



Board of County Commissioners

Kevin Ruane
District One

January 28, 2022

Cecil L. Pendergrass
District Two

(Via email delivery to john@delisifitzgerald.com)

Ray Sandelli
District Three

Brian Hamman
District Four

Frank Mann
District Five

John Wojdak, P.E.
DeLisi Fitzgerald, Inc.
1605 Hendry Street
Fort Myers, Florida 33901

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
County Hearing
Examiner

**RE: APPLICATION FOR MINOR PLANNED DEVELOPMENT
DCI2021-00053
RACETRAC AT BAYSHORE COMMERCIAL PLANNED
DEVELOPMENT (CPD)**

Dear Mr. Wojdak:

The Zoning Section has reviewed the information provided for the above-referenced application in accordance with Sections 34-201, 34-202, and 34-373 of the Lee County Land Development Code (LDC). Please be advised that the application is insufficient at this time. The following items must be addressed prior to the application being deemed sufficient for public hearing:

Zoning Review

- Land Development Code (LDC) Section 34-373(a)(1) requires a general application form for public hearing in accordance with the requirements set forth in sections 34-201, 34-202, and 34-203 be filed.
 - The application form and Master Concept Plan (MCP) lists two (2) STRAP numbers and a portion of a third STRAP number, the Deeds.pdf submitted with the application displays six (6) STRAP numbers and two parcels, and the boundary survey lists three (3) STRAP numbers and a portion of a fourth STRAP Number. Please reconcile among the documents the applicable STRAP numbers.
 - Application form Part 3.E requires a list of all zoning Resolutions and Approvals applicable to the subject property be provided and the required list was not submitted. Please amend the application accordingly.
 - Application form Part 3.I notes the subject property is located in the North Fort Myers Planning Community. LDC Section 33-1532 requires for planned development zoning actions one publicly advertised information session within the North Fort Myers Planning Community prior to obtaining approval

or finding of sufficiency and LDC Section 33-1533 addresses the meeting requirements. The application did not include documentation verifying conformance with these sections. Please amend the application accordingly.

- LDC Section 34-373(3) provides “A legal description and sketch meeting the requirements of section 34-202(a) is required. If the proposed planned development will encompass more than one zoning district (i.e. RPD/CPD), then a legal description and sketch for each separate zoning district will be required in addition to the legal description and accompanying sketch of the overall planned development boundary. The boundary survey may not be used to satisfy this requirement.” The proposed planned development encompasses three existing zoning districts (AG-2, CC and CPD) and a legal description and sketch consistent with LDC Section 34-373(3) was not submitted. Please amend the application accordingly.
- LDC Section 34-202(a)(6) requires a boundary survey of the subject property be submitted. The survey must be based upon the title certification submitted in accord with section 34-201(a)(7) and certified to the present owner as reflected in the title documentation submitted in accordance with section 34-201(a)(7). The boundary survey must identify and depict all easements affecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection. Although easements are displayed, those easements are not based on a title certification. Please amend the boundary survey accordingly.
- LDC Section 34-202(a)(7) requires certification of title and encumbrances be submitted and such documentation was not provided. Please provide a certification of title and encumbrances consistent with the requirements in LDC Section 34-202(a)(7).
- LDC Section 34-202(a)(9) requires a complete list, map, and one set of mailing labels, of property owners, and their mailing addresses, for all properties within 500 feet of the perimeter of the property, or the portion thereof, that is the subject of the request be submitted. In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet (1,250 feet for wireless communication facilities). Names and addresses of property owners must be those appearing on the current Lee County tax rolls. When the application is found sufficient, the applicant is required to submit a new list and mailing labels. The required documentation was not submitted. Please amend the application consistent with LDC Section 34-202(a)(9).
- LDC Section 34-202(a)(10) requires a letter from the appropriate utility provider verifying their ability to provide service to the proposed development be submitted. If service is not available, the applicant must indicate how the potable water and sanitary sewer needs for the project will be met. A utility provider letter verifying service availability was not submitted. Please amend the application accordingly.
- LDC Section 34-373(a)(4)d provides 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 chapter 22. The plan must show the outline of historic buildings and approximate extent of archaeological sites. A description of proposed improvements that may impact archaeological or historical resources must also be provided. The application does not address whether or not the property impacts historic or archeological resources. Please amend the application accordingly.

- LDC Section 34-373(a)(5) requires a single narrative explaining the nature of the request and how the property qualifies for the rezoning to a planned development. This narrative should include how the proposed development complies with the Lee Plan and the Land Development Code. In addition, LDC Sections 34-145(d)(4)a.1 and 34-145(d)(4)a.2, respectively provide that before recommending approval for a rezoning or planned development rezoning, the Hearing Examiner must find the rezoning request complies with those sections.
 - The application does not address compliance with Lee Plan Goal 30 and applicable Objectives and Policies, or with Policies 39.2.1 and 158.3.5.
 - The application does not address conformance with LDC Section 34-1353 and LDC Section 33-1541 et. seq.

Please amend the application accordingly.

- LDC Section 34-373(a)(6) addresses the requirement for a Master Concept Plan (MCP).
 - LDC Section 34-373(a)(6)a requires that the location and explanation of all existing easements be shown on the MCP, regardless of whether those easements are recorded. If an easement is based upon a recorded document, the official records book reference must be stated. The MCP does not display the location of easements.
 - LDC Section 34-373(a)(6)e provides the MCP must show the general location of service areas for delivery of goods or services must be shown for all developments that are not residential subdivisions and the MCP does not show the location.
 - LDC Section 34-373(a)(6)i requires the minimum width and composition of all proposed buffers along the perimeter of the subject property, as well as between the individual uses, if the types of proposed uses require buffer separations be illustrated. References to types of buffers as described in chapter 10 are acceptable. Buffers along the west and southwest boundaries are not identified.

Please amend the MCP accordingly.

- LDC Section 34-373(a)(10) provides for submittal of a property development regulations table but the minimum lot area, lot width/street frontage, lot depth and rear setback are inconsistent with LDC Sections 34-1353(c) and (d). Please amend the table consistent with LDC Sections 34-1353(c) and (d) or seek a deviation consistent with LDC Section 34-373(a)(9). Please note if a deviation is sought then the MCP will need to be revised accordingly.
- LDC Section 34-373(b) provides a written description of the surface water management plan be submitted and such plan was not submitted. Please amend the application accordingly.

Legal Review

- The application is not in conformance with LDC Sec. 34-202(a)(5). Please provide a legal description and sketch in accordance with the requirements of Lee County LDC §34-202(a)(5).
- The application is not in conformance with LDC Sec. 34-202(a)(6). Please provide a boundary survey in accordance with the requirements of Lee County LDC §34-202(a)(6).
 - The survey must be tied to the state plane coordinate system for the Florida West Zone (the most current adjustment is required) with two coordinates, one coordinate being the point of beginning (POB) and the other an opposing corner.
 - The perimeter boundary must be clearly marked with a heavy line and must include the entire area to be developed. The boundary line is not easily differentiated from other items on the survey.
 - The survey must be based upon the title certification submitted in accord with section 34-201(a)(7)
- The application is not in conformance with LDC Sec. 34-202(a)(5) (7) Please provide a title certification in accordance with the requirements of Lee County LDC §34-202(a)(7).

Please contact Hunter L. Searson at HSearson@leegov.com or by calling 239-533-8536 with any questions regarding the above review comments.

Development Services Review

- It is not clear from the boundary survey and MCP provided that the applicant owns/controls all parcels that are part of this application. Staff notes three separate property owners. The parcel directly south of the proposed development is owned by Bayshore – Copping, LLC that also owns the property that abuts Bayshore Rd. How was this parcel created? Was a lot split completed?
- Please show all proposed and existing easements on the MCP.
- Please show the general location of service areas for delivery of goods and services on the MCP.
- Please provide a stormwater narrative with your resubmittal.
- The subject property is in Archaeological Sensitivity Zone 2. Please show the location of any part of the property that is located in Zones 1 and 2 in accordance with 34-373(a)(4)(d).
- The proposed property development regulations do not meet the minimum frontage, depth, parcel area, and rear yard setback in 34-1353(c). Please revise or seek a deviation.

Please contact Brian Roberts at BRoberts@leegov.com or by calling 239-533-8890 with any questions regarding the above review comments.

Utility Review

- Please include letter's of availability for water from LCU and sewer from FGUA.

Please contact Nathan C. Beals at NBeals@leegov.com or by calling 239-533-8157 with any questions regarding the above review comments.

Environmental Services Review

- The boundary survey appears to have larger dimensions than the Master Concept Plan. Please clarify.
- The environmental assessment stated that the subject property is 6.33 acres; however, the narrative and the boundary survey states that the subject area is 5.29 acres. Please clarify for consistency.
- South of the proposed development, there is a natural waterway. According to sec.10-416(d)(9), there must be a 50-foot wide vegetative buffer landward of a non-seawalled natural waterway as measured from the mean high water line or top of bank, whichever is further landward. Please depict the natural waterway buffer on the Master Concept Plan and boundary survey.
- If the proposed development contains over two acres of impervious, 30% open space is required (sec.10-415). Please provide the amount of impervious.
- If the proposed project is considered a large development, as defined in LDC Section 10-1, and requires 30% openspace, half of the open space requirement will need to be met by indigenous preserve(s) (sec. 10-415 (b)(1)). In the environmental survey conducted by BearPaws, the FLUCCS map depicts indigenous vegetation. Please revise the master concept plan to depict indigenous preservation.
- There appears to be a billboard on the northwest parcel. According to sec. 10-421(a), a plant's growth habit must be considered in advance of conflicts that might be created (e.g. views, signage, overhead power lines, lighting, buildings, and circulation). Please indicate if the billboard will remain. If so, please depict the billboard on the Master Concept Plan and depict the view window from the right-of-way to ensure that there are no visibility conflicts due to the required buffer.

Please contact Camyrn Siverson at CSiverson@leegov.com or by calling 239-533-8313 with any questions regarding the above review comments.

Solid Waste Review

- The MCP does not indicate a proposed dumpster enclosure location with specifications included as required in Solid Waste Ordinance 11-27

Please contact Justin Lighthall at JLighthall@leegov.com or by calling 239-533-8007 with any questions regarding the above review comments.

Natural Resources Review

- Please provide a written description of the surface water management plan that meets the requirements outlined in LDC 34-373(b)(1).
- Please provide an analysis of Lee Plan policies 60.1.1, 125.1.2, 125.1.3, and 125.1.4.

Please contact Nicholas DeFilippo at NDeFilippo@leegov.com or by calling 239-533-8983 with any questions regarding the above review comments.

Please respond to the above sufficiency review comments within thirty (30) calendar days of the date of this letter. This application will be considered withdrawn if no response is received within this timeframe. Please feel free to contact me at Ehahn@leegov.com or (239) 533-8791 if you have any questions.

Cordially,

Electronically signed on 01/27/2022 by
Earl R. Hahn, AICP
Principal Planner

DEPARTMENT OF COMMUNITY DEVELOPMENT
Zoning Section

ERH