



**EXECUTIVE REGULATORY OVERSIGHT COMMITTEE  
ADMIN EAST BUILDING, ROOM 118  
2201 SECOND STREET, FORT MYERS**

**WEDNESDAY, MARCH 9, 2022  
2:00 P.M.**

**AGENDA**

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – January 12, 2022
3. Noise Ordinance Amendments - (Ordinance 14-18 (Chapter 24 ¼, Code of Ordinances))
4. LDC Amendments
  - a) Design Standards for Single and Two-Family Dwelling Units
  - b) Casitas
  - c) Hybrid Warehouses
5. Adjournment  
Next Meeting date: April 13, 2022

To view a copy of the agenda, go to [www.leegov.com/dcd/calendar](http://www.leegov.com/dcd/calendar).

For more information, contact Debbie Carpenter, (239) 533-8345 or [DCarpenter@leegov.com](mailto:DCarpenter@leegov.com).

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**MINUTES REPORT  
EXECUTIVE REGULATORY OVERSIGHT COMMITTEE  
(EROC)  
Wednesday, January 12, 2022  
2:00 p.m.**

**Committee Members Present:**

Randal Mercer, Chairman  
Tracy Hayden, Vice Chair  
Mike Roeder  
Bob Knight

Buck Ward  
Ian Moore  
Bill deDeugd  
Carl Barraco Jr.

**Excused / Absent:**

Victor DuPont  
Sam Hagan  
Mike Reitmann  
Tim Keene

Matthew Roepstorff  
Bill Ennen  
Jim Ink

**Lee County Government Staff Present:**

David Loveland, Director, Community Development  
Mikki Rozdolski, Manager, Planning Section  
Michael Jacob, Deputy County Attorney  
Joe Adams, Assistant County Attorney  
Cheryl Simpson, DCD Admin, Recorder

**Outside Consultants/Members of the Public Present:**

Ron Inge, Bell Road Mine  
Al Townsend, Titan Mine

**CALL TO ORDER AND AFFIDAVIT:**

The meeting was held in the Commission Chambers, 2120 Main Street, Fort Myers, Florida. Mr. Randal Mercer, Chair called the meeting to order at 2:00 p.m.

Mr. Joe Adams, Assistant County Attorney confirmed the Affidavit of Publication was legally sufficient as to form and content and the meeting could proceed

**APPROVAL OF MINUTES – NOVEMBER 10, 2021**

**Mr. Mercer confirmed that all had received the corrected version of the minutes which made a slight change to the meeting attendance but did not change the text. Mr. Buck Ward made a motion to approve the corrected November 10, 2021 minutes. Mr. Bob Knight seconded. The motion was called and carried unanimously.**

**LDC AMENDMENTS**

Mr. David Loveland, Director, Community Development, introduced a proposed amendment of Chapter 12 which would establish a procedure to expand the limited procedures for processing a zoning amendment for Existing Mines. Currently the LDC permits Existing Mines to amend their current zoning approvals to allow for dewatering and/or extension of the mine duration. The proposed amendments would add a mechanism to allow Existing Mines to pursue an increase in maximum permitted depth by amending their current zoning approvals, instead of

rezoning to an MEPD as is currently required in Chapter 12.

At Mr. Mercer's request, Mr. Loveland reviewed the process and the documentation that would be required to be submitted for a zoning amendment for a depth increase within the approved mine footprint. Amendments to bring the existing mine into greater compliance with current mining regulations, including Chapter 12, may be requested in conjunction with a request for dewatering, extension of mine duration or increase of depth. A mine development order amendment must also be approved prior to commencing activities authorized by the zoning amendment. Review of the mine development order amendment will be limited to incorporating the specific changes approved by the zoning amendment.

Mr. Mercer recognized Mr. Ron Inge, owner of the Bell Road Mine located off SR82. Mr. Inge reiterated that the proposed amendment was intended to address one change only, an increase in depth. Many of the existing mines have been in operation for many years (Bell Road was permitted in 1990) and at that time not as much soil boring or geotechnical work was done, whereas now the procedures and analyses are much better in determining if there is more material available under an existing lake. With respect to the submittal requirements, extensive analysis such as a traffic impact analysis, hydrogeologic modeling, monitoring reports and extensive soil boring analyses to verify that the material to dig is there, and confirm the location of the clay layer to insure that neither the clay layer nor the aquifer underneath is penetrated. A HEX hearing and two public hearings will still be required. The proposed amendment is designed to allow an existing, permitted lake to be dug deeper because there is confirmed evidence that more material is available. He asked that the committee recommend approval because the procedure provides a well analyzed process to allow a change in depth to occur on existing mines in Industrial Planned Developments.

Mr. Knight asked about the alternative should the proposed amendment not be approved. Mr. Inge said that he and staff had worked closely over the past several months to come up with this process, but should it not be approved, then the mine would have to be rezoned to MEPD, treating it as if it were a new mine in accordance with Chapter 12 requirements, with the likelihood of multiple waivers requested for submittal requirements.

Mr. deDeugd asked about Mr. Inge's comment about the clay layer. Mr. Inge confirmed that digging must not penetrate the clay layer and that the soil boring analyses has to verify the location and distance from the clay layer. The surficial aquifer is the first layer (which is where mining occurs) then the clay layer, then aquifer under that.

Mr. deDeugd had questions about blasting operations and there was a brief discussion. Mr. Loveland did not think there were any residential subdivisions in close proximity to the Bell Road Mine and could not speak to the rest.

In response to Mr. Mercer's question, Mr. Loveland confirmed the proposed amendment had not been reviewed by any other committees.

Ms. Tracy Hayden had questions related to bringing an existing mine into greater compliance, wondering to what degree, and how many mines this might affect. Mr. Loveland confirmed that if an applicant asked to bring an existing mine into greater compliance in conjunction with a request for increased depth, that compliance with current standards would not be required.

Mr. Ward said he likes streamlining and this seems good on the surface but asked if there were

any interests of the public that would not be addressed as a result. Mr. Loveland said the procedure still requires a HEX hearing and two public hearings for public input.

Mr. Mercer suggested a line by line review of the proposed amendment, with committee comments as needed (there were none).

Mr. Barraco Jr.. and Michael Jacob discussed a possible conflict of interest. Mr. Barraco will abstain from voting and subsequently will submit a signed Conflict of Interest form to the secretary.

**Ms. Hayden made a motion to approve the proposed amendment, seconded by Mr. Knight. Mr. Mercer called the question. Motion passed by majority with one abstaining.**

There was no other business. **After a first and second from Ms. Hayden and Mr. Barraco, Mr. Mercer adjourned the meeting at approximately 2:40 p.m.**

The next meeting was tentatively scheduled for March 9, 2022.



**MEMORANDUM**  
**FROM**  
**THE DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**

**TO:** Executive Regulatory Oversight  
Committee (EROC)

**DATE:** February 23, 2022

**FROM:** Adam Mendez  
Planner, Zoning Section

**RE: Amendments to Lee County Noise Control Ordinance 14-18**

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Ordinance 14-18 establishes the Lee County Noise Control Ordinance, as codified in Chapter 24 $\frac{1}{4}$  Lee County Code of Ordinances. The attached amendments to the Noise Control Ordinance pertain to establishing maximum C-Weighted noise levels (dBC Levels), correcting the definition of “Pure Tone”, establishing an alternative method of measuring decibel levels, and provides the Sherriff’s Office the ability to appoint a designee for investigation. Staff seeks input and a recommendation as to whether the proposed amendments should be adopted by the Board of County Commissioners (BoCC).

Background and Summary

Staff, in response to a citizen inquiry regarding the current noise ordinance, researched and prepared the draft amendments for consideration by the Board of County Commissioners (BoCC). Staff briefed the BoCC on the proposed amendments on December 7, 2021, and the BoCC subsequently directed the proposed amendments through the committee review process on January 18, 2022.

The existing noise ordinance does not provide maximum decibel readings for the dBC weighting network, which best suited for measurement of low frequency “bass sounds” and high frequency sounds not plainly audible to the human ear. This prevents enforcement of the noise ordinance in instances where low frequency bass sounds do not exceed the sound level limits for the dBA weighting network despite having a negative impact to public health, safety, and welfare.

Additionally, the definition of “pure tone” omits the word “average” in the Noise Control Ordinance, which is necessary for the measurement methodology. Finally, the ordinance does not specify that the Sheriff’s Office can designate investigation of noise complaints to qualified third parties.

The proposed amendments to the noise ordinance correct the definition of “pure tone,” establish a definition for “c-weighted level,” establish a conversion of dBA levels to dBC levels, provide an alternative method of measuring decibel levels from the noise source, and authorize the Sheriff’s Office to designate investigation and enforcement at the Sheriff’s discretion. The amendments allow for measuring and enforcement of maximum Pure Tones and dBC levels in a manner that will allow for appropriate enforcement and mitigation of these sounds and other nuisance-related noise.

#### Committee Review Comments

- The Local Planning Agency (LPA) will consider the attached amendments at its February 28, 2022 meeting. Staff will summarize the LPA’s comments when presenting this item to the EROC.

Attachment – Draft Noise Control Amendments



## **EROC ORDINANCE EVALUATION GUIDELINES**

### **Proposed Ordinance: Amendment to Noise Ordinance**

- 1. What is the public interest that the Ordinance is designed to protect?**  
This ordinance, as amended, is intended to establish maximum decibel levels for Network dBC, which is best suited to measure lower frequency bass sounds and higher frequencies not plainly audible to the average human ear. The amendment also provides the Sheriff's Office the ability to empower a designee for noise complaint investigation at the Sheriff's Office's discretion. Adding the dBC network and expanding the power to investigate will allow for enhanced protection of public health, safety, and welfare by allowing for a more comprehensive measurement of noise levels that may be in violation of the noise ordinance.
- 2. Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?**  
No.
- 3. Is the regulation required by State or Federal law? If so, to what extent does the County have the authority to solve the problem in a different manner?**  
No.
- 4. Does the regulation duplicate State or Federal programs? If so, why?**  
No.
- 5. Does the regulation contain market-based incentives? If not, could that be used effectively?**  
No.
- 6. Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?**  
Yes.
- 7. Does the regulation impose a burden on a few property owners for the benefit of the public as a whole? If so, does it provide any form of compensation?**  
No.
- 8. Does the regulation impact vested rights?**  
No.

9. **Does the regulation provide prompt and efficient relief mechanisms for exceptional cases?**

No.

10. **Even though there is an interest to be protected, is it really worth another regulation?**

Yes. The proposed amendments provide an additional network by which to measure sound levels that may negatively impact public health, safety, and welfare.

11. **Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?**

Yes. Other local governments, including the Town of Fort Myers Beach, include maximum decibel levels as measured on the dBC network in their respective noise ordinances, which provides for more effective enforcement as it relates to mitigating noise impacts.

12. **If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?**

There are no costs associated with enacting these regulations. The Lee County Sheriff's Office, which enforces the County noise ordinance, also enforces the noise ordinance in the Town of Fort Myers Beach, and the Sheriff's office has the type of equipment required to implement the noise ordinance, as amended.

## Chapter 24¼ NOISE CONTROL

### Sec. 24¼-3. Definitions.

Staff Note: The current noise control ordinance specifies decibel readings using Network dBA solely, which is suited for measurement of mid-range frequency sounds more often associated with music or machinery, plainly audible to the average human ear. Network dBA is not suited for measurement of lower frequency “bass sounds” such as those vibrations produced by combustion engines and higher frequencies not plainly audible to the average human ear. These frequencies are appropriately measured by "Network dBC". The current noise ordinance does not enforce a maximum permissible decibel readings for Network dBC. Fort Myers Beach (FMB) and Cape Coral currently enforce a maximum dBC level in addition to dBA. The Sheriff's Office currently enforces the FMB Noise Ordinance and is equipped to measure C-weighted sound frequencies. The FMB noise ordinance is otherwise very similar to Lee County's and implementation of its C-weighted standards would be least invasive with an outcome of regulatory consistency between neighboring jurisdictions, enforced by the same entity.

The words and phrases used in this chapter are defined as follows:

*A-weighted level (dBA) through Board remain unchanged.*

C-weighted level (dBC): The sound pressure level in decibels as measured using the C-weighting network on a sound level meter. The unit of measurement is the dBC. Sound level meter settings shall be for slow response.

*Commercial use through Noise disturbance remain unchanged.*

*Noise level:* As referenced in this chapter, the noise level is the sound pressure level as measured in dBA and dBC unless otherwise specified. A measurement of noise must be at least five (5) dB above the ambient noise level.

*Person through Public space remain unchanged*

*Pure tone:* Any sound which can be distinctly heard as a single pitch or a set of single pitches. For the purposes of measurement, a pure tone shall exist if the one-third ( 1/3 ) octave band sound pressure level in the band with the tone exceeds arithmetic average value of the sound pressure levels of the two (2) contiguous one-third ( 1/3 ) octave bands by five (5) dB for center frequencies of five hundred (500) Hz and above and by eight (8) dB for center frequencies between one hundred sixty (160) and four hundred (400) Hz and by fifteen (15) dB for center frequencies less than or equal to one hundred twenty-five (125) Hz.

Staff Note: Clarify the arithmetic value is the average for the purpose of effectuating the Pure Tone measurement.

*Remainder of section remains unchanged.*

### Sec. 24¼-5. Prohibited acts.

Staff Note: At the officer's discretion Table 2, Alternative Sound Levels, provides maximum sound levels as measured at the property line of the noise source. This standard is consistent with the FMB noise ordinance. The FMB noise ordinance does not establish standards for manufacturing or industrial as the

county currently does separately in Table 1. Staff believes it is appropriate to exclude manufacturing and industrial from source property line standards. Manufacturing and industrial will remain subject to table 1, as measured from receiving land.

The occurrence of the conditions, acts or omissions as described in either subsection (a) or (b) of this section will constitute a violation of this chapter. Should a sound level measurement method be unavailable, inappropriate for a given set of circumstances, or unable to be taken by a sound level meter, subsection (b) of this section may be used to prove a violation so long as evidence exists sufficient to establish that the sound constitutes a noise disturbance pursuant to the standards provided in subsection (b) of this section.

- (a) *Maximum permissible sound levels by receiving land.* No person shall operate or cause to be operated any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 when measured at or within the real property line of the receiving land or, at the discretion of the officer, those limits set forth in the Alternative Table 2 as measured from the real property line of the noise source.

Table 1  
SOUND LEVELS BY RECEIVING LAND USE

Land Use Category	Time	Sound Level Limit	
		dBA	dBC
Residential, public space or agricultural	7:00 a.m.—10:00 p.m.	66	<u>71</u>
	10:00 p.m.— 7:00 a.m.	55	<u>60</u>
Commercial or business	7:00 a.m.—10:00 p.m.	72	<u>77</u>
	10:00 p.m.— 7:00 a.m.	65	<u>70</u>
Manufacturing or industrial	At all times	75	<u>80</u>

Table 2  
ALTERNATIVE SOUND LEVELS BY EMITTING LAND USE

<u>Land Use Category</u>	<u>Time</u>	<u>Sound Level Limit</u>	
		<u>dBA</u>	<u>dBC</u>
<u>All land uses excluding manufacturing or industrial</u>	<u>7:00 a.m.—10:00 p.m.</u>	<u>75</u>	<u>80</u>
	<u>10:00 p.m.— 7:00 a.m.</u>	<u>72</u>	<u>77</u>

- (1) *Correction for character of sound.*
- For any source of sound which emits a pure tone, the maximum sound level limits set forth in Table 1 shall be reduced by five (5) dBA or dBC.
  - For any source of impulsive sound which is of short duration with an abrupt onset, the maximum sound level limits set forth in Table 1 shall be increased by ten (10) dBA or dBC from 7:00 a.m. to 10:00 p.m.
- (2) *Establishment of use.* In instances where an industrial or commercial use was established prior to and in an area away from a residential use and

encroachment of the residential use has occurred resulting in the commercial or industrial use adjoining the residential use, the sound level limit for the receiving residential use will be that of the commercial or industrial use, whichever applicable, as set forth in Table 1 above. Establishment of the commercial or industrial uses' existence before residential use encroachment is an affirmative defense to a violation of this chapter.

- (3) *Specific restrictions.* In addition to the general limits set out above in Table 1, the following specific acts are declared to be in violation of this chapter:
- a. *Multifamily dwellings.* In the case of multifamily dwelling units, it shall be unlawful to create or permit to be created any noise that exceeds fifty (50) dBA or fifty five (55) dBC during the hours between 7:00 a.m. to 10:00 p.m. or forty-five (45) dBA or fifty (50) dBC during the hours between 10:00 p.m. and 7:00 a.m. daily, as measured from the receiving dwelling unit within such multifamily dwelling.
  - b. *Construction noise.* No person shall operate or permit to be operated any power-driven construction equipment without a muffler or other noise-reduction device at least as effective as that recommended by the manufacturer or provided as original equipment unless the sound level emitted by the equipment is less than the sound level limit for the applicable land use category set forth in Table 1 of this section, as measured from at or within the real property line of the receiving land. Construction equipment that must be operated near a residential use on a twenty-four-hour-per-day basis (i.e., pumps, well tips, generators, etc.) will be shielded by a barrier to reduce the noise during the hours of 6:00 p.m. to 7:00 a.m. unless the unshielded noise level is less than fifty-five (55) dBA or sixty (60) dBC, as measured from at or within the real property line of any residential receiving land.
- (4) *Sound level measurement standards.* The following standards must be followed in measuring sound levels.
- a. *Calibration.* All sound level meters must be calibrated and serviced in accordance with the manufacturer's instructions.
  - b. *Sound level meter operation.* The sound level meter must be operated in accordance with the manufacturer's instructions.
  - c. *Measurement procedures.* The following procedure must be used to determine if a violation exists under this subsection:
    1. The sound level meter must be located within the boundary of the receiving land when taking the measurement in accordance with Table 1, or at the boundary of the emitting land when taking the measurement in accordance with Table 2.
    2. The sound level meter must be oriented toward the source of the sound making a direct line between the sound source and the sound level meter.
    3. The sound level meter must be set for the A-weighted or C-weighted network and slow response.
    4. If possible, determine and record the ambient noise level during some point in the observation. The A-weighted and C-weighted

ambient noise level, including wind effects and noises other than the sound source, must be at least five (5) dbA lower than the sound level of the sound source for a violation of this chapter to exist.

(b) *Noise disturbance.* Notwithstanding any other provision herein, it shall be unlawful for any person to make, continue, cause, or permit any noise disturbance.

(1) *Standards.* The standards to be considered in determining whether a noise disturbance exists under this subsection include the following:

- a. The volume of the noise, whether it is loud or quiet, and whether it can be plainly heard from the receiving land.
- b. The intensity of the noise.
- c. Whether there is vibration associated with the noise.
- d. The nature of the noise, i.e. raucous, unruly, harsh, etc.
- e. The volume and intensity of the ambient noise, if any.
- f. The proximity of the noise to residential sleeping facilities.
- g. The nature and use of the area from which the noise source is located.
- h. The nature and use of the receiving land.
- i. The time of day or night the noise occurs.
- j. The duration of the noise.
- k. Whether the noise is produced by a commercial or noncommercial activity.

(2) *Consideration.* Enforcement under subsection (b) of this section requires consideration of all applicable standards listed in subsection (b)(1) and a determination as to whether or not a noise disturbance exists by the sheriff's office personnel on the scene. Determinations must be made from the receiving land, after locating the sound source, by the sheriff's office personnel using his or her normal auditory senses, where applicable, without the use of any hearing enhancement or hearing aid.

## **Sec. 24¼-6. Exceptions.**

**Staff Note:** Codify an exception for the regular maintenance testing and emergency use of standby emergency power generators. Codify an exception for noises consistent with traditionally observed holidays.

The following will not be considered a violation of this chapter:

- (a) The operation of warning or emergency signal devices such as sirens, horns and bells when utilized for their intended purpose in cases of emergency.
- (b) Noises resulting from equipment or operations incidental to the installation, maintenance or repair of facilities or restoration of services, such as public utilities or other emergency work in the public interest.
- (c) Noise created by the operation of railways and shipping lanes.
- (d) Noise created by the operation of all Lee County airports.

- (e) Noise created by operation of equipment or conduct of activities normal to residential or agricultural communities such as lawn care, soil cultivation, domestic power tools, lawn mowers, maintenance of trees, hedges, gardens, saws and tractors, street sweepers, mosquito fogging, tree trimming and limb chipping and other normal community operations, between the hours of 7:00 a.m. to 10:00 p.m., operation of equipment for solid waste and recycling collection in or adjacent to residential uses between the hours of 6:00 a.m. and 6:00 p.m., and operation of equipment for solid waste collection in nonresidential locations between the hours of 4:00 a.m. and 10:00 p.m.
- (f) Noise resulting from safety features required by law for equipment or operations, including, but not limited to, backup alarms or vehicle motion alarms.
- (g) Noises associated with farm operations protected by the Florida Right to Farm Act, F.S. § 823.14.
- (h) Noises resulting from: (A) The regular maintenance testing of standby emergency power generators, provided that any sound attenuation provided by the manufacturer is retained, and provided that the noise occurs between the hours of 9:00 a.m. and 5:00 p.m., Monday through Saturday, excluding the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day. The frequency of the maintenance testing and the duration of each test shall be no more frequent and not longer in duration than thirty (30) minutes once a week. (B) Noise associated with emergency power generators in the event of a power outage at the discretion of the Sheriff's Office.
- (i) Noises consistent with cultural or traditional observed holidays such as New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

#### **Sec. 24¼-8. Enforcement.**

**Staff Note:** Authorize the Lee County Sheriff's Office to designate investigation of noise complaints to qualified personnel. Delegation of this responsibility is at the Sheriff's Office discretion and the option to do so will have the possibility of strengthening the means of analysis of certain technical provisions (such as pure tone and impulsive sound correction factors) and may decrease response times for investigation.

The Lee County Sheriff's Office or designee is empowered to investigate any situation where a person is alleged to be violating this chapter. If an officer or designee encounters a circumstance which reasonably indicates that a person is violating this chapter, the officer or designee will conduct either a sound level measurement test or noise disturbance determination in accordance with section 24¼-4 of this chapter to determine whether or not a violation of this Chapter exists. Nothing in this chapter shall prohibit the Lee County Sheriff's Office from charging persons responsible for acts which affect the peace and quiet of persons who may witness them for breach of the peace or disorderly conduct under F.S. § 877.03, as may be amended from time to time.





**MEMORANDUM**  
**FROM**  
**THE DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**

**TO:** Executive Regulatory Oversight  
Committee (EROC)

**DATE:** February 23, 2022

**FROM:** Anthony R. Rodriguez, AICP  
Zoning Manager

**RE: Land Development Code Amendments  
Pre-Emption of Building Design Standards for Single- and Two-Family  
Dwelling Units**

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The attached Land Development Code amendments, scheduled for consideration at the March 9, 2022 meeting, have been prepared to bring the Land Development Code (LDC) into compliance with recent amendments to Chapter 163, Florida Statutes (F.S.). Staff seeks input and a recommendation as to whether the proposed amendments should be adopted by the Board of County Commissioners (BoCC).

Background and Summary

In June of 2021, the Governor approved a series of amendments to Chapter 163, F.S. Among the approved amendments is a modification to Section 163.3202(5), which now preempts local governments from regulating “building design elements” of single- and two-family dwelling units unless:

- The dwelling is listed in the National Register of Historic Places, as defined in s. 267.021(5); is located in a National Register Historic District; or is designated as a historic property or located in a historic district, under the terms of a local preservation ordinance;
- The regulations are adopted in order to implement the National Flood Insurance Program;
- The regulations are adopted pursuant to and in compliance with chapter 553;
- The dwelling is located in a community redevelopment area, as defined in s. 163.340(10);
- The regulations are required to ensure protection of coastal wildlife in compliance with s. 161.052, s. 161.053, s. 161.0531, s. 161.085, s. 161.163, or chapter 373;
- The dwelling is located in a planned unit development or master planned community created pursuant to a local ordinance, resolution, or other final action approved by the local governing body; or
- The dwelling is located within the jurisdiction of a local government that has a design review board or architectural review board.

The statutory amendments define “building design elements” as:

- Exterior building color;
- Type or style of exterior cladding material;
- Style or material of roof structures or porches;
- Exterior non-structural ornamentation;
- Location or architectural styling of windows or doors;
- Location or orientation of the garage;
- Number and type of rooms; and
- Interior layout of rooms;

The statutory amendments do not preempt local governments from regulating height, bulk, orientation, or the location of a dwelling on a lot, nor does it prevent regulations pertaining to buffering and screening to mitigate adverse impacts and assure privacy protection.

The attached LDC amendments have been prepared to assure compliance with Section 163.3202(5), as amended. Architectural design requirements for single- and two-family dwelling units are spread throughout LDC Chapters 33 and 34. Staff has identified those sections of the LDC that are not in compliance with Section 163.3202(5), and has proposed amendments accordingly.

#### Committee Review Comments

- The Land Development Code Advisory Committee (LDCAC) reviewed the attached amendments on February 11, 2022. The LDCAC voted to recommend that the BoCC adopt the attached amendments without any changes. Questions and comments from the LDCAC’s review of the attached amendments are annotated in the attached draft.
- The Local Planning Agency (LPA) will consider the attached amendments at its February 28, 2022 meeting. Staff will summarize the LPA’s comments when presenting this item to the EROC.

Attachment – Draft LDC Amendments

## **EROC ORDINANCE EVALUATION GUIDELINES**

### **Proposed Ordinance: LDC Amendments to address preemption of regulating design of single- and two-family dwelling units**

- 1. What is the public interest that the Ordinance is designed to protect?**  
This ordinance is intended to bring the LDC into compliance with recent state legislation pre-empting regulation of “building design elements” for single- and two-family dwelling units.
- 2. Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?**  
No. The County’s current regulations are outdated as a result of recent changes to state statute.
- 3. Is the regulation required by State or Federal law? If so, to what extent does the County have the authority to solve the problem in a different manner?**  
Yes. Section 163.3202(5), F.S. preempts local governments from regulating the design and appearance of single- and two-family dwelling units, except under certain circumstances. Amending the Land Development Code as proposed by the attached amendments is the most appropriate avenue to assure compliance with state law.
- 4. Does the regulation duplicate State or Federal programs? If so, why?**  
No.
- 5. Does the regulation contain market-based incentives? If not, could that be used effectively?**  
No.
- 6. Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?**  
Yes.
- 7. Does the regulation impose a burden on a few property owners for the benefit of the public as a whole? If so, does it provide any form of compensation?**  
No.
- 8. Does the regulation impact vested rights?**  
No.

**9. Does the regulation provide prompt and efficient relief mechanisms for exceptional cases?**

No; however, the proposed amendments remove existing regulations; therefore, relief will no longer be required.

**10. Even though there is an interest to be protected, is it really worth another regulation?**

The proposed amendments remove existing regulations.

**11. Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?**

Yes. Other local governments are currently proceeding in a similar fashion to assure compliance with state statute.

**12. If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?**

There are no costs associated with enacting these regulations.

# Chapter 33 - PLANNING COMMUNITY REGULATIONS

## ARTICLE IV. – PAGE PARK PLANNING COMMUNITY

### DIVISION 1. – IN GENERAL

#### Sec. 33-1205. - Definitions

*Staff note:* Modify definition of “Main Street” to assure compliance with Section 163.3202(5), F.S., which prohibits local governments from regulating building design elements for single- or two-family dwelling units, except under specific circumstances. Clarify wording of definition.

*Articulation through Main entry remain unchanged.*

*Main Street* means the architectural style in the Page Park Community. It is somewhat eclectic, having variety, diversity, and ~~of~~ no particular architectural style. Traditional architecture is favored, rather than radical design themes, structures or roof forms that would draw unnecessary attention to the buildings. Building façades that incorporate canopies or walls with mock gables ~~must~~ should provide a roof component to provide depth and give a more authentic appearance. Vernacular styles ~~must~~ should be displayed through the inclusion of extended roof overhangs, porches, covered corridors, covered walkways, and pitched roofs (where applicable.) (see Figure 1 through 6, 10 and 13 through 17).

*Remainder of section remains unchanged.*

### DIVISION 2. – DEVELOPMENT STANDARDS AND SPECIFICATIONS

#### SUBDIVISION I. – Basic Elements

#### Sec. 33-1262. - Accessory uses.

*Staff note:* Modify section to apply established standards only to non-residential accessory uses and structures. Applying these regulations to accessory structures for single-family or two-family dwelling units when it cannot be applied to principal structures creates a lack of consistency in regulations, is unduly burdensome, and is not consistent with Section 163.3202(5), F.S.

Accessory uses consist of decks, patios, swimming pools, gazebos, sheds and other outbuildings throughout all areas of Page Park Community Overlay District. Accessory Uses are governed by the following requirements and Chapter 34.

*Gazebos, Sheds and other Outbuildings.*

- (1) The design of any gazebo, shed or other outbuilding must be ~~architecturally~~ compatible in terms of ~~design, scale, and proportion, color, finish, and details~~ with the principal building.
- (2) Temporary outside storage units must comply with section 34-3050.

## ARTICLE V. - LEHIGH ACRES PLANNING COMMUNITY

### DIVISION 3. - SPECIFIC USE STANDARDS

Staff note: Subdivision III, which establishes architectural standards for duplex and two-family attached dwelling units in the Lehigh Acres Community Plan area, is proposed to be deleted in its entirety to comply with Section 163.3202(5), F.S., which prohibits local governments from regulating building design elements for single- or two-family dwelling units, except under specific circumstances.

Committee Comments: The LDCAC questioned whether or not this deletion would eliminate driveway requirements for duplexes in Lehigh Acres. LDC Section 34-3107 establishes driveway requirements for duplex and two-family attached dwelling units throughout the County, and remains unchanged by the proposed amendments.

#### **~~Subdivision III. Duplex and Two-Family Attached Dwelling Units~~**

##### **~~Sec. 33-1433. Purpose.~~**

~~The purpose of this subdivision is to modify and supplement sections 34-3107 through 34-3108 in order to enhance the appearance of duplex and two-family attached structures.~~

##### **~~Sec. 33-1434. Architectural standards.~~**

- ~~(a) Primary facades must be designed with features consistent with the appearance of a single-family dwelling. A maximum of one door may directly face the adjacent street right-of-way and must have a distinct entry feature such as a porch or covered entryway.~~
- ~~(b) Mechanical equipment including, but not limited to, air conditioning units, pool pumps, generators and well tanks, must be screened from view of the public right-of-way and adjacent residential properties with landscaping, fencing, or both. Fencing must be consistent with section 34-1742.~~
- ~~(c) A minimum of one attached single-car garage, accessible from the road by a paved driveway, is required for each dwelling unit. The garage and driveway must provide parking in compliance with LDC section 34-2020(a).~~
- ~~(d) Garages must be designed for side-entry so as not to face a street right-of-way, or be recessed a minimum of four feet behind the front facades or porches of the dwelling unit.~~
- ~~(e) When located on a corner lot, each individual unit must face a separate street right-of-way.~~
- ~~(f) When located on a through lot, each individual unit must face a separate street right-of-way.~~

##### **~~Secs. 33-1433-1435—33-1449. Reserved.~~**

## ARTICLE VI. MATLACHA RESIDENTIAL OVERLAY

### DIVISION 1. IN GENERAL

##### **~~Sec. 33-1457. Reserved Roof standards.~~**

Staff note: This section is proposed to be deleted to comply with Section 163.3202(5), F.S., which prohibits local governments from regulating building design elements for single- or two-family dwelling units, except under specific circumstances.

- ~~(a) The primary residential structure must use hip or gable roofs.~~

- ~~(b) For the primary residential structure, flat roofs and mansard roofs are prohibited, unless the building is single story.~~
- ~~(c) The use of dormers is acceptable above the vertical plane.~~

## Chapter 34 - ZONING

### ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS DIVISION 2. – ACCESSORY USES, BUILDINGS, AND STRUCTURES

#### Sec. 34-1177. Accessory apartments and accessory dwelling units.

*Staff note:* Delete subsection 5 to assure compliance with Section 163.3202(5), F.S., which prohibits local governments from regulating building design elements for single- or two-family dwelling units, except under specific circumstances.

*Subsection (a) remains unchanged.*

**(b) Development standards.**

- (1) *Off-street parking.* In addition to the requirements of section 34-2020(a), one additional space is required. All required parking must be provided on the site.
- (2) *Maximum floor area.* The maximum floor area for the accessory apartment or accessory dwelling unit is 50 percent of the living area of the principal, single-family residence.
- (3) *Maximum lot coverage.* The maximum lot coverage permitted for the zoning district in which the property is located may not be exceeded.
- (4) *Minimum lot size.* The property must be a lawfully existing lot of record that conforms to the minimum lot area, width, and depth of the zoning district in which it is located.
- ~~(5) *Appearance.* An attached accessory apartment or accessory dwelling unit must be designed to retain the appearance of a single-family residence.~~

### DIVISION 23. – MOBILE HOMES

*Staff note:* Section 34-1923 is proposed to be deleted to assure compliance with Section 163.3202(5), F.S., which prohibits local governments from regulating building design elements for single- or two-family dwelling units and does not specifically exclude mobile homes.

#### ~~Sec. 34-1923. Skirting.~~

~~All mobile homes must have skirting around the entire perimeter.~~

- ~~(1) Skirting must be of a durable material such as decorative block, concrete block, fiberglass, aluminum or vegetation. Junk doors or other scrap material is prohibited.~~
- ~~(2) Skirting must be maintained at all times by the resident.~~

#### Secs. ~~34-1923~~1924—34-1950. Reserved.

## DIVISION 39. – USE, OCCUPANCY AND CONSTRUCTION REGULATIONS

*Sections 34-3101 through 34-3105 remain unchanged.*

### **Sec. 34-3106. Use of metal buildings in residential districts.**

**Staff note:** This section is proposed to be modified to exempt single-family or two-family dwelling units pursuant to Section 163.3202(5), F.S. Accessory structures will still be subject to this regulation.

The construction of enclosed or partially enclosed metal buildings, exceeding 240 square feet in total floor area or 12 feet in height above finished floor, must provide residential exterior cladding (df), unless approved as a special exception, in the following residential districts: RS, RSA, RSC, TFC, TF, RM, RPD and the residential portions of an MPD. Single-family, duplex, two-family attached, and zero lot line dwelling units are exempt from this section.

### **Sec. 34-3108. Landscape for duplex and two-family attached units.**

**Staff note:** This section is proposed to be deleted. It is not enforced due to the burdensome nature of the regulations on the builder and subsequent homeowner.

(a) ~~Prior to issuance of a certificate of occupancy for duplex or two-family attached units, the following minimum landscaping must be installed:~~

~~(1) **Plants.**~~

~~a. **Trees.** Four native canopy trees per lot must be installed in landscape mulch beds. Two of these trees must be planted in front of the duplex or two-family attached structure. The trees must be a minimum of ten feet in height at time of planting with a two-inch caliper (measured at 12 inches above the ground) and a four-foot spread. Two cabbage palms (*Sabal palmetto*) grouped together with a minimum of ten feet of clear trunk may be used to replace one canopy tree. Adequate space must be provided between the building structure and the plantings to allow for future growth of the trees or palms. The trees must be installed to avoid impacts to the septic drainfields and any utilities (overhead or underground).~~

~~b. **Shrubs.** Thirty native shrubs per lot must be installed in landscape mulch beds. The shrubs must be a minimum of 24 inches in height at time of planting and a minimum of three-gallon container size. The required shrubs must be planted in front and on the sides of the duplex structure.~~

~~c. **Plant quality.** Plant materials used must meet the standards for Florida No. 1 or better, as set forth in the "Grades and Standards for Nursery Plants", Parts I and II, Department of Agriculture and Consumer Services, State of Florida.~~

~~d. **Easements.** Plants must be installed outside of any easements, including but not limited to, public utility easements, drainage easements and access or road easements.~~

~~(2) **Mulch.** A minimum of a two-inch layer, measured after watering, of mulch or other recycled woody material must be placed and maintained around all newly installed trees, palms and shrubs. Each tree must have a ring of mulch no less than 36 inches beyond its trunk in all directions. The use of cypress mulch is strongly discouraged.~~

~~(3) **Irrigation.** To ensure landscape plant establishment, all required landscaping must be irrigated by the use of an automatic irrigation system with a controller set to conserve water. Moisture detection devices (i.e. rain sensor switch) must be installed in all automatic sprinkler systems to override the sprinkler activation mechanism during periods of increased rainfall. Irrigation systems must be~~



~~designed to avoid impacts on existing native vegetation and eliminate the application of water to impervious areas, including roads, drives and other vehicle areas.~~

- ~~(4) *Certificate of occupancy.* The required plants, mulch and irrigation system must be installed and inspected prior to the issuance of a certificate of occupancy.~~
- ~~(5) *Maintenance.* The owner is responsible for maintaining the required landscaping in a healthy and vigorous condition at all times during the existence of the duplex or two-family attached structure. Tree and palm staking must be removed within 12 months after installation. All landscapes must be kept free of refuse, debris, disease, pests, weeds, and exotic pest plants (listed in LDC Section 10-420(h)).~~

**Secs. 34-~~31083109~~—34-3130. Reserved.**



**MEMORANDUM**  
**FROM**  
**THE DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**

**TO: Executive Regulatory Oversight  
Committee (EROC)**

**DATE: February 23, 2022**

**FROM: Anthony R. Rodriguez, AICP  
Zoning Manager**

**RE: Land Development Code Amendments  
Casitas within Recreational Vehicle Planned Developments (RVPDs)**

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The attached Land Development Code amendments, scheduled for consideration at the March 9, 2022 meeting, have been prepared to address the addition of “casitas” as a permissible accessory structure within Recreational Vehicle Planned Developments (RVPDs). Staff seeks input and a recommendation on whether the proposed amendments should be adopted by the Board of County Commissioners (BoCC).

**Background and Summary**

Recently approved Recreational Vehicle Planned Developments (RVPDs) allow residential accessory buildings including “coach cabanas,” which may contain living space, but may not contain cooking facilities and overnight sleeping accommodations. However, current market trends for recreational vehicle communities include “casitas,” which are similar to coach cabanas in terms of use, but also include functional kitchens and sleeping areas. Casitas are intended to expand the living area available to RV occupants during their stay on an RV lot, and are not intended to serve as an additional dwelling unit on an RV lot.

In December of 2020, the BoCC, as part of its motion for approval of an amendment to an existing Recreational Vehicle Planned Development, directed staff to research and develop regulations pertaining to casitas. Staff completed the requisite research and prepared draft regulations for consideration, and the Board directed the proposed amendments to proceed through the advisory committee review process in January of 2022.

The proposed amendments are intended to update the LDC in a manner that reflects current market trends. The proposed regulations establish:

- Permitted locations for casitas;
- Development regulations for casitas;
- Use and occupancy restrictions for casitas to avoid density-related impacts associated with the use; and

- A process by which RVPDs with coach cabanas as an approved use can administratively amend the planned development approval to replace coach cabanas with casitas in the approved schedule of uses.

#### Committee Comments

- The Land Development Code Advisory Committee (LDCAC) reviewed the proposed amendments on February 11, 2022. Two members of the public spoke in favor of the proposed amendments with the request to eliminate the maximum floor area requirement for casitas. The LDCAC asked questions and engaged in discussion regarding:
  - Minimum lot size requirements for casitas;
  - The difference between transient and non-transient RV Parks;
  - How other local governments regulate the use;
  - The standard size of RV pads and whether lot coverage calculations include RV pads;
  - Whether it is appropriate to establish maximum lot coverage for casitas in lieu of maximum floor area;
  - Whether casitas can be more than one story;
  - How to regulate casitas through an administrative approval process versus a public hearing process;
  - Adding a definition of “living area” to the LDC; and
  - Concerns that casitas will become separate dwelling units.

After questions and discussion, the LDCAC recommended approval of the proposed amendments with a revision to increase the maximum living area for casitas from 600 square feet to 900 square feet. The attached amendments incorporate the LDCAC’s recommendation. Additional comments from the LDCAC are annotated in the attached draft.

- The Local Planning Agency (LPA) will consider the attached amendments at its February 28, 2022 meeting. Staff will summarize the LPA’s comments when presenting this item to the EROC.

Attachment – Draft LDC Amendments

## EROC ORDINANCE EVALUATION GUIDELINES

### Proposed Ordinance: LDC Amendments to add regulations for “Casitas.”

1. **What is the public interest that the Ordinance is designed to protect?**  
This ordinance is intended to add a new accessory use and building type to the LDC that will allow for a residential building on certain lots within Recreational Vehicle Planned Developments while addressing use, design, and density issues.
2. **Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?**  
No. The County’s current regulations do not currently allow this type of use in this zoning district.
3. **Is the regulation required by State or Federal law? If so, to what extent does the County have the authority to solve the problem in a different manner?**  
No.
4. **Does the regulation duplicate State or Federal programs? If so, why?**  
No.
5. **Does the regulation contain market-based incentives? If not, could that be used effectively?**  
No.
6. **Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?**  
Yes.
7. **Does the regulation impose a burden on a few property owners for the benefit of the public as a whole? If so, does it provide any form of compensation?**  
No.
8. **Does the regulation impact vested rights?**  
No; however, the regulations establish an administrative process by which certain RV developments with certain entitlements can add the proposed use.
9. **Does the regulation provide prompt and efficient relief mechanisms for exceptional cases?**  
Relief mechanisms are addressed in existing County regulations.

**10. Even though there is an interest to be protected, is it really worth another regulation?**

Yes. The proposed amendments are needed to address a new market trend associated with this type of development.

**11. Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?**

Yes. Certain local governments have established regulations for this type of use in response to this market trend.

**12. If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?**

There are no costs associated with enacting these regulations.

## CHAPTER 34 – ZONING

### ARTICLE I. – IN GENERAL

#### Sec. 34-2. – Definitions

*Staff note:* Add definition of *casita*.

*Committee comments:* The LDCAC questioned whether the LDC contains a definition of “living area” and noted the need to include a definition in the LDC. Staff noted that this definition was included in the Florida Building Code, and this definition would be utilized by staff to interpret and administer these regulations; however, this definition is not included in the Florida Building Code. Therefore, this section has been revised to include a definition as recommended by the LDCAC.

*Abutting property through Carport remain unchanged.*

*Casita means an accessory building located on an individual recreational vehicle lot which may contain sleeping and sanitary facilities and a kitchen and is used for habitation by the occupants of the recreational vehicle occupying the lot.*

*Cemetery through Live-aboard remain unchanged.*

*Living area means the area of a living unit enclosed and protected from the elements, including interior halls, closets, utility and storage areas, but excluding garages and carports, and utility or storage areas contained therein, screened porches, unenclosed areas, cellars, basements and attics. Living area is determined by exterior dimensions.*

*Remainder of section remains unchanged.*

## ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

### DIVISION 2. – ACCESSORY USES, BUILDINGS AND STRUCTURES

*Sections 34-1171 through 34-1178 remain unchanged.*

#### Sec. 34-1179. – Accessory structures in recreational vehicle developments.

*Staff note:* Establish development and use standards for casitas. Casitas meet the definition of a dwelling unit pursuant to LDC Section 34-2, and thus, would be subject to the density requirements of the Lee Plan. Use regulations are proposed to limit occupancy of a casita only in conjunction with an RV to limit density impacts. Staff originally proposed a maximum living area of 600 square feet for casitas, which was based on the prevailing limitation of past zoning approvals for cabanas within RVPDs.

*Committee comments:* The LDCAC, in response to public input regarding this item, recommended increasing the maximum living area for casitas from 600 square feet to 900 square feet. This section has been revised accordingly.

- (a) Storage sheds, ~~and carports,~~ and casitas on individual recreational vehicle sites are prohibited in transient parks.

*Subsections (b) through (d) remain unchanged.*

(e) Casitas are permissible only on non-transient Recreational Vehicle (RV) lots in Recreational Vehicle Planned Developments (RVPDs) and must be a use listed in the approved schedule of uses for the RVPD. Casitas are subject to the following provisions:

(1) Casitas may only be occupied in conjunction with a parked recreational vehicle on the lot. The use or occupancy of a casita as a separate dwelling unit is prohibited.

(2) Casitas are subject to the following development regulations:

a. Maximum living area: 900 square feet

b. Minimum setback requirements:

1. Street: 25 feet or RV pad setback, whichever is greater

2. Side: 5 feet

3. Rear: 5 feet

4. Waterbody: in accordance with section 34-2194

c. A minimum separation of 10 feet must be provided between casitas and the parking pad for a recreational vehicle.

(3) Casitas may contain living area including sleeping and sanitary facilities, a kitchen, laundry facilities, and indoor storage space.

(4) Prior to the issuance of a building permit, a covenant must be recorded in the public records that clearly indicates the occupancy restrictions set forth in this section. This covenant may not be amended without the written consent of the Director of Lee County Community Development.

(5) A non-transient Recreational Vehicle (RV) lot is limited to either one (1) cabana or one (1) casita.

(6) Recreational Vehicle Planned Developments (RVPDs) approved prior to the effective date of this section where cabanas or coach cabanas are listed in the approved schedule of uses may administratively amend the planned development to add casitas as an approved use in lieu of cabanas or coach cabanas in accordance with section 34-174.

*Sections 34-1180 through 34-1182 remain unchanged.*



**MEMORANDUM**  
**FROM**  
**THE DEPARTMENT OF**  
**COMMUNITY DEVELOPMENT**

**TO: Executive Regulatory Oversight  
Committee (EROC)**

**DATE: February 23, 2022**

**FROM: Adam Mendez  
Planner, Zoning Section**

**RE: Land Development Code Amendments  
Establishing Hybrid Warehouse Use Classification**

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The attached Land Development Code (LDC) amendments pertain to introduction of the “Hybrid Warehouse” use classification to the LDC, sometimes referred to as “Man Caves.” The proposed amendments establish a definition for the use, allow the use in several zoning districts, including conventional districts and within the North Fort Myers Commercial Corridor, and establish supplemental regulations relative to the use and occupancy of individual units within these types of developments. Staff seeks input and a recommendation as to whether the proposed amendments should be adopted by the Board of County Commissioners (BoCC).

**Background and Summary**

In December of 2017, the BoCC approved an Industrial Planned Development (IPD) on a project known as Island Storage Suites IPD (Resolution Z-17-027), which first introduced the Hybrid Warehouse use classification to unincorporated areas of Lee County. The Hybrid Warehouse reflects a current market trend centered on the concept of remote personal hobby and recreation space, generally in condominium format, or leased within an individual unit.

As currently codified, a mini-warehouse is limited to dead storage depositories for personal property, inventory and equipment and not for any other use or occupancy. In addition to dead storage depositories for personal property, individual Hybrid Warehouse storage units may also include ancillary accommodations such as restrooms, mezzanines, or other improvements to create occupiable space, as defined by the Florida Building Code, for personal hobby or recreation space for individual unit tenants or owners.

Subsequent planned development approvals, including McGregor-Davis Storage (Resolution Z-20-012) and Shire Lane CPD (Case Number ADD2021-00032), contain substantially similar concepts and conditions of approval. However, there is currently no route other than the planned development rezoning process for a developer to pursue

this use.

The proposed amendments seek to modify several LDC sections to recognize a rapidly growing industry trend by permitting Hybrid Warehouses by right or by special exception within the same conventional zoning districts that currently permit Mini-Warehouses, as defined in the LDC, as well as within the North Fort Myers Commercial Corridor by way of Special Exception or Planned Development Approval (Mini-Warehouses are currently permitted accordingly). Staff, considering the conditions imposed on the aforementioned planned developments, also developed supplemental regulations to regulate future development of the Hybrid Warehouse use that include:

- Permitted and prohibited uses within individual units;
- Prohibited uses and activities on the property;
- Providing that the occupiable space standards of Florida Building Code must be applied to units used for purposes other than dead storage;
- Requiring property owners to record a covenant in the public records that clearly outline permitted and prohibited uses in compliance with this section; and
- Requiring the same restrictions be reflected in the property owners' association documents or lease documents affecting the property.

The intent of the proposed supplemental regulations is to prohibit use of individual units as dwelling units, businesses, or for the manufacturing or storage of hazardous material. Outdoor activity is limited to deter outdoor storage and overnight parking, and using outdoor areas for events (e.g. block parties) without a valid temporary use permit, which limits the quantity and duration of events per calendar year. Outside of the approval of a temporary permit, no specified activity that may occur within units may occur outside of the units (e.g. hobby, recreational uses and minor maintenance of personal property.)

Attached with this Memo are the LDC draft amendments and copies of previous Planned Development approvals.

Attachment – Draft LDC Amendments

Attachment – Resolution Z-17-027 (Island Storage Suites IPD)

Attachment – Resolution Z-20-012 (McGregor-Davis Storage CPD)

Attachment – Administrative Amendment ADD2021-00032 (Shire Lane CPD)

#### Land Development Code Advisory Committee (LDCAC) February 11, 2022

- LDCAC provided input and suggestions concerning the appropriateness of open storage in conjunction with a hybrid warehouse and suggested general nomenclature to outline permitted activity within individual units in lieu of more specified language such as “watching television, gaming, listening to music, and similar uses.” Corresponding changes have been included in the proposed draft, including additional language prohibiting discharging firearms or weapons and exclusion of personal gun ranges within the development.

- The Local Planning Agency (LPA) will consider the attached amendments at its February 28, 2022 meeting. Staff will summarize the LPA's comments when presenting this item to the EROC.



## **EROC ORDINANCE EVALUATION GUIDELINES**

### **Proposed Ordinance: LDC Amendments to add regulations for “Hybrid Warehouses.”**

**1. What is the public interest that the Ordinance is designed to protect?**

This ordinance is intended to define and regulate a new non-residential use that will allow for development containing personal storage, recreation and hobby space while addressing use, design, and occupancy conditions associated with the use.

**2. Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?**

No. The County’s current regulations do not currently allow this type of use in any zoning district, and this use must be established through the planned development zoning process.

**3. Is the regulation required by State or Federal law? If so, to what extent does the County have the authority to solve the problem in a different manner?**

No.

**4. Does the regulation duplicate State or Federal programs? If so, why?**

No.

**5. Does the regulation contain market-based incentives? If not, could that be used effectively?**

No.

**6. Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?**

Yes.

**7. Does the regulation impose a burden on a few property owners for the benefit of the public as a whole? If so, does it provide any form of compensation?**

No.

**8. Does the regulation impact vested rights?**

No

**9. Does the regulation provide prompt and efficient relief mechanisms for exceptional cases?**

Relief mechanisms are addressed in existing County regulations.

**10. Even though there is an interest to be protected, is it really worth another regulation?**

Yes. The proposed amendments are needed to address a new type of use that is increasing in popularity.

**11. Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?**

Similar developments have been approved in other jurisdictions; however, it is not clear whether other jurisdictions developed use specific regulations as is proposed by the attached amendments.

**12. If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?**

There are no costs associated with enacting these regulations.

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**Chapter 33 – Planning Community Regulations**  
**Article VIII. – North Fort Myers Planning Community**  
**Division 3. – Commercial Corridor Land Development Provisions**  
**Subdivision IV. – Commercial Corridor Use Regulations**

**Sec. 33-1596. Use regulations.**

**Staff Note:** add Hybrid Warehouse to use regulations table. Establish cross-reference to use/occupancy regulations.

The following use regulations apply to property located within the commercial corridor as defined in 33-1537:\*\*\*

USE DESCRIPTION	SPECIAL NOTES OR REGULATIONS	COMMERCIAL CORRIDOR
Warehouse:		
Hybrid	<u>34-3006</u>	SE*
Mini-warehouse		SE*
Private		SE*
Public		SE*

All references to notes are to those notes found in section 34-844.

\* Uses allowed by special exception may also be requested through PD zoning.

\*\* Use must not be located closer than 500 feet, measured in a straight line from any public school or charter school; child care center; park, playground, or public recreation facility; place of worship or religious facility; cultural center, or hospital.

\*\*\* All planned developments approved prior to adoption of this provision will retain the uses approved.

\*\*\*\* Bail bonding, escort services, fortunetellers palm readers or card readers, massage parlors are not permitted.

*Remainder of section unchanged.*

**Chapter 34 – Zoning**

**Article I. – In General**

**Sec. 34-2. Definitions.**

**Staff Note:** Establish definition for Hybrid Warehouse based on past zoning approvals and overall business models of constructed projects.

The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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*Definitions Abutting Property through Warehouse, high cube remain unchanged*

Warehouse, Hybrid means any building designed or used to provide individual storage units with separate exterior doors as the primary means of access, to individuals for a fee or through individual ownership. In addition to dead storage depositories for personal property, individual storage units may also include ancillary accommodations such as restrooms, mezzanines, or other improvements to create occupiable space, as defined by the Florida Building Code, for personal hobby or recreation space for individual unit tenants or owners. See *Mini-warehouse, Warehouse, public and Storage, dead*.

*Remainder of section unchanged.*

## **Article VI. – District Regulations**

### **Division 6. – Commercial Districts**

*Sections 34-841 through 34-843 remain unchanged.*

#### **Sec. 34-844. Use regulations table.**

**Staff Note:** add Hybrid Warehouse to use regulations table. Establish cross-reference to use/occupancy regulations.

Use regulations for conventional commercial districts are as follows:

**TABLE 34-844. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS**

		Special Notes or Regulations	C- 1A	C- 1	C- 2	C- 2A	CN- 1	CN- 2	CN- 3 (21, 23)	CC	CG	CS- 1	CS- 2	CH	CT	CR	CI	CP
	Warehouse:																	
	Hybrid	<u>34-3006</u>			P			SE		SE	SE						P	
	Mini- warehouse		—	—	P	—	—	SE	—	SE	SE	—	—	—	—	—	P	—
	Private		—	—	P	—	—	—	—	—	—	—	—	—	—	—	P	—
	Public		—	—	P	—	—	—	—	—	—	—	—	—	—	—	P	—

*Remainder of section unchanged.*



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## Division 8. – Industrial Districts

Sections 34-901 and 34-902 remain unchanged.

### Sec. 34-903. Use regulations table.

**Staff Note:** add Hybrid Warehouse to use regulations table. Establish cross-reference to use/occupancy regulations.

Use regulations for industrial districts are as follows:

**TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS**

				Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)
Warehouse:							
	Hybrid			34-3006	P	P	
	Mini-warehouse				P	P	—
	Private				P	P	—
	Public				P	P	—

Remainder of section unchanged.

## Division 9. – Planned Development Districts

### Sec. 34-934. Use regulations table.

**Staff Note:** add Hybrid Warehouse to use regulations table. Establish cross-reference to use/occupancy regulations.

Use regulations for planned development districts are as follows:

**TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS**

			Special Notes or Regulations	RPD	MHPD	RVPD	CFPD	CPD	IPD Note (37)	MPD	MEPD
Warehouse:											
	High cube			—	—	—	—	—	P	P	—
	Hybrid		34-3006					P	P	P	
	Mini-warehouse			—	—	—	—	P	P	P	—
	Private			—	—	—	—	P	P	P	—
	Public			—	—	—	—	P	P	P	—
	Cold storage only			—	—	—	—	—	—	P	—

Remainder of section unchanged.

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## Article VII. – Supplementary District Regulations

### Division 36. – Storage Facilities and Outdoor Display of Merchandise

*Sec. 34-3001 through 3005 remain unchanged.*

#### **Sec. 34-3006. – Hybrid Warehouses**

**Staff Note:** establish new section for supplemental regulations, which are proposed to establish limitations related to the use and occupancy of hybrid warehouse uses to address density and compatibility-related concerns.

**Committee Comments:** The LDCAC recommended (a) Replacing references to particular permitted activities within units with general terminology; and (b) Providing open storage exception when also permitted in the underlying zoning district. The LDCAC also questioned whether separate documents would be required for covenants and property owners' association/lease documents. Staff clarified that both items must be addressed, but may be addressed in the same document(s).

(a) Hybrid warehouse use restrictions. Hybrid warehouses are permitted only in zoning districts that specifically list the use as permitted by right or special exception, subject to the following use and occupancy restrictions.

(1) Permitted uses in individual units are limited to:

- a. Storage of personal property such as automobiles, boats, recreational vehicles, furniture and other personal possessions;
- b. Minor maintenance of personal property which does not create noise, vibration, glare, fumes, odors or electrical interference objectionable to the normal senses as measured from the property line of the development; and
- c. Personal hobby and recreation activities.

(2) Prohibited uses in individual units:

- a. Dwelling units, housing units, living units, temporary living, or overnight sleeping;
- b. Installation and use of stoves, cooktops, ranges, or ovens;
- c. Operation of a business;
- d. Manufacturing or construction;
- e. Storage or use of hazardous material; and
- f. Gun ranges, discharging a firearm with an explosive ignition.

(3) Prohibited uses and activities on the property include:

- a. Open storage as defined in section 34-2, unless permitted in the respective zoning district and located in a distinctly separate area with dividing fencing/wall and gates;
- b. Overnight outdoor parking; and
- c. Using outdoor areas for uses identified in subsection (1).

- 
- d. Using outdoor areas for events, festivities or gatherings without a valid temporary use permit or special event permit issued in accordance with section 34-3041 et seq.
  - (b) Units used for purposes other than dead storage must comply with the applicable occupiable space standards of the Florida Building Code.
  - (c) Covenants required:
    - a. Prior to building permit approval the property owner must record a covenant in the public records that clearly indicates the uses allowed or prohibited within the hybrid warehouse development. This covenant must be consistent with this section and may not be amended without the written consent of the Director of the Department of Community Development; and
    - b. The use restrictions established in this section must be reflected in property owners' association documents or lease documents affecting the property.

**Secs. ~~34-3006~~ 34-3007—34-3020. Reserved.**



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

WHEREAS, an application was filed by the property owner, MCS ONE, LLC, to rezone 8.95± acres from Commercial (C1-A) and Residential Multiple-Family (RM-2) to Industrial Planned Development (IPD), in reference to Island Storage Suites IPD; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Laura B. Belflower, was advertised and held on November 1, 2017. At the conclusion of the hearing, the Hearing Examiner left the record open and requested Staff and applicant to submit written submissions to her Office on or before November 15, 2017; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2017-00007 and recommended approval of the request; and

WHEREAS, a second public hearing was advertised and held on December 20, 2017, before the Lee County Board of Commissioners; and,

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on 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 approximately 8.95± acres from C1-A and RM-2 to IPD to permit one of two optional development plans on the property legally described in the attached Exhibit A.

Option A proposes up to 112,200 square feet of hybrid mini-warehouse and public warehouse uses and a one-acre outparcel with up to 14,000 square feet of commercial and light industrial uses.

Option B proposes up to 125,800 square feet of hybrid mini-warehouse and public warehouse uses.

The hybrid warehouse use would be similar in physical design to a mini-warehouse, but with more storage uses and the option to use up to half of each individual unit for accessory recreational uses.

The property is located in the Industrial Development Future Land Use Category. The request is APPROVED, SUBJECT TO the conditions and deviations specified 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. Master Concept Plan/Development Parameters

- a. Development must be substantially consistent with one of the two Master Concept Plan (MCP) options entitled *Master Concept Plan – Option A, Island Storage Suites IPD* or *Master Concept Plan – Option B, Island Storage Suites IPD*, stamped “Received” November 15, 2017 (Exhibit C), except as modified by the conditions herein. Development must comply with the LDC at the time of local development order approval except as may be granted by deviation as part of this planned development. Subsequent amendments to the MCP, or the conditions or deviations attached thereto, are subject to the planned development amendment process established by the LDC.
- b. Development intensity is limited as follows:
  - i. Master Concept Plan Option A
    - (1) A maximum of 112,200 square feet (75 individual units) of hybrid warehouse uses; and
    - (2) A maximum of 14,000 square feet of industrial or commercial uses on an outparcel.
  - ii. Master Concept Plan Option B
    - (1) A maximum of 125,800 square feet (84 individual units) of hybrid warehouse uses.

### 2. Schedule of Uses

#### a. Master Concept Plan Option A

##### i. Warehouse Parcel

Accessory uses and structures, including personal recreational uses within units (see Condition 11)  
Entrance gates and gatehouse  
Essential services  
Essential service facilities, Group I  
Excavation, water retention  
Fences, walls  
Signs in accordance with Chapter 30  
Warehouse, Hybrid. This type of warehouse combines the structural and use aspects of a “mini-warehouse” and a “public warehouse;” it has individual units, separate exterior doors, and allows “storage” inside the units, as these terms are defined by LDC §34-2. It also allows limited accessory personal recreational uses. See Condition 11.

ii. Outparcel

Accessory uses and structures  
Administrative offices  
ATM (automatic teller machine)  
Bait and tackle shop  
Boats:  
    Boat parts store  
Broadcast studio, commercial radio and television  
Building material sales  
Business services, Groups I and II  
Cleaning and maintenance services  
Computer and data processing services  
Contractors and builders, all groups  
Convenience food and beverage store  
Day care center, child, adult  
Drive-through facility for any permitted use  
Entrance gates and gatehouse  
Essential services  
Essential service facilities, Group I  
Excavation, water retention  
Fences, walls  
Freight and cargo handling establishments  
Health care facilities, Group III  
Laundry or dry cleaning, Group II  
Manufacturing of:  
    Apparel products  
    Electrical machinery and equipment  
    Fabricated metal products, Groups II and III  
    Food and kindred products, Groups II and III  
    Furniture and fixtures  
    Leather products, Group II  
    Lumber and wood products, Groups II and IV  
    Machinery, Groups I and II  
    Novelties, jewelry, toys and signs, all groups  
Medical Office  
Motion picture production studio  
Non-store retailers, all groups  
Parcel and express services  
Parking Lot  
    Accessory  
    Garage, public  
    Park-and-ride  
    Temporary  
Personal services, Groups I (excluding massage establishments) and III  
Photofinishing laboratory  
Place of worship  
Post office  
Printing and publishing  
Processing and warehousing  
Religious facilities

- Rental or leasing establishment, Groups II, III, and IV
- Repair shops, Groups I and II
- Research and development laboratories, Group II
- Restaurants, all groups
- Retail and wholesale sales, when clearly incidental and subordinate to a permitted principal uses on the same premises
- Schools, commercial
- Self-service fuel pumps
- Signs in accordance with Chapter 30
- Storage
  - Indoor only
  - Open
- Transportation services, Group II
- Warehouse
  - Mini-warehouse
  - Private
  - Public
- Wholesale establishments, Groups III and IV

iii. Master Concept Plan Option B

- Accessory uses and structures, including personal recreational uses within units (see Condition 11)
- Entrance gates and gatehouse
- Essential services
- Essential service facilities, Group I
- Excavation, water retention or other land development
- Fences, walls
- Signs in accordance with Chapter 30
- Warehouse, Hybrid. This type of warehouse combines the structural and use aspects of a “mini-warehouse” and a “public warehouse;” it has individual units, separate exterior doors, and allows “storage” inside the units, as these terms are defined by LDC §34-2. It also allows limited accessory personal recreational uses. See Condition 11.

3. Property Development Regulations

a. Minimum Lot Area and Dimensions

Lot Area:	43,560 square feet
Lot Width:	150 feet
Lot Depth:	270 feet

b. Minimum Building Setbacks

Street Setback:	25 feet
Perimeter Setbacks:	
North:	20 feet
East, South, and West:	25 feet
Waterbody:	20 feet

c. Minimum Building Separation: 20 feet



- d. Maximum Lot Coverage: 60 percent
- e. Maximum Building Height: 35 feet

4. Vehicular/Pedestrian Impacts

Approval of this request does not address mitigation of impacts to vehicular traffic impacts or pedestrian facilities resulting from subsequent development of the subject property. Site-related traffic improvements to the nearby roadway network or improvements to pedestrian facilities required to accommodate the proposed development will be determined at the time of local development order review.

5. Lee Plan Consistency

Approval of this request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), and must be reviewed for and found consistent with all other Lee Plan provisions.

6. Concurrency

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to the issuance of a local development order.

7. Development Permits

Issuance of a development permit by Lee County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertake actions that result in a violation of state or federal law.

8. No Blasting

Blasting is prohibited.

9. Re-Plat Required

A re-plat of the subject property is required rectifying the non-conforming conditions of the subject property and the Old South Way private right-of-way resulting from the recorded Quit Claim Deed associated with the conveyance of the Old South Way private right-of-way to the Lee Plantation Property Owners Association. A plat must be submitted for review prior to or concurrent with the application for the first development order on the subject property. The approved plat must be recorded prior to the issuance of any Certificate of Compliance by the County.

10. Heritage Trees

At the time of development order review, the applicant must comply with §10-416(a)(4) of the LDC, which requires large projects to save heritage trees to the greatest extent possible or replace with a similar 20-foot-in-height species. The preservation or replacement of heritage trees must be based upon Heritage Tree Location Map prepared by Boylan Environmental Consultants stamped "Received" June 9, 2017, attached hereto as Exhibit D.

11. Hybrid Warehouse Use Restrictions

a. Uses and activities allowed in individual units:

- i. The option to upgrade individual units with restrooms, ceiling fans, mezzanines and/or other improvement to create occupiable space, as defined by the Florida Building Code, subject to the restrictions established herein.
- ii. The following personal recreational uses, subject to the restrictions established herein:
  - (1) Personal automotive work, including automotive painting;
  - (2) Visual arts including painting, sculpting, ceramics, and glassblowing;
  - (3) The playing of musical instruments;
  - (4) Watching television, gaming, listening to music; and
  - (5) Other uses of similar intensity.

b. Uses and activities prohibited in individual units:

- i. Use as a dwelling unit;
- ii. The installation and use of stoves, cooktops, ranges, or ovens;
- iii. Operation of a business;
- iv. The use of units for manufacturing or construction; and
- v. The storage or use of hazardous materials.

c. Uses and activities prohibited on the property:

- i. The outdoor storage of unattended vehicles including cars, trucks, boats, trailers, mobile homes, recreational vehicles (RVs), or other similar vehicle.
- ii. Overnight outdoor parking.
- iii. Uses permitted to take place in individual units are prohibited from taking place in outdoor area(s).

d. Any unit that will be utilized for any purpose other than dead storage must comply with all applicable occupiable space standards of the Florida Building Code.

- e. The use of any individual unit for personal recreational uses may not exceed 49 percent of the gross floor area of the unit.
- f. The use restrictions established herein must be reflected in any restrictive covenant, property owners' association documents, or lease documents.

12. Buffers

Prior to development order approval, the landscape plans must include a 25-foot-wide enhanced Type F buffer along the eastern property line. Trees must be installed at a minimum height of 14 feet and shrubs must be installed at a minimum height of 48 inches as measured from the parking lot grade of the subject property.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the LDC §10-416(c)(2) requirement to provide landscaping within internal parking and vehicular use areas, to eliminate this requirement within the internal areas and move the required plantings elsewhere on-site. This deviation is APPROVED, SUBJECT TO the following condition:

Prior to development order approval, the landscape plans must indicate the following:

- Detention areas planted with native herbaceous vegetation pursuant to §10-416(a)(5) of the LDC, which may be used to meet the general tree requirement pursuant to this section; and
  - Option A – a total of 34 additional trees, installed on the north and south sides of Old South Way; or
  - Option B – a total of 41 additional trees, installed on the north and south sides of Old South Way.
2. Deviation (2) seeks relief from the LDC §34-2016(2) requirement to provide delineated parking spaces, to require the delineation of five parking spaces and to permit the remainder of parking spaces to remain non-delineated. This deviation is APPROVED, SUBJECT TO the condition that this deviation does not apply to the outparcel depicted on MCP Option A. Off-street parking must be provided as required by the LDC to serve the use(s) on the MCP Option A outparcel.

SECTION D. EXHIBITS:

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

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: Master Concept Plan
- Exhibit D: Heritage Tree Location Map

#### SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. As conditioned, the request:
  - a. Complies with the Lee Plan, specifically Objectives 2.1 and 2.2 and Policies 1.1.7, 1.7.6, 2.2.1, 5.1.5, 7.1.1, 7.1.2, 7.1.3, 7.1.5, 7.1.8, and 135.9.5; and
  - b. Meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and
  - c. Is compatible with existing and planned uses in the surrounding area; and
  - d. Will provide sufficient access to support the proposed development intensity; and
  - e. Will mitigate the expected impacts on existing or planned transportation facilities through existing County regulations or conditions of approval; and
  - f. Will not adversely affect environmentally critical or sensitive areas and natural resources.
3. Urban services, as defined in the Lee Plan, are, or will be available and adequate to serve the proposed land use.
4. With the recommended conditions and deviations, the proposed mix of uses is appropriate at the proposed location.
5. The recommended conditions provide sufficient safeguards to the public interests and reasonably relate to the impacts on the public's interests expected from the proposed development.
6. 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.

#### SECTION F. SCRIVENER'S ERRORS:

The Board intends that this resolution can be renumbered or relettered and typographical errors that do not affect the intent and are consistent with the Board's action can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

Commissioner Hamman made a motion to adopt the foregoing resolution, seconded by Commissioner Kiker. The vote was as follows:

John Manning	Absent
Cecil Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Absent

DULY PASSED AND ADOPTED this 20<sup>th</sup> day of December, 2017.

ATTEST:  
LINDA DOGGETT, CLERK

BY: *Theresa King*  
Deputy Clerk



BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: *Cecil Pendergrass*  
Cecil Pendergrass, Chair

*Commissioner Cecil L. Pendergrass*  
Lee County Board of County Commissioners  
District 2

APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY

*Mia J.*  
County Attorney's Office

RECEIVED  
MINUTES OFFICE  
TK  
2018 JAN 11 AM 11:33





CI 2017-00007

RECEIVED  
MAR 27 2017

Professional Engineers, Planners &amp; Land Surveyors

COMMUNITY DEVELOPMENT

DESCRIPTION  
OF A  
TRACT OR PARCEL OF LAND LYING IN  
SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST  
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST, BEING A PORTION OF LOT 6, BLOCK 3 OF E.P. BATES PINE RIDGE TRUCK FARMS SUBDIVISION AS RECORDED IN PLAT BOOK 3, PAGE 68 OF THE PUBLIC RECORDS OF SAID LEE COUNTY, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

**PARCEL "A"**

**BEGINNING** AT THE NORTHEAST CORNER OF SAID LOT 6; THENCE S 01°35'49" E ALONG THE EAST LINE OF SAID LOT FOR 157.72 FEET TO AN INTERSECTION WITH THE NORTH LINE OF LANDS DESCRIBED IN EXHIBIT A OF OFFICIAL RECORDS BOOK 4175, PAGE 2089 OF THE PUBLIC RECORDS OF SAID LEE COUNTY AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 339.41 FEET TO WHICH POINT A RADIAL LINE BEARS N 78°58'49" W; THENCE SOUTHERLY ALONG SAID CURVE AND SAID NORTH LINE THROUGH A CENTRAL ANGLE OF 02°14'30" FOR 13.28 FEET; THENCE S 18°51'06" W ALONG SAID NORTH LINE FOR 25.25 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 153.86 FEET TO WHICH POINT A RADIAL LINE BEARS S 65°49'12" E; THENCE SOUTHWESTERLY ALONG SAID CURVE AND SAID NORTH LINE THROUGH A CENTRAL ANGLE OF 63°31'09" FOR 170.57 FEET; THENCE S 89°03'56" W ALONG SAID NORTH LINE FOR 1,118.21 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 110.42 FEET TO WHICH POINT A RADIAL LINE BEARS S 30°19'53" W; THENCE NORTHWESTERLY ALONG SAID CURVE AND SAID NORTH LINE THROUGH A CENTRAL ANGLE OF 05°23'07" FOR 10.38 FEET TO AN INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF PINE RIDGE ROAD (WIDTH VARIES) PER OFFICIAL RECORDS BOOK 1931, PAGE 1052 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE N 01°39'17" W ALONG SAID EAST LINE FOR 277.19 FEET TO AN INTERSECTION WITH THE NORTH LINE OF SAID LOT 6; THENCE N 89°03'46" E ALONG SAID NORTH LINE FOR 1,275.16 FEET TO THE **POINT OF BEGINNING**.

**AND**

**PARCEL "B"**

**BEGINNING** AT THE SOUTHEAST CORNER OF SAID LOT 6; THENCE S 89°03'56" W ALONG THE SOUTH LINE OF SAID LOT 6 FOR 1,274.83 FEET TO AN INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF PINE RIDGE ROAD (WIDTH VARIES) PER OFFICIAL RECORDS BOOK 1931, PAGE 1052 OF THE PUBLIC RECORDS OF SAID LEE COUNTY; THENCE N 01°39'17" W ALONG SAID EAST LINE FOR 20.88 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF LANDS DESCRIBED IN EXHIBIT A OF OFFICIAL RECORDS BOOK 4175, PAGE 2089 OF THE PUBLIC RECORDS OF SAID LEE COUNTY

SHEET 1 OF 3

• SERVING THE STATE OF FLORIDA •

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Engineering License No. EB 6469 • Surveying License No. LB 6690





AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 23.57 FEET TO WHICH POINT A RADIAL LINE BEARS N 30°46'03" W; THENCE EASTERLY ALONG SAID CURVE AND SAID SOUTH LINE THROUGH A CENTRAL ANGLE OF 21°17'32" FOR 8.76 FEET; THENCE N 89°03'56" E ALONG SAID SOUTH LINE FOR 1,114.93 FEET TO THE BEGINNING OF A CURVE TO THE LEFT HAVING A RADIUS OF 172.32 FEET; THENCE EASTERLY ALONG SAID CURVE AND SAID SOUTH LINE THROUGH A CENTRAL ANGLE OF 21°51'11" FOR 65.72 FEET TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT HAVING A RADIUS OF 211.16 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE AND SAID SOUTH LINE THROUGH A CENTRAL ANGLE OF 17°20'36" FOR 63.92 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 140.83 FEET TO WHICH POINT A RADIAL LINE BEARS S 41°19'20" E; THENCE NORTHEASTERLY ALONG SAID CURVE AND SAID SOUTH LINE THROUGH A CENTRAL ANGLE OF 20°26'13" FOR 50.23 FEET TO AN INTERSECTION WITH THE EAST LINE OF SAID LOT 6; THENCE S 01°35'49" E ALONG SAID EAST LINE FOR 107.09 FEET TO THE **POINT OF BEGINNING**.

PARCEL "A" AND "B" CONTAIN 8.95 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

BEARINGS AND DISTANCES ARE BASED ON THE "STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83/2011 (CORS). WHEREIN THE SOUTH LINE OF LOT 6, BLOCK OF E.P. BATES PINE RIDGE TRUCK FARMS SUBDIVISION BEARS S 89°03'56" W. THE SCALE FACTOR IS 0.999941728.

DESCRIPTION PREPARED 3-22-2017.

  
RICHARD M. RITZ  
REGISTERED LAND SURVEYOR  
FLORIDA CERTIFICATION NO. 4009  
DATE SIGNED 3-24-2017

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MAR 27 2017  
COMMUNITY DEVELOPMENT

DCI 2017-00007

# SKETCH OF DESCRIPTION

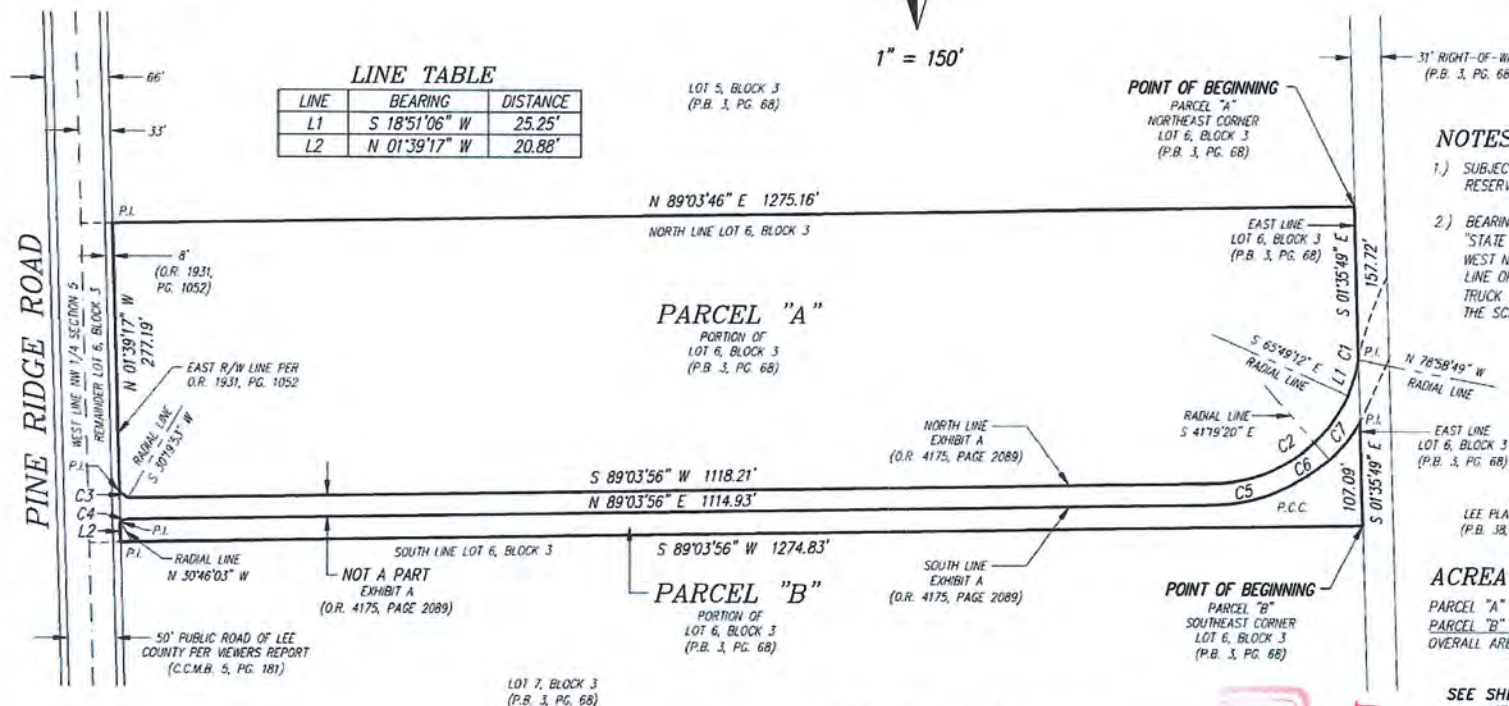
OF  
A TRACT OR PARCEL OF LAND LYING IN  
SECTION 5, TOWNSHIP 46 SOUTH, RANGE 24 EAST,  
LEE COUNTY, FLORIDA



1" = 150'

## LINE TABLE

LINE	BEARING	DISTANCE
L1	S 18°51'06" W	25.25'
L2	N 01°39'17" W	20.88'



## NOTES:

- 1.) SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.
- 2.) BEARINGS AND DISTANCES ARE BASED ON THE "STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83/2011 (CORS). WHEREIN THE SOUTH LINE OF LOT 6, BLOCK OF E.P. BATES PINE RIDGE TRUCK FARMS SUBDIVISION BEARS S 89°03'56" W. THE SCALE FACTOR IS 0.999941728.

LEE PLANTATION  
(P.B. 38, PG. 69)

## ACREAGE SUMMARY

PARCEL "A" CONTAINS: 8.17 ACRES, MORE OR LESS  
PARCEL "B" CONTAINS: 0.78 ACRES, MORE OR LESS  
OVERALL AREA CONTAINS: 8.95 ACRES, MORE OR LESS

SEE SHEETS 1 AND 2 OF 3 FOR COMPLETE METES AND BOUNDS DESCRIPTION.

THIS SKETCH OF DESCRIPTION IS NOT A BOUNDARY SURVEY

*Richard M. Ritz*

RICHARD M. RITZ  
REGISTERED LAND SURVEYOR  
FLORIDA CERTIFICATION NO. 4009

- DATE SIGNED: 3-24-2017  
- THIS SKETCH OF DESCRIPTION IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

## LEGEND:

- PG. INDICATES PAGE
- P.B. INDICATES PLAT BOOK
- R/W INDICATES RIGHT-OF-WAY
- P.I. INDICATES POINT OF INTERSECTION
- L1 INDICATES LINE 1 FROM LINE TABLE
- D.R. INDICATES OFFICIAL RECORDS BOOK
- C1 INDICATES CURVE 1 FROM CURVE TABLE
- P.C.C. INDICATES POINT OF COMPOUND CURVATURE
- C.C.M.B. INDICATES COUNTY COMMISSIONERS MINUTES BOOK

## CURVE TABLE

CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	339.41'	2°14'30"	13.28'	13.28'	S 09°53'56" W
C2	153.86'	6°33'09"	170.57'	161.97'	S 55°56'23" W
C3	110.42'	5°23'07"	10.38'	10.37'	N 56°58'33" W
C4	23.57'	2°17'32"	8.76'	8.71'	N 69°52'43" E
C5	172.32'	2°15'11"	65.72'	65.33'	N 78°08'20" E
C6	211.16'	17°20'36"	63.92'	63.67'	N 58°32'27" E
C7	140.83'	20°26'13"	50.23'	49.97'	N 38°27'34" E

PREPARED 3-22-2017  
SHEET 3 OF 3

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MAR 27 2017  
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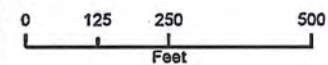




# DCI2017-00007 Zoning

## Legend

- Parcel Boundary
- Subject Parcel



tabbles®

EXHIBIT  
B



# LEGEND:



DEVIATIONS:



APPROXIMATE LOCATION OF HERITAGE TREES TO BE PRESERVED TO THE GREATEST EXTENT POSSIBLE

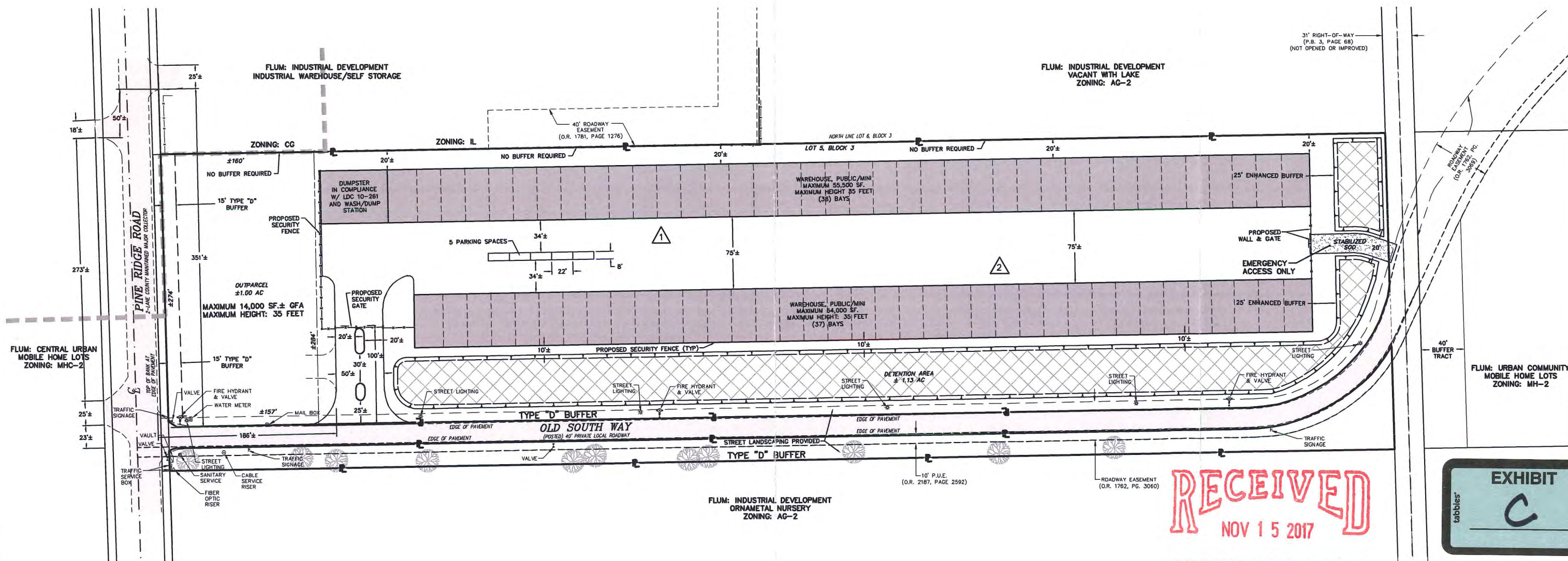
SITE AREA: 8.95 AC.±  
OPEN SPACE REQUIRED: 20% OR 1.79 AC.  
OPEN SPACE PROVIDED: MINIMUM 1.79 AC.  
NO EXISTING INDIGENOUS EXISTS ON SITE, SO NONE REQUIRED



GRAPHIC SCALE 1"= 100'



VICINITY MAP  
NOT TO SCALE



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NOV 15 2017

COMMUNITY DEVELOPMENT

DCI 2017-00007

Approved as Exhibit C  
MCP Page 1 of 2  
Resolution # 2-17-027

PREPARED FOR:

MCS ONE, LLC  
4841 MONROE ST., STE. 350  
TOLEDO, OHIO 43623

NO.	DATE	REVISION DESCRIPTION	BY
3	11/1/2017	HEARING EXAMINER PUBLIC HEARING	SEH
2	8/31/2017	UPDATE DEVIATIONS	SEH
1	6/8/2017	1st SUFFICIENCY RESPONSE	SEH

**BANKS ENGINEERING**  
Professional Engineers, Planners, & Land Surveyors  
Serving The State Of Florida

10511 SIX MILE CYPRESS PARKWAY  
FORT MYERS, FLORIDA 33906  
PHONE: (239) 938-5490 FAX: (239) 938-2523  
ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 6660  
WWW.BANKSENG.COM

MASTER CONCEPT PLAN - OPTION A						
ISLAND STORAGE SUITES IPD						
LEE COUNTY, FLORIDA						
DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE
3-24-17	1740M	_SP-10	CWR	RJE	SEH	1"=100'
						SHEET 1



# LEGEND:

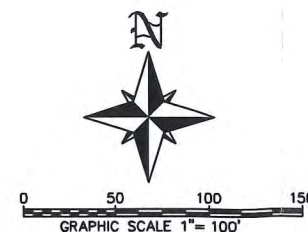


DEVIATIONS:

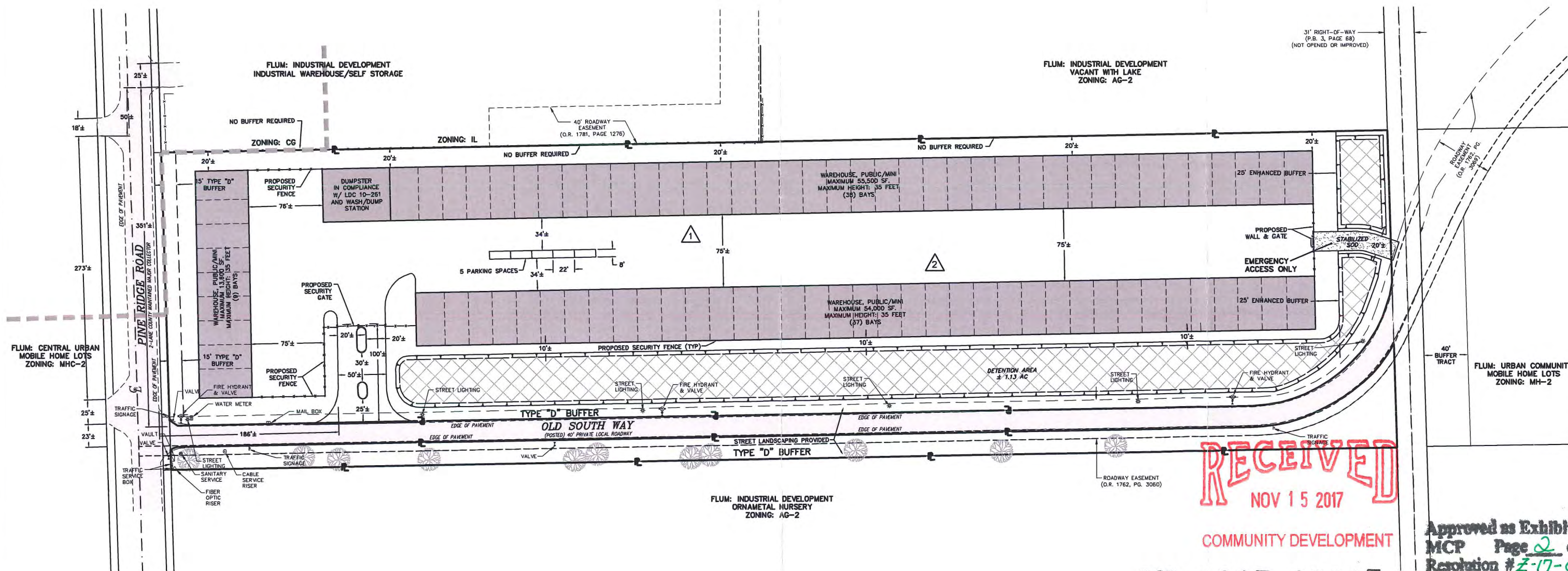


APPROXIMATE LOCATION OF  
HERITAGE TREES TO BE  
PRESERVED TO THE GREATEST  
EXTENT POSSIBLE

SITE AREA: 8.95 AC.±  
OPEN SPACE REQUIRED: 20% OR 1.79 AC.  
OPEN SPACE PROVIDED: MINIMUM 1.79 AC.  
NO EXISTING INDIGENOUS EXISTS ON SITE, SO NONE REQUIRED



VICINITY MAP  
NOT TO SCALE



RECEIVED  
NOV 15 2017

COMMUNITY DEVELOPMENT

DCI 2017-00007

Approved as Exhibit C  
MCP Page 2 of 2  
Resolution # 2-17-027

PREPARED FOR:

MCS ONE, LLC  
4841 MONROE ST., STE. 350  
TOLEDO, OHIO 43623

NO.	DATE	REVISION DESCRIPTION	BY
3	11/1/2017	HEARING EXAMINER PUBLIC HEARING	SEH
2	8/31/2017	UPDATE DEVIATIONS	SEH
1	6/9/2017	1st SUFFICIENCY RESPONSE	SEH

**BANKS  
ENGINEERING**

Professional Engineers, Planners, & Land Surveyors  
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10511 SIX MILE CYPRESS PARKWAY  
FORT MYERS, FLORIDA 33906  
PHONE: (239) 938-5480 FAX: (239) 938-2523  
ENGINEERING LICENSE # EB 6469  
SURVEY LICENSE # LB 6690  
WWW.BANKSENG.COM

MASTER CONCEPT PLAN - OPTION B  
ISLAND STORAGE SUITES IPD  
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
3-24-17	1740M	SP-11	CWR	RJE	SEH	1"=100'	1



# Legend

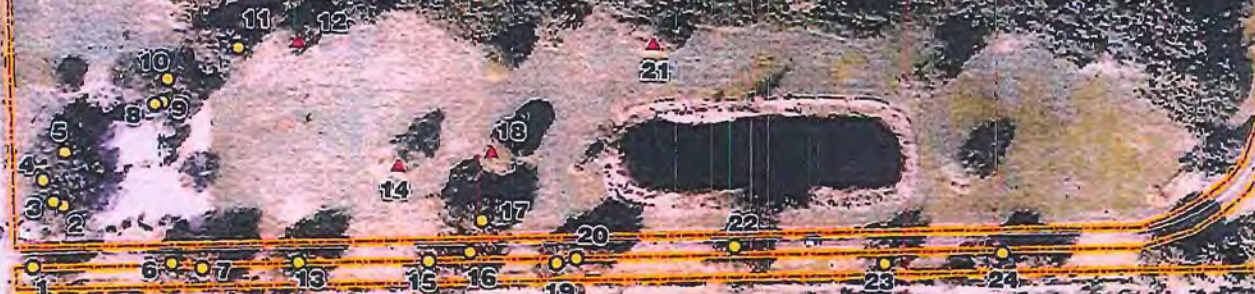
## Heritage Trees

- Heritage Oak (20)
- ▲ Heritage Pine (4)
- 10950 Old South Way



0 50 100 150 200  
Feet

PIKE RIDGE ROAD



## Heritage Tree Legend

No.	Species	Scientific Name	Diameter (D.B.H.)
1	Live Oak	<i>Quercus virginiana</i>	30
2	Live Oak	<i>Quercus virginiana</i>	30
3	Live Oak	<i>Quercus virginiana</i>	22
4	Live Oak	<i>Quercus virginiana</i>	29
5	Live Oak	<i>Quercus virginiana</i>	29
6	Live Oak	<i>Quercus virginiana</i>	25
7	Live Oak	<i>Quercus virginiana</i>	32
8	Live Oak	<i>Quercus virginiana</i>	23
9	Live Oak	<i>Quercus virginiana</i>	23
10	Live Oak	<i>Quercus virginiana</i>	26
11	Live Oak	<i>Quercus virginiana</i>	34
12	Slash Pine	<i>Pinus oclatli</i>	26
13	Live Oak	<i>Quercus virginiana</i>	26
14	Slash Pine	<i>Pinus oclatli</i>	26
15	Live Oak	<i>Quercus virginiana</i>	22
16	Live Oak	<i>Quercus virginiana</i>	26
17	Live Oak	<i>Quercus virginiana</i>	26
18	Slash Pine	<i>Pinus oclatli</i>	30
19	Live Oak	<i>Quercus virginiana</i>	22
20	Live Oak	<i>Quercus virginiana</i>	31
21	Slash Pine	<i>Pinus oclatli</i>	27
22	Live Oak	<i>Quercus virginiana</i>	27
23	Live Oak	<i>Quercus virginiana</i>	29
24	Live Oak	<i>Quercus virginiana</i>	29

## Note:

Aerial imagery was acquired from the Lee County property Appraiser's Office and has a flight date of January, 2016

Category	Drawn by:
Heritage Tree	BKM
Agency	DCM
---	5/1/17
Approval/Permit Number	BCC Number
---	2016-45

10950 Old South Way

Heritage Tree Location Map

County
Lee
SPR
5/10/2/4/5
Random

11000 Metro Pkwy.  
Suite 4  
Fort Myers, FL 33966  
Phone: (239) 418-0571  
Fax: (239) 418-0572  
www.boylandenv.com



tabbles®

EXHIBIT



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

WHEREAS, TYBX 4, LLC filed an application on behalf of the property owner, McGregor Land Associates, LLC, to rezone a 4.3± acre parcel from Community Commercial (CC) to Commercial Planned Development (CPD) in reference to McGregor/Davis Minor CPD; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Amanda L. Rivera, was advertised and held on June 19, 2020; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case # DCI2019-00021 and recommended APPROVAL of the Request; and

WHEREAS, a second public hearing was advertised and held on October 7, 2020 before the Lee County Board of Commissioners; and,

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on 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 a 4.3± acre parcel from CC to CPD, to allow 76,000 square feet of hybrid warehouse uses (mini- and public warehouse) with a maximum building height of 35 feet.

The property is located in the Suburban Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified 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. **Master Concept Plan/Development Parameters**

- a. Master Concept Plan. Development must be substantially consistent with the Master Concept Plan (MCP) entitled "McGregor/Davis Minor CPD," stamped received by Lee County Hearing Examiner July 10, 2020 (Exhibit C), except as modified by the conditions below.
- b. Land Development Code and Lee Plan. Development must comply with the Lee County Land Development Code (LDC) and Lee County Comprehensive Plan (Lee Plan) at time of local development order approval, except where deviations are

approved herein. Subsequent amendments to the MCP, conditions, or deviations herein may require further development approvals.

- c. Development Parameters. Project intensity is limited to a maximum of 76,000 square feet of hybrid mini-warehouse and public warehouse use and associated administrative offices.

## 2. Schedule of Uses and Site Development Regulations

a. Schedule of Uses

Accessory Uses and Structures

Administrative Offices

Entrance Gate, Gatehouse

Essential Services

Essential Service Facilities: Group I

Excavation, Water Retention

Fences, Walls

Signs

Temporary Uses, limited to construction trailers at the time of development

Warehouse, Hybrid. This type of warehouse combines the structural and use aspect of a "mini-warehouse" and a "public warehouse." Units may be individually owned in a condominium format. Each unit may contain customizable upgrades such as: bathroom with or without shower, climate control, upgraded floors, lighting, ceiling fans, shelving, cabinets and a mezzanine for additional storage

b. Site Development Regulations

Minimum Lot Area and Dimensions

Lot Size: 10,000 square feet

Lot Width: 100 feet

Lot Depth: 100 feet

Minimum Setbacks

Street, Public: 25 feet

Side: 15 feet

Rear: 15 feet

Water Body: 20 feet

Accessory Structures:

Rear: 5 feet

Buildings 1-3: 15 feet

Side: 5 feet

Buildings 1-3: 15 feet

Maximum Lot Coverage: 45%

Minimum Open Space: 30%

Maximum Building Height: 35 feet

Minimum Building Separation:

Between Buildings 1 and 2:	0 feet
Between Buildings 2 and 3:	0 feet
Between Buildings 3 and 4:	0 feet
Between all other buildings:	20 feet

3. Development Permits

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

4. Environmental Conditions

Developer must submit landscape plans with development order application depicting:

- a. An enhanced Type 'C' buffer (15-foot wide, five trees and 18 shrubs per 100 linear feet) with the buildings acting as the wall behind Buildings 1 through 3. The buffer must contain a conveyance swale as depicted on Cross Section D-D of the MCP. Landscape plans must specify 12-foot trees and 48-inch shrubs in the buffer. No doors, windows, mechanical equipment, or service equipment may be located in the rear of Buildings 1 through 3; and
- b. Dry detention areas planted with salt tolerant, native, herbaceous plants. The general tree requirement may be reduced by one 10-foot tree for every 400 square feet of dry detention planted.

5. Drainage Evaluation

Prior to development order approval, Developer must provide a site evaluation including existing stormwater management facilities to determine whether there are impacts to existing County drainage facilities.

6. Hybrid Warehouse Use Restrictions

- a. Permitted uses in individual units are limited to:
  - i. Storage of personal property such as automobiles, boats, recreational vehicles, furniture, and other personal possessions;
  - ii. Minor maintenance work; and
  - iii. Watching television, gaming, listening to music, and similar uses.
- b. Prohibited uses and activities in individual units include:
  - i. Dwelling units, temporary living, or overnight sleeping;
  - ii. Installation and use of stoves, cooktops, ranges, or ovens;
  - iii. Operation of a business;
  - iv. Manufacturing or construction; and
  - v. Storage or use of hazardous material.

- c. Prohibited uses and activities on the property include:
  - i. Outdoor vehicle storage including cars, trucks, boats, trailers, mobile homes, recreational vehicles, or other similar vehicles, with the exception of washing and rinsing vehicles;
  - ii. Overnight outdoor parking;
  - iii. Overnight outdoor storage; and
  - iv. Using outdoor areas for uses identified in 6(a).
- d. Units used for purposes other than dead storage must comply with applicable occupiable space standards of the Florida Building Code.
- e. Use restrictions established herein must be reflected in restrictive covenants, property owners' association documents, or lease documents affecting the property.

7. Surface Water Quality Monitoring

Prior to approval of the first Development Order (DO) for the project, Developer must obtain written approval from Lee County Division of Natural Resources (DNR) to discharge stormwater into the County's Municipal Separate Storm Sewer System (MS4) per Lee Plan Policy 125.1.4 and LDC §14-478. Upon DO approval, Developer must provide a Water Quality (WQ) Monitoring plan for DNR approval. The WQ Monitoring Plan must establish:

- a. A pre-construction baseline report of existing conditions;
- b. A WQ monitoring schedule for the outfall structure(s);
- c. Electronic Data Deliverable (EDD) format to use to report results; and
- d. A contingency plan with proposed corrective actions to address potential abnormalities or exceedances of State WQ standards.

Monitoring continues in perpetuity, but DNR may approve program revision after five years upon written request if the Developer provides data demonstrating no additional pollutants are, or will be, introduced to the MS4 or Waters of the State. After five years of monitoring, modification requests may include changes to frequency, reporting intervals, and monitored parameters based on results of the previous five-year monitoring period.

8. Architectural Design

Development must be substantially consistent with the Exterior Elevations, stamped "received" October 21, 2019 (Exhibit D).

SECTION C. DEVIATIONS:

- 1. Solid Waste Facilities. Deviation (1) seeks relief from LDC §10-261(a), to allow a minimum of 60 square feet for garbage and 24 square feet for recycling. This deviation is APPROVED.
- 2. Connection Separation on Davis Rd. Deviation (2) seeks relief from the LDC §10-285(a) requirement of a connection separation of 330 feet, to allow connection separation of 174± feet on Davis Road. This deviation is APPROVED.



3. Connection Separation on McGregor Blvd. Deviation (3) seeks relief from the LDC §10-285(a) requirement of a connection separation of 660 feet, to allow connection separation of 243± feet on McGregor Blvd. This deviation is APPROVED.
4. Buffer. Deviation (4) seeks relief from the LDC §10-416(d)(4) Note 1 requirement of a solid wall, berm or wall and berm combination not less than eight feet in height, to allow the back of the buildings with no windows to serve as the eight foot wall. This deviation is APPROVED, SUBJECT TO Condition 4a.

#### SECTION D. EXHIBITS:

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

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan
- Exhibit D: Exterior Elevations

#### SECTION E. FINDINGS AND CONCLUSIONS:

Based upon its review, The Board of County Commissioners adopts the recommendation of the Hearing Examiner, including the following findings and conclusions:

1. As conditioned herein, the proposed rezoning to CPD:
  - a. Complies with the Lee Plan. See, Lee Plan Vision Statement Paragraph 12 (Iona/McGregor Planning Community), Lee Plan Goals 2, 4, 5, 6, 39, Objectives 2.1, 2.2, and Policies 1.1.5, 2.1.1, 2.2.1, 5.1.5, 6.1.1, 6.1.3, 6.1.4, 6.1.5, 6.1.6; Lee Plan Maps 1, 16.
  - b. Complies with the LDC and other County regulations. See, LDC Chapters 10 and 34;
  - c. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.5, 2.1.1, 2.1.2, 2.2.1, 5.1.5, 6.1.1, 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7; LDC §§34-411(c), (i), and (j).
  - d. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goal 77, Objectives 4.1, 77.1, Standard 4.1.4, Policy 6.1.6, and LDC §34-411(h).
  - e. Will be served by urban services. See, Lee Plan Glossary, Maps 6, 7, Goal 2; Objectives 2.1, 2.2, 4.1, 53.1, 56.1; Policies 2.2.1, 6.1.4, and Standards 4.1.1 and 4.1.2; LDC §34-411(d).
2. The Master Concept Plan reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. See, Lee Plan Goal 39, Objective 39.1, Policy 6.1.5; LDC §34-411(d).

3. The proposed mix of uses is appropriate at the proposed location. See, Lee Plan Policies 1.1.5, 2.1.1, 5.1.5, 6.1.3, and 6.1.4.
4. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See, Lee Plan Policies 5.1.5, 6.1.3, 6.1.4, 135.9.6; See *also*, LDC Chapters 10 and 34.
5. As conditioned herein, the deviations:
  - a. Enhance the objectives of the planned development; and
  - b. Promote the intent of the LDC to protect the public health, safety and welfare. See, §34-377(b)(4).

#### SECTION F. SCRIVENER'S ERRORS

The Board intends that this resolution can be renumbered or relettered and typographical errors that do not affect the intent and are consistent with the Board's action can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

Commissioner Pendergrass made a motion to adopt the foregoing resolution, seconded by Commissioner Mann. The vote was as follows:

Adopted by unanimous consent.

John Manning	Absent
Cecil Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 7th day of October, 2020.

ATTEST:  
LINDA DOGGETT, CLERK

BY: Melissa Butler  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: Brian Hamman  
Brian Hamman, Chair



APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY

Amanda L. Swindle  
Amanda L. Swindle  
Assistant County Attorney  
County Attorney's Office

RECEIVED  
MINUTES OFFICE  
MB  
2020 OCT 13 PM 2:40

Exhibit A



Professional Engineers, Planners & Land Surveyors

DESCRIPTION  
OF A  
PARCEL OF LAND  
LYING IN  
SECTION 2, TOWNSHIP 46 SOUTH, RANGE 23 EAST  
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN THE SOUTH HALF (S 1/2) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 2, TOWNSHIP 46 SOUTH, RANGE 23 EAST, BEING ALL THOSE LANDS AS DESCRIBED IN INSTRUMENT NUMBER 2006000418372, OF THE PUBLIC RECORDS OF SAID LEE COUNTY, BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID FRACTION, SAID POINT ALSO BEING THE NORTHEAST CORNER OF LANDS DESCRIBED IN OFFICIAL RECORD BOOK 4265 AT PAGE 1649 OF SAID PUBLIC RECORDS; THENCE S 89°00'12" W ALONG THE NORTH LINE OF SAID FRACTION FOR 60.00 FEET TO THE **POINT OF BEGINNING**, SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID LANDS DESCRIBED IN INSTRUMENT NUMBER 2006000418372; THENCE S 00°59'48" E ALONG THE EAST LINE OF SAID LANDS FOR 246.69 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF MCGREGOR BOULEVARD, COUNTY ROAD 867, (100 FEET WIDE); THENCE S 62°54'33" W ALONG SAID NORTHERLY LINE FOR 582.06 FEET TO THE SOUTHEAST CORNER OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1632, PAGE 1106 OF SAID PUBLIC RECORDS; THENCE N 59°03'39" W ALONG THE EASTERLY LINE OF SAID LANDS FOR 52.95 FEET TO AN INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF DAVIS ROAD (66 FEET WIDE); THENCE N 01°01'51" W ALONG SAID EAST LINE FOR 333.69 FEET TO THE SOUTHWESTERLY CORNER OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1580 AT PAGE 83 OF SAID PUBLIC RECORDS OF LEE COUNTY; THENCE ALONG THE SOUTHERLY LINE OF SAID LANDS THE FOLLOWING FOUR (4) COURSES:

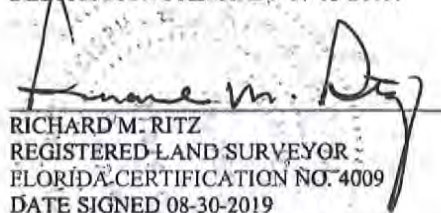
- 1) N 88°58'09" E FOR 210.00 FEET;
- 2) THENCE N 01°01'51" W FOR 49.62 FEET
- 3) TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 100.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°08'44" FOR 47.38 FEET
- 4) TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 100.00 FEET; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 27°08'44" FOR 47.38 FEET TO AN INTERSECTION WITH THE NORTH LINE OF SAID FRACTION; THENCE CONTINUE N 89°00'12" E ALONG SAID SOUTHERLY LINE AND THE NORTH LINE OF SAID FRACTION FOR 335.92 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 4.30 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

BEARINGS BASED ON THE "STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83 (CORS), WHEREIN THE NORTHERLY RIGHT OF WAY OF MCGREGOR BOULEVARD (STATE ROAD 867) BEARS S 62°54'33" W. THE SCALE FACTOR IS 0.99994344

DESCRIPTION PREPARED 07-03-2019.

  
RICHARD M. RITZ  
REGISTERED LAND SURVEYOR  
FLORIDA CERTIFICATION NO. 4009  
DATE SIGNED 08-30-2019

Applicant's Legal Checked  
by DM 1/6/2020

DCI 20 19- 00 021

RECEIVED  
OCT 21 2019

SHEET 1 OF 2

• SERVING THE STATE OF FLORIDA •

COMMUNITY DEVELOPMENT



# BANKS ENGINEERING

Professional Engineering, Planning, & Land Surveyors  
Serving The State Of Florida

10014 N. W. 10th Avenue, Suite 100  
Fort Myers, Florida 33904  
Phone: (239) 333-3333 Fax: (239) 333-3333  
Email: info@bankseng.com  
www.bankseng.com

## SKETCH OF DESCRIPTION

POINT OF  
COMMENCEMENT  
NORTHEAST CORNER  
S 1/2 SE 1/4 SW 1/4  
SECTION 2  
NORTHEAST CORNER  
O.R. 4265 PG. 1649

A TRACT OR PARCEL OF LAND LYING IN  
SECTION 2, TOWNSHIP 46 SOUTH, RANGE 23 EAST,  
LEE COUNTY, FLORIDA



### LEGEND:

- P.G. INDICATES PAGE
- C.R. INDICATES COUNTY ROAD
- N. INDICATES INSTRUMENT NUMBER
- P.C. INDICATES POINT OF CURVATURE
- P.I. INDICATES POINT OF INTERSECTION
- O.R. INDICATES OFFICIAL RECORD BOOK
- P.R.C. INDICATES POINT OF REVERSE CURVATURE

### LINE TABLE

LINE	BEARING	DISTANCE
LI	S 89°00'12" W	60.00'

### CURVE TABLE

CURVE	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C1	100.00'	27°08'44"	47.38'	46.94'	N 12°32'31" E
C2	100.00'	27°08'44"	47.38'	46.94'	N 12°32'31" E

### NOTES:

- SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY OF RECORD.
- BEARINGS AND DISTANCES ARE BASED ON THE "STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83 (CORS), WHEREIN THE NORTHERLY RIGHT-OF-WAY LINE OF MCGREGOR BOULEVARD BEARS S 62°54'33" W. THE SCALE FACTOR IS 0.99994344.

PREPARED 07-03-2019  
SHEET 2 OF 2

Applicant's Legal Checked  
by DM 1/16/2020

SEE SHEET 1 OF 2 FOR COMPLETE  
METES AND BOUNDS DESCRIPTION.  
THIS SKETCH OF DESCRIPTION  
IS NOT A BOUNDARY SURVEY

*Richard M. Ritz*  
RICHARD M. RITZ  
REGISTERED LAND SURVEYOR  
FLORIDA CERTIFICATION NO. 4009  
- DATE SIGNATURE 08-10-2019  
- THIS SKETCH OF DESCRIPTION IS NOT VALID  
WITHOUT THE ORIGINAL SIGNATURE AND ORIGINAL  
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

S:\JOBS\833X\8337\SURVEYING\DESCRIPTIONS\8337-SF NEW LEGAL.DWG  
S:\JOBS\833X\8337\SURVEYING\DESCRIPTIONS\8337-SK.DWG








## DCI2019-00021 Zoning

### Legend

 Subject Parcel

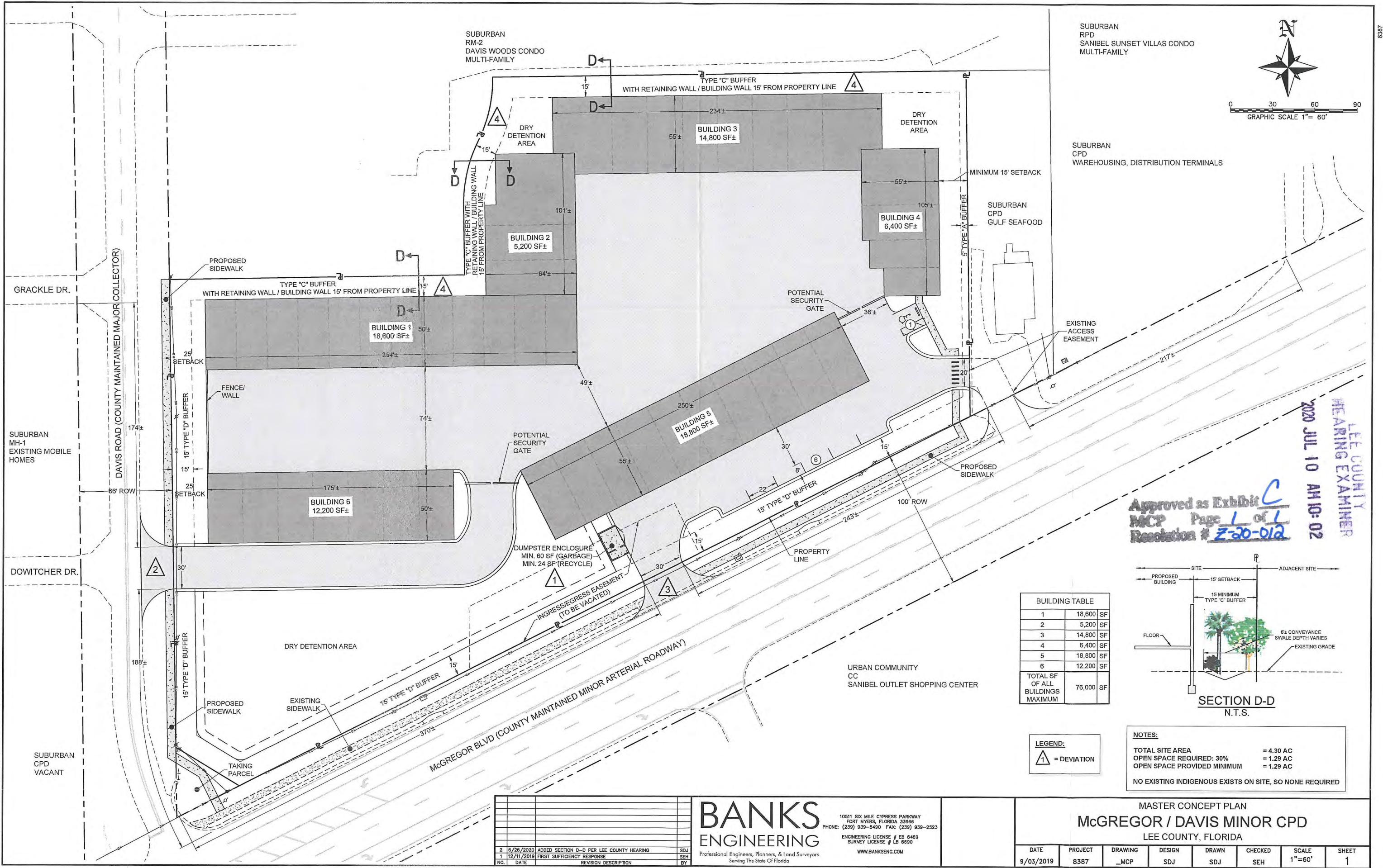


0 100  
Feet



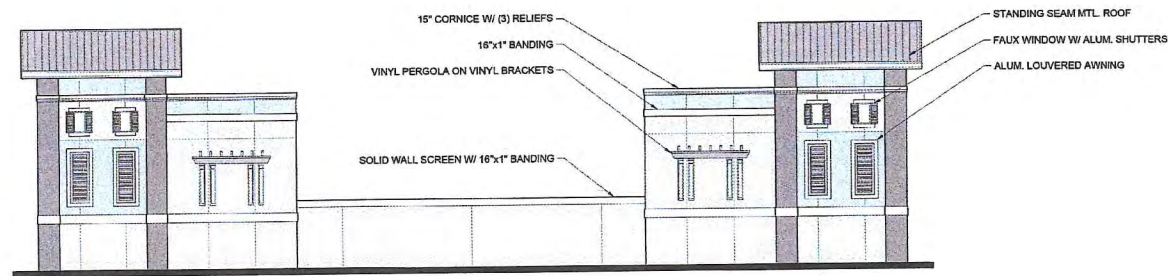


S:\JOBS\B3XX\B387\ZONING\B387-MCP.DWG 6/26/2020 3:10 PM STEVE JOHNSON

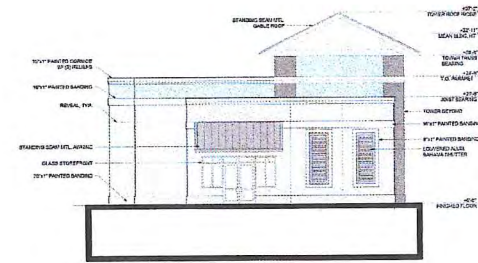


8387

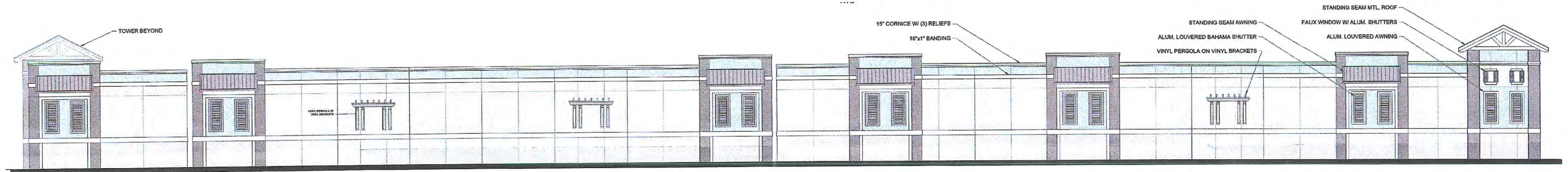




● DAVIS ROAD ELEVATION BUILDINGS 1&6  
NTS



● MCGREGOR ELEVATION BUILDING 4  
NTS



● DAVIS WOODS ELEVATIONS BUILDINGS 4,3,2,1  
NTS



● MCGREGOR ELEVATION BUILDING 5  
NTS

Approved as Exhibit **D**  
MCP Page **1** of **1**  
Resolution # **Z-20-012**

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OCT 21 2019  
COMMUNITY DEVELOPMENT

2019-00021



43 BARKLEY CIRCLE SUITE #202  
FORT MYERS, FL 33907  
P: 239 275.0225 F: 239 275.7123

A Proposal for  
**Luxury Storage Units**  
CJB Development LLC  
10.11.19

16998 McGregor Blvd  
Ft. Myers, FL 33908

EXTERIOR ELEVATIONS

JOB NO. 0000000  
PAGE NUMBER  
**A201**



ADMINISTRATIVE AMENDMENT (PD) ADD2021-00032

ADMINISTRATIVE AMENDMENT  
LEE COUNTY, FLORIDA

WHEREAS, David E. McKee, on behalf of Jorge Sorgi/My Garage Development, LLC filed an application for an administrative amendment to a Commercial Planned Development on a project known as My Garage, LLC at Shire (fka Shire Lane CPD) to amend the schedule of uses to include "Warehouse, Hybrid" on property located 13461 Shire Lane, described more particularly as:

LEGAL DESCRIPTION: In Section 21, Township 45 South, Range 25 East, Lee County, Florida:

ATTACHED AS EXHIBIT "A"

WHEREAS, the property was originally rezoned in resolution number Z-09-024 (with a subsequent amendment in case number ADD2020-00111); and

WHEREAS, the subject property is located in the Outlying Suburban and Wetlands Future Land Use Categories as designated by the Lee Plan; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, ADD2020-00111 modified Master Concept Plan Option No. 1, and modified some conditions and development regulations of Resolution Z-09-024; and

WHEREAS, the applicant is requesting to include Warehouse, Hybrid to the schedule of uses for this development; and

WHEREAS, Warehouse, Private and Public is already permitted within this development; and

WHEREAS, hybrid warehouse combines the structural and use aspect of a "mini-warehouse" and a "public warehouse"; and

WHEREAS, hybrid warehouse units may be individually owned in a condominium format; and

WHEREAS, each hybrid warehouse unit may contain customizable upgrades such as, a bathroom with or without shower, climate control, upgraded floors, lighting, ceiling fans, shelving, cabinets and/or a mezzanine for additional storage; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for an administrative amendment to the Shire Lane CPD is **APPROVED subject to the following conditions:**

1. **The terms, conditions and Master Concept Plan of the original zoning resolutions remain in full force and effect, except as amended herein.**
2. **The schedule of uses of Resolution Z-09-024 is hereby amended to include “Warehouse, Hybrid” with the following restrictions:**

**WAREHOUSE, HYBRID USE RESTRICTIONS**

**a. Permitted Uses in individual units:**

1. **The use of individual units is limited to the storage of personal property, such as: automobiles, boats, recreational vehicles, furniture, and other personal possessions;**
2. **Minor maintenance work; and**
3. **Watching television, gaming, listening to music and similar uses**

**b. Uses and activities prohibited in individual units:**

1. **Use as a dwelling unit, temporary living or overnight sleeping;**
2. **The installation and use of stoves, cooktops, ranges, or ovens;**
3. **Operation of a business;**
4. **The use of units for manufacturing or construction; and**
5. **The storage or use of hazardous material**

**c. Uses and activities prohibited on the property:**

1. **The outdoor storage of unattended vehicles including cars, trucks, boats, trailers, mobile homes, recreational vehicles, or other similar vehicles, with the exception of washing and rinsing;**
2. **Overnight outdoor parking, except for the residents of the caretaker’s quarters;**
3. **Outdoor storage of any kind; and**
4. **Using outdoor areas for uses listed above in “Permitted Uses”.**



3. **If it is determined that inaccurate or misleading information was provided to the County or if this decision does not comply with the LDC when rendered, then, at any time, the Zoning Manager may issue a modified decision that complies with the Code or revoke the decision. If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with Chapter 34.**

Duly passed, adopted, and electronically signed on 4/13/2021

Anthony R. Rodriguez, AICP, Zoning Manager

Attachments: Exhibit A: Legal Description  
Exhibit B: ADD2020-00111  
Exhibit C: Resolution Z-09-024

**Banks Engineering**Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTEDESCRIPTION  
OF A  
PARCEL OF LAND  
LYING IN  
SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, BEING THE NORTH ONE-HALF, OF THE SOUTHWEST ONE-QUARTER, OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER, SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LESS THE 30 FOOT EASEMENT ALONG THE WESTERLY SIDE, AS RECORDED IN OFFICIAL RECORDS BOOK 4705, PAGE 443 OF THE PUBLIC RECORDS OF SAID LEE COUNTY BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHEAST CORNER OF SAID FRACTION; THENCE S 01°07'45" E ALONG THE EAST LINE OF SAID FRACTION FOR 330.96 FEET TO THE SOUTHEAST CORNER OF SAID FRACTION; THENCE S 88°41'08" W ALONG THE SOUTH LINE OF SAID FRACTION FOR 650.50 FEET TO AN INTERSECTION WITH THE EAST LINE OF SHIRE LANE, A 60 ROAD RIGHT-OF-WAY PER THE UNRECORDED PLAT OF COLONIAL RANCHETTS SAID LINE BEING 30.00 FEET EAST OF AND PARALLEL WITH (AS MEASURED ON A PERPENDICULAR) THE WEST LINE OF SAID FRACTION; THENCE N 01°09'37" W ALONG SAID LINE FOR 330.96 FEET TO AN INTERSECTION WITH THE NORTH LINE OF SAID FRACTION; THENCE N 88°41'08" E ALONG SAID NORTH LINE FOR 650.68 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 4.94 ACRES MORE OR LESS

BEARINGS AND DISTANCES ARE BASED ON "THE STATE PLANE COORDINATES SYSTEM" FLORIDA ZONE WEST NAD 83 (1990) ADJUSTMENT, WHEREIN THE NORTH LINE OF THE NORTH HALF, OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA BEARS N 88°41'08" E.


DESCRIPTION PREPARED 04-01-2008.  
DESCRIPTION REVISED 06-13-2008.

RICHARD M. RITZ  
REGISTERED LAND SURVEYOR  
FLORIDA CERTIFICATION NO. 4009  
DATE SIGNED 06-13-2008

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s:\jobs\1975\1975 surveying descriptions\1975 bndy-skt-REV.dwg

**REVIEWED**  
**ADD2021-00032**  
**Rick Burris, Principal**  
**Planner**  
**Lee County DCD/Planning**  
**3/12/2021**

**RECEIVED**  
JUL 31 2008

Applicant's Legal Checked  
by  8-4-08

COMMUNITY DEVELOPMENT

SHEET 1 OF 2

**Banks Engineering**

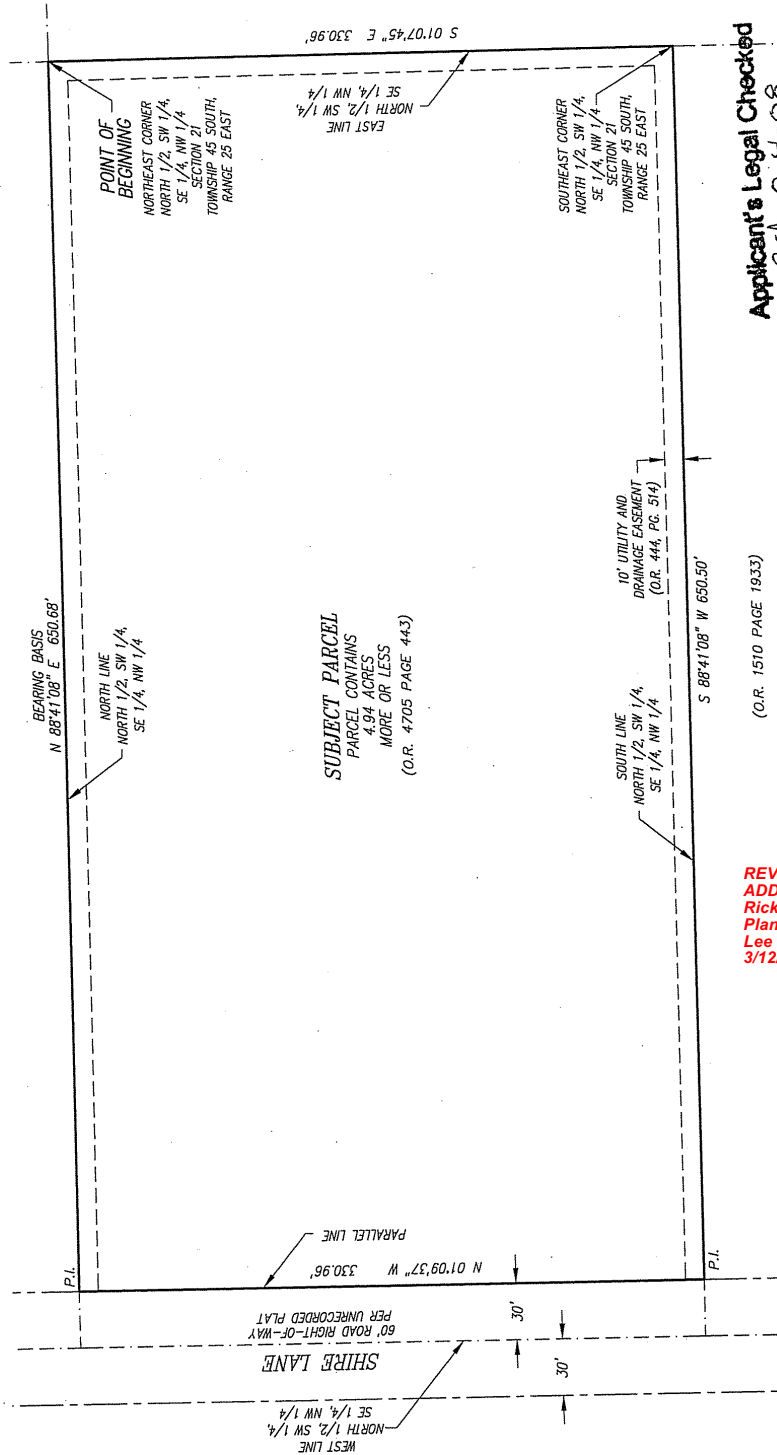
PROFESSIONAL ENGINEERS, LAND SURVEYORS & PLANNERS  
FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690  
10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33966  
(239) 939-5490

**EXHIBIT A**  
**Page 2 of 2**

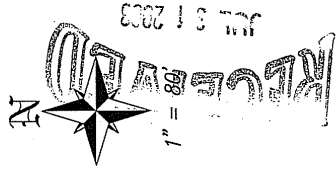
**SKETCH OF DESCRIPTION**

OF

A TRACT OR PARCEL OF LAND LYING IN  
SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST,  
LEE COUNTY, FLORIDA



DCI 2008-00016  
COMMUNITY DEVELOPMENT



SEE SHEET 1 OF 2  
FOR COMPLETE DESCRIPTION.  
THIS SKETCH OF DESCRIPTION  
IS NOT A BOUNDARY SURVEY

**Applicant's Legal Checked**  
by *BSJ* 8-4-08

**NOTES:**

- 1.) BEARINGS AND DISTANCES ARE BASED ON THE "STATE PLANE COORDINATES SYSTEM" FLORIDA ZONE WEST NAD 83 (1990) ADJUSTMENT, WHEREIN THE NORTH LINE OF THE NORTH HALF, OF THE SOUTHWEST QUARTER, OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST BEARS N 88°41'08" E.

REVIEWED  
ADD2021-00032  
Rick Burris, Principal  
Planner  
Lee County DCD/Planning  
3/12/2021

**LEGEND:**

- P.I. INDICATES POINT OF INTERSECTION  
O.R. INDICATES OFFICIAL RECORDS BOOK

S:\JOBS\19XX\1975\SURVEYING\DESCRIPTIONS\1975 BNDY-SKT.DWG  
S:\JOBS\19XX\1975\SURVEYING\DESCRIPTIONS\1975 BNDY-SKT.DWG

*Richard M. Ritz*  
RICHARD-M. RITZ  
REGISTERED LAND SURVEYOR  
FLORIDA CERTIFICATION NO. 4009  
- DATE SIGNED: 08-13-2008  
- THIS SKETCH OF DESCRIPTION IS NOT VALID  
WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED  
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

PREPARED 04-01-2008  
REVISED 06-13-2008  
SHEET 2 OF 2

## ADMINISTRATIVE AMENDMENT (PD) ADD2020-00111

ADMINISTRATIVE AMENDMENT  
LEE COUNTY, FLORIDA

WHEREAS, David E. McKee, on behalf of Mr. Jorge Sorgi/My Garage LLC, filed an application for an administrative amendment to a Commercial Planned Development known as the Shire Lane CPD to modify Option 1 of the approved Master Concept Plan and to modify certain conditions of Resolution Z-09-024 to reflect the modified Master Concept Plan on property located 13461 Shire Lane; and

WHEREAS, the applicant' has indicated that the property's current STRAP number is 21-45-25-01-00000.0150 (see Exhibit "A"); and

WHEREAS, the subject property is located in the Outlying Suburban and Wetlands Future Land Use Categories as designated by the Lee Plan; and

WHEREAS, the property was originally rezoned by Resolution Z-09-024; and

WHEREAS, Resolution Z-09-024 approved two alternative Master Concept Plans providing for mini-warehouse uses (Option 1) and commercial retail and office uses (Option 2) (see Exhibit "B"); and

WHEREAS, the applicant has filed a request to amend Master Concept Plan Option 1 to permit four separate, smaller buildings in lieu of one larger building, depict separate units, depict areas for required building perimeter plantings, and eliminate the open paved area on the east side of the proposed development area (see Exhibit "C"); and

WHEREAS, the applicant has indicated that the proposed modifications to Master Concept Plan Option 1 will provide for a maximum of approximately 91,500 square feet of development intensity dedicated to mini-warehouse uses, whereas a maximum of 197,000 square feet of development intensity is permitted by Resolution Z-09-024; and

WHEREAS, the applicant proposes modifications to Conditions 3.i and 9 of Resolution Z-09-024 to facilitate the development of the subject property (see Exhibit "D"); and

WHEREAS, Condition 3.i of Resolution Z-09-024 requires the planting of three sabal palm clusters per 100 linear feet of building within the building perimeter planting areas on each side of the proposed storage building (see Exhibit "B"); and

WHEREAS, this condition was required at the time of rezoning to mitigate the approved 50-foot maximum building height associated with Master Concept Plan Option 1 (see Exhibit "E"); and

WHEREAS, the applicant has indicated that the building height for Master Concept Plan Option 1 will be reduced from 50 feet to 35 feet and has requested removal of this condition (see Exhibit "D"); and

WHEREAS, the approved property development regulations have been amended to reflect the building height reduction to allow for the removal of the aforementioned condition; and



WHEREAS, Condition 9 of Resolution Z-09-024 requires any building developed in compliance with Master Concept Plan Option 1 to be consistent with the architectural rendering approved in conjunction with the request for rezoning (see Exhibit "B"); and

WHEREAS, the applicant has filed a request to remove Condition 9 and proposes to comply with the Design Standards and Guidelines for Commercial Buildings and Developments established in LDC Section 10-600 et seq.; and

WHEREAS, the applicant's justification for the proposed removal of this condition notes the overall reduction in building height (see Exhibit "D"); and

WHEREAS, the Land Development Code establishes adequate standards to facilitate the development of the subject property in a manner that is compatible with the surrounding area when taking into account the reduction in building height; and

WHEREAS, the applicant has filed a request to include solar panels as an accessory use within the planned development; and

WHEREAS, solar panels are classified as Essential Service Facilities, Group I pursuant to LDC Section 34-622, and Essential Service Facilities, Group I are permitted within the planned development; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for an administrative amendment to the Shire Lane CPD is **APPROVED, subject to the following conditions:**

1. **Development of Master Concept Plan Option 1 must be in compliance with the amended Master Concept Plan entitled Administrative Amendment to CPD, My Garage, LLC at Shire, last revised September 1, 2020, a reduced copy of which is attached hereto as Exhibit "C."**
2. **Condition 2.b of Resolution Z-09-024 is hereby amended as follows:**

<b>Minimum lot size</b>	<b>10,000 square feet</b>
<b>Minimum lot width</b>	<b>100 feet</b>
<b>Minimum lot depth</b>	<b>100 feet</b>

**Minimum Setbacks:**

**Front:**

Private Street	20 feet
Public Street	25 feet

**Side:** 20 feet

**Rear:** 20 feet

**Waterbody:** 20 feet

**Preserve:** 20 feet

**Maximum Building Height** ~~50~~35 feet for self-storage (MCP Option #1)  
35 feet for all other uses (MCP Option #2)

**Maximum Lot Coverage** 60 percent

**Minimum Open Space** 30 percent

**3. Condition 3 of Resolution Z-09-024 is hereby amended as follows:**

a. through h. remain unchanged.

~~i. Prior to local development order approval of Option No. 1, the development order plans must demonstrate the planting of three sabal palm clusters per 100 linear feet of building on all four sides of the proposed storage buildings within the building perimeter area. These palms must be clustered in groups of three and staggered in height ranging from 16-20 feet of clear trunk at time of planting.~~

**4. Condition 9 of Resolution Z-09-024 is hereby deleted.**

**5. The terms and conditions of the original zoning resolution remains in full force and effect.**

**6. If it is determined that inaccurate or misleading information was provided to the County or if this decision does not comply with the LDC when rendered, then, at any time, the Zoning Manager may issue a modified decision that complies with the Code or revoke the decision. If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with Chapter 34.**

Duly passed, adopted, and electronically signed on 10/8/2020

Audra Ennis, Zoning Manager,for Audra Ennis, Zoning Manager

List of Exhibits

Exhibit A: STRAP Number

Exhibit B: Resolution Z-09-024

Exhibit C: Master Concept Plan

Exhibit D: Request Narrative

Exhibit E: Excerpt from Staff Report, DCI2008-00016



**DAVID E. MCKEE**  
**PROFESSIONAL ENGINEER**  
**P.E. 38347, STATE OF FLORIDA**



~~EXHIBIT C~~

RESOLUTION NUMBER Z-09-024

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

WHEREAS, JFK Ventures, LLP, filed an application to rezone a 4.94±- acre parcel from Agricultural (AG-2) to Commercial Planned Development (CPD) in reference to Shire Lane CPD; and,

WHEREAS, a public hearing was advertised and held on June 12, 2009, before the Lee County Zoning Hearing Examiner Richard A. Gescheidt. Written submissions were requested by the Hearing Examiner at the close of hearing with a due date of June 19, 2009. The Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2008-00016; and,

WHEREAS, a second public hearing was advertised and held on August 3, 2009, 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 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 a 4.94±-acre parcel from AG-2 to CPD, to allow for either 50,000 square feet of commercial building with up to 30,000 square feet of retail with a maximum height of 35 feet, or 197,000 square feet of self-storage building with a maximum height of 50 feet. Water and sanitary sewer services will be provided by Lee County Utilities. Development blasting is not requested.

The property is located in the Outlying Suburban and Wetlands Future Land Use Categories and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified 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. Development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled "Master Concept Plan Option No. 1 - Shire Lane CPD," prepared by Banks Engineering, last revised 08/03/09, and date-stamped "Received Aug 10 2009" and attached hereto as Exhibit C-1; and the one-page Master Concept Plan (MCP) entitled "Master Concept Plan Option No. 2 - Shire Lane CPD," prepared by Banks Engineering, last revised 08/03/09, and date-stamped "Received Aug 10, 2009" and attached hereto as Exhibit C-2, except as modified by the conditions below. Development must comply with

EXHIBIT "C"

8/3/09

all requirements of the 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 MCP are subsequently pursued, appropriate approvals will be necessary.

This development will allow a maximum of 197,000 square feet of self storage for Option 1, or 50,000 square feet of commercial, to include up to 30,000 square feet of retail, for Option 2.

At the time of the first local development order request, the applicant must commit to one of the two MCPs.

## 2. Uses and Site Development Regulations

The following limits apply to the project and uses:

### a. SCHEDULE OF USES

Administrative offices (For Option #1, limited to a maximum of 1,200 square feet)  
 Animals: Clinic  
 ATM (Automatic teller machine)  
 Auto parts store\*\* (No installation service)  
 Bait and tackle shop\*\*  
 Banks and financial establishments: Group I  
 Business services: Groups I & II  
 Caretaker's residence (Option #1 only)(Limited to one with a maximum of 1,200 square feet in conjunction with Self-storage use)  
 Cleaning and maintenance services  
 Clothing store\*\*, General  
 Clubs: Commercial, Private  
 Computer and data processing services  
 Contractors and builders: Group I  
 Cultural facilities  
 Day care center, adult, child  
 Drive-thru for any permitted use  
 Drugstore, pharmacy\*\*  
 Entrance gates and gatehouse  
 Essential services  
 Essential Service facilities: Group I  
 Excavation: water retention  
 Fences and walls  
 Food and beverage services, Limited  
 Food stores\*\*: Groups I & II  
 Hardware store\*\*  
 Healthcare facility: Group III  
 Insurance company  
 Hobby, toy and game shops\*\*  
 Household and office furnishings\*\*: Groups I & II  
 Laundry and dry cleaning: Group I

Library  
 Medical office  
 Mini-warehouse (Option #1 only)  
 Paint, glass and wallpaper\*\*  
 Parking lot: accessory, Temporary(during development of the site)  
 Personal services: Groups I, II, III & IV(Except: dating services, Escort services,  
 Palm readers, Fortunetellers, Card readers, and Tattoo parlors)  
 Pet services  
 Place of worship  
 Printing and publishing  
 Recreational facilities, Commercial: Group I, Personal  
 Rental and leasing establishments: Groups I & II  
 Repair shops: Groups I & II  
 Research and development: Groups II & IV  
 Restaurants\*\*: Groups I, II & III  
 Signs in accordance with Chapter 30  
 Social services: Groups I & II  
 Specialty retail shop\*\*: Groups I, II & III, no outdoor display of merchandise  
 Variety store\*\*  
 Warehouse: private, public No outdoor or open storage (Option #1 only)

\*\* Use limited to Lot #2 of MCP Option # 2.

Note: Permitted uses for MCP #1 are limited to uses specifically labeled as Option #1 only. All remaining uses are for Option #2.

b. Site Development Regulations

Minimum lot size	10,000 square feet
Minimum lot width	100 feet
Minimum lot depth	100 feet
Minimum Setbacks:	

Front:	
Private Street	20 feet
Public Street	25 feet

Side:	20 feet
Rear:	20 feet
Waterbody:	20 feet
Preserve:	20 fFeet

Maximum Building Height	50 feet for self-storage (MCP Option #1) 35 feet for all other uses (MCP Option #2)
Maximum Lot Coverage	60 percent
Minimum Open Space	30 percent

### 3. ENVIRONMENTAL CONDITIONS

- a. Prior to local development order approval of Option No.1, the development order plans must delineate a minimum of 1.83 acres as open space.
- b. Prior to the first local development order approval of Option No.2, the development order plans must delineate a minimum of 1.54 acres as common open space with no less than 10 percent open space proposed within the individual lots.
- c. Prior to the first local development order approval, the development order plans must provide restoration plantings in substantial compliance with the "Shire Lane CPD Enhancement and Restoration Planting Plan" attached as Exhibit E.
- d. Prior to the first local development order approval, an indigenous management plan must be provided to Lee County Environmental Sciences' staff for review and approval. This plan must outline the restoration and long term maintenance of the wetland preserve, upland buffer, and dry detention areas. The indigenous management plan must include, at a minimum, information on the hand removal only of exotic vegetation within the preserve; the restoration plantings proposed in the wetland preserve, upland buffer, and dry detention; and the watering of all restoration and enhancement areas for a minimum period of one year to become established.
- e. A copy of the appropriate gopher tortoise relocation permit issued by the Florida Fish and Wildlife Conservation Commission (FWC) must be submitted to Lee County Environmental Sciences' staff prior to excavation and moving of any gopher tortoises. The applicant must first seek approval for relocation of gopher tortoises on-site to managed preserve habitat on site, before pursuing off-site relocation options. If an on-site relocation permit from the FWC is received, the development order plans must depict the suitable habitat within Indigenous Preservation Areas as "Gopher Tortoise Preserve." Any gopher tortoises and commensal species found during burrow excavation must be moved to preserves containing suitable gopher tortoise habitat as approved by the FWC and Lee County Environmental Sciences' staff.
- f. East property line shall be buffered by planting five native wetland trees per 100 linear feet, minimum of ten feet in height, near the lake perimeter, within the lake maintenance easement.
- g. Prior to the first local development order approval, the development order plans must depict the use of 100 percent native canopy trees planted at 14 feet in height for all buffers.
- h. Prior to the first local development order approval, the development order plans must demonstrate the use of 100 percent native vegetation for all required landscaping on site.

- i. Prior to local development order approval of Option No. 1, the development order plans must demonstrate the planting of three sabal palm clusters per 100 linear feet of building on all four sides of the proposed storage buildings within the building perimeter area. These palms must be clustered in groups of three and staggered in height ranging from 16-20 feet of clear trunk at time of planting.

4. VEHICULAR/PEDESTRIAN IMPACTS

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

5. LEE COUNTY COMPREHENSIVE PLAN CONSISTENCY

Approval of this zoning request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee County Comprehensive Plan (Lee Plan) Planning Communities Map and Acreage Allocation Table, Map 16, and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix, and general function, as well as all other Lee Plan provisions.

6. CONCURRENCY

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

7. AGRICULTURAL

There is no bona fide agricultural use at the time of rezoning, and none shall be established in the future.

8. SOLID WASTE/RECYCLABLES

As part of any local development order approval for vertical development, the development order plans must include facilities in compliance with LDC §10-261 and Solid Waste Ordinance # 08-10 for the pick-up/disposal of solid waste and recyclables, except as may be modified by Deviation #3 for MCP Option #1. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of local development order application.

9. BUILDING DESIGN

For Master Concept Plan Option #1, the design of the building will be in substantial compliance with the artist rendering attached hereto as Exhibit D.



10. BUFFER

A Type "D" buffer shall be installed along the southern property line from Shire Lane to the wetland preserve. All shrubs for this buffer must be planted outside of the dry detention area. All trees for this buffer must be shade trees no less than 14 feet in height.

SECTION C. DEVIATIONS:

1. SETBACKS

Deviation (1) seeks relief from the LDC §10-329(d)(1)(a)(3) requirement to provide that new excavations for water retention and detention be setback 50 feet from any private property line under separate ownership, to allow Lake # 1 to be setback 25 feet from the east and north property lines for MCP Options 1 and 2. This deviation is APPROVED.

2. SOLID WASTE

Deviation (2) seeks relief from the LDC, Lee County Solid Waste Ordinance #08-10 which requires commercial developments to provide sufficient on-site space for solid waste/recyclable materials collection containers, at a minimum 216 square feet. For the first 25,000 square feet, plus 8 square feet for each additional 1,000 square feet; to allow the proposed Master Concept Plan Option 1 (Self-Storage) to only be required 50 percent of the commercial requirement. This deviation is APPROVED for MCP Option 1 only.

SECTION D. EXHIBITS AND STRAP NUMBER:

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

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C-1: The Master Concept Plan - Option 1
- Exhibit C-2: The Master Concept Plan - Option 2
- Exhibit D: Artistic Rendering
- Exhibit E: Shire Lane CPD Enhancement and Restoration Planting Plan

The applicant has indicated that the STRAP number for the subject property is:

21-45-25-01-00000.0150

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, 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;
  - 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;
  - 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;
  - 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.

Commissioner Hall made a motion to adopt the foregoing resolution, seconded by Commissioner Janes. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 3<sup>rd</sup> day of August 2009.

ATTEST:  
CHARLIE GREEN, CLERK

BY: *Charlie Green*  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: *Ray W. Judah*  
Ray W. Judah, Chair

Approved as to form by:

*Michael D. Jacob*  
Michael D. Jacob  
Assistant County Attorney  
County Attorney's Office



RECEIVED  
MINUTES OFFICE

2009 AUG 20 AM 7:42

# Banks Engineering

Professional Engineers, Planners & Land Surveyors  
FORT MYERS ♦ NAPLES ♦ SARASOTA ♦ PORT CHARLOTTE

DESCRIPTION  
OF A  
PARCEL OF LAND  
LYING IN  
SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, BEING THE NORTH ONE-HALF, OF THE SOUTHWEST ONE-QUARTER, OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER, SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LESS THE 30 FOOT EASEMENT ALONG THE WESTERLY SIDE, AS RECORDED IN OFFICIAL RECORDS BOOK 4705, PAGE 443 OF THE PUBLIC RECORDS OF SAID LEE COUNTY BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHEAST CORNER OF SAID FRACTION; THENCE S 01°07'45" E ALONG THE EAST LINE OF SAID FRACTION FOR 330.96 FEET TO THE SOUTHEAST CORNER OF SAID FRACTION; THENCE S 88°41'08" W ALONG THE SOUTH LINE OF SAID FRACTION FOR 650.50 FEET TO AN INTERSECTION WITH THE EAST LINE OF SHIRE LANE, A 60 ROAD RIGHT-OF-WAY PER THE UNRECORDED PLAT OF COLONIAL RANCHETTS SAID LINE BEING 30.00 FEET EAST OF AND PARALLEL WITH (AS MEASURED ON A PERPENDICULAR) THE WEST LINE OF SAID FRACTION; THENCE N 01°09'37" W ALONG SAID LINE FOR 330.96 FEET TO AN INTERSECTION WITH THE NORTH LINE OF SAID FRACTION; THENCE N 88°41'08" E ALONG SAID NORTH LINE FOR 650.68 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 4.94 ACRES MORE OR LESS


BEARINGS AND DISTANCES ARE BASED ON "THE STATE PLANE COORDINATES SYSTEM" FLORIDA ZONE WEST NAD 83 (1990) ADJUSTMENT, WHEREIN THE NORTH LINE OF THE NORTH HALF, OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA BEARS N 88°41'08" E.

DESCRIPTION PREPARED 04-01-2008.  
DESCRIPTION REVISED 06-13-2008.

  
RICHARD M. RITZ  
REGISTERED LAND SURVEYOR  
FLORIDA CERTIFICATION NO. 4009  
DATE SIGNED 06-13-2008

s:\jobs\1975\1975 surveying descriptions\1975 bndy-skt-REV.doc  
s:\jobs\1975\1975 surveying descriptions\1975 bndy-skt-REV.dwg

**RECEIVED**  
JUL 31 2008

Applicant's Legal Checked  
by  8-4-08

COMMUNITY DEVELOPMENT

SHEET 1 OF 2

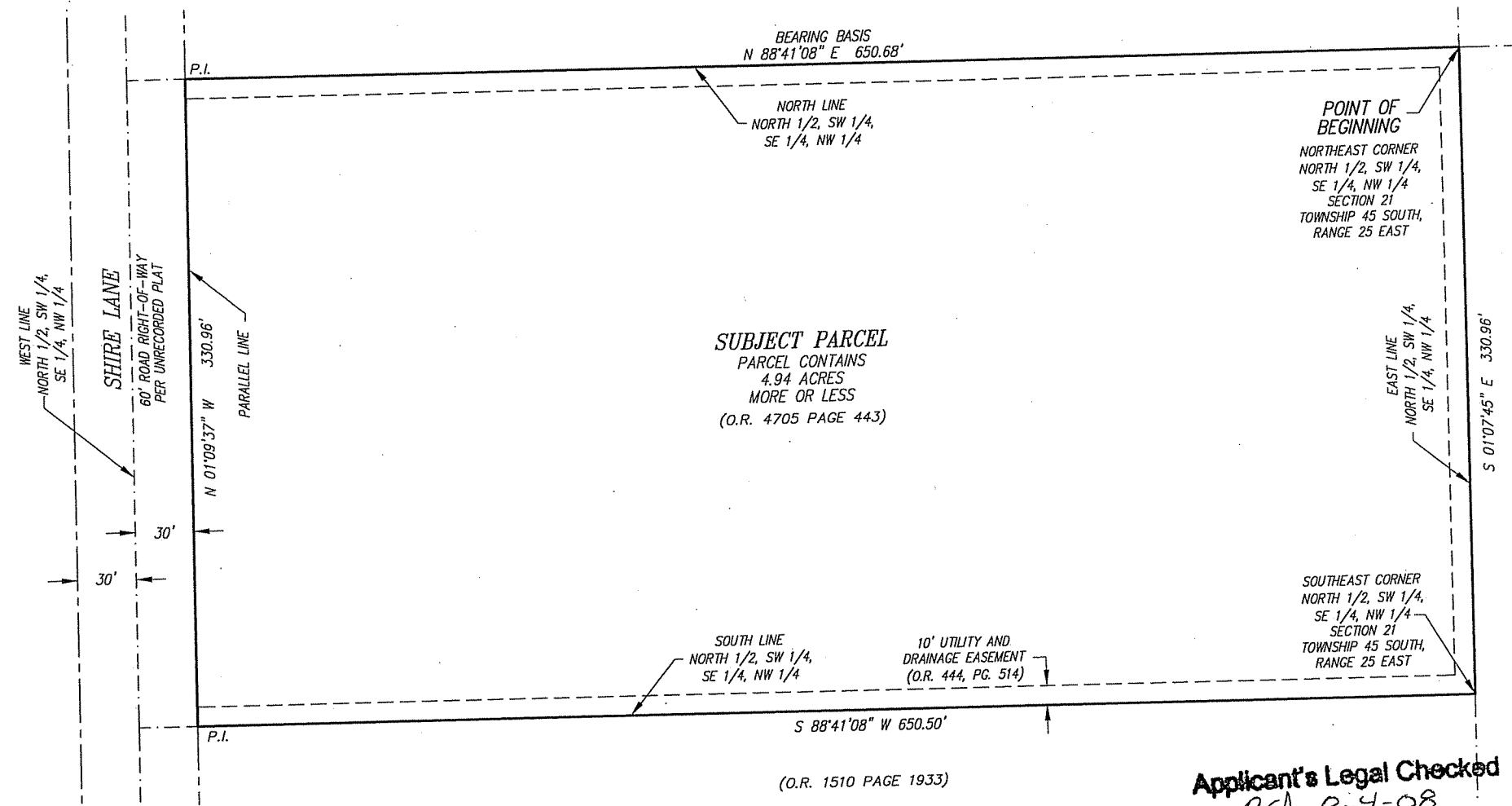
# Banks Engineering

PROFESSIONAL ENGINEERS, LAND SURVEYORS & PLANNERS  
FLORIDA BUSINESS CERTIFICATION NUMBER LB 6690  
10511 SIX MILE CYPRESS PARKWAY - SUITE 101  
FORT MYERS, FLORIDA 33966  
(239) 939-5490

EXHIBIT A  
Page 2 of 2

## SKETCH OF DESCRIPTION

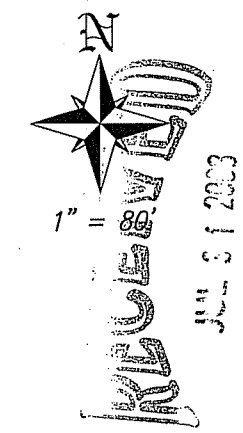
OF  
A TRACT OR PARCEL OF LAND LYING IN  
SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST,  
LEE COUNTY, FLORIDA



SUBJECT PARCEL  
PARCEL CONTAINS  
4.94 ACRES  
MORE OR LESS  
(O.R. 4705 PAGE 443)

POINT OF BEGINNING  
NORTHEAST CORNER  
NORTH 1/2, SW 1/4,  
SE 1/4, NW 1/4  
SECTION 21  
TOWNSHIP 45 SOUTH,  
RANGE 25 EAST

SOUTHEAST CORNER  
NORTH 1/2, SW 1/4,  
SE 1/4, NW 1/4  
SECTION 21  
TOWNSHIP 45 SOUTH,  
RANGE 25 EAST



COMMUNITY DEVELOPMENT

DOI 2008-00016

LEGEND:  
P.I. INDICATES POINT OF INTERSECTION  
O.R. INDICATES OFFICIAL RECORDS BOOK

### NOTES:

- 1.) BEARINGS AND DISTANCES ARE BASED ON THE "STATE PLANE COORDINATES SYSTEM" FLORIDA ZONE WEST NAD 83 (1990) ADJUSTMENT, WHEREIN THE NORTH LINE OF THE NORTH HALF, OF THE SOUTHWEST QUARTER, OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 45 SOUTH, RANGE 25 EAST BEARS N 88°41'08" E.

PREPARED 04-01-2008  
REVISED 06-13-2008  
SHEET 2 OF 2

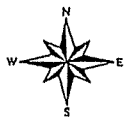
Applicant's Legal Checked  
by BSJ 8-4-08

SEE SHEET 1 OF 2  
FOR COMPLETE DESCRIPTION.  
THIS SKETCH OF DESCRIPTION  
IS NOT A BOUNDARY SURVEY  
RICHARD M. RITZ  
REGISTERED LAND SURVEYOR  
FLORIDA CERTIFICATION NO. 4009  
- DATE SIGNED: 06-13-2008  
- THIS SKETCH OF DESCRIPTION IS NOT VALID  
WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED  
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

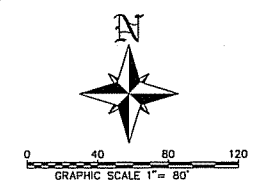
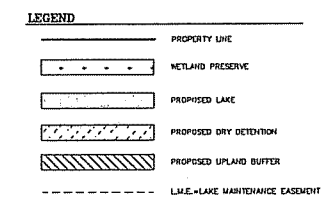
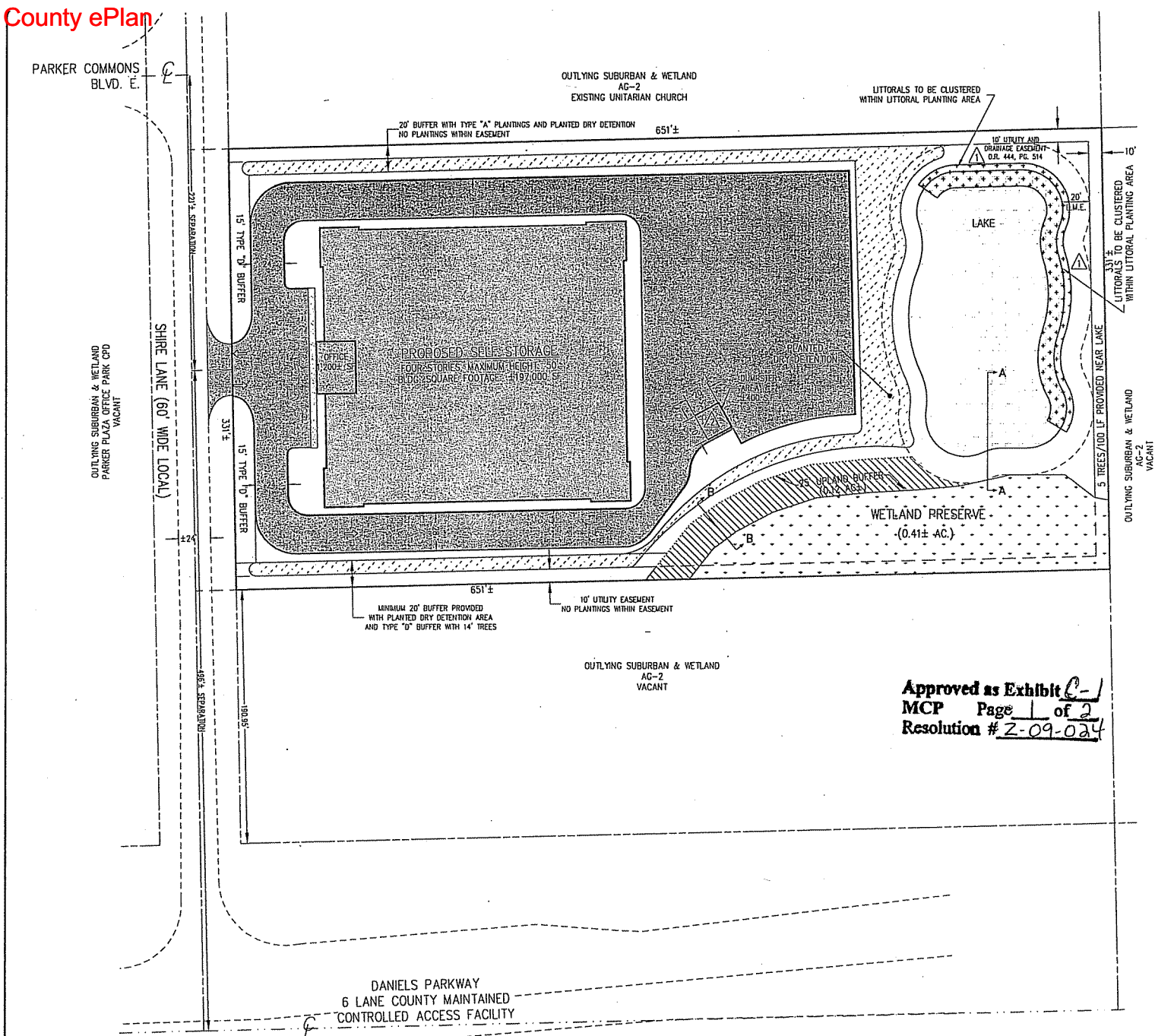
EXHIBIT B

DCI2008-00016

5/13/2009



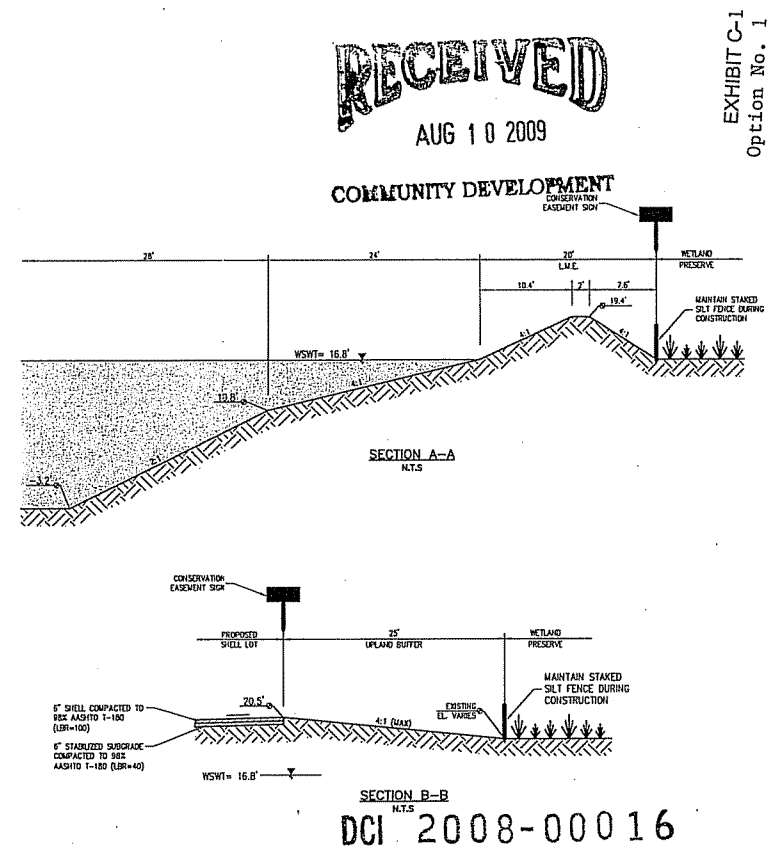




DEVIATIONS: =

**OPEN SPACE CALCULATION:**  
TOTAL SITE AREA: 4.94 AC ±  
OPEN SPACE REQUIRED: 30% (4.94 AC x 0.30) = 1.48± AC  
TOTAL OPEN SPACE PROVIDED: MIN. 1.83 AC  
25% PROVIDED BY LAKE: 1.48 x 0.25 = 0.37± AC  
INDIGENOUS EXISTING/RESTORED: 0.41 AC±  
UPLAND BUFFER ENHANCED: 0.12 AC±  
DRY DETENTION PLANTINGS: 0.38 AC±  
LAKE MAINTENANCE EASEMENT\*: 0.26 AC±  
EXCLUDING DRY DETENTION BUFFERS: 0.29 AC±

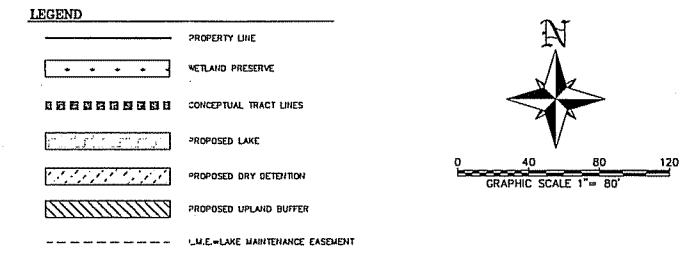
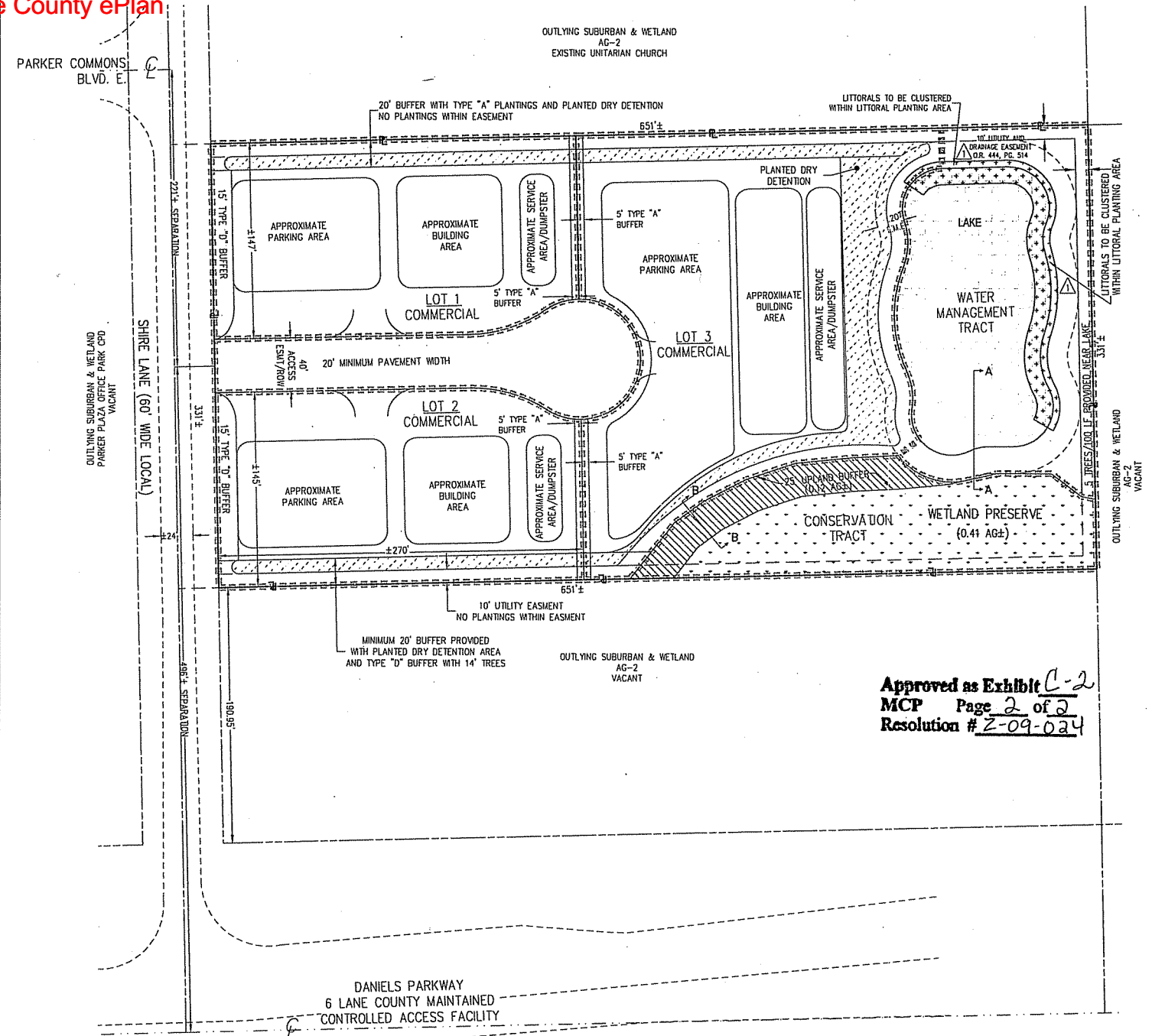
Approved as Exhibit C-1  
MCP Page 1 of 2  
Resolution # 2-09-024



SECTION B-B  
N.T.S.  
DCI 2008-00016

PREPARED FOR:																		MASTER CONCEPT PLAN OPTION No. 1	
<b>JFK VENTURES, LLP</b>																		<b>SHIRE LANE CPD</b>	
14631 SAFE LANDING COURT																		LEE COUNTY, FLORIDA	
FORT MYERS, FLORIDA 33908																			
PHONE: (239) 432-9631																			
		5		06/02/09		2009 PERMITS		SEN											
		5		06/17/09		HOUSING CONCEPT		SEN											
		4		06/17/09		SPR1 PERMITS BUTLER		SEN											
		3		05/06/09		SPR1 PERMITS CALCULATIONS		SEN											
		2		12/11/08		2ND SUBMITTAL RESPONSE		SEN											
		1		07/30/2008		1st SUBMITTAL RESPONSE		SEN											
		NO.		DATE		REVISION DESCRIPTION		BY											
				</															





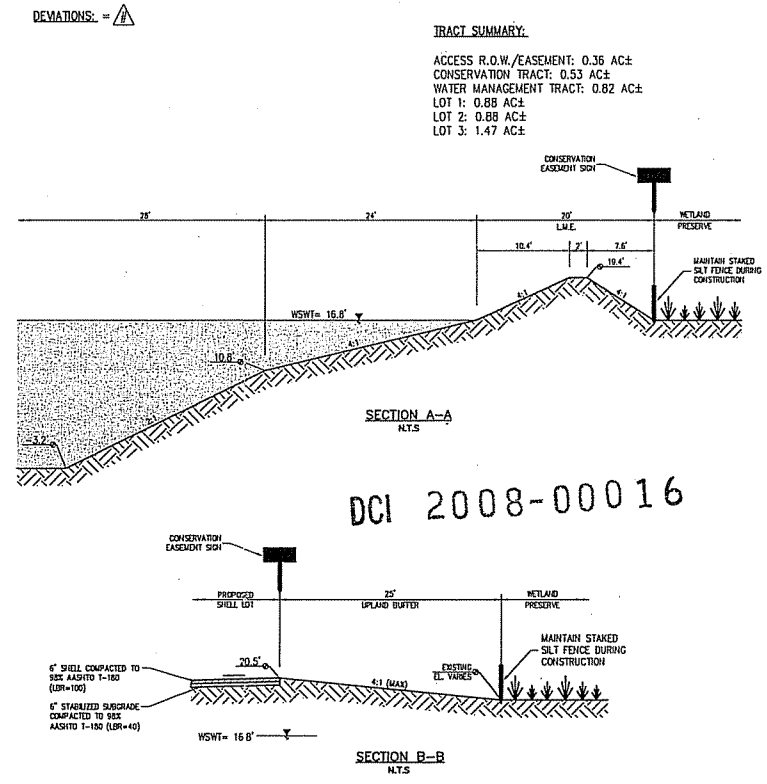
**OPEN SPACE CALCULATION:**  
TOTAL SITE AREA: 4.94 AC ±  
OPEN SPACE REQUIRED: 30% (4.94 AC x 0.30) = 1.48± AC  
TOTAL OPEN SPACE PROVIDED: MIN. 1.83 AC±

**COMMON OPEN SPACE:**  
25% PROVIDED BY LAKE: 1.48 x 0.25 = 0.37 AC±  
INDIGENOUS EXISTING/RESTORED: 0.41 AC±  
UPLAND BUFFER ENHANCED: 0.12 AC±  
DRY DETENTION PLANTINGS: 0.38 AC±  
LAKE MAINTENANCE EASEMENT\*: 0.26 AC±  
\*EXCLUDING DRY DETENTION

TOTAL COMMON OPEN SPACE: 1.54 AC±

EACH LOT SHALL PROVIDE A MINIMUM OF 10 PERCENT OPEN SPACE:  
TOTAL OPEN SPACE PROVIDED WITHIN LOTS 1-3: MINIMUM 0.29 AC±

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AUG 10 2009  
COMMUNITY DEVELOPMENT



Approved as Exhibit C-2  
MCP Page 2 of 2  
Resolution # Z-09-024

PREPARED FOR:		Banks Engineering	
JFK VENTURES, LLP		Professional Engineers, Planners & Land Surveyors	
14631 SAFE LANDING COURT FORT MYERS, FLORIDA 33908 PHONE: (239) 432-9631		10511 SIX MILE CYPRESS PARKWAY FORT MYERS, FLORIDA 33905 PHONE: (239) 839-5450 FAX: (239) 839-2523 ENGINEERING LICENSE # EB 6469 SURVEY LICENSE # LB 6690	
NO.	DATE	REVISION DESCRIPTION	BY
1	08/19/2008	1st SUFFICIENCY RESPONSE	SDJ
2	10/17/2008	2nd SUFFICIENCY RESPONSE	SDJ
3	05/06/2009	3rd SUFFICIENCY RESPONSE	SDJ
4	05/11/2009	4th SUFFICIENCY RESPONSE	SDJ
5	08/19/2009	5th SUFFICIENCY RESPONSE	SDJ

MASTER CONCEPT PLAN OPTION No. 2									
SHIRE LANE CPD									
LEE COUNTY, FLORIDA									
DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET	OF	FILE NO. (S-T-R)
08/19/2008	1975M	_MCP	SDJ	SDJ	SEH	1"=80'	1	1	21-45-25

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AUG 10 2009

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EXHIBIT D

EXHIBIT E

Page 1 of 3

# **Shire Lane CPD Enhancement and Restoration Planting Plan**

**October 2008**

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Prepared by:

DCI 2008-00016

**W. Dexter Bender & Associates, Inc.  
4470 Camino Real Way, Suite 101  
Fort Myers, FL 33966**



## EXHIBIT E

Page 2 of 3

## Introduction

The majority of the site has been disturbed in the past and is currently regularly mowed. A forested area remains along the eastern portion of the south property line. This 0.41 acre cypress/pine wetland (FLUCCS Code 624E4) is dominated by melaleuca (76-90%). Native species include pond cypress (*Taxodium ascendens*), laurel oak (*Quercus laurifolia*), and slash pine (*Pinus elliotti*) making up 10 to 15 percent of the canopy.

## Exotic Removal

All woody and exotic and nuisance vegetation within the 0.41 acre wetland preserve will be cut by hand just above natural grade and the stump treated with an appropriate herbicide containing an indicator dye. Treatment will occur immediately following cutting to ensure maximal uptake of the herbicide. The resulting vegetative material will be removed from the preserves and disposed of at an upland location in accordance with all applicable local regulations. Non-woody exotics, such as wadellia, will be treated by a foliar application of an appropriate herbicide. Herbicides will be used in strict accordance with label directions by trained applicators. Care will be taken to reduce damage to non-target native species to the maximum extent practical. This wetland area along with the associated upland buffer will be placed under a Conservation Easement.

## Wetland Planting Plan

Wetland restoration planting will be provided as outlined in Table 1. Existing viable native trees and ground cover plants within these areas will count towards the required planting total.

Table 1. Wetland Restoration Plantings

Common Name	Scientific Name	Size	Spacing
Cypress	<i>Cypress sp.</i>	6 feet	10 feet
Laurel oak	<i>Quercus laurifolia</i>	6 feet	10 feet
Cabbage palm	<i>Sabal palmetto</i>	6 feet	10 feet
Swamp fern	<i>Blechnum serrulatum</i>	1 gallon	3 feet
Sand cordgrass	<i>Spartina bakeri</i>	1 gallon	3 feet

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## EXHIBIT E

Page 3 of 3

**Upland Buffer Planting Plan**

The upland buffer area will be enhanced via exotic removal and planting with native species. Plantings will be randomly spaced to mimic natural conditions. Existing viable native trees and understory plants within these areas will count towards the required planting total. Table 2 is based on the presumption that no viable native species are present with the upland buffer areas following exotic removal.

Table 2. Upland Buffer Plantings

Common Name	Scientific Name	Size	Spacing
Live oak	<i>Quercus virginiana</i>	6 feet	10 feet
Laurel oak	<i>Quercus laurifolia</i>	6 feet	10 feet
Slash pine	<i>Pinus elliottii</i>	6 feet	10 feet
Cabbage palm	<i>Sabal palmetto</i>	6 feet	10 feet
Saw palmetto	<i>Serenoa repens</i>	1 gallon	5 feet
Coco plum	<i>Chrysobalanus icaco</i>	1 gallon	5 feet
Wax myrtle	<i>Myrica cerifera</i>	1 gallon	5 feet

Upon completion of planting the upland buffer the area will be mulched using suitable biodegradable material such as pine straw. Plantings will be watered as needed through the initial two month establishment period. Watering may occur via hand watering or a temporary above ground irrigation system. If a temporary irrigation system is utilized, it will be removed at the end of the establishment period.

**Dry Detention Planting Plan**

In order to increase forage availability to gopher tortoises, the dry detention areas will be planted as indicated in Table 3.

Table 3. Dry Detention Plantings

Common Name	Scientific Name	Size	Spacing
Hair grass	<i>Muhlenbergia capillaries</i>	1 gallon	3 feet
Gopher apple	<i>Licania michauxii</i>	1 gallon	3 feet
Lovegrass	<i>Eragostis sp.</i>	1 gallon	3 feet
Blanketflower	<i>Gaillardia pulloella</i>	1 gallon	3 feet
Broomsedge	<i>Andropogon sp.</i>	1 gallon	3 feet
Saw palmetto	<i>Serenoa repens</i>	1 gallon	5 feet

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