

Summary of Hearing Examiner Recommendation

RESURGENCE BREWERY & ROCK GYM

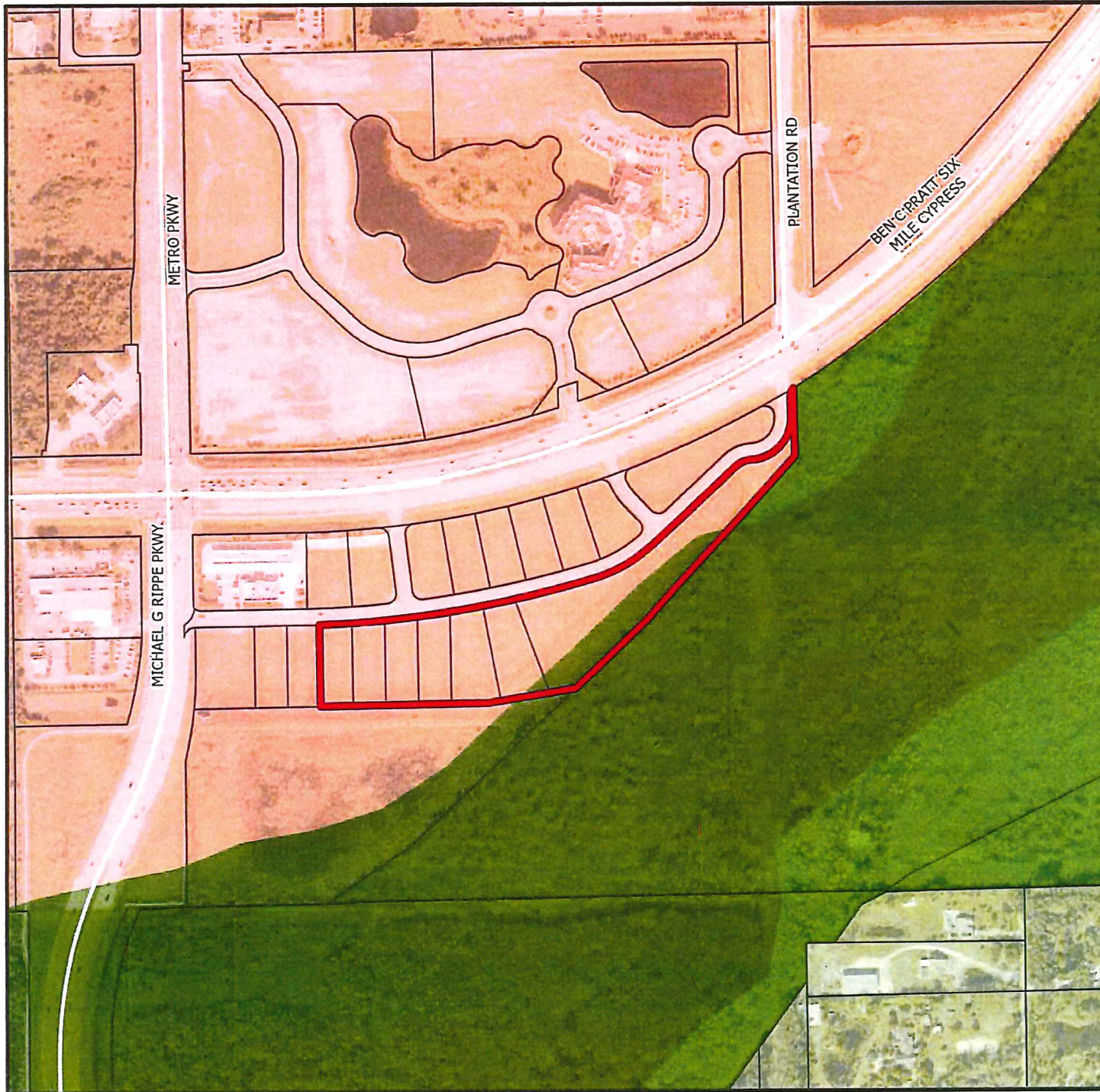
Hearing Examiner Remarks

The request seeks to develop a brewery and recreational facility in two separate buildings connected by a walkway. Conditions of approval limit alcohol consumption in recreation areas. Lands within the Environmentally Critical zoning district will remain undeveloped and used for drainage/utilities/open space.

Applicant originally sought rezoning to the Industrial Planned Development (IPD). Staff recommended rezoning to the Commercial Planned Development (CPD) district instead to better align with requested uses. The Master Concept Plan should be updated to reflect CPD rather than IPD zoning.¹

Detailed recommendation follows

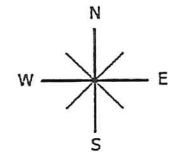
¹ IPD is referenced on the MCP in the Zoning Request, Site Data table, and in the Subject Site information in the southeast corner.



DCI2022-00019

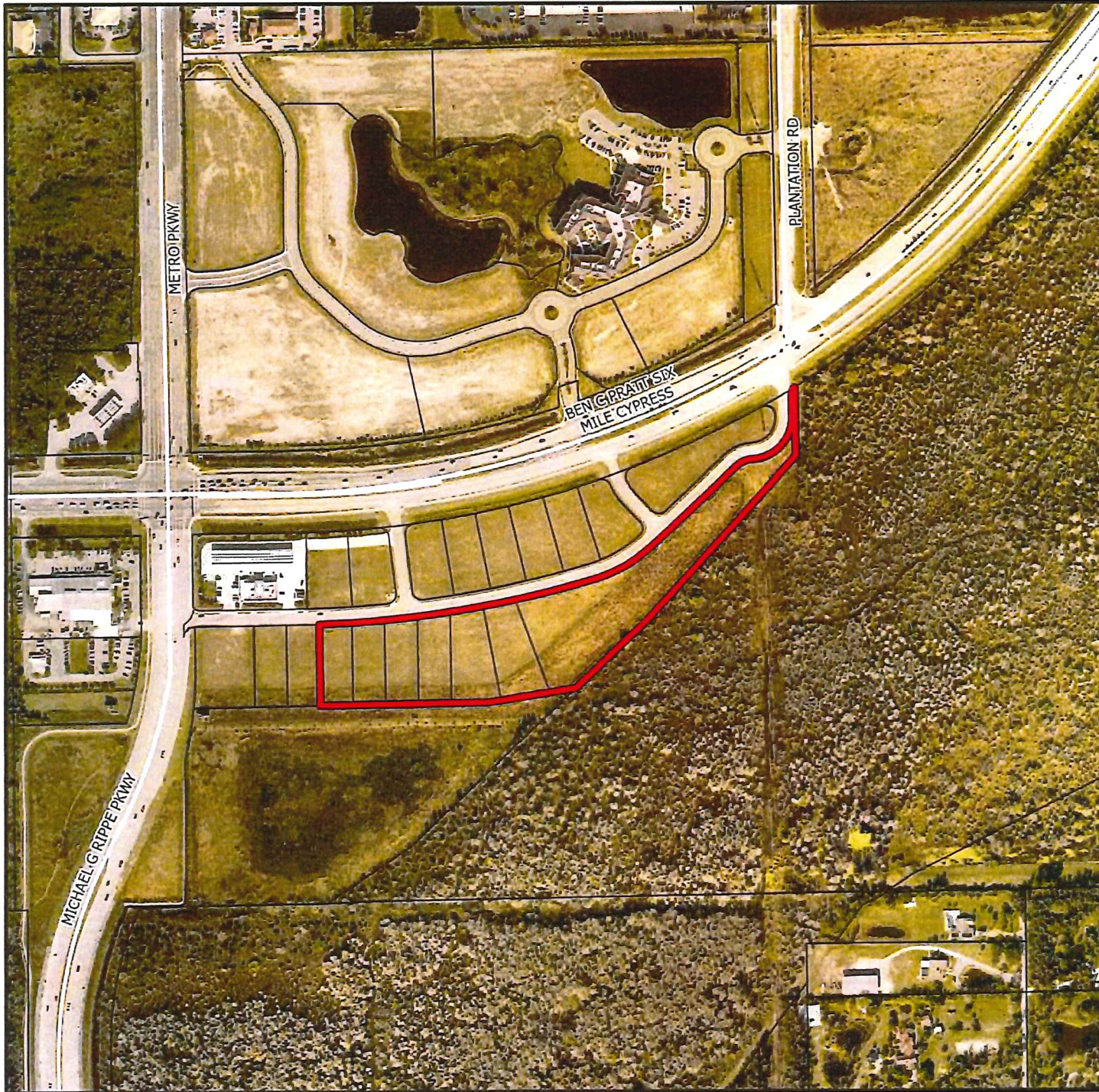
Future Land Use

-  Subject Property
- Intensive Development
- Rural
-  Conservation Lands - Upland
-  Wetlands
-  Conservation Lands - Wetland



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Feet

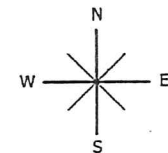




DCI2022-00019

Aerial

 Subject Property



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Feet

 Lee County
Southwest Florida

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2022-00019

Regarding: RESURGENCE BREWERY & ROCK GYM

Location: 6090-6150 Exchange Lane
South Fort Myers Planning Community
(District 2)

Hearing Date: February 1, 2023

I. **Request**

Rezone 8.13± acres from General Commercial (CG) and Environmentally Critical (EC) to Commercial Planned Development (CPD), to allow a mix of uses including manufacturing of food and kindred products, restaurant and bar, commercial recreation, and other commercial services.

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

II. **Hearing Examiner Recommendation**

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

III. **Discussion**

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.² In satisfaction of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone to CPD.

In preparing a recommendation to the Board, the Hearing Examiner must consider the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other applicable County regulations to the facts presented in a rezoning request.³ Specifically, the Hearing Examiner must find the request compatible with surrounding uses and complies with Lee Plan and LDC requirements relating to such items as transportation facilities, natural resources, and urban services.⁴ The

² LDC §34-145(d)(1)(a) & (2)(a).

³ LDC §34-145(d)(3).

⁴ LDC §34-145(d)(4).

Hearing Examiner may take judicial notice of previous Board decisions.⁵ The Hearing Examiner's recommendation must be based on competent and substantial evidence.⁶

Discussion supporting the recommendation of approval of the proposed CPD follows below.⁷

Synopsis of Request and Zoning History



The property is in the South Fort Myers Planning District, south of Six Mile Cypress Parkway and Plantation Road, and east of Metro Parkway/Michael G Rippe Parkway.

The 8.13± acre property is split into two zoning districts. Commercial General (CG) accounts for 3.73± acres while the Environmentally Critical (EC) district comprises 4.39± acres.⁸ The EC portion is part of the Six Mile Cypress Slough.⁹

The request seeks to develop a mixed-use development consisting of a brewery and an indoor recreational facility in separate buildings. Conditions of approval limit

⁵ Lee Co. Admin. Code 2-6, 2.3.D(4)(b).

⁶ Lee Co. Admin. Code 2-6, 3.3.A(2); LDC §34-83(a)(4)(a)(1)(a).

⁷ Applicant originally sought approval as an Industrial Planned Development (IPD). The parties agreed a CPD was more appropriate to accommodate the mix of proposed uses.

⁸ See Staff Report (pg. 1).

⁹ See *Id.*

alcohol consumption in recreation areas.¹⁰ Alcohol would be permitted in observation areas.

Most of the proposed uses are currently permitted under the site's CG zoning. Applicant seeks planned development zoning to unify development and permit a brewery, which is classified as a manufacturing use. The LDC does not permit manufacturing in the CG district.¹¹

EC lands will remain vacant and protected. Applicant seeks a single deviation relating to parking.

Staff recommended approval, finding the proposed CPD satisfied LDC review criteria.

Zoning Review Criteria

Before recommending approval, the Hearing Examiner must find the request:

- A. Complies with the Lee Plan;
- B. Meets the LDC and other applicable County regulations or qualifies for deviations;
- C. Is compatible with existing and planned uses in the surrounding area;
- D. Will provide access sufficient to support the proposed development intensity;
- E. Addresses impacts on transportation facilities by County regulations or conditions of approval;
- F. Will not adversely affect environmentally critical/sensitive areas or natural resources; and
- G. Will be served by urban services if located in a Future Urban area.¹²

When the requested zoning action is a planned development, the Hearing Examiner must also find:

- H. The proposed use/mix of uses is appropriate at the proposed location;

¹⁰ See Condition 4; Testimony of Ahmad Kareh and Noel Davies (Transcript pg. 18-19).

¹¹ LDC §34-844.

¹² LDC §34-145(d)(4)(a)(1).

- I. Recommended conditions (1) provide sufficient safeguards to the public interest, and (2) reasonably relate to impacts on the public interest expected from the proposed development; and
- J. Requested deviations (1) enhance achievement of the objectives of the planned development, and (2) promote the LDC's intent to protect public health, safety, and welfare.¹³

Character of the Area

The property is located south of Six Mile Cypress Parkway. Metro Parkway/Michael G. Rippe Parkway sits to the west, with Plantation Road terminating just northeast of the site. Intense commercial development uses characterize the area. A RaceTrac gas station abuts to the northwest. Sun Harvest Citrus is west of the site across Metro Parkway. Vacant commercial parcels lie to the north. Environmental lands adjoin to the south/east.



Lee Plan Consistency and Compatibility

Planned developments must be consistent with the Lee Plan.¹⁴ Rezoning requests must be compatible with existing/planned uses in the surrounding area.¹⁵ Planned developments must be located to minimize negative effects of proposed uses on neighboring properties.¹⁶

¹³ LDC §34-145(d)(4)(a)(2).

¹⁴ LDC §34-411(a).

¹⁵ LDC §34-145(d)(4)(a).

¹⁶ LDC §34-411(c) and (i).

The Lee Plan Future Land Use Map classifies the site as Intensive Development and Wetlands in the South Fort Myers Planning District.¹⁷

Intensive Development lands are located along arterial roads with high levels of public services.¹⁸ Properties within this category are well suited to accommodate high densities/intensities and encourage mixed uses.¹⁹ Wetlands consist of recreational uses that do not adversely affect ecological functions.²⁰

The site sits along two arterial roadways with a full range of public services.²¹ The request proposes a mix of commercial/light industrial and recreational uses, consistent with the Intensive Development category. No development is proposed within Wetlands.

The request complies with various Lee Plan directives by:

- Locating growth in a future urban area where adequate facilities exist;²²
- Promoting compact/contiguous growth patterns;²³
- Clustering mixed use development;²⁴
- Co-locating commercial/light industrial and recreational uses in a unified development;²⁵
- Providing adequate landscaping, open space, and buffering;²⁶
- Authorizing infill development rather than opening new areas to premature, scattered, or strip development;²⁷
- Offering employment opportunities to County residents;²⁸
- Connecting new development to adjoining uses;²⁹ and
- Offering multimodal transit alternatives.³⁰

The requested CPD is compatible with the surrounding area and in compliance with the Lee Plan.

¹⁷ See Lee Plan Map 1-A, 1-B, Policy 1.1.2, 1.5.1; Staff Report (pg. 1-2, Attachment B).

¹⁸ Lee Plan Policy 1.1.2.

¹⁹ *Id.* (referencing Lee Plan Objective 11.1).

²⁰ Lee Plan Policy 1.5.1.

²¹ See Staff Report (Attachments H, J).

²² See Lee Plan Objective 2.2.

²³ See Lee Plan Objective 2.1, 2.2.

²⁴ See Lee Plan Policy 2.2.1.

²⁵ See Lee Plan Policy 6.1.4.

²⁶ See Lee Plan Policy 6.1.6. The request does not seek deviations from landscaping, open space, or buffer requirements.

²⁷ See Lee Plan Policy 6.1.7.

²⁸ See Lee Plan Goal 158.

²⁹ See Lee Plan 6.1.3.

³⁰ See Lee Plan 6.1.3, 6.1.5.

Transportation/Traffic

Planned developments must have access to roads with sufficient capacity to support proposed intensity.³¹ Existing regulations or conditions of approval must address expected impacts on transportation facilities.³²

The property is easily accessed by two major arterial roads via Exchange Lane, Six Mile Cypress Parkway and Metro /Michael G. Rippe Parkway.³³ Plantation Road terminates just northeast of the site. The site plan depicts four access points to Exchange Lane.

The Traffic Impact Statement concludes the requested amendment will not degrade levels of service on affected roadways.³⁴

The project offers multimodal access to mass transit stops and integration of bicycle, shared use path, and pedestrian facilities.³⁵ Employees and patrons benefit from alternative means of access.

Applicant demonstrated the request provides sufficient access to support proposed development.³⁶ Site related impacts will be evaluated during development order review.³⁷

Environmental and Natural Resources

Planned development design should reflect creative use of open space.³⁸ Developers must make an effort to protect and preserve natural site features.³⁹

The site is cleared and does not have environmentally critical or sensitive areas.⁴⁰ Lands currently zoned EC will remain under drainage/utility easements without environmental impact.⁴¹ Adjacent lands within the Six Mile Cypress Slough are

³¹ LDC §34-145(d)(4)(a)(1)(d); §34-411(d)(1).

³² LDC §34-145(d)(4)(a)(1)(e); §34-411(d)(2).

³³ Michael G. Rippe/Metro Parkway and Six Mile Cypress Parkway are state maintained roads. Staff corrected the erroneous reference to those roads being county maintained at hearing. Testimony of Adam Mendez (Transcript pg. 22).

³⁴ See Staff Report (Attachment I-J).

³⁵ See Lee Plan Goals 11 and 39; See MCP. Applicant will install sidewalks connecting to existing sidewalks along Exchange Lane. See Applicant's Ex. 1; See Staff Report (pg. 3).

³⁶ LDC §34-145(d)(4)(a)(1)(d); Staff Report (pg. 7-8, Attachment I-J).

³⁷ Site related improvements include capital improvements and right-of-way dedications for "direct access" improvements to the project. Direct access improvements include site driveways/roads, median cuts made necessary by driveways/roads, right-turn, left-turn and deceleration/acceleration lanes serving driveways/roads, traffic control measures, and roads/intersection improvements whose primary purpose at the time of construction is to provide access to the development. See, Lee Plan Glossary and LDC §2-264; Lee Plan Objective 39.1, Policy 39.1.1. LDC §2-66 *et. seq.*

³⁸ LDC §34-411(h).

³⁹ LDC §34-411(g).

⁴⁰ See Staff Report (pg. 8, Attachment G).

⁴¹ Testimony of Ahmad Kareh.

appropriately buffered by the easement/open space areas ranging from 65-170 feet along the project's southern border.⁴²

The project exceeds LDC open space requirements.⁴³ The site plan reflects code compliant buffers.

Public Services

Urban services are the facilities, capital improvements, and infrastructure necessary to support development.⁴⁴ The Lee Plan requires an evaluation of available urban services during the rezoning process.⁴⁵

A host of urban services and infrastructure serve the property including roads, transit, potable water, sanitary sewer, police, fire, and emergency medical services.⁴⁶

Deviations

"Deviations" are departures from LDC regulations.⁴⁷ The request seeks one deviation from parking requirements.⁴⁸

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

1. Enhances achievement of objectives of the planned development; and
2. Preserves and promotes the general intent of the LDC to protect the public health, safety, and welfare.⁴⁹

The requested deviation reduces the code required parking by five percent. Applicant justifies the deviation due to the site's proximity to public transit. Staff

⁴² See MCP; Staff Report (pg. 8, Attachment G).

⁴³ The LDC requires 30% open space. The MCP reflects 54% open space. See MCP; Staff Report (Attachment G).

⁴⁴ Lee Plan Glossary; Public services include; public water/sewer, paved streets/roads, public transit, parks/recreation facilities, urban levels of police, fire, and emergency services, urban surface water management, schools, employment, industrial, and commercial centers, institutional, public, or administrative facilities, community facilities such as senior citizens centers, libraries and community centers.

⁴⁵ Lee Plan Policy 2.2.1.

⁴⁶ See Staff Report (pg. 2-3, 8). Potable water and sewer are available to the site with sufficient capacity. See Staff Report (pg. 2, Attachment H). South Trail Fire District #63 is located approximately ¾ mile away. Lee County Sheriff's Office Central Substation with EMS Station #80 is approximately half mile away. See Staff Report (pg. 3).

⁴⁷ LDC §34-2.

⁴⁸ Applicant is providing 200 spaces while only 198 are required. The deviation is sought to allow flexibility in project design should a reduction in spaces be desired. Testimony of Adam Mendez (Transcript pg. 28). Staff indicated the deviation seeks a reduction of five percent, but the project could qualify for up to ten percent through an administrative process if necessary. See *Id.*

⁴⁹ LDC §34-145(d)(4).

supports the requested deviation given the project's connection to multimodal transportation facilities.⁵⁰

Applying LDC deviation standards of review to testimony and evidence in the record, the Hearing Examiner concludes requested deviation meets approval criteria.⁵¹

Conditions

The county must administer the zoning process so proposed land uses acceptably minimize adverse impacts to adjacent property. Conditions must plausibly relate to anticipated impacts from the proposed development and must be pertinent to mitigation of those impacts on public health, safety, and welfare.⁵²

The CPD will be subject to conditions of approval. The conditions relate to impacts anticipated from the project.⁵³ The Hearing Examiner recommends:

1. Revisions to conditions to improve clarity; and
2. Deletion of conditions that restate LDC standards and criteria applicable to the project pursuant to Condition 1.

Applicant must update the Master Concept Plan to reflect the requested CPD district rather than the Industrial Planned Development district.

Public

No members of the public attended the hearing.

Conclusion

The Hearing Examiner concurs with staff's analysis and recommendation of approval.

IV. Findings and Conclusions

The Hearing Examiner makes the following findings and conclusions based on the testimony and evidence in the record:

A. *As conditioned herein*, the proposed CPD:

1. Complies with the Lee Plan. See, Lee Plan Goals 2, 4, 6, 11, 39, 77, Objectives 2.1, 2.2, 11.2, and Policies 1.1.2, 1.6.5, 2.1.1, 2.2.1, 6.1.1,

⁵⁰ Testimony of Adam Mendez (Transcript pg. 29).

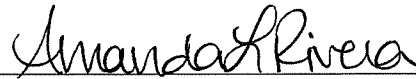
⁵¹ LDC §34-377(a)(4).

⁵² LDC §34-932(b).

⁵³ LDC §34-83(b)(4)a.3:

- 6.1.4, 6.1.5, 6.1.6, 6.1.7, 6.1.8, 6.1.9, 6.1.10, 6.1.11, 125.1.2, 158.1.1; Lee Plan Maps 1A-B, 2A.
2. Complies with the LDC and other County regulations or qualifies for deviations. See, LDC Chapters 10 and 34.
 3. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.2, 2.1.1, 2.1.2, 2.2.1, 6.1.4, 6.1.8; LDC 34-411(c), (i), and (j).
 4. Provides sufficient access to support the proposed development intensity, with expected impacts on transportation facilities address by existing County regulations or conditions of approval. See Lee Plan Policy 6.1.5.
 5. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goals 77, Objectives 4.1, 6.1.6, 125.1.2 Policy 1.5.1, Standard 4.1.4, LDC 34-411(h).
 6. Will be served by urban services. See, Lee Plan Glossary, Map 4A-B, Goal 2; Objectives 2.1, 2.2, 4.1, 53.1, 56.1; Policies 2.2.1, and Standards 4.1.1 and 4.1.2; LDC 34-411(d).
- B. The Master Concept Plan reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. See, Lee Plan Goal 39, Objective 39.1; LDC 34-411(d).
- C. The proposed mix of uses is appropriate at the proposed location. See, Lee Plan Policies 1.1.2, 2.1.1, 6.1.4, 6.1.7.
- D. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See, LDC Chapters 10 and 34.
- E. As conditioned herein, the deviations:
1. Enhance the objectives of the planned development; and
 2. Promote the intent of the LDC to protect the public health, safety, and welfare. See, 34-377(b)(4).

Date of Recommendation: March 13, 2023.

A handwritten signature in black ink, reading "Amanda L. Rivera", written over a horizontal line.

Amanda L. Rivera
Deputy Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

EXHIBIT A

DCI2022-00019 Lee County ePlan



HALEY WARD

ENGINEERING | ENVIRONMENTAL | SURVEYING

FORMERLY:
CES INC.

Description of a Parcel of Land
Lying in
Section 30, Township 45 South, Range 25 East
(Lots 11 through 17, Lake at Metro Subdivision)

A tract or parcel of land situated in the State of Florida, County of Lee, lying in Section 30, Township 45 South, Range 25 East, being Lots 11 through 17, Lake at Metro a subdivision as shown in the plat thereof recorded in instrument number 2016000225108 and further described as follows:

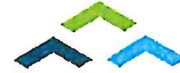
Commencing at the northwest corner of Lot 18 of said subdivision; thence N89°07'49"E along the south line of Exchange Lane, a 50 foot public right-of-way as described in Official Record Book 2730 at page 768 and the north line of said Lot 18 for 36.93 feet to the beginning of a curve concave to the northwest having a radius of 3278.79 feet; thence northeasterly along the arc of said curve to the left and the southerly line of said Exchange Lane and the north line of said Lot 18 through a central angle of 01°06'08" for 63.08 feet to the northwest corner of Lot 17 and the Point of Beginning; thence continue along said curve and along the south line of said Exchange Lane and along the northerly line of Lots 17, 16, 15, 14, 13, 12, and 11 of said subdivision through a central angle of 14°54'32" for 853.17 feet to a point of compound curve concave to the northwest having a radius of 445.00 feet; thence northeasterly along the arc of said curve and the southeasterly line of said Exchange Lane and the northerly line of said lot 11 through a central angle of 26°37'09" for 206.74 feet to a point of tangency; thence N46°30'00"E along the southeasterly line of said Exchange Lane and along the northwesterly line of said Lot 11 for 353.13 feet to the beginning of a curve concave to the southeast having a radius of 80.79 feet; thence northeasterly along the arc of said curve and the southeasterly line of said Exchange Lane and the northwesterly line of said Lot 11 through a central angle of 40°30'59" for 57.13 feet to a point of reverse curve concave to the northwest having a radius of 125.79 feet; thence northeasterly and northerly along the arc of said curve and the southeasterly line of said Exchange Lane and the northwesterly line of said Lot 11 through a central angle of 88°11'05" for 193.61 feet to a point of tangency; thence N01°10'06"W along the easterly line of said Exchange Lane for 70.55 feet to the beginning of a curve concave to the southeast having a radius of 30.00 feet; thence northeasterly along the arc of said curve and the easterly line of said Exchange Lane and the westerly line of said Lot 11 through a central angle of 48°11'23" for 25.23 feet
Continued...

Sheet 1 of 3

2011255.001DESC | 10-15-2021 | SFS | Page 1

13041 McGregor Boulevard, Fort Myers, FL 33919
T: 239.481.1331 | HALEYWARD.COM





Description of a Parcel of Land
Lying in
Section 30, Township 45 South, Range 25 East
Six Mile Cypress Subdivision
(Lots 11 through 17, Lake at Metro Subdivision)

Continued...

to the northeasterly corner of said Lot 11 and a point on the southeasterly right-of-way of Six Mile Parkway (250 feet wide), said point also being on the east line of the Southwest One Quarter (SW 1/4) of said Section 30; thence S01°10'06"E along the east line of said Lot 11 and the east line of the Southwest One Quarter (SW 1/4) of said Section 30 for 210.27 feet to the easterly most corner of said Lot 11; thence S41°49'54"W along said the southeasterly line of said Lot 11 for 680.01 feet; thence S45°49'54"W along said southeasterly line for 304.89 feet to the south corner of said Lot 11; thence S80°39'26"W along the south line of said Lots 11, 12 and 13 for 269.54 feet; thence S89°01'07"W along the south line of said lots 13, 14, 15, 16 and 17 for 513.58 feet to the southwesterly corner of said Lot 17; thence N00°52'11"W along the west line of said Lot 17 for 253.12 feet to the Point of Beginning.

Parcel contains 8.13 acres (353,984 square feet) more or less.

Bearings are based on the record plat of Lake at Metro with the southeasterly line of Lot 11 as bearing S41°49'54"W.

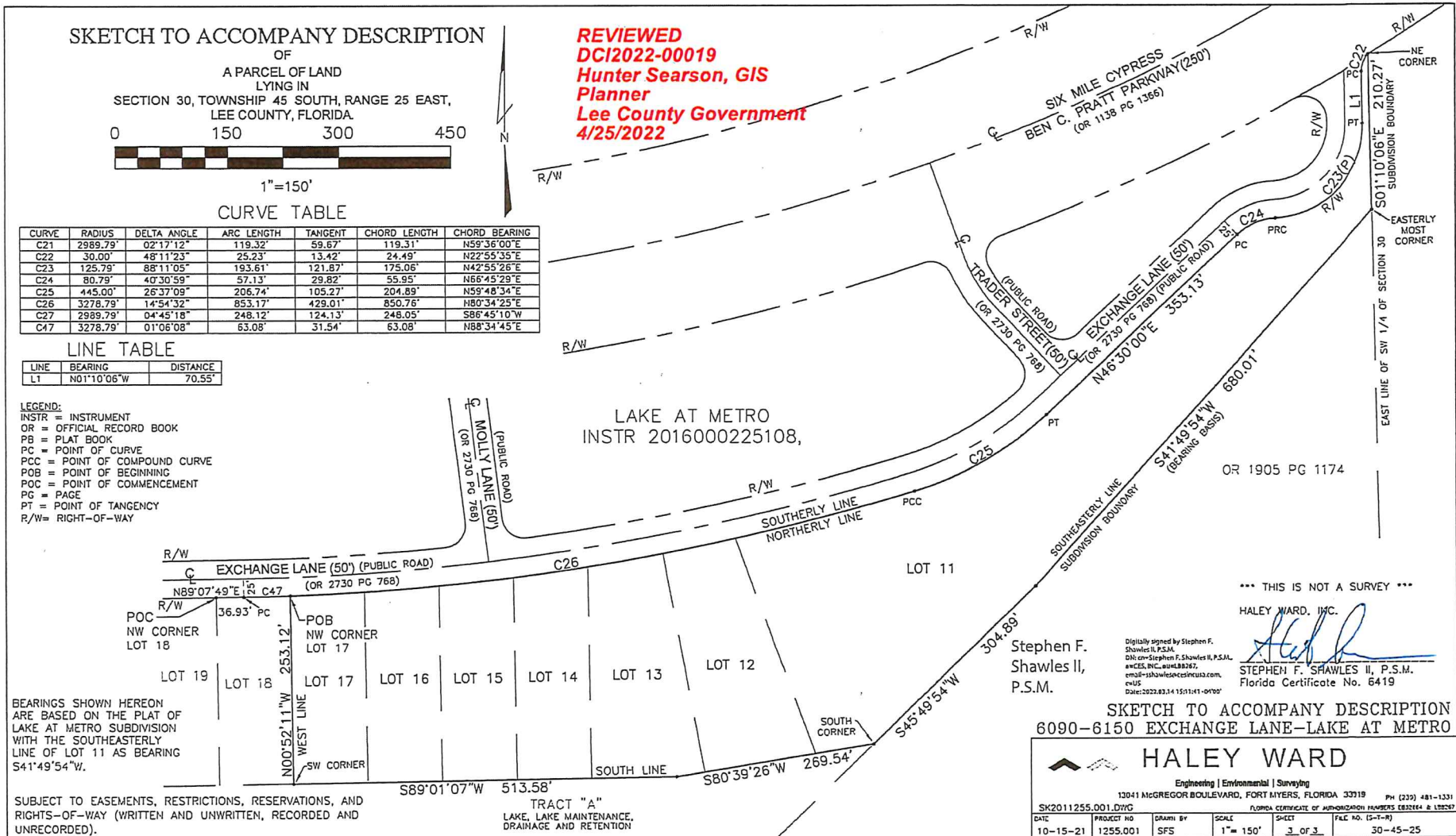
REVIEWED
DCI2022-00019
Hunter Searson, GIS
Planner
Lee County Government
4/25/2022

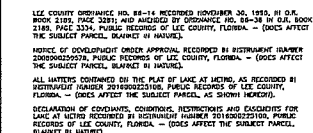
Stephen F.
Shawles II,
P.S.M.

Digitally signed by Stephen F.
Shawles II, P.S.M.
DN: cn=Stephen F. Shawles II,
P.S.M., o=CES, INC., ou=LB8267,
email=sshawles@cesincusa.com,
c=US
Date: 2022.03.14 15:10:00 -04'00'

Haley Ward, Inc. (LB8267)

Stephen F. Shawles II, P.S.M. 6419
Professional Surveyor and Mapper
State of Florida





UNDERGROUND IMPROVEMENTS, UTILITIES AND/OR FOUNDATIONS WERE NOT LOCATED UNLESS OTHERWISE NOTED.
IMPROVEMENT LINES ARE NOT LOCATED.

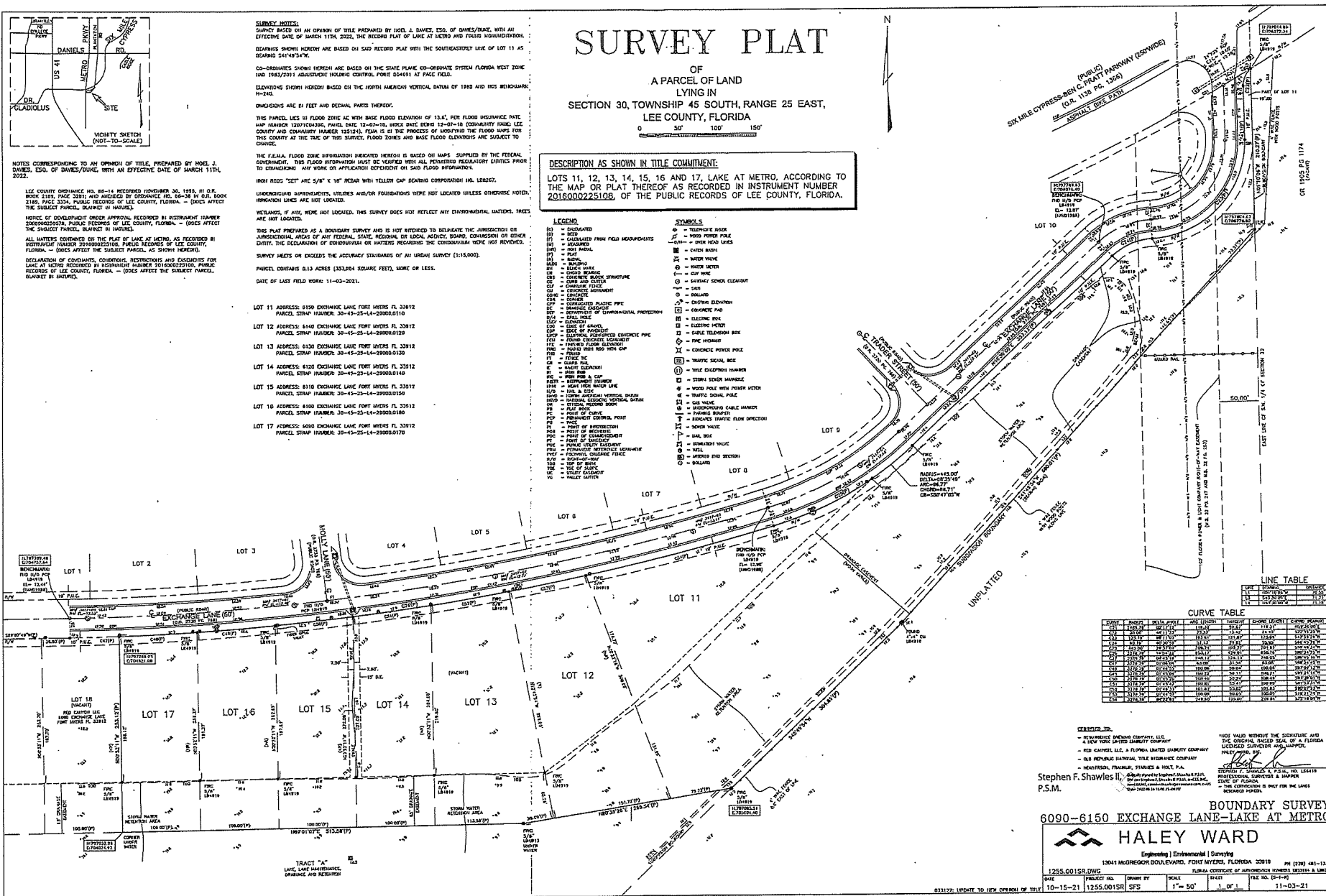
WETLANDS, IF ANY, WERE NOT LOCATED. THIS SURVEY DOES NOT REFLECT ANY ENVIRONMENTAL MATTERS. THIS
SURVEY DOES NOT LOCATED.

THIS PLAN PREPARED AS A BOUNDARY SURVEY AND IS NOT INTENDED TO DELINEATE THE JURISDICTION OR
JURISDICTIONAL AREAS OF ANY FEDERAL, STATE, REGIONAL OR LOCAL AGENCY, BOARD, COMMISSION OR OTHER
ENTITY. THE DECLARATION OF CONDOMINIUM OR MATTERS REGARDING THE CONDOMINIUM WERE NOT REVIEWED.

SURVEY MEETS OR EXCEEDS THE ACCURACY STANDARDS OF AN URURAL SURVEY (1:15,000).

PARKET CONTAINS 0.13 ACRES (353,894 SQUARE FEET), MORE OR LESS.

OF
A PARCEL OF LAND
LYING IN
SECTION 30, TOWNSHIP 45 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

[illegible]

COUNT	ADAPT	WALL AREA	AREA 12/10/00	INTERIOR	GROUND SURFACE	CORREL. PLANE
C01	26.057	262.174	11.4	21.4	118.3	102.250.0
C02	26.057	261.723	73.32	13.42	34.49	102.250.0
C03	26.057	261.723	73.32	13.42	34.49	102.250.0
C04	26.057	261.723	73.32	13.42	34.49	102.250.0
C05	26.057	261.723	73.32	13.42	34.49	102.250.0
C06	26.057	261.723	73.32	13.42	34.49	102.250.0
C07	26.057	261.723	73.32	13.42	34.49	102.250.0
C08	26.057	261.723	73.32	13.42	34.49	102.250.0
C09	26.057	261.723	73.32	13.42	34.49	102.250.0
C10	26.057	261.723	73.32	13.42	34.49	102.250.0
C11	26.057	261.723	73.32	13.42	34.49	102.250.0
C12	26.057	261.723	73.32	13.42	34.49	102.250.0
C13	26.057	261.723	73.32	13.42	34.49	102.250.0
C14	26.057	261.723	73.32	13.42	34.49	102.250.0
C15	26.057	261.723	73.32	13.42	34.49	102.250.0
C16	26.057	261.723	73.32	13.42	34.49	102.250.0
C17	26.057	261.723	73.32	13.42	34.49	102.250.0
C18	26.057	261.723	73.32	13.42	34.49	102.250.0
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C20	26.057	261.723	73.32	13.42	34.49	102.250.0
C21	26.057	261.723	73.32	13.42	34.49	102.250.0
C22	26.057	261.723	73.32	13.42	34.49	102.250.0
C23	26.057	261.723	73.32	13.42	34.49	102.250.0
C24	26.057	261.723	73.32	13.42	34.49	102.250.0
C25	26.057	261.723	73.32	13.42	34.49	102.250.0
C26	26.057	261.723	73.32	13.42	34.49	102.250.0
C27	26.057	261.723	73.32	13.42	34.49	102.250.0
C28	26.057	261.723	73.32	13.42	34.49	102.250.0
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C99	26.057	261.723	73.32	13.42	34.49	102.250.0
C100	26.057	261.723	73.32	13.42	34.49	102.250.0

VERIFICATION:

REINSURANCE BROKER COMPANY, LLC
A NEW YORK LIMITED LIABILITY COMPANY

RED CAPITAL, LLC A FLORIDA LIMITED LIABILITY COMPANY

NEW REPUBLIC NATIONAL TITLE INSURANCE COMPANY

HOUSTON, FRANKLIN, STANLEY & HOLLY, P.A.

STEPHEN F. SHAWLES II, Esq.
The undersigned, STEPHEN F. SHAWLES II, Esq.,
being duly sworn, deposes and says that he is the
owner of the above described insurance policies.
His deposition is taken for the purpose of
admission into evidence.

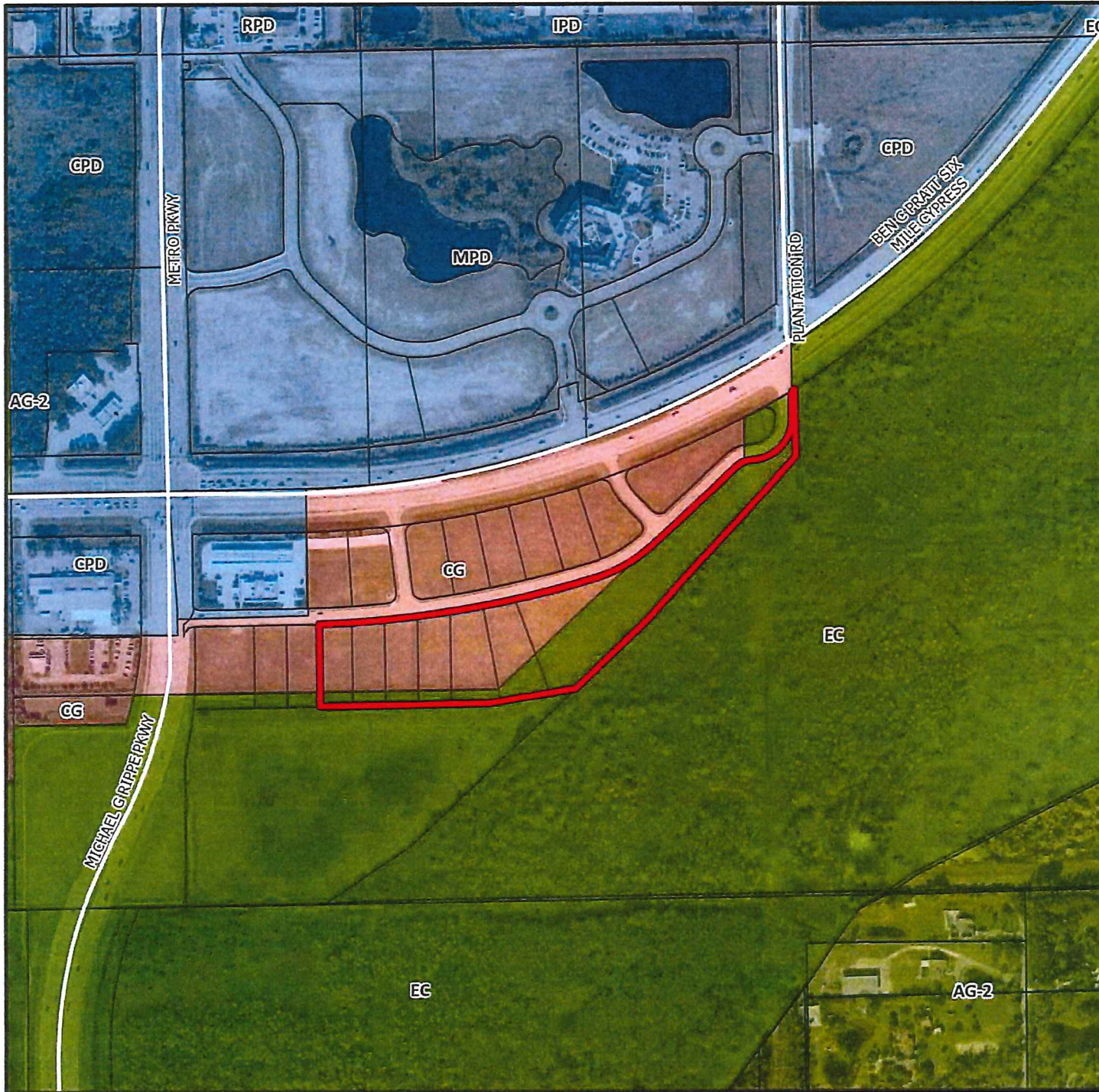
11057 WOULD WITNESS THE SIGNATURE AND THE
ORIGINAL, DATED SEAL, OF A FLORIDA
LICENSED SURVEYOR AND LANDMAN
MILLY, DATED 11/1/2011

STEPHEN F. SHAWLES II, ESQ., NO. 156418
PROFESSIONAL SURVEYOR & LANDMAN
STATE OF FLORIDA
THE CORPORATION IS BUILT FOR THE LONG
TERM FUTURE OF FLORIDA

Stephen F. Shawles II, Esq.
P.S.M.

BOUNDARY SURVEY
6090-6150 EXCHANGE LANE-LAKE AT METRO

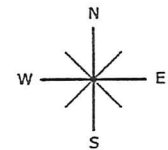
 HALEY WARD Engineering Environmental Surveying 13041 MCGREGOR BOULEVARD, FORT MYERS, FLORIDA 33918 PH (238) 481-1333 FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS 0022656 & 002021					
1255.001SR.DWG					
DATE	PROJECT NO.	DRAWN BY	SCALE	SHEET	FILE NO. (S-1-R)
10-15-21	12555.001SR	SFS	1" = 50'	1 OF 1	11-03-21



DCI2022-00019

Zoning

 Subject Property



0 500
Feet



Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

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

1. Master Concept Plan (MCP) and Development Parameters

- a. MCP. Development must be substantially consistent with the one-page Master Concept Plan Entitled "Resurgence Brewery and Rock Gym Master Concept Plan" last revised 10/21/2022 (Exhibit B1).
- b. LDC and Lee Plan. Development must comply with the LDC and Lee Plan at the time of development order approval, except where modified by deviation herein. Subsequent amendments to the MCP or its auxiliary documentation attached thereto are subject to the planned development amendment process established by the Land Development Code.
- c. Development Parameters. Project intensity is limited to 34,660 square feet of commercial/light industrial use in substantial compliance with the MCP.

HEX NOTE: The MCP must be revised to reflect CPD zoning. The Hearing Examiner recommends including 1(c) to specify the CPD's development intensity based upon the proposed MCP.

2. Schedule of Uses and Property Development Regulations

- a. Schedule of Uses
 - Accessory uses and structures
 - Administrative offices
 - Bar or cocktail lounge (subject to Condition 4)
 - Business services, Group I
 - Commercial, schools (limited to a maximum of 100 students)
 - Consumption on premises (subject to Condition 4)
 - Cultural facilities
 - Essential services
 - Essential service facilities, Group I
 - Excavation:
 - Water retention
 - Fences, Walls
 - Food and kindred products, manufacturing, Groups II & III (subject to Condition 5)
 - Incidental and subordinate retail and wholesale

Novelty, jewelry, toys and signs, manufacturing, Groups I, II & III
Parking lot: Accessory
Personal services, Group II
Printing and publishing
Recreational facilities, commercial, Groups I & IV (excluding gun ranges)
Restaurants, Groups I, II, III & IV
Signs
Social services, Group II
Temporary uses
Transportation services, Groups II & III (excluding bus stations/depots and bus terminals)

b. Property Development Regulations

Minimum Lot Area and Dimensions

Lot Area:	8 acres
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum Building Setbacks and Maximum Building Heights:

Street:	25 feet
Side:	25 feet
Rear:	25 feet
Maximum building height	45 feet
Maximum lot coverage	40 percent

3. Open Space

Development order plans must depict a minimum of 54± percent open space in substantial compliance with the MCP.

4. Consumption on Premises (COP)

- a) Hours. Sale/service of alcoholic beverages is limited to 10AM-2AM daily.
- b) Outdoor Area. Outdoor Consumption on Premises is limited to the 400 square feet of cumulative covered outdoor seating depicted on the MCP unless an administrative approval or special exception for reconfiguration/expansion is approved in accordance with the LDC.
- c) Uses. Consumption of alcoholic beverages is permitted in conjunction with all listed Restaurant Groups, including the annotated outdoor restaurant

seating on the MCP, Recreation Commercial, Group IV (indoor only) and a bar/cocktail lounge not exceeding 438 square feet as denoted on the MCP.

- d) Non-Alcoholic Consumption. If the sale/service of nonalcoholic beverages or full-service meals ceases prior to the sale/service of alcoholic beverages, the sale/service and consumption on premises must be confined to the 438-square-foot bar.
- e) COP Area. Consumption of alcoholic beverages is prohibited within areas dedicated to recreational activities (i.e. rock climbing), except within seating and observation areas depicted on the MCP. Developer must post signs to deter alcoholic beverage consumption in prohibited areas.

5. Food and Kindred Product Manufacturing

Food/kindred product manufacturing and ancillary equipment must be confined to a maximum floor area of 5,650 square feet annotated on the MCP. Future expansion of the brewery manufacturing component may be considered, subject to LDC §34-938, provided the floor area of the brewery is subordinate to the remaining commercial uses (i.e. commercial recreation/restaurant/bar etc.)

6. Traffic Impact Statement (TIS)

Development order TIS may not incorporate internal trip capture into project trip generation calculations.

7. Former EC District

Lands formerly zoned EC are encumbered by drainage/ utility easements as depicted on the boundary survey. These lands are limited to open space, drainage, or utilities. Improvements in the easement area are prohibited if contrary to the easement or interfere with the easement. Amendments seeking to utilize easement areas for other uses must be sought through the public hearing process.

8. Development Permits

County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or if applicant undertakes actions resulting in a violation of state or federal law. Applicant must obtain applicable state/federal permits prior to commencing development.

DEVIATIONS

1. Parking. Deviation 1 seeks relief from LDC §34-2020(b) requirement of off-street parking for non-residential uses, to allow a five percent reduction of the total required parking.

HEX Recommendation: Approval, subject to the following conditions:

- a. The site must accommodate bicycle racks containing no less than 12 bicycle spaces.
- b. Developer must construct offsite sidewalks on Exchange Lane connecting to the shared use path on Ben C Pratt Six Mile Cypress Parkway at time of development order approval.
- c. Developer must install code required Lee Tran bus stop improvements without deviation.

Exhibits to Conditions:

B1 Master Concept Plan last revised 10/21/2022

HEX NOTE: MCP must be revised to reflect CPD rather than IPD zoning

EXHIBIT B-1

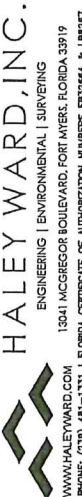


Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Adam Mendez, Senior Planner, date received January 18, 2023 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *PowerPoint Presentation:* Prepared by Lee County staff, for Resurgence Brewery & Rock Gym (multiple pages – 8.5"x11")

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Kareh Ahmad, to Hearing Examiner, with copies to Maria Perez, Adam Mendez, and Noel Davies, dated Monday, January 30, 2023 10:07 AM (3 pages – 8.5"x11")
- b. *Exhibit List:* Email from Kareh Ahmad, to Hearing Examiner, with copies to Maria Perez, Adam Mendez, and Noel Davies, dated Monday, January 30, 2023 10:02 AM (3 pages – 8.5"x11")
1. *Aerial Overlay:* Prepared by Haley Ward, Inc., for Resurgence Brewery & Rock Gym (1 page - 11"x17")[color]

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Adam Mendez

Applicant Representatives:

1. Noel J. Davies, Esq.
2. Ahmad R. Kareh

Public Participants:

None

Exhibit E
INFORMATION

UNAUTHORIZED COMMUNICATIONS

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

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

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

COPIES OF TESTIMONY AND TRANSCRIPTS

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