

John Manning
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Cecil L. Pendergrass
District Two

Larry Kiker
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
Hearing Examiner

December 20, 2018

Q. Grady Minor & Associates, P.A.
D. Wayne Arnold, AICP
3800 Via Del Rey
Bonita Springs, FL 34134

RE: DCI2018-10022, Vintage Commerce Center CPD

Dear Mr. Arnold:

Lee County has reviewed the information filed on November 29, 2018 for the above zoning application. The Land Development Code requires additional information before the application can be deemed sufficient. Please respond to each requirement not satisfied found in the following responses and any attached comments. Please direct all questions and comments about this response to Chip Block.

LDC Section 34-201(b) and LDC Section 34-373(a):

For the following requested information, please provide separate documentation for the two requested zoning districts of CPD and RPD, making sure to distinguish between the two:

- Please revise the Application form, Page 1, to correct the type of Application from a "Major PD Amendment" to Major PD and the Summary of the Project. The Summary says it is an amendment. This should be indicating the request is seeking a rezoning from CPD to CPD and RPD zoning. Since RPD zoning does not currently exist, the request must be a rezoning from the current CPD zoning to CPD and RPD zoning.
- Since the proposed development has development intensity exceeding those standards found in LDC Section 34-341(b), this is considered a Major Planned Development. Therefore, the fee for the application is not \$5,000, but \$8,000 plus \$40 per acre plus \$1,500 for the second zoning district sought. Please pay the difference of the two fees. (also LDC Section 34-202(a)(9))

LDC Section 34-202(a) and LDC Section 34-373(a)(3):

LDC Section 34-202(a)(1) Legal description and sketch to accompany legal description. Please provide a metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper. The legal description must specifically describe the entire continuous perimeter boundary of the property subject to the zoning action with accurate bearings and distances for every line. If the application seeks to rezone undivided,

platted lots, then a complete legal description (i.e. lot, block, subdivision name, public records recording information) of the platted subject property is required.

LDC Section 34-202(a)(2) Boundary survey. The boundary survey is based upon a "commitment" for title insurance, rather than an executed title insurance document. The boundary survey must be based upon a title certification document that is sufficient with LDC Section 34-202(A)(3). The boundary survey must be certified to Lee County. It must also provide two state plane coordinate points, one at the point of beginning, and the other at an opposing corner. The legal description on the boundary survey must describe the continuous perimeter of the subject property and must not contain "less and except" language.

LDC Section 34-202(a)(3) Title certification. The document provided is not an executed title insurance policy, therefore it is insufficient. The legal description provided in this document must describe the continuous perimeter of the subject property and must not contain "less and except" language. Certification of title and encumbrances submitted for property subject to zoning approval must meet the following criteria:

- a. *Form.* The certification of title must be in one of the following forms:
 - i. Title certificate or title opinion, no greater than 90 days old at the time of the initial development order submittal. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licensed Florida attorney or a certification of title/title certification prepared by a title abstractor or company.
 - ii. Title insurance policy with appropriate schedules, no greater than five years old at the time of the initial zoning case submittal and an affidavit of no change covering the period of time between issuance of the policy and the application date. If submission of a complete affidavit of no change is not possible, a title certificate, or title opinion must be submitted in the alternative.
- b. *Content.* The certification of title must include, at a minimum, the following:
 - i. The name of the owner or owners of the fee title;
 - ii. All mortgages secured by the property;
 - iii. All easements encumbering the property;
 - iv. The legal description of the property; and
 - v. The certification of title documentation must be unequivocal.

LDC Section 34-202(b)(5):

Part 5 of the Application form indicates the applicant is seeking 183 Bonus Density Units using Transferable Dwelling Units. In accordance with this Section, please provide documentation substantiating compliance with each of the review criteria set forth in LDC Section 2-146 et seq.

Please revise Part 6 of the Application Form breaking down the sub-totals for each of the commercial types as provided for in the application.

Please review the entire application making sure the gross area of the parcel is consistent throughout the application. An example I can direct you to is the gross area of the parcel in the Application form and the acreage in the Site Summary are not consistent.

LDC Section 34-373(a)(4):

Please provide the Florida Land Use, Cover and Classification System (FLUCCS) map, as required by this Section.

Please submit an updated upland indigenous habitat preserve management plan.

Please provide a map or other depiction with the nature and location of any known or recorded historical or archaeological sites as listed on the Florida Master Site File or the Lee County Historical Site Survey, and the location of any part of the property that is located within level 1 or level 2 zones of archaeological sensitivity pursuant to LDC Chapter 22.

LDC Section 34-373(a)(5):

The submitted narrative (Request Statement) must be revised to reflect the correct request, a rezoning from CPD to CPD and RPD.

Please revise the Lee Plan narrative to state how the 183 additional dwelling units sought through Transfer of Bonus Density Units will be achieved.

Also, please provide as part of the narrative explaining how the planned development will maintain the minimum density of the future land use category being sought as part of the comprehensive plan amendment.

Please make sure the Lee Plan narrative includes discussion how the proposed Schedule of Uses is consistent with the proposed future land use requested as part of the CPA applications being reviewed by the County. Please revise the narrative to discuss the consistency with the Lee Plan including the changes sought as part of this application. Please note what uses may be approved in the proposed future land use category.

LDC Section 34-373(a)(6):

Please review and revise the Master Concept Plan (MCP) based on the following:

- a. Please revise the MCP to show the location and explanation of all existing easements, whether or not those easements are recorded in accordance with this section. If an easement is based upon a recorded document, the official records book reference must be stated. An example is found in the northwestern corner of the site where the Title Survey shows an access easement.
- b. Please revise the MCP to dimension the ingress and egress locations shown to the adjoining roadways. Also please show the conceptual location(s) for access to each of the proposed parcels. This should be measured edge-to-edge between the project's driveway and the adjacent streets/driveways. Please consider drive and road locations on the opposing side of the street when providing the measurements.

The proposed access (right-in only) on Alico Road is not a designated access point on the Map 3K (Alico Road Access Plan) of Lee Plan. A request to revise Map 3K of Lee Plan is required. Please note that county staff will not support the request.

Please amend the proposed MCP removing references to turning movements at the access points. This information is not required. Allowed turning movements will be determined at a later date after any zoning approval.

- c. The application provides minimum lot area and dimensions. However, the MCP shows lots and parcels which exceed these minimums. The Property Development Regulations provide for the opportunity in the future to create additional lots or parcels than currently shown on the MCP. Please revise the MCP to indicate the general location, configuration, and approximate dimensions of the lots or parcels (including subdivided parcels and outparcels).

Also, revise the MCP to show proposed use of the lots or parcels keyed to the list of proposed uses submitted with the application. The MCP should also be revised to show what portion of the property is to be rezoned to CPD, and what portion is to be rezoned to RPD.

- d. Please revise the MCP to show the individual development areas (i.e. residential, retail, office, manufacturing, mixed use-listed, etc.) with detail showing the boundary of each development area within which buildings, parking or other uses will be located.
- e. Please revise the MCP to show the general location of service areas for delivery of goods or services.
- g. As the applicant reviews the MCP, please make sure the open space design plan delineates the indigenous preserves and/or native tree preservation areas as required per LDC Section 10-415(b).
- h. As you are reviewing the MCP, please review the percentage of open space. For commercial and industrial developments, the percentage of open space within each lot or outparcel must be as set forth in LDC Section 34-414(c).

The open space calculations are based on a commercial project. According to the application, 18.45 acres is proposed to be commercial and 15.50 acres is proposed to be residential. Please calculate the use per the open space requirements in LDC Section 10-415.

Will the existing indigenous open space preserve meet the buffer requirements of LDC Section 10-416(d)? Please demonstrate and state on MCP.

The application states that TDU's will be purchased to offset the indigenous requirement. Please cite the specific code section within LDC Section 2-152 being utilized to reduce general open space and revise open space calculations to meet the commercial and residential open space requirements in LDC Section 10-416(d).

- i. Please make sure the MCP depicts the correct buffer, as required by Code, even between individual uses within the proposed planned development. References to types of buffers as described in Chapter 10 are acceptable.
- j. There is an existing Lee County Transit Route along Alico Road. Please revise the MCP to provide the proposed access and facilities for public transit in accordance with LDC Sections 34-411(e) and 10-442.

- k. Only one location is shown for onsite excavation and wet retention. Please make sure the MCP provides all of the general location of excavations for on-site fill and wet retention. As a reminder, if the applicant proposes to remove excavated material from the property a planned development for mining and a general mining permit may be required.

If the water management lake is within the 10,000 foot HWBZ, the project must comply with AC No. 150/5200-33B Advisory Circular. This will require deviations from lake bank slopes (LDC 10-329); planted littoral shelves (LDC 10-418); and the ratio of littorals to tree substitution (LDC 10-418). Additional comments may follow upon review of the additional deviations.

LDC Section 34-373(a)(7):

1.) *Description of Development and ITE Land Use Code. The TIS must contain a general description of each type of use proposed, the units of development (i.e. the number of dwelling units, square feet of building floor area, etc.) and the Land Use Code for each type of use utilized in the trip generation (i.e. single-family detached housing (200 lots), Land Use Code 210). [AC-13-17]*

The site design parameters that are stated in the TIS do not appear to correspond to the parameters that are stated and/or depicted in the non-TIS submittals. See hotel and residential uses. Please review and revise the TIS accordingly.

3.) *Site Plan. The TIS must contain a drawing showing the proposed project access point(s) and location of all other access points on both sides of the streets being accessed within 660 feet for project entrances on arterial streets, within 330 feet for project entrances on collector streets, and within 125 feet for project entrances on local streets.*

The master concept plan (MCP) does not appear to show the location of site access points in relation to non-site access points on both sides of the street within proximity of the site. Please review and revise the MCP accordingly.

3A.) *Road Classifications. The roads accessed by the development must be identified including their LCDOT functional classification and their classification on the Official Trafficways Map. [AC-13-17]*

The master concept plan (MCP) does not appear to identify the roads accessed by the development, including their current functional classification. Please review and revise the MCP accordingly.

4.) *Background Traffic. The TIS must contain 100th highest hour traffic for the current year and for the year following the year in which the project is expected to be completed. [AC-13-17]*

The TIS does not appear to correctly identify the base year traffic volume or years of growth for at least one roadway link from which the traffic growth rate was calculated. See Alico Road west of I-75. Please review and revise the TIS accordingly.

5A.) *The distribution of traffic must be reasonably distributed to the project entrances. A graphical depiction of all turning movements at each of the project entrances/access points must be provided. [AC-13-17]*

The project traffic distribution on at least one link described in the TIS appears high based upon current traffic distribution in proximity to the site. See Three Oaks Parkway south of Alico Road. Please review and revise the TIS accordingly.

6.) *Area of Influence. The TIS for projects generating more than 100 trips in the A.M. or P.M. peak hour of the adjacent street must contain a drawing showing the area of influence of the project. [AC-13-17]*

The TIS does not appear to contain a drawing that shows the project's area of influence. Please review and revise the TIS accordingly.

7A.) *The TIS must contain an analysis of the Level of Service for each of the project's access points and all intersections within one-quarter mile of the project. The analysis must follow the methods established in the most current edition of the Highway Capacity Manual for either signalized or unsignalized intersections. [AC-13-17]*

The TIS does not appear to contain a LOS analysis for each of the project's access points. Also of note, the site access depicted along Alico Road is not a permitted access per The Lee Plan Map 3K. Please review and revise the TIS accordingly.

The TIS does not appear to contain a LOS analysis for all intersections within one-quarter mile of the project. Please review and revise the TIS accordingly.

8.) *Arterial Analysis. The TIS for projects generating more than 300 trips during the AM or PM peak hour of the adjacent street must contain an analysis of the arterial road accessed or impacted in the area of influence of the project using methods established in the most current edition of the Highway Capacity Manual for an urban or suburban road. [AC-13-17]*

The TIS does not appear to contain an arterial analysis using all site accesses, intersections, and roadway links within the proposed project's area of influence. Please review and revise the TIS accordingly.

The proposed planned development includes 400 multi-family residential dwelling units, 300 hotel rooms and 350,000 square feet commercial uses. However, only 350,000 square feet commercial uses are included in the trip generation analysis in the TIS. The proposed access on Alico Road most likely cannot be approved by FDOT, a traffic analysis without this access point must be provided.

Please revise the TIS to include a level of service analysis for the intersection of Alico Rd/Three Oaks Pkwy with and without the proposed project in the build-out condition. Please provide level of service analysis for the project's entrances for review.

LDC Section 34-373(a)(8):

Please revise and resubmit the proposed Schedule of Uses removing the strike-through and underline and making sure all uses desired by the applicant have been requested and can be considered within either the requested CPD or RPD zoning. The Schedule should also be revised to distinguish between the uses sought in the CPD and RPD zoning, respectively.

As you are revising the Schedule, please note the following:

- Agriculture Uses have been requested but agricultural uses cannot be approved within either the requested CPD or RPD zoning as the use is not permitted in either district. Also the applicant has not noted that there is existing agriculture use of the land and the Property Appraiser's records show no existing agricultural exemption for the properties.
- Please note that Car Wash and Convenience Food and Beverage Store are separate uses and should be shown this way in the requested Schedule of Uses.
- Please note the use of House of Worship is not a defined term or use in the Land Development Code. Please revise the Schedule accordingly.
- Temporary Uses have been sought. Is the applicant seeking all Temporary Uses, or specific uses. If only specific uses will be sought, please make sure to clarify the Schedule to identify the use(s) sought.

The current schedule of uses includes uses that must comply with the supplementary requirements per LDC Sections 34-1352 and 34-1353. Will these commercial uses meet the code requirements?

LDC Section 34-373(a)(9):

Please revise the proposed Deviations and Justifications. For each Deviation you can remove the reference to Approval or Approval with condition. This is a new rezoning application and the applicant must justify each of the requested deviations. Please make sure to provide justification for each deviation sought. If the applicant would like to offer a condition related to the approval of a deviation, please note this in the request.

The cross access easement that has been recorded specifically cites Zoning Resolution Z-05-019 and Deviation #3 that had been previously approved in this action. What does the applicant is approved with cross access easement conditions. How does the applicant propose to address this if the zoning is changed as part of this action?

LDC Section 34-373(a)(10):

Please revise the proposed Property Development Regulations. It will be necessary to provide separate Property Development Regulations for each of the proposed zoning districts: CPD and RPD.

LDC Section 34-373(b)(1):

Please provide a written description of the surface water management plan, in accordance with this Section.

Please include in the surface water management plan the location of the berm. The berm must not reduce the indigenous open space and the indigenous preserve must not be used for stormwater management.

LDC Section 34-373(b)(2):

Please revise the Protected Species Assessment. The Protect Species Assessment does not include the Florida Bonneted Bat and the subject property is located within the species range per Florida Fish and Wildlife Service.

Other

Please review and respond to the attached comments from the staff of the Lee County Port Authority.

Courtesy Comment:

The proposed landscaping will be conditioned to meet the FAA Landscaping Compatibility Plant List.

If you do not provide the requested supplements or corrections within 60 calendar days of this letter, the Land Development Code requires that this application be considered withdrawn.

Sincerely,
DEPARTMENT OF COMMUNITY DEVELOPMENT
Zoning Section



Alvin Block, AICP
Planner, Principal



Direct Dial: 239-590-4618

Fax: 239-590-4688

December 14, 2018

JEFF MULDER, A.A.E.
EXECUTIVE DIRECTOR

RICHARD W.M. WESCH
PORT AUTHORITY ATTORNEY

**BOARD OF
PORT COMMISSIONERS**

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Chip Block
Principal Planner
Lee County Community Development Department
Zoning Section
1500 Monroe Street
Fort Myers, FL 33901

Re: Vintage Commerce Center
DRI2018-10022

Dear Mr. Block:

The Lee County Port Authority (LCPA) has reviewed the proposed Vintage Commerce Center Planned Development Amendment and provides the following comments:

- The project is located along the extended centerline of the future parallel runway, and in very close proximity to the arrival and departure paths of the existing Runway 06/24, at RSW. As such, the property will be subject to numerous daily aircraft overflights at low altitudes. The southeast corner of the project is located in a noise sensitive area, specifically Airport Noise Zone C, as described in Sec. 34-1004 of the Land Development Code. As such, the project is subject to the noise notification policy in Sec. 34-1004(c) of the Land Development Code (LDC).
- Any object or structure (including temporary equipment used for construction) within an Airport Obstruction Notification Zone or proposed at a height greater than an imaginary surface extending outward and upward from any point of any Southwest Florida International Airport (SWFIA) runway and/or Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level and anything above 125 feet above mean sea level will require a Tall Structures Permit approved by the LCPA as described in sections 34-1009 and 34-1010 of the Land Development Code. Additionally any proposed object or structure at a height greater than an imaginary surface extending outward and upward from any point of any SWFIA runway and/or Page Field runway at a slope of 100 to 1 up to a height of 200 feet above mean sea level and anything above 200 feet above mean sea level will require the sponsor to acquire a determination of no hazard from the Federal Aviation Administration (FAA) pursuant to 14 CFR Part 77.

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www.flylcpa.com

- The proposed project falls within the current Airport School Protection Zone as outlined in Sec. 34-1007 and Appendix C Map 4 of the LDC. The code states that, "constructing public or private educational facilities are prohibited within the established Airport School Protection Zones for SWFIA and Page Field". However, the Port Authority is currently in the process of amending the school protection zones in the LDC.
- If lighting in the project is angled upward, it may be a distraction to pilots flying into the airport. It is requested that the developer angle all lighting in the development downward to mitigate this potential hazard per Section 34-1012(a)(1) of the LDC.
- It is unclear what groups of essential service facilities are proposed. Please clarify.

We appreciate the opportunity to comment on this matter. If you have any questions or require additional information, please do not hesitate to contact me at (239) 590-4618.

Sincerely,

LEE COUNTY PORT AUTHORITY



Alicia Dixon
Director, Planning & Environmental Compliance

cc: Emily M. Underhill, P.E., A.A.E., Division Director – Development, LCPA