

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

WHEREAS, Haley Ward, Inc., filed an application on behalf of the property owner, Red Canyon, LLC, to rezone a 8.13± acre parcel from General Commercial (CG) and Environmentally Critical (EC) to Commercial Planned Development (CPD) in reference to Resurgence Brewery & Rock Gym; 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 # DCI2022-00019 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 8.13± acre parcel from CG and EC to CPD, to allow a mix of uses including manufacturing of food and kindred products, restaurant and bar, commercial recreation, and other commercial services.

The property is located in the Intensive Development and Wetlands Future Land Use Categories 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 one-page Master Concept Plan Entitled "Resurgence Brewery and Rock Gym Master Concept Plan" last revised 3/20/2023 Exhibit C.
 - b. LDC and Lee Plan. Development must comply with the LDC and Lee Plan at the time of development order approval, except where modified by deviation herein.

Subsequent amendments to the MCP or its auxiliary documentation attached thereto are subject to the planned development amendment process established by the LDC.

- c. Development Parameters. Project intensity is limited to 34,660 square feet of commercial/light industrial use in substantial compliance with the MCP.

2. Schedule of Uses and Property Development Regulations

a. Schedule of Uses

Accessory uses and structures
Administrative offices
Bar or cocktail lounge (subject to Condition 4)
Business services, Group I
Commercial, schools (limited to a maximum of 100 students)
Consumption on premises (subject to Condition 4)
Cultural facilities
Essential services
Essential service facilities, Group I
Excavation: Water retention
Fences, Walls
Food and kindred products, manufacturing, Groups II & III (subject to Condition 5)
Incidental and subordinate retail and wholesale
Novelty, jewelry, toys and signs, manufacturing, Groups I, II & III
Parking lot: Accessory
Personal services, Group II
Printing and publishing
Recreational facilities, commercial, Groups I & IV (excluding gun ranges)
Restaurants, Groups I, II, III & IV
Signs
Social services, Group II
Temporary uses
Transportation services, Groups II & III (excluding bus stations/depots and bus terminals)

b. Property Development Regulations

Minimum Lot Area and Dimensions

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

Minimum Building Setbacks and Maximum Building Heights

Street:	25 feet
Side:	25 feet
Rear:	25 feet

Maximum building height: 45 feet
Maximum lot coverage: 40 percent

3. Open Space

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

4. Consumption on Premises (COP)

- a. Hours. Sale/service of alcoholic beverages is limited to 10AM-2AM daily.
- b. Outdoor Area. Outdoor COP is limited to the 400 square feet of cumulative covered outdoor seating depicted on the MCP unless an administrative approval or special exception for reconfiguration/expansion is approved in accordance with the LDC.
- c. Uses. Consumption of alcoholic beverages is permitted in conjunction with all listed Restaurant Groups, including the annotated outdoor restaurant seating on the MCP, Recreation Commercial, Group IV (indoor only) and a bar/cocktail lounge not exceeding 438 square feet as denoted on the MCP.
- d. Non-Alcoholic Consumption. If the sale/service of nonalcoholic beverages or full-service meals ceases prior to the sale/service of alcoholic beverages, the sale/service and consumption on premises must be confined to the 438-square-foot bar.
- e. COP Area. Consumption of alcoholic beverages is prohibited within areas dedicated to recreational activities (i.e. rock climbing), except within seating and observation areas depicted on the MCP. Developer must post signs to deter alcoholic beverage consumption in prohibited areas.

5. Food and Kindred Product Manufacturing

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

6. Traffic Impact Statement (TIS)

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

7. Former EC District

Lands formerly zoned EC are encumbered by drainage/ utility easements as depicted on the boundary survey. These lands are limited to open space, drainage, or utilities. Improvements in the easement area are prohibited if contrary to the easement or interfere

with the easement. Amendments seeking to utilize easement areas for other uses must be sought through the public hearing process.

8. Development Permits

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

SECTION C. DEVIATIONS:

1. Parking. Deviation (1) seeks relief from the LDC § 34-2020(b) requirement of off-street parking for non-residential uses, to allow a five percent reduction of the total required parking. This deviation is APPROVED, SUBJECT TO the following conditions:
 - a. The site must accommodate bicycle racks containing no less than 12 bicycle spaces.
 - b. Developer must construct offsite sidewalks on Exchange Lane connecting to the shared use path on Ben C. Pratt/Six Mile Cypress Parkway at time of development order approval.
 - c. Developer must install code required Lee Tran bus stop improvements without deviation.

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, 11, 39, 77, Objectives 2.1, 2.2, 11.2, and Policies 1.1.2, 1.6.5, 2.1.1, 2.2.1, 6.1.1, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 6.1.8, 6.1.9, 6.1.10, 6.1.11, 125.1.2, 158.1.1; Lee Plan Maps 1A-B, 2A.
 - b. Complies with the LDC and other County regulations or qualifies for deviations. See, LDC Chapters 10 and 34.
 - c. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.2, 2.1.1, 2.1.2, 2.2.1, 6.1.4, 6.1.8; LDC §§ 34-411(c), (i), and (j).

- d. Provides sufficient access to support the proposed development intensity, with expected impacts on transportation facilities addressed by existing County regulations or conditions of approval. See Lee Plan Policy 6.1.5.
 - e. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goals 77, Objectives 4.1, 6.1.6, 125.1.2 Policy 1.5.1, Standard 4.1.4, LDC § 34-411(h).
 - f. Will be served by urban services. See, Lee Plan Glossary, Map 4A-B, Goal 2; Objectives 2.1, 2.2, 4.1, 53.1, 56.1; Policies 2.2.1, and Standards 4.1.1 and 4.1.2; LDC § 34-411(d).
- 2. The MCP reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. See, Lee Plan Goal 39, Objective 39.1; LDC § 34-411(d).
 - 3. The proposed mix of uses is appropriate at the proposed location. See, Lee Plan Policies 1.1.2, 2.1.1, 6.1.4, 6.1.7.
 - 4. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See, LDC Chapters 10 and 34.
 - 5. As conditioned herein, the deviations:
 - a. Enhance the objectives of the planned development.
 - b. Promote the intent of the LDC to protect the 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 Greenwell. 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: Mehna Butler
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Brian Hamman
Brian Hamman, Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

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

RECEIVED
MINUTES OFFICE
MB
2023 MAY 19 PM 3:36



HALEY WARD

ENGINEERING | ENVIRONMENTAL | SURVEYING

FORMERLY:  CES INC

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

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

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

Sheet 1 of 3
Exhibit "A"

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

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





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

Continued...

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

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

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

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

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

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

Haley Ward, Inc. (LB8267)

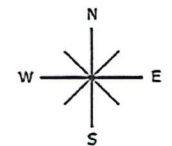
Stephen F. Shawles II, P.S.M. 6419
Professional Surveyor and Mapper
State of Florida



DCI2022-00019

Zoning

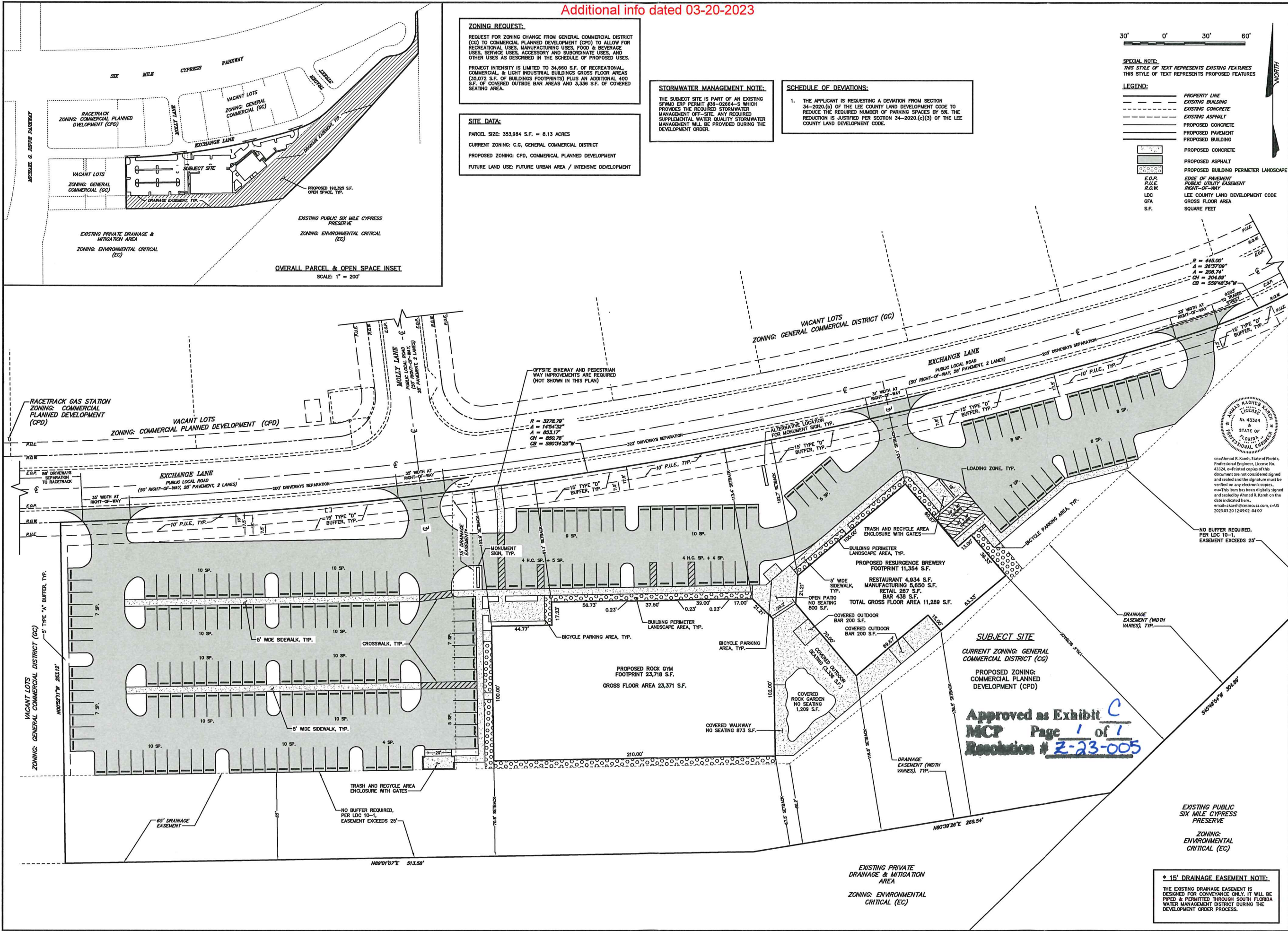
 Subject Property



0 500
Feet



Additional info dated 03-20-2023



HALEY WARD, INC.
ENGINEERING | ENVIRONMENTAL | SURVEYING
WWW.HALEYWARD.COM
PHONE: (239) 481-1331 | FLORIDA CERTIFICATE OF AUTHORIZATION NUMBERS EB32864 & EB32487
DRAWING BY: B.J. HOFFLAND DESIGNED BY: B.J. HOFFLAND APPROVED BY: A.R. KAREH
PROJECT NO.: 2011255-001(21-59) DATE: JANUARY 26, 2022 SCALE: 1" = 30'

MASTER CONCEPT PLAN
SHEET 1 OF 1
FILE: 30-45-25

RESURGENCE BREWERY & ROCK GYM
3601 SENECA STREET, SUITE 100
WEST SENECA, NY 14224
PHONE: (716)-913-5773
SITE ADDRESS: 6090-6150 EXCHANGE LANE FORT MYERS, FL 33912
SECTION 30, T 45S, R 25E, LEE COUNTY, FLORIDA

STATUS
DATE: 2/29/2023
REVISIONS PER LEADERS EXAMINER REQUIREMENTS - 02/29/2023
REVISIONS PER LEE COUNTY COMMISSION - 10/27/2022
REVISIONS PER LEE COUNTY COMMISSION - 09/19/2022