CIVIL ENGINEERING
TDM
CONSULTING, INC.

43 Barkley Circle, Suite 200
Fort Myers, FL 33907
Phone 239-433-4231 Fax 239-433-9632
www.tdmcivilengineering.com
Certificate of Authorization # 29086

January 31, 2024

Mr. Dirk A. Danley Jr, Principal Planner
Lee County Department of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Reference: 10488 Nikkis Lane
REZ2023-00019 (1st ReSubmittal)

Dear Mr. Danley:

We are in receipt of your review letter dated July 26, 2023 for the above referenced project. The following items are submitted for your continued review per this request for additional information:

1. One (1) copy of the Narrative of Request/Lee Plan Analysis;
2. One (1) copy of the revised Legal Description;
3. One (1) copy of the Pine Island Center Plat; and
4. One (1) copy of the Attorney's Title Opinion.

Responses to each individual item/comment are as follows:

Zoning Review:
Dirk Danley

1. Please provide a narrative of request that details how the request meets all the decision-making criteria found in LDC Section 34-145(d)(4). This must include Lee Plan analysis, including the Greater Pine Island Community Plan.

   Response: Please see the Narrative of Request/Lee Plan Analysis.

Development Services Review:
Brian Roberts

2. INFORMATIONAL: The application indicates that the proposed rezoning is over Lots 5-10. Currently Lots 5 & 6, 7 & 8, 9 & 10 have been combined into 3 individual lots. Please note that the 3 individual lots (5-6, 7-8, 9-10) do not meet the minimum area requirement for the CG zoning district which requires a minimum of 20,000 sf in accordance with LDC Table

34-845. If approved, any future development of the lots will require the development site to exceed 20,000 sf in area.

Response: This INFORMATIONAL COMMENT is acknowledged. Please note that Lots 5-10 have been combined into a single lot, STRAP No. 28-44-22-L3-0000B.0050, which exceeds with the minimum area requirements for the CG zoning district.

3. Existing development on Lot 5 approved in LDO2005-00547 does not meet the minimum side and rear yard setbacks in Table 34-385 for the CG zoning district. Approval of the request would create existing development that is not in conformance with the requirements of the Land Development Code. Please clarify.

   Response: Please note that Lots 5-10 have been combined into a single lot. Lot 5 is currently zoned CN-3, which requires a side setback of 10 feet and a rear setback of 20 feet. Per LDO2005-00547, the setback to the north is 6 feet and the setback to the east is 17.5 feet. The Applicant is aware the existing structure is considered non-conforming to current setback requirements in the CG zoning district (15' side setback and 25' rear setback) and does not intend to increase the non-conformity. The non-conformity will be addressed at time of local development order permitting for any future development of the property. A Variance may be required.

Legal Description Review:
Richard R. Burris – rburris@leegov.com or 239-533-8526

4. §34-202(a)(5). If the application seeks to rezone undivided, platted lots, then a complete legal description (i.e. lot, block, subdivision name, public records recording information) of the platted subject property is required. A sketch of the undivided, platted lots to be rezoned is not required. The legal description provided references a recorded instrument number that does not include Lot 5. Please revise the legal description to remove the inconsistency.

   Response: Please see the revised Legal Description of Lots 5-10.

5. Lee County LDC §34-202(a)(6) – If the subject property consists of one or more undivided lots within a subdivision, then a copy of the subdivision plat may be submitted in lieu of the boundary survey. However, if the dimensions of the subject property differ from those in the original plat, then a boundary survey, including a metes and bounds legal description, will be required.

   Response: Please see the attached Pine Island Center Plat, Block B, Lots 5-10, Plat Book 9, Page 44.

6. Lee County LDC §34-202(a)(7). Document submitted needs to be one of the forms listed in LDC §34-202(a)(7)(a) with required content included. The document submitted is a property deed, which is not one of the accepted forms.

   Response: Please see the attached Attorney's Title Opinion.

Environmental Review:
Camryn Siverson – csiverson@leegov.com or 239-533-8313

7. The project parcel is within the coastal high hazard and Greater Pine Island Community Planning area. Provide a Lee Plan analysis relative to the CHHA and Greater Pine Island Community.

   Response: Please see the Narrative of Request/Lee Plan Analysis.

8. Please describe the required buffers and open space and how the rezoning will meet the LDC requirements.

   Response: A 5-foot wide Type A buffer is required between commercial properties and a 15-foot wide Type D buffer is required along the Nikkis Lane right-of-way. Per LDC Section 10-415, a minimum of 10% open space is required for small commercial developments. The applicant acknowledges the fact there is an existing structure along the north property line; however, a Type A buffer only requires four trees per 100 linear feet. There should be sufficient room along the north property line to accommodate the code required trees at time of local development order permitting. Full site construction and landscaping plans will be provided at time of local development order permitting demonstrating compliance with the LDC requirements.

Natural Resources Review:
Nicholas DeFilippo

9. Please provide analysis of applicable policies within Lee Plan Goals 24 and 101.

   Response: Please see the Narrative of Request/Lee Plan Analysis.

This should allow for continued review and a finding of sufficiency of this rezoning request. Your time and attention to this matter is appreciated. Should County staff require additional information or have any questions regarding this submittal, feel free to call this office.

Sincerely,

TDM CONSULTING, INC.

Veronica Martin

Veronica Martin
Senior Planner

cc: Charles and Linda Cope, Cope Properties

APPLICATION FOR CONVENTIONAL REZONING PUBLIC HEARING UNINCORPORATED AREAS ONLY

Project Name: 10488 Nikkis Lane

Request: ☒ Rezoning from: CN-3 To: CG
☐ Variance included? ☒ **NO** ☐ **YES**[1] for:
☐ Special Exception included? ☒ **NO** ☐ **YES**[1] for:
☐ Bonus Density included? ☒ **NO** ☐ **YES**[2] for: _____ Bonus Units

[1] *If **YES**, submit applicable application and fee*
[2] *If **YES**, submit additional fee required by LDC 2-147(A)(3)*

PART 1
APPLICANT/AGENT INFORMATION

A. Name of Applicant: Linda S. Cope
Address: 3825 Emerald Ave
City, State, Zip: St. James City, FL 33956
Phone Number: 330-692-6625 E-mail: Lscope1947@gmail.com

B. Relationship of Applicant to owner (check one) and provide Affidavit of Authorization form:
☐ Applicant is the sole owner of the property. **[34-201(a)(1)a.1.]**

☒ Applicant has been authorized by the owner(s) to represent them for this action. **[34-202(a)(3)]**

☐ Application is County initiated. Attach BOCC authorization.

C. Authorized Agent: (If different than applicant) Name of the person who is to receive all County-initiated correspondence regarding this application. [34-202(a)(4)]

1. Company Name: TDM Consulting, Inc.
Contact Person: Veronica Martin
Address: 43 Barkley Cir, Suite 200
City, State, Zip: Fort Myers, FL 33907
Phone Number: 239-433-4231 Email: vmartin@tdmconsulting.com

2. Additional Agent(s): Provide the names of other agents that the County may contact concerning this application. **[34-202(a)(4)]**

PART 2
PROPERTY OWNERSHIP

A. Property owner(s): If multiple owners (corporation, partnership, trust, association), provide a list with owner interest. [34-202(a)(2)]
Name: 5465 Pine Island Rd, LLC
Address: 47267 Tomahawk Dr.
City, State, Zip: Negley, OH 44441
Phone Number: 330-692-6625 Email: Lscope1947@gmail.com

ADDITIONAL AGENTS

Company Name:	TDM Consulting, Inc.		
Contact Person:	Veronica Martin		
Address:	43 Barkley Cir, Suite 200		
City, State, Zip:	Fort Myers, FL 33907		
Phone Number:	239-433-4231	Email:	vmartin@tdmconsulting.com

Company Name:			
Contact Person:			
Address:			
City, State, Zip:			
Phone Number:		Email:	

Company Name:			
Contact Person:			
Address:			
City, State, Zip:			
Phone Number:		Email:	

Company Name:			
Contact Person:			
Address:			
City, State, Zip:			
Phone Number:		Email:	

Company Name:			
Contact Person:			
Address:			
City, State, Zip:			
Phone Number:		Email:	

Company Name:			
Contact Person:			
Address:			
City, State, Zip:			
Phone Number:		Email:	

CIVIL ENGINEERING
TDM
CONSULTING, INC.

43 Barkley Circle, Suite 200
Fort Myers, FL 33907
Phone 239-433-4231 Fax 239-433-9632
www.tdmcivilengineering.com
Certificate of Authorization # 29086

Nikkis Lane
Narrative of Request/Lee Plan Compliance

Narrative of Request

The property owners, Linda and Charles Cope for 5465 Pine Island Rd, LLC, are requesting to rezone the property from CN-3 to CG in order to permit more intensive commercial uses on the subject property. The other vacant lots in the surrounding area have been rezoned to permit more intensive commercial uses, such as the 7-11 gas station to the east and the CPD zoned property to the south and east. The subject property is the last remaining undeveloped property with CN-3 zoning. The property has a future land use classification of Urban Community and is located in an area known as the Pine Island Center. Urban services are available and adequate to service future commercial development. The applicant will demonstrate compliance with the Lee Plan and other applicable codes and regulations to prove entitlement to this conventional rezoning request per LDC Sec. 34-145(d)(4)(a)1.

Land Development Code Compliance

The applicant intends to comply with the Land Development Code at time of Development Order permitting unless deviations are granted as set forth in LDC Section 10-104. This includes compliance with Chapter 33, Article III – Greater Pine Island Planning Community.

Lee Plan Compliance

POLICY 1.1.4: *The Urban Community future land use category are areas characterized by a mixture of relatively intense commercial and residential uses. The residential development in these areas will be at slightly lower densities than other future urban categories described in this plan. As vacant properties within this category are developed, the existing base of public services will need to be maintained which may include expanding and strengthening them accordingly. As in the Central Urban future land use category, predominant land uses in this category will be residential, commercial, public and quasi-public, and limited light industrial with future development encouraged to be mixed use, as described in Objective 11.1, where appropriate. The standard density range is from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum total density of ten dwelling units per acre (10 du/acre). The maximum total density may be increased to fifteen dwelling units per acre (15 du/acre) utilizing Greater Pine Island Transfer of Development Units.*

Lee Plan Policy 1.1.4 describes the Urban Community future land use category as an area characterized as a mixture of relatively intense commercial and residential uses. Commercial uses are permitted in the Urban Community future land use category and rezoning the subject property from C-1A and CN-3 to CG is consistent with **Lee Plan Policy 1.1.4.**

OBJECTIVE 2.1: DEVELOPMENT LOCATION. *Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, and prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities.*

POLICY 2.1.1: *Most residential, commercial, industrial, and public development is expected to occur within the designated future urban areas on the Future Land Use Map through the assignment of very low densities to the non-urban categories.*

OBJECTIVE 2.2: DEVELOPMENT TIMING. *Direct new growth to those portions of the future urban areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created.*

POLICY 2.2.1: *Rezoning and DRI proposals will be evaluated as to the availability and proximity of the road network; central sewer and water lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare.*

This area of Pine Island is known as Pine Island Center and is where Pine Island Road and Stringfellow Road intersect. The subject property is located along Pine Island Road and Nikkis Lane. Pine Island Road at this location is a county-maintained arterial roadway and Nikkis Lane is a county-maintained local road. The lots with frontage on Pine Island Road have been developed since 1952 and 1970 and are currently developed with commercial uses. Surrounding lots are either developed with commercial uses or have commercial zoning for future commercial development. Urban services such as fire, EMS, police protection, solid waste, and public parks and schools are available and adequate to service the development as outlined below. The Greater Pine Island Water Association proved a Letter of Availability stating that potable water is available and adequate to serve the site. Lee County Utilities also provided a Letter of Availability stating that sanitary sewer lines are available and adequate to serve the development. Rezoning the subject property from C1 and CN-3 to CG is consistent with **Lee Plan Objectives 2.1 and 2.2 and Policies 2.1.1 and 2.2.1.**

Fire/EMS:	Matlacha-Pine Island Fire Department, Station #151, located at 5700 Pine Island Road, is approximately 3.2 miles away.
Police:	Lee County Sheriff's Office Gulf District, located at 13921 Waterfront Drive, is approximately 13.4 miles away.
Solid Waste:	The property is within Lee County Solid Waste Franchise Area 5 and is served by Waste Pro.
Public Transit:	Lee Tran does not service this segment of Pine Island Road.
Public Schools:	The property is within the Lee County School District West Zone, District Area 4.
Public Parks:	The property is approximately 0.5 miles east of Pinewood Trails Park.

OBJECTIVE 4.1: WATER, SEWER, AND ENVIRONMENTAL STANDARDS. *Consider water, sewer, and environmental standards during the rezoning process. Ensure the standards are met prior to issuing a local development order.*

STANDARD 4.1.1: WATER.

1. Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development in excess of 30,000 square feet of gross leasable (floor) area per parcel, must connect to a public water system (or a "community" water system as that is defined by Fla. Admin. Code R. 62-550).

2. If the proposed development lies within the boundaries of a water utility's certificated or franchised service area, or Lee County Utilities' future potable water service area (see Map 4-A), then the development must be connected to that utility.

3. The developer must provide proof that the prior commitments of the water utility, plus the projected need of the developer, do not exceed the supply and facility capacity of the utility.

4. All waterline extensions to new development will be designed to provide minimum fire flows, as well as adequate domestic services as required by Fla. Admin. Code R. 62-555.

5. If a new development is located in a certificated or franchised service area, or Lee County Utilities' future potable water service area (see Map 4-A), and the utility cannot provide the service or cannot provide the service except at a clearly unreasonable cost to the developer, the developer is encouraged to petition the appropriate regulatory agency to contract the service area so that the development may establish its own community water system or invite another adjacent utility to expand its service area in order to provide the required service.

6. If a development lies outside any service area as described above, the developer may:

- *request that the service area of Lee County Utilities or an adjacent water utility be extended to incorporate the property;*
- *establish a community water system for the development; or*
- *develop at an intensity that does not require a community water system.*

7. Lee County Utilities may provide potable water service to properties not located within the future water service area when such potable water service is found to benefit public health, safety, and welfare, including protection of Lee County's natural resources.

The Greater Pine Island Water Association has provided a Letter of Availability stating that potable water mains are installed and in operation adjacent to the site and there is sufficient capacity to provide 500 gallons per day of potable water to the development. This is consistent with **Lee Plan Objective 4.1 and 4.2 and Standard 4.1.1: Water.**

STANDARD 4.1.2: SEWER.

1. Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development that generates more than 5,000 gallons of sewage per day, must connect to a sanitary sewer system.

2. If the proposed development exceeds the thresholds listed above and lies within the boundaries of a sewer utility's certificated or franchised service area, or Lee County Utilities'

REZ2023-00019 Lee County ePlan Additional info dated 02-07-2024

future sanitary sewer service area (see Map 4-B), and that utility has sufficient capacity to provide minimum service to the development, then the development must connect to that sewer utility if there is existing infrastructure adequate to accept the effluents of the development within l/4 mile from any part of the development.

3. If there is not sufficient capacity nor adequate infrastructure within l/4 mile of the development, the developer must provide proof in the form of a clearly stated rejection of service.

4. If a new development is located in a certificated or franchised service area, or Lee County Utilities' future sanitary sewer service area (see Map 4-B), and the utility cannot provide the service, or cannot provide the service except at a clearly unreasonable cost to the developer, the developer may establish on a temporary basis a self-provided sanitary sewer facility for the development, to be abated when the utility extends service to the site. The developer may also petition the appropriate regulatory agency to contract the service area of the utility in order that another utility may be invited to provide the service.

5. If a development lies outside any service area as described above, the developer may:

- *request that the service area of Lee County Utilities or an adjacent sewer utility be expanded to incorporate the property;*
- *establish a self-provided sanitary sewer system for the development;*
- *develop at an intensity that does not require sanitary sewer service; or*
- *if no more than 5000 gallons of effluent per day per parcel is produced, an individual sewage disposal system per Fla. Admin. Code R. 64E-6 may be utilized, contingent on approval by all relevant authorities.*

6. Lee County Utilities may provide sanitary sewer service to properties not located within the future sewer service area when such sanitary sewer service is found to benefit public health, safety, and welfare, including protection of Lee County's natural resources.

Lee County Utilities (LCU) has provided a Letter of Availability stating that sanitary sewer lines are in operation adjacent to the property and that LCU has sufficient capacity to served the estimated flow demand of approximately 500 gallons per day. This is consistent with **Lee Plan Objective 4.1 and 4.2 and Standard 4.1.2: Sewer.**

STANDARD 4.1.4: ENVIRONMENTAL FACTORS.

1. In any case where there exists or there is the probability of environmentally sensitive areas (as identified by Lee County, the Corps of Engineers, Department of Environmental Protection, South Florida Water Management District (SFWMD), or other applicable regulatory agency), the developer/applicant must prepare an environmental assessment that examines the existing conditions, addresses existing or anticipated environmental problems, and proposes means and mechanisms to protect, conserve, or preserve the environmental and natural resources.

2. Ensure that land uses and structures are well integrated, properly oriented, and functionally related to the topographic and natural features of the site.

3. Ensure development minimizes the need for expansion and construction of street and utility improvements.

A Protected Species Survey or Environmental Report isn't required for conventional rezoning applications; however, the applicant will be required to comply with the requirements of the LDC at time of local development order permitting to demonstrate if there are any environmentally sensitive or critical areas on site. This is consistent with **Lee Plan Objective 4.1 and Standard 4.1.4: Environmental Factors.**

GOAL 6: COMMERCIAL LAND USES*. To permit orderly and well-planned commercial development at appropriate locations within the County.*

OBJECTIVE 6.1*: Development approvals for commercial land uses must be consistent with the following policies, the general standards under Goal 4 and other provisions of this plan.*

POLICY 6.1.1*: All applications for commercial development will be reviewed and evaluated as to:*

1. Traffic and access impacts (rezoning and development orders);

2. Landscaping and detailed site planning (development orders);

3. Screening and buffering (planned development rezoning and development orders);

4. Availability and adequacy of services and facilities (rezoning and development orders);

5. Impact on adjacent land uses and surrounding neighborhoods (rezoning);

6. Proximity to other similar centers (rezoning); and

7. Environmental considerations (rezoning and development orders).

POLICY 6.1.4*: Commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities.*

POLICY 6.1.6*: The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.*

POLICY 6.1.7: *Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.*

The property is located just south of Pine Island Road, a county-maintained arterial road, and has frontage on Nikkis Lane, a two-lane county-maintained local road. Pine Island Road has a current level of service of E and will continue to have an E level of service if the property is rezoned from CN-3 to CG. At time of development order permitting, the property will be required to provide appropriate buffers, open space and landscaping to buffer and shield the abutting properties. A 5-foot wide Type A buffer is required between commercial properties and a 15-foot wide Type D buffer is required along the right-of-way. The site is cleared and routinely mowed with just a few trees on site. It is unlikely there are environmentally critical or sensitive areas on site. And at just 1-acre in size, an ERP will not be required.

Pine Island Center has a mix of commercial and residential uses; however, the zoning districts surrounding the subject property are all commercial including C-1 to the west, C-1A to the north, and CPD to the east and south. Surrounding uses include the 7-11 gas station and convenience store, pizza restaurant, offices, a commercial strip plaza, a landscaping nursery with retail sales, and future commercial uses permitted by the CPD. The uses permitted in the CG zoning district are compatible with existing and planned uses in the surrounding area. Urban services such as potable water, sanitary sewer, police, fire, EMS, public parks and schools, solid waste, etc. are available and adequate to serve the future development.

The Applicant will be required to comply with the architectural standards set forth in Lee Plan Goal 24 and Land Development Code Chapter 33, Article III – Greater Pine Island Planning Community at time of local development order permitting. Rezoning the property from CN-3 to CG is consistent with **Lee Plan Goal 6, Objective 6.1, and Policies 6.1.1, 6.1.4, 6.1.6, and 6.1.7.**

OBJECTIVE 17.3: PUBLIC INPUT*. To provide opportunities for public input as part of the comprehensive plan and land development code amendment process.*

POLICY 17.3.3*: Public information meetings required pursuant to the provisions of this sub-element must be held within the established community plan area boundary that is affected by the amendment.*

POLICY 17.3.4*: For required public information meetings, the applicant must provide the following:*

• Adequate meeting space to accommodate projected attendance and security measures (as needed).

• Advance notice of the meeting in a publication of local distribution provided at least ten calendar days prior to the meeting, unless otherwise specified herein.

• At the meeting, a general overview of the text or map amendment and effect thereof.

• After the meeting, a meeting summary document submitted to the County that contains the following information: the date, time, and location of the meeting; a list of attendees.

The property is located in the Greater Pine Island Planning community. A Public Information Meeting was held May 4th, 2023 at 10488 Nikkis Lane, St. James City. A copy of the Public Meeting Notice, sign-in sheet and meeting summary is included with the Application. This was the second public information meeting held since no one from the public attended the first one. This is consistent with **Lee Plan Objective 17.3 and Policies 17.3.3 and 17.3.4.**

GOAL 24: GREATER PINE ISLAND COMMUNITY PLAN*. Manage future growth on and around Greater Pine Island so as to: maintain the island's unique natural resources, rural character, and coastal environment; support the viable and productive agricultural community and other local businesses; and to protect the public health, safety and welfare of island residents and visitors when a hurricane strike is imminent.*

OBJECTIVE 24.4: COMMERCIAL LAND USES*. County regulations, policies, and discretionary actions will recognize certain unique characteristics of Greater Pine Island which*

justify different treatment of existing and future commercial areas than in mainland Lee County, as described in the following policies.

***POLICY 24.4.1**: The future urban areas in Pine Island Center are targeted for most future commercial and industrial uses, as permitted by other portions of this plan. Non-residential developments within Pine Island Center are encouraged to provide employment opportunities; serve the day to day needs of residents and visitors; demonstrate a positive impact on traffic patterns within Greater Pine Island; and reduce the number of vehicular trips through Matlacha.*

As previously stated, this area of Greater Pine Island is known as Pine Island Center and is heavily settled with commercial and public uses, including the 7-11 gas station, restaurants, retail shopping, offices, United Methodist Church of Pine Island, Matlacha-Pine Island Fire Station, Phillips Park, and residential north of Pine Island Road and west of Stringfellow Road. Policy 24.4.1 states that the future urban areas Pine Island Center are targeted for most future commercial uses and that non-residential developments within Pine Island Center are encouraged to provide employment opportunities; serve the day to day needs of residents and visitors; demonstrate a positive impact on traffic patterns within Greater Pine Island; and reduce the number of vehicular trips through Matlacha. The subject property already has commercial zoning (CN-3). The applicant is requesting to rezone the subject property to CG to permit more intensive commercial uses that are appropriate in the Pine Island Center. Permitting more intensive commercial uses on property that can be accessed from a local road (Nikkis Lane) via Pine Island Road without traveling through Matlacha, while meeting the day to day needs of residents and visitors is consistent with **Lee Plan Goal 24, Objective 24.4 and Policy 24.4.1.**

***POLICY 24.4.3**: The County will provide specific architectural and site design standards for Greater Pine Island in the LDC. These standards must: promote but not mandate rehabilitation over demolition; address the size and scale of building mass in relation to the built and natural environment; establish community-specific architectural standards in support of Greater Pine Island's coastal rural character; preserve mature trees wherever possible; encourage the location of off-street parking to the side and rear of buildings to preserve viewsheds along public roadways; require large windows and forbid most blank walls; and encourage metal roofs and other features of traditional "Old Florida" styles. The new commercial design standards will reflect the different characteristics of Bokeelia, Pineland, Matlacha, and St. James City. Deviations from these standards may not be granted unless the request meets the County approval criteria for variances set forth in the LDC, Chapter 34.*

The Applicant will be required to comply with the architectural standards set forth in Lee Plan Goal 24 and Land Development Code Chapter 33, Article III – Greater Pine Island Planning Community at time of local development order permitting. This is consistent with **Lee Plan Policy 24.4.3.**

***GOAL 101: COASTAL AREAS.** Protect human life along with current and future development from the impacts of coastal flooding. Coastal flooding includes, but is not limited to, high tide events, storm surge, flash floods, stormwater runoff, and impacts of sea level rise.*

***POLICY 101.1.1**: Require that development within the Coastal High Hazard Area be compatible with natural systems, such as, water retention and purification, wildlife habitat, primary productivity, and defense against coastal flooding.*

POLICY 101.3.2*: Restrict development in the Coastal High Hazard Area to uplands except as needed for the provision of public facilities.*

The Applicant is requesting rezoning to CG, a commercial zoning district. The site is approximately one (1) acre in size and consists of 100% uplands. Future development of the site will require a local Development Order, which will include a finished floor elevation, paving, grading, and drainage plans, and compliance will all local, state, and federal codes and regulations for developments in the Coastal High Hazard Area. This is consistent with **Lee Plan Goal 101 and Policies 101.1.1 and 101.3.2.**

The applicant has proven entitlement to this conventional rezoning request as set forth in LDC Sec. 34-145(d)(4).a.1. The request:

(a) Complies with the Lee Plan;

(b) Meets the Land Development Code 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.

LAW OFFICE OF
WAGGONER & BRUEHL, P.A.

Timothy J. Bruehl
Jacqueline Bruehl
Richard J. Bruehl

5400 Pine Island Road, Suite D
Bokeelia, FL 33922
(239) 283-1076
(239) 283-7567 Fax

Paul H. Waggoner
In Memoriam
12/1/2016

December 27, 2023

Re: 5465 Pine Island Road, LLC
10464 Nikkis Lane St. James City, FL 33956

Title Opinion Letter

To Whom It May Concern,

Pursuant to the requirement of the Florida Department of Motor Vehicles, the following shall serve as a certification of title of property regarding the property described above and further legally described in Exhibit "A" attached hereto and incorporated herein by reference. Pursuant to the same, please see below:

a. A "base" search in excess of thirty (30) years which was performed on the property reveals title in the subject property is unequivocally and solely vested in **5465 Pine Island Road, LLC, a Florida Limited Liability Company** (owner of record). A copy of the vesting deed is attached hereto and marked as Exhibit "B". NOTE: The vesting deed contains additional parcels that are not subject to this matter.

b. There are no mortgages, assignments or modification of mortgages or other liens of that sort secured by the subject property.

c. All easements and or restrictions encumbering the property are as follows:

1. All matters contained on the Plat of Pine Island Center, as recorded in , Public Records of Lee County, Florida.
2. Lee County Ordinance No. 86-14 recorded November 30, 1990, in O.R. Book 2189, Page 3281 and amended by Ordinance No. 86-38 in O.R. Book 2189, Page 3334, Public Records of Lee County, Florida.
3. Any lien or claim of lien for services, labor or materials which may take priority over the estate or interest insured by reason of that certain Notice of Commencement recorded January 24, 2023, under Instrument Number 2023000028106, Public Records of Lee County, Florida.
4. FOR INFORMATIONAL PURPOSES ONLY: 2023 taxes were paid.

d. The legal description of the subject property is legally described in Exhibit "A" as referenced above.

Other than what is referenced above, there are no other liens, mortgages, owners of record, or easements that appear in the Public Records of Lee County, Florida, as of **December 27th, 2023**.

Upon your receipt of this Certified Opinion of Title, should you have any questions, comments or other concerns I ask that you please do not hesitate to contact the undersigned.

TIMOTHY J. BRUEHL, ESQ.
Bar No. 1028103
Waggoner & Bruehl, P.A.
5400 Pine Island Rd. Suite D
Bokeelia, FL 33922
(239)283-1076

EXHIBIT "A"

LOTS 5, 6, 7, 8, 9, and 10, BLOCK B, PINE ISLAND CENTER, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 9, PAGE 44, RECORDS CLERK OR COURT, LEE COUNTY, FLORIDA AND MORE PARTICULARLY DESCRIBED AS FOLLOWs:
BEGIN AT THE NORTHWEST CORNER OF SAID LOT 5, THENCE N 88° 52' 21" E, ALONG THE NORTH LINE OF SAID LOT 5, A DISTANCE OF 140.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 5; THENCE S 00° 22' 19" E, ALONG THE EAST LINE OF SAID LOTS 5 THROUGH 10, A DISTANCE OF 300.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT10; THENCE S 88° 52' 21" W, ALONG THE SOUTH LINE OF SAID LOT 10, A DISTANCE OF 134.06 FEET TO THE SOUTHWEST CORNER OF SAID LOT 10; THENCE NORTHWESTERLY ALONG THE WEST LINE OF SAID LOT 10, BEING ALONG A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST AND HAVING A RADIUS OF 55.00 FEET AND A CHORD BEARING N 14° 05' 47" W AND A CHORD DISTANCE OF 25.90 FEET, AN ARC DISTANCE OF 26.15 FEET; THENCE N 00° 19' 41" W, ALONG THE WEST LINE OF LOTS 10 THROUGH 5, A DISTANCE OF 274.76 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

INSTR # 2011000108820, Doc Type D, Pages 3, Recorded 05/09/2011 at 11:59 AM, Charlie Green, Lee County Clerk of Circuit Court, Deed Doc. D $0.70 Rec. Fee $27.00 Deputy Clerk CFELTMAN

Instrument Prepared, Without Opinion,
By and After Recording, Return to:
Joseph C. Bishara, Esquire
Roth, Blair, Roberts, Strasfeld & Lodge
100 Federal Plaza E, Suite 600
Youngstown, OH 44503
Telephone: (330) 744-5211

Tax Parcel ID: 2844-22-01-0000B.0010-005

Tax Parcel ID: 28-44-22-01-0000B.0060
Tax Parcel ID: 28-44-22-01-0000B.0070
Tax Parcel ID: 28-44-22-01-0000B.0090

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS that **CHARLES T. COPE** and **LINDA S. COPE, husband and wife, as tenants by the entirety**, of **180 Duquesne Street, Columbiana, Ohio 44408**, for valuable consideration, grant and warranty to **5465 Pine Island Road, LLC** a Florida Limited Liability Company, the tax mailing address of which is **180 Duquesne Street, Columbiana, Ohio 44408**, the following described land:

Lying in Lee County, Florida, to wit:

PARCEL ONE

Lots 1, 2, 3, 4 and 5, Block B, Unit 1, of that certain subdivision known as PINE ISLAND CENTER, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court in Plat book 9, Page 44, Public Records of Lee County, Florida.

Subject to easements, restrictions and reservations of record not coupled with a right of reverter and taxes for the current year.

Prior Instrument Reference: O.R. Book **04390,** Pages **4820 - 4822**, Public Records Lee County, Florida.

PARCEL TWO:

Lots 6, 7, 8, 9 an 10, Block B, Unit 1, Pine Island Center, a subdivision of Pine Island, Florida recorded in Plat Book 9, Page 44, in the Public Records of Lee County, Florida.

Subject to easements, restrictions and reservations of record not coupled with a right of reverter and taxes for the current year.

And the said party of the first part does hereby fully warrant the title to said land and will defend the same against the lawful claims of all person whomsoever.

To have and to hold, the same in fee simple forever, together with all the tenements, hereditaments and appurtenances thereto belong or in any wise appertaining.

And, the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except for taxes accruing subsequent to the current year, and easements and restrictions of record, if any, but this reference to said restrictions shall not serve to reimpose the same.

WITNESS our hands this 6th day of April, **2011.**

Signed and acknowledged in the presence of:

Witness sign

Robin Pormelee

Print Name

Witness sign

Carrie Sterner

Print Name

CHARLES T. COPE

LINDA S. COPE

STATE OF FLORIDA)
)
COUNTY OF LEE) **SS:**

BE IT REMEMBERED, that on the 6th day of April, **2011**, before me, the subscriber, a Notary Public in and for said County, personally came, **CHARLES T. COPE** and **LINDA S. COPE**, and acknowledged the signing thereof to be their voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 6th day of April, **2011**.

Patricia A Waite
NOTARY PUBLIC

PATRICIA A. WAITE
Notary Public - State of Florida
My Comm. Expires Jun 10, 2014
Commission # DD 1000601
Bonded Through National Notary Assn.

EXHIBIT A

LEGAL DESCRIPTION

LOTS 5 – 10, BLOCK B, PINE ISLAND CENTER, A SUBDIVISION, LOCATED IN SECTION 28, TOWNSHIP 44 SOUTH, RANGE 22 EAST, ACCORDING TO THE PLAT THEREOF ON FILE AND RECORDED IN PLAT BOOK 9, PAGE 44, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

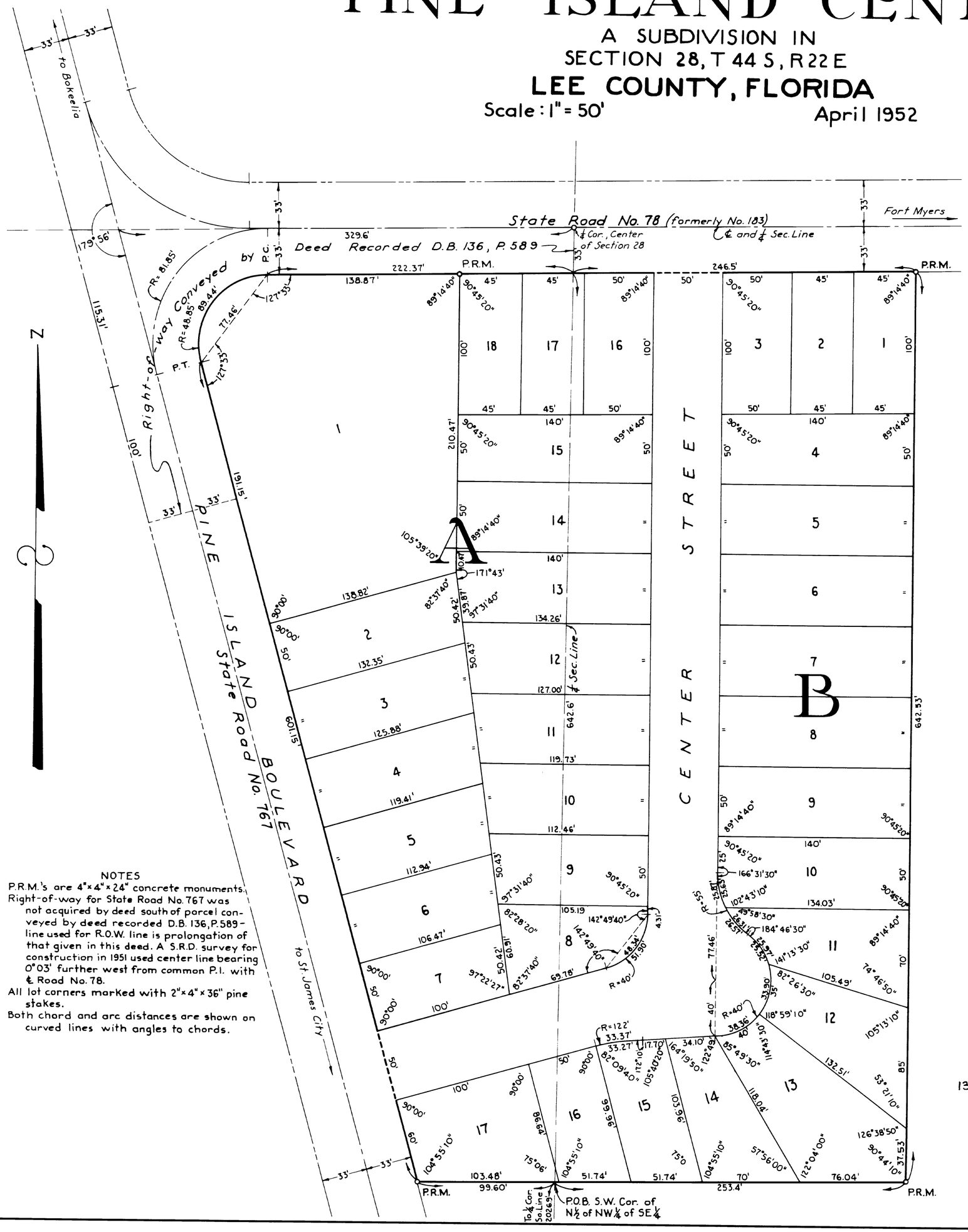
STRAP NO.

28-44-22-L3.0000B.0050

REZ2023-00019 Lee County ePlan
Additional info dated 02-07-2024

PINE ISLAND CENTER

A SUBDIVISION IN
SECTION 28, T 44 S, R 22 E
LEE COUNTY, FLORIDA
Scale: 1" = 50' April 1952



DESCRIPTION

All that part of the north half (N½) of the northeast quarter (NE¼) of the southwest quarter (SW¼) lying east of State Road No. 767 (Bokeelia-St. James Road) and AL50 beginning at the southwest corner of the north half (N½) of the northwest quarter (NW¼) of the southeast quarter (SE¼) run east along the south line thereof for 253.4 feet; thence run north to a point on the south right-of-way line of State Road No. 78 (formerly No. 183) 246.5 feet east of the west line of said fraction of a section; thence run west along said right-of-way line for 246.5 feet to said west line which is the north and south quarter section line; thence run south along said quarter section line for 642.6 feet more or less to the point of beginning; being said N½ of the NW¼ of the SE¼ less the east 997 feet and less the north 33 feet; all in Section 28, Township 44 South, Range 22 East.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS that T.H. Phillips, a single man, the owner of the hereon described lands, has caused this plat of PINE ISLAND CENTER to be made and does hereby dedicate to the perpetual use of the public all streets, roads and/or boulevards shown hereon.
IN WITNESS WHEREOF the owner has hereunto set his hand and seal this 21st day of April, A.D. 1952.

T.H. Phillips SEAL

WITNESS: Dawson McDaniel

WITNESS: Lora Belle Yarnon

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF LEE
I HEREBY CERTIFY that on this day, before me, an officer duly authorized to take acknowledgments, personally appeared T.H. Phillips, to me known to be the person described in and who executed the foregoing dedication and he acknowledged before me that he executed the same for the uses and purposes therein mentioned.
WITNESS my hand and official seal at Fort Myers, said County and State this 21 day of April, A.D. 1952.

Lora Belle Yarnon
Notary Public, State of Florida at large
My Commission expires June 21 1952

APPROVALS

This plat accepted this 23rd day of April, A.D. 1952 in open meeting of the Board of County Commissioners of Lee County, Florida.

APPROVED: [illegible]
Chairman

D.J. Farabee
Clerk

I HEREBY CERTIFY that this plat of PINE ISLAND CENTER has been examined by me and from my examination I find that said plat complies in form with the requirements of Chapter 10275, Laws of Florida, Acts of 1925.
I FURTHER CERTIFY that said plat was filed for record at 3 P.M. this 20th day of June, A.D. 1952, and duly recorded in Plat Book 9, at Page 44 of the public records of Lee County, Florida.

D.J. Farabee
Clerk of the Circuit Court in and for Lee County

139720

I hereby certify that this plat of PINE ISLAND CENTER is true and correct according to a recent survey made and platted under my direction and that permanent reference monuments (P.R.M.'s) have been set in accordance with the provisions of Section 7, Chapter 10275, Laws of Florida, Acts of 1925.

Carl O. Johnson
Reg. Land Surveyor, Fla. Cert. No. 351
Johnson & Cothern, Ft. Myers, Florida

NOTES

P.R.M.'s are 4"x4"x24" concrete monuments.
Right-of-way for State Road No. 767 was not acquired by deed south of parcel conveyed by deed recorded D.B. 136, P. 589 - line used for R.O.W. line is prolongation of that given in this deed. A S.R.D. survey for construction in 1951 used center line bearing 0°03' further west from common P.I. with ℄ Road No. 78.
All lot corners marked with 2"x4"x36" pine stakes.
Both chord and arc distances are shown on curved lines with angles to chords.