

RESOLUTION NUMBER Z-99-037

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Roy Massey, filed an application to rezone from Agricultural (AG-2) to Commercial Planned Development (CPD), in reference to Massey Commercial Building; and

WHEREAS, Edward H. Olling, Grantor, and Carole L. Olling, Trustee, the owners of the subject parcel, authorized Manuel Garcia and Greg Stuart, to act as agents to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held before the Lee County Hearing Examiner on June 2, 1999, and continued to July 2, 1999, who gave full consideration to the evidence in the record for Case # 99-03-251.02Z 01.01; and

WHEREAS, a second public hearing was advertised and held on October 4, 1999, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on the record, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST:

The applicant filed a request to rezone the subject property from AG-2 to CPD located in the Suburban Land Use Category. The legal description of the subject property is set forth in Exhibit A attached to this resolution. The request is hereby APPROVED subject to the conditions and deviations set forth in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be consistent with the two-page Master Concept Plan entitled "Massey Building Minor CPD," prepared by Southwest Engineering, dated March 15, 1999 and stamped received March 23, 1999 by the Permit Counter, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.
2. The following limits apply to the project and uses:

a. **Schedule of Uses**

Administrative Offices
Business Services, Group I
Essential Services
Essential Services Facilities-Group I
Excavation, water retention
Hobby Shop
Medical Office
Non-Store Retailers-Group I
Parking lot-Accessory
Personal services-Group I (except coin-operated laundries and laundromats) and
Group III (except massage establishments, massage parlors, reducing or
slenderizing salons and steam or Turkish baths)
Rental or Leasing Establishments-Group I (excluding bicycles, mopeds, and
scooters) and Group II (excluding bicycles)
Repair Shops-Group I and Group II
Signs in accordance with Chapter 30
Specialty Retail Shop-Group I, Group II and Group III (limited to the sales/rental of
windsurfing, canoeing, kayaking and related apparel and sports equipment -
to be conducted completely indoors)
Storage-indoor only

b. **Site Development Regulations**

Development of the subject property must comply with the following Property
Development Regulations:

Minimum Setbacks-Building and Structures:

Street: 25 feet
Side: 15 feet
Rear: 25 feet

Maximum Lot coverage: 40 percent
Maximum Building Height: 35 feet

3. The Applicant must provide a Type "C," 15-foot-wide buffer along the north property line consisting of Type "F" plantings, but with 10 trees per 100 linear feet, and a hedge planted in double staggered rows which must form, within one year after date of planting, at least a 36-inch-high continuous visual screen.
4. At the time of development order review, the developer must provide for cross access to McGregor Boulevard along the common property line with the adjacent parcel to the west so that both parcels will be accessed through the same access point. All documents necessary to implement this condition must be submitted and approved prior to

development order approval. The realigned access point and resulting driveway location will differ from that depicted on the approved MCP. The purpose and intent of this condition is to require access to the parcel through one point on the common boundary line and for both properties to share in providing access.

5. The hours of operation for the retail commercial uses are limited to 8:00 a.m. to 6:00 p.m., Monday through Saturday. Retail commercial operations are prohibited on Sunday.
6. With respect to the retail commercial uses, any external lighting of the site after 6:00 p.m. is prohibited, with the exception of security lighting. Light from the external lighting of the site must not extend beyond the site's property line.
7. Outdoor storage or display of merchandise on the property is prohibited, including the parking of trucks, trailers or other transport vehicles containing canoes, kayaks or windsurfing equipment.
8. Any future amendments to the schedule of uses or conditions must be approved through the public hearing process.
9. No temporary uses or temporary parking lots are permitted on-site.
10. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
11. Approval of this rezoning does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the 2020 Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b), of the Lee Plan.
12. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.

SECTION C. DEVIATIONS:

Deviation (1), requests relief from LDC Section 10-285, which requires a 660 feet intersection separation for an arterial road, to allow an intersection separation of approximately 130-foot between the centerline of Amazon Lane and the common property line with the adjacent parcel to the west, and a corresponding separation between the common property line and the centerline of Jacaranda Drive, and a corresponding separation from the centerline of the adjacent driveway and the common property line, as also determined at the time of development order review in order to achieve cross access with the adjacent parcel to the west. This deviation is APPROVED, SUBJECT TO Condition 4.

Deviation (2), requests relief from LDC Sections 10-416(d)(3) and 10-416(d)(4), which require a

5-foot-wide Type "A" buffer along the east property line, to eliminate the buffer requirement along the east property line. This deviation is DENIED.

Deviation (3), requests relief from the LDC Section 34-2020 (2) m.3., requirement to provide one parking space for each 200 square feet of total floor area, to allow a reduction in the total number of parking spaces required to support the permitted use in the cited provision by a maximum of four (4) parking spaces. This deviation is APPROVED, PROVIDED THAT the reduction in the number of parking spaces to be provided is the minimum number necessary to accommodate the required cross access set forth in Condition 4.

SECTION D. EXHIBITS:

The following exhibits are attached to this resolution and are incorporated by reference:

- Exhibit A. The legal description and STRAP number of the subject property.
- Exhibit B. A reduced copy of the Massey Building Minor CPD Master Concept Plan.
- Exhibit C. A map depicting the subject parcel (shaded in) in relation to the surrounding area.

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,
 - c. is compatible with existing or planned uses in the surrounding area; and,
 - d. Will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location; and
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and

- c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
- 4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
- 5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner John E. Albion, and seconded by Commissioner John E. Manning and, upon being put to a vote, the result was as follows:


Ray Judah	<u>AYE</u>
John E. Manning	<u>AYE</u>
Douglas R. St. Cerny	<u>AYE</u>
Andrew W. Coy	<u>AYE</u>
John E. Albion	<u>AYE</u>

DULY PASSED AND ADOPTED this 4th day of October, 1999.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Deputy Clerk

BY: 
Chairman

Approved as to form by:


County Attorney's Office

MINUTES OFFICE



FILED OCT 21 1999

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

LEE COUNTY
RECEIVED

HEARING EXAMINER RECOMMENDATION

99 AUG -6 PM 2:01

REZONING: CASE 99-03-251.02Z 01.01
APPLICANT: MASSEY COMMERCIAL BUILDING
HEARING DATE: JUNE 2, 1999 (no hearing)
CONTINUED DATE: JULY 2, 1999

COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

I. APPLICATION:

This matter came before the Lee County Hearing Examiner as an Application for a Rezoning to a Commercial Planned Development (CPD) pursuant to Lee County Land Development Code (LDC).

Filed by ROY MASSEY, 16340 San Carlos Boulevard, Suite 1, Ft. Myers, FL 33908 (Applicant/Contract Purchaser); EDWARD H. OLLING, GRANTOR & CAROLE L. OLLING, TRUSTEE, P. O. Box 6434, Ft. Myers, FL 33911 (Owners); and MANUEL GARCIA, % SOUTHWEST ENGINEERING, 1342 Colonial Boulevard, Suite 31, Ft. Myers, FL 33907 and GREG STUART, % STUART & ASSOCIATES, 2180 W. First St., Suite 503, Ft. Myers, FL 33901 (Agents).

Request is for a rezoning from Agricultural (AG-2) to Commercial Planned Development (CPD) to permit a maximum of 4,800 square feet of commercial floor area, not to exceed 35 feet in height, on 20,000± square feet of land.

The subject property is located at 16842 McGregor Boulevard (125± feet northeast of Amazon Lane), in S02-T46S-R23E, Lee County, FL. (District #3)

II. STAFF REPORT AND RECOMMENDATION: APPROVE WITH CONDITIONS

The Department of Community Development Staff Report was prepared by Nettie Richardson. The Staff Report is incorporated herein by this reference.

III. RECOMMENDATION OF HEARING EXAMINER:

The undersigned Lee County Hearing Examiner recommends that the Lee County Board of County Commissioners APPROVE the Applicant's request for a Rezoning to Commercial Planned Development (CPD) to permit a maximum of 4,800 square feet of commercial floor area, not to exceed 35 feet in height, on 20,000± square feet of land, for the real estate described in Section IX. Legal Description WITH THE FOLLOWING CONDITIONS AND DEVIATIONS:

A. CONDITIONS:

1. The development of this project must be consistent with the two-page Master Concept Plan entitled "Massey Building Minor CPD," prepared by Southwest Engineering,

dated March 15, 1999 and stamped received March 23, 1999 by the Permit Counter, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

2. The following limits apply to the project and uses:

a. **Schedule of Uses**

Administrative Offices
Business Services, Group I
Essential Services
Essential Services Facilities-Group I
Excavation, water retention
Hobby Shop
Medical Office
Non-Store Retailers-Group I
Parking lot-Accessory
Personal services-Group I (except coin-operated laundries and laundromats) and Group III (except massage establishments, massage parlors, reducing or slenderizing salons and steam or Turkish baths)
Rental or Leasing Establishments-Group I (excluding bicycles, mopeds, and scooters) and Group II (excluding bicycles)
Repair Shops-Group I and Group II
Signs in accordance with Chapter 30
Specialty Retail Shop-Group I, Group II and Group III (limited to the sales/rental of windsurfing, canoeing, kayaking and related apparel and sports equipment - to be conducted completely indoors)
Storage-indoor only

b. **Site Development Regulations**

Development of the subject property must comply with the following Property Development Regulations:

Minimum Setbacks-Building and Structures:

Street: 25 feet
Side: 15 feet
Rear: 25 feet

Maximum Lot coverage: 40 percent
Maximum Building Height: 35 feet

3. The Applicant must provide a Type "C," 15-foot-wide buffer along the north property line consisting of Type "F" plantings, but with 10 trees per 100 linear feet, and a hedge planted in double staggered rows which must form, within one year after date of planting, at least a 36-inch-high continuous visual screen.

4. DELETED BY HEARING EXAMINER.

5. The hours of operation for the retail commercial uses are limited to 8:00 a.m. to 6:00 p.m., Monday through Saturday.

6. With respect to the retail commercial uses, any external lighting of the site after 6:00 p.m. is prohibited, with the exception of security lighting.

7. There shall be no outdoor storage or display of merchandise on the property, including the parking of trucks, trailers or other transport vehicles containing canoes, kayaks or windsurfing equipment.

8. Any future amendments to the schedule of uses or conditions must be approved through the public hearing process.

9. No temporary uses or temporary parking lots shall be permitted on-site.

10. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local Development Order.

11. Approval of this rezoning does not give the Developer an undeniable right to receive local Development Order Approval. Future Development Order Approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

12. This development must comply with all of the requirements of the LDC at the time of local Development Order Approval, except as may be granted by deviations approved as part of this planned development.

B. DEVIATIONS:

Deviation (1), requesting relief from LDC Section 10-285 which requires 660 feet intersection separation for an arterial road, to allow a 125-foot separation between Jacaranda Drive and Amazon Lane, and a 110-foot distance from the adjacent driveway, is hereby APPROVED as depicted on the Master Concept Plan.

Deviation (2), requesting relief from LDC Sections 10-416(d)(3) and 10-416(d)(4) which require a 5-foot-wide Type "A" buffer along the east property line, to not require a buffer along the east property line, is hereby DENIED.

IV. HEARING EXAMINER DISCUSSION:

This is a request to rezone a 20,000-square-foot parcel located on the north side of McGregor Boulevard from AG-2 to CPD, for development with a 4,800-square-foot commercial building. The subject property is located between John Morris Road and the Sanibel Factory Outlet stores, and is surrounded by commercial uses on the east and west, scattered single-family homes on AG-2 zoned properties north of the site, and by McGregor Boulevard to the south, and then more single-family uses in AG-2 zoning. It is designated Suburban in the Lee Plan, with which the proposed commercial building would be consistent.

Applicant owns and operates a water-related sporting goods retail sales/rental business in a small strip center off San Carlos Boulevard, and desires to relocate his business to the subject property. The business consists of the sale and rental of windsurfing, kayaking and canoeing equipment, with associated training "classes" for those persons who are unfamiliar with the equipment/sport. The individual training sessions are held at Fort Myers Beach or along Sanibel Causeway, which requires him to transport the equipment to those locations.

He noted that, because of the specialized nature of his goods, he rarely gets more than one or two customers in his store at the same time, so he has never experienced parking problems. During the 14 years that he has owned this business, he has learned that the traffic generation/attraction for this use is minimal, and will have little effect, if any, on the adjacent properties or surrounding roadway network. In addition, he requested to be allowed to display at least one canoe or kayak and one wind surfboard at the front of the building during its hours of operation, even though none of the commercial uses in the immediate vicinity has outdoor display.

Noting that the property to the north was zoned AG-2, but was developing residentially, Applicant stated his intent to develop the building and parking lot on the southernmost portion of the site and to locate the dry retention (grassy) area and a Type "C" buffer (15 feet wide) with 10 trees per 100 linear feet and a double hedge at least 36 inches in height between his building and those residential uses. Access to the site will be directly from McGregor Boulevard.

To achieve his proposed site development, Applicant requested two deviations from Land Development Code requirements, notably those establishing minimum intersection separation distances from the driveway to the east and Amazon Lane to the west, and the buffering requirements between two commercial parcels.

Staff recommended approval of the rezoning, finding that the request, as conditioned, would be consistent with the intent of the Lee Plan and Land Development Code, and would not be detrimental to the neighborhood, or hazardous to the health, safety and welfare of the property owners or residents in the vicinity of the site. However, Staff did not agree with Applicant's request to have outdoor display of the water sports equipment, and recommended that no display or storage be allowed.

Of the two deviations, Staff recommended approval of the first, explaining that the deviation was necessary because of the close proximity of Applicant's proposed driveway to that of the commercial use on the east side and the intersection of Amazon Lane with McGregor

Boulevard to the west of the site. However, they recommended denial of the second request finding that Applicant did not demonstrate how the elimination of this 5-foot-wide buffer would "enhance" the planned development or how it met the intent of the Land Development Code.

Staff also required Applicant to provide an easement across the front of his property to provide access to the parcel to the west of his lot. They reasoned that, without the cross easement, the only access to that other lot would be from Amazon Lane because of its location right at the intersection of McGregor Boulevard and Amazon Lane. They were concerned about the effect of potential traffic on Amazon Lane, which provides access to the developing residential area to the north of both these lots.

Applicant objected to having to provide that cross easement for two reasons. First, the cross easement would reduce the number of parking spaces and developable area on his site, which would require him to either obtain a variance from the required parking or would restrict the size of his building and/or the types of retail uses that he could put on his site. Second, the parcel to the west is a corner lot, having frontage on both McGregor Boulevard and Amazon Lane. While an access point onto McGregor Boulevard was highly unlikely given the lot's narrow width, the depth of the lot would easily accommodate an entrance from Amazon Lane. After having reviewed the zoning map for these two lots and the lots on the west side of Amazon Lane, he felt that the corner lot's entrance would be more appropriate off Amazon Lane, noting that the lots on the west side of Amazon Lane would most likely have their entrance off that roadway, too. He asked that the cross easement condition be deleted by the Hearing Examiner.

The public hearing was attended by several of the homeowners in the AG-2 area to the north of the subject property. These homeowners objected to the rezoning, arguing that commercial zoning on this site, even with the restricted uses and hours of operation, would be inconsistent and incompatible with the development trend in the area. Ignoring the Sanibel Factory Outlet and other relatively recent commercial rezonings and developed uses in the area, they asserted that the clear development trend in this area through the last 10 to 15 years has been residential. They feared the rezoning of this site would start a "domino reaction," resulting in commercial rezonings for all the properties located along McGregor Boulevard in this area.

Acknowledging that the subject parcel does not have direct access to Amazon Lane, these residents still stated concerns about the safety of their children whose school bus stop is located at the corner of McGregor Boulevard and Amazon Lane. They also asserted concerns for their health, safety and welfare, claiming potentially adverse impacts on their properties and lives from the noise, traffic, lighting and customers associated with the proposed use. They believed commercial uses, no matter how innocuous, on the subject property would destroy the peace and tranquillity of their homes and neighborhood. They objected strenuously to the outdoor storage/display of any sporting goods or other equipment, pointing out the gradual degradation of several commercial uses with outdoor display located within two miles of the subject property. They wanted the Hearing Examiner to deny the rezoning request and help them preserve the residential character of their area.

After careful consideration of the request, the Staff Report, the evidence and testimony at the public hearing, and the visual data received from the site visit, the undersigned Hearing

Examiner concurs with Staff's analysis, findings and recommendation of approval, with modified conditions. The Hearing Examiner finds that the request, as conditioned herein, meets the criteria for approval set out in Section 34-145, Land Development Code, and is consistent with the intent and provisions of the Lee Plan and Land Development Code. The Hearing Examiner also finds that the proposed use, as conditioned herein, will be consistent and compatible with the commercial development and zoning along McGregor Boulevard in the area. Despite the arguments and suggestions by the neighbors, the Hearing Examiner also finds that residential and agricultural uses are inappropriate on the half-acre subject property, given its small size and its location on a 4-lane divided arterial.

It is the opinion of the Hearing Examiner that the requested uses, as conditioned, will be compatible with the surrounding mixture of residential and commercial zoning and development, and will not produce hazardous or detrimental impacts on the residents and property owners in the area. However, the Hearing Examiner does not agree with the proposed outdoor display of the water sports equipment, as the other commercial uses in the immediate vicinity of the subject property are contained completely indoors. It is the Hearing Examiner's opinion that outdoor display is not appropriate in this area, as it could result in impacts to the aesthetics of the area, as well as to financial aspects of the surrounding properties, and to the public welfare.

It is also the Hearing Examiner's opinion that the conditions imposed herein are reasonably related to the impacts anticipated from the proposed development, and will adequately protect the public health, safety and welfare, as well as the health, safety and welfare of the adjacent and nearby property owners. The Hearing Examiner concurs with Applicant, however, on the issue of the cross easement. It is the opinion of the Hearing Examiner that this site is too small to be encumbered with a cross easement, particularly when the adjacent property is a corner lot with frontage on two different roadways.

The Hearing Examiner finds that approval of Deviation (1) is appropriate and will enhance the goals of the planned development and protect the public health, safety and welfare.

V. FINDINGS AND CONCLUSIONS:

Based upon the Staff Report, the testimony and exhibits presented in connection with this matter, the undersigned Hearing Examiner makes the following findings and conclusions:

- A. That the Applicant has proved entitlement to the rezoning, as conditioned, by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes or regulations.
- B. That the request, as conditioned, will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request.
- C. That the request, as conditioned, is consistent with the densities, intensities and general uses set forth in the Lee Plan.
- D. That the request, as conditioned, is compatible with existing or planned uses in the surrounding area.

E. That approval of the request, as conditioned, will not place an undue burden upon existing transportation or planned infrastructure facilities, and the development will be served by streets with the capacity to carry traffic it generates.

F. That the request, as conditioned, will not adversely affect environmentally critical areas and natural resources.

G. That the proposed use is appropriate at the subject location, while residential and agricultural uses are not appropriate given the small size of the property and its location on a major 4-lane, divided arterial.

H. That the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest, and are reasonably related to the impacts on the public interest created by or expected from the proposed development.

I. That the approved Deviation enhances the achievement of the objectives of the planned development, and preserves and promotes the general intent of Chapter 34, Land Development Code, to protect the public health, safety and welfare.

J. That urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

VI. LIST OF EXHIBITS:

Massey Building Minor CPD Master Concept Plan (two sheets), stamped Received Mar 23 1999 Permit Counter

Aerial Photograph - S02-T46S-R23E, Sheet No. 92B, dated Feb. 1996

STAFF'S EXHIBITS

Résumés of Lee County Staff are on file with the Hearing Examiner's Office and are incorporated herein.

APPLICANT'S EXHIBITS

Résumés of Applicant's consultants are on file with the Hearing Examiner's Office and are incorporated herein.

- 1 Zoning/Intergraph Map - S02-T46-R23
- 2 Massey Building Minor CPD Master Concept Plan, Sheet 1, stamped Received Mar 23 1999 Permit Counter
- 3 Revised Conditions
- 4 Exhibit I-B-6 (from Application) - zoning map

OTHER EXHIBITS

McDevitt

1 Petition with 29 signatures [see Section VIII.B., below for text]

VII. PRESENTATION SUMMARY:

After the Hearing Examiner placed all witnesses under oath, Charles Basinait, an attorney representing the Applicant, introduced Roy Massey (the Applicant), Greg Stuart, planner for the project, and Jim Banks, the traffic engineer.

The request is to rezone a 20,000-square-foot parcel from AG-2 (Agricultural) to a minor Commercial Planned Development (CPD). The subject property is located at 16842 McGregor Boulevard, between Amazon Lane and Jacaranda Drive. Using the aerial photograph, Mr. Basinait pointed out the location of the subject property, and also noted the location of the Sanibel Factory Outlet (to the south and west of the subject property). Mr. Basinait noted the location of Amazon Lane and a vacant parcel between Amazon Lane and the subject property.

The proposed use of this site is for the rental and sales of surfing, canoeing, and wind surfing equipment, which includes the sale of ancillary equipment and clothing. There are other uses proposed which are predominantly office in nature; however, the main focus of the instant request is to allow the sales and rental establishment for kayaking, canoeing, and wind surfing equipment.

Mr. Basinait noted that he had some suggested changes (Applicant's Exhibit 3) to Staff's proposed conditions, adding that he believed Staff would agree these were acceptable changes. Referring to Condition 2.a., the Schedule of Uses (page 2 of the Staff Report), he indicated that the first change relates to the Specialty Retail Shop use. The Applicant would like to add "canoeing" and "related apparel and sports equipment" to this use. This operation will be conducted entirely indoors. He had spoken with Staff and did not believe they objected to these changes.

Condition 5 limits the hours and days of operation. The Applicant is requesting that these limitations pertain only to the retail commercial uses. With respect to revised Condition 6 and external lighting of the site, the Applicant is asking also that this condition be limited to the retail commercial uses. Mr. Basinait noted another change, which Patrick White (Assistant County Attorney) had pointed out to him. The wording of the revised condition starts out "With respect to the retail commercial uses, any external lighting *on* the site. . . ." The word "on" should be "of," and the remainder of the condition should read ". . . after 6:00 p.m., is prohibited with the exception of security lighting." It was his understanding that Staff was in agreement with this change.

The only condition he was aware of where there was a disagreement was Condition 7, relating to outdoor display. Staff proposes no outdoor display, and the Applicant is asking for some very limited outdoor display. Mr. Stuart would discuss this further during his presentation. Applicant and Staff have "agreed to disagree" on this point.

With respect to Condition 1, Condition 2 (as amended), Condition 3, Condition 5 (as amended), Condition 6 (as amended), and Conditions 8 through 12, the Applicant has no objections to Staff's recommendation. Additionally, the Applicant agrees with Staff's recommendations for Deviations (1) and (2).

The two points of disagreement between Applicant and Staff are with Conditions 4 and 7. The Applicant would ask that Condition 4 be deleted, and that Condition 7 be revised, as set out on the Revised Conditions list (Applicant's Exhibit 3).

Mr. Basinait noted that, at this time Mr. Stuart would address consistency with the Lee Plan and the Land Development Code, and neighborhood compatibility. Following his presentation, Mr. Banks would address any traffic issues. Additionally, Mr. Massey, the Applicant, would respond to some questions.

Mr. Stuart confirmed that a copy of his resumé is on file with the Hearing Examiner's Office, and confirmed, in response to questioning by Mr. Basinait, that he had previously been qualified as an expert in the field of land use planning for zoning hearings before the Hearing Examiner. There being no objections, the Hearing Examiner accepted Mr. Stuart as an expert in that field.

Mr. Stuart indicated that he was familiar with the subject property, and that he had submitted the rezoning application. He had also participated in the drafting of the Master Concept Plan (MCP) for the project. Referring to the zoning map (Applicant's Exhibit 1), Mr. Stuart pointed out the location of the site, just east of Amazon Lane, noting that it was highlighted in yellow. The site is surrounded, more or less, by scattered conventional and CPD projects, some of which are vacated and others developed. There is a developed C-1 (Commercial) parcel immediately adjacent (east) to the site, with a couple of CN-1 (Neighborhood Commercial) zoned, undeveloped parcels further east. The parcels on the north side of McGregor Boulevard are designated in the Lee Plan as "Suburban."

On the south side of McGregor Boulevard, the properties are designated "Urban Community," a more intense land use category. In that area, a CC (Community Commercial) zoned parcel is developed with a gas/convenience store. Further west of this site on the south side of McGregor Boulevard, less than a quarter of a mile, are the Sanibel Factory Outlet stores. Although these stores are identified as being zoned CC (Community Commercial), he understood them to be zoned Commercial Planned Development. On the north side of McGregor Boulevard, and west of Amazon Lane is a vacated CPD. Further down the street, again about a quarter of a mile, are a number of commercial sites. Most are conventional zoning districts, such as at the corner of Davis Road. There is a CPD/RPD immediately abutting the conventional zoning district, with a series of smaller, conventionally zoned parcels immediately to the east. Thus, the Massey Building site is surrounded by scattered, commercial developments, or potential commercial development.

The subject parcel is a small half-acre site, which would allow up to 4,800 square feet of development, by right. Rather than applying for a conventional commercial zoning district as allowed because of the small size of the parcel and intended development, the Applicant, at Staff's suggestion, applied for a minor CPD, which would enable the County to address any concerns about public safety, etc.

The Applicant's goal is to relocate his existing business from the small mixed use commercial plaza on McGregor Boulevard [sic - San Carlos Boulevard], to the subject property which is closer to his residence and his principal area of business (i.e., Punta Rassa). The emphasis of Mr. Massey's business is outfitting people for various water sports, such as windsurfing, kayaking, canoeing, and providing instruction in these sports. This is a sole proprietorship, staffed by one person, and has been family-owned and operated for a number of years.

Applicant was asking for a rather small building on the subject property; the maximum size would be 4,800 square feet. Referencing the MCP, Mr. Stuart noted that this building size was specified on this exhibit (Applicant's Exhibit 2). All the proposed uses will be located in one building so that this will not be a strip center. The uses are very selective and based on the Groups I and II of the Neighborhood Commercial (CN) district.

The site has direct access, via a single driveway, from McGregor Boulevard. Since this is a very small project, there will be only one phase, with standard LDC buffering. On the west and north sides of the site are vacant AG-2 zoned parcels and, based on the Property Appraiser's records, it appears both parcels are owned by the same person. The parcel to the east is zoned C-1 and contains a contractor's office.

Mr. Stuart indicated that he would review the requested uses for the benefit of the public, but noted that he would skip over the site infrastructure uses such as excavation, lift station, etc. Mr. Stuart began listing the actual requested uses, such as Administrative Offices, and Business Services, Group I. The Hearing Examiner suggested that he also describe what these uses entailed. Mr. Stuart noted that Business Services include uses such as word processing or data processing businesses, tax preparation business, etc. - uses that relate to the administrative functions of various businesses. He added that this also included: business agents and brokers, caterers, clerical services, collection agencies, photography services, consulting services, etc.

Other uses being requested include: Hobby Shop; Medical Office; and Non-Store Retailers, Group I, which typically includes businesses that deal with direct mail types of uses. Mr. Stuart explained that a typical function of the Applicant's business is to serve as a direct mail focal point. Much of the windsurfing equipment is sold via direct mail and then drop shipped directly from the manufacturer to the customer. The Applicant serves as a middle man. Mr. Stuart noted that this would be typical Non-Store Retail use.

Personal Services, both Groups I and III, are being requested. Rental and Leasing Establishments, Group I, excluding the rental or leasing of bicycles, mopeds, or scooters, and Group II, excluding bicycles, are also included in the Schedule of Uses. The intent of the leasing function is to permit the leasing of kayaks, canoes, and windsurfing equipment. The Hearing Examiner asked if these were specific items allowed by these two groups, and Mr. Stuart replied that these items would be allowed because the rental or leasing of ocean or aquatic related sports equipment is not a specified use in any district. Therefore, they are being included in the leasing category and then specified under the Specialty Retail Shop. Repair Shops, Groups I and II, are also contained in the list and are likewise limited to the repair of this equipment.

Specialty Retail Shop, Groups I, II and III, have been requested, but limited to the sales and rental of windsurfing and kayaking equipment. Mr. Stuart indicated that the Applicant's revised language for this use/condition is "limited to the sales/rental of windsurfing, canoeing, kayaking and related apparel and sports equipment to be conducted completed indoors." The entire goal of this minor CPD is to relocate an existing business and to provide for a very small list of activities/uses relating to ocean outfitting, water-related sports equipment leasing and sales, and related lessons.

Staff has found that the proposed project is consistent with the Lee Plan, and the Applicant agrees with this finding. The properties on the north side of McGregor Boulevard are located in the Suburban land use category, the goal of which is predominantly residential uses with minor commercial uses. These minor commercial uses can be up to a neighborhood center which is defined in the Lee Plan as up to 10 acres or 100,000 square feet. In the instant case, the subject property is only a half acre, and the proposed building is 4,800 square feet - well below the minor commercial standards.

The request is also consistent with Goal 2 and Objective 2.1, dealing with development location. This particular area of McGregor Boulevard has numerous pre-platted small lots and has historically been used for local businesses, and tends to serve as an incubator area for businesses. Mr. Stuart stated his belief that it would continue to do so, and pointed out that larger commercial entities tended to be located on the larger roads such as Summerlin Road. Another important feature is that the land values in this area are not nearly as high as for parcels on Summerlin Road. There were a large number of commercial goods and services, as well as business services, being offered from this area of McGregor Boulevard. It was his opinion that the Applicant's proposed use fits in well at this location.

Reviewing the other parcels located within a quarter mile of the subject property shows that this project will serve the Lee Plan's intent to encourage compact and orderly commercial development. The zoning resolution (Z-76-10) for the adjacent C-1 parcel to the east permits a grocery store with two gas pumps. The site currently has a Business Service type of use, i.e., the contractor's office. Next to this C-1 site, and bounded by Arbor Lane [sic - Arbor Ridge Drive], is a CN-1 zoned (Resolution Z-87-26) parcel, with uses allowed by right include Specialty Retail, Group I. Approximately one-quarter mile east of the site, on the other side of McGregor Boulevard, is an existing gas/convenience store, and various other retail uses in a strip development.

Mr. Basinait referenced the C-1 parcel to the east of the subject parcel, questioning whether there were a number of retail uses which could be developed on this site? Mr. Stuart replied there were, such as Non-Store Retail, Specialty Retail, and a number of other uses. Mr. Basinait asked if the allowed uses also included "straight" retail, and Mr. Stuart replied "yes." The Hearing Examiner clarified that these were approved uses, but not necessarily existing uses, and Mr. Stuart indicated that this was correct, adding that they were allowed by right.

Mr. Basinait pointed out that C-1 is a conventional zoning district, therefore, no additional buffering, setback, lighting, etc., conditions had been imposed on the site. In other words, the restrictions/limitations imposed by the LDC are applicable to this site, to which Mr. Stuart agreed.

Referencing the CN-1 parcel (adjacent to the C-1 parcel), Mr. Basinait asked if it was also correct that certain retail uses were permitted on this site, and Mr. Stuart stated that this was correct. He added that Specialty Retail, Group I, was included and confirmed that, since this was a conventional zoning district, no individualized conditions imposing additional buffering, etc., were added on the development of that site.

Mr. Stuart pointed out the parcels to the west of the subject property. Immediately adjoining Amazon Lane is a vacated CPD (Resolution Z-90-16), which was permitted for 5,000 square feet of business offices, a slighter higher intensity use than proposed here. Because the MCP has been vacated, the owner would have to go back through certain administrative processes to begin development of the site.

Further to the west, but still within the quarter-mile box, is a CC zoned parcel (Resolution Z-80-168), in which Specialty Retail is allowed by right, as are Restaurants, Groups I through III, including fast food and standard restaurants. Non-Store Retail and Business Services uses are permitted also.

Slightly outside of the quarter-mile box and further to the west (approximately 1,700 feet) is a CPD/RPD approved under Resolution Z-86-211, allowing 7,000 square feet of retail development of uses permitted in the CC, CS, CN-1, and CN-2 districts. Therefore, any uses allowed, by right, in those conventional zoning districts, would be permitted on that site - which is only 1,700 feet west of the subject property, on the north side of McGregor Boulevard.

At the intersection of Davis Road and McGregor Boulevard, approximately 2,000 feet from the subject property, there is a conventionally zoned commercial project (Resolution Z-83-11-28), which allows conventional commercial uses under a very high intensity use schedule and with no restrictions. Opposite that parcel is the Sanibel Factory Outlet, a highway, tourist-oriented strip center with commercial retail goods. He did not believe there were any services offered at this site. The proposed project is, therefore, consistent with Objective 2.1, as to Development Location.

The project is also consistent with Objective 2.2, Development Timing, which essentially mandates that existing facilities, infrastructure and services be available. This is to promote orderly and compact growth patterns without creating any "leap frog" development and going beyond undeveloped properties, or into areas without available services. Water service will be provided by Florida Cities, and central sewer by Lee County Utilities. There is adequate capacity with regard to both to serve this project. The adjacent roadway is a 4-laned divided arterial (McGregor Boulevard), and the project's transportation engineering consultant (Southwest Transportation Engineering, Inc.) finds that there will be adequate capacity to serve the project. Other services, such as fire and police protection, are available as well. The 4,800-square-foot project will not overburden any existing or future level of services, and the project is, therefore, consistent with Objective 2.2.

Goal 4 addresses development design, as do Policies 4.1.1 and 4.1.2. The subject property is a very small, half-acre site that will be used by a local business owner. The project was designed to accommodate adequate site buffering by placing the dry retention area on the north part of the site in recognition of the residential neighborhoods further to the north.

Placing this area on the northern portion of the site creates a larger open space/setback between the different uses. The project will meet all LDC buffering requirements. Within the limited confines of what can be done on a half-acre site and with one building, the Applicant has tried to incorporate other design features that will create additional spacing between the proposed building and any nearby residential areas. Based on this, the project is consistent with Goal 4, a finding also made by Staff.

The project is also consistent with Goal 6, Commercial Site Location Standards for minor commercial development. As further specified by Policy 6.3.2, the site is within the 330-foot (intersection) box and is consistent with this Policy of the Lee Plan. As an aside, Mr. Stuart noted that this box was now measured from the right-of-way line rather than the centerline of the intersection. He added that the proposed project was also consistent with the other Lee Plan Policies relating to commercial site location.

This project will not be opening up an area to premature, scattered, or strip commercial development - based on the context of what already exists in this area and the proposed nature of the site, i.e., a small building with one focused use. They will be using the existing infrastructure, but will not be overburdening any public facilities. The project will not impact any rare or unique upland species, or any wetland areas, as the site does not contain either of these.

Mr. Basinait noted that the site was currently zoned AG-2, and asked Mr. Stuart whether either residential or agricultural uses would be appropriate on the half-acre site? Mr. Stuart replied that it would not because the small size would definitely impact any proposed agricultural use. As to a residential use, Mr. Stuart pointed out that, on this particular segment of McGregor Boulevard, i.e., south of Gladiolus Drive, all the residential communities were large scale, gated subdivisions. There wasn't a proliferation of single-family homes with individual driveways. The obvious reason was the volume of highway traffic; most people want to live away from this, rather than on it. A commercial use is a valid use for this site and one which fits in quite well.

With regard to the deviations, Mr. Stuart stated that Staff is recommending approval of Deviation (1) [intersection separation], and the Applicant is in agreement with this. Staff is recommending denial of Deviation (2) [buffering], and the Applicant is not objecting to this recommendation. Mr. Stuart stated that the Applicant would agree to withdraw this deviation request, or leave it as is [denied]. Mr. Basinait explained that the deviation dealt with buffering, and Staff has proposed some different buffering conditions, to which the Applicant does not object. The Hearing Examiner noted that, based on Staff's comment that the "buffers should be provided per the Land Development Code," it did not matter whether it was withdrawn or denied. If the Applicant was planning to bring this issue back at a later time, then she would recommend withdrawing it. Mr. Basinait indicated they would leave the deviation on the record as denied.

Mr. Stuart referenced Applicant's Exhibit 3 containing the revised condition language, noting the request to clarify Specialty Retail, as explained by Mr. Basinait. The Applicant is also requesting to modify the hours of operation (Condition 5), specifically with regard to retail commercial uses. Likewise, the Applicant is requesting to modify Condition 6 with regard to external lighting.

With regard to the proposed changes to Condition 7, and the outdoor display or storage of merchandise, the Applicant would agree that nothing would be stored outside; however, they would like to create an outdoor display based on the commercial retail use (and hours) of a combination of one surfboard and one sailboard [sic - "one kayak or canoe and one wind surfboard"]. He explained that, with this type of business and with the limited "window" they have on McGregor Boulevard, it would be their chief means of displaying the uses found inside the building. This would be their primary source of advertising, and it is very important to have this ability, i.e., such as a kayak or canoe, and a surfboat/wind surfboard. These items would be placed on a temporary rack for temporary display. At the end of the day, the items would be removed from the rack and the equipment and rack would be stored inside the building. While this might appear to be a minor issue, it is an important one because it goes to the heart of this business.

The Hearing Examiner asked where this type of display would be placed on the site? Mr. Stuart replied that it would be in the front of the building, inside the setback. He explained that the building is designed with the front facade being a plate glass window that is oriented toward McGregor Boulevard to enable people to see what is in the building. Because of this, they do not want to clutter this exposure, but they would like to be able to create a small display in front of the building.

The Hearing Examiner asked whether the setback distance for the building from McGregor Boulevard would be 25 feet, and Mr. Stuart indicated that 25 feet was the standard and confirmed that the proposed setback was 25 feet. In response to questions by the Hearing Examiner, Mr. Basinait explained the display and rack would not be large or elaborate. At the existing shop, Mr. Massey has a rack that holds multiple canoes/kayaks/boards; however, the proposed rack would be a single rack - such as three or four pegs in the ground with something to sit or stand the equipment on. At the end of the day, Mr. Massey would pick it up and bring it inside, and then bring it outside the next morning - this would include the equipment and the rack. The Hearing Examiner observed, therefore, that it would not block one's view or create a visibility problem on the roadway, and Mr. Basinait confirmed that it would not, adding that, in fact, it wouldn't really be that visible. It was a low-key method of advertising the Applicant's goods. They understood Staff's concerns, but believed that this would not be obnoxious to the neighborhood as they have cut this back to such a level that there would be virtually no impact.

Referencing the Applicant's proposed changes to Condition 7, Mr. Basinait noted a correction to the last sentence: "Outdoor display of merchandise will be limited to no more than one kayak or canoe and one surfboard/wind surfboard for the hours and days of operation identified in Condition 5."

Mr. Stuart described the dimensions of the various pieces of equipment. A kayak is usually from 14 to 16½ feet long, 20 inches wide, and 20 inches deep. A windboard is usually about 10 to 12 feet in length, and 2½ inches thick. The boom and mast would be approximately 200 square feet, unfurled, but it could be furled. Based on this, the cross-section of this display would not be significant. The intent is really to allow customers to quickly identify the site, and turn in. In addition to serving a legitimate business need, i.e., in terms of advertising, this is

also a public health/safety service in terms of identifying the site. The Hearing Examiner asked for the business address of Mr. Massey's existing store so that she could look at his current display, if he had one.

The Applicant strenuously objected to Condition 4 and the requirement to provide a cross easement. He understood Staff's position; the County wants a cross easement to the property to the west. However, the subject site is so small that including a cross easement would eliminate three needed parking spaces, or approximately 13 percent of the total permitted development intensity. This would impact the site in a manner with which the Applicant is not comfortable. Additionally, they do not believe this cross easement is needed. In his opinion, when the property to the west is developed, it will probably be developed for some type of commercial use, given its location, and it would be required to establish their access from Amazon Lane. Each site would have a functional access and he did not see any need for the cross easement, especially since it would hurt their project. The Applicant strongly requested that Condition 4 be deleted.

Mr. Stuart suggested that, when the Hearing Examiner conducted her site visit, she go inside the store. There were other adjacent businesses, with a lot more activity. A visit to the store would give her a better understanding of the low-key nature of the business.

Mr. Basinait noted that Mr. Stuart had been qualified as an expert witness and asked, based on his professional opinion, if the Applicant's request was consistent with the Lee Plan and the LDC? Mr. Stuart replied "yes." Mr. Basinait asked whether residential and agricultural uses, and any other uses found in the AG-2 zoning, would be inappropriate on the subject site, i.e., given the nature of the surrounding properties, the site's proximity to McGregor Boulevard, and the size of the site? Mr. Stuart responded that the proposed use would be a good fit and a good use for this site. Mr. Basinait restated his question, asking if agricultural and residential uses would be inappropriate on this site? Mr. Stuart replied that this would be correct. The AG-2 district, as currently defined, could not even support one residential use because the lot was substandard in size. In addition, he could not envision a half-acre site being used for an agricultural purpose. Mr. Basinait asked whether the request was consistent with all other Lee County land development regulations, and Mr. Stuart replied "yes."

At this time, Mr. Basinait called Jim Banks as the Applicant's next witness and Mr. Banks was sworn in. Mr. Banks stated that he is a registered professional engineering (P.E.) in the State of Florida, and a principal with Southwest Transportation Engineering. In response to questions by Mr. Basinait, Mr. Banks confirmed that the primary focus of his occupation was as a traffic engineer. He further confirmed that he had previously been qualified and accepted as an expert in the field of transportation or traffic engineering in similar cases before the Hearing Examiner, as well as in a court of law. There being no objections, Mr. Banks was accepted as an expert in the field of transportation engineering.

Mr. Banks stated that he was very familiar with the subject property and the surrounding area, noting that he resides in the Iona area. He was also familiar with the current location of the Applicant's business and had been a frequent customer over the past 10 years. Mr. Basinait asked Mr. Banks whether it was accurate to say that he had been to this site perhaps 200 to 300 times in the past few years, and Mr. Banks clarified that he had been to Mr. Massey's existing business approximately 200 to 300 times in the past 10 years. That business had

only been located on San Carlos Boulevard for the past four years. Prior to that it was located on Andrea Lane, off U.S. 41. He has been a frequent customer at Mr. Massey's place of business and would estimate that he was there one to two times per week over the last 10 years.

Mr. Basinait asked if he was, therefore, familiar with Mr. Massey's operation, and the number of other customers who frequented the business? Mr. Banks indicated that this was correct, adding that he was, consequently, very familiar with the traffic and parking demands associated with this business, and with the type of clientele, many of whom were his close personal friends. He stated that Mr. Massey's business really did not cater to the "Generation X"; it catered more toward the 35- to 45-year-old baby boomers, and even some retirees, including lots of professionals (attorneys, doctors, etc.), restaurant owners, etc.

Mr. Basinait asked if it was accurate to say that this was not a high volume business, from the standpoint of customers or traffic? Mr. Banks confirmed that it was definitely not a high volume business with regard to traffic in and out of the site. The type of equipment that Mr. Massey sold was on the expensive side; he usually spends about \$500 each time he goes there. Additionally, this is a "niche" market; it is not some place where people go to do casual shopping. They go there with a specific objective, such as to buy a kayak or windsurfing equipment, etc. Most of the customers are very knowledgeable and know what they want. Over the years that he has frequented Mr. Massey's business, the number of customers that are typically on the site are usually fewer than one or two at any one time. In fact, he and Mr. Basinait had visited the site the Friday before last, during lunch, and he told Mr. Basinait he would be surprised if there were more than one or two customers. There was one person present when they arrived (someone who worked at a resort on the Beach). He clarified that this was not a business that generates a lot of traffic.

With regard to the proposed site, off McGregor Boulevard, Mr. Basinait asked Mr. Banks about his review of this site from a transportation standpoint and whether it was problematic from an access standpoint? Mr. Banks replied "no." He added that, in fact, the type of business that Mr. Massey conducted would not generate much traffic. It would actually be one of the lower generators of traffic. There are many other uses which could go on this site which would be more problematic, traffic generation wise, than the proposed use.

Mr. Basinait asked about access, and referred to Condition 4 and the required cross access. He asked Mr. Banks, in his professional opinion, if this was the best solution to provide access to that corner parcel? Mr. Banks responded that it was not, referring to the MCP (Applicant's Exhibit 2), that depicted the corner lot, noting that, as motorists are driving along McGregor Boulevard, the intersection with Amazon Lane would be much more noticeable than would a small driveway. He believed that motorists would expect more turning movements and traffic at this intersection, because it would be better defined and more visible to them. Referring to the proposed driveway, he explained that, from a safety standpoint, it would be more appropriate to have the corner parcel access Amazon Lane. Further, because it won't meet intersection separation criteria, he felt that the County would require it to access Amazon Lane as that would provide a safer place of ingress and egress.

Additionally, McGregor Boulevard is a four laned/divided arterial road that includes a center directional left turn lane that services Amazon Lane, and will service this property. Therefore,

those motorists coming from the southwest that are heading to either Amazon Lane to the parcel, or to Massey's business, will be able to wait safely in this divided median before turning onto Amazon Lane or into Mr. Massey's business. Overall, he feels that concentrating all the traffic at the location of Applicant's proposed driveway, which it is not an intersection, would create more of a problematic situation, than simply by requiring the corner parcel to access directly onto Amazon Lane.

The Hearing Examiner questioned the depth of the corner lot, to which Mr. Basinait responded, "200 feet." The Hearing Examiner stated that meant that it would actually meet the intersection (requirements) on Amazon Lane. Mr. Banks concurred, adding that they could access 125 feet back on Amazon Lane and still meet the intersection separation criteria set forth in the LDC.

Mr. Basinait asked Mr. Banks if his opinion would be the same realizing that Amazon Lane would have to have some improvements made to it before this type of access could take place? Mr. Banks stated that it would. At the current time, there is a paved apron that is about 100 feet back from the existing edge line, or the existing travel line. Amazon Lane from that point on is stabilized dirt or grade. The 80 to 100 feet of pavement was constructed on Amazon Lane, because the residents were picking up the dirt on their wheels and carrying it out onto McGregor Boulevard. He agreed that as this project is developed, in nature, if it was a commercial use, part of the requirement would be to pave Amazon Lane probably the additional 100 feet, to the end of the corner lot. Despite the necessary improvements, his answer, therefore, would still be that it would still create a more appropriate location and a safer condition to have that lot access Amazon Lane. It was also his opinion that Condition 4 regarding the provision of a cross access agreement should be stricken.

Mr. Banks explained that Mr. Massey's business is currently located on San Carlos Boulevard, and that there are four other businesses in this same area. For this reason, he would suggest that the Hearing Examiner, upon visiting the site, actually get out of her vehicle to get a better perspective of the area, which is developed with a stereo sound system shop, a window tinting business, a head hunter shop, etc. A few of these businesses are owned by young guys who are a little rowdy, and who, at times, appear to conduct their business activities outside in their parking lots. This is not at all indicative to the type of business that Mr. Massey conducts and is one of the reasons for this request. Mr. Massey's clients consist of attorneys, doctors, etc., and so he really does not connect with that younger generation.

Mr. Massey, the Applicant, stated that he currently operates a canoe/kayak/surfboard business at its current address of 16340 San Carlos Boulevard. This is the same type of business he plans to operate on the subject property. As part of his business, he also provides windsurfing lessons in the waters of various beaches. He usually gives lessons to one or two people at any one time because of the intensity involved, and because he likes to be right there with the people. He does not teach groups. He transports the wind surfboard for these lessons in a van. The board, the sail, and everything else is inside the van as well. He is a sole owner and employee in his business, which he has operated for 14 years, from San Carlos Boulevard and, before that, Andrea Lane.

Mr. Basinait stated Mr. Massey's testimony concluded the Applicant's presentation. He asked to be allowed to question Staff and the concerned citizens, and to be allowed rebuttal and to enter closing arguments.

Nettie Richardson, Development Services Division, stated that this case involves a request to rezone a 20,000-square-foot site from AG-2 (Agricultural) to CPD (Commercial Planned Development). The Applicant plans to construct a 4,800-square-foot building on the site, and to have parking as shown on the MCP, Applicant's Exhibit 2. The parking would be located along the west property line, and a small dry retention area would be located in the northern portion of the site.

The site is in the Suburban land use category (of the Lee Plan), which consists predominately of residential areas. It does, however, allow some commercial development, but nothing greater than a neighborhood center. Higher densities and industrial land uses are not permitted in the Suburban land use category.

Across the street, to the south, are properties within the Urban Community land use category, which allows more commercial development that is more intense than what's allowed in the Suburban land use category.

The schedule of uses consists of a mix of retail uses, some of which could be fairly intense. It is Staff's opinion that office uses would be more appropriate and would make a smooth transition between the Suburban land use category to the Urban land use category. Staff has met with the Applicant's agent and with the Applicant about these uses. With the limited Schedule of Uses for the site, and further limitations through the conditions, Staff believes that the uses that are anticipated to be placed there would be appropriate with that land use category.

With respect to Objective 2.1 and Policy 2.2.1, Mr. Stuart previously explained that the subject property is consistent with those land use categories. Staff agrees that the request is consistent with this Policy and Objective, as well.

Policy 5.1.5 was implemented to protect existing residential properties from any commercial uses that encroach into their area. To the north are some vacant residential properties that are zoned AG-2 on which single-family residential uses could be built. Although Staff had concerns about the encroachment of the commercial use into that neighborhood, the Applicant is not required, in the Land Development Code, to provide any buffer along that property line because of its zoning and vacant condition. However, the Applicant has agreed to provide a buffer along that north property line. This is depicted in Condition 3 of the Staff Report. Staff, for this reason, has found the request to be consistent with Policy 5.1.5. It would also provide an adequate buffer that would protect the residents within the subdivision from the commercial use.

The subject property is also consistent with Policy 6.1.2, which deals with site location standards, and with Policy 6.1.4, which addresses compatibility. There are other commercial uses in the surrounding area along McGregor Boulevard.

The uses to the north, south, east, and the west have been correctly described by the Applicant.

Staff was initially concerned with the residential uses to the north, however, their concerns were alleviated with the inclusion of the condition relating to the buffer (Condition 3).

The Applicant also requested two deviations. Deviation (1) is a request to deviate from the intersection separation requirements. Staff has recommended approval of this request.

Deviation (2) is a request to deviate from the buffering requirements. The Applicant wants to eliminate the requirement that they provide a buffer along the east property line, near the contractors' office building. The Applicant has stated that they are in agreement with Staff's recommendation to deny this deviation, and so they will have to provide buffering along that property line.

Staff has recommended approval of the request with conditions. Condition 1 requires the project to be developed consistent with the MCP, Applicant's Exhibit 2.

Condition 2 limits the Schedule of Uses to the subject property. Mr. Stuart has already explained the uses allowed on the site, and Staff agreed with the modified/revised language adding the wording "and related apparel and sports equipment," with respect to the Specialty Retail Shop use.

Condition 3 requires the Applicant to provide a Type "C" buffer along the north property line. Said buffer is to be 15 feet wide and consist of 10 trees per 100 linear feet, and a hedge in the form of double staggered rows that are to be maintained to form a continuous hedge/visual screen within one year after the plantings. Staff believed this would provide adequate buffering to the residences to the north.

Condition 4 is a condition that Staff and the Applicant disagree on. This condition requires the Applicant to provide a cross access easement to provide a connection to the adjacent property to the west. It also requires the site plan to be revised at the time of development order stage to show the cross access easement agreement.

Condition 5 limits the hours of operation for the retail commercial uses from 8:00 a.m. to 6:00 p.m., Monday through Saturday. Staff is agreeable to the revised condition to include the word "retail."

Staff is also agreeable to the revised wording for Condition 6 so that it now reads, "With respect to the retail commercial uses, any external lighting on the site after 6:00 P.M. is prohibited with the exception of security lighting."

Staff does not agree with the Applicant revised wording for Condition 7. Staff's condition should remain as it is stated in the Staff Report: "There shall be no outdoor storage or display of merchandise on the property."

Condition 8 states, "Any future amendments to the schedule of uses or conditions must be heard thru the public hearing process." Condition 9 states, "No temporary uses or temporary parking lots shall be permitted on site." Conditions 10, 11, and 12 are the standard conditions that are attached to CPDs.

Mrs. Richardson introduced Bob Rentz of Development Services, noting that Mr. Rentz was present to address the issue relating to the cross access easement and explain the County's reasons for recommending Condition 4.

In response to Mr. Basinait's questions, Mrs. Richardson agreed that she had no objection to the Applicant's revised Conditions 5 and 6. She was also in agreement with the change relating to Condition 2.a. [regarding the Specialty Retail Shop - Group II and Group III use]. She clarified for the Hearing Examiner that Conditions 7 and 4 were still in contention.

Mr. White referred to the MCP, the portion under "parking requirements" stating that "parking" will be provided in accordance with the applicable LDC provisions. Staff, therefore, is not conditioning the Applicant under this MCP to the number of spaces that are shown, nor approving just that number of spaces? Mrs. Richardson responded, "no." If they come in with a full retail use within the building, they will be required to meet the retail parking requirements. If an office use goes in there, then the parking requirements would be different.

The Hearing Examiner referred to Condition 3 about the buffer, noting the way it "reads" is to form a 36-inch high hedge, and asked if the hedge could be allowed to grow higher than three feet. Mrs. Richardson responded, "yes." The Hearing Examiner clarified that the intent is that it must meet the minimal 3-foot height within the first year. Mrs. Richardson concurred.

Mr. Basinait referred to a document (Applicant's Exhibit 4) to which Mrs. Richardson concurred was the adjacent property owners' map that was submitted as part of the application for this case. The area that is outlined in red on this document is the subject property. The area that is outlined in yellow is to the north of the subject property. At the request of Mr. Basinait, Mrs. Richardson, referring to the property owner's map, confirmed that both of the parcels that are located to the immediate north (the yellow) are owned by the same person - Edward H. Olling, Trust Estates, as is the subject property. Mr. Basinait stated that this meant that, according to the County's records, the same person owns both the subject property and the property located directly adjacent to, and to the north of the subject property. Mrs. Richardson concurred. Mr. Basinait asked that this be entered as Applicant's Exhibit 4.

Mr. Basinait stated that it was also mentioned that the subject property was approximately 200 feet deep. This meant that the area from McGregor Boulevard back to the rear of the site consists of about 200 feet. He asked whether then this meant that for a distance of approximately 200 feet there are no other properties located on the north side of the subject property, with the exception of the Olling piece that they just spoke of? Mrs. Richardson concurred. Mr. Basinait asked Mrs. Richardson whether she felt as though this acted to enhance the buffer or the compatibility of the site - the fact that the person who owns the subject property also owns the property to the north? Mrs. Richardson stated that although the Olling Trust owns it at the current time, the subject property is currently up for sale, and she is not sure that he would not sell that property to the north to someone else. Mr. Basinait

stated that, although that was true that as of today, the owner does have knowledge of this application and does not object to it. He questioned whether that in itself assists in buffering out the property at this point in time, from those other pieces of property located adjacent to the current owner's property? Mrs. Richardson concurred.

Mr. White referred to Condition 4 relating to the cross access easement and asked Mrs. Richardson whether it was the County's standard practice that those types of documents have to be approved by the County Attorney's Office before they are implemented and recorded? Mrs. Richardson deferred to Mr. Rentz to respond since she was not 100 percent sure because she does not get involved with the cross access easements. Mr. White asked whether she would object if this condition was to be modified to say that the documents would have to be approved by the County Attorney's Office? Mrs. Richardson stated that if that is the procedure that Development Review utilizes, then her answer would be no, she had no objections.

Mr. Basinait stated that the Applicant would not object to the addition of that requirement to the condition, even though they feel the condition is not appropriate. He noted his understanding of Mr. White's concerns about reviewing those types of documents.

Mr. Rentz stated that Staff's position about the cross easement was that, if there wasn't one when the adjacent property was developed, they would have to provide access either on Amazon Lane or McGregor Boulevard. Staff certainly does not want a connection on McGregor Boulevard at this location. By providing access onto Amazon Lane, they would be forcing the commercial traffic from that project out onto that local residential street. That is basically why the County is trying to get a cross access easement on this site.

The Hearing Examiner showed Mr. Rentz the map, and stated that, assuming that this map is to scale and that the directions are correct, it appears that Amazon Lane takes a 30-degree turn to the north, which seems to set back the potential residential traffic; it appears to break the line of the road. She wondered if that factor would change Staff's recommendation regarding a cross easement in looking at this since the traffic seems to be segregated by that curve. Mr. Rentz stated that it could have some bearing, that is, if there's no residential development directly to the west of the corner lot.

The Hearing Examiner asked what was located directly to the west, to which Mrs. Richardson confirmed it was a vacant CPD, on which the MCP has been vacated. The Hearing Examiner asked Mrs. Richardson whether she knew if the access for that CPD was from McGregor Boulevard or from Amazon Lane? Mrs. Richardson responded that it appears that they did not access off of Amazon Lane. The Hearing Examiner referred to the triangular parcel on Applicant's Exhibit 4 (colored yellows) that is on the other side of Amazon Lane, directly across from the subject property. The CPD is the piece that is directly to the west of that triangular piece. Is she correct in that it is not known what this triangular piece is? Mrs. Richardson stated that she believed that it is zoned AG-2 and is still vacant. The Hearing Examiner stated that meant that it could, therefore, be developed with "anything." Mr. Basinait stated that he felt that a part of it is zoned AG-2, and a part of it is zoned something else, i.e., MH-1 (Mobile Home Residential). The Hearing Examiner stated that she could not tell from what she was looking at, and Mr. Basinait stated the real point is that it is vacant land at this time.

The Hearing Examiner referred to the parcel on the west side of Amazon Lane, stating that the access point from that parcel would have to be onto Amazon Lane, given the dimensions, i.e., 191 feet long from the centerline of Amazon Lane. Mr. Rentz concurred with that conclusion, since the frontage is too limited to have the access onto McGregor Boulevard.

Mr. White asked Mr. Rentz whether it was his understanding that cross access easements are typically approved by the County Attorney's Office, to which Mr. Rentz responded that they were, and had no objection to the revisions to the text of Condition 4 to reflect this. Mr. White asked Mr. Rentz if he was aware of whether parking was contemplated on this site per the imposition of the condition of the cross access easement and whether any relaxation of the parking requirements would be possible? Mr. Rentz stated that his understanding is that this would be possible if necessary. The Hearing Examiner asked whether they would then have to come back for an administrative deviation; Mr. Rentz advised they could either have it done administratively, or it could be added as a deviation to this case.

Mr. Rentz recalled a conversation he had with Mr. Basinait about a week or two before the hearing when they talked about access to the corner lot. Mr. Basinait asked Mr. Rentz whether it was unusual in Lee County to have commercial parcels access off of local roads in this type of circumstance? Isn't it true that there are a number of commercial parcels accessing off of local roads under these circumstances? Mr. Rentz concurred, adding that local roads also serve residential uses, and Staff, historically, has tried to limit access to those roads if possible. Mr. Basinait asked whether it was also true that, in this case, there are no residences located adjacent to that corner lot? Mr. Rentz agreed with that assessment, adding that, at this time, it appears that there would not be any direct impacts to the residential uses by virtue of this type of access off of Amazon Lane.

Mr. Basinait then questioned whether intersections are more recognizable and generally safer for turning movements, and whether the County generally tries to direct people to intersections for turning movements. Mr. Rentz stated that, normally, where you have a five-lane highway section with a two-way left turn lane, it would not create a safety problem to traffic turning east of the intersection. Mr. Basinait stated that meant that it was his opinion that an intersection isn't a better location for turning movements? Mr. Rentz stated that it would probably be better to some degree, however, he honestly doesn't believe that turning into this site rather than onto Amazon Lane would necessarily create a safety difference.

Mr. Basinait reminded Mr. Rentz of his stated opinion that the mutual access point/cross access easement would be more appropriate, from the standpoint of potential impacts to the residential neighbors, than an access off Amazon Lane. He wondered how that fit in with Mr. Rentz's testimony that there were no impacts at the current time to the residential neighborhoods, but Mr. Rentz reiterated his prior assessment.

Mr. Basinait asked Mr. Rentz his reasons for wanting the mutual access point versus an access off of Amazon Lane, and Mr. Rentz replied they were trying to avoid mingling the commercial traffic with the residential traffic on Amazon Lane. Mr. Basinait asked if there were some safety concerns about mingling traffic from two separate developments, when faced with turning movements as severe as what would occur with the cross easement. Mr. Rentz stated that he did not think that there would be a serious problem because the proposed development will be a low traffic generator. Mr. Basinait asked Mr. Rentz how he knew what

kind of traffic generation there would be on the site, as there could be a high traffic generation. Mr. Rentz stated that, although there was that possibility, the potential for a very high traffic generation was minimal because of the small size of the site. He concurred that although there may not be a convenience store on the corner lot, there was still the potential that it will have a significant traffic generation. Mr. Rentz responded that he felt it could generate more traffic than the subject property, and as a matter of fact, it could be quite a bit more.

Mr. Basinait asked Mr. Rentz if his only reason for stating that the mutual access point would be more appropriate in this case regards the potential impact to the residential neighborhood, that is, if the property that's adjacent to Amazon Lane accesses off of Amazon Lane? Mr. Rentz stated that, although that was the primary reason, it was also to eliminate the possibility of another connection on McGregor Boulevard with respect to the parcel to the west. Mr. Basinait asked Mr. Rentz whether he would agree that the County would not grant an access point onto McGregor Boulevard if a developer came in to develop the parcel that's adjacent to Amazon Lane? Mr. Rentz concurred that the County would probably not grant an access to McGregor Boulevard for the corner lot.

Mr. White asked whether the County, at one point in time, considered providing access to the subject property through the parcel that's located to the west, from Amazon Lane? Mr. Rentz stated that if they did, he was not aware of it. It would, however, be a possibility and would be consistent with his rationale for asking for the cross access easement. It was also possible that it would be discarded because it would inject the commercial traffic into the residential area.

After a short recess public input was taken.

Rochelle McDevitt, a resident of Almond Drive, stated that she and her husband purchased their property in Cottage Point in 1987, which is the residential neighborhood located behind the subject property. At the time they purchased this property they thoroughly researched the area and realized that they were not getting into a traditional subdivision, but that greatly appealed to them. Nonetheless, they like where they live because it's very quiet and the area is nicely wooded. There is also a lot of wildlife there, including an eagle that was there at the time they were building their house. They completed the construction and moved into their home in 1988.

Mrs. McDevitt believed this project would negatively affect their neighborhood, and had brought a petition (McDevitt Exhibit 1) which was signed by 98 percent of the residents in Cottage Point North, which is located off of Amazon Lane. There are also many other residential neighbors that are probably not even aware of the request since notices were only sent to a few people. Because the area off of Arbor Ridge is developed with about 35 homes, this project will affect them as well. Mrs. McDevitt read the petition into the record [see Section VIII.B.].

She asked that the Hearing Examiner, when visiting the subject property, visit their neighborhood as well. The Hearing Examiner assured her she would. Mrs. McDevitt stated that their neighborhood consists of about 21 families, and there are three homes that are currently under construction. This would result in a total of 25 families. They are not a planned

development as is McGregor Woods or Coconut Creek; however, they have great vision for their neighborhood, and the residents are trying to work together to have as good a neighborhood as those developments. Overall, they are all very concerned about this, even from an environmental standpoint because of the wildlife in the area that consists of turtles and various fresh water ponds, etc. She asked that the Hearing Examiner look at all of the aspects involved in a very unbiased way.

Mrs. McDevitt, at the request of Mr. Basinait, showed the location of her home on the aerial photograph. Mr. Basinait referred to the petition (McDevitt Exhibit 1) and asked if, at the time people were going door to door for signatures, if one of the things they said was that the development of a CPD on the site would provide the potential for a convenience store being constructed on the site? Mrs. McDevitt stated that was not what she told people, but she could not speak for anyone else.

Mr. Basinait noticed that the petition refers to an “. . . increase in the volume of traffic, transient people, . . .” He asked what Mrs. McDevitt meant by transient people? Mrs. McDevitt replied that transient people tend to live in parking lots and behind buildings at night when no one is there. Mr. Basinait asked if she was suggesting that in this 20,000-square-foot parcel, adjacent to a five-lane highway, with one small building, that there would be a transient-person problem? Mrs. McDevitt replied that she was not suggesting that; she was clearly saying that it was possible.

Mr. Basinait asked if she had said that noise until 9:00 p.m. or 10:00 p.m. at night would jeopardize the safety of the subdivision? He said she obviously was not aware of the condition in the Staff Report that calls for the retail business to be shut down at 6:00 p.m. at night. Mrs. McDevitt responded that she was aware it would close at night, because that was mentioned, but she was not aware that it would be closed at 6:00 p.m. However, things are subject to change. You go out late, have a late appointment, or have people coming back to return gear; it could happen.

Mr. Basinait asked again if Mrs. McDevitt was aware of the condition calling for cessation of the business at 6:00 p.m.? Mrs. McDevitt replied no, she was not aware of the specifics. Mr. Basinait asked if it were fair to say that there are a number of conditions in the recommendation that she was not aware of when the petition was circulated and people were asked to sign it? Mrs. McDevitt stated “perhaps.”

Mr. Basinait said he objected to the submittal of that petition, because he did not think it was based on facts that are in evidence in the public hearing with respect to conditions relating to restrictions placed on the business. In his opinion, this petition was taken around and people were told things that, however well intentioned, were not accurate. There are many limitations in the Staff Report that deal with uses, hours of operation, days of operation, buffering, etc., that were not taken into account when the petition was circulated for signatures. The petition is inaccurate and would, therefore, give the Hearing Examiner and the BOCC an inaccurate impression of the position of that neighborhood. The petition was based on facts that simply are not accurate.

Mrs. McDevitt asked that there be a proposal made and the entire neighborhood notified, “not just a select few,” so that another petition could be circulated with the information that Mr.

Basinait proposed. Mr. Basinait responded that the Applicant had notified everyone that they were required to notify, in accordance with the regulations. Mrs. McDevitt asserted that everyone was not served with the notification and they would say that when they came up to testify.

The Hearing Examiner advised that, under the regulations, the Applicant is required to notify only those residents within 375 feet of the subject property. Mrs. McDevitt stated that the Notice to Adjacent Property Owner that she received does not give any specifics with regard to what is going on. The Hearing Examiner said she understood Mrs. McDevitt's point, but the purpose of the notice is to advise the residents that there is a rezoning request and that interested persons should contact the County Planner at the Department of Community Development for further information.

Mr. Basinait stated that, for the record, the zoning sign was posted several weeks prior to the hearing. The people had the ability to look at the file and the MCP, talk to the reviewers, call the Applicant, etc., before the public hearing, but apparently that was not done.

Patrick White, Assistant County Attorney, said the witness had indicated her location, but he was unclear as to the boundaries of the Cottage Point Subdivision. He asked that Mrs. McDevitt show him the location on the aerial photograph. Mrs. McDevitt then pointed to the locations of the subject property, Amazon Lane, Electron Lane, Coral Lane, Wisteria Lane, and Almond Drive. Mr. White requested Mrs. McDevitt point out the boundaries of the Cottage Point Unrecorded Subdivision and Mrs. McDevitt complied.

The Hearing Examiner asked if the property on the south side of Electron Lane is part of the subdivision, so that the lots fronting the streets, as indicated by Mrs. McDevitt, are included in the subdivision? Mrs. McDevitt said, "yes, they are."

Mr. Basinait referred to Applicant's Exhibit 4 and asked Mrs. McDevitt if the triangular piece he was pointing to was a part of her subdivision? Mrs. McDevitt replied that she assumed it was since the road frontage is off of Amazon Lane and there is residential all around it. Mr. Basinait said that she had not answered his question. The Hearing Examiner asked County Staff if there was any documentation available that indicated the boundaries of this subdivision. Mrs. Richardson referred to a plat included in Plat Book 9, Page 133, which shows the Cottage Point Subdivision and notes when it was created.

Mr. Basinait admitted that the witness was correct. Tax map 2, indicates plats D, F, G, I, as Cottage Point. He presumed that area was all Cottage Point. Mrs. McDevitt said that was correct. Mr. Basinait confirmed that triangular piece of property was, in fact, a part of Cottage Point.

Mr. White commented that the plat book showed the total platted lands that are the Cottage Point platted subdivision, however, the area that Mrs. McDevitt indicated as the unrecorded subdivision is off to the west. The triangular piece does appear to be part of the platted subdivision of Cottage Point. Mrs. McDevitt remarked that they are different blocks and believed it was Block D that she had indicated. Mr. White noted that apparently one is recorded and the other is unrecorded. The Hearing Examiner said there was no point in submitting the plat as an exhibit because it does not show the information they require.

Mr. Basinait reiterated his objection to the petition and asked for a ruling on that. The Hearing Examiner declared that she would accept the petition, with the understanding that the factual basis and some of the allegations within the petition do not accurately reflect the information that has been presented in the hearing. Obviously, from Mrs. McDevitt's comments, the people who signed the petition are against commercial. This petition may be a little too specific with regard to some of the objections, e.g., the late hours, etc., but she would accept the petition as a general statement of their objection to a rezoning on this property.

Mr. Basinait commented that he could then tell anybody anything and get them to sign anything by telling them certain things. He was not suggesting that the residents had done anything they shouldn't do. However, he was suggesting that significantly inaccurate statements were made to the people who signed the petition and, as such, that petition has no probative value here and should be excluded. The Hearing Examiner replied that she understood, but she would overrule his objections. She would accept the petition and give it the proper weight that it deserves in her deliberations.

Mr. Basinait then asked Mrs. McDevitt what kind of significant impact the Sanibel Factory Outlet has had on her property? She replied that there has been a negative impact from the increased traffic on McGregor Boulevard. There is a left turn lane on McGregor Boulevard, but no traffic light, and the increase in traffic has made it much more difficult to make a left turn from Amazon Lane onto McGregor Boulevard. Mr. Basinait asked if she was aware that McGregor Boulevard is a four-lane arterial highway and meant to carry that kind of traffic? Mrs. McDevitt replied she was aware of that.

Next to speak was Lew Phillips, a resident on Electron Drive, in the Cottage Point Subdivision. He stated that he has the same concerns as expressed by Mrs. McDevitt, especially with regard to his children. He signed the petition not knowing what he knows today, and knowing what he knows now, he is no less concerned than he was before, because of the issues of access to the subdivision. This area is the threshold to their subdivision, no matter how far back in they live. He lives in one of the last houses on Electron Drive, which is slightly more than a quarter of a mile from the subject property. The children wait for the school buses at the corner of Amazon Lane and McGregor Boulevard.

His concern is not so much for the immediate development of that property. Mr. Massey apparently moves his business about once every four years, so they are looking at a four-year stint of this type of low profile business. His concern is for what the development may become in the future. He is also concerned for the access areas discussed in this hearing, i.e., the one off McGregor Boulevard and the possibility of one off of Amazon Lane, that one really concerns him.

Much of the property surrounding Amazon Lane is zoned for agriculture. Amazon Lane is the threshold to their neighborhood and there are also a lot of residential properties there. He has heard today people speaking of this area as mostly commercial. He can see a "creep factor" coming into play here where this area will become all commercial and the residential area along McGregor Boulevard will look like Fowler Street. Rezoning the subject property to a commercial development renders the adjacent properties useless for development as a residential or an agricultural area. Once this property is rezoned, the property to the north of

it obviously will not have much value other than commercial value and will probably be rezoned. The properties adjacent to both sides of Amazon Lane will not have much value except as commercial.

He can see a general encroachment of commercial business into this residential area and he did not believe the residents will be benefitted by gradually turning McGregor Boulevard into a commercial development. There has been commercial development on which the residents had not been able to avoid, such as the Sanibel Factory Outlet, which he would prefer wasn't there. However, that does not make it all right to continually change the profile of this neighborhood into a commercial development.

There are children in the neighborhood and it has grown into a nice little community. This is one of the last communities in this area that is wooded, and those woods make you feel as if you are in a part of ancient Florida. The wildlife, gopher turtles, and all the things they moved here for, will all be "eroded out" by this commercial development. That is his assumption for the future. The children are not going to be quite as safe with the commercial traffic from the development.

He is looking to the future potential of these areas. People are going to want to sell out; the owner of the triangular shaped property will want to sell and it will become another business. There are no assurances that these areas will not be rezoned later so that 7-Eleven's or commercial stores, or high rise buildings can be developed. Those are his concerns. He is in favor of development and free enterprise, but he also supports families and residential neighborhoods.

Mr. Basinait asked Mr. Phillips if he was concerned about what is being requested today, or what people may request in the future? Mr. Phillips replied he was concerned for today and tomorrow. Mr. Basinait recalled Mr. Phillips saying he was concerned about the safety of Amazon Lane if this development were to come in. He asked if Mr. Phillips was aware that this development would not have access onto Amazon Lane? Mr. Phillips replied that he was not aware of that, and had not understood the discussion of that issue, whether access would be off Amazon Lane or McGregor Boulevard. It seemed to him that issue had not been resolved and he was not sure where they stand on it.

Mr. Basinait explained that the access they were discussing for the subject site was off McGregor Boulevard. Staff was suggesting that a cross easement access agreement be made between the subject property and the adjacent parcel, and the adjacent parcel would achieve access through the subject property. The Applicant objects to this on the basis that the adjacent parcel, when it is developed, should have access from Amazon Lane. Regardless, the subject site would have access from McGregor Boulevard.

Mr. Phillips commented that the Applicant is looking to the future, much like himself, regardless of how that development occurs. By Mr. Basinait's statement, they are assuming that eventually there will be a commercial development with access directly off of Amazon Lane sometime in the future, beyond that one commercial development entry which will be off of that triangular property.

Mr. Basinait told the Hearing Examiner that he objected to all these comments, as they are all speculative and related to many years in the future for the triangular piece of property. He was trying to point out that Mr. Phillips had stated that he was concerned about traffic safety on Amazon Lane and then testified that he did not know where the access to the subject property was going to be located.

The Hearing Examiner suggested that Mr. Basinait explain to Mr. Phillips about the planned development process, whereby, if your client decides to move somewhere else in four years, they can't put in a 7-Eleven or fast food restaurant. Mr. Basinait replied that he had planned to review that information in his closing remarks.

Mr. Basinait reminded Mr. Phillips that he had talked about commercial development in this area versus residential and asked what had been developed to the east of the subject property? Mr. Phillips replied that, to the east, was a small contractor's office, Compass Point Contractors, and then the rock and gravel lot to the east of that. Mr. Basinait asked Mr. Phillips if he was aware that the zoning in that area was C-1 and that this district allowed retail uses? Mr. Phillips replied "yes." Mr. Basinait asked if Mr. Phillips was aware that the area also contained CN-1 zoning and that this district also allowed retail uses? Mr. Phillips replied "yes," adding, however, that those weren't his concerns. Mr. Basinait pointed out that, without any further rezonings, there could be two retail uses there; therefore, it wasn't as if the Applicant was asking for a retail use in an area where there was no existing potential for retail uses. Mr. Phillips stated that he did not understand Mr. Basinait's question.

Mr. Basinait pointed out that the two parcels directly adjacent to the subject property were already zoned to allow retail commercial uses. Therefore, the Applicant's request isn't to change the character of this area. The Applicant was simply asking for a use that is consistent with what already exists in this area, or has the potential to be developed. Mr. Phillips stated his understanding of this, noting that the Applicant was asking to let this commercial zoning "creep" toward the residential area.

Mary Voytek, a resident on Electron Drive, stated that she wanted to provide some background of their neighborhood and to express her concerns with this rezoning. She also wanted to address some comments that had been made during the hearing which she believed were inaccurate.

Mrs. Voytek stated that she moved into this area in 1985. She and her husband designed and built their home through one of the original builders in Lee County (Dick Pottorf). Mr. Pottorf had told her that, when he came to Lee County, he was one of only 30 contractors. He was a quality home builder, and did a beautiful job on their home. She is very proud of her home and loves this area. They had looked for an area that was very natural with woods and other vegetation, larger lots, close to the beaches and other beautiful areas of the County, etc. This was the perfect location.

When she moved to the area, it was mostly vacant. Most of the people that lived there when she moved in had already resided there for over 10 years. Slowly, a lot or two would be sold and be built on. Those residents still live there; everyone loves the area. A lot of the vacant property was owned by a man who lived in Tallahassee, and who wasn't paying his property taxes. Eventually, the property was acquired by other parties. The neighborhood eventually

banded together to bring in central sewer, which, since they depended on well water, they felt would further help protect them and the environment. The sewer assessment was quite a bit, but they were happy to have any sewer concerns taken care of.

During this time, the man who owned many of the parcels also did not pay his sewer assessments. Many of the residents also joined together, at great financial risk, to purchase any available lots. Their goal was to build a beautiful, quality community. They want to keep the natural environment while allowing nice homes. They want a safe place for their children to play, etc. At the auction for the tax certificates, they were bidding against many low-end housing contractors and this is who they kept out of their neighborhood. They were protecting their neighborhood. They have a big vision for their community. They aren't a planned community such as Cottage Point or Coconut Creek. Mrs. Voytek noted that Coconut Creek was a beautiful development, and that, all along this particular segment of McGregor Boulevard, there were upscale housing developments. This is what her neighborhood is interested in maintaining.

Most of the commercial property that has been developed in this area, and around Coconut Creek and McGregor Woods, has been very well thought out. Just recently a very attractive health care facility was developed adjacent to McGregor Woods. The office buildings located a few parcels away from her neighborhood were also very attractive. She stated that she did not have a problem with commercial, per se; she merely had a problem with the type of commercial. She wanted to ensure that the hours of operation were limited, and that the types of businesses established in this area would service the residents - not tourists or other transient people. She noted that, by this, she meant people who did not have "homesteads" in the area and did not live here year round; people who were here for a day or so, and then gone for five years; visitors who were only here for a holiday weekend; etc.

They wanted to establish a community, and the whole feeling of this area has changed since 1975 and 1985. More and more residents are moving into this area. This is a beautiful area near the beaches. There is already a lot of commercial already on San Carlos Boulevard, and toward Fort Myers Beach. Within a 2-mile radius there are eight major shopping centers, many of which are defunct with plenty of available space for the Applicant's business and plenty of parking. Another one did not need to be built, and not this type of business at the gateway to her neighborhood.

Currently there are 17 school age children in their immediate neighborhood. These children get picked up and dropped off by the school buses at the front entrance. This occurs at varying times, and some are even dropped off as late as 5:30 p.m. Some of these children are only five years old. Some are being raised by a single parent who cannot drive their children to school and they must take the bus.

She pointed out that, in the course of the instant hearing, they had been discussing using Amazon Lane as a business/commercial entrance, and she just could not believe that. This is her "driveway."

There has already been an increase in traffic in this area due to the Sanibel Factory Outlet and other businesses. One man has already been killed in this area, approximately a year

and a half ago, while trying to cross the street to get to the sidewalk on the other side. There isn't a sidewalk on her side of McGregor Boulevard, so every day when she jogs she has to cross McGregor Boulevard.

These are things they need to be concerned with because there are already many residents in this area and these residents have needs. These needs are not being met by this rezoning. There is already plenty of available space elsewhere for commercial businesses.

Mrs. Voytek stated that she had some good friends who were naturalists/environmentalists who have opened canoe/kayak businesses (no motorized equipment). Their businesses have either been on main thoroughfare, or directly adjacent to the areas where this equipment will be used. She pointed out that there was one adjacent to Carl Johnson Park, one at Fort Myers Beach, and even one at Punta Rassa - which is the area where the Applicant is directing his business. Most people heading to Punta Rassa will be using Summerlin Road, not McGregor Boulevard. They will see the business located right at the Punta Rassa public boat ramp, which is an appropriate location for this type of business. She stated that these businesses have trucks, trailers, racks, etc. The Applicant has stated that he will only be giving lessons to one or two people at a time; however, she has seen businesses grow. The reality is that it isn't financially sound to say that you are only going to offer lessons to one or two people at a time. She stated that it made much more sense to offer day boat trips, have eight, 10, or 15 people meet at Carl Johnson Park or at Fort Myers Beach, and the Applicant takes the equipment there.

Mr. Basinait raised an objection to Mrs. Voytek's testimony, noting that Mrs. Voytek was implying that all of the Applicant's business comes from the Punta Rassa area and there was nothing on the record to substantiate that. Mrs. Voytek is indicating that, at some point in the future, lessons could consist of eight to 15 people, and he did not know from where she was deriving this information. This wasn't based on evidence in the record; this was pure speculation. He asked the Hearing Examiner to direct the witness to limit her comments to facts on the record. Mrs. Voytek objected to Mr. Basinait's objection.

The Hearing Examiner asked if the Assistant County Attorney had anything to add to Mr. Basinait's objection, and Mr. White stated that, procedurally, it was appropriate for Mr. Basinait to object to any testimony. It was also appropriate for the Hearing Examiner to rule on any objections, and to instruct witnesses accordingly.

The Hearing Examiner asked Mrs. Voytek to restrict her comments more specifically to the request, explaining that the County's regulations did not take the marketability of a business or the economic feasibility of the business into consideration. This zoning hearing was to consider the effect that a rezoning would have on the adjacent property owners; opinions as to business techniques or preferences aren't pertinent.

Mrs. Voytek commented that the Applicant had mentioned Punta Rassa, and had also stated that he dealt with various resorts on Fort Myers Beach, she believed this means more than one person as a customer. The Hearing Examiner stated her understanding of that point.

Referencing the map exhibits, Mrs. Voytek noted the location where she believed the rock/landscaping business was located. It was noted that it was further up. Mrs. Voytek

referenced Mr. Phillips' comment about the "creeping" of commercial zoning, and explained that, when this business first went in, it was an incredibly beautiful business. It had very expensive, exotic landscaping with huge trees, and it was well maintained. When you look at the site now, all you see are bulldozers, rock, and fill. It is the same owner, but he has slowly removed all the nice vegetation and shifted the direction of his business, but nothing has happened to make him go back to what it was.

The Hearing Examiner asked Mrs. Voytek if she was concerned that this same type of thing would happen on the subject property, if it is rezoned? Mrs. Voytek explained that the Applicant might start out small, but it might have growing pains and change - just as any commercial business would. The residents are concerned that this will be the trend in this area, and this scares them since they are a quality community that is just formulating. Their neighborhood is only about 30 percent built out, and the houses being constructed are very nice, upscale homes. This is what they want to happen. Even with only a 30-percent buildout of homes, they have 17 school children. She questioned how many more children they would have when the subdivision was built out 100 percent - and they will all be using Amazon Lane.

Mrs. Voytek stated that some of the terminology being used concerned her, such as "storage" versus "display." Did this mean they could have canoes and kayaks on racks on trailers parked in the parking lot? Did this mean the Applicant could move equipment in and out every day? Did it mean that, on a holiday weekend, the parking lot could be filled with canoes, kayaks, banners, etc., and then move it back inside?

Security lighting is also a concern. Lights would have an effect on the wildlife in this area. She questioned what they meant by "security lighting"; was it halogen lights in the parking lot, such as you see in shopping centers and at grocery stores? She had seen nothing that defined what security lighting involved. Sanibel has strict lighting codes for any commercial businesses, and she would like to see that sort of condition considered in this case. She would want any lighting to be low to the ground so that it would not affect the residents (through the windows of their homes).

She reiterated that one person had been killed along this segment of McGregor Boulevard, and increased traffic was a concern. It would create additional problems for the residents getting in and out of their subdivision. This was already a problem, particularly during season.

References have been made to other commercially zoned parcels in this area. She stated that most of this commercial zoning had occurred many years ago. She estimated much of it had occurred 30 years ago or more, before most of the homesteads were established. She noted one restaurant in the area, where she believed the owner even lived under some sort of grandfathering. This was one of the commercial properties that had been referred to. The commercial property with the fruit stand is at the corner of the intersection and there is a major traffic problem there. She is always hearing the screeching of tires, sees people trying to pull out and trying to back out onto McGregor Boulevard. The fruit stand doesn't have adequate parking. There is a definite hazard in this area.

She reiterated that most of the commercial was developed before there were many residents in this area. Additionally, this commercial occurred when McGregor Boulevard was the main arterial roadway. Since that time, the County has shifted the road focus. Summerlin Road has

been developed, and San Carlos Boulevard has been upgraded. It was her opinion that this area of McGregor Boulevard was a road that was primarily used by residents to get to the higher intensity commercial areas, i.e., the eight shopping centers within the 2-mile radius. She did not see the need to expand the commercial areas along this segment of McGregor Boulevard.

Mrs. Voytek also expressed concerns about the amount of the subject property that would be paved, and, if there was going to be any fencing, the type of fencing being considered. At the request of the Hearing Examiner Mrs. Voytek used the map exhibits and pointed out the location of her home.

With regard to the petition, Mrs. Voytek stated that both she and Mrs. McDevitt had circulated these petitions. As to statements attributed to Mrs. McDevitt, which Mrs. McDevitt had denied making, Mrs. Voytek stated that she also had not made these statements. This was merely an inaccurate rumor. The Hearing Examiner confirmed that Mrs. Voytek was referring to the allegation that they had told people a convenience store was going to be developed on the property, and Mrs. Voytek indicated this was correct.

Mrs. Voytek asked that the County keep in mind a long term vision of this area and the needs of the residents. They need to consider that there are already so many shopping centers and commercial buildings with vacant, available spaces in this area.

Mr. Basinait referenced Mrs. Voytek's comment that Amazon Lane was their "driveway," and Mrs. Voytek responded that Amazon Lane was privately maintained by the residents. She explained that this is the "driveway" into their community. Mr. Basinait asked if she was aware that the County had classified it as a "local road"? Mrs. Voytek stated that she did not know what this classification meant, but she knew it wasn't a County-maintained road. Mr. Basinait asked again whether she was aware whether the County classified the road as a "local road," and Mrs. Voytek replied "no," adding that she didn't know what this classification stood for.

Mr. Basinait asked whether she was aware that the proposed development did not access Amazon Lane? Mrs. Voytek replied that she was aware of this, but referenced the comments about this possibility. Mr. Basinait pointed out that this was in relation to another site. Mrs. Voytek asked if they had been talking about road frontage, and Mr. Basinait and the Hearing Examiner both replied "no." Mr. Basinait restated his question, asking Mrs. Voytek whether she was aware that the proposed project, in its current form and as it would be permitted, would not have any access from Amazon Lane? Mrs. Voytek replied that she was now aware of this. Mr. Basinait asked if she was aware that the proposed project did not abut Amazon Lane, and Mrs. Voytek replied "yes," adding that it was one lot away from Amazon Lane.

Mr. Basinait asked when Mrs. Voytek had purchased her residential lot, and she indicated she had purchased her lot in 1984 and had moved into her home in 1985. Mr. Basinait commented that, based on Mrs. Voytek's testimony, it appeared she had investigated this area fairly thoroughly before purchasing her property. Mrs. Voytek replied that she had investigated it somewhat thoroughly. This was her first home. Mr. Basinait asked whether, at that time, she was aware that there were commercially zoned parcels along McGregor Boulevard? Mrs. Voytek asked "which ones?" and Mr. Basinait asked, for instance, about the parcel directly adjacent to the subject property, i.e., the Benchmark parcel. Mrs. Voytek

responded that she was aware in that there was a small canvas shop located there. She wasn't aware that it was commercially zoned. Mr. Basinait questioned whether she had the ability to be aware of this, that is, if she had wanted to check the records and find this out? Mrs. Voytek indicated that she could have; however, she wasn't that knowledgeable then.

Mr. Basinait asked if it was correct that she could have checked the records and found that the parcel directly adjacent to this was also zoned commercially? Mrs. Voytek asked specifically to which parcel he was referring, and Mr. Basinait stated that it was the parcel directly adjacent to and east of the Benchmark parcel. Mrs. Voytek asked what was located on the site, noting that she could not visualize which parcel it was? Mr. Basinait explained that there wasn't anything developed on the parcel at this time, and indicated that he was asking about the zoning on the property. He asked if, when she had purchased her property, she had the ability to confirm that the zoning on that property was commercial? Mrs. Voytek responded that she had this ability. She added that she would be interested to know on what dates those rezonings occurred as the flavor or fabric of the community had changed tremendously since this had occurred. At that time McGregor Boulevard was the arterial road.

Referencing the "rock" [landscaping business] parcel, Mr. Basinait asked Mrs. Voytek if she was aware that this particular parcel was conventionally zoned as opposed to having planned development zoning? Mrs. Voytek noted that Mr. Basinait was using terms with which she wasn't familiar. Mr. Basinait asked if it did not make any difference to her either way, and Mrs. Voytek replied that this wasn't what she was saying. She was saying that he was using terminology with which she wasn't familiar. Mr. Basinait asked if she knew how the "rock site" was zoned, and Mrs. Voytek replied "no."

Mr. Basinait asked Mrs. Voytek if she had seen the regulations contained in the LDC with regard to protecting adjacent property owners from impacts of noise and lighting, or if she was aware there were regulations in this regard. Mrs. Voytek responded that she really wasn't aware of or familiar with these regulations.

Mr. Basinait referenced a previous statement by Mrs. Voytek and asked for clarification. He asked if she had stated that most of the commercial zoning along McGregor Boulevard was actually in place before her neighborhood started to develop? Mrs. Voytek replied that this wasn't what she had stated. The residences that are there now, for the most part, were there, because most of the property was vacant and owned by an absentee landowner. This has all changed. Mr. Basinait stated that he was referring to the properties along McGregor Boulevard which he thought Mrs. Voytek had indicated were zoned commercial prior to the time that most of the people had moved into her subdivision. Mrs. Voytek responded that their subdivision was only built out, at this point, to around 30 percent. What she was saying was that the fabric of their community is currently formulating. It is all residential, but the majority of people have not built there. Mr. Basinait noted that these commercial rezonings occurred in 1976, and asked whether it would be fair to say that it was in place prior to the time that most of the homes in this subdivision were built? Mrs. Voytek replied "yes."

Helene Phillips indicated that she did not have anything to add to that which had been stated by the other speakers, except to state that she was opposed to this rezoning change. With

regard to the Benchmark Construction parcel, she noted that she had built her home in 1978 and the Benchmark site was already zoned and developed. She has accepted the way that things are now; however, she could not accept this rezoning change.

Mr. Basinait stated that he had a few remaining questions of Mr. Banks, and would then give his closing statement. The Hearing Examiner referenced terms used by Mr. Basinait during his questioning of Mrs. Voytek, and asked that, following his questioning of Mr. Banks, Mr. Basinait explain [to the public] the difference between conventional and planned development zonings.

Mr. Basinait asked Mr. Banks about a document that he had provided to him [Basinait] and if Mr. Banks knew what the level of service standard was currently on McGregor Boulevard? Mr. Banks replied that McGregor Boulevard had been adopted by the BOCC and designated in the Lee Plan as a 4-laned, Group A arterial. Standards have been set as to the acceptable capacity volumes for various levels of service along McGregor Boulevard. Currently, the highest standard set for any roadway in Lee County is Level of Service (LOS) "A." Pursuant to the comprehensive plan, the BOCC has established that this roadway can handle up to 3,080 during the highest peak hour [and still maintain LOS "A"]. He pointed out that this is what the roadway could handle, not what the current volume level was on the road. Currently, the volume of the traffic on McGregor Boulevard, along this particular segment, is only 1,429 trips during the highest peak hour. Therefore, currently less than half of the total LOS "A" capacity is being utilized. He noted that, during the Hearing Examiner's site visit, she would be able to see that this segment of the road operates at a very high level of service.

The Hearing Examiner noted that she understood what this meant, but asked Mr. Banks to explain level of service to the public. Mr. Banks explained that traffic engineers measure roadways to determine the specific characteristics of any given road and the amount of traffic that could be accommodated and still provide a specified level of convenience, mobility, i.e., a driver's expectation as to what is an acceptable roadway condition. Over the past 50 years, they have developed and refined these numbers and standards, and have established certain standards. LOS "A" is the highest standard and means there is a free flow of movement on the roadway, very few restrictions on travel patterns, and very few conflicts. As more traffic is added, this condition slowly degrades. LOS "B" is considered to still be a very good level. LOS "C" denotes an average road. U.S. 41 typically operates at LOS "D" or "E," other than during construction phases, where drivers anticipate/expect a certain amount of additional congestion. This segment of McGregor Boulevard operates well within the parameters of LOS "A." The Hearing Examiner pointed out that at LOS "A" one would have fewer cars on the road, than with "E," and indicates that there are good driving conditions on the roadway. Mr. Banks agreed LOS "A" was very good, and the Hearing Examiner would note, during her site visit, that this was true in this area.

Mrs. Voytek asked whether this study was done during the peak season, or during the summer, noting that this would provide two very different numbers? Mr. Banks responded that the volume to which he had referred, i.e., 1,429 trips, was based on the average highest three peak months in Lee County - January, February, and March. This is a requirement of the LDC; traffic impacts must be reviewed based on peak season conditions. Mr. Banks noted that this particular data was based on nine years of historical data, and was compiled by the

Lee County Department of Transportation. He had simply referenced the County's data base, and reviewed the trend/growth over the past nine years to determine impacts. He had not conducted the traffic count study personally; it was from the County's study.

Mr. Basinait reviewed the Applicant's testimony and position. The Applicant agrees with Staff's recommendation, with the exception of Conditions 4 and 7. The Applicant would request that their proposed revisions to Condition 2, 5 and 6, which were agreed to by Staff, be accepted by the Hearing Examiner.

With regard to Condition 4, relating to the cross easement agreement, the Applicant believes that not requiring the cross easement access would create a safer condition and makes more sense from a site development standpoint. The testimony clearly indicates that, from a safety standpoint, the Applicant's recommendation is the best option. He noted, however, if the Hearing Examiner felt differently about this point, then the Applicant would respectfully request that the Hearing Examiner also grant a parking deviation so that the cross easement could be provided. He pointed out that reference had been made as to an administrative deviation for parking, but he did not believe this was possible. Any deviation from the parking requirements had to be accomplished as part of the public hearing process. The Applicant does not agree with Condition 4 and would still object; however, if the Hearing Examiner does recommend imposition of Condition 4, then they would request that a deviation be granted for parking such that this particular retail use be allowed to provide parking at a rate of one space per 300 square feet, as opposed to one space per 200 square feet.

With respect to Condition 7, the Applicant is looking to provide a mechanism to allow the owner to display very limited numbers of items which relate directly to the type of business that the Applicant conducts. This will be done in a fashion which the Applicant believes will have minimal impact, at most, on the surrounding properties. The Applicant will be allowed to place the display rack and items outside in the morning, and to bring it back in each evening. The display itself will be very limited. This will be a "clean" site from that standpoint, and the Applicant does not believe this will negatively impact the neighborhood. They would ask that the Applicant's proposed revised Condition 7 be recommended for approval.

As a point of clarification, Mr. Basinait stated that the Applicant sells windsurfers, not surfboards. There is a difference, both in terms of the type of person or clientele that would visit the store and the price of the equipment. The price of windsurfers is much greater than for surfboards. He noted that this was an important distinction, given the context of some of the comments that have been made during the hearing. This will be the Applicant's permanent business address. The two locations where he has previously conducted his business were both rental properties. One of the main reasons the Applicant is seeking this is to create more space for his business. The Applicant also, however, wants to create a situation wherein he owns the property from which he is conducting his business.

With regard to the difference between a conventional rezoning and rezoning to a planned development, Mr. Basinait explained that many of the older zonings in Lee County were what is known as "conventional zoning districts." These include zoning districts such as C-1, CC, C-1A, RS-1, etc. From the standpoint of what one can do on a conventionally zoned parcel, one would refer to the Land Development Code, specifically to Chapter 34. This Chapter sets out certain requirements/restrictions for each individual conventional zoning district. It

provides setbacks, lot coverage area, building height maximums, number of permitted stories, and a list of allowed uses. This Chapter also sets out whether buffers are required, and whether these are vegetative buffers, setback buffers, etc. It provides direction as to what type of lighting can be used on the site. In other words, everything you can do on this property is controlled by this Chapter.

The difference between a conventional zoning district and a planned development district is that additional conditions cannot be imposed on a conventional zoning district. Historically this was done in Lee County; however, they found out, during the early 1980's in a case involving property in Sanibel, that this wasn't permissible under the law. A conventional rezoning will not have any additional conditions imposed, and it cannot be rezoned unless it can comply with Chapter 34. On the other hand, under a planned development rezoning, either a Commercial Planned Development (CPD), a Residential Planned Development (RPD), an Industrial Planned Development (IPD), or a Mixed Use Planned Development (MPD), provides the ability to impose additional conditions. Mr. Basinait noted that many times Staff leans in this direction, especially when there are any residential areas located within close proximity to a parcel.

In the instant case, Staff has proposed 12 additional conditions - over and above those requirements set out in the LDC. Condition 9 sets out that "no temporary uses or temporary parking lots shall be permitted on-site." The LDC does, in fact, allow temporary uses if one goes through a different permitting process. However, on the subject site, this will not be allowed. Condition 5 prohibits the Applicant from opening his business before 8:00 a.m., and he must close it no later than 6:00 p.m. The LDC doesn't limit or prohibit a business in this manner. This same condition limits the days of operation to Monday through Saturday. These are conditions which further limit what the Applicant can do with his property.

Mr. Basinait explained that this was why he had asked about the nature of the various other businesses in this area, such as the "rock site," and whether it was conventionally rezoned or was a planned development. This was germane because, if the parcel is conventionally zoned (which he believed it is), so long as they comply with the regulations set out in Chapter 34, then they don't have to do anything different or additional. On the other hand, if the parcel was zoned to a planned development district and had other conditions imposed, such as no trucks parked on the site, etc., then, if they did park trucks on the site, it would be a violation of their zoning and the owner could be cited.

The residents are better served by planned development rezonings, as opposed to conventional rezonings. This allows the public to participate more in the zoning process by providing input and suggestions as to items they believe are appropriate with respect to adequate protection of their neighborhood. From the Applicant's perspective, this is what they have tried to do with the lighting condition (Condition 6), the hours of operation, the days of operation, etc.

In this case, something else has been added which is unusual to a planned development rezoning. Condition 8 sets out that "any future amendments to the schedule of uses or conditions must be approved through the public hearing process." It isn't unusual to say that, if a use is changed or a use it proposed to be added, a public hearing is required. However, in the instant case, not only does it require this, it also sets out that if the Applicant wants to

change any of the conditions, they have to go back through the public hearing process. This is, again, further assurance to the neighbors that whatever gets approved [assuming this application is approved] is, more or less, cast in concrete, and that, if the Applicant wants to change it, they have to come back through the public hearing process and adjacent property owners would be noticed and could come to another public hearing to address the Hearing Examiner and the BOCC.

From the perspective of the neighbors, there is something to be said for the planned development process. It does add something to the process, and does add certain assurances to whatever approvals might be granted.

With regard to the remainder of the proposed conditions, and Staff's recommended action on the deviations, the Applicant has no objections. Mr. Basinait referenced Applicant's Exhibit 4, noting that it showed that the triangular parcel behind the subject parcel is owned by the same people who own the subject property. This will act as a buffer between the two uses. Anyone who buys this parcel will be aware of what is happening on the subject property. Beyond this parcel, there is a separation of more than 200 feet before you reach the residential area. There is a street bisecting this area, and there will be vegetation. There is a buffering condition for the north property line, which requires 10 trees per 100 linear feet as well as a hedge that will reach 36 inches in height within one year. He noted that this was only the required height at the end of one year, but not necessarily the maximum height. This buffer provides adequate protection on that side. There is also a buffering requirement on the east side. The site is self contained from the standpoint of water management. The proposed structure is a relatively small structure, and the Applicant is requesting a retail use along with other uses that are very limited in nature. There would be no outdoor storage, and a very limited outdoor display. There would be limited hours and days of operation.

Mr. Basinait stated that, given the circumstances and given the conditions agreed to by the Applicant, this particular request is no more noxious nor does it create the ability to impact the nearby residential neighborhood to any greater degree than an office development or anything other commercial use. There are already other offices existing in this area, such as on the Benchmark parcel. This particular site also has the potential to have retail uses. Referencing Applicant's Exhibit 2, Mr. Basinait noted the location of another vacant parcel to the east and stated that it was zoned CN-1. It also has the potential to have retail uses established on that site. In the instant case, they will know what they are getting or buying - and it is very limited in nature from the standpoint of retail, as well as from the standpoint of all the uses. It will be a single user with one employee, and not a big business. Mr. Basinait pointed out that Mr. Massey also lived in this area, and he wanted his children to be able to ride over to see him sometimes. It makes sense for the Applicant to be here, and he wants his own site. He is a small business owner.

The Applicant would request that the Hearing Examiner recommend approval of the requested rezoning, and with the amendments proposed by the Applicant.

With regard to Condition 4, Mrs. Richardson explained that, if the Hearing Examiner did impose this condition, the Applicant had asked that the Hearing Examiner include a parking deviation and Mr. Basinait had suggested using a factor of one space per 300 square feet. She noted that this was the calculation used for office uses, and Staff would prefer to see the

retail calculation of one space per 200 square feet used, since this is the proposed use of the building and grant the deviation from this requirement. The Hearing Examiner clarified that the Applicant was asking that, if she did impose Condition 4, the deviation be calculated at one space per 300 square feet instead of at the required one space per 200 square feet. Mr. White noted that the correction LDC citation would be Section 34-2020(2)m.3.

The Hearing Examiner stated that she would conduct a site visit prior to rendering a recommendation, and that her site visit would include the adjacent residential areas. If she did recommend approval of the request rezoning, she would take into consideration the amount of outdoor display and limitations on parking (i.e., vehicles carrying canoes/kayaks, etc.). Given the location, it was apparent that the only appropriate use was some type of commercial. She did not believe it was appropriate for residential, and was particularly not appropriate for agricultural uses. She would be looking at the degree of permissible commercial in making her recommendation. Before closing the hearing, the Hearing Examiner explained the hearing process to the public. In response to questions, she indicated that the BOCC could not accept further testimony from parties that had not spoken at the instant proceeding, and they would not be able to accept any written communications.

Mrs. Voytek stated her understanding that the subject parcel was the only focus of this hearing, but asked if this would "open the door" and make it more feasible for the adjacent properties to be rezoned? The Hearing Examiner commented that there was always the opportunity for properties to be rezoned, but they had to look at the entire area and not just individual parcels. There were other commercial uses in this area, and it had a major roadway adjacent to these parcels which lent itself to other commercial uses. Mrs. Voytek remarked that, the more commercial, the less chance that anyone would want to reside next to these parcels. The Hearing Examiner stated her understanding, but indicated that this was one reason some properties were rezoned commercially - they were inappropriate for any other uses. Mrs. Voytek noted that this was because of continual commercial rezonings. The Hearing Examiner disagreed, noting that the first commercial rezoning may have been appropriate and this would make any single-family use adjacent to it possibly inappropriate. She agreed that perhaps there was a greater possibility that the next parcel would be rezoned commercial; however, based on the conditions in this area, it was very unlikely that anyone would develop these parcels for residential uses. There was an obvious trend in this area, for the parcels fronting on McGregor Boulevard, toward commercial, and it appeared from the testimony of Staff and the Applicant that it was appropriate to rezone the subject parcel to a commercial zoning district. What she needed to look at, and what controlled, were the number of commercial uses and the types of uses. This would determine the impacts on the residential areas.

The Hearing Examiner reiterated that she would do a site visit and review all the testimony and evidence before rendering a recommendation. It was noted that the BOCC would hear the matter approximately three to four weeks after the Hearing Examiner's recommendation was issued. In response to a question, it was noted that any appeal of the BOCC's decision would be to circuit court.

VIII. OTHER PARTICIPANTS AND SUBMITTALS:

ADDITIONAL APPLICANT'S REPRESENTATIVES:

1. Charles J. BASINAIT, Esquire, Henderson, Franklin, Starnes & Holt, P.A., P. O. Box 280, Ft. Myers, FL 33902-0280
2. Jim BANKS, % Southwest Transportation Engineering, Inc., 1342 Colonial Blvd., Ste. 30, Ft. Myers, FL 33907-1008

ADDITIONAL COUNTY STAFF:

1. Bob RENTZ, Development Services Division, Lee County, P.O. Box 398, Ft. Myers, FL 33902-0398
2. Patrick WHITE, Assistant County Attorney, Lee County, P.O. Box 398, Ft. Myers, FL 33902-0398

PUBLIC PARTICIPATION:

A. THE FOLLOWING PERSONS TESTIFIED OR SUBMITTED EVIDENCE FOR THE RECORD AT THE HEARING (SEE SECTION VII.):

For: NONE

Against:

1. Lew & Helene PHILLIPS, P. O. Box 43, Sanibel, FL 33957 (13410 Electron Drive, Ft. Myers, FL 33908)
2. Rochelle McDEVITT, 13370 Almond Dr., Ft. Myers, FL 33908 [petition, see below]
3. Mary VOYTEK, 13290 Electron Dr. S.W., Ft. Myers, FL 33908

B. THE FOLLOWING PERSONS SUBMITTED A LETTER/COMMENT CARD, OR OTHERWISE REQUESTED A COPY OF THE HEARING EXAMINER RECOMMENDATION:

For: NONE

Against:

1. PETITION with 29 signatures: We, the residents of Cottage Point Unrecorded Subdivision, wish to express our deep concern on the rezoning from AG-2 to CPD at the property located at 16842 McGregor Boulevard. This property is located adjacent to the entrance to our subdivision and abuts our residential subdivision. Heavy commercial retail space would greatly impact our subdivision in many negative ways. We feel that, if we open

the door to this type of commercial rezoning, it will eventually lead to further commercial growth on the north side of McGregor Boulevard which is made up of quiet residential neighborhoods.

One of our concerns is for our children's safety as their bus stop is at the corner of Amazon and McGregor Boulevard. Also, the increase in volume of traffic, transient people, increased lighting and noise until 9:00 or 10:00 p.m. at night would jeopardize our safety and is also a deep concern of ours. This rezoning would change our quiet, safe subdivision forever. We are also concerned that, in the future, all lots with McGregor road frontage will be allowed to rezone CPD and this could impact the quality of our living environment with regard to our drinking water, our noise level and air quality. Therefore, we are requesting that you please closely examine all aspects of the impact your decision will have on our families and the families in the surrounding area.

Finally, the hearing was rescheduled at an extremely inconvenient date, the Friday before the 4th of July weekend when many of our neighbors are out of town and not able to be present at this very important meeting. We have circulated this letter and gotten signatures to show you our concern even though many were unable to be here today.

IX. LEGAL DESCRIPTION:

Lot 14, Block C, COTTAGE POINT SUBDIVISION, as recorded in Plat Book 9, Page 133, of the Public Records of Lee County, Florida, lying in Section 02, Township 46 South, Range 23 East, Lee County, FL.

X. UNAUTHORIZED COMMUNICATIONS:

Unauthorized communications shall include any direct or indirect communication in any form, whether written, verbal or graphic, with the Hearing Examiner, or the Hearing Examiner's staff, any individual County Commissioner or their executive assistant, by any person outside of a public hearing and not on the record concerning substantive issues in any proposed or pending matter relating to appeals, variances, rezonings, special exceptions, or any other matter assigned by statute, ordinance or administrative code to the Hearing Examiner for decision or recommendation. . . . [Administrative Code AC-2-5]

No person shall knowingly have or attempt to initiate an unauthorized communication with the Hearing Examiner or any county commissioner [or their staff]. . . . [LDC Section 34-52(a)(1), emphasis added]

Any person who knowingly makes or attempts to initiate an unauthorized communication . . . [may] be subject to civil or criminal penalties which may include: [Section 34-52(b)(1), emphasis added]

Revocation, suspension or amendment of any permit variance, special exception or rezoning granted as a result of the Hearing Examiner action which is the subject of the unauthorized communication. [LDC Section 34-52(b)(1)b.2.]; OR

A fine not exceeding \$500.00 per offense, by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. [LDC Section 1-5(c)]

XI. HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS:

A. This recommendation is made this 6th day of August, 1999. A copy will be forwarded to the offices of the Lee County Board of County Commissioners.

B. The original file and documents used at the hearing will remain in the care and custody of the Department of Community Development. The documents are available for examination and copying by all interested parties during normal business hours.

C. The Board of County Commissioners will hold a hearing at which they will consider the record made before the Hearing Examiner. The Department of Community Development will send written notice to all hearing participants of the date of this hearing before the Board of County Commissioners. Only participants, or their representatives, will be allowed to address the Board. The content of all statements by persons addressing the Board shall be strictly limited to the correctness of Findings of Fact or Conclusions of Law contained in the recommendation, or to allege the discovery of relevant new evidence which was not known by the speaker at the time of the earlier hearing before the Hearing Examiner and not otherwise disclosed in the record.

D. The original file containing the original documents used in the hearing before the Hearing Examiner will be brought by the Staff to the hearing before the Board of County Commissioners. Any or all of the documents in the file are available on request at any time to any County Commissioner.

XII. COPIES OF TESTIMONY AND TRANSCRIPTS:

A verbatim transcript of the testimony presented at the hearing can be purchased from the court reporting service under contract to the Hearing Examiner's Office. The original documents and file in connection with this matter are located at the Lee County Department of Community Development, 1500 Monroe Street, Second Floor, Fort Myers, Florida.



DIANA M. PARKER
LEE COUNTY HEARING EXAMINER
1500 Monroe Street, Second Floor
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: 941/479-8100

**LEE COUNTY, FLORIDA
DEVELOPMENT SERVICES DIVISION
AMENDED STAFF REPORT**

TYPE OF CASE: PLANNED DEVELOPMENT/DCI

CASE NUMBER: 99-03-251.02Z 01.01

ORIGINAL HEARING EXAMINER DATE: June 2, 1999

CONTINUED HEARING EXAMINER DATE: July 2, 1999

I. APPLICATION SUMMARY:

A. Applicant: Massey Commercial Building

B. Request: Rezone from Agricultural (AG-2) to Commercial Planned Development (CPD) to permit a maximum of 4,800 sq. ft. of commercial floor area, not to exceed 35 feet in height, on 20,000± sq. ft. of land.

NOTE: If approved, the Master Concept Plan (available for inspection at 1500 Monroe St., Ft. Myers) may deviate from certain Land Development Code (LDC) standards.

C. Location: The subject property is located at 16842 McGregor Blvd. (125± feet NE of Amazon Ln.), in S02-T46S-R23E, Lee County, FL. (District #3)

D. Land Use Plan Designation: Suburban

E. Surrounding Land Use:

	<u>Existing Use & Zoning</u>	<u>Future Land Use Map</u>
North:	AG-2 lots some vacant and some developed with single family homes	Suburban
East:	Office building zoned C-1	Suburban
South:	McGregor Boulevard then a single family home zoned AG-2	Urban Community
West:	Vacant lot zoned AG-2 then Amazon Lane	Suburban

F. Size of Property: 20,000± sq. ft.

II. RECOMMENDATION:

Staff recommends APPROVAL of the Applicant's request for rezoning from AG-2 to CPD with the following conditions and deviations:

A. Conditions

1. The development of this project must be consistent with the two page Master Concept Plan entitled "Massey Building Minor CPD," prepared by Southwest Engineering, dated March 15, 1999 and stamped received March 23, 1999 by the Permit counter, except as modified by the conditions below . This development must comply with all requirements of the Lee County LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.
2. The following limits apply to the project and uses:

a. **Schedule of Uses**

Administrative Offices
Business Services, Group I
Essential Services
Essential Services Facilities-Group I
Excavation, water retention
Hobby Shop
Medical Office
Non-Store Retailers-Group I
Parking lot-Accessory
Personal services-Group I (except coin-operated laundries and laundromats)
and Group III (except massage establishments, massage parlors,
reducing or slenderizing salons and steam or Turkish baths)
Rental or Leasing Establishments-Group I (excluding bicycles, mopeds, and
scooters) and Group II (excluding bicycles)
Repair Shops-Group I and Group II
Signs in accordance with Chapter 30
Specialty Retail Shop-Group I, Group II and Group III (limited to the sales/rental
of windsurfing and kayaking equipment to be conducted completely
indoors)
Storage-indoor only

b. **Site Development Regulations**

Development of the subject property must comply with the following Property Development Regulations:

Minimum Setbacks-Building and Structures:

Street: 25 feet
Side: 15 feet
Rear: 25 feet

Maximum Lot coverage: 40%
Maximum Building Height: 35 feet

3. The applicant must provide a Type "C", 15 foot wide buffer along the north property line consisting of Type "F" planting of 10 trees per 100 linear feet and a hedge planted in double staggered rows that are to be maintained so as to form a 36 inch high continuous visual screen within one year after time of planting to provide an adequate buffer to the residences to the north.
4. The applicant must provide a cross access easement to provide a connection to the adjacent property to the west. The plan must be revised at time of Development Order to show this access.
5. The hours of operation for the commercial uses is limited to 8:00 a.m. to 6:00 p.m. Monday thru Saturday.
6. Any external lighting on the site after 6:00 p.m. is prohibited with the exception of security lighting.
7. There shall be no outdoor storage or display of merchandise on the property.
8. Any future amendments to the schedule of uses or conditions must be heard thru the public hearing process.
9. No temporary uses or temporary parking lots shall be permitted on site.
10. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
11. Approval of this rezoning does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).
12. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.

B. Deviations

The Master Concept Plan deviates from several Lee County development standards. The deviations are recommended for approval or denial as follows:

Deviation #1 requests relief from LDC Section 10-285 which requires 660 feet intersection separation for an arterial road, to 125 feet from Jacaranda Drive and Amazon Lane and 110 feet from the adjacent driveway. Because a deviation is necessary to provide access to the site, staff recommends APPROVAL.

Deviation #2 requires relief from LDC Section 10-416(d) (3 & 4) which requires a 5 foot wide Type A buffer along the east property line, to eliminate the buffer along the east

property line. Staff recommends DENIAL of this deviation. Buffers should be provided per the Land Development Code.

Findings and Conclusions:

Based upon an analysis of the application and the standards for approval of planned development rezonings, staff makes the following findings and conclusions:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes and regulations.
2. The requested zoning, as conditioned:
 - a) meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b) is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c) is compatible with existing or planned uses in the surrounding area; and
 - d) will not adversely affect environmentally critical areas or natural resources.
3. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and the site will be served by streets with the capacity to carry traffic generated by the development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The proposed use or mix of uses, as conditioned is appropriate at the subject location.
6. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.
7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
8. The deviations granted:
 - a) enhance the objectives of the planned development; and
 - b) preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

III. BACKGROUND INFORMATION AND ANALYSIS:

Introduction/Synopsis

The applicant requests to rezone a 20,000 square foot parcel from AG-2 (Agricultural) to CPD (Commercial Planned Development) on property located at 16842 McGregor Boulevard. The property is vacant and located on the north side of McGregor Boulevard, between the intersections of Amazon Lane and Jacaranda Drive. The requested rezoning is to allow the development of a 4,800 square foot commercial building as described in the applicant's project description as Attachment B.

Master Concept Plan

The Master Concept Plan is a two-page document entitled "Massey Building Minor CPD" as prepared by Southwest Engineering, dated March 15, 1999 and stamped received on March 23, 1999 by the Permit Counter. The proposed development consists of a 4,800 square foot commercial building with parking spaces located along the west property line and a detention/retention area located in the northern portion of the property.

The applicant has requested various commercial uses that are allowed in the CN (Neighborhood Commercial) and CC (Community Commercial) zoning categories.

Lee Plan Considerations

The subject property is located within the Suburban land use category. As referenced in Policy 1.1.5 of the Lee Plan:

The Suburban areas are or will be predominantly residential areas that are either on the fringe of the Central Urban or Urban Community areas or in areas where it is appropriate to protect existing or emerging residential neighborhoods. These areas provide housing near the more urban areas but do not provide the full mix of land uses typical of urban areas. The standard residential densities are the same as the Urban Community category. Higher densities, commercial development greater than neighborhood centers, and industrial land uses are not permitted. Bonus densities are not allowed.

The properties located across McGregor Boulevard to the south are in the Urban Community land use category. However, the subject site and properties to the north, east and west are all Suburban, with office to the east and vacant and residential uses to the north and west. The applicant's proposal includes a mix of retail uses, some of which are fairly intense given the small parcel size. Offices uses would provide an appropriate transition between the Urban Community to the south (across the 5-lane arterial road, McGregor Boulevard), and the residential and office uses in the adjacent Suburban area. However, upon recent meetings and negotiations with the applicant and with further limitations placed on the property, the proposed uses would be appropriate.

Staff finds the requested rezoning consistent with the following Objectives and Policies of the Lee Plan:

Objective 2.1 promotes contiguous and compact growth patterns to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distance from services and existing communities.

This request would be consistent with this policy in that there are some commercially zoned parcels along McGregor Boulevard near the subject site.

Policy 2.2.1 requires rezoning proposals to be evaluated as to the proximity and availability of infrastructure and compatibility. The subject property is located in the Florida Cities Utility franchise for potable water and Lee County Utilities for sewer services. Fire protection will be provided by the Iona-McGregor Fire District and police protection by the Lee County Sheriff's Department. Given the availability of the on-site utilities, the subject property would be adequately served.

There are other commercial parcels along McGregor Boulevard and with the limited uses and conditions placed on the property, the proposed rezoning would be compatible with the uses in the area; however there are some residential uses to the north of the subject property. Policy 5.1.5 protects existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. The LDC does not require a buffer along the north or west property lines as the properties are zoned AG-2 and are vacant. Even though the property to the north is vacant, it is located in an existing residential subdivision. By conditioning the plan to place a buffer along the north property line to form a continuous visual screen would provide an adequate buffer to the residences of the subdivision.

Lee Plan Goal 6 and 6.1 require commercial development to be at appropriate locations within the county. Commercial development shall be consistent with Policy 6.1.1 and 6.1.2 which address site location standards. The subject property is considered a minor commercial project because it is less than two acres in size. This requires the development to be on or near the intersection (within 330 feet of the adjoining rights-of-way of the intersection roads) of a local and collector, local and arterial, or collector and collector roads. McGregor Boulevard is an arterial road and Amazon Lane is a local road (unpaved) according to the Lee County Official Trafficways Map, therefore the location of the subject property meets the site location requirement. It should be noted, however, that the staff recommendation for office use only is partially based upon access issues. Some of the requested retail uses could generate more traffic which could create potential problems given the proximity of nearby roads and driveways and the potential of turning movements across a 5-lane arterial highway. Uses should be limited to low traffic generators.

The proposed development, as conditioned is consistent with the following policies:

Policy 6.1.4 which maintains that commercial development shall be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities. The property is in an area that has some existing commercial development and with the limited uses placed on the property, the proposed rezoning would be compatible.

Policy 6.1.6 requires commercial development to provide adequate and appropriate landscaping, open space, and buffering. The development must comply with Chapter 10 of the LDC and obtain a Development Order which will address landscaping, open space and buffering. The

development must provide a Type "A" buffer that is 5 feet wide consisting of 4 trees per 100 linear feet along the east property line and a Type "D" 15 foot wide buffer along McGregor Boulevard with 5 trees per 100 linear feet and a hedge that must be planted in double staggered rows and be maintained so as to form a 36 inch high continuous visual screen within one year after time of planting. The applicant has requested deviation #2 to eliminate the buffer along the east property line which is addressed under Deviation Discussion. As described earlier, the abutting properties to the north and west are vacant therefore, a buffer is not required. Staff is concerned with the residential uses to the north and is recommending a buffer be placed along the north property line to provide a barrier between the proposed commercial development and the residential uses.

Based on the foregoing analysis and with the recommended conditions, Staff finds the request CONSISTENT with the Lee Plan.

Neighborhood Compatibility

The abutting property to the east is zoned C-1 and is developed with a contractors office. Further east is a vacant 0.85± acre parcel zoned CN-1. Across McGregor Boulevard to the south is a 0.80± parcel zoned AG-2, developed with a single family residence that was built in 1962. To the southwest is a telephone switching station on a 2.07± acre parcel zoned MH-1 and to the southeast is Jacaranda Drive and vacant AG-2 lots. Adjacent properties to the north are lots within Block D of Cottage Point Subdivision that are mostly vacant but there are some lots developed with single family homes. There are no single family homes immediately adjacent to the subject property. A vacant 20,000± square foot lot zoned AG-2 is located to the west then Amazon Lane. Further west is a vacant triangular shaped parcel zoned AG-2 then a 0.95± acre parcel zoned CPD. The property was rezoned in 1990 to CPD however, the MCP has been vacated and the property is currently vacant.

The applicant has requested a mixture of commercial uses. While office uses are appropriate, the more intense retail type uses would not be compatible due to their longer hours of operation, traffic issues, and buffering needs. Also, the site is very small and access is problematic.

Deviation Discussion

The MCP, if adopted would deviate from two Lee County development standards. The deviations are addressed below (See Attachment C for the applicant's justification for the deviations).

Deviation #1 requests relief from LDC Section 10-285 which requires 660 feet intersection separation for an arterial road, to 125 feet from Jacaranda Drive and Amazon Lane and 110 feet from the adjacent driveway. The subject property does not have any other possible site access. There are no internal connecting roads or access easements to directly connect to Amazon Lane or align with Jacaranda Drive, across McGregor Boulevard to the southeast. Granting the deviation will allow site access. Staff recommends **APPROVAL** of deviation #1 (see Attachment D).

Deviation #2 requires relief from LDC Section 10-416(d) (3 & 4) Which requires a 5 foot wide Type A buffer along the east property line, to eliminate the buffer along the east property line. The purpose and intent of the landscape code (LDC Section 10-412) includes:

- Promoting the health, safety and welfare of residents of Lee County by establishing minimum uniform standards for the installation of landscaping;
- Improving the aesthetic appearance of commercial developments;
- Providing benefits to persons through open space and landscaping by reducing noise and glare;
- Screening and buffering the harsher visual aspects of urban development; and
- Improving environmental quality by reducing and reversing air, noise, heat and chemical pollution through the preservation of native vegetation, relocation of native trees and installation of landscaping.

The applicant's basis for this deviation is that "the proposed development is compatible with the adjoining C-1 office building. The project is small in size, the intended use and limited intensity will not present any nuisances or incompatible land use patterns. Eliminating the buffer along the east property line will benefit the project by reducing overall site development and maintenance costs."

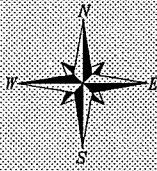
The development would be required to provide an "A" type buffer that is 5 feet wide consisting of 4 trees per 100 linear feet along the east property line and a type "D" buffer, 15 feet wide with 5 trees per 100 linear feet and a hedge along McGregor Boulevard. The hedge must be planted in double staggered rows and be maintained so as to form a 36 inch high continuous visual screen within one year after time of planting. The north and west abutting properties are vacant and zoned AG-2 which does not require a buffer; however, Staff is recommending the applicant provide a buffer along the north property line to protect the residential uses.

ES Staff does not believe that the applicant's basis demonstrates the elimination of the buffer along the east property will enhance the planned development or how the intent of the code will be met (see Attachment E). ES Staff cannot support the requested deviation and recommends **DENIAL of deviation #2.**

IV. ATTACHMENTS:

- A. Map of surrounding zoning
- B. Applicant's project description
- C. Applicant's deviation justification
- D. Memorandum from Development Services-Development Order Review Staff, dated 4/17/99
- E. Memorandum from Division of Planning-Environmental Staff dated 5/6/99.

cc: Applicant
County Attorney
Zoning/DCI File



Zoning Map

99-03-2571.022



A

Project Description -- The Massey Building Minor CPD

The Application for Public Hearing is to rezone an approximately 20,000 sq.ft. platted lot (1/2 acre plus or minus) from AG-2, to Minor CPD. The site primarily consists of scattered Australian and slash pines. It is located within the Future Suburban Land Use category, along South McGregor Blvd. and between the intersections of Amazon Lane and Jacaranda Drive.

The goal of the Massey Building Minor CPD is to rezone the property so as to permit a maximum of 4,800 sq.ft. of specialized retail and non-store retail establishment. The primary goods and services to be offered are specialized sporting goods, featuring wind surfing and ocean kayaking equipment. The project will offer sales, service, rentals and lessons. These uses are to be in one building. Other uses listed within the projects Use Schedule are based upon the CN-1 and CN-2 zoning district. The project calls for direct access onto McGregor Blvd. Finally, no phasing plan has been developed nor identified for the project.

RECEIVED
MAR 23 1999
PERMIT COUNTER

99-03-251.02 Z 01.01
PROJECT # _____
PROJECT TYPE _____ 13

B

Revised Basis of Deviations Report –
The Massey Building Minor CPD

D.1 A request to deviate from the LDC 10-285, Connection Separation, that requires a 660-ft. intersection separation along an arterial road, to permit a minimum 110-ft. intersection separation.

The basis of this request is that the subject platted lot does not feature any other possible site access. No internal connecting roads or access easements exist to directly connect to Amazon Lane or align with Jacaranda Drive. Reflecting the fact that there is no other practical access available to the site, within the context of the very limited nature of the Minor CPD request (4,800 sq.ft.), the request is the minimum necessary. Hence, the project will benefit from the deviation by obtaining site access. The deviation will not cause any deleterious effects upon the public at large. Finally, the nature of this request is such that no separate graphic illustration is required (see Master Concept Plan).

D.2 A request to deviate from the LDC 10-416(d)(3&4), Commercial to Commercial Site Perimeter Buffering, which requires a Type A buffer along the sites east boundary, to eliminate the east boundary perimeter buffer requirement.

The basis of this request is that the Massey Minor Commercial Planned Development is compatible with the adjoining C-1 office building land use. The project's small size, intended use and very limited intensity will not present any nuisances or incompatible land use patterns. The deviation will benefit the project by reducing overall site development and maintenance costs. Given the small size and small lot commercial orientation of the site and surrounding properties, the deviation will not cause any deleterious effects upon the public at large. Finally, the nature of this request is such that no separate graphic illustration is required (see Master Concept Plan).

MEMORANDUM
FROM THE
DEPARTMENT OF
COMMUNITY DEVELOPMENT
DEVELOPMENT SERVICES DIVISION

DATE: April 17, 1999

TO: Nettie Richardson
Senior Planner

FROM: Robert A. Hay *RA Hay*
Development Review Repr. II

RE: Massey Commercial Building
Case 99-03-251.02Z 01.01

Responding to your request for substantive comments on the reference project, Development Services can offer the following:

Deviation No.1. A request to deviate from L.D.C. Section 10-285(a) which requires a connection separation distance of 660 feet along a arterial, to allow minimum distances of 125 feet from Jacaranda Drive and Amazon Lane, and 110 feet from the northern adjacent driveway.

We recommend approval of this request.

Please let me know if you have any questions or comments.

**MEMORANDUM
FROM
DEPARTMENT OF COMMUNITY DEVELOPMENT
DIVISION OF PLANNING: ENVIRONMENTAL SCIENCES**

Date: May 6, 1999

**To: Nettie Richardson
Senior Planner / Development Services**

From: Kim Trebatoski 
Environmental Planner

**Re: Staff Report: Massey Commercial Building CPD
Case 99-03-251.02Z 01.01
Master Concept Plan Counter Stamped March 23, 1999**

Division of Planning / Environmental Sciences staff have reviewed the above referenced project and conducted a site inspection on April 30, 1999. The following are ES findings:

Vegetation:

The parcel contains a dense growth of exotic vegetation including Australian pine and Brazilian pepper. A cabbage palm was noted growing amongst the exotic vegetation. Very few native trees are growing on the parcel due to the dense growth of invasive exotics.

Open Space:

Open space is stated as 20% required and provided on the Master Concept Plan. This meets LDC Section 10-415 open space requirements.

Deviation 2:

Deviation 2 is a request to deviate from LDC Section 10-416(d)(3)&(4) buffering adjacent properties, which requires a type A buffer where a commercial parcel abuts another commercial parcel; to provide no buffer along the east side property line. The Type A buffer must be 5 feet wide with 4 trees per 100 linear feet. The eastern property line buffer would be required to have 8 trees.

LDC Section 34-412(a) allows the granting of deviations when the applicant demonstrates the planned development will be enhanced and that the intent of regulations to protect health, safety and welfare will be served. The stated purpose and intent of the landscape code (LDC Section 10-412) includes:

E

99-03-251.02Z

Staff Report: Massey CPD - Case 99-03-251.02Z 01.01

May 6, 1999

Page 2

- Promoting the health, safety and welfare of residents of Lee County by establishing minimum uniform standards for the installation of landscaping;
- Improving the aesthetic appearance of commercial developments;
- Providing benefits to persons through open space and landscaping by reducing noise and glare;
- Screening and buffering the harsher visual aspects of urban development; and
- Improving environmental quality by reducing and reversing air, noise, heat and chemical pollution through the preservation of native vegetation, relocation of native trees and installation of landscaping.

ES staff requested information on how Deviation 2 will enhance the planned development and meet the intent of the landscape code per LDC Section 34-412(a) requirements. A revised justification with the requested information was not provided.

The information received regarding Deviation 2 does not demonstrate how the proposed elimination of the Type A buffer enhances the planned development or how the intent of the code will be met. ES staff cannot support a deviation without a justification per LDC Section 34-412(a). ES staff recommend **DENIAL** of Deviation 2.

E

99-03-251.002

INSTRUCTIONS

(Section C.1.c., Lee County Administrative Code A-2-8)

A zoning sign must be posted on the parcel subject to any zoning application for a minimum of ten (10) days in advance of the Hearing Examiner's Public Hearing and maintained through the Board of County Commissioners Hearing, if any. This sign will be provided by the Development Services Division in the following manner:

- a. Signs for case #99-03-251.02Z 01.01 must be posted by May 21, 1999.
- b. The sign must be erected in full view of the public, not more than five (5) feet from the nearest street right-of-way or easement.
- c. The sign must be securely affixed by nails, staples or other means to a wood frame or to a wood panel and then fastened securely to a post, or other structure. The sign may not be affixed to a tree or other foliage.
- d. The applicant must make a good faith effort to maintain the sign in place, and readable condition until the requested action has been heard and a final decision rendered.
- e. If the sign is destroyed, lost, or rendered unreadable, the applicant must report the condition to the Development Services Division, and obtain duplicate copies of the sign from the Development Services Division.

The Division may require the applicant to erect additional signs where large parcels are involved with street frontages extending over considerable distances. If required, such additional signs must be placed not more than three hundred (300) feet apart.

When a parcel abuts more than one (1) street, the applicant must post signs along each street.

When a subject parcel does not front a public road, the applicant must post the sign at a point on a public road which leads to the property, and the sign must include a notation which generally indicates the distance and direction to the parcel boundaries and the dimensions of the parcel.

NOTE: AFTER THE SIGN HAS BEEN POSTED, THE AFFIDAVIT OF POSTING NOTICE, BELOW, SHOULD BE RETURNED NO LATER THAN THREE (3) WORKING DAYS BEFORE THE INITIAL HEARING DATE TO LEE COUNTY DEVELOPMENT SERVICES DIVISION, 1500 MONROE ST., FT. MYERS, FL 33901.

(Return the completed Affidavit below to the Development Services Division as indicated in previous paragraph.)

AFFIDAVIT OF POSTING NOTICE

STATE OF FLORIDA
COUNTY OF LEE

BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED _____

WHO ON OATH SAYS THAT HE/SHE HAS POSTED PROPER NOTICE AS REQUIRED BY SECTION 34-236(b) OF THE LEE COUNTY LAND DEVELOPMENT CODE ON THE PARCEL COVERED IN THE ZONING APPLICATION REFERENCED BELOW:

Manuel Garcia
SIGNATURE OF APPLICANT OR AGENT _____
 MANUEL GARCIA
NAME (TYPED OR PRINTED) _____
 1342 COLONIAL BLVD SUITE 31
ST. OR PO BOX _____
 FORT MYERS, FL 33907
CITY, STATE & ZIP _____

#99-03-251.02Z 01.01/Massey Comm Bldg/June 2, 1999

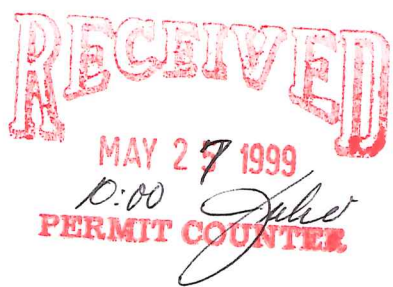
STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to and subscribed before me this 27 day of May, 1999, by Manuel Garcia, personally known to me or who produced _____ as identification and who ~~did~~ did not take an oath.



Julia A. Enloe
Signature of Notary Public _____

Printed Name of Notary Public



RECEIVED
MAR 23 1999
PERMIT COUNTER



APPLICATION FOR PUBLIC HEARING FOR PLANNED DEVELOPMENT

Applicant's Name: ROY MASSEY
Project Name: MASSEY COMMERCIAL BUILDING
STRAP Number(s): 02-46-23-01-0000C. 0140
Application Form: Computer Generated* County Printed

* By signing this application, the applicant affirms that the form has not been altered.

STAFF USE ONLY

Commission District: 03 Land Use Classification(s): SUB
Current Zoning: AG20 Lee Plan Density Range: 1-6
Case Number: 99-03-251 02Z-01-01 Fee: 3,000
Date of Application: 03/23/99 Date Fee Paid: 03/23/99
Date HEX Public Hearing: _____ Receipt Number: 4055
Intake By: [Signature]

TYPE OF APPLICATION

DRI PD - Existing Development
 DCI - Major PD - Amendment
 DCI - Minor OPTION 1 OPTION 2

DEPARTMENT OF
COMMUNITY DEVELOPMENT
ZONING & DEVELOPMENT SERVICES DIVISION
1831 HENDRY STREET P.O. BOX 398
FORT MYERS, FLORIDA 33902
PHONE (941) 335-2235

PART I - EXPLANATORY NOTES

GENERAL

THE APPLICANT MUST PAY THE APPLICATION FEE SET FORTH IN THE COUNTY EXTERNAL FEES AND CHARGES MANUAL. (ADMINISTRATIVE CODE 3-10 APPENDIX C)

UPON WRITTEN REQUEST, THE DIRECTOR MAY MODIFY THE SUBMITTAL REQUIREMENTS CONTAINED IN THIS SECTION IF THE APPLICANT CLEARLY DEMONSTRATES THAT THE SUBMISSION WILL HAVE NO BEARING ON THE REVIEW AND PROCESSING OF THE APPLICATION. THE REQUEST AND THE DIRECTOR'S WRITTEN RESPONSE MUST ACCOMPANY THE APPLICATION SUBMITTED AND WILL BECOME A PART OF THE PERMANENT FILE.

EXPLANATORY NOTES FOR PART I

- A. Applicant's Name: Application may be made by the landowner or the authorized agent. [Sec. 34-201(a)] Where there is more than one owner, either legal or equitable, then all such owners must jointly initiate the application. Exceptions to this are:
- 1) It is not required that both husband and wife initiate the application on private real property owned by them.
 - 2) Where the property is subject to a land trust agreement, the trustee may initiate the application.
 - 3) Where the fee owner is a corporation, any duly authorized corporate official may initiate the application.
 - 4) Where the fee owner is a partnership, the general partner may initiate the application.
 - 5) Where the fee owner is an association, the association may appoint an agent to initiate the application on behalf of the association.
 - 6) Where the property is a condominium or time-share condominium, refer to Sec. 34-201(a)(1)b. for rules.
 - 7) Where the property is a subdivision, refer to Sec. 34-201(a)(1)c. for rules.
 - 8) Rezoning initiated by the Board of County Commissioners (BOCC) on property not owned by the County.
- B. *Relationship of applicant to owner: If the applicant is not the owner of the property or the person authorized to represent the owner through the Covenant of Unified Control, the applicant must submit proof of authority to represent the owner. This may be accomplished with a notarized authorization form from the owner or his authorized representative. Label this submittal as Exhibit I-B-1. [Sec. 34-202(b)(1)].*
- If the owner does not desire to sign the attached Covenant of Unified Control he may submit an alternate document for consideration by the County Attorney's office prior to submitting the application for rezoning. A copy of the County Attorney's approval of the document must be submitted with the application.*
- If the application is County-initiated by the BOCC, attach a copy of the "blue sheet" whereby the action was authorized. Label the copy as Exhibit I-B-2.
- Submit a list of the names of all property owners and their addresses for property included within the requested action. Label as Exhibit I-B-3. [Sec. 34-202(a)(5)]
- C. Name of owner (s): see F. below
- D. Date property was acquired by present owner(s). If the County initiated the rezoning and does not own the property or have it under contract for purchase, enter "Not Applicable".
- E. If the request is County-initiated and the County is not purchasing the property, enter "Not Applicable".
- F. Disclosure Form: Except for County-Initiated rezonings, a Disclosure Form (Exhibit I-F, attached) must be submitted for any entity whose interest in the property is other than solely equity interest(s) which are regularly traded on an established commodities market in the United States or another Country. [Sec. 34-201(b)(2)]
- G. *Existing Deed Restrictions: A copy of the deed restrictions on the subject property, if any, and a statement as to how the deed restrictions may affect the requested action must be submitted.*
- H. Authorized Agent(s): If the owner or applicant has authorized agent(s) to act on his/her behalf, list the agent(s) name, mailing address and phone number. If County-initiated, enter "Not Applicable". [Sec. 34-202(b)(1)]

PART I

APPLICANT/PROPERTY OWNERSHIP INFORMATION

A. Name(s) of applicant(s): ROY MASSEY
Mailing Address: Street: 16340 SAN CARLOS BLVD, SUITE 1
City: FORT MYERS State: FL Zip: 33908
Phone Number: Area Code: 941 Number: 274-9124 Ext: _____
Fax Number: Area Code: 941 Number: 274-9125

B. Relationship of applicant to property:

_____ Owner _____ Trustee _____ Option holder
_____ Lessee _____ Contract Purchaser
_____ Other (indicate): _____

If applicant is NOT the owner or the person authorized by the Covenant of Unified Control, submit a Notarized Authorization Form from the owner or his authorized representative. Label as Exhibit I-B.

* If the application is County-initiated, enter the date the action was initiated by the Board: _____
Attach a copy of the "blue sheet" and a list of all property owners, and their mailing addresses, for all properties within the area described. Names and addresses must be those appearing on the latest tax rolls of Lee County. Label the "blue sheet" as "Exhibit I-B-2" and the list as "Exhibit I-B-3". [Sec. 34-202(a)(5)]

✓ C. Name of owner(s) of property: Edward H. Olling Grantor Revocable Trust, dated 3/6/96,
Carole L. Olling, Trustee.

Mailing Address: Street: P.O. Box 6434
City: Ft. Myers State: FL Zip: 33911
Phone Number: Area Code: 941 Number: 332-2517 Ext: _____
Fax Number: Area Code: 941 Number: 458-0043

✓ D. Date property was acquired by present owner(s): 4/20/84

E. Is the property subject to a sales contract or sales option? _____ NO YES
F. Is owner(s) or contract purchaser(s) required to file a disclosure form? _____ NO YES. If yes, please complete and submit Exhibit I-F (attached).

G. Are there any existing deed restrictions or other covenants on this property which may affect this request?
 NO _____ YES. If yes, submit a copy of the deed restrictions or other covenants and a statement explaining how the restrictions may affect the requested action. Label as "Exhibit I-G".

H. Authorized Agent(s): List names of authorized agents (submit additional sheets if necessary).

Name: SOUTHWEST ENGINEERING / STUART & ASSOCIATES
Address: 1342 COLONIAL BLVD SUITE 31 FT. MYERS, FL 33907
Phone: 274-9124 Fax: 274-9125

PART II - EXPLANATORY NOTES

A. Nature of Request:

1. If for rezoning to a Planned Development district, indicate the zoning classification(s) being requested.
2. If not for rezoning provide specific details of the action requested. (eg. Amendment to PD. Etc),

B. Legal Description: **If rezoning to more than one district, a separate legal description must be provided for each classification requested. [34-373(a)(1)]**

If the property is not within a platted subdivision recorded in the official plat books of Lee County, a complete legal description must be attached which is sufficiently detailed and legible so as to be able to locate said property on county maps or aerial photographs. The legal description must include the Section, Township, Range, and parcel number(s). [34-202(a)]

If the application includes multiple contiguous parcels, the legal description may describe the perimeter boundary of the total area, and need not describe each individual parcel, except where different zoning requests are made on individual parcels. Label the legal description as Exhibit II-B-1. [34-202(a)]

If the request is owner-initiated, a survey or boundary sketch, drawn to scale shall also be submitted unless the subject property consists of one or more undivided platted lots. The boundary sketch shall include the location of any existing structures on the property, Label the Boundary Sketch as Exhibit II-B-2. [34-202(a)]

The Director has the right to reject any legal description which is not sufficiently detailed or legible so as to locate said property, and may require a certified survey or boundary sketch to be submitted. [Sec. 34-202(b)(2)]

C. Project Street Address: If the street address is unknown, the address may be obtained from the Lee County E-911 Addressing Division at (941) - 338-3200.

D. General Location: The general location should reference known major streets so as to indicate to the general public the location of the property. A property location map must be submitted. Label the map as Exhibit II-D. [34-202(a)(4)]

E-1. Lee Plan Information: List the current Lee Plan Land Use Classification of the subject parcel(s).

E-2. Lee Plan Information. Submit a copy of any amendment being proposed to the Lee Plan by the applicant which may affect the subject property as well as the Planning Division's reference number for the amendment. Label the proposed amendment as Exhibit II-E-1. Attach a statement as to how the amendment will affect your property. Label the statement as Exhibit II-E-2. [Sec. 34-202(a)(8)]

OR BK 03182 PG 0235

FART II
GENERAL INFORMATION

A. Request:

1. Rezoning from AG-2 TO:(check all applicable)

- | | |
|--|--|
| <input type="checkbox"/> RPD - Residential | <input type="checkbox"/> MPD - Mixed Use |
| <input type="checkbox"/> MHPD - Mobile Home | <input type="checkbox"/> RVPD - Recreational Vehicle |
| <input checked="" type="checkbox"/> CPD - Commercial | <input type="checkbox"/> CFPD - Community Facilities |
| <input type="checkbox"/> IPD - Industrial | <input type="checkbox"/> AOPD - Airport Operations |

2. Option Chosen: Option 1 [34-373(a)(6)a] Option 2 [34-373(a)(6)b]

3. Other - Provide specific details. _____

B. Legal Description and Boundary Sketch: Is property within a platted subdivision recorded in the official Plat Books of Lee County?

NO. Attach a legible copy of the legal description (label it Exhibit II-B-1.) and Boundary Sketch labeled Exhibit II-B-2.).

YES. Property is identified as:

Applicant's Legal Checked
by JD 3/25/99

Subdivision Name: COTTAGE POINT

Plat Book: 9 Page: 133 Unit: _____ Block: C Lot: 14

Section: 02 Township: 46 Range: 23

Attach a copy of the Plat Book page with subject property clearly marked. Label this Exhibit II-B-3.

C. Project Street Address: 16842 MCGREGOR BLVD

D. General Location Of Property (referenced to major streets): MCGREGOR BLVD

125 FEET NORTHEAST OF AMAZON LANE

E. Lee Plan Information

1. Lee Plan Land Use Classification: SUBURBAN

2. Are you proposing any Lee Plan amendments which could affect the subject property? NO

YES. If yes, submit a copy of the proposed amendment (labeled as "Exhibit II-E-1") along with a statement as to how the proposed amendment will affect your property (labeled as "Exhibit II-E-2").

F. Drainage, Water Control and Other Environmental Issues

1. Is the property within an Area of Special Flood Hazard as indicated in the Flood Insurance Rate Maps (FIRM)s? NO YES. If yes, specify the minimum elevation required for the first habitable floor). _____ NGVD (MSL)

EXPLANATORY NOTES (Cont)

F.2. If environmentally sensitive areas exist on the site, an environmental assessment must be prepared that examines the existing conditions, addresses the environmental problems, and proposes means and mechanisms to protect, conserve, or preserve the environmental and natural resources. (See Sec. 34-1573). (Sec. 34-373)

H. **Property Dimensions:** If the parcel is irregularly shaped, indicate the average width and depth of the property. Indicate the length of property abutting any existing street rights-of-way or easements. If property abuts more than one street, indicate frontage on each street. [Sec 34-202(b)(9)]

The total area (in square feet or acres) of the property.

I. **Land Area Calculations**

1. **Undevelopable Areas:** Insert the area of land identified as undevelopable by the following terms:

a. *Freshwater wetlands*

b. *Other wetlands*

c. *Submerged land subject to tidal inundation. The area of land which is submerged and is subject to tidal inundation.*

2. Are there any environmentally sensitive lands such as, but not limited to: wetlands (as defined in the Lee Plan); flow-ways, creek beds, sand dunes, other unique land forms [see Lee Plan Policy 77.1 (2)] or listed species occupied habitat (see Sec. 10-474 of the Land Development Code) on the subject property? NO YES If yes, delineate these areas on a map or aerial photo and label it Exhibit II-F-1. Also, complete Exhibit II-F-2. attached hereto.

G. Present Use of Property: Is the property vacant? NO YES

If the property is not vacant, the owner or applicant's signature on this application indicates that the Owner agrees to either remove all existing buildings and structures, OR that the proposed use of the building or structure(s) will be in compliance with all applicable requirements of the Land Development Code. [Sec. 34-202(b)(3)]

Briefly describe current use of the property: _____

H. Property Dimensions

- 1. Width (average if irregular parcel): 100' Feet
- 2. Depth (average if irregular parcel): 200' Feet
- 3. Frontage on road or street: 100' Feet on McGREGOR BLVD
(Name of street)
- 4. Total land area: 20,000 ~~Acres~~ Square Feet

I. Land Area Calculations

- 1. Undevelopable Areas:
 - a. Freshwater wetland areas 0
 - b. Other wetland areas 0
 - c. Submerged land subject to tidal influence: 0
 - d. Total (a + b + c): 0
- 2. Remaining developable land (H.4 less I.1.d): 20,000sf

PART III - EXPLANATORY NOTES

- A. 5. *Aviation Hazard: If your project is near any commercial or general aviation facility or within any area delineated on the Lee County Port Authority Airspace Notification Map as a notification area, describe any structures (including proposed communication towers), lighting, or other features which could adversely affect safe flight, and labeled it Exhibit III.A.5. Refer to Section 34-1001 et seq.*

**PART III
PROPOSED DEVELOPMENT**

A. Nature of Request

1. Will the development contain living units? NO YES. If the answer is yes, please indicate the total number of living units proposed, by type:

 — Single Family — Mobile Homes — Recreational Vehicles
 — Zero-Lot-Line — Duplex/Two Family — Townhouses
 — Multiple Family — TOTAL ALL TYPES

2. If the development will contain living units, please complete Exhibit III-A-2 (attached) and enter the following information:

a. PERMITTED total units (from Exhibit III-A-2): —
b. PROPOSED total units (from A-1. above): —
c. PROPOSED density (from Exhibit III-A-2): —

3. Will the development contain non-residential areas? NO YES. If the answer is yes, please indicate the size [gross square footage (gsf) unless indicated otherwise] of each general class of uses below:

Retail: 4800 Total gsf

Offices: — Total gsf

Medical: — gsf Non-medical: — gsf

Hotel/Motel: — Total units

Size of units: — 0-425 sq. Ft. — 426-725 sq. Ft. — 726 or more sq. Ft.
(number) (number) (number)

Industrial: — Total gsf

Under roof: — gsf Not under roof: — gsf

Mines, Quarries, or General Excavation:

Acres to be excavated: 0

Other-specify: _____

Number of Beds (if applicable): _____ OR: _____ gsf

4. Building Height

 25 Maximum height of buildings

 1 Number of Habitable Floors

5. Aviation Hazard: Do you propose any structures, lighting, or other features that might affect safe flight conditions? NO YES. If yes, please submit an explanation and label it Exhibit III-A-5.

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PART III EXPLANATORY NOTES (cont)

B. Facilities

1. **Fire District:** List the Fire District in which the property is located.

2. **Water Supply:**

a. Estimate the daily consumption of potable water by the proposed project.

For residential projects, use 250 gpd (gallons per day) per unit. If the water treatment facility serves only mobile homes or recreational vehicles, the following figures may be used:

Mobile Homes use 187.5 gpd. per unit.

Recreational Vehicles use 150 gpd. per unit.

For all other types of projects, show calculations and source of consumption rates utilized.

b. *If the property lies wholly or partly in the certificated franchised service area of an established water utility, name the utility company.*

If a private, on-site, potable water system is proposed, please provide a description of the system.

d. *Source of non-potable water service: If a separate system is proposed for non-potable (irrigation) water uses, please specify the source.*

3. **Sanitary Sewer Service.**

a. **Estimated daily production of wastewater**

For residential projects use 200 gpd (gallons per day) per unit. If the sewage treatment facility serves only mobile homes or recreational vehicles, the following figures may be used:

Mobile Homes use 150 gpd per unit.

Recreational Vehicles use 120 gpd per unit

For all other types of projects, show calculations and source of consumption rates utilized.

b. *If any special types of effluent can be anticipated, please submit Exhibit III.B.3. (attached)*

c. *If the property lies wholly or partly in the certificated or franchised service area of an established sanitary sewer district or sewer utility name the utility.*

e. *If a private, on-site, wastewater treatment and disposal facility is proposed, please submit Exhibit III.B.3 (attached).*

B. Facilities

1. Fire District: IONA-MCGREGOR FIRE DISTRICT

2. Water Supply

a. Estimated daily consumption of potable water:

1. Residential units: - gpd

2. Mobile Home units: - gpd

3. Rec. Vehicle units: - gpd

4. Commercial: 300 gpd

5. Industrial: - gpd

b. Source of potable water: FLORIDA CITIES WATER COMPANY

c. Do you have a written agreement from the utility company to serve your project? - YES. If yes, please submit a copy of the agreement. - NO

d. Source of Non-potable water: _____

3. Sanitary Sewer Service

a. Estimated daily production of wastewater:

1. Residential units: - gpd

2. Mobile Home units: - gpd

3. Recreational Vehicles: - gpd

4. Commercial: 300 gpd

5. Industrial: - gpd

b. Is any special effluent anticipated? NO YES. If yes, please complete Exhibit III-B-3 (attached).

c. Source of sanitary sewer service: LEE COUNTY UTILITIES

d. Do you have a written agreement from the utility company to serve your project? YES. If yes, please submit a copy of the agreement. NO

e. Will a private on-site disposal facility be used? NO YES. If yes, please complete Exhibit III-B-3 (attached).

f. Are individual sewage disposal systems proposed? NO YES.

C. Transportation

1. Has this project been exempted from filing a Traffic Impact Statement? NO YES
- NOT REQUIRED (Exist. development). If it has been exempted, attach a copy of the exemption and label it Exhibit III-C.

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PART IV - Explanatory Notes for Exhibits not previously discussed.

Surrounding Property Owners List : A complete list of all property owners, and their mailing addresses, for all property within three hundred seventy-five (375) feet [five hundred (500) feet if for a COP] of the perimeter of the subject property or the portion thereof that is the subject of the request. Names and addresses of property owners shall be deemed to be those appearing on the latest tax rolls of the County. The applicant is responsible for the accuracy of such list. [Sec. 34-202(a)(6)]

Property Owners Map: A County Zoning map or other similar map displaying all of the parcels of property within three hundred seventy-five feet [five hundred (500) feet if for a COP] of the perimeter of the subject parcel or the portion thereof that is the subject of the request, referenced by number or other symbol to the names on the property owners list. The applicant shall be responsible for the accuracy of the map. [Sec. 34-202(a)(7)]

Unified Control Documentation. A notarized document (see Exhibit IV-D) corroborating unified control over the subject parcel. [Sec. 34-373(a)(3)]

If the owner does not desire to sign the attached Covenant of Unified Control he may submit an alternate document for consideration by the County Attorney's office prior to submitting the application for rezoning.

Existing Conditions: [Sec. 34-373(a)(4)] NOTE: If more than one of the following requirements is shown on the same set of maps or photos, please mark the document with all appropriate exhibition numbers.

Existing zoning and current uses: Show existing zoning and current land uses surrounding the property to a distance of 375 feet.

Soils, vegetation and ground cover: Classified in accordance with USDA/SCS system and the Florida Land Use and Cover Classification System, respectively

Topography: Provide a Lee County Topographical map (if available).

Public Transit: Show the property in relation to existing and proposed public transit routes and bus stops, including what facilities exist at the bus stop.

Protected Species Survey: As required by Section 10-473 of the Land Development Code.

Environmental Assessment: Areas of encroachment by undesirable exotic (floral) species, the line of mean high water, and jurisdictional boundaries of state and federal agencies, and Coastal Construction Setback Lines. If the site contains unique landforms or biological areas such as creek beds, sand dunes, coastal or interior hammocks, or old growth pine flatwoods, additional information may be required including wildlife and plant inventories and hydrologic details, in order to identify the highest quality biological communities and develop suitable conservation measures. Please contact the Lee County Division of Environmental Sciences at 335-2477 with any questions concerning this environmental assessment.

Master Concept Plan: Refer to Sec. 34-373(a)(6)a.3. or b. 3. AND 34-373(a)(7)a. for information.

Schedule of Uses: [Sec. 34-373(a)(7)]

1. A summary of the kinds of uses proposed for the entire site (for projects containing residential uses, this shall include the types of proposed dwelling units);
2. The units (gross square feet for commercial/industrial uses, number of units for residential, motel/ hotel uses, beds for institutional types of uses, etc.) of each kind of use for the entire site;
3. For developments containing uses for which the parking requirements are to be determined by the Director, the number of parking spaces proposed for those uses.

PART V

AFFIDAVIT

I, MANUEL GARCIA
SOUTHWEST ENGINEERING certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of the Lee County Department of Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made thru this application.

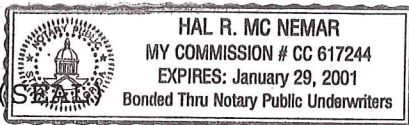
Manuel Garcia
Signature of Owner or Owner-authorized Agent

3/23/99
Date

MANUEL GARCIA "AGENT"
Typed or printed name and title

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 23 day of MARCH 1999, by MANUEL GARCIA who is personally known to me or who has produced _____ as identification.



Hal R. Mc Nemar
Signature of notary public

Hal R. Mc Nemar
Printed name of notary public

99-03-251.02 Z 01.01

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**EXHIBIT I-F
DISCLOSURE OF INTEREST FORM FOR:**

STRAP NO. 02-46-23-01-0000C.0140 CASE NO. _____

1. If the property is owned in fee simple by an INDIVIDUAL, tenancy by the entirety, tenancy in common, or joint tenancy, list all parties with an ownership interest as well as the percentage of such interest.

Name and Address	Percentage of Ownership
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

2. If the property is owned by a CORPORATION, list the officers and stockholders and the percentage of stock owned by each.

Name, Address, and Office	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

3. If the property is in the name of a TRUSTEE, list the beneficiaries of the trust with percentage of interest.

Name and Address	Percentage of Interest
<u>Carole L. Olling</u>	<u>1/3</u>
<u>P.O. Box 913</u>	
<u>Ft. Myers, Fl. 33902</u>	
<u>Linda S. Prince</u>	<u>1/3</u>
<u>1031 Bentwater Dr.</u>	
<u>Montgomery, Texas 77356</u>	
<u>Charles B. Olling</u>	<u>1/3</u>
<u>P.O. Box 4705</u>	
<u>Downey, Calif. 90241-1705</u>	

4. If the property is in the name of a GENERAL PARTNERSHIP OR LIMITED PARTNERSHIP, list the names of the general and limited partners.

Name and Address	Percentage of Ownership
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(over)

5. If there is a CONTRACT FOR PURCHASE, whether contingent on this application or not, and whether a Corporation, Trustee, or Partnership, list the names of the contract purchasers below, including the officers, stockholders, beneficiaries, or partners.

Name, Address, & Office(if applicable)	Percentage of Stock
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Date of Contract: _____

6. If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership, or trust.

Name and Address	
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

For any changes of ownership or changes in contracts for purchase subsequent to the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest shall be filed.

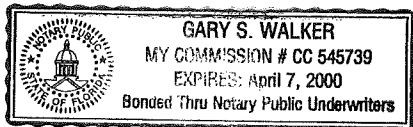
The above is a full disclosure of all parties of interest in this application, to the best of my knowledge and belief.

Signature: Carole L. Olling, Trustee
 (Applicant)
Carole L. Olling, Trustee
 (Printed or typed name of applicant)

STATE OF FLORIDA
 COUNTY OF LEE

The foregoing instrument was acknowledged before me this 20th day of MARCH, 1999, by CAROL L. OLLING, who is personally known to me or who has produced FL DL# 0452112526870 as identification. .

(SEAL)



[Signature]
 Signature of Notary Public

GARY S. WALKER
 Printed Name of Notary Public

EXHIBIT II-F-2
ENVIRONMENTAL ISSUES

A. Topography: Describe the range of surface elevations of the property: _____

NEARLY LEVEL ELEVATION OF 6.7 - 6.3±

B. Sensitive Lands: Identify any environmentally sensitive lands, including, but not limited to, wetlands (as defined in the Lee Plan), flowways, creek beds, sand dunes, other unique land forms [see Lee Plan Policy 77.1.1 (2)] or listed species occupied habitat (see Sec. 10-4730 of the Land Development Code).

THERE ARE NO APPARENT ENVIRONMENTALLY SENSITIVE LANDS AND/OR LISTED SPECIES ON THE PARCEL.

LETTER OF AUTHORIZATION

RECEIVED
MAR 23 1999

PERMIT CENTER

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as 16842 MCGREGOR BLVD and legally described in exhibit A attached hereto.

The property described herein is the subject of an application for zoning or development. We hereby designate SOUTHWEST ENGINEERING as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

Carole L. Olling, Trustee
Owner
Carole L. Olling, Trustee
Printed Name

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 2nd day of March, 1999, by CAROLE L. OLLING, who is personally known to me or who has produced A FLORIDA DRIVER'S LICENSE as identification.

[Signature]
Notary Public

NOTARY PUBLIC - STATE OF FLORIDA
JAN M. JOHNSON
COMMISSION # CC764954
EXPIRES 8/5/2002
BONDED THRU ASA 1-888-NOTARY1

(Name typed, printed or stamped)

99-03-251.02 Z 01.01
PROJECT # _____
PROJECT TYPE 13

99-03-251.02 Z 01.01

Revised Basis of Deviations Report –
The Massey Building Minor CPD

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PERMIT COUNTER

D.1 A request to deviate from the LDC 10-285, Connection Separation, that requires a 660-ft. intersection separation along an arterial road, to permit a minimum 110-ft. intersection separation.

The basis of this request is that the subject platted lot does not feature any other possible site access. No internal connecting roads or access easements exist to directly connect to Amazon Lane or align with Jacaranda Drive. Reflecting the fact that there is no other practical access available to the site, within the context of the very limited nature of the Minor CPD request (4,800 sq.ft.), the request is the minimum necessary. Hence, the project will benefit from the deviation by obtaining site access. The deviation will not cause any deleterious effects upon the public at large. Finally, the nature of this request is such that no separate graphic illustration is required (see Master Concept Plan).

D.2 A request to deviate from the LDC 10-416(d)(3&4), Commercial to Commercial Site Perimeter Buffering, which requires a Type A buffer along the sites east boundary, to eliminate the east boundary perimeter buffer requirement.

The basis of this request is that the Massey Minor Commercial Planned Development is compatible with the adjoining C-1 office building land use. The project's small size, intended use and very limited intensity will not present any nuisances or incompatible land use patterns. The deviation will benefit the project by reducing overall site development and maintenance costs. Given the small size and small lot commercial orientation of the site and surrounding properties, the deviation will not cause any deleterious effects upon the public at large. Finally, the nature of this request is such that no separate graphic illustration is required (see Master Concept Plan).

99-03-251.02 Z 01.01
PROJECT # _____
PROJECT TYPE _____ 13

LETTER OF AUTHORIZATION

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as 16842 MCGREGOR BLVD and legally described in exhibit A attached hereto.

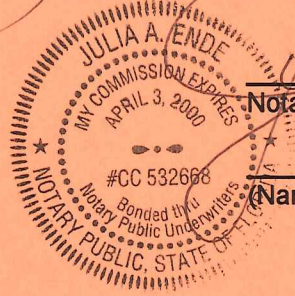
The property described herein is the subject of an application FOR zoning or development. We hereby designate HENDERSON-FRANKLIN as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

Manuel Garcia
Owner AGENT

MANUEL GARCIA
Printed Name

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 7 day of July, 19 99,
by Manuel Garcia, who is personally known to me or who has
produced Manuel Garcia as
identification.



Julia A. Ende
Notary Public
(Name typed, printed or stamped)

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MAR 23 1999

PERMIT COUNTER

Lee Plan Consistency Report -- The Massey Building Minor CPD

The project's appropriateness for Minor CPD zoning approval rests upon its consistency with the Lee Plan. Pursuant to LDC 34-145, the Hearing Examiner and the Board of County Commission shall consider whether the Minor CPD rezoning is consistent with goals objective and policies of the Lee plan. The project is consistent with the Lee Plans Future Land Use Element in the following manner:

Policy 1.1.5 Suburban Future Land Use – The Massey Building Minor CPD is classified as part as Lee County Suburban Future Land Use areas. This land use is characterized by being predominantly residential in nature with limited neighborhood commercial. In this case, the Massey Building Minor CPD is very limited in it's commercial profile. The approximately one-half acre parcel calls for the development of 4,800 sq.ft. of specialty commercial retail uses. The intent of the Minor CPD request is to support a sporting goods, wind surfing and ocean kayaking outfitting store. The request low intensity, use structure and site location is consistent and permitted within the Suburban Future Land Use. Finally, the subject property will meet the Lee Plan Minor Commercial Site Location standard.

- ◆ **Goal 2 Growth Management and Objective 2.1 Development Location -**
The Massey Building Minor CPD is located along the McGregor Blvd. corridor. Along with Summerlin Road, this county maintained arterial serves as a gateway corridor to Lee County's coastal resort and recreational areas. As such, a higher intensive use such as the requested Minor CPD is to be expected and encouraged when compared to the existing AG-2 zoning. This fact is illustrated by the zoning pattern found near the subject property. One finds a number of C-1, CN-1, CC and CPD zoned parcels along McGregor Blvd. near the subject site. As such, it is appropriate that a higher use be zoned for the Massey Building property. In so doing, the Minor CPD will be consistent with Goal 2 and Objective 2.1 in that compact and rational growth and development is supported by the project.

One finds that its location and timing is congruent with public investment in infrastructure. The property is served by central water (FL Cites Water) and central sewer (Lee Co. Utilities). McGregor Blvd. is a 4-lane divided arterial with adequate capacity to sustain the projects limered commercial intensity. Hence, the project is consistent with the goal of coordinating the timing and location of new development to the provision of infrastructure while avoiding the negative impacts of urban sprawl.

Objective 2.2 Development Timing -- The project is consistent with Objective 2.2. This is so in that all infrastructure is in place to support the project. The project is consistent with Policy 2.2.1 in that central water and central sewer are available to the site and those community facilities are available to service the project. From a review of this information, it is clear that the project is consistent with Objective 2.2.location and development timing policy criteria.

PROJECT # 99-03-251.02 Z 01.01
PROJECT TYPE _____

Policy 2.2.2 Development Timing -- The Massey Building Minor CPD project is consistent with 2.2.2. This is so in that the proposed MINOR CPD will not burden already overwhelmed public facilities. Current roadway capacity and water and sewer levels of services have more than adequate capacity to sustain the project.

- ◆ **Goal 4 Development Design, and Policies 4.1.1 & 4.3.2** – The project is very insubstantial, presenting 4,800 sq.ft on a one-half acre site. As such, within the limited confines of what can be done on the small site, project is consistent with Goal 4 and Policies 4.1.1 and 4.3.2. The design recognizes that agricultural and residential uses are inappropriate, due to the size and location of the site. Hence, the requested commercial design is a sound response to the site limitations at hand.
- ◆ **Policy 6.3.2 Minor Commercial Land Uses** -- The project is consistent with the 6.3.2, Minor Commercial Site Location Standards. It is located within 330-ft. from the intersection of Amazon Lane and McGregor Blvd. Hence it meets the local street to arterial highway standard. Finally, the request for 4,800 sq.ft of commercial retail and office space is well within the 30,000 sq.ft. Minor Commercial intensity limitation called out by the Lee Plan.
- ◆ **Policy 6.1.5 (d)** - The Project is located and configured along the south McGregor Blvd. mixed use corridor. It will not open new areas to premature, scattered development, nor will it create commercial strip development. This is so in that the Project will utilize existing infrastructure, takes advantage of the exiting platted nature of the subject area and is requesting zoning to a commercial planned development. Hence, the project will be consistent with this standard.
- ◆ **Policy 6.1.1 (g)** - The Project will not impact wetland areas. Nor is the project overly intensive. It calls for 4,800 sq.ft. of building area on the site. Hence, the project will be consistent with this standard.
- ◆ **Policy 6.1.7** - The Project will not open new areas to premature, scattered development. The project is central to a major County arterial road that offers direct connection to coastal resort and recreational areas. Hence, the Project is a small specialized commercial project that is consistent with 6.1.7.
- ◆ **Policy 6.1.9** - The Project will not jeopardize the safety of any Lee County students. Thus it is consistent with 6.1.9



RECEIVED
MAR 23 1999

TRAFFIC STATEMENT

PERMIT COUNTER

MASSEY COMMERCIAL BUILDING

SCOPE OF PROJECT

The Massey Commercial Building is a proposed business operation which will have a maximum floor space of 5,000 square feet. The 0.46 +/- acre site is located contiguous to the north of McGregor Boulevard and approximately 100 feet east of Amazon Drive, within Section 2, Township 46 south, Range 23 east, Lee County, Florida. This project is proposing one full access onto McGregor Boulevard. For additional information refer to the Master Concept Plan prepared by Southwest Engineering.

TRIP GENERATION

Although the primary business function is not retail sales, land use code "Specialty Retail Center" (LUC 814) of the ITE Trip Generation Manual, Sixth Edition, was found to be the most accurate method of estimating the potential traffic demands associated with the project. The below summarizes the estimated project generated traffic.

<u>Description</u>	<u>Result</u>	<u>Trip Generation Manual¹</u>
Daily Trips:	203 ADT	T = 40.67(X)
AM Total:	32 vph	T = 6.41(X)
Am Enter/Exit:	15/17 vph	48% Enter, 52% Exit
PM Total:	27 vph	T = 4.93(X)
PM Enter/Exit:	15/12 vph	57% Enter, 43% Exit

CONCLUSIONS

Based on the volume of traffic expected to be generated by the Massey Commercial Building, turn lanes at the project's access onto McGregor Boulevard are not warranted. However, currently there is a bi-directional left turn lane along McGregor Boulevard which will accommodate motorists turning left into the site.

99-03-251.02 Z 01.01

March 3, 1999

PROJECT # _____
PROJECT TYPE 13

¹Information provided by the Trip Generation Manual of the Institute of Transportation Engineers, Sixth Edition.

C: ZONING TIS SUFFICIENCY CHECKLIST

n/a The Zoning TIS is (I) INSUFFICIENT or (S) SUFFICIENT

Robert Orsky 4/5/99
Reviewer's Signature Date

Sufficiency
Item No:

The Zoning TIS review is processed under a separate checklist.

Dev. #1

Development Services will recommend approval of this deviation..

DEPARTMENT OF COMMUNITY DEVELOPMENT

DIVISION OF PLANNING/ENVIRONMENTAL SCIENCES

PLANNED DEVELOPMENT REZONING SUFFICIENCY CHECKLIST

PROJECT NAME: Massey Commercial Building CPD


CASE NUMBER: 99-03-251.02Z 01.01

STRAP NUMBER(S): 02-46-23-01-0000C.0140

ACREAGE: 20,000 square feet

SUBMITTAL DATE: March 26, 1999

END DATE OF REVIEW: April 6, 1999

REVIEWED BY: Kim Trebatoski (*The reviewer may be contacted at # 479-8183*) 

RECOMMENDATION: X - Please see comments.

OK =Sufficiency requirement satisfied.

OK/A=sufficiency satisfied, but additional information needed.

X=Sufficiency requirement not satisfied.

N/A=Not applicable to this submittal.

N/R=Not a requirement for Sufficiency Submittal: Minor PD.

**This checklist is for sufficiency of information to review for planned development rezoning.
It does not grant or imply any approvals.**

ADDITIONAL INFORMATION MAY BE REQUESTED BEFORE ANY HEARINGS.

1) Soils, Vegetation FLUCCS, Topography - Maps or aerial photographs marked or overprinted to show soils, vegetation and ground cover, and a Lee county topographic map (required if available) or a USGS quadrangle map showing the subject property. Soils and vegetation, etc. should be classified in accordance with USDA/SCS system and the Florida Land Use and Cover classification system, respectively. [34-373(a)(4) b.]

SUFFICIENCY STATUS: OK

2) Protected Species Survey - A survey as required by Chapter 10, Division 8 of the Lee County Land Development Code. [34-373(a)(4) e.]

SUFFICIENCY STATUS: N/R

99-03-251.02 Z 01.01

Sufficiency Checklist: Massey Commercial Building CPD

Case: 99-03-251.02Z 01.01

April 6, 1999

Page 2

3) Protected Species Management Plan - A management plan as required by Chapter 10, Division 8 of the Lee County Land Development Code. {Protected species preserve areas must be indicated on the master concept plan; a final management plan is not required until time of local development order.} [34-373(b)(2)]

SUFFICIENCY STATUS: N/R - Please note ES staff have not yet conducted a site inspection. Additional information may be required.

4) Environmentally Sensitive Areas - The location of any environmentally sensitive land and water, based upon standard environmental data and verified by a field inspection by the county staff, unless waived by the director. A survey is not required until the plan has been incorporated into an application for a development order. [34-373(a)(4) c.]

Wetland jurisdictional lines must be established by the South Florida Water Management District (SFWMD).

SUFFICIENCY STATUS: N/A

5) Open Space - Open space must be stated on the plans, unless the proposed development is in a development area consisting solely of conventional single family dwelling units on lots of no less than 6500 square feet. For commercial and industrial developments, the percent of open space within each lot or outparcel shall be as set forth in 34-414(c).

[34-373(a)(6) a.7. and 34-373(a)(6) b.7.]

SUFFICIENCY STATUS: OK

6) Design Standards: Preservation Areas, Environmentally Sensitive Areas, and Conservation Easements - Every effort shall be made in the planning, design and execution of a planned development to protect, preserve or to not unnecessarily destroy or alter natural features of the site, particularly mature native trees and threatened or endangered native vegetation. [34-411(g)] All preservation areas and/or conservation easements must be delineated on the plan and labeled as such. [34-373(a)(4) c.], [34-414(d)], [34-932(b)].

SUFFICIENCY STATUS: OK/A - Please note ES staff have not yet conducted a site inspection. Additional information may be required.

7) Deviations - All environmental deviation requests must be explained by documentation. [34-412(a)]

SUFFICIENCY STATUS: X - Deviation 2 is a request to eliminate the Type A buffer along the east property line. LDC Section 10-416(d)(3&4) requires a Type A buffer, or 4 trees per 100 linear feet within a 5 foot wide area, along property lines where Commercial abuts Commercial. The Type A buffer for the east property line of the proposed CPD would consist of 8 trees.

Sufficiency Checklist: Massey Commercial Building CPD

Case: 99-03-251.02Z 01.01

April 6, 1999

Page 3

ES staff defer any compatibility issues to Development Services Staff. However, ES staff have the following environmental comments:

LDC Section 34-412(a) requires that the applicant demonstrate the planned development will be enhanced and that the intent of regulations to protect health, safety and welfare will be served by any proposed deviations from the development code. The stated purpose and intent of the landscape code (LDC Section 10-412) includes:

- 1. Promoting the health, safety and welfare of residents of Lee County by establishing minimum uniform standards for the installation of landscaping;**
- 2. Improving the aesthetic appearance of commercial developments;**
- 3. Providing benefits to persons through open space and landscaping by reducing noise and glare;**
- 4. Screening and buffering the harsher visual aspects of urban development; and**
- 5. Improving environmental quality by reducing and reversing air, noise, heat and chemical pollution through the preservation of native vegetation, relocation of native trees and installation of landscaping.**

Please provide information on how Deviation 2 will enhance the planned development and meet the intent of the landscape code (per LDC Section 34-412(a) requirements).

99-03-251.02 Z 01.01



DEPARTMENT OF COMMUNITY DEVELOPMENT
DEVELOPMENT SERVICES DIVISION

ZONING TRAFFIC IMPACT STATEMENT SUFFICIENCY CHECKLIST

PROJECT: <u>Massey Commercial Building</u>	DCI CASE <u>99-03-251.02Z</u>
SUBMITTED <u>CPD</u>	RECOMMENDATION <u>find SUFFICIENT</u>
DATE OF <u>March 23, 1999</u>	REVIEWED <u>Bob Rentz</u> <i>[Signature]</i>
COMMENTS INCLUDED <u>Yes</u>	DAT <u>April 02, 1999</u>
METHODOLOGY MEETING <u>No</u>	SUFFICIENT <u>Yes</u>

LEGEND

S- REQUIREMENT SATISFIED I - REQUIREMENT NOT SATISFIED

INFORMATION REQUIRED FOR ALL PROJECTS

- 1) S DESCRIPTION OF DEVELOPMENT AND ITE LAND USE CATEGORY. The TIS contains 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 used in Trip Generation (i.e. Single-Family Detached Housing, 200 Lots, Land Use Code 210).
- S Land Use Codes are complete and appropriate for each proposed use.
- 2) S TRIP END RATES OR EQUATIONS. The TIS contains the equations or the average trip end generation rates for each type of use proposed and the name of the document from which this information was obtained (i.e. ITE TRIP GENERATION, 5th edition).
- S Trip generation is based on the combination of uses shown in the Schedule of Uses on
- S Master Concept Plan which generates the highest total number of trips during the A.M. P.M. peak hour of the adjacent street(s) and the A.M. and P.M. peak hour of the generator(s).
- S Trip generation has been based on regression equations where available; or
- S Average generation rates, where regression equations are unavailable or were approved advance by Z&DS; or

NA

Trip generation rates from a study of one or more similar developments when the study was approved in advance by Z&DS.

S

Trip generation equations or average trip rates are complete and correct.

3)

S

SITE PLAN. The TIS contains a drawing showing the project's access point(s), and the location of all other access point(s) within 660' for project entrances on an arterial road,

<u>Road(s) accessed:</u>	<u>Functional Classification:</u>	<u>Trafficway Classificati</u>
McGregor Blvd.	arterial	arterial
_____	_____	_____
_____	_____	_____

4)

S

BACKGROUND TRAFFIC. The TIS contains peak season peak hour traffic for the current year and for the year in which the project is expected to be completed. For projects which are to be constructed in phases, peak season peak hour traffic for the year in which each phase of the project is expected to be completed is shown.

5)

S

DIRECTIONAL SPLITS. The TIS contains a drawing showing the percentage and the direction of travel for trips entering and exiting the project at each proposed access point. Distribution of traffic to project entrances is reasonable.

6)

NA

AREA OF INFLUENCE. (Required of projects generating more than 100 trips during the A.M. or P.M. peak hour of the adjacent street.) The TIS contains a drawing showing the area of influence of the project (the area in which project traffic is 10% or more of the maximum service volume at LOS "C" on roadway links and 10% or more of the total approach volumes at intersections at project buildout).

NA

Distribution of traffic throughout the area of influence is reasonable. Distribution shows a reasonable reduction in trips as they move away from the project. reasonable reduction in

7)

NA

LEVEL OF SERVICE ANALYSIS. (Required of projects generating more than 100 trips during the A.M. or P.M. peak hour of the adjacent street.) The TIS contains an analysis of the Level of Service for all links within the area of influence.

NA

The TIS contains an analysis of the Level of Service for each of the project's access points and of all intersections within one-quarter mile of the project. The analysis follows the methods established in the 1985 HIGHWAY CAPACITY MANUAL for either unsignalized or signalized intersections.

8)

NA

ARTERIAL ANALYSIS. (Required of projects generating more than 300 trips during the A.M. or P.M. peak hour of the adjacent street.) The TIS contains an analysis of the arterial road accessed or impacted in the area of influence which follows the methods established in the 1985 HIGHWAY CAPACITY MANUA for an urban or suburban arterial road.

99 - 03 - 251.02 Z 01.01

9)

NA

NECESSARY IMPROVEMENTS. (Required of projects when the Level of Service analysis shows that the LOS on links or at intersections falls below the minimums adopted in THE LEE PLAN.) The TIS contains a recommendation and analysis of the improvements that are needed to meet or exceed the LOS standard.

COMMENTS

4) The Traffic Impact Statement did not show any background traffic on McGregor Blvd.

5) The Traffic Impact Statement did not show the directional distribution at the project's access point.



LEE COUNTY
SOUTHWEST FLORIDA

479-8585

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: _____

John E. Manning
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

September 16, 1999

Southwest Engineering
1342 Colonial Blvd.
Suite 31
Fort Myers, FL 33907

**Re: Agenda Schedule for Massey Commercial Building
Case No. 99-03-251.02Z 01.01**

Dear Mr. Garcia:

Your zoning request has been scheduled before the Board of County Commissioners to take final action after reviewing the Hearing Examiner's recommendation.

DATE & TIME: October 4, 1999, Meeting commences at 9:30 a.m.

LOCATION: Commissioners' Meeting Room
2120 Main Street
Ft. Myers, Florida

Call if you have any questions.

DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division

Donna Dilg
Internal Services Secretary

cc: Roy Massey
Edward H. Olling Grantor Revocable Trust, dated 3/6/96, Carole L. Olling, Trustee
Stuart & Associates
Zoning File

S:\CASES\1999\0325102Z.010\bccappltr.wpd

99 - 03 - 251 . 02 Z 01 . 01



SOUTHWEST ENGINEERING
OF LEE COUNTY

May 27, 1999

Nettie Richardson, Planner
Lee County Development Services
1500 Monroe Street
Fort Myers, Florida 33901

RE: Massey CPD - Case # 99-03-251.02Z01.01

Dear Nettie Richardson,

We are requesting a continuance of four weeks for the above referenced zoning case based on the staff report that we received today. We are requesting this report in order to discuss the staff's recommendations and findings, as they are contrary to our meeting and telephone conversations with staff.

Mr. Massey pursued this request based on his informal meeting and a second informal which we conducted on February 18, 1999. The intent of the second informal was to discuss the rezoning of the parcel from its current AG-2 zoning designation to CC. At this time we discussed Mr. Massey business and needs and agreed that he would require the following allowable uses:

1. Business Services - Group 1
2. Non-Store Retailer
3. Rental and Leasing Establishments - Group 1 & 2
4. Specialty Retail - Group 1, 2 & 3

Based on this information Staff directed/informed us that we should request a CPD with those uses and that they did not see any major concerns with this request. If at this time if Lee County Staff would have informed us that they could not recommend approval of these uses we would not have pursued this request and purchase of this property.

In addition we have discussed this project and these uses with staff during the review/sufficiency process and have had staff specifically express that they understood the project and uses required and had no objection. Specifically from May 4, 1999 to May 20, 1999 we discussed the uses via telephone conversation on three separate occasions and agreed to delete the following uses on the Master Concept Plan as requested by Staff:

99 - 03 - 251 . 02 Z 01 . 01

1342 Colonial Boulevard, Suite 31 • Fort Myers FL 33907

(Keywest Professional Center - Building D)

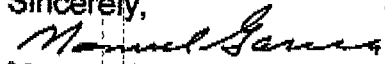
Phone: (941) 274-9124 • Fax: (941) 274-9125

1. Banks & Financial Establishments -- Group 1
2. Boats -- Boat Rental
3. Drugstore, Pharmacy
4. Food Stores - Group 1
5. Hardware Store
6. Pet Shop
7. Used Merchandise Stores -- Group 1
8. Variety Store

Based on these discussion we were completely surprised by your Staff Report and are requesting a continuance to allow us to discuss these issues prior to the hearing.

Should you have any questions please feel free to call me.

Sincerely,



Manuel Garcia, P.E.

Principal

Southwest Engineering

cc: Roy Massey
Greg Stuart
Jim Banks



LEE COUNTY
SOUTHWEST FLORIDA

479-8585

BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: _____

John E. Manning
District One

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Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing Examiner

April 13, 1999

Manuel Garcia
Southwest Engineering
1342 Colonial Boulevard
Ft. Myers, Fl. 33907

Re: Massey Commercial Building; File #99-03-251.02Z 01.01

Dear Mr. Garcia:

The Development Services Division has reviewed the information provided March 23, 1999 for the rezoning request referenced above. The formal request has been drafted from your application as follows:

Rezone from Agricultural (AG-2) to Commercial Planned Development (CPD) to permit a maximum of 4,800 square feet of commercial floor area, not to exceed 35 feet in height, on 20,000± square feet of land.

NOTE: If approved, the Master Concept Plan (available for inspection at 1500 Monroe St., in Ft. Myers) will deviate from certain Land Development Code (LDC) standards.

Please review this language carefully and notify me in writing by April 23, 1999 whether this wording is satisfactory. We understand that you have waived a pre-hearing conference and a hearing has been scheduled for June 2, 1999. Staff's substantive comments will be available in approximately 10 days and will be forwarded to you.

Although your application has been found sufficient, please review the attached comments from Environmental Sciences and Development Services Division.

Contact me if you have any questions or if you would like to meet informally prior to the public hearings.

Sincerely,

DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division

Nettie Richardson
Planner

99 - 03 - 251.02 Z 01.01

H:\CASES\1999\0325102Z.010\pd suff letter.wpd

Re: Massey Commercial Building; 99-03-251.02Z 01.01
April 13, 1999
Page 2

cc: W. W. Desjardin, Development Services
Mary Gibbs, Director, Community Development
Rick Gutknecht, Lee County School District
Walter McCarthy, Division Director
Paul O'Connor, Planning
Bob Hay, Development Services
Betsy Newton, Environmental Sciences
Ruby Koogle, ISA Secretary
Zoning/DCI Files

99-03-251.02 Z 01.01

MEMORANDUM
From The
Department Of
Community Development
Development Services Division

Date: September 21, 1999

To: FILE

FROM: Donna Dilg

RE: Notice of Public Hearing -October 4, 1999
Lee County Board of County Commissioners Meeting

I, Donna Dilg, Internal Services Secretary, Development Services Division, do hereby certify that I have mailed notices to the participants in regard to the above referenced meeting, in the attached style, pursuant to the list marked and attached hereto and made a part of the certification.

99 - 03 - 251.02 Z 01.01

NOTICE TO PARTICIPANT

FILE COPY

CASE NUMBER: 99-03-251.02Z 01.01

NAME: Massey Commercial Building

REQUEST: Rezone from Agricultural (AG-2) to Commercial Planned Development (CPD) to permit a maximum of 4,800 sq. ft. of commercial floor area, not to exceed 35 feet in height, on 20,000± sq. ft. of land.

NOTE: If approved, the Master Concept Plan (available for inspection at 1500 Monroe St., in Ft. Myers) may deviate from certain Land Development Code (LDC) standards.

LOCATION: The subject property is located at 16842 McGregor Blvd. (125± feet NE of Amazon Ln.), in S02-T46S-R23E, Lee County, FL. (District #3)

Notice is hereby given that the Lee County Board of Commissioners will hold a public hearing at 9:30 am on October 4, 1999, to review the written recommendation made by the Hearing Examiner and make a final decision in the above-referenced case. This hearing will be held in the Commissioners' Meeting Room, 2120 Main St., Ft. Myers, FL.

The law states that, as a participant, you have the right to appear and address the Board on this case. However, the law strictly limits all testimony before the Board to statements challenging the correctness of findings and conclusions contained in the record, or statements alleging the discovery of relevant new evidence which was not known by the speaker at the time of the Hearing Examiner's hearing and not otherwise disclosed in the record. Statements will be limited to five (5) minutes or as the Board may otherwise allow.

Additional copies of the Hearing Examiner's recommendation may be obtained or the file reviewed at the Development Services Division, 1500 Monroe St., Ft. Myers, FL. Call 479-8585, ext. 5915, for additional information.

DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division

CASE NUMBER 99-03-251.02Z 01.01
NAME OF CASE Massey Commercial Building
DATE TO BE HEARD October 4, 1999

AGENT Southwest Engineering
1342 Colonial Blvd.
Suite 31
Ft. Myers, FL 33907

PARTICIPANTS Rochelle McDevitt
13370 Almond Dr.
Ft. Myers, FL 33908

Lew & Helene Phillips
P. O. Box 43
Sanibel, FL 33957

Mary Voytek
13290 Electron Dr. SW
Ft. Myers, FL 33908

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT
Development Services Division

DATE: May 18, 1999

TO: Zoning File

FROM:


Ruby Koogle, Secretary

RE: **99-03-251.02Z 01.01**
Massey Commercial Building

This is to certify that copies of the attached notice have been mailed to the list, also attached, on the date stated above.

99 - 0 3 - 2 5 1 . 0 2 Z 0 1 . 0 1

NOTICE TO ADJACENT PROPERTY OWNER

CASE NUMBER: 99-03-251.02Z 01.01

NAME: Massey Commercial Building

REQUEST: Rezone from Agricultural (AG-2) to Commercial Planned Development (CPD) to permit a maximum of 4,800 sq. ft. of commercial floor area, not to exceed 35 feet in height, on 20,000± sq. ft. of land.

NOTE: If approved, the Master Concept Plan (available for inspection at 1500 Monroe St., Ft. Myers) may deviate from certain Land Development Code (LDC) standards.

LOCATION: The subject property is located at 16842 McGregor Blvd. (125± feet NE of Amazon Ln.), in S02-T46S-R23E, Lee County, FL. (District #3)

SIZE OF PROPERTY: 20,000± sq. ft.

STAFF REPORT: Direct inquiries to Nettie Richardson, Planner, at 941/479-8358, at the Department of Community Development, 1500 Monroe St., Ft. Myers, FL 33901.

Notice is hereby given that the Lee County Hearing Examiner will hold a public hearing at 10:00 a.m. on June 2, 1999, on the above case. The public hearing will be held in the Hearing Examiner's Meeting Room, 1500 Monroe St., Ft. Myers, FL 33901.

You must appear in person, through counsel, or an authorized agent and provide testimony, legal argument or other evidence at the hearing to become a participant with the right to address the Board of County Commissioners.

After the Hearing Examiner has made a written recommendation, the case will be scheduled for a public hearing before the Board of County Commissioners who will review the recommendation and make a final decision.

If you do not appear before the Hearing Examiner, by law, you will not be allowed to appear before the Board of County Commissioners at the final hearing in this case.

Copies of the staff report may be obtained or the file reviewed at the Development Services Division, 1500 Monroe St., Fort Myers, FL 33901. Call 941/479-8585 for additional information.

DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division

02-46-23-01-0000C.0140
OLLING EDWARD H TR EST

P O BOX 6434

FT MYERS FL 33911 USA

02-46-23-00-00010.0020
OLLING EDWARD H TR EST

P O BOX 6434

FT MYERS FL 33911 USA

02-46-23-00-00013.0010
BRYANT PAUL R + SONIA A

16896 MCGREGOR BLVD

FT MYERS FL 33908 USA

02-46-23-01-0000C.0090
LCD TRUCKING INC

16806 MCGREGOR BLVD

FT MYERS FL 33908 USA

02-46-23-01-0000C.0130
LANDBEL INC

16836 MCGREGOR BLVD

P O BOX 08337

FT MYERS FL 33908 USA

02-46-23-01-0000C.0170
FLAG CORP
C/O FREDA ROMANOFF
330 W JERSEY ST APT 1H

ELIZABETH NJ 07202 USA

02-46-23-01-0000E.0020
MCCANCE MARCUS R + R GAYLE

1027 CLIFFORD DR

NEW ALBANY IN 47150 USA

02-46-23-01-0000E.0050
HARDWICK JO R TR

5219 SW 2ND PL

CAPE CORAL FL 33914 USA

02-46-23-02-0000D.0520
RANDELL REDDEN RAY

PO BOX 462

TALLAHASSEE FL 32302 USA

02-46-23-02-0000D.0550
O DONNELL HILDA T/C

6919 KIMBERLY TERR

FT MYERS FL 33919 USA

02-46-23-00-00010.0000
UNITED TELEPHONE CO OF FL
ATTN:PROPERTY TAXES M/C 5240
PO BOX 165000

ALTAMONTE SPRINGS FL 32716 USA

02-46-23-00-00013.0000
MADIGOSKY DAVID

1085 VINEYARD DR

CONYERS GA 30013 USA

02-46-23-00-00014.0000
HASS WOLFGANG EWALD +BETTY L

16900 MCGREGOR BLVD

FT MYERS FL 33908 USA

02-46-23-01-0000C.0110
ANDERSON ROBERT F
C/O LANDBEL INC
PO BOX 08337

FT MYERS FL 33908 USA

02-46-23-01-0000C.0150
OLLING EDWARD H TR EST

P O BOX 6434

FT MYERS FL 33911 USA

02-46-23-01-0000E.0010
MCCANCE MARCUS R + R GAYLE

1027 CLIFFWOOD DR

NEW ALBANY IN 47150 USA

02-46-23-01-0000E.0040
HARDWICK JO R TR

5219 SW 2ND PL

CAPE CORAL FL 33914 USA

02-46-23-01-0000E.0060
WELLES JANE H 1/2INT +

RR 2 BOX 6

WYALUSING PA 18853 USA

02-46-23-02-0000D.0540
O'DONNELL KELLY +

16680 ARBOR RIDGE DR

FORT MYERS FL 33908 USA

02-46-23-02-0000D.0560
PRICE TONY + KATHY H/W

16640 ARBOR RIDGE DR

FT MYERS FL 33908 USA

99-03-251.02 Z 01.01

02-46-23-02-0000D.0930
DEEBOLD ANNA TR

15025 BONAIRE CIR

FT MYERS FL 33908 USA

02-46-23-02-0000D.0950
NEWCOMB PAUL R +

10081 FOREST RIVER LN

FT MYERS FL 33908 USA

02-46-23-02-0000F.0030
MARTIN GREG

16751 JACARANDA RD

FT MYERS FL 33908 USA

02-46-23-02-0000I.0010
HAGEN J ROSS 1/3 INT

16601 AMAZON LN

FORT MYERS FL 33908 USA

02-46-23-02-0000I.0600
VOYTEK LAWRENCE S Z + MARY S

13290 ELECTRON DR SW

FT MYERS FL 33908 USA

02-46-23-02-0000I.0630
PITTS ROBERT E +

11491 REBECCA CIR

FT MYERS BEACH FL 33931 USA

SOUTHWEST ENGINEERING
STUART & ASSOCIATES
1342 COLONIAL BLVD STE 31
FORT MYERS FL 33907

02-46-23-02-0000D.0940
DEEBOLD ANNA TR

15025 BONAIRE CIR

FT MYERS FL 33908 USA

02-46-23-02-0000D.0960
OLLING EDWARD H TRUST EST

P O BOX 6434

FT MYERS FL 33911 USA

02-46-23-02-0000F.0120
MCCANCE MARCUS R + R GAYLE

1027 CLIFFWOOD DR

NEW ALBANY IN 47150 USA

02-46-23-02-0000I.0420
CORNER KARIN

62 EMILY LANE

FT MYERS BEACH FL 35931 USA

02-46-23-02-0000I.0620
PESCATORE EDWARD + BARBARA

13270 ELECTRON DRIVE

FT MYERS FL 33908 USA

ROY MASSEY
16340 SAN CARLOS BLVD STE -1
FORT MYERS FL 33908

99-03-251.02 Z 01.01



LEE COUNTY
SOUTHWEST FLORIDA

BOARD OF COUNTY COMMISSIONERS

479-8585

Writer's Direct Dial Number: _____

John E. Manning
District One

Douglas R. St. Cerny
District Two

Ray Judah
District Three

Andrew W. Coy
District Four

John E. Albion
District Five

Donald D. Stilwell
County Manager

James G. Yaeger
County Attorney

Diana M. Parker
County Hearing
Examiner

May 6, 1999

Manuel Garcia
Southwest Engineering
1342 Colonial Blvd. #31
Ft Myers, FL 33907

Re: Agenda Schedule for Massey Commercial Building
Case No. 99-03-251.02Z 01.01

Dear Mr. Garcia:

Your zoning request has been scheduled before the Hearing Examiner on June 2, 1999, at 10:00 a.m. The hearing will be conducted in the Hearing Examiner Meeting Room, 1500 Monroe St., Ft. Myers, FL.

Your zoning sign will be ready for pickup any time after May 10, 1999, at the drive-thru window at 1500 Monroe St., Ft. Myers, FL. This sign must be posted in accordance with Department procedures no later than May 21, 1999, and is to remain posted until final decision is rendered.

Call if you have any questions.

DEPARTMENT OF COMMUNITY DEVELOPMENT
Development Services Division

Ruby Koogle
Internal Services Secretary

cc: Roy Massey, 16340 San Carlos Blvd., Suite 1
Edward H. Olling Grantor Revocable Trust, dated 3/6/96, Carole L. Olling, Trustee
Stuart & Associates
Nettie Richardson, Planner
Zoning File

H:\CASES\AGENDAS\1999\990602\aphexltr.wpd

June 10, 1999

LEE COUNTY
RECEIVED

99 JUN 16 PM 1:29

COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

Ms. Netlie Richardson
Lee County Dept. of Dev. Services
1500 Monroe St.
Ft. Myers, FL. 33901

RE: Massey Commercial Building
#99-03-251.02201.01

Dear Ms. Richardson,

I have had the opportunity to review the master concept plan prepared by Southwest Eng. and have spoken with Mr. Garcia of Southwest Eng. and Roy Massey of his proposed use of the parcel being rezoned. I own four lots just north of the site.

I understand from talking with Mr. Massey that he wants to build a very nice building to provide windsurfing lessons and sell windsurfing and kayaking equipment. As a property owner within 125 feet of the site, plus I have my home at the end of Amazon Lane, I think this is perfect specialty retail shop for this area. I don't want to see gas stations or convenience stores in this area, but feel this kind of low-key specialty retail is consistent with this part of McGregor Blvd.

If you have any questions or if I have misunderstood the applicant's request, please feel free to call me.

Sincerely,


J. Ross Hagen

*p.s. plus I think this sport is very positive
for local kids in the area to get involved
in.*

99-03-251.02 Z 01.01

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

LEE COUNTY
RECEIVED

ORDER FOR CONTINUANCE

99 JUN -3 PM 1:34

CASE NUMBER: 99-03-251.02Z 01.01
APPLICANT: MASSEY COMMERCIAL BUILDING
NEW HEARING DATE: FRIDAY, JULY 2, 1999; 9:00 A.M.

COMM. DEV/
PUB. WRKS. CNTR.
SECOND FLOOR

This matter was scheduled to be heard on June 2, 1999. On or about that date the Applicant filed and paid for a Request for Continuance with the Department of Community Development / Development Services Division.

Accordingly, this matter is continued to **FRIDAY, JULY 2, 1999, at 9:00 A.M.**, at the Hearing Examiner's Hearing Room, 1500 Monroe Street, Second Floor, Fort Myers, Florida. Copies of this Order and the Request for Continuance will be mailed to the Staff, the Applicant, the Court Reporter, and all hearing participants.

DONE AND ORDERED this 2nd day of June, 1999.



DIANA M. PARKER
LEE COUNTY HEARING EXAMINER
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, Florida 33902-0398
Telephone: 941/479-8100
Facsimile: 941/479-8106

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the aforesaid Order was sent to all hearing participants officially established as of the above Order date, either by U.S. Mail, Inter-County Mail, or Facsimile Transfer on the 3rd day of June, 1999.


Bettina J. Jones, Office Manager

11-B-3

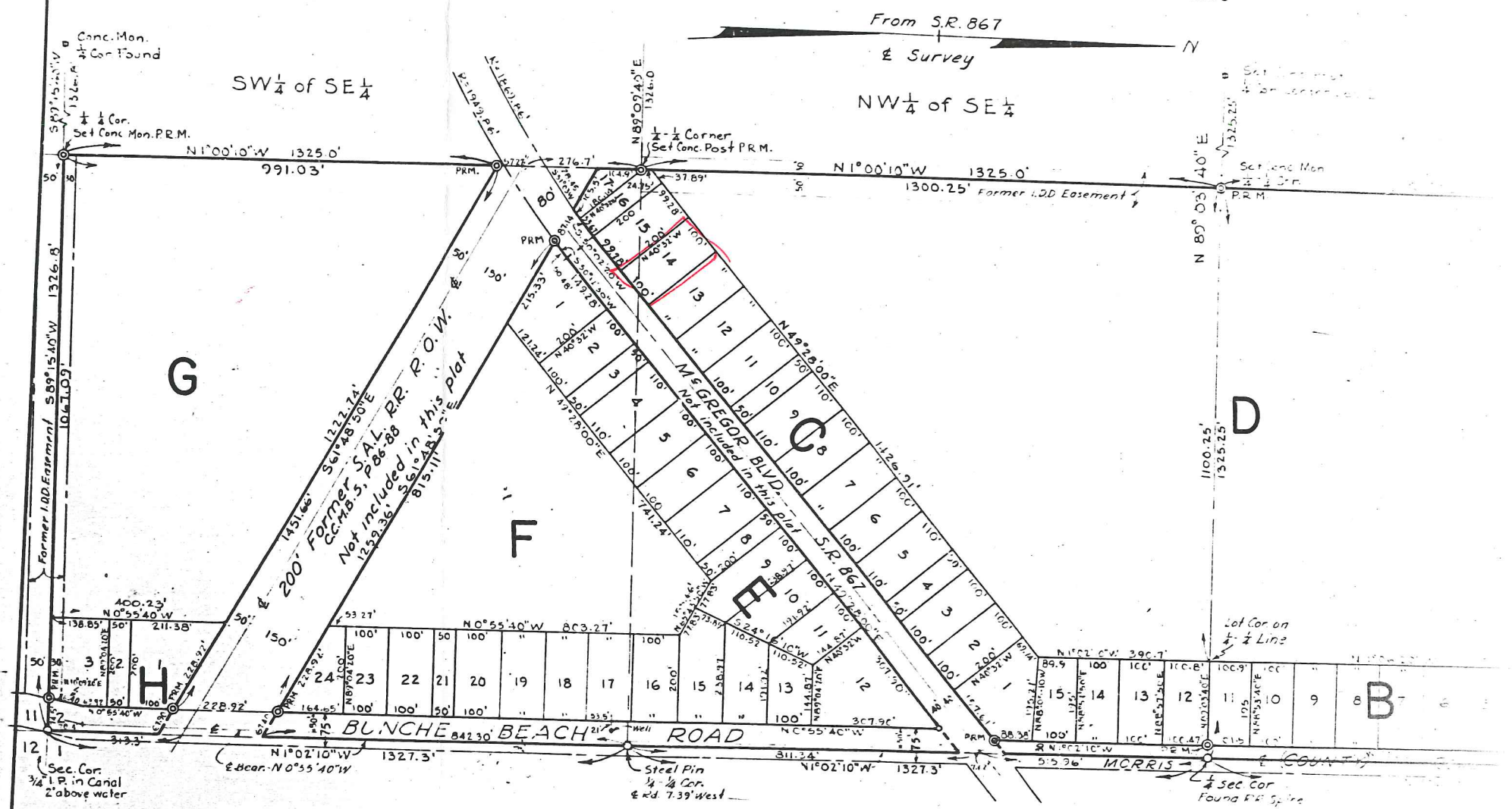
COTTAGE POINT

A SUBDIVISION OF
E 1/2 OF SE 1/4 AND SE 1/4 OF NE 1/4 SECTION 2, T.46S., R. 23E.
LEE COUNTY, FLORIDA

SCALE: 1" = 200'

JANUARY 1955

BK. 9 PAGL



DESCRIPTION

The east half (E 1/2) of the southeast quarter (SE 1/4) less the former right of way of the Seaboard Air Line Railway as described in Circuit Court Minute Book 5 at Pages 86-88 of the public records of Lee County, less the right-of-way of State Road No. 867 (formerly No. 25) or McGregor Blvd. and subject to the easement rights-of-way of the long D.D. conveyed to Lee County and subject to the right of way of the Bunche Beach (County) Road.

Also the southeast quarter (SE 1/4) of the northeast quarter (NE 1/4) subject to the rights-of-way of said long Drainage District and County Roads along the East and North sides thereof, all in Section 2, T.46S., R.23E.

NOTES

P.R.M.'s are 4"x4"x24" concrete Monuments or 4"x4"x60" concrete posts.
Both chord and arc distances are shown on curved lines where significantly different with chord bearings.
All lot corners marked with steel pins.

I HEREBY CERTIFY that this plat of COTTAGE POINT is true and correct according to a recent survey made and plotted under my supervision and that permanent reference monuments (P.R.M.'s) have been set in accordance with the provisions of Section 7, Chapter 1675, Laws of Florida, Acts of 1925.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS that M. Theodore Rondell, executor of the Estate of R.W. Rondell, deceased, the owner of the hereon described lands has caused this plat of COTTAGE POINT to be made and does hereby dedicate to the perpetual use of the public all roads shown hereon, reserving however the exclusive use of the well located in Bunche Beach Road.

IN WITNESS WHEREOF the owner has hereunto set his hand and seal this 19th day of January, A.D. 1955.

WITNESS: M. Theodore Rondell As executor aforesaid
WITNESS: Robert P. Pappas

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF LEE
I HEREBY CERTIFY that on this day before me personally appeared M. Theodore Rondell, to me known to be the person described in and who executed the foregoing dedication and he acknowledged before me that he executed the same for the uses and purposes therein mentioned and in conformity with the laws of the State of Florida.

WITNESS my hand and official seal of the County and State of Florida this 19th day of January, 1955.

APPEARED
This document is a true and correct copy of the Original

158905



APPLICATION FOR REQUEST FOR CONTINUANCE, DEFERRAL, WITHDRAWAL, OR REHEARING

REQUEST FOR: (refer to back of sheet for special notes)

CONTINUANCE _____ DEFERRAL _____ WITHDRAWAL
 REHEARING _____ WITHDRAWAL OF ADMINISTRATIVE APPEAL

If a DEFERRAL OR CONTINUANCE is requested, please indicate:

Length of time requested: FOUR WEEKS

From: Hearing Examiner _____ BOCC

1. Date of Scheduled Hearing: JUNE 2, 1999

2. Hearing/Application Name: MASSEY COMMERCIAL BLDG

3. Tracking/Hearing/Application Number: 99-03-251.02201.01

4. Date Decision was Rendered: N/A

5. Type of Application (Check one)

Rezoning _____ Special Permit _____ Special Exception
 Variance _____ Other

6. Reason for request (if rehearing is requested, see Special Notes on back):

REC STAFF REPORT ON 5/27/99 AND STAFF'S RECOMMENDATION WERE DIFFERENT TO THOSE WHICH WE HAD DISCUSSED.

Manuel Garcia 5/28/99
 Signature of Applicant or authorized agent Date

MANUEL GARCIA
Name (typed or printed legibly)

1342 COLONIAL BLVD SUITE 31 FORT MYERS, FL 33907
Address:

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 28 day of May 19 99
 by FLDL who is personally known to me or who produced
 as identification.



Marilyn Ward
 Signature of Notary Public
Marilyn Ward
 Printed Name of Notary Public

FEE \$ _____
DATE PAID _____

RECEIPT NUMBER _____
INTAKE BY: _____

Massey listing

 *** VARIANCE REPORT ***

 *** Prepared By ***
 *** LEE COUNTY PROPERTY APPRAISER ***
 *** Kenneth M. Wilkinson ***

DATE OF REPORT : 13MAY99
 SUBJECT PROPERTY : 02-46-23-01-0000C.0140
 VARIANCE DISTANCE : 375(ft)
 PARCELS AFFECTED : 31

02-46-23-01-0000C.0140

COTTAGE POINT BLK C P
B 9 PG 133 LOT 14

***** OWNER ***** SITE *****
OLLING EDWARD H TR EST

P O BOX 6434 16842 MCGREGOR BLVD

FT MYERS FL 33911 Fort Myers 33908
USA

02-46-23-00-00010.0000

PARL IN SE 1/4 OF SE 1/4
DESC OR 1455 PG 230 LESS
PARLS 100.001 THRU 10.003
***** SITE *****

***** OWNER *****
UNITED TELEPHONE CO OF FL
ATTN:PROPERTY TAXES M/C 5240
PO BOX 165000 16875 MCGREGOR BLVD

ALTAMONTE SPRINGS FL 32716 Fort Myers 33908
USA

02-46-23-00-00010.0020

PARL IN S E 1/4 OF S E 1/4
SEC 2 TWP 46 R 23

***** OWNER ***** SITE *****
OLLING EDWARD H TR EST

P O BOX 6434 16874 MCGREGOR BLVD

FT MYERS FL 33911 Fort Myers 33908
USA

02-46-23-00-00013.0000

BEG NE COR SW 1/4 OF SE 1
/4 W 200 FT.S TO BLVD. NE
LY ALG N SI BLVD.TO PT S
***** SITE *****

***** OWNER *****
MADIGOSKY DAVID 16886 MCGREGOR BLVD

CONYERS GA 30013 Fort Myers 33908
USA

 *** VARIANCE REPORT ***

 *** Prepared By ***
 *** LEE COUNTY PROPERTY APPRAISER ***
 *** Kenneth M. Wilkinson ***

DATE OF REPORT : 13MAY99
 SUBJECT PROPERTY : 02-46-23-01-0000C.0140
 VARIANCE DISTANCE : 375(ft)
 PARCELS AFFECTED : 31

02-46-23-00-00013.0010

BEG NE COR OF SW 1/4 OF SE
 1/4 W 120 FT S TO NLY SI
 ST RD 867 TH SWLY ALG RD
 ***** SITE *****

***** OWNER *****
 BRYANT PAUL R + SONIA A

16896 MCGREGOR BLVD

16896 MCGREGOR BLVD

FT MYERS FL 33908
 USA

Fort Myers
 33908

02-46-23-00-00014.0000

BEG 200 FT.W OF NE COR SW
 1/4 OF SE 1/4 W 200 FT.
 S 210 FT E 175 FT S TO
 ***** SITE *****

***** OWNER *****
 HASS WOLFGANG EWALD +BETTY L

16900 MCGREGOR BLVD

16900 MCGREGOR BLVD

FT MYERS FL 33908
 USA

Fort Myers
 33908

02-46-23-01-0000C.0090

COTTAGE POINT BLK C P
 B 9 PG 133 LOT 9

***** OWNER *****
 LCD TRUCKING INC

***** SITE *****

16806 MCGREGOR BLVD

16814 MCGREGOR BLVD

FT MYERS FL 33908
 USA

Fort Myers
 33908

02-46-23-01-0000C.0110

COTTAGE POINT BLK C P
 B 9 PG 133 LOTS 11 + 12

***** OWNER *****
 ANDERSON ROBERT F
 C/O LANDBEL INC
 PO BOX 08337

***** SITE *****

16824 MCGREGOR BLVD

FT MYERS FL 33908
 USA

Fort Myers
 33908

 *** VARIANCE REPORT ***

 *** Prepared By ***
 *** LEE COUNTY PROPERTY APPRAISER ***
 *** Kenneth M. Wilkinson ***

DATE OF REPORT : 13MAY99
 SUBJECT PROPERTY : 02-46-23-01-0000C.0140
 VARIANCE DISTANCE : 375(ft)
 PARCELS AFFECTED : 31

02-46-23-01-0000C.0130

COTTAGE POINT BLK C P
B 9 PG 133 LOT 13

***** OWNER ***** SITE *****
LANDBEL INC

16836 MCGREGOR BLVD 16836 MCGREGOR BLVD
 P O BOX 08337
 FT MYERS FL 33908 Fort Myers
 USA 33908

02-46-23-01-0000C.0150

COTTAGE POINT BLK C P
B 9 PG 133 LOT 15

***** OWNER ***** SITE *****
OLLING EDWARD H TR EST

P O BOX 6434 16848 MCGREGOR BLVD
 FT MYERS FL 33911 Fort Myers
 USA 33908

02-46-23-01-0000C.0170

COTTAGE POINT BLK.C P
B 9 PG 133 LOT 17

***** OWNER ***** SITE *****

FLAG CORP
 C/O FRED A ROMANOFF
 330 W JERSEY ST APT 1H 16858 MCGREGOR BLVD

ELIZABETH NJ 07202 Fort Myers
 USA 33908

02-46-23-01-0000E.0010

COTTAGE POINT SUBD. BLK E
PB 9 PG 133 PT LOT 1

***** OWNER ***** SITE *****
MCCANCE MARCUS R + R GAYLE

1027 CLIFFWOOD DR 16849 MCGREGOR BLVD

NEW ALBANY IN 47150 Fort Myers
 USA 33908

99-03-251.02 Z 01.01

 *** VARIANCE REPORT ***

 *** Prepared By ***
 *** LEE COUNTY PROPERTY APPRAISER ***
 *** Kenneth M. Wilkinson ***

DATE OF REPORT : 13MAY99
 SUBJECT PROPERTY : 02-46-23-01-0000C.0140
 VARIANCE DISTANCE : 375(ft)
 PARCELS AFFECTED : 31

 02-46-23-01-0000E.0020

COTTAGE POINT BLK E PB 9
 PG 133 LT 2 + PT LOT 1 E
 80 FT

***** OWNER *****
 MCCANCE MARCUS R + R GAYLE

***** SITE *****

1027 CLIFFORD DR

16839 MCGREGOR BLVD

NEW ALBANY IN 47150
 USA

Fort Myers

33908

 02-46-23-01-0000E.0040

COTTAGE POINT SUBD. BLK E
 PB 9 PG 133 LOT 4

***** OWNER *****
 HARDWICK JO R TR

***** SITE *****

5219 SW 2ND PL

16829 MCGREGOR BLVD

CAPE CORAL FL 33914
 USA

Fort Myers

33908

 02-46-23-01-0000E.0050

COTTAGE POINT SUBD BLK E
 PB 9 PG 133 LOT 5

***** OWNER *****
 HARDWICK JO R TR

***** SITE *****

5219 SW 2ND PL

16823 MCGREGOR BLVD

CAPE CORAL FL 33914
 USA

Fort Myers

33908

 02-46-23-01-0000E.0060

COTTAGE POINT SUBD BLK E
 PB 9 PG 133 LOTS 6 +
 7

***** OWNER *****
 WELLES JANE H 1/2INT +

***** SITE *****

RR 2 BOX 6

16807 MCGREGOR BLVD

WYALUSING PA 18853
 USA

Fort Myers

33908

99-03-251.02 Z 01.01

 *** VARIANCE REPORT ***

 *** Prepared By ***
 *** LEE COUNTY PROPERTY APPRAISER ***
 *** Kenneth M. Wilkinson ***

DATE OF REPORT : 13MAY99
 SUBJECT PROPERTY : 02-46-23-01-0000C.0140
 VARIANCE DISTANCE : 375(ft)
 PARCELS AFFECTED : 31

 02-46-23-02-0000D.0520

COTTAGE POINT UNREC. BLK
 D DB 259 PG 224 LOTS
 52 + 53
 ***** SITE *****

***** OWNER *****
 RANDELL REDDEN RAY

PO BOX 462

16641 ARBOR RIDGE DR

TALLAHASSEE FL 32302
 USA

Fort Myers
 33908

 02-46-23-02-0000D.0540

COTTAGE POINT UNREC BLK D
 DB 259/224 LOT 54.

***** OWNER *****
 O'DONNELL KELLY +

***** SITE *****

16680 ARBOR RIDGE DR

16680 ARBOR RIDGE DR

FORT MYERS FL 33908
 USA

Fort Myers
 33908

 02-46-23-02-0000D.0550

COTTAGE POINT UNREC. BLK
 D DB 259/224 LOT 55

***** OWNER *****
 O DONNELL HILDA T/C

***** SITE *****

6919 KIMBERLY TERR

16660 ARBOR RIDGE DR

FT MYERS FL 33919
 USA

Fort Myers
 33908

 02-46-23-02-0000D.0560

COTTAGE POINT UNREC BLK D
 DB 259 PG 224 LOT 56

***** OWNER *****
 PRICE TONY + KATHY H/W

***** SITE *****

16640 ARBOR RIDGE DR

16640 ARBOR RIDGE DR

FT MYERS FL 33908
 USA

Fort Myers
 33908

 *** VARIANCE REPORT ***

 *** Prepared By ***
 *** LEE COUNTY PROPERTY APPRAISER ***
 *** Kenneth M. Wilkinson ***

DATE OF REPORT : 13MAY99
 SUBJECT PROPERTY : 02-46-23-01-0000C.0140
 VARIANCE DISTANCE : 375(ft)
 PARCELS AFFECTED : 31

02-46-23-02-0000D.0930

COTTAGE POINT UNREC BLK D
DB 259 PG 224 LOT 93

***** OWNER ***** SITE *****
DEEBOLD ANNA TR

15025 BONAIRE CIR 16641 AMAZON LN

FT MYERS FL 33908 Fort Myers 33908
USA

02-46-23-02-0000D.0940

COTTAGE POINT UNREC. BLK
D PB 9 PG 133 LOT 94

***** OWNER ***** SITE *****
DEEBOLD ANNA TR

15025 BONAIRE CIR 16661 AMAZON LN

FT MYERS FL 33908 Fort Myers 33908
USA

02-46-23-02-0000D.0950

COTTAGE POINT UNREC. BLK.
D DB 259 PG 224 LOT 9
5

***** OWNER ***** SITE *****
NEWCOMB PAUL R +

10081 FOREST RIVER LN 16681 AMAZON LN

FT MYERS FL 33908 Fort Myers 33908
USA

02-46-23-02-0000D.0960

COTTAGE POINT UNREC. BLK.
D DB 259 PG 224 LOTS
96 + 97

***** OWNER ***** SITE *****
OLLING EDWARD H TRUST EST

P O BOX 6434 16701 AMAZON LN

FT MYERS FL 33911 Fort Myers 33908
USA

99-03-251.02 Z 01.01

 *** VARIANCE REPORT ***

 *** Prepared By ***
 *** LEE COUNTY PROPERTY APPRAISER ***
 *** Kenneth M. Wilkinson ***

DATE OF REPORT : 13MAY99
 SUBJECT PROPERTY : 02-46-23-01-0000C.0140
 VARIANCE DISTANCE : 375(ft)
 PARCELS AFFECTED : 31

02-46-23-02-0000F.0030

COTTAGE POINT UNREC BLK F
DB 259/224 LOTS 3 +
4

***** OWNER *****
MARTIN GREG

***** SITE *****

16751 JACARANDA RD

16751 JACARANDA DR

FT MYERS FL 33908
USA

Fort Myers

33908

02-46-23-02-0000F.0120

COTTAGE POINT UNREC. BLK.
F DB 259 PG 224 LOT 1
2

***** OWNER *****
MCCANCE MARCUS R + R GAYLE

***** SITE *****

1027 CLIFFWOOD DR

16750 JACARANDA DR

NEW ALBANY IN 47150
USA

Fort Myers

33908

02-46-23-02-0000I.0010

COTTAGE POINT UNREC. BLK
I DB 259/224 LOTS 1 T
HRU 4

***** OWNER *****
HAGEN J ROSS 1/3 INT

***** SITE *****

16601 AMAZON LN

13251 ELECTRON DR

FORT MYERS FL 33908
USA

Fort Myers

33908

02-46-23-02-0000I.0420

COTTAGE POINT UNREC. BLK
I DB 259/224 LOT 42

***** OWNER *****
CORNER KARIN

***** SITE *****

62 EMILY LANE

13251 CORAL DR

FT MYERS BEACH FL 35931
USA

Fort Myers

33908

***** VARIANCE REPORT *****

 *** Prepared By ***
 *** LEE COUNTY PROPERTY APPRAISER ***
 *** Kenneth M. Wilkinson ***

DATE OF REPORT : 13MAY99
 SUBJECT PROPERTY : 02-46-23-01-0000C.0140
 VARIANCE DISTANCE : 375(ft)
 PARCELS AFFECTED : 31

 02-46-23-02-0000I.0600

COTTAGE POINT UNREC BLK I
 DB 259/244 LOTS 60+61
 + 58+59 + 43 THRU 48 +
 ***** SITE *****

***** OWNER *****
 VOYTEK LAWRENCE S Z + MARY S

13290 ELECTRON DR SW

13290 ELECTRON DR

FT MYERS FL 33908
 USA

Fort Myers
 33908

 02-46-23-02-0000I.0620

COTTAGE POINT UNREC BLK I
 DB 259 PG 244 LOT 62

***** OWNER *****
 PESCATORE EDWARD + BARBARA

***** SITE *****

13270 ELECTRON DRIVE

13270 ELECTRON DR

FT MYERS FL 33908
 USA

Fort Myers
 33908

 02-46-23-02-0000I.0630

COTTAGE POINT UNREC BLK I
 DB 259 PG 244 LOT 63

***** OWNER *****
 PITTS ROBERT E +

***** SITE *****

11491 REBECCA CIR

13250 ELECTRON DR

FT MYERS BEACH FL 33931
 USA

Fort Myers
 33908

 *** END OF REPORT ***

RECEIVED

MAR 23 1999

PERMIT COUNTER



99-00-200.02 Z 01.01

99-00-200.02 Z 01.01

EXHIBIT I-B-6

BOARD OF COUNTY COMMISSIONERS
DEVELOPMENT SERVICES RECEIPT

4055

CNT/2

DATE: 03/23/99

CASE NUMBER: 99-03-251.02Z 01.01

STRAP NUMBER: 02-46-23-01-0000 C. 0140

DESCRIPTION: MINOR CPD

RECEIVED FROM: ACE PERFORMER

#	AMOUNT	#	AMOUNT
0100		0505	
0210		0506	
0215		0508	
0220		0510	
0300 MINOR	3,000 ⁰⁰	0700	
0350		0800	
0501		0900	
0502		2000	
0503		341100-0000	
0504		345900-0000	

MAPS/ DOCS/ COPIES: # X =

CASH: _____ CHECK # 1324 TOTAL AMOUNT: ~~13,000~~ 3,000⁰⁰

BY: *DM*

99-03-251.02Z 01.01
 PROJECT # _____
 PROJECT TYPE 13

5180

BOARD OF COUNTY COMMISSIONERS
DEVELOPMENT SERVICES RECEIPT

CNT/2

DATE: June 2, 1999
CASE NUMBER: 99-03-251.022.01.02
STRAP NUMBER: 02-46-23-01-0000C.0140
DESCRIPTION: Rezone CPD Massey CPD
RECEIVED FROM: Stuart and Associates

#	AMOUNT	#	AMOUNT
0100		0505	
0210		0506	
0215		0508	
0220		0510	
0300		0700	
0350		0800	
0501		0900	<u>Continuance \$160.00</u>
0502		2000	
0503		341100-0000	
0504		345900-0000	

MAPS/ DOCS/ COPIES: # X =
CASH: 2500 CHECK # 2500 TOTAL AMOUNT: \$160.00
BY: Juhle

TO NETTLE

RECEIVED
JUN 2 1999
PERMIT COUNTER

99-03-251.02 Z 01.01

GIS Tracking Sheet

Case No.: DCI 962590 (99-03-251.02Z 0101)

Intake Date: 3/23/99

Project Name: Massey Commercial Building

STRAP Number(s): 024623:01:00006:0140

Planner Name: Chip Ext.

LEGAL DESCRIPTION VERIFICATION and INITIAL GIS MAPPING

Date:

INTAKE:

LEGAL SUFFICIENT

YES

NO

Initials:

If not, give brief explanation:

MAP UPDATE following FINAL ACTION

Date: 1/20/00

Hearing Examiner Decision



Board of County Commissioner's Resolution

Administrative Approval



Blue Sheet

Zoning Notes: DCI 962590, 10/4/99, Z-99-037, BOCC APPROV RE ZON FROM AG-2 TO CPD W COND.

MAP UPDATED

YES

NO

Initials: JYA

If not, give brief explanation:
