



Professional Engineers, Planners & Land Surveyors

August 31, 2022

Ms. Beth Workman, Principal Planner
Department of Community Development
1825 Hendry St #101,
Fort Myers, FL 33901

Reference: **GRAND BAY MINOR MPD
DCI2022-00018**

Dear Ms. Workman:

This letter is written in response to your review comments dated July 25, 2022. With this letter we are submitting the following additional information. Presented below are responses to each review comment.

1. Revised Narrative of Request
2. SWERP Applicant's Handbook Volume 1 Section 10.2.2.1
3. CPA Sufficiency Letter Dated August 17, 2022

Zoning Review:

Comment 1: Courtesy Comment: Please note, Page 19 of the Narrative of Request indicates that no deviations are being requested; however, the MCP and the Schedule of Deviations indicates that four deviations are being proposed.

Response: ***Please see attached revised Narrative of Request.***

Comment 2: Courtesy Comment: Please note, LDC Section 34-934 note (27) limits the number of self-service fuel pumps to eight, unless a greater number is specifically approved as part of the planned development and depicted on the Master Concept Plan (MCP).

Response: ***Acknowledged.***

Comment 3: Please note, the property development regulations provided are consistent with property development regulations established by LDC Section 34-844 for the Mixed-Use Overlay. These regulations are only applicable if the companion Comprehensive Plan Amendment (CPA) cases are approved.

Response: ***Acknowledged.***

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Environmental Sciences Review:

Comment 1: In the narrative, the applicant states that 0.17 acres of low-quality wetlands will be impacted with development. In the Lee Plan, wetland areas must be low residential or recreational areas per policy 124.1.1. Please provide documentation from SFWMD that states that mitigation for the wetlands is not required.

Response: Pursuant to SWERP Applicant's Handbook Volume 1 Section 10.2.2.1, compensatory wetland mitigation is not required for direct impacts to isolated wetlands less than 0.5 acres in size that are not utilized by listed species. Please see the attached PDF of this applicable section of the Handbook. Per the attached section of the Handbook, 10.3 (the section that deals with wetland mitigation), does not apply to those impacts. Any potential secondary wetland impacts will be mitigated via wetland mitigation bank credits. The applicant will provide the County with a copy of the Environmental Resource Permit once it has been issued.

Comment 2: Policy 101.1.2 states, "protect and conserve the following environmentally sensitive coastal areas: wetlands..." Policy 101.1.2. does not speak to the quality of wetlands. Please provide an analysis of how the applicant is meeting this policy with proposed wetland impacts without mitigation.

Response: The proposed project only includes minor impacts to small isolated wetlands but results in a signification reduction of developable area and results in onsite gopher tortoise habitat which overall furthers Policy 101.1.2. The 0.13 acre wetland impact is outside of the Coastal High Hazard area and was previously permitted. The 0.04-acre wetland impact that is within the Coastal High Hazard area is to provide for public facilities, consistent with Policy 101.3.2. Please see attached revised Narrative of Request.

Comment 3: On the FLUCCS map, the 411 FLUCCS code meets the rare and unique lee plan definition. Please provide an analysis on Lee Plan Policy 124.1.1 in order to support the Coastal High Hazard Codes.

Response: A review of the historical aerals for the site indicate significant impacts to the 411 FLUCCS code which does not meet the definition of rare and unique upland habitats. Nonetheless, these indigenous habitats are remaining undeveloped on the western portion of the site which more than offset the minimal wetland impacts.

Comment 4: Prior to a development order or vegetation permit, the applicant will be required to provide an indigenous management plan demonstrating area of hand, mechanical, and chemical clearing. The applicant will also need to provide access ways into the preservations (Lee Plan policy 101.1.1).

Response: An indigenous management plan demonstrating areas of hand, mechanical, and chemical clearing will be provided to the County prior to the issuance of a development order or vegetation permit.

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Natural Resources Review:

Comment 1: The Stormwater Narrative did not address the crushed pipes underneath the existing east to west dirt road. Please expand on how these failing pipes be addressed. Will the pipes be removed and replaced? Has the applicant considered removal of the pipes and the raised dirt road as residential units are no longer proposed west of the floodway?

Response: The applicant submits that this is not a sufficiency issue. A meeting with Natural Resources staff is scheduled for September 6, 2022 to discuss an appropriate zoning condition to address this issue.

Comment 2: Please expand on the proposed compensatory storage. Please detail how the proposed compensatory storage creation area will be graded to ensure that the compensatory flood storage is provided. Will the area be planted with wetland plant species?

Response: The proposed compensatory storage creation area(s) will be graded to match the existing grade of the adjacent floodway area. The newly graded compensatory storage area(s) will be allowed to naturally recruit native wetland plant species. The area(s) will be monitored for the recruitment of native plant species. If after two growing seasons appropriate native wetland vegetation has not recruited into the area, native supplemental plantings will be installed. Exotic and nuisance vegetation will be treated or removed.

Planning Review:

Comment 1: Please note, this case will remain insufficient until the companion CPA cases have been reviewed for sufficiency.

Response: Acknowledged. The companion CPA cases were found sufficient on August 17, 2022. Please see attached.

If you have any questions or I may be of further assistance, please feel free to contact me at 239-770-2527 or shewitt@bankseng.com.

Sincerely,
BANKS ENGINEERING



Stacy E. Hewitt, AICP
Director of Planning



Professional Engineers, Planners & Land Surveyors

Grand Bay Minor RPD DCI2022-00018 Narrative of Request Revised August 2022

Introduction/Request

The applicant is requesting approval of a rezoning of 46.33± acres from Mobile Home District (MH-1) and General Commercial District (CG) to Minor Mixed Use Planned Development (MPD) to allow a maximum of 300* dwelling units (including 114 bonus density units) and 30,000 square feet of commercial retail or office uses with a maximum height of 53 feet.

*Includes 13 dwelling units (including 6 bonus density units) from 1.53±-ac of the adjacent 30-foot platted private right-of-way.

The property is located at the northwest corner of the intersection of Santa Maria Street (local) and S. Tamiami Trail/US 41 (arterial) across from the intersection with San Carlos Boulevard (major collector) which is proposed for signalization. The site consists of four parcels separated by a 30-foot platted right-of-way as demonstrated in the below aerial. The property is within the San Carlos Planning District and is currently undeveloped except for a dirt road.

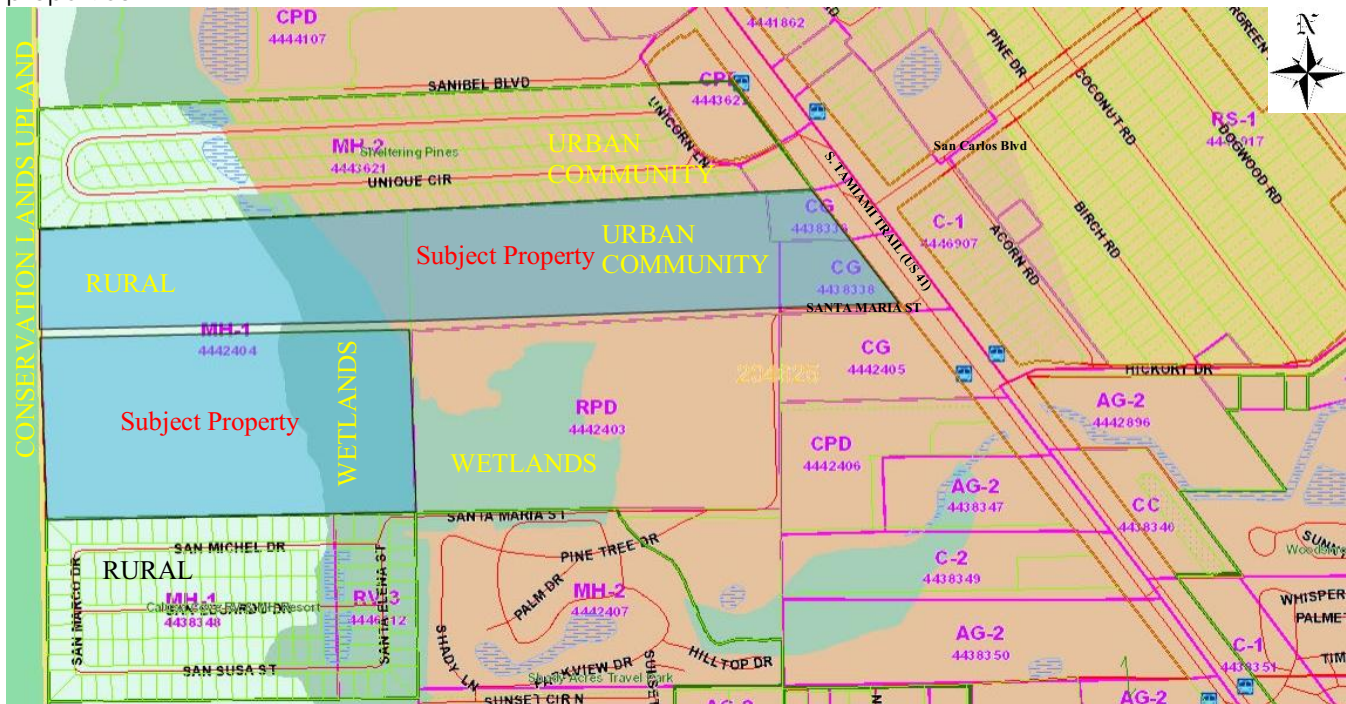


There are concurrent Comprehensive Plan Map and Text Amendment applications under review to extend the Mixed-Use Overlay boundary to the west on S. Tamiami Trail to include the development area (minus wetlands) totaling 15.64± acres fronting S. Tamiami Trail and Text Amendment to Policy 5.1.10.3 to revise

timing requirement for single ownership of property that is divided into two or more land use categories.

Background

The eastern ± 2.73 acres of the subject property fronting on S. Tamiami Trail are currently zoned General Commercial District (CG) by resolution ZAB-84-24 and the balance of the property to the west is currently zoned MH-1 by resolution Z-68-050. The proposed site access onto S. Tamiami Trail/US 41 has received development order approval under DOS2020-00128 which provides pedestrian and automobile connection to the approved adjacent development to the south (Estero Vista) and aligns with San Carlos Boulevard intersection. This proposed access will provide a 2-lane roadway constructed to LDC Standards connecting to US 41 with a left-in/right-in/right-out access drive connection, providing a left-in movement, which does not exist at Santa Maria Street. The left turn lane that will serve the proposed access is already located within the median of US 41. FDOT is proposing signalization of the S. Tamiami Trail/US 41 and San Carlos Boulevard intersection. Mullock Creek floodway bisects the site from the northwest to the southeast. The surrounding area has been previously developed with a mixture of commercial and residential uses and properties to the east are within the Mixed-Use Overlay. The subject property is an appropriate location for infill commercial and residential development. Below is an image, followed by a table, identifying the future land use and Mixed-Use Overlay designations, zoning and uses of the subject property and the surrounding properties.



	<i>Future Land Use/Mixed Use Overlay</i>	<i>Zoning</i>	<i>Use</i>
<i>Subject Property Existing</i>	Urban Community, Rural & Wetlands	CG (± 2.73 acres) and MH-1 (± 43.6 acres)	Vacant commercial and residential
<i>Subject Property Proposed</i>	Proposed inclusion in Mixed Use Overlay	Mixed Use Planned Development	Commercial & residential Mixed Use

	<i>Surrounding Future Land Use/Mixed Use Overlay</i>	<i>Surrounding Zoning</i>	<i>Surrounding Use</i>
<i>North</i>	Urban Community, Rural & Wetlands	CPD fronting S. Tamiami Trail/US 41 then MH-2	Shelter Pines Mobile Home Village and vacant commercial then Walgreens fronting S.. Tamimi Trail/US 41
<i>South</i>			
<i>West 1/2</i>	Rural & Wetlands	MH-1 and RV-3	Shady Acres Travel Park/Blueway RV Village
<i>East 1/2</i>	Urban Community & Wetlands	Estero Vista RPD & CG	Vacant with DO for 144 Multi-family then Santa Maria Street and Marina Mikes Boat sales
<i>East</i>	US 41 then Urban Community & Mixed Use Overlay	C-1	Church, shopping centers, car wash
<i>West</i>	Conservation Lands Upland	RPD	Estero Bay State Buffer Preserve

The surrounding zoning and uses are described in more detail below:

North

Adjacent to the north is a vacant commercial parcel fronting S. Tamiami Trail (US 41) zoned John Latzman CPD (Commercial Planned Development) approved by zoning resolution number Z-88-319 for 4,500 square feet of commercial uses. The remainder of the north property line abuts the Shelter Pines Mobile Home Village zoned Mobile Home Residential (MH-2) by Z-62-003. North of Sanibel Blvd is Grand Bay Plaza shopping center with Publix, CVS, 41 Diner, Subway and various shops (San Carlos Park Center CPD originally approved by Z-95-005, last amended by ADD2019-00173, with 142,800 square feet of commercial approved including 48,000 square feet of mini-warehouse use).

South

Adjacent to the south is Santa Maria Street (private local) then General Commercial (CG) zoning abutting S. Tamiami Trail developed with Marina Mikes boat sales and service then Life Storage and Napa Auto Parts store. Adjacent to the south and west of Santa Maria Street is Estero Vista Residential Planned Development (RPD) which was approved by zoning resolution Z-05-016 for 144 multi-family units including bonus density with a maximum height of 55 feet. The zoning was last amended by zoning resolution ADD2020-00104 which approved and updated Master Concept Plan and revised access connection to be provided through the subject property's approved access road connection to S. Tamiami Trail/U.S. 41 across from San Carlos Boulevard which is proposed for signalization by FDOT and an emergency only access onto Santa Maria Street. The original zoning had proposed two access points onto Santa Maria Street, which is a narrow roadway that intersects U.S. 41 and is located in a 30-foot easement. It was determined that the site could not be developed with access onto Santa Maria because it was physically impossible to install the required roadway improvements, stormwater drainage, water and sewer necessary to develop the site. Estero Vista received development order approval (DOS2020-00127) for 144 multiple-family dwelling units (including 21 bonus density units) in 3 four-story buildings with a maximum height of 55 feet with a clubhouse and interconnect with the subject property. Further south are lands zoned Mobile Home MH-2 developed with Shady Acres/Blueway RV Village.

East

Adjacent to the east is S. Tamiami Trail/US 41 (arterial roadway) with existing sidewalk, bike lane and paved shoulder and Lee Tran routes 240, 600 and 140-Sunday. Across S. Tamiami Trail is the intersection with San Carlos Boulevard (major collector) where a traffic signal is proposed by FDOT and properties within the Mixed-Use Overlay zoned Commercial C-1 on both sides of the intersection. New Day Christian Church is

north of this intersection and commercial parcels to the south of the intersection consist of two shopping centers, a car wash, a multiple-occupancy center and a Circle K with gas pumps. Behind the commercial parcels are properties zoned Residential Single-Family RS-1 developed with primarily single-family homes and a daycare.

West

Adjacent to the west is lands within the Conservation Lands Uplands future land use category, zoned Estero River Bay RPD which is now within the Estero Bay State Buffer Preserve.

Land Development Code Analysis

The proposed rezoning to MPD complies with the Land Development Code (LDC) Section 2-146 minimum requirements for the Bonus Density Program as follows:

- (a) Applicants must comply with the minimum requirements set forth herein to be eligible to participate in the bonus density program through use of one of the following incentive programs:***
- (1) Affordable Housing Program in accordance with the site-built provisions or the cash contribution provisions set forth in Administrative Code 13-5.***
 - (2) Transfer of Development Rights (TDR) Program in accordance with the provisions set forth in Administrative Code 13-5.***

The rezoning request includes a request for a maximum of 114 bonus density units utilizing a combination of the Affordable Housing Program in accordance with the site-built provisions or the cash contribution provisions and the Transfer of Development Rights (TDR) program. Please refer to the Preliminary Density Calculations. The development plan includes a minimum of 38 site-built affordable housing units. The remainder will depend on final unit count and will be demonstrated at the time of development order. The site qualifies for up to 154 bonus density units.

b) Minimum requirements:

- (1) The additional traffic will not be required to travel through areas with significantly lower densities before reaching the nearest collector or arterial road; and***

The traffic generated by this request will have direct access to S. Tamiami Trail/US 41 (arterial) and San Carlos Boulevard (major collector) where a traffic signal is proposed. The traffic will not be required to travel through areas with significantly lower densities before reaching the nearest collector or arterial road.

- (2) Existing and committed public facilities are not so overwhelmed that a density increase would be contrary to the overall public interest; and***

The subject property clusters development within a designated future urban area where adequate public facilities exist. The site has frontage on an arterial roadway (S. Tamiami Trail/US 41) across from its intersection with a major collector roadway (San Carlos Boulevard) that is proposed to be signalized by FDOT. The submitted Traffic Impact Statement demonstrates that all analyzed roadways are projected to operate above the minimum adopted Level of Service. Lee County Utilities has existing potable water and sanitary sewer lines in operation adjacent to the subject property and has provided a letter of availability which is included with the application. San Carlos Park Elementary School is ± 2.5 miles from the site, Three Oaks Middle School is ± 2.7 miles from the site and Island Park High School is ± 3.6 miles from the site. San

Carlos Park Fire Station 51 and EMS Medic 9 are located ± 0.8 mile from the property at 8013 Sanibel Blvd. Lee County Sheriff's Office Central District Substation is ± 5.8 miles from the site. Letters of review and recommendation from Lee County Public Safety, The School District of Lee County, Lee County Sheriff's Office, Lee County Solid Waste, Lee Tran, and San Carlos Park Fire Protection and Rescue Service District obtained for the concurrent Map and Text Amendments are attached demonstrating adequate public facilities exist to accommodate the density increase.

(3) Storm shelters or other appropriate mitigation is provided if the development is located within the coastal high hazard area as defined in section 2-483.

Portions of the subject property are located within the Coastal High Hazard Area. Storm shelters or other appropriate mitigation will be provided pursuant to LDC requirements which will be demonstrated as part of the development order for the subject property.

(4) The resulting development will be compatible with existing and planned surrounding land uses.

The subject property and the properties to the north and south have existing commercial zoning along the S. Tamiami Trail/US 41 frontage. The Estero Vista RPD to the south has been approved for multi-family development with a maximum height of 55 feet since 2005 which abuts MH-2 zoning with Shady Acres RV Travel Park. Pursuant to LDC Section 34-2175(b)(2), the Urban Community future land use category allows heights up to 95 feet. The proposed maximum height will be limited to 53 feet. While the site abuts mobile home lots within Shelter Pines Mobile Home Village to the north, the site design provides approximately 95 feet of setback to proposed multi-family buildings I and II. Building III orients the narrow portion of the building to the north with a minimum 29-foot setback which meets the intent of LDC Section 34-2174(a) by increasing the typical multi-family setback of 20 feet by $\frac{1}{2}$ foot for every 1 foot over 35 feet. The Mixed-Use Overlay requires a minimum 10-foot buffer with Type B buffer plantings (5 trees per 100 linear feet and a double hedge row) where the abutting single-family residences are. The MCP proposes an enhancement to this buffer by providing an opaque fence or wall with the required vegetation planted on the outside. The western 30 $\pm$ acres of the site will be preserved providing environmental and water quality enhancements between the adjacent Estero Bay State Buffer Preserve and the Mullock Creek flowway. A minimum 5-foot buffer with 5 trees per 100 linear feet will be provided abutting rights-of-way as shown on the attached MCP. The requested minor MPD provides compatible infill mixed use development.

c) Assisted living facilities are eligible for bonus density through the TDR Program or through the Affordable Housing Program when annual rental rates, including all services, do not exceed the levels established for eligible households. Where the cash-contribution bonus density option is used, the cash contribution must be applied for each dwelling unit or its equivalent unit, as provided in section 34-1494, built above the standard density.

The rezoning request does not include assisted living facilities.

d) The barrier and coastal islands, including but not limited to Gasparilla Island, Cayo Costa, North Captiva, Captiva Island, Buck Key, and Black Island are not eligible to receive bonus density, with the following exceptions:

- (1) Only the portion of Greater Pine Island defined in the Lee Plan as Pine Island Center is eligible to receive Greater Pine Island TDUs subject to this article and the Lee Plan. Suburban designated lands within the Greater Pine Island Planning Community are not eligible receiving lands for any TDUs.***
- (2) Work force housing may be developed on barrier islands within the Mixed Use Overlay if transit is available and bonus density is approved through the Affordable Housing Program.***

Not applicable.

- e) TDUs may not be utilized on property located within the coastal high hazard area as defined in section 2-483 or located within the Bayshore, Buckingham, Caloosahatchee Shores, or Northeast Lee County Planning Communities. Within the Southeast Lee County Planning Community, TDUs may only be used as described in section 2-154.***

No TDUs are proposed on property located within the coastal high hazard area. Portions of the property are located within the Coastal High Hazard Area (CHHA) and the property is not located within any of the listed Planning Communities. No TDUs are proposed to be utilized on the portion of the property located within the CHHA. The preliminary density calculations demonstrate there are a total of 19.28± acres of uplands and preserved wetlands within the Urban Community future land use category and within the CHHA which results in a standard density up to 6 units per acre or 115.68 + 2 dwelling units transferred from the Rural future land use category = 118 standard density units within the CHHA. Buildings II and III are within the CHHA and propose a total of 156 dwelling units so the remaining 38 units will be bonus density in accordance with the Affordable Housing site-built provisions. The remaining maximum 144 dwelling units are proposed outside of the CHHA consisting of 68 standard density and 76 bonus units (may be any bonus density option to be determined at the time of development order). A maximum of 25 of these bonus density units may be developed as mixed use on Outparcel 1 or 2.

The property qualifies for the rezoning to MPD and meets the applicable required findings/review criteria set forth in Land Development Code section 34-145(d)(4)a.1. as follows:

(a) Complies with the Lee Plan

The applicant has filed a companion Map and Text Amendment applications that are being reviewed concurrently with this planned development zoning application. Chapter 163.3184(12), F.S. provides: "At the request of an applicant, a local government shall consider an application for zoning changes that would be required to properly enact any proposed plan amendment transmitted pursuant to this subsection."

The property is located within the San Carlos Planning District and lies within the Urban Community, Wetlands and Rural future land use categories. The proposed rezoning to Minor RPD is consistent with the following goals, objectives, standards and policies of the Lee Plan:

POLICY 1.1.4: The Urban Community future land use category are areas characterized by a mixture of relatively intense commercial and residential uses. The residential development in these areas will be at slightly lower densities than other future urban categories described in this plan. As vacant properties within this category are developed, the existing base of public services will need to be maintained which may include expanding and strengthening them accordingly. As in the Central Urban future land use category, predominant land uses in this category will be residential,

commercial, public and quasi-public, and limited light industrial with future development encouraged to be mixed use, as described in Objective 11.1, where appropriate. The standard density range is from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum total density of ten dwelling units per acre (10 du/acre). The maximum total density may be increased to fifteen dwelling units per acre (15 du/acre) utilizing Greater Pine Island Transfer of Development Units.

POLICY 1.4.1: The Rural areas are to remain predominantly rural—that is, low density residential, agricultural uses, and minimal non-residential land uses that are needed to serve the rural community. Natural resource extraction may be permitted in accordance with Policy 10.1.4. These areas are not to be programmed to receive urban-type capital improvements, and they can anticipate a continued level of public services below that of the urban areas. Maximum density in the Rural area is one dwelling unit per acre (1 du/acre).

POLICY 1.5.1: Permitted land uses in Wetlands consist of very low-density residential uses and recreational uses that will not adversely affect the ecological functions of wetlands. All development in Wetlands must be consistent with Goal 124 of this plan. The maximum density is one dwelling unit per twenty acres (1 du/20 acre) except as otherwise provided in Table 1(a) and Chapter XIII of this plan.

Footnote 8 of Table 1(a): Higher densities may be allowed under the following circumstances where wetlands are preserved on the subject site:

- (a) If the dwelling units are relocated off-site through the provision of Transfer of Development Rights Ordinance 86-18, as amended or replaced; or*
- (b) Dwelling units may be relocated to developable contiguous uplands designated Intensive Development, General Interchange, Central Urban, Urban Community, Suburban, Outlying Suburban, Sub-Outlying Suburban, and New Community from preserved freshwater wetlands at the same underlying density as permitted for those uplands. Impacted wetlands will be calculated at the standard Wetlands density of 1 dwelling units per 20 acres. Planned Developments or Development Orders approved prior to October 20, 2010 are permitted the density approved prior to the adoption of CPA2008-18.*

The subject property is divided into three land use categories with the portion generally east of the Mullock Creek floodway lying within the Urban Community category. Adequate infrastructure and public services are available to support the proposed mixed-use planned development encouraged by the Urban Community future land use category. The proposed uses are consistent with the mixture of relatively intense commercial and residential uses that characterize this future land use category and the commercial uses proposed are consistent with the existing CG zoning of the property. The site is appropriate for the Mixed-Use Overlay proposed by the concurrent Map Amendment as properties to the east are already included and the surrounding area provides a variety of existing residential, employment, shopping, service and civic uses within the pedestrian shed of the site.

The portion of the property generally located around the Mullock Creek floodway lies within the Wetlands category and the CHHA. Dwelling units will be relocated to developable contiguous uplands designated Urban Community from preserved freshwater wetlands at the same underlying density as permitted for those uplands and impacted wetlands will be calculated at the standard Wetlands density of 1 dwelling units per 20 acres.

The western portion of the subject property is located within the Rural future land use category and the CHHA and is zoned for residential uses (existing MH-1 zoning). This Rural land could be developed with 20 dwelling units on well and septic and would require a road crossing of the Mullock Creek floodway for access. The MPD proposes to utilize Policy 5.1.10 as amended by the concurrent Text Amendment which will allow preservation of 30± acres of the site including the Rural lands and transferring the density to the eastern portion of the site.

The Preliminary Density Calculations show that property has a maximum density of 340 dwelling units consistent with the standard and maximum total densities allowed in the Urban Community, Rural and Wetlands future land use categories for the 46.33± acre site and 1.53± acres of adjacent private right-of-way. The request is for a maximum of 300 dwelling units therefore, the proposed rezoning to minor MPD is consistent with Policies 1.1.4, 1.4.1 and 1.5.1.

OBJECTIVE 2.1: DEVELOPMENT LOCATION. Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, and prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities.

POLICY 2.1.1: Most residential, commercial, industrial, and public development is expected to occur within the designated future urban areas on the Future Land Use Map through the assignment of very low densities to the non-urban categories.

The proposed clustered development is located within a designated future urban area with existing development to the north, south and east with development order approval for additional development to the south. Approval of the requested Minor MPD will allow a contiguous and compact development by clustering the proposed commercial and residential uses to the eastern portion of the site which will allow preservation of the western ±30 acres adjacent to state preserve lands and remove density from the Rural future land use designation. The requested Minor MPD is consistent with Objective 2.1 and Policy 2.1.1.

OBJECTIVE 2.2: DEVELOPMENT TIMING. Direct new growth to those portions of the future urban areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in §163.3164, Fla. Stat.) will be granted only when consistent with the provisions of §163.3202(2)(g) and §163.3180, Fla. Stat. and the concurrency requirements in the LDC.

POLICY 2.2.1: Rezoning and DRI proposals will be evaluated as to the availability and proximity of the road network; central sewer and water lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare.

The proposed MCP clusters the development in the designated future urban portion of the site where adequate public facilities exist. The site has frontage on an arterial roadway (S. Tamiami Trail/US 41) across from its intersection with a major collector roadway (San Carlos Boulevard) that is proposed to be signalized. The submitted Traffic Impact Statement demonstrates that all analyzed roadways are projected to operate above the minimum adopted Level of Service. Lee County Utilities has existing potable water and sanitary

sewer lines in operation adjacent to the subject property and has provided a letter of availability which is included with the application. San Carlos Park Elementary School is ± 2.5 miles from the site, Three Oaks Middle School is ± 2.7 miles from the site and Island Park High School is ± 3.6 miles from the site. San Carlos Park Fire Station 51 and EMS Medic 9 are located ± 0.8 mile from the property at 8013 Sanibel Blvd. Lee County Sheriff's Office Central District Substation is ± 5.8 miles from the site. There is existing development to the north, south and east with approval for additional development to the south. Approval of the requested Minor MPD will allow for infill development providing a compact and contiguous development pattern, consistent with Objective 2.2 and Policy 2.2.1.

STANDARD 4.1.1: WATER.

- 1. Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development in excess of 30,000 square feet of gross leasable (floor) area per parcel, must connect to a public water system (or a "community" water system as that is defined by Fla. Admin. Code R. 62-550).*
- 2. If the proposed development lies within the boundaries of a water utility's certificated or franchised service area, or Lee County Utilities' future potable water service area w(see Map 4-A), then the development must be connected to that utility.*
- 3. The developer must provide proof that the prior commitments of the water utility, plus the projected need of the developer, do not exceed the supply and facility capacity of the utility...*

The subject property is located within the Lee County Utilities future water service area as depicted on Lee Plan Map 4-A. Lee County Utilities has existing potable water lines in operation adjacent to the subject property and has provided a letter of availability which is included with the application. Potable water service will be provided through the Pinewood Water Treatment Plant. The requested Minor MPD is consistent with Standard 4.1.1.

STANDARD 4.1.2: SEWER.

- 1. Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development that generates more than 5,000 gallons of sewage per day, must connect to a sanitary sewer system.*
- 2. If the proposed development exceeds the thresholds listed above and lies within the boundaries of a sewer utility's certificated or franchised service area, or Lee County Utilities' future sanitary sewer service area (see Map 4-B), and that utility has sufficient capacity to provide minimum service to the development, then the development must connect to that sewer utility if there is existing infrastructure adequate to accept the effluents of the development within 1/4 mile from any part of the development...*

The subject property is located within the Lee County Utilities future sewer service area as depicted on Lee Plan Map 4-B. Lee County Utilities has existing sanitary sewer lines in operation adjacent to the subject property and has provided a letter of availability which is included with the application. Sanitary Sewer service will be provided through the Three Oaks Water Reclamation Facility. The requested Minor MPD is consistent with Standard 4.1.2.

STANDARD 4.1.4: ENVIRONMENTAL FACTORS.

- 1. In any case where there exists or there is the probability of environmentally sensitive areas (as identified by Lee County, the Corps of Engineers, Department of Environmental Protection, South*

Florida Water Management District (SFWMD), or other applicable regulatory agency), the developer/applicant must prepare an environmental assessment that examines the existing conditions, addresses existing or anticipated environmental problems, and proposes means and mechanisms to protect, conserve, or preserve the environmental and natural resources.

2. Ensure that land uses and structures are well integrated, properly oriented, and functionally related to the topographic and natural features of the site.

3. Ensure development minimizes the need for expansion and construction of street and utility improvements.

The site includes a total of 11.13 acres of jurisdictional exotic wetlands associated with the Mullock Creek flow-way that runs from the northwest to the southeast through the site and includes 2 small isolated low quality wetlands to the east. 10.76 acres of these wetlands are within the 46.33 acre project boundary and 0.37 acres are within the adjacent 30' private right-of-way that bisects the site which is proposed to be vacated. The submitted Protected Species Assessment identifies 41 potentially occupied gopher tortoise burrows with 9 to the east of the flow-way and the remainder in the western portion of the site. 10.96± acres of wetlands and 16.98± acres of indigenous uplands and gopher tortoise habitat within and to the west of the Mullock Creek floodway are proposed for preservation and exotic treatment along with non-indigenous uplands, compensating storage area and the existing dirt road area outside of the development footprint resulting in 30± acres of preservation. Minor impacts to 0.17± acre of Hydric Disturbed Land low quality wetlands are proposed. 0.13± acre of these received approval for impact under SFWMD permit number 36-104286-P associated with the permitted access for the site. The clustered site proposes to impact 0.04± acres of an isolated exotic wetland to allow the western preservation area. Since these minimal impacts are to isolated low quality wetlands less than ½ acre in size that are not utilized by listed species, no wetland mitigation is required or proposed. Compensating storage for the 0.04± acre impact that is within the Coastal High Hazard Area will be created out of non-indigenous uplands adjacent to the wetlands in the floodway as shown on the proposed Master Concept Plan. The 9 potentially occupied gopher tortoise burrows to the east of the flow-way are within the proposed clustered development footprint. At the time of development, the applicant will relocate any gopher tortoises in accordance with FWC current guidelines with the intent to relocate any to the upland preserve portion of the site. See submitted Protected Species Management Plan. Preservation of the Rural uplands also eliminates the potential for 20 single-family homes that could have been developed with septic tanks which is an improvement for the impaired Mullock Creek watershed. The proposed Minor MPD is consistent with Standard 4.1.4.

POLICY 5.1.2: Prohibit residential development where physical constraints or hazards exist, or require the density and design to be adjusted accordingly. Such constraints or hazards include but are not limited to flood, storm, or hurricane hazards; unstable soil or geologic conditions; environmental limitations; aircraft noise; or other characteristics that may endanger the residential community.

The requested Minor MPD and concurrent Map and Text Amendments facilitate the transfer of density to the eastern portion of the site adjusting the density location and design to relocate dwelling units including bonus density to the eastern portion of the property. The westerly portion of the subject property is located within the CHHA and the proposed MCP clusters development to the east and preserves the western 30± acres including the floodway and adjacent wetlands and uplands resulting in appropriate adjustments to the development's density location and site design. The development will demonstrate compliance with Chapter 2, Article XI of the Land Development Code regarding hurricane preparedness and mitigation. The requested rezoning to Minor MPD is consistent with Policy 5.1.2.

POLICY 5.1.3: During the rezoning process, direct high-density residential developments to locations that are near employment and shopping centers; are close to parks and schools; and are accessible to mass transit and bicycle facilities.

There are existing commercial developments offering employment and shopping opportunities all along S. Tamiami Trail/US 41 with restaurants, businesses and shopping centers, most notable being Grand Bay Plaza Publix only 3 minutes to the north. San Carlos Park Elementary School is 2.5± miles from the site, Three Oaks Middle School is 2.7± miles from the site and Island Park High School is 3.6± miles from the site. Karl Drews Park and Community Center is within 1.3± miles, San Carlos Community Pool is 1.4± miles, Three Oaks Park is within 2.9± miles, Koreshan State Park is within 3± miles, Estero River Scrub-Estero Bay Preserve is within 3.3± miles and Estero Park is within 3.5± miles of the site. South County Regional Library is located 4.1± miles from the site. Lee Tran Routes 240, 600 and 140-Sunday run along US 41 at this location with existing bus stops ±602' to the north and ±675' to the south. There are existing sidewalks on both sides of US 41, an existing bike lane, existing paved shoulder and proposed shared use path. The requested rezoning to Minor MPD is consistent with Policy 5.1.3.

POLICY 5.1.5: Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in the LDC, Chapter 10, are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a planned development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The LDC will continue to require appropriate buffers for new developments.

The requested minor MPD provides compatible infill mixed use development. Pursuant to LDC Section 34-2175(b)(2), the Urban Community future land use category allows heights up to 95 feet. The proposed maximum height will be limited to 53 feet. The Estero Vista RPD to the south has been approved for multi-family development with a maximum height of 55 feet since 2005 which abuts MH-2 zoning with Shady Acres RV Travel Park. While the site abuts mobile home lots within Shelter Pines Mobile Home Village to the north, the site design provides approximately 95 feet of setback to proposed multi-family Buildings I and II. Building III orients the narrow portion of the building to the north with a minimum 29-foot setback which meets the intent of LDC Section 34-2174(a) by increasing the typical multi-family setback of 20 feet by ½ foot for every 1 foot over 35 feet. The Mixed-Use Overlay requires a minimum 10-foot buffer with Type B buffer plantings (5 trees per 100 linear feet and a double hedge row) where the abutting single-family residences are. The MCP proposes an enhancement to this buffer by providing an opaque fence or wall with the required vegetation planted on the outside. The western 30± acres of the site will be preserved providing environmental and water quality enhancements between the adjacent Estero Bay State Buffer Preserve and the Mullock Creek floodway. A minimum 5-foot buffer with 5 trees per 100 linear feet will be provided abutting rights-of-way as shown on the attached MCP. The requested minor MPD is consistent with Policy 5.1.5.

POLICY 5.1.10: In those instances where land under single ownership is divided into two or more land use categories by the adoption or revision of the Future Land Use Map, the allowable density under this Plan will be the sum of the allowable densities for each land use category for each portion of the land. This density can be allocated across the property provided that:

1. *The planned development zoning is utilized; and*

2. *No density is allocated to lands designated as non-urban or Environmentally Critical that would cause the density to exceed that allowed on such areas; and*
3. *The land ~~was~~ **is** under single ownership at the time ~~this policy was adopted and is contiguous;~~ **the planned development application is filed** ~~this policy was adopted and is contiguous;~~ in situations where land under single ownership is divided by roadways, railroads, streams (including secondary riparian systems and streams but excluding primary riparian systems and major flow ways such as the Caloosahatchee River and Six Mile Cypress Slough), or other similar barriers, the land will be deemed contiguous for purposes of this policy; and*
4. *The resultant planned development affords further protection to environmentally sensitive lands if they exist on the property.*

The applicant has a concurrent Text Amendment under review requesting to amend Policy 5.1.10.3 as shown in strike-through and bold underline text above to revise the timing requirement for single ownership of property that is divided into two or more land use categories to clarify the language. The overall subject property has been in the same family ownership since 1968 by various individuals or organizations, but same underlying family ownership of the Freeland's. Literal interpretation of this Policy language would not allow the transfer of 20 dwelling units from the Rural lands abutting a state preserve to the Urban Community lands to the east allowing preservation of the western 30± acres of the site which is above and beyond LDC requirements. The portion of the Policy requested to be changed was added at the end of the review process and resulted in this unintended impact on the subject property. The requested language ensures that the subject property is under single-ownership at the time of planned development application so that density and intensity can be properly allocated at the time of zoning and not be affected if future potential outparcels change ownership during or after development. The main purpose of the 3rd requirement in this policy is to clarify that properties divided by barriers such as the Caloosahatchee River are not contiguous. The requested clarification will promote sound planning by allowing properties to cluster development and preserve natural resources. The requested minor MPD is consistent with intent of the existing language in Policy 5.1.10 and will be consistent upon adoption of the proposed Text Amendment.

GOAL 6: COMMERCIAL LAND USES. To permit orderly and well-planned commercial development at appropriate locations within the County.

OBJECTIVE 6.1: Development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 4 and other provisions of this plan.

POLICY 6.1.6: The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.

POLICY 6.1.7: Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.

The eastern 3± acres of the subject property are already zoned General Commercial (CG) and the proposed Minor MPD keeps commercial or mixed-use development on that portion of the property. The proposed

project meets the general standards under Goal 4 as demonstrated in the above analysis. The Master Concept Plan proposes development consistent with the Mixed Use Overlay pending approval of the concurrent comprehensive plan amendments. The Outparcels will be required to provide the minimum 20% open space. Minimum 5' buffers with five trees per 100 linear feet will be provided adjacent to rights-of-way external to the MPD. Required building perimeter planting may be used in lieu of this buffer if adjacent to the right-of-way. Where adjacent to an existing mobile home lot, a minimum 10' buffer with type "B" buffer plantings will be provided. No internal buffers are proposed within the MPD. The majority of the area proposed for commercial use is already zoned CG allowing infill development. The proposed Minor MPD remains consistent with Goal 6 and its Objectives and Policies.

OBJECTIVE 11.1: MIXED USE DEVELOPMENT. Allow and encourage mixed use development within certain future land use categories and at appropriate locations where sufficient infrastructure exists to support development.

POLICY 11.1.1: Developments located within the Intensive Development, Central Urban, or Urban Community future land use categories that have existing connectivity or can demonstrate that connectivity may be created to adjacent neighborhoods are strongly encouraged to be developed with two or more of the following uses: residential, commercial (including office), and light industrial (including research and development use).

The portion of the property proposed to be added to the Mixed-Use Overlay with the concurrent Map Amendment is within the Urban Community future land use category and sufficient infrastructure exists to support development as demonstrated by the submitted letters of review and recommendation. The site access has received development order approval under DOS2020-00128 which provides connectivity to the adjacent development to the south. The mixed use planned development proposes both residential and commercial uses. The requested Minor MPD is consistent with Objective 11.1 and Policy 11.1.1.

POLICY 11.2.1: The Mixed-Use Overlay identifies locations where mixed-use development will have a positive impact on transportation facilities through increased transit service, internal trip capture, and reduced travel distance. Requests to expand the Mixed-Use Overlay will be evaluated based on all of the following criteria:

- 1. Located within the extended pedestrian shed of established transit routes; and,*
- 2. Distinct pedestrian and automobile connections to adjacent uses can be achieved without accessing arterial roadways; and,*
- 3. Located within the Intensive Development, Central Urban, or Urban Community future land use categories; and,*
- 4. Availability of adequate public facilities and infrastructure; and*
- 5. Will not intrude into predominately single-family residential neighborhoods.*

Lee Tran Routes 240, 600 and 140-Sunday run along S. Tamiami Trail/US 41 at this location with existing bus stops ±602' to the north and ±675' to the south. There are existing sidewalks on both sides of US 41, an existing bike lane, existing paved shoulder and proposed shared use path. The site access has received development order approval under DOS2020-00128 which provides pedestrian and automobile connection with the adjacent Estero Vista development to the south without accessing an arterial roadway. The portion of the site proposed for inclusion in the Mixed-Use Overlay is within the Urban Community future land use category. The submitted letters of review and recommendation demonstrate that adequate public facilities and infrastructure are available. The proposal will not intrude into predominately single-family residential neighborhoods. While the site abuts mobile home lots within Shelter Pines Mobile Home Village to the north,

the site is not located in a predominantly single-family neighborhood. The subject property and the properties to the north and south have existing commercial zoning along the S. Tamiami Trail/US 41 frontage. The property to the south that has been approved for multi-family development with a maximum height of 55 feet since 2005 which abuts MH-2 zoning with Shady Acres RV Travel Park. The requested Minor MPD is consistent with Policy 11.2.1.

POLICY 11.2.2: Development in the Mixed-Use Overlay should accommodate connections to adjacent uses.

The site access has received development order approval under DOS2020-00128 which provides pedestrian and automobile connection with the adjacent development to the south. The request is consistent with Policy 11.2.2.

POLICY 11.2.4: Use of conventional zoning districts will be encouraged within the Mixed-Use Overlay in order to promote continued redevelopment.

The overall site has extraordinary circumstances that make a planned development application more appropriate to allow the clustered mixed use planned development and preservation of 30± acres of Rural lands and adjacent wetlands abutting the state preserve lands and providing further protection of the Mullock Creek floodway.

POLICY 11.2.6: Properties in a Mixed-Use Overlay are encouraged to utilize bonus density. Projects utilizing Greater Pine Island TDUs are eligible for increased maximum densities and additional development incentives as set forth in this plan to encourage a compact and functional development pattern.

The proposed Minor MPD provides a compact and functional development that includes a request to utilize bonus density including Greater Pine Island TDUs and additional development incentives such as alternate property development regulations and buffers to encourage a compact and functional development pattern consistent with Policy 11.2.6.

POLICY 11.2.7: Development, redevelopment, and infill development located within the Mixed-Use Overlay may use the area of non-residential uses in their density calculations.

The proposed zoning applies this Policy pending approval of the requested Map Amendment as demonstrated in the submitted Preliminary Density Calculations. The request will be consistent with Policy 11.2.7 upon adoption of the concurrent Map Amendment.

GOAL 101: COASTAL AREAS. Protect human life along with current and future development from the impacts of coastal flooding. Coastal flooding includes, but is not limited to, high tide events, storm surge, flash floods, stormwater runoff, and impacts of sea level rise.

POLICY 101.1.1: Require that development within the Coastal High Hazard Area be compatible with natural systems, such as, water retention and purification, wildlife habitat,

primary productivity, and defense against coastal flooding.

POLICY 101.1.2: Protect and conserve the following environmentally sensitive coastal areas: wetlands, estuaries, mangrove stands, undeveloped barrier islands, beach and dune systems, aquatic preserves, wildlife refuges, undeveloped tidal creeks and inlets, critical wildlife habitats, benthic communities, and marine grass beds.

The western portion of the subject property is located within the Rural future land use category and the CHHA and is zoned for residential uses (existing MH-1 zoning). This Rural land could be developed with 20 dwelling units on well and septic and would require a road crossing of the Mullock Creek floodway for access. The MPD proposes to utilize Policy 5.1.10 as amended by the concurrent Text Amendment which will allow preservation of 30± acres of the site including the Rural lands and transferring the density to the eastern portion of the site. This preserved 30± acres provides environmental and water quality enhancements between the adjacent Estero Bay State Buffer Preserve and the Mullock Creek flowway. The wetland preserve areas will remain outside of the proposed site stormwater management system and will continue to remain available to receive off-site flows. The proposed treatment and control of exotic vegetation that will be accomplished by this request, the removal of the need for an access road crossing, and the proposed drainage and access easement protects and enhances the drainage conveyance. The proposed project only includes minor impacts to small isolated wetlands but results in a signification reduction of developable area and results in onsite gopher tortoise habitat which overall furthers Policy 101.1.2. The request is consistent with Policies 101.1.1 and 101.1.2.

POLICY 101.3.2: Restrict development in the Coastal High Hazard Area to uplands except as needed for the provision of public facilities.

The clustered site proposes to impact 0.04± acre of isolated exotic wetlands within the CHHA to allow the western 30± acre preservation area. Since these minimal impacts are to isolated low quality wetlands less than ½ acre in size that are not utilized by listed species, no wetland mitigation is required or proposed. Compensating storage for the 0.04± acre impact that is within the Coastal High Hazard Area will be created out of non-indigenous uplands adjacent to the wetlands in the floodway as shown on the proposed Master Concept Plan. The proposed compensatory storage creation area(s) will be graded to match the existing grade of the adjacent floodway area. The newly graded compensatory storage area(s) will be allowed to naturally recruit native wetland plant species. The area(s) will be monitored for the recruitment of native plant species. If after two growing seasons appropriate native wetland vegetation has not recruited into the area, native supplemental plantings will be installed. Exotic and nuisance vegetation will be treated or removed. Preservation of the Rural uplands also eliminates the potential for 20 single-family homes that could have been developed with septic tanks and would have required access through the floodway which is an improvement for the impaired Mullock Creek watershed. The Lee Plan Glossary does not define public facilities, but defines Public Services as follows: *The requisite services, facilities, capital improvements, and infrastructure necessary to support growth and development. Public services as used in this plan include, but are not limited to: public sewer and water; paved streets and roads; public transit; parks and recreation facilities; police, fire, and emergency services; surface water management; schools; and, community facilities such as senior citizens' centers, libraries, and community centers.* The applicant proposes 17.44± acres of community public facilities consisting of a proposed perpetual stormwater drainage and access easement over the floodway and adjacent preserved wetlands. The minor 0.04± acre impact that is within the Coastal High Hazard Area is only to allow for access for Lee County to the existing dirt road to the floodway and adjacent preserved wetlands and to provide access for the lake maintenance easement for the surface water management system. The request is consistent with Policy 101.3.2.

POLICY 101.3.4: Encourage new residential development, as required by the Land Development Code, to provide continuing information to residents concerning hurricane evacuation and shelters.

The development will demonstrate compliance with Chapter 2, Article XI of the Land Development Code regarding hurricane preparedness and mitigation. The request is consistent with Policy 101.3.4.

POLICY 101.3.6: Prohibit the use of Transferable Development Units (TDUs) and bonus density utilizing cash contributions for affordable housing on property located within the Coastal High Hazard Area.

POLICY 101.3.7: Bonus density for site-built affordable housing development will be considered within the Coastal High Hazard Area.

Western portions of the property are located within the Coastal High Hazard Area (CHHA). No TDUs are proposed to be utilized on the portion of the property located within the CHHA. The preliminary density calculations demonstrate there are a total of 19.28± acres of uplands and preserved wetlands within the Urban Community future land use category and within the CHHA which results in a standard density up to 6 units per acre or 115.68 + 2 dwelling units transferred from the Rural future land use category = 118 standard density units within the CHHA. Buildings II and III are within the CHHA and propose a total of 156 dwelling units so the remaining 38 units will be bonus density in accordance with the Affordable Housing site-built provisions. The remaining maximum 144 dwelling units are proposed outside of the CHHA consisting of 68 standard density and 76 bonus units (may be any bonus density option to be determined at the time of development order). A maximum of 25 of these bonus density units may be developed as mixed use on Outparcel 1 or 2. The proposed Minor MPD is consistent with Policies 101.3.6 and 101.3.7.

OBJECTIVE 59.1: Lee County will continue its efforts in developing a surface water management planning process designed to produce and maintain an up-to-date body of technical information, and, based on that information, the necessary surface water management plans, regulatory mechanisms, and facility proposals that will improve the protection of present and future uses of real property from stormwater flooding, while preserving or enhancing the environmental and natural resource values of both land and water.

POLICY 59.1.4: Continue to develop, update, and improve technical information, with the assistance of the USDA Natural Resources Conservation Service, United States Geological Survey, Federal Emergency Management Agency (FEMA), SFWMD, and other agencies, in order to better determine the current flooding risks associated with severe rainfall events.

POLICY 59.1.9: Maintain the floodplain management plan and analyze the flooding problem in the unincorporated areas of Lee County, inventory the flood hazard area, review possible activities to remedy identified flooding problems, select appropriate alternatives, and formulate a schedule for implementation.

OBJECTIVE 61.2: MIMICKING THE FUNCTIONS OF NATURAL SYSTEM. Support a surface water management strategy that relies on natural features (flow-ways, sloughs, strands, etc.) and natural systems to receive and otherwise manage storm and surface water.

OBJECTIVE 61.3: GENERAL SURFACE WATER MANAGEMENT STANDARDS. Lee County will continue to provide sufficient performance and/or design standards for development protective of the function of natural drainage systems. POLICY 59.1.3: Maintain floodplain regulations in accordance with the most recently adopted Flood Insurance Rate Map (FIRM) and other available sources.

POLICY 61.3.2: Maintain floodplains to minimize the potential loss of life and damage to property by flooding.

POLICY 61.3.5: The County will maintain regulations which provide for the management and protection of floodplains, consistent with state and federal regulations.

The ±46.33-acre site is bordered on the east by Tamiami Trail (US-41 / SR 45) and vacant land zoned (RPD), to the south by a retail boat facility, the vacant RPD and a RV park, to the west by the Estero Bay State Buffer Preserve, and to the north by the Sheltering Pines Mobile Home Village. The entire site is undeveloped with the exception of a dirt road from east to west. The Mullock Creek floodway bisects the site. Mullock Creek is bordered by wetlands. The portion of the site to the west of Mullock Creek is not proposed to be developed. The area east of the Mullock Creek wetlands consists of 15.71± acres of uplands. These uplands drain generally from east to west from Tamiami Trail to Mullock Creek. There are also two small, isolated wetland areas with a total area of ±0.17 acres located on the eastern portion of the site. There are existing stormwater swales along the ROW of S. Tamiami Trail. The existing stormwater runoff sheet flows generally to the west until it discharges into the Mullock Creek flowway. The property has an existing stormwater management permit on the eastern 5.97± acres (South Florida Water Management District Individual Environmental Resource Permit No. 36-104286-P) for a stormwater management system serving 0.91 acres of commercial and 5.06 acres of future development for construction of an access road to support the future multi-use commercial development, including sidewalks, underground utilities, and a dry retention pond with 0.14 acre of permitted wetland impact. A Lee County development order (DOS2020-00128) was also approved for construction of an access road, watermain and forcemain extensions and other support infrastructure. The proposed drainage system will preserve existing drainage patterns and not block any runoff overflow from adjacent properties. The offsite flow will be maintained by the project. The proposed drainage within the development will be collected into a catch basin and pipe system and detained in an on-site proposed wet detention pond. A vegetated swale will be provided along the north property line to be demonstrated at the time of development order. The Master Concept Plan note 9 states that the lake must demonstrate a planted littoral shelf that functions as a typical freshwater marsh consistent with the LDC at time of development order. The two commercial or mixed use parcels will provide at the time of their development ½" of pretreatment on their sites prior to discharging into the main water management system. The wet detention pond will discharge to the Mullock Creek wetlands on the east side of the flow way and then into Mullock Creek. The wetland preserve areas will remain outside of the proposed site stormwater management system and will continue to remain available to receive off-site flows. The property is within a FEMA flood zone. This will be mitigated by placing fill such that the finished floor elevation is one foot above the FEMA base flood elevation. No fill will be placed within the Mullock Creek floodway. The applicant proposes 17.44± acres of community facilities consisting of a proposed perpetual stormwater drainage and access easement over the floodway and adjacent preserved wetlands. The Grand Bay project will receive approval for an Environmental Resource Permit from the South Florida Water Management District. The site includes a total of 11.13 acres of jurisdictional exotic wetlands associated with the Mullock Creek flow-way that runs from the northwest to the southeast through the site and includes 2 small isolated low quality wetlands to the east. 10.76 acres of these wetlands are within the 46.33 acre project boundary and 0.37 acres are within the adjacent 30' private right-of-way that bisects the site which is proposed to be vacated. 10.96± acres of wetlands and 16.98± acres of indigenous uplands and gopher tortoise habitat within and to the west of the Mullock Creek floodway are proposed for preservation and exotic treatment along

with non-indigenous uplands, compensating storage area and the existing dirt road area outside of the development footprint resulting in 30± acres of preservation. The clustered site proposes minor impacts to 0.17± acre of Hydric Disturbed Land low quality wetlands are proposed. 0.13± acre of these received approval for impact under SFWMD permit number 36-104286-P associated with the permitted access for the site. Preservation of the Rural uplands also eliminates the potential for 20 single-family homes that could have been developed with septic tanks which is an improvement for the impaired Mullock Creek watershed. The request is consistent with Policies 59.1.3, 59.1.4, 59.1.9, 61.3.2 and 61.3.5.

OBJECTIVE 123.8: GOPHER TORTOISES. Restore and maintain secure, viable populations of Gopher Tortoises in Lee County.

POLICY 123.8.1: Protect Gopher Tortoise burrows wherever they are found. If unavoidable conflicts make on-site protection infeasible, off-site mitigation may be provided in accordance with Florida Fish and Wildlife Conservation Commission requirements.

The submitted Protected Species Assessment identifies 41 potentially occupied gopher tortoise burrows with 9 to the east of the flow-way and the remainder in the western portion of the site. 10.96± acres of wetlands and 16.98± acres of indigenous uplands and gopher tortoise habitat within and to the west of the Mullock Creek floodway are proposed for preservation and exotic treatment along with non-indigenous uplands, compensating storage area and the existing dirt road area outside of the development footprint resulting in 30± acres of preservation. The 9 potentially occupied gopher tortoise burrows to the east of the flow-way are within the proposed clustered development footprint. At the time of development, the applicant will relocate any gopher tortoises in accordance with FWC current guidelines with the intent to relocate any to the upland preserve portion of the site. See submitted Protected Species Management Plan. The request is consistent with Objective 123.8 and Policy 123.8.1.

GOAL 125: WATER QUALITY. To ensure that water quality is maintained or improved for the protection of the environment and people of Lee County.

POLICY 125.1.2: New development and additions to existing development must not degrade surface and ground water quality.

POLICY 125.1.3: The design, construction, and maintenance of artificial drainage systems must provide for retention or detention areas and vegetated swale systems that minimize nutrient loading and pollution of freshwater and estuarine systems.

POLICY 125.1.4: Developments which have the potential of lowering existing water quality below state and federal water quality standards will provide standardized appropriate monitoring data.

GOAL 126: WATER RESOURCES. Conserve, manage, and protect the natural hydrologic systems of Lee County to ensure continued water resource availability.

POLICY 126.1.4: Development designs must provide for maintaining or improving surface water flows, groundwater levels, and lake levels at or above existing conditions.

POLICY 126.1.5: Cooperate with appropriate agencies to develop and implement an area-wide water resources plan emphasizing planning and management of water resources on the basis of drainage basins and addressing the needs of the existing and potential built

environment, natural hydrologic system requirements, and freshwater flow impacts on estuarine systems.

POLICY 126.1.6: The county will continue to support a monitoring program of existing baseline conditions of water resources.

A vegetated swale will be provided along the north property line to be demonstrated at the time of development order. The Master Concept Plan note 9 states that the lake must demonstrate a planted littoral shelf that functions as a typical freshwater marsh consistent with the LDC at time of development order. The two commercial or mixed use parcels will provide at the time of their development ½" of pretreatment on their sites prior to discharging into the main water management system. The wet detention pond will discharge to the Mullock Creek wetlands on the east side of the flow way and then into Mullock Creek. The applicant proposes the following condition regarding water quality monitoring. The requested rezoning is consistent with Policies 125.1.3, 125.1.4, 126.1.4, 126.1.5 and 126.1.6.

Water Quality Monitoring.

- a. Developer must submit a Water Quality Monitoring Plan with the first development order application. The Water Quality Monitoring Plan must be reviewed and approved by Lee County Division of Natural Resources prior to issuance of a development order. At a minimum, the Water Quality Monitoring Plan must establish:*
 - i. Goals and Objectives of the Water Quality Monitoring Plan;*
 - ii. An outfall monitoring schedule during the "wet" season of June through October, for constituents of concern approved by Lee County Division of Natural Resources;*
 - iii. A baseline monitoring event to be part of the monitoring plan that must be completed prior to commencement of construction; and*
 - iv. A contingency plan to be implemented upon discovery of an exceedance of State Water Quality Standards. The plan must include notification to impacted residents and authorities.*
- b. Developer must provide water quality monitoring data to the Division of Natural Resources annually for a minimum of 5 years. The data must include a report with a comparison of state water quality standards, plots of parameters, and recommendations. Results must be reported as an Electric Data Deliverable (EDD), in a format approved by the Division of Natural Resources.*

If the project meets or exceeds state water quality monitoring standards for five consecutive years, developer may request to amend the water quality monitoring and reporting schedule. The request must be in writing and is subject to the review and approval of the Division of Natural Resources.

b) Meets this Code and other applicable County regulations or qualifies for deviations:

The site will be developed in compliance with the Comprehensive Plan and the Land Development Code. The proposed Minor MPD qualifies for the requested deviations as outlined in the submitted Schedule of Deviations and Justifications. The requested deviations enhance the achievement of the objectives of the planned development and preserve and promote the general intent of the LDC to protect the public health, safety, and welfare. Compliance with design-related provisions of the Land Development Code will be demonstrated at the time of Local Development Order.

c) Is compatible with existing and planned uses in the surrounding area:

The subject property and the properties to the north and south have existing commercial zoning along the S. Tamiami Trail/US 41 frontage. The Estero Vista RPD to the south has been approved for multi-family development with a maximum height of 55 feet since 2005 which abuts MH-2 zoning with Shady Acres RV Travel Park. Pursuant to LDC Section 34-2175(b)(2), the Urban Community future land use category allows heights up to 95 feet. The proposed maximum height will be limited to 53 feet. While the site abuts mobile home lots within Shelter Pines Mobile Home Village to the north, the site design provides approximately 95 feet of setback to proposed multi-family Buildings I and II. Building III orients the narrow portion of the building to the north with a minimum 29-foot setback which meets the intent of LDC Section 34-2174(a) by increasing the typical multi-family setback of 20 feet by ½ foot for every 1 foot over 35 feet. The Mixed-Use Overlay requires a minimum 10-foot buffer with Type B buffer plantings (5 trees per 100 linear feet and a double hedge row) where the abutting single-family residences are. The MCP proposes an enhancement to this buffer by providing an opaque fence or wall with the required vegetation planted on the outside. The western 30± acres of the site will be preserved providing environmental and water quality enhancements between the adjacent Estero Bay State Buffer Preserve and the Mullock Creek flowway. A minimum 5-foot buffer with 5 trees per 100 linear feet will be provided abutting rights-of-way as shown on the attached MCP. The requested minor MPD provides compatible infill mixed use development.

d) Will provide access sufficient to support the proposed development intensity:

The site currently has access to S. Tamiami Trail/US 41 (arterial roadway) and Santa Maria Street (local roadway). The site access has received development order approval under DOS2020-00128 which provides pedestrian and automobile connection with the adjacent Estero Vista development to the south. This proposed access will provide a 2-lane roadway constructed to LDC Standards connecting to US 41 with a left-in/right-in/right-out access drive connection, providing a left-in movement that does not presently exist at Santa Maria Street. The left turn lane that will serve the proposed access is already located within the median of US 41. The site's permitted access is across from its intersection with a major collector roadway (San Carlos Boulevard) that is proposed to be signalized by FDOT. The submitted Traffic Impact Statement demonstrates that all analyzed roadways are projected to operate above the minimum adopted Level of Service.

e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval:

The site has frontage on an arterial roadway (S. Tamiami Trail/US 41) across from its intersection with a major collector roadway (San Carlos Boulevard) that is proposed to be signalized. The submitted Traffic Impact Statement demonstrates that all analyzed roadways are projected to operate above the minimum adopted Level of Service. Any expected impacts on transportation facilities will be adequately addressed during the development order application process by existing county regulations.

f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and

The site includes a total of 11.13 acres of jurisdictional exotic wetlands associated with the Mullock Creek flow-way that runs from the northwest to the southeast through the site and includes 2 small isolated low

quality wetlands to the east. 10.76 acres of these wetlands are within the 46.33 acre project boundary and 0.37 acres are within the adjacent 30' private right-of-way that bisects the site which is proposed to be vacated. The submitted Protected Species Assessment identifies 41 potentially occupied gopher tortoise burrows with 9 to the east of the flow-way and the remainder in the western portion of the site. 10.96± acres of wetlands and 16.98± acres of indigenous uplands and gopher tortoise habitat within and to the west of the Mullock Creek floodway are proposed for preservation and exotic treatment along with non-indigenous uplands, compensating storage area and the existing dirt road area outside of the development footprint resulting in 30± acres of preservation. Minor impacts to 0.17± acre of Hydric Disturbed Land low quality wetlands are proposed. 0.13± acre of these received approval for impact under SFWMD permit number 36-104286-P associated with the permitted access for the site. The clustered site proposes to impact 0.04± acres of an isolated exotic wetland to allow the western preservation area. Since these minimal impacts are to isolated low quality wetlands less than ½ acre in size that are not utilized by listed species, no wetland mitigation is required or proposed. Compensating storage for the 0.04± acre impact that is within the Coastal High Hazard Area will be created out of non-indigenous uplands adjacent to the wetlands in the floodway as shown on the proposed Master Concept Plan. The proposed compensatory storage creation area(s) will be graded to match the existing grade of the adjacent floodway area. The newly graded compensatory storage area(s) will be allowed to naturally recruit native wetland plant species. The area(s) will be monitored for the recruitment of native plant species. If after two growing seasons appropriate native wetland vegetation has not recruited into the area, native supplemental plantings will be installed. Exotic and nuisance vegetation will be treated or removed. The 9 potentially occupied gopher tortoise burrows to the east of the flow-way are within the proposed clustered development footprint. At the time of development, the applicant will relocate any gopher tortoises in accordance with FWC current guidelines with the intent to relocate any to the upland preserve portion of the site. See submitted Protected Species Management Plan. Preservation of the Rural uplands also eliminates the potential for 20 single-family homes that could have been developed with septic tanks which is an improvement for the impaired Mullock Creek watershed. The Lee Plan Glossary does not define public facilities, but defines Public Services as follows: *The requisite services, facilities, capital improvements, and infrastructure necessary to support growth and development. Public services as used in this plan include, but are not limited to: public sewer and water; paved streets and roads; public transit; parks and recreation facilities; police, fire, and emergency services; surface water management; schools; and, community facilities such as senior citizens' centers, libraries, and community centers.* The applicant proposes 17.44± acres of community public facilities consisting of a proposed perpetual stormwater drainage and access easement over the floodway and adjacent preserved wetlands. The minor 0.04± acre impact that is within the Coastal High Hazard Area is only to allow for access for Lee County to the existing dirt road to the floodway and adjacent preserved wetlands and to provide access for the lake maintenance easement for the surface water management system.

g) Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.

The proposed MCP clusters development on the easterly portion of the property located within the Urban Community future land use category which is a Future Urban area. This property is already zoned for commercial and residential development and is adequately served by existing urban services. The site has frontage on an arterial roadway (S. Tamiami Trail/US 41) across from its intersection with a major collector roadway (San Carlos Boulevard) that is proposed to be signalized. The submitted Traffic Impact Statement demonstrates that all analyzed roadways are projected to operate above the minimum adopted Level of Service. Lee County Utilities has existing potable water and sanitary sewer lines in operation adjacent to the subject property and has provided a letter of availability which is included with the application. San Carlos Park Elementary School is ±2.5 miles from the site, Three Oaks Middle School is ±2.7 miles from the site and

Island Park High School is ± 3.6 miles from the site. San Carlos Park Fire Station 51 and EMS Medic 9 are located ± 0.8 mile from the property at 8013 Sanibel Blvd. Lee County Sheriff's Office Central District Substation is ± 5.8 miles from the site. Letters of review and recommendation from Lee County Public Safety, The School District of Lee County, Lee County Sheriff's Office, Lee County Solid Waste, Lee Tran, and San Carlos Park Fire Protection and Rescue Service District obtained for the concurrent Map and Text Amendments are attached demonstrating adequate public facilities exist. Karl Drews Park and Community Center is within $1.3\pm$ miles, San Carlos Community Pool is $1.4\pm$ miles, Three Oaks Park is within $2.9\pm$ miles, Koreshan State Park is within $3\pm$ miles, Estero River Scrub-Estero Bay Preserve is within $3.3\pm$ miles and Estero Park is within $3.5\pm$ miles of the site. South County Regional Library is located $4.1\pm$ miles from the site.

The proposed amendment complies with the findings provided in the Land Development Code Section 34-145(d)(4)a.2 as follows:

a) The proposed use or mix of uses is appropriate at the proposed location;

The proposed mix of uses are appropriate at the proposed location. The site is already zoned for commercial and residential development and the proposed MCP clusters development on the easterly portion of the property located within the Urban Community future land use category. The proposed mix of uses are appropriate at the location with frontage on an arterial roadway (S. Tamiami Trail/US 41) across from its intersection with a major collector roadway (San Carlos Boulevard) that is proposed to be signalized. The proposed schedule of uses includes several of the uses allowed within the Mixed-Use Planned Development zoning category except limits the dwelling units to live work, townhome or multi-family. Multi-family uses with a maximum height of 55 feet have been approved on the Estero Vista RPD to the south and the subject request proposes a maximum height of 53 feet.

b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development.

Conditions of approval will require the MPD to be consistent with the proposed MCP which provides sufficient safeguards to the public interest.

c) If the application includes deviations pursuant to section 34-373(a)(9), that each requested deviation:

- 1) Enhances the achievement of the objectives of the planned development; and***
- 2) Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.***

Please see attached Schedule of Deviations and Justifications that demonstrates that each of the four requested deviations enhance the achievement of the objectives of the planned development and preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

In conclusion, the proposed rezoning to minor MPD allows for clustered infill development resulting in the western $30\pm$ acres of the site being preserved providing environmental and water quality enhancements between the adjacent Estero Bay State Buffer Preserve and the Mullock Creek flowway. The request is in compliance with the Lee County Comprehensive Plan, the Land Development Code and other applicable

codes and regulations or qualifies for deviations; is compatible with existing and planned uses in the surrounding area; will provide access sufficient to support the proposed development intensity; the expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval; will not adversely affect environmentally critical or sensitive areas and natural resources; and will be served by urban services, defined in the Lee Plan. The proposed use is appropriate at the proposed location; conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development. Each of the four requested deviations enhance the achievement of the objectives of the planned development and preserve and promote the general intent of the LDC to protect the public health, safety and welfare. For these reasons, the applicant respectfully submits that the rezoning request from MH-1 and CG to minor MPD should be approved.

In assessing the likelihood of use of a site by listed species, the sufficiency of proposed survey methodology, and any information provided as reasonable assurance under this section, the Agency will consider comments and recommendations received from the FWC, the U.S. Fish and Wildlife Service, comments from the applicant, and other water-resource related public comments. Scientific literature, and technical assistance documents such as the “*Florida Wildlife Conservation Guide*” at: myfwc.com/conservation/value/fwcg/ (2011), management plans, recovery plans, and habitat and conservation guidelines also will be considered.

10.2.2.1 Compliance with **sections 10.2.2 through 10.2.3.7 and 10.2.5 through 10.3.8, below**, will not be required for regulated activities in isolated wetlands less than one half acre in size, unless:

- (a) The wetland is used by endangered or threatened species;
- (b) The wetland is located in an area of critical state concern designated pursuant to Chapter 380, F.S.;
- (c) The wetland is connected by standing or flowing surface water at seasonal high water level to one or more wetlands, and the combined wetland acreage so connected is greater than one half acre; or
- (d) The Agency establishes that the wetland to be impacted is, or several such isolated wetlands to be impacted are cumulatively, of more than minimal value to fish and wildlife.

10.2.2.2 Alterations in wholly-owned ponds that were entirely constructed in uplands and that are less than one acre in area and alterations in drainage ditches that were constructed in uplands will not be required to comply with the provisions of **sections 10.2.2 through 10.2.2.3, 10.2.3 through 10.2.3.7, and 10.2.5 through 10.3.8 below**, unless those ponds or ditches provide significant habitat for endangered or threatened species. This means that, except in cases where those ponds or ditches provide significant habitat for endangered or threatened species, the only environmental criteria that will apply to those ponds or ditches are those included in **sections 10.2.2.4 and 10.2.4 through 10.2.4.5, below**. This provision shall only apply to those ponds and ditches that did not require a permit under Part IV, Chapter 373, F.S., or that were constructed for purposes other than mitigation pursuant to a permit under Part IV, Chapter 373, F.S. This provision does not apply to ditches constructed to divert natural stream flow.

10.2.2.3 The assessment of impacts expected as a result of proposed activities on the values of functions will be based on a review of scientific literature, ecologic and hydrologic information, and field inspection. When assessing the value of functions that any wetland or other surface water provides to fish, wildlife, and listed species, the factors that the Agency will consider are:

- (a) Condition – this factor addresses whether the wetland or other surface water is in a high quality state or has been the subject of past alterations in hydrology, water quality, or vegetative composition. However, areas impacted by activities in violation of an Agency rule, order, or permit adopted or issued pursuant to Chapter 373, F.S., or Part VIII of Chapter 403, F.S. (1984 Supp.) as amended, will be evaluated as if the activity had not occurred;
- (b) Hydrologic connection – this factor addresses the nature and degree of off-site connection, which may provide benefits to off-site water resources through detrital export, base flow maintenance, water quality enhancement or the provision of nursery habitat;



Board of County Commissioners

Kevin Ruane
District One

August 17, 2022

Cecil L. Pendergrass
District Two

Ray Sandelli
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
County Hearing
Examiner

Stacy Ellis Hewitt, AICP

Banks Engineering

810511 Six Mile Cypress Pkwy Suite 101

Fort Myers, FL 33966

Via E-mail Only: SHewitt@BanksEng.com

RE: CPA2022-00006 and CPA2022-00007 Grand Bay Amendments

Dear Ms. Hewitt:

Staff has reviewed the application submittal for the map amendment CPA2022-00006 and text amendment CPA2022-00007, stamped received on June 29th, 2022, including the supplemental submittal received on August 5th, 2022, and finds the application to be sufficient.

Staff's substantive comments, along with the staff report, are being prepared.

You will be notified once the Local Planning Agency date has been determined.

The applicant will need to submit 15 copies of the complete and sufficient application materials for use at the LPA and BoCC hearings. These must be provided at least 14 days prior to the LPA meeting.

Sincerely,

Lee County Department of Community Development

A blue ink signature of Brandon Dunn, written in a cursive style.

Brandon Dunn, Principal Planner, Planning Section

CC: Mikki Rozdolski, Manager, DCD Planning Section