

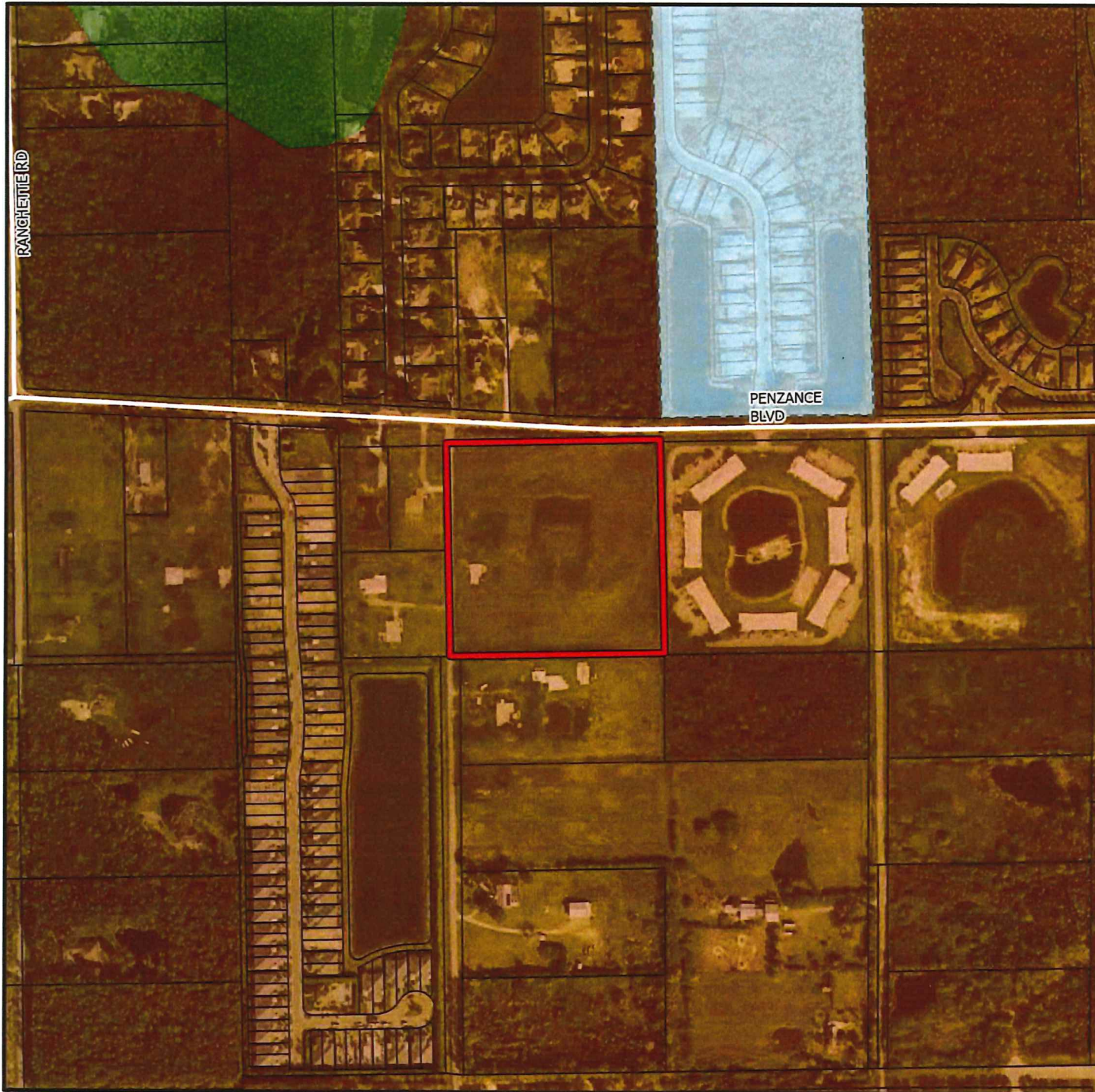
Summary of Hearing Examiner Recommendation

HOMES AT 81 WEST RPD

Hearing Examiner Remarks

The proposed RPD is compatible with surrounding development approvals, which includes a variety of housing types ranging in density from 3 to 13 units per acre. Blasingim Road will serve as primary and emergency access. The LDC prohibits direct access to Penzance Boulevard.

Detailed recommendation follows



DCI2021-00026

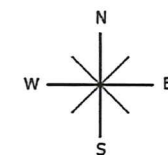
Future Land Use

 Subject Property

 Central Urban

 Wetlands

 City Limits



0 500
Feet

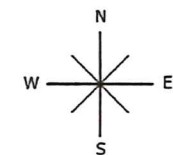




DCI2021-00026

Aerial

 Subject Property



0 250 500
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2021-00026

Regarding: **HOMES AT 81 WEST RPD**

Location: Southeast Intersection of Penzance Boulevard/Blasingim Road
South Fort Myers Planning Community
(District 2)

Hearing Date: November 14, 2022

I. Request

Rezone 9.97± acres from Agricultural (AG-2) to Residential Planned Development (RPD) to permit development of a maximum of 90 dwelling units.

The property's legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval, subject to the conditions and deviations set forth in Exhibit B.

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.¹ In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone 9.97± acres from Agriculture (AG-2) to Residential Planned Development (RPD).

In preparing a recommendation for the Board, Hearing Examiner must apply the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other County regulations to the facts adduced at the hearing. There must be competent substantial evidence in the record to support the recommendation to the Board.

¹ LDC 34-145(d)(4)a.

Discussion supporting the Hearing Examiner's recommendation of approval follows below.

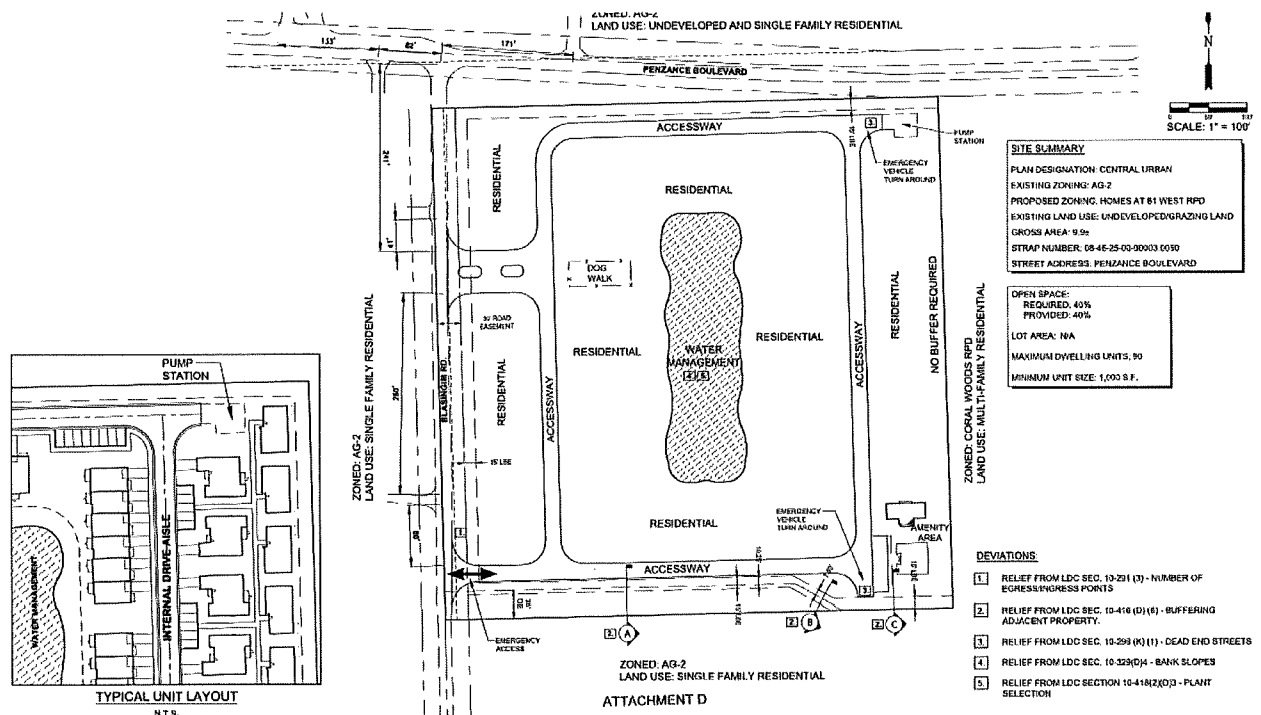
Request

The request seeks approval of a residential development consisting of up to 90 dwelling units. Applicant proposes to develop the units as a "horizontal rental community," although conditions of approval do not require this product type.² The concept is akin to a traditional apartment/rental community, but units are situated next to each other rather than stacked vertically.³ The land remains under unified ownership, with single family/attached residences leased to occupants.

The property is located west of Six Mile Cypress Parkway, south of Penzance Boulevard, between J V Parker Lane and Blasingim Road.

Maximum building heights will be 35 feet. Blasingim Road will serve as the community's primary access, with a second emergency-only access.

Staff recommended approval, finding the proposed RPD satisfies review criteria in the LDC and Lee Plan.



² Should the project type change, Condition 2 property development regulations must be revised.

³ Hearing testimony reflects intended products will be combined single family homes and attached two or three unit buildings, offering one to three bedrooms at 700-1,500 square feet. Testimony of Wayne Arnold and Anthony Rodriguez (Transcript pg. 12, 28). This product is not specifically addressed in the LDC, but is substantially similar to permitted uses. See Staff Report (pg. 5, citing LDC §34-933); Testimony of Anthony Rodriguez, Zoning Manager.

Zoning Review Criteria

Before recommending approval for rezoning to the Board, the Hearing Examiner must find the request:

- A. Complies with the Lee Plan;
- B. Meets the LDC and other applicable County regulations, or qualifies for deviations;
- C. Is compatible with existing and planned uses in the surrounding area;
- D. Will provide access sufficient to support the proposed development intensity;
- E. The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- F. Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- G. Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.³

If the request involves planned development zoning, such as a RPD, the Hearing Examiner must also find:

- H. The proposed use or mix of uses is appropriate at the proposed location;
- I. 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; and
- J. Each requested deviation (1) enhances the achievement of the objectives of the planned development, and (2) preserves and promotes the general intent of the LDC to protect public health, safety, and welfare.⁴

³ See LDC 34-145(d)(4)(a)(1).

⁴ See LDC 34-145(d)(4)(a)(2).

History of the Site

The property is zoned for agriculture and remains unimproved pasture for cattle grazing.⁵

Character of Surrounding Area



Zoning requests must be compatible with existing and planned uses in the area and minimize potential negative effects on neighboring property.⁶

The property lies within the South Fort Myers Planning District, a core area of the County with high intensity uses and a range of public facilities and urban services.⁷

Employment centers, residential development, and a broad range of infrastructure and services feature predominately in the planning district.⁸ The Six Mile Cypress Road corridor is emerging as a focal point for residential and commercial

⁵ There is an agricultural building on site with a large pond. The property receives an agricultural tax exemption. See Staff Report (pg. 1).

⁶ LDC 34-145(d)(4), 34-411; Lee Plan Policies 5.1.5, 135.9.5, 135.9.6.

⁷ Lee Plan Map 1-B; See Lee Plan Policy 1.1.3.

⁸ There are two fire stations and a sheriff station within four miles of the site. Several schools are also within three miles including Villas Elementary, Dunbar Middle School, Six Mile Charter Academy, and South Fort Myers High School. There are three regional parks within several miles: Lakes Regional Park, John Yarbrough Linear Park, and the Six Mile Cypress Slough Preserve. Lakes Regional library is 8 miles away. See Applicant's Ex. 1 (slide 20-24).

development. The requested RPD promotes contiguous and compact growth patterns in the area.⁹

The proposed site design is compatible with surrounding land uses, which consist of single and multi-family homes ranging in density from 3 to 13 dwelling units per acre.¹⁰

Lee Plan Consistency

Planned developments must be consistent with the Lee Plan.¹¹ The Lee Plan Future Land Use Map classifies the property as Central Urban.¹² The Central Urban land use category is the second most intense under the Lee Plan. Central Urban areas typically contain a variety of housing types, commercial, services and infrastructure.¹³ Permissible residential density ranges from 4 to 10 dwellings per acre, but may be as high as 20 dwellings per acre under certain circumstances.¹⁴

The proposed project density of 9 units per acre falls within the permissible range.

A residential community is compatible with existing development approvals south of Penzance Boulevard.¹⁵

Transportation

The Master Concept Plan reflects primary project access from Blasingim Road.¹⁶ A second, emergency-only access is located farther south on the same road.

Blasingim Road intersects with Penzance Boulevard just north of the property. Penzance Boulevard connects to the County road network at Six Mile Cypress Parkway.¹⁷ There is a signalized intersection at Penzance Boulevard and Six Mile Cypress Parkway to the east.¹⁸ To the west, residents can travel north on

⁹ Lee Plan Objectives 2.1 and 2.2.

¹⁰ Applicant Ex. 1 (slide 24).

¹¹ Lee Plan Policy 2.1.2; LDC 34-411(a).

¹² Lee Plan Objective 1.5, Policy 1.1.3.

¹³ The Central Urban category offers the greatest range and highest levels of urban services and infrastructure. Lee Plan Policy 1.1.3.

¹⁴ Developers may increase maximum density to 20 dwellings per acre when utilizing Greater Pine Island Transfer of Development Units. Lee Plan Policy 1.1.3.

¹⁵ Lee Plan Goal 5, Policy 135.1.9. Staff testified there are zoning approvals in place for 700 dwelling units in the vicinity south of Penzance Boulevard, west of Six Mile Cypress Parkway. Testimony of Anthony Rodriguez (Transcript pg. 28).

¹⁶ Staff testified that Applicant has legal access to Blasingim Road. Testimony of Anthony Rodriguez (Transcript pg. 32).

¹⁷ There is a median opening at the intersection of Crystal Drive and Six Mile Cypress Parkway allowing all turning movements.

¹⁸ Testimony of Jim Banks (Transcript pg. 22).

Ranchette Road to Idlewild Street for a signalized intersection at Plantation Road.¹⁹

Penzance Boulevard was recently designated a major collector road.²⁰ The LDC prohibits direct access to major collector roads.²¹ Applicant initially sought access directly from Penzance Boulevard but moved the access to Blasingim Road after staff advised of the designation change to a major collector. Blasingim Road is a non-County maintained local road.²²

The Traffic Impact Statement demonstrates area roadways will operate at acceptable levels of service at buildout.²³ The report concludes the project will mitigate impacts to the county's transportation network through the payment of impact fees. Site-related improvements will be evaluated during local development order review.²⁴

Environmental

The site is cleared grazing pasture. There are no environmentally sensitive features on the property.²⁵

The South Florida Management District issued an Environmental Resource Permit for the project.²⁶ The permit addresses stormwater management and provides for water quality/quantity monitoring.²⁷

Public Services

The Lee Plan requires the availability of urban services be evaluated during the rezoning process. Urban services are the services, facilities, capital improvements, and infrastructure necessary to support development.²⁸

¹⁹ *Id.*

²⁰ Testimony of Wayne Arnold and Anthony Rodriguez (Transcript pg. 9, 27).

²¹ LDC §10-285, All lots in urban areas with access alternatives will not be permitted direct motor vehicle access to an arterial or major collector.

²² Testimony of Anthony Rodriguez (Transcript pg. 27). Ms. Montgomery provided historical information on Blasingim Road ownership and maintenance. Transcript at pg. 23-24.

²³ Traffic Impact Statement prepared by JMB Transportation Engineering dated April 1, 2022. See Staff Report (Attachment M). See Staff Report (Attachment N: Memo from Lili Wu Senior Planner Department of Community Development dated August 26, 2022). Testimony of Jim Banks (Transcript pg. 20-24). The TIS assumed a worst-case scenario for traffic generation, assuming all 90 units would develop as single family. Single family units generate more traffic than multi-family units. *Id.* at 24.

²⁴ Developer must address site related improvements, including turn lanes, if warranted during the development order process. Lee Plan Objective 39.1, Policy 39.1.1, LDC 10-287.

²⁵ The record indicates no known protected species or vegetative communities. Testimony of Anthony Rodriguez (Transcript pg. 33).

²⁶ Testimony of Wayne Arnold and Frank Feeney (Transcript pg. 9, 17-20).

²⁷ Testimony of Frank Feeney (Transcript pg. 18-20).

²⁸ Lee Plan Glossary definition of public services.

As the site lies within the County's urban core, a broad range of services and infrastructure are available to serve future residents. These services include public water and sewer, schools, libraries, medical facilities, law enforcement, fire and emergency medical service.²⁹ Shopping, recreation, and employment centers are within a short distance. Development will be subject to road, park, school, fire and EMS impact fees.³⁰

Public Participation

Two members of the public spoke at hearing. An area resident expressed concern about the project accessing Blasingim Road and the functionality of the storm water management system as it relates to piping under the road.³¹ Another public participant questioned the density and its effect on property values.

Conditions

The County must administer the zoning process so that proposed land uses acceptably minimize adverse impacts to adjacent residential properties.³² Accordingly, the proposed RPD will be subject to conditions of approval. Conditions must plausibly relate to the impacts anticipated from the development and be pertinent to mitigating its impacts on public health, safety, and welfare.³³

Deviations

The proposed RPD includes several deviations from the LDC.³⁴ "Deviations" are departures from the land development regulations.³⁵

The Hearing Examiner's standard of review for deviations requires a finding that the deviation:

1. Enhances the objectives of the planned development; and
2. Preserves and promotes public health, safety, and welfare.³⁶

²⁹ South Trail Fire & Rescue Services District will provide fire and emergency medical services. Law Enforcement will be supplied by Lee County Sheriff's Central District offices. Lee County Utilities potable water lines are in operation adjacent to the site. Sanitary sewer services will be provided by the City of Fort Myers. See Staff Report (pg. 9, Attachment J).

³⁰ LDC 2-261 *et seq.*, 2-301 *et seq.*, 2-341 *et seq.*, 2-381 *et seq.*

³¹ The speaker also questioned whether the project would be required to install sidewalks along Penzance Boulevard. The Parties clarified that sidewalks will be addressed at the time of development order. Staff elaborated that most projects are required to install sidewalks as a site-related improvement. Testimony of Wayne Arnold, Frank Feeney, and Anthony Rodriguez (Transcript pg. 45-46).

³² Lee Plan Policy 135.9.6.

³³ LDC 34-932(b).

³⁴ Testimony of Wayne Arnold and Anthony Rodriguez (Transcript pg. 14-16, 30-31).

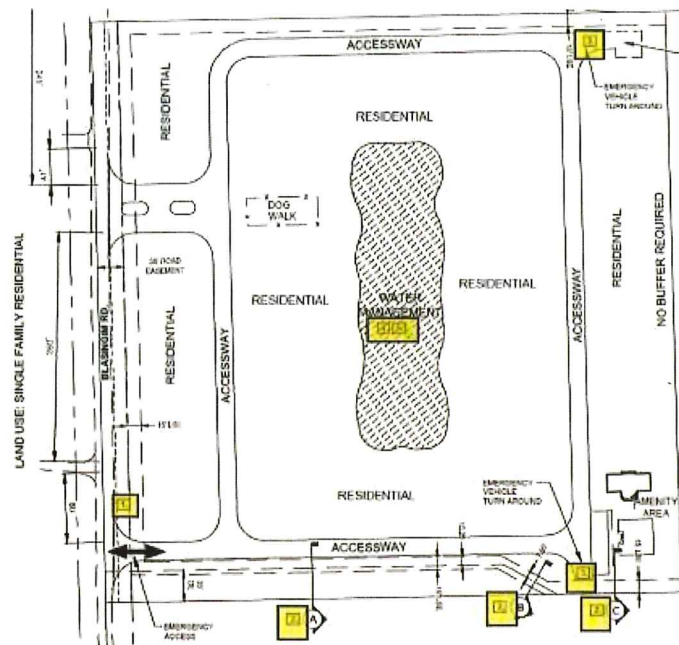
³⁵ LDC 34-2.

³⁶ LDC 34-377(a)(4).

The requested deviations pertain to access, excavation setbacks, buffers, cul-de-sac requirements, and lake bank design/littoral planting criteria. Staff found all deviations met LDC criteria for approval.³⁷

The Hearing Examiner agrees with staff's recommendations finding the requested deviations enhance the RPD and promotes the LDC's intent to protect public health, safety, and welfare.³⁸

PROPOSED DEVIATION LOCATIONS



DEVIATIONS:

- 1 RELIEF FROM LDC SEC. 10-291 (3) - NUMBER OF EGRESS/INGRESS POINTS
- 2 RELIEF FROM LDC SEC. 10-416 (D) (6) - BUFFERING ADJACENT PROPERTY.
- 3 RELIEF FROM LDC SEC. 10-296 (K) (1) - DEAD END STREETS.
- 4 RELIEF FROM LDC SEC. 10-329(D)4 - BANK SLOPES
- 5 RELIEF FROM LDC SECTION 10-416(2)(D)3 - PLANT SELECTION

Conclusion

In conclusion, the Hearing Examiner recommends approval of Homes at 81 West RPD subject to the conditions set forth in Exhibit B.

The Hearing Examiner recommends revisions to the proposed wording of conditions/deviations to improve clarity.³⁹

IV. Findings and Conclusions

Based on record testimony and evidence, the Hearing Examiner makes the following findings and conclusions:

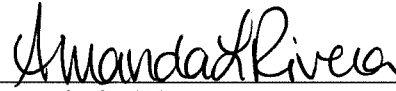
³⁷ South Trail Fire Protection & Rescue Service District offered no objection to the proposed deviation from the LDC cul-de-sac requirement and emergency services access road. See Staff Report (pg. 6, Attachment P, P1).

³⁸ LDC 34-373(a)(9), 34-377(a)(4). The graphic comes from Applicant's Ex. 1 (slide 17).

³⁹ LDC 34-932.

- A. The requested rezoning to Residential Planned Development complies with the Lee Plan. Lee Plan Goals 2, 4, 5, 61, 77, 135; Objectives 1.5, 2.1, 2.2, 4.1, 5.1, 77.1, 77.3, 126.2; Policies 2.1.2, 2.2.1, 5.1.1, 5.1.2, 5.1.7, 135.1.9, 135.9.5, 135.9.6; Lee Plan Maps 1-A, 1-B.
- B. *As conditioned*, the Homes at 81 West Residential Planned Development:
 - 1. Meets the Land Development Code and other County regulations or qualifies for deviations. LDC 34-145(d), 34-341, 34-378, 34-411, 34-413, 34-491, 34-612(2), 34-932;
 - 2. Is compatible with existing and planned uses. Lee Plan Objectives 2.1, 2.2, Policies 5.1.5, 135.9.5, 135.9.6; LDC 34-411.
 - 3. Provides access sufficient to support the proposed development intensity. Expected impacts to transportation facilities will be addressed by the conditions of approval and County regulations. Lee Plan Policies 39.1.1; LDC 2-261 *et seq.*, 10-287, 34-411(d).
 - 4. Will not adversely affect environmentally critical/sensitive areas and natural resources. Lee Plan Goals 77, 125; Objectives 77.1, 77.3, 126.2; Policies 61.3.1, 61.3.6, 61.3.11, 126.2.1, Standard 4.1.4; and LDC 34-411(h).
 - 5. Will be served by urban services adequate to serve the proposed land use. Lee Plan Glossary, Lee Plan Goals 2, 4, Objectives 2.1, 2.2, 4.1, and Standards 4.1.1 and 4.1.2; LDC 34-411(d).
- C. The proposed mix of uses is appropriate at the proposed location. Lee Plan Goals 2, 5; Policies 2.1.1, 2.2.2, 5.1.2, 5.1.3, 5.1.5, 135.1.9.
- D. The recommended conditions and applicable regulations provide sufficient safeguards to protect the public interest. Lee Plan Policies: 5.1.5, 5.1.6, 126.2.1 and 135.9.6; LDC 34-411.
- E. The recommended conditions are reasonably related to the impacts expected from the proposed development. Lee Plan Policies 5.1.5, 135.9.6; LDC 34-932.
- F. The ten requested deviations, as conditioned:
 - 1. Enhance the objectives of the planned development, and
 - 2. Preserve and promote protection of public health, safety and welfare.

Date of Recommendation: January 23, 2023.



Amanda L. Rivera
Deputy Hearing Examiner

Lee County Hearing Examiner
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398

Exhibits to Hearing Examiner's Recommendation

Exhibit A Legal Description and Vicinity Map
Exhibit B Recommended Conditions and Deviations
Exhibit C Exhibits Presented at Hearing
Exhibit D Hearing Participants
Exhibit E Information

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A

PROPERTY DESCRIPTION

THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTH QUARTER CORNER OF SECTION 8, TOWNSHIP 45 SOUTH RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION, SOUTH 88°54'17" WEST, A DISTANCE OF 1,316.24 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED;

THENCE CONTINUE ALONG SAID SOUTH LINE, SOUTH 88°54'17" WEST, A DISTANCE OF 658.60 FEET; THENCE NORTH 01°19'45" WEST, A DISTANCE OF 659.94 FEET; THENCE NORTH 88°51'34" EAST, A DISTANCE OF 656.81 FEET; THENCE SOUTH 01°29'04" EAST, A DISTANCE OF 660.47 FEET TO THE POINT OF BEGINNING.

CONTAINING 9.97 ACRES, MORE OR LESS.

NOTES:

- 1. BEARINGS SHOWN HEREON ARE BASED ON THE STATE PLANE COORDINATE SYSTEM ESTABLISHED BY THE NATIONAL GEODETIC SURVEY FOR FLORIDA WEST ZONE, 1983 DATUM WITH 2011 ADJUSTMENT OBTAINED UTILIZING RTK GPS OBSERVATIONS ON THE FDOT NETWORK AND REFER TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING S 88°54'17" W.
- 2. DIMENSIONS SHOWN HEREON ARE IN U.S. SURVEY FEET AND DECIMALS THEREOF.
- 3. THIS SKETCH AND DESCRIPTION IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OR THE DIGITAL SIGNATURE AND DIGITAL SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER. NO ADDITIONS OR DELETIONS TO THIS SKETCH AND DESCRIPTION ARE PERMITTED WITHOUT THE EXPRESSED WRITTEN CONSENT OF THE SIGNING PARTY.

REVIEWED
DCI2021-00026
Rick Burris, Principal
Planner
Lee County DCD/Planning
7/11/2022

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CHECKED BY:	DLS
JOB CODE:	CMPB
SCALE:	1" = 120'
DATE:	5/18/2021
FILE:	20-218-S&L
SHEET:	1 of 2

NOT COMPLETE WITHOUT SHEETS 1 AND 2 OF 2

NOT A SURVEY



GradyMinor

Q. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134

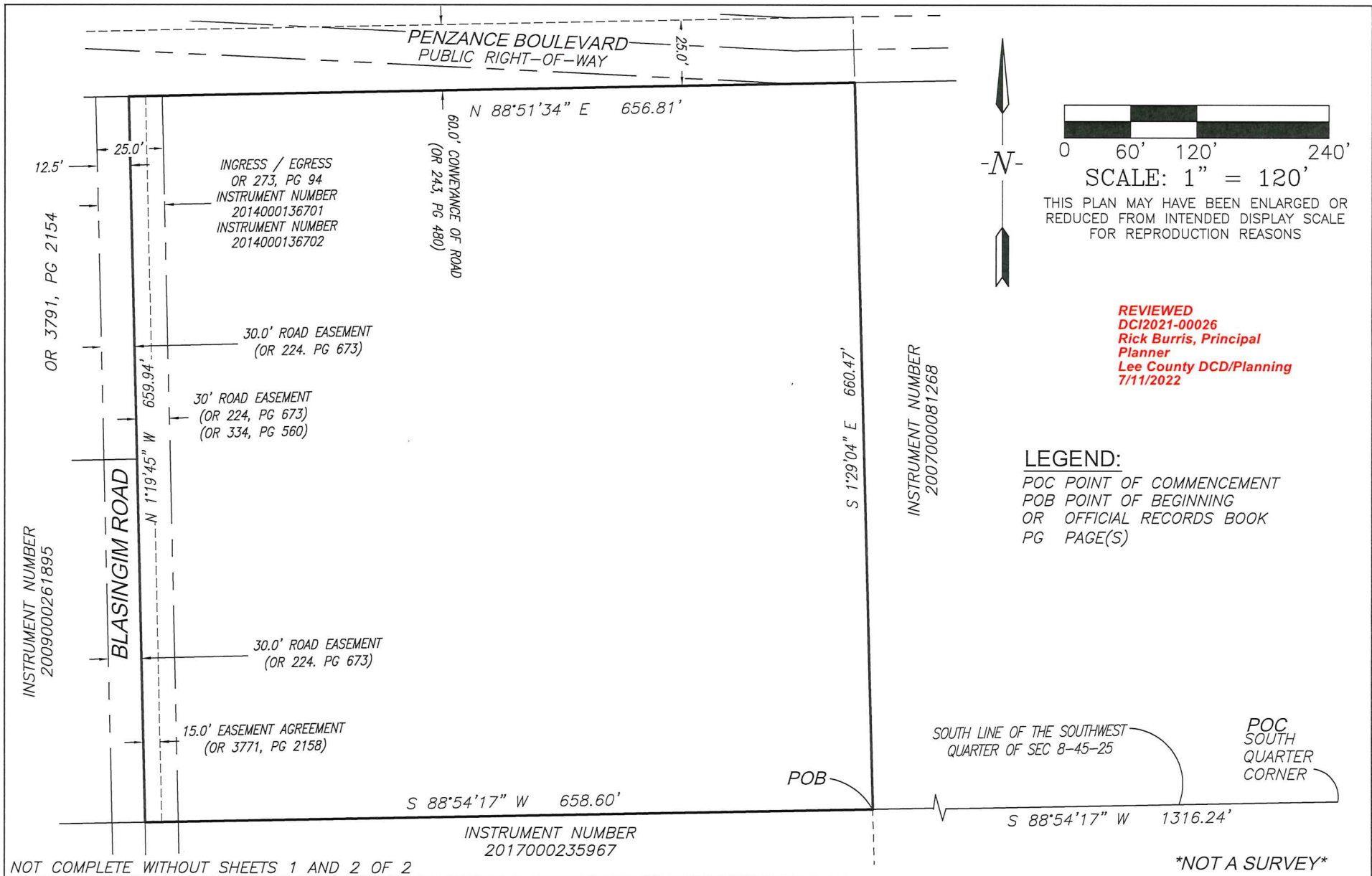
Civil Engineers • Land Surveyors • Planners • Landscape Architects
Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151 Business LC 26000266
Bonita Springs: 239.947.1144 www.GradyMinor.com Fort Myers: 239.690.4380

SKETCH AND DESCRIPTION

PARCEL OF LAND

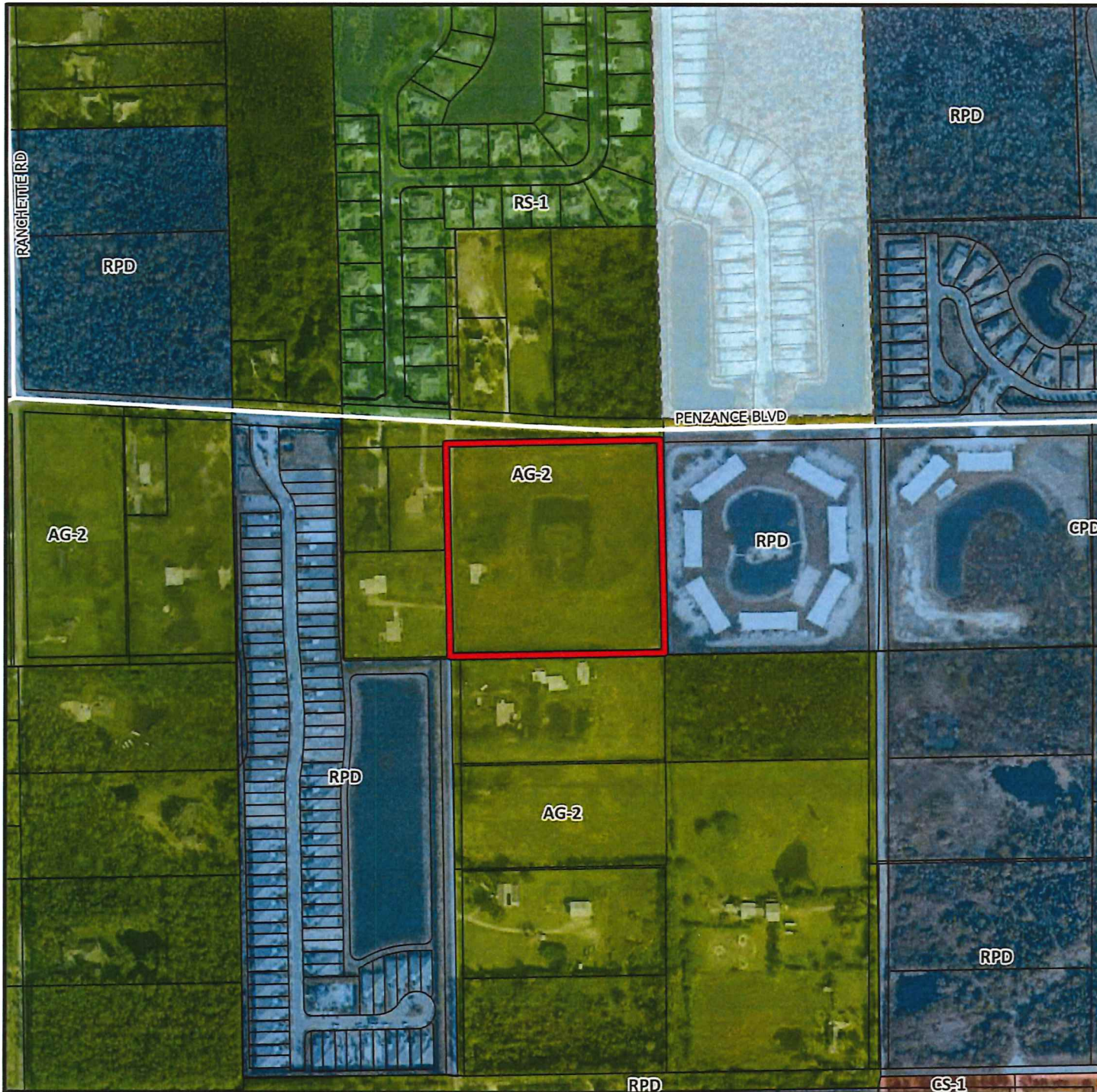
LYING IN
SECTION 8, TOWNSHIP 45 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

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Donald L. Saintenoy
III, PSM
Date: 2021.05.24
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DONALD L. SAINTENOY III, P.S.M
FL LICENSE #6761
FOR THE FIRM



GradyMinor Civil Engineers • Land Surveyors • Planners • Landscape Architects Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151 Business LC 26000266 Bonita Springs: 239.947.1144 www.GradyMinor.com Fort Myers: 239.690.4380		SKETCH AND DESCRIPTION	DRAWN BY: KJG
		PARCEL OF LAND LYING IN SECTION 8, TOWNSHIP 45 SOUTH, RANGE 25 EAST LEE COUNTY, FLORIDA	CHECKED BY: DLS
			JOB CODE: CMPB
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			SHEET: 2 of 2

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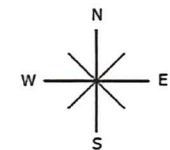


DCI2021-00026

Zoning

 Subject Property

 City Limits



0 500
Feet



Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

(1) Master Concept Plan and Development Parameters

Master Concept Plan. Development must be consistent with the two-page Master Concept Plan (MCP) entitled “Homes at 81 West RPD Master Concept Plan” prepared by Grady Minor, revised 9/12/2022, except as modified by the conditions below.

Compliance with Lee Plan and Land Development Code (LDC). Development must comply with the Lee Plan and LDC, except where deviations have been approved. Subsequent amendments to the Master Concept Plan, conditions, or deviations may be subject to additional development approvals.

Approved Development Parameters. Development is limited to a maximum of 90 dwelling units, with a maximum permitted building height of 35 feet.

(2) Schedule of Uses and Property Development Regulations

(a) Schedule of Uses

Accessory Uses, Buildings and Structures
Administrative Offices
Dwelling Unit
 Single-Family Detached
 Duplex
 Multiple-Family
Essential Services
Essential Service Facilities – Group I
Excavation, Water Retention
Fences, Walls
Recreation Facilities
 Personal
 Private–On-site
Signs

(b) Property Development Regulations

Minimum Lot Area and Dimensions

Lot Width	N/A
Lot Depth	N/A
Lot Area	N/A

Minimum Setbacks

Internal Drive Aisle*	20 feet
PD Boundary	25 feet
Waterbody	20 feet
Attached Accessory Structure	15 feet

Minimum Building Separation 10 feet

Maximum Building Height 35 feet

Minimum Open Space 40% (10 ac x 0.40 = 4.0±
acres)

*As measured from edge of pavement

- (3) Compliance with Multifamily Development Standards
Development order plans must demonstrate compliance with applicable regulations for multifamily development.
- (4) Blasingim Road Maintenance
Prior to development order approval, Developer must submit a copy of legal documents creating the legal mechanism to ensure continuous maintenance of Blasingim Road along the property frontage.
- (5) Development Permits
Issuance of a County development permit does 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. Applicant must obtain applicable state/federal permits prior to commencing development.

DEVIATIONS

1. Access. Deviation 1 seeks relief from LDC §10-291(3), which requires residential projects of five acres or more to provide more than one means of ingress/egress, to allow one full access via Blasingim Road and to allow a second access to function as “emergency only.”

HEX Recommendation: Approve, subject to the following conditions:

- a. Developer must record a notice in the public records to all future property owners allowing construction of the development access. The notice must detail the emergency access plan and provide information as to where a copy of the plan may be obtained from the developer or its successor.
 - b. Developer must demonstrate the emergency only access is equipped with an Emergency Vehicle Access Control (EVAC) and provides a stabilized surface with sufficient structural capacity to support an ambulance and fire truck.
2. Buffer. Deviation 2 seeks relief from LDC §10-416(d)(6), which requires roads, drives, or parking areas associated with a multifamily residential use located less than 125 feet from existing single-family residential lots to be buffered by either:
 - a. A solid wall or combination berm/solid wall not less than eight feet in height constructed no more than 25 feet from the abutting property with landscaping between the wall and the abutting property containing a minimum of five trees and 18 shrubs per 100 lineal feet; or
 - b. A 30-foot wide Type F buffer with the hedge planted a minimum of 20 feet from the abutting property, to allow a 48-inch-high hedge to be maintained at a height of 60 inches, to be installed within a 15-foot-wide buffer easement along the southern boundary, except where a proposed street stub out terminates near the southern property boundary. The proposed street stub out area will be buffered with an eight-foot-high solid wall with plantings consisting of hedges and trees located between the proposed wall and south property line as depicted on the master concept plan.

HEX Recommendation: Approve, subject to the following condition:

Development order plans must depict a 15-foot-wide buffer up to the terminal access stub, which may have a 7.5-foot-wide buffer. Landscape plans must depict ten trees per 100 linear feet and a double hedge row with hedges specified at 48-inches in height to be maintained at 60-inches in height.

3. Turnaround. Deviation 3 seeks relief from LDC §10-296(k)(1), which requires permanent dead-end streets to be closed at one end by a circular turnaround for vehicles and be constructed in compliance with the LDC, to allow the use of hammerhead turnarounds at the terminal roads depicted on the master concept plan.

HEX Recommendation: Approve

4. Lake Banks. Deviation 4 seeks relief from LDC §10-329(d)(4), which requires lake banks to be sloped at a ratio not greater than six horizontal to one vertical (6:1) from the top of bank to a water depth of two feet below the dry season water table, to allow slopes to be designed at a ratio of four horizontal to one vertical (4:1) with enhanced slope protection measures and design techniques determined by the project engineer at time of development order.

HEX Recommendation: Approve

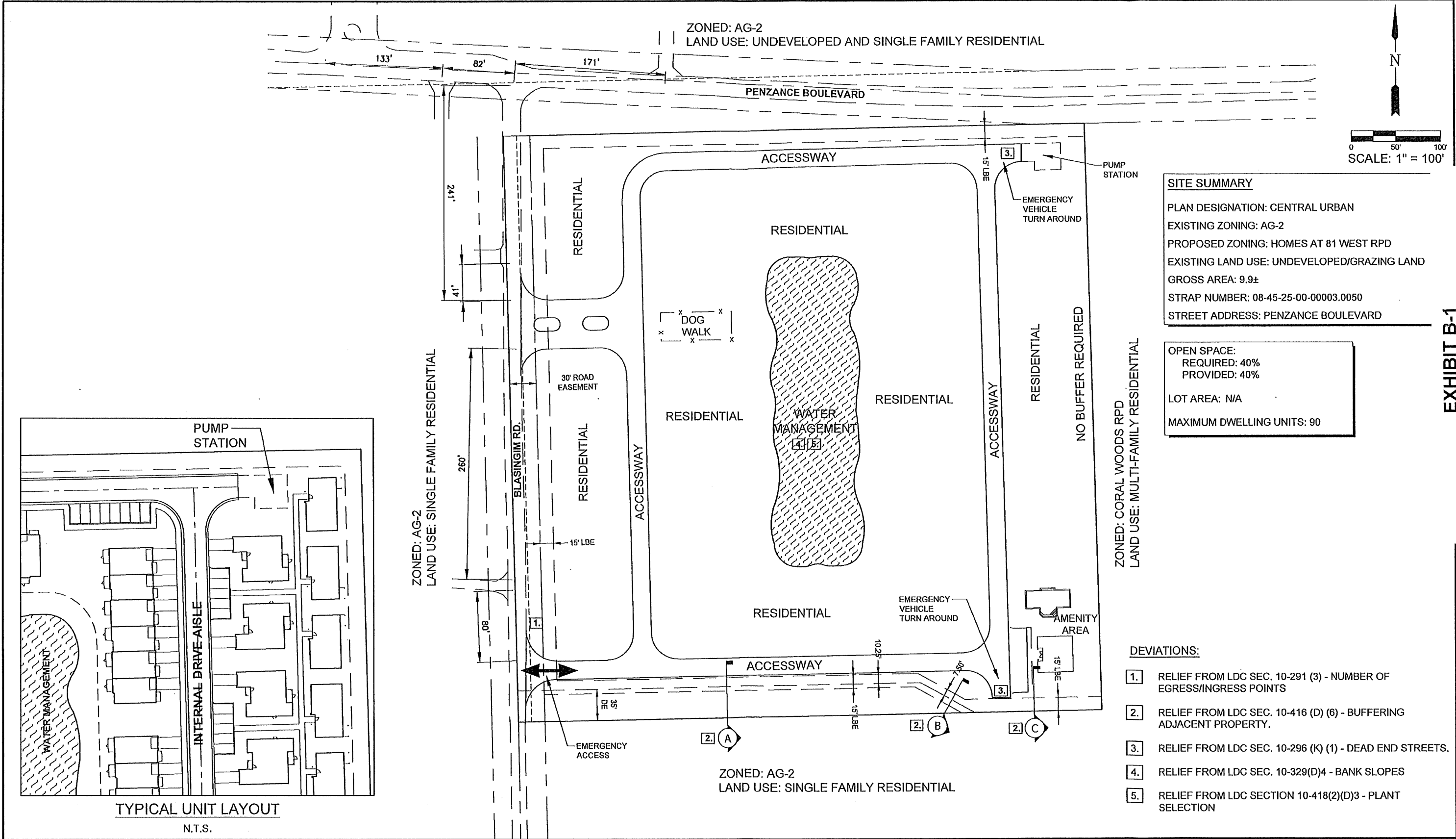
5. Littoral Plantings. Deviation 5 seeks relief from LDC §10-418(2)(d)3, which allows native wetland trees to be substituted for up to 25 percent of the total number of herbaceous plants required within planted littoral shelves, at a rate of one tree (minimum ten-foot height; 2 inch caliper, with a four-foot spread) per 100 herbaceous plants, to allow wetland trees to be substituted for 100 percent of the total required number of herbaceous plants.

HEX Recommendation: Approve, subject to the following condition:

Landscape plants must be in compliance with the Lee County Port Authority Non-Compatible and Compatible Plant List.

Exhibits to Conditions:

B1 Master Concept Plan entitled "Homes at 81 West RPD" last revised 9/12/2022



SITE SUMMARY

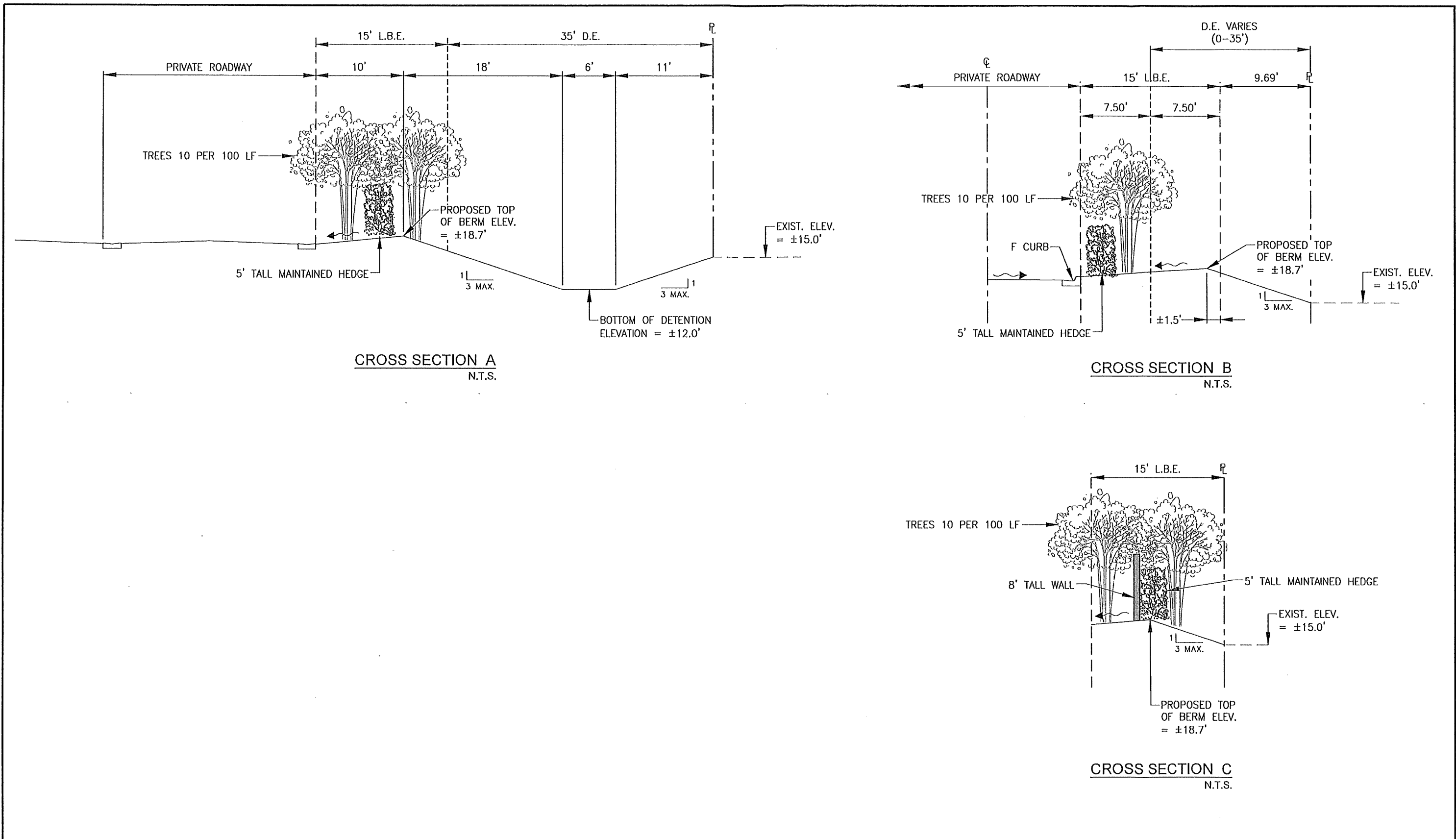
PLAN DESIGNATION: CENTRAL URBAN
EXISTING ZONING: AG-2
PROPOSED ZONING: HOMES AT 81 WEST RPD
EXISTING LAND USE: UNDEVELOPED/GRAZING LAND
GROSS AREA: 9.9±
STRAP NUMBER: 08-45-25-00-00003.0050
STREET ADDRESS: PENZANCE BOULEVARD

OPEN SPACE:
REQUIRED: 40%
PROVIDED: 40%

LOT AREA: N/A

MAXIMUM DWELLING UNITS: 90

- DEVIATIONS:**
1. RELIEF FROM LDC SEC. 10-291 (3) - NUMBER OF EGRESS/INGRESS POINTS
 2. RELIEF FROM LDC SEC. 10-416 (D) (6) - BUFFERING ADJACENT PROPERTY.
 3. RELIEF FROM LDC SEC. 10-296 (K) (1) - DEAD END STREETS.
 4. RELIEF FROM LDC SEC. 10-329(D)4 - BANK SLOPES
 5. RELIEF FROM LDC SECTION 10-418(2)(D)3 - PLANT SELECTION



LEGEND				DESIGNED BY:	F.J.F.	GradyMinor Civil Engineers • Land Surveyors • Planners • Landscape Architects Cert. of Auth. FB 0003151 Cert. of Auth. LB 0005151 Bonita Springs: 239.947.1144 www.GradyMinor.com Fort Myers: 239.690.4380	HOMES AT 81 WEST RPD DEVIATION #2 CROSS SECTIONS	MUNICIPALITY: LEC COUNTY SEC/TWN/RGE: 8/4SS/25E DATE: FEBRUARY 2021 SUBMITTAL TYPE: REZONE SHEET 2 OF 2
				DRAWN BY:	C.S.K.			
				APPROVED:	D.W.A.			
				JOB CODE:	CVPB			
				SCALE:	AS NOTED			
Revision	Date	Description	By					

C:\PLANNING\PROJ - PLANNING\CLIPS REZONE BLVD REZONE (002021-00036)\DRAWINGS\CLIPS\JCE2-EB 9/13/2022 2:10 PM

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Anthony Rodriguez, Manager Community Development, date received September 15, 2022 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *PowerPoint Presentation:* Prepared by Lee County, for Homes at 81 West RPD Rezone, DCI2021-00026, Staff Presentation, November 14, 2022 (multiple pages – 8.5"x11")[color]

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Sharon Umpenhour, with Grady Minor, to Maria Perez, Anthony Rodriguez, Joseph Adams, Esq., Charles Marshall, Neale Montgomery, Esq., Wayne Arnold, dated Wednesday, September 21, 2022 11:50 AM (multiple pages – 8.5"x11" and 2 pages – 11"x17")
1. *PowerPoint Presentation:* Prepared by Grady Minor, for Homes at 81 West RPD Rezone, DCI2021-00026, November 14, 2022, Hearing Examiner Meeting (multiple pages – 8.5"x11")[color]
2. *Revised Master Concept Plan:* Included in the Applicant's 48-Hour-Notice, Prepared by Grady Minor, last revised 9/20/2022 (2 pages 11"x17")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Anthony Rodriguez, AICP

Applicant Representatives:

1. Wayne Arnold
2. Jim Banks
3. Frank Feeney
4. Neale Montgomery, Esq.

Public Participants:

1. Samantha DuPont
2. David Richards

Exhibit E
INFORMATION

UNAUTHORIZED COMMUNICATIONS

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

- A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.
- B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants are limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.

COPIES OF TESTIMONY AND TRANSCRIPTS

- A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.
- B. A verbatim transcript may also be available for purchase from the court reporting service.