# Summary of Hearing Examiner Recommendation

## TREELINE 115 MPD

by BJ Holdings of Fort Myers, LLC c/o Brian Freeman

| | |
|---|---|
| Request: | Rezone approximately 115 acres from Agricultural (AG-2) and Light Industrial (IL) to Mixed Use Planned Development (MPD) to allow a maximum of 487 dwelling units and 100,000 sq. ft. of commercial uses. |
| Location: | 12850 Treeline Avenue<br><br>Gateway/Airport Planning Community<br><br>(District 2) |
| Size: | 115 Acres |
| Recommendation: | Approve, with conditions |
| Deviations: | 3 requested, one withdrawn at hearing |
| Public Concerns: | Stormwater Runoff and Traffic |

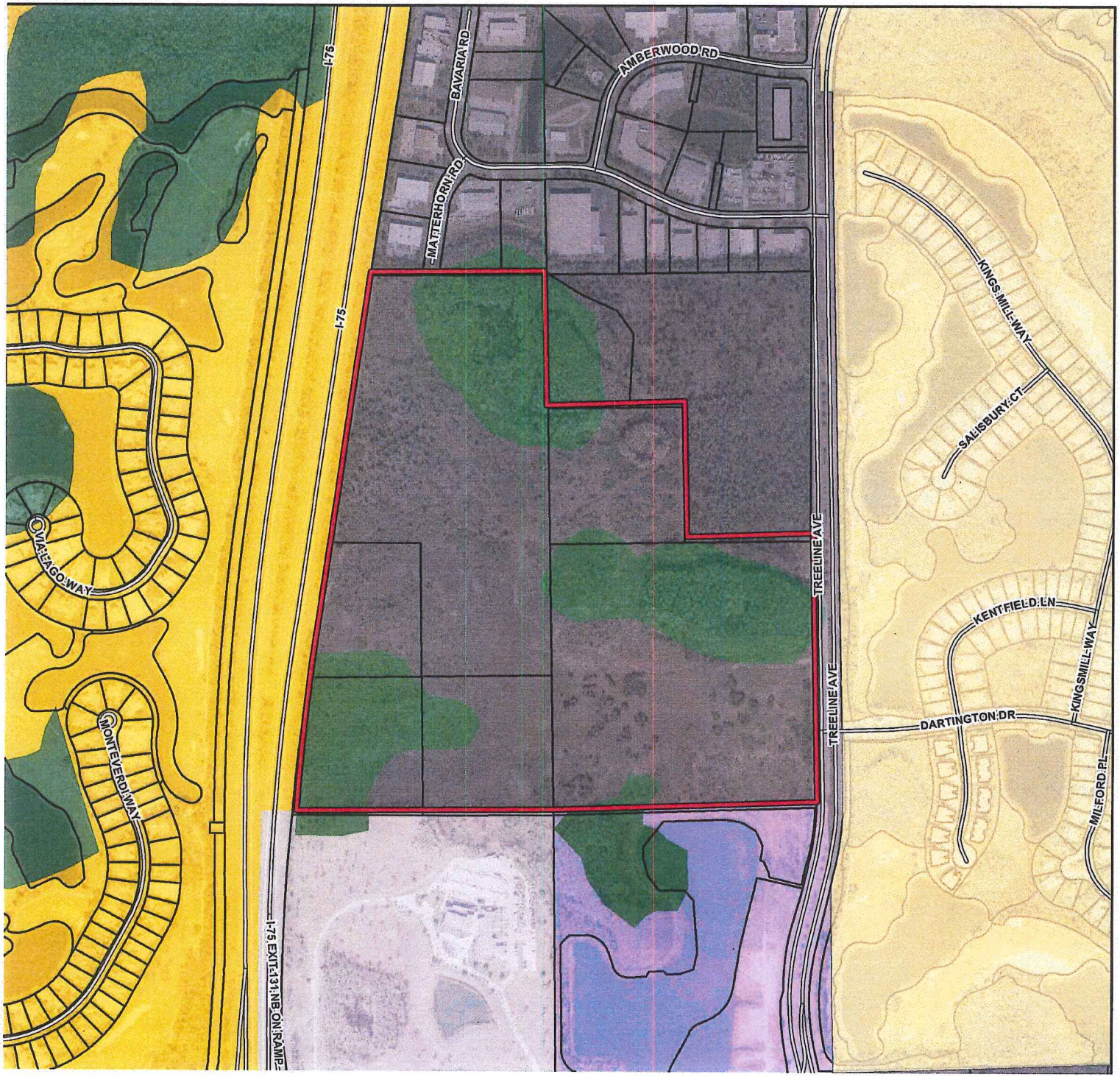
**Hearing Examiner Remarks:**

The proposed mix of residential and commercial uses is appropriate for the area.

Applicant must supply a MCP that has been stamped received by DCD. The copy provided to the Hearing Examiner did not include a stamp.

The Hearing Examiner revised the wording of proposed conditions and recommends deletion of conditions that restate Lee Plan and LDC provisions applicable pursuant to Condition 1.

*Detailed recommendation follows*




# DCI2018-00007
# Future Land Use

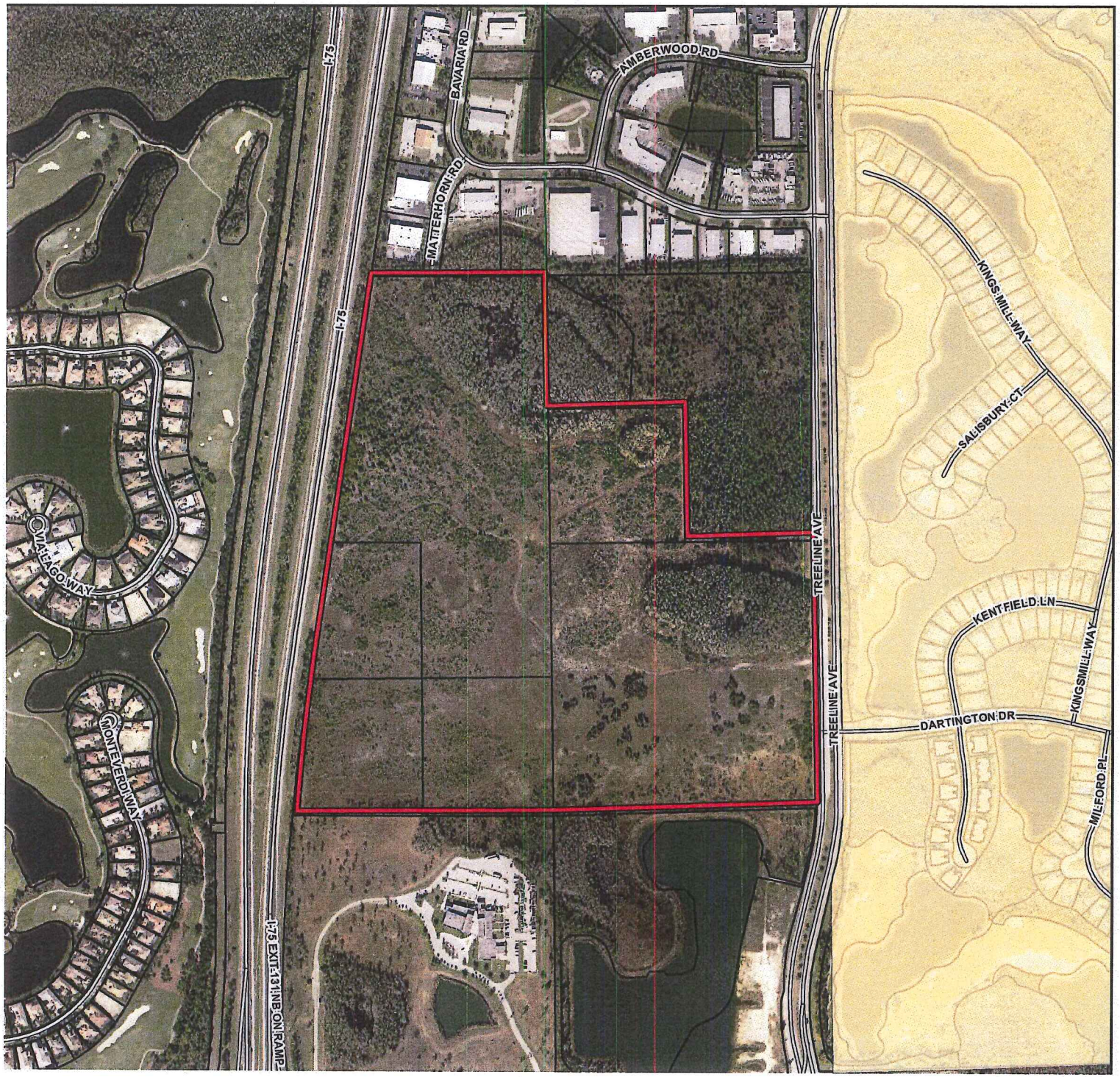
## Legend

- Subject Parcel
- City Limits
- Parcel Boundary
- Outlying Suburban
- Public Facilities
- General Interchange
- Tradeport
- Wetlands

N

0 1,000
Feet

Lee County
Southwest Florida




# DCI2018-00007
# Aerial

## Legend

- Subject Parcel
- City Limits
- Parcel Boundary

N

0 1,000
Feet

Lee County
Southwest Florida

**OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA**

**HEARING EXAMINER RECOMMENDATION**

**REZONING:** DCI2018-00007

**Regarding:** **TREELINE 115 MPD**

**Location:** 12850 Treeline Avenue

Gateway/Airport Planning Community
(District 2)

**Hearing Date:** February 14, 2019

## I. Request:

Rezone approximately 115 acres from Agricultural (AG-2) and Light Industrial (IL) to Mixed Use Planned Development (MPD) to allow a maximum of 487 dwelling units and 100,000 sq. ft. of commercial uses.

## II. Hearing Examiner Recommendation:

Approval, subject to the conditions and deviations set forth in Exhibit B.

## III. Discussion:

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.[1] In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone 115 acres to Mixed Use Planned Development.

In preparing a recommendation to the Board, Hearing Examiner must apply the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC) and other County regulations to the facts adduced at the hearing. There must be substantial competent evidence in the record to support the Hearing Examiner's recommendation.

Discussion supporting the recommendation of approval of the request follows below.

[1] LDC 34-145(d)(1)a; LDC 34-145(d)(4)a.

## History of the Property

A portion of the site was zoned light industrial over 30 years ago, but never developed.[2] The remainder is zoned Agricultural (AG-2). The property owners recently amended the property's future land use from Tradeport/Wetlands to Urban Community/Wetlands to pursue the subject zoning application.[3]

The 115-acre site is vacant and used for cattle grazing.[4]

## Character of the Area

The property is located approximately a half mile northwest of the Daniels Parkway/Treeline Avenue intersection. Surrounding properties include light industrial, commercial, and residential development.[5] The property's west boundary borders I-75 and a portion of the south property line abuts an I-75 rest area.

The intersection of Daniels Parkway and Treeline Avenue to the south is emerging as a commercial node. The project shares its southern boundary with property in the Interchange land use category. Across Treeline Avenue is property in the City of Fort Myers. The property in the City is developing as the residential golf course community "The Plantation Golf and Country Club."

A full range of urban services is available to the area.

## Synopsis of the Request

The property is located on the west side of Treeline Avenue, a four lane divided arterial roadway. The site is within the Urban Community and Wetlands Future Land Use Categories.

The request seeks to develop 115 acres as a mixed use planned development with commercial and residential uses. Commercial buildings will be oriented along the Treeline Avenue frontage and will not exceed 65 feet in height. Residential development will lie to the west of commercial tracts and consist of single and multiple family dwellings. Maximum number of dwelling units will not exceed 487.[6] Commercial square footage will not exceed 100,000 square feet.

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[2] Z-81-110.

[3] Lee County Ordinance 18-23 adopted October 2018 (CPA 2017-00009).

[4] The Agricultural Affidavit states the property is used for cattle grazing, sod farming and row crops. *See* Staff Report Attachment Q. Testimony at hearing confirmed the property has been used as a cow pasture for many years.

[5] The residential community of The Plantation Golf and Country Club is directly across Treeline Avenue from the site.

[6] The trips associated with 487 multi-family dwellings would allow development of a maximum of 275 single-family dwellings as an alternative to multi-family.

The planned development designation is appropriate due to project's classification as a "development of county impact."[7]

The Department of Community Development staff recommended approval with conditions.

**Lee Plan Consistency**

The site is in a future urban area,[8] and designated by Lee Plan as Urban Community and Wetlands.[9] Land uses in the Urban Community include residential, commercial, limited light industry, and public uses. Mixed use developments are encouraged in the Urban Community.[10] Wetland areas typically consist of very low density residential and recreation uses.[11] The property lies in the Gateway/Airport Planning Community.[12]

Although a portion of the site is zoned for agriculture, the property is in a developing area with access to a wide range of public services and infrastructure.[13] The property meets the Lee Plan definition of "infill" development.[14]

The site is ideally located for the residential development because of the proximity of urban services and infrastructure including multi-lane roadways, bike paths, sidewalks, schools, fire protection, public utilities etc.[15] Shopping and employment centers are also within convenient distances. The proposed uses in the commercial component allows for internal capture of trips, relieving potential impacts to the surrounding road network.

Urban Community property owners preserving onsite freshwater wetlands may transfer residential densities to contiguous uplands at the same density permitted for the uplands.[16] This opportunity affords the property the ability to develop up to 487 dwellings in the residential area of the project.

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[7] Lee Plan Glossary and Policies 6.1.3; LDC 34-2.
[8] Lee Plan Map 1; *See also* Glossary definition of Future Urban Areas.
[9] Lee Plan Policies 1.1.4, 1.2.2; Lee Plan Map 1.
[10] Lee Plan Policy 1.1.4.
[11] Lee Plan Policies 1.5.1, 114.1.1.
[12] Lee Plan Vision Statement Paragraph 10 and Map 16 Planning Communities Map. The Lee Plan vision for the Gateway/Airport Planning Community is for the area to be urbanized with residential, commercial and industrial development.
[13] Lee Plan Objective 2.1.
[14] Lee Plan Glossary.
[15] Lee Plan Objectives 2.1, 2.2.
[16] Lee Plan Table 1(a) Note 8(b) By way of contrast, impacted wetlands only yield the standard Wetlands density of one dwelling per 20 acres.

**Traffic**

The site design offers access to the public road system allowing safe and efficient flow of vehicles in the area.[17] The primary access to the property is Treeline Avenue, a four lane divided arterial roadway.[18] A secondary access to Matterhorn Road within the Airport Woods IPD will serve as alternative means of egress for the residential tract.[19]

Testimony and traffic studies in evidence demonstrate Treeline Avenue operates at acceptable levels of service and will continue to do so following completion of the project. Property owners in Airport Woods expressed concerns over project traffic utilizing Matterhorn Road as a secondary means of access to the site.[20]

**Environmental**

The 115-acre site is comprised of 62 acres of wetlands and 53 acres of uplands. Upland areas cleared many years ago support cattle grazing. The Master Concept Plan preserves 28 acres of the higher quality wetlands, including a large Cypress Dome.[21] The site lies within the Six Mile Cypress Watershed Basin, a critical area for surface water management.[22]

The stormwater management system will be designed to accept stormwater runoff from onsite preserves as well as the school site to the northeast.[23] Water will be routed into project lakes and then to an outfall at the southwest corner of the property. Stormwater from the site will have no impact on flooding conditions in the Airport Woods IPD.[24]

Proposed open space will meet code requirements and incorporates the site's natural features.

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[17] Plan Goal 4, Policy 39.1.1; LDC 34-411(d).
[18] Lee County Administrative Code 11-1.
[19] The roadways within the Airport Woods IPD are county maintained local roads. Transcript February 14, 2019: Testimony of Alexis Crespo.
[20] Property owners in the Airport Woods industrial park shared concerns relative stormwater runoff and potential conflicts with traffic internal to the industrial park.
[21] Lee Plan Policies 61.3.6, 107.2.4.
[22] Lee Plan Objective 60.4; LDC 10-1, 14-374. *See* LDC 10-321(f): Development within the basin must comply with the Six Mile Cypress Watershed Plan, which among other things controls outfall discharge rates following storm events. The LDC specifies the recommended native plans for landscape use within the Six Mile Cypress Watershed Basin in Appendix A to the Code.
[23] Lee Plan Policy 61.3.6.
[24] There is no common outfall shared by the properties and development of the site will not exacerbate the issues experienced within Airport Woods.

**Availability of Urban Services**

The site is ideally located for the proposed range of uses because of the proximity of urban services and infrastructure.[25]

Testimony at the hearing summarized the urban services and infrastructure available to serve the proposed project; including paved roads, police, and fire/emergency services. Public water and sewer lines are in operation adjacent to the site and are available to serve the project.[26] At the development order stage, the project will be subject to the LDC standards for connection to the water and sewer infrastructure.[27] There is no transit route within a quarter mile of the site at present.

There are schools, employment centers, shopping and recreation available to serve future residents of the project.

**Deviations**

The applicant initially sought three deviations from the LDC. A "deviation" is a departure from the land development regulations.[28] The applicant must demonstrate a requested deviation will enhance the achievement of the objectives of the planned development and not cause a detriment to public interests.[29]

The standard of review for deviations requires a finding that the deviation:

1. Enhances the achievement of the objectives of the planned development; and
2. Preserves and promotes the general intent of the LDC to protect the public health, safety and welfare.[30]

Requested deviations pertained to buffering adjacent property,[31] dead end street configuration,[32] and street access.[33] Staff supported Deviations 1 and 2, but recommends denial or withdrawal of Deviation 3.

Applying the LDC standard of review for deviations to the testimony and evidence in the record leads to the conclusion that the first two deviations should be approved. The third deviation sought to classify the secondary access as "egress only". Staff recommended denial finding the deviation to be unnecessary; a

[25] Lee Plan Objectives 2.1, 2.2, Policy 2.2.1.
[26] See Staff Report Attachment K, Confirmation of utility availability from Lee County Utilities.
[27] LDC 10-352 and 10-353.
[28] LDC 34-2.
[29] LDC 34-373(a)(9).
[30] LDC 34-377(a)(4).
[31] Deviation 1: LDC 10-416(d)(1)(Buffering adjacent property).
[32] Deviation 2: LDC 10-296(k)(1)(Street design and construction standards: Cul-de-sacs).
[33] Deviation 3: LDC 10-291(3) (Required street access).

deviation is necessary only if the secondary access were confined to emergencies. After some discussion, the applicant agreed to withdraw the request for a third deviation.

**Conditions**

The Treeline 115 MPD will be subject to several conditions of approval. The proposed conditions reasonably relate to the impacts anticipated from the proposed intensity of development.[34]

The Hearing Examiner did not include a condition offered by the applicant regarding the location of the project stormwater outfall.[35] The condition was proffered to allay concerns of property owners to the north, but is unnecessary. Testimony by applicant's expert confirmed the project's outfall is to the south and west.[36]

The Hearing Examiner has recommended minor revisions to the proposed wording of staffs' conditions to improve clarity. In addition, the Hearing Examiner recommends deleting conditions that restate LDC standards and criteria applicable to the project pursuant to Condition 1.

**Public Participation**

Property owners within the Airport Woods light industrial park to the north expressed concerns regarding flooding from stormwater runoff. Evidently, Airport Woods has experienced flooding in the past. They were also concerned about future residents using roads in Airport Woods to access Treeline Avenue.

The LDC encourages interconnections between developments as well as more than one access to projects exceeding five acres in size. The roads within the Airport Woods IPD are county maintained local roads. The applicant's representatives explained the north access to Matterhorn would be limited to cars exiting the residential tract. The County will examine the condition of the road serving the project egress during the development review process. The project developer will be responsible for improvements necessary to meet code standards.[37]

**In conclusion, the Hearing Examiner recommends approval of the request subject to the conditions set forth in Exhibit B.**

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[34] LDC 34-145(d)(6)c.
[35] The applicant offered the following condition:
[36] Accordingly, storm water from the subject property does not discharge to Airport Woods.
[37] Lee Plan Objective 39.1, Policy 39.1.1.

## IV. Findings and Conclusions:

The Hearing Examiner makes the following findings and conclusions based on the testimony and evidence in the record:

A. The proposed Mixed Use Planned Development complies with the Lee Plan. *See* Lee Plan Vision Statement Paragraph 10 (Gateway/Airport), Lee Plan Goals 2, 5, 6, 60, 61, 77, 114, Objectives 1.5, 2.2, 114.1, and Policies 1.1.4, 1.5.1, 2.1.2;

B. *As conditioned*, the Mixed Use Planned Development zoning district:

1. Meets the LDC and other county regulations or qualifies for deviations. LDC 10-321(b), 10-415, 34-341, 34-411, 34-413, 34-612(2), 34-931(h);

2. Is compatible with existing and planned uses in the area. *See* Lee Plan Policies 1.1.4, 2.2.1, 5.1.5, 5.1.7, 6.1.3, 6.1.4, 6.1.6;

3. Will provide access sufficient to support the proposed development intensity. Further, the expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval. *See* Lee Plan Policies 2.2.1, 5.1.3, 6.1.1, 6.1.3; *See also* Policy 39.1.1; LDC 10-8, 34-411(d) and (e).

4. Will not adversely affect environmentally critical areas and natural resources. *See* Lee Plan Goals 60, 63, 77, 114, Objectives 60.4, 60.5, 61.2, 63.1, 77.1, 77.2, 77.3, 114.1; Policies 60.1.2, 60.5.1, 60.5.2, 60.5.3, 61.3.6, 61.3.11, 77.3.1, 77.3.4, 77.3.5, 114.1.2, 115.1.2; Standard 4.1.4, and

5. Will be served by urban services including paved roads, potable water, sanitary sewer, urban surface water management, fire protection, EMS and police. *See* Lee Plan Glossary, Lee Plan Goal 2, Objectives 2.1, 4.1, Policies 2.2.1, 5.1.7, 6.1.4, 6.1.5, and Standards 4.1.1, 4.1.2; LDC 34-411(d).

C. The proposed mix of uses is appropriate at the proposed location. *See* Lee Plan Objective 2.2, Policies 1.1.4, 5.1.2, 6.1.4;

D. The recommended conditions provide sufficient safeguards to the public interest and reasonably relate to the impacts expected from the proposed development. *See* Lee Plan Goal 114, Objectives 77.3, 114.1, Policies 6.1.1, 6.1.3, 6.1.6, 107.2.13, 135.9.6; *See also* LDC 34- 83(a)(4)a.3, 34-377, 34-411, 34-932;

E. As conditioned, the deviations:

1. Enhance the planned development, and

2. Preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

Date of Recommendation: May 2, 2019.

Donna Marie Collins
Chief Hearing Examiner

Office of the Lee County Hearing Examiner
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398

**Exhibits to Hearing Examiner Recommendation**

Exhibit A Legal Description and Vicinity Map
Exhibit B Recommended Conditions and Deviations (Substantive changes proposed by the Hearing Examiner are indicated by strikethroughs and underlines)
Exhibit C Recommended Conditions and Deviations (Clean Version)
Exhibit D Exhibits Presented at Hearing
Exhibit E Hearing Participants
Exhibit F Information

# Exhibit A

## LEGAL DESCRIPTION AND VICINITY MAP

EXHIBIT A

**DESCRIPTION**
**OF A PARCEL LYING IN**
**SECCTION 14&15, TOWNSHIP 45 SOUTH, RANGE 25 EAST,**
**LEE COUNTY, FLORIDA**

DESCRIPTION

A TRACT OR PARCEL OF LAND IN SECTIONS 14 & 15, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AND FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION 15, WHICH IS THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED:
THENCE S 01°12'06" E A DISTANCE OF 661.75'
THENCE N 88°14'25" E A DISTANCE OF 679.02'
THENCE S 01°08'17" E A DISTANCE OF 661.48'
THENCE N 88°13'00" E A DISTANCE OF 618.28' TO THE WESTERLY RIGHT OF WAY LINE
OF TREELINE AVENUE,
THENCE S 01°04'28" E ALONG SAID LINE A DISTANCE OF 1322.47'
THENCE LEAVING SAID LINE S 88°10'10" W A DISTANCE OF 1293.64'
THENCE S 89°33'43" W A DISTANCE OF 1266.13' TO THE EASTERLY RIGHT OF WAY LINE OF INTERSTATE 75
THENCE ALONG SAID LINE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 856.47',
WITH A DELTA OF 04°20'37", WITH A RADIUS OF 11297.16', WITH A CHORD BEARING OF N 06°10'57" E, WITH A CHORD LENGTH OF 856.26';
THENCE N 08°21'16" E A DISTANCE OF 1817.95'
THENCE N 89°35'14" E A DISTANCE OF 854.24' TO THE POINT OF BEGINNING, HAVING AN AREA OF 114.8 ACRES+/_

Applicant's Legal Checked by DM 10/18/18

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FEB 22 2018
COMMUNITY DEVELOPMENT

DCI 2018-00007

*** THIS IS NOT A SURVEY***

REVISIONS:

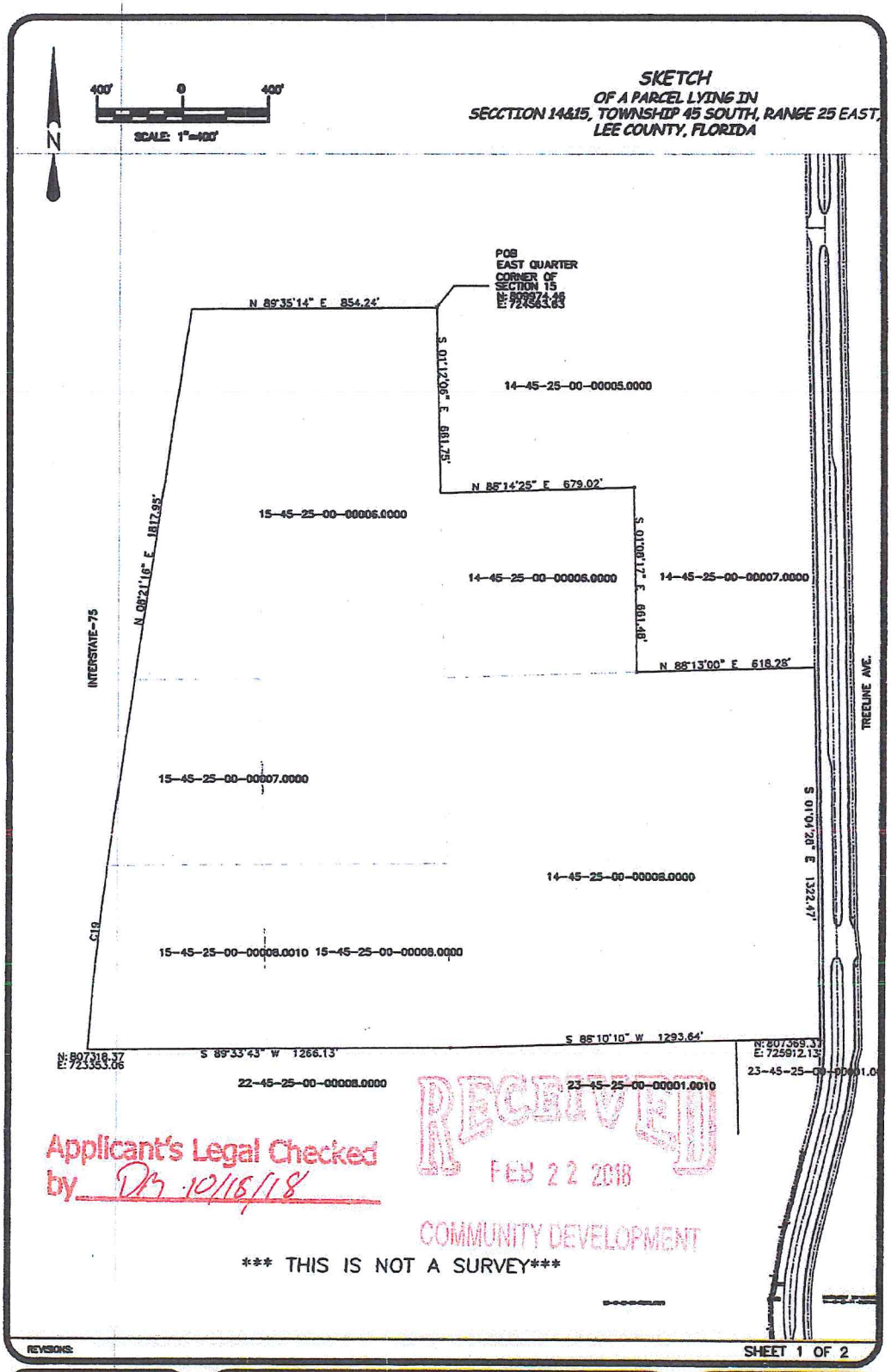
SHEET 2 OF 2

PROJECT NO: TREELINE
SCALE: 1"= 200'
DRAWN BY: CSV
CHECKED BY: MDM
DATE DRAWN: 03/10/14
FIELD BOOK/PAGE:

AE Site, LLC
EB-30108 LB-7995
12220 FidElectric Boulevard, Suite 202-309
Fort Myers, Florida 33912
Telephone (239) 936-0777

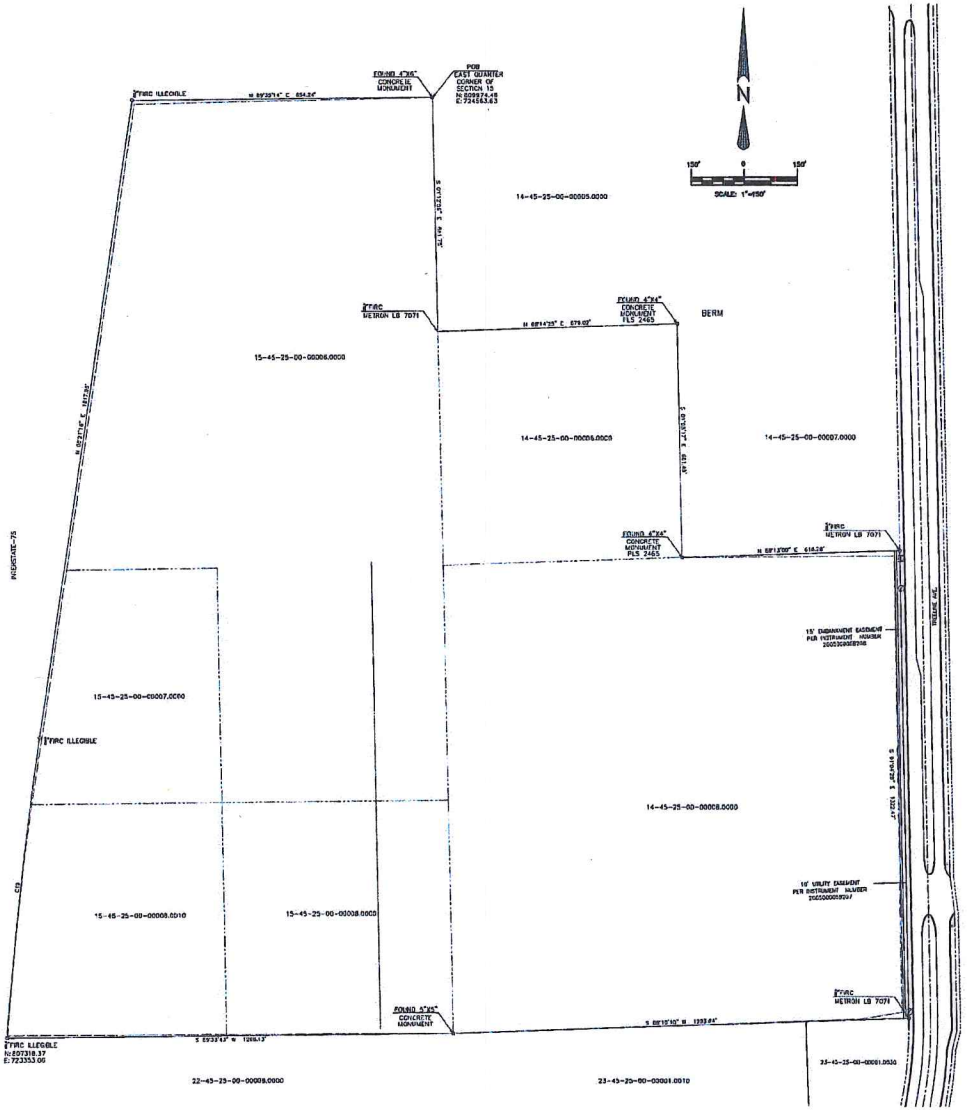
THIS MAP IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER.

MARK D. McCLEARY, P.S.M.
FLORIDA REGISTRATION NO. 6367
FOR THE FIRM LB-7577
DATE SIGNED: 10/4/17




DCI 2018-00007

# BOUNDARY SURVEY
## OF A PARCEL LYING IN
## SECTIONS 14 & 15, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA




DESCRIPTION:
14-45-25-00-00005.0000 (OFFICIAL RECORD 4212, PAGE 708)

THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 25 EAST.

AND

14-45-25-00-00008.0000 (OFFICIAL RECORD BOOK 4164, PAGE 1508)

THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LESS THE EAST 60 FEET FOR THE ROAD RIGHT OF WAY, SITUATED IN LEE COUNTY, FLORIDA.

AND

15-45-25-00-00006.0000 (OFFICIAL RECORD BOOK 4212, PAGE 708)

THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) AND THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 15, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LESS AND EXCEPT A PORTION OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 15 AS DESCRIBED IN THAT CERTAIN DEED RECORDED IN O.R. BOOK 1074, PAGE 748, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

AND

15-45-25-00-00007.0000 (OFFICIAL RECORD BOOK 4562, PAGE 1378)

THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA LYING EAST OF THE RIGHT OF WAY OF INTERSTATE 75.

AND

15-45-25-00-00008.0000
15-45-25-00-00008.0010 (OFFICIAL RECORD BOOK 4562, PAGE 1333)

THE SOUTH HALF (S 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 15, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, LESS AND EXCEPT THAT PARCEL DESCRIBED IN THAT CERTAIN DEED DATED AUGUST 13, 1974, GIVEN BY VELMA CANNON MCDONALD TO THE STATE OF FLORIDA, FOR I-75 RECORDED IN O.R. BOOK 1050, PAGE 257, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

DESCRIPTION (PER NOTE 9. BELOW)

A TRACT OR PARCEL OF LAND IN SECTIONS 14 & 15, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AND FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION 15, WHICH IS THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED:
THENCE S 01°12'06" E A DISTANCE OF 661.75'
THENCE N 88°14'25" E A DISTANCE OF 679.02'
THENCE S 01°08'17" E A DISTANCE OF 661.48'
THENCE N 88°13'00" E A DISTANCE OF 618.28' TO THE WESTERLY RIGHT OF WAY LINE OF TREELINE AVENUE,
THENCE S 01°04'28" E ALONG SAID LINE A DISTANCE OF 1322.47'
THENCE LEAVING SAID LINE S 88°10'10" W A DISTANCE OF 1293.64'
THENCE S 89°33'43" W A DISTANCE OF 1266.13' TO THE EASTERLY RIGHT OF WAY LINE OF INTERSTATE 75
THENCE ALONG SAID LINE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 856.47', WITH A DELTA OF 04°20'37", WITH A RADIUS OF 11297.16', WITH A CHORD BEARING OF N 06°10'57" E, WITH A CHORD LENGTH OF 856.26';
THENCE N 06°21'16" E A DISTANCE OF 1817.95'
THENCE N 89°35'14" E A DISTANCE OF 854.24' TO THE POINT OF BEGINNING, HAVING AN AREA OF 114.8 ACRES+/-

| CURVE | RADIUS | ARC LENGTH | CHORD LENGTH | CHORD BEARING | DELTA ANGLE |
|---|---|---|---|---|---|
| C19 | 11297.16' | 856.47' | 856.26' | N 06°10'57" E | 4°21'37" |

RECEIVED
OCT 15 2018
COMMUNITY DEVELOPMENT
DCI 2018-00007

Applicant's Survey Checked by VA 10/15/18

LEGEND
- □ = FOUND PRM/PCP AS NOTED
- ● = SET IRON ROD AND CAP
- ○ = FOUND IRONR ROD AND CAP AS NOTED
- ⊞ = FPL BOX
- Ⓟ = WOOD POWER POLE
- ⊢ = GUY WIRE
- ⋈ = WATER VALVE
- ⊕ = FIRE HYDRANT
- ☆ = STREET LIGHT

P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
PRM = PERMANENT REFERENCE MARKER
PCP = PERMANENT CONTROL POINT

### NOTES:
1. PREPARED AS A BOUNDARY SURVEY. DATE OF LAST FIELDWORK: 08-24-17
2. PARCEL IS SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY OF RECORD. (RECORDED, UNRECORDED, WRITTEN AND UNWRITTEN).
3. IMPROVEMENTS OTHER THAN THOSE SHOWN NOT LOCATED.
4. MAP BASED ON SURVEY PREPARED BY METRON DATED MARCH 11, 2005
5. THIS SURVEY WAS NOT INTENDED TO DELINEATE OR DEFINE ANY WETLANDS, ENVIRONMENTALLY SENSITIVE AREAS, WILDLIFE HABITATS OR JURISDICTIONAL LINES OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY.
6. THIS PARCEL LIES IN ZONE "X", THIS INFORMATION WAS TAKEN FROM FEDERAL INSURANCE RATE MAP 12071C0445F, DATED AUG. 28, 2008.
7. DIMENSIONS OF IMPROVEMENTS SHOWN SHOULD NOT BE USED TO RECONSTRUCT BOUNDARY LINES.
8. ALL ELEVATIONS ARE IN N.A.V.D. 88.

### NOTES UPDATE:
9. THIS BOUNDARY SURVEY TIES TO THE STATE PLANE COORDINATE SYSTEM FOR THE FLORIDA WEST ZONE AND HAS BEEN UPDATE TO REFLECT TITLE CERTIFICATION REPORT ORDER NO. 6886871 BY FIDELITY NATIONAL TITLE INSURANCE COMPANY DATED FROM 12/27/2012 THROUGH 03/19/2018.

I CERTIFY THAT THIS SURVEY WAS MADE UNDER MY SUPERVISION AND THAT IT MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF THE LAND SURVEYOR LISTED, THIS DRAWING IS NOT TO BE USED FOR ANY PURPOSE.

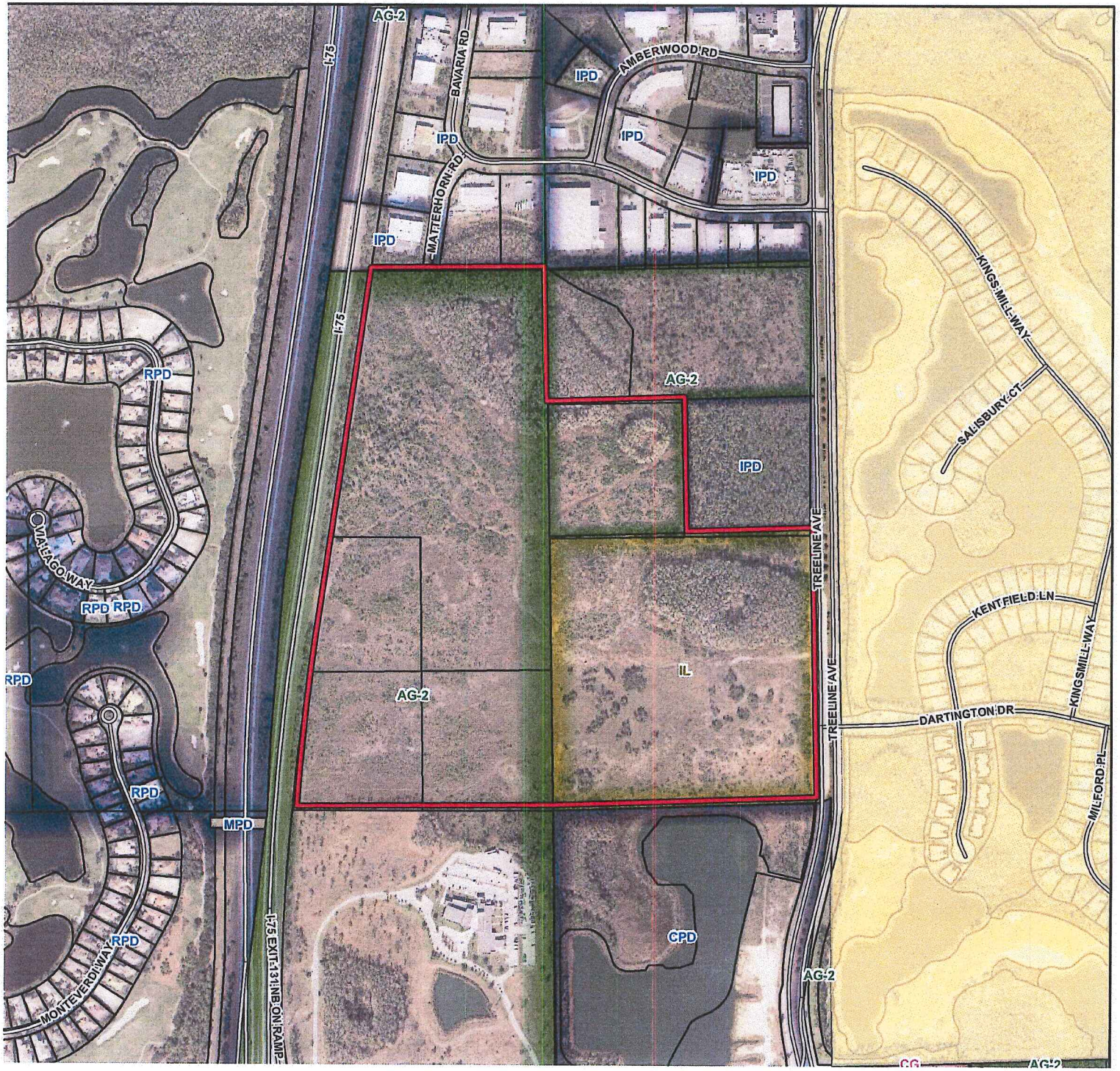
DATE SIGNED: 10/15/18

CERTIFIED TO:
AE SITE, LLC
AE GROUP
AE HOLDINGS OF FORT MYERS LLC

AE SITE
AE Site, LLC
59-3016138-7869
9990 Bonita Parkway, Suite 29-139
Bonita Springs, FL 34135

community engineering services, inc.
13220 Fiddlesticks Blvd., #B2202-359
Fort Myers, Florida 33912
Telephone: (239) 334-1777

PROJECT: 2-168
SCALE: 1"=150'
DRAWN BY: AB
CHECKED BY: AB
LAST REVISED: 10/07/2018
FILE: 2-168.DWG




# DCI2018-00007
# Zoning

## Legend

- Subject Parcel
- City Limits
- Parcel Boundary

N

0 1,000
Feet

Lee County
Southwest Florida

# Exhibit B

## RECOMMENDED CONDITIONS AND DEVIATIONS

(Substantive changes proposed by the Hearing Examiner indicated by strikethroughs and underlines)

(Clean copy of conditions attached as Exhibit C)

The Hearing Examiner made modifications to the wording of proposed conditions.

The Hearing Examiner recommends deleting conditions that restate Lee Plan and LDC provisions applicable pursuant to condition 1.

**CONDITIONS:**

1. Master Concept Plan/Development Parameters

Development must be consistent with the one-page Master Concept Plan (MCP) entitled "Master Concept Plan," last revised November 13, 2018 except where modified by conditions in this zoning resolution. (MCP is Exhibit B1) Development must comply with the Lee County Comprehensive Plan (Lee Plan) and Land Development Code (LDC) at time of local development order approval, except where deviations are approved herein. Subsequent changes to the MCP may require further development approvals.

**Hearing Examiner Note**: *The referenced MCP was not stamped received by DCD.*

Approved development parameters are as follows:

Maximum of 487 dwelling units,
Maximum of 50,0000 sq. feet total gross floor area of commercial non-office use,
25,000 sq. feet of medical office use, and
25,000 sq. feet of non-medical office use.

2. Permitted Uses and Site Development Regulations

a. Schedule of Uses

Commercial Tract:
Accessory uses and structures
Accessory apartment
Administrative offices

Agricultural uses, as limited by conditions
Animal, clinic or kennel
ATM (automatic teller machine)
Auto parts store
Automobile repair and service
Automobile service station

Bar or cocktail lounge ~~(subject to the provisions of LDC section 34 – 1264)~~
Bed and breakfast
Business services, Group I

Car wash
Caretaker's residence
Cleaning and maintenance services
Clothing stores, general
Clubs:
    Fraternal, membership organizations
    Private
Community gardens
Consumption on premises, ~~as limited by conditions (In accordance with LDC Sec. 34-1261 thru 34-1265)~~ *subject to Condition 8*
Convenience food and beverage store
Cultural facilities

Day care center, child and adult
Drive-through facility for any permitted use
Drugstore, pharmacy
Dwelling units – maximum of 275 single-family or 487 multi-family units:
    Live work
    Single-family
    Two-family attached
    Townhouse
    Multiple family building
    Zero lot line

Entrance gates and gatehouses
Essential services
Essential service facilities, Group I
Excavation, for water detention and retention

Fences, walls
Food and beverage service, Limited
Food stores, Group I

Gift and souvenir shop

Hardware store
Healthcare facilities, Groups I - III
Hobby, toy and game shop
Home occupation

Insurance company

Lawn and garden supply store

Manufacturing of food in kindred products, Group II (brewery), ~~in accordance with the provisions of LDC Sec. 34-1264~~
Medical office, limited to a maximum of 25,000 sq. feet
Model homes, model display center

Non-store retailers, Group I

Paint, glass and wallpaper stores
Parts, Groups I, II
Parking lot, accessory
Personal services, Groups I, II (excluding massage parlors, steam or Turkish bath)
Pet services
Pet shops
Pharmacy
Post office

Real estate sales office
Recreational facilities, commercial
Recreational facilities, personal, private on-site, private offsite
Religious facilities
Rental or leasing establishments, Group I - III
Residential accessory uses
Restaurant, fast food
Restaurants, all groups

Schools, commercial and noncommercial
Self-service fuel pumps
Signs, ~~in accordance with Chapter 30~~
Specialty retail shops, all groups
Storage, indoor and open
Studios
Supermarket

Temporary uses
Transportation services, Groups II, III

Used merchandise stores, Group I

Variety store
Vehicle and equipment dealers, Groups I - III

**Residential Tract:**
Accessory uses, as defined by the LDC
Administrative office

Community gardens
Consumption on premises in conjunction with recreational facilities, as limited by conditions ~~(In accordance with LDC Sec. 34-1261 thru 34-1265)~~
Clubs, private

Dwelling units – limited to 487 dwelling units in MPD
- Live work
- Single-family
- Two-family attached
- Townhouse
- Multiple family building
- Zero lot line

Entrance gates and gatehouses
Essential services
Essential service facilities, Group I
Excavation – water detention and retention
Fences, walls

Home occupation

Models, model homes, display center, sales center

Parking lot, Accessory, temporary

Real estate sales office
Residential accessory uses and structures

Signs ~~– in accordance with Chapter 30 of LDC~~

Temporary uses

**Hearing Examiner Note:** *References to the LDC are not necessary pursuant to condition 1, which subjects development and uses to the LDC.*

b. Site Development Regulations

Minimum lot area and dimensions:
Single–Family Detached

| | | |
|---|---|---|
| Minimum lot size | 4,500 | square feet |
| Minimum lot width | 40 | feet |
| Minimum lot depth | 100 | feet |
| Minimum street setback | 20 | feet street setback for front-loaded garages |
| | 15 | feet street setback four side loaded garages |
| | 10 | feet street setback for rear loaded/alley lots and secondary street setback on corner lots |
| Side setback | 5 | feet |
| Rear setback | 10 | feet |
| Accessory structure setback | 5 | feet or 0 feet where the property line abuts a lake maintenance easement or landscape buffer easement |
| Maximum building height | 35 | feet |
| Minimum building separation | 10 | feet |
| Maximum lot coverage | 55% | |
| Waterbody setback | 20 | feet, except for accessory structures |
| ~~Preserve setback~~ | ~~per LDC~~ | |

Zero lot line:

| | | |
|---|---|---|
| Minimum lot size | 4,000 | sq. feet |
| Minimum lot width | 40 | feet |
| Minimum lot depth | 100 | feet |
| Minimum street setback | 20 | feet street setback for front-loaded garages |
| | 15 | feet street setback four side loaded garages |
| | 10 | feet street setback for rear loaded/alley lots and secondary street setback on corner lots |
| Side setback | 0 | feet, unless a greater setback is provided then a minimum of 10 feet is required |

| | |
|---|---|
| Rear setback | 10 feet |
| Accessory structure setback | 5 feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements |
| Maximum building height | 35 feet |
| Minimum building separation | 10 feet |
| Maximum lot coverage | 60% |
| Waterbody setback | 20 feet, except for accessory structures |
| ~~Preserve setback~~ | ~~per LDC~~ |

Two- Family Attached:

| | |
|---|---|
| Minimum lot size | 3,500 square feet |
| Minimum lot width | 35 feet |
| Minimum lot depth | 100 feet |
| Minimum street setback | 20 feet street setback for front-loaded garages<br>10 feet street setback for rear loaded/alley lots and secondary street setback on corner lots |
| Side setback | 5 feet |
| Rear setback | 10 feet |
| Accessory structure setback | 5 feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements |
| Maximum building height | 35 feet |
| Minimum building separation | 10 feet |
| Maximum lot coverage | 60% |
| Waterbody setback | 20 feet, except accessory structures |
| ~~Preserve setback~~ | ~~per LDC~~ |

Townhouse:

| | |
|---|---|
| Minimum lot size | 1,800 square feet |
| Minimum lot with | 18 feet |
| Minimum lot depth | 100 feet |
| Minimum street setback | 20 feet street setback for front loaded garages<br>10 feet street setback for rear loaded/alley lots and secondary street setback for corner lots |
| Side setback | 0 feet, unless a greater setback is provided then a minimum of 10 feet is required |
| Rear setback | 10 feet |

| | |
|---|---|
| Accessory structure setback | 5 feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements |
| Maximum building height | 45 feet |
| Minimum building separation | 15 feet |
| Maximum lot coverage | 65% |
| Waterbody setback | 20 feet, except for accessory structures |
| ~~Preserve setback~~ | ~~per LDC~~ |

Multiple-Family Building:

| | |
|---|---|
| Minimum lot size | 7,500 square feet |
| Minimum lot with | 75 feet |
| Minimum lot depth | 100 feet |
| Minimum street setback | 20 feet street setback for front loaded garages |
| Rear setback | 10 feet |
| Accessory structure setback | 5 feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements |
| Maximum building height | 65 feet |
| Minimum building separation | 15 feet |
| Maximum lot coverage | 50% |
| Waterbody setback | 20 feet, except accessory structures |
| ~~Preserve setback~~ | ~~per LDC~~ |

Retail/Office, and Mixed Use Buildings:

| | |
|---|---|
| Minimum lot size | 10,000 square feet |
| Minimum lot with | 100 feet |
| Minimum lot depth | 100 feet |
| Minimum street setback | 25 feet |
| Side setback | 0 feet, unless a greater setback is provided then a minimum of 10 feet is required |
| Rear setback | 0 feet, unless a setback is provided greater than 0 feet then a minimum of 10 feet is required |
| Accessory structure setback | 5 feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements |
| Maximum building height | 65 feet |
| Minimum building separation | 15 feet |
| Maximum lot coverage | 50% |
| Waterbody setback | 20 feet, except accessory structures |
| ~~Preserve setback~~ | ~~per LDC~~ |

**Hearing Examiner Note:** *References to LDC are not necessary pursuant to condition 1, which subjects development/uses to the LDC.*

3. Vehicular/Pedestrian Impacts

Zoning approval does not address mitigation of vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

~~4. 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), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.~~

**Hearing Examiner Note**: *The substance of this condition is redundant with condition 1, which requires all development to be consistent with the Lee Plan/LDC. Suggest deletion.*

~~5. Concurrency~~

~~Zoning approval does not constitute a finding that the project meets the concurrency requirements of the Lee Plan and LDC. The developer must demonstrate compliance with concurrency requirements at the time of development order review.~~

**Hearing Examiner Note**: *The substance of this condition is redundant with condition 1, which requires all development to be consistent with the Lee Plan/LDC. Suggest deletion.*

~~6~~4. Development Permits

County development permits do not establish a right to obtain permits from state or federal agencies. Further, those County permits do not establish liability on the County if the developer: (a) does not obtain requisite approvals or fulfill obligations imposed by state or federal agencies or (b) undertakes actions that result in a violation of state or federal law.

~~7~~5. Open Space and Indigenous Management

The application for the first development order must include the following:

a. Development order plans must depict 22.5 acres of indigenous open space;

b. Indigenous management plan with five-year monitoring following the issuance of the first Certificate of Compliance;

c. If the first development order includes the commercial component, plans must depict 30% open space based upon actual acreage of commercial development. Each commercial tract must provide a minimum of 10% of the required open space; and

d. If the first development order includes the residential component, plans must depict 40% open space based upon actual acreage of residential development.

~~8~~6. Development Phasing

The developer must submit a report/tabulation with each development order application itemizing the following:

a. Intensity of non-residential (expressed in square footage), and number of dwelling units;

b. Cumulative intensity and dwelling units permitted by previous development order approvals; and

c. Remaining intensity and dwelling units available for future development.

~~9~~7. Restaurant Area Calculation

Permitted gross floor area must include outdoor seating areas.

~~10~~8. Consumption on Premises

Consumption on Premises or the sale of alcoholic beverages are prohibited within 500 feet of the Lee County School Board property.

~~11. Commercial Uses - Wetlands~~

~~Commercial uses may be further limited in areas identified as impacted Wetlands to remain consistent with the Lee Plan.~~

**Hearing Examiner Note**: *The substance of this condition is rendered unnecessary by Condition 1, which requires project development to be consistent with the Lee Plan/LDC. Suggest deletion.*

~~12~~9. Residential Density - Wetlands

If the Environmental Resource Permit (ERP) permits additional impacts to freshwater wetlands, the maximum number of permitted dwelling units must remain consistent with Lee Plan Wetlands density calculations.

**DEVIATIONS:**

1. Landscape Buffer: Deviation 1 seeks relief from LDC 10-416(d)(1), which requires a buffer along the entire perimeter whenever proposed development abuts a different use, to allow no perimeter buffers where on-site preserves abut the perimeter of the MPD.

   *Hearing Examiner Recommendation:* Approve.

2. Dead End Streets: Deviation 2 seeks relief from LDC 10-296(k)(1), which requires the dead end streets be closed at one end by a circular-turnaround-vehicles, to allow for five dead end streets.

   *Hearing Examiner Recommendation:* Approve, *subject to* the following conditions:

   1. The developer must submit evidence of Fire District sign-off on the proposed design of the dead end road at the time of development order application. Development plans must reflect a cul-de-sac prior to the north "egress only" access.
   2. The deviation is approved for the five locations referenced on the MCP. Additional locations must obtain additional zoning approval.

3. Withdrawn at hearing.

Exhibits to Conditions:
B1 Master Concept Plan

**Exhibit C**

**RECOMMENDED CONDITIONS AND DEVIATIONS**
(Clean Version)

**CONDITIONS:**

2. Master Concept Plan/Development Parameters

Development must be consistent with the one-page Master Concept Plan (MCP) entitled "Master Concept Plan," last revised November 13, 2018 except where modified by conditions in this zoning resolution. (MCP is Exhibit B1) Development must comply with the Lee County Comprehensive Plan (Lee Plan) and Land Development Code (LDC) at time of local development order approval, except where deviations are approved herein. Subsequent changes to the MCP may require further development approvals.

**Hearing Examiner Note**: *The referenced MCP was not stamped received by DCD.*

Approved development parameters are as follows:

Maximum of 487 dwelling units,
Maximum of 50,0000 sq. feet total gross floor area of commercial non-office use,
25,000 sq. feet of medical office use, and
25,000 sq. feet of non-medical office use.

2. Permitted Uses and Site Development Regulations

a. Schedule of Uses

Commercial Tract:
Accessory uses and structures
Accessory apartment
Administrative offices
Agricultural uses, as limited by conditions
Animal, clinic or kennel
ATM (automatic teller machine)
Auto parts store
Automobile repair and service
Automobile service station

Bar or cocktail lounge
Bed and breakfast
Business services, Group I

Car wash
Caretaker's residence
Cleaning and maintenance services
Clothing stores, general
Clubs:
    Fraternal, membership organizations
    Private
Community gardens
Consumption on premises, *subject to Condition 8*
Convenience food and beverage store
Cultural facilities

Day care center, child and adult
Drive-through facility for any permitted use
Drugstore, pharmacy
Dwelling units – maximum of 275 single-family or 487 multi-family units:
    Live work
    Single-family
    Two-family attached
    Townhouse
    Multiple family building
    Zero lot line

Entrance gates and gatehouses
Essential services
Essential service facilities, Group I
Excavation, for water detention and retention

Fences, walls
Food and beverage service, Limited
Food stores, Group I

Gift and souvenir shop

Hardware store
Healthcare facilities, Groups I - III
Hobby, toy and game shop
Home occupation

Insurance company

Lawn and garden supply store

Manufacturing of food in kindred products, Group II (brewery)
Medical office, limited to a maximum of 25,000 sq. feet
Model homes, model display center

Non-store retailers, Group I

Paint, glass and wallpaper stores
Parts, Groups I, II
Parking lot, accessory
Personal services, Groups I, II (excluding massage parlors, steam or Turkish bath)
Pet services
Pet shops
Pharmacy
Post office

Real estate sales office
Recreational facilities, commercial
Recreational facilities, personal, private on-site, private offsite
Religious facilities
Rental or leasing establishments, Group I - III
Residential accessory uses
Restaurant, fast food
Restaurants, all groups

Schools, commercial and noncommercial
Self-service fuel pumps
Signs
Specialty retail shops, all groups
Storage, indoor and open
Studios
Supermarket

Temporary uses
Transportation services, Groups II, III

Used merchandise stores, Group I

Variety store
Vehicle and equipment dealers, Groups I - III

**Residential Tract:**
Accessory uses, as defined by the LDC
Administrative office

Community gardens
Consumption on premises in conjunction with recreational facilities, as limited by conditions
Clubs, private

Dwelling units – limited to 487 dwelling units in MPD
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Essential service facilities, Group I
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Fences, walls

Home occupation

Models, model homes, display center, sales center

Parking lot, Accessory, temporary

Real estate sales office
Residential accessory uses and structures

Signs

Temporary uses

b. Site Development Regulations

Minimum lot area and dimensions:
Single–Family Detached

| | | |
|---|---|---|
| Minimum lot size | 4,500 | square feet |
| Minimum lot width | 40 | feet |
| Minimum lot depth | 100 | feet |
| Minimum street setback | 20 | feet street setback for front-loaded garages |
| | 15 | feet street setback four side loaded garages |
| | 10 | feet street setback for rear loaded/alley lots and secondary street setback on corner lots |

| | |
|---|---|
| Side setback | 5 feet |
| Rear setback | 10 feet |
| Accessory structure setback | 5 feet or 0 feet where the property line abuts a lake maintenance easement or landscape buffer easement |
| Maximum building height | 35 feet |
| Minimum building separation | 10 feet |
| Maximum lot coverage | 55% |
| Waterbody setback | 20 feet, except for accessory structures |

Zero lot line:

| | |
|---|---|
| Minimum lot size | 4,000 sq. feet |
| Minimum lot width | 40 feet |
| Minimum lot depth | 100 feet |
| Minimum street setback | 20 feet street setback for front-loaded garages<br>15 feet street setback four side loaded garages<br>10 feet street setback for rear loaded/alley lots and secondary street setback on corner lots |
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| Accessory structure setback | 5 feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements |
| Maximum building height | 35 feet |
| Minimum building separation | 10 feet |
| Maximum lot coverage | 60% |
| Waterbody setback | 20 feet, except for accessory structures |

Two- Family Attached:

| | |
|---|---|
| Minimum lot size | 3,500 square feet |
| Minimum lot width | 35 feet |
| Minimum lot depth | 100 feet |
| Minimum street setback | 20 feet street setback for front-loaded garages<br>10 feet street setback for rear loaded/alley lots and secondary street setback on corner lots |
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| | |
|---|---|
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| Minimum lot size | 1,800 square feet |
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| Accessory structure setback | 5 feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements |
| Maximum building height | 45 feet |
| Minimum building separation | 15 feet |
| Maximum lot coverage | 65% |
| Waterbody setback | 20 feet, except for accessory structures |

Multiple-Family Building:

| | |
|---|---|
| Minimum lot size | 7,500 square feet |
| Minimum lot with | 75 feet |
| Minimum lot depth | 100 feet |
| Minimum street setback | 20 feet street setback for front loaded garages |
| Rear setback | 10 feet |
| Accessory structure setback | 5 feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements |
| Maximum building height | 65 feet |
| Minimum building separation | 15 feet |
| Maximum lot coverage | 50% |
| Waterbody setback | 20 feet, except accessory structures |

| Retail/Office, and Mixed Use Buildings: | |
|---|---|
| Minimum lot size | 10,000 square feet |
| Minimum lot with | 100 feet |
| Minimum lot depth | 100 feet |
| Minimum street setback | 25 feet |
| Side setback | 0 feet, unless a greater setback is provided then a minimum of 10 feet is required |
| Rear setback | 0 feet, unless a setback is provided greater than 0 feet then a minimum of 10 feet is required |
| Accessory structure setback | 5 feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements |
| Maximum building height | 65 feet |
| Minimum building separation | 15 feet |
| Maximum lot coverage | 50% |
| Waterbody setback | 20 feet, except accessory structures |

3. Vehicular/Pedestrian Impacts

Zoning approval does not address mitigation of vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

4. Development Permits

County development permits do not establish a right to obtain permits from state or federal agencies. Further, those County permits do not establish liability on the County if the developer: (a) does not obtain requisite approvals or fulfill obligations imposed by state or federal agencies or (b) undertakes actions that result in a violation of state or federal law.

5. Open Space and Indigenous Management

The application for the first development order must include the following:

a. Development order plans must depict 22.5 acres of indigenous open space;

b. Indigenous management plan with five-year monitoring following the issuance of the first Certificate of Compliance;

c. If the first development order includes the commercial component, plans must depict 30% open space based upon actual acreage of commercial development. Each commercial tract must provide a minimum of 10% of the required open space; and

d. If the first development order includes the residential component, plans must depict 40% open space based upon actual acreage of residential development.

6. Development Phasing

The developer must submit a report/tabulation with each development order application itemizing the following:

a. Intensity of non-residential (expressed in square footage), and number of dwelling units;

b. Cumulative intensity and dwelling units permitted by previous development order approvals; and

c. Remaining intensity and dwelling units available for future development.

7. Restaurant Area Calculation
Permitted gross floor area must include outdoor seating areas.

8. Consumption on Premises
Consumption on Premises or the sale of alcoholic beverages are prohibited within 500 feet of the Lee County School Board property.

9. Residential Density - Wetlands
If the Environmental Resource Permit (ERP) permits additional impacts to freshwater wetlands, the maximum number of permitted dwelling units must remain consistent with Lee Plan Wetlands density calculations.

**DEVIATIONS:**

1. Landscape Buffer: Deviation 1 seeks relief from LDC 10-416(d)(1), which requires a buffer along the entire perimeter whenever proposed development abuts a different use, to allow no perimeter buffers where on-site preserves abut the perimeter of the MPD.

*Hearing Examiner Recommendation:* Approve.

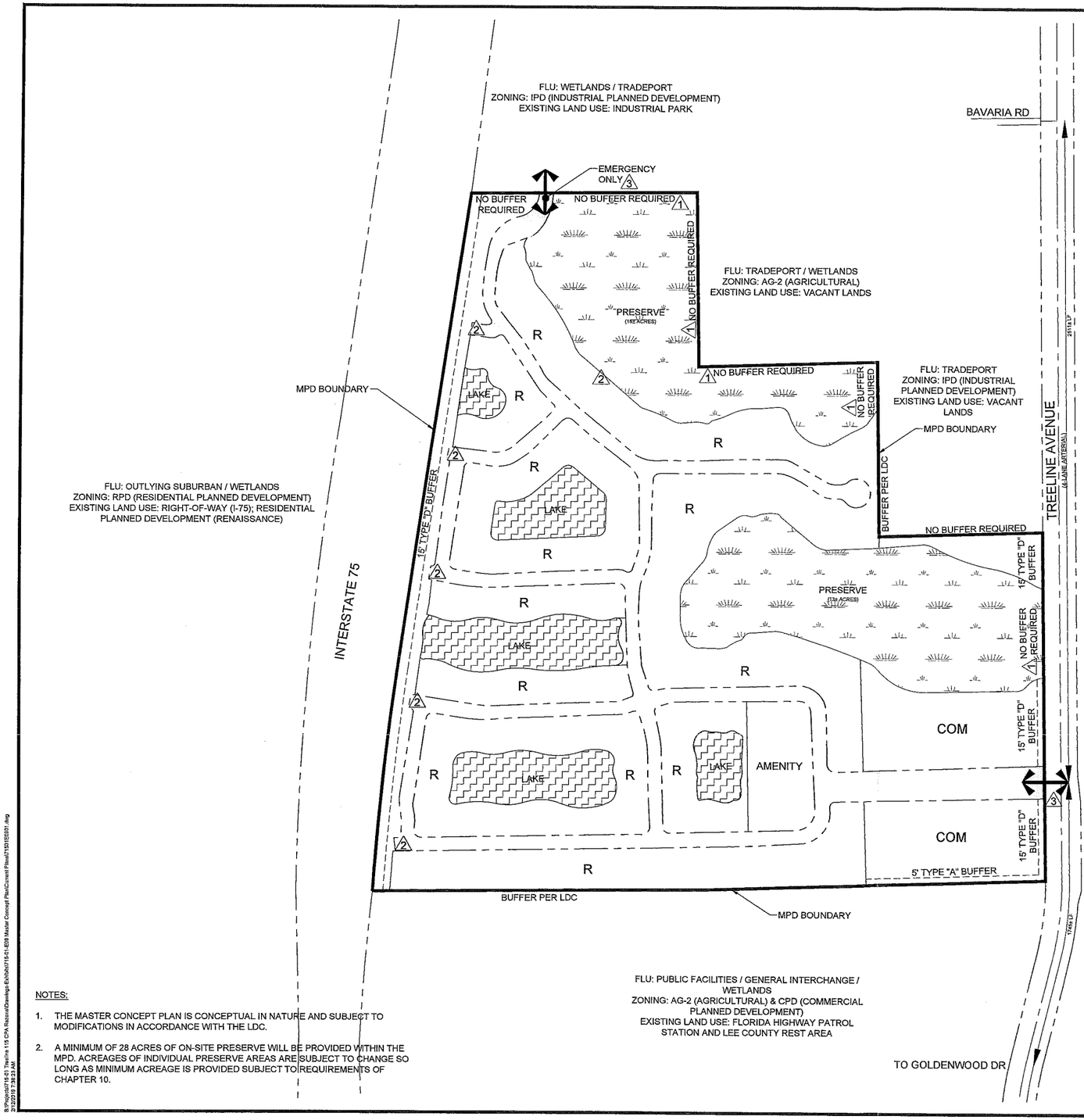
2. Dead End Streets: Deviation 2 seeks relief from LDC 10-296(k)(1), which requires the dead end streets be closed at one end by a circular-turnaround-vehicles, to allow for five dead end streets.

*Hearing Examiner Recommendation:* Approve, *subject to* the following conditions:

1. The developer must submit evidence of Fire District sign-off on the proposed design of the dead end road at the time of development order application. Development plans must reflect a cul-de-sac prior to the north "egress only" access.
2. The deviation is approved for the five locations referenced on the MCP. Additional locations must obtain additional zoning approval.

3. Withdrawn at hearing.

Exhibits to Conditions:
B1 Master Concept Plan




NOTES:

1. THE MASTER CONCEPT PLAN IS CONCEPTUAL IN NATURE AND SUBJECT TO MODIFICATIONS IN ACCORDANCE WITH THE LDC.
2. A MINIMUM OF 28 ACRES OF ON-SITE PRESERVE WILL BE PROVIDED WITHIN THE MPD. ACREAGES OF INDIVIDUAL PRESERVE AREAS ARE SUBJECT TO CHANGE SO LONG AS MINIMUM ACREAGE IS PROVIDED SUBJECT TO REQUIREMENTS OF CHAPTER 10.

LAND USE SUMMARY

| | ACREAGE |
|---|---|
| RESIDENTIAL | 48 |
| RIGHT-OF-WAY | 12 |
| COMMERCIAL | 10 |
| LAKE | 10 |
| PRESERVE | 28 |
| BUFFERS | 1 |
| OTHER OPEN SPACE | 6 |
| TOTAL AREA | 115 |

OPEN SPACE SUMMARY

| | |
|---|---|
| COMMERCIAL REQUIREMENT | |
| 10 AC * 0.30 = 3 AC | 30% |
| RESIDENTIAL REQUIREMENT | |
| 105 AC * 0.40 = 42 AC | 40% |
| TOTAL REQUIRED | 45 AC |
| TOTAL PROVIDED | 45 AC |
| PRESERVE | 28 AC |
| LAKE | 10 AC |
| BUFFERS | 1 AC |
| OTHER OPEN SPACE | 6 AC |

INDIGENOUS PRESERVE CALCULATION

| | |
|---|---|
| INDIGENOUS REQUIREMENT | |
| 45 AC * 0.50 | |
| TOTAL REQUIRED | 22.5 AC |
| TOTAL PROVIDED | 22.5 AC |

LEGEND

- RIGHT-OF-WAY
- LAKE
- PRESERVE
- R — RESIDENTIAL
- COM — COMMERCIAL
- DEVIATION
- INGRESS / EGRESS

PLAN REVISIONS

| | | |
|---|---|---|
| 1 | 7/15/18 | REVISED PER COUNTY COMMENT |
| 2 | 10/5/18 | REVISED PER COUNTY COMMENT |
| 3 | 11/19/18 | REVISED PER COUNTY COMMENT |

0 100 200 400
SCALE IN FEET

PREPARED FOR:

**BJ HOLDINGS OF FORT MYERS**

SET NUMBER: 715-01-E0901
SHEET: 1

# 115-ACRE TREELINE AVENUE

MASTER CONCEPT PLAN

**EXHIBIT B-1**


WALDROP ENGINEERING
CIVIL ENGINEERING & LAND DEVELOPMENT CONSULTANTS
25100 BONITA GRANDE DRIVE - SUITE 305 BONITA SPRINGS, FL 34135
P: 239-405-7777 F: 239-405-7899 EMAIL: info@waldropengineering.com


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APPLICANT'S EXHIBIT #__
DC12018- 3

## Exhibit D

## EXHIBITS PRESENTED AT HEARING

### STAFF EXHIBITS

1. *DCD Staff Report with attachments:* Prepared by Dirk Danley, Jr., Senior Planner dated January 29, 2019 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

2. *48-Hour Notice:* Memorandum dated February 13, 2019 from Dirk Danley, Jr., Senior Planner to Donna Marie Collins, Chief Hearing Examiner. (1 page – 8.5"x11")

3. *Traffic Impact Statements (2):* Prepared by TR Transportation Consultants, Inc. for Treeline 115 MPD, Project No. F1708.09, dated November 27, 2017 & April 13, 2017 (multiple pages – 8.5"x11")

4. *Comprehensive Plan Amendment:* Amendment 18-05ESR Adoption Submission Package for CPA2017-00009: Amend Lee Plan Future Land Use Map to designate 115 acres from Tradeport and Wetlands to Urban Community and Wetlands, adopted by Lee County Board of Commissioners 10/17/2018 (multiple double sided pages – 8.5"x11")[color]

### APPLICANT EXHIBITS

a. *First 48-Hour Notice:* Letter dated February 8, 2019 from Sarah Spector, Esq., Roetzel & Andress, to Lee County Hearing Examiner with copies to Dirk Danley, Jr. & John Fredyma, Esq. (multiple pages – 8.5"x11")

b. *Second 48-Hour Notice:* Letter dated February 12, 2019 from Sarah Spector, Esq., Roetzel & Andress, to Lee County Hearing Examiner with copies to Dirk Danley, Jr. & John Fredyma, Esq. (multiple pages – 8.5"x 11")

1. *Résumés:* Alexis Crespo, Waldrop Engineering, Yury Bykau, TR Transportation, Brown Collins, Synecological, & Jack Morris, Waldrop Engineering (4 pages – 8.5"x11")

2. *Emails:* Between Alexis Crespo, Waldrop Engineering, and Ben Bengston, South Trail Fire District regarding Treeline 115 Project – Emergency Access (3 pages – 8.5"x11")

3. *New Master Concept Plan:* Prepared by Waldrop Engineering, for BJ Holdings of Fort Myers, last revised 11/13/18 (1 page – 11"x17" & 1 board – 24"x36") Hearing Examiner Note: *The MCP submitted into the record was not stamped received by DCD.*

4. *Master Concept Plan Superimposed on Aerial:* Prepared by Waldrop Engineering for BJ Holdings of Fort Myers, last revised 11/13/2018 (1 page – 11"x17" & 1 board – 24"x36")

5. *Urban Services Map:* Prepared by Waldrop Engineering (1 page – 8.5"x11")[color]

6. *PowerPoint Presentation:* Prepared by Waldrop Engineering for zoning case number DCI2018-00007, Treeline 115 Mixed Use Planned Development (multiple pages – 8.5"x11")[color]

## OTHER EXHIBITS

### David Knust

1. *Photographs:* (1 board - 24"x36")[color]

## Exhibit E

## HEARING PARTICIPANTS

County Staff:

1. Dirk Danley, Jr.
2. Elizabeth Workman

Applicant Representatives:

1. Yury Bykau
2. Alexis Crespo
3. Jack Morris
4. Sarah Spector

Public Participants:

1. Lynn Dunlavy
2. David Knust
3. Pam Moore
4. Erin Nelson

## Exhibit F

## INFORMATION

**UNAUTHORIZED COMMUNICATIONS:**

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

**HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS:**

A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.

B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants are limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.

**COPIES OF TESTIMONY AND TRANSCRIPTS:**

A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.

B. A verbatim transcript may also be available for purchase from the court reporting service.