D-7-A	A Boundary Survey , prepared and sealed by a professional surveyor, that meets the minimum technical standards set forth in chapter 61G-17-6, F.A.C. The boundary survey must identify and depict all easements effecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection. [34-373(a)(4)a.]
✓ 14	D-7-B	Area Location Map (on 8.5" x 11" paper). A map marked to show the location of the property to be developed in relation to arterial and collector streets <u>as well as the location of existing easements and rights-of-way on or abutting the property.</u> [34-373(a)(4)b.]
✓ 14	D-7-C	Existing Zoning and Current Land Uses. A map or other depiction of the existing zoning and current land uses (i.e. single family residence, multiple-family building, retail commercial, office building, etc.) surrounding the tract or parcel to a distance of 500 feet. [34-373(a)(4)c.]
✓ 14	D-7-D	Aerial Photograph with the site clearly delineated. [34-373(a)(4)d.] Originals only - photocopies are not acceptable.
Waiver 4	D-7-E	Soils Map. Maps drawn at the same scale as the Master Concept Plan marked or overprinted to show the soils classified in accordance with the USDA/SCS System. [34-373(a)(4)e.i.]
Waiver 4	D-7-F	FLUCCS Map. A Florida Land Use, Cover and Classification System (FLUCCS) map, at the same scale as the Master Concept Plan, prepared by an environmental consultant. The FLUCCS map must clearly delineate any Federal and State jurisdictional wetlands and other surface waters, including the total acreage of Federal and State wetlands. [34-373(a)(4)e.ii.]
Waiver 4	D-7-G	Rare & Unique Upland Habitat Map. Maps drawn at the same scale as the Master Concept Plan marked or overprinted to show significant areas of rare and unique upland habitat as defined in the LEE Plan Section XII. [34-373(a)(4)e.iii.]
Waiver 4	D-7-H	Topographic Map. A County topographic map (if available) or a USGS quadrangle map showing the subject property. [34-373(a)(4)e.iv.]
Waiver 4	D-7-I	Existing and Historic Flow-Ways Map. Map(s) drawn at the same scale as the master concept plan marked or overprinted to show existing and historic flow-ways. [34-373(a)(4)e.v.]

Copies* Required	Exhibits	Item
NARRATIVE COMPLIANCE STATEMENTS		
✓ 14	D-7-J	LEE Plan Compliance. A narrative explanation as to how the proposed development complies with the LEE Plan. [34-373(a)(5)]
✓ 3	D-7-K	Design Standards Compliance. A narrative explanation as to how the proposed development complies with the Design Standards set forth in LCLDC Section 34-411. [34-373(a)(5)]
✓ 3	D-7-L	Decision-Making Compliance. A narrative explanation as to how the proposed development complies with the guidelines for decision-making embodied in LCLDC Sections 34-145(c)(2)a & e. and 34-145(d)(3). [34-373(a)(5)]
MASTER CONCEPT PLAN		
✓ 2 & 14	D-7-M.1 (24X 36) & D-7-M.2 (11 X 17)	Master Concept Plan, Non-PRFPD . A graphic illustration (Master Concept Plan) of the proposed development, showing and identifying the information required by LCLDC Section 34-373(a)(6)a - i. Copies of the Master Concept Plan must be provided in two sizes, 24" x 36" (2 copies), and 11" x 17" (15 copies - 2 originals required) in size and must clearly legible and drawn at a scale sufficient to adequately show and identify the required information. {See Instructions, Part 7, below.} [34-373(a)(6)]
NA 14	D-7-N	Master Concept Plan, PRFPD : A clearly legible drawing, no less than 24" x 36" in size and drawn at a scale sufficient to adequately show and identify the information required by LCLDC Section 34-941(g).{See Instructions, Part 7, below.} [34-941(g)]
Waiver 5	D-7-O	Traffic Impact Statement. A traffic impact statement in a format and to the degree of detail required by the County and in conformance with the adopted Lee County Administrative Code. [34-373(a)(7)] TIS is not required for an existing development. [34-341(b)(2)d.1.]
✓ 14	D-7-P	Schedule of Uses. A schedule of uses keyed to the Master Concept Plan as well as a summary for the entire property including the information required by LCLDC Section 34-373(a)(8)]. [34-373(a)(8)]
✓ 14	D-7-Q	Schedule of Deviations and Written Justification. A schedule of deviations and a written justification for each deviation requested as part of the Master Concept Plan. The location of each requested deviation must be located/shown on the Master Concept Plan. Deviation documentation and detail drawings including sample detail drawings must be provided illustrating how each deviation will operate to the benefit, or at least not to the detriment, of the public interest. [34-373(a)(9); 34-412(a)]
ADDITIONAL REQUIREMENTS FOR MAJOR PDs		
NA 4	D-7-R	Surface Water Management Plan A written description of the surface water management plan as required by LCLDC Section 34-373(b)(1)a. - e. [34-373(b)(1)]
NA 14	D-7-S	Phasing program. If the development is to be constructed in phases or if the Traffic Impact Statement utilized phasing, then a description of the phasing program must be submitted. [34-373(b)(3)]
ADDITIONAL REQUIREMENTS FOR LARGE PROJECTS		
Waiver 4	D-7-T	Protected species survey. A protected species survey is required for large developments (as defined in LCLDC Section 10-1) as specified in LCLDC Section 10-473. [34-373(b)(2)]
ADDITIONAL REQUIREMENTS FOR AMENDMENTS TO BUILT PLANNED DEVELOPMENTS		
NA 4	D-7-U	Proof of Notice to Other Property Owners. The consent of the owners of the remainder of the original planned development is not required, but these owners must be given notice of the application and other proceedings as if they were owners of property abutting the subject property regardless of their actual proximity to the subject property. [34-373(c)]

Copies* Required	Exhibits	Item
		ADDITIONAL REQUIREMENTS FOR DRIs
NA 14	D-7-V	Binding letter of interpretation from DCA or a complete and sufficient ADA (See also Application for Public Hearing for DRI Form) [34-373(d)(2)]
		ADDITIONAL EXHIBITS - PRFPDs
NA 4	D-7-W	Conceptual Surface Water Management Plan. A Conceptual Surface Water Management Plan must be submitted. The plan must be viable and take into consideration any natural flowway corridors, cypress heads, natural lakes, and the restoration of impacted natural flowway corridors. [34-941(d)(3)b.i.1]
NA 14	D-7-X	Well Drawdown Information. If within an area identified as an anticipated drawdown area for existing or future well development, demonstration of compliance with LCLDC Section 34-941(d)(3)d.i & ii. must be provided. [34-941(d)(3)d.]
NA 14	D-7-Y	Preliminary Indigenous Restoration Plan. A Preliminary Indigenous Restoration Plan must be provided if on-site indigenous restoration is being used to meet the indigenous native plant community preservation requirement. [34-941(e)(5)f.iii.]
NA 14	D-7-Z	Environmental Assessment. An Environmental Assessment must be provided which includes, at a minimum, an analysis of the environment, historical and natural resources. [34-941(g)(2)]
NA 14+	D-7-AA	Demonstration of Compatibility. Written statements concerning how the applicant will assure the compatibility of the proposed development with nearby land uses (by addressing such things as noise, odor, lighting and visual impacts), and the adequate provision of drainage, fire and safety, transportation, sewage disposal and solid waste disposal must be provided. [34-941(g)(4)]

* At least one copy must be an original.

Spatial District Query Report

STRAP Number: 16-43-24-03-00000.E01A

District Name	District Value		Pct of Parcel in District (if fractional)	Notes
Airport Noise Zone			NOT FOUND	
Airspace Notification	Notification Height Facility	25' AMSL Pine Shadows Airpark		
Census Tract	Tract ID	201.01	100.01%	
Coastal Building Zone			NOT FOUND	
Coastal High Hazard Area			NOT FOUND	
Fire District	Fire District Taxing Authority	North Fort Myers 063		
Flood Insurance Zone	Flood Zone	AE-EL19	64.54%	
	Flood Zone	X	27.1%	
	Flood Zone	A	8.35%	
FIRM Floodway			NOT FOUND	
Flood Insurance Panel	Community	125124		
	Panel	0200		
	Version	C		
	Date	031594		
DNR Flood Zones			8.35%	
Flood Insurance Coastal Barrier			NOT FOUND	
Lighting District			NOT FOUND	
Planning Community	ID	19		
	Plan Community	North Fort Myers		
Planning Land Use 2010	Landuse	Suburban		
Sanibel/County Agreement			NOT FOUND	
School Board District	District	4		
	School Board Member	Steven Teuber		
School Choice Zone	Choice Zones	West Zone 1		
	Choice Zones	West Zone		
Solid Waste District	District Area	Area 5		
Storm Surge	Category	4/5		
Subdivisions	Subdivision No.	15432401	0.01%	<u>1</u>
	Subdivision Name	PINE SHADOWS AIR PARK REPLAT		
	Book Page 1			
	Book Page 2			
	Book Page 3			
Traffic Analysis Zone				
Archaeological Sensitivity			NOT FOUND	
Sea Turtle Lighting Zone			NOT FOUND	
Watersheds	Shed ID	Powell Creek		
	Code	811		
FLUCCS1995	Landuse	Airports		
Vegetation Permit Required			NOT FOUND	
Soil	Map Symbol	74	91.75%	<u>2</u>

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Soil Name	BOCA FINE SAND, SLOUGH		
Map Symbol	42	8.25%	
Soil Name	WABASSO SAND, LIMESTONE SUBSTRATUM		
Panther Habitat	NOT FOUND		
Eagle Nesting Site Buffer	NOT FOUND		
Commissioner District	District	4	
	Commissioner	Tammy Hall	
Unincorporated Lee County Zoning	Zoning Designation	CPD	Zoning Notes
Development Orders	Development Order	LDO2005-00219	
	Status		
	Wet Season Water Table		
	Development Order	87-01-011-00D	99.98%
	Status		
	Wet Season Water Table		
Road Impact Fee Districts	District	52	
	Tidemark ID	52	
	Name	NORTH	
Water Franchise	Franchise Name	Lee County Utilities	
Wastewater Franchise	Franchise Name	North Fort Myers Utilities	
Res. Garbage Collection Day	Hauling Day	Thursday	
Res. Recycling Collection Day	Hauling Day	Monday	
Res. Horticulture Collection Day	Hauling Day	Monday	

[[Modify Report Settings](#)]

Note	Details
1	Small percentages can result from slight variations in the way lines are drawn or imported into our system. Such values may not accurately reflect an overlap with the subject parcel.
2	Contact DEP (239) 332-6975 for wetland determination

Our goal is to provide the most accurate data available, however no warranties, expressed or implied, are provided with this data, its use, or interpretation.
All information subject to change without notice.



PR 2007-00067

REQUEST FOR PUBLIC HEARING SUBMITTAL REQUIREMENT WAIVER FOR UNINCORPORATED AREAS ONLY

Upon written request, the Director may modify the submittal requirements for Public Hearings (and other administrative applications) where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request and the Director's written response must accompany the application submitted and will become a part of the permanent file.

APPLICATION FOR WAIVER OF REQUIRED SUBMITTAL ITEMS (indicate the appropriate application type)

- ☒ Public Hearing - General Requirements (34-202)
- ☒ Public Hearing - Additional Requirements for:
 - ☐ Development of Regional Impact (34-203(a))
 - ☒ Planned Developments (34-203(b))
 - ☐ Master Concept Plan Extension (34-381(c))
 - ☐ Master Concept Plan Reinstatement (34-381(d))
 - ☐ Rezoning other than Planned Developments (34-203 (c))
 - ☐ Mobile Home Park (34-203(d))
 - ☐ Special Exception (34-203(e))
 - ☐ Variances (34-203(f))
- ☐ Administrative Action Requirements



PLEASE PRINT OR TYPE:

STRAP Number: 16-43-24-03-00000.E01A & 16-43-24-03-00000.F000
Name of Project: Pine Shadows Air Park
Name of Agent: Michael E. Roeder, AICP
Street Address: 1625 Hendry Street, Suite 301
City: Fort Myers State: FL Zip: 33901
Phone #: (239) 334-2722 Fax #: (239) 334-1446
E-mail: mroeder@knott-law.com

Name of Applicant*: Jay MacDuff
Street Address: 2326 Del Prado Blvd. S.
City: Cape Coral State: FL Zip: 33990
Phone #: (239) 872-4300 Fax #: (239) 549-6182
E-mail: jmacduff@swfla.rr.com

* If applicant is not the owner, a letter of authorization from the owner must be submitted.

LEE COUNTY
COMMUNITY DEVELOPMENT
P.O. BOX 398 (1500 MONROE STREET)
FORT MYERS, FLORIDA 33902
PHONE (239) 479-8585



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A. SPECIFIC SECTION(S) AND REQUIREMENT(S) FOR WHICH A WAIVER IS SOUGHT:

Section Number	Requirement
#1 34-373(a)(7)	Traffic Impact Statement
#2 10-473	Protected Species Survey
#3 34-373(a)(4)(e)(ii)	FLUCCS Map
#4 34-373(a)(4)(e)(iii)	Rare and Unique Habitat Map
#5 34-373(a)(4)(e)(iv)	Topographic Map
#6 34-373(a)(4)(e)(v)	Existing and Historic Flowways Map
#7	
#8	
#9	

B. SCOPE OF PROJECT AND REASON(s) FOR REQUEST:

Please provide an explanation of the scope of the project and the reason(s) why you think the request for submittal waiver(s) should be approved. Use additional sheets if necessary and attach to this application form. (Please print or type)

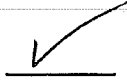
The Pine Shadows Air Park CPD was originally approved on October 19, 1998, per Resolution Z-98-069. This zoning approved the existing hangars/warehouses and storage activity that had been existing on the site for many years, although zoned AG-2 until that time. The CPD zoning approved a variety of limited storage uses in the existing buildings and also allowed for open storage on the vacant parcel fronting on US 41. The purpose of the CPD amendment is primarily to allow for open storage on the rear vacant parcel of the site and to possibly allow for some additional uses such as professional office or business service in the front of the property facing US 41. In addition, the application will be requesting a slight modification of the buffering requirements based on changes since the CPD was first approved. A meeting was held with Pam Houck and Bryan Kelner on October 31, 2006 to discuss this amendment, and it was agreed that since we are simply adding some minor uses to an existing approved CPD, there would not be a need for a new site plan, and it would appear that the other normal submittal requirements relating to a Planned Development zoning would also not be required. The site is cleared and there are already seven large buildings in existence, so there are no environmental issues. The traffic will not change significantly as a result of this amendment, so there should be no need for a TIS. The only question is the additional use and the appropriate buffers.

Under penalties of perjury, I declare that I have read the foregoing application and that the facts stated in it are true.

Mike Reedy

Signature of Applicant

Directors Decision:



Request Approved

Request Denied

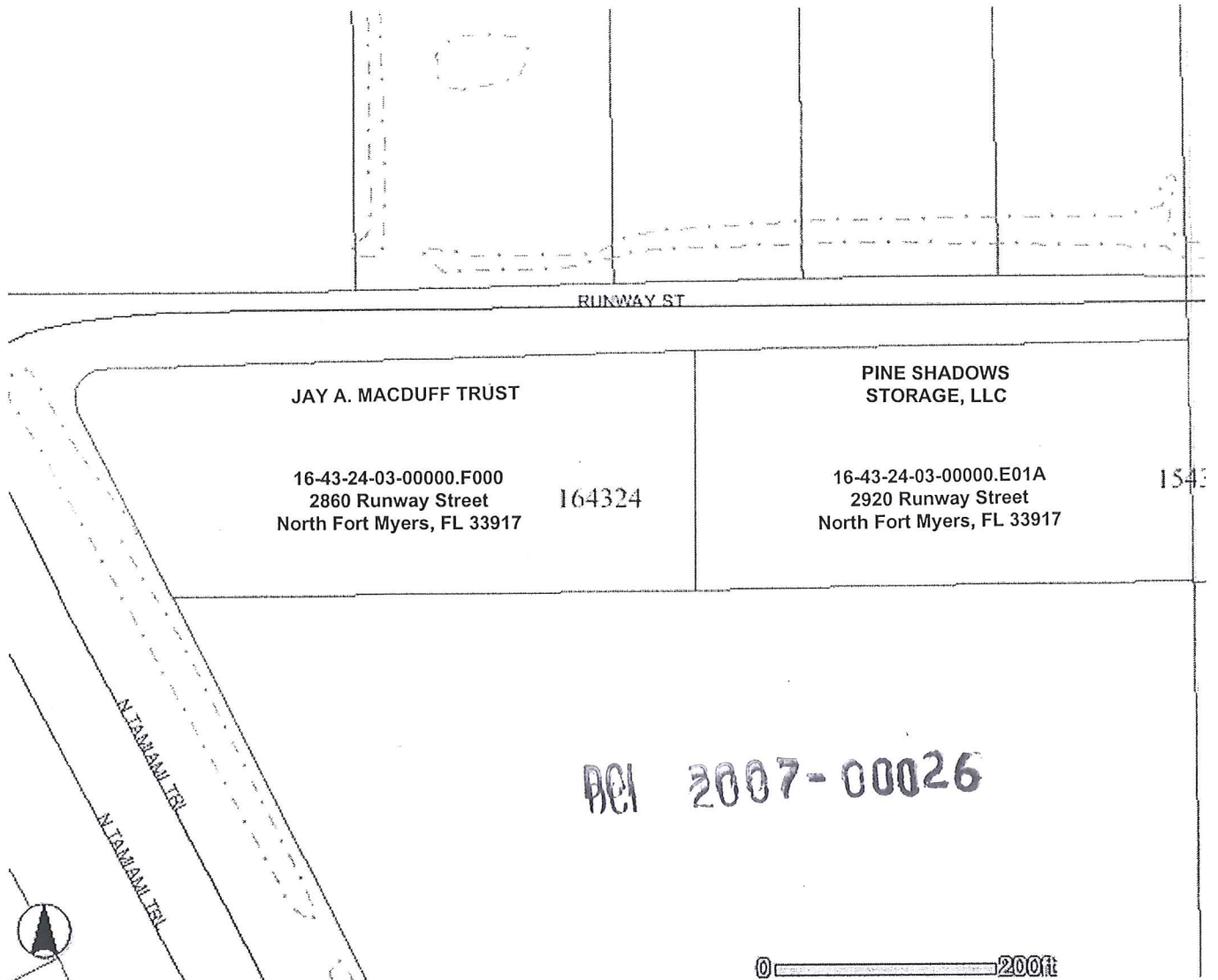
Comments:

Signature:

Carroll H. Hurd

Date: 2.21.07

Subject Property Owners Map
EXHIBIT PH-2.C.2



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Subject Property Owners List
EXHIBIT PH-2.C.1

Owner	Property Location
1). Pine Shadows Storage, LLC	16-43-24-03-00000.E01A 2920 Runway Street North Fort Myers, FL 33917
2). Jay A. MacDuff Trust	16-43-24-03-00000.F000 2860 Runway Street North Fort Myers, FL 33917

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**FLORIDA DEPARTMENT of STATE****CHARLIE CRIST**
Governor**EXHIBIT D-1-B****KURT S. BROWNING**
Secretary of State

March 16, 2007

Alison M. Stowe
Knott, Consoer, Ebelini, Hart & Swett, P.A.
1625 Hendry Street
Fort Myers, FL 33901
Fax: 239-334-1446

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Dear Ms. Stowe:

In response to your inquiry of March 16, 2007, the Florida Master Site File lists no previously recorded cultural resources in the following parcel:

T43S, R24E, Section 16

In interpreting the results of our search, please remember the following points:

- Areas which have not been completely surveyed, such as yours, may contain unrecorded archaeological sites, unrecorded historically important structures, or both.
- As you may know, state and federal laws require formal environmental review for some projects. Record searches by the staff of the Florida Master Site File do not constitute such a review of cultural resources. If your project falls under these laws, you should contact the Compliance Review Section of the Bureau of Historic Preservation at 850-245-6333 or at this address.

If you have any further questions concerning the Florida Master Site File, please contact us as below.

Sincerely,

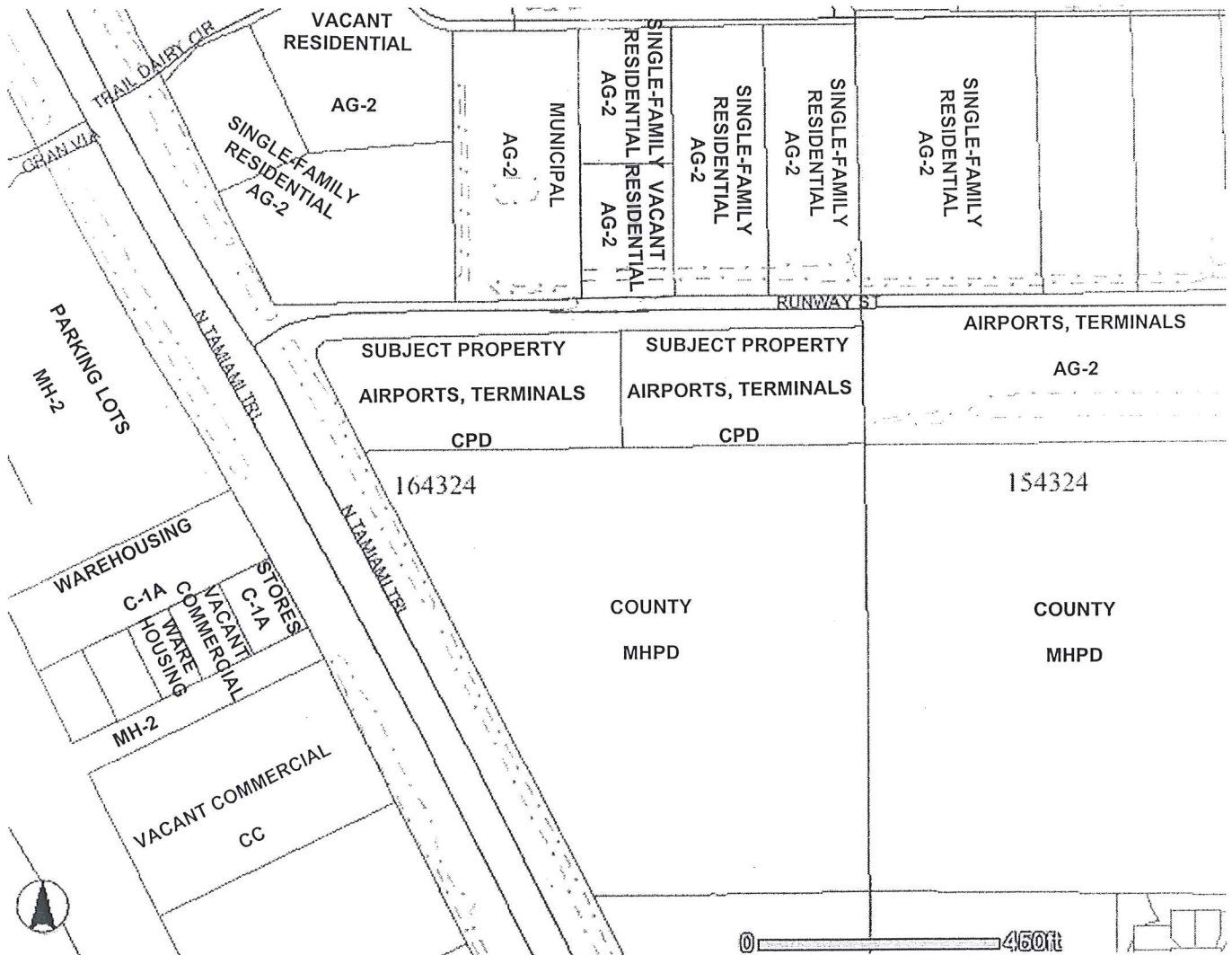
Celeste Ivory
Celeste Ivory
Archaeological Data Analyst,
Florida Master Site File
Division of Historical Resources
R. A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399-0250

Phone: 850-245-6440
Fax: 850-245-6439
Email: sitefile@dqs.state.fl.us
Web: <http://flheritage.com/preservation>
<http://dhr.dos.state.fl.us/comments/>

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Existing Zoning and Current Land Uses Map
EXHIBIT D-7-C



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Schedule of Uses
EXHIBIT D-7-P

ACCESSORY USES

ADMINISTRATIVE OFFICES

AUTOMOBILE RESTORATION (LIMITED TO RESTORATION AND MAINTENANCE OF PRIVATELY OWNED AUTOMOBILES BY THEIR OWNERS WHO ARE TENANTS OF THE PROPERTY OWNER)

BUSINESS SERVICES, GROUP I (LIMITED TO TRACT F-1)

CARETAKER'S RESIDENCE

ESSENTIAL SERVICES

ESSENTIAL SERVICE FACILITIES, GROUP I

MINI-WAREHOUSE (LIMITED TO TRACT F-1, AND TO EXISTING ASPHALT PAD ON TRACT F-2)

STORAGE, INDOOR (INCLUDING MAINTENANCE OF PRIVATELY OWNED PLANES BY THEIR OWNERS)

STORAGE, OPEN (LIMITED TO TRACT F-1 AND E, AND EXCLUDING CONSTRUCTION EQUIPMENT AND LARGE TRUCKS, i.e. SEMI-TRAILERS, etc.)

WAREHOUSE, PUBLIC

Schedule of Deviations
EXHIBIT D-7-Q

- 1). A deviation from Section 10-416(d)(3) which would require a "D" buffer along Runway Street to allow that area to be landscaped by the Pine Shadows Air Park.

JUSTIFICATION: This deviation was approved in the original CPD zoning approval, and Pine Shadows is still responsible for this landscaping.

- 2). A deviation from Section 10-416(d)(3) (and a revision to Condition 7 of Z-98-069) to require only an 8-foot wooden fence where the open storage would abut the 20-20 preserve area with no additional landscaping in lieu of a masonry wall with buffer.

JUSTIFICATION: The concrete wall and landscape buffer will serve no purpose when adjacent to vacant preserve land that is already naturally vegetated.

**Lee Plan Compliance, Design Standards Compliance,
& Decision-Making Compliance
EXHIBITS D-7-J, D-7-K & D-7-L**

This 4.64 acre parcel was zoned to Commercial Planned Development in 1998 to recognize the hangars/storage sheds that were existing on the site and to provide for the reasonable on-going commercial use of the buildings and vacant land. The property was originally developed concurrent with Pine Shadows, and was apparently intended to provide hangar space for offsite aircraft owners that might use the runway at Pine Shadows. However, air strip is now restricted solely to the aircraft of residents of Pine Shadows, and the hangar/storage sheds are used for general storage and run independently of the Pine Shadows Air Park. There was also a fueling station at the eastern end of the property for the airplanes, but that is no longer in operation.

The original approval (Resolution Z-98-069) allowed open storage, but limited it to Tract F-1 which is in the front of the property along US 41. The current owner is requesting to amend that list of permitted uses to allow for open storage on Tract E to the rear of the parcel where it would be more appropriate. In addition, certain new office uses will be requested for Parcel F-1. A modification to Condition 7 is being requested which requires an 8-foot high concrete masonry wall surrounding the open storage use. It is being requested that where this open storage use would abut the 2020 Preserve, a simple wooden wall with no additional buffer would be required.

This property is located in the Suburban land use category which would allow for this type of use, and the existing buildings have already been found consistent with the Lee Plan and very minor changes are being proposed. In addition, since the site is virtually built-out, most of the criteria relating to Design Standards and Decision-making Compliance are not applicable, except to point out that there will be no additional impacts as a result of these revisions to the CPD, and a more appropriate use may be located in the front of the property on US 41.

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**Knott, Consoer, Ebelini
Hart & Swett, P.A.**
ATTORNEYS - AT - LAW

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George L. Consoer, Jr. **
Mark A. Ebelini
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* Board Certified Civil Trial Lawyer
** Board Certified Real Estate Lawyer
+ Board Certified Business Litigation Lawyer

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Derrick S. Eihausen
Naty Torres-Alvarado
David A. Burt

Director of
Zoning and Land
Use Planning
Michael E. Roeder, AICP

December 13, 2007

Mr. Tony Palermo, Senior Planner
Department of Community Development
P.O. Box 398
Fort Myers, FL 33902



Re: Pine Shadows Air Park / DCI2007-00026

Dear Tony:

I am in receipt of your letter dated April 20, 2007 in regard to the Pine Shadows Air Park and would offer the following additional information:

Lee County Zoning Action Legal Requirements Checklist

10a) *The boundary survey must identify and depict all easements effecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection.*

Conditional upon approval of resubmittal boundary survey.

RESPONSE: A boundary survey has been prepared and is included in this resubmittal package.

10b) *All boundary surveys must meet the minimum technical standards for land surveying in the state, as set out in chapter 61G 17-6, F.A.C. The perimeter boundary must be clearly marked with a heavy line and must include the entire area to be developed.*

Conditional upon approval of the resubmitted boundary survey.

RESPONSE: A boundary survey has been prepared and is included in this resubmittal package.

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- 10c) *The survey must be tied to the state plane coordinate system for the Florida West Zone (North America Datum of 1983/1990 Adjustment) with two coordinates, one coordinate being the point of beginning and the other an opposing corner.*

Conditional upon approval of resubmitted boundary survey with state plane coordinates as described in LDC Section 34-202(a)(2).

RESPONSE: A boundary survey has been prepared and is included in this resubmittal package.

- 10e) *A boundary survey is required for all Planned Development Applications.*

Not supplied with original submittal.

RESPONSE: A boundary survey has been prepared and is included in this resubmittal package.

Zoning Comments

- 1). The request wording has been drafted. Let me know if it is accurate.

RESPONSE: Yes, the wording as proposed is accurate.

- 2). The 11 x 17 MCP is not readable.

RESPONSE: The MCP has been revised and is included in this resubmittal package.

- 3). The full size MCP needs to be updated and is unclear also. Has it been updated or is it the old MCP?

RESPONSE: The MCP has been revised and is included in this resubmittal package.

- 4). Please provide a copy of the zoning resolutions and amendments. Is this an amendment of all of Pine Shadows or a portion of it?

RESPONSE: Please see attached zoning resolution for Pine Shadows Air Park. This is an amendment to the entire Pine Shadows site plan.

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- 5). Did you mean to ask for a waiver from the boundary survey?

RESPONSE: Yes, the waiver has been submitted, but was denied. A boundary survey has been prepared and is included in this resubmittal package.

- 6). Please provide the water and sewer letters, per the BOCC direction.

RESPONSE: The water and sewer letters have been sent to the appropriate agencies; the sewer letter from North Fort Myers Utilities is attached and the water letter will be provided under separate cover.

- 7). The additional agents Exhibit PH-1.C.2 was left blank. Are there any other agents?

RESPONSE: There are no additional agents.

- 8). Please provide for height and square footage proposed, including for the open storage and storage uses, and hangar uses. Any details would be helpful.

RESPONSE: There are 41,000 square feet of existing storage buildings, and a new two story 12,250 square foot office building is proposed for the front parcel. The eastern most portion of Lot C where the open storage would occur is approximately 1 acre.

- 9). Please elaborate in your deviation narrative what is being requested and what the zoning resolution says about Deviation 1. Please elaborate on Deviation 2 and Condition 7. What are you proposing to change about the condition? Please elaborate about what buffer you are proposing, or if no buffer is being proposed. It is hard to make the case that open storage needs no buffer to preserve land, but that is the case you are making.

RESPONSE: The revised site plan contains two buffer deviations. Deviation #1 refers to the buffer on the south side of the parcel where it abuts the 2020 preserve. The normal buffer to a preserve area is a 30-foot wide "F" buffer without a wall. There is a 40-foot drainage and public utility easement on the south side of the property which cannot be landscaped by the owner. However, we are proposing an 8-foot high concrete wall on the south side of the open storage portion of the property and a 5-foot type "A" buffer on the north side of the easement wherever it is possible to install that type of landscaping. On the north side of the parcel where it abuts Runway Street, we are proposing to maintain the existing buffer and landscaping since that is owned by the Pine Shadows home owners and has always contained limited landscaping due to the unique requirements of the Air Park.

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- 10). The requirement for a new MCP was not waived (per PRE2007-00067).

RESPONSE: A revised MCP is attached.

- 11). It isn't clear where the new uses are proposed on US 41. Is it one of the hangars? How many square feet are being proposed? It isn't clear where the buffer is being changed, and there is a reference to a wooden wall (how tall, are there pictures of the proposed wall)? It isn't clear how much open storage is needed in back. What will be stored outdoors? Are there other deviations from open storage requirements (LDC Ch 34) being requested or should be requested?

RESPONSE: The new office building being proposed for the vacant tract fronting on US 41 is now labeled Parcel A. The deviation for the buffer is as described above, and there would be an 8-foot masonry wall on the south side of the open storage to the rear of parcel C. There will also be an 8-foot opaque wall on the other two sides of the open storage use.

- 12). Please provide the development order numbers for this property. A copy of the approved DO plans may be helpful.

RESPONSE: A list of the development orders on this property are as follows:

1. LDO2005-00219; Application for fence for outside storage.
2. LDO2003-00341; Approved for the construction of an airplane hangar on existing pad, and the laying of an additional 0.06 acres of concrete drives.
3. LDO960924611L; Watermain extension

- 13). Please include a schedule of uses and development regulations on an 8 ½ x 11 sheet of paper.

RESPONSE: Please see the attached schedule of uses and development regulations.

Lee County Environmental Sciences

- 12j). *Buffers. As per LDC Section 10-416(d)(3) commercial zoned property abutting preservation lands requires a Type F(2) buffer. Lee County Parks and Recreation is currently in the site design and permitting stage of a park entrance on the parcel abutting the south property line. ES staff requests the applicant to coordinate a meeting to discuss.*

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As per LDC Section 10-416(d)(3) commercial zoned property abutting preservation lands requires a Type F(2) buffer. Lee County Parks and Recreation is currently in the site design and permitting stage of a park entrance on the parcel abutting the south property line. ES staff requests the applicant to coordinate a meeting to discuss.

RESPONSE: A meeting was held with the Environmental Services staff on May 21, 2007 to discuss the buffers for the property and the requested deviations are a result of that meeting.

- 14). *Schedule of Deviations and Written Justification. A schedule of deviations and a written justification for each deviation requested as part of the Master Concept Plan must be submitted.*

Deviation #2. An on site review conducted 04/12/07 revealed the area along the south property line abutting the preserve contains 95% exotic species (brazilian pepper, melaleuca, etc). As per LDC Section 10-420(h) and the landscape plan approved through LDO2003-00341, exotics must be removed and property maintained free from invasive exotic plants in perpetuity. The removal and maintenance of invasive exotics will eliminate any existing vegetative buffer as specified in the justification. Also, the area where the open storage is proposed abuts a part of the Lee County Conservation 20/20 Lands which is not naturally vegetated with a sufficient canopy or mid-story buffer to provide adequate buffering from the open storage.

RESPONSE: All of the exotic vegetation has been removed from the easement since the first sufficiency letter.

We look forward to your review and a Public Hearing on this request in the near future.

Very truly yours,

KNOTT, CONSOER, EBELINI,
HART & SWETT, P.A.



Michael E. Roeder, AICP
Director of Zoning and Land Use Planning

MER/ams
Attachments



DCI 2007-00026



RESOLUTION NUMBER Z-98-069

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

WHEREAS, Pine Shadows Hanger Group, Inc., filed an application to rezone a 4.64± acre parcel from Agricultural (AG-2) to Commercial Planned Development (CPD), in reference to Pine Shadows Air Park; and

WHEREAS, Pine Shadows Hanger Group, Inc. and Sentry Storage, Inc., the owners of the subject parcel, authorized Humphrey & Knott, P.A., to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held on September 2, 1998, before the Lee County Hearing Examiner who gave full consideration to the evidence in the record (Case # 98-05-101.02Z 01.01); and

WHEREAS, a second public hearing was advertised and held on October 19, 1998 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 the 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 4.64± acre parcel from Agricultural (AG-2) to Commercial Planned Development (CPD) in the Suburban Land Use Category. The legal description of the subject property is set forth in Exhibit A attached to this resolution. The request is hereby APPROVED subject to the conditions and deviations set forth in Sections B and C below.

SECTION B. CONDITIONS:

1. The development of the subject property must be in substantial compliance with the approved Master Concept Plan (MCP) which is a two-page document entitled "Pine Shadows Air Park Master Concept Plan," dated March 16, 1998, and stamped received at the permit counter on May 12, 1998.
2. The list of permitted uses is limited to the following:
 - Accessory uses
 - Administrative offices
 - Automobile restoration (limited to restoration and maintenance of privately owned automobiles by their owners who are tenants of the property owner)
 - Caretaker's residence
 - Essential services
 - Essential service facilities (LDC Section 34-622(c)(13)): Group I
 - Mini-warehouse (limited to Tract F-1, and to existing asphalt pad on Tract F-2) (See

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Condition 8.)

Self service fuel pump (limited to existing aircraft fuel dispensing system located on Tract E)

Storage, Indoor (including maintenance of privately owned planes by their owners)

Storage, Open (limited to Tract F-1 and excluding construction equipment and large trucks, i.e., semi-trailers, etc.)(See Condition 7.)

Warehouse, public (limited to existing structures only as depicted on the MCP)

3. Development of the subject property must comply with the following Property Development Regulations:

Minimum Setbacks - Buildings and Structures:

Street: 25 feet

Side: 15 feet

Rear: 25 feet

Water body: 25 feet

Maximum Lot Coverage: 40 percent

Maximum Building Height: 25 feet above grade

4. Future development of the subject property is limited to a total of 15,000 feet on Tract F-1 and a total of five thousand, (5,000) square feet on the vacant asphalt pad on Tract F-2, total square footage of existing and approved structures not to exceed 55,000 square feet.
5. No retail sales are permitted on the subject parcel except for those associated with the existing aircraft fuel dispensing system located on Tract E.
6. Commercial use of individual storage units and public warehouse space is prohibited. Commercial establishments may rent units or warehouse space for storage use only.
7. Open storage use is limited to Tract F-1 and must be completely enclosed by an 8-foot-high, painted, concrete (block or precast) masonry wall. In addition, a 15-foot-wide buffer containing a minimum of five trees and 12 shrubs per 100 linear feet must be provided on the exterior side of the masonry wall.
8. The mini-warehouse use is limited to Tract F-1 and the existing asphalt pad located on Tract F-2.
9. Required parking for all uses must be provided in accordance with LDC Section 34-2020. In addition to any new spaces, the parking spaces designated on the MCP must be delineated and provided with parking blocks in accordance with LDC Section 34-2016.
10. This zoning approval does not address the mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions may be required at the time of local development order approval.
11. Approval of this rezoning does not give the Developer an undeniable right to receive local

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development order approval. Future development order approvals must satisfy the requirements of the 2020 Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b), of the Lee Plan.

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

SECTION C. DEVIATIONS:

Deviation (1) is a request to deviate from LDC Section 10-415(b)(1) which requires a 10-foot-wide landscape strip to be located adjacent to all street rights-of-way; to eliminate this requirement for the subject property. This deviation is APPROVED for the right-of-way along Runway Street only.

SECTION D. EXHIBITS:

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

- Exhibit A. The legal description and STRAP numbers of the subject property.
- Exhibit B. A reduced copy of the Pine Shadows Air Park Master Concept Plan.
- Exhibit C. A map depicting the subject parcel (shaded in) in relation to the surrounding area.

SECTION E. FINDINGS AND CONCLUSIONS:

1. The Applicant proved entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and any other applicable code or regulation.
2. The request, as conditioned:
 - a. will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area; and
 - d. will not adversely affect environmentally critical areas or natural resources.
3. The proposed use or mix of uses is appropriate at the subject location.
4. The development will not place an undue burden upon existing transportation or planned infrastructure facilities and it will be served by streets with the capacity to carry traffic generated by the development.
5. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest, and the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

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6. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
7. The approved deviation, as conditioned, enhances the achievement of the objectives of the planned development, and preserves and promotes the general intent of Chapter 34, Land Development Code, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner Ray Judah, and seconded by Commissioner Andrew Coy and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Aye
John E. Albion	Aye

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DULY PASSED AND ADOPTED this 19th day of October, 1998.

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ATTEST: BOARD OF
CHARLIE GREEN, CLERK

BY: *Charlie Green*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *John E. Manning*
Chairman

Approved as to form by:

John E. Manning
County Attorney's Office

MINUTES DEPARTMENT

lp

FILED OCT 26 1998

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EXHIBIT A

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LEGAL DESCRIPTION

Tracts E, PINE SHADOWS AIR PARK SUBDIVISION, as recorded in Plat Book 34, Page 61 and Tract F, PINE SHADOWS AIR PARK SUBDIVISION, as recorded in Plat Book 39, Page 6 of the Public Records of Lee County, Florida, lying in Section 16, Township 43 South, Range 24 East, Lee County, Florida.

STRAP NUMBER

The applicant has indicated the STRAP #'s of the subject property are 16-43-24-03-00000.E01A and 16-43-24-03-00000.F000.

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EXHIBIT B
Page 2 of 2

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APPROVED

Master Concept Plan

Site Plan # 98-069 Page 2 Of 2
Subject to conditions in Resolution Z-98-069
Zoning Case # 98-05-10102 Z 0101



ASSUMED NORTH
SCALE 1" = 30'

PERMITTED USES:
ADMINISTRATIVE OFFICE
AUTOMATIC REPAIR AND SERVICE, GROUP 1
BOAT STORAGE, BOY
COUNCILS RESIDENCE
CASUAL DINING, SPECIAL
ENTERTAINMENT, SPECIAL
STORAGE, MOORS AND OTHER
HANDICRAFT

LAND AREA SUMMARY

BARGAIN AREA

TRACT "A" 16,864 sqft

TRACT "B" 11,312 sqft

Total 28,176 sqft

PAVING AREA

TRACT "A" 41,316 sqft

TRACT "B" 11,312 sqft

TRACT "C" 11,312 sqft

Total 63,940 sqft

LAND AREA SUMMARY

TRACT "A" 16,864 sqft

TRACT "B" 11,312 sqft

TRACT "C" 11,312 sqft

Total 39,488 sqft

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DEVELOPMENT CALCULATIONS

CURRENT

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RESOLUTION NUMBER Z- 81-183

The following resolution was adopted by the Lee County Zoning Board upon motion by Zoning Board Member BOWLES, and seconded by Zoning Board Member BISHOP, and upon poll of the members present the vote was as follows:

Thomas C. Smith	AYE	Robert Terrell	AYE
Thad Taylor	AYE	Truman A. Morris	AYE
Chuck Ross	AYE	Clyde Bowles	AYE
Monty Bishop	AYE		

WHEREAS PAUL E. TIEDT has requested a

AN UNUSUAL USE FOR AN AIR STRIP IN AN AG ZONE WITH A VARIANCE FROM SECTION AND

QUARTER SECTION LINE SETBACKS

SUBJECT PROPERTY: (SEE ATTACHED)

WHEREAS, A Public Hearing of the Lee County Zoning Board was duly advertised and held, as required by law, and after hearing all interested parties, after being duly sworn, and upon due and proper consideration having been given to the matter,

NOW THEREFORE BE IT RESOLVED by the Lee County Zoning Board, Lee County, Florida, that the petition be APPROVED

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APPROVED AS

NO FOR

[Signature]
COUNTY ATTORNEY

PERMIT COUNTER

UPON APPEAL, the following resolution was offered by Commissioner _____, and seconded by Commissioner _____, and upon poll of the members present the vote was as follows:

Mike Roeder
Harry Rodda
Roland Q. Roberts
Wade H. Scaffe
Ernie Averill

WHEREAS, an appeal was filed by an aggrieved person and a Public Hearing of the Lee County Commissioners was duly advertised and held, as required by law, this Board after reviewing the records and the motion made by the Zoning Board and having given an opportunity to all interested persons to be heard, after being duly sworn, and upon due and proper consideration having been given to this matter, NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners, Lee County, Florida, that the motion of the Zoning Board NO APPEAL FILED

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PASSED AND ADOPTED THIS 4 DAY OF May, 19 81 by the Lee County Zoning Board.

PASSED AND ADOPTED THIS _____ DAY OF _____, 19__ by the Lee County Commissioners.

LEGAL DESCRIPTION
PAUL E. TIEDT
81-4-49
15,16-43-24

SUBJECT PROPERTY: A parcel of land lying in Sects 15 and 16 Twp 43S, Rge 24E Lee County, FL more particularly described as follows:
Commence at the E 1/4 crnr of the aforesaid Sec. 15 and run S 89 deg. 57 min. 51 sec. W along the S line of the N 1/2 of said Sect. 15 for 882.00 ft. to the POB; thence continue along the last described course for 4438.51 ft. to the W 1/4 crnr of said Sec. 15; thence run N 89 deg. 38 min. 06 sec. W along the S line of the NW 1/4 of the aforesaid Sect. 16 for 939.47 ft. to the intersection with the Ely R/W line of US 41 (Tamiami Trail); thence run N 30 deg. 24 min. 31 sec. W along said R/W line for 300.00 ft.; thence run N 89 deg. 46 min. 34 sec. E for 1231.15 ft.; thence run N 01 deg. 14 min. 51 sec. W for 2403.70 ft. to a point on the N line of the NW 1/4 of said Sec. 15; thence run N 89 deg. 43 min. 02 sec. E along said N line for 598.03 ft. to the N 1/4 crnr of said Sec. 15; thence run S 89 deg. 39 min. 48 sec. E along the N line of the NE 1/4 of said Sect. 15 for 1756.12 ft.; thence run S 00 deg. 08 min. 56 sec. E along a line 882.00 ft. W of and parallel with the E line of said Sect. 15 for 2670.37 ft. to the POB. Containing 162.00 acres, more or less. Together with the E 882.00 ft. of the NE 1/4 of said Sect. 15. Containing 54.07 acres, more or less.

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Schedule of Uses
EXHIBIT D-7-P

ACCESSORY USES

ADMINISTRATIVE OFFICES

AUTOMOBILE RESTORATION (LIMITED TO RESTORATION AND MAINTENANCE OF PRIVATELY OWNED AUTOMOBILES BY THEIR OWNERS WHO ARE TENANTS OF THE PROPERTY OWNER)

BUSINESS SERVICES, GROUP I (LIMITED TO TRACT A)

CARETAKER'S RESIDENCE

ESSENTIAL SERVICES

ESSENTIAL SERVICE FACILITIES, GROUP I

MINI-WAREHOUSE (LIMITED TO TRACT A, AND TO EXISTING ASPHALT PAD ON TRACT C)

STORAGE, INDOOR (INCLUDING MAINTENANCE OF PRIVATELY OWNED PLANES BY THEIR OWNERS)

STORAGE, OPEN (LIMITED TO TRACT C, AND EXCLUDING CONSTRUCTION EQUIPMENT AND LARGE TRUCKS, i.e. SEMI-TRAILERS, etc.)

WAREHOUSE, PUBLIC

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**Schedule of Deviations
EXHIBIT D-7-Q**

- 1). A deviation from Section 10-416(d)(3) which would require a "D" buffer along Runway Street to allow that area to be landscaped by the Pine Shadows Air Park.

JUSTIFICATION: This deviation was approved in the original CPD zoning approval, and Pine Shadows is still responsible for this landscaping.

- 2). A deviation from Section 10-416(d)(3) (and a revision to Condition 7 of Z-98-069) to require an 8-foot concrete wall only where the open storage would abut the 20-20 preserve area with no additional landscaping. The remaining two exteriors on the east and north sides of the open storage area would be enclosed by a matching opaque fence/wall 8' in height. Where physically possible, the southern property line of the property will be landscaped with an "A" buffer.

JUSTIFICATION: On the south side of the open storage area, there is limited room for a vegetative buffer due to the existing drainage easement. There is no room on the east and north perimeter for a buffer due to the existing pavings. For the remainder of the property, there is very limited room for a buffer on the south side due to the existing drainage easement. An "A" buffer will be provided where possible.

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**Property Development Regulations
EXHIBIT**

Tract A

Road Setback (West and North boundaries)	25 feet
Rear Setback (South boundary)	100 feet
Side Setback	45 feet
Maximum Height	35 feet, 2 stories
Maximum Lot Coverage	35%
Maximum Square Footage	12,100 square feet

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DCI 2007-00026

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Director of Zoning
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Michael E. Roeder, AICP

February 19, 2008

DCI 2007-00026

Mr. Tony Palermo, Senior Planner
Department of Community Development
P.O. Box 398
Fort Myers, FL 33902

Re: Pine Shadows Air Park / DCI2007-00026

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FEB 19 2008
COMMUNITY DEVELOPMENT
2:01pm

Dear Tony:

We are in receipt of your letter dated January 4, 2008 in regard to the Pine Shadows zoning request and would offer the following additional information:

ZONING COMMENTS, JAN 2008

2. COMMENTS ON THE MCP

- A. Type A buffer where physically possible is not an acceptable condition. Type A buffer will suffice.
- B. Building height can be removed from the MCP; it will be in the resolution.
- C. Parcel C shows "Parking," but the intent is to provide open storage. Please label the MCP accordingly.
- D. I'm not sure what a CBS Wall is. Perhaps just "Wall" will suffice on the MCP and the conditions can specify what kind of wall is proposed. Please clarify.

&

- 3. Schedule of Uses: Specific SF of open storage proposed would be helpful. Other details about other uses will also be helpful.

RESPONSE: Right now there are several details on the MCP that are still under discussion. I would request that we not make any further changes to the MCP until after the County Commissioners have rendered their final decision, and then we will agree to make whatever changes have been approved. I do not disagree

with any of your comments, but I don't want to have to have the client redo this plan any more often than is necessary. We did provide the square footage of the warehouse use in the last sufficiency response, and that should not change. In terms of the outdoor storage, it would occur on the existing pad which is approximately 0.8 acres and that is also well defined.

LC Environmental Sciences PD Application Sufficiency Checklist

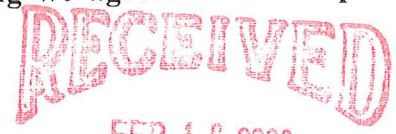
12j) Buffers. The minimum width and composition of all proposed buffers along the perimeter of the subject property, as well as between the individual uses if the types of proposed uses require buffer separations, must be shown on the Master Concept Plan.

The applicant has requested a deviation from the required Type F(2) buffer abutting the LC 20/20 preserve along the south property line and proposes a Type A (5 trees per 100 linear feet) where possible between the proposed open storage and the preserve. ES staff does not find that the Planned Development will be enhanced by the deviation request. ES staff agrees there are physical limitations in buffer planting area along portions of the south property line but do not feel that the applicant has justified their proposed minimum buffer. Many options were discussed at the meeting held 05/21/2007.

- 1) Propose enhancements in the areas along the 40' drainage easement that have adequate width to accommodate trees and shrubs. (I.e. between proposed new building and preserve and 3 of the 4 buildings along the south PL have minimum 12 feet outside the drainage easement available for planting).
- 2) 20/20 conservation staff were open to the idea of an environmental mural painted on the proposed wall.
- 3) Propose to plant (or contribute to the planting of) the required buffer along the north property line of the 20/20 conservation land.

ES staff is not convinced that Condition # 7 of the original zoning Z-98-069 cannot be met. There are no existing structures within Parcel C where the open storage is proposed. The impervious surface can be removed and the wall and buffer plantings installed to meet the required condition.

RESPONSE: As we discussed at the meeting on January 25th, we have requested a deviation for the buffers on the north and south side. On the south side there is a 40 foot wide drainage and utility easement which does not allow for the planting of required buffers. However, our client has already eliminated all of the exotic vegetation from this easement at a considerable expense, and native vegetation will grow in this area naturally over time. At the meeting we agreed that the open



storage area would have an eight foot high fire resistant pre-cast wall on the south side with matching elements to the east and north. In addition, the applicant has agreed to plant a Type F buffer on the conservation 20/20 property to the south of the drainage easement. The applicant would also plant the same buffer to the south of the proposed office building on the west end of the property. However, these buffers would not be required until the storage or office use is actually initiated. Where the existing warehouse buildings are located, additional plantings will be provided where physically possible between the easement and the building. On the north side where the property abuts Runway Street, the applicant does not own any property that is not already paved over, and the existing landscape strip is under control of the Pine Shadows property owners who wish to keep that landscaping under their control. This situation has already been approved with the original CPD zoning in 1998.

14) Schedule of Deviations & Written Justifications. A schedule of deviations and a written justification for each deviation requested as part of the Master Concept Plan must be submitted.

Deviation #1. See comment # 12. ES staff will require the applicant to provide more buffering than proposed to justify the deviation request. Provide cross sections depicting proposed buffers.

RESPONSE: Please see response above.

19) Miscellaneous Items.

Will perimeter plantings as per LDC Section 10-416(b) be provided abutting new proposed building? Please depict locations to insure minimum 5 feet width is met.

RESPONSE: We have not requested any additional deviations from the landscaping requirements.

Comments from Natural Resources

1) Please identify the stormwater treatment areas on the Master Concept Plan. If wet detention/retention is proposed, then please mimic a natural system per Lee County Land Development Code Section 10-418 criteria.

RESPONSE: We are not sure at this time what type of water management system might be provided for the new office building. When a Development Order is requested, all of these stormwater issues will be addressed per Code.

DCI 2007-00026

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2) Per our phone conversation on 12/17/2007 and on 12/18/2007 with David Estes regarding stormwater treatment locations, placing of stormwater system in easements is unacceptable unless the easements are vacated or stated in the easement agreement.

RESPONSE: There would be no water retention provided in the drainage easement, although that is clearly where any stormwater outfall would be located.

3) Please provide us with a copy of the 40' drainage and public utility easement for parcels A, B and C.

RESPONSE: The drainage and public utility easements were created per the plat for Pine Shadows Air Park. There is no separate document for this easement.

4) Please provide us with a copy of the SFWMD ERP permit.

RESPONSE: We are not aware if an ERP permit was ever issued for the original Pine Shadows development, and do not think that should be required for this zoning request.

5) The existing septic system will be tied into the North Fort Myers Utilities system, therefore remove the existing septic system on the Master Concept Plan.

RESPONSE: The new office building would certainly be tied into the North Fort Myers Utility systems, but we do not believe that tying in the existing bathroom facilities for the existing warehouses is necessary or required.

County Attorney Comments

1) The survey dated 11-16-07 and submitted (rec'd 12-13-07) was prepared without the benefit of any title work. Easements, recorded and unrecorded, are not shown. The survey should be revised to remove the text that says "...prepared without the benefit of..." and to include any information with regard to recorded and unrecorded easements on the project site.

RESPONSE: The survey has been revised to reflect your comment and is included in this resubmittal package.

2) We also need a sketch and legal of the project site. This can be prepared by the applicant from the survey work provided.

RESPONSE: The sketch and legal have been prepared and are included in this resubmittal package.

DCI 2007-00026



February 19, 2008
Pine Shadows Air Park / DCI2007-00026

Please let me know if you require any additional information, but we do hope this is sufficient to schedule the request for public hearing.

Very truly yours,

KNOTT, CONSOER, EBELINI,
HART & SWETT, P.A.



Michael E. Roeder, AICP
Director of Zoning and Land Use Planning

MER/ams
Attachments

DCI 2007-00026

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FEB 19 2008

COMMUNITY DEVELOPMENT

**Knott, Consoer, Ebelini
Hart & Swett, P.A.**
ATTORNEYS - AT - LAW

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Director of Zoning
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Michael E. Roeder, AICP

July 29, 2008

Mr. Tony Palermo, Senior Planner
Department of Community Development
P.O. Box 398
Fort Myers, FL 33902



Re: Pine Shadows Air Park / DCI2007-00026

Dear Tony:

We are in receipt of your letter dated July 24, 2008 and would offer the following information:

LC Zoning Action Legal Requirements Checklist

9) Legal Description. A metes and bounds legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with Florida Statutes.

The legal description supplied with the sketch is not compliant as it contains, "subject to easements and restrictions of record" in the body of the text. Please remove this phrase and resubmit.

RESPONSE: The legal description has been revised to reflect your comment and is included in this resubmittal package.

Very truly yours,

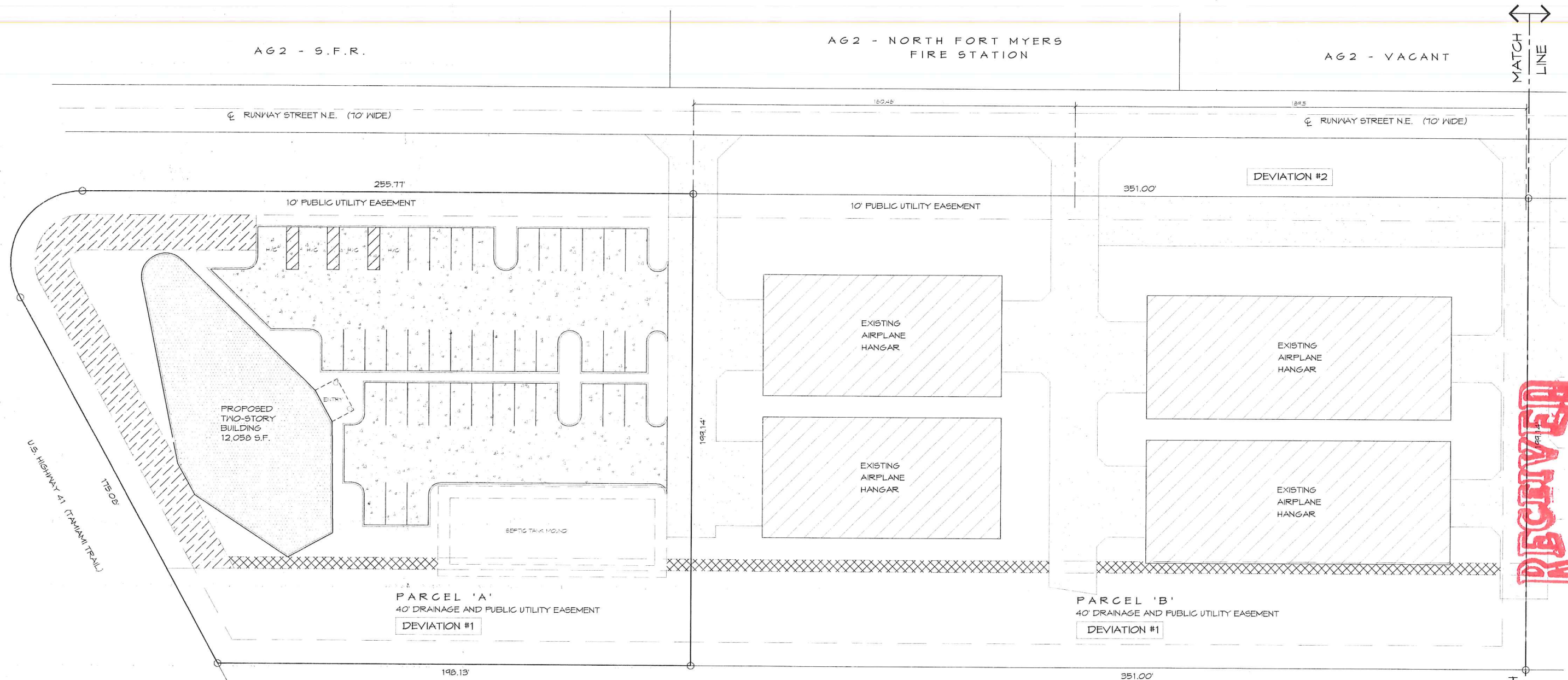
KNOTT, CONSOER, EBELINI,
HART & SWETT, P.A.

Mike Roeder

Michael E. Roeder, AICP
Director of Zoning and Land Use Planning

MER/ams ✓
Attachments

MASTER CONCEPT PLAN FOR PINE SHADOWS AIRPARK



PARCEL 'A'

TOTAL AREA = 1.14± ACRES
PARKING SPACES PROVIDED = 43 (4 HANDICAP)
OPEN SPACE REQUIRED = 0.34± ACRES (30%)
OPEN SPACE PROVIDED = 0.40± ACRES (35%)

ZONED: C.P.D.
LAND USE: SUBURBAN

MAXIMUM BUILDING HEIGHT = 35' (2 STORY)

LEGEND:

- 15' TYPE 'D' BUFFER
- 5' TYPE 'A' BUFFER WHERE PHYSICALLY POSSIBLE

M.H.P. VACANT - 2020 CONSERVATION LANDS

PARCEL 'B'

TOTAL AREA = 1.6± ACRES
TOTAL EXISTING BUILDINGS = 23,512 S.F.
OPEN SPACE PROVIDED = 0.66± ACRES (41%)

ZONED: C.P.D.
LAND USE: SUBURBAN

MAXIMUM BUILDING HEIGHT = 25' (2 STORY)

TOTAL PROPERTY:

TOTAL AREA = 4.75± ACRES
OPEN SPACE PROVIDED = 1.56± ACRES (33%)

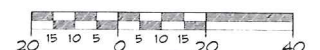
PARCELS ARE NOT ON LEE-TRAN ROUTE

PREPARED BY:

david estes & associates, inc.
239.995.6231
08.21.2007



SCALE: 1:20



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