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

WHEREAS, an application was filed by the property owner, Khamashta Najwa, to rezone 1.74± acres from Residential Single-Family (RS-1) to Commercial Planned Development (CPD), in reference to Sunshine 23 CPD; and,

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner was advertised and held on August 21, 2014; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2014-00008 and recommended approval, subject to conditions and deviations, of the Request; and

WHEREAS, a second public hearing was advertised and held on October 22, 2014, before the Lee County Board of County Commissioners; and,

WHEREAS, the Lee County Board of Commissioners 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 1.74± acres from RS-1 to CPD, to allow a maximum of 12,000 square feet of commercial uses on property legally described in attached Exhibit "A." Maximum requested building height is 35 feet. No development blasting is requested. Public potable water and public sanitary sewer service are not available to serve the property. The property is located in the Urban Community Future Land Use Category and is legally described in attached Exhibit "A." The request is APPROVED, SUBJECT TO the conditions and deviation specified in Sections B and C below.

SECTION B. CONDITIONS:

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

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

The development of this project must be substantially consistent with the 2-page Master Concept Plan (MCP) entitled "MASTER CONCEPT PLAN, SUNSHINE 23 CPD," dated 10/14, date-stamped "Received NOV 04 2014, Community Development" and attached as Exhibit "C," except as modified by the conditions below.

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

This rezoning allows a maximum of 12,000 square feet of commercial floor area, including office and/or retail.

2. **Uses and Site Development Regulations**

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

Schedule of Uses

Accessory Uses and Structures
Administrative Office
Animal Clinic or Kennel – in compliance with §34-1321, *et. seq.*
(No outdoor runs).
ATM
Auto Parts Store,
Banks and Financial Establishments, Groups I and II
Business Services, Group I only
Cleaning and Maintenance Services
Clothing Store, General
Computer Data and Processing Services
Consumption on Premises – only in conjunction with
a Group III Restaurant and limited to indoor seating only.
Outdoor seating for consumption on premises requires
an amendment to the planned development (public hearing)
Convenience Food and Beverage Store - Subject to condition 15 herein
Day Care Center – Child or Adult – buildings, structures and/or any outdoor
playgrounds must be a minimum of 60 feet from any neighboring
residentially-zoned property line
Drive-Through Facility for Any Permitted Use
Drugstore/Pharmacy
Essential Services
Essential Services Facilities, Group I only
Fences, Walls

Food Stores, Group I only
Gift and Souvenir Shop
Hardware Store
Hobby, Toy and Game Shops
Household and Office Furnishings, Groups I and II
Insurance Companies
Laundry and Dry Cleaning, Group I only
Medical Offices
Non-Store Retailers
Parcel and Express Services
Paint, Glass or Wallpaper
Parking Lot, Accessory, Temporary
Personal Services, Groups I, II and III
Pet Services
Post Office
Real Estate Sales Office
Rental and Leasing Establishments, Group II only
Restaurants, Groups I, II and III
Restaurants, Fast Food – in compliance with §34-1353
Retail and Wholesale Uses when clearly incidental and subordinate to a permitted principal use on the same premises
Schools, Commercial
Self-Service Fuel Pumps – limited to a maximum 12 pumps and subject to condition 15 herein
Signs per LDC Chapter 30
Social Services, Groups I and II
Specialty Retail Shops, Groups I and II.
Studios
Temporary Uses
Used Merchandise Stores, Group I only
Variety Store

b. Site Development Regulations

Minimum Lot Areas and Dimensions

Lot Size:	20,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Setbacks

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

All Accessory Uses: In accordance with the LDC.

Minimum Building Separation: 20 feet.

Building Height: 35 feet

Maximum Lot Coverage: 40%

3. **No Blasting**

Blasting is prohibited.

4. **Concurrency**

Approval of this CPD rezoning does not constitute a finding that the proposed project meets the concurrency requirements of the Lee Plan or the LDC. The developer must demonstrate compliance with concurrency requirements prior to issuance of a local development order.

5. **Vehicular/Pedestrian Impacts**

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

6. **Lee Plan Consistency**

Approval of this CPD rezoning request 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), and the remainder of the Lee Plan.

7. **Solid Waste Management**

Development order plans for vertical development must comply with §10-261 and Lee County Solid Waste Ordinance No. 11-27 for the pick-up/disposal of solid waste and recyclables.

8. **Utilities**

Potable water and sanitary sewer services are not available to the site. Connection to these public utilities is required when service is available or when the development meets the connection thresholds set forth in §10-352 for potable water and §10-353 for sanitary sewer.

9. **State/Federal Permits**

Issuance of a Lee County development permit does not grant the right to obtain permits from State or Federal agencies. A Lee County development order does not render the County liable for the developer's failure to obtain State or Federal agency approvals or to fulfill obligations imposed by those agencies. Further, the County is not liable for developer's actions that are in violation of State or Federal laws.

10. **Public Utility and Drainage Easements**

The developer must vacate existing public utility and drainage easements between internal lot lines prior to development order approval.

11. **Protected Species**

The developer must submit a protected species survey with the application for a local development order.

If development will impact gopher tortoises, the developer must also submit a gopher tortoise management plan consistent with the requirements of the LDC for review by the Division of Environmental Sciences (ES). The gopher tortoise management plan must include information on the relocation efforts reviewed and approved by the Florida Fish and Wildlife Conservation Commission (FWC).

The developer must submit a copy of the FWC gopher tortoise permit to ES staff prior to the issuance of a vegetation removal permit for areas that will impact gopher tortoises.

12. **Open Space**

The development order plans must reflect a minimum of 25% open space.

13. **Buffers**

The development order landscape plan must demonstrate the use of 100% native vegetation for required onsite landscaping.

14. **Detention Plantings**

The development order landscape plan must reflect dry detention areas planted with native herbaceous vegetation, a minimum 1 gallon container size, planted 3 feet center on center in accordance with §10-418(4).

15. **Convenience Food and Beverage Store and Self-Service Fuel Pump Use**

The development of a convenience food and beverage store with self-service fuel pumps will be subject to the following:

a. Western Property Boundary Buffer. The western property buffer must consist of a 20-foot-wide strip to include an 8-foot-high wall measured consistent with §10-414. The buffer must include indigenous species - eight trees and 30 shrubs per 100 lineal feet and conform to the size requirements of §10-416. Plantings must be located on the residential side of the wall.

b. Amplified Sound. Built-in speakers on fuel pumps are permitted, however the volume controls must be set to the lowest possible level allowing audible communication between employees and patrons between the hours of 11:00 p.m. and 7:00 a.m. Other outside loudspeakers or public address systems are prohibited.

c. Deliveries. Semi-tractor trailer deliveries are prohibited between the hours of 12:00 a.m. and 5:00 a.m. as long as the adjacent lots on the west remain zoned and developed for residential use.

d. Dumpsters. Garbage and grease dumpsters must be located at least 25 feet from the west property line and enclosed/screened from view of adjacent roadways and residentially zoned property.

e. Lighting. Project lighting must comply with §§34-625 and 34-936(g), and must be directed away from adjacent residential lots.

SECTION C. DEVIATIONS:

1. Connection Separation. Deviation (1) seeks relief from the §10-285(a) requirement to provide a minimum connection separation of 660 feet along arterial streets, to allow a connection separation of 245 feet and 290 feet on 23rd Street SW, an arterial street along the project's northern boundary. This deviation is APPROVED, SUBJECT TO the following condition:

   The development order plans must reflect a possible future interconnection with the property to the west on 23rd Street SW. The property owner must provide a cross access easement to the adjacent property owner on 23rd Street SW if that property is rezoned for commercial use. The location and width of the easement will be determined at the development order review stage.

SECTION D. EXHIBITS:

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

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 deviation, as conditioned, enhances 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 John Manning made a motion to adopt the foregoing resolution, seconded by Commissioner Cecil L Pendergrass. The vote was as follows:

John Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 22nd day of October, 2014.

ATTEST:
LINDA DOGGETT, CLERK

BY: Marcia Wilson
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Larry Kiker, Chair

BOARD OF COUNTY COMMISSIONERS SEAL LEE COUNTY, FLORIDA

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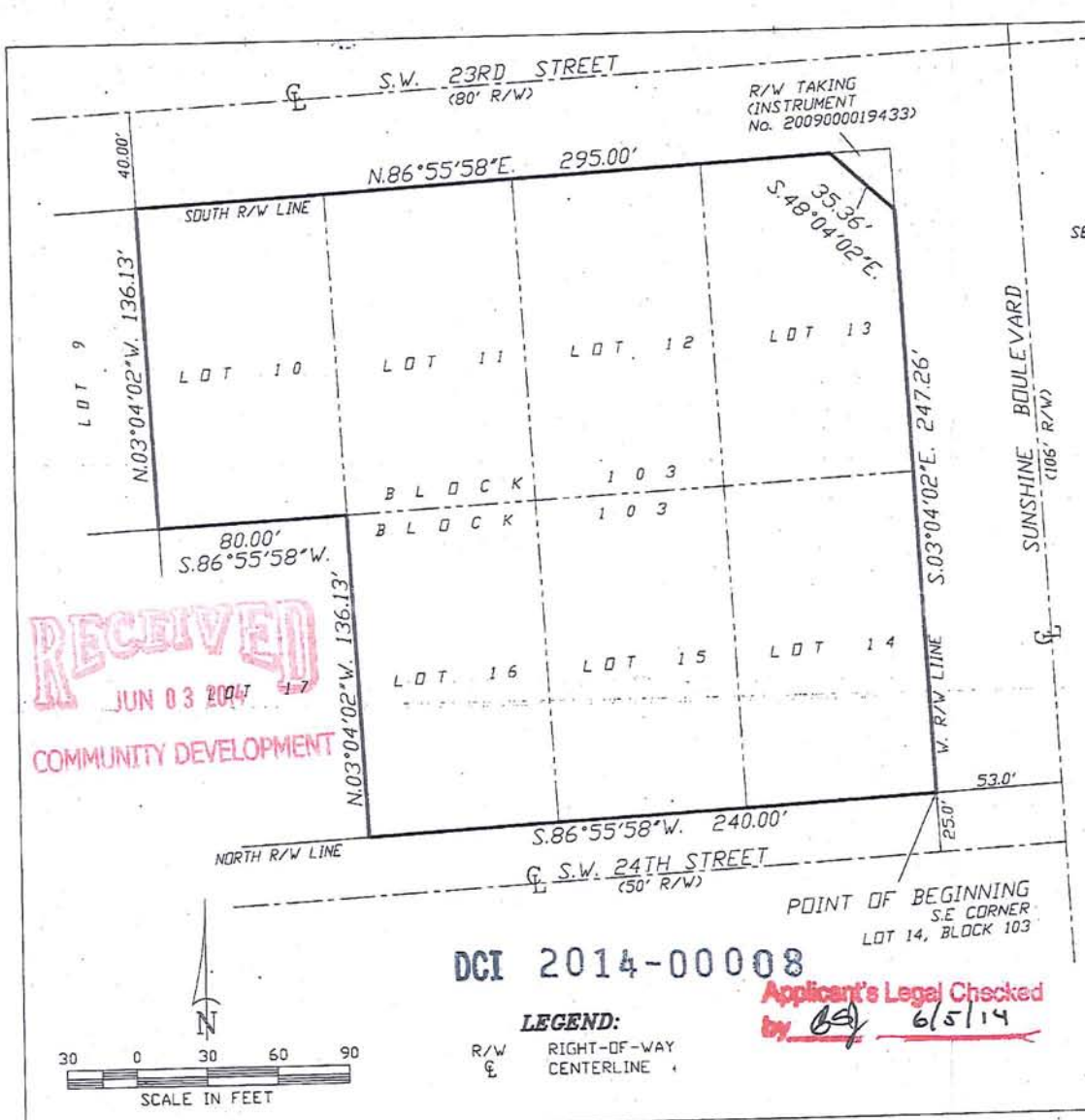
MINUTES OFFICE
MW
2014 NOV 12 PM 2:00

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

John J. Fredyma
Senior Assistant County Attorney
County Attorney's Office



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JUN 03 2014
COMMUNITY DEVELOPMENT

DCI 2014-00008

Applicant's Legal Checked
by BS 6/5/14

LEGEND:

R/W RIGHT-OF-WAY
℄ CENTERLINE

SKETCH AND DESCRIPTION OF:

LOTS 10, 11, 12, 13, 14, 15 & 16 BLOCK 103, UNIT 11 LEHIGH ACRES

SECTION 2, TOWNSHIP 45 SOUTH, RANGE 26 EAST
(PLAT BOOK 15, PAGE 94), LEE COUNTY, FLORIDA

&

LOT 12 & LOT 13, LESS INSTRUMENT No. 2009000019433, BLOCK 103, UNIT 11 LEHIGH ACRES BEING A REPLAT OF TRACT "D"

SECTION 2, TOWNSHIP 45 SOUTH, RANGE 26 EAST (PLAT BOOK 26, PAGE 175) LEE COUNTY, FLORIDA FURTHER DESCRIBED AND SHOWN HEREON AS FOLLOWS:

DESCRIPTION:

LOTS 10, 11, 12, 13, 14, 15 & 16 BLOCK 103, UNIT 11 LEHIGH ACRES SECTION 2, TOWNSHIP 45 SOUTH, RANGE 26 EAST (PLAT BOOK 15, PAGE 94) LEE COUNTY, FLORIDA, LESS INSTRUMENT No. 2009000019433 AS RECORDED IN PUBLIC RECORDS OF LEE COUNTY FLORIDA, BLOCK 103, UNIT 11 LEHIGH ACRES BEING A REPLAT OF TRACT "D" SECTION 2, TOWNSHIP 45 SOUTH, RANGE 26 EAST (PLAT BOOK 26, PAGE 175) LEE COUNTY, FLORIDA FURTHER DESCRIBED AND SHOWN HEREON AS FOLLOWS:
FROM THE SOUTHEAST CORNER OF LOT 14, BLOCK 103, LYING ALONG THE WEST RIGHT-OF-WAY LINE OF SUNSHINE BOULEVARD (106 FEET WIDE) AND THE NORTH RIGHT-OF-WAY LINE OF S.W. 24TH STREET (50 FEET WIDE), LEHIGH ACRES UNIT 11, AS RECORDED IN PLAT BOOK 15, PAGE 94, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THENCE RUN S.86°55'58"W. ALONG THE SAID NORTH RIGHT-OF-WAY LINE S.W. 24TH STREET TO THE SOUTHWEST CORNER OF LOT 16, SAID BLOCK 103, LEHIGH ACRES UNIT 11, FOR 240.00 FEET; THENCE RUN N.03°04'02"W. ALONG THE WEST LINE SAID LOT 16, BLOCK 103, FOR 136.13 FEET; THENCE RUN S.86°55'58"W. TO THE SOUTHWEST CORNER OF LOT 10, SAID BLOCK 103, FOR 80.00 FEET; THENCE RUN N.03°04'02"W. ALONG THE WEST LINE OF SAID LOT 16, BLOCK 103, TO A POINT ALONG THE SOUTH RIGHT-OF-WAY LINE OF S.W. 23RD STREET (50 FEET WIDE) FOR 136.13 FEET; THENCE RUN N.86°55'58"E. ALONG SAID SOUTH RIGHT-OF-WAY LINE S.W. 23RD STREET TO THE WESTERLY CORNER OF THAT CERTAIN DOCUMENT OF RIGHT-OF-WAY TAKING DESCRIBED AS INSTRUMENT NUMBER 2009000019433, ON FILE WITH THE CLERK OF THE CIRCUIT COURT RECORDED IN THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, FOR 295.00 FEET; THENCE RUN S.48°04'02"E. TO A POINT ALONG THE WEST RIGHT-OF-WAY LINE OF SAID SUNSHINE BOULEVARD (106 FEET WIDE) FOR 35.36 FEET; THENCE RUN S.03°04'02"E. ALONG SAID WEST RIGHT-OF-WAY LINE SUNSHINE BOULEVARD TO THE SOUTHEAST CORNER SAID LOT 14, BLOCK 103 UNIT 11 LEHIGH ACRES, FOR 247.26 FEET TO THE POINT OF BEGINNING.

CONTAINING: 75,920.3 SQUARE FEET OR 1.74 ACRES ±

NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE WEST RIGHT-OF-WAYLINE OF SUNSHINE BOULEVARD AS BEING "ASSUMED" AS S.03°04'02"E.
2. FIELD NOTES IN SECTION LEHIGH ACRES UNIT 11.
3. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
4. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE, ZONING OR FREEDOM OF ENCUMBRANCES.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
8. THIS SURVEY IS INTENDED TO BE VIEWED AS AN 11X14, 60 SCALE DRAWING.

THIS SKETCH AND DESCRIPTION IS CERTIFIED TO: GARY MUELLER

NOT A BOUNDARY SURVEY

Phillip M. Mould
MAY 9, 2014

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER.
#6515 - STATE OF FLORIDA

HARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. S. 3A
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

EXHIBIT A

DESCRIPTION:

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CONTAINING: 75,920.3 SQUARE FEET OR 1.74 ACRES ±

Applicant's Legal Checked
by CSJ 6/6/14

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JUN 03 2014
COMMUNITY DEVELOPMENT

Phillip M Mould

PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
#6515 - STATE OF FLORIDA
9/12/13

DCI 2014-00008

HARRIS-JORGENSEN, INC.
3046 DEL PRADO BLVD. S. 3A
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

DCI2014-00008

Zoning Map

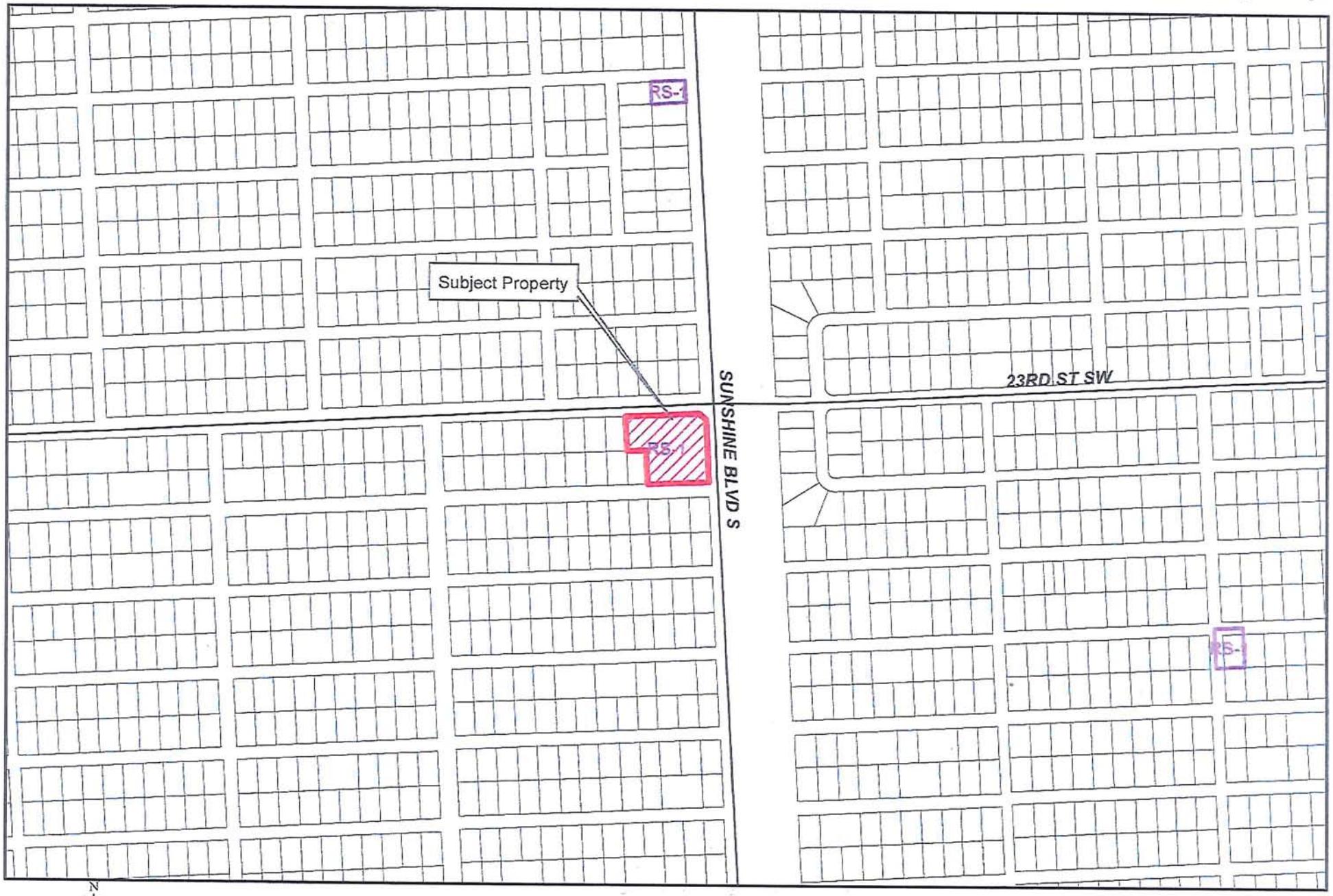


EXHIBIT B

N

0 10 20 30 60
SCALE FEET

1" = 60'

LEGEND
PROPOSED LOADING AREA: *
REQUESTED DEVIATION: (#)

SITE DATA

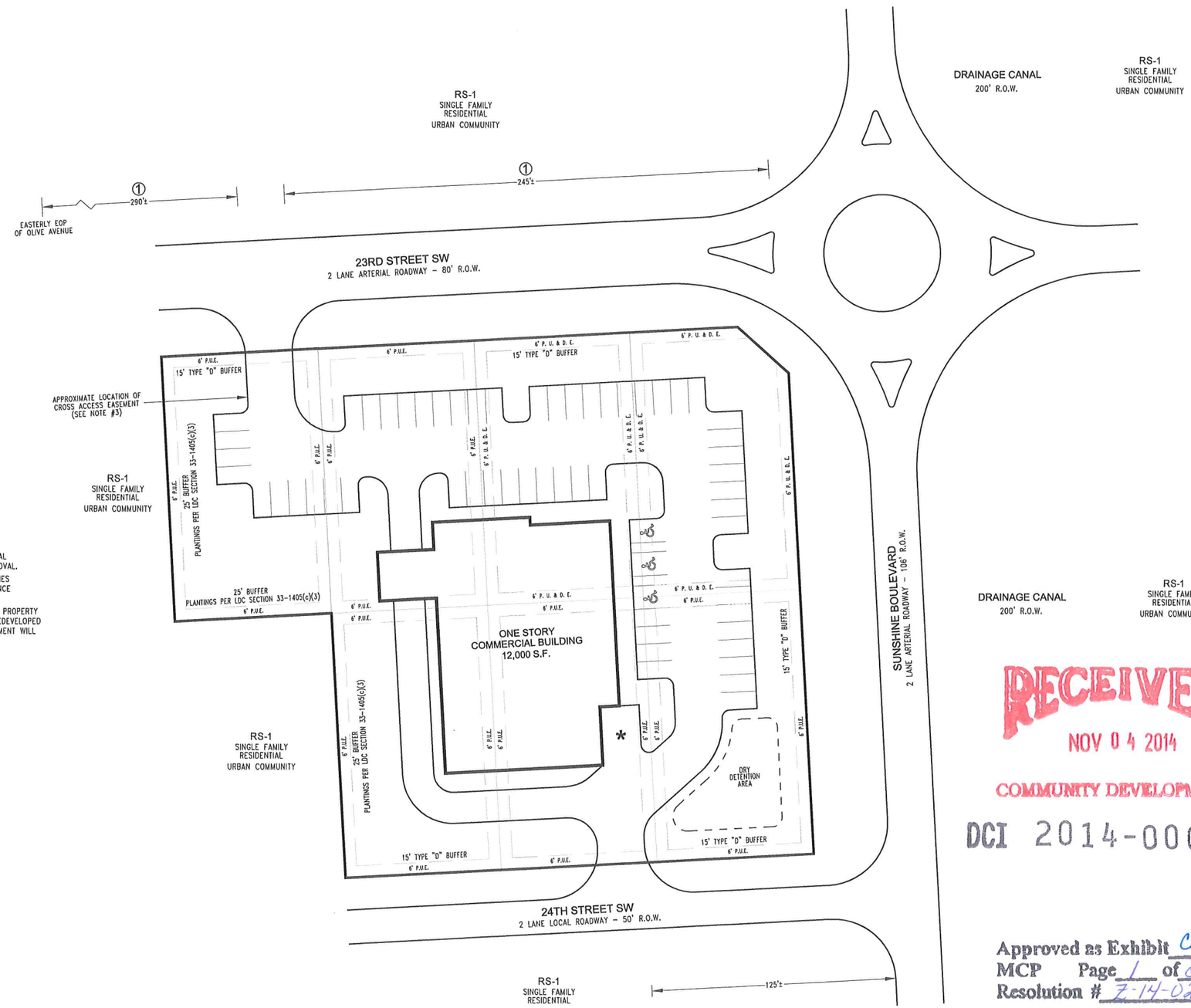
TOTAL SITE AREA:	1.74 ACRES
COMMERCIAL BUILDING AREA:	12,000 S.F.
MAXIMUM BUILDING HEIGHT:	35 FEET
MINIMUM OPEN SPACE:	25 PERCENT

OPEN SPACE CALCULATIONS
REQUIRED: 1.74 ACRES X 20% = 0.35 ACRES
OPEN SPACE PROVIDED: 0.44 ACRES [1]

[1] ALL AREAS EXCLUDING BUILDING AND PAVEMENT.

NOTES

1) EXISTING PUBLIC UTILITY AND DRAINAGE EASEMENTS ALONG INTERNAL LOT LINES WILL BE VACATED PRIOR TO DEVELOPMENT ORDER APPROVAL.
2) THE PROPOSED DEVELOPMENT WILL PROVIDE THE REQUIRED FACILITIES FOR SOLID WASTE/RECYCLING STORAGE AND PICK UP IN ACCORDANCE WITH LDC SECTION 10-261.
3) A CROSS ACCESS EASEMENT WILL BE PROVIDED TO THE ADJACENT PROPERTY TO THE WEST ALONG 23RD STREET SHOULD THAT PROPERTY BE REDEVELOPED IN THE FUTURE. THE EXACT LOCATION AND WIDTH OF SAID EASEMENT WILL BE DETERMINED PRIOR TO LOCAL DEVELOPMENT ORDER APPROVAL.



DRAINAGE CANAL
200' R.O.W.
RS-1
SINGLE FAMILY
RESIDENTIAL
URBAN COMMUNITY

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COMMUNITY DEVELOPMENT
DCI 2014-00008

Approved as Exhibit C
MCP Page 1 of 2
Resolution # Z-14-025

	REVISION	DATE
FILE #	1309RMCP	
DATE	10/14	
SCALE	NOTED	
DESIGN	GFM	
DRAWN	GFM	
CHECK	GFM	

GARY F. MULLER, AICP
1482 ARGYLE DRIVE • FT. MYERS, FLORIDA 33919 • (239) 939-0111

SEC 02, TWP 45S., RGE 26E.
LEE COUNTY, FLORIDA

MASTER CONCEPT PLAN
SUNSHINE 23 CPD

DWG. NO.
1309

N

0 10 20 30 60
SCALE FEET

1" = 60'

LEGEND

PROPOSED LOADING AREA: *

REQUESTED DEVIATION: (#)

SITE DATA

TOTAL SITE AREA:	1.74 ACRES
CONVENIENCE STORE:	4,670 S.F.[1]
MAXIMUM BUILDING HEIGHT:	35 FEET
MINIMUM OPEN SPACE:	25 PERCENT

[1]MAXIMUM COMMERCIAL BUILDING AREA AND PROPERTY DEVELOPMENT REGULATIONS PER ZONING RESOLUTION.

NOTES

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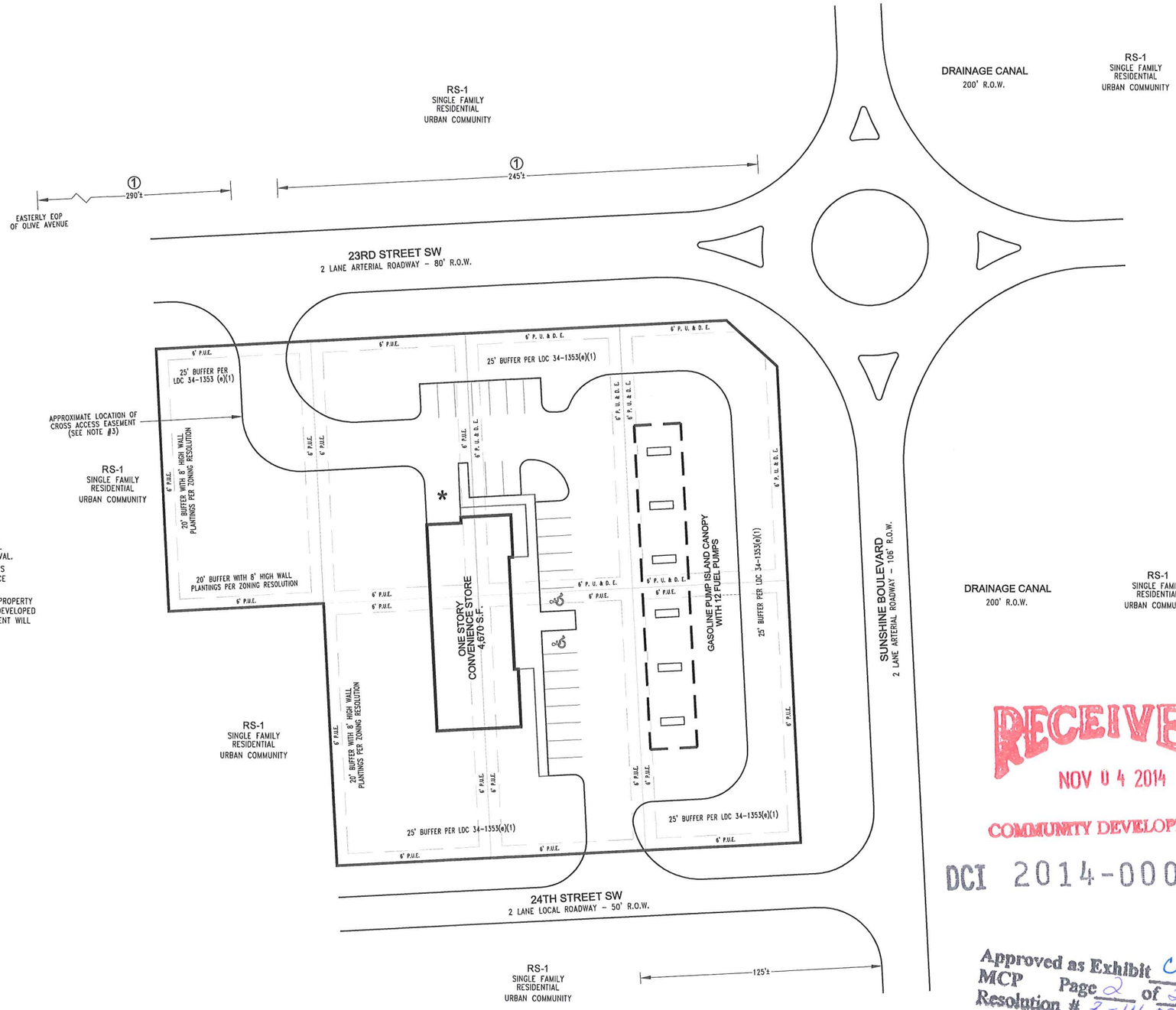

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COMMUNITY DEVELOPMENT
DCI 2014-00008

Approved as Exhibit C
MCP Page 2 of 2
Resolution # Z-14-025

REVISION	DATE

FILE # 1309RMCP
DATE 10/14
SCALE NOTED
DESIGN GFM
DRAWN GFM
CHECK GFM

GARY F. MULLER, AICP
1482 ARGYLE DRIVE • FT. MYERS, FLORIDA 33919 • (239) 939-0111

SEC 02, TWP 45S., RGE 26E.
LEE COUNTY, FLORIDA

ALTERNATIVE SITE PLAN
SUNSHINE 23 CPD

DWG. NO.
1309