

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

WHEREAS, Kimley-Horn and Associates, Inc., filed an application on behalf of the property owner, Hallin Family, LLC, to rezone a 19.41± acre parcel from Commercial (C-1A) and Commercial Planned Development (CPD) to Residential Planned Development (RPD) in reference to MIVO North Fort Myers; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Amanda L. Rivera, was advertised and held on January 19, 2023; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2022-00027 and recommended approval of the Request; and

WHEREAS, a second public hearing was advertised and held on April 5, 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 19.41± acre parcel from C-1A and CPD to RPD, to allow a maximum 285 units of which 95 are bonus density units, not to exceed 60 feet in height.

The property is located in the Central Urban 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 Intensity**

- a. MCP. Development must be consistent with the two-page MCP entitled "MIVO Diplomat Center", prepared by Kimley-Horn and Associates, Inc., dated 01/2023, except as modified by the conditions below.
- b. 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.

SECTION C. DEVIATIONS:

1. Deviation (1) is WITHDRAWN.
2. Entrance Gates and Gatehouses. Deviation (2) seeks relief from the 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. This deviation is APPROVED, SUBJECT TO Conditions 6 and 7.

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. The requested rezoning to RPD 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.
2. As conditioned, the RPD:
 - a. Meets the LDC 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.
 - b. 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.
 - c. 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).
 - d. 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).
 - e. 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).

3. 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.
4. 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.
5. 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.
6. The requested deviation, as conditioned:
 - a. Enhances the objectives of the planned development.
 - b. Preserves and promotes protection of public health, safety, and welfare.

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.

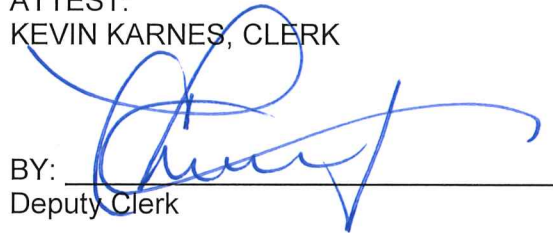
Commissioner Greenwell made a motion to adopt the foregoing resolution, seconded by Commissioner Sandelli. The vote was as follows:

Adopted by unanimous consent.

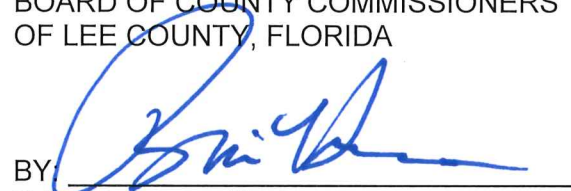
Kevin Ruane	Aye
Cecil L Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Mike Greenwell	Aye

DULY PASSED AND ADOPTED this 5th day of April 2023.

ATTEST:
KEVIN KARNES, CLERK

BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Brian Hamman, Chair



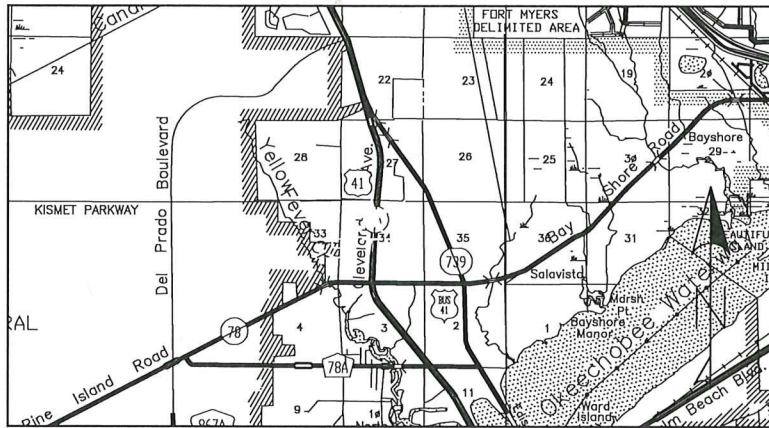
APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY


David W. Halverson
Assistant County Attorney
County Attorney's Office

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.



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

SCOTT R. URQUHART
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 6524
(FOR THE FIRM - LB 8336)

SIGNED THIS ____ DAY OF _____, 2022

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

SEE SHEET 2 OF 2 FOR SKETCH

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

KIMLEY HORN

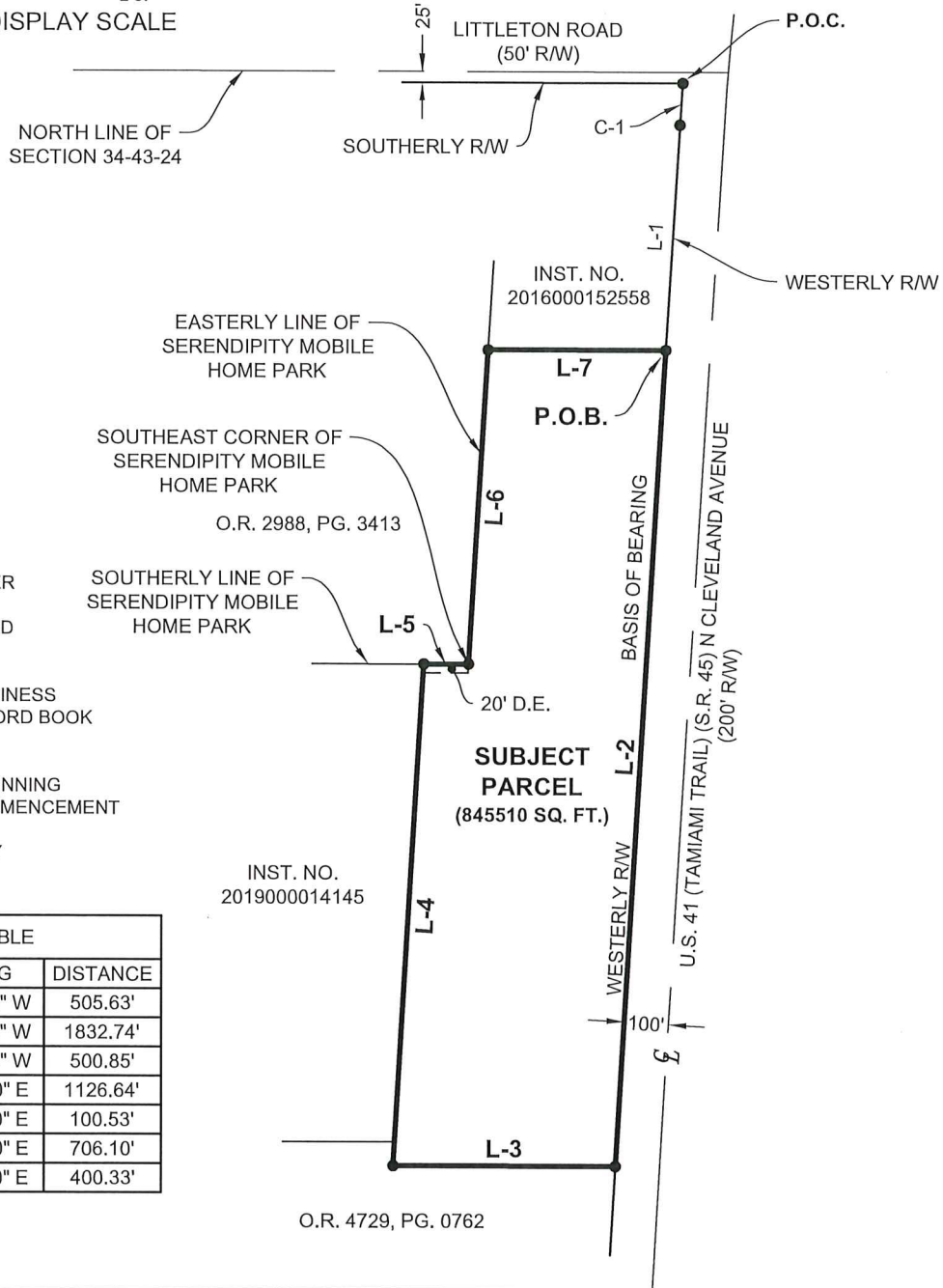
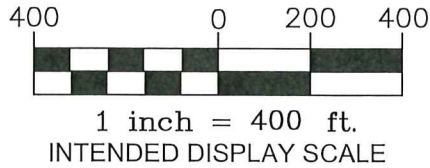
FOR:

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:	

1 OF 2

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

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

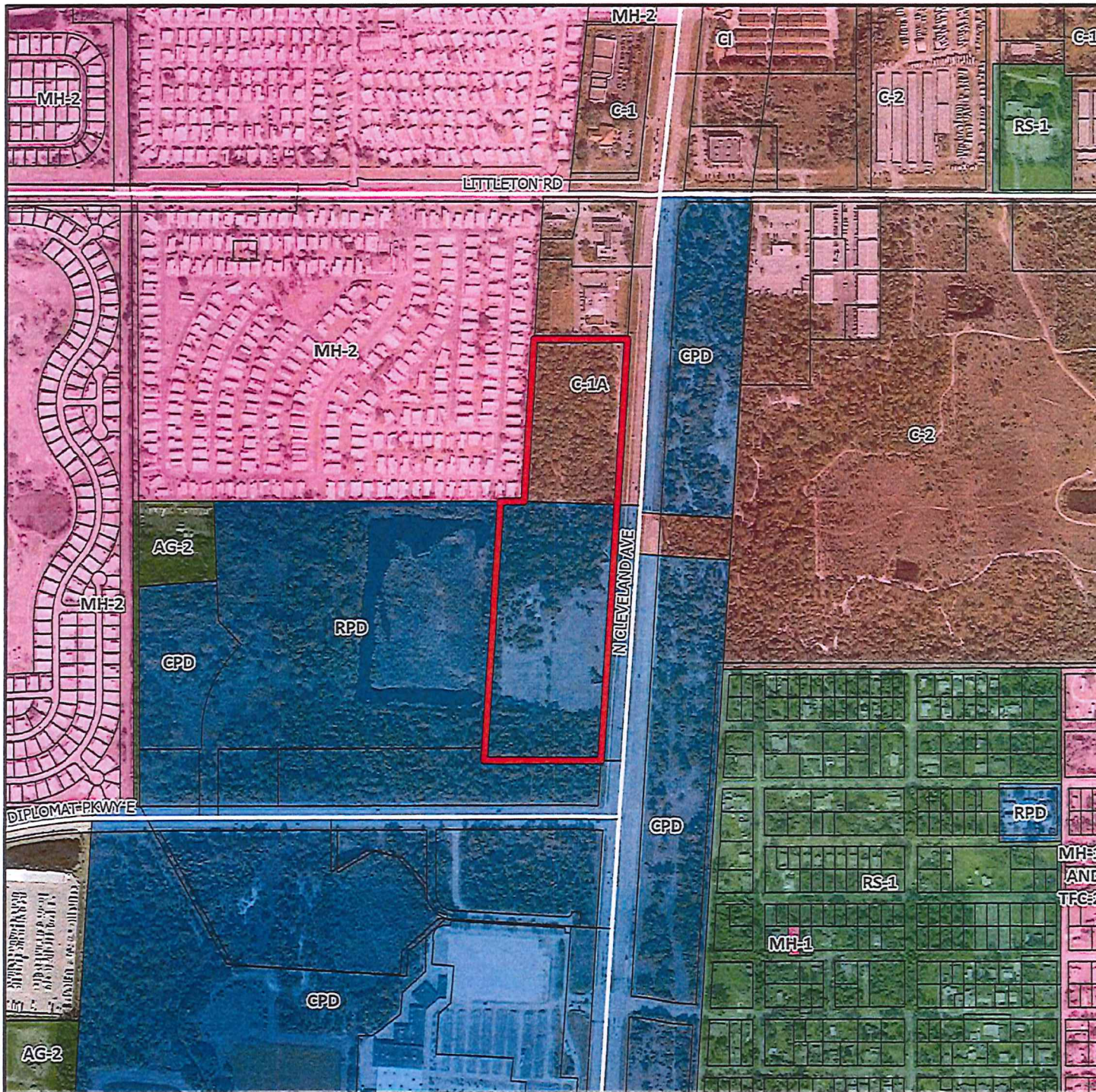


5670 Zip Drive
Fort Myers, FL 33905
Tel: 239.277.0722
Fax: 239.277.7179

KIMLEY HORN

FOR:		DWG DATE:	
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:	

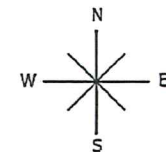
2 OF 2



DCI2022-00027

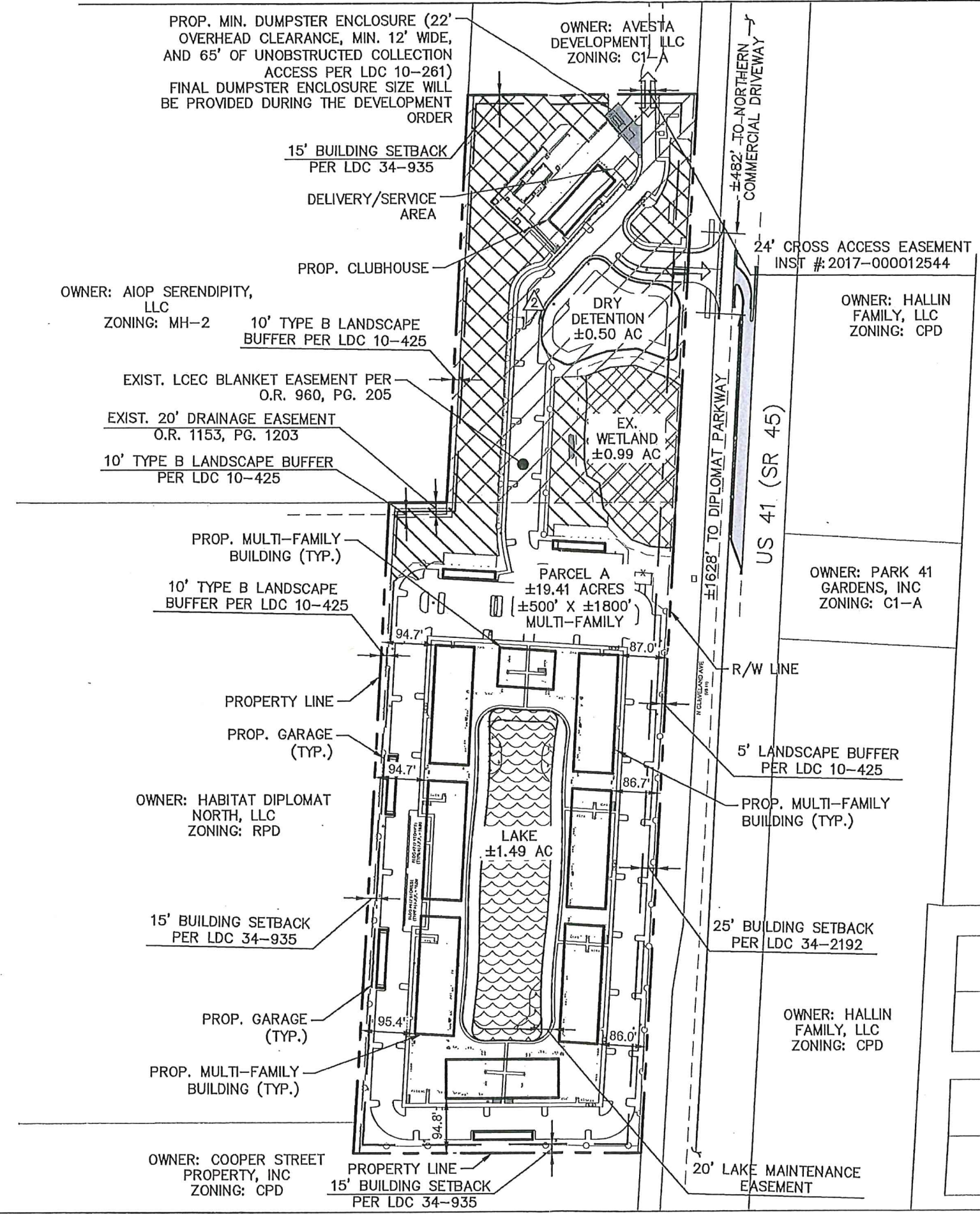
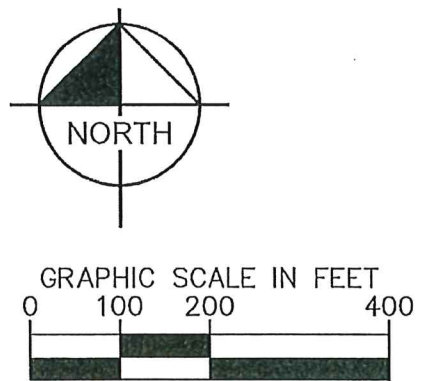
Zoning

 Subject Property



0 1,000
Feet





LEGEND

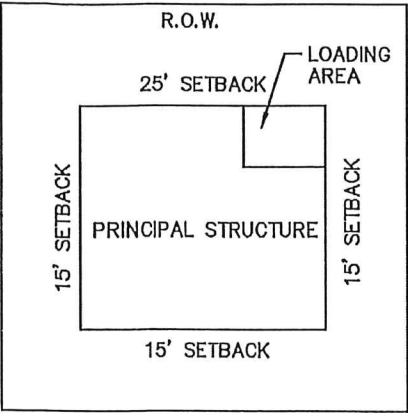
- PROPERTY BOUNDARY
- ROAD
- LAKE
- WETLAND
- INDIGENOUS PRESERVE
- SETBACK LINE
- EASEMENT
- ACCESS POINTS

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

Approved as Exhibit C
MCP Page 1 of 2
Resolution # 7-23-003

61:8 HV 42 NOV 2023
HEARING EXAMINER
LEE COUNTY

MIVO DIPLOMAT CENTER PREPARED FOR QUADRANT COMMUNITIES, LLC LEE COUNTY FLORIDA		MASTER CONCEPT PLAN		KHA PROJECT DATE 01/2023 SCALE AS SHOWN DESIGNED BY DRAWN BY CHECKED BY		LICENSED PROFESSIONAL SINA EBRAHIMI, PE ### LICENSE NUMBER 82332 DATE:		Kimley»»Horn © 2022 KIMLEY-HORN AND ASSOCIATES, INC. 1412 JACOBSON STREET, SUITE 200, FORT WORTH, TEXAS 76102 WWW.KIMLEY-HORN.COM CA 00000688		No. REVISIONS DATE BY	
										</	



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

Approved as Exhibit C
MCP Page 2 of 2
Resolution # 2-83-003

Kimley»Horn

© 2022 KIMLEY-HORN AND ASSOCIATES, INC.
1412 JACKSON STREET, SUITE 2, FORT MYERS, FL 33901
PHONE: 239-471-2650 FAX: 941-379-4352
WWW.KIMLEY-HORN.COM CA 00000998

LICENSURE PROFESSIONAL

SINA EBRAHIMI, PE

LICENSE NUMBER

82332

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

No.

REVISIONS

DATE

BY