ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, RD Management LLC c/o Eric Moran filed an application for an administrative amendment to a Commercial Planned Development (CPD) on a project known as Merchants Crossing to redevelop a portion of the (CPD) to include 280 dwelling units, private recreational amenities, and civic space and include the following amendments:

1. Modify Condition 1 to add a maximum of 280 multi-family dwelling units as a permitted use within the approved CPD and provide a proportionate reduction to commercial square footage via a land use equivalency table to offset any potential increase in the trip generation of the development;
2. Modify Condition 2 to add 'Dwelling unit, multiple-family buildings' and associated residential accessory uses as permitted uses in the Retail and Entertainment Center area within the CPD;
3. Modify Condition 3 to establish residential site development regulations for multiple family dwelling units;
4. Eliminate Conditions 3 and 5 relating to the Development of Regional Impact (DRI) to reflect the rescission of the Merchants Crossing DRI Development Order (DO) per DRI2019-00001, and renumber conditions accordingly;
5. Modify Condition 8 relating to surface water management to include relevant DRI DO commitments requested by the Lee County Division of Natural Resources; and
6. Modify Condition i of Deviation 14 to allow for updated facades based upon the mixed use-development program.

The subject property is located at 15201 N Cleveland Avenue, STRAP #34-43-24-03-0000B.0000:

ATTACHED AS EXHIBIT "A"

WHEREAS, the property was originally rezoned by Resolution Z-08-027 (with subsequent amendments in ADD2005-00114, ADD2005-00244, ADD2006-00056, ADD2007-00104, ADD2012-00018, ADD2017-00104, and Resolution Z-18-035); and

WHEREAS, the subject property is located in the Central Urban Future Land Use Category as designated by the Lee Plan; and

WHEREAS, the subject property is located within the Mixed Use Overlay; and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, Lee County Land Development Code Section 34-174(k)(2) establishes findings that must be met prior to approval for administrative amendments within the Mixed Use Overlay. In order for an administrative amendment to be approved, the Director must find the project: will allow for internal capture of vehicular trips; will provide for connections to adjacent uses; will allow for urban forms of development and a variety of uses; will not result in the substantial underutilization of public resources and public infrastructure committed to the support of the development; will not decrease the amount of indigenous native vegetation or preservation area below the amount

required by the LDC; will not adversely impact surrounding land uses; and is consistent with the applicable provisions of the Lee Plan and Land Development Regulations in effect at the time of the amendment request; and

WHEREAS, the applicant has provided a request statement that enumerates the proposed changes to the existing Commercial Planned Development (Attached as Exhibit “B”); and

WHEREAS, the applicant requests to remove 152,000 square feet of commercial area already constructed in the Planned Development and add up to 280 multiple family residential dwelling units to the development intensity; and

WHEREAS, the applicant has provided a land use equivalency matrix to demonstrate a proportionate reduction in commercial intensity to eliminate potential impacts to surrounding development (Attached as Exhibit “D”).

WHEREAS, as part of this amendment, a number of changes need to take place within the approved conditions of approval (Attached as Exhibit “C”); and

WHEREAS, the proposed amendment intends to redevelop an existing commercial site into a mixed use hub, including residential and commercial uses, as well as recreational and civic space, consistent with the intent of the Mixed Use Overlay; and

WHEREAS, Land Development Code Section 34-934 allows multiple family dwelling units within a Commercial Planned Development only in conjunction with a minimum of 50,000 square feet of commercial uses; and

WHEREAS, the subject property was previously within a Development of Regional Impact that was reviewed concurrently for rescission in accordance with Florida Statute 380.115; and

WHEREAS, certain conditions from the Development of Regional Impact must be included within the conditions of the Commercial Planned Development; and

WHEREAS, the Lee County Division of Natural Resources has recommended revised conditions originally approved as part of the Development of Regional Impact, to be consistent with the Lee County Comprehensive Plan (Attached as Exhibit “E”); and

WHEREAS, Development Services staff provided recommended conditions to be considered as part of this approval; and

WHEREAS, the applicant held a public information meeting in accordance with LDC Section 33-1532 and has provided the requisite meeting summary document in accordance with the LDC (Attached as Exhibit “F”); and

WHEREAS, the applicant has provided an amended Master Concept Plan that includes the location of the proposed multiple family buildings (Attached as Exhibit “H”); and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment is consistent with the decision-making criteria established in the Lee county Land Development Code Section 34-174(k)(2).

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to Commercial Planned Development is **APPROVED subject to the following conditions:**

1. **The Development must be in compliance with the Master Concept Plan approved in Zoning Resolution Z-18-035. The Planned Development may utilize the alternate Master Concept Plan titled "Merchants Crossing Master Concept Plan". The Master Concept Plan alternate for the Merchants Crossing CPD is hereby APPROVED and adopted. A reduced copy is attached hereto as Exhibit "H".**

2. **Conditions of Resolution Z-18-035 have been amended in strikethrough and underline to reflect the changes made by this amendment (Attached as Exhibit "C").**

3. **The terms and conditions of the original zoning resolutions, as amended, remain in full force and effect.**

4. **If it is determined that inaccurate or misleading information was provided to the County or if this decision does not comply with the LDC when rendered, then, at any time, the Zoning Manager may issue a modified decision that complies with the Code or revoke the decision. If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with Chapter 34.**

Duly passed, adopted, and electronically signed on 11/4/2019

Audra Ennis, Zoning Manager
Lee County Community Development

Exhibits
Exhibit A – STRAP Number
Exhibit B – Request Statement
Exhibit C – Amended Conditions
Exhibit D – Applicant Proposed Conditions
Exhibit E – Natural Resources Comments
Exhibit F – Community Planning Minutes
Exhibit G – Façade/Sign Plan
Exhibit H – Master Concept Plan

EXHIBIT A

CASE NUMBER: ADD2019 -00089

STRAP NUMBER

34-43-24-03-0000B.0000

34-43-24-03-0000A.0000

REVIEWED
ADD2019-00089
Daniel Munt, Planner
Lee County DCD
11/1/2019

Exhibit B

WALDROP ENGINEERING
PLANNING | CIVIL ENGINEERING | LANDSCAPE ARCHITECTURE
BONITA SPRINGS Tampa Orlando Sarasota
28100 Bonita Grande Dr., Suite 305, Bonita Springs, FL 34135
p. (239) 405-7777 f. (239) 405-7899

MERCHANTS CROSSING CPD

REQUEST NARRATIVE

RB Merchants LLC ("Applicant") is requesting an administrative amendment to the Merchants Crossing Commercial Planned Development CPD to allow for redevelopment of a portion of the site with 280 multi-family dwelling units, private recreational amenities, and civic space to allow for a mixed-use development program. The proposed modifications will bring the CPD into greater compliance with the Mixed-Use Overlay and North Fort Myers Community Plan in accordance with LDC Section 33-1354.

Through this amendment, the Applicant is seeking approval of the following modifications to the Planned Development, most recently amended per Zoning Resolution Z-18-035:

- Modify Condition 1 to add a maximum of 280 multi-family units as a permitted use within the CPD and provide a proportionate reduction to commercial square footage via a Land Use Equivalency Matrix to ensure no increase to the external impacts of the development;
- Modify Condition 2 to add "multiple family buildings" and associated residential accessory uses as permitted uses in the Retail and Entertainment Center;
- Modify Condition 2 to establish residential site development regulations for the use;
- Eliminate Conditions 3 and 5 relating to the Development of Regional Impact (DRI) due to concurrent request to rescind the DRI Development Order (DO) per DRI2019-00001, and renumber conditions accordingly.
- Modify Condition 8 relating to surface water management to includer relevant DRI DO commitments requested by Natural Resources Division; and
- Modify Condition i of Deviation 14 to allow for updated façades based upon the mixed-use development program.

It is understood that Staff may include additional conditions in the Administrative Amendment zoning resolution to address commitments needed due to the concurrent rescission of the Merchants Crossing Development of Regional Impact (DRI2019-0001).

BACKGROUND/EXISTING CONDITIONS

The Merchants Crossing CPD ("Property") comprises 101+/-acres and is developed as a multi-tenant retail and entertainment center, including commercial outparcels. The site is located at the highly-travelled North Cleveland Avenue/Pine Island Road arterial intersection in the North Fort Myers Planning Community.

The majority of the CPD is designated within the Central Urban future land use category, while approximately 5 acres at the southwest corner of Tamiami Trail and Pine Island Road is within the Intensive Development future land use category. ***The entire site is within the Mixed Use Overlay and the North Fort Myers Planning Community.***

The portion of the CPD owned by the Applicant is developed with approximately 325,700 square feet of commercial retail buildings and supportive site infrastructure. The Applicant acquired the Property in 2015 and has worked diligently to improve the site via façade enhancements, expansion of the tenant base, and other site improvements. ***Despite these efforts approximately 50% of shopping center is currently vacant, including 19 unoccupied units totaling 163,585 square feet.***

The Applicant is proposing redevelopment of a portion of the Property by converting underutilized retail space, formerly occupied by Sears and other retailers, to a mixed-use project. The development program will integrate multi-family buildings, recreational amenities, new pedestrian infrastructure and civic space into the CPD. The total area proposed for the multi-family uses on the Master Concept Plan is approximately 10 acres.

The Applicant is concurrently applying for the Keystone Project grant offered under the North Fort Myers Revitalization Incentive program to offset a portion of the costs associated with these improvements. The Project area for the purposes of the grant application consists of the exiting retail building from the AMC Theater to the north of the site, totaling 20+/- acres. This "grant project boundary" depicts the multi-family redevelopment area, as well as the "core" entertainment/retail district that will interface with the residential uses to create the mixed-use development program.

As demonstrated on the enclosed illustrative concept plan prepared by Forum Architects, and the zoning-level Master Concept Plan prepared by Waldrop Engineering, the Applicant intends to redevelop the existing shopping center via numerous improvements, including, but not limited to:

- Construction of 280 multi-family dwelling units in four (4) buildings;
- Private recreational amenities, including clubhouse and pool cabana;
- Surface parking for the residential units screened from Tamiami Trail via proposed buildings;
- Relocation of Lee Tran stop with covered shelter and bus pull off area with pedestrian connections from mixed-use development area;
- Incorporation of "Main Street" boulevard with on-street parking, public plazas, and pedestrian amenities and landscaping to connect residential to commercial areas;
- Pedestrian amenities connecting the development to on-site conservation areas; and
- Sidewalk connections throughout site.

The Applicant is proposing to demolish 152,000+/- square feet of vacant commercial space in order to construct the multi-family buildings, private recreational amenities, and a network of civic space and pedestrian amenities to connect the remaining retail, restaurant, and entertainment uses to the residential district. ***A Land Use Equivalency Matrix in the attached Proposed Conditions has been included to convert commercial square footage to multi-family dwelling units to ensure no increase to the intensity/density of the project, or increased traffic impacts.***

REQUEST JUSTIFICATION

- **Master Concept Plan**

The Master Concept Plan provides for 280 multi-family dwelling units, resulting in a gross density of 2.7 du/acre when utilizing the entire CPD acreage. The Mixed Use Overlay provisions of the LDC allow the entire acreage of a mixed-use development to be utilized when calculating density, where the development demonstrates a bonafide mixed-use development program.

The Applicant has proposed pedestrian connections, civic spaces, pedestrian furniture and amenities, "pocket parks" and other features to connect the retail/entertainment areas to the multi-family buildings and ensure the project functions as a mixed-use project where residents can walk and bike to on-site employment, recreation entertainment, goods and services.

The Lee Tran stop has been relocated to a more appropriate location to ensure appropriate bus circulation and pedestrian access. The Applicant will provide a covered bus shelter for residents and transit riders.

The Schedule of Uses, as amended, is also consistent with a mixed-use project where non-residential uses are limited to those commercial uses that are complimentary to and compatible with on-site dwellings, such as restaurants, retail and entertainment.

- **Mixed Use Overlay**

  The subject property is located within the Mixed Use Overlay as identified in Map 1 of the Lee Plan. Objective 11.2 establishes the purpose and intent of the Mixed-Use Overlay, including the availability of alternative property development regulations for development within it. ***The proposed mixed-use development program is consistent with the intent for the Overlay including pedestrian connections internally and to adjacent uses; an urban form of development via redevelopment of surface parking to high density housing; integrated civic space to create a heightened sense of place; and appropriate use of available public infrastructure and services.***

- **North Fort Myers Community Plan**

  Pursuant to LDC Sec. 33-1534 regarding existing Planned Development zoning districts in the North Fort Myers Planning Community: "Existing approved master concept plans may be voluntarily brought into compliance with the North Fort Myers Plan (Lee Plan Goal 28) or any regulation contained in this article through the administrative amendment process."

  The request is consistent with the stated vision for the North Fort Myers Community Plan, including the desire for mixed-use development patterns along key corridors outlined in the Lee Plan as follows:

  > **POLICY 30.1.3**: Encourage a diversity of housing types in the North Fort Myers Community Plan area by supporting mixed use projects, with residential above or adjacent to retail and service uses, within the Mixed Use Overlay
  >
  > **POLICY 30.1.4:** Encourage development of affordable housing options on property with the following characteristics:
  >
  > - Located within the Intensive Development, Central Urban, and Urban Community on the Future Land Use Map;
  > - Located where central water/sewer service is available; and
  > - Located within walking distance of mass transit, commercial and personal services, and parks and recreation facilities.
  >
  > **POLICY 30.2.4:** The following areas are designated as Neighborhood Centers appropriate of moderate intensity, pedestrian-oriented, mixed use development:
  >
  > - Littleton and North Cleveland Avenue;
  > - North Tamiami Trail and Del Prado Boulevard;
  > - North Tamiami Trail and Nalle Grade Road;
  > - Hancock Bridge Parkway and Orange Grove Boulevard;
  > - North Tamiami Trail and Pine Island/Bayshore Roads;
  > - Bayshore Road and Slater Road; and
  > - Bayshore Road and Hart Road

  Additionally, the proposed building elevations to replace the original approved facades under Deviation 14 will meet the intent of the urban design guidelines in the LDC by providing varying roofline, pitches, and shapes while keeping with the features and materials associated with Florida architectural styles.

- **Development Pattern Considerations**

  The subject property is in the Central Urban Future Land Use as defined in Lee Plan Policy 1.2.2 which is characterized as the "urban core" of the county. Residential, commercial, public, quasi-public, and light industrial uses are all permitted with in this Future Land Use. This amendment allows for a mix of residential and commercial uses that are consistent with the intent for this category. The proposed development is also consistent Objectives 2.1 and 2.2 relating to development location and timing where public infrastructure and services exist.

  As previously stated, the subject property is in the North Fort Myers Planning Community. This community is described in the Lee Plan as an area of revitalization and is intended to promote a mix of uses. Additionally, the North Fort Myers Planning Community requires a public information meeting within the planning community for all Planned Developments (and amendments). The Applicant has conducted a public information meeting with the North Fort Myers Planning Community Panel in June 2018 and received no objection. A follow-up meeting will be held prior to a finding of sufficiency on this amendment application.

- **Bicycle, Pedestrian & Transit Facilities**

  The subject property fronts Northeast Pine Island Road and North Cleveland Avenue which is designated as a future bike/pedestrian. The site connects to existing sidewalk infrastructure on South Tamiami Trail. Internal sidewalks are shown on the enclosed Master Concept Plan to demonstrate compliance with LDC Chapter 10.

  The subject property is located within a ¼ mile radius of Lee Tran Route 50 and a covered bus shelter is accommodated in the proposed design as noted above.

- **Urban Services**

  The subject property is serviced by the Sheriff and EMS Station that is approximately 2.1 miles south, and fire station 1.7 miles south of the property. The proposed development will have access to the Lee County Utilities for both water and wastewater. The applicant is consistent with Lee Plan Standards 11.1 and 11.2. Other urban services are available to this proposed development including parks and schools to serve the new residential component.

CONCLUSION

In accordance with LDC §34-380, the above request does not propose an increase to height, density or intensity within the development via the Land Use Equivalency Matrix. Similarly, the amendment will not result in the substantial underutilization of public resources and infrastructure committed to the support of the development, will not reduce total open space, buffering, landscaping and preservation areas, and will not adversely impact surrounding land uses. ***The amendment is consistent with the directive to administratively bring PDs in the North Fort Myers Community Plan into greater conformance with the Land Development Code, including specific regulations in Chapter 33.***

Based upon this application's compliance with all other conditions in Z-18-035, as amended, the Lee Plan, and administrative thresholds set forth in §34-380 and 33-1534, the Applicant respectfully requests staff approval of this request.

Exhibit C

ATTACHMENT C

The conditions have been amended in strikethrough and underline:

A. Conditions:

1. Development of this project must be in accordance with the one-page Zoning Master Concept Plan entitled "Master Concept" prepared by Morris-Depew Associates, date-stamped receivedby May 31,2012, dated APPROVED on June 18, 2012, attached as EXHIBIT C in Resolution Z-18-035, and the Open Space Calculations Plan, Drawing No. C-37, last revised 27-Apr-92 date-stamped received December 9, 1992, attached as EXHIBIT D, except as modified by the conditions in the DRI Development Order and the conditions below. Development may also utilize the Master Concept Plan alternate titled "Merchants Crossing CPD Master Concept Plan" prepared by Waldrop Engineering approved as part of ADD2019-00089.

   This development must comply with all requirements of the LDC at time of local Development Order Approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

   The development is limited to a maximum of 570,000 square feet of retail/commercial uses of which 26,000 square feet is dedicated to the perimeter parcels. See Condition II.B.1 of Zoning Resolution Z-08-027 which specifically states:

   > The development is limited to a maximum of 570,000 square feet of retail/commercial uses of which 41,181 square feet is dedicated to the perimeter parcels for the previously approved 555,000 square feet of total retail/commercial uses. Of that 41,181 square feet, 4,750 square feet is allocated to parcel R.

   A property Owner within the Merchants Crossing Commercial Planned Development may convert unused commercial retail square footage to multiple family dwelling units in accordance with the Land Use Conversion rate of 1 multiple-family dwelling unit equals 147 square feet of commercial retail area. In no case shall the number of multiple family dwelling units exceed 280 dwelling units.

   Resolutions Z-90-034, Z-91-092, PD-92-003, Z-93-002, Z-93-023, PD-93-019, PD-96-028, PD-98-039, ADD2004-00002, ADD2005-00114, ADD2005-00244, ADD2006-00056, ADD2007-00104, Z-08-027, and ADD2012-00018 are incorporated into this zoning action and are hereby deemed null and void and are superseded by this zoning action.

2. Property development regulations and uses for this development are limited as follows:

Retail and Entertainment Center

Accessory uses and structures
Administrative Offices
ATM
Auto Parts Store (as limited by definition)
Banks and Financial Institutions, Groups I and II
Boat Parts Store (as limited by definition)
Building Material, Sales (as limited by LDC and Chapter 34, Article VII, Div. 36 and no open or outdoor storage)
Business Services, Group I, limited only to the Lee County Tax Collector branch office to be located on Tract I, See Condition 23
Clinic, Animal: Tract I only (no outdoor kennels or runs) See Condition 22
Clothing Stores, General
Consumption-on-Premises
Up to seven (7) may be approved by the director; pending review (pursuant to LDC Section 34-1264, et seq. on a case-by-case basis
Department Store
Essential Services
Essential Service facilities, Group I
Excavation, Water retention
Drive-thru
Drug Store
Dwelling Units: multiple family buildings not to exceed 280 dwelling units
Hardware store
Food Stores, Group I (except as limited by Condition 12)
Hobby, Toy and Game Shops
Household/Office Furnishings, Groups I and II
Insurance Companies
Laundry and dry cleaning, Group I
Lawn and Garden Supply
Leasing Office, temporary
(One temporary leasing office to serve the entire project, not to exceed 1,800 square feet, shall be permitted on site. The use must be removed within thirty days of the day of final inspection for the project.)
Medical Off ice
Model Units
Music Store
Package Store (subject to compliance with LDC Section 34-1263 et seq.
Paint, Glass and Wallpaper Store
Parking lot, accessory
Personal Services, Group I and II (Group II, Tract I only, limited to: Beauty spas with massage establishments (df), health clubs or spas)
Pharmacy
Pet Shop (no kennels)
Real estate sales office, accessory
Recreation facilities, Commercial, limited to Groups I, II and IV
Recreation facilities, private, on-site
Repair Shops, Group I and II

Residential accessory uses
Restaurant, Standard; Groups I, II and III
Rental Establishments, Group II only
Schools, Commercial (excluding Aviation)
Shopping Center
Signs, in compliance with LDC Chapter 30 except as permitted by Deviation (9) approval
Social Services, Group I
Specialty Retail Shops, All Groups
Temporary Uses
Variety Store
Vehicle and Equipment Dealers, Groups I, II, and III (As limited by LDC Section 34-1352 et seq. and Chapter 34, Article VII, Div. 36)

Perimeter Parcels

Automobile Repair and Service, Group I only as limited by LDC Section 34-1351
ATM
Automobile Service Station/Self Service Fuel Pumps/Convenience Food and Beverage Store (one location only)
Banks & Financial Institutions, Group I
Building material sales (as limited by LDC Section Chapter 34, Article VII, Div. 36 and also, no open or outdoor storage)
Business Services, Group I
Essential Services Facilities, Group I
Excavation, Water retention
Drive thru
Drug Store
Food and Beverage Service, limited:
The provision of food and/or beverages for members and guests of a private club or recreational center, but not available to the general public
Hardware Store
(One use only, in conjunction with Lawn and Garden Supply (no propagation or growing of plants)
Hobby, Toy and Game Shops
Insurance Companies
Leasing Office, temporary
(One temporary leasing office to serve the entire project, not to exceed 1,800 square feet, shall be permitted on site. The use shall be removed within thirty days of the day of final inspection for the project.
Package Store
Paint, Glass and Wallpaper Store
Personal Services, Group I
Pet Shop (no boarding or kennels)
Recreation, Commercial, Groups I, II and IV only (one use from this only)
Rental and Leasing Establishments, Group II
Repair shops, Group I & II
Restaurants, Fast Food, limited to 3
Restaurant, Standard, Group III, limited to two
Signs in compliance with LDC Chapter 30, except as permitted by Deviation (9) approval

Vehicle and Equipment Dealers, Group I, II & III (as limited by LDC Sections 34-1352 et seq. and Chapter 34, Article VII, Div. 36) (only one use from this activity)

Site Development Regulations

Minimum Lot Area and Dimensions:

The lot lines depicted on the zoning master concept plan are conceptual and intended to depict the preliminary arrangement of parcels within the project. They may be subject to modification. Final lot dimensions will be presented at the time of local development order approval.

Minimum Setbacks:

Street External:	In accordance with section 34-2192(a) of the Lee County Land Development Code
Street Internal:	25 feet
Side:	15 feet
Rear:	20 feet, except where a greater setback may be required i.e. external streets, buffers, etc.
Water Body:	25 feet

Development Perimeter Setback:	25 feet, except where a greater setback may be required I.e. external streets, buffers, etc.
Minimum Building Separation:	20 feet
Maximum Lot Coverage:	~~40~~60 percent

Maximum Building Height:

The maximum height above road elevation of the buildings in each tract is as follows:

Retail, Entertainment - 50 feet (measured from base flood elevation for multi-family residential buildings);
Perimeter Parcels - 50 feet

Building exceeding 35 feet in height must maintain additional building separation as regulated by LDC Section 34-2174(a).

3. The total maximum square footages/limits of development in this project may not ~~exceed the Phasing Plan attached to the Merchants Crossing State DRI Development Order #7-8889-92~~exceed those established in Condition 1 of this resolution.

4. All access to perimeter parcels must be from the internal roadway. No access shall be from US 41, Pine Island Road or accessways to the internal roads.

~~5. Transportation mitigation is provided as outlined in the DRI Development Order.~~

6. Environmental Sciences:

a. Prior to final development order approval for any phase of development, the developer shall submit a detailed mitigation plan which will be subject to approval by the Division of Environmental Sciences and will include the following:

(1) To mitigate the encroachment into Resource Protection Areas, the applicant must create marsh and hardwood hammock with vegetation similar to the disturbed area at a ratio one to one (created to disturbed). The location of these newly created wetlands shall be in conformance with the mitigation map attached hereto as EXHIBIT E and augmented with Drawing C-37, last revised 27-Apr-92, stamped received December 9, 1992, attached hereto as EXHIBIT D . The acreages for encroachment shall not exceed 1.40∀ acres of marsh and 1.81∀ acres of wetland hardwoods. Encroachment shall not deviate from either of these figures more than 5% without prior approval by the Lee County Division of Environmental Sciences. Additionally, the applicant shall preserve the tree save areas delineated on attached EXHIBIT E.

(2) The mitigation plan shall include a detailed plan indicating extent of wetland encroachment, acreage of wetland creation, planting lists, location of created wetlands, monitoring, and other design features. At a minimum, plantings for the created wetlands shall consist of native, herbaceous vegetation (density based on planting herbaceous vegetation on three foot centers), native shrubs (density based on planting shrubs on ten foot centers), and native trees (density based on planting trees at twenty-five foot centers). Planting of trees are not a requirement for the plantings in the proposed marsh. Eighty percent (80%) survival of the plantings are required over a five (5) year period to ensure that establishment has occurred. Additional alternative plantings, if necessary, shall .be subject to approval by the Division of Environmental Sciences.

(3) Evidence of a five (5) year biological monitoring program of the created marsh and creek. A copy of a report if required by the South Florida Water Management District, subject to approval by Division of Environmental Sciences, will suffice for this provision.

b. Prior to the approval of a final development order for any phase of development, the applicant shall submit and subsequently follow a Florida Game and Freshwater Fish Commission approved gopher tortoise

management plan.

7. Wastewater Service: Wastewater service shall be provided by North Fort Myers Utilities. There shall be no wastewater treatment plant on site. A temporary septic tank shall be permitted for the temporary construction trailer and temporary leasing office, but it shall be removed within 90 days of the date central service is available.

8. Surface Water Management: The applicant shall submit all pertinent surface water management and water use permit submittal documents to Lee County at or about the same time as those documents are submitted to the South Florida Water Management District for review and comment.

9. Parking: Each perimeter out-parcel must provide its own parking in compliance with LDC Chapter 34, Article VII, Div. 25.There shall be no shared parking with the other tracts of this site. Any outparcels created in Tract I, shall provide its own parking unless a shared parking agreement is entered into, pursuant to the applicable provisions of the LDC.

10. Uses: If any uses not previously reviewed, e.g., supermarkets, are located on site, then other uses (any combination of the approved uses) must be reduced so that there will be no net increase in traffic generation. Therefore, as part of the annual DRI monitoring report required by §380.06, Florida Statutes the applicant shall indicate the uses and square feet of each use that has been constructed during that monitoring period. No uses shall be allowed that were not part of the DRI review, unless the applicant demonstrates that a comparable reduction has been implemented elsewhere on site and shall, further indicate the type of use and its location within the project. It shall be incumbent on the applicant to demonstrate that increases or changes in any uses shall be balanced by decreases or changes in other uses so that there is no net change in impacts, especially, but not limited to, the areas of traffic, surface water management, etc. The uses and impacts will be subject to substantial deviation determination per §380.06 F.S.

11. Perimeter Parcels: All structures on the out-parcels as shown shall be bound by a covenant running with the property to an architectural design compatible with and similar to the main center buildings. The signage permitted for out-parcels along SR 78 under LDC Chapter 30 may be limited to ground mounted signs only to be located within the 40-foot buffer area. Signs conforming with the requirements of LDC Chapter 30 shall be allowed to be mounted on individual buildings for the purpose of identifying tenants. All signs and out-parcels shall be coordinated so as to give the center a fully integrated, well-designed look.

12. Lee Transit: The developer shall meet with Lee Transit staff prior to local development order approvals to resolve the following:

    a) provision of architecturally compatible, covered bus shelters that will accommodate 10-12 passengers. In addition, the applicant shall provide a bus pull-over area for any shelters in compliance with Lee Transit's requirements.

b) The internal street network shall be designed to adequately accommodate bus travel through the project.

The developer shall provide a copy of any agreements and letters from Lee Transit, to Lee County Development Services to show such compliance prior to local development order approval.

13. Commitments and Conditions: All commitments made by the applicant in the Application for Development Approval and Sufficiency reports that are not in conflict with the above conditions are hereby incorporated. All conditions of the DRI Development Order are hereby adopted by reference.

14. Archaeological Survey: Prior to the issuance of any Development Order, the applicant shall cause a professional archeological survey of the subject real estate to be conducted to include full and complete surface reconnaissance and test excavations. Any archeological resources located will be subject to designation pursuant to LDC Chapter 22.

15. Watercourse: It has been determined to be in the County's interest to realign the watercourse as shown on the Zoning Master Concept Plan and to exchange its interest in the existing drainage ditch (totaling 3.8∀ acres) for conveyance by applicant of a drainageway easement (totaling 6.5∀ acres). Applicant and County Staff shall proceed to effect the exchange pursuant to Chapter 125, F.S., and Applicant shall execute or cause to be executed and delivered to Lee County at the time of the exchange a drainage easement covering the realigned watercourse (6.5 acres) as shown on the Zoning Master Concept Plan.

16. Design and Ditch Mitigation Area: The design of the rerouted ditch and mitigation area shall be done in compliance with the cross-sectional drawings on file with the Division of Environmental Sciences dated received August 13, 1991.

17. Conservation Easement: Prior to issuance of a local development order, the applicant shall execute and record a conservation easement for the 9.64 acres of pine flatwoods, subject to the approval of the County Attorney's Office and the Division of Environmental Sciences.

18. Fire Protection: Prior to the issuance of a Certificate of Occupancy for any structure exceeding two stories in height, the applicant shall have provided funding for the purchase of a "Tele-Squirt fire fighting apparatus by the North Fort Myers Fire District, and such apparatus shall have been acquired and made operational. This project shall also be subject to an agreement between the North Fort Myers Fire District and the applicant.

22. Animal Clinic: In those instances where the animals cannot be discharged to their owners or referring veterinarian, the animal clinic may keep animals indoors overnight.

20. Lee County Tax Collector Branch Office: Square footage of the Lee County Tax Collector branch office will be subtracted from the total available retail square footage assigned to Retail and Entertainment Center, located on Tract I.

21. Marsh:

The Merchants Crossing Master Concept Plan has been designed to conform to natural and manmade environmental features. Environmentally sensitive lands total 4.9∀ acres of wetlands (3.5∀ acres of freshwater marsh, FLUCCS 641, and 1.4∀ acres of hardwood wetlands, FLUCCS 617). Manmade features consist of drainage ditches cut diagonally through the site in the 1950's. These ditches have had a probable adverse affect on both the freshwater marsh and hardwood wetlands.

The freshwater marsh will remain mostly undeveloped. Its location on-site required that retail buildings sidestep the marsh to avoid encroachment. Any disturbed marsh area will be replaced by a newly created system designed to better withstand the presence of development. Approximately 2.8 acres of marsh will be created as part of stormwater retention lakes. The newly created wetlands and retention lakes will restore historic hydro periods to the preserved wetlands.

22. Drainage: The drainage ditch will be rerouted and redesigned to simulate a natural creek. The channel will be oversized to allow for a considerable flood plain area. Newly created marsh and creek banks will be planted with appropriate vegetative communities including hardwood hammock vegetative communities. These areas when completed and established will create habitat for avian, reptilian and mammalian species.

23. Wetlands: The hardwood wetlands and the dominance of certain tree species in distinct areas, played a key role in the design and layout of parking and building sites in order to accommodate the preserves and tree save islands. The hardwood wetlands was completely surveyed and the significant trees of the wetlands were identified. Conceptual design of the property adapted itself to this environmental feature as the site plan is committed to saving 70% of the trees that are 20 inch or greater in diameter in situ. A significant feature of the development is that the largest and healthiest specimen trees will be protected in two large tree preserve areas.

24. Excavation/retention Lakes: The exact location and configuration of the excavation/retention lakes will be determined at the time of local development order approval.

25. Clustering of Buildings: Preliminary plans call for a single building per lot, however, clusters of buildings may be placed on a single lot in compliance with applicable codes.

26. Traffic Signals: Traffic signals are required. These intersections will have a full turn in and full turn out capacity assignment (locations: second access point west of US41 on Pine Island Road and second access north of Pine Island Road on US41).

27. Waterway Maintenance Easements: The applicant intends to provide an accessway for maintenance purposes along the length of the realigned waterway. Because the intention of the waterway is to recreate a natural creek system and micro environment, the applicant strongly urges that he be allowed to

reduce the maintenance easement to the smallest dimensions and have it follow a meandering route rather than a more strict, straight line course (See deviation 13). The intention is to plant grass and ground cover vegetation along this route so that it would not take on the characteristics of an "old dirt road". This would help discourage vehicular trespassing from motor bikes, ATV's and other recreational vehicles; and allow the establishment and stabilization of natural vegetation communities as well as animal habitat.

28. Pedestrian Facilities: A pedestrian system, utilizing striped and painted cross walks at the main intersections, internal stop signs, and pedestrian crossing signs will accommodate safe and convenient pedestrian movement and be included in the overall circulation layout.

29. Impact Fees: The applicant agrees that road impact fees must be paid prior to any building permit being issued by Lee County in connection with the construction of the 15,000 square feet of commercial area being approved by this zoning amendment. The 15,000 square feet approved herein must be allocated to the retail and entertainment center. The location of the herein approved square footage may be reallocated pursuant to written notice provided by the applicant or his successors or assigns to the Directors of the Division of Zoning and Development Services.

30. Concurrency: Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

31. Development Order Approvals: Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocations Table, Map 16 and Table 1(b).

32. Watershed Basin Management: The developer, operating entity, and/or entity legally responsible for the property must participate in any ongoing or future efforts by Lee County to establish or amend County-Wide Watershed Basin Management Plans.

33. Stormwater Management: The developer, operating entity, and/or entity legally responsible for the property in accordance with South Florida Water Management District (SFWMD) guidelines must implement Best Management Practices (BMPs), and the monitoring and maintenance of the stormwater management system and wetlands.

A. The Water Quality Monitoring Plan will be required as part of the local development order submittal package.

1) The applicant must establish and provide to the Lee County Department of Natural Resources (DNR) a baseline event water

monitoring report that evaluates the state of groundwater and surface water quality prior to construction.

2) The monitoring of the water quality at the project's outfall will be implemented for a minimum of five (5) years from the start of construction, and can be reevaluated based on observed trends and regional concerns. After five (5) years of monitoring, the responsible entity may submit a request package to the Division of Natural Resources for reevaluation of the monitoring plan to change frequency and/or parameters.

3) The monitoring schedule will be on a quarterly basis, at the minimum, and reported annually, in perpetuity or as modified through approval by Lee County DNR. Results shall be reported as an Electronic Data Deliverable (EDD), in a format approved by the Division of Natural Resources.

4) The report must include:
   a) An analysis of, but not limited to, the following parameters:
      i. Biochemical Oxygen Demand (BOD),
      ii. Copper,
      iii. Total Nitrogen,
      iv. Total Phosphorus,
      v. Total Suspended Solids (TSS),
      vi. Zinc,
      vii. Iron,
      viii. pH,
      ix. Water table elevation,
      x. Wetland(s) water level elevation(s),
      xi. Specific Conductance, and
      xii. Specific Conductance of a background waterbody reference.
   b) Plots of parameters,
   c) An analysis of the data with a comparison of State water quality standards, and
   d) A comparison of onsite wetland water level elevations with water table elevations.

5) There must be a contingency plan section that outlines anticipated corrective actions to address any potential abnormalities or exceedances of State water quality standards.

6) The plan must adhere to state, county, and local regulations that require notification to impacted parties and applicable authorities in

the event that any abnormality or exceedance of State water quality standards is identified.

34. Development Tracking

With every local development order application, the applicant must report an itemizing:

a. The intensity of uses (expressed in the square feet of floor area) of each non-residential uses proposed by the local development order application. The report must provide individual proposed intensities for commercial retail, including areas dedicated to outdoor seating;
b. The density of multi-family (expressed in dwelling units) residential use proposed by the local development order application (limited to 280 dwelling units).
c. The cumulative total intensity/density permitted prior to local development order approvals in the CPD for each land use in Condition 1.
d. The remaining intensity/density available for future development within the CPD for each land use in Condition 1.

B. **Deviations**

The applicant has requested no new deviations. The following is the compiled list of deviations approved, approved with conditions, withdrawn, or denied from the previous zoning resolutions and amendment thereto. The deviations are numbered on the Master Concept Plan.

1. Saltwater Intrusion of Freshwater Ponding: *Deviation (1) The requirement that properties which exhibit soils, hydrology and vegetation characteristic of saltwater inundation or freshwater ponding be subject to certain additional regulations and ordinances (LDC Section 10-253(4)), to allow development in approved areas. This d*eviation is APPROVED SUBJECT TO CONDITION 6.

2. *Screening: Deviation (2) The requirement that all commercial and industrial uses shall provide a continuous visual screen of at least eight (8) feet in height along any lot line abutting a residential use (LDC Section 34-1745), to require no screen.* This deviation is APPROVED for the vacant parcel area, but DENIED for the homesite parcel for so long as the homesite parcel is occupied as a residence.

3. *Excavation Setback: Deviation (3) The minimum excavation setback to a private property line of 50 feet (LDC Section 10-329(d)(1)a.3.), to 15 feet. This deviation* is APPROVED for the western boundary of the 2.76 acre retention pond adjacent to the Florida Department of Transportation depot site and DENIED for the remainder of the tract.

4. Excavation Depth: *Deviation (4) Excavation depth for water retention from 12 feet*

(LDC Section 34-329(d)(3)). to the confining layer. This deviation is APPROVED SUBJECT TO the condition that the depth of the confining layer shall be established by the submittal of test borings from a registered engineer prior to the approval of a final development order.

5. *Water Retention Setbacks: Deviation (5) The minimum water retention excavation setbacks to a street right-of-way of 150 feet (LDC Section 10-329(d)(1)), to 10 feet for internal frontage and access roads, and to 25 feet for US 41 and SR 78;* This deviation is APPROVED SUBJECT TO the condition that only to 25 feet from the right-of-way shown on the Official Trafficways Map (not existing) on road, with the condition that any roadway damage which is attributable to the excavation shall be the sole responsibility of the developer to, repair to the satisfaction of the Lee County Department of Transportation and Engineering.

6. *Fence Height: Deviation (6) The requirement that a 4-foot fence be placed around excavations for water retention when located less than 100 feet from any property under separate ownership (LDC Section 10-329(d)(5)), to require no fencing.* This deviation is APPROVED SUBJECT TO the condition that any liabilities associated with the lack of fencing shall remain with the owner/developer, not Lee County.

7. *Parallel Access Roads: Deviation (7) The requirement that a development provide a parallel access road (LDC Section 10-283), to allow the parallel access road to be placed behind the property out-parcels.* This deviation is APPROVED SUBJECT TO condition that all internal roads shall be built to at least local road standards.

8. *Signage Location: Deviation (8) From Section 30-153(2) to exceed the maximum of 400 square feet of sign area for each street frontage of a corner parcel with over 330 feet of frontage on each street; and to exceed the apparent maximum number of two (2) ground-mounted identification signs (with or without directory signs attached) on any street frontage exceeding 330 feet of frontage. This deviation will allow one (1) corner sign; three (3) signs on Pine Island Road, one (1) at each permitted access along Pine Island Road; and two (2) signs along US 41, one at each permitted access along US 41.*

   Deviation (8) has been amended by the applicant at the Board of County Commissioners meeting of October 22. 1990, to delete all subsections. The amended request would allow the applicant to place a sign at each of the three accesses along SR 78 and at each of the two accesses on US 41 as well as one at the intersecting corner of the two roads. This deviation is APPROVED to allow 122 square foot signs (one for each access), and one 199 square foot marquee sign at the intersection of US 41/SR 78, as it is depicted in the design plan attached to this resolution.

9. *Intersection Separation: Deviation (9) The requirement that the intersection separation of an access road and arterial shall be 660 feet from centerline to centerline (LDC Section 10-285(a)), to allow a separation of 609 ∀ feet from the centerline of US 41 to the centerline of the entrance on SR 78 (C); and to allow an intersection separation between two access roads of 513 ∀ feet from centerline to centerline (D); and to allow an intersection separation of two access roads of 490 ∀ feet from centerline to centerline (F);* This deviation is APPROVED SUBJECT TO the following conditions:

a. The access being limited to a right turn in and right turn out. If the project is developed prior to Pine Island Road being widened, a temporary left turn lane may be required.

b. The traffic signal design demonstrating that adequate vehicular storage can be provided.

c. The out parcels being required to access Pine Island Road, via the Merchants Crossing reverse access road upon its redevelopment.

d. Access to US 41 and SR 78 from the Merchants Crossing proposed access points located closest to the US 41/SR78 intersection is subject to FDOT permitting requirements and is to be limited to right-turn-in/right-turn-out and left-turn-in only movements for US 41.

10. Building Setback: *Deviation (10) The requirement that buildings be set back from an arterial road with a required frontage road easement, a distance of one-half the right-of-way, plus 40 feet, plus 25 feet, (LDC Section 34-2192(a)) to allow a building setback of a distance of one-half the right-of-way plus 25 feet.* This deviation is APPROVED.

11. *Maintenance Way: Deviation (13) The requirement that an open drainage water course or retention pond include, on one side, a 20-foot width for maintenance purposes be kept clear (LDC Section 10-328(a)), to allow a meandering, non- typical, maintenance way.*This deviation is APPROVED SUBJECT TO the condition that the realigned water course and lakes shall be privately maintained. In addition, the relocated ditch with created wetlands (created creek) shall comply with LDC Section 10-418(1) per littoral planting guidelines established by Division of Environmental Sciences.

12. *Off-Street Parking: Deviation (14) Off-street parking requirements (LDC Section 34-2020(2)), to allow four and one-half (4½) spaces per 1,000 square feet of total floor area.*This deviation is APPROVED for six (6) spaces per 1,000 square feet of total floor area for the entertainment area of the Retail and Entertainment area of the project only.

13. *On-site Fire Distribution System: Deviation (13) Deviation from the requirement that in commercial areas a 10-inch minimum diameter line be used for water main installations, constructed in an external loop system with intersecting water mains installed every 2,000 feet (LDC Section 10-385(c)(3)) to allow the applicant, to design the on-site fire distribution system in accordance with recognized hydraulic design principles, with all hydraulic design calculations to be submitted to Lee County for review and approval.*This deviation is DENIED.

14. *Signs: Deviation (14) is a request to deviate from LDC Chapter 30,which regulates permanent signs for individual occupants within a commercial multi-occupancy complex of more than five establishments to allow for the following:*

    1. *From LDC Section 30-153(2) pertaining to wall mounted signs, to permit*

such signs on the exterior wall of the primary entrance/exit up to 500 square feet in sign area, but in no case exceeding the limitation of ten percent of the surface area of the exterior wall of the principal entrance/exit included in an occupants individually leased premises;

2. *From LDC Section 30-153(2) pertaining to the permitted number of wall mounted signs, to allow up to four signs to be displayed along the primary entrance/exit of Building #1500 (K-Mart); and*

3. *From LDC Section 30-153(2) to exceed the maximum permitted 24 square feet in sign area for a sign on any other building side within the leased area, to allow a sign having an area of up to 126 square feet for the building side of Building #I500 (K-Mart) facing US 41.*

This deviation is APPROVED subject to the following conditions:

1. The development of this site shall be done in accordance with the approved Zoning Master Concept Plan as further augmented by the Façade/Sign EXHIBIT B dated June 1, 2019 ~~October 2, 1992, stamped "Received December 15, 1992," and Sign Exhibit C, stamped "Received December 15, 1992."~~

2. The outparcels and Tract II shall comply with LDC Chapter 10 for landscaping, buffering and internal open space within parking areas. No LDC Chapter 10 requirements are waived, except that the open space shall be provided as presented on drawing #C-37, attached hereto as EXHIBIT E.

3. Site Plan entitled “Open Space Calculations” and further identified as Drawing No. C-37, stamped received on December 9, 1992, is attached hereto, as EXHIBIT E and is incorporated herein by reference as a reduced copy of an addition to the Zoning Master Concept Plan.

15. Deviation (15) Parking seeks relief from *LDC Section 34-2020(5) 2 which requires a multiple-occupancy complex with a total floor area of 25,000 square feet but less than 600,000 square feet to provided four and one-half spaces per 1,000 square feet (or major fraction thereof) of total floor area, to allow 4.49 spaces per 1,000 square feet of total floor area for the overall shopping center.* This deviation is APPROVED SUBJECT TO the condition that this deviation is limited to 1523 parking spaces for the overall shopping center and Parcel U

16. Deviation (16) Parking seeks relief from *LDC Section 34-2020(5) 2 which requires a multiple-occupancy complex with a total floor area of 25,000 square feet but less than 600,000 square feet to provided four and one-half spaces per 1,000 square feet (or major fraction thereof) of total floor area, to allow 4.49 spaces per 1,000 square feet of total floor area to be calculated for Parcel U.* This deviation is APPROVED SUBJECT TO the condition that this deviation is limited to 1523 parking spaces for the overall shopping center and Parcel U.

17. Deviation (17) Parking seeks relief from *LDC Section 34-2015 (1) which requires all*

required parking spaces to be provided on the same premises and within the same or similar type zoning district as the use they serve, to allow vehicles to back out onto a parking aisle which provides access to the spaces that abut the parcel line. This deviation is APPROVED SUBJECT TO the condition that this deviation is limited to 1523 parking spaces for the overall shopping center and Parcel U

18. Deviation (18) Stormwater Management seeks relief from *LDC Section 10-321 which requires a stormwater management system to be provided for the adequate control of stormwater runoff that originates within a development or that flows onto or across the development from adjacent lands, to allow the use of the shopping center's overall system.* This deviation is APPROVED SUBJECT TO the condition that prior to the issuance of a local development order for Parcel U, a modification to the South Florida Water Management General Permit will be required.

29. Deviation (18) Buffering seeks relief from *LDC Section 10-416(d)(3) which requires a type A buffer along the entire perimeter of the proposed development, to allow a type A buffer along 3 sides and an alternative planting plan incorporating the required buffer plantings form the 4th side.* This deviation is APPROVED SUBJECT TO the condition that prior to local development order approval, the development order plans must depict 36.57 acres of open space for the Merchants Crossing CPD and delineate a minimum of 10,355 sq. ft. (0.23 acres) as open space for Parcel "U".

30. Temporary Permits. *Deviation (24) is a request to deviate from LDC Section 34-3041(e)(2) which requires a temporary use permit may not be renewed of reissued to the same applicant or on the same premises for a similar use more than four times in a calendar year or within 45 days from the date of expiration of the previous temporary use permit, except for community gardens as described in Section 34-1716 and seasonal farmers market (Section 34-3048) to allow a temporary use permit to be renewed or reissued to the same applicant or on the same premises for a similar use on a continuous basis in a calendar year or within seven (7) days from the date of expiration of the previous temporary use permit.* This deviation is APPROVED SUBJECT TO the following conditions:

    a. This deviation applies only to a car show that may take place one day a week. The applicant is responsible for applying for all required permits for the proposed temporary uses.
    b. When applying for the temporary use permit, the applicant must demonstrate that the site can support the required parking for all existing uses, and still have adequate area for the temporary use.
    c. All other temporary uses must comply with LDC Sec. 34-3041(e)(2).

Exhibit D

WALDROP ENGINEERING
PLANNING | CIVIL ENGINEERING | LANDSCAPE ARCHITECTURE
BONITA SPRINGS Tampa Orlando Sarasota
28100 Bonita Grande Dr., Suite 305, Bonita Springs, FL 34135
p. (239) 405-7777 f. (239) 405-7899

MERCHANTS CROSSING CPD

PROPOSED CONDITIONS

* *Strike-through/underline denotes proposed changes to conditions approved per Zoning Resolution Z-18-035.*

SECTION B. CONDITIONS

1. The development is limited to a maximum of 570,000 square feet of retail/commercial uses of which 26,000 square feet is dedicated to the perimeter parcels. A Property Owner within the Merchants Crossing CPD may convert unused commercial retail square footage to multi-family dwelling units in accordance with the Land Use Conversion Matrix Table below, in no case shall the number of multi-family dwelling units exceed 280 dwelling units.

	Multi-Family LUC 220 (0.56 Trips/d.u.)	Commercial Retail LUC 820 (3.81 Trips/1 ksf)
Multi-Family LUC 230 (0.47 Trips/d.u.)	Same	147 s.f./1 d.u.
Commercial Retail LUC 820 (3.81 Trips/1 ksf)	6.80 d.u./1 ksf	Same

2. Property development regulations and uses for this development are limited as follows:

[Add the following uses to the schedule of uses for the "Retail and Entertainment Center" tract]

Accessory uses and structures
Dwelling units: multiple family buildings not to exceed 280 dwelling units
Model units
Parking lot, accessory
Real estate sales office, accessory
Recreation facilities, private, on-site
Residential accessory uses

Site Development Regulations

[No change to minimum lot area and dimensions, minimum setbacks, development perimeter setback, and minimum building separation]

Maximum Lot Coverage – ~~40~~ 60 percent

Maximum Building Height:

The maximum height above the road elevation of the buildings in each tract is as follows:

Retail, Entertainment – 50 feet (measured from base floor elevation for multi-family residential buildings)
Perimeter Parcels – 50 feet

3. The total maximum square footage/limits of development in this project may not exceed ~~the Phasing Plan attached to the Merchants Crossing State DRI Development Order #7-8889-92~~ Condition 1 of this resolution.

4. ***No change***

~~5. Transportation mitigation is provided as outlined in the DRI Development Order.~~

[No changes proposed to Conditions 6 through 31]

32. Development Tracking

With every local development order application, the applicant must submit a report itemizing:

(a) The intensity of uses (expressed in the square feet of floor area) of each non-residential use proposed by the local development order application. The report must provide individual proposed intensities for commercial retail, including areas dedicated to outdoor seating;

(b) The density of multi-family (expressed in dwelling units) residential use proposed by the local development order application (limited to 280 dwelling units).

(c) The cumulative total intensity/density permitted by prior local development order approvals in the CPD for each land use in Condition 1.

(d) The remaining intensity/density available for future development within the CPD for each land use in Condition 1.

SECTION C. DEVIATIONS:

1 – 23 *[No changes]*

14. Signs: Deviation (14) requests relief from the LDC Chapter 30 requirement regulating permanent signs for individual occupants within a commercial multi-occupancy complex of more than five establishments to allow for the following:

a. Deviation from the LDC 30-153(2) provisions pertaining to wall mounted signs, to permit such signs on the exterior wall of the primary entrance/exit up to 500 square feet in a sign area, but in on case exceeding the limitation of ten percent of the surface area of the exterior wall of the principal entrance/exit included in an occupant's individually leased premises; and

b. Deviation from the LDC 30-153(2) pertaining to the permitted number of wall mounted signs, to allow up to four signs to be displayed along the primary entrance/exit of Building #1500 (K-Mart); and

c. Deviation from the LDC 30-153(2) provisions to exceed the maximum permitted 24 square feet in sign area for a sign on any other building side within the leased area, to allow a sign having an area of up to 126 square feet for the building side of building #1500 (K-Mart) facing US 41.

This deviation was APPROVED subject to the following conditions:

a. The development of this site must be done in accordance with the approved Zoning Master Concept Plan as further augmented by the Façade/Sign Exhibit dated June 1, 2019 ~~dated October 2, 1992~~, ~~stamped "Received December 15, 1992,"~~ ~~and Sign Exhibit B-1, stamped "Received December 15, 1992~~" (attached hereto as Exhibit G).

b. No changes.

c. No changes.

Exhibit E

DRI2019-00001 Merchants Crossing

Division of Natural Resources, Water Resources Section 09/27/2019

Rescission of DRI2011-00019 (Exhibit H, II.A)

The Division of Natural Resources recommends the following conditions for the developer, operating entity, and/or entity legally responsible for the property to demonstrate the sufficiency and effectiveness of the surface water management system, in consideration of potential impacts to the Lee County's Municipal Separate Storm Sewer System (MS4), Yellow Fever Creek, and the onsite and adjacent wetlands:

DNR Conditions

1. The developer, operating entity, and/or entity legally responsible for the property must participate in any ongoing or future efforts by Lee County to establish or amend County-Wide Watershed Basin Management Plans. ***[carried over and revised from DRI2011-00019, Exhibit H, II.A.1]***

2. The developer, operating entity, and/or entity legally responsible for the property in accordance with South Florida Water Management District (SFWMD) guidelines must implement Best Management Practices (BMPs), and the monitoring and maintenance of the stormwater management system and wetlands. ***[carried over and revised from DRI2011-00019, Exhibit H, II.A.13]***

   A. The developer, operating entity, or entity legally responsible for the property must undertake regularly scheduled vacuum sweeping of all streets and parking facilities, to be incorporated as a Best Management Practice (BMP). Electronic records of this BMP shall be maintained and provided, upon request, to the Lee County Division of Natural Resources DNR). ***[carried over and revised from DRI2011-00019, Exhibit H, II.A.10; and including, but not limited to, Lee Plan Goals 59, 60 & 61; and Land Development Codes 14-471 and 14-478]***

   B. The Water Quality Monitoring Plan will be required as part of the local development order submittal package.
      1) The applicant must establish and provide to the Lee County DNR a baseline event water monitoring report that evaluates the state of groundwater and surface water quality prior to construction.
      2) The monitoring of the water quality at the project's outfall will be implemented for a minimum of five (5) years from the start of construction, and can be reevaluated based on observed trends and regional concerns. After five (5) years of monitoring, the responsible entity may submit a request package to the Division of Natural

Resources for reevaluation of the monitoring plan to change frequency and/or parameters.

3) The monitoring schedule will be on a quarterly basis, at the minimum, and reported annually, in perpetuity or as modified through approval by Lee County DNR. Results shall be reported as an Electronic Data Deliverable (EDD), in a format approved by the Division of Natural Resources.
4) The report must include:
    a) An analysis of, but not limited to, the following parameters:
        i. Biochemical Oxygen Demand (BOD),
        ii. Copper,
        iii. Total Nitrogen,
        iv. Total Phosphorus,
        v. Total Suspended Solids (TSS),
        vi. Zinc,
        vii. Iron,
        viii. pH,
        ix. Water table elevation,
        x. Wetland(s) water level elevation(s),
        xi. Specific Conductance, and
        xii. Specific Conductance of a background waterbody reference.
    b) Plots of parameters,
    c) An analysis of the data with a comparison of State water quality standards, and
    d) A comparison of onsite wetland water level elevations with water table elevations.
5) There must be a contingency plan section that outlines anticipated corrective actions to address any potential abnormalities or exceedances of State water quality standards.
6) The plan must adhere to state, county, and local regulations that require notification to impacted parties and applicable authorities in the event that any abnormality or exceedance of State water quality standards is identified.

[Including, but not limited to, Lee Plan Goals 59, 60, 61, 123, 124, 125, 126 & 152; and Land Development Codes 10-321, 14-471 and 14-478]

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The News-Press media group
news-press.com A GANNETT COMPANY

Attn:
WALDROP ENGINEERING, P.A.
28100 BONITA GRANDE DR., SUITE 305
BONITA SPRINGS, FL 34135

Before the undersigned authority personally appeared said legal clerk, who on oath says that he or she is a Legal Assistant of the News-Press, a daily newspaper published at Fort Myers in Lee County, Florida; that the attached copy of advertisement, being a Legal Ad in the matter of

Notice of Meetings

In the Twentieth Judicial Circuit Court was published in said newspaper in the issues of:

10/07/19

Affiant further says that the said News-Press is a paper of general circulation daily in Lee, Charlotte, Collier, Glades and Hendry Counties and published at Fort Myers, in said Lee County, Florida, and that the said newspaper has heretofore been continuously published in said Lee County, Florida each day and has been entered as periodicals matter at the post office in Fort Myers, in said Lee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 7th of October 2019.

Kathleen Allen
Legal Clerk

Shelly Hora
Notary Public State of Wisconsin County of Brown

8-25-23
My commission expires

SHELLY HORA
Notary Public
State of Wisconsin

NOTICE OF PUBLIC INFORMATION MEETING

DATE: Monday, October 21, 2019
TIME: 4:00 PM
ADDRESS: Merchants Crossing
Shopping Center, 15201 N. Cleveland Avenue, North Fort Myers, FL 33903
In accordance with Section 33-1532 of the Lee County Land Development Code, the Applicant, RD Management, LLC, will be presenting information to the public on the following request:
Administrative Amendment to the Merchants Crossing Planned Development (CPD) to add multi-family dwelling units as a permitted use, modify the MCP, and amend conditions in accordance with Section 33-1534 of the Land Development Code.
The meeting will be held at 4:00 p.m. at Applebee's 15151 N. Cleveland Avenue, North Fort Myers, FL 33903. For questions please contact:
Waldrop Engineering, P.A. c/o Alexis Crespo
28100 Bonita Grande Dr., Suite 305, Bonita Springs, FL 34135
(239) 405-7777, Ext. 2207 OR alexis.crespo@waldropengineering.com
AD#3826643 Oct. 7, 2019

ADD2019-00092 Lee County ePlan

WALDROP ENGINEERING
PLANNING | CIVIL ENGINEERING | LANDSCAPE ARCHITECTURE
BONITA SPRINGS Fort Myers Tampa Orlando Sarasota
28100 Bonita Grande Dr., Suite 305, Bonita Springs, FL 34135
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Merchants Crossing CPD Administrative Amendment
Public Information Meeting Summary
Monday, October, 21, 2019, 4:00 p.m.

Waldrop Engineering hosted a Public Information Meeting at the Applebee's Restaurant located on 15201 N. Cleveland, North Fort Myers FL 33903 at 4:00 p.m., on Wednesday, October 21, 2019, which was advertised on News-Press on October 7, 2019. Two (2) attendees were present at the meeting per the attached sign-in sheet. Alexis Crespo presented the proposed Master Concept Plan and explained the proposal to add multi-family dwelling units to the list of permitted uses to allow for the development of 280+/-dwelling units in the northern portion of the site. The proposed design was explained in detail. The following are a list of questions asked and responses given.

Question 1: What will the buildings look like?
RESPONSE: The developer, R&D Management, is working on final building elevations. Those drawings will be available shortly, and will be presented at a future public meeting for the development order.

Question 2: Will there be amenities for the residents? Where will they park?
RESPONSE: The design includes a pool and clubhouse with a small fitness facility. The entire shopping center will be an amenity to residents with the theater, restaurants, and Planet Fitness. There will also be a public amenity incorporated along the lake and preserves. The residents will have surface parking.

Question 3: When did the current owner buy the project?
RESPONSE: Approximately 2015.

Question 4: Is this zoning request going to the Hearing Examiner for approval?
RESPONSE: No. Because the site is in the Mixed Use Overlay and subject to the North Fort Myers standards, the request can be reviewed and approved administratively by Lee County Zoning Staff.

Question 5: Will you build a shelter for the bus stop?
RESPONSE: Yes. It was noted where the stop would be relocated to on the site plan.

Question 6: Is the lake shown on the plan an existing lake or proposed?
RESPONSE: The lake is existing. There was discussion on drainage using the on-site lake.

Question 7: Is this project/rezoning associated with the County's grant program?
RESPONSE: Yes. The developer plans to invest $50+ million in the redevelopment effort and is applying for the Keystone Grant. That grant has to be approved by the Board of County Commissioners at a public meeting.

Question 8: Did the developer get the façade grant for $75,000?
RESPONSE: Yes.

Question 9: When will they replant the trees in the parking lot?

RESPONSE: They intend to replant the trees in the parking area when doing the overall site work and development of the project. It makes sense to do it all at the same time.

Question 10: We would like to see a Texas Roadhouse in the shopping center.
RESPONSE: So noted.

There were no further questions. The meeting concluded at approximately 4:35 p.m.

MERCHANTS CROSSING
Administrative Deviation ADD2019-00089

Public Information Meeting/Community Review
North Fort Myers
October 21, 2019

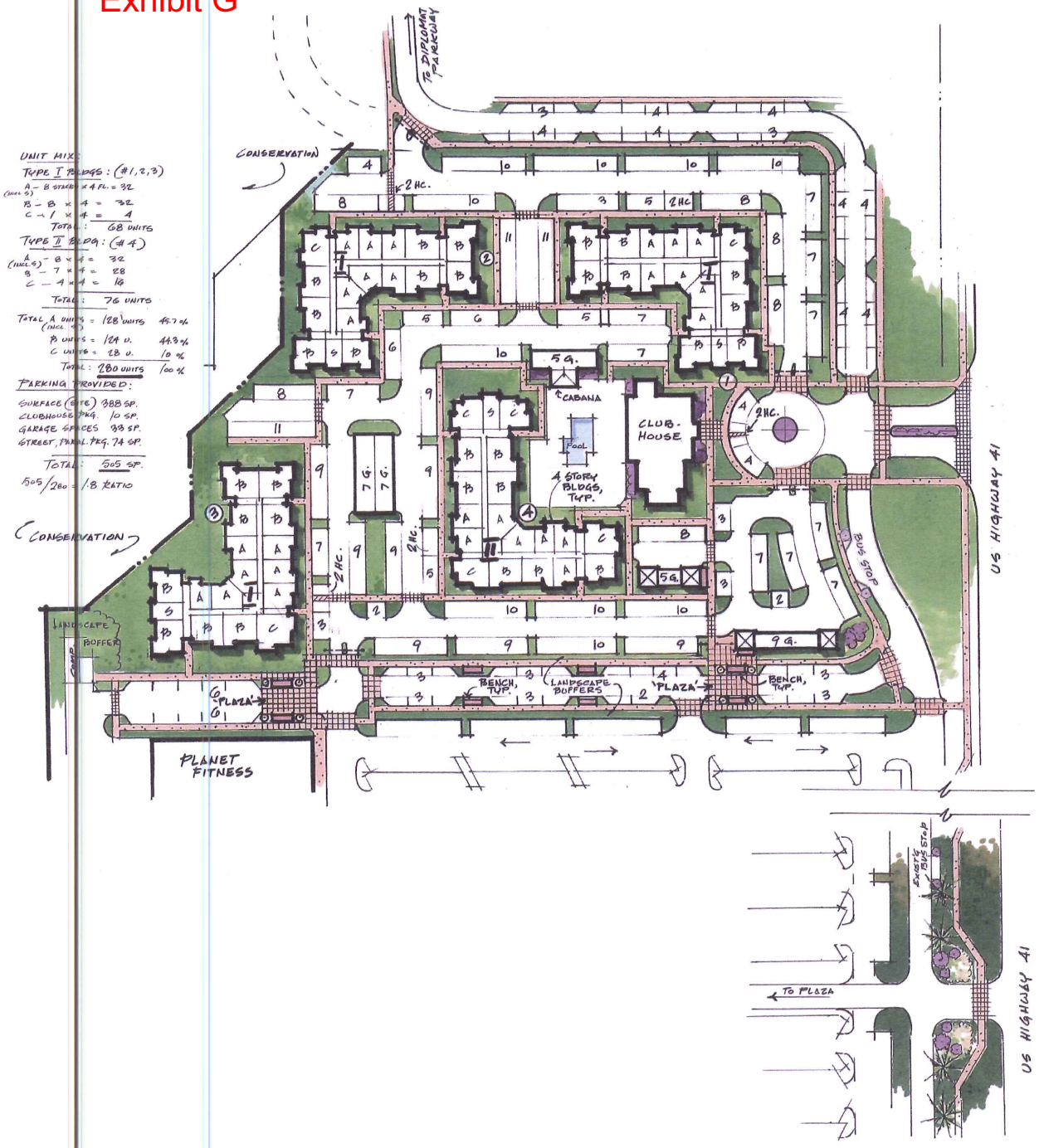
- parking/unit
- re-do parking
- impact windows?
- arch. elevations

Name	Address	E-Mail Address
ROGER & LINDA YORDE	18771 CROSSWIND AVE ~~[illegible]~~ NFM 33917	rogeryorde@earthlink.net

ADD2019-00089 Lee County ePlan

ADD2023-00202 Lee County ePlan

Exhibit G



MERCHANTS CROSSING

CONCEPT SITE PLAN, REVISED

(280 UNITS)

10-31-2018

FORUM

407.830.1400

www.forumarchitecture.com

ADD2019-00089 Lee County ePlan

ADD2023-00202 Lee County ePlan

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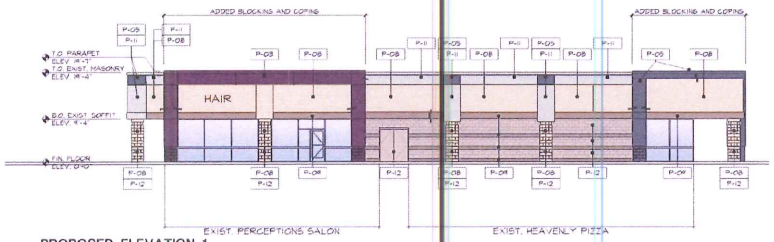
Conceptual Perspective Rendering

MERCHANTS CROSSING

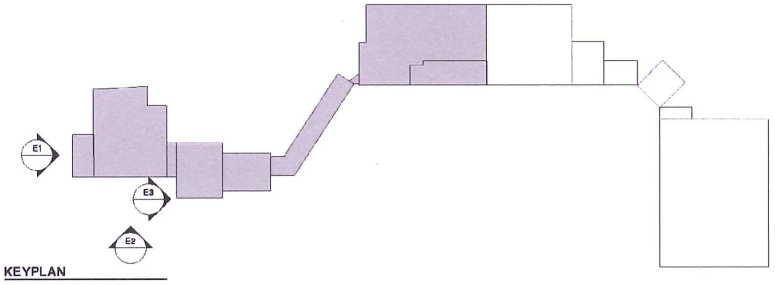
16 OCT 2018 ▪ Lee County, FL

ADD2023-00202 Lee County ePlan

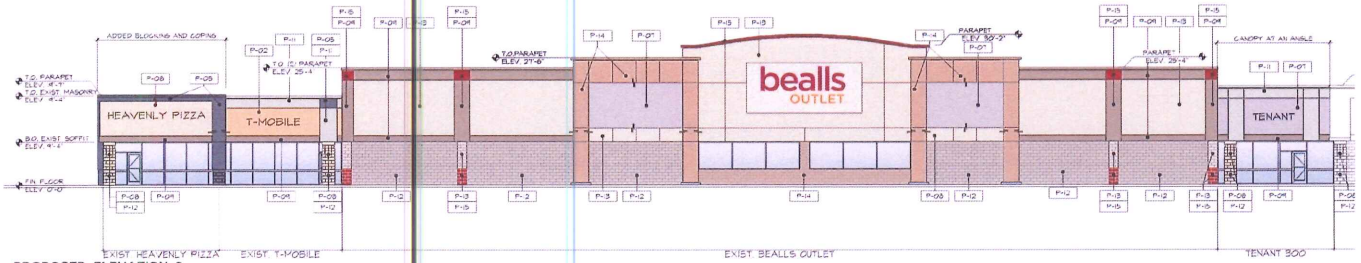


PROPOSED ELEVATION 1
SCALE 3/32" = 1'-0"

EXISTING ELEVATION 1
SCALE 3/32" = 1'-0"



KEYPLAN



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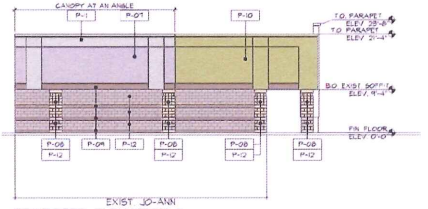
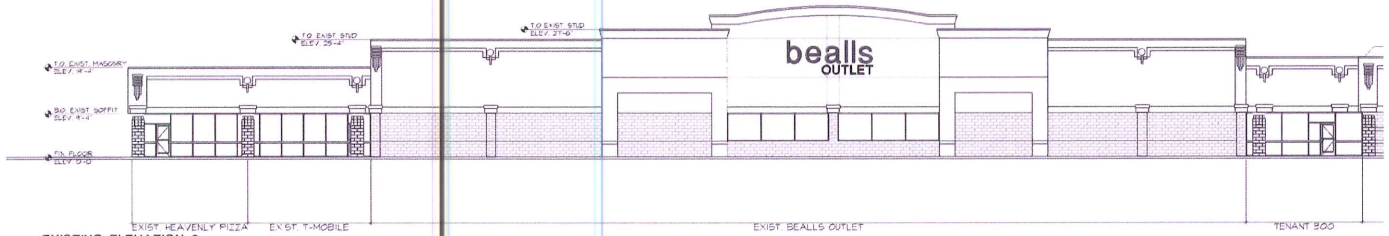
SCALE 3/32" = 1'-0"



PROPOSED ELEVATION 3
SCALE 1/16" = 1'-0"



EXISTING ELEVATION 2
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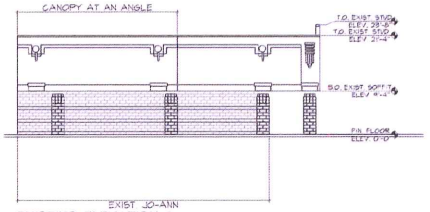

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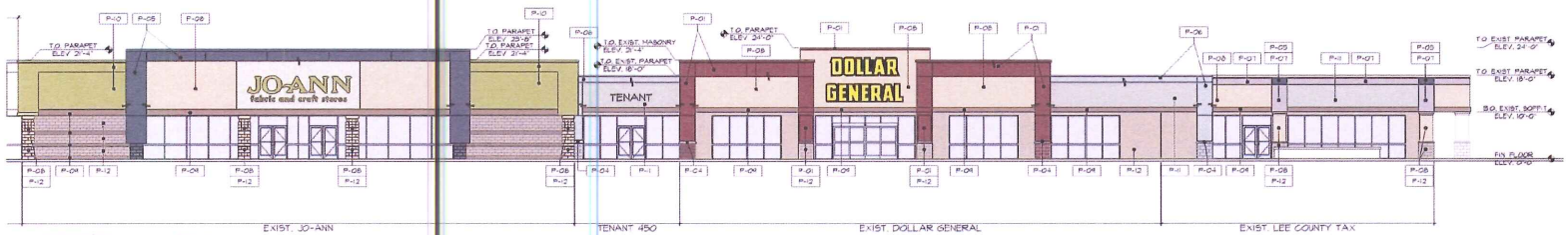

PROPOSED ELEVATION 4
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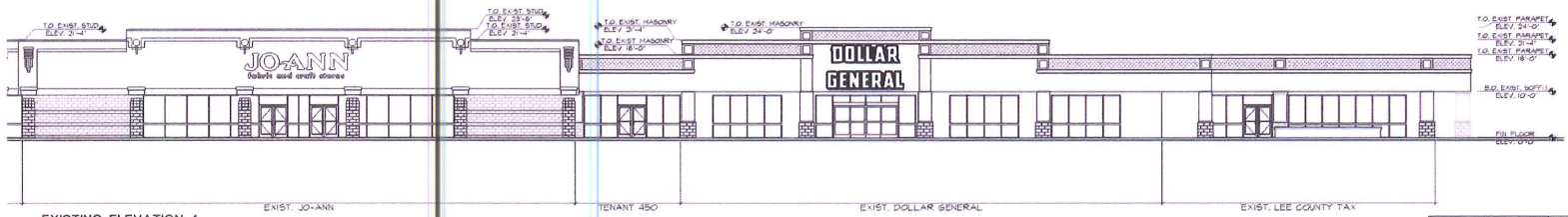

EXISTING ELEVATION 4
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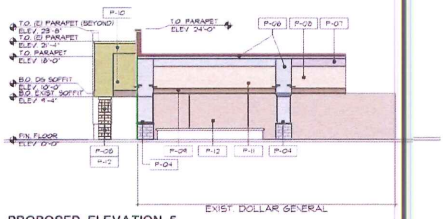

PROPOSED ELEVATION 5
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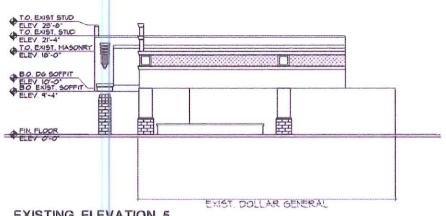

EXISTING ELEVATION 5
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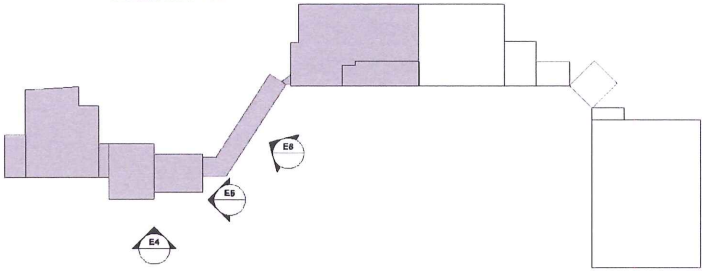
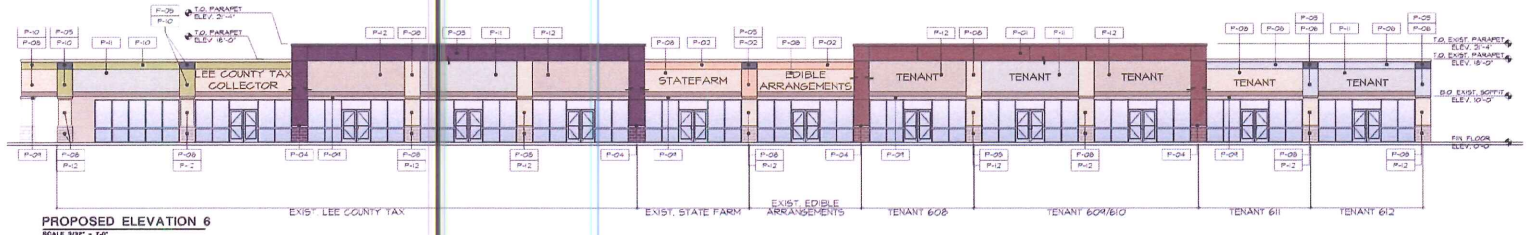


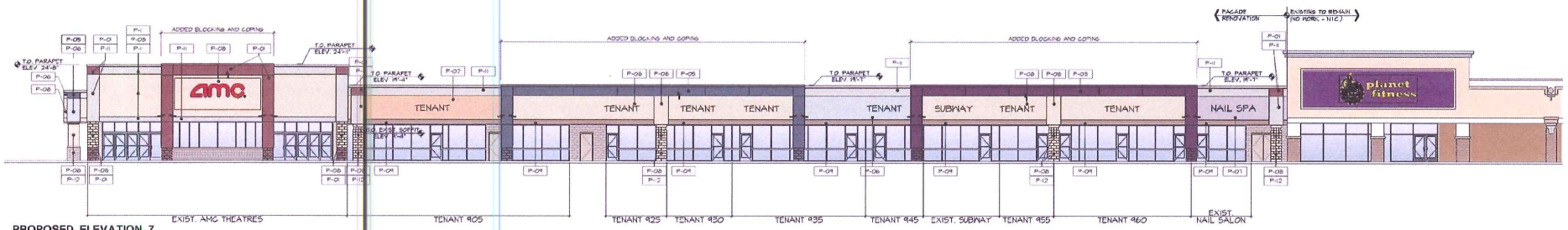
KEYPLAN



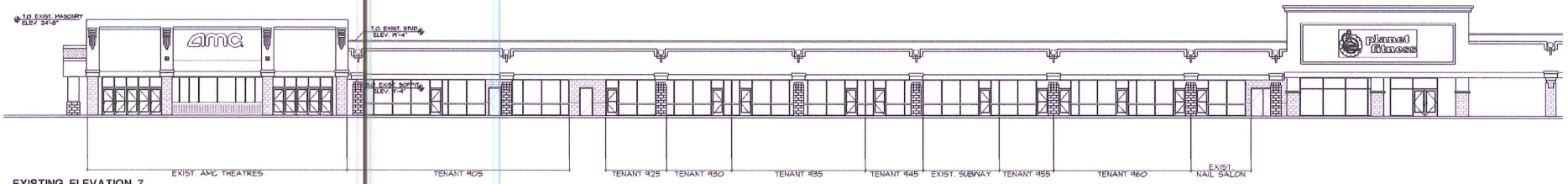
PROPOSED ELEVATION 6
SCALE 3/32" = 1'-0"

EXISTING ELEVATION 6
SCALE 3/32" = 1'-0"

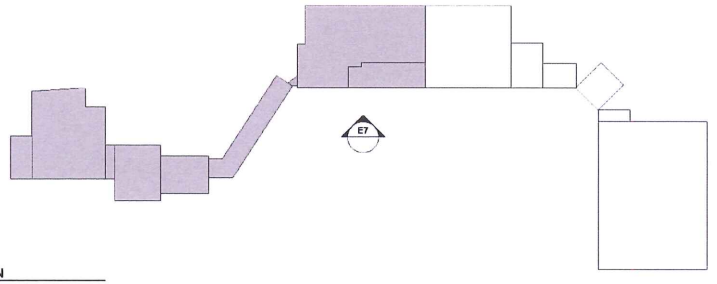
ADD2023-00202 Lee County ePlan



PROPOSED ELEVATION 7



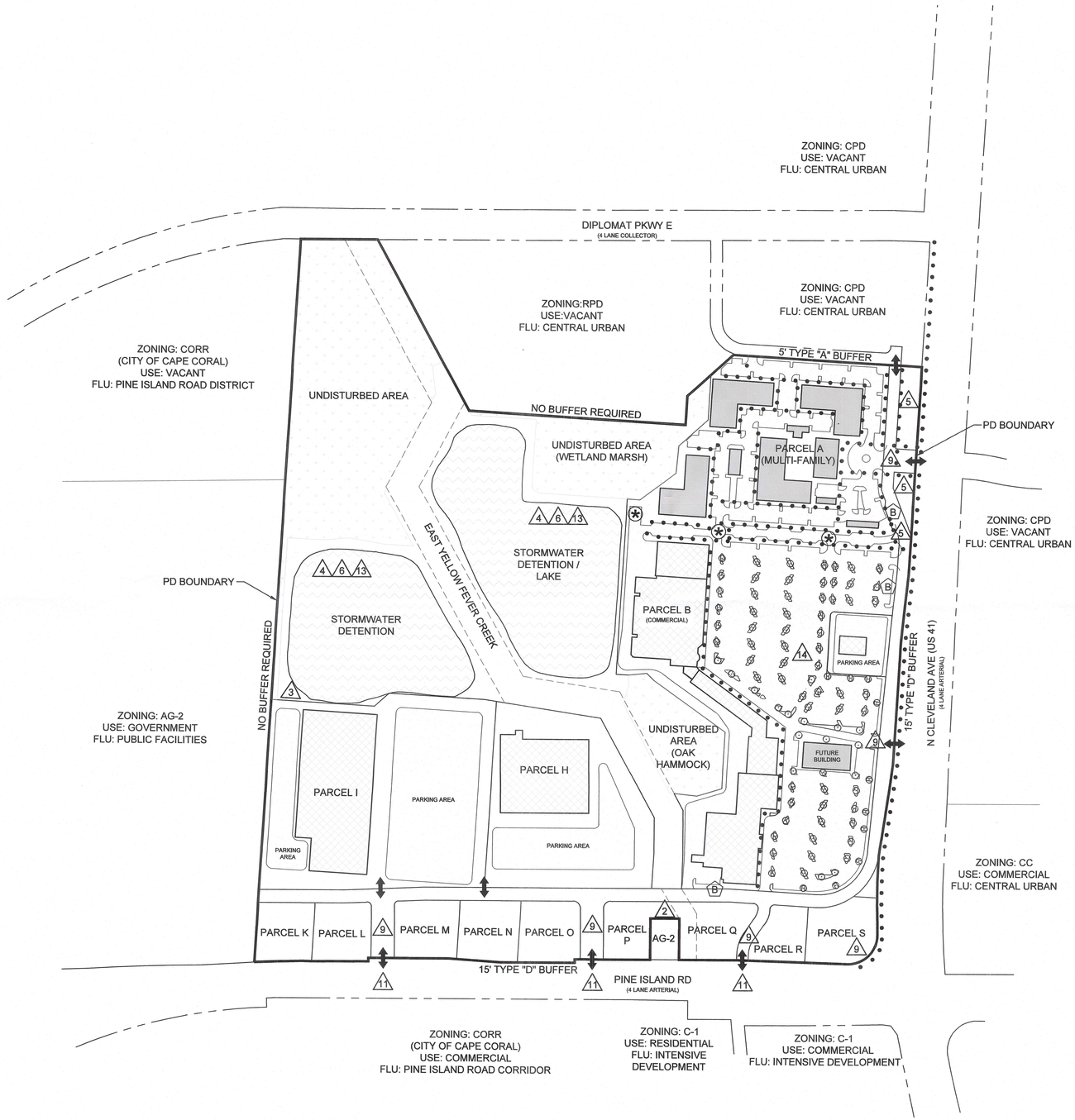
EXISTING ELEVATION 7



KEYPLAN

ADD2023-00262 Lee County ePlan

Exhibit H



N

LEGEND

- STORMWATER DETENTION / LAKE
- UNDISTURBED AREA
- EXISTING COMMERCIAL BUILDING
- PROPOSED MULTI-FAMILY BUILDING
- PARKING AREAS
- BUS / LEE TRAN STOP
- DEVIATION LOCATION
- PARKING AREA TREE
- CIVIL / AMENITY SPACE
- PEDESTRIAN CONNECTIVITY

SITE DATA	
FLU:	INTENSIVE COMMERCIAL AND CENTRAL URBAN
ZONING:	CPD
TOTAL PROJECT AREA:	101 +/- AC
OPEN SPACE REQUIRED:	30.4 +/- AC
OPEN SPACE PROVIDED:	36.6 +/- AC
INDIGENOUS REQUIRED:	15.2 +/- AC
INDIGENOUS PROVIDED:	15.2 +/- AC

WALDROP ENGINEERING
CIVIL ENGINEERING & LAND DEVELOPMENT CONSULTANTS
28100 BONITA GRANDE DRIVE - SUITE 305 BONITA SPRINGS, FL 34135
P: 239-405-7777 F: 239-405-7899 EMAIL: info@waldropengineering.com

MERCHANTS CROSSING CPD

CLIENT: RD MERCHANTS, LLC

MASTER CONCEPT PLAN

PLAN REVISIONS

REV05 <<SUBMITTED/ BID SET>> XX/XX/XX

0 100 200 400
SCALE IN FEET

FLORIDA CERTIFICATE OF AUTHORIZATION #8636

SET NUMBER: 794-02-01

SHEET : 1

B:\Projects\794-02 (Merchants Crossing) Zoning and Development\Drawings-Exhibits\794-02-01 MCP\Current Plans\794x020101.dwg
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