

2-10-002

GIS Tracking Sheet

Case No.: DCI2007-00045

Intake Date: 27 June 2007

Project Name: Bayshore 57 MPD

STRAP Number(s): 20-43-25-00-00003.3000

Planner Name: Tony Palermo Ext. 8325

LEGAL DESCRIPTION VERIFICATION and INITIAL GIS MAPPING

Date: 7/2/2007

INTAKE: DCI 07045

LEGAL SUFFICIENT

☒ YES

☐ NO

Initials: CSJ

If not, give brief explanation:

Review 36.76 +/- ac from AG-2 to MPO for Project known
as Bayshore 57 MPD. 4/10/07.

MAP UPDATE following FINAL ACTION

Date:

☐ Hearing Examiner Decision

☐ Board of County Commissioner's Resolution

☐ Administrative Approval

☐ Blue Sheet

Zoning Notes:

12/15/00

MAP UPDATED

☒ YES

☐ NO

Initials: CJ

If not, give brief explanation:

2007: 1 PD: 501353

PROPERTY DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH 89°43'21" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 20, FOR 292.75 FEET; THENCE SOUTH 43°58'29" EAST FOR 2875.15 FEET TO A POINT ON A CURVE, SAID POINT BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (BAYSHORE ROAD), SAID CURVE BEING CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 2914.79 FEET SUBTENDED BY A CHORD OF 164.66 FEET AT A BEARING OF SOUTH 44°24'15" WEST; THENCE RUN SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 3°14'14", FOR AN ARC DISTANCE OF 164.68 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 42°47'09" WEST FOR A DISTANCE OF 264.79 FEET TO THE NORTHEASTERLY CORNER OF PARCEL #122 SECTION 12060-2535 STATE ROAD 783 AS RECORDED IN INSTRUMENT #2006000126434 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 47°12'51" WEST ALONG THE NORTHEASTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 15.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL #122; THENCE SOUTH 42°47'09" WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 365.75 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL #122 AND A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAMVILLE ROAD (OLD BAYSHORE ROAD); THENCE SOUTH 89°42'36" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 213.46 FEET TO A POINT ON THE EASTERLY LINE OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1215, PAGE 896 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°04'14" EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 300.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE SOUTH 89°42'36" WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND AND A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE NORTH 00°04'14" EAST ALONG SAID WEST LINE A DISTANCE OF 342.85 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'47" WEST FOR A DISTANCE OF 660.30 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°00'59" EAST FOR A DISTANCE OF 667.88 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'59" WEST FOR A DISTANCE OF 660.93 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°02'16" WEST ALONG THE WEST LINE OF SAID SECTION 20 FOR A DISTANCE OF 1335.82 FEET TO THE POINT OF BEGINNING.

CONTAINING 56.76 ACRES MORE OR LESS.

Applicant's Legal Checked
by CG 3/24/08

2007-00045

EXHIBIT "A"

P.O.B.
W. 1/4 CORNER
SECTION 20

BEARING BASIS
N89°43'21"E 1031.64'

S89°43'21" W 1324.38'

N.E. CORNER
S.W. 1/4
SECTION 20

CURVE	LENGTH	RADIUS	DELTA	CHORD	BEARING	CHORD
C1	164.68	2914.79	3°14'14"	544°24'15"W		164.66

LINE TABLE		
LINE	LENGTH	BEARING
L1	279.23	S89°42'36"W
L2	213.46	S89°42'36"W
L3	25.00	N0°41'14"E
L4	292.75	N89°43'21"E
L5	200.00'	S89°42'36"W
L6	300.00'	N0°41'14"E
L7	264.79'	S42°47'09"W

INSTRUMENT #
2005000198564
VACANT
NOT PLATTED

82
 VACANT
 NOT PLATTED
 56.76 acres
 LIVESTOCK & PASTURE
 PER QUATTROU & ASSOCIATES
 Q.R. BOOK 1408 PAGE 1746
 S89°42'59"W 660.93'

O.R. BOOK 4595 PAGE 1273
· VACANT
NOT PLATTED

O.R. BOOK 357 PA
OCCUPIED
NOT PLATTED

S89°42'47"W 660.30

N

O.R. BOOK 337 PAGE 1
OCCUPIED
NOT PLATTED

1650

S.W. CORNER
SECTION 20

NOT A SURVEY

SAMVILLE ROAD (OLD BAYSHORE RD.)
EXISTING 50' ROADWAY

N89°42'36"E 908.55'
S.E. CORNER
S.W. 1/4
SECTION 20

SKETCH & LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN
SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

KRIS A SLOSSER P.S.M.

4650 VILLA CAPI LN. BONITA SPRINGS
FLORIDA 34134 (239) 947-1915

SCALE: 1" = 500'

DRAWING: 60489SKETCH

DRAWN BY: KAS

JOB#: 60489SKETCH

0' 250' 500'

SCALE: 1" = 500'

LEGEND

O.R. OFFICIAL RECORDS BOOK
P.G. PAGE
P.O.B. POINT OF BEGINNING

NOTES:

1.) BEARINGS SHOWN HEREON REFER TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING A ASSUMED BEARING OF N.89°43'21"E.

2.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.

PROPERTY DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH 89°42'21" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 20, FOR 282.75 FEET, THENCE SOUTH 43°56'29" EAST FOR 287.515 FEET TO A POINT ON A CURVE, SAID POINT BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD #C-78 (BAISHORE ROAD), SAID CURVE BEING CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 293.479 FEET SUBTENDED BY A CHORD OF 164.66 FEET AT A BEARING OF SOUTH 44°21'15" WEST, THENCE RUN SOUTHWESTERLY ALONG SAID CENTRAL RIGHT-OF-WAY LINE, ALONG THE ARC OF SAID CURVE, THROUGH A POINT OF TANGENCY OF 574.14', FOR AN ARC DISTANCE OF 164.68 FEET TO A POINT OF TANGENCY, THENCE 89°42'21" WEST FOR A DISTANCE OF 100.00 FEET TO THE SOUTHWESTERLY CORNER OF PARCEL #122, SECTION 12060-2515 STATE ROAD 783 AS RECORDED IN INSTRUMENT #20090001266434, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, #20090001266434, WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 15.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL #122, THENCE SOUTH 42°47'09" WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 365.75 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL #122 AND A POINT ON THE BAYSHORE RIGHT-OF-WAY LINE OF SAVANILLE ROAD (OLD BAYSHORE ROAD); THENCE SOUTH 89°42'21" WEST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 100.00 FEET TO A POINT ON THE WESTERN LINE OF PARCEL OF LAND AS DESCRIBED IN OPFLORA RECORD BOOK 1215, PAGE 889 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THENCE NORTH 00°04'1" EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 300.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL, THENCE SOUTH 89°42'36" WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND AND A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20, THENCE NORTH 00°04'1" EAST ALONG SAID WEST LINE, A DISTANCE OF 302.35 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 20, THENCE RUN SOUTH 89°42'47" WEST FOR A DISTANCE OF 660.30 FEET TO THE SOUTHWEST CORNER OF THE NORTH-EAST QUARTER OF SAID SECTION 20, THENCE NORTH 00°05'59" EAST FOR A DISTANCE OF 667.88 FEET TO THE NORTHWEST CORNER OF THE NORTH-EAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20, THENCE RUN SOUTH 89°42'59" WEST FOR A DISTANCE OF 660.93 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 20, THENCE RUN NORTH 00°02'16" WEST ALONG THE WEST LINE OF SAID SECTION 20, FOR A DISTANCE OF 135.82 FEET TO THE POINT OF BEGINNING.

CONTAINING 56.76 ACRES MORE OR LESS

KRIS A. SLOSSER, STATE OF FLORIDA, (P.S.M. #55560

Applicant's Legal Checked
by GA 3/24/08

JUN 27 2007

RECEIVED

LEGAL DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH 89°43'21" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 20, FOR 292.75 FEET; THENCE SOUTH 43°58'29" EAST FOR 2875.15 FEET TO A POINT ON A CURVE, SAID POINT BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (BAYSHORE ROAD), SAID CURVE BEING CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 2914.79 FEET; THENCE RUN SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 3°14'12", FOR AN ARC DISTANCE OF 164.66 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 42°47'09" WEST FOR A DISTANCE OF 264.79 FEET TO THE NORTHEASTERLY CORNER OF PARCEL #122 SECTION 12060-2535 STATE ROAD 783 AS RECORDED IN INSTRUMENT #2006000126434 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 47°12'51" WEST ALONG THE NORTHEASTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 15.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL #122; THENCE SOUTH 42°47'09" WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 365.75 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL #122 AND A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAMVILLE ROAD (OLD BAYSHORE ROAD); THENCE NORTH 89°42'36" EAST ALONG THE SOUTHERLY LINE OF SAID PARCEL #122 AND SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 20.54 FEET TO A POINT ON SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (BAYSHORE ROAD); THENCE SOUTH 42°47'09" WEST ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 34.24 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE SOUTH 89°42'36" WEST ALONG SAID SOUTH LINE A DISTANCE OF 210.78 FEET TO THE SOUTHEAST CORNER OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1215, PAGE 896 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°04'14" EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 325.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE SOUTH 89°42'36" WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND AND A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE NORTH 00°04'14" EAST ALONG SAID WEST LINE A DISTANCE OF 342.85 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'47" WEST FOR A DISTANCE OF 660.30 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°00'59" EAST FOR A DISTANCE OF 667.88 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'59" WEST FOR A DISTANCE OF 660.93 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°02'16" WEST ALONG THE WEST LINE OF SAID SECTION 20 FOR A DISTANCE OF 1335.82 FEET TO THE POINT OF BEGINNING.

SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORDS. CONTAINING 56.89 ACRES MORE OR LESS.

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.

Kris A. Slosser 12/5/06

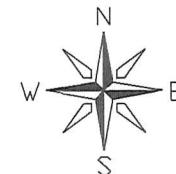
KRIS A. SLOSSER, STATE OF FLORIDA, (P.S.M. #5560)
SEE ATTACHED SKETCH

Applicant's Legal Checked
by CSJ 7/2/2007

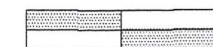
SHEET 2 OF 2

SCALE: 1" = 200'	DRAWING: 60489 SKETCH	DRAWN BY: KAS	<p>LEGAL DESCRIPTION</p> <p>A PARCEL OF LAND LOCATED IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST LEE COUNTY, FLORIDA</p>	<p>KRIS A SLOSSER P.S.M.</p> <p>4650 VILLA CAPRI LN. BONITA SPRINGS</p> <p>FLORIDA 34134 (239) 947-1915</p>
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N.E. CORNER
S.W. 1/4
SECTION 20



SCALE: 1" = 500'



0' 250' 500'

LEGEND

F.A.C.	FLORIDA ADMINISTRATIVE CODE
P.S.M.	PROFESSIONAL SURVEYOR & MAPPER
RNG.	RANGE
O.R.	OFFICIAL RECORDS BOOK
PG.	PAGE
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING

NOTES:

- 1.) BEARINGS SHOWN HEREON REFER TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING A ASSUMED BEARING OF N.89°43'21"E.
- 2.) THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.
- 3.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.

COMMUNITY DEVELOPMENT

27 2007

WELLS

Applicant's Legal Checked
by CSJ 7/2/2007

SHEET 1 OF 2

57000-2002

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	164.66	2914.79	3°14'12"	S44°24'15"W	164.64

LINE	LENGTH	BEARING
L1	210.78	S89°42'36"V
L2	34.24	S42°47'09"V
L3	20.54	N89°42'36"V
L4	292.75	N89°43'21"V
L5	200.00'	S89°42'36"V
L6	325.00'	N00°04'14"E
L7	264.79'	S42°47'09"V

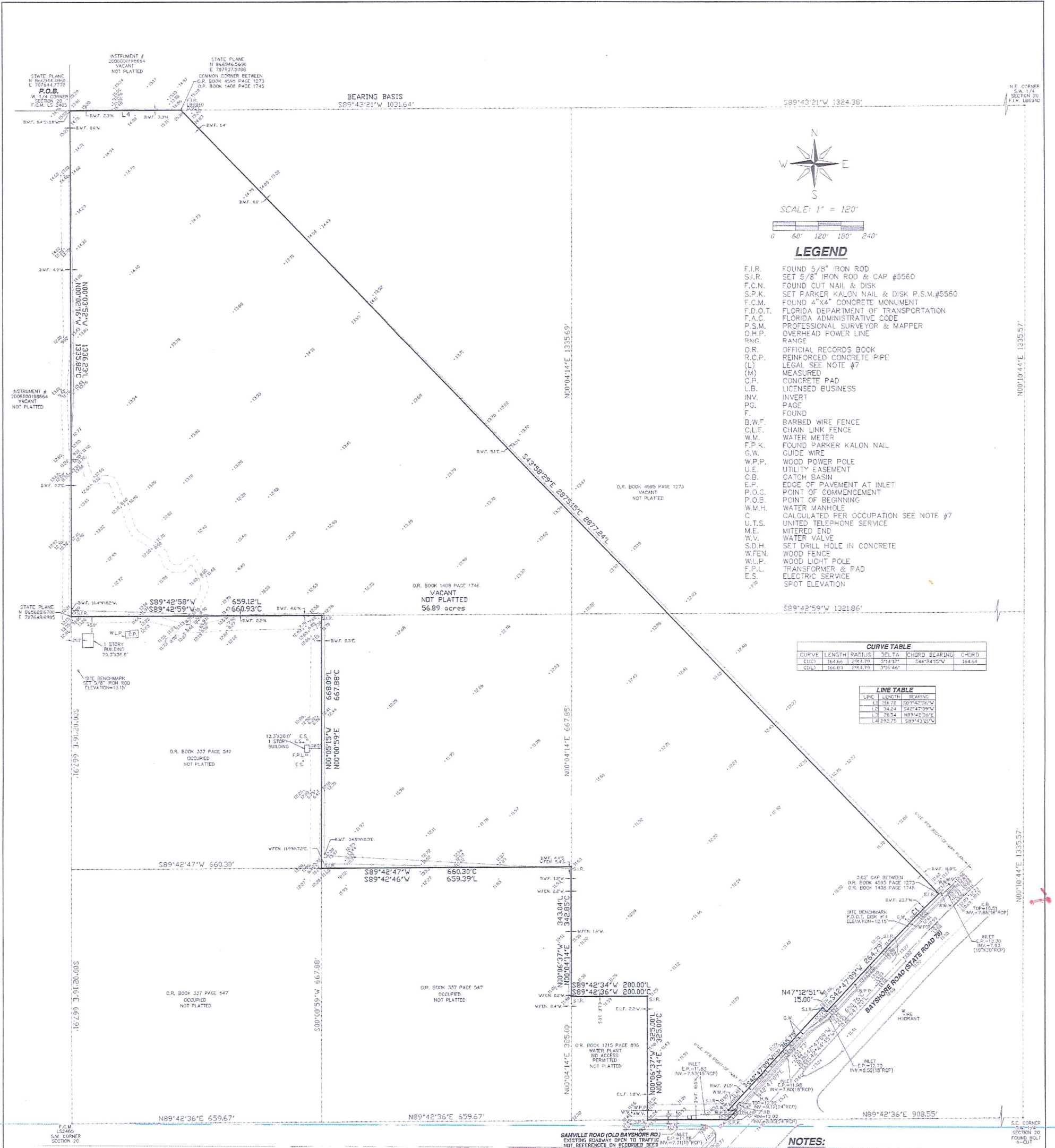
NOT A SURVEY

**SKETCH TO ACCOMPANY
LEGAL DESCRIPTION**

A PARCEL OF LAND LOCATED IN
SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

KRIS A SLOSSER P.S.M.
4650 VILLA CAPRI LN. BONITA SPRINGS
FLORIDA 34134 (239) 947-1915

JOB#: 60489SKETCH
DRAWN BY: KAS
DRAWING: 60489SKETCH
SCALE: 1" = 500'



PROPERTY DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH 89°43'21" EAST ALONG THE NORTH LINE OF THE SOUTH-WEST QUARTER OF SAID SECTION 20, FOR 292.75 FEET; THENCE SOUTH 43°58'29" EAST FOR 2875.15 FEET TO A POINT ON A CURVE, SAID POINT BEING ON THE NORTH-WESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (BAYSHORE ROAD), SAID CURVE BEING CONVEX TO THE SOUTHEAST HAVING A RADIUS OF 2914.79 FEET; THENCE RUN SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 314°12', FOR AN ARC DISTANCE OF 164.66 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 42°47'09" WEST FOR A DISTANCE OF 284.79 FEET TO THE NORTHEASTLY CORNER OF PARCEL #122, SECTION 12060-2535 STATE ROAD 783 AS RECORDED IN INSTRUMENT #2006000126434 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 47°12'51" WEST ALONG THE NORTHEASTLY LINE OF SAID PARCEL #122, A DISTANCE OF 15.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL #122; THENCE SOUTH 42°47'09" WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 365.75 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL #122 AND A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID PARCEL #122; THENCE NORTH 89°42'36" EAST ALONG THE SOUTHERLY LINE OF SAID PARCEL #122 AND SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 20.54 FEET TO A POINT ON SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (BAYSHORE ROAD); THENCE SOUTH 42°47'09" WEST ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 34.24 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE SOUTH 89°42'36" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 210.78 FEET TO THE SOUTHEAST CORNER OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1215, PAGE 896 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°04'14" EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 325.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE SOUTH 89°42'36" WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND AND A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE NORTH 00°04'14" EAST ALONG SAID WEST LINE, A DISTANCE OF 342.85 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'47" WEST FOR A DISTANCE OF 660.30 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 00°05'15" EAST FOR A DISTANCE OF 667.88 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'59" WEST FOR A DISTANCE OF 660.93 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 00°02'16" WEST ALONG THE WEST LINE OF SAID SECTION 20 FOR A DISTANCE OF 1335.82 FEET TO THE POINT OF BEGINNING.

SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORDS, CONTAINING 56.89 ACRES MORE OR LESS.

O.R. 1408 PAGE 1746:

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE WEST QUARTER CORNER OF SAID SECTION 20, AND RUN NORTH 89°43'21" EAST ALONG THE NORTH LINE OF THE SOUTH-WEST QUARTER (SW¼) OF SAID SECTION 20 FOR 292.75 FEET; THENCE SOUTH 43°58'29" EAST FOR 2877.24 FEET TO THE POINT ON A CURVE, SAID POINT BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (BAYSHORE ROAD), SAID CURVE BEING CONVEX TO THE SOUTHEAST HAVING A RADIUS OF 2914.79 FEET; THENCE RUN SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 316°46' FOR AN ARC DISTANCE OF 166.82 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE SOUTH 42°44'45" WEST FOR 647.20 FEET; THENCE RUN SOUTH 89°42'34" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER (SE¼) OF THE SOUTHWEST QUARTER (SW¼) OF SAID SECTION 20 FOR 212.28 FEET; THENCE RUN NORTH 00°06'37" WEST FOR 325.00 FEET; THENCE RUN SOUTH 89°42'34" WEST FOR 200.00 FEET; THENCE RUN NORTH 00°06'37" WEST ALONG THE WEST LINE OF THE SOUTHEAST QUARTER (SE¼) OF THE SOUTHWEST QUARTER (SW¼) OF SAID SECTION 20 FOR 343.04 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE¼) OF THE SOUTHWEST QUARTER (SW¼) OF SAID SECTION 20; THENCE RUN SOUTH 89°42'46" WEST FOR 659.39 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER (SW¼) OF SAID SECTION 20; THENCE RUN NORTH 00°05'15" WEST FOR 668.08 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE¼) OF THE SOUTHWEST QUARTER (SW¼) OF SAID SECTION 20; THENCE RUN SOUTH 89°42'58" WEST FOR 659.12 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (NW¼) OF THE SOUTHWEST QUARTER (SW¼) OF SAID SECTION 20; THENCE RUN NORTH 00°03'52" WEST ALONG THE WEST LINE OF SAID SECTION 20 FOR 1336.23 FEET TO THE POINT OF BEGINNING, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORDS, CONTAINING 57.07 ACRES MORE OR LESS.

NOTES:

- 1.) BEARINGS SHOWN HEREON REFER TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING A ASSUMED BEARING OF N.89°43'21"E.
- 2.) THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS OF RECORD.
- 3.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
- 4.) THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- 5.) IMPROVEMENTS OTHER THAN THOSE SHOWN HAVE NOT BEEN LOCATED.
- 6.) THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE AE, HAVING A BASE FLOOD ELEVATION OF 12.0 PER F.I.R.M. 125124 0225 C, DATED MAP REVISED 5/15/94.
- 7.) THE LEGAL DESCRIPTION SHOWN IS FOR DEVELOPMENT PURPOSES ONLY. THE BOUNDARY COMPARISONS SHOWN ARE BASED ON THE DESCRIPTION AS RECORDED IN OFFICIAL RECORDS BOOK 1408 PAGE 1746 AND THE ACTUAL MONUMENTATION AS IT EXISTS AS OF THE SURVEY DATE SHOWN. PARCEL #122, STATE ROAD RIGHT-OF-WAY TAKE, HAS ALSO BEEN LESSOR OUT OF THE ORIGINAL DESCRIPTION.
- 8.) ELEVATIONS SHOWN ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929 & DEPARTMENT OF TRANSPORTATION BENCHMARK #14 ELEVATION 12.15' NATIONAL GEODETIC SURVEY MARKER 175-81-A53 ELEVATION 33.42' & 175-81-A57 RV2 ELEVATION 46.13' (GPS OBSERVATIONS & SITE CALIBRATED).
- 9.) COORDINATES SHOWN ARE BASED ON NATIONAL GEODETIC SURVEY MARKER SURVEY MARKER 175-81-A53 STATE PLANE COORDINATE N 865517.69 E 717713.70, FLORIDA WEST NAD 1983. (GPS OBSERVATION).

CERTIFIED TO:

QUATRONE & ASSOCIATES

CERTIFICATION:

I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY OF THE HEREON DESCRIBED PROPERTY WAS SURVEYED UNDER MY RESPONSIBLE CHARGE ON 11/22/06. THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17-6, F.A.C. PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

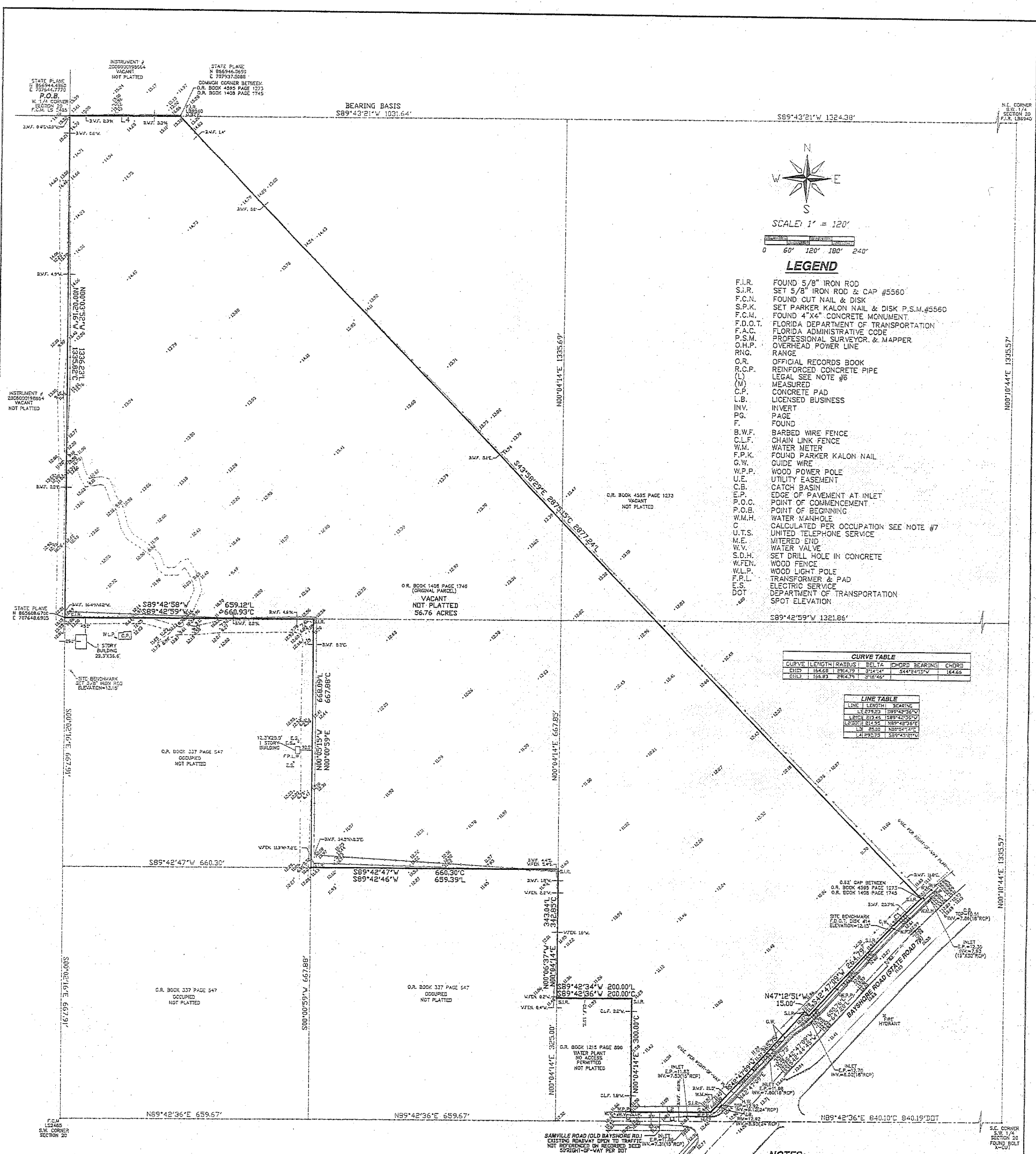
KRIS A. SLOSSER, STATE OF FLORIDA, (P.S.M. #5560)

BOUNDARY SURVEY
A PORTION OF
SECTION 20 TOWNSHIP 43 SOUTH RANGE 25 EAST
LEE COUNTY, FLORIDA

KRIS A SLOSSER P.S.M.
4650 VILLA CAPRI LN. BONITA SPRINGS
FLORIDA 34134 (239) 947-1915

DCI 2007-00045

RECEIVED
JUN 27 2007
PERMIT COUNTER



PROPERTY DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH $89^{\circ}42'21''$ EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 20, FOR 282.75 FEET; THENCE SOUTH $43^{\circ}38'20''$ EAST FOR 287.515 FEET TO A POINT ON A CURVE, SAID POINT BEING ON THE WEST LINE OF SAID SECTION 20, THENCE CURVE TO THE RIGHT, RADIUS 100.00 FEET, CHORD BEING CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 294.79 FEET, AN ARC OF 164.68 FEET OF 164.68 FEET AT A BEARING OF SOUTH $42^{\circ}42'15''$ WEST; THENCE RUN SOUTHWESTERLY ALONG S/4 RIGHT-OF-WAY LINE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF $31^{\circ}41'4''$, TO THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH $89^{\circ}42'21''$ EAST ALONG SAID RIGHT-OF-WAY LINE, SOUTH $42^{\circ}47'09''$ WEST FOR A DISTANCE OF 284.79 FEET TO THE NORTHEASTERLY CORNER OF PARCEL #122, SECTION 12060-2535 STATE ROAD 793 AS RECORDED IN PUBLIC RECORDS OF DEEDS, LEE COUNTY, FLORIDA; THENCE NORTH $89^{\circ}42'21''$ EAST ALONG THE NORTHEASTERN LINE OF SAID SECTION 20, A DISTANCE OF 282.75 FEET TO THE WESTERLY CORNER OF SAID PARCEL #122; THENCE SOUTH $42^{\circ}47'09''$ WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 365.78 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL #122; THENCE RUN SOUTHWESTERLY ALONG THE WEST LINE OF SAID PARCEL #122, A DISTANCE OF 365.78 FEET TO THE WEST LINE OF SANMILLER ROAD (OLD BAYSHORE ROAD); THENCE SOUTH $89^{\circ}42'36''$ WEST ALONG SAID NORTHWESTERLY LINE, RIGHT-OF-WAY LINE, A DISTANCE OF 213.48 FEET TO A POINT ON THE EASTERLY LINE OF A PARCEL, SAID POINT BEING ON THE WEST LINE OF SAID SECTION 20, THENCE CURVE TO THE RIGHT, RADIUS 100.00 FEET, CHORD BEING CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 294.79 FEET, AN ARC OF 164.68 FEET OF 164.68 FEET AT A BEARING OF SOUTH $42^{\circ}42'15''$ WEST; THENCE RUN SOUTHWESTERLY ALONG S/4 RIGHT-OF-WAY LINE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF $31^{\circ}41'4''$, TO THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH $89^{\circ}42'21''$ EAST ALONG SAID RIGHT-OF-WAY LINE, SOUTH $42^{\circ}47'09''$ WEST FOR A DISTANCE OF 300.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE SOUTH $42^{\circ}47'09''$ WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE RUN NORTH $89^{\circ}42'21''$ EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE NORTH $00^{\circ}04'41''$ EAST ALONG SAID EAST LINE A DISTANCE OF 342.85 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 20; THENCE RUN SOUTHWESTERLY ALONG THE WEST LINE OF SAID SECTION 20, A DISTANCE OF 667.85 FEET TO THE WEST LINE OF SAID SECTION 20; THENCE RUN SOUTH $89^{\circ}42'21''$ WEST FOR A DISTANCE OF 660.30 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTHWESTERLY ALONG THE WEST LINE OF SAID SECTION 20, A DISTANCE OF 667.85 FEET TO THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH $89^{\circ}42'21''$ WEST FOR A DISTANCE OF 660.83 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH $89^{\circ}42'21''$ WEST FOR A DISTANCE OF 660.83 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH $89^{\circ}42'21''$ EAST ALONG THE WEST LINE OF SAID SECTION 20 FOR A DISTANCE OF 1335.62 FEET TO THE POINT OF BEGINNING.

CONTAINING 56.76 ACRES MORE OR LESS.

O.R.1408 PAGE 1746:

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE WEST QUARTER CORNER OF SAID SECTION 20, AND RUN NORTH 89°43'21" EAST ALONG THE NORTH LINE OF THE SOUTH-WEST QUARTER (SW_{1/4}) OF SAID SECTION 20 FOR 304.02 FEET; THENCE SOUTH 43°58'28" EAST FOR 237.24 FEET TO THE POINT ON A FORD ROAD BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (GAYSHORE ROAD); SAID CURVE BEING CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 2914.79 FEET; THENCE RUN SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 100°03'16" TO THE POINT OF BEGINNING OF SAID SECTION 20; THENCE THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE SOUTH 42°44'45" WEST FOR 647.21 FEET; THENCE RUN NORTH 89°42'34" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER (SE_{1/4}) OF THE SOUTHWEST QUARTER (SW_{1/4}) OF SAID SECTION 20 FOR 212.26 FEET; THENCE RUN NORTH 00°37'37" WEST FOR 325.00 FEET; THENCE RUN SOUTH 89°42'54" WEST FOR 200.00 FEET; THENCE RUN NORTH 00°57'37" WEST ALONG THE WEST LINE OF THE SOUTHEAST QUARTER (SE_{1/4}) OF THE SOUTHWEST QUARTER (SW_{1/4}) OF SAID SECTION 20 FOR 343.04 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW_{1/4}) OF SAID SECTION 20; THENCE RUN SOUTH 89°41'41" WEST ALONG THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE_{1/4}) OF THE SOUTHWEST QUARTER (SW_{1/4}) OF SAID SECTION 20; THENCE RUN SOUTH 89°41'41" WEST ALONG THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE_{1/4}) OF THE SOUTHWEST QUARTER (SW_{1/4}) OF SAID SECTION 20; THENCE RUN NORTH 00°01'16" WEST FOR 558.00 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE_{1/4}) OF THE SOUTHWEST QUARTER (SW_{1/4}) OF THE SOUTHWEST QUARTER (SW_{1/4}) OF SAID SECTION 20; THENCE RUN SOUTH 89°42'56" WEST FOR 559.12 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (NW_{1/4}) OF THE SOUTHWEST QUARTER (SW_{1/4}) OF SAID SECTION 20; THENCE RUN NORTH 00°03'37" WEST ALONG THE WEST LINE OF SAID SECTION 20 FOR 338.33 FEET TO THE POINT OF BEGINNING; THEREAFTERS AND RESTRICTIONS OF RECORDS, CONTAINING 37.071 ACRES MORE OR LESS TO

FIELD BOOK AND PAGE:	KRIS GPS
DRAWN BY:	KAS
DRAWING:	60489
SCALE:	1" = 120'

BOUNDARY SURVEY

A PORTION OF
SECTION 20 TOWNSHIP 43 SOUTH RANGE 25 EAST
LEE COUNTY, FLORIDA

NOTES:

- 1) BEARINGS SHOWN HEREON REFER TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING A ASSUMED BEARING OF N.89°43'21"E.
- 2) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.
- 3) THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- 4) IMPROVEMENTS OTHER THAN THOSE SHOWN HAVE NOT BEEN LOCATED.
- 5) THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE 4A, HAVING A BASE FLOOD ELEVATION OF 12.0 PER F.I.R.M. 125214 0225 C, DATED MAP REVISED 3/7/11
- 6) THE LEGAL DESCRIPTION SHOWN IS FOR DEVELOPMENT PURPOSES ONLY. THE BOUNDARY COMPARISONS SHOWN ARE BASED ON THE DESCRIPTION AS RECORDED IN OFFICIAL RECORDS BOOK 1408 PAGE 1746 AND THE ACTUAL RECORDMENT AS IT EXISTS AS OF THE SURVEY DATE SHOWN. PARCEL #122, STATE ROAD RIGHT-OF-WAY TAGE, HAS ALSO BEEN LESSONED OUT OF THE SHOWING OF THIS SURVEY. SEE MAP OF VILLE RD.
- 7) ELEVATIONS SHOWN ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929 & DEPARTMENT OF TRANSPORTATION BENCHMARK #1. ELEVATION 12.15 NATIONAL GEODETIC SURVEY MARKER 1761-81-8153 OBSERVATIONS 33.42' & 1947 RM2 ELEVATION 44.13 (GPS OBSERVATIONS & SITE CALIBRATED).
- 8) COORDINATES SHOWN ARE BASED ON NATIONAL GEODETIC SURVEY MARKER SURVEY MARKER 1761-81-8153 PLANE 11 DATUM NAD 83 65557.69 & 77713.70, FLORIDA VEST NAD 1983, (GPS OBSERVATION)

CERTIFIED TO:

QUATTRONE & ASSOCIATES
CERTIFICATION

CERTIFICATION:

I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY OF THE HEREON DESCRIBED PROPERTY WAS SURVEYED UNDER MY RESPONSIBLE CHARGE ON 02/25/08. THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G17-6, F.A.C. PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

KRIS, J. SLOSSER, STATE OF FLORIDA, (P.S.N. #5550)
RECEIVED LEGAL 03/18/09

KRIS A SLOSSER P.S.M.

4650 VILLA CAPRI LN. BONITA SPRINGS
FLORIDA 34134 (239) 947-1915

Applicant's Survey Checked
By CA 3/24/87 57000-2052 101

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

WHEREAS, Quattrone and Associates, Inc., filed an application on behalf of the property owner, Theta Investments N.V. Corp., to rezone a 56.76±-acre parcel from Agricultural (AG-2) to Mixed Use Planned Development (MPD) in reference to Bayshore 57 MPD; and,

WHEREAS, a public hearing was advertised for May 20, 2010. On May 20, 2010, at the request of the Applicant, the Hearing Examiner, Richard A. Gescheidt, continued the hearing until July 23, 2010. On July 23, 2010, the public hearing was held. At the conclusion of the hearing, the Hearing Examiner left the record open and requested Staff and the Applicant to submit written submissions to his Office on or before August 6, 2010.

WHEREAS, the Lee County Zoning Hearing Examiner gave full consideration to the evidence in the record for Case # DCI2007-00045; and,

WHEREAS, a second public hearing was advertised and held on October 4, 2010, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record, and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to rezone a 56.76±-acre parcel from AG-2 to MPD to allow for a maximum of 140,000 square feet of commercial floor area to: include a maximum of 70,000 square feet of commercial retail; a maximum of 35,000 square feet of medical office; a maximum of 35,000 square feet of office; and a maximum of 176 dwelling units to include maximum of 104 townhomes and a maximum 72 single-family dwelling units. Maximum height proposed is two stories/35 feet. Development blasting is not requested. The development will connect to public potable water and public sanitary sewer service.

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

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

SECTION B. CONDITIONS:

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

1. Development of this project must be consistent with the four-page Master Concept Plan (MCP) entitled "Master Concept Plan: Bayshore 57," prepared by Quattrone & Associates, Inc., date stamped "Received Oct 26 2010 Community Development," last revised October 05, 2010 for page 1, and October 12, 2010 for page 2, and attached hereto as Exhibit C, except as modified by the conditions below.

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

Maximum Commercial Floor Area: 140,000 square feet of floor area to include 70,000 square feet of commercial retail square footage as defined by the Lee County Comprehensive Plan (Comp Plan) per Policy 6.1.2(7); a maximum of 35,000 square feet of medical office; and a maximum of 35,000 square feet of commercial office.

Maximum Residential Density: 176 dwelling units, 4.678 units per acre, and limited to a maximum of the following types of dwelling units:

72 single-family units; and 104 townhome, multi-family units or ALF equivalent units pursuant to the LDC.

2. Schedule of Uses

- a. The following limits apply to the project and uses.

RESIDENTIAL AREA

Accessory uses and structures
Administrative Offices
Agricultural - limited to cattle grazing and Condition 9.
Assisted Living Facility (ALF)
Clubs: Private
Community Garden
Consumption on Premises, See Condition 15.
Dwelling unit: Single-Family, Townhouse, Multiple family building (per Condition 1).
Entrance gates and gatehouse
Essential services
Essential service facilities: Groups I and II
Excavation: Water retention. Not to include removal of excavated material from site.
No blasting.
Models: Display center, Model units, Model homes. See condition 11.
Parking lot: Accessory
Recreation facilities: Personal, Private On site
Signs - in accordance with LDC Chapter 30.
Temporary uses - construction office, construction trailer, sales center, parking lot.

COMMERCIAL AREA

See Condition #20.

RETAIL SHOPPING CENTER AREA

Accessory uses and structures
Administrative Offices
Agricultural - limited to cattle grazing and Condition 9.
Animals: Clinic or kennel (No outdoor runs)
ATM (automatic teller machine)
Auto parts store (with or without installation)
Bait and tackle shop
Banks and financial establishments: Groups I and II
Business services: Groups I and II (excluding Bail Bonding, Armored Car Services, Automobile Claims Adjusters, and Automobile Repossessing Services.
Cleaning and maintenance services
Clothing stores, general
Computer and data processing services
Consumption on premises - See Condition 15.
Convenience food and beverage store - limited to 1.
Department store
Drive through facility for any permitted use
Drugstore, pharmacy
Entrance gates and gatehouse
Essential services
Essential service facilities: Group I
Excavation: Water retention. Not to include removal of excavated material from site. No blasting.
Fences, walls
Food and beverage service, limited
Food stores: Groups I and II
Gift and souvenir shop
Hardware store
Hobby, toy and game shops
Household and office furnishings, all groups
Insurance companies
Laundry or dry cleaning: Groups I and II
Lawn and garden supply stores
Library
Medical office
Nonstore retailers, all groups
Paint, glass and wallpaper
Parking lot: Accessory
Personal services: Groups I, II and III (no massage parlors, steam or Turkish baths)
Pet services (no outdoor runs)
Pet shop (no outdoor runs)
Photo finishing laboratory
Place of worship
Post office
Printing and publishing

Real estate sales office
Recreation facilities Commercial: Group IV
Religious facilities
Repair shops: Groups I, II, and III
Restaurant, fast food - limited to 1 stand alone. No limit on fast food within a multi-occupancy plaza.
Restaurants: Groups I, II and III
Retail and wholesale sales, when clearly incidental and subordinate to a permitted principal use on the same premises
Self Service Fuel Pumps - limited to 16 (accessory to convenience food and beverage store only.)
Signs (in accordance with LDC Chapter 30)
Social services: Groups I and II
Specialty Retail Shops: Groups I and II - excluding Tobacco stores.
Storage: Indoor only
Studios
Temporary uses - construction office, construction trailer, sales center, parking lot.
Theater, indoor
Used merchandise stores: Groups I, II and III
Variety store

MEDICAL AND OFFICE BUILDING

Accessory uses and structures
Administrative Offices
Agricultural - limited to cattle grazing and Condition 9.
ATM (automatic teller machine)
Banks and financial establishments: Groups I and II
Business services: Groups I and II (excluding Bail Bonding, Armored Car Services, Automobile Claims Adjusters, and Automobile Repossessing Services.
Cleaning and maintenance services
Computer and data processing services
Entrance gates and gatehouse
Essential services
Essential service facilities: Group I
Excavation: Water retention. Not to include removal of excavated material from site. No blasting.
Fences, walls
Insurance companies
Library
Medical office
Parking lot: Accessory
Personal services: Groups I, II and III (no massage parlors, steam or Turkish baths)
Place of worship
Real estate sales office
Religious facilities
Signs (in accordance with LDC Chapter 30)
Social services: Groups I and II

b. Site Development Regulations

Minimum Lot Area and Dimensions

Residential Multi-family/ALF/recreation Facilities

Lot Size:	7,500 square feet
Lot Width:	100 feet
Lot Depth:	75 feet

Minimum Setbacks.

Public Street:	25 feet
Private Street	20 feet
Side:	15 feet
Rear:	25 feet
Water body	25 feet
Indigenous	20 feet/30 feet for fire dependent plant communities

Minimum Building Separation: 20 feet

Accessory use and structure setbacks must comply with LDC (LDC) § 34-1171 *et seq.* and LDC § 32-2194.

Maximum Lot Coverage:	45 percent
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Building/Structure Height:	2 stories/35 feet
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Townhouses

Minimum Lot Areas and Dimensions (per unit)

Lot Size:	1,530 square feet
Lot Width:	18 feet
Lot Depth:	85 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	0/10 feet (lesser setback for interior units)
Rear	15 feet
Water body	25 feet

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

Minimum Building Separation:	20 feet.
Maximum Lot Coverage:	75 percent

Building Height: 35 feet/ 2 stories

Single Family

Minimum Lot Areas and Dimensions (per unit)

Lot Size: 6,500 square feet
Lot Width: 50 feet
Lot Depth: 100 feet

Minimum Setbacks

Street 20 feet (public)/20 feet (private)
Side 5 feet
Rear 15 feet
Water body 25 feet
Indigenous 20 feet/30 feet for fire dependent plant communities

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

Minimum Building Separation: 10 feet.

Maximum Lot Coverage: 45 percent

Building Height: 2 stories/35 feet

Commercial

Lot Size: 10,000 square feet
Lot Width: 100 feet
Lot Depth: 100 feet

Minimum Setbacks

Public Street:
 Arterial 50 feet
 Other Public 25 feet
Private Street 20 feet
Side: 15 feet
Rear: 20 feet
Water body 25 feet
Indigenous 20 feet/30 feet for fire dependent plant communities

Minimum Building Separation: 20 feet

Accessory use and structure setbacks must comply with LDC (LDC) § 34-1171 *et seq.* and LDC § 32-2194.

Maximum Lot Coverage: 40 percent

Building/Structure Height: 2 stories/35 feet

3. No Blasting.

Development blasting is not permitted as part of this project, unless approved at a subsequent public hearing as an amendment to the planned development.

4. Traffic.

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

5. Lee County Comprehensive Plan.

Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Comp 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 Comp Plan provisions.

6. Concurrency.

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in Chapter 2 of the LDC and the Comp Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

7. Water and Sewer.

The subject property must connect to public potable water service and public sanitary sewer service. At time of any local development order approval, the developer must also demonstrate there is adequate water and sewer capacity to handle the proposed level of development. No on-site well systems may be utilized for potable water. No septic tanks or package plants may be utilized for sanitary sewer service.

8. 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.

9. Agricultural Uses.

Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:

- a. Bona fide agricultural uses that are in existence at the time the application for this project was filed, and as shown on Exhibit "D," attached hereto, may continue until approval of a local development order for the area of the project containing those uses.
- b. Additional clearing of trees or other vegetation in agricultural areas for agricultural purposes is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County-approved requests for the removal of invasive exotic vegetation.
- c. Prior to issuance of a local development order, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
 - (1) Termination of all agricultural use on any portion of the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:
 - (a) the date the agricultural uses ceased;
 - (b) the legal description of the property subject to the development order approval;
 - (c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the County that they will not allow any such uses on the property unless and until the property is rezoned to permit such uses; and,
 - (d) that the affidavit constitutes a covenant between the owner and the County that is binding on the owner and their assignees and successors in interest. The covenant must be properly recorded in the public records of the County at the owner's expense.
 - (2) Termination of the agricultural tax exemption for any portion of the property included in the development order application/approval. Proof as to termination must include a copy of the request to terminate the tax exemption provided to the Property Appraiser.

10. Solid Waste/Recycling.

As part of any local development order approval for vertical development, the development order plans must include facilities in compliance with LDC §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.

11. Model Homes/Units/Real Estate Sales.

- a. Model homes and units are limited to a maximum of eight.
- b. Models cannot be of the same floor plan and each must be a different design.
- c. Real estate sales are limited to clubhouses, model locations, and commercial areas as shown on the approved MCP.
- d. Real estate sales within the residential area will be limited to the sale of lots or units within the development only. Real estate sales in the commercial area are not limited.
- e. Hours of operation for model homes and real estate sales in the residential area are limited to Monday through Sunday, 8:00 a.m. to 8:00 p.m. Real estate sales in the commercial area are not limited.
- f. No dry models are permitted.

12. Access to Bayshore Road.

Access to Bayshore Road/State Road 78 is not guaranteed and is subject to Florida Department of Transportation approval.

13. Sidewalks.

Development must include internal sidewalks as depicted on the approved MCP as a site-related improvement. Such facilities must be included in local development orders as part of construction of the project's infrastructure.

14. Unified Architectural Theme and Design Standards.

- a. Prior to local development order approval, the exterior elevations of the commercial buildings must be in substantial compliance with the Exhibit "E" hereto.
- b. These designs are preliminary and subject to changes in conformance with this resolution and LDC Chapter 10, Article IV, §10-600 Design Standards and Guidelines for Commercial Buildings and Developments, *et. seq.*
- c. All structures, including signage, within the MPD must be designed to be architecturally compatible and share a common architectural theme.
- d. A unified signage plan will be submitted as an administrative amendment for staff review and approval in conjunction with local development order approval.
- e. Flat canopy roofs for self-service fuel pumps are prohibited.

- f. The use of neon lighting for the exterior lighting or signage of any buildings within the MPD area (excluding interior signage that may be incidentally visible from the exterior) is prohibited.
- g. The use of florescent colors for accent or primary exterior surfaces is prohibited. The color palette for the primary and accent exterior surfaces must be generally subdued and earth tones, excepting that national signage, consistent with the provisions of LDC Chapter 30 and the unified sign plan, will be allowed.

15. Consumption on Premises.

- a. Consumption on premises is limited to indoor seating in conjunction with a Group II or III Restaurant with a 4-COP-SRX and/or 2-COP beverage license.
- b. The hours of operation for indoor consumption on premises is limited to between 11:00 a.m. to 11:00 p.m. daily.
- c. No sale, service, or consumption of alcoholic beverages will be permitted without the sale or availability of food and non-alcoholic beverages on the same premises.
- d. Outdoor consumption on premises within the residential and/or commercial area of the MPD may be approved by a special exception or an amendment to the planned Development (public hearing required). The applicant must provide adequate detail of the outdoor seating area (square footage, number of seats, proposed hours, distance to Bayshore Elementary, outdoor entertainment, etc.) consistent with the requirements of the LDC.
- e. No consumption on premises (indoors or outdoors) will be permitted less than 1,000 feet from the closest boundary of the property line for Bayshore Elementary School.

16. Open Space.

Prior to local development order approval, the development order plans must delineate a minimum of 24.00 acres as common open space in substantial compliance with the MCP.

17. Indigenous Preserve.

Prior to local development order approval, the development order plans must depict a minimum of 12.19 acres, 13.53 acres with credits, as indigenous open space.

18. Gopher Tortoises.

Prior to development order approval, the applicant must first seek approval for on-site preservation of the gopher tortoises through avoidance or relocation before pursuing off-site relocation options. All communication with Florida Fish and Wildlife Conservation Commission (FWC) verifying that on-site avoidance or relocation attempts were made must be provided to Division of Environmental Sciences (ES) staff.

A copy of the appropriate gopher tortoise relocation permit issued by the (FWC) must be submitted to the ES staff prior to excavation and moving of any gopher tortoises. The applicant must first seek approval for an on-site relocation before pursuing off-site relocation options. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and ES staff.

19. Detention Areas.

Prior to local development order approval, if dry detention is proposed, the landscape plan must depict:

- a. the dry detention areas planted to include herbaceous vegetation arranged in clusters and planted in a one-gallon container size, three feet on center; and,
- b. the dry detention areas to be planted with scattered cypress (*Taxodium* sp.), red maple (*Acer rubrum*), and/or laurel oak (*Quercus laurifolia*) planted at 10 feet in height, two-inch caliper with a four-foot spread and 20-foot on center; and,
- c. general tree credits can be applied as per LDC §10-418(4) for herbaceous vegetation, and a general tree credit on a ratio of one-to-one for the planting of trees in the dry detention; and,
- d. The required plantings must be designed to not adversely affect the functions and future maintenance of the water management facilities and will meet the requirements of the South Florida Water Management District.

20. Commercial Uses.

No commercial uses or buildings are permitted on Tract "A," the 1.0±-acre southwest corner of the property fronting on Bayshore Road (S.R. 78) as shown on the approved MCP.

Uses permitted on this tract are limited to signs (in compliance with LDC Chapter 30), open space, essential services, and storm water management.

Any permitted uses must be located in an area to avoid impacts or minimize impacts to existing native vegetation.

Prior to local development order approval, the development order plans must indicate the wetland area (Tract "A") in the southwest corner as indigenous preserve and that hydrologic function will be provided and maintained by incorporating the wetland area into the storm water management system. Any signs to be placed within the preserve must be shown on the development orders to ensure minimal impact to existing vegetation. The indigenous maintenance plan must include a separate section on maintenance such as mowing, trimming, or pruning of the 1.0-acre to allow for visibility to the off-site directional sign. The MCP must be changed to show the location of Tract "A."

Prior to issuance of a sign permit for the off-site directional sign, a Limited Development Order (LDO) Type 99 Letter of Transmittal must be submitted for review and approval by ES

staff. The LDO must address placement of the sign, any utilities, and site work in conjunction with the sign. Placement of the sign must be designed to avoid unnecessary impacts to the indigenous vegetation within Tract "A."

Uses permitted on this tract are limited to signs that are in compliance with Chapter 30 of the LDC, as modified by Deviations 2 through 5, and the conditions thereto. Said uses are also limited by the open space, essential services, and storm water management requirements of applicable Lee County Ordinances.

21. Enhanced Buffer/Chapel Creek.

Prior to local development order approval, the landscape plans must depict enhanced planting for the buffer separating the commercial portion of Bayshore 57 from Chapel Creek RPD/CPD to include:

- a. an enhanced buffer with 15 native canopy trees per 100 linear feet, 14 feet in height, four-inch caliper at 12 inches from ground height; and,
- b. a double staggered hedge row, 48 inches in height at time of planting maintained at 60 inches; and,
- c. native round cover, one-gallon container size, planted three feet on center.

22. Right-of-way Buffer.

Prior to local development order approval, the development order plans must depict a 50-foot right-of-way buffer to include at a minimum the following:

- a. All native trees a minimum four-inch caliper must be preserved; and,
- b. hand removal of exotics must be utilized and any mechanical clearing may occur with prior approval by ES staff; and,
- c. after exotic removal the 50-foot buffer must contain a minimum of 15 native trees per 100 linear feet; and,
- d. additional trees must be planted if, after exotic removal, portions of the buffer area have less than 15 trees per 100 linear feet; and,
- e. trees must be planted or retained at a one-to-one ratio with no credits applied; and,
- f. general trees planted within this area must not be used to meet the 15 trees per 100 linear feet; and,
- g. the buffer trees must be planted at 14 feet in height, four-inch caliper at 12 inches from ground height, with a four-foot spread; and,
- h. a retaining wall separating the parking area from the 50-foot buffer; and

- i. no impacts to mature native trees except that which occurs due to the construction, within five feet of the retaining wall; and,
- j. 18 shrubs per 100 linear feet planted at 24-inches and maintained at 36-inches planted along the retaining wall adjacent to the parking area.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC § 10-285(a) requirement to provide a 330-foot connection separation on a collector road; to allow 253 feet of separation on Samville Road. This deviation is APPROVED SUBJECT TO the condition:
 - a. The applicant is responsible, as a site-related improvement, for all costs of the realignment of Samville Road from State Road 78 to and including the Lee County property to the west (currently in use as a utilities facility). The site-related improvements must include design, permitting, right-of-way dedication, construction of the roadway realignment, utilities relocation, sidewalk, and other roadway appurtenances. The geometric details of the realignment design will be determined at the time of local development order in cooperation with the Florida Department of Transportation.
2. Deviation (2) seeks relief from the LDC §30-153(2)a(1)ii requirement to restrict the number of permanent signs in commercial areas for multiple-occupancy complexes to one ground-mounted identification sign along any street frontage of 330 feet or less, and a second sign when the frontage is greater than 330 feet; to allow a third ground-mounted identification signs along the Bayshore Road frontage of the project, pursuant to the approved MCP. This deviation is APPROVED SUBJECT TO the Condition of Approval for Deviations to Chapter 30, which are set forth following Deviation 5.
3. Deviation (3) seeks relief from LDC §30-153(2)a(1)ii, which restricts the total sign area to no greater than 300 square feet; to allow a total of 331 square feet for the Commercial Planned Development (CPD). This deviation is APPROVED SUBJECT TO the Conditions of Approval for Deviations to Chapter 30, which are set forth following Deviation 5.
4. Deviation (4) seeks relief from the LDC §30-94(h) requirement to allow a maximum interior angle for double-faced signs of 30 degrees; to allow an interior angle of 133 degrees. This deviation is APPROVED SUBJECT TO the Conditions 5.a, b, c, and d under Deviation 5.
5. Deviation (5) seeks relief from the LDC §30, Division 3 "Off Site Signs," § 30-181 (b) 2-5 "Off Site Directional Signs," requirements to allow off site directional signs for semi-public bodies (such as place of worship) and limits them to certain locations, heights, size, content, and design generally; to allow an off site directional sign for a place of worship pursuant to the approved MCP. This deviation is APPROVED SUBJECT TO the Conditions of Approval for Deviations to Chapter 30, which are set forth as follows:

Conditions of Approval for Deviations to Chapter 30

- a. The deviations are limited to the "Proposed Faith Assembly Sign" per the approved MCP. Otherwise, signs must comply with Chapter 30 of the LDC.

- b. The "Proposed Faith Assembly Sign" must be in substantial compliance with the design per Exhibit "B" of VAR2008-00036.
- c. The maximum height for the "Proposed Faith Assembly Sign" is 12.33 feet.
- d. The "Proposed Faith Assembly Sign" shall not have an interior angle of separation greater than 133 degrees.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan
- Exhibit D: Bona fide Agricultural Uses Affidavit
- Exhibit E: Unified Architectural Theme and Design Standards

The applicant has indicated that the STRAP number for the subject property is:

20-43-25-00-00003.3000

SECTION E. FINDINGS AND CONCLUSIONS:

- 1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
- 2. The MPD rezoning, as conditioned and with the special case finding:
 - a. meets or exceeds 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;
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and
 - e. will not adversely affect environmentally critical areas or natural resources.
- 3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location;
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and

- c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.
6. The applicant has demonstrated that it meets the "Special Case" standards set out in Lee Plan Policy 6.1.2(8).

Commissioner Judah made a motion to adopt the foregoing resolution. The motion was seconded by Commissioner Manning. The vote was as follows:

John E. Manning	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

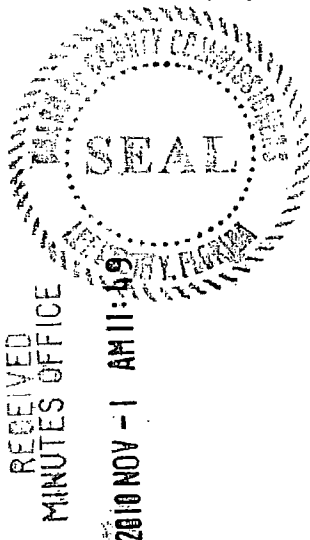
DULY PASSED AND ADOPTED this 4th day of October 2010.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Kathleen A. Motz
Deputy Clerk

BY: Tammara Hall
Tammara Hall, Chairwoman



Approved as to form by:
Michael D. Jacob
Michael D. Jacob
Assistant County Attorney
County Attorney's Office

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

PROPERTY DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH 89°43'21" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 20, FOR 292.75 FEET; THENCE SOUTH 43°58'28" EAST FOR 2878.15 FEET TO A POINT ON A CURVE, SAID POINT BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (BAYSHORE ROAD), SAID CURVE BEING CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 2814.79 FEET SUBTENDED BY A CHORD OF 184.66 FEET AT A BEARING OF SOUTH 44°24'15" WEST; THENCE RUN SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 314°14", FOR AN ARC DISTANCE OF 184.68 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 42°47'09" WEST FOR A DISTANCE OF 284.79 FEET TO THE NORTHEASTERLY CORNER OF PARCEL #122 SECTION 12060-2935 STATE ROAD 783 AS RECORDED IN INSTRUMENT #2006000128434 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 47°12'51" WEST ALONG THE NORTHEASTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 15.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL #122; THENCE SOUTH 42°47'09" WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 365.75 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL #122 AND A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SANVILLE ROAD (OLD BAYSHORE ROAD); THENCE SOUTH 89°42'36" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 213.46 FEET TO A POINT ON THE EASTERLY LINE OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1215, PAGE 898 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°04'14" EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 300.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE SOUTH 89°42'36" WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND AND A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE NORTH 00°04'14" EAST ALONG SAID WEST LINE A DISTANCE OF 342.83 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'47" WEST FOR A DISTANCE OF 560.30 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°00'59" EAST FOR A DISTANCE OF 687.88 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'59" WEST FOR A DISTANCE OF 660.93 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°02'16" WEST ALONG THE WEST LINE OF SAID SECTION 20 FOR A DISTANCE OF 1335.82 FEET TO THE POINT OF BEGINNING.

CONTAINING 56.76 ACRES MORE OR LESS.

Applicant's Legal Checked
by CA 3/24/08

DOI 2007-00045

DCI 2007-00045

EXHIBIT "A"

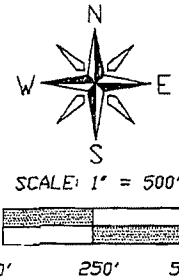
P.O.B.
W. 1/4 CORNER
SECTION 20

INSTRUMENT #
200600018664
VACANT
NOT PLATTED

BEARING BASIS
N89°43'21"E 1031.64'

S89°43'21"W 1324.38'

N.E. CORNER
S.W. 1/4
SECTION 20



LEGEND

Q.R. OFFICIAL RECORDS BOOK
P.C. PAGE
P.O.B. POINT OF BEGINNING

NOTES:

- 1.) BEARINGS SHOWN HEREON REFER TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING A ASSUMED BEARING OF N.89°43'21"E.
- 2.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.

PROPERTY DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH 89°43'21" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 20, FOR 282.75 FEET; THENCE SOUTH 43°58'29" EAST FOR 2875.15 FEET TO A POINT ON A CURVE, SAID POINT BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (BAYSHORE ROAD), SAID CURVE BEING CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 2914.79 FEET SUBTENDED BY A CHORD OF 164.68 FEET AT A BEARING OF SOUTH 44°24'15" WEST; THENCE RUN SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 31°4'14", FOR AN ARC DISTANCE OF 164.68 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 42°47'09" WEST FOR A DISTANCE OF 264.79 FEET TO THE NORTHEASTERLY CORNER OF PARCEL #122, SECTION 12080-2535, STATE ROAD 789 AS RECORDED IN INSTRUMENT #2006000126434 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 47°12'51" WEST ALONG THE NORTHEASTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 15.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL #122; THENCE SOUTH 42°47'09" WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 365.75 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL #122 AND A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAMVILLE ROAD (OLD BAYSHORE ROAD); THENCE SOUTH 89°42'36" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 213.46 FEET TO A POINT ON THE EASTERLY LINE OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1215, PAGE 896 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°04'14" EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 300.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE SOUTH 89°42'36" WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND AND A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE NORTH 00°04'14" EAST ALONG SAID WEST LINE A DISTANCE OF 342.85 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'47" WEST FOR A DISTANCE OF 660.30 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 00°04'14" EAST FOR A DISTANCE OF 667.88 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'59" WEST FOR A DISTANCE OF 660.93 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 00°02'16" WEST ALONG THE WEST LINE OF SAID SECTION 20 FOR A DISTANCE OF 1335.82 FEET TO THE POINT OF BEGINNING.

CONTAINING 56.76 ACRES MORE OR LESS.

3/18/08

KRIS A. SLOSSER, STATE OF FLORIDA, (P.S.M. #5560)

EXHIBIT A
Page 2 of 2

Authenticated Checked
12/15/07
by [Signature]

MAR 21 2008

DEVELOPMENT

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	164.68	2914.79	3°14'14"	S44°24'15"W	164.66

LINE TABLE		
LINE	LENGTH	BEARING
L1	279.23	S89°42'36"W
L2	213.46	S89°42'36"W
L3	25.00	N0°04'14"E
L4	292.79	N89°43'21"E
L5	200.00	S89°42'36"W
L6	300.00	N0°04'14"E
L7	264.79	S42°47'09"W

VACANT
NOT PLATTED
56.76 acres
LIVESTOCK & PASTURE
PER QUATTRONE & ASSOCIATES

Q.R. BOOK 1408 PAGE 1746

Q.R. BOOK 4595 PAGE 1273
VACANT
NOT PLATTED

Q.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

Q.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

Q.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

Q.R. BOOK 1215 PAGE 896
WATER PLANT
NO ACCESS
PERMITTED
NOT PLATTED

15.00'

365.75'

S42°47'09"W

PARCEL #122

BAYSHORE ROAD (STATE ROAD 78)

RIGHT-OF-WAY VARIES

S.W. CORNER
SECTION 20

N89°42'36"E 659.67'

N89°42'36"E 659.67'
SAMVILLE ROAD (OLD BAYSHORE RD.
EXISTING 30' ROADWAY

N89°42'36"E 908.55'

S.E. CORNER
S.W. 1/4
SECTION 20

NOT A SURVEY

SKETCH & LEGAL DESCRIPTION EXHIBIT "A"

A PARCEL OF LAND LOCATED IN
SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

KRIS A SLOSSER P.S.M.

4650 VILLA CAPRI LN. BONITA SPRINGS

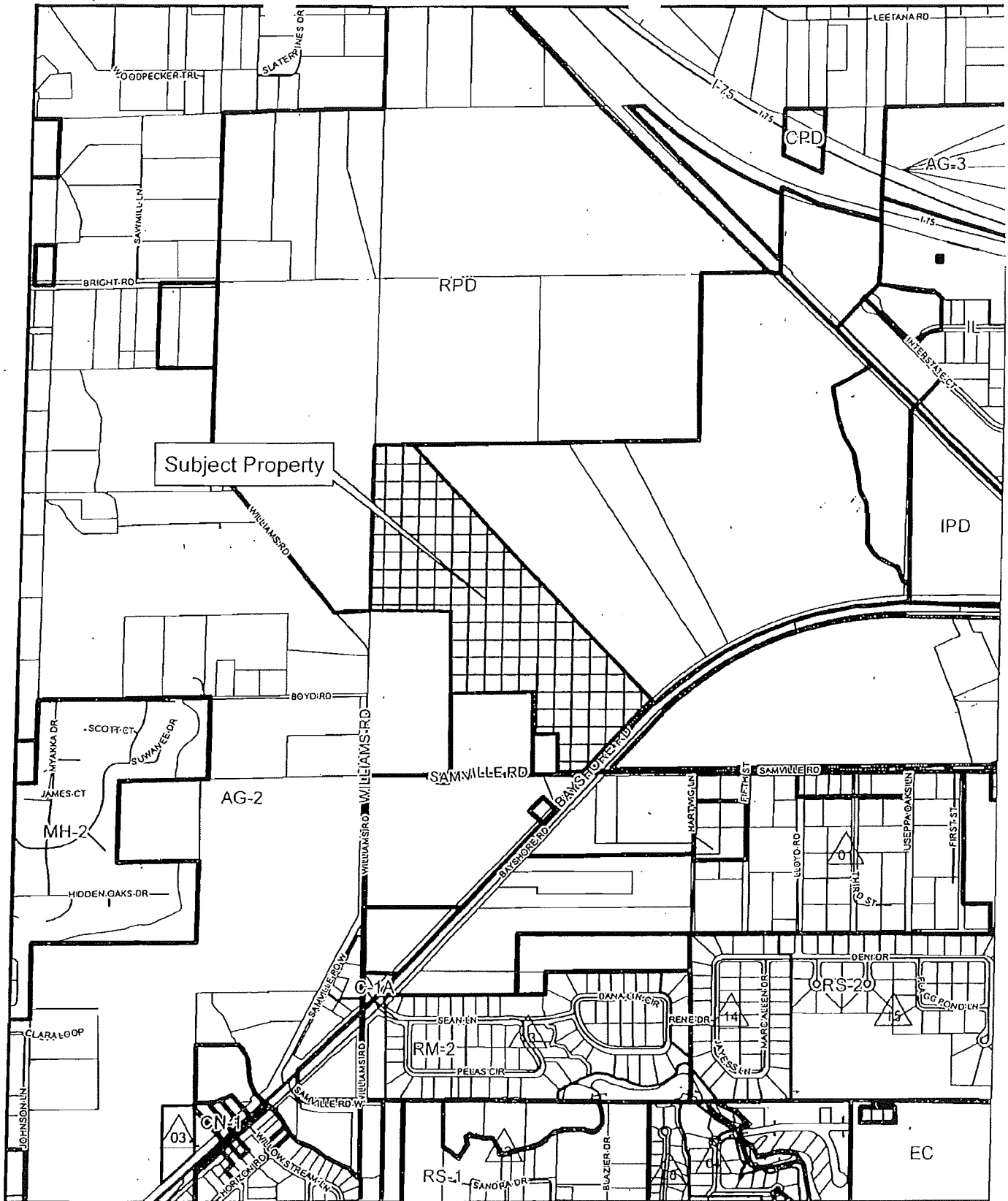
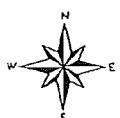
FLORIDA 34134 (239) 947-1915

SCALE: 1" = 500'
DRAWING: 60489SKETCH
DRAWN BY: KAS
JOB#: 60489SKETCH

EXHIBIT B
Zoning Map

DCI2007-00045

11/17/2009



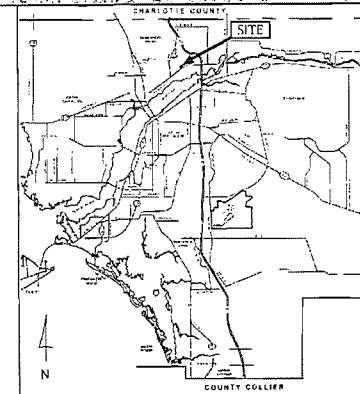
1,000 500 0 1,000 2,000
Feet

MASTER CONCEPT PLAN

BAYSHORE 57 MPD

LOCATED IN SECTION 03, TOWNSHIP 44 SOUTH, RANGE 25 LEE COUNTY, FLORIDA

EXHIBIT D-7-M



LOCATION MAP

PROJECT INFORMATION

STREET: 20-43 75 01-0001.000
ZONING: A-2
REQUEST: CDD and RPD
ROADWAYS: Bayshore Road (new) / Bayshore Road (new) (curbless)

PROJECT SUMMARY

1) PROJECT AREA: 56.78 AC.
PROPOSED COMMERCIAL AREA: 15.14 AC.
PROPOSED RESIDENTIAL AREA: 37.62 AC.

2) INTENSITY AND DENSITY

COMMERCIAL BUILDING AREA: 175,000 SF
RETAIL FIRST FLOOR: 15,000 SF
GENERAL MERCH: 15,000 SF
GENERAL OFFICE: 15,000 SF
TOTAL COMMERCIAL BUILDING AREA: 155,000 SF

RESIDENTIAL UNITS

RESIDENTIAL MULTIFAMILY TOWNHOME: 151 UNITS
SINGLE-FAMILY: 72 UNITS
TOTAL: 123 UNITS

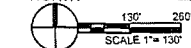
3) PARKING BALANCE

PARKING REQUIRED (AS PER 2002 DCF): 651 SPACES
PARKING PROVIDED: 651 SPACES

DEVIATIONS:

DCI 2007-00045

Approved as Exhibit C
MCP Page 1 of 2
Resolution # 2-10-002



Quattrone & Associates, Inc.
Engineers, Planners, & Development Consultants

RECEIVED
OCT 26 2010

COMMUNITY DEVELOPMENT

Commercial			
PROJECT DEVELOPMENT AREA	30%	833,854 SQFT	18.14 AC
OPEN SPACE REQUIRED	30%	220,150 SQFT	5.74 AC
OPEN SPACE PROVIDED	35%	292,000 SQFT	6.70 AC
Residential			
PROJECT DEVELOPMENT AREA	1.83%	637,100 SQFT	14.62 AC
OPEN SPACE REQUIRED	40%	655,453 SQFT	15.03 AC
OPEN SPACE PROVIDED	50%	819,316 SQFT	18.81 AC
OVERALL PROJECT			
MINIMUM PROJECT OPEN SPACE REQUIRED (LOC)	37%	905,603 SQFT	20.76 AC
TOTAL PROJECT OPEN SPACE REQUIRED (COND 18)	45%	1,045,442 SQFT	24.00 AC
TOTAL PROJECT OPEN SPACE PROVIDED	45%	1,131,316 SQFT	25.57 AC
OPEN SPACE/INDIGENOUS BREAKDOWN			
50% OF REQUIRED OPEN SPACE MUST BE INCLUDED AS PRESERVED INDIGENOUS OPEN			
TOTAL OPEN SPACE REQUIRED (COND 18)		1,045,442 SQFT	24.00 AC
INDIGENOUS OPEN SPACE REQUIRED (LOC)	50%	522,721 SQFT	12.00 AC
INDIGENOUS OPEN SPACE PROVIDED (COND 17)	51%	530,998 SQFT	12.19 AC
CREDITS FOR LARGER AREA	110%	58,418 SQFT	1.34 AC
TOTAL INDIGENOUS AREA CREDITED (COND 17)		589,418 SQFT	13.53 AC

Noted By: Fred Dorelli
Planning, Planning, Inc., LLC
10/26/2010

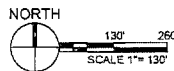
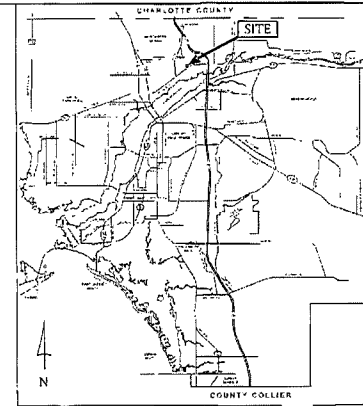
EXHIBIT C

RECEIVED
OCT 26 2008

COMMUNITY DEVELOPMENT

DCI 2007-00045

PROJECT DEVELOPMENT AREA			
PROJECT DEVELOPMENT AREA	322,434	SQ FT	73.141 AC
OPEN SPACE REQUIRED	32,416	SQ FT	7.321 AC
OPEN SPACE PROVIDED	242,228	SQ FT	5.521 AC
OVERALL PROJECT			
MINIMUM PROJECT OPEN SPACE REQUIRED (TOTAL)	376	SQ FT	0.009 AC
TOTAL PROJECT OPEN SPACE PROVIDED (TOTAL)	242,228	SQ FT	5.521 AC
TOTAL PROJECT OPEN SPACE PROVIDED (TOTAL)	242,228	SQ FT	5.521 AC
OPEN SPACE PROVIDED BREAKDOWN			
TOTAL OPEN SPACE PROVIDED (TOTAL)	242,228	SQ FT	5.521 AC
INDIVIDUAL OPEN SPACE PROVIDED (TOTAL)	242,228	SQ FT	5.521 AC
CHANGES FOR LARGER AREA	1,000	SQ FT	0.023 AC
TOTAL INDIVIDUAL AREA PROVIDED (TOTAL)	243,228	SQ FT	5.544 AC



LOCATION MAP

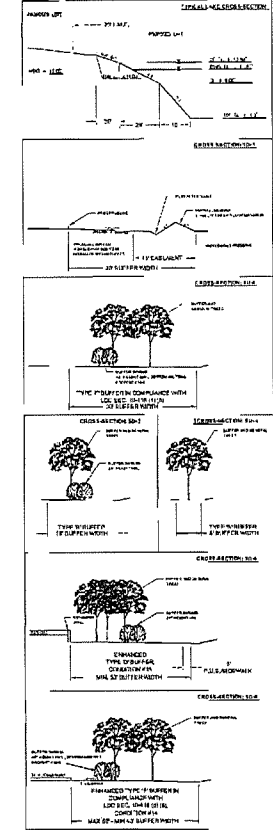
MASTER CONCEPT PLAN

BAYSHORE 57 MPD

LOCATED IN SECTION 03, TOWNSHIP 44 SOUTH, RANGE 25 EEE COUNTY, FLORIDA

OPEN SPACE AND LANDSCAPING EXHIBIT

BUFFER CROSS SECTIONS



- GOPIER TORTOISE
- ACTIVE BURROWS
- INACTIVE BURROWS

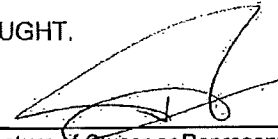
Approved as Exhibit C
MCP Page 2 of 2
Resolution # 2-10-002

AGRICULTURAL USES AT TIME OF ZONING APPLICATION

The undersigned swears or affirms under oath, deposes and says:

1. that he is the fee owner, trustee, managing member or authorized representative of the property commonly known as STRAP# 20-43-25-00-00003.3000 and legally described in Exhibit "A".
2. that livestock pasture currently exist on the property occupying 57± acres, or the entire parcel, as identified by the sketch accompanying legal description.

FURTHER AFFIANT SAYETH NAUGHT.


Signature of Owner or Representative

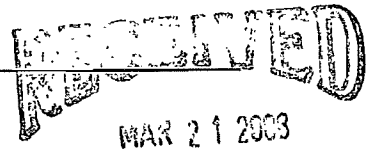
Natalio Wengrower/Owner & Managing Director

Printed Name and Title

REPUBLIC OF ARGENTINA)
CITY OF BUENOS AIRES) § 8
EMBASSY OF THE UNITED
STATES OF AMERICA)

Theta Investments

Name of Entity/Corporation



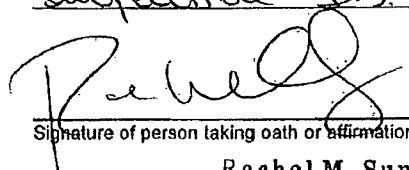
~~STATE OF~~ Country of : Argentina

~~COUNTY OF~~ City of : Buenos Aires

COMMUNITY DEVELOPMENT

Sworn to (or affirmed) and subscribed before me this 30th day of November, 2006, by

Natalio Wengrower, who is personally known to me or who has produced
Argentine ID as identification.


Signature of person taking oath or affirmation

Rachel M. Sunden
Vice Consul

Name typed, printed or stamped

Title or rank

Serial number, if any

DCI 2007-00045

2007-00045

EXHIBIT "A"

P.O.B.
W. 1/4 CORNER
SECTION 20

INSTRUMENT #
2005000198664
VACANT
NOT PLATTED

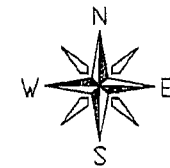
BEARING BASIS
N89°43'21"E 1031.64'

S89°43'21"W 1324.38'

N.E. CORNER
S.W. 1/4
SECTION 20

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
CI	164.68	2914.79	3°14'14"	S44°24'15"W	164.66

LINE TABLE		
LINE	LENGTH	BEARING
L1	279.23	S89°42'36"W
L2	213.46	S89°42'36"W
L3	25.00	N0°04'14"E
L4	292.75	N89°43'21"E
L5	200.00	S89°42'36"W
L6	300.00	N0°04'14"E
L7	264.79	S42°47'09"W



SCALE: 1" = 500'



0' 250' 500'

LEGEND

O.R. OFFICIAL RECORDS BOOK
PG. PAGE
P.O.B. POINT OF BEGINNING

NOTES:

- 1.) BEARINGS SHOWN HEREON REFER TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING A ASSUMED BEARING OF N.89°43'21"E.
- 2.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.

PROPERTY DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH 89°43'21" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 20, FOR 292.75 FEET; THENCE SOUTH 43°58'29" EAST FOR 2875.15 FEET TO A POINT ON A CURVE, SAID POINT BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-76 (BAYSHORE ROAD), SAID CURVE BEING CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 2914.79 FEET SUBTENDED BY A CHORD OF 164.66 FEET AT A BEARING OF SOUTH 44°24'15" WEST; THENCE RUN SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 3°14'14", FOR AN ARC DISTANCE OF 164.68 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 42°47'09" WEST FOR A DISTANCE OF 264.79 FEET TO THE NORTHEASTERLY CORNER OF PARCEL #122, SECTION 12050-2535 STATE ROAD 783 AS RECORDED IN INSTRUMENT #2005000126434 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 47°12'51" WEST ALONG THE NORTHEASTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 15.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL #122; THENCE SOUTH 42°47'09" WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 365.75 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL #122 AND A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SANVILLE ROAD (OLD BAYSHORE ROAD); THENCE SOUTH 89°42'36" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 213.46 FEET TO A POINT ON THE EASTERLY LINE OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1215, PAGE 898 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°04'14" EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 300.00 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL; THENCE SOUTH 89°42'36" WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND AND A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE NORTH 00°04'14" EAST ALONG SAID WEST LINE A DISTANCE OF 342.85 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'36" WEST FOR A DISTANCE OF 660.30 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 00°03'59" EAST FOR A DISTANCE OF 667.88 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'36" WEST FOR A DISTANCE OF 660.30 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 00°02'16" WEST ALONG THE WEST LINE OF SAID SECTION 20 FOR A DISTANCE OF 1335.82 FEET TO THE POINT OF BEGINNING.

CONTAINING 56.76 ACRES MORE OR LESS.

3/18/08

KRIS A. SLOSSER, STATE OF FLORIDA, (P.S.N. #5560)

EXHIBIT D
Page 2 of 2

RECEIVED
MAR 21 2008

INSTRUMENT #
2006000198664
VACANT
NOT PLATTED

VACANT
NOT PLATTED
56.76 acres
LIVESTOCK & PASTURE
PER QUATTRONE & ASSOCIATES
O.R. BOOK 1408 PAGE 1746

O.R. BOOK 4595 PAGE 1273
VACANT
NOT PLATTED

S89°42'59"W 660.93'

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

S89°42'47"W 660.30'

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

O.R. BOOK 1215 PAGE 896
WATER PLANT
NO ACCESS
PERMITTED
NOT PLATTED

N47°12'51"W
15.00'

PARCEL #122
BAYSHORE ROAD (STATE ROAD 78)
RIGHT-OF-WAY VARIES

S.W. CORNER
SECTION 20

N89°42'36"E 659.67'

N89°42'36"E 659.67'

N89°42'36"E 908.55'

S.E. CORNER
S.W. 1/4
SECTION 20

NOT A SURVEY

SANVILLE ROAD (OLD BAYSHORE RD.
EXISTING 50' ROADWAY

SKETCH & LEGAL DESCRIPTION EXHIBIT "A"

A PARCEL OF LAND LOCATED IN
SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

KRIS A SLOSSER P.S.M.

4650 VILLA CAPRI LN. BONITA SPRINGS

FLORIDA 34134 (239) 947-1915

SCALE: 1" = 500'
DRAWING: 60489SKETCH
DRAWN BY: KAS
JOB#: 60489SKETCH

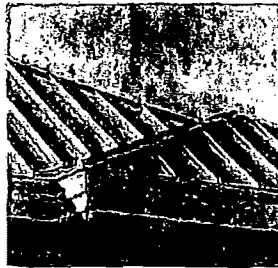
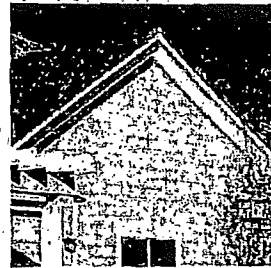
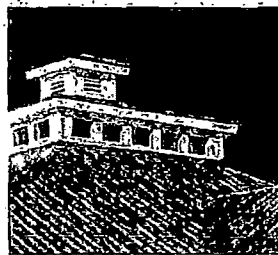
Exhibit E
Page 1 of 2

Bayshore 57 MPD Unified Architectural Theme and Design Standards

Overall character to mostly emulate architectural features and materials associated with a Keywest image. Detail and accents along the lines of traditional Colonial features.

Roof

- Pitched Roofs & Mansards
- Varied gable and hip roofs
- Standing Seam Roofing
- Predominantly medium pitch roofs



Decorative features

- Bermuda shutters
- Decorative railings
- Accent columns and Arcades
- Trim, Cornice, window frames to be white or predominantly lighter than field colors



Exhibit E
Page 2 of 2

Bayshore 57 MPD Unified Architectural Theme and Design Standards

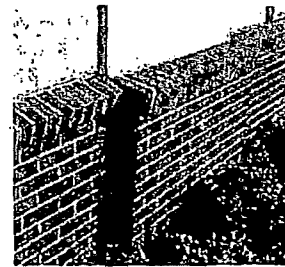
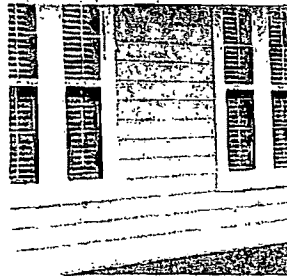
Windows

- Vertical emphasis
- Predominantly white trim, some dark accent trim applied by floor
- Divided lights with vertical emphasis

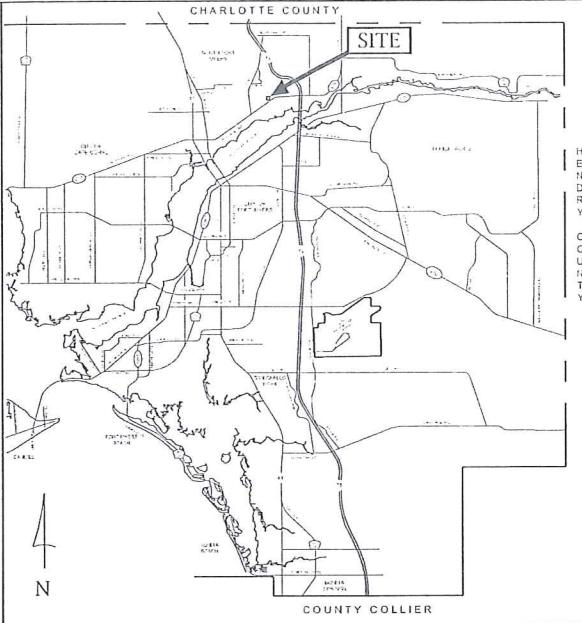


Wall Finishes

- Horizontal siding as dominant finish
- Stucco as field finish
- Brick or Stone articulated base



MASTER CONCEPT PLAN
BAYSHORE 57 MPD
LOCATED IN SECTION 03, TOWNSHIP 44 SOUTH, RANGE 25 LEE COUNTY, FLORIDA
EXHIBIT D-7-M



LOCATION MAP

PROJECT INFORMATION

STRAP#: 20-43-25-00-00003.3000
ZONING: AG-2
REQUEST: CPD and RPD
ROADWAYS: Bayshore Road (arterial)
Samville Road (minor collector)

PROJECT SUMMARY

- PROJECT ACREAGE
PROPOSED COMMERCIAL AREA: 56.75 AC.
PROPOSED RESIDENTIAL AREA: 19.14 AC.
TOTAL: 75.89 AC.
- INTENSITY AND DENSITY
COMMERCIAL BUILDING AREA: ± 70,000 SF
RETAIL (FIRST FLOOR): ± 35,000 SF
GENERAL MEDICAL: ± 35,000 SF
TOTAL COMMERCIAL BUILDING AREA: ± 140,000 SF
RESIDENTIAL UNITS
RESIDENTIAL MULTI-FAMILY (TOWNHOME): 101 UNITS
SINGLE-FAMILY: 72 UNITS
TOTAL: 173 UNITS
- PARKING BALANCE
PARKING REQUIRED (4.5 PER 1,000 SF): 630 SPACES
PARKING PROVIDED: 655 SPACES

DEVIATIONS:

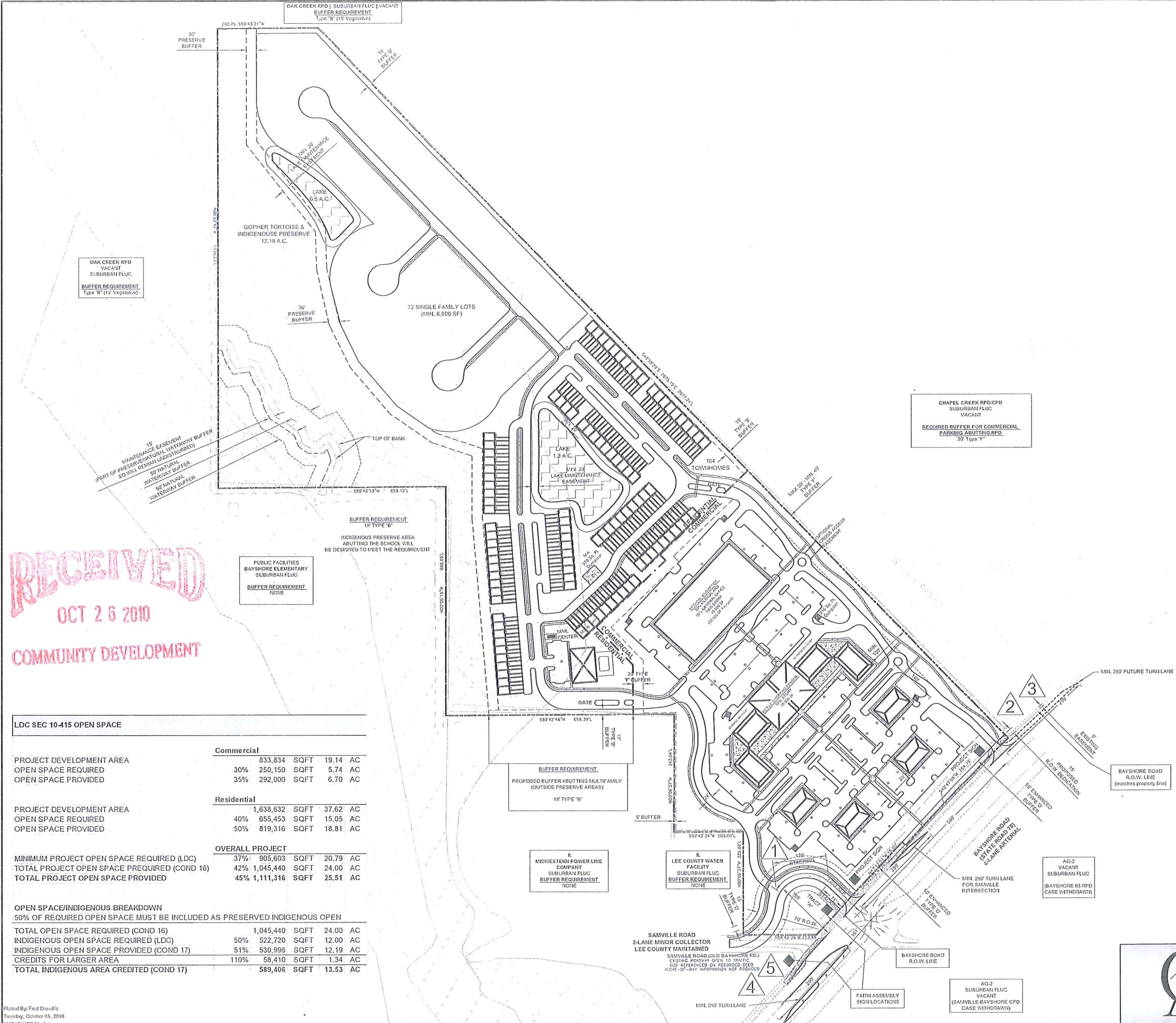
DCI 2007-00045

Approved as Exhibit
MCP Page 1 of 2
Resolution # 2-10-002

MAP OVERLAY LEGEND
FEMA FLOODWAY
FEMA FLOOD ZONE
INDIGENOUS PRESERVE
LAKE

SCALE 1" = 130'

Quattrone & Associates, Inc.
Engineers, Planners, & Development Consultants
4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QAInc.net



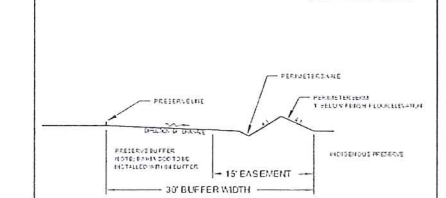
RECEIVED
OCT 26 2010
COMMUNITY DEVELOPMENT

LDC SEC 10-415 OPEN SPACE					
Commercial					
PROJECT DEVELOPMENT AREA	833,834	SQFT	19.14	AC	
OPEN SPACE REQUIRED	30%	250,150	SQFT	5.74	AC
OPEN SPACE PROVIDED	35%	292,000	SQFT	6.70	AC
Residential					
PROJECT DEVELOPMENT AREA	1,638,632	SQFT	37.62	AC	
OPEN SPACE REQUIRED	40%	655,453	SQFT	15.05	AC
OPEN SPACE PROVIDED	50%	819,316	SQFT	18.81	AC
OVERALL PROJECT					
MINIMUM PROJECT OPEN SPACE REQUIRED (LDC)	37%	905,603	SQFT	20.79	AC
TOTAL PROJECT OPEN SPACE PREQUIRED (COND 16)	42%	1,045,440	SQFT	24.00	AC
TOTAL PROJECT OPEN SPACE PROVIDED	45%	1,111,316	SQFT	25.51	AC
OPEN SPACE/INDIGENOUS BREAKDOWN					
50% OF REQUIRED OPEN SPACE MUST BE INCLUDED AS PRESERVED INDIGENOUS OPEN					
TOTAL OPEN SPACE REQUIRED (COND 16)		1,045,440	SQFT	24.00	AC
INDIGENOUS OPEN SPACE REQUIRED (LDC)	50%	522,720	SQFT	12.00	AC
INDIGENOUS OPEN SPACE PROVIDED (COND 17)	51%	530,996	SQFT	12.19	AC
CREDITS FOR LARGER AREA	110%	58,410	SQFT	1.34	AC
TOTAL INDIGENOUS AREA CREDITED (COND 17)		589,406	SQFT	13.53	AC

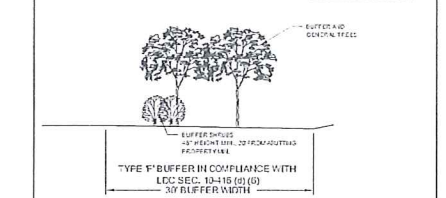
OPEN SPACE AND LANDSCAPING EXHIBIT

[illegible]

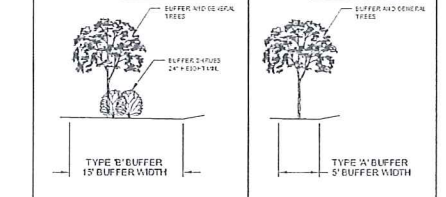
CROSS SECTION: 50-1



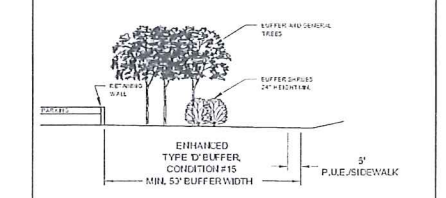
CROSS-SECTION: SD-2



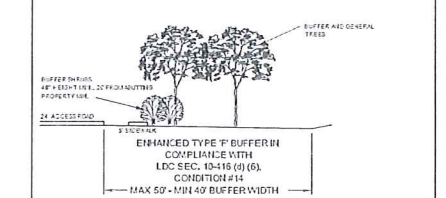
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CROSS-SECTION: SD-5



CROSS-SECTION: SD-6

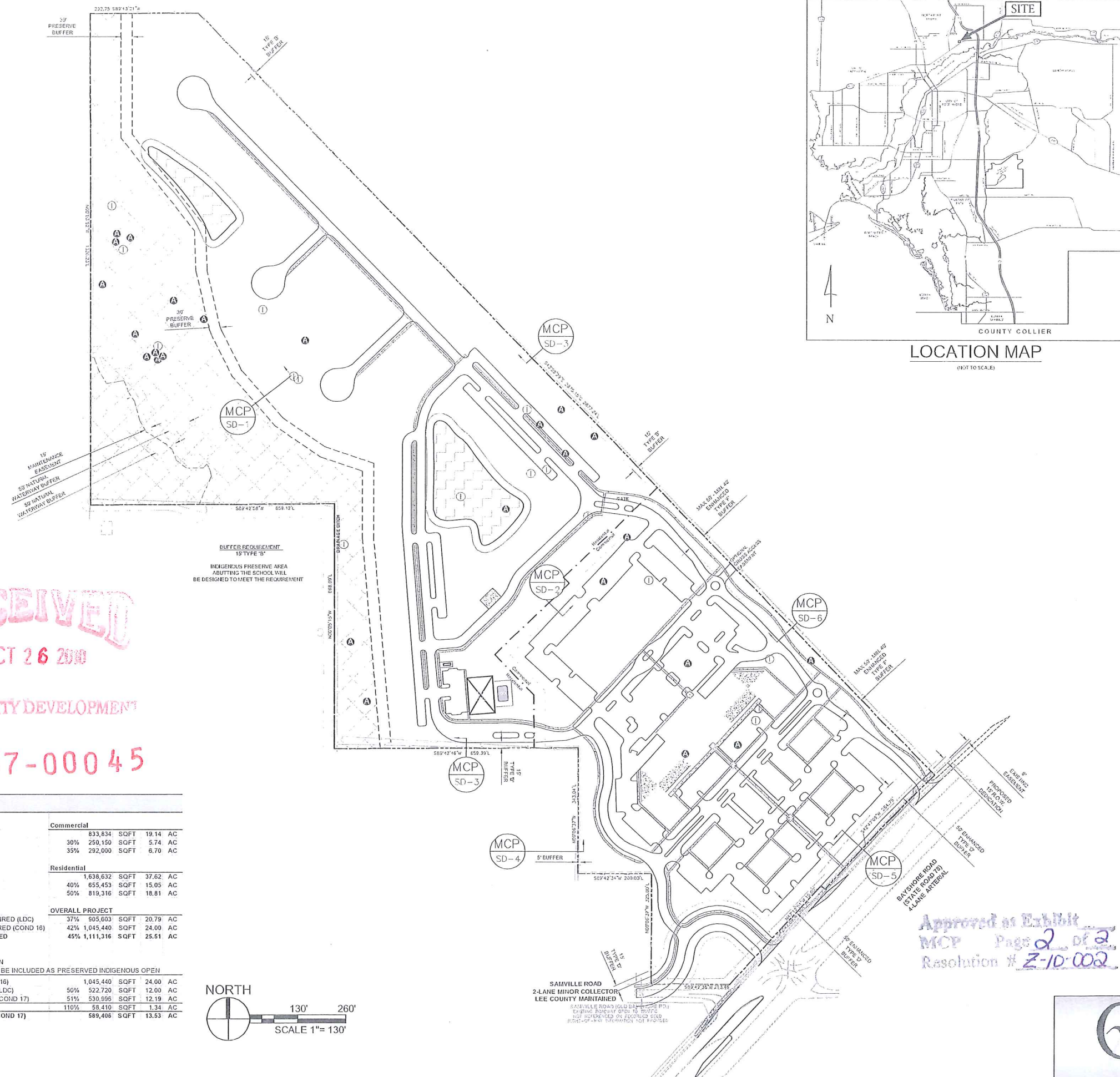


① INACTIVE BURROWS



Q

4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QAInc.net



Plotted By: Fred Drovillo
Tuesday, October 12, 2010
061015-MCP-M-v4.dwg

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

RECEIVED

HEARING EXAMINER RECOMMENDATION

AUG 18 2010

ZONING

REZONING: DCI2007-00045
APPLICANT: QUATTRONE AND ASSOCIATES, INC.,
in reference to BAYSHORE 57 MPD
HEARING DATE: MAY 20, 2010 [NOT HEARD - CONTINUED ON THE RECORD]
CONTINUED HRG. DATE: JULY 23, 2010
WRITTEN SUBMISSION: AUGUST 6, 2010

I. APPLICATION:

This matter came before the Lee County Hearing Examiner as an Application for a Rezoning to a Mixed Use Planned Development (MPD) pursuant to Lee County Land Development Code (LDC).

Filed by QUATTRONE and ASSOCIATES, INC., 11000 Metro Parkway, Suite 30, Fort Myers, Florida 33966 (Applicant); QUATTRONE and ASSOCIATES, INC., c/o FRED DROVDLIC, AICP, 11000 Metro Parkway, Suite 30, Fort Myers, Florida 33966; HENDERSON, FRANKLIN, STARNES & HOLT, P.A., c/o RUSSELL P. SCHROPP, 1715 Monroe Street, Post Office Box 280, Fort Myers, Florida 33902; SLOSSER SURVEYING, c/o KRIS SLOSSER, 4642 Villa Capri Lane, Bonita Springs, Florida 34134; BOYLAN ENVIRONMENTAL CONSULTANTS, INC., c/o RAE ANN BOYLAN, 11000 Metro Parkway, Suite 4, Fort Myers, Florida 33966 (Agents); THETA INVESTMENTS N.V. CORP., 2320 NE 196 Street, Miami, Florida 33180 (Owner).

Request is to rezone +/- 56.76 acres from Agricultural (AG-2) to Mixed Use Planned Development (MPD) for a maximum of 140,000 square feet of commercial floor area including a maximum of 70,000 square feet of commercial retail; a maximum of 35,000 square feet of medical office; a maximum of 35,000 square feet of office; and a maximum of 176 dwelling units, including a maximum of 104 townhomes and a maximum 72 single-family dwelling units. Maximum height proposed is two stories/35 feet. No development blasting is requested. The development will connect to public potable water and public sanitary sewer service.

The subject property is located at 7401 Bayshore Road (I-75 to Bayshore Rd. Take Bayshore West until Samville Road West), North Fort Myers Planning Community, Section 20, Township 43 South, Range 25 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 for the rezoning of 56.76+/- acres from Agricultural (AG-2) to Mixed Use Planned Development (MPD) for the real estate

described in Section IX. Legal Description WITH THE FOLLOWING CONDITIONS AND DEVIATIONS:

A. CONDITIONS:

1. The development of this project must be substantially consistent with the four-page Master Concept Plan entitled "MASTER CONCEPT PLAN: BAYSHORE 57" date stamped **MARCH 24, 2010**, labeled as **Exhibit B**.

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

Maximum Commercial Floor Area: 140,000 square feet of floor area including 70,000 square feet of commercial retail square footage as defined by the Lee County Comprehensive Plan per Policy 6.1.2(7); a maximum of 35,000 square feet of medical office, and a maximum of 35,000 square feet of commercial office.

Maximum Residential Density: 176 dwelling units, 4.678 units per acre; and limited to a maximum of the following types of dwelling units:

72 single-family units; and 104 townhome, multi-family units and/or ALF equivalent units pursuant to the Lee County Land Development Code.

2. Schedule of Uses

A. The following limits apply to the project and uses.

RESIDENTIAL AREA

Accessory uses and structures

Administrative Offices

Agricultural - limited to cattle grazing and Condition 9.

Assisted Living Facility (ALF)

Clubs: Private

Community Garden

Consumption on Premises, See Condition 15.

Dwelling unit: Single-Family, Townhouse, Multiple family building (per Condition 1).

Entrance gates and gatehouse

Essential services

Essential service facilities: Groups I and II

Excavation: Water retention. Not to include removal of excavated material from site. No blasting.

Models: Display center, Model units, Model homes. See condition 11.

Parking lot: Accessory

Recreation facilities: Personal, Private On site

Signs - in accordance with Lee County Land Development Code Chapter 30.

Temporary uses - construction office, construction trailer, sales center, parking lot.

COMMERCIAL AREA Also See Condition #20.

RETAIL SHOPPING CENTER AREA

Accessory uses and structures
Administrative Offices
Agricultural - limited to cattle grazing and Condition 9.
Animals: Clinic or kennel (No outdoor runs)
ATM (automatic teller machine)
Auto parts store (with or without installation)
Bait and tackle shop
Banks and financial establishments: Groups I and II
Business services: Groups I and II (excluding Bail Bonding, Armored Car Services, Automobile Claims Adjusters, and Automobile Repossessing Services.
Cleaning and maintenance services
Clothing stores, general
Computer and data processing services
Consumption on premises - See Condition 15.
Convenience food and beverage store - limited to 1.
Department store
Drive through facility for any permitted use
Drugstore, pharmacy
Entrance gates and gatehouse
Essential services
Essential service facilities: Group I
Excavation: Water retention. Not to include removal of excavated material from site. No blasting.
Fences, walls
Food and beverage service, limited
Food stores: Groups I and II
Gift and souvenir shop
Hardware store
Hobby, toy and game shops
Household and office furnishings, all groups
Insurance companies
Laundry or dry cleaning: Groups I and II
Lawn and garden supply stores
Library
Medical office
Nonstore retailers, all groups
Paint, glass and wallpaper
Parking lot: Accessory
Personal services: Groups I, II and III (no massage parlors, steam or Turkish baths)
Pet services (no outdoor runs)
Pet shop (no outdoor runs)
Photo finishing laboratory
Place of worship

Post office
Printing and publishing
Real estate sales office
Recreation facilities Commercial: Group IV
Religious facilities
Repair shops: Groups I, II, and III
Restaurant, fast food - limited to 1 stand alone. No limit on fast food within a multi-occupancy plaza.
Restaurants: Groups I, II and III
Retail and wholesale sales, when clearly incidental and subordinate to a permitted principal use on the same premises
Self Service Fuel Pumps - limited to 16 (accessory to convenience food and beverage store only.)
Signs (in accordance with Lee County Land Development Code Chapter 30)
Social services: Groups I and II
Specialty Retail Shops: Groups I and II - excluding Tobacco stores.
Storage: Indoor only
Studios
Temporary uses - construction office, construction trailer, sales center, parking lot.
Theater, indoor
Used merchandise stores: Groups I, II and III
Variety store

MEDICAL AND OFFICE BUILDING

Accessory uses and structures
Administrative Offices
Agricultural - limited to cattle grazing and Condition 9.
ATM (automatic teller machine)
Banks and financial establishments: Groups I and II
Business services: Groups I and II (excluding Bail Bonding, Armored Car Services, Automobile Claims Adjusters, and Automobile Repossessing Services.
Cleaning and maintenance services
Computer and data processing services
Entrance gates and gatehouse
Essential services
Essential service facilities: Group I
Excavation: Water retention. Not to include removal of excavated material from site. No blasting.
Fences, walls
Insurance companies
Library
Medical office
Parking lot: Accessory
Personal services: Groups I, II and III (no massage parlors, steam or Turkish baths)
Place of worship
Real estate sales office
Religious facilities

Signs (in accordance with Lee County Land Development Code Chapter 30)
Social services: Groups I and II

Site Development Regulations

B. Minimum Lot Area and Dimensions

Residential Multi-family/ALF/recreation Facilities

Lot Size: 7,500 square feet
Lot Width: 100 feet
Lot Depth: 75 feet

Minimum Setbacks

Public Street: 25 feet
Private Street: 20 feet
Side: 15 feet
Rear: 25 feet
Water body: 25 feet
Indigenous: 20 feet/30 feet for fire dependent plant communities

Minimum Building Separation: 20 feet

Accessory use and structure setbacks must comply with Lee County Land Development Code (Lee County Land Development Code) Sec. 34-1171 et seq. and Lee County Land Development Code Sec. 32-2194.

Maximum Lot Coverage: 45 percent

Building/Structure Height: 2 story/35 feet

Townhouses

Minimum Lot Areas and Dimensions (per unit)

Lot Size: 1,530 square feet
Lot Width: 18 feet
Lot Depth: 85 feet

Minimum Setbacks

Street: 25 feet (public)/20 feet (private)
Side: 0/10 feet (lesser setback for interior units)
Rear: 15 feet
Water body: 25 feet

Accessory Use and Structure setbacks must comply with Lee County Land Development Code Sec. 34-1171 et seq. and 34-2194.

Minimum Building Separation: 20 feet.

Maximum Lot Coverage: 75 percent

Building Height: 35 feet/ 2 stories

Single Family

Minimum Lot Areas and Dimensions (per unit)

Lot Size:	6,500 square feet
Lot Width:	50 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	20 feet (public)/20 feet (private)
Side	5 feet
Rear	15 feet
Water body	25 feet
Indigenous	20 feet/30 feet for fire dependent plant communities

Accessory Use and Structure setbacks must comply with Lee County Land Development Code Sec. 34-1171 et seq. and 34-2194.

Minimum Building Separation: 10 feet.

Maximum Lot Coverage: 45 percent

Building Height: 2 story/35 feet

Commercial

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Public Street:	
Arterial	50 feet
Other Public	25 feet
Private Street	20 feet
Side:	15 feet
Rear:	20 feet
Water body	25 feet
Indigenous	20 feet/30 feet for fire dependent plant communities

Minimum Building Separation: 20 feet

Accessory use and structure setbacks must comply with Lee County Land Development Code (LDC) Sec. 34-1171 et seq. and Lee County Land Development Code Sec. 32-2194.

Maximum Lot Coverage: 40 percent

Building/Structure Height: 2 story/35 feet

3. **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.

4. **TRAFFIC**

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

5. **Lee County Comprehensive Plan**

Approval of this rezoning does not guarantee local Development Order approval. Future Development Order approvals must satisfy the requirements of the Lee County Comprehensive 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 County Comprehensive Plan provisions.

6. **CONCURRENCY**

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in Chapter 2 of the Land Development Code and the Lee County Comprehensive Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local Development Order.

7. **WATER AND SEWER**

The subject property must connect to public potable water service and public sanitary sewer service. At time of any local Development Order, the developer must also demonstrate there is adequate water and sewer capacity to handle the proposed level of development. No on-site well systems may be utilized for potable water. No septic tanks or package plants may be utilized for sanitary sewer service.

8. **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.

9. **AGRICULTURAL USES**

Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:

(A) Bona fide agricultural uses that are in existence at the time the application for this project was filed, and as shown on Exhibit "C" attached hereto, may continue until approval of a local Development Order for the area of the project containing those uses.

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

(C) Prior to issuance of a local Development Order, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:

(1) Termination of all agricultural use on any portion of the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:

- a) the date the agricultural uses ceased;
- b) the legal description of the property subject to the Development Order approval;
- c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the county that they will not allow any such uses on the property unless and until the property is rezoned to permit such uses; and,
- d) that the affidavit constitutes a covenant between the owner and the county that is binding on the owner and their assignees and successors in interest.

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

(2) Termination of the agricultural tax exemption for any portion of the property included in the Development Order application/approval. Proof as to termination must include of a copy of the request to terminate the tax exemption provided to the Property Appraiser.

10. **SOLID WASTE/RECYCLING**

As part of any local Development Order approval for vertical development, the Development Order plans must include facilities in compliance with Lee County Land Development Code 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.

11. **MODEL HOMES/UNITS/REAL ESTATE SALES**

- A. Model homes and units are limited to a maximum of 8.
- B. Models cannot be of the same floor plan and each must be a different design.
- C. Real estate sales are limited to clubhouses, model locations, and Commercial areas as shown on the approved Master Concept Plan.
- D. Real estate sales within the residential area will be limited to the sale of lots or units within the development only. Real estate sales in the commercial area are not limited.
- E. Hours of operation for model homes and real estate sales in the residential area are limited to Monday through Sunday 8 a.m. to 8 p.m. Real estate sales in the commercial area are not limited.
- F. No dry models are permitted.

12. **ACCESS TO BAYSHORE ROAD**

Access to Bayshore Road/State Road 78 is not guaranteed and is subject to Florida Department of Transportation approval.

13. **SIDEWALKS**

Development must include internal sidewalks as depicted on the approved Master Concept Plans, as a site-related improvement. Such facilities must be included in local development orders as part of construction of the project's infrastructure.

14. **UNIFIED ARCHITECTURAL THEME AND DESIGN STANDARDS**

- A. Prior to local Development Order approval, the exterior elevations of the commercial buildings must be in substantial compliance with the **EXHIBIT "D"** hereto.
- B. These designs are preliminary and subject to changes in conformance with this resolution and Lee County Land Development Code Chapter 10, Article IV, Sec. 10-600 Design Standards and Guidelines for Commercial Buildings and Developments, et. seq.
- C. All structures, including signage, within the MPD must be designed to be architecturally compatible and share a common architectural theme.
- D. A unified signage plan will be submitted as an administrative amendment for staff review and approval in conjunction with local development order approval.
- E. Flat canopy roofs for self service fuel pumps are prohibited.

F. The use of neon lighting for the exterior lighting or signage of any buildings within the MPD area (excluding interior signage that may be incidentally visible from the exterior) is prohibited.

G. The use of florescent colors for accent or primary exterior surfaces is prohibited. The color palette for the primary and accent exterior surfaces must be generally subdued and earth-tones, excepting that national signage, consistent with the provisions of Lee County Land Development Code Chapter 30 and the unified sign plan will be allowed.

15. **CONSUMPTION ON PREMISES**

A. Consumption on premises is limited to indoor seating in conjunction with a Groups II or III Restaurant with a 4-COP-SRX and/or 2-COP beverage license.

B. The hours of operation for indoor consumption on premises is limited to between 11:00 am to 11:00 pm daily.

C. No sale, service or consumption of alcoholic beverages will be permitted without the sale or availability of food and non-alcoholic beverages on the same premises.

D. Outdoor consumption on premises within the residential and/or commercial area of the MPD may be approved by a special exception or an amendment to the Planned Development (public hearing required). The applicant must provide adequate detail of the outdoor seating area (square footage, number of seats, proposed hours, distance to Bayshore Elementary, outdoor entertainment, etc.) consistent with the requirements of the Land Development Code.

E. No consumption on premises (indoors or outdoors) will be permitted less than 1,000 feet from the closest boundary of the property line for Bayshore Elementary School.

16. **OPEN SPACE**

Prior to local Development Order approval, the Development Order plans must delineate a minimum of 24.00 acres as common open space in substantial compliance with the Master Concept Plan.

17. **INDIGENOUS PRESERVE**

Prior to local Development Order approval, the Development Order plans must depict a minimum of 12.19 acres, 13.53 acres with credits, as indigenous open space.

18. **GOPHER TORTOISES**

Prior to Development Order approval, the Applicant must first seek approval for on-site preservation of the gopher tortoises through avoidance or relocation before pursuing off-site relocation options. All communication with Florida Fish and Wildlife Conservation Commission (FWC) verifying on-site avoidance or relocation attempts were made must be provided to Division of Environmental Sciences staff.

A copy of the appropriate gopher tortoise relocation permit issued by the Florida Fish and Wildlife Conservation Commission (FWC) must be submitted to the Division of Environmental Sciences Staff prior to excavation and moving of any gopher tortoises. The Applicant must first seek approval for an on-site relocation before pursuing off-site relocation options. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and Lee County Division of Environmental Sciences Staff.

19. **DETENTION AREAS**

Prior to local Development Order approval, if dry detention is proposed, the landscape plan must depict:

- the dry detention areas planted to include herbaceous vegetation arranged in clusters and planted in a one-gallon container size, three-foot on center; and,
- the dry detention areas to be planted with scattered cypress (*Taxodium* sp.), red maple (*Acer rubrum*) and/or laurel oak (*Quercus laurifolia*) planted at 10 feet in height, two-inch caliper with a four-foot spread and 20-foot on center; and,
- general tree credits can be applied as per Lee County Land Development Code 10-418 (4) for herbaceous vegetation, and a general tree credit on a ratio of one-to-one for the planting of trees in the dry detention; and,
- The required plantings must be designed to not adversely affect the functions and future maintenance of the water management facilities and will meet the requirements of the South Florida Water Management District.

20. **COMMERCIAL USES.**

No commercial uses or buildings are permitted on Tract "A" - the +/- 1.0-acre southwest corner of the property fronting on Bayshore Road (S.R. 78) as shown on the approved Master Concept Plan.

Uses permitted on this tract are limited to signs (in compliance with Chapter 30 of the Lee County Land Development Code), open space, essential services, and stormwater management.

Any permitted uses must be located in an area to avoid impacts or minimize impacts to existing native vegetation.

Prior to local Development Order approval, the Development Order plans must indicate the wetland area (Tract "A") in the southwest corner as indigenous preserve and that hydrologic function will be provided and maintained by incorporating the wetland area into the storm water management system. Any signs to be placed within the preserve must be shown on the development orders to insure minimal impact to existing vegetation. The indigenous maintenance plan must include a separate section on maintenance such as mowing, trimming or pruning of the 1.0-acre to allow for visibility to the off site directional sign. The Master Concept Plan must be changed to show the location of Tract "A."

Prior to an issuance of a sign permit for the off site directional sign, a Limited Development Order (LDO) Type 99 Letter of Transmittal must be submitted for review and

approval by Environmental Sciences Staff. The LDO must address placement of the sign, any utilities and site work in conjunction with the sign. Placement of the sign must be designed to avoid unnecessary impacts to the indigenous vegetation within Tract "A."

Uses permitted on this tract are limited to signs that are in compliance with Chapter 30 of the Lee County Land Development Code, as modified by Deviations 2 through 5, and the conditions thereto. Said uses are also limited by the open space, essential services and stormwater management requirements of applicable Lee County Ordinances.

21. ENHANCED BUFFER/CHAPEL CREEK

Prior to local Development Order approval, the landscape plans must depict enhanced planting for the buffer separating the commercial portion of Bayshore 57 from Chapel Creek RPD/CPD to include:

- an enhanced buffer with 15 native canopy trees per 100 linear feet, 14-feet in height, 4-inch caliper at 12-inches from ground height; and,
- a double staggered hedge row, 48 inches in height at time of planting maintained at 60-inches; and,
- native ground cover, one-gallon container size, planted three-feet on center.

22. RIGHT-OF-WAY BUFFER

Prior to local development order approval, the development order plans must depict a 50-foot ROW buffer to include at a minimum the following:

- All native trees a minimum 4-inch caliper, must be preserved.
 - hand removal of exotics must be utilized, any mechanical clearing may occur with prior approval by Environmental Sciences Staff; and,
 - after exotic removal the 50-foot buffer must contain a minimum of 15 native trees per 100 linear feet; and,
 - additional trees must be planted if after exotic removal portions of the buffer area has less than 15 trees per 100 linear feet; and,
 - trees must be planted or retained at a one-to-one ratio with no credits applied; and,
 - general trees planted within this area must not be used to meet the 15 trees per 100 linear feet; and
 - the buffer trees must be planted at 14-feet in height, 4-inch caliper at 12-inches from ground height, with a 4-foot spread; and,
 - a retaining wall separating the parking area from the 50-foot buffer;
- and

- no impacts to mature native trees except that which occurs due to the construction, within 5- feet of the retaining wall; and,
- 18 shrubs per 100 linear feet planted at 24-inches and maintained at 36-inches planted along the retaining wall adjacent to the parking area.

B. DEVIATIONS:

Deviation 1 requests relief from Section 10-285(a), which requires a 330-foot connection separation on a collector road; to allow 253 feet of separation on Samville Road. The Hearing Examiner recommends **APPROVAL** of the request with one condition.

1. The Applicant is responsible, as a site-related improvement, for all costs of the realignment of Samville Road from State Road 78 to and including the Lee County property to the west (currently in use as a utilities facility). The site-related improvements must include design, permitting, Right-Of-Way (ROW) dedication, and construction of the roadway realignment, utilities relocation, sidewalk, and other roadway appurtenances. The geometric details of the realignment design will be determined at the time of local development order in cooperation with the Florida Department of Transportation.

Deviation 2 requests relief from Lee County Land Development Code §30-153(2)a(1)ii, which restricts the number of permanent signs in commercial areas for multiple-occupancy complexes to one ground-mounted identification sign along any street frontage of 330 feet or less and a second sign when the frontage is greater than 330 feet, to allow a third ground-mounted identification signs along the Bayshore Road frontage of the project, pursuant to the approved Master Concept Plan. The Hearing Examiner recommends **APPROVAL** of the request subject to the Conditions of Approval for Deviations to Chapter 30, which are set forth following Deviation 5.

Deviation 3 requests relief from Lee County Land Development Code §30-153(2)a(1)ii, which restricts the total sign area to not exceed 300 square feet, to allow a total of 331 square feet for the Commercial Planned Development (CPD). The Hearing Examiner recommends **APPROVAL** of the request subject to the Conditions of Approval for Deviations to Chapter 30, which are set forth following Deviation 5.

Deviation 4 requests relief from Lee County Land Development Code §30-94(h), which allows a maximum interior angle for double-faced signs of 30 degrees, to allow an interior angle of 133 degrees. The Hearing Examiner recommends **APPROVAL** of the request subject to the Conditions of Approval for Deviations to Chapter 30, which are set forth following Deviation 5.

Deviation 5 requests relief from Lee County Land Development Code §30, Division 3 "Off Site Signs," Section 30-181 (b) 2-5 "Off Site Directional Signs," which allows off site directional signs for semi-public bodies (such as place of worship) and limits them to certain locations, heights, size, content, and design generally, to allow an off site directional sign for a place of worship pursuant to the approved Master Concept Plan The Hearing Examiner recommends **APPROVAL** of the request subject to the Conditions of Approval for Deviations to Chapter 30, which are set forth as follows:

Conditions of Approval for Deviations to Chapter 30

1. The deviations are limited to the "Proposed Faith Assembly Sign" per the approved Master Concept Plan, Otherwise, signs must comply with Chapter 30 of the Land Development Code.
2. The "Proposed Faith Assembly Sign" must be in substantial compliance with the design per Exhibit "B" of VAR2008-00036.
3. The maximum height for the "Proposed Faith Assembly Sign" is 12.33 feet.
4. The "Proposed Faith Assembly Sign" shall not have an interior angle of separation greater than 133 degrees.

IV. HEARING EXAMINER DISCUSSION:

This is a request to rezone, from an Agricultural Zoning District (AG-2) to a Mixed Use Planned Development (MPD), a vacant +/- 56.76 acre parcel. The property is found at the northeast corner of the intersection of Bayshore and Samville Roads, in North Fort Myers. There are agricultural uses (cattle grazing) on the site. It is not located in a Coastal High Hazard Zone, but it is in the North Fort Myers Community Planning District ¹ and the Suburban Future Lane Use Designation.²

¹ **Lee County Comprehensive Plan Vision Statement:**

North Fort Myers - Over the course of the current planning effort, a new vision for the future of North Fort Myers has emerged and come into sharper focus. The following phrases, describing a brighter future for the community, capture the essence of the vision and provide a foundation for the plan's goals, objectives, and policies.

Town Center developments along the Caloosahatchee River and on Bayshore Road at I-75 offer new destinations for living, shopping, working, and socializing. Designed with walkable streets and streetscapes, ground level shops and restaurants, high quality housing, and connections to nearby parks, waterfronts, and natural areas, these new Centers are becoming signposts for positive changes throughout the community.

New retail and mixed use development cluster in Neighborhood Centers and along revitalized commercial corridors. Unlike the auto-oriented development that used to line major roadways, North Fort Myer's new neighborhood centers and corridors are pedestrian-friendly, with attractive landscaping and quality architecture.

Older neighborhoods are experiencing a quiet renaissance. First-time homebuyers, recent retirees, and new investors are fixing-up older housing stock, building compatible infill housing, sprucing-up yards, and working together to ensure properties and public rights-of-way are well-maintained, safe, and attractive.

New buildings are designed to fit the area's early design character. Simple, sturdy building forms, high quality materials, protection from the elements, and generous native vegetation create a distinctive local vernacular.

Landscape gateways, extensive streetscape and landscape improvements, and new pedestrian and bicycle facilities reinforce the North Fort Myers' reputation as a great place to live, work, and visit.

Greenways, blueways, and trail systems offer unique recreational amenities, linking together North Fort Myers' neighborhoods with the region's parks and recreational facilities, conservation lands, and new points of access to the Caloosahatchee River and its tributaries.

² **Lee County Comprehensive Plan 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

North of the property is the Oak Creek, RPD. Oak Creek was approved with 1,120 dwelling units, on 303 acres of land, or approximately 3.69 units per acre. East of the subject tract is the vacant Chapel Creek, RPD/CPD. That development is approved for a mix of single and multi-family residences, at 4.5 units per acre (three stories/45 feet in height). Raymond Lumber IPD, and various industrial and commercial uses, are farther east of the subject site. Bayshore Road is directly south of the subject site, across from which is a vacant agricultural tract. Also across that roadway is the Chapel Creek RPD/CPD, which was approved commercial and residential development. Finally, to the west is Bayshore Elementary School, a Lee County Utilities water facility and an electric facility. West of these facilities is a place of worship and generally low to moderate level residential development. The subject development's preserve area is generally on the west side of the property. Generally, this neighborhood has a mix of low-density, and industrial/commercial uses, relatively near an interstate interchange. There are vacant parcels, and parcels under development.

The Applicant's Master Concept Plan, **Exhibit B** hereto, is a four-page document, entitled "Master Concept Plan Bayshore 57 MPD." The first page depicts access from Bayshore Road and Samville Road. One deviation is noted. The south portion of the Plan contains the commercial development, with building footprints, parking and other details. The northern portion of the site contains the residential element, with multi-family buildings, single-family areas, entrances, lakes, and amenity areas. Preserves are found on the west side of the property, with details of the 50-foot natural waterway buffer. Page two depicts active and inactive gopher tortoise burrows, and cross sections of buffers (including enhancements) and lakes.

The Applicant is requesting 140,000 square feet of commercial uses, including 70,000 square feet of retail, on 19.14 acres. An additional 176 dwelling units (a mix of 72 single-family and 104 multi-family products) on 37.62 acres, or 4.678 units per acre, is also requested. Since the submission of the original application, they have submitted several improvements to the development, including reductions in intensity and density, a better mix of uses, increased buffering on Bayshore Road and adjacent to Chapel Creek to the east, and a reconfiguration of their commercial element. These are all reflected in the current Master Concept Plan, or **Exhibit B** hereto.

Both Staff and this Hearing Examiner have found this is an appropriate design that addresses both compatibility issues and implements the vision of the North Fort Myers Planning Community, as articulated in the newly adopted North Fort Myers Community Plan.

The Applicant has requested a density, with a Special Case Finding, for 70,000 square feet of commercial retail, on an arterial and minor collector road, and an arterial and a local road (two minor commercial centers). Without this Special Case Finding, only 60,000 square feet of retail would meet site location standards. A minor collector road is considered the equivalent to a local road, pursuant to the applicable provisions of the Lee County Comprehensive Plan. The Staff is supporting the Applicant's request. The Lee County Board of County Commissioners approved the nearby Chapel Creek RPD/CPD, with a similar density, and mix of single-family and multi-family housing, and a small commercial element (4.5 units per acre and 30,000 square feet of commercial retail).

development greater than neighborhood centers, and industrial land uses are not permitted. Bonus densities are not allowed.

Tony Palermo, a Senior Planner with the Department of Community Development, commented on the principles of "Smart Growth," as applied to this application, as follows:

Mix land uses. While this development does include both commercial and residential elements, it is not a true mixed use community. Residents within the community will benefit from nearby commercial uses to shop, work and get basic services, without leaving their immediate neighborhood. This development of both residential and commercial development improves the mix of uses to the overall community. The addition of single-family products also improves the mix of uses. This development will promote this smart growth principle.

Take advantage of compact building design. This development includes residential single- and multi-family products and a commercial element with a large parking area. The development also includes a residential element which is not at the top of the density allowed (maximum 6 units per acre). About 4.6 units per acre are requested. Chapel Creek, to the east, was approved at 4.5 units per acre, with both multi-family and single-family elements. The MCP shows modest lakes (1.3 acres and 0.5 acres) in the residential portion. The MCP shows nearly 45% of the 57-acre property utilized as open space and/or preserves. Much of the natural open space is concentrated in one area, the northwest corner where the natural water body and surrounding areas are preserved. Compact building design is utilized and this proposed development does promote this principle.

Create a range of housing opportunities and choices. The applicant proposes both single and multi-family products. A mix of both multi-family and single-family is desirable. The applicant makes no specific commitment that any of the housing will be work force or affordable housing. The housing is likely to be market-priced, which may or may not be affordable. The proposed development promotes this principle.

Create walkable neighborhoods. One could make the case that persons within the residential development will be able to walk to the commercial uses proposed on Bayshore Road. Sidewalks are found on Bayshore Road, however, it is not likely residents will find it a pedestrian-friendly experience to walk on a 4-lane arterial relatively near an industrial/lumber business and within about 1.5 miles from an interstate interchange. There are no sidewalks on Samville. Internal sidewalks are a desirable amenity which would make for a more walkable neighborhood. External sidewalks and sidewalk connections will be required as part of the local development order process. This development will promote this smart growth principle.

Foster distinctive, attractive communities with a strong sense of place. Development will be per the Land Development Code requirements, including Chapter 10 Design Guidelines for commercial development. No details, such as elevations, are provided at this point for either the commercial or residential elements. There is a concern that a suburban/urban development will not fit in with the rural and small-town qualities of the North Fort Myers Planning Community, which desires "Old Florida" details and elevations as was required with Chapel Creek CPD/RPD next door, as well as other developments in North Fort Myers. This development will, as conditioned, further this smart growth principle.

Preserve open space, farmland, natural beauty, and critical environmental areas. This agricultural property has valuable natural resources, including a flow way, gopher tortoise habitat and pine flatwoods. A significant indigenous area is preserved as

open space (please see the Environmental Sciences report). The applicant has taken measures appropriate (and per the Land Development Code requirements) to protect natural resources. This development does further this smart growth principle.

Strengthen and direct development towards existing communities. This development has infill qualities. To the north and east are proposed residential developments, which have not been built. To the south is undeveloped property and to the west is an elementary school and utility buildings (water and power). Further west there is commercial and residential development and further east there is an Interstate 75 interchange with some development. There is also a large lumber business to the east. This is an emerging community, rather than an existing community where development is taking or has already taken place. This development furthers this smart growth principle.

Provide a variety of transportation choices. It appears any residents or visitors at this location will be highly dependent on the automobile to travel on Bayshore Road, or to move internally. There are sidewalks serving the property on Bayshore Road, which do provide limited opportunities for pedestrian travel. It is possible for internal sidewalks to help residents travel internally without an automobile. The site is not within a LeeTran service area, and the nearest bus service is located near the corner of Bayshore and Slater to the west. As conditioned, this development will further this smart growth principle.

Make development decisions predictable, fair, and cost effective. Staff recommends approval, after staff had raised substantive issues with the prior designs. Chapel Creek next door was approved at 4.5 units per acre and a commercial component (with conditions including architectural features). The applicant has been aware of this development's history, and staff's recommendations are consistent with this case as well as other cases on Bayshore Road with natural resource issues, and issues with intensity and density.

Encourage community and stakeholder collaboration in development decisions. The applicant met with the community planning panel in North Fort Myers October 9, 2007. Such meetings with the community are always encouraged by staff. There is no Lee County Comprehensive Plan or Land Development Code requirement to do so in the North Fort Myers Planning Community. The planning panel was supportive of the request in general but had concerns about the proposed density and product type and wanted to avoid the look of "Army Barracks." The applicant was asked to return to the planning panel with more details. The applicant returned to the North Fort Myers Planning Panel April 6, 2010. This development furthers this smart growth principle.

Bayshore Elementary School is adjacent to the site's west boundary, separated by an indigenous preserve area on site. The Lee County School District expressed concern about consumption on premises and bar and cocktail lounges in proximity to that school. In response, consumption on premises is limited, by condition, to 1,000 feet from the closest boundary of the school's property line. The condition, will allow this use only in the context of a restaurant, after approval through a public hearing process, i.e., a special exception or amendment to the planned development, where they can evaluate a more detailed plan.

The Lee County Department of Transportation has reviewed this application, including proposed planned improvements to address operational issues. They recommend approval of Deviation 1 (separation requirements on Samville Road) with a condition to address the developer's obligation to provide site-related improvements and realignment of Samville Road to Bayshore Road. Access to the site will be from a realigned Samville Road, and Bayshore Road. The Applicant has an agreement with the Florida Department of Transportation authorizing the realignment of Samville Road.

Trip generation for the proposed development was determined using the *ITE Trip Generation, 8th Edition*, based on an equal allocation (50%/50% split) of Medical Office and General Office space. Retail floor area was analyzed as a Shopping Center. Approximately 14.9% of the development traffic was projected to be internally captured, and a 30% pass-by reduction was applied to the external retail trips. The proposed development will generate 613 trips in the PM peak hour (265 entering/348 exiting), and approximately 5,970 trips over the entire day.

Bayshore Road, along the project frontage, will experience a significant impact because of the added development traffic. This section of Bayshore Road has a capacity of 1,950 vehicles in the peak hour, peak direction. This development will add 191 external trips to this link during the PM peak hour in the peak direction. Adding the project traffic to the 2013 background traffic volume of 1,574 vehicles results in a buildout traffic volume of 1,765 vehicles in the peak hour, peak direction which represents a Level of Service "C" on this roadway.

The Division of Environmental Sciences Staff reviewed the proposed mixed use planned development and offered analysis and recommended conditions, which have been incorporated into the Master Concept Plan and/or the conditions herein. Boylan Environmental Consultants, Inc. performed a vegetative community assessment, on four occasions, from February 21 through March 27, 2007. Doug Griffith and Susie Derheimer field verified the assessment on July 11, 2007. The site contains ± 51.24 acres of uplands, ± 5.83 acres of wetlands, and ± 47.46 acres of existing indigenous communities. The upland vegetative communities identified onsite include Palmetto Prairie, Pine Flatwoods, Pine Messic Oak, Mesic Pine, and Xeric Oak. The wetland vegetative communities identified onsite include Stream and Lake Swamps, Melaleuca, Hydric Pine Flatwoods, Wetland Forested Mixed, and Wetland Forested mixed with exotics. Recommendations were made, and incorporated into the conditions herein, for open space, indigenous preservation, protected species (including gopher tortoise), buffering, and stormwater management.

The Applicant is asking for a special finding that they can develop this property consistent with a "Neighborhood Commercial" development, with a maximum of 70,000 square feet of commercial retail uses. Generally, a neighborhood commercial development is found on the intersection of an arterial road and a collector road. The subject property has access at Bayshore, an arterial road, and Samville, a minor collector. The Lee County Land Development Codes treats minor collector roads as local roads for commercial site location standards. The County's site location standards allow for these two corners to each qualify as "Minor Commercial" centers (with a maximum of 30,000 s/f of retail each), and the property qualifies for a maximum of 60,000 square feet of retail.

The Applicant is also proposing to leave the southwest corner of the property undeveloped, and that the additional 10,000 square feet of retail, be distributed throughout the commercial portion of the project. Staff has concluded that these requests meet the criteria for a special

case finding, including development on an "infill" site surrounded by existing and emerging development.

Planning Staff provided five reasons for a special case finding; there will not be an increase in overall intensity of the development, it is a more efficient use of space, there are opportunities for more internal trip capture, it will encourage a more pedestrian friendly environment, and the site design limits the number of commercial access points.

Commercial retail development, as proposed, must meet the location criteria of a Neighborhood Commercial development. Specifically, the development must have a site area of at least 2-10 acres and be located on or near the intersection of two roads, such as an arterial and a collector. The CPD is more than 10 acres. This subject property meets the criteria for two "Minor Commercial" centers. It has access points on an arterial and a minor collector (treated as a local road) and an arterial and a local road. Policy 6.1.2.8 provides relief from the strict interpretation of Policy 6.1.2 of the Lee County Comprehensive Plan. Policy 6.1.2.8 states that the location criteria standards specified in Policy 6.1.2 will serve as guidelines during the rezoning process (allowing limited discretion by the Board of County Commissioners in special cases in which retail uses is the only reasonable use of the parcel in light of its size, its proximity to arterials and collectors, and the nature of the existing and projected surrounding uses, including but not limited to environmental factors).

This Hearing Examiner and Staff recommend a special case finding, in compliance with Lee County Comprehensive Plan Policies 6.1.2 and 6.1.2.8. (See Footnote 6 herein)

The requested uses, a mixture of commercial and residential use, are largely consistent with the intent of this the Suburban Future Land Use Category and Policy 1.1.5 of the Lee County Comprehensive Plan. (See Footnote 1)

The subject property is in an area in proximity to an interstate interchange. It has characteristics of infill development. This rezoning promotes a contiguous growth pattern and is consistent with Objectives 2.1 and 2.2, and Policy 2.2.1 of the Lee County Comprehensive Plan.³

³ **Lee County Comprehensive 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.

Lee County Comprehensive Plan 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 F.S. 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 Concurrency Management Ordinance.

Lee County Comprehensive Plan 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.

The Applicant used a creative site design to match the topographic challenges this site presents and to better integrate it with existing development patterns. The Applicant has addressed concerns about potential negative impacts on the North Fort Myers' Planning Community. This application is Consistent with Goal 4, Objective 4.1, Policies 4.1.1 and Policy 4.2.2 of the Lee County Comprehensive Plan.⁴

The proposed design and density address potential compatibility issues with the residential community of North Fort Myers on Bayshore Road and is consistent with Lee County Comprehensive Plan Goal 5 and Policies 5.1.2 , 5.1.3, 5.1.5, 5.1.6 and 5.1.7.⁵

⁴ **Lee County Comprehensive Plan Goal 4:**

SUSTAINABLE DEVELOPMENT DESIGN. To pursue or maintain land development regulations which encourage creative site designs and mixed use developments. Using an overlay, locate appropriate areas for Mixed Use, Traditional Neighborhood Development, and Transit Oriented Development.

Lee County Comprehensive Plan Objective 4.1:

Maintain the current planned development rezoning process which combines site planning flexibility with rigorous review.

Lee County Comprehensive Plan 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.

Lee County Comprehensive Plan Policy 4.2.2:

The Mixed Use Overlay will not intrude into established single family neighborhoods. Connections to existing residential neighborhoods will be provided upon the residential neighborhood's desire and not precluded by the Mixed Use Development's design.

⁵ **Lee County Comprehensive Plan Goal 5:**

RESIDENTIAL LAND USES. To provide sufficient land in appropriate locations on the Future Land Use Map to accommodate the projected population of Lee County in the year 2030 in attractive and safe neighborhoods with a variety of price ranges and housing types.

Lee County Comprehensive Plan Policy 5.1.2:

Prohibit residential development where physical constraints or hazards exist, or require the density and design to be adjusted accordingly. Such constraints or hazards include but are not limited to flood, storm, or hurricane hazards; unstable soil or geologic conditions; environmental limitations; aircraft noise; or other characteristics that may endanger the residential community.

Lee County Comprehensive Plan Policy 5.1.3:

During the rezoning process, direct high-density residential developments to locations that are near employment and shopping centers; are close to parks and schools; and are accessible to mass transit and bicycle facilities.

Lee County Comprehensive Plan 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

Goal 6 of the Lee County Comprehensive Plan and associated policies call for well-planned commercial developments in appropriate locations in the county. This planned development has been evaluated for traffic, buffering, urban services, compatibility and environmental considerations. The application is consistent with Goal 6, Objective 6.1, Policies 6.1.1 and 6.1.2 (8), (12) and (13) of the Lee County Comprehensive Plan.⁶

denied altogether. The Land Development Code will continue to require appropriate buffers for new developments.

Lee County Comprehensive Plan Policy 5.1.6:

Maintain development regulations that require high-density, multi-family, cluster, and mixed-use developments to have open space, buffering, landscaping, and recreation areas appropriate to their density and design.

Lee County Comprehensive Plan Policy 5.1.7:

Maintain development regulations that require that community facilities (such as park, recreational, and open space areas) in residential developments are functionally related to all dwelling units and easily accessible via pedestrian and bicycle pathways. These pathways must be interconnected with adjoining developments and public pathways whenever possible. Townhouses, condominiums, apartments, and other types of multi-family residential development must have directly accessible common open space.

⁶

Lee County Comprehensive Plan Goal 6:

COMMERCIAL LAND USES. To permit orderly and well-planned commercial development at appropriate locations within the county.

Lee County Comprehensive Plan Objective 6.1:

All development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 11 and other provisions of this plan.

Lee County Comprehensive Plan Policy 6.1.1:

All applications for commercial development will be reviewed and evaluated as to: Traffic and access impacts (rezoning and development orders); Landscaping and detailed site planning (development orders); Screening and buffering (planned development rezoning and development orders); Availability and adequacy of services and facilities (rezoning and development orders); Impact on adjacent land uses and surrounding neighborhoods (rezoning); Proximity to other similar centers (rezoning); and Environmental considerations (rezoning and development orders).

Lee County Comprehensive Plan Policies 6.1.2 (8), (12), and (13):

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.

8. The standards specified in Subsections 1-4 for location, floor area and site area will serve as guidelines during the rezoning process (allowing limited discretion by the Board of County Commissioners in special cases in which retail uses are the only reasonable use of the parcel in light of its size, its proximity to arterials and collectors, and the nature of the existing and projected surrounding uses, including but not limited to environmental factors) but are strict requirements during the development order process in the case of zoning that existed prior to the effective date of the Lee Plan (December 21, 1984). The other standards specified in Subsections 1-4 will serve generally to indicate the types of development which are likely to fall within each commercial category. Proposed rezonings to commercial zoning districts that include both uses that are subject to the standards in Subsections 1-4 and uses that are not (see Subsection 7) may be found consistent with the Lee Plan by the Board of County Commissioners even if the subject parcel does not comply with the applicable location standard; provided, however, that no development orders will be issued on any such parcel for any use to which the standards in Subsection 1-4 is applicable, and all such development orders must be consistent with the level of service requirements in Policy 95.1.3.

12. Map 19 illustrates the existing Lee County intersections that are deemed to be consistent with the standards in subsections 2 and 3. Neighborhood and community commercial centers must be located at one of the designated intersections, at another intersection utilizing the list of Functional Classification for Arterial and Collector Roads, or in

The proposed Master Concept Plan addresses the criteria, which advocates commercial development be done in a cohesive and attractive manner. The Applicant addressed problems with the prior design including too much density, intensity, large commercial parking areas, and negative impacts on surrounding and proposed uses. This application is consistent with Policies 6.1.3, 6.1.6, 6.1.7 and 6.1.9 of the Lee County Comprehensive Plan.⁷

This development will connect to public potable water and public sanitary sewer service via Lee County Utilities and North Fort Myers Utilities. Lee County Department of Transportation Staff and Development Services Staff have provided findings and reviewed the Applicant's

accordance with one of the exceptions under Goal 6, or in Lehigh Acres in accordance with Policies 1.8.1 through 1.8.3.

The map shows some intersections with half-circles and others with full circles. Half circles indicate that only the two intersection quadrants shown on the map are deemed to be consistent with the standards. All of the quadrants of intersections designated with full circles are deemed to be consistent with the standards. Proposed neighborhood and community commercial centers that are located at the designated intersections are subject to all of the other Goals, Objectives and Policies of this Plan.

Functional classifications of new or improved streets will be established in accordance with the definitions of "arterial" and "collector" roads in Rule 9J-5.003. A list of Functional Classification for Arterial and Collector Roads, consisting of roads that meet this criteria, will be maintained by the Department of Transportation, for county maintained roads, and the Division of Development Services, for privately maintained roads. These functional classification lists will be adopted by Administrative Code. For the purpose of determining compliance with the locational standards of Policy 6.1.2, only those roads identified as Major Collector roads will be considered collector roads. Roads identified as Minor Collector or not included on the list will be considered local roads. The map will be revised annually during the county's regular plan amendment cycle.

13. Freestanding single use commercial retail development of five (5) acres or more does not qualify as a Neighborhood Center as that term is used in the Suburban and Outlying Suburban Future Land Use Categories.

7

Lee County Comprehensive Plan 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.

Lee County Comprehensive Plan Policy 6.1.6:

The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.

Lee County Comprehensive Plan Policy 6.1.7:

Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.

Lee County Comprehensive Plan Policy 6.1.9:

Prohibit commercial development from locating near existing or planned school areas in such a way as to jeopardize the safety of students.

traffic impact statement, finding no level of service issues. The application is consistent with Standards 11.1, 11.2, 11.3 and 11.4 of the Lee County Comprehensive Plan.⁸

The Lee County Comprehensive Plan addresses the North Fort Myers Planning Community's plans to improve the community by promoting mixed use, infill development, preservation of natural resources and public participation in the land development approval process. The Applicant has met with the North Fort Myers Planning Panel to discuss this proposed development. The Applicant's plans do address the community's desire to promote attractive and appropriately-scaled development. The application is consistent with Goal 28, Objectives 28.3 and 28.2.3, and Policies 28.1.5, 28.2.2, 28.2.5, 28.2.10, and 28.3.2 of the Lee County Comprehensive Plan.⁹

⁸

Lee County Comprehensive Plan 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.).

Lee County Comprehensive Plan 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.

Lee County Comprehensive Plan Standard 11.3:

TRAFFIC. A traffic impact statement must be submitted to and accepted by the county DOT for the following developments: Developments of Regional Impact (D.R.I.'s); Planned Developments (as specified in the Zoning Regulations); and Developments requiring a county development order, as specified in the Land Development Code. The form, content, and level of detail required in the traffic impact statement will be established by Lee County by ordinance, administrative code, or other regulations. Lee County will establish criteria or thresholds to determine the scope of the traffic impact statement required: if the development meets or exceeds the established thresholds, the traffic impact statement will provide a comprehensive assessment of the development's impacts on the surrounding road system; if the development does not meet or exceed these thresholds, the traffic impact statement will provide information regarding traffic generation and impacts at the development's access points to the adjacent street system.

Lee County Comprehensive Plan Standard 11.4:

ENVIRONMENTAL REVIEW FACTORS. In any case where there exists or there is the probability of environmentally sensitive areas (as identified by Lee County, the Corps of Engineers, Department of Environmental Protection, South Florida Water Management District, or other applicable regulatory agency), the developer/applicant must prepare an environmental assessment that examines the existing conditions, addresses the environmental problems, and proposes means and mechanisms to protect, conserve, or preserve the environmental and natural resources.

⁹

Lee County Comprehensive Plan Goal 28:

NORTH FORT MYERS. North Fort Myers seeks to improve the community's livability and economic vitality by and promoting compact, mixed use development in the form of new town and neighborhood centers; attracting appropriate investment to revitalize older neighborhoods and commercial corridors, stabilizing and enhancing, existing neighborhoods; preserving natural resources; and providing greater opportunities for public participation in the land development approval process. This Goal and subsequent Objectives and Policies apply to the North Fort Myers Planning Community.

Lee County Comprehensive Plan Objective 28.2:

LAND USE: CENTERS AND CORRIDORS. Identify and pursue Town Center overlay districts, road corridor overlay districts and redevelopment areas.

Lee County Comprehensive Plan Objective 28.3:

The commercial uses, as proposed, are consistent with Lee County Comprehensive Plan Objective 66.3, and Policies 66.3.1 and 66.3.5.¹⁰

TRANSPORTATION. The North Fort Myers community will have neighborhood, corridors and community interface improvements identified.

Lee County Comprehensive Plan Policy 28.1.5:

Consider revision to the Land Development Code to establish buffers between existing large lot residential subdivision and emerging adjacent higher density and intensity uses.

Lee County Comprehensive Plan Policy 28.2.2:

Preliminary Designation of Town Centers. The North Fort Myers Community Plan designates the following areas as Town Centers appropriate for moderate to high intensity, pedestrian-oriented, mixed use development and redevelopment. North Cleveland Avenue and Hancock Bridge Parkway. North Tamiami Trail – Pondella Road to the Caloosahatchee River. Bayshore and I-75. (Added by Ordinance No. 09-11)

Lee County Comprehensive Plan Policy 28.2.5:

Designation of Neighborhood Centers. The North Fort Myers Community Plan designates the following areas as Neighborhood Centers appropriate for moderate intensity, pedestrian-oriented, mixed use development: Littleton and North Cleveland Avenue; North Tamiami Trail and Del Prado Boulevard; North Tamiami Trail and Nalle Grade Road; Hancock Bridge Parkway and Orange Grove Boulevard; North Tamiami Trail and Pine Island/Bayshore Roads; Bayshore Road and Slater Road; and Bayshore Road and Hart Road.

For these areas, the community favors neighborhood-serving mixed use development pedestrian-friendly street, site, and building designs; the incorporation of live/work, multi-family, and attached housing; and sidewalk and path connections to nearby neighborhoods, parks, and public uses. These Neighborhood Center designations are intended to replace the designations show on Commercial Site Location Standards Map (Lee Plan Map 19)

Lee County Comprehensive Plan Policy 28.2.10:

The North Fort Myers Community supports a review of county codes that address the provision of interconnection between existing land uses to minimize access onto primary road corridors and to improve the safety for non-motor transportation.

Lee County Comprehensive Plan Policy 28.3.2:

Gateways, Streetscape, and Landscape Improvements. The North Fort Myers community will work with the Lee County Roadway Landscape Advisory Committee to review plans for streetscape and landscape improvements in gateway locations and along major roadways consistent with the general provisions of the LeeScape Master Plan, including Bayshore and Pine Island Roads, North Cleveland Avenue, North Tamiami Trail, Pondella Road, Hancock Bridge Parkway, and Del Prado Boulevard. Before finalization, plans should be presented for review to the North Fort Myers planning community.

¹⁰

Lee County Comprehensive Plan Objective 66.3:

LAND USE COMPATIBILITY. The county will seek to have the siting of all new schools follow these policies aimed at land use and transportation compatibility:

Lee County Comprehensive Plan Policy 66.3.1:

Protect the integrity of schools so that educational functions are not disrupted by the intrusion of incompatible land uses.

Lee County Comprehensive Plan Policy 66.3.5:

Land uses and development will not be permitted to the extent that it could necessitate the relocation of schools due to pressures from incompatible uses.

The Lee County Comprehensive Plan requires new developments to provide open space, and sets forth why open space and preservation of existing native tree and plant communities is important for aesthetic and environmental reasons. The request is consistent with Goal 77 of the Lee County Comprehensive Plan.¹¹

Lee County protects wetland and upland ecosystems so as to maintain and enhance native habitats, floral and faunal species diversity, water quality, and natural surface water characteristics. The request is Consistent with Goal 107 and Policies 107.2.4, 107.2.5, 107.2.13, 107.4.2 and 107.4.3 of the Lee County Comprehensive Plan.¹²

Finally, the application is consistent with the compatibility of Policy 135.9.5 and Policy 135.9.6 of the Lee County Comprehensive Plan.¹³

¹¹ **Lee County Comprehensive 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.

¹² **Lee County Comprehensive Plan 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.

Lee County Comprehensive Plan Policy 107.2.4:

Encourage the protection of viable tracts of sensitive or high-quality natural plant communities within developments.

Lee County Comprehensive Plan Policy 107.2.5:

Maintain regulations to control the clearing of natural vegetation, including tree removal and clearing of understory, prior to the development of property or its conversion to agricultural uses.

Lee County Comprehensive Plan Policy 107.2.13:

Promote optimal conditions rather than minimum conditions for the natural system as the basis for sound planning.

Lee County Comprehensive Plan Policy 107.4.2:

Conserve critical habitat of rare and endangered plant and animal species through development review, regulation, incentives, and acquisition.

Lee County Comprehensive Plan Policy 107.4.3:

Require detailed inventories and assessments of the impacts of development where it threatens habitat of endangered and threatened species and species of special concern.

¹³ **Lee County Comprehensive Plan Policy 135.9.5:**

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

Lee County Comprehensive Plan Policy 135.9.6:

Lee County will administer the planning, zoning, and development review process in such a manner that proposed land uses acceptably minimize adverse drainage, environmental, spatial, traffic, noise, and glare impacts, as specified in county development regulations, upon adjacent residential properties, while maximizing aesthetic qualities.

The *Planning Community Year 2030 Allocations*, allocate 1,687 acres in the Planning Community of North Fort Myers for commercial use, and further allocate 6,690 acres of land in the North Fort Myers Planning Community is allocated for residential use. The Community Development Department, Planning Division, confirms 8,006 acres of commercial uses were inventoried, and 4,895 acres of residential land were inventoried, in the North Fort Myers Planning Community. This leaves unallocated 1,005 acres of commercial acres and 1,795 acres of residential land in the North Fort Myers Planning Community. The request is consistent with the allocations for the Planning Community of North Fort Myers.¹⁴ This is not a guarantee of sufficient allocations for commercial and/or residential development in the future. That determination will be made at time application for a local development order.

The undersigned Hearing Examiner finds that the requested rezoning, and deviations, meet the criteria necessary for approval, including consistency with the Lee County Comprehensive Plan and Lee County Land Development Code. The new zoning district is compatible with neighboring properties. Consequently, this Hearing Examiner recommends approval of rezoning the subject parcel to a Mixed Use Planned Development (MPD), subject to the conditions and deviations set forth herein. In compliance with Section 3.1 of Lee County Administrative Code AC-2-6, the undersigned Hearing Examiner conducted a site visit to the subject real property prior to issuing this recommendation.

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 the rezoning by demonstrating compliance with the Lee County Comprehensive Plan, the Lee County Land Development Code, and any other applicable code or regulation.
- B. That the request will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request.
- C. That the request is consistent with the densities, intensities and general uses set forth in the Lee County Comprehensive Plan.
- D. That the request is compatible with existing or planned uses in the surrounding area.
- E. That approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development.
- F. That, where applicable, the request will not adversely affect environmentally critical areas and natural resources.

¹⁴

Lee County Comprehensive Plan 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 2020. 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.

- G. That the proposed use or mix of uses is appropriate at the subject location.
- H. That the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest.
- I. That the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
- J. That the requested deviations enhance the achievement of the objectives of the planned development.
- K. That the requested deviations preserve and promote the general intent of Chapter 34 of the Lee County Land Development Code, to protect the public health, safety and welfare.
- L. That, where the change proposed is within a future urban area category, urban services, as defined in the Lee County Comprehensive Plan, are, or will be, available and adequate to serve the proposed land use.
- M. That, the property can be developed consistent with a "Neighborhood Commercial" development, with a maximum of 70,000 square feet of commercial retail uses. The subject property has access at Bayshore, an arterial road, and Samville, a minor collector. The Lee County Land Development Codes treats minor collector roads as local roads for commercial site location standards.

VI. LIST OF EXHIBITS:

STAFF'S EXHIBITS

- 1. Composite exhibit consisting of two small aerial photographs depicting the subject property and surrounding area, dated 2010, printed July 2010, prepared by Lee County Department of Community Development (color) [8.5" x 11"]
- 2. Composite exhibit consisting of four photographs (the site, the corner, the sign for Faith Assembly, and a photograph taken from the subject property of an area across the street) (color) [8.5" x 11"]
- 3. Aerial photograph depicting the subject property and surrounding area, with overlay, dated 2010, mapped July 2010, prepared by Lee County Department of Community Development (color) [24" x 34"]
- 4. A letter from The School District of Lee County, to Tony Palermo, dated July 14, 2010 [8.5" x 11"]
- 5. A document containing language for Deviations 2, 3, 4, and 5, which indicates Staff's recommendation of approval [8.5" x 11"]
- 6. A memorandum from the Department of Community Development, Division of Zoning, Tony Palermo, AICP, Senior Planner, dated August 3, 2010, containing jointly-agreed upon language for the modification to Condition 20 (two pages) [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. 2007 Master Concept Plan prepared by Quattrone & Associates, Inc., last revised January 22, 2007 (first submittal) [24" x 36"]
2. 2008 Master Concept Plan prepared by Quattrone & Associates, Inc., plotted by Fred Drovdlc (second submittal) [24" x 36"]
3. 2009 Master Concept Plan prepared by Quattrone & Associates, Inc., plotted by Fred Drovdlc [24" x 36"]
4. 2010 - final Master Concept Plan (Aerial photograph with Master Concept Plan overlay), depicting the subject property and surrounding area, prepared by Quattrone & Associates, Inc., plotted by Fred Drovdlc, dated July 20, 2010 (color) [28" x 44"]

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

VII. PRESENTATION SUMMARY:

May 20, 2010 at 9:00 a.m., the Hearing Examiner announced the case and noted he had received a copy of a request for continuance of the case. The participants discussed the available dates and decided upon Friday, July 23, 2010 at 9:00 a.m.

The Hearing Examiner continued the matter until Friday, July 23, 2010, at 9:00 a.m. and the hearing was closed.

On July 23, 2010, the Hearing Examiner announced the case and the request for the record.

There were members of the public who were present, so the Hearing Examiner asked the County Attorney to make comments for the record. At that point, Michael Jacob, Assistant County Attorney, introduced himself for the record. He explained that his role in the proceedings was to assure that the record was complete by assisting the Applicant, Staff, and the Hearing Examiner in doing so. He explained that as part of the process, the Hearing Examiner would make a recommendation to the Board of County Commissioners (BOCC).

Mr. Jacob explained that those who wished to speak before the BOCC must speak (today) in this hearing. He noted there was one member of the public present. He explained that once the Applicant and Staff finished their presentations, the Hearing Examiner would open the hearing to public comment and that at that time that member of the public should come forward and submit a white Public Participation Form to the Hearing Examiner and indicate the location of his property if it was shown on the aerial photographs displayed.

Next, Tony Palermo, with Lee County Community Development, Fred Drovdlc, with Quattrone and Associates, Inc., and Russell Schropp, with Henderson Franklin, introduced themselves for the record.

The Hearing Examiner explained that the Applicant would make their presentation through witnesses and exhibits. Those witnesses would be subject to examination by the Applicant's Attorney, by County Staff, and by the Assistant County Attorney. When the Applicant was finished with their witnesses, Staff would in a similar fashion have witnesses and produce evidence. They would be subject to examination by the County Attorney and the Applicant. Following that the hearing would be opened to members of the public.

He explained that members of the public could ask any questions they wanted to ask and make any statements they wanted to make. The basic limitation was that it had to be relevant to the Applicant's request.

He advised those with cell phones or pagers to turn them off so that they would not be disturbed in the hearing. Then he placed the participants under oath. He asked the participants to indicate their names, addresses, and whether or not they had taken an oath when they came forward.

Russell Schropp, reintroduced himself for the record and indicated he represented the owners and Applicants in the request for rezoning. The request was to rezone approximately 57 acres (56.76 acres) in North Fort Myers from Agricultural (AG-2) to Mixed Use Planned Development (MPD) to accommodate a mixture of Commercial Office and Residential development.

The subject property was located at the approximate intersection of Bayshore Road and Samville Road as shown on the map. Staff recommended approval with conditions. They had worked very closely with Staff and he believed they had resolved all of the issues associated with the Staff Report from the Applicant's perspective. They had filed a memo with the Hearing Examiner's Office on Wednesday, which was their 24-Hour Letter, indicating that they had no issues with the Staff Report. It included the subsequent memorandum from Staff and additional matters that would be brought up in the hearing. The Hearing Examiner indicated he had received that.

Mr. Schropp explained that their presentation would be relatively brief and direct, because they had no issues with the Staff Report. Fred Drovdlc, with Quattrone and Associates, Inc., the planner for the project, was present and he would be making the bulk of the presentation.

Mr. Schropp noted Mr. Drovdlc had been previously accepted in this forum as an expert in land use planning and zoning. He tendered him as an expert in those fields (today) for this hearing. After hearing no objection, he was declared to be an expert in land use and planning matters.

At that point, Fred Drovdlc introduced himself for the record. He planned to give an overview and discuss what had been submitted and what they had worked through with Staff. It had been three years and one month since the initial application. There had been many iterations of the Master Concept Plan (MCP) during that time in getting to this point where they could gladly say they were in agreement with the Staff Report and all of the exhibits and attachments as presented in the Staff Report.

The property consisted of 56.76 acres at 7401 Bayshore Road. The request was for an MPD, which had both a Commercial Planned Development (CPD) portion and a Residential Planned Development (RPD) portion. The CPD portion consisted of a little more than 19 acres and the RPD consisted of approximately 37 acres. There was a sketch and description

in the report showing those areas and the division line was depicted across the back of the northern medical building.

The location of the property was on the northeast corner of Samville Road and Bayshore Road. For purposes of the presentation, to avoid confusion, he would describe locations as "north, east, and west," even though it was situated at an odd angle.

Located to the east of the subject property, was Chapel Creek RPD. It was approved for 800 units and approximately square feet of commercial uses, of which, a maximum of 30,000 square feet may be commercial retail...] for the CPD portion. Located west of the property there was a Lee County Utilities (LCU) Water Treatment Plant, an electric co-op, an industrial company with open storage, the Bayshore Elementary School, and to the northwest - the Oak Creek RPD, which was approved for 1,120 Residential units of mixed character, including Single-Family, Townhome, and Multi-Family.

The Bayshore Road/Interstate 75 (I-75) intersection was approximately 1.5 miles east of the site. The other major commercial intersection (Bayshore Road/Slater Road) was approximately one mile west of the property. There were several planned developments approved on the corners. There was a drugstore on one of the corners and there was a CPD on one of the other corners for approximately 100,000 square feet of Commercial.

Mr. Drovdic pointed out that this property in this location was really not random. It was actually fairly strategic. It just about split the two commercial areas that would have potential on Bayshore Road. It was really the only other intersection that had a collector and a decent amount of frontage that was in the middle of two existing commercial areas. Samville Road was a minor collector. There was approximately one mile between it in each direction to the other major commercial developments. The area was for the most part undeveloped. There was scattered development on Bayshore Road.

He referred to submittals they had made. He had three exhibits to enter into the record at that time. The first exhibit was their first submittal to Staff. The Hearing Examiner entered the exhibit into the record as Applicant's Exhibit 1.

Mr. Drovdic explained that he had marked them Numbers 1, 2 and 3. He referred to some additional exhibits and explained that when they first came in, they were requesting 210,000 square feet of commercial, a little bit over 100,000 square feet of retail, which, was primarily medical offices in two areas. There were 224 town home units, in the connected buildings, which, he referred to on the exhibit.

The buffers were 20 to 24 feet on the front and 15 feet on the sides. They preserved an indigenous area along the floway, which was an existing creek. The subject property and surrounding area were within the Suburban land use category and the initial feedback from Staff was that for this area, it was a little too intense.

They also went to the North Fort Myers Community Planning Panel - Design and Review Board and presented this. They had similar reactions, in that they didn't like some of the barricade-type buildings, they didn't like the straight lines over there. They wanted more of a sense of place and they thought the intensity was a little too gritty. So, they went back to the drawing board.

Mr. Drovdlc referred to the MCP, which was displayed and the Hearing Examiner admitted the MCP dated 2008 as Applicant's Exhibit 2.

Mr. Drovdlc explained that the black or dark area was the pavement. He also left the black dots for the gopher tortoises. They tried to redesign the site and make it a little more approachable for North Fort Myers and make it a little more approachable for Staff. They reduced the request to 185, 000 Commercial and reduced the units to 192 units. They were still townhome units and then the 185, 000 was still a mix of retail and office. The retail was still a little over 100, 000. He indicated that MCP was dated 2009.

The Hearing Examiner indicated that Master Concept Plan would be admitted as Applicant's Exhibit 3.

Mr. Drovdlc indicated Staff still didn't like the intensity on that MCP. Some of the layout was questioned and they started having a lot of discussions with FDOT over access on Bayshore Road. They didn't like where they had the prior location, which, they had located more towards the center. Instead, they wanted it spread as far apart from Samville Road as possible.

Staff (particularly Transportation Staff), indicated they didn't like that they had straight access onto Samville Road, because for the amount of commercial, there wasn't enough stacking. There wasn't enough distance between where they were going to intersect with Samville Road and where Samville Road intersected with Bayshore. There was inadequate stacking distance and they didn't like the turning movement. They thought that it would not work from a Level of Service (LOS) standpoint. So that promoted a major redesign and a reduction again in intensity.

So they reduced the total request to 176, 000 square feet of commercial and stayed with the 192 units of residential. They just rearranged it a little to make it a little more pleasing and give it some movement. The major thing that happened then, was that they moved the entrance to the residential area and the entrance into the commercial plaza as far as they could to the property boundary to the east.

It was abutting Chapel Creek as far as they could go. That was to make the intersection separation between that access point and Samville Road, as great of a distance as they could to allow room for the turn lanes, because Bayshore was designed at 50 miles per hour. They needed approximately 300 for the turn lanes. That included a turn lane at Samville Road, so they needed a lot of distance. They got it with that kind of alignment.

Mr. Drovdlc explained that moving that did not address the stacking on Samville Road and the entrance for their project. That prompted an approximate nine to 10-month redesign with FDOT. They presented them with 11 different configurations of what the road could look like within the property to try to find out what turning radius was and a layout that they really agreed with.

He referred to an exhibit, noting it was their first one. After 10 iterations of it, they came back and had a big meeting with about 15 people and they finally went back to the first one they drew nine months earlier. So, it was a one year process to go back to what they had designed first. It was a loop that gave them a fair amount of stacking. He also pointed out the intersection for the property entrance. It still had some issues. The issues were not with Samville Road. He pointed out the existing one with the loop that they did.

Staff still had some issues. There was not a dedicated road off Samville Road to get into the project's residential portion. It was along a parking isle. It felt like they were in a commercial area. They agreed. Then with that amount of commercial, they needed parking. So that prompted another redesign. He referred to the final one, noting it was in color so that it would be easier for them to look at.

The Hearing Examiner admitted the final MCP into the record as Applicant's Exhibit 4. Mr. Drovdlc indicated it was the 2010 version.

Mr. Drovdlc explained that there was a recommendation of approval from Staff for 140, 000 square feet of commercial. This included 70, 000 square feet of retail, 35, 000 square feet of medical office, and 35, 000 square feet of office. So from their original design, they went from 210, 000 square feet of commercial down to a 140, 000 square feet. They reduced the total units from 224 townhomes, down to 176 units, which, were a mix of single-family and townhomes, and he thought that was pretty obvious. He pointed out the townhome units and the single-family units.

He explained they were divided up with a minimum 104 multi-family units and 72 single-family units. Having a mix of units was a big part of the initial request of the North Fort Myers Community Planning Panel - Design and Review Board. They wanted to have more kinds of housing choices for the area. That went along with the Comprehensive Plan's Smart Growth principles.

Next, he gave some of the other highlights of the plan. With the reduction in commercial, the one thing they were able to do was provide some fairly large buffers. He thought they were significant. Along the front, they were able to provide the full 50-foot of buffer so that they were not required to have any deviations. In fact, it allowed a condition from Staff to enhance the area because the 50-foot buffer was meant to preserve existing indigenous along arterials.

Mr. Drovdlc explained that there was not a whole lot of great indigenous there. A lot of it was melaleuca. A lot of it was going to have to be cleared out, which might leave it without a very substantial buffer. So in that case, Staff conditioned them to enhance that buffer with the amount of planting so that it would be at least a minimum full Type "D" buffer with existing indigenous. It also allowed them to greatly enhance the buffer along Chapel Creek because as could be seen on the existing MCP and on another exhibit, the Chapel Creek CPD approval, had single-family lining the commercial area. So they provided a 50-foot buffer on that side (full Type "F" plantings) with a meandering pedestrian walkway.

They had increased the open space quite a bit. They easily met the required 45 percent, as required in the Staff Report. It allowed them to have a lot of green space and a lot of larger islands in the actual commercial developments. Some of the islands in the center were actually 30 feet wide.

Referring to the plan and other plans, he pointed out that there were extensive pedestrian interconnections throughout the development. Another benefit of the reduced commercial intensity was that it provided them with the room that they needed. The preserve areas that had been fairly consistent over the last two years were purposeful for two reasons.

First, the approval of the Oak Creek RPD had their preserve area coming through there with the existing floway. They matched up the preserve area with that so that it created a large

corridor of preserve that was connected to theirs. That was a preference of Environmental Staff to give as much consolidated land for wildlife as they could. So they had accommodated that.

Second, the preserve area was purposefully designed in another area, because it enabled them to capture 50 percent of the existing gopher tortoise habitat. They were pleased about that. It was a 13-acre indigenous preserve area and that captured 50 percent of the active gopher tortoise burrows on site.

The Staff Report, as conditioned and the Environmental Report required mitigation and they would have to go through The Florida Fish and Wildlife Conservation Commission (FWC) in order to do that at the time of Development Order. They were in agreement with those requirements.

North Fort Myers was not only concerned about pedestrian interconnections, they also wanted them to try to connect to the abutting Residential Planned Development (RPD). Their RPD did not show that. In fact, there was a full line of single-family lots on that side up to the lake. He didn't know how much that provided for access. However, they did show it and it had been designed in as an optional cross-access easement right across from the main entrance to the back building.

Mr. Drovdic indicated there was an optional cross-access easement that they would be willing to grant. They wanted access. He didn't know how popular that would be in going into a single-family area, however, if it changed in the future and was rezoned, then at least this site plan would have made preliminary plans to have some connection.

There was no other opportunity to connect to any of the other areas, especially with the indigenous. They asked them to try to connect in a certain area. He explained theirs was all preserve and the Applicant's was all indigenous preserve. There was a flowway through there and there wasn't much of an opportunity to connect. To the north, they had lakes and a few single-family lots and single-family, so it made sense to leave that alone. He pointed out another area of single-family abutting single-family. There didn't seem to be a need to connect to that part.

He wanted to point out two things about the final redesign of the roadway and particularly Samville Road. They had taken Staff's recommendation into consideration and tried to make both roadways that led to the residential area, completely dedicated. They did connect to the commercial area, but he thought that if and when this actually got built, it would feel much like they were entering a private Residential area. They did provide extensive pedestrian interconnections and sidewalks throughout the developments on almost all sides of the road so that there could be opportunities for people to walk or bike to the Commercial areas without having to leave the sidewalk.

Lee County Department of Transportation (DOT) was concerned about the stacking and traffic that they were creating and Florida Department of Transportation (FDOT) had been concerned about the existing angle to Bayshore Road. They liked 90-degree angles to their roads, mainly because they could close up the median and make it tight so that there were not sloppy traffic patterns. That was what was happening now. The angle there had created the median and the separation was enormous. He explained that you could actually pull out of the road and with normal acceleration you could hit almost full speed before you actually had to pull into the traffic lanes.

He explained that you would pull out of there and then there were other people that wanted to make a left (turn). He thought that during his site visit, the Hearing Examiner could watch the odd traffic patterns, although they might not be particularly dangerous. This would give them the opportunity to close up the median and make it have a more normal traffic pattern and prevent people from stacking.

Mr. Drovdlc explained that he observed two or three cars stacking because there was so much room if they wanted to make a left turn. The first person would pull out then the next person would stack parallel beside it and then another and they would just go when they could, according to the traffic going east on Bayshore Road. He explained that FDOT was pleased that it was 90 degrees. They had provided as much of an angle and radius as they could, so that there would be a fairly decent traffic flow there.

The final separation from the Bayshore intersection to the entrance to their project was 253 feet. Staff required 330 feet on a collector road. That was the reason for Deviation 1. After going through all of the iterations, 253 feet was the most they could get out of that with a safe turning radius, especially since there would be a lot of bus traffic, since this was one of the main entrances and exits from Bayshore Elementary School. That was why they had to make that radius as large as possible to accommodate the buses. Currently it stacked six buses, which should work well if not improve it.

The North Fort Myers Community Planning Panel - Design and Review Board looked at this plan. It was their second presentation to them. The first presentation was the 2007 plan. They took into consideration all of their concerns. He explained that the Committee was used to Development Order Review and they were used to looking at the architectural, so they didn't have a whole lot to say, but what did say was that it was an improvement. Preliminarily, they agreed that the site plan was good based upon further review and in looking at the architectural and final design. The look along Bayshore Road was really their ultimate concern.

They did like that the Applicant had at least tried to create a "sense of place." Referring to Attachment "N" of the Staff Report, he explained that they agreed to make it consistent with that architectural look that was approved in Chapel Creek and their Commercial section. That satisfied them and overall they gave them a recommendation of approval, pending further review. They indicated it was a drastic improvement and they liked the reduction in density and intensity and the housing mixed use. The minutes were included with the Staff Report (Attachment "S").

Mr. Drovdlc referred to Condition 7, which required connection to sewer and water. Sewer and water was available there through Lee County Utilities and through North Fort Myers Utilities on that side of Bayshore Road. It would be a fairly easy connection. Next, he referred to Condition 14 regarding the unified architectural theme, noting Attachment "N" with the Chapel Creek rendering was attached to the Staff Report. They agreed they would be in substantial compliance with those renderings.

Condition 16 referred to the open space and reiterated the requirements to have a minimum of 45 percent open space, which was equal to 24 acres. Condition 17 spoke to the indigenous preserve and they had provided 12.19 acres onsite and with their credits it was 13.5 acres. That actually gave them 59 percent of total open space that was indigenous. So they had exceeded the requirement.

On both open space areas they exceeded (fairly significantly) the amount of open space that they were required to have for the project. With the redesign of Samville Road, a little pocket area was created that was a little less than an acre. They didn't really have a use for that and they wanted to consolidate the commercial area into the center of the development. So Staff in Condition 20, for Tract "A" in attachment "P," spelled out their desire for that area to be preserved.

At that point, Mr. Drovdlc explained that he had originally told the church that it wasn't for a wetland area, however, he saw that Staff had marked it as a wetland preserve area. He explained that the Applicant agreed that was fine. Staff also allowed one use there, which was for the sign location to accommodate the Faith Assembly Church, because of the movement of the intersection. Staff allowed for it to be a wetland preserve with that sign as the only structure allowed.

The church's main concern was that if it was a wetland and preserve area, they would have limited ability to maintain the view and clarity of their sign, i.e. going in and mowing and maintaining that type of area. They wanted to keep the view of their sign clear. Mr. Drovdlc wanted to know if that could be addressed with language to give the church some kind of comfort level that they would easily be able to maintain that. The Applicant had no concerns about that but they wanted to make sure that the church was fully accommodated for their sign.

Next, Mr. Drovdlc referred to the Deviation, which was for the intersection separation for the redesign of Samville Road from Bayshore Road to their project entrance. The requirement was 330 feet and they had 253 feet. Staff recommended approval. Over the last couple of weeks they had tried to fine tune the deviations that would be required for the sign to accommodate the Faith Assembly Church.

In 2008, Faith Assembly Church spent quite a bit of time on Variance (VAR2008-00036). He pointed out on the exhibit their sign location in that variance that was approved. The sign was not constructed there. They had another sign, south on Bayshore Road near Williams Road that provided entrance to their site that was constructed. The variance was for a second sign location for them on site and some other things. It was an elaborate variance. So he left the variance to stand on its own, so as not to reiterate that entire report.

In the deviations they tried to make accommodations for them, so they would not have any encumbrances when putting the sign on their site. It would essentially allow them to move from one point to another so that they would have the same distance from the intersection. It made sense for their development so that people coming to that intersection would actually know that was the church when the road was redesigned.

They needed a deviation to have another off-site sign, to have a third sign, and add additional square footage (31 square feet). Their variance for their sign was approved to be 31 square feet, so they needed a deviation to allow the additional square footage so that their two project signs would still be able to have the full 300 square feet. He pointed out red dots that indicated the location of the initially proposed area for the two main signs for the shopping center and residential area.

Mr. Drovdlc thought they had the language right. It was their intent to not make any deviations for their signs. They were going strictly by the Code for the Bayshore 57 portion of the project. It was strictly to accommodate the church and their sign.

Next, he referred to the planning memo that discussed the commercial square footage area. They were located at the corner of an arterial and a minor collector. For planning purposes they considered that a local road. Because of that they were limited, according to the Comprehensive Plan, to 30,000 square feet of retail uses. Over time they had gotten recommendations back from Staff and had redesigned the site and one of their major recommendations was to have dedicated roads to the residential area. That not only made the project better, it also provided opportunities for Planning Staff to look at it and the intensity of the project and work through the Comprehensive Plan Policy 6.1.3.

Their final conclusion was that this property had local road access going to the residential area, which created a local road and arterial corner. Samville Road created that same corner so there were two of those local roads and arterial corners on the site. He referred to a small area, which was approximately one-acre and indicated that although it certainly could not accommodate 30,000 square feet, they had determined that it could reasonably accommodate about 10,000 square feet of commercial development. He thought that was a fairly safe number that everyone agreed with. According to the Lee County Land Development Code (LDC) they could approximately build 10,000 square feet per acre.

Therefore, those three areas created the possibility of 70,000 square feet of retail. That was their recommendation and final decision in the Planning Memo. They agreed that it would not be a good idea to try to put any commercial there. Staff wanted that as a preservation area. The Applicant agreed it would be better to centralize the commercial into the center of the project. That was what they did. He explained that 70,000 square feet was accommodated in the retail buildings he pointed out. The other 70,000 square feet of office and medical office was accommodated in another building he pointed out. The footprint of the building was not quite 70,000 square feet. It would be a two-story building with the second story approximately one-half of the footprint of the building.

They would have approximately 20 parking spaces more than what was required. So the site was laid out fairly efficiently so that if that amount of square footage would get built that was the way the MCP could be constructed.

Pages 16 through 18 of the Staff Report spoke about the Smart Growth Principles, he planned to discuss the highlights. Rather than going through every level of Comprehensive Plan Consistency and highlighting all of those, he would let most of the Staff Report stand, since Mr. Palermo had done a very good job on analyzing those sections and they agreed with his analysis.

Next, he addressed some of the Smart Growth Principles that they tried to accommodate and Staff seemed to agree that they did accommodate. One of those was Mixed Land Uses. The development included both commercial and residential uses. The commercial and residential uses were in close proximity so that they could be reached without a car by at least the residents on that site. They had provided pedestrian interconnections to accommodate those. It also provided a mix of housing uses between the townhomes and the multi-family and single-family homes.

The development density for the mixed units initially was closer to the maximum amount in the Suburban land use category (close to six units per acre), however, they had reduced it down to 4.6 units per acre, which was almost the same as Chapel Creek. Chapel Creek was approved at 4.5 units per acre. So they were right in line with the approvals of the

surrounding properties. They had provided a compact building design in order to try to promote the Principle that this could be reached without an automobile.

Next, he referred to the Principle to create walkable neighborhoods. He explained that they had spent quite a bit of time in laying out the internal sidewalks. He thought that once the Hearing Examiner got a close look at the MCP, he would see that the people living there and the people from Bayshore Road could get to every building without leaving a sidewalk, so they would not have to walk up to a certain point and enter into a parking lot where you would have to jump off of the sidewalk and walk in the same drive lane as cars.

That was one of his major annoyances for a lot of the developments. He explained that he lived in a development just like that where he could ride with his children all the way up to where he could see the store and then they would have to cross into all of the traffic lanes with everyone else and dodge traffic until they could get to the bike racks. With this layout, they had designed the sidewalks to go right to all of the bike racks and entrances to all of the buildings.

Next, he addressed the Principle to "foster distinctive, attractive communities with a strong sense of place." That was the major reason they had tried to break them up into smaller buildings. They provided larger outdoor areas and larger medians with sidewalks going clear through the middle from Bayshore Road, so that there were actually three different entrance points on Bayshore Road with sidewalks, and larger medians where there would be plenty of room to be grassed and landscaped on both sides so that people could essentially walk through there and really feel like they were still walking along a nice area and not walking through a parking lot to get to any one of the buildings.

The layout of it created a sense of space, where at least from Bayshore Road you could look back and it would be a nice looking corridor where you wouldn't necessarily see a sea of parking because it was broken up with enough green space. He pointed out that the condition for a buffer 50 feet from Bayshore Road would probably do a lot of that also.

Next, Mr. Drovdlc referred to the Principle to "preserve open space, farmland, natural beauty, and critical environmental areas." He explained that they had done a fair amount of redesigning to make as good a connection as they could to the existing preserve to the Oak Creek RPD. He thought they had accomplished that. They were able to really increase the amount of open space overall on the site over time.

He referred to the Principle to "strengthen and direct development towards existing communities." Staff had iterated that this had some infill qualities. He guessed that in the fact that this was an emerging area, and not currently a built area, potentially it could have a couple thousand rooftops around it.

He thought it might take a little more time, but he believed it was within the time of this MCP that they would see some action happen on those properties. He mentioned infill, and referred to the amount of Residential Planned Developments (RPDs) approved around this entire piece of property.

Next, he referred to the Smart Growth Principle, which encouraged community and stakeholder collaboration. They met with the North Fort Myers Community Planning Panel - Design and Review Board in October 2007 and again in April 2010, and they saw the first

one and the last best one. So they had coordinated with the community. Those were the highlights.

Mr. Schropp referred to sign for the church and explained that they had discussions with the church. The church was represented in the hearing as well, and he was sure they would address the Hearing Examiner. They had discussions regarding providing a sign easement for them in the event this request was approved as proposed. There would be a sign easement entered into between the parties to accommodate the sign on that location.

Mr. Jacob noted there were outparcels shown on the MCP. He wanted to know the approximate size of those outparcels. He wanted to know the square footage they were intending to put out there. He wanted to know if they knew that amount yet. Mr. Drovdlc explained that he had never calculated the outparcel size. He calculated the total square footage of the buildings, which was approximately 7,500 square feet. He thought all four of them were 7,500 square feet each. He referred to some that were 10,000 square feet.

He explained that it was 7,500 square feet set up to be a restaurant type of use with fairly intense parking. That was why he had provided a double-row around most of it. He referred to an area with a middle isle parking area, which was approximately one and three quarter-acre.

Then Mr. Jacob indicated he understood that in the future this would be platted. The way the dimensions were set up, the minimum lot dimensions were 10,000 square feet. If the outparcels were intended to be sold off, he was not sure they would meet the lot dimensions for the outparcels. If they didn't, then they should address the lot size issue. He wasn't sure how parking would be calculated for those outparcels. Mr. Schropp thought that was a good point. He explained that the outparcel area looked to him to be at least 100 feet by 100 feet.

Mr. Jacob didn't think the buildings themselves would meet it (in terms of the building footprint). Mr. Schropp agreed it wouldn't. Mr. Drovdlc indicated the building footprint would not meet 100 feet by 100 feet. Mr. Jacob wanted to know if there would be an appropriate amount of parking for the square footage of the uses for each one of those outparcels, with the way it was set up with parking around each one.

Mr. Drovdlc indicated the only one that was a little under amount. That was why he left the area open, because there was plenty of parking in the center for it. He referred to three areas where for the most part the parking worked for them, even if it was a restaurant. So their lot dimensions and minimums would work until they got the platting. Mr. Schropp indicated they would have to comply with the requirements.

That concluded the Applicant's presentation. They were available to answer questions and provide rebuttal.

At that point, Tony Palermo, with Lee County Community Development, introduced himself for the record. He wanted to be recognized as an expert in planning, zoning, and land use. He had been previously recognized and his resume was on file. After hearing no objection, he was recognized to be an expert in land use and planning.

Mr. Palermo thanked Mr. Drovdlc and Mr. Schropp, who put on an excellent case. It had been a pleasure to work with them the last few years on this case and they had come to a

really positive point. There were no issues between Staff and the Applicant. That was an accurate statement to make.

Next, he explained that during the course of the case there had been some (but little) interest in the application from the public. They had received a few phone calls. There had been only a couple of phone calls recently. Most of those were actual members of the North Fort Myers Community Planning Panel - Design and Review Board who were just interested in the progress of this particular rezoning effort. They were interested in the changes that had been taking place over the years.

He planned to be brief because Mr. Drovdic had excellently covered most of the territory. He wanted to put a couple of exhibits on the record and go through his own analysis of Smart Growth, the Lee County Comprehensive Plan, compatibility, and concurrency issues. He would give some of his concluding thoughts.

He referred to an aerial photograph (large and small) prepared for by Staff. He pointed out four photographs. There were two photographs of the site itself, with the sign for Quattrone and Associates and the corner they had been discussing on Samville Road and Bayshore Road.

There were also photographs showing the sign for Faith Assembly on Williams Road (not the subject property) and a photograph taken from the subject property of an area across the street where their sign would have gone. After hearing no objection those two aerial photographs on one sheet of paper were entered into the record as Staff's Composite Exhibit 1 and the four photographs were entered into the record as Staff's Composite Exhibit 2. The larger aerial photograph was entered into the record as Staff's Exhibit 3.

Mr. Palermo noted that the Staff Report submitted to the Hearing Examiner was dated July 7, 2010. A memorandum from Mr. Palermo, dated July 20, 2010 had also been submitted to the Hearing Examiner with a series of attachments mostly concerning the variance case that Mr. Drovdic talked about.

He also provided the July 14, 2010 memorandum from the School District. The School District was not present to represent themselves in the hearing, but they called him that morning mostly to indicate that they agreed with Staff's recommendation. Their only concern was the potential consumption on premises near Bayshore Elementary School, however, Staff's conditions had essentially taken care of that.

Mr. Palermo also provided a one-page Staff memorandum to address the remaining issues with the Chapter 30 deviations (Deviations 2, 3, 4, and 5). He had taken the deviation language the Applicant had provided to the Hearing Examiner and he had made some changes. He worked with Mary Zettel in Code Enforcement, who was the expert on sign regulations. He had also provided the Hearing Examiner with some conditions of approval. The Applicant had seen them already. There were four conditions of approval and they were fairly similar to the variance case that the Hearing Examiner was provided in his July 20, 2010 memorandum.

The justification was there. The conditions were similar because they were similar circumstances. It was technically an off-site directional sign. He also made a recommendation to change Condition 20 accordingly to make reference to Deviations 2

through 5. He submitted them to the Hearing Examiner at that time. He planned to discuss all of it later.

After hearing no objection, the Hearing Examiner admitted the exhibits into the record. The School District letter was admitted as Staff's Exhibit 4. Staff's memorandum regarding Deviations 2 through 5 was admitted as Staff's Exhibit 5.

The Applicant's 24-Hour letter, which was submitted to the Hearing Examiner indicated there were no issues.

He wanted to discuss the facts and analysis from Staff's perspective. They recommended approval with conditions. They also recommended a special case finding for commercial retail uses. They also recommended a number of deviations to be approved with conditions.

The property consisted of more than 57 acres. It was in the Suburban future land use category. It had Agricultural zoning. It had grazing uses with an Agricultural Exemption. It was located on Bayshore Road and Samville Road in the North Fort Myers Planning Community. The property also had access to North Fort Myers Utilities for sewer services and Lee County Utilities for water services.

Mr. Palermo explained they had received the application a long time ago (June 27, 2007). It was found sufficient October 30, 2009. It had been continued a number of times just to get everything right. They recommended conditions of approval. He wanted to highlight a few of them. Condition 1 outlined what office and retail uses were permitted. He referred to the density, which was approximately 4.6 units per acre for the residential portion of the property. It was not all multi-family development. It was a mix of multi-family and single-family development pursuant to the conditions.

The conditions gave a schedule of uses, which he believed were consistent with the Suburban future land use category and with other zoning cases in the immediate neighborhood. Condition 9, was the Agricultural condition, which allowed agricultural uses to continue until a Development Order occurred. Condition 14 was important because it provided a set of elevated design standards, which was similar in nature to those approved with the Chapel Creek Residential/Commercial Planned Development next door. The Applicant had no objection to those.

Condition 15 covered consumption on premises. It was a commercial use within the CPD. They were concerned because there was an elementary school relatively nearby the property. However, they were able to condition that appropriately to keep those uses potentially away from any school uses.

Lastly, Condition 20, which Mr. Drovdlc discussed, detailed what was allowed and not allowed on what they were calling Tract "A," which would be primarily an open space area, with some room for a directional sign, which was appropriate, as Mr. Drovdlc had mentioned, to move the commercial into a more compact area and ultimately allow a special case finding for 70,000 square feet of commercial/retail uses and some office uses on top of that.

Referring to page 16 and the Smart Growth Principles, which Mr. Drovdlc had addressed, he thought it was remarkable in this case how many of the Smart Growth Principles applied to this Planned Development, which was a Mixed Use Planned Development. He made the case from Staff's perspective that this did create a good mix of uses and a sense of place,

as discussed by the Applicant. He thought environmentally, it did all of the right things. He thought they could say it was "infill development" in an emerging residential and commercial neighborhood in North Fort Myers.

The Applicant met with the North Fort Myers Community more than once. He thought that was important. They were not required to do so by the Land Development Code (LDC). They were not required to do so by the Lee County Comprehensive Plan.

There were minutes from their two meetings (Attachment "D") dated October 9, 2007 and (Attachment "S") dated April 6, 2010. The Applicant had gone to considerable effort to meet with the Community. Staff encouraged that and they appreciated that. Page 19 showed the analysis of the Lee County Comprehensive Plan finding that this was consistent with the Lee County Comprehensive Plan. It was consistent with the Suburban future land use category. It was the appropriate density and the appropriate mix of uses.

He thought it furthered Goal 4, which was a goal for sustainable design in Lee County. It was consistent with Policy 5.1.5, regarding residential areas and whether or not they exist or could exist in the future, and whether or not they are protected adequately.

Policy 6.1.2 addressed the special case finding. They had a memorandum from Planning supporting the special case finding for this property. Policy 6.1.9 addressed the safety of the schools. They had refined the Schedule of Uses appropriately to protect the nearby elementary school.

He wanted to highlight that this application, as conditioned, furthered Goal 28, which was the North Fort Myers Policies and Goals, which were recently adopted. There was analysis of that in the Staff Report.

In reference to the Lee County Comprehensive Plan, this project, as conditioned, furthered Goal 77 and 107 and Environmental Science's Report reflected that natural resources and wetlands were adequately protected, as conditioned.

Staff's analysis of compatibility could be found on page 31 of the Staff Report. It was in the North Fort Myers Community. They considered the surrounding density. They considered the church. They considered the school. They considered the more rural lifestyle that was in North Fort Myers. They were concerned about any potential conflicts with a more Suburban, more Mixed Use development with higher densities. Those concerns had been adequately addressed.

On page 32 of the Staff Report, traffic issues were addressed. It was on a State Road and access was ultimately the responsibility of the FDOT. The Applicant had talked about the realignment of Samville Road and that entrance and the issues there and the proposed solution for introducing this much development and making some adjustments to Samville Road. Staff had conditions to address that also.

The Traffic Staff (both DOT and Development Services) raised no Level of Service (LOS) issues and no LOS issues were anticipated as a result of this development. Page 33 provided Environmental Science's analysis. It discussed the buffer issues, gopher tortoises, wetlands, uplands, and the natural waterway bodies. Staff had conditioned that appropriately.

He wanted to thank the Applicant and Planning Staff, and in particular Brandon Dunn, and Matt Noble, who provided them with a memorandum. They had worked with Environmental Science's Staff. He thanked them for their excellent work. He also thanked Transportation and Development Services Staff. This had not been an easy application, but he thought the end result was a positive one.

He concluded, saying the application, as conditioned, was consistent with the Lee County Comprehensive Plan. It was compatible with the surrounding land uses. All concurrency issues had been addressed and the Smart Growth Principles were furthered by this application. He was available for questions.

The Hearing Examiner referred to Staff's Exhibit 5, which was the modifications for the deviation. He took it Staff wanted Conditions 1 through 4 to apply to all four deviations (Deviations 2 through 5). Mr. Palermo noted that as awkward as that would be to repeat it four times, it might not be necessary as long as the message got through. That was the intent.

Mr. Palermo noted the strike-through and underline was in reference to the Applicant's first draft of Deviations 2, 3, 4, and 5. He took those wordings and changed them based on their own use of Chapter 30 and the recommendations of Mary Zettel. The Hearing Examiner wanted to know if that was their document, dated July 9, 2010, which was attached to his memorandum. Mr. Palermo indicated that was correct.

The Hearing Examiner was concerned that these were conditions to a sign, but they were placed on someone else's sign. Mr. Palermo indicated it was on this property so it was still their sign. The Hearing Examiner understood that it was someone else's sign on this property. Mr. Palermo indicated that was the nature of an off-site directional sign. It was telling people to go a certain way to the other site. The Hearing Examiner wanted to know if there was an agreement by the church that they were willing to accept these conditions. Mr. Palermo had not heard from them one way or the other.

Mr. Schropp explained that at this point, the zoning was only applicable to their client's property and the sign, which didn't exist right now. It would be constructed at some point in the future pursuant to an arrangement between his client and the church. At that point, a sign easement for whatever was constructed would be provided to the church so that they would have the ability to maintain it.

The Hearing Examiner wanted to know what the use for the tract on which this sign was to be located was. It was primarily open space. Mr. Palermo indicated they made provisions so that signs could be placed there and water management and other sorts of minor things. The Hearing Examiner wanted to know if it was in a preserve area. Mr. Palermo indicated that technically it was not. However, he also wanted Environmental Science's Staff to address whether or not it was in a preserve.

The Hearing Examiner explained that what he was getting at, was that if you put a sign in the preserve area, he wanted to know if the square footage of the preserve would be reduced by the sign and the area around the sign needed to maintain the sign. Mr. Drovdic explained that making that a preserve and wetland area was an afterthought to them already meeting the requirements on the site for indigenous preservation and wetlands, so it was just extra.

He didn't think they had any specific square footage amounts or anything attached to it. The 12.19 acres of indigenous required was all met in the northern portion. So this was just preserve for preserve's sake to know that it would not be developed for anything other than water management and the sign. Mr. Palermo thought that was accurate.

The Hearing Examiner understood he need not concern himself with the allocation of square footage to preserve areas already taken care of in other areas of the development. Mr. Drovdlc indicated that was correct. Mr. Palermo agreed. Mr. Drovdlc added that it was just referred to as Tract "A" according to the MCP. Mr. Palermo commented that it was not a 300-foot billboard.

Next, Doug Griffith, with Lee County Environmental Sciences introduced himself for the record. He indicated he was under oath. He had previously been deemed an expert in environmental zoning. After hearing no objection, he was declared an expert in environmental zoning matters.

Mr. Drovdlc referred to Tract "A" and Condition 20, which said that the Development Order Plans must indicate the wetland area or Tract "A" in the southwest corner as indigenous preserve and that hydrolic function would be provided and maintained by incorporating the wetland area into the stormwater management system. That was fine for the Applicant for the purpose of the Development Order. His concern was for the church and he thought they would have questions about this. If they put a sign in there. He wanted to know if they would have control over maintaining that entire area in the long term.

Mr. Griffith wanted to know if he meant around the sign or for the whole acre. Mr. Drovdlc wanted to know about the whole area. Their concern was that there would be restrictions placed on them in keeping the visibility of the sign to Bayshore Road clear. Mr. Griffith understood. He indicated they could include a condition to allow for the maintenance of the sign. They could do something along those lines to ensure them that they were allowed to go in there for maintenance as long it was just for the area of the sign and not for the entire acre. He wanted to know if it was setback four to 15 feet.

Mr. Jacob wanted to know if Staff could offer the other indigenous preserve areas a management plan for around the sign that would allow certain maintenance. Mr. Griffith wanted to know if he meant an easement into where the sign was located. Mr. Jacob explained that other indigenous preserves in certain communities were allowed to do certain maintenance in there and they usually did that as approved by Environmental Sciences through a Management Plan. He didn't know if that would be something they would look at down the road, but it was an option that was already there in the Code. Mr. Griffith acknowledged that.

Mr. Jacob thought that as far as allowing maintenance through this, it would depend on what was out there. Mr. Griffith indicated it depended on where the sign was actually located. The Hearing Examiner wanted to know if it would be appropriate to leave the record open so that they could work out an amendment to Condition 20 to take care of that issue. It was agreed they would do that.

At that point, the Hearing Examiner opened the proceedings to members of the public. He reiterated that this was a request for rezoning. He would make a recommendation to the Board of County Commissioners (BOCC) and the BOCC would hold a separate hearing on his recommendation and members of the public would be afforded the opportunity to speak

at that hearing. The basic requirement for speaking at that hearing was that they must have spoken, testified, or made a presentation in this hearing. If they didn't speak in this hearing, they waived their opportunity to speak before the BOCC.

At that point, Tim McDaniel, representing Faith Assembly of God, 6950 Bayshore Road, introduced himself for the record. He had taken an oath. He explained that their concern was their sign, which was actually the first sign they were going to construct. They ended up constructing the one that was shown in the exhibit first, after learning there was this development project going on and after learning about the possibility of Samville Road being moved. It left them in a quandary about what to do with that sign. Their original intent was to construct that sign first because it was smaller and it was less expensive. It also indicated their property's location for people traveling from the direction of the interstate. He reiterated that the sign was their only concern.

The Hearing Examiner wanted to know if he heard the case for that variance. Mr. Schropp indicated he did.

The Hearing Examiner wanted to know if Mr. McDaniel had been present during the hearing and if he had heard the comments regarding the sign. He indicated he had. The Hearing Examiner explained that he would leave the record open so that they could get together and submit an amendment to Condition 20 to not only give them the sign, but also set forth any restrictions or qualifications with regard to maintenance of the sign in that area.

There was discussion regarding the date due for the submittal and it was determined they would have two weeks from the date of the hearing to submit an amended Condition 20. There were no other items to come before him. The hearing was concluded.

VIII. OTHER PARTICIPANTS AND SUBMITTALS:

ADDITIONAL APPLICANT'S REPRESENTATIVES:

1. Natalio Wengrower & Maria de Wengrower, Zelaya 3123 CAP FED, ARGENTINA
AR 1425 AR

ADDITIONAL COUNTY STAFF:

1. Donna Marie Collins, Assistant County Attorney, P. O. Box 398, Fort Myers, Florida 33902
2. Michael Jacob, Assistant County Attorney, 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: NONE

General:

1. Tim McDaniel, c/o Faith Assembly, 6950 Bayshore Road, 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: NONE

General: NONE

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. . . . [Lee County 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]. . . . [Lee County Land Development Code 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. [Lee County Land Development Code 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. [Lee County Land Development Code Section 1-5(c)]

XI. HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS:

A. This recommendation is made this 18th day of August, 2010. Notice or copies will be forwarded to the offices of the Lee County Board of County Commissioners.

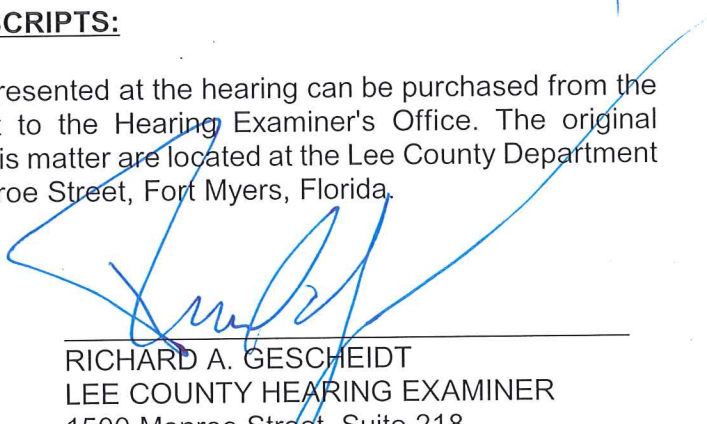
B. The original file and documents used at the hearing will remain in the care and custody of the Department of Community Development. The documents are available for examination and copying by all interested parties during normal business hours.

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.



RICHARD A. GESCHEIDT
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

PROPERTY DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH 89°43'21" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 20, FOR 292.75 FEET; THENCE SOUTH 43°58'29" EAST FOR 2873.15 FEET TO A POINT ON A CURVE, SAID POINT BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (BAYSHORE ROAD), SAID CURVE BEING CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 2914.79 FEET SUBTENDED BY A CHORD OF 184.66 FEET AT A BEARING OF SOUTH 44°24'15" WEST; THENCE RUN SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 31°4'14", FOR AN ARC DISTANCE OF 184.66 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 42°47'09" WEST FOR A DISTANCE OF 284.79 FEET TO THE NORTHEASTERLY CORNER OF PARCEL #122 SECTION 12060-2535 STATE ROAD 783 AS RECORDED IN INSTRUMENT #2006000126434 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 47°12'51" WEST ALONG THE NORTHEASTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 15.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL #122; THENCE SOUTH 42°47'09" WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 365.75 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL #122 AND A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SANVILLE ROAD (OLD BAYSHORE ROAD); THENCE SOUTH 89°42'36" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 213.46 FEET TO A POINT ON THE EASTERLY LINE OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1215, PAGE 898 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°04'14" EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 300.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE SOUTH 89°42'38" WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND AND A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE NORTH 00°04'14" EAST ALONG SAID WEST LINE A DISTANCE OF 342.85 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'47" WEST FOR A DISTANCE OF 660.30 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°00'59" EAST FOR A DISTANCE OF 667.88 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'59" WEST FOR A DISTANCE OF 660.93 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°02'16" WEST ALONG THE WEST LINE OF SAID SECTION 20 FOR A DISTANCE OF 1335.82 FEET TO THE POINT OF BEGINNING.

CONTAINING 56.76 ACRES MORE OR LESS.

EXHIBIT A

Applicant's Legal Checked

by CS 3/24/08

WRI 2007-00045

DCI 2007-00045

EXHIBIT "A"

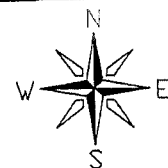
P.O.B.
W. 1/4 CORNER
SECTION 20

INSTRUMENT #
2006000198664
VACANT
NOT PLATTED

BEARING BASIS
N89°43'21"E 1031.64'

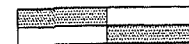
S89°43'21"W 1324.38'

N.E. CORNER
S.W. 1/4
SECTION 20



SCALE: 1" = 500'

LEGEND



O.R. OFFICIAL RECORDS BOOK
PG. PAGE
P.O.B. POINT OF BEGINNING

0' 250' 500'

NOTES:

- 1.) BEARINGS SHOWN HEREON REFER TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING A ASSUMED BEARING OF N.89°43'21"E.
- 2.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.

PROPERTY DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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CONTAINING 56.76 ACRES MORE OR LESS.

3/18/08

KRIS A. SLOSSER, STATE OF FLORIDA, (P.S.M. #5560)

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	164.66	2914.79	3°14'14"	S44°24'15"W	164.66

LINE TABLE		
LINE	LENGTH	BEARING
L1	279.23	S89°42'36"W
L2	213.46	S89°42'36"W
L3	25.00	N0°04'14"E
L4	292.75	N89°43'21"E
L5	200.00	S89°42'36"W
L6	300.00	N0°04'14"E
L7	264.79	S42°47'09"W

VACANT
NOT PLATTED
56.76 acres
LIVESTOCK & PASTURE
PER QUATTRONE & ASSOCIATES
O.R. BOOK 1408 PAGE 1746

O.R. BOOK 4595 PAGE 1273
VACANT
NOT PLATTED

S89°42'59"W 660.93'

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

S89°42'47"W 660.30'

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

O.R. BOOK 1215 PAGE 896
WATER PLANT
NO ACCESS
PERMITTED
NOT PLATTED

SALE PER
RIGHT-OF-WAY
BAYSHORE ROAD (STATE ROAD 78)
RIGHT-OF-WAY VARIES

N47°12'51"W
15.00'

L2

L3

L4

L5

L6

L7

L8

L9

L10

L11

L12

L13

L14

L15

L16

L17

L18

L19

L20

S.W. CORNER
SECTION 20

N89°42'36"E 659.67'

N89°42'36"E 659.67'

SAMVILLE ROAD (OLD BAYSHORE RD.
EXISTING 50' ROADWAY

N89°42'36"E 908.55'

S.E. CORNER
S.W. 1/4
SECTION 20

NOT A SURVEY

SKETCH & LEGAL DESCRIPTION EXHIBIT "A"

A PARCEL OF LAND LOCATED IN
SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

KRIS A SLOSSER P.S.M.

4650 VILLA CAPRI LN. BONITA SPRINGS

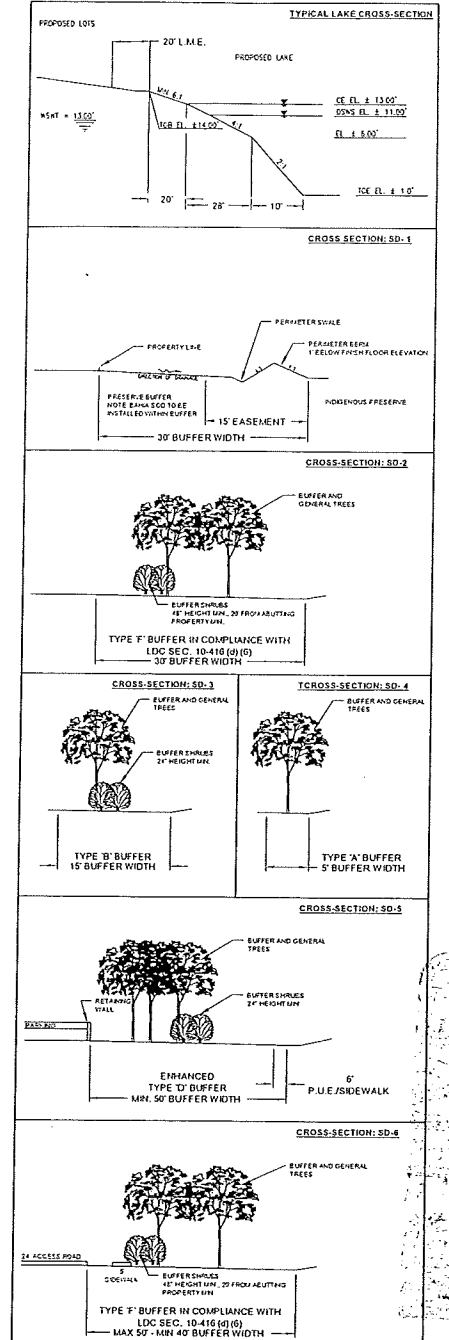
FLORIDA 34134 (239) 947-1915

SCALE: 1" = 500'
DRAWING: 60489SKETCH
DRAWN BY: KAS
JOB#: 60489SKETCH

Applicant's Legal Checked
3/24/08

MASTER CONCEPT PLAN
BAYSHORE 57 MPD
LOCATED IN SECTION 03, TOWNSHIP 44 SOUTH, RANGE 25 LEE COUNTY, FLORIDA
OPEN SPACE AND
LANDSCAPING EXHIBIT

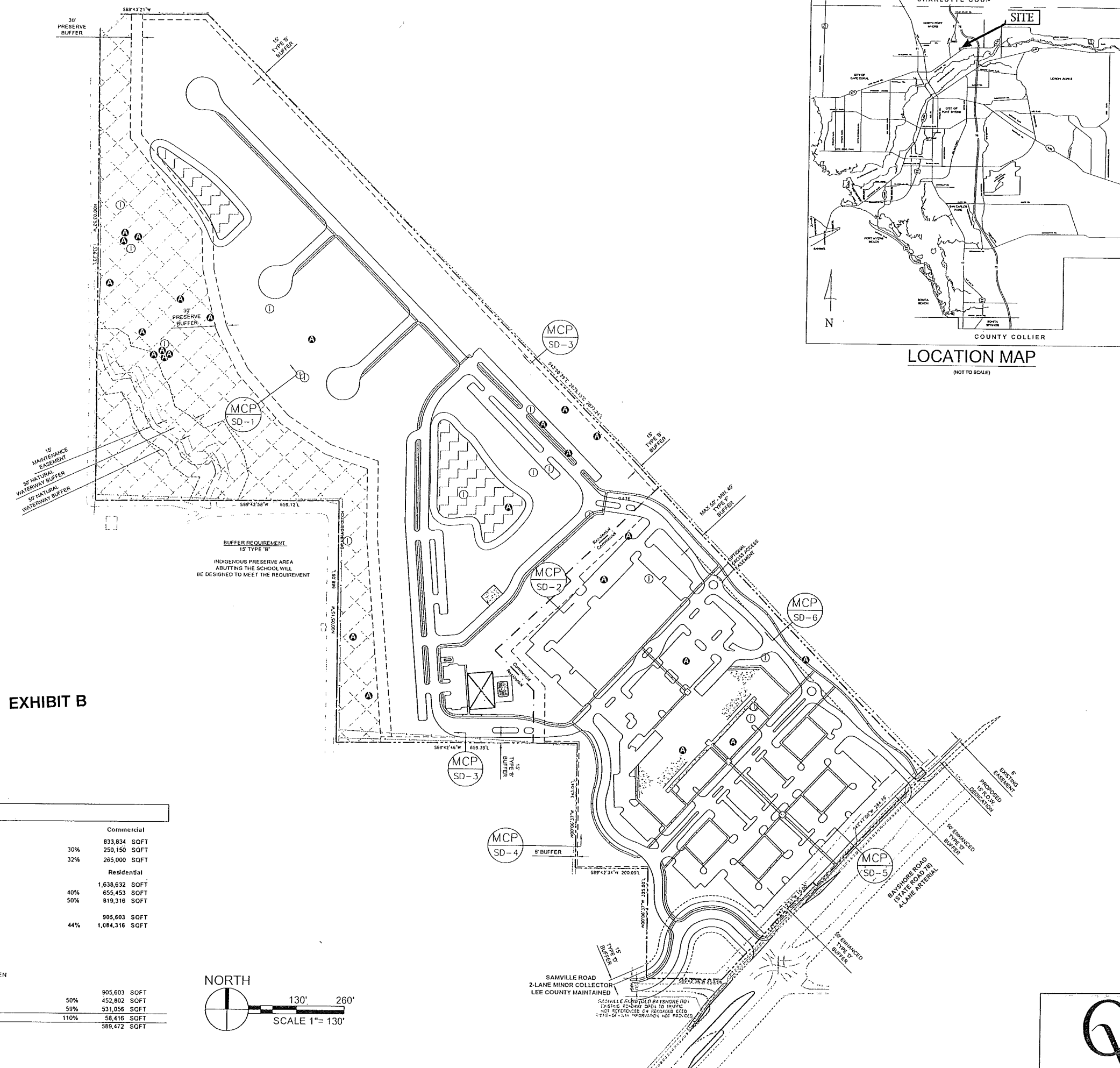
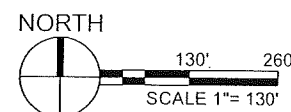
BUFFER CROSS SECTIONS



GOPHER TORTOISE
ACTIVE BURROWS
INACTIVE BURROWS



Quattrone & Associates, Inc.
Engineers, Planners, & Development Consultants
4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QAInc.net



LDC SEC 10-415 OPEN SPACE			
PROJECT USE CLASSIFICATION	Commercial		
PROJECT DEVELOPMENT AREA	833,834 SOFT		
OPEN SPACE REQUIRED	250,150 SOFT	30%	
OPEN SPACE PROVIDED	265,000 SOFT	32%	
PROJECT USE CLASSIFICATION	Residential		
PROJECT DEVELOPMENT AREA	1,638,632 SOFT		
OPEN SPACE REQUIRED	655,453 SOFT	40%	
OPEN SPACE PROVIDED	819,316 SOFT	50%	
TOTAL PROJECT OPEN SPACE REQUIRED	905,603 SOFT		
TOTAL PROJECT OPEN SPACE PROVIDED	1,084,316 SOFT	44%	

50% OF REQUIRED OPEN SPACE MUST BE INCLUDED AS PRESERVED INDIGENOUS OPEN SPACE			
TOTAL OPEN SPACE REQUIRED	905,603 SOFT		
INDIGENOUS OPEN SPACE REQUIRED	452,802 SOFT	50%	
INDIGENOUS OPEN SPACE PROVIDED	531,056 SOFT	59%	
CREDITS FOR LARGER AREA	58,416 SOFT	110%	
TOTAL INDIGENOUS AREA CREDITED	589,472 SOFT		

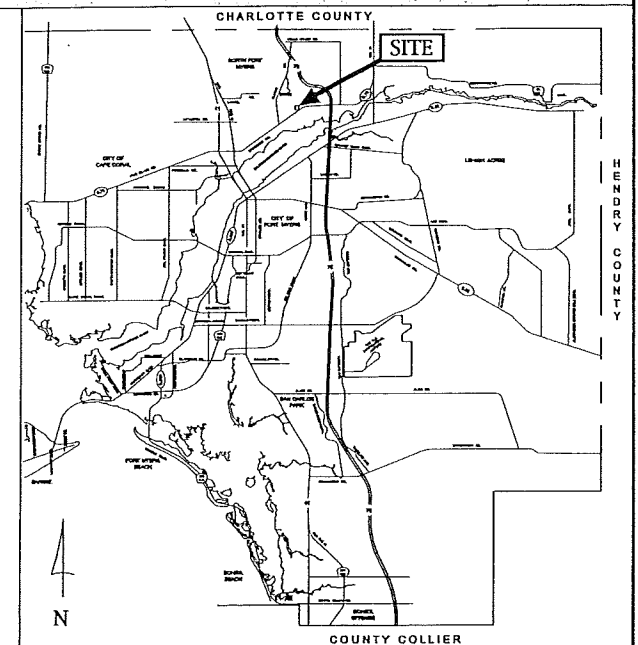
Plotted By: Fred Drouin
Tuesday, March 23, 2010
051016-MCP-M-v3.dwg

DCI 2007-00045

COMMUNITY DEVELOPMENT

LOCATED IN SECTION 03, TOWNSHIP 44 SOUTH, RANGE 25 LEE COUNTY, FLORIDA

EXHIBIT D-7-M



LOCATION MAP
(NOT TO SCALE)

STRAP#.

STRAP#:
ZONING:
REQUEST:
ROADWAYS:

20-43-25-00-00003.3000
AG-2
CPD and RPD
Bayshore Road (arterial)
Samville Road (minor collector)

1.) PR

- | | | |
|-----|---------------------------|-----------|
| 1.) | <u>PROJECT ACREAGE</u> | 56.76 AC. |
| | PROPOSED COMMERCIAL AREA | 19.14 AC. |
| | PROPOSED RESIDENTIAL AREA | 37.62 AC. |

24. 100

<u>COMMERCIAL BUILDING AREA</u>	
RETAIL (FIRST FLOOR):	± 70,000 SF
GENERAL MEDICAL	± 35,000 SF
GENERAL OFFICE	± 35,000 SF
TOTAL COMMERCIAL BUILDING AREA:	± 140,000 SF

RES

SINGLE-FAMILY:	72 UNITS
TOTAL	176 UNITS

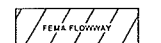
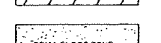
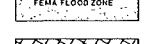
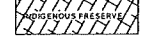
24 <http://www.elsevier.com/locate/jmb>

PARKING REQUIRED (4.5 PER 1,000 SF):	630 SPACES
PARKING PROVIDED :	655 SPACES

Country	1950	1960	1970	1980	1990	2000	2010	2020	2030	2040	2050
Japan	7	8	10	12	14	16	18	20	22	24	26
Germany	10	11	12	13	14	15	16	17	18	19	20
France	11	12	13	14	15	16	17	18	19	20	21
Italy	12	13	14	15	16	17	18	19	20	21	22
Spain	13	14	15	16	17	18	19	20	21	22	23
Sweden	14	15	16	17	18	19	20	21	22	23	24
United Kingdom	15	16	17	18	19	20	21	22	23	24	25
United States	16	17	18	19	20	21	22	23	24	25	26
Canada	17	18	19	20	21	22	23	24	25	26	27
South Korea	18	19	20	21	22	23	24	25	26	27	28
China	19	20	21	22	23	24	25	26	27	28	29
India	20	21	22	23	24	25	26	27	28	29	30
Brazil	21	22	23	24	25	26	27	28	29	30	31
South Africa	22	23	24	25	26	27	28	29	30	31	32
Indonesia	23	24	25	26	27	28	29	30	31	32	33
Nigeria	24	25	26	27	28	29	30	31	32	33	34
Kenya	25	26	27	28	29	30	31	32	33	34	35
Uganda	26	27	28	29	30	31	32	33	34	35	36
Zambia	27	28	29	30	31	32	33	34	35	36	37
Malawi	28	29	30	31	32	33	34	35	36	37	38
Mozambique	29	30	31	32	33	34	35	36	37	38	39
Angola	30	31	32	33	34	35	36	37	38	39	40
Guinea	31	32	33	34	35	36	37	38	39	40	41
Sierra Leone	32	33	34	35	36	37	38	39	40	41	42
Liberia	33	34	35	36	37	38	39	40	41	42	43
Ivory Coast	34	35	36	37	38	39	40	41	42	43	44
Ghana	35	36	37	38	39	40	41	42	43	44	45
Senegal	36	37	38	39	40	41	42	43	44	45	46
Gambia	37	38	39	40	41	42	43	44	45	46	47
Sierra Leone	38	39	40	41	42	43	44	45	46	47	48
Liberia	39	40	41	42	43	44	45	46	47	48	49
Ivory Coast	40	41	42	43	44	45	46	47	48	49	50
Ghana	41	42	43	44	45	46	47	48	49	50	51
Senegal	42	43	44	45	46	47	48	49	50	51	52
Gambia	43	44	45	46	47	48	49	50	51	52	53
Sierra Leone	44	45	46	47	48	49	50	51	52	53	54
Liberia	45	46	47	48	49	50	51	52	53	54	55
Ivory Coast	46	47	48	49	50</						

- 1 Deviate from LDC§10-285 - Requiring a 330 foot intersection separation on collector roads to allow a 300 foot separation on Samville Road from the project access road

MAP OVERLAY LEGEND



Q

Engineers, Planners, & Development Consultants

4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QAInc.net

Plotted By: Fred Drovdic
Tuesday, March 23, 2010
061016-MCP-M-v3.dwg

ATTACHMENT B

COMMUNITY DEVELOPMENT

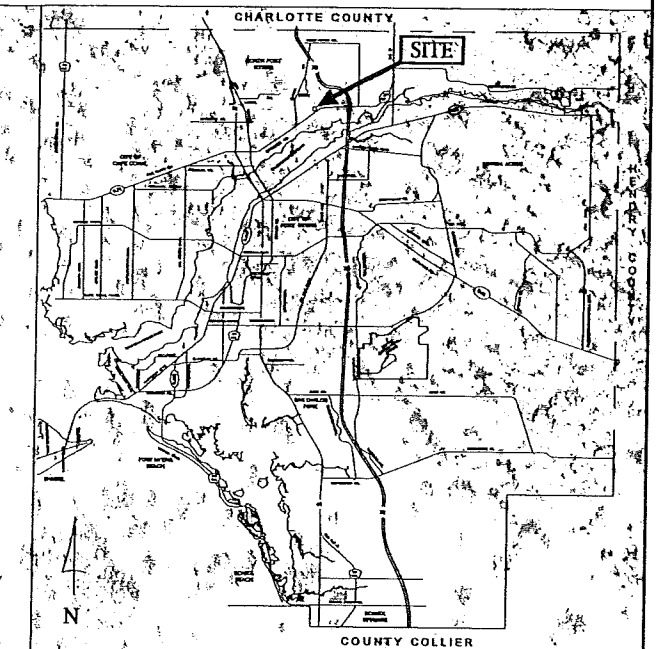
DCI 2007-00045

MASTER CONCEPT PLAN

BAYSHORE 57 MPD

LOCATED IN SECTION 03, TOWNSHIP 44 SOUTH, RANGE 25 LEE COUNTY, FLORIDA

EXHIBIT D-7-M



LOCATION MAP

(NOT TO SCALE)

PROJECT INFORMATION

STRAP: 20-43-25-00-00003.3000
ZONING: AG-2
REQUEST: CPD and RPD
ROADWAYS: Bayshore Road (arterial)
Samville Road (minor collector)

PROJECT SUMMARY

1.) PROJECT ACREAGE	56.76 AC.
PROPOSED COMMERCIAL AREA	19.14 AC.
PROPOSED RESIDENTIAL AREA	37.62 AC.
2.) INTENSITY AND DENSITY	
COMMERCIAL BUILDING AREA	
RETAIL (FIRST FLOOR)	170,000 SF
GENERAL MEDICAL	235,000 SF
GENERAL OFFICE	35,000 SF
TOTAL COMMERCIAL BUILDING AREA	440,000 SF
RESIDENTIAL UNITS	
RESIDENTIAL MULTIFAMILY (TOWNHOME)	104 UNITS
SINGLE-FAMILY	72 UNITS
TOTAL	176 UNITS

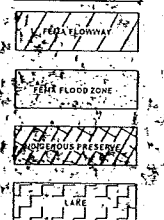
3.) PARKING BALANCE

PARKING REQUIRED (45 PER 1,000 SF)
PARKING PROVIDED: 630 SPACES
655 SPACES

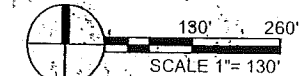
DEVIATION REQUEST:

NONE

MAP OVERLAY LEGEND



NORTH



Quattrone & Associates, Inc.

Engineers, Planners, & Development Consultants

4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QAInc.net

EXHIBIT PH-3.1.3

AGRICULTURAL USES AT TIME OF ZONING APPLICATION

COMMUNITY DEVELOPMENT

The undersigned swears or affirms under oath, deposes and says:

1. that he is the fee owner, trustee, managing member or authorized representative of the property commonly known as STRAP# 20-43-25-00-00003.3000 and legally described in Exhibit "A".
2. that livestock pasture currently exist on the property occupying 57± acres, or the entire parcel, as identified by the sketch accompanying legal description.

FURTHER AFFIANT SAYETH NAUGHT.

Signature of Owner or Representative

Natalio Wengrower/Owner & Managing Director
Printed Name and Title

REPUBLIC OF ARGENTINA)
CITY OF BUENOS AIRES)
EMBASSY OF THE UNITED)
STATES OF AMERICA)

Theta Investments
Name of Entity/Corporation

~~STATE OF~~ Country of : Argentina

~~COUNTY OF~~ City of : Buenos Aires

Sworn to (or affirmed) and subscribed before me this 20th day of November, 2006, by

Natalio Wengrower, who is personally known to me or who has produced
Argentine ID as identification.

Signature of person taking oath or affirmation

Rachel M. Sunden
Vice Consul

Title or rank

Name typed, printed or stamped

Serial number, if any

EXHIBIT C

DCI 2007-00045

EXHIBIT "A"

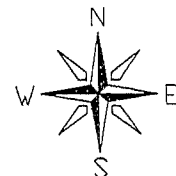
P.O.B.
W. 1/4 CORNER
SECTION 20

INSTRUMENT #
2006000198664
VACANT
NOT PLATTED

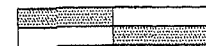
BEARING BASIS
N89°43'21"E 1031.64'

S89°43'21"W 1324.38'

N.E. CORNER
S.W. 1/4
SECTION 20



SCALE: 1" = 500'



0' 250' 500'

LEGEND

O.R. OFFICIAL RECORDS BOOK
PG. PAGE
P.G.B. POINT OF BEGINNING

NOTES:

- 1.) BEARINGS SHOWN HEREON REFER TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING A ASSUMED BEARING OF N.89°43'21"E.
- 2.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.

PROPERTY DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH 89°43'21" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 20, FOR 292.75 FEET; THENCE SOUTH 43°58'29" EAST FOR 2875.15 FEET TO A POINT ON A CURVE, SAID POINT BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (BAYSHORE ROAD), SAID CURVE BEING CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 2914.79 FEET SUBTENDED BY A CHORD OF 164.66 FEET AT A BEARING OF SOUTH 44°24'15" WEST; THENCE RUN SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 3°14'14", FOR AN ARC DISTANCE OF 164.66 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 42°47'09" WEST FOR A DISTANCE OF 264.79 FEET TO THE NORTHEASTERLY CORNER OF PARCEL #122, SECTION 12060-2535 STATE ROAD 783 AS RECORDED IN INSTRUMENT #2006000126434 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 47°12'51" WEST ALONG THE NORTHEASTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 15.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL #122; THENCE SOUTH 42°47'09" WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 365.75 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL #122 AND A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAMVILLE ROAD (OLD BAYSHORE ROAD); THENCE SOUTH 89°42'36" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 213.46 FEET TO A POINT ON THE EASTERLY LINE OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1215, PAGE 896 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°04'14" EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 300.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE SOUTH 89°42'36" WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND AND A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE NORTH 00°04'14" EAST ALONG SAID WEST LINE A DISTANCE OF 342.85 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'47" WEST FOR A DISTANCE OF 660.30 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°02'16" EAST FOR A DISTANCE OF 667.88 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'59" WEST FOR A DISTANCE OF 660.30 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°02'16" WEST ALONG THE WEST LINE OF SAID SECTION 20 FOR A DISTANCE OF 1335.82 FEET TO THE POINT OF BEGINNING.

CONTAINING 56.76 ACRES MORE OR LESS.

KRIS A. SLOSSER, STATE OF FLORIDA, (P.S.M. #5560)

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	164.68	2914.79	3°14'14"	S44°24'15"W	164.66

LINE TABLE		
LINE	LENGTH	BEARING
L1	279.23	S89°42'36"W
L2	213.46	S89°42'36"W
L3	25.00	N0°04'14"E
L4	292.75	N89°43'21"E
L5	200.00	S89°42'36"W
L6	300.00	N0°04'14"E
L7	264.79	S42°47'09"W

INSTRUMENT #
2006000198664
VACANT
NOT PLATTED

VACANT
NOT PLATTED
56.76 acres
LIVESTOCK & PASTURE
PER QUATTRONE & ASSOCIATES
O.R. BOOK 1408 PAGE 1746

O.R. BOOK 4595 PAGE 1273
VACANT
NOT PLATTED

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

O.R. BOOK 1215 PAGE 896
WATER PLANT
NO ACCESS
PERMITTED
NOT PLATTED

S.W. CORNER
SECTION 20

N89°42'36"E 659.67'

N89°42'36"E 659.67'

SAMVILLE ROAD (OLD BAYSHORE RD.)
EXISTING 50' ROADWAY

S.E. CORNER
S.W. 1/4
SECTION 20

N89°42'36"E 908.55'

NOT A SURVEY

SKETCH & LEGAL DESCRIPTION EXHIBIT "A"

A PARCEL OF LAND LOCATED IN
SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

KRIS A SLOSSER P.S.M.

4650 VILLA CAPRI LN. BONITA SPRINGS

FLORIDA 34134 (239) 947-1915

SCALE: 1" = 500'
DRAWING: 60485SKETCH
DRAWN BY: KAS
JOB#: 60489SKETCH

3/18/08

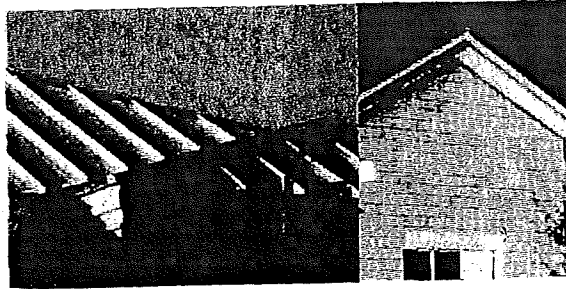
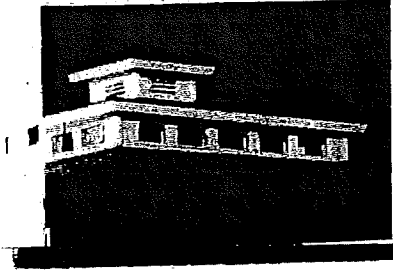
EXHIBIT "I"

CHAPEL CREEK - PROPOSED ARCHITECTURAL IDENTITY EXHIBIT Page One of Two

Overall character to mostly emulate architectural features and materials associated with a Keywest image. Detail and accents along the lines of traditional Colonial features.

Roof

- Pitched Roofs & Mansards
- Varied gable and hip roofs
- Standing Seam Roofing
- Predominantly medium pitch roofs



Decorative features

- Bermuda shutters
- Decorative railings
- Accent columns and Arcades
- Trim, Cornice, window frames to be white or predominantly lighter than field colors

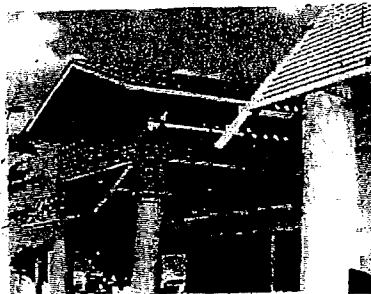
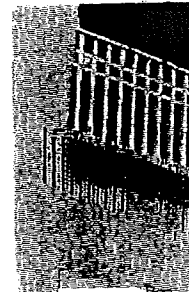
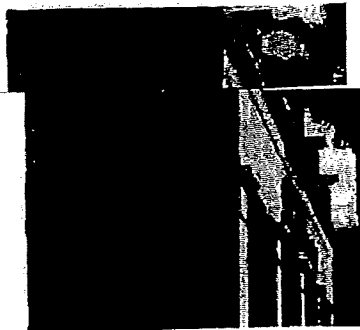


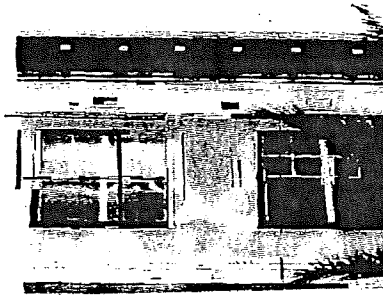
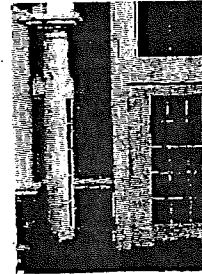
EXHIBIT D

EXHIBIT "I"

CHAPEL CREEK PROPOSED ARCHITECTURAL IDENTITY EXHIBIT Page Two of Two

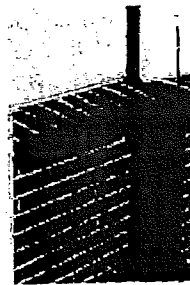
Windows

- Vertical emphasis
- Predominantly white trim, some dark accent trim applied by floor
- Divided lights with vertical emphasis



Wall Finishes

- Horizontal siding as dominant finish
- Stucco as field finish
- Brick or Stone articulated base

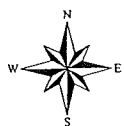


ATTACHMENT N

Attachment "A" Zoning Map

DCI2007-00045

11/17/2009



1,000 500 0 1,000 2,000
Feet

ZONING DIVISION
LEE COUNTY
PLANNED DEVELOPMENT SUBSTANTIVE REVIEW
TRANSMITTAL SHEET

TO: Distribution

Michael D Jacob, Asst County Attorney
Rob Price, TIS Reviewer
Paul O'Connor, Planning
Susie Derheimer, Environmental Sciences
Lili Wu, LCDOT
Sam Lee, Natural Resources
Mike Pavese, Public Works

FROM: Tony Palermo, AICP

DATE: 10/26/2010

PROJECT NAME: BAYSHORE 57 MPD
INFORMATION SUMMARY:

CASE #: DCI2007-00045

To update your file
☒ Review and forward substantive comments **ASAP**.

Comments due to Tony Palermo, AICP by 11/09/2010

Additional Comments:

Please review the attached plan to determine if it accurately reflects the approval by the BoCC on October 4, 2010 in accordance with LDC 34-377(b)(6).

cc: DCI planner/working file
DCI Zone File

Distributed by: Jamie Prancing

Date: 10/27/2010

Fred Drovdlc

From: Palermo, Anthony [APalermo@leegov.com]
Sent: Thursday, October 21, 2010 7:31 AM
To: Fred Drovdlc; Sweigert, Rebecca
Cc: Jacob, Michael
Subject: RE: dci2007-00045 bayshore 57 final mcp 10/7.

Fred

We are still waiting for a final MCP. 11 copies of 11X17 and full size will be fine.

Tony Palermo, Senior Planner, AICP
Lee County Community Development
Zoning Division
P.O. Box 398
Fort Myers, FL 33902
Ph. 239-533-8325
F. 239-485-8344
apalermo@leegov.com



RECEIVED
OCT 26 2010

COMMUNITY DEVELOPMENT

From: Fred Drovdlc [mailto:fred@qainc.net]
Sent: Tuesday, October 12, 2010 11:38 AM
To: Palermo, Anthony; Sweigert, Rebecca
Cc: Jacob, Michael
Subject: RE: dci2007-00045 bayshore 57 final mcp 10/7.

I think this will do it? How many, what size?

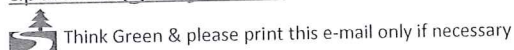
Fred Drovdlc, AICP 
239.936.5222

From: Palermo, Anthony [mailto:APalermo@leegov.com]
Sent: Tuesday, October 12, 2010 9:14 AM
To: Fred Drovdlc; Jacob, Michael
Subject: FW: dci2007-00045 bayshore 57 final mcp 10/7.

Fred

Can you make a few changes to the final MCP, and submit again when done. Get with ES staff if you need to. Thank you.

Tony Palermo, Senior Planner, AICP
Lee County Community Development
Zoning Division
P.O. Box 398
Fort Myers, FL 33902
Ph. 239-533-8325
F. 239-485-8344
apalermo@leegov.com



DCI 2007-00045

From: Sweigert, Rebecca
Sent: Tuesday, October 12, 2010 9:10 AM

10/25/2010

To: Palermo, Anthony
Cc: Derheimer, Suzanne; Griffith, Douglas
Subject: RE: dci2007-00045 bayshore 57 final mcp 10/7.

Tony, I offer the following comments regarding the cross sections shown on sheet 1 of MCP for Bayshore 57.

1. Cross section SD-1: indicates property line in the cross section but I think it is really the preserve line.
2. Cross section SD-5: maybe reference condition #15 of the zoning resolution for clarity
3. Cross section SD-6: maybe reference condition #14 and add the word enhanced. Since this buffer is further conditioned for enhancement in condition #14.
4. The typical lake cross-section is circled for the 4:1 slope but I believe this is correct with 10-329(4)(a). But I am not sure if DS staff has verified.

I have included a marked up copy attached for ease. Can you please forward these comments to either Michael or the applicant?

Thanks,
Becky S

Becky Sweigert
Principal Environmental Planner
Lee County Division of Environmental Sciences
PO Box 398
Fort Myers, FL 33902-0398
rsweigert@leegov.com

239-533-8552
239-485-8344 (fax)

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.

Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

RECEIVED
OCT 26 2010

COMMUNITY DEVELOPMENT

DCI 2007-00045

**LEE COUNTY, FLORIDA
ZONING DIVISION
STAFF REPORT**

TYPE OF CASE: PLANNED DEVELOPMENT/DCI
CASE NUMBER: DCI2007-00045
HEARING EXAMINER DATE: JULY 23, 2010

I. APPLICATION SUMMARY:

- A. Applicant: Quattrone and Associates, Inc. in reference to Bayshore 57 MPD
- B. Request: Rezone +/- 56.76 acres from Agricultural (AG-2) to Mixed Use Planned Development (MPD) for a maximum of 140,000 square feet of commercial floor area including a maximum of 70,000 square feet of commercial retail; a maximum of 35,000 square feet of medical office; a maximum of 35,000 square feet of office; and a maximum of 176 dwelling units, including a maximum of 104 townhomes and a maximum 72 single-family dwelling units. Maximum height proposed is 2 stories/35 feet. No development blasting is requested. The development will connect to public potable water and public sanitary sewer service.
- C. Location: The subject property is located at 7401 Bayshore Rd (I-75 to Bayshore Rd. Take Bayshore West until Samville Road West), North Fort Myers Planning Community , Lee County, FL. (District #4)
- D. Future Land Use Plan Designation, Current Zoning Use of Subject Property; Road Classification; Utilities; Planning Community; Special Districts

Future Land Use: Suburban

Current Zoning: Agricultural (AG-2)

Land Use: Cattle Grazing, Agricultural Exemption

Road Classification: Bayshore Road, 4 lane arterial
Samville, 2 lane minor collector

Utilities: North Fort Myers (sewer)

Lee County Utilities (potable water)

Planning Community: North Fort Myers

Special Districts: Not within the Coastal High Hazard Area.
Not within an Airport Noise Zone or Airspace
Notification area.

E. Surrounding Land Use:

Existing Zoning & Land Use

Future Land Use Map

North: Oak Creek Residential Planned
Development (RPD), Vacant.

Suburban/Wetlands

East: Chapel Creek RPD/CPD
Vacant, Pasture.

Suburban

South: Bayshore Road, then vacant (AG-2)

Suburban

West: Lee County Utilities Water Plant; (IL)
Bayshore Elementary, (AG-2)
Then Samville Road.
Portion of Oak Creek (RPD)

Public Facilities/
Suburban

F. Size of Property: 56.76 ± Acres

II. **RECOMMENDATION:**

A. Staff recommends **APPROVAL** of the Applicant's request for rezoning from Agricultural (AG-2) to Mixed Use Planned Development (MPD) with the following conditions and deviations.

B. Conditions

1. The development of this project must be substantially consistent with the 2-page Master Concept Plan entitled "MASTER CONCEPT PLAN: BAYSHORE 57" dated **MARCH 24, 2010**.

The development must comply with all the 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: 140,000 square feet of floor area including 70,000 square feet of commercial retail square footage as defined by the Lee County Comprehensive Plan per Policy 6.1.2(7); a maximum of 35,000 square feet of medical office, and a maximum of 35,000 square feet of commercial office.

Maximum Residential Density: 176 dwelling units, 4.678 units per acre; and limited to a maximum of the following types of dwelling units:

72 single-family units; and 104 town home, multi-family units and/or ALF equivalent units pursuant to the LDC.

2. **Schedule of Uses**

A. The following limits apply to the project and uses.

RESIDENTIAL AREA

Accessory uses and structures
Administrative Offices
Agricultural - limited to cattle grazing and Condition 9.
Assisted Living Facility (ALF)
Clubs: Private
Community Garden
Consumption on Premises, See Condition 15.
Dwelling unit: Single-Family, Townhouse, Multiple family building (per Condition 1).
Entrance gates and gatehouse
Essential services
Essential service facilities: Groups I and II
Excavation: Water retention. Not to include removal of excavated material from site. No blasting.
Models: Display center, Model units, Model homes. See condition 11.
Parking lot: Accessory
Recreation facilities: Personal, Private On site
Signs - in accordance with LDC Chapter 30.
Temporary uses - construction office, construction trailer, sales center, parking lot.

COMMERCIAL AREA Also See Condition #20.

RETAIL SHOPPING CENTER AREA

Accessory uses and structures
~~Accessory apartment~~
Administrative Offices
Agricultural - limited to cattle grazing and Condition 9.
Animals: Clinic or kennel (No outdoor runs)
ATM (automatic teller machine)
Auto parts store (with or without installation)
Bait and tackle shop
Banks and financial establishments: Groups I and II
~~Bar or cocktail lounge~~
Business services: Groups I and II (excluding Bail Bonding, Armored Car Services, Automobile Claims Adjusters, and Automobile Repossessing Services.
Cleaning and maintenance services
Clothing stores, general

Computer and data processing services
 Consumption on premises - See Condition 15.
 Convenience food and beverage store - limited to 1.
 Department store
 Drive through facility for any permitted use
 Drugstore, pharmacy
 Entrance gates and gatehouse
 Essential services
 Essential service facilities: Group I
 Excavation: Water retention. Not to include removal of excavated material from site. No blasting.
 Fences, walls
 Food and beverage service, limited
 Food stores: Groups I and II
 Gift and souvenir shop
 Hardware store
 Hobby, toy and game shops
 Household and office furnishings, all groups
 Insurance companies
 Laundry or dry cleaning: Groups I and II
 Lawn and garden supply stores
 Library
 Medical office
 Nonstore retailers, all groups
 Paint, glass and wallpaper
 Parking lot: Accessory
 Personal services: Groups I, II and III (no massage parlors, steam or Turkish baths)
 Pet services (no outdoor runs)
 Pet shop (no outdoor runs)
 Photofinishing laboratory
 Place of worship
 Post office
 Printing and publishing
 Real estate sales office
 Recreation facilities Commercial: Group IV
 Religious facilities
 Repair shops: Groups I, II, and III
 Restaurant, fast food - limited to 1 stand alone. No limit on fast food within a multi-occupancy plaza.
 Restaurants: Groups I, II and III
 Retail and wholesale sales, when clearly incidental and subordinate to a permitted principal use on the same premises
 Self Service Fuel Pumps - limited to 16 (accessory to convenience food and beverage store only.)
 Signs (in accordance with LDC Chapter 30)
 Social services: Groups I and II
 Specialty Retail Shops: Groups I and II - excluding Tobacco stores.

Storage: Indoor only
Studios
Temporary uses - construction office, construction trailer, sales center,
parking lot.
Theater, indoor
Used merchandise stores: Groups I, II and III
Variety store

MEDICAL AND OFFICE BUILDING

Accessory uses and structures
~~Accessory apartment~~
Administrative Offices
Agricultural - limited to cattle grazing and Condition 9.
ATM (automatic teller machine)
Banks and financial establishments: Groups I and II
Business services: Groups I and II (excluding Bail Bonding, Armored Car
Services, Automobile Claims Adjusters, and Automobile
Repossessing Services.
Cleaning and maintenance services
Computer and data processing services
Entrance gates and gatehouse
Essential services
Essential service facilities: Groups I
Excavation: Water retention. Not to include removal of excavated material
from site. No blasting.
Fences, walls
Insurance companies
Library
Medical office
Parking lot: Accessory
Personal services: Groups I, II and III (no massage parlors, steam or Turkish
baths)
Place of worship
Real estate sales office
Religious facilities
Signs (in accordance with LDC Chapter 30)
Social services: Groups I and II

Site Development Regulations

B. Minimum Lot Area and Dimensions

Residential Multi-family/ALF/recreation Facilities

Lot Size: 7,500 square feet
Lot Width: 100 feet
Lot Depth: 75 feet

Minimum Setbacks

Public Street:	25 feet
Private Street	20 feet
Side:	15 feet
Rear:	25 feet
Water body	25 feet
Indigenous	20 feet/30 feet for fire dependent plant communities

Minimum Building Separation: 20 feet

Accessory use and structure setbacks must comply with Lee County Land Development Code (LDC) Sec. 34-1171 et seq. and LDC Sec. 32-2194.

Maximum Lot Coverage: 45%

Building/Structure Height: 2 story/35 feet

Townhouses

Minimum Lot Areas and Dimensions (per unit)

Lot Size:	1,530 square feet
Lot Width:	18 feet
Lot Depth:	85 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	0/10 feet (lesser setback for interior units)
Rear	15 feet
Water body	25 feet

Accessory Use and Structure setbacks must comply with Lee County Land Development Code Sec. 34-1171 et seq. and 34-2194.

Minimum Building Separation: 20 feet.

Maximum Lot Coverage: 75%

Building Height: 35 feet/ 2 stories

Single Family

Minimum Lot Areas and Dimensions (per unit)

Lot Size:	6,500 square feet
Lot Width:	50 feet

Lot Depth: 100 feet

Minimum Setbacks

Street	20 feet (public)/20 feet (private)
Side	5 feet
Rear	15 feet
Water body	25 feet
Indigenous	20 feet/30 feet for fire dependent plant communities

Accessory Use and Structure setbacks must comply with Lee County Land Development Code Sec. 34-1171 et seq. and 34-2194.

Minimum Building Separation: 10 feet.

Maximum Lot Coverage: 45%

Building Height: 2 story/35 feet

Commercial

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Public Street:	
Arterial	50 feet
Other Public	25 feet
Private Street	20 feet
Side:	15 feet
Rear:	20 feet
Water body	25 feet
Indigenous	20 feet/30 feet for fire dependent plant communities

Minimum Building Separation: 20 feet

Accessory use and structure setbacks must comply with Lee County Land Development Code (LDC) Sec. 34-1171 et seq. and LDC Sec. 32-2194.

Maximum Lot Coverage: 40%

Building/Structure Height: 2 story/35 feet

3. **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.

4. **TRAFFIC**

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

5. **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.

6. **CONCURRENCY**

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in Chapter 2 of the Land Development Code and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

7. **WATER AND SEWER**

The subject property must connect to public potable water service and public sanitary sewer service. At time of any local development order, the developer must also demonstrate there is adequate water and sewer capacity to handle the proposed level of development. No on-site well systems may be utilized for potable water. No septic tanks or package plants may be utilized for sanitary sewer service.

8. **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.

9. **AGRICULTURAL USES**

Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:

- (A) Bona fide agricultural uses that are in existence at the time the application for this project was filed, and as shown on **ATTACHMENT "I"** attached hereto, may continue until approval of

a local development order for the area of the project containing those uses.

- (B) Additional clearing of trees or other vegetation in agricultural areas *for agricultural purposes* is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County approved requests for the removal of invasive exotic vegetation.
- (C) Prior to issuance of a local development order, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
 - (1) Termination of all agricultural use on any portion of the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:
 - a) the date the agricultural uses ceased;
 - b) the legal description of the property subject to the development order approval;
 - c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the county that they will not allow any such uses on the property unless and until the property is re-zoned to permit such uses; and,
 - d) that the affidavit constitutes a covenant between the owner and the county that is binding on the owner and their assignees and successors in interest.
- The covenant must be properly recorded in the public records of the county at the owner's expense.
- (2) Termination of the agricultural tax exemption for any portion of the property included in the development order application/approval. Proof as to termination must include of a copy of the request to terminate the tax exemption provided to the Property Appraiser.

10. **SOLID WASTE/RECYCLING**

As part of any local Development Order approval for vertical development, the development order plans must include 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.

11. **MODEL HOMES/UNITS/REAL ESTATE SALES**

- A. Model homes and units are limited to a maximum of 8.
- B. Models cannot be of the same floor plan and each must be a different design.
- C. Real estate sales are limited to clubhouses, model locations, and commercial areas as shown on the approved Master Concept Plan.
- D. Real estate sales within the residential area will be limited to the sale of lots or units within the development only. Real estate sales in the commercial area are not limited.
- E. Hours of operation for model homes and real estate sales in the residential area are limited to Monday through Sunday 8 a.m. to 8 p.m. Real estate sales in the commercial area are not limited.
- F. No dry models are permitted.

12. **ACCESS TO BAYSHORE ROAD**

Access to Bayshore Road/State Road 78 is not guaranteed and is subject to Florida Department of Transportation approval.

13. **SIDEWALKS**

Development must include internal sidewalks as depicted on the approved master concept plans, as a site-related improvement. Such facilities must be included in local development orders as part of construction of the project's infrastructure.

14. **UNIFIED ARCHITECTURAL THEME AND DESIGN STANDARDS**

- A. Prior to local development order approval, the exterior elevations of the commercial buildings must be in substantial compliance with the PROPOSED EXHIBIT (ATTACHMENT "N")
- B. These designs are preliminary and subject to changes in conformance with this resolution and LDC Chapter 10, Article IV, Sec. 10-600 Design Standards and Guidelines for Commercial Buildings and Developments, et. seq.
- C. All structures, including signage, within the MPD must be designed to be architecturally compatible and share a common architectural theme.

- D. A unified signage plan will be submitted as an administrative amendment for staff review and approval in conjunction with local development order approval.
- E. Flat canopy roofs for self service fuel pumps are prohibited.
- F. The use of neon lighting for the exterior lighting or signage of any buildings within the MPD area (excluding interior signage that may be incidentally visible from the exterior) is prohibited.
- G. The use of florescent colors for accent or primary exterior surfaces is prohibited. The color palette for the primary and accent exterior surfaces must be generally subdued and earth-tones, excepting that national signage, consistent with the provisions of LDC Chapter 30 and the unified sign plan will be allowed.

15. **CONSUMPTION ON PREMISES**

- A. Consumption on premises is limited to indoor seating in conjunction with a Group II or III Restaurant with a 4-COP-SRX and/or 2-COP beverage license.
- B. The hours of operation for indoor consumption on premises is limited to between 11:00 am to 11:00 pm daily.
- C. No sale, service or consumption of alcoholic beverages will be permitted without the sale or availability of food and non-alcoholic beverages on the same premises.
- D. Outdoor consumption on premises within the residential and/or commercial area of the MPD may be approved by a special exception or an amendment to the Planned Development (public hearing required). The applicant must provide adequate detail of the outdoor seating area (square footage, number of seats, proposed hours, distance to Bayshore Elementary, outdoor entertainment, etc.) consistent with the requirements of the Land Development Code.
- E. No consumption on premises (indoors or outdoors) will be permitted less than 1,000 feet from the closest boundary of the property line for Bayshore Elementary School.

16. **OPEN SPACE**

Prior to local development order approval, the development order plans must delineate a minimum of 24.00 acres as common open space in substantial compliance with the Master Concept Plan.

17. **INDIGENOUS PRESERVE**

Prior to local development order approval, the development order plans must depict a minimum of 12.19 acres, 13.53 acres with credits, as indigenous open space.

18. **GOPHER TORTOISES**

Prior to development order approval, the applicant must first seek approval for on-site preservation of the gopher tortoises through avoidance or relocation before pursuing off-site relocation options. All communication with Florida Fish and Wildlife Conservation Commission (FWC) verifying on-site avoidance or relocation attempts were made must be provided to Division of Environmental Sciences staff.

A copy of the appropriate gopher tortoise relocation permit issued by the Florida Fish and Wildlife Conservation Commission (FWC) must be submitted to the Division of Environmental Sciences staff prior to excavation and moving of any gopher tortoises. The applicant must first seek approval for an on-site relocation before pursuing off-site relocation options. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and Lee County Division of Environmental Sciences staff.

19. **DETENTION AREAS**

Prior to local development order approval, if dry detention is proposed, the landscape plan must depict:

- the dry detention areas planted to include herbaceous vegetation arranged in clusters and planted in a one gallon container size, three foot on center; and,
- the dry detention areas to be planted with scattered cypress (*Taxodium* sp.), red maple (*Acer rubrum*) and/or laurel oak (*Quercus laurifolia*) planted at 10 feet in height, 2-inch caliper with a 4 foot spread and 20 foot on center; and,
- general tree credits can be applied as per LDC 10-418 (4) for herbaceous vegetation, and a general tree credit on a ratio of one-to-one for the planting of trees in the dry detention; and,
- The required plantings must be designed to not adversely affect the functions and future maintenance of the water management facilities and will meet the requirements of the South Florida Water Management District.

20. **COMMERCIAL USES**

No commercial uses or buildings are permitted on Tract "A" - the +/- 1.0 acre southwest corner of the property fronting on Bayshore Road (S.R. 78) as shown on the approved master concept plan.

Uses permitted on this tract are limited to signs (in compliance with Chapter 30 of the LDC), open space, essential services, and stormwater management.

Any permitted uses must be located in an area to avoid impacts or minimize impacts to existing native vegetation.

Prior to local development order approval, the development order plans must indicate the wetland area (Tract "A") in the southwest corner as indigenous preserve and that hydrologic function will be provided and maintained by incorporating the wetland area into the storm water management system.

The master concept plan must be changed to show the location of Tract "A".

C. Deviation

Deviation #1 requests relief from Sec. 10-285(a) requirement for 330-foot connection separation on a collector road to allow 253 feet of separation on Samville Road.

Lee County Department of Transportation (LCDOT) staff reviewed the development and recommended this deviation be included in the applicant's request. LCDOT addressed the deviation, as well as the alignment and operational issues on Bayshore and Samville relevant to this application. The applicant proposes improvements to address these issues.

Please see the revised LCDOT comments attached, dated March 18, 2010 (Attachment "T") Staff recommends **APPROVAL** of the request with one condition.

1. The applicant is responsible, as a site-related improvement, for all costs of the realignment of Samville Road from State Road 78 to and including the Lee County property to the west (currently in use as a utilities facility). The site-related improvements must include design, permitting, right-of-way dedication, and construction of the roadway realignment, utilities relocation, sidewalk, and other roadway appurtenances. The geometric details of the realignment design will be determined at the time of local development order in cooperation with the Florida Department of Transportation.

D. 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 Rezoning to Mixed Use Planned Development by demonstrating compliance with the Lee Plan, as conditioned.
2. The requested zoning, as conditioned.
 - a) Does meet all performance and locational standards set forth for the potential uses allowed by the request, specifically commercial site location standards for the requested commercial intensity.

- b) Is consistent with the Lee Plan, specifically POLICY 1.1.5, POLICY 1.7.6; OBJECTIVE 2.1., OBJECTIVE 2.2., POLICY 2.2.1, GOAL 4; OBJECTIVE 4.1; POLICY 4.1.1.; POLICY 4.2.2; GOAL 5; POLICY 5.1.2; POLICY 5.1.3; POLICY 5.1.5; POLICY 5.1.6; POLICY 5.1.7; GOAL 6; OBJECTIVE 6.1; POLICY 6.1.1.; POLICY 6.1.2; POLICY 6.1.3; POLICY 6.1.6; POLICY 6.1.7; POLICY 6.1.9; STANDARD 11.1, STANDARD 11.2, STANDARD 11.3, STANDARD 11.4, GOAL 28; POLICY 28.1.5; OBJECTIVE 28.2; POLICY 28.2.2; POLICY 28.2.5; POLICY 28.2.10; OBJECTIVE 28.3; POLICY 28.3.2; OBJECTIVE 66.3; POLICY 66.3.1; POLICY 66.3.5; GOAL 77, GOAL 107, POLICY 107.2.4., POLICY 107.2.5, POLICY 107.2.13, POLICY 107.4.2, POLICY 107.4.3., POLICY 139.9.5 & POLICY 139.9.6.
 - c) Is compatible with existing or planned uses in the surrounding area including an elementary school, and low- to moderate-density residential uses; and
 - d) will not adversely affect environmentally critical areas or natural resources.
- 3. As conditioned, 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.
- 4. Urban services, as defined in the Lee Plan, are, available and 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 applicant has proven entitlement to a Special Case Finding (infill development per Lee Plan Policies 6.1.2, 6.1.2.8, and 6.1.7) to allow development of the subject property for a Neighborhood Commercial Center with a maximum of 70,000 square feet of commercial retail uses, as conditioned.
- 9. The deviation requested, as conditioned:
 - a. enhances the planned development; and
 - b. preserves and promotes the general intent of the LDC to protect the public health, safety and welfare.

III. BACKGROUND INFORMATION AND ANALYSIS:

Introduction/Synopsis

This is a request to rezone +/- 56.76 acres from Agriculture (AG-2) to a Mixed Use Planned Development (MPD). The applicant requests 140,000 square feet of commercial uses, including 70,000 square feet of retail on 19.14 acres. The applicant requests 176 dwelling units (a mix of single-family and multi-family products) on 37.62 acres, about 4.678 units per acre. The subject property is located on the northeast corner of Bayshore Road and Samville Road in North Fort Myers. There are agricultural uses (cattle grazing) on the site. It is not located in a Coastal High Hazard Zone. The application was received by staff June 27, 2007. The application was found sufficient October 30, 2009. It was scheduled for public hearing January 13, 2010. The applicant requested a deferral of the case and it was rescheduled to April 14, 2010 and deferred again to May 20, 2010. The Hearing Examiner also continued this case to July 23, 2010.

During this time, the applicant made a number of improvements on their previous submittals, including reductions in intensity and density, a better mix of uses, increased buffering on Bayshore Road and adjacent to Chapel Creek to the east, and a reconfiguration of their commercial element.

Staff recommends approval of the request. The proposed intensity and density are appropriate for this site and in this neighborhood. An appropriate design was found to both address compatibility issues and to address the concerns and implement the vision of the North Fort Myers Planning Community, as articulated in the newly adopted North Fort Myers Community Plan.

Staff can support the requested density with a Special Case finding for 70,000 square feet of commercial retail on an arterial and minor collector road and an arterial and a local road (two minor commercial centers). Without a Special Case finding, 60,000 square feet of retail would meet site location standards, with a minor collector being the equivalent to a local road, per the Lee Plan. See Planning Division analysis, Attachment "V" (Division of Planning comments).

Staff can recommend the residential density proposed, and the mix of product types, including multi-family products. Single-family products are also proposed, which soften the impact on the surrounding neighborhood. Chapel Creek RPD/CPD was approved to the east November 25, 2008 by the Lee County Board of County Commissioners with similar density, a mix of single-family and multi-family housing, and a small commercial element (4.5 units per acre and 30,000 square feet of commercial retail). Please see Zoning Resolution #Z-08-011A, Attachment "K".

Consistent with Lee Plan Policies - including newly-adopted policies for North Fort Myers - staff supports this more innovative and less intensive design. Staff proposes conditions in keeping with these policies and consistent with other planned developments approved in North Fort Myers, including Chapel Creek.

Lastly, the proposed development does further Smart Growth principles as commonly defined and as advocated by Lee County.

School District Comments

Bayshore Elementary School is adjacent to the subject property to the west, separated by an indigenous preserve area on site. The Lee County School District provided comments expressing concern about consumption on premises and bar and cocktail lounges in proximity to Bayshore Elementary School. Please see Attachment "Q".

The applicant's response was that the consumption on premises can be limited with conditions, such as limiting the use to, over 1,000 feet from the closest boundary of the school's property line. Staff has included such a condition, and will allow this use only in the context of a restaurant and after approval through a public hearing process (a special exception or amendment to the planned development) - where a more detailed plan can be evaluated.

Staff's conditions for consumption on premises are per Condition 15. Staff does not recommend Bar and Cocktail Lounge in the commercial schedule of uses due to compatibility concerns with the nearby school.

Master Concept Plan

The Master Concept Plan is two pages entitled "Master Concept Plan Bayshore 57 MPD". The first page shows access on Bayshore Road and Samville Road. One deviation is shown, per LCDOT's recommendation. The south portion shows the commercial development with building footprints, parking and other details. North of this is the residential element, showing multi-family buildings, single-family areas, entrances, lakes, and amenity areas. Preserves are shown predominately on the west side, with details of the 50-foot natural waterway buffer(s) shown. The second page illustrates active and inactive gopher tortoise burrows, and shows cross sections of buffers (including enhancements) and lakes.

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 evaluated this development based on 10 commonly accepted principles of Smart Growth.

Mix land uses. While this development does include both commercial and residential elements, it is not a true mixed use community. Residents within the community will benefit from nearby commercial uses to shop, work and get basic services, without leaving their immediate neighborhood. This development of both residential and commercial development improves the mix of uses to the overall community. The addition of single-family products also improves the mix of uses. This development will promote this smart growth principle.

Take advantage of compact building design. This development includes residential single- and multi-family products and a commercial element with a large parking area. The

development also includes a residential element which is not at the top of the density allowed (maximum 6 units per acre). About 4.6 units per acre is requested. Chapel Creek, to the east, was approved at 4.5 units per acre, with both multi-family and single-family elements. The MCP shows modest lakes (1.3 acres and 0.5 acres) in the residential portion. The MCP shows nearly 45% of the 57 acre property utilized as open space and/or preserves. Much of the natural open space is concentrated in one area, the northwest corner where the natural water body and surrounding areas are preserved. Compact building design is utilized and this proposed development does promote this principle.

Create a range of housing opportunities and choices. The applicant proposes both single and multi-family products. A mix of both multi-family and single-family is desirable. The applicant makes no specific commitment that any of the housing will be work force or affordable housing. The housing is likely to be market-priced, which may or may not be affordable. The proposed development promotes this principle.

Create walkable neighborhoods. One could make the case that persons within the residential development will be able to walk to the commercial uses proposed on Bayshore Road. Sidewalks are found on Bayshore Road, however, it is not likely residents will find it a pedestrian-friendly experience to walk on a 4-lane arterial relatively near an industrial/lumber business and within about 1.5 miles from an interstate interchange. There are no sidewalks on Samville. Internal sidewalks are a desirable amenity which would make for a more walkable neighborhood. External sidewalks and sidewalk connections will be required as part of the local development order process. This development will promote this smart growth principle.

Foster distinctive, attractive communities with a strong sense of place. Development will be per the Land Development Code requirements, including Chapter 10 Design Guidelines for commercial development. No details, such as elevations, are provided at this point for either the commercial or residential elements. There is a concern that a suburban/urban development will not fit in with the rural and small-town qualities of the North Fort Myers Planning Community, which desires "Old Florida" details and elevations as was required with Chapel Creek CPD/RPD next door, as well as other developments in North Fort Myers. This development will, as conditioned, further this smart growth principle.

Preserve open space, farmland, natural beauty, and critical environmental areas. This agricultural property has valuable natural resources, including a flow way, gopher tortoise habitat and pine flatwoods. A significant indigenous area is preserved as open space (please see the Environmental Sciences report). The applicant has taken measures appropriate (and per the Land Development Code requirements) to protect natural resources. This development does further this smart growth principle.

Strengthen and direct development towards existing communities. This development has infill qualities. To the north and east are proposed residential development, which have not been built. To the south is undeveloped property and to the west is an elementary school and utility buildings (water and power). Further west there is commercial and residential development and further east there is an Interstate 75 interchange with some development. There is also a large lumber business to the east. This is an emerging community, rather than an existing community where development is taking or has already taken place. This development furthers this smart growth principle.

Provide a variety of transportation choices. It appears any residents or visitors at this location will be highly dependent on the automobile to travel on Bayshore Road, or to move internally. There are sidewalks serving the property on Bayshore Road, which do provide limited opportunities for pedestrian travel. It is possible for internal sidewalks to help residents travel internally without an automobile. The site is not within a LeeTran service area, and the nearest bus service is located near the corner of Bayshore and Slater to the west. As conditioned, this development will further this smart growth principle.

Make development decisions predictable, fair, and cost effective. Staff's recommends approval, after staff had raised substantive issues with the prior designs. Chapel Creek next door was approved at 4.5 units per acre and a commercial component (with conditions including architectural features). The applicant has been aware of this development's history, and staff's recommendations are consistent with this case as well as other cases on Bayshore Road with natural resource issues, and issues with intensity and density.

Encourage community and stakeholder collaboration in development decisions. The applicant met with the community planning panel in North Fort Myers October 9, 2007. (See Attachment "D"). Such meetings with the community are always encouraged by staff. There is no Lee Plan or Land Development Code requirement to do so in the North Fort Myers Planning Community. The planning panel was supportive of the request in general but had concerns about the proposed density and product type and wanted to avoid the look of "Army Barracks". The applicant was asked to return to the planning panel with more details. The applicant returned to the North Fort Myers Planning Panel April 6, 2010. Minutes from this meeting are per Attachment "S". This development furthers this smart growth principle.

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 2020. 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 6,690 acres of land in the Suburban Future Land Use category within North Fort Myers Planning Community is allocated for residential use. According to the Planning Division, 8,006 acres of commercial uses were inventoried in the North Fort Myers Planning Community, and 4,895 acres of residential land in the Suburban Future Land Use category were inventoried in the North Fort Myers Planning Community. This leaves 1,005 acres of commercial acres in the North Fort Myers Planning Community remaining to be allocated. This also leaves 1,795 acres of residential land in the Suburban Future Land Use category remaining to be allocated in the North Fort Myers Planning Community. 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)*

The requested uses, a mixture of commercial and residential uses, is largely consistent with the intent of this future land use category. About 4.6 units per acre is requested, which is not the top of the density scale allowed in this land use category (6 units per acre). A "Neighborhood Commercial Center" of a maximum of 70,000 square feet of retail commercial development is also proposed, along with a special case finding to meet commercial site location standard criteria (See special case analysis below). This land use category does not support all commercial uses permitted in more urban areas. Thus, appropriate limitations on commercial uses are proposed by staff. This project is **CONSISTENT** with **Policy 1.1.5** of the Lee Plan, as conditioned. Also See Planning Division analysis Attachment "V".

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 F.S. 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 Concurrency Management Ordinance. (Amended by Ordinance No. 94-30, 00-22)*

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 an area in proximity to an interstate interchange. It has characteristics of infill development. Vacant property is to the north, south and west.

Agricultural uses are present in proximity to the site. It is proximate to an interstate interchange, where there is scattered development - and not a consistent pattern of development. It can be argued this is an emerging community where development - along Bayshore Road - will occur in the future. This rezoning to Planned Development does promote a contiguous growth pattern and is **CONSISTENT** with Objectives 2.1 and 2.2 of the Lee Plan. The subject property is located in relative proximity to industrial developments, agricultural uses, low-density residential development, parks, schools, and commercial shopping. The proposed project is **CONSISTENT** with **Policy 2.2.1** of the Lee Plan, as conditioned.

GOAL 4: SUSTAINABLE DEVELOPMENT DESIGN. *To pursue or maintain land development regulations which encourage creative site designs and mixed use developments. Using an overlay, locate appropriate areas for Mixed Use, Traditional Neighborhood Development, and Transit Oriented Development. (Amended by Ordinance No. 94-30, 07-15)*

OBJECTIVE 4.1: *Maintain the current planned development rezoning process which combines site planning flexibility with rigorous review. (Amended by Ordinance No. 91-19, 94-30, 07-15)*

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)*

POLICY 4.2.2: *The Mixed Use Overlay will not intrude into established single family neighborhoods. Connections to existing residential neighborhoods will be provided upon the residential neighborhood's desire and not precluded by the Mixed Use Development's design. (Added by Ordinance No. 07-15)*

Goal 4 and associated policies encourage creative site designs. Relevant to this site are the natural features identified by staff and the applicant. Staff encouraged the applicant to utilize a creative site design to match the topographic challenges this site presents and to better integrate it with existing development patterns. By designing the site plan in a manner more appropriate to the land and the surrounding neighborhood, the applicant has addressed concerns about potential negative impacts on the North Fort Myers Planning Community. This application is **CONSISTENT** with **Goal 4**, **Objective 4.1**, **Policy 4.1.1**, and **Policy 4.2.2** of the Lee Plan, as conditioned. Also see Planning Division analysis, Attachment "V."

GOAL 5: RESIDENTIAL LAND USES. *To provide sufficient land in appropriate locations on the Future Land Use Map to accommodate the projected population of Lee County in the year 2030 in attractive and safe neighborhoods with a variety of price ranges and housing types. (Amended by Ordinance No. 94-30, 07-12)*

POLICY 5.1.2: *Prohibit residential development where physical constraints or hazards exist, or require the density and design to be adjusted accordingly. Such constraints or*

hazards include but are not limited to flood, storm, or hurricane hazards; unstable soil or geologic conditions; environmental limitations; aircraft noise; or other characteristics that may endanger the residential community.

Goal 5 of the Lee Plan calls for attractive neighborhoods and a variety of price ranges and product types. This application proposes residential development, with both single and multi-family products, not at the top of the density scale in the Suburban Future Land Use category. The proposed development addresses the criteria above. The proposed design and density address potential compatibility issues with the residential community of North Fort Myers on Bayshore Road.

There are a mix of proposed developments on Bayshore Road such as nearby Chapel Creek RPD/CPD and Enclaves of Eagles Nest RPD/CPD. The North Fort Myers Planning Panel expressed concerns about the density and product type which the applicant has addressed. This application, as conditioned, is **CONSISTENT** with **Goal 5** and **Policy 5.1.2** of the Lee Plan, as conditioned.

POLICY 5.1.3: *During the rezoning process, direct high-density residential developments to locations that are near employment and shopping centers; are close to parks and schools; and are accessible to mass transit and bicycle facilities. (Amended by Ordinance No. 94-30)*

This application proposes a mix of residential development not at the top of the density scale in the Suburban Future Land Use category. The proposed development is in relative proximity to employment, retail, parks, schools and sidewalks. However it is not accessible to LeeTran service. As proposed, the application is **CONSISTENT** with **Policy 5.1.3** 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)*

This application proposes a mix of residential development, not at the top of the density scale in the Suburban Future Land Use category. The existing development (and approved development) is at a similar density (See "Neighborhood Compatibility" below). The application consists of a commercial element, requiring a Special Case finding for additional retail uses. Residential uses are proposed north, Oak Creek RPD and to the east, Chapel Creek RPD/CPD. The applicant proposes two-story, multi-family and single-family development in keeping with the North Fort Myers Community's desire for a different and lower-key style of development. The applicant provides some positive enhancements, including enhanced buffers and a positive use of indigenous preserve areas.

Conditions can incorporate some "Old Florida" features such as metal roofs and decorative elements (awnings, canopies and overhangs). The site is generally appropriate for a commercial and/or residential development. The application is **CONSISTENT** with **Policy 5.1.5** of the Lee Plan, as conditioned.

POLICY 5.1.6: *Maintain development regulations that require high-density, multi-family, cluster, and mixed-use developments to have open space, buffering, landscaping, and recreation areas appropriate to their density and design. (Amended by Ordinance No. 94-30)*

This application proposes a mix of residential development, not at the top of the density scale in the Suburban Future Land Use category. The application consists of a commercial element, requiring a Special Case finding for additional retail uses. The applicant provides positive enhancements - including open space and enhanced buffers - to soften any impact on the neighborhood. The application is **CONSISTENT** with **Policy 5.1.6** of the Lee Plan, as conditioned.

POLICY 5.1.7: *Maintain development regulations that require that community facilities (such as park, recreational, and open space areas) in residential developments are functionally related to all dwelling units and easily accessible via pedestrian and bicycle pathways. These pathways must be interconnected with adjoining developments and public pathways whenever possible. Townhouses, condominiums, apartments, and other types of multi-family residential development must have directly accessible common open space. (Amended by Ordinance No. 94-30, 00-22)*

The proposed development does include amenities and recreation within the residential portion of the development. Internal sidewalks would create a pedestrian and bicycle access, which is desirable. The residential development is interconnected with the commercial to the south, within the planned development. There is a provision on the MCP for potential interconnections with Chapel Creek to the east. The application is **CONSISTENT** with **Policy 5.1.7** of the Lee Plan, as conditioned.

GOAL 6: COMMERCIAL LAND USES. *To permit orderly and well-planned commercial development at appropriate locations within the county. (Amended by Ordinance No. 94-30)*

OBJECTIVE 6.1: *All development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 11 and other provisions of this plan. (Amended by Ordinance No. 94-30)*

POLICY 6.1.1: *All applications for commercial development will be reviewed and evaluated as to: Traffic and access impacts (rezoning and development orders); Landscaping and detailed site planning (development orders); Screening and buffering (planned development rezoning and development orders); Availability and adequacy of services and facilities (rezoning and development orders); Impact on adjacent land uses and surrounding neighborhoods (rezoning); Proximity to other similar centers (rezoning); and Environmental considerations (rezoning and development orders). (Amended by Ordinance No. 00-22)*

Goal 6 of the Lee Plan and associated policies call for well-planned commercial developments in appropriate locations in the county. Commercial planned developments will be evaluated for traffic, buffering, urban services, compatibility and environmental considerations. While traffic and urban services were not an issue, staff had concerns about the the scale of development, and impacts on the neighborhood, the community of North Fort Myers. Those concerns have been addressed. The application is **CONSISTENT** with **Goal 6, Objective 6.1** and **Policy 6.1.1** of the Lee Plan, as conditioned.

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.*

8. *The standards specified in Subsections 1-4 for location, floor area and site area will serve as guidelines during the rezoning process (allowing limited discretion by the Board of County Commissioners in special cases in which retail uses are the only reasonable use of the parcel in light of its size, its proximity to arterials and collectors, and the nature of the existing and projected surrounding uses, including but not limited to environmental factors) but are strict requirements during the development order process in the case of zoning that existed prior to the effective date of the Lee Plan (December 21, 1984). The other standards specified in Subsections 1-4 will serve generally to indicate the types of development which are likely to fall within each commercial category. Proposed rezonings to commercial zoning districts that include both uses that are subject to the standards in Subsections 1-4 and uses that are not (see Subsection 7) may be found consistent with the Lee Plan by the Board of County Commissioners even if the subject parcel does not comply with the applicable location standard; provided, however, that no development orders will be issued on any such parcel for any use to which the standards in Subsection 1-4 is applicable, and all such development orders must be consistent with the level of service requirements in Policy 95.1.3.*

12. *Map 19 illustrates the existing Lee County intersections that are deemed to be consistent with the standards in subsections 2 and 3. Neighborhood and community commercial centers must be located at one of the designated intersections, at another intersection utilizing the list of Functional Classification for Arterial and Collector Roads, or in accordance with one of the exceptions under Goal 6, or in Lehigh Acres in accordance with Policies 1.8.1 through 1.8.3.*

The map shows some intersections with half-circles and others with full circles. Half circles indicate that only the two intersection quadrants shown on the map are deemed to be consistent with the standards. All of the quadrants of intersections designated with full circles are deemed to be consistent with the standards. Proposed neighborhood and community commercial centers that are located at the designated intersections are subject to all of the other Goals, Objectives and Policies of this Plan.

Functional classifications of new or improved streets will be established in accordance with the definitions of "arterial" and "collector" roads in Rule 9J-5.003. A list of Functional Classification for Arterial and Collector Roads, consisting of roads that meet this criteria, will be maintained by the Department of Transportation, for county maintained roads, and the Division of Development Services, for privately maintained roads. These functional

classification lists will be adopted by Administrative Code. For the purpose of determining compliance with the locational standards of Policy 6.1.2, only those roads identified as Major Collector roads will be considered collector roads. Roads identified as Minor Collector or not included on the list will be considered local roads. The map will be revised annually during the county's regular plan amendment cycle.

13. Freestanding single use commercial retail development of five (5) acres or more does not qualify as a Neighborhood Center as that term is used in the Suburban and Outlying Suburban Future Land Use Categories.

The applicant is asking for a special finding that this property can be developed consistent with a "Neighborhood Commercial" development with a maximum of 70,000 square feet of commercial retail uses. Normally these are located on the intersection of an arterial road and a collector road. This property has access at Bayshore, an arterial road, and Samville, a minor collector. Per the above policy, minor collector roads are considered local roads for commercial site location standards. The MCP also shows a proposed local road (internal to the project) to serve as access to the residential development. Lee County's site location standards allow for these two corners to each qualify as "Minor Commercial" centers (with a maximum of 30,000 s/f of retail each). As is, the property would qualify for a maximum of 60,000 square feet of retail.

The applicant is asking for a finding (also known as the special case/infill rule) stating that 70,000 square feet of retail development is appropriate for this infill development on a major arterial road with access to a minor collector and an arterial road and a local road.

The applicant is also proposing the southwest corner of the property will be left undeveloped, and that the additional 10,000 square feet of retail can be efficiently distributed throughout the CPD portion of the project.

The site is also in proximity to Interstate 75 (about 1 ½ miles) and Jamestown Circle/Williamsburg Drive (about 1 mile east). To the west is Williams Road (about ½ a mile) and Slater Road (a major collector about 1.2 miles from the site). The intersection of Slater and Bayshore meets "Neighborhood Commercial Center" standards and is located on Lee Plan Map 19.

Staff finds this request meets the criteria for a special case finding, including development on an "infill" site surrounded by existing and emerging development.

Planning staff provided five reasons for a special case finding (See Attachment "V") Specifically, there will not be an increase in overall intensity of the development, it is a more efficient use of space, there are opportunities for more internal trip capture, it will encourage a more pedestrian friendly environment, the site design limits the number of commercial access points.

To the north of the property is residential zoning Oak Creek RPD, currently vacant. To the south is Bayshore Road, then vacant property and large-lot residential development. To the west is an elementary school, water utility, and electric utility. A place of worship is nearby (Faith Assembly). To the east is Chapel Creek RPD/CPD - also vacant. There is a pattern of development emerging in this community and zoning has been recently approved for

developments on Bayshore Road. However, this development has yet to take place.

Commercial retail development, as proposed, must meet the location criteria of a Neighborhood Commercial development. A Neighborhood Commercial development must have a site area of at least 2-10 acres and be located on or near the intersection of two roads, such as an arterial and a collector. The CPD is over 10 acres. This subject property meets the criteria for two "Minor Commercial" centers with access points on an arterial and a minor collector (treated as a local road) and an arterial and a local road. Notwithstanding the above, Policy 6.1.2.8. provides relief from the strict interpretation of Policy 6.1.2 of the Lee Plan. Policy 6.1.2.8. states that the location criteria standards specified in Policy 6.1.2. will serve as guidelines during the rezoning process (allowing limited discretion by the Board of County Commissioners in special cases in which retail uses are the only reasonable use of the parcel in light of its size, its proximity to arterials and collectors, and the nature of the existing and projected surrounding uses, including but not limited to environmental factors).

Staff can recommend a special case finding, with the most recent revisions to the master concept plan and proposed conditions.

Staff recommends limitations on some of the more intensive uses, and uses inappropriate next to an elementary school.

Policy 6.1.2. of the Lee Plan exempts projects from being consistent with the location criteria of the Lee Plan where the project is consistent with Policy 6.1.7. of the Lee Plan. Policy 6.1.2 prohibits commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable. Residential uses on this portion of Bayshore Road - at this modest density - is also a reasonable use of the property. Staff was concerned about the site design and its potential to be used for a suburban-style development with a commercial plaza, sea of parking, and all-multi-family residential development without any residential single-family development. The applicant largely addressed these concerns with a more creative and modest design. The proposed development is consistent with Chapel Creek RPD/CPD which was approved by the Lee County Board of County Commissioners with similar intensity and density (See Attachment "K"). All utilities and urban services are available to the subject property and development of the site would help to maximize the uses of these services and facilities.

The applicant makes a number of arguments for a special case finding. (See Attachment "U").

The applicant proposes improvements to the intersection of Samville Road and Bayshore Road. These are improvements done in coordination with LCDOT and Development Services staff to address operational issues at the site for any significant development. The proposed improvements are not a rationale to make a special case finding and increase the intensity of the commercial development. The realignment creates a 1 acre corner, where 10,000 square feet of retail development could have been placed.

The applicant also argues the improvements create two new "corners" each of which would be appropriate for minor commercial centers with 30,000 s/f of retail uses (See the

illustration on page 2 of Attachment "U"). This creates a reasonable mix of 70,000 square feet of retail and 70,000 square feet of office/medical uses. This is a better and more appropriate mix of uses at this site.

Based on staff's prior comments by staff, the applicant made changes to their site plan, reducing intensity and density. Staff finds the request consistent with Policy 6.1.2.

Staff recommends **APPROVAL** of the applicant's request - as conditioned - for a **Special Case Finding** to develop the subject property for commercial retail uses as a "Neighborhood Commercial Center." Also See Planning Division analysis Attachment "V".

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)*

The proposed master concept plan addresses the criteria above which advocate commercial development be done in a cohesive and attractive manner. The applicant addressed problems with the prior design including too much density, intensity, large commercial parking areas, and negative impacts on surrounding and proposed uses. The application is **CONSISTENT** with **Policy 6.1.3** of the Lee Plan, as conditioned.

POLICY 6.1.6: *The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.*

This policy encourages commercial development to be well landscaped and attractive. Specific reference is made to parking areas and community character. This proposed development addresses these criteria with proposed structures which can blend in with the unique characteristics of North Fort Myers. Staff recommends the applicant provide elevations or commit to architectural features which would be appropriate in this development. Staff does recommend the master concept plan with a density and intensity appropriate for its context. The application is **CONSISTENT** with **Policy 6.1.6** of the Lee Plan, as conditioned.

POLICY 6.1.7: *Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.*

The property has potential as infill development close to Interstate 75. The development does not have characteristics of strip commercial development inappropriate for the North Fort Myers community. The applicant did take the opportunity to creatively design the site,

in keeping with the topographic and environmental features on site. The applicant chose a design appropriate for its context. The application is **CONSISTENT** with **Policy 6.1.7** of the Lee Plan, as conditioned.

POLICY 6.1.9: *Prohibit commercial development from locating near existing or planned school areas in such a way as to jeopardize the safety of students. (Amended by Ordinance No. 00-22)*

Staff for the Lee County School Board have raised issues about some of the requested uses, including consumption on premises and a bar or cocktail lounge. Lee County staff opposes other uses which would have a deleterious effect on the elementary school adjacent to the site, including Tobacco stores (under Specialty Retail, Group I) The application is **CONSISTENT** with **Policy 6.1.9** of the Lee Plan, as conditioned, including a distance limitation (1,000 feet) on consumption on premises.

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.*

STANDARD 11.3: TRAFFIC. *A traffic impact statement must be submitted to and accepted by the county DOT for the following developments: Developments of Regional Impact (D.R.I.'s); Planned Developments (as specified in the Zoning Regulations); and Developments requiring a county development order, as specified in the Land Development Code. The form, content, and level of detail required in the traffic impact statement will be established by Lee County by ordinance, administrative code, or other regulations. Lee County will establish criteria or thresholds to determine the scope of the traffic impact statement required: if the development meets or exceeds the established thresholds, the traffic impact statement will provide a comprehensive assessment of the development's impacts on the surrounding road system; if the development does not meet or exceed these thresholds, the traffic impact statement will provide information regarding traffic generation and impacts at the development's access points to the adjacent street system. (Amended by Ordinance No. 94-30, 00-22)*

STANDARD 11.4: ENVIRONMENTAL REVIEW FACTORS. *In any case where there exists or there is the probability of environmentally sensitive areas (as identified by Lee County, the Corps of Engineers, Department of Environmental Protection, South Florida Water Management District, or other applicable regulatory agency), the developer/applicant must prepare an environmental assessment that examines the existing conditions, addresses the environmental problems, and proposes means and mechanisms to protect, conserve, or preserve the environmental and natural resources. (Amended by Ordinance No. 94-30, 00-22)*

This development will connect to public potable water and public sanitary sewer service via Lee County Utilities and North Fort Myers Utilities. Lee County Department of Transportation staff and Development Services staff have provided findings and reviewed the applicant's traffic impact statement, finding no level of service issues. Access issues on Bayshore Road (SR 78) will be evaluated by the Florida Department of Transportation. Environmental Sciences staff have reviewed the application and found the applicant's environmental assessment adequate and meeting LDC requirements. The application is **CONSISTENT** with the water, sewer, traffic and environmental review standards per **Standard 11.1, 11.2 , 11.3 and 11.4.**

GOAL 28: NORTH FORT MYERS. *North Fort Myers seeks to improve the community's livability and economic vitality by and promoting compact, mixed use development in the form of new town and neighborhood centers; attracting appropriate investment to revitalize older neighborhoods and commercial corridors, stabilizing and enhancing, existing neighborhoods; preserving natural resources; and providing greater opportunities for public participation in the land development approval process. This Goal and subsequent Objectives and Policies apply to the North Fort Myers Planning Community. (Added by Ordinance No. 09-11)*

POLICY 28.1.5: *Consider revision to the Land Development Code to establish buffers between existing large lot residential subdivision and emerging adjacent higher density and intensity uses. (Added by Ordinance No. 09-11)*

Goal 28 of the Lee Plan addresses the North Fort Myers Planning Community's plans to improve the community by promoting mixed use, infill development, preservation of natural resources and public participation in the land development approval process. The applicant deserves credit for providing for a mixed use development and for meeting with the North Fort Myers Planning Panel to discuss this proposed development. The applicant's plans do address the community's call to promote attractive and appropriately-scaled development. Buffers between high density development and lower intensity development, as called for in Policy 28.1.5, are being drafted by a local planning consultant in coordination with the planning panel and Lee County staff. The buffers proposed are adequate to address external impacts of this development. This application is **CONSISTENT** with **Goal 28** and **Policy 28.1.5** of the Lee Plan.

OBJECTIVE 28.2: LAND USE: CENTERS AND CORRIDORS. *Identify and pursue Town Center overlay districts, road corridor overlay districts and redevelopment areas. (Added by Ordinance No. 09-11)*

POLICY 28.2.2: *Preliminary Designation of Town Centers. The North Fort Myers Community Plan designates the following areas as Town Centers appropriate for moderate to high intensity, pedestrian-oriented, mixed use development and redevelopment. North Cleveland Avenue and Hancock Bridge Parkway. North Tamiami Trail – Pondella Road to the Caloosahatchee River. Bayshore and I-75. (Added by Ordinance No. 09-11)*

POLICY 28.2.5: *Designation of Neighborhood Centers. The North Fort Myers Community Plan designates the following areas as Neighborhood Centers appropriate for moderate intensity, pedestrian-oriented, mixed use development: Littleton and North Cleveland Avenue; North Tamiami Trail and Del Prado Boulevard; North Tamiami Trail and Nalle*

Grade Road; Hancock Bridge Parkway and Orange Grove Boulevard; North Tamiami Trail and Pine Island/Bayshore Roads; Bayshore Road and Slater Road; and Bayshore Road and Hart Road.

For these areas, the community favors neighborhood-serving mixed use development pedestrian-friendly street, site, and building designs; the incorporation of live/work, multi-family, and attached housing; and sidewalk and path connections to nearby neighborhoods, parks, and public uses. These Neighborhood Center designations are intended to replace the designations show on Commercial Site Location Standards Map (Lee Plan Map 19). (Added by Ordinance No. 09-11)

This development is on the corner of Bayshore and Samville. It is not designated by the Lee Plan or the North Fort Myers Community Plan for a Neighborhood Center or Town Center. As such, it was appropriate to propose moderate density and intensity of uses, and not significantly more. The application is **CONSISTENT** with achieving **Objective 28.2, Policy 28.2.2 and Policy 28.2.5**, as conditioned .

POLICY 28.2.10: *The North Fort Myers Community supports a review of county codes that address the provision of interconnection between existing land uses to minimize access onto primary road corridors and to improve the safety for non-motor transportation. (Added by Ordinance No. 09-11)*

The plans include a cross access easement to Chapel Creek RPD/CPD. The application is **CONSISTENT** with **Policy 28.2.10**.

OBJECTIVE 28.3: TRANSPORTATION. *The North Fort Myers community will have neighborhood, corridors and community interface improvements identified. (Added by Ordinance No. 09-11)*

POLICY 28.3.2: Gateways, Streetscape, and Landscape Improvements. *The North Fort Myers community will work with the Lee County Roadway Landscape Advisory Committee to review plans for streetscape and landscape improvements in gateway locations and along major roadways consistent with the general provisions of the LeeScape Master Plan, including Bayshore and Pine Island Roads, North Cleveland Avenue, North Tamiami Trail, Pondella Road, Hancock Bridge Parkway, and Del Prado Boulevard. Before finalization, plans should be presented for review to the North Fort Myers planning community. (Added by Ordinance No. 09-11)*

Bayshore Road is identified by the Lee Plan and North Fort Myers Plan as a corridor in need of improvements including enhanced buffering and better streetscapes. The North Fort Myers Planning Panel has yet to review proposed improvements or Land Development Code changes to further this policy. The development includes an enhanced buffer on Bayshore Road and no deviations. Approval of this development is **CONSISTENT** with **Objective 28.3 and Policy 28.3.2** of the Lee Plan, as conditioned.

OBJECTIVE 66.3: LAND USE COMPATIBILITY. *The county will seek to have the siting of all new schools follow these policies aimed at land use and transportation compatibility: (Amended by Ordinance No. 00-22)*

POLICY 66.3.1: *Protect the integrity of schools so that educational functions are not disrupted by the intrusion of incompatible land uses.*

POLICY 66.3.5: *Land uses and development will not be permitted to the extent that it could necessitate the relocation of schools due to pressures from incompatible uses. (Amended by Ordinance No. 00-22)*

See the analysis per Policy 6.1.9 of the Lee Plan. The commercial uses, as proposed, are **CONSISTENT** with **Objective 66.3**, **Policy 66.3.1** and **Policy 66.3.5** of the Lee Plan, as conditioned.

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. (Amended by Ordinance No. 94-30, 02-02)*

Goal 77 of the Lee Plan requires new developments to provide open space, and makes the case why open space and preservation of existing native tree and plant communities is important for aesthetic and environmental reasons. The request is **CONSISTENT** with **Goal 77** of the Lee Plan, per findings of Environmental Sciences staff (Attachment "P").

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 107.2.4: *Encourage the protection of viable tracts of sensitive or high-quality natural plant communities within developments.*

POLICY 107.2.5: *Maintain regulations to control the clearing of natural vegetation, including tree removal and clearing of understory, prior to the development of property or its conversion to agricultural uses. (Amended by Ordinance No. 94-30)*

POLICY 107.2.13: *Promote optimal conditions rather than minimum conditions for the natural system as the basis for sound planning. (Added by Ordinance No. 07-16)*

POLICY 107.4.2: *Conserve critical habitat of rare and endangered plant and animal species through development review, regulation, incentives, and acquisition.*

POLICY 107.4.3: *Require detailed inventories and assessments of the impacts of development where it threatens habitat of endangered and threatened species and species of special concern.*

Goal 107 calls for the county to protect wetland and upland ecosystems so as to maintain and enhance native habitats, floral and faunal species diversity, water quality, and natural surface water characteristics. Environmental Sciences staff evaluated natural resources on site and the plans to conserve those resources including indigenous vegetation (including Palmetto Prairie and Pine Flatwoods) and gopher tortoises (a threatened species). The request is **CONSISTENT** with **Goal 107** and associated policies of the Lee Plan above, per

findings of Environmental Sciences staff (Attachment "P").

POLICY 135.9.5: *New development adjacent to areas of established residential neighborhoods must be compatible with or improve the area's existing character. (Amended by Ordinance No. 00-22)*

POLICY 135.9.6: *Lee County will administer the planning, zoning, and development review process in such a manner that proposed land uses acceptably minimize adverse drainage, environmental, spatial, traffic, noise, and glare impacts, as specified in county development regulations, upon adjacent residential properties, while maximizing aesthetic qualities. (Amended by Ordinance No. 00-22)*

The development, as proposed, is compatible with the neighborhood, including residential uses, and does address community character issues specific to North Fort Myers. Also see the Neighborhood Compatibility analysis in the staff report below.

The application is **CONSISTENT** with **Policy 135.9.5** and **Policy 135.9.6** of the Lee Plan, as conditioned.

Neighborhood Compatibility

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

North Fort Myers - *Over the course of the current planning effort, a new vision for the future of North Fort Myers has emerged and come into sharper focus. The following phrases, describing a brighter future for the community, capture the essence of the vision and provide a foundation for the plan's goals, objectives, and policies.*

Town Center developments along the Caloosahatchee River and on Bayshore Road at I-75 offer new destinations for living, shopping, working, and socializing. Designed with walkable streets and streetscapes, ground level shops and restaurants, high quality housing, and connections to nearby parks, waterfronts, and natural areas, these new Centers are becoming signposts for positive changes throughout the community.

New retail and mixed use development cluster in Neighborhood Centers and along revitalized commercial corridors. Unlike the auto-oriented development that used to line major roadways, North Fort Myer's new neighborhood centers and corridors are pedestrian-friendly, with attractive landscaping and quality architecture.

Older neighborhoods are experiencing a quiet renaissance. First-time homebuyers, recent retirees, and new investors are fixing-up older housing stock, building compatible infill housing, sprucing-up yards, and working together to ensure properties and public rights-of-way are well-maintained, safe, and attractive.

New buildings are designed to fit the area's early design character. Simple, sturdy building forms, high quality materials, protection from the elements, and generous native vegetation create a distinctive local vernacular.

Landscape gateways, extensive streetscape and landscape improvements, and new pedestrian and bicycle facilities reinforce the North Fort Myers' reputation as a great place to live, work, and visit.

Greenways, blueways, and trail systems offer unique recreational amenities, linking together North Fort Myers' neighborhoods with the region's parks and recreational facilities, conservation lands, and new points of access to the Caloosahatchee River and its tributaries. (Added by Ordinance No. 99-15, Amended by Ordinance No. 07-12, 09-11)

North - North of the subject property is the Oak Creek Residential Planned Development, which is not proposed to be interconnected with this development. Oak Creek was approved with 1,120 dwelling units on 303 acres of land, about 3.69 units per acre. The applicant proposes a Type "B" buffer to Oak Creek.

South - South of the subject property is Bayshore Road, then a vacant agricultural property. The vacant property was the subject of a residential planned development - Bayshore 65. Staff recommended approval of Bayshore 65 RPD with a similar density (5.6 units per acre). This case was withdrawn by the applicant. Chapel Creek RPD/CPD was approved commercial and residential development (maximum 3 stories/45 feet in height) with an enhanced (30 foot) Type "F" buffer on Bayshore Road with shade trees and a split rail fence. This applicant proposes a 50-foot enhanced Type "D" buffer on Bayshore Road. No deviations are requested.

East - East of the subject property is Chapel Creek RPD/CPD. The property is vacant. This property would be adjacent to residential uses on Chapel Creek, approved with a mix of single and multi-family development at 4.5 units per acre (3 stories/45 feet in height). An enhanced Type "F" buffer is proposed to the east of the commercial portion of this development, and a Type "B" buffer is proposed adjacent to the residential portion of this development. Raymond Lumber IPD and various industrial and commercial uses are further east, as is Interstate 75.

West - West of the subject property is Bayshore Elementary School, Lee County Utilities water facility and an electric facility. West of this is a place of worship and generally low to moderate level residential development. The development's preserve area is generally on the west side of the property. Where it is not, a Type "B" buffer is proposed adjacent to the applicant's residential development, and a Type "A" buffer is proposed adjacent to the applicant's commercial development.

Looking at Bayshore Road and surrounding areas, this neighborhood has a mix of low-density and industrial/commercial uses relatively near an interstate interchange. There are vacant parcels, and parcels under development. Staff can make a finding that this proposed development is compatible with surrounding uses, as conditioned.

Transportation Issues

The Lee County Department of Transportation (LCDOT) has reviewed the application for public hearing (See Attachment "T"). LCDOT reported FDOT has jurisdiction over Bayshore Road (State Road 78). LCDOT also reported Samville Road is a minor collector road. LCDOT provided analysis of the roads and access issues, including proposed

planned improvements to address operational issues. LCDOT recommended approval of deviation 1 (separation requirements on Samville Road) with 1 condition to address the developer's responsibility in regards to site-related improvements and realignment of Samville Road to Bayshore Road.

The Division of Development Services also provided comments, as follow.

The proposed development is located in the northwest corner of the intersection of Bayshore Road (S.R. 78) and Samville Road. Access to the site is proposed to a re-aligned Samville Road in addition to Bayshore Road. The Applicant has worked with the Florida Department of Transportation (FDOT) in order to obtain an agreement that would allow the re-alignment of Samville Road. Currently, the western leg of Samville Road intersects Bayshore Road at a less than desirable angle. The intent of the re-alignment is to route Samville Road in such a way as to intersect Bayshore Road at 90 degrees. The Master Concept Plan reflects the re-alignment of Samville Road and an access point from the proposed development to the new alignment.

The Bayshore 57 MPD is a request to rezone the subject property to allow the construction of 72 single family dwelling units, 104 multi-family dwelling units, 70,000 square feet of office floor area, and 70,000 square feet of retail floor area. Trip generation for the proposed development was determined utilizing the ITE Report titled Trip Generation, 8th Edition. The office floor area was analyzed based on a 50%/50% split of Medical Office and General Office as depicted on the most recent Master Concept Plan. Likewise, the retail floor area was analyzed as a Shopping Center. Based on accepted ITE methodology, approximately 14.9% of the development traffic was projected to be internally captured on the project site. Additionally, a 30% pass-by reduction was applied to the external retail trips. As a result, the proposed development is anticipated to generate a total of 613 trips in the PM peak hour (265 entering/348 exiting). This correlates to approximately 5,970 trips over the course of the entire day.

In accordance with the TIS, Bayshore Road along the project frontage will experience a significant impact as a result of the added development traffic. This section of Bayshore Road has a capacity of 1,950 vehicles in the peak hour, peak direction. The proposed development will add 191 new, external trips to this link of Bayshore Road during the PM peak hour in the peak direction. Adding the project traffic to the 2013 background traffic volume of 1,574 vehicles results in a buildout traffic volume of 1,765 vehicles in the peak hour, peak direction which represents a Level of Service "C" on this roadway. Level of Service "C" is within the LOS "E" standard set forth in the Lee Plan.

Environmental Issues

Environmental Sciences staff report is provided per Attachment "P". The Division of Environmental Sciences staff reviewed the proposed Bayshore 57 Mixed Use Planned Development (MPD) and offered analysis and recommended conditions. The applicant submitted a Master Concept Plan showing revisions made at the recommendation of staff to decrease the intensity of the uses.

The revised MCP submitted by the applicant has reduced the commercial floor area from 176,000 sq. ft. of commercial to 140,000 sq ft of commercial. The residential units have

been reduced from 192 multi-family dwelling units to 104 multi-family units with an addition of 72 single family dwelling units for a total of 176 dwelling units. In addition the applicant has increased the buffer along the northeastern property line adjacent to Chapel Creek RPD/CPD for the commercial portion of the project and also the ROW buffer along Bayshore Road. The buffer along Chapel Creek RPD/CPD has been increased from a 30-foot type "F" buffer to an enhanced 40-50 foot wide buffer with increased plantings. The ROW buffer along Bayshore Road has been changed to include an enhanced 40-50 foot wide buffer also with enhanced plantings and tree preservation.

A vegetative community assessment was performed by Boylan Environmental Consultants, Inc. on four separate occasions from February 21, through March 27, 2007 and field verified by ES Staff (Doug Griffith, Susie Derheimer) on July 11, 2007. Based on the ES Staff's site inspection with the applicant's environmental consultants the site contains $\pm$ 51.24 acres of uplands and $\pm$ 5.83 acres of wetlands. The site consists of $\pm$ 47.46 acres of existing indigenous communities. The upland vegetative communities identified onsite include Palmetto Prairie, Pine Flatwoods, Pine Messic Oak, Mesic Pine, and Xeric Oak. The wetland vegetative communities identified onsite include Stream and Lake Swamps, Melaleuca, Hydric Pine Flatwoods, Wetland Forested Mixed, and Wetland Forested mixed with exotics. Environmental Sciences staff made recommendations for open space, indigenous preservation, protected species (including gopher tortoise), buffering, and stormwater management. Conditions are incorporated into this staff report.

Conclusions

Staff recommends **APPROVAL** of the rezoning request. The request is consistent with the Lee Plan, as conditioned. With an improved site plan, attractive building elevations and less intensity and density, conditions are recommended by staff to address compatibility with the surrounding uses, the elementary school, and the North Fort Myers Planning Community. Urban services, such as sewer, water and roads, are available, as conditioned. Staff recommends rezoning to an appropriate mixed use planned development category, as conditioned.

IV. ATTACHMENTS:

- A. Zoning Map
- B. Master Concept Plan (and 2 pages of the MCP with aerials)
- C. Lee County Department of Transportation Comments
- D. North Fort Myers Community Planning Panel, Minutes, Oct. 9, 2007
- E. "Old Florida Architecture" - North Fort Myers Design Review Panel
- F. North Fort Myers Utilities letter, Aug. 20, 2008
- G. Lee County Utilities letter, July 2, 2007
- H. Public Transit Maps
- I. Agricultural Uses Exhibits
- J. Applicant's Traffic Impact Statement
- K. Chapel Creek RPD/CPD, Zoning Res. #Z-08-011A
- L. Enclaves of Eagle Nest CPD/RPD, Zoning Res. #Z-06-053A
- M. Public Works Comments
- N. Architectural Exhibit
- O. Development Services TIS Comments

- P. Environmental Sciences Comments
- Q. School District Comments
- R. Natural Resources Comments, September 8, 2009 & September 8, 2008 e-mails
- S. North Fort Myers Community Planning Panel, Minutes, April 6, 2010
- T. LCDOT Revised Comments
- U. Applicant's Special Case Finding Narrative
- V. Planning Division Comments

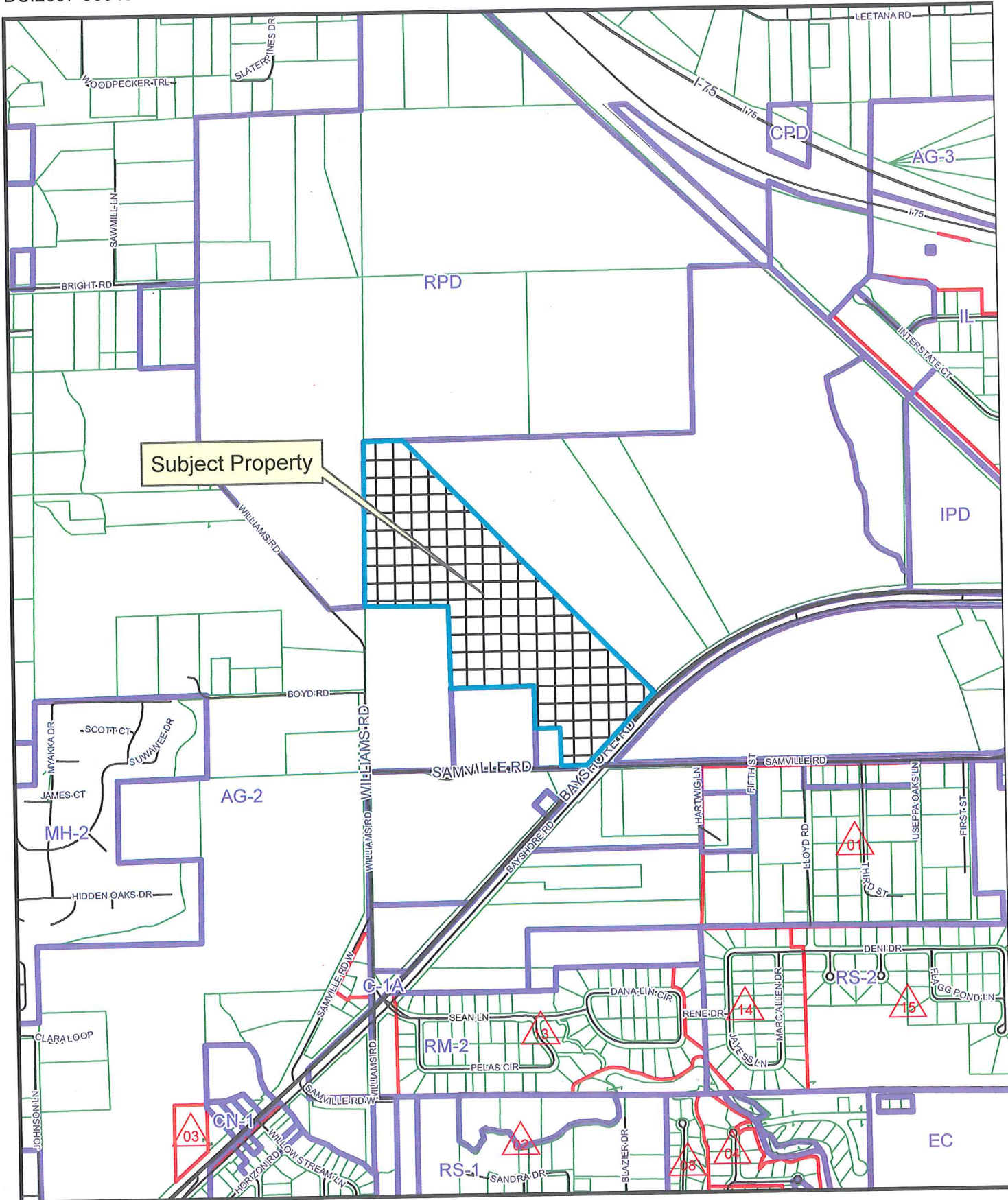
LEGAL DESCRIPTION: See Exhibit A

cc: Applicant
County Attorney
Zoning File
Dawn Gordon, Lee County School District

Attachment "A" Zoning Map

DCI2007-00045

11/17/2009



Memo

To: Tony Palermo, Senior Planner
Zoning Division

From: Lili Wu^{Wu}
Sr. Transportation Planner

Date: Nov. 13, 2009

Subject: Bayshore 57 MPD (DCI2007-00045)

The Lee County Department of Transportation (LCDOT) has reviewed the application for public hearing. This project is located along the west side of Bayshore Road (SR 78) just north of its intersection with Samville Road and will generate 695 new trips in the P.M peak hour. Access to the proposed development is shown on the Master Concept Plan via a proposed access drive on Samville Road and a proposed right-in/right-out only on Bayshore Road (SR 78). Bayshore Road (SR 78) is a facility maintained by FDOT and the proposed access point on Bayshore Road is subject to the approval of FDOT. Realignment of Samville Road (50' right-of-way) north of Bayshore Road is proposed on the Master Concept Plan. Samville Road is a collector and Lee County DOT looks for 60' to 80' right-of-way on collector streets. The intersection geometry details of Bayshore Road/Samville Road will be reviewed and determined in the Development Order stage.

LW/dn

cc: File

ATTACHMENT C

NORTH FORT MYERS COMMUNITY PLANNING PANEL-
DESIGN AND REVIEW BOARD

MINUTES OF MEETING OF OCTOBER 9, 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: John Cantor, Tony Palermo, Charles J. Basinait, Esq., Patrick Vanasse of RWA Planning, Jodi Joseph of Morris DePew Associates, Fred Drovdlc of Quattrone & Associates, and Jim Toth.

TIME: Meeting called to order by Scott Brenner at 6 pm and adjourned at 7:10 pm.

PROJECTS CONSIDERED:

- I. **MERCHANTS CROSSING SHOPPING CENTER**-Presented by Patrick Vanasse, Planning Manager, of Morris DePew. Seeking approval for A.) Restaurant pad along service road facing Rt. 41, south of Applebee's, consisting of 13,500 sq. ft.-not a drive-through restaurant. B.) 2 pads along Pine Island Road, consisting of 750 sq. ft. each for one-story retail.

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

- II. **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 highway 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 FURTHER REVIEW OF BUILDING DESIGN ARCHITECTURAL PLANS & EXHIBITS.**

- III. **BAYSHORE-SAMVILLE 57 M.P.D.**-Presented by Fred Drovdlc, V.P. & Planner, Quattrone and Associates. Proposed 200,000 sq. ft. commercial, office and some residential project visible from Rt. 75, across from proposed Chapel Creek (1,000 residential units)and another 1,500 residential units nearby, so the eventual need for commercial is obvious. Suggestions from Board members and others in attendance included emphasis on landscaping and setbacks along Bayshore, architectural look(applicant agreed to revise to Old Florida Architecture and come back to us)and utilization of two-story buildings with retail on first floor and mixed office upstairs. **BOARD CONCLUDED GENERAL APPROVAL OF**

ATTACHMENT D

**THE CONCEPT, SUBJECT TO ABOVE SUGGESTIONS , FURTHER REVIEW
OF BUILDING DESIGN ARCHITECTURE PLANS & EXHIBITS WITH OLD
FLORIDA ARCHITECTURE AND ADDITIONAL REVIEW OF REVISED
EXHIBITS.**

Scott Brenner reminded everyone that this Board's meetings are being switched to the first Tuesday of every month, same time and place, with the next meeting being Election Day November 6th.

Respectfully submitted,

Mike Land, Secretary

ATTACHMENT D

North Fort Myers Design Review Panel

[Print this Page](#)

[«--back to story](#)

"OLD FLORIDA ARCHITECTURE"

POSTED: November 3, 2009

NORTH FORT MYERS DESIGN REVIEW PANEL

Advertisement

"OLD FLORIDA ARCHITECTURE"

The North Fort Myers Design Review Panel strenuously recommends that all new projects presented to it for consideration utilize that certain architectural style known as "Old Florida Architecture", to help create a unique look and feel for this community, as opposed to the "Mediterranean" style architecture currently in vogue in nearby communities. Although "name labels" spawn a plethora of exceptions, the main elements of Old Florida include: metal roofs, or the appearance of metal roofs using more modern materials, with grey, blue, green and red seeming to be the most popular colors, standing seam roofs 16 to 24 inches apart with concealed fasteners, large overhangs, covered porches, walkways and patios, railings and balustrades, "gingerbread" in wood, wrought iron or other materials, shutters or false shutters, crawl spaces under the buildings, and large windows. There is also room for exceptions to this style architecture, especially high rises and larger buildings, which should utilize "Old Florida" landscaping and streetscaping to create some of that look and feel we seek to achieve.

In addition, we are hoping that projects should provide room to walk around the buildings, using Florida natural landscaping to unify the communities with more modern design. The periphery should provide for connectivity and must connect to properties next to it to promote a sense of community. We do appreciate that financial feasibility may impose constraints on using all these architectural features, especially on projects appealing to more moderate-priced homes, commercial enterprises and rental units, but we ask applicants to "do their best" to further our goals.

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Buzz up!



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Fark



del.icio.us



LiveSpaces

ATTACHMENT E

N O R T H
F O R T M Y E R S
U T I L I T Y
I N C O R P O R A T E D

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) 543-2226

August 20, 2008

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

RE: 7401 Bayshore Road

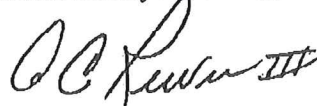
STRAP NUMBERS: 20-43-25-00-00003.3000

Please be advised that **Quattrone & Associate, Inc.** has requested wastewater service for the above referenced site. The subject property will contain 100,000 sq ft retail; 53,500 sq ft general commercial; 32,000 sq ft general medical; and 192 residential units. The onsite collection system and offsite force main will be constructed by the developer to this project under the terms of a Developer's Agreement.

North Fort Myers Utility, Inc. has the capacity to provide 61,145 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.A. "Tony" Reeves
Utility Director

ATTACHMENT F

RECEIVED

AUG 25 2008

COMMUNITY DEVELOPMENT

DCI 2007-00045



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: (239) 479-8525

July 2, 2007
Bob Janes
District One

A. Brian Bigelow
District Two

Ray Judah
District Three

Tammy Hall
District Four

Frank Mann
District Five

Donald D. Stilwell
County Manager

David M. Owen
County Attorney

Diana M. Parker
County Hearing
Examiner

Catherine Peaslee
Quattrone & Assoc.
11000 Metro Parkway, Ste. 30
Fort Myers, FL 33966

RE: POTABLE Water AVAILABILITY
Bayshore 57
STRAP #: 20-43-25-00-00003.3000

Dear Ms. Peaslee:

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.

Your firm has indicated that this project will consist of 7 commercial units and 224 multi-family residential units with a total estimated flow demand of approximately 36,968 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,

ATTACHMENT G

LEE COUNTY UTILITIES

Melissa Bibeau

Melissa Bibeau
Engineering Tech., I
UTILITIES ENGINEERING
VIA FACSIMILE
Original Mailed

RECEIVED
AUG 25 2008

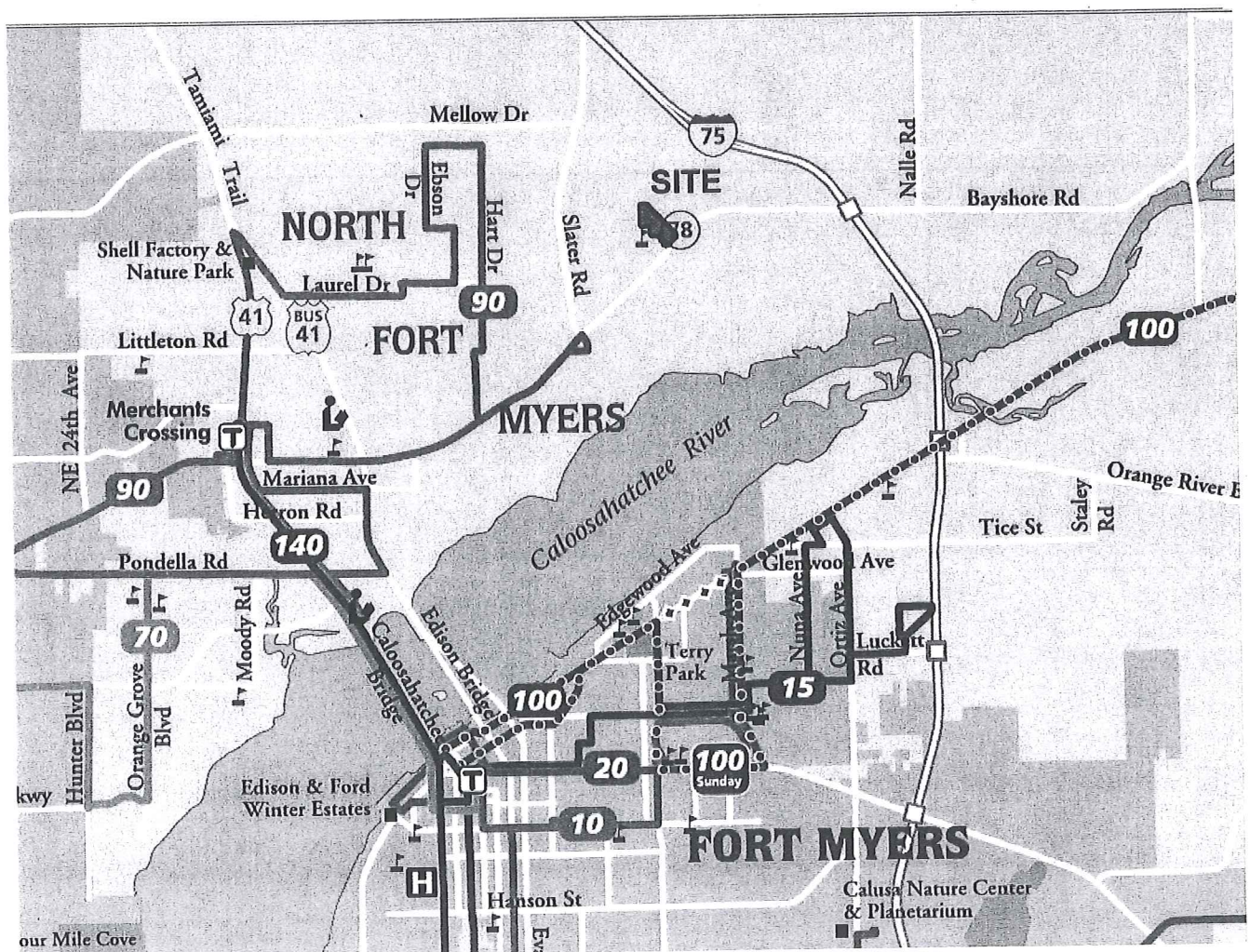
COMMUNITY DEVELOPMENT

DO - BAYSHORE 57

**EXHIBIT D-1-C
PUBLIC TRANSIT**

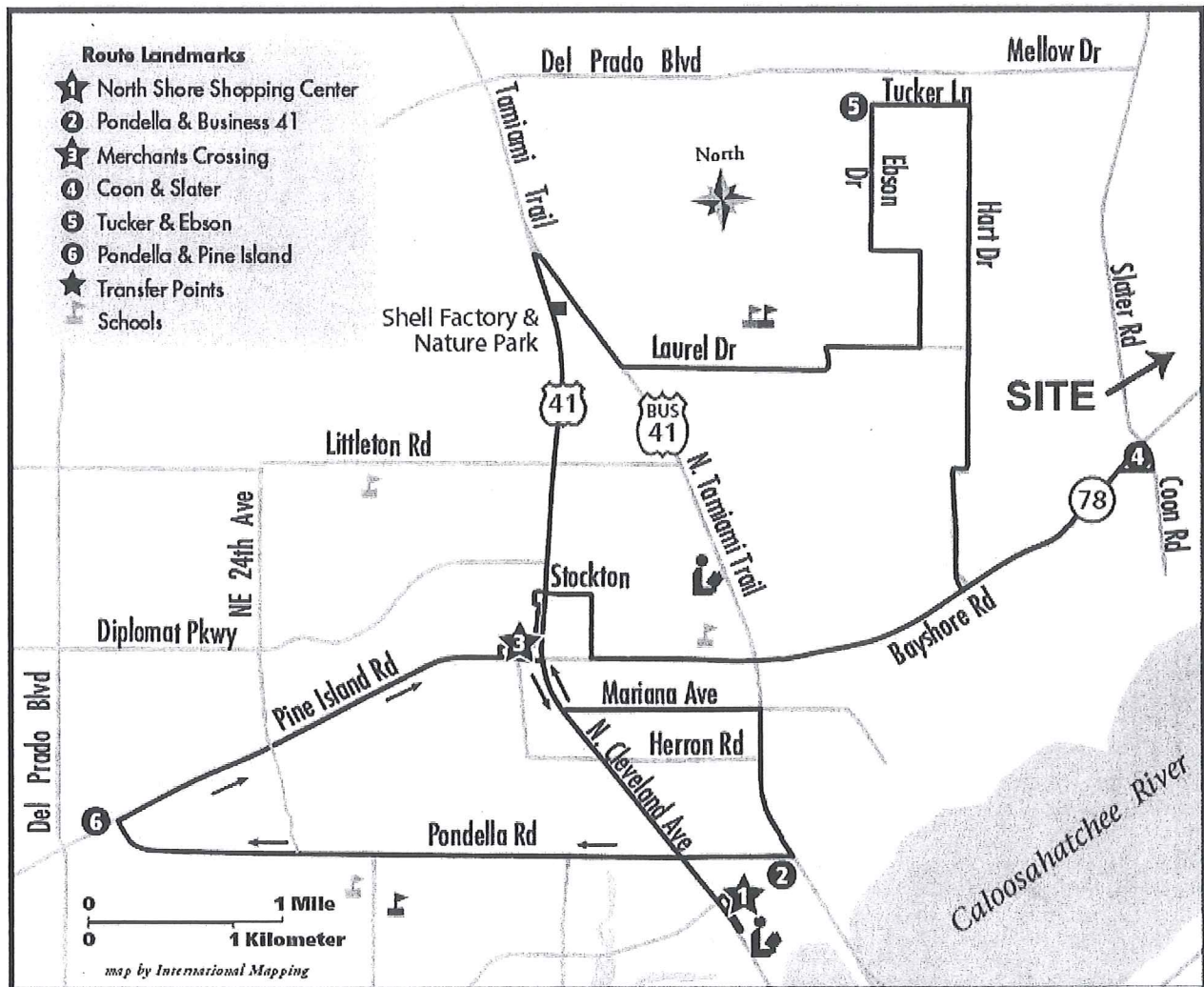
BAYSHORE 57 MPD
Rezoning from AG-2 to MPD
STRAP#: 20-43-25-00-00003.3000
7401 Bayshore Rd, North Fort Myers, FL 33917

The project is not within the Lee Tran service area.



DCI 2007-00045
ATTACHMENT H

RECEIVED
JUN 27 2007



DCI 2007-00045

ATTACHMENT H

RECEIVED
JUN 27 2007

COMMUNITY DEVELOPMENT

EXHIBIT PH-3.1.3

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MAR 21 2008

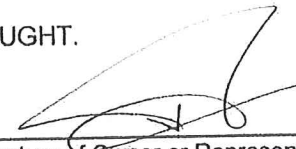
AGRICULTURAL USES AT TIME OF ZONING APPLICATION

COMMUNITY DEVELOPMENT

The undersigned swears or affirms under oath, deposes and says:

1. that he is the fee owner, trustee, managing member or authorized representative of the property commonly known as STRAP# 20-43-25-00-00003.3000 and legally described in Exhibit "A".
2. that livestock pasture currently exist on the property occupying 57± acres, or the entire parcel, as identified by the sketch accompanying legal description.

FURTHER AFFIANT SAYETH NAUGHT.


Signature of Owner or Representative

Natalio Wengrower/Owner & Managing Director
Printed Name and Title

REPUBLIC OF ARGENTINA)
CITY OF BUENOS AIRES) § 8
EMBASSY OF THE UNITED
STATES OF AMERICA)

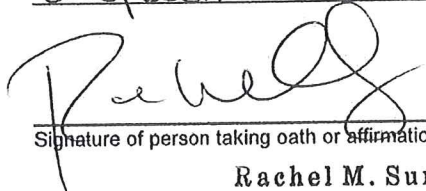
Theta Investments
Name of Entity/Corporation

~~STATE OF~~ Country of : Argentina

~~COUNTY OF~~ City of : Buenos Aires

Sworn to (or affirmed) and subscribed before me this 30th day of November, 2006, by

Natalio Wengrower, who is personally known to me or who has produced
Argentine ID as identification.


Signature of person taking oath or affirmation

Rachel M. Sunden
Vice Consul

Name typed, printed or stamped

Title or rank

Serial number, if any

ATTACHMENT I

54000-00045

2007-00045

EXHIBIT "A"

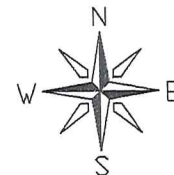
P.O.B.
W. 1/4 CORNER
SECTION 20

INSTRUMENT #
2006000198664
VACANT
NOT PLATTED

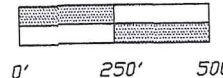
BEARING BASIS
N89°43'21"E 1031.64'

S89°43'21"W 1324.38'

N.E. CORNER
S.W. 1/4
SECTION 20



SCALE: 1" = 500'



LEGEND

O.R. OFFICIAL RECORDS BOOK
PG. PAGE
P.O.B. POINT OF BEGINNING

NOTES:

- 1.) BEARINGS SHOWN HEREON REFER TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING A ASSUMED BEARING OF N.89°43'21"E.
- 2.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.

PROPERTY DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH 89°43'21" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 20, FOR 292.75 FEET; THENCE SOUTH 43°58'29" EAST FOR 2875.15 FEET TO A POINT ON A CURVE, SAID POINT BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (BAYSHORE ROAD), SAID CURVE BEING CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 2914.79 FEET SUBTENDED BY A CHORD OF 164.66 FEET AT A BEARING OF SOUTH 44°24'15" WEST; THENCE RUN SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 3°14'14", FOR AN ARC DISTANCE OF 164.66 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 42°47'09" WEST FOR A DISTANCE OF 284.79 FEET TO THE NORTHEASTERLY CORNER OF PARCEL #122 SECTION 12060-2535 STATE ROAD 783 AS RECORDED IN INSTRUMENT #2006000126434 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 47°12'51" WEST ALONG THE NORTHEASTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 15.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL #122; THENCE SOUTH 42°47'09" WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 365.75 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL #122 AND A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAMVILLE ROAD (OLD BAYSHORE ROAD); THENCE SOUTH 89°42'36" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 213.46 FEET TO A POINT ON THE EASTERLY LINE OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1215, PAGE 896 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°04'14" EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 300.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE SOUTH 89°42'36" WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND AND A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE NORTH 00°04'14" EAST ALONG SAID WEST LINE, A DISTANCE OF 342.85 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'47" WEST FOR A DISTANCE OF 660.30 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°00'59" EAST FOR A DISTANCE OF 667.88 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'59" WEST FOR A DISTANCE OF 660.93 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°02'16" WEST ALONG THE WEST LINE OF SAID SECTION 20 FOR A DISTANCE OF 1335.57 FEET TO THE POINT OF BEGINNING.

CONTAINING 56.76 ACRES MORE OR LESS.

3/18/08
KRIS A. SLOSSER, STATE OF FLORIDA, (P.S.M. #5560)

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	164.68	2914.79	3°14'14"	S44°24'15"W	164.66

LINE TABLE		
LINE	LENGTH	BEARING
L1	279.23	S89°42'36"W
L2	213.46	S89°42'36"W
L3	25.00	N0°04'14"E
L4	292.75	N89°43'21"E
L5	200.00	S89°42'36"W
L6	300.00	N0°04'14"E
L7	264.79	S42°47'09"W

VACANT
NOT PLATTED
56.76 acres
LIVESTOCK & PASTURE
PER QUATTRONE & ASSOCIATES
O.R. BOOK 1408 PAGE 1746

O.R. BOOK 4595 PAGE 1273
VACANT
NOT PLATTED

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

O.R. BOOK 337 PAGE 547
OCCUPIED
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O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

O.R. BOOK 1215 PAGE 896
WATER PLANT
NO ACCESS
PERMITTED
NOT PLATTED

5.1% PER
PLAN
RIGHT-OF-WAY
BAYSHORE ROAD (STATE ROAD 78)
RIGHT-OF-WAY VARIES

S.W. CORNER
SECTION 20

N89°42'36"E 659.67'

SAMVILLE ROAD (OLD BAYSHORE RD.
EXISTING 50' ROADWAY

S.E. CORNER
S.W. 1/4
SECTION 20

N89°42'36"E 908.55'

NOT A SURVEY

SKETCH & LEGAL DESCRIPTION EXHIBIT "A"

A PARCEL OF LAND LOCATED IN
SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

KRIS A SLOSSER P.S.M.

4650 VILLA CAPRI LN. BONITA SPRINGS
FLORIDA 34134 (239) 947-1915

SCALE: 1" = 500'
DRAWING: 60489SKETCH
DRAWN BY: KAS
JOB#: 60489SKETCH

RECEIVED
MAR 21 2008
EXHIBIT

EXHIBIT PH-3.I.3

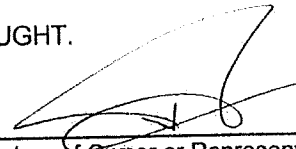
AGRICULTURAL USES AT TIME OF ZONING APPLICATION

RECEIVED
MAR 21 2008
COMMUNITY DEVELOPMENT

The undersigned swears or affirms under oath, deposes and says:

1. that he is the fee owner, trustee, managing member or authorized representative of the property commonly known as STRAP# 20-43-25-00-00003.3000 and legally described in Exhibit "A".
2. that livestock pasture currently exist on the property occupying 57± acres, or the entire parcel, as identified by the sketch accompanying legal description.

FURTHER AFFIANT SAYETH NAUGHT.


Signature of Owner or Representative

Natalio Wengrower/Owner & Managing Director

Printed Name and Title

REPUBLIC OF ARGENTINA)
CITY OF BUENOS AIRES) § 8
EMBASSY OF THE UNITED
STATES OF AMERICA)

Theta Investments

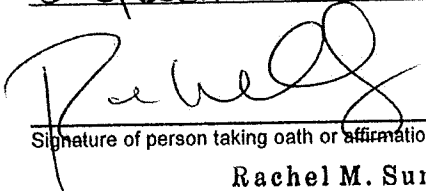
Name of Entity/Corporation

~~STATE OF~~ Country of : Argentina

~~COUNTY OF~~ City of : Buenos Aires

Sworn to (or affirmed) and subscribed before me this 30th day of November, 2006, by

Natalio Wengrower, who is personally known to me or who has produced
Argentine ID as identification.


Signature of person taking oath or affirmation

Rachel M. Sunden
Vice Consul

Name typed, printed or stamped

Title or rank

Serial number, if any

ATTACHMENT I

DCI 2007-00045

EXHIBIT "A"

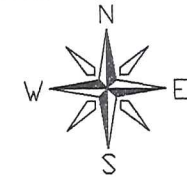
P.O.B.
W. 1/4 CORNER
SECTION 20

INSTRUMENT #
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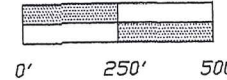
BEARING BASIS
N89°43'21"E 1031.64'

S89°43'21"W 1324.38'

N.E. CORNER
S.W. 1/4
SECTION 20



SCALE: 1" = 500'



LEGEND

O.R. OFFICIAL RECORDS BOOK
PG. PAGE
P.O.B. POINT OF BEGINNING

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CONTAINING 56.76 ACRES MORE OR LESS.

KRIS A. SLOSSER, STATE OF FLORIDA, (P.S.M. #5560)

RECEIVED
MAR 21 2008
DOCUMENT

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	164.68	2914.79	3°14'14"	S44°24'15"W	164.66

LINE TABLE		
LINE	LENGTH	BEARING
L1	279.23	S89°42'36"W
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L4	292.75	N89°43'21"E
L5	200.00	S89°42'36"W
L6	300.00	N0°04'14"E
L7	264.79	S42°47'09"W

VACANT
NOT PLATTED
56.76 acres
LIVESTOCK & PASTURE
PER QUATTRONE & ASSOCIATES
O.R. BOOK 1408 PAGE 1746

O.R. BOOK 4595 PAGE 1273
VACANT
NOT PLATTED

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

O.R. BOOK 337 PAGE 547
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NOT PLATTED

O.R. BOOK 337 PAGE 547
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O.R. BOOK 1215 PAGE 896
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S.W. CORNER
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N89°42'36"E 659.67'

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NOT A SURVEY

SAMVILLE ROAD (OLD BAYSHORE RD.)
EXISTING 50' ROADWAY

SKETCH & LEGAL DESCRIPTION EXHIBIT "A"

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LEE COUNTY, FLORIDA

KRIS A SLOSSER P.S.M.

4650 VILLA CAPRI LN. BONITA SPRINGS
FLORIDA 34134 (239) 947-1915

SCALE: 1" = 500'
DRAWING: 60489SKETCH
DRAWN BY: KAS
JOB#: 60489SKETCH

EXHIBIT PH-3.I.3

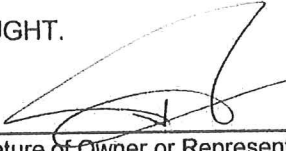
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Signature of Owner or Representative

Natalio Wengrower/Owner & Managing Director
Printed Name and Title

REPUBLIC OF ARGENTINA)
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EMBASSY OF THE UNITED)
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Theta Investments

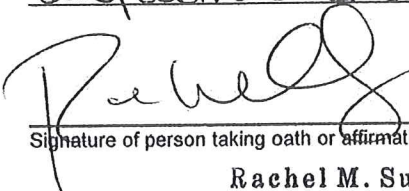
Name of Entity/Corporation

~~STATE OF~~ Country of : Argentina

~~COUNTY OF~~ City of : Buenos Aires

Sworn to (or affirmed) and subscribed before me this 30th day of November, 2006, by

Natalio Wengrower, who is personally known to me or who has produced
Argentine ID as identification.


Signature of person taking oath or affirmation

Rachel M. Sunden
Vice Consul

Name typed, printed or stamped

Title or rank

Serial number, if any

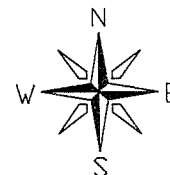
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081 2007-00645

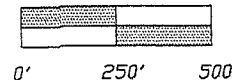
DCI 2007-00045

EXHIBIT "A"P.O.B.
W. 1/4 CORNER
SECTION 20INSTRUMENT #
2006000198664
VACANT
NOT PLATTEDBEARING BASIS
N89°43'21"E 1031.64'

S89°43'21"W 1324.38'

N.E. CORNER
S.W. 1/4
SECTION 20

SCALE: 1" = 500'

**LEGEND**O.R. OFFICIAL RECORDS BOOK
P.C. PAGE
P.O.B. POINT OF BEGINNING**NOTES:**

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KRIS A. SLOSSER, STATE OF FLORIDA, (P.S.M. #5560)

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KRIS A SLOSSER P.S.M.

4650 VILLA CAPRI LN. BONITA SPRINGS

FLORIDA 34134 (239) 947-1915

SCALE: 1" = 500'
DRAWING: 60489SKETCH
DRAWN BY: KAS
JOB#: 60489SKETCH

TRAFFIC IMPACT ANALYSIS

FOR

BAYSHORE 75

PROJECT NO. F0806.09

ATTACHMENT J

RECEIVED
AUG 25 2008

COMMUNITY DEVELOPMENT

PREPARED BY:
TR Transportation Consultants, Inc.
13881 Plantation Road, Suite 11
Fort Myers, Florida 33912-4339
(239) 278-3090

July 31, 2008

DCI 2007-00045

CONTENTS

- I. INTRODUCTION
- II. EXISTING CONDITIONS
- III. PROPOSED DEVELOPMENT
- IV. TRIP GENERATION
- V. TRIP DISTRIBUTION
- VI. FUTURE TRAFFIC CONDITIONS
- VII. PROJECTED LEVEL OF SERVICE AND IMPROVEMENTS
- VIII. CONCLUSION

ATTACHMENT J

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DCI 2007-00045
COMMUNITY DEVELOPMENT

I. INTRODUCTION

TR Transportation Consultants, Inc. has conducted a traffic impact analysis in order to fulfill the requirements set forth by the Lee County Department of Community Development for projects seeking re-zoning approval. This report has been completed in compliance with the requirements established in the Lee County Traffic Impact Statement Guidelines. The proposed Bayshore 75 development is located along the west side of Bayshore Road (S.R. 78) just north of its intersection with Samville Road in Lee County, Florida. **Figure 1** illustrates the approximate location of the proposed Bayshore 75 development.

The Bayshore 75 re-zoning as currently proposed would permit the development of retail, office, and residential uses. Based on the Master Concept Plan (MCP), the subject site could be developed with up to approximately 100,000 square feet of retail uses, up to approximately 53,500 square feet of general office uses, up to approximately 32,000 square feet of medical office uses, and up to approximately 192 multi-family dwelling units.

Access to the subject site will be provided to both Bayshore Road (S.R. 78) and Samville Road. The proposed site access intersection on Bayshore Road will permit right-in/right-out turning movements only. The site access intersection on Samville Road will permit all turning movements.

The following report will examine the anticipated trip generation of the proposed development and evaluate the impact the additional trips will have on the surrounding roadway network.

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COMMUNITY DEVELOPMENT

F0806.09



II. EXISTING CONDITIONS

The subject site is currently vacant. Bayshore Road (S.R. 78) borders the subject site to the south and east. Vacant land borders the subject site to the north and east. To the west and south of the subject site is the existing Bayshore Elementary School, an existing office development, and an existing Lee County wastewater treatment plant.

Bayshore Road (S.R. 78) is a four-lane divided arterial roadway that borders the subject site to the southeast. Bayshore Road between Sean Lane and Nalle Road has an adopted Access Management Classification of 3 with a minimum median opening spacing of 1320 feet. Bayshore Road has a posted speed limit of 50 mph and is under the jurisdiction of the Florida Department of Transportation.

Samville Road is a two-lane undivided local roadway that borders the subject site to the south. Samville Road currently operates under two-way stop control at its intersection with Bayshore Road (S.R. 78). Samville Road is under the jurisdiction of the Lee County Department of Transportation.

III. PROPOSED DEVELOPMENT

Based on the Master Concept Plan (MCP), the subject site could be developed with up to approximately 100,000 square feet of retail uses, up to approximately 53,500 square feet of general office uses, up to approximately 32,000 square feet of medical office uses, and up to approximately 192 multi-family dwelling units. **Table 1** summarizes the land use utilized for trip generation purposes for the subject development.

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COMMUNITY DEVELOPMENT
Page 3

DCI 2007-00045

**Table 1
Land Uses
Bayshore 75**

Land Use	Size
Shopping Center (LUC 820)	100,000 square feet
General Office (LUC 710)	53,500 square feet
Medical/Dental Office (LUC 720)	32,000 square feet
Multi-Family Housing (LUC 230)	192 dwelling units

Access to the subject site will be provided to both Bayshore Road (S.R. 78) and Samville Road. The proposed site access intersection on Bayshore Road will permit right-in/right-out turning movements only. The site access intersection on Samville Road will permit all turning movements.

IV. TRIP GENERATION

The trip generation for the proposed development was determined by referencing the Institute of Transportation Engineer's (ITE) report, titled *Trip Generation*, 7th Edition. Land Use Code 820 (Shopping Center) was utilized for the trip generation purposes of the retail uses proposed on the subject site. Land Use Code 710 (General Office Building) was utilized for the trip generation purposes of the general office uses proposed on the subject site. Land Use Code 720 (Medical-Dental Office Building) was utilized for the trip generation purposes of the medical/dental office uses proposed on the subject site. Land Use Code 230 (Residential Condominium/Townhouse) was utilized for the trip generation purposes of the multi-family housing proposed on the subject site. The equations for these land uses are contained in the Appendix of this report for reference. **Table 2** outlines the anticipated weekday A.M. and P.M. peak hour trip generation of the Bayshore 75 development as currently proposed. The daily trip generation is also indicated in the table.

**Table 2
Trip Generation
Bayshore 75**

Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily 2-way
	In	Out	Total	In	Out	Total	
Shopping Center (100,000 square feet)	95	60	155	300	325	625	6,790
General Office (53,500 square feet)	100	15	115	25	115	140	825
Medical/Dental Office (32,000 square feet)	65	15	80	30	80	110	1,095
Multi-Family Housing (192 dwelling units)	15	70	85	70	35	105	1,120
Total Trips	275	160	435	425	555	980	9,830

However, not all of the trips generated by the proposed development will utilize the public roadway system. Some of the trips will travel to/from the land uses located within the proposed Bayshore 75 development. Therefore, an internal capture rate of twelve percent (12%) was calculated between the various proposed land uses within the Bayshore 75 site by utilizing the methodologies presented in the ITE Trip Generation Handbook June 2004, which calculates the internal capture rates of multi-use developments. The summary sheet utilized to calculate this internal capture rate is included in the Appendix of this report for reference. **Table 3** indicates the number of trips the proposed Bayshore 75 development is anticipated to add to the public roadway network.

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**Table 3
External Trip Generation
Bayshore 75**

COMMUNITY DEVELOPMENT

Land Use	Weekday AM Peak Hour			Weekday PM Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Total Trips	275	160	435	425	555	980	9,830
Less 12% Internal Capture	-30	-20	-50	-50	-70	-120	-1,180
Total Trips (To the public roadway network)	245	140	385	375	485	860	8,650

The trips shown in Table 3 will not all be new trips to the adjacent roadway system. ITE estimates that a retail center of comparable size may attract as much as 10 to 90 percent of its traffic from vehicles already traveling the adjoining roadway system. This traffic, called "pass-by" traffic, reduces the development's overall impact on the surrounding roadway system but does not decrease the actual driveway volumes. From the ITE Trip Generation report, the relationship between the percent pass-by and the size of the development for Land Use Code 820 is:

$$\begin{aligned} \ln(T) &= -0.29 \ln(X) + 5.00 \\ T &= \text{Percent pass-by traffic} \\ X &= 1,000\text{'s of square feet GLA of the retail portion of the development} \end{aligned}$$

Therefore, the percent pass-by for this development was calculated as follows:

$$\begin{aligned} \ln(T) &= -0.29 \ln(100) + 5.00 \\ T &= 39\% \end{aligned}$$

However, Lee County only permits a maximum reduction in trips due to "pass-by" traffic for shopping centers of thirty percent (30%). Therefore, thirty percent (30%) pass-by reduction was utilized for Land Use Code 820 (Shopping Center).

For this analysis, the "pass-by" traffic was accounted for to determine the number of "new" trips the development will add to the surrounding roadways. **Table 4** summarizes the pass-by percentage for each use. **Table 5** summarizes the development traffic and the breakdown between the new trips the development is anticipated to generate and the "pass-by" trips the development is anticipated to attract. It should be noted that the driveway volumes are not reduced as a result of the "pass-by" reduction, only the traffic added to the surrounding streets and intersections.

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Table 4
Pass-by Trip Reduction Factors
Bayshore 75

Land Use	Percentage Trip Reduction
Shopping Center (LUC 820)	30%

Table 5
Trip Generation – New Trips
Bayshore 75

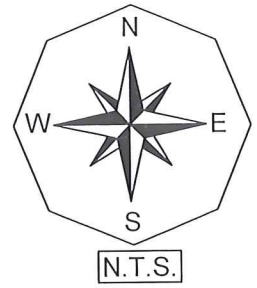
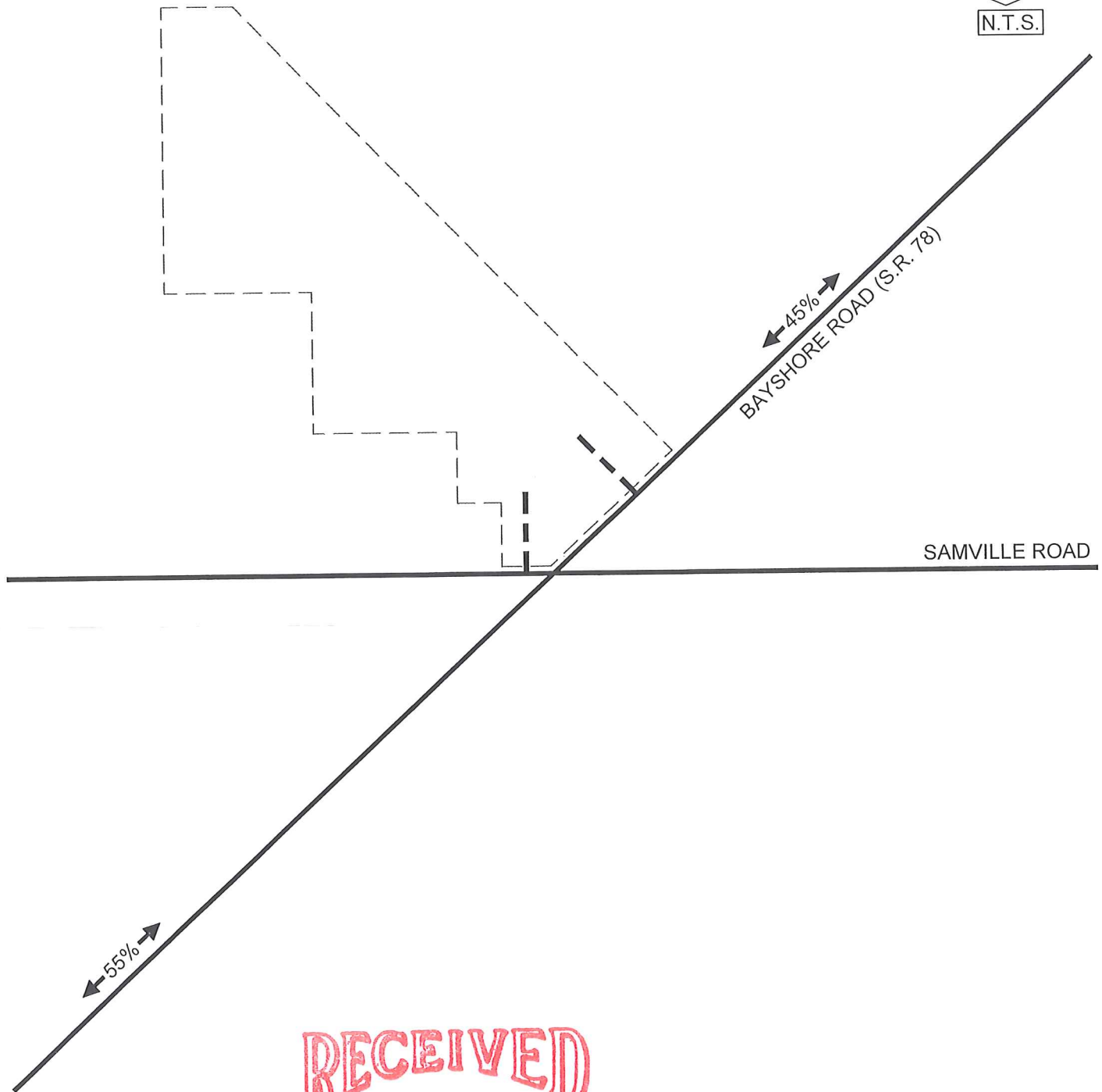
Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily (2-way)
	In	Out	Total	In	Out	Total	
Total Trips (To the public roadway network)	245	140	385	375	485	860	8,650
Total Retail Trips (To the public roadway network)	85	50	135	265	285	550	5,975
Less 30% Retail Pass-by	-25	-15	-40	-80	-85	-165	-1,795
New Trips (To the public roadway network)	220	125	345	295	400	695	6,855

V. TRIP DISTRIBUTION

The new trips shown in Table 5 were then assigned to the surrounding roadway system based on the anticipated routes the drivers will utilize to approach the site. The driveway volumes shown in Table 3 were assigned to the site access drives. Current and projected population in the area and other existing or planned competing/complementary uses in the area were utilized to assist in determining a distribution of the site traffic. Based on this information, the anticipated trip distribution of the development traffic is illustrated on **Figure 2**. **Figure 3** illustrates the site traffic assignment to the surrounding roadway network.

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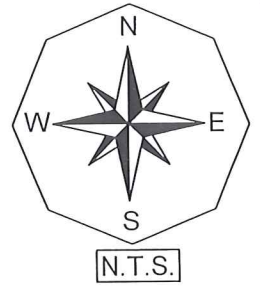
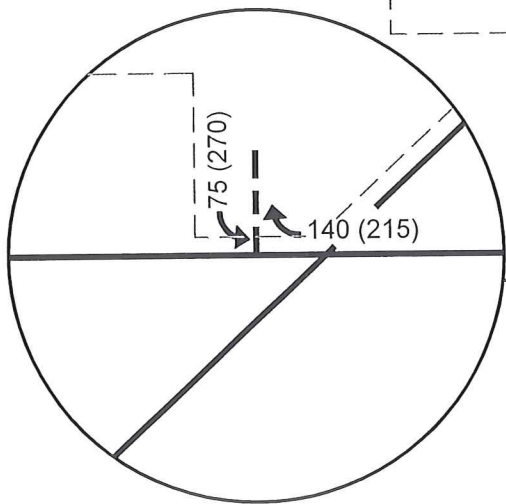
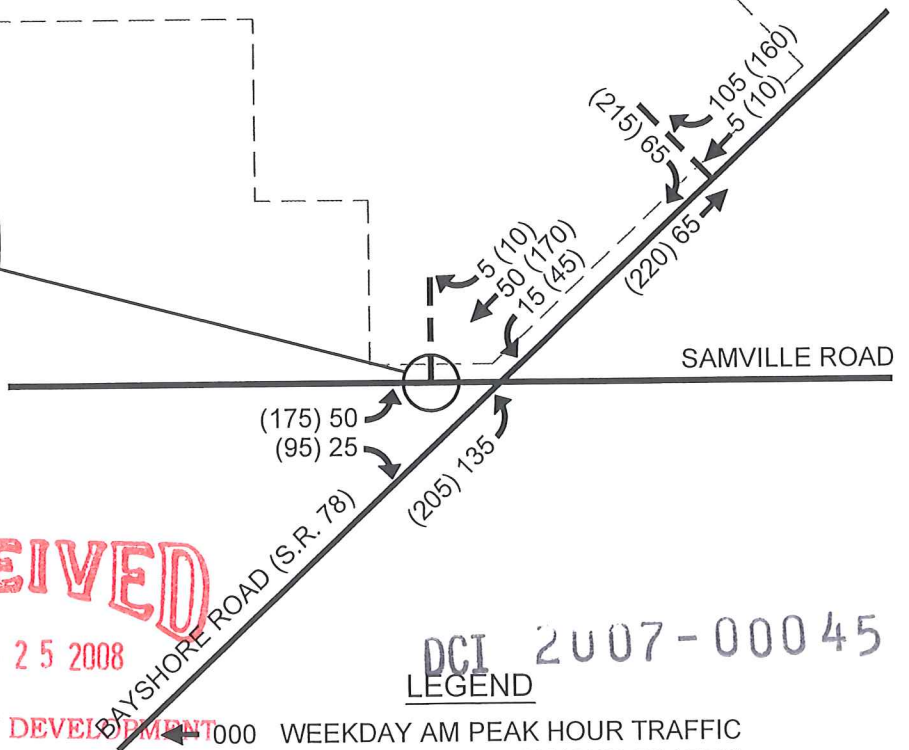
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↔20%↔ PERCENT DISTRIBUTION

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In order to determine which roadway segments surrounding the site may be significantly impacted as outlined in the Lee County Traffic Impact Statement Guidelines, **Table 1A**, in the Appendix, was created. This table indicates which roadway links will accommodate greater than 10% of the Peak Hour Level of Service "C" volumes, as defined by the Lee County Generalized Peak Hour, Peak Direction Service Volumes, as provided by the Lee County Department of Transportation.

VI. FUTURE TRAFFIC CONDITIONS

It was assumed that the project would be completed by the year 2012. Therefore, the surrounding roadway network was analyzed under 2013 projected traffic conditions. Based on this projected build-out, a growth rate was applied to the existing traffic conditions for all roadway links and intersections that could be significantly impacted by the proposed development. The growth rates were calculated from historical traffic count data for the past ten years as contained in the 2007 Lee County Traffic Count Report.

Based on the project traffic distribution illustrated on Figure 2, the link data was analyzed for the existing conditions, year 2013 without the development and year 2013 with the development. The 2006 peak hour traffic volumes were obtained from the 2005/2006-2006/2007 Lee County Concurrency Report as the current 2007 Lee County Concurrency Report does not contain any data for this count location. Table 2A, contained in the Appendix of the report, outlines the methodology used in determining the growth rate utilized for each roadway segment.

Figure 4 indicates the year 2013 peak hour traffic volumes and Level of Service for the various roadway links within the study area. Noted on Figure 4 is the peak hour volume and Level of Service of each link should no development occur on the subject site and the Peak Hour volume and Level of Service for the weekday A.M. and P.M. peak hours with

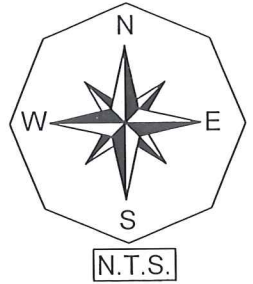
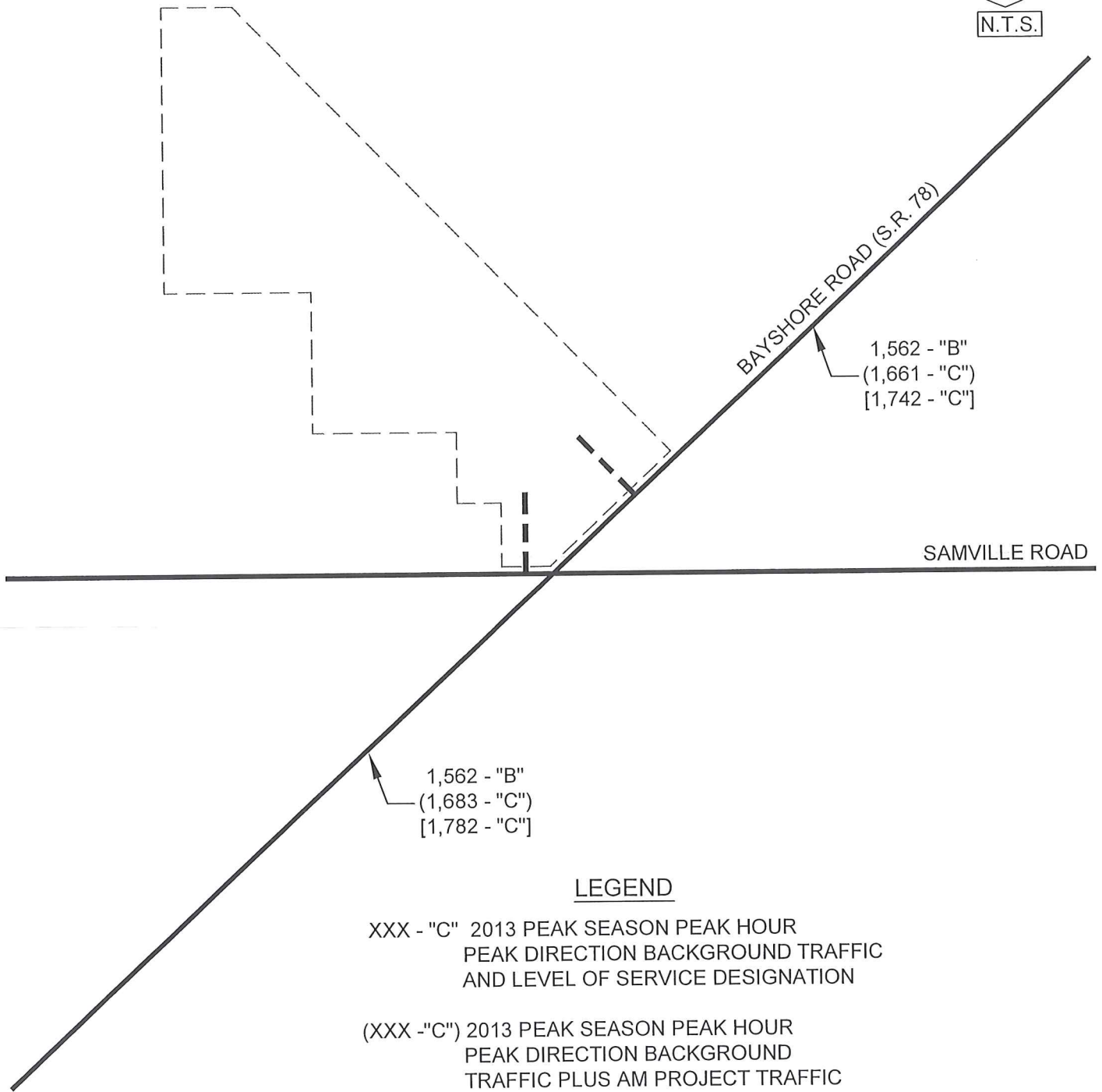
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Page 10

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XXX - "C" 2013 PEAK SEASON PEAK HOUR
PEAK DIRECTION BACKGROUND TRAFFIC
AND LEVEL OF SERVICE DESIGNATION

(XXX -"C") 2013 PEAK SEASON PEAK HOUR
PEAK DIRECTION BACKGROUND
TRAFFIC PLUS AM PROJECT TRAFFIC
AND LEVEL OF SERVICE DESIGNATION

[XXX -"C"] 2013 PEAK SEASON PEAK HOUR
PEAK DIRECTION BACKGROUND
TRAFFIC PLUS PM PROJECT TRAFFIC
AND LEVEL OF SERVICE DESIGNATION

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the development traffic added to the roadways. These values are derived from Table 2A contained in the Appendix.

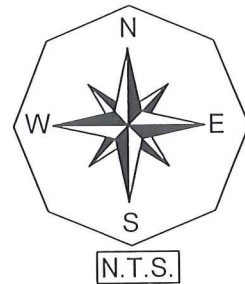
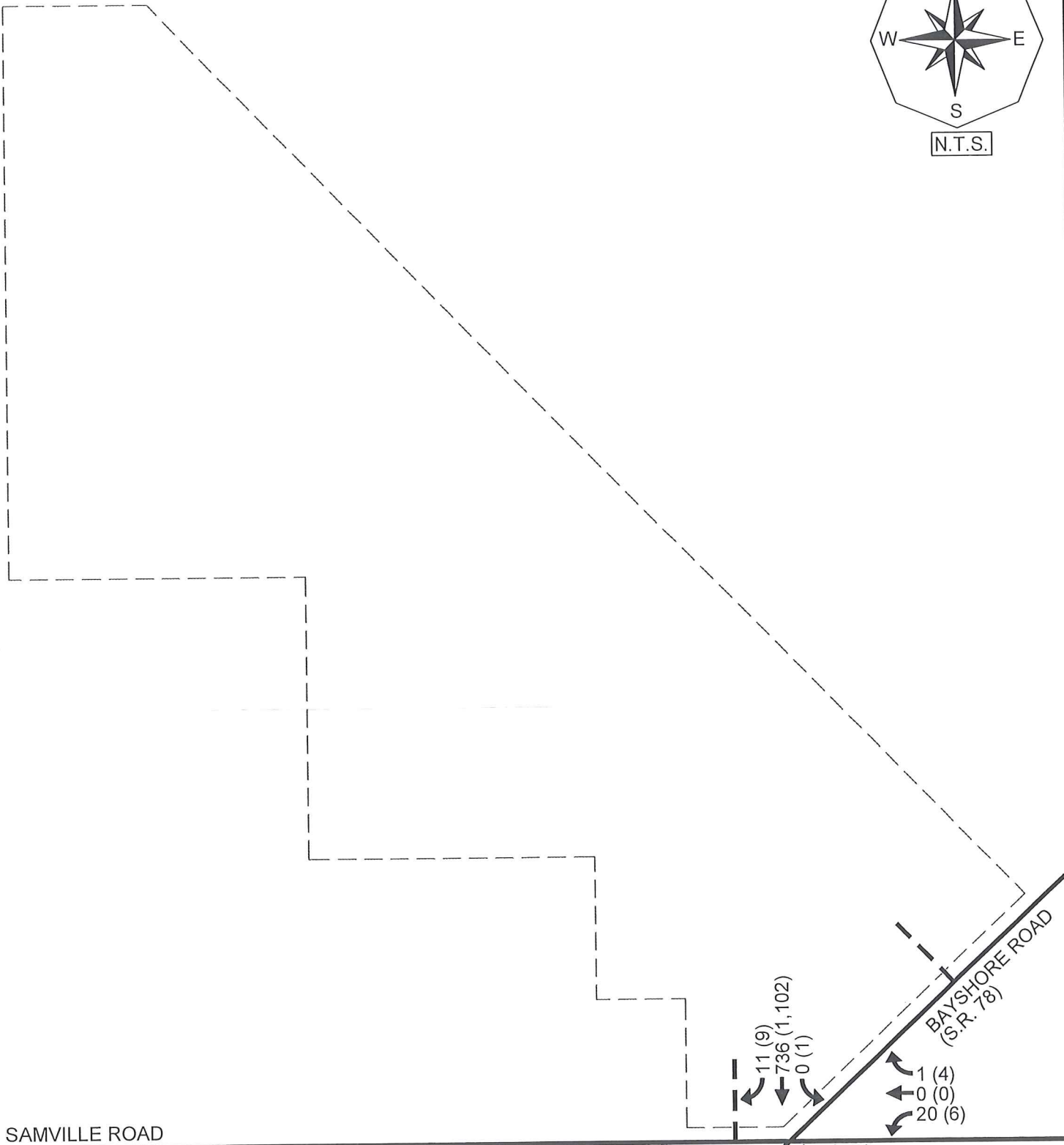
VII. PROJECTED LEVEL OF SERVICE AND IMPROVEMENTS

From Figure 4, Bayshore Road is shown to operate at an acceptable Level of Service condition in 2013 both with and without the proposed development. Therefore, no roadway capacity improvements are required in order to meet the Lee County Concurrency Standards.

Turning movement counts were performed at the intersection of Bayshore Road and Samville Road in July 2008. The raw data sheets for the turning movement counts are included in the Appendix of this report for reference. The existing 2008 peak hour traffic data was then adjusted for peak season utilizing data from the 2007 Lee County Traffic Count Report for Permanent Count Station #34, the results of which are illustrated on **Figure 5**. The 2013 background traffic volumes were then calculated by growing the volumes by the appropriate growth rate as indicated in Table 2A for five (5) years, compounded annually. In addition, the trips from the existing Bayshore Elementary School were added to the projected 2013 background traffic volumes as the turning movement count was performed during summer break. The assignment of the school traffic as well as the data utilized to conduct the trip generation for the school is included in the Appendix for reference. The resulting 2013 background traffic volumes are illustrated on **Figure 6**. The 2013 build-out traffic volumes, illustrated on **Figure 7**, were then calculated by adding the 2013 background traffic volumes, illustrated on Figure 6, to the site traffic assignment, illustrated on Figure 3.

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- ← 000 WEEKDAY AM PEAK HOUR TRAFFIC
- (000) WEEKDAY PM PEAK HOUR TRAFFIC

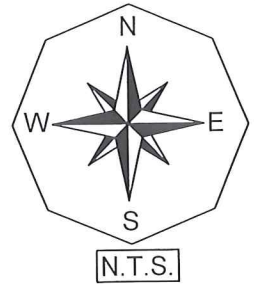
(17) 7
(0) 0
(9) 2

(11) 9
736 (1,102)
0 (1)

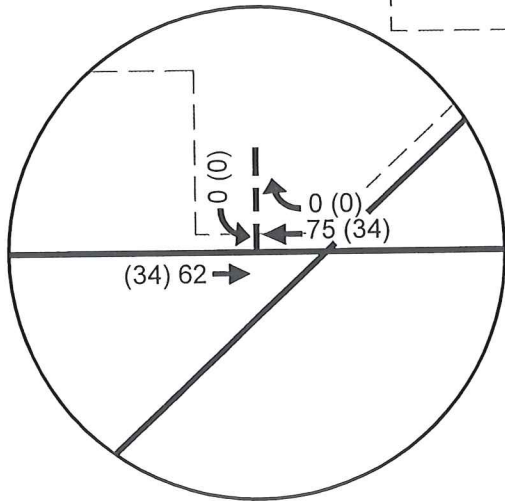
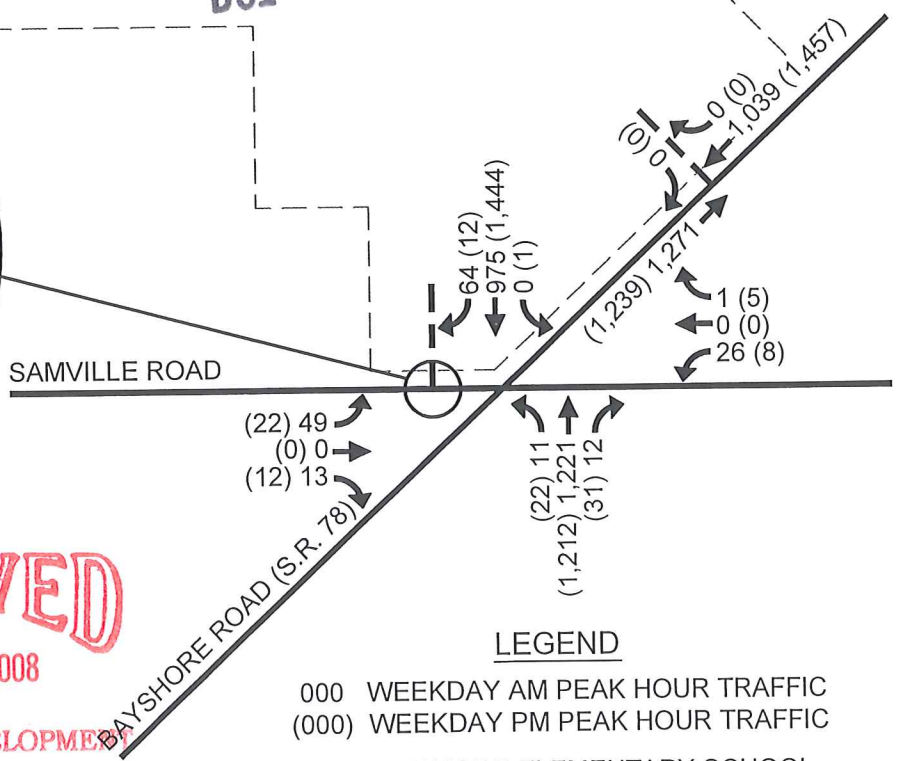
1 (4)
0 (0)
20 (6)

(17) 1
(925) 924
(24) 9

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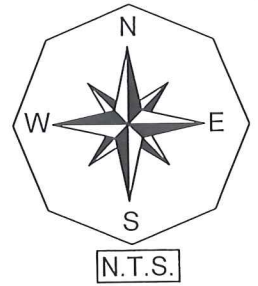
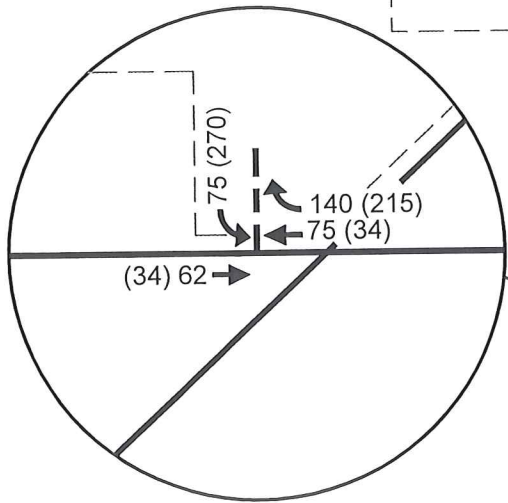
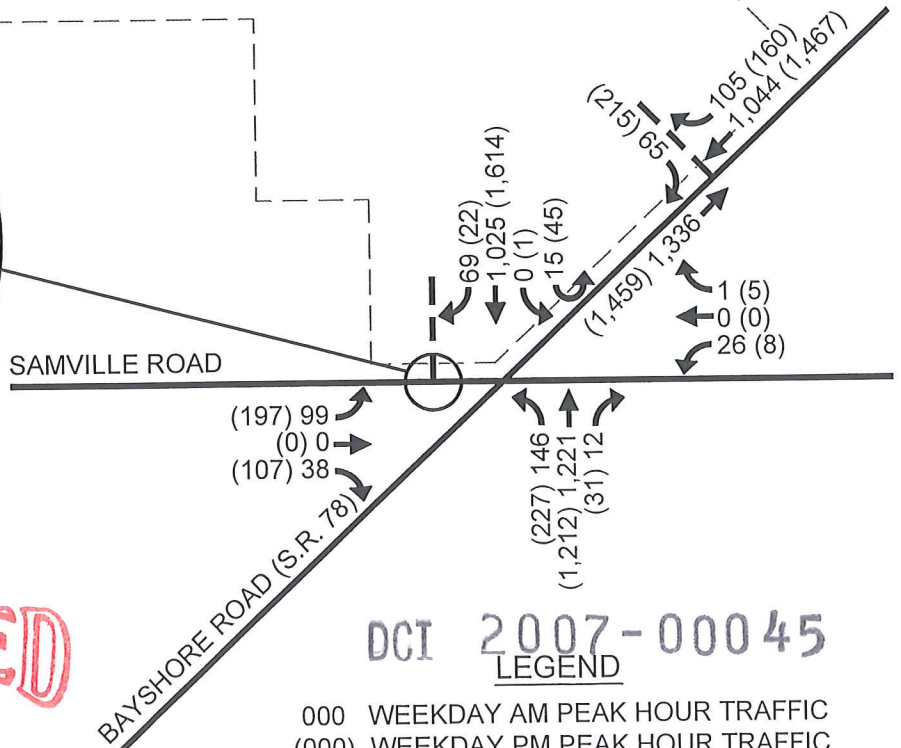
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- 000 WEEKDAY AM PEAK HOUR TRAFFIC
- (000) WEEKDAY PM PEAK HOUR TRAFFIC

★ INCLUDES TRIPS GENERATED FOR THE EXISTING BAYSHORE ELEMENTARY SCHOOL.

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000 WEEKDAY AM PEAK HOUR TRAFFIC
(000) WEEKDAY PM PEAK HOUR TRAFFIC

Based upon a preliminary turn lane analysis conducted at the proposed site access intersection along Bayshore Road, a southbound right turn lane will likely be warranted. At the Bayshore Road/Samville Road intersection, a northbound left turn lane approximately 400 feet in overall length and a southbound right turn lane approximately 330 feet in overall length currently exist. The adequacy of these turn lanes will be further analyzed at the time of local Development Order.

Intersection analysis was performed at the Bayshore Road/Samville Road intersection as well as at the site access intersection on Bayshore Road. Based upon the results of the analysis, the eastbound and westbound approaches at the Bayshore Road/Samville Road intersection are shown to operate below acceptable Level of Service conditions in 2013 with the additional traffic from the proposed development. All movements at the site access intersection along Bayshore Road are shown to operate at an acceptable Level of Service condition.

The Level of Service deficiency at the Bayshore Road/Samville Road intersection could be corrected by signalizing the intersection as evidenced by the attached analysis. If/when a traffic signal is warranted at this location, the Developer of the Bayshore 57 project would be responsible for a proportionate share of the cost and installation of the traffic signal. This Level of Service deficiency will be further investigated at the time of local Development Order.

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VIII. CONCLUSION

The proposed Bayshore 75 development located along the west side of Bayshore Road (S.R. 78) just north of its intersection with Samville Road in Lee County, Florida will not have a detrimental impact on the surrounding roadway system. The existing roadway network can accommodate the additional new vehicle trips the development is anticipated to generate.

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Based upon a preliminary turn lane analysis conducted at the proposed site access intersection along Bayshore Road, a southbound right turn lane will likely be warranted. At the Bayshore Road/Samville Road intersection, a northbound left turn lane approximately 400 feet in overall length and a southbound right turn lane approximately 330 feet in overall length currently exist. The adequacy of these turn lanes will be further analyzed at the time of local Development Order.

Intersection analysis was performed at the Bayshore Road/Samville Road intersection as well as at the site access intersection on Bayshore Road. Based upon the results of the analysis, the eastbound and westbound approaches at the Bayshore Road/Samville Road intersection are shown to operate below acceptable Level of Service conditions in 2013 with the additional traffic from the proposed development. All movements at the site access intersection along Bayshore Road are shown to operate at an acceptable Level of Service condition.

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TABLES 1A & 2A

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TABLE 1A
PEAK DIRECTION PROJECT TRAFFIC VS. 10% LOS C LINK VOLUMES
BAYSHORE 57 RE-ZONING

TOTAL AM PEAK HOUR PROJECT TRAFFIC =	345 VPH	IN=	220	OUT=	125
TOTAL PM PEAK HOUR PROJECT TRAFFIC =	695 VPH	IN=	295	OUT=	400

<u>ROADWAY</u>	<u>SEGMENT</u>	<u>ROADWAY</u> <u>CLASS</u>	<u>LOS A</u> <u>VOLUME</u>	<u>LOS B</u> <u>VOLUME</u>	<u>LOS C</u> <u>VOLUME</u>	<u>LOS D</u> <u>VOLUME</u>	<u>LOS E</u> <u>VOLUME</u>	<u>PERCENT</u>		
								<u>PROJECT</u> <u>TRAFFIC</u>	<u>PROJECT</u> <u>TRAFFIC</u>	<u>PROJ/</u> <u>LOS C</u>
Bayshore Rd.	E. of Business 41	4LD	450	1,630	1,900	1,950	1,950	40%	160	8.4%
	E. of Hart Rd.	4LD	450	1,630	1,900	1,950	1,950	45%	180	9.5%
	E. of Slater Rd.	4LD	450	1,630	1,900	1,950	1,950	55%	220	11.6%
	E. of Samville Rd.	4LD	450	1,630	1,900	1,950	1,950	45%	180	9.5%
Business 41	N. of Bayshore Rd.	4LD	450	1,630	1,900	1,950	1,950	15%	60	3.2%
	S. of Bayshore Rd.	6LD	670	2,490	2,850	2,920	2,920	5%	20	0.7 ^c
Hart Rd.	N. of Bayshore Rd.	2LN	0	0	530	800	850	5%	20	3.8%
Slater Rd.	N. of Bayshore Rd.	2LN	0	290	760	900	920	10%	40	5.3%

* Level of Service thresholds were obtained from the Lee County Generalized Volumes on Arterials

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**TABLE 2A
LEE COUNTY TRAFFIC COUNTS AND CALCULATIONS
BAYSHORE 57 RE-ZONING**

TOTAL PROJECT TRAFFIC AM =	345	VPH	IN =	220	OUT=	125
TOTAL PROJECT TRAFFIC PM =	695	VPH	IN=	295	OUT=	400

ROADWAY	SEGMENT	PCS#	2006		2013		2013		2013		2013		2013		2013	
			BASE YR	2006	YRS OF	ANNUAL	PK SEASON	PK HR	PK HR	PK SEASON	PERCENT	PROJECT	AM PROJ	PM PROJ	+ AM PROJ	+ PM PROJ
			ADT	ADT	GROWTH	RATE	PEAK DIR. ¹	VOLUME	LOS	TRAFFIC	TRAFFIC	TRAFFIC	VOLUME	LOS	VOLUME	LOS
Bayshore Rd.	E. of Slater Rd.	4	16,400	26,700	9	5.56%	1,069	1,562	B	55%	121	220	1,683	C	1,782	C
	E. of Samville Rd.	4	16,400	26,700	9	5.56%	1,069	1,562	B	45%	99	180	1,661	C	1,742	C

¹ The 2006 Peak Hour, Peak Season, Peak Direction Traffic Volumes were obtained from the 2005/2006-2006/2007 Lee County Concurrency Report
as the current 2007 Concurrency Report does not contain any data for this count location

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INTERSECTION ANALYSIS

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**BAYSHORE ROAD @
SAMVILLE ROAD**

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TWO-WAY STOP CONTROL SUMMARY

General Information

Analyst	DLW
Agency/Co.	TR Transportation
Date Performed	7/30/2008
Analysis Time Period	AM peak hour

Site Information

Intersection	Bayshore & Samville
Jurisdiction	Lee County
Analysis Year	2013 background

Project Description F0806.09 - Bayshore 57 Re-Zoning

East/West Street: Samville Road

North/South Street: Bayshore Road (S.R. 78)

Intersection Orientation: North-South

Study Period (hrs): 0.25

Vehicle Volumes and Adjustments

Major Street	Northbound			Southbound		
Movement	1	2	3	4	5	6
	L	T	R	L	T	R
Volume (veh/h)	11	1221	12	0	975	64
Peak-Hour Factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95
Hourly Flow Rate, HFR (veh/h)	11	1285	12	0	1026	67
Percent Heavy Vehicles	3	--	--	3	--	--
Median Type	Raised curb					
RT Channelized			0			0
Lanes	1	2	1	1	2	1
Configuration	L	T	R	L	T	R
Upstream Signal		0			0	

Minor Street	Eastbound			Westbound		
Movement	7	8	9	10	11	12
	L	T	R	L	T	R
Volume (veh/h)	49	0	13	26	0	1
Peak-Hour Factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95
Hourly Flow Rate, HFR (veh/h)	51	0	13	27	0	1
Percent Heavy Vehicles	3	3	3	3	3	3
Percent Grade (%)	0			0		
Flared Approach		Y			Y	
Storage		1			1	
RT Channelized			0			0
Lanes	0	1	0	0	1	0
Configuration		LTR			LTR	

Delay, Queue Length, and Level of Service

Approach	Northbound	Southbound	Westbound			Eastbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	L	L	LTR			LTR		
v (veh/h)	11	0	28			64		
C (m) (veh/h)	628	525	132			200		
v/c	0.02	0.00	0.21			0.32		
95% queue length	0.05	0.00	0.76			1.31		
Control Delay (s/veh)	10.8	11.9	39.9			31.2		
LOS	B	B	E			D		
Approach Delay (s/veh)	--	--	39.9			31.2		
Approach LOS	--	--	E			D		

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TWO-WAY STOP CONTROL SUMMARY

General Information

Analyst	DLW
Agency/Co.	TR Transportation
Date Performed	7/30/2008
Analysis Time Period	AM peak hour

Site Information

Intersection	Bayshore & Samville
Jurisdiction	Lee County
Analysis Year	2013 background & AM project

Project Description F0806.09 - Bayshore 57 Re-Zoning

East/West Street: Samville Road

North/South Street: Bayshore Road (S.R. 78)

Intersection Orientation: North-South

Study Period (hrs): 0.25

Vehicle Volumes and Adjustments

Major Street	Northbound			Southbound		
Movement	1	2	3	4	5	6
	L	T	R	L	T	R
Volume (veh/h)	146	1221	12	15	1025	69
Peak-Hour Factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95
Hourly Flow Rate, HFR (veh/h)	153	1285	12	15	1078	72
Percent Heavy Vehicles	3	--	--	3	--	--
Median Type	Raised curb					
RT Channelized			0			0
Lanes	1	2	1	1	2	1
Configuration	L	T	R	L	T	R
Upstream Signal		0			0	

Minor Street	Eastbound			Westbound		
Movement	7	8	9	10	11	12
	L	T	R	L	T	R
Volume (veh/h)	99	0	38	26	0	1
Peak-Hour Factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95
Hourly Flow Rate, HFR (veh/h)	104	0	40	27	0	1
Percent Heavy Vehicles	3	3	3	3	3	3
Percent Grade (%)		0			0	
Flared Approach		Y			Y	
Storage		1			1	
RT Channelized			0			0
Lanes	0	1	0	0	1	0
Configuration		LTR			LTR	

Delay, Queue Length, and Level of Service

Approach	Northbound	Southbound	Westbound			Eastbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	L	L		LTR			LTR	
v (veh/h)	153	15		28			144	
C (m) (veh/h)	598	525		66			135	
v/c	0.26	0.03		0.42			1.07	
95% queue length	1.01	0.09		1.64			7.93	
Control Delay (s/veh)	13.1	12.1		94.9			160.8	
LOS	B	B		F			F	
Approach Delay (s/veh)	--	--		94.9			160.8	
Approach LOS	--	--		F			F	

SHORT REPORT

General Information						Site Information					
Analyst	DLW					Intersection	Bayshore & Samville				
Agency or Co.	TR Transportation					Area Type	All other areas				
Date Performed	7/30/2008					Jurisdiction	Lee County				
Time Period	AM peak hour					Analysis Year	2013 background & AM project				

Volume and Timing Input

	EB			WB			NB			SB		
	LT	TH	RT	LT	TH	RT	LT	TH	RT	LT	TH	RT
Number of Lanes	0	1	0	0	1	0	1	2	1	1	2	1
Lane Group		LTR			LTR		L	T	R	L	T	R
Volume (vph)	99	0	38	26	0	1	146	1221	12	15	1025	69
% Heavy Vehicles	3	3	3	3	3	3	3	3	3	3	3	3
PHF	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
Pretimed/Actuated (P/A)	A	A	A	A	A	A	A	A	A	A	A	A
Startup Lost Time		2.0			2.0		2.0	2.0	2.0	2.0	2.0	2.0
Extension of Effective Green		2.0			2.0		2.0	2.0	2.0	2.0	2.0	2.0
Arrival Type		3			3		3	3	3	3	3	3
Unit Extension		3.0			3.0		3.0	3.0	3.0	3.0	3.0	3.0
Ped/Bike/RTOR Volume	0	0	0	0	0	0	0	0	0	0	0	0
Lane Width		12.0			12.0		12.0	12.0	12.0	12.0	12.0	12.0
Parking/Grade/Parking	N	0	N	N	0	N	N	0	N	N	0	N
Parking/Hour												
Bus Stops/Hour		0			0		0	0	0	0	0	0
Minimum Pedestrian Time		3.2			3.2			3.2			3.2	

Phasing	EW Perm	02	03	04	Excl. Left	Thru & RT	07	08
Timing	G = 20.0	G = 0.0	G = 0.0	G = 0.0	G = 20.0	G = 65.0	G = 0.0	G = 0.0
	Y = 5	Y = 0	Y = 0	Y = 0	Y = 5	Y = 5	Y = 0	Y = 0

Duration of Analysis (hrs) = 0.25

Cycle Length C = 120.0

Lane Group Capacity, Control Delay, and LOS Determination

	EB			WB			NB			SB		
Adjusted Flow Rate		149			29		159	1327	13	16	1114	75
Lane Group Capacity		227			224		292	1902	849	292	1902	849
v/c Ratio		0.66			0.13		0.54	0.70	0.02	0.05	0.59	0.09
Green Ratio		0.17			0.17		0.17	0.54	0.54	0.17	0.54	0.54
Uniform Delay d ₁		46.8			42.6		45.8	20.3	12.7	42.1	18.5	13.2
Delay Factor k		0.23			0.11		0.14	0.26	0.11	0.11	0.18	0.11
Incremental Delay d ₂		6.7			0.3		2.1	1.1	0.0	0.1	0.5	0.0
PF Factor		1.000			1.000		1.000	1.000	1.000	1.000	1.000	1.000
Control Delay		53.5			42.8		47.9	21.4	12.7	42.1	18.9	13.3
Lane Group LOS		D			D		D	C	B	D	B	B
Approach Delay		53.5			42.8		24.1			18.9		
Approach LOS		D			D		C			B		
Intersection Delay		23.7					Intersection LOS			C		

TWO-WAY STOP CONTROL SUMMARY

General Information			Site Information	
Analyst	DLW	Intersection	Bayshore & Samville	
Agency/Co.	TR Transportation	Jurisdiction	Lee County	
Date Performed	7/30/2008	Analysis Year	2013 background	
Analysis Time Period	PM peak hour			

Project Description F0806.09 - Bayshore 57 Re-Zoning

East/West Street: Samville Road

North/South Street: Bayshore Road (S.R. 78)

Intersection Orientation: North-South

Study Period (hrs): 0.25

Vehicle Volumes and Adjustments

Major Street	Northbound			Southbound		
Movement	1	2	3	4	5	6
	L	T	R	L	T	R
Volume (veh/h)	22	1212	31	1	1444	12
Peak-Hour Factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95
Hourly Flow Rate, HFR (veh/h)	23	1275	32	1	1520	12
Percent Heavy Vehicles	3	--	--	3	--	--
Median Type	Raised curb					
RT Channelized			0			0
Lanes	1	2	1	1	2	1
Configuration	L	T	R	L	T	R
Upstream Signal		0			0	

Minor Street	Eastbound			Westbound		
Movement	7	8	9	10	11	12
	L	T	R	L	T	R
Volume (veh/h)	22	0	12	8	0	5
Peak-Hour Factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95
Hourly Flow Rate, HFR (veh/h)	23	0	12	8	0	5
Percent Heavy Vehicles	3	3	3	3	3	3
Percent Grade (%)		0			0	
Flared Approach		Y			Y	
Storage		1			1	
RT Channelized			0			0
Lanes	0	1	0	0	1	0
Configuration		LTR			LTR	

Delay, Queue Length, and Level of Service

Approach	Northbound	Southbound	Westbound			Eastbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	L	L		LTR			LTR	
v (veh/h)	23	1		13			35	
C (m) (veh/h)	426	520		174			140	
v/c	0.05	0.00		0.07			0.25	
95% queue length	0.17	0.01		0.24			0.93	
Control Delay (s/veh)	13.9	11.9		30.7			42.7	
LOS	B	B		D			E	
Approach Delay (s/veh)	--	--		30.7			42.7	
Approach LOS	--	--		D			E	

TWO-WAY STOP CONTROL SUMMARY

General Information				Site Information			
Analyst	DLW			Intersection	Bayshore & Samville		
Agency/Co.	TR Transportation			Jurisdiction	Lee County		
Date Performed	7/30/2008			Analysis Year	2013 background & PM project		
Analysis Time Period	PM peak hour						
Project Description F0806.09 - Bayshore 57 Re-Zoning							
East/West Street: Samville Road				North/South Street: Bayshore Road (S.R. 78)			
Intersection Orientation: North-South				Study Period (hrs): 0.25			
Vehicle Volumes and Adjustments							
Major Street	Northbound			Southbound			
Movement	1	2	3	4	5	6	
	L	T	R	L	T	R	
Volume (veh/h)	227	1212	31	46	1614	22	
Peak-Hour Factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95	
Hourly Flow Rate, HFR (veh/h)	238	1275	32	48	1698	23	
Percent Heavy Vehicles	3	--	--	3	--	--	
Median Type	Raised curb						
RT Channelized			0			0	
Lanes	1	2	1	1	2	1	
Configuration	L	T	R	L	T	R	
Upstream Signal		0			0		
Minor Street	Eastbound			Westbound			
Movement	7	8	9	10	11	12	
	L	T	R	L	T	R	
Volume (veh/h)	197	0	107	8	0	5	
Peak-Hour Factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95	
Hourly Flow Rate, HFR (veh/h)	207	0	112	8	0	5	
Percent Heavy Vehicles	3	3	3	3	3	3	
Percent Grade (%)	0			0			
Flared Approach		Y			Y		
Storage		1			1		
RT Channelized			0			0	
Lanes	0	1	0	0	1	0	
Configuration		LTR			LTR		
Delay, Queue Length, and Level of Service							
Approach	Northbound	Southbound	Westbound			Eastbound	
Movement	1	4	7	8	9	10	11
Lane Configuration	L	L	LTR			LTR	
v (veh/h)	238	48	13			319	
C (m) (veh/h)	359	520					
v/c	0.66	0.09					
95% queue length	4.54	0.30					
Control Delay (s/veh)	32.7	12.6					
LOS	D	B					
Approach Delay (s/veh)	--	--					
Approach LOS	--	--					

SHORT REPORT

General Information						Site Information					
Analyst	DLW					Intersection	Bayshore & Samville				
Agency or Co.	TR Transportation					Area Type	All other areas				
Date Performed	7/30/2008					Jurisdiction	Lee County				
Time Period	PM peak hour					Analysis Year	2013 background & PM project				

Volume and Timing Input

	EB			WB			NB			SB		
	LT	TH	RT	LT	TH	RT	LT	TH	RT	LT	TH	RT
Number of Lanes	0	1	0	0	1	0	1	2	1	1	2	1
Lane Group		LTR			LTR		L	T	R	L	T	R
Volume (vph)	197	0	107	9	0	5	227	1212	31	46	1614	22
% Heavy Vehicles	3	3	3	3	3	3	3	3	3	3	3	3
PHF	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
Pretimed/Actuated (P/A)	A	A	A	A	A	A	A	A	A	A	A	A
Startup Lost Time		2.0			2.0		2.0	2.0	2.0	2.0	2.0	2.0
Extension of Effective Green		2.0			2.0		2.0	2.0	2.0	2.0	2.0	2.0
Arrival Type		3			3		3	3	3	3	3	3
Unit Extension		3.0			3.0		3.0	3.0	3.0	3.0	3.0	3.0
Ped/Bike/RTOR Volume	0	0	0	0	0	0	0	0	0	0	0	0
Lane Width		12.0			12.0		12.0	12.0	12.0	12.0	12.0	12.0
Parking/Grade/Parking	N	0	N	N	0	N	N	0	N	N	0	N
Parking/Hour												
Bus Stops/Hour		0			0		0	0	0	0	0	0
Minimum Pedestrian Time		3.2			3.2			3.2			3.2	

Phasing	EW Perm	02	03	04	Excl. Left	Thru & RT	07	08
Timing	G = 30.0	G = 0.0	G = 0.0	G = 0.0	G = 19.0	G = 56.0	G = 0.0	G = 0.0
	Y = 5	Y = 0	Y = 0	Y = 0	Y = 5	Y = 5	Y = 0	Y = 0
Duration of Analysis (hrs) = 0.25						Cycle Length C = 120.0		

Lane Group Capacity, Control Delay, and LOS Determination

	EB			WB			NB			SB		
Adjusted Flow Rate		330			15		247	1317	34	50	1754	24
Lane Group Capacity		349			364		277	1639	732	277	1639	732
v/c Ratio		0.95			0.04		0.89	0.80	0.05	0.18	1.07	0.03
Green Ratio		0.25			0.25		0.16	0.47	0.47	0.16	0.47	0.47
Uniform Delay d ₁		44.2			34.1		49.5	27.3	17.4	43.8	32.0	17.3
Delay Factor k		0.46			0.11		0.42	0.35	0.11	0.11	0.50	0.11
Incremental Delay d ₂		34.2			0.0		28.2	3.0	0.0	0.3	43.7	0.0
PF Factor		1.000			1.000		1.000	1.000	1.000	1.000	1.000	1.000
Control Delay		78.4			34.1		77.7	30.3	17.5	44.1	75.7	17.4
Lane Group LOS		E			C		E	C	B	D	E	B
Approach Delay		78.4			34.1		37.4			74.1		
Approach LOS		E			C		D			E		
Intersection Delay		58.7										

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TWO-WAY STOP CONTROL SUMMARY

General Information

Analyst	DLW
Agency/Co.	TR Transportation
Date Performed	7/30/2008
Analysis Time Period	AM peak hour

Site Information

Intersection	Bayshore Site Access
Jurisdiction	Lee County
Analysis Year	2013 background & AM project

Project Description F0806.09 - Bayshore 57 Re-Zoning

East/West Street: Site Access

North/South Street: Bayshore Road (S.R. 78)

Intersection Orientation: North-South

Study Period (hrs): 0.25

Vehicle Volumes and Adjustments

Major Street	Northbound			Southbound		
Movement	1	2	3	4	5	6
	L	T	R	L	T	R
Volume (veh/h)		1336			1044	105
Peak-Hour Factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95
Hourly Flow Rate, HFR (veh/h)	0	1406	0	0	1098	110
Percent Heavy Vehicles	0	--	--	0	--	--
Median Type	Raised curb					
RT Channelized			0			0
Lanes	0	2	0	0	2	1
Configuration		T			T	R
Upstream Signal		0			0	

Minor Street	Eastbound			Westbound		
Movement	7	8	9	10	11	12
	L	T	R	L	T	R
Volume (veh/h)			65			
Peak-Hour Factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95
Hourly Flow Rate, HFR (veh/h)	0	0	68	0	0	0
Percent Heavy Vehicles	0	0	3	0	0	0
Percent Grade (%)		0			0	
Flared Approach		N			N	
Storage		0			0	
RT Channelized			0			0
Lanes	0	0	1	0	0	0
Configuration			R			

Delay, Queue Length, and Level of Service

Approach	Northbound	Southbound	Westbound			Eastbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration								R
v (veh/h)								68
C (m) (veh/h)								477
v/c								0.14
95% queue length								0.49
Control Delay (s/veh)								13.8
LOS								B
Approach Delay (s/veh)	--	--					13.8	
Approach LOS	--	--					B	

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TWO-WAY STOP CONTROL SUMMARY

General Information			Site Information	
Analyst	DLW	Intersection	Bayshore Site Access	
Agency/Co.	TR Transportation	Jurisdiction	Lee County	
Date Performed	7/30/2008	Analysis Year	2013 background & PM project	
Analysis Time Period	PM peak hour			

Project Description F0806.09 - Bayshore 57 Re-Zoning

East/West Street: Site Access

North/South Street: Bayshore Road (S.R. 78)

Intersection Orientation: North-South

Study Period (hrs): 0.25

Vehicle Volumes and Adjustments

Major Street	Northbound			Southbound		
Movement	1	2	3	4	5	6
	L	T	R	L	T	R
Volume (veh/h)		1459			1467	160
Peak-Hour Factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95
Hourly Flow Rate, HFR (veh/h)	0	1535	0	0	1544	168
Percent Heavy Vehicles	0	--	--	0	--	--
Median Type	Raised curb					
RT Channelized			0			0
Lanes	0	2	0	0	2	1
Configuration		T			T	R
Upstream Signal		0			0	

Minor Street	Eastbound			Westbound		
Movement	7	8	9	10	11	12
	L	T	R	L	T	R
Volume (veh/h)			215			
Peak-Hour Factor, PHF	0.95	0.95	0.95	0.95	0.95	0.95
Hourly Flow Rate, HFR (veh/h)	0	0	226	0	0	0
Percent Heavy Vehicles	0	0	3	0	0	0
Percent Grade (%)		0			0	
Flared Approach		N			N	
Storage		0			0	
RT Channelized			0			0
Lanes	0	0	1	0	0	0
Configuration			R			

Delay, Queue Length, and Level of Service

Approach	Northbound	Southbound	Westbound			Eastbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration								R
v (veh/h)								226
C (m) (veh/h)								340
v/c								0.66
95% queue length								4.52
Control Delay (s/veh)								34.3
LOS								D
Approach Delay (s/veh)	--	--				34.3		
Approach LOS	--	--				D		



**BAYSHORE ELEMENTARY SCHOOL
DATA**

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Bayshore Elementary



Principal: Lynn Herrell

Address: 17050 Williams Road
North Fort Myers, FL 33917

Phone: 239-543-3663

Fax: 239-543-4040

Web site: <http://bay.leeschools.net/>

Board Member: StevenKT@leeschools.net

School Location Number: 0521

Data

Grades: K-5

Uniforms: Yes

Mascot: Buccaneers

School Hours: 8 a.m. - 2:15 p.m.

Colors: Royal Blue and White

Enrollment Data: [Click Here](#)

Location

Zone: East

Subzone: E-1

Directions: Directions from the Lee County Public Education Center
Exit through the East Entrance to Metro Parkway; Turn Left onto Colonial
Boulevard at the Light; Merge onto I-75 North toward Tampa; Exit to
Bayshore Road (Exit 143); Turn Left onto Bayshore Road; Turn Right onto
Samville Road

School Grades (State A+ Program)

2004
 A

2005
A

2006
A

2007
A

2008
A

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THE SCHOOL DISTRICT OF LEE COUNTY 2007-2008 ELEMENTARY SCHOOLS

Enrollment as of June 6, 2008

ELEMENTARY (K - 5th) SCHOOLS	PreK Cycle 9 Enrollment	K-5th Cycle 9 Enrollment	Total Cycle 9 Enrollment ¹	Enrollment Minority Percentage ²	Free/ Reduced Lunch % ³
Allen Park Elem.	55	834	889	44.2%	40%
Alva Elem.	18	423	441	34.3%	50%
Bayshore Elem.	16	599	615	32.2%	53%
Bonita Springs Elem.	48	386	434	64.8%	76%
Caloosa Elem.	54	1,007	1,061	46.0%	51%
Cape Elem.	0	800	800	29.6%	40%
Colonial Elem.	68	687	755	84.9%	87%
Diplomat Elem.	0	936	936	32.8%	43%
Edgewood Acad.	56	415	471	87.5%	93%
Edison Park Elem.	0	381	381	36.7%	30%
Fort Myers Beach Elem.	0	174	174	16.1%	33%
Franklin Park Elem.	114	413	527	95.6%	92%
Gateway Elem.	0	771	771	51.2%	51%
Gulf Elem.	4	1,262	1,266	27.7%	33%
Hancock Creek Elem.	29	874	903	34.7%	55%
Harns Marsh Elem.	12	859	871	78.0%	77%
Hector Cafferata Elem.	0	739	739	61.7%	66%
Heights Elem.	12	627	639	66.3%	71%
J.Colin English Elem.	31	428	459	49.8%	84%
Lehigh Elem.	35	855	890	64.1%	72%
Littleton Elem.	43	658	701	36.9%	63%
Manatee Elem.	23	762	785	78.3%	84%
Michigan International Acad.(K-5th)	16	340	356	88.8%	91%
Mirror Lakes Elem.	71	1,007	1,078	65.8%	67%
N Ft Myers Acad. (K-5th)	17	535	552	39.8%	71%
Orange River Elem.	34	816	850	72.7%	83%
Orangewood Elem.	37	683	720	56.1%	59%
Patriot Elem.	26	741	767	47.1%	67%
Pelican Elem.	51	1,056	1,107	32.2%	46%
Pine Island Elem.	17	301	318	23.6%	52%
Pinewoods Elem.	47	922	969	36.9%	39%
Ray Pottorf Elem.	7	637	644	84.8%	85%
Rayma Page Elem.	12	630	642	51.3%	62%
River Hall Elem.	22	845	867	54.2%	66%
San Carlos Park Elem.	8	856	864	50.9%	52%
Sanibel School (K-5th)	2	242	244	10.3%	8%
Skyline Elem.	52	1,012	1,064	43.6%	55%
Spring Creek Elem.	17	728	745	75.8%	77%
Sunshine Elem.	50	1,098	1,148	65.2%	70%
Tanglewood/Rs Elem. (K-5th)	57	663	720	47.2%	50%
Three Oaks Elem.	52	724	776	34.7%	32%
Tice Elem.	58	520	578	89.4%	93%
Trafalgar Elem.	0	873	873	37.3%	44%
Treeline Elem.	32	640	672	75.3%	81%
Tropic Isles Elem.	78	858	936	46.7%	71%
Veterans Park (K-5th)	19	908	927	58.9%	58%
Villas Elem.	47	797	844	63.7%	64%
Elem. Totals	1,447	33,322	34,769	53.1%	61%

1. Cycle Report--Enrollment totals includes ALL PreK students.

2. Minority percentages excludes ALL PreK students.

3. Free/Reduced Lunch percentages reported May 31, 2008; provided by Food & Nutrition Services.

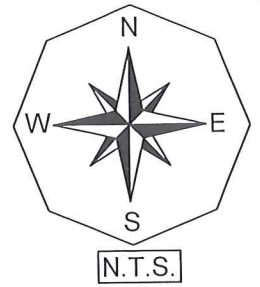
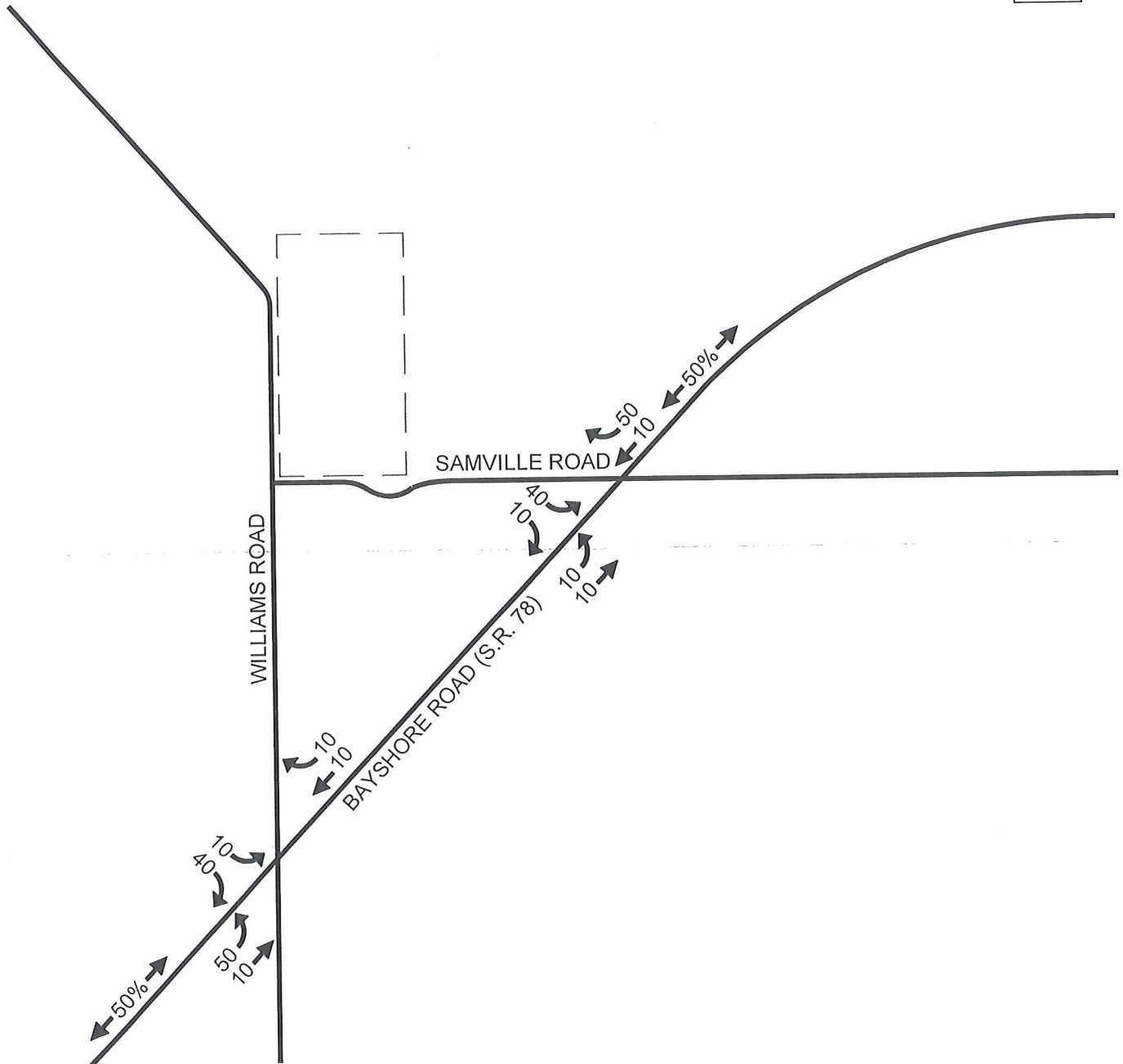
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**Trip Generation
Bayshore Elementary School**

Land Use	Weekday A.M. Peak Hour		
	In	Out	Total
Elementary School (615 students)	120	100	220

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**FDOT ACCESS MANAGEMENT
CLASSIFICATION FOR
BAYSHORE ROAD**

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Table 1
CONTROLLED ACCESS FACILITY CLASSIFICATION

ACCESS CLASS	FACILITY DESIGN FEATURES	MINIMUM CONNECTION SPACING	MINIMUM MEDIAN OPENING SPACING		MINIMUM SIGNAL SPACING
	MEDIAN TREATMENT & SERVICE ROADS	>45mph / =45 mph or less*	DIRECTIONAL ² (FEET)	FULL ² (MILES)	(MILES)
2	Restrictive with Service Roads	1320/660	1320	0.500	0.500
3	Restrictive ¹	660/440	1320	0.500	0.500
4	Non-Restrictive ¹	660/440	N/A	N/A	0.500
5	Restrictive	440/245	660	0.5/0.25	0.5/0.25
6	Non-Restrictive	440/245	N/A	N/A	0.25
7	Both Median Types	125	330	0.125	0.25

*(Greater than 45 MPH/ Less than or = 45 MPH)

NOTE:

- Section 14-97.003 and 14-97.004, FAO, contain supplementary and more detailed instructions for the use of these standards. These minimum spacings may not be adequate if auxiliary lanes and storage are required.
- Single properties with frontages exceeding the minimum spacing criteria may not receive permits for the maximum number of possible connections.
- The standards found in Table 1 will apply to the State Highway System once the Highway system has been detailed. Until Final Classification, Interim Standards found in Administrative Rule 14-97 will apply.

- ¹ "Restrictive" medians prevent vehicles from crossing due to curbs, grass, or other barriers. "Non-Restrictive" Medians or centers allow turns across at any point.
- ² "Directional" median openings only allow specific movements, such as left turns into property or "U" turns. "Full" median openings allow all turning movements.

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FLORIDA DEPARTMENT OF TRANSPORTATION DISTRICT ONE

ADOPTED ACCESS CLASSIFICATIONS TO THE STATE HIGHWAY SYSTEM FOR LEE COUNTY

SECTION NUMBER	ROAD DESIGNATION	BEGIN SEGMENT	MILE POST	END SEGMENT	MILE POST	LENGTH IN MILES	ADOPTED CLASS
				CHARLOTTE CO/L	4.634	4.7	4
12090000	SR 31	SR 80	0.000	U.S. 41 (SR 45)	14.749	9.3	C.A.M.P.
12060000	SR 78	BURNT STORE ROAD	5.487	SEAN LANE	19.004	4.3	5
12060000	SR 78	U.S. 41 (SR 45)	14.749	NALLE ROAD	21.732	2.7	3
12060000	SR 78	SEAN LANE	19.004	SR 31	24.404	2.7	4
12060000	SR 78	NALLE ROAD	21.732	SR 80 W.B. (PALM BH. BLVD.)	1.560	1.5	7
12020102	SR 80 E.B.	MONROE STREET	0.000	BUS. U.S. 41 (FOWLER ST.)	0.000	0.4	7
12020101	SR 80 W.B.	MONROE STREET	0.448	SR 80 E.B. (SEABOARD STREET)	1.666	1.0	7
12020000	SR 80 W.B.	BUS. U.S. 41 (FOWLER ST.)	0.658	MORSE PLAZA	5.291	3.6	6
12020000	SR 80	SR 80 E.B. (SEABOARD STREET)	1.666	ORANGE RIVER BRIDGE E.	6.026	0.7	5
12020000	SR 80	MORSE PLAZA	5.291	HENDRY CO/L	20.358	14.3	3
12020000	SR 80	ORANGE RIVER BRIDGE E.	6.026	EVANS STREET	0.768	0.8	7
12070000	SR 82	U.S. 41 (SR 45)	0.000	MICHIGAN LINK	2.960	2.2	6
12070000	SR 82	EVANS STREET	0.768	I-75	4.391	1.4	5
12070000	SR 82	MICHIGAN LINK	2.960	GUNNERY ROAD	11.206	6.8	3
12070000	SR 82	I-75	4.391	HENDRY CO/L	21.551	10.3	4
12070000	SR 82	GUNNERY ROAD	11.206	MAIN STREET	0.659	0.7	4
12004000	SR 865	ESTERO BLVD.	0.000	SUMMERLIN ROAD	3.128	2.5	7
12004000	SR 885	MAIN STREET	0.659	SR 867 (MCGREGOR BLVD.)	4.778	1.6	6
12004000	SR 865	SUMMERLIN ROAD	3.128	U.S. 41 (SR 45)	9.829	9.8	6
12040000	SR 867	GLADIOLUS BLVD.	0.000	METRO PARKWAY	2.513	1.3	5
12005000	SR 884	U.S. 41 (SR 45)	1.171				

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**ITE INTERNAL CAPTURE
CALCULATION SUMMARY SHEET**

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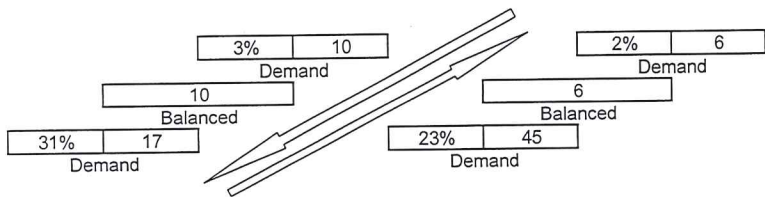
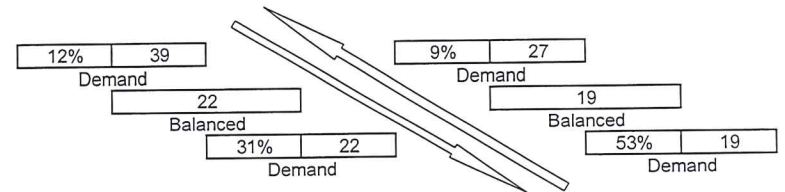
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Internal Capture Calculation Summary Sheet

Exit to External	Land Use A - Retail Uses			
293	Total	300	Internal	25
	Enter	325	Exit	275
275	Exit	625	Total	293
Enter from External	%	100%	%	91%



Exit to External	Land Use B - Office Uses			
188	Total	55	Internal	10
	Enter	195	Exit	45
45	Exit	250	Total	188
Enter from External	%	100%	%	93%

Demand	Balance	Demand
0%	0	0%
2%	4	2%

Exit to External	Land Use C - Residential Uses			
16	Total	70	Internal	23
	Enter	35	Exit	47
47	Exit	105	Total	16
Enter from External	%	100%	%	60%

Net External Trips for Multi-Use Development

	Land Use A	Land Use B	Land Use C	Total	
Enter	275	45	47	367	
Exit	293	188	16	497	
Total	568	233	63	864	
Single-Use Trip Gen. Est.	625	250	105	980	Internal Capture Rate
					12%

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**LEE COUNTY GENERALIZED
SERVICE VOLUMES TABLE**

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Lee County
Generalized Peak Hour Directional Service Volumes
Urbanized Areas

Sept., 2005

c:\input2

Uninterrupted Flow Highway						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	100	360	710	1,000	1,270
2	Divided	1,060	1,720	2,480	3,210	3,650
3	Divided	1,590	2,580	3,720	4,820	5,480

Arterials						
Class I (>0.00 to 1.99 signalized intersections per mile)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	290	760	900	920
2	Divided	450	1,630	1,900	1,950	1,950
3	Divided	670	2,490	2,850	2,920	2,920
4	Divided	890	3,220	3,610	3,700	3,700

Class II (>2.00 to 4.50 signalized intersections per mile)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	210	660	850	900
2	Divided	*	490	1,460	1,790	1,890
3	Divided	*	760	2,240	2,700	2,830
4	Divided	*	1,000	2,970	3,500	3,670

Class III (more than 4.50 signalized intersections per mile)						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	*	370	720	850
2	Divided	*	*	870	1,640	1,790
3	Divided	*	*	1,340	2,510	2,690
4	Divided	*	*	1,770	3,270	3,480

Controlled Access Facilities						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	120	740	930	960	960
2	Divided	270	1,620	1,970	2,030	2,030
3	Divided	410	2,490	2,960	3,040	3,040

Collectors						
Level of Service						
Lane	Divided	A	B	C	D	E
1	Undivided	*	*	530	800	850
1	Divided	*	*	560	840	900
2	Undivided	*	*	1,180	1,620	1,720
2	Divided	*	*	1,240	1,710	1,800

Note: the service volumes for I-75 (freeway) should be from FDOT's most current version of LOS Handbook.

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**ITE PASS-BY RATE FOR
LAND USE CODE 820**

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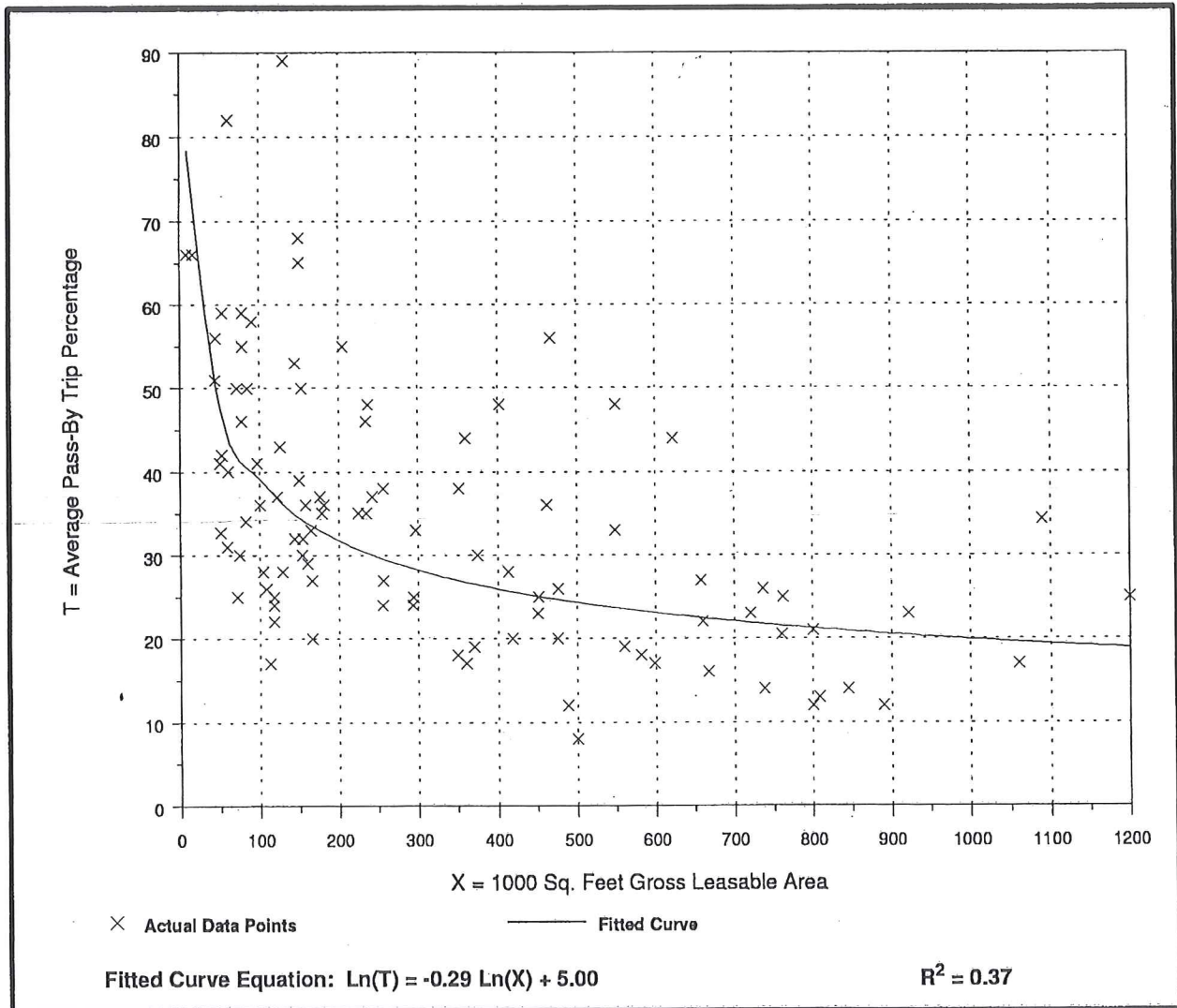
COMMUNITY DEVELOPMENT

DCI 2007-00045

Figure 5.5 Shopping Center (820)

Average Pass-By Trip Percentage vs: 1,000 Sq. Feet Gross Leasable Area
On a: Weekday, p.m. Peak Period
Number of Studies: 100
Average 1,000 Sq. Feet GLA: 329

Data Plot



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TURNING MOVEMENT COUNT DATA
BAYSHORE ROAD @
SAMVILLE ROAD

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DCI 2007-00045 COMMUNITY DEVELOPMENT

15 MINUTE SUMMARY OF INDIVIDUAL MOVEMENTS

BAYSHORE ROAD (S.R. 78) & SAMVILLE ROAD

15 MIN BEGIN	BAYSHORE ROAD (S.R. 78)								SAMVILLE ROAD								INTER- SECTION TOTAL
	NORTHBOUND				SOUTHBOUND				EASTBOUND				WESTBOUND				
	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	
7:00 AM	0	168	1	169	1	118	1	120	2	0	1	3	0	0	0	0	292
7:15 AM	0	141	2	143	0	130	5	135	0	0	1	1	3	0	1	4	283
7:30 AM	1	198	2	201	0	163	0	163	3	0	0	3	4	0	0	4	371
7:45 AM	0	223	1	224	0	174	4	178	1	0	1	2	5	0	0	5	409
8:00 AM	0	183	1	184	0	141	0	141	0	0	0	0	4	0	1	5	330
8:15 AM	0	179	4	183	0	146	5	151	2	0	1	3	4	0	0	4	341
8:30 AM	4	157	2	163	0	137	9	146	6	0	1	7	3	0	0	3	319
8:45 AM	1	153	3	157	0	138	10	148	4	0	2	6	5	1	1	7	318
TOTAL:	6	1,402	16	1,424	1	1,147	34	1,182	18	0	7	25	28	1	3	32	2,663

HOURLY SUMMARY OF INDIVIDUAL MOVEMENTS

BAYSHORE ROAD (S.R. 78) & SAMVILLE ROAD

HOUR BEGIN	BAYSHORE ROAD (S.R. 78)								SAMVILLE ROAD								INTER- SECTION TOTAL
	NORTHBOUND				SOUTHBOUND				EASTBOUND				WESTBOUND				
	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	
7:00 AM	1	730	6	737	1	585	10	596	6	0	3	9	12	0	1	13	1,355
7:15 AM	1	745	6	752	0	608	9	617	4	0	2	6	16	0	2	18	1,393
7:30 AM	1	783	8	792	0	624	9	633	6	0	2	8	17	0	1	18	1,451
7:45 AM	4	742	8	754	0	598	18	616	9	0	3	12	16	0	1	17	1,399
8:00 AM	5	672	10	687	0	562	24	586	12	0	4	16	16	1	2	19	1,308

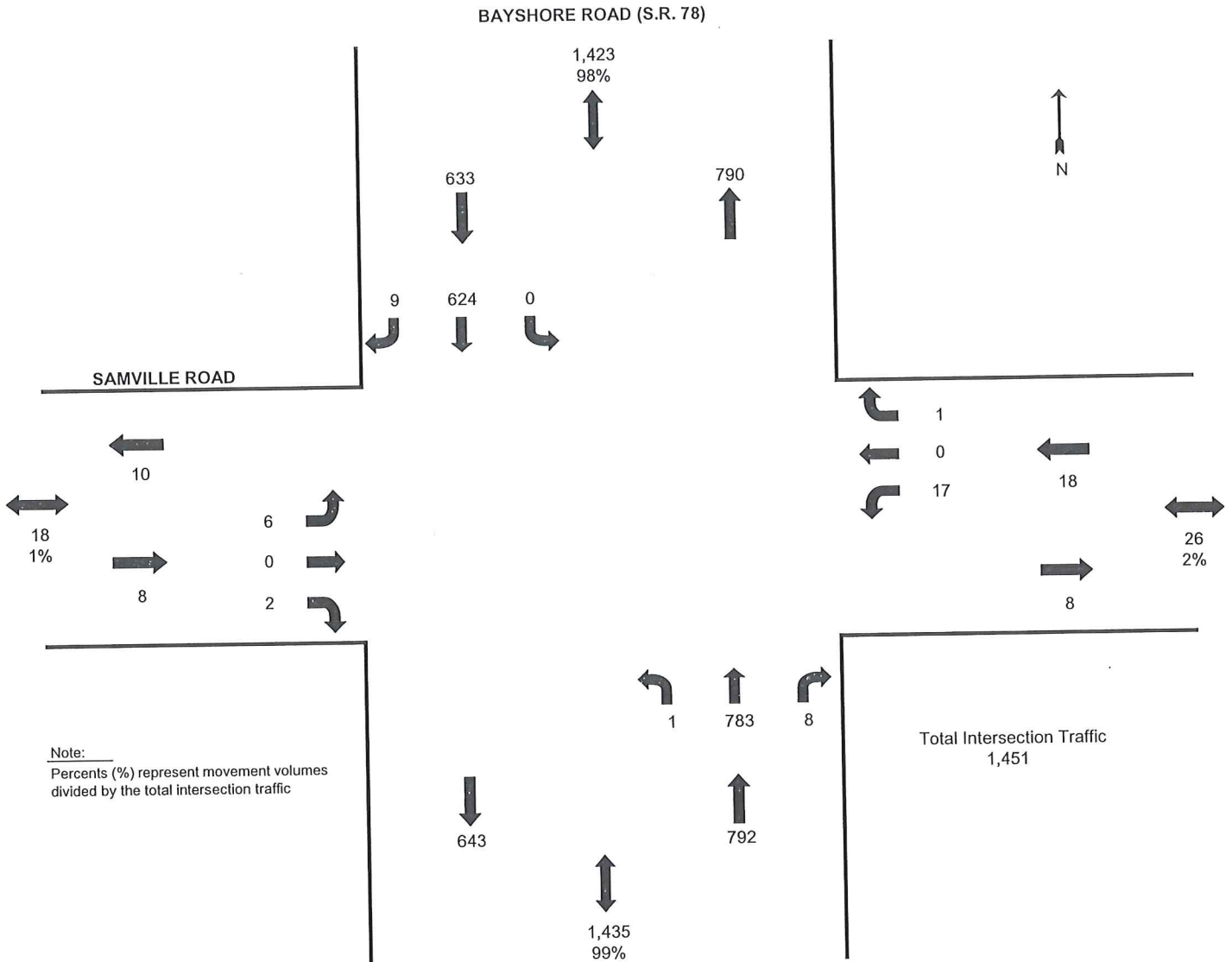
PEAK HOUR SUMMARY

HOUR BEGIN	BAYSHORE ROAD (S.R. 78)								SAMVILLE ROAD								INTER- SECTION TOTAL
	NORTHBOUND				SOUTHBOUND				EASTBOUND				WESTBOUND				
	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	
7:30 AM	1	783	8	792	0	624	9	633	6	0	2	8	17	0	1	18	1,451

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DATE: July 10, 2008
 DAY: THURSDAY
 COUNT TIME: 7:00 AM - 9:00 AM
 PEAK HOUR: 7:30 AM - 8:30 AM
 INTERSECTION: BAYSHORE ROAD (S.R. 78) & SAMVILLE ROAD



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COMMUNITY DEVELOPMENT

DCI 2007-00045

15 MINUTE SUMMARY OF INDIVIDUAL MOVEMENTS

BAYSHORE ROAD (S.R. 78) & SAMVILLE ROAD

15 MIN BEGIN	BAYSHORE ROAD (S.R. 78)								SAMVILLE ROAD								INTER- SECTION TOTAL
	NORTHBOUND				SOUTHBOUND				EASTBOUND				WESTBOUND				
	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	
4:00 PM	0	158	7	165	0	210	3	213	0	0	2	2	4	0	1	5	385
4:15 PM	1	166	1	168	1	231	0	232	1	0	1	2	1	0	0	1	403
4:30 PM	2	173	4	179	1	224	4	229	1	0	0	1	2	0	1	3	412
4:45 PM	4	160	2	166	0	186	0	186	3	0	4	7	1	0	0	1	360
5:00 PM	1	186	3	190	0	245	3	248	3	0	1	4	1	0	0	1	443
5:15 PM	8	225	5	238	0	257	0	257	2	0	4	6	1	0	0	1	502
5:30 PM	2	184	7	193	0	235	2	237	3	0	2	5	1	0	3	4	439
5:45 PM	3	189	5	197	1	197	3	201	6	0	1	7	2	0	0	2	407
TOTAL:	21	1,441	34	1,496	3	1,785	15	1,803	19	0	15	34	13	0	5	18	3,351

HOURLY SUMMARY OF INDIVIDUAL MOVEMENTS

BAYSHORE ROAD (S.R. 78) & SAMVILLE ROAD

HOUR BEGIN	BAYSHORE ROAD (S.R. 78)								SAMVILLE ROAD								INTER- SECTION TOTAL
	NORTHBOUND				SOUTHBOUND				EASTBOUND				WESTBOUND				
	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	
4:00 PM	7	657	14	678	2	851	7	860	5	0	7	12	8	0	2	10	1,560
4:15 PM	8	685	10	703	2	886	7	895	8	0	6	14	5	0	1	6	1,618
4:30 PM	15	744	14	773	1	912	7	920	9	0	9	18	5	0	1	6	1,717
4:45 PM	15	755	17	787	0	923	5	928	11	0	11	22	4	0	3	7	1,744
5:00 PM	14	784	20	818	1	934	8	943	14	0	8	22	5	0	3	8	1,791

PEAK HOUR SUMMARY

HOUR BEGIN	BAYSHORE ROAD (S.R. 78)								SAMVILLE ROAD								INTER- SECTION TOTAL
	NORTHBOUND				SOUTHBOUND				EASTBOUND				WESTBOUND				
	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	LEFT	THRU	RIGHT	TOTAL	
5:00 PM	14	784	20	818	1	934	8	943	14	0	8	22	5	0	3	8	1,791

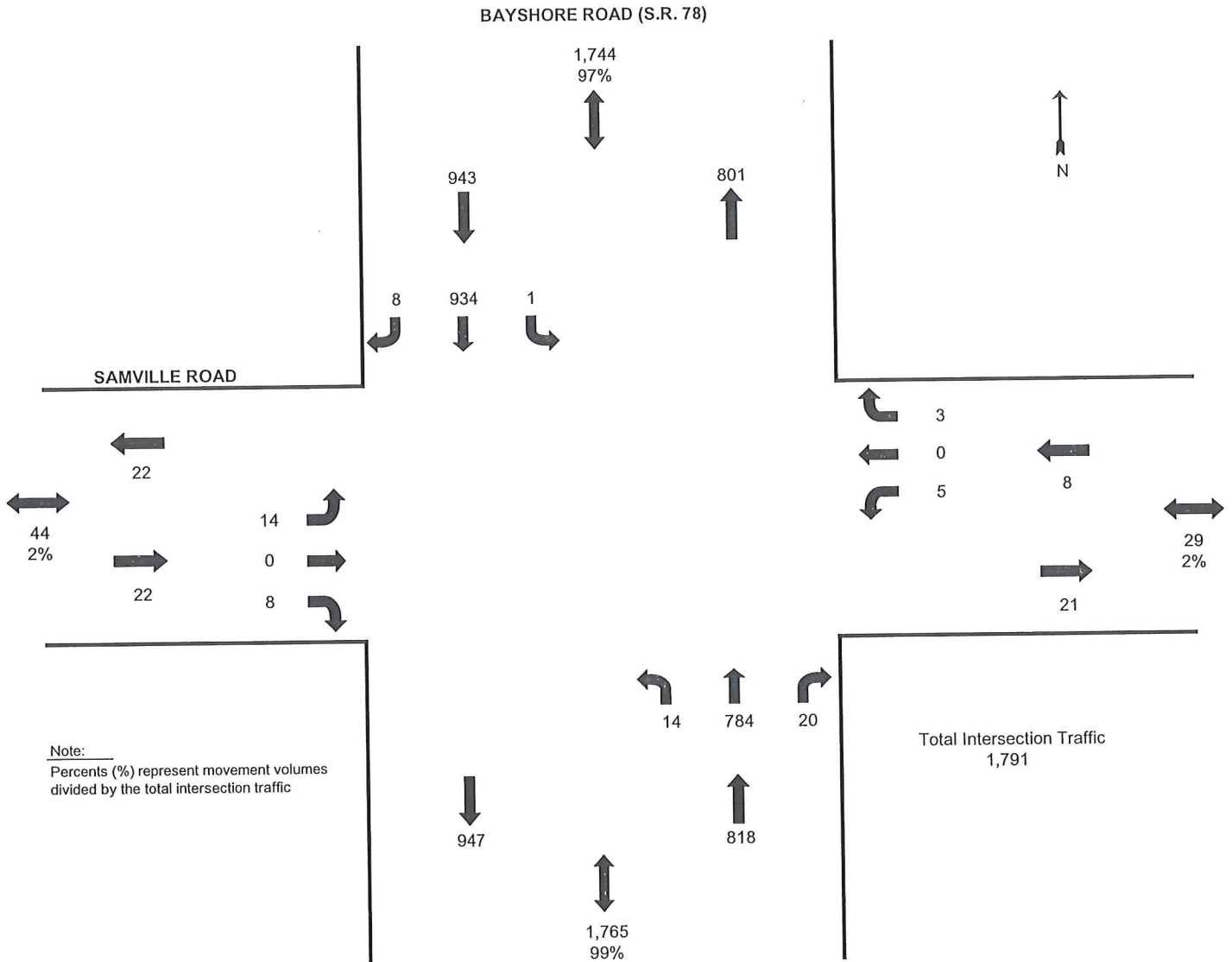
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COMMUNITY DEVELOPMENT

DCI 2007-00045

DATE: July 10, 2008
 DAY: THURSDAY
 COUNT TIME: 4:00 PM - 6:00 PM
 PEAK HOUR: 5:00 PM - 6:00 PM
 INTERSECTION: BAYSHORE ROAD (S.R. 78) & SAMVILLE ROAD



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TRIP GENERATION EQUATIONS

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**TRIP GENERATION EQUATIONS
BAYSHORE 57 RE-ZONING
ITE TRIP GENERATION REPORT, 7th EDITION**

Land Use	Weekday AM Peak Hour	Weekday PM Peak Hour	Daily (2-way)
Shopping Center (LUC 820)	$\ln(T) = 0.60 \ln(X) + 2.29$ (61% In/39% Out)	$\ln(T) = 0.66 \ln(X) + 3.40$ (48% In/52% Out)	$\ln(T) = 0.65 \ln(X) + 5.83$
T = Number of Trips, X = 1,000's of square feet of Gross Floor Area (GFA)			
General Office Building (LUC 710)	$\ln(T) = 0.80 \ln(X) + 1.55$ (88% In/12% Out)	$T = 1.12 (X) + 78.81$ (17% In/83% Out)	$\ln(T) = 0.77 \ln(X) + 3.65$
T = Number of Trips, X = 1,000's of square feet of Gross Floor Area (GFA)			
Medical-Dental Office (LUC 720)	$T = 2.48 (X)$ (79% In/21% Out)	$\ln(T) = 0.93 \ln(X) + 1.47$ (27% In/73% Out)	$T = 40.89 (X) - 214.97$
T = Number of Trips, X = 1,000's of square feet of Gross Floor Area (GFA)			
Residential Condominium/Townhouse (LUC 230)	$\ln(T) = 0.80 \ln(X) + 0.26$ (17% In/83% Out)	$\ln(T) = 0.82 \ln(X) + 0.32$ (67% In/33% Out)	$\ln(T) = 0.85 \ln(X) + 2.55$
T = Number of Trips, X = Number of dwelling units			
Elementary School (LUC 520)	$\ln(T) = 1.11 \ln(X) - 1.73$ (55% In/45% Out)	$\ln(T) = 1.08 \ln(X) - 1.90$ (45% In/55% Out)	$T = 1.29 (X)$
T = Number of Trips, X = Number of students			

ATTACHMENT J

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COMMUNITY DEVELOPMENT

DCI 2007-00045

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

WHEREAS, an application was filed by the Property Owner, S.W. Florida Land 163, LLC, to rezone 143.03± acres from Agricultural (AG-2) to Residential Planned Development and Commercial Planned Development (RPD/CPD), in reference to Chapel Creek; and,

WHEREAS, a public hearing was advertised and held on February 7, 2008, with the record held open for written submissions until February 15, 2008, and again until February 22, 2008, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2006-00018; and

WHEREAS, a second public hearing was advertised and held on June 2, 2008, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons, and Denied the requested rezoning; and

WHEREAS, the Property Owner herein filed a request under Section 70.51 of the Florida Statutes, known as the Florida Land Use and Environmental Dispute Resolution Act, for review consideration of the above-referenced zoning denial; and

WHEREAS, a hearing was held on October 6, 2008, before the Special Magistrate pursuant to the provisions of Section 70.51, Florida Statutes; and

WHEREAS, in conjunction with the proceedings before the Special Magistrate, the Property Owner and the County agreed to a number of terms, conditions and findings set forth in a stipulated settlement. The Special Magistrate accepted and adopted the stipulated settlement in conjunction with his recommendation; and

WHEREAS, a third public hearing was advertised and held on November 25, 2008, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendation of the Special Magistrate, the staff, the property owner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST:

The applicant originally filed a request to rezone 143.03± acres from AG-2 to RPD/CPD to permit a maximum of 800 dwelling units (single-family, townhouse, or multiple-family) and a maximum of 60,000 square feet of commercial uses (including a maximum of 30,000 square feet of retail). Maximum height proposed is 45 feet / three stories. No development blasting is proposed. This project will connect to public potable water and to public sanitary sewer service as part of any development of this property.

As a result of the Special Magistrate proceeding under Section 70.51, Florida Statutes, the request has been modified to rezone 143.03± acres from AG-2 to RPD/CPD to permit a maximum of 625 dwelling units, consisting of a maximum of 170 single-family units, and 60 townhouse units, and 395 multiple-family and/or assisted living facility (ALF) equivalent units pursuant to the Lee County Land Development Code; and a maximum of 60,000 square feet of commercial uses, including a maximum of 30,000 square feet of retail as defined in the Lee County Comprehensive Plan per Policy 6.1.2 (7). Maximum height proposed is 45 feet / three stories. No development blasting is proposed. This project will connect to public potable water and to public sanitary sewer service as part of any development of this property.

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

The request, as modified before the Special Magistrate, is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. The development of this project must be substantially consistent with the 3-page Master Concept Plan (MCP) entitled "CHAPEL CREEK RPD/CPD," last revised October 17, 2008, and date-stamped "Received Dec 05 2008 Community Development," attached hereto as Exhibit "C," except as modified by the conditions below.

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

Maximum Commercial Floor Area in the Commercial Planned Development (CPD): 60,000 square feet of commercial uses, of which a maximum of 30,000 square feet may be commercial retail as defined in the Lee County Comprehensive Plan per Policy 6.1.2 (7).

Maximum Number of Dwelling Units in the Residential Planned Development (RPD): 625, with a maximum residential density of 4.50 Dwelling Units (DU) per Acre, and limited to a maximum of the following types of dwelling units:

170 Single-family units, and
60 Townhouse units, and
395 multiple-family and/or ALF equivalent units pursuant to the LDC

2. **USES AND SITE DEVELOPMENT REGULATIONS**

The following limits apply to the project and uses:

a. **Schedule of Uses**

Commercial Uses (CPD) - with the maximum commercial floor area limited as set out above

Accessory Uses and Structures
Administrative Offices
Agriculture - limited to cattle grazing and Condition # 9
ATM (automatic teller machine)
Business Services, Groups I and II - excluding Bail Bonding,
Armored Car Service, Automobile Claims Adjusters
and Automobile Repossessing Services
Car Wash - limited to one and only in conjunction
with a Convenience Food & Beverage Store
Cleaning and Maintenance Services - no outdoor storage
Clothing Store, General
Computer and Data Processing Services
Convenience Food & Beverage Store - limited to one
Drive-through - for any permitted use
Drugstore, Pharmacy - limited to One Drugstore or Pharmacy.
Entrance Gate or Gatehouse
EMS, Fire or Sheriff's Office
Essential Services
Essential Service Facilities - Group I only
Excavation, Water Retention - Not to include removal of excavated
material from site. **No blasting - See condition 4.**
Fences, Walls
Food Stores, Group I only
Hardware Store
Health Care Facilities - Group III only
Hobby, Toy and Game Shops
Household and Office Furnishings - Groups I and II
Laundry and Dry Cleaning - Group I only
Medical Office
Paint, Glass and Wallpaper Store
Parking Lot, Accessory, Temporary
Personal Services - Groups I, II & III - excluding Massage Parlors,
Steam or Turkish Baths, Dating Services, Escort Services,
Palm Readers, Fortune Tellers, Card Readers and Tattoo Parlors
Post Office
Real Estate Sales Office
Rental and Leasing Establishments - Groups I & II
Repair Shops - Groups I & II
Restaurant, Fast Food - limited to one

Restaurants - Group II, III & IV
Self-Service Fuel Pumps - limited to 16
Signs in accordance with LDC Chapter 30
Specialty Retail Shops - all Groups
Storage - indoor only, no warehouse or mini-warehouse
Temporary Uses - construction office, construction trailer, parking lot
Variety Store

Residential Uses (RPD) - limited to a maximum of 625 dwelling units of the types as set out herein and a maximum residential density of 4.5 dwelling units per acre

Accessory Uses and Structures
Administrative Offices
Agriculture - limited to cattle grazing and Condition # 9
Assisted Living Facility (ALF)
Boardwalks and Observation Piers
Buildings Ancillary to Recreational Facilities
Dwelling Units - Limited to a maximum of 625 dwelling units, with a maximum number of each type as follows:
 170 Single-family dwelling units, and
 60 Townhouse units, and
 395 Multiple-family and/or ALF equivalent units pursuant to the LDC
Entrance Gate or Gatehouse
Essential Services
Essential Service Facilities - Group I only
Excavation, Water Retention - Not to include removal of excavated material from site. **No blasting - See Condition 4.**
Fences, Walls
Home Occupation - with no outside help
Model Home, Model Unit, Model Display Center - See Condition 6
Real Estate Sales Office - See Condition 6
Recreation Facilities, Personal and Private - including on-site clubhouse
Residential Accessory Uses
Signs in Accordance with LDC Chapter 30.
Temporary Uses - construction office, construction trailer, sales center, parking lot

Commercial Site Development Regulations

Minimum Lot Area and Dimensions

Lot Size:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	65 feet (public)/20 feet (private)
Side	15 feet
Rear	20 feet
Water body	25 feet
Indigenous	20 feet/30 feet for fire dependent plant communities

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

Minimum Project Perimeter Setbacks: 25 feet

Minimum Building Separation: 20 feet

Maximum Lot Coverage: 40%

Building Height: 35 feet/3 stories

Residential Site Development Regulations

Single-Family

Minimum Lot Areas and Dimensions (per unit):

Lot Size:	6,500 square feet
Lot Width:	50 feet
Lot Depth:	100 feet

Minimum Setbacks:

Street	20 feet (public)/15 feet (private)
Side	5 feet *
Rear	15 feet
Water body	25 feet
Indigenous	20 feet/30 feet for fire dependent plant communities

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

Minimum Project Perimeter Setbacks: 15 feet

Minimum Building Separation: 10 feet.

Maximum Lot Coverage: 45%

Building Height: 35 feet/3 stories

*[If sidewalks, air conditioners, mechanical equipment, door stops, walls, or similar items are placed within the required 5-foot setback, prior to issuance of a certificate of occupancy on each lot, the engineer of record must certify that the drainage for each lot is built in compliance with the typical lot grading detail provided and approved at time of development order.]

Townhouse

Minimum Lot Areas and Dimensions (per unit):

Lot Size:	1,530 square feet
Lot Width:	18 feet
Lot Depth:	85 feet

Minimum Setbacks:

Street	25 feet (public)/15 feet (private)
Side	0 feet/10 feet (lesser setback for interior units)
Rear	15 feet
Water body	25 feet
Indigenous	20 feet/30 feet for fire dependent plant communities

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

Minimum Project Perimeter Setbacks: 15 feet

Minimum Building Separation: 10 feet - See Deviation 1

Maximum Lot Coverage: 75%

Building Height: 45 feet/ 3 stories - but within the 660-foot eagle protection
zone the maximum height is limited to 35 feet/3 stories

Multiple-Family / Assisted Living Facility (ALF)

Minimum Lot Areas and Dimensions:

Lot Size:	8,500 square feet
Lot Width:	100 feet
Lot Depth:	85 feet

Minimum Setbacks:

Street	25 feet (public)/15 feet (private)
Side	10 feet
Rear	15 feet
Water body	25 feet
Indigenous	20 feet/30 feet for fire dependent plant communities

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

Minimum Project Perimeter Setbacks: 25 feet

Minimum Building Separation: 10 feet - see Deviation 1

Maximum Lot Coverage: 60%

Building Height: 45 feet/ 3 stories

Recreation Area Facilities

Minimum Lot Areas and Dimensions:

Lot Size:	7,500 square feet
Lot Width:	75 feet
Lot Depth:	100 feet

Minimum Setbacks:

Street	25 feet (public)/15 feet (private)
Side	10 feet
Rear	20 feet
Water body	25 feet/ 0 feet (limited to the portions of the lake shoreline that include a bulkhead)
Indigenous	20 feet/30 feet for fire dependent plant communities

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

Minimum Project Perimeter Setbacks: 25 feet.

Minimum Building Separation: 20 feet.

Maximum Lot Coverage: 45%

Building Height: 35 feet/3 stories

3. **CONCURRENCY**

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

4. **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.

5. **ACCESSORY USES**

All 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.

6. **MODEL HOMES/UNITS/REAL ESTATE SALES**

- a. Model homes and units are limited to a maximum of 20.
- b. Models cannot be of the same floor plan and each must be a different design.
- c. Real estate sales are limited to clubhouses, model locations, temporary sales centers, temporary construction offices/trailers and commercial areas as shown on the approved MCP.
- d. Real estate sales within the residential area will be limited to the sale of lots or units within the development only. Real estate sales in the commercial area are not limited.
- e. Hours of operation for model homes and real estate sales in the residential area are limited to Monday through Sunday 8 a.m. to 8 p.m. Real estate sales in the commercial area are not limited.
- f. No dry models are permitted.

7. **TRAFFIC**

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

8. **LEE COUNTY COMPREHENSIVE PLAN**

Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee County Comprehensive 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 County Comprehensive Plan provisions.

9. **AGRICULTURAL USES**

Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:

- a. Bona fide agricultural uses that are in existence at the time the application for this project was filed, and as shown on Exhibit "D" attached hereto, may continue until approval of a local development order for the area of the project containing those uses.
- b. Additional clearing of trees or other vegetation in agricultural areas for agricultural purposes is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County-approved requests for the removal of invasive exotic vegetation.
- c. Prior to issuance of a local development order, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:
 - 1) Termination of all agricultural use on any portion of the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:
 - a) the date the agricultural uses ceased;
 - b) the legal description of the property subject to the development order approval;
 - c) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the county that they will not allow any such uses on the property unless and until the property is re-zoned to permit such uses; and,

- d) that the affidavit constitutes a covenant between the owner and the county that is binding on the owner and their assignees and successors in interest.

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

- 2) Termination of the agricultural tax exemption for any portion of the property included in the development order application/approval. Proof as to termination must include of a copy of the request to terminate the tax exemption provided to the Property Appraiser.

10. **WATER AND SEWER**

Development of this project must connect to both public water and public sewer. At the time of local development order, the developer must also demonstrate there is adequate water and sewer capacity to handle level of development as proposed in the development order submittal.

11. **ACCESS TO BAYSHORE ROAD**

Access to Bayshore Road/State Road 78 is not guaranteed and is subject to Florida Department of Transportation approval.

12. **SIDEWALKS**

Development must include internal sidewalks as depicted on the approved MCPs, as a site-related improvement. Such facilities must be included in local development orders as part of construction of the project's infrastructure.

13. **OPEN SPACE**

Prior to local development order approval, the landscape plans must delineate a minimum of 63.1 acres of open space for the overall project. A minimum of 61.7 acres of common open space must be provided within the residential portion of the planned development. Each tract or parcel or lot within in the CPD portion of the project must provide a minimum of 10 percent open space. The development order plans must include an open space table detailing how the open space is being met.

14. **INDIGENOUS PRESERVATION**

- a. Prior to local development order approval, the indigenous preservation areas must be delineated on the local development order plans in substantial compliance with approved MCP.
- b. The indigenous open space may not be less than 25 acres.

15. **GOPHER TORTOISE MANAGEMENT PLAN**

Prior to local development order approval, a gopher tortoise management plan meeting the requirements of the Florida Fish and Wildlife Conservation Commission (FWC), Lee County Comprehensive Plan and the LDC must be submitted for review and approval by the Lee County Division of Environmental Sciences (DES), unless preempted by Federal or State Law.

16. **SOUTHERN BALD EAGLE MANAGEMENT PLAN**

The Chapel Creek Bald Eagle Management Plan dated May 26, 2006, last revised October 5, 2006, and the Chapel Creek Construction Management Plan, dated September 5, 2007, last revised October 6, 2008, along with the associated exhibits also dated October 6, 2008, attached hereto as Exhibit "G," are hereby adopted with the following conditions:

- a. Signs to be posted during construction within 660 feet of the eagle nest must be in both English and Spanish.
- b. Location of dumpsters and portable sanitary facilities must be reviewed and approved by Lee County Division of Environmental Sciences (DES) Staff.
- c. Nest abandonment must be confirmed by DES Staff.
- d. The bald eagle protection area must be placed in a conservation easement in perpetuity and Lee County must be listed a co-grantee on the conservation easement (as shown on attached Exhibit "H").
- e. The U.S. Fish and Wildlife Service-approved Chapel Creek Bald Eagle Management Plan and the Chapel Creek Construction Management Plan, along with the associated exhibits and conditions of approval must be included in all the Home Owners' Association documents.
- f. All outdoor lighting within 660 feet of the eagle nest must be shielded and directed away from the eagle nest tree.

17. **ADDITIONAL CONSTRUCTION TIMING LIMITATIONS**

- a. All construction within 660 feet of the nest will commence in the non-nesting season. Construction includes lake excavation, infrastructure, perimeter water management berm, road construction and vertical exterior construction, including the clubhouse and related facilities.
- b. For the lake located adjacent to the east side of the eagle nest, these additional conditions will apply:
 1. Buffers must be 100 percent native.

2. Buffers will include 10 trees per 100 linear feet, 5 of which will be Sabal palms and 5 will be native canopy trees.
3. Littoral plantings will be in accordance with the LDC.
4. An additional 5 trees (consisting of cypress, maples or other mutually agreeable native species), together with 33 wetland variety/type shrubs, per 100 linear feet must be planted along the control elevation of the westerly side of the lake. The plantings will be clustered to mimic natural conditions.
5. The lake and buffer construction must take place during the non-nesting season.
6. Construction of the road, utilities and clubhouse facilities may continue if a monitoring program, consistent with the U.S. Fish and Wildlife Service Bald Eagle Monitoring Guidelines (2007), as amended, has been implemented.
7. During the nesting season, County approval to correct minor deficiencies found in the lake construction (excavation), the associated berms, buffers and plantings (within 660 feet of the eagle nest) to obtain a certificate of completion, will not be unreasonably withheld

18. **ADDITIONAL BUFFERS AND INSTALLATION LIMITATIONS**

- a. The linear buffer plantings located at the northern and eastern perimeter of the eagle preserve, as required by the FWS Biological Opinion, have been extended the entire length of the eastern preserve limits, as shown on the revised MCP. These plantings will be installed at the completion of the adjacent construction and prior to the beginning of the next nesting season.
- b. The plantings located within the interior of the eagle preserve must be installed during the first non-nesting season. These plantings must be installed prior to the onset of the next nesting season, once construction has commenced within 660 feet of the nest.

19. **REMOVAL OF EXOTICS WITHIN 660 FEET OF THE EAGLE NEST**

- a. All initial exotic removal within the eagle preserve area must commence during initiation of initial construction within 660 feet of the eagle nest. All exotic removal activities will be limited to the non-nesting season. This exotic removal will be completed prior the onset of the next nesting season.
- b. Invasive exotic vegetation removal must be conducted by hand unless other means are reviewed and approved by the DES Staff.

20. **UNIFIED ARCHITECTURAL THEME AND DESIGN STANDARDS**

- a. Prior to local development order approval, the exterior elevations of the commercial buildings, including the canopy for self-service fuel pumps, must be in substantial compliance with the two-page Proposed Architectural Identity Exhibit attached as Exhibit "I."
- b. These designs are preliminary and subject to changes in conformance with this resolution and the LDC Chapter 10, Article IV, Section 10-600, Design Standards and Guidelines for Commercial Buildings and Developments, *et seq.*
- c. All structures (including signage) within the CPD must be designed to be architecturally compatible and share a common architectural theme.
- d. A unified commercial signage plan will be submitted as an administrative amendment for staff review and approval in conjunction with local development order approval.
- e. Flat canopy roofs for self-service fuel pumps are prohibited.
- f. The use of neon lighting for the exterior lighting or signage of any buildings within the CPD area (excluding interior signage that may be incidentally visible from the exterior) is prohibited.
- g. The use of florescent colors for accent or primary exterior surfaces is prohibited. The color palette for the primary and accent exterior surfaces must be of generally subdued and earth-tones, excepting that national signage, consistent with the provisions of Chapter 30 of the LDC and the approved unified sign plan, will be allowed.

SECTION C. DEVIATIONS:

1. **Minimum Building Separation** - Deviation 1 seeks relief from the LDC §34-935(4), requirement that minimum building separation be one-half the sum of the height, or 20 feet, whichever is greater, to be reduced to a 10 foot minimum building separation. This deviation is APPROVED.
2. **Setback from Seawall** - Deviation 2 seeks relief from the LDC §34-2194(C)(3)b. requirement of a 10-foot setback for non-seawalled artificial bodies of water. This deviation eliminates the setback to allow common recreation/amenity structures to be placed at the lake's control elevation. This deviation is APPROVED.

3. **Excavation/Water Retention Setback from Property Line** - Deviation 3 seeks relief from the LDC §10-329(d)(1)a.3 requirement of water retention or detention excavation to set back 50 feet from any private property line under separate ownership, to permit a 25-foot setback from the property line. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Limited to water retention and detention areas, as shown on the approved MCP; and
 - b. Appropriate protection for wayward vehicles must be provided at the time of local development order.
4. **Access Points to Residential Sections** - Deviation 4 seeks relief from the LDC §10-291(3) requirement that two or more means of ingress and egress must be provided for residential projects with an area of five or more acres, to allow a singular access to the spine road depicted on the approved MCP. This deviation is APPROVED for the RPD portions of the project located on both the east and west side of the spine road.
5. **Excavation/Water Retention Setback from Road** - Deviation 5 seeks relief from the LDC §10-329(d)(1)a.2 requirement of water retention or detention excavation to set back 50 feet from any existing or proposed vehicular right-of-way line or easement for street, to permit a setback of 25 feet. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. Limited to the area along the eastern edge of the lake located adjacent to the eastern side of the eagle nest as shown on the approved MCP; and
 - b. Appropriate protection for wayward vehicles must be provided at the time of local development order.
6. **Sinuuous Shoreline** - Deviation 6 seeks relief from the LDC §10-481(1) requirement to have surface water management system shorelines sinuous in configuration, to allow the lake adjacent to the eastern side of the eagle nest area to be constructed as shown on the approved MCP. This deviation is APPROVED.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: Legal description of the property
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: The Master Concept Plan
Exhibit D: Bona Fide Agricultural Uses
Exhibit E: U.S. Fish and Wildlife Service Biological Opinion (dated 12/11/06)
Exhibit F: State of Florida Fish and Wildlife Conservation Commission Permit

Exhibit G: Chapel Creek Construction Management Plan
Exhibit H: Bald Eagle Conservation Easement Area
Exhibit I: Proposed Architectural Identity Exhibit

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

20-43-25-00-00003.1000,
20-43-25-00-00003.2000 &
20-43-25-00-00003.4000

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds 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;
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location;
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

6. The request includes 60,000 square feet of commercial uses, of which a maximum of 30,000 square feet may be commercial retail as defined in the Lee County Comprehensive Plan per Policy 6.1.2 (7).

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

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

DULY PASSED AND ADOPTED this 25th day of November, 2008.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Charlie Green*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: *Ray Judah*
Ray Judah, Chair



Approved as to form by:

John J. Fredyma
John J. Fredyma
Assistant County Attorney
County Attorney's Office

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MINUTES OFFICE

2008 DEC 10 AM 11:49

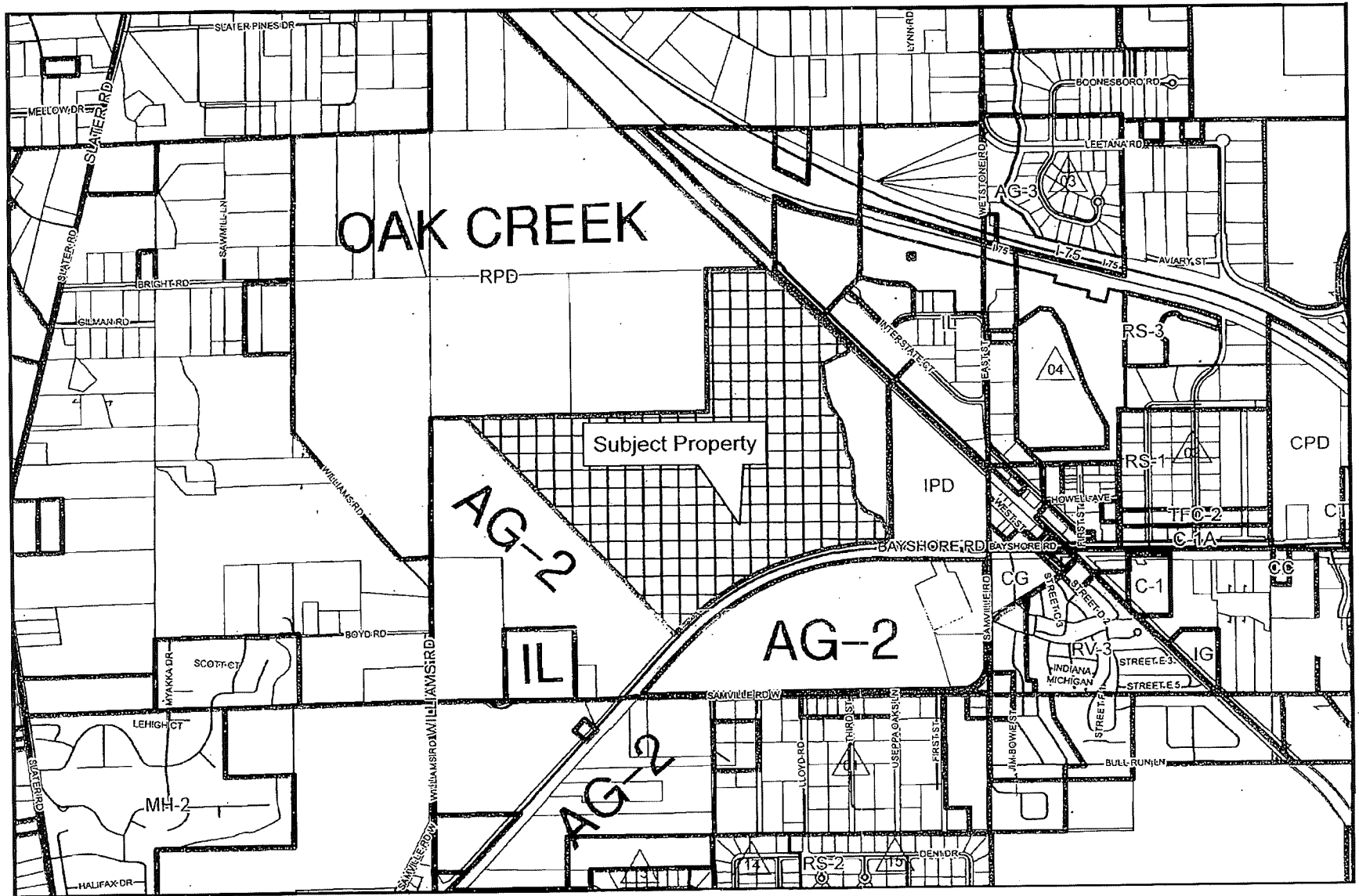
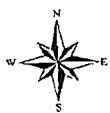


EXHIBIT "B"
(Zoning Map)



AMENITY INSET

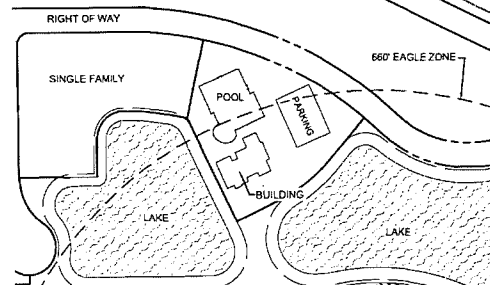
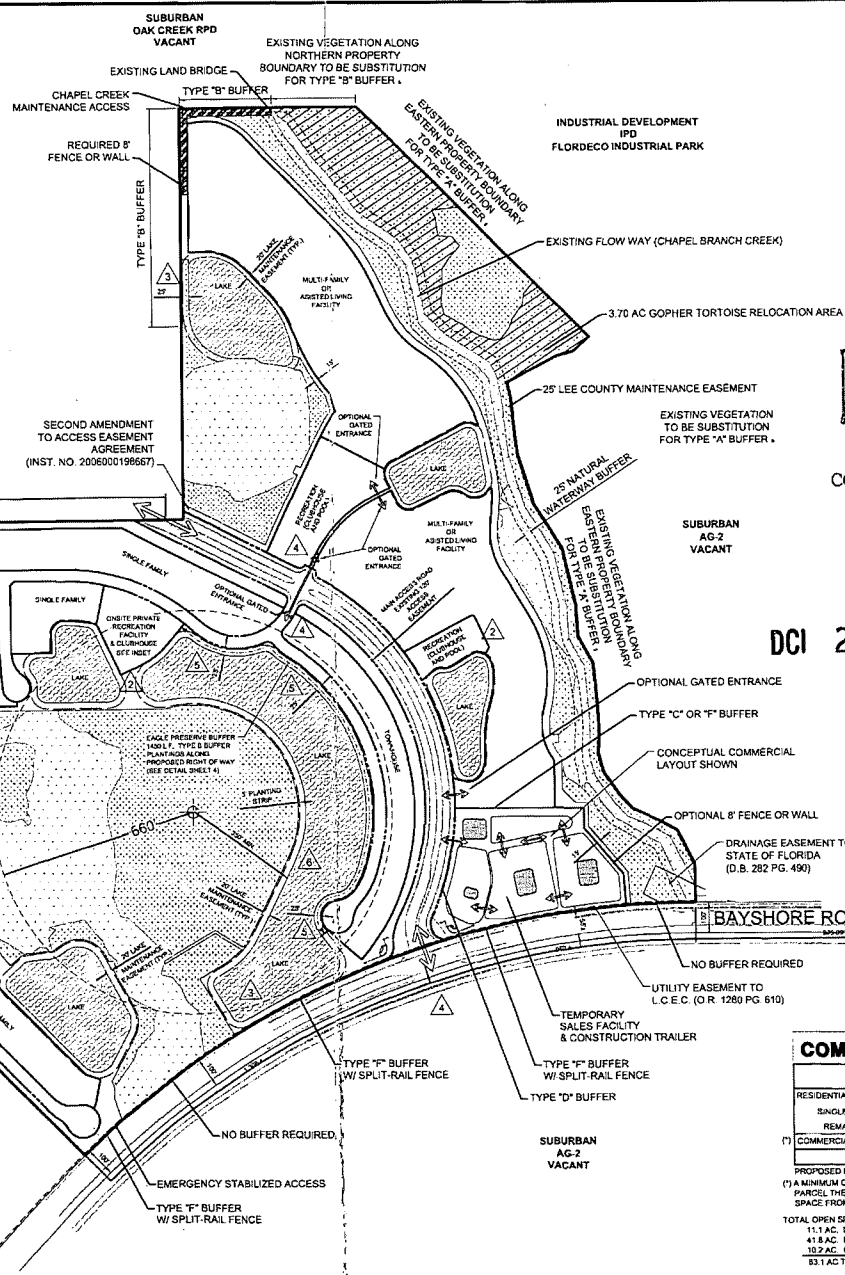
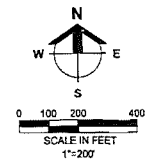


EXHIBIT "C"
Page 1 of 3



DEVIATION APPLIES TO BUILDING SEPARATION FOR SINGLE FAMILY, TOWNHOUSE AND MULTIPLE-FAMILY / ALF.

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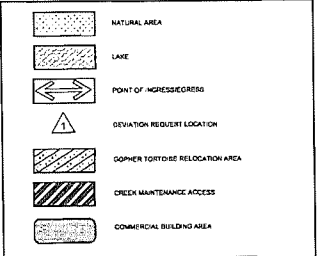
COMMUNITY DEVELOPMENT

DENSITY
125 MAXIMUM UNITS
80 TOWNHOUSE UNITS MAXIMUM
150 SINGLE FAMILY UNITS MAXIMUM
300 MULTIFAMILY AND/OR ALF UNITS MAXIMUM

DCI 2006-00018

Approved as Exhibit C
MCP Page 1 of 3
Resolution # Z-08-011A

LEGEND



COMMON OPEN SPACE TABLE

RESIDENTIAL PARCEL (RPD)	ACREAGE ±	REQUIRED OPEN SPACE	PROVIDED OPEN SPACE
SINGLE FAMILY TRACTS	30.5	5%	NA
REMAINING RPD AREA	108.0	40%	43.2
COMMERCIAL PARCEL (CPD)	4.5	30%	1.4
	143.0		44.6

PROPOSED MINIMUM INDIGENOUS: SEE SHEET 5
(7) A MINIMUM OF 10% OPEN SPACE WILL BE PROVIDED ON THE COMMERCIAL PARCEL; THE REMAINING 20% MAY BE MET THROUGH THE EXCESS OPEN SPACE FROM THE RPD PARCEL.
TOTAL OPEN SPACE PROVIDED
11.1 AC. LAKE (10% OF REQUIRED OPEN SPACE MAY BE LAKE)
41.8 AC. NATURAL AREA
10.2 AC. OTHER / OPEN (MAY BE COMMON OR PRIVATE)
63.1 AC TOTAL

Barraco
 and Associates, Inc.
 CIVIL ENGINEERING - LAND SURVEYING
 LAND PLANNING - LANDSCAPE DESIGN
www.barraco.net
 2271 MACGREGOR BOULEVARD
 POST OFFICE DRAWER 2800
 FORT MYERS, FLORIDA 33902-2800
 PHONE (239) 461-3170
 FAX (239) 461-3169
 FLORIDA CERTIFICATES OF AUTHORIZATION
 ENGINEERING 7895 - SURVEYING LB 6540
 PREPARED FOR
S.W. FLORIDA LAND 163, LLC
 6150 DIAMOND CENTRE COURT
 BUILDING 1300
 FORT MYERS, FLORIDA 33912
 PHONE (239) 489-4068
 FAX (239) 481-8477
WWW.LANDSOLUTIONS1.COM
 PROJECT DESCRIPTION
CHAPEL CREEK RPD/CPD
 PART OF SECTION 20
 TOWNSHIP 43 SOUTH
 RANGE 25 EAST
 LEE COUNTY, FLORIDA

4321 SCALE IN THINLY PARALLEL BEARS 8 DASHES AND 20%
 4321 COPYRIGHT 2008, BARRACO AND ASSOCIATES, INC.
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 PLAN REVISIONS
 8-11-08 REVISED SITE PLAN
 10-3-08 PER MEETING WITH COUNTY STAFF
 10-3-08 COUNTY ATTORNEY COMMENTS
 10-10-08 ADD LINEAR PLANTING STRIP
 11-17-08 DEVIATION 1 NOTE
 PLAN STATUS
 APPROVAL SUBMITTALS PLANS
 NOT FOR CONSTRUCTION
 MASTER CONCEPT PLAN
 PROJECT / FILE NO: 22298
 SHEET NUMBER: 1

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COMMUNITY DEVELOPMENT
OPEN SPACE MAP

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3371 MCGREGOR BOULEVARD
POST OFFICE BOX 2800
FORT MYERS, FLORIDA 33902-2800
PHONE: (239) 481-3170
FAX: (239) 481-3160

FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7805 - SURVEYING LB-5840

S.W. FLORIDA
LAND
163, LLC

6150 DIAMOND CENTRE COURT
BUILDING 1300
FORT MYERS, FLORIDA 33912

PHONE: (239) 488-4056
FAX: (239) 481-8477

WWW.LANDSOLUTIONS.NL

PROJECT DESCRIPTION

**CHAPEL
CREEK
RPD/CPD**

PART OF SECTION 20
TOWNSHIP 43 SOUTH
RANGE 26 EAST
LEE COUNTY, FLORIDA

NOT VALID WITHOUT EXHIBIT 18, ENCLOSURE, AND DATE
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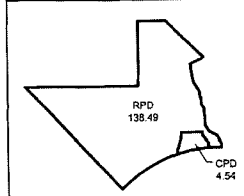
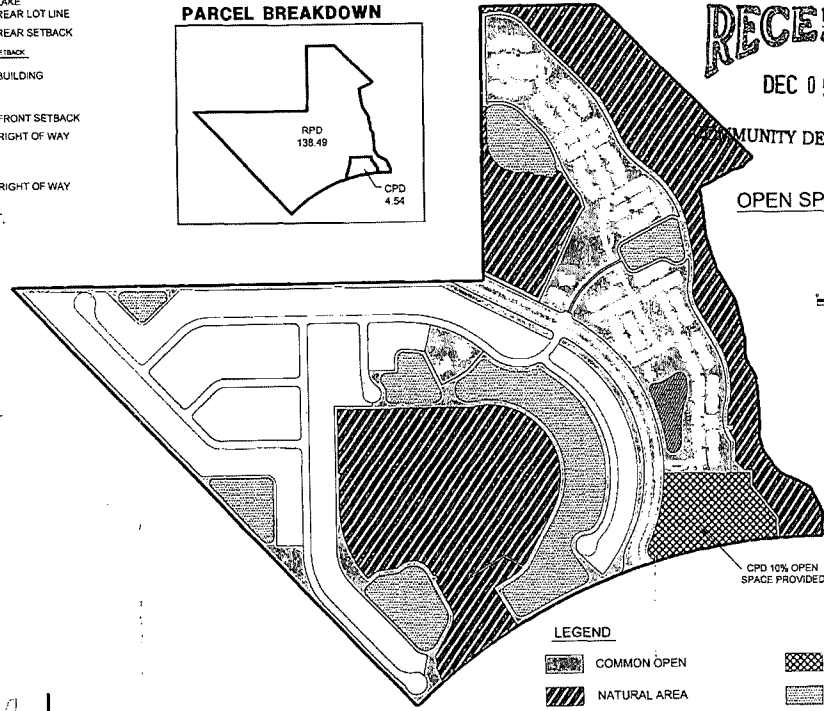
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31-08 REVISED SITE PLAN
10-3-08 PER MEETING WITH COUNTY STAFF
10-8-08 COUNTY ATTORNEY COMMENTS

PLAN STATUS
APPROVAL SUBMITTALS PLANS
NOT FOR CONSTRUCTION

DETAILS

PROJECT / FILE NO. 22298
SHEET NUMBER 2

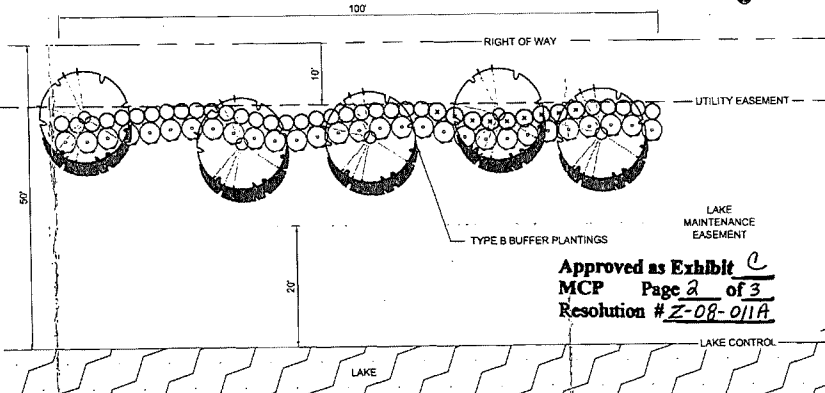
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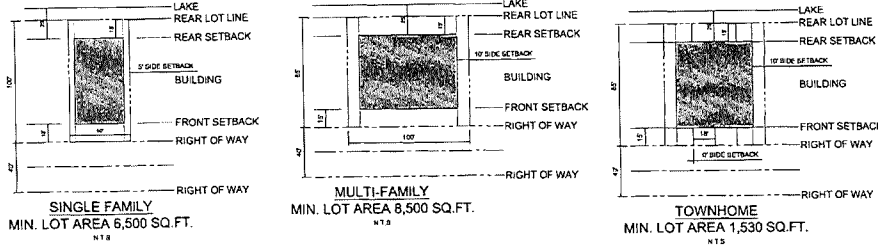
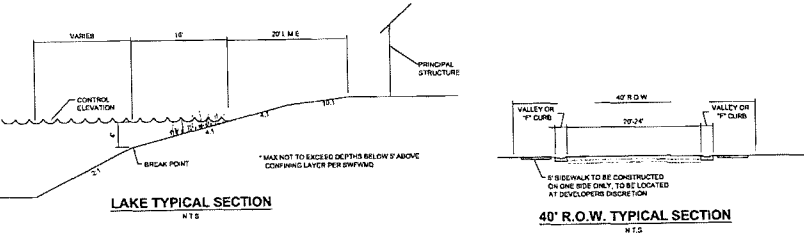
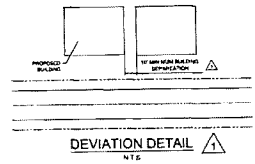
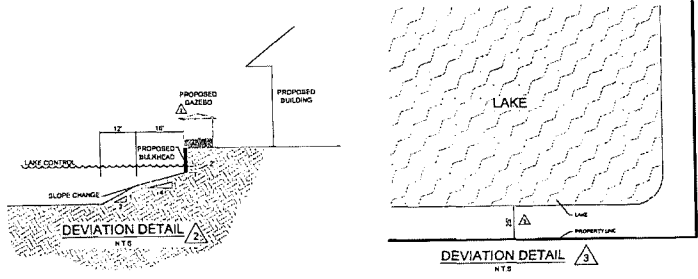
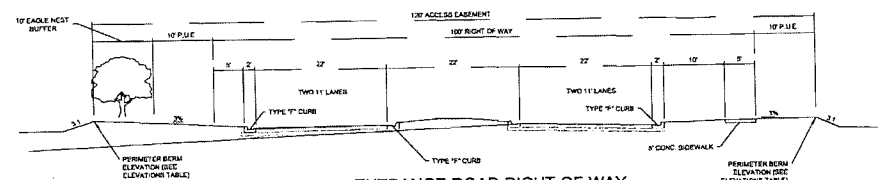
LEGEND

- COMMON OPEN
- NATURAL AREA
- CPD
- LAKES

DCI 2006-00018



**EAGLE PRESERVE BUFFER
TYPE B BUFFER PLANTINGS 100' TYPICAL SECTION**



ENTRANCE ROAD RIGHT-OF-WAY

NOT TO SCALE
ONE CENTER LINE PRIVATE ACCESS ROAD
STA. 100+00 TO STA. 179+27.81 NO CONSTRUCTION
DESIGN SPEED - 30 MPH POSTED SPEED - 25 MPH
DESIGN FORDING APPROVAL OF 06/22/09-02/09

EXHIBIT "I"

CHAPEL CREEK - PROPOSED ARCHITECTURAL IDENTITY EXHIBIT Page One of Two

Overall character to mostly emulate architectural features and materials associated with a Keywest image. Detail and accents along the lines of traditional Colonial features.

Roof

- Pitched Roofs & Mansards
- Varied gable and hip roofs
- Standing Seam Roofing
- Predominantly medium pitch roofs



Decorative features

- Bermuda shutters
- Decorative railings
- Accent columns and Arcades
- Trim, Cornice, window frames to be white or predominantly lighter than field colors



ATTACHMENT K

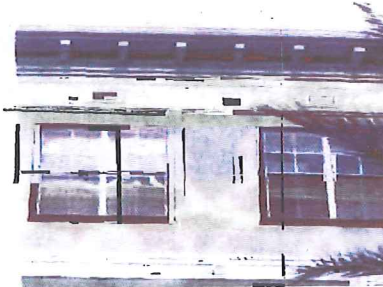
EXHIBIT "I"

CHAPEL CREEK - PROPOSED ARCHITECTURAL IDENTITY EXHIBIT

Page Two of Two

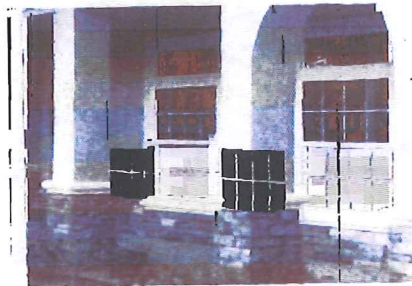
Windows

- Vertical emphasis
- Predominantly white trim, some dark accent trim applied by floor
- Divided lights with vertical emphasis



Wall Finishes

- Horizontal siding as dominant finish
- Stucco as field finish
- Brick or Stone articulated base



ATTACHMENT K

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

WHEREAS, Enclaves of Eagle Nest, LLC, filed an application on behalf of the property owner, GFY Associations, LLC., to rezone a 78.46±-acre parcel from Agricultural (AG-2), Residential Single-family (RS-1), and Commercial Planned Development (CPD) to Commercial Planned Development (CPD) and Residential Planned Development (RPD) in reference to a project known as Enclaves of Eagle Nest; and,

WHEREAS, an initial public hearing was advertised and held on July 14, 2006, before the Lee County Hearing Examiner, Richard Gescheidt, with the record held open for written submissions until July 28, 2006, with additional information requested by August 18, 2006 and August 25, 2006, by the Hearing Examiner, who gave full consideration to the evidence in the record for Case No. DCI2005-00082; and

WHEREAS, a second public hearing was advertised and held on December 4, 2006, before the Lee County Board of County Commissioners who, based upon all testimony and evidence in the record, and at the request of the applicant, remanded the case back to the Hearing Examiner for further consideration, including the submittal of a new Master Concept Plan (MCP) and revised development parameters; and

WHEREAS, a third public hearing was advertised and held on April 11, 2007, before the Lee County Hearing Examiner, who gave full consideration to the evidence in the record for remanded Case #DCI2005-00082; and,

WHEREAS, a fourth public hearing was advertised and held on August 6, 2007, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to rezone a 78.46±-acre parcel from AG-2, RS-1 and CPD to CPD and RPD to permit a maximum of 100,000 s/f of commercial uses and 174 single-family dwelling units [the number of dwelling units was reduced from 252 down to 174 dwelling units and all multiple family dwelling units eliminated by the applicant at the August 6, 2007-public hearing before the Board of County Commissioners]. Maximum heights proposed are 35 feet (single-family) and 35 feet (commercial). No development blasting is requested. The project will connect to public potable water and to public sanitary sewer as part of the development of this property.

The property is located in the Suburban Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. The development of this project must be consistent with the single-page Master Concept Plan (MCP) entitled "MASTER CONCEPT PLAN - ENCLAVES OF EAGLE NEST," dated 11/07, stamped "Received NOV 02 2007 Community Development," attached hereto as Exhibit C, except as modified by the conditions below.

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

Maximum Commercial Floor Area: 100,000 square feet of commercial uses, which may be a combination of office and/or retail. (CPD Parcel only)

Maximum Number of Dwelling Units: 174 single-family dwelling units.

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

- a. Schedule of Uses

Commercial Uses (CPD) area

Accessory Uses and Structures
Administrative Offices
Animal Clinic or Kennel - No outdoor runs
ATM (automatic teller machine)
Auto Parts Store - No Installation
Bait and Tackle Shop
Banks or Financial Institutions, Groups I and II
Bar or Cocktail Lounge
Boat Parts Store
Business Services, Groups I and II
 Excluding Bail Bonding, Armored Car Service,
 Automobile Claims Adjusters and Automobile Repossessing Services
Car Wash - only conjunction with the Convenience Food & Beverage Store
Cleaning and Maintenance Services
Clothing Store, General
Computer and Data Processing Services
Consumption on Premises - indoor and outdoor - see conditions below
Contractors and Builders, Group I
Convenience Food & Beverage Store - limited to 1, and not on Outparcel #4

Day Care, Child or Adult
 Department Store
 Drive-through for Any Permitted Use - No drive-through for package stores
 Drugstore, Pharmacy
 Entrance Gate or Gatehouse
 EMS, Fire or Sheriff's Office
 Essential Services
 Essential Service Facilities, Group I only
 Excavation, Water Retention - Not to include removal of
 excavated material from the site - *No blasting*
 Fences, Walls
 Food and Beverage Service
 Food Stores, Group I only
 Gift and Souvenir Shop
 Health Care Facilities, Group III
 Hardware Store
 Hobby, Toy and Game Shop
 Household and Office Furnishings, Group I and II
 Insurance Companies
 Laundry and Dry Cleaning, Group I only
 Lawn and Garden Supply Stores
 Medical Office
 Non-Store Retailer - all groups
 Parcel and Express Service
 Package Store - No stand-alone package stores.
 Limited to grocery-retail parcel as part of a
 multiple-occupancy commercial building
 Paint, Glass and Wallpaper
 Parking Lot, Accessory, Public Parking, Temporary
 Personal Services, Group I, II, III - Excluding Massage Parlors,
 Steam or Turkish Baths, Dating Services,
 Escort Services, Palm Readers, Fortune Tellers,
 Card Readers and Tattoo Parlors
 Pet Services, Pet Shop. - No outdoor runs
 Post Office
 Real Estate Sales Office
 Rental and Leasing Establishments, Group I and II
 Repair Shops, Group I and II
 Restaurant, Fast Food - limited to 1, and not on Outparcel #4
 Restaurants, Group I, II, III
 Schools, Commercial
 Self-Service Fuel Pumps (maximum of 16)
 Signs in accordance with Chapter 30
 Social Services, Group I and II
 Specialty Retail Shops, Groups I, II, III, IV
 Storage - indoor only - No warehouse or mini-warehouse
 Supermarket
 Temporary Uses - construction office, construction trailer
 Used Merchandise Stores, Group I and II
 Variety Store

Residential Uses (RPD Area)

Accessory Uses and Structures
Dwelling Units - single-family and limited to a maximum of 174
Entrance Gate or Gatehouse
Essential Services
Essential Service Facilities, Group I only
Excavation, Water Retention. (Not to include removal of excavated material from site. *No blasting*)
Fences, Walls
Home Occupation - no outside help
Model Home - See conditions
Real Estate Sales Office - See conditions
Recreation Facilities, Personal and private (including clubhouse)
Residential Accessory Uses
Signs in Accordance with Chapter 30
Temporary Uses - construction office, construction trailer

Commercial Site Development Regulations

Minimum Lot Area and Dimensions

Lot Size:	1.0 acres
Lot Width:	170 feet
Lot Depth:	200 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	15 feet
Rear	20 feet
Water body	25 feet
Accessory Uses:	Per the LDC

Setbacks from Preserves	25 feet (all buildings)
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Minimum Perimeter Setbacks:	25 feet
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Minimum Building Separation:	20 feet
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Maximum Lot Coverage:	40%
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Minimum Open Space:	30% (20% for outparcels as long as the overall CPD area meets 30% open space requirements)
Building Height:	35 feet/2 stories

Residential Site Development Regulations

Single-family

Minimum Lot Areas and Dimensions (per unit)

Lot Size:	4,500 square feet
Lot Width:	45 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	5 feet
Rear	20 feet
Water body	25 feet
Accessory Uses:	Per the LDC

Setbacks from Preserves:	25 feet (all buildings)
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Minimum Perimeter Setbacks:	15 feet
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Minimum Building Separation:	10 feet
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Maximum Lot Coverage:	50%
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Minimum Open Space:	40%
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Building Height:	35 feet/ 2 stories
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Recreation Area Facilities

Minimum Lot Areas and Dimensions

Lot Size:	7,500 square feet
Lot Width:	75 feet
Lot Depth:	100 feet

Minimum Setbacks

Street	25 feet (public)/15 feet (private)
Side	5 feet
Rear	20 feet
Water body	25 feet
All Accessory Uses:	Per the LDC

Setbacks from Preserves (All structures): 25 feet, per the LDC

Minimum Perimeter Setbacks: 25 feet

Minimum Building Separation: 10 feet

Maximum Lot Coverage: 40%

Minimum Open Space: 40%

Building Height: 35 feet/ 2 stories

3. 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 County Comprehensive Plan. The developer is required to demonstrate compliance with all concurrency requirements, including traffic concurrency, prior to issuance of a local development order.
4. No development blasting is permitted as part of this project unless approval at a subsequent public hearing as an amendment to the planned development.
5. 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.
6. Model Homes/Real Estate Sales.
 - a. Model homes are limited to seven model units, as shown on the approved MCP (lots labeled "M").
 - b. Models cannot be of the same floor plan and each must be a different design.
 - c. Real estate sales are limited to model locations and commercial areas as shown on the approved MCP.
 - d. Real estate sales within the residential area will be limited to the sale of lots or units within the development only. Real estate sales in the commercial area are not limited.

- e. Hours of operation for model homes, model units, and real estate sales in the residential area are limited to Monday through Sunday 8 a.m. to 8 p.m. Real estate sales in the commercial area are not limited.
 - f. No dry models are permitted.
7. Consumption on Premises (Commercial area only).
- a. Consumption on premises (any) is permitted only in conjunction with a Group III Restaurant.
 - b. No sale, service or consumption of alcoholic beverages, in conjunction with a Group III Restaurant, will be permitted without the sale or availability of food and non-alcoholic beverages on the same premises.
 - c. The location of any outdoor consumption on premises must be consistent with the general location shown on the approved MCP.
 - d. Outdoor consumption on premises - limited to one with a maximum of 500 square feet seating area - may be approved by administrative amendment to the planned development. No public hearing is required. The applicant must provide adequate detail of the outdoor seating area (square footage, number of seats, proposed hours, distance to the nearest dwelling unit under separate ownership etc.) consistent with the requirements of the LDC.
8. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.
9. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee County Comprehensive 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, as well as all other Lee County Comprehensive Plan provisions.
10. AGRICULTURAL USES: Existing bona fide agricultural uses on this site are allowed only in strict compliance with the following:
- a. Bona fide agricultural uses that are in existence at the time the application for this project was filed, and as shown on Exhibit D attached hereto, may continue until approval of a local development order for the area of the project containing those uses.
 - b. Additional clearing of trees or other vegetation in agricultural areas is prohibited. Existing areas of bona fide agricultural use may be maintained, i.e., mowed, but not cleared or expanded. This prohibition is not intended to preclude County approved requests for the removal of invasive exotic vegetation.

c. Prior to issuance of a local development order, the property owner must provide written proof, subject to approval by the County Attorney's Office, of the following:

i. Termination of all agricultural use on any portion of the property included in the development order application/approval. Proof must include a sworn affidavit from the person or entity holding title to the subject property that specifically provides:

- (1) the date the agricultural uses ceased;
- (2) the legal description of the property subject to the development order approval;
- (3) an affirmative statement that the owner acknowledges and agrees that all agricultural uses are illegal and prohibited on the property and that the owner covenants with the county that they will not allow any such uses on the property unless and until the property is re-zoned to permit such uses; and,
- (4) that the affidavit constitutes a covenant between the owner and the county that is binding on the owner and their assignees and successors in interest.

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

ii. Termination of the agricultural tax exemption for any portion of the property included in the development order application/approval. Proof as to termination must include of a copy of the request to terminate the tax exemption provided to the Property Appraiser.

11. Improvements to the northbound approach to the Bayshore Road (State Road 78), Slater Road/Coon Road will be required with the site infrastructure and are considered site-related. Design, permitting, right-of-way dedication, construction, signal modification and the like will be considered site-related improvements and the applicant will have full responsibility for the cost of those improvements. The realignment of the existing intersection will be at the option of the developer. The design of the intersection of Bayshore Road (State Road 78), Slater Road/Coon Road is subject to review and approval by Florida Department of Transportation and the Lee County Department of Transportation.
12. Access to Bayshore Road and Coon Road is limited to those shown on the approved MCP. Any additional access points must be closed.
13. The Type D buffer on Donald Road must be enhanced as follows:
 - a. 20 feet in width instead of the required 15 feet;
 - b. 7 trees per 100 linear feet instead of the required 5;

- c. Although palms may be planted, palms may not be used to meet buffer requirements on Donald Road;
 - d. Required trees must be a minimum 10 feet in height at planting;
 - e. At least one-half of the required buffer trees on Donald Road must be appropriate native trees.
- 14. No more than one trash compactor may be located south of the principal commercial building. The compactor must be fully enclosed and operated electronically.
- 15. No dumpster serving the grocery store may be located south of the portion of the building identified as "grocery" on the MCP.
- 16. Prior to local development order approval, the Bald Eagle Management Plan (BEMP) entitled "Enclaves of Eagle Nest, Bald Eagle Management Plan for Nest LE-026A," dated March 2007, prepared by Passarella & Associates, Inc. (attached as Exhibit E), is adopted with the following conditions:
 - a. Delivery trucks are prohibited from lining up for waiting or unloading along the accessway in the rear of the grocery/retail center; and,
 - b. Any dumpsters must be secured to deter the bald eagles from foraging at or in the dumpsters; and,
 - c. The provisions of the BEMP must be included in both the commercial and residential owners deed restrictions or owners documents and,
 - d. Prior to local development order approval, interior construction conditions during nesting season for all development within 750 feet of the nest must be submitted for the Lee County Division of Environmental Sciences staff review and approval.
 - e. Prior to local development order approval, the development order plans must include:
 - (1) Delineation of the 750-foot and 350-foot eagle protection zones;
 - (2) A phasing plan consistent with the BEMP;
 - (3) A detailed enhanced planting area plan including sizes, numbers and locations of plantings as shown on Exhibits 4 and 5 of the BEMP (Exhibit E); and
 - (4) Determination if the existing native vegetation can be retained within the open space/dry detention area located to the northwest of the indigenous preserve and in between the commercial and multifamily tracts. If the native vegetation cannot be retained, then a planting plan for this area must be provided.

17. Development of this project must connect to both public water and public sewer. At time of local development order, the developer must also demonstrate there is adequate water and sewer capacity to handle the proposed level of development.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the §10-329(d)(1)3 requirement that all excavations will be set back 50 feet from any private property line under separate ownership, to allow a setback of zero feet for an interior lake. This deviation is APPROVED, SUBJECT TO the condition that approval is limited to the 4.0-acre lake, as shown on the MCP. This deviation is limited to allow development of this lake across parcel boundaries. Residential and commercial structures must be set back from all water bodies a minimum of 20 feet, per the LDC.
2. Deviation (2) seeks relief from the §34-2020(4)o.2 requirement to provide one parking space per 100 square feet of total floor area for indoor recreation facilities, to allow one parking space per 300 square feet of total floor area. This deviation is APPROVED, SUBJECT TO the condition that approval is limited to a playground and/or recreational/clubhouse facility as shown on the approved MCP, with a gross floor area of no more than 8,000 square feet.
3. Deviation (3) seeks relief from the LDC Chapter 30, Division 3, requirements which limits off-site signs to directional signs for residential developments and semi-public bodies (§30-181), bench and bus shelter signs (§30-182), or billboards (§30-183), to allow an off-site residential project entrance sign. This deviation is APPROVED.
4. Deviation (4) seeks relief from the §30-152(2)(d)(4), requirement to provide that residential project identification signs have a minimum setback of 15 feet from a public right-of-way or 15 feet from the edge of entranceway pavement, if a private street, to allow a setback of 7.5 feet. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. The signs will be consistent with the architectural theme of the development.
 - b. Signs are limited to monument-style signs.
 - c. Signs may not exceed 10 feet in height.
 - d. Signs will be a minimum of 15 feet from the edge of pavement on Bayshore Road (not including the sidewalk).
 - e. Signage must be consistent with Exhibit F attached hereto. Such designs are preliminary and subject to changes in conformance with LDC Chapter 30.
5. Deviation (5) seeks relief from the §30-153(3)(a) requirement to provide that every individual office, business or industrial establishment, and a multi-occupancy complex of five or less establishments will be allowed one ground-mounted sign, to allow for two signs on Outparcel 3 and two signs on Outparcel 4. This deviation is APPROVED.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan
- Exhibit D: Agricultural Use Affidavit
- Exhibit E: Bald Eagle Management Plan
- Exhibit F: Signage Detail Plan

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

30-43-25-00-00021.0000, 30-43-25-00-00023.0000, 30-43-25-00-00023.0020,
30-43-25-00-00024.0000, 30-43-25-00-00024.0010, 30-43-25-00-00024.0020,
30-43-25-00-00025.0000 and 30-43-25-00-00030.0030

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds 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;
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location;
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

4. Urban services, as defined in the Lee Plan, are available and adequate to serve the proposed land use.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

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

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

DULY PASSED AND ADOPTED this 6th day of August 2007.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: Ray Judah
Ray Judah
Chair



Approved as to form by:

Robert Spickerman
Robert Spickerman
County Attorney's Office

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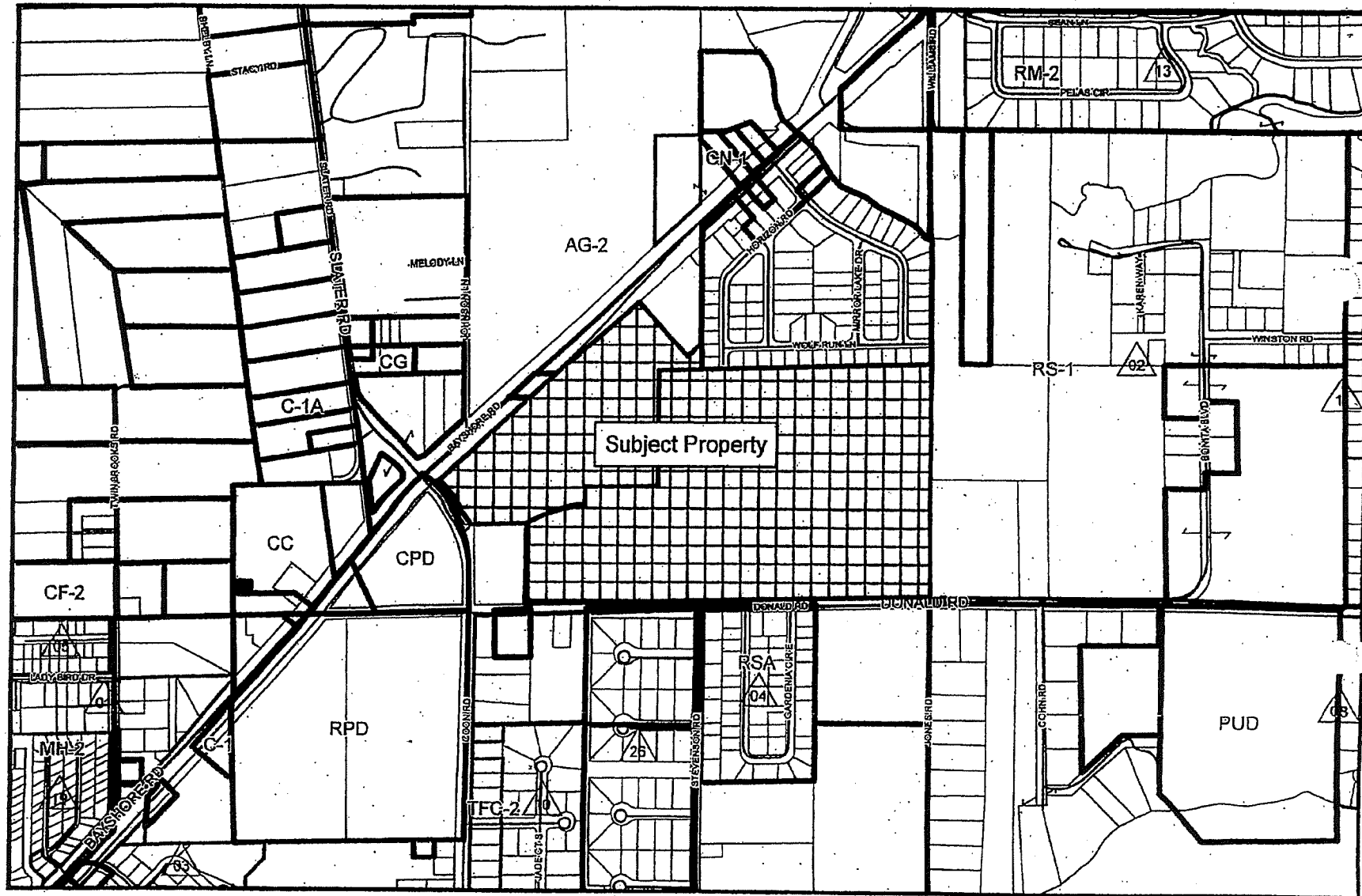
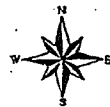


EXHIBIT B

1,000 500 0 1,000 2,000 Feet

2007 年 2 月 26 日

RECEIVED

SEC 30, TWP 43S., RGE 25E.
LEE COUNTY, FLORIDA

GARY F. MULLER, AICP

EXHIBIT C



Palermo, Anthony

From: Pavese, Michael
Sent: Tuesday, November 24, 2009 9:12 AM
To: Palermo, Anthony
Subject: Bayshore 57 DCI2007-00045

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

As part of any local Development Order approval for vertical development, the development order plans must include 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.

Mike

Michael P. Pavese
Principal Planner
Public Works Administration
Phone: 239-533-8360
Fax: 239-485-8307

ATTACHMENT M

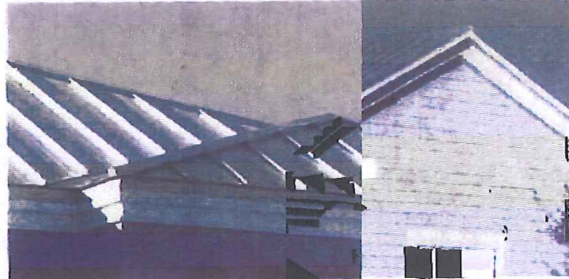
EXHIBIT "I"

CHAPEL CREEK - PROPOSED ARCHITECTURAL IDENTITY EXHIBIT Page One of Two

Overall character to mostly emulate architectural features and materials associated with a Keywest image. Detail and accents along the lines of traditional Colonial features.

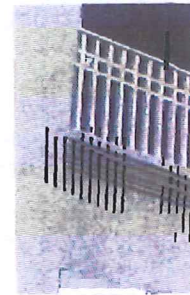
Roof

- Pitched Roofs & Mansards
- Varied gable and hip roofs
- Standing Seam Roofing
- Predominantly medium pitch roofs



Decorative features

- Bermuda shutters
- Decorative railings
- Accent columns and Arcades
- Trim, Cornice, window frames to be white or predominantly lighter than field colors



ATTACHMENT N

EXHIBIT "I"

CHAPEL CREEK - PROPOSED ARCHITECTURAL IDENTITY EXHIBIT Page Two of Two

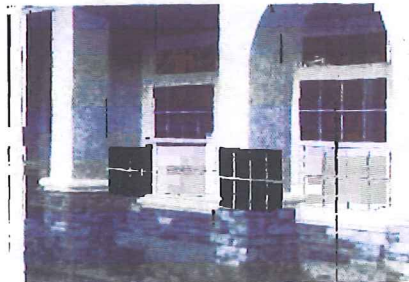
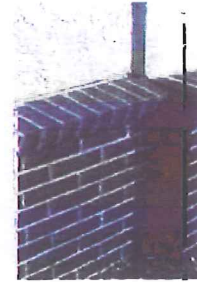
Windows

- Vertical emphasis
- Predominantly white trim, some dark accent trim applied by floor
- Divided lights with vertical emphasis



Wall Finishes

- Horizontal siding as dominant finish
- Stucco as field finish
- Brick or Stone articulated base

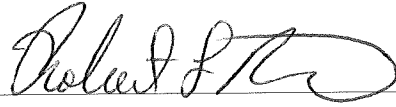


ATTACHMENT N

MEMORANDUM
FROM THE
DEPARTMENT OF
COMMUNITY DEVELOPMENT
DEVELOPMENT SERVICES DIVISION

DATE: April 21, 2010

TO: Tony Palermo, AICP
Senior Planner

FROM: 
Robert L. Price, P.E.
Senior Engineer

RE: Bayshore 57 MPD
Case No. DCI2007-00045

ATTACHMENT O

The proposed development is located in the northwest corner of the intersection of Bayshore Road (S.R. 78) and Samville Road. Access to the site is proposed to a re-aligned Samville Road in addition to Bayshore Road. The Applicant has worked with the Florida Department of Transportation (FDOT) in order to obtain an agreement that would allow the re-alignment of Samville Road. Currently, the western leg of Samville Road intersects Bayshore Road at a less than desirable angle. The intent of the re-alignment is to route Samville Road in such a way as to intersect Bayshore Road at 90 degrees. The Master Concept Plan reflects the re-alignment of Samville Road and an access point from the proposed development to the new alignment.

The Bayshore 57 MPD is a request to rezone the subject property to allow the construction of 72 single family dwelling units, 104 multi-family dwelling units, 70,000 square feet of office floor area, and 70,000 square feet of retail floor area. Trip generation for the proposed development was determined utilizing the ITE Report titled **Trip Generation, 8th Edition**. The office floor area was analyzed based on a 50%/50% split of Medical Office and General Office as depicted on the most recent Master Concept Plan. Likewise, the retail floor area was analyzed as a Shopping Center. Based on accepted ITE methodology, approximately 14.9% of the development traffic was projected to be internally captured on the project site. Additionally, a 30% pass-by reduction was applied to the external retail trips. As a result, the proposed development is anticipated to generate a total of 613 trips in the PM peak hour (265 entering/348 exiting). This correlates to approximately 5,970 trips over the course of the entire day.

In accordance with the TIS, Bayshore Road along the project frontage will experience a significant impact as a result of the added development traffic. This section of Bayshore Road has a capacity of 1,950 vehicles in the peak hour, peak direction. The proposed development will add 191 new, external trips to this link of Bayshore Road during the PM peak hour in the peak direction. Adding the project traffic to the 2013 background traffic volume of 1,574 vehicles results in a buildout traffic volume of 1,765 vehicles in the peak hour, peak direction which represents a Level of Service "C" on this roadway. Level of Service "C" is within the LOS "E" standard set forth in the Lee Plan.

ATTACHMENT P

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

Date: April 19, 2010

To: Tony Palermo, Senior Planner
From: Doug Griffith, Environmental Planner *DG*
Phone: 239-533-8323
E-mail: dgriffith@leegov.com

Project: Bayshore 57 MPD
Case: DCI2007-00045
Strap # 20-43-25-00-00003.3000

The Division of Environmental Sciences (ES) Staff has reviewed the proposed Bayshore 57 Mixed Use Planned Development (MPD) and offer the following analysis and recommended conditions:

PROJECT SITE:

The ± 57.07 acre project is located on the northeast corner of Samville and Bayshore Road. The property sits in a northwest southeast direction and, is currently zoned AG-2. The property is currently being used as livestock pasture and the applicant is proposing mixed use residential. The future land use is Suburban Community. Adjacent land uses include: commercial development and a public school to the southwest; An approved undeveloped residential project known as Oak Creek RPD to the northwest and north; an approved undeveloped RPD/CPD known as Chapel Creek RPD/CPD to the northeast; and Samville Road and Bayshore Road to the south.

REVISED MASTER CONCEPT PLAN:

The applicant submitted a Master Concept Plan (MCP) dated March 10, 2010 showing revisions made at the recommendation of staff to decrease the intensity of the uses. The ES Staff Report dated December 9, 2009 must be revised to reflect the changes made by the applicant.

The revised MCP submitted by the applicant has reduced the commercial floor area from 176,000 sq. ft. of commercial to 140,000 sq ft of commercial. The residential units have been reduced from 192 multi-family dwelling units to 104 multi-family units with an addition of 72 single family dwelling units for a total of 176 dwelling units. In addition the applicant has increased the buffer along the northeastern property line adjacent to Chapel Creek RPD/CPD for the commercial portion of the project and also the ROW buffer along Bayshore Road. The buffer along Chapel Creek RPD/CPD has been increased from a 30-foot type "F" buffer to an enhanced 40-50 foot wide buffer with increased plantings. The ROW buffer along Bayshore Road has been changed to include a enhanced 40-50 foot wide buffer also with enhanced plantings and tree preservation.

VEGETATION:

A vegetative community assessment was performed by Boylan Environmental Consultants, Inc. on four separate occasions from February 21, through March 27, 2007 and field verified by ES Staff (Doug Griffith, Susie Derheimer) on July 11, 2007. The assessment and a Florida Land Use, Cover and Classification System (FLUCCS) map was submitted by the applicant.

Based on the ES Staff's site inspection with the applicant's environmental consultants the site contains ± 51.24 acres of uplands and ± 5.83 acres of wetlands. The site consists of ± 47.46 acres of existing indigenous communities including the following:

- ± 17.56 acres Palmetto Prairie (FLUCCS 321)
- ± 22.35 acres Pine Flatwoods (FLUCCS 411)
- ± 3.05 acres Pine-Mesic Oak (FLUCCS 414)
- ± 3.14 acres Mesic Pine (FLUCCS 419)
- ± 0.48 acres Xeric Oak (FLUCCS 421)
- ± 0.92 acres Streams and Lake Swamps (FLUCCS 615)
- ± 0.44 acres Wetland Forested Mixed (FLUCCS 630)

Other areas include:

- ± 3.32 acres Pine Flatwoods (FLUCCS 411E2)
- ± 0.58 acres Brazilian Pepper (FLUCCS 422)
- ± 0.29 acres Streams and Waterways (FLUCCS 510)
- ± 1.18 acres Exotic Wetland Hardwoods (FLUCCS 619)
- ± 1.52 acres Wetland Forested Mixed (FLUCCS 630E2)
- ± 0.12 acres Spoil Berm (FLUCCS 743)
- ± 0.64 acres Roads and Trails (FLUCCS 814)

The upland vegetative communities identified onsite include:

(FLUCCS 321) Palmetto Prairie, the canopy is open with widely scattered south Florida slash pine (*Pinus elliottii* var. *densa*), the understory is dominated by saw palmetto (*Serenoa repens*). (FLUCCS 411) Pine Flatwoods, this community is dominated by south Florida slash pine in the canopy, with scattered live oak (*Quercus virginiana*), sabal palm (*Sabal palmetto*) and saw palmetto dominate the understory.

(FLUCCS 411E2) Pine Flatwoods with exotics, this community is dominated by south Florida slash pine with Brazilian pepper (*Schinus terebinthifolius*) and melaleuca (*Melaleuca quinquenervia*). (FLUCCS 414) Pine Mesic Oak, this forested community consists of south Florida slash pine, with scattered live oak and laurel oak (*Quercus laurifolia*) in the canopy, the subcanopy is dominated by cabbage palm and saw palmetto.

(FLUCCS 419) Mesic Pine, this upland forested community is dominated by south Florida slash pine and wax myrtle.

(FLUCCS 421) Xeric Oak, this upland community contains a variety of oaks including live oak, laurel oak, sand live oak (*Quercus geminata*), myrtle oak (*Quercus myrtifolia*) and runner oak (*Quercus margarettae*) the subcanopy contains saw palmetto, and gopher apple (*Licania michauxii*).

(FLUCCS 422) Brazilian Pepper, this community is dominated by Brazilian pepper. (FLUCCS 743) Spoil Berm, vegetation consist of saw palmetto, and Brazilian pepper.

The wetland vegetative communities identified onsite include:

(FLUCCS 615) Stream and Lake Swamps, this wetland forested community is dominated by water ash (*Fraxinus caroliniana*), with laurel oak, and cabbage palm.

(FLUCCS 619) Melaleuca, this community is dominated by melaleuca, all other vegetation is absent.

(FLUCCS 625E2) Hydric Pine Flatwoods, this wetland forested community is dominated by slash pine and melaleuca with laurel oak and wax myrtle, groundcover includes scattered swamp fern (*Blechnum serrulatum*).

(FLUCCS 630) Wetland Forested Mixed, this community contains a variety of oaks and pine, ground cover includes swamp fern and areas of open ground.

(FLUCCS 630E2) Wetland Forested Mixed with Exotics, this community contains a variety of oaks and pine with melaleuca and Brazilian pepper, ground cover included scattered swamp fern and areas of open ground.

OPEN SPACE:

The Land Development Code (LDC) requires large residential projects to provide 40% of the project as open space, commercial projects are to provide 30% as common open space. The required open space for the residential portion of the project is ± 15.04 acres, and the required open space for the commercial portion of the project is ± 5.74 acres.

In the previous staff report the applicant provided 18.80 acres of open space for the residential portion of the project and 6.08 acres for the commercial. The Master Concept Plan (MCP) dated March 10, 2010 has increased the total open space for the commercial portion of the project from 6.08 acres to 6.70 acres, an increase of 0.62 acres total for the overall project. This increase in commercial open space reflects the changes made to the commercial portion of the project. The residential portion of the project has decreased the density from 192 dwelling units to 176 dwelling units and added single family as a use. Per LDC 10-415 (a) large projects with single family lots less than 6,500 sq ft are required to provide 40% open space, or the same as multi-family. The applicant depicts on the MCP that the minimum lot size will be 6,000 sq ft. The required open space for the residential portion of the project will remain the same. The applicant is providing a total of ± 6.7 acres of open space for the commercial portion of the project and ± 18.8 acres of open space for the residential portion of the project for a total of ± 25.5 acres of open space.

The open space provided exceeds the requirements of LDC 10-415(a). ES Staff finds the open space as proposed by the applicant to be in compliance with the requirements of LDC 10-415(a) and the Lee Plan.

The open space proposed by the applicant is consistent with the following Goal and Objective:

Lee Plan Goal 77: To require new developments 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.

Lee Plan Objective 77.1: Development regulations will continue to require that new residential developments provide sufficient open space to meet the needs of the residents.

ES Staff recommends the following condition to ensure the open space as committed to by the applicant is met.

Prior to local development order approval, the development order plans must depict ± 6.7 acres of open space for the commercial portion of the project and ± 18.8 acres of open space for the residential portion of the project. The combined project must provide a minimum of ± 25.5 acres as open space in substantial compliance with the Master Concept Plan.

INDIGENOUS PRESERVATION:

Per LDC 10-415 (b)(1) large projects are required to provide 50% of their open space requirement as indigenous open space. The project is required to provide ± 10.39 acres as indigenous vegetation and the applicant has proposed preservation of ± 12.19 acres (± 13.53 acres with credits) or 59% of the open space requirement as indigenous vegetation.

The site has large tracts of pristine indigenous habitat including ± 17 acres of Palmetto Prairie (FLUCCS 321), ± 22 acres of Pine Flatwoods (FLUCCS 411) and ± 5 acres of mixed wetlands. Daughtrey Creek flows through the northwestern portion of the project and the applicant has proposed to provide a 50-foot wide natural waterway buffer in compliance with LDC 10-416(d)(9) Development abutting a natural waterway.

Palmetto Prairie and Pine Flatwoods can be home to a multitude of listed species including the gopher tortoise, which has been observed onsite. The wetlands can be utilized by listed wading birds and other species not listed that will utilize the uplands and wetlands of this site. The applicant has proposed to preserve the majority of the indigenous requirement where the greatest concentration of tortoise burrows are located and preserve those burrows in place.

The project is consistent with the Land Development Code (LDC) and the following Goals, Objectives and Policies of the Lee Plan

LDC Section 10-416(d)(9) Development abutting natural waterway. Except where chapter 33 provides a stricter standard for Greater Pine Island (as defined in Goal 14 of the Lee Plan and in section 33-1002), there must be a 50-foot wide vegetative buffer landward of nonseawalled natural waterways as measured from the mean high water line or top of bank, whichever is further landward.

LDC Section 34-411(g) Every effort shall be made in the planning, design and execution of a planned development to protect, preserve or to not unnecessarily destroy or alter natural, historic or archaeological features of the site, particularly mature native trees and other threatened or endangered native vegetation. Alteration of the vegetation or topography that unnecessarily disrupts the surface water or groundwater hydrology, increases erosion of the land, or destroys significant wildlife habitat is prohibited. That habitat is significant that is critical for the survival of rare, threatened or endangered species of flora or fauna.

LDC Section 34-411 (h) States that: A fundamental principal of planned development design is the creative use of the open space requirement to produce an architecturally integrated human environment. This will be coordinated with the achievement of other goals, e.g., the preservation or conservation of environmentally sensitive land and waters or archeological sites.

Lee Plan Objective 77.3: New developments must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed or existing right-of-ways.

Lee Plan Policy 107.2.4: Encourage the protection of viable tracts of sensitive or high quality natural plant communities within developments.

Lee Plan Policy 107.2.5: Maintain regulations to control the clearing of natural vegetation, including tree removal and clearing of understory, prior to the development of the property or its conversion to agricultural uses.

Lee Plan Policy 107.2.13: Promote optimal conditions rather than minimum conditions for the natural system as the basis for sound planning.

ES Staff recommends the following condition to ensure consistency with the Lee Plan.

Prior to local development order approval, the development order plans must depict a minimum of 12.19 acres, 13.53 acres with credits, as indigenous open space.

PROTECTED SPECIES:

A protected species survey for Lee County listed species meeting the requirements of Lee County Land Development Code (LDC) Section 10-473 was conducted by Boylan Environmental Consultants Inc. on four separate occasions from February 21, through March 27, 2007 and field verified by ES Staff (Doug Griffith, Susie Derheimer) on July 11, 2007. The methodology used by the consultant for this survey was overlapping belt transects. During the survey 25 active, 16 inactive and 12 abandoned gopher tortoise burrows were observed onsite. The applicant has provided a Preliminary Gopher Tortoise Management Plan and has proposed a Gopher Tortoise Preserve designed to minimize impacts to the gopher tortoises. The preserve has been located in the area with the heaviest concentration of gopher tortoises. A relocation Permit in accordance with The Florida Fish and

Wildlife Conservation Commission (FWC) guidelines will be required prior to clearing activities that may affect existing gopher tortoise burrows outside of the preserve limits.

Gopher Tortoise: (*Gopherus polyphemus*)

Gopher tortoises are considered a threatened species by (FWC) and as such must be protected. FWC lists the current cause of imperilment, as identified by the Biological Status Report (*Engel et al 2006a*), is the rate of population decline primarily due to loss of habitat. The conservation goal of the FWC Gopher Tortoise Management Plan is to restore and maintain secure, viable populations of gopher tortoises throughout the species' current range in Florida by addressing habitat loss (*FWC Gopher Tortoise Management Plan September 2007*).

Habitat for gopher tortoises exist on the project site in the Palmetto Prairie (FLUCCS 321), Pine Flatwoods (FLUCCS 411), and Xeric Oak (FLUCCS 421) habitat. The site contains approximately 41 active and inactive gopher tortoise burrows. Per the FWC Gopher Tortoise Permitting Guidelines published in April of 2008 (revised April of 2009) a standardized conversion factor of 0.5 tortoises per one burrow is used to calculate the number of tortoises; therefore, approximately 21 gopher tortoises could be found onsite (41 burrows x 0.5 = 21 tortoises). The gopher tortoise burrows are concentrated in the area proposed for preservation; 13 active and 4 inactive burrows are located within the area proposed for preservation with the remaining 12 active and 12 inactive burrows scattered throughout the site.

The conservation goal of FWC is to restore and maintain secure, viable populations of gopher tortoises' throughout the species' current range in Florida by addressing habitat loss. The Gopher Tortoise Guidelines recommend that tortoises that cannot be preserved in place must be relocated to a recipient site that has suitable habitat for viable populations. ES Staff's concern is the lack of recipient sites in Lee County. Whenever gopher tortoises are relocated due to development within the County, the tortoises are transported offsite and located outside of Lee County. ES Staff has tried to work with applicants to preserve as many gopher tortoises in place but often tortoises cannot be preserved in place due to project design and under the FWC Gopher Tortoise Guidelines the cost of relocating tortoises to preserves onsite is too expensive. It is cheaper to relocate the tortoises to approved FWC recipient sites of which the majority are outside of Lee County. This has lead to a population decline of tortoises within Lee County and a concern for the future of the remaining tortoises. Due to this decline ES Staff encourages the applicant and their environmental consultants to pursue every opportunity to relocate tortoises within Lee County to ensure that the County's Tortoise population remains within the County.

ES staff recommends the following conditions to insure the protection of gopher tortoises on the project site:

Prior to development order approval, the applicant must first seek approval for on-site preservation of the gopher tortoises through avoidance or relocation before pursuing off-site relocation options. All communication with Florida Fish and Wildlife Conservation Commission (FWC) verifying on-

site avoidance or relocation attempts were made must be provided to Division of Environmental Sciences staff.

A copy of the appropriate gopher tortoise relocation permit issued by the Florida Fish and Wildlife Conservation Commission (FWC) must be submitted to the Division of Environmental Sciences staff prior to excavation and moving of any gopher tortoises. The applicant must first seek approval for an on-site relocation before pursuing off-site relocation options. Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and Lee County Division of Environmental Sciences staff.

The project is consistent with the following Goals, Objectives and Policies of the Lee Plan .

Lee Plan Policy 28.2.7: Corridor Overlay District. For areas along major road corridors outside designated Town Centers and Neighbourhood Centers, the North Fort Myers community, Department of Community Development, and Smart Growth Department will work together to prepare a Corridor Overlay District as part of the Land Development Code requiring enhanced landscaping, greater buffering and shading of parking areas, improved commercial signage, enhanced standards to ensure architectural quality and compatibility, and incentives for quality development. At minimum, the Corridor Overlay District will provide the following:

- Permitted and prohibited uses;
- Standards for building, site, landscape, and sign design;
- Standards for pedestrian and bicycle facilities;
- Building setbacks and build-to-lines;
- **Conservation of natural features and native vegetation;**
- Buffers to adjacent residential neighbourhoods;
- Requirements for shared access and side/rear yard parking;
- Incentives (e.g. regulatory relief, increased density, etc.) for the redevelopment of obsolete and poorly performing commercial centers;
- Incentives for projects incorporating mixed uses, public amenities, and affordable housing; and
- Shared parking.

Lee Plan Objective 77.3: New developments must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed or existing right-of-ways.

Lee Plan 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.

Lee Plan Policy 107.2.4: Encourage the protection of viable tracts of sensitive or high quality natural plant communities within developments.

Lee Plan Policy 107.3.1: Encourage upland preservation in and around preserved wetlands to provide habitat diversity, enhance edge effect, and promote wildlife conservation.

Lee Plan Objective 107.4: Endangered and Threatened Species in General. Lee County will continue to protect habitats of endangered and threatened species and species of special concern in order to maintain or enhance existing population numbers and distributions of listed species.

Lee Plan Policy 107.4.2: Conserve critical habitat of rare and endangered plant and animal species through development review, regulation, incentives, and acquisition.

Lee Plan Policy 107.4.3: Require detailed inventories and assessments of the impacts of development where it threatens habitat of endangered and threatened species and species of special concern.

BUFFERS:

The applicant has increased the buffer along Bayshore Road and has offered tree preservation. Originally the buffer proposed was 25-foot wide expanding to 40-foot wide towards the southwestern portion of the buffer. The MCP dated March 10, 2010 is proposing to provide a 50-foot ROW buffer for tree preservation. The 50-foot ROW buffer along Bayshore Road is vegetated with trees and understory; however, a portion of the vegetation is exotics with scattered mature native trees. ES Staff has concerns with the proposed 50-foot ROW buffer providing screening to the project. After exotic removal there may be areas where native trees are absent due to exotic infestation. The applicant has proposed native tree preservation within the 50-foot wide buffer. ES Staff recommended additional plantings after exotic removal to provide a minimum of 15 trees per 100 linear feet for the buffer. The requirement of trees to supplement the natural buffer is to provide screening and sufficient buffering for the project after exotic removal. Any existing trees may be utilized for tree credits at a one-to-one ratio. Allowing additional credit would reduce the number of trees within the buffer lessening the screening for the project. All native trees a minimum 4-inch caliper, within 45-feet of the property line, must be preserved.

Another concern for ES Staff for the Bayshore ROW buffer is the fill requirements and design for the parking area abutting the buffer. The fill for the parking area is approximately 3 to 3.5-feet. Fill placed in this area could impact the 50-foot buffer if proper protection measures are not taken. The applicant has proposed a retaining wall separating the parking area from the buffer area to reduce impacts that could occur from fill placement. Staff recognizes that the building of a retaining wall to separate the parking area from the ROW buffer will impact a portion of the buffer for the construction of the wall however, the wall will assure protection for the remainder of the buffer for tree preservation. Impacts to native trees caused by the construction of the retaining wall will be permitted for a maximum of 5-feet from the proposed wall. After construction of the wall staff

recommends the planting of native shrubs adjacent to the wall to mimic a more natural system and blend with the tree preservation area.

The applicant is providing an enhanced buffer along the northeastern property line where the commercial is adjacent to Chapel Creek RPD/CPD. This buffer will be a minimum of 40-feet wide to a maximum of 50-feet wide. The applicant is not proposing additional planting over what is required for a type "F" buffer. ES Staff recommends that the applicant provide additional trees considering the extra width being proposed and to provide sufficient screening for the adjacent property.

The following Land Development Code (LDC) and Objectives and Policies of the Lee Plan further support ES Staff's recommendation for enhanced plantings within the buffers.

Policy 6.1.6: The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.

Lee Plan Policy 28.2.7: Corridor Overlay District. For areas along major road corridors outside designated Town Centers and Neighbourhood Centers, the North Fort Myers community, Department of Community Development, and Smart Growth Department will work together to prepare a Corridor Overlay District as part of the Land Development Code requiring enhanced landscaping, **greater buffering** and shading of parking areas, improved commercial signage, enhanced standards to ensure architectural quality and compatibility, and incentives for quality development. At minimum, the Corridor Overlay District will provide the following:

- 1) Permitted and prohibited uses;
- 2) Standards for building, site, landscape, and sign design;
- 3) Standards for pedestrian and bicycle facilities;
- 4) Building setbacks and build-to-lines;
- 5) Conservation of natural features and native vegetation;
- 6) **Buffers to adjacent residential neighborhoods;**
- 7) Requirements for shared access and side/rear yard parking;
- 8) Incentives (e.g. regulatory relief, increased density, etc.) for the redevelopment of obsolete and poorly performing commercial centers;
- 9) Incentives for projects incorporating mixed uses, public amenities, and affordable housing; and
- 10) Shared parking.

Objective 77.3: New development must use innovative open space design to preserve existing native vegetation, provide visual relief, and buffer adjacent uses and proposed or existing right-of-ways. This objective and subsequent policies are to be implemented through the zoning process.

ES Staff recommends the following condition for the 50-foot ROW buffer to ensure consistency with the Lee Plan as stated above:

Prior to local development order approval, the development order plans must depict a 50-foot ROW buffer to include at a minimum the following:

- *All native trees a minimum 4-inch caliper, must be preserved.*
- *hand removal of exotics must be utilized, any mechanical clearing may occur with prior approval by Environmental Sciences staff; and,*
- *after exotic removal the 50-foot buffer must contain a minimum of 15 native trees per 100 linear feet; and,*
- *additional trees must be planted if after exotic removal portions of the buffer area has less than 15 trees per 100 linear feet; and,*
- *trees must be planted or retained at a one-to-one ratio with no credits applied; and,*
- *general trees planted within this area must not be used to meet the 15 trees per 100 linear feet; and,*
- *the buffer trees must be planted at 14-feet in height, 4-inch caliper at 12-inches from ground height, with a 4-foot spread; and,*
- *a retaining wall separating the parking area from the 50-foot buffer; and,*
- *no impacts to mature native trees except that which occurs due to the construction, within 5- feet of the retaining wall; and,*
- *18 shrubs per 100 linear feet planted at 24-inches and maintained at 36-inches planted along the retaining wall adjacent to the parking area.*

ES Staff recommends the following condition to ensure additional plantings for the enhanced buffer separating the commercial portion of Bayshore 57 from Chapel Creek RPD/CPD.

Prior to local development order approval, the landscape plans must depict enhanced planting for the buffer separating the commercial portion of Bayshore 57 from Chapel Creek RPD/CPD to include:

- *an enhanced buffer with 15 native canopy trees per 100 linear feet, 14-feet in height, 4-inch caliper at 12-inches from ground height; and,*
- *a double staggered hedge row, 48 inches in height at time of planting maintained at 60-inches; and,*
- *native ground cover, one gallon container size, planted three-feet on center.*

STORMWATER:

The original application depicted one large storm water lake with two areas of dry detention. Subsequent resubmittals have reconfigured the site to include two smaller storm water lakes and does not depict dry detention. ES Staff anticipates dry detention will be required by South Florida Water Management District (SFWMD) or proposed by the applicant and recommends that the applicant

ATTACHMENT P

provide green infrastructure as part of the surface water management system to mimic a natural system.

The following Lee Plan Objectives and Policies support ES Staff's recommendation:

Objective 60.5: Incorporation of Green Infrastructure into the Surface Water Management System. The long-term benefits of incorporating green infrastructure as part of the surface water management system include improved water quality, improved air quality, improved water recharge/infiltration, water storage, wildlife habitat, recreational opportunities, and visual relief within the urban environment.

Policy 60.5.1: The County encourages new developments to design their surface water management systems to incorporate best management practices including, but not limited to, filtration marshes, grassed swales planted with native vegetation, retention/detention lakes with enlarged littoral zones, preserved or restored wetlands and meandering flow-ways.

Objective 61.2: Mimicking the Functions of Natural System. Support a surface water management strategy that relies on natural features and natural systems to receive and otherwise manage storm and surface water.

ES staff recommends the following conditions to ensure that if dry detention is required by SFWMD or is proposed by the applicant that Green Infrastructure will be incorporated into the design of the storm water management area to meet the intent of and consistency with **Objective 60.5** and **Objective 61.2**. The Storm Water must be designed to mimic a natural system incorporating herbaceous vegetation and wetland tree species for filtration and water quality to manage the projects storm water.

Prior to local development order approval, if dry detention is proposed, the landscape plan must depict:

- *the dry detention areas planted to include herbaceous vegetation arranged in clusters and planted in a one gallon container size, three foot on center; and,*
- *the dry detention areas to be planted with scattered cypress (*Taxodium sp.*), red maple (*Acer rubrum*) and/or laurel oak (*Quercus laurifolia*) planted at 10 feet in height, 2-inch caliper with a 4 foot spread and 20 foot on center; and,*
- *general tree credits can be applied as per LDC 10-418 (4) for herbaceous vegetation, and a general tree credit on a ratio of one-to-one for the planting of trees in the dry detention; and,*
- *The required plantings must be designed to not adversely affect the functions and future maintenance of the water management facilities and will meet the requirements of the South Florida Water Management District.*



ATTACHMENT Q

THE SCHOOL DISTRICT OF LEE COUNTY

2855 COLONIAL BLVD. ♦ FORT MYERS, FLORIDA 33966-1012 ♦ (239) 334-1102 ♦ WWW.LEESCHOOLS.NET

March 22, 2010

Tony Palermo, AICP
Lee County Development Services Division
P.O. Box 398
Fort Myers, FL 33902-0398

RE: Bayshore 57 MPD
Case # DCI2007-00045

Dear Mr. Palermo:

This letter is in response to your request dated March 10, 2010 for the proposed Bayshore 57 MPD for substantive comments with regard to educational impact. This Planned Development is located in the East Choice Zone, Sub Zone E1.

This re-submittal for substantive comments has changed its housing type from 192 multi-family units to 104 multi-family and 72 single-family. With regard to the inter-local agreement for school concurrency the generation rates are created from the type of dwelling unit and further broken down by grade level.

For single family the generation rate is .299 and broken down into the following, .150 for elementary, .072 for middle and .077 for high. For multi-family the generation rate is .118 and also broken down into the following, .059 for elementary, .028 for middle and .030 for high. A total of 34 school-aged children would be generated and utilized for the purpose of determining sufficient capacity to serve the development. Currently within the School District there are sufficient seats available to serve this need.

However, there is still a concern as to one of the schedule of uses listed previously within this submittal and does not appear to have been addressed and is the "Consumption on Premises" and Bar or Cocktail Lounge". Florida Statute 562.45(2) (a) prohibits on-premise consumption of alcoholic beverages within 500' of a public school, except for restaurants deriving at least 51% of gross revenues from the sales of food and nonalcoholic beverages. Additionally, Lee County Ordinance Chapter 4, Article 1, Section 4.2 (b) states the same in conjunction with, unless a special permit allowing such on-premise consumption is first obtained from the Board of County commissioners.

There is a school site adjacent to this proposed development. This request is not clear as to the "Consumption on Premises" and "Bar or Cocktail Lounge" or supplied any deviation to the uses; therefore, the School District would find this request insufficient.

Thank you for your attention to this issue. If I may be of further assistance, please call me at (239) 479-5661.

Sincerely,

Dawn Gordon, Community Development Planner
Planning Department

RECEIVED
MAR 23 2010

COMMUNITY DEVELOPMENT

JEANNE S. DOZIER
CHAIRMAN, DISTRICT 2
JANE E. KUCKEL, PH.D.
VICE CHAIRMAN, DISTRICT 3
ROBERT D. CHILMONIK
DISTRICT 1
STEVEN K. TEUBER, J.D.
DISTRICT 4
ELINOR C. SCRICCA, PH.D.
DISTRICT 5
JAMES W. BROWDER, ED.D.
SUPERINTENDENT
KEITH B. MARTIN, ESQ.
BOARD ATTORNEY

Palermo, Anthony

From: Lee, Samuel
Sent: Tuesday, September 08, 2009 10:47 AM
To: Palermo, Anthony
Cc: Farah, Steven; Griffith, Douglas
Subject: FW: DCI2007-00045 Bayshore 57

ATTACHMENT R

Tony,

There is no DNR's comment with this case. Note that the Steven's comment below will be Environmental Science's concern as Doug Griffith agrees.

Thanks,

Sam Lee, P.E.
Engineering Manager
Lee County Natural Resources Division
1500 Monroe Street
Fort Myers, FL 33901

Ph. 239/533-8132
Fax 239/485-8408
E-mail: slee@leegov.com

From: Farah, Steven
Sent: Tuesday, September 08, 2009 10:15 AM
To: Lee, Samuel
Subject: DCI2007-00045 Bayshore 57

New Land Development Codes were adopted June 23, 2009 per section 10-416(d)(9) natural waterways are required to provide a fifty foot natural waterway buffer. Please see below:

- (9) *Development abutting natural waterway.* Except where chapter 33 provides a stricter standard for Greater Pine Island (as defined in Goal 14 of the Plan and in section 33-1002), there must be a 25 50-foot wide vegetative buffer landward from the mean high water line of all nonseawalled natural waterways as measured from the mean high water line or top of bank whichever is further landward.

Please revise to depict a fifty-foot natural waterway buffer on each side of the waterway.

Tony,

Please see NR comments below. Susie – please let Tony know if you have any problem with these.

Thanks,

Sam Lee, P.E.
Engineering Manager
Lee County Natural Resources Division
1500 Monroe Street
Fort Myers, FL 33901

Ph. 239/533-8132
Fax 239/485-8408
E-mail: slee@leegov.com

From: Farah, Steven
Sent: Tuesday, September 09, 2008 1:30 PM
To: Lee, Samuel
Subject: DCI2007-00045 Bayshore 57 MPD

Per your response to Lee County Natural Resource Comments dated August 25, 2008, we have the following additional comments:

1. From Natural Resources Sufficiency Response 2, if a CLOMR or LOMR from FEMA will be needed for this site, this must be obtained prior to zoning approval. If no development in the floodway, then state, "No Improvements or encroachments are proposed within the floodway" in the MCP where the FEMA Floodway is shown.
2. From the previous Natural Resources Sufficiency Response 3, the 20-foot maintenance easement (which can overlap with the 30 feet preserve set-back) must to be shown on the master concept plan. By doing so, the applicant and/or HOA agrees to provide Lee County the right of access, but not the obligation, to perform removal of exotics and downed vegetative debris that restrict the flow of water within the East Daughtrey's Creek area. In addition, the County will be reimbursed by the property owner (or HOA) for all works performed on their property.

ATTACHMENT R

ATTACHMENT S

NORTH FORT MYERS DESIGN REVIEW PANEL

Meeting Minutes

APRIL 6, 2010 (Revised)

I. Call to order

SCOTT J. BRENNER, PRESIDENT, called to order the regular meeting of the NORTH FORT MYERS DESIGN REVIEW PANEL at 6:00 p.m. on **APRIL 6, 2010** in the Theatre Room of North Star Yacht Club, N. Ft. Myers, Fl.

Attendance: The following Board Members were present: Alec Mylan, Jack Howerton, Maynard Houston, John Gardner, Gregg Makepeace, Joe Beck and Mike Land.

The following additional persons were present: Bonnie Makepeace, Ron Wilder, Dick Thomas, Debbie Jackow, Charles Krebbs, Registered Engineer, Fred Drovdlc, AICP, and V. P. of Quattrone & Associates, Inc., and Veronica Martin and Dean Martin, P.E., of TDM Consulting, Inc., Civil Engineering.

Approval of minutes from last meeting

The minutes of the previous meeting, which had been submitted by Mike Land, Secretary, were approved as submitted, upon the motion by Lim Lattmann and the second of Alec Mylan.

OFFICERS' REPORTS

Scott Brenner, President, spoke about the recent public meeting and report on the widening of Pondella Road, and abandoning further consideration of two alternative routes that had been proposed for the extension of Hancock Bridge Parkway to Business 41. John Gardner, Chairman of NFMCPP, pointed out that there is no money presently available to do this project and that if they chose to widen Pondella on the north side, every existing building on that side would be demolished, and if they chose to widen it along the south side, every building on the south side would lose its parking. A freeway would have destroyed the concept of this organization by speeding up the traffic. Jack Howerton observed that they had missed the northbound exit from Ft. Myers via Business 41, and that the Lee County DOT was missing the mark on what was needed. Gregg Makepeace stated that it irked him that the study didn't follow our recommendations, but we should keep the option open to us. John Gardner told The Breeze Newspaper that the NFMCPP intends to continue with our vision statement position.

Short discussion ensued regarding the recent public meeting of Cape Coral to discuss proposed changes to the zoning map. Mike Land made the observation that none of the proposed changes affected the large Zemel tract on the western side of Rt. 41 up to the Charlotte County line. Gregg Makepeace confirmed that there was no map change proposal for that tract because they were so busy with 17 other changes.

Jim Lattmann, V. Pres., reported on the continuing saga of the acquisition of the sewerage facilities in Waterway Estates. It is now scheduled to close title in July, 2010 at a price of \$80,000,000. The new facility will be owned by FGUA, and many millions of dollars worth of improvements will be needed.

NEW BUSINESS

I. PRESENTATION IN SUPPORT OF MASTER CONCEPT PLAN FOR BAYSHORE 57 MPD, BY FRED DROVDLIC, AICP AND V. PRES. OF QUATTRONE & ASSOCIATES, INC.,

a project at the Northeast corner of Bayshore Road (State Road 78) and Samville, one mile east of Interstate 75. Mr. Drovdlc reminded us that he had presented this project to us at our meeting two years ago and pointed out how the project concept has changed since then. Two years ago the project envisioned 200,000 sq. ft. of commercial space and 195,000 sq. ft. of townhouse space, and now the proposal is for 140,000 sq. ft. of commercial space consisting of 70,000 sq. ft. of retail space in a one story building closest to the road, a two-story building behind it housing 70,000 sq. ft. of general medical space and 70,000 sq. ft. of general office space, and behind that in this 57 acre parcel would be a gated residential community consisting of 104 townhouse units and 72 single-family homes on 55' x 125' lots comprising 19 acres, and in the rear of this parcel is 12.7 acres of preserve. To the west in the rear section is a gopher tortoise preserve site. The project proposes 66% open space, more than required and 655 parking spaces, more than required. The developer will build a re-alignment of Samville Road in order to provide a stacking distance utilizing 2 acres. Mr. Drovdlc said that the architectural was not ready yet, but the developer is willing to comply with our preference for Old Florida architecture, incorporating metal roofs, porches, awnings, etc.

Joe Beck requested that the plans show interconnectivity from one phase of the project to the other. Scott Brenner suggested that the project be pedestrian and community oriented. Joe Beck suggested that there be mixed use vertically instead of horizontally. Mr. Drovdlc commented that there needs to be more urban area in order to be successful. John Gardner suggested that we don't render an opinion on this presentation until Fred Drovdlc leaves the room. Debbie Jackow felt that there is not supposed to be commercial lined up in all the developments along Bayshore Rd. – that was not what was intended- and asked how it affected the nearby school and church. Mr. Drovdlc responded that both the church and the school were ok with the project. The church was concerned, but it recently obtained a variance for a sign at the corner, and with our planned re-alignment of Samville they won't be on the corner, and that the developer will probably offer them another location for their sign.

ATTACHMENT S

- II. **PALMONA PARK GOODWILL- Presentation by Veronica Martin, Planner and Dean Martin, P.E. of PDM Consulting, Inc., Civil Engineers.** This was an information-sharing proposal regarding a building to house disabled people in the Palmona Park section near Merchants Crossing, in the vicinity of Atlantic, Capital and Monterrey Streets. Proposal is for 14 units with a clubhouse. This site was supposed to be a community center, but it never materialized because the community couldn't make a decision and so Lee County has offered the site to Goodwill. A variance is required to change from "community facilities" to RM2 multi-family, but an application hasn't been submitted yet.

Gregg Makepeace stated that two years ago at a meeting of the NFM Civic Association, a dozen people said they needed a community center there, and some of those residents are intending to oppose this application. There is some sort of technicality in the Deeding that he is uncertain about. John Gardner felt that this proposal doesn't improve the neighborhood and the nearby Goodwill housing has vacancies. The consensus in the room was that this is not a stable or safe neighborhood for disabled persons. Alec Mylan pointed out that there are no sidewalks in the vicinity, bad roads, no mobility to get to the grocery, etc. and that this organization should send a statement to The Commission that this proposal isn't improving the neighborhood. The Presenter stated that she would report to her client, Goodwill, that this meeting did not go well and that there was considerable opposition.

OPEN DISCUSSION

Joe Beck reported that he met with LaRue Associates and John Gardner and suggested that instead of "native landscaping", which is all green, that there be color and variety; that there be bike racks within 100 feet of a major entry into a building; Pylon signs along the road and not on the buildings themselves for safety reasons; that architecture should be brought into the process of site planning earlier, not later; that parking should be behind buildings; and that there was a disconnect if there was no architectural submissions up front for us to consider.

Charlie Krebs, a registered engineer, stated that Estero **requires** at least a conceptual architectural early on. **Dick Thomas**, an architect, was of the opinion that these applications we heard tonight are in too early a stage to do architectural plans. Conceptual schematic stages are much further advanced than tonight's two projects. **Joe Beck** suggested that it should be written into the Code that the Design Review Panel should review the designs. **John Gardner** stated that he will try to schedule an appearance by a county commissioner at a NFM CPP meeting in April.

A brief discussion ensued concerning the upcoming elections to fill the positions on this Panel. Scott Brenner would not be running for re-election as President. Someone opined that Wayne Daltry might not be running either, since he had applied, along with many others, to fill Janes' vacancy on Lee County Commission.

John Gardner reported that Faith Assembly doesn't like the appearance of the sign they erected, and that in the future we need to know more about what they propose when they come before us, and that we should take more effort to study the applications before we render a decision. **Jack Howerton** stated that we should learn a lesson from this situation- that we should require a site plan and an elevation and nearby utilities detail before passing judgment.

Upon motion by Joe Beck and second of Jim Lattmann, and a unanimous vote, the meeting was adjourned at 7:24 p.m.

NEXT MEETING is May 4, 2010.

ATTACHMENT S

Memo

RECEIVED
MAR 19 2010

COMMUNITY DEVELOPMENT

To: Tony Palermo, Senior Planner
Zoning Division

From: Andy Getch, P.E. *AG*
Engineering Manager I

Date: March 18, 2010

ATTACHMENT T

Subject: Bayshore 57 MPD (DCI2007-00045)

Revised from November 13, 2009

The Lee County Department of Transportation (LCDOT) has reviewed the application for public hearing. This project is located on the northwest corner of the intersection of Bayshore Road, which is part of State Road 78 (SR 78), and Samville Road. FDOT has jurisdictional responsibility for SR 78. Samville Road is a minor collector under the jurisdiction of Lee County with approximately 50 feet of right-of-way. The revised Master Concept Plan dated March 10, 2010 indicates two access points to the project, one to SR 78 and one to Samville Road.

The existing Samville Road has approximately 50 feet of right-of-way. A half-century ago what is now Samville Road was part of SR 78. The Florida Department of Transportation (FDOT) created a new alignment, now Bayshore Road, for SR 78 and removed Samville Road from the state highway system. Bayshore Road/SR 78 crossed Samville Road at a skewed angle. FDOT has recently completed 4-laning improvements to SR 78 which created the existing offset intersection with Samville Road. The applicant's consultant's TIS counted less than 100 intersection turning movements in each peak hour. The submitted TIS, based on previous development parameters, indicated 280 added turning movements in the a.m. and 530 in the p.m. peak hours.

Additional project traffic with the Samville Road offset, skewed angle of the intersection, and the subject property 200 feet of frontage on Samville Road all have the potential to create operational problems. The potential operational problems relate to the approximately 135 degree angle of left turns from SR 78, overlapping left turn paths from Samville Road onto SR 78, sight distance and stacking.

The Master Concept Plan proposes a realignment of Samville Road onto the subject property to begin to address these operational problems. The proposed conceptual realignment is a result of coordination between the applicant's consultant, FDOT and

LCDOT staff. The realignment appears to maximize the connection separation distance for a proposed access from the subject property which also will increase vehicular stacking on Samville Road. The realignment also eliminates the offset intersection and the skewed angle on the north side of the intersection with SR 78. The Master Concept Plan also proposes a direct access point 590 feet east of the center of the realigned intersection. Revisions to the Samville Road intersection connections to SR 78, median opening and the proposed direct access from the subject property to SR 78 are under the jurisdiction of FDOT.

The initial application had requested a deviation from LDC 10-285(a), as the initial application proposed a driveway to the existing Samville Road at less than the 330 feet minimum collector connection separation. LCDOT does not recommend approval of a connection to Samville Road in the existing condition. The proposed realigned Samville Road depicted on the Master Concept Plan is indicated to have 70 feet of right-of-way. The Master Concept Plan does not depict an exact connection separation distance, but does indicate 253 feet of stacking distance from the stop bar to the project entrance. The applicant's consultant indicates that the separation distance is 300 feet and will be requesting a deviation from LDC Section 10-285(a). LCDOT staff recommends APPROVAL of a deviation from connection separation, with the following suggested condition for consideration by DCD and County Attorney's Office staff:

CONDITION:

The applicant is responsible, as a site-related improvement, for all costs of the realignment of Samville Road from State Road 78 to and including the Lee County property to the west (currently in use as a utilities facility). The site-related improvements must include design, permitting, right-of-way dedication, and construction of the roadway realignment, utilities relocation, sidewalk and other roadway appurtenances. The geometric details of the realignment design will be determined at the time of local development order in cooperation with the Florida Department of Transportation.

AJG/LW/dn

cc: File

ATTACHMENT T

SPECIAL CASE FINDING NARRATIVE

COMMUNITY DEVELOPMENT

BAYSHORE 57 MPD

Rezoning from AG-2 to MPD

STRAP#: 20-43-25-00-00003.3000

7401 Bayshore Rd, North Fort Myers, FL 33917

Introduction

According to planning staff and the narrative in section 6.1.2 the maximum commercial retail development able to be permitted is determined, generally, by the functional classification of the intersecting roadways that abut the project. The intersecting roadways abutting the proposed project are Samville and Bayshore Roads. As determined by Lee County DOT Samville Road is considered a Minor Collector. Roads identified as Minor Collector are considered local roads for site location standards. Bayshore Road is classified as a Major Arterial, therefore, the project is on the corner of an Arterial and Local Road. This places the project in the Minor Commercial site location standard.

Minor Commercial is the most basic category allowing up to 30,000 square feet of retail uses. The typical lot size is 2 acres and the retail uses must be constructed within a 330 foot area from the intersecting corner. The category is for a small, local retail center providing services such as a restaurant, a pharmacy, perhaps a bank or a convenience store.

The next step in site location categories increases maximum commercial retail development to up to 100,000 square feet with typical lot sizes of 10 acres. This Neighborhood Commercial category serves areas with more substantial daily needs like grocery stores, department stores and other more significant area-wide services. The site location standard for this category requires access "at the intersection" of at least a collector and arterial roadway.

The site plan that has been presented to and recommended for approval by staff as of May 2010 is a 140,000 square foot office and retail center with 176 unit mix of single family and townhome units. The retail component was presented at 70,000 square feet. Staff recommended approval of 140,000 square feet of commercial but placed the retail limitation at 30,000 square feet through a strict interpretation of site location standards. We understand the interpretation, however, the recommendation does not fully consider the realignment of Samville Road and the dedicated northern access road serving the commercial and residential component. After full consideration of those factors we feel there is justification for up to 70,000 square feet of retail.

ATTACHMENT U

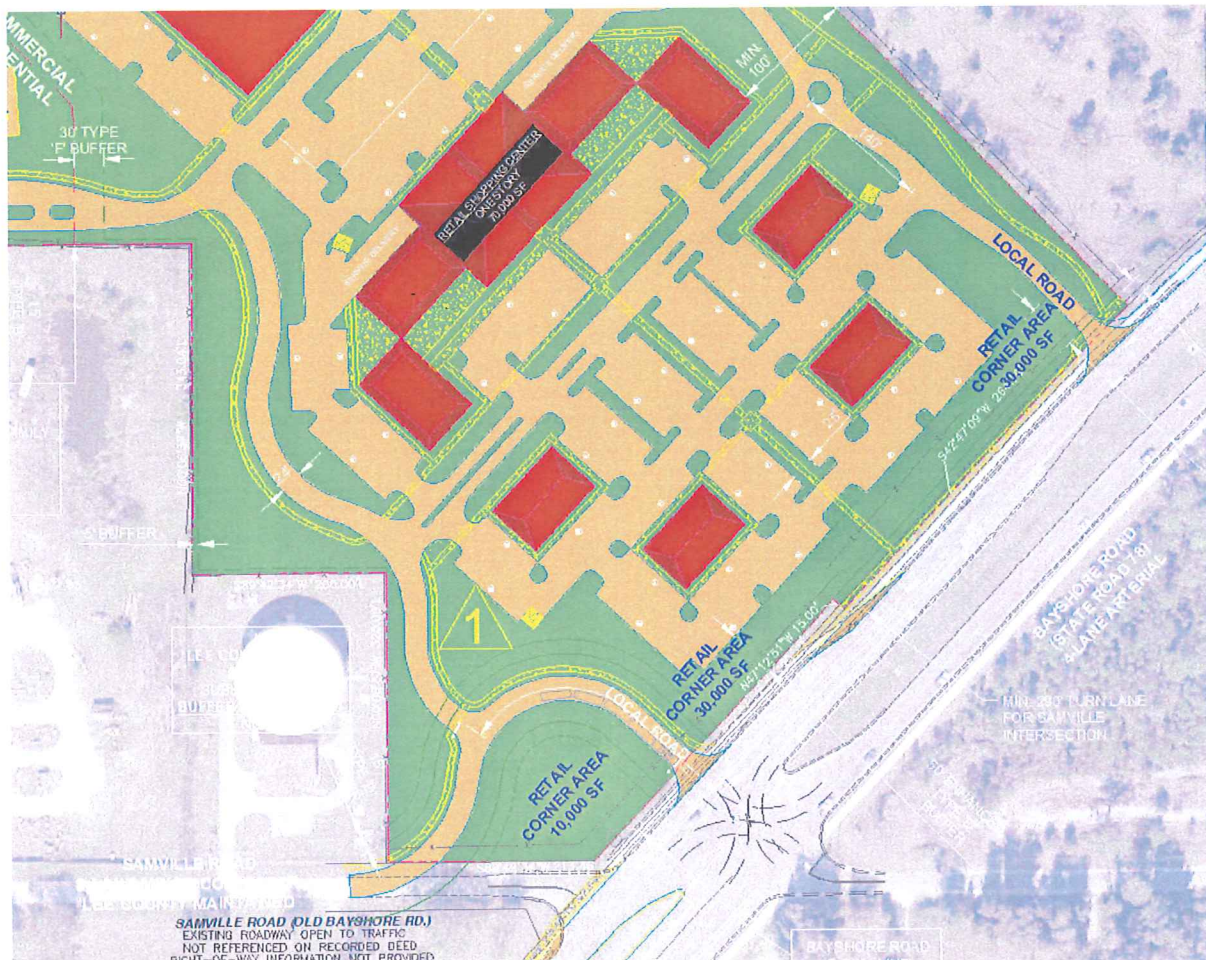
Justification

The realignment of Samville Road helps the case for additional retail in two ways: 1) creates a perpendicular intersection at Bayshore Road that is able to handle more traffic, and 2) creates an additional corner within the property that can be argued to allow additional retail floor space. The "squaring" of the intersection was important for stacking both into and out of the commercial area. From a transportation perspective without this improvement the site would not be appropriate for 140,000 square feet of commercial floor space. With the realignment LCDOT and FDOT have both agreed the site now works for a retail and commercial center of the proposed size.

The realignment forced Samville Road north along Bayshore Road. This move placed Samville Road within the project area. On the south side of the new Samville Road is nearly 1 acre that could conceptually be appropriate for retail uses. A typical acre is able to support 10,000 square feet.

Secondly, the redesign of the site plan and subsequent reduction in units and commercial floor space allowed for a dedicated northern access road for the commercial and residential areas that can be platted and limited with access points and therefore operate as a local road. The northern dedicated access road creates another corner qualifying the site for up to another 30,000 square feet of uses that meet site location standards.

ATTACHMENT U



MEMORANDUM

FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT
DIVISION OF PLANNING

DATE: July 6, 2010

TO: Mr. Tony Palermo, AICP
Senior Planner, Division of
Zoning

FROM: 
Brandon Dunn
Senior Planner, Division of
Planning

ATTACHMENT V

RE: **Bayshore 57 MPD (DCI2007-00045)**
Division of Planning Substantive Comments

As submitted on March 10, 2010, the rezoning application and Master Concept Plan for the Bayshore 57 Mixed Use Planned Development, DCI2007-00045, consist of 35,000 square feet of medical office, 35,000 square feet of commercial office, and 70,000 square feet of retail commercial with a wide range of commercial uses. The proposed development is also proposing 176 residential units.

In response to the Division of Planning memo dated April 19, 2010, the applicants representatives submitted a "Special Case Finding Narrative," dated June 28, 2010. Planning Staff has reanalyzed the proposed development's consistency with Policy 6.1.2 based on the reasons provided by the applicant in their Special Case Finding Request.

Policy 6.1.2: Site Location Standards:

Staff notes that the applicant has reduced the requested square feet of retail commercial uses from the originally requested of 80,000 square feet, down to 70,000 square feet. The proposed project will front on Bayshore Road. This project is located on the north side of the intersection of Bayshore Road, an arterial road; and Samville Road, a minor collector road. According to Policy 6.1.2, paragraph 3, minor collector roads are considered to be local roads when making site location standard determinations.

Commercial intensities consistent with a Minor Commercial Center are permitted at the intersection of a local road and an arterial road, such as Bayshore Road, in accord with Policy 6.1.2 of the Lee Plan. As proposed by the applicant, the project will be located at

two corners of the Bayshore Road and Samville Road intersection, and one corner of the Bayshore Road intersection with the proposed local road intended to serve the residents located at the rear of the Bayshore 57 site. Typically Lee County's Site Location Standards would permit up to 30,000 square feet of retail commercial uses at each corner of an arterial and local road intersection. However, the southwest corner at the intersection of Samville Road and Bayshore Road is approximately 1 acre in size, and was created on the site due to the requested realignment of Samville Road by Lee County DOT. Planning staff believes that it would be appropriate to limit the development associated with this corner to 10,000 square feet of retail commercial uses. Given this, the appropriate amount of retail commercial uses for the proposed project should be limited to 70,000 square feet.

The applicant is proposing 70,000 square feet of retail commercial uses for the development. The applicant is also proposing that the southwest corner will be left undeveloped, and that the 10,000 square feet that Planning staff finds to be appropriate there will be distributed throughout the project. To accomplish this, the applicant has requested a special case finding because the intersections that will be developed will each have 35,000 square feet of retail commercial uses, which exceeds the range of square feet normally associated with Minor Commercial Centers.

Staff supports the request for a special case finding for the following reasons:

- The development as proposed by the applicant will not increase the overall intensity of retail commercial uses on the subject site;
- the design as proposed by the applicant will provide a more efficient use of space by concentrating the retail commercial uses within a single site that is not separated by Samville Road;
- the site design will create increased opportunities for internal trip capture;
- the proposed site design will create a more pedestrian friendly environment, and;
- the proposed site design will limit the amount of commercial access points on Samville Road and potentially Bayshore Road, reducing potential traffic hazards that can be caused by multiple commercial access points.

Policy 1.1.5: Suburban Future Land Use Category:

Policy 1.1.5 of the Lee Plan is a description of the development that is expected to occur within the Suburban future land use category. Policy 1.1.5 states that the land development pattern in the Suburban future land use category will be predominantly residential, and requires the protection of existing or emerging residential neighborhoods. Policy 5.1.5 of the Lee Plan also requires that existing and future residential areas be protected from any encroachment of uses that are potentially destructive to the character

and integrity of the residential environment. There is a substantial amount of residential development immediately south of the proposed project, on the south side of Bayshore Road. There have also been recent approvals on the properties to the east, north, and west of the subject site. To the north and east of the project site is the Oak Creek RPD, which has recently been approved with 1,120 residential units. To the east is the Chapel Creek RPD/CPD, which has recently been approved with 630 residential units. The Chapel Creek RPD/CPD is proposing to locate single family homes along its southwest boundary, adjacent to the commercial portion of this proposed development. The proposed MPD master concept plan minimizes the impacts the retail commercial uses will have on the adjacent residential properties by locating the parking along Bayshore Road and internal to the retail uses. The applicant has also reduced the amount of parking that had initially been proposed for the project by correctly applying the parking standards for Multiple-occupancy calculations found at Section 34-2020(5) of the Land Development Code. The proposed site design of the Bayshore 57 project, provides protections to the existing and emerging residential areas, and is consistent with Policy 1.1.5 and Policy 5.1.5 of the Lee Plan.

Policy 1.1.5 goes on to say that commercial intensities greater than Neighborhood Commercial Centers are not permitted. The Bayshore 57 project is proposing to develop urban commercial intensities at the Minor Commercial Center level, which is less intense than Neighborhood Commercial Center intensities. This is found to be appropriate within the Suburban future land use category. The proposed master concept plan is consistent with Policy 1.1.5. and Policy 5.1.5 of the Lee Plan.

Goal 4: Sustainable Development Design

Policy 4.1.2 requires “that the internal street system is designed for the efficient and safe flow of vehicles and pedestrians without having a disruptive effect on the activities and functions contained within or adjacent to the development.” Based on the traffic distribution identified by the applicants Traffic Impact Statement (TIS) and the location of the full median opening, it is anticipated that the western access, with a full medium cut, will serve as the primary access point. The internal site design provides that the western access is a separated drive to the residential uses in the back of the property that will provide the efficient and safe flow of vehicles. The eastern access to the project site also provides separation of the residential and commercial traffic. The applicant has revised the site design to provide a more efficient pedestrian system. The applicant is proposing an internal pedestrian system within the commercial area of the master concept plan. Planning staff finds the proposed site design and master concept plan to be consistent with Policy 4.1.2 of the Lee Plan.

Conclusion

Planning staff accepts the reasons advanced by the applicant in the request for a “Special Case Finding” per Policy 6.1.2, paragraph 8. Therefore, the proposed project is consistent with Policy 6.1.2 of the Lee Plan. Furthermore, Planning staff now finds that the proposed project is consistent with the Lee Plan, including the Policies mentioned above, and recommends **APPROVAL** of the zoning request.

PROPERTY DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 29 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH 89°43'21" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 20, FOR 292.75 FEET; THENCE SOUTH 43°58'29" EAST FOR 2875.15 FEET TO A POINT ON A CURVE, SAID POINT BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (BAYSHORE ROAD), SAID CURVE BEING CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 2814.79 FEET SUBTENDED BY A CHORD OF 184.68 FEET AT A BEARING OF SOUTH 44°24'15" WEST; THENCE RUN SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 3°14'14", FOR AN ARC DISTANCE OF 184.68 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 42°47'09" WEST FOR A DISTANCE OF 284.79 FEET TO THE NORTHEASTERLY CORNER OF PARCEL #122 SECTION 12060-2535 STATE ROAD 783 AS RECORDED IN INSTRUMENT #2006000126434 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 47°12'51" WEST ALONG THE NORTHEASTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 15.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL #122; THENCE SOUTH 42°47'09" WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 365.75 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL #122 AND A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SANVILLE ROAD (OLD BAYSHORE ROAD); THENCE SOUTH 89°42'36" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 213.46 FEET TO A POINT ON THE EASTERLY LINE OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1215, PAGE 890 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°04'14" EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 300.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE SOUTH 89°42'38" WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND AND A POINT ON THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE NORTH 00°04'14" EAST ALONG SAID WEST LINE A DISTANCE OF 342.88 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'47" WEST FOR A DISTANCE OF 660.30 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°00'59" EAST FOR A DISTANCE OF 667.88 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'59" WEST FOR A DISTANCE OF 660.93 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 0°02'16" WEST ALONG THE WEST LINE OF SAID SECTION 20 FOR A DISTANCE OF 1335.82 FEET TO THE POINT OF BEGINNING.

CONTAINING 56.76 ACRES MORE OR LESS.

Applicant's Legal Checked
by CG 3/24/08

DP# 2007-00045

DCI 2007-00045

EXHIBIT "A"

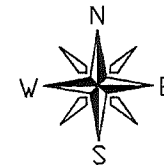
P.O.B.
W. 1/4 CORNER
SECTION 20

INSTRUMENT #
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VACANT
NOT PLATTED

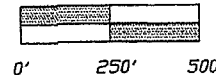
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N89°43'21"E 1031.64'

S89°43'21"W 1324.38'

N.E. CORNER
S.W. 1/4
SECTION 20



SCALE: 1" = 500'



LEGEND

O.R. OFFICIAL RECORDS BOOK
PG. PAGE
P.O.B. POINT OF BEGINNING

NOTES:

- 1.) BEARINGS SHOWN HEREON REFER TO THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING A ASSUMED BEARING OF N.89°43'21"E.
- 2.) DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.

PROPERTY DESCRIPTION

A PARCEL OR TRACT OF LAND LYING IN SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 20, THENCE RUN NORTH 89°43'21" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 20, FOR 292.75 FEET, THENCE SOUTH 43°58'29" EAST FOR 2875.15 FEET TO A POINT ON A CURVE, SAID POINT BEING ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-78 (BAYSHORE ROAD), SAID CURVE BEING CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 2914.79 FEET SUBTENDED BY A CHORD OF 164.66 FEET AT A BEARING OF SOUTH 44°24'15" WEST; THENCE RUN SOUTHWESTERLY ALONG SAID RIGHT-OF-WAY LINE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 31°14'14", FOR AN ARC DISTANCE OF 164.66 FEET TO A POINT OF TANGENCY; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE, SOUTH 42°47'09" WEST FOR A DISTANCE OF 284.79 FEET TO THE NORTHEASTERLY CORNER OF PARCEL #122 SECTION 12060-2535 STATE ROAD 783 AS RECORDED IN INSTRUMENT #2006000126434 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 47°12'51" WEST ALONG THE NORTHEASTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 15.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL #122; THENCE SOUTH 42°47'09" WEST ALONG THE NORTHWESTERLY LINE OF SAID PARCEL #122, A DISTANCE OF 365.75 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL #122 AND A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAMVILLE ROAD (OLD BAYSHORE ROAD); THENCE SOUTH 89°42'36" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 213.46 FEET TO A POINT ON THE EASTERLY LINE OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1215, PAGE 896 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTH 00°04'14" EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 300.00 FEET TO THE NORTHEAST CORNER OF SAID PARCEL; THENCE SOUTH 89°42'36" WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 200.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL OF LAND AND A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE NORTH 00°04'14" EAST ALONG SAID WEST LINE A DISTANCE OF 342.85 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'47" WEST FOR A DISTANCE OF 660.30 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 00°05'59" EAST FOR A DISTANCE OF 667.88 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN SOUTH 89°42'59" WEST FOR A DISTANCE OF 660.93 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 20; THENCE RUN NORTH 00°21'16" WEST ALONG THE WEST LINE OF SAID SECTION 20 FOR A DISTANCE OF 1335.82 FEET TO THE POINT OF BEGINNING.

CONTAINING 56.76 ACRES MORE OR LESS.

3/18/08
KRIS A. SLOSSER, STATE OF FLORIDA, (P.S.N. #5560)

Applicant's Legal Checked
By: [Signature]

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
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LINE TABLE		
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L2	213.46	S89°42'36"W
L3	25.00	N0°04'14"E
L4	292.75	N89°43'21"E
L5	200.00	S89°42'36"W
L6	300.00	N0°04'14"E
L7	264.79	S42°47'09"W

INSTRUMENT #
2006000198664
VACANT
NOT PLATTED

VACANT
NOT PLATTED
56.76 acres
LIVESTOCK & PASTURE
PER QUATTRONE & ASSOCIATES
O.R. BOOK 1408 PAGE 1746

O.R. BOOK 4585 PAGE 1273
VACANT
NOT PLATTED

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

O.R. BOOK 337 PAGE 547
OCCUPIED
NOT PLATTED

O.R. BOOK 1215 PAGE 896
WATER PLANT
NO ACCESS
PERMITTED
NOT PLATTED

S.W. CORNER
SECTION 20

N89°42'36"E 659.67' N89°42'36"E 659.67'

SAMVILLE ROAD (OLD BAYSHORE RD.
EXISTING 30' ROADWAY

S.E. CORNER
S.W. 1/4
SECTION 20

NOT A SURVEY

SKETCH & LEGAL DESCRIPTION EXHIBIT "A"

A PARCEL OF LAND LOCATED IN
SECTION 20, TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

KRIS A SLOSSER P.S.M.

4650 VILLA CAPRI LN. BONITA SPRINGS

FLORIDA 34134 (239) 947-1915

SCALE: 1" = 500'
DRAWING: 60489SKETCH
DRAWN BY: KAS
JOB#: 60489SKETCH