

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

WHEREAS, DeLisi Fitzgerald, Inc., filed an application on behalf of the property owner, Bayshore – Copping LLC, to rezone a 5.29± acre parcel from Commercial Planned Development (CPD), Community Commercial (CC), and Agricultural (AG-2) in reference to Racetrac at Bayshore CPD; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Amanda L. Rivera, was advertised and held on February 1, 2023; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2021-00053 and recommended APPROVAL of the Request; and

WHEREAS, a second public hearing was advertised and held on April 19, 2023 before the Lee County Board of Commissioners; and,

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 5.29± acre parcel from CPD, CC, and 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 is located in the General Interchange Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. 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 Master Concept Plan Entitled "Master Concept Plan" stamped received 1/30/2023 (Exhibit C).
- 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.

SECTION C. DEVIATIONS:

1. Onsite Preservation. Deviation (1) seeks relief from the 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. This deviation is 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.

SECTION D. EXHIBITS:

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

- Exhibit A: Legal description of the property
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

Based upon its review, the Board of County Commissioners adopts the recommendation of the Hearing Examiner, including the following findings and conclusions:

1. As conditioned herein, the proposed CPD:
- a. 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.
 - b. Complies with the LDC and other County regulations. See, LDC §§ 10-1, 10-416, 33-1531 *et. seq.*, 34-934.

- c. 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).
 - d. 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)
 - e. 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).
- 2. 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).
 - 3. 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 6.1.1.
 - 4. 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 *also*, LDC Chapters 10, 33, and 34.
 - 5. As conditioned herein, the deviations:
 - a. Enhance the objectives of the planned development; and
 - b. Promote the intent of the LDC to protect public health, safety, and welfare. See, LDC §34-377(b)(4).

SECTION F. SCRIVENER'S ERRORS

The Board intends that this resolution can be renumbered or relettered and typographical errors that do not affect the intent and are consistent with the Board's action can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

Commissioner Pendergrass made a motion to adopt the foregoing resolution, seconded by Commissioner Ruane. The vote was as follows:

Adopted by unanimous consent.

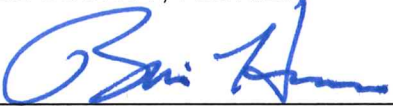
Kevin Ruane	Aye
Cecil L Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Mike Greenwell	Aye

DULY PASSED AND ADOPTED this 19th day of April 2023.

ATTEST:
KEVIN KARNES, CLERK

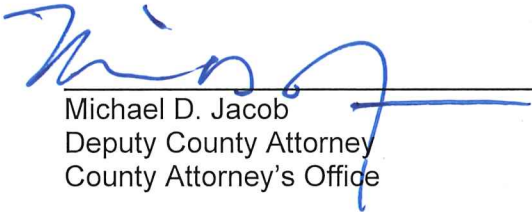
BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Brian Hamman, Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY


Michael D. Jacob
Deputy County Attorney
County Attorney's Office

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

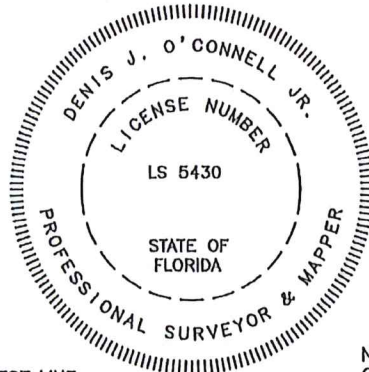
LEGAL DESCRIPTION: AS PREPARED BY THIS OFFICE

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
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 #805 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
SHEET: 1 OF 2	
FILE NO. (S-T-R) 21-43-25	

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

OLD R/W BAYSHORE (50' FROM CENTERLINE)
A VARIABLE WIDTH
RIGHT OF WAY

S 89°43'08" E
SEC 12060-2535
424.51'

N 00°04'49" E
17.06'

S 86°21'45" E
122.32'

S 00°12'51" W
60.00'

21-43-25-00-00007.0100
INST# 201600002141

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

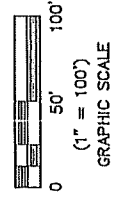
S 00°05'34" W
136.09'

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	234.78	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
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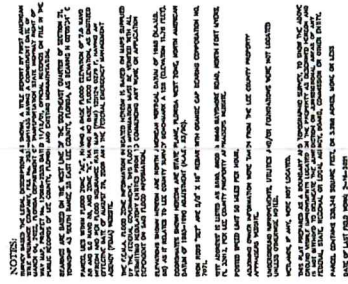
RACETRAC AT BAYSHORE ROAD

TITLE: SKETCH OF DESCRIPTION

METRON
SURVEYING & MAPPING, LLC
LAND SURVEYORS-PLANNERS
LBS# 7071
www.metronfl.com

10970 S. CLEVELAND AVE.
SUITE #603
FORT MYERS, FLORIDA 33907
PHONE: (239) 275-8575
FAX: (239) 275-8457

FILE NAME: 15106SK ZONING.DWG	PROJECT NO.: 15106	SHEET: 2 OF 2
DATE: 5/06/2022	DRAWN BY: BUD	CHECKED BY: DUO
	SCALE: 1" = 100'	FILE NO. (S-T-R): 21-43-25



WOMEN WHO ARE AT RISK OF SUICIDE

THE SURVEY IS ONLY FOR THE LANDS AS DESCRIBED.

NAVY AND AIR FORCE COMMISSION

**BAYSHORE ROAD, LEE COUNTY
BOUNDARY AND TOPOGRAPHIC SURVEY**

METRON
SURVEYING & MAPPING, LLC
LAND SURVEYOR PLANNERS
10770 E. GLENDA AVENUE
SUITE 100, GLENDA, ARIZONA 85327
PHONE (602) 271-8078
FAX (602) 271-8437
www.metronllc.com

FILE NO.	FILE NO./PAGE	NUMBER OF	SHEET
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DATE	SCALE	QUANTITY	REMARKS
11/09/2021	1"=40'	0.0	21-23

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1. Introduction

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ED02140033 Lee County, Fla.

DCI2021-00053

Zoning

 Subject Property

STAFF'S EXHIBIT #) 3

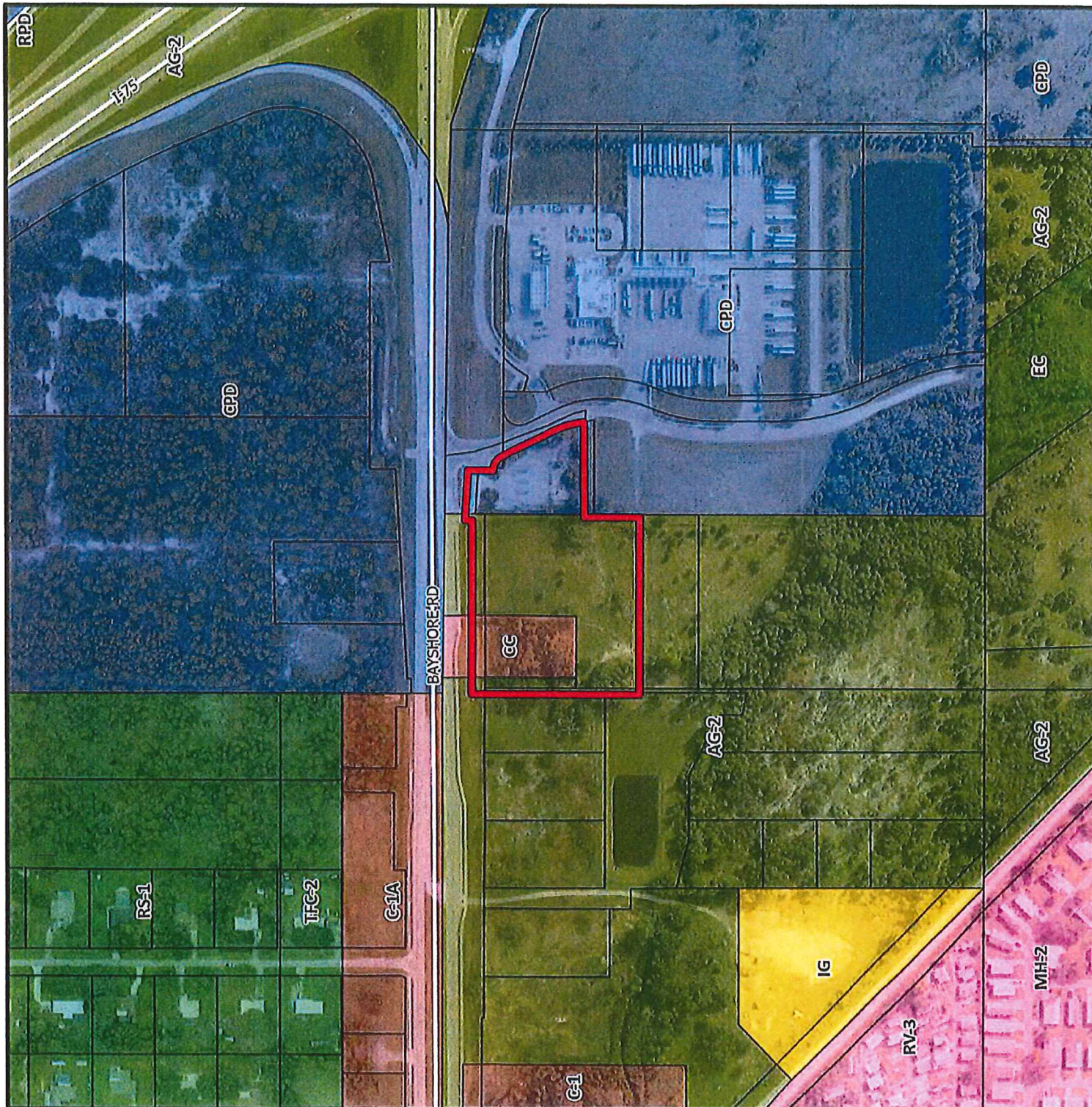
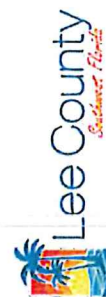
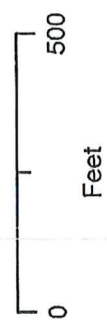
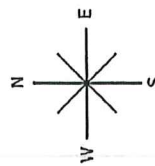
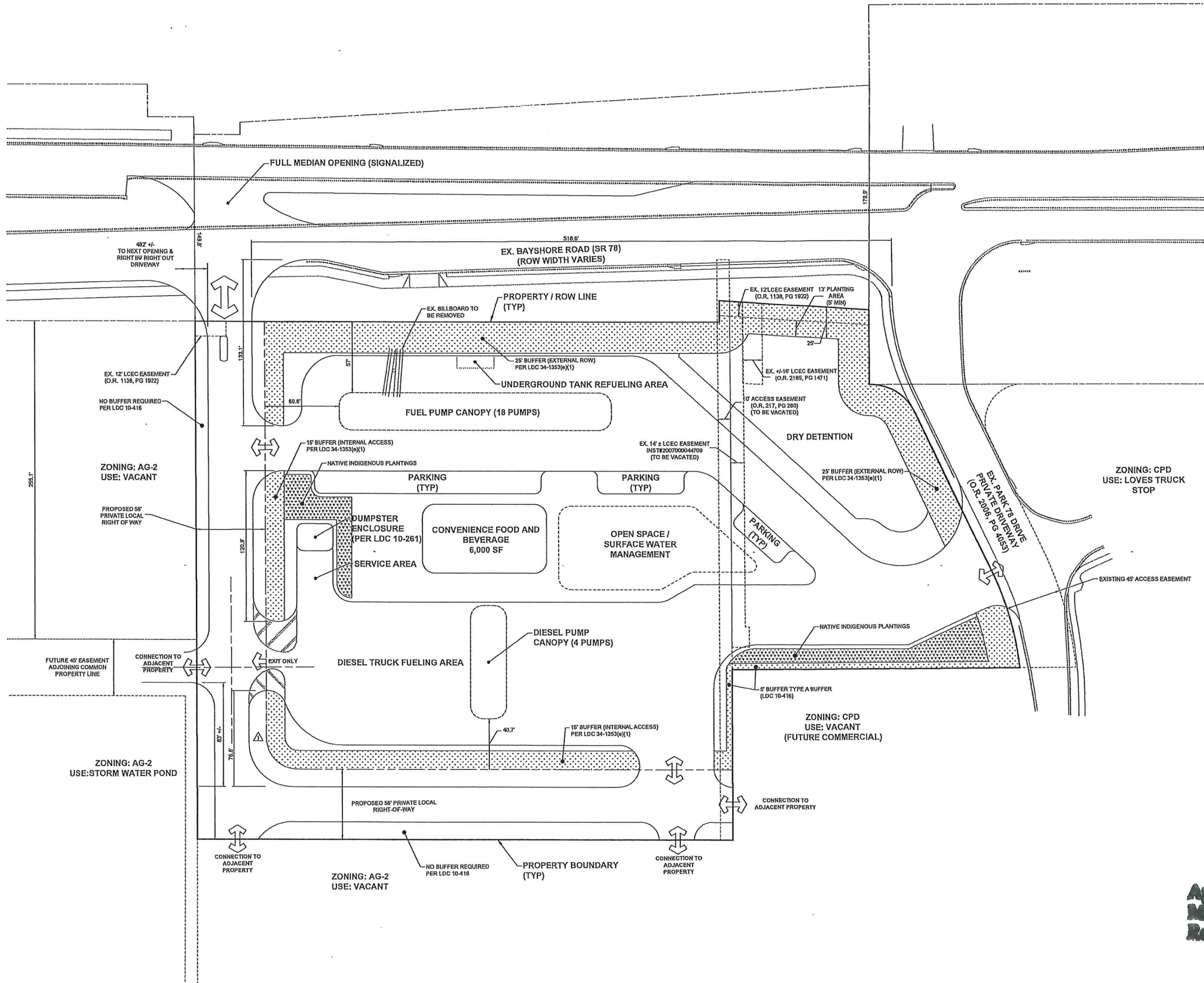
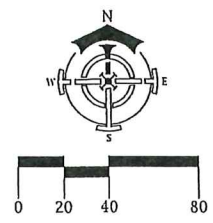


EXHIBIT B



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 (6,000 SF MAX.)
SELF SERVICE FUEL PUMPS (22 MPD MAX.)

OPEN SPACE TABLE

REQUIRED:	ACREAGE
5.29 AC. x 30%	1.58
PROVIDED:	ACREAGE
BUFFERS	0.54
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 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.

Approved as Exhibit **C**
MCP Page **1** of **1**
Resolution # **Z-23-006**

DELISI FITZGERALD, INC.
Planning - Engineering - Project Management
A Division of RESPEC Company LLC

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Florida
Registry License
Number 33253

RaceTrac
BAYSHORE
(EPN #1353 - STORE #XXXX)

OWNER / DEVELOPER:
RACETRAC PETROLEUM, INC.
200 GALLESS PARKWAY SE SUITE 900
Kennesaw, GA 30144
(770) 431-7600

PROJECT:

MASTER CONCEPT PLAN

PLAN REVISIONS	DESCRIPTION	DATE

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

Status:
FOR CONSTRUCTION
SUBJECT TO ALL PERMIT APPROVALS

Sheet Number: 1