Summary of Hearing Examiner Recommendation

22 BETH STACEY BLVD

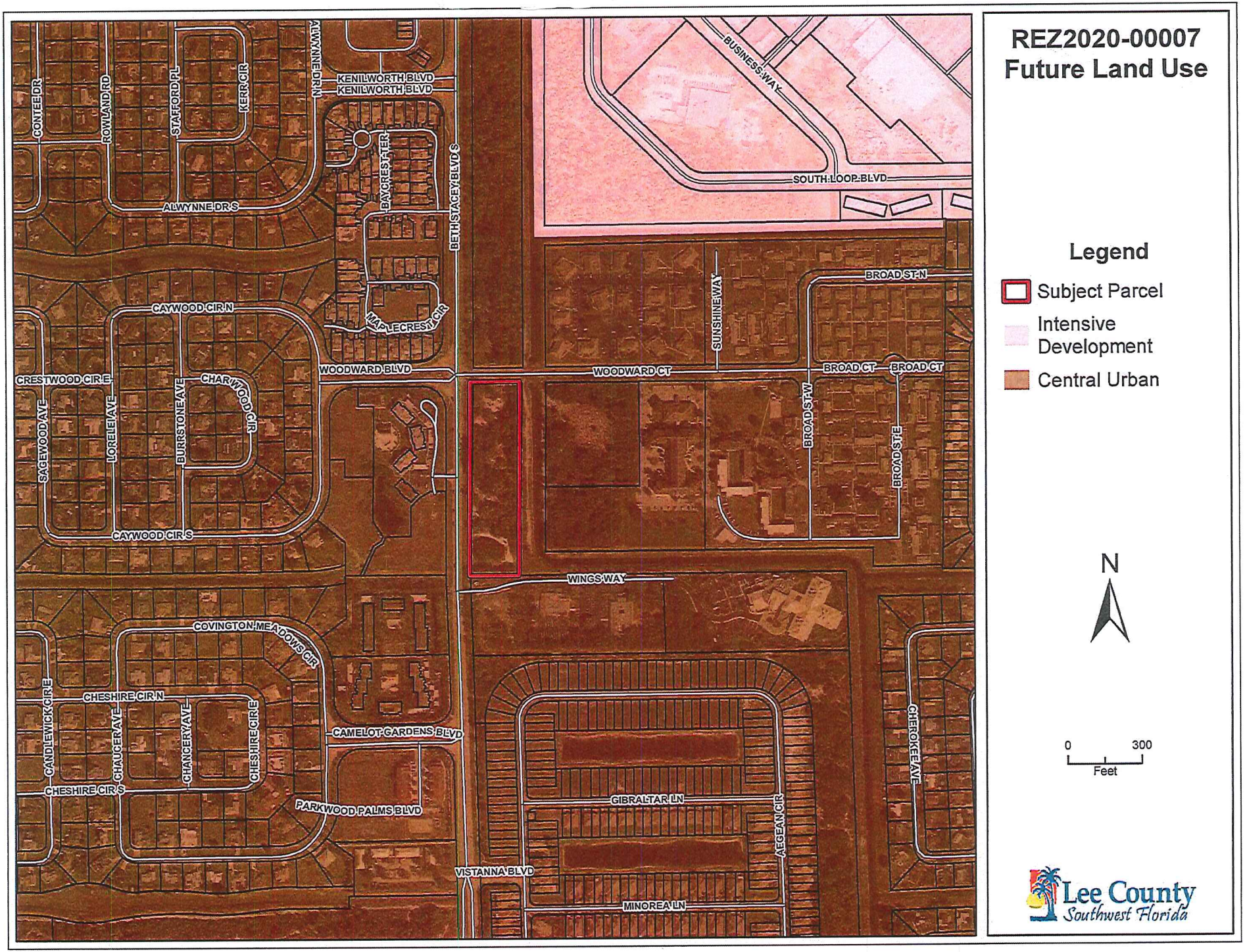
(RJ Ward, P.E. of Spectrum Engineering Inc.,
on behalf of De la Cruz Properties, LLC)

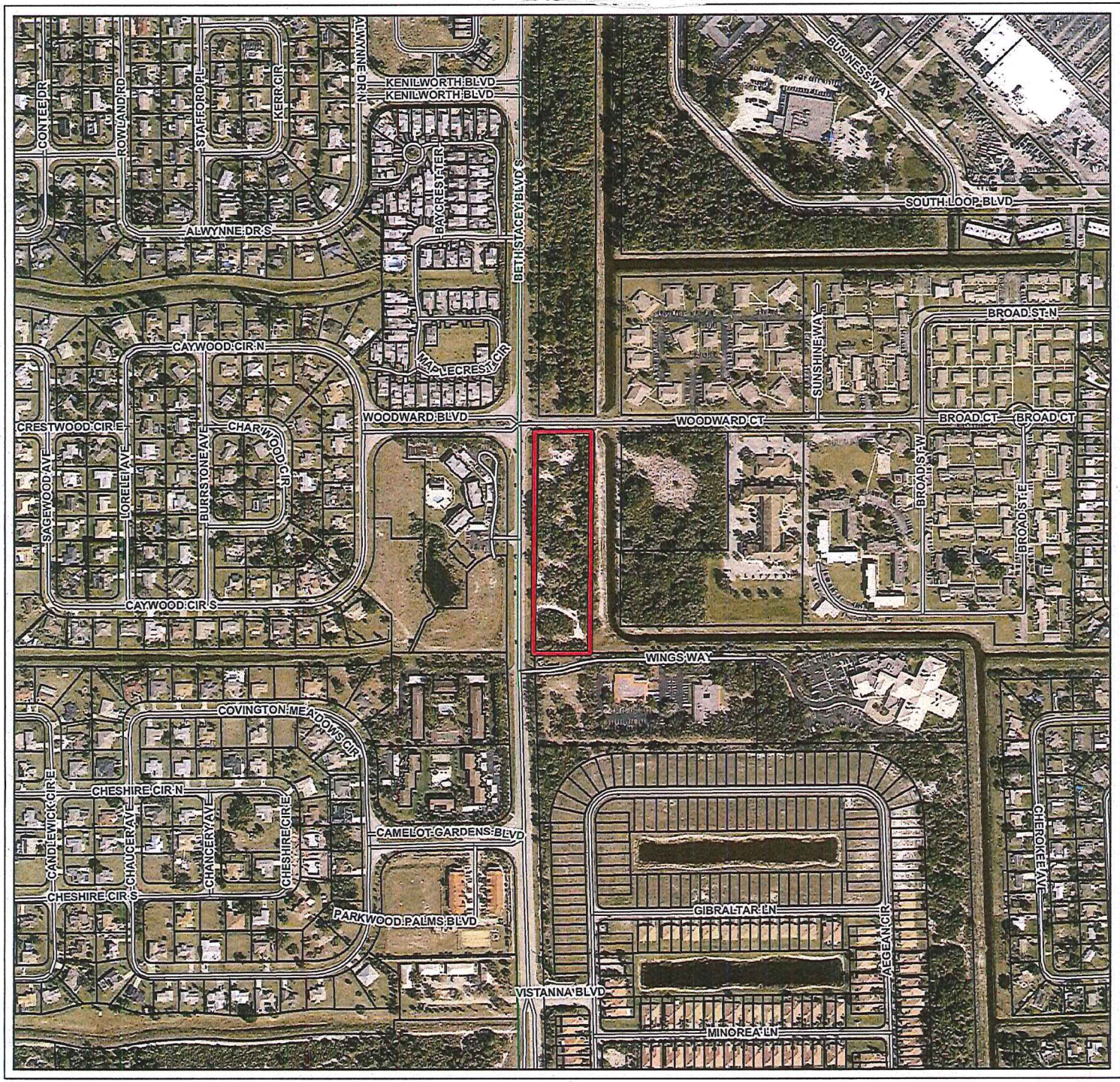
Request:	Rezone Multiple-Family Residential (RM-2) to Commercial(C-2)
Location:	22 Beth Stacey Boulevard Lehigh Acres Planning Community District 5
Size:	3.6 acres
Recommendation:	Approve
Public Concerns:	None

Hearing Examiner Remarks:

The requested C-2 commercial zoning district permits a range of uses appropriate in the Mixed Use Overlay. The C-2 district permits residential and a broad array of commercial uses designed to serve area residents.

Detailed recommendation follows


REZ2020-00007
Future Land Use
Legend
Subject Parcel
Intensive Development
Central Urban
N
0
300
Feet
Lee County
Southwest Florida
CONTEE DR
ROWLAND RD
STAFFORD PL
KERR CIR
ALWYNNE DR N
ALWYNNE DR S
KENILWORTH BLVD
KENILWORTH BLVD
BAYCREST TER
BETH STACEY BLVD S
BUSINESS WAY
SOUTH LOOP BLVD
SUNSHINE WAY
BROAD ST N
MAPLECREST CIR
CAYWOOD CIR N
WOODWARD BLVD
WOODWARD CT
BROAD CT
BROAD CT
CRESTWOOD CIR E
SAGEWOOD AVE
LORELEI AVE
BURRSTONE AVE
CHARWOOD CIR
BROAD ST W
BROAD ST E
CAYWOOD CIR S
WINGS WAY
COVINGTON MEADOWS CIR
CHESHIRE CIR N
CANDLEWICK CIR E
CHAUCER AVE
CHANCERY AVE
CHESHIRE CIR E
CAMELOT GARDENS BLVD
CHEROKEE AVE
CHESHIRE CIR S
PARKWOOD PALMS BLVD
GIBRALTAR LN
AEGEAN CIR
VISTANNA BLVD
MINOREA LN



REZ2020-00007
Aerial

Legend

Subject Parcel

N

0 300
Feet

Lee County
Southwest Florida

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: REZ2020-00007

Regarding: **22 BETH STACEY BLVD**

Location: 22 Beth Stacey Boulevard

Lehigh Acres Planning Community
(District 5)

Hearing Date: April 1, 2021

I. Request:

Request to rezone 3.6 acres from Multiple-Family Residential (RM-2) to Commercial (C-2).

Property legal description set forth in Exhibit A.

II. Hearing Examiner Recommendation:

Approve.

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 property in Lehigh Acres.

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

The Hearing Examiner's recommendation of approval follows below.

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

Request

This request seeks to rezone 3.6 acres from Multiple Family Residential (RM-2) to Commercial (C-2) on Beth Stacey Boulevard in the Lehigh Acres Planning Community. The property is vacant and lies within a Mixed Use Overlay.[2]

The Department of Community Development staff recommended approval finding the requested C-2 district satisfies LDC review criteria.

Consistency with the Lee Plan

The future land use designation of the site is Central Urban. The Central Urban Future Land Use category is the second most intense under the Lee Plan. This category consists of the county's heavily settled urban core with a variety of housing, commercial and urban services.[3]

The County's vision for Lehigh Acres is to reduce its dependence on neighboring communities for employment, recreation, and public services.[4] The property lies within a Mixed Use Overlay within the Lehigh Acres Planning Community.[5] The Lee Plan encourages conventional zoning districts within the Mixed Use Overlay.[6]

The Lee Plan encourages mixed use developments that integrate multiple land uses.[7] The site's current RM-2 zoning designation does not accommodate mixed land uses on the property. In contrast, the proposed C-2 zoning district allows both commercial and residential uses.[8] Development of mixed uses on the site offers opportunities to provide commercial services to the community.[9]

Compatibility

Development patterns along Beth Stacey Boulevard consist of residential and some community facilities. The area immediately adjacent to the property is mainly developed with residential land uses, although several commercial centers lie to the northeast along Homestead Road.[10] The property is a short distance from Downtown Lehigh, a significant activity center with a full array of urban services and infrastructure. The proposed C-2 zoning district is consistent with development patterns in the area.[11]

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[2] Lee Plan Map 1, page 6 of 7.
[3] Lee Plan Policy 1.1.3.
[4] Lee Plan Vision Statement, Paragraph 17 (Lehigh Acres) and Goal 25
[5] Lee Plan Map 1, page 6 of 7.
[6] Lee Plan Policy 11.2.4.
[7] Lee Plan Goal 11, Objective 11.1.
[8] The C-2 district permits commercial and select residential land uses. LDC34-841(b), 34-844.
[9] Lee Plan Goal 11, Objective 11.1 Policy.
[10] Downtown Lehigh is a short distance from the property. There is a social services facility across Wings Way to the south.
[11] Lee Plan Policy 25.9.2.

The Lee Plan designates the property within Lehigh's Commercial Overlay Zone, where the County discourages development of single family residential uses on lots smaller than one acre.[12] The property is ideally located for commercial uses as a canal and Beth Stacey Boulevard separates the site from residential land uses.[13]

Property in the Mixed Use Overlay may use alternative property development regulations to encourage compact and functional development patterns.[14] Regulations permit developers to include land areas devoted to non-residential uses in density calculations in the Overlay. In addition, permitted reductions in open space, setbacks, landscaping, buffering, and parking facilitates promotes urban-style development.[15]

The proposed C-2 zoning district is a "conventional" zoning district. Therefore, it is not possible to impose conditions on approval. The C-2 use regulation table will govern the permitted uses, subject to the limitations imposed by the Lee Plan.[16] Deviations from the requirements of the Land Development Code (LDC) may be achieved via the variance or administrative amendment process.

Future development order applications will be subject to a publically advertised information session within the planning community.[17] This meeting affords another opportunity for public participation.

Transportation

The site fronts on the east side of Beth Stacey Boulevard, a County maintained arterial roadway.[18] The frontage on Beth Stacey is sufficient to accommodate County driveway separation standards.[19] The property also has frontage on Woodward Court.

The proposed C-2 district is appropriate along a high volume arterial roadway. Site related improvements will be addressed during the development order approval process.[20] Future development will be subject to road impact fees.[21]

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[12] Lee Plan Map 1 page 7 of 7 (Special Treatment Areas: Lehigh Acres Community Plan Overlays) *See* Lee Plan Objective 25.6, Policy 25.6.1.
[13] Lee Plan Policy 5.1.5.
[14] Lee Plan Policy 11.2.5.
[15] Id.; LDC 10-425, 34-845, 34-2020.
[16] LDC 34-621.
[17] LDC 33-1401.
[18] Lee County AC 11-1 Beth Stacey Boulevard is a heavily traveled arterial roadway serving commercial and residential uses.
[19] LDC 10-285. The property has over 789 feet of frontage on Beth Stacey Boulevard. The LDC requires a connection separation of 440 feet on arterial roadways in future urban areas.
[20] Lee Plan Objective 39.1, Policy 39.1.1; LDC 10-8, 10-287.
[21] LDC 2-265.

Environmental

The site is wooded but contains no remarkable environmental features or resources.[22] If future development order proposes impervious surfaces in excess of two acres, the LDC requires a species assessment and indigenous open space.[23]

Future development may comply the LDC requirements for open space, setbacks, landscaping, and buffering in the Mixed Use Overlay.[24]

Urban Services

The site has access to a full range of urban services and infrastructure.[25] The property fronts on a County maintained arterial roadway with a sidewalk along the west side.[26] Public water and sanitary sewer services are available from Florida Governmental Utility Authority.[27] There is a Lee County Sheriff substation within a half mile[28] and a Lehigh Acres Fire Station within one mile of the site.[29]

Lee Tran bus route 110 runs along Woodward Court and Beth Stacey Boulevard providing an opportunity for future employees and patrons to access the property via mass transit. The site developer must provide pedestrian improvements to an existing bus stop on Woodward Court as a condition of development order approval.[30] The developer must also comply with LDC requirements to build a bicycle/pedestrian facility along the site's road frontage.[31]

Public

Property owners seeking to rezone land in the Lehigh Acres Planning Community must conduct one publically advertised information session in the community prior to sufficiency.[32] Applicant presented the request to the public at a meeting before the Lehigh Acres Community Council in July 2020.[33]

No members of the public attended the Hearing Examiner hearing.

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[22] Testimony of Peter Blackwell, Planner Zoning Division and R.J. Ward, PE, Spectrum Engineering, Inc.
[23] Lee Plan Objective 123.8, LDC 10-473, 10-474.
[24] LDC 10-425.
[25] Lee Plan Objective 11.1, Policies 2.2.1, 25.9.2.
[26] Beth Stacey Boulevard is a County maintained arterial roadway. Lee County AC 11-1.
[27] Staff Report Attachment G; *See* Lee Plan Policy 25.9.1 and Standards 4.1.1, 4.1.2.
[28] East District Substation.
[29] Fire Station and ALS No. 102.
[30] LDC 10-442, *See also* Lee Plan Policies 25.8.6, 43.1.1.
[31] Lee Plan Map 3D, LDC 10-256(a).
[32] LDC 33-1401(a).
[33] Staff Report Attachment F.

Conclusion

The Hearing Examiner concurs with staff's analysis and recommendation of approval. The requested C-2 zoning district satisfies the approval criteria set out in the LDC.

IV. Findings and Conclusions:

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

A. The requested C-2 Commercial zoning district complies with the Lee Plan. *See* Lee Plan Vision Statement Paragraph 17 (Lehigh Acres), Lee Plan Goals 4, 6, 11, 17, 25; Objectives 6.1, 11.1, 11.2, 25.1, 25.2, 25.6, 25.9.2, and Policies 1.1.3, 6.1.1, 6.1.4, 11.2.4, 25.6.1, Maps 1, 16.

B. The Commercial (C-2) zoning district:

1. Meets the Land Development Code and other County regulations. LDC 33-1400 *et seq.*, 34-491, 34-621, 34-841, 34-844, 34-845, 34-2020;

2. Is compatible with existing and planned uses in the surrounding area. *See* Lee Plan Objectives 25.1, 25.6, Policies 1.1.3, 5.1.5, 6.1.4, 6.1.5, 11.2.4, 25.6.1, 25.9.2

3. Will provide access sufficient to support development intensity. Expected impacts on transportation facilities will be addressed by County regulations. Lee Plan Objective 39.1, Policies 6.1.1, 6.1.5, 39.1.1, 39.2.1

4. Will not adversely affect environmentally critical/sensitive areas or natural resources.

5. Will be served by urban services including transit. *See* Lee Plan Glossary, Goal 4, Objectives 11.1, 11.2, Policies 1.1.3, 2.2.1, 25.9.1, 25.9.2 Standards 4.1.1, 4.1.2.

Date of Recommendation: April 7, 2021.

Donna Marie Collins
Chief Hearing Examiner

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 Exhibits Presented at Hearing
Exhibit C Hearing Participants
Exhibit D Information

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

EXHIBIT A

PARKWOOD III, LEHIGH ACRES SUBDIVISION

PLAT BOOK 28, PAGE 94

LEGAL DESCRIPTION

A tract or parcel of land lying in Section 31, Township 44 South, Range 27 East, Lee County, Florida, being more particularly described as follows:
Commencing at the intersection of the Northerly right-of-way line of Woodward Court and the Easterly right-of-way line of Beth Stacey Boulevard, as shown on the Plat of Parkwood III, Section 31, Township 44 South, Range 27 East, a Subdivision of LEHIGH ACRES, Lee County, Florida, recorded in Plat Book 28, at Page 94, of the Public Records of Lee County, Florida; thence South 00°20'28" West, a distance of 60.00 feet; to the Southerly right-of-way line of Woodward Court; and the Point of Beginning of the parcel of land herein described; thence North 89°45'00" East, along Woodward Court; a distance of 200.01 feet; to the Westerly right-of-way line of Yellowtail Canal extension; thence South 00°20'28" West, along said Yellowtail extension, a distance of 789.09 feet, to the South section line of said Section 31; thence South 89°45'00" West, along the South section line, a distance of 200.01 feet; to the Easterly right-of-way line of Beth Stacey Boulevard; thence North 00°20'28" East, along Beth Stacey Boulevard, a distance of 789.09 feet, to the Point of Beginning.

REVIEWED
REZ2020-00007
Rick Burris, Principal Planner
Lee County DCD/Planning
1/11/2021

I HEREBY CERTIFY THAT THIS SKETCH OF SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND TO THE BEST OF MY KNOWLEDGE AND BELIEF SAID SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE FURTHER, THIS DOCUMENT IS ELECTRONICALLY SIGNED AND SEALED PURSUANT TO SECTION 472.027, OF THE FLORIDA STATUTES AND CHAPTER 5J-17 OF THE FLORIDA ADMINISTRATION CODE.

LIS LAND SURVEYING, LLC
d.b.a. S & H Land Surveying Co.
21430 Palm Beach Blvd.
Alva, FL 33920
239-481-2366 239-481-2437(Fax)
LB1057

Charles DeGraff
Digitally signed by Charles DeGraff
DN: c=US, st=Florida, l=Debary, o=Charles DeGraff Land Surveyor, cn=Charles DeGraff, email=charles.degraff@gmail.com
Date: 2020.06.10 09:20:30 -04'00'

06/09/20

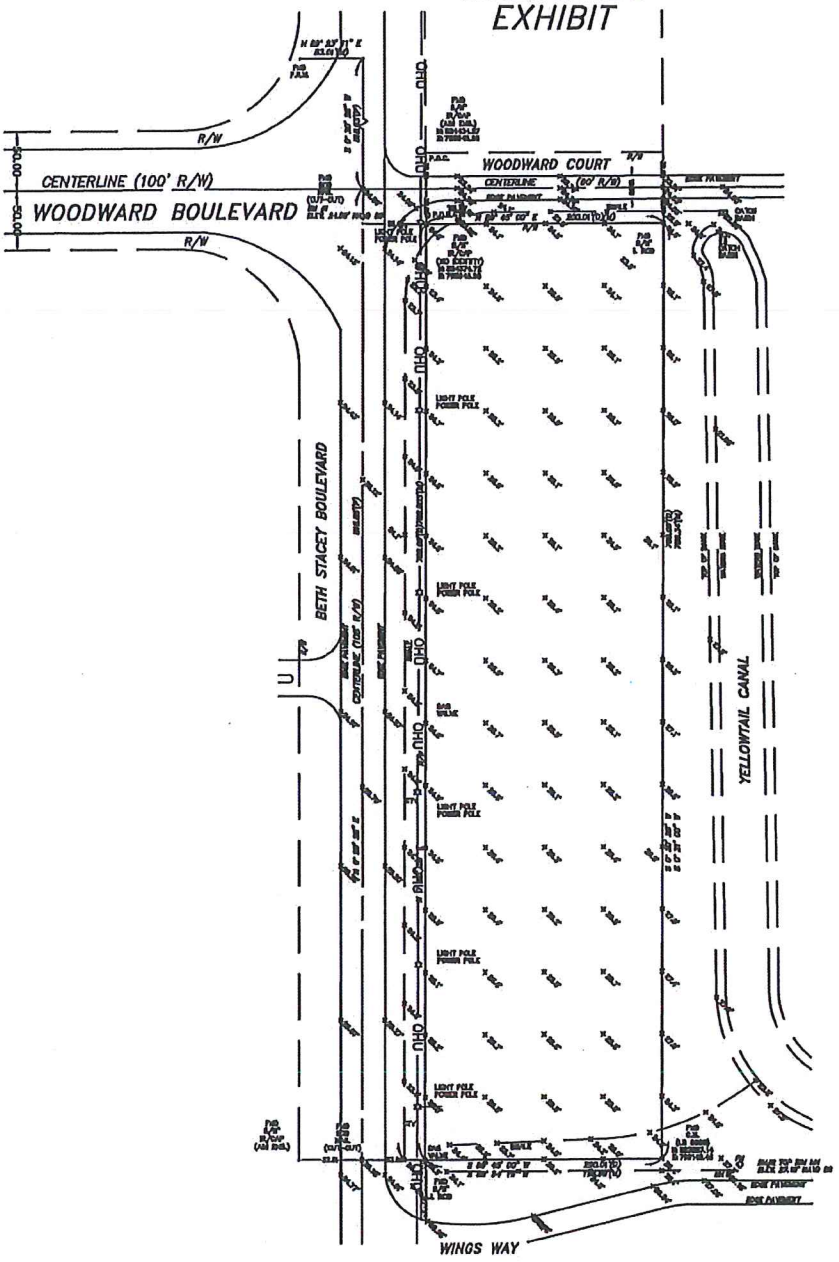
CHARLES L. DEGRAFF
REGISTERED LAND SURVEYOR PSM# 4706

JOB NO: 22665-LEGAL

PARKWOOD III, LEHIGH ACRES SUBDIVISION

PLAT BOOK 28, PAGE 94

EXHIBIT



REVIEWED
REZ2020-00007
Rick Burris, Principal Planner
Lee County DCD/Planning
1/11/2021

SCALE: 1"=150'

I HEREBY CERTIFY THAT THIS SKETCH OF SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND TO THE BEST OF MY KNOWLEDGE AND BELIEF SAID SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE FURTHER, THIS DOCUMENT IS ELECTRONICALLY SIGNED AND SEALED PURSUANT TO SECTION 472.027, OF THE FLORIDA STATUTES AND CHAPTER 5J-17 OF THE FLORIDA ADMINISTRATION CODE

LIS LAND SURVEYING, LLC
d.b.a. S & H Land Surveying Co.

Charles DeGraff

Digitally signed by Charles DeGraff
DN: c=US, st=Florida, l=Debary, o=Charles DeGraff Land Surveyor, cn=Charles DeGraff, email=charles.degraff@gmail.com
Date: 2020.06.10 09:19:34 -04'00'

21430 Palm Beach Blvd.
Alva, FL 33920
239-481-2366 239-481-2437(Fax)
LB1057

06/09/20

CHARLES L. DEGRAFF
REGISTERED LAND SURVEYOR PSM# 4706

JOB NO: 22665-SKETCH

ATTACHMENT B2

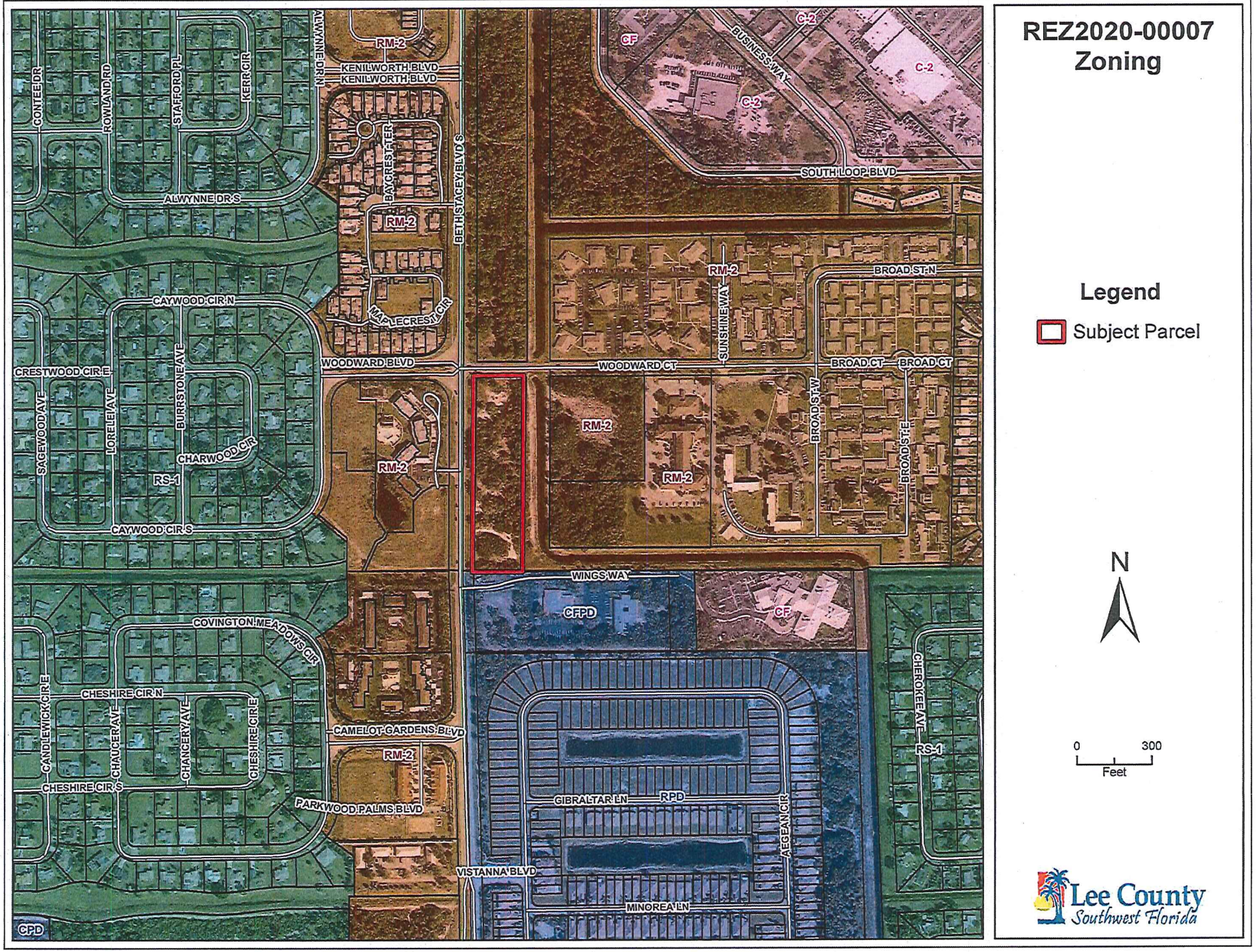


Exhibit B

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Peter Blackwell, Planner, dated April 1, 2021 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

2. *PowerPoint Presentation:* Prepared for REZ2020-00007, 22 Beth Stacey Boulevard (multiple pages – 8.5"x11")[color]

APPLICANT EXHIBITS

1. *Applicant's Presentation:* Prepared by R.J. Ward, for REZ2020-00007, 22 Beth Stacey Blvd. (1 pages – 8.5"x11")

Exhibit C

HEARING PARTICIPANTS

County Staff:

1. Peter Blackwell

Applicant Representatives:

1. R.J. Ward

Exhibit D

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.