

Summary of Hearing Examiner Recommendation

BAYSHORE VILLAGE CPD

Applicant seeks to amend an existing commercial planned development to increase intensity and add uses in a General Interchange Area.

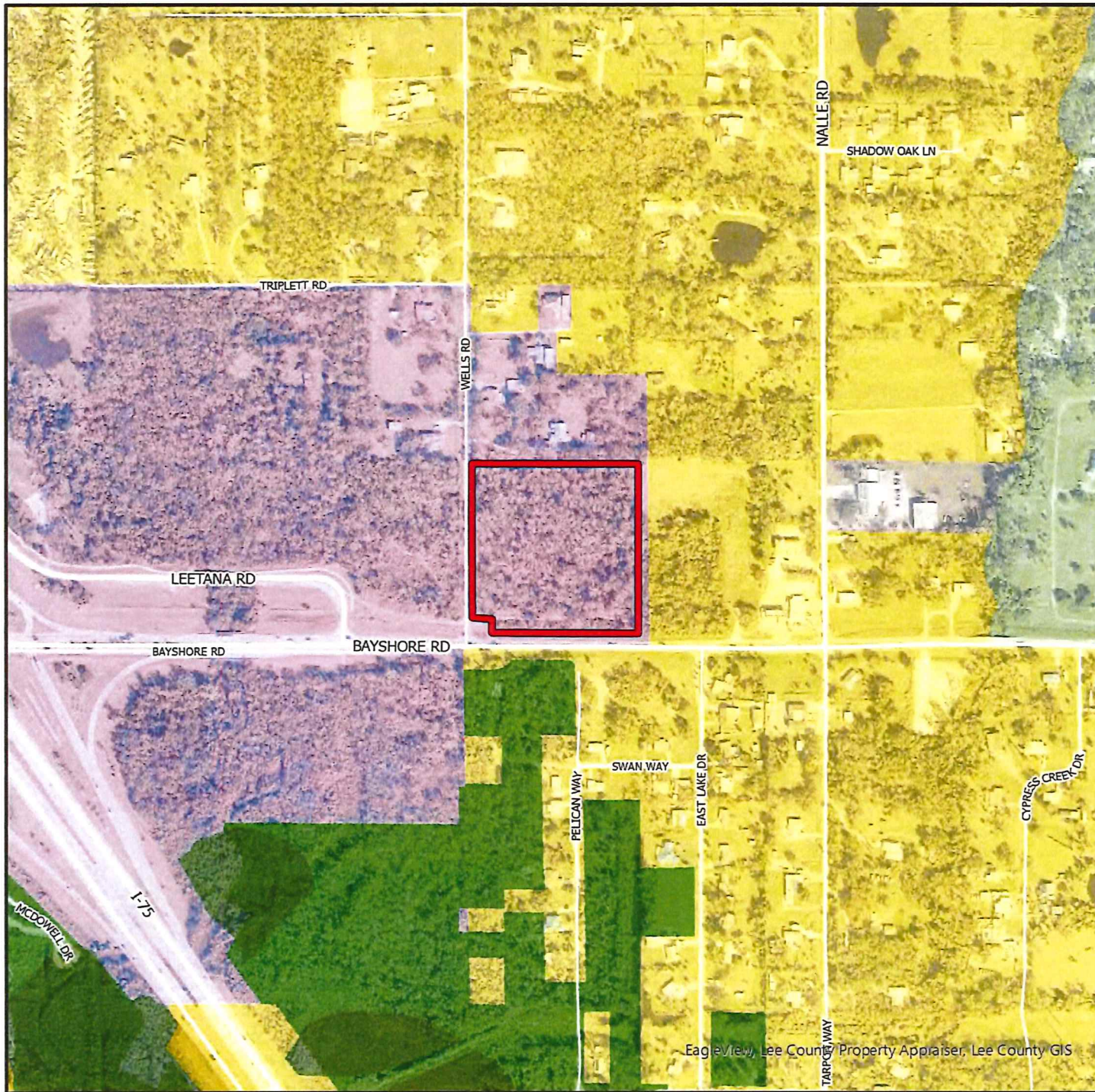
The Board found commercial uses compatible with surrounding development in 2006. Since 2006, development pressure within the Bayshore Community Babcock Ranch is changing the character of the Bayshore Road corridor.

Board approved development applications in the community include several suburban-style subdivisions rather than ranchettes on acreage. Ongoing development in Babcock Ranch has impacted the volume and character of traffic on Bayshore Road and the I-75 interchange since the 2006 approval. The character of the Bayshore Road corridor will continue to change following FDOT's plans for a divergent diamond interchange, four lane divided improvements between the interchange and SR 31.

The Hearing Examiner finds Staff's recommendation limiting commercial intensity to 92,750 square feet achieves an appropriate balance between the property's General Interchange designation and the Bayshore Community Plan.¹ Conditions of approval adequately protect residential land uses north of the site and balance uses reasonably foreseeable in an interchange area and the community plan.

Detailed recommendation follows

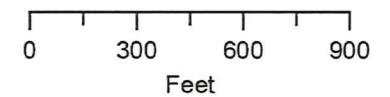
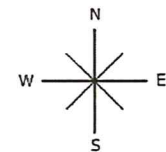
¹ The Department of Community Development recommended approval of 92,750 square feet of commercial use. The staff recommendation represents a 7,500 square foot reduction in Applicant's request.



DCI2022-00032

Future Land Use

- Subject Property
- Suburban
- Sub-Outlying Suburban
- Public Facilities
- General Interchange
- Rural
- Conservation Lands - Upland
- Wetlands
- Conservation Lands - Wetland



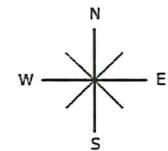
EagleView, Lee County Property Appraiser, Lee County GIS



DCI2022-00032

Aerial

 Subject Property



0 300 600 900
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2022-00032

Regarding: **BAYSHORE VILLAGE CPD**

Location: 17300 Wells Road
Bayshore Planning Community
(District 5)

Hearing Date: October 11, 2023 (No Hearing)
Continued Dates: December 13, 2023 (Hearing)
December 14, 2023 (Hearing)
Record Closed: January 5, 2024

I. Request

Amend Bayshore Village Commercial Planned Development to:

- (1) Increase commercial development intensity from 61,000 square feet to 100,000 square feet and up to 125 hotel units; and
- (2) Expand schedule of permitted uses.

The property legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approve, subject to the conditions and deviations set forth in Exhibit B.

III. Discussion

The Hearing Examiner serves as an advisor to the Board of County Commissioners (Board) on applications to rezone property to the planned development district.² In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on an application to amend the Bayshore Village Commercial Planned Development (CPD).

In preparing a recommendation to the Board, the Hearing Examiner must apply the Lee County Comprehensive Plan (Lee Plan), Land Development Code (LDC), and other County regulations to facts adduced at hearing. The record must contain

² LDC §34-145(d)(4) a.

substantial competent evidence to support the recommendation. Discussion supporting the recommendation of approval with conditions follows below.

Synopsis of Request

The request seeks to increase commercial intensity of the 8.75 acre Bayshore Village CPD by (1) increasing square footage from 61,000 square feet to 100,000 square feet, (2) expanding the list of permitted uses, and (3) allowing up to 125 hotel units with a 120 square foot reduction in commercial square footage for each hotel unit. If the site is developed with a 125 room hotel, maximum developable commercial square footage would be reduced to 77,750 square feet. The request includes six deviations from LDC criteria.

The request includes alternate Master Concept Plans (MCPs) featuring two development scenarios.³

Both MCPs depict: A 75 foot wide indigenous preserve along the north property boundary. The preserve serves as a landscape buffer, which may require supplemental plantings following removal of exotics.⁴ The MCPs include an eight foot high wall/berm, a portion of which must be of masonry materials.⁵

MCP Alternate A: Depicts three development tracts with buildings up to 35 feet in height. Hotels may be up to 48 feet in height.

MCP Alternate B: Depicts a single building up to 48 feet in height. (Hotel only)

Building Height: Buildings exceeding two stories and hotels 35 feet or less in height must set back 150 feet from north property line.⁶ Hotels exceeding 35 feet in height must locate within the southern 300 feet of the site measured from the Bayshore right of way.⁷

Staff Recommendation

The Department of Community Development recommends approval of 92,750 square feet of commercial use. The staff recommendation represents a 7,500 square foot reduction in Applicant's request. Staff also recommends approval of the request for up to 125 hotel units with a reduction of permissible commercial square footage.

³ MCPs dated December 8, 2023.

⁴ Lee Plan Policy 123.2.9.

⁵ Masonry wall required when roads, drives, parking areas, refuse and recycling material collection areas, emergency power generators, and goods/service delivery areas are within 125 feet of the north property line. Developer has option to utilize opaque composite or other non-wood material otherwise.

⁶ Conditions 9, 11.E.

⁷ *Id.*

Disputed Issues

Staff and Applicant agreed on permitted uses, setbacks, and buffers to ensure compatibility with residential land uses north of the site.

The parties did not agree on the proposed increase in square footage. At close of hearing, Applicant modified its request to 100,000 square feet.⁸ Staff adjusted their recommendation to 92,750 square feet.

The Hearing Examiner finds Staff's recommendation achieves a satisfactory balance between the General Interchange designation, the Bayshore Community Plan, and compatibility with surrounding land uses.

Over the course of hearing, Applicant adjusted the MCPs to improve compatibility with residential land uses in the vicinity.⁹ Notable features include:

Height – Project height capped at 48 feet, which is less than the 75 foot height permitted in the General Interchange.¹⁰

Setbacks – Development activity must set back from the rear property line a minimum of 75 feet, exceeding code requirements. The MCP achieves the 75 foot setback by locating a preserve along the north property boundary. Buildings exceeding two stories must set back 150 feet from the north property line, which also exceeds code requirements.¹¹

Buffer - Rear buffer exceeds code.¹²

Wall – Provided although not required because of 75 feet width of preserve

Light industrial uses not permitted – Light industrial land uses are permissible in the General Interchange category but the list of permitted uses does not include those uses.¹³

Residential uses not permitted – Residential uses are permissible in the General Interchange category at minimum densities of 8 dwellings per acre with potential for bonus densities up to 22 dwellings per acre.¹⁴ The list of permitted uses does not include residential dwellings.

⁸ The original request sought approval of 125,000 square feet of commercial land uses and a 44 unit hotel, with potential to increase hotel units up to 125 units with a reduction in commercial square footage.

⁹ Lee Plan Policies 5.1.5, 6.1.4.

¹⁰ LDC §§34-935(f)(1)d and 34-2175(b) permits heights of 75 feet in General Interchange category.

¹¹ See LDC 34-2443 (special setback regulations to protect abutting land uses. The required 150 setback for two story structures exceeds code required setback).

¹² LDC §§10-416(d)(6), 34-935(b).

¹³ Lee Plan Policy 1.3.2.

¹⁴ *Id.*

Planning and Zoning History.

The Board classified the property as General Interchange in 1989.¹⁵ In 2003, the Board adopted the Bayshore Community Plan including the property within its boundaries.¹⁶ The site was rezoned from AG-2 to CPD in 2006.¹⁷

The property is vacant.

Character of Area

The property fronts on Bayshore Road/SR 78 in North Fort Myers east of the interstate. Land uses along Bayshore Road feature small scale commercial development, ranchette homesites, single family subdivisions, nurseries, and RV parks. A sign posted on adjacent property announces pending development of a self-storage facility.¹⁸ Several properties on Bayshore are zoned for commercial land uses. Single family land uses and the Seminole Campground RV Park are north of the Interchange Area.

Increased development pressure on the community and surrounding areas since the 2006 zoning approval is evident from increased traffic on Bayshore Road. The corridor supports a noticeable volume of truck traffic. Dump trucks and semi-tractor trailers are prevalent among vehicles traveling the roadway.

Lee Plan

Planned developments must be consistent with the Lee Plan.¹⁹

The property is located within the northeast quadrant of the Bayshore Road/I-75 Interchange Area.²⁰ Interstate Highway Interchange Areas are special areas designated for a specific primary role.²¹ General Interchange Areas are intended

¹⁵ Part I of the Bert J Harris, Jr. Private Property Rights Protection Act took effect on October 1, 1995. Florida Statutes Ch. 70.001. The Act has had a chilling effect on interpreting new regulations to unfairly burden private property and may offer some explanation why Lee Plan Policy 17.1.3 adopted in 2018 clarified community plan objectives and policies are not regulatory and require implementing land development regulations. Without implementing LDC provisions, the Hearing Examiner must read the Lee Plan as a whole to harmonize potentially competing policies.

¹⁶ Lee County Ordinance 03-02 adopted January 9, 2003.

¹⁷ Bayshore Village Market Square CPD Zoning Resolution Z-06-046 approved August 21, 2006. The resolution approved up to 61,000 sq. feet of commercial retail/office uses on the 8.75 acre parcel.

¹⁸ The neighboring CPD is approved for a 30,000-square-foot self-storage facility. Maximus Self-Storage. See Staff Report Attachment O: Zoning Resolution Z-10-036 and ADD 2022-00117.

¹⁹ LDC §§34-411(a), 34-491.

²⁰ Northeast quadrant of the interchange is designated General Interchange by the Lee Plan Future Land Use Map. Map 1-A.

²¹ Lee Plan Objective 1.3.

primarily for land uses serving the traveling public including service stations, hotels/motels, restaurants, and a range of other commercial land uses.²²

Bayshore Community Plan

The Board adopted the Bayshore Community Plan in 2003. Testimony in opposition to the request asserts the Bayshore Plan supersedes the property's General Interchange designation.²³ However, a plain reading of the Lee Plan does not support this interpretation.

Lee Plan Policy 17.1.1 requires community plans to be coordinated with county-wide and regional plans regarding population accommodation, transportation, employment, economic development, and infrastructure needs. Further, Policy 17.1.3 notes community plans consist of "long term objectives and policies that are not regulatory in nature."²⁴ If needed, land development regulations may be adopted to implement a community plan.²⁵

The General Interchange designation must be read together with the Bayshore Plan to achieve the Board's legislative intent for the property.²⁶ Interchange Areas are intended to provide services beyond the surrounding community.

A close reading of the Bayshore Plan confirms it is no impediment to the request. Goal 18 aspires to protect the Bayshore community's rural character by maintaining minimal commercial activity. Four objectives guide review of development applications.²⁷

- Objective 18.1: Land Use. First and foremost, the County is directed to ensure separation of urban and rural land uses.²⁸ The Future Land Use

²² Lee Plan Policy 1.3.2; See also Goal 6.

²³ Members of the public assert the Bayshore Community Plan supersedes the property's General Interchange designation. Transcript December 13, 2023.

²⁴ Lee Plan Policy 17.1.3, (emphasis supplied). The Bayshore Community Plan does not have companion LDC regulations implementing the plan's policies and objectives. The Lee Plan plainly states Community Plan policies and objectives are not regulatory unless the Board adopts land development regulations to implement.

²⁵ LDC Chapter 33 is devoted to implementation of community plans. The purpose of the LDC community planning regulations is to adopt guidelines and provisions necessary to achieve Lee Plan goals, objectives and policies for recognized planning communities. LDC §33-1. Nearly half the community plans established in the Lee Plan have adopted LDC regulations to implement the plan: Caloosahatchee Shores, North Olga, Captiva, Greater Pine Island, Lehigh Acres, Upper Captiva, North Fort Myers and Page Park. The Bayshore community is not among the communities with implementing regulations.

²⁶ Lee Plan Policy 17.1.1.

²⁷ The community plan objectives address Land Use, Transportation, Sewer and Water, and Parks and Recreation.

²⁸ Lee Plan Objective 18.1: Land Use.

Map reveals the site is surrounded by urban/suburban classified land.²⁹ Rural designated lands lie east of Nalle Road.

- The Bayshore Plan directs retail commercial uses to Interstate Interchange Areas. The property has been designated General Interchange for over 30 years and zoned for commercial use since 2006.
- The Bayshore plan permits non-retail commercial uses “consistent with the Lee Plan and LDC.”³⁰ Commercial uses are consistent with the General Interchange category. The MCP employs enhanced buffers and setbacks from residential land uses. Site development must meet LDC criteria or seek deviations.
- Objective 18.2: Transportation. This objective pertains to *county* road improvements. Testimony at hearing confirms planned state road improvements contemplate a redesign of the interchange to include a divergent diamond configuration, signal at Wells Road, and a four lane divided cross section for Bayshore Road. These improvements include curbs, gutters, and offroad facilities for cyclists and pedestrians.³¹
- Objectives 18.3 and 18.4 are not applicable to the request.³²

The Lee Plan Economic Element encourages commercial uses to expand the County’s economic base.³³ The proposed increase in commercial intensity contributes to a positive business climate creating additional employment opportunities.³⁴ The property’s location within an Interstate Highway Interchange Area makes it well suited for commercial uses.³⁵

Compatibility

One of the purposes of “planned development” zoning is to integrate development with surrounding land uses.³⁶

²⁹ Lee Plan Map 1-A. reveals the General Interchange category lies north, southwest, and west of the site. Sub Outlying Suburban lands lie east and southeast. Conservation lands lie further south across Bayshore Road. Sub Outlying Suburban lands continue up to a mile north of the Interchange area as well.

³⁰ Lee Plan Policy 18.1.1.

³¹ Applicant PowerPoint Presentation and testimony of Ted Treesh, TR Transportation Services. The proposed design is consistent with Policy 18.2.1 directing physical separation between state roads and bicycle pedestrian facilities.

³² Potable water and sanitary sewer service infrastructure already exists adjacent to the site. Staff Report Attachment Q, Lee Plan Maps 4-A, 4-B. Objective 18.4 directs the County to explore constructing an equestrian park within the community.

³³ Lee Plan Objective 161.4.

³⁴ Lee Plan Goals 6, 158, Objective 158.2, Policy 158.2.1. (Allocate adequate land on the Future Land Use Map and in Table 1(b) to meet future commercial, industrial, agricultural, residential, and recreational needs of residents and tourists.)

³⁵ Lee Plan Policy 161.4.3

³⁶ Another purpose is to provide flexibility in development design. LDC §34-612(2).

Properties in the immediate vicinity are in the General Interchange. These properties may develop with a broad range of land uses including tourist commercial, general commercial, and multifamily dwellings.³⁷ Permissible densities range from eight dwellings per acre to as high as 22 dwellings per acre. The request expands the array of permissible commercial uses consistent with the General Interchange designation.³⁸ The requested uses are compatible with those reasonably foreseeable in the General Interchange.³⁹

Sub-Outlying Suburban classified lands lie further east and across Bayshore Road to the southeast.⁴⁰ Lands classified Sub-Outlying Suburban are characterized by low density residential development.

The Bayshore Community Plan requires separation between urban and rural land uses.⁴¹ As demonstrated above, the property and adjacent properties have an urban/suburban classification. The closest Rural designated lands lie east of Nalle Road. The MCP achieves the directive of separating urban and rural land uses.⁴²

Although classified as General Interchange, abutting property to the north includes a single family residence. When proposed development is adjacent to a less intense land use, the design emphasis must separate and protect the use.⁴³ The alternate MCPs protect residential land uses using open space, buffers, and setbacks, specifically:⁴⁴

Preserve. A 75 foot wide indigenous preserve (1.06 acre) separates development areas from the north property line.⁴⁵ Recommended conditions require supplemental plantings to achieve a continuous visual screen.⁴⁶

Fence/Wall. Condition requires an 8 foot high opaque fence/wall along the south edge of preserve.

Wet Retention Areas. MCP Alternative A includes a large lake at the east half of the site, further separating development activity from the north

³⁷ Lee Plan Policy 1.3.2.

³⁸ Lee Plan Goal 6, Policies 1.3.2, 6.1.7. The zoning request is consistent with emerging development patterns in Bayshore interchange and constitutes infill development. See Lee Plan Glossary definition - infill.

³⁹ Goal 6. Abutting property is slated to develop as a storage facility.

⁴⁰ Conservation lands lie further south.

⁴¹ Lee Plan Objective 18.1: Land Use.

⁴² Lee Plan Policies 6.1.3, 6.1.6, 6.1.7.

⁴³ LDC §34-411(k).

⁴⁴ Lee Plan Objective 18.1: The County will enforce land development regulations that ensure separation of urban and rural land uses through implementation of open space, buffers, and setback requirements. See also Policies 5.1.5, 6.1.6.

⁴⁵ Property to the north is zoned for agriculture and developed with a single family residence.

⁴⁶ Lee Plan Policy 123.2.9.

property line. MCP Alternative B depicts two water detention areas flanking the loading area of the building with similar effect.

Building Setbacks. Buildings exceeding two stories must set back 150 from the north property line. Certain uses are restricted to the southern 400 feet of the site.⁴⁷

Conditions governing permissible square footage and other measures protect Wells Road residents. Remaining conditions balance uses reasonably foreseeable in an interchange area and the community plan.⁴⁸

Notably, the Board found commercial uses compatible with surrounding development in 2006.⁴⁹ Since the 2006 finding of compatibility, the Board approved numerous development applications in the community. Several include suburban-type subdivisions rather than ranchettes on acreage, initiating a gradual transition in the character of new residential land uses. Ongoing development in Babcock Ranch has impacted the volume and character of traffic on Bayshore Road and the I-75 interchange since 2006.

Based on the foregoing analysis, the Hearing Examiner concludes the requested amendments are consistent with the Lee Plan. Recommended conditions achieve necessary balance between uses reasonably foreseeable in the interchange and the Bayshore Community Plan.

LDC

Requests to amend existing zoning approvals must comply with the LDC and other County regulations.⁵⁰

Applicant seeks to expand permitted uses and increase permissible height. Requested changes must meet the LDC and other County regulations or qualify for deviations.⁵¹ "Deviations" are departures from land development regulations.⁵²

⁴⁷ Limiting certain uses to the "southern 400 feet" maintains an approximate 220 foot separation from north property line. Uses restricted to the southern 400 feet of the property include: Car Wash, Drive through facilities, Food truck park, Repair shops, Group IV, Fast food restaurant, Self-service fuel pumps, and Vehicle and equipment dealers Group IV. Some of those uses are subject to further conditioning under the LDC.

⁴⁸ The area will change dramatically following installation of a divergent diamond interchange, four lane divided improvements to SR 78 with an urban cross section.

⁴⁹ Lee Plan Policy 6.1.4.

⁵⁰ LDC §34-2: Development of County Impact means developments that may have a substantial effect upon the health, safety, and welfare of the citizens of the County or natural resources. See also LDC §§34-341(a), 34-411(a), 34-612(2). Lee Plan Policies 2.1.2, 2.1.1, 6.1.3. The planned development district affords flexibility in site design.

⁵¹ Development will be subject to further permitting under the LDC.

⁵² LDC §34-2.

Applicants must demonstrate each deviation enhances the planned development and will not cause a detriment to the public.⁵³

Applicant requests six deviations to accommodate the proposed site design.⁵⁴ Staff recommends approval, finding the deviations advance the planned development and protect public health, safety, and welfare.⁵⁵ The Hearing Examiner agrees with this assessment.

Applicant conducted a public information meeting at the New Hope Church on October 26, 2002.⁵⁶

The project will be subject to road, fire, and emergency services impact fees.⁵⁷

Environmental/Natural Resources

Requests to rezone property may not adversely affect environmentally critical/sensitive areas or natural resources.

Open Space/Indigenous Vegetation

The property is wooded and contains indigenous vegetation.⁵⁸ As a large project, site design must devote a minimum of 30% of the acreage to open space.⁵⁹

The MCP depicts open space within buffers, preserves, and stormwater management areas.⁶⁰ A preserve consisting of approximately 1.06 acres of indigenous vegetation serves as a natural buffer from residential land uses.⁶¹ Applicant's Indigenous Management Plan includes long term monitoring and maintenance plans to ensure survival of the preserve.⁶²

⁵³ LDC §34-373(a)(9).

⁵⁴ Applicant withdrew two of the originally requested 8 deviations. The deviations pertain to excavation setbacks from abutting commercially zoned property, parking lot interconnections, lot width and area for fast food and carwashes, cul-de-sacs, and buffers. The buffer deviation allows for a substitution of the 75 foot wide indigenous preserve area for the less stringent Type C or F buffer provided developer supplements plantings after removal of exotic vegetation to achieve a continuous visual screen.

⁵⁵ LDC §§34-373(a)(9), 34-377(a)(4).

⁵⁶ Lee Plan Policy 17.3.5.

⁵⁷ LDC Chapter 2.

⁵⁸ Staff Report Attachment J.

⁵⁹ LDC §10-415. This amounts to approximately 2.63 acres.

⁶⁰ See MCP. Lee Plan Objectives 77.2, 77.3, LDC §34-935(g)(4) b. The MCP provides 2.63 acres of open space.

⁶¹ The 1.06 acre tract will be 75 feet width allowing for 125% indigenous credits allowing the project to satisfy code requirement that 50% of open space must be comprised of native vegetation. Placement of the preserve along the north property line minimizes impacts to the abutting residential land use. Lee Plan Policy 77.3.5.

⁶² Condition 5.

The preserve includes mature native vegetation and exotics.⁶³ Staff recommends a supplemental planting plan to compensate for gaps resulting from removal of exotic vegetation.⁶⁴ A 75 foot wide preserve area along the north property line and proposed fence/wall effectively screen neighboring residential land uses.⁶⁵

Protected Species

The property is vacant and covered with native and exotic plant species. Despite indigenous vegetation, the Protective Species Survey disclosed no evidence of listed or protected species.⁶⁶ The initial protected species survey noted evidence of Gopher tortoises but none were observed during a subsequent survey.⁶⁷ Staff recommends requiring updated surveys with the development order application.⁶⁸

Wellfield Protection

The Lee Plan requires the County to protect groundwater supplies from activity that may degrade those supplies.⁶⁹ The County regulates development activity within wellfield protection zones. Land uses/activities are subject to periodic inspection by wellfield protection officers.⁷⁰

The property lies within travel times of a 1-Year and 5-Year Wellfield Protection Zone and approximately 200 feet from a County Public Water Supply Well.⁷¹ Travel times represent the time it takes for a pollutant to reach a wellfield based on groundwater flow and withdrawal models.

Certain uses have the potential to adversely impact public water supply wells if located within the 1-Year travel time.⁷² Staff recommends conditions (1) ensuring compliance with the County Wellfield Protection Ordinance and (2) prohibiting certain uses within the 1-Year zone.⁷³

⁶³ Staff Report Attachment J and Conditions 4, 5.

⁶⁴ Since exotic vegetation must be removed during development order permitting, Staff recommends a conditions requiring developer to supplement the preserve with native plantings if removal of exotics results in gaps in the screen. Lee Plan Policy 123.2.9. See Conditions 4 and 5.

⁶⁵ LDC §34-411(g),(h), and (i). A deviation from the code required Type C/F buffer along the north property line allows the 75 foot wide indigenous preserve to substitute for a planted buffer. (Deviation 6).

⁶⁶ Staff Report Attachment J – Environmental Staff Report. Protected species survey prepared by Bear Paws Environmental Consulting. The report does not to say there is no wildlife on the property, only that there is no evidence of listed or protected species onsite.

⁶⁷ Initial protected species survey conducted in August 2021 disclosed evidence of gopher tortoises. Since the 2023 survey did not discover evidence of gopher tortoise use, staff recommends a condition for an updated survey prior to development order approval.

⁶⁸ See Condition 6. Lee Plan Policies 123.8.1, 123.8.2.

⁶⁹ Lee Plan Goals 63, 123, 125 Objective 63.2, Policies 125.1.1, 125.1.2.

⁷⁰ Lee Plan Policies 63.1.2, 125.1.6, LDC §14-252.

⁷¹ Staff Report Attachment I: Natural Resources. See *a/so* Lee Plan Map 4-C and LDC Appendix N.

⁷² *Id.*

⁷³ Prohibited uses in the 1-Year zone include: Automobile repair and service, Groups I, II, Automobile service station, with or without gas pumps, Bus station/Depot, with fueling stations, Convenience Food and

The Hearing Examiner finds the proposed amendments will not harm environmentally critical/sensitive areas or natural resources.⁷⁴ The MCP and conditions of approval enhance the property's environmental features by removing exotic vegetation and preserving native vegetation.

Transportation

Zoning actions must demonstrate sufficient access to support development intensity. Expected impacts to the road network must be addressed by existing county regulations and conditions of approval.⁷⁵

The Board approved several residential subdivisions in the Bayshore community since adoption of the community plan. Ongoing development of Babcock Ranch has also increased traffic on Bayshore Road/SR 78.

The MCP proposes driveway access to Wells and Bayshore Roads/SR78. Wells Road is a two lane County maintained local road.⁷⁶ Bayshore Road/SR 78 is a two lane arterial roadway connecting I-75 to State Route 31. As a state maintained facility, FDOT has permit authority over driveway access and location.

Applicant's Transportation Impact Statement (TIS) assumed project buildout in 2028.⁷⁷ For the most part, the project will not adversely affect the surrounding roadway network.⁷⁸ Bayshore Road west of Wells Road is projected to operate at a poor LOS at buildout both with and without the proposed development. This road segment is considered a "future preexisting transportation deficiency." As such, under Florida law, the CPD is not responsible for mitigating impacts to the roadway.

FDOT is conducting a PD&E study to widen Bayshore Road/SR 78 between I-75 and SR 31. The study determines right-of-way needs and cross-sections necessary to widen the road to a four lane divided highway.⁷⁹ Future improvement to a four lane facility addresses projected level of service deficiencies.⁸⁰

Beverage store, with gas pumps, Dry cleaning, Repair shops, Group IV, Self-service fuel pumps, Truck stop.

⁷⁴ Lee Plan 125.1.2; LDC §34-411(g),(h).

⁷⁵ LDC §34-145(d).

⁷⁶ Lee County Administrative Code 11-1.

⁷⁷ Staff Report Attachment K: Traffic Impact Analysis for Bayshore Village by TR Transportation Consultants, Inc. dated November 4, 2022.

⁷⁸ *Id.*

⁷⁹ Upon completion of the PD&E Study, the project will proceed to right-of-way acquisition, design, and construction.

⁸⁰ Construction is not currently funded in FDOT's 5-Year Adopted Work Program. Once the PD&E study is complete, the project will proceed to Right of Way acquisition, design, and construction. Testimony at hearing suggests FDOT's four lane improvement will limit the property's access to Bayshore Road to a right-in, right-out access.

Applicant's PowerPoint demonstrates FDOT's planned cross-section is an "urban" design with two travel lanes in each direction, raised median with curbs and gutter, and a shared use path on each side.⁸¹ Applicant's transportation expert testified FDOT elected to satisfy right of way requirements from the north side of the road.⁸² His testimony disclosed plans to realign Pritchett Parkway and Wells Road will likely dictate the location of the project's Wells Road access.⁸³

In anticipation of a possible relocation of the Wells Road access, staff recommends a condition. The condition allows an administrative adjustment of the driveway location so long as it is *no closer than* 200 feet from the north property line. If adjusted closer, the MCP must be amended via the public hearing process.⁸⁴

Intersection analysis indicates three intersections along Bayshore Road will operate at poor LOS at buildout. Specifically, Bayshore's intersection at Pritchett Parkway, Wells Road, and site access.⁸⁵ Developer is responsible for site related improvements necessary to address deficiencies during development order permitting.⁸⁶

The TIS concludes the MPD will pay its transportation impacts with road impact fees.⁸⁷ More detailed, analysis of impacts to area roadways will occur during development order permitting.

Bayshore Road is part of the Pine Island-Hendry Trail.⁸⁸ The County Walkways & Bikeways Map depicts a shared use path along the property's road frontage. Testimony at hearing noted FDOT plans for SR 78 improvements include off road bike/ped facilities.⁸⁹

Public Services and Infrastructure

Availability of public services and infrastructure must be analyzed during rezoning.⁹⁰

⁸¹ Testimony of Jennifer Sopen, AICP and Ted Treesh, Transcript December 13, 2023.

⁸² Testimony of Ted Treesh Transcript December 13, 2023.

⁸³ *Id.*

⁸⁴ If Wells Road access moves closer than 200 feet from the north property line, review via the public hearing process is appropriate to re-evaluate compatibility/buffering. Wells Road is the most likely access for deliveries and fueling trucks given project access to Bayshore Road will be restricted to right-in, right-out turning movements following FDOT improvements to SR 78/Bayshore Road. See Condition 15.

⁸⁵ Deficiencies occur during the PM peak hour from southbound delays.

⁸⁶ The project will also be subject to road impact fees.

⁸⁷ Lee Plan Policies 38.1.1, 38.1.5. Staff Report Attachments K, L: Traffic Impact Statement prepared by TR Transportation Consultants, Inc. for Bayshore Village dated November 4, 2022, and Memorandum from Md Rakibul Alam, Senior Transportation Planner to Adam Mendez, Senior Planner dated September 20, 2023.

⁸⁸ Lee Plan Greenways Master Plan Map 4-E.

⁸⁹ Testimony of Ted Treesh, Transcript December 13, 2023.

⁹⁰ Lee Plan Policy 2.2.1.

Public services include services, facilities, capital improvements, and infrastructure necessary to support development. The property has access to paved roads, public water, sanitary sewer, surface water management, police, fire, and emergency medical services.⁹¹

Conditions

The County must administer the zoning process to minimize the impacts of proposed land uses on adjacent property and protect natural resources.⁹² Conditions must plausibly relate to anticipated impacts, and pertinent to mitigating impacts to public health, safety, and welfare.⁹³

The request to amend the Bayshore Village CPD is subject to several conditions of approval. The conditions have been tailored to address anticipated project impacts.⁹⁴

The Hearing Examiner revised conditions to remove references to the LDC provisions applicable by virtue of the first condition. The Hearing Examiner also made minor revisions to improve clarity.

Public Participation

Several members of the public attended the public hearing before the Hearing Examiner but only 11 spoke on the record.⁹⁵

The Hearing Examiner accepted a petition signed by 138 persons as well as several emails. These documents were unanimous in opposition to the application. Common concerns centered on maintaining rural character, traffic impacts, development intensity, flooding, wildlife, buffering, water quality, and building height.⁹⁶

⁹¹ Lee Plan Goals 2, 70, Objectives 2.2, 4.1, 53.1, 56.1, 56.2, 66.1, Policies 2.2.1, 56.1.4. The property is located within the Lee County Utilities franchise area for potable water service with infrastructure adjacent to the site. Florida Governmental Utilities Authority has infrastructure in the area with capacity to provide sanitary sewer. Bayshore Fire District Station 131 and Emergency Medical Services dispatch Medic Station 19 are located a quarter mile from the site on Nalle Road. Law enforcement services are available from the Lee County Sheriff North District offices on Pondella Road. The property has access to paved roadways including a county maintained local road and a state maintained arterial. Staff Report Attachment F: Project Narrative prepared by Barraco and Associates, Inc.

⁹² Lee Plan Policy 135.9.6; LDC §§34-145(d)(4), 34-377, 34-932.

⁹³ LDC §34-932(c).

⁹⁴ LDC §34-83(b)(4) a.3.

⁹⁵ Zachary Lombardo, Esq. represented his clients Michael and Lisa Musho, who also spoke on the record.

⁹⁶ Also noted was effect on property values, crime, insufficient infrastructure to support development intensity.

Conclusion

The Hearing Examiner recommends approval of the proposed amendments to the Bayshore Village CPD subject to conditions set forth in Exhibit B.

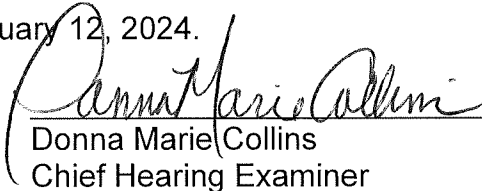
IV. Findings and Conclusions

Based on the testimony and exhibits in the record, the Hearing Examiner recommends approval of the proposed amendments to the Bashore Village CPD, subject to conditions, and makes the following findings and conclusions:

- A. The amendments to the CPD comply with the Lee Plan. Lee Plan Goals 2, 6, 18, 63, 77, 125, 158; Objectives 2.1, 2.2, 4.1, 18.1, 77.2, 125.1, 158.2, 161.4, and Policies 1.6.5, 2.1.1, 2.1.2, 2.2.1, 6.1.3, 6.1.5, 18.1.1, 39.2.1, 125.1.2, 125.1.3, 158.2.1, 161.4.3; Lee Plan Maps 1-A, 1-B, 2-A, 3-D, 4-A, 4-B, 4-C, Table 1(b).
- B. *As conditioned herein*, the amended CPD:
 - 1. Meets standards in the LDC and other regulations or qualifies for deviations. and LDC Chapters 2, 10, 14, 34.
 - 2. Is compatible with existing and planned uses in the surrounding area. Lee Plan Goals 2, 6, Objectives 2.1, 2.2, and Policies 2.1.1, 5.1.5, 6.1.1, 6.1.4, 6.1.5, 6.1.6 and LDC §34-411(j).
 - 3. provides access to support the proposed development intensity. Lee Plan Policies 6.1.1, 6.1.5, 39.2.1; and LDC §34-411(d).
 - 4. Existing regulations and conditions of approval address expected impacts on transportation facilities. Lee Plan Objective 39.1, Policy 6.1.5, LDC §§2-261 *et seq.*, 10-7(b), 10-286.
 - 5. Will not adversely affect environmentally critical areas or natural resources. Lee Plan Goal 63, Objectives 77.2, 77.3, Policies 6.1.1, 6.1.6, 54.1.3, 61.3.6, 77.3.1, 77.3.5, 123.2.4, 125.1.2, 125.1.3, 126.2.1, and Standard 4.1.4, Lee Plan Map 4-C.
 - 6. Will be served by urban services including public water and sewer, paved streets, police, fire and emergency services, and urban surface water management. Lee Plan Objectives 2.1, 2.2, 4.1, 6.1, Policies 2.2.1, 6.1.1, 6.1.4, 53.1.5, 53.1.8, 56.1.4, 151.2.3; Standards 4.1.1, 4.1.2., Lee Plan Maps 4-A, 4-B.

- C. The proposed uses are appropriate at the location. Lee Plan Goal 2, Objectives 1.1, 2.1, 2.2, Policies 2.1.1, 2.2.2, 6.1.4, 6.1.7, 6.1.8, 18.1.1, Table 1(b); and LDC §34-411.
- D. The recommended conditions of approval and applicable regulations provide sufficient safeguards to protect the public interest. Lee Plan Policies 5.1.5, 6.1.4, 63.1.2, 77.3.1, 135.9.6, LDC §34-411.
- E. The recommended conditions are reasonably related to the impacts expected from the proposed development. Lee Plan Goals 123, 125, 126, Objective 126.2, Policies 5.1.5, 123.2.9, 123.8.1, 123.8.2, 125.1.6, 126.2.1, 135.9.6.
- F. The deviations recommended for approval:
 - 1. Enhance the objectives of the planned development; and
 - 2. Promote the intent of the LDC to protect public health, safety, and welfare.

Date of Recommendation: February 12, 2024.


Donna Marie Collins
Chief Hearing Examiner

Lee County Hearing Examiner
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398

Exhibits to Hearing Examiner's Recommendation

Exhibit A Legal Description and Vicinity Map
Exhibit B Recommended Conditions and Deviations
Exhibit C Exhibits Presented at Hearing
Exhibit D Hearing Participants
Exhibit E Information

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A

PROPERTY DESCRIPTION

BEING A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTH QUARTER CORNER OF SECTION 22, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22, NORTH 00°05'58" EAST, A DISTANCE OF 1,335.67 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE ALONG THE SOUTH LINE OF SAID FRACTION, NORTH 89°56'30" WEST, A DISTANCE OF 663.22 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE ALONG THE EAST LINE OF SAID FRACTION, NORTH 00°00'23" WEST, A DISTANCE OF 39.91 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF BAYSHORE ROAD AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED;

THENCE ALONG SAID RIGHT-OF-WAY, NORTH 89°43'04" WEST, A DISTANCE OF 540.25 FEET TO A POINT ON THE BOUNDARY OF ORDER OF TAKING, PARCEL 103 AS DESCRIBED IN OFFICIAL RECORDS BOOK 1136, PAGE 443, PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE ALONG SAID BOUNDARY FOR THE FOLLOWING TWO (2) COURSES AND DISTANCES, 1) NORTH 00°16'36" EAST, A DISTANCE OF 50.00 FEET; 2) THENCE NORTH 86°05'09" WEST, A DISTANCE OF 73.58 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF WELLS ROAD; THENCE ALONG SAID EAST LINE, NORTH 00°06'43" WEST, A DISTANCE OF 571.75 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE ALONG SAID NORTH LINE, SOUTH 89°54'08" EAST, A DISTANCE OF 614.45 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE ALONG THE EAST LINE OF SAID FRACTION, SOUTH 00°00'23" EAST, A DISTANCE OF 628.38 FEET TO THE POINT OF BEGINNING.

CONTAINING 8.75 ACRES, MORE OR LESS.

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE STATE PLANE COORDINATE SYSTEM ESTABLISHED BY THE NATIONAL GEODETIC SURVEY FOR FLORIDA WEST ZONE, 1983 DATUM WITH 2011 ADJUSTMENT OBTAINED UTILIZING RTK GPS OBSERVATIONS ON THE FDOT NETWORK AND REFER TO THE NORTH LINE OF BAYSHORE ROAD LEE COUNTY, FLORIDA AS BEING N 89°43'04" W.

2. DIMENSIONS SHOWN HEREON ARE IN U.S. SURVEY FEET AND DECIMALS THEREOF.

3. THIS SKETCH AND DESCRIPTION IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OR THE DIGITAL SIGNATURE AND DIGITAL SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER. NO ADDITIONS OR DELETIONS TO THIS SKETCH AND DESCRIPTION ARE PERMITTED WITHOUT THE EXPRESSED WRITTEN CONSENT OF THE SIGNING PARTY.

REVIEWED
DCI2022-00032
Rick Burris, Principal
Planner
Lee County DCD/Planning
4/6/2023

NOT A SURVEY

DRAWN BY:	KJG
CHECKED BY:	DLS
JOB CODE:	BVMP
SCALE:	N/A
DATE:	4/5/2022
FILE:	21-168-S&L
SHEET:	1 of 2

NOT COMPLETE WITHOUT SHEETS 1 AND 2 OF 2



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Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151
Bonita Springs: 239.947.1144 www.GradyMinor.com Fort Myers: 239.690.4380

Q. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134

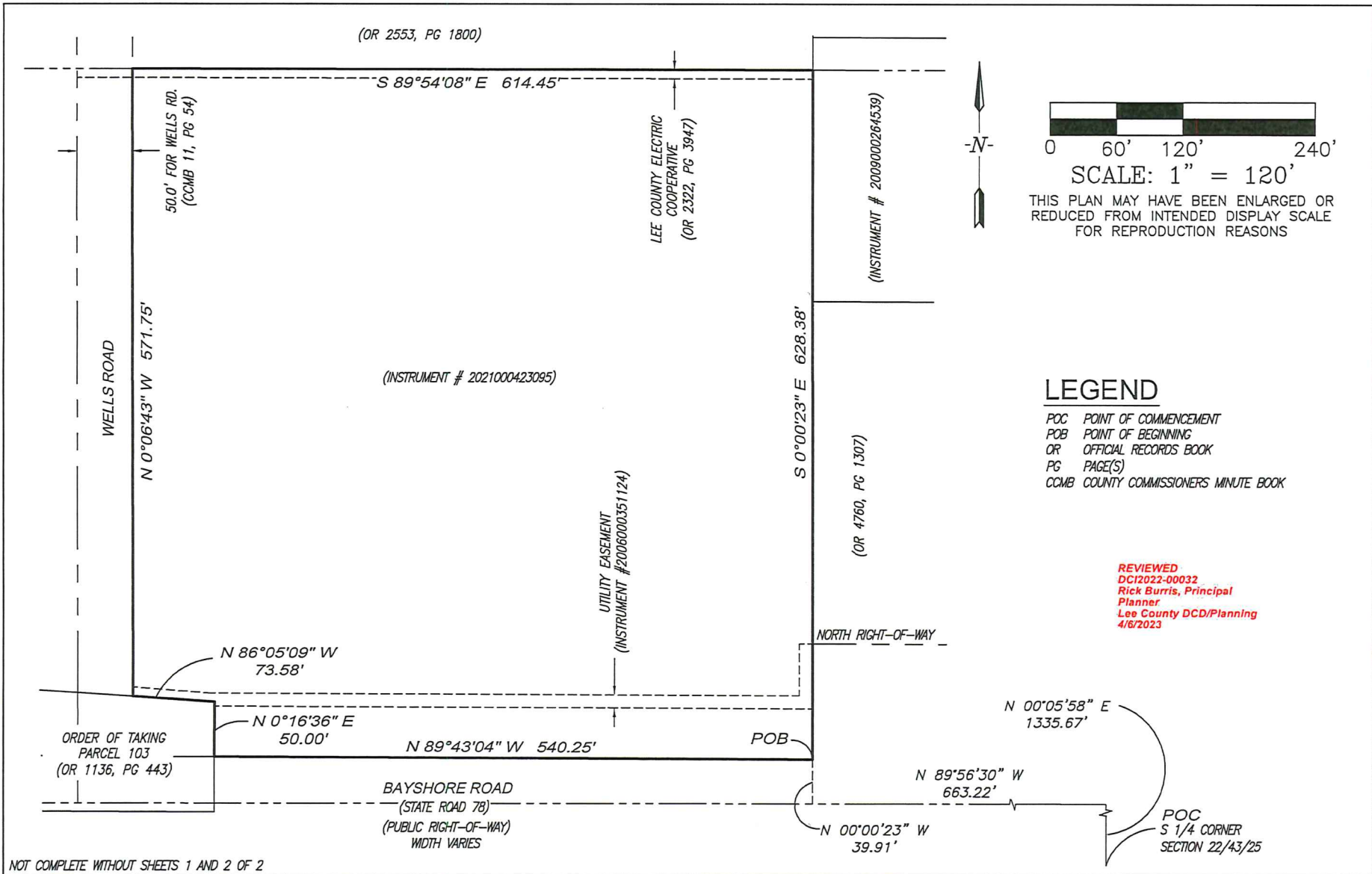
SKETCH AND DESCRIPTION

A PARCEL OF LAND

LYING IN
SECTION 22, TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

DATE SIGNED
Digitally signed by
Donald L. Saintenoy
III, PSM
Date: 2022.04.05
10:57:07 -04'00'
DONALD L. SAINTENOY III, P.S.M.
FL LICENSE #6761
FOR THE FIRM

G:\SURVEY\PROJECT SURVEY 2021\168 - BAYSHORE VILLAGE MARKET PLACE (LSMR)\SURVEY\SKETCH & LEGALS\21-168-S&L.DWG



O. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134

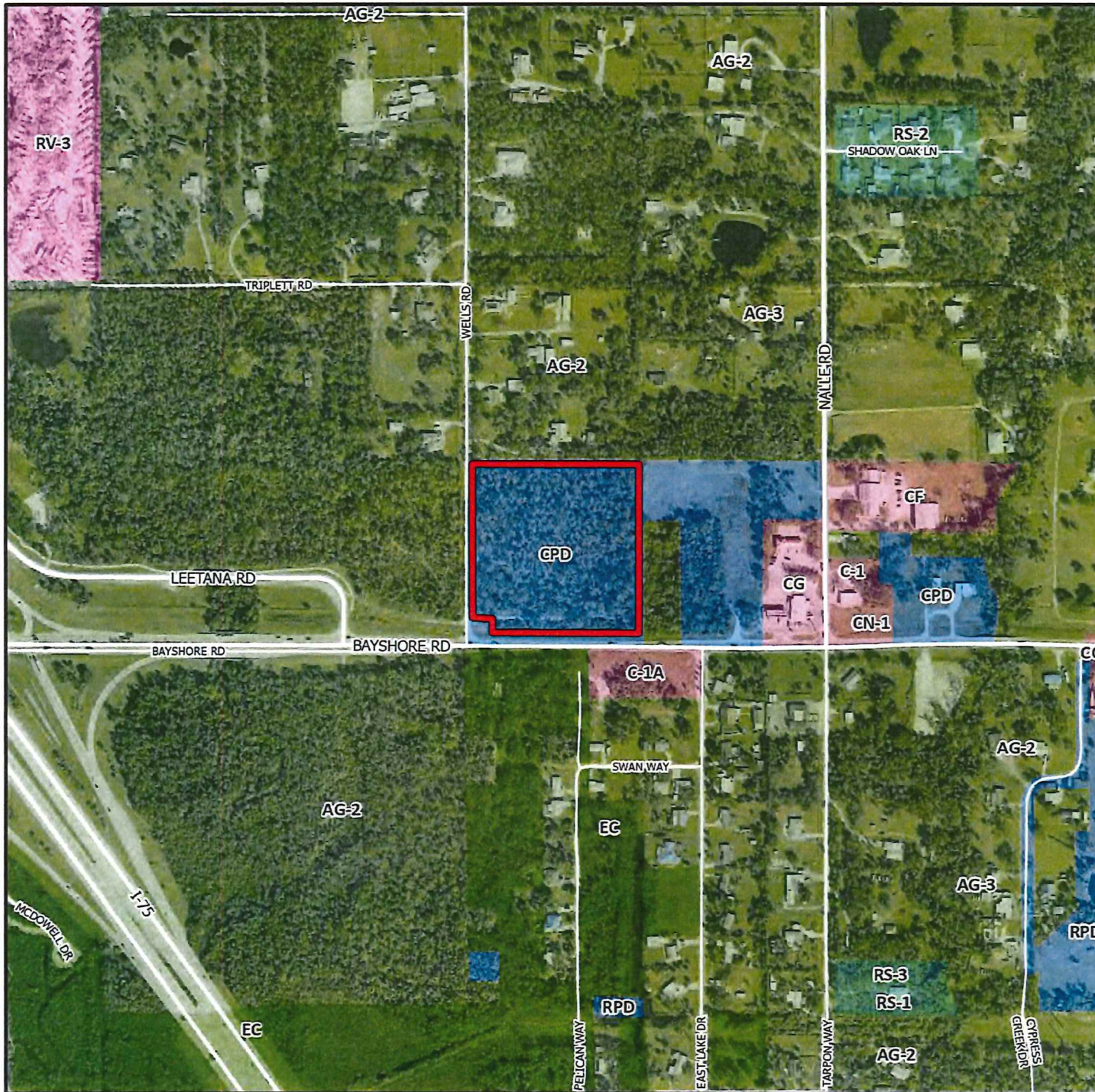
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Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151 Business LC 26000266
Bonita Springs: 239.947.1144 www.GradyMinor.com Fort Myers: 239.690.4380

SKETCH AND DESCRIPTION

A PARCEL OF LAND
LYING IN
SECTION 22, TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

NOT A SURVEY	DRAWN BY:	KJG
	CHECKED BY:	DLS
	JOB CODE:	BVMP
	SCALE:	1" = 120'
	DATE:	4/5/2022
	FILE:	21-168-S&L
	SHEET:	2 of 2

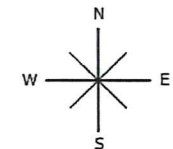
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DCI2022-00032

Zoning

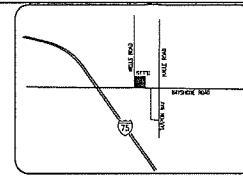
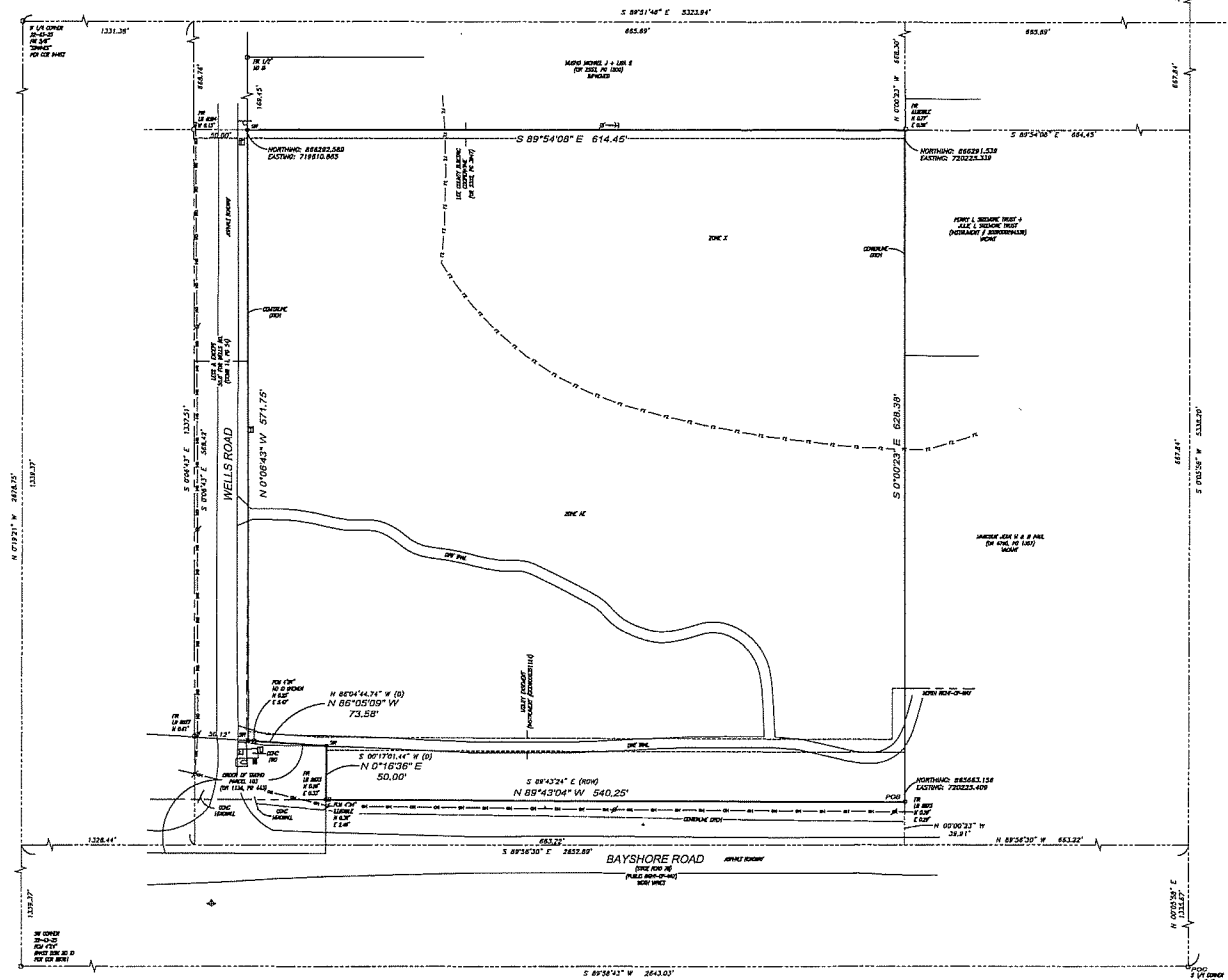
 Subject Property



0 300 600 900
Feet



ATTACHMENT B



PROPERTY DESCRIPTION

(H2: PROVIDED TITLE COMMITMENT)
THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 43 SOUTH, RANGE 23
EAST, LEE COUNTY, FLORIDA:

LESS AND EXCEPT ROAD RIGHT OF WAY FOR BAYSHORE ROAD ALSO KNOWN AS STATE ROAD 78
LESS AND EXCEPT ROAD RIGHT OF WAY FOR INTERSTATE 75
LESS AND EXCEPT ROAD RIGHT OF WAY FOR WELLS ROAD (A COUNTY MAINTAINED ROAD)
LESS AND EXCEPT THOSE LANDS DESCRIBED AS PARCEL 103 IN OFFICE OF TAXING BY STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION, AS RECORDED IN OR BOOK 1139, PAGE 443 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA,
CONTAINING .875 ACRES, MORE OR LESS

(AS SURVEYED)

BEING A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 43 NORTH, RANGE 25 EAST, LEE COUNTY, ALABAMA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTH QUARTER CORNER OF SECTION 22, TOWNSHIP 43 NORTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22; NORTH 02°54'30" EAST, A DISTANCE OF 1,333.87 FEET TO THE CORNER OF SAID QUARTER; THENCE ALONG THE EAST LINE OF SAID QUARTER; NORTH 02°54'30" EAST, A DISTANCE OF 1,333.87 FEET TO THE EAST LINE OF SAID FRACTION, NORTH 89°58'10" WEST, A DISTANCE OF 463.32 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE ALONG THE EAST LINE OF SAID FRACTION, NORTH 02°54'30" WEST, A DISTANCE OF 38.81 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF BALFOUR ROAD AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED;

THENCE ALONG SAID RIGHT-OF-WAY NORTH 05°14'41" WEST, A DISTANCE OF 546.85 FEET TO A POINT ON THE BOUNDARY OF ORDER OF TAWING, PARCEL NO. 15 AS DESCRIBED IN OFFICIAL RECORDS; THENCE ALONG SAID BOUNDARY OF ORDER OF TAWING, PARCEL NO. 15, A DISTANCE OF 115.84 FEET TO THE CORNER 115.84 FEET, PUBLIC RECORDS OF LEE COUNTY, GEORGIA; THENCE ALONG SAID BOUNDARY FOR THE FOLLOWING TWO (2) COURSES AND DISTANCES: 1) NORTH 01°16'34" EAST, A DISTANCE OF 50.00 FEET; 2) THENCE NORTH 89°05'29" WEST, A DISTANCE OF 73.56 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF WELLS ROAD; THENCE ALONG SAID EAST LINE, NORTH D0°14'41" WEST, A DISTANCE OF 371.93 FEET TO A POINT ON THE NORTH LINE OF THE SECTION 22; THENCE ALONG SAID NORTH LINE, NORTH 01°16'34" EAST, A DISTANCE OF 115.84 FEET TO THE CORNER 115.84 FEET, PUBLIC RECORDS OF LEE COUNTY, GEORGIA; THENCE ALONG SAID BOUNDARY FOR THE FOLLOWING TWO (2) COURSES AND DISTANCES: 1) SOUTH 89°05'29" EAST, A DISTANCE OF 614.45 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 22; THENCE ALONG THE EAST LINE OF SAID FRACTION, SOUTH 00°00'23" EAST, A DISTANCE OF 628.36 FEET TO THE POINT OF BEGINNING.

CONTAINING 8.75 ACRES, MORE OR LESS.

NOTES:

1. BEARINGS AND COORDINATES SHOWN HEREON ARE BASED ON THE STATE PLANE COORDINATE SYSTEM ESTABLISHED BY THE NATIONAL GEODETIC SURVEY FOR FLORIDA WEST ZONE, 1983 DATUM WITH 2011 ADJUSTMENT OBTAINED UTILIZING NITC GPS OBSERVATIONS ON THE FDOT NETWORK AND REFER TO THE NORTH LINE OF BAYSHORE ROAD LEE COUNTY, FLORIDA AS DEMO N 89°43'04" W.
2. THIS SURVEY WAS PREPARED WITH THE BENEFIT OF A TITLE OPINION LETTER PREPARED BY BOLAND'S TRUST, P.A., DATED AUGUST 18, 2022. ALL MATTERS OF TITLE SHOULD BE REFERRED TO AN ATTORNEY AT LAW.

3. THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE AE HAVING A BASE FLOOD ELEVATION OF 7.0 MYSMS, AND ZONE X HAVING NO BASE FLOOD ELEVATION PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP # 12071C 0243 F, DATED 6/23/2006. FLOOD LINES SHOWN HEREON WERE OBTAINED FROM A LEE COUNTY GIS FILE AND ARE ASSAIED TO BE APPROXIMATE.

4. CERTAIN FEATURES REPRESENTED BY SYMBOLS MAY NOT BE SHOWN AT THEIR TRUE LOCATION AND/OR SCALE IN ORDER TO BE ABLE TO DEPICT THEM ON THIS MAP.

5. DIMENSIONS SHOWN HEREON ARE IN U.S. SURVEY FEET AND DECIMALS THEREOF.
6. THIS SURVEY DOES NOT ADDRESS ANY ENVIRONMENTAL CONCERNS, DISCHARGED WASTE OR JURISDICTIONAL WETLANDS, IF ANY, EXCEPT AS SHOWN ON THIS SURVEY.

7. THIS CERTIFICATION IS ONLY FOR THE LANDS DESCRIBED HEREON.
IT IS NOT A CERTIFICATION OF TITLE, ZONING, SETBACKS, OR
FREEDOM OF ENCUMBRANCES.

8. THIS SURVEY IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OR THE DIGITAL SIGNATURE AND DIGITAL SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER. NO ADDITIONS OR DELETIONS TO THE SURVEY WILL BE RECOGNIZED WITHOUT THE EXPRESSED WRITTEN

8. UNLESS OTHERWISE NOTED, BELOW GROUND UTILITIES AND FOUNDATIONS WERE NOT LOCATED FOR THE PURPOSES OF THIS

10. BY SIGNING BELOW I CERTIFY THAT THIS SURVEY WAS MADE UNDER MY DIRECTION AND THAT IT MEETS THE STANDARDS OF PRACTICE SET FORTH BY THE BOARD OF PROFESSIONAL LAND SURVEYORS.

11. OWNERSHIP AND ADDRESS INFORMATION SHOWN HEREON WAS

12. DATE OF LAST FIELD WORK 8/6/21.

12. STATE OF OHIO: FILED FROM 8/6/2015

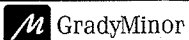
CERTIFIED TO:

OB 4, LLC
CHIFFER & HIGAN, P.A.
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

LEGEND

[illegible]

REVISION: ADDED AS SURVEYED LEGAL DESCRIPTION 01/10/2023.
REVISION: CONVERTED TO BOUNDARY SURVEY TO REFERENCED TITLE OPINION LETTER 06/19/2022.
REVISION: ADDED STATE PLANE COORDINATES 08/9/2022.
REVISION: ADDED COORDINATES 12/9/2021. REVISION: REVISED TO REFLECT CCMD 9/16/2021.
REVISION: REVISED PER NEW TITLE COMMITMENT 9/13/2021.



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 Bonita Springs: 239.947.1144 www.GradyAllnor.com Fort Myers: 239.690.4300

O. Grady Milnor and Associates, P.A.
3000 Via Del Rey
Bunila Springs, Florida 34134

DRAWN BY:	KJG
CHECKED BY:	OLS
JOB CODE:	L31WYR
SCALE:	1" = 50'
DATE:	9/3/2021
FILE:	21-16A-05 TITLE DRAWS.DWG
SHEET:	1 of 1

BOUNDARY SURVEY

A PARCEL OF LAND

LYING IN
2, TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

DATE SENT

DONALD L. SANTENY JR. P.S.W.
FL LICENSE #6781
DOB: 01/19/44

Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

As revised by the Hearing Examiner

CONDITIONS

1. Master Concept Plan and Development Parameters

- a. Master Concept Plan (MCP). Development must be substantially consistent with the Master Concept Plans Entitled “Master Concept Plan ALT A” or “Master Concept Plan ALT B”, last revised December 29, 2023. (Exhibits B1 and B2).

Hearing Examiner Note: Applicant to revise MCPs consistent with recommendations herein and update plan revision date accordingly.

- b. Lee Plan and Land Development Code (LDC). Development must comply with the Lee Plan and LDC except where deviations are approved herein. Subsequent amendments to the MCP or auxiliary documentation will be subject to further development review/approvals.
- c. Approved Development Parameters. Development is limited to a maximum of 92,750 square feet of non-residential floor area, to include outdoor restaurant seating. Transferable Development Units (TDUs) may not be utilized in conjunction with this approval. The site may develop up to 125 hotel rooms provided there is a reduction in commercial square footage as follows: Each hotel room reduces approved commercial intensity by 120 square feet.

Hearing Examiner Note: Recommended commercial intensity reflects staff's final recommendation at the close of hearing.

- d. Superseding Resolution. This resolution supersedes and replaces Resolution Z-06-046.

2. Schedule of Uses and Property Development Regulations

- a. Schedule of Uses
An asterisk (*) Indicates uses restricted to southern 400 feet of the property. Restriction does not apply if abutting property is zoned other than residential or agricultural.

Accessory uses and structures
Administrative offices

Animal clinic (no outdoor runs)
ATM (Automatic Teller Machine)
Auto parts store (no installation)
Automobile repair and service, Groups I, II (*) (subject to Condition 7)
Automobile service station, with or without gas pumps (*) (subject to Condition 7)
Bait and tackle shop
Banks and financial establishments, Groups I, II
Boats:
 Boat parts store (limited to one)
 Boat sales (subject to Condition 10)
Broadcast studio, commercial radio, and television
Building material sales
Business Services, Groups I, II
Caretaker's residence
Car wash, accessory or standalone (*)
Cleaning and maintenance services
Clothes stores, general
Clubs:
 Commercial
 Fraternal
 Membership organization
 Private
Computer and data processing services
Consumption on premises, indoor only (subject to LDC §34-1264)

Hearing Examiner Note: Recommend deletion of highlighted text. LDC §34-1264 applicable by virtue of condition 1.

Contractors and builders, Groups I, II
Convenience food and beverage store, with or without gas pumps and EV charging stations (*) (subject to Condition 7)
Day care center, adult, child
Department store
Drive through facility for any permitted use (*)
Drug store, pharmacy
Entrance gates and gatehouses
Emergency operations center
EMS, fire, or sheriff's station
Essential services
Essential service facilities, Group I
Excavation:
 Water retention
Farm equipment, sales, storage, rental, or service
Feed or fertilizer, mixing and sales
Fences, Walls

Food stores, Groups I, II
Food truck park (*) (subject to Condition 13)
Gift and souvenir shop
Hardware store
Health care facilities, Groups III
Hobby, toy, and game shops
Hotel (subject to Condition 11)
Household and office furnishings, Groups I, II, III
Laundromat
Lawn and garden supply store
Library
Maintenance facility (government)
Medical office
~~Non-store retailer~~

Hearing Examiner Note: Recommend deletion of highlighted text. The use is repeated two lines down.

Motion picture production studio
Non-store retailers, All Groups
Package store (no related consumption on premises ~~and subject to LDC §34-1263~~)

Hearing Examiner Note: Recommend deletion of highlighted text. LDC §34-1263 applicable by virtue of condition 1.

Paint, glass, and wallpaper store
Parks, Groups I, II
Parking lot:
 Accessory
 Park-and-ride
 Temporary
Personal services, Groups I, II, III, & IV (Excluding Steam or Turkish Baths, Escort Services, Palm Readers, Fortunetellers or Card Readers)
Pet services (No outdoor runs)
Pet shop (No outdoor runs)
Pharmacy
Place of worship
Plant nursery
Post office
Recreation facilities commercial, Groups I, IV (limited to gymnasiums and health clubs)
Religious facility
Rental or leasing establishments, Groups I, II, III
Repair shops, Groups I, II, III, IV (*) (subject to Condition 7)
Research and development laboratories, Group II

Restaurants, All Groups
Restaurant, fast food (*)
Schools, commercial
Self-service fuel pumps (*) (maximum of 22 subject to Condition 7)
Signs (subject to Condition 14)
Social services, Groups I, II
Specialty retail shops, All Groups
Storage:
 Indoor
 Open (subject to Condition 10)
Studios
Supermarket
Temporary uses
Theater, indoor
Transportation services, Groups II, III (excluding bus stations and depots)
Used merchandise stores, All Groups
Variety store
Vehicle and equipment dealers, Groups I, II, III, IV (*) (subject to Conditions 7 and 10)
Warehouse:
 Mini
 Public

Uses that require Special Exception or approval through the public hearing amendment process:

Bar or cocktail lounge
Boat storage, dry, not exceeding 18 feet above grade
Boat storage, dry, exceeding 18 feet above grade (limited to wholly within an enclosed building not to exceed 35 feet in building height)
Food and beverage service, limited
Parking lot: Commercial

b. Property Development Regulations

Minimum Lot Area and Dimensions

Lot Area:	10,000 square feet
Lot Width:	100 feet
Lot Depth:	100 feet

Minimum **Building Setbacks** and Maximum Building Heights:

Street, public	30 feet 50 feet (Sapen testimony 12-14-23)
Street, private	20 feet
Side (East):	15 feet
Rear (North):	25 feet 75 feet
	See Conditions 10 & 11

Hearing Examiner Note: Revised to address conflict with the record.

Uses with specific development regulations:

Maximum building heights:

Hotel	48 feet (see Condition 11)
All other buildings and structures	35 feet (see Condition 9)
Lot Coverage:	40 percent

3. Open Space

Development order plans must depict 30 percent open space (2.63 acres). If subdivided, each development parcel must include a minimum of 10 percent open space.

4. Indigenous Preserve

Development order plans must depict the indigenous preserve area as the 75-foot wide buffer to along the north perimeter. Following removal of exotics, developer must install native plantings must be planted to maintain proper screening along the single-family lot abutting the property to the north. Development order plans must depict 1.33 acres of indigenous open space in substantial compliance with MCP Alternates A and B and consistent with the following chart:

Indigenous Credit Chart					
Preserve Area	Indigenous Ac.	Width of Area	Credit %	Indigenous credits	with
Preserve 1	1.06	75-foot	125%	1.33	

5. Indigenous Habitat Plan

Development order plans must include the following:

- Substantial compliance with the Indigenous Management Plan, attached as Exhibit B3
- Schedule for completion of indigenous preservation and restoration within five consecutive years.

- c. Map depicting location of mechanical and hand-removal of exotic vegetation. Mechanical clearing must be limited to non-indigenous areas.
- d. Planting list for preserve area, subject to approval by County Staff.
- e. Exotic removal and restoration) of indigenous habitat (supplemental plantings must begin concurrently with improvement to land. The first development order application must include supplemental planting plans that are subject to County Staff approval.

6. Gopher Tortoise Survey

Prior to development order approval, the property must be re-surveyed for the presence of gopher tortoises and their burrows. If gopher tortoises or burrows are found, developer must submit a Gopher Tortoise Management Plan with the Indigenous Preserve Management Plan for staff review and approval. The Gopher Tortoise Management Plan must include details on habitat management and provide open herbaceous foraging areas and perpetual maintenance of the habitat. The Gopher Tortoise Management Plan must include the following:

- a. Copy of the Florida Fish and Wildlife Conservation Commission Gopher Tortoise Permit, and if applicable, receipt of payment to County staff prior to issuance of a Vegetation Removal Permit.
- b. Vegetation Removal Permit to install gopher tortoise fencing and burrow excavation prior to site work.
- c. Gopher tortoises and commensal species located during burrow excavation must be moved to indigenous preserves or relocated through state and federal permits.
- d. Number of tortoises and commensal species moved to preserves must be reported to staff or relocated through FWC permitting.
- e. Active and inactive gopher tortoise burrows discovered outside indigenous preserves must be excavated and fully collapsed prior to issuance of a Vegetation Removal Permit for clearing and filling of development area.

7. Lee County Public Water Supply Wells

- a. Wellfield Protection Ordinance. Prior to development order approval, developer must demonstrate compliance with Lee County Wellfield Protection Ordinance.

The following uses are not permitted within 1-year or 5-year Wellfield Protection Zone travel times depicted by Lee Plan Map 4-C:

- Truck stop with or without gas pumps
- Laundry and dry cleaning, Groups I and II

Hearing Examiner Note: The above uses were not supported by staff and removed from requested uses see Transcript December 13, 2023, Testimony of Adam Mendez

- b. Uses Subject to Further Conditioning. The following uses have the potential to adversely impact public water supply wells and are permitted only when in compliance with the remainder of this condition.
- Automobile repair and service, Groups I and II
 - Automobile service station, with or without gas pumps
 - Convenience food and beverage store, with gas pumps
 - Repair Shops, Groups IV
 - Self-service fuel pumps
 - Vehicle and equipment dealers
 - Any use exceeding regulated substance thresholds in subsections c and d.
- c. Storage of Regulated Hazardous Substances. Development order plans must depict storage location and combined sum of quantities of regulated hazardous, toxic substances and sanitary hazards defined by the Wellfield Protection Ordinance. Combined sum of regulated hazardous, toxic substances and sanitary hazards within the 1-year Wellfield Protection Zone travel time must not exceed 110 gallons if the substance is a liquid or 1,110 pounds if the substance is a solid.
- d. Bulk Fuel Storage. Development Order plans must depict bulk storage of fuel in excess of 110 gallons outside of the 1-year Wellfield Protection Zone travel time.
- e. Maintenance Plan. Development Order plans must include a Maintenance Plan for review and approval by the County Division of Natural Resources. The Maintenance Plan must establish:
- A quarterly containment and emergency equipment inspection schedule performed by a qualified professional.
 - Annual submission of maintenance and inspection logs and records to the County Division of Natural Resources.

- f. Fuel Storage Systems – Secondary Containment. Development order plans must note fuel storage systems must be constructed with secondary containment consisting of double walled tanks and/or lines.
- g. Fuel Storage Systems – Leak Detection. Development order plans must specify fuel storage systems will be equipped with leak detection system, alarms, and a protocol to provide for shutdown of system pending leak investigation.
- h. ~~During construction the combined sum of regulated hazardous, toxic substances and sanitary hazards, as defined by the Wellfield Protection Ordinance, must not exceed 110 gallons if the substance is a liquid or 1,110 pounds if the substance is a solid within the 1-year Wellfield Protection Zone travel time.~~

Hearing Examiner Note: The above paragraph is redundant with paragraph 7c above. Recommend deletion.

- h. Surface Water Quality Monitoring Plan. Development order plans must include a Surface Water Quality Monitoring Plan. The Surface Water Monitoring Plan for review and approval by the County Division of Natural Resources. And must establish the following:
- Goals and Objectives of the Plan.
 - Outfall monitoring schedule during “wet” season of June through September and “dry” season of October through May. The County Division of Natural Resources will establish the monitoring constituents prior to development order approval based on the final proposed uses.
 - Baseline surface water quality monitoring data completed and provided to the County Division of Natural Resources prior to commencement of construction.
 - Water quality monitoring data must be provided to the Division of Natural Resources annually. The data must include a report comparing State surface water quality standards, plots of parameters, and recommendations. Results must be reported as an Electric Data Deliverable (EDD) in a format approved by the Division of Natural Resources.
 - Contingency plan in the event of discovery of an exceedance of State Surface Water Quality Standards. The Contingency Plan must include notification to impacted residents and applicable authorities.
- i. Groundwater Quality Monitoring Plan. Development order submittals must include a Groundwater Quality Monitoring Plan for review and approval by the County Division of Natural Resources. The Groundwater Quality Monitoring Plan must establish the following:

- Goals and Objectives of the Plan.
 - Semi-annual monitoring schedule. The monitoring constituents will be determined by the County Division of Natural Resources prior to development order approval based on final proposed uses.
 - Groundwater monitoring wells must be installed prior to commencement of construction, consisting of two monitoring wells upstream and two monitoring wells downstream of the regulated hazardous, toxic substances and sanitary hazard storage area. Monitoring well locations and depth subject to County Division of Natural Resources approval.
 - Baseline groundwater quality monitoring data completed and provided to County Division of Natural Resources prior to commencement of construction.
 - Groundwater quality monitoring data must be provided to the County Division of Natural Resources annually. The data must include a report comparing State water quality standards, plots of parameters, and recommendations. Groundwater quality monitoring must continue through the life of the Public Supply Well. Results must be reported as an Electric Data Deliverable (EDD), in a format approved by the Division of Natural Resources.
 - Contingency plan in the event of discovery of an exceedance of State Water Quality Standards. The Contingency Plan must include an emergency plan and notification to impacted residents, applicable authorities, and the Director of Lee County Natural Resources.
- j. Bonding. Development Order plans must identify proposed uses and the Wellfield Protection Officer will determine if a surety bond, performance bond, letter of credit, or escrow agreement is required to cover the cost to abandon and replace the public supply well in accordance with the facility's Operating Permit, consistent with the Wellfield Protection Ordinance.

8. **Masonry Wall/Berm Combination**

The following requirements must be satisfied prior to development order approval:

- a. Masonry Wall. An opaque eight-foot-high masonry wall or eight-foot-high masonry wall and berm combination must be constructed within 25 feet of the south side of the indigenous preserve in areas where the following is located within 125 feet of the north property line: roads, drives, parking, refuse and recyclable material collection areas, emergency power generators, service areas for delivery of goods or services. The height of the masonry wall or masonry wall/berm combination must be measured from the top of the nearest internal paved surface.

- b. Alternative Materials. The wall/berm combination depicted on the MCPs adjacent to areas not specified in Condition 8(a) may optionally utilize an opaque composite or other non-wood wall material. Transitions between materials must maintain the required eight foot height.
- c. Length. The wall or wall/berm combination must commence within 15 feet of the Wells Road right-of-way and extend east continuously until within 15 feet of the east property line.
- d. Exception. This condition is inapplicable if the abutting property to the north is not utilized for single-family residential uses at time of development order approval.
- e. Public Hearing. Modifications to this condition requires public hearing.

9. Project Building and Structure Heights

- a. Public Hearing. Development may not exceed building and structure heights specified herein unless approved via the public hearing process.
- b. LDC. LDC provisions allowing additional height with increased setbacks are inapplicable to the CPD.
- c. Setback from North Property Line. Buildings exceeding two stories must be set back 150 feet from the north property line.

10. High Intensity Uses

- a. Convenience Food and Beverage Stores, Fast-Food Restaurants, Car Washes.
 - i. Except for Deviations 5 and 6, deviations from LDC §34-1353 must be obtained through the public hearing process.
 - ii. Convenience food and beverage stores and fast-food restaurants must be set back 50 feet from public rights-of-way; this condition also applies to restaurants with drive-through facilities.
- b. Display, sale, rental or storage of motor vehicles, boats, recreational vehicles, trailers, mobile homes, or equipment.
 - i. Deviations from LDC §34-1352 must be obtained through the public hearing process.
 - ii. Automotive dealerships exceeding 4 acres in size or providing multi-story display or storage of vehicles must obtain approval through the

public hearing process. Automotive repair and service must be located within the southern 400 feet of the property.

- iii. Items and areas used for storage areas, display, or offered for sale or rent must be set back a minimum of minimum of 150 feet from the north property line and 50 feet from Wells Road right-of-way.

11. Hotel

Hotel uses are subject to the following conditions:

- a. Maximum Units/Conversion. Retail intensity may be converted to a maximum of 125 hotel units at a conversion rate of 1 hotel unit per every 120-square-foot reduction in the 92,750-square-foot commercial allocation. Transfer of commercial square footage to hotel units must be reviewed through the administrative amendment process.
- b. Principal Building. The project is limited to one hotel within a principal building. Ancillary and accessory structures may be developed detached from the principal structure.
- c. Room Sizes. Room sizes 725 square feet and less are equivalent to one unit. Room sizes exceeding 725 square feet are equivalent to two units.
- d. Lock-off Accommodations. Each "keyed room" will be calculated as a separate rental unit.
- e. Maximum Height. Maximum permitted height for hotel use is 48 feet. Structures accessory to the hotel are limited to a maximum permitted height of 35 feet. If the principal building exceeds 35 feet in height, then the hotel must be located in the southern 300 feet of the property, measured from the Bayshore Road right-of-way. See general height provision in Condition 9.
- f. Setbacks. Buildings must be set back a minimum of 50 feet from Bayshore Road and Wells Road rights-of-way. Hotel uses 35 feet in height or less must be set back a minimum of 150 feet from the north property line.
- g. Electric Vehicle (EV) Charging. EV Charging stations may be accessory to the hotel use, subject to development order approval.

12. Vehicular Trip Generation

Notwithstanding land use density/intensity conversions permitted by the LDC or zoning conditions herein, development intensity may not exceed the trip generation rate of 92,750 square feet of commercial retail use calculated utilizing the Institute

of Transportation Engineers (ITE) Trip Generation Manual in effect at time of development order approval.

13. Food Truck Park

Food truck park may be approved through the administrative amendment and development order process. The application submittals must include a conceptual site plan meeting minimum required details for special exception site plans in the LDC. The application must include a project narrative setting forth the intended operation and any other information determined necessary by the Director.

14. Project Signs

- a. Wells Road. Ground-mounted signs on Wells Road, located greater than 300 feet from the Bayshore Road edge of pavement, are limited to monument signs and instructional signage not to exceed 8 feet in height.
- b. Electronic Changing Message Centers (ECM). ECM signs are restricted to areas within 50 feet of the Bayshore Road right-of-way.
- c. Interior Directional Signs. Interior directional signs must comply with the LDC.

15. Wells Road Access

The MCP depicts access to Wells Road in excess of 250 feet from the north property line. The Wells Road access is subject to final design of the anticipated FDOT reconfiguration of Wells Road. If the Wells Road access must be shifted north due to reasons beyond the control of the developer, developer may obtain an administrative amendment to the MCP relocating the access provided the relocated access is no closer than 200 feet from the north property line.

16. State/Federal 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.

DEVIATIONS

1. Excavation Setback. Deviation #1 seeks relief from LDC §10-329, which requires an excavation setback of 50 feet from private property lines under separate ownership, to allow a 30-foot excavation setback from the eastern perimeter.

Hearing Examiner Recommendation: Deviation 1 **approved**, limited to easterly commercially zoned property and the easterly abutting AG-2-zoned parcel fronting Bayshore Road if the AG-2 parcel is not developed with single-family residential uses at time of development order approval.

2. Commercial Parking Lot Interconnections. Deviation #2 seeks relief from LDC §10-610(e), which requires adjacent commercial uses to provide parking lot interconnections for automobile, bicycle, and pedestrian traffic, to allow no interconnection with the abutting CPD approved by Resolution Z-10-036 (Maximus Self-Storage, formerly W & W Service Park).

Hearing Examiner Recommendation: Deviation 2 **approved**, subject to the following conditions:

- i. The easterly parking lot interconnection on the MCPs must be made at time of development order approval if the easterly abutting property is zoned and developed commercial.
 - ii. If the eastern abutting property is zoned for commercial uses but is not developed at time of development order approval, the approved development order plans must depict a parking lot interconnection stub to the property line. Developer must construct the parking lot interconnection prior to receipt of a Certificate of Completion.
 - iii. If the eastern property is not zoned for commercial uses, developer must construct a 24-foot-wide cross-access easement for future parking lot interconnection. The easement language must be acceptable to the County Attorney's Office, executed and recorded in the Public Records prior to approval of building permits.
3. Deviation #3 is withdrawn.
 4. Minimum Lot Frontage. Deviation #4 seeks relief from LDC §34-1353(c)(1), which requires a minimum lot width of 150 feet for fast food restaurants and car washes to allow a 100-foot lot width.

Hearing Examiner Recommendation: Deviation 4 **approved**, subject to Condition 10.

5. Minimum, Lot Area. Deviation #5 seeks relief from LDC §34-1353(c)(3), which requires a minimum lot area of 25,000 square feet for fast food restaurants and car washes to allow a minimum lot area of 15,000 square feet.

Hearing Examiner Recommendation: Deviation 5 **approved**, subject to Condition 10.

6. Landscape Standards – Buffering Adjacent Property. Deviation #6 seeks relief from LDC §10-416(d)(3), which requires a Type “C” or Type “F” Buffer when commercial land uses abut residential land uses, to allow the indigenous preserve to function as a planted buffer along the north property.

Hearing Examiner Recommendation: Deviation 6 **approved**, subject to the following condition:

- a. If the preserve does not create a continuous visual screen equivalent to a Type C or F buffer, the first development order plans must include a list of supplemental plantings and a replanting plan, subject to approval by Lee County staff.
7. Street Design - Cul-de-sacs. Deviation #7 seeks relief from LDC §10-296(k), which requires roadways to terminate with a cul-de-sac, to allow no cul-de-sac if an adequate turn-around is provided within the commercial outparcels in conjunction with MCP Alternate A.

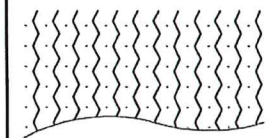
Hearing Examiner Recommendation: Deviation 7 **approved**, subject to the following condition:

- a. The development order application must include a letter of no objection from the governing fire district.
8. Deviation #8 is withdrawn.

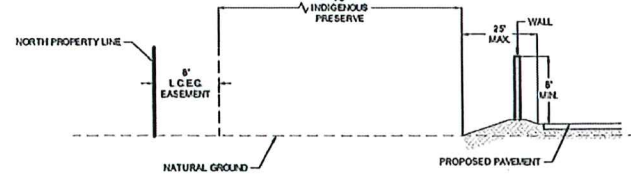
Exhibits to Conditions:

B1 Master Concept Plan Alternative A
B2 Master Concept Plan Alternative B
B3 Indigenous Management Plan

SINUOUS LAKE SHORELINE DETAIL



LAKE EDGES WILL BE SINUOUS IN ACCORDANCE WITH LEE COUNTY LAND DEVELOPMENT CODE REGULATIONS



PRESERVE AND WALL/BERM DETAIL

1. MASONRY WALL REQUIRED WHEN ROADS, DRIVES, PARKING AREAS, REFUSE & RECYCLABLE MATERIAL COLLECTION AREAS, EMERGENCY POWER GENERATORS, AND/OR SERVICE AREAS FOR DELIVERY OF GOODS OR SERVICES ARE LOCATED WITHIN 125' OF THE NORTHERN PROPERTY LINE.
2. OPAQUE COMPOSITE OR OTHER NON-WOOD MATERIAL MAY BE USED WHEN NOTE #1 ABOVE IS NOT APPLICABLE.

LAND USE: SINGLE FAMILY RESIDENTIAL
ZONING: AG-2
FLU: GENERAL INTERCHANGE

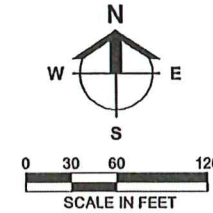
LAND USE: VACANT
ZONING: AG-2
FLU: GENERAL INTERCHANGE

LAND USE: SINGLE FAMILY RESIDENTIAL
ZONING: AG-2
FLU: GENERAL INTERCHANGE

PRESERVE TO SERVE AS LANDSCAPE BUFFER
SUPPLEMENTAL HEDGE PLANTINGS TO BE
ADDED AS NEEDED TO CREATE A CONTINUOUS
VISUAL SCREEN AS REQUIRED BY LDC 10-416(D)(4)

8' WIDE LEE COUNTY ELECTRIC
COOPERATIVE
(OR 2322, PG 3947)
EXCEPTION 11

INDIGENOUS PRESERVE = 1.06 AC
(0.51 AC @ 411E1 AND 0.55 AC @ 420E2)



LAND USE: VACANT
ZONING: CPD
FLU: GENERAL INTERCHANGE &
SUB-OUTLYING SUBURBAN

LAND USE: VACANT
ZONING: AG-2
FLU: GENERAL INTERCHANGE
& SUB-OUTLYING SUBURBAN

LAND USE: VACANT
ZONING: CPD
FLU: SUB-OUTLYING SUBURBAN

OPEN SPACE CALCULATION

REQUIRED OPEN SPACE
8.75 AC X 30% = 2.63 AC
REQUIRED INDIGENOUS
2.63 AC X 50% = 1.32 AC

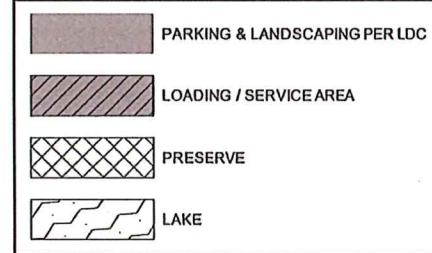
PROVIDED OPEN SPACE	PROVIDED INDIGENOUS
PRESERVE 1.06 AC	PRESERVE @ 1.06 AC
LAKE (2.63 X 25%) 0.66 AC	x 125% = 1.33 AC
OTHER 0.91 AC	
TOTAL = 2.63 AC	

NOTES:
IF SUBDIVIDED, EACH PARCEL MUST PROVIDE A
MINIMUM OF 10% OPEN SPACE.

APPLYING THE INDIGENOUS INCENTIVE CREDITS
ALLOWED BY LDC 10-415(b)(3), A RATE OF 125% IS APPLIED
DUE TO THE PRESERVE MINIMUM WIDTH OF 75' AND A
MINIMUM AREA OF ONE ACRE.

SPECIAL NOTE:
AT THE TIME OF DEVELOPMENT ORDER SUBMITTAL
THE FINAL LOCATION OF THIS INTERSECTION
SHALL BE COORDINATED WITH ANY DEFINITIVE
PLANS OF THE PRITCHETT PKWY REALIGNMENT
THAT MAY EXIST AT THAT TIME.

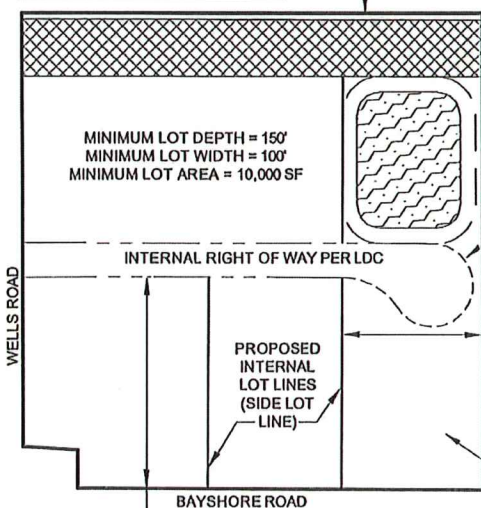
LEGEND



PROPOSED SIGNS

- 1 MONUMENT SIGN
- 2 PYLON SIGN (MAXIMUM 1 SIGN)
- 3 MONUMENT SIGN

SUBDIVISION DETAIL



MINIMUM LOT DEPTH = 150'
MINIMUM LOT WIDTH = 100'
MINIMUM LOT AREA = 10,000 SF

INTERNAL RIGHT OF WAY PER LDC

PROPOSED
INTERNAL
LOT LINES
(SIDE LOT
LINE)

150' MINIMUM LOT DEPTH FOR FAST FOOD,
STANDALONE CAR WASH, AND CONVENIENCE
FOOD AND BEVERAGE STORE. 100' MINIMUM
LOT DEPTH FOR ALL OTHER USES.

CUL DE SAC NOT REQUIRED IF
SPRINKLER SYSTEMS ARE INSTALLED IN
THE COMMERCIAL BUILDINGS AND
A TURN AROUND IS PROVIDED IN THE
EASTERN MOST LOT. FINAL DESIGN
MUST BE APPROVED BY THE LOCAL
FIRE DEPARTMENT DURING
DEVELOPMENT ORDER PERMITTING.

150' MINIMUM LOT WIDTH FOR
CONVENIENCE FOOD AND
BEVERAGE STORE. 100' MINIMUM
LOT WIDTH FOR ALL
OTHER USES.

15,000 SF MINIMUM LOT
AREA FOR FAST FOOD
AND STANDALONE CAR
WASH. 25,000 SF
MINIMUM LOT AREA FOR
CONVENIENCE FOOD
AND BEVERAGE STORE.
10,000 SF MINIMUM LOT
AREA FOR ALL OTHER
USES.

- TYPE D BUFFER (TYPICAL FOR MOST USES)
25' WIDE BUFFER WITH FAST FOOD, RESTAURANTS, CAR WASHES,
CONVENIENCE FOOD & BEVERAGE STORES & AUTOMOBILE SERVICE
STATIONS CONSISTING OF:
1. THE REQUIRED NUMBER OF TREES IS 5 CANOPY TREES PER 100 LINEAR FEET. THREE SABAL PALM TREES MAY BE CLUSTERED TO MEET ONE CANOPY TREE REQUIREMENT. PALMS ARE LIMITED TO A MAXIMUM OF 50 PERCENT OF THE RIGHT-OF-WAY TREE REQUIREMENT. PALMS MUST BE CLUSTERED AND PLANTED IN STAGGERED HEIGHTS, A MINIMUM OF THREE PALMS PER CLUSTER, SPACED AT A MAXIMUM OF 4 FEET ON CENTER, WITH A MINIMUM OF A FOUR FOOT DIFFERENCE IN HEIGHT BETWEEN EACH TREE.
 2. ALL OF THE TREES MUST BE A MINIMUM OF 14 FEET IN HEIGHT AT THE TIME OF INSTALLATION. TREES MUST HAVE A MINIMUM OF A THREE AND ONE-HALF INCH CALIPER AT 12 INCHES ABOVE THE GROUND AND A SIX-FOOT SPREAD. AT INSTALLATION, SHRUBS MUST BE A MINIMUM OF THREE GALLON, 24 INCHES IN HEIGHT AT TIME OF PLANTING AND MAINTAINED AT A MINIMUM OF 36 INCHES IN HEIGHT WITHIN ONE YEAR OF PLANTING. THE SHRUBS MUST BE PLANTED THREE FEET ON CENTER.

LAND USE: VACANT
ZONING: EC
FLU: CONSERVATION LANDS
UPLAND

LAND USE: VACANT
ZONING: C-1A
FLU: SUB-OUTLYING SUBURBAN

EXHIBIT B-1

Barraco
and Associates, Inc.

CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING

www.barraco.net

2271 MCGREGOR BLVD., SUITE 100
FORT MYERS, FLORIDA 33902-2800
PHONE (239) 461-3170
FAX (239) 461-3169

FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

**LIGHT
BAYSHORE
VILLAGE LLC &
REESERETLAND
BAYSHORE
VILLAGE LLC**

PROJECT DESCRIPTION

**BAYSHORE
VILLAGE**

LEE COUNTY, FLORIDA

THIS PLAN IS PRELIMINARY AND
INTENDED FOR CONCEPTUAL
PLANNING PURPOSES ONLY.

SITE LAYOUT AND LAND USE
INTENSITIES OR DENSITIES MAY
CHANGE SIGNIFICANTLY BASED
UPON SURVEY, ENGINEERING,
ENVIRONMENTAL AND/OR
REGULATORY CONSTRAINTS AND/
OR OPPORTUNITIES.

DRAWING NOT VALID WITHOUT SEAL, SIGNATURE AND DATE
© COPYRIGHT 2023, BARRACO AND ASSOCIATES, INC.
REPRODUCTION, CHANGES OR ASSIGNMENTS ARE PROHIBITED

FILE NAME: 24060203-A.DWG

LOCATION: J:\24060203\DWG\CONTR

PLOT DATE: TUE, 1-2-2024 - 2:16 PM

PLOT BY: ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS

BASE PLAN = 24060203-A.DWG

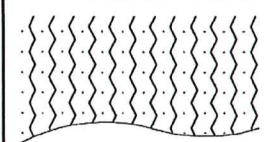
PLAN REVISIONS	
1-25-23	1ST SUFFICIENCY RESPONSE
2-17-23	2ND SUFFICIENCY RESPONSE
3-14-23	DEVIATION #6
6-12-23	WELLS RD @ INTENSIVE CRITERIA
7-7-23	ADD DEVIATION #3
9-27-23	AUGUST/SEPTEMBER SUFFICIENCY
12-8-23	48-HOUR REVISIONS
12-29-23	ADD WALL CROSS SECTION & NOTES

PLAN STATUS

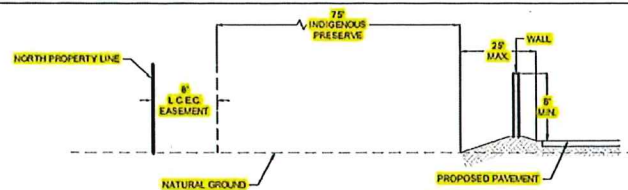
**MASTER
CONCEPT PLAN
ALT A**

PROJECT/FILE NO.	SHEET NUMBER
24066	1

SINUOUS LAKE SHORELINE DETAIL



LAKE EDGES WILL BE SINUOUS IN ACCORDANCE WITH LEE COUNTY LAND DEVELOPMENT CODE REGULATIONS



PRESERVE AND WALL/BERM DETAIL

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FLU: GENERAL INTERCHANGE

LAND USE: VACANT
ZONING: AG-2
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LAND USE: SINGLE FAMILY RESIDENTIAL
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PRESERVE TO SERVE AS LANDSCAPE BUFFER
SUPPLEMENTAL HEDGE PLANTINGS TO BE
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8' WIDE LEE COUNTY ELECTRIC
COOPERATIVE
(OR 2322, PG 3947)
EXCEPTION 11

INDIGENOUS PRESERVE = 1.06 AC
(0.51 AC @ 411E1 AND 0.55 AC @ 420E2)

8' HIGH WALL/BERM
COMBINATION

30' EXCAVATION SETBACK
(DEVIATION #1)

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ZONING: CPD
FLU: GENERAL INTERCHANGE &
SUB-OUTLYING SUBURBAN

LAND USE: VACANT
ZONING: CPD
FLU: SUB-OUTLYING SUBURBAN

TYPE "A" BUFFER

- CONNECTION TO EASTERLY ABUTTING PROPERTY
(AT DEVELOPMENT ORDER)
1. IF ZONED AND DEVELOPED COMMERCIAL -
PROVIDE CONNECTION
 2. IF ZONED COMMERCIAL BUT NOT DEVELOPED -
PROVIDE PARKING LOT INTERCONNECTION
 3. IF NOT ZONED COMMERCIAL - PROVIDE A 24'
CROSS-ACCESS EASEMENT

12' WIDE UTILITY EASEMENT
(INSTRUMENT #
2006000351124) EXCEPTION 12

548' INTERSECTION
SEPARATION

233' INTERSECTION
SEPARATION

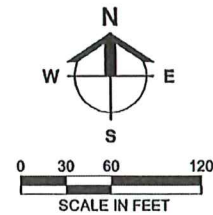
BAYSHORE RD
(2-LANE ARTERIAL)

LAND USE: VACANT
ZONING: EC
FLU: CONSERVATION LANDS
UPLAND

LAND USE: VACANT
ZONING: C-1A
FLU: SUB-OUTLYING SUBURBAN

PELICAN WAY
(UNIMPROVED RIGHT OF WAY)

EAST LAKE DR



OPEN SPACE CALCULATION

REQUIRED OPEN SPACE
8.75 AC X 30% = 2.63 AC
REQUIRED INDIGENOUS
2.63 AC X 50% = 1.32 AC

PROVIDED OPEN SPACE	PROVIDED INDIGENOUS
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PLANS OF THE PRITCHETT PKWY REALIGNMENT
THAT MAY EXIST AT THAT TIME.

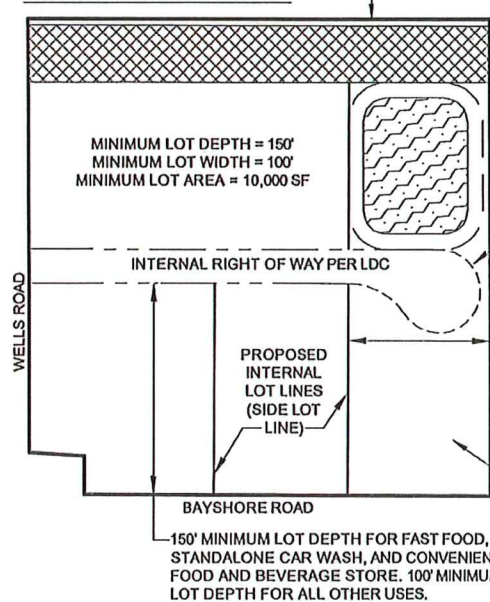
LEGEND



PROPOSED SIGNS

- 1 MONUMENT SIGN
- 2 PYLON SIGN (MAXIMUM 1 SIGN)
- 3 MONUMENT SIGN

SUBDIVISION DETAIL



CUL DE SAC NOT REQUIRED IF
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IN THE COMMERCIAL BUILDINGS AND
A TURN AROUND IS PROVIDED IN THE
EASTERN MOST LOT. FINAL DESIGN
MUST BE APPROVED BY THE LOCAL
FIRE DEPARTMENT DURING
DEVELOPMENT ORDER PERMITTING.

150' MINIMUM LOT WIDTH FOR
CONVENIENCE FOOD AND
BEVERAGE STORE. 100'
MINIMUM LOT WIDTH FOR ALL
OTHER USES.

15,000 SF MINIMUM LOT
AREA FOR FAST FOOD
AND STANDALONE CAR
WASH. 25,000 SF
MINIMUM LOT AREA FOR
CONVENIENCE FOOD
AND BEVERAGE STORE.
10,000 SF MINIMUM LOT
AREA FOR ALL OTHER
USES.

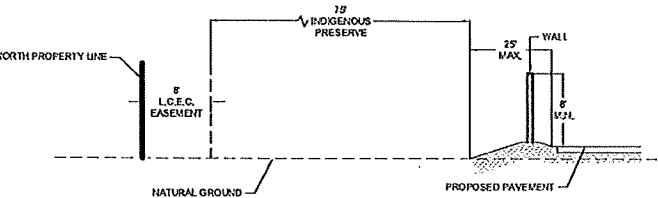
- TYPE D BUFFER (TYPICAL FOR MOST USES)
25' WIDE BUFFER WITH FAST FOOD, RESTAURANTS, CAR WASHES,
CONVENIENCE FOOD & BEVERAGE STORES & AUTOMOBILE SERVICE
STATIONS CONSISTING OF:
1. THE REQUIRED NUMBER OF TREES IS 5 CANOPY TREES PER 100 LINEAR
FEET. THREE SABAL PALM TREES MAY BE CLUSTERED TO MEET ONE
CANOPY TREE REQUIREMENT. PALMS ARE LIMITED TO A MAXIMUM OF 50
PERCENT OF THE RIGHT-OF-WAY TREE REQUIREMENT. PALMS MUST BE
CLUSTERED AND PLANTED IN STAGGERED HEIGHTS, A MINIMUM OF
THREE PALMS PER CLUSTER, SPACED AT A MAXIMUM OF 4 FEET ON
CENTER, WITH A MINIMUM OF A FOUR FOOT DIFFERENCE IN HEIGHT
BETWEEN EACH TREE.
 2. ALL OF THE TREES MUST BE A MINIMUM OF 14 FEET IN HEIGHT AT THE
TIME OF INSTALLATION. TREES MUST HAVE A MINIMUM OF A THREE
AND ONE-HALF INCH CALIPER AT 12 INCHES ABOVE THE GROUND AND A
SIX-FOOT SPREAD. AT INSTALLATION, SHRUBS MUST BE A MINIMUM OF
THREE GALLON, 24 INCHES IN HEIGHT AT TIME OF PLANTING AND
MAINTAINED AT A MINIMUM OF 36 INCHES IN HEIGHT WITHIN ONE YEAR
OF PLANTING. THE SHRUBS MUST BE PLANTED THREE FEET ON CENTER.

OPEN SPACE CALCULATION

REQUIRED OPEN SPACE	
8.75 AC X 30% =	2.63 AC
REQUIRED INDIGENOUS	
2.63 AC X 50% =	1.32 AC

PROVIDED OPEN SPACE		PROVIDED INDIGENOUS	
PRESERVE	1.06 AC	PRESERVE @ 1.06 AC	
LAKE (2.63 X 25%)	0.66 AC	x 125% =	1.33 AC
OTHER	0.91 AC		
TOTAL =	2.63 AC		

NOTES: APPLYING THE INDIGENOUS INCENTIVE CREDITS ALLOWED BY LDC 10-415(b)(3), A RATE OF 125% IS APPLIED DUE TO THE PRESERVE MINIMUM WIDTH OF 75' AND A MINIMUM AREA OD ONE ACRE.



PRESERVE AND WALL/BERM DETAIL

1. MASONRY WALL REQUIRED WHEN ROADS, DRIVES, PARKING AREAS, REFUSE & RECYCLABLE MATERIAL COLLECTION AREAS, EMERGENCY POWER GENERATORS, AND/OR SERVICE AREAS FOR DELIVERY OF GOODS OR SERVICES ARE LOCATED WITHIN 125' OF THE NORTHERN PROPERTY LINE.
2. OPAQUE COMPOSITE OR OTHER NON-WOOD MATERIAL MAY BE USED WHEN NOTE #1 ABOVE IS NOT APPLICABLE.

SPECIAL NOTE:
AT THE TIME OF DEVELOPMENT ORDER SUBMITTAL THE FINAL LOCATION OF THIS INTERSECTION SHALL BE COORDINATED WITH ANY DEFINITIVE PLANS OF THE PRITCHETT PKWY REALIGNMENT THAT MAY EXIST AT THAT TIME.

PROPOSED SIGNS

- ① MONUMENT SIGN
- ② ③ PYLON SIGN (MAXIMUM 1 SIGN)
- ④ MONUMENT SIGN

LEGEND

	PARKING & LANDSCAPING PER LDC
	LOADING / SERVICE AREA
	PRESERVE
	LAKE

LAND USE: SINGLE FAMILY RESIDENTIAL
ZONING: AG-2
FLU: GENERAL INTERCHANGE

LAND USE: VACANT
ZONING: AG-2
FLU: GENERAL INTERCHANGE

LAND USE: SINGLE FAMILY RESIDENTIAL
ZONING: AG-2
FLU: GENERAL INTERCHANGE

8' WIDE LEE COUNTY ELECTRIC COOPERATIVE
(OR 2322, PG 3947)
EXCEPTION 11

PRESERVE TO SERVE AS LANDSCAPE BUFFER
SUPPLEMENTAL HEDGE PLANTINGS TO BE
ADDED AS NEEDED TO CREATE A CONTINUOUS
VISUAL SCREEN AS REQUIRED BY LDC 10-416(D)(4)

INDIGENOUS PRESERVE = 1.06 AC
(0.51 AC @ 411E1 AND 0.55 AC @ 420E2)

BUILDING A
(2 STORY MAX)

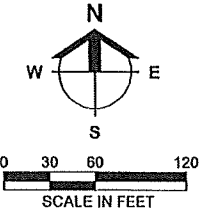
LAND USE: VACANT
ZONING: CPD
FLU: GENERAL INTERCHANGE &
SUB-OUTLYING SUBURBAN

LAND USE: VACANT
ZONING: AG-2
FLU: GENERAL INTERCHANGE
& SUB-OUTLYING SUBURBAN

LAND USE: VACANT
ZONING: CPD
FLU: SUB-OUTLYING SUBURBAN

CONNECTION TO EASTERLY ABUTTING PROPERTY
(AT DEVELOPMENT ORDER)
1. IF ZONED AND DEVELOPED COMMERCIAL -
PROVIDE CONNECTION
2. IF ZONED COMMERCIAL BUT NOT DEVELOPED -
PROVIDE PARKING LOT INTERCONNECTION
3. IF NOT ZONED COMMERCIAL - PROVIDE A 24'
CROSS-ACCESS EASEMENT

12' WIDE UTILITY EASEMENT
(INSTRUMENT #
2006000351124) EXCEPTION 12



BAYSHORE RD
(2-LANE ARTERIAL)

LAND USE: VACANT
ZONING: EC
FLU: CONSERVATION LANDS
UPLAND

LAND USE: VACANT
ZONING: C-1A
FLU: SUB-OUTLYING SUBURBAN

PELICAN WAY
(UNIMPROVED RIGHT OF WAY)

EAST LAKE DR

EXHIBIT B2

Barraco
and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING
www.barraco.net
2271 MCGREGOR BLVD., SUITE 100
POST OFFICE DRAWER 2800
FORT MYERS, FLORIDA 33902-2800
PHONE (239) 461-3170
FAX (239) 461-3169
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR
**LIGHT
BAYSHORE
VILLAGE LLC &
REESERETLAND
BAYSHORE
VILLAGE LLC**
PROJECT DESCRIPTION
**BAYSHORE
VILLAGE**
LEE COUNTY, FLORIDA

THIS PLAN IS PRELIMINARY AND
INTENDED FOR CONCEPTUAL
PLANNING PURPOSES ONLY.
SITE LAYOUT AND LAND USE
INTENSITIES OR DENSITIES MAY
CHANGE SIGNIFICANTLY BASED
UPON SURVEY, ENGINEERING,
ENVIRONMENTAL AND /OR
REGULATORY CONSTRAINTS AND /
OR OPPORTUNITIES.
DRAWING NOT VALID WITHOUT SEAL, SIGNATURE AND DATE
© COPYRIGHT 2023, BARRACO AND ASSOCIATES, INC.
REPRODUCTION, CHANGES OR ASSIGNMENTS ARE PROHIBITED
FILE NAME: 24066200-B.DWG
LOCATION: J:\24066\DWG\CONTR
PLOT DATE: TUE, 1-2-2024 - 2:17 PM
PLOT BY: ALYSSA FOITARE
CROSS REFERENCED DRAWINGS
BASE PLAN = 24066200-B.DWG
PLAN REVISIONS

1-25-23	1ST SUFFICIENCY RESPONSE
2-17-23	2ND SUFFICIENCY RESPONSE
3-14-23	DEVIATION #6
6-12-23	WELLS RD @ PITCHES CRITERIA
7-7-23	ADD DEVIATION #8
9-27-23	AUGUST/SEPTEMBER SUFFICIENCY
12-8-23	48-HOUR REVISIONS
12-22-23	ADD WALL CROSS SECTION & NOTES

PLAN STATUS
**MASTER
CONCEPT PLAN
ALT B**

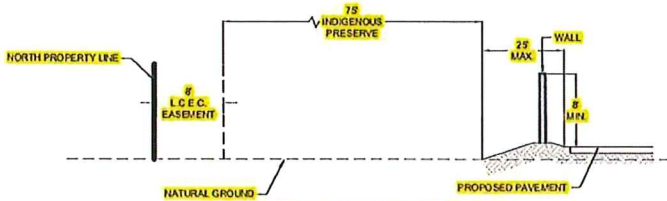
PROJECT / FILE NO.	SHEET NUMBER
24066	1

OPEN SPACE CALCULATION

REQUIRED OPEN SPACE
8.75 AC X 30% = 2.63 AC
REQUIRED INDIGENOUS
2.63 AC X 50% = 1.32 AC

PROVIDED OPEN SPACE		PROVIDED INDIGENOUS	
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TOTAL =	2.63 AC		

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- PRESERVE AND WALL/BERM DETAIL**
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PROPOSED SIGNS

- ① MONUMENT SIGN
- ② ③ PYLON SIGN (MAXIMUM 1 SIGN)
- ④ MONUMENT SIGN

LEGEND



LAND USE: SINGLE FAMILY RESIDENTIAL
ZONING: AG-2
FLU: GENERAL INTERCHANGE

LAND USE: SINGLE FAMILY RESIDENTIAL
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8' WIDE LEE COUNTY ELECTRIC COOPERATIVE (OR 2322, PG 3947) EXCEPTION 11

PRESERVE TO SERVE AS LANDSCAPE BUFFER
SUPPLEMENTAL HEDGE PLANTINGS TO BE ADDED AS NEEDED TO CREATE A CONTINUOUS VISUAL SCREEN AS REQUIRED BY LDC 10-416(D)(4)

INDIGENOUS PRESERVE = 1.06 AC
(0.51 AC @ 411E1 AND 0.55 AC @ 420E2)

8' HIGH WALL/BERM COMBINATION

BUILDING A
(2 STORY MAX)

LAND USE: VACANT
ZONING: CPD
FLU: GENERAL INTERCHANGE & SUB-OUTLYING SUBURBAN

LAND USE: VACANT
ZONING: AG-2
FLU: GENERAL INTERCHANGE & SUB-OUTLYING SUBURBAN

LAND USE: VACANT
ZONING: CPD
FLU: SUB-OUTLYING SUBURBAN

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3. IF NOT ZONED COMMERCIAL - PROVIDE A 24' CROSS-ACCESS EASEMENT

12' WIDE UTILITY EASEMENT (INSTRUMENT # 2006000351124) EXCEPTION 12

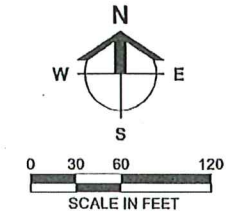
BAYSHORE RD
(2-LANE ARTERIAL)

LAND USE: VACANT
ZONING: EC
FLU: CONSERVATION LANDS UPLAND

LAND USE: VACANT
ZONING: C-1A
FLU: SUB-OUTLYING SUBURBAN

PELICAN WAY
(UNIMPROVED RIGHT OF WAY)

EAST LAKE DR



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PREPARED FOR

**LIGHT
BAYSHORE
VILLAGE LLC &
REESERETLAND
BAYSHORE
VILLAGE LLC**

PROJECT DESCRIPTION

**BAYSHORE
VILLAGE**

LEE COUNTY, FLORIDA

THIS PLAN IS PRELIMINARY AND
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INTENSITIES OR DENSITIES MAY
CHANGE SIGNIFICANTLY BASED
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FILE NAME: 2306202-B.DWG

LOCATION: J324066.DWG\ZONING

PLOT DATE: TUE, 1-2-2024 - 2:17 PM

PLOT BY: ALYSSA FONTARNE

CROSS REFERENCED DRAWINGS

BASEPLAN = 24066200-B.DWG

PLAN REVISIONS

1-25-23	1ST SUFFICIENCY RESPONSE
2-17-23	2ND SUFFICIENCY RESPONSE
3-14-23	DEVIATION #5
6-12-23	WELLS RD @ INTENSIVE CRITERIA
7-7-23	ADD DEVIATION #8
9-27-23	AUGUST/SEPTEMBER SUFFICIENCY
12-8-23	48-HOUR REVISIONS
12-29-23	ADD WALL CROSS SECTION & NOTES

PLAN STATUS

**MASTER
CONCEPT PLAN
ALT B**

PROJECT/FILE NO.	SHEET NUMBER
24066	1

BAYSHORE VILLAGE

PRESERVE MANAGEMENT PLAN

Lee County STRAP #: 22-43-25-00-00023.0000

*January 2023
Updated April 2023*

Prepared For:

OB4, LLC – Randy Thibaut
c/o: Land Solutions – Rhonda Brewer
6810 International Center Boulevard
Fort Myers, FL 33912
Phone: 239-489-4066
Email: rbrewer@lsicompanies.com

Prepared By:



BearPaws Environmental Consulting
1599 Covington Circle East
Phone: (239) 340-0678
Email: BearPaws.Env.Consulting@GMail.com

EXHIBIT B3

INTRODUCTION

The 9.25± acre Bayshore Village project site is located in Section 22, Township 43S, and Range 25, of Lee County, Florida. More specifically, the site is located at 17300 Wells Road, north of Bayshore Road (SR 78), and west of Nalle Road, in North Fort Myers, Florida. Please see the attached Project Location Map (Exhibit A).

PROPERTY DESCRIPTION

The property is composed mainly of pine flatwoods with upland hardwood forest. The upland preserve is located in the northernmost portion of the site and will encompass 1.06± acres of pine flatwoods and mixed upland forest. The goal of this preserve management plan is to improve the condition of the uplands and provide a natural preserve area for the flora and fauna on the property. The on-site preserve area provides habitat for nesting and create foraging areas for all kinds of wildlife species.

MITIGATION & MAINTENANCE PLAN

The purpose of this preserve management plan is to improve the condition of the preserve area, ensure that preserve area is maintained exotic free and nuisance plants are controlled to healthy levels thru a scheduled maintenance program, and provide a natural preserve area for the flora and fauna on the property. The on-site preserve area provides habitat for nesting and create foraging areas for all kinds of wildlife species. On-site enhancement activities will be conducted concurrently with the on-site construction activities.

The preserve areas will correspond to the preserve habitat depicted on the master site plan. The preserve areas have been previous placed under a conservation easement and maintained in perpetuity, by the owner or their successor. Exotic plants will be killed in a manner consistent with current exotic removal practices while ensuring that neighboring plants are left unharmed and the soil left as undisturbed as possible. It is recommended that any use of herbicides be applied by a licensed herbicide applicator, utilizing approved methods, and best management practices. All exotics will be physically removed from the proposed preserves; no stacking, tee-peeing, log cabin, or girdling methods will be utilized, unless otherwise approved by County staff.

On-site enhancement activities will be conducted concurrently with the on-site construction activities. These enhancement activities will include the hand removal of exotic and nuisance vegetation from the upland and wetland preserve areas. The exotics to be eradicated include, but are not limited to, melaleuca (*Melaleuca quinquenervia*), and Brazilian pepper (*Schinus terebinthifolius*). This program is incorporated into a two phase process; the initial exotic removal and the subsequent annual maintenance.

The proposed mitigation areas will be enhanced through the removal of exotic species, monitored, and maintained on a regular schedule for five years. After this time, perpetual management will include continued removal of exotic species. The goal of the maintenance effort is to achieve less than five (5) percent cover of exotics immediately following any maintenance and that the total exotic and nuisance species constitute no more than five (5) percent of total cover between maintenance activities. The purpose and intent of this plan is to ensure that the preserve areas are maintained free of exotic plants in perpetuity. This is achieved by establishing a scheduled program to maintain the site free of exotic plants (as defined by the latest exotic plant list published by the Florida Exotic Pest Plant Council) immediately after maintenance and at other times the exotic and nuisance species constitute no more than 5 percent of total cover.

DEBRIS REMOVAL

Debris and garbage in the preserve area will be removed as needed within the preserve area. No large debris is currently located within the preserve area. Any garbage found will be removed from the preserve and disposed of in the proper receptacles.

MITIGATION SUCCESS CRITERIA

Monitoring of the preserve area shall be conducted for a minimum of five years with annual reports submitted to the County. If native upland species does not achieve an 80% native coverage within the initial two years of the monitoring, native species shall be planted in accordance with the maintenance program. At end of the monitoring program the entire preserve area shall contain 80% coverage of desirable native species.

All mitigation areas will consist of no more than five percent cover by exotic and/or nuisance species at all times. Exotic and nuisance vegetation species are identified as those exotic species listed as CAT I and CAT II by the Florida Exotic Pest Plant Council (FEPPC). The preserve areas will be managed such that exotic/nuisance plant species do not dominate any one section of areas within the preserves. This is also applicable to native vegetation to ensure diversity within the upland habitats. Perpetual maintenance of the preserve areas is recommended to ensure coverage by native desirable vegetation is maintained as specified in the permit.

MONITORING

Monitoring Methodology

The proposed monitoring of the preserve area will begin concurrently with construction and will consist of baseline, time-zero, and annual monitoring of vegetation, wildlife, and rainfall. The baseline monitoring report will document conditions in the project site as they currently exist. The time-zero report will document the conditions immediately following completion of mitigation activities. The annual reports will document the extent of success of the project and, if needed, identify specific actions to be taken to improve the conditions within the project area. Sampling transects and methodology for the baseline, time-zero, and annual reports will utilize identical methods of data collection from identical sampling stations. The location of the proposed sampling stations will be taken along the edge of the preserve areas, immediately adjacent to the upland buffer area. A monitoring map is included as Exhibit B.

Vegetation Monitoring

Upland vegetation will be monitored prior to and following enhancement and restoration activities. Sampling in preserve area will involve canopy, sub-canopy, and ground cover species established within the preserve area. Species richness and a visual estimate of percent cover will be calculated for canopy and sub-canopy stratum. The approximate locations of the sampling point locations will be shown on the monitoring map.

Sampling point locations will be established in several locations within the preserve area. During each monitoring event, these areas will be walked and any exotic vegetation observed will be noted within the report. Vegetation will be sampled in each of the areas from where the monitoring photographs were taken; this vegetative sampling includes canopy, sub-canopy, and herbaceous strata.

Wildlife Monitoring

Regular observations of wildlife will be made during the monitoring event by qualified ecologists. Observations will consist of recording evidence and signs of wildlife (i.e., direct sightings, vocalizations, burrows, nests, tracks, droppings, etc.).

Photographic Documentation

Permanent fixed-point photograph stations will be established in the preserve area providing physical documentation of the condition and appearance of an area, as well as any changes taking place within it. Monitoring photographs will accompany vegetation data in each report. Locations of photograph stations will remain the same throughout the duration of the monitoring program.

Rainfall and Hydrological Monitoring

Rainfall readings will also be recorded from an official rain gauge at a near-by location. These readings will be included in all future monitoring reports. Preserve water level data obtained concurrently with each monitoring even and will be included in their respective annual mitigation monitoring reports.

MONITORING REPORTS

Concurrently with construction, the permittee will submit annual monitoring reports to the County documenting the success of the mitigation program and general condition of the preserve area. Within 60 days of permit issuance or modification, the baseline monitoring for the preserve area will be submitted to the County. The time-zero monitoring report will be submitted within 60 days of completion of enhancement activities. Annual monitoring reports will include the following information:

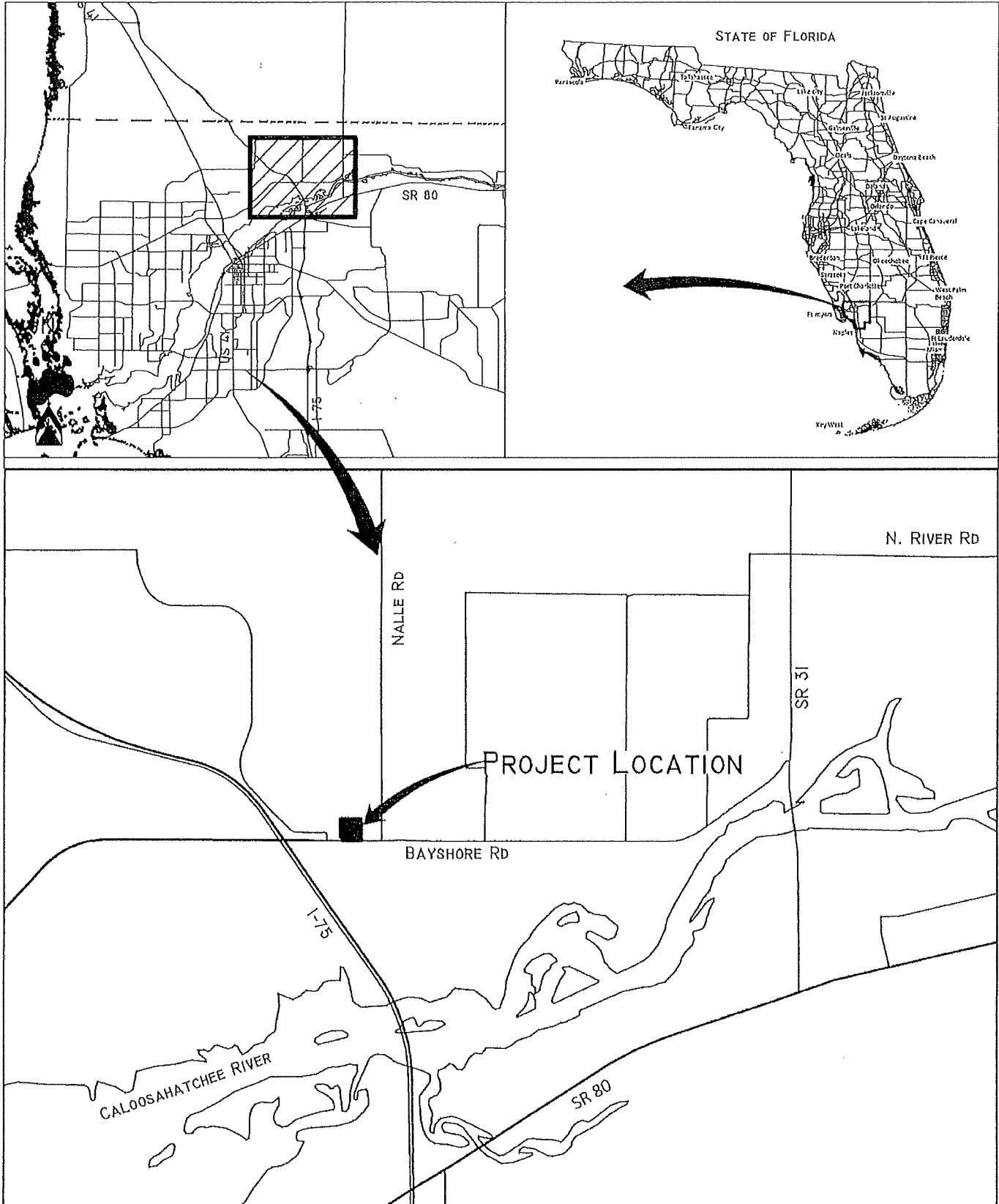
- Brief description of mitigation and maintenance work performed since the previous report along with a discussion of any modifications to the mitigation or maintenance program.
- Brief description of anticipated mitigation and maintenance work to be conducted over the next year.
- Results of quantitative vegetation monitoring conducted in the preserve area.
- A list of observed wildlife species.
- Monitoring photographs taken at photograph stations within the preserve area.
- Hydrologic data and available local rainfall data.

MAINTENANCE AND LONG-TERM MANAGEMENT

Following the completion of the initial exotic removal effort upon the commencement of construction, annual inspections of the mitigation area will occur for the first five (5) years. During these inspections, the mitigation area will be traversed by a qualified ecologist. Locations of nuisance and/or exotic species will be identified for immediate treatment with an appropriate herbicide. Any additional potential problems will also be noted and corrective actions taken. Once exotic/nuisance species levels have been reduced to acceptable limits (i.e., less than five percent cover), inspections of the preserve area will be conducted annually.

Maintenance will be conducted in perpetuity to ensure that the preserve area are free of exotic vegetation (as currently defined by the EPPC) immediately following maintenance and that exotic and nuisance species will constitute no more than five percent of total combined cover. A mitigation and monitoring work schedule will be prepared, submitted, and approved by the County, prior to issuance of the vegetation removal permit.

Exhibit A
Project Location Map



Bayshore Village

Location Map



PAGE

EXHIBIT

Exhibit B
Preserve Monitoring Map

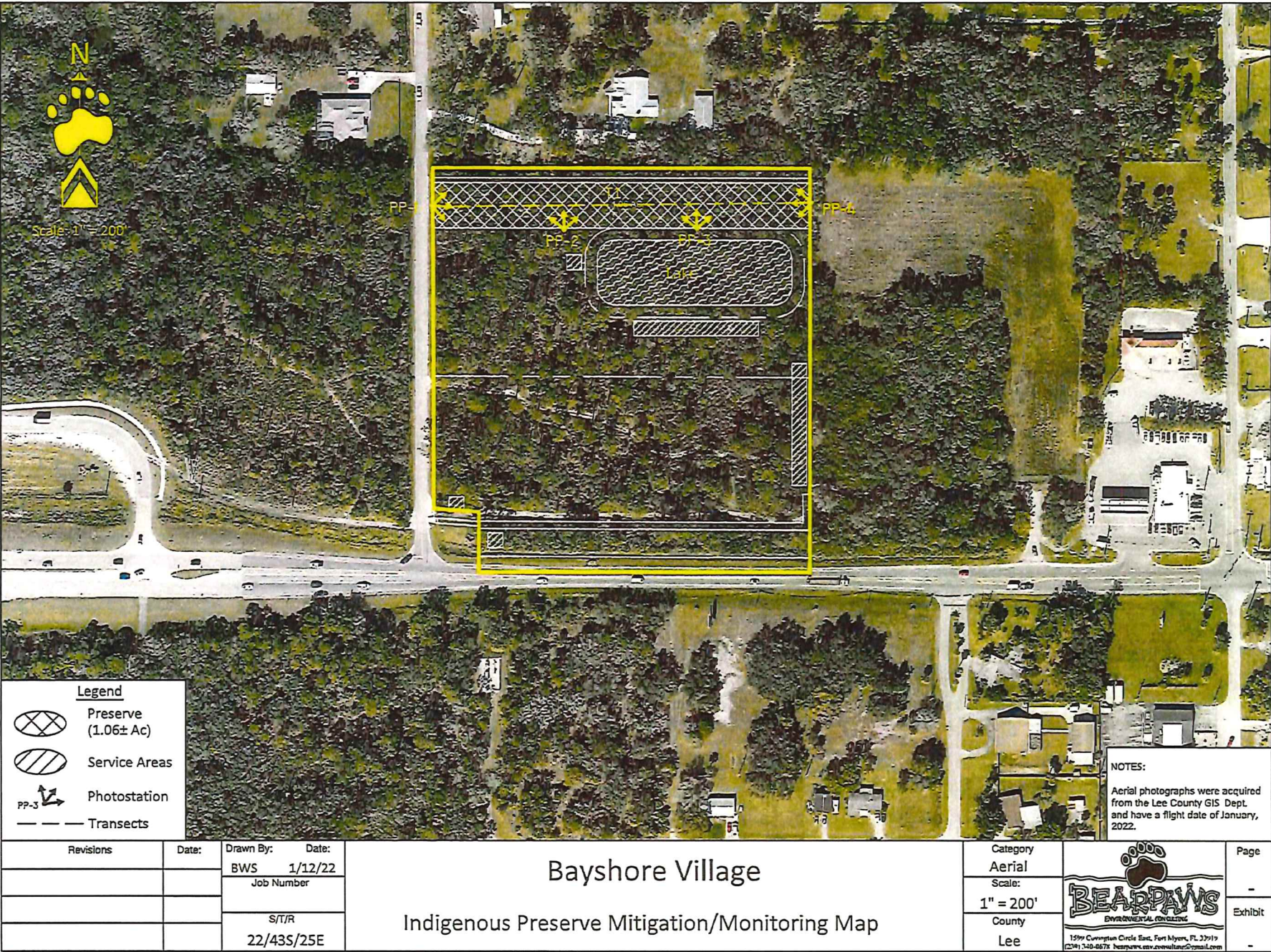


Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

- a. *48-Hour Notice*: Memorandum from Adam Mendez, Senior Planner to Donna Marie Collins, Chief Hearing Examiner, dated December 4, 2023 (multiple pages – 8.5"x11")
- 1. *DCD Staff Report with attachments for DCI*: Prepared by Adam Mendez, Senior Planner, date received September 26, 2023 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
- 2. *PowerPoint Presentation*: Prepared by Lee County Staff for Bayshore Village, DCI2022-00032 (multiple pages – 8.5"x11") [color]
- 3. *Maps*: Attachment C replacement of Staff's Staff Report (4 pages – 8.5"x11")
- 4. *Public Emails and Petitions*: (multiple pages – 8.5"x11")
- 5. *Draft Revised Conditions*: (multiple pages – 8.5"x11")
- 6. *Written Submissions*: Email from Adam Mendez, to Olga Ramos, Hearing Examiner, Maria Perez, Jamie Princing, Zsuzsanna Weigel, Neale Montgomery, Esq., Camryn Siverson, Nicholas DeFilippo, Joseph Sarracino, and Ronald Inge, dated Thursday, December 21, 2023, 2:16 PM (multiple pages – 8.5"x11") {post hearing submittal}

APPLICANT EXHIBITS

- a. *48-Hour Notice*: Email from Olga Ramos to Hearing Examiner and Maria Perez, with copies to Jose Adams, Esq., and Lee Werst, dated December 11, 2023, 10:48 AM (multiple pages – 8.5"x11")
- 1. *PowerPoint Presentation*: Prepared for Bayshore Village CPD, DCI2022-00032, dated December 13, 2023 (multiple pages – 8.5"x11") [color]
- 2. *Revised Uses*: Page 2 of Exhibit 2 of Adam Mendez's December 4, 2023, Letter to Hearing Examiner (1 page – 8.5"x11")
- 3. *PowerPoint Presentation*: Prepared for Bayshore Village CPD, DCI2022-00032, dated December 14, 2023 (multiple pages – 8.5"x11") [color]
- 4. *Written Submissions*: Email from Olga Ramos, to Hearing Examiner and Maria Perez, with copies to Neale Montgomery, Esq., Adam Mendez, Camryn Siverson,

Nicholas DeFilippo, and Joseph Sarracino (2 pages – 8.5"x11") {post hearing submittal}

5. *Written Submissions (Second)*: Email from Laurie L. Plue, to Hearing Examiner, with copies to Neale Montgomery, Esq., Adam Mendez, Jennifer Sapien, Carl Barraco, Alyssa Barraco, R. Brewer, Dawn Russell, Ron Inge, and Olga Ramos (2 pages – 8.5"x11" and 4 pages – 11"x17")) {post hearing submittal}

OTHER EXHIBITS

Steven Brodtkin

1. *Presentation*: (multiple pages – 8.5"x11")

Zachary Lombardo, Esq.

1. *PowerPoint Presentation*: Prepared for Objection to Bayshore Village CPD, DCI2022-00032, on behalf of Lisa and Michael Musho, Adjacent Property Owners of 17350 Wells Road; and Transcript for Case #DCI2005-00100 (multiple pages – 8.5"x11") [color]
2. *Letter*: From Zachary W. Lombardo, Esq., to Adam Mendez, Senior Planner with Lee County Department of Community Development, dated September 12, 2023 (multiple pages – 8.5"x11")

Lisa Musho

1. *Noise Abatement Part 2*: State DOTs Study New Noise Wall Options, dated November 18, 202 (multiple pages – 8.5"x11")

Nathan Poole, PE

1. *Résumé*: For Nathan Poole, PE (1 page – 8.5"x11")
2. *Letter*: From Nathan Poole, PE, to Adam Mendez, Senior Planner with Lee County Department of Community Development, dated September 12, 2023 (multiple pages – 8.5"x11")

Susan Swift

1. *Folder*: Susan Swift's Profile and Planning Report (multiple pages – 8.5"x11")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Brandon Dunn
2. Nick DeFilippo
3. Marcu Evans
4. Phil Gillogly
5. Adam Mendez
6. Brian Roberts
7. Camryn Siverson
8. Lee Werst

Applicant Representatives:

1. Carl A. Barraco
2. Ron Inge
3. W. Kirk Martin
4. Neale Montgomery, Esq.
5. Jennifer Sopen
6. Barrett Stejskal
7. Nelson Taylor
8. Ted Treesh

Public Participants:

1. Steven Brodtkin
2. Calvin Buckmaster

3. Gennifer Griffis
4. Trinda Griffis
5. Benjamin Hofland
6. Zachary Lombardo, Esq.
7. Lisa Musho
8. Michael Musho
9. Nathan Polle
10. Susan Swift
11. Cathy Queen

Exhibit E
INFORMATION

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.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

- A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.
- B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants are limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.
- C. Participants may not submit documents to the Board of County Commissioners unless they were marked as Exhibits by the Hearing Examiner. Documents must have the Exhibit number assigned at hearing.

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.