

RESOLUTION NUMBER Z-21-007

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

WHEREAS, Waldrop Engineering, P.A., filed an application on behalf of the property owner, 1227 Holdings, LLC to rezone a 22.15± acre parcel from Airport Operations Planned Development (AOPD) to Mixed Use Planned Development (MPD) in reference to FMBREW Campus MPD; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Donna Marie Collins, was advertised and held on July 1, 2021. At the conclusion of the hearing, the Hearing Examiner left the record open and requested Staff and the Applicant to submit written submissions to her Office on or before July 16, 2021; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2020-00018 and recommended APPROVAL of the Request; and

WHEREAS, a second public hearing was advertised and held on August 18, 2021 before the Lee County Board of Commissioners; and,

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

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

SECTION A. REQUEST

The applicant filed a request to rezone a 22.15± acre parcel from AOPD to MPD, to allow up to 76,000 square feet of commercial, retail, industrial and warehousing uses, including manufacturing for brewing facilities, restaurant, cocktail lounge, outdoor recreation, and food truck area on the main campus parcel east of Commerce Lakes Drive.

The property is located in the New Community and Wetlands Future Land Use Categories and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

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

1. Development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled "FMBrew Campus MPD," prepared by Waldrop Engineering, date stamped received June 29, 2021, and attached hereto as Exhibit C, except as modified by the conditions below. Development must comply with all requirements of the LDC at time of local development order approval, except as may be granted by deviation as part of this

planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

Development Parameters: 76,000 square feet of commercial and industrial/manufacturing uses as follows:

- 40,000 sq. ft. manufacturing (brewery)
- 10,000 sq. ft. retail/office uses
- 21,000 sq. ft. tap room, kitchen, pavilion area, and restaurant uses*
- 5,000 sq. ft. food truck staging area
- Outdoor consumption of alcoholic beverages

*Includes outdoor seating areas

2. Permitted Uses and Property Development Regulations

Main Campus is the parcel located on the northeast corner of Commerce Lakes Drive and Daniels Parkway.

a. Schedule of Uses

- Accessory Uses and Structures
- Bar or cocktail lounge – Main Campus Only
- Consumption on premises – Main Campus Only
- Drive through
- Entrance gates and gatehouse
- Essential services
- Essential service facilities: Group I
- Excavation, Water Retention
- Fences, walls
- Gift and souvenir shop
- Manufacturing/Light Industrial
- Food and kindred products: Group II - Main Campus Only
- Package store – Main Campus Only
- Recreation facilities: Commercial Groups I, III (excluding waterslides and golf driving ranges)
- Restaurants: Groups I, III
- Signs in accordance with LDC
- Specialty retail shops: Group I
- Storage, open
- Temporary uses
- Warehouse:
 - Cold storage, pre-cooling, warehouse and processing plant
 - Private

b. Site Development Regulations

Maximum Lot Coverage:	60%
Maximum Building Height:	60 feet
Minimum Open Space:	30%

Minimum Lot Area and Dimensions:

Area: 10,000 square feet
Width: 100 feet
Depth: 100 feet

Setbacks:

PD Boundary (commercial uses): 15 feet
PD Boundary (industrial uses): 25 feet
Street right-of-way or easement: 25 feet
Water Body: 25 feet
Minimum building separation: 30 feet

3. Hours of Operation

- a. Retail operations, restaurant, tap room, special events, and associated consumption on premises: 10am to midnight.
- b. No restrictions on the operating hours of manufacturing, office and other uses.

4. Development Permits

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

5. Indigenous Open Space

- a. Development order plans must depict 7.08 acres indigenous open space to meet the project open space requirement of 6.65 acres.
- b. The Vegetation Removal Permit application must include a wetland mitigation plan for impacts to jurisdictional wetlands or a copy of the receipt confirming payment of offsite wetland mitigation.

6. Right of Way Buffers

Development order landscape plans must depict a 15-foot wide right of way buffer along Daniels Parkway and Commerce Lakes Drive composed of:

- a. Five South Florida Slash Pine (*Pinus elliottii* var. *densa*) per 100 lineal feet.
- b. Three clusters of Cabbage Palms (*Sabal palmetto*) with each cluster consisting of five Cabbage palms.
- c. Double staggered hedge of cocoplum (*Chrysobalanus icaco*) and saw palmetto (*Serenoa repens*).
- d. Developer must install cabbage palms at staggered heights ranging from 10 to 14-foot clear trunk in each cluster.

7. Littoral Shelf Plantings

Development order landscape plans must provide wetland trees in lieu of littoral plantings. Required wetland tree substitution will be based on a ratio of one wetland tree to 100 littoral plants.

8. Compliance with Port Authority Plant List

Plant material must comply with the Lee County Port Authority Compatible Plant List published in 2016.

9. Protected Species Management Plan

The Developer must submit a protected species management plan with the first development order application with a large mammal management plan that includes the following:

- a. South Florida Black Bear human-wildlife coexistence plan, including educational materials;
- b. Bear-proof dumpsters (if available) or maintenance plan for dumpsters/garbage receptacles;
- c. South Florida Black Bear (*Ursus americanus floridanus*) educational kiosks located between public parking areas and pedestrian access points to development uses;
- d. Grease traps must be underground;
- e. Florida Bonneted Bat (*Eumops floridanus*) roost survey; and
- f. Florida panther (*Puma concolor coryi*) consultation information and a receipt of payment for mitigation, if applicable.

10. Big Cypress Fox Squirrel and Florida Bonneted Bat

Developer must submit pre-construction surveys for Big Cypress Fox Squirrel (*Sciurus niger avicenia*) and Florida Bonneted Bat (*Eumops floridanus*) prior to approval of a vegetation removal permit.

11. Florida Black Bear

Developer must install Florida Black Bear signage at each intersection of a public parking area and pedestrian access to development uses prior to County issuance of a certificate of compliance.

12. Airport Noise Zone

The developer, successor or assign acknowledges the property's proximity to Southwest Florida International Airport and the potential for noises created by and incidental to the operation of the airport as outlined in LDC §34-1104. The developer, successor or assign acknowledges that a disclosure statement is required on plats, and in association documents for condominium, property owner and homeowner associations as outlined in LDC §34-1104(b).

13. Daniels Parkway Controlled Access Resolution

Applicant must amend the Daniels Parkway Controlled Access Resolution to include the access to Daniels Parkway reflected on the MCP prior to County issuance of a development order that includes the access.

14. Outdoor Seating for Restaurant(s)

Gross floor area of restaurant uses include outdoor seating areas. This limitation does not apply to food trucks and trailers.

SECTION C. DEVIATIONS:

1. Location of Establishments Selling/Serving Alcohol for Consumption on Premises
Deviation (1) seeks relief from the LDC §34-1264(b)(1)a.1 which prohibits establishments selling/serving alcoholic beverages for consumption on premises closer than 500 feet from a religious facility; to allow the closest public entrance of a building on the brewery campus to be located no less than 450 feet as measured from the nearest property line of Summit Church Gateway Campus. This deviation is APPROVED.
2. Location of Establishments Selling Alcohol for Consumption Off-premises
Deviation (2) seeks relief from the LDC §34-1263(e)(4) requirement to provide planned development applicants that cannot meet the 500 foot separation requirement from religious facilities for sale of alcoholic beverages for consumption off-site; to allow alcoholic beverage sale to take place no less than 450 feet measured from the nearest property line of Summit Church Gateway Campus to the closest public entrance of the brewery. This deviation is APPROVED.
3. Open Space
Deviation (3) seeks relief from the LDC §10-415(b)(1)b.4. requirement to provide commercial or industrial developments greater than ten acres in size abutting an arterial road with existing native trees within 50 feet of the right-of-way to provide a 50-foot right-of-way buffer for tree preservation; to allow a 15-foot Type 'D' buffer where development is proposed on the northeast corner of Daniels and Commerce Lakes. This deviation is APPROVED, SUBJECT TO Condition 6.
4. Surface Water Management Systems
Deviation (4) seeks relief from the LDC §10-418(2)(a) requirement to provide planted littoral shelf (PLS) shoreline length to be 25% of the total linear feet of the lake at control elevation; to eliminate this requirement to minimize wildlife hazards within the 10,000 foot Hazardous Wildlife Zone criteria for airport operations and in accordance with the FAA

Advisory Circular 150/5200-33C. This deviation is APPROVED, SUBJECT TO Condition 7.

5. Surface Water Management Systems

Deviation (5) seeks relief from the LDC §10-418(2)(c) to omit the required 20-foot-wide planted littoral shelf extending water ward of the control elevation at a depth no greater than 2 feet below the control elevation to minimize the potential for bird attractants. This deviation is APPROVED, SUBJECT TO Condition 7.

6. Surface Water Management Systems

Deviation (6) seeks relief from the LDC §10-418(2)(d)(3) requirement to provide native wetland trees to substitute for up to 25% of the number of required herbaceous plants, to allow native wetland trees to substitute for 100% of required herbaceous plants. This deviation is APPROVED, SUBJECT TO Condition 7.

7. Excavations

Deviation (7) seeks relief from the LDC §10-329(d)(4) requirement to provide lake bank slopes to be 6:1; to allow 4:1 slopes to minimize wildlife hazards within the 10,000 foot Hazardous Wildlife Zone for airport operations consistent with FAA Advisory Circular 150/5200-33C. This deviation is APPROVED.

8. Site Design for Commercial Developments

Deviation (8) seeks relief from the LDC §10-610(e) requirement to provide adjacent commercial uses to provide parking lot interconnections for automobile, bicycle and pedestrian traffic; to allow no interconnection between parking lots on either side of Commerce Lake Drive. This deviation is APPROVED.

SECTION D. EXHIBITS:

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

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

SECTION E. FINDINGS AND CONCLUSIONS:

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

1. The request for MPD zoning district complies with the Lee Plan. Lee Plan Goals 2, 6, 7, 11, 77, 158, Objectives 2.1, 2.2, 4.1, 6.1, 7.1, 11.1, 47.2, 77.2, 77.3, 126.2, Policies 2.1.2, 2.2.1, 6.1.1, 6.1.3, 7.1.1, 7.1.2, 7.1.10, 39.2.1, 47.2.1, 47.2.5, 124.1.1, 158.3.5, 158.4.9; Lee Plan Vision Statement Paragraphs 10, Map 16.
2. As conditioned herein, the MPD zoning designation:
 - a. Meets the standards set forth in the LDC and other regulations or qualifies for deviations. Lee Plan Goals 2, 4, 6, 7; Objectives 2.1, 2.2 and Policies 2.1.1, 6.1.3,

7.1.2; LDC §§ 10-7(b), 10-154, 10-415, 10-416, 10-421, 10-474, 10-630, 34-373, 34-411, 34-491, 34-1104(b), 34-1003, 34-1012;

- b. Is compatible with existing and planned uses in the surrounding area. Lee Plan Objectives 2.1, 2.2, 47.2, and Policies 1.7.6, 2.1.1, 6.1.4, 7.1.3, 7.1.9, 47.2.1, 47.2.2, 47.5.2; LDC §34-411(j);
 - c. Will provide access to support the proposed development intensity. Lee Plan Policies 6.1.5, 7.1.1, 39.2.1; LDC §34-411(d);
 - d. Existing regulations and conditions of approval address the expected impacts on transportation facilities. Lee Plan Policy 6.1.5; LDC §§ 2-261 *et seq.*, 10-7(b), 10-286, 10-298;
 - e. Will not adversely affect environmentally critical areas or natural resources. Lee Plan Objectives 77.2, 77.3, 123.3, 124.1, Policies 1.5.1, 54.1.3, 77.3.1, 77.3.4, 77.3.5, 123.3.1, 123.3.2, 123.4.1, 123.4.2, 123.4.3, 123.4.4, 124.1.1, 126.2.1, Standard 4.1.4; LDC §34-411(h); and
 - f. Will be served by urban services including public water and sewer, paved streets, police, fire and emergency services, and urban surface water management. Lee Plan Objectives 2.1, 2.2, 4.1, 6.1.4, 7.1.5, 123.4; Policies 2.2.1, 6.1.4, 6.1.5, 7.1.5; Standards 4.1.1, 4.1.2.
- 3. The proposed uses are appropriate at the location and constitute infill development. Lee Plan Policies 2.1.1, 2.2.2, 6.1.4, 6.1.7, 7.1.3, 7.1.5, 47.2.1, 47.2.2, 47.5.2, 158.4.9; LDC §34-411.
 - 4. The recommended conditions of approval and applicable regulations provide sufficient safeguards to protect the public interest. Those conditions are reasonably related to the impacts expected from the proposed development. Lee Plan Objectives 47.2, 126.2, Policies 1.7.1, 2.2.1, 6.1.6, 7.1.2, 7.1.8, 47.2.1, 47.2.2, 47.2.5, 123.3.3, 123.12.2, 123.12.3; LDC §34-411.
 - 5. The requested deviations:
 - a. Enhance the objectives of the planned development; and
 - b. Promote the intent of the LDC to protect public health, safety and welfare.

SECTION F. SCRIVENER'S ERRORS

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

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

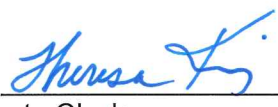
Adopted by unanimous consent.

Kevin Ruane	Absent
Cecil Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 18th day of August, 2021.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Deputy Clerk

BY: 
Kevin Ruane, Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY


Michael D. Jacob
Deputy County Attorney
County Attorney's Office

RECEIVED
MINUTES OFFICE
TK
2021 SEP 28 PM 2:19

Exhibit A

RHODES & RHODES LAND SURVEYING, INC

PARCEL B

A PARCEL OF LAND IN SECTIONS 17 AND 18, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA, BEING A PORTION OF "PARCEL 35" AS DESCRIBED IN OFFICIAL RECORDS BOOK 1399, PAGE 1901, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AND BEING DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE COMMENCE AT THE SOUTH 1/4 CORNER OF SECTION 17, TOWNSHIP 45 SOUTH, RANGE 26 EAST, LEE COUNTY, FLORIDA; THENCE RUN N 01° 00' 01" W, ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 17, ALSO BEING THE EAST LINE OF "PARCEL 35" AS DESCRIBED IN OFFICIAL RECORDS BOOK 1399, PAGE 1901. OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, 2663.67 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST 1/4; THENCE S 89° 30' 41" W, ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4, AND THE NORTH LINE OF SAID "PARCEL 35", A DISTANCE OF 808.27 FEET TO AN INTERSECTION WITH THE NORTHERLY LINE OF "PARCEL 6" OF THAT CERTAIN RELEASE GRANTED TO THE LEE COUNTY PORT AUTHORITY BY THE FEDERAL AVIATION ADMINISTRATION DATED JULY 12, 1990 AND THE POINT OF BEGINNING; THENCE CONTINUE S 89° 30' 41" W, ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4, AND THE NORTH LINE OF SAID "PARCEL 35", A DISTANCE OF 1302.29 FEET; THENCE S 53° 57' 54" W, ALONG THE NORTHWESTERLY LINE OF SAID "PARCEL 35", A DISTANCE OF 1025.93 FEET TO AN INTERSECTION WITH THE EASTERLY LINE OF A NORTHWESTERLY PROTRUSION OF AFORESAID "PARCEL 6"; THENCE S 36° 01' 14" E, ALONG SAID EASTERLY LINE, 62.78 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 300.00 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 23° 31' 07", A DISTANCE OF 123.14 FEET TO THE POINT OF TANGENCY; THENCE S 12° 30' 05" E, A DISTANCE OF 80.71 FEET TO AFORESAID NORTHERLY LINE OF "PARCEL 6"; THENCE N 77° 59' 42" E, ALONG SAID NORTHERLY LINE, 566.16 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 3114.04 FEET; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 24° 00' 00", A DISTANCE OF 1304.41 FEET TO A POINT OF TANGENCY; THENCE N 53° 59' 42" E, A DISTANCE OF 359.18 FEET TO THE POINT OF BEGINNING.

PARCEL C

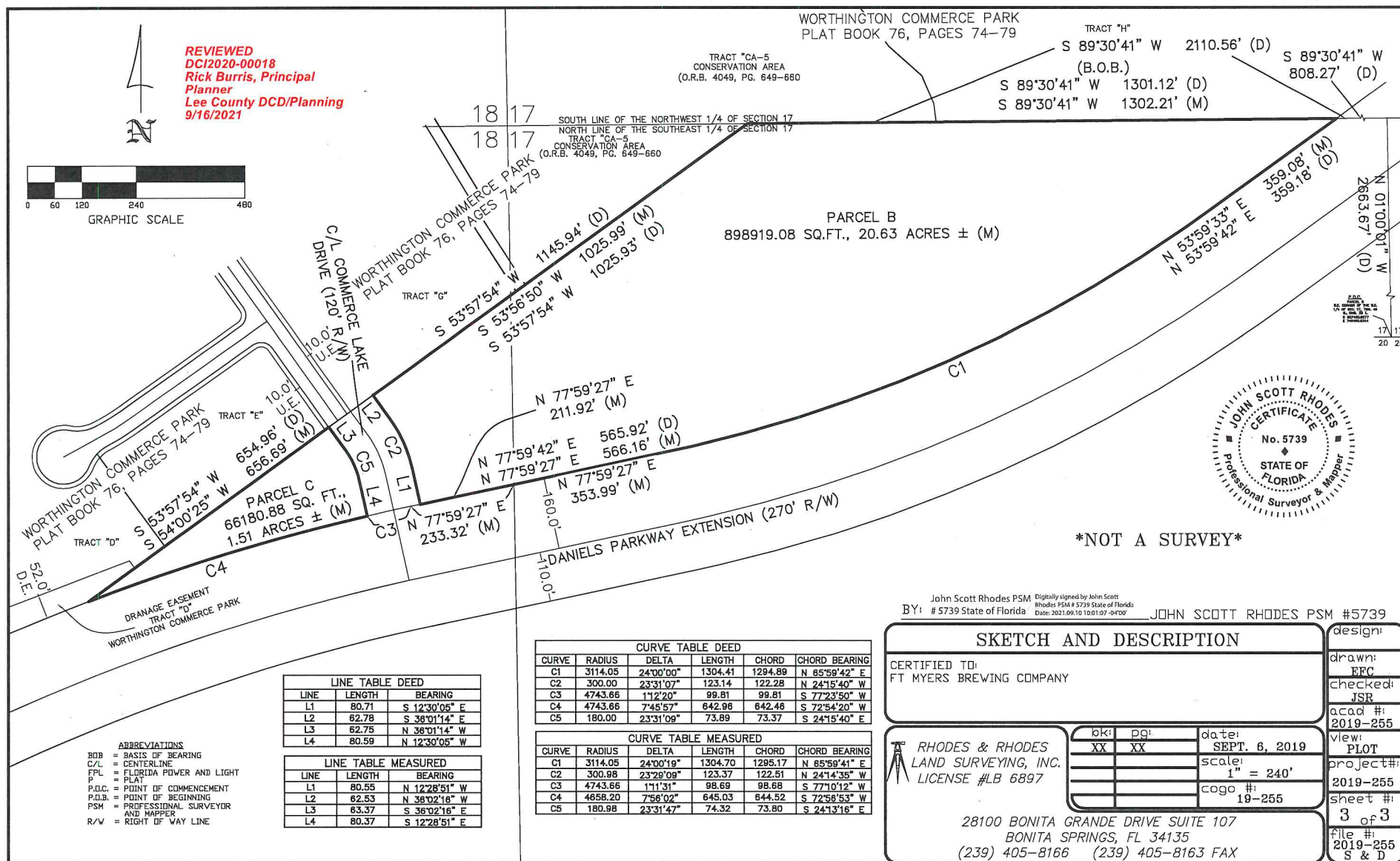
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RHODES & RHODES LAND SURVEYING, INC

INTERSECTION WITH THE NORTHERLY LINE OF "PARCEL 6" OF THAT CERTAIN RELEASE GRANTED TO THE LEE COUNTY PORT AUTHORITY BY THE FEDERAL AVIATION ADMINISTRATION DATED JULY 12, 1990 AND A POINT ON A NON-TANGENT CURVE, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 4743.66 FEET, THROUGH WHICH A RADIAL LINE PASSES BEARING N 20° 58' 38" W; THENCE EASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 07° 45' 57", A DISTANCE OF 642.96 FEET TO AN INTERSECTION WITH THE WESTERLY LINE OF A NORTHWESTERLY PROTRUSION OF AFORESAID "PARCEL 6"; THENCE N 12° 30' 05" W, ALONG SAID WESTERLY LINE, 80.87 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 180.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 23° 31' 09", A DISTANCE OF 73.89 FEET TO A POINT OF TANGENCY; THENCE N 36° 01' 14" W, 62.57 FEET TO THE POINT OF BEGINNING.

REVIEWED
DCI2020-00018
Rick Burris, Principal
Planner
Lee County DCD/Planning
9/16/2021





DCI2020-00018 Zoning

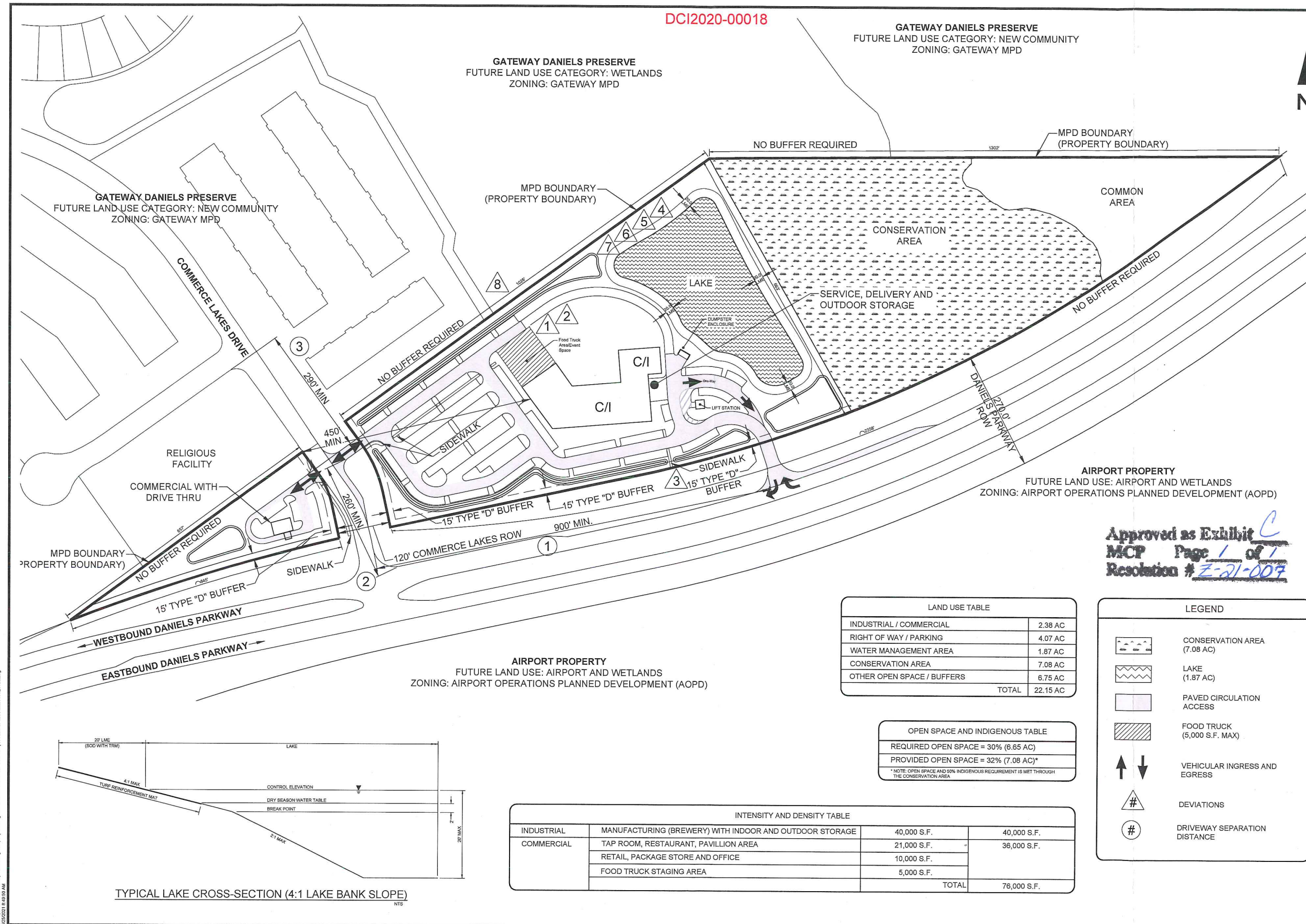
Legend

 Subject Parcel

EXHIBIT B



0 250
Feet



**WALDROP
ENGINEERING**

CIVIL ENGINEERING &
LAND DEVELOPMENT CONSULTANTS

28110 BONITA GRANDE DRIVE • SUITE 305 BONITA SPRINGS, FL. 34135
P: 238-405-7777 F: 238-405-7699 EMAIL: info@waldropengineering.com

MASTER CONCEPT PLAN FOR
FMBrew Campus MPD

CLIENT:
1227 HOLDINGS, LLC

[illegible]

SET NUMBER:	869-01-E10
SHEET :	1