

## Exhibit C

## ADMINISTRATIVE AMENDMENT (PD) ADD2021-00220

ADMINISTRATIVE AMENDMENT  
LEE COUNTY, FLORIDA

WHEREAS, OC Easy RV Storage filed an application for an administrative amendment to a Commercial Planned Development (CPD) on a project known as "Amend CPD to Include Mini-Warehouse Use" to amend the Schedule of Uses in Resolution Z-99-027 to allow Mini-Warehouse and Storage, Open, to amend the Master Concept Plan, and to request the following deviation:

Deviation (1) seeks relief from Land Development Code (LDC) Section 33-1581(b), which requires a Type A buffer that is a minimum of five feet in width, with four trees per 100 linear feet, to allow a Type A buffer that tapers at the northeast corner of the parcel labeled "K & P Deli" while still meeting the tree requirement of four trees per 100 linear feet.

WHEREAS, the subject property is the northwest portion of 2750 North Tamiami Trail, STRAP Number 27-43-24-00-00008.0020, and all of 2790 North Tamiami Trail, STRAP Number 27-43-24-00-00008.004A (attached as Exhibit "A"); and

WHEREAS, the subject property was originally rezoned by Resolution Z-99-027 (attached as Exhibit "B"); and

WHEREAS, the subject property is located in the Central Urban Future Land Use Category as designated by the Lee Plan; and

WHEREAS, the subject property is located in the North Fort Myers Community Plan Area and Commercial Corridor as designated by the Lee Plan; and

WHEREAS, 2790 North Tamiami Trail, STRAP 27-43-24-00-00008.004A, is developed with a convenience food and beverage store and no changes are proposed to this property; and

WHEREAS, 2750 North Tamiami Trail, STRAP Number 27-43-24-00-00008.0020, is proposed to be developed as open storage for recreational vehicles, boats, and trailers, and a mini-warehouse; and

WHEREAS, 2750 North Tamiami Trail, STRAP Number 27-43-24-00-00008.0020, has split zoning, with the northwest portion of the parcel zoned Commercial Planned Development (CPD) and the remainder zoned Commercial (C-1A); and

WHEREAS, LDC Section 33-1596 establishes use regulations specific to properties located within the Commercial Corridor and the uses Mini-Warehouse and Storage, Open are allowed by Special Exception or may be requested through Planned Development zoning; and

WHEREAS, the applicant has filed a request (attached as Exhibit "C") to amend the Schedule of Uses in Resolution Z-99-027 to allow Mini-Warehouse and Storage, Open, to amend the Master Concept Plan, and to request one deviation; and

WHEREAS, LDC Section 33-1581(b) requires a Type A buffer that is a minimum of five feet in width, with four trees per 100 linear feet when the proposed use is commercial and the existing adjacent use is commercial; and

WHEREAS, Land Development Code Section 34-2016(3) requires a minimum aisle width of 20 feet for two-way access; and

WHEREAS, the applicant has requested a deviation (attached as Exhibit "C") from Land Development Code Section 33-1581(b), which requires a Type A buffer that is a minimum of five feet in width, with four trees per 100 linear feet, to allow a Type A buffer that tapers at the northeast corner of the parcel labeled "K & P Deli" while still meeting the tree requirement of four trees per 100 linear feet; and

WHEREAS, the applicant has indicated in the request (attached as Exhibit "C") that the deviation is necessary in order to comply with Land Development Code Section 34-2016(3); and

WHEREAS, the applicant has submitted a Master Concept Plan (attached as Exhibit "D") that depicts the uses Mini-Warehouse and Storage, Open and the requested deviation; and

WHEREAS, the applicant has provided a meeting summary document for the publicly advertised information session (attached as Exhibit "E"), as required by LDC Section 33-1532(b); and

WHEREAS, an application for a Special Exception, SEZ2021-00015, has also been submitted for the eastern portion of 2750 North Tamiami Trail, STRAP Number 27-43-24-00-00008.0020, to allow Mini-Warehouse and Storage, Open in the Commercial Corridor; and

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

WHEREAS, Lee County Land Development Code Section 34-174(i) states that the Director is able to administratively approve an amendment to a planned development pursuant to LDC Section 34-380; and

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

WHEREAS, the Director is authorized to approve an administrative amendment to a planned development that proposes changes to the buffer or landscaping areas that are equivalent or better by comparison with the previously approved Master Concept Plan, in accordance with LDC Section 34-174(i)(2)e; and

WHEREAS, the proposed Master Concept Plan (attached as Exhibit "D") depicts buffers on the south and west portion of the property, adjacent to the parcel labeled "K&P Deli," that were not depicted on the Master Concept Plan approved by Resolution Z-99-027.

WHEREAS, it is found that the proposed amendment does not increase density or intensity within the development; proposes equivalent of better landscaping or buffering; does

not reduce total open space required by the LDC, does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping, or preservation areas; and does not otherwise adversely impact on surrounding land uses; and

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to the Commercial Planned Development is **APPROVED, subject to the following conditions:**

1. **The Schedule of Uses, approved by Resolution Z-99-027, is hereby amended, in underline, to include the following:**

2. **Mini-Warehouse  
Storage, Open**

2. **The Development must be in compliance with the amended Master Concept Plan, dated March 11, 2022. Master Concept Plan for ADD2021-00220 is hereby APPROVED and adopted. A reduced copy is attached hereto as Exhibit "D".**
3. **Deviation (1) seeks relief from Land Development Code (LDC) Section 33-1581(b), which requires a Type A buffer that is a minimum of five feet in width, with four trees per 100 linear feet, to allow a Type A buffer that tapers at the northeast corner of the parcel labeled "K & P Deli" while still meeting the tree requirement of four trees per 100 linear feet.**

**This deviation is APPROVED, SUBJECT TO the condition that the request is limited to this property only within the Commercial Planned Development and appropriate approvals will be required if the deviation is needed for other parcels within the development.**

4. **The terms and conditions of Resolution Z-99-027 remain in full force and effect, except as amended herein.**
5. **If it is determined that inaccurate or misleading information was provided to the County or if this decision does not comply with the LDC when rendered, then, at any time, the Zoning Manager may issue a modified decision that complies with the Code or revoke the decision. If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with Chapter 34.**

Duly passed, adopted, and electronically signed on 4/18/2022

Anthony R. Rodriguez, AICP, Zoning Manager

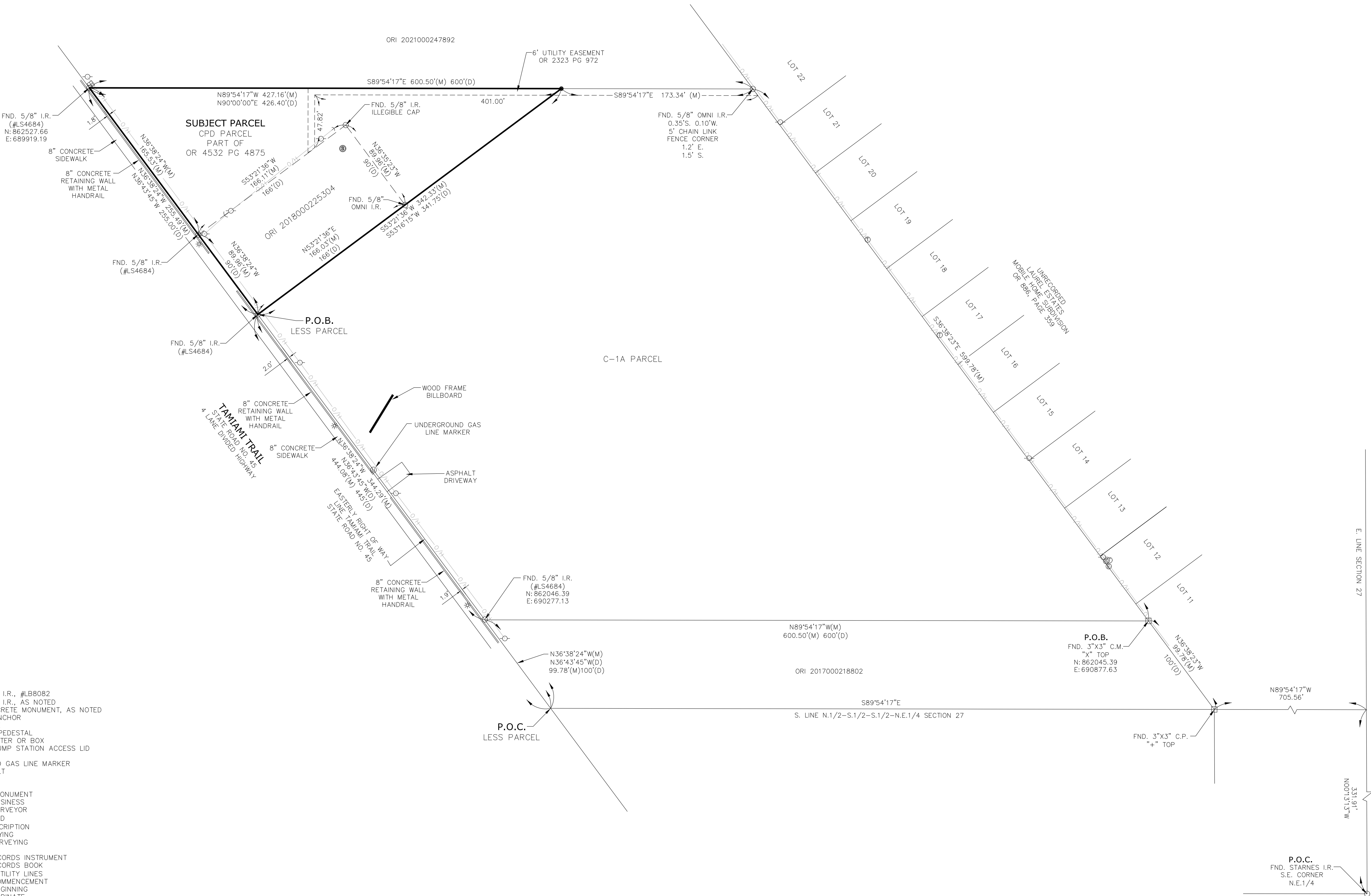
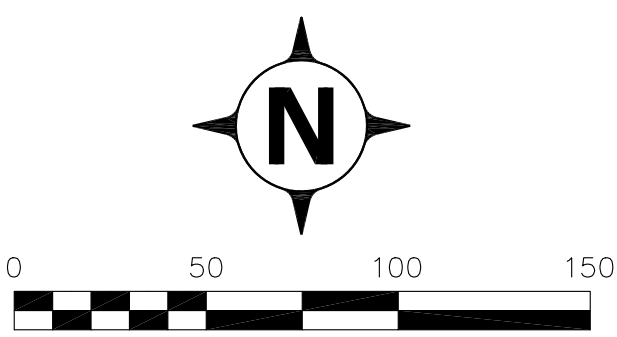
**Exhibits**

Exhibit A – STRAP Number  
Exhibit B – Resolution Z-99-027  
Exhibit C – Request  
Exhibit D – Master Concept Plan  
Exhibit E – Meeting Summary Document

Exhibit A

SURVEY PLAT

OF A PARCEL LYING IN  
SECTION 27, TOWNSHIP 43 SOUTH, RANGE 24 EAST,  
LEE COUNTY, FLORIDA.



LEGEND:

- FOUND 5/8" I.R., #LB8082
- FOUND 5/8" I.R., AS NOTED
- FOUND CONCRETE MONUMENT, AS NOTED
- ⊥ GUY WIRE ANCHOR
- ⊕ UTILITY POLE
- ⊙ TELEPHONE PEDESTAL
- ⊙ ELECTRIC METER OR BOX
- ⊙ SANITARY PUMP STATION ACCESS LID
- ⊙ LIGHT POLE
- ⊙ UNDERGROUND GAS LINE MARKER
- ⊙ UTILITY VAULT
- ⊙ FOUND
- ⊙ IRON ROD
- ⊙ CONCRETE MONUMENT
- ⊙ C.M.
- ⊙ LICENSED BUSINESS
- ⊙ LICENSED SURVEYOR
- (M) AS MEASURED
- (D) AS PER DESCRIPTION
- ⊙ OMNI SURVEYING
- STARNES SURVEYING
- NO. NUMBER
- ORI OFFICIAL RECORDS INSTRUMENT
- OR OFFICIAL RECORDS BOOK
- O/H OVERHEAD UTILITY LINES
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- N NORTH COORDINATE
- E EAST COORDINATE

REVIEWED  
ADD2021-00220  
Hunter Searson, GIS  
Planner  
Lee County Government  
2/28/2022

DESCRIPTION

(CPD PARCEL)

A PORTION OF SECTION 27, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
  
COMMENCE AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 27 WITH THE EASTERLY RIGHT-OF-WAY LINE OF TAMIAMI TRAIL; THENCE RUN N.36°43'45"W. ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 445.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.36°43'45"W. ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 255.00 FEET TO A POINT; THENCE RUN N.90°00'00"E. FOR A DISTANCE OF 426.40 FEET TO A POINT; THENCE RUN S.53°16'15"W. FOR A DISTANCE OF 341.75 FEET TO THE POINT OF BEGINNING.  
  
(CONTAINING: 43,573 SQUARE FEET)

NOTES

THIS PLAT WAS PREPARED AS A BOUNDARY SURVEY.  
  
THIS SURVEY BASED ON THE DESCRIPTION AS PROVIDED BY THE CLIENT AND EXISTING MONUMENTATION.  
  
BEARINGS ARE REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983/1990, BASED ON THE RIGHT OF WAY LINE OF N TAMIAMI TRAIL AS BEARING N36°38'24"W.  
  
COORDINATES ARE REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983/1990.  
  
UNDERGROUND IMPROVEMENTS, OTHER THAN THOSE SHOWN, IF ANY, WERE NOT LOCATED.  
  
THIS SURVEY WAS PREPARED WITH BENEFIT OF THE TITLE CERTIFICATION PREPARED BY KNOTT EBELINI HART, DATED AUGUST 20, 2021  
  
THIS SURVEY WAS NOT INTENDED TO DELINEATE OR DEFINE ANY WETLANDS, ENVIRONMENTALLY SENSITIVE AREAS, WILDLIFE HABITATS, OR JURISDICTIONAL LINE OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER ENTITY, EXCEPT AS SHOWN.  
  
PARCEL CONTAINS 43731.60 SQUARE FEET OR 1.00 ACRES, MORE OR LESS.

PREPARED FOR:  
LEE COUNTY BOARD OF COUNTY COMMISSIONERS

SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, THAT THIS PLAT OF THE HEREON DESCRIBED PROPERTY IS A TRUE REPRESENTATION OF A FIELD SURVEY MADE UNDER MY DIRECTION AND CONFORMS TO THE STANDARDS OF PRACTICE FOR PROFESSIONAL SURVEYORS AND MAPPERS AS OUTLINED IN CHAPTER SJ-17, FLORIDA ADMINISTRATIVE CODE.

Kenneth E. Trask  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE NO. LB4684

NOTICE:

UNLESS ELECTRONICALLY SIGNED, THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.

| NO. | DATE | REVISION DESCRIPTION | BY |
|-----|------|----------------------|----|
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PROPERTY ADDRESS:  
2750 N. TAMIAMI TRAIL  
NORTH FORT MYERS, FL 33903  
  
OVERALL  
STRAP NO. 27-43-24-00-00008.0020

| K.E. Trask, P.A.                                                                                            |         |         |        |       |
|-------------------------------------------------------------------------------------------------------------|---------|---------|--------|-------|
| Land Surveyors                                                                                              |         |         |        |       |
| Florida Licensed Business No. LB46450<br>12345 Blasingm Road<br>Fort Myers, Florida 33966<br>(239) 980-1495 |         |         |        |       |
| date                                                                                                        | dwg     | ord     | scale  | job#  |
| 01-07-2022                                                                                                  | 15-08SR | 15-08CS | 1"=50' | 15-08 |

## Exhibit B

RESOLUTION NUMBER Z-99-027

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

WHEREAS, Tosco Marketing Company, filed an application to rezone a 1.0 acre parcel from Neighborhood Commercial (CN-1) and Commercial (C-1A) to Commercial Planned Development (CPD), in reference to Circle "K" #7408 Expansion; and

WHEREAS, RAK Enterprises, the owner of the subject parcel, authorized Banks Engineering, Inc., to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held on April 28, 1999, before the Lee County Hearing Examiner who gave full consideration to the evidence in the record for Case # 99-02-026.02Z 01.01; and

WHEREAS, a second public hearing was advertised and held on May 25, 1999, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on the 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 1.0 acre parcel from Neighborhood Commercial (CN-1) and Commercial (C-1A) to Commercial Planned Development (CPD), in the Central Urban Land Use Category. The legal description of the subject property is set forth in Exhibit A attached to this resolution. The request is hereby APPROVED subject to the conditions and deviations set forth in Sections B and C below.

#### SECTION B. CONDITIONS:

1. The development of this project must be in substantial compliance with the approved Master Concept Plan which is a one-page document entitled "Circle K #7408 Expansion," as prepared by Banks Engineering, dated January 19, 1999, last revised April 1, 1999, and stamped received April 2, 1999, except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (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 Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

5/25/99

2. The list of permitted uses is limited to the following:

Accessory Uses and Structures  
 Administrative Offices  
 ATM (Automotive Teller Machine)  
 Banks and Financial Establishments, Groups I and II  
 Business Services, Groups I and II  
 Convenience Food & Beverage Store  
 Drive Through Facility for any permitted use  
 Essential Services  
 Excavation, Water Retention  
 Fences, Walls  
 Food & Beverage Service, Limited  
 Food Stores, Groups I and II  
 Gift and Souvenir Shop  
 Parking Lot, Accessory and Temporary  
 Personal Services, Group I  
 Retail and Wholesale Sales, when clearly incidental and subordinate to the principal use on the same premises  
 Self-Service Fuel Pumps  
 Signs, in accordance with LDC Chapter 30  
 Temporary Uses

3. Development of the subject property must comply with the following Property Development Regulations:

Minimum Setbacks-Buildings and Structures:

|                          |                     |
|--------------------------|---------------------|
| Street:                  | 25 feet             |
| Side                     | 15 feet             |
| Rear:                    | 25 feet             |
| Maximum Lot Coverage:    | 40 percent          |
| Maximum Building Height: | 35 feet above grade |

4. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local Development Order.
5. Approval of this rezoning does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the 2020 Lee Plan Planning Communities Map and Acreage Allocation's Table, Map 16 and Table 1(b), of the Lee Plan.
6. This development must comply with all of the requirements of the LDC at the time of local Development Order Approval, except as may be granted by deviations approved as part of this planned development.

SECTION C. DEVIATIONS:

Deviation (1) requesting relief from LDC Section 34-1137(d), which requires a building side setback of 15 feet, to allow the existing side setback of five feet from the south property line is hereby **APPROVED as depicted on the Applicant's site plan.**

Deviation (2) requesting relief from LDC Sections 10-416(d)(3) and (4), which require a 15-foot-wide, Type D buffer along the right-of-way (North Tamiami Trail) with five trees per 100 linear feet and a hedge planted in double staggered rows to form a 36-inch-high continuous visual screen within one year after time of planting, to allow a 5-foot-wide landscape strip without trees is hereby **APPROVED WITH THE CONDITION THAT** the right-of-way (ROW) buffer plantings must be calculated on the entire length of the buffer. Due to the site constraints, the trees required in the 110 linear feet of the ROW buffer with a 5-foot width must be planted in the northwest corner of the site as delineated on Staff's Exhibit entitled "Deviations 2, 3, and 9 Condition Clarification."

Deviation (3) requesting relief from LDC Section 10-416(b), building perimeter planting requirements, to exempt Applicant from having building perimeter plantings along the front or rear of the existing building is hereby **APPROVED WITH THE CONDITION THAT** the building perimeter planting area is provided in the area delineated on Staff's Exhibit entitled "Deviations 2, 3, and 9 Condition Clarification." This area must be landscaped with three cabbage palms of staggered heights with a minimum clear trunk of eight feet, and native shrubs planted 3-foot on center with a minimum 24 inches of height and 3-gallon container size.

Deviation (4) requesting relief from LDC Section 10-296(d) Table 4(7)(c)1, which requires one-half inch asphaltic concrete surfaces for privately maintained local and access streets, to allow concrete pavement and/or decorative pavers on project streets is hereby **DENIED**, because this deviation is not needed under the current interpretation of the regulations.

Deviation (4a) requesting relief from LDC Section 10-296(d) Table 4(7)(c)2, which requires one-and-a-half inches of asphaltic concrete surfaces for roads that are publicly maintained, to allow traffic bearing concrete or similar material is hereby **DENIED**, because the deviation is not needed under the current interpretation of the regulations.

Deviation (5) requesting relief from LDC Section 10-414(a), which requires a landscape plan be prepared by and bear the seal of a landscape architect registered in the State of Florida, to allow the landscape plan to be prepared by and bear the seal of an engineer registered in Florida, is hereby **DENIED**.

Deviation (6) requesting relief from LDC Section 10-422, which requires a landscape architect to inspect and certify compliance of all open space area, landscaping and the irrigation system with approved DO plans, to allow an engineer to submit the letter of substantial compliance, is hereby **DENIED**.

Deviation (7) requesting relief from LDC Section 10-283(a), under which the County may require the Developer to dedicate and construct an access road if the subject property is traversed by or abuts a street shown on the access road location map, to not require an access road is hereby **DENIED**, because the deviation is not needed under the current interpretation of the regulations.

Deviation (8) requesting relief from LDC Section 10-285(a), which requires a 660-foot intersection separation for an arterial road, to allow a 180±-foot and a 200±-foot intersection separation, is hereby DENIED, as Lee County has no jurisdiction over the access points onto a state-maintained highway.

Deviation (9) requesting relief from LDC Section 10-416(d)(4), which requires a 5-foot-wide, Type A buffer along the north and south property lines, to allow a 4-foot-wide buffer along the southeast property line is hereby APPROVED, WITH THE CONDITION that the required Type A buffer is reduced to a 4-foot width only adjacent to the parking spaces as delineated on Staff Exhibit entitled "Deviations 2, 3, and 9 Condition Clarification." The number of trees required within this buffer must be calculated on the entire length of the buffer and must be planted within the 5-foot-wide side portions of the buffer.

Deviation (10) requesting relief from LDC Section 10-295, which requires street stubs to adjoining properties, to eliminate the street stub requirement is hereby APPROVED.

Deviation (11) requesting relief from LDC Section 34-2013, which requires a maximum width of 35 feet at the property line for the parking lot access, to allow a 40-foot-wide access is hereby DENIED, because the deviation is not needed under the current interpretation of the regulations.

Deviation (12) requesting relief from LDC Section 10-610(a), which requires parking to be developed throughout the site utilizing the same degree of angle, is hereby DENIED, because the deviation is not needed under the current interpretation of the regulations.

#### SECTION D. EXHIBITS:

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

- Exhibit A. The legal description and STRAP number of the subject property.
- Exhibit B. A reduced copy of the Circle "K" #7408 Expansion Master Concept Plan.
- Exhibit C. A map depicting the subject parcel (shaded in) in relation to the surrounding area.
- Exhibit D. Deviations 2, 3, and 9 Condition Clarification.

#### SECTION E. FINDINGS AND CONCLUSIONS:

1. The Applicant proved entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and any other applicable code or regulation.
2. The request, as conditioned:
  - a. will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request;
  - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
  - c. is compatible with existing or planned uses in the surrounding area; and

- d. will not adversely affect environmentally critical areas or natural resources.
3. The proposed use or mix of uses is appropriate at the subject location.
4. The development will not place an undue burden upon existing transportation or planned infrastructure facilities and it will be served by streets with the capacity to carry traffic generated by the development.
5. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest, and the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
6. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
7. The approved deviations, as conditioned, enhance the achievement of the objectives of the planned development, and preserve and promote the general intent of Chapter 34, Land Development Code, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner Coy, and seconded by Commissioner Manning and, upon being put to a vote, the result was as follows:

|                      |        |
|----------------------|--------|
| Ray Judah            | Aye    |
| John E. Manning      | Aye    |
| Douglas R. St. Cerny | Absent |
| Andrew W. Coy        | Aye    |
| John E. Albion       | Absent |

DULY PASSED AND ADOPTED this 25th day of May, 1999.

ATTEST:  
CHARLIE GREEN, CLERK

BY: *Patricia Johnson*  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: *Ray Judah*  
Chairman

Approved as to form by:

*David E. [Signature]*  
County Attorney's Office

MINUTES OFFICE

CASE NO. 99-02-026.02Z 01.01

*Page F*

Resolution No. Z-99-027  
Page 5 of 5

FILED MAY 26 1999

EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF SECTION 27, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 27 WITH THE EASTERLY RIGHT-OF-WAY LINE OF TAMiami TRAIL; THENCE RUN NORTH 36 DEGREES 43 MINUTES 45 SECONDS WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 445.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 36 DEGREES 43 MINUTES 45 SECONDS WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 255.00 FEET TO A POINT; THENCE RUN NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 426.40 FEET TO A POINT; THENCE RUN SOUTH 53 DEGREES 16 MINUTES 15 SECONDS WEST FOR A DISTANCE OF 341.75 FEET TO THE POINT OF BEGINNING. (CONTAINING: 43,573 SQUARE FEET).

STRAP NUMBERS

The applicant has indicated the STRAP #'s of the subject property are 27-43-24-00-00008.004A & 27-43-24-00-00008.0020.

[illegible]

SCHEDULE OF USES

- JOINTLY OWNED
- ACCESSORIES AND SUBSTRUCTURES
- ADMINISTRATIVE OFFICES
- 2nd (MULTISTORY TOWER BUILDING)
- BASES AND TOWER (STAIRWAYS)
- GROUP 1
- BURNING SERVICES (GROUP 1) AND 8
- CONFINEMENT OF FIRE & RESCUE
- GROUP 1
- PROVIDE FACILITIES FOR FIRE FIGHTERS USE
- EVACUATION, WATER ALLOCATION
- PLUMBING, WASTE
- 2nd & RESCUE SERVICE, UNITED
- FOOD SERVICES, GROUP 1 AND 2
- OFFICE AND SERVICE SHOP
- PLUMBING, ELEC, ACCESSORY AND TEMPORARY
- PLUMBING SERVICES (GROUP 1)
- WATER AND WASTE SERVICES
- WHEN CLIMATE MODIFIED, AND SUBSTRUCTURE
- WATER, PLUMBING, ELEC AND SAME SERVICES
- SELF-DEPENDENT, FIRE PUMP
- WORK IN ACCORDANCE WITH THE CHAPTER 30
- REQUIREMENTS
- 1. ELECTRICAL, SERVICES

PROJECT SUMMARY DATA

DIT AREA = 51,730 SF = 1.0 AC  
 LAND USE CLASSIFICATION = CENTRAL URBAN  
 (DRAINAGE ZONING = C-1) AND C-1.5  
 PROPOSED ZONING = CPG  
 WATER UTILITY = NORTH FORK WATER  
 SEWERAGE = FROM POTABLE WATER  
 SEWER UTILITY = TSP-AC TANK  
 FIRE DISTRICT = NORTH FORK OVERSEER FIRE DEPARTMENT  
 FLOOD ZONE = AL, BASE FLOOD ELEVATION 17'-10"

OPEN SPACE TABLE

NET SITE AREA = 42,373 sq ft  
TOTAL OPEN SPACE REQ'D (20%) = 8,475 sq ft @ 20% = 8,475 sq ft  
TOTAL OPEN SPACE PROVIDED = 8,475 sq ft OR MORE

## PROJECT DEVELOPMENT STANDARDS

WMA AREA DIMENSIONS  
 WMA LOT AREA = 7,500 SF  
 WMA LOT WIDTH = 15 FT  
 WMA LOT DEPTH = 500 FT  
 WMA BUILDING MEASUREMENTS  
 AREA = 25 FT  
 SIDE MEASUREMENTS = 57 FT (INCLUDE BUILDINGS)  
 SIDE MEASUREMENTS = 15 FT (FOR NEW BUILDINGS)  
 MEAN BUILDING HEIGHT = 35'  
 WMA LOT COVERAGE = 10%

PROJECT NOTES AND GENERAL CONDITIONS

1) the master concept plan depicts the project's general configuration and as such is for conceptual review and funding purposes only. the plan's final land use, resource planning and circulation areas, building footprints, surface water management system and other functional elements will be determined at the final development order application.

7) LAYOUTS SHOWN FOR THE PROJECT PARKING AND CIRCULATION SHALL CONFORM WITH LDC 34-3013 TO 34-3078.

3) LANDSCAPE OPEN SPACE AND BUFFERING SHALL CONFORM WITH LOC 18-016 TO 18-018.

4) THE PROPERTY IS LOCATED ON LEE TRAIL BUS ROUTE 98 - NORTH FOR  
WHERE THERE IS A NORTH-BOUND BUS STOP ON THE EAST SIDE OF R.

TAMARA FRAG. JUST SOUTH OF CIRCLE K. THERE IS A SOUTH-BOUND BUS STOP ON THE WEST SIDE OF R. TAMARA FRAG. NEAR THE SOUTH ENTRANCE THE STEEL FACTORY.

3) PROJECTION LOCATIONS ARE TO BE DETERMINED AT THE TIME OF FIVE DEVELOPMENT ORDER PERMITTING.

8) PLACES FOR DYE ARE: 104 = RETAIL SALES AND SERVICES (TINS, CONSUMABLE STORES, 1417 PETROLEUM), AND 181 = UNOCCUPIED LAND

IN THE 100-200 SQ. MI. P. A. MARIANA-LIBREY LAND COMPLEX

\_\_\_\_\_

|           |  |
|-----------|--|
| ing, Inc. |  |
|-----------|--|

|                                                   |  |
|---------------------------------------------------|--|
| <p><u>37</u></p> <p><u>and Land Surveyors</u></p> |  |
|---------------------------------------------------|--|

|                       |  |
|-----------------------|--|
| FD-101 (Rev. 1-27-60) |  |
|-----------------------|--|

|                                       |  |          |    |
|---------------------------------------|--|----------|----|
| NAME (S, FLORIDA 34187<br>911)03-8448 |  | 01/19/79 | 1. |
|---------------------------------------|--|----------|----|

RECEIVED  
APR 02 1999  
DEVELOPMENT SERVICES

TOSCO MARKETING COMPANY

3630 BRECKENRIDGE PARK DRIVE, SUITE 300  
TAMPA, FLORIDA 33610  
PHONE: (813) 671-5338  
FAX: (813) 744-5231

**Banks Engineering, Inc.**

Professional Engineers, Planners &amp; Land Surveyors

10501 DE WILE CYNTHIA PARKWAY • SUITE 104 FORT WORTH, TEXAS 76111  
TEL: (817) 335-5400 FAX: (817) 335-1513

4-10 SOUTH SHORE FRANK ROAD c. 2417 NW HAWKES FLORES 24182

7-0-42 (9-11) 103-0000 FAR (9-11) 03-0000

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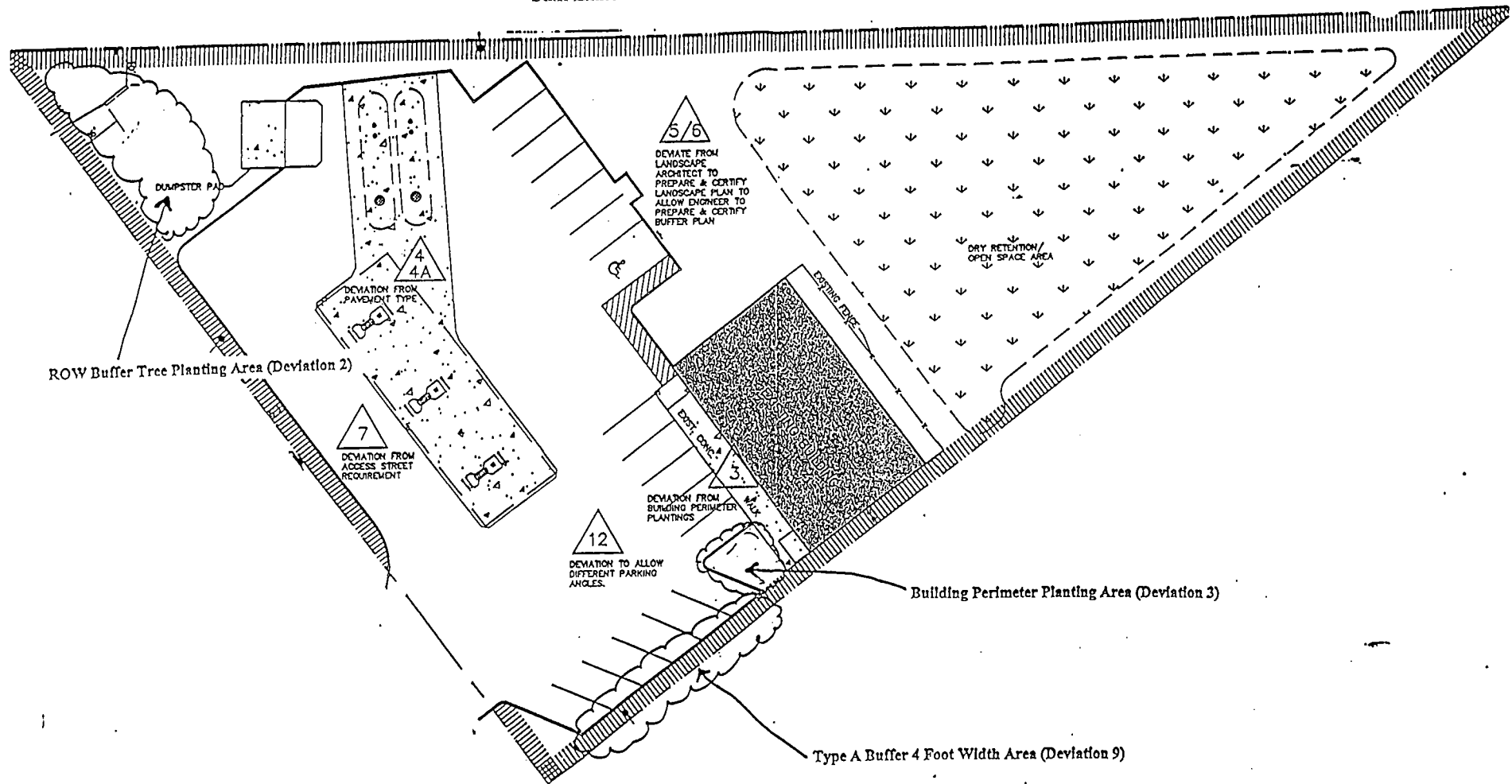
MASTER CONCEPT PLAN  
CIRCLE K #7408 EXPANSION  
LEE COUNTY, FLORIDA

| DATE     | PROJECT | PERSONS | DESIGN | BRANCH | TIME | SCALE  | SHEET | OF |
|----------|---------|---------|--------|--------|------|--------|-------|----|
| 01/10/70 | 1303    | MCP     | PLN    | PLN    | 19L  | 1"=30' | 1     | 1  |





Staff Exhibit: Deviations 2, 3 a' Condition Clarification



Circle K #7408 Expansion  
CPD Case #99-02-026.02Z 01.01

EXHIBIT D

## Exhibit C

LEE COUNTY, FLORIDA

DEPARTMENT OF COMMUNITY DEVELOPMENT

**PROJECT NAME:** OC EASY STORAGE, LLC.

**TYPE OF CASE:** Amend a Planned Development

ADD 2021-00220

**Amend CPD to include Mini-Warehouse and Storage Open**

**LOCATION:** The property (the "Subject Property") is located at 2750 North Tamiami Trail, North Fort Myers FL. 33903

The STRAP number is: 27-43-24-00-00008.0020

### REQUEST STATEMENT

#### About the Applicant

This is a written justification in response to the request in the zoning review of our **application to amend the CPD**. OC Easy Storage, LLC ("Easy Storage") was established in 2016 and is a family-owned business. Don and Dana Warner, with their partner Jeff Lineberger, own and operate two facilities in Orange County, California. Both Easy Storage facilities are highly successful and are currently at full capacity because of the continued demand for areas to store recreational vehicles, boats, trailers, and personal property. Their facilities include a state-of-the-art security system, easy access to a secure entry and exit gate, daily rounds by a maintenance team and monthly pest control services. These features and services will be adopted in this new facility in North Fort Myers as well, which will provide storage for recreational vehicles, boats, trailers, and 5th wheel vehicles, as well as other private property.

## II About the property

The subject property is a 6.28+ acre parcel lying along Tamiami Trail. Approximately 488 feet north of the intersection of Laurel Drive and North Tamiami Trail. The subject property is located across from the North Tamiami Trail entrance to the shell Factory property. The subject property currently has (2) separate zonings. The larger parcel consisting of approximately 245,984 sq. ft is zoned C1-A. The smaller parcel consisting of approximately 27,573 sq. ft is zoned CPD. The application and request is to amend the CPD "Schedule of Uses" to allow Mini-Warehouse and Storage Open on CPD zoned parcel as described herein: A PORTION OF SECTION 27, TOWNSHIP 43 SOUTH, - RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH ½ OF THE SOUTH ½ OF THE SOUTH 1/2 OF THE NORTHEAST, 1/4 OF SAID SECTION 27 WITH THE EASTERLY RIGHT-OF-WAY LINE OF TAMIAMI TRAIL; THENCE RUN NORTH 36 DEGREES 43 MINUTES. 45 SECONDS WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 445.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 36 DEGREES 43 MINUTES 45 SECONDS WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 255.00 FEET TO A POINT; THENCE RUN NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 426.40 FEET TO A POINT; THENCE RUN SOUTH 53 DEGREES 16 MINUTES 15 SECONDS WEST FOR A DISTANCE OF 341.75 FEET TO THE POINT OF BEGINNING. (CONTAINING: 43,573 SQUARE FEET), The requested action meets the criteria set forth in LDC Section 34-174-(i)(2) for granting administration approval as required by LDC Section 34-203(6).

## III Administrative Amendment to A Planned Development

The specific request from the Lee County Department of Community Development is as follows:

Please provide a written justification to demonstrate the requested action meets the criteria set forth in LDC Section 34-174(i)(2) for granting administrative approval as required by LDC Section 34-203(6).

a.) Does not increase height, density, or intensity of the development, except as permitted in chapter 2.

**Our proposed use will comply with all height, density and intensity of development requirements as set forth by LDC codes and requirements. Section 33-1576 specifies the design of all structures and buildings within a development and all structures on the proposed site will comply with this code.**

b.) Does not result in the substantial underutilization of public resources and public infrastructure committed to the support of the development.

**The addition of a high-quality storage facility will utilize the public resources and infrastructure to the fullest capabilities. The supporting roadways and utilities will all be utilized to allow the storage facility to operate and provide the best service possible to the citizens of Lee County. The project will not affect any critical or sensitive areas, and is served by the adequate urban services, although the requested storage uses will have little demand for such services. Access will be via secured, remote-controlled gate than can be opened before turning in the access driveway. There will also be a long entrance driveway to further avoid queuing at the gate. There is a sidewalk along the North Tamiami Trail frontage that will remain in place and maintain connection with corridor properties.**

c.) Does not result in a reduction of total open space provided on the master concept plan by more than ten percent.

The proposed project complies with the open space requirements as set forth in the LDC codes and requirements as well as the Lee Plan. We are not requesting a variance for open space and will comply with all the open space requirements. This project will have the enhanced landscaping and screening required for storage facilities.

d.) Does not decrease the amount of indigenous native vegetation preservation or open space areas below the amount required by the Code.

The proposed project is on a site that does not have indigenous vegetation. The initial environmental report did not reveal any protected species or vegetation. The proposed development will preserve all open space requirements as required by the code. Lee County staff also required the applicant to demonstrate compliance with Section 33- 1582, which applies to " projects with existing native trees." There are no native trees or tree clusters or heritage trees on the subject land

e.) If changes to the buffer or landscaping areas are proposed, equivalent or better (by comparison with the approved Master Concept Plan) landscaping or buffering is provided.

The buffering will comply with all landscaping and buffering requirements as defined by the Lee County Development Code (please see schedule of deviations below). The proposed project is utilizing larger than required buffering with landscaping throughout. This project, with the screening and landscape buffering required for storage, will be more compatible than other commercial uses permitted by right on the Subject Property (Consistent with Policy 6.1.6). Under LDC Section 33-1581, buffers must be set back 20 feet from North Tamiami Trail and must be behind a continuous 6 feet high wall with landscaping outside the wall (LDC Sections 34- 3005(1) and 10-42I(a)(8)). The applicant will comply with these requirements as shown on its site plan.

f.) Does not adversely impact surrounding land uses.

The proposed project and use do not adversely impact the surrounding areas. There has been extreme care taken in the design of this project to protect the comfort and living conditions of the surrounding areas. There is sufficient buffering and screening on all sides of the proposed project and the service of additional storage for the area is needed for the community. The request to amend the CPD is consistent with existing and planned uses of the surrounding parcels along the North Tamiami Trail corridor as all are in the same Commercial use overlay. Across North Tamiami Trail (to the west) is the Shell Factory, a CPD with commercial uses fronting on North Tamiami Trail. The parcels to the north and south of the Shell Factory previously had C-2 zoning, an intensive, wide - ranging commercial zoning category no longer available, and now have the same Commercial corridor overlay uses. These properties have ongoing commercial and light industrial such as The Motorplex shop to the south, a diesel engine machine shop.

g.) Is consistent with all applicable provisions of the Lee Plan and land development regulations in effect at the time of the amendment request.

The proposed project is consistent with all provisions and requirements of the Lee Plan as well as all land development regulations. Storage is currently an approved use within the Community Planned Development zones and is consistent with the vision and intent of the Lee Plan. As noted above, the Subject Property is classified as Central Urban, the part of the County that is already the most heavily

settled and which has or will have the highest levels of urban services, and where "Commercial and light industrial land uses are intended to predominate." The requested use on the subject parcel fits this description (consistent with Lee Plan Policy 6.1.7 as well as Lee Plan Policy 1.1.3) The Subject Property fronts on an arterial road with many residential communities nearby. Many of these communities have residents with RVs or boats they cannot store at on their property who wish to store in a covered storage area with mini storage not normally provided at storage areas in the community. Locating the proposed use on the Subject Property promotes continuous and compact growth patterns and contains urban sprawl, consistent with Goal I and Objective 2.1 of the Lee Plan.

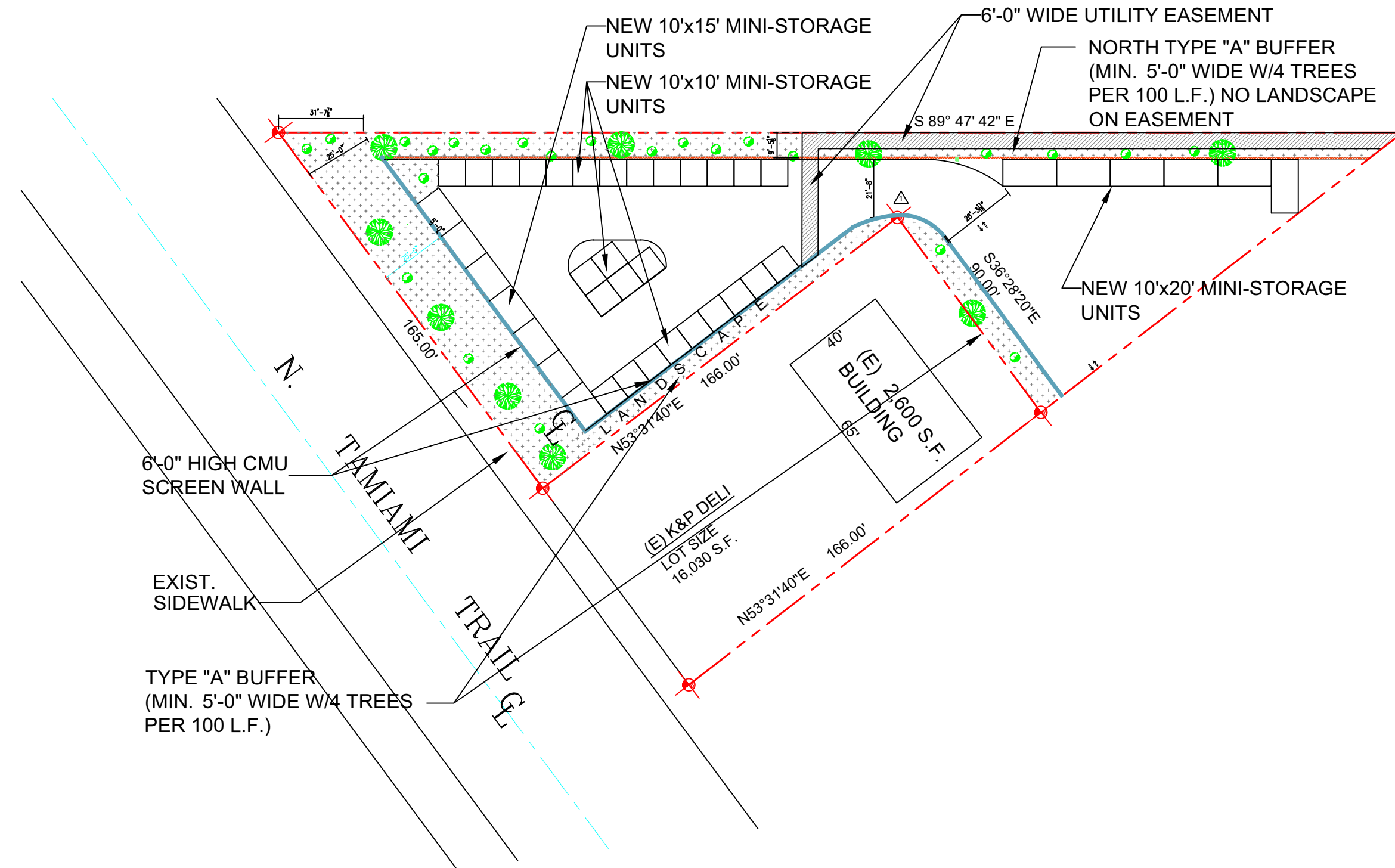
**Conclusion:**

A proposed Master Concept Plan for the request is included with supporting documentation. OC Easy Storage submits that its proposed project, incorporating the features used in OC Easy Storage's currently operated facilities, will be an attractive addition to the community, and present a high-quality, conveniently located, secure self-storage alternative for customers who wish to protect their investment from the elements. We are excited to enhance and add to the already vibrant community of North Fort Myers.

**Schedule of Deviations:**

- 1. Deviation from LDC Section 33-1581(b):** OC Easy Storage is requesting a deviation from the requirement of a Type A buffer that is five-feet wide and has four trees per 100 linear feet. Please allow a tapered buffer while still meeting the tree requirements of four trees per 100 linear feet at the northwest corner of the portion labeled "K&P DELI", as reflected on the Master Concept Plan. This deviation is necessary to comply with LDC Section 34-2016(3) of a 20' wide access drive aisle to access the mini warehouse storage.

Exhibit D



MASTER CONCEPT PLAN

SCALE : 1" = 40' - 0"

1



SCHEDULE OF USES

ACCESSORY USES AND STRUCTURES  
ADMINISTRATIVE OFFICES  
ATM (AUTOMOTIVE TELLER MACHINE)  
BANKS AND FINANCIAL ESTABLISHMENTS, GROUPS I AND II  
BUSINESS SERVICES, GROUPS I AND II  
CONVENIENCE FOOD & BEVERAGE STORE  
DRIVE THOUGH FACILITY FOR ANY PERMITTED USE  
ESSENTIAL SERVICES  
EXCAVATION, WATER RETENTION  
FENCES, WALLS  
FOOD & BEVERAGE SERVICE, LIMITED  
FOOD STORES, GROUPS I AND II  
GIFT AND SOUVENIR SHOP  
PARKING LOT, ACCESSORY AND TEMPORARY  
PERSONAL SERVICES GROUP I  
RETAIL AND WHOLESALE SALES, WHEN CLEARLY INCIDENTAL AND SUBORDINATE TO THE PRINCIPAL USE ON THE SAME PERMISES  
SELF-SERVICE FUEL PUMPS  
SIGNS, IN ACCORDANCE WITH LDC CHAPTER 30  
TEMPORARY USES  
MINI WAREHOUSE  
STORAGE OPEN

LOT COV.

TOTAL SQ. FT. : 43,573 S.F.  
TOTAL IMPROVEMENTS : 7,756 S.F.  
TOTAL PAVED AREA : 21,913 S.F.  
TOTAL OPEN SPACE : 13,904 S.F.

PROJECT ADDRESS

2750 N. TAMAMI TRAIL  
NORTH FORK MYERS, FL. 33903

LEGAL DESCRIPTION

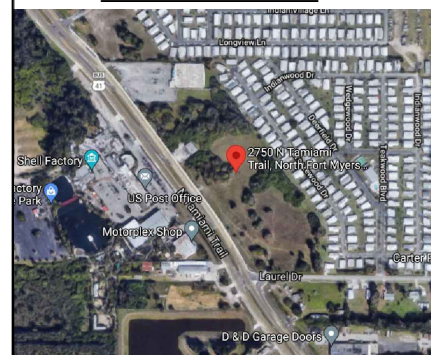
A PORTION OF SECTION 27, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 27 WITH THE EASTERLY RIGHT-OF-WAY LINE OF TAMAMI TRAIL; THENCE RUN NORTH 36 DEGREES 43 MINUTES 45 SECONDS WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE NORTH 36 DEGREES 43 MINUTES 45 SECONDS WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 255.00 FEET TO A POINT; THENCE RUN NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 423.40 FEET TO A POINT THENCE RUN SOUTH 53 DEGREES 16 MINUTES 15 SECONDS WEST FOR A DISTANCE OF 341.75 FEET TO THE POINT OF BEGINNING.  
(CONTAINING: 43,573 SQUARE FEET)

SCHEDULE OF DEVINATION

△ A DEVIATION FROM LDC 33-1581 (B) TO ALLOW A TAPERED BUFFER AT THE NORTHWEST CORNER OF THE PORTION LABELED CIRCLE K TO ALLOW THE BUFFER TO TAPER WHILE MANITAING TREE REQUIREMENTS OF 4 TREES PER 100 L.F.

VICINITY MAP



STAMP :

OLFATI  
DESIGN  
GROUP

ARCHITECTURE  
PLANNING  
ENGINEERING

5199 E. PACIFIC COAST HIGHWAY  
SUITE #214  
LONG BEACH, CA 90804

TELEPHONE : (562) 986-4313

FAX : (562) 986-4312

EMAIL : olfatidesign@aol.com

WEBSITE : www.olfatidesign.com

PROJECT :

TAMIAMI R.V.

2750 N. TAMAMI TRAIL  
NORTH FORT MYERS,  
FL. 33903

22-9

SHEET TITLE :

MASTER  
CONCEPT  
PLAN

CLIENT :

DRAWN BY : JB

CHK BY : A.O.

SCALE : AS SHOWN

DATE : 03-11-2022

△ REVISION :

IMPORTANT NOTE : ALL RIGHTS RESERVED  
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CONSENT OF OLFATI DESIGN GROUP.  
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VISUAL CONTACT WITH THESE DOCUMENTS  
SHALL CONSTITUTE EVIDENCE OF ACCEPTANCE  
OF THESE RESTRICTIONS.

SHEET NO.

A-1

## Exhibit E



Don Warner &lt;donwarner.hb@gmail.com&gt;

**Fw: Minutes NFMDRP/PP December 7, 2021 Meeting**

1 message

**Richard Thomas** <mbuilder26@yahoo.com>

Mon, Dec 13, 2021 at 7:54 AM

To: Charlie Krebs <chaslk70@comcast.net>, Debbie Jackow <debjack12@gmail.com>, John Gardner <john@lciquotes.com>, Wayne Daltrey <happyoldfogey@aol.com>, Jack Howerton <jackhowertonsc@gmail.com>, Richard Thomas <mbuilder26@yahoo.com>, Rudy Berndlmaier <rberndlmaier@kingindustries.com>, Rudy Berndlmaier <rudy.nfmca@gmail.com>, Laura Malcolm Lewis <laura.nfmca@gmail.com>  
Cc: Melanie Legare <mlegare@knott-law.com>, "Mark A. Ebelini" <mebelini@knott-law.com>, Don Warner <donwarner.hb@gmail.com>

**Subject:** Minutes NFMDRP/PP December 7, 2021 Meeting

**MINUTES**  
**JOINT MEETING OF THE NORTH FORT MYERS DESIGN**  
**REVIEW PANEL**  
**AND**  
**THE NORTH FOR MYERS COMMUNITY PLANNING PANEL**

**NORTH FORT MYERS RECREATION CENTER**

**2000 N. RECREATION WAY**

**NORTH FORT MYERS, FL**

**DECEMBER 7, 2021**

**6:00 PM**

**ATTENDEES:**

Panel Members: John Gardner, Jack Howerton, Rudy Berndlmaier, Richard Thomas

1. CALL TO ORDER: The meeting was called to order at 6:00 PM by Richard Thomas
2. APPROVAL OF AGENDA: The agenda was approved as presented.
3. APPROVAL OF LAST MEETING MINUTES: The minutes were approved as published.
4. NEW BUSINESS: OC Easy Storage Amendment: The request was presented by Mark Ebellini of Knott-Ebellini-Hart. This project was previously presented and approved but requires a Special Exception for covered storage. The site is zoned CPD. Proposed is to add 18 10X15 Storage units on the North portion of the property. There will be landscaping and wall as required for open

storage. No amenities such as wash stations, etc. will be provided. A motion of " No Objection" was made by Jphn Gardner and seconded by Jack Howerton. The motion was approved.

5. OLD BUSINESS: There was no Old Business

6. OTHER BUSINESS: There was no Old Business

7. ADJOURNMENT: The meeting was adjourned at 6:15 PM

THE NEXT MEETING WILL BE ON JANUARY 4, 2022 -N. FT. MYERS REC. CENTER

-Applicant: OC Easy Storage, LLC  
-Action Requested: This is a request to  
amend the approved master concept  
plan for an existing CPD for mini ware-  
house storage for 2750 North Tamiami  
Trail, North Fort Myers, FL  
-PUBLIC NOTICE  
-NORTH FORT MEYERS DESIGN REVIEW  
PANEL  
-Public Presentation Date: December  
7, 2021  
-Site Project Name: OC Easy Storage, LLC  
-Time: 6:00pm  
-Location: NFM Recreation Center, 2000  
Recreation Way, North Fort Myers, FL  
33903  
-For more information, contact: Dick  
Thomas, mbuilder26@yahoo.com  
-North Fort Myers Community Planning  
and Design Review Panel  
AD # 5025651

APPLICANT: OC EASY STORAGE, LLC

ACTION REQUESTED:

REQUEST TO AMEND THE APPROVED MASTER CONCEPT  
PLAN FOR AN EXISTING CPD FOR MINI WAREHOUSE  
STORAGE FOR 2750 NORTH TAMiami TRAIL, NORTH  
FORT MYERS, FL

## PUBLIC NOTICE

# NFM

PUBLIC PRESENTATION DATE: December 7, 2021

SITE PROJECT NAME: OC EASY STORAGE, LLC

TIME: 6PM

LOCATION: NORTH FORT MYERS

RECREATION CENTER 2000 RECREATION WAY  
NORTH FORT MYERS FL 33903

FOR MORE INFORMATION CONTACT:

Dick Thomas mbuilder26@yahoo.com

North Fort Myers Community Planning & Design Review Panel

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER DECISION

**SPECIAL EXCEPTION:** SEZ2021-00015

**Regarding:** OC EASY RV & BOAT STORAGE

**Location:** 2750 North Tamiami Trail  
North Fort Myers Planning Community  
(District 4)

**Hearing Date:** May 5, 2022

**Record Closed:** May 27, 2022

**I. Request**

Special Exception in the Commercial Planned Development (CPD) and Commercial (C-1A) zoning districts to allow Storage, Open, and Mini-warehouse.

**II. Hearing Examiner Decision**

Approved, subject to the conditions set forth in Section V.

**III. Discussion**

The request seeks a special exception in the CPD and C-1A zoning district for Storage, Open, and Mini-Warehouse in the North Fort Myers Commercial Corridor. The 6.28 acre property lies along Old US 41/Tamiami Trail within the North Fort Myers Planning Community.<sup>1</sup> The planned facility will be comprised of covered storage for recreational vehicles and boats as well as mini-warehouse and ancillary offices.

The site plan establishes the following development parameters: 21,775 square feet of mini-storage and 74,250 square feet of covered boat/RV storage with 689 square feet of ancillary office space. Recommended conditions of approval caps project square footage at 96,714.

---

<sup>1</sup> The 6.28 acre site lies within two zoning districts. The majority of the site is zoned C-1A with no zoning history. The north west corner of the site is zoned CPD with administrative approval for Mini-Warehouse and Storage, Open with a deviation from LDC 33-1581(b) allowing for reduced landscape buffers.

Case: SEZ2021-00015

### **Special Exceptions**

Special exceptions are departures from the County's land development regulations for uses not permitted within a zoning district unless controlled by conditions.<sup>2</sup>

Under the Land Development Code (LDC), a Hearing Examiner *must* grant a special exception request unless:

1. The request is contrary to public interest and the health, safety, welfare, comfort, and convenience of the citizens of the County; or,
2. If the requested use conflicts with the findings necessary to approve a special exception.<sup>3</sup>

In reaching this decision, the Hearing Examiner may attach conditions necessary to protect the public.

### **Character of the Area**

The property lies within the North Fort Myers Planning Community. The County's long range vision for the community is improved livability and economic vitality.<sup>4</sup>

The site's western boundary is located on the Old US 41/Tamiami Trail commercial corridor.<sup>5</sup> Much of the Old US 41 frontage is zoned for commercial development.<sup>6</sup> The Laurel Estates mobile home community lies a short distance to the north. A portion of the community abuts the west boundary of the site.

Public services, facilities, and infrastructure are available to serve the area including transit.<sup>7</sup>

---

<sup>2</sup> LDC 34-2.

<sup>3</sup> LDC 34-145(c)(4)a.; LDC 34-145(c)(3) Before granting a special exception, the Hearing Examiner must find the request:

- a. is consistent with the goals, objectives, policies and intent of the Lee Plan;
- b. will protect, conserve or preserve environmentally critical areas and natural resources (when applicable);
- c. will be compatible with existing or planned uses;
- d. will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and,
- e. the use will comply with the LDC and other County regulations.

<sup>4</sup> Lee Plan Goal 30, *see also* Goal 158 (Directive that Lee County maintain a diversified economy by providing positive business climate).

<sup>5</sup> LDC 33-1566(b).

<sup>6</sup> Property to the north and south are vacant and zoned for commercial development. The site is directly across Old 41 from the Shell Factory.

<sup>7</sup> Lee Tran Route 590 runs along Old US 41/Tamiami Trail in front of the property.

Case: SEZ2021-00015

## **History**

The 6.28 acre site lies within two zoning districts. The majority of the site is zoned C-1A with no zoning history. The northwest corner of the site was zoned to CPD in 1999.<sup>8</sup> The CPD later obtained administrative approval for Mini-Warehouse and Storage, Open and a deviation providing relief from landscape buffering standards in 2021.<sup>9</sup>

The County approved the North Fort Myers Community Plan in 2009.<sup>10</sup> Community specific LDC regulations classify the property within a Corridor Overlay District.<sup>11</sup>

The property is cleared with some exotic vegetation and a billboard.

## **Special Exception Criteria**

The Hearing Examiner must find a request for special exception approval complies with the following criteria:

Special Exceptions must be consistent with the Lee Plan.<sup>12</sup>

The Lee Plan Future Land Use Map classifies the property as Central Urban in the North Fort Myers Planning Community.<sup>13</sup> The Central Urban land use category is the second most intense under the Lee Plan.<sup>14</sup> Central Urban areas typically contain a variety of housing and commercial development.<sup>15</sup> Old 41 in North Fort Myers is an established commercial corridor.

Open storage and mini-warehouse uses further Lee Plan directives to improve livability and economic vitality in North Fort Myers by providing additional opportunities to store recreational vehicles, boats, and other items proximate to residential communities.<sup>16</sup>

---

<sup>8</sup> Z 99-027 approved May 25, 1999.

<sup>9</sup> ADD2021-00220 approved April 18, 2022 granting relief from LDC 33-1581(b).

<sup>10</sup> Lee Plan Goal 30.

<sup>11</sup> LDC 33-1536, 33-1566 (Commercial Corridor land development regulations).

<sup>12</sup> LDC 34-145(c)(3)a.1, 34-491(a).

<sup>13</sup> Lee Plan Policy 1.1.3; Map 1-A: Future Land Use Map and Map 1-B: Planning Districts.

<sup>14</sup> Buildings in the Central Urban land use category may be as tall as 135 feet above minimum flood. LDC 34-2175(b). Applicant will limit building height to 35 feet above minimum flood.

<sup>15</sup> The Central Urban category offers the greatest range and highest levels of public services and infrastructure. Lee Plan Policy 1.1.3.

<sup>16</sup> The proposal is for approximately 80,000 square feet of covered boat and RV storage. In addition, Applicant proposes individual storage units and a small office building.

Case: SEZ2021-00015

Special Exceptions must protect environmentally critical /sensitive areas when applicable.<sup>17</sup>

There will be no impact to environmentally critical/sensitive areas or natural resources. Developer will remove exotic vegetation on the site as a condition of development order approval.

Special Exceptions must be compatible with existing and planned uses.<sup>18</sup>

Compatibility exists between land uses when they can exist in proximity, and no one use unduly negatively impacts another use.<sup>19</sup> Old 41/Tamiami Trail in North Fort Myers is within the commercial corridor and features a mix of commercially zoned property. Nearby residential development will be protected by buffering and landscaping.<sup>20</sup>

The County must administer zoning processes so that proposed land uses acceptably minimize adverse impacts on residential property. Conditions must rationally relate to impacts anticipated from the requested special exception.<sup>21</sup> Proposed conditions protect the character and integrity of nearby residences by establishing caps on intensity.<sup>22</sup>

Special Exceptions may not injure the neighborhood or be detrimental to public welfare.<sup>23</sup>

The Lee Plan directs the County to administer the zoning process so that proposed land uses acceptably minimize adverse impacts on adjacent residential development.<sup>24</sup> Applicant must demonstrate the special exception will not have an adverse effect on surrounding property.

The proposed site plan depicts a vegetated buffer surrounding the tract.<sup>25</sup> The buffer is comprised of a wall/fence, trees, and shrubs, which will screen the storage facility from adjacent property and provide a measure of security.<sup>26</sup>

---

<sup>17</sup> LDC 34-145(c)(3)a.2.

<sup>18</sup> LDC 34-145(c)(3)a.3.

<sup>19</sup> Florida Statutes s. 163.3164(9); The Lee Plan offers benchmarks from which to measure compatibility of uses adjacent to residential development. See Lee Plan Policies 5.1.5, 135.9.5, 135.9.6.

<sup>20</sup> LDC 33-1581(b).

<sup>21</sup> LDC 34-145(c)(4)b.

<sup>22</sup> Lee Plan Policies 5.1.5, 135.9.5, 135.9.6; See LDC 34-624, 34-625.

<sup>23</sup> LDC 34-145(c)(3)a.4.

<sup>24</sup> Lee Plan Policy 135.9.6. Uses may not *create a nuisance by offending nearby residents*. LDC 34-624.

<sup>25</sup> Staff Report Attachment H Site Plan, as amended by post hearing submittal.

<sup>26</sup> The adjacent property is developed with a convenience food and beverage store and a mobile home community known as Laurel Estates.

Case: SEZ2021-00015

The LDC authorizes the requested use along commercial corridors in the North Fort Myers Planning Community by special exception.<sup>27</sup> The proposed site design and conditions ensure the project intensity will not be detrimental to public welfare.

Special Exceptions must comply with zoning and other applicable regulations.<sup>28</sup>

The North Fort Myers Community planning regulations require commercial development to provide interconnections for automobile, bicycle, and pedestrian traffic. This requirement applies to new development involving the addition of building square footage.<sup>29</sup> The application included no request for variance/deviation from this requirement and the site plan does not include the interconnection. Applicant may seek relief from the requirement through the Administrative Amendment process.<sup>30</sup>

Commercial development triggers LDC building design criteria to enhance aesthetics and community character.<sup>31</sup> These standards include architecture, lighting, landscaping, and buffering.<sup>32</sup> Testimony at hearing confirmed there would be enhanced landscaping and a decorative wall along Old 41.<sup>33</sup> The mini-warehouse and office building must comply with LDC design criteria for North Fort Myers commercial corridors.

County staff will evaluate transportation related impacts during the development order review process.<sup>34</sup>

### **Public**

Applicant hosted an advertised meeting in the North Fort Myers community prior to hearing.<sup>35</sup> Members of the public attended the hearing before the Hearing Examiner but did not speak on the record.

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<sup>27</sup> LDC 33-1596; *see also* LDC 33-1537.

<sup>28</sup> LDC 34-145(c)(3)a.5.

<sup>29</sup> LDC 33-1548.

<sup>30</sup> LDC 33-1545.

<sup>31</sup> Development along commercial corridors in the North Fort Myers Planning Community is subject to special design standards. LDC 33-1576. *See also* LDC 10-600 *et seq.*

<sup>32</sup> LDC 33-1576.

<sup>33</sup> Lee Plan Policy 30.3.1.

<sup>34</sup> LDC 10-154.

<sup>35</sup> Lee Plan Policy 17.3.5, LDC 33-1532; Meeting held on October 5, 2021.

Case: SEZ2021-00015

### **Conclusion**

The Hearing Examiner concurs with Staff's analysis and recommendation of approval. The requested special exception for Storage, Open, and Mini-Warehouse meets LDC approval criteria.

The Hearing Examiner also finds that as conditioned, the requested special exception will not be detrimental to the residents of North Fort Myers. As conditioned herein, the use is not anticipated to have a negative impact on public health, safety, or welfare.

### **IV. Findings and Conclusions**

Based upon the testimony and exhibits presented at hearing, the Hearing Examiner finds as conditioned, the proposed Storage, Open and Mini-Warehouse use meets the following criteria:

- A. Is consistent with the Lee Plan Goals 2, 6, 17, 30, and Policies 1.1.3, 5.1.5, 6.1.1, 6.1.7, 17.3.5, 30.2.5, 30.3.1, 135.9.5, 135.9.6;
- B. Will protect, conserve or preserve environmentally critical and natural resources. Lee Plan Goal 77,
- C. Will be compatible with existing or planned uses. See Lee Plan Goal 30, Policies 5.1.5, 6.1.4, 6.1.7, 135.9.5, 135.9.6;
- D. Will not be injurious to the neighborhood or detrimental to the public welfare. See Lee Plan Policies 5.1.5, 6.1.6, 135.9.6; and
- E. Will comply with zoning provisions pertaining to the use and other County regulations, or will seek relief through the administrative deviation process. See §§ LDC 10-7, 33-1531 *et seq*, 34-145(c).

### **V. Conditions of Approval**

The Special Exception is subject to the following conditions of approval:

- 1. The development must be consistent with the site plan entitled "Enlarged Proposed Site Plan," dated May 24, 2022. (Exhibit B)
- 2. Site may contain a maximum of 96,714 square feet of improved area as follows:
  - a. 689 square feet of administrative office use

Case: SEZ2021-00015

- b. 21,775 square feet of mini warehouse use
  - c. 74,250 square feet Storage, Open
3. Issuance of a County development permit does not establish a right to obtain permits from state and federal agencies. Further, it does not establish liability on the County if developer: (a) does not obtain requisite approvals or fulfill obligations imposed by state or federal agencies or (b) undertakes actions resulting in violation of state or federal law.

**VI. Participants**

**Staff**

1. Courtney Gordon

**Applicant Representatives**

1. Jeff Lineberger
2. Don Warner

**Public Participants**

None

**VII. Legal Description**

Exhibit A (scanned legal description with vicinity map).

Strap # furnished by the Applicant: 27-43-24-00-00008.0020

**VIII. Exhibits Submitted at Hearing**

**Staff Exhibits**

1. *DCD Staff Report with attachments for DCI:* Prepared by Courtney Gordon, Planner, date stamped received April 28, 2022 (multiple pages – 8.5"x11" and 11"x14") [black and white, color]
2. *PowerPoint Presentation:* Prepared by Courtney Gordon, Planner with the Zoning Section of Lee County Department of Community Development, for OC Easy RV and Boat Storage, SEZ2021-00015, 2750 North Tamiami Trail (multiple pages – 8.5"x11")[color]

Case: SEZ2021-00015

3. *Written Submissions:* Memorandum from Courtney Gordon, to Ms. Donna Marie Collins, dated May 26, 2022 (1 page – 8.5"x11" and 11"x17"){post hearing submittal}

**IX. 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.

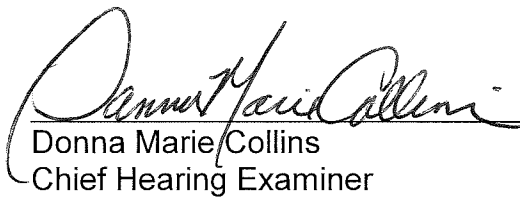
**X. Appeals**

The Hearing Examiner Decision is final on the date rendered. The Decision may be appealed to the Circuit Court in Lee County within 30 days of the date rendered. Appeal is by Petition for *Writ of Certiorari* in accordance with LDC 34-146.

**XI. 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.

Decision rendered June 6, 2022.

  
Donna Marie Collins  
Chief Hearing Examiner

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

Case: SEZ2021-00015

**Exhibits to Hearing Examiner Decision**

A: Legal Description and Vicinity Map

B: Site Plan "Enlarged Proposed Site Plan," dated May 24, 2022.

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**K.E. TRASK, P.A.**

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LAND SURVEYORS

A PARCEL LYING IN  
SECTION 27, TOWNSHIP 43 SOUTH, RANGE 24 EAST,  
LEE COUNTY, FLORIDA.

(2750 N. TAMiami TRAIL)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 27, TOWNSHIP 43 SOUTH, RANGE 24 EAST, BEING THE PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 4532, PAGE 4877, LEE COUNTY PUBLIC RECORDS AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27; THENCE N.00°13'13"W. ALONG THE EAST LINE OF SAID SECTION 27, FOR 331.91 FEET; THENCE N.89°54'30"W. ALONG THE SOUTH LINE OF THE NORTH HALF OF THE SOUTH HALF OF THE SOUTH HALF OF SAID NORTHEAST QUARTER OF SECTION 27, FOR 705.56 FEET; THENCE N.36°38'23"W. ALONG THE WESTERLY BOUNDARY OF LAUREL ESTATES MOBILE HOME SUBDIVISION, AN UNRECORDED SUBDIVISION AS SHOWN IN OFFICIAL RECORDS BOOK 886, PAGE 359, SAID PUBLIC RECORDS, FOR 99.84 FEET TO THE POINT OF BEGINNING, NORTHING COORDINATE 862045.39, EASTING COORDINATE 690877.63; THENCE N.89°54'17"W. ALONG THE BOUNDARY OF SAID PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 4532, PAGE 4877, FOR 600.50 FEET TO THE EASTERLY RIGHT OF WAY LINE OF N. TAMiami TRAIL (STATE ROAD 45) NORTHING COORDINATE 862046.39, EASTING COORDINATE 690277.13 ; THENCE N.36°38'24"W. ALONG SAID RIGHT OF WAY LINE AND SAID BOUNDARY FOR 344.29 FEET TO THE BOUNDARY OF THE PARCEL AS DESCRIBED IN OFFICIAL RECORD INSTRUMENT 2018000225304, SAID PUBLIC RECORDS; THENCE N.53°21'36"E. ALONG THE COMMON BOUNDARY OF SAID PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 4532, PAGE 4877 AND SAID THE PARCEL AS DESCRIBED IN OFFICIAL RECORD INSTRUMENT 2018000225304, FOR 166.03 FEET; THENCE N.36°35'23"W. ALONG SAID COMMON BOUNDARY FOR 89.96 FEET; THENCE S.53°21'36"W. ALONG SAID COMMON BOUNDARY FOR 166.11 FEET TO SAID EASTERLY RIGHT OF WAY LINE OF N. TAMiami TRAIL (STATE ROAD 45); THENCE N.36°38'24"W. ALONG SAID RIGHT OF WAY LINE AND SAID BOUNDARY OF THE PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 4532, PAGE 4877, FOR 165.53 FEET; THENCE LEAVING SAID RIGHT OF WAY LINE S.89°54'17"E. ALONG SAID BOUNDARY FOR 600.50 FEET; THENCE S.36°38'23"E. ALONG THE BOUNDARY OF SAID PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 4532, PAGE 4877 AND SAID BOUNDARY OF LAUREL ESTATES MOBILE HOME SUBDIVISION, FOR 599.78 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 273703.91 SQUARE FEET OR 6.28 ACRES, MORE OR LESS.

BEARINGS ARE REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983/1990, BASED ON THE RIGHT OF WAY LINE OF N. TAMiami TRAIL AS BEARING N36°38'24"W.

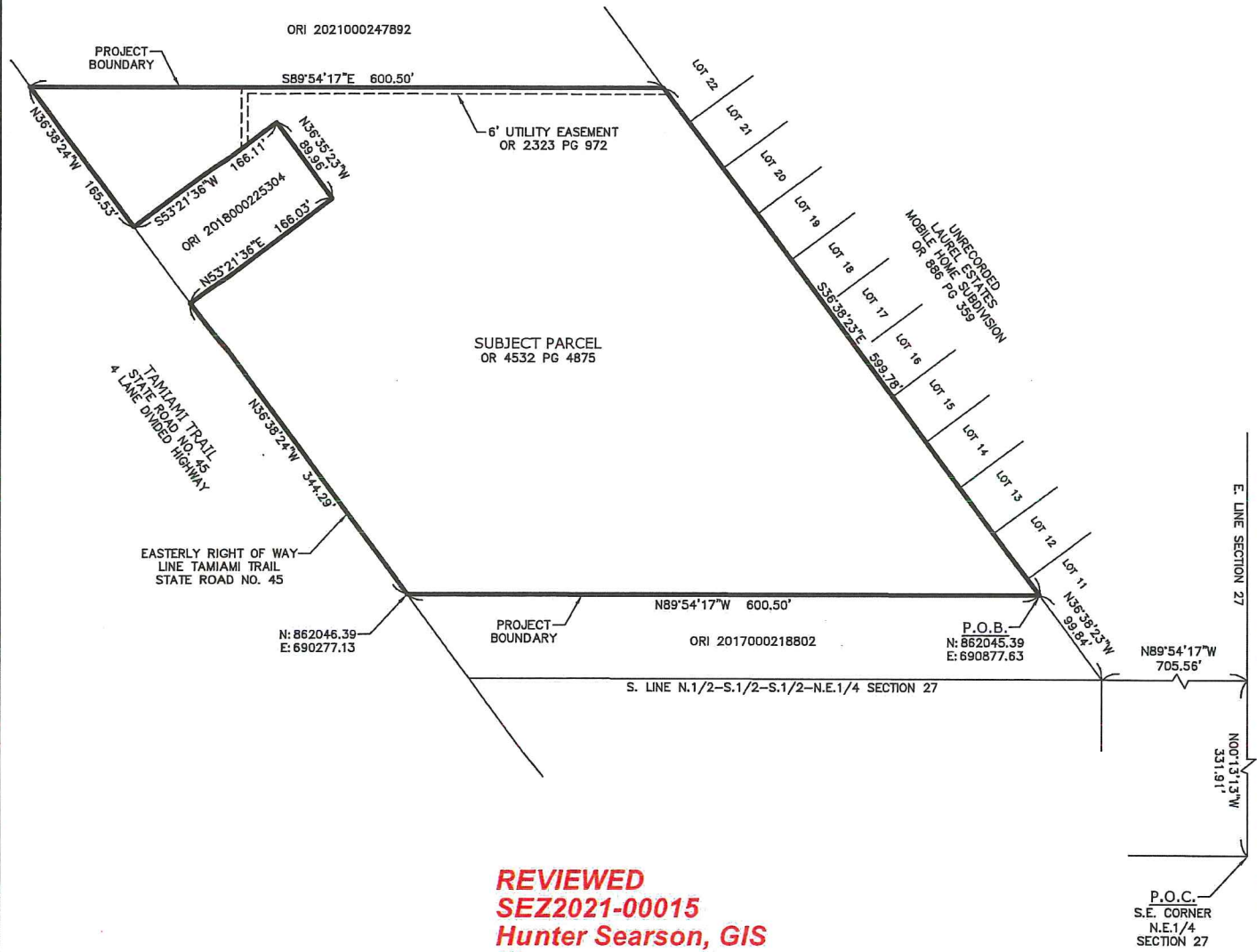
NORTHING AND EASTING COORDINATES ARE REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983/1990.

K.E. TRASK, P.A.  
FLORIDA LICENSED BUSINESS LB8450

FEBRUARY 23, 2022

Kenneth E. Trask  
Digitally signed by Kenneth E.  
Trask  
Date: 2022.02.24 07:36:29 -05'00'  
KENNETH E. TRASK  
PROFESSIONAL LAND SURVEYOR  
FLORIDA LICENSE LS4684

12345 BLASINGIM ROAD • FORT MYERS, FL 33966



**REVIEWED**  
**SEZ2021-00015**  
**Hunter Searson, GIS**  
**Planner**  
**Lee County Government**  
**3/28/2022**

**LEGEND**

LB LICENSED BUSINESS  
 LS LICENSED SURVEYOR  
 P.O.B. POINT OF BEGINNING  
 P.O.C. POINT OF COMMENCEMENT  
 OR OFFICIAL RECORDS BOOK  
 ORI OFFICIAL RECORDS INSTRUMENT  
 PG PAGE  
 PB PLAT BOOK

**SKETCH TO ACCOMPANY  
 DESCRIPTION**  
 OF A PARCEL LYING IN  
 SECTION 27, TOWNSHIP 43 SOUTH,  
 RANGE 24 EAST,  
 LEE COUNTY, FLORIDA.

THIS IS NOT A BOUNDARY SURVEY

Kenneth E. Trask  
 Digitally signed by Kenneth E. Trask  
 Date: 2022.02.24 07:38:49 -05'00'

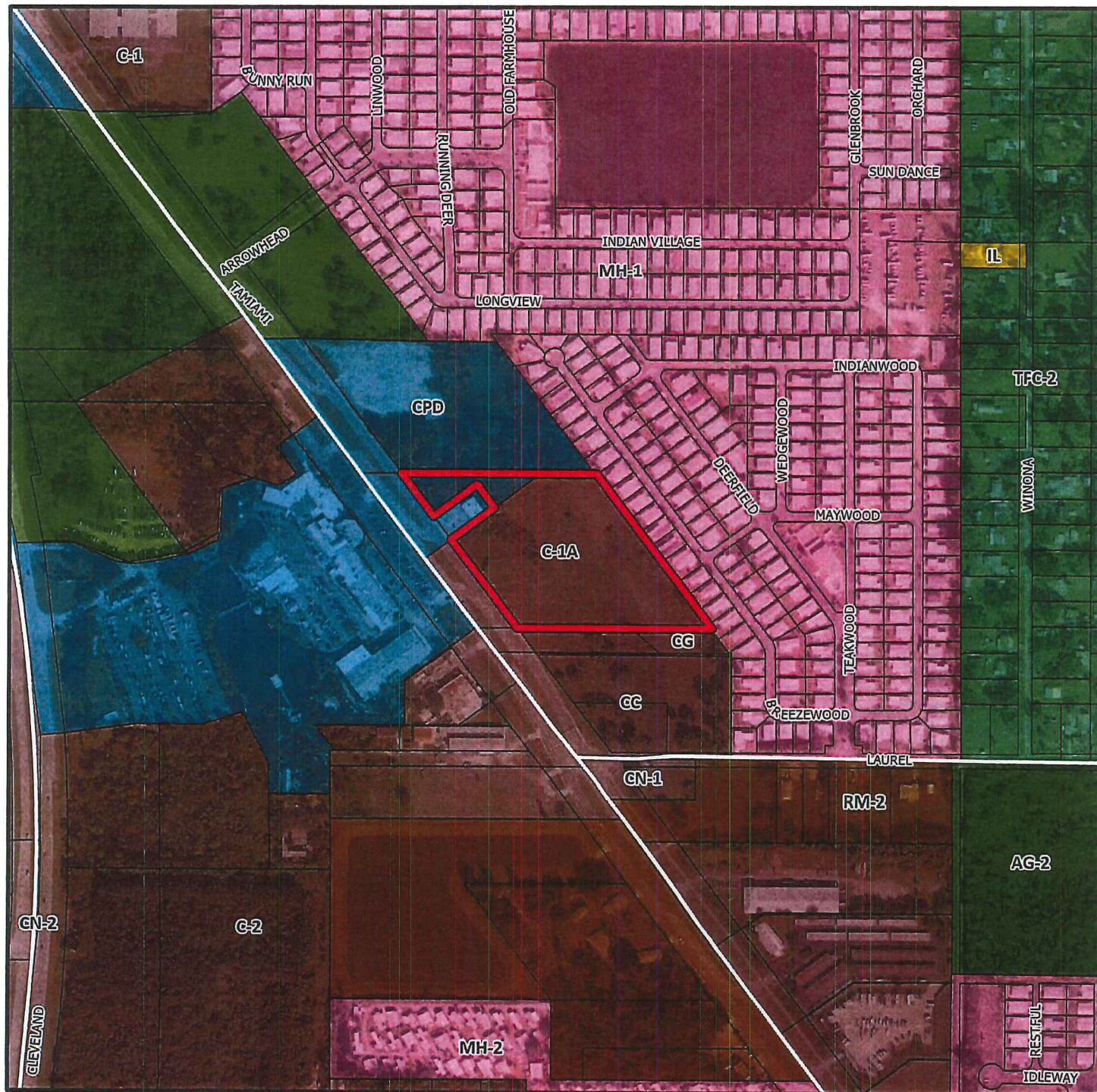
KENNETH E. TRASK DATE  
 PROFESSIONAL LAND SURVEYOR  
 FLORIDA LICENSE NO. LS4684

**K.E. Trask, P.A.**

**Land Surveyors**

Florida Licensed Business No. LB8450  
 12345 Blasingim Road  
 Fort Myers, Florida 33956  
 (239) 980-1495

| date    | dwg     | scale   | job#  | sheet  |
|---------|---------|---------|-------|--------|
| 2-23-22 | 15-08SK | 1"=150' | 15-08 | 2 OF 2 |

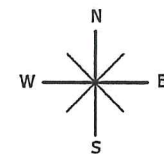


SEZ2021-00015

Zoning

Attachment B

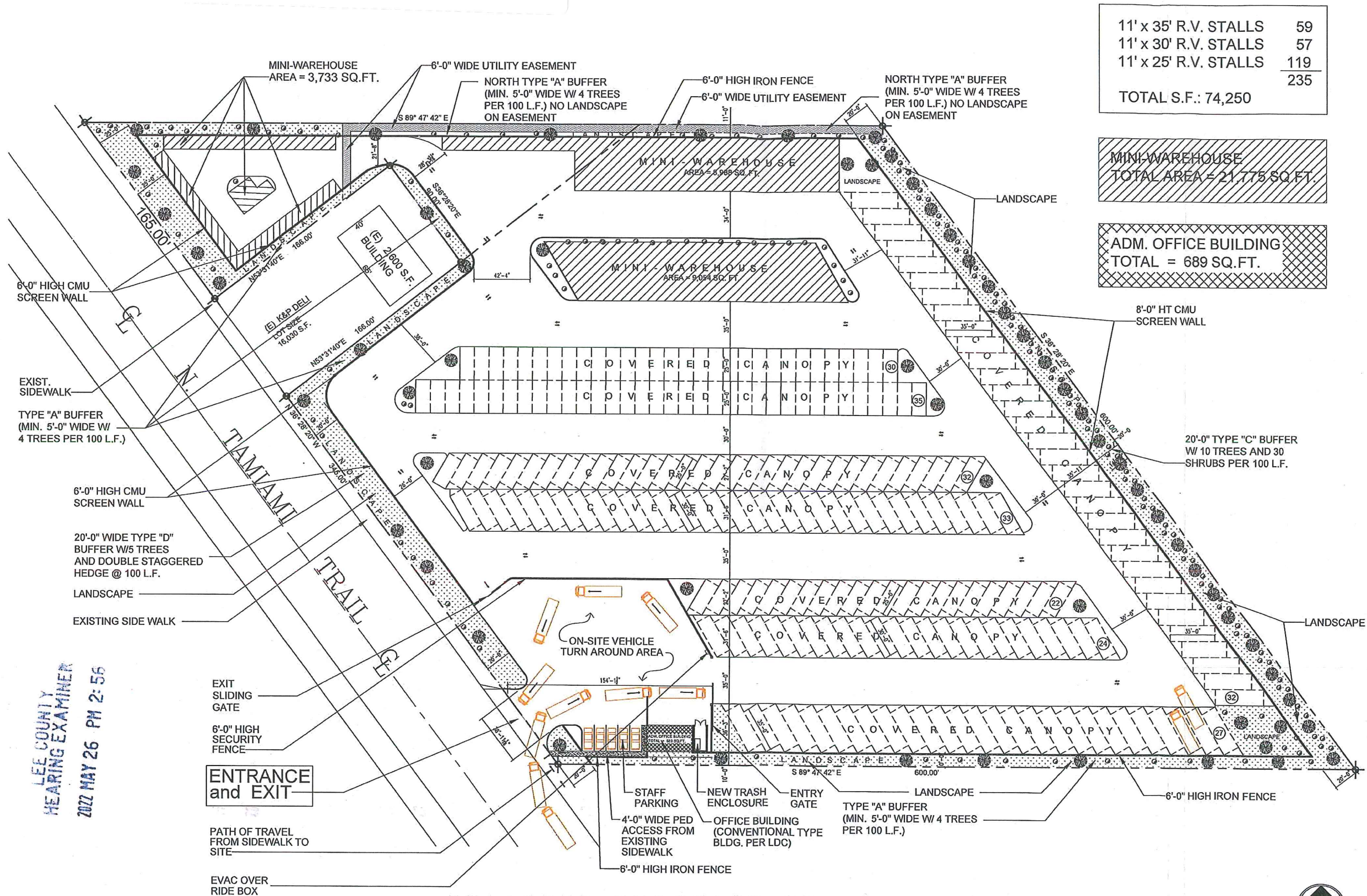
 Subject Property



0 500  
Feet



EXHIBIT B



|                           |            |
|---------------------------|------------|
| 11' x 35' R.V. STALLS     | 59         |
| 11' x 30' R.V. STALLS     | 57         |
| 11' x 25' R.V. STALLS     | 119        |
| <b>TOTAL S.F.: 74,250</b> | <b>235</b> |

MINI-WAREHOUSE  
TOTAL AREA = 21,775 SQ.FT.

ADM. OFFICE BUILDING  
TOTAL = 689 SQ.FT.

STAMP:

**OLFATI  
DESIGN  
GROUP**

ARCHITECTURE  
PLANNING  
ENGINEERING

5199 E. PACIFIC COAST HIGHWAY  
SUITE #214  
LONG BEACH, CA 90804

TELEPHONE: (562) 986-4313

FAX: (562) 986-4312

EMAIL: olfatidesign@aol.com

WEBSITE: www.olfatidesign.com

PROJECT:

**OC EASY STORAGE**  
2750 N. TAMiami TRAIL,  
NORTH FORT MYERS,  
FL 33903

2022-05-24

SHEET TITLE:

**ENLARGED  
PROPOSED  
SITE PLAN**

CLIENT:

DRAWN BY: JB

CHK BY: A.O.

SCALE: AS SHOWN

DATE: 05-24-2022

REVISION:

IMPORTANT NOTE: ALL RIGHTS RESERVED  
THE DRAWING, DESIGN, INFORMATION,  
CONTENT AND PROCEEDURES DESCRIBED HEREIN  
ARE FOR THE EXCLUSIVE USE OF OLFATI DESIGN  
GROUP, OR AFFILIATE, AND AS SUCH, ARE NOT  
TO BE REPRODUCED IN ANY FORM OR MEDIA,  
CURRENT OR FUTURE, OR DISCLOSED TO  
OTHERS WITHOUT THE WRITTEN  
CONSENT OF OLFATI DESIGN GROUP.  
DISTRIBUTION OR SUPPLY OF THESE  
DOCUMENTS IS NOT TO BE CONSTRUED AS  
PUBLICATION IN VIOLATION OF THESE RIGHTS.  
SUCH CONTACT WITH THESE DOCUMENTS  
SHALL CONSTITUTE EVIDENCE OF ACCEPTANCE  
OF THESE RESTRICTIONS.

SHEET NO.

**A-3**

LEE COUNTY  
HEARING EXAMINER  
2022 MAY 26 PM 2:56

ENLARGED PROPOSED SITE PLAN

SCALE: 1/32" = 1'-0"



RESOLUTION NUMBER Z-99-027

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

WHEREAS, Tosco Marketing Company, filed an application to rezone a 1.0 acre parcel from Neighborhood Commercial (CN-1) and Commercial (C-1A) to Commercial Planned Development (CPD), in reference to Circle "K" #7408 Expansion; and

WHEREAS, RAK Enterprises, the owner of the subject parcel, authorized Banks Engineering, Inc., to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held on April 28, 1999, before the Lee County Hearing Examiner who gave full consideration to the evidence in the record for Case # 99-02-026.02Z 01.01; and

WHEREAS, a second public hearing was advertised and held on May 25, 1999, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on the 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 1.0 acre parcel from Neighborhood Commercial (CN-1) and Commercial (C-1A) to Commercial Planned Development (CPD), in the Central Urban Land Use Category. The legal description of the subject property is set forth in Exhibit A attached to this resolution. The request is hereby APPROVED subject to the conditions and deviations set forth in Sections B and C below.

SECTION B. CONDITIONS:

1. The development of this project must be in substantial compliance with the approved Master Concept Plan which is a one-page document entitled "Circle K #7408 Expansion," as prepared by Banks Engineering, dated January 19, 1999, last revised April 1, 1999, and stamped received April 2, 1999, except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (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 Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

5/25/99

2. The list of permitted uses is limited to the following:

Accessory Uses and Structures  
 Administrative Offices  
 ATM (Automotive Teller Machine)  
 Banks and Financial Establishments, Groups I and II  
 Business Services, Groups I and II  
 Convenience Food & Beverage Store  
 Drive Through Facility for any permitted use  
 Essential Services  
 Excavation, Water Retention  
 Fences, Walls  
 Food & Beverage Service, Limited  
 Food Stores, Groups I and II  
 Gift and Souvenir Shop  
 Parking Lot, Accessory and Temporary  
 Personal Services, Group I  
 Retail and Wholesale Sales, when clearly incidental and subordinate to the principal use on the same premises  
 Self-Service Fuel Pumps  
 Signs, in accordance with LDC Chapter 30  
 Temporary Uses

3. Development of the subject property must comply with the following Property Development Regulations:

Minimum Setbacks-Buildings and Structures:

|                          |                     |
|--------------------------|---------------------|
| Street:                  | 25 feet             |
| Side                     | 15 feet             |
| Rear:                    | 25 feet             |
| Maximum Lot Coverage:    | 40 percent          |
| Maximum Building Height: | 35 feet above grade |

4. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local Development Order.
5. Approval of this rezoning does not give the Developer an undeniable right to receive local development order approval. Future development order approvals must satisfy the requirements of the 2020 Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b), of the Lee Plan.
6. This development must comply with all of the requirements of the LDC at the time of local Development Order Approval, except as may be granted by deviations approved as part of this planned development.

SECTION C. DEVIATIONS:

Deviation (1) requesting relief from LDC Section 34-1137(d), which requires a building side setback of 15 feet, to allow the existing side setback of five feet from the south property line is hereby **APPROVED as depicted on the Applicant's site plan.**

Deviation (2) requesting relief from LDC Sections 10-416(d)(3) and (4), which require a 15-foot-wide, Type D buffer along the right-of-way (North Tamiami Trail) with five trees per 100 linear feet and a hedge planted in double staggered rows to form a 36-inch-high continuous visual screen within one year after time of planting, to allow a 5-foot-wide landscape strip without trees is hereby **APPROVED WITH THE CONDITION THAT** the right-of-way (ROW) buffer plantings must be calculated on the entire length of the buffer. Due to the site constraints, the trees required in the 110 linear feet of the ROW buffer with a 5-foot width must be planted in the northwest corner of the site as delineated on Staff's Exhibit entitled "Deviations 2, 3, and 9 Condition Clarification."

Deviation (3) requesting relief from LDC Section 10-416(b), building perimeter planting requirements, to exempt Applicant from having building perimeter plantings along the front or rear of the existing building is hereby **APPROVED WITH THE CONDITION THAT** the building perimeter planting area is provided in the area delineated on Staff's Exhibit entitled "Deviations 2, 3, and 9 Condition Clarification." This area must be landscaped with three cabbage palms of staggered heights with a minimum clear trunk of eight feet, and native shrubs planted 3-foot on center with a minimum 24 inches of height and 3-gallon container size.

Deviation (4) requesting relief from LDC Section 10-296(d) Table 4(7)(c)1, which requires one-half inch asphaltic concrete surfaces for privately maintained local and access streets, to allow concrete pavement and/or decorative pavers on project streets is hereby **DENIED**, because this deviation is not needed under the current interpretation of the regulations.

Deviation (4a) requesting relief from LDC Section 10-296(d) Table 4(7)(c)2, which requires one-and-a-half inches of asphaltic concrete surfaces for roads that are publicly maintained, to allow traffic bearing concrete or similar material is hereby **DENIED**, because the deviation is not needed under the current interpretation of the regulations.

Deviation (5) requesting relief from LDC Section 10-414(a), which requires a landscape plan be prepared by and bear the seal of a landscape architect registered in the State of Florida, to allow the landscape plan to be prepared by and bear the seal of an engineer registered in Florida, is hereby **DENIED**.

Deviation (6) requesting relief from LDC Section 10-422, which requires a landscape architect to inspect and certify compliance of all open space area, landscaping and the irrigation system with approved DO plans, to allow an engineer to submit the letter of substantial compliance, is hereby **DENIED**.

Deviation (7) requesting relief from LDC Section 10-283(a), under which the County may require the Developer to dedicate and construct an access road if the subject property is traversed by or abuts a street shown on the access road location map, to not require an access road is hereby **DENIED**, because the deviation is not needed under the current interpretation of the regulations.

Deviation (8) requesting relief from LDC Section 10-285(a), which requires a 660-foot intersection separation for an arterial road, to allow a 180±-foot and a 200±-foot intersection separation, is hereby DENIED, as Lee County has no jurisdiction over the access points onto a state-maintained highway.

Deviation (9) requesting relief from LDC Section 10-416(d)(4), which requires a 5-foot-wide, Type A buffer along the north and south property lines, to allow a 4-foot-wide buffer along the southeast property line is hereby APPROVED, WITH THE CONDITION that the required Type A buffer is reduced to a 4-foot width only adjacent to the parking spaces as delineated on Staff Exhibit entitled "Deviations 2, 3, and 9 Condition Clarification." The number of trees required within this buffer must be calculated on the entire length of the buffer and must be planted within the 5-foot-wide side portions of the buffer.

Deviation (10) requesting relief from LDC Section 10-295, which requires street stubs to adjoining properties, to eliminate the street stub requirement is hereby APPROVED.

Deviation (11) requesting relief from LDC Section 34-2013, which requires a maximum width of 35 feet at the property line for the parking lot access, to allow a 40-foot-wide access is hereby DENIED, because the deviation is not needed under the current interpretation of the regulations.

Deviation (12) requesting relief from LDC Section 10-610(a), which requires parking to be developed throughout the site utilizing the same degree of angle, is hereby DENIED, because the deviation is not needed under the current interpretation of the regulations.

#### SECTION D. EXHIBITS:

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

- Exhibit A. The legal description and STRAP number of the subject property.
- Exhibit B. A reduced copy of the Circle "K" #7408 Expansion Master Concept Plan.
- Exhibit C. A map depicting the subject parcel (shaded in) in relation to the surrounding area.
- Exhibit D. Deviations 2, 3, and 9 Condition Clarification.

#### SECTION E. FINDINGS AND CONCLUSIONS:

1. The Applicant proved entitlement to the rezoning by demonstrating compliance with the Lee Plan, the Land Development Code, and any other applicable code or regulation.
2. The request, as conditioned:
  - a. will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request;
  - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
  - c. is compatible with existing or planned uses in the surrounding area; and

- d. will not adversely affect environmentally critical areas or natural resources.
3. The proposed use or mix of uses is appropriate at the subject location.
4. The development will not place an undue burden upon existing transportation or planned infrastructure facilities and it will be served by streets with the capacity to carry traffic generated by the development.
5. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest, and the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
6. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
7. The approved deviations, as conditioned, enhance the achievement of the objectives of the planned development, and preserve and promote the general intent of Chapter 34, Land Development Code, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners by a motion by Commissioner Coy, and seconded by Commissioner Manning and, upon being put to a vote, the result was as follows:

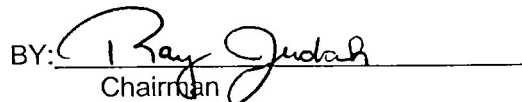
|                      |        |
|----------------------|--------|
| Ray Judah            | Aye    |
| John E. Manning      | Aye    |
| Douglas R. St. Cerny | Absent |
| Andrew W. Coy        | Aye    |
| John E. Albion       | Absent |

DULY PASSED AND ADOPTED this 25th day of May, 1999.

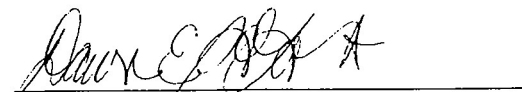
ATTEST:  
CHARLIE GREEN, CLERK

BY:   
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

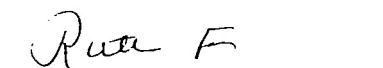
BY:   
Chairman

Approved as to form by:

  
County Attorney's Office

MINUTES OFFICE

CASE NO. 99-02-026.02Z 01.01

  
FILED MAY 26 1999

Resolution No. Z-99-027  
Page 5 of 5

EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF SECTION 27, TOWNSHIP 43 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 27 WITH THE EASTERLY RIGHT-OF-WAY LINE OF TAMiami TRAIL; THENCE RUN NORTH 36 DEGREES 43 MINUTES 45 SECONDS WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 445.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 36 DEGREES 43 MINUTES 45 SECONDS WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 255.00 FEET TO A POINT; THENCE RUN NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 426.40 FEET TO A POINT; THENCE RUN SOUTH 53 DEGREES 16 MINUTES 15 SECONDS WEST FOR A DISTANCE OF 341.75 FEET TO THE POINT OF BEGINNING. (CONTAINING: 43,573 SQUARE FEET).

STRAP NUMBERS

The applicant has indicated the STRAP #'s of the subject property are 27-43-24-00-00008.004A & 27-43-24-00-00008.0020.



GRAPHIC SCALE 1" = 30'

**TOSCO MARKETING COMPANY**  
3150 BRIGLIAMORE PARK DRIVE, SUITE 300  
TAMPA, FLORIDA 33616  
PHONES: (813) 871-3338  
FAX: (813) 744-3231

**Wankes Engineering, Inc.**  
Professional Engineers, Planners & Land Surveyors  
10500 DE WALE COUNTRY PARKWAY • SUITE 100 FORT WORTH, TEXAS 76155

**MASTER CONCEPT PLAN**  
**CIRCLE K #7408 EXPANSION**

[illegible][illegible]



# ZONING MAP

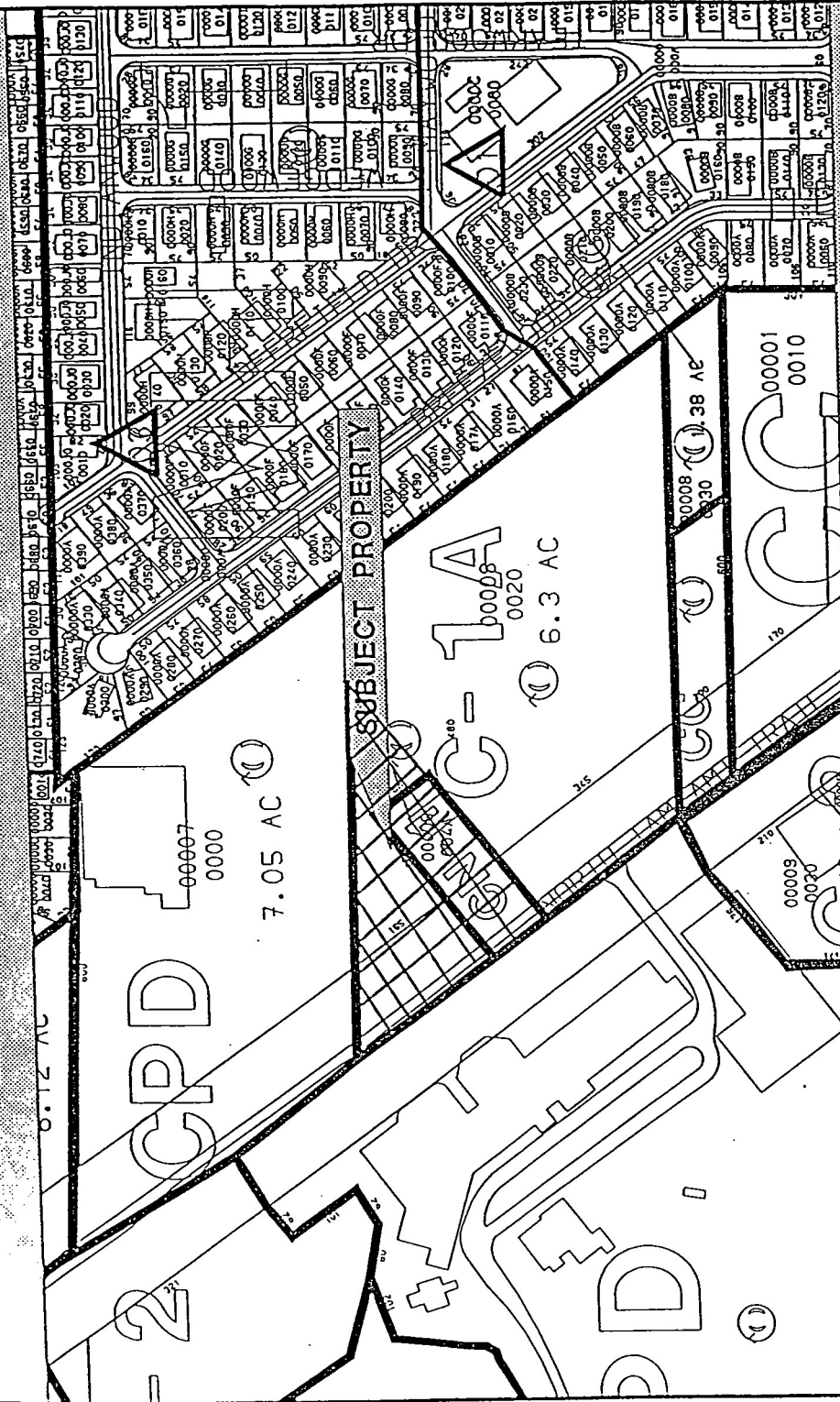
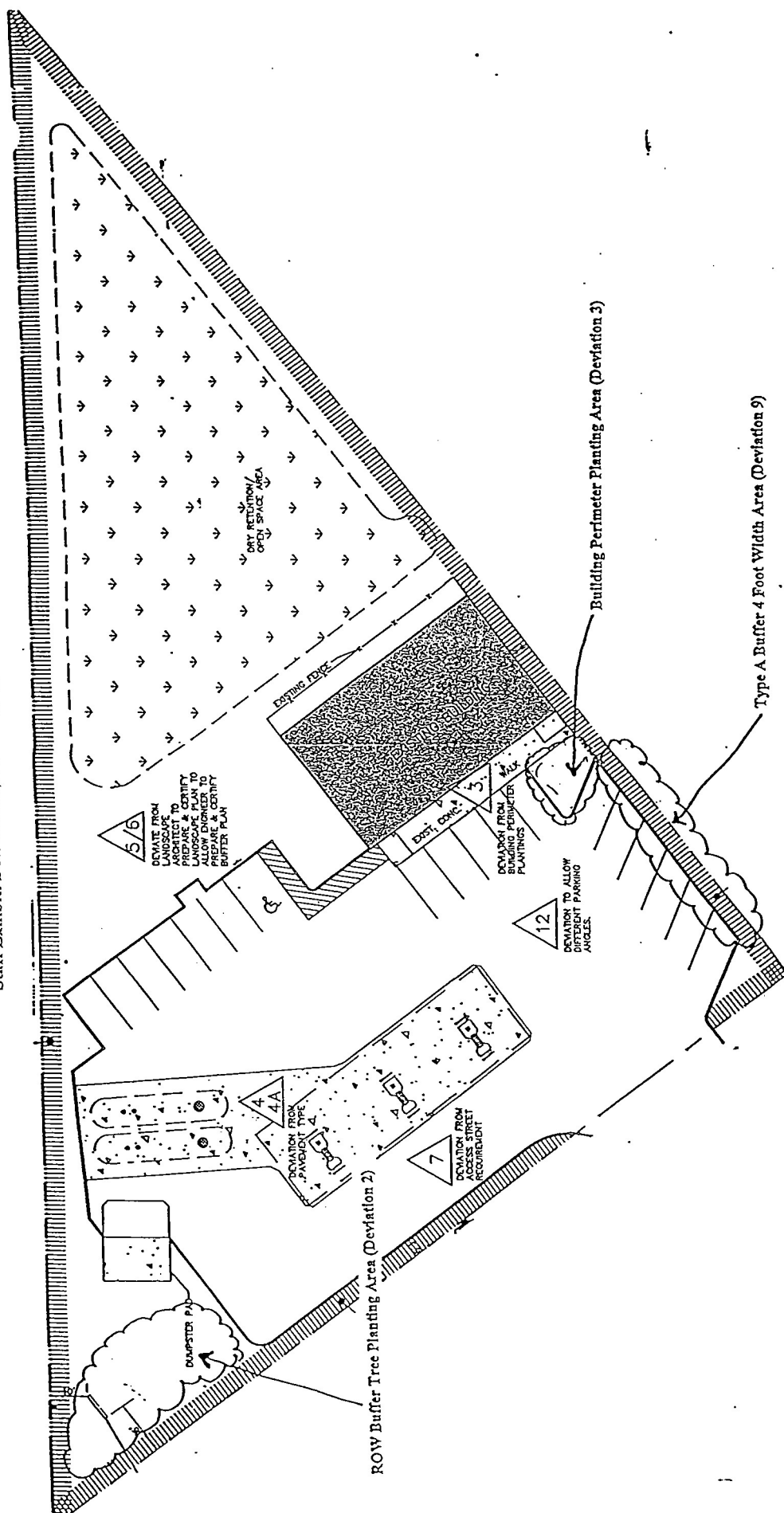


EXHIBIT C



Circle K #7408 Expansion  
CPD Case #99-02-026.02Z 01.01

EXHIBIT D