

Summary of Hearing Examiner Recommendation

RACETRAC BAYSHORE ROAD

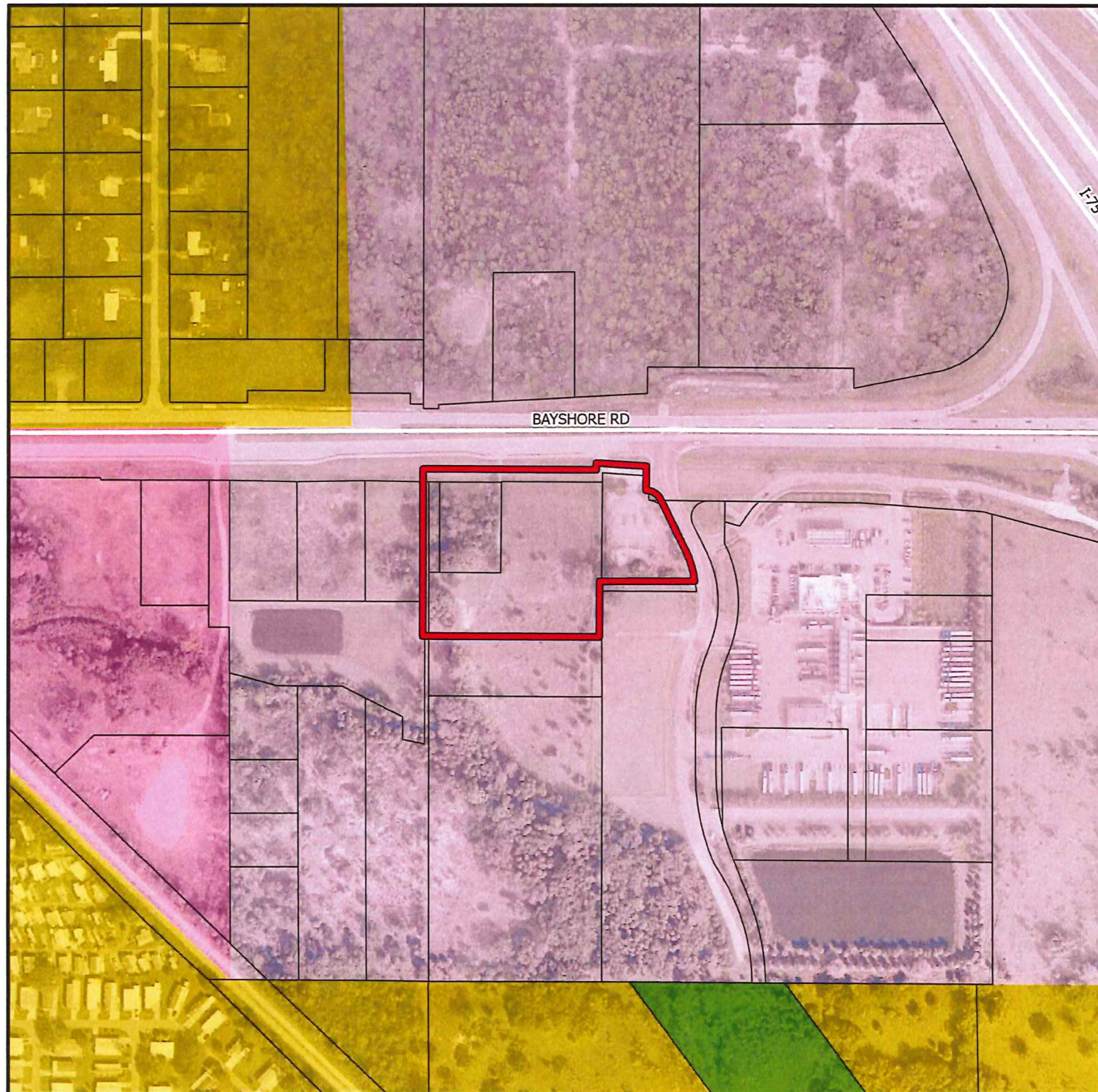
Hearing Examiner Remarks

The request seeks approval for a convenience store with 22 fuel pumps along Bayshore Road, west of I-75. Eighteen pumps front Bayshore Road, with four diesel pumps for large trucks located behind the convenience store to bolster compatibility and facilitate circulation for the traveling public along an emerging interchange.

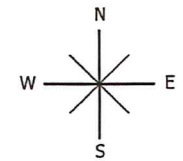
Detailed recommendation follows

DCI2021-00053

Future Land Use



-  Subject Property
-  Suburban
-  Industrial
-  General Interchange
-  Conservation Lands - Upland



0 500
Feet

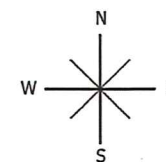




DCI2021-00053

Aerial

 Subject Property



0 500
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2021-00053

Regarding: RACETRAC BAYSHORE ROAD

Location: 8590, 8600, 8640 Bayshore Road
North Fort Myers Planning Community
(District 5)

Hearing Date: February 1, 2023

I. Request

Rezone 5.29± acres from Commercial Planned Development (CPD), Community Commercial (CC), and Agricultural (AG-2) to CPD to allow development of a 6,000 square-foot convenience food and beverage store with 22 self-service fuel pumps.

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

II. Hearing Examiner Recommendation

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

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.¹ In 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.² 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.³ The

¹ LDC §34-145(d)(1)(a) & (2)(a).

² LDC §34-145(d)(3).

³ LDC §34-145(d)(4).

Hearing Examiner's recommendation must be based on competent and substantial evidence.⁴

Discussion supporting the recommendation of CPD approval follows below.

Zoning Review Criteria

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

- A. Complies with the Lee Plan;
- B. Meets the LDC and other applicable County regulations or qualifies for deviations;
- C. Is compatible with existing and planned uses in the surrounding area;
- D. Will provide access sufficient to support the proposed development intensity;
- E. Addresses expected impacts on transportation facilities through existing County regulations or conditions of approval;
- F. Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- G. Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.⁵

If the request involves planned development zoning, the Hearing Examiner must also find:

- H. The proposed use or mix of uses is appropriate at the proposed location;
- I. Recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and
- J. Each requested deviation (1) enhances the achievement of the objectives of the planned development, and (2) preserves and promotes the general intent of the LDC to protect public health, safety, and welfare.⁶

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

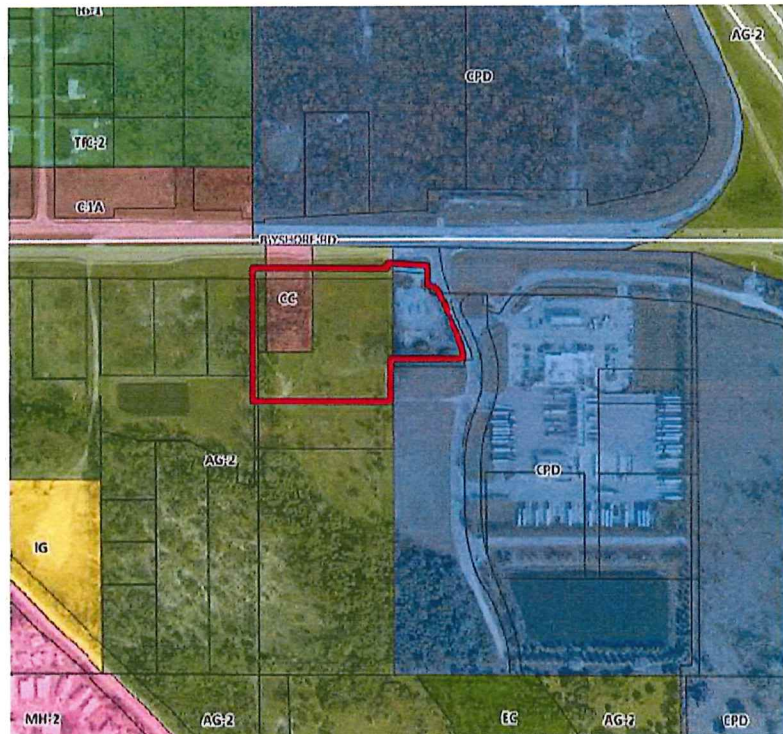
⁵ LDC §34-145(d)(4)(a)(1).

⁶ LDC §34-145(d)(4)(a)(2).

Character of the Area

The vacant property sits south of Bayshore Road, west of I-75.

The Love's Truck Stop abuts to the east. Vacant CPD lands to the north are slated for commercial/hotel development. Agricultural and conservation lands lie to the west, south, and southeast. The Bayshore Road corridor is an emerging development area with numerous projects approved for commercial and dense residential uses.⁷



Request Synopsis/Zoning History

The site has three zoning designations – two conventional districts with the eastern portion zoned CPD.⁸ The site historically hosted a single-family residence and a convenience food and beverage store with 16 fuel pumps.⁹

Applicant seeks to rezone the 5.29± acres to CPD to develop a 6,000 square foot convenience store with 22 fuel pumps. Eighteen pumps will be located along Bayshore Road with the remaining four diesel pumps for semi-trucks placed behind the convenience food/beverage store to improve compatibility.

⁷ See Staff Report (pg. 1-2); Testimony of Adam Mendez.

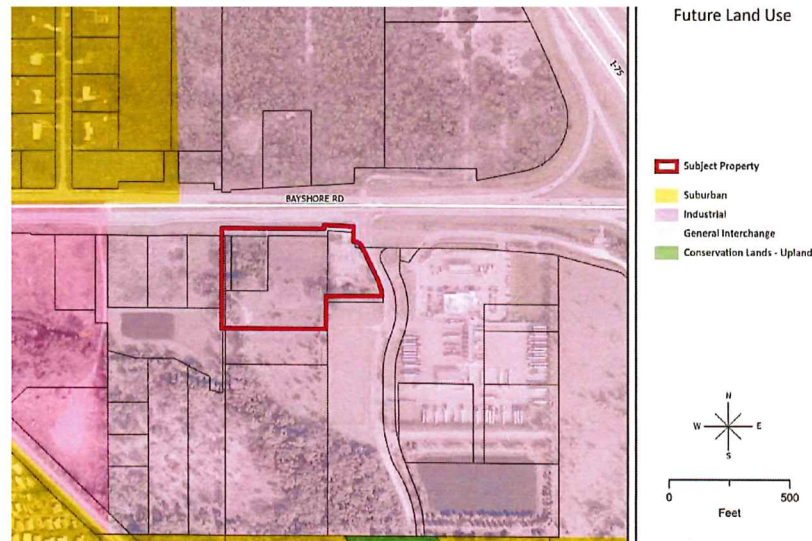
⁸ Staff recommends administratively amending the existing CPD to remove these lands. The Hearing Examiner concurs that Applicant should complete that administrative process to avoid confusion. See Staff Report (pg. 5), See Condition 4.

⁹ See Staff Report (pg. 1). The former gas station was demolished in 2012. See *Id.*; Staff Report (Attachments M-N).

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

Lee Plan Consistency/Compatibility

All planned developments must be consistent with the Lee Plan.¹⁰ Rezoning requests must be compatible with existing/planned uses in the surrounding area.¹¹ Planned developments must be located to minimize negative effects of proposed uses on neighboring properties.¹²



The property is located within the General Interchange future land use category in the North Fort Myers Planning Community.¹³

The General Interchange category permits a broad range of uses primarily intended to serve the traveling public.¹⁴ Service stations are expressly permitted on General Interchange lands.¹⁵

The proposed development promotes contiguous and compact growth consistent with Lee Plan directives.¹⁶ The request develops a parcel proximate to the Bayshore Road/I-75 interchange.¹⁷ The requested use benefits residents and the traveling public while improving the community's economic base.¹⁸

¹⁰ LDC §34-411(a).

¹¹ LDC §34-145(d)(4)(a).

¹² LDC §34-411(c) and (i).

¹³ Lee Plan Map 1A-B, 2-A, Policy 1.3.2; Staff Report (Attachment C); LDC §33-1531 *et. seq.* The property is within the North Fort Myers Commercial Corridor. See Staff Report (pg. 4); Lee Plan Objective 30.2, Policy 30.2.5; LDC §33-1566-1604.

¹⁴ Lee Plan Policy 1.3.2

¹⁵ *Id.*

¹⁶ See Lee Plan Objectives 2.1, 2.2, Policies 2.1.1, 2.2.1, 6.1.7; Staff Report (pg. 7-8).

¹⁷ See Lee Plan Policies 6.1.3, 6.1.4.

¹⁸ See Lee Plan Goal 158.

The requested rezoning is consistent with the Lee Plan and compatible with the surrounding area.

Environmental/Natural Resources

Planned development design should reflect creative use of open space.¹⁹ Developers must make an effort to protect and preserve natural site features.²⁰

The site has been previously cleared.²¹ There are no protected animal species.²² There is a 0.31± acre indigenous vegetation community that will be impacted to accommodate site access.²³ Applicant will install supplemental plantings to mitigate impacts to this area.²⁴

Site design provides adequate buffers from neighboring properties and meets open space requirements.²⁵

Transportation Facilities/Traffic

Planned developments must have access to roads with sufficient capacity to support proposed intensity.²⁶ Existing regulations or conditions of approval must address expected transportation impacts.²⁷

The project primarily accesses Bayshore Road, a state-maintained arterial road.²⁸ The site also has access to Park 78 Drive, a non-county maintained local road.²⁹

Site design reserves several connections to adjoining properties to the west and south.³⁰ These accessways serve to provide future interconnections should neighboring lands develop with commercial uses, while also ensuring surrounding properties are not landlocked.³¹

Applicant's traffic engineer testified the Florida Department of Transportation (FDOT) has indicated the property will have a signalized access with full median

¹⁹ LDC §34-411(h).

²⁰ LDC §34-411(g).

²¹ See Staff Report (Attachment I).

²² See *Id.*

²³ See Deviation #1.

²⁴ See Staff Report (Attachment I).

²⁵ See *Id.*

²⁶ LDC §34-145(d)(4)(a)(1)(d); §34-411(d)(1).

²⁷ LDC §34-145(d)(4)(a)(1)(e); §34-411(d)(2).

²⁸ See Staff Report (Attachment G-H).

²⁹ *Id.*

³⁰ The connections will be improved up to property boundaries to allow for future interconnections. Testimony of John Wojdak.

³¹ Testimony of Dan DeLisi and John Wojdak.

opening on Bayshore Road.³² The Traffic Impact Statement concluded affected roadways will continue to operate at appropriate levels of service.³³

Further evaluation of traffic impacts will occur during development order review.

Public Services

Public services are the facilities, capital improvements, and infrastructure necessary to support development.³⁴ The Lee Plan requires urban service evaluation for rezoning.³⁵

The property is in an area served by a host of urban services and infrastructure including roads, potable water, sanitary sewer, parks, police, fire, and emergency medical services.³⁶ Transit facilities are approximately two miles away, accessible by sidewalks and shared use paths.³⁷

Conditions

The county must administer the zoning process so proposed uses acceptably minimize adverse impacts to adjacent property. Conditions must plausibly relate to impacts anticipated from the proposed development and must be pertinent to mitigating those impacts for public health, safety, and welfare.³⁸

The CPD will be subject to conditions of approval addressing permitted uses, development parameters, and evaluation of secondary access.³⁹

The conditions relate to impacts anticipated from the project.⁴⁰

³² Testimony of Yury Byhau. Mr. Byhau testified the intersection is not currently signalized and so present conditions were evaluated in the TIS to remain conservative. However, he indicated a strong probability that the intersection would warrant signalization. Development order review will further evaluate traffic implications prior to site development. The MCP reflects a signalized full median opening.

³³ Testimony of Yury Byhau. Staff Report (Attachment G: TIS).

³⁴ Lee Plan Glossary. Public services include public water/sewer, paved streets/roads, public transit, parks and recreation facilities, urban levels of police, fire/emergency services, urban surface water management, schools, employment, institutional/public/administrative/community facilities, and libraries. Formerly known as "urban services."

³⁵ Lee Plan Policy 2.2.1.

³⁶ See Staff Report (pg. 2-3, Attachment F); Applicant's Ex. 1 (slide 7). FGUA provides potable water/sewer services along Bayshore Road with capacity for the project. See Staff Report (pg. 3, Attachment K). Caloosahatchee Creeks Preserve Park West is 0.3± miles away and Nalle Grade Community Park is 5± miles from the site. The Bayshore Fire Station with EMS substation is within less than a mile with the Lee County Sheriff's Office North District station 6.2± miles from the property. See Staff Report (pg. 3).

³⁷ Lee Tran Route 590 is about two miles away. See Staff Report (pg. 3).

³⁸ LDC §34-932(b).

³⁹ See Conditions (Ex. B).

⁴⁰ LDC §34-83(b)(4)a.3. The Hearing Examiner recommends revisions to conditions to improve clarity.

Deviations

“Deviations” are departures from LDC regulations.⁴¹ Applicant requested one deviation regarding on-site preservation.⁴² The LDC requires large developments with indigenous vegetative communities to provide 50 percent of open space through onsite preservation.⁴³ Applicant seeks to provide no onsite preservation because the location of the indigenous area interferes with the alignment of cross-access points that cannot be moved.⁴⁴

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

1. Enhance achievement of objectives of the planned development; and
2. Preserve and promote the general intent of the LDC to protect public health, safety, and welfare.⁴⁵

Due to the nature of the deviation and the property's location within the North Fort Myers Planning Community, the deviation must also meet the more stringent variance criteria.⁴⁶



⁴¹ LDC §34-2.

⁴² Deviation #1 seeks relief from LDC §10-415(b).

⁴³ *Id.*

⁴⁴ See Staff Report (pg. 6-7, Attachment F); Testimony of Dan DeLisi.

⁴⁵ LDC §34-145(d)(4).

⁴⁶ See Lee Plan Policy 30.2.5; LDC §34-145(b). The following graphic is taken from Applicant's Ex. 1 (slide 8).

Variance criteria require a finding that the requested deviation:

1. The property has inherent exceptional conditions that cause the application of the regulation to create a hardship (as defined in section 34-2) on the property owner;
2. The exceptional conditions are not the result of actions of the property owner taken subsequent to the adoption of the ordinance;
3. The variance granted is the minimum variance that will relieve the unreasonable burden caused by the application of the regulation to the property;
4. The granting of the variance will not be injurious to the neighborhood or detrimental to the public welfare; and
5. The variance is consistent with the Lee Plan.

Staff supports the requested deviation, with conditions.⁴⁷ Staff weighed the value of preservation against the safety provided by the proposed access point, concluding the request strikes an appropriate balance between regulatory departure and relief granted.⁴⁸ Further, Applicant is providing indigenous enhancements to mitigate impacts to existing areas.

Applying LDC deviation standards of review to testimony and evidence in the record, the Hearing Examiner concludes the requested deviations meet approval criteria.⁴⁹

Public

No members of the public attended the hearing.

Applicant held a public information meeting consistent with LDC requirements.⁵⁰ Meeting minutes reflect no objections to the request.

Conclusion

The Hearing Examiner concurs with staff's analysis and recommendation that the requested CPD meets LDC approval criteria.

IV. Findings and Conclusions

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

- A. As conditioned herein, the proposed CPD:

⁴⁷ See Staff Report (pg. 6-7); Staff Ex. 4.

⁴⁸ See Staff Report (pg. 6-7); Testimony of Adam Mendez.

⁴⁹ LDC §34-377(a)(4); §34-145(b).

⁵⁰ See Staff Report (pg. 10, Attachment L). The meeting was held August 2, 2022.

1. Complies with the Lee Plan. See Lee Plan Goals 2, 4, 6, 30, 158, Objective 2.1, 2.2, 30.5, 39.1, and Policies 1.3.2, 1.7.6, 2.1.1, 2.2.1, 6.1.3, 6.1.4, 6.1.7, 39.1.1, Lee Plan Maps 1A-B, 2-A.
 2. Complies with the LDC and other County regulations. See, LDC 10-1, 10-416, 33-1531 *et. seq.*, 34-934.
 3. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.3.2, 2.1.1, 2.1.2, 2.2.1, 6.1.1, 6.1.3, 6.1.4, 6.1.6, 6.1.7; LDC 34-411(c), (i), and (j).
 4. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goal 77, Objectives 4.1, 77.2; and LDC 34-411(h).
 5. Will be served by urban services. See, Lee Plan Glossary, Maps 4A-B, Goal 2; Objectives 2.1, 2.2, 4.1; Policies 2.2.1, 6.1.4, 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, Policy 6.1.5, 39.1.1; LDC 34-411(d).
- C. The proposed mix of uses is appropriate at the proposed location. See, Lee Plan Policies 1.3.2, 2.1.1, 6.1.1, and 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, Lee Plan Policy 6.1.1; See *a/so*, LDC Chapters 10, 33, 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 public health, safety, and welfare. See, 34-377(b)(4).

Date of Recommendation: March 14, 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

SKETCH AND DESCRIPTION OF A PARCEL LYING IN SECTION 21, TOWNSHIP 43 SOUTH RANGE 25 EAST, LEE COUNTY, FLORIDA

LEGAL DESCRIPTION:

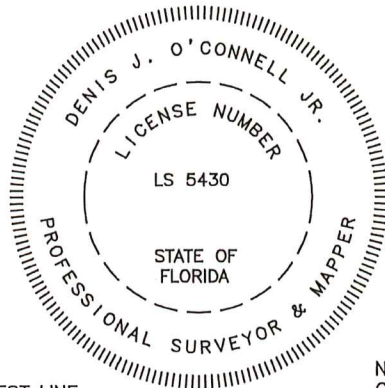
AS PREPARED BY THIS OFFICE

A PARCEL OF LAND LYING IN THE STATE OF FLORIDA, COUNTY OF LEE, A PORTION OF SECTION 21, TOWNSHIP 43 SOUTH, RANGE 25 EAST, BEING A COMBINATION OF PARCEL 21-43-25-00-00007.0100, DESCRIBED AS INSTRUMENT# 2015000002141; PARCEL 21-43-25-00-00008.0000, DESCRIBED AS INSTRUMENT# 2016000172378; PARCEL 21-43-25-00-00007.002A, AS DESCRIBED IN OFFICIAL RECORDS BOOK 2006 AT PAGE 4053; AND A PORTION OF 21-43-25-00-00007.0030, DESCRIBED AS INSTRUMENT# 2013000116935, ALL OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST HALF OF SECTION 21, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY FLORIDA; THENCE S.00°05'34"W., A DISTANCE OF 101.51 FEET TO A POINT ON THE SOUTH LINE OF FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY SECTION 12060-2535, THE NORTHWEST CORNER OF PARCEL PARCEL DESCRIBED AS INSTRUMENT# 2015000002141, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE S.89°43'08"E., ALONG SAID RIGHT OF WAY LINE, FOR A DISTANCE OF 424.51 FEET; THENCE N.00°04'49"E., ALONG SAID RIGHT OF WAY LINE, FOR A DISTANCE OF 17.06 FEET; THENCE S.86°21'45"E., ALONG SAID RIGHT OF WAY LINE, FOR A DISTANCE OF 122.32 FEET; THENCE S.00°12'51"W. FOR A DISTANCE OF 60.00 FEET TO A POINT ON THE SOUTH LINE OF FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY SECTION 12075-2406 AND A POINT ON A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 40.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 64°09'20", A CHORD BEARING OF S.57°42'29"E., A CHORD LENGTH OF 42.49 FEET AND AN ARC LENGTH OF 44.79 FEET; THENCE S.25°37'49"E. FOR A DISTANCE OF 142.90 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 234.79 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 19°20'37", A CHORD BEARING OF S.15°57'30"E., A CHORD LENGTH OF 78.89 FEET AND AN ARC LENGTH OF 79.27 FEET; THENCE S.89°54'14"W. FOR A DISTANCE OF 233.25 FEET; THENCE S.00°05'34"W. FOR A DISTANCE OF 136.09 FEET; THENCE N.89°43'08"W. FOR A DISTANCE OF 433.00 FEET; THENCE N.00°05'34"E. FOR A DISTANCE OF 414.53 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 230,348 SQUARE FEET, OR 5.288 ACRES, MORE OR LESS

REVIEWED
DCI2021-00053
Hunter Searson, GIS
Planner
Lee County Government
7/26/2022



Denis
O'Connell
ell

Digitally signed
by Denis
O'Connell
Date:
2022.05.06
09:57:40 -04'00'

BY: _____
DENIS J. O'CONNELL, Jr.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. LS# 5430

NOTES:

1. BEARINGS ARE BASED ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 43 SOUTH RANGE 25 EAST LEE COUNTY, FLORIDA, AS BEARING N 00°05'34" E
2. DISTANCES ARE IN FEET AND DECIMALS THEREOF.
3. SUBJECT TO EASEMENTS, RESERVATIONS AND RIGHTS OF WAY (RECORDED, WRITTEN AND UNWRITTEN)
4. RECORDING INFORMATION IS FROM THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

* THIS IS NOT A SURVEY *

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

RACETRAC AT BAYSHORE ROAD

TITLE: LEGAL DESCRIPTION			
		METRON SURVEYING & MAPPING, LLC LAND SURVEYORS · PLANNERS LB# 7071	
10970 S. CLEVELAND AVE. SUITE #605 FORT MYERS, FLORIDA 33907 PHONE: (239) 275-8575 FAX: (239) 275-8457 www.metronfl.com			
FILE NAME:	15106SK ZONING.DWG	PROJECT NO.:	15106
DATE:	5/06/2022	DRAWN BY:	BUD
SCALE:	N/A	CHECKED BY:	DJO
		FILE NO. (S-T-R)	21-43-25
		SHEET: 1 OF 2	

SKETCH AND DESCRIPTION

OF A PARCEL LYING IN SECTION 21, TOWNSHIP 43 SOUTH RANGE 25 EAST, LEE COUNTY, FLORIDA

P.O.C.

NW COR OF SW 1/4
OF SE 1/2 SEC 21,
TWP 43S, RNG 25E

BAYSHORE ROAD (STATE ROAD No. 78)

NORTH LINE OF SW 1/4 OF SE 1/4 SEC 21, TWP 43S, RNG 25E

CENTERLINE FDOT R/W SEC 12060-2535

A VARIABLE WIDTH
RIGHT OF WAY

OLD R/W BAYSHORE (50' FROM CENTERLINE)

N 00°04'49" E
17.06'S 86°21'45" E
122.32'S 00°12'51" W
60.00'

S 89°43'08" E

FDOT R/W
SEC 12060-2535

424.51'

P.O.B.

414.53'

WEST LINE OF
SE 1/4 SEC 21
N 00°05'34" E21-43-25-00-00007.0100
INST# 2015000002141

21-43-25-00-00008.0000
INST# 2016000172378
8590 BAYSHORE ROAD

SUBJECT PARCEL
COMBINED AREA
230,348 SQUARE FEET, OR
5.288 ACRES, MORE OR LESS

A PORTION OF
21-43-25-00-00007.0030
INST# 2013000116935
8600 BAYSHORE ROAD

21-43-25-00-00007.002A
OR 2006, PG 4053
8640 BAYSHORE ROAD

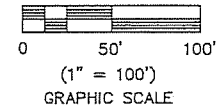
S 89°54'14" W
233.25'R/W LINE
FDOT SEC 12075-2406S 25°37'49" E
142.90'S 00°05'34" W
136.09'

N 89°43'08" W

433.00'

REMAINDER OF
21-43-25-00-00007.0030
CURVE DATA

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	40.00	44.79	42.49	S 57°42'29" E	64°09'20"
C2	234.79	79.27	78.89	S 15°57'30" E	19°20'37"

**NOTES:**

1. BEARINGS ARE BASED ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 43 SOUTH RANGE 25 EAST LEE COUNTY, FLORIDA, AS BEARING N 00°05'34" E

2. DISTANCES ARE IN FEET AND DECIMALS THEREOF.

3. SUBJECT TO EASEMENTS, RESERVATIONS AND RIGHTS OF WAY (RECORDED, WRITTEN AND UNWRITTEN)

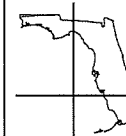
4. RECORDING INFORMATION IS FROM THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

* THIS IS NOT A SURVEY *

RACETRAC AT BAYSHORE ROAD

TITLE:

SKETCH OF DESCRIPTION



METRON
SURVEYING & MAPPING, LLC

LAND SURVEYORS-PLANNERS

LB# 7071

10970 S. CLEVELAND AVE.
SUITE #605
FORT MYERS, FLORIDA 33907
PHONE: (239) 275-8575
FAX: (239) 275-8457

www.metronfl.com

FILE NAME:
15106SK ZONING.DWG

PROJECT NO.:
15106

SHEET:
2 OF 2

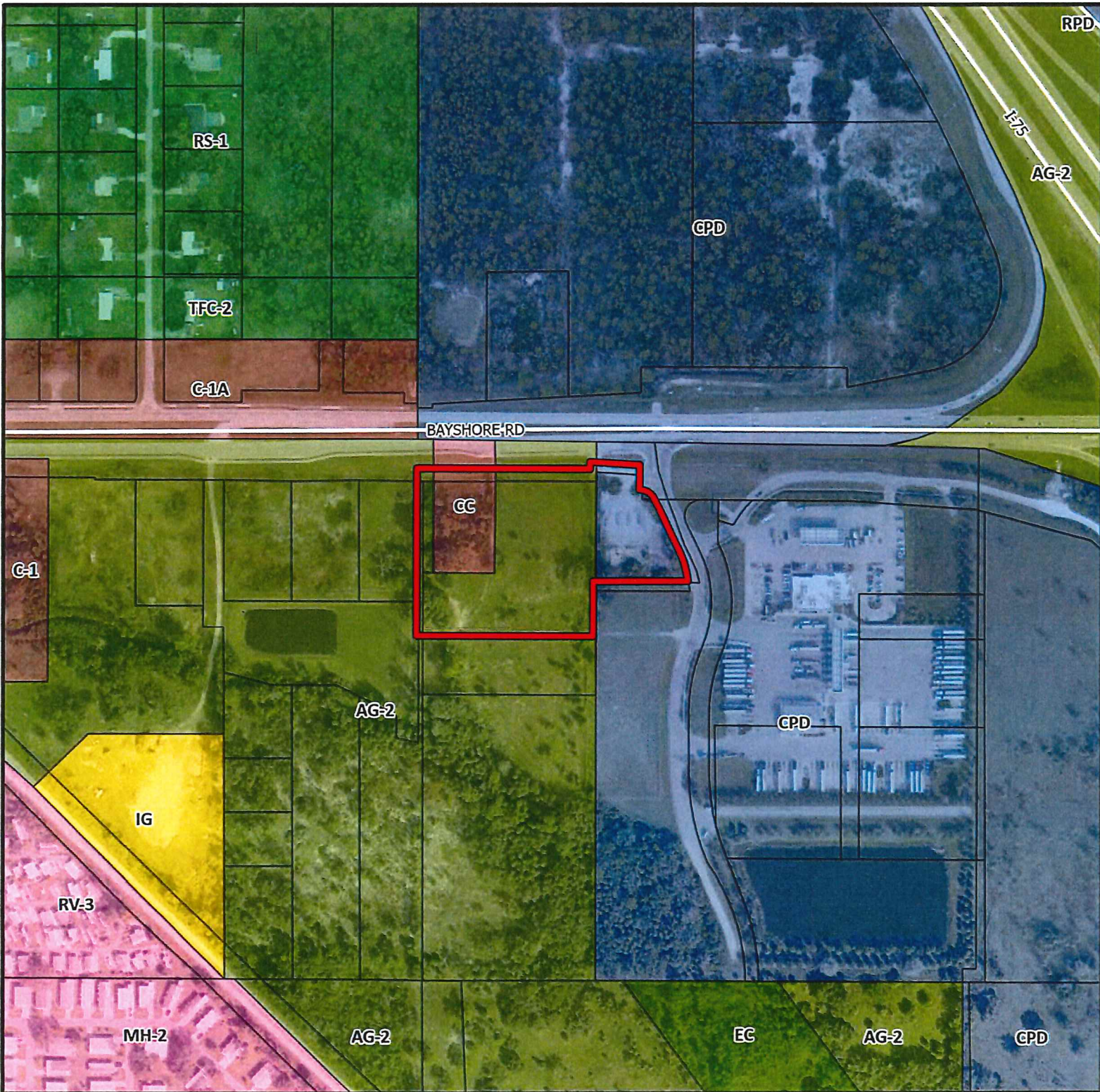
DATE:
5/06/2022

DRAWN BY:
BUD

SCALE:
1" = 100'

CHECKED BY:
DJO

FILE NO. (S-T-R)
21-43-25

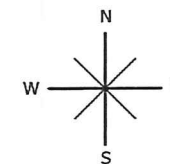


DCI2021-00053

Zoning

 Subject Property

STAFF'S EXHIBIT #) 3



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 two-page Master Concept Plan Entitled "Master Concept Plan" stamped received 1/30/2023 (Exhibit B).
- b. LDC and Lee Plan. Development must comply with the LDC and Lee Plan at time of development order approval except where granted by deviation herein. Subsequent amendments to this resolution or MCP may be subject to further development approvals.
- c. Development Parameters. The CPD is approved for a 6,000 square foot convenience food and beverage store and 22 fuel pumps.

2. **Schedule of Uses and Property Development Regulations**

a. Schedule of Uses

Accessory uses and structures
ATM (Automatic Teller Machine)
Convenience food and beverage store (limited to one with a maximum of 22 self-service pumps)
Excavation:
 Water retention
 Dry detention
Fences, Walls
Essential services, Group I
Parking lot:
 Accessory
Signs
Self-service fuel pumps (limited to 22 in conjunction with a convenience food and beverage store)
Storage, Indoor
Temporary uses

b. Property Development Regulations

Minimum Lot Area and Dimensions

Area: 5.29 acres
Width: 100 feet
Depth: 100 feet

Minimum Setbacks, Maximum Building Height and Maximum Lot Coverage:

Arterial Street:	50 feet
Local Street:	20 feet
Side:	15 feet
Rear:	15 feet
Waterbody:	25 feet
Maximum building height:	35 feet
Maximum lot coverage:	10 percent

3. Open Space

Development order plans must depict a minimum of 1.58 acres of open space in substantial compliance with the MCP Open Space Exhibit.

4. Prior CPD Approval

The CPD approved by Z-86-191, as amended by ADD2012-00120, must be amended to remove the 1.43± acre portion of the property before development order issuance.

5. 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. Onsite Preservation. Deviation 1 seeks relief from LDC §10-415(b), which requires large developments with existing indigenous native vegetation communities provide 50 percent of their open space percentage requirement through the onsite preservation of existing native vegetation communities, to allow for no requirement for on-site preservation.

HEX Recommendation: Approved, *subject to* the following condition:

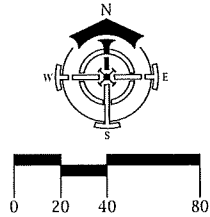
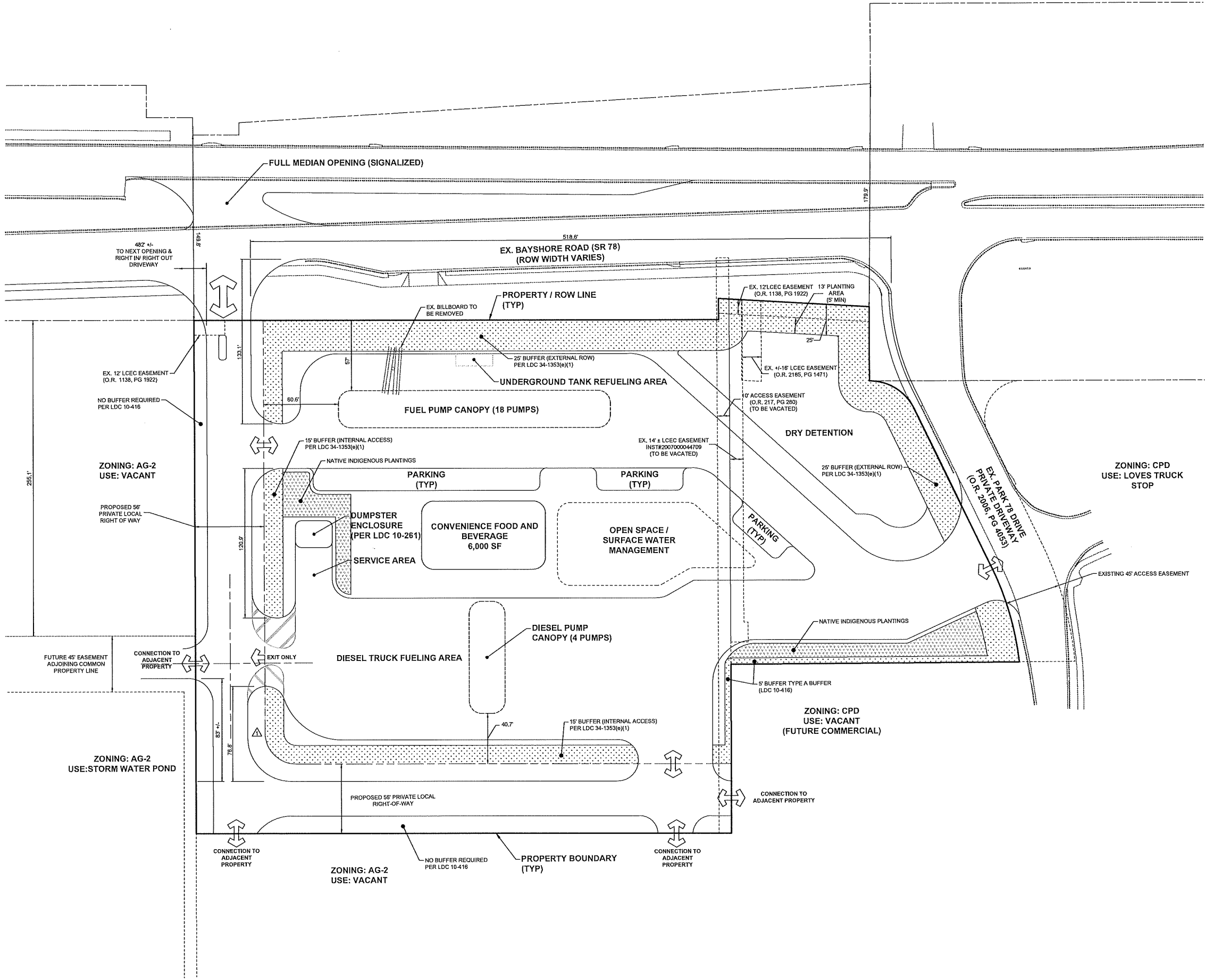
Development order plans must depict supplemental plantings along the southeast boundary and west of the convenience store building, as depicted on the MCP. Trees must be canopy trees (no palms) specified at 16-feet-in-height, four-inch caliper, and a six-to eight-foot canopy spread. Landscape plants must be native and not deciduous.

Exhibits to Conditions:

B1 Master Concept Plan stamped received January 30, 2023

EXHIBIT B-1

K:\0155 - RACETRAC @ BAYSHORE ROAD\MCP PLAN SET\155-01-MCP.DWG
12/23/2015 12:27 PM



LEGEND	
	BUFFER
	NATIVE INDIGENOUS PLANTINGS
	POINT OF INGRESS / EGRESS
	DEVIATION REQUEST LOCATION

PROPERTY DATA TABLE	
STRAP NUMBERS	21-43-25-00-00007.002A 21-43-25-00-00008.0000 21-43-25-00-00007.0030 21-43-25-00-00007.0100
PROPERTY AREA	5.29 AC.
CURRENT ZONING	CC, CPD, AG-2

DEVELOPMENT PROGRAM	
ALLOWABLE USES:	
CONVENIENCE FOOD & BEVERAGE (8,000 SF MAX.)	
SELF SERVICE FUEL PUMPS (22 MPDS MAX.)	

OPEN SPACE TABLE	
REQUIRED:	ACREAGE
5.29 AC. x 30%	1.58
PROVIDED:	ACREAGE
BUFFERS	0.64
DRY DETENTION	0.32
MISC. OPEN SPACE	0.62
TOTAL	1.58

NOTE:
1. THE SITE WILL UTILIZE A CLOSED DRAINAGE SYSTEM.

DEVIATIONS:
1. DEVIATION 1 REQUESTS RELIEF FROM LDC SECTION 10-415(B) WHICH REQUIRES THAT LARGE DEVELOPMENTS WITH EXISTING INDIGENOUS NATIVE VEGETATION COMMUNITIES MUST PROVIDE 50 PERCENT OF THEIR OPEN SPACE PERCENTAGE REQUIREMENT THROUGH THE ON-SITE PRESERVATION OF EXISTING NATIVE VEGETATION COMMUNITIES TO ALLOW FOR NO REQUIREMENT FOR ON-SITE PRESERVATION.

DELISI FITZGERALD, INC.
Planning - Engineering - Project Management
a Division of RESPEC Company LLC
1605 Hendry Street
Fort Myers, FL 33901
(239) 418-0691
(239) 418-0692 fax
Florida
Registry License
Number 33253

OWNER / DEVELOPER:

RACETRAC PETROLEUM, INC.
200 GALLERIA PARKWAY, SUITE 900
FORT MYERS, FL 33902
(770) 437-7600



BAYSHORE
(EPN #1353 - STORE #XXXX)

PLAN REVISIONS	
#	DATE

MASTER CONCEPT PLAN

Project Manager: JTW
Drawn By: CAS
Checked By: JTW
Project Number: 21555
Located in Section(s): 21
Township: 43 S | Range: 25 E
County, State: LEE COUNTY, FL

State:
FOR CONSTRUCTION
SUBJECT TO ALL PERMIT APPROVALS

Sheet Number: 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 for by Lee County staff, for RaceTrac at Bayshore Road, DCI2021-00053, 8590-8640 Bayshore Road (multiple pages – 8.5"x11")[color]
3. *Revised Zoning Map:* (1 page – 8.5"x11")[color]
4. *Condition to Deviation #1:* (1 page – 8.5"x11")

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Daniel DeLisi, with DeLisi Inc., to Maria Perez, with copies to John Wojdak and Adam Mendez, dated Monday, January 30, 2023 8:17 AM (4 pages – 8.5"x11" and 1 page – 11"x17")
1. *PowerPoint Presentation:* Prepared for RaceTrac at Bayshore Road, DCI2021-00053, Hearing Examiner Hearing, dated February 1, 2023 (multiple pages – 8.5"x11")[color]

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Adam Mendez

Applicant Representatives:

1. Daniel DeLisi
2. John Wojdak
3. Yury Byhau

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.