

Summary of Hearing Examiner Recommendation

THE BERMUDA LAKES RV RESORT RVPD

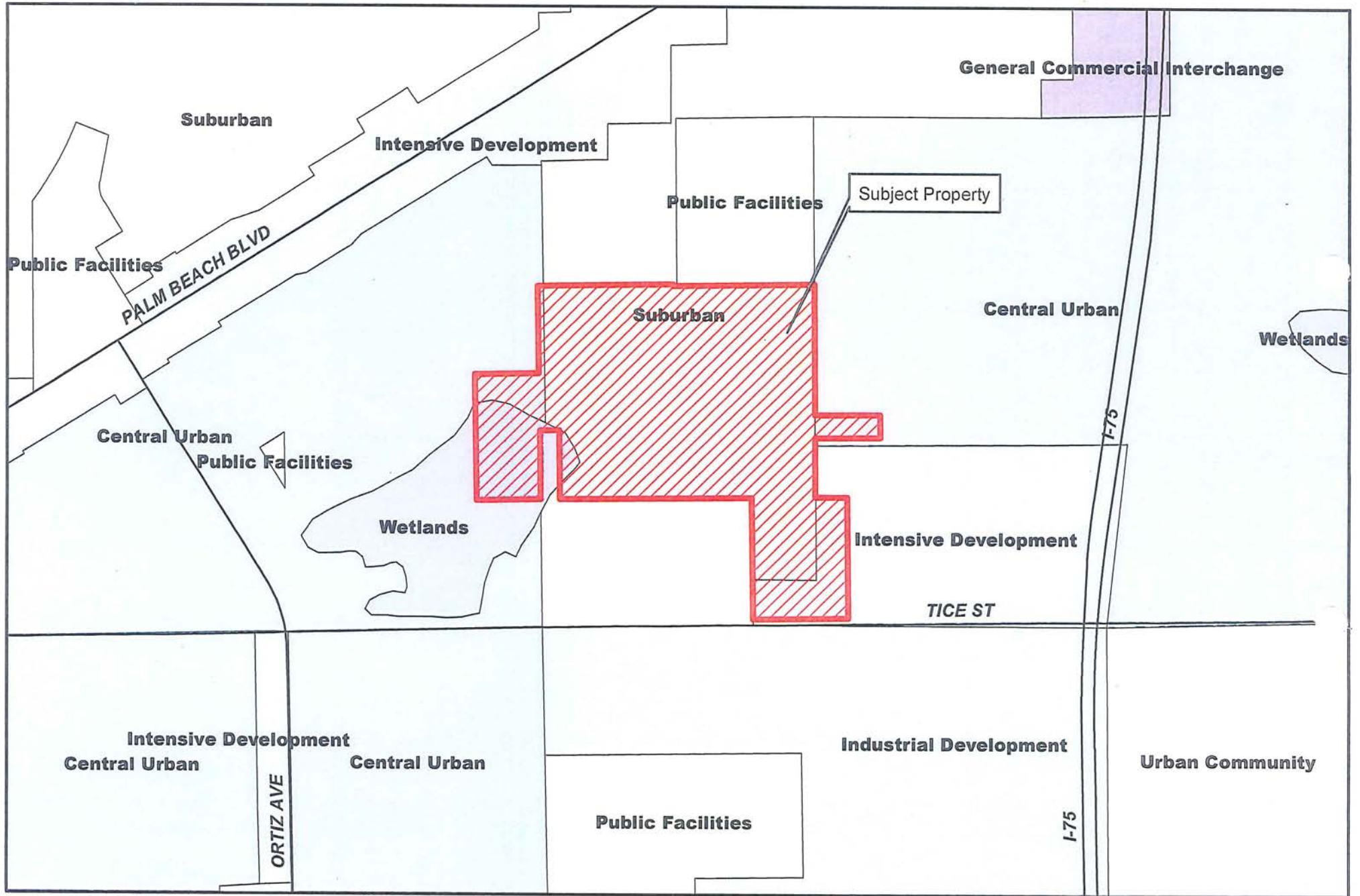
Request:	Rezone from RPD and IPD to RVPD to allow a transient recreational vehicle park with up to 200 lots and related accessory uses.
Location:	Lexington Avenue Fort Myers Shores Planning Community (District 5)
Size:	48.73 Acres
Rezoning Recommendation:	Approval with conditions
Deviation Recommendations:	Approval of 22 deviations, 13 with modification to the original request and/or with conditions Denial of 3 deviations
Conditions of Note:	None
Public Concerns:	None

Hearing Examiner Remarks:

The Applicant successfully showed the overall rezoning is appropriate. However, several of the requested and implied deviations do not adequately protect the surrounding properties and the public interests. The Hearing Examiner recommends multiple changes to the deviations to provide the necessary protections.

Policy Issue: The Hearing Examiner suggests the Board amend the Land Development Code to clarify the transient RV parks review criteria. As currently written, the regulations do not clearly identify whether the parks are commercial or residential and which review criteria apply. This leads to uncertainty and inconsistent application of the requirements.

Detailed recommendation follows



0 0.05 0.1 Miles

A graphical scale bar representing distances of 0, 0.05, and 0.1 miles.



0 0.05 0.1 Miles

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OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2014-00010
Applicant: Exit 24 LLC

Regarding: THE BERMUDA LAKES RV RESORT RVPD

Location: Lexington Avenue
Fort Myers Shores Planning Community
(District 5)

Hearing Date: November 12, 2014

I. Request:

Rezone the 48.73-acre property legally described in Exhibit A from a 330 multi-family unit Residential Planned Development (RPD) and a 27,500 square-foot industrial Industrial Planned Development (IPD) to a 200-lot transient Recreational Vehicle Planned Development (RVPD).

II. Hearing Examiner Recommendation:

APPROVE the rezoning, subject to the conditions set forth in Exhibit B, with the recommended deviations set forth in Exhibit C.

III. Outstanding Concerns:

A. *Would approval of the multiple deviations adequately protect the surrounding residential uses and public interests?*

As requested, many of the deviations would not provide adequate protections. The Hearing Examiner's recommended deviations, however, meet the intent of the deviated regulations to protect the surrounding residential uses and public interests. The Hearing Examiner recommends denial of the deviations that cannot provide sufficient protections.

B. ***Policy Issue Separate from Rezoning Request:***

It is unclear how the Lee Plan provisions apply to transient RV parks and which Land Development Code review standards control. Therefore, it is difficult to determine Lee Plan consistency¹ and to apply the regulations uniformly and consistently.²

¹ All development must be consistent with the Lee Plan. See the Lee Plan Procedures and Amendment Element.

² LDC §§34-4 and 34-5 (The applicable standards and regulations of the LDC must be applied uniformly and consistently).

The Hearing Examiner suggests the Board direct Staff to prepare amendments to the LDC to clarify whether transient RV parks are to be reviewed as:

- commercial development, subject to the commercial standards;
- residential development, subject to density standards; or
- neither commercial nor residential, with separate specific development standards.

See page 23 for a more detailed discussion.

IV. Synopsis of Facts:

The Request is to rezone 48.73 acres in the Palm Beach Boulevard area of the Fort Myers Shores Planning Community from RPD and IPD to RVPD. The property is an irregularly shaped property located west of Lexington Avenue, south of Palm Beach Boulevard, and north of Tice Street. The majority of the property currently allows multi-family. The southeast 2.4 acres currently allows industrial uses. The property is vacant.

The proposed development is a 200-space transient recreational vehicle park. The park would incorporate an existing man-made lake and three natural preserve areas. The proposed main and secondary accesses are from Lexington Avenue, across the street from the North Trail RV Center. The Applicant also owns the RV Center and proposes to tie the sales and service center with the RV park to offer a unified facility.

The Department of Community Development Staff recommended approval of the request with conditions. No members of the general public were present at the hearing.

There were no issues in dispute between the Staff and the Applicant. The Hearing Examiner has concerns about several of the requested and implied deviations.

V. Discussion:

The Applicant successfully showed that the overall rezoning request conforms to the LDC and Lee Plan.³ There are no significant concerns about the rezoning itself.

The concerns arise over the Applicant's multiple deviations from the LDC regulations, many of which seek to reduce the perimeter buffering. The request, as proposed in the application and the Master Concept Plan (MCP), requires 25 deviations. Although the Hearing Examiner recommends approval of all but three of the deviations, the recommendation for most is for a modified deviation that more closely reflects the intent of the regulations to protect the surrounding area and the public interests.

The following analyzes the Request's compliance with the applicable review criteria. The deviations are discussed in a summary form, under "Compliance with the LDC," pages 6 and 7, and are discussed in detail on pages 9 through 23. See also Exhibits C and C1 for the specific deviations.

³ AC 2-6, §2.2.B.(5)(d) (In a rezoning, the Applicant must show by a preponderance of the competent and substantial record evidence that the proposed request conforms to the LDC and the Lee Plan).

Consistency with the Lee Plan

Future Land Use Categories

The Request property has four Future Land Use designations. The majority (63.9 percent) has a Suburban designation. The southeastern-most portions of the property are designated Intensive Development (11.5 percent), the main access roadway to Lexington Avenue and the upland portion of the western-most extension of the property are designated Central Urban (6 percent), and the remainder of the western extension is designated Wetlands (18.3 percent).

The Intensive Development portion is considered well suited to high densities and intensities with a diversity of lifestyles.⁴ The Lee Plan considers the Central Urban areas as part of the County's "urban core," with a variety of allowed uses.⁵ The Lee Plan protects Wetland areas from all but the most limited development.⁶ The Request is consistent with these categories.

The large central part of the property is designated Suburban. This category is mostly oriented toward existing and emerging residential neighborhoods and a typically urban mix of land uses is not expected.⁷ The category does not allow commercial development greater than a neighborhood center.⁸ As the Staff considers the Request to be commercial development, this commercial limit potentially raises some Lee Plan issues.

However, there is no evidence the RV park should be held to the commercial development limitations of the Suburban category and the "density" of the Request is well under the allowed Suburban density. Therefore, the Request is consistent with the Suburban category.

The Tice Historic Community Planning Area of the Fort Myers Shores Planning Community

The future envisioned in the Tice Historic Community Planning Area (f/k/a Palm Beach Boulevard Corridor) of the Fort Myers Shores Planning Community is an attractive, mixed-use community with an abundance of employment and shopping opportunities.⁹ The goal of the Tice Historic Community Planning Area is to redevelop the area into a vibrant commercial and residential neighborhood, with mixed-use nodes, enhanced landscaping, pedestrian facilities, transit service, and recreational areas.¹⁰

Zoning approvals must ensure commercial areas maintain a unified and pleasing aesthetic/visual quality in landscaping, architecture, lighting and signage.¹¹ Residential areas are to be protected and enhanced by strictly evaluating adjacent uses, natural resources, access, and open space and by requiring compliance with enhanced buffering requirements.¹² Regulations are to provide for greater buffering between

⁴ Lee Plan Policy 1.1.2.

⁵ Lee Plan Policy 1.1.3.

⁶ Lee Plan Policy 1.5.1

⁷ Lee Plan Policy 1.1.5.

⁸ *Id.*

⁹ Lee Plan Vision Statement, paragraph 4.

¹⁰ Lee Plan Goal 23.

¹¹ Lee Plan Objective 23.2.

¹² Lee Plan Objective 23.3.

distinctly different adjacent commercial and residential properties.¹³ Deviations that would result in a reduction of landscaping or buffering are discouraged.¹⁴ As discussed in the review of the deviation requests, below, many of the requested deviations are inconsistent with these requirements.

The Applicant held a meeting in the Community Planning Area.¹⁵ As a result of the meeting, the Applicant worked with a group of community members to develop an alternative buffer treatment along Tice Street.

With the recommended conditions and deviations, the Request will

- promote a contiguous and compact growth pattern;¹⁶
- be served by adequate public facilities;¹⁷
- be compatible with¹⁸ and not destructive to the character of the surrounding residential environment;¹⁹
- be consistent with the densities/intensity set forth in the Lee Plan;²⁰
- provide adequate and appropriate landscaping, open space, and buffering;²¹
- not jeopardize the safety of students at the adjacent school;²²
- provide open space designs that preserve existing native vegetation and buffer adjacent uses;²³ and
- preserve upland areas around preserved wetlands.²⁴

Therefore, subject to the recommended conditions, the Applicant has sufficiently proven entitlement to the rezoning by demonstrating compliance with the Lee Plan.

Compliance with the LDC

The requested RV park is consistent with most of the applicable LDC requirements. The Request is for an RVPD, which is the district the LDC requires for new RV parks.²⁵ In addition to the general planned development regulations,²⁶ the LDC also requires specific development standards for an RVPD.²⁷ With approval of the recommended conditions and deviations, the Request will meet or have an approved deviation to the applicable general planned development and specific RVPD requirements.

The property is 48.73 acres, more than twice the required 20-acre minimum size.²⁸ The property location is outside of the coastal high-hazard areas and is not on a barrier island.²⁹ The property configuration provides design limitations, but, with some deviations, it is of sufficient size to accommodate the protection of environmentally

¹³ Lee Plan Policy 23.3.1.

¹⁴ Lee Plan Policy 23.1.2.

¹⁵ This complies with Lee Plan Policy 23.5.2.

¹⁶ Lee Plan Objectives 2.1 and 2.2.

¹⁷ Lee Plan Objective 2.2, Policy 2.2.1, and Standards 11.1 and 11.2. See also the Urban Services discussion, below.

¹⁸ Lee Plan Policies 6.1.4 and 135.9.5.

¹⁹ Lee Plan Policy 5.1.5. See also the Compatibility discussion, below.

²⁰ Lee Plan Policies 1.1.2, 1.1.3, 1.1.5, and 1.5.1.

²¹ Lee Plan 6.1.6. See also the Deviations discussion, below.

²² Lee Plan Policy 6.1.9.

²³ Lee Plan Objective 77.3.

²⁴ Lee Plan Policy 107.3.1. See also the Environmental discussion, below.

²⁵ LDC §34-931(c)(2).

²⁶ LDC §§34-411 and 34-931 et seq.

²⁷ LDC §34-939.

²⁸ LDC §34-935(a)(1).

²⁹ LDC §34-939(a).

sensitive lands, required open space,³⁰ recreation areas, pedestrian/bikeways, stormwater retention, and buffers adequately.³¹

The requested 200 RV lots do not exceed the maximum intensity allowed for a transient park.³² There is no deviation request for the required separations for the common-use permanent buildings³³ or between recreational vehicles.³⁴ The conditions make clear that no individual accessory structures are allowed on the RV lots.³⁵

As discussed below, under Compatibility, the conditioned Request is compatible with the surrounding area. As discussed, under Transportation, the conditioned Request will comply with or have a deviation from the applicable vehicle use and transportation related LDC requirements.

Buffering/Setbacks/Separation

The LDC has a heavy emphasis on the provision of adequate buffers, setbacks, and separations between different uses, reflecting the same emphasis in the Lee Plan and Palm Beach Boulevard Area Vision. The LDC emphasis is especially strong in the RVPD zoning district, which requires one of the largest perimeter buffers and setbacks of any zoning districts. An RVPD must provide adequate buffering, so that the development blends with the character of existing or planned surrounding land uses.³⁶ The LDC assumption is the required buffering is the minimum necessary to protect the surrounding areas.

The general LDC buffering regulations³⁷ require a Type C or Type F buffer for a commercial use³⁸ next to residential uses and a Type D buffer next to public road rights-of-way.³⁹ However, the general LDC buffering requirements also specifically lists RVPDs as a use requiring landscaping or screening beyond the minimum standard requirements.⁴⁰

The extraordinary buffers required for RVPDs include a perimeter buffer area, at least 40 feet wide, along all boundaries of an RV park not adjacent to another RV park.⁴¹ The buffer must include a vegetative visual screen with certain amounts of existing native or supplemental vegetative screening.⁴² The buffer area may be used for pedestrian or bike trails, provided the required width remains, no required trees are eliminated, and no more than 20 percent of the buffer width is impervious surface.⁴³

³⁰ LDC §10-415(a).

³¹ LDC §34-411(c).

³² LDC §34-939(b)(6).

³³ LDC §34-939(b)(7)a.

³⁴ LDC §34-939(b)(7)b.

³⁵ LDC §34-939(c).

³⁶ Lee Plan Policy 6.1.6.

³⁷ LDC 10-416(d)(1).

³⁸ For these buffering calculations, the LDC includes RV parks with commercial uses.

³⁹ LDC §10-416(d)(4). No buffer is required adjacent to agricultural uses.

⁴⁰ LDC §10-424.

⁴¹ LDC §34-939(b)(3).

⁴² *Id.*

⁴³ LDC §10-416(d)(11).

Additionally, the LDC requires extraordinary setbacks for buildings and structures in an RVPD from the park's perimeter boundaries. The minimum building and structure setback from the development perimeter is 40 feet.⁴⁴

The Applicant proposed two groups of significant deviations to the buffers, affecting the majority of the park. These are the ones to which the Hearing Examiner recommends the greatest modifications.

One group seeks to reduce the buffer width⁴⁵ and/or amount of landscaping⁴⁶ if a wall is provided. The Hearing Examiner recommends approval of the wall, in the place of some of the shrubs, but recommends the number, type, and sizes of the trees remain as required by the LDC. If the buffer width reductions are approved in the sections with the walls, the Hearing Examiner recommends approval of a corresponding reduction in the required structure setbacks.⁴⁷

The Hearing Examiner recommends approval of the deviation to eliminate the required buffer along the eastern portions of the RV park, adjacent to commercially zoned property,⁴⁸ and to allow a special buffer along Tice Street.⁴⁹ In the locations where streets in the RV park will be close to adjacent residential properties, the Hearing Examiner recommends the walls and shrubs be allowed slightly closer to the adjacent property than the LDC allows, with the protections of the other buffering requirements.⁵⁰

The second proposed significant change to the buffers seeks to place a security fence next to the property line, rather than on the interior side of the required landscaping. This is inconsistent with the LDC intent to provide visual protections for the surrounding neighbors. The Hearing Examiner recommends that the deviation only allow the fence halfway into the required landscaping, softening the view of the fence from both sides.⁵¹

Several of the requested deviation did not address all of the relevant LDC provisions. The MCP also implies others that were not specifically requested. The Hearing Examiner recommends specifically addressing implied and incorrectly cited deviations. She recommends approval of these deviations to allow maintenance⁵² and easement accesses⁵³ in the northern required buffer area, with increased impervious surfaces in the easement access, if necessary.⁵⁴ However, it is not recommended a deviation be granted to allow one of the RV park streets to intrude into the north buffer area.⁵⁵

⁴⁴ LDC §34-935(b)(1)g.

⁴⁵ See Deviation 1.b.

⁴⁶ See Deviations 1.a and 1.b.

⁴⁷ See Deviation 6.

⁴⁸ See Deviation 1.d.

⁴⁹ See Deviation 1.c.

⁵⁰ See Deviation 3.

⁵¹ See Deviation 4.

⁵² See Deviation 2.a.

⁵³ See Deviation 2.b.

⁵⁴ See Deviation 5.

⁵⁵ See Deviation 2.c.

Internal Roadways/Walkways/Parking/Turn-around

The LDC provides general regulations for vehicular and pedestrian facilities.⁵⁶ The RVPD regulations also address several of these facilities,⁵⁷ some of which are inconsistent with the general regulations.

The Applicant requested or implied several deviations to these facilities as well. The first group involved reductions to the widths of the internal streets. The Hearing Examiner recommends approval of part of these and denial of others,⁵⁸ but also recommends that, if the street widths are reduced, the pedestrian walkway not be allowed on the roadway pavement; they must be separate sidewalks or part of a pedestrian system separate from the streets. The concern is that, as a transient RV park where wide vehicles will be traveling unfamiliar streets, it is unsafe to have narrow travel lanes with pedestrians immediately next to them.

The Applicant requested or implied two additional vehicle oriented deviations. One sought to remove the requirement for a turn-around at the secondary entrance to the RV park.⁵⁹ The second sought to reduce the amount of parking allowed for the park clubhouse.⁶⁰ The Hearing Examiner recommends approval of both deviations.

Other LDC Provisions

The Applicant sought two other deviations. One is a minor deviation concerning adding a linear bulkhead to the existing lake.⁶¹ The Hearing Examiner recommends approval.

The second deviation sought to eliminate the required on-site emergency shelter.⁶² The Hearing Examiner recommends denial of this deviation, finding that the request is inconsistent with the Lee Plan and does not advance the public interests.

LDC Conclusion

With the recommended conditions and deviations, the Applicant has sufficiently demonstrated compliance with the applicable LDC provisions. No other applicable code or regulation is relevant to this rezoning review. Therefore, the Applicant has met the LDC compliance review criteria.

Compatibility

The proposed use as an RV park is appropriate;⁶³ it is likely to produce fewer impacts than the existing multi-family and industrial zoning on the property. Its location, in an urbanizing area close to two major arterial roads, is appropriate.⁶⁴ The park is not expected to create or increase hazards of flooding, erosion, or other dangers to people

⁵⁶ LDC Chapter 10, Article III.

⁵⁷ LDC §34-939(b).

⁵⁸ See Deviations 7 and 8.

⁵⁹ See Deviation 9.

⁶⁰ See Deviation 10.

⁶¹ See Deviation 11.

⁶² See Deviation 12.

⁶³ LDC §34-377(a)(2)a.

⁶⁴ LDC §34-411(c).

or property in and surrounding the park.⁶⁵ With the recommended conditions and deviations, the RV park is not expected to impose a nuisance on the surrounding land uses or the public's interests through emissions of excessive noise, glare, dust, odor, or pollutants.⁶⁶

The key to compatibility in this case is the adequacy of buffering. There is no evidence the proposed RV park will produce potentially destructive or other negative impacts to the surrounding properties that cannot be mitigated by sufficient buffering.⁶⁷ With the recommended conditions and deviations, the RVPD site planning and design will minimize negative impacts through the provision of adequate buffers and by moving noise and activity producing uses, such as the common recreation area and maintenance/storage area, away from off-site residential uses.⁶⁸ The project's design emphasis is to separate and mutually protect the RV park and the surrounding uses.⁶⁹

Although the deviations seek multiple changes to the required buffers, as recommended herein the buffers provide sufficient compatibility protections. Therefore, as recommended, the Request is compatible with existing or planned uses in the surrounding area.⁷⁰

Transportation

The evidence indicates the Request will not have a significant impact on the surrounding roadway network. The existing streets have adequate capacity and there will be no transportation deficiencies that need mitigation.⁷¹ The accesses to the RV park are from Lexington Avenue, with an emergency access to Tice Street, and are adequate.⁷² Internally, with the recommended conditions and deviations, the streets will be adequate to safely serve the development and the sidewalks/pedestrian paths will safely connect the community facilities to the RV lots.⁷³

Urban Services

The RV park will be connected to public water and sewers.⁷⁴ The evidence indicates the other applicable urban services are available in the area and are adequate to serve the park.⁷⁵

Environmental

Slightly less than half of the property is lake or wetlands, much of which meets the criteria for indigenous habitat. There are no environmentally critical areas on-site or in the immediately surrounding area. Three preserve areas are proposed. The proposed design provides more than the required amount of open space. The recommended conditions address protected species and habitats. The proposed design and

⁶⁵ LDC §34-411(f).

⁶⁶ LDC §34-411(f).

⁶⁷ Lee Plan Policy 5.1.5.

⁶⁸ LDC §34-411(i).

⁶⁹ LDC §§34-411(k) and 34-939(b)(1).

⁷⁰ LDC §34-145(d)(3)c.

⁷¹ LDC §34-145(d)(3)d.

⁷² LDC §§34-145(d)(3)i and 34-411(d).

⁷³ Lee Plan Policy 5.1.7.

⁷⁴ LDC §34-939(b)(2).

⁷⁵ LDC §34-145(d)(3)g.

recommended conditions/deviations protect mature native trees and wildlife habitat.⁷⁶ Therefore, as conditioned, the Request will not adversely affect environmentally critical areas and natural resources.⁷⁷

Conditions

The recommended conditions are essentially the same as proposed by Staff. Minor changes are recommended to reflect the deviation recommendations, to address commitments made by the Applicant in the hearing, to address the hurricane preparedness requirements, and to provide clarity. The recommended conditions provide sufficient safeguards against, and reasonably relate to, the project's impacts on the public interests.

Detailed Deviation Analysis

The Request, as proposed in the application and the MCP, requires 25 deviations. The impacts of the deviation vary by the characteristics of the area of the property and the surrounding properties. Therefore, this analysis of the deviations is by their location in the park, rather than by LDC provision deviated. Additionally, to address implied and added deviations, most of the deviations have been renumbered and some broken into subparts. Where applicable, the previous deviation number is indicated.

Buffering/Setbacks/Separation

Given the strong emphasis in the Lee Plan, the Palm Beach Boulevard Community Plan, and the LDC on providing adequate buffers, this deviation analysis presumes the LDC requirements are the minimum necessary to protect the surrounding areas and any deviation should be specifically justified.

Deviations to Cross Section A-A Area.

This group of deviations is for the eastern 650 feet of the area between the northern property line and the existing lake, next to the adjacent elementary school. Cross-section A-A on the MCP shows the general area.

Deviation 1.a. This deviation seeks to reduce the number and size of the supplemental trees and shrubs in the required RVPD buffer.⁷⁸ In compensation for the reduced screening, the Applicant proposes to provide an 8-foot tall wall, located 20 feet from the property boundary, with the added landscaping located on the exterior side of the wall.

The Applicant's justification for the deviation is that the proposed buffer with a wall is functionally superior to the LDC requirement in screening potential noise impacts from the school and providing privacy and security to the school and the RV park. Staff found the deviation is justified because the existing lake shoreline contains mature native oaks that can assist in meeting the screening requirement above the wall.

⁷⁶ LDC §34-411(g).

⁷⁷ LDC §34-145(d)(3)e.

⁷⁸ LDC §34-939(b)(3).

The deviation essentially seeks to replace the RVPD required extraordinary buffer with slightly more than a Type C minimum commercial buffer. The testimony adequately supports that the inclusion of the wall justifies the reduced number of shrubs. However, as there is no requirement to preserve the oak trees along the lake outside of the buffer area, the Request does not sufficiently support the requested reduction in the tree sizes and number.

The Hearing Examiner recommended deviation retains the LDC required number, type, and size of trees, but allows the inclusion of all of the native trees between the lake and the north property boundary in the buffer calculations. As conditioned, the deviation helps to achieve the objectives of the planned development while preserving the intended buffering.⁷⁹

Deviation 2.a. The Applicant seeks to allow the use of the interior 20 feet of the 40-foot wide buffer for the lake maintenance access; the requested deviation omits a relevant LDC provision. One part of the LDC requires a 20-foot wide maintenance easement around the lake, which must remain clear with sufficient vehicle access.⁸⁰ Section A-A on the MCP shows such an easement along the lake, outside of the 40-foot wide buffer area. However, this area has mature trees it is appropriate to retain and, therefore, cannot provide the required vehicle access. The southern 20 feet of the 40-foot wide buffer area could provide the vehicle access,⁸¹ but vehicle accesses are not allowed in the buffer area without a deviation.⁸² Therefore, the Hearing Examiner recommends this deviation be amended to add the second LDC provision⁸³ to allow the lake maintenance access in the portion of the required 40-foot wide buffer north of the existing lake (in the A-A area and the portion next to the lake in the B-B area).

Given the lake exists and must be maintained, it would be unreasonably burdensome to strictly apply the regulation. Additionally, preserving the existing trees is beneficial to the protection of the adjacent property and granting the deviation would not threaten the health, safety, or welfare of the abutting property owner or general public. The deviation is consistent with the Lee Plan and will not unduly impact public facilities.⁸⁴

Therefore, the Hearing Examiner recommends approval of the added deviation, with a condition to clarify that if impervious surfaces are used for the maintenance access, they cannot exceed 20 percent of the buffer width.⁸⁵ As conditioned, the deviation helps to achieve the objectives of the planned development and provides the maintenance access while preserving the intended buffering.⁸⁶

⁷⁹ LDC §34-377(a)(4).

⁸⁰ LDC §10-328(a).

⁸¹ The LDC allows the required trees and shrubs to be located in as small as one-half of the required buffer width (LDC §§10-421(a)(2)).

⁸² LDC §§34-939(b)(3) and 10-421(a)(3).

⁸³ LDC §34-377(a)(4) ("If the Hearing Examiner concludes that the application omits necessary deviations, those omitted deviations may be included in the recommendation without an additional hearing").

⁸⁴ LDC §10-104(g) and (i). The LDC requires that the Hearing Examiner make certain findings about certain deviations and variances to Chapter 10 regulations. Although these deviations are part of a planned development approval, it is appropriate to review the findings in this analysis as well.

⁸⁵ LDC §10-416(d)(11).

⁸⁶ LDC §34-377(a)(4).

Deviations to the Cross-Section B-B Area.

This group of deviations is for the remaining portion of the northern boundary area, within the FDOT utilities/drainage easement. Cross-section B-B on the MCP shows the general area. The northern 50 feet of this portion of the area is encumbered by a Florida Department of Transportation (FDOT) utilities/drainage easement.⁸⁷ The easement allows the Applicant to use the area for the landscaping, as long as the trees in the buffer are not large trees and the buffer does not interfere with the easement rights, including access to the stormwater management facility.⁸⁸

Deviation 1.a. The requested deviation (previous Deviation 1b) is to allow the same wall and landscaped buffer proposed for Section A-A (in Deviation 1.a) as an alternative to the RVPD buffering requirements. As indicated in the Section A-A discussion, above, the wall and shrubs proposals are sufficient, but the proposed number and maturity of the trees are not. The Hearing Examiner recommended deviation retains the LDC required number, type, and size⁸⁹ of trees, but allows the inclusion of all of the native trees in the area in the buffer calculations. For the part north of the lake, this includes all of the area between the lake and the north property boundary and, for the part away from the lake, includes the entire 50-foot wide FDOT easement area. As conditioned, the deviation helps to achieve the objectives of the planned development while preserving the intended buffering.⁹⁰

Deviation 3.a. This deviation is to the LDC provision requiring specific buffer locations if a road or drive is within 125 feet of single-family lots.⁹¹ For cross-section B-B, the cul-de-sac at the end of the main road triggers the requirement, because it is within 125 feet of the single-family houses to the north.

The requested deviation (previously 9) is to allow the required RVPD buffer shrubs or the alternative wall closer to the project boundary than the LDC allows. With the recommended conditions on the other deviations for this cross-section and the off-site distance between the property line and the closest residences, the conditioned buffering provides the equivalent protection and is appropriate. The deviation helps to achieve the objectives of the planned development while preserving the intended buffering.⁹²

Deviation 4.a. This deviation is to the LDC provision that requires the placement of a proposed, but not required, wall or fence with the required landscaping between the wall/fence and the property line.⁹³ If the required RVPD buffer is provided, rather than the Deviation 1.a alternative, this deviation (previously deviation 12) seeks to install a

⁸⁷ Recorded in Instrument #2009000074398.

⁸⁸ The existence of the buffer in the FDOT easement created some concern. Buffers and utility or drainage easements may overlap, but no LDC required trees or shrubs may be located in the utility/drainage easement without a written statement from FDOT specifically stating no objection to the landscaping and that the proposed landscaping will not interfere with the long term maintenance of the infrastructure within easement area (LDC §10-421(a)(5)). The Staff considers the easement document to meet this requirement, as long as the buffer provided is consistent with the written requirements of the easement.

⁸⁹ LDC §34-939(b)(3). The Staff indicated the original deviation request to use smaller trees in the buffer, to meet the FDOT easement requirements, is unnecessary because the smaller mid-story canopy trees meet the RVPD buffer requirement.

⁹⁰ LDC §34-377(a)(4).

⁹¹ LDC §10-416(d)(6). See also §34-935(b)(4) ("Notwithstanding the provisions of subsections (b)(1) and (2) of this section, when a proposed development will abut an existing residential subdivision or residential lots, the requirements set forth in section 10-416(d)(6) must be satisfied").

⁹² LDC §34-377(a)(4).

⁹³ LDC §10-421(a)(8).

fence along the perimeter property line. The Applicant stated the purpose of the fence is to provide security to the park.

The Applicant proposes to use a wire-mesh fence material, to make the landscaping visible through the fence. Staff's recommendation was that the fence not be opaque, without specifying materials.

The evidence does not indicate a fence within or behind the landscaping would not provide the desired security. Additionally, the wall to the east will be 20 feet from the property line; it is reasonable to continue the same line with the fence. Therefore, meeting the LDC requirement is not unreasonably burdensome.⁹⁴ Further, this buffer segment is the closest to existing off-site residences, increasing the need for the LDC intended softening of the visibility of the fence.

Granting the requested deviation would not sufficiently protect the abutting property owners.⁹⁵ Therefore, the Hearing Examiner does not support this deviation as requested. However, the Hearing Examiner does support a deviation that places the fence in the middle of the landscaped area, softening its visibility from both sides. This placement will help achieve the objectives of the planned development while meeting the intent of the regulations.⁹⁶

Deviation 2.b. (additional deviation) The FDOT easement allows FDOT ingress/egress to the stormwater management facility in the easement. As with the provision of the lake maintenance access in the buffer, this easement access also appears to require a deviation because the buffer area cannot include vehicle accesses without a deviation.⁹⁷ The Hearing Examiner recommends the addition of this deviation to allow the FDOT access, as required by the easement document.

The strict application of the regulation would be inconsistent with the terms of the easement, unreasonably restricting the Applicant's ability to develop this area of the park. The granting of the deviation would not negatively impact public facilities, the abutting property owners, or the general public.⁹⁸ Therefore, the Hearing Examiner recommends approval of this additional deviation. It will enhance the achievement of the planned development objectives while protecting the intent of the regulations.

Deviation 5. (additional deviation) It is not clear whether the FDOT easement allows the easement ingress/egress area to be paved. If so, a deviation is required for the paved area to exceed 20 percent of the buffer width.⁹⁹ In an abundance of caution, it is recommended this deviation be added.

As with Deviation 2.b, the strict application of the regulation would be inconsistent with the terms of the easement, unreasonably restricting the Applicant's ability to develop this portion of the park. The granting of the deviation would not negatively impact public facilities, the abutting property owners, or the general public.¹⁰⁰ Therefore, the Hearing

⁹⁴ LDC §10-104(g)(4).

⁹⁵ LDC §10-104(g)(1).

⁹⁶ LDC §34-377(a)(4).

⁹⁷ LDC §§34-939(b)(3) and 10-421(a)(3).

⁹⁸ LDC §10-104(g).

⁹⁹ LDC §10-416(d)(11).

¹⁰⁰ LDC §10-104(g).

Examiner recommends approval of this additional deviation, with a condition to retain existing trees to the greatest extent possible and to make the pavement as minimal as reasonably possible. As conditioned, granting the deviation will enhance the achievement of the planned development objectives while protecting the intent of the regulations.

Deviation 2.c. The Request includes a deviation to allow a portion of an internal road cul-de-sac to intrude into the buffer area (part of previous 1b). The requested deviation is to sections of the LDC that specifically prohibit streets and vehicles in required buffer areas.¹⁰¹ However, no deviation can be granted to allow the right-of-way/easement for the road to intrude into the required planted area in the way shown on the MCP.¹⁰²

The Applicant's apparent justification for the requested roadway intrusion is that it will provide more flexibility to place the RV pads in the area.¹⁰³ However, it will bring the pavement end of the main road in the RV park to within 20 feet of the adjacent residential properties. The LDC is very clear that streets are not appropriate in the landscape buffer areas. This appears to be especially true under the extraordinary buffering requirements for RV parks. The potential lot placement flexibility is not sufficient to overcome the intent of the design requirements for buffers and the RVPD district. Granting the deviation would not protect the abutting property owners.¹⁰⁴ The requirement is not unreasonably burdensome to the Applicant.¹⁰⁵ Therefore, the Hearing Examiner recommends denial of the roadway intrusion deviation.

Deviation to Cross-Section C-C Area (Deviation 4.b).

This area is the 40 feet along the northwestern property line, including the drainage ditch, as shown in cross-section C-C. This deviation is to the LDC fence placement provision that requires the placement of the required landscaping between the fence and the property line.¹⁰⁶ This deviation (previously Deviation 12) seeks to install a fence along the perimeter property line. The Applicant stated the purpose of the fence is to provide security to the park.

The Cross-Section C-C area differs from other parts of the project because the western-most 20 feet of the 40-foot wide buffer area is a drainage ditch. The Applicant seeks to place a fence on the boundary-line side of the ditch and the buffer landscaping in the 20 feet on the east side of the ditch. No explanation was provided of how the appearance of the fence would be softened, as is intended by the LDC, standing by itself across the ditch from the landscaping or to explain why the fence could not provide the desired security for the RV park on the east side of the ditch. Therefore, there is insufficient evidence to show granting the requested deviation would sufficiently protect the abutting property owners¹⁰⁷ and that meeting the LDC requirement is unreasonably burdensome.¹⁰⁸ Therefore, the Hearing Examiner does not support this deviation as requested.

¹⁰¹ LDC §§34-939(b)(3) and 10-421(a)(3).

¹⁰² LDC §10-421(a)(5)

¹⁰³ The evidence does not support a suggestion the intrusion is required to allow FDOT to access the easement.

¹⁰⁴ LDC §10-104(g)(1).

¹⁰⁵ LDC §10-104(g)(4).

¹⁰⁶ LDC §10-421(a)(8).

¹⁰⁷ LDC §10-104(g)(1).

¹⁰⁸ LDC §10-104(g)(4).

However, there is merit to an argument that the intended softening of the fence can occur with less than 20 feet of landscaping. Accordingly, the Hearing Examiner supports a deviation that places the fence in the middle of the landscaped area, softening its visibility from both sides. This placement will help achieve the objectives of the planned development while meeting the intent of the regulations.¹⁰⁹

Deviations to the Western Area Buffer/Setbacks/Separations.

This group of deviations is for the areas in the western portion of the property that extends from the main body of the property ("western area"). The buffers at issue are the one along the north boundary of the western area and along the non-preserve portions of the western boundary. The adjacent property to north of the western area is vacant, zoned for single-family, and has a 40-foot wide drainage easement on the southern end. The property adjacent to the western boundary is a borrow pit/lake.

Deviation 1.b. This deviation (previously Deviation 1d) is to the required 40-foot wide RVPD buffer¹¹⁰ and seeks to allow a 20-foot wide enhanced Type C buffer, with a wall located 15 feet from the perimeter boundary and the plantings proposed for Section A-A in Deviation 1.a. The easement and lake on the adjacent properties will provide a separation greater than the required buffer width. The wall will compensate for the intended lower screening, but not the intended taller screening provided by the trees. Additionally, there is insufficient justification for moving the wall within the 20-foot wide buffer area.

Therefore, the Hearing Examiner recommends approval of the reduced buffer width and a reduced number of shrubs, but recommends the RVPD required number, size and types of trees be retained and the wall be placed 20 feet from the property boundary. As recommended, this buffer design will help achieve the objectives of the planned development while meeting the intent of the regulations.¹¹¹

Deviation 6. The MCP and Staff proposed conditions indicate the provision of a 40-foot wide perimeter setback throughout the park, which is consistent with the LDC requirement. However, the requests for buffer width deviations imply a similar reduction in the perimeter setbacks. Specifically in the western area, if Deviation 1.b is granted, reducing the buffer segment widths to 20 feet, it appears the intent is for each non-preserve boundary segment to also have a deviation to the RVPD building and structure setback requirements of 40 feet.¹¹² The same reasons that justify the buffer width deviations, justify a deviation to the perimeter boundary setback, to allow a 25-foot setback (the 20-foot wide buffer plus the minimum 5-foot RV lot setback) from the north boundary of the western area and the non-preserve portions of the western boundary. Therefore, the Hearing Examiner recommends this deviation be added and approved. This deviation will help achieve the objectives of the planned development while meeting the intent of the regulations.¹¹³

¹⁰⁹ LDC §34-377(a)(4).

¹¹⁰ LDC §34-939(b)(3).

¹¹¹ LDC §34-377(a)(4).

¹¹² LDC §34-935(b)(1)g.

¹¹³ LDC §34-377(a)(4).

Deviation 3.b. This deviation is to the LDC provision requiring specific buffer locations if a road or drive is within 125 feet of single-family lots.¹¹⁴ The proposed loop road in the western area triggers the requirement, because it is within 125 feet of the single-family lots to the north of the area.

The requested deviation (previously 9) is to allow the proposed wall closer to the project boundary than the LDC allows. With the recommended conditions on the other deviations for this buffer area and the off-site distance between the property line and the closest developable residential property, the conditioned buffering provides the equivalent protection and is appropriate. The deviation helps to achieve the objectives of the planned development while preserving the intended buffering.¹¹⁵

Deviations to the Keyhole Buffer/Setbacks/Separation.

This group of deviations is for the project areas around a narrow agriculturally zoned and used parcel bordered on three sides by the southwestern portion of the Request property ("keyhole area"). The western portion of the adjacent property appears to contain a drainage ditch. The closest existing residence to this portion of the property is approximately 490 feet from the buffer areas.

Deviation 1.b. This deviation (previously Deviation 1.d) is to the required 40-foot wide RVPD buffer¹¹⁶ and seeks to allow a 20-foot wide enhanced Type C buffer, with a wall located 15 feet from the perimeter boundary and the plantings proposed for Section A-A in Deviation 1.a. The reduction of the buffer width on the east side of the keyhole parcel will allow needed lot placement flexibility in an area restricted by an on-site preserve. The limited use of the cut-out parcel, the drainage ditch on the west side, and the development limitations on the east side justify the decrease in buffer width. The proposed wall will compensate for the intended lower screening, but not the intended taller screening provided by the trees. Additionally, there is insufficient justification for moving the wall within the 20-foot wide buffer area.

Therefore, the Hearing Examiner recommends approval of the reduced buffer width and a reduced number of shrubs, but recommends the retention of the RVPD required number, size and types of trees and that the wall be placed 20 feet from the property boundary. As recommended, this buffer design will help achieve the objectives of the planned development while meeting the intent of the regulations.¹¹⁷

Note the roads rights-of-way/easements in this area must be moved away from the buffers, because no LDC required landscaping may be located in any street easement or right-of-way.¹¹⁸ This requirement cannot be altered by a deviation.¹¹⁹

Deviation 6. If deviation 1.b is granted, reducing the buffer segment widths to 20 feet, each segment also requires a deviation to the RVPD building and structure setback requirements of 40 feet from the park's exterior boundaries.¹²⁰ The same reasons that

¹¹⁴ LDC §10-416(d)(6). See also §34-935(b)(4).

¹¹⁵ LDC §34-377(a)(4).

¹¹⁶ LDC §34-939(b)(3).

¹¹⁷ LDC §34-377(a)(4).

¹¹⁸ LDC §10-421(a)(5).

¹¹⁹ *Id.*

¹²⁰ LDC §34-935(b)(1)g.

justify the buffer width deviations, justify a deviation to the perimeter boundary setback, to allow a 25-foot setback (the 20-foot wide buffer plus the minimum 5-foot RV lot setback) from the north and eastern boundary of the keyhole area and the non-preserve portions of the boundary west of the keyhole. This buffer design will help achieve the objectives of the planned development while meeting the intent of the regulations.¹²¹

Deviation 3.b. This deviation is to the LDC provision requiring specific buffer locations if a road or drive is within 125 feet of single-family lots.¹²² The proposed loop road to the north and the cul-de-sac on the east side of this area trigger the requirement, because they are within 125 feet of the single-family lots in the keyhole and to the south of the area.

The requested deviation (previously 9) is to allow the proposed wall closer to the project boundary than the LDC allows. With the recommended conditions on the other deviations for this buffer area and the off-site distance between the property line and the closest residence, the conditioned buffering provides the equivalent protection and is appropriate. The deviation helps to achieve the objectives of the planned development while preserving the intended buffering.¹²³

Deviations to the Preserves #1 and #2 Areas.

This group of deviations is for the areas along the perimeter boundaries in Preserve #1 and the southern boundary of the main body of the property, in and on both sides of Preserve #2.

Deviation 3.c. This deviation is to the LDC provision requiring specific buffer locations if a road or drive is within 125 feet of single-family lots.¹²⁴ The proposed cul-de-sac to the west of Preserve #2 triggers the requirement, because it is within 125 feet of the single-family lots to the south of the area.

The requested deviation (previously 9) is to allow the buffer hedge closer to the project boundary than the LDC allows. With the recommended conditions on the other deviations for this area and the off-site distance between the property line and the closest existing residences, the conditioned buffering provides the equivalent protection and is appropriate. The deviation helps to achieve the objectives of the planned development while preserving the intended buffering.¹²⁵

Deviation 4.c. This deviation is to the LDC fence to buffer placement provision.¹²⁶ The requested deviation (previously Deviation 12) seeks to install the fence along the perimeter property line.¹²⁷ The Applicant stated the purpose of the fence is to provide security to the RV park.

These areas differ from others in the park because most of the boundary areas are in a preserve and all is wooded. Proposed Condition 12 prohibits mechanical clearing for the

¹²¹ LDC §34-377(a)(4).

¹²² LDC §10-416(d)(6). See also LDC §34-935(b)(4).

¹²³ LDC §34-377(a)(4).

¹²⁴ LDC §10-416(d)(6). See also §34-935(b)(4).

¹²⁵ LDC §34-377(a)(4).

¹²⁶ LDC §10-421(a)(8).

¹²⁷ The requested deviation did not address Preserve #1, but the testimony and Staff proposed conditions suggest a fence was also intended in that area.

fence installation, to minimize impacts to the native vegetation. A strict application of the regulations may negatively impact the preserve areas, without significantly benefiting the neighbors.¹²⁸ Additionally, the area is a significant distance from existing houses. Therefore, the existing vegetation and distance will help to mitigate the visual impacts of the fence.¹²⁹ Accordingly, the Hearing Examiner recommends approval of a modified form of this deviation, to allow the fence to meander between the trees to within five feet of the perimeter boundary. This buffer design will help achieve the objectives of the planned development while meeting the intent of the regulations.¹³⁰

Deviations to the Southeast Area Buffer/Setbacks/Separation.

This group of deviations is for the areas of the property that extend to the southeast of the main body of the property ("southeastern area").

Deviation 4.d. This deviation is to the LDC fence to buffer placement.¹³¹ The requested deviation (previously Deviation 12) seeks to install the fence along the west perimeter property line of the southeast area. The Applicant stated the purpose of the fence is to provide security to the RV park.

The evidence does not indicate a fence behind the landscaping would not provide the desired security. Therefore, meeting the LDC requirement is not unreasonably burdensome.¹³² Further, this buffer segment is close to existing off-site residences, increasing the need for the LDC intended softening of the visibility of the fence. Granting the requested deviation would not sufficiently protect the abutting property owners.¹³³ Therefore, the Hearing Examiner does not support this deviation as requested.

However, the Hearing Examiner does support a deviation that places the fence in the middle of the landscaped area, softening its visibility from both sides. This placement will help achieve the objectives of the planned development while meeting the intent of the regulations.¹³⁴

Note: No explanation was provided or deviation requested for the reductions in the width of the RVPD required buffer area on the north and south ends of the western southeast area buffer, shown on the MCP. The buffer area along the entire western side of the southeast area should be 40 feet in width.

Deviations 1.c. and 4.e. – Tice Street Special Buffer. These deviations are for the buffer area along Tice Street. One deviation is to the required 40-foot wide RVPD buffer¹³⁵ (previously Deviation 1.d) and the other to the LDC fence to buffer provision¹³⁶ (previously Deviation 12). These deviations seek to allow a 20-foot wide buffer with two design options. The first option would allow a fence and wall combination, a reduced number of trees, and a split of the shrubs, with a hedge on the outside of the fence/wall

¹²⁸ LDC §10-104(g)(4).

¹²⁹ LDC §10-104(g)(1).

¹³⁰ LDC §34-377(a)(4).

¹³¹ LDC §10-421(a)(8).

¹³² LDC §10-104(g)(4).

¹³³ LDC §10-104(g)(1).

¹³⁴ LDC §34-377(a)(4).

¹³⁵ LDC §34-939(b)(3).

¹³⁶ LDC §10-421(a)(8).

and a hedge on the inside. The second option would allow a wrought iron fence within the RVPD required trees and shrubs.

This buffer area fronts Tice Street. The properties across the street have industrial zoning. Granting the deviation will not negatively impact surrounding properties.¹³⁷ The Applicant worked with the Tice Historic Community Planning group to design a buffer that advances the community plan for the area, while addressing the Applicant's desire for security and aesthetic protections. Therefore, the Hearing Examiner recommends approval of the deviation, with conditions. The design options will help achieve the objectives of the planned development while meeting the intent of the regulations.¹³⁸

Deviation 1.b. – This deviation (previously Deviation 1.d) is for the buffer area along the eastern boundary of the southeast area. The requested deviation is to the required 40-foot wide RVPD buffer¹³⁹ and seeks to allow a 20-foot wide enhanced Type C buffer, with a wall located 15 feet from the perimeter boundary and the plantings proposed for Section A-A in Deviation 1.a.

The property to the east of this area has split zoning; the southern approximately 250 feet is zoned C-2 and the balance (approximately 380 feet) is zoned Agricultural (AG-2). The property fronts Lexington Avenue and is approximately 160 feet deep.

The Applicant justifies this deviation based on the commercial nature of the adjacent property. Although not actually entirely commercially zoned, it appears unlikely the adjacent property will be developed under the AG-2 zoning. Additionally, the development limitations created by the width of this portion of the RV park property would significantly improve if the buffer width is reduced. Accordingly, the Hearing Examiner recommends approval of the deviation, in a modified form that is consistent with the other areas under this deviation. The recommended buffer design will help achieve the objectives of the planned development while meeting the intent of the regulations.¹⁴⁰

Deviation 6. If Deviations 1.b and c are granted for this area, reducing the buffer segment widths to 20 feet, each segment also requires a deviation to the RVPD building and structure setback requirements of 40 feet from the park's exterior boundaries.¹⁴¹ The same reasons that justify the buffer width deviations, justify a deviation to the perimeter boundary setback. They justify allowing a 25-foot setback (the 20-foot wide buffer plus the minimum 5-foot RV lot setback) from the south and east boundary of the southeastern area. This deviation will help achieve the objectives of the planned development while meeting the intent of the regulations.¹⁴²

Deviations to the Eastern Areas Buffers/Setbacks

This group of deviations concerns the areas next to the northern boundary of the southeastern area, the eastern property boundary, and the main access area boundaries (eastern area).

¹³⁷ LDC §10-104(g)(1).

¹³⁸ LDC §34-377(a)(4).

¹³⁹ LDC §34-939(b)(3).

¹⁴⁰ LDC §34-377(a)(4).

¹⁴¹ LDC §34-935(b)(1)g.

¹⁴² LDC §34-377(a)(4).

Deviation 1.d. This deviation (previously Deviation 1e) is to the required 40-foot wide RVPD buffer¹⁴³ in the eastern area and seeks to eliminate the buffer. The Applicant's justification for the elimination of the buffer is that the properties adjacent to the eastern area property boundaries are preserved lands for other projects. The approved plans for the RV Center, to the east, confirm the north property is preserve, but no evidence was provided to support this assertion for the properties south of the main access. However, the properties are undeveloped and commercially zoned. The evidence justifies eliminating the buffer, as requested. This deviation will help achieve the objectives of the planned development while meeting the buffering intent of the regulations.¹⁴⁴

Note - No deviation appears to be necessary to place the proposed fence along the property line in this area. If there is no required buffer, there does not appear to be a limit on the fence placement.

Deviation 6. If Deviations 1.d is granted, an additional deviation is needed to the RVPD building and structure setback requirements of 40 feet from the park's exterior boundaries.¹⁴⁵ The same reasons that justify the buffer elimination justify a deviation to eliminate the perimeter boundary setback in the eastern area. This does not eliminate the RV lot or Maintenance Area setbacks required by Condition 2.b. This deviation will help achieve the objectives of the planned development while meeting the intent of the regulations.¹⁴⁶

Internal Roadways/Walkways/Parking/Turn-around

The Applicant has requested deviations to several of the general vehicular and pedestrian facilities regulations. To achieve the results described in the application and the MCP also requires additional deviations to the general and RVPD specific regulations.

Deviations to Roadway Widths.

Deviation 7. This deviation is to the general LDC street pavement width requirements¹⁴⁷ (previously Deviation 5) and seeks to reduce the total width of the roadway travel lanes for two-way streets from 24 feet to 22 feet. The MCP shows a typical minimum right-of-way of 50 feet for the two-way streets. Therefore, as long as all two-way roads in the park maintain the minimum 50-foot right-of-way/easement, no deviation is required from the RVPD roadway standards.¹⁴⁸ Given that the RVPD specific minimum pavement width will be met, it is appropriate to reduce the general pavement width to 22 feet.¹⁴⁹

The Applicant noted the MCP shows the total pavement width will be 30 feet, plus four feet of gutter, because the pedestrian walkways will be part of the paved roadway area

¹⁴³ LDC §34-939(b)(3).

¹⁴⁴ LDC §34-377(a)(4).

¹⁴⁵ LDC §34-935(b)(1)g.

¹⁴⁶ LDC §34-377(a)(4).

¹⁴⁷ LDC §10-296(i)(1).

¹⁴⁸ LDC §34-939(b)(4)a.

¹⁴⁹ The review criteria of LDC §10-104(g) are not applicable to this deviation because the deviation could be granted administratively.

(i.e. the walkway areas will not be separate). If the travel lanes are reduced in width, it is recommended the pedestrian walkways be separated from the street pavement, either as separate sidewalks down at least one side of the street, or as separate bicycle/pedestrian paths around the park. To place RVs, some of the widest vehicles on the road, immediately next to pedestrians, with no walkway separations on the pavement, raises safety concerns. This is especially true if the travel lane widths are reduced.

Therefore, the Hearing Examiner recommends approval of the deviation to reduce the travel lane widths for the two-way roads, but with a condition that the pedestrian walkway be separate. As conditioned, the deviation will enhance the objectives of the planned development while meeting the intent of the regulations.¹⁵⁰

Deviation 8.a. This deviation is to the general LDC street pavement width requirements¹⁵¹ (previously Deviation 5) and the RVPD roadway standards.¹⁵² It seeks to reduce the total width of the roadway travel lanes for one-way loop streets in the southeast area from the 16 feet required by the general street requirements and 20 feet required by the RVPD standards¹⁵³ to 12 feet.

The Applicant argued that the size of the southeastern area makes the smaller one-way roads necessary and that the pedestrian walkway portion of the pavement can be used by vehicles in an emergency, if necessary. However, the evidence indicates the width of the southeastern area does not justify the requested width. With the reduced eastern buffer and setback, the same proposed lot layout can be achieved with the 16-foot lane width. For the same reasons discussed for Deviation 7, the pedestrian walkway should be separate from the pavement. For these reasons, the Hearing Examiner recommends denial of the requested street lane width for one-way streets, but approval of a 16-foot wide travel lane, with separate sidewalks on at least one side of the street. As conditioned, the deviation will enhance the objectives of the planned development while meeting the intent of the regulations.¹⁵⁴

Deviation 8.b. The Request did not address a deviation to the required street right-of-way/easement widths, but the MCP appears to propose a width of 20 feet (16 feet of pavement plus 4 feet of gutter). The RVPD regulations require a 50-foot right-of-way/easement for all roads in the RVPD. The general LDC regulations require a 30 to 40-foot right-of-way/easement for one-way roads, depending on the drainage design.¹⁵⁵

With the reduced eastern buffer and setback, the same proposed lot layout can be achieved with 30-foot one-way street rights-of-way/easements. Therefore, the Hearing Examiner recommends the addition of a deviation to the RVPD street right-of-way/easement width, but not a deviation to the general regulations. The deviation to the RVPD requirements will enhance the objectives of the planned development while meeting the intent of the regulations.¹⁵⁶

¹⁵⁰ LDC §34-377(a)(4).

¹⁵¹ LDC §10-296(i)(1).

¹⁵² LDC 34-939(b)(4)a.

¹⁵³ The RVPD requirements do not address one-way streets.

¹⁵⁴ LDC §34-377(a)(4).

¹⁵⁵ LDC §10-296(b), Table 3.

¹⁵⁶ LDC §34-377(a)(4).

Deviation 9 – North Access Turn-around.

This deviation (previously Deviation 7) seeks to eliminate the LDC requirement for a truck turn-around¹⁵⁷ at the secondary access gate. The northern secondary access is through an easement. The Applicant's justification of the deviation is that the access is secondary, the project is adequately served by the turn-around at the main gate, and that requiring the easement would unnecessarily require a wider easement area.

There is no evidence the deviation will negatively impact the public interests. Granting the deviation will enhance the objectives of the planned development while meeting the intent of the regulations.¹⁵⁸ Therefore, the Hearing Examiner recommends approval of the requested deviation.

Deviation 10 – Clubhouse Parking

All planned developments must meet the applicable LDC parking requirements¹⁵⁹ or receive a deviation.¹⁶⁰ Testimony in the hearing noted the Staff proposed conditions to allow a reduced parking ratio for the RV Park Clubhouse. The Applicant asserted the use was not the same as an indoor recreation facility and was not specifically addressed. However, the clubhouse in the recreation area appears to meet the definition for a private recreation facility,¹⁶¹ which does have a specific parking ratio. Even if it does not meet the definition, a private recreation facility is the use most similar to the proposed clubhouse.¹⁶² Therefore, it would appear a deviation is necessary to achieve the requested parking ratio.

The Hearing Examiner agrees the application of the higher LDC parking ratio will add unnecessary parking and reduce the amenity area available in the park.¹⁶³ There is no evidence that the requested parking ratio will not be sufficient or that it will negatively impact the surrounding property owners or general public.¹⁶⁴ Granting the deviation will enhance the objectives of the planned development while meeting the intent of the regulations to provide adequate parking.¹⁶⁵ Therefore, the Hearing Examiner recommends the addition of a deviation to reduce the required parking from 4 parking spaces per 1000 square feet of total building floor area to the parking ratio for a multiple use development indoor recreation facility of 3.5 spaces per 1000 square feet of total floor area.¹⁶⁶

¹⁵⁷ LDC §34-1748(5).

¹⁵⁸ LDC §34-377(a)(4).

¹⁵⁹ LDC §34-411(o).

¹⁶⁰ LDC §34-411(b).

¹⁶¹ LDC §34-2 ("Recreation facilities, private on-site means recreation equipment or facilities such as residential multi-slip docking facilities; community horse stables, arenas, riding paths, paddocks or similar facilities; swimming pools, tennis, shuffleboard, handball or racquetball courts; or swings, slides, and other playground equipment that is owned, leased or operated by a homeowners', co-op, or condominium association and located in the development or neighborhood controlled by the association").

¹⁶² LDC §2020 ("Parking for uses not specifically mentioned in this section must meet the minimum parking requirement for the use most similar to that being requested").

¹⁶³ LDC §10-104(g)(4).

¹⁶⁴ LDC §10-104(g)(1).

¹⁶⁵ LDC §34-377(a)(4).

¹⁶⁶ LDC §34-2020.

Other Deviations

Deviation 11 (previous Deviation 4), would allow a new linear bulkhead shoreline at the eastern end of the existing lake, rather than the LDC required sinuous configuration.¹⁶⁷ The evidence indicates the existing lake shoreline does not have a sinuous configuration. Requiring the small area of modified shoreline to meet the LDC requirement would be unnecessarily burdensome, with no appreciable benefit.¹⁶⁸ Additionally, the requested bulkhead would comprise only half of the LDC allowed amount of hardened structure for lake shorelines.

The granting of the deviation would not negatively impact the abutting property owners or the general public.¹⁶⁹ Further, granting the deviation would enhance the planned development by allowing sufficient land for RV lots on the east end of the lake, without negatively impacting the intent of the deviated regulation.¹⁷⁰ Therefore, the Hearing Examiner recommends approval of the requested deviation.

Deviation 12 (previous Deviation 6). This deviation seeks to eliminate the requirement for a 9,600 square-foot on-site emergency shelter.¹⁷¹ The Applicant's justification for deviation was that the park is a transient park and people in the park would move their RVs from the park if a hurricane threatened. Staff noted the property is not within the 100-year flood zone or the Coastal High Hazard Zone, is less likely to be occupied in hurricane season, and is in a later Evacuation Zone (Zone C), with easy access to I-75. Staff recommended approval of the deviation with a condition to ensure an emergency evacuation plan is in place for the project.

As it relates to emergency shelters, the Lee Plan and LDC consider all RV parks residential and require shelters.¹⁷² The Lee Plan requires mandatory on-site shelters for new RV parks over an unspecified size threshold outside Category 1 areas of the Hurricane Vulnerability Zone.¹⁷³ Further, the Hurricane Preparedness regulations of the LDC¹⁷⁴ appear to apply to this property, regardless of whether the requested deviation is granted, and would require hurricane shelter impact mitigation.

The evidence indicates the Lee Plan and LDC envision on-site emergency shelters for RV parks like that proposed, whether transient or non-transient. The Applicant has not provided sufficient evidence to justify deviating from that requirement. Applying the regulation may be economically burdensome for the Applicant, but that is not sufficient grounds. The transient, and likely seasonal, nature of the park is also not sufficient; there is no indication of any intent in the regulations to exempt transient parks. Granting the deviation could threaten the safety of the abutting property owners and surrounding residence because the RV park residents may be occupying the public shelters in the area the citizens need to use. Without an on-site facility, emergency responders may be tied-up assisting park residences, to the detriment of other citizens, unnecessarily

¹⁶⁷ LDC §10-418(1).

¹⁶⁸ LDC §10-104(g)(4).

¹⁶⁹ LDC §10-104(g)(1).

¹⁷⁰ LDC §34-377(a)(4).

¹⁷¹ LDC §10-258.

¹⁷² The requirement for a hurricane shelter in all kinds of RV parks, without regard to the transient nature of its residences, is another example of the commercial versus residential confusion for RV parks under the LDC and Lee Plan.

¹⁷³ Lee Plan Policy 109.2.2.

¹⁷⁴ LDC Chapter 2, Article XI (§2-481 et seq.)

burdening emergency services.¹⁷⁵ Granting the requested deviation is inconsistent with the Lee Plan¹⁷⁶ and does not advance the public interest intents of the regulations.¹⁷⁷

Based on the above, the Hearing Examiner recommends denial of the requested deviation. However, if the Board believes the deviation should be granted, the Hearing Examiner recommends the addition of two conditions that eliminate the use of "park model" RVs, or any attachment that would prevent the RV from being completely mobile within one day notice, and require the mandatory evacuation of all park residences with the threat of a hurricane.

Policy Issue Separate from Rezoning Request

In the Staff Report and the hearing, Staff took the position that a transient recreational vehicle park is a commercial use. Neither the Lee Plan nor the LDC specifically recognizes this classification.¹⁷⁸ The LDC allowance of a flat density amount¹⁷⁹ is one of the few indications a transient RV park is classified as commercial, and that provision is problematic under the Lee Plan and LDC.¹⁸⁰

Classifying a transient RV park as "commercial development" is an unnecessary complication,¹⁸¹ it conflicts with the other regulatory uses of that term. However, a residential classification also does not fully address the use. The hybrid nature of transient RV parks and the conflicting manner in which they are addressed in the LDC makes it difficult to review requests consistently and uniformly. This issue has arisen in other RV park reviews¹⁸² and needs to be resolved for future cases.

Therefore, separate from this rezoning request, the Hearing Examiner suggests the Board direct Staff to prepare amendments to the LDC to clarify whether transient RV parks are to be reviewed as:

- commercial development, subject to the commercial standards;
- residential development, subject to density standards; or
- neither commercial nor residential, with separate specific development standards.

¹⁷⁵ LDC §10-104(g)(1) and (3).

¹⁷⁶ LDC §10-104(g)(2).

¹⁷⁷ LDC §34-377(a)(4).

¹⁷⁸ By way of examples: The only substantive reference to RV parks in the Lee Plan groups them with residential mobile home parks (See Lee Plan Policy 110.1.2). An RV park does not appear to fall under, but is not specifically exempted from, the Lee Plan commercial location requirements (Lee Plan Policy 6.1.2). The commercial building and development design standards of the LDC apply to all commercial development, but do not address RV parks (LDC §10-600 et seq.). RVPD districts are considered residentially zoned properties for the purpose of applying special setbacks for specific uses (LDC §34-2442) and community garden fencing (LDC §34-1744(b)(2)e), but commercial for determining appropriate buffers (LDC §10-416(c)(2)).

¹⁷⁹ LDC §34-939(b)(6).

¹⁸⁰ A recreational vehicle meets the LDC definition of dwelling unit and housing unit (LDC §34-2), both of which are included in how the Lee Plan calculates residential density (Lee Plan Glossary); this indicates RVs should be subject to density restrictions. Non-transient RVs are subject to the density calculations and there is no explanation why a stay length of more or less than six months should control intensity calculations. If the justification is that a shorter stay makes the RV Park more like a hotel, the park should be subject to density equivalent formulas, such as apply to hotels and other "living units." (LDC §34-1802 and 34-1494).

¹⁸¹ As a relevant example of the difficulty, in this case the Lee Plan arguably does not allow a major part of the Request if an RV park is classified "commercial development." The Lee Plan does not specifically indicate the limits on "Neighborhood Centers," but provides an indication of what is expected. The description of "neighborhood commercial" indicates the major function is to provide convenience goods and personal services on properties of 2 to 10 acres with gross floor areas of 30,000 to 100,000 square feet. (Lee Plan 6.1.2.2.) Further, the Suburban "Neighborhood Center" does not include single use commercial retail development of five acres or more. (Lee Plan 6.1.2.13.) Because there is no evidence in the record an RV park of the size proposed is not "greater than" the neighborhood commercial the Suburban Future Land Use category allows, the RV park is arguably prohibited.

¹⁸² Two examples are DCI2009-00009 and DCI2012-00016.

VI. Findings and Conclusions:

Based on the testimony and exhibits presented in the record of this Request, the Hearing Examiner makes the following findings and conclusions:

A. The Applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan. Specifically, with the recommended conditions, the Request will:

- be consistent with the applicable Future Land Use categories (Lee Plan Policies 1.1.2, 1.1.3, 1.1.5, and 1.5.1);
- promote a contiguous and compact growth pattern (Lee Plan Objectives 2.1 and 2.2);
- be served by adequate public facilities (Lee Plan Objective 2.2, Policy 2.2.1, and Standards 11.1 and 11.2);
- be compatible with and not be destructive to the character of the surrounding residential environment (Lee Plan Objective 23.3 and Policies 5.1.5, 6.1.4, and 135.9.5);
- be consistent with the uses and the densities/intensity set forth in the Lee Plan (Lee Plan Policies 1.1.2, 1.1.3, 1.1.5, and 1.5.1);
- provide adequate and appropriate landscaping, open space, and buffering (Lee Plan Policies 6.1.6 and 23.1.2);
- not jeopardize the safety of students at the adjacent school (Lee Plan Policy 6.1.9);
- provide open space designs that preserve existing native vegetation and buffer adjacent uses (Lee Plan Objective 77.3); and
- preserve upland areas around preserved wetlands (Lee Plan Policy 107.3.1).

B. The Applicant has proven entitlement to the rezoning by demonstrating compliance with the applicable regulations. With the recommended conditions and deviations, the Applicant has sufficiently demonstrated compliance with the applicable LDC provisions. No other applicable code or regulation is relevant to this rezoning review.

C. With the recommended conditions and deviations, the Request:

- is an appropriate use in the proposed location;
- is compatible with the existing or planned uses in the surrounding area;
- is served by streets with the capacity to carry the traffic generated;
- has a level of access and traffic flow sufficient to support the proposed intensity;
- has available and adequate urban services; and
- will not adversely affect environmentally critical areas and natural resources.

D. Approval of the request will not place an undue burden on existing transportation or planned infrastructure facilities.

E. The recommended conditions provide sufficient safeguards against, and reasonably relate to, the project's impacts on the public interests.

F. The deviations recommended for approval:

- enhance the achievement of the objectives of the RVPD; and
- preserve and promote the intent of the regulations to protect the public health, safety, and welfare.

G. The deviations recommended for denial do not preserve and promote the intent of the regulations.

Date of Recommendation: January 7, 2015.



LAURA B. BELFLOWER
Lee County Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Case: DCI2014-00010

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

EXHIBIT A

Banks Engineering

Professional Engineers, Planners & Land Surveyors
FORT MYERS ♦ SARASOTA ♦ PORT CHARLOTTE

DESCRIPTION
OF A
PARCEL OF LAND
LYING IN
SECTION 3 AND SECTION 4, TOWNSHIP 44 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 3 AND SECTION 4, TOWNSHIP 44 SOUTH, RANGE 25 EAST, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERLY CORNER COMMON TO SAID SECTION 3 AND 4; THENCE N.89°22'11"E. ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 3 FOR 1089.94 FEET; THENCE N.00°58'12"W. PARALLEL WITH THE WEST LINE OF SAID FRACTION FOR 30.00 FEET TO AN INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF TICE STREET (WIDTH VARIES) AND THE POINT OF BEGINNING; THENCE CONTINUE N.00°58'12"W. ALONG SAID PARALLEL LINE AND THE BOUNDARY OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3601, AT PAGE 1183 OF THE PUBLIC RECORDS OF SAID LEE COUNTY FOR 630.46 FEET; THENCE S.89°22'11"W. ALONG SAID BOUNDARY PARALLEL WITH THE SOUTH LINE OF SAID FRACTION FOR 989.95 FEET; THENCE N.00°58'12"W. ALONG SAID BOUNDARY FOR 362.53 FEET TO THE SOUTHEAST CORNER OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 4856, AT PAGE 1115 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S.89°10'12"W. ALONG THE SOUTH LINE OF SAID LANDS FOR 99.99 FEET TO THE SOUTHWEST CORNER OF SAID LANDS AND A INTERSECTION WITH THE EAST LINE OF THE EAST HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE S.00°58'12"E. ALONG THE EAST LINE OF SAID FRACTION FOR 362.00 FEET TO THE SOUTHEAST CORNER OF SAID FRACTION; THENCE S.88°53'17"W. ALONG THE SOUTH LINE OF SAID FRACTION FOR 331.09 FEET TO THE SOUTHWEST CORNER OF SAID FRACTION; THENCE N.00°57'46"W. ALONG THE WEST LINE OF SAID FRACTION FOR 661.52 FEET TO THE NORTHWEST CORNER OF SAID FRACTION; THENCE N.89°02'25"E. ALONG THE NORTH LINE OF SAID FRACTION FOR 331.01 FEET TO AN INTERSECTION WITH THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 3 AND THE WEST LINE OF LANDS DESCRIBED IN SAID OFFICIAL RECORDS BOOK 4856, AT PAGE 1115; THENCE N.00°58'12"W. ALONG SAID WEST LINE FOR 456.32 FEET TO THE NORTHWEST CORNER OF SAID LANDS; THENCE N.89°10'12"E. ALONG THE NORTH LINE OF SAID LANDS FOR 99.99 FEET TO THE NORTHEAST CORNER OF SAID LANDS AND A INTERSECTION WITH THE BOUNDARY LINE OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3601, AT PAGE 1183 THENCE ALONG THE BOUNDARY OF SAID LANDS THE FOLLOWING DESCRIBED COURSES N.89°10'12"E. FOR 601.79 FEET; THENCE S.00°58'12"E. FOR 8.00 FEET; THENCE N.89°10'12"E. FOR 730.58 FEET TO AN INTERSECTION WITH THE WEST LINE OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3615, AT PAGE 154 OF SAID PUBLIC RECORDS; THENCE ALONG THE BOUNDARY OF SAID LANDS THE FOLLOWING DESCRIBED COURSES S.00°19'44"E. FOR 682.22 FEET; THENCE N.89°22'11"E. FOR 335.15 FEET TO AN INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF LEXINGTON AVENUE; THENCE S.00°58'12"E. ALONG SAID WEST LINE FOR 119.99 FEET TO THE NORTHEAST CORNER OF LOT 1, LEXINGTON COMMERCE CENTER AS RECORDED IN PLAT BOOK 63, AT PAGE 98 AND 99 OF PUBLIC RECORDS OF SAID LEE COUNTY; THENCE S.89°22'11"W. ALONG THE NORTH LINE OF SAID LOT FOR 336.49 FEET TO THE NORTHWEST CORNER OF SAID LOT; THENCE S.00°19'44"E. ALONG THE WEST LINE OF LOTS 1 AND 2 OF SAID LEXINGTON COMMERCE CENTER FOR 311.91 FEET TO THE NORTHWEST CORNER OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1903, AT PAGE 4558 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE N.89°22'11"E. ALONG THE NORTH LINE OF SAID LANDS FOR 164.93 FEET TO THE NORTHEAST CORNER OF SAID LANDS; THENCE S.00°38'35"E. ALONG THE EAST LINE OF SAID LANDS FOR 630.45 FEET TO THE SOUTHEAST CORNER OF SAID LANDS AND AN INTERSECTION WITH SAID NORTH RIGHT-OF-WAY LINE OF TICE STREET; THENCE S.89°22'11"W. ALONG SAID NORTH LINE FOR 491.32 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAIN 48.78 ACRES, MORE OR LESS

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

BEARINGS, DISTANCES AND COORDINATES ARE BASED ON THE "STATE PLANE COORDINATES SYSTEM" FLORIDA WEST ZONE 1983/90 ADJUSTMENT WHEREIN THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 44 SOUTH, RANGE 25 EAST, LEE COUNTY FLORIDA BEARS N.89° 22' 25"E. THE AVERAGE SCALE FACTOR IS 0.999946104.

DESCRIPTION PREPARED 09-15-05
DESCRIPTION REVISED 04-01-14

Richard M. Ritz
RICHARD M. RITZ
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATION NO. 4009
DATE SIGNED 6-19-14

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SHEET 1 OF 2

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JUN 23 2014

COMMUNITY DEVELOPMENT

DCI 2014-00010

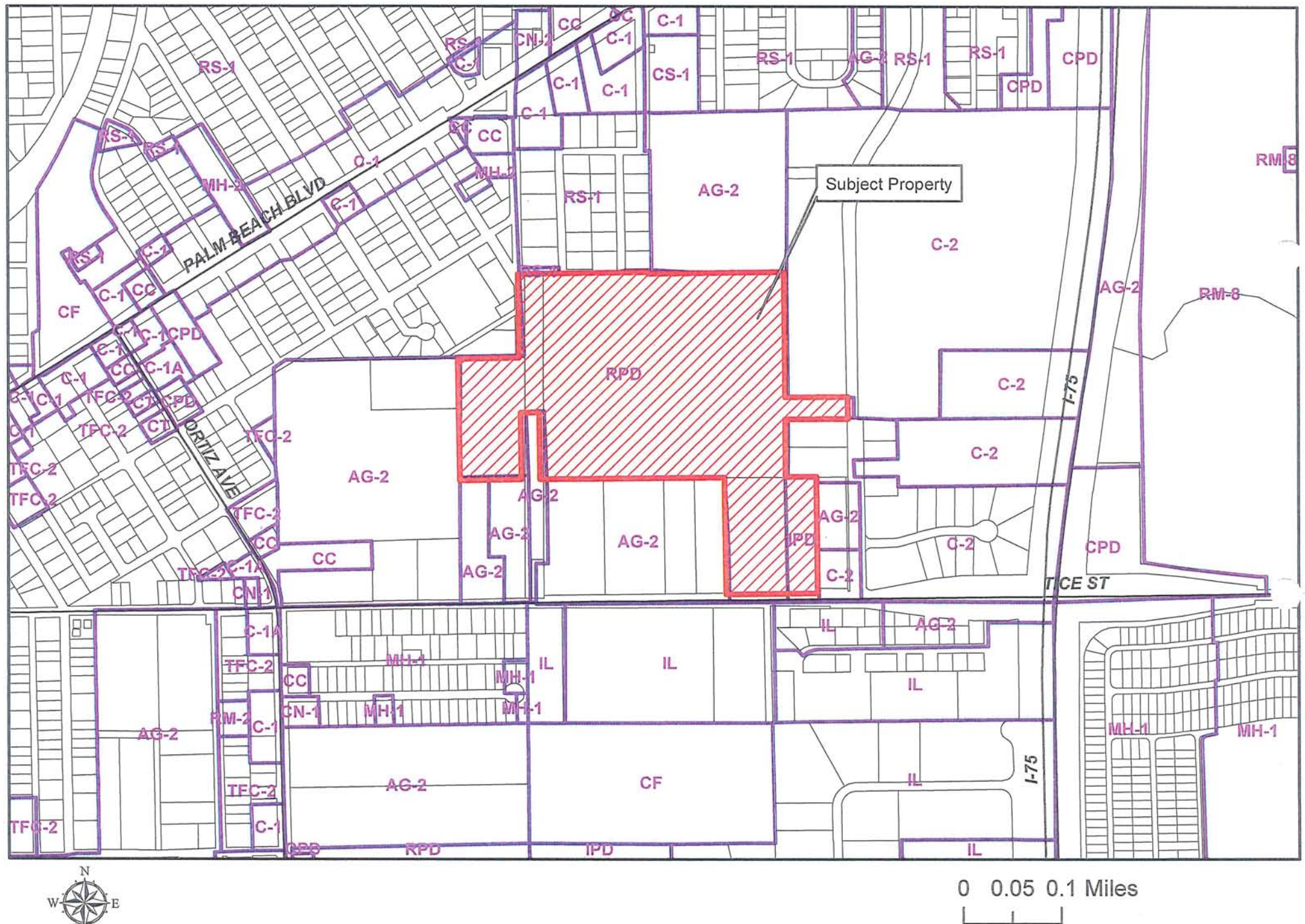


Exhibit B

RECOMMENDED CONDITIONS

CONDITIONS:

1. Master Concept Plan/Development Parameters:

The development of this project must be in substantial compliance with the one page Master Concept Plan (MCP) entitled THE BERMUDA LAKES RV RESORT PLANNED DEVELOPMENT, stamped RECEIVED OCT 07 2014 COMMUNITY DEVELOPMENT, last revised October 6, 2014, and attached as Exhibit B1, except as modified by the conditions below and the deviations in Exhibit C.

2. Uses and Site Development Regulations:

a. Schedule of Uses

Accessory Uses, Buildings and Structures (not permitted on RV lots)
Administrative Offices
Caretaker Residence
Community Gardens
Entrance Gates, Gatehouses
Essential Services
Essential Service Facilities, Groups I and II
Excavation: Water Retention
Fences and Walls
Parking Lot, Accessory
Recreational Vehicles (limited to a maximum of 200 transient units)
Signs, in compliance with Chapter 30
Vehicle and Equipment Dealers, Group IV (limited to RV's)

The following uses are limited to the Indoor/Outdoor Recreation Area:

Accessory Uses, Buildings, and Structures
Boat Ramps and Dockage (limited to one)
Clubs, Private*
Consumption on Premises,* subject to Condition 4
Day Care Center, Adult or Child
Food and Beverage Service, limited*
Food Stores, Group I* - limited to the sale of convenience items including groceries, tobacco products, novelties, sundries, and parts and supplies for recreational vehicles for RV park users
Laundry or Dry Cleaning, Group I*
Non-roofed Accessory Structures (limited to recreation decks, recreation group gathering areas and similar passive recreational uses)
Personal Services, Group I,* including ATMs
Place of Worship*
Recreation Facilities, Private On-site*
Rental of Leasing Establishment, Group I*

The following uses are limited to the Maintenance, Operations and Storage Area:

Accessory Uses, Buildings, and Structures

Storage, Open and Indoor* (limited to RV's, trailers, boats and other vehicles and goods belonging to park users)

* Limited to use by people staying at the RV park.

b. Site Development Regulations:

Minimum Park Perimeter Setback: 40 feet except where reduced by an approved deviation

Recreational Vehicle Unit Lots:

Minimum Lot Area	2,500 square feet
Minimum Lot Width	30 feet
Minimum Lot Depth	80 feet

Minimum Setbacks

Internal Street	10 feet
Between RV's	10 feet (5 feet & 5 feet)
Waterbody	25 feet
Side Yard	5 feet
Rear Yard	10 feet

Indoor and Outdoor Recreation Area:

Minimum Lot Area	32,000 square feet
------------------	--------------------

Minimum Setbacks

Internal Street	25 feet
Side Yard	15 feet
Rear Yard	25 feet
Rear Yard/Water Body	25 feet
RV Site	25 feet

Maximum Height*	35 feet
Maximum Lot Coverage	50 percent

Minimum setbacks for accessory structures and uses

Internal Street	20 feet
RV Site	25 feet
Side Yard	5 feet
Rear Yard	5 feet

Minimum Required Parking: 3.5 spaces per 1,000 square feet of building area, per Deviation 10.

Maintenance Building and Operations/Open Storage Area:

Maximum Lot Area 43,560 square feet

Minimum Setbacks

Internal Street	20 feet
RV Site	25 feet
Side Yard	10 feet
Rear Yard	10 feet

Maximum Height* 35 feet

Maximum Lot Coverage 80 percent

Minimum setbacks for accessory structures and uses

Internal Street	20 feet
RV Site	25 feet
Side Yard	5 feet
Rear Yard	5 feet

*Buildings that exceed 35 feet in height must maintain additional building separation in accordance with Land Development Code (LDC) Section 34-2174(a).

3. Compliance to LDC

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. Appropriate approvals will be necessary for changes to the MCP.

4. Consumption on Premises

Consumption on premises is limited to the Indoor and Outdoor Recreation Area shown on the MCP and must be primarily for the people staying at the recreational vehicle development. An application for administrative approval of consumption on premises is required prior to issuance of an alcoholic beverage license. The application must provide a detailed site plan of the Indoor and Outdoor Recreation Area that demonstrates that the location for the sale or service of alcoholic beverages for consumption on the premises, when measured in a straight line to the property line of Orange River Elementary School, is not closer than 500 feet. If the location for the sale or service of alcoholic beverages for consumption on the premises is located within 500 feet of Orange River Elementary School's property line, a special exception approval must be received.

5. Transient Units

The development may only be developed and used as a transient park for short term (less than six months) emplacement of recreational vehicles (transient units). The recreational vehicle must be removed from the park at the end of each user's visit or six months, whichever is less. Non-transient use of the development is prohibited.

6. Hurricane Conditions

Prior to local development order approval for any vertical development, an emergency evacuation plan for the project must be reviewed and approved by Lee County Emergency Management. The emergency plan must address the requirements of LDC Chapter 2, Article XI, Hurricane Preparedness, including the mitigation of the project's impacts.

7. Alligators and Listed Wading Bird Species

Prior to local development order approval, an American alligator and listed wading bird species management plans meeting the requirements of LDC Section 10-474 must be submitted for review and approval by the Division of Environmental Sciences Staff. The management plans must also include an informational brochure to be provided to patrons on living with alligators and wading birds as well as the importance of the littoral areas and adjacent preserves for providing nesting and forging habitat. Also, the development order plans must include the location and details of signage around the existing lake that state: "Alligators may be present. It is dangerous and illegal to feed or harass alligators."

8. Open Space

Development order plans must delineate at minimum 15.5 acres of common open space in conceptual compliance with the approved MCP.

9. Indigenous Preservation

Development order plans must depict a minimum 9 acres of preserves in conceptual compliance with the approved MCP. The LDC Required Indigenous Management Plan for the 9-acre preserves must also include the following:

- any required mitigation for other jurisdiction agencies; and
- development order plans that depict proposed wildlife crossings where the roadway bisects Preserve Areas 2 and 3, including signage and/or speed calming devices.

10. Buffer (Preserve #1 and #2)

Development order landscape plans must show a minimum 40-foot wide perimeter buffer, as per LDC Section 34-939(b)(3), in Preserves #1 and #2. The existing indigenous habitat and the individual oaks preserved within the 40-foot wide buffer must be protected as per the requirements of LDC Section 10-420(j)(3).

11. Tice Street Wall Special Treatment Buffer Plan

Development order landscape plans must depict the Tice Street right-of-way buffer segment consistent with the two-page "Tice Street Wall Special Treatment Buffer Plan," attached as Exhibit B2, and Deviations 1.c and 4.e.

12. Fences in Buffers

- a. Development order plans must depict the location and material details of the proposed perimeter fences. The proposed fence materials must be wire mesh, aluminum pickets, or similar materials, not be opaque, and blend in with the required buffer vegetation.

b. A Vegetation Removal Permit is required from Lee County Environmental Sciences Staff for clearing for the installation of the perimeter fence.

c. Prior to vegetation permit approval, the location of the fence in or abutting Preserves #1 and #2 and the 40-foot wide existing native vegetation buffer, including the buffer with individual oak tree preservation, must be staked in the field and verified by Environmental Sciences Staff and an on-site meeting with Environmental Sciences Staff and the fence contractor must be held to discuss how the fence will be installed to minimize impacts to the existing native vegetation. There must be no mechanical clearing for the fence installation in Preserves #1 and #2 and in the 40-foot wide existing vegetation buffer.

13. Water and Sewer

Development of this project must connect to public water and public sewer service. Letter(s) of availability, based on the proposed capacity, will be required at time of local development order.

14. 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 Lee County LDC may be required to obtain a local development order.

15. Lee Plan Consistency

Approval of this zoning 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 be reviewed for, and found consistent with, all other applicable Lee Plan provisions.

16. Concurrency

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

17. Solid Waste Management

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 #11-27 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of local development order application.

18. Development Permits

Issuance of a development permit by Lee County does not in any way create any rights on the part of the Applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to

obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertake actions that result in a violation of state or federal law.

19. Stormwater Drainage Conditions

During the development order process, the detailed drainage design must address the following:

a. The existing offsite flows and drainage patterns shall be preserved or improved (see Exhibit B3, Hydrology);

b. The 40-foot wide Lee County Department of Transportation drainage easement at the southeast corner must be tied into the proposed offsite drainage system. The design shall cause no adverse impact to the existing drainage capacity and hydraulic gradient; and

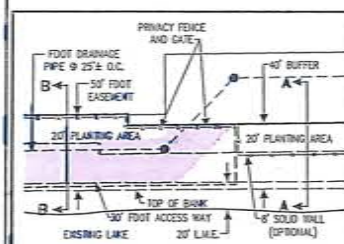
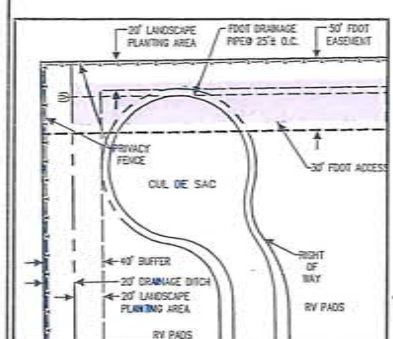
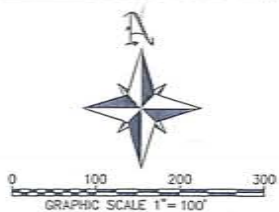
c. The existing hydrologic conditions at the two interior wetlands (in the center and southern parts of the property) must be preserved or improved. The hydrologic conditions to be considered include; hydroperiods, range of water level variations, and interconnectivity (among the existing lake/borrow pit, inflows from east, and effluent discharge).

20. Platting Requirement

If the development is subdivided, a subdivision plat is required, in accordance with Florida State Statute Chapter 177.

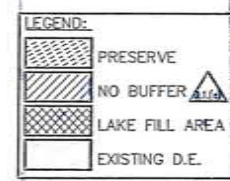
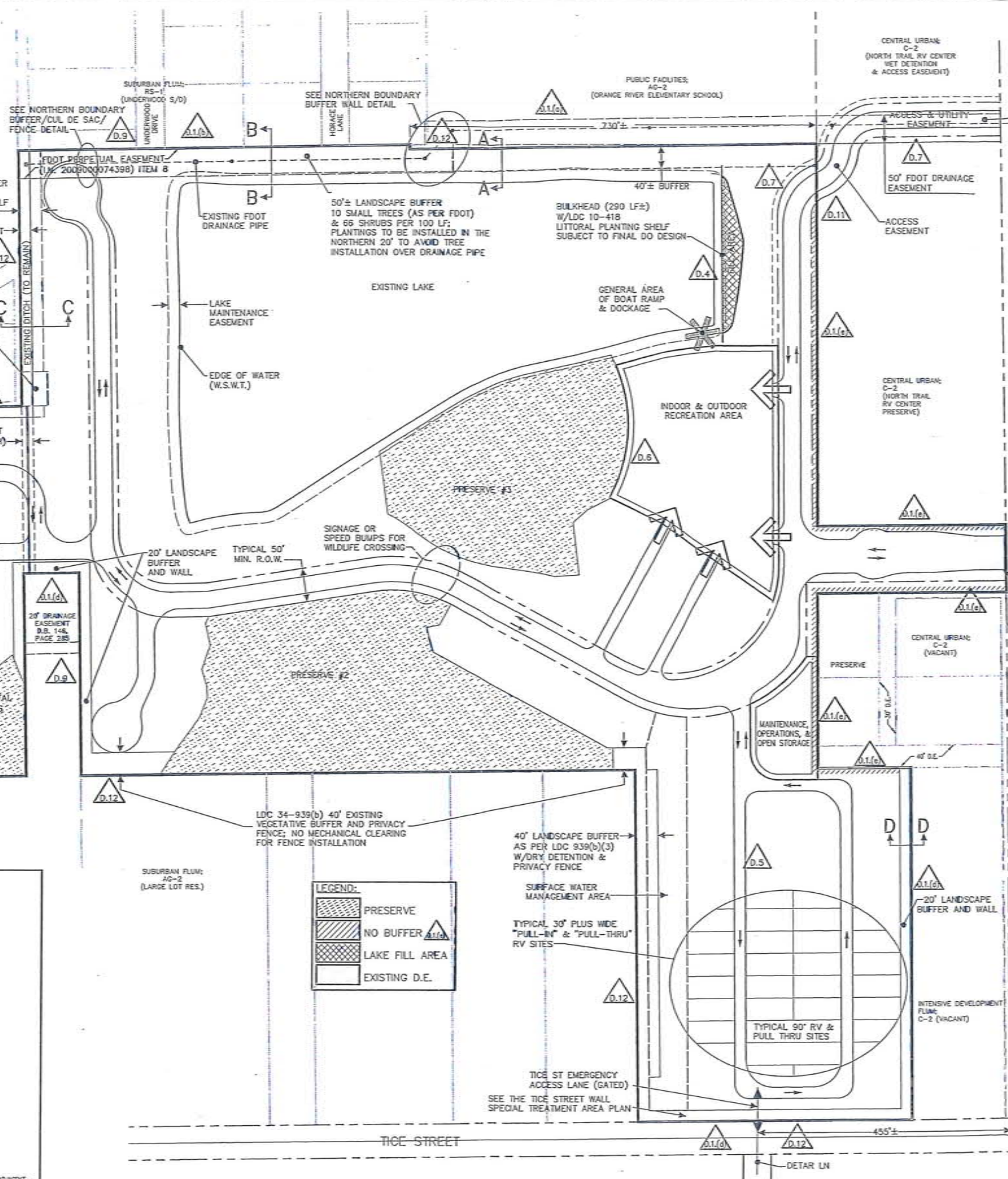
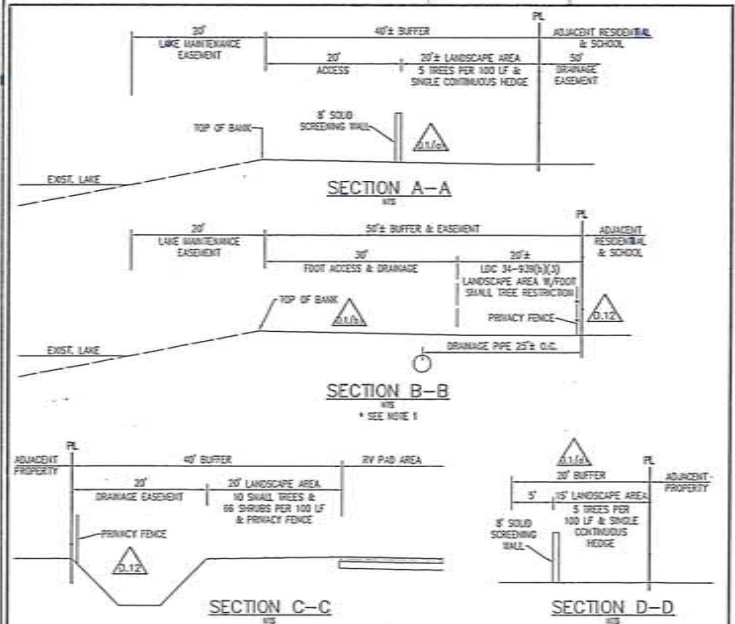
Exhibits to these Conditions:

- B1 MCP
- B2 Tice Street Wall Special Treatment Buffer Plan
- B3 Hydrology Exhibit



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COMMUNITY DEVELOPMENT

DCI 2014-00010



BERMUDA LAKES RV RESORT
PROJECT DATA
PROPOSED ZONING: RVPD
NUMBER OF PADS: 200
UTILITIES: LEE CO. UTILITIES
PLANNING COMMUNITY: FORT MYERS SHORES
WATERSHED: BILLY CREEK
FLOOD ZONE: X

TOTAL SITE AREA 48.78 AC±
REQUIRED OPEN SPACE @ 30% 14.63 AC±
REQUIRED NATIVE OPEN SPACE 7.32 AC±
PROVIDED TOTAL OPEN SPACE:
PRESERVE #1 2.44 AC±
PRESERVE #2 3.89 AC±
PRESERVE #3 2.73 AC±
SITE PERIMETER BUFFER 2.79 AC±
LAKE (25% TOTAL) 3.55 AC±
TOTAL PROJECT OS 15.50 AC±
PROVIDED NATIVE OPEN SPACE:
PRESERVE #1 2.10 AC±
PRESERVE #2 3.75 AC±
PRESERVE #3 2.18 AC±
TOTAL NATIVE OPEN SPACE 8.00 AC±
MIN. COMMON REQUIRED OUTDOOR REC.: 12,183 SF±
PROVIDED COMMON OUTDOOR REC.: 87,090 SF±

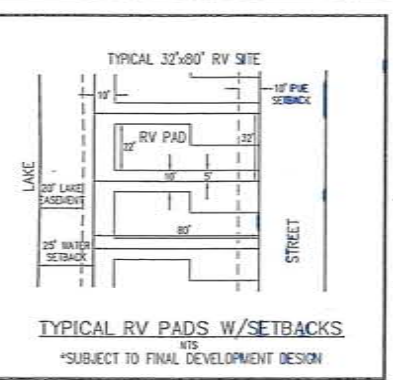
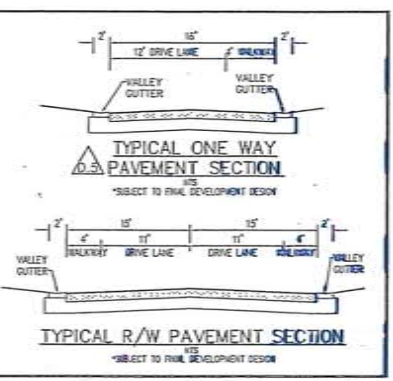
BERMUDA LAKES RVPD DEVELOPMENT STANDARDS

RECREATIONAL VEHICLE UNITS:
LOT AREA MIN. - 2,500 SF
LOT WIDTH MIN. - 30-FT.
LOT DEPTH MIN. - 80-FT.
INTERNAL STREET SETBACKS - 10-FT.
SIDE YARD SETBACKS - 10-FT. (5-FT. & 5-FT.)
FROM PARK PERIMETER BOUNDARY MIN. - 40-FT.
WATER BODY SETBACK MIN. - 25-FT.
SIDE YARD SETBACK MIN. - 5-FT.
REAR YARD SETBACK MIN. - 10-FT.

INDOOR AND OUTDOOR RECREATION AREA:
LOT AREA MIN. - 32,000 SF
STREET SETBACKS - 25-FT.
SIDE YARD SETBACKS - 15-FT.
REAR YARD/REAR YARD WATER BODY - 25-FT.
MAX. HEIGHT - 35-FT.
MAX. LOT COVERAGE - 50%
ACCESSORY STRUCTURE SETBACK MIN. - STREET @ 20-FT.
SIDE AND REAR @ 5-FT.

MAINTENANCE BUILDING AND OPERATIONS/OPEN STORAGE AREA:
LOT AREA MAX. - 43,560 SF
STREET SETBACK MIN. - 20-FT.
SIDE YARD SETBACK MIN. - 10-FT.
REAR YARD MIN. - 10-FT.
MAX. HEIGHT - 35-FT.
MAX. LOT COVERAGE - 80%
ACCESSORY STRUCTURE SETBACK MIN. - STREET @ 20-FT.
SIDE AND REAR @ 5-FT.

INDOOR & OUTDOOR RECREATION AREA PARKING:
3.5 SPACES PER 1,000 SF TOTAL CLUBHOUSE FLOOR AREA



PROJECT NOTES:
1. FOR THE NORTH BOUNDARY CROSS SECTION B-B AREA THE DEVELOPER HAS THE OPTION OF REPLACING THE VEGETATIVE BUFFER WITH AN 8' SOLID WALL AND LANDSCAPING CONSISTENT WITH CROSS SECTION A-A, SUBJECT TO OBTAINING APPROVAL IN WRITING FROM FDOT.

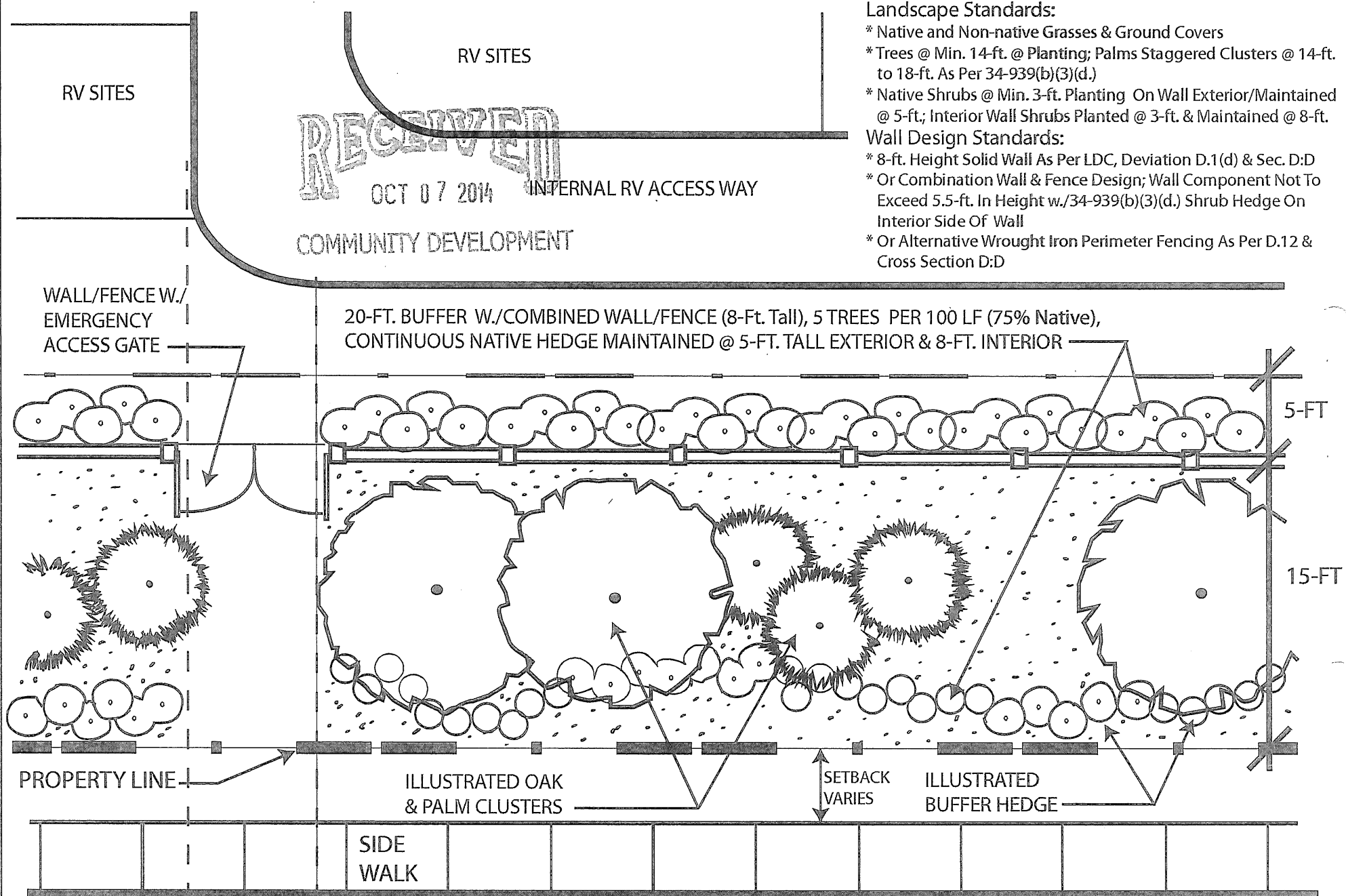
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2	10/15/2014	MASTER CONCEPT PLAN REVISIONS	EAH
3	10/15/2014	MASTER CONCEPT PLAN REVISIONS	EAH
4	10/15/2014	MASTER CONCEPT PLAN REVISIONS	EAH
5	10/15/2014	MASTER CONCEPT PLAN REVISIONS	EAH

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MASTER CONCEPT PLAN							
THE BERMUDA LAKES RV RESORT PLANNED DEVELOPMENT							
LEE COUNTY, FLORIDA							
DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
5/12/2014	2062NT	MCP		EAH		1"=100'	1



Landscape Standards:

- * Native and Non-native Grasses & Ground Covers
- * Trees @ Min. 14-ft. @ Planting; Palms Staggered Clusters @ 14-ft. to 18-ft. As Per 34-939(b)(3)(d.)
- * Native Shrubs @ Min. 3-ft. Planting On Wall Exterior/Maintained @ 5-ft.; Interior Wall Shrubs Planted @ 3-ft. & Maintained @ 8-ft.

Wall Design Standards:

- * 8-ft. Height Solid Wall As Per LDC, Deviation D.1(d) & Sec. D:D
- * Or Combination Wall & Fence Design; Wall Component Not To Exceed 5.5-ft. In Height w./34-939(b)(3)(d.) Shrub Hedge On Interior Side Of Wall
- * Or Alternative Wrought Iron Perimeter Fencing As Per D.12 & Cross Section D:D

The Tice St. Wall Special Treatment Buffer Plan

For The Bermuda Lakes RVPD

Stuart and Associates Greg@Stuarturbandesign.com www.stuarturbandesign.com

DCI 2014-00010

TICE STREET

EXHIBIT B-2

S.1

Landscape Standards:

- * Native and Non-native Grasses & Ground Covers
- * Trees @ Min. 14-ft. @ Planting; Palms Staggered Clusters @ 14-ft. to 18-ft. As Per 34-939(b)(3)(d.)
- * Native Shrubs @ Min. 3-ft. Planting On Wall Exterior/Maintained @ 5-ft.; Interior Wall Shrubs Planted @ 3-ft. & Maintained @ 8-ft.

Wall Design Standards:

- * 8-ft. Height Solid Wall As Per LDC, Deviation D.1(d) & Sec. D:D
- * Or Combination Wall & Fence Design; Wall Component Not To Exceed 5.5-ft. In Height w./34-939(b)(3)(d.) Shrub Hedge On Interior Side Of Wall
- * Or Alternative Wrought Iron Perimeter Fencing As Per D.12 & Cross Section D:D

8-ft. MAINTAINED REAR FENCE &
COMBINATION WALL/FENCE SHRUB HEDGE



EMERGENCY ACCESS
GATE

ILLUSTRATED SABLE
PALM CLUSTERS

ILLUSTRATED
OAK TREE PLANTINGS

ILLUSTRATED HEDGE
PLANTINGS

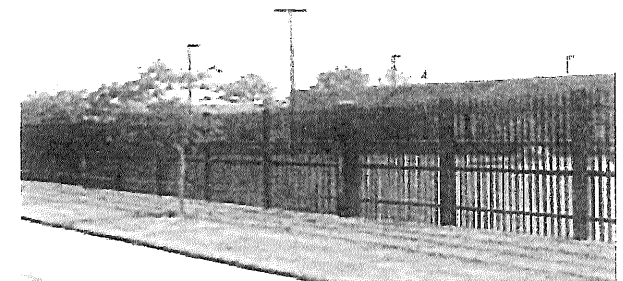
DCI 2014-00010

RECEIVED
OCT 07 2014

COMMUNITY DEVELOPMENT

The Tice St. Wall Special Treatment Buffer Plan For The Bermuda Lakes RVPD

Stuart and Associates Greg@Stuarturbandesign.com www.stuarturbandesign.com



ALT. WROUGHT IRON PERIMETER
FENCING ILLUSTRATION (Deviation 12)

EXHIBIT B-3

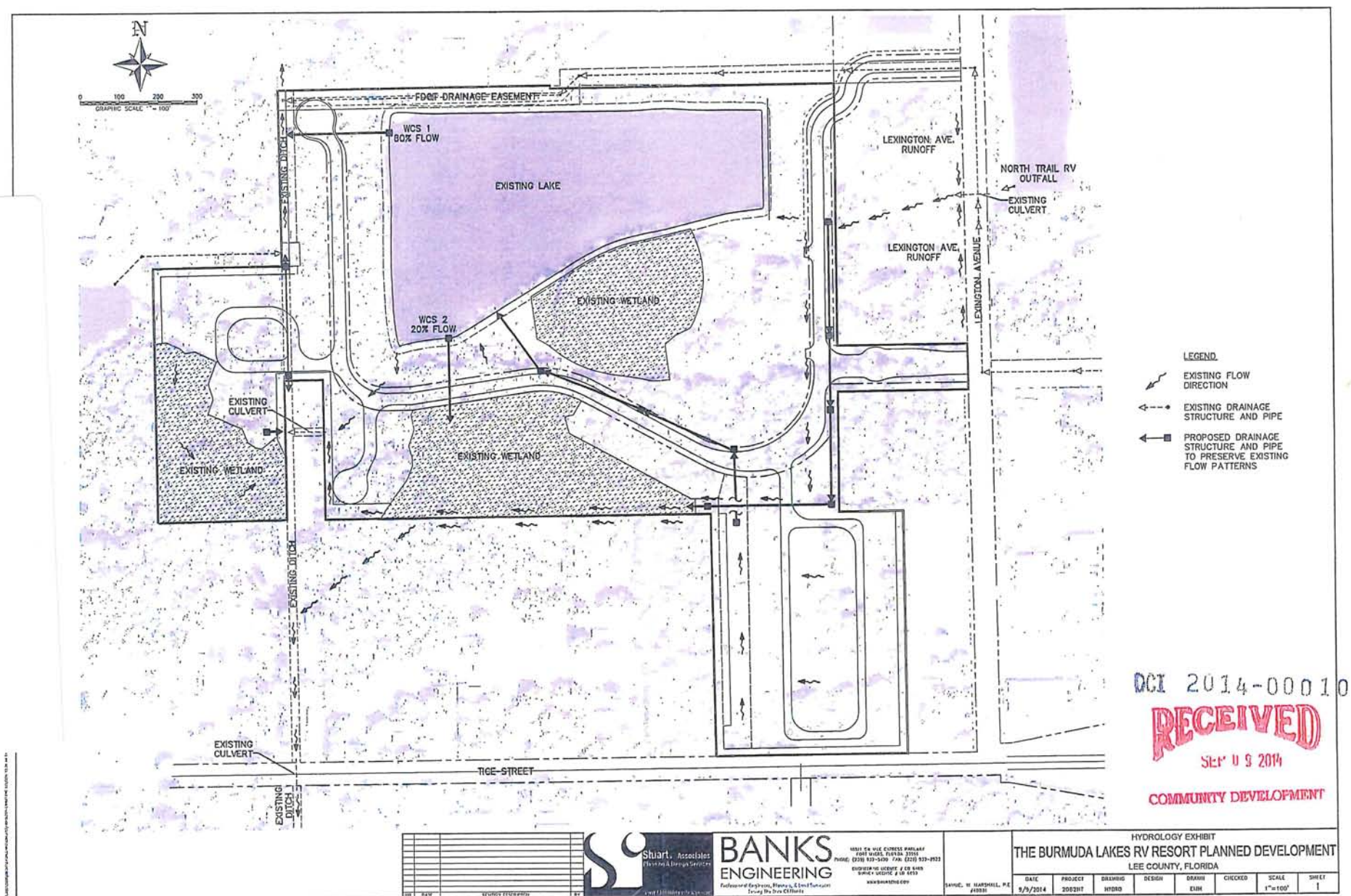


Exhibit C

DEVIATION RECOMMENDATIONS

(See Exhibit C1 for the resolution format list of deviations)

Similar deviations apply to different areas of the property. As used in these deviations, the areas are described as follows:

- Cross-section A-A Area – the eastern 650 feet of the area between the northern property line and the lake, next to the adjacent elementary school. Cross-section A-A on the Master Concept Plan (MCP) shows the general area.
- Cross-section B-B Area – the remaining portion of the northern boundary area, within the FDOT utilities/drainage easement. Cross-section B-B on the MCP shows the general area.
- Cross-section C-C Area – the forty feet along the northwestern property line, including the drainage ditch, as shown in cross-section C-C.
- Western Area – the western portion of the property that extends from the main body of the property.
- Keyhole Area – the project areas around a narrow agriculturally zoned and used parcel bordered on three sides by the southwestern portion of the Request property.
- Preserves #1 and #2 Areas – the perimeter boundaries in Preserve #1 and the area along the southern boundary of the main body of the property, in and on both sides of Preserve #2.
- Southeast Areas – the areas of the property that extend to the southeast of the main body of the property
- Tice Street Special Buffer – the forty feet along Tice Street in the Southeast Area. This is a subarea in the Southeast Area.
- Eastern Areas - the areas next to the northern boundary of the southeastern area, the eastern property boundary, and the main access area boundaries.

Deviation 1: This deviation seeks relief from LDC Section 34-939(b)(3), which requires a perimeter buffer area at least 40 feet wide with extraordinary amounts of landscaping, to allow the alternative options of:

- a. For the perimeter boundaries in the Cross-Section A-A (part of previous Deviation 1a) and Cross-Section B-B (part of previous Deviation 1b) Areas, a wall and reduced amounts of landscaping.

To preserve the Lee Plan and LDC required emphasis on the buffers, **the Hearing Examiner recommends approval of a modified Deviation 1.a**, to allow the requested wall and reduced shrubs, but to retain the required trees, as follows:

- The alternative buffer must provide:
 - An 8-foot tall wall, located 20 feet from the property boundary; and
 - A single continuous hedge, 24-inches in height at time of planting and maintained at a minimum height of 36-inches, planted between the wall and the perimeter boundary; and
 - Supplemental trees, added to the existing native trees, providing the LDC Section 34-939(b)(3) required number, type, and size of trees. The area containing the required trees must be maintained as a required buffer.

- For the Cross-Section A-A area and the portion of the Cross-Section B-B area north of the lake, the required trees may be located in the area between the northern property boundary and the northern water's edge of the existing lake.
- For the portion of the Cross-Section B-B area northwest of the lake, the required trees may be located in the area between the northern property boundary and the southern boundary of the 50-foot wide FDOT easement.

- b. For the following perimeter boundaries: the northern and non-preserve boundaries in the Western Area, the non-preserve boundaries around the Keyhole Area, and the eastern boundary of the Southeastern Area (part of previous Deviation 1d), a reduction of the boundary width to 20 feet, a wall, and reduced amounts of landscaping.

To preserve the Lee Plan and LDC required emphasis on the buffers, **the Hearing Examiner recommends approval of a modified Deviation 1.b**, to retain the required trees, as follows:

The alternative buffer must provide:

- A 20-foot wide landscape buffer; and
- An 8-foot tall wall, located 20 feet from the property boundary, with the landscaping between the wall and the perimeter boundary; and
- A single continuous hedge, 24-inches in height at time of planting and maintained at a minimum of 36-inches; and
- Supplemental trees, added to existing native trees, providing the LDC Section 34-939(b)(3) required number, type, and size of trees.

- c. For the Tice Street Special Buffer in the Southeast Area (part of previous Deviation 1d),

- A reduction from a 40-foot wide to a 20-foot wide landscape buffer; and
- Either –
 - Option 1: Provide an 8-foot tall wall and fence combination, a reduced number of trees (from 10 to 5 trees per 100 linear feet), and an increased maintained height of the interior row of shrubs from 5 to 8 feet; or
 - Option 2: Provide the LDC Section 34-939(b)(3) required landscaping, with a wrought iron fence.

The Hearing Examiner recommends approval of Deviation 1.c, subject to Condition 11.

- d. For the perimeter boundaries in the Eastern Area (previous Deviation 1e), the elimination of the buffer.

The Hearing Examiner recommends approval of Deviation 1.d.

Deviation 2: This deviation seeks relief from LDC Sections 10-421(a)(3) (added deviation) and 34-939(b)(3) (part of previous deviation 1a), which prohibit vehicle accesses in a required buffer area, to allow:

- a. In the Cross-Sections A-A and B-B Areas, a lake maintenance access in the southern 20 feet of the required buffer area north of the existing lake.

The Hearing Examiner recommends approval of Deviation 2.a with the following condition:

The lake maintenance access may overlap pedestrian/bicycle paths. If impervious surfaces are required for the lake maintenance access, they may not exceed 20 percent of the total buffer width and the balance of the area must be vegetated or mulched.

- b. In the Cross-Section B-B Area, a stormwater management facility maintenance ingress/egress under the terms of the existing FDOT easement agreement.

The Hearing Examiner recommends approval of Deviation 2.b.

- c. In the Cross-Section B-B Area, an RV park street to intrude into the required 40-foot buffer area.

The Hearing Examiner recommends denial of Deviation 2.c, as it is insufficiently supported and inconsistent with the intent of the buffering regulations.

Deviation 3: (Previous Deviation 9) This deviation seeks relief from LDC Sections 10-416(d)(6) and 34-935(b)(4), which requires a specific buffer design if roads or drives are located less than 125 feet from an existing single-family residential subdivision or single-family residential lots, to allow:

- a. In the Cross-Section B-B Area –
- If the alternative buffer design described in Deviation 1.a is used, a relocation of the wall from the required distance of not less than 25 feet from the abutting property to a distance of not less than 20 feet from the abutting property; OR
 - If the RVPD required buffer is provided, the shrubs within less than 20 feet from the abutting property.

The Hearing Examiner recommends approval of Deviation 3.a.

- b. For the northern and non-preserve western perimeter boundary buffers in the Western Area and the non-preserve perimeter boundaries around the Keyhole area (previous deviation 9), a relocation of the wall.

To preserve the Lee Plan and LDC required emphasis on the buffers, **the Hearing Examiner recommends approval of a modified Deviation 3.a,** to increase the wall separation distance to 20 feet, rather than the requested 15 feet and to address the hedge if Deviation 1.b is not used, as follows:

- If the alternative buffer design described in Deviation 1.b is used, a relocation of the wall from the required distance of not less than 25 feet from the abutting property to a distance of not less than 20 feet from the abutting property; OR
- If the RVPD required buffer is provided, the shrubs within less than 20 feet from the abutting property.

c. For the western end of the Preserve #2 area (added deviation) –

- A relocation of the hedge from the required distance of not less than 20 feet from the abutting property to allow the hedge within the 40-foot buffer in accordance with LDC Section 34-939(b)(3).

The Hearing Examiner recommends approval of Deviation 3.c.

Deviation 4: (previous Deviation 12) This deviation seeks relief from LDC Section 10-421(a)(8), which states required buffer plantings must be installed on the exterior side of all walls or fences, to allow a fence along the perimeter property line (except under Option 1 of the Tice Street Special Buffer):

a. In the Cross-Section B-B Area – To preserve the Lee Plan and LDC required emphasis on the buffers, **the Hearing Examiner recommends approval of a modified Deviation 4.a**, as follows:

If the buffer provided is the RVPD required buffer, a fence that meets Condition 12, located no less than 10 feet from the perimeter property line, with at least one-half of the required landscaping located between the fence and the property line.

b. In the Cross-Section C-C Area – To preserve the Lee Plan and LDC required emphasis on the buffers, **the Hearing Examiner recommends approval of a modified Deviation 4.b**, as follows:

A fence that meets Condition 12, located no less than 10 feet within the landscaped portion of the buffer, with at least one-half of the required landscaping located between the fence and the property line.

c. In the Preserves #1 and #2 Areas and western boundary of the Southeast Area – To preserve the Lee Plan and LDC required emphasis on the buffers, **the Hearing Examiner recommends approval of a modified Deviation 4.c**, as follows:

A fence that meets Condition 12, with at least one-half of the required landscaping located between the fence and the property line. The fence may meander to maximize the protection of existing native trees, but must be located no less than 5 feet, with an average distance of 10 feet, from the perimeter property line, unless the Director of the Department of Community Development determines a lesser distance is necessary to protect wetlands or other natural resources.

d. In the western boundary of the Southeast Area – To preserve the Lee Plan and LDC required emphasis on the buffers, **the Hearing Examiner recommends approval of a modified Deviation 4.d**, as follows:

A fence that meets Condition 12, located no less than 10 feet from the perimeter property line, with at least one-half of the required landscaping located between the fence and the property line.

- e. In the Tice Street Special Buffer –

The Hearing Examiner recommends approval of a modified Deviation 4.d, as follows:

- Option 1: To locate a wall and fence combination 15 feet from the perimeter property line with the amount of trees described in Deviation 1.c and the exterior hedge row between the wall/fence and the perimeter property line;

OR

- Option 2: To locate a wrought iron fence no less than 10 feet within the landscaped portion of the buffer, with at least one-half of the required landscaping located between the fence and the property line.

Both options are subject to Condition 11.

Deviation 5: (Added Deviation) This deviation seeks relief from LDC Section 10-416(d)(11), which limits the amount of impervious surfaces in a buffer to no more than 20 percent of the buffer width, to allow the FDOT ingress/egress area to exceed the impervious surface limits.

The Hearing Examiner recommends approval of Deviation 5, subject to the following condition: Existing native trees must be retained to the greatest extent reasonably possible and the amount of impervious surfaces must be the minimum necessary to provide the easement access, as determined by the Director of the Department of Community Development.

Deviation 6: (Added Deviation) If the buffer width deviations of Deviations 1.b and 1.c are used, this deviation seeks relief from LDC Section 34-935(b)(1)g, which requires all buildings and structures to be set back 40 feet from all perimeter boundaries of the RVPD, to allow a 25-foot setback from the following perimeter boundaries:

- the northern and non-preserve boundaries in the Western Area,
- the non-preserve boundaries around the Keyhole Area,
- the southern and eastern boundary of the Southeastern Area, and
- the Eastern Area.

The Hearing Examiner recommends approval of Deviation 6.

Deviation 7: (part of previous Deviation 5) This deviation seeks relief from LDC Section 10-296(i)(1)(b), which requires travel lane widths of 24 feet for private two-way streets, to allow travel lane widths of 22 feet.

The Hearing Examiner recommends approval of Deviation 7, with the following condition: If this deviation is used, pedestrian walkways/sidewalks must be separated from the roadway pavement.

Deviation 8: (part of previous Deviation 5)

- a. This deviation seeks relief from LDC Sections 10-296(i)(1)a (part of previous Deviation 5) and 34-939(b)(4)a (added Deviation), which require travel lane widths of 16 feet for private one-way streets and 20 feet for all streets in an RVPD, to allow travel lane widths of 12 feet for the one-way streets.

The Hearing Examiner recommends:

- **Denial of the deviation to LDC Section 10-296(i)(1)a and**
 - **Approval of a modified deviation to LDC Section 34-939(b)(4)a**, to allow one-way street travel lane widths of 16 feet, with the following condition: If this deviation is used, pedestrian walkways/sidewalks must be separated from the roadway pavement.
- b. This deviation seeks relief from LDC Section 34-939(b)(4)a (added Deviation), which requires a minimum street right-of-way or easement width of 50 feet, to allow a width as narrow as 30 feet for the one-way streets.

The Hearing Examiner recommends approval of Deviation 8.b.

Deviation 9: (previous Deviation 7) This deviation seeks relief from LDC Section 34-1748(5), which requires a turn-around radius sufficient for a U-turn by a single unit truck before an access gate, to eliminate the requirement at the northern secondary entrance.

The Hearing Examiner recommends approval of Deviation 9.

Deviation 10: (added Deviation) This deviation seeks relief from LDC Section 34-2020(b), which requires 4 parking spaces per 1000 square feet of total floor area for indoor recreation facilities, to allow 3.5 parking spaces per 1000 square feet of building area for the clubhouse/recreation area.

The Hearing Examiner recommends approval of Deviation 10.

Deviation 11: (previous Deviation 4) This deviation seeks relief from LDC Section 10-418(1), which requires that shorelines of surface water management lakes be sinuous in configuration, to allow approximately 290 linear feet of lake's east shoreline to be a linear bulkhead.

The Hearing Examiner recommends approval of Deviation 11.

Deviation 12: (previous Deviation 6) This deviation seeks relief from LDC Section 10-258, which requires that RV developments provide an on-site emergency shelter, to allow no on-site emergency shelter.

The Hearing Examiner recommends denial of Deviation 12. Granting the requested deviation is inconsistent with the Lee Plan and does not advance the public interest intents of the regulations.

However, if the Board of County Commissioners chooses to approve Deviation 12, the Hearing Examiner recommends the addition of the following conditions:

If an on-site emergency shelter is not provided:

1. Park-trailer recreational vehicles, any other recreational vehicle that is not fully mobile, and any attachment that prevents a recreational vehicle from being completely mobile within one day are prohibited.

2. A mandatory evacuation of the RVPD is required under a Category 2 or higher event. All recreational vehicles in the RVPD must be removed from the property or stored in the on-site storage area, with tie-downs as necessary to keep them secure.

Exhibit C1

DCI2014-00010 Deviations In Resolution format

The areas identified in these deviations are described as follows:

- Cross-section A-A Area – the eastern 650 feet of the area between the northern property line and the lake, next to the adjacent elementary school. Cross-section A-A on the Master Concept Plan (MCP) shows the general area.
- Cross-section B-B Area – the remaining portion of the northern boundary area, within the FDOT utilities/drainage easement. Cross-section B-B on the MCP shows the general area.
- Cross-section C-C Area – the forty feet along the northwestern property line, including the drainage ditch, as shown in cross-section C-C.
- Western Area – the western portion of the property that extends from the main body of the property.
- Keyhole Area – the project areas around a narrow agriculturally zoned and used parcel bordered on three sides by the southwestern portion of the Request property.
- Preserve #2 Area – the area along the southern boundary of the main body of the property, in and on both sides of Preserve #2.
- Southeast Areas – the areas of the property that extend to the southeast of the main body of the property
- Tice Street Special Buffer – the forty feet along Tice Street in the Southeast Area. This is a subarea in the Southeast Area.
- Eastern Areas - the areas next to the northern boundary of the southeastern area, the eastern property boundary, and the main access area boundaries.

Deviation 1 seeks relief from the LDC Section 34-939(b)(3) requirement of 40-foot wide perimeter buffer area with extraordinary amounts of landscaping, to allow:

- a. For the perimeter boundaries in the Cross-Section A-A and Cross-Section B-B Areas, the following:
 - An alternative buffer of:
 - An 8-foot tall wall, located 20 feet from the property boundary; and
 - A single continuous hedge, 24-inches in height at time of planting and maintained at a minimum height of 36-inches, planted between the wall and the perimeter boundary; and
 - Supplemental trees, added to the existing native trees, providing the LDC Section 34-939(b)(3) required number, type, and size of trees. The area containing the required trees must be maintained as a required buffer.
 - For the Cross-Section A-A area and the portion of the Cross-Section B-B area north of the lake, the required trees may be located in the area between the northern property boundary and the northern water's edge of the existing lake.
 - For the portion of the Cross-Section B-B area northwest of the lake, the required trees may be located in the area between the northern property boundary and the southern boundary of the 50-foot wide FDOT easement.

This deviation is APPROVED.

- b. For the following perimeter boundaries: the northern and non-preserve boundaries in the Western Area, the non-preserve boundaries around the Keyhole Area, and the eastern boundary of the Southeastern Area, the following:

A 20-foot wide landscape buffer with:

- An 8-foot tall wall, located 20 feet from the property boundary, with the landscaping between the wall and the perimeter boundary; and
- A single continuous hedge, 24-inches in height at time of planting and maintained at a minimum of 36-inches; and
- Supplemental trees, added to existing native trees, providing the LDC Section 34-939(b)(3) required number, type, and size of trees.

This deviation is APPROVED.

- c. For the Tice Street Special Buffer in the Southeast Area,

- A 20-foot wide landscape buffer; and
- Either –
 - Option 1: an 8-foot tall wall and fence combination, 5 trees per 100 linear feet, and an 8-foot maintained height of the interior row of shrubs; or
 - Option 2: the LDC Section 34-939(b)(3) required landscaping, with a wrought iron fence.

This deviation is APPROVED, SUBJECT TO Condition 11.

- d. The elimination of the buffer for the perimeter boundaries in the Eastern Area. This deviation is APPROVED.

Deviation 2 seeks relief from the LDC Sections 10-421(a)(3) and 34-939(b)(3) requirements prohibiting vehicle accesses in a required buffer area, to allow:

- a. In the Cross-Sections A-A and B-B Areas, a lake maintenance access in the southern 20 feet of the required buffer area north of the existing lake. This deviation is APPROVED, SUBJECT TO the following condition:

The lake maintenance access may overlap pedestrian/bicycle paths. If impervious surfaces are required for the lake maintenance access, they may not exceed 20 percent of the total buffer width and the balance of the area must be vegetated or mulched.

- b. In the Cross-Section B-B Area, a stormwater management facility maintenance ingress/egress under the terms of the existing FDOT easement agreement. This deviation is APPROVED.
- c. In the Cross-Section B-B Area, the intrusion of an RV park street into the required 40-foot buffer area. This deviation is DENIED.

Deviation 3 seeks relief from the LDC Sections 10-416(d)(6) and 34-935(b)(4) requirements for a specific buffer design if roads or drives are located less than 125 feet from an existing single-family residential subdivision or single-family residential lots, to allow:

- a. In the Cross-Section B-B Area, a wall not less than 20 feet from the abutting property, if the alternative buffer design described in Deviation 1.a is used, or shrubs less than 20 feet from the abutting property, if the RVPD required buffer is provided. This deviation is APPROVED.
- b. For the northern and non-preserve western perimeter boundary buffers in the Western Area and the non-preserve perimeter boundaries around the Keyhole area, a wall not less than 20 feet from the abutting property, if the alternative buffer design described in Deviation 1.b is used, or shrubs less than 20 feet from the abutting property, if the RVPD required buffer is provided. This deviation is APPROVED.
- c. For the western end of the Preserve #2 area, the hedge within the 40-foot buffer in accordance with LDC Section 34-939(b)(3). This deviation is APPROVED.

Deviation 4 seeks relief from the LDC Section 10-421(a)(8) requirements of buffer plantings on the exterior side of all walls or fences, to allow:

- a. If the RVPD buffer is provided in the Cross-Section B-B Area, a fence that meets Condition 12, located no less than 10 feet from the perimeter property line, with at least one-half of the required landscaping located between the fence and the property line. This deviation is APPROVED.
- b. In the Cross-Section C-C Area, a fence that meets Condition 12, located no less than 10 feet within the landscaped portion of the buffer, with at least one-half of the required landscaping located between the fence and the property line. This deviation is APPROVED.
- c. In the Preserves #1 and #2 Areas and western boundary of the Southeast Area, a fence that meets Condition 12, with at least one-half of the required landscaping located between the fence and the property line. The fence may meander to maximize the protection of existing native trees, but must be located no less than 5 feet, with an average distance of 10 feet, from the perimeter property line, unless the Director of the Department of Community Development determines a lesser distance is necessary to protect wetlands or other natural resources. This deviation is APPROVED.
- d. In the western boundary of the Southeast Area, a fence that meets Condition 12, located no less than 10 feet from the perimeter property line, with at least one-half of the required landscaping located between the fence and the property line. This deviation is APPROVED.
- e. In the Tice Street Special Buffer –
 - Option 1: a wall and fence combination 15 feet from the perimeter property line with the amount of trees described in Deviation 1.c and the exterior hedge row between the wall/fence and the perimeter property line;OR
 - Option 2: a wrought iron fence no less than 10 feet within the landscaped portion of the buffer, with at least one-half of the required landscaping located between the fence and the property line.

This deviation is APPROVED, SUBJECT TO Condition 11.

Deviation 5 seeks relief from the LDC Section 10-416(d)(11) requirement limiting the amount of impervious surfaces in a buffer to no more than 20 percent of the buffer width, to allow the FDOT ingress/egress area to exceed the impervious surface limits. This deviation is APPROVED, SUBJECT TO the following condition:

Existing native trees must be retained to the greatest extent reasonably possible and the amount of impervious surfaces must be the minimum necessary to provide the easement access, as determined by the Director of the Department of Community Development.

Deviation 6: If the buffer width deviations of Deviations 1.b and 1.c are used, this deviation seeks relief from the LDC Section 34-935(b)(1)g requirement that all buildings and structures must be set back 40 feet from all perimeter boundaries of the RVPD, to allow a 25-foot setback from the following perimeter boundaries:

- the northern and non-preserve boundaries in the Western Area,
- the non-preserve boundaries around the Keyhole Area,
- the southern and eastern boundary of the Southeastern Area, and
- the Eastern Area.

This deviation is APPROVED.

Deviation 7 seeks relief from the LDC Section 10-296(i)(1)(b) requirement of travel lane widths of 24 feet for private two-way streets, to allow travel lane widths of 22 feet. This deviation is APPROVED, SUBJECT TO the condition that pedestrian walkways/sidewalks must be separated from the roadway pavement.

Deviation 8.a seeks relief from the LDC Section 34-939(b)(4)a requirement of street widths of 20 in an RVPD, to allow travel lane widths of 16 feet for the one-way streets. This deviation is APPROVED, SUBJECT TO the condition that pedestrian walkways/sidewalks must be separated from the roadway pavement.

Deviation 8.b seeks relief from the LDC Section 34-939(b)(4)a requirement of a minimum street right-of-way or easement width of 50 feet, to allow a width as narrow as 30 feet for the one-way streets. This deviation is APPROVED.

Deviation 9 seeks relief from the LDC Section 34-1748(5) requirement of a turn-around radius sufficient for a U-turn by a single unit truck before an access gate, to eliminate the requirement at the northern secondary entrance. This deviation is APPROVED.

Deviation 10 seeks relief from the LDC Section 34-2020(b) requirement of 4 parking spaces per 1000 square feet of total floor area for indoor recreation facilities, to allow 3.5 parking spaces per 1000 square feet of building area for the clubhouse/recreation area. This deviation is APPROVED.

Deviation 11 seeks relief from the LDC Section 10-418(1) requirement that shorelines of surface water management lakes be sinuous in configuration, to allow approximately 290 linear feet of lake's east shoreline to be a linear bulkhead. This deviation is APPROVED.

Deviation 12 seeks relief from the LDC Section 10-258 requirement that RV developments provide an on-site emergency shelter, to allow no on-site emergency shelter. This deviation is DENIED.

EXHIBIT D

EXHIBITS PRESENTED AT HEARING

STAFF'S EXHIBITS

1. DCD Staff Report, with attachments & exhibits, prepared by Mikki J. Rozdolski, Senior Planner, dated October 16, 2014 (multiple pages – 8.5"x11")[black & white, color]

APPLICANT'S EXHIBITS

1. Applicant's 48-Hour Notice & Exhibit List from Greg Stuart to the Hearing Examiner, Alan Erp, & Sam Marshall, dated Monday, November 10, 2014 (3 pages – 8.5"x11")
2. Buffer & Deviation Composite Air Photo Exhibit, prepared by Stuart & Associates (1 page – 8.5"x11")[color]
3. Lidar Exhibit Map, prepared by Banks Engineering, dated 9/3/2014 (1 page – 24"x36")[color]
4. Florida Department of Transportation Perpetual Easement (3 pages – 8.5"x11")

Exhibit E
HEARING PARTICIPANTS

County Staff:

1. Suzie Derheimer
2. Robert Price
3. Mikki Rozdolski

Applicant's Representatives:

1. Jim Banks
2. Alan Erp
3. Al Erp
4. Sam Marshall
5. Kim Schlachta
6. Greg Stuart

Public Participants:

None

Exhibit F

HEARING TESTIMONY

See Official Transcript

Exhibit G
INFORMATION

UNAUTHORIZED COMMUNICATIONS:

Pursuant to the LDC, no person may communicate with a Hearing Examiner or the Hearing Examiner's staff on the substance of a pending zoning action, code enforcement hearing or appeals from administration decisions. There are limited exceptions to this rule for written communications specifically requested by the Hearing Examiner or where the Hearing Examiner, after notice, seeks advice from a disinterested expert.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS:

A. Notice or copies of this recommendation will be forwarded to the offices of the Lee County Board of County Commissioners.

B. The Department of Community Development is the custodian of the original file and documents used at the hearing. The documents are available for examination and copying by interested parties Monday through Friday between 8:00 a.m. and 4:30 p.m.

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 notify hearing participants of the Board hearing date. Only participants, or their representatives, may address the Board. Statements by persons addressing the Board are 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.

COPIES OF TESTIMONY AND TRANSCRIPTS:

A verbatim transcript of the testimony presented at the hearing is available from Lee County Public Resources at 2115 Second Street, Fort Myers.