

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER DECISION

REZONING: REZ2022-00014

Regarding: MCGREGOR STORAGE REZONE

Location: 15149 McGregor Blvd
Iona/McGregor Planning Community
(District 3)

Hearing Date: November 9, 2022

I. Request

Rezone 2.06± acres from Community Commercial (CC) and Multi-Family Residential (RM-2) to Commercial (C-2).

The property legal description is set forth in Exhibit A.

II. Hearing Examiner Decision

Approved

III. Discussion

Applicant seeks to rezone two contiguous parcels to the conventional C-2 district in the Iona/McGregor Planning Community.¹ The property is vacant and within the Mixed Use Overlay.²

The proposed C-2 district allows for a unified zoning designation along an established corridor. Existing zoning already permits commercial uses on most of the site.³

C-2 is a “conventional” zoning district. Therefore, it is not possible to impose conditions on approval. The C-2 use regulation table will govern permitted uses, subject to limitations imposed by the Lee County Comprehensive Plan (Lee Plan).⁴

¹ Lee Plan Map 1-B, Table 1(b).

² See Staff Report (pg. 1). There is a paved accessway across the southern tip connecting commercially developed sites to the west to a water storage tank to the southeast. *Id.* Lee Plan Goal 11; Map 1-C.

³ The CC parcel is 1.6 acres while the RM-2 parcel is 0.45 acres. See Testimony of Al Quattrone; Applicant’s Ex. 1 (slide 5).

⁴ LDC §34-844.

Deviations from requirements of the Land Development Code (LDC) may be granted by variance.⁵

The purpose of the C-2 district is to permit commercial and select residential uses.⁶ Properties may not be rezoned to C-2 unless they are located within the Mixed Use Overlay.⁷ Rezoning the entire property to C-2 unifies the land into one conventional zoning designation within the Overlay.

Department of Community Development staff recommended approval of the request, finding the proposed zoning district satisfied LDC review criteria.

Zoning History

The majority of the site has been zoned for commercial development since 1980.⁸ The property remains vacant except for a paved access across the southern RM-2 portion.⁹

Applicant does not propose a specific development plan for the property.¹⁰



⁵ LDC §34-621 (a)(2).

⁶ LDC §34-841(b).

⁷ *Id.* Mixed Use Overlay properties are encouraged to be conventionally zoned. Lee Plan Policy 11.2.4

⁸ Applicant's Ex. 1 (slide 5); Staff Report (pg. 1). The site received an administrative variance in 2002 for minimum lot width, which is no longer necessary after rezoning to C-2. See Staff Report (pg. 1, Attachment E).

⁹ *Id.* The accessway connects the county's water storage tank to properties to the west.

¹⁰ Testimony of Al Quattrone. Mr. Quattrone referenced Applicant's intention to develop a self-storage facility, but the record is devoid of information regarding a pending development order or specific development program.

Character of the Area

The property sits in a commercial node along McGregor Boulevard between Iona Road and Pine Ridge Road.¹¹ Surrounding lands host a mix of commercial and residential uses. The Gulf Harbour community occupies the area directly across McGregor Boulevard.

McGregor Boulevard separates Suburban lands to the west from Central Urban and Urban Communities lands to the east.¹² The road also serves as a line of demarcation for the Mixed Use Overlay on properties east of McGregor Boulevard.¹³

Public services and infrastructure are available to serve the property, including paved roadways, public water, sewer, law enforcement, and fire/EMS stations.¹⁴

Consistency with the Lee Plan/Compatibility

The property's future land use classification is Central Urban, characterized as the county's "urban core".¹⁵ These areas are heavily settled with a broad range of public services.¹⁶ Commercial, residential, and public/quasi-public land uses predominate Central Urban lands.¹⁷

The C-2 zoning district is consistent with land uses anticipated in the Central Urban category.¹⁸ The proposed district is appropriate given the site's location on a high-volume arterial roadway developed with commercial and residential uses.¹⁹

The property also lies within the Mixed Use Overlay in the Iona/McGregor Planning Community.²⁰ Mixed Use lands are encouraged to be conventionally zoned.²¹ The requested C-2 district meets this objective.

The request meets the Lee Plan definition of infill development.²² Planned commercial use of the property will complement surrounding development patterns by providing commercial opportunities to support residents without traversing through residential areas.²³

¹¹ See Staff Report (pg. 1, Attachment B); Applicant's Ex. 1 (slide 6).

¹² See Staff Report (Attachment B); Lee Plan Map 1-A.

¹³ *Id.*; Lee Plan Map 1-C.

¹⁴ See Staff Report (pg. 5).

¹⁵ Lee Plan Future Land Use Map 1-A; Lee Plan Policy 1.1.3.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Lee Plan Policy 2.1.1.

¹⁹ See Lee Plan Map 3-B.

²⁰ Lee Plan Map 2-B; Lee Plan Policy 11.2.4.

²¹ *See.*

²² Lee Plan Glossary.

²³ Lee Plan Goal 6, Objective 2.1, Policy 5.1.5.

Development of commercial uses will trigger LDC design criteria.²⁴ These standards include buffering, landscaping, open space, parking, and setback from residential properties.²⁵ Code mandated development standards minimize potential impacts and ensure compatibility with the surrounding community.²⁶

Transportation

The property fronts McGregor Boulevard. Access to McGregor Boulevard must be consistent with FDOT regulations.²⁷

Properties to the east, west, and south have existing accessways. Applicant testified site development will provide interconnections to these sites.²⁸

There is sufficient access to support site development.²⁹ Applicant must comply with LDC transportation requirements at the time of development order review.

Environmental

There are no known environmentally sensitive features on the property.³⁰ The site has been cleared.³¹ Further environmental assessments will be provided prior to site development.³²

Applicant must demonstrate compliance with LDC requirements for open space, buffering, and landscaping during development order review.

Public Services

The Lee Plan requires an evaluation of available services and infrastructure during the rezoning process.³³

The site is ideally located for commercial development because of its proximity to urban services and infrastructure.³⁴ The property fronts an arterial road with sidewalks and a shared use path.³⁵ Public water and sanitary sewer service are

²⁴ LDC §10-600 *et seq.*

²⁵ The Blue Stone RPD sits to the southeast, but is substantially buffered from site development by the county's water storage tank and lakes. See Staff Report (Attachment B).

²⁶ Lee Plan Policies 6.1.1, 6.1.6.

²⁷ McGregor Boulevard is a state maintained arterial road. See Lee Plan Map 3-B; Staff Report; F.S. §125.022(6).

²⁸ Testimony of Al Quattrone.

²⁹ See Staff Report (pg. 4-5).

³⁰ See Applicant's Ex. 1 (slide 12); Staff Report (pg. 5, Attachment F).

³¹ See Staff Report (pg. 5, Attachment F).

³² See Staff Report (pg. 5).

³³ Lee Plan Policy 2.2.1.

³⁴ Lee Plan Policy 2.2.1.

³⁵ Lee Plan Map 3-B, 3-D.

available to the site.³⁶ The Iona-McGregor Fire District provides fire and EMS services, with a station located near the property.³⁷ The property lies within the West District of the Lee County Sheriff's Office.

Development will be subject to impact fees.

Public Concerns

No members of the public appeared at hearing.

Conclusion

The Hearing Examiner concurs with the staff analysis and recommendation of approval. The requested C-2 zoning district meets LDC criteria for approval.

Findings in Support of Approval

The Hearing Examiner approves the requested C-2 Commercial zoning district and finds the proposed C-2 zoning district:

- A. Complies with the Lee Plan. Lee Plan Goals 2, 4, 6, and 158, Objectives 2.1, 2.2, 6.1, 77.2, and Policies 1.1.1, 1.1.3, 1.6.5, 2.1.1, 2.2.1, 5.1.5, 6.1.4, 6.1.6, 6.1.7, 39.2.1; Lee Plan Maps 1-A, 1-B, 1-C.
- B. Complies with the Land Development Code. LDC 34-621, 34-841(b), 34-844.
- C. Is compatible with existing and planned uses in the surrounding area. Lee Plan Policies 2.2.1, 5.1.5, 6.1.4., 6.1.6, 6.1.7.
- D. Will have sufficient access to support development. Lee Plan Policies 6.1.5.
- E. Expected Impacts to transportation facilities will be addressed by County regulations. Lee Plan Policies 2.2.1, 6.1.1, 6.1.5.
- F. Will not adversely affect environmentally critical/sensitive areas or natural resources. Lee Plan Policy 6.1.6.
- G. Will be served by urban services and infrastructure. Lee Plan Goals 2, 4, 6, Objectives 2.1, 2.2, and Policies 2.2.1, 6.1.1.

³⁶ Provided by Lee County Utilities. See Staff Report (pg. 5, Attachment G).

³⁷ See Staff Report (pg. 5).

Date of decision: January 11, 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

A Legal Description

B Exhibits Presented at Hearing

C Participants

Exhibit A
Legal Description

EXHIBIT A

REZ2022-00014 Lee County ePlan

LEGAL DESCRIPTION & SKETCH

15149 MCGREGOR BLVD
SECTION 31, TOWNSHIP 45 SOUTH, RANGE 24 EAST
FORT MYERS, FLORIDA

DESCRIPTION:

A PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, SECTION 31, TOWNSHIP 45 SOUTH, RANGE 24 EAST, BEING PART OF PARCEL I AND ALL OF PARCEL II AS DESCRIBED IN OFFICIAL RECORD BOOK 3007 AT PAGE 141 AND FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 31: THENCE N89°41'24"W ALONG THE NORTH LINE OF SAID SECTION 31 FOR 238.87 FEET TO THE FORMER RIGHT-OF-WAY LINE OF MCGREGOR BOULEVARD (S.R. 867- 80 FEET WIDE); THENCE S50°28'00"W ALONG SAID FORMER RIGHT-OF-WAY LINE FOR 742.18 FEET TO THE NORTHEAST CORNER OF SAID PARCEL I AS DESCRIBED IN OFFICIAL RECORD BOOK 3007 AT PAGE 141; THENCE S41°20'06"E ALONG THE NORTHEASTERLY LINE OF SAID PARCEL FOR 10.00 FEET TO THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF MCGREGOR BOULEVARD BY ORDER OF TAKING AS RECORDED IN OFFICIAL RECORDS BOOK 2463 AT PAGE 1913; THENCE CONTINUE S41°20'06"E ALONG SAID NORTHEASTERLY LINE FOR 340.17 FEET; THENCE S50°28'00"W PARALLEL WITH MCGREGOR BOULEVARD FOR 151.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S50°28'00"W FOR 345.63 FEET; THENCE S00°17'04"E FOR 150.00 FEET; THENCE S89°42'56"W FOR 35.00 FEET; THENCE N00°17'04"W FOR 553.99 FEET TO THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF MCGREGOR BOULEVARD BY SAID ORDER OF TAKING AS RECORDED IN OFFICIAL RECORD BOOK 2463 AT PAGE 1913; THENCE N50°28'00"E ALONG SAID RIGHT-OF-WAY LINE FOR 117.13 FEET; THENCE S39°32'00"E FOR 335.00 FEET TO THE POINT OF BEGINNING.

REVIEWED
REZ2022-00014
Hunter Searson, GIS
Planner
Lee County Government
8/9/2022



Digitally signed
by Darren
Townsend
Date:
2022.07.07
09:04:43 -04'00'

NOTES:

1. BEARINGS ARE BASED ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 31 AS BEARING N 89°51'24" W.
2. ALL DIMENSIONS ARE IN U.S. SURVEY FEET OR DECIMALS THEREOF.
3. NOT VALID WITHOUT THE ATTACHED SKETCH OF DESCRIPTION.
4. THIS IS NOT A BOUNDARY SURVEY
5. THIS LEGAL AND SKETCH HAS BEEN REVISED ON 05/02/22 TO REMOVE A 35' AND 25' ROADWAY EASEMENT; AND ON 07/06/22 TO CHANGE THE OFFICIAL RECORD BOOK OF THE WATERMAIN EASEMENT TO 1489.

DARREN TOWNSEND
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 6476

NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



AIM Engineering & Surveying, Inc.
2161 FOWLER STREET, SUITE 100
FORT MYERS, FLORIDA 33901
www.aimengr.com
PHONE (239) 332-4569
TOLL FREE (800) 226-4569
LICENSED BUSINESS No. 3114

LEGAL DESCRIPTION & SKETCH

15149 MCGREGOR BLVD

DRAWN: CH 04-25-22		CHECKED: DT 04-25-22		CLIENT: LAND AMERICA, LLC		
PROJECT NO.: 21-1398	SECTION: 31	TOWNSHIP: 45 S	RANGE: 24 E	COUNTY: LEE	SHEET 1 OF 2	

LEGAL DESCRIPTION & SKETCH

15149 MCGREGOR BLVD
SECTION 31, TOWNSHIP 45 SOUTH, RANGE 24 EAST
FORT MYERS, FLORIDA



0 50 100

INTENDED DISPLAY SCALE: 1" = 100'

N LINE, NE 1/4, SEC. 31
BASIS OF BEARINGS
N 89°41'24" W

POC
NE COR, SEC. 31

MCGREGOR BLVD.
RW VARIES
ESTABLISHED FROM FDOT RW
MAPS FOR SECTION 12040-2515

SOUTHEASTERLY RW MCGREGOR BLVD
PER O.R. 2463, PG. 1913

INGRESS / EGRESS
EASEMENT
O.R. 3668, PG. 2813

10' WATER PIPELINE
EASEMENT
O.R. 1489, PG. 2315

LEGEND:

E = EAST OR EASTING
FDOT = FLORIDA DEPARTMENT OF TRANSPORTATION
LB = LICENSED BUSINESS
N = NORTH OR NORTHING
NO. OR # = NUMBER
O.R. = OFFICIAL RECORD BOOK
PG. = PAGE
POB = POINT OF BEGINNING
POC = POINT OF COMMENCEMENT
PSM = PROFESSIONAL SURVEYOR & MAPPER
R/W = RIGHT OF WAY
SEC. = SECTION

N 00°17'04" W 553.99'

LEE COUNTY
O.R. 3105, PG. 0576

S 00°17'04" E 150.00'
S 89°42'56" W 35.00'

NOT VALID WITHOUT THE ATTACHED DESCRIPTION.



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TOLL FREE (800) 226-4569
LICENSED BUSINESS No. 3114

LEGAL DESCRIPTION & SKETCH 15149 MCGREGOR BLVD

DRAWN: CH 04-25-22		CHECKED: DT 04-25-22		CLIENT: LAND AMERICA, LLC	
PROJECT NO.: 21-1398	SECTION: 31	TOWNSHIP: 45 S	RANGE: 24 E	COUNTY: LEE	SHEET 2 OF 2

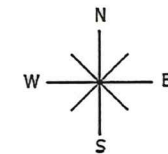
Attachment B2



REZ2022-00014

Zoning

 Subject Property



0 500
Feet



Exhibit B

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Peter Blackwell, Planner, date stamped received October 26, 2022 (multiple pages – 8.5"x11" and 11"x14") [black and white, color]
2. *PowerPoint Presentation:* Prepared for REZ2022-00014, McGregor Storage Rezoning Staff Report (multiple pages – 8.5"x11")[color]

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Sharon Hrabak, to Maria Perez, with the Hearing Examiner's Office, dated Monday, November 7, 2022 10:51 AM (2 pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared by Quattrone & Associates Inc., for McGregor Storage Conventional Rezoning, REZ2022-00014, Lee County Hearing Examiner Public Hearing, dated Wednesday, November 9, 2022, (multiple pages – 8.5"x11")[color]

Exhibit C

HEARING PARTICIPANTS

County Staff:

Peter Blackwell

Applicant Representatives:

Al Quattrone

Public Participants:

None