

**M E M O R A N D U M
FROM
THE OFFICE OF THE
LEE COUNTY HEARING EXAMINER**

DATE: June 2, 2023

**TO: Board of County Commissioners FROM: Amanda L. Rivera
Lee County Deputy Hearing Examiner**

**RE: PONDELLA RD 2.9 AC SELF-STORAGE
Hearing Examiner Decision**

Deputy Hearing Examiner Amanda L. Rivera has rendered a Decision on the following zoning request:

PONDELLA RD 2.9 AC SELF-STORAGE

SEZ2022-00010

HEARD: May 25, 2023

A copy of the Decision is attached for ready reference.

cc: Michael Jacob, Esq. / County Attorney's Office
Joseph Adams, Esq. / County Attorney's Office
Anthony Rodriguez / Zoning Section
Adam Mendez / Zoning Section
Warren Baucom / Economic Development
Phil Gillogly / Natural Resources
Jamie Princing / Community Development
Applicant(s) & Representative(s)
Other Interested Parties

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER DECISION

SPECIAL EXCEPTION: SEZ2022-00010

Regarding: PONDELLA RD 2.9 AC SELF-STORAGE

Location: South side of Pondella Road between North Cleveland Avenue and North Tamiami Trail

North Fort Myers Planning Community
(District 4)

Hearing Date: May 25, 2023

I. Request

Special Exception in the Commercial (C-1A) and (C-2) zoning districts and the North Fort Myers Commercial Corridor to allow Mini-Warehouse and Public Warehouse pursuant to Lee County Land Development Code (LDC) §33-1596.

II. Hearing Examiner Decision

Approval, subject to the conditions set forth in Section V.

III. Discussion

Applicant seeks to allow a mini warehouse/public warehouse on commercially zoned property within the North Fort Myers Planning Community.¹ Special exception approval is necessary due to the site's location within the Commercial Corridor and Town Center Overlays.² The underlying zoning districts otherwise permit the requested uses.³

The 2.9± acre property fronts Pondella Road east of North Cleveland Ave/US 41.⁴ The site has been vacant and cleared since 1968.⁵ Applicant intends to develop a 150,000 square foot self-storage facility with a single access to Hancock Bridge Square Drive.

¹ See Lee Plan Map 2-A. The site splits zoning between C-1A and C-2.

² LDC §33-1596.

³ See LDC §§33-1596, 33-4, 33-1533, & 34-844.

⁴ The property is within the Commercial Corridor Overlay in the North Fort Myers Planning Community. See LDC §33-1566. The site is also identified within the community's Town Center. See LDC §33-1604.

⁵ See Staff Report (pg. 1).

The site plan includes two buildings, parking, and publicly accessible open space.

Staff recommended approval of the request, with conditions.

Special Exception Criteria

Special exceptions are specified departures from the County's land development regulations for uses that may be permitted when governed by conditions designed to promote public health, safety, welfare, order, comfort, convenience, appearance, or prosperity.⁶

The Hearing Examiner *must* grant a request for special exception *unless*:

1. The request is contrary to the public interest and the health, safety, welfare, comfort, and convenience of the citizens of the county;⁷ or
2. The requested use conflicts with the findings necessary to grant a special exception.⁸ These findings include consistency with the Lee County Comprehensive Plan (Lee Plan), compatibility with existing and planned uses, no injury to the neighborhood, and compliance with the zoning provisions pertaining to the use as well as other applicable regulations.⁹

In reaching this decision, the Hearing Examiner may attach conditions necessary to protect the public.¹⁰ Such conditions must rationally relate to the special exception.¹¹ Hearing Examiner decisions on Special Exceptions are final.¹²

Character of Surrounding Development

The property is located south of Pondella Road between US 41 and Business US 41. Commercial lands flank the parcel with governmental offices to the east.¹³ The site adjoins a shopping center undergoing transition to high density multi-family development.¹⁴

⁶ LDC §34-2.

⁷ LDC §34-145(c)(4)(a).

⁸ LDC §34-145(c)(3); LDC §34-145(c)(4)(a).

⁹ LDC §34-145(c)(3).

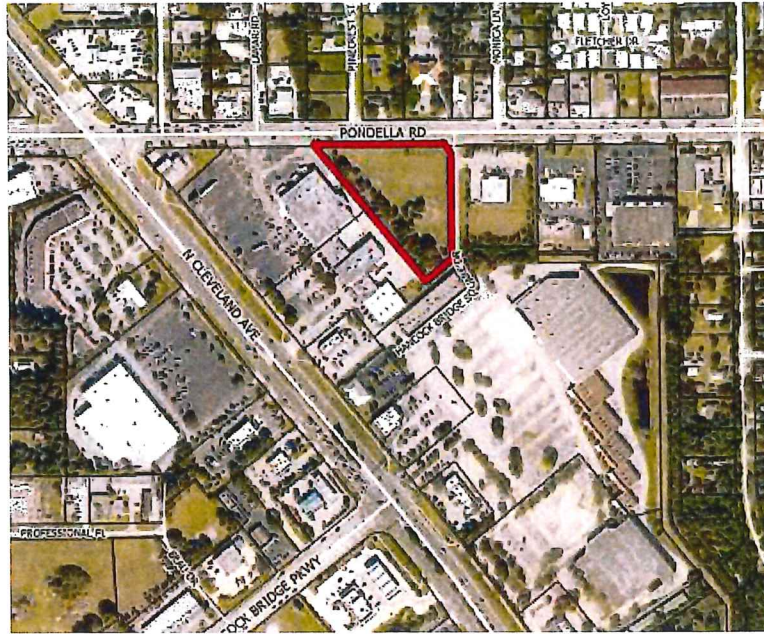
¹⁰ *Id.*

¹¹ LDC §34-145(c)(4)(b).

¹² LDC §34-145(c)(1).

¹³ See Staff Report (pg. 2, Attachment C).

¹⁴ The Hancock Bridge Square shopping center received development order approval to develop 320 units on 14.49± acres. Testimony of Adam Mendez; See Staff Report (pg. 2).



Lee Plan Analysis

Special exception requests must be consistent with the Lee Plan.¹⁵

The Lee Plan Future Land Use Map designates the property as Intensive Development within the Mixed Use Overlay.¹⁶ This land use category contemplates the most intense development under the Lee Plan.¹⁷ Intensive Development properties are located along arterial roads with high levels of public services.¹⁸ These lands are well suited for high densities/intensities with a mix of uses.¹⁹ The proposed storage facility satisfies Intensive Development directives by supporting area commercial and proposed residential uses.

The property is located within the North Fort Myers Planning Community's Commercial Corridor and Town Center Overlays.²⁰ The Community Plan envisions revitalizing road corridors.²¹ The request supports this vision by developing a dormant property along Pondella Road consistent with community design standards.

¹⁵ LDC §34-145(c)(3)a.1.

¹⁶ Lee Plan Map 1-A, 1-C, Objective 11.2, Policy 1.1.2.

¹⁷ Lee Plan Goal 1.

¹⁸ Lee Plan Policy 1.1.2.

¹⁹ *Id.*

²⁰ See LDC §33-1566, §33-1604.

²¹ Lee Plan Objective 30.2.

The property also sits within the Mixed-Use Overlay (MUO).²² The proposed development is consistent with the MUO as it: (1) infills development; (2) diversifies uses; (3) provides pedestrian connectivity; (4) offers public open space; and (5) revitalizes property along a major road corridor.²³

The Lee Plan directs new development to protect residential neighborhoods.²⁴ The property is distanced from the nearest residential use by Pondella Road and commercial uses.²⁵ Proposed residential uses to the south will be buffered from site activity consistent with LDC requirements. Accordingly, the request does not negatively impact area residents.

The request, as conditioned, is consistent with the Lee Plan.

Environmental

Special exception applications must demonstrate the request will protect, conserve, or preserve environmentally critical/sensitive areas and natural resources.²⁶

The site has been cleared since 1968.²⁷ The request does not impact environmentally sensitive areas or natural resources.²⁸

Site development must comply with supplemental buffering/screening standards applicable in the North Fort Myers Planning Community.²⁹

Compatibility/ Not Detrimental to Public Welfare

Special exceptions must be compatible with existing/planned uses.³⁰ Compatibility exists when land uses are in proximity to each other, and no one use unduly impacts another use.³¹ Requested uses cannot be detrimental to the public welfare or injurious to the neighborhood.³²

²² Lee Plan Map 1-C.

²³ See Goal 11, 30, Objective 2.1, 2.2, 11.2, 30.2, 30.3, Policies 11.2.2, 11.2.5, 30.2.3, 30.3.1.

²⁴ Lee Plan Policy 5.1.5; Staff Report (pg. 5).

²⁵ See Staff Report (pg. 3). Pondella Road is an 80-foot-wide four lane arterial road with commercial uses along the frontage. Staff testified the nearest residence is approximately 140 feet away. Testimony of Adam Mendez.

²⁶ LDC §34-145(c)(3)a.2.

²⁷ See Staff Report (pg. 1, 6).

²⁸ See Staff Report (pg. 6, Attachment I).

²⁹ See LDC §33-1531 *et. seq.*

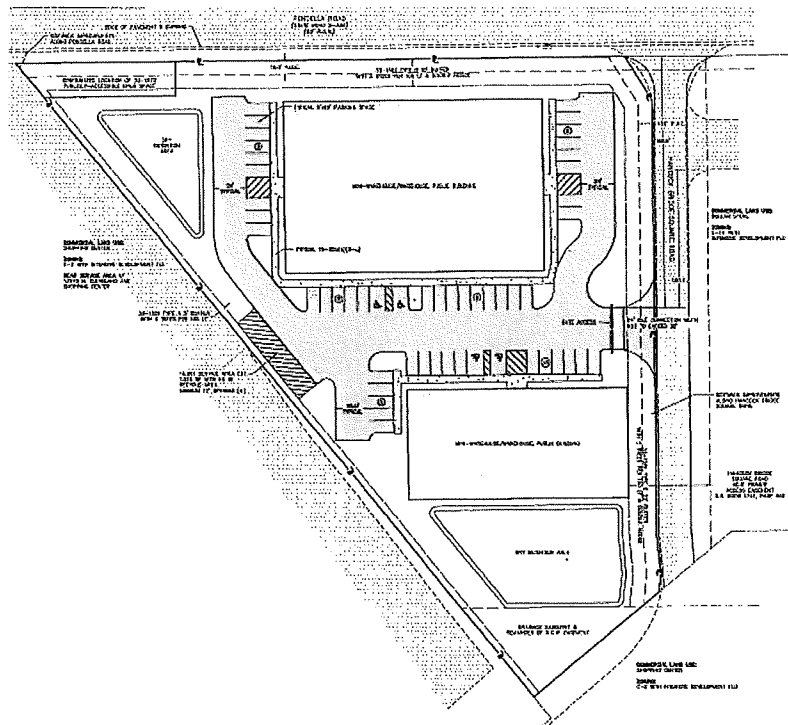
³⁰ LDC §34-145(c)(3)a.3.

³¹ Florida Statutes §163.3164(9); LDC §34-2. The Lee Plan offers benchmarks from which to measure compatibility, particularly in the context of uses adjacent to established residential development. See Lee Plan Policies 5.1.5, 135.9.6.

³² LDC §34-145(c)(3)a.4.

The request proposes infill development surrounded by intense commercial uses. Site design includes two storage buildings surrounded by parking. Dry detention and open space occupy the property's perimeter.

Pending development approvals authorize high density residential use along the property's southern boundary. The request harmonizes existing development patterns with proposed residential uses by offering storage to surrounding residents/businesses. Site development is subject to supplemental design criteria enhancing landscape, buffer, and architectural standards in the North Fort Myers community.³³



A broad range of urban services are available to support the proposed development.³⁴ Applicant demonstrated the request does not pose a detrimental impact on the surrounding roadway system.³⁵

Zoning

Special exceptions must comply with zoning regulations pertaining to the use and other applicable regulations.³⁶

³³ Lee Plan Map 2-A, Lee Plan Goal 30, and LDC §33-1531 *et seq.*

³⁴ See Staff Report (pg. 4-6, Attachment H).

³⁵ See Staff Report (Attachments F-G).

³⁶ LDC §34-145(c)(3)a.5.

Applicants must comply with enhanced LDC standards for development within the North Fort Myers Commercial Corridor.³⁷ The request does not seek variances from development requirements.

Public Participation

Applicant presented the request to the North Fort Myers Planning Panel consistent with LDC requirements.³⁸ Meeting minutes reflect no objections to the request.³⁹

No members of the public spoke at hearing.

Conclusion

The Hearing Examiner concurs with Staff's analysis and recommendation of approval with conditions. The requested special exception meets LDC approval criteria.

IV. Findings and Conclusions

Based upon the testimony and evidence presented in the record, the Hearing Examiner finds and concludes the requested special exception:

- A. Is consistent with the Lee Plan. Lee Plan Goals 6, 30, Objectives 2.1, 2.2, 11.2, 17.3, 30.2, Policies 1.1.2, 2.1.3, 2.1.1, 5.1.5, 6.1.1, 6.1.4, 6.1.7, 11.2.2, 11.2.5, 30.2.2, 30.2.5.
- B. Will protect, conserve, or preserve environmentally critical and sensitive areas and natural resources.
- C. Is compatible with existing and planned uses in the area. Lee Plan Goal 30, Policies 1.1.2, 6.1.1, 6.1.4, 30.2.5.
- D. Will not be injurious to the neighborhood or detrimental to the public welfare. Lee Plan Policies 1.1.2, 6.1.4, 30.2.2, 30.2.5.
- E. Will comply with the Land Development Code and other applicable regulations. LDC Chapters 10, 33, 34; §34-623, §34-624.

³⁷ See LDC §33-1566 *et. seq.*

³⁸ Meeting was held on Aug. 2, 2022. LDC §33-1532; See Staff Report (Attachment J).

³⁹ See Staff Report (Attachment J).

V. Conditions of Approval

1. Site Plan. Development must be substantially consistent with the special exception site plan entitled "Master Concept Plan Self-Storage Lee County, Florida," dated May 23, 2023 (Exhibit B).
2. Development Parameters. Mini warehouse/public warehouse uses may not exceed 150,000 square feet in floor area.
3. 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.

VI. Participants

Staff

Adam Mendez

Applicant Representatives

Greg Stuart

Public Participants

None

VII. Legal Description

See Exhibit A (scanned legal description with vicinity map).

The Strap # as furnished by the Applicant is: 11-44-24-L1-28000.0020

VIII. Exhibits Submitted at Hearing

Staff Exhibits

1. *DCD Staff Report with attachments for DCI:* Prepared by Adam Mendez, Senior Planner, date received May 17, 2023 (multiple pages – 8.5"x11" & 11"x14")[black & white, color]

2. *PowerPoint Presentation*: Prepared by Lee County Staff, for Pondella Road Acre Self-Storage, DCI2022-00010 (multiple pages – 8.5"x11")

Applicant Exhibits

- a. *48-Hour Notice*: Email from Greg Stuart, with Stuart Urban Design, to Maria Perez, with copies to Compassone Holdings and Adam Mendez, dated Monday, May 22, 2023 4:00 PM (5 pages – 8.5"x11")
1. *PowerPoint Presentation*: Prepared by Stuart Urban Design, for Pondella Road Acre Self-Storage, DCI2022-00010 (multiple pages – 8.5"x11")
2. *Revised Master Concept Plan*: Prepared by Stuart Urban Design, for Self-Storage, last dated May 23, 2023 (1 page – 11"x17")

IX. 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.

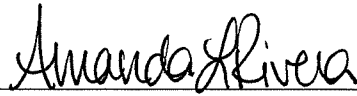
X. Appeals

This Hearing Examiner Decision is final on the date rendered. The Decision may be appealed to the Circuit Court in Lee County within 30 days of the date rendered. Appeal is by Petition for *Writ of Certiorari* in accordance with LDC 34-146.

XI. 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.

This Decision is rendered June 2, 2023.

A handwritten signature in black ink that reads "Amanda L. Rivera". The signature is written in a cursive style with a horizontal line extending to the right.

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 Decision

- A: Legal Description and Vicinity Map
- B: Site Plan

EXHIBIT A

DESCRIPTION: (PER OWNER'S POLICY)

*LOT 2, FT MYERS PALMETTO, ACCORDING TO PLAT THEREOF AS RECORDED
IN OFFICIAL RECORDS INSTRUMENT NUMBER 2017000037448, OF THE PUBLIC
RECORDS OF LEE COUNTY, FLORIDA.*

Phillip M Digitally signed by
Mould, P.S.M. Phillip M Mould,
6515 State of P.S.M. 6515 State of
Florida Date: 2022.12.27
Florida 17:18:56 -05'00'

*PHILLIP M MOULD
LS6515
DECEMBER 27, 2022*

**REVIEWED
SEZ2022-00010
Rick Burris, Principal
Planner
Lee County DCD/Planning
3/28/2023**

FILE# FMP-2

*THIS MAP/PLAT IS CONSIDERED SIGNED USING A
DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE
STATE LAWS AND STATUTES FS 668.001-006, FS
668.50, FS 472.025, 5J-17.062, FLORIDA
ADMINISTRATIVE CODE, STATE OF FLORIDA.*

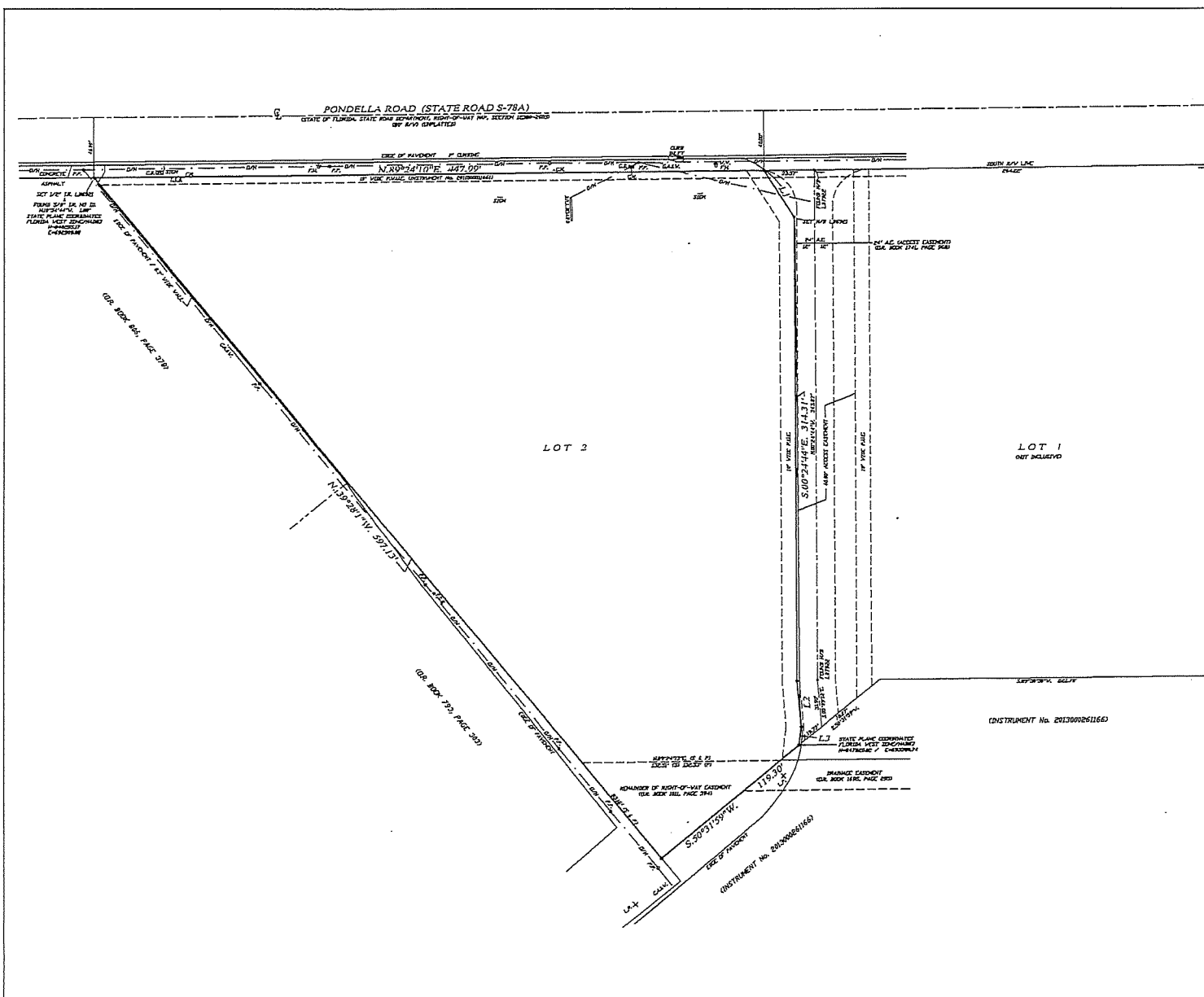
*HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921*

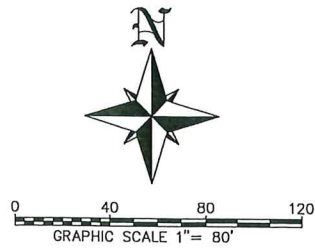
Line	Bearing	Distance
L1	S.32°13'34"E.	37.69'
L2	S.05°09'12"E.	31.16'
L3	S.06°39'30"W.	12.68'

[illegible][illegible]

THIS SURVEY IS CONTINUED TO
HAASSTADT ENGINEERING, INC.

REVISED	DESCRIPTION	PR
DATE OF LAST FIELD WORK: 3/25/05		
CERTIFICATE OF AUTHORIZATION L3 MEND		
DRAWN BY	CHECKED BY	SCALE
FM	PM	PM
		PM
DATE		
3/25/05	FILE NO.	SHT#
	14-24-01	OF 1





LAND USE DATA

151 PONDELLA ROAD, NORTH FORT MYERS, FL 33903

STRAP # 11-44-24-L1-28000.0020

SITE AREA:

2.90 AC±

EXISTING ZONING:

C1-A, C-2

SE REQUEST:

MINI-WAREHOUSE/WAREHOUSE/PUBLIC

FUTURE LAND USE:

INTENSIVE DEVELOPMENT

WITH MIXED USE OVERLAY

AE7

FLOOD ZONE:

DEVELOPMENT STANDARDS

PRIMARY BLDG. STREET SETBACK:

25'

PRIMARY BLDG. SIDE YARD SETBACK:

10'

PRIMARY BLDG. REAR YARD SETBACK:

20'

ACCESSORY BLDG. REAR YARD SETBACK:

10'

ACCESSORY BLDG. SIDE YARD SETBACK:

10'

BUILDING COVERAGE:

40%

OPEN SPACE TABLE

OPEN SPACE REQUIRED @ 20%

0.58 AC

OPEN SPACE PROVIDED: (5.)

DETENTION AREA:

0.28 AC

EASEMENTS & BUFFERS:

0.53 AC

TOTAL PROVIDED OPEN SPACE:

0.81 AC

NATIVE OPEN SPACE REQUIRED:

N/A

DEVELOPMENT INTENSITY & PARKING

PRELIMINARY DEVELOPMENT INTENSITY

@ 150,000 SF (1.)

PRELIMINARY # SELF-STORAGE UNITS

@ 1,275

REQUIRED PARKING

1 SPACE PER 25 UNITS

PRELIMINARY PARKING SPACES PROVIDED

51 (2.)

REQUIRED PARKING

51

DEVELOPMENT COVERAGE (3.)

PERVIOUS AREA

70,088 SF / 1.61 AC

IMPERVIOUS AREA

56,320 SF / 1.29 AC

NOTES:

1. FINAL BUILDING INTENSITY AND NUMBER OF UNITS TO BE DETERMINED AT DO STAGE.
2. FINAL PARKING DESIGN AND PARKING SPACE CALCULATIONS TO BE DETERMINED AT DO STAGE.
3. FINAL PERVIOUS & IMPERVIOUS COVERAGE CALCULATIONS TO BE DETERMINED AT DO STAGE.
4. FINAL SOLID WASTE SERVICE AREA TO BE DETERMINED AT DO STAGE.
5. FINAL OPEN SPACE CALCULATIONS TO BE DETERMINED @ D.O.



LOCATION MAP

PREPARED FOR:

ANTHONY ROBINETTE
COMPASS ONE HOLDINGS, LLC

C/O STUART ABD ASSOCIATES PLANNING AND DESIGN SERVICES, INC.
1180 ISLAND AVE
MATLACHA, FL 33993

NO.	DATE	REVISION DESCRIPTION	BY



Stuart and Associates, Inc.

2256 First Street Suite 148 Fort Myers, FL 33901
Greg@Stuarturbandesign.com www.stuarturbandesign.com
(239) 677-6126

MASTER CONCEPT PLAN
SELF-STORAGE
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
05-23-2023	8840	MCP	SWM	RJV	SWM	1"= 80'	01

APPLICANT'S EXHIBIT

#2 SEZ 2022-0001A

EXHIBIT B