

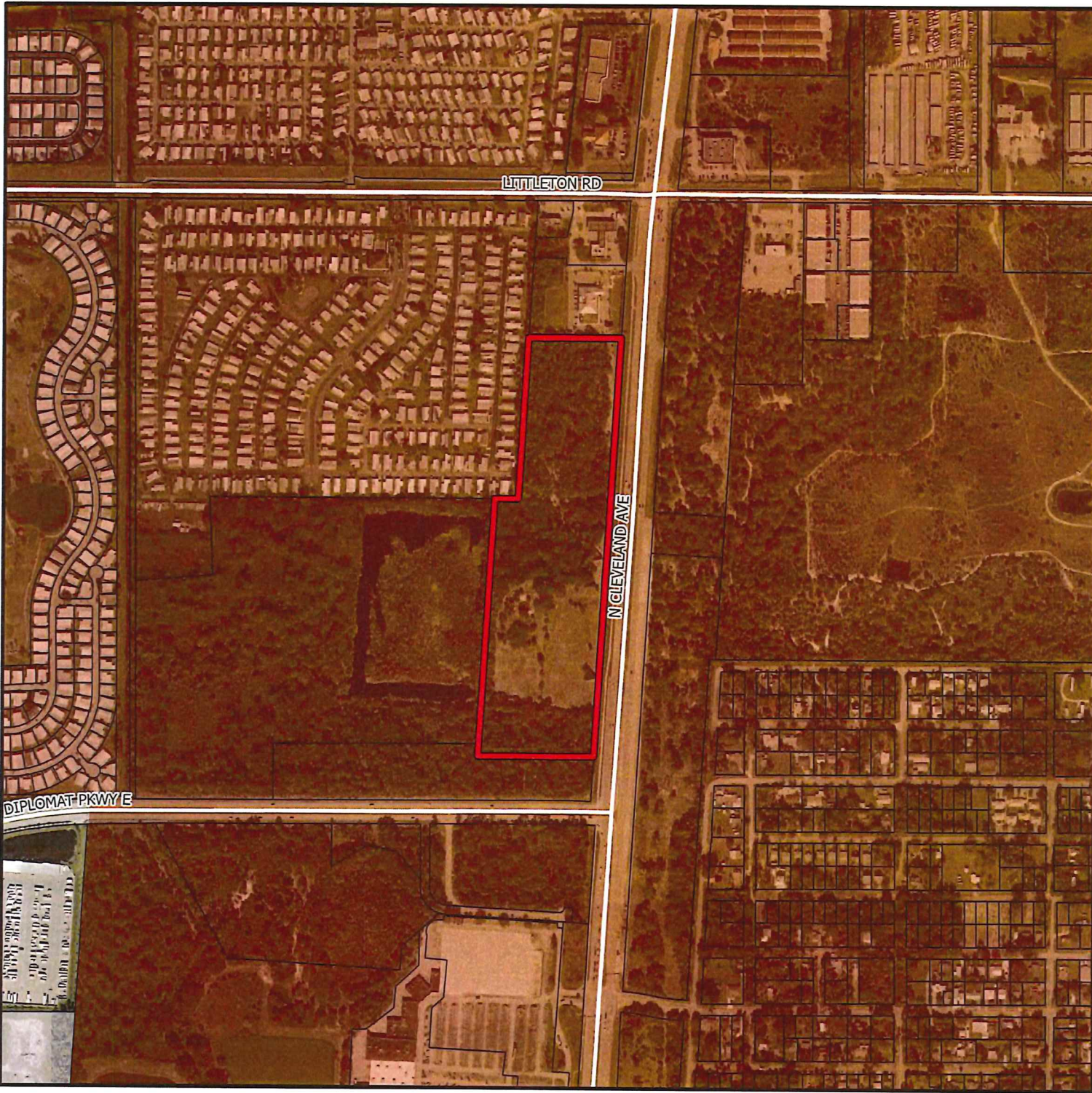
Summary of Hearing Examiner Recommendation

MIVO NORTH FORT MYERS

Hearing Examiner Remarks

The request seeks to rezone commercial lands to a multi-family residential development. Proposed building heights are lower than current approvals allow. Only one deviation is sought, relating to turnaround standards. The project will otherwise comply with LDC buffer, open space, and design requirements, including supplemental regulations applicable in the North Fort Myers Planning Community.

Detailed recommendation follows

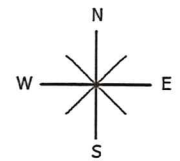


DCI2022-00027

Future Land Use

 Subject Property

 Central Urban
Public Facilities



0 1,000
Feet

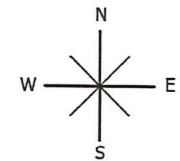




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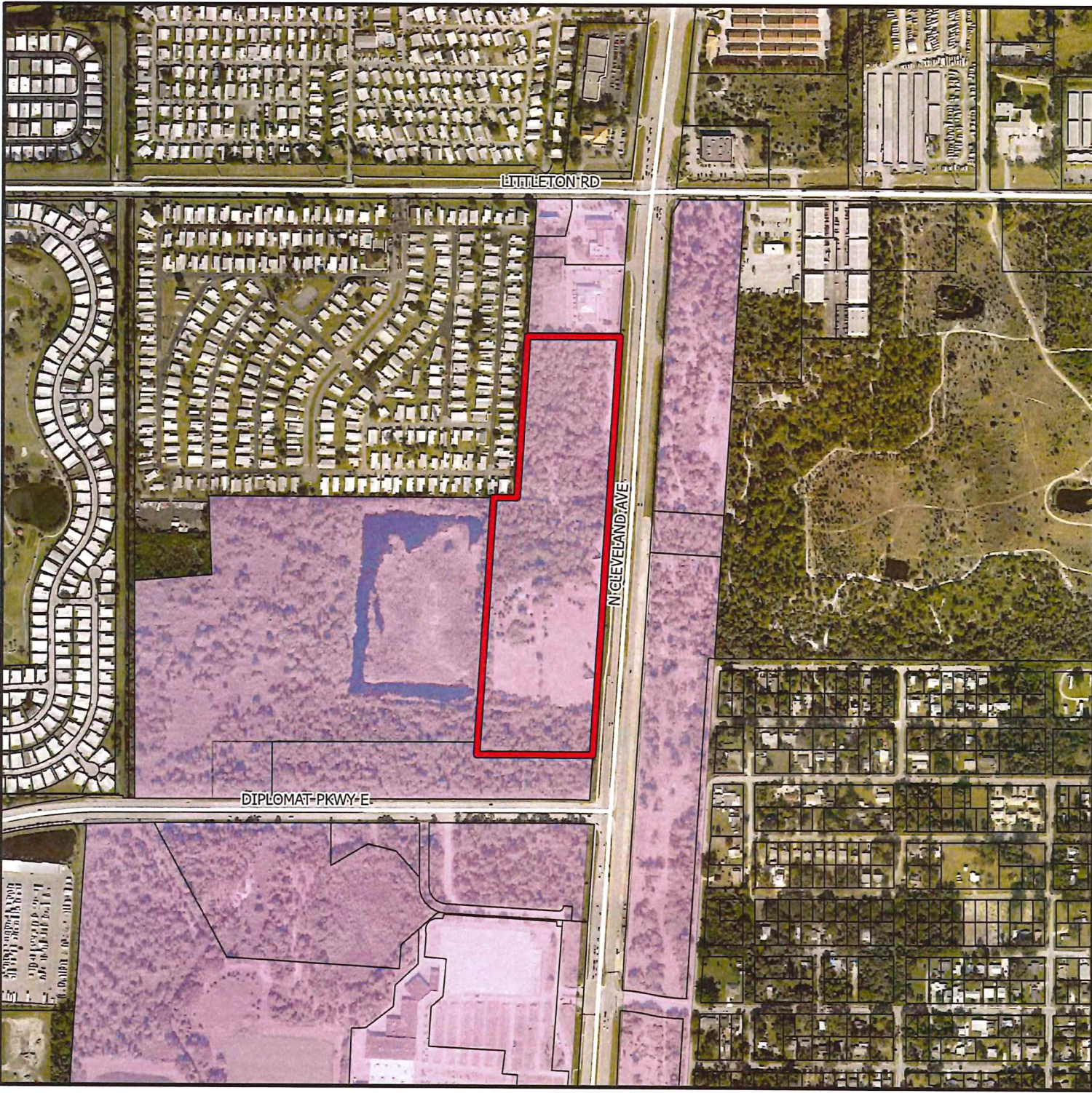
Aerial

 Subject Property



0 1,000
Feet

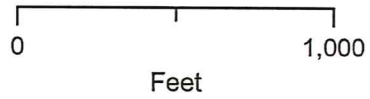
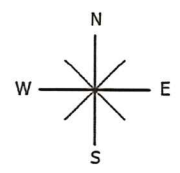




DCI2022-00027

Mixed Use Overlay

-  Subject Property
-  Mixed Use Overlay



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2022-00027

Regarding: **MIVO NORTH FORT MYERS**

Location: 15781 North Cleveland Avenue
North Fort Myers Planning Community
(District 4)

Hearing Date: January 19, 2023

I. Request

Rezone 19.41± acres from Commercial (C-1A) and Commercial Planned Development (CPD) to Residential Planned Development (RPD) to allow a maximum 285 units of which 95 are bonus density units, not to exceed 60 feet in height.

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

II. Hearing Examiner Recommendation

Approval, subject to the conditions and deviation 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 furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone commercial lands to RPD.

In preparing a recommendation for the Board, Hearing Examiner must apply the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other County regulations to the facts adduced at the hearing. There must be competent substantial evidence in the record to support the recommendation to the Board.

¹ LDC §34-145(d)(4)a.

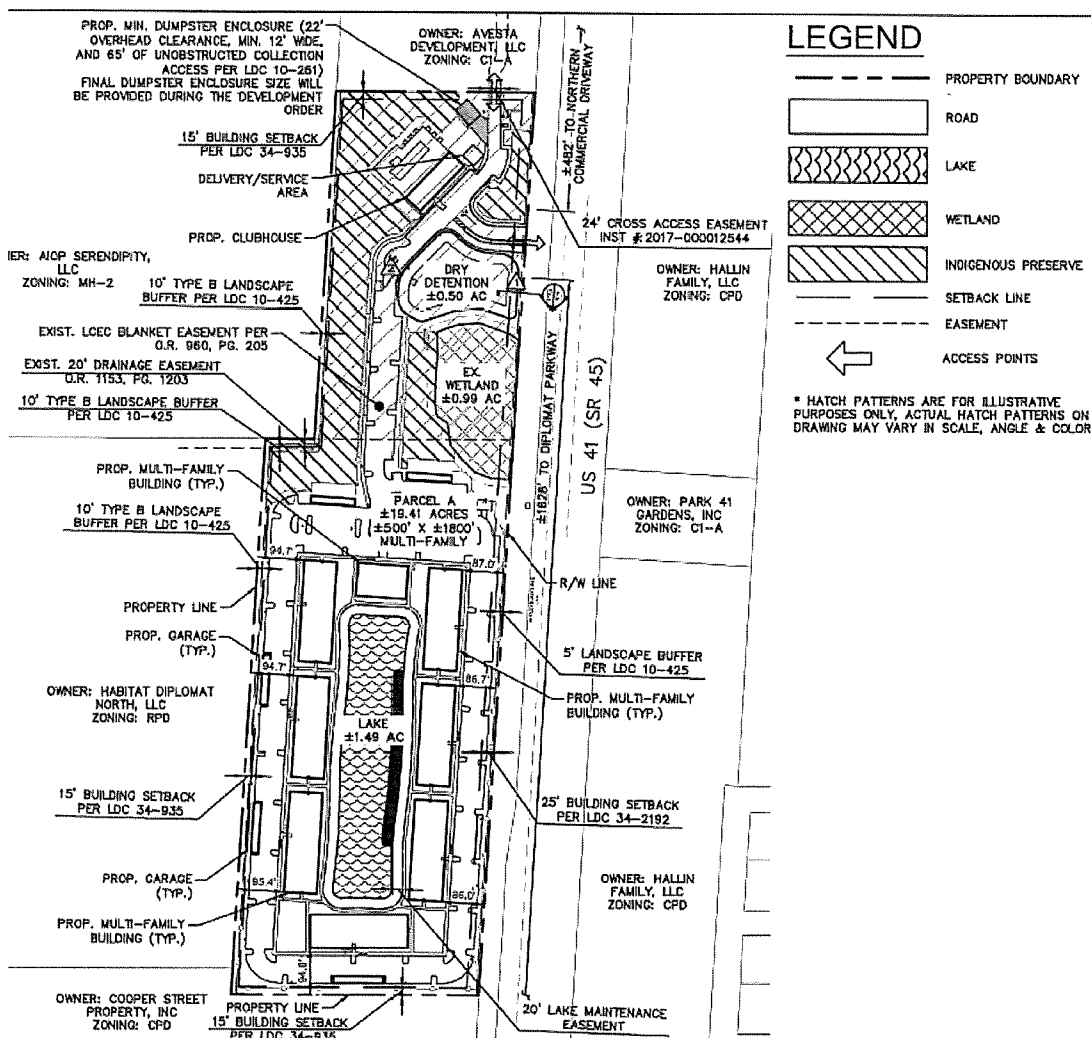
Discussion supporting the Hearing Examiner's recommendation of approval follows below.

Request

Applicant seeks approval of a multi-family development consisting of up to 285 dwelling units across eight buildings, an amenity center, and a parking garage. Of the requested units, 95 require approval through the bonus density program. Maximum building heights will be 60 feet.

The property is located west of North Tamiami Trail, between Diplomat Parkway and Littleton Road. Lee Plan Maps designate the site within the North Fort Myers Planning Community and the Mixed Use Overlay.

Staff recommended approval, finding the proposed RPD satisfies review criteria in the LDC and Lee Plan.



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. The expected impacts on transportation facilities will be addressed by existing County regulations and 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.²

If the request involves planned development zoning, such as a RPD, the Hearing Examiner must also find:

- H. The proposed use or mix of uses is appropriate at the proposed location;
- I. The 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.³

History of the Site

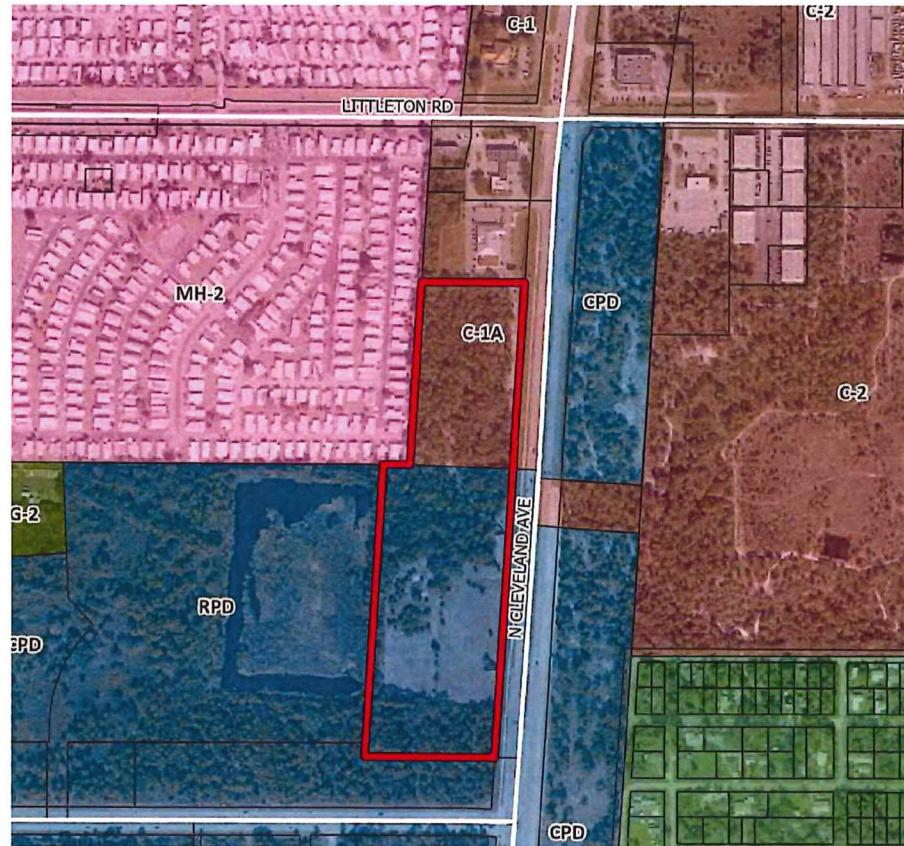
The property splits zoning between the C-1A conventional district and a Commercial Planned Development (CPD). The C1-A portion constitutes roughly the top third of the site.⁴ The remainder is zoned CPD, approved for alternative

² See LDC §34-145(d)(4)(a)(1).

³ See LDC §34-145(d)(4)(a)(2).

⁴ See Staff Report (pg. 1, Attachment L); See Z-69-160.

development programs consisting of retail, office, hotel, and multi-family residential uses.⁵ Approved height for hotel and multi-family uses is 75 feet.⁶



Character of Surrounding Area

Zoning requests must be compatible with existing/planned uses in the area and minimize potential negative effects on neighboring property.⁷

The property lies within the North Fort Myers Planning Community along US 41.⁸ The area is heavily developed with a range of urban services.⁹ Commercial properties adjoin to the north and east. Residentially zoned lands abut to the south/west. A mobile home sits northwest of the site.

A mix of residential development and commercial uses feature predominately along the corridor. The requested RPD promotes contiguous and compact growth patterns in the area.¹⁰

⁵ See *Id.* See Z-09-025, permitting either: (1) 100,000ft² retail, 120 room hotel, and 7,500ft² restaurants; or (2) 83,500ft² medical offices, 24,000ft² retail, banks, restaurants, 120 room hotel, 110 unit assisted living facility, or 128 multi-family units. Hotel/multi-family permitted at 75 feet, other uses limited to 45 feet.

⁶ See Staff Report (pg. 1-2, Attachment L); See Z-09-025, ADD2020-00054.

⁷ LDC §34-145(d)(4), §34-411; Lee Plan Policies 5.1.5, 135.9.5, 135.9.6.

⁸ Lee Plan Goal 30, Map 2-A.

⁹ Lee Plan Map 1-B; See Lee Plan Policy 1.1.3.

¹⁰ Lee Plan Objectives 2.1 and 2.2.

The proposed site design is compatible with surrounding land uses.

Lee Plan Consistency

Planned developments must be consistent with the Lee Plan.¹¹

The Lee Plan Future Land Use Map classifies the property as Central Urban.¹² The Central Urban land use category is the second most intense under the Lee Plan, representing the county's "urban core." Central Urban areas typically contain a variety of housing types, commercial uses, and infrastructure.¹³ Permissible density ranges from 4 to 10 dwellings per acre, but may be as high as 20 units per acre under certain circumstances.¹⁴ The proposed density of 14.68 units per acre falls within the permissible range.

The property also sits within the Mixed Use Overlay in the North Fort Myers Planning Community.¹⁵ The proposed development is consistent with both designations as it infills development along a major corridor, adds diversity of housing types, provides connectivity via sidewalk/shared use path, preserves on-site wetlands and indigenous preserve areas, utilizes bonus density incentives, and revitalizes property along a major road corridor.¹⁶

The Lee Plan protects existing residential areas from the encroachment of destructive uses.¹⁷ Proposed site design meets this goal by locating indigenous preserve areas to separate project development from the adjacent mobile home park.¹⁸

The request is compatible with surrounding development and consistent with Lee Plan directives.

Transportation

The Master Concept Plan reflects primary project access from US 41 with secondary access through a full interconnection with the property to the north.¹⁹

¹¹ Lee Plan Policy 2.1.2; LDC §34-411(a).

¹² Lee Plan Policy 1.1.3.

¹³ The Central Urban category offers the greatest range and highest levels of urban services and infrastructure. Lee Plan Policy 1.1.3.

¹⁴ Developers may increase maximum density to 20 dwellings per acre when utilizing Greater Pine Island Transfer of Development Units. Lee Plan Policy 1.1.3.

¹⁵ Lee Plan Map 1-B, 1-C, 2-A.

¹⁶ See Goal 11, 30, Objective 2.1, 2.2, 11.2, 30.2, 30.3, Policies 11.2.2, 11.2.5, 11.2.6, 30.2.3, 30.2.7, 30.3.1, 30.5.3.

¹⁷ Lee Plan Policy 5.1.5.

¹⁸ See MCP; Testimony of Peter VanBuskirk (Transcript pg. 20).

¹⁹ See MCP; Testimony of Sima Ebrahimi (Transcript pg. 15).

The Traffic Impact Statement demonstrates area roadways will operate at acceptable levels of service at buildout.²⁰ Site-related improvements will be evaluated during local development order review.²¹

The site is ideally located for higher density residential development given its proximity to multimodal transit facilities. Sidewalks line US 41 providing pedestrian connectivity. LeeTran offers three routes directly along the site, with a central transit station a quarter mile south.²²

Environmental

The property hosts just under one acre of non-impacted wetlands.²³ The South Florida Water Management District jurisdictionally determined the wetlands, which will be preserved on-site.²⁴ In addition, 2.7 acres are identified as indigenous preserve and will be placed under conservation easement.²⁵

Notably, over half of the site is reserved for open space.²⁶

Public Services

The Lee Plan requires the availability of urban services be evaluated during the rezoning process. Urban services are the services, facilities, capital improvements, and infrastructure necessary to support development.²⁷

As the site lies within the County's urban core, a broad range of services and infrastructure are available to serve future residents. These services include public water and sewer, law enforcement, fire and emergency medical service.²⁸ Shopping, recreation, and employment centers are within a short distance. Development will be subject to road, park, school, fire, and EMS impact fees.²⁹

²⁰ Traffic Impact Statement prepared by TR Transportation Consultants, Inc. dated November 30, 2021. See Staff Report (Attachment J). See Staff Report (Attachment K: Memo from Lili Wu Senior Planner Department of Community Development dated November 16, 2022).

²¹ Developer must address site related improvements, including turn lanes, if warranted during the development order process. Lee Plan Objective 39.1, Policy 39.1.1, LDC §10-287.

²² See Staff Report (pg. 3).

²³ See MCP Open Space Table (pg. 2); Applicant's Ex. 1 (slide 20).

²⁴ Testimony of Peter VanBuskirk and Sima Ebrahimi (Transcript pg. 12-13, 18)

²⁵ See Condition 4.

²⁶ Open space comprises 10.8 acres of the 19.41 acre site. See MCP.

²⁷ Lee Plan Glossary definition of public services.

²⁸ North Fort Myers Fire & Rescue Services District will provide fire and emergency medical services. Law Enforcement will be supplied by Lee County Sheriff's office. Lee County Utilities potable water lines are near the site. Sanitary sewer services will be provided by FGUA. Developer funded connections may be required. See Staff Report (pg. 3, Attachment I).

²⁹ LDC §2-261 *et seq.*, §2-301 *et seq.*, §2-341 *et seq.*, §2-381 *et seq.*

Public Participation

Applicant held a community meeting detailing the proposal on July 5, 2022.³⁰ The North Fort Myers Community Planning Panel offered no objection to the request.³¹

No members of the public spoke at hearing.

Conditions

The County must administer the zoning process so that proposed land uses acceptably minimize adverse impacts to adjacent residential properties.³² Accordingly, the proposed RPD will be subject to conditions of approval. Conditions must plausibly relate to the impacts anticipated from the development and be pertinent to mitigating its impacts on public health, safety, and welfare.³³

Deviations

“Deviations” are departures from the land development regulations.³⁴ The proposed RPD includes one deviation from the LDC.³⁵ The requested deviation pertains to turnaround requirements. Staff found the deviation meets LDC criteria for approval.

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

1. Enhances the objectives of the planned development; and
2. Preserves and promotes public health, safety, and welfare.³⁶

The Hearing Examiner agrees with staff's recommendations finding the requested deviation meets LDC review criteria.³⁷

Conclusion

In conclusion, the Hearing Examiner recommends approval of the requested RPD subject to the conditions set forth in Exhibit B.

The Hearing Examiner recommends revisions to the proposed wording of conditions/deviations to improve clarity.³⁸

³⁰ See Staff Report (Attachment G); LDC §33-1532(b).

³¹ *Id.*

³² Lee Plan Policy 135.9.6.

³³ LDC §34-932(b).

³⁴ LDC §34-2.

³⁵ Applicant sought another deviation but withdrew Deviation 1 prior to hearing. See Applicant's Ex. A.

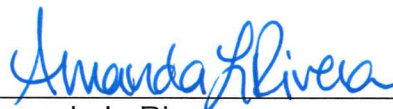
³⁶ LDC §34-377(a)(4).

³⁷ LDC §34-373(a)(9), §34-377(a)(4).

³⁸ LDC §34-932.

1. Enhances the objectives of the planned development, and
2. Preserves and promotes protection of public health, safety, and welfare.

Date of Recommendation: March 8, 2023.



Amanda L. Rivera
Deputy Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

IV. **Findings and Conclusions**

Based on record testimony and evidence, the Hearing Examiner makes the following findings and conclusions:

- A. The requested rezoning to Residential Planned Development complies with the Lee Plan. Lee Plan Goals 2, 4, 5, 11, 30, 77, 135; Objectives 2.1, 2.2, 4.1, 5.1, 11.2, 30.2, 30.3, 77.1, 77.3, 126.2; Policies 1.1.3, 2.1.2, 2.2.1, 5.1.1, 5.1.2, 5.1.7, 11.2.2, 11.2.6, 30.2.3, 30.2.7, 30.3.1, 30.5.3, 135.1.9, 135.9.5, 135.9.6; Lee Plan Maps 1-A, 1-B, 1-C, 2-A.
- B. *As conditioned*, the RPD:
 - 1. Meets the Land Development Code and other County regulations or qualifies for deviations. LDC 33-1531 *et seq.*, 34-145(d), 34-341, 34-378, 34-411, 34-413, 34-491, 34-612(2), 34-932;
 - 2. Is compatible with existing and planned uses. Lee Plan Objectives 2.1, 2.2, Policies 5.1.5, 135.9.5, 135.9.6; LDC 34-411.
 - 3. Provides access sufficient to support the proposed development intensity. Expected impacts to transportation facilities will be addressed by the conditions of approval and County regulations. Lee Plan Policies 39.1.1, 39.2.1; LDC 2-261 *et seq.*, 10-287, 34-411(d).
 - 4. Will not adversely affect environmentally critical/sensitive areas and natural resources. Lee Plan Goal 77; Objectives 77.1, 77.3, 126.2; Policies 61.3.1, 61.3.6, 61.3.11, 126.2.1, Standard 4.1.4; and LDC 34-411(h).
 - 5. Will be served by urban services adequate to serve the proposed land use. Lee Plan Glossary, Lee Plan Goals 2, 4, Objectives 2.1, 2.2, 4.1, and Standards 4.1.1 and 4.1.2; LDC 34-411(d).
- C. The proposed mix of uses is appropriate at the proposed location. Lee Plan Goals 2, 5; Policies 1.1.3, 2.1.1, 2.2.2, 5.1.2, 5.1.3, 5.1.5, 135.1.9.
- D. The recommended conditions and applicable regulations provide sufficient safeguards to protect the public interest. Lee Plan Policies: 5.1.5, 5.1.6, 126.2.1 and 135.9.6; LDC 34-411.
- E. The recommended conditions are reasonably related to the impacts expected from the proposed development. Lee Plan Policies 5.1.5, 135.9.6; LDC 34-932.
- F. The requested deviation, as conditioned:

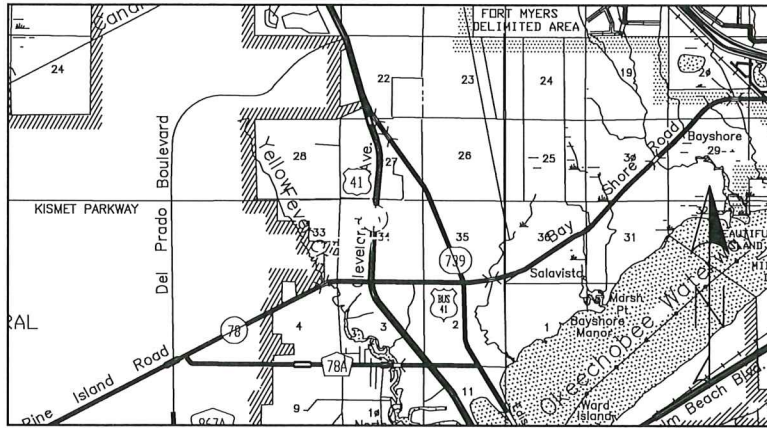
Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

EXHIBIT A

SKETCH & DESCRIPTION

OF A PARCEL
LYING WITHIN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA



VICINITY MAP
(NOT TO SCALE)

DESCRIPTION:

The North one-half (N1/2) of a parcel of land lying in the Northwest Quarter of Section 34, Township 43 South, Range 24 East, Lee County, Florida, more particularly described as follows:

Commencing at a found concrete monument marking the intersection of the westerly right-of-way of U.S. 41 (State Road No. 45)(Tamiami Trail)(200 feet wide) and the Southerly right-of-way of Littleton Road (50 feet wide) thence 94.14 feet along said westerly right-of-way along the arc of a curve concave to the Southeast having a radius of 5829.58 feet and subtended by a chord having a length of 94.14 feet and bearing of South 03°47'10" West to a found Florida State Road Department Right-of-Way concrete monument and a point of tangency; thence South 03°25'50" West along said Westerly right-of-way for 505.63 feet to a set iron pin with cap stamped LB-734 and the Point of Beginning; thence continue South 03°25'50" West along said Westerly right-of-way for 1832.74 feet to a set iron pin; thence North 89°54'50" West for 500.85 feet to a set iron pin; thence North 03°25'50" East for 1126.64 feet to a set iron pin on the Southerly line of Serendipity South Mobile Home Park; thence South 89°54'50" East along said Southerly line for 100.53 feet to the Southeast corner of said Serendipity South Mobile Home Park referenced by a found concrete monument lying 0.18 feet North and 0.65 feet East of said described corner; thence North 03°25'50" East along the Easterly line of said Serendipity South Mobile Home Park for 706.10 feet to a set iron pin; thence South 89°54'50" East for 400.33 feet to the Point of Beginning.

Subject to a 20 foot drainage easement described as follows: Beginning at the hereinabove mentioned Southeast corner of Serendipity South Mobile Home Park; thence North 89°54'50" West along said Southerly line of Serendipity Mobile Home Park for 100.53 feet; thence South 03°25'50" West for 20.00 feet; thence South 89°54'50" East for 100.53 feet; thence North 03°25'50" East for 20.00 feet to the Point of Beginning.

NOTES:

1. THE CERTIFICATE OF AUTHORIZATION NUMBER OF T2UES, INC. IS LB-8336.
2. BEARINGS SHOWN ARE BASED ON THE WESTERLY RIGHT-OF-WAY OF U.S. 41, BEING S 03°25'50" W.
3. LEGAL DESCRIPTION AND SKETCH OR THE COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
4. ADDITIONS AND 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.
5. NOT VALID WITHOUT ALL SHEETS.



SCOTT R. URQUHART
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 6524
(FOR THE FIRM - LB 8336)
SIGNED THIS ____ DAY OF _____, 2022

Digitally signed by
Scott R. Urquhart,
P.S.M.
Date: 2022.04.19
10:35:51 -04'00'

REVIEWED
DCI2022-00027
Hunter Searson, GIS
Planner
Lee County Government
7/22/2022

SEE SHEET 2 OF 2 FOR SKETCH

FOR:		KIMLEY HORN	
COUNTY:	LEE	DWG DATE:	4-18-2022
PROJECT NO.:	210906	DRAWN BY:	R.J.O.
DRAWING NO.:	210906 SKD	CHECKED BY:	S.U.
REVISION:		REV. DATE:	

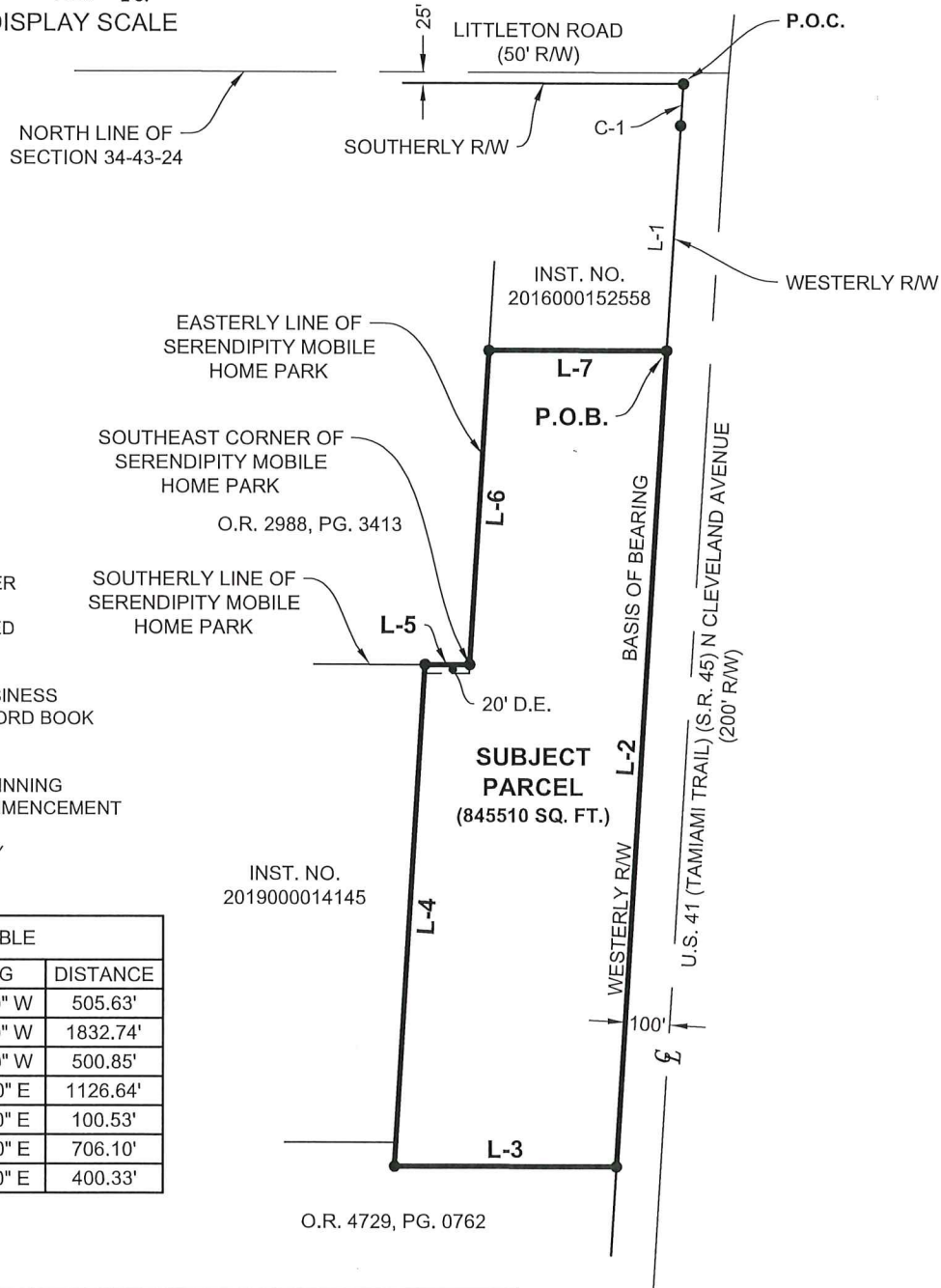
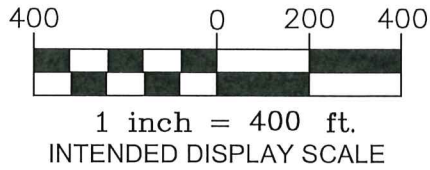
SKETCH & DESCRIPTION
OF A PARCEL
LYING WITHIN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST



5670 Zip Drive
Fort Myers, FL 33905
Tel: 239.277.0722
Fax: 239.277.7179

SKETCH & DESCRIPTION

OF A PARCEL
LYING WITHIN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA



ABBREVIATIONS

C-X = CURVE NUMBER
FT. = FOOT
INC. = INCORPORATED
INST. = INSTRUMENT
L-X = LINE NUMBER
LB = LICENSED BUSINESS
O.R. = OFFICIAL RECORD BOOK
NO. = NUMBER
PG. = PAGE
P.O.B. = POINT OF BEGINNING
P.O.C. = POINT OF COMMENCEMENT
REV. = REVISION
R/W = RIGHT-OF-WAY

LINE TABLE		
LINE	BEARING	DISTANCE
L-1	S 03°25'50" W	505.63'
L-2	S 03°25'50" W	1832.74'
L-3	N 89°54'50" W	500.85'
L-4	N 03°25'50" E	1126.64'
L-5	S 89°54'50" E	100.53'
L-6	N 03°25'50" E	706.10'
L-7	S 89°54'50" E	400.33'

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BRG.	CHORD DIST.
C-1	94.14'	5829.58'	00°55'31"	S 03°47'10" W	94.14'

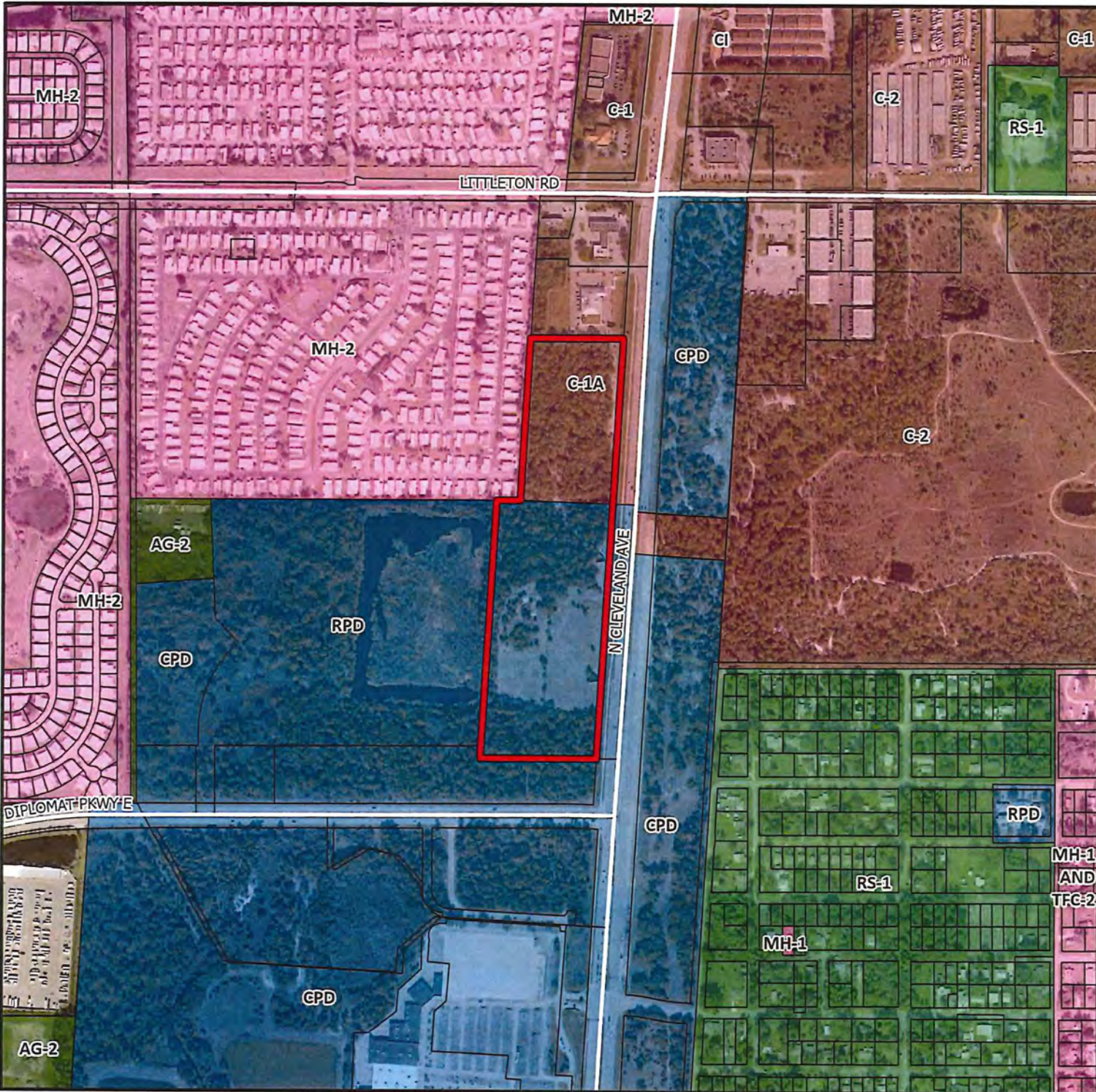
SEE SHEET 1 OF 2 FOR DESCRIPTION

FOR:		KIMLEY HORN	
COUNTY:	LEE	DWG DATE:	4-18-2022
PROJECT NO.:	210906	DRAWN BY:	R.J.O.
DRAWING NO.:	210906 SKD	CHECKED BY:	S.U.
REVISION:		REV. DATE:	

SKETCH & DESCRIPTION
OF A PARCEL
LYING WITHIN
SECTION 34, TOWNSHIP 43 SOUTH, RANGE 24 EAST



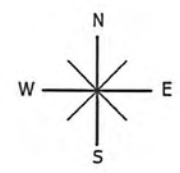
5670 Zip Drive
Fort Myers, FL 33905
Tel: 239.277.0722
Fax: 239.277.7179



DCI2022-00027

Zoning

 Subject Property



0 1,000
Feet



Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

1. Master Concept Plan (MCP) and Development Intensity

- a. Master Concept Plan (MCP). Development must be consistent with the two-page Master Concept Plan (MCP) entitled "MIVO Diplomat Center", prepared by Kimley-Horn and Associates, Inc., dated 01/2023, except as modified by the conditions below.
- b. Land Development Code (LDC) and Lee Plan. Development must comply with the LDC and Lee Plan at the time of local development order approval, except where deviations are granted herein. Subsequent amendments to this zoning resolution and MCP may be subject to further development approvals.
- c. Development Parameters. The RPD is limited to 285 dwelling units (of which 95 are bonus density units), residential accessory uses, and amenity center.

2. Uses and Site Development

a. Schedule of Uses

Accessory uses, buildings, and structures

Dwelling unit:

Multi-family

Entrance gates and gatehouse

Essential services

Essential service facilities:

Group I

Excavation:

Water retention

Recreation facilities:

Personal

Private on-site

Signs

b. **Site Development Regulations**

Amenity Center

Minimum Setback:

Preserve: 20 feet from wetland and 30 feet from upland preserves
Building and accessory structures: 15 feet

Multi-family

Minimum lot size: 10,000 square feet
Minimum lot width: 100 feet
Minimum lot depth: 100 feet

Minimum Setbacks:

Street: 25 feet
Side: 15 feet
Accessory Structure: 15 feet
Rear: 15 feet
Waterbody: 25 feet
Preserve: 30 feet

Maximum building height: 60 feet
Maximum lot coverage: 45 percent

3. **Open Space**

Development order plans must include the open space table depicting 2.73 acres of indigenous preserve area, 0.99 acres of wetlands, and a total open space area of 10.83 acres.

4. **Conservation Easement Recording**

Developer must record a conservation easement for created, restored, and preserved indigenous preserve areas prior to approval of the first development order. Developer must dedicate conservation easements to an appropriate maintenance entity and provide third party enforcement rights to Lee County or an agency acceptable to the county.

5. **Wetland Impacts**

Developer must adjust project density if necessary to conform to the formal jurisdictional wetland determination or the South Florida Water Management District Environmental Resource Permit.

6. **Turnaround**

Developer must submit an autoturn analysis during development order review demonstrating sufficient area to allow a three point turning movement on the ingress side of the proposed entry gate for a single unit truck as specified in the ASASHTO Green Book current edition.

7. Turnaround Signage and Striping

Development order plans must include signage and pavement striping that reserves the area required to execute a three point turning movement on the ingress side of the entrance gate.

8. State and Federal Permits

a. Generally. 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.

b. State Wetland Permits. Developer may not commence construction on development impacting wetlands until issuance of required state permits. Development activity must comply with state wetland permits and applicable local development permits.

If the State does not approve wetland impacts or if State wetland permits are not consistent with proposed wetland impacts reflected in County development permits, then Developer must amend County development permit approvals to be consistent with state wetland permits and applicable Lee Plan and LDC regulations regarding development within wetlands.

DEVIATIONS

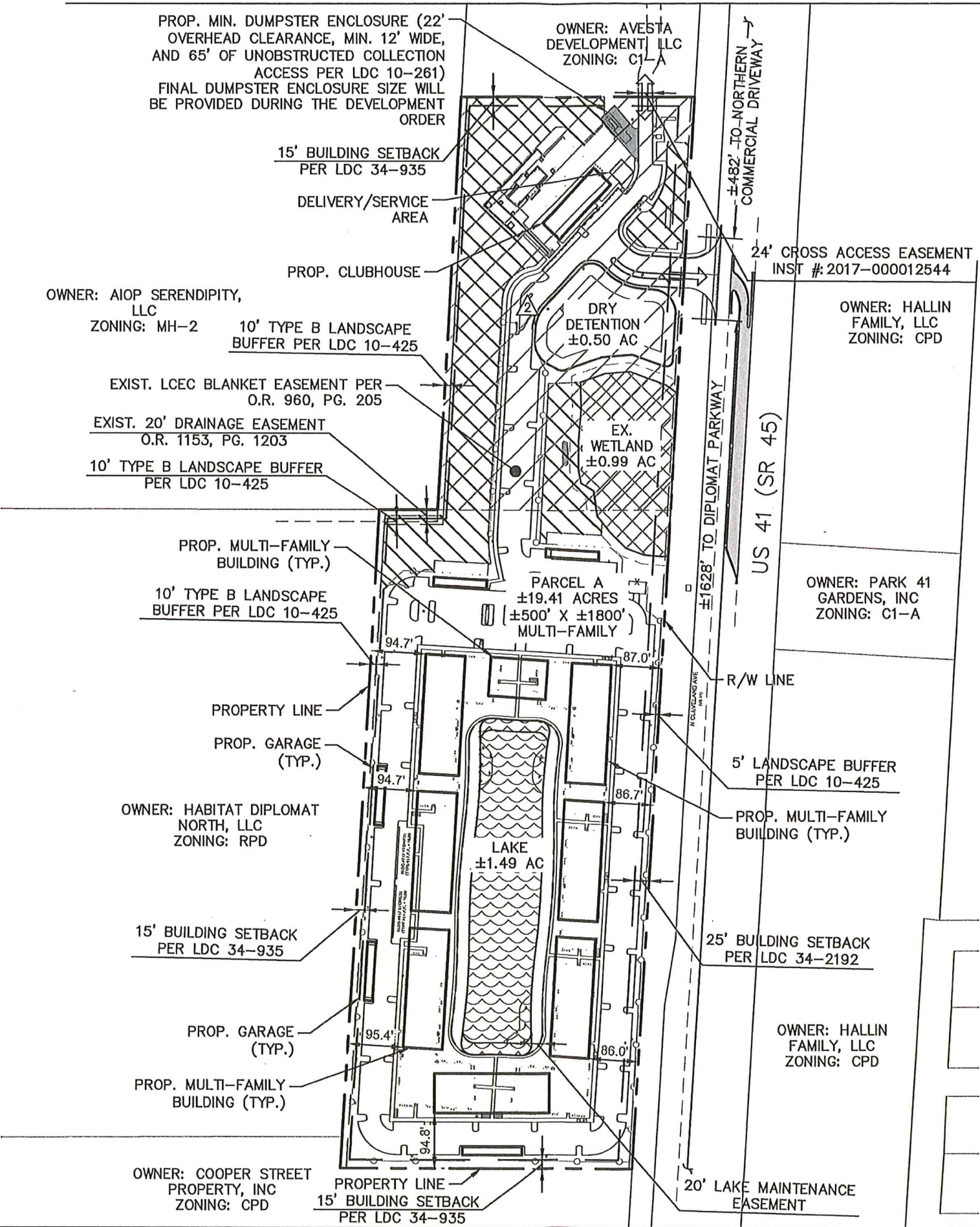
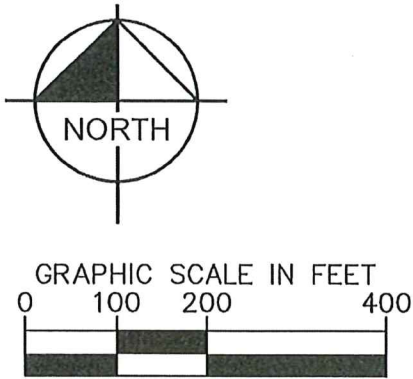
1. **Deviation (1):** Withdrawn

2. Entrance Gates and Gatehouses. Deviation (2) seeks relief from LDC §34-1748(5) which requires a paved turn-around with a turning radius sufficient to accommodate a U-turn for a single unit truck (SU) vehicle as specified in the AASHTO Green Book current edition, to be provided on the ingress side of the gate or gatehouse, to allow a three-point turning movement for a SU vehicle as specified in the AASHTO Green Book, current edition.

HEX Recommendation: Approval, subject to Conditions 6 and 7.

Exhibits to Conditions:

B1 Master Concept Plan, dated 01/2023



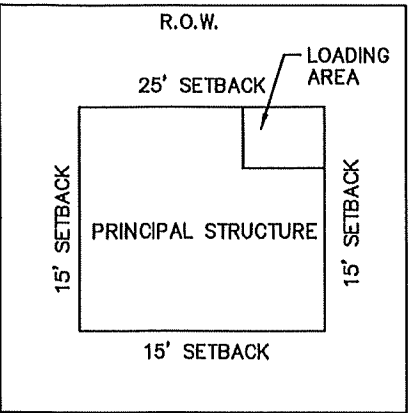
LEGEND

- PROPERTY BOUNDARY
- ROAD
- LAKE
- WETLAND
- INDIGENOUS PRESERVE
- SETBACK LINE
- EASEMENT
- ACCESS POINTS

* HATCH PATTERNS ARE FOR ILLUSTRATIVE PURPOSES ONLY, ACTUAL HATCH PATTERNS ON DRAWING MAY VARY IN SCALE, ANGLE & COLOR.

2023 JAN 24 AM 8:19
LEF COUNTY
MEETING EXAMINER

SHEET NUMBER MCP-1		MIVO DIPLOMAT CENTER PREPARED FOR QUADRANT COMMUNITIES, LLC		MASTER CONCEPT PLAN		KHA PROJECT		LICENSED PROFESSIONAL		Kimley»Horn																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																									
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1. SETBACKS, LOT COVERAGES, AND BUILDING HEIGHTS PER RESIDENTIAL PLANNED DEVELOPMENT AND MIXED-USE OVERLAY REGULATION TABLES

TYPICAL LOT INFORMATION
NTS

OPEN SPACE TABLE			
	AREA (AC.)	OPEN SPACE REQUIRED (AC)	OPEN SPACE PROVIDED (AC.)
PARCEL A***	-	-	5.12
DRY DETENTION	-	-	0.50
LAKE	-	-	1.49
WETLAND	-	-	0.99
INDIGENOUS VEGETATION**	-	1.94**	2.73
TOTAL PROPERTY	19.41	3.88*	10.83
*OPEN SPACE MEETS 20% REQUIREMENT PER LCD CH 10 IS FOR RESIDENTIAL USE. OPEN SPACE PROVIDED INCLUDES LANDSCAPE & A PORTION OF THE LAKE ALLOWED PER LDC 10-415			
**INDIGENOUS VEGETATION PRESERVATION MEETS THE 50% OF THE TOTAL OPEN SPACE REQUIREMENT PER LDC 10-415			
***PARCEL A INCLUDES ALL OTHER OPEN SPACE			

Kimley»Horn

© 2023 KIMLEY-HORN AND ASSOCIATES, INC.
1412 JACKSON STREET, SUITE 2, FORT MYERS, FL 33901
PHONE: 239-271-2650 FAX: 941-379-4352
WWW.KIMLEY-HORN.COM CA 00000698

LICENSED PROFESSIONAL

SINA EBRAHIMI, PE

LICENSE NUMBER 82352

KHA PROJECT

DATE 01/2023

SCALE AS SHOWN

DESIGNED BY

DRAWN BY

CHECKED BY

MASTER CONCEPT PLAN DETAILS

MIVO DIPLOMAT CENTER
PREPARED FOR QUADRANT COMMUNITIES, LLC

LEE COUNTY FLORIDA

SHEET NUMBER MCP-2

REVISIONS

DATE

BY

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Elizabeth Workman, Principal Planner, date received January 5, 2023 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *PowerPoint Presentation:* Prepared by Lee County staff, for MIVO North Fort Myers, dated January 19, 2023 (multiple pages – 8.5"x11")[color]

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Sina Ebrahimi, with Kimley-Horn, to Hearing Examiner, with copies to Tracy Toussaint, Peter VanBuskirk, Alyssa Monaghan, Ian Slavin, Jeff Wright, Elizabeth Work, and Maria Perez, dated Tuesday, January 17, 2023 9:02 AM (4 pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared for MIVO North Fort Myers, DCI2022-00027, Lee County HEX Hearing, dated January 19, 2023 (multiple pages 11"x17")[color]
2. *Revised Master Concept Plan:* Email from Sina Ebrahimi, to Hearing Examiner and Elizabeth Workman, with copies to Tracy Toussaint, Peter VanBuskirk, Alyssa Monaghan, Ian Slavin, Jeff Wright, and Maria Perez, dated Monday, January 23, 2023 6:42 PM (2 pages – 8.5"x11" and 11"x17")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Elizabeth Workman

Applicant Representatives:

1. Sina Ebrahimi
2. Peter VanBuskirk
3. Jeff Wright

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.