EXHIBITS

CASE # DCI2022-00032

CASE NAME: BAYSHORE VILLAGE

Attach copy of this form to top of packet of exhibits & place exhibits in case file.

ARE THERE ANY BOARD EXHIBITS? ____YES ____ NO

LOCATION OF BOARDS_____

If there are any board exhibits, attach another copy of this form to boards for identification purposes.

EXHIBITS **Case #** **DCI2022-00032**

APPLICANT	STAFF
9. 2/8 Hour	9. 2/8 Hour
#1 PowerPoint	#1 Staff Report
#2 Page 2 exhibit 2 of Mendez letter to Hex.	#2 Powerpoint
#3 Day 2 PowerPoint	#3 Replacement Attachment C
#4 W.S	#4 Composite Public Emails + Petition
#5	#5 Draft Revised Conditions
#6	#6 W.S.
#7	#7
#8	#8
#9	#9
#10	#10

OTHER EXHIBITS

NAME	NUMBER	DESCRIPTION
Steven Brodkin	1	
Zachary Lombardo, esq	# 1 & 2	
Lisa Musho	# 1	
Nathan Poole, PE	# 1 & 2	
Susan Swift	# 1	
	#	
	#	

LEE COUNTY
HEARING EXAMINER
2023 DEC -4 PM 4:34

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMMUNITY DEVELOPMENT

TO: **Donna Marie Collins**
Chief Hearing Examiner

DATE: **December 4, 2023**

FROM: **Adam Mendez**
Senior Planner

RE: DCI2022-00032 – Bayshore Village

Subsequent to the original hearing date for the above-referenced case, Staff and the Applicant have engaged in ongoing discussions regarding the Staff Recommended Conditions of Approval attached to the published Staff Report as Attachment E. The Applicant retained a geologist to evaluate concerns pertaining to the nearby public water supply well and met with staff, including the Department of Natural Resources, to discuss mitigating conditions of approval to facilitate commercial uses typically located in the General Interchange. **Exhibit 1** of this Memorandum is the Revised Natural Resources Staff Report, which discusses the corresponding rationale in the revised staff recommended Development Conditions and Deviations document attached hereto as **Exhibit 2**. Exhibit 2 utilizes red-colored characters to help identify changes from the prior recommended conditions of approval. Other changes are bulleted and expanded on below:

- The applicant has provided a revised copy of Master Concept Plans removing the Wells Road cross section detail and providing a requested open space calculation note (see **Exhibit 3**).

- Uses tied to the single asterisk (*) are now recommended in the southern 400 feet of the subject property whereas the applicant originally limited the same uses within the southern 300 feet of the subject property. The original proposal did not consider the well-field protection travel time zones affecting the subject property and additional land is necessary to appropriately locate some of the facilities associated with uses outside of this protection zone. Staff finds the balance of the recommended conditions of approval will maintain compatibility, including the scaled-back commercial intensity, and retention of the masonry wall/berm combination adjacent to the preserve area.

- Several uses recommended for removal in the staff recommendation are now included with corresponding conditions, namely Condition #7, which has been revised to provide parameters and safeguards for the introduction of the uses on the subject property.

- Additional language is included in Condition 8 (Masonry Wall/Berm Combination) to clarify and include an exception to the condition in the event the abutting single-family residential use is discontinued. Condition 9 (Project Building or Structure Height) is revised to include a height limitation which agrees with the proposed Master Concept Plans.

STAFF'S
EXHIBIT 9

- Condition 10 is revised to add location and height restrictions to the use of a Vehicle and Equipment Dealership and limit the by-right scale of land dedicated to the use to four acres, based on review of the total land area located in the southern 400 feet of the subject property.

- Condition 10 is revised to clarify maximum hotel height, including accessory uses.

- Deviation 2 is revised to allow no connection to the northeasterly adjacent CPD in the event interconnection opportunity to the eastern abutting property currently zoned AG-2 parcel is guaranteed by easement. This condition is currently enacted on the MCP approved by Z-06-046. The proposed MCP interconnection annotation conflicts with the staff recommended revisions to this deviation approval.

- Deviation 7, concerning a required cul-de-sac, is approved provided a letter of no objection is provided from the fire district having jurisdiction. This eliminates the need to file an amendment to the zoning resolution to obtain the deviation and allows the technical review to appropriately take place during local development order approval.

- Staff recommends withdrawal of Deviation 8, concerning pedestrian facilities along Bayshore Road. Upon further review, Development Services Staff recognizes LDC Section 10-256(b)(2)b, which requires that the construction of bikeways and pedestrian ways on State roads require approval from FDOT with a FDOT General Use Permit. If there is a facility planned by FDOT, the pedestrian and bikeway facility will not be permitted. The applicant can rely on this provision. The original deviation language utilized a 5-year planned window, which is subject to change after local development order approval takes place.

The Applicant, in further pursuit of an increase in the Staff Recommendation from 87,500 square feet to 125,000 square feet building floor area (14,285 sq. ft. per acre), provided staff a supporting document entitled "NPT Bayshore Commercial Need Presentation", which asserts that a 41.9 acre portion of the General Interchange lands not encumbered by wetlands or residential uses in the Bayshore Community Plan area be permitted concentrations of commercial retail intensity at a rate of 13,962 square feet per acre in order to meet the commercial needs of the Bayshore Community population. The report extrapolates that the current population of Lee County in general is served by a retail floor area of 61.8 square feet per captia. The report states Bayshore Community is currently underserved as compared to the rest of the County with 7 square feet per captia. Staff finds the plain reading of Goal 18 to exclude the concept of serving the Bayshore Community Plan population with commercial retail floor areas identical to the access for goods and services experienced by other populations in the County. This community desires minimal commercial activity and the applicant's justification supports a precedence of commercial concentration significantly higher per acre then other areas of Lee County (see **Exhibit 4**). Further, staff finds the requested intensity to be incompatible with the surrounding area.

Respectfully Submitted,

Adam Mendez
Senior Planner, Zoning Section

Exhibits:
Exhibit 1 - Revised Natural Resources Staff Report
Exhibit 2 - Revised Staff Recommended Development Conditions and Deviations
Exhibit 3 - Applicant's Revised Master Concept Plans
Exhibit 4 - NPT Bayshore Commercial Need Presentation

EXHIBIT 1

Date: November 29, 2023

To: Adam Mendez, Senior Planner

From: Nic DeFilippo, Senior Environmental Planner
239.533.8983
ndefilippo@leegov.com

Subject: DCI2022-00032
Natural Resources Staff Report and Conditions for Bayshore Village
STRAP# 22-43-25-00-00023.0000

The subject property falls within the 1-year and 5-year Wellfield Protection Zone travel times and is approximately 200 feet north of a Lee County Public Water Supply well. The travel time represents the amount of time it takes a potential pollutant to reach the wellfield and is based on groundwater flow and withdrawal models. Lee Plan Goal 63 requires the protection of the Lee County's groundwater supplies from those activities having the potential for depleting or degrading those supplies. Lee Plan policy 125.1.2 states new development and additions to existing development must not degrade surface and ground water quality.

The applicant requested a meeting to discuss the proposed conditions following the publication of the Staff Report. During this meeting, Staff and the applicant discussed possible conditions which would allow the following uses to be constructed within the 1-year and 5-year wellfield protection zone travel times.

- Automobile repair and service, Groups I and II
- Automobile service station, with or without gas pumps
- Convenience food and beverage store, with or without gas pumps
- Repair Shops, Groups IV
- Self-service fuel pumps
- Vehicle and equipment dealers

The nearby Public Supply wells, including the well directly south of the proposed development, withdraw groundwater from the Lower Hawthorn aquifer, which in this location requires a well depth ranging from 500-800 feet below ground. Staff recommends approval of the uses above within the 1-year and 5-year wellfield protection zone travel times, if constructed and operated in accordance with Staff's proposed conditions, given the depth of the nearby Public Supply wells.

The following uses have the potential to adversely impact the nearby Public Supply well if located within the 1-year or 5-year travel time. These uses include:

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

Staff does not support the Laundry and dry cleaning, Groups I and II use because the types of chemicals used during the Laundry and dry cleaning process have the potential of moving through all aquifer(s) if a spill were to occur layers therefore potentially adversely impacting the adjacent Public Supply well. The Truck Stop use would congregate trucks which have the potential to be carrying large quantities of hazardous substances near a public supply well. Staff cannot restrict trucks which are hauling hazardous materials from using the truck stop, therefore Staff does not support this proposed use.

Attachments:

1. **Aerial map depicting 1-year and 5-year Wellfield Protection Zone travel times.**

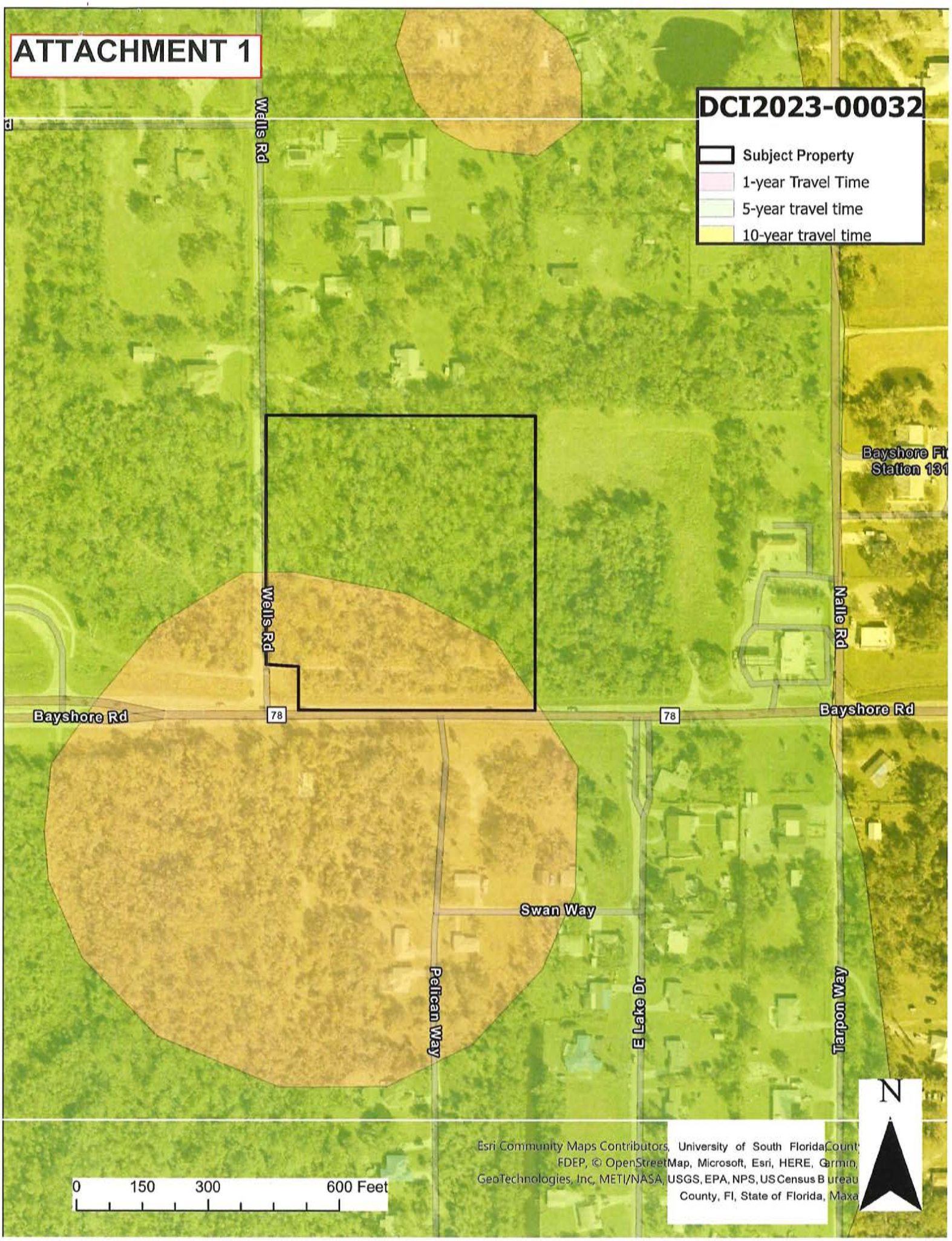

ATTACHMENT 1
DCI2023-00032
Subject Property
1-year Travel Time
5-year travel time
10-year travel time
Wells Rd
Wells Rd
Bayshore Rd
78
78
Bayshore Rd
Nalle Rd
Swan Way
Pelican Way
E Lake Dr
Tarpon Way
0 150 300 600 Feet
N
Esri Community Maps Contributors, University of South FloridaCount
FDEP, © OpenStreetMap, Microsoft, Esri, HERE, Garmin,
GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census B ureau
County, FI, State of Florida, Maxa

EXHIBIT 2

Conditions

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

(1) Master Concept Plan and Development Parameters

a. Master Concept Plan. Development of the subject property must be substantially consistent with the one-page Master Concept Plan Entitled "Master Concept Plan ALT A" or "Master Concept Plan ALT B", last revised 9/27/2023 and attached hereto as Attachment D.
Staff Note: Applicant must prepare revised MCPs consistent with recommendations herein.

b. Development Parameters. Development is limited to a maximum of 87,500 square feet of non-residential floor area, including any outdoor restaurant seating, and a separate allocation of 44 hotel units (Hotel units subject to Condition 11).

c. Compliance with Lee Plan and LDC. Development must comply with all the requirements of the Lee Plan and LDC at the time of local development order approval, except as may be granted by deviation as part of this planned development. Subsequent amendments to the Master Concept Plan or its auxiliary documentation attached thereto are subject to the planned development amendment process established by the Land Development Code.

d. Superseding Resolution. Resolution Z-06-046 is hereby superseded and replaced with this amended resolution.

(2) Schedule of Uses and Property Development Regulations

Staff Note: Uses listed in strike-through format are not recommended.

a. Schedule of Uses

(*) Indicates uses restricted to southern 400 feet of the subject property. Locational restrictions no longer apply if the abutting northern property is zoned for uses other than residential or agricultural.

(**) Use must be requested through the special exception or public hearing amendment process.

Accessory uses and structures
Administrative offices
~~Agricultural Uses~~
Animal clinic (no outdoor runs)
ATM (Automatic Teller Machine)
Auto parts store (no installation)

Automobile repair and service, Groups I and 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 and II
Bar or cocktail lounge (**)
Business services, Group I
Boats:
    Boat parts store (limited to one)
    Boat sales (subject to Condition 10)
    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) (**)
Broadcast studio, commercial radio and television
Building material sales
Business Services, Groups I and II
~~Bus station/depot~~
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)
Contractors and builders, Group I, II and ~~III~~
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 (limited to east side of buildings) (*)
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
    ~~Oil or gas (SE)~~
Farm equipment, sales, storage, rental or service
Feed or fertilizer, mixing and sales
Fences, Walls
~~Flea Market:~~
    ~~Indoor~~
    ~~Open (SE)~~
Food and beverage service, limited (**)
Food stores, Groups I and II
Food truck park (subject to Condition 13)

Funeral home or mortuary:
- No cremation
- With cremation

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 and III
Laundromat
~~Laundry or dry cleaning, Group I (subject to Condition 7)~~
Lawn and garden supply store
Library
Maintenance facility (government)
Medical Office
~~Mobile home dealers (**)~~
~~Model display center~~
Non-store retailer
Motion picture production studio
~~Nightclubs~~
Nonstore retailers, All Groups
Package store (no related consumption on premises and subject to LDC §34-1263)
Paint, glass and wallpaper store
Parks, Groups I and II
Parking lot:
- Accessory
- Commercial (**)
- ~~Garage, public~~
- 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
Printing and publishing
Recreation facilities commercial, Group I and IV (limited to gymnasiums and health clubs)
Religious facility
Rental or leasing establishments, Groups I, II, and III
Repair shops, Groups I, II, III, and IV (*) (subject to Condition 7)
Research and development laboratories, Group II
Restaurants, All Groups
Restaurant, fast food (*)
Schools, commercial
Self-service fuel pumps (*) (limited to a maximum of 22 and subject to Condition 7)
Signs
Social services, Groups I and II

Specialty retail shops, All Groups
Storage:
    Indoor
    Open (subject to Condition 10)
Studios
Supermarket
Temporary uses
Theater, indoor
Transportation services, Groups II and III (excluding bus stations and depots)
~~Truck stop (*)~~
Used merchandise stores, All Groups
Variety store
Vehicle and equipment dealers, Groups I, II, III, IV, ~~and V~~ (*) (subject to Conditions 7 and 10)
Warehouse
    Mini
    ~~Private~~
    Public
~~Wholesale establishments, Groups I, III and IV~~

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
Street, private	20 feet
Side (East):	15 feet
Rear (North):	25 feet
Uses with specific development regulations:	See Conditions 10 & 11
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

Prior to the issuance of the first development order, the development order plans must depict 30 percent open space (2.63 acres). If subdivided, individual development parcels must include a minimum of 10 percent open space.

(4) Indigenous Preserve

Prior to the issuance of the first development order, the development order plans must depict the indigenous preserve area as the 75-foot buffer to along the north perimeter. If exotics are removed, native plantings must be planted to maintain proper screening along the single-family lot abutting the subject property to the north. The development order plans must also depict a total of 1.33 acres of indigenous open space in substantial compliance with Master Concept Plan Alternates A and B, dated September 27, 2023 per the following breakdown:

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

(5) Indigenous Habitat Plan

Prior to the issuance of the first development order, the development order plans must demonstrate the following:

a. Substantial compliance with the Indigenous Management Plan, attached as Attachment J, Exhibit B.

b. A schedule for the indigenous preservation and restoration to be completed within five consecutive years.

c. A map depicting where mechanical and hand-removal methods of exotic vegetation removal will be located. Mechanical clearing must be limited to non-indigenous areas.

d. An appropriate planting list for the preserve area, approved by Lee County Staff.

e. Exotic removal and restoration (supplemental plantings) of indigenous habitat to begin concurrently with improvements to land, which must be provided at time of

local development order application. The supplemental planting plans must be approved by development services staff.

(6) Gopher Tortoise Survey

Prior to local development order approval, the property must be re-surveyed for the presence of gopher tortoises and their burrows, and, if found, a gopher tortoise management plan must be submitted as part of the indigenous preserve management plan for review and approval. The gopher tortoise management plan must include details on habitat management to provide open herbaceous foraging areas, and how the habitat will be maintained in perpetuity. The management should also include the following details pertaining to site work:

a. A copy of the Florida Fish and Wildlife Conservation Commission Gopher Tortoise Permit and receipt of payment, if applicable, must be submitted to the staff prior to issuance of a Vegetation Removal Permit.

b. A Vegetation Removal Permit to install gopher tortoise fencing and burrow excavation must be obtained prior to any site work.

c. Any gopher tortoises and commensal species located during burrow excavation must be moved to appropriate indigenous preserves or relocated through state and federal permits.

d. The number of tortoises and any commensal species moved to preserves must be reported to staff or relocated through FWC permitting.

e. All active and inactive gopher tortoise burrows located outside of the indigenous preserves must be excavated and fully collapsed prior to issuance of a Vegetation Removal Permit for clearing and filling of the development area.

(7) Lee County Public Water Supply Wells

A. Prior to local development order approval, the developer must demonstrate compliance with the Lee County Wellfield Protection Zone Ordinance and identify the proposed use(s). The following uses are not permitted within the 1-year or 5-year Wellfield Protection Zone travel time, as depicted by Lee Plan Map 4-C.

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

B. The following uses have the potential to adversely impact the proximate public water supply wells and are therefore only permitted on the subject property 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 the regulated substance thresholds in subsections C and D

C. Prior to local development order approval, the plans must depict the storage location and combined sum of all quantities of regulated hazardous, toxic substances and sanitary hazards as defined by the Wellfield Protection Ordinance. The combined sum of regulated hazardous, toxic substances and sanitary hazards 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.

D. Prior to local development order approval, the plans must depict bulk storage of fuel, in excess of 110 gallons, outside of the 1-year Wellfield Protection Zone travel time.

E. Prior to local development order approval, the developer must provide a Maintenance Plan for review and approval by the Lee County Division of Natural Resources. At a minimum, the Maintenance Plan must establish:

- A quarterly containment and emergency equipment inspection schedule performed by a qualified professional.
- All maintenance and inspections logs and records must be provided to Lee County Division of Natural Resources annually.

F. Prior to local development order approval, the plans must note that fuel storage systems must be constructed with secondary containment consisting of double walled tanks and/or lines.

G. Prior to local development order approval, the plans must note that fuel storage systems equipped with leak detection system, with appropriate alarms and protocol to provide for shutdown of system pending leak investigation will be implemented.

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.

I. Prior to local development order approval, the developer must provide a Surface Water Quality Monitoring Plan for review and approval by the Lee County Division of Natural Resources. At a minimum, the Surface Water Monitoring Plan must establish the following:

- The overall Goals and Objectives of the Surface Water Quality Monitoring Plan.
- An outfall monitoring schedule during "wet" season of June through September and "dry" season of October through May. The monitoring constituents will be determined prior to issuance of local development order by the Lee County Division of Natural Resources based on the final uses proposed.
- Baseline surface water quality monitoring data will be included in the monitoring plan and must be completed and provided to Lee County Division of Natural Resources prior to commencement of construction.
- Water quality monitoring data must be provided to the Division of Natural Resources annually and must include a report with a comparison of 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.
- A contingency plan in the event an exceedance of State Surface Water Quality Standards is discovered. This plan must include notification to impacted residents and applicable authorities.

J. Prior to local development order approval, the developer must provide a Groundwater Quality Monitoring Plan for review and approval by the Lee County Division of Natural Resources. At a minimum, the Groundwater Quality Monitoring Plan must establish the following:

- The overall Goals and Objectives of the Groundwater Quality Monitoring Plan.
- A semi-annual monitoring schedule. The monitoring constituents will be determined prior to issuance of local development order by the Lee County Division of Natural Resources based on the final uses proposed.
- 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, with locations and depths subject to Lee County Division of Natural Resources approval.
- Baseline groundwater quality monitoring data will be included in the monitoring plan and must be completed and provided to Lee County Division of Natural Resources prior to commencement of construction.
- Groundwater quality monitoring data must be provided to the Lee County Division of Natural Resources annually and must include a report with a comparison of State water quality standards, plots of parameters, and recommendations. Groundwater quality monitoring must continue through the lifetime 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.
- A contingency plan in the event an exceedance of State Water Quality Standards is discovered. This plan must include an emergency plan and notification to impacted residents, applicable authorities, and the Director of Lee County Natural Resources.

K. Bonding. Prior to local development order approval, the Development Order plans must identify the proposed use 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, as outlined in the Wellfield Protection Ordinance.

(8) Masonry Wall/Berm Combination

Prior to local development order approval, a completely opaque 8-foot-high masonry wall or 8-foot-high masonry wall and berm combination, as measured from the finished grade of the project site, must be provided within 25 feet of the south side of the indigenous preserve area. The masonry wall or masonry wall/berm combination must commence within 15 feet of the Wells Road right-of-way and extend east continuously at a height of 8 feet to the eastern-most property line. This condition is null and void if the northern abutting property is not utilized for single-family residential uses at time of local development order approval.

Staff Note: Applicant must prepare revised MCPs depicting the general location of the wall in compliance with this condition.

(9) Project Building or Structure Height

A. The building and structure heights specified herein may not be exceeded without obtaining approval through the public hearing process. The provisions of LDC Section 34-2174, additional permitted height when increased setbacks provided, may not be utilized within the planned development.

B. All buildings exceeding two stories must be setback 150 feet from the north property line.

(10) High Intensity Uses

This condition pertains the following uses:

a. Convenience Food and Beverage Stores, Fast-Food Restaurants, Car Washes.

i. Except for Deviations 5 and 6 contained herein, deviations from LDC Section 34-1353 must be sought through the public hearing process.

ii. Convenience food and beverage stores and fast-food restaurants must be set back 50 feet from any public right-of-way; this condition also applies to any restaurant with a drive-through facility.

b. Display, sale, rental or storage for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment.

i. Deviations from LDC Section 34-1352 must be sought through the public hearing process.

ii. Automotive dealerships exceeding 4 acres in size or providing multi-story display or storage of vehicles must receive approval through the public hearing amendment process to ensure consistency with the LDC and Lee Plan. All automotive repair and service must be located within the southern 400 feet of the subject property.

iii. All 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 Use

The development of a hotel on the subject property is subject to the following conditions:

A. Maximum Units/Conversion. The 44-unit hotel allocation may be increased to a maximum of 125 units at a conversion rate of 1 hotel unit per every 120-square-foot reduction of the 87,500-square-foot intensity allocation. The transfer of square-footage to hotel units must be reviewed through the administrative amendment process.

B. Principal Building. The project is limited to one hotel within one 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. Where lock-off accommodations are provided, each "keyed room" will be calculated as a separate rental unit.

E. Maximum Height. The maximum permitted height for a hotel use is 48 feet, accessory structures are limited to a maximum permitted height of 35 feet. If the principal building exceeds 35 feet in height, then it must be located in the southern 300 feet of the subject property, as measured from the Bayshore Road right-of-way. Buildings exceeding 35 feet in height must be set back a minimum of 50 feet from the Bayshore Road and Wells Road rights-of-way. A hotel use 35 feet in height or less must be set back a minimum of 150 feet from

the north property line and the Wells Road right-of-way, and 50 feet from the Bayshore Road right-of-way. See Condition 9, general height provision.

F. Electric Vehicle (EV) Charging. EV Charging stations may be provided as accessory to the hotel use, subject to local development order approval.

(12) Project Vehicular Trip Generation

Regardless of any land use density/intensity conversion allowed per the Land Development Code or zoning condition specific to this development, the development is allowed a maximum calculated development intensity with respect to new trip generation utilizing the following development scenario based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual in effect at time of local development order: 87,500 square-feet commercial retail.

(13) Food Truck Park

The principal use of a food truck park may be approved through the administrative amendment and local development order process. The application must be accompanied by a conceptual site plan meeting the minimum required details for special exception site plans in LDC Section 34-202. The application must include a project narrative of the intended operation and any other information determined necessary by the Director.

Deviations

Deviation #1:

Seeks relief from LDC §10-329, which requires an excavation setback of 50 feet from any private property line under separate ownership, to allow a 30-foot excavation setback from the eastern perimeter.

This deviation is **APPROVED**, subject to the condition that the reduction applies to easterly commercially-zoned property, and the easterly abutting AG-2-zoned parcel fronting Bayshore Road, if the parcel is not developed with single-family residential uses at time of local development order approval.

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 northeastern CPD approved by Resolution Z-10-036 (Maximus Self-Storage, f.k.a W & W Service Park).

This deviation is **APPROVED,** subject to the following conditions:

i. The easterly parking lot interconnection annotated on the Master Concept Plans must be made at time of local development order 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 local development order approval for the subject property, a parking lot interconnection stub must be made to the property line and depicted on the approved development order plans.

iii. If the property is not zoned for commercial uses, a 24-foot-wide cross-access easement must be provided for future parking lot interconnection. The easement language must be acceptable to the County Attorney's Office and executed and recorded in the Public Records prior to approval of any building permit for commercial uses on the property.

Staff Note: Applicant must prepare revised MCPs revising parking lot interconnection annotation language conflicting with this condition.

Deviation #3:

Seeks relief from LDC §10-415(b)(1)b.4. which requires developments greater than five acres in size that abut an arterial or collector road and that have existing native trees within 50 feet of the right-of-way to be designed to provide a 50-foot right-of-way buffer for tree preservation, to instead allow buffer requirements of Chapters 10 and 34 to override. The project is meeting it's preservation requirements in accordance with 10-415(b)(1)a.; therefore, subsection (LDC §10-415(b)(1)b.) is not applicable.

This Deviation is **WITHDRAWN**.

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.

This Deviation is **APPROVED**, subject to Condition 10.

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.

This Deviation is **APPROVED**, subject to Condition 10.

Deviation #6:

Seeks relief from LDC §10-416(d)(3), which requires a Type "C" or Type "F" Buffer when a commercial land use abuts a residential land use, to allow the indigenous preserve to function as a planted buffer along the north property.

This Deviation is **APPROVED**, subject to the following condition:

a. In the event the proposed preserve does not create a continuous visual screen equivalent to a Type C or F buffer, then prior to the issuance of the first development order, the development order plans must provide a list of supplemental plantings and a replanting plan, subject to approval by Lee County staff.

Deviation #7:

Seeks relief from LDC §10-296(k), which requires all roadways to be terminated 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 only.

This deviation is **APPROVED**, subject to the following condition:

a. Prior to local development order approval, a letter of no objection must be provided from the fire district having jurisdiction.

Deviation #8:

Seeks relief from LDC §10-296(e)(1)i.1.ii, which requires a 12-foot-wide wide pedestrian facility and a 5-foot-wide bike lane, to allow no sidewalk or bike lane on Bayshore Road.

This deviation is **WITHDRAWN**.

Barraco and Associates, Inc.

EXHIBIT 3

www.barraco.net
Civil Engineers, Land Surveyors and Planners

September 27, 2023

Mr. Adam Mendez
Senior Planner
Lee County Department of Community Development
1500 Monroe Street
Fort Myers, FL 33901

Re: Bayshore Village (Planned Development Amendment Application)
DCI2022-00032

Dear Mr. Mendez:

Please accept the information below in response to your August 11, 2023 correspondence regarding the referenced project.

Stipulations:

Please revise the Master Concept Plans to address the following review comments by September 27, 2023:

- *Please include the following note within the Open Space/Indigenous Preserve table on the MCPs:*
  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 feet and minimum area of one acre.

- *The cross section shown on the MCP does not meet LDC Section 10-296 requirements and the applicant has not provided a deviation request with justifications, as required in LDC 10-296(d)(3). If no deviations are proposed at this time, please remove the cross section detail from the Master Concept Plans.*

Response:

The MCPs have been revised to include the indigenous note as requested. Additionally, the Wells Road cross sections have been removed from the MCPs. Due to significant plans by FDOT to rebuild Wells Road with the SR 82 widening, final design of Wells Road will be determined during Development Order permitting.

If you should have any questions or require additional information, please advise.

Sincerely,
BARRACO AND ASSOCIATES, INC.

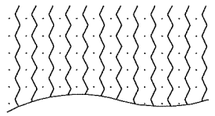
Carl A. Barraco, P.E.
President

CAB/cmh
24066
Enclosures

cc: Rhonda Brewer – LSI Companies (w/encl.)
Ron Inge – Inge & Associates (w/encl.)
Jennifer Sapen, AICP – Sapen Site Planning, LLC (w/encl.)

Post Office Drawer 2800 · Fort Myers, FL 33902
Phone (239) 461-3170 · Fax (239) 461-3169

SINUOUS LAKE SHORELINE DETAIL



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

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 OD ONE ACRE.

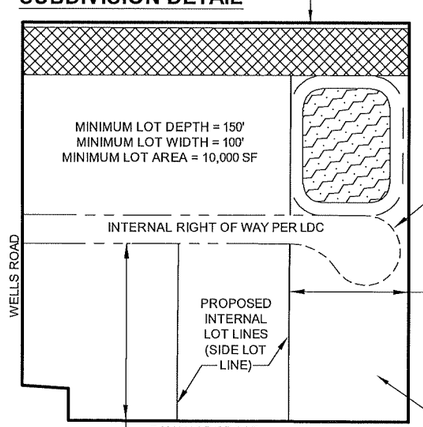
PROPOSED SIGNS

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

LEGEND

- PARKING & LANDSCAPING PER LDC
- LOADING / SERVICE AREA
- PRESERVE
- LAKE

SUBDIVISION DETAIL

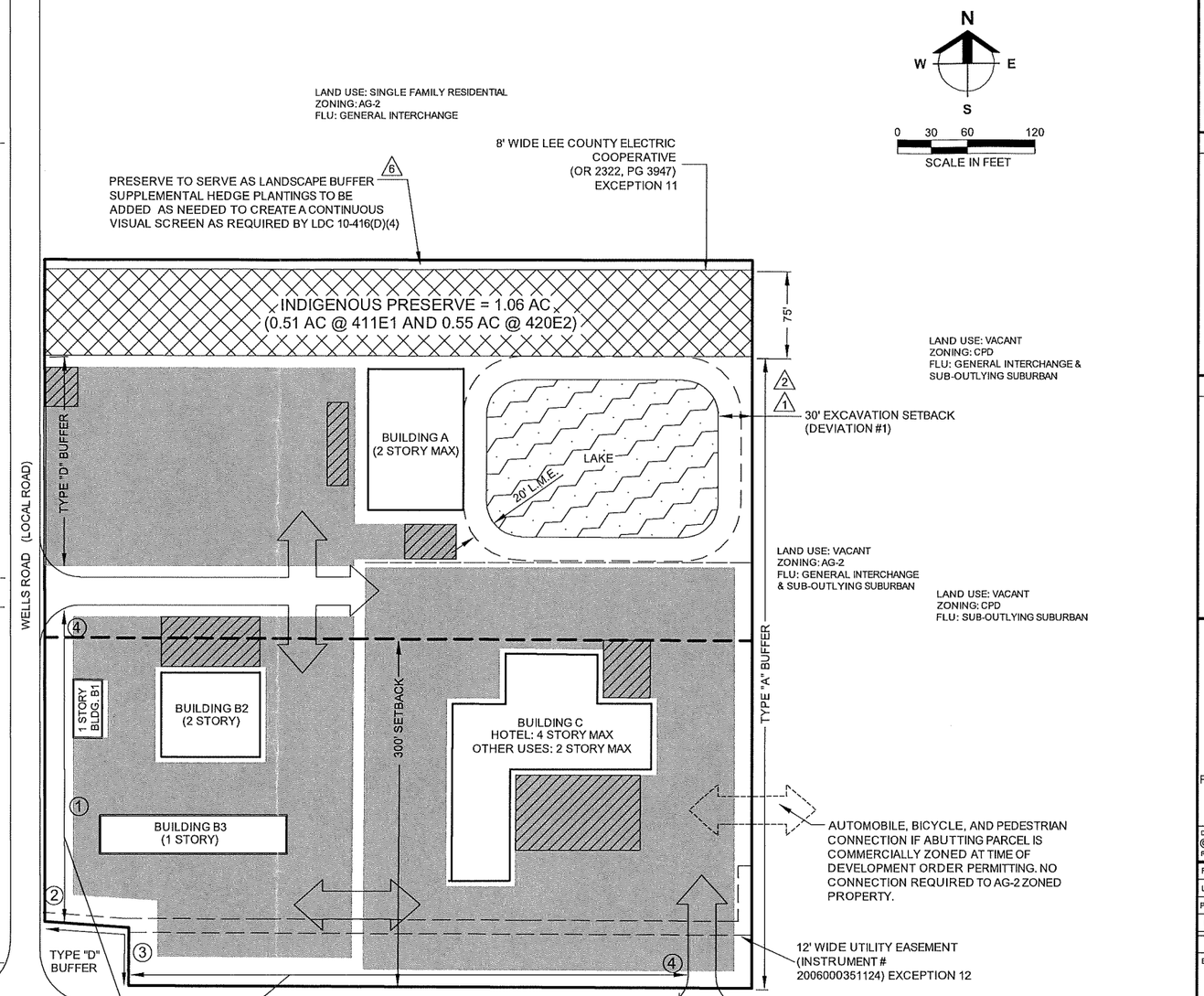


CUL DE SAC NOT REQUIRED IF SPRINKLER SYSTEMS ARE INSTALLED IN THE COMMERCIAL BUILDINGS AND A TURN AROUND IS PROVIDED IN THE EASTERN MOST LOT. FINAL DESIGN MUST BE APPROVED BY THE LOCAL FIRE DEPARTMENT DURING DEVELOPMENT ORDER PERMITTING. (7)

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.

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



TYPE D BUFFER (TYPICAL FOR MOST USES) (3)
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

PELICAN WAY (UNIMPROVED RIGHT OF WAY)

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

EAST LAKE DR

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
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FILE NAME	24066Z02-A.DWG
LOCATION	J:\24066\DWG\ZONING\
PLOT DATE	WED. 9-27-2023 - 9:15 AM
PLOT BY	ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS

BASEPLAN = 24066Z00-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 #8
9-27-23	AUGUST/SEPTEMBER SUFFICIENCY

PLAN STATUS

MASTER CONCEPT PLAN ALT A

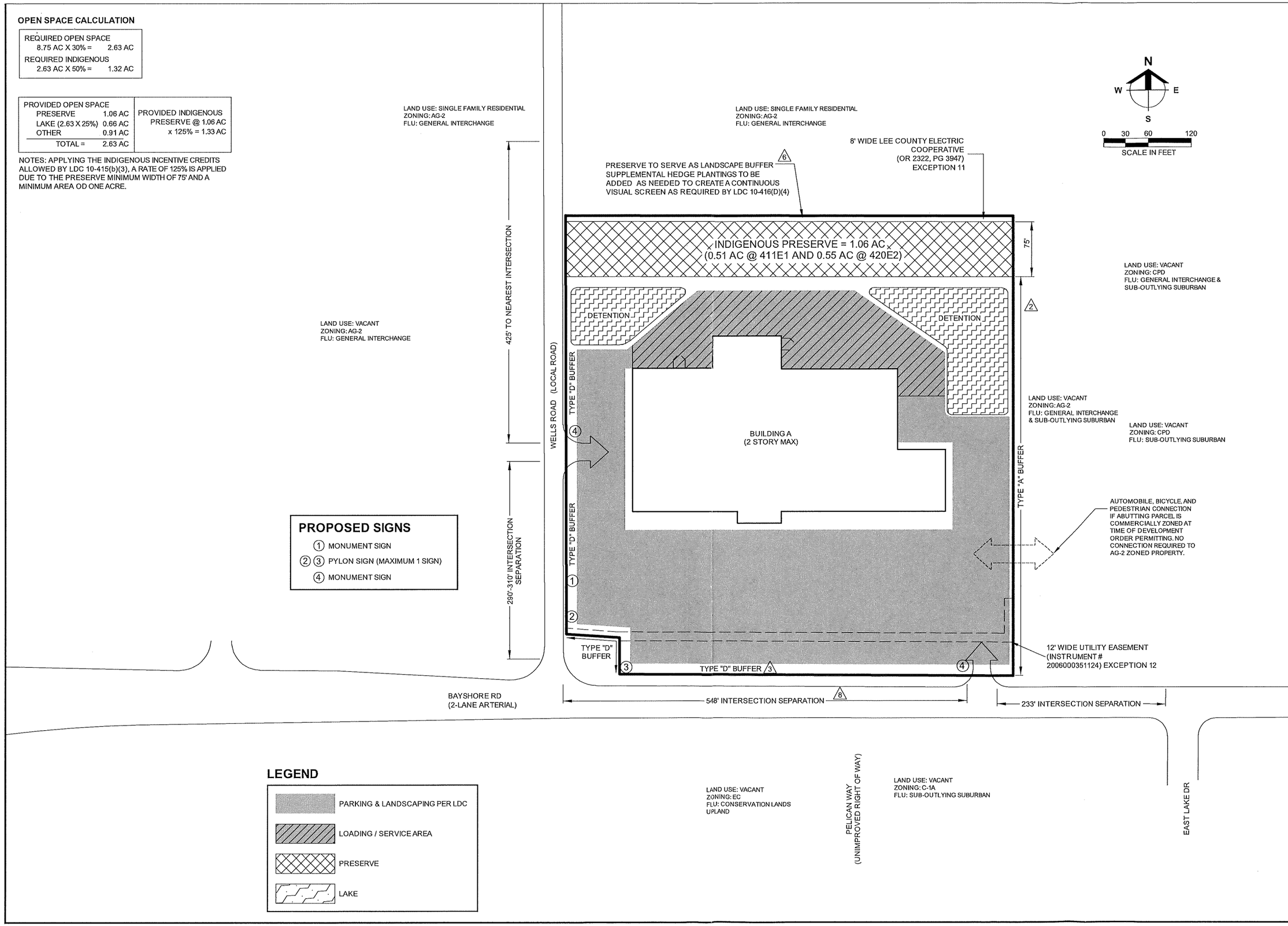
PROJECT / FILE NO.	SHEET NUMBER
24066	1

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
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.



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

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PREPARED FOR

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FILE NAME	24066Z02-B.DWG
LOCATION	J:\24066\DWG\ZONING\
PLOT DATE	WED. 9-27-2023 - 9:26 AM
PLOT BY	ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS

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6-12-23	WELLS RD @ INTENSIVE CRITERIA
7-7-23	ADD DEVIATION #8
9-27-23	AUGUST/SEPTEMBER SUFFICIENCY

PLAN STATUS

MASTER CONCEPT PLAN ALT B

PROJECT / FILE NO.	SHEET NUMBER
24066	1

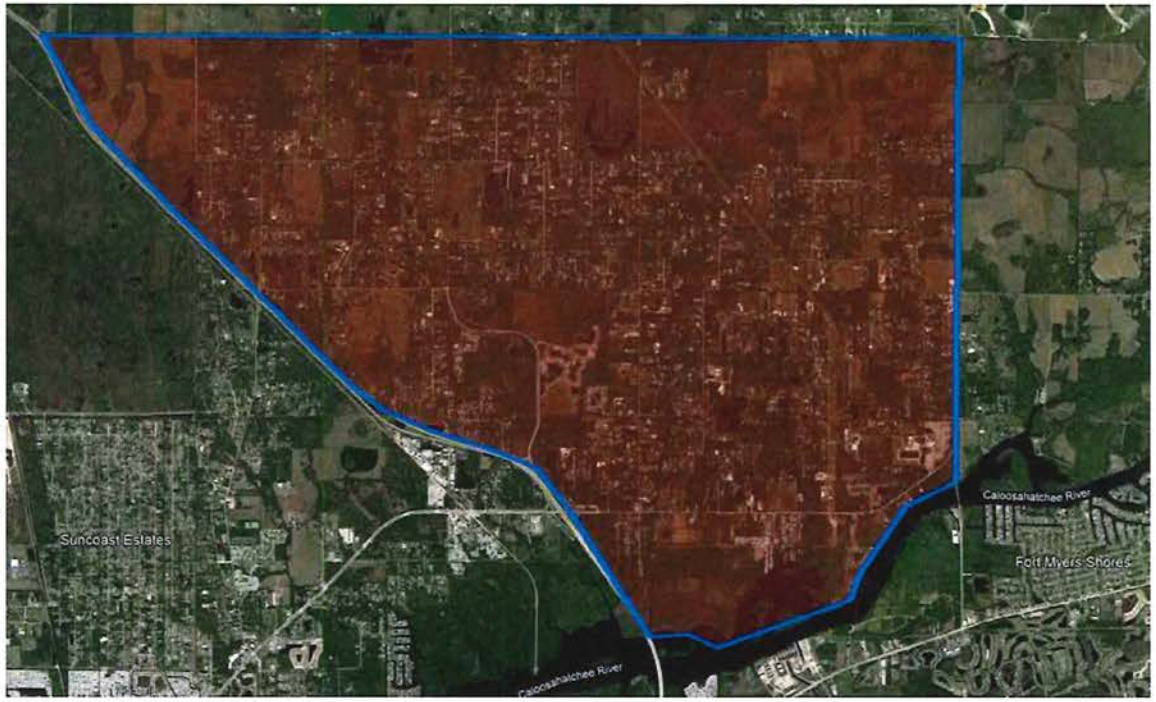
EXHIBIT 4

Bayshore Planning Community Population and Forecast

Variable	Bayshore Planning Community	Lee County
2022 Total Population	5,566	791,753
2027 Total Population	6,699	838,268
2045 Projected Population	8,653	1,056,600
2022 Average Household Size	2.57	2.35
2027 Average Household Size	2.57	2.35

Source: ESRI / Lee Community Planning

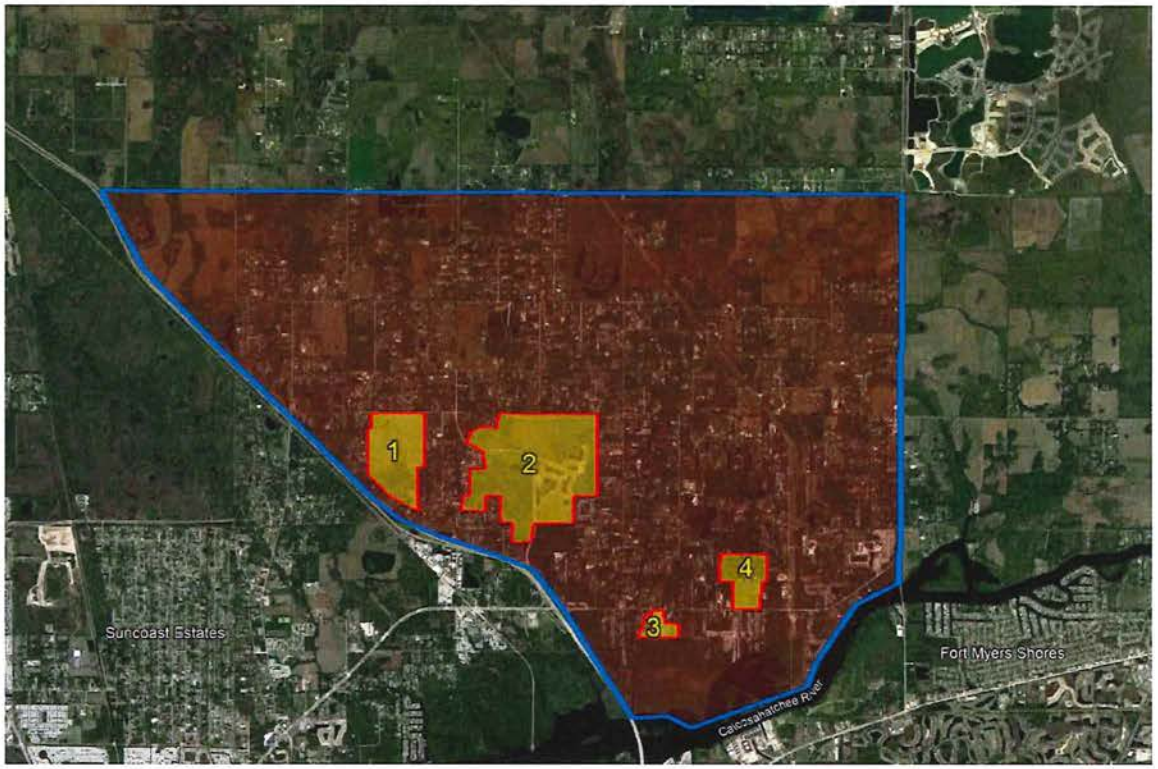
UF BEBR 2023 Forecast for 2045 Lee County has increased to 1,077,800



Bayshore Planning Community

Recently Approved Residential Development – Bayshore Planning Community

Map Number	Development	Unit Count
1	Leetana	201
2	Brightwater	1275
3	Stonehill	71
4	Bayshore Ranch	130
	Total	1,677



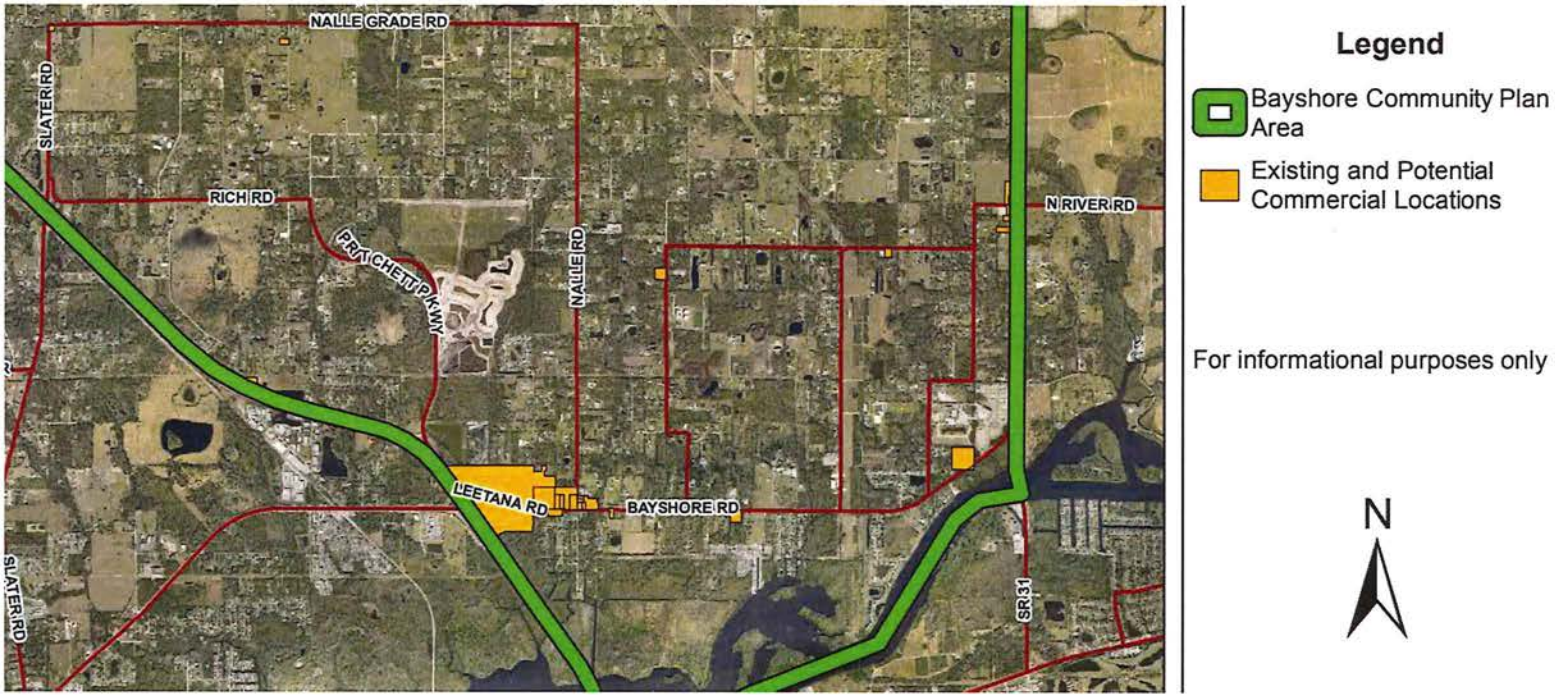
Bayshore Planning Community

Forecast Population	
Unit Buildout- New Developments	1,677
Household Size	2.5
Additional Population	4,193
Current Population	5,566
Total Population	**9,759**

2045 Lee County Community Development - Bayshore Planning Community Forecast	**8,653**

Current Population, plus anticipated population from recently approved developments exceed the LCCD Bayshore 2045 Forecast.

The 9,759 projection does not consider any new residential development or building in the Bayshore Planning Community for the next 22 years.



Potential Commercial Locations	
Total Acreage	122

Per The Bayshore Community Plan: ***Retail commercial activity shall be limited to the General Interchange Future Land Use*** *designation at Bayshore and I-75, plus minor commercial uses at the intersections of Nalle Road and Bayshore, SR 31 and Bayshore, and SR 31 and Old Bayshore. Non-retail commercial uses are permitted elsewhere consistent with the Lee Plan and the Land Development Code. (Bold for Emphasis)*

General Interchange Future Land Use – Bayshore Planning Community

The General Interchange Land Use Category is segmented by parcels under various ownership.

Composition of Bayshore General Interchange Acreage

Use	Acres
General Interchange	81.71
(Less) Residentially Improved	11.21
(Less) Wetlands	28.6
Net Developable Commercial	**41.9**

Variable	Bayshore Planning	Lee County
Existing Retail Square Footage	39,000	48,900,000
2022 Total Population	5,566	791,753
Square Feet Per Person	7.0	61.8

Source: CoStar Real Estate Analytics

Commercial Need By 2045	
Forecasted Population	9,750
Square Feet Per Person	60
Total Retail	585,000

The retail needs of the Bayshore Planning Community is already underserved at 7.0 square feet per person.

Bayshore General Interchange Acreage	
Use	**Acres**
Total Acreage	81.71
(Less) Residentially Improved	11.21
(Less) Wetlands	28.6
Net Developable Commercial	**41.9**
Bayshore Commercial Needs 2045	585,000
Developable Acres	**41.9**
Intensity Required to Achieve 585,000	**13,962**

Bayshore Village – 8.75 Acres x 13,962 SF = 122,167 Commercial Square Feet

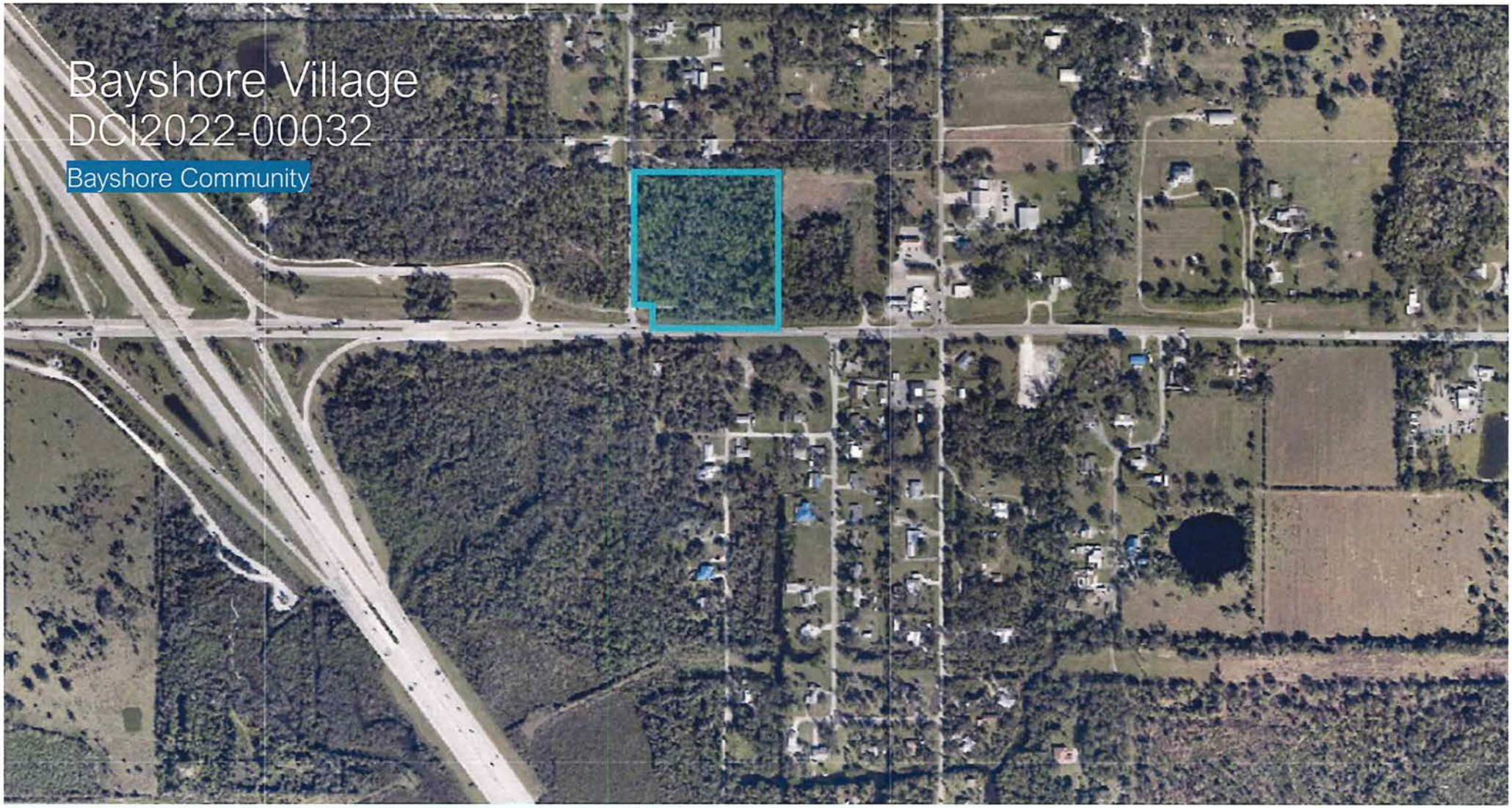
SUMMARY

- Bayshore Community is Growing as evidenced by residential planned communities

- Lee County Economic Overview highlights the need for commercial activity surrounding the Bayshore Planning Community

- Allocated Commercial land is fragmented by residential and wetlands leaving few parcels capable of supporting future retail needs

- Site will meet the needs of the traveling public to and from Babcock Ranch along with I-75. As well as the forecasted population increase within the Bayshore planning Community



STAFF EXHIBIT# 2
PowerPoint

Community Development Staff

- Nic Deflippo, Senior Environmental Planner, Planning Section
- Phil Gillogly, P.E., Surface Water Manager, Natural Resources
- Lee Werst, Supervisor, Natural Resources
- Brian Roberts, P.E., Planner, Planning Section
- Marcus Evans, P.E., Senior Engineer, Development Services
- Camryn Siverson, Environmental Planner, Zoning Section
- Brandon Dunn, Planning Manager, Planning Section

Existing

61,000 Square Feet

Neighborhood Commercial Uses

Several Compatibility Measures

Proposed

125,000 Square Feet

General/Interchange Commercial Uses

Removes Compatibility Measures

Recommended

87,500 Square feet

44 Unit Hotel Allocation

General/Interchange Commercial Uses

Preserves Compatibility Measures

Lee County

Lee County, Florida
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION
STAFF REPORT

Case Number: DCI2022-00032
Case Name: Bayshore Village
Case Type: Planned Development Amendment
Area to be Amended: 8.75 Acres
Sufficiency Date: February 13, 2023
Hearing Date: October 11, 2023[1]

REQUEST:

Carl Barraco, P.E., on behalf of Light Bayshore Village, LLC and Reeseretland Bayshore Village, LLC, has filed an application to amend the Bayshore Village Market Square Commercial Planned Development (CPD) approved by Resolution Z-06-046, to increase development intensity from a maximum of 61,000 square feet (±6,971 square feet per acre) to a maximum of 137,500 square feet (±15,714 square feet per acre) and 125 hotel units.[2] The proposed schedule of uses expands beyond previously permitted retail, office and restaurant uses, including uses largely permitted in the General Commercial (CG) Conventional District.

The subject property is comprised of 8.75 acres and is located at 17300 Wells Road, Bayshore Community Plan Area (Commissioner District #5). The applicant has indicated the property's current STRAP Number is 22-43-25-00-00023.0060. A legal description, sketch and boundary survey of the subject property are attached as Attachment B of this report.

SUMMARY:

The Bayshore Community Plan desires to preserve the existing rural residential, agricultural and equestrian oriented character of the community. The subject property is located in the General Interchange Future Land Use Category.[3] Properties to the north, along Wells Road, are within the General Interchange and Sub-Outlying Suburban Future Land Use Categories and are utilized for residential purposes. Staff has evaluated the surrounding area and the concentration of intensity approved within other General Interchange areas[4] and recommends that the increase in intensity be limited to 10,000 square feet per acre with an intensity conversion opportunity for a maximum of 125 hotel units. Staff recommends **APPROVAL** of a modified intensity threshold and schedule of uses,

[1] One additional day of hearing is scheduled for October 12, 2023, if necessary.
[2] Applicant's proposed Land Use Conversation Table includes ability to increase requested 125,000-square-foot intensity threshold by 10 percent via administrative amendment (see Maximum Intensity Table Note, Attachment H of this report).
[3] See Policy 1.3.2 of the Lee County Comprehensive Plan.
[4] See Staff Report Table 1 on page 3.

Page 1 of 2

Lee County Staff Report
Issued 9/26/2023

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: Donna Marie Collins, Chief Hearing Examiner
DATE: December 4, 2023
FROM: Adam Mendez, Senior Planner

RE: DCI2022-00032 – Bayshore Village

Subsequent to the original hearing date for the above-referenced case, Staff and the Applicant have engaged in ongoing discussions regarding the Staff Recommended Conditions of Approval attached to the published Staff Report as Attachment E. The Applicant retained a geologist to evaluate concerns pertaining to the nearby public water supply well and met with staff, including the Department of Natural Resources, to discuss mitigating conditions of approval to facilitate commercial uses typically located in the General Interchange. **Exhibit 1** of this Memorandum is the Revised Natural Resources Staff Report, which discusses the corresponding rationale in the revised staff recommended Development Conditions and Deviations document attached hereto as **Exhibit 2**. Exhibit 2 utilizes red-colored characters to help identify changes from the prior recommended conditions of approval. Other changes are bulleted and expanded on below:

- The applicant has provided a revised copy of Master Concept Plans removing the Wells Road cross section detail and providing a requested open space calculation note (see **Exhibit 3**).
- Uses tied to the single asterisk (*) are now recommended in the southern 400 feet of the subject property whereas the applicant originally limited the same uses within the southern 300 feet of the subject property. The original proposal did not consider the well-field protection travel time zones affecting the subject property and additional land is necessary to appropriately locate some of the facilities associated with uses outside of this protection zone. Staff finds the balance of the recommended conditions of approval will maintain compatibility, including the scaled-back commercial intensity, and retention of the masonry wall/berm combination adjacent to the preserve area.
- Several uses recommended for removal in the staff recommendation are now included with corresponding conditions, namely Condition #7, which has been revised to provide parameters and safeguards for the introduction of the uses on the subject property.
- Additional language is included in Condition 8 (Masonry Wall/Berm Combination) to clarify and include an exception to the condition in the event the abutting single-family residential use is discontinued. Condition 9 (Project Building or Structure Height) is revised to include a height limitation which agrees with the proposed Master Concept Plans.

Page 1 of 3

Lee County Staff Memorandum
Issued 12/4/2023

PAVESE LAW FIRM
est.1947

NEALE MONTGOMERY
Partner
Direct Dial: (239) 336-6235
Email: nealemontgomery@paveselaw.com

1833 Hendry Street, Fort Myers, Florida 33901 | P.O. Box 1507, Fort Myers, Florida 33902 | (239) 334-2195 | Fax (239) 332-2243

December 11, 2023

Ms. Donna Marie Collins
Hearing Examiner
1500 Monroe Street
Fort Myers, FL 33905

Via e-mail: hex@leegov.com

RE: Bayshore Village CPD
DCI2022-0032

Dear Ms. Collins,

The applicant does hereby submit the information required in the 48-Hour letter.

The applicant agrees with the staff recommendation of approval. The applicant has included a revised MCP (A and B) to be consistent with the recommended conditions, dated December 8, 2023. The applicant will bring an updated exhibit regarding the travel times from the wellfield protection ordinance. The updated master concept plans are attached hereto.

The applicant submits that the limitation of drive through to the east side of a structure should not apply in the southern 400 feet.

The staff was kind enough to provide an updated memorandum dated December 4, 2023. The applicant disagrees with some of the conditions recommended by the staff. The applicant does not agree with the staff recommendation on the permitted square footage for the site. The applicant does not agree with the requirement for a wall south of the significant vegetated buffer/indigenous area on the north side of the property.

A. **APPLICANT WITNESSES:**

- *Ron Inge- Inge and Associates, Inc.*
- *Jennifer Sapen, AICP - Sapen Site Planning, LLC*
- *Nelson Taylor, MRICS, MSRE- LSI Companies*
- *Barrett Stejskal- BearPaws Environmental Consulting, Inc.*
- *W. Kirk Martin, P.G.- Water Science Associates*
- *Carl A. Barraco, P.E.- Barraco and Associates, Inc.*
- *Ted Treesh- TR Transportation Consultants, Inc.*

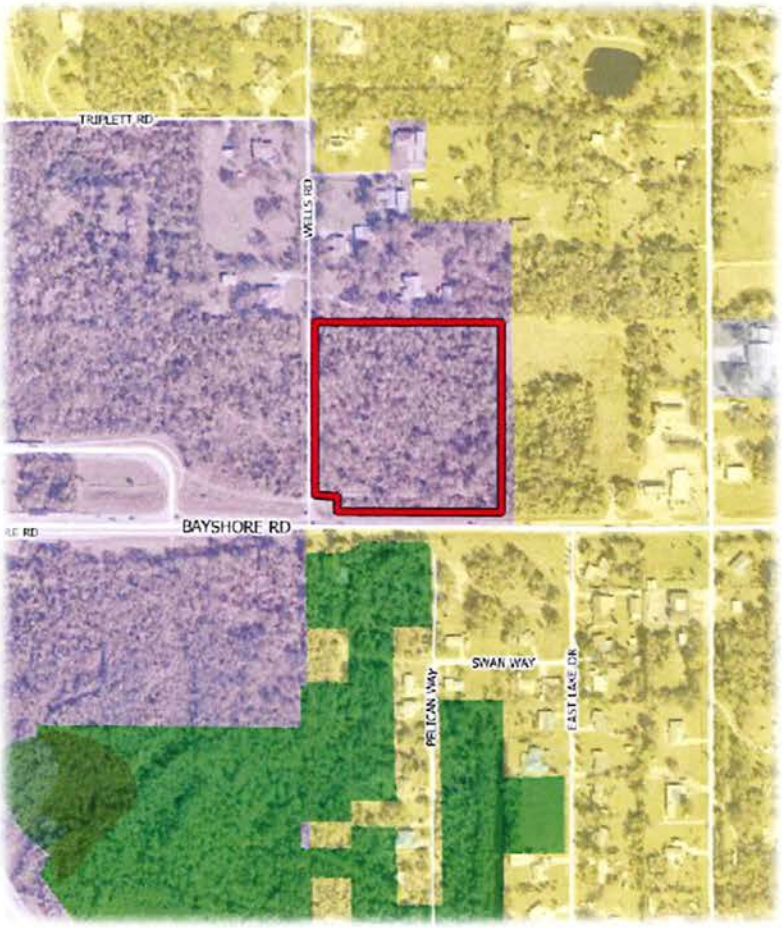
4630 VINCENNES BOULEVARD, SUITE 101
CAPE CORAL, FLORIDA 33904
(239) 542-3148

4504 GUN CLUB ROAD, SUITE 203
WEST PALM BEACH, FLORIDA 33415
(561) 471-1366

Applicant's 48-Hour Response
Issued 12/11/2023

Presentation Outline

Lee County
Southwest Florida



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

Lee County
Southwest Florida

POLICY 1.3.2: The General Interchange areas are intended primarily for land uses that serve the traveling public: service stations, hotel, motel, restaurants, and gift shops. But because of their location, market attractions, and desire for flexibility, these interchange uses permit a broad range of land uses that include tourist commercial, general commercial, light industrial[4]/commercial, and multi-family dwelling units. The standard density range is from eight dwelling units per acre (8 du/acre) to fourteen dwelling units per acre (14 du/acre). Maximum density is twenty-two dwelling units per acre (22 du/acre). (Ord. No. 94-30, 99-18, 16-02, 17-12)

Bayshore

GOAL 18: BAYSHORE COMMUNITY PLAN. Protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, and exclude incompatible uses that are destructive to the character of this rural residential environment. (Ord. No. 03-02, 18-18)

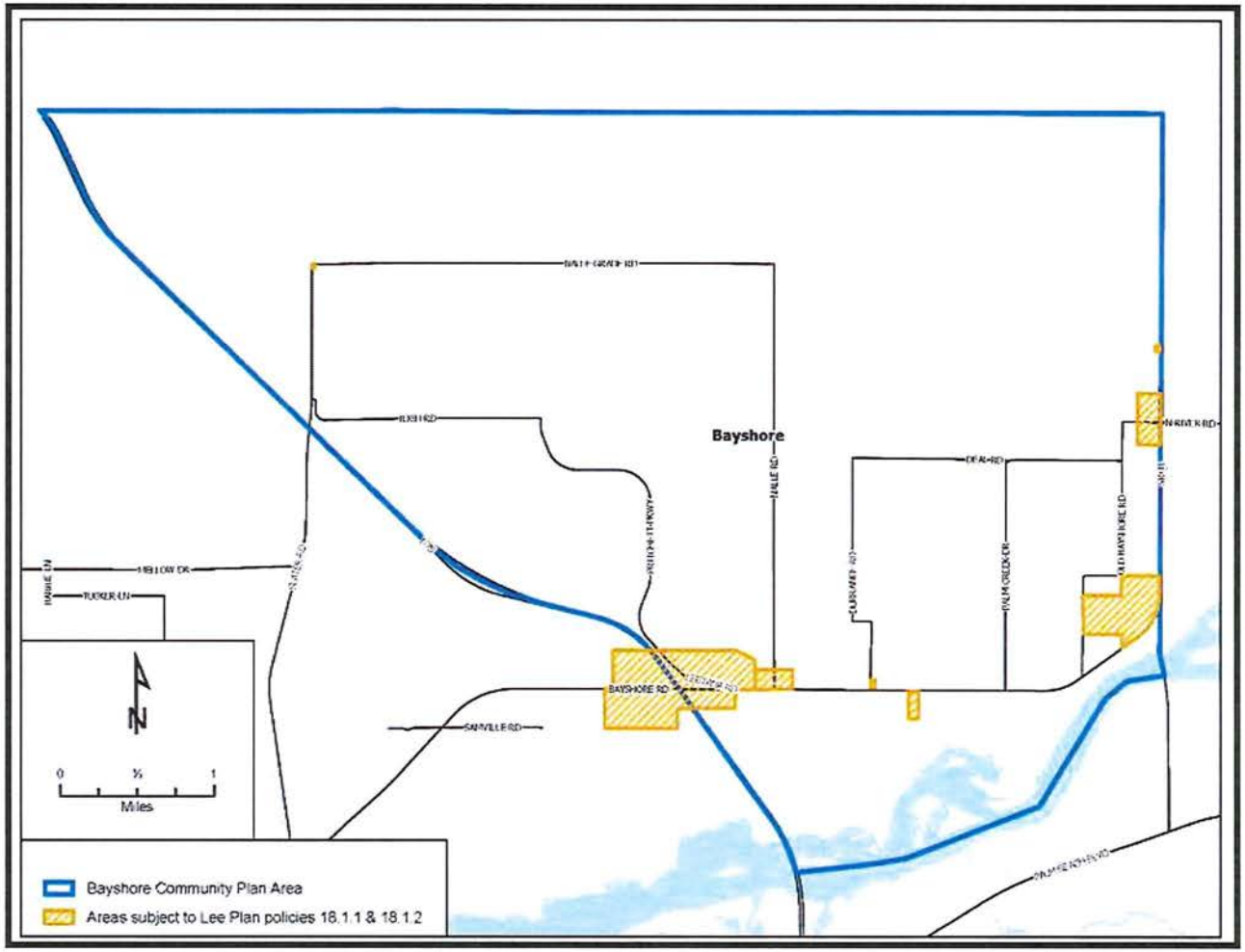
OBJECTIVE 18.1: LAND USE. The County will continue to enforce land development regulations that ensure separation of urban and rural land uses through the implementation of open space, buffers, and setback requirements that protect high quality environmental areas, such as creeks, oak hammocks, floodplains and wetlands from potential impacts of development. Planned developments, through appropriate conditions of approval, will be required to locate low residential densities along the perimeters of the development. Amendments to the Future Land Use Map that increase density or intensity must demonstrate compatibility through a concurrent planned development rezoning. (Ord. No. 03-02, 18-14, 18-18)

POLICY 18.1.1: Retail commercial uses will be limited to the Interstate Interchange designation at Bayshore and I-75, plus minor commercial uses at the intersections of Nalle Road and Bayshore, SR 31 and Bayshore, and SR 31 and Old Bayshore. Non-retail commercial uses are permitted elsewhere consistent with the Lee Plan and the LDC. (Ord. No. 03-02, 18-18)

COMMERCIAL DEVELOPMENT:

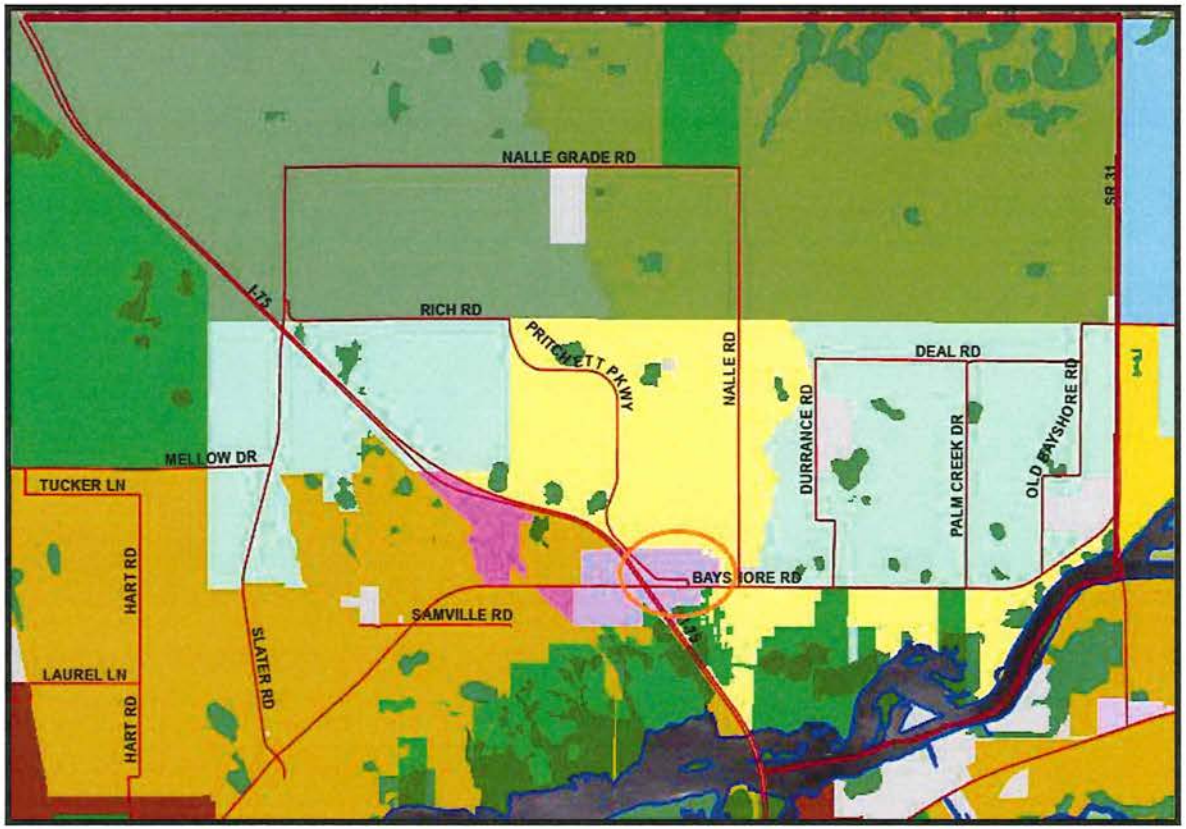
MINOR – Commercial development that provides for the sale of convenience goods and services and contains less than 30,000 square feet of gross floor area.

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



Lee County
Southwest Florida

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



81 Gross Acres
General Interchange
East of I-75

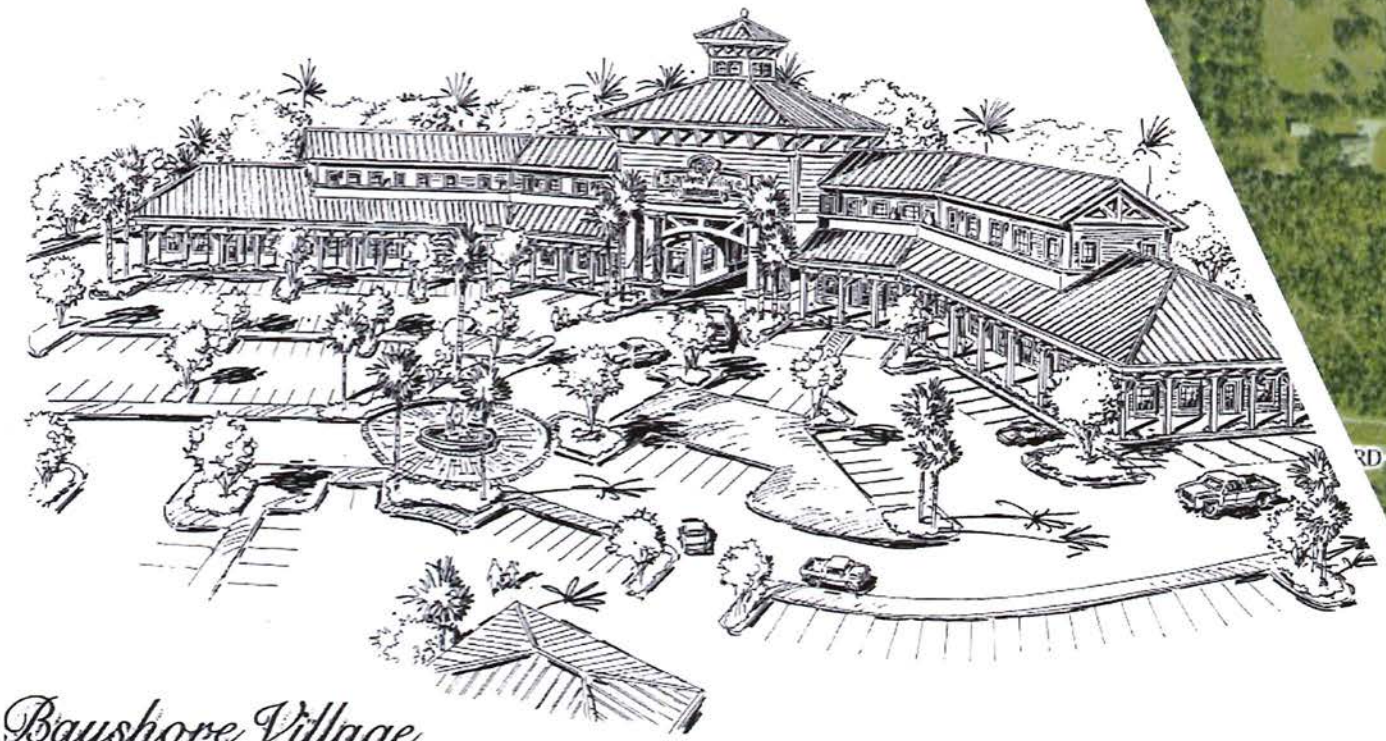
0.54% of Total Land Area
In Bayshore Community

Lee County
Southwest Florida

Composition of Bayshore General Interchange Acreage

Use	Acres
General Interchange	81.71
(Less) Residentially Improved	11.21
(Less) Wetlands	28.6
Net Developable Commercial	**41.9**

Lee County
Southwest Florida



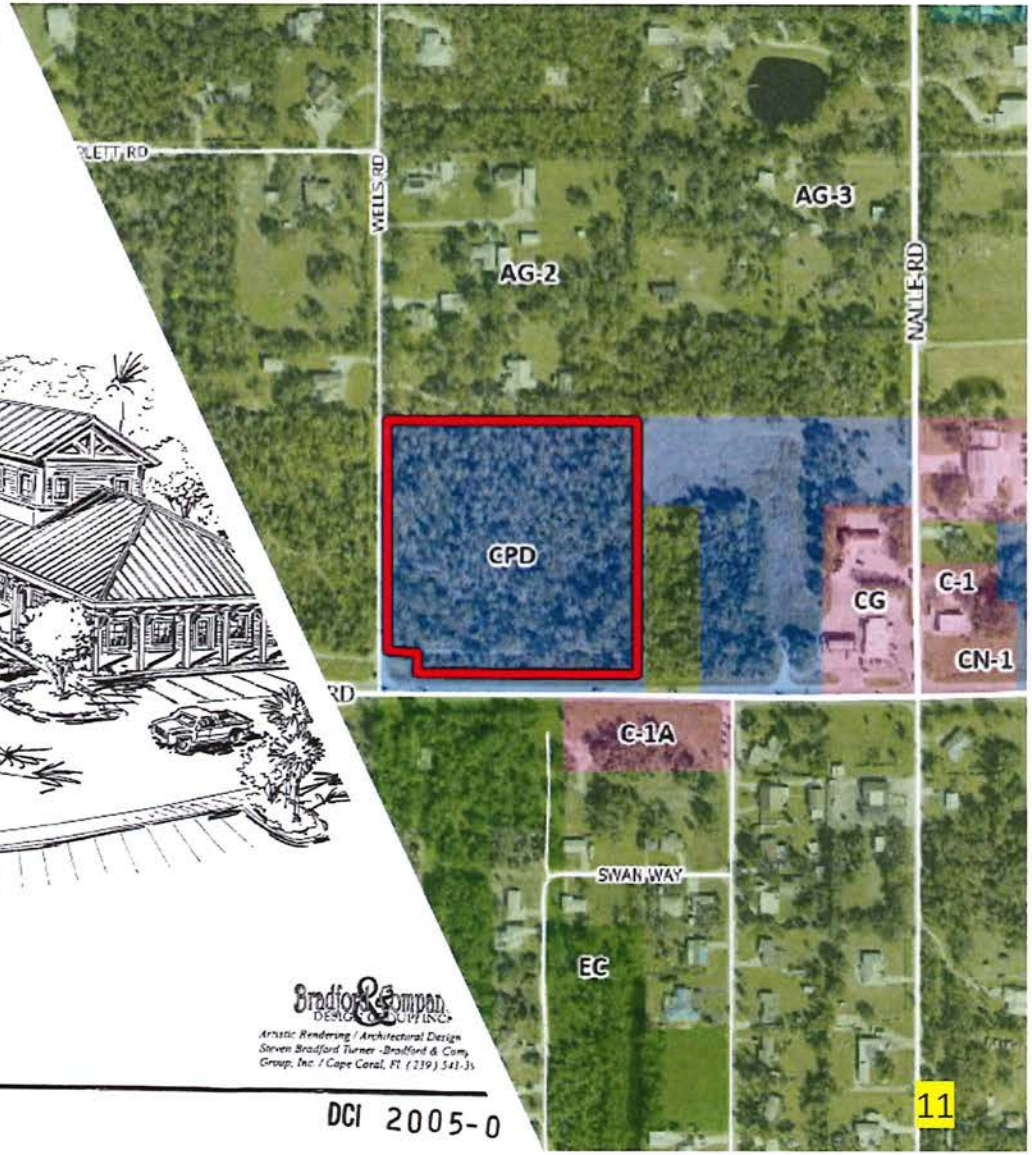
Bayshore Village

Conceptual Artists Rendition / Showing view overlooking parking towards the Main Building

BAYSHORE VILLAGE HOLDINGS GROUP, LLC.

Bradford & Company DESIGN & DEVELOPMENT INC.

Artistic Rendering / Architectural Design Steven Bradford Turner -Bradford & Company Group, Inc / Cape Coral, Fl (239) 541-3



DCI 2005-0

RESOLUTION NUMBER Z-06-046

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

WHEREAS, an application was filed by the property owner, Bayshore Village Holdings Group, LLC, to rezone a 8.75± acre parcel from Agricultural (AG-2) to Commercial Planned Development (CPD) in reference to The Village Square on Bayshore; and

WHEREAS, a public hearing was advertised and held on May 18, 2006, before the Lee County Zoning Hearing Examiner, Diana Parker, who gave full consideration to the evidence in the record for Case #DCI2005-00100; and

WHEREAS, a second public hearing was advertised and held on August 21, 2006, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 8.75± acre parcel from AG-2 to CPD, to allow a maximum of 99,999 square feet of mixed uses: office, medical office and retail. Maximum height requested is two stories/35 feet. No development blasting is requested. The project will connect to public potable water and to a public sanitary sewer system as part of any development of this property. The property is located in the General Interchange Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions specified in Section B below.

SECTION B. CONDITIONS:

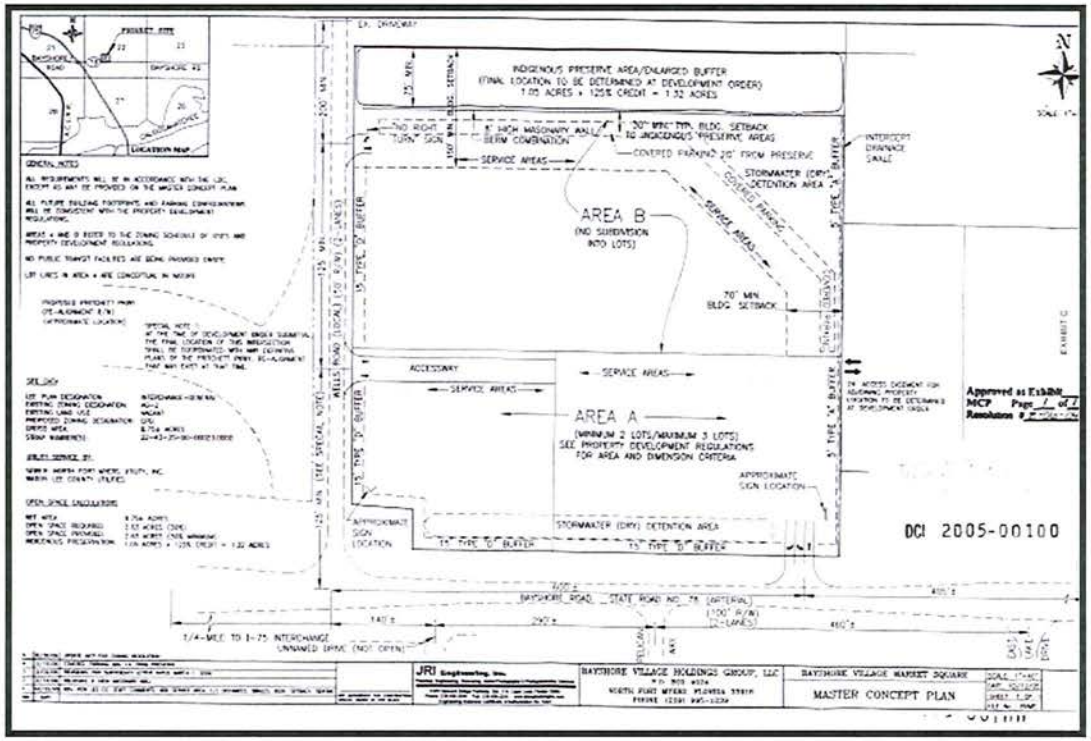
All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be consistent with the 1-page Master Concept Plan entitled "BAYSHORE VILLAGE MARKET SQUARE: MASTER CONCEPT PLAN," last revised 8/30/06, date stamped "Received SEP 06 2006," attached hereto as Exhibit C, except as modified by the conditions below.

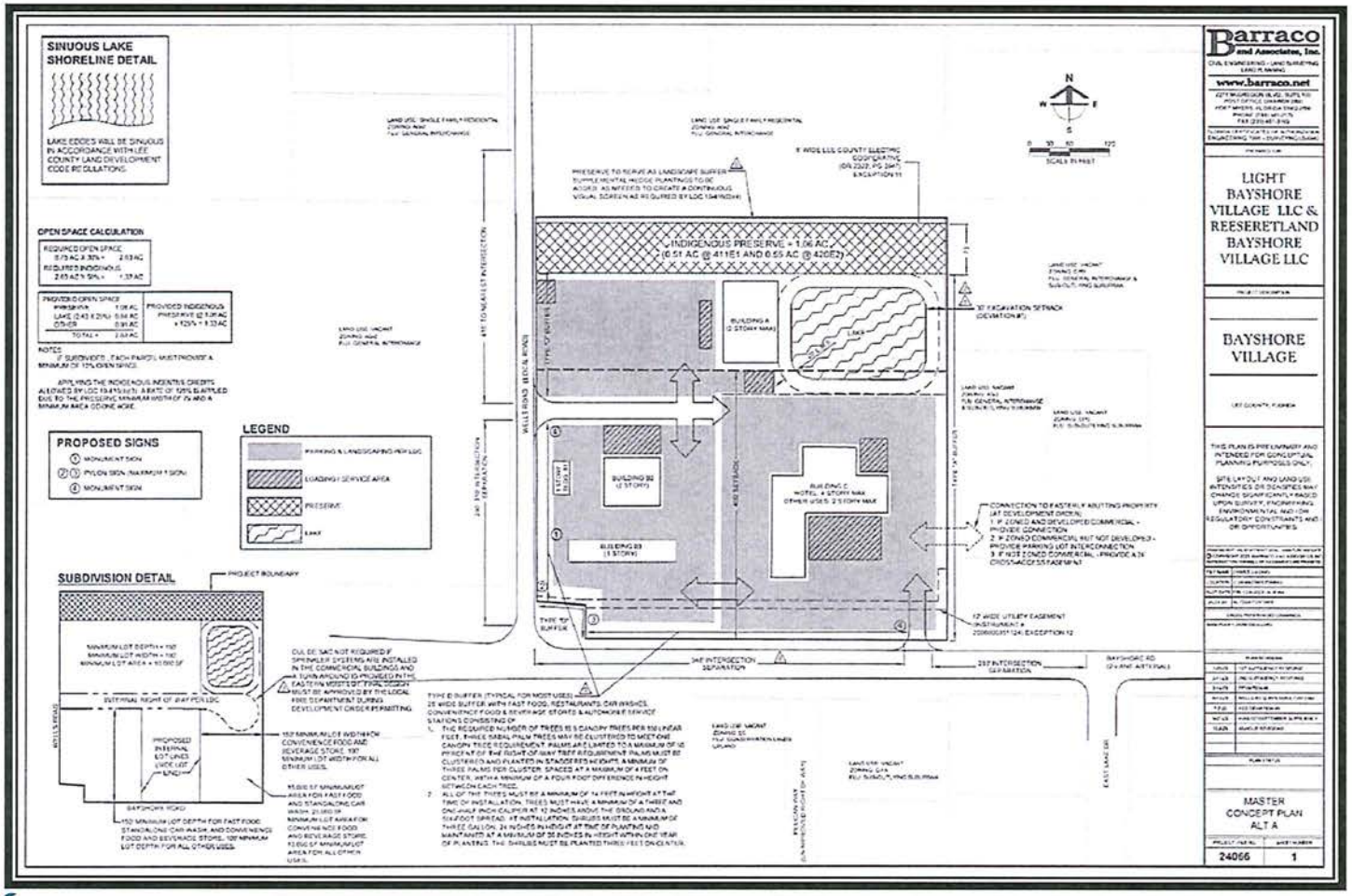
   This development must comply with all requirements of the Lee County LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

CASE NO: DCI2005-00100

Z-06-046
Page 1 of 8

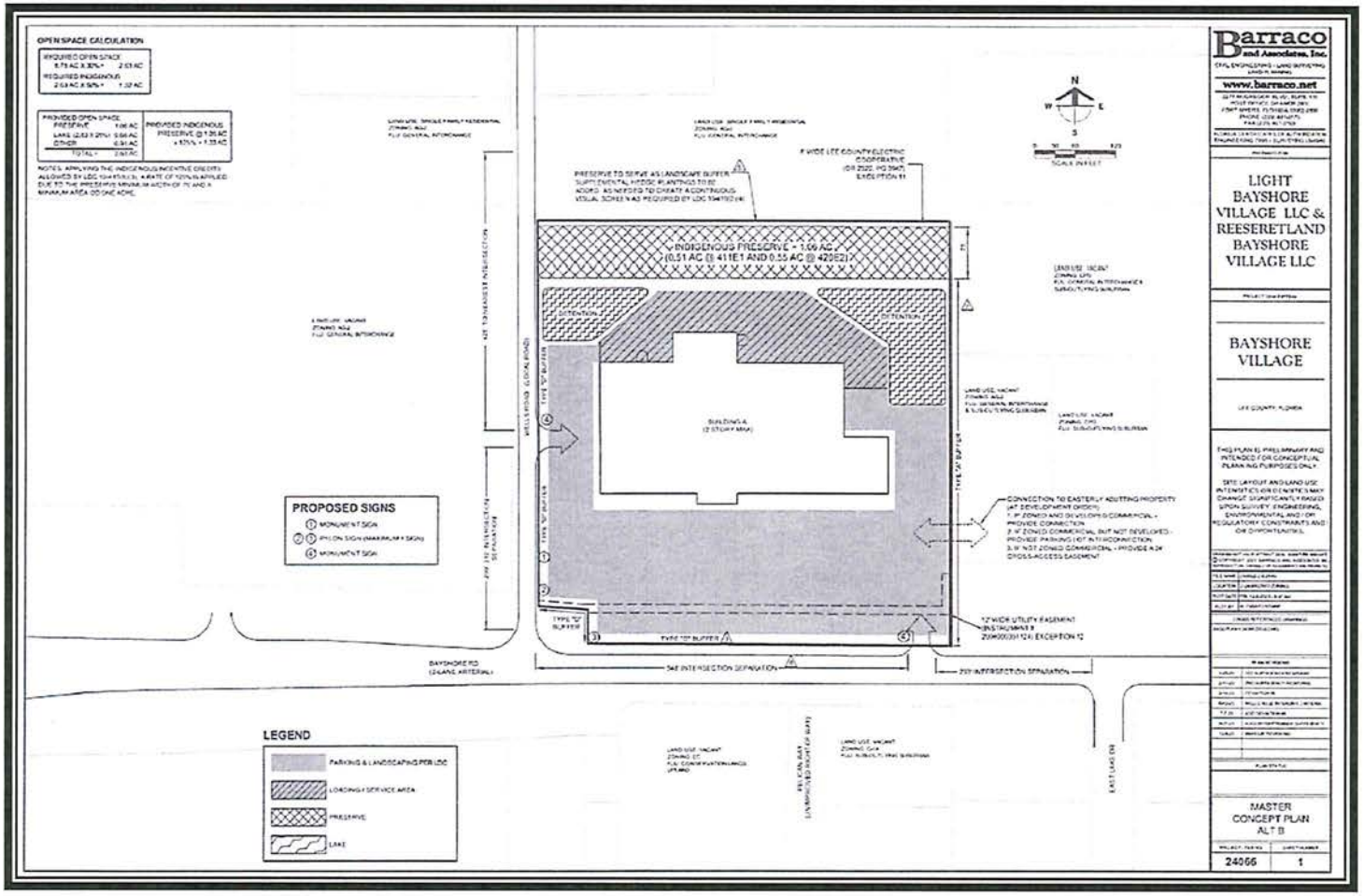


Alternate A



Lee County
Southwest Florida

Alternate B



Lee County
Southwest Florida

Natural Resources

EXHIBIT 1

Date: November 29, 2023

To: Adam Mendez, Senior Planner

From: Nic DeFilippo, Senior Environmental Planner
239.533.8983
ndefilippo@leegov.com

Subject: DCI2022-00032
Natural Resources Staff Report and Conditions for Bayshore Village
STRAP# 22-43-25-00-00023.0000

The subject property falls within the 1-year and 5-year Wellfield Protection Zone travel times and is approximately 200 feet north of a Lee County Public Water Supply well. The travel time represents the amount of time it takes a potential pollutant to reach the wellfield and is based on groundwater flow and withdrawal models. Lee Plan Goal 63 requires the protection of the Lee County's groundwater supplies from those activities having the potential for depleting or degrading those supplies. Lee Plan policy 125.1.2 states new development and additions to existing development must not degrade surface and ground water quality.

The applicant requested a meeting to discuss the proposed conditions following the publication of the Staff Report. During this meeting, Staff and the applicant discussed possible conditions which would allow the following uses to be constructed within the 1-year and 5-year wellfield protection zone travel times.

- Automobile repair and service, Groups I and II
- Automobile service station, with or without gas pumps
- Convenience food and beverage store, with or without gas pumps
- Repair Shops, Groups IV
- Self service fuel pumps
- Vehicle and equipment dealers

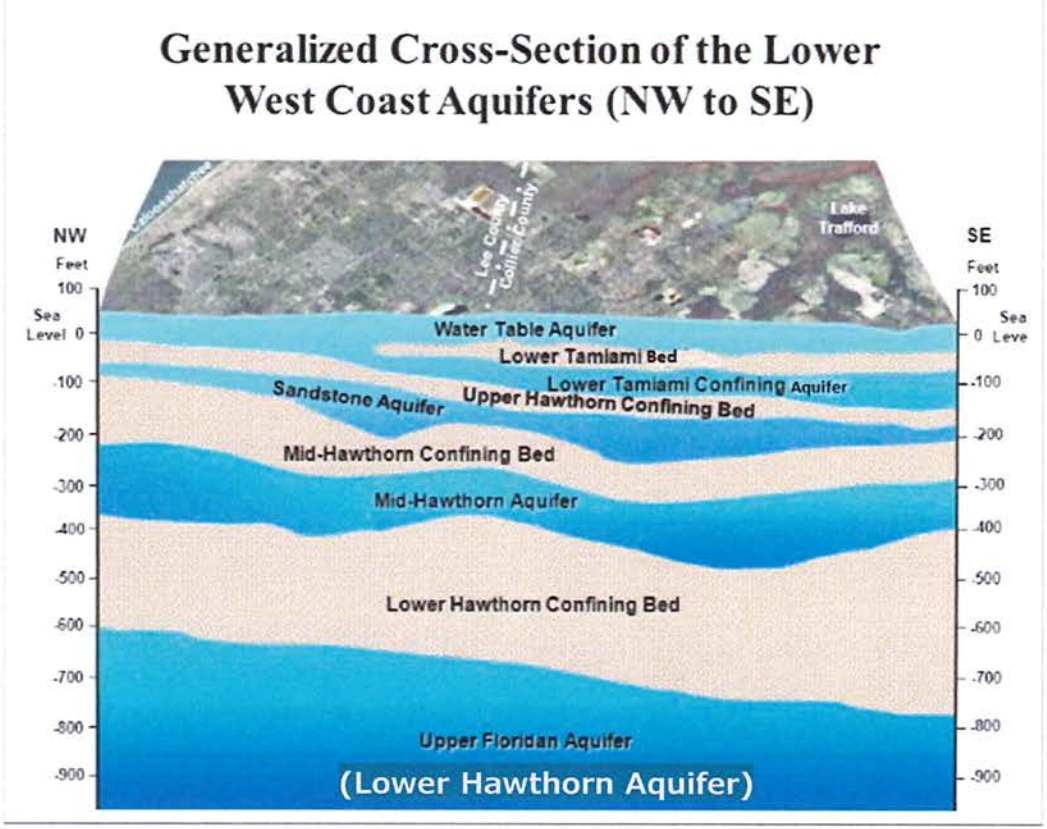
The nearby Public Supply wells, including the well directly south of the proposed development, withdraw groundwater from the Lower Hawthorn aquifer, which in this location requires a well depth ranging from 500-800 feet below ground. Staff recommends approval of the uses above within the 1-year and 5-year wellfield protection zone travel times, if constructed and operated in accordance with Staff's proposed conditions, given the depth of the nearby Public Supply wells.

The following uses have the potential to adversely impact the nearby Public Supply well if located within the 1-year or 5-year travel time. These uses include:

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

Staff does not support the Laundry and dry cleaning, Groups I and II use because the types of chemicals used during the Laundry and dry cleaning process have the potential of moving through all aquifer(s) if a spill were to occur layers therefore potentially adversely impacting the adjacent Public Supply well. The Truck Stop use would congregate trucks which have the potential to be carrying large quantities of hazardous substances near a public supply well. Staff cannot restrict trucks which are hauling hazardous materials from using the truck stop, therefore Staff does not support this proposed use.

Attachments:



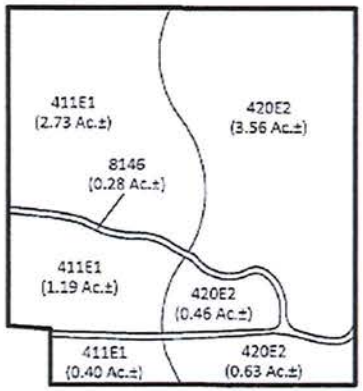
Condition 7 Requirements

- Prohibits Certain Uses
- Substance Thresholds
- Location Restrictions
- Maintenance Plan
- Design Considerations
- Surface Water Quality
- Groundwater Quality

Lee County
Southwest Florida

Environmental Sciences

Photo Date: August 2023



Deviation #6

Seeks relief from LDC §10-416(d)(3), which requires a Type "C" or Type "F" Buffer when a commercial land use abuts a residential land use, to allow the indigenous preserve to function as a planted buffer along the north property.

This Deviation is **APPROVED**, subject to the following condition:

a. In the event the proposed preserve does not create a continuous visual screen equivalent to a Type C or F buffer, then prior to the issuance of the first development order, the development order plans must provide a list of supplemental plantings and a replanting plan, subject to approval by Lee County staff.

Lee County
Southwest Florida

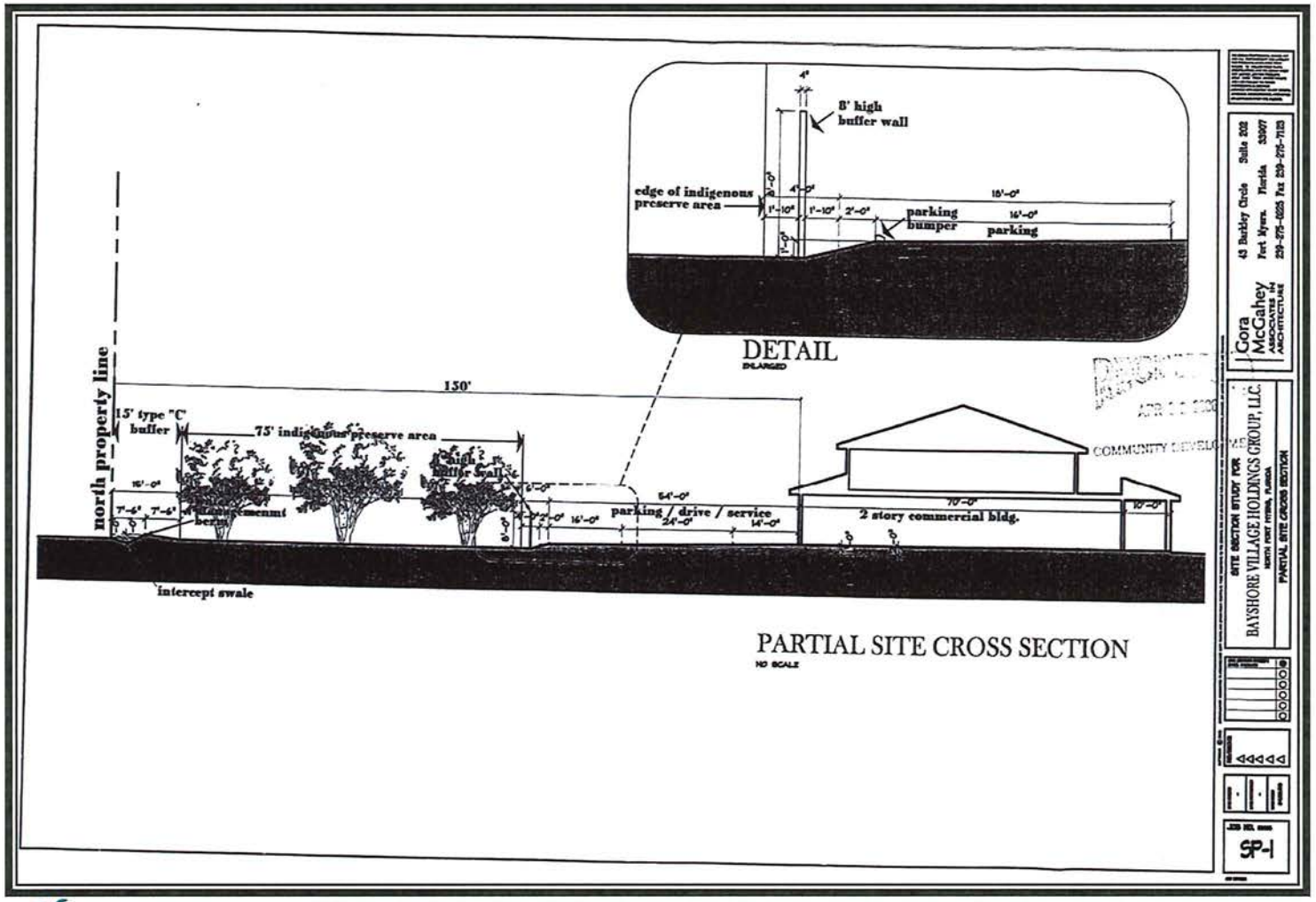


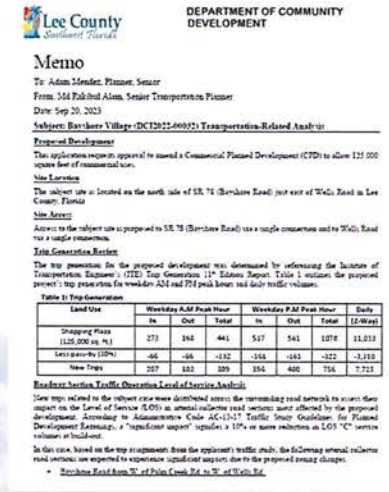
Exhibit D

Resolution Z-06-046

Lee County
Southwest Florida

Transportation and Access

Photo Date: August 2023



Lee County
Southwest Florida

DEPARTMENT OF COMMUNITY DEVELOPMENT

Memo

To: Adam Mendez, Planner, Senior

From: Md Fakhrul Alam, Senior Transportation Planner

Date: Sep 20, 2023

Subject: Bayshore Village (DC2022-00052) Transportation-Related Analysis

Proposed Development

This application requests approval to amend a Commercial Planned Development (CPD) to allow 125,000 square feet of commercial uses.

Site Location

The subject site is located on the north side of SR 78 (Bayshore Road) just east of Wells Road in Lee County, Florida.

Site Access

Access to the subject site is proposed to SR 78 (Bayshore Road) via a single connection and to Wells Road via a single connection.

Trip Generation Review

The trip generation for the proposed development was determined by referencing the Institute of Transportation Engineers (ITE) Trip Generation 11th Edition Report. Table 1 outlines the proposed project's trip generation for weekday AM and PM peak hour and daily traffic volumes.

Table 1: Trip Generation

Land Use	Weekday AM Peak Hour			Weekday PM Peak Hour			Daily
	In	Out	Total	In	Out	Total	(2-Way)
Shopping Plaza (125,000 sq. ft.)	273	168	441	517	561	1078	11,013
Less pass-by (30%)	-66	-66	-132	-155	-167	-322	-3,293
New Trips	207	102	309	362	394	756	7,723

Roadway Section Traffic Operation Level of Service Analysis

New trips related to the subject site were distributed across the surrounding road network to assess their impact on the Level of Service (LOS) on arterial/collector road sections most affected by the proposed development. According to Administrative Code AC-13-17 Traffic Study Guidelines for Planned Development Rezonings, a "significant impact" signifies a 10% or more reduction in LOS "C" service volume at build-out.

In this case, based on the trip assignment from the applicant's traffic study, the following arterial/collector road sections are expected to experience significant impact due to the proposed zoning changes.

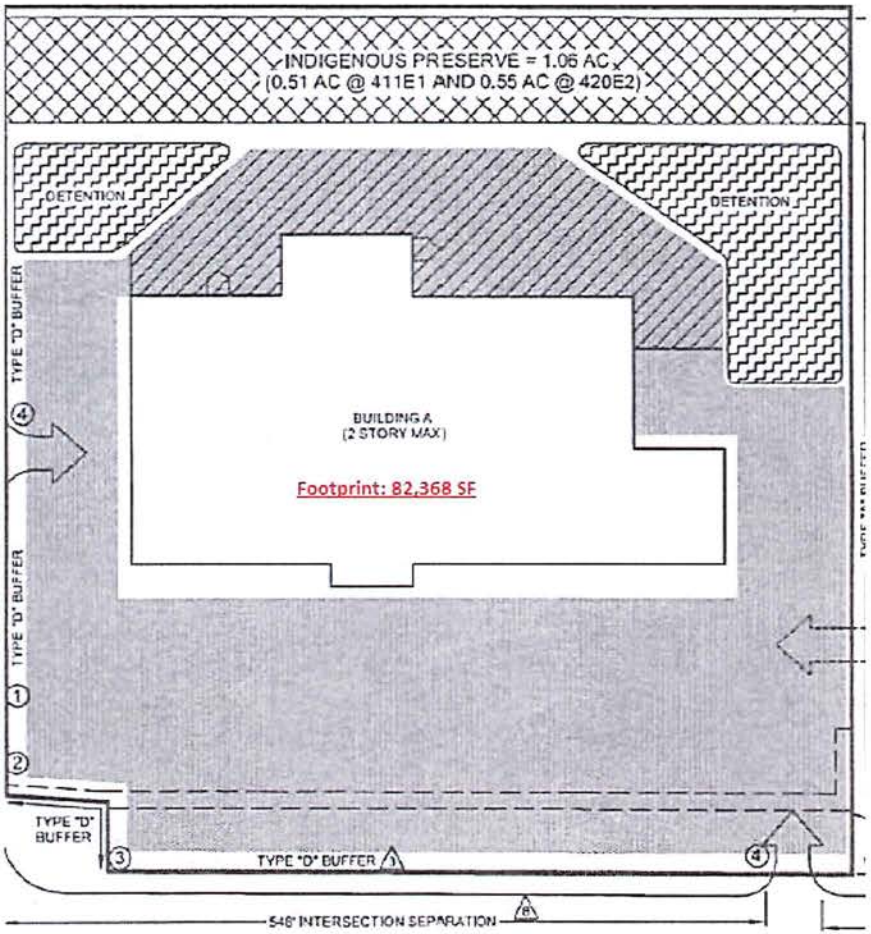
- Bayshore Road from W. of Palm Creek Rd. to W. of Wells Rd.

Lee County
Southwest Florida

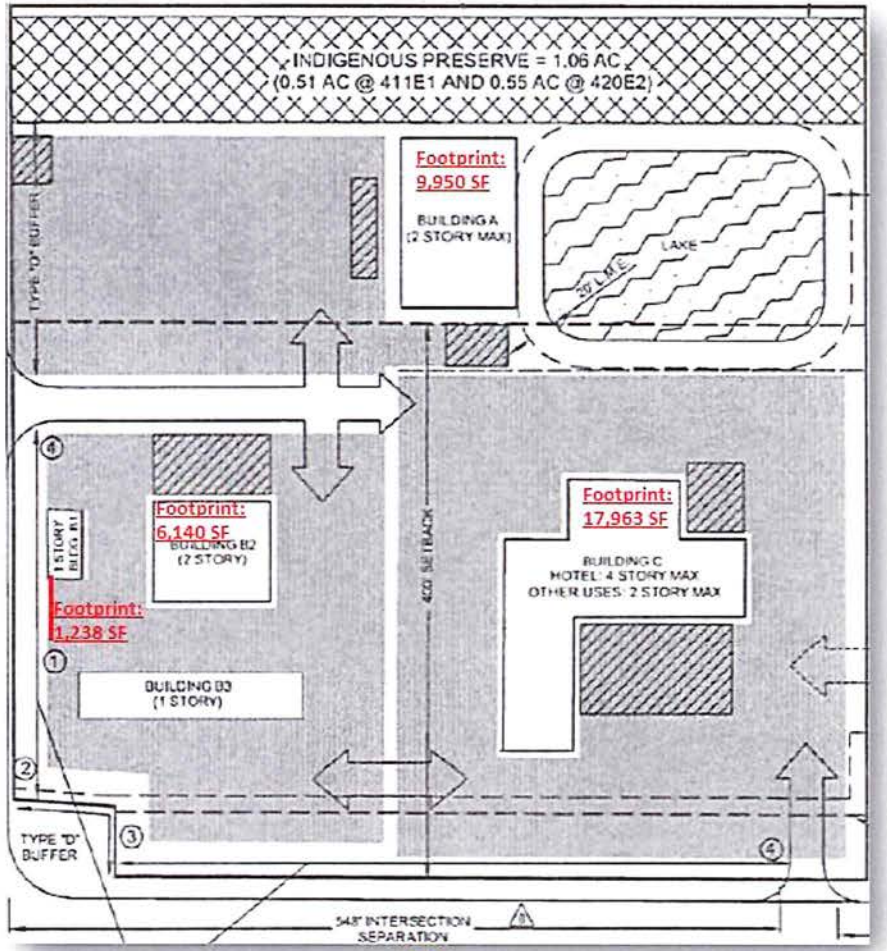
Intensity

INTENSITY – A measurement of the degree of non-residential uses of land based on use, size, impact, bulk, shape, height, coverage, sewage generation, water demand, traffic generation, or floor area ratios.

Lee County
Southwest Florida

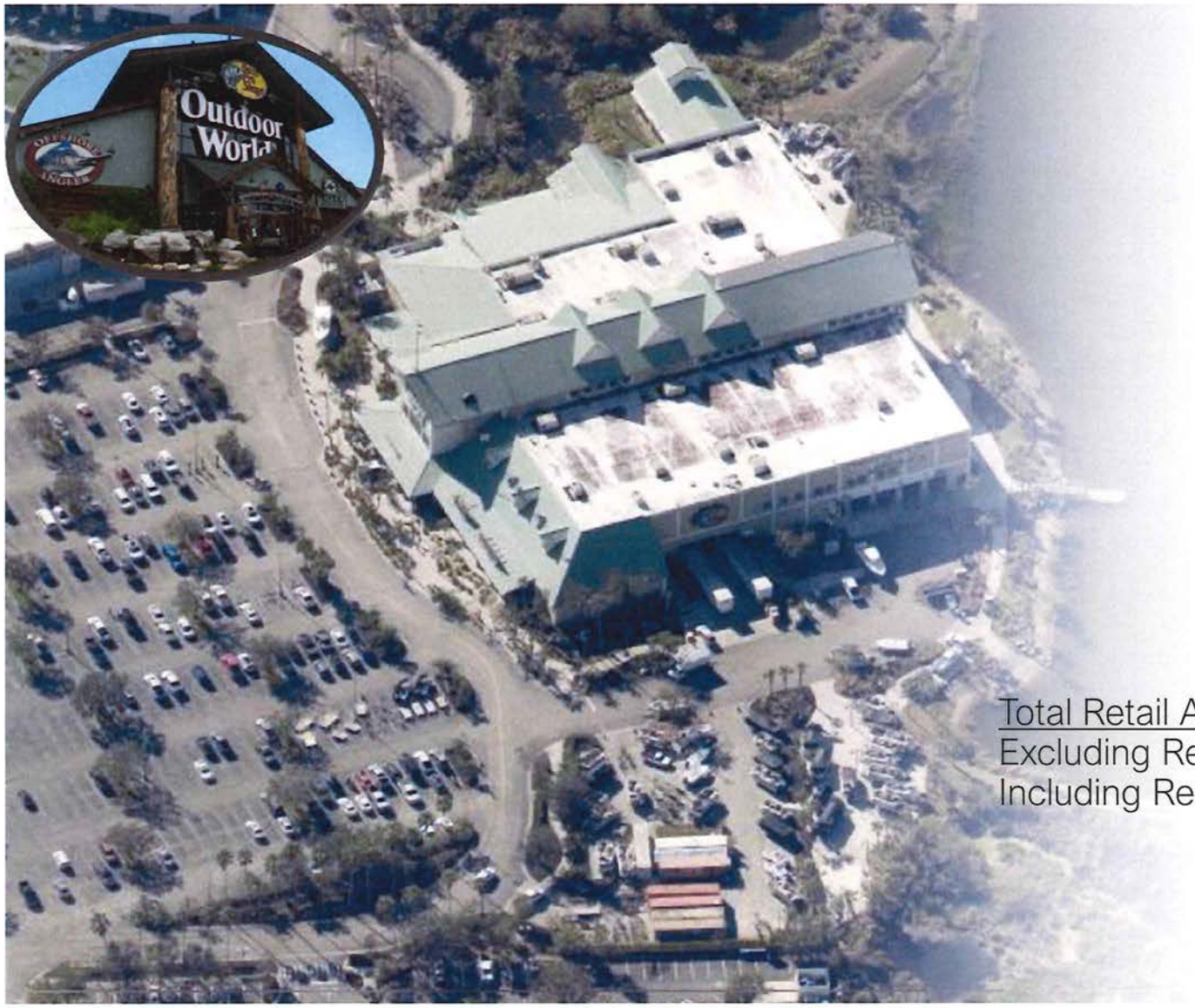


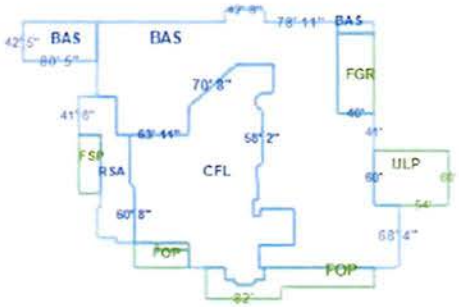
B



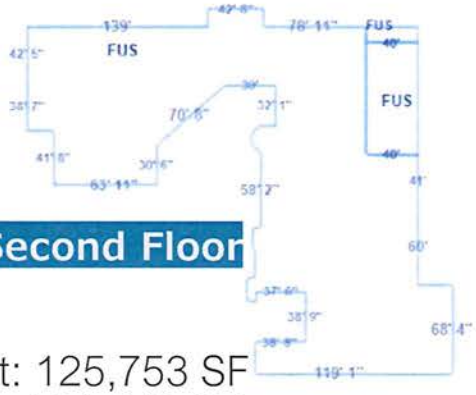
A

Lee County
Southwest Florida





First Floor



Second Floor

Total Retail Area
Excluding Restaurant: 125,753 SF
Including Restaurant: 131,518 SF

Gulf Coast Town Center
Resolution Z-20-020

RESOLUTION NUMBER Z-20-020

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

WHEREAS, an application was filed by the property owner, GCTC Holdings, LLC, to remove 40.5± acres, relocate multiple family residential use, increase multiple family residential building height/stories, allow zero lot line development and reduced building separations, increase number of hotel rooms, amend Schedule of Uses, reduce retail square footage and amend sign package in reference to the Gulf Coast Town Center Mixed Use Planned Development (MPD); and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Donna Marie Collins, was advertised and held on June 25, 2020. At the conclusion of the hearing, the Hearing Examiner left the record open and requested Staff and the Applicant to submit written submissions to her office on or before July 24, 2020; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2019-00011 and recommended APPROVAL of the Request with conditions; and

WHEREAS, a second public hearing was advertised and held on October 7, 2020 before the Lee County Board of Commissioners; and,

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to remove 40.5± acres, relocate multiple family residential use, increase multiple family residential building height/stories, allow zero lot line development and reduced building separations, increase number of hotel rooms, amend Schedule of Uses, reduce retail square footage and amend sign package.

The property is located in the University Community, University Village Interchange, and Wetlands Future Land Use Category, and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. Development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled "Gulf Coast Town Center Master Concept Plan," prepared by AVID Group, date stamped received July 22, 2020, and attached hereto as Exhibit C, except as modified by the conditions below. 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 MCP are subsequently pursued, appropriate approvals will be necessary.

Development must also comply with the Lee Plan, Gulf Coast Town Center DRI Development Order, and "DRI Map H Master Plan Gulf Coast Town Center".

Approved MPD Development Parameters:

1,511,765 square feet (GFA) retail, office and commercial development,
400 hotel/motel rooms, and
600 multi-family residential units.

MPD is limited to a maximum cumulative total of 10,000 square feet of nonresidential building area per non-residential acre within the DRI.

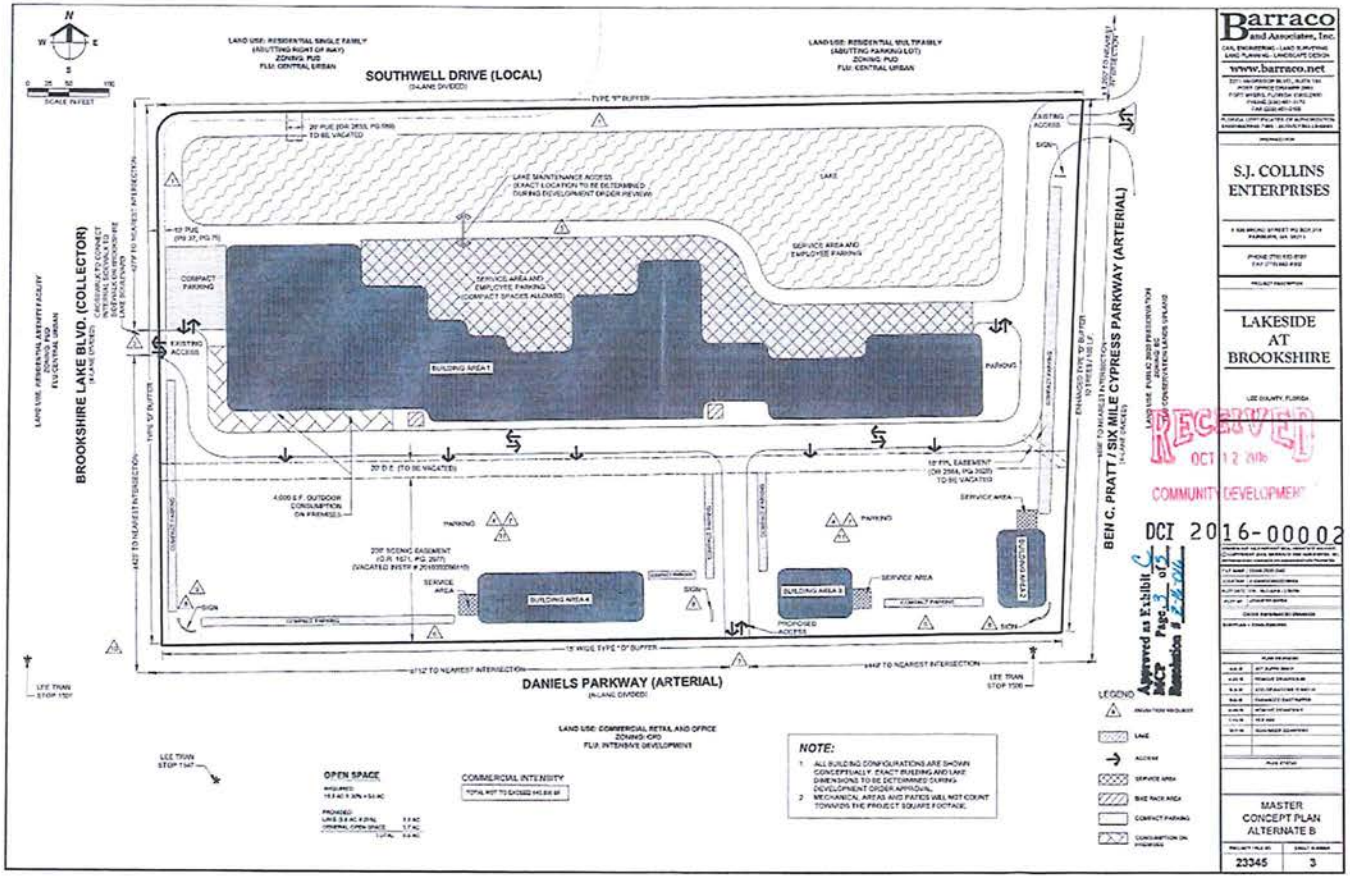
2. Permitted Uses and Property Development Regulations.

a. Permitted Uses by MCP Tract Designation:

Commercial "C/O/H"

Accessory uses and structures
Administrative offices
Agricultural uses and agricultural accessory uses (limited to bona fide uses existing on November 1, 2000)
Animal Clinic
ATM (automatic teller machine)
Automobile service station - with gas pumps & car wash (limited to one only, a minimum of 200 feet from residential uses)
Automobile Repair and Service, Group I (limited to 1 located on outparcels adjacent to Ben Hill Griffin Parkway)
Banks and financial establishments: Groups I, II
Bar and cocktail lounge (limited to one principal use and one in conjunction with a Group III Restaurant, with outdoor seating)
Boardwalks
Broadcast studio, commercial radio and television
Business services:
Group I (excluding bail bonding and blood donor stations)
Group II
Clothing stores, general
Clubs: Commercial, Fraternal, Membership, Private
Communication tower (accessory to permitted use only and 100 feet or less in height)
Consumption on Premises, subject to Conditions 41 and 46
Contractors and Builders: Group I
Convenience food and beverage store (limited to one - located a minimum of 200 feet from residential uses)
Cultural facilities
Day care center, child

Lee County
Southwest Florida



Brookshire CPD

Z-16-016A

- 140,000 SF
- 16.5 Acres
- 8,484 SF Per Acre

Lee County
Southwest Florida

Floor Area

Main Building: 82,060 SF

Outparcels: 24,227 SF

Outdoor Restaurant Seating: 2,562 SF

Total Existing Intensity:
108,849 SF

Lee County
Southwest Florida

Bayshore Village
DCI2022-00032

Bayshore Community

CONCLUDING REMARKS

Existing

61,000 Square Feet

Neighborhood Commercial

Several Compatibility Measures

Proposed

125,000 Square Feet

General/Interchange Commercial Uses

Removes Compatibility Measures

Incompatible | Inconsistent with Policies 5.1.5 and 6.1.4 and Objective 18.1

Recommended

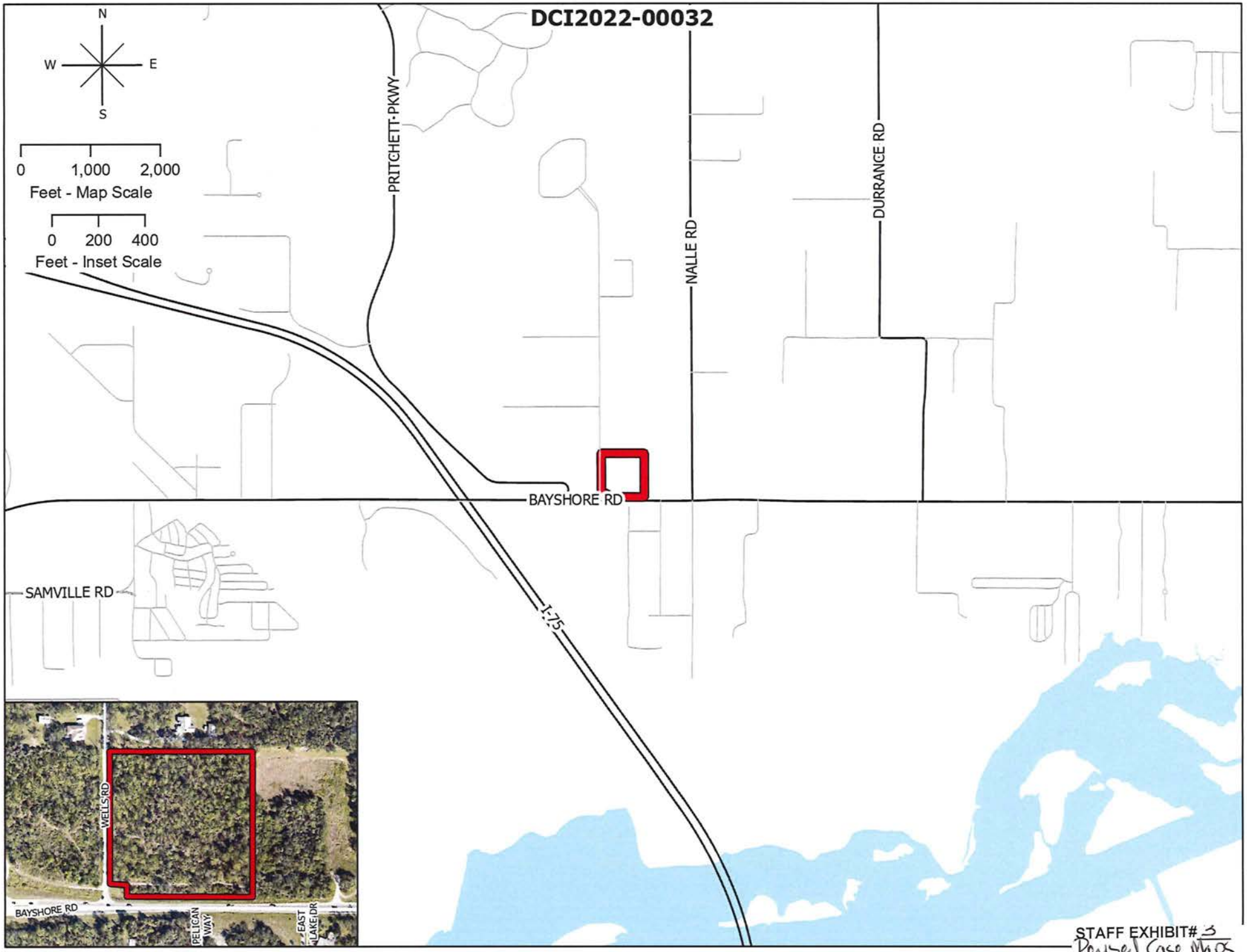
87,500 Square feet

44 Unit Hotel Allocation

General/Interchange Commercial Uses

Preserves Compatibility Measures

DCI2022-00032



STAFF EXHIBIT# 3
Revised Case Maps
Attachment C Staff Report

DCI2022-00032

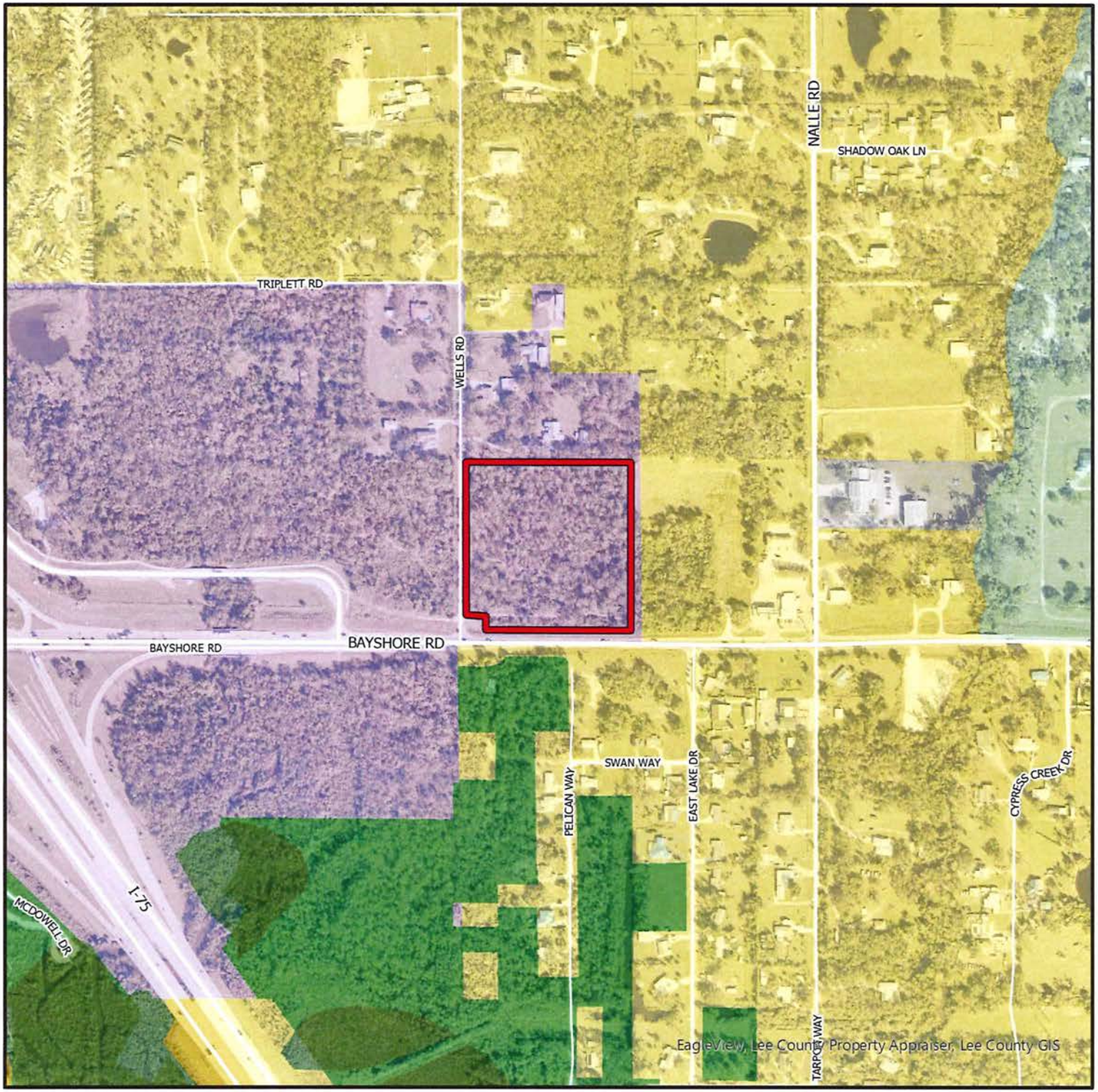
Aerial

Subject Property

N
W E
S

0 300 600 900
Feet

Lee County
Southwest Florida



DCI2022-00032

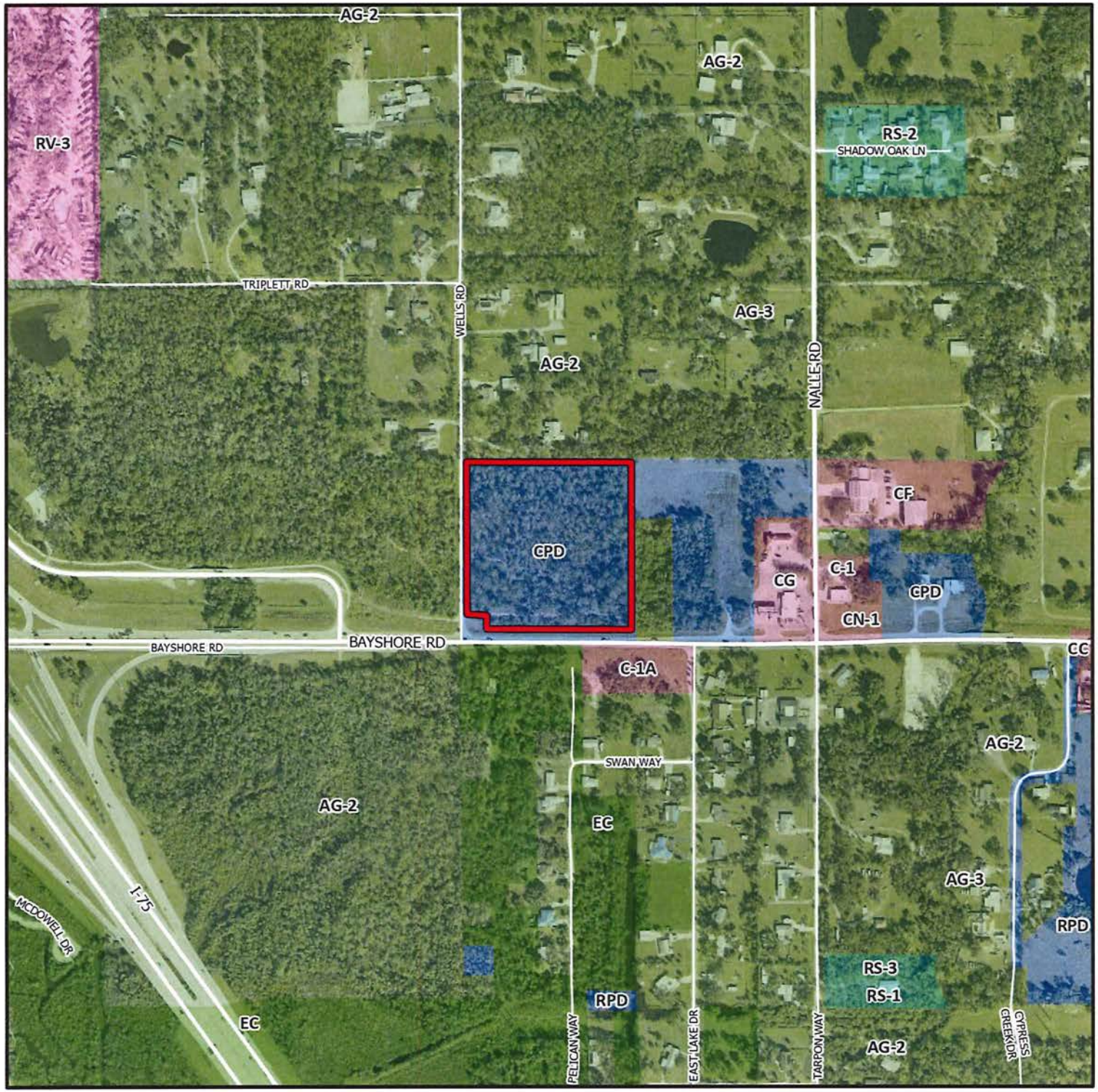
Future Land Use

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

N
W E
S

0 300 600 900
Feet

Lee County
Southwest Florida



DCI2022-00032

Zoning

Subject Property

N
W E
S

0 300 600 900
Feet

Lee County
Southwest Florida

From: j.smith <jsmith6372@yahoo.com>
Sent: Thursday, October 27, 2022 5:13 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] RE: Bayshore Village and/or DCI2022-00032

RE: Bayshore Village and/or DCI2022-00032

10/27/22

Dear Mr. Mendez:

I was unable to attend the Bayshore Village Public Meeting on 10/26/22 at New Hope Christian Church.
Therefore, I would like to leave my thoughts with you prior to your final decision-making.

I ask that my email/comments be included in the record.

My concerns are the same as those at the meeting, but allow me to expand:

1. First and foremost, especially considering Hurricane Ian, is flooding. Our area is very prone to flooding, as you well know. Every time someone builds, the flooding gets worse for those who built before.
The community and/or commercial barrier walls block sheet flow. The amount of ground that absorbs the water is now covered in cement and buildings/homes. The berms block sheet flow. Ditches and culverts are not cleaned out sufficiently. Water just sits. The creeks are blocked with trees and debris. All of this contributing to more and more flooding, more damage, higher costs, and higher insurance rates. When flooded, septics don't work properly. Properties are now sitting in sewage, or animal waste. Farm animals are standing in wastewater with nowhere to seek high ground, hooves rotting, and drinking that contaminated water. Let's also think about the mosquito breeding and spread of disease.

2. Most of us have chosen to live in North Fort Myers for the rural atmosphere. We chose to live here to get away from the cities, away from the door-to-door communities. We would like our community to remain rural and our wishes, requests, and plans are constantly ignored and overruled. Our voices do not seem to matter, nor do our votes.

3. Traffic. We also moved here to avoid traffic. To have scenic country roads. Bayshore is a dangerous, backed-up mess, getting worse by the day. The solution is not to widen the road. The solution is to keep low-density properties.

4. Lighting... higher density=more light pollution.

5. Wildlife... higher density=extinction, lack of habitat, death.
Eagles and other birds of prey, fox, tortoises and turtles, fox squirrels. The whole ecosystem becomes destroyed.

DCI2022-00032
STAFF EXHIBIT# 4
Compilation of Public Comments and petition

6. In the meeting, according to the minutes I read, Mr. Inge stated that his space would not change nor impact the level of service on Bayshore Road. What? Not possible. Impossible!

7. It is very dangerous exiting I75N, onto Bayshore heading East. Especially if you have to shoot across 3 lanes to turn left onto Pritchett Road or Wells Road. It is also very dangerous trying to head East onto Bayshore Road from Pritchett Road or Wells Road. I frequently see traffic backed up on Bayshore trying to get onto or off of I-75. I see traffic backed up at exit 143 all the way to exit 141.

None of this is GOOD. None of this is PROGRESS. Please look at all the pros ($) and cons (everything above). Please listen to what the people of Bayshore want. Please don't let this just be about money. Your decisions affect people's lives, their homes, their costs/expenses, their commute times, their safety, their health. Your decisions affect animals' lives, their homes, their health, their safety.

Please say "NO" to this and any rezoning that changes and/or increases density and decreases our rural community. Anywhere can become just like any other city, same shops, same restaurants, same storage units, same car washes, same gas stations, etc. Not anywhere can be farms and ranches, country roads and wildlife. Let's keep North Fort Myers and our Bayshore community rural. Keep it a place where others want to take a country drive on the weekend to get away, to see horses and cows and goats... even if just for an hour. It is a place to escape. We moved to see that every day. Not for it to be taken from us.

Thank you for your time and consideration.

Sincerely,
Jennifer Smith
19801 Slater Road
North Fort Myers, FL 33917
239-745-1702

From: dvieths1@aol.com <dvieths1@aol.com>
Sent: Sunday, October 30, 2022 10:35 AM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Reference Bayshore Village and/or DCI2022-00032.

I am writing this to help make you aware of our concerns regarding the newly proposed Bayshore Village.

We Live at 17400 Wells rd. which is the second home on the right on Wells rd. The 2006 Approved Plan for 60,000 sq. ft. commercial use 1 story with a buffer wall on the north end of the property was reluctantly acceptable to us but has been approved.

Now this proposal for an over double the square footage at 150,000 sq. ft with 2 story and doing away with the buffer wall as well adding other uses are not in the interest of my family and this rural area. Wells

road is already extremely busy and this plan is to dump all the new traffic from the new development onto this road which would make exiting onto Bayshore rd. almost impossible. Also we are very concerned about blocking water sheet flow which is already a problem during the rainy season as well a major storm like Ian.

Please Consider our Concerns and Reject this Proposal

Thank You
David and Frankie Vieths
17400 wells rd.
North Fort Myers Fl. 33917

From: Meredith Hoiles <meredith.hoiles@equifax.com>
Sent: Friday, October 28, 2022 5:46 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Wells Rd/ The Village Square on Bayshore

Good Afternoon, Mr.Mendez,

I attended the community meeting Wednesday night to listen to the developers owning this land propose doubling the capacity and opening up the option for a hotel, department store, etc....

I grew up in Sandy Pines Circle at 18230 Sandy Pines and have built two houses in the neighborhood since. My parents still live in their home and my brother also is in his second home in the circle. We have been aware of the commercial properly at the end of the road for quite some time.

I know if I was the property owner, I would want to build and make the property profitable so I understand where they are coming from, however, doubling the use of that property is not something we are interested in, if we have that option. Myself and our neighbors were VERY concerned over the traffic we are already experiencing on Bayshore Rd. The developers said at this time there was an entrance proposed on Wells Rd and no stop light at this time. We have multiple pedestrians, as well as kids that ride their bikes along with 3 bus stops down Wells Rd.

We hope the county is truly monitoring how this will affect Bayshore Rd/Wells Rd and the neighboring communities. Please keep our safety top of mind.

Thank you
Meredith Hoiles

From: Bethany McCleaf <mccleaflaw@gmail.com>
Sent: Monday, November 7, 2022 8:12 AM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] DCI2022-00032

Dear Mr. Mendez,

I am writing to you as a concerned resident of Wells Road. It has come to my attention that in front of you is an application to re-zone the property at 17300 Wells Road. This zoning request is highly contradictory to the Bayshore Community Plan which, in my understanding, was intended to protect the rural character of our community against vast commercial intrusion.

My husband and I purchased our home in 2017 and fell in love with the neighborhood, which is unique in Lee County due to its rural nature. We love the 'country' feel, but also the proximity to the interstate that allows us to be 'in town' in only a matter of minutes. We do our best to avoid Bayshore and I-75 during rush hour in the mornings and in the evenings because of the mass number of vehicles on the road at those times, which make it dangerous and challenging to enter and exit Wells Road. We cannot begin to image the congestion that would be caused by a re-zoning of the above-mentioned parcel by the magnitude requested.

In the almost six years we have lived here, we have experienced multiple episodes of flooding in our yard due to the sheet flow from surrounding areas. We are concerned for ourselves and our neighbors that additional development on the scale requested would decimate our beloved properties.

We appreciate growth and development and are not wholly against it, but given the character of our neighborhood, we humbly ask that you limit the total commercial floor area to 87,500 sq. ft. at most to be consistent with other commercial properties in Lee County with similar acreage. We also ask that you deny the

request to re-zone to include *heavy* commercial uses. In limiting the commercial floor area square footage and type of use, you would help ensure the safe ingress and egress of my family and neighbors who live on Wells Road, you would help protect our property from flooding and you would help protect and preserve our beloved rural neighborhood from unreasonable commercial development.

Please let me encourage you, if you haven't done so already: Take a drive around our peaceful neighborhood and get a feel for the simple community and lifestyle we love. If you're able to come around 5:00 in the evening any M-F, you may hit a line of traffic dangerously congesting I-75 as the Bayshore exit (Exit 143) clogs up the interstate as you head north on I-75. Off of the exit, you will veer right (East) and merge onto Bayshore Road. There is a very short distance in which residents of Wells Road must then cross the traffic on Bayshore to take a left onto Wells Road and a very narrow and short turn lane. Imagine for yourself living on that street and navigating driving in and out of that neighborhood multiple times a day. It's tricky, dangerous and congested at best without adding a massive 150,000 square foot heavy commercial use space with customers traveling in and out of that space, presumably using the entrance to your neighborhood as their entrance and exit, further congesting the already congested area.

We appreciate the time and careful consideration you are giving to this application and those who will be affected most.

Very truly yours,

Bethany McCleaf, Esq.
McCleaf Law, P.A.

From: Steven Brodkin <steveb239@aol.com>
Sent: Wednesday, November 9, 2022 4:39 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Bayshore Village CPD

11/9/2022
RE: DCI2022-00032
Bayshore Village CPD
Senior Planner
Adam Mendez,

We oppose the rezoning of Bayshore Village CPD for the following reasons:

1. The Bayshore Plan Goal states:

GOAL 18: BAYSHORE COMMUNITY PLAN. Protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, and exclude incompatible uses that are destructive to the character of this rural residential environment. (Ordinance No. 03-02, 18-18)

Staff members have told us that commercial planned developments are generally permitted at 8,000-10,000 sq. ft. per acre. The subject property is 8.75 acres, and will be losing frontage (likely more than 1 acre) on Bayshore Rd for widening. Note that the goal says "minimal commercial activities". The applicant is requesting 2.5 times the original permitted square footage (61,000 previously permitted, 150,000 now requested), plus an increase from 1 story to 2 story buildings. This is well beyond the guidelines and inconsistent with "minimal commercial activities", and represents "uses that are destructive to the character of this rural residential environment".

2. As stated in the Bayshore Plan, Bayshore is a rural community with low residential density. The east side of I-75 is rural, and the west side of I-75 is considered Suburban. Therefore the higher intensity commercial activity should be confined to the west side of I-75.

3. In the application Bayshore Rd is shown as having a level of service (LOS) D, as of 9/23/2021, (more than 1 year ago). The MPO defines LOS D as "traffic congestion, reduced travel speeds and severely restricted maneuverability; two-lane roads have an unstable flow and passing is difficult; turning vehicles and distractions cause shock waves in the traffic stream."
Traffic has become increasingly heavy, especially over the past year, as Babcock continues to grow and other developments are permitted. With rapid growth in the area it's reasonable to expect that traffic volume will accelerate in the near future. The application shows an entrance and exit for the development onto Wells Rd. It's already become much more difficult to make a right turn onto Bayshore Rd from Wells Rd at busy times of the day, and making a left turn onto Bayshore Rd is nearly impossible and dangerous.

Widening of Bayshore Rd is in the early planning stages and construction is many years off. Increasing the commercial floor space will make the existing problem much worse.

4. Policy 2.2.1 states:

POLICY 2.2.1: Rezoning and DRI proposals will be evaluated as to the availability and proximity of the road network; central sewer and water lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare. (Ord. No. 94-30, 00-22)

The rezoning to greater commercial intensity is not compatible with the surrounding land uses (residential homes to the north) and impacts the health, safety, and welfare of the community when considering traffic, traffic flow, and other impacts to immediate residential neighbors.

5. The applicant claims in the application that: "The proposed 150,000 sq ft of commercial will help alleviate the currently stressed Bayshore corridor by removing some of the traffic that must travel further west on Bayshore Road, beyond I-75 to reach specific commercial uses at further distances." However, Babcock was designed to have all of the commercial uses needed by residents, and is closer to residents on the east side of Bayshore and east of SR 31.

FDOT's Access Management Handbook (page 12) gives expected trips per day (and per hour) for different size commercial developments. For 20,000-75,000 sq ft of commercial space they expect 601-1200 vehicle trips per day (61-120 trips per hour), and for 150,000 sq ft they expect 1,201-4,000 vehicle trips per day (121-400 trips per hour), a massive increase. The handbook bases this on a grocery or drug store with additional small stores in a strip mall. Gas stations, fast food, and 7-11 type stores in the interchange zone would obviously create much higher vehicle trips. Again, this is inconsistent with Bayshore as a rural community and will negatively impact the health, safety and welfare of the residents as previously stated.

6. Drivers exiting I-75 and turning left into the development will cause backups on Bayshore Rd. Even with the permitted 61,000 sq ft we don't know how FDOT plans to handle the traffic.

7. The applicant claims "The proposed site plan will provide buffers comparable to the currently approved MCP...". The comparison shows there is no equivalence. They're increasing the intensity 2.5 times, increasing the building height from 25 to 35 feet, and eliminating the wall.

8. The 8.75 acres lies within the FEMA flood zone and was flooded from storm surge during Hurricane Ian (we have pictures). We should not be increasing commercial intensity in the FEMA flood zone. The property is also subject to sheet flow from the north. Filling the land will exacerbate flooding on surrounding properties.

9. The applicant's representatives met with the community on 10/26/2022. There were about 75 residents in attendance. Many from the audience asked questions and spoke passionately against the rezoning citing the reasons above. No one spoke in support. Mr. Inge stated that they hoped to start building in 2 years. Not only is the proposed development a massive overreach

inconsistent with the rural nature of the area, but the timing would be years ahead of Bayshore Rd widening and the resolution of access to Wells Rd.

10. The expanded table of uses (including heavy commercial uses), and lack of specificity in the master concept plan, concerns residents with regard to what might be permitted there. Neighbors have concerns about increasing traffic (and access onto Bayshore Rd.), noise, overflow lighting, odors from dumpsters, and transient travelers who could commit crimes and get back on the interstate. Increasing the commercial intensity will exacerbate these problems. For the 2006 rezoning (DCI2005-00100), staff reduced the schedule of uses from what was originally proposed to eliminate "uses deleterious to the rural residential uses on Wells Rd." as stated in the staff report. The schedule of uses should not now be expanded. Staff also required a wall across the entire north boundary of the property which needs to remain in the plan.

Many residents of the Bayshore community did not approve of the original zoning granted in 2006. However, it was seen as a compromise to allow commercial development in the interchange zone with a preserve/buffer and wall to reduce impacts to residential neighbors. Considering all of the factors, the 61,000 sq ft of commercial space is more than enough for this site and will fall within the county guidelines when the frontage is lost due to road widening. We ask that you recommend denial of the rezoning request. The property owner already has more that sufficient commercial entitlement approved for the site.

Please include our comments in the record.

Thank you,
Steve Brodkin
Vice President/Secretary
Concerned Citizens of Bayshore Community, Inc.

From: Kathy Barnes <kathybarnesrealtor2020@gmail.com>
Sent: Thursday, November 10, 2022 10:43 AM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Bayshore Rd

Good Morning,
I'm writing to you in regards to Bayshore Rd and Wells rd. PLEASE DO YOUR HOMEWORK., The traffic on Bayshore road is bad. Getting on and off at I-75 is bad. Drive this area in the morning and in the afternoon. We already have lawhon and 3 publixs within 3 miles. There is no way this area can handle a project like this, this area is not ready or wanting a project like this. We like our rural area. There are so many places with empty buildings . Why wouldn't you use and redo some of those places.

Thank you,

Kathy Barnes

Re/Max Gulf Coast Living
12928 Palm Beach Blvd
Ft. Myers, FL 33905
Cell: (239) 707-6543
Office: (239) 693-1959

From: Jonathan <Isteel4Him@embarqmail.com>
Sent: Friday, November 11, 2022 6:46 AM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Wells Road, Bayshore Road Development

Mr. Mendez,

I am writing you to further my opposition to ANY development in our rural Bayshore Road community that is now under consideration.

I am a 9th generation Floridian, born in Lee memorial hospital in 1956, raised off of Leetana Road which is named after members of my family. So, I have deep roots in NFM and the vicinity and there's a deep history here that deserves preservation.

Most folks that came here did so to escape the hassles of urban lifestyle that's being forced on us so much as it is now. We are just simple people wanting to enjoy a simple rural lifestyle. There's already so much building of communities and businesses all around us that is certainly stepping on the area we love so much and want to preserve as RURAL.

I don't think the money mongers and the powers that be would appreciate someone crapping on their front door step and leaving a mess, let me those that are now trying to push on us. And we, as a rural community, most certainly don't appreciate even the threat of such action that's being pushed on us who love the area as is. We don't want to be crapped on.

We covet the protection of our beloved community, and want an end to this nonsense that's encroaching on our lifestyles we've enjoyed for so long.

My family, and those of us here ask your consideration to minimize, if not completely stop the further development of or beloved rural Bayshore Community.

Respectfully,

Jonathan D and Mary L. Miller

From: Ken Wright <kwrightfortmyers@gmail.com>
Sent: Thursday, December 15, 2022 1:55 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Bayshore Village

Hello Mr. Mendez,

My name is Ken Wright and I am a long time resident of North Fort Myers . My wife and family have lived in Daughtery's Creek for 32 years. We are very distressed by the huge and dangerous increase in traffic on Bayshore Road. Also, there has become a real danger of losing our quality of life with so much unbridled development. It is critical that future development on Bayshore Road is done modestly, thoughtfully and with respect for the rural nature and heritage of North Fort Myers.

Thank You, Ken Wright 239-823-5248

Sent from my iPad

From: Steven Brodkin <steveb239@aol.com>
Sent: Tuesday, August 29, 2023 5:00 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Bayshore Village Zoning

8/29/2023

RE: DCI2022-00032
Bayshore Village CPD

Senior Planner Adam Mendez,

We are aware that you are waiting for some additional information from the applicant, but we'd like to comment further at this time. CCBC (Concerned Citizens of Bayshore Community) Director Mike Musho, and/or attorney Zachary Lombardo, will be sending in additional comments soon, including a report from our traffic engineer's analysis of the applicant's traffic study.

We oppose the rezoning of Bayshore Village CPD for the following reasons:

1. The Bayshore Plan Goal states:

GOAL 18: BAYSHORE COMMUNITY PLAN. Protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, and exclude incompatible uses that are destructive to the character of this rural residential environment.

Staff members have told us that commercial planned developments are generally permitted at 8,000-10,000 sq. ft. per acre. The subject property is 8.75 acres, and will be losing frontage (likely more than 1 acre) on Bayshore Rd for widening, and also along Well's road for extra lanes. Note that the goal says "minimal commercial activities". The applicant is requesting more than double the original maximum permitted square footage (61,000 previously permitted, and now requesting 125,000), plus an increase from 1 story to 4 story buildings. This is well beyond the guidelines, inconsistent with "minimal commercial activities", and represents "uses that are destructive to the character of this rural residential environment". If the Bayshore Community Goal is not considered in this case, then when would it be considered?

The Bayshore Community (Bayshore Steering Committee) came together more than 20 years ago, hired a planner with self funding, to created the Bayshore Community Plan. Recognizing development pressures we needed some protections, since citizens move here to be in a rural place. About 400 residents showed up at the Civic Center to support the plan, although some residents felt the plan wasn't strong enough, but it was the most the BOCC would support. The BOCC approved the Bayshore Plan unanimously on 1/09/2003.

2. In the application Bayshore Rd is shown as having a level of service (LOS) "D", as of 9/23/2021, (almost 2 years ago). The MPO defines LOS "D" as "traffic congestion, reduced travel speeds and severely restricted maneuverability; two-lane roads have an unstable flow and passing is difficult; turning vehicles and distractions cause shock waves in the traffic stream." The section by Wells Road, according to the applicant's own traffic study, is predicted to be an "F" in the near future, before the project trips are added. Lee Plan Policy 95.1.3 (7) states:

"LOS standards for the State Highway System during peak travel hours are "D" in urbanized areas and "C" outside urbanized areas."

We are clearly failing to meet the standards. Traffic has become increasingly heavy, especially over the past year, as Babcock continues to grow and other developments are permitted. The two-lane SR 78 Bayshore Road corridor is one of only two access roads to I-75 that most Babcock Ranch, all SR-31 and all Alva's North River Road construction and residential traffic can use to commute each day to I-75. SR-31 and Bayshore Road are used by truckers from outside the area and both roads are evacuation routes. With rapid growth in all of these areas it's reasonable to expect that traffic volume will accelerate in the near future, and be greater than the average background increase used in the applicant's traffic study. The applicant's traffic study clearly underestimates traffic volumes for the near future.

Note that FDOT's PD&E study for these SR-31 and SR-78 segments are only in a study phase and not yet funded in the 5-year Adopted Work Program. By the time of funding, Right-or Way acquisition, Design and Construction is complete, it will be way past the 2028 projections being considered in the applicant's traffic study. All the while the safety and welfare, as well as the quality of life in the community, will be heavily impacted.

In addition, the application shows an entrance and exit for the development onto Wells Rd. It's already become much more difficult to make a right turn onto Bayshore Rd from Wells Rd at busy times of the day, and making a left turn onto Bayshore Rd is nearly impossible and dangerous.

As detailed above, widening of Bayshore Rd is in the early planning stages and construction is many years off. The applicant stated at the public meeting that they want to start construction within 2 years. Increasing the commercial floor space will make the existing problems much worse, creating a safety issue for residents and Bayshore Elementary, including school buses and students.

3. In the Bayshore Village 2005 zoning application, county staff reduced the intensity of the development and added conditions in order to be consistent with the Lee Plan (and the Bayshore Plan).

a). They applied for 99,999 sq. ft. of commercial space and received 61,000 sq. ft.

b). They applied for 2 story 35 ft. tall buildings, and received 1 story 25 ft. tall buildings.

c). Their schedule of uses was reduced in order to be compatible with the surrounding area.

d). In addition to the 75' preserve, an 8' high wall was required along the entire northern side of the property (on the south side of the preserve), in order to minimize impacts on residents to the north.

Under findings and conclusions in the zoning resolution (Z-06- 46 issued 8/21/2006)) it stated, among other things, that the zoning: "is compatible with existing or planned uses in the surrounding area, and will not be detrimental or injurious to the intent of the Bayshore Planning Community (Goal 20)." The Bayshore Plan Goal is now Goal 18 in the Lee Plan, but it hasn't changed. As stated the county reduced the intensity of the development in order to meet that conclusion. It should not now be increased.

4. The applicant claims "The proposed site plan will provide buffers comparable to the currently approved MCP...". The comparison shows there is no equivalence. They're asking to more than double the intensity, increase the building height from 25 to 48 feet, and eliminate the currently required wall.

Policy 5.1.5 states:

"POLICY 5.1.5: Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in the LDC, Chapter 10, are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a Planned Development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The LDC will continue to require appropriate buffers for new developments."

When the current zoning was approved in 2006, the staff report stated:

"Commercial developments-including this one-will have a significant impact on this rural community, especially to the north on Wells Road. For this reason, the applicant has proposed a reasonable schedule of uses, limited height, buffers, and separation requirements. Special care has been taken to protect the property to the north, utilizing enhanced separation, required buffering, preserve areas, berms and walls."

The residential home being referenced here by staff has to share 600 linear feet of property line with the development that is also a gateway to other homes in the Wells Road neighborhood next to it.

"Staff also recommends any wall buffering the northern property line extend across the entire property line. The proposed MCP shows the wall terminating near the dry detention area. The extension of the wall will provide a better visual barrier and will help buffer any noise or nuisance from the property to the north. (See condition 11)."

We believe it is critical that the requirement for the wall remain in place (located south of the preserve to not disturb existing vegetation on the north line of the preserve) , as required in the 2006 zoning, and in order to minimize the potential impacts on the residential properties to the north. Policy 5.1.5 gives the county the authority to require the wall. If Policy 5.1.5 is not applied in this case, where commercial development in an interchange zone buts up to residential homes in a rural community, then when would it apply? If the building height is increased, the wall needs to be taller.

5. When we met with Bayshore Fire Chief Doug Underwood he had major concerns about the rapidly increasing traffic in the area, and the resulting decrease in the safety in the area he's responsible for. Chief Underwood also stated how his emergency vehicles at times had to go into oncoming traffic to get passed backed up traffic at the Wells Road and Pritchett Parkway segment of SR 78, right by the proposed development. With regard to building height, he said that his department doesn't have a ladder truck, they can't afford one, and a ladder truck would have to come from Tice if needed. With regard to the applicant's master plan, he said that one of their options isn't even feasible since it shows buildings directly over the FGUA sewer line easement. Why would they even suggest that? The increased traffic caused by Bayshore Village will negatively impacting the health, safety, and welfare of the community.

6. Policy 2.2.1 states:

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

Rezoning to greater commercial intensity is not compatible with the surrounding land uses. There has been a school bus stop on Wells Road near the intersection with Bayshore Road which is maintained (a bench with a roof and sign for Seminole Campground) by the Seminole Campground. The increase in commercial intensity will significantly impact the health, safety, and welfare of the community when considering traffic, traffic flow, the school buses that use Wells Road, school bus stops on Wells Road, and impacts to immediate residential neighbors.

7. As stated in the Bayshore Plan, Bayshore is a rural community with low residential density. The east side of I-75 is rural, and the west side of I-75 is considered Suburban. Therefore the higher intensity commercial activity should be confined to the west side of I-75 where it would be more consistent with the existing land use pattern.

8. The applicant claims in the application that: "The proposed 125,000 sq ft of commercial will help alleviate the currently stressed Bayshore corridor by removing some of the traffic that must travel further west on Bayshore Road, beyond I-75 to reach specific commercial uses at further distances." However, Babcock is designed as a self contained community, and can provide all of the commercial uses needed by residents, without the need for services within Bayshore. Babcock is also closer to those living on the east side of Bayshore and east of SR 31.

FDOT's Access Management Handbook (page 12) gives expected trips per day (and per hour) for different size commercial developments. For 20,000-75,000 sq ft of commercial space they expect 601-1200 vehicle trips per day (61-120 trips per hour), and for 150,000 sq ft they expect 1,201-4,000 vehicle trips per day (121-400 trips per hour), a massive increase. The handbook bases this on a grocery or drug store with additional small stores in a strip mall. Gas stations, fast food, and 7-11 type stores in the interchange zone would obviously create much higher vehicle trips. Again, this is inconsistent with Bayshore as a rural community and will negatively impact the health, safety and welfare of the residents as previously stated.

9. Drivers exiting I-75 and turning left into the development will cause backups on Bayshore Rd. Even with the permitted 61,000 sq ft we don't know how FDOT plans to handle the traffic. There is a requirement in the Lee Plan that development in the interchange areas must minimize adverse traffic impacts and provide appropriate buffers, visual amenities, and safety measures as stated below.

"OBJECTIVE 1.3: INTERSTATE HIGHWAY INTERCHANGE AREAS. Special areas adjacent to the interchanges of Interstate 75 that maximize critical access points will be designated on the Future Land Use Map. Development in these areas must minimize adverse traffic impacts and provide appropriate buffers, visual amenities, and safety measures."

The applicant's plan will significantly increase adverse traffic impacts, does not provide appropriate buffers to the residential community, and increases the safety hazard at the intersection of Bayshore Road and Wells Road.

10. The 8.75 acres lies within the FEMA flood zone and was flooded from storm surge during Hurricane Ian (we have pictures). There are currently meetings scheduled to discuss how the large sum of money ($1.13B) coming from the Federal Government will be spent following Hurricane Ian. It's our understanding the Recovery Task Force discussions may include consideration and planning for sea level rise and climate change. We should not be increasing commercial intensity in the FEMA flood zone.

Therefore the commercial intensity should be limited to the previously approved entitlement, and not increased. The property is also subject to sheet flow from the north. Filling the land will exacerbate flooding on surrounding properties.

11. The applicant's representatives met with the community on 10/26/2022. There were about 75 residents in attendance. Many from the audience asked questions and spoke passionately against the rezoning citing the reasons above. No one spoke in support. Mr. Inge stated that they hoped to start building in 2 years. Not only is the proposed increased development a massive overreach inconsistent with the rural nature of the area, but the timing would be years ahead of Bayshore Rd widening and the resolution of access to Wells Road, heavily impacting the safety and welfare of the community. Consider Policy 6.1.5 below:

"POLICY 6.1.5: The land development regulations will require that commercial development be designed to protect the traffic-carrying capacity of roads and streets. Methods to achieve this include, but are not limited to: frontage roads; clustering of activities; limiting access; sharing access; setbacks from existing rights-of-way; acceleration, deceleration and right-turn-only lanes; and, signalization and intersection improvements."

12. The expanded table of uses (including heavy commercial uses and light industrial uses), and lack of specificity in the master concept plan, concerns residents with regard to what might be permitted there. Neighbors have concerns about increasing traffic (and access onto Bayshore Rd.), noise, overflow lighting, odors from dumpsters, and transient travelers who could commit crimes and get back on the interstate. Increasing the commercial intensity will exacerbate these problems. For the 2006 rezoning (DCI2005-00100), staff reduced the schedule of uses from what was originally proposed in order to eliminate "uses deleterious to the rural residential uses on Wells Rd." as stated in the staff report. The schedule of uses should not now be expanded. As stated earlier, staff also required a wall across the entire south side of the preserve which needs to remain in the plan. Also note that policy 18.1.3 prohibits new industrial uses in the Bayshore Community.

POLICY 18.1.3: No new industrial uses or industrial rezonings are permitted after February 3, 2003.

13. Allowing an administrative 10% increase in commercial area amounts to a back door way for the developer to add commercial space without public input. This proposal needs to be rejected.

In summary, in the 2006 rezoning the county reduced the commercial intensity from the applicant's original request in order to be consistent with the Lee Plan, and added conditions in order to help reduce impacts to the community. The current application completely erodes the compromise measures meant to reduce the impacts, and will be harmful to the safety and welfare of the community.

- The commercial floor space is more than doubled.

- The required buffer wall has been removed.

- The building setback has been severely reduced from the northern property line. In 2006 a 150 foot setback was required. It's not clear on the MCP but it looks like 80-90 feet in the current application.

- They're asking for almost double the building height, from 25' to 48'.

- They've expanded the schedule of uses, which was reduced in 2006 in order to be less disruptive to the community.

- They've added light industrial uses, which are prohibited in the Bayshore Plan.

- The increase in commercial space will negatively impact the already overly congested traffic problem on Bayshore Road and make the intersection with Wells Road more dangerous. Consideration of the failing roadway condition and the resulting safety concerns have been totally ignored.

- The section of Bayshore Road by Wells Road is predicted to fail (LOS "F") in the near future even without the development, posing a safety issue for the community, including the school buses that serve children in the area.

- The applicant added a provision in the maximum intensity table stating: "Note: An increase of up to 10% may be allowed through an administrative amendment". This excludes the public from participating in the process, and is designed to sneak in additional intensity.

Many residents of the Bayshore community did not approve of the original zoning granted in 2006. However, it was seen as a compromise to allow commercial development in the interchange zone with a preserve/buffer and wall to reduce impacts to residential neighbors. Considering all of the factors, the current entitlement of 61,000 sq ft of commercial space is the maximum appropriate for this site, as previously determined by the county, and will fall within the county guidelines when the frontages on Bayshore Road and Wells Road are lost due to road widening and turn lanes. We ask that you recommend denial of the rezoning

request. The application is inconsistent with Objective 1.3, Policy 2.2.1, Policy 5.1.5, Policy 6.1.5, Goal 18, and Policy 18.1.3 of the Lee Plan. The property owner already has more than sufficient commercial entitlement approved for the site.

Attached is a petition signed by over 150 concerned residents opposing the increase in commercial intensity. As you can see, some of the signators signed the petition in person and some online. Let us know if you have any questions. Please include our comments in the record.

Thank you,

From: hollymarth@yahoo.com <hollymarth@yahoo.com>
Sent: Tuesday, September 5, 2023 11:22 AM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Fw: Urgent Zoning Update to Bayshore Residents.

Adam:
Are you kidding me right now with this?! Traffic on Bayshore east of 75 is already a mess and y'all may approve this?!!

And I can't even get approval to add another residential building (for my son to live on our private property) to my 10 acres off Nalle, yet the county is looking to approve this amazing mess????

Y'all are slowing tearing away ANY rural lifestyles in southwest Florida, little by little. We cannot allow this to happen!!!! This is INSANE!!!! Please don't let this happen.
Holly

Holly Marth

Begin forwarded message:

On Tuesday, September 5, 2023, 10:46 AM, Steven Brodkin <steveb239@aol.com> wrote:

Bayshore Village Zoning Update

Hi All,

I sent the email below to county reviewer Adam Mendez with our comments on Bayshore Village. As a reminder, Bayshore Village is the 8.75 acre parcel on the northeast corner of Bayshore Rd and Wells Rd where the applicant wants to increase the currently permitted 61,000 sq. ft. of commercial space to 125,000 sq. ft., and then further increase it by 10% more administratively, which would escalate their project to 137,500 square feet without public input.

They also want to put a 48 foot 4 story hotel. Currently they're allowed 1 story 25 foot buildings. This project would be a big traffic magnet right to the intensifying traffic choke point at Wells Road and Pritchett Parkway.

We all need to consider that if this intense re-zoning is permitted, it will set a precedent, opening a flood-gate to additional more intense commercial developments in the Bayshore Community, adding to our traffic issues, safety concerns, and our beautiful rural environment will be wiped away. A stand has to be made here.

Please note that a County Zoning Examiner hearing date is tentatively set for October 11th and/or 12th but I will be sending out an update as soon as I know more. Also note that we are planning a Bayshore Community Meeting for the later part of September to better inform and organize for the county zoning hearing, and I will send out the date for that as well. Everyone's attendance at the Bayshore Community meeting to the sign petition (if you haven't done so previously) and be well informed before the examiner hearing is important. It is critical that we show strength at these meetings, since our numbers and voices are our primary strength to represent our rights.

In the meantime there is an urgency, since Adam Mendez is now reviewing the application and formulating the county's staff report. We need everyone to send your concerns to Adam Mendez at AMendez@leegov.com right away while he is reviewing the rezoning application and writing his recommendation to the county examiner. It doesn't matter if you've commented before, you can comment again. The more e-mails the better. When writing to Mr. Mendez, please reference the zoning application as ***DCI2022-00032, Bayshore Village CPD,*** and ask for your comments to be included in the record.

The main issues are covered in our objection e-mail to Mr. Mendez below. Remember that traffic congestion issues are only considered with regard to the safety of the public, and not the inconvenience we all suffer.

Mr. Mendez's conclusions and recommendation to the Hearing Examiner will have a major impact on her final recommendation regarding this rezoning application. They need to hear our voices that we have property rights too, and urge them to allow us to keep our property values and rural neighborhood values in place without changes to the existing zoning. Read our CCBC objection letter below, and write your own email and get it out to Mr. Mendez ASAP.

Thank you,
Steve Brodkin
Mike Musho
CCBC

From: Gillian Kay <Gilliankay@remax.net>
Sent: Tuesday, September 5, 2023 11:34 AM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] DCI2022-00032, Bayshore Village CPD

Dear Mr. Mendez,
I am really struggling with the logic that Lee County would ever consider the approval of this application in a well-known, family oriented RURAL community, but especially without the infrastructure in place it is totally appalling. We live in a rural community because we respect nature and peace, and the county is determined to push generations of locals out. I get that this is income for the county but what you are allowing is creating damage to the environment and an

increase in automobile fatalities. I remember a time when Lee County supported our rural communities and would not allow for such destruction. I BEG you to not consider this for a multitude of reasons, the madness must stop at some point.

Sincerely
Gillian Kay

From: Lori Lynch <loridenlynch@gmail.com>
Sent: Wednesday, September 6, 2023 3:14 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Bayshore Village

Good afternoon,

The planned changes to DC12022-00032 Bayshore Village CPD would adversely affect the Bayshore community. The existing infrastructure cannot handle the increase in traffic. The people of the community want to remain rural, not a big city.

Please do what you can to stop this from happening.

Sincerely,
Lori J. Lynch
Resident of North Fort Myers for 32 years.

From: Dr. Kim Watson <drkim13@hotmail.com>
Sent: Saturday, September 9, 2023 10:41 AM

To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Major planning concerns

RE: DCI2022-00032

Bayshore Village CPD

Senior Planner Adam Mendez,

My husband and I oppose the rezoning of Bayshore Village CPD. We moved to this community in 2009 particularly because of the peace and quiet. Now, my backyard, which I called the "magical forest" has been completely cleared as Lennar builds yet another community. We tried to oppose this zoning change, but it seemed to have been approved without our knowledge, although we try to keep up with what is going on in our neighborhood. Does no one care about the residents of our community?

The Bayshore Community Plan, which was accepted unanimously by the BOCC, wants to protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, and exclude incompatible uses that are destructive to the character of this rural residential environment. Does anyone in Planning care about this?

Traffic has become increasingly heavy, especially over the past year, as Babcock continues to grow and other developments are permitted. In the morning, I sometimes have to wait quite a while on Durrance for there to be a break in the traffic on Bayshore so I can get on the road. I'm just trying to make a right turn. People who want to make a left have an almost impossible time. When I return home for work on I-75, I have to watch carefully starting two miles back from exit 143 for the backup of cars waiting to exit. This lane blockage is dangerous, and cars that miss the end of the line then need to wait in the next lane over, blocking 2 lanes of I-75 unpredictably. It is the vehicles turning left onto Bayshore (WEST) who are waiting for a light, that are causing this backup. When I slow down to turn off of Bayshore onto Durrance, I have to look carefully in my rearview mirror to make sure the vehicles behind me see me slow down. I then try to make the turn as soon as possible (and sometimes before it is safe) because vehicles will start to pass me on the dirt to my right. So dangerous! I feel like I have to take my life in my hands to exit I-75 and turn onto my own street!!

When the current zoning was approved in 2006, the staff report stated:

"Commercial developments-including this one-will have a significant impact on this rural community, especially to the north on Wells Road. For this reason, the applicant has proposed a reasonable schedule of uses, limited height, buffers, and separation requirements. Special care has been taken to protect the property to the north, utilizing enhanced separation, required buffering, preserve areas, berms and walls."

When we met with Bayshore Fire Chief Doug Underwood he had major concerns about the rapidly increasing traffic in the area, and the resulting decrease in the safety in the area he's responsible for. Chief Underwood also stated how his emergency vehicles at times had to go into oncoming traffic to get past backed up traffic at the Wells Road and Pritchett Parkway segment of SR 78, right by the proposed development. With regard to building height, he said that his department doesn't have a ladder truck, they can't afford one, and a ladder truck would have to come from Tice if needed. With regard to the applicant's master plan, he said that one of their options isn't even feasible since it shows buildings directly over the FGUA sewer line easement. Why would they even suggest that? The increased traffic caused by Bayshore Village will negatively impacting the health, safety, and welfare of the community.

Rezoning to greater commercial intensity is not compatible with the surrounding land uses. As stated in the Bayshore Plan, Bayshore is a rural community with low residential density. The east side of I-75 is rural, and the west side of I-75 is considered Suburban. Therefore the higher intensity commercial activity should be confined to the west side of I-75 where it would be more consistent with the existing land use pattern.

The area is in a flood zone which did flood after Hurricane Ian. The property is also subject to sheet flow from the north. Filling the land will exacerbate flooding on surrounding properties. Therefore the commercial intensity should be limited to the previously approved entitlement, and not increased.

The applicant's representatives met with the community on 10/26/2022. There were about 75 residents in attendance. Many from the audience asked questions and spoke passionately against the rezoning citing the reasons above. No one spoke in support. Mr. Inge stated that they hoped to start building in 2 years. Not only is the proposed increased development a massive overreach inconsistent with the rural nature of the area, but the timing would be years ahead of Bayshore Rd widening and the resolution of access to Wells Road, heavily impacting the safety and welfare of the community.

Allowing an administrative 10% increase in commercial area amounts to a back door way for the developer to add commercial space without public input. This proposal needs to be rejected.

The 2006 rezoning the county reduced the commercial intensity from the applicant's original request in order to be consistent with the Lee Plan, and added conditions in order to help reduce impacts to the community. The current application completely erodes the compromise measures meant to reduce the impacts, and will be harmful to the safety and welfare of the community.

- The commercial floor space is more than doubled.

- The required buffer wall has been removed.

- The building setback has been severely reduced from the northern property line. In 2006 a 150 foot setback was required. It's not clear on the MCP but it looks like 80-90 feet in the current application.

- They're asking for almost double the building height, from 25' to 48'.

- They've expanded the schedule of uses, which was reduced in 2006 in order to be less disruptive to the community.

- They've added light industrial uses, which are prohibited in the Bayshore Plan.

- The increase in commercial space will negatively impact the already overly congested traffic problem on Bayshore Road and make the intersection with Wells Road more dangerous. Consideration of the failing roadway condition and the resulting safety concerns have been totally ignored.

I ask that you recommend denial of the rezoning request. The property owner already has more than sufficient commercial entitlement approved for the site.

Please include my comments in the record.

Thank you,

Kim Watson DVM

From: Caroline Morton <mortonpalm@yahoo.com>
Sent: Saturday, September 9, 2023 10:35 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Bayshore VillageCPD and community

Mr. Adam Mendez:
In reference to zoning application DC12022-0032 I am writing my concern that you will take serious the factor of this community and what it stands for, First and formost is safety in a rural community. We , at the present time are experiencing an enormous flow of traffic , that unless you live here you have no idea of what happens every day in our community. WE have property rights and we need to keep our property values and rural neighborhood values in place without changes to the existing zoning.. This is a family community with school buses traveling morning and night with our children and you must take all of this into consideration and keep our zoning in place. Thank you, Be sure to include my comments in the record..
Sincerely,
Carolyn Morton

From: Steven Brodkin <steveb239@aol.com>
Sent: Tuesday, September 12, 2023 11:06 AM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Bayshore Village Additional Comments

9/12/2023
RE: DCI2022-00032

Bayshore Village CPD

Senior Planner Adam Mendez,

In our 8/29/2023 email opposing the Bayshore Village rezoning, we discussed staff's earlier determination (in 2006) that 61,000 sq. ft. of commercial space is the maximum appropriate for the site. In the current application the applicant states:

"As summarized in the Transportation Impact Statement provided within this submittal, the proposed amendment will not have a detrimental impact on the surrounding roadway system. Based on the results of the analysis, the proposed development will not have an adverse impact on the surrounding roadway network."

This is an obviously unbelievable statement. With this in mind, in our earlier comments we failed to submit the inconsistency with Lee Plan policy 2.2.3 which states:

POLICY 2.2.3: When an area within the County is approaching the capacity of the necessary facilities as described above, requested rezonings to increase densities and intensities may be deferred or denied to give preference to existing vacant lots and other valid development approvals, provided that a constitutionally mandated reasonable use of land would still be permitted.

It's clear that with the segment of Bayshore Road by Well's Road approaching a LOS "F" even without the development, and the applicant's currently permitted entitlement to a reasonable use of the land (that the county has already said is the maximum intensity appropriate for the site), that the current zoning application should be denied.

Please include our additional comments in the Staff Report.

Thank you,
Steve Brodkin
Vice President/Secretary
Concerned Citizens of Bayshore Community, Inc.

From: Meredith Hoiles <meredith.hoiles@equifax.com>
Sent: Wednesday, September 13, 2023 12:25 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: Re: [IE] RE: [EXTERNAL] Wells Rd/ The Village Square on Bayshore

Good afternoon, Mr. Mendez,

I was following up to see if there has been a proper submission from any applicants for your review. I am being told that a possible 4 story hotel application was submitted and a hearing is tentatively scheduled.

As I mentioned below, my concern still stands with this possible new development as the congestion of traffic has only gotten worse. Would you please include my

comments referencing the zoning application as DCI2022-00032, Bayshore Village CPD?

Thank you for your time.
Meredith Hoiles
239-898-0407

From: Meredith Hoiles <meredith.hoiles@equifax.com>
Sent: Friday, October 28, 2022 5:46 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Wells Rd/ The Village Square on Bayshore

Good Afternoon, Mr.Mendez,

I attended the community meeting Wednesday night to listen to the developers owning this land propose doubling the capacity and opening up the option for a hotel, department store, etc....

I grew up in Sandy Pines Circle at 18230 Sandy Pines and have built two houses in the neighborhood since. My parents still live in their home and my brother also is in his second home in the circle. We have been aware of the commercial properly at the end of the road for quite some time.

I know if I was the property owner, I would want to build and make the property profitable so I understand where they are coming from, however, doubling the use of that property is not something we are interested in, if we have that option. Myself and our neighbors were VERY concerned over the traffic we are already experiencing on Bayshore Rd. The developers said at this time there was an entrance proposed on Wells Rd and no stop light at this time. We have multiple pedestrians, as well as kids that ride their bikes along with 3 bus stops down Wells Rd.

We hope the county is truly monitoring how this will affect Bayshore Rd/Wells Rd and the neighboring communities. Please keep our safety top of mind.

Thank you

Meredith Hoiles
From: Deani Nellis <deani.nellis@gmail.com>
Sent: Thursday, September 21, 2023 7:26 AM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] RE: DCI2022-00032 Bayshore Village

RE: DCI2022-00032

Bayshore Village CPD

Senior Planner Adam Mendez,

We oppose the rezoning of Bayshore Village CPD for the following reasons:

1. The Bayshore Plan Goal states:

GOAL 18: BAYSHORE COMMUNITY PLAN. Protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, and exclude incompatible uses that are destructive to the character of this rural residential environment.

Staff members have told us that commercial planned developments are generally permitted at 8,000-10,000 sq. ft. per acre. The subject property is 8.75 acres, and will be losing frontage (likely more than 1 acre) on Bayshore Rd for widening, and also along Well's road for extra lanes. Note that the goal says "minimal commercial activities". The applicant is requesting more than double the original maximum permitted square footage (61,000 previously permitted, and now requesting 125,000), plus an increase from 1 story to 4 story buildings. This is well beyond the guidelines, inconsistent with "minimal commercial activities", and represents "uses that are destructive to the character of this rural residential environment". If the Bayshore Community Goal is not considered in this case, then when would it be considered?

The Bayshore Community (Bayshore Steering Committee) came together more than 20 years ago, hired a planner with self funding, to created the Bayshore Community Plan. Recognizing development pressures we needed some protections, since citizens move here to be in a rural place. About 400 residents showed up at the Civic Center to support the plan, although some residents felt the plan wasn't strong enough, but it was the most the BOCC would support. The BOCC approved the Bayshore Plan unanimously on 1/09/2003.

2. In the application Bayshore Rd is shown as having a level of service (LOS) "D", as of 9/23/2021, (almost 2 years ago). The MPO defines LOS "D" as "traffic congestion, reduced travel speeds and severely restricted maneuverability; two-lane roads have an unstable flow and passing is difficult; turning vehicles and distractions cause shock waves in the traffic stream." The section by Wells Road, according to the applicant's own traffic study, is predicted to be an "F" in the near future, before the project trips are added. Lee Plan Policy 95.1.3 (7) states:

"LOS standards for the State Highway System during peak travel hours are "D" in urbanized areas and "C" outside urbanized areas."

We are clearly failing to meet the standards. Traffic has become increasingly heavy, especially over the past year, as Babcock continues to grow and other developments are permitted. The two-lane SR 78 Bayshore Road corridor is one of only two access roads to I-75 that most Babcock Ranch, all SR-31 and all Alva's North River Road construction and residential traffic can use to commute each day to I-75. SR-31 and Bayshore Road are used by truckers from outside the area and both roads are evacuation routes. With rapid growth in all of these areas it's reasonable to expect that traffic volume will accelerate in the near future, and be greater than the average background increase used in the applicant's traffic study. The applicant's traffic study clearly underestimates traffic volumes for the near future.

Note that FDOT's PD&E study for these SR-31 and SR-78 segments are only in a study phase and not yet funded in the 5-year Adopted Work Program. By the time of funding, Right-or Way acquisition, Design and Construction is complete, it will be way past the 2028 projections being considered in the applicant's traffic study. All the while the safety and welfare, as well as the quality of life in the community, will be heavily impacted.

In addition, the application shows an entrance and exit for the development onto Wells Rd. It's already become much more difficult to make a right turn onto Bayshore Rd from Wells Rd at busy times of the day, and making a left turn onto Bayshore Rd is nearly impossible and dangerous.

As detailed above, widening of Bayshore Rd is in the early planning stages and construction is many years off. The applicant stated at the public meeting that they want to start construction within 2 years. Increasing the commercial floor space will make the existing problems much worse, creating a safety issue for residents and Bayshore Elementary, including school buses and students.

3. In the Bayshore Village 2005 zoning application, county staff reduced the intensity of the development and added conditions in order to be consistent with the Lee Plan (and the Bayshore Plan).

a). They applied for 99,999 sq. ft. of commercial space and received 61,000 sq. ft.

b). They applied for 2 story 35 ft. tall buildings, and received 1 story 25 ft. tall buildings.

c). Their schedule of uses was reduced in order to be compatible with the surrounding area.

d). In addition to the 75' preserve, an 8' high wall was required along the entire northern side of the property (on the south side of the preserve), in order to minimize impacts on residents to the north.

Under findings and conclusions in the zoning resolution (Z-06- 46 issued 8/21/2006)) it stated, among other things, that the zoning: "is compatible with existing or planned uses in the

surrounding area, and will not be detrimental or injurious to the intent of the Bayshore Planning Community (Goal 20)." The Bayshore Plan Goal is now Goal 18 in the Lee Plan, but it hasn't changed. As stated the county reduced the intensity of the development in order to meet that conclusion. It should not now be increased.

4. The applicant claims "The proposed site plan will provide buffers comparable to the currently approved MCP...". The comparison shows there is no equivalence. They're asking to more than double the intensity, increase the building height from 25 to 48 feet, and eliminate the currently required wall.

Policy 5.1.5 states:

"POLICY 5.1.5: Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in the LDC, Chapter 10, are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a Planned Development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The LDC will continue to require appropriate buffers for new developments."

When the current zoning was approved in 2006, the staff report stated:

"Commercial developments-including this one-will have a significant impact on this rural community, especially to the north on Wells Road. For this reason, the applicant has proposed a reasonable schedule of uses, limited height, buffers, and separation requirements. Special care has been taken to protect the property to the north, utilizing enhanced separation, required buffering, preserve areas, berms and walls."

The residential home being referenced here by staff has to share 600 linear feet of property line with the development that is also a gateway to other homes in the Wells Road neighborhood next to it.

"Staff also recommends any wall buffering the northern property line extend across the entire property line. The proposed MCP shows the wall terminating near the dry detention area. The extension of the wall will provide a better visual barrier and will help buffer any noise or nuisance from the property to the north. (See condition 11)."

We believe it is critical that the requirement for the wall remain in place (located south of the preserve to not disturb existing vegetation on the north line of the preserve) , as required in the 2006 zoning, and in order to minimize the potential impacts on the residential properties to the north. Policy 5.1.5 gives the county the authority to require the wall. If Policy 5.1.5 is not applied in this case, where commercial development in an interchange zone buts up to residential homes in a rural community, then when would it apply? If the building height is increased, the wall needs to be taller.

5. When we met with Bayshore Fire Chief Doug Underwood he had major concerns about the rapidly increasing traffic in the area, and the resulting decrease in the safety in the area he's responsible for. Chief Underwood also stated how his emergency vehicles at times had to go into oncoming traffic to get passed backed up traffic at the Wells Road and Pritchett Parkway segment of SR 78, right by the proposed development. With regard to building height, he said that his department doesn't have a ladder truck, they can't afford one, and a ladder truck would have to come from Tice if needed. With regard to the applicant's master plan, he said that one of their options isn't even feasible since it shows buildings directly over the FGUA sewer line easement. Why would they even suggest that? The increased traffic caused by Bayshore Village will negatively impacting the health, safety, and welfare of the community.

6. Policy 2.2.1 states:

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

Rezoning to greater commercial intensity is not compatible with the surrounding land uses. There has been a school bus stop on Wells Road near the intersection with Bayshore Road which is maintained (a bench with a roof and sign for Seminole Campground) by the Seminole Campground. The increase in commercial intensity will significantly impact the health, safety, and welfare of the community when considering traffic, traffic flow, the school buses that use Wells Road, school bus stops on Wells Road, and impacts to immediate residential neighbors.

7. As stated in the Bayshore Plan, Bayshore is a rural community with low residential density. The east side of I-75 is rural, and the west side of I-75 is considered Suburban. Therefore the higher intensity commercial activity should be confined to the west side of I-75 where it would be more consistent with the existing land use pattern.

8. The applicant claims in the application that: "The proposed 125,000 sq ft of commercial will help alleviate the currently stressed Bayshore corridor by removing some of the traffic that must travel further west on Bayshore Road, beyond I-75 to reach specific commercial uses at further distances." However, Babcock is designed as a self contained community, and can provide all of the commercial uses needed by residents, without the need for services within Bayshore. Babcock is also closer to those living on the east side of Bayshore and east of SR 31.

FDOT's Access Management Handbook (page 12) gives expected trips per day (and per hour) for different size commercial developments. For 20,000-75,000 sq ft of commercial space they expect 601-1200 vehicle trips per day (61-120 trips per hour), and for 150,000 sq ft they expect 1,201-4,000 vehicle trips per day (121-400 trips per hour), a massive increase. The handbook bases this on a grocery or drug store with additional small stores in a strip mall. Gas stations, fast food, and 7-11 type stores in the interchange zone would obviously create much higher vehicle trips. Again, this is inconsistent with Bayshore as a rural community and will negatively impact the health, safety and welfare of the residents as previously stated.

9. Drivers exiting I-75 and turning left into the development will cause backups on Bayshore Rd. Even with the permitted 61,000 sq ft we don't know how FDOT plans to handle the traffic. There is a requirement in the Lee Plan that development in the interchange areas must minimize adverse traffic impacts and provide appropriate buffers, visual amenities, and safety measures as stated below.

"OBJECTIVE 1.3: INTERSTATE HIGHWAY INTERCHANGE AREAS. Special areas adjacent to the interchanges of Interstate 75 that maximize critical access points will be designated on the Future Land Use Map. Development in these areas must minimize adverse traffic impacts and provide appropriate buffers, visual amenities, and safety measures."

The applicant's plan will significantly increase adverse traffic impacts, does not provide appropriate buffers to the residential community, and increases the safety hazard at the intersection of Bayshore Road and Wells Road.

10. The 8.75 acres lies within the FEMA flood zone and was flooded from storm surge during Hurricane Ian (we have pictures). There are currently meetings scheduled to discuss how the large sum of money ($1.13B) coming from the Federal Government will be spent following Hurricane Ian. It's our understanding the Recovery Task Force discussions may include consideration and planning for sea level rise and climate change. We should not be increasing commercial intensity in the FEMA flood zone.

Therefore the commercial intensity should be limited to the previously approved entitlement, and not increased. The property is also subject to sheet flow from the north. Filling the land will exacerbate flooding on surrounding properties.

11. The applicant's representatives met with the community on 10/26/2022. There were about 75 residents in attendance. Many from the audience asked questions and spoke passionately against the rezoning citing the reasons above. No one spoke in support. Mr. Inge stated that they hoped to start building in 2 years. Not only is the proposed increased development a massive overreach inconsistent with the rural nature of the area, but the timing would be years ahead of Bayshore Rd widening and the resolution of access to Wells Road, heavily impacting the safety and welfare of the community. Consider Policy 6.1.5 below:

"POLICY 6.1.5: The land development regulations will require that commercial development be designed to protect the traffic-carrying capacity of roads and streets. Methods to achieve this include, but are not limited to: frontage roads; clustering of activities; limiting access; sharing access; setbacks from existing rights-of-way; acceleration, deceleration and right-turn-only lanes; and, signalization and intersection improvements."

12. The expanded table of uses (including heavy commercial uses and light industrial uses), and lack of specificity in the master concept plan, concerns residents with regard to what might be permitted there. Neighbors have concerns about increasing traffic (and access onto Bayshore Rd.), noise, overflow lighting, odors from dumpsters, and transient travelers who could commit crimes and get back on the interstate. Increasing the commercial intensity will exacerbate these problems. For the 2006 rezoning (DCI2005-00100), staff reduced the schedule of uses from

what was originally proposed in order to eliminate "uses deleterious to the rural residential uses on Wells Rd." as stated in the staff report. The schedule of uses should not now be expanded. As stated earlier, staff also required a wall across the entire south side of the preserve which needs to remain in the plan. Also note that policy 18.1.3 prohibits new industrial uses in the Bayshore Community.

POLICY 18.1.3: No new industrial uses or industrial rezonings are permitted after February 3, 2003.

13. Allowing an administrative 10% increase in commercial area amounts to a back door way for the developer to add commercial space without public input. This proposal needs to be rejected.

In summary, in the 2006 rezoning the county reduced the commercial intensity from the applicant's original request in order to be consistent with the Lee Plan, and added conditions in order to help reduce impacts to the community. The current application completely erodes the compromise measures meant to reduce the impacts, and will be harmful to the safety and welfare of the community.

- The commercial floor space is more than doubled.

- The required buffer wall has been removed.

- The building setback has been severely reduced from the northern property line. In 2006 a 150 foot setback was required. It's not clear on the MCP but it looks like 80-90 feet in the current application.

- They're asking for almost double the building height, from 25' to 48'.

- They've expanded the schedule of uses, which was reduced in 2006 in order to be less disruptive to the community.

- They've added light industrial uses, which are prohibited in the Bayshore Plan.

- The increase in commercial space will negatively impact the already overly congested traffic problem on Bayshore Road and make the intersection with Wells Road more dangerous. Consideration of the failing roadway condition and the resulting safety concerns have been totally ignored.

- The section of Bayshore Road by Wells Road is predicted to fail (LOS "F") in the near future even without the development, posing a safety issue for the community, including the school buses that serve children in the area.

- The applicant added a provision in the maximum intensity table stating: "Note: An increase of up to 10% may be allowed through an administrative amendment". This

excludes the public from participating in the process, and is designed to sneak in additional intensity.

Many residents of the Bayshore community did not approve of the original zoning granted in 2006. However, it was seen as a compromise to allow commercial development in the interchange zone with a preserve/buffer and wall to reduce impacts to residential neighbors. Considering all of the factors, the current entitlement of 61,000 sq ft of commercial space is the maximum appropriate for this site, as previously determined by the county, and will fall within the county guidelines when the frontages on Bayshore Road and Wells Road are lost due to road widening and turn lanes. We ask that you recommend denial of the rezoning request. The application is inconsistent with Objective 1.3, Policy 2.2.1, Policy 5.1.5, Policy 6.1.5, Goal 18, and Policy 18.1.3 of the Lee Plan. The property owner already has more than sufficient commercial entitlement approved for the site.

From: Larry Clark <clarklc1@outlook.com>
Sent: Tuesday, September 26, 2023 1:12 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] DCI-2022-00032, Bayshore Village CPD

Mr. Mendez, I am opposed to this rezoning. The traffic on Bayshore is already a significant issue especially as one nears the I-75 intersection. There are already two new developments on Bayshore that will contribute to additional traffic. Also, the number of speeding dump trucks are a safety hazard. Babcock Ranch has already significant traffic flow on Bayshore Road. Seems like development is occurring faster than the appropriate infrastructure to accommodate the additional traffic associated with the housing growth and commercial activity. Flooding, disruption of our rural lifestyle, and potential crime are additional concerns.

I hope you will take my concerns into account in regard to this rezoning. Thank you in advance.

Larry Clark
11183 Rabun Gap Drive
N Ft Myers, FL 33917

From: Kathy Putch <katput@aol.com>
Sent: Friday, September 29, 2023 12:36 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Bayshore Village Zoning DCI2022-00032

Dear Mr Mendez,

My late husband, Joe Putch and I started clearing our 1.29 acres on Wells Rd in 1990, seeking a quiet rural lifestyle in North Ft Myers. He did the site prep work for most of the big golf courses in SWFL, as well as Miromar, FGCU campus, RSW, etc., and moved a lot of earth for the sake of progress.
I was at Pepsi for 26 yrs in a high stress job, and we were always so Blessed to have a home here.

The Wells Rd, Bayshore area has been a safe haven for our family, and a quiet piece of old Florida which is in danger of being lost forever due to the massive development that is happening along the Bayshore corridor.
Attempting to leave in the mornings has already become a traffic safety issue and turning left on Bayshore from Wells is very treacherous with the Babcock traffic and many construction projects underway.
We have many children who wait at bus stops in the morning and a high use development at the corner of Wells and Bayshore will invite more people perusing the area and danger for pedestrians and wildlife.
In my own yard I have seen Gopher tortoises, Rattlesnakes, Coyotes, foxes, hogs, etc etc which are all being displaced and harmed by the human invasion of their homes.
Please do not allow any increases in land use permitting at Bayshore Village to allow even more traffic and crime to ruin this beautiful area.
We need a place to take the kids 'out to the country' before it's all paved over.
Thank you so much in advance for any help you can offer for so many residents and wildlife adversely affected by this issue, physically and emotionally.
Again, please do not allow an increase in what was already planned for Bayshore Village.
Sincerely,
Perry and Kathy Putch-Small
17575 Wells Rd
NoFo, 33917
239-362-7003

From: lauren Hennessey <laurenrhennessey@gmail.com>
Sent: Monday, October 2, 2023 9:34 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Hotel N Fort Myers Development

Good evening: to whom it may concern

We were notified by members of the Bayshore community there is talks of a Hotel possibly being built at the corner of Wells Rd and Bayshore Rd in north fort myers. I have been a community member in North Fort Myers for 5 years now. This is a horse and acreage community that will not make a healthy profitable impact on the development of N. Fort Myers. North Fort Myers has its own niche, similar to Alva which does not have a hotel either. There are multiple exits north and south of exit 143 that have hotels and that are already developed to support a large Community and traffic that comes with it.

I am against this project and against the project being approved through any kind of planning through the planning department of Lee County. Lee county's comprehensive plan is to provide the most optimal outcome for our community and this is not the kind of development we want to attract to the area. Keeping it a niche community is what will increase its overall value.

Thank you for your attention to this matter.

From: MARY KERR <mkkkkerr@aol.com>
Sent: Tuesday, October 3, 2023 12:16 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] Bayshore Village

Caution: This email originated from an external source. Be cautious of attachments and links, and do not provide login information. Report suspicious activity to the Service Desk: servicedesk@leegov.com or 533-HELP.

Good Morning.
My name is Mary Toggweiler Kerr and I live in Bayshore Village. I've lived in Lee County since 1969. I am extremely against this Agriculture land turning commercial.
I've been to many meetings regarding Mike Greenwell's property so I am aware of ALL the construction planned for all the Ag zoned land.
I have witnessed for myself that all (most) the Babcock traffic comes down Bayshore in the mornings. On I75 heading south , the exit for Babcock is to exit off Bayshore. No, that exit and signs to Babcock should be off a Charlotte County exit. The safety has been a problem for over 2 years on this street that was quiet before Babcock. Now, with new subdivisions being built by Lennar(yes, I'm friends with Mr McMurray since the 70's). We have only 2 lanes on Bayshore; it was slated years ago to be a 4-6 lane road and the word was Kitson and Babcock was going to support this to help the infrastructure. NOTHING was done regarding more lanes! I will say the light at Nalle and Bayshore was the only positive thing our county has done in 20 years, since I've lived out here off Bayshore.
Safety is always my concern. I've seen more accidents due to drivers being frustrated about the traffic. There was an accident the day they installed that light , right there in front of the Lawhons due to the traffic backed up heading west. There are bus stops on Bayshore.....kids. With all the traffic already KIDS are not safe. They have to cross traffic to get home and due to the 2 lane road, it's not safe....drivers are taking short cuts to a certain road while kids are trying to safely cross the street.
As an educator for almost 30 years, kids safely must come first. With all the new development coming in , I can just see the infrastructure not there.
I know Rick Scott changed the law when he was Governor that infrastructure does not need to be there for development. In this situation, the infrastructure is definitely not there for all that just popped into our Bayshore area at the same time.

This reminds me of development years ago in Cape Coral on Del Prado. I was here when all the Commercial property just pop up next to a neighborhood and a bowling alley became next door neighbors to houses. Yes. This is happening with this proposal. At that time Lee County said they would NEVER build commercial property like Cape Coral messed up. They said in rural areas they would not touch the idea of BIG commercial next to homes. We moved out here to Rural community and Frank Mann and other County Commissioners clearly stated, Bayshore will remain just as it is- rural.

I'm a problem solver and clearly there are other places to build the exact ideas as hotel, commercial ideas.
What about the west side of Bayshore across from Loves. The road is 2 lanes here. A traffic light at Loves and a new development across could easily help with getting car/ trucks turning right or left.
Another topic comes to mind- sheet flow from Charlotte County. Bayshore from Pritchett Parkway to 31 is often flooded- from a large storm then sheet flow follows. I invite you to come out and watch and observe for yourself. When tourist season comes, it doubles on the east side of Bayshore heading west.

School buses sit in the stalled lane. My own grandson lives with his mom/ dad off Bayshore. They drive their Kindergarten to Bayshore Elem.
It has taken over 45 minutes to get him to school and it's only 4 miles away! The stalled traffic is Bayshore east to 31. Some days last season in Feb the traffic jam was all the way to highway 31 from I75 interstate. I've lived it. Other families have lived it. Is this SAFE?
First, you need to ignore Scott's ridiculous bill re: not considering infrastructure to be there before building. Second, I wish the County Commissioners look at a by-law made in the 60's keeping east of actually Slater at that time, a rural community where land owners could raise cattle, chickens, horses and live on acreage.
Many people choose this over living on water, the river or ocean. Why hasn't the County gone to Buckingham for more development? They have a similar use of land structure as Bayshore. I don't see Commercial development coming into their neighborhood.
As far as fire department in this area, there is 1 station.....ONE. Schools in the area- Bayshore. It's always packed to the brim. I know this as I volunteer there. Alva School.... Same thing.
There is so much more than a stamp of approval that needs to be looked at.
Wells are dry in many spots of Bayshore. Where is their water needs going to come from?
We will be at Dec 13 meeting , along with many in our community.
There are so many factors that just don't " fit" this growth all in one breathe.
I've taken many urban/ city classes and there is so much " danger, red flags " with what is being proposed . My biggest fear is the safety of ALL on Bayshore Road. When accidents happen i just pray there is no injuries, kids and parents. We are NOT
Babcocks little sister. Put all that in Charlotte county just like they built all of Babcock in Charlotte County. It is not Lee County's " job" to serve Babcock. It sure does look like that is exactly what our Commissioners are doing- from Mike Greenwell's Change from Ag to Commercial and homes to a hotel here. For them. No. Let Charlotte County take care of Babcock. Get a different exit off I 75 to go to Babcock, NOT Bayshore.

I'd be happy to help be a negotiator with the Commission. They need to come and see day after day what is happening, not just a quick minute.
Please call me if you have any questions.
Mary Toggweiler Kerr
239-425-5822

From: Brenda Phillips <armynavymom2000@yahoo.com>
Sent: Tuesday, October 3, 2023 2:41 PM
To: Mendez, Adam <AMendez@leegov.com>
Subject: [EXTERNAL] DC12022-00032 Bayshore Village ReZoning

Mr. Amendez,

I have safety concerns about the Bayshore rezoning issue. Making left turns onto Bayshore is very difficult now. Adding additional people will exacerbate the situation.
Additionally, Bayshore is an evacuation route so the extra traffic will cause more backups and stranded motorists, which means emergency vehicles cannot get through.
The Charlotte County watershed runs down to Bayshore causing more flooding.
Before additional housing is put in, Bayshore Rd needs to be addressed.

Thank you,
Brenda Phillips.

From: Robert Beeson <rjbeeson1@gmail.com>
Sent: Wednesday, October 11, 2023 9:36 AM
To: Mendez, Adam <AMendez@leegov.com>
Subject: DCI2022-00032

Dear Mr. Mendez:

I am writing to urge you and the County Commission to deny any proposed changes to zoning on Bayshore Road east of I-75 in North Fort Myers.

North Fort Myers is a rural neighborhood and should remain as such. The proposed change will be precedent setting and will exacerbate an already growing set of safety issues for the people of our community. You presently have no plans for expansion of Bayshore Road making the additional traffic a hazard for commuters and increasing the nearly daily occurrence of serious crashes along this road. It would seem to many of us that any changes to zoning ought to come after implementation of infrastructure to accommodate additional businesses and dwellings.

The proposed change to commercial usage is repugnant to those of us living east of I-75 who have seen the harm done by development of land to the west of the interstate. We are greatly dismayed by the active role Mr. Mike Greenwell is playing in this ongoing decimation of this rural paradise, and will not hold him or any of the other commissioners guiltless at election time should this change be approved or the present Bayshore Plan that resides within the Lee County Plan be altered or otherwise weakened.

Our community is organized and ready to fight further *ad hoc* proposals for change to the Bayshore Plan as it was adopted and presently exists. We are dead-set against the growth that zoning changes represent in terms of crime and safety and the threat to natural habitat and the risk of flooding and other water management issues. We are tired of Lee County being perceived as lacking the strong leadership that the late Frank Mann and former commissioner Ray Judah brought to the Commission in regard to environmental issues and the preservation of rural communities such as ours. We are weary of the Lee Commission and the Community Planning Board being seen at best as weak pawns in the destruction of rural lands and, at worst, silent partners with the developers and construction firms who lobby you. It is time for you and the rest of the officers entrusted with our wellbeing and safety to pause and reflect on what is being lost with each exception to zoning laws and to stand up to those whose only concern for North Fort Myers is measured by profit margins.

I will join the mass of North Fort Myers voters who plan on being present on December 13 for the hearing on commercial zoning for land between I-75 and SR 31. We stand united against the planned Bayshore Village and any further encroachment on lands presently designated as

rural and agricultural. You have our full attention at this point and we are watching what you and the Commission does going forward. Thank you for listening.

Sincerely,

Robert John Beeson, Ph.D.

From: Heather Auld <heathervauld@gmail.com>
Sent: Saturday, October 14, 2023 9:48 AM
To: Mendez, Adam <AMendez@leegov.com>
Subject: DCI2022-00032 Bayshore Village

Dear Mr Mendez:

I am writing to strongly urge you to re- examine the frenetic building along Bayshore without any infrastructure in place. Not only are builder's not responsible for creating access roads but the current Bayshore corridor is a dangerous snarl of traffic jams and accidents daily.

It is short sighted to disregard Frank Man's protection of this rural community and wildlife. The beauty that attracts people to Florida is being destroyed.

Most urgently however is the treacherous road Bayshore now represents. I trust you will plan wisely.

Heather V. Auld
Sent from my iPhone

From: Martin Hoade <bar20@centurylink.net>
Sent: Sunday, November 12, 2023 11:23 AM
To: Mendez, Adam <AMendez@leegov.com>
Subject: Bayshore Village Re-zoning

RE: DC12022-00032 Bayshore Village re-zoning.

I live north of Bayshore Road, east of I-75 and west of Nalle Road off of Henderson Grade Road.

I do have concerns with development between Nalle Rd and Pritchett Parkway. 1. We live in a flood zone. I am

restricted on what I can build on our 5 acres because of the water flow between the Peace River and the Caloosahatchee.

These restrictions were explained to me by a Lee county official. It makes sense to me, any further development will interrupt the water sheet flow

naturally moving from the north to the south. So the development proposed would interrupt that flow and cause increased flooding problems.

This alone should restrict further development.

2. Traffic flow is already difficult in the constricted area from Nalle Road, Lawhon's grocery store, Wells Rd, Pritchett Parkway and the I-75 exit.

Thank you for your consideration.

Betty Jane Hoade

Oppose the Rezoning of Bayshore Village (DCI2022-00032)

On 11/17/2022 the applicant amended their original application to allow for a 4 story, 48' high hotel (up from a maximum building height of 35 feet in their previous plan), change the commercial space from 150,000 sq. ft. of commercial space to 137,500 sq. ft. (125,000 +10% without public input) of commercial space, and remove some uses. The application was further amended on July 10, 2023, but the changes did not substantially change the negative impacts to the Bayshore community. The amended plan is still asking for 225% more commercial space than what is now permitted under the current zoning, and is well above the County's usual zoning intensity guideline for commercial space on a property of this size.

The 8.75 acre property at 17300 Wells Road & Bayshore Road (Bayshore Villiage) was approved in 2006 for 61,000 sq. ft, of commercial space, limited to 25 foot one story buildings. The developer wants to change the zoning on this commercial property, located at the northeast comer of Bayshore Road and Wells Road, to increase the total commercial floor area from 61,000 sq. ft. up to 137,000 sq. ft., with up to four story buildings (hotel at 48 feet in height). In addition, they substantially want to expand the types of business uses that can draw intense traffic counts to the site. This is a massive unprecedented overreach of square footage per acre compared to other commercial properties in Lee County, and can forever change the rural character of the Bayshore communities.

WE, THE RESIDENTS OF THE BAYSHORE AREA, OPPOSE THE REZONING OF BAYSHORE VILLAGE BECAUSE:

1. **Traffic Safety Concerns**

*Bayshore Road is currently two lanes. There is already a traffic light at Nalle Road which *may* be too close to add another light. Traffic backups would be expected for travelers exiting 1-75 trying to make a left hand turn to Pritchett Pkwy and Wells Road, which could potentially cause accidents.

*Traffic on Bayshore Rd. has become very heavy over the past year as *Babcock* continues to grow, and the rezoning will add to the increasingly overburdened roadway, impacting the public health, safety, and welfare of residents and visitors. The County has the ability to defer or deny rezoning per the Lee Plan Policy 2.2.1.

*The developer wants to put the main shopping center entrance/exit on Wells Road, further clogging the only intersection available to exit and access from the homes on Wells Road and its side streets.

*Left turns out of Wells Road are already hazardous, and the increased traffic will exacerbate the problem.

2. **Disruption of Rural Lifestyle due to High Commercial Intensity**

*The developer claims that the increase in commercial space is justified because residents from *Babcock* won't have to travel as far for commercial uses, however, the Babcock planned community was designed to have everything the residents need right on the Babcock's site, and therefore can add their own commercial needs as they see fit. Our Bayshore community' should not be burdened with something that is within the Babcock community planners' control.

*The east side of 1-75 is a rural community, while the west side is designated as suburban. Therefore, the more intense commercial uses should be limited to the west side of 1-75.

*Bayshore residents do not want the area inundated with commercial buildings. We don't mind driving ten to twenty minutes to a stores. We live in the area because we enjoy the freedom of the rural lifestyle.

*The development offers no insight as to the final layouts or design of the buildings, thereby disregarding the rural nature of the Bayshore Community Plan (Lee Plan Goal 18). In addition, the developer wants to eliminate the already approved barrier wall that would help shield the residential neighborhoods next to this development from noise, smells, lights and its high volume commercial and transient traffic all hours of the day and night.

3. **Flooding**

*This development will cause flooding problems for the entire neighborhood and its surrounding homes regardless of what their so called "experts" promise. This was just demonstrated with Hurricane Ian which completely flooded over Wells Road and caused a back-up in the ditches up the street even without the obstruction of commercial buildings. Filling up the 8.75 acres will also block the sheet flow coming down from the north, thereby increasing flooding on the surrounding properties.

4. **Potential Crime**

*The concerns outlined above can forever change the serenity of our neighborhood bringing crime with its high volumes of transient traffic.

Petition by the Bayshore Area Residential Community.

PETITION

OPPOSE THE REZONING OF BAYSHORE VILLAGE (DCI2022-00030)

Date	Name (Please Print)	Signature	Address
11/14/2022	Merryman Mary	[illegible]	80181 Williams rd, ft Myers
11/15/2022	DEBORA M. KINNS	[illegible]	18970 Naile Rd. N. Ft. Myers, FL
11/19/22	Denelle Heckman	[illegible]	18530 Matt Rd N.Ft.Myers FL 33917
11.28.22	JOHN BETTS	[illegible]	4099 PINETREE BLVD ST. JAMES CITY, FL
11-29-22	Mary Wood	Mary Wood	6701 Blake Pledger Ct. N.Ft. Myers, FL 33917
11-29-22	CLIFFORD WOOD	Clifford Wood	6701 BLAKE PLEDGER CT. N.FT. MYERS FL
12-1-22	KENNETH RYAN	Kenneth Ryan	8400 DASONTE LANE N.FT.MYERS
12-1-22	Red Ortman	[illegible]	11441 Shirley LA 33917
12/5	CHRISTINE OLSEN	Christine M. Olsen	20080 KEOLA LANE N. FT. MYERS 33917
12/8	Ronald Beyer	[illegible]	9171 Triplett Rd NFM 33917
12/13	Dillan Sheets	Dylan Sheets	7505 Peyraud DR NFM 33917
12/14/22	William T Hicks	[illegible]	18350 Lynn Rd NFM 33917
	ROBERT PETERSEN	[illegible]	17857 SABAL PALM DR 33917
12/15/22	LUCY STARBUCK	Lucy Starbuck	13131 Noal River Road Alva FL 33920
12/17/22	Diane Phillips	Diane M Phillips	10850 Pronell Rd N. Ft Myers, FL 33917
12/23	Tommy Jones	[illegible]	20100 Keola lane 33917
12/27	Pamela Leppala	Pamela S. Leppala	20400 Keola Ln. N.FMY 33917

PETITION

OPPOSE THE REZONING OF BAYSHORE VILLAGE (DCI2022-00030)

Date	Name (Please Print)	Signature	Address
12/13/22	Denise Eberle	Denise Eberle	23091 Tuckahoe Rd ALVA, FL
"	Beth Murphy	[illegible]	17770 Cypress Creek Rd Alva FL
"	Ken DeWolf	[illegible]	7 Jute St., Alva, FL 33920
12/13/22	Shari Hunt	Shari Hunt	1891 Goode Ave Alva FL 33920
12/13/22	CRISTIANE FERNANDES	[illegible]	POBOX 2037 ALVA-FL 33920.
12/13/22	Debbie McEwen	Debbie McEwen	2997 Bateman Rd Alva Fl. 33920
12/13/22	PAUL FURBAY	[illegible]	P.O. BOX 2037 ALVA 33920
12/13/22	Roxanne Cruse	[illegible]	1921 Goode Ave, Alva 33920
12/13/22	Brock Wesley	[illegible]	20921 Joshua Dr, Alva, FL 33920
12/13/22	Jeff Ohme	[illegible]	2391 LIPPINCOTT RD 33920
12/13/22	Brittani Dubovich	[illegible]	20921 Joshua Dr Alva, FL 33920
12/13/22	Connie Dennis	C. Dennis	19041 Fox Run Rd Alva FL 33920
3-6-23	JOSPHE MILLER	[illegible]	18030 Leetana Rd NFM FL 33917
3-6-23	Marian Miller	[illegible]	18030 Leetana Rd NFM FL 33917
3-6-23	PERRY SMALL	[illegible]	17575 WELLS RD N. FM 33917
3/6/23	Ken Redford	[illegible]	18105 Wells Rd
3/6/23	TARA POTTERBACK	[illegible]	18133 SANDY PINES CIR 33917
3/6/23	KEVIN WICKWIRE	[illegible]	18133 SANDY PINES CIR 33917

PETITION

OPPOSE THE REZONING OF BAYSHORE VILLAGE (DCI2022-00030)

Date	Name (Please Print)	Signature	Address
12/29	Merryman Mary	[illegible]	20181 Williams
01/08	Beeson, Robert	[illegible]	20750 Nalle Rd, NFM 33917
1/8	Auld, Heather	[illegible]	[illegible] Nalle Rd, N.F.M. 33917
1/13	CHRISTINE MOLSEN	[illegible]	20080 KEOLA LANE NFM. 33917
1/21	Denise Ebeler	[illegible]	23091 Tuckahoe Rd ALVA 33920
1/21/23	Jan Brodkin	[illegible]	17720 Durrance Rd NFM 33917
3/4/22	Lavone Champion	[illegible]	17724 E Lake Dr NFM 33917
3-6-23	Don Metrione	[illegible]	8280 Boonesboro Rd
3/6/23	[illegible]	Gigeta Miller	17700 Wells Rd NFM
3/6/23	[illegible]	Theresa Henry	18130 Sandy Pines Circle N.F.M.
3/6/23	[illegible]	EDWARD Henry	" " " " "
3/6/23	Meredith Hailes	[illegible]	17931 Wells Rd
3/6/23	Ashley Hailes	[illegible]	" "
3/6/23	Elan Caglioti	[illegible]	20301 Bowen Rd NFM FL 33917
3/6/23	Arlen Caglioti	[illegible]	20301 Bowen Rd NFM FL 33917
3/6/23	Mark Caglioti	[illegible]	20301 Bowen Rd NFM FL 33917
3-6-23	Justin Morraine	[illegible]	18010 Wells Rd
3-6-23	Danielle Morraine	[illegible]	18010 Wells Rd

PETITION

OPPOSE THE REZONING OF BAYSHORE VILLAGE (DCI2022-00030)

Date	Name (Please Print)	Signature	Address
3/16/23	Jennifer Turner	Jennifer Turner	18193 Sandy Pines Circle NFM, FL 33917
3/6/23	Justin McMahon	[illegible]	17576 Wells Rd. North Fort Myers
3/6/23	Kelly McMahon	[illegible]	17576 Wells Rd. North Fort Myers
3/6/22	Andrew Cotarel	[illegible]	17141 E Lake Dr. NFM 33917
3/6/23	Scott Rogowski	[illegible]	18158 Sandy Pines Cir NFM 33917
3/6/23	Deana Rogowski	Deana Rogowski	" "
3/6/23	Alison Cotarelo	Alison Cotarelo	17141 E. Lake Dr. NFM 33917
3/6/23	Rueben Cotarelo	Rueben Cotarelo	"
3/6/23	David McCleaf	[illegible]	17535 Wells Rd NFM 33917
3/6/23	Bethany McCleaf	Bethany McCleaf	" "
3/4/23	BRENDA LANGKAM	[illegible]	18122 SANDY PINES CIR

PETITION

OPPOSE THE REZONING OF BAYSHORE VILLAGE (DCI2022-00030)

Date	Name (Please Print)	Signature	Address
3/6/23	Brittany Eads		17430 Wells Rd
3/6/23	David Eads		17430 Wells Rd
3-6-23	HILTON DANIELS		17880 WELLSWOOD Rd
3/6/23	Kathy Beller		9011 Triplett Rd
3-6-23	Stephanie Sikora	Stephanie Sikora	17001 East Lake Dr

PETITION

OPPOSE THE REZONING OF BAYSHORE VILLAGE (DCI2022-00030)

Date	Name (Please Print)	Signature	Address
3/6/23	Ronald Beyer	Ronald Beyer	9171 Triplett Rd N.F.M.
3/6/23	Michele Beyer	Michele Beyer	19531 Durrance Rd N.F.M
3/6/23	Judy Luckey	Judy Luckey	18142 Sandy Pines Cir NFM
3/6/23	Scott Rogowski	[illegible]	18158 Sandy Pines Cir NFM
3/6/23	Deana Rogowski	Deana Rogowski	18158 Sandy Pines Cir NFM.
3/6/23	Debbie Jackow	Debbie Jackow	19450 Meredith Rd NFM
* 3/6/23	Joe Baublis	Joseph Baublis	17351 Wells Rd NFM
			STUCK71@Comcast.net

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PETITION

OPPOSE THE REZONING OF BAYSHORE VILLAGE (DCI2022-00030)

Date	Name (Please Print)	Signature	Address
2/16/23	Joy Bosworth	Joy Bosworth	19351 Meredith Rd 33917
3/28/23	TINA GARRETT	[illegible]	6801 NALLE GRADE ROAD, NFM 33917
3/28/23	MATT Jenaleet	[illegible]	6801 Nalle GRADE ROAD, NFM, 33917
5/5/23	Lynn Malloy	[illegible]	4434 29th st SW
5/1/23	Mary Merryman	Mary Merryman	20181 Williams dr Ft Myer Fl 33917
5-22-23	Amey Briggs	Amey Briggs	14081 Horseshoe Rd, DC
5-23-22	Amos Cogswell	Amos Cogswell	7319 Sean Ln. N. Fort Myers, FL 33917

PETITION

OPPOSE THE REZONING OF BAYSHORE VILLAGE (DCI2022-00032)

Date	Name (Please Print)	Signature	Address
10/2	ROBIN R WHIDDEN	Robin Whidden	9695 Bayshore Rd N.F.M. 33917
10/2	JOHN VANDYKEN	John L Van Dyken	17591 SABAL PALM
10/2	Kathy Cross	Kathy Cross	17400 Nalle Rd. NFM 33917
10/2	LINDA SMALLWOOD	Linda M. Smallwood	10151 BAHIA VISTA RD. NFM 33917
10/2	Lynnda Bird	Lynnda Bird	7871 Nalle Grade Rd NFM
10/2	Gwen Holley	Gwen Holley	17991 Durrance Rd. NFM 33917
10/2	Larry Clark	Larry Clark	11183 Rabun Gap D. NFW 33917
10/2	Elizabeth Clark	Elizabeth Clark	" " " 33917
10/2	ANNA McGUINNESS	Anna McGuinness	11269 Chattahoochee DR NFM 33917
10/2-23	MARK SIEWERT	Mark Siewert	10600 PEAL RD NFM 33917
10/2-23	RALPH CANCILLA	Ralph Cancilla	10600 PEAL RD NFM 33917
10/2/23	KEVIN SCHAPPERT	Kevin Schappert	18660 OLD Bayshore Rd 33917
10/2/23	Tom KENNEDY	Tom Kennedy	17891 DURRANCE RD. 33917
10-2-23	Joan Rewis	Joan B Rewis	17841 OLD BAYSHORE Rd. 33917
10-2-23	Linette Cowart	Linette Cowart	17801 Old Bayshore Rd. 33917

PETITION

OPPOSE THE REZONING OF BAYSHORE VILLAGE (DCI2022-00032)

Date	Name (Please Print)	Signature	Address
10/2/23	David Mendes		10100 Saint Paul Rd NFM
10/2/23	Mary Kerr		" " "
10/2/23	DAVID VIETHS		17400 WELLS RD N.Ft. MYERS
10/2/23	FRANKIE VIETHS		" " "
10/02/23	Robert J. Beeson		20750 N ALLE RD NFM 33917
10/2/23	Heather V AULD		20250 Nalle N.FM 33917
10-2-23	Randy S. ECK		18040 Bayshore Rd N.FM
10/2/23	Robbie Lanier		18119 Sandy Pines Circle NFM
10/2/23	Scott Rogowski		18158 Sandy Pines Circle NFM
10/2/23	Deana Rogowski		18158 Sandy Pines Circle.
10/2/23	Carol Smith		18110 Wells Rd
10/2/23	Francisco Lopez		18530 Durrance Road North Fort Myers
10/2/23	Ontayr Rodriguez		18530 Durrance Rd N Fort Myers FL 33917
10-2-23	GONZALO QUIROGA		18630 DURRANCE ROAD
10-2-23	ANGELO ROSIN		18222 SANDY PINES CIRCLE NFM

PETITION

OPPOSE THE REZONING OF BAYSHORE VILLAGE (DCI2022-00032)

Date	Name (Please Print)	Signature	Address
10/2/2023	Timothy Watkins		11225 Chattahoochee Dr. NFM, FL 33917
10/2/23	CAROLYN Montow	Carolyn Montow	11480 Bayshore Rd. N.FM 33917
10/2/23	Crystle Berman		18351 Nalle Rd. 33917
10/2/23	Patrick Morris		18210 Sandy Prescott 33917
10-2-23	[illegible] Cannon		11337 Rabun Gap Dr 33917
10-2-23	Jack Goddard		11337 Rabun Gap Dr. 33917
10/2/23	Bethany McCleaf	Bethany McCleaf	17535 Wells Rd 33917
10/2/23	David McCleaf		17535 Wells Rd 33917
10/2/23	Lydia Hofland	Lydia L Hofland	9251 Sedgefield Rd. 33917
10/2/23	Joy Bosworth	Joy Bos	19351 Meredith Rd 33917
10/2/23	Robert Bosworth		19351 Meredith Rd 33917
10-2-23	Sara Catalano	Sara Catalano	9051 Triplett Rd 33917
10-2-23	Matthew Malcolm		16660 Johnson LN 33917
10-2-23	Sara "Sally" Oxendine	Sara "Sally" Oxendine	10191 Bahia Vista Rd NFM FL 33917
10/2/23	Jessica Martin		18401 Durrance Rd 33917

PETITION

OPPOSE THE REZONING OF BAYSHORE VILLAGE (DCI2022-00032)

Date	Name (Please Print)	Signature	Address
10/2/23	William Martin	[illegible]	18401 Durrance Rd 33917
10/2/23	Katherine M. Decker	Katherine M Decker	20411 Welborn Rd 33917
10/2/23	MARK DECKER	[illegible]	20411 WELBORN RD. 33917
10/2/23	ALAN KLINGENSMITH	[illegible]	18121 TRAVERSE DR, ALVA, FL 33920
10/2/23	Ken Nichols	[illegible]	8320 Boonesboro Rd. NFM 33917
10/2/23	ROBERT HOADE	[illegible]	202 JEFFERSON AVE LEHIGH ACRES

PETITION

OPPOSE THE REZONING OF BAYSHORE VILLAGE (DCI2022-00032)

Date	Name (Please Print)	Signature	Address
10/2/23	Tina Manning	Tina Manning	10830 Plorace Rd N. Ft. Myers 33917
10/2/23	Kathleen Putett Small	K Small	17575 Wells Rd N.F. Myers 33917
10/2/23	Perry Small	Perry Small	17575 Wells Rd " " "
10/2/23	Jennifer Jojola	J Jojola	9581 Shadow Oak Ln, North Ft Myers, 33917

#	Name	City	Address	Comment	Date
1	LUANNE COURSIN	NORTH FORT MYERS	17112 WAYZATA CT	Opposed to builders trying to change our environment and lifestyle.	2022-11-04
2	Claudia Graham	North Fort Myers	8450 Dosonte Lane	I am saddened by the insane growth of the county. Money talks, right?? So much traffic, every inch of nature torn up for big housing projects. The Bayshore community was supposed to be kept country. With room for trees and wildlife and air to breathe. Please stop counting you money and stop this out of control building. Soon, we will be called Little Miami.	2022-11-06
3	Connie Rogers	North Fort Myers	8240 Boonesboro Road, 6	I like the rural way it is, that is why we moved here	2022-11-06
4	The signatory decided not to show his/her name on the Internet.				
5	Carla Pearson	North fort myers	11282 rabun gap dr		2022-11-07
6	Kathleen Love	N Ft Myers	17211 Carolyn Lane		2022-11-07

7	Gregory Bortzfield	N Ft Myers	17211 Carolyn Lane		2022-11-07
8	Rick Burnette	North Fort Myers	17151 Laurelin Ct.	I am a resident of Calusa Woods located on Hwy. 78 (Bayshore) and less than two miles from the Wells Rd. property in question. Due to Babcock, traffic is already a major problem along this corridor and we are very concerned about the continued push to "develop" this decreasingly rural section of the Lee County, particularly with the increased risk of local flooding, as demonstrated during Hurricane Ian.	2022-11-07
9	Ellen Burnette	North Fort Myers	17151 Laurelin Ct.	I am a resident of Calusa Woods located on Hwy. 78 (Bayshore) and less than two miles from the Wells Rd. property in question. Due to Babcock, traffic is already a major problem along this corridor and we are very concerned about the continued push to "develop" this decreasingly rural section of the Lee County, particularly with the increased risk of local flooding, as demonstrated during Hurricane Ian.	2022-11-07
10	The signatory decided not to show his/her name on the Internet.				
11	Sandra Hicks	North Fort Myers	18350 Lynn Road		2022-11-07

12	Becky Yance	North Fort Myers	16590 Marc Allen Drive		2022-11-08
13	Kathleen Bardi	N.FtMyers	17550 sabal palm drive	I enjoy living in the woods and so far the development of property has been removing all the trees and the flooding and traffic east of 75 is horrific. Slow down you are moving too fast!	2022-11-08
14	Patty Walker	North Fort Myers	17941 LEETANA RD		2022-11-09
15	The signatory decided not to show his/her name on the Internet.				
16	Angelo Rosin	North Fort Myers	18222 Sandy Pines Circle		2022-11-10
17	SCOTT ROGOWSKI	North Ft Myers	18158 Sandy Pines Circle	I oppose commercial development encroaching on private rural neighborhoods like mine.	2022-11-10
18	Steven Brodkin	N. Fort Myers	17720 Durrance Road		2022-11-10
19	The signatory decided not to show his/her name on the Internet.				

20	The signatory decided not to show his/her name on the Internet.				
21	The signatory decided not to show his/her name on the Internet.				
22	Kimberly Holbrool	North Fort Myers	9311 Sedgefield Road		2022-11-10
23	Don Metrione	North Fort Myers	8280 Boonesboro Road		2022-11-10
24	Kathy Barnes	North Fort Myers	Deal Rd North Fort Myers, FL		2022-11-10
25	The signatory decided not to show his/her name on the Internet.				
26	Pamela Leppala	North Fort Myers	Pam's Feed	The massive amounts of traffic has already negatively altered the pace of the Bayshore community, adding to the congestion for the folks that moved to this area &/or have a business in this corridor. Our water quality and abundance is	2022-11-10

				already lessened from acceptable levels. There should be NO change to the permitting for this parcel until the infrastructure can sustain this type of growth. We have unacceptable levels of flooding due to unchecked zoning practices.	
27	The signatory decided not to show his/her name on the Internet.				
28	Heather Anderson	N Ft Myers	19220 Four Wheel Dr	We do not need more traffic on bayshore. It is hard enough to get my kids to school. What used to take less than 10 minutes has increased to over 20 in the past 2 years.	2022-11-11
29	The signatory decided not to show his/her name on the Internet.				
30	Tim Tillman	North Fort Myers	18221 Leetana Road	I am concerned about overdevelopment of the Bayshore area and inadequate infrastructure.	2022-11-11
31	The signatory decided not to show his/her name on the Internet.				

32	Tammy Morrison	North Fort Myers	17936 Leetana Rd		2022-11-11
33	Amber Deming	Cape Coral	3638 NE 19th Pl		2022-11-11
34	Lilliana Baker	North Fort Myers	3326 N Key Dr	Traffic and safety concerns.	2022-11-11
35	Jonathan D and Mary L. Miller	North Ft. Myers	18233 Sandy Pines Circle	As a 9th generation cracker, born and raised in nfm, I am totally against ANY further development our rural Bayshore area. Please stop destroying our way of life to line your own pockets.	2022-11-11
36	The signatory decided not to show his/her name on the Internet.				
37	Amy Ayers	North Fort Myers	17771 wells road	There is not adequate infrastructure to support the development at the end of Wells Road.	2022-11-11
38	Jenny Jones	North Fort Myers	18202 Sandy Pines Cir.	I am signing this petition because I am worried about the flow of traffic that is not addressed, the increase in the development that is proposed and the water management of said development. The planning department has recently approved a six acre lake to go into the development behind Oakmont which is at the end of Wells Road and open it to the public. I am sure this will increase	2022-11-11

				traffic on Bayshore when opened and add to the concern of water management within this vicinity. Love's Travel Stop and all the development that has occurred on Bayshore and 31 has increased the semi traffic going down Bayshore. We understand development will occur but the development need not cover every square inch of land or allow two story buildings that will only allow more numbers of people to be on the land congesting already congested traffic. Also to put an entrance exit from said development on Wells a road where neighbors have to sometime stop to let each other pass by or to wait for the school bus to let children on and off is not a road a business needs to use. Thanks for your consideration.	
39	Deborah Redford	N Ft Myers	18240 Deuce Rd		2022-11-11
40	Jody Mohle	North Fort Myers	17450 Wells Rd		2022-11-11
41	Brittany Eads	North fort myers	17430 wells rd	This is our home and this is where our friends and family are. We don't need big corporations destroying what we've worked hard for.	2022-11-11
42	Gillian Kay	CAPE CORAL	2137 Gardenia Circle West	The infrastructure cannot handle what you are proposing. Also, this is a a rural area that should not even be considered especially with all the vacant commercial off US 41	2022-11-11

43	Evelyn Zidek	N fort myers	9260 Sedgefield Rd	1. Once it's gone, it's gone. For all the talk about environment, Florida sure is going the wrong way! 2. And others and outsiders ruin it for the majority in the area that are there specifically because it is rural! All the rest are after money, duh! follow the $$$ Let's hear more about how they will save the natural beauty of Florida instead of how they're going to take it all down? Where's the land czar? Where's the logical mitigation?	2022-11-11
44	The signatory decided not to show his/her name on the Internet.				
45	The signatory decided not to show his/her name on the Internet.				
46	The signatory decided not to show his/her name on the Internet.				
47	JOHN AND STEPHANIE Real	North Ft Myers	18300 Hunters Glen Rd	We agree with all of the above. Furthermore the Babcock community is a self serving planned community and should in no way affect the planning of this property.	2022-11-11

48	The signatory decided not to show his/her name on the Internet.				
49	Ashlee Beougher	North Fort Myers	3761 Trail Dairy Circle		2022-11-11
50	Melanie Wilson	Fort Myers	17901 Nalle Road		2022-11-11
51	Nicole Bolebruch	North Fort Myers	8745 swell brooks		2022-11-11
52	The signatory decided not to show his/her name on the Internet.				
53	Julie Auer	North fort myers	20570 Bradley road		2022-11-11
54	Frankie Vieths	North Fort Myers	17400 Wells Rd	I care about were I live**********	2022-11-11
55	The signatory decided not to show his/her				

	name on the Internet.				
56	The signatory decided not to show his/her name on the Internet.				
57	The signatory decided not to show his/her name on the Internet.				
58	Kathy Zachary	N FT MYERS	8121 RICH RD		2022-11-12
59	Kathy Putch	North Fort Myers	17575 Wells Rd	I'm a 30 yr resident opposed to this project. Thank you.	2022-11-12
60	The signatory decided not to show his/her name on the Internet.				
61	David Vieths	North Fort Myers	17400 Wells Rd	I am concerned...	2022-11-12

62	Mark & Cindy Beacker	North Fort Myers	18460 Hunters Glen Rd		2022-11-12
63	Tracy Cameron	North Fort Myers	7721 Deni Dr.	I'm tired of seeing our country town taken away from us. Stop the big construction and houses on top of each other. Keep NFM country.	2022-11-12
64	Heather Redford	N Ft Myers	18105 Wells Rd		2022-11-12
65	The signatory decided not to show his/her name on the Internet.				
66	The signatory decided not to show his/her name on the Internet.				
67	Sheryl Crews	NORTH FORT MYERS	17410 Sabal Palm Dr		2022-11-13
68	Carolyn Morton	N. Ft. Myers,	11480Bayshore Road		2022-11-14
69	Kenneth Crews	North Fort Myers	17410 Sabal Palm Dr.	We do not need any more growth in this area. We are a rual single family home area. We have	2022-11-14

				enough businesses. We do not need to increase traffic in our area.	
70	Nicole Mitchell	Cape Coral	1414 NW 20th street		2022-11-14
71	Robert Rogowski	North Fort Myers	18050 Leetana Road	It's not a good choice for our neighborhood	2022-11-14
72	Karen Kamener	33917	20777 Bradley Road	I have a letter from Chip Merriam SFWMD stating that the filling of this 178 square mile flood plain will exacerbate the depth & duration of the flooding. Kitson removed the 4 mile canal that was to accept water west of SR 31 flowing over the road to the east. FDOT plans to raise SR 31 three feet, how much will that add to the depth of the sheetflow during large events? I am assuming SR 78 will also be raised. No one should be filling any of this flood plain and diverting sheet flow until the proper conveyance is put in which is not feasible due to the pollution excessive runoff causes to the Caloosahatchee River. This 178 square mile area between the Caloosahatchee River, to the south. Bermont Road to the north, I 75 to the west and SR 31 to the east has had 10 Studies done on it all worth 1 million each, they all say the same damn thing. New roads and berms dam the sheetflow and exacerbate the flooding which has been proven over and over again. So why is Lee County and Floriduh State governments so ignorant as to continue the trend of ruining peoples lives and allowing development in large NORTHERN	2022-11-14

				EVERGLADES sheetflow flooding areas if there is no plan to install conveyance to maintain the average 18" inches of sheetflow typical of the Everglades? Why must my government terrorize it's citizens? Irma and 2006 Ernest had depths of 31" of water at grade 600 feet from the county line a mile north of Nalle Grade Road. Welborn Road had 6" of water at the south end. After the 2010 Popash berm was put in Welborn Road had 20" at the south end from Irma. Berms suck big time, but hey we don't need basic services like fire trucks, ambulances, garbage pickup, UPS, Fedex etc for weeks at a time do we?	
73	Danielle Moraine	North Fort Myers	18010 wells road north fort myers Florida 33917	I'm signing because this affects my livelihood and my neighborhood. This affects our only major asset, our home. This proposed development threatens the very way we live our life.	2022-11-15
74	Lauren Price	N Ft Myers	19671 Tammy lane		2022-11-15
75	The signatory decided not to show his/her name on the Internet.				
76	Madison Browning	North Fort Myers	7640 Nalle Grade Rd		2022-11-17
77	The signatory decided not to				

	show his/her name on the Internet.				
78	Bradley Holler	North Fort Myers	17041 Pelican Way	I am greatly concerned with the potential development of this parcel that the current two lane SR78 infrastructure simply can not support at this time.	2022-11-19
79	Charles Bardi	North Fort Myers	17550 Sabal Palm Drive	Too much too fast!!!!	2022-11-21
80	Tammy Miller	North Fort Myers	18109 Wells Road		2022-11-22
81	Colin Miller	North Fort Myers	18109 Wells Road		2022-11-22
82	Lindsey Maxwell	North Fort Myers	17100 Carolyn lane	It an infringement on our way of life.	2022-11-23
83	David Eads	North fort Myers	17430 wells rd North Fort Myers Florida 33917	We don't need this in our neighborhood	2022-11-26
84	Tammy Mudge	North fort myers	11311 Deal road		2022-11-26
85	Renee Wortsman	Fort Myers	4661 Pine Level Way	y children attend Bayshore Elementary and I travel through here in the mornings.	2022-11-26

86	Robert Lanier	Fort Myers	18119 Sandy Pines Circle	We do not need commercial development to help Babcock. The Babcock community is self supported. The traffic is already bad at the intersection of Wells and Bayshore.	2022-11-26
87	Morgan Mills	North Fort Myers	18251 Hunters Glen Rd	No. There is already too much traffic. Turning onto Baysbore from Pritchett or Wells is already a major safety issue, additional commercial space adding to that is unnecessary and unwelcome.	2022-11-26
88	DENNIS DALTON	CAPE CORAL	4401 SE 15 TH AVE	I drive in the area weekly	2022-11-26
89	The signatory decided not to show his/her name on the Internet.				
90	David McCleaf	North Fort Myers	17535 Wells Road	Signing in opposition of the development of the land at the intersection of wells rd and bayshore.	2022-11-26
91	Shauna Ancheta	Fort Myers	17620 richard rd		2022-11-26
92	The signatory decided not to show his/her name on the Internet.				

93	Ashley Weeks	North Fort Myers	7469 Dana Li. circle	We live here and with all the building we will always flood.	2022-11-26
94	The signatory decided not to show his/her name on the Internet.				
95	jennifer thompson	north fort myers	18651 Lynn Road		2022-11-26
96	The signatory decided not to show his/her name on the Internet.				
97	The signatory decided not to show his/her name on the Internet.				
98	The signatory decided not to show his/her name on the Internet.				
99	Debbie Jackow	N. Fort Myers	19450 Meredith Rd	This request is totally inappropriate to Bayshores rural lifestyle and the residents that live near it. The roads are not set up for the amount of traffic this	2022-12-04

				would cause to this residential neighborhood. A 4 story hotel overlooking it's neighbors is totally inappropriate. No increase in commercial activity.	
101	The signatory decided not to show his/her name on the Internet.				
102	Christian Gonzalez	North Ft Myers	19950 Pine Echo Rd	I oppose any development that affects the area in many aspects such as rezoning, traffic congestion, rural lifestyle, wildlife, flooding, insurance increases (Auto/Home), overpopulation and potential increase in crime. Little by little they're trying to turn the area into another Cape Coral or Miami, where it will drive the cost of living off the roof with chaos everywhere. We chose to live in these areas for a reason now they want to turn our green landscape into pure concrete blocks. Look at Miami you can barely move with chaos that affects every aspect of your cost of living and lifestyle (Homeowners/Rent Increases /Traffic Congestion/Tolls/Parking Cost/Crime/Property Tax Increase) and Pollution. There will be an increase of homeless population reaching our Bayshore lines with everyone camping out like they do in San Francisco, CA. Next, they will want to develop skyscrapers with millions of people living in them looking over your ranch tossing cigarette buds, beer bottles, and urinating from their balconies. It's insane.	2022-12-15

103	Amber Horton	North Fort Myers	18197 Sandy Pines Circle		2022-12-16
104	Barbara Nelson	North Ft.Myers	16900 Carolyn Lane		2022-12-16
105	The signatory decided not to show his/her name on the Internet.				
106	The signatory decided not to show his/her name on the Internet.				
107	Ray Stevenson	North Fort Myers	19761 Skipper		2022-12-17
108	The signatory decided not to show his/her name on the Internet.				
109	Shannon Lightbody	FORT MYERS	4705 BLACKBERRY DR	I will be impacted by this change.	2022-12-18

110	Lynn Lee	Fort Myers	4558 Oak Tree Court	I'm signing because enough is ENOUGH!!! As a 60+ year resident, I grew up here and the atmosphere of my town has been significantly changed and not all for the good. This is not just a money thing, it's a family-value thing and the right thing to do.	2022-12-21
111	The signatory decided not to show his/her name on the Internet.				
112	Cynthia Presson	Alva	18160 Riverchase Ct	The area is already experiencing growth at an alarming rate, turning us into a "suburb" of Fort Myers. This project will exacerbate the current problem, including burgeoning traffic and unsafe driving!	2022-12-30
113	BRIDGET PHILLIPS	Alva	18990 Serenoa Ct	The traffic situation on Bayshore is becoming a nightmare. When DR Horton finishes their expansions up Pritchett Parkway this will be even worse. What would happen with a larger hotel at this location.	2023-01-09
114	The signatory decided not to show his/her name on the Internet.				
115	Suzanne Rosin	N Ft Myers	18222 Sandy Pines Circle	I do not agree with this request. I do not the extra traffic and noise, but most importantly I don't want to see native wildlife displaced with their habitats destroyed.	2023-02-07

116	CHAR TUTTLE	N FT MYERS			2023-04-06
117	Larry Clark	North Fort Myers	11183 Rabun Gap Drive, N Ft Myers, FL 33917	I support the petition.	2023-09-26

Conditions

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

(1) Master Concept Plan and Development Parameters

a. Master Concept Plan. Development of the subject property must be substantially consistent with the one-page Master Concept Plan Entitled "Master Concept Plan ALT A" or "Master Concept Plan ALT B", last revised 9/27/2023 and attached hereto as Attachment D.
Staff Note: Applicant must prepare revised MCPs consistent with recommendations herein.

~~b.~~ Development Parameters. Development is limited to a maximum of ~~87,500~~ 92,750 square feet of non-residential floor area, including any outdoor restaurant seating.~~, and a separate allocation of 44 hotel units (Hotel units subject to Condition 11).~~

c. Compliance with Lee Plan and LDC. Development must comply with all the requirements of the Lee Plan and LDC at the time of local development order approval, except as may be granted by deviation as part of this planned development. Subsequent amendments to the Master Concept Plan or its auxiliary documentation attached thereto are subject to the planned development amendment process established by the Land Development Code.

d. Superseding Resolution. Resolution Z-06-046 is hereby superseded and replaced with this amended resolution.

(2) Schedule of Uses and Property Development Regulations

Staff Note: Uses listed in strike-through format are not recommended.

a. Schedule of Uses

(*) Indicates uses restricted to southern 400 feet of the subject property. Locational restrictions no longer apply if the abutting northern property is zoned for uses other than residential or agricultural.

(**) Use must be requested through the special exception or public hearing amendment process.

Accessory uses and structures
Administrative offices
~~Agricultural Uses~~
Animal clinic (no outdoor runs)
ATM (Automatic Teller Machine)
Auto parts store (no installation)

DC12022-00032

STAFF EXHIBIT# 5
Draft Revised Conditions
for discussion

Automobile repair and service, Groups I and 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 and II
Bar or cocktail lounge (**)
~~Business Services, Group I~~
Boats:
    Boat parts store (limited to one)
    Boat sales (subject to Condition 10)
    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) (**)
Broadcast studio, commercial radio and television
Building material sales
Business Services, Groups I and II
~~Bus station/depot~~
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)
Contractors and builders, Group I, II and ~~III~~
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 (limited to east side of buildings) (*)
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
    ~~Oil or gas (SE)~~
Farm equipment, sales, storage, rental or service
Feed or fertilizer, mixing and sales
Fences, Walls
~~Flea Market:~~
    ~~Indoor~~
    ~~Open (SE)~~
Food and beverage service, limited (**)
Food stores, Groups I and II
Food truck park (subject to Condition 13)(*)

~~Funeral home or mortuary:~~
~~No cremation~~
~~With cremation~~
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 and III
Laundromat
~~Laundry or dry cleaning, Group I (subject to Condition 7)~~
Lawn and garden supply store
Library
Maintenance facility (government)
Medical Office
~~Mobile home dealers (**)~~
~~Model display center~~
Non-store retailer
Motion picture production studio
~~Nightclubs~~
Nonstore retailers, All Groups
Package store (no related consumption on premises and subject to LDC §34-1263)
Paint, glass and wallpaper store
Parks, Groups I and II
Parking lot:
Accessory
Commercial (**)
~~Garage, public~~
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
Printing and publishing
Recreation facilities commercial, Group I and IV (limited to gymnasiums and health clubs)
Religious facility
Rental or leasing establishments, Groups I, II, and III
Repair shops, Groups I, II, III, and IV (*) (subject to Condition 7)
Research and development laboratories, Group II
Restaurants, All Groups
Restaurant, fast food (*)
Schools, commercial
Self-service fuel pumps (*) (limited to a maximum of 22 and subject to Condition 7)
Signs
Social services, Groups I and II

Specialty retail shops, All Groups
Storage:
- Indoor
- Open (subject to Condition 10)

Studios
Supermarket
Temporary uses
Theater, indoor
Transportation services, Groups II and III (excluding bus stations and depots)
~~Truck stop (*)~~
Used merchandise stores, All Groups
Variety store
Vehicle and equipment dealers, Groups I, II, III, IV, ~~and V~~ (*) (subject to Conditions 7 and 10)
Warehouse
- Mini
- ~~Private~~
- Public

~~Wholesale establishments, Groups I, III and IV~~

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
Street, private	20 feet
Side (East):	15 feet
Rear (North):	25 feet
Uses with specific development regulations:	See Conditions 10 & 11
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

Prior to the issuance of the first development order, the development order plans must depict 30 percent open space (2.63 acres). If subdivided, individual development parcels must include a minimum of 10 percent open space.

(4) Indigenous Preserve

Prior to the issuance of the first development order, the development order plans must depict the indigenous preserve area as the 75-foot buffer to along the north perimeter. If exotics are removed, native plantings must be planted to maintain proper screening along the single-family lot abutting the subject property to the north. The development order plans must also depict a total of 1.33 acres of indigenous open space in substantial compliance with Master Concept Plan Alternates A and B, dated September 27, 2023 per the following breakdown:

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

(5) Indigenous Habitat Plan

Prior to the issuance of the first development order, the development order plans must demonstrate the following:

a. Substantial compliance with the Indigenous Management Plan, attached as Attachment J, Exhibit B.

b. A schedule for the indigenous preservation and restoration to be completed within five consecutive years.

c. A map depicting where mechanical and hand-removal methods of exotic vegetation removal will be located. Mechanical clearing must be limited to non-indigenous areas.

d. An appropriate planting list for the preserve area, approved by Lee County Staff.

e. Exotic removal and restoration (supplemental plantings) of indigenous habitat to begin concurrently with improvements to land, which must be provided at time of

local development order application. The supplemental planting plans must be approved by development services staff.

(6) Gopher Tortoise Survey

Prior to local development order approval, the property must be re-surveyed for the presence of gopher tortoises and their burrows, and, if found, a gopher tortoise management plan must be submitted as part of the indigenous preserve management plan for review and approval. The gopher tortoise management plan must include details on habitat management to provide open herbaceous foraging areas, and how the habitat will be maintained in perpetuity. The management should also include the following details pertaining to site work:

a. A copy of the Florida Fish and Wildlife Conservation Commission Gopher Tortoise Permit and receipt of payment, if applicable, must be submitted to the staff prior to issuance of a Vegetation Removal Permit.

b. A Vegetation Removal Permit to install gopher tortoise fencing and burrow excavation must be obtained prior to any site work.

c. Any gopher tortoises and commensal species located during burrow excavation must be moved to appropriate indigenous preserves or relocated through state and federal permits.

d. The number of tortoises and any commensal species moved to preserves must be reported to staff or relocated through FWC permitting.

e. All active and inactive gopher tortoise burrows located outside of the indigenous preserves must be excavated and fully collapsed prior to issuance of a Vegetation Removal Permit for clearing and filling of the development area.

(7) Lee County Public Water Supply Wells

A. Prior to local development order approval, the developer must demonstrate compliance with the Lee County Wellfield Protection Zone Ordinance and identify the proposed use(s). The following uses are not permitted within the 1-year or 5-year Wellfield Protection Zone travel time, as depicted by Lee Plan Map 4-C.

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

B. The following uses have the potential to adversely impact the proximate public water supply wells and are therefore only permitted on the subject property 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 the regulated substance thresholds in subsections C and D

C. Prior to local development order approval, the plans must depict the storage location and combined sum of all quantities of regulated hazardous, toxic substances and sanitary hazards as defined by the Wellfield Protection Ordinance. The combined sum of regulated hazardous, toxic substances and sanitary hazards 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.

D. Prior to local development order approval, the plans must depict bulk storage of fuel, in excess of 110 gallons, outside of the 1-year Wellfield Protection Zone travel time.

E. Prior to local development order approval, the developer must provide a Maintenance Plan for review and approval by the Lee County Division of Natural Resources. At a minimum, the Maintenance Plan must establish:

- A quarterly containment and emergency equipment inspection schedule performed by a qualified professional.
- All maintenance and inspections logs and records must be provided to Lee County Division of Natural Resources annually.

F. Prior to local development order approval, the plans must note that fuel storage systems must be constructed with secondary containment consisting of double walled tanks and/or lines.

G. Prior to local development order approval, the plans must note that fuel storage systems equipped with leak detection system, with appropriate alarms and protocol to provide for shutdown of system pending leak investigation will be implemented.

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.

I. Prior to local development order approval, the developer must provide a Surface Water Quality Monitoring Plan for review and approval by the Lee County Division of Natural Resources. At a minimum, the Surface Water Monitoring Plan must establish the following:

- The overall Goals and Objectives of the Surface Water Quality Monitoring Plan.
- An outfall monitoring schedule during "wet" season of June through September and "dry" season of October through May. The monitoring constituents will be determined prior to issuance of local development order by the Lee County Division of Natural Resources based on the final uses proposed.
- Baseline surface water quality monitoring data will be included in the monitoring plan and must be completed and provided to Lee County Division of Natural Resources prior to commencement of construction.
- Water quality monitoring data must be provided to the Division of Natural Resources annually and must include a report with a comparison of 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.
- A contingency plan in the event an exceedance of State Surface Water Quality Standards is discovered. This plan must include notification to impacted residents and applicable authorities.

J. Prior to local development order approval, the developer must provide a Groundwater Quality Monitoring Plan for review and approval by the Lee County Division of Natural Resources. At a minimum, the Groundwater Quality Monitoring Plan must establish the following:

- The overall Goals and Objectives of the Groundwater Quality Monitoring Plan.
- A semi-annual monitoring schedule. The monitoring constituents will be determined prior to issuance of local development order by the Lee County Division of Natural Resources based on the final uses proposed.
- 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, with locations and depths subject to Lee County Division of Natural Resources approval.
- Baseline groundwater quality monitoring data will be included in the monitoring plan and must be completed and provided to Lee County Division of Natural Resources prior to commencement of construction.
- Groundwater quality monitoring data must be provided to the Lee County Division of Natural Resources annually and must include a report with a comparison of State water quality standards, plots of parameters, and recommendations. Groundwater quality monitoring must continue through the lifetime 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.
- A contingency plan in the event an exceedance of State Water Quality Standards is discovered. This plan must include an emergency plan and notification to impacted residents, applicable authorities, and the Director of Lee County Natural Resources.

K. Bonding. Prior to local development order approval, the Development Order plans must identify the proposed use 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, as outlined in the Wellfield Protection Ordinance.

(8) Masonry Wall/Berm Combination

Prior to local development order approval both of the following wall requirements must be met:

A. Where roads, drives, parking areas, service areas for delivery of goods or services exist within 125 feet of the north property line, a completely opaque 8-foot-high masonry wall or 8-foot-high masonry wall and berm combination, as measured from the finished grade of the project site, must be provided within 25 feet of the south side of the indigenous preserve area. The masonry wall or masonry wall/berm combination must commence within 15 feet of the Wells Road right-of-way and extend east continuously at a height of 8 feet ~~to the eastern-most property line~~ until these areas are completely screened from the north property line.

B. In all other areas not covered by Condition 8(a) the 8-foot-high wall/berm combination depicted on the MCP may utilize composite or non-wood material extend the wall continuously to the eastern property line.

C. This condition is null and void if the northern abutting property is not utilized for single-family residential uses at time of local development order approval.

Staff Note: Applicant must prepare revised MCPs depicting the general location of the wall in compliance with this condition.

(9) Project Building or Structure Height

A. The building and structure heights specified herein may not be exceeded without obtaining approval through the public hearing process. The provisions of LDC Section 34-2174, additional permitted height when increased setbacks provided, may not be utilized within the planned development.

B. All buildings exceeding two stories must be setback 150 feet from the north property line.

(10) High Intensity Uses

This condition pertains the following uses:

a. Convenience Food and Beverage Stores, Fast-Food Restaurants, Car Washes.

   i. Except for Deviations 5 and 6 contained herein, deviations from LDC Section 34-1353 must be sought through the public hearing process.

   ii. Convenience food and beverage stores and fast-food restaurants must be set back 50 feet from any public right-of-way; this condition also applies to any restaurant with a drive-through facility.

b. Display, sale, rental or storage for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment.

   i. Deviations from LDC Section 34-1352 must be sought through the public hearing process.

   ii. Automotive dealerships exceeding 4 acres in size or providing multi-story display or storage of vehicles must receive approval through the public hearing amendment process to ensure consistency with the LDC and Lee Plan. All automotive repair and service must be located within the southern 400 feet of the subject property.

   iii. All 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 Use

The development of a hotel on the subject property is subject to the following conditions:

A. Maximum Units/Conversion. ~~The 44-hotel unit may be increased~~ 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 of the ~~87,500~~ 92,750-square-foot intensity allocation. The transfer of ~~floor area~~ retail intensity to hotel units must be reviewed through the administrative amendment process.

B. Principal Building. The project is limited to one hotel within one 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. Where lock-off accommodations are provided, each "keyed room" will be calculated as a separate rental unit.

E. Maximum Height. The maximum permitted height for a hotel use is 48 feet, accessory structures are limited to a maximum permitted height of 35 feet. If the principal building exceeds 35 feet in height, then it must be located in the southern 300 feet of the subject property, as measured from the Bayshore Road right-of-way. Buildings exceeding 35 feet in height must be set back a minimum of 50 feet from the Bayshore Road and Wells Road rights-of-way. A hotel use 35 feet in height or less must be set back a minimum of 150 feet from the north property line and the Wells Road right-of-way, and 50 feet from the Bayshore Road right-of-way. See Condition 9, general height provision.

F. Electric Vehicle (EV) Charging. EV Charging stations may be provided as accessory to the hotel use, subject to local development order approval.

(12) Project Vehicular Trip Generation

Regardless of any land use density/intensity conversion allowed per the Land Development Code or zoning condition specific to this development, the development is allowed a maximum calculated development intensity with respect to new trip generation utilizing the following development scenario based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual in effect at time of local development order: 87,500 square-feet commercial retail.

(13) Food Truck Park

The principal use of a food truck park may be approved through the administrative amendment and local development order process. The application must be accompanied by a conceptual site plan meeting the minimum required details for special exception site plans in LDC Section 34-202. The application must include a project narrative of the intended operation and any other information determined necessary by the Director.

Deviations

Deviation #1:

Seeks relief from LDC §10-329, which requires an excavation setback of 50 feet from any private property line under separate ownership, to allow a 30-foot excavation setback from the eastern perimeter.

This deviation is **APPROVED**, subject to the condition that the reduction applies to easterly commercially-zoned property, and the easterly abutting AG-2-zoned parcel fronting Bayshore Road, if the parcel is not developed with single-family residential uses at time of local development order approval.

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 northeastern CPD approved by Resolution Z-10-036 (Maximus Self-Storage, f.k.a W & W Service Park).

This deviation is **APPROVED,** subject to the following conditions:

i. The easterly parking lot interconnection annotated on the Master Concept Plans must be made at time of local development order 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 local development order approval for the subject property, a parking lot interconnection stub must be made to the property line and depicted on the approved development order plans.

iii. If the property is not zoned for commercial uses, a 24-foot-wide cross-access easement must be provided for future parking lot interconnection. The easement language must be acceptable to the County Attorney's Office and executed and recorded in the Public Records prior to approval of any building permit for commercial uses on the property.

Staff Note: Applicant must prepare revised MCPs revising parking lot interconnection annotation language conflicting with this condition.

Deviation #3:

Seeks relief from LDC §10-415(b)(1)b.4. which requires developments greater than five acres in size that abut an arterial or collector road and that have existing native trees within 50 feet of the right-of-way to be designed to provide a 50-foot right-of-way buffer for tree preservation, to instead allow buffer requirements of Chapters 10 and 34 to override. The project is meeting it's preservation requirements in accordance with 10-415(b)(1)a.; therefore, subsection (LDC §10-415(b)(1)b.) is not applicable.

This Deviation is **WITHDRAWN**.

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.

This Deviation is **APPROVED**, subject to Condition 10.

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.

This Deviation is **APPROVED**, subject to Condition 10.

Deviation #6:

Seeks relief from LDC §10-416(d)(3), which requires a Type "C" or Type "F" Buffer when a commercial land use abuts a residential land use, to allow the indigenous preserve to function as a planted buffer along the north property.

This Deviation is **APPROVED**, subject to the following condition:

a. In the event the proposed preserve does not create a continuous visual screen equivalent to a Type C or F buffer, then prior to the issuance of the first development order, the development order plans must provide a list of supplemental plantings and a replanting plan, subject to approval by Lee County staff.

Deviation #7:

Seeks relief from LDC §10-296(k), which requires all roadways to be terminated 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 only.

This deviation is **APPROVED**, subject to the following condition:

a. Prior to local development order approval, a letter of no objection must be provided from the fire district having jurisdiction.

Deviation #8:

Seeks relief from LDC §10-296(e)(1)i.1.ii, which requires a 12-foot-wide wide pedestrian facility and a 5-foot-wide bike lane, to allow no sidewalk or bike lane on Bayshore Road.

This deviation is **WITHDRAWN**.

Perez, Maria

From:	Mendez, Adam
Sent:	Thursday, December 21, 2023 2:16 PM
To:	Olga Ramos; Hearing Examiner; Perez, Maria; Princing, Jamie; Weigel, Zsuzsanna
Cc:	Neale Montgomery; Siverson, Camryn; DeFilippo, Nicholas; Sarracino, Joseph; Ronald Inge
Subject:	RE: Bayshore Village CPD- DCI2022-0032
Attachments:	Staff PHWS 12-21-2023.pdf; 12_21_23 Staff Revised Development Regulations.docx

Good afternoon,

Please find the attached memorandum in reference to the subject case.
Also attached is the Staff Conditions/Deviations Document in Word format.

Please contact me with any questions and Happy Holidays.

Lee County
Southwest Florida

Adam Mendez | Senior Planner
Department of Community Development, Zoning Section
1500 Monroe Street, Fort Myers, FL 33901
office: (239) 533-8325
email: amendez@leegov.com
web: www.leegov.com
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Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

STAFF'S EXHIBIT 6

MEMORANDUM

FROM
THE DEPARTMENT OF
COMMMUNITY DEVELOPMENT

TO: Donna Marie Collins
Chief Hearing Examiner

DATE: December 21, 2023

FROM: Adam Mendez
Senior Planner

RE: DCI2022-00032 – Bayshore Village
Post Hearing Written Submission

Attached with this Memorandum is a copy of the finalized Staff Recommended Conditions/Deviations in accordance with the order for Post Hearing Written Submissions, dated December 14, 2023. Staff has discussed these final revisions with the applicant and abutting neighboring property representatives. Mr. and Mrs. Musho and council are appreciative of the effort and communication and do remain concerned and opposed to the conditions contained in this finalized document. Principally, the recommended intensity and the revised language concerning the composition of the proposed wall in conjunction with the possibility of the Wells Road access point relocation further north than currently proposed. Below are the notable changes in the attached document:

- **Condition (1)b.** precludes the use of Transferable Development Units (TDUs) for administrative intensification.
- **Condition 8**, Masonry Wall/Berm Combination, is revised to permit the use of composite or other non-wood materials where specified uses are not within 125 feet of the northern property boundary. The height of the wall and duration otherwise remain unchanged.
- **Condition 14** is included in response to concerns regarding project signage and aims to limit the height and sign copy type in specified areas.
- **Condition 15** is included to address the uncertainty of the Wells Road project access point, considering the anticipated Wells Road and Pritchet Parkway realignment. The condition provides a limited window for a northerly relocation, if necessary, through the administrative approval process.

Respectfully Submitted,

Adam Mendez
Senior Planner, Zoning Section

Attachment: Staff Recommended Conditions/Deviations

Conditions

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

(1) Master Concept Plan and Development Parameters

a. Master Concept Plan. Development of the subject property must be substantially consistent with the one-page Master Concept Plan Entitled "Master Concept Plan ALT A" or "Master Concept Plan ALT B", last revised 9/27/2023 and attached hereto as Attachment D.
Staff Note: Applicant to prepare revised MCPs consistent with recommendations herein, date referenced above to be updated accordingly.

b. Development Parameters. Development is limited to a maximum of 92,750 square feet of non-residential floor area, including any outdoor restaurant seating. Transferable Development Units (TDUs) may not be utilized in conjunction with this approval.

c. Compliance with Lee Plan and LDC. Development must comply with all the requirements of the Lee Plan and LDC at the time of local development order approval, except as may be granted by deviation as part of this planned development. Subsequent amendments to the Master Concept Plan or its auxiliary documentation attached thereto are subject to the planned development amendment process established by the Land Development Code.

d. Superseding Resolution. Resolution Z-06-046 is hereby superseded and replaced with this amended resolution.

(2) Schedule of Uses and Property Development Regulations

a. Schedule of Uses

(*) Indicates uses restricted to southern 400 feet of the subject property. Locational restrictions no longer apply if the abutting northern property is zoned for uses 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 and 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 and 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 and 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)
Contractors and builders, Groups I, and 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 and 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 and III
Laundromat
Lawn and garden supply store
Library
Maintenance facility (government)
Medical office
Non-store retailer
Motion picture production studio
Nonstore retailers, All Groups
Package store (no related consumption on premises and subject to LDC §34-1263)
Paint, glass and wallpaper store

Parks, Groups I and 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, Group I and IV (limited to gymnasiums and health clubs)
Religious facility
Rental or leasing establishments, Groups I, II, and III
Repair shops, Groups I, II, III, and IV (*) (subject to Condition 7)
Research and development laboratories, Group II
Restaurants, All Groups
Restaurant, fast food (*)
Schools, commercial
Self-service fuel pumps (*) (limited to a maximum of 22 and subject to Condition 7)
Signs (subject to Condition 14)
Social services, Groups I and II
Specialty retail shops, All Groups
Storage:
- Indoor
- Open (subject to Condition 10)

Studios
Supermarket
Temporary uses
Theater, indoor
Transportation services, Groups II and III (excluding bus stations and depots)
Used merchandise stores, All Groups
Variety store
Vehicle and equipment dealers, Groups I, II, III, and IV (*) (subject to Conditions 7 and 10)
Warehouse
- Mini
- Public

Uses that must be expressly obtained through the special exception or 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
Street, private	20 feet
Side (East):	15 feet
Rear (North):	25 feet
Uses with specific development regulations:	See Conditions 10 & 11
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

Prior to the issuance of the first development order, the development order plans must depict 30 percent open space (2.63 acres). If subdivided, individual development parcels must include a minimum of 10 percent open space.

(4) Indigenous Preserve

Prior to the issuance of the first development order, the development order plans must depict the indigenous preserve area as the 75-foot buffer to along the north perimeter. If exotics are removed, native plantings must be planted to maintain proper screening along the single-family lot abutting the subject property to the north. The development order plans must also depict a total of 1.33 acres of indigenous open space in substantial compliance with Master Concept Plan Alternates A and B, dated September 27, 2023 per the following breakdown:

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

Staff Note: Applicant to prepare revised MCPs consistent with recommendations herein, date referenced above to be updated accordingly.

(5) Indigenous Habitat Plan

Prior to the issuance of the first development order, the development order plans must demonstrate the following:

a. Substantial compliance with the Indigenous Management Plan, attached as Attachment J, Exhibit B.

b. A schedule for the indigenous preservation and restoration to be completed within five consecutive years.

c. A map depicting where mechanical and hand-removal methods of exotic vegetation removal will be located. Mechanical clearing must be limited to non-indigenous areas.

d. An appropriate planting list for the preserve area, approved by Lee County Staff.

e. Exotic removal and restoration (supplemental plantings) of indigenous habitat to begin concurrently with improvements to land, which must be provided at time of local development order application. The supplemental planting plans must be approved by Lee County Staff.

(6) Gopher Tortoise Survey

Prior to local development order approval, the property must be re-surveyed for the presence of gopher tortoises and their burrows, and, if found, a gopher tortoise management plan must be submitted as part of the indigenous preserve management plan for review and approval. The gopher tortoise management plan must include details on habitat management to provide open herbaceous foraging areas, and how the habitat will be maintained in perpetuity. The management should also include the following details pertaining to site work:

a. A copy of the Florida Fish and Wildlife Conservation Commission Gopher Tortoise Permit and receipt of payment, if applicable, must be submitted to the staff prior to issuance of a Vegetation Removal Permit.

b. A Vegetation Removal Permit to install gopher tortoise fencing and burrow excavation must be obtained prior to any site work.

c. Any gopher tortoises and commensal species located during burrow excavation must be moved to appropriate indigenous preserves or relocated through state and federal permits.

d. The number of tortoises and any commensal species moved to preserves must be reported to staff or relocated through FWC permitting.

e. All active and inactive gopher tortoise burrows located outside of the indigenous preserves must be excavated and fully collapsed prior to issuance of a Vegetation Removal Permit for clearing and filling of the development area.

(7) Lee County Public Water Supply Wells

A. Prior to local development order approval, the developer must demonstrate compliance with the Lee County Wellfield Protection Zone Ordinance and identify the proposed use(s). The following uses are not permitted within the 1-year or 5-year Wellfield Protection Zone travel time, as depicted by Lee Plan Map 4-C.

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

B. The following uses have the potential to adversely impact the proximate public water supply wells and are therefore only permitted on the subject property 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 the regulated substance thresholds in subsections C and D

C. Prior to local development order approval, the plans must depict the storage location and combined sum of all quantities of regulated hazardous, toxic substances and sanitary hazards as defined by the Wellfield Protection Ordinance. The combined sum of regulated hazardous, toxic substances and sanitary hazards 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.

D. Prior to local development order approval, the plans must depict bulk storage of fuel, in excess of 110 gallons, outside of the 1-year Wellfield Protection Zone travel time.

E. Prior to local development order approval, the developer must provide a Maintenance Plan for review and approval by the Lee County Division of Natural Resources. At a minimum, the Maintenance Plan must establish:

- A quarterly containment and emergency equipment inspection schedule performed by a qualified professional.
- All maintenance and inspections logs and records must be provided to Lee County Division of Natural Resources annually.

F. Prior to local development order approval, the plans must note that fuel storage systems must be constructed with secondary containment consisting of double walled tanks and/or lines.

G. Prior to local development order approval, the plans must note that fuel storage systems equipped with leak detection system, with appropriate alarms and protocol to provide for shutdown of system pending leak investigation will be implemented.

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.

I. Prior to local development order approval, the developer must provide a Surface Water Quality Monitoring Plan for review and approval by the Lee County Division of Natural Resources. At a minimum, the Surface Water Monitoring Plan must establish the following:

- The overall Goals and Objectives of the Surface Water Quality Monitoring Plan.
- An outfall monitoring schedule during "wet" season of June through September and "dry" season of October through May. The monitoring constituents will be determined prior to issuance of local development order by the Lee County Division of Natural Resources based on the final uses proposed.
- Baseline surface water quality monitoring data will be included in the monitoring plan and must be completed and provided to Lee County Division of Natural Resources prior to commencement of construction.
- Water quality monitoring data must be provided to the Division of Natural Resources annually and must include a report with a comparison of 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.
- A contingency plan in the event an exceedance of State Surface Water Quality Standards is discovered. This plan must include notification to impacted residents and applicable authorities.

J. Prior to local development order approval, the developer must provide a Groundwater Quality Monitoring Plan for review and approval by the Lee County Division of Natural Resources. At a minimum, the Groundwater Quality Monitoring Plan must establish the following:

- The overall Goals and Objectives of the Groundwater Quality Monitoring Plan.
- A semi-annual monitoring schedule. The monitoring constituents will be determined prior to issuance of local development order by the Lee County Division of Natural Resources based on the final uses proposed.
- 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, with locations and depths subject to Lee County Division of Natural Resources approval.
- Baseline groundwater quality monitoring data will be included in the monitoring plan and must be completed and provided to Lee County Division of Natural Resources prior to commencement of construction.
- Groundwater quality monitoring data must be provided to the Lee County Division of Natural Resources annually and must include a report with a comparison of State water quality standards, plots of parameters, and recommendations. Groundwater quality monitoring must continue through the lifetime 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.
- A contingency plan in the event an exceedance of State Water Quality Standards is discovered. This plan must include an emergency plan and notification to impacted residents, applicable authorities, and the Director of Lee County Natural Resources.

K. Bonding. Prior to local development order approval, the Development Order plans must identify the proposed use 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, as outlined in the Wellfield Protection Ordinance.

(8) Masonry Wall/Berm Combination

Prior to any local development order approval, the following wall requirements must be met:

A. A completely opaque 8-foot-high masonry wall or 8-foot-high masonry wall and berm combination must be provided within 25 feet of the south side of the indigenous preserve area where roads, drives, parking areas, refuse and recyclable material collection areas, emergency power generators, service areas for delivery of goods or services are located within 125 feet of the north property line. The height of the masonry wall or masonry wall/berm combination must be measured from the top of the nearest internal paved surface.

B. The 8-foot-high wall/berm combination depicted on the Master Concept Plans adjacent to areas not specified in Condition 8(a) may optionally utilize a completely opaque composite or other non-wood wall material. Any transition between materials must maintain the required height.

C. 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 eastern MCP boundary line.

D. Condition 8 is null and void if the northern abutting property is not utilized for single-family residential uses at time of local development order approval. Any modifications to reduce this condition requires public hearing.

Staff Note: Applicant to prepare revised MCPs to include the general location and proposed height of the wall or wall/berm combination, with appropriate annotations, consistent with recommendations herein.

(9) Project Building or Structure Height

A. The building and structure heights specified herein may not be exceeded without obtaining approval through the public hearing process. The provisions of LDC Section 34-2174, additional permitted height when increased setbacks provided, may not be utilized within the planned development.

B. All buildings exceeding two stories must be setback 150 feet from the north property line.

(10) High Intensity Uses

This condition pertains the following uses:

a. Convenience Food and Beverage Stores, Fast-Food Restaurants, Car Washes.

i. Except for Deviations 5 and 6 contained herein, deviations from LDC Section 34-1353 must be sought through the public hearing process.

ii. Convenience food and beverage stores and fast-food restaurants must be set back 50 feet from any public right-of-way; this condition also applies to any restaurant with a drive-through facility.

b. Display, sale, rental or storage for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment.

i. Deviations from LDC Section 34-1352 must be sought through the public hearing process.

ii. Automotive dealerships exceeding 4 acres in size or providing multi-story display or storage of vehicles must receive approval through the public hearing amendment process to ensure consistency with the LDC and Lee Plan. All automotive repair and service must be located within the southern 400 feet of the subject property.

iii. All 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 Use

The development of a hotel on the subject property is 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 of the 92,750-square-foot intensity allocation. The transfer of retail intensity to hotel units must be reviewed through the administrative amendment process.

B. Principal Building. The project is limited to one hotel within one 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. Where lock-off accommodations are provided, each "keyed room" will be calculated as a separate rental unit.

E. Maximum Height. The maximum permitted height for a hotel use is 48 feet, accessory structures are limited to a maximum permitted height of 35 feet. If the principal building exceeds 35 feet in height, then it must be located in the southern 300 feet of the subject property, as measured from the Bayshore Road right-of-way. Buildings must be set back a minimum of 50 feet from the Bayshore Road and Wells Road rights-of-way. A hotel use 35 feet in height or less must be set back a minimum of 150 feet from the north property line and 50 feet from the Bayshore Road right-of-way. See Condition 9, general height provision.

F. Electric Vehicle (EV) Charging. EV Charging stations may be provided as accessory to the hotel use, subject to local development order approval.

(12) Project Vehicular Trip Generation

Regardless of any land use density/intensity conversion allowed per the Land Development Code or zoning condition specific to this development, the development is allowed a maximum calculated development intensity with respect to new trip generation utilizing the following development scenario based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual in effect at time of local development order: 92,750 square-feet commercial retail.

(13) Food Truck Park

The principal use of a food truck park may be approved through the administrative amendment and local development order process. The application must be accompanied by a conceptual site plan meeting the minimum required details for special exception site plans in LDC Section 34-202. The application must include a project narrative of the intended operation and any other information determined necessary by the Director.

(14) Project Signage

A. 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 sign height.

B. The Electronic Changing Message Center (EMC) sign type is limited to locations within 50 feet of the Bayshore Road right-of-way.

C. Interior directional signs will be governed by the Land Development Code.

(15) Project Access to Wells Road

The project access to Wells Road is depicted in excess of 250 feet from the north property line on the approved Master Concept Plans and is subject to final design of the anticipated Wells Road reconfiguration. In the event the project access must be shifted north due to reasons beyond the control of the developer, an administrative amendment to relocate this access point may be considered if the relocated access point is no closer than 200 feet from the north property line.

Deviations

Deviation #1:

Seeks relief from LDC §10-329, which requires an excavation setback of 50 feet from any private property line under separate ownership, to allow a 30-foot excavation setback from the eastern perimeter.

This deviation is **APPROVED**, subject to the condition that the reduction applies to easterly commercially-zoned property, and the easterly abutting AG-2-zoned parcel fronting Bayshore Road, if the parcel is not developed with single-family residential uses at time of local development order approval.

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 northeastern CPD approved by Resolution Z-10-036 (Maximus Self-Storage, f.k.a W & W Service Park).

This deviation is **APPROVED,** subject to the following conditions:

i. The easterly parking lot interconnection annotated on the Master Concept Plans must be made at time of local development order 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 local development order approval for the subject property, a parking lot interconnection stub must be made to the property line and depicted on the approved development order plans.

iii. If the property is not zoned for commercial uses, a 24-foot-wide cross-access easement must be provided for future parking lot interconnection. The easement language must be acceptable to the County Attorney's Office and executed and recorded in the Public Records prior to approval of any building permit for commercial uses on the property.

Deviation #3:

Seeks relief from LDC §10-415(b)(1)b.4. which requires developments greater than five acres in size that abut an arterial or collector road and that have existing native trees within 50 feet of the right-of-way to be designed to provide a 50-foot right-of-way buffer for tree preservation, to instead allow buffer requirements of Chapters 10 and 34 to override. The project is meeting it's preservation requirements in accordance with 10-415(b)(1)a.; therefore, subsection (LDC §10-415(b)(1)b.) is not applicable.

This Deviation is **WITHDRAWN**.

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.

This Deviation is **APPROVED**, subject to Condition 10.

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.

This Deviation is **APPROVED**, subject to Condition 10.

Deviation #6:

Seeks relief from LDC §10-416(d)(3), which requires a Type "C" or Type "F" Buffer when a commercial land use abuts a residential land use, to allow the indigenous preserve to function as a planted buffer along the north property.

This Deviation is **APPROVED**, subject to the following condition:

a. In the event the proposed preserve does not create a continuous visual screen equivalent to a Type C or F buffer, then prior to the issuance of the first development order, the development order plans must provide a list of supplemental plantings and a replanting plan, subject to approval by Lee County staff.

Deviation #7:

Seeks relief from LDC §10-296(k), which requires all roadways to be terminated 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 only.

This deviation is **APPROVED**, subject to the following condition:

a. Prior to local development order approval, a letter of no objection must be provided from the fire district having jurisdiction.

Deviation #8:

Seeks relief from LDC §10-296(e)(1)i.1.ii, which requires a 12-foot-wide wide pedestrian facility and a 5-foot-wide bike lane, to allow no sidewalk or bike lane on Bayshore Road.

This deviation is **WITHDRAWN**.

LEE COUNTY
HEARING EXAMINER
2023 SEP 26 PM 1:36

Lee County, Florida
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION
STAFF REPORT

Case Number: DCI2022-00032
Case Name: Bayshore Village
Case Type: Planned Development Amendment
Area to be Amended: 8.75 Acres
Sufficiency Date: February 13, 2023
Hearing Date: October 11, 2023[1]

REQUEST:

Carl Barraco, P.E., on behalf of Light Bayshore Village, LLC and Reeseretland Bayshore Village, LLC, has filed an application to amend the Bayshore Village Market Square Commercial Planned Development (CPD) approved by Resolution Z-06-046, to increase development intensity from a maximum of 61,000 square feet (±6,971 square feet per acre) to a maximum of 137,500 square feet (±15,714 square feet per acre) and 125 hotel units.[2] The proposed schedule of uses expands beyond previously permitted retail, office and restaurant uses, including uses largely permitted in the General Commercial (CG) Conventional District.

The subject property is comprised of 8.75 acres and is located at 17300 Wells Road, Bayshore Community Plan Area (Commissioner District #5). The applicant has indicated the property's current STRAP Number is 22-43-25-00-00023.0000. A legal description, sketch and boundary survey of the subject property are attached as Attachment B of this report.

SUMMARY:

The Bayshore Community Plan desires to preserve the existing rural residential, agricultural and equestrian oriented character of the community. The subject property is located in the General Interchange Future Land Use Category.[3] Properties to the north, along Wells Road, are within the General Interchange and Sub-Outlying Suburban Future Land Use Categories and are utilized for residential purposes. Staff has evaluated the surrounding area and the concentration of intensity approved within other General Interchange areas[4] and recommends that the increase in intensity be limited to 10,000 square feet per acre with an intensity conversion opportunity for a maximum of 125 hotel units. Staff recommends APPROVAL of a modified intensity threshold and schedule of uses,

[1] One additional day of hearing is scheduled for October 12, 2023, if necessary.
[2] Applicant's proposed Land Use Conversation Table includes ability to increase requested 125,000-square-foot intensity threshold by 10 percent via administrative amendment (see Maximum Intensity Table Note, Attachment H of this report).
[3] See Policy 1.3.2 of the Lee County Comprehensive Plan.
[4] See Staff Report Table 1 on page 5.

STAFF EXHIBIT# 1

which aim to balance the public and private interest in the subject property. Recommended conditions and deviations are found in Attachment E of this report.

HISTORY OF PARCEL:

October of 2005: an application[5] to rezone the subject property from Agricultural (AG-2) to Commercial Planned Development (CPD) was filed with Lee County in reference to The Village Square on Bayshore. The request sought a maximum commercial intensity of 99,999 square feet on 8.75 acres and was largely limited to office/medical office, retail and standard restaurant uses.

May 18, 2006: in response to public concerns before the Hearing Examiner, the applicant reduced the maximum proposed intensity to 71,000 square feet, which was incorporated into the Hearing Examiner's recommendation. The Applicant's Attorney, Mathew Uhle, testified to the mixture of uses sought by the request "*Mr. Roeder said quite accurately that the deleterious uses have largely been removed or not even proposed. No fast-food is proposed for this property, no self-service fuel pumps, no convenience stores, no open storage, no vehicle sales and no water or sewer treatment plants, and that was in essential, in essential services. So the list of uses are a combination of retail and office uses, which we think are appropriate*."[6]

Michael Roeder, the applicant's land use planning representative, testified that "*Policy 1.3.2 then goes to the General Interchange description which is what this is and it says the General Interchange areas are intended primarily for land uses that serve the traveling public, service stations, hotel, motel, restaurants and gift shops. And at first blush if there's any criticism of this plan it's that it may be too neighborhood-oriented and not enough toward the traveling public. We don't have service stations. We don't have hotels and motels. And I think to reconcile that issue you need to go to the Bayshore Plan, which is Policy 20 – well, it's actually Goal 20, the Bayshore Community, and then Objective 20.1 and Policy 20.1.1. And I have to say that I was the consultant to the Bayshore Planning Community when this was developed and worked with that group to get this into the plan, so I'm very familiar with the background of it.*"[7],[8]

August 21, 2006: The Board of County Commissioners approves the rezoning request at a reduced intensity of 61,000 square feet, and in doing so, reduced building height to one building story not exceeding 25 feet. [9] This approval included measures of compatibility afforded to residential uses along Wells Road such as a 75-foot-wide indigenous preserve area/enlarged buffer, an 8-foot-high wall or wall and berm combination south of the indigenous preserve, and a 150-foot minimum building setback from the north property line.

This approval has not been modified and the property remains undeveloped. The surrounding property remains low-density residential and the subject property is wooded, consisting of a mixture

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[5] Case Number DCI2005-00100.

[6] See Court Reporter Transcript for DCI2005-00100 Hearing Examiner Hearing, top of Page 83 (Attachment S).

[7] Referenced goal, objective and policy have been renumbered in the current Lee Plan codification. Goal 20 is now Goal 18; Objective 20.1 is now Objective 18.1 and Policy 20.1.1 is now Policy 18.1.1.

[8] See Court Reporter Transcript for DCI2005-00100 Hearing Examiner Hearing, Page 46 (Attachment S).

[9] See Resolution Z-06-046, Attachment M.

of pine flatwoods, mixed upland hardwoods and cleared trails according to the environmental assessment provided in support of the request.[10]

CHARACTER OF THE AREA:

The character of the area is summarized appropriately in Goal 18 of the Lee Plan: rural residential, agriculture and equestrian oriented with minimal commercial activities in the surrounding Bayshore Community interchange area (see Attachment C, Aerial). The Comprehensive Plan language was originally adopted into the Lee Plan in 2003 and remains an appropriate description of the areas surrounding the subject property. The property is located ±1,900 feet east of Interstate 75 (I-75) and ±660 feet west of Nalle Road. Property immediately surrounding the subject property is depicted in Attachment C of this report and can be characterized as follows:

North

Lands to the north of the subject property are zoned Agricultural (AG-2) and are located in the General Interchange Future Land Use Category. Directly north is 17350 Wells Road, an abutting single-family residence on 3.7 acres sharing approximately 614 linear feet of common property line with the subject property. Further north, along Wells Road, are large acreage single-family home sites ranging from 1 acre to 5 acres within the Sub-Outlying Suburban Future Land Use Category.

South

Lands to the south of the subject property, across Bayshore Road (State Road 78), are zoned Environmentally Critical (EC) and are located in the Conservation Lands Uplands Future Land Use Category. These lands are largely undeveloped and wooded apart from a Lee County Public Water Supply well compound. Land adjacent to this district, to the east, is zoned Commercial (C-1A) and is located in the Sub-Outlying Suburban Future Land Use Category. These 1.4 acres are cleared and vacant apart from a billboard structure.

East

Lands to the east of the subject property are located in the Sub-Outlying Suburban Future Land Use Category and are zoned Commercial Planned Development (CPD) and Agricultural (AG-2). The CPD District is currently approved for a 30,000-square-foot self-storage facility[11] on a T-shaped 4.46-acre property with planned access on both Bayshore Road and Nalle Road. The AG-2 District is approximately one acre and is undeveloped. Immediately east of the AG-2 District is a one-acre CPD District with access depicted on Bayshore Road, currently approved for a small mixed-use commercial center with a maximum gross floor area of 3,570 square feet.[12]

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[10] See Environmental Assessment and Species Survey, Exhibit A of Attachment J.
[11] Maximus Self-Storage: See ADD2022-00117, Attachment O.
[12] S.P.C. Interchange Store: See Resolution Z-92-061, Attachment N

West

Lands to the west of the subject property, across Wells Road, are located in the General Interchange Future Land Use Category and are zoned Agricultural (AG-2). These lands are largely vacant except for a northeasterly single-family residence.

Availability of Public Services

Public services are defined by the Lee Plan as "the requisite services, facilities, capital improvements, and infrastructure necessary to support growth and development" The following details the level of public services currently serving the subject property:

Public water and sewer: The subject property is located within Lee County Utilities Future Service Area as depicted on Map 4A of the Lee County Comprehensive Land Use Plan. Potable water lines are in operation adjacent to the property with available capacity. The property is located within the Florida Governmental Utility Authority (FGUA) wastewater franchise area. Wastewater disposal service is generally available to the subject property with sufficient capacity (see Attachment Q).

Paved streets and roads: The subject property is bound by Wells Road, a County-maintained local road, and Bayshore Road a State-maintained arterial road.

Public transit and pedestrian facilities: No public transit is within a standard or extended walking shed of the subject property. The nearest pedestrian facilities exist within the Pritchett Parkway right-of-way, approximately 440 feet to the west.

Police, fire, and emergency services: The subject property is located in the Bayshore Fire District, with the nearest Station (#131) located at 17350 Nalle Road, approximately 0.25 miles Northeast. This station also contains EMS dispatch (Medic Station #19). The Lee County Sheriff's Office (LCSO) serves the subject property, with the nearest substation located at 121 Pondella Road, approximately 7 miles southwest (LCSO North District).

ANALYSIS:

The Bayshore Village Market Square approval in Resolution Z-06-046 afforded commercial use of the 8.75-acre subject property after balancing the interchange area land use entitlements of the subject property against the rural community character preservation values set forth in the Lee Plan. The approved uses and intensity were found appropriate in an interchange in proximity to rural residential uses found on Wells Road.[13] The request seeks to intensify the project from 61,000 square feet by ±105 percent (125,000 square feet and 125 hotel units), including an ability to increase intensity by 10 percent administratively for a total of 137,500 square feet (±125 percent increase). The applicant states the intensification increase is in response to changing market conditions in the Bayshore and Northeast Lee County Community Planning Areas.[14]

[13] DCI2005-00100 Staff Report, Page 8 of 16.

[14] See Applicant's Request Statement, Page 2 of 11, Attachment F.

A concentration of 125,000 (or 137,500) square feet on 8.75 acres is 14,285 (or 15,714) square feet per acre and 14.29 hotel units per acre. Staff reviewed concentration of intensity in various planned development approvals across all General Interchange areas of the County for a relative comparison.

Table 1 below identifies projects by the active zoning resolution, project acreage and intensity.

TABLE 1

I-75 Exit	Project Name	Planning District	Resolution	Acreage	Maximum Intensity	Per Acre
143	North River Plaza	North Fort Myers	Z-10-032	41.6	260,000SF + 180 Hotel Units	6,250SF + 4.3 Hotel Units
143	Bayshore 22	North Fort Myers	Z-22-012	22.23	240,000SF	10,796SF
143	Bayshore/I-75 Land Trust	North Fort Myers	Z-86-191	22.56	130,000SF + 182 Hotel Units	5,762SF + 8.06 Hotel Units
131	Daniels Marketplace	Daniels Parkway	Z-08-043	65.5	390,000SF + 120 Hotel Units	5,954SF + 1.8 Hotel Units
131	Galleria East	Daniels Parkway	Z-03-026	14.21	170,000SF + 120 Hotel Units	11,963SF + 8.4 Hotel Units
131	Daniels/I-75 Commerce Center	Gateway/ Airport	Z-02-032	64	610,000SF + 120 Hotel Units	9,531SF + 1.9 Hotel Units
128	Vintage Commerce Center	Gateway/ Airport	Z-19-035	33.95	350,000SF + 300 Hotel Units	10,309SF + 8.8 Hotel Units
128	Alico Crossroads Center	Gateway/ Airport	Z-08-035	46.69	377,000SF + 100 Hotel Units	8,074SF + 2.2 Hotel Units

According to these figures, the average concentration of intensity in the General Interchange Future Land Use category is **8,579 square feet per acre**, while the average hotel unit concentration is approximately **5 units per acre**. Land Development Code (LDC) Section 34-373(a)(8) requires requested intensity to be allocated by type and floor area of each type. The applicant's requested maximum intensity by type is depicted in Table 2 below (see Attachment H).

TABLE 2

MAXIMUM INTENSITY TABLE	
	Maximum Intensity
	(SF) (*)
Retail W/ Supermarket	125,000 sf
Retail W/o Supermarket	100,000 sf
Hotel	125 rooms
Mini-warehouse/Storage	75,000 sf
Light Industrial	125,000 sf
High Turnover Restaurant	35,000 sf
* Note: An increase of up to 10% may be allowed through an administrative amendment	

The 125,000 square feet of requested light industrial intensity sought is not recommended by staff due to conflict with Policy 18.1.3 of the Lee Plan.[15] The applicant's request statement summarizes the proposed schedule uses as "comparable to the uses permitted in the General Commercial (CG) District." Review of LDC Section 34-844 verifies the majority of uses permitted by right, administratively and by special exception in the CG District are listed accordingly in the proposed schedule of uses.[16] LDC Section 34-841(h) establishes the purpose and intent statement for the CG District:

"The purpose and intent of the CG district is to permit the designation of suitable locations for and to facilitate the proper development and use of consumer-oriented commercial facilities which are of a type or scale which are not suited for and do not generally seek locations in neighborhood, community or regional shopping centers. Such uses frequently consist of a single principal building containing sales, administration, repair services or manufacture; often rely on large ground areas for storage or display of goods; and are relatively insensitive to the impacts of adjacent land uses while generating substantial impacts on their neighbors. High visual exposure and easy accessibility, usually from arterial roads or suburban highways, are important." [emphasis added].

General commercial, tourist commercial multi-family and light industrial uses are forecasted in the General Interchange by Policy 1.3.2. The Lee Plan Future Land Use Map indicates uses ultimately permissible on property, but it is not a guarantee those uses are immediately appropriate. The Bayshore Community Plan employs objectives and policies to promote the defined Goal below:

"Protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities and exclude incompatible uses that are destructive to the character of this rural residential environment."[17]

[15] Lee Plan Policy 18.1.3: No new industrial uses or industrial rezonings are permitted after February 3, 2003.
[16] See Applicant's Request Statement and Schedule of Uses (Attachments F and G).
[17] Lee Plan Goal 18.

Retail uses in Bayshore are limited to the interstate interchange areas, with minor commercial and non-retail commercial uses permitted elsewhere consistent with the Lee Plan and the LDC.[18] All proposed uses that are not currently permitted on the subject property have been compiled into a separate list for review (Attachment P). The recommendation contained herein includes removal of incompatible uses and some uses that cannot be located in the southerly 300 feet of the subject property. Furthermore, staff recommends the maximum increase in intensity be limited to 10,000 square feet per acre, which is marginally above the average intensity concentration found in the General Interchange areas noted above. Absent these staff recommendations, the applicant's request would locate the highest General Interchange intensity in the county within the Bayshore Community Plan area, on property that shares 614 feet of common boundary with single-family residence, which is incompatible with the surrounding existing low-density residential uses and contravenes the defined Goal of the Bayshore Community Planning area.

Schedule of Uses

The applicant's proposed schedule of uses is attached as Attachment G. Several uses have been earmarked by the applicant to be located only within the southern 300 feet of the subject property provided the abutting northern residence remains zoned for agricultural and single-family uses. This proffered locational restriction applies to: Automobile Repair and Service, Automobile Service Station, Bar or Cocktail Lounge, Car Wash, Convenience Food and Beverage Store, Food Truck Park, Repair Shops, Fast-Food Restaurant, Self Service Fuel Pumps and Truck Stop.

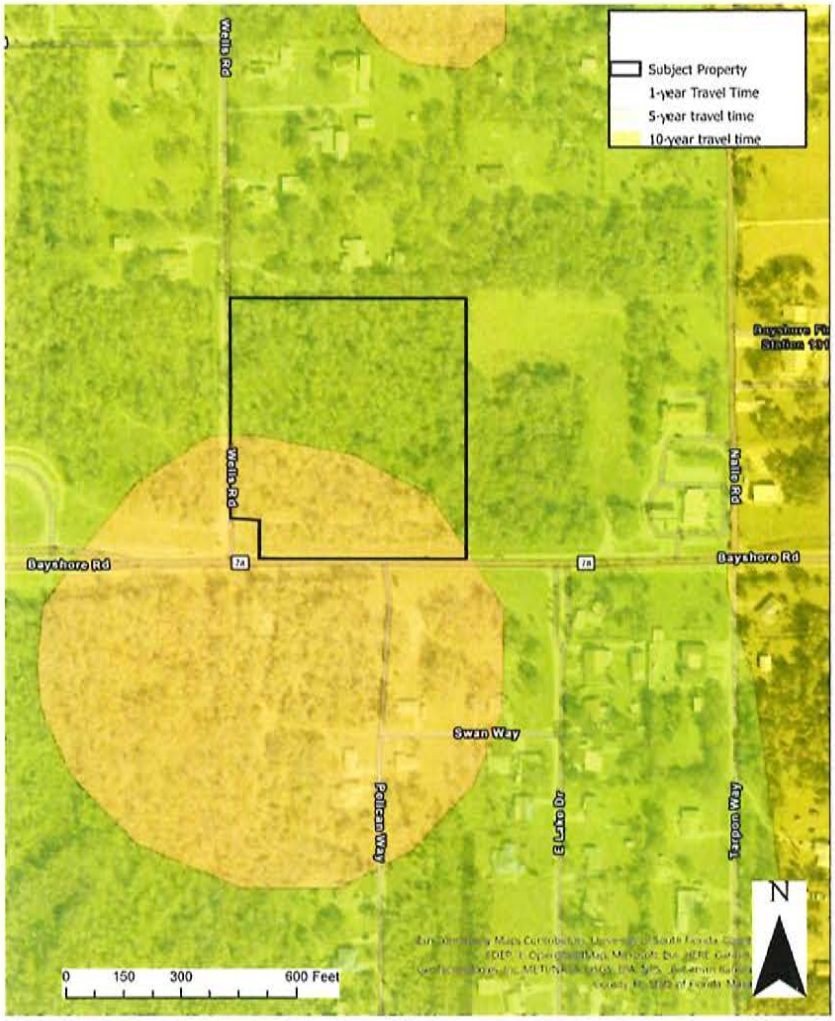
The subject property falls within the 1-year and 5-year Wellfield Protection Zone travel times and is approximately 200 feet north of a Lee County Public Water Supply well. The travel time represents the amount of time it takes a potential pollutant to reach the wellfield based on groundwater flow and withdrawal models. Natural Resources Staff has evaluated the request and has determined several of the proposed uses have the potential to adversely impact this nearby Public Water Supply well if located within the 1-year travel time.

(See **Figure 1**, color-coded Wellfield Protection Zone Travel Times Map on following page)

[18] Lee Plan Policy 18.1.1: Retail commercial uses will be limited to the Interstate Interchange designation at Bayshore and I-75, plus minor commercial uses at the intersections of Nalle Road and Bayshore, SR 31 and Bayshore, and SR 31 and Old Bayshore. Non-retail commercial uses are permitted elsewhere consistent with the Lee Plan and the LDC.

Figure 1: Wellfield Protection Zone Travel Times Map

(Lee Plan Map 4-C)



Several of these uses are deemed incompatible with the nearby residential area and have been restricted to the southern 300 feet of the property accordingly to address compatibility issues with established residential uses. However, this restriction places these uses largely within the 1-Year Wellfield Protection Zone Travel Time; therefore, staff is recommending the following uses be removed from the schedule of uses.[19]

- Automobile Repair and Service, Groups I and II
- Automobile Service Station, with or without fuel pumps
- Bus Station/Depot, <u>with fueling stations</u>
- Convenience Food and Beverage Store, <u>with fuel pumps</u>
- Excavation, Oil or Gas

[19] See Natural Resources Staff Report, Attachment I.

- Repair Shops, Group V
- Truck Stop

Additional uses stricken from this recommendation include:

- Agricultural Uses
- Bus Station/Depot
- Flea Market: Open
- Mobile Home Dealers
- Model Display Center
- Parking Lot: Public Parking Garage
- Recreation Facilities Commercial, Group IV
- Vehicle and Equipment Dealers, Group V

Agricultural uses are not permissible in a CPD District and are not recognized by Resolution Z-06-046.[20] Open flea markets, mobile home dealers, multi-level public parking garages, Group IV commercial recreation facilities (stadiums, fairgrounds, arenas) and Group V equipment dealers (earthmovers, bulldozing cranes and similar large construction or hauling equipment) can be sought through public hearing amendment with additional detail, which the current proposal lacks to support that these uses are compatible with surrounding land uses and consistent with Lee Plan Goal 18. The use of a Model Display Center, as defined,[21] would involve the construction of dwelling unit types not permitted in the General Interchange Future Land Use Category, limiting the reuse of these structures, and ultimately an underutilization of General Interchange lands. If clustered and seeking high visual exposure from the Bayshore Road corridor, unit types listed in this use classification could detract from the rural character the Bayshore Community seeks to preserve.

The remaining uses[22] are found to be appropriate in context and significantly diversify the former schedule of uses. Sufficient safeguards exist in the conditions of approval and land development regulations governing each use to meet required findings for approval.

Property Development Regulations

As required by LDC Section 34-373(a)(10), each planned development zoning application must include property development regulations that establish the minimum lot area and dimensions, minimum setbacks, maximum height, and maximum lot coverage within the planned development. Uses that have specific setback requirements within the LDC will be subject to the requirements set forth in the LDC, unless specifically stated otherwise within the proposed property development

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[20] See LDC Section 34-934 and Condition 4 of Z-06-046.

[21] Model display center means three or more single-family detached homes, mobile homes or recreational vehicles, or four or more duplex or two-family units (not buildings), erected on a single, undivided property for purposes of promoting sales of units for construction or emplacement elsewhere (LDC Section 34-1952).

[22] See Attachment E, Development Regulations, Conditions and Deviations. Applicant's proposed uses are formatted in strike-though in this attachment, indicating a recommendation to remove uses in strike-through format at this time.

regulations table. The applicant's property development regulations are attached as Attachment F of this report and include alternate development regulations for specific uses (fast-food, car wash, convenience food and beverage store, fuel canopy) and correspond to certain deviations requested as part of this application. These development regulations are typical of nonresidential development and are further regulated by conditions of approval.

All development is subject to a 35-foot height maximum apart from the requested hotel use. The applicant is seeking approval for a maximum height of 48 feet (four building stories) for the hotel depicted on which is depicted on Master Concept Plan Alternate A in the southeast corner of the site adjacent to Bayshore Road. Staff finds the additional 13 feet of building height appropriate provided it is limited to a hotel use which is set back a minimum of 150 feet from Wells Road, 300 feet the north property line and 50 feet from Bayshore Road.

Master Concept Plans

Master Concept Plans are proposed to accommodate two scenarios:

1. Subdivision to accommodate outparcels fronting Bayshore Road and Wells Road (Alternate A)
2. Development of a unified site with a large franchise box-store/shopping center (Alternate B)

Both Master Concept Plans depict a 75-foot-wide (1.06 acre) indigenous preserve parallel to the north property line. The preserve abuts an 8-foot-wide utility easement, separating the preserve from the north property line. The location of building, parking and water management areas vary from concept to concept (see Attachment D).

The currently approved Master Concept Plan transitions from north to south with a similar northerly 75-foot-wide preserve area, then an 8-foot-high masonry wall/berm combination, then parking and service areas (including covered parking) until reaching 150 feet from the north property line where further development can begin occurring in Area "B" (the anchor parcel). Development of the anchor parcel "main building" is subject to Condition 17 of Resolution Z-06-046, which requires exterior elevations to be in substantial compliance with a conceptual elevation attached to the resolution. The condition does not preclude departures from the conceptual elevation to satisfy the Board of County Commissioners ultimately approved maximum building height reduction to one-story and 25 feet.

To the south of the Area "B" is an accessway separating the outparcels that are limited to a cumulative maximum of 8,000 square feet of floor area per Resolution Z-06-046.

On the proposed MCPs a "Wells Road Improvements Detail" depicts a cross section that does not meet LDC Section 10-296 (Street Design and Construction Standards) requirements. The applicant has not provided a deviation request with justification to support the alternate standard. Staff recommends the applicant remove the detail from both MCPs and notes that departures from LDC Section 10-296 may be considered at time of local development order in compliance with LDC Section 10-104(b).

Proposed Deviations

Deviation means a departure from a specific regulation of the LDC or other applicable regulation or code, when requested as part of a planned development in accordance with LDC Section 34-373(a)(9), based on the findings established in LDC Section 34-377(a)(4). Each deviation must enhance the achievement of the objectives of the planned development and preserve and promote the general intent of the LDC to protect the public health, safety and welfare. The applicant has provided a schedule of deviations with corresponding justifications found in Attachment F of the report.

Deviation #1:

Seeks relief from LDC §10-329, which requires an excavation setback of 50 feet from any private property line under separate ownership, to allow a 30-foot excavation setback from the eastern perimeter. The applicant justifies that the reduction will be between the abutting commercially zoned parcel and will enhance the proposed development without detriment to public, health, safety and welfare. The requested excavation setback reduction depicted on Master Concept Plan Alternate A is also notably adjacent to the vacant agricultural parcel in the Sub-Outlying Suburban Future Land Use. Staff concurs with the applicant and recommends APPROVAL of Deviation #1, subject to the condition that the reduction applies to commercially zoned-property and to the easterly adjacent AG-2 zoned parcel fronting Bayshore Road provided it is not developed with single-family residential uses at time of local development order approval.

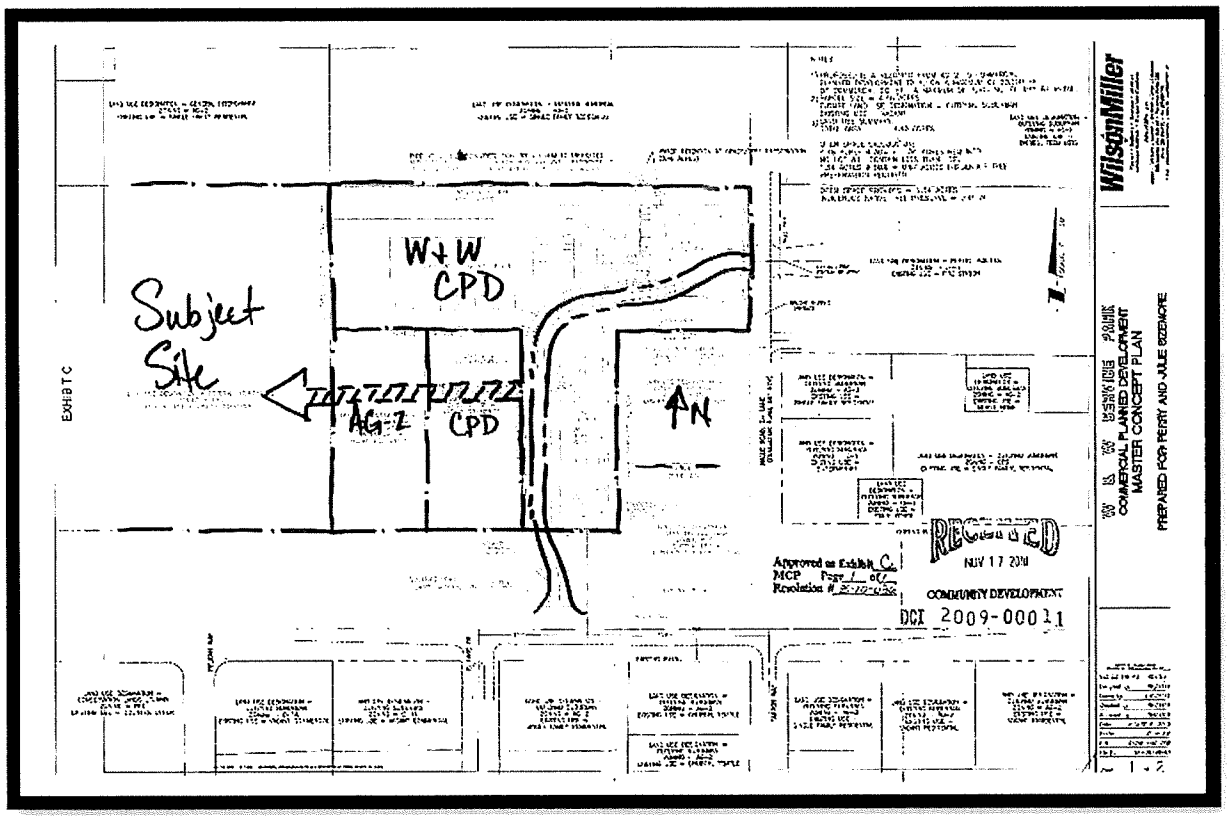
Deviation #2:

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 northeastern CPD (Maximus Self-Storage, f.k.a. W & W Service Park). The applicant justifies in review of each development's respective conceptual plans (subject property and abutting CPD) conceptual water management facilities conflict, and alternately proposes to provide interconnection to the southerly Agricultural (AG-2) parcel should that parcel be zoned commercial at time of local development order approval. The applicant further justifies the alternate creates greater [parking lot interconnection] separation from the residential uses to the north and will not adversely impact the proposed development footprint.

The northeast abutting Maximus Self-Storage CPD Amendment (ADD2022-00117) is recognized in the applicant's justification as not yet approved during analysis, and at that time the proposed Master Concept Plan shifted vehicular areas away from the shared property line with conceptual retention and buffering. This Administrative Amendment was ultimately approved after refinement of the MCP requiring parking lot interconnection opportunity with Bayshore Village, in accordance with Condition 13 of the original project's Zoning Resolution (Z-10-036) (f.k.a W & W Service Park) (see Attachment O). With consideration that Maximus Self-Storage is currently zoned for commercial uses (as opposed to the alternative connection proposed), the CPD has made commitments to conform to LDC §10-610(e) by connecting to Bayshore Village, and the CPD has access potential to both

Bayshore Road and Nalle Road, staff recommends the requested deviation be approved in a limited capacity. Should the adjacent AG-2 property be zoned for commercial uses with parking lot interconnections through the easterly adjacent one-acre CPD, as depicted in the applicant's justification Figure (Figure 2 below), at time of local development approval, parking lot interconnection to the northeastern CPD would be unnecessary and the deviation is warranted. However, if at time of local development order review these conditions do not exist, the development should interconnect with the northeasterly Maximus Storage/W&W Service Park CPD. The recommended deviation condition ensures the first available parking lot interconnection opportunity is required at time of local development order, promoting cross-access to both respective sites from Wells Road and Nalle Road (and potentially Pritchett Parkway if realignment occurs at Wells Road) without the need to access the Bayshore arterial road system, eliminating unnecessary vehicular conflict, as intended by LDC principles.

Figure 2: Applicant's Proposed Potential Reverse Frontage Road



1) Staff recommends APPROVAL of Deviation #2 subject to condition that the deviation may only be utilized, if at time of local development order approval, a parking lot interconnection opportunity exists in the alternate location depicted on the MCPs, in accordance with LDC Section 10-610, and the facilities are either in place or the right to construct the facilities over and across the abutting parcel and through to the easterly CPD have been obtained. The language is intended to only promote utilization of the deviation in the event alternate parking lot interconnections are readily available to the same Maximus Self-Storage CPD, as

conceptualized above, through the intervening properties fronting Bayshore Road. The deviation, as conditioned, preserves and promotes this Code to protect the public health, safety and welfare.

Deviation #3:

Seeks relief from LDC §10-415(b)(1)b.4, which requires developments greater than five acres in size that abut an arterial or collector road and that have existing native trees within 50 feet of the right-of-way to be designed to provide a 50-foot right-of-way buffer for tree preservation, to instead allow buffer requirements of Chapters 10 and 34 to override. Environmental staff has determined that the requested deviation is not necessary as the requirement is not applicable. The project is meeting its preservation requirements in accordance with 10-415(b)(1)a. therefore, the requirements in subsection LDC §10-415(b)(1)b. are not applicable.

Staff recommends WITHDRAWAL of Deviation #3.

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 (see combined justification with Deviation #5).

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.

Applicant justifies these deviations apply solely to fast-food restaurants and standalone carwashes and would promote fee-simple lot sizes consistent with some fast-food and car wash franchises without deviating from the required supplemental setbacks and landscape buffer requirements applicable to the uses to minimize off-site impacts. Staff is in agreement with the applicant and recommends APPROVAL of Deviations #4 and #5 subject to the condition that the uses are located within the southerly 300 feet of the subject property, as proffered by the applicant, and that no deviations from the setback and landscaping requirements may be obtained without a separate public hearing zoning action (amendment or rezoning).

Deviation #6:

Seeks relief from LDC §10-416(d)(3), which requires a Type "C" or Type "F" Buffer[23] when a commercial land use abuts a residential land use, to allow the indigenous preserve to function as a planted buffer along the north property. The applicant justification states that the combination of the 75-foot-wide preserve area and currently wooded 8-foot-wide LCEC utility easement will be superior to the required Type "C" or "F" buffers. The justification references that supplemental plantings will be provided in the event the required exotic vegetation removal in the preserve understory results in a reduction in the required continuous visual screen intended by code-required buffers. The

[23] Buffer types delineated in LDC Section 10-416(d)(4).

justification further extrapolates 5 additional required tree plantings, and 15 additional feet of buffer width, is equivalent to a LDC §10-416 required wall.[24]

While staff supports the deviation to allow the preserve to function as the required buffer (as conditioned), staff does not by extension support the elimination of the separate site-specific masonry wall requirement of Resolution Z-06-046[25], as further detailed in the approaching compatibility analysis herein.

Staff recommends APPROVAL of Deviation #6 subject to the following condition:

"In the event the proposed preserve does not create a continuous visual screen equivalent to a Type C or F buffer, then prior to the issuance of the first development order, the development order plans must provide a list of supplemental plantings and a replanting plan, approved by Lee County staff."

Deviation #7:

Seeks relief from LDC §10-296(k), which requires all roadways to be terminated 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 only. The applicant justifies that final design must be approved by the local fire district during local development order review.

Based on the applicant's response to staff and communication with the fire district, the fire district having jurisdiction is unable to review and support the requested deviation at this time due to limited detail and degree of variability sought; therefore, staff recommends the WITHDRAWAL of Deviation #7 until such a time that the review and recommendation can be provided. The Development Services section does not support the requested deviation at this time.

Deviation #8:

Seeks relief from LDC §10-296(e)(1)i. 1. ii, which requires a 12-foot-wide wide pedestrian facility and a 5-foot-wide bike lane, to allow no sidewalk or bike lane on Bayshore Road. The applicant justifies that Bayshore Road (State Road 78) is currently the subject of a project/design and engineering improvement study from I-75 to State Road 31 and includes conceptual shared-use paths on both sides of the roadway. The justification states the LDC-required improvements would be temporary in nature until the state demolishes and rebuilds the facility and cause unnecessary impacts to drivers during construction of a temporary facility and demolition.

Staff recommends APPROVAL of Deviation #8 subject to the condition that the deviation is only valid if construction of a multi-use path by FDOT is planned within five years of local development order submittal and is stipulated accordingly in the local development order approval.

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[24] A solid wall, berm or wall and berm combination, not less than eight feet in height as measured from the finished grade of the project site. All trees and shrubs required in the buffer must be placed on the residential side of the wall. Walls must be constructed to ensure that historic flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with the SFWMD requirements.

[25] See Condition 1 and corresponding Master Concept Plan location note "8' High Masonry Wall/Berm Combination". Also See Conditions 11, 15 and Exhibit C of Resolution Z-06-046 (Attachment M).

Review Criteria

LDC Section 34-145 establishes the review criteria for rezoning requests. Before recommending approval of a rezoning request, the Hearing Examiner must find the request:

a) Complies with the Lee Plan;

b) Meets the Land Development Code and other applicable County regulations or qualifies for deviations;

c) Is compatible with existing and planned uses in the surrounding area;

d) Will provide access sufficient to support the proposed development intensity;

e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;

f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and

g) Will be served by urban services, defined in the Lee Plan, if located in a Future Urban Area category.

For Planned Development rezoning requests, the Hearing Examiner must also find:

a) The proposed use or mix of uses is appropriate at the proposed location;

b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and

c) That each requested deviation:

    1) Enhances the achievement of the objectives of the planned development; and

    2) Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.

The applicant has provided a narrative that addresses the proposed rezoning with analysis of the applicable criteria (see Attachment F). The following provides staff's analysis of the request, as measured by the established criteria.

Compliance with the Lee Plan

As indicated previously, the subject property is located in the Bayshore Community Plan Area and General Interchange Future Land Use category. **Objective 1.3** of the Lee Plan summarizes the intent of the various interchange categories as special areas adjacent to the interchanges of Interstate 75 that maximize critical access points, minimize adverse traffic impacts and provide

appropriate buffers, visual amenities, and safety measures. Policy 1.3.2 establishes the General Interchange Future Land Use Category is intended primarily for land uses that serve the traveling public, and by virtue of characteristics such as location and desire for flexibility, are also suited for a broad range of commercial, light industrial and multi-family residential uses. The applicant seeks to diversify and intensify an existing planned development's commercial output by incorporating a multitude of new LDC use classifications, property development regulations, deviations and multiple Master Concept Plans in a manner that promotes increased flexibility.

Staff recommends retention of several proposed uses and a 42.6 percent increase from the current commercial floor area intensity of 61,000 square feet to 87,500 (10,000 square feet per acre), with a separate base allocation for hotel units and the ability to convert the commercial floor area balance to additional hotel units to greater serve the traveling public. The recommended concentration of intensity (non-residential floor area and hotel units per acre) is similar to other approved projects located widely across Unincorporated Lee County, most of which are in well-established General Interchange Land Use Category areas.

The recommendation reduces the push for 137,500 square of commercial floor area (±15,714 square feet per acre), which minimizes adverse impacts related to traffic and other incompatible facets of the request and therefore provides greater measures of public health, safety and welfare. The applicant's traffic impact statement identifies that an adjacent segment of Bayshore Road is expected to fail by the estimated project build out year of 2028 with or without the project traffic, due to capacity[26] issues attributed to background growth.[27] Staff finds reducing the proposed project intensity to comply with LDC and Lee Plan maintains a reasonably expected use of 8.75 acres of General Interchange lands, similar to other interchange projects. Further, through recommended conditions, the project will provide appropriate buffers and visual amenities and is therefore CONSISTENT with Objective 1.3 and Policy 1.3.2, as conditioned herein.

Lee Plan Objective 2.1 and Policy 2.1.1 promote contiguous and compact growth patterns within designated future urban areas to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, and minimize the cost of services. Lee Plan Objective 2.2 and Policy 2.2.1 seek to direct new growth to portions of future urban areas where adequate public facilities and services exist, where compact and contiguous development patterns can be created, and where compatibility with surrounding land uses is assured. The subject property is located within a designated future urban area is served by existing road and utility infrastructure and is also located within 200 feet of a Public Water Supply well. The property will be served by the Lee County Utilities for potable water and Florida Governmental Utility Authority for wastewater consistent with Lee Plan Standards 4.1.1 and 4.1.2. The subject property will be provided with police, fire protection and emergency services. The request seeks to further concentrate commercial use of a pre-existing approval for additional compact commercial use in a future urban area that is served by public services, and as conditioned, in a manner offering adequate compatibility assurances. Determinantal

[26] The maximum number of vehicles having a reasonable expectation of passing over a given section of roadway during a given time period under prevailing roadway and traffic conditions (Lee Plan Glossary Definition of "Capacity, Road")

[27] See Sufficiency of Access and Transportation analysis on Pages 21 and 22.

uses to natural resources have been removed and restricted within the 1-Year Wellfield Protection Zone Travel Time; therefore, staff finds that the request, as conditioned, is **CONSISTENT with Objectives 2.1 and 2.2, Policies 2.1.1, and 2.2.1, and Standards 4.1.1 and 4.1.2 of the Lee Plan.**

Often **Policy 5.1.5** is analyzed when evaluating potential impacts to existing and future residential areas. The existing low-density residential uses north of the project on Wells Road are at the center of this discussion, and for further applicability of policy, the General Interchange Future Land Use also anticipates residential uses. Therefore, it is reasonable to state that these immediately abutting low-density residential uses may also transition into higher density residential uses in the planning horizon. The aforementioned policy aims to "*protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in the LDC, Chapter 10, are not adequate to address potentially incompatible uses in a satisfactory manner. <u>If such uses are proposed in the form of a Planned Development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether</u>.*" [emphasis added]. As detailed in the compatibility analysis on Pages 19 and 20, the existing and future residential areas to the north of Wells Road are provided compatibility assurances in the form of staff recommended conditions. Conditions are in response to the extraordinary transition of intensity to low density residential uses which are not appropriately safeguarded by generally applicable land development regulations. These conditions were formerly enacted in the less intensive approved project to protect from the encroachment of uses that are potentially destructive to the residential environment. The general land development regulations in the LDC and other County Ordinances, as supplemented by the recommendation contained herein, mitigate expected impacts from the subject property in a satisfactory manner. The request, as conditioned, is **CONSISTENT** with **Policy 5.1.5.**

Goal 6 promotes orderly and well-planned commercial development at appropriate locations in the county. **Policy 6.1.1** requires development approvals for commercial land uses to be consistent with various policies, including traffic and access impacts, screening and buffering, adequacy of urban services, compatibility with surrounding land uses, proximity to other similar centers and environmental considerations. **Policy 6.1.4** states that "*commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities*." As detailed in this report, the request, as conditioned, is compatible with surrounding land uses and public services are available to serve the proposed development. **Policies 6.1.5 through 6.1.11** address traffic, buffering, architecture and open space, prohibit premature scattered development, address school safety, commercial entitlements, redevelopment incentives and revitalization directives. As further expanded in the criteria analysis below, Staff finds that the request, as conditioned, is **CONSISTENT** with **Goal 6** and its attendant objectives and policies.

As stated above, **Goal 18** is set forth in the **Lee Plan** to protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential

densities and minimal commercial activities while excluding incompatible uses that are destructive to the character of the rural residential environment.

Objective 18.1 is a directive that the County will continue to enforce land development regulations that ensure separation of urban and rural land uses through the implementation of open space and buffers. Policies 18.1.1 states "retail commercial uses will be limited to the Interstate Interchange designation at Bayshore and I-75, plus minor commercial uses at the intersections of Nalle Road and Bayshore, SR 31 and Bayshore, and SR 31 and Old Bayshore. Non-retail commercial uses are permitted elsewhere consistent with the Lee Plan and the LDC." Policy 18.1.3 prohibits new industrial uses or industrial rezonings subsequent to February 3, 2003.

As conditioned, the request limits commercial activities in a manner that is not destructive to the character of the Bayshore rural residential and agricultural environment. Adequate safeguards are in place to mutually separate the planned development and its environs from the low-density residential uses to the north along Wells Road in the form of conditions and generally applicable land development regulations. Newly proposed industrial uses are recommended for removal; therefore, staff finds that the request, as conditioned, is CONSISTENT with Goal 18 and its attendant objectives and policies.

Lee Plan Goal 63 requires the protection of Lee County's groundwater supplies from those activities having the potential to deplete or degrade those supplies. Policy 125.1.2 states new development and additions to existing development must not degrade surface and ground water quality. To ensure compliance with the Lee Plan and ensure the protection of the Public Water Supply, staff recommends certain conditions, as discussed in the Natural Resources Staff Report[28] and consolidated in the Recommended Conditions (Attachment E). Therefore, the request, as conditioned, is CONSISTENT with Goal 63 and Policy 125.1.2.

Land Development Code Compliance

County regulations which are not specifically departed from as part of this planned development request will apply to the balance of applicable LDC, Code of Ordinances and Administrative Code provisions. If future deviations are proposed, each will be evaluated with established LDC review criteria. Staff finds the proposed planned development amendment to be in compliance with the LDC, including regulations which pertain to:

- Use, including supplemental regulations;
- LDC Chapter 10 Development Standards; and
- Division 9 of Article VI, Chapter 34, Planned Development Districts.

[28] See Attachment I, Natural Resources Staff Report.

Compatibility with existing and planned uses in the surrounding area

Compatible means "in describing the relation between two land uses, buildings or structures, or zoning districts, the state wherein those two things exhibit either a positive relationship based on fit, similarity or reciprocity of characteristics, or a neutral relationship based on a relative lack of conflict (actual or potential) or on a failure to communicate negative or harmful influences one to another."[29]

Several proposed uses have been vetted by the applicant and staff as inappropriate within the northern ±330 feet of the north property line and are only proposed in the southern 300 feet of the subject property (provided the northern property remains a single-family residence). This residential use of the property immediately north and the nearby surrounding residential land uses north on Wells Road are expected to remain for the foreseeable future. Some incompatible uses, such as truck stops, convenience food and beverage stores, fast food restaurants and car washes, rely on high visual exposure and ease of access from Bayshore Road for viable operation, so limiting these uses to a location near Bayshore is a sensible concession to the low-density residential uses to the north and lends itself to the required finding of compatibility with surrounding existing uses.

LDC Section 34-411(k) specifies that "Where the proposed planned development is surrounded by existing development or land use with which it is not compatible or which is of a significant higher or lower intensity of use (plus or minus ten percent of the gross floor area per acre if a commercial or industrial land use, or plus or minus 20 percent of the residential density), or is surrounded by undeveloped land or water, the design emphasis will be to separate and mutually protect the planned development and its environs." [emphasis added].

The existing CPD approval integrated several compatibility measures to ensure adequate separation exists between the low-density residential uses to the north on Wells Road and the conceptual development plan for the site. The location of the preserve and insulating 8-foot-high masonry wall (or wall and berm combination), as well as the 150-foot building setback were all found necessary to mutually separate the existing Bayshore Community residences along Wells Road from the development potential of 61,000 square feet, not to exceed one building story (25 feet in height). The proposed intensification of this former approval by 125 percent (137,500 square feet), compiled with an increase in maximum building height (ranging between 35 and 48 feet, three to four stories) and the integration of uses derived from the General Commercial (CG) District[30] override these approved compatibility measures and will adversely impact immediately surrounding low-density residential land uses. The request poses an incompatible development program that will result in a relationship characterized by a stark transition between the low-density residential land uses and unparalleled commercial intensity in the Bayshore Community.

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[29] LDC Section 34-2, Definitions.

[30] Staff Report previously notes that the purpose and intent statement finds the uses in CG District to be relatively insensitive to the impacts of adjacent land uses while generating substantial impacts on their neighbors (LDC Section 34-841(h)).

This proposed development program is exacerbated by the request to eliminate previous compatibility measures despite the desire to significantly intensify. Elimination of the currently required 8-foot-high masonry wall/berm wall combination is proposed by the applicant. It is the applicant's assertion that the proposed 75-foot-wide indigenous preserve (also functioning as the required buffer) is superior to LDC-required wall/landscape combination based on an extrapolation contrasting the general "C" and "F" Type LDC landscape buffers. The justification mentions an ambiguously undefined level of sound attenuation by the plant matter in the preserve and does not make any relative comparison to the sound attenuation afforded by the existing masonry wall required by Resolution Z-06-046. Research on the subject of best sound attenuation practices acknowledge that trees and shrubs can decrease noises such as highway-traffic noise levels if vegetative matter is high enough, wide enough, and dense enough (cannot be seen through); however, vegetative matter is often an impractical way to effectively mitigate noise as compared to the sound attenuation of a masonry wall. According to The Center for Environmental Excellence by the American Association of State Highway and Transportation Officials (AASHTO) "Trees and shrubs can decrease highway-traffic noise levels if high enough, wide enough, and dense enough, but it would take at least 100 feet of dense vegetation to provide the same benefit as the smallest feasible noise wall. Because of this, the FHWA [Federal Highway Administraiton] has not approved using vegetation for noise abatement."[31]

Staff cannot support the request to eliminate the masonry wall and berm combination given the nature of the request and also finds that utilization of the wall is imperative to successfully integrate the staff recommended 52 percent cumulative intensification[32] in a compatible manor.

Further steps to assure compatibility in this report include:

- Limiting retail intensity/general commercial intensity to no greater than 10,000 square feet per acre[33]
- Establishing defined areas for intensive uses and building heights exceeding 35 feet
- Eliminating uses[34] for which the current proposal lacks sufficient detail and parameters to provide compatibility assurances[35]
- Prohibiting use of general LDC provisions allowing additional height for increased setbacks

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[31] Noise Abatement Part 2: State DOTs Study New Noise Wall Options, published November 18, 2020: https://environment.transportation.org/news/noise-abatement-part-2-state-dots-study-new-noise-wall-options/

[32] Cumulative figure represents an increase from 61,000 square feet to 87,500 square feet and a separate allocation of 44 hotel units. The applicant's Land Use Conversion Matrix assesses a comparative value of 120 square feet of retail floor area per hotel unit (44 x 120 = 5,280 square feet + 87,500 square feet = 92,780 square feet equivalent intensity) a 52 percent increase from 61,000 square feet.

[33] A separate allocation of 5 hotel units per acre does not subtract from the recommended commercial floor area allocation.

[34] It is worth noting none of the recommended eliminated uses were previously approved by Resolution Z-06-046.

[35] With sufficient detail, uses may be reconsidered through future public hearing amendment to individually examine the integration of such use(s), when controlled under specified conditions designed to promote the compatibility.

Sufficiency of Access and Transportation Impacts

The request currently proposes two vehicular access points (a single access on Bayshore and Wells Roads) as compared to the existing approval (two access points on Wells Road and one on Bayshore Road). The property has sufficient access opportunities to the surrounding road network and vehicular access to Bayshore Road will be subject to Florida Department of Transportation (FDOT) approval at time of permitting. The applicant has also provided a traffic impact statement (TIS) concerning the trip generation expected by the project (see Attachment K). Development Services has issued a memorandum concerning the project's transportation impacts (see Attachment L). In summary, several arterial and collector roadway sections are expected to be significantly impacted by the proposed development at the projects anticipated build-out of 2028. However, all roadway sections analyzed will continue to operate at an acceptable Level of Service "C" with or without the project, except for the section of Bayshore Road located between Pritchett Parkway and Wells Road, which is expected to operate at a Level of Service (LOS) "F" with and without the project. Therefore, the project will not have a detrimental impact on the surrounding roadway system, as conditioned. In addition to the level of service capacity, staff has tabulated estimated LOS on nearby roadway intersections. It is worth noting that the Lee Plan does not establish a standard for intersection LOS. This information is purely informational and was derived from the applicant's TIS.

As noted above, the Bayshore Road segment west of Wells Road is expected to reach capacity with or without the project by 2028 due to the anticipated background growth. Lee Plan Objective 2.2.3 states:

"When an area within the County is approaching the capacity of the necessary facilities as described above, requested rezonings to increase densities and intensities may be deferred or denied to give preference to existing vacant lots and other valid development approvals, provided that a constitutionally mandated reasonable use of land would still be permitted." [emphasis added]

Since the language of policy referenced is discretionary, the project is not inconsistent with this policy. The recommendation to propose a modified intensity threshold to comply with the balance of land development regulations will consequently reduce the number of vehicular trips represented in the applicant's TIS significantly, as 125,000 square feet of ITE[36] Land Use Code Shopping Plaza was utilized to forecast impacts, whereas a maximum of 87,500 square feet non-residential floor area (including outdoor restaurant seating) is recommended by staff with a separate allocation of 44 hotel units.[37] The intensity allocation may be converted into additional hotel units not to exceed 125 hotel units at the conversion rate of 120 square feet per 1 hotel room unit.[38] Conversions must be approved by the county with an ongoing tabulated development summary. The applicant's Land Use Conversion Matrix (Attachment H) also

[36] The Institute of Transportation Engineers (ITE) Trip Generation Manual, 11th Edition.
[37] Roughly over 5 hotel units an acre, above the average represented in Table 1 on Page 5 of this Report.
[38] See applicant's "Land Use Conversion Matrix", Attachment H. Conversions based on ITE Trip Generation.

included a "Maximum Intensity" allocations table, as required for application sufficiency. The proposed Conversion and Maximum Intensity Tables have been reviewed by staff substantively, and in light of the reduction of proposed intensity considered herein, do not find it necessary to establish a cap on many of the listed uses except for hotel units (125 maximum.)[39] A recommended condition concerning the total vehicular trips permissible aligning with these findings is incorporated into the recommended conditions of approval.[40]

No adverse impacts to environmentally critical or sensitive areas and natural resources

Some requested uses pose a significant risk to the nearby Public Water Supply well, if located within the 1-year travel time. The 1-year travel time encompasses the large majority of the southern 300 feet of the subject property (see Attachment I). Consequently, in order to reach a finding of no adverse impacts on natural resources, some uses are not recommended within the 1-year travel time, and some are eliminated from the site as previously outlined. Therefore, the request, as conditioned, will not disturb environmentally critical or sensitive areas or natural resources. Environmental and Natural Resources staff have reviewed the request and recommend conditions of approval to make this finding.

Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category

As noted and defined above, the subject property is located within a future urban area. The subject property has adequate access to public (urban) services to accommodate the development recommendation contained herein. Future improvements required as part of development order approval will further improve urban services and pedestrian facilities.

Supplemental Planned Development Criteria

Staff finds the proposed development to be consistent with the following additional criteria:

b) The proposed use or mix of uses is appropriate at the proposed location;

c) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and

d) The requested deviations, as conditioned:

   1) Enhance the achievement of the objectives of the planned development; and

   2) Preserve and promote the general intent of this Code to protect the public health, safety and welfare

[39] 125 maximum hotel units is consistent with applicant's proposed cap.

[40] See Attachment E, Recommended Conditions.

Public opposition

Staff received a substantial volume of input and interest from members of the public in response to the request, and at the request of several individuals, staff is submitting these individuals' written comments on the record during the Hearing. In summary, the concerns are largely related to transportation deficiencies and safety, especially vehicular and pedestrian safety, as well as compatibility and consistency with Goal 18 and its attendant objectives and policies seeking to preserve the rural character of the community. Though not required, the applicant did host a community meeting within the Bayshore Community. It was a well-attended meeting with an estimated 75-80 people. A summary document is attached hereto as Attachment R.

CONCLUSION:

In summary, the following factors warrant careful consideration of the intensity of land uses proposed on the subject property:

- Compatibility with existing abutting residential land uses;
- Consistency with Goal 18, the Bayshore Community Plan;
- Traffic on Bayshore Road, evidenced by existing conditions and projected levels of service failure by 2028, even without the proposed project;
- Uncontrolled traffic flow onto Bayshore Road at the intersection of Wells Road;
- The public water supply well located approximately 200 feet from the subject property;
- The General Interchange Future Land Use Policy and comparative concentrations of intensity developed in these interchange areas; and
- The findings of Resolution Z-06-046, the evolved conditions of the Bayshore Community, and identification of what LDC or Lee Plan attributes have changed to materially alter those findings.

After careful consideration of all documents submitted in support of the applicant's request, and analysis of other interchange area approvals, the maximum proposed intensity sought on 8.75 acres introduces a concentration that is not typical in interchange areas throughout Unincorporated Lee County, especially when in comparison to other more developed interchange areas with significantly higher levels of public services. To introduce the applicant's proposed intensity and sought conditions unrefined into a community with no approved or established intensity within remote comparison is starkly inconsistent with Goal 18[41], which aims to protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities and exclude incompatible uses that are destructive to the character of the rural residential environment.

Staff recommends a modified maximum intensity threshold, which provides a significant but proportionate increase in nonresidential floor area, offers a wide range of land uses including those

[41] See Objective 17.1 and Goal 18.

that primarily serve the traveling public, revises property development regulations and deviations, and incorporates two Master Concept Plans in a manner that promotes flexibility in the General Interchange Future Land Use Category in compatible manner that is not destructive to the Bayshore Community.

Based upon this analysis of the application and the standards for approval of planned development amendment, staff finds the request, as conditioned, to be consistent with the established review criteria. Staff recommends APPROVAL of a modified intensity threshold and schedule of uses with conditions attached hereto as Attachment E.

MCP Modifications necessary to align with staff recommendation

- Remove "Wells Road Improvement Detail" from both MCPs;
- Include the location of the 8-foot-high masonry wall or 8-foot-high masonry wall/berm combination on both MCPs per recommended Condition 8, Attachment E; and
- Include clarification requested by stipulated project sufficiency letter: "Please include the following note within the Open Space/Indigenous Preserve table on the MCPs: "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 feet and minimum area of one acre."

ATTACHEMENTS:

A. Expert Witness Information
B. Legal Description, Sketch and Boundary Survey
C. Aerial, Future Land Use, and Current Zoning Maps
D. Master Concept Plan
E. Development Regulations, Conditions and Deviations
F. Applicant's Submittals
   - Project Narrative
   - Deviations & Justifications
   - Property Development Regulations
   - Proposed Conditions
   - Surface Water Management Narrative
   - Maps
G. Applicant's Schedule of Uses
H. Applicant's Land Use Conversion Table
I. Natural Resources Staff Report
J. Environmental Staff Report
K. Applicant's Traffic Impact Statement
L. Development Services Memoranda
M. Resolution Z-06-046
N. Resolution Z-92-061
O. Administrative Amendment ADD2022-00117 (Maximus Self-Storage)
   - Resolution Z-10-036 (W&W Service Park)

P. List of Proposed Uses Not Approved by Resolution Z-06-046
Q. Utility Letters of Availability
   - LCU
   - FGUA
R. Public Information Session Summary
S. DCI2005-00100 Hearing Examiner Hearing Transcript

ATTACHMENT A

LEE COUNTY STAFF EXPERT WITNESS INFORMATION PROVIDED PURSUANT TO AC-2-6, SECTION 2.2.b(5)(f)3.

Case Numbers: **DCI2022-00032**

Project Name: **Bayshore Village**

Hearing Examiner Date: **October 11 & 12, 2023**

Adam Mendez, Planner, Senior, Zoning, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness in the Lee County Land Development Code, the Lee Plan, zoning, and land use planning. Current resume is on file with the Hearing Examiner.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code, the Lee Plan, and documentation submitted by the applicant as part of the subject application.

Beth Workman, Planner, Principal, Zoning, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in the Lee County Land Development Code, the Lee Plan, zoning, environmental and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code, the Lee Plan, and documentation submitted by the applicant as part of the subject application.

Camryn Siverson, Planner, Zoning, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in the Lee County Land Development Code, the Lee Plan, zoning, environmental and land use planning.
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Anthony R. Rodriguez, AICP, Zoning Manager, Zoning, 1500 Monroe Street, Fort Myers, FL 33901

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- Seeking to be qualified as an expert witness in the Lee County Land Development Code, the Lee Plan, zoning, and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code, the Lee Plan, and documentation submitted by the applicant as part of the subject application.

Marcus Evans P.E., Senior Engineer, Development Services, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in Traffic Engineering and Transportation Planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

Md Rakibul Alam, Ph.D., Senior Transportation Planner, Development Services, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in Traffic Engineering and Transportation Planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

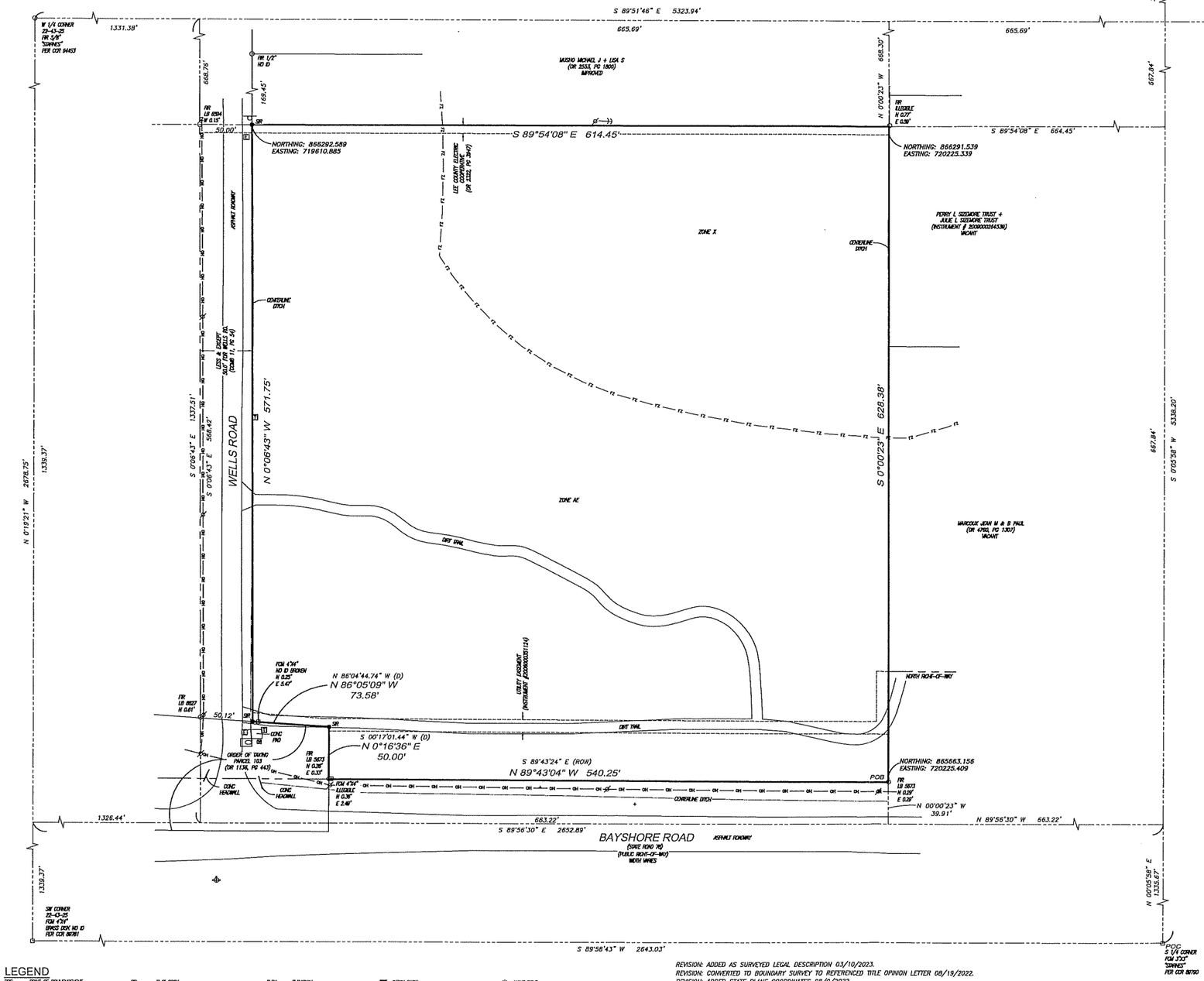
Brian Roberts P.E., Plan Reviewer, Development Services 1500 Monroe Street, Fort Myers, FL 33901

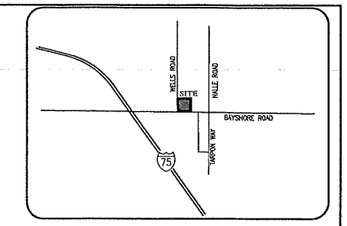
- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- Seeking to be qualified as an expert witness in the Lee County Land Development Code, Lee Plan, zoning, civil engineering and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

Nic Deflippo, Senior Environmental Planner, Development Services 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is on file with the Hearing Examiner.
- to be qualified as an expert witness in the Lee County Land Development Code, the Lee Plan, natural resources, environmental and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code; the Lee Plan; and documentation submitted by the applicant as part of the subject application.

ATTACHMENT B





VICINITY MAP
NOT TO SCALE

PROPERTY DESCRIPTION

(PER PROVIDED TITLE COMMITMENT)
THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 43 SOUTH, RANGE 25 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 ORDER OF TAKING BY STATE OF FLORIDA, DEPARTMENT OD TRANSPORTATION, AS RECORDED IN OR BOOK 1136, PAGE 443 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

CONTAINING 8.75 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 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°05'59" 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 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 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. THIS SURVEY WAS PREPARED WITH THE BENEFIT OF A TITLE OPINION LETTER PREPARED BY BOLANOS TRUXTON, 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 NAVD88, AND ZONE X HAVING NO BASE FLOOD ELEVATION PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP # 12071C 0283 F, DATED 8/28/2008. FLOOD LINES SHOWN HEREON WERE OBTAINED FROM A LEE COUNTY GIS FILE AND ARE ASSUMED 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, ENDANGERED WILDLIFE 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 THIS SURVEY MAP ARE PERMITTED WITHOUT THE EXPRESSED WRITTEN CONSENT OF THE SIGNING PARTY.

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

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 IN CHAPTER 5J-17.051, F.A.C, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

11. OWNERSHIP AND ADDRESS INFORMATION SHOWN HEREON WAS TAKEN FROM THE LEE COUNTY PROPERTY APPRAISER WEBSITE AT THE TIME OF THIS SURVEY.

12. DATE OF LAST FIELD WORK 9/8/21.

0 25' 50' 100'
SCALE: 1" = 50'

THIS PLAN MAY HAVE BEEN ENLARGED OR REDUCED FROM INTENDED DISPLAY SCALE FOR REPRODUCTION REASONS

-N-

CERTIFIED TO:
OB 4, LLC
CHESTER & HAGAN, P.A.
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

LEGEND

POC	POINT OF COMMENCEMENT	PB	PLAT BOOK	ELEV	ELEVATION		CATCH BASIN		LIGHT POLE
POB	POINT OF BEGINNING	OR	OFFICIAL RECORDS BOOK	INV	INVERT ELEVATION		DRAINAGE MANHOLE		TELEPHONE MANHOLE
RIP	FOUND IRON PIPE	PG	PAGE(S)	RIM	RIM ELEVATION	MES	MITERED END	TRS	TELEPHONE RISER/KIOK
FIR	FOUND 5/8" IRON ROD	PSM	PROFESSIONAL SURVEYOR AND MAPPER	A/C	AIR CONDITIONING UNIT/PAD		YARD DRAIN	TVR	CABLE TELEVISION RISER/KIOK
SIR	SET 5/8" IRON ROD w/CAP, LB. #5151	LB	LICENSED BUSINESS	CONC	CONCRETE	WV	WATER VALVE		ELECTRIC MANHOLE
FCM	FOUND CONCRETE MONUMENT	SPC	STATE PLANE COORDINATES	CMP	CORRUGATED METAL PIPE		WATER METER		ELECTRIC RISER/KIOK/METER
SCM	SET CONC. MONUMENT w/ALUMINUM DISK, LB. #5151	ROW	RIGHT-OF-WAY	CPP	CORRUGATED PLASTIC PIPE		BACK FLOW PREVENTOR		ELECTRIC TRANSFORMER
		PUE	PUBLIC UTILITY EASEMENT	RCP	REINFORCED CONCRETE PIPE		FIRE HYDRANT	TL	TRAFFIC LIGHT
FPK	FOUND PARKER KALON NAIL	CLE	COUNTY UTILITY EASEMENT	CMH	CONCRETE HEADWALL		POST INDICATOR VALVE		UNDERGROUND UTILITY MARKER
SPK	SET PARKER KALON NAIL w/ALUMINUM DISK, LB.# 5151	UE	UTILITY EASEMENT	TOB	TOP OF BANK		FIRE DEPARTMENT CONNECTION	SIGN	SIGN ON POLE
		AE	ACCESS EASEMENT	TOS	TOE OF SLOPE		BACTERIA SAMPLE POINT		OAK TREE
FDH	FOUND DRILL HOLE	DE	DRAINAGE EASEMENT	EOW	EDGE OF WATER	ARV	AIR RELEASE VALVE		PALM TREE
SDH	SET DRILL HOLE	LME	LAKE MAINTENANCE EASEMENT	℄	CENTER LINE	IRV	IRRIGATION VALVE/ CONTROL VALVE		PINE TREE
FMN	FOUND MAG NAIL	LBE	LANDSCAPE BUFFER EASEMENT	EOP	EDGE OF PAVEMENT	GV	GAS VALVE		2" POLY TUBE STUB OUT
FND	FOUND	IRRE	IRRIGATION EASEMENT	BOL	BOLLARD	GSM	GAS METER/SERVICE	CCR	CERTIFIED CORNER RECORDS
(P)	PLAT	FPL	FLORIDA POWER AND LIGHT		GREASE TRAP	GMW	GAS MARKER	(ROW)	PER RIGHT-OF-WAY MAP
(M)	MEASURED	ISSUE	BONITA SPRINGS UTILITY EASEMENT		SANITARY MANHOLE		UTILITY POLE – WOOD	COMB	COUNTY COMMISSIONS MINUTES BOOK
(C)	CALCULATED	NAVD	NORTH AMERICAN VERTICAL DATUM OF 1988	CO	CLEAN OUT		UTILITY POLE – CONCRETE		
(D)	DEED	NGVD	NATIONAL GEODETIC VERTICAL DATUM OF 1929	SV	SEWER VALVE	GA	GUY ANCHOR		
							OVERHEAD WIRES		

FZ —— FZ —— FZ — APPROXIMATE FLOOD ZONE LINE

REVISION: ADDED AS SURVEYED LEGAL DESCRIPTION 03/10/2023.
REVISION: CONVERTED TO BOUNDARY SURVEY TO REFERENCED TITLE OPINION LETTER 08/19/2022.
REVISION: ADDED STATE PLANE COORDINATES 08/9/2022.
REVISION: ADDED CERTIFICATIONS 12/9/2021. REVISION: REVISED TO REFLECT CCMB 9/16/2021.
REVISION: REVISED PER NEW TITLE COMMITMENT 9/13/2021.

GradyMinor
Civil Engineers • Land Surveyors • Planners • Landscape Architects
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
Q. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134

DRAWN BY:	KJG
CHECKED BY:	DLS
JOB CODE:	LSIWR
SCALE:	1" = 50'
DATE:	9/3/2021
FILE:	21-168-BS TITLE OPINION.DWG
SHEET:	1 of 1

BOUNDARY SURVEY

A PARCEL OF LAND

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

DATE SIGNED

DONALD L. SAINTENOY III, P.S.M
FL LICENSE #5761
FOR THE FIRM

G:\SURVEY\PROJECT SURVEY 2021\168 - BAYSHORE VILLAGE MARKET PLACE (LSIWR)\SURVEY\21-168-BS TITLE OPINION.DWG

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;

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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

GradyMinor

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

Civil Engineers • Land Surveyors • Planners • Landscape Architects
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

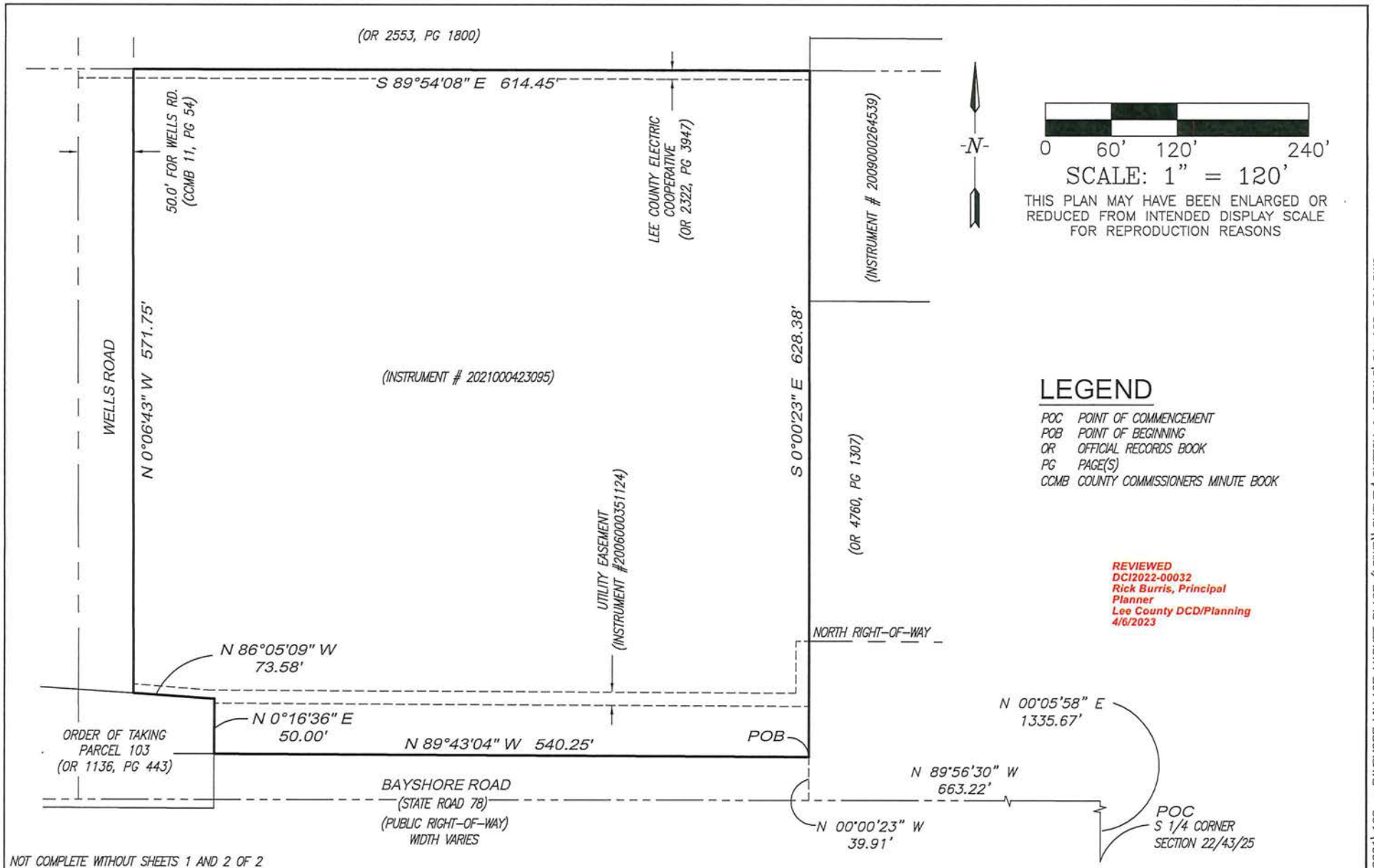
A PARCEL OF LAND

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

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 (LSIWR)\SURVEY\SKETCH & LEGALS\21-168-S&L.DWG



NOT COMPLETE WITHOUT SHEETS 1 AND 2 OF 2

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Bonita Springs: 239.947.1144 www.GradyMinor.com Fort Myers: 239.690.4380

SKETCH AND DESCRIPTION

A PARCEL OF LAND

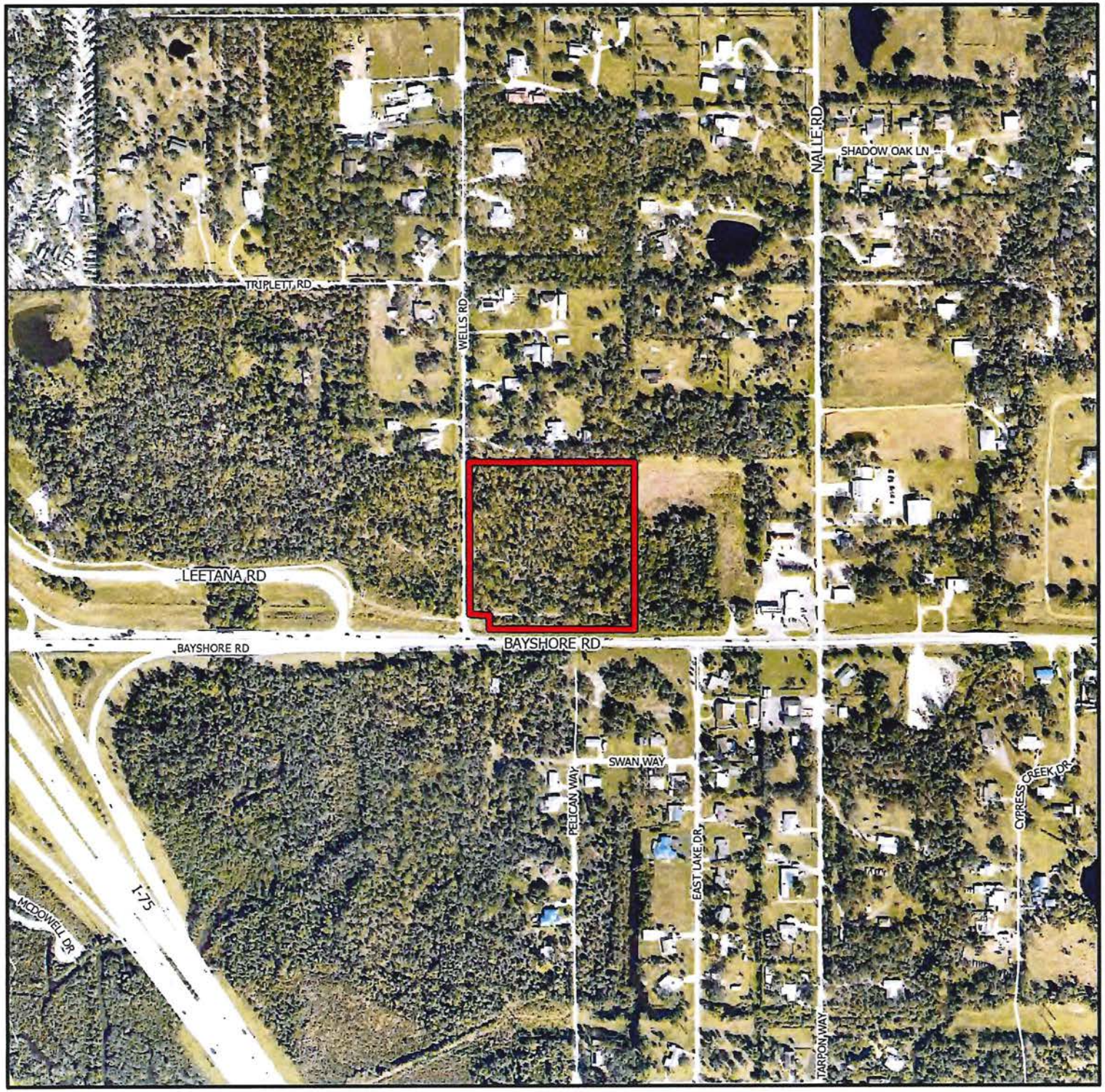
LYING IN
SECTION 22, TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

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

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

DCI2022-00032
ATTACHMENT C
N
W
E
S
0
1,000
2,000
Feet - Map Scale
0
200
400
Feet - Inset Scale
PRITCHETT PKWY
NALLE RD
DURRANCE RD
LEETANA RD
BAYSHORE RD
SAMVILLE RD
I-75
WELLS RD
BAYSHORE RD
BAYSHORE RD
PELICAN WAY
EAST LAKE DR



DCI2022-00032

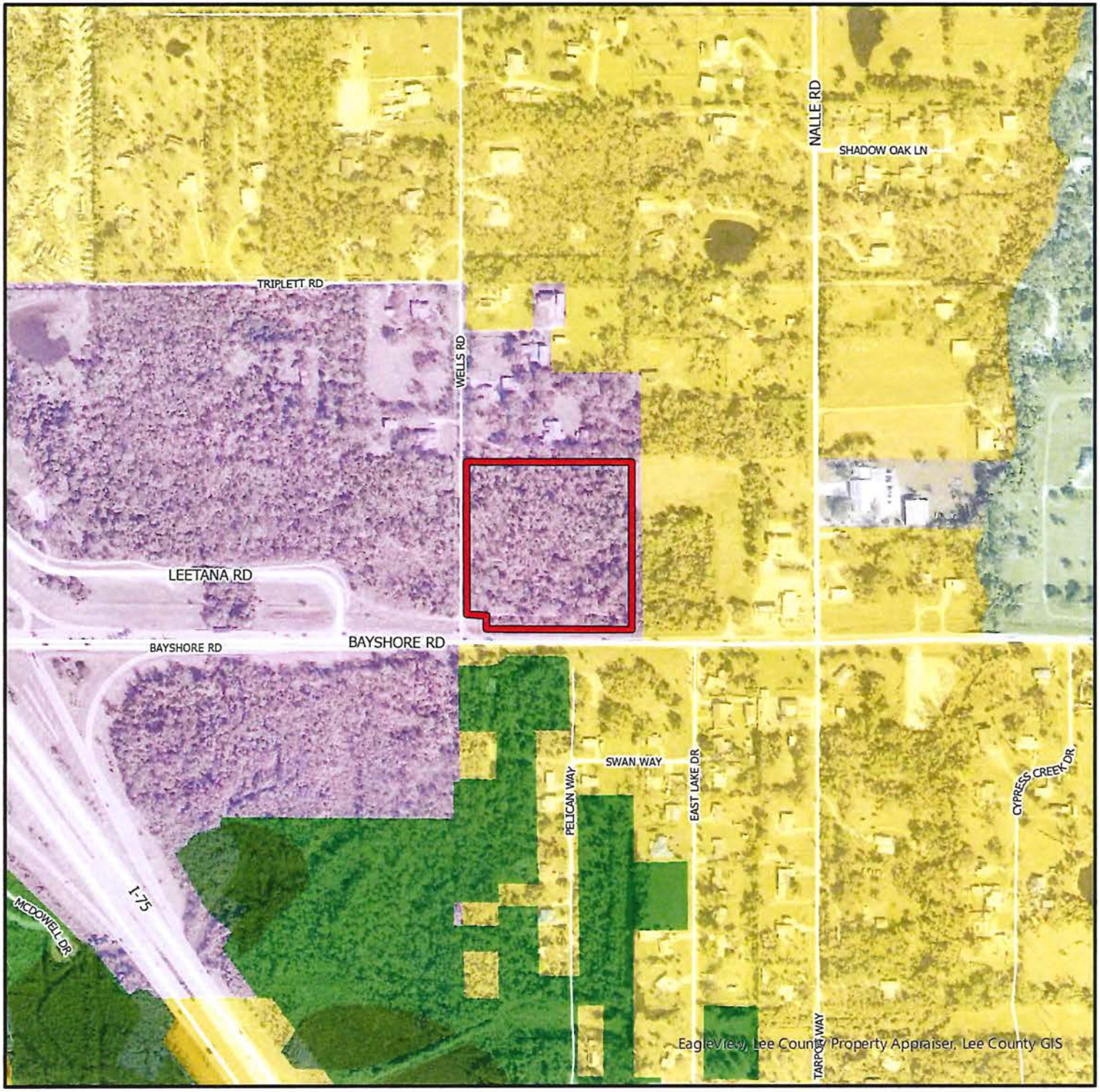
Aerial

Subject Property

N
W E
S

0 300 600 900
Feet

Lee County



DCI2022-00032

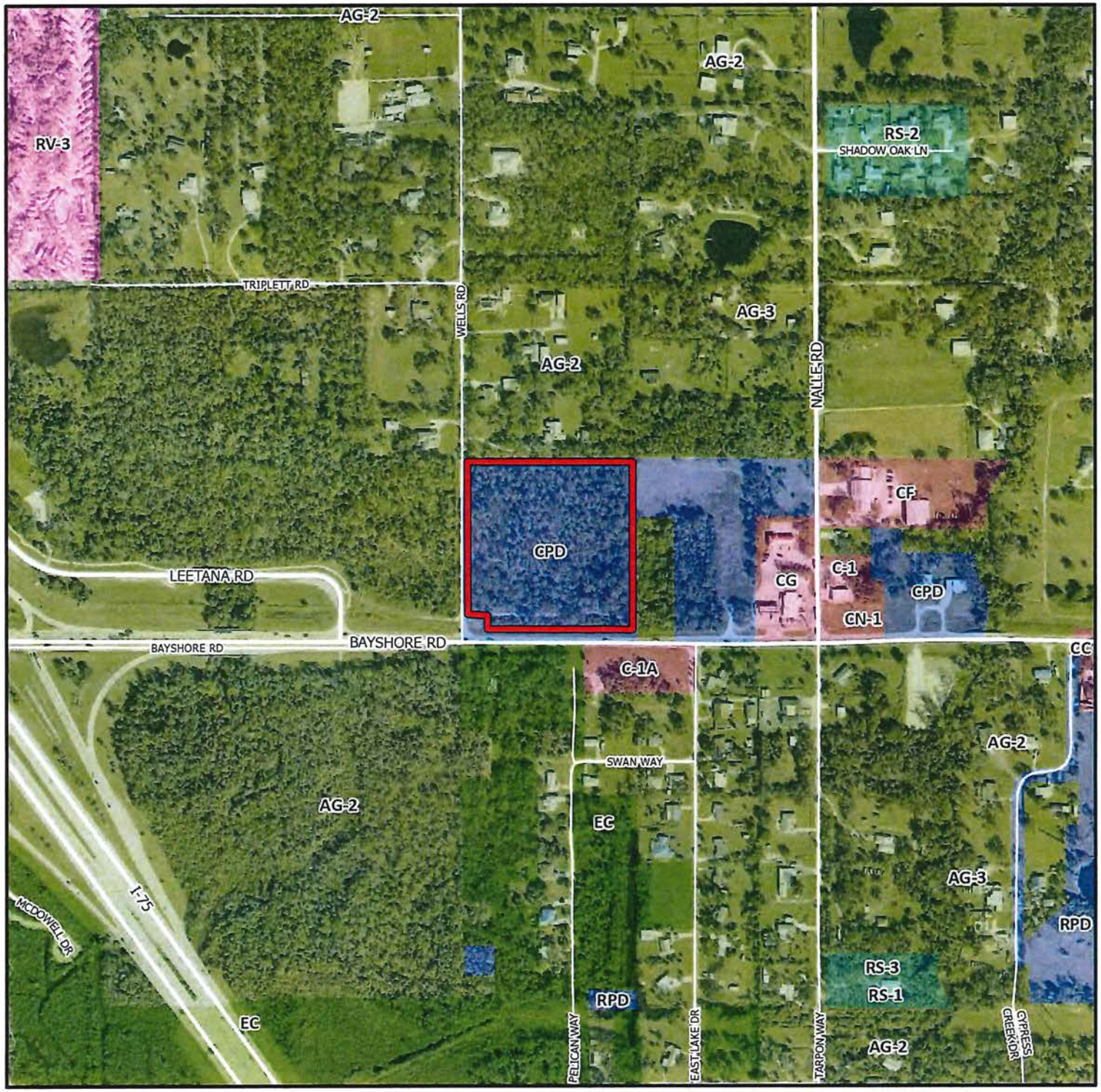
Future Land Use

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

N
W E
S

0 300 600 900
Feet

Lee County
Southwest Florida



DCI2022-00032

Zoning

Subject Property

N
W E
S

0 300 600 900
Feet

Lee County
Southwest Florida

ATTACHMENT D

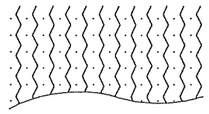
OPEN SPACE CALCULATION

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

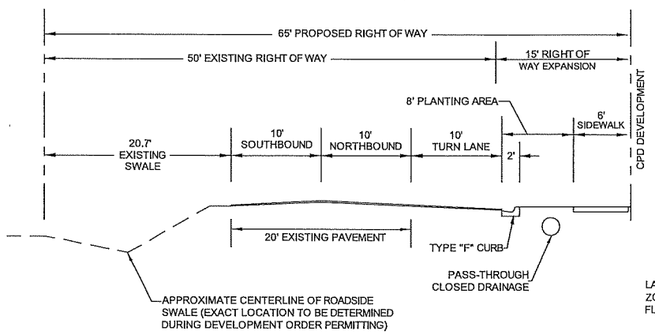
PROVIDED OPEN SPACE		PROVIDED INDIGENOUS
PRESERVE	1.06 AC	PRESERVE @ 1.06 AC x 125% = 1.33 AC
LAKE (2.63 X 25%)	0.66 AC	
OTHER	0.91 AC	
TOTAL =	2.63 AC	

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

SINUOUS LAKE SHORELINE DETAIL



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



WELLS ROAD IMPROVEMENTS DETAIL

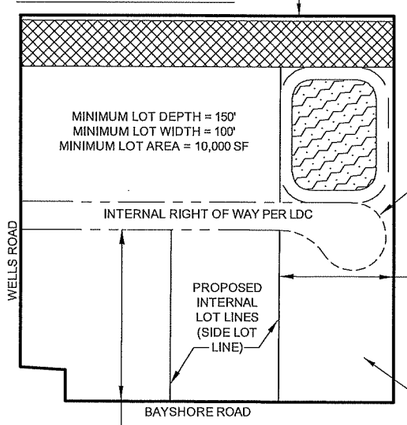
PROPOSED SIGNS

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

LEGEND

- PARKING & LANDSCAPING PER LDC
- LOADING / SERVICE AREA
- PRESERVE
- LAKE

SUBDIVISION DETAIL



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. (7)

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.

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

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

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

415' TO NEAREST INTERSECTION

290'-310' INTERSECTION SEPARATION

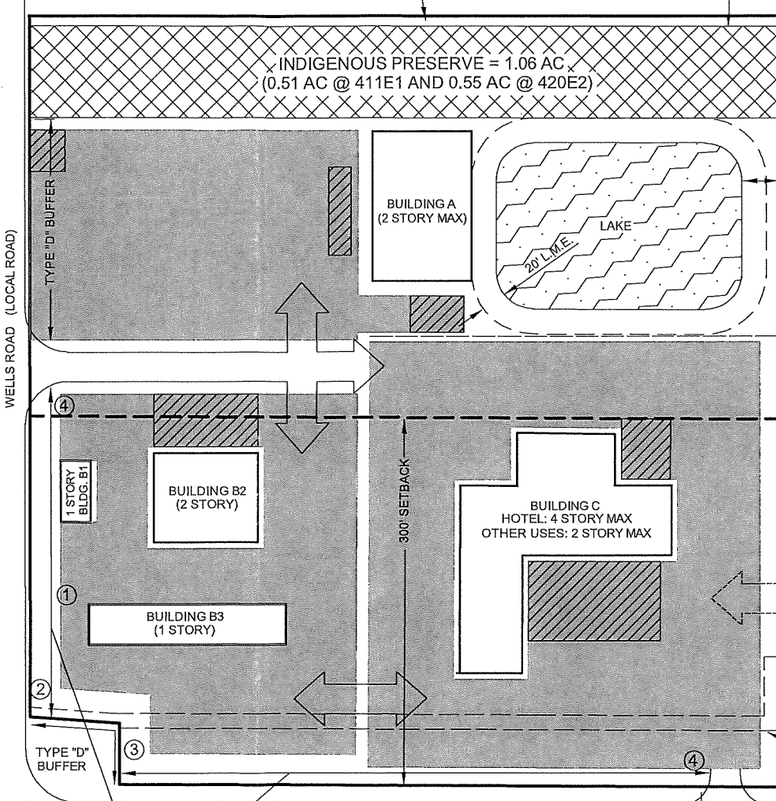
WELLS RD IMPROVEMENTS AREA

WELLS ROAD (LOCAL ROAD)

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) (6)

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



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

(2) (1) 30' EXCAVATION SETBACK (DEVIATION #1)

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

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

AUTOMOBILE, BICYCLE, AND PEDESTRIAN CONNECTION IF ABUTTING PARCEL IS COMMERCIALLY ZONED AT TIME OF DEVELOPMENT ORDER PERMITTING. NO CONNECTION REQUIRED TO AG-2 ZONED PROPERTY.

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

548' INTERSECTION SEPARATION (8)

233' INTERSECTION SEPARATION

BAYSHORE RD (2-LANE ARTERIAL)

(3) 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

PELICAN WAY (UNIMPROVED RIGHT OF WAY)

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

EAST LAKE DR

N
W E
S
0 30 60 120
SCALE IN FEET

Barraco and Associates, Inc.
CIVIL ENGINEERING - LAND SURVEYING
LAND PLANNING
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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
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FILE NAME	24066Z02-A.DWG
LOCATION	J:\24066\DWG\ZONING\
PLOT DATE	FRI. 7-7-2023 - 11:41 AM
PLOT BY	ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS

BASE PLAN = 24066Z00-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 #8

PLAN STATUS

MASTER CONCEPT PLAN ALT A

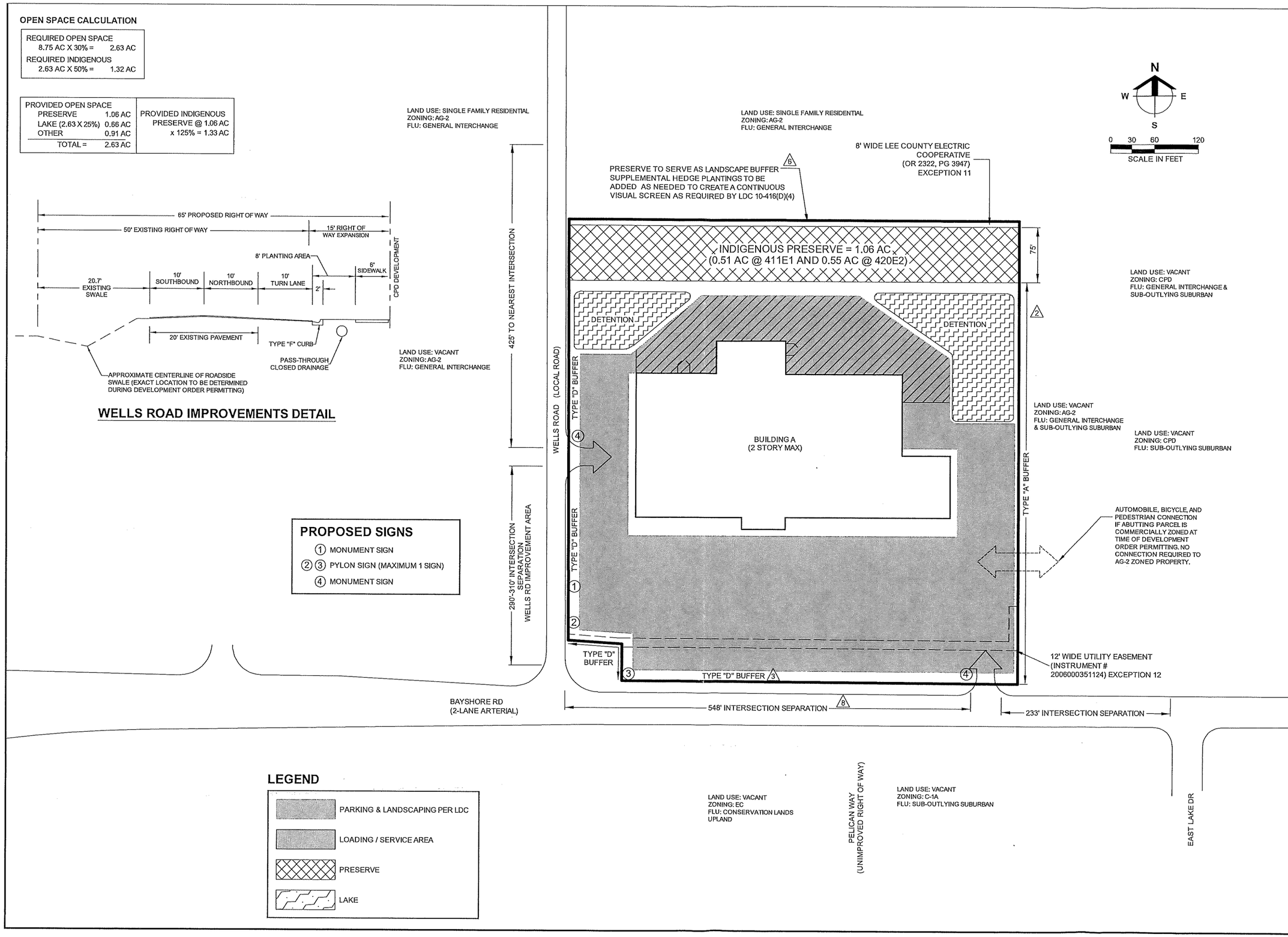
PROJECT / FILE NO.	SHEET NUMBER
24066	1

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
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	

WELLS ROAD IMPROVEMENTS DETAIL



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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

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FILE NAME	24066Z02-B.DWG
LOCATION	J:\24066\DWG\ZONING\
PLOT DATE	FRI. 7-7-2023 - 11:43 AM
PLOT BY	ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS

BASEPLAN = 24066Z00-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 @ INTENSIVE CRITERIA
7-7-23	ADD DEVIATION #8

PLAN STATUS

MASTER CONCEPT PLAN ALT B

PROJECT / FILE NO.	SHEET NUMBER
24066	1

ATTACHMENT E

Conditions

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

(1) Master Concept Plan and Development Parameters

a. Master Concept Plan. Development of the subject property must be substantially consistent with the one-page Master Concept Plan Entitled "Master Concept Plan ALT A" or "Master Concept Plan ALT B", last revised 7/07/2023 and attached hereto as Attachment D.
Staff Note: Applicant must prepare revised MCPs consistent with recommendations herein.

b. Development Parameters. Development is limited to a maximum of 87,500 square feet of non-residential floor area, including any outdoor restaurant seating, and a separate allocation of 44 hotel units (Hotel units subject to Condition 11).

c. Compliance with Lee Plan and LDC. Development must comply with all the requirements of the LDC at the time of local development order approval, except as may be granted by deviation as part of this planned development. Subsequent amendments to the Master Concept Plan or its auxiliary documentation attached thereto are subject to the planned development amendment process established by the Land Development Code.

d. Superseding Resolution. Resolution Z-06-046 is hereby superseded and replaced with this amended resolution.

(2) Schedule of Uses and Property Development Regulations

Staff Note: Uses listed in strike-through format are not recommended.

a. Schedule of Uses

* Indicates uses restricted to southern 300 feet of the subject property. Locational restrictions no longer apply if the abutting northern property is zoned for uses other than residential or agricultural.

** Use must be requested through the special exception or public hearing amendment process.

Accessory uses and structures
Administrative offices
~~Agricultural Uses~~
Animal clinic (no outdoor runs)
ATM (Automatic Teller Machine)
Auto parts store (no installation)

~~Automobile repair and service, Groups I and II - restricted to southern 300' (*)~~
~~Automobile service station, with or without gas pumps - restricted to southern 300' (*)~~
Bait and tackle shop
Banks and financial establishments, Groups I and II
Bar or cocktail lounge (**)
Business services, Group I
Boats:
    Boat parts store (limited to one)
    Boat sales (subject to Condition 10)
    Boat storage, dry, not exceeding 18 feet above grade (**)
    ~~Boat storage, dry, exceeding 18 feet above grade~~
Broadcast studio, commercial radio and television
Building material sales
Business Services, Groups I and II
~~Bus station/depot~~
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)
Contractors and builders, Group I, II and ~~III~~
Convenience food and beverage store, ~~with or~~ without gas pumps (with or without EV charging stations) (*)
Day care center, adult, child
Department store
Drive through facility for any permitted use (limited to east side of buildings)
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
    ~~Oil or gas (SE)~~
Farm equipment, sales, storage, rental or service
Feed or fertilizer, mixing and sales
Fences, Walls
~~Flea Market:~~
    ~~Indoor~~
    ~~Open (SE)~~
Food and beverage service, limited (**)
Food stores, Groups I and II
Food truck park (subject to Condition 13)

Funeral home or mortuary:
- No cremation
- With cremation

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 and III
Laundromat
Laundry or dry cleaning, Group I (subject to Condition 7)
Lawn and garden supply store
Library
Maintenance facility (government)
Medical Office
~~Mobile home dealers (**)~~
~~Model display center~~
Non-store retailer
Motion picture production studio
~~Nightclubs~~
Nonstore retailers, All Groups
Package store (no related consumption on premises and subject to LDC §34-1263)
Paint, glass and wallpaper store
Parks, Groups I and II
Parking lot:
- Accessory
- Commercial (**)
- ~~Garage, public~~
- 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
Printing and publishing
Recreation facilities commercial, Group I ~~and IV~~
Religious facility
Rental or leasing establishments, Groups I, II, and III
Repair shops, Groups I, II, III, and ~~IV (*)~~
Research and development laboratories, Group II
Restaurants, All Groups
Restaurant, fast food (*)
Schools, commercial
~~Self-service fuel pumps (*)~~
Signs
Social services, Groups I and II
Specialty retail shops, All Groups

Storage:
- Indoor
- Open (subject to Condition 10)

Studios
Supermarket
Temporary uses
Theater, indoor
Transportation services, Groups II and III
~~Truck stop (*)~~
Used merchandise stores, All Groups
Variety store
Vehicle and equipment dealers, Groups I, II, III, IV, ~~and V~~ (subject to Condition 10)
Warehouse
- Mini
- ~~Private~~
- Public

~~Wholesale establishments, Groups I, III and IV~~

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
Street, private	20 feet
Side (East):	15 feet
Rear (North):	25 feet
Uses with specific development regulations:	See Conditions 10 & 11
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

Prior to the issuance of the first development order, the development order plans must depict 30 percent open space (2.63 acres). If subdivided, individual development parcels must include a minimum of 10 percent open space.

(4) Indigenous Preserve

Prior to the issuance of the first development order, the development order plans must depict the indigenous preserve area as the 75-foot buffer to along the north perimeter. If exotics are removed, native plantings must be planted to maintain proper screening along the single-family lot abutting the subject property to the north. The development order plans must also depict a total of 1.33 acres of indigenous open space in substantial compliance with Master Concept Plan Alternates A and B, dated July 7, 2023 per the following breakdown:

Staff Note: Applicant must prepare revised MCPs consistent with recommendations herein.

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

(5) Indigenous Habitat Plan

Prior to the issuance of the first development order, the development order plans must demonstrate the following:

a. Substantial compliance with the Indigenous Management Plan, attached as Attachment J, Exhibit B.

b. A schedule for the indigenous preservation and restoration to be completed within five consecutive years.

c. A map depicting where mechanical and hand-removal methods of exotic vegetation removal will be located. Mechanical clearing must be limited to non-indigenous areas.

d. An appropriate planting list for the preserve area, approved by Lee County Staff.

e. Exotic removal and restoration (supplemental plantings) of indigenous habitat to begin concurrently with improvements to land, which must be provided at time of local development order application. The supplemental planting plans must be approved by development services staff.

(6) Gopher Tortoise Survey

Prior to local development order approval, the property must be re-surveyed for the presence of gopher tortoises and their burrows, and, if found, a gopher tortoise management plan must be submitted as part of the indigenous preserve management plan for review and approval. The gopher tortoise management plan must include details on habitat management to provide open herbaceous foraging areas, and how the habitat will be maintained in perpetuity. The management should also include the following details pertaining to site work:

a. A copy of the Florida Fish and Wildlife Conservation Commission Gopher Tortoise Permit and receipt of payment, if applicable, must be submitted to the staff prior to issuance of a Vegetation Removal Permit.

b. A Vegetation Removal Permit to install gopher tortoise fencing and burrow excavation must be obtained prior to any site work.

c. Any gopher tortoises and commensal species located during burrow excavation must be moved to appropriate indigenous preserves or relocated through state and federal permits.

d. The number of tortoises and any commensal species moved to preserves must be reported to staff or relocated through FWC permitting.

e. All active and inactive gopher tortoise burrows located outside of the indigenous preserves must be excavated and fully collapsed prior to issuance of a Vegetation Removal Permit for clearing and filling of the development area.

(7) Lee County Public Water Supply Well

1. Prior to local development order approval, the developer must demonstrate compliance with the Lee County Wellfield Protection Zone Ordinance. The following uses are not permitted within the 1-year Wellfield Protection Zone travel time, as depicted by Lee Plan Map 4-C.

    1. Convenience food and beverage store, with gas pumps
    2. Dry cleaning

(8) Masonry Wall/Berm Combination

A completely opaque 8-foot-high masonry wall or 8-foot-high masonry wall and berm combination must be provided within 25 feet of the south side of the indigenous preserve. The masonry wall or masonry wall/berm combination must commence within 15 feet of the Wells Road right-of-way and extend east continuously at a height of 8 feet to the eastern-most property line.

Staff Note: Applicant must prepare revised MCPs depicting the general location of the wall in compliance with this condition.

(9) Project Building or Structure Height

The building and structure heights specified herein may not be exceeded without obtaining approval through the public hearing process. The provisions of LDC Section 34-2174, additional permitted height when increased setbacks provided, may not be utilized within the planned development.

(10) High Intensity Uses

This condition pertains the following uses:

a. Convenience Food and Beverage Stores, Fast-Food Restaurants, Car Washes.

   i. Except for Deviations 5 and 6 contained herein, deviations from LDC Section 34-1353 must be sought through the public hearing process.

   ii. Convenience food and beverage stores and fast-food restaurants must be set back 50 feet from any public right-of-way; this condition applies to any restaurant with a drive-through facility.

b. Display, sale, rental or storage for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment.

   i. Deviations from LDC Section 34-1352 must be sought through the public hearing process.

   ii. Automotive dealerships exceeding 3 acres in size must receive approval through the public hearing amendment process to ensure consistency with the LDC and Lee Plan.

   iii. All 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 Wells Road.

iv. Deviations from LDC Section 34-1352 must be sought through the public hearing process.

(11) Hotel Use

The development of a hotel on the subject property is subject to the following conditions:

1. Maximum Units/Conversion. The 44-unit hotel allocation may be increased to a maximum of 125 units at a conversion rate of 1 hotel unit per every 120-square-foot reduction of the 87,500-square-foot intensity allocation. The transfer of square-footage to hotel units must be reviewed through the administrative amendment process.

2. Principal Building. The project is limited to one hotel within one principal building. Ancillary and accessory structures may be developed detached from the principal structure.

3. 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.

4. Lock-off accommodations. Where lock-off accommodations (df) are provided, each "keyed room" will be calculated as a separate rental unit.

5. Maximum Height. The maximum permitted height for a hotel is 48 feet. If the principal building exceeds 35 feet in height then it must be located within 300 feet of the Bayshore Road right-of-way and be set back a minimum of 50 feet from the Bayshore Road right-of-way. A hotel 35 feet in height or less must be set back a minimum of 150 feet from the north property line and the Wells Road right-of-way, and 50 feet from the Bayshore Road right-of-way. See Condition 9 regarding general height provision.

6. Electric Vehicle (EV) Charging. EV Charging stations may be provided as accessory to the hotel use, subject to local development order approval.

(12) Project Vehicular Trip Generation

Regardless of any land use density/intensity conversion allowed per the Land Development Code or zoning condition specific to this development, the development is allowed a maximum calculated development intensity with respect to new trip generation utilizing the following development scenario based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual in effect at time of local development order: 87,500 square-feet commercial retail.

(13) Food Truck Park

The principal use of a food truck park may be approved through the administrative amendment and local development order process. The application must be accompanied by a conceptual site plan meeting the minimum required details for special exception site plans in LDC Section 34-202. The application must include a project narrative of the intended operation and any other information determined necessary by the Director.

Deviations

Deviation #1:

Seeks relief from LDC §10-329, which requires an excavation setback of 50 feet from any private property line under separate ownership, to allow a 30-foot excavation setback from the eastern perimeter.

This deviation is **APPROVED**, subject to the condition that the reduction applies to easterly commercially-zoned property, and the easterly abutting AG-2-zoned parcel fronting Bayshore Road, if the parcel is not developed with single-family residential uses at time of local development order approval.

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 northeastern CPD approved by Resolution Z-10-036 (Maximus Self-Storage, f.k.a W & W Service Park).

This deviation is **APPROVED,** subject to the following conditions:

i. The deviation may only be utilized if, at time of local development order approval, a parking lot interconnection opportunity readily exists in the alternate location depicted on the MCP, in accordance with LDC Section 10-610, and the facilities are either in place or the right to construct the facilities over and across the abutting parcel and through the easterly CPD have been obtained.

ii. If parking lot interconnection facilities are in place or in the process of being improved by an issued local development order for the northeast boundary, as depicted on the MCP attached to ADD2022-00117, then the project must provide parking lot interconnections and amend the MCPs to reflect this change through the administrative amendment process.

iii. The deviation approval is intended only to permit utilization of the deviation at time of local development order in the event alternate parking lot interconnection

facilities are readily available or accessible to connect to the desired southern parking lot interconnection depicted on the MCPs.

Deviation #3:

Seeks relief from LDC §10-415(b)(1)b.4. which requires developments greater than five acres in size that abut an arterial or collector road and that have existing native trees within 50 feet of the right-of-way to be designed to provide a 50-foot right-of-way buffer for tree preservation, to instead allow buffer requirements of Chapters 10 and 34 to override. The project is meeting it's preservation requirements in accordance with 10-415(b)(1)a.; therefore, subsection (LDC §10-415(b)(1)b.) is not applicable.

This Deviation is **WITHDRAWN**.

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.

This Deviation is **APPROVED**, subject to Condition 10.

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.

This Deviation is **APPROVED**, subject to Condition 10.

Deviation #6:

Seeks relief from LDC §10-416(d)(3), which requires a Type "C" or Type "F" Buffer when a commercial land use abuts a residential land use, to allow the indigenous preserve to function as a planted buffer along the north property.

This Deviation is **APPROVED**, subject to the following condition:

a. In the event the proposed preserve does not create a continuous visual screen equivalent to a Type C or F buffer, then prior to the issuance of the first development order, the development order plans must provide a list of supplemental plantings and a replanting plan, subject to approval by Lee County staff.

Deviation #7:

Seeks relief from LDC §10-296(k), which requires all roadways to be terminated 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 only.

This deviation is **WITHDRAWN** until such a time that a conclusive review and recommendation from the fire district having jurisdiction can be provided.

Deviation #8:

Seeks relief from LDC §10-296(e)(1)i.1.ii, which requires a 12-foot-wide wide pedestrian facility and a 5-foot-wide bike lane, to allow no sidewalk or bike lane on Bayshore Road.

This deviation is **APPROVED**, subject to the condition:

a. the deviation is only valid if construction of a multi-use path by FDOT is planned within five years of local development order submittal and is stipulated accordingly in the local development order approval.

Barraco and Associates, Inc.
www.barraco.net
Civil Engineers, Land Surveyors and Planners

BAYSHORE VILLAGE CPD

Request Statement & Lee Plan Compliance

REQUEST

Amendment of a Commercial Planned Development (CPD) to allow 125,000 square feet of commercial uses. The property qualifies as a planned development by meeting the criteria established under Section 34-341(b)(1) and qualifies as a minor planned development amendment. The proposed changes to the CPD are outlined below in the following sections:

1. Intensity
2. Schedule of Uses
3. Master Concept Plan
4. Property Development Regulations

LOCATION

The subject property is located on the north side of Bayshore Road less than ½ a mile east of the I-75 and Bayshore Road intersection, in Unincorporated Lee County. The subject property consists of one parcel, STRAP# 22-43-25-00-00023.0000, with frontage on both Bayshore Road and Wells Road.

ZONING

The subject property is currently zoned Commercial Planned Development (CPD) by Zoning Resolution Z-06-046, allowing up to 61,000 square feet of commercial uses. This zoning designation promotes commercial development and allows a variety of commercial uses.

The currently approved CPD was found consistent with the densities, intensities, and general uses set forth in the Lee Plan through zoning resolution Z-06-046. The approved CPD is split into two areas, each with a specific set of uses permitted, and provides three access points; one along Bayshore Road near the southeast corner of the property and two on Wells Road. The project abuts:

DIRECTION	FUTURE LAND USE	LAND USE / ZONING
North	General Interchange (GI)	Residential / AG-2
South	Sub-Outlying Suburban (SOS)	Bayshore Road ROW / EC, C-1A
East	General Interchange (GI)	Vacant Commercial and Agricultural Land/CPD, AG-2
West	General Interchange (GI)	Wells Road ROW and Vacant Agricultural Land/AG-2

The proposed CPD amendment allows an additional 64,000 square feet of commercial uses, for a total of 125,000 square feet. The site's location near an I-75 interchange, on an arterial road between two collector roads, combined with the influx of residential development in the surrounding area, and lack of commercial east of I-75, substantiate the proposed request. As discussed in the following sections, the request complies with the Lee Plan, the Land Development Code (LDC), and the criteria set forth in Section 34-145(d)(4) of the LDC.

INTENSITY

Commercial development east of the Bayshore/I-75 interchange is limited by Future Land Use as well as physical constraints. The southern quadrant east of Bayshore and I-75 is limited by a creek that bisects the land designated as General Interchange, limiting the commercial foot print. The northern quadrant east of Bayshore and I-75 also has limited commercial development frontage on Bayshore Road due to Pritchett Pkwy running parallel to Bayshore Rd for over 1,000 linear feet east of I-75's northbound on ramp. While the property north of the proposed CPD is a single-family residence, the Future Land Use is General Interchange, which is designated as areas to service the traveling public pursuant to the Lee Plan. Because of this lot's separation from Bayshore Road, the road conditions of Wells Road north of the subject CPD, and the surrounding residential, it is unlikely that this parcel will be developed in the near future in accordance with its anticipated growth by Future Land Use. The proposed amendment for intensity increase provides an opportunity to balance the loss of potential commercial development outlined above.

Despite the rural nature and goals of the Bayshore Community east of I-75, Babcock Ranch, planned for 19,500 residential units, is a huge economic driver that has drastically altered the needs of the Bayshore corridor. The subject site is about 7 miles, a 10 minute drive, from Babcock Ranch compared to Charlotte County's closest I-75 interchange at Duncan Rd located 25 miles away, a 30 minute drive. With limited development opportunities west of I-75, residential growth continues east of I-75 to meet the needs of the population surge in southwest Florida.

The proposed 125,000 square feet of commercial will help to alleviate the currently stressed Bayshore corridor by removing some of the traffic that must travel further west on Bayshore Road, beyond I-75 or accessing I-75 to reach specific commercial uses at further distances. As such, the proposed amendment will help to reduce length of trips on Bayshore Road and I-75 alike. Additionally, the increased commercial will serve the Bayshore Community's existing and future residential growth.

SCHEDULE OF USES

The enclosed Schedule of Uses provides a range of commercial uses. The commercial uses are comparable to the uses permitted in the Commercial General (CG) zoning district, plus some additional uses. As with the previous approval, some of the proposed uses have restricted locations or are limited in quantity to ensure compatibility.

Similar to the approved CPD, the proposed MCP provides minimum locational restrictions from the northern boundary line for specific uses that may be potentially less compatible with the single-family residence to the north, including bar or cocktail lounge, and convenience food and beverage with or without gas pumps.

A Land Use Conversion Chart, based on traffic counts/trips, is included with the CPD submittal. The conversion chart allows transfer of uses for flexibility to meet future commercial market needs based on traffic generation.

MASTER CONCEPT PLAN

The proposed MCPs provide the information required by LDC 34-373(a)(6) as follows:

a) ***The location and explanation of all existing easements, whether or not those easements are recorded. If an easement is based upon a recorded document, the official records book reference must be stated.***

- As noted on the boundary survey, two easements exist on the property; an 8' wide LCEC easement on the north boundary and a 12' wide utility easement near the southern boundary. Both easements are recorded. The OR book/page is noted for the north easement and instrument number for the southern easement.

b) ***The location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development. If a subdivision, the plan must also show the general location of all proposed internal street rights-of-way or easements and the general location of all points of vehicular ingress and egress from the proposed internal rights-of-way or easements into multiple-family, commercial, or industrial use lots.***

- Vehicular ingress and egress is proposed from two existing right of ways: Wells Road and Bayshore Road. The CPD may have an internal right of way, but it is not required. MCP Alternate A provides a detail showing the general location of the internal right of way, if one is utilized.

c) ***The plan must indicate the general location, configuration, and approximate dimensions of the lots or parcels (including subdivided parcels and outparcels). The proposed use of the lots or parcels must be keyed to the list of proposed uses submitted with the application.***

- As outlined in section b above, subdividing the parcel is optional. The detail on MCP Alternate A shows the general configuration of how the CPD may be subdivided, with an internal east/west right of way from Wells Road. Generally, the outparcels along Bayshore Road are anticipated to be smaller than the parcel in the back of the property. More specifically, minimum lot sizes are regulated by the proposed Property Development Regulations. Please see Section d) below regarding uses.

d) ***Individual development areas (i.e. residential, retail, office, manufacturing, mixed use-listed, etc.) with detail showing the boundary of each development area within which buildings, parking or other uses will be located.***

- LDC Section 34-373(a)(6) provides guidelines for Master Concept Plan criteria for all types of planned developments, including larger mixed-use projects. This requirement is especially important for larger projects with a wide range of existing abutting offsite uses and varied internal uses. For example, specifying where commercial or multifamily uses within an MPD is necessary to evaluate compatibility. In this example, a commercial outparcel that is part of an MPD, the MCP typically notes the commercial parcel simply as "commercial". The schedule of uses, property development regulations and conditions of the zoning provide the further guidance needed for development and compatibility.

  The proposed CPD does not propose the diverse mix of uses as the example MPD referenced above. As a CPD, all proposed uses are commercial. As would be

common for a master planned MPD or CPD/RPD, Bayshore Village CPD proposes a schedule of uses and property development regulations. Within these regulations, and conditions of the CPD, special criteria are established for certain uses to address compatibility concerns.

e) ***The general location of service areas for delivery of goods or services must be shown for all developments that are not residential subdivisions.***

- Conceptual service areas are shown on the MCPs.

f) ***The general location of proposed parks and recreation areas and facilities, as well as indigenous areas and flow-ways to be preserved, restored or created.***

- No parks or recreation areas are proposed. Indigenous preservation is provided on the north property boundary with a minimum width of 75-feet and an area of 1.06 acres. No flow-ways exist on the site and no flow-ways are proposed.

g) ***Open space design plan delineating the indigenous preserves and/or native tree preservation areas as required per LDC section 10-415(b). Adjustments and field corrections to the plan can be done administratively at the time of development order review provided the minimum commitments made as part of zoning approval are maintained. No changes to a indigenous or native tree preserve area can be made administratively that would negatively effect screening or buffering to an adjacent property.***

- The enclosed MCP shows the required and provided open space for the subject property. The proposed development will provide approximately 2.63 acres of open space, 30% of the site's total land area, per Section 10-425(a) of the Land Development Code. Compliant with Sections 10-425(c) and 10-415(b) of the LDC, the subject property will provide, at minimum, 50% of the open space requirement (1.32 acres) through preservation of existing native vegetation, applied using incentive credits allowed by LDC.

h) ***The percentage of open space, unless the proposed development consists solely of conventional single-family dwelling units on lots of no less than 6,500 square feet. For commercial and industrial developments, the percentage of open space within each lot or outparcel must be as set forth in section 34-414(c).***

- As described section g above, open space is provided at 30% of the site. Compliant with Section 34-414(c), a note has been added to MCP Alternate A requiring each parcel to provide a minimum of 10% open space per parcel.

i) ***The minimum width and composition of all proposed buffers along the perimeter of the subject property, as well as between the individual uses, if the types of proposed uses require buffer separations. References to types of buffers as described in chapter 10 are acceptable.***

- The proposed site plan will provide buffers comparable to the currently approved MCP and in accordance with the LDC. The western and southern boundaries of the subject property will remain a Type "D" buffer, appropriately located along Bayshore Road and Wells Road. The eastern boundary abutting future commercial development, provides a Type "A" buffer. As shown on the enclosed MCP, the most intense buffer is on the north boundary, provided by the 75-foot wide natural buffer. As noted on the MCP, should the preserve not contain existing vegetation to meet the requirements of a Type F Buffer, additional plantings will be provided. Please see Section d) above for information on uses.

j) ***Proposed access and facilities for public transit in accordance with sections 34-411(e) and 10-442.***

- The development intersection of Wells Road and Bayshore Road does not fall within the Lee Tran public transit service area. Furthermore, the development is approximately 3.2 miles to the nearest transit service bus stop location. In accordance with sections 34-411(e) and 10-442, facilitated use of the transit system will not need to be designated. As shown on the MCP, 6' paved walkways will be provided at the access point located on Wells Road to accommodate any possible changes to future transit service routes.

k) ***The general location of excavations for on-site fill and wet retention. If the applicant proposes to remove excavated material from the property a planned development for mining and a general mining permit may be required.***

- As shown on MCP Alternate A, the proposed excavation area is generally located in the northeast corner of the site. No removal of excavated material is proposed.

Access

Two access points are provided; one on Wells Road and one on Bayshore Road. Compared to the approved plan, the proposed layout eliminates one of the two approved access points on Wells Road, replacing it with a single access near the center of the site's frontage on Well's Road. This elimination and relocation of the proposed access moves potential traffic congestion created by the commercial site further away from the existing residential to the north. The new layout and proposed access points maintain internal traffic flow, and funnels the Wells Road traffic to one centralized location.

PROPERTY DEVELOPMENT REGULATIONS

The site's property development regulations (PDRs) have been modified to allow up to two stories/35' feet in height and hotel at four (4) stories/48'. The other PDRs have been slightly adjusted to match property development regulations common for commercial development.

FUTURE LAND USE

The Subject property's Future Land Use designation is General Interchange (GI), defined by Policy 1.3.2 of Lee County's Future Land Use Element.

POLICY 1.3.2

The General Interchange areas are intended primarily for land uses that serve the traveling public, but because of their location, market attractions, and desire for flexibility, these interchange uses permit a broad range of land uses that include tourist commercial, general commercial, light industrial/commercial, and multi-family dwelling units.

Compliance

Compliant with Future Land Use (FLU) Policy 1.3.2, the subject property is an appropriate location for increased commercial square footage and uses within the General Interchange. Increasing intensity and allowing a broader range of land uses in this area, which is currently approved as a CPD, provides more flexibility. The increased flexibility encourages a market driven development allowing development of the site to be better tailored to the surrounding community and traveling public alike. Additionally, the site is located in a "path of progress," meaning that it is within the vicinity of new or planned developments that could drive additional traffic to the asset, which will aid the substantial residential growth in this corridor.

POLICY 2.1.1

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

POLICY 2.1.2

New land uses will be permitted only if they are consistent with the Future Land Use Map and the goals, objectives, policies, and standards of this plan.

Compliance – Policies 2.1.1 & 2.1.2

Consistent with Policies 2.1.1 and 2.1.2, the proposed development is located within the General Interchange FLU and is surrounded by sub-outlying suburban, which is designated as a future urban area, and is identified as an area where most residential and commercial development is expected to occur. As such, the proposed increase in commercial intensity and land uses are consistent with the FLU Map and the associated goals, objectives, policies, and standards of the Lee Plan.

OBJECTIVE 2.2

DEVELOPMENT TIMING. *Direct new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in Section 163.3164(7), F.S.) will be granted only when consistent with the provisions of Sections 163.3202(2)(g) and 163.3180, F.S. and the concurrency requirements in the Land Development Code.*

POLICY 2.2.1

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

Compliance – Objective 2.2 & Policy 2.2.1

As summarized in the Transportation Impact Statement provided within this submittal, the proposed amendment will not have a detrimental impact on the surrounding roadway system. Based on the results of the analysis, the proposed development will not have an adverse impact on the surrounding roadway network. Adverse impacts are defined as a degradation of the Level of Service beyond the adopted Level of Service standards. The existing roadway network can accommodate the additional new vehicle trips that are anticipated to be generated. One segment of SR 78 is shown to operate at LOS "F" in 2028 prior to the project trips being added to the roadway network.

Utility service is available at the proposed project through Lee County Utilities for potable water and through Florida Governmental Utility Authority for waste water. The developer will undertake any improvements that may be required to connect the project to these existing services running alongside Bayshore Road. Availability letters are enclosed as a supplement to the amendment application. As discussed in the enclosed letters of availability from Lee County Utilities and Florida Governmental Utility Authority, there is adequate capacity to serve the proposed development for both potable water and sanitary sewer.

OBJECTIVE 4.1

Consider water, sewer, and environmental standards during the rezoning process. Ensure the standards are met prior to issuing a local development order.

STANDARD 4.1.1

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

STANDARD 4.1.2

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

Compliance – Standards 4.1.1 and 4.1.2

Compliant with Standards 4.1.1 and 4.1.2, the proposed development will connect to a public water and sanitary sewer system. Utility availability letters are provided indicating capacity for the proposed development.

OBJECTIVE 5.1

All development approvals for residential, commercial, and industrial land uses must be consistent with the following policies...

POLICY 5.1.1

Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment...

Compliance – Objective 5.1 & Policy 5.1.5

Consistent with Objective 5.1 and Policy 5.1.5, the proposed CPD amendment will protect the abutting residential to the north by imposing design controls, such as minimum setback requirements for specific uses, to minimize any potential impacts (please see enclosed Schedule of Uses for specifics). In addition, the proposed CPD layout moves traffic further from the residential to the north, by eliminating the currently approved northern most access on Wells Road. Removal of the northern access will reduce both visual and auditory nuisances related to the traveling public, by moving the site's proposed access point on Wells Road further away from the residential to the north. The site's indigenous requirements have been strategically placed to provide an optimum buffer for the abutting single-family lot via a 75-foot wide preservation buffer.

GOAL 6

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

POLICY 6.1.3

Commercial developments requiring rezoning and meeting DCI thresholds must be developed as planned developments except if located within the Mixed Use Overlay. The planned development must be designed to arrange uses in an integrated and cohesive unit in order to: provide visual harmony and screening; reduce dependence on the automobile; promote pedestrian movement within the development; utilize joint parking, access and loading facilities; avoid negative impacts on surrounding land uses and traffic circulation; protect natural resources; and, provide necessary services and facilities where they are inadequate to serve the proposed use.

POLICY 6.1.4

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

POLICY 6.1.6

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

Compliance – Goal 6 & Policies 6.1.3, 6.1.4, and 6.1.6

Compliant with Goal 6 of the Lee Plan and the associated policies listed above, the subject property is appropriately located within an area of the County that allows and is need of commercial development east of I-75 on Bayshore Road. The site is located a quarter of a mile from the I-75 interchange, on an arterial road between two nearby collector roads, and is currently approved as a commercial planned development within a FLU oriented towards providing services to the traveling public.

Consistent with Policies 6.1.3 and 6.1.6, the proposed CPD will provide adequate buffering/screening, landscaping, and open space as mentioned in the buffering and open space subsections above. The proposed buffers will improve the landscaping along Bayshore and Wells Road, enhancing the appearance of the Bayshore corridor and helping to screen the CPD's structures and parking areas.

Additionally, the proposed CPD will reduce drive times of the traveling public to commercial attractors and increase walkability to retail/employment opportunities for the surrounding residential. The CPD will also utilize a master water management system and access facilities, providing efficient use of space while protecting natural resources.

Consistent with Policies 6.1.3 and 6.1.4, the proposed development will avoid negative impacts to surrounding land uses and remain compatible with adjacent existing and proposed land uses through the CPD's proposed buffers, preserve area, and the limitations placed on specific uses to further protect the adjacent residential parcel to the north.

Goal 18

Protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, and exclude incompatible uses that are destructive to the character of this rural residential environment.

Policy 18.1.1

Retail commercial uses will be limited to the Interstate Interchange designation at Bayshore and I-75, plus minor commercial uses at the intersections of Nalle Road and Bayshore, SR 31 and Bayshore, and SR 31 and Old Bayshore. Non-retail commercial uses are permitted elsewhere consistent with the Lee Plan and the LDC.

Compliance – Goal 18 & Policy 18.1.1

Consistent with Goal 18 and Policy 18.1.1, the subject property is located within the Interstate Interchange area at Bayshore and I-75 and does not abut land within the rural future land use or other non-urban areas, as shown on the Future Land Use Map. The subject property's General Interchange FLU designation meets the retail commercial locational requirements of the Bayshore community. Furthermore, the site is surrounded by land designated as General Interchange, followed by land designated as Sub-Outlying Suburban (SOS), an area anticipated for urban development pursuant to Lee Plan Map 1-A.

On the north side of Bayshore Road, the SOS future land use extends approximately a quarter of a mile east of the General Interchange FLU and over 1.5 miles to the north, followed by Rural designated land. The provision of additional commercial intensity and uses in this area of the Bayshore Community, on a site already approved for commercial development will help to protect the existing rural and agricultural character by expanding commercial development where it already exists and is permitted by FLU. The site's location is also the least restrictive for retail commercial land uses within the community, meeting the increasing demand as the community continues to grow. With the rapid rise in

population and limitations on commercial development east of I-75 and Bayshore, the existing and future residents near the site will benefit from the proposed amendment.

In addition, the proposed CPD layout eliminates the northernmost access point on the currently approved MCP, shifting the traveling public farther away from the existing residential on Wells Road, north of the project. This helps protect the community by further separating the separating the residents on Wells Road from any potential impacts, both visual and/or auditory, associated with the traveling public.

Goal 60

To protect or improve the quality of receiving waters and surrounding natural areas and the functions of natural groundwater aquifer recharge areas while also providing flood protection for existing and future development.

Policy 60.1.4

Updates to the Surface Water Management Master Plan will be incorporated into the Lee Plan as necessary. (Ord. No. 94-30, 07-12, 18-28).

Policy 60.4.1

Encourage new developments to design surface water management systems with Best Management Practices including, but not limited to, filtration marshes, grassed swales planted with native or Florida Friendly Landscaping vegetation, retention/detention lakes with enlarged littoral zones, preserved or restored wetlands, and meandering flow-ways. (Ord. No. 03-06, 18-28, 19-02).

Compliance – Policies 60.1.4 and 60.4.1

As outlined in the Surface Water Management Narrative, the northern portion of the project includes a 75' wide preservation area. While not in the development's water management system, the native vegetation will continue to provide pervious open space area. Currently, the undeveloped parcel's surface water run-off overflows into roadside swales, eventually draining into Pop Ash Creek. The proposed design will direct run-off to on-site lakes for water quality and quantity treatment prior to discharging off site. Demonstrating Best Management Practices, the proposed drainage system will be in accordance with the South Florida Water Management criteria.

Goal 125 – WATER QUALITY

To ensure that water quality is maintained or improved for the protection of the environment and people of Lee County.

Compliance – Goal 125

The goal is implemented through policies and LDC provisions. The goal is not self-implementing. Policy 125. 1.3. provides that the design of artificial drainage systems must provide for retention and detention areas and vegetated swale systems. The project will provide for detention areas as required by the policy.

Policy 125.1.6. implements Goal 125 and requires the county to maintain a wellfield protection program which the county does through the wellfield protection ordinance. The County has adopted a wellfield protection ordinance. Section 14-202, Ordinance of Lee County, submits that the intent of the ordinance is to supplement the rules and regulations of the state and federal government regarding groundwater supplies and public drinking water.

Section 163.3194, F.S. provides that a development order, which includes zoning, shall be consistent with the comprehensive plan if the uses, densities and intensities, and other aspects of development permitted by such order are compatible with and further the objective, policies and land uses in the comprehensive plan. This section is referred to as the legal status of the comprehensive plan. It does not require a development order to be compatible with or further the goals of the comprehensive plan.
Section 26-55, Ordinance of Lee County provides that the purpose of the fertilizer ordinance is to regulate landscape management practices and the application of fertilizers using nitrogen and phosphorus and to provide specific guidelines in order to meet state and federal water quality standards. Section 26-60, Ordinance of Lee County sets forth the mandatory BMPs. No fertilizer can be applied during the rainy season (June 1 through September 30th). The ordinance includes regulations regarding the application rate and fertilizer content. The ordinance ensures that the development will be consistent with Policy 125.1.3. to minimize nutrient loading and pollution of freshwater and estuarine systems. Based on the express wording of the ordinance, compliance with the ordinance, is in compliance with the federal and state water quality standards.

The applicant, and any successor in interest, must comply with the Wellfield Protection Ordinance, and the Fertilizer Ordinance. Compliance with the duly adopted regulations which implement the comprehensive plan is compliance with the comprehensive plan.

The SFWMD defines "State Water Quality Standards" in Section 2.1.9. of Volume II of the Applicant's Handbook. The applicant will not be issued an Environmental Resource Permit if the applicant has not demonstrated that the project will meet the State water quality standards. Objective 125.1 requires the county to ensure that water quality meets or exceeds the state and federal water quality standards. Section 163.3177(1)(e), F.S. provides that when the state has implemented a regulatory program the local government is not required to duplicate the program. The county has opted not to duplicate the regulatory program of the SFWMD. The SFWMD requires water quality monitoring when circumstances warrant monitoring, and it is based on Rules 4.9, and 4.9.1 through 4.9.6.

BAYSHORE VILLAGE

COMMERCIAL PLANNED DEVELOPMENT

Deviations and Justifications

1) **Deviation from LDC Section 10-329(d)(1)a.3 which requires excavation setback of 50 feet of any private property line under separate ownership, to allow for a 30' excavation setback.**

   Justification: This deviation request applies to one location on the eastern edge of the property boundary. The abutting property, W&W Service Park CPD, is approved for similar uses as the proposed development and includes a landscape buffer. The uses within the abutting property will direct pedestrians from parking areas towards the commercial establishments, minimizing potential interaction with the patrons of the abutting property and the proposed Bayshore Village lake. Each project will provide a buffer, abutting one another, creating a barrier between the projects.

   Reducing the excavation setback in this area reduces the separation from the lake to the project's perimeter to the minimum necessary for buffering and grading. Expanding the lake to its fullest potential also permits the creation of more suitable fill on site, which reduces the number of truck trips on surrounding roadways, which is a benefit to the public health safety and welfare. As such, the proposed deviation will enhance the proposed development and will not be a detriment to the public interests.

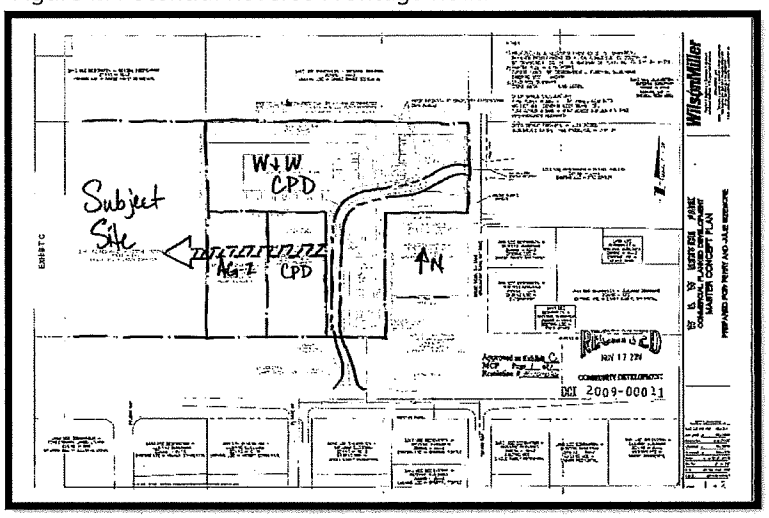
2) **Deviation from LDC Section 10-610(e) which requires parking lot interconnections with adjacent commercial uses to provide no interconnection with the abutting CPD.**

   Justification: This deviation request applies to the northeast corner of the site where the property abuts an existing CPD, located on STRAP 22-43-25-00-00011.0000.

   The subject parcel abuts two properties along its eastern border within two different zoning districts. The southern 300 linear feet is zoned AG-2 and does <u>not</u> require interconnection by this LDC provision. The northern 200 linear feet abuts CPD and therefore <u>does</u> require interconnection. The deviation proposes to swap these requirements, with no interconnection access proposed to the northern parcel and instead providing access to the southern parcel; should that parcel be commercially zoned at the time of Development Order permitting.

Water management facilities are located in the northeast corner of each of the proposed MCPs. This location was chosen to provide the greatest separation to the abutting single family to the north, and to place the proposed commercial components near and facing the traveling public. Providing a connection in the northeast corner would impact land area that is proposed to be water management, pushing those requirements to other areas of the site, resulting in a reduction of the development footprint. In addition, any connection would be to the retention area designated on the MCP for the adjacent CPD and would not accomplish any traffic connection. Alternatively, providing cross-access in the southern area of the project will not adversely impact the development footprint, and will provide access in the areas of the project with greater commercial traffic and therefore greater need for vehicular interconnection.

Figure 1: Potential Reverse Frontage Road



Providing an access to the southern Ag-2 zoned property would create the opportunity for a reverse frontage road, parallel with Bayshore Road, see Figure 1: Potential Reverse Frontage Road. Combined with the access road approved by the W&W CPD MCP, a reverse frontage road would create internal connections between several commercial properties, with access to Nalle Road, Bayshore Road, and Wells Road. This would allow residents to the north on Nalle Road and Wells Road to access several commercial projects without the need to access Bayshore Road.

Additionally, while not approved, a pending administrative amendment to W&W CPD for a 30,000 sf self-storage building shifts all vehicular areas away from the shared property line, with approximately 100' of retention buffering W&W CPD's western boundary. Copies of the approved resolution for W&W CPD and pending administrative amendment are provided (Z-10-036 and ADD2022-00117).

3) **Deviation from LDC Section10-415(b)(4) which requires a 50' wide tree preservation buffer to provide buffers per LDC 10-416 and LDC 34-1353.**

Justification: The requested deviation seeks to allow LDC buffers, specific to certain uses, to be applied to the Bayshore road right of way buffer in lieu of the 50' right of way buffer for tree preservation outlined in LDC 10-415(b)(4).

Long term tree buffering will be better achieved through newly planted buffers. Newly planted buffers will be elevated, relative to the finish grades of the proposed CPD. This will ensure proper drainage and allow irrigation to be installed for optimum plant health. LDC 10-415(b) provides guidelines for "survival of the trees to be retained," but does not outline replacement criteria for old or damaged trees, and does not create a minimum number of tree per linear feet required. Conversely, the LDC buffers outlined in sections 10-416 and 34-1353 specify a minimum number trees and shrubs per linear feet, and guidelines for maintenance and replacement.

Vegetation mass and plant quantity will be increased through approval of the requested deviation. LDC 10-415(b)4 states that "the preservation of the existing trees will not require a double hedge row to be installed as part of the right of way buffer." The proposed buffers; Type D for most uses, and per LDC 34-1353 for fast food/gas station/car wash, include requirements for hedges. The existing trees within 50' of the Bayshore Road right of way, as noted in the enclosed letter from Bear Paws on February 28th, are "lacking native trees and contains nuisance/exotic species." The letter further states that "once the understory is cleared out and cleaned up, the vegetation remaining will be sparse and not aesthetically attractive."

4) **Deviation from LDC 34-1353(c)(1) which requires a minimum lot width of 150' for fast food restaurants and car washes to allow a 100' lot width.**
5) **Deviation from LDC 34-1353(c)(3) which requires a minimum lot area of 25,000 sf for fast food restaurants and car washes to allow a 15,000 sf minimum lot area.**

Combined justification for Deviations 4 and 5: These deviations apply to lot width and lot size for Fast Food Restaurants and Stand Alone Carwashes. The purpose and intent of LDC 34-1353 is to ensure certain uses "do not adversely impact adjacent land uses." Within that section seven elements are outline to meet that intent, includes setbacks and landscaping, and specifics for fuel canopies. Deviations from this section are only to lot width and lot area. No deviations are requested to the buffering, setbacks for architectural elements.

As demonstrated by the MCP and property development regulations, the additional buffering and setbacks required by LDC 34-1353 provide appropriate transitions to not adversely impact adjacent land uses. The uses subject to this deviation request, Fast Food and Stand Alone Carwashes, are only proposed within 300' of Bayshore road, not on the northern portion of the property near offsite residential uses.

Approval of the request would allow a fee-simple lot to be platted in the size consistent with some fast food and car wash franchise models.

6) **Deviation from LDC 10-416(d)(3) which requires a type C or F Buffer on the north property line to provide indigenous preserve in lieu of a planted buffer.**

Justification: As required by LDC Section 10-416(d)(3), a Type C or Type F buffer is required when proposed commercial development abuts existing residential uses. The buffer options vary in width, plantings and hardscape as outlined in the table below.

BUFFER TYPES (per 100 linear feet)		
Buffer Types	C	F
Minimum width in feet	15	30
Minimum # of trees	5	10
Minimum # of shrubs	18(4)	Hedge(2)
Wall requirement (1)	Yes	No

Type F Buffer Comparison

A Type F buffer requires a minimum buffer width of 30 feet. The proposed preserve buffer is more than double that width at 75 feet. In addition to the 75' wide indigenous preserve, an 8' wide LCEC easement runs along the north property line, adding an additional 8' of open space to the buffer's width. While the vegetation within the LCEC easement is not counted towards indigenous requirements, conditions are proposed which would prohibit the property owner from removing existing native vegetation within the easement. The additional open space within the LCEC easement also allows the existing native trees ample area to grow to their maximum canopy potential.

Type C Buffer Comparison

A Type C buffer is only 15' wide. The proposed preserve buffer of 75'-81' (with/without LCEC easement) is three times as wide as a Type C buffer.

Type C and F buffers differ in the amount of vegetation and width; and the provision of a wall required by a Type C buffer. Looking at the LDC requirements of C and F buffers, one can see a correlation between the number of buffer trees and buffer width related to the presence of a wall. Understanding that both C and F buffer meet the LDC, and the LDC's intention to address incompatibilities between single family and commercial uses, the follow analysis can be extracted:

	With a Wall	Without a Wall	Wall/No Wall Correlation
Width	15'	30'	15' additional buffer width equates to a wall
# of Trees/100 l.f.	5 trees	10 trees	10 additional trees equates to a wall

Allowing buffers to be provided through vegetation in lieu of barrier walls is a concept generally accepted and supported in land planning principles. The buffer wall shown below at Estero Parkway and US 41 behind Walmart provides an example of where buffering to abutting residential could be improved through vegetative screening instead of the wall that was constructed. In addition to being more aesthetically appealing, sound from an indigenous preserve buffer is able to be absorbed by all parts of the plant; bark, leaves and branches, and refracted back into the natural environment.

The photo below shows the view from the residential side abutting Walmart, on Nuthatch Lane, near the west entrance to Osprey Cove. As shown by the few buffer trees present, more vegetation would block the view to the commercial building better than the wall and sparse vegetation that was provided. Additionally, an indigenous buffer will be enhanced with time as new growth occurs through on-site seed sourcing, continually creating new vegetation within the indigenous preserve buffer.

South-bound view on Nuthatch Lane *(Google streetview November 2021)*
Near Osprey Cove west entrance

Existing & Proposed Vegetation

The FLUCFCS map classifies the vegetation along the northern boundary as 411E1 on the western half of the preserve and 420E2 on the eastern half. Code 411 indicates indigenous vegetated canopy, dominated by slash pine with scattered live oak. Sub-canopy includes cabbage palm, wax myrtle, buckthorn and other lower level species, and, with an exotic indicator of E1, only 1-24% of the site will be disturbed during removal of exotic species. Code 420E2 is dominated by indigenous vegetation of live oak with slash pine in the upper canopy, wax myrtle and cabbage palm in the sub-canopy, and saw palmettos in the ground cover. However, with an exotic indicator of E2, 25-49% of the plant community consists of exotic vegetation and will need to be removed. Removal of exotic vegetation and maintenance of the indigenous preserve is outlined in the Preserve Management Plan prepared by BearPaws Environmental Consulting. In the event that portions of the understory do not create a continuous visual screen, supplemental plantings will be provided as noted on the MCP.

The photos below show Google streetview of the indigenous preserve, as viewed from Wells Road. The powerlines crossing Wells Road in the first image are the lines that cross the north portion of the CPD, within the 8' LCEC easement. The subject property is on the right side of the photo, with the driveway of the abutting single-family home shown in the distance. The second photo is from the same location but viewing directly west into the proposed indigenous preserve. As the photos indicate, the existing trees are taller than the powerlines, demonstrating a height of at least 30-feet, and are filled with native understory vegetation.

Approval of the requested deviation to allow the existing native vegetation to serve as the landscape buffer on the north property line, in lieu of a Type C or Type F buffer, benefits the proposed CPD and protects the welfare of abutting properties by providing a robust buffer during construction and a naturally sustainable system for the future. The width of the proposed buffer far exceeds Type C and F buffers. Through supplemental plantings as needed, on-site seed sources, and diversity in maturity in landscape, the proposed buffer will provide sound absorption and visual screening better than a newly installed Type C or F buffer.

North-bound view on Wells Road *(Google streetview January 2022)*

Westward view on Wells Road *(Google streetview January 2022)*

7) **Deviation from LDC 10-296(k) which requires all roadways to be terminated with a cul de sac to allow no cul de sac required if adequate turn-around is provided within the commercial outparcels.**

Justification: The requested deviation is only applicable if the project is platted with a right of way and subdivided as shown on MCP Alternate A, "Subdivision Detail". Approval of the requested deviation would allow road configuration to be minimized and linear, requiring less land than would be needed for a cul de sac. It is anticipated that Fire/EMS/ turn-around would be provided within the internal configuration of the eastern-most outparcel along Bayshore Road. As shown on the MCP, should a turn-around not be provided in the eastern parcel's parking area, a cul de sac will be platted within the eastern parcel. Final design must be approved by the local fire department during development order permitting.

8. **Deviation from LDC 10-296(e)(1)(i)ii which requires a 12' wide pedestrian facility and a 5' bike lane to allow no sidewalk or bike lane if construction of a multi-use path by FDOT is planned within five years of Development Order submittal.**

Justification: The Florida Department of Transportation is in the process of a PD&E study to improve State Road 78 (Bayshore Road) from I-75 to State Road 31. According to the State's website, the PD&E study will be complete the third quarter of 2024 and will widen SR 78 from a two-lane undivided roadway to a four-lane divided roadway with a shared-use path on both sides. The shared-use path will be part of the Shared-Use Nonmotorized (SUN) Trail network which "aims to provide statewide system of interconnected paved trails, physically separated from the roadway, for pedestrians, bicyclists, and other non-motorized users."

As proposed by FDOT, the 3.5 mile long shared-use path will be continuous for the length of Bayshore Road, and connect to existing and proposed shared-use paths along SR 31 and Bayshore Road west of I-75. With no sidewalks or paths currently existing near the CPD, and AG-2 zoning on both sides of the CPD, adherence to the LDC would result in a path system that did not connect to any other facilities.

Understanding the improvements are forthcoming, any improvements made to SR 78 would only be temporary until the State implements their design. Approval of the requested deviation would not only eliminate the unnecessary costs of a temporary facility, but also reduce the amount of time that SR 78 would be under construction. Road construction and impacts to drivers would occur first during construction of the temporary facility and then again for the demolition.

Bayshore Village CPD

Property Development Regulations Table A

	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Road Setback	Min. Side Setback	Min. Rear Setback	Min. Water Setback	Min. Building Separation	Max. Height	Max. Lot Coverage
Fast Food	15,000 sf (Deviation 5)	100' (Deviation 4)	150'	Public right of way: 50' Internal private right of way: 20'	15'	25'	25'	10'	35'	40%
Car Wash - Standalone	15,000 sf (Deviation 5)	100' (Deviation 4)	150'	Bayshore Road: 50' Wells Road: 25' Internal Private Road: 20'	15'	20'	25'	10'	35'	40%
Convenience Food and Beverage Store	25,000 sf	150'	150'	Public right of way: 50' Internal private right of way: 20'	15'	30'	25'	10'	35'	40%
Fuel Canopy	Accessory to Convenience Food and Beverage			Bayshore Road: 50' Wells Road: 35' Internal Private Road: 25'	30'	30'	25'	25'	35'	25%
Car Wash in conjunction with Food and Beverage Store	Accessory to Convenience Food and Beverage			Bayshore Road: 50' Wells Road: 25' Internal Private Road: 20'	5'	5'	25'	10'	20'	20%

Property Development Regulations Table B

	Min. Lot Area	Min. Lot Width	Min. Lot Depth	Min. Road Setback	Min. Side Setback	Min. Rear Setback	Min. Water Setback	Min. Accessory Setback	Min. Building Separation	Max. Height	Max. Lot Coverage
All other uses	10,000 sf	100'	100'	30' public 20' private	15'	25'	25'	Per LDC	10'	35' typical Hotel up to 48' / 4-stories	40%

Bayshore Village CPD
Applicant's proposed conditions

MCP B

1. The site design depicted on MCP B does not show lot lines. The site can be further subdivided through the lot split process or the Administrative Amendment process.
2. MCP B does not depict outparcel uses (for example: gas station, fast food). Typical outparcel uses are included in the list of permitted uses and can be approved through the administrative Amendment process. The outparcel uses will be at least 300 feet from the northern boundary as long as the adjacent property to the north is used as a single-family residence.
3. It has not been determined at this point in time whether MCP B requires a lake and as such one is not depicted on the MCP. Should a lake be desired or required, a lake can be included in the same general location as shown on MCP A. If a lake is going to be provided it will be depicted on the Development Order plans. An administrative amendment will not be required to include a lake at the time of development order application.
4. If the site is developed under MCP B with any outparcel uses that are required to provide an enhanced buffer pursuant to Section 34-1353, LDC, the enhanced buffer will be included on the Development Order plans.

Conditions Applicable to either MCP A or B

1. The intersection separation of Wells Road from Bayshore Road varies on the master concept plans from 290'-310'. The range of distances is to facilitate proper site design and allow flexibility in the depth of the parcels along Bayshore Road.
2. If Wells Road is not already improved by FDOT or others by the time of Development Order permitting, Wells Road will be improved from Bayshore Road to the project's entrance as shown on the "Wells Road Improvements Detail" shown on the MCP. Section 10-291, LDC requires improvements from the project access to Bayshore Road if Wells Road does not meet County standards. No improvements will be provided by the developer north of the CPD entrance.
3. No automobile, bicycle and pedestrian connection will be required to the offsite abutting eastern parcel if that parcel is commercially zoned at the time the application for a DO is submitted. No connection will be required to AG-2 zoned property so as not to interfere with agricultural uses that are or may be on the property.
4. Condition for Deviation #7: If no cul de sac is provided, a letter of no objection is required from the local fire department during development order permitting.

Open Space / Preserve

5. The Master Concept plans depict areas of common open space, and any parcels created through a subdivision or lot split will provide a minimum of 10% open space.
6. The 8' wide LCEC easement on the north property boundary is not included in the indigenous open space calculations. The property will not be cleared by the owner/developer but it will contribute towards general open space requirements.

BAYSHORE 65 MPD
Surface Water Management Narrative

The following is a written description of the proposed Bayshore 65 Surface Water Management Concept:

A. Run-off characteristics of the property in its existing state.

The run-off characteristics of the property, in its existing state, is that of an undeveloped parcel with surface water run-off discharging by overland flow to Chapel Branch. The site is generally flat with approximate elevations ranging between 9.0' and 11.0' NGVD based on surveyed topographic information.

B. In general terms, the drainage concept proposed, including the outfall to canals or natural water bodies, including how drainage flow from adjacent properties will be maintained.

In its redeveloped state, run-off from the project will be directed to an on-site lake for water quality and quantity treatment prior to discharging to Chapel Branch. The proposed drainage system will be in accordance with the South Florida Water Management District Basis of Review as will be evidenced by the eventual issuance of a surface water management permit.

C. The retention features (including existing natural features) that will be incorporated into the drainage system and legal mechanisms, which will guarantee their maintenance.

The detention features of the proposed system will be lakes excavated on-site. The property owner will provide maintenance of the system.

D. How will existing natural features be preserved? Include an estimate of the ranges of the existing post development water table, elevations where appropriate.

The wetland located in the northwest corner of the site shall be preserved and shall receive treated discharge from the developed project to maintain the existing hydrology of the wetland. The wetland also receives water from north of Bayshore Road and that connection will be maintained. The control elevation of the proposed water management system shall be established based on topographical information, soil exploration data, and seasonal high wetland indicators of the onsite wetland.

E. The requirements for fill material for the proposed development for other than building pads.

Fill material needed for the developed project will include onsite excavation and possible in- haul fill.

F. If the property is subject to seasonal inundation or is subject to inundation by extreme swollen, by the rains of a 100-year storm event, indicate the measures that will be taken to mitigate the effects of expected flooding.

The property is located within Zones AE and X as shown in FIRM (Flood Insurance Rate Map), Community Panel Number 125124 0225 C, revised March 15, 1994. The minimum finished floor elevation based on these maps is 10.0'NGVD to 11.0' NGVD.

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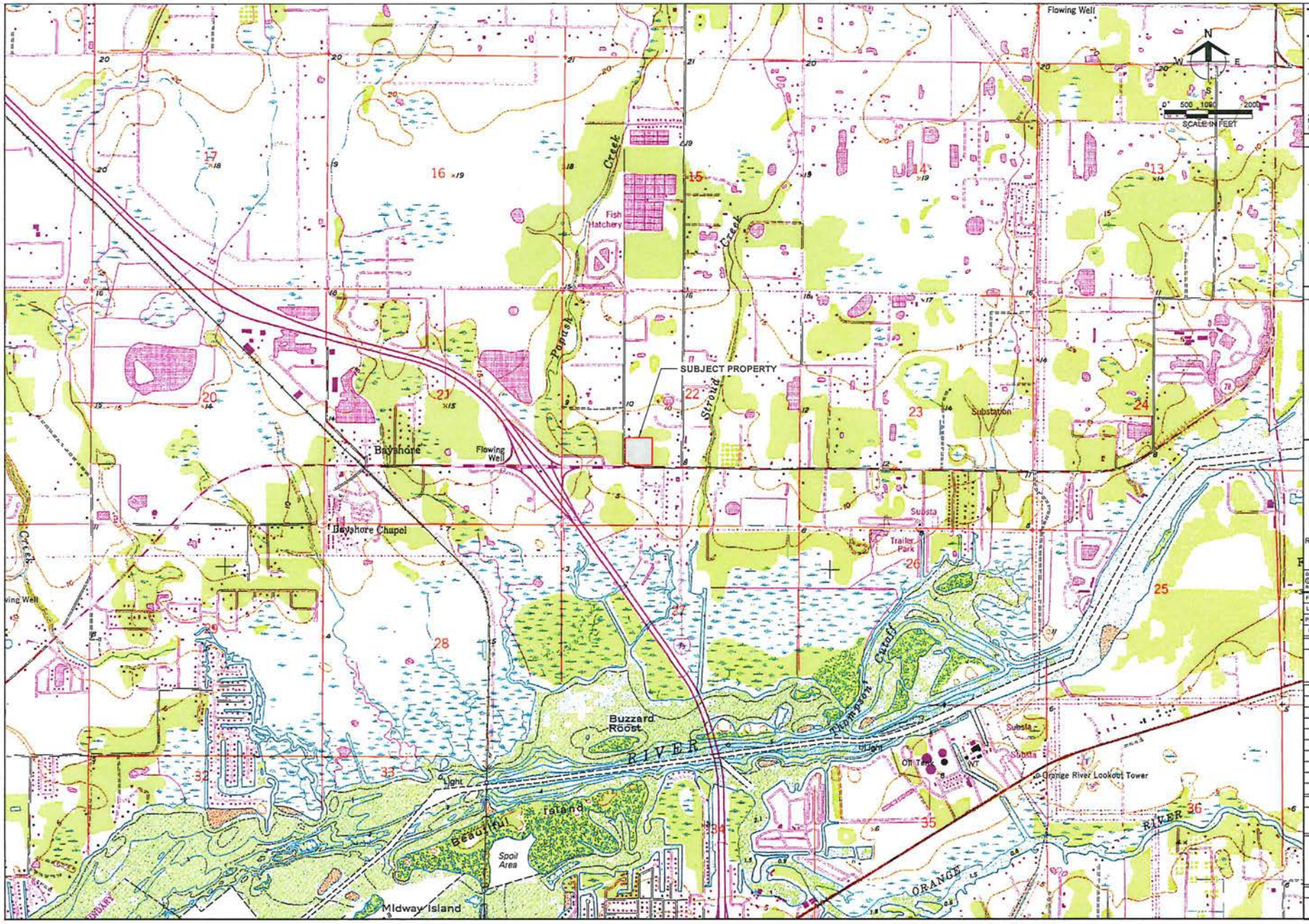

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FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

OB 4, LLC.

PROJECT DESCRIPTION

BAYSHORE VILLAGE CPD

CITY OF CAPE CORAL
LEE COUNTY, FLORIDA

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LOCATION	J:\24066\DWG\EXHIBITS\
PLOT DATE	TUE, 4-12-2022 - 10:45 AM
PLOT BY	ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS

PLAN REVISIONS

PLAN STATUS

QUAD MAP

PROJECT / FILE NO.	SHEET NUMBER
24066	1

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LOCATION	J:\24066\DWG\EXHIBITS\
PLOT DATE	TUE, 4-5-2022 - 1:47 PM
PLOT BY	ALYSSA FONTANE

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AERIAL LOCATION MAP

PROJECT / FILE NO.	SHEET NUMBER
24066	1

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PLOT BY	ALYSSA FONTAINE

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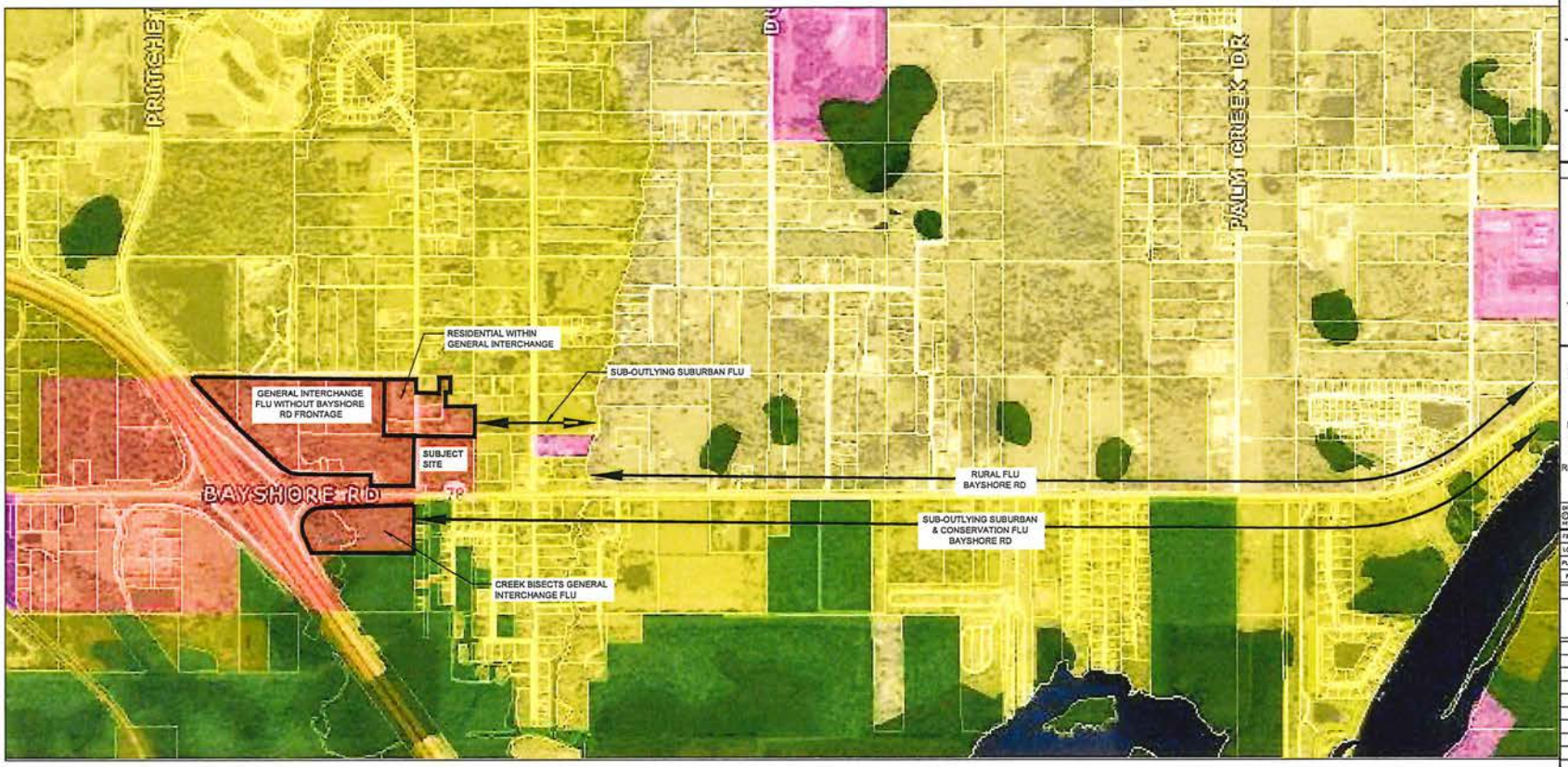
PLAN REVISIONS

PLAN STATUS

AERIAL LOCATION MAP

PROJECT / FILE NO.	SHEET NUMBER
24066	1



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PROJECT DESCRIPTION

BAYSHORE VILLAGE CPD

CITY OF CAPE CORAL
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PLOT BY	JENNIFER SAPIEN

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PLAN REVISIONS

PLAN STATUS

BAYSHORE ROAD COMMERCIAL POTENTIAL

PROJECT / FILE NO.	SHEET NUMBER
22254	1

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Civil Engineers, Land Surveyors and Planners

BAYSHORE VILLAGE CPD
SCHEDULE OF USES

Accessory Uses
Administrative Offices
Agricultural Uses
Animal Clinic
ATM (automatic teller machine)
Auto parts store – without installation
Automobile repair and service, Groups I and II - restricted to southern 300' (*)
Automobile service station, with or without gas pumps - restricted to southern 300' (*)
Bait and tackle shop
Banks and financial establishments, Groups I and II
Bar or cocktail lounge (AA/SE)
    Restricted to southern 300' unless in conjunction with hotel or restaurant (*)
Boats
    Boats parts store – Limited to one
    Boat sales
    Boat storage, dry, not exceeding 18 feet above grade
    Boat storage, dry, exceeding 18 feet above grade (SE)
Broadcast studio, commercial radio and television
Building material sales
Business Services, Groups I and II
Bus station/depot
Caretaker's residence
Car wash, accessory or stand-alone - restricted to southern 300' (*)
Cleaning and maintenance services
Clothing stores, general
Clubs – commercial, fraternal, membership, private
Consumption on premises, indoor only
Contractors and builders, Groups I, II, and III
Convenience food and beverage store, with or without gas pumps, with or without EV charging stations
    Restricted to southern 300' (*)
Day care center, adult, child
Department store
Drive-through facility for any permitted use
Drugstore, pharmacy

Entrance gates and gatehouses
Emergency operations center
EMS, fire or sheriff's station
Essential services
Essential service facilities, Group I
Excavation
    Water retention – Not to include the removal of excavated materials from the site
    Oil or gas (SE)
Farm equipment, sales, storage, rental or service
Feed or fertilizer, mixing and sales
Fences, Walls
Flea market
    Open (SE)
    Indoor
Food and beverage service, limited (SE)
Food stores, Groups I and II
Food truck park - restricted to southern 300' (*)
Funeral home or mortuary
    No cremation
    With cremation
Gift and souvenir shop
Hardware store
Health care facility, Group III
Hobby, toy and game shops
Hotel/Motel with or without EV charging stations
Household and office furnishings, Groups I, II, and III
Laundromat
Laundry or dry cleaning, Group I
Lawn and garden supply store
Library
Maintenance facility (government)
Medical office
Mobile home dealers (SE)
Model display center
Non-store retailer
Package store – no consumption on premise related to store
Paint, glass and wallpaper

Parks, Groups I and II
Parking lot
    Accessory
    Commercial (SE)
    Garage, public parking (SE)
    Park-and-ride
    Temporary
Personal services, Groups I, II, III, and IV
Pet services
Pet shop
Pharmacy
Place of worship
Plant nursery
Post office
Printing and Publishing
Recreation facilities
    Commercial, Group I
    Commercial, Group IV (P/SE)
Religious facilities
Rental or leasing establishments, Groups I, II, and III
Repair shops, Groups I, II, III, and IV - restricted to southern 300' (*)
Research and development laboratories, Group II
Restaurant, fast food - restricted to southern 300' (*)
Restaurant, Groups I, II, III, and IV
Schools, commercial
Self-service fuel pumps - restricted to southern 300' (*)
Signs in accordance with Chapter 30
Social services, Groups I and II
Specialty retail shop, Groups I, II, III, and IV
Storage, indoor and open
Studios
Supermarket
Temporary uses
Theatre, indoor
Transportation services, Groups II and III
Truck stop - restricted to southern 300' (*)
Used merchandise stores, Groups I, II, III, and IV

Variety store

Vehicle and equipment dealers, Groups I, II, III, IV, and V

Warehouse

- Mini-warehouse
- Private
- Public

Wholesale establishment, Groups I, III, and IV

(*) Locational restrictions no longer apply if the abutting northern property is zoned for uses other than single family or agricultural.

ATTACHMENT H

LAND USE CONVERSION MATRIX						
	Retail w/Supermarket	Retail w/o Supermarket	Hotel	Mini-Warehouse / Storage	Light Industrial	High Turnover Restaurant
	(SF)	*(SF)*	*(Rooms)*	*(SF)*	*(SF)*	*(SF)*
Retail W/ Supermarket (1,000 SF)	1,000	1,743	9.2	36,133	8,338	1,050
Retail W/o Supermarket (1,000 SF)	574	1,000	5.3	20,733	4,785	603
Hotel (1 Room) (*)	110	190	1	3,933	908	114
Mini-warehouse/Storage (1,000 SF)	28	48	0.25	1,000	230	29
Light Industrial (1,000 SF) (**)	120	209	1.1	4,333	1,000	126
High Turnover Restaurant (1,000 SF)	952	1,659	8.75	34,400	7,938	1,000

Based on ITE Trip Generation Manual, 11th Edition, using average weekday PM peak hour trip generation rates.

MAXIMUM INTENSITY TABLE	
	Maximum Intensity
	(SF) (*)
Retail W/ Supermarket	125,000 sf
Retail W/o Supermarket	100,000 sf
Hotel	125 rooms
Mini-warehouse/Storage	75,000 sf
Light Industrial	125,000 sf
High Turnover Restaurant	35,000 sf

* Note: An increase of up to 10% may be allowed through an administrative amendment

ATTACHMENT I

Date: August 28, 2023

To: Adam Mendez, Senior Planner

From: Nic DeFilippo, Senior Environmental Planner
239.533.8983
ndefilippo@leegov.com

Subject: DCI2022-00032
Natural Resources Staff Report and Conditions for Bayshore Village
STRAP# 22-43-25-00-00023.0000

The request is to amend an existing Commercial Planned Development (CPD), Z-06-046, to allow 125,000 square feet of commercial uses, update the Schedule of Uses, Master Concept Plan, and Property Development Regulations. The subject property is approximately 8.75 acres and located on the north side of Bayshore Road less than ½ a mile east of the I-75 and Bayshore Road intersection.

The subject property falls within the 1-year and 5-year Wellfield Protection Zone travel times and is approximately 200 feet north of a Lee County Public Water Supply well. The travel time represents the amount of time it takes a potential pollutant to reach the wellfield and is based on groundwater flow and withdrawal models. Several of the proposed uses have the potential to adversely impact the nearby Public Water Supply well if located within the 1-year travel time. These uses include:

- Automobile repair and service, Groups I and II – restricted to southern 300'
- Automobile service station, with or without gas pump – restricted to southern 300'
- Bus Station/Depot
- Convenience food and beverage store, with or without gas pumps, with or without EV charging stations - restricted to the southern 300'
- Laundry or dry cleaning, Group I
- Repair shops, Groups I, II, II, and IV – restricted to southern 300'
- Self-service fuel pumps – restricted to southern 300'
- Truck stop – restricted to southern 300'

The proposed Excavation – Oil or gas (SE) use has the potential to adversely impact the nearby Public Water Supply well if located within the 1-year or 5-year travel times and should removed from the Schedule of Uses.

Lee Plan Goal 63 requires the protection of the Lee County's groundwater supplies from those activities having the potential for depleting or degrading those supplies. Lee Plan policy 125.1.2 states new development and additions to existing development must not degrade surface and ground water quality. To ensure compliance with the Lee Plan and ensure the protection of the Public Water Supply staff recommends the following conditions:

Prior to local development order approval, the developer must demonstrate compliance with the Lee County Wellfield Protection Zone Ordinance.

The following uses are not permitted within the 1-year Wellfield Protection Zone travel time as depicted by Lee Plan Map 4-C.

1. **Automobile repair and service, Groups I and II**
2. **Automobile service station, with or without gas pumps**
3. **Bus Station/Depot, with fueling stations**
4. **Convenience food and beverage store, with gas pumps**

5. **Dry cleaning**
6. **Repair shops, Group IV**
7. **Self-service fuel pumps**
8. **Truck stop**

It appears the applicant is seeking to demonstrate compatibility with the surrounding residential properties by restricting several uses to the southern 300' of the subject property. While well intentioned, this proposal has created a conflict as a majority of the southern 300' of the property is within the 1-year Wellfield Protection Zone travel time, see Attachment 1. Staff's proposed condition would prohibit several uses which are limited to the southern 300'.

Attachments:

1. **Aerial map depicting 1-year and 5-year Wellfield Protection Zone travel times.**

ATTACHMENT 1
DCI2023-00032
Subject Property
1-year Travel Time
5-year travel time
10-year travel time
Wells Rd
Wells Rd
Bayshore Rd
78
78
Bayshore Rd
Nalle Rd
Bayshore Fir
Station 131
Swan Way
Pelican Way
E Lake Dr
Tarpon Way
N
0 150 300 600 Feet
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GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau
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ATTACHMENT J

Lee County, Florida
DEPARTMENT OF COMMUNITY DEVELOPMENT
ENVIRONMENTAL STAFF REPORT

CASE NUMBER: DCI2022-00032
TYPE OF CASE: Commercial Planned Development
CASE NAME: Bayshore Village
TOTAL ACREAGE: 8.75 Acres
SUFFICIENCY DATE: August 11, 2023
HEARING EXAMINER DATE: October 11 & 12th, 2023

Request
The applicant is requesting to amend the subject Commercial Planned Development (Z-06-046) to permit additional commercial uses, increase intensity to 125,000 square feet. The property is located in North Fort Myers, north of Bayshore road, and east of Wells Road. According to the Lee Plan, the parcel is located in the General Interchange Future Land Use Category. The proposed development is within the Bayshore Community Planning area.

Existing Conditions
As mentioned, the site is located north of Bayshore Road, and east of Wells Road, within the Bayshore Community Plan area. The site is currently vacant and the area where the proposed development is occurring, currently contains native indigenous habitat throughout the project's boundaries. The applicant has submitted a Protected Species Survey that includes the Florida Land Use Cover and Classification System (FLUCCS) map depicting a Lee County approved transects methodology used to survey the project and a detailed FLUCCS for the project area (see Exhibit A). Bear Paws Environmental Consulting did not observe listed or protected species.

Open Space
The project meets the large commercial development definition (Land Development Code 10-1). LDC 10-415(a) requires the applicant to provide 30% open space. The applicant has provided Master Concept Plans A & B(MCP) dated July 7, 2023 that depicts an open space area of 2.63 acres or 30% and complies with the 30% open space requirement.

Staff recommends the following open space condition to ensure that the required open space is provided:

> ***Prior to the issuance of the first development order, the development order plans must depict 30% or 2.63 acres of open space.***

Indigenous Open Space Preservation
The Land Development Code requires that large projects must provide 50 percent of the open space percentage requirement through onsite preservation of existing native vegetation communities (LDC 10-415(b)). The applicant is required by code to provide 15% or 1.32 acres of indigenous open space. The developer is providing the 1.33 acres including indigenous credits per LDC 10-415(b)(3) credits of preservation area. Per Lee Plan policies and the Land Development Code, maintaining and enhancing native habitats is essential per goal 123. Lee Plan policy 123.2.9 states, "maintain regulations, incentives, and programs for preserving and

planting native plant species and for controlling invasive exotic plants". Lee Plan Objective 18.1 states that the county the County will continue to enforce land development regulations that ensure separation of urban and rural land uses through the implementation of open space, buffers, and setback requirements that protect high quality environmental areas. Staff is recommending a condition that requires exotic removal and a supplemental planting plan reviewed and approved at the time of development order. The supplemental planting plan is being recommended by staff due to the indigenous preserve acting as the buffer between the CPD and the single-family residential; if exotics are removed, then proper screening will be required by the replanting plan. The applicant has provided MCPs (A &B) dated July 7, 2023, that depicts 1.33 acres of indigenous open space, with the utilization of preservation credits per 10-415(b)(3) of the Land Development Code.

Staff recommends the following conditions to ensure the proposed indigenous open space is provided:

Prior to the issuance of the first development order, the development order plans must depict a total of 1.33 acres of indigenous open space in substantial compliance with Master Concept Plans A & B, dated July 7, 2023 per the following breakdown:

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

Indigenous Habitat Management Plan

The applicant has provided an Indigenous Management Plan (IMP) that includes the detailed long-term monitoring and maintenance plans that demonstrate the survivability of the preserve areas (see Exhibit B). However, the applicant did not provide a planting plan for the indigenous areas. As previously mentioned, staff is recommending a condition that requires a supplemental planting plan. Exhibit B demonstrates the type of management that is proposed and the area's location.

The environmental consultant provided a protected species survey in August 2021, that stated that gopher tortoises were observed onsite. However, the most recent survey (August 2022) stated that the consultant did not observe any gopher tortoises, nor signs indicating their presence. Staff has conditioned an additional gopher tortoise survey to be conducted.

Staff provides the following conditions to ensure that the development order and vegetation removal permits provide the necessary documentation:

Prior to the issuance of the first development order, the development order plans must be demonstrate the following:

Development order plans must be in substantial compliance with the Indigenous Management Plan.

Development order plans must include a schedule for the indigenous preservation and restoration to be completed within five consecutive years.

Development order plans must include a map depicting where mechanical and hand-removal methods of exotic vegetation removal will be located. Mechanical clearing must be limited to non-indigenous areas.

The applicant must provide an appropriate planting list for the preserve area, approved by Lee County Staff.

Prior to the issuance of the first development order, development order plans must demonstrate exotic removal and restoration (supplemental plantings) of indigenous habitat to begin concurrently with improvements to land.

Prior to improvements to land, a 100% Gopher tortoise survey must be conducted.

Prior to the issuance of the first development order, the applicant must provide a supplemental planting plan, approved by development services staff.

Buffers

The proposed development abuts a single-family residence to the north, Wells Road right-of-way to the west, Bayshore Road right-of-way to the south, and commercially zoned and vacant agriculture to the east. The required buffers are as follows:

North – LDC section 10-416(d) requires commercial planned developments to provide a 15-foot Type C or 30-foot Type F buffer where the development abuts single-family homes. The applicant requested a deviation (6) to allow the 75-foot indigenous preserve area to act as a buffer. Staff has recommended approval of the deviation subject to conditions. The applicant is providing a enhanced 75-foot buffer to the north, utilizing mature vegetation.

East - LDC section 10-416(d) requires commercial developments to provide a 5-foot Type A buffer where the development abuts commercial uses, and no buffer where commercial abuts agricultural land. The applicant is demonstrating compliance with LDC 10-416(d) and is providing a 5-foot Type A buffer along the entirety of the east perimeter.

West - LDC section 10-416(d) requires commercial developments to provide a 15-foot Type D landscaped buffer where the development abuts right-of-ways (Wells Road). The applicant is providing a 15-foot Type D buffer and is demonstrating compliance with LDC 10-416(d).

South - The south property line abuts the Bayshore Road right-of-way. The applicant is providing a 15-foot Type D buffer and is demonstrating compliance with LDC 10-416(d).

Staff provides the following condition to ensure that the MCPs demonstrate the required buffers at the time of development order:

Prior to the issuance of the first development order, if carwashes, fast food, convenience food and beverage, automobile stations, etc. are proposed, the applicant must demonstrate compliance with the required buffers per the supplementary district.

Prior to the issuance of the first development order, the applicant must depict the indigenous preserve area as the 75-foot buffer to along the north perimeter. If exotics are removed, proper native plantings must be planted to maintain proper screening along the single-family development.

Deviations

Deviation 3 - The applicant is requesting a deviation from LDC section 10-415(b)(1)b.4. which requires a 50-foot-wide tree preservation buffer to allow buffers per LDC 10-416 and LDC 34-1353. This deviation is not required due to the code, per LDC 10-415(b)(1)b., which reads the following:

> "If the development area does not contain existing indigenous native vegetation communities, but does contain existing indigenous native trees, then 50 percent of their open space percentage requirement must be met through the onsite preservation of existing native trees consistent with subsections 1 through 4 below".

The development is meeting the required indigenous preservation; therefore, the applicant does not have to substitute with a 50-foot right-of-way buffer for tree preservation.

> Staff recommends the applicant removes deviation 3 due to the code not being applicable.

Deviation 6 - The applicant has requested a deviation from LDC 10-416(d)(3) which requires a type C or F buffer on the north property line to provide a 75-foot indigenous preserve in lieu of a planted buffer. The FLUCFCS map classifies the vegetation along the northern boundary as 411E1 on the western half of the preserve and 420E2 on the eastern half. Code 411 indicates indigenous vegetated canopy, dominated by slash pine with scattered live oak. Sub-canopy includes cabbage palm, wax myrtle, buckthorn and other lower level species, and, with an exotic indicator of E1, only 1-24% of the site will be disturbed during removal of exotic species. Code 420E2 is dominated by indigenous vegetation of live oak with slash pine in the upper canopy, wax myrtle and cabbage palm in the sub-canopy, and saw palmettos in the ground cover. However, with an exotic indicator of E2, 25-49% of the plant community consists of exotic vegetation and will need to be removed. Removal of exotic vegetation and maintenance of the indigenous preserve is outlined in the Preserve Management Plan prepared by BearPaws Environmental Consulting. In the event that portions of the understory do not create a continuous visual screen, supplemental plantings will be provided.

Staff recommends approval of Deviation 6 with the following condition:

In the event the proposed preserve does not create a continuous visual screen equivalent to a LDC Type C or F buffer, prior to the issuance of the first development order, the development order plans must provide a list of supplemental plantings and a replanting plan, approved by Lee County staff.

Exhibits

A – Protected Species Survey/ FLUCCS Map
B – Indigenous Management Plan

EXHIBIT A

BAYSHORE VILLAGE

ENVIRONMENTAL ASSESSMENT AND SPECIES SURVEY REPORT

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

August 2022

Prepared For:

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Introduction

An updated environmental assessment and species survey was conducted on the Bayshore Village property on August 30, 2022. The 9.25± acre site is located in Section 22, Township 43S, and Range 25, of Lee County, Florida. More specifically, the site is located north of Bayshore Road (SR 78), east of Wells Road, and west of Nalle Road, in North Fort Myers, Florida. Please see the attached Project Location Map (Exhibit A).

The purpose of this assessment was to identify the potential for either U.S. Army Corps of Engineers (ACOE) Department of Environmental Protection (DEP), and/or South Florida Water Management District (SFWMD) jurisdictional wetlands. The species survey was also provided to inspect the property for any and all potential listed species that could inhabit the site. Listed (endangered, threatened, etc.) species are regulated by the US Fish & Wildlife Service (FWS) and/or the Florida Fish & Wildlife Conservation Commission (FWC).

Specific attention was paid toward that of locating any gopher tortoise (*Gopherus polyphemus*) and/or burrowing owl (*Athene cunicularia*) burrows, as well as locating any potential fox squirrel (*Sciurus niger*) nests, Florida bonneted bat (*Eumops floridanus*) cavity trees, and any Audubon's crested caracara (*Caracara plancus audubonii*) or bald eagle (*Haliaeetus leucocephalus*) nests.

In general, the property is composed of pine flatwoods and upland hardwood forest. The site is bordered by pine flatwoods northern and eastern border, Bayshore Road the south, and Wells Road to the west. The survey was conducted in the mid-morning to early-afternoon; the temperatures were in the mid-upper 80's, with a light breeze, and partly cloudy skies.

Background

The ACOE, DEP, and the SFWMD are the agencies that regulate development activities in wetlands. To be considered wetlands by the ACOE, DEP, and/or SFWMD, the area should exhibit wetland hydrology, contain wetland vegetation, and have hydric soils. For an area to be considered wetlands, a site should have hydric soils, wetland hydrology, and wetland vegetation present. The property was reviewed for indicators of these parameters.

Hydric soils are identified by certain characteristics that are unique to wetland soils. Wetland hydrology is normally present if the soil is saturated or inundated for a period of time; typically from May through November; the rainy season in Southwest Florida. In the absence of visual signs of saturation or inundation, the regulatory agencies typically use hydrologic indicators such as adventitious rooting, lichen lines, or algal matting as method of guidance. If the majority of the shrubs/plants that are present are those that are adapted to saturated soil conditions, it's likely wetland vegetation.

The FWS and FWC are the primary agencies that review potential impacts to listed species. The FWS reviews potential impacts and provides comments to the ACOE and DEP during the permitting process, while the FWC provides comments to the SFWMD. In general, the wildlife agency concerns need to be addressed in order for the permits to be authorized by the ACOE, DEP, and the SFWMD.

Methodology

The species survey was conducted utilizing combined methodologies from Lee County's Land Development Code (LDC, Chapter 10, Article III, Division 8 - Protection of Habitat) and also encompassed the Lee County Endangered Species Ordinance No. 89-34. Surveys for Lee County protected species are based on the presence of specific vegetation associations and habitat types noted on-site, as outlined in the LDC. The frequency of transects performed in these habitats, unless otherwise discussed, were designed to meet the minimum updated coverage requirement. Following the Lee County Endangered Species Ordinance No. 89-34, the specific methodology included pedestrian surveys of parallel transects. The survey was conducted according to the previously approved Lee County methodology, submitted by Kevin L. Erwin Consulting Ecologist, Inc.

These methods are comprised of a several step process. The vegetation communities or land-uses on the study area are delineated on an aerial photograph using the Florida Land Use, Cover and Forms Classification System (FLUCFCS). Next, these FLUCFCS codes are cross-referenced with the Lee County Protected Species List. With a list of the potential listed plants and animals, each FLUCFCS community is searched in the field for these species. An intensive pedestrian survey is conducted using parallel belt transects as a means of searching for protected plants and animals; signs or sightings of these species are then recorded.

Existing Site Conditions

Boundary – The project boundary was obtained from the Lee County parcel data and is assumed to be approximately 9.25± acres.

Soils - The soils on the property have been mapped by the National Resource Conservation Service (NRCS, formerly the Soil Conservation Service). These mappings are general in nature, but can provide a certain level of information about the site as to the possible extent of wetland area. The agencies commonly use these mappings as justification for certain wetland/upland determinations. According to these mappings, the parcel is underlain by Oldsmar Sand (NRCS #33; non-hydric); and Wabasso Sand (NRCS #35; non-hydric). Oldsmar sand and Wabasso san soils are considered non-hydric at both the local and national levels. Please see the attached NRCS Soils Map (Exhibit D).

Vegetation Descriptions – Vegetation is one parameter used in determining the presence of uplands or wetlands; these community mappings will generally reflect what a specific area could be considered by the regulatory agencies. We did not identify and wetland or "other surface water" communities on-site during the site assessment.

While on-site, generalized community delineations are hand-drawn on an aerial defining the different vegetation associations on-site. These general delineations were based on the nomenclature of the Florida Land Use, Cover and Forms Classification System (FLUCFCS), Level III and IV (FDOT 1999). Please see the attached FLUCFCS Map with Aerial (Exhibit B) and FLUCFCS Map without Aerial (Exhibit C). Listed below are the vegetation communities and land-uses identified on the site.

FLUCFCS Codes & Community Descriptions

Uplands

The following community areas have been designated as upland habitats. Uplands are any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet enough to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

FLUCFCS 411 E1 Pine Flatwoods (Exotics 1-24%) – 4.32± Acres

This upland habitat type occupies 4.32± acres of the property. Exotic species such as melaleuca *(Melaleuca quinquenervia)* and Brazilian pepper (*Schinus terebinthifolius*) occupy approximately 1-24% of this community. Canopy vegetation is dominated by slash pine *(Pinus ellotti)*, with scattered live oak (*Quercus virginiana*), and melaleuca *(Melaleuca quinquenervia)*. The sub-canopy includes cabbage palm *(Sabal palmetto)*, rusty lyonia *(Lyonia ferruginea)*, tar flower (*Bejaria racemosa*), wax myrtle *(Myrica cerifera)*, and buckthorn *(Rhamnus caroliniana)*. Ground cover is dominated by saw palmetto *(Serenoa repens)*, with blue maidencane *(Amphicarpum muhlenbergianum)*, cogon grass *(Imperata cylindrica)*, beautyberry *(Callicarpa americana)*, goldentop *(Euthamia graminifolia)*, pennyroyal *(Piloblephis rigida)*, chalky bluestem *(Andropogon capilllpes)*, white paw paw *(Aslmina trlloba)*, paspalum *(Paspalum spp.)*, panicum *(Panicum spp.)*, gopher apple *(Ucania michauxit)*, dog fennel (*Eupatorium capififolium*), ragweed *(Ambrosia artemisifolia)*, bracken fern *(Pleridium aquilinum)*, wiregrass *(Aristlda stricta)*, and broomsedge *(Andropogon glomeratus)*, with various other opportunistic weedy species. Commonly observed vines include greenbriar *(Smilax spp.)*, grapevine *(Vitis rotundifolia)*, and poison ivy *(Toxicodendrori radicans)*. This community would be considered uplands by regulatory agencies.

FLUCFCS 420 E2 Mixed Upland Hardwoods (Exotics 25-49%) – 4.65± Acres

This upland community type occupies approximately 4.65± acres of the property. Exotic species such as melaleuca *(Melaleuca quinquenervia)*, earleaf acacia (Acacia *auriculiformis)*, and Brazilian pepper (*Schinus terebinthifolius*) occupy approximately 25-49% of this community. The canopy is dominated by live oak (*Quercus virginiana*), with slash pine (*Pinus elliottii*), java plum *(Syzygium cumim)*, earleaf acacia (Acacia *auriculiformis)*, and melaleuca *(Melaleuca quinquenervia)*. The sub-canopy contains cabbage palm (*Sabal palmetto*), Brazilian pepper (*Schinus terebinthifolius*), wax myrtle (*Myrica cerifera*), myrsine (*Rapanea guinensis*), wild coffee (*Psychotria nervosa*), and beauty-berry (*Callicarpa americana*). The ground cover is dominated by saw palmetto (*Serenoa repens*), with scattered cesar weed (*Urena lobata)*, with various other opportunistic weedy species. Commonly observed vines include greenbriar (*Smilax sp.)*, grapevine (*Vitis rotundifolia)*, Virginia creeper (*Parthenocissus quinquefolia*), peppervine (*Ampelopsis arborea*), and poison ivy (*Toxicodendron radicans*). This community would be considered uplands by the regulatory agencies.

FLUCFCS 8146 Primitive Road & Trails – 0.28± Acres

This upland area contains sand trails that lead throughout the site and occupies approximately 0.28± acres of the property. The canopy is open with scattered slash pine *(Pinus elliottii)* and live oak (*Quercus virginiana*) along the edges. The sub-canopy is also mostly open with scattered Brazilian pepper (*Schinus terebinthifolius*) and cabbage palm (*Sabal palmetto*) along the edges. The ground cover is mostly open with scattered saw palmetto (*Serenoa repens*), dog fennel (*Eupatorium capillifolium*), sandspur (*Cenchrus echinatus*), smutgrass (*Sporobolus sp.*), caesar weed (*Urena lobata*), hairy beggar-ticks (*Bidens alba*), ragweed (*Ambrosia trifida*), and bahia grass (*Paspalum notatum*), along the edges. This community should be considered uplands by the regulatory agencies.

Table 1. FLUCFCS Community Table

FLUCFCS Code	Community Description	Habitat Type	Acres
411 E1	Pine Flatwoods (Exotics 1-24%)	Upland	4.32± Ac.
420 E2	Mixed Upland Hardwoods (Exotics 25-49%)	Upland	4.65± Ac.
8146	Primitive Road & Trails	Upland	0.28± Ac.
Total			**9.25± Ac.**

Potential Listed Species

During our updated field survey for protected species on the property, we did not observe any protected species or signs thereof. There were no gopher tortoise (*Gopherus polyphemus*) and/or burrowing owl (*Athene cunicularia floridana*) burrows identified. There were several other burrows, believed to belong to that of the eastern nine-banded armadillo (*Dasypus novemcinctus),* that were identified; there was no evidence that these burrows were being used by gopher tortoises. There were no other protected species or signs thereof were observed. There were no nest-like structures or tree cavities noted while conducting the protected species survey on-site.

There were several non-listed species identified while conducting the protected species survey, among those were several mourning doves (*Zenaida macroura*) and an eastern cottontail rabbit. (*Sylvilagus floridanus*). The various listed species that may occur in the FLUCFCS communities on-site have been tabulated on the attached table. Please see the attached Protected Species Map (Exhibit E).

Discussion

Due to the surrounding land uses, and the busy roads/highways, it is unlikely that this site supports or would provide habitat for any protected species. Generalized community locations were estimated and hand-drawn on a non-rectified aerial with approximate habitat boundaries, hence their location and aerial extent is approximate.

The determination of ecological system classifications, functions, values, and boundaries, is not an exact science; therefore, different individuals and/or agencies may reach different conclusions. It is not possible for BearPaws Environmental Consultants to guarantee the outcome of such determinations. Therefore, the conclusions of this report are based upon our profession expertise and opinions and would require a full review by the appropriate regulatory agencies.

Table 2: Listed Species by Habitat with Current Status

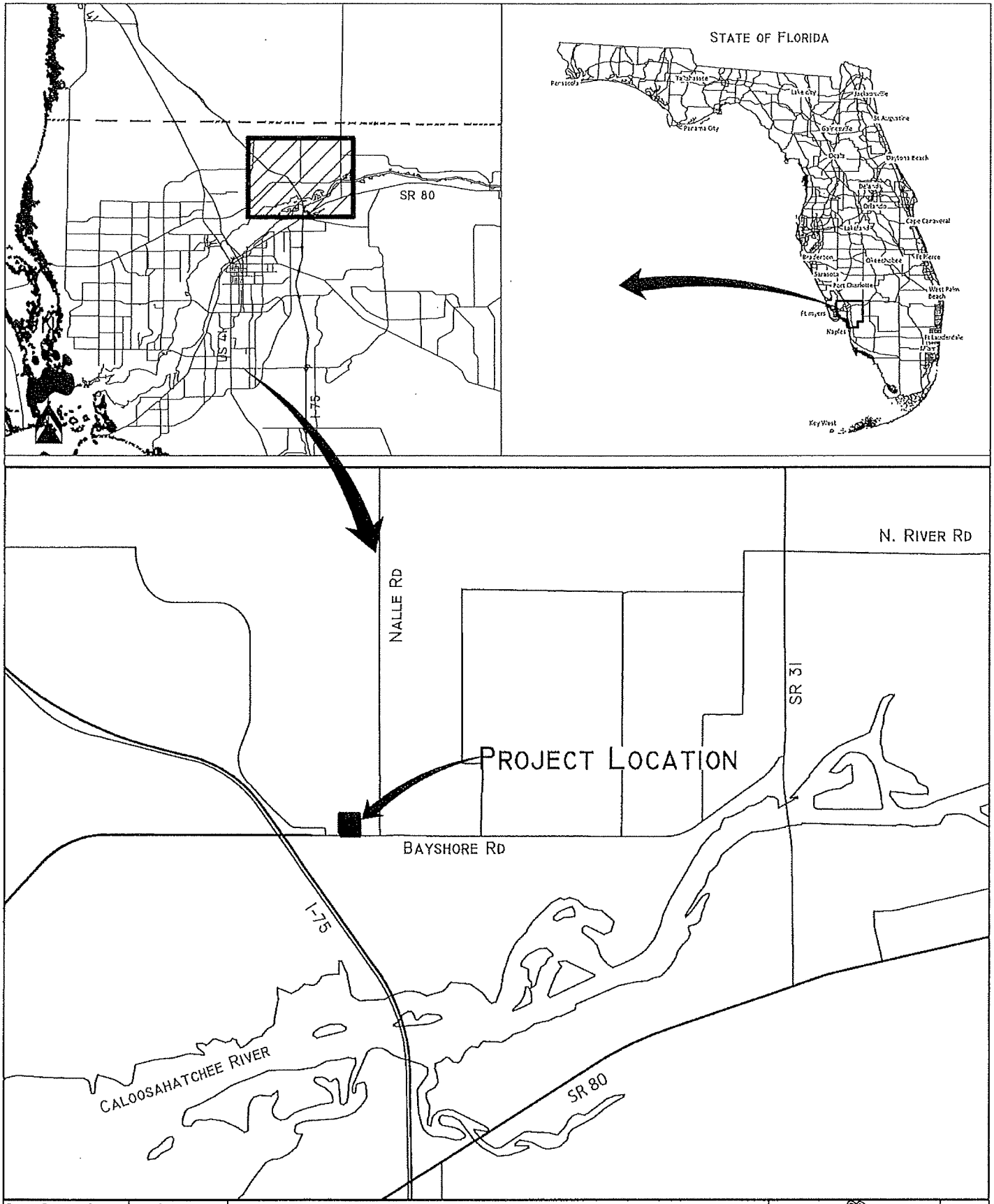
FLUCFCS Code	FLUCFCS Description	Common Name	Scientific Name	Percent Coverage	Observed	USDA	FDA&CS	FWS	FWC
411	Pine Flatwoods	Beautiful paw-paw	*Deeringothamnus pulchellus*	80	–	E	E	E	–
		Big cypress fox squirrel	*Sciurus niger avicennia*	80	–	–	–	–	SSC
		Eastern indigo snake	*Drymarchon corais couperi*	80	–	–	–	T	T
		Fakahatchee burmannia	*Burmannia flava*	80	–	–	E	–	–
		Florida black bear	*Ursus americanus floridanus*	80	–	–	–	SAT	T
		Florida coontie	*Zamia floridana*	80	–	–	C	–	–
		Gopher frog	*Rana areolata*	80	–	–	–	–	SSC
		Gopher tortoise	*Gopherus polyphemus*	80	–	–	–	T	T
		Red-cockaded woodpecker	*Picoides borealis*	80	–	–	–	E	SSC
		Satinleaf	*Chrysophyllum olivaeforme*	80	–	–	T	–	–
		Southeastern American Kestrel	*Falco sparverius paulus*	80	–	–	–	–	T
420	Mixed Upland Hardwoods	Audubon's crested caracara	*Polyborus plancus audubonii*	80	–	–	–	T	T
		Eastern indigo snake	*Drymarchon corais couperi*	80	–	–	–	T	T
		Florida black bear	*Ursus americanus floridanus*	80	–	–	–	SAT	T
		Hand adder's tongue fern	*Ophioglossum palmatum*	80	–	–	E	–	–
		Simpson's stopper	*Myrcianthes fragrans var. simpsonii*	80	–	–	T	–	–
		Gopher tortoise	*Gopherus polyphemus*	80	–	–	–	T	T
8146	Roadways	N/A	*N/A*	80	–	–	–	–	–

C = Commercially Exploited, SAT = Similarity of Appearance Threatened, SSC = Species of Special Concern, T = Threatened, E = Endangered

Table designates listed species with potential to occur in each FLUCFCS community.

EXHIBIT A

Project Location Map



DRAWN BY: BWS	DATE: 9/1/22	CATEGORY: LOCATION	Bayshore Village Location Map
JOB NUMBER		SCALE: NTS	
S/T/R 22/43S/25E		COUNTY: LEE	

BEARPAWS ENVIRONMENTAL CONSULTING
1599 COLLINGTON CIRCLE EAST, FORT MYERS, FL 33919
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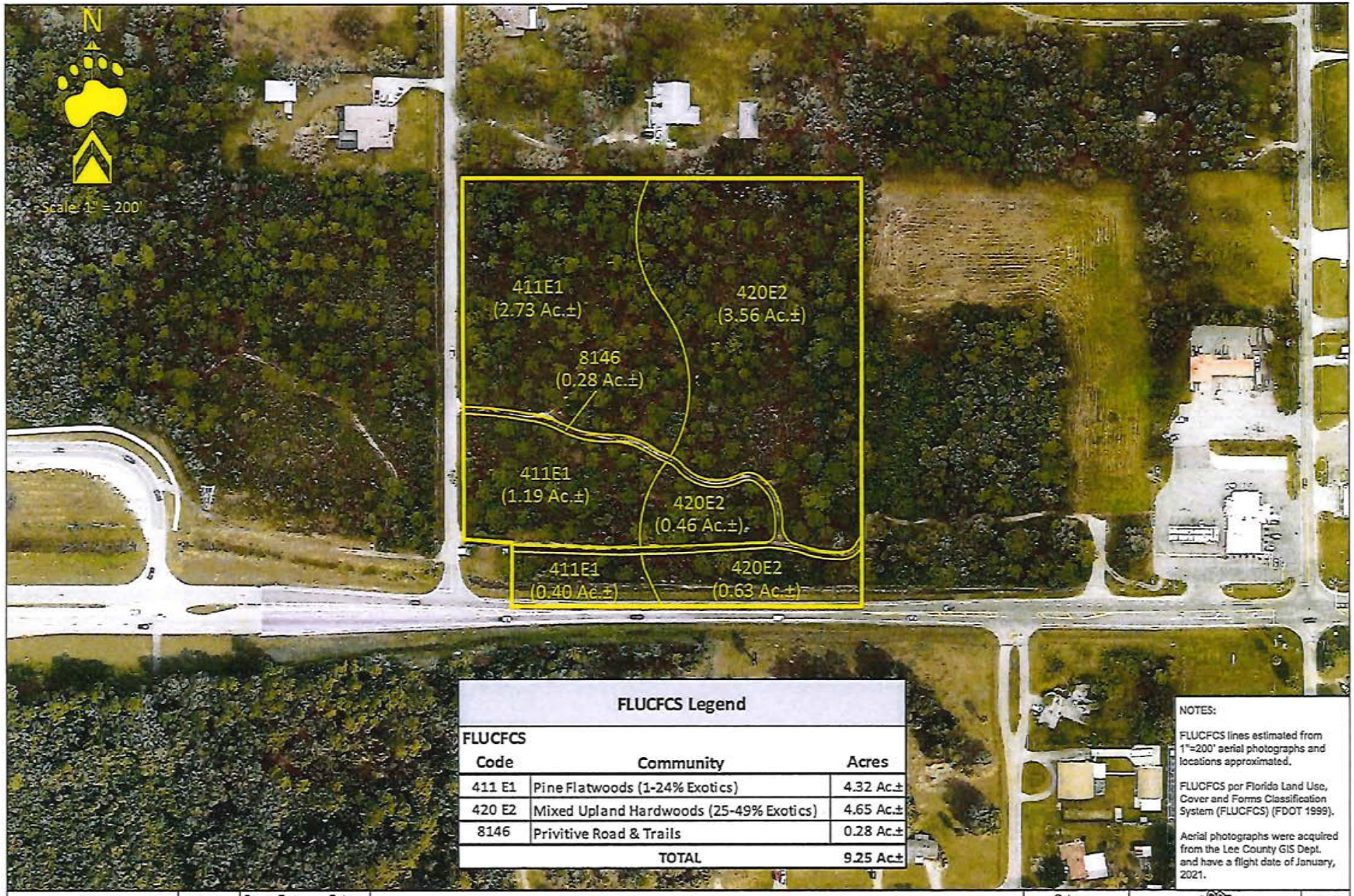
PAGE

EXHIBIT

EXHIBIT B

FLUCFCS Map with Aerial



FLUCFCS Legend

FLUCFCS Code	Community	Acres
411 E1	Pine Flatwoods (1-24% Exotics)	4.32 Ac.±
420 E2	Mixed Upland Hardwoods (25-49% Exotics)	4.65 Ac.±
8146	Privitive Road & Trails	0.28 Ac.±
	TOTAL	9.25 Ac.±

NOTES:

FLUCFCS lines estimated from 1"=200' aerial photographs and locations approximated.

FLUCFCS per Florida Land Use, Cover and Forms Classification System (FLUCFCS) (FDOT 1999).

Aerial photographs were acquired from the Lee County GIS Dept. and have a flight date of January, 2021.

Revisions	Date:	Drawn By:	Date:
		BWS	9/5/22
		Job Number	
		S/T/R	
		22/43S/25E	

Bayshore Village

Aerial FLUCFCS Map

Category	Scale:	County
FLUCFCS	1" = 200'	Lee

BEARPAWS ENVIRONMENTAL CONSULTING
1599 Covington Circle East, Fort Myers, FL 33919
(239) 349-0678 bearpaws.env.consulting@gmail.com

Page -

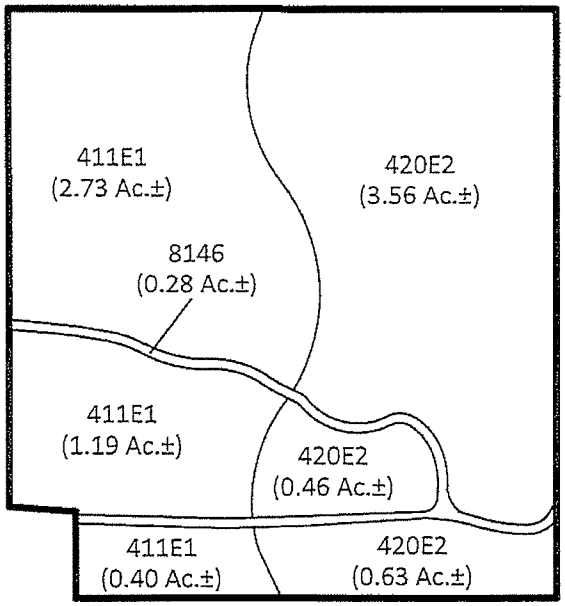
Exhibit -

EXHIBIT C

FLUCFCS Map

N

Scale: 1" = 200'



FLUCFCS Legend		
FLUCFCS Code	Community	Acres
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420 E2	Mixed Upland Hardwoods (25-49% Exotics)	4.65 Ac.±
8146	Privitive Road & Trails	0.28 Ac.±
	TOTAL	9.25 Ac.±

NOTES:

FLUCFCS lines estimated from 1"=200' aerial photographs and locations approximated.

FLUCFCS per Florida Land Use, Cover and Forms Classification System (FLUCFCS) (FDOT 1999).

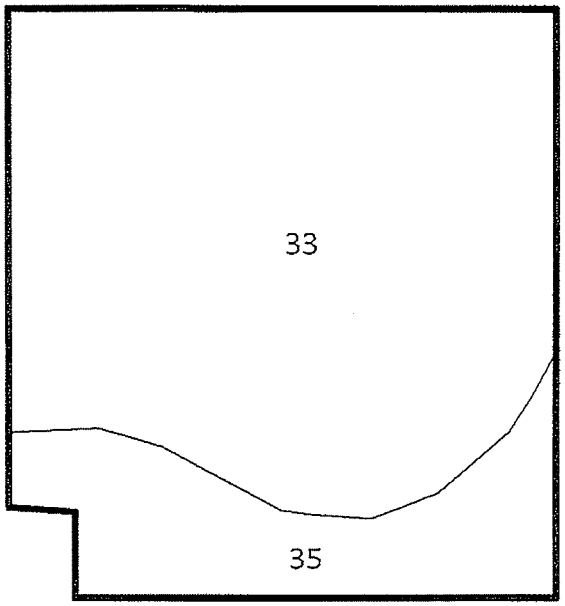
Revisions	Date:	Drawn By: BWS	Date: 9/5/22	Bayshore Village	Category FLUCFCS	BEARPAWS ENVIRONMENTAL CONSULTING	Page -
		Job Number			Scale: 1" = 200'		Exhibit
		S/T/R 22/43S/25E		FLUCFCS Map	County Lee	1399 Covington Circle East Fort Myers, FL 33919 (239) 340-0678 bearpaws.env.consulting@gmail.com	-

EXHIBIT D

NRCS Soils Map

N

Scale: 1" = 200'



NRCS Soils Legend		
Soil No	Description	Status
33	Oldsmar Sand	Non-Hydric
35	Wabasso Sand	Non-Hydric

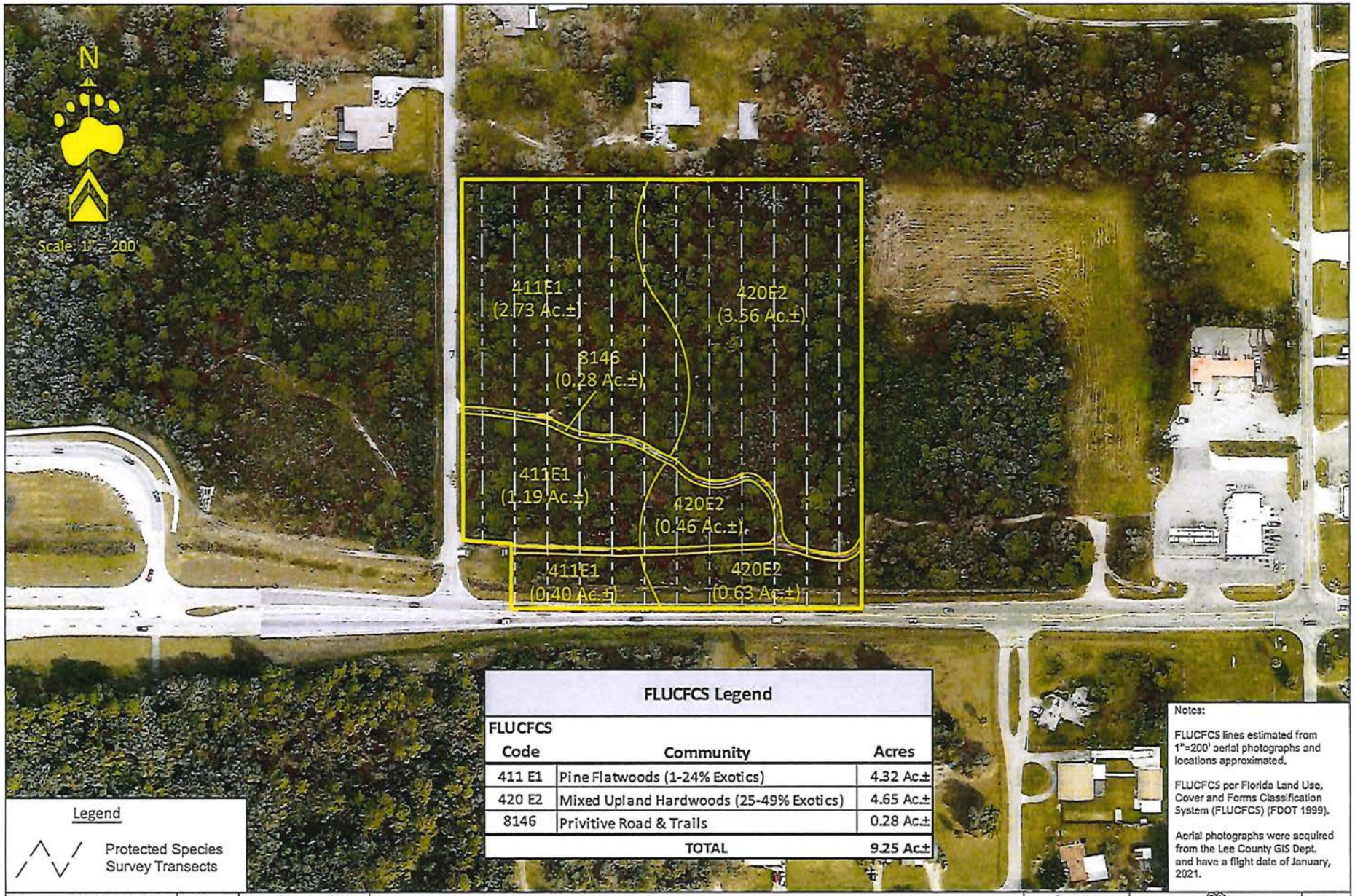
NOTES

Soils were acquired from LABINS and are from the NRCS.

Revisions	Date:	Drawn By: BWS	Date: 9/1/22	Bayshore Village	Category: Soils	BEARPAWS ENVIRONMENTAL CONSULTING	Page -
		Job Number		Soils Map	Scale: 1" = 200'	1599 Covington Circle East, Fort Myers, FL 33916 (239) 340-0667K bearpaws.env.consulting@gmail.com	Exhibit -
		S/T/R 22/43S/25E			County: Lee		

EXHIBIT E

Protected Species Survey Map



FLUCFCS Legend

FLUCFCS Code	Community	Acres
411 E1	Pine Flatwoods (1-24% Exotics)	4.32 Ac.±
420 E2	Mixed Upland Hardwoods (25-49% Exotics)	4.65 Ac.±
8146	Privitive Road & Trails	0.28 Ac.±
	TOTAL	9.25 Ac.±

Legend

Protected Species Survey Transects

Notes:

FLUCFCS lines estimated from 1"=200' aerial photographs and locations approximated.

FLUCFCS per Florida Land Use, Cover and Forms Classification System (FLUCFCS) (FDOT 1999).

Aerial photographs were acquired from the Lee County GIS Dept. and have a flight date of January, 2021.

Revisions	Date:	Drawn By: BWS	Date: 9/5/22	Bayshore Village	Category PSS	BEARPAWS ENVIRONMENTAL CONSULTING	Page -
		Job Number		Aerial PSS Map	Scale: 1" = 200'	1500 Covington Circle East, Fort Myers, FL 33919 (239) 340-0678 bearpaws.env.consulting@gmail.com	Exhibit -
		S/T/R 22/43S/25E			County Lee		

EXHIBIT B

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
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Fort Myers, FL 33912
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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 terebinthifoloius*). 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.

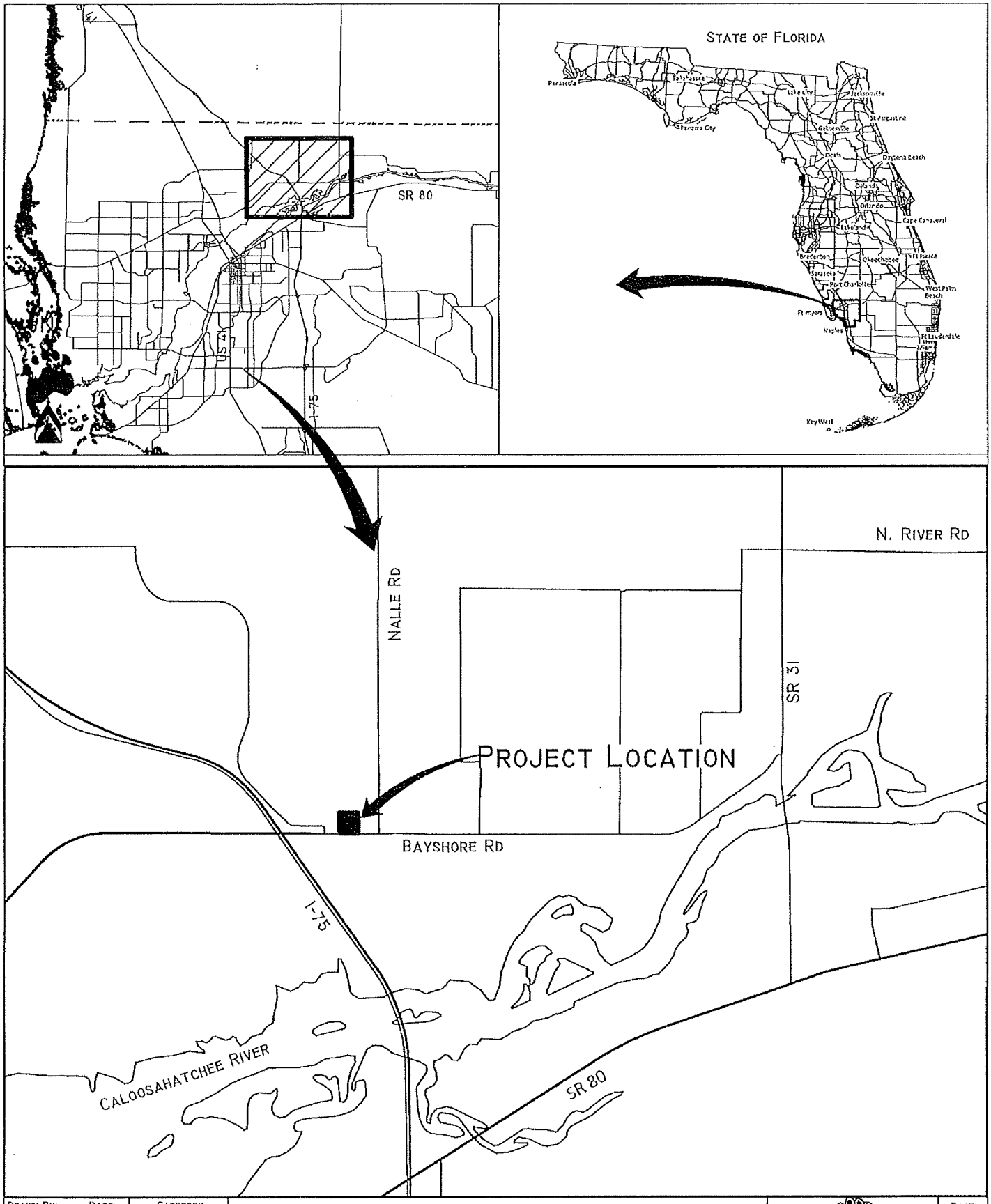
MAINTENANCE AND LONG-TERM MANAGEMENT

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

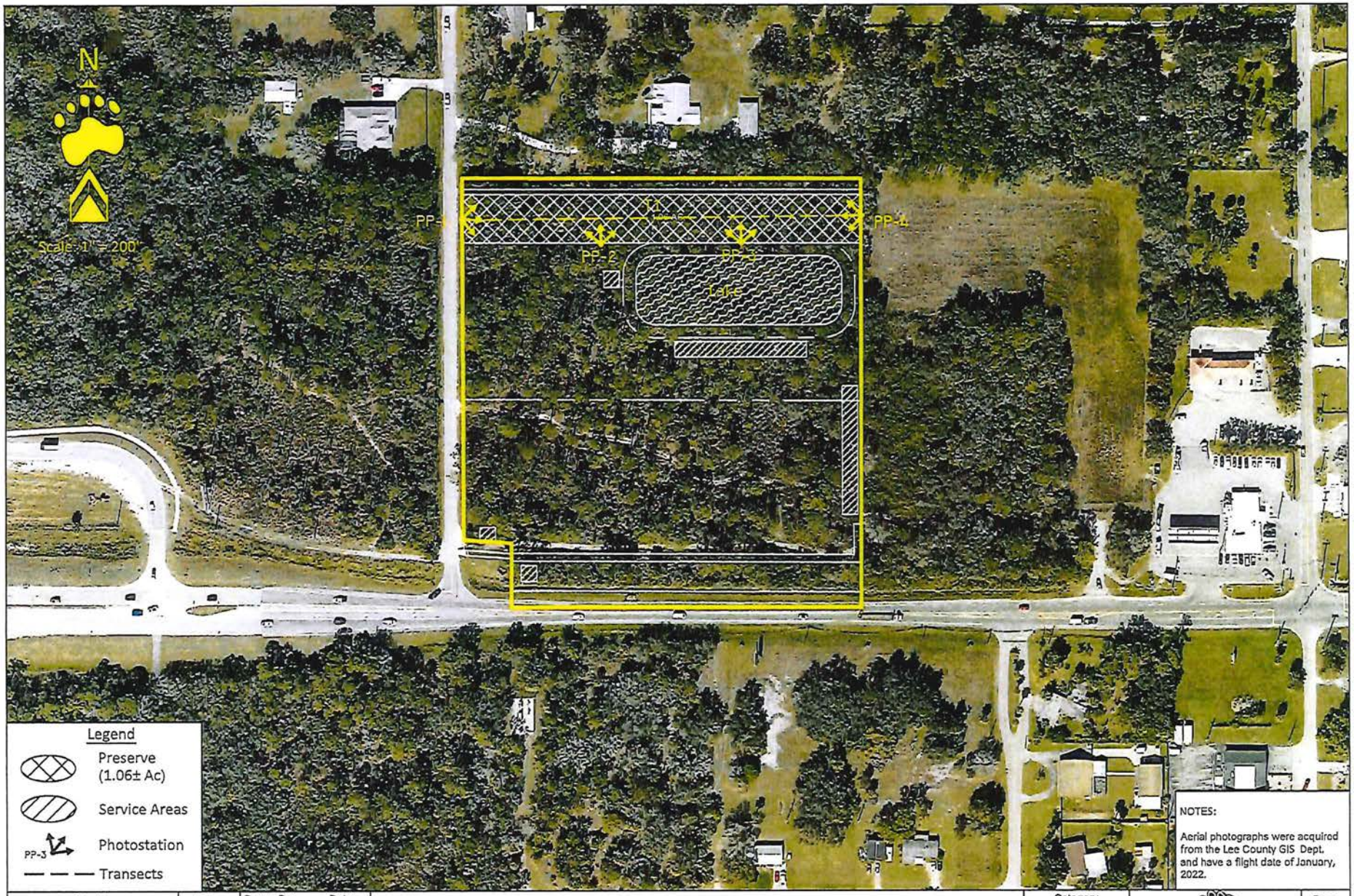


Drawn By:	Date:	Category	Bayshore Village	Page
BWS	1/12/22	Location		
Job Number		Scale: NTS	Location Map	Exhibit
S/T/R 22/43S/25E		County Lee		

BEARPAWS ENVIRONMENTAL CONSULTING

Exhibit B

Preserve Monitoring Map



NOTES:

Aerial photographs were acquired from the Lee County GIS Dept. and have a flight date of January, 2022.

Revisions	Date:	Drawn By: BWS	Date: 1/12/22	Bayshore Village	Category: Aerial	BEARPAWS ENVIRONMENTAL CONSULTING	Page -
		Job Number		Indigenous Preserve Mitigation/Monitoring Map	Scale: 1" = 200'	1599 Cuvington Circle East, Fort Myers, FL 33919 (239) 340-8678 bearpaws.env.consultant@gmail.com	Exhibit -
		S/T/R 22/43S/25E			County: Lee		

ATTACHMENT K

TR TRANSPORTATION CONSULTANTS, INC

2726 OAK RIDGE COURT, SUITE 503
FORT MYERS, FL 33901-9356
OFFICE 239.278.3090
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TRAFFIC ENGINEERING
TRANSPORTATION PLANNING
SIGNAL SYSTEMS/DESIGN

TRAFFIC IMPACT ANALYSIS

FOR

BAYSHORE VILLAGE

LEE COUNTY, FLORIDA

PROJECT NO. F2202.15

PREPARED BY:
TR Transportation Consultants, Inc.
2726 Oak Ridge Court, Suite 503
Fort Myers, Florida 33901-9356
(239) 278-3090

REVISED:
November 4, 2022

TRANSPORTATION CONSULTANTS, INC

CONTENTS

I. INTRODUCTION

II. EXISTING CONDITIONS

III. PROPOSED DEVELOPMENT

IV. TRIP GENERATION

V. PROJECT IMPACT

VI. LEVEL OF SERVICE ANALYSIS

VII. CONCLUSION

TR TRANSPORTATION CONSULTANTS, INC

I. INTRODUCTION

TR Transportation Consultants, Inc. has conducted a traffic impact statement to fulfill requirements set forth by the Lee County Department of Community Development for projects seeking rezoning approval. The project site is located on the north side of SR 78 (Bayshore Road) just east of Wells Road in Lee County, Florida. **Figure 1** illustrates the approximate location of the subject site.

The proposed rezoning application is to permit the approximately 8.75 acre site to be rezoned from CPD to CPD to allow for a change in intensity and additional uses. The site is currently zoned CPD under Z-06-046 and is limited to a total of 61,000 square feet of floor area. The Master Concept Plan being proposed would limit the development to 125,000 square feet of commercial uses. Access to the site is consistent with the access on the approved Master Concept Plan and will be provided to Wells Road and directly to Bayshore Road.

This report examines the impact of the development on the surrounding roadways and intersections. Trip generation and assignments to the site access drives will be completed and analysis conducted to determine the impacts of the development on the surrounding streets.

F2202.15/Revised Nov 2022

TR TRANSPORTATION CONSULTANTS, INC

PROJECT LOCATION MAP
BAYSHORE VILLAGE

Figure 1

II. EXISTING CONDITIONS

The subject site is currently vacant. The subject site is bordered by AG-2 zoning and CPD zoning to the east, Wells Road to the west, SR 78 (Bayshore Road) to the south, and AG-2 residential property to the north.

SR 78 (Bayshore Road) is a two-lane undivided arterial roadway that borders the subject site to the south. SR 78 has an Access Management Classification of Class 3 adjacent to the site, which requires a minimum connection spacing of 660 feet between driveway connections, 1,320 feet between directional median openings, and 2,640 feet between full median openings. West of Pritchett Parkway, SR 78 widens to a four-lane divided roadway. FDOT is currently in the middle of a PD&E Study to determine the ultimate right-of-way width and cross-section of SR 78 as a four-lane divided roadway between I-75 and SR 31. SR 78 has a posted speed limit of 50 mph and is under the jurisdiction of the Florida Department of Transportation (FDOT).

Wells Road is a two lane Local roadway that extends north from Bayshore Road and terminates approximately 0.8 miles to the north into a residential community. Wells Road has a posted speed limit of 30 mph and is under the jurisdiction of Lee County.

III. PROPOSED DEVELOPMENT

The zoning request is to amend the existing CPD zoning to permit additional commercial intensity and increase the permitted floor area from 61,000 square feet to 125,000 square feet. **Table 1** summarizes the land uses utilized for the purposes of this analysis.

Table 1
Land Use
Bayshore Village

Land Use	Size
Commercial	125,000 Sq. Ft.

Access to the subject site is proposed to SR 78 (Bayshore Road) via a single connection and to Wells Road via a single connection.

IV. TRIP GENERATION

The trip generation for the proposed Bayshore Village was determined by referencing the Institute of Transportation Engineer's (ITE) report, titled ***Trip Generation Manual***, 11th Edition. For the Commercial uses, Land Use Code 821 (Shopping Plaza 40-150k w/Supermarket) was utilized for the trip generation purposes of the proposed development. The land use "With Supermarket" was utilized since the Schedule of Uses includes a Food Store Group I use, although the Master Concept Plan does not identify a typical grocery store footprint on the site (typically 45,000 to 65,000 square feet in a rectangular shape building). Utilizing this Land Use Category represents a "worst case" in terms of trip generation when compared to utilizing LUC 821 with No Supermarket and other commercial and warehouse/industrial uses included on the Schedule of Use table. **Table 2** outlines the anticipated total weekday AM and PM peak hour trip generation of the proposed development based on the maximum development intensity. The anticipated daily trip generation is also indicated within Table 2.

Table 2
Trip Generation – Total Trips
Bayshore Village

Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily
	In	Out	Total	In	Out	Total	(2-way)
Shopping Plaza (125,000 Sq. Ft.)	273	168	441	517	561	1,078	11,033

The trips shown for the shopping plaza in Table 2 will not all be new trips to the adjacent roadway system. ITE estimates that a retail plaza may attract a significant amount of its traffic from vehicles already traveling the adjoining roadway system. This traffic, called "pass-by" traffic, reduces the development's overall impact on the surrounding roadway system but does not decrease the actual driveway volumes. ITE indicates an average "pass-by" traffic reduction for Land Use Code 221 of 34% during the P.M. peak hour. Lee County permits a maximum reduction in trips due to pass-by for retail uses of 30%.

For this analysis, the "pass-by" traffic was accounted for in order to determine the number of "new" trips the development will add to the surrounding roadways. **Table 3** summarizes the "pass-by" percentage for the proposed use. **Table 4** summarizes the development traffic and the breakdown between the new trips the development is anticipated to generate and the "pass-by" trips the development is anticipated to attract. It should be noted that the driveway volumes are not reduced as a result of the "pass-by" reduction, only the traffic added to the surrounding streets and intersections.

Table 3
Pass-by Trip Reduction Factor
Bayshore Village

Land Use	Percentage Trip Reduction
Shopping Plaza	30%

Table 4
Trip Generation – New Trips
Bayshore Village

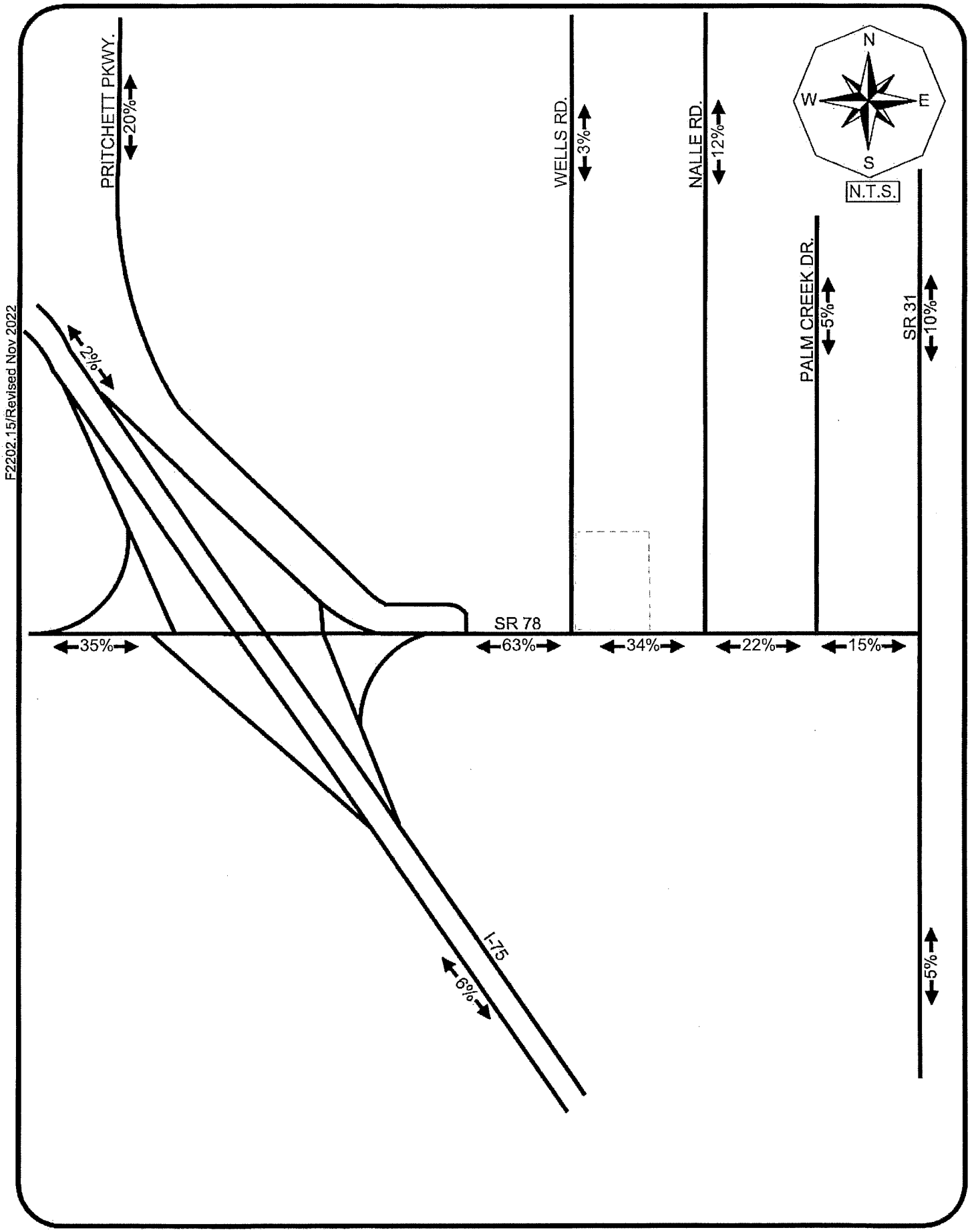
Land Use	Weekday A.M. Peak Hour			Weekday P.M. Peak Hour			Daily
	In	Out	Total	In	Out	Total	(2-way)
Total Trips	273	168	441	517	561	1,078	11,033
Less Pass-by	-66	-66	-132	-161	-161	-322	-3,310
New Trips	**207**	**102**	**309**	**356**	**400**	**756**	**7,723**

The trips the proposed development is anticipated to generate were assigned to the site access drives and the surrounding roadway network. The net new trips anticipated to be

added to the surrounding roadway network were assigned based upon the routes drivers are anticipated to utilize to approach the subject site. **Figure A-1**, included in the Appendix of this report, illustrates the percent project traffic distribution and assignment of the net new project trips. **Figure A-2**, included in the Appendix of this report, illustrates the percent project traffic distribution and assignment of pass-by trips. **Figure 2** illustrates the trip distribution of the new trips to the surrounding roadway network from west of I-75 to S.R. 31. **Figure 3** then illustrates the resulting assignment of all project related trips (net new + pass-by) to the site access drive intersections and those intersections adjacent to the site along S.R. 78.

V. PROJECT IMPACT

In order to determine which roadway segments surrounding the site will be significantly impacted as outlined in the Lee County Traffic Impact Statement Guidelines **Table 1A**, in the Appendix, was created. Table 1A indicates which roadway links will accommodate greater than 10% of the Peak Hour Level of Service "C" volumes. The Level of Service Threshold volumes for SR 78 were obtained from the FDOT's ***Generalized Peak Hour Directional Volumes, Table 7***. The Level of Service volumes for the County maintained roadways were obtained from the ***Lee County Generalized Service Volume Tables***. Based on Table 1A, the only roadway segments analyzed included Bayshore Road west of Nalle Road to Pritchett Parkway, Nalle Road and Pritchett Parkway. Wells Road is a Local Road and Level of Service is not measured on Local Roads in Lee County.

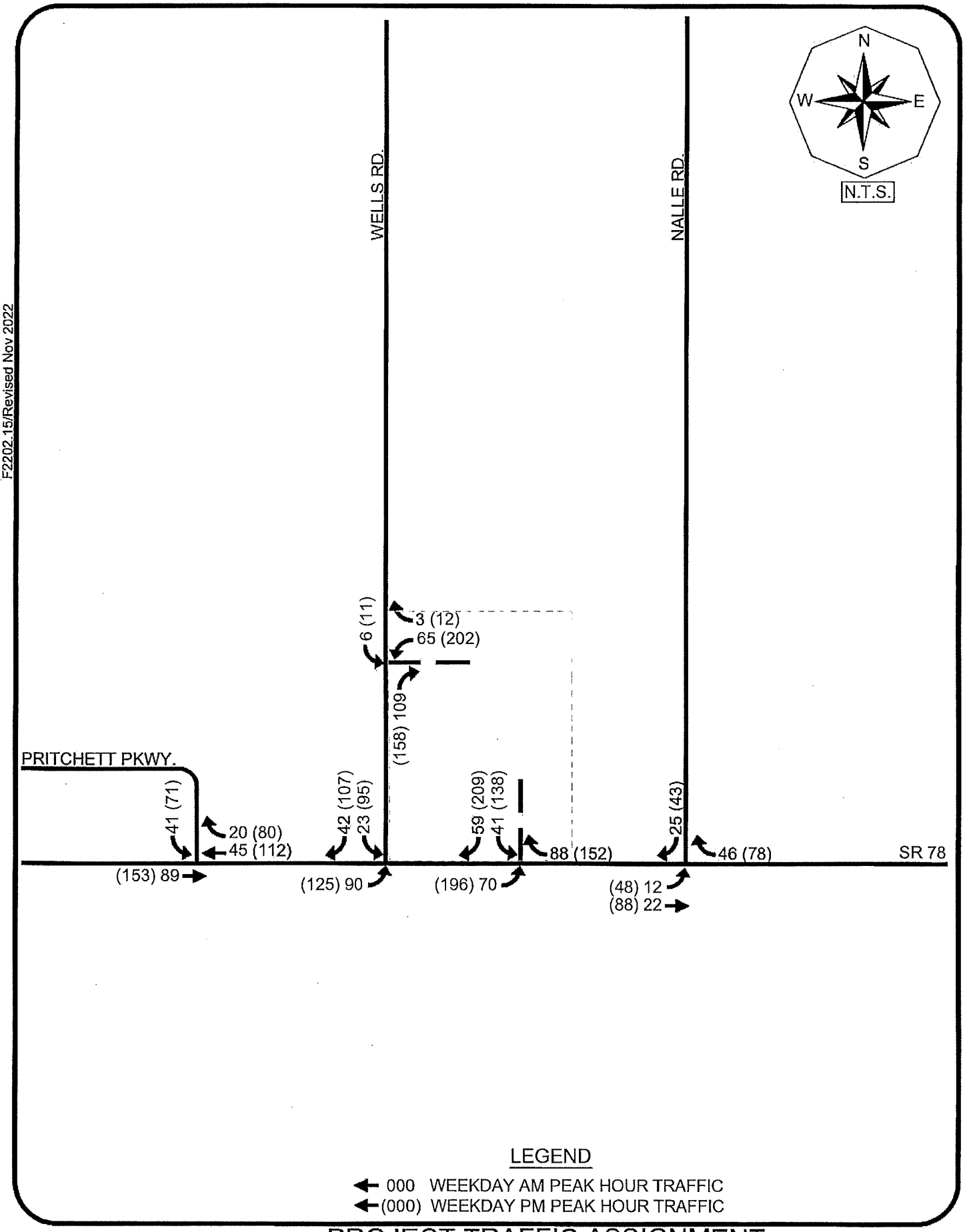


F2202.15/Revised Nov 2022

TRANSPORTATION CONSULTANTS, INC

TRIP DISTRIBUTION
BAYSHORE VILLAGE

Figure 2



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TR TRANSPORTATION CONSULTANTS, INC

PROJECT TRAFFIC ASSIGNMENT
(NET NEW + PASS-BY TRIPS)
BAYSHORE VILLAGE

Figure 3

VI. LEVEL OF SERVICE ANALYSIS

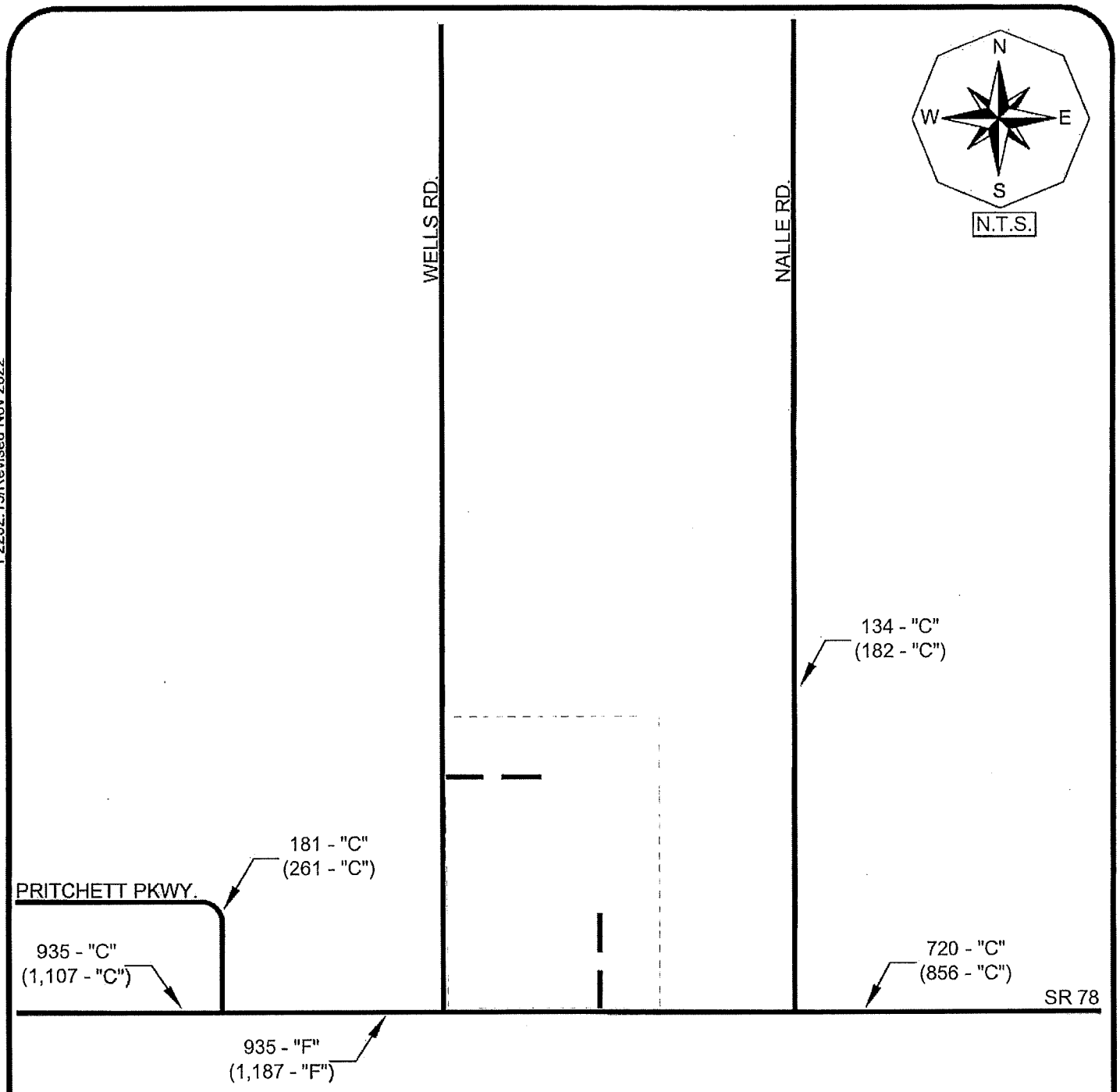
A Level of Service analysis was conducted on the surrounding roadway links. The road segments included in the analysis were SR 78, east and west of the site, Pritchett Parkway and Nalle Road. The existing 2020 peak hour peak season peak direction volumes were obtained from the ***2021 Lee County Public Facilities Level of Service and Concurrency Report.*** In order to determine the projected Level of Service on the roadway links directly accessed by the proposed development, the project traffic was added to the projected 2028 background traffic volumes. The projected 2028 background traffic volumes were formulated by increasing the existing 2020 peak hour peak season peak direction traffic volumes by a historical growth factor as determined by referencing historical traffic data as contained in the FDOT ***Traffic Information Online*** webpage.

The historical traffic data for Bayshore Road (Station 120022 & 126064) as well has historical traffic data from the Lee County Traffic Count Database System (TCDS) for Nalle Road north of SR 78 (Site 344) was referenced in order to determine the Annual Growth Rate (AGR) to estimate the future 2028 background traffic volumes on Bayshore Road and Nalle Road. A higher than normal annual growth rate (12%) was applied to Pritchett Parkway since there is no historical traffic data in the Lee County TCDS and the Brightwater development is continuing to develop along this roadway segment. A copy of the FDOT and Lee County traffic data is included in the Appendix of this report for reference. **Table 2A**, located in the Appendix of this report indicates the methodology utilized to conduct the projected 2028 Level of Service Analysis.

From the analysis indicated in Table 2A, there is projected to be sufficient capacity on all segments of analyzed roadways to accommodate the trips anticipated to be generated by the proposed development on the subject site with the exception of SR 78 between Pritchett Parkway and Wells Road. This segment is shown to operate at LOS "F" in 2028 due to the increase in background traffic BEFORE the project trips are added to the roadway segment. Therefore, the rezoning of this site will not cause this roadway segment to operate at a poor Level of Service. This is the reason FDOT is undergoing the

PD&E Study to widen SR 78 from I-75 to SR 31 to a 4-lane divided roadway to accommodate future growth in the area, including the Babcock Ranch community. **Figure 4** illustrates the results of the Level of Service Analysis.

A Pre-Application meeting was held with FDOT to discuss the access on SR 78. As the project seeks development permitting, an FDOT access permit will be required and the turn lane improvements along SR 78 and turn lanes at the Wells Road site access drive will be determined, based on the applicable codes and regulations.



F2202.15/Revised Nov 2022

LEGEND

XXX - "X" 2028 PEAK SEASON PEAK HOUR PEAK DIRECTION BACKGROUND TRAFFIC AND LEVEL OF SERVICE DESIGNATION

(XXX -"X") 2028 PEAK SEASON PEAK HOUR PEAK DIRECTION BACKGROUND PLUS PEAK DIRECTION PROJECT TRAFFIC AND LEVEL OF SERVICE DESIGNATION

TR TRANSPORTATION CONSULTANTS, INC

2028 LEVEL OF SERVICE ANALYSIS
BAYSHORE VILLAGE

Figure 4

VII. CONCLUSION

The proposed rezoning application for Bayshore Village is to amend the existing CPD zoning to increase the intensity of the commercial uses from 61,000 square feet to 125,000 square feet on the approximately 8.75 acre site located on the north side of Bayshore Road just west of Wells Road in Lee County, Florida. The proposed development will not have an adverse impact on the surrounding roadway network. Adverse impacts are defined as a degradation of the Level of Service beyond the adopted Level of Service standards. The existing roadway network can accommodate the additional new vehicle trips that are anticipated to be generated. One segment of SR 78 is shown to operate at LOS "F" in 2028 prior to the project trips being added to the roadway network.

The Florida Department of Transportation is currently conducting a PD & E study for this segment of SR 78 that will determine the ultimate right-of-way needs and cross section needed to widen SR 78 to a four-lane divided roadway from I-75 to SR 31. Although construction is not currently funded in the 5-year Adopted Work Program, once the PD & E study is complete, the project will proceed to Right-of-Way acquisition, Design and Construction.

Turn lanes serving the subject site along both the State Highway and Wells Road (County road) will be evaluated at the time the project seeks site development permitting from Lee County and Access Connection permitting from the Florida Department of Transportation.

APPENDIX

TABLES 1A & 2A

TABLE 1A
PEAK DIRECTION PROJECT TRAFFIC VS. 10% LOS C LINK VOLUMES
BAYSHORE 31 RPD

TOTAL AM PEAK HOUR PROJECT TRAFFIC =	309 VPH	IN=	207	OUT=	102
TOTAL PM PEAK HOUR PROJECT TRAFFIC =	756 VPH	IN=	356	OUT=	400

ROADWAY	SEGMENT	ROADWAY CLASS	LOS A VOLUME	LOS B VOLUME	LOS C VOLUME	LOS D VOLUME	LOS E VOLUME	PERCENT PROJECT TRAFFIC	PROJECT TRAFFIC	PROJ/ LOS C
Bayshore Road (SR 78)	W. of SR 31	2LN	0	0	872	**924**	924	15%	60	6.9%
	W. of Palm Creek Rd.	2LN	0	0	872	**924**	924	22%	88	10.1%
	W. of Nalle Rd.	2LN	0	0	872	**924**	924	34%	136	15.6%
	W. of Wells Rd.	2LN	0	0	872	**924**	924	63%	252	28.9%
	W. of Pritchett Pkwy	4LD	0	0	2,005	**2,100**	2,100	43%	172	8.6%
	W. of I-75	4LD	0	0	2,005	**2,100**	2,100	35%	140	7.0%
Pritchett Pkwy	N. of Bayshore Road	2LN	0	0	310	660	**740**	20%	80	25.8%
Nalle Road	N. of SR 78	2LN	0	0	310	660	**740**	12%	48	15.5%
Palm Creek Dr.	N. of SR 78	2LN	0	0	310	660	**740**	5%	20	6.5%
SR 31	N. of Bayshore Rd.	2LN	0	0	913	**970**	970	10%	40	4.4%
	S. of Bayshore Rd.	2LN	0	0	913	**970**	970	5%	20	2.2%
I-75	N. of Bayshor Rd.	6LF	0	3,410	**4,650**	5,780	6,340	2%	8	0.2%
	S. of Bayshore Rd.	6LF	0	3,410	4,650	**5,780**	6,340	6%	24	0.5%

Level of Service thresholds for Lee County roads were obtained from the Lee County Generalized Level of Service Volumes (April 2016)
Level of Service thresholds for FDOT roads were obtained from the FDOT Generalized Peak Hour Directional Volumes (Jan. 2020)
- Indicates recommended minimum LOS Standard

TABLE 2A
LEE COUNTY TRAFFIC COUNTS AND CALCULATIONS
BAYSHORE 31 RPD

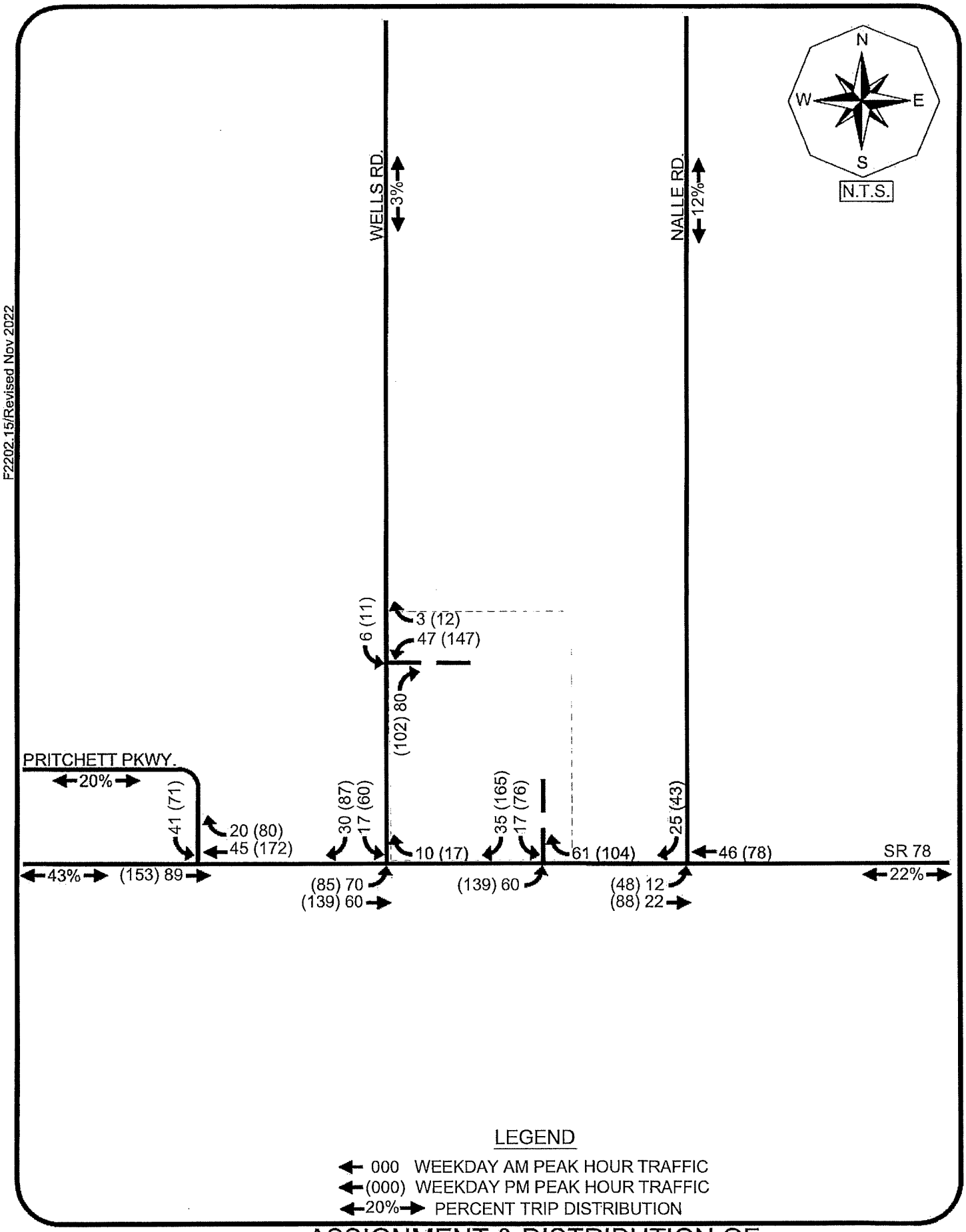
REVISED 11/4/2022

TOTAL PROJECT TRAFFIC AM =	309	VPH	IN =	207	OUT=	102
TOTAL PROJECT TRAFFIC PM =	756	VPH	IN=	356	OUT=	400

							2020				2028				
							PK HR	PERCENT			FUTURE PLANNING ANLYSIS				
		COUNT	BASE YR	2020	YRS OF	ANNUAL	PK SEASON	PROJECT	AM PROJ	PM PROJ	BACKGROUND		BCKGRND + PROJ		
ROADWAY	SEGMENT	STATION	ADT	ADT	GROWTH	RATE	PEAK DIR.[1]	TRAFFIC	TRAFFIC	TRAFFIC	PEAK DIR.	LOS	TRAFFIC	LOS	
Bayshore Road (SR 78)	W. of SR 31	120022	9,800	14,300	10	3.85%	532	15%	31	60	720	C	780	C	PD & E Study Underway
	W. of Palm Creek Rd.	120022	9,800	14,300	10	3.85%	532	22%	46	88	720	C	808	C	PD & E Study Underway
	W. of Nalle Rd.	120022	9,800	14,300	10	3.85%	532	34%	70	136	720	C	856	C	PD & E Study Underway
	W. of Wells Rd.	120022	9,800	14,300	10	3.85%	691	63%	130	252	935	F	1,187	F	PD & E Study Underway
	W. of Pritchett Pkwy	120022	9,800	14,300	10	3.85%	691	43%	89	172	935	C	1,107	C	PD & E Study Underway
Pritchett Pkwy	N. of Bayshore Road	-	-	-	-	12.00%	73	20%	41	80	181	C	261	C	
Nalle Road	N. of SR 78	344	2,581	2,500	8	2.00%	114	12%	25	48	134	C	182	C	

[1] Obtained from the 2021 Lee County Public Facilities Level of Service and Concurrency Report

SUPPLEMENTAL FIGURES A-1 & A-2

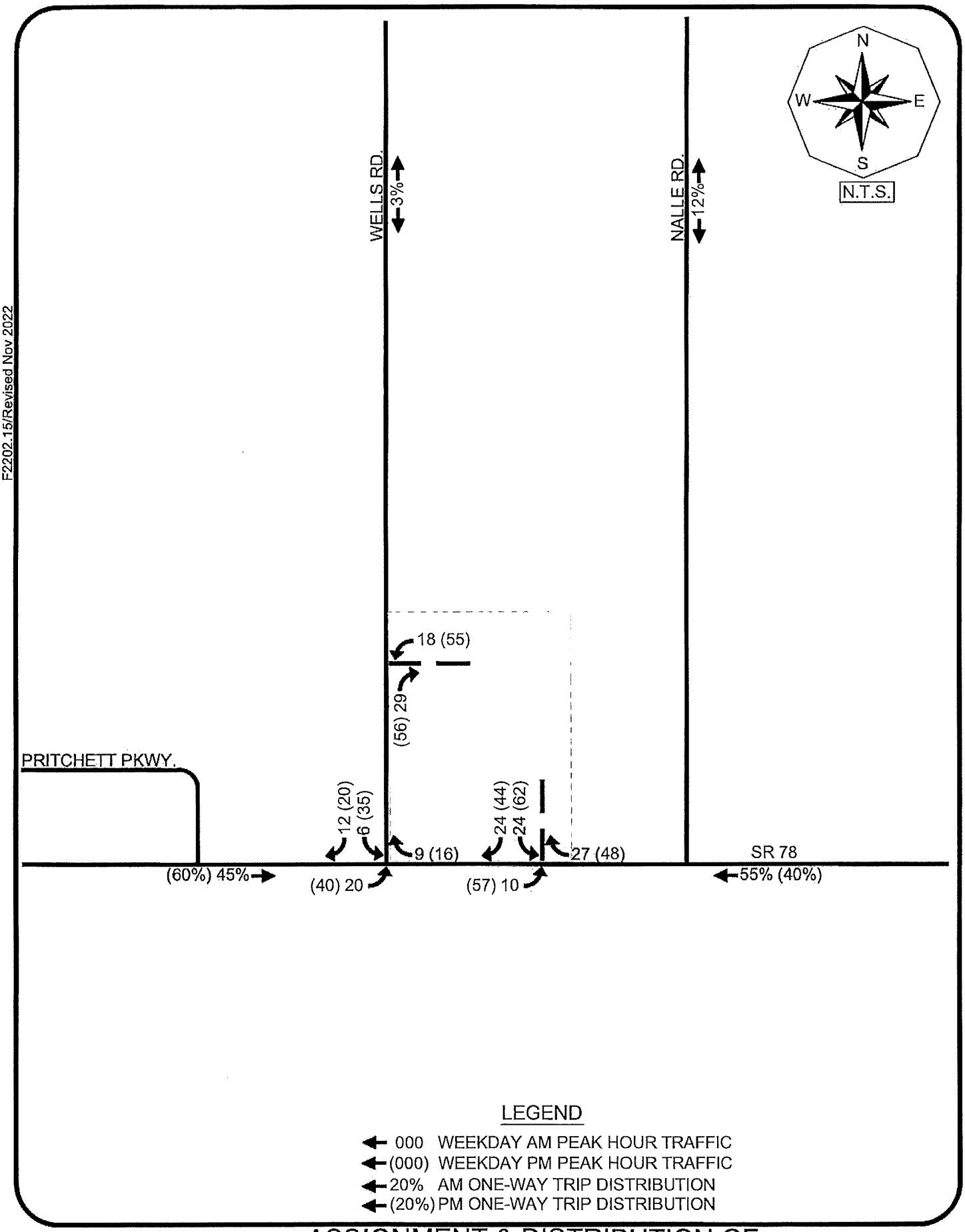


F2202.15/Revised Nov 2022

TR TRANSPORTATION CONSULTANTS, INC

ASSIGNMENT & DISTRIBUTION OF
NET NEW PROJECT TRIPS
BAYSHORE VILLAGE

Figure A-1



F2202.15/Revised Nov 2022

TR TRANSPORTATION CONSULTANTS, INC

ASSIGNMENT & DISTRIBUTION OF PASS-BY PROJECT TRIPS
BAYSHORE VILLAGE

Figure A-2

FDOT GENERALIZED PEAK HOUR DIRECTIONAL VOLUMES

TABLE 7

TABLE 7 Generalized **Peak Hour Directional** Volumes for Florida's Urbanized Areas

January 2020

INTERRUPTED FLOW FACILITIES

STATE SIGNALIZED ARTERIALS

Class I (40 mph or higher posted speed limit)

Lanes	Median	B	C	D	E
1	Undivided	*	830	880	**
2	Divided	*	1,910	2,000	**
3	Divided	*	2,940	3,020	**
4	Divided	*	3,970	4,040	**

Class II (35 mph or slower posted speed limit)

Lanes	Median	B	C	D	E
1	Undivided	*	370	750	800
2	Divided	*	730	1,630	1,700
3	Divided	*	1,170	2,520	2,560
4	Divided	*	1,610	3,390	3,420

Non-State Signalized Roadway Adjustments

(Alter corresponding state volumes by the indicated percent.)

Non-State Signalized Roadways - 10%

Median & Turn Lane Adjustments

Lanes	Median	Exclusive Left Lanes	Exclusive Right Lanes	Adjustment Factors
1	Divided	Yes	No	+5%
1	Undivided	No	No	-20%
Multi	Undivided	Yes	No	-5%
Multi	Undivided	No	No	-25%
–	–	–	Yes	+ 5%

One-Way Facility Adjustment

Multiply the corresponding directional volumes in this table by 1.2

BICYCLE MODE[2]

(Multiply vehicle volumes shown below by number of directional roadway lanes to determine two-way maximum service volumes.)

Paved Shoulder/Bicycle Lane Coverage	B	C	D	E
0-49%	*	150	390	1,000
50-84%	110	340	1,000	>1,000
85-100%	470	1,000	>1,000	**

PEDESTRIAN MODE[2]

(Multiply vehicle volumes shown below by number of directional roadway lanes to determine two-way maximum service volumes.)

Sidewalk Coverage	B	C	D	E
0-49%	*	*	140	480
50-84%	*	80	440	800
85-100%	200	540	880	>1,000

BUS MODE (Scheduled Fixed Route)[3]

(Buses in peak hour in peak direction)

Sidewalk Coverage	B	C	D	E
0-84%	> 5	≥ 4	≥ 3	≥ 2
85-100%	> 4	≥ 3	≥ 2	≥ 1

UNINTERRUPTED FLOW FACILITIES

FREEWAYS

Core Urbanized

Lanes	B	C	D	E
2	2,230	3,100	3,740	4,080
3	3,280	4,570	5,620	6,130
4	4,310	6,030	7,490	8,170
5	5,390	7,430	9,370	10,220
6	6,380	8,990	11,510	12,760

Urbanized

Lanes	B	C	D	E
2	2,270	3,100	3,890	4,230
3	3,410	4,650	5,780	6,340
4	4,550	6,200	7,680	8,460
5	5,690	7,760	9,520	10,570

Freeway Adjustments

Auxiliary Lane	Ramp Metering
+ 1,000	+ 5%

UNINTERRUPTED FLOW HIGHWAYS

Lanes	Median	B	C	D	E
1	Undivided	580	890	1,200	1,610
2	Divided	1,800	2,600	3,280	3,730
3	Divided	2,700	3,900	4,920	5,600

Uninterrupted Flow Highway Adjustments

Lanes	Median	Exclusive left lanes	Adjustment factors
1	Divided	Yes	+5%
Multi	Undivided	Yes	-5%
Multi	Undivided	No	-25%

[1] Values shown are presented as peak hour directional volumes for levels of service and are for the automobile/truck modes unless specifically stated. This table does not constitute a standard and should be used only for general planning applications. The computer models from which this table is derived should be used for more specific planning applications. The table and deriving computer models should not be used for corridor or intersection design, where more refined techniques exist. Calculations are based on planning applications of the HCM and the Transit Capacity and Quality of Service Manual.

[2] Level of service for the bicycle and pedestrian modes in this table is based on number of vehicles, not number of bicyclists or pedestrians using the facility.

[3] Buses per hour shown are only for the peak hour in the single direction of the higher traffic flow.

* Cannot be achieved using table input value defaults.

** Not applicable for that level of service letter grade. For the automobile mode, volumes greater than level of service D become F because intersection capacities have been reached. For the bicycle mode, the level of service letter grade (including F) is not achievable because there is no maximum vehicle volume threshold using table input value defaults.

Source:
Florida Department of Transportation
Systems Implementation Office
https://www.fdot.gov/planning/systems/

LEE COUNTY GENERALIZED LEVEL OF SERVICE VOLUMES

Lee County
Generalized Peak Hour Directional Service Volumes
Urbanized Areas

April 2016 c:\input5

Uninterrupted Flow Highway

Level of Service

Lane	Divided	A	B	C	D	E
1	Undivided	130	420	850	1,210	1,640
2	Divided	1,060	1,810	2,560	3,240	3,590
3	Divided	1,600	2,720	3,840	4,860	5,380

Arterials

Class I (40 mph or higher posted speed limit)

Level of Service

Lane	Divided	A	B	C	D	E
1	Undivided	*	140	800	860	860
2	Divided	*	250	1,840	1,960	1,960
3	Divided	*	400	2,840	2,940	2,940
4	Divided	*	540	3,830	3,940	3,940

Class II (35 mph or slower posted speed limit)

Level of Service

Lane	Divided	A	B	C	D	E
1	Undivided	*	*	330	710	780
2	Divided	*	*	710	1,590	1,660
3	Divided	*	*	1,150	2,450	2,500
4	Divided	*	*	1,580	3,310	3,340

Controlled Access Facilities

Level of Service

Lane	Divided	A	B	C	D	E
1	Undivided	*	160	880	940	940
2	Divided	*	270	1,970	2,100	2,100
3	Divided	*	430	3,050	3,180	3,180

Collectors

Level of Service

Lane	Divided	A	B	C	D	E
1	Undivided	*	*	310	660	740
1	Divided	*	*	330	700	780
2	Undivided	*	*	730	1,440	1,520
2	Divided	*	*	770	1,510	1,600

Note: the service volumes for I-75 (freeway), bicycle mode, pedestrian mode, and bus mode should be from FDOT's most current version of LOS Handbook.

LEE COUNTY PUBLIC FACILITIES LEVEL OF SERVICE AND CONCURRENCY REPORT

9/23/2021

LEE COUNTY Road Link Volumes (County- and State-Maintained Roadways)

LINK NO.	ROADWAY LINK NAME	FROM	TO	ROAD TYPE	PERFORMANCE STANDARD LOS	PERFORMANCE STANDARD CAPACITY	2020 100TH HIGHEST HOUR LOS	2020 100TH HIGHEST HOUR VOLUME	FORECAST FUTURE LOS	FORECAST FUTURE VOLUME	NOTES
20900	PINE ISLAND RD	STRINGFELLOW RD	BURNT STORE RD	2LN	E	950	E	594	E	644	Constrained
21400	PINE ISLAND RD (SR 78)	CITY LIMITS E OF BARRETT RD	US 41	4LD	D	2,100	C	1,621	D	2,037	
21500	PINE ISLAND RD (SR 78)	US 41	BUS 41	4LD	D	2,100	C	1,580	C	1,855	
21600	PINE RIDGE RD	SAN CARLOS BLVD	SUMMERLIN RD	2LN	E	860	C	489	C	535	*
21700	PINE RIDGE RD	SUMMERLIN RD	GLADIOLUS DR	2LN	E	860	C	293	D	352	Heritage Isle*
21800	PINE RIDGE RD	GLADIOLUS DR	McGREGOR BLVD	2LN	E	860	C	293	C	308	
21900	PLANTATION RD	SIX MILE PKWY	DANIELS PKWY	2LN	E	860	C	285	C	414	Intermed Park
22000	PLANTATION RD	DANIELS PKWY	IDLEWILD ST	2LN	E	860	D	740	D	778	FDOT Metro Pkwy 6-laning
22050	PLANTATION RD	IDLEWILD ST	COLONIAL BLVD	4LN	E	1,790	C	510	C	536	
22100	PONDELLA RD	SR 78	ORANGE GROVE BLVD	4LD	E	1,890	B	736	B	774	*
22200	PONDELLA RD	ORANGE GROVE BLVD	US 41	4LD	E	1,890	B	1,101	B	1,176	
22300	PONDELLA RD	US 41	BUS 41	4LD	E	1,890	B	1,094	B	1,150	
22400	PRITCHETT PKWY	SR 78	RICH RD	2LN	E	860	C	73	C	541	old count, Stoneybrook North(2009)
22500	RANCHETTE RD	PENZANCE BLVD	IDLEWILD ST	2LN	E	860	C	93	C	98	
22600	RICH RD	SLATER RD	PRITCHETT PKWY	2LN	E	860	C	55	C	62	old count projection(2009)
22700	RICHMOND AVE	LEELAND HEIGHTS	E 12TH ST	2LN	E	860	C	77	C	89	
22800	RICHMOND AVE	E 12TH ST	GREENBRIAR BLVD	2LN	E	860	C	77	C	81	
23000	SAN CARLOS BLVD (SR 865)	MANTANZAS PASS B.	MAIN ST	2LD	D	970		1,022		1,151	Constrained
23100	SAN CARLOS BLVD (SR 865)	MAIN ST	SUMMERLIN RD	4LD	D	2,100	C	1,022	C	1,151	PD&E Study
23180	SAN CARLOS BLVD (SR 865)	SUMMERLIN RD	KELLY RD	2LD	D	970	C	689	C	767	
23200	SAN CARLOS BLVD (SR 865)	KELLY RD	GLADIOLUS DR	4LD	D	2,100	C	689	C	767	
23230	SAN CARLOS BLVD	US 41	THREE OAKS PKWY	2LN	E	860	C	448	C	474	*
23260	SANIBEL BLVD	US 41	LEE RD	2LN	E	860	D	591	D	621	
23300	SANIBEL CAUSEWAY	SANIBEL SHORELINE	TOLL PLAZA	2LN	E	1,140	E	937	E	985	
23400	SHELL POINT BLVD	McGREGOR BLVD	PALM ACRES	2LN	E	860	C	294	C	309	*
23500	SIX MILE PKWY (SR 739)	US 41	METRO PKWY	4LD	D	2,100	C	1,512	C	1,764	
23600	SIX MILE CYPRESS	METRO PKWY	DANIELS PKWY	4LD	E	2,000	B	1,481	B	1,556	
23700	SIX MILE CYPRESS	DANIELS PKWY	WINKLER EXT	4LD	E	1,900	B	1,069	B	1,272	
23800	SIX MILE CYPRESS	WINKLER EXT	CHALLENGER BLVD	4LD	E	1,900	B	1,038	B	1,091	
23900	SIX MILE CYPRESS	CHALLENGER BLVD	COLONIAL BLVD	6LD	E	2,880	A	1,038	A	1,091	
24000	SLATER RD	SR 78	NALLE GRADE RD	2LN	E	1,010	C	399	C	419	*
24100	SOUTH POINTE BLVD	CYPRESS LAKE DR	COLLEGE PKWY	2LD	E	910	D	640	D	673	*
24200	SR 31 (ARCADIA RD)	SR 80	SR 78	2LN	D	970	C	652	C	831	PD&E/SEIR Study
24300	SR 31 (ARCADIA RD)	SR 78	COUNTY LINE	2LN	C	820	B	460	B	669	PD&E/SEIR Study
24400	STALEY RD	TICE	ORANGE RIVER BLVD	2LN	E	860	C	211	C	237	*
24500	STRINGFELLOW RD	1ST AVE	BERKSHIRE RD	2LN	E	1,060	B	315	D	672	Constrained
24600	STRINGFELLOW RD	BERKSHIRE RD	PINE ISLAND RD	2LN	E	1,060	B	315	C	448	Constrained
24700	STRINGFELLOW RD	PINE ISLAND RD	PINELAND RD	2LN	E	1,060	D	712	E	813	Constrained
24800	STRINGFELLOW RD	PINELAND RD	MAIN ST	2LN	E	1,060	D	712	E	809	
24900	SUMMERLIN RD	McGREGOR BLVD	KELLY COVE RD	4LD	E	1,980	A	1,243	A	1,306	
25000	SUMMERLIN RD	KELLY COVE RD	SAN CARLOS BLVD	4LD	E	1,980	A	1,243	A	1,306	
25100	SUMMERLIN RD	SAN CARLOS BLVD	PINE RIDGE RD	6LD	E	3,000	A	1,896	A	2,126	
25200	SUMMERLIN RD	PINE RIDGE RD	BASS RD	6LD	E	3,000	A	1,896	A	1,993	
25300	SUMMERLIN RD	BASS RD	GLADIOLUS DR	6LD	E	3,000	A	1,896	A	1,993	
25400	SUMMERLIN RD	GLADIOLUS DR	CYPRESS LAKE DR	4LD	E	1,900	C	1,517	C	1,618	
25500	SUMMERLIN RD	CYPRESS LAKE DR	COLLEGE PKWY	6LD	E	2,880	B	1,489	B	1,565	
25600	SUMMERLIN RD	COLLEGE PKWY	PARK MEADOW DR	6LD	E	2,880	B	1,526	B	1,604	
25700	SUMMERLIN RD	PARK MEADOW DR	BOY SCOUT	6LD	E	2,880	B	1,526	B	1,604	
25800	SUMMERLIN RD	BOY SCOUT	MATHEWS DR	4LD	E	1,820	D	1,189	D	1,250	
25900	SUMMERLIN RD	MATHEWS DR	COLONIAL BLVD	4LD	E	1,820	D	1,189	D	1,250	
26000	SUNRISE BLVD	BELL BLVD	COLUMBUS BLVD	2LN	E	860	C	42	C	53	Old Count
26100	SUNSHINE BLVD	SR 82	23RD ST SW	2LN	E	1,010	C	443	C	466	*
26150	SUNSHINE BLVD	23RD ST SW	LEE BLVD	2LN	E	1,010	C	443	C	466	*
26200	SUNSHINE BLVD	LEE BLVD	W 12TH ST	2LN	E	1,010	E	730	E	767	*
26300	SUNSHINE BLVD	W 12TH ST	W 7TH ST	2LN	E	860	D	600	D	630	
26400	SW 23RD ST	GUNNERY RD	SUNSHINE BLVD	2LN	E	860	E	855		1,012	Copperhead
26500	THREE OAKS PKWY	COCONUT RD	ESTERO PKWY	4LD	E	1,940	B	1,502	B	1,685	
26600	THREE OAKS PKWY	ESTERO PKWY	SAN CARLOS BLVD	4LD	E	1,940	B	855	B	964	
26700	THREE OAKS PKWY	SAN CARLOS BLVD	ALICO RD	4LD	E	1,940	B	855	B	1,198	
26800	TICE ST	SR 80	ORTIZ AVE	2LN	E	860	C	199	C	209	
26900	TICE ST	ORTIZ AVE	STALEY RD	2LN	E	860	C	188	D	701	Elementry U.
27000	TREELINE AVE	TERMINAL ACCESS RD	DANIELS PKWY	4LD	E	1,980	A	1,030	A	1,288	Harley Davidson
27030	TREELINE AVE	DANIELS PKWY	AMBERWOOD RD	4LD	E	1,980	A	799	A	840	
27070	TREELINE AVE	AMBERWOOD RD	COLONIAL BLVD	4LD	E	1,980	A	793	A	833	
29800	US 41 (S TAMIAMI TR)	OLD 41	CORKSCREW RD	6LD	D	3,171	C	2,020	C	2,273	
29900	US 41 (S TAMIAMI TR)	CORKSCREW RD	SANIBEL BLVD	6LD	D	3,171	C	1,901	C	2,354	
30000	US 41 (S TAMIAMI TR)	SANIBEL BLVD	ALICO RD	6LD	D	3,171	C	2,069	C	2,812	
30100	US 41 (S TAMIAMI TR)	ALICO RD	ISLAND PARK RD	6LD	D	3,171	C	2,069	C	2,467	

9/23/2021

LEE COUNTY Road Link Volumes (County- and State-Maintained Roadways)

LINK NO.	NAME	ROADWAY LINK FROM	TO	ROAD TYPE	PERFORMANCE STANDARD LOS	CAPACITY	2020 100TH HIGHEST HOUR LOS	VOLUME	FORECAST FUTURE LOS	VOLUME	NOTES
00100	A & W BULB RD	GLADIOLUS DR	McGREGOR BLVD	2LN	E	860	C	410	C	431	
00200	ALABAMA RD	SR 82	MILWAUKEE BLVD	2LN	E	990	C	270	C	284	
00300	ALABAMA RD	MILWAUKEE BLVD	HOMESTEAD RD	2LN	E	990	C	355	C	373	
00400	ALEXANDER BELL	SR 82	MILWAUKEE BLVD	2LN	E	990	D	571	D	600	
00500	ALEXANDER BELL	MILWAUKEE BLVD	LEELAND HEIGHTS	2LN	E	990	D	571	E	604	Shadow Lakes
00500	ALICO RD	US 41	DUSTY RD	4LD	E	1,980	B	1,171	B	1,230	
00600	ALICO RD	DUSTY RD	LEE RD	6LD	E	2,960	B	1,171	B	1,332	Alico Business Park
00700	ALICO RD	LEE RD	THREE OAKS PKWY	6LD	E	2,960	B	1,171	B	1,419	Three Oaks Regional Center
00800	ALICO RD	THREE OAKS PKWY	I-75	6LD	E	2,960	B	2,031	B	2,156	EEPCO Study
00900	ALICO RD	I-75	BEN HILL GRIFFIN BLVD	6LD	E	2,960	B	1,061	B	1,208	EEPCO Study
01000	ALICO RD	BEN HILL GRIFFIN BLVD	GREEN MEADOW DR	2LN	E	1,100/1,840	C	378	E	782	4 Ln constr 2018, EEPCO Study
01050	ALICO RD	GREEN MEADOW DR	CORKSCREW RD	2LN	E	1,100	B	131	B	224	EEPCO Study
01200	BABCOCK RD	US 41	ROCKEFELLER CIR	2LN	E	860	C	55	C	162	old count
01400	BARRETT RD	PONDELLA RD	PINE ISLAND RD	2LN	E	860	C	103	C	116	old count projection(2009)
01500	BASS RD	SUMMERLIN RD	GLADIOLUS DR	4LN	E	1,790	C	607	C	865	
01600	BAYSHORE RD (SR 78)	BUS 41	NEW POST RD/HART RD	4LD	D	2,100	C	1,750	C	1,925	
01700	BAYSHORE RD (SR 78)	HART RD	SLATER RD	4LD	D	2,100	C	1,774		2,236	
01800	BAYSHORE RD (SR 78)	SLATER RD	I-75	4LD	D	2,100	C	1,191	C	1,462	
01900	BAYSHORE RD (SR 78)	I-75	NALLE RD	2LN	D	924	C	691	C	877	
02000	BAYSHORE RD (SR 78)	NALLE RD	SR 31	2LN	D	924	C	532	C	673	
02100	BEN HILL GRIFFIN PKWY	CORKSCREW RD	FGCU ENTRANCE	4LD	E	2,000	B	1,403	B	1,475	
02200	BEN HILL GRIFFIN PKWY	FGCU BOULEVARD S	COLLEGE CLUB DR	4LD	E	2,000	B	1,403	B	1,475	
02250	BEN HILL GRIFFIN PKWY	COLLEGE CLUB DR	ALICO RD	6LD	E	3,000	A	1,129	A	1,221	
26950	BEN HILL GRIFFIN PKWY	ALICO RD	TERMINAL ACCESS RD	4LD	E	1,980	A	985	A	1,035	
02300	BETH STACEY BLVD	23RD ST	HOMESTEAD RD	2LN	E	860	C	346	C	548	
02400	BONITA BEACH RD	HICKORY BLVD	VANDERBILT DR	4LD	E	1,900	C	651	C	685	Constrained In City Plan *
02500	BONITA BEACH RD	VANDERBILT DR	US 41	4LD	E	1,900	C	1,494	C	1,571	Constrained In City Plan
02600	BONITA BEACH RD	US 41	OLD 41	4LD	E	1,860	C	1,532	C	1,610	Constrained, old count projection(2010)
02700	BONITA BEACH RD	OLD 41	IMPERIAL ST	6LD	E	2,800	C	1,818	C	1,910	Constrained In City Plan(2010)
02800	BONITA BEACH RD	IMPERIAL ST	W OF I-75	6LD	E	2,800	C	1,995	C	2,097	Constrained In City Plan
02900	BONITA BEACH RD	E OF I-75	BONITA GRAND DR	4LD	E	2,020	B	667	B	701	Constrained In City Plan
02950	BONITA BEACH RD	BONITA GRANDE DR	END OF CO MAINTAINED	4LD	E	2,020	B	667	B	701	Constrained In City Plan
03100	BONITA GRANDE DR	BONITA BEACH RD	E TERRY ST	2LN	E	860	D	692	E	782	old count projection(2009)
03200	BOYSCOUT RD	SUMMERLIN RD	US 41	6LN	E	2,520	E	1,766	E	1,856	
03300	BRANTLEY RD	SUMMERLIN RD	US 41	2LN	E	860	C	275	C	289	
03400	BRIARCLIFF RD	US 41	TRIPLE CROWN CT	2LN	E	860	C	157	C	165	
03500	BROADWAY RD (ALVA)	SR 80	N. RIVER RD	2LN	E	860	C	299	C	314	old count projection(2009)
03700	BUCKINGHAM RD	SR 82	GUNNERY RD	2LN	E	990	D	477	D	501	
03730	BUCKINGHAM RD	GUNNERY RD	ORANGE RIVER BLVD	2LN	E	990	C	383	C	403	
03800	BUCKINGHAM RD	ORANGE RIVER BLVD	SR 80	2LN	E	990	D	529	E	884	Buckingham 345, Portico
03900	BURNT STORE RD	SR 78	VAN BUREN PKWY	4LD	E	2,950	B	623	B	970	
04000	BURNT STORE RD	VAN BUREN PKWY	COUNTY LINE	2LN	E	1,140	C	506	C	604	
04200	BUS 41 (N TAMIAMI TR, SR	CITY LIMITS (N END EDIS	PONDELLA RD	6LD	D	3,171	C	1,249	C	1,554	
04300	BUS 41 (N TAMIAMI TR, SR	PONDELLA RD	SR 78	6LD	D	3,171	C	1,249	C	1,554	
04400	BUS 41 (N TAMIAMI TR, SR	SR 78	LITTLETON RD	4LD	D	2,100	C	1,000	C	1,275	
04500	BUS 41 (N TAMIAMI TR, SR	LITTLETON RD	US 41	4LD	D	2,100	C	614	C	827	
04600	CAPE CORAL BRIDGE	DEL PRADO BLVD	McGREGOR BLVD	4LB	E	4,000	D	3,053	D	3,209	
04700	CAPTIVA DR	BLIND PASS	SOUTH SEAS	2LN	E	860	C	267	C	302	Constrained, old count(2010)
04800	CEMETERY RD	BUCKINGHAM RD	HIGGINS AVE	2LN	E	860	C	328	C	345	
04900	CHAMBERLIN PKWY	AIRPORT ENT	DANIELS PKWY	4LN	E	1,790	C	105	C	150	Port Authority maintained
05000	COCONUT RD	WEST END	VIA VENETTO BLVD	2LN	E	860	C	268	C	420	Estero maintains to east
05100	COLLEGE PKWY	McGREGOR BLVD	WINKLER RD	6LD	E	2,980	D	2,292	D	2,409	*
05200	COLLEGE PKWY	WINKLER RD	WHISKEY CREEK DR	6LD	E	2,980	D	2,059	D	2,164	
05300	COLLEGE PKWY	WHISKEY CREEK DR	SUMMERLIN RD	6LD	E	2,980	D	2,059	D	2,164	
05400	COLLEGE PKWY	SUMMERLIN RD	US 41	6LD	E	2,980	D	1,813	D	1,907	
05500	COLONIAL BLVD	McGREGOR BLVD	SUMMERLIN RD	6LD	E	2,840		3,049		3,204	*
05600	COLONIAL BLVD	SUMMERLIN RD	US 41	6LD	E	2,840	D	2,821		2,965	
06200	COLONIAL BLVD	DYNASTY DR	SR 82	6LD	D	3,040	B	2,241	C	2,355	*
06300	COLUMBUS BLVD	SR 82	MILWAUKEE BLVD	2LN	E	860	C	100	C	105	old count
06400	CONSTITUTION BLVD	US 41	CONSTITUTION CIR	2LN	E	860	C	217	C	245	old count projection(2010)
06500	CORBETT RD	SR 78 (PINE ISLAND RD)	LITTLETON RD	2LN	E	860	C	22	C	226	old count, added VA elink (2009)
06600	CORKSCREW RD	US 41	THREE OAKS PKWY	4LD	E	1,900	C	1,007	C	1,272	Galleria at Corkscrew
06700	CORKSCREW RD	THREE OAKS PKWY	W OF I-75	4LD	E	1,900		2,129		2,238	
06800	CORKSCREW RD	E OF I-75	BEN HILL GRIFFIN BLVD	4LD	E	1,900	C	1,022	C	1,234	
06900	CORKSCREW RD	BEN HILL GRIFFIN BLVD	ALICO RD	4LD	E	1,980	C	1,181	C	1,393	
07000	CORKSCREW RD	ALICO RD	COUNTY LINE	2LN	E	1,140	C	499	E	978	EEPCO Study, The Place, Verdana Village
07100	COUNTRY LAKES BLVD	LUCKETT RD	TICE ST	2LN	E	860	C	143	C	293	old count projection(2010)
07200	CRYSTAL DR	US 41	METRO PKWY	2LN	E	860	C	336	C	353	
07300	CRYSTAL DR	METRO PKWY	PLANTATION RD	2LN	E	860	C	225	C	237	

TRAFFIC DATA FROM FDOT

FLORIDA TRAFFIC ONLINE

FLORIDA DEPARTMENT OF TRANSPORTATION
TRANSPORTATION STATISTICS OFFICE
2020 HISTORICAL AADT REPORT

COUNTY: 12 - LEE

SITE: 0022 - SR 78, EAST OF NALLE ROAD LC217

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2020	14300 C	E 7400	W 6900	9.00	53.70	15.40
2019	14600 C	E 7600	W 7000	9.00	54.00	18.70
2018	12900 C	E 6700	W 6200	9.00	55.20	16.30
2017	12000 C	E 6200	W 5800	9.00	54.40	17.50
2016	12300 C	E 6300	W 6000	9.00	57.70	15.00
2015	11500 C	E 5800	W 5700	9.00	57.50	13.60
2014	10000 F	E 5000	W 5000	9.00	56.80	12.00
2013	9800 C	E 4900	W 4900	9.00	56.50	12.00
2012	10200 C	E 5100	W 5100	9.00	54.20	12.90
2011	9800 F	E 4800	W 5000	9.00	56.20	12.20
2010	9800 C	E 4800	W 5000	9.91	56.34	12.20
2009	9900 C	E 5000	W 4900	9.98	55.90	13.90
2008	10400 C	E 5300	W 5100	10.16	57.01	13.80
2007	11800 C	E 6000	W 5800	10.16	54.76	17.30
2006	11800 C	E 6000	W 5800	10.23	54.38	18.00
2005	12600 C	E 6300	W 6300	10.30	54.10	19.20

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; R = FOURTH YEAR ESTIMATE
V = FIFTH YEAR ESTIMATE; 6 = SIXTH YEAR ESTIMATE; X = UNKNOWN
*K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K30 VALUES

County: 12
Station: 0022
Description: SR 78, EAST OF NALLE ROAD LC217
Start Date: 03/10/2020
Start Time: 0000

	Direction: E					Direction: W					Combined		
Time	1st	2nd	3rd	4th	Total	1st	2nd	3rd	4th	Total	Total	EB	WB
0000	11	4	7	4	26	8	6	2	5	21	47		
0100	5	5	5	3	18	1	3	6	2	12	30		
0200	4	6	6	2	18	3	4	3	3	13	31		
0300	2	3	5	10	20	4	2	5	6	17	37		
0400	13	9	14	22	58	8	8	8	11	35	93		
0500	9	18	27	57	111	19	34	42	63	158	269		
0600	60	88	105	80	333	91	127	149	148	515	848		
0700	74	93	121	151	439	175	184	161	139	659	1098		
0800	115	120	114	91	440	109	134	139	102	484	924		
0900	88	96	94	110	388	125	118	110	123	476	864	388	476
1000	70	151	97	119	437	121	112	107	91	431	868	45%	55%
1100	122	111	117	124	474	94	87	115	134	430	904		
1200	137	123	118	125	503	108	117	107	138	470	973		
1300	133	112	113	142	500	120	107	104	161	492	992		
1400	114	139	135	140	528	132	113	118	123	486	1014		
1500	124	140	134	176	574	122	110	131	114	477	1051		
1600	155	177	171	158	661	143	114	128	113	498	1159		
1700	188	172	181	186	727	122	146	102	108	478	1205	727	478
1800	151	161	104	101	517	98	90	98	69	355	872		
1900	96	102	74	73	345	69	68	64	67	268	613	60%	40%
2000	65	52	62	55	234	35	45	53	51	184	418		
2100	67	54	41	31	193	39	25	28	36	128	321		
2200	30	37	23	15	105	16	21	18	9	64	169		
2300	13	10	12	14	49	16	9	9	4	38	87		
24-Hour Totals:					7698					7189	14887		

Peak Volume Information

	Direction: E		Direction: W		Combined Directions	
	Hour	Volume	Hour	Volume	Hour	Volume
A.M.	730	507	645	668	700	1098
P.M.	1700	727	1345	524	1700	1205
Daily	1700	727	645	668	1700	1205
Truck Percentage		16.12		14.62		15.40

Classification Summary Database

Dir	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	TotTrk	TotVol
E	93	4094	2270	27	476	274	12	236	181	26	4	2	3	0	0	1241	7698
W	80	3833	2225	23	467	100	82	217	151	6	1	1	3	0	0	1051	7189

FLORIDA DEPARTMENT OF TRANSPORTATION
TRANSPORTATION STATISTICS OFFICE
2020 HISTORICAL AADT REPORT

COUNTY: 12 - LEE

SITE: 6064 - BAYSHORE RD, W OF I-75

YEAR	AADT	DIRECTION 1	DIRECTION 2	*K FACTOR	D FACTOR	T FACTOR
2020	24500 S	0	0	9.00	54.00	6.90
2019	25500 F	0	0	9.00	56.00	7.70
2018	25710 C	0	0	9.00	53.70	8.00
2017	25500 X	0	0	9.00	55.40	7.40
2016	25000 E	0	0	9.00	57.10	7.00
2015	24000 E	0	0	9.00	52.30	5.90
2014	20162 C			9.00	52.30	5.90
2013	20162 C	E 10233	W 9929	9.00	52.30	9.60

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; R = FOURTH YEAR ESTIMATE
V = FIFTH YEAR ESTIMATE; 6 = SIXTH YEAR ESTIMATE; X = UNKNOWN
*K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K30 VALUES

TRAFFIC DATA FROM LEE COUNTY TRAFFIC DATA MANAGEMENT SYSTEM

Location Info	
Location ID	344
Type	I-SECTION
Functional Class	-
Located On	Nalle Rd
NORTH OF	Bayshore Rd
Direction	2-WAY
Community	-
MPO_ID	
HPMS ID	
Agency	Lee County

Count Data Info	
Start Date	4/22/2021
End Date	4/23/2021
Start Time	12:00 AM
End Time	12:00 AM
Direction	
Notes	lee
Count Source	344
File Name	D042221.344.PRN
Weather	
Study	
Owner	LeeAuto
QC Status	Accepted

Interval: 15 mins

Time	15 Min				Hourly Count
	1st	2nd	3rd	4th	
00:00 - 01:00	2	3	2	0	7
01:00 - 02:00	0	0	1	3	4
02:00 - 03:00	1	2	1	0	4
03:00 - 04:00	0	0	1	2	3
04:00 - 05:00	4	3	7	8	22
05:00 - 06:00	7	13	18	20	58
06:00 - 07:00	33	56	39	51	179
07:00 - 08:00	55	47	61	54	217
08:00 - 09:00	57	38	34	34	163
09:00 - 10:00	44	40	34	41	159
10:00 - 11:00	58	31	45	33	167
11:00 - 12:00	33	38	42	42	155
12:00 - 13:00	57	48	43	48	196
13:00 - 14:00	41	45	52	42	180
14:00 - 15:00	41	49	54	47	191
15:00 - 16:00	50	50	53	51	204
16:00 - 17:00	57	53	61	50	221
17:00 - 18:00	72	81	65	77	295
18:00 - 19:00	58	43	43	42	186
19:00 - 20:00	25	29	40	28	122
20:00 - 21:00	35	34	44	31	144
21:00 - 22:00	28	16	14	18	76
22:00 - 23:00	15	15	11	6	47
23:00 - 24:00	15	6	5	3	29
TOTAL					3029

TRIP GENERATION EQUATIONS

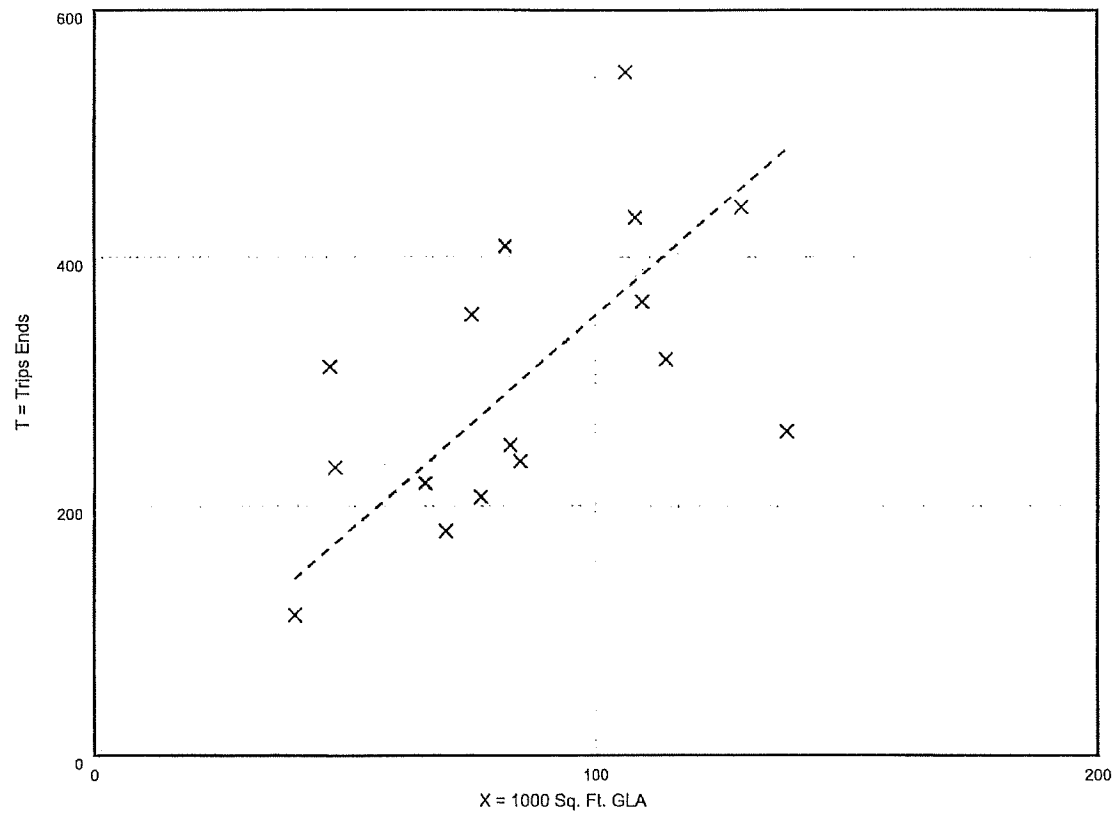
Shopping Plaza (40-150k) - Supermarket - Yes (821)

Vehicle Trip Ends vs: 1000 Sq. Ft. GLA
On a: Weekday,
Peak Hour of Adjacent Street Traffic,
One Hour Between 7 and 9 a.m.
Setting/Location: General Urban/Suburban
Number of Studies: 16
Avg. 1000 Sq. Ft. GLA: 86
Directional Distribution: 62% entering, 38% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
3.53	1.88 - 6.62	1.17

Data Plot and Equation



× Study Site
- - - - - Average Rate

Fitted Curve Equation: Not Given
R^2= ***

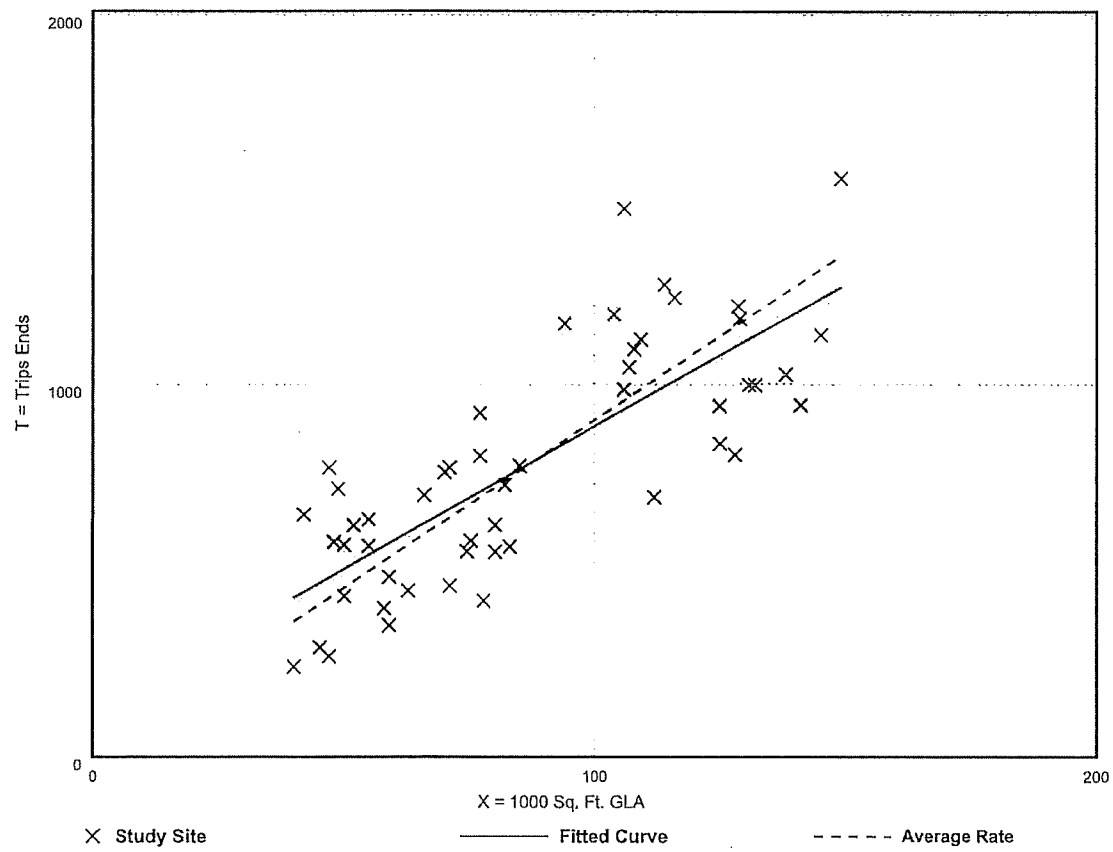
Shopping Plaza (40-150k) - Supermarket - Yes (821)

Vehicle Trip Ends vs: 1000 Sq. Ft. GLA
On a: Weekday,
Peak Hour of Adjacent Street Traffic,
One Hour Between 4 and 6 p.m.
Setting/Location: General Urban/Suburban
Number of Studies: 51
Avg. 1000 Sq. Ft. GLA: 87
Directional Distribution: 48% entering, 52% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
9.03	5.35 - 16.45	2.37

Data Plot and Equation



Fitted Curve Equation: T = 7.67(X) + 118.86 **R^2= 0.62**

Shopping Plaza (40-150k) - Supermarket - Yes (821)

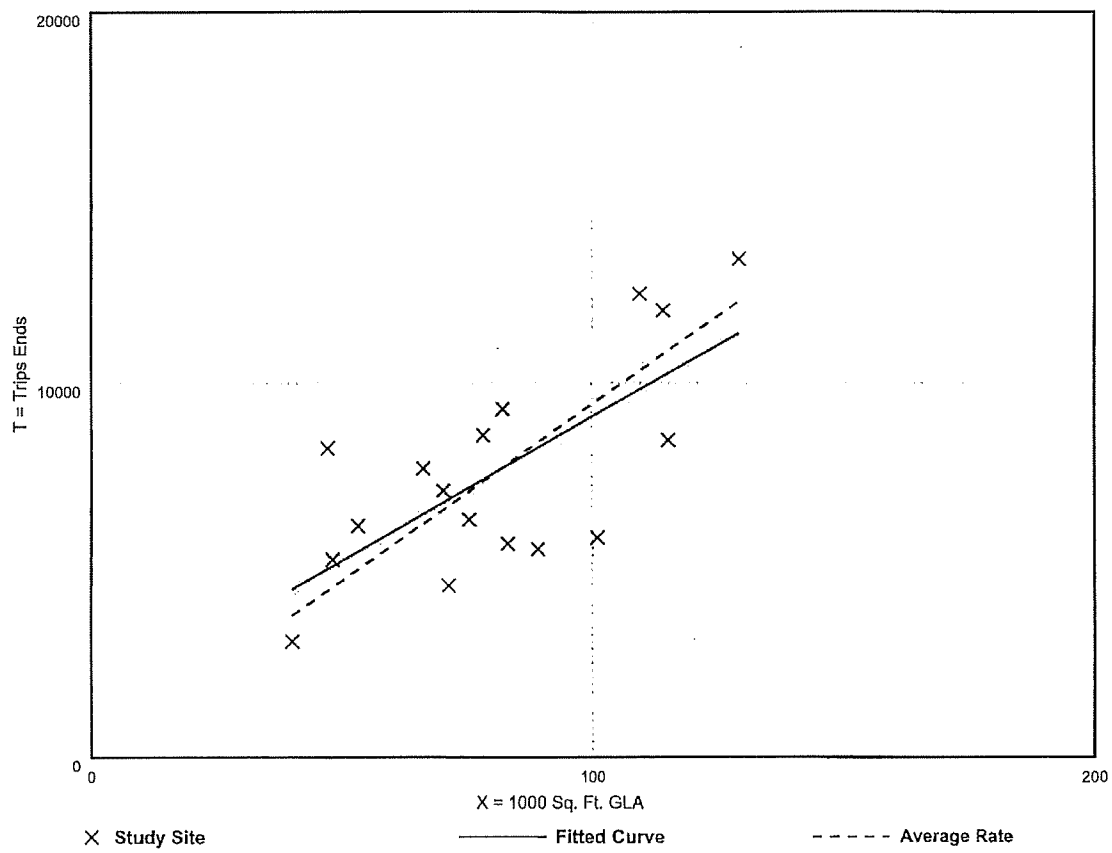
Vehicle Trip Ends vs: 1000 Sq. Ft. GLA
On a: Weekday

Setting/Location: General Urban/Suburban
Number of Studies: 17
Avg. 1000 Sq. Ft. GLA: 81
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GLA

Average Rate	Range of Rates	Standard Deviation
94.49	57.86 - 175.32	26.55

Data Plot and Equation



× Study Site ——— Fitted Curve - - - - - Average Rate

Fitted Curve Equation: T = 76.96(X) + 1412.79 **R^2= 0.50**

TR TRANSPORTATION CONSULTANTS, INC

2726 OAK RIDGE COURT, SUITE 503
FORT MYERS, FL 33901-9356
OFFICE 239.278.3090
FAX 239.278.1906

TRAFFIC ENGINEERING
TRANSPORTATION PLANNING
SIGNAL SYSTEMS/DESIGN

December 1, 2022

Ms. Jennifer Sapen
Barraco & Associates
2271 McGregor Boulevard
Fort Myers, FL 33901

RE: Bayshore Village Marketplace
DCI2022-00032

Dear Ms. Sapen:

TR Transportation Consultants, Inc. has provided the attached intersection analysis to supplement the previously submitted traffic study submitted as part of the review process for the above zoning case. Attached are the traffic counts conducted at the intersections of Bayshore Road (S.R. 78) at Pritchett Parkway and at S.R. 78 and Wells Road as well as the FDOT Peak Season Adjustment Factor sheet to adjust the traffic counts to the peak season conditions based on the FDOT data. The traffic counts were then increased by the growth factor as contained in the traffic study (only the through volumes along S.R. 78) to the analysis year of 2028.

Attached this response are the following intersection analysis summary sheets conducted utilizing the latest version of the Highway Capacity Software (HCS) based on the methodologies of the Highway Capacity Manual.

- 2028 Weekday AM Peak Hour Background Traffic Conditions
- 2028 Weekday PM Peak Hour Background Traffic Conditions
- 2028 Weekday AM Peak Hour Background + Project Traffic Conditions
- 2028 Weekday PM Peak Hour Background + Project Traffic Conditions

If you have any additional questions, please do not hesitate to contact us.

Sincerely,

Ted Treesh, PTP
President

Attachments

K:\2022\02 February\15 Bayshore Village Market Place Rezoning\Revised November 2022\12-1-2022 TIS Sufficiency Intersection Analysis.doc

TRAFFIC COUNTS

Bayshore Rd @ Wells Rd 11-8-22 AM

File Name: Bayshore Rd @ Wells Rd 11-8-22 AM
Location:

All Vehicles

Site Code:
Study Date: 11/08/2022

	Wells Rd Southbound					Bayshore Rd Westbound					Northbound					Bayshore Rd Eastbound					
Time	Right	Thru	Left	U-Turn	Appr Total	Right	Thru	Left	U-Turn	Appr Total	Right	Thru	Left	U-Turn	Appr Total	Right	Thru	Left	U-Turn	Appr Total	Int Total
07:00	29	0	3	0	32	1	203	0	0	204	0	0	0	0	0	0	131	2	0	133	369
07:15	18	0	1	0	19	0	252	0	1	253	0	0	0	0	0	0	114	2	1	117	389
07:30	11	0	1	0	12	1	294	0	0	295	0	0	0	0	0	0	140	5	1	146	453
07:45	12	0	0	0	12	2	271	0	0	273	0	0	0	0	0	0	119	9	0	128	413
Total	70	0	5	0	75	4	1020	0	1	1025	0	0	0	0	0	0	504	18	2	524	1624
08:00	13	0	3	0	16	6	247	0	0	253	0	0	0	0	0	0	135	8	0	143	412
08:15	7	0	4	0	11	5	237	0	0	242	0	0	0	0	0	0	126	5	0	131	384
08:30	8	0	2	0	10	4	209	0	0	213	0	0	0	0	0	0	112	7	0	119	342
08:45	9	0	2	0	11	1	171	0	0	172	0	0	0	0	0	0	133	3	1	137	320
Total	37	0	11	0	48	16	864	0	0	880	0	0	0	0	0	0	506	23	1	530	1458
	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Grand Total	107	0	16	0	123	20	1884	0	1	1905	0	0	0	0	0	0	1010	41	3	1054	3082
Appr %	87.0	00.0	13.0	00.0		01.0	98.9	00.0	00.1		NaN	NaN	NaN	NaN		00.0	95.8	03.9	00.3		
Total %	03.5	00.0	00.5	00.0		00.6	61.1	00.0	00.0		00.0	00.0	00.0	00.0		00.0	32.8	01.3	00.1		
% Trucks	00.0	-	00.0	-	00.0	00.0	00.0	-	00.0	00.0	-	-	-	-	-	-	00.0	00.0	00.0	00.0	00.0
AM Pk Hr	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15	07:15
AM Pk Vol	54	0	5	0	59	9	1064	0	1	1074	0	0	0	0	0	0	508	24	2	534	1667
AM PHF	0.750	NaN	0.417	NaN	0.776	0.375	0.905	NaN	0.250	0.910	NaN	NaN	NaN	NaN	NaN	NaN	0.907	0.667	0.500	0.914	0.920

CountingCars.com

Bayshore Rd @ Wells Rd 11-8-22 AM

File Name: Bayshore Rd @ Wells Rd 11-8-22 AM
Location:

All Vehicles

Site Code:
Study Date: 11/08/2022

Wells Rd

Right	Thru	Left	U-Turn
54	0	5	0

Bayshore Rd

Right	Thru	Left	U-Turn
9	1064	0	1

AM Peak Hour Statistics
AM Peak Hour Begins: 07:15
AM Peak Hour Volume: 1667
AM Peak Hour Factor: 0.920

Bayshore Rd

Right	Thru	Left	U-Turn
0	508	24	2

U-Turn	Left	Thru	Right
0	0	0	0

CountingCars.com

Bayshore Rd @ Wells Rd 11-8-22 PM

File Name: Bayshore Rd @ Wells Rd 11-8-22 PM
Location:

Cars and Peds

Site Code:
Study Date: 11/08/2022

	Wells Rd Southbound						Bayshore Rd Westbound						Northbound						Bayshore Rd Eastbound						
Time	Peds	Right	Thru	Left	U-Turn	Appr Total	Peds	Right	Thru	Left	U-Turn	Appr Total	Peds	Right	Thru	Left	U-Turn	Appr Total	Peds	Right	Thru	Left	U-Turn	Appr Total	Int Total
16:00		11	0	2	0	13		3	177	0	0	180		0	0	0		0		0	255	8	0	263	456
16:15		6	0	3	0	9		2	185	0	0	187		0	0	0		0		0	248	15	0	263	459
16:30		4	0	1	0	5		6	151	0	0	157		0	0	0		0		0	261	12	0	273	435
16:45		10	0	1	0	11		3	166	0	0	169		0	0	0		0		0	238	18	0	256	436
Total	0	31	0	7	0	38	0	14	679	0	0	693	0	0	0	0	0	0	0	0	1002	53	0	1055	1786
17:00		4	0	4	0	8		4	158	0	0	162		0	0	0		0		0	243	14	1	258	428
17:15		9	0	1	0	10		2	182	0	0	184		0	0	0		0		0	226	19	0	245	439
17:30		9	0	1	0	10		1	180	0	0	181		0	0	0		0		0	237	16	2	255	446
17:45		12	0	0	0	12		4	174	0	0	178		0	0	0		0		0	221	15	0	236	426
Total	0	34	0	6	0	40	0	11	694	0	0	705	0	0	0	0	0	0	0	0	927	64	3	994	1739
Grand Total	0	65	0	13	0	78	0	25	1373	0	0	1398	0	0	0	0	0	0	0	0	1929	117	3	2049	3525
Appr %		83.3	0	16.7	0			1.8	98.2	0	0			-2	-2	-2	-2			0	94.1	5.7	0.1		
Total %		1.8	0	0.4	0			0.7	39	0	0			0	0	0	0			0	54.7	3.3	0.1		
PM Pk Hr		16:00	16:00	16:00	16:00	16:00		16:00	16:00	16:00	16:00	16:00		16:00	16:00	16:00	16:00	16:00		16:00	16:00	16:00	16:00	16:00	16:00
PM Pk Vol		31	0	7	0	38		14	679	0	0	693		0	0	0	0	0		0	1002	53	0	1055	1786
PM PHF		0.705	NaN	0.583	NaN	0.731		0.583	0.918	NaN	NaN	0.926		NaN	NaN	NaN	NaN	NaN		NaN	0.960	0.736	NaN	0.966	0.973

CountingCars.com

Bayshore Rd @ Wells Rd 11-8-22 PM

File Name: Bayshore Rd @ Wells Rd 11-8-22 PM
Location:

All Vehicles

Site Code:
Study Date: 11/08/2022

Wells Rd

Right	Thru	Left	U-Turn
31	0	7	0

Bayshore Rd

Right	Thru	Left	U-Turn
0	1002	53	0

PM Peak Hour Statistics
PM Peak Hour Begins: 16:00
PM Peak Hour Volume: 1786
PM Peak Hour Factor: 0.973

Bayshore Rd

Right	Thru	Left	U-Turn
14	679	0	0

U-Turn	Left	Thru	Right
0	0	0	0

CountingCars.com

Bayshore Rd @ Pritchett Pkwy 11-8-22 AM

File Name: Bayshore Rd @ Pritchett Pkwy 11-8-22 AM
Location:

Cars and Peds

Site Code:
Study Date: 11/08/2022

	Pritchett Pkwy Southbound						Bayshore Rd Westbound						Northbound						Bayshore Rd Eastbound						
Time	Peds	Right	Thru	Left	U-Turn	Appr Total	Peds	Right	Thru	Left	U-Turn	Appr Total	Peds	Right	Thru	Left	U-Turn	Appr Total	Peds	Right	Thru	Left	U-Turn	Appr Total	Int Total
07:00		33	0	4		37		9	224	0	0	233						0		0	136	12	2	150	420
07:15		25	0	9	0	34		16	263	0	0	279						0		0	122	7	0	129	442
07:30		25	0	6	0	31		13	298	0	0	311						0		0	143	19	1	163	505
07:45		25	0	5	0	30		27	267	0	0	294						0		0	111	27	0	138	462
Total	0	108	0	24	0	132	0	65	1052	0	0	1117	0	0	0	0	0	0	0	0	512	65	3	580	1829
08:00		14	0	6	0	20		14	259	0	0	273						0		0	147	26	0	173	466
08:15		19	0	6	0	25		22	233	0	0	255						0		0	129	22	1	152	432
08:30		11	0	7	0	18		16	209	0	0	225						0		0	110	31	5	146	389
08:45		16	0	7	0	23		5	168	0	0	173						0		0	131	14	0	145	341
Total	0	60	0	26	0	86	0	57	869	0	0	926	0	0	0	0	0	0	0	0	517	93	6	616	1628
Grand Total	0	168	0	50	0	218	0	122	1921	0	0	2043	0	0	0	0	0	0	0	0	1029	158	9	1196	3457
Appr %		77.1	0	22.9	0			6	94	0	0			-2	-2	-2	-2			0	86	13.2	0.8		
Total %		4.9	0	1.4	0			3.5	55.6	0	0			0	0	0	0			0	29.8	4.6	0.3		
AM Pk Hr		07:15	07:15	07:15	07:15	07:15		07:15	07:15	07:15	07:15	07:15		07:15	07:15	07:15	07:15	07:15		07:15	07:15	07:15	07:15	07:15	07:15
AM Pk Vol		89	0	26	0	115		70	1087	0	0	1157		0	0	0	0	0		0	523	79	1	603	1875
AM PHF		0.890	NaN	0.722	NaN	0.846		0.648	0.912	NaN	NaN	0.930		NaN	NaN	NaN	NaN	NaN		NaN	0.889	0.731	0.250	0.871	0.928

CountingCars.com

Bayshore Rd @ Pritchett Pkwy 11-8-22 AM

File Name: Bayshore Rd @ Pritchett Pkwy 11-8-22 AM
Location:

All Vehicles

Site Code:
Study Date: 11/08/2022

Pritchett Pkwy

Right	Thru	Left	U-Turn
89	0	26	0

Bayshore Rd

Right	Thru	Left	U-Turn
0	523	79	1

Bayshore Rd

Right	Thru	Left	U-Turn
70	1087	0	0

AM Peak Hour Statistics
AM Peak Hour Begins: 07:15
AM Peak Hour Volume: 1875
AM Peak Hour Factor: 0.928

U-Turn	Left	Thru	Right
0	0	0	0

CountingCars.com

Bayshore Rd @ Pritchett Pkwy 11-8-22 PM

File Name: Bayshore Rd @ Pritchett Pkwy 11-8-22 PM
Location:

Cars and Peds

Site Code:
Study Date: 11/08/2022

	Pritchett Pkwy Southbound						Bayshore Rd Westbound						Northbound						Bayshore Rd Eastbound						
Time	Peds	Right	Thru	Left	U-Turn	Appr Total	Peds	Right	Thru	Left	U-Turn	Appr Total	Peds	Right	Thru	Left	U-Turn	Appr Total	Peds	Right	Thru	Left	U-Turn	Appr Total	Int Total
16:00		17	0	8	0	25		6	181	0	0	187						0		0	254	34	2	290	502
16:15		26	0	5	0	31		18	185	0	0	203						0		0	260	36	0	296	530
16:30		12	0	10	0	22		14	148	0	0	162						0		0	262	26	0	288	472
16:45		10	0	3	0	13		15	172	0	0	187						0		0	258	38	0	296	496
Total	0	65	0	26	0	91	0	53	686	0	0	739	0	0	0	0	0	0	0	0	1034	134	2	1170	2000
17:00		17	0	8	0	25		18	153	0	0	171						0		0	251	44	0	295	491
17:15		22	0	6	0	28		11	187	0	0	198						0		0	237	46	0	283	509
17:30		20	0	8	0	28		19	193	0	0	212						0		0	252	53	1	306	546
17:45		14	0	2	0	16		12	180	0	0	192						0		0	239	35	1	275	483
Total	0	73	0	24	0	97	0	60	713	0	0	773	0	0	0	0	0	0	0	0	979	178	2	1159	2029
Grand Total	0	138	0	50	0	188	0	113	1399	0	0	1512	0	0	0	0	0	0	0	0	2013	312	4	2329	4029
Appr %		73.4	0	26.6	0			7.5	92.5	0	0			-2	-2	-2	-2			0	86.4	13.4	0.2		
Total %		3.4	0	1.2	0			2.8	34.7	0	0			0	0	0	0			0	50	7.7	0.1		
PM Pk Hr		16:45	16:45	16:45	16:45	16:45		16:45	16:45	16:45	16:45	16:45		16:45	16:45	16:45	16:45	16:45		16:45	16:45	16:45	16:45	16:45	16:45
PM Pk Vol		69	0	25	0	94		63	705	0	0	768		0	0	0	0	0		0	998	181	1	1180	2042
PM PHF		0.784	NaN	0.781	NaN	0.839		0.829	0.913	NaN	NaN	0.906		NaN	NaN	NaN	NaN	NaN		NaN	0.967	0.854	0.250	0.964	0.935

CountingCars.com

Bayshore Rd @ Pritchett Pkwy 11-8-22 PM

File Name: Bayshore Rd @ Pritchett Pkwy 11-8-22 PM
Location:

All Vehicles

Site Code:
Study Date: 11/08/2022

Pritchett Pkwy

Right	Thru	Left	U-Turn
69	0	25	0

Bayshore Rd

Right	Thru	Left	U-Turn
63	705	0	0

PM Peak Hour Statistics
PM Peak Hour Begins: 16:45
PM Peak Hour Volume: 2042
PM Peak Hour Factor: 0.935

Bayshore Rd

Right	Thru	Left	U-Turn
0	998	181	1

U-Turn	Left	Thru	Right
0	0	0	0

CountingCars.com

DEVELOPMENT OF FUTURE YEAR BACKGROUND TURNING VOLUMES

Development of Future Year Background Turning Volumes

SR 78 @ PRITCHETT PKWY AS RIGHT-IN/RIGHT-OUT INTERSECTION

Intersection	**SR 78 (Bayshore Road) @ Wells Road**
Count Date	November 8, 2022
Build-Out Year	2028

AM Peak Hour

	NBL	NBT	NBR	SBL	SBT	SBR	EBL	EBT	EBR	WBL	WBT	WBR
RAW Turning Movement Counts				5		54	26	508			1,064	9
Peak Season Correction Factor				0.98		0.98	0.98	0.98			0.98	0.98
Current Peak Season Volumes				5		53	25	498			1,043	9
Growth Rate				1.00%		1.00%	1.00%	3.85%			3.85%	1.00%
Years to Build-out				6		6	6	6			6	6
2028 Background Turning Volumes				5		56	27	625			1,308	10
Project Turning Volumes				17		30	70	60			35	10
2028 Background + Project				**22**		**86**	**97**	**685**			**1,343**	**20**

PM Peak Hour

	NBL	NBT	NBR	SBL	SBT	SBR	EBL	EBT	EBR	WBL	WBT	WBR
RAW Turning Movement Counts				7		31	53	1,002			679	14
Peak Season Correction Factor				0.98		0.98	0.98	0.98			0.98	0.98
Current Peak Season Volumes				7		30	52	982			665	14
Growth Rate				1.00%		1.00%	1.00%	3.85%			3.85%	1.00%
Years to Build-out				6		6	6	6			6	6
2028 Background Turning Volumes				7		32	55	1,232			834	15
Project Turning Volumes				60		87	85	139			165	17
2028 Background + Project				**67**		**119**	**140**	**1,371**			**999**	**32**

Development of Future Year Background Turning Volumes

Intersection	**SR 78 (Bayshore Road) @ Pritchett Pkwy**
Count Date	November 8, 2022
Build-Out Year	2028

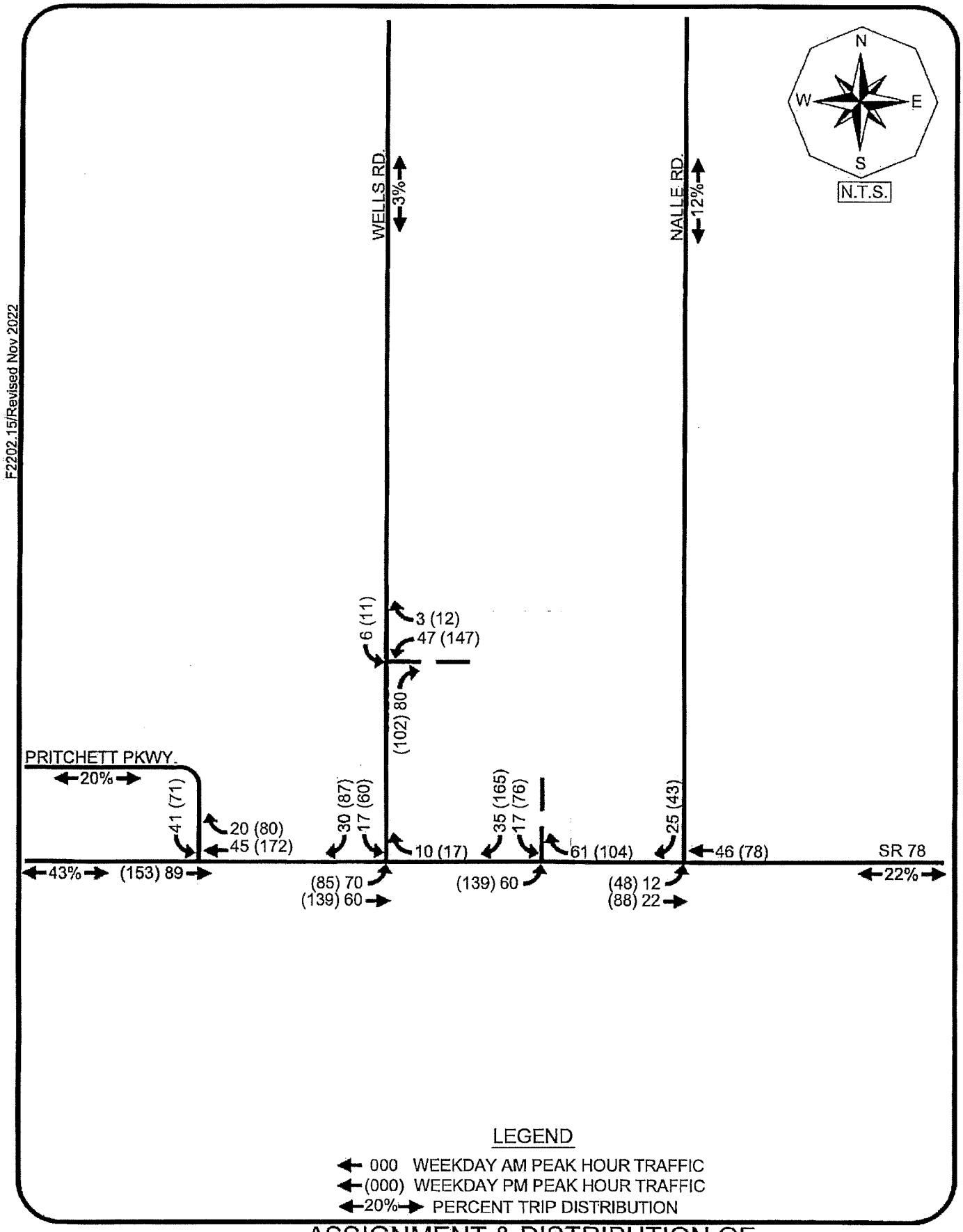
AM Peak Hour

	NBL	NBT	NBR	SBL	SBT	SBR	EBL	EBT	EBR	WBL	WBT	WBR
RAW Turning Movement Counts				26		89	79	523			1,087	70
Peak Season Correction Factor				0.98		0.98	0.98	0.98			0.98	0.98
Current Peak Season Volumes				25		87	77	513			1,065	69
Growth Rate				2.00%		2.00%	2.00%	3.85%			3.85%	2.00%
Years to Build-out				6		6	6	6			6	6
2028 Background Turning Volumes				28		98	87	644			1,336	78
Project Turning Volumes				41		0	0	89			45	20
2028 Background + Project				**69**		**98**	**87**	**733**			**1,381**	**98**

PM Peak Hour

	NBL	NBT	NBR	SBL	SBT	SBR	EBL	EBT	EBR	WBL	WBT	WBR
RAW Turning Movement Counts				25		69	181	998			705	63
Peak Season Correction Factor				0.98		0.98	0.98	0.98			0.98	0.98
Current Peak Season Volumes				25		68	177	978			691	62
Growth Rate				2.00%		2.00%	2.00%	3.85%			3.85%	2.00%
Years to Build-out				6		6	6	6			6	6
2028 Background Turning Volumes				28		77	199	1,227			867	70
Project Turning Volumes				71		0	0	153			172	80
2028 Background + Project				**99**		**77**	**199**	**1,380**			**1,039**	**150**

NEW DEVELOPMENT TRIPS



F2202.15/Revised Nov 2022

TR TRANSPORTATION CONSULTANTS, INC

ASSIGNMENT & DISTRIBUTION OF
NET NEW PROJECT TRIPS
BAYSHORE VILLAGE

Figure A-1

FDOT PEAK SEASON ADJUSTMENT FACTOR

2021 PEAK SEASON FACTOR CATEGORY REPORT - REPORT TYPE: COUNTY
CATEGORY: 1203 SR80, 31 & 78 E OF I-75

MOCF: 0.96

WEEK	DATES	SF	PSCF
1	01/01/2021 - 01/02/2021	0.94	0.98
2	01/03/2021 - 01/09/2021	1.00	1.04
3	01/10/2021 - 01/16/2021	1.07	1.11
4	01/17/2021 - 01/23/2021	1.05	1.09
5	01/24/2021 - 01/30/2021	1.04	1.08
6	01/31/2021 - 02/06/2021	1.02	1.06
7	02/07/2021 - 02/13/2021	1.01	1.05
8	02/14/2021 - 02/20/2021	0.99	1.03
9	02/21/2021 - 02/27/2021	0.98	1.02
10	02/28/2021 - 03/06/2021	0.97	1.01
11	03/07/2021 - 03/13/2021	0.96	1.00
12	03/14/2021 - 03/20/2021	0.95	0.99
13	03/21/2021 - 03/27/2021	0.96	1.00
14	03/28/2021 - 04/03/2021	0.97	1.01
15	04/04/2021 - 04/10/2021	0.98	1.02
16	04/11/2021 - 04/17/2021	0.99	1.03
17	04/18/2021 - 04/24/2021	0.99	1.03
18	04/25/2021 - 05/01/2021	0.99	1.03
19	05/02/2021 - 05/08/2021	1.00	1.04
20	05/09/2021 - 05/15/2021	1.00	1.04
21	05/16/2021 - 05/22/2021	1.01	1.05
22	05/23/2021 - 05/29/2021	1.01	1.05
23	05/30/2021 - 06/05/2021	1.02	1.06
24	06/06/2021 - 06/12/2021	1.03	1.07
25	06/13/2021 - 06/19/2021	1.04	1.08
26	06/20/2021 - 06/26/2021	1.05	1.09
27	06/27/2021 - 07/03/2021	1.07	1.11
28	07/04/2021 - 07/10/2021	1.08	1.13
29	07/11/2021 - 07/17/2021	1.10	1.15
30	07/18/2021 - 07/24/2021	1.09	1.14
31	07/25/2021 - 07/31/2021	1.09	1.14
32	08/01/2021 - 08/07/2021	1.08	1.13
33	08/08/2021 - 08/14/2021	1.08	1.13
34	08/15/2021 - 08/21/2021	1.07	1.11
35	08/22/2021 - 08/28/2021	1.06	1.10
36	08/29/2021 - 09/04/2021	1.06	1.10
37	09/05/2021 - 09/11/2021	1.05	1.09
38	09/12/2021 - 09/18/2021	1.04	1.08
39	09/19/2021 - 09/25/2021	1.02	1.06
*40	09/26/2021 - 10/02/2021	1.01	1.05
*41	10/03/2021 - 10/09/2021	0.99	1.03
*42	10/10/2021 - 10/16/2021	0.97	1.01
*43	10/17/2021 - 10/23/2021	0.96	1.00
*44	10/24/2021 - 10/30/2021	0.96	1.00
*45	10/31/2021 - 11/06/2021	0.95	0.99
*46	11/07/2021 - 11/13/2021	0.94	0.98
*47	11/14/2021 - 11/20/2021	0.94	0.98
*48	11/21/2021 - 11/27/2021	0.94	0.98
*49	11/28/2021 - 12/04/2021	0.94	0.98
*50	12/05/2021 - 12/11/2021	0.94	0.98
*51	12/12/2021 - 12/18/2021	0.94	0.98
*52	12/19/2021 - 12/25/2021	1.00	1.04
53	12/26/2021 - 12/31/2021	1.07	1.11

* PEAK SEASON

HCS SUMMARY SHEETS

2028 BACKGROUND CONDITIONS

S.R. 78

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PRITCHETT PKWY

HCS Two-Way Stop-Control Report

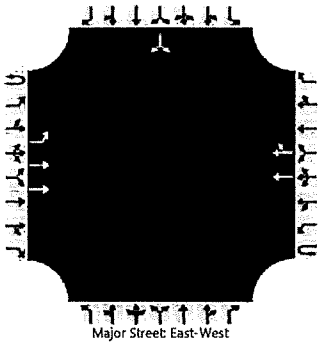
General Information

Analyst	tbt
Agency/Co.	TR Transportation
Date Performed	12/1/2022
Analysis Year	2028
Time Analyzed	2028 AM Background
Intersection Orientation	East-West
Project Description	Bayshore Village

Site Information

Intersection	SR 78/Pritchett Pkwy
Jurisdiction	Lee County
East/West Street	SR 78
North/South Street	Pritchett Pkwy
Peak Hour Factor	0.92
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	2	0	0	0	2	0		0	0	0		0	1	0
Configuration		L	T				T	TR							LR	
Volume (veh/h)	0	87	644				1336	78						25		87
Percent Heavy Vehicles (%)	3	1												1		1
Proportion Time Blocked																
Percent Grade (%)													0			
Right Turn Channelized																
Median Type | Storage	Left Only								1							

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1												7.5		6.9
Critical Headway (sec)		4.12												6.82		6.92
Base Follow-Up Headway (sec)		2.2												3.5		3.3
Follow-Up Headway (sec)		2.21												3.51		3.31

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		95													122	
Capacity, c (veh/h)		433													250	
v/c Ratio		0.22													0.49	
95% Queue Length, Q_{95} (veh)		0.8													2.5	
Control Delay (s/veh)		15.6													32.3	
Level of Service (LOS)		C													D	
Approach Delay (s/veh)	1.9												32.3			
Approach LOS	A												D			

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HCS Two-Way Stop-Control Report

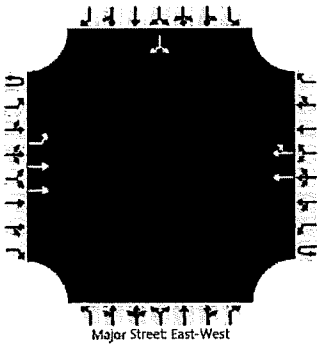
General Information

Analyst	tbt
Agency/Co.	TR Transportation
Date Performed	12/1/2022
Analysis Year	2028
Time Analyzed	2028 PM Background
Intersection Orientation	East-West
Project Description	Bayshore Village

Site Information

Intersection	SR 78/Pritchett Pkwy
Jurisdiction	Lee County
East/West Street	SR 78
North/South Street	Pritchett Pkwy
Peak Hour Factor	0.92
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	2	0	0	0	2	0		0	0	0		0	1	0
Configuration		L	T				T	TR							LR	
Volume (veh/h)	0	199	1227				867	70						28		77
Percent Heavy Vehicles (%)	3	1												1		1
Proportion Time Blocked																
Percent Grade (%)													0			
Right Turn Channelized																
Median Type | Storage	Left Only								1							

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1												7.5		6.9
Critical Headway (sec)		4.12												6.82		6.92
Base Follow-Up Headway (sec)		2.2												3.5		3.3
Follow-Up Headway (sec)		2.21												3.51		3.31

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		216													114	
Capacity, c (veh/h)		683													279	
v/c Ratio		0.32													0.41	
95% Queue Length, Q_{95} (veh)		1.4													1.9	
Control Delay (s/veh)		12.7													26.5	
Level of Service (LOS)		B													D	
Approach Delay (s/veh)	1.8												26.5			
Approach LOS	A												D			

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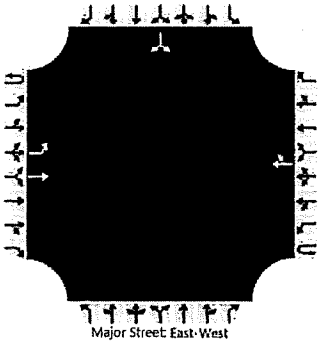
WELLS ROAD

HCS Two-Way Stop-Control Report

General Information		Site Information	
Analyst	tbt	Intersection	SR 78/Wells Road
Agency/Co.	TR Transportation	Jurisdiction	Lee County
Date Performed	12/1/2022	East/West Street	SR 78
Analysis Year	2028	North/South Street	Wells Road
Time Analyzed	2028 AM Background	Peak Hour Factor	0.92
Intersection Orientation	East-West	Analysis Time Period (hrs)	0.25
Project Description	Bayshore Village		

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	1	0	0	0	1	0		0	0	0		0	1	0
Configuration		L	T					TR							LR	
Volume (veh/h)		27	625				1308	10						5		56
Percent Heavy Vehicles (%)		1												1		1
Proportion Time Blocked																
Percent Grade (%)													0			
Right Turn Channelized																
Median Type | Storage	Left Only								1							

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1												7.1		6.2
Critical Headway (sec)		4.11												6.41		6.21
Base Follow-Up Headway (sec)		2.2												3.5		3.3
Follow-Up Headway (sec)		2.21												3.51		3.31

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		29													66	
Capacity, c (veh/h)		477													166	
v/c Ratio		0.06													0.40	
95% Queue Length, Q_{95} (veh)		0.2													1.8	
Control Delay (s/veh)		13.0													40.6	
Level of Service (LOS)		B													E	
Approach Delay (s/veh)	0.5												40.6			
Approach LOS	A												E			

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HCS Two-Way Stop-Control Report

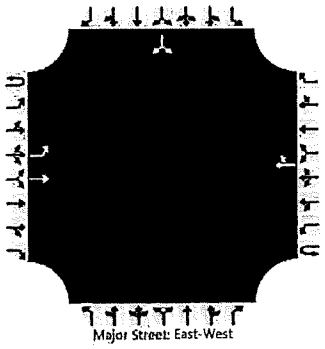
General Information

Analyst	tbt
Agency/Co.	TR Transportation
Date Performed	12/1/2022
Analysis Year	2028
Time Analyzed	2028 PM Background
Intersection Orientation	East-West
Project Description	Bayshore Village

Site Information

Intersection	SR 78/Wells Road
Jurisdiction	Lee County
East/West Street	SR 78
North/South Street	Wells Road
Peak Hour Factor	0.92
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	1	0	0	0	1	0		0	0	0		0	1	0
Configuration		L	T					TR							LR	
Volume (veh/h)		55	1232				834	15						7		32
Percent Heavy Vehicles (%)		1												1		1
Proportion Time Blocked																
Percent Grade (%)													0			
Right Turn Channelized																
Median Type | Storage	Left Only								1							

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1												7.1		6.2
Critical Headway (sec)		4.11												6.41		6.21
Base Follow-Up Headway (sec)		2.2												3.5		3.3
Follow-Up Headway (sec)		2.21												3.51		3.31

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		60													42	
Capacity, c (veh/h)		744													262	
v/c Ratio		0.08													0.16	
95% Queue Length, Q_{95} (veh)		0.3													0.6	
Control Delay (s/veh)		10.3													21.3	
Level of Service (LOS)		B													C	
Approach Delay (s/veh)	0.4												21.3			
Approach LOS	A												C			

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2028 BACKGROUND + PROJECT TRAFFIC CONDITIONS

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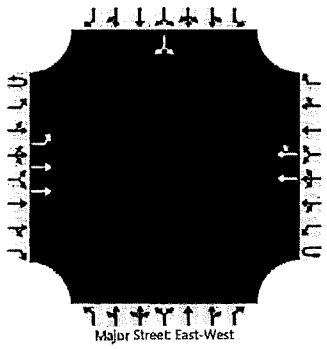
PRITCHETT PKWY

HCS Two-Way Stop-Control Report

General Information		Site Information	
Analyst	tbt	Intersection	SR 78/Pritchett Pkwy
Agency/Co.	TR Transportation	Jurisdiction	Lee County
Date Performed	12/1/2022	East/West Street	SR 78
Analysis Year	2028	North/South Street	Pritchett Pkwy
Time Analyzed	2028 AM W/Project Trips	Peak Hour Factor	0.92
Intersection Orientation	East-West	Analysis Time Period (hrs)	0.25
Project Description	Bayshore Village		

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	2	0	0	0	2	0		0	0	0		0	1	0
Configuration		L	T				T	TR							LR	
Volume (veh/h)	0	87	733				1381	98						69		98
Percent Heavy Vehicles (%)	3	1												1		1
Proportion Time Blocked																
Percent Grade (%)													0			
Right Turn Channelized																
Median Type | Storage	Left Only								1							

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1												7.5		6.9
Critical Headway (sec)		4.12												6.82		6.92
Base Follow-Up Headway (sec)		2.2												3.5		3.3
Follow-Up Headway (sec)		2.21												3.51		3.31

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		95													182	
Capacity, c (veh/h)		407													188	
v/c Ratio		0.23													0.97	
95% Queue Length, Q_{95} (veh)		0.9													7.9	
Control Delay (s/veh)		16.5													108.4	
Level of Service (LOS)		C													F	
Approach Delay (s/veh)	1.8												108.4			
Approach LOS	A												F			

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HCS Two-Way Stop-Control Report

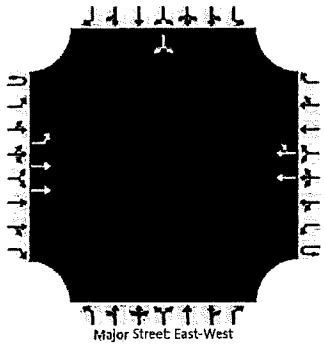
General Information

Analyst	tbt
Agency/Co.	TR Transportation
Date Performed	12/1/2022
Analysis Year	2028
Time Analyzed	2028 PM W/Project Trips
Intersection Orientation	East-West
Project Description	Bayshore Village

Site Information

Intersection	SR 78/Pritchett Pkwy
Jurisdiction	Lee County
East/West Street	SR 78
North/South Street	Pritchett Pkwy
Peak Hour Factor	0.92
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	2	0	0	0	2	0		0	0	0		0	1	0
Configuration		L	T				T	TR							LR	
Volume (veh/h)	0	199	1380				1039	150						99		77
Percent Heavy Vehicles (%)	3	1												1		1
Proportion Time Blocked																
Percent Grade (%)													0			
Right Turn Channelized																
Median Type | Storage	Left Only								1							

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1												7.5		6.9
Critical Headway (sec)		4.12												6.82		6.92
Base Follow-Up Headway (sec)		2.2												3.5		3.3
Follow-Up Headway (sec)		2.21												3.51		3.31

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		216													191	
Capacity, c (veh/h)		538													141	
v/c Ratio		0.40													1.35	
95% Queue Length, Q_{95} (veh)		1.9													12.1	
Control Delay (s/veh)		16.1													257.7	
Level of Service (LOS)		C													F	
Approach Delay (s/veh)	2.0												257.7			
Approach LOS	A												F			

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S.R. 78

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WELLS ROAD

HCS Two-Way Stop-Control Report

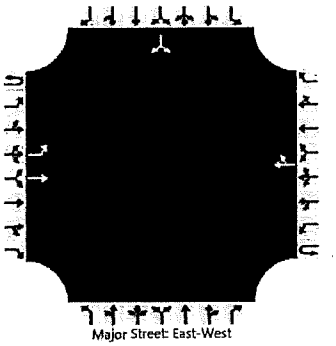
General Information

Analyst	tbt
Agency/Co.	TR Transportation
Date Performed	12/1/2022
Analysis Year	2028
Time Analyzed	2028 AM With Project
Intersection Orientation	East-West
Project Description	Bayshore Village

Site Information

Intersection	SR 78/Wells Road
Jurisdiction	Lee County
East/West Street	SR 78
North/South Street	Wells Road
Peak Hour Factor	0.92
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	1	0	0	0	1	0		0	0	0		0	1	0
Configuration		L	T					TR							LR	
Volume (veh/h)		97	685				1343	20						22		86
Percent Heavy Vehicles (%)		1												1		1
Proportion Time Blocked																
Percent Grade (%)													0			
Right Turn Channelized																
Median Type | Storage	Left Only								1							

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1												7.1		6.2
Critical Headway (sec)		4.11												6.41		6.21
Base Follow-Up Headway (sec)		2.2												3.5		3.3
Follow-Up Headway (sec)		2.21												3.51		3.31

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		105													117	
Capacity, c (veh/h)		457													149	
v/c Ratio		0.23													0.79	
95% Queue Length, Q_{95} (veh)		0.9													5.0	
Control Delay (s/veh)		15.2													85.8	
Level of Service (LOS)		C													F	
Approach Delay (s/veh)	1.9												85.8			
Approach LOS	A												F			

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HCS Two-Way Stop-Control Report

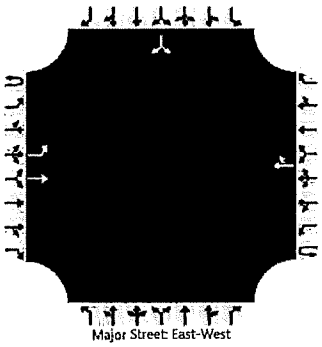
General Information

Analyst	tbt
Agency/Co.	TR Transportation
Date Performed	12/1/2022
Analysis Year	2028
Time Analyzed	2028 PM With Project
Intersection Orientation	East-West
Project Description	Bayshore Village

Site Information

Intersection	SR 78/Wells Road
Jurisdiction	Lee County
East/West Street	SR 78
North/South Street	Wells Road
Peak Hour Factor	0.92
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	1	0	0	0	1	0		0	0	0		0	1	0
Configuration		L	T					TR							LR	
Volume (veh/h)		140	1371				999	32						67		119
Percent Heavy Vehicles (%)		1												1		1
Proportion Time Blocked																
Percent Grade (%)													0			
Right Turn Channelized																
Median Type | Storage	Left Only								1							

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1												7.1		6.2
Critical Headway (sec)		4.11												6.41		6.21
Base Follow-Up Headway (sec)		2.2												3.5		3.3
Follow-Up Headway (sec)		2.21												3.51		3.31

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		152													202	
Capacity, c (veh/h)		627													143	
v/c Ratio		0.24													1.41	
95% Queue Length, Q_{95} (veh)		0.9													13.2	
Control Delay (s/veh)		12.6													280.8	
Level of Service (LOS)		B													F	
Approach Delay (s/veh)	1.2												280.8			
Approach LOS	A												F			

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S.R. 78

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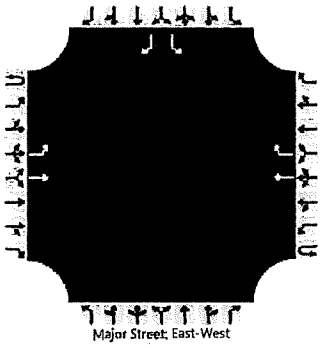
SITE ACCESS DRIVE INTERSECTION

HCS Two-Way Stop-Control Report

General Information		Site Information	
Analyst	tbt	Intersection	SR 78/Site Access
Agency/Co.	TR Transportation	Jurisdiction	Lee County
Date Performed	12/1/2022	East/West Street	SR 78
Analysis Year	2028	North/South Street	Site Access
Time Analyzed	2028 AM W/Project Trips	Peak Hour Factor	0.92
Intersection Orientation	East-West	Analysis Time Period (hrs)	0.25
Project Description	Bayshore Village		

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	1	0	0	0	1	1		0	0	0		1	0	1
Configuration		L	T				T	R						L		R
Volume (veh/h)		70	637				1304	88						41		59
Percent Heavy Vehicles (%)		1												1		1
Proportion Time Blocked																
Percent Grade (%)													0			
Right Turn Channelized							No						No			
Median Type | Storage					Left Only						1					

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1												7.1		6.2
Critical Headway (sec)		4.11												6.41		6.21
Base Follow-Up Headway (sec)		2.2												3.5		3.3
Follow-Up Headway (sec)		2.21												3.51		3.31

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		76												45		64
Capacity, c (veh/h)		445												141		169
v/c Ratio		0.17												0.32		0.38
95% Queue Length, Q_{95} (veh)		0.6												1.3		1.6
Control Delay (s/veh)		14.8												41.8		38.8
Level of Service (LOS)		B												E		E
Approach Delay (s/veh)		1.5											40.1			
Approach LOS		A											E			

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HCS Two-Way Stop-Control Report

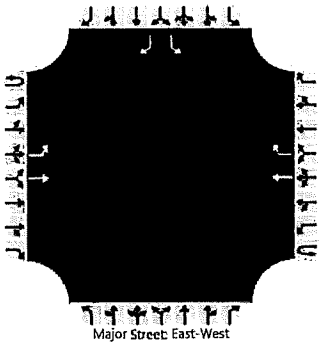
General Information

Analyst	tbt
Agency/Co.	TR Transportation
Date Performed	12/1/2022
Analysis Year	2028
Time Analyzed	2028 PM W/Project Trips
Intersection Orientation	East-West
Project Description	Bayshore Village

Site Information

Intersection	SR 78/Site Access
Jurisdiction	Lee County
East/West Street	SR 78
North/South Street	Site Access
Peak Hour Factor	0.92
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority	1U	1	2	3	4U	4	5	6		7	8	9		10	11	12
Number of Lanes	0	1	1	0	0	0	1	1		0	0	0		1	0	1
Configuration		L	T				T	R						L		R
Volume (veh/h)		196	1438				822	152						138		209
Percent Heavy Vehicles (%)		1												1		1
Proportion Time Blocked																
Percent Grade (%)													0			
Right Turn Channelized							No						No			
Median Type | Storage					Left Only						1					

Critical and Follow-up Headways

Base Critical Headway (sec)		4.1												7.1		6.2
Critical Headway (sec)		4.11												6.41		6.21
Base Follow-Up Headway (sec)		2.2												3.5		3.3
Follow-Up Headway (sec)		2.21												3.51		3.31

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)		213												150		227
Capacity, c (veh/h)		662												63		342
v/c Ratio		0.32												2.37		0.67
95% Queue Length, Q_{95} (veh)		1.4												14.7		4.5
Control Delay (s/veh)		13.0												763.1		34.2
Level of Service (LOS)		B												F		D
Approach Delay (s/veh)		1.6											324.1			
Approach LOS		A											F			

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WELLS ROAD

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SITE ACCESS DRIVE INTERSECTION

HCS Two-Way Stop-Control Report

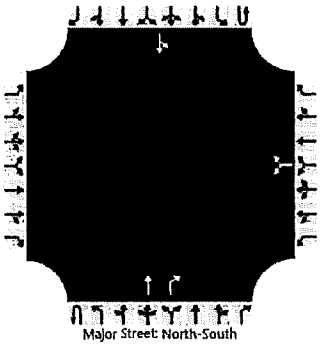
General Information

Analyst	tbt
Agency/Co.	TR Transportation
Date Performed	12/1/2022
Analysis Year	2028
Time Analyzed	2028 AM W/Project Trips
Intersection Orientation	North-South
Project Description	Bayshore Village

Site Information

Intersection	Wells Rd/Site Access
Jurisdiction	Lee County
East/West Street	Site Access
North/South Street	Wells Rd
Peak Hour Factor	0.92
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority		10	11	12		7	8	9	1U	1	2	3	4U	4	5	6
Number of Lanes		0	0	0		0	1	0	0	0	1	1	0	0	1	0
Configuration							LR				T	R		LT		
Volume (veh/h)						65		3			38	109		6	43	
Percent Heavy Vehicles (%)						2		2						1		
Proportion Time Blocked																
Percent Grade (%)						0										
Right Turn Channelized											No					
Median Type | Storage					Undivided											

Critical and Follow-up Headways

Base Critical Headway (sec)						7.1		6.2						4.1		
Critical Headway (sec)						6.42		6.22						4.11		
Base Follow-Up Headway (sec)						3.5		3.3						2.2		
Follow-Up Headway (sec)						3.52		3.32						2.21		

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)							74							7		
Capacity, c (veh/h)							898							1426		
v/c Ratio							0.08							0.00		
95% Queue Length, Q_{95} (veh)							0.3							0.0		
Control Delay (s/veh)							9.4							7.5	0.0	
Level of Service (LOS)							A							A	A	
Approach Delay (s/veh)					9.4								1.0			
Approach LOS					A								A			

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HCS Two-Way Stop-Control Report

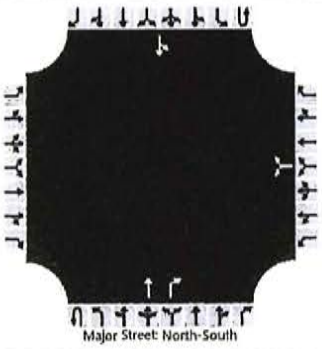
General Information

Analyst	tbt
Agency/Co.	TR Transportation
Date Performed	12/1/2022
Analysis Year	2028
Time Analyzed	2028 PM W/Project Trips
Intersection Orientation	North-South
Project Description	Bayshore Village

Site Information

Intersection	Wells Rd/Site Access
Jurisdiction	Lee County
East/West Street	Site Access
North/South Street	Wells Rd
Peak Hour Factor	0.92
Analysis Time Period (hrs)	0.25

Lanes



Vehicle Volumes and Adjustments

Approach	Eastbound				Westbound				Northbound				Southbound			
Movement	U	L	T	R	U	L	T	R	U	L	T	R	U	L	T	R
Priority		10	11	12		7	8	9	1U	1	2	3	4U	4	5	6
Number of Lanes		0	0	0		0	1	0	0	0	1	1	0	0	1	0
Configuration							LR				T	R		LT		
Volume (veh/h)						202		12			54	158		11	37	
Percent Heavy Vehicles (%)						2		2						1		
Proportion Time Blocked																
Percent Grade (%)						0										
Right Turn Channelized											No					
Median Type | Storage				Undivided												

Critical and Follow-up Headways

Base Critical Headway (sec)						7.1		6.2						4.1		
Critical Headway (sec)						6.42		6.22						4.11		
Base Follow-Up Headway (sec)						3.5		3.3						2.2		
Follow-Up Headway (sec)						3.52		3.32						2.21		

Delay, Queue Length, and Level of Service

Flow Rate, v (veh/h)							233							12		
Capacity, c (veh/h)							871							1343		
v/c Ratio							0.27							0.01		
95% Queue Length, Q_{95} (veh)							1.1							0.0		
Control Delay (s/veh)							10.6							7.7	0.1	
Level of Service (LOS)							B							A	A	
Approach Delay (s/veh)						10.6							1.8			
Approach LOS						B							A			

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ATTACHMENT L

DEPARTMENT OF COMMUNITY DEVELOPMENT

Memo

To: Adam Mendez, Planner, Senior

From: Md Rakibul Alam, Senior Transportation Planner

Date: Sep 20, 2023

Subject: Bayshore Village (DCI2022-00032) Transportation-Related Analysis

Proposed Development

This application requests approval to amend a Commercial Planned Development (CPD) to allow 125,000 square feet of commercial uses.

Site Location

The subject site is located on the north side of SR 78 (Bayshore Road) just east of Wells Road in Lee County, Florida

Site Access

Access to the subject site is proposed to SR 78 (Bayshore Road) via a single connection and to Wells Road via a single connection.

Trip Generation Review

The trip generation for the proposed development was determined by referencing the Institute of Transportation Engineer's (ITE) Trip Generation 11th Edition Report. Table 1 outlines the proposed project's trip generation for weekday AM and PM peak hours and daily traffic volumes.

Table 1: Trip Generation

Land Use	Weekday A.M Peak Hour			Weekday P.M Peak Hour			Daily
	In	Out	Total	In	Out	Total	(2-Way)
Shopping Plaza (125,000 sq. ft.)	273	168	441	517	561	1078	11,033
Less pass-by (30%)	-66	-66	-132	-161	-161	-322	-3,310
New Trips	207	102	309	356	400	756	7,723

Roadway Section Traffic Operation Level of Service Analysis

New trips related to the subject case were distributed across the surrounding road network to assess their impact on the Level of Service (LOS) in arterial/collector road sections most affected by the proposed development. According to Administrative Code AC-13-17 Traffic Study Guidelines for Planned Development Rezonings, a "significant impact" signifies a 10% or more reduction in LOS "C" service volumes at build-out.

In this case, based on the trip assignments from the applicant's traffic study, the following arterial/collector road sections are expected to experience significant impacts due to the proposed zoning changes:

- Bayshore Road from W. of Palm Creek Rd. to W. of Wells Rd.

- Pritchett Pkwy at N. of Bayshore Rd.
- Nalle Road at N. of SR 78

It was assumed that the proposed development would be completed by 2028 (build-out year). Therefore, the roadway links significantly impacted by the proposed development were analyzed for the 2028 projected traffic conditions without the proposed development and with the proposed development (Table 2).

Table 2: Arterial/Collector Roadway Section(s) Adjacent to Site Expected to be significantly impacted by the Proposed Development

Roadway	Location	Significant Impact Expected	Level of Service		
			Existing	Future 2028	Future + Project
Bayshore Road (SR 78)	W. of SR 31	No	C	C	C
	W. of Palm Creek Rd.	Yes	C	C	C
	W. of Nalle Rd.	Yes	C	C	C
	W. of Wells Rd.	Yes	C	F	F
	W. of Pritchett Rd.	No	C	C	C
Pritchett Pkwy	N. of Bayshore Road	Yes	C	C	C
Nalle Road	N. of SR 78	Yes	C	C	C

Based on an analysis of traffic data from the Lee County "Public Facilities Level of Service and Concurrency 2021 Report Inventory and Projections," as well as the latest "Lee County Link Specific Service Volumes" tables (for short-term analyses up to 5 years) or the most recent "Lee County Generalized Peak Hour Directional Service Volumes" tables (for long-term analyses over 5 years), the road sections in Table 2 currently operate at LOS "E" or better. Using the 2021 Lee County Traffic Count Report and assuming a project completion in 2028, all road section in Table 2, except for Bayshore Road west of Wells Road, is expected to maintain LOS "E" or better, even with future background traffic volumes. Since the Bayshore Road section west of Wells Road already falls below the LOS "E" threshold prior to the introduction of the new project trips, it is expected that the proposed project will not have a detrimental impact on the overall functionality of the surrounding roadway segments.

At the time of the local development order review, proposed projects will be reviewed to determine the required site-related traffic improvements to the nearby roadway(s).

Roadway Intersection Traffic Operation Level of Service Analysis

New trip assignments were made to the surrounding road network to evaluate Level of Service (LOS) impacts as necessary at site entrances, intersections within the vicinity of site entrances, and intersections anticipated to be most affected by the proposed development. In accordance with Administrative Code AC-13-17 Traffic Study Guidelines for Planned Development Rezonings, a "significant impact" is characterized by a 10% or greater increase in the total peak-hour intersection volume (sum of all four approaches) upon project completion.

In this specific case, based on trip assignments outlined in the applicant's final traffic study, the following intersections are projected to experience substantial impacts due to the proposed zoning changes:

- SR 78 and Pritchett Parkway
- SR 78 and Wells Road
- South site access point at SR 78

Table 3 describes the site accesses and intersections that are expected to be most impacted by the proposed zoning along with their corresponding pre- and post-project built-out level of service.

Table 3: Roadway Intersection(s) Immediately Adjacent to Subject Site Expected to be significantly Impacted by Proposed Development

Intersection		Significant Impact Expected	Traffic Control	Peak Hour	Level of Service (2028)		
Roadway A	Roadway B				Existing	Future	Future + Project
SR 78	Pritchett Pkwy	Yes	Two-Way Stop Controlled	PM	--	D	F
SR 78	Wells Rd.	Yes	Two-Way Stop Controlled	PM	--	C	F
SR 78	South Site Access	Yes	Two-Way Stop Controlled	PM	--	--	F
Wells Rd.	West Site Access	No	Two-Way Stop Controlled	PM	--	--	B

As described in Table 3, three intersections are expected to operate at LOS "F" in the future with post-project build-out traffic. The SR 78/ south site access, SR 78/ Wells Rd., and SR 78/ Pritchett Pkwy intersection are expected to operate at LOS "F" in the year 2028 with project build-out traffic in the PM peak hour due to the southbound delay. At the time of the local development order review, the proposed project will be further reviewed to determine what, if any, site-related traffic improvements to the nearby roadway network are required.

Conclusion

The proposed project is not anticipated to adversely affect the surrounding roadway system. It must be noted that the site access at Bayshore Road is subject to FDOT approval. Moreover, please consider a recommendation adding the following conditions:

> *"Regardless of any land use density/intensity conversion allowed per the Land Development Code or zoning condition specific to this development, the development is allowed a maximum calculated development density/intensity with respect to new trip generation utilizing the following development scenario based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual in effect at time of local development order: 125,000-SF commercial retail."*

ATTACHMENT M

RESOLUTION NUMBER Z-06-046

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

WHEREAS, an application was filed by the property owner, Bayshore Village Holdings Group, LLC, to rezone a 8.75± acre parcel from Agricultural (AG-2) to Commercial Planned Development (CPD) in reference to The Village Square on Bayshore; and

WHEREAS, a public hearing was advertised and held on May 18, 2006, before the Lee County Zoning Hearing Examiner, Diana Parker, who gave full consideration to the evidence in the record for Case #DCI2005-00100; and

WHEREAS, a second public hearing was advertised and held on August 21, 2006, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 8.75± acre parcel from AG-2 to CPD, to allow a maximum of 99,999 square feet of mixed uses: office, medical office and retail. Maximum height requested is two stories/35 feet. No development blasting is requested. The project will connect to public potable water and to a public sanitary sewer system as part of any development of this property. The property is located in the General Interchange Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions specified in Section B below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be consistent with the 1-page Master Concept Plan entitled "BAYSHORE VILLAGE MARKET SQUARE: MASTER CONCEPT PLAN," last revised 8/30/06, date stamped "Received SEP 06 2006," attached hereto as Exhibit C, except as modified by the conditions below.

   This development must comply with all requirements of the Lee County 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.

Maximum Commercial Floor Area: 61,000 square feet of commercial uses (office and/or retail), of which a maximum of 8,000 square feet may be used in the two outparcels.

2. The following limits apply to the project and uses:

a. Schedule of Uses

AREA A - LIMITED TO A MAXIMUM OF TWO OUTPARCELS

ACCESSORY USES
ADMINISTRATIVE OFFICES
AUTOMATIC TELLER MACHINE (ATM)
AUTO PARTS STORE - without installation.
BAIT & TACKLE SHOP
BANKS AND FINANCIAL ESTABLISHMENTS, Group I
BOAT PARTS STORE - Limited to one
BROADCAST STUDIO
BUSINESS SERVICES, GROUPS I AND II - excluding armored car services and Automobile Claims Adjusters.
CLOTHING STORES
CLUBS - commercial, fraternal, membership, private
CONSUMPTION ON PREMISES, Indoors only (see conditions)
DAY CARE CENTER, CHILD OR ADULT
DRIVE-THROUGH FOR ANY PERMITTED USE
DRUG STORE - Limited to one and to a maximum of 3,000 square feet in size.
ESSENTIAL SERVICES
ESSENTIAL SERVICE FACILITIES, GROUP I
EXCAVATION, WATER RETENTION - Not to include the removal of excavated materials from the site. NO blasting.
FENCES, WALLS
FOOD STORES, Groups I and II
GIFT & SOUVENIR SHOP
HARDWARE STORE
HOBBY, TOY AND GAME SHOPS
HOUSEHOLD & OFFICE FURNISHINGS
LAUNDRY OR DRY CLEANING, Group I
MEDICAL OFFICE - Limited to a maximum of 8,000 square feet
NON-STORE RETAILER
PAINT, GLASS & WALLPAPER
PARKING LOT, ACCESSORY
PRINTING & PUBLISHING
RESTAURANT, Groups I, II, and III - NO fast food.
SCHOOLS, COMMERCIAL
SIGNS PER CHAPTER 30 OF THE LDC
SOCIAL SERVICES, Groups I and II
SPECIALTY RETAIL SHOPS, All Groups
STUDIOS
TEMPORARY USES

AREA B

ACCESSORY USES
ADMINISTRATIVE OFFICES
AUTOMATIC TELLER MACHINE (ATM)
AUTO PARTS STORE - without installation
BAIT & TACKLE SHOP
BANKS AND FINANCIAL ESTABLISHMENTS, Group I
BOAT PARTS STORE
BROADCAST STUDIO
BUSINESS SERVICES, Group I
CLEANING AND MAINTENANCE SERVICES
CLOTHING STORES
CLUBS - commercial, fraternal, membership, private
CONSUMPTION ON PREMISES, Indoor only (see conditions)
DAY CARE CENTER, CHILD OR ADULT
DRIVE-THROUGH FOR ANY PERMITTED USE - Limited to the east end of the building.
DRUG STORE - Limited to one and to a maximum of 3,000 square feet.
ESSENTIAL SERVICES
ESSENTIAL SERVICE FACILITIES, Group I
EXCAVATION, WATER RETENTION - NOT to include the removal of excavated materials from the site - NO blasting.
FENCES, WALLS
FOOD STORES, Groups I and II
GIFT & SOUVENIR SHOP
HARDWARE STORE
HOBBY, TOY AND GAME SHOPS
HOUSEHOLD & OFFICE FURNISHINGS
LAUNDRY OR DRY CLEANING, Group I
MEDICAL OFFICE - Limited to a maximum of 10,000 square feet
NON-STORE RETAILER
PAINT, GLASS & WALLPAPER
PARKING LOT, ACCESSORY
PLACE OF WORSHIP
PRINTING & PUBLISHING
RESTAURANT, Groups I, II, and III - NO fast food or freestanding restaurants
RENTAL OR LEASING ESTABLISHMENTS, Groups I and II
SCHOOLS, COMMERCIAL
SIGNS PER CHAPTER 30 OF THE LDC
SOCIAL SERVICES, Groups I and II
SPECIALTY RETAIL SHOPS, ALL Groups
STUDIOS
TEMPORARY USES
VARIETY STORES

b. Site Development Regulations

Minimum Lot Areas and Dimensions

Lot Size:	22,500 square feet
Lot Width:	150 feet
Lot Depth:	150 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	15 feet (10 feet interior)
Rear	20 feet
Water body	25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 20 feet, per the LDC.

Minimum Perimeter Setbacks: 150 feet to the north and 70 feet to the east as shown on the MCP, otherwise a minimum 25 feet is required.

Minimum Building Separation: 20 feet.

Building Height: 25 feet/One story

Maximum Lot Coverage: 60 percent

3. 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.

4. No agricultural uses are existing on site and none are approved by virtue of this rezoning.

5. No development blasting is permitted as part of this project unless approved, at a subsequent public hearing, as an amendment to the planned development.

6. All required buffers must utilize 100 percent all native vegetation.

7. Accessory uses must be located on the same tract, parcel or outparcel where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel.

8. Approval of this rezoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.

9. Approval of this rezoning request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.

10. Consumption on Premises (indoor only) Area A and B:

    a. Consumption on Premises (indoor only) is permitted only in conjunction with a Group III Restaurant.

    b. The hours of operation for indoor consumption on premises are limited to between noon to 11:00 p.m., Sunday through Thursday, and noon to 12:00 p.m., Friday and Saturday.

    c. No sale, service or consumption of alcoholic beverages will be permitted without the sale or availability of food and non-alcoholic beverages on the same premises.

    d. The location of any consumption on premises must be consistent with the general locations shown on the approved Master Concept Plan.

    e. Any consumption on premises must be located in Area A or at the southeast end of the building in Area B.

    f. Outdoor consumption on premises is not approved herein; and may only be approved by an amendment to the planned development or as a Special Exception (public hearing required). This use may not be approved administratively. The applicant must provide adequate detail of the outdoor seating area consistent with the requirements of the LDC.

11. The 8-foot-high wall, or wall/berm combination, along the north boundary must be extended to the eastern property line. (Attached Exhibit C).

12. Covered parking must be a minimum of 20 feet from preserve areas, per LDC §10-415 (b)(1)c.

13. Prior to local development order approval, the property must be re-surveyed for the presence of gopher tortoises and their burrows, and, if found, a gopher tortoise management plan must be submitted as part of the indigenous preserve management plan for the Division of Environmental Sciences Staff review and approval. The gopher tortoise management plan must include details on habitat management to provide open herbaceous foraging areas, and how the habitat will be maintained in perpetuity. The management should also include the following details pertaining to site work:

    a. A copy of the Florida Fish and Wildlife Conservation Commission Gopher Tortoise Permit and receipt of payment if applicable must be submitted to the Division of Environmental Sciences staff prior to issuance of a Vegetation Removal Permit; and

    b. A Vegetation Removal Permit to install gopher tortoise fencing and burrow excavation must be obtained prior to any site work; and

    c. Any gopher tortoises and commensal species located during burrow excavation must be moved to appropriate indigenous preserves; and

d. The number of tortoises and any commensal species moved to preserves must be reported to the Division of Environmental Sciences Staff; and

e. All active and inactive gopher tortoise burrows located outside of the indigenous preserves must be excavated and fully collapsed prior to issuance of a Vegetation Removal Permit for clearing and filling of the development area.

f. If gopher tortoises are found on the site during the re-survey, the preserve will be utilized as a gopher tortoise preserve, and may not be utilized as a dry detention area unless it can be clearly demonstrated at the development order stage that the effects of the construction and operation of the surface water management system will not cause death or harm to the protected indigenous plant community.

14. Prior to local development order approval, the development order plans must depict an indigenous preserve in the northern 100-feet of the property with a minimum 75-foot width and a total acreage of 1.31 acres including upland preservation credits.

15. The Master Concept Plan must be revised to be consistent with the cross-section of the area north of the service areas in the northern part of Area B, as depicted on Exhibit C attached hereto. The wall material must be such that no linear footers are required.

16. Access to State Road 78 is not guaranteed and is subject to Florida Department of Transportation approval.

17. **DESIGN STANDARDS**

a. Prior to local development order approval, the exterior elevations must be in substantial compliance with the 1-page conceptual elevation entitled, "Bayshore Village: Conceptual Artist Rendition/Showing View Overlooking Parking Towards the Main Building" and the 1-page "Site Section Study for Bayshore Village Holding Group LLC - Partial Site Cross Section" attached as Exhibit D. This condition does not preclude the construction of a one-story building in lieu of the two-story building shown on attached Exhibit D.

b. These designs are preliminary and subject to changes in conformance with this Resolution and the Lee County LDC, including Article IV, §10-600 "Design Standards and Guidelines for Commercial Buildings and Developments."

c. Area A, located along Bayshore Road, must conform buildings to the Old Florida style design similar to that depicted in attached Exhibit D.

SECTION C. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

Exhibit A: Legal description of the property
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: The Master Concept Plan
Exhibit D: Partial Site Cross Section

The applicant has indicated that the STRAP number for the subject property is: 22-43-25-00-00023.0000.

SECTION D. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.

2. The rezoning, as approved:

   a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,

   b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,

   c. is compatible with existing or planned uses in the surrounding area, and will not be detrimental or injurious to the intent of the Bayshore Planning Community (Goal 20); and,

   d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,

   e. will not adversely affect environmentally critical areas or natural resources.

3. The rezoning satisfies the following criteria:

   a. the proposed use or mix of uses is appropriate at the subject location; and

   b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and

   c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Judah, seconded by Commissioner St. Cerny and, upon being put to a vote, the result was as follows:

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Tammara Hall	Nay
John E. Albion	Aye

DULY PASSED AND ADOPTED this 21st day of August 2006.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Tammara Hall
Chairwoman

Approved as to form by:

_____
Dawn E. Perry-Lehnert
County Attorney's Office

2006 OCT -5 AM 11:56

DESCRIPTION:

A PARCEL OF LAND LYING IN SECTION 22, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICLARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE N00°05'43"E ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION LINE 22, A DISTANCE OF 1323.13 FEET; THENCE N89°43'24"W ALONG THE CENTERLINE OF BAYSHORE ROAD (STATE ROAD NO. 78), A DISTANCE OF 663.17 FEET; THENCE N00°00'46"W, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING; THENCE N89°43'24"W ALONG THE NORTHERLY RIGHT OF WAY LINE OF BAYSHORE ROAD, A DISTANCE OF 540.25 FEET; THENCE N00°16'36"E, A DISTANCE OF 50.02 FEET; THENCE CONTINUING ALONG SAID NORTHERLY RIGHT OF WAY LINE N85°20'36"W, A DISTANCE OF 73.63 FEET; THENCE N00°07'14"W ALONG THE EASTERLY RIGHT OF WAY LINE OF WELLS ROAD, A DISTANCE OF 570.82 FEET; THENCE S89°54'31"E ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 614.45 FEET; THENCE S00°00'46"E ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 628.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 8.75 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY OF RECORD.

DCI2005-00100

NOTES:
1. THIS IS NOT A SURVEY.
2. THIS DOCUMENT IS NOT VALID WITHOUT THE SIGNERS EMBOSSED SEAL.
3. BEARINGS ARE BASED ON THE CENTERLINE OF BAYSHORE ROAD BEING N89°43'24"W AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAPS.
4. R/W INDICATES RIGHT OF WAY.
5. P.O.B. INDICATES POINT OF BEGINNING.

RONALD KERFOOT 10/11/05
PROFESSIONAL LAND SURVEYOR #2994

JRI Engineering, Inc.
Planning Engineering Surveying Aerial Photography & Photogrammetry Services
2328 Hancock Bridge Parkway, Ste. 114, Cape Coral, Florida 33990
Phone: 239.458.5544 Fax: 239.458.2233 www.jriengineeringinc.com
Engineering Business Certificate of Authorization No. 5424

BAYSHORE VILLAGE MARKET SQUARE

DESCRIPTION

SCALE: N.T.S.	BY: RK	DATE: 9-27-05	SHEET No. 2 OF 2

DCI 2005-00100

S89°54'31"E 614.45'

NORTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4

WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER

CENTERLINE

N00°07'14"W 570.82'

N00°07'14"W

EASTERLY RIGHT OF WAY LINE

WELLS ROAD (50' R/W)

50'

EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER

S00°00'46"E 628.44'

NOTES:
1. THIS IS NOT A SURVEY.
2. THIS DOCUMENT IS NOT VALID WITHOUT THE SIGNERS EMBOSSED SEAL.
3. BEARINGS ARE BASED ON THE CENTERLINE OF BAYSHORE ROAD BEING N89°43'24"W AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAPS.
4. R/W INDICATES RIGHT OF WAY.
5. P.O.B. INDICATES POINT OF BEGINNING.

N85°20'36"W 73.63'

N00°16'36"E 50.02'

NORTHERLY RIGHT OF WAY LINE

P.O.B.

N89°43'24"W 540.25'

N00°00'46"W~50.00'

1/4 1/4 SECTION LINE

CENTERLINE

BAYSHORE ROAD (STATE ROAD NO. 78)

N89°43'24"W~663.17'

EAST LINE OF SOUTHWEST QUARTER

N00°05'43"E 1323.13'

SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA

10/11/05

RONALD KERFOOT
PROFESSIONAL LAND SURVEYOR #2994

JRI Engineering, Inc.
Planning Engineering Surveying Aerial Photography & Photogrammetry Services
2328 Hancock Bridge Parkway, Ste. 114, Cape Coral, Florida 33990
Phone: 239.458.5544 Fax: 239.458.2233 www.jriengineeringinc.com
Engineering Business Certificate of Authorization No. 5424

BAYSHORE VILLAGE MARKET SQUARE

SKETCH OF DESCRIPTION

SCALE: 1"=100'	BY: RK	DATE: 9-27-05	SHEET No. 1 OF 2

DCI2005-00100 BAYSHORE VILLAGE MARKET SQUARE CPD

DCI2005-00100

Zoning Map

3/9/2006

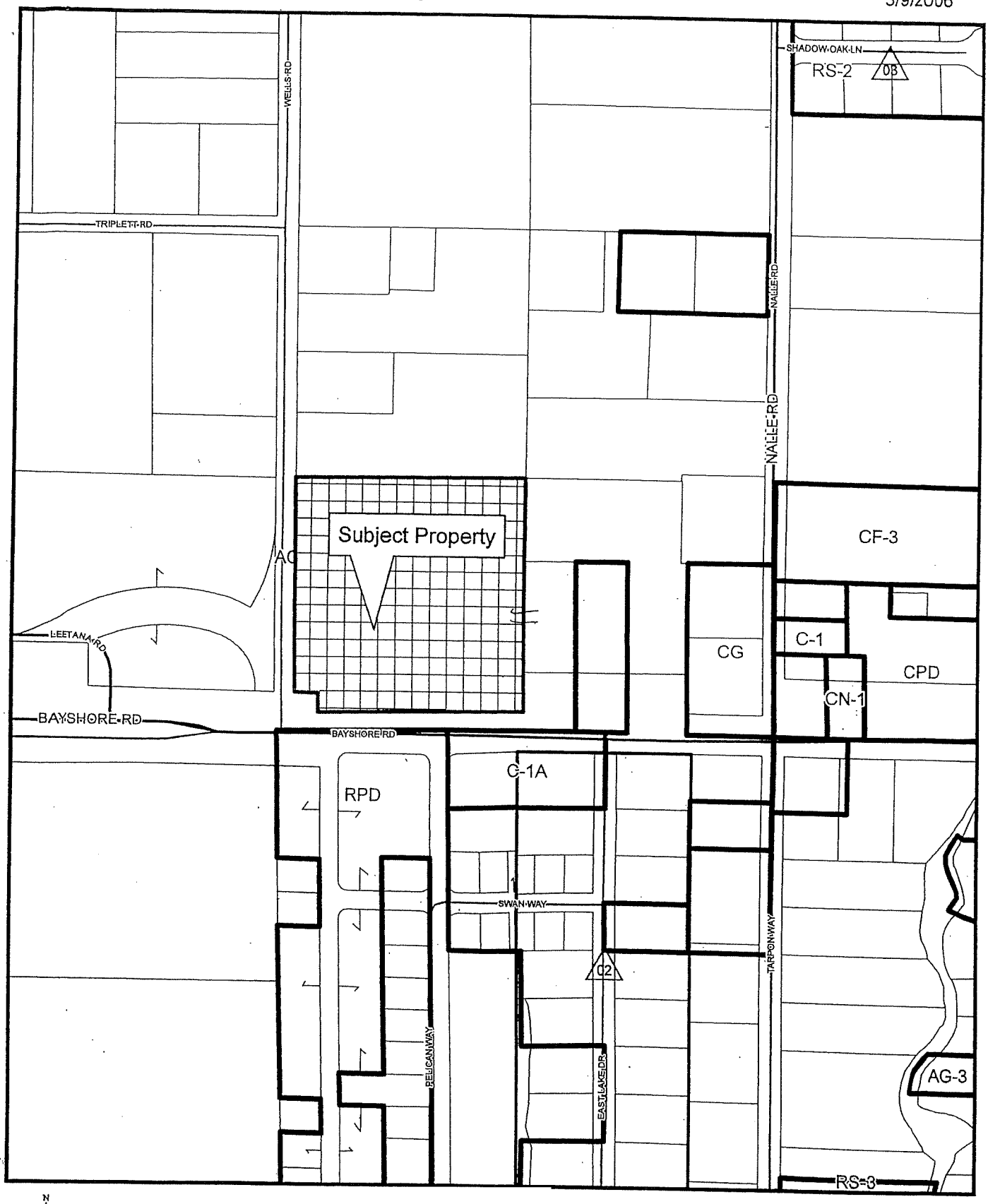
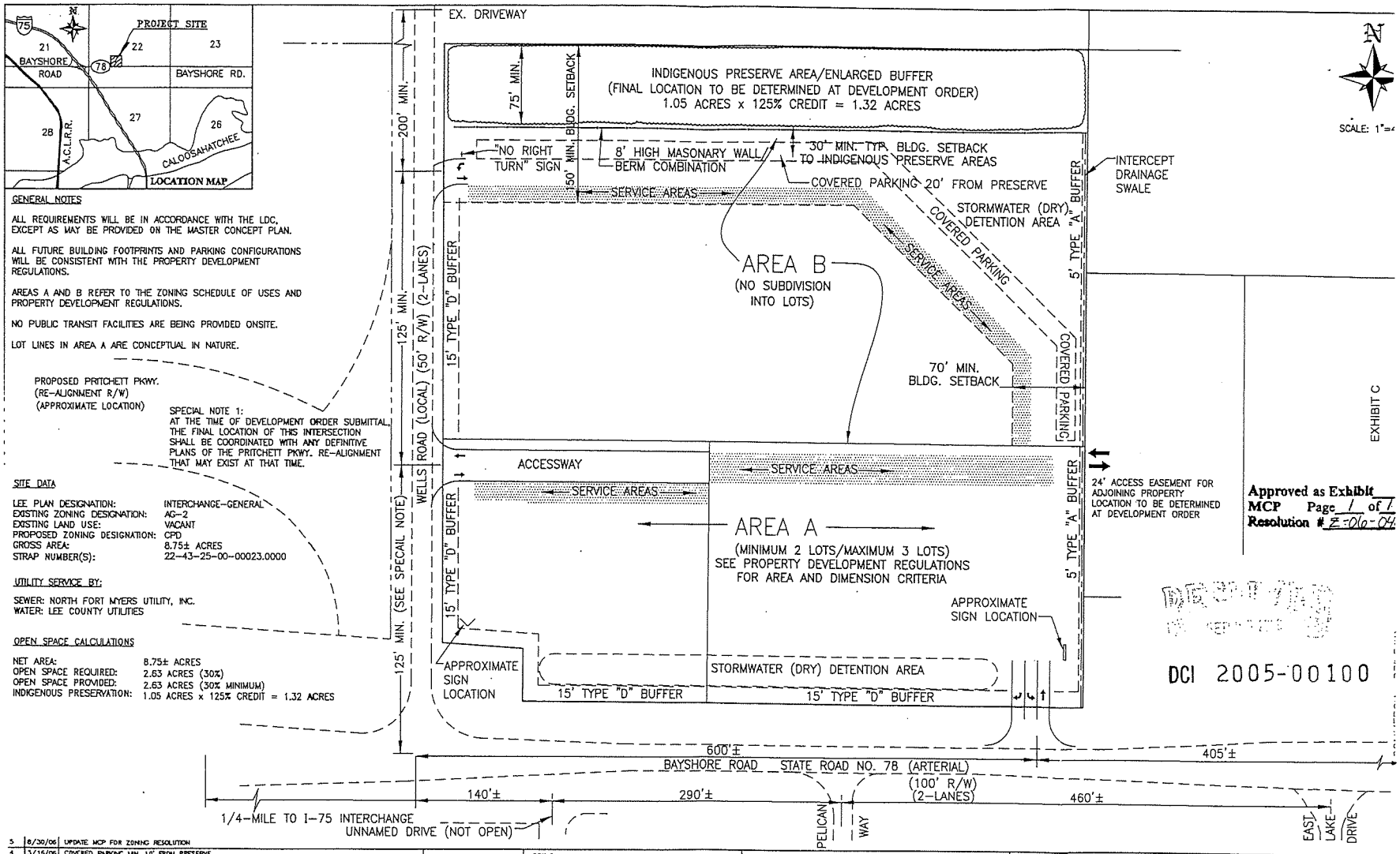


Exhibit B

390 195 0 390 780 Feet



Approved as Exhibit
MCP Page 1 of 1
Resolution # Z-06-04

GENERAL NOTES

ALL REQUIREMENTS WILL BE IN ACCORDANCE WITH THE LDC, EXCEPT AS MAY BE PROVIDED ON THE MASTER CONCEPT PLAN.

ALL FUTURE BUILDING FOOTPRINTS AND PARKING CONFIGURATIONS WILL BE CONSISTENT WITH THE PROPERTY DEVELOPMENT REGULATIONS.

AREAS A AND B REFER TO THE ZONING SCHEDULE OF USES AND PROPERTY DEVELOPMENT REGULATIONS.

NO PUBLIC TRANSIT FACILITIES ARE BEING PROVIDED ONSITE.

LOT LINES IN AREA A ARE CONCEPTUAL IN NATURE.

PROPOSED PRITCHETT PKWY.
(RE-ALIGNMENT R/W)
(APPROXIMATE LOCATION)

SPECIAL NOTE 1:
AT THE TIME OF DEVELOPMENT ORDER SUBMITTAL, THE FINAL LOCATION OF THIS INTERSECTION SHALL BE COORDINATED WITH ANY DEFINITIVE PLANS OF THE PRITCHETT PKWY. RE-ALIGNMENT THAT MAY EXIST AT THAT TIME.

SITE DATA

LEE PLAN DESIGNATION:	INTERCHANGE-GENERAL
EXISTING ZONING DESIGNATION:	AG-2
EXISTING LAND USE:	VACANT
PROPOSED ZONING DESIGNATION:	CPD
GROSS AREA:	8.75± ACRES
STRAP NUMBER(S):	22-43-25-00-00023.0000

UTILITY SERVICE BY:

SEWER: NORTH FORT MYERS UTILITY, INC.
WATER: LEE COUNTY UTILITIES

OPEN SPACE CALCULATIONS

NET AREA:	8.75± ACRES
OPEN SPACE REQUIRED:	2.63 ACRES (30%)
OPEN SPACE PROVIDED:	2.63 ACRES (30% MINIMUM)
INDIGENOUS PRESERVATION:	1.05 ACRES x 125% CREDIT = 1.32 ACRES

NO.	DATE	
5	8/30/06	UPDATE MCP FOR ZONING RESOLUTION
4	3/15/06	COVERED PARKING MIN. 10' FROM PRESERVE
3	3/02/06	REVISIONS PER SUFFICIENCY LETTER DATED MARCH 1, 2006
2	2/14/06	RELOCATE 8' HIGH MASONARY WALL
1	12/22/05	REV. PER LEE CO. STAFF COMMENTS, ADD SERVICE AREA, C/L DISTANCES, SWALES, BLDG. SETBACK, SEATING

NOT AUTHORIZED FOR CONSTRUCTION UNLESS SIGNED IN THIS BLOCK

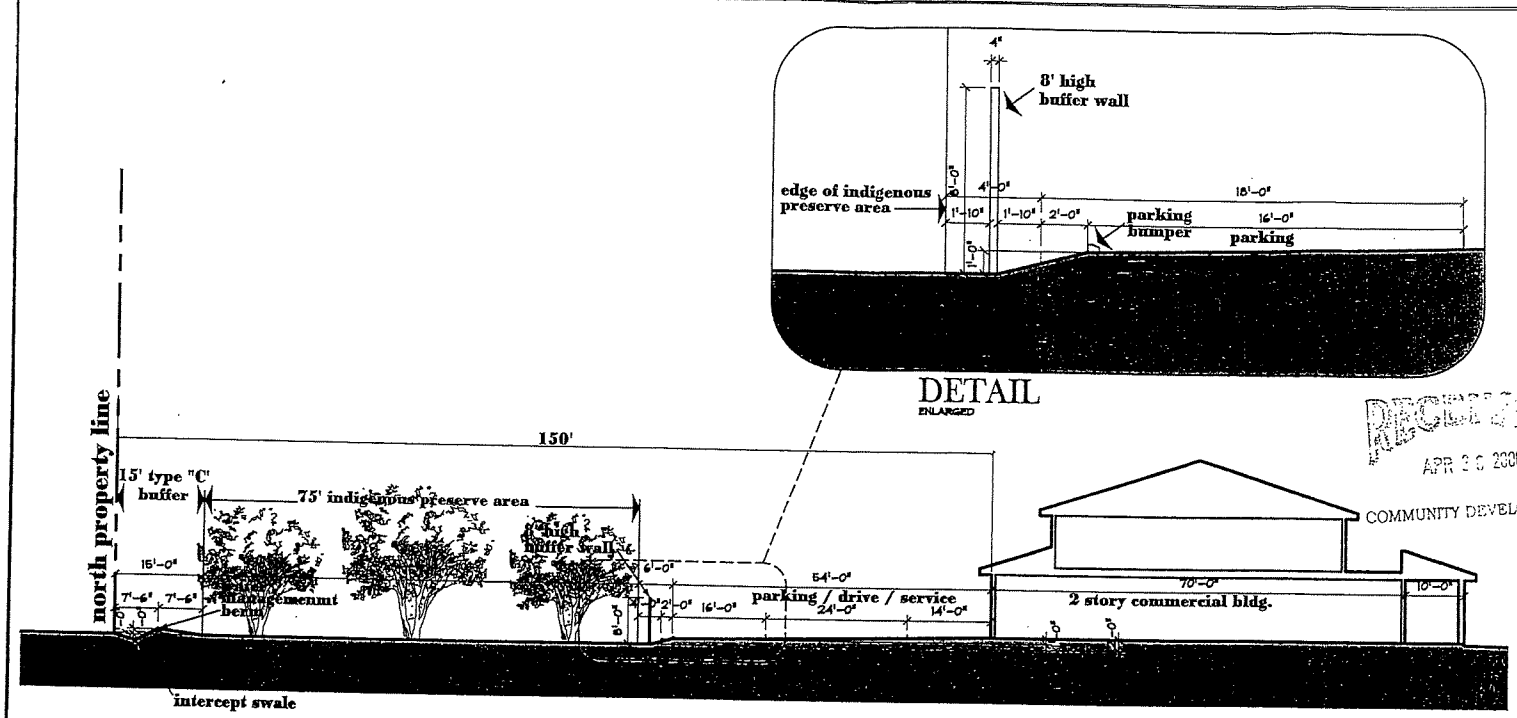
JRI Engineering, Inc.
Planning Engineering Surveying Aerial Photography & Photogrammetry Services
2326 Hancock Bridge Parkway, Ste. 114, Cape Coral, Florida 33990
Phone: 239.458.5544 Fax: 239.458.2233 www.jrienginearingint.com
Engineering Business Certificate of Authorization No. 5424

BAYSHORE VILLAGE HOLDINGS GROUP, LLC.
P.O. BOX 4024
NORTH FORT MYERS, FLORIDA 33918
PHONE: (239) 995-1239

BAYSHORE VILLAGE MARKET SQUARE

MASTER CONCEPT PLAN

SCALE: 1"=40'
DATE: 10/12/05
SHEET: 1 OF 1
FILE No.: BVMS



DETAIL
ENLARGED

PARTIAL SITE CROSS SECTION
NO SCALE

RECEIVED
APR 3 0 2009
COMMUNITY DEVELOPMENT

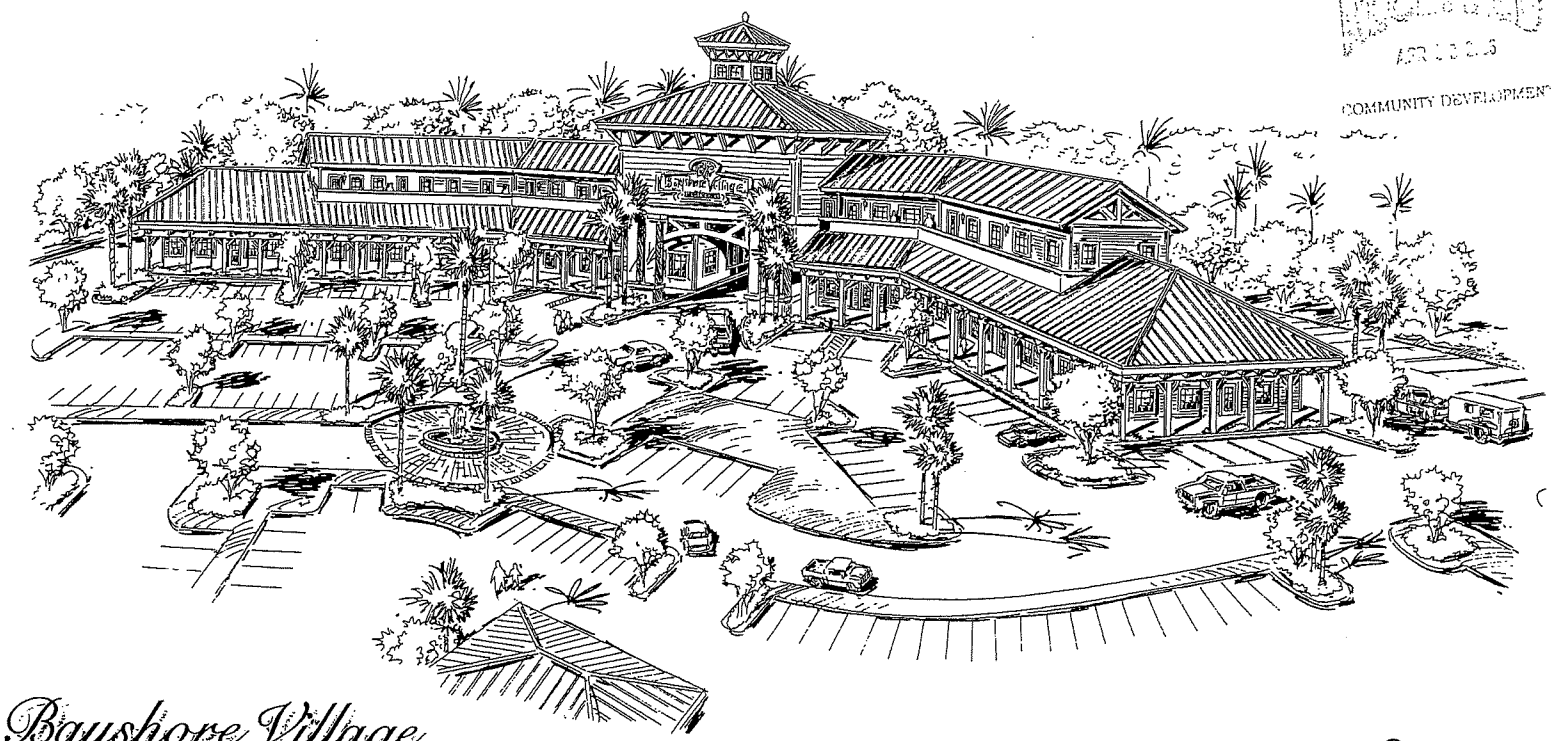
Gora McGahey
ASSOCIATES IN ARCHITECTURE
43 Barkley Circle Suite 202
Fort Myers, Florida 33907
239-275-0225 Fax 239-275-7123

SITE SECTION STUDY FOR
BAYSHORE VILLAGE HOLDINGS GROUP, LLC.
NORTH FORT MYERS, FLORIDA
PARTIAL SITE CROSS SECTION

SP-1

DCI 2005-00100

Exhibit D
Page 1 of 2



RECEIVED
APR 2 2 2005
COMMUNITY DEVELOPMENT

Bayshore Village

Conceptual Artists Rendition / Showing view overlooking parking towards the Main Building

BAYSHORE VILLAGE HOLDINGS GROUP, LLC.

Bradford & Company DESIGN GROUP INC

Artistic Rendering / Architectural Design Concept By: Steven Bradford Turner -Bradford & Company Design Group, Inc. / Cape Coral, Fl. (239) 541-3906

DCI 2005-00100

ATTACHMENT N

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

OF LEE COUNTY, FLORIDA

WHEREAS, Stuart Silver, Trustee, in reference to S.P.C. Interchange Store, has properly filed an application for a rezoning from the AG-2 district to Commercial Planned Development; and

WHEREAS, the subject property is located at 9471 Bayshore Road, described more particularly as:

LEGAL DESCRIPTION: In Section 22, Township 43 South, Range 25 East, Lee County, Florida:

> A tract or parcel of land lying in the East Half (E1/2) of the Northeast Quarter (NE1/4) of the Southwest Quarter (SW1/4) of Section 22, Township 43 South, Range 25 East, Lee County, Florida which tract or parcel is described as follows:
>
> From the Southeast corner of said fraction of a section run N00°07'50"E along the East line thereof for 37.46 feet to a concrete monument marking the intersection with the North line of Bayshore Road (100 feet wide);
> THENCE run N89°40'40"W along the North line of said road for 360.91 feet to the POINT OF BEGINNING.
>
> From said POINT OF BEGINNING run N00°09'35"W for 417.43 feet;
> THENCE run N89°40'40"W, parallel with the North line of said road, for 150.53 feet;
> THENCE run S00°04'16"E for 417.43 feet to an intersection with the North line of said Bayshore Road;
> THENCE run S89°40'40"E along said North line for 151.17 feet to the POINT OF BEGINNING.

WHEREAS, the applicant has indicated the property's current STRAP number is 22-43-25-00-00011.0140; and

WHEREAS, proper authorization has been given to Stuart Silver, by Scott M. Carter and Richard H. Pritchett, III, the owners of the subject parcel, to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Hearing Examiner, with full consideration of all the evidence available; and the Lee County Hearing Examiner fully reviewed the matter in a public hearing held on October 27, 1992; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the

documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby APPROVE WITH CONDITIONS a rezoning to Commercial Planned Development (Minor), to permit the development of a mixed use commercial center with only one building containing a maximum gross floor area of 3,570 square feet and not to exceed a height of 35 feet above average grade and one or two stories, on 1.45± total acres of land. The proposed development may include limited light industrial uses, a restaurant, and consumption on premises of alcoholic beverages.

The rezoning and Master Concept Plan, which deviate from certain Lee County Standards, are subject to the following conditions:

1. The development and use of the subject property shall be in accordance with the one-page Master Concept Plan entitled, "Proposed CPD" for Richard H. Pritchett III, Scott Carter, Stuart Silver (plan dated April 17, 1992, stamped received on Sept. 11, 1992, Project Number 1352-06, last revised on 9/8/92), as prepared by Alpha Engineering of Lee County, Inc., except as may be amended herein. Development of this site shall be in accordance with all applicable state or local development regulations, unless a deviation from these regulations has been granted herein. No additional deviations may be inferred by this zoning action.

2. The approved SCHEDULE OF USES shall be as follows:

   Animal Clinic (df)
   Banks and Financial Establishments - All Groups (Section 1001.03)
   Broadcasting Studio, Commercial Radio and Television (Section 547)
   Business Services - Group I (Section 1001.05)
   Car Wash (df)
   Cleaning and Maintenance Services (Section 1001.07)
   Clothing Stores, General (Section 1001.08)
   Contractors and Builders - Group I ONLY (Section 1001.09)
   Garage, Public (df)
   Household/Office Furnishings - Groups I & II (Section 1001.22)
   Lawn and Garden Supply Store (df) (Section 538)
   Non-Store Retailers - All Groups (Section 1001.30)
   Paint, Glass, and Wallpaper Store (df)
   Personal Services - All Groups (Section 1002.33)
   Recreation, Commercial - Groups II & IV (Section 1001.38)
   Restaurants, Standard - All Groups (Section 1001.44)
   Schools, Commercial (Section 1001.45)
   Social Services - Group I (Section 1001.46)
   Specialty Retail Shop - Groups I, II, III & IV (Section 1001.47)
   Studios (Section 1001.49)
   Transportation Services - Group II (Section 1001.53)
   Vehicle and Equipment Dealers - Group II (Section 1001.55)

   ADDITIONAL USES

   Consumption on Premises - ONLY IN CONJUNCTION WITH RESTAURANT USE (Section 202.03)
   Essential Service Facilities - Groups I & II (Sections 202.12 & 1001.13)
   Freight and Cargo Handling Establishments (Section 1001.17)
   Funeral Home and Mortuaries, Including Crematories
   Insurance Companies (Section 1001.23)
   Mini-Warehouse (df)

Novelty, Jewelry, Toy and Sign Manufacturing (Section 1001.29) - SUBJECT TO GENERAL CONDITIONS SET FORTH IN SECTIONS 461.C., D., AND E.
Plant Nursery (df) (Section 523)
Processing and Warehousing (df)
Repair Shops - Groups I & III ONLY (Section 1001.40)
Research and Development Laboratory - Groups II & IV (Section 1001.41)
Storage, Indoor (df), Enclosed (df), Open (df) (Section 527)
Used Merchandise Stores - Groups I, II, & IV ONLY (Section 1001.54)

3. Setbacks shall be in accordance with the Commercial Planned Development zoning district, except as granted in Deviation (2). Building height shall not exceed 35 feet in height above average grade. In accordance with the Master Concept Plan, only one building may be constructed with all uses contained within the building

4. No on-site private water and sanitary sewage facilities may be provided as part of this development. This project shall be required to connect to the public water and sanitary sewage utilities.

5. Approval of this rezoning does nothing more than change the zoning district wherein the subject property lies, and does not grant or vest in the developer any present or future development rights that may exceed any Lee Plan use restrictions as set forth in the 2010 (Roberts) Overlay or any other Lee Plan provision.

6. This zoning approval does not indicate the the development's traffic impacts have been mitigated. Additional conditions may be required at the time of issuance for a local Development Order, per the Development Standards Ordinance or other Lee County Ordinance.

7. Deviation (1) is a request to reduce the required intersection separation requirements along an arterial road to permit the access point as shown on the Master Concept Plan. Deviation (1) is hereby APPROVED.

   Deviation (2) requests the required perimeter setback be reduced from 25 feet to 15 feet. Buffers of 15 feet in width, as required by the Development Standards Ordinance, shall be required. Deviation (2) is hereby APPROVED.

Site Plan 92-061 is attached hereto and incorporated herein by reference, as a reduced copy of the Master Concept Plan.

The following findings of fact were made in conjunction with this approval of Commercial Planned Development zoning:

A. That there is no error or ambiguity which must be corrected by the CPD rezoning.

B. That there are no existing changed or changing conditions which make approval of the CPD rezoning inappropriate.

C. That the CPD rezoning, as conditioned, will not have an adverse impact on the intent of this Zoning Ordinance.

D. That the CPD rezoning, as conditioned, will be consistent with the goals, objectives, policies and intent of the Lee Plan, and with the densities, intensities and general uses set forth in the Lee Plan.

E. That the CPD rezoning, as conditioned meets or exceeds all performance and locational standards set forth for the proposed use.

F. That there are no environmentally critical areas or natural resources to be affected by the CPD rezoning.

G. That the CPD rezoning, as conditioned, will be compatible with existing or planned uses and will not cause damage, hazard, nuisance or other detriment to persons or property.

H. That the CPD rezoning, as conditioned, does not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development.

I. That the CPD rezoning, as conditioned, will be in compliance with all applicable general zoning provisions and supplemental regulations pertaining to the use, as set forth elsewhere in the Zoning Ordinance.

J. That the approved mix of uses, as conditioned, is appropriate at the subject location.

K. That sufficient safeguards to the public's interest has been provided by the recommended conditions to the Master Concept Plan and by other applicable regulations.

L. That all recommended conditions are reasonably related to the impacts on the public's interest created by or anticipated from the proposed CPD development.

M. That each approved deviation enhances the achievement of the objectives of the CPD.

N. That the public health, safety and welfare will be preserved and promoted by the approved deviations.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Ray Judah, and seconded by Commissioner John E. Albion and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Absent
Ray Judah	Aye
District #4	Vacant
John E. Albion	Aye

DULY PASSED AND ADOPTED this 1st day of February, A.D., 1993.

ATTEST:
CHARLIE GREEN, CLERK

BY: Clare J. Wrenck,
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: J Manning
Chairman

Approved as to form by:

Timothy Jones
County Attorney's Office

FILED

FEB 16 1993

CLERK CIRCUIT COURT
BY Clare J. D.C.

PROPOSED CPD

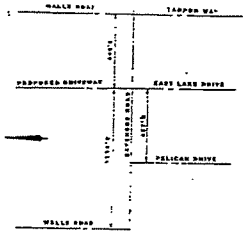
SECTION 22 TOWNSHIP 43S RANGE 25E

FOR

RICHARD H. PRITCHETT III, SCOTT CARTER, STUART SILVER

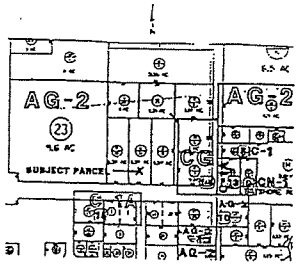
P. O. BOX 2148 FORT MYERS, FL 33902

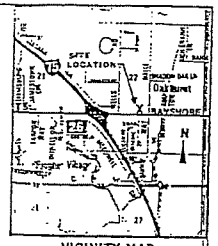
MASTER CONCEPT PLAN



INTERSECTION LOCATIONS

SCALE: 1" = 200'

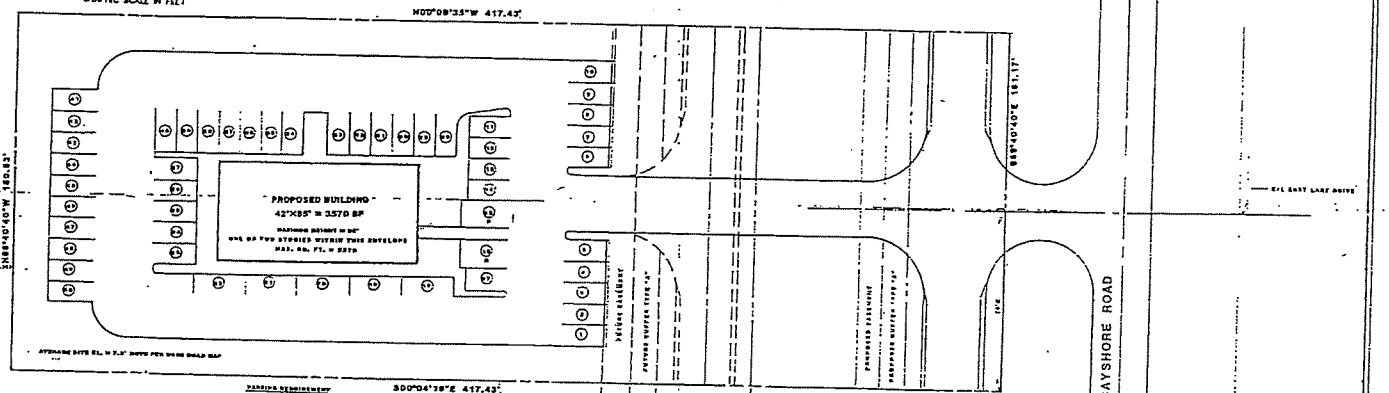




VICINITY MAP

NTS

GRAPHIC SCALE IN FEET



DEVIATIONS

1. A DEVIATION FROM DOD SECTION C.5.1. WHICH REQUIRES AN INTERSECTION SEPARATION OF 500 FEET ALONG AN ARTERIAL STREET (BAYSHORE ROAD) TO ALLOW AN INTERSECTION SEPARATION OF 425.4 FEET BETWEEN AN EXISTING STREET AND THE PROPOSED ACCESSWAY

2. A DEVIATION FROM DOD SECTION C.5.1. WHICH REQUIRES A SETBACK OF 50 FEET FOR PARKING SPACES FROM THE PERIMETER PROPERTY LINE TO 30 FEET (TYPE "C" BUFFER)

3. A DEVIATION FROM DOD SECTION C.5.1. WHICH REQUIRES AN INTERSECTION SEPARATION OF 500 FEET ALONG AN ARTERIAL STREET (BAYSHORE ROAD) TO ALLOW AN INTERSECTION SEPARATION OF 400 FEET BETWEEN AN EXISTING STREET AND THE PROPOSED ACCESSWAY

THE SOIL CLASSIFICATION FOR THE SUBJECT PROPERTY IS 24-PAMLICO SAND

THE PRESENT LAND USE DESIGNATION OF THE SUBJECT PARCEL IS PRIMARILY FINE FLATWOODS (4/5) WITH PALMETTO ENCROACHMENT

DRY RETENTION SECTION

NTS

OPEN SPACE CALCULATIONS

TOTAL AREA FROM TAKING LINE NORTH = 47,029 SF

OPEN SPACE

REAR BUFFER	= 2,259 SF
SIDE BUFFERS	= 7,990 SF
EASEMENTS	= 748 SF
ACCESS ROAD F.C.W. CREEK	= 1,332 SF
RESTAURANT GREEN	= 1,997 SF
TOTAL OPEN	14,477 SF

% OPEN SPACE = 14,477/47,029 = 30.8%

8/8/02 REVISION PER COUNTY REQ'TS

APPROVED

Master Concept Plan

Site Plan # 92-4-61 Page 1 of 1

Subject to conditions in Resolution 2-62-061

Zoning Case # 92-14-37-001-01

RECEIVED

SEP 11 1992

ZONING COUNTER

RECEIVED

92-10 AM 6-30-92

ALPHA ENGINEERING of Lee County, Inc.

1340 Matthew Drive, Suite F, Fort Myers, FL 33907 (813) 277-8700

DRAWN BY | CHECKED BY | APPROVED BY

SCALE | DATE | PROJECT NUMBER

ATTACHMENT O

ADMINISTRATIVE AMENDMENT (PD) ADD2022-00117

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Plata Engineering Inc., Frank Plata, P.E. filed an application for an administrative amendment to a Commercial Planned Development on a project known as Maximus Self Storage to amend the Master Concept Plan, Schedule of Uses, and Development Regulations on property located at 9481 Bayshore Road, described more particularly as:

LEGAL DESCRIPTION: In Section 22, Township 43 South, Range 25 East, Lee County, Florida:

ATTACHED AS EXHIBIT "A"

WHEREAS, the property was originally rezoned by Resolution Z-10-036; and

WHEREAS, the subject property is located in the Sub-Outlying Suburban Future Land Use Category as designated by the Lee Plan; 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, the applicant requests to modify the Master Concept Plan to depict a single building, where the approved MCP depicts three buildings; and

WHEREAS, this request will keep the maximum 30,000 square feet of building area; and

WHEREAS, the applicant requests to amend the Schedule of Uses to include Warehouse, Public and Mini-Warehouse; and

WHEREAS, the applicant also requests to modify the maximum building height of Resolution Z-10-036, which establishes a maximum height of "2 stories/35 feet" to "35 feet"; and

WHEREAS, the amendment to the maximum building height requirements will not increase the height and will simply remove "2 stories" and will keep the 35-foot maximum height; 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 does not increase density or intensity within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

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

1. **The Development must be in compliance with the amended Master Concept Plan labeled "Maximus Self Storage", last revised on December 21, 2022. Master Concept Plan for ADD2022-00117 is hereby APPROVED and adopted. A reduced copy is attached hereto as Exhibit "B".**

2. **The Schedule of Uses approved by Resolution Z-10-036 is hereby amended to include: *Warehouse, Public and Mini-warehouse.***

3. **The maximum building height of Resolution Z-10-036 is hereby amended to read: *Maximum Building Height: 35 feet.***

4. **The maximum gross floor area of all floors combined shall not exceed a total of 30,000 square feet.**

5. **As a part of the first development order approval, the site must extend the "Secondary Driveway" connection to Bayshore Road.**

6. **The terms and conditions of the original zoning resolution remain in full force and effect except as amended herein.**

7. **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 1/18/2023

Anthony R. Rodriguez, AICP, CPM, Zoning Manager

Attachments: Exhibit "A" Legal Description
Exhibit "B" Master Concept Plan
Exhibit "C" Resolution Z-10-036

Exhibit A

NEW DIRECTIONS IN PLANNING, DESIGN & ENGINEERING. SINCE 1956.

WilsonMiller®

EXHIBIT A
Legal Description,
Property located in Lee County,
Florida
Page 1 of 2

LEGAL DESCRIPTION
(REZONE PARCEL)
BEING A PORTION OF SECTION 22,
TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA

A parcel of land being a portion of Section 22, Township 43 South, Range 25 East, Lee County, Florida and being more particularly described as follows:

Commencing at the Southeast corner of the East Half (E1/2), of the Northeast Quarter (NE1/4), of the Southwest Quarter (SW1/4) of Section 22, Township 43 South, Range 25 East, Lee County, Florida thence N.00°07'50"E along East line of said Section, a distance of 37.46 feet to a point on the North Right-of-Way line of Bayshore Road; thence N.89°40'40"W along said Right-of-Way line a distance of 209.74 feet; thence leaving said Right-of-Way N.00°14'54"W a distance of 106.00 feet to the **Point of Beginning**; thence N.89°43'24"W a distance of 151.01 feet; thence N.00°09'35"W a distance of 311.43 feet; thence N.89°40'40"W a distance of 300.99 feet; thence N.00°01'03"W a distance of 222.71 feet; thence S.89°44'57"E a distance of 659.57 feet; thence S.00°13'19"E a distance of 223.53 feet; thence N.89°40'40"W a distance of 208.85 feet; thence S.00°14'54"E a distance of 311.44 feet to the **Point of Beginning.**

Said parcel of land 4.46 Acres, more or less.

This legal description and the attached sketch are not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper. Bearings shown hereon are based on the State Plane Coordinate System, North American Datum of 1983/1990 Adjustment (NAD83/90), Florida West Zone. The reference bearing is the North Right-of-Way of Bayshore Road being N.89°40'40"W.

Prepared by:

WilsonMiller, Inc.

Mark D. Haines
Professional Surveyor & Mapper No. LS5312
State of Florida

P.I.N.: 06798-000-000
Ref.: A-06798-002
Date: March 23, 2009
Revised: December 26, 2009

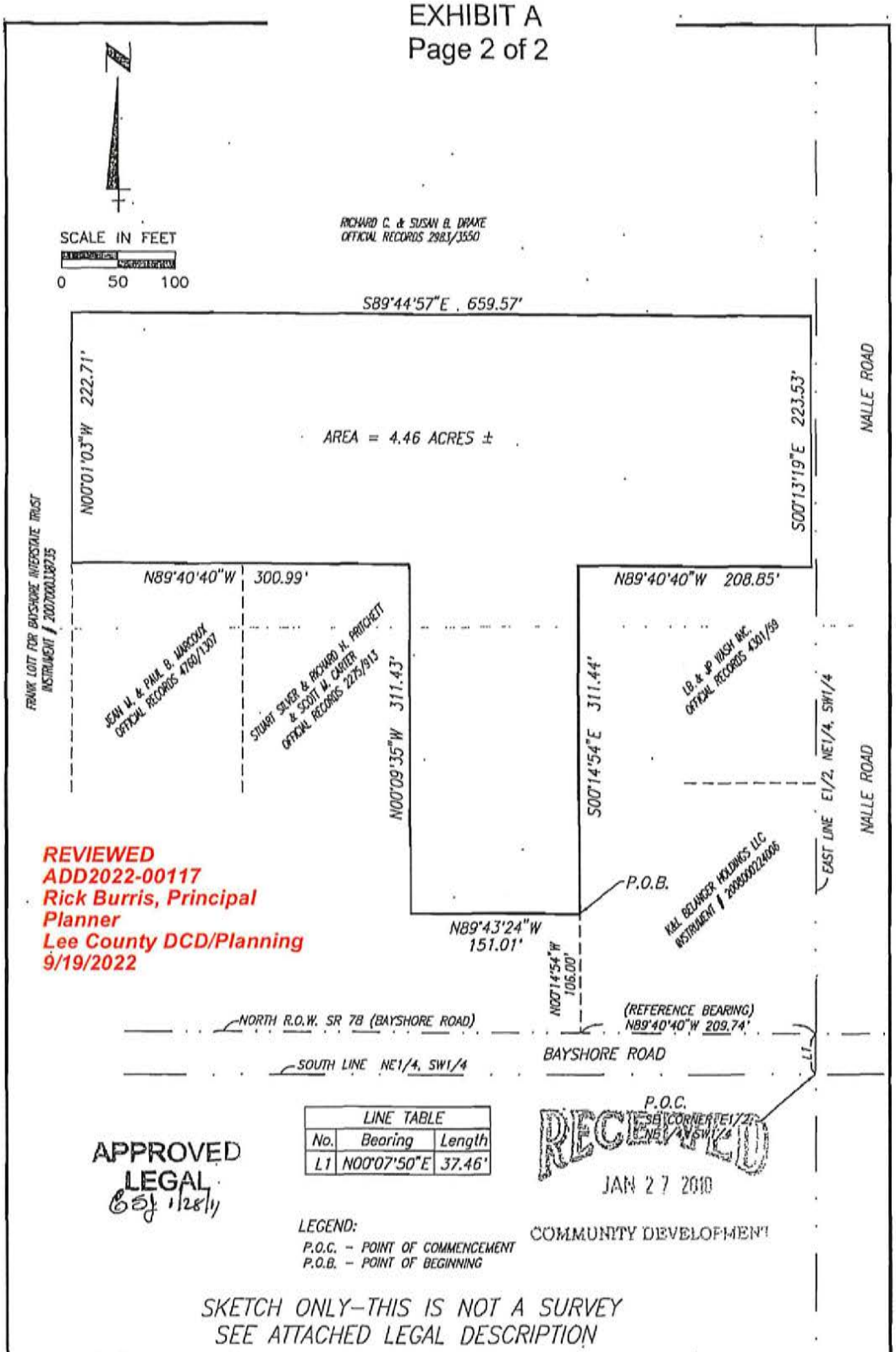
RECEIVED
JAN 27 2010
COMMUNITY DEVELOPMENT

DCI 2009-00011

REVIEWED
ADD2022-00117
Rick Burris, Principal Planner
Lee County DCD/Planning
9/19/2022

APPROVED
LEGAL
BSJ 1/28/10

EXHIBIT A
Page 2 of 2



REVIEWED
ADD2022-00117
Rick Burris, Principal Planner
Lee County DCD/Planning
9/19/2022

LINE TABLE		
No.	Bearing	Length
L1	N00°07'50"E	37.46'

APPROVED
LEGAL
BSJ 1/28/11

RECEIVED
JAN 27 2010
COMMUNITY DEVELOPMENT

LEGEND:
P.O.C. – POINT OF COMMENCEMENT
P.O.B. – POINT OF BEGINNING

SKETCH ONLY–THIS IS NOT A SURVEY
SEE ATTACHED LEGAL DESCRIPTION

FOR: PERRY L. AND JULIE L. SIZEMORE

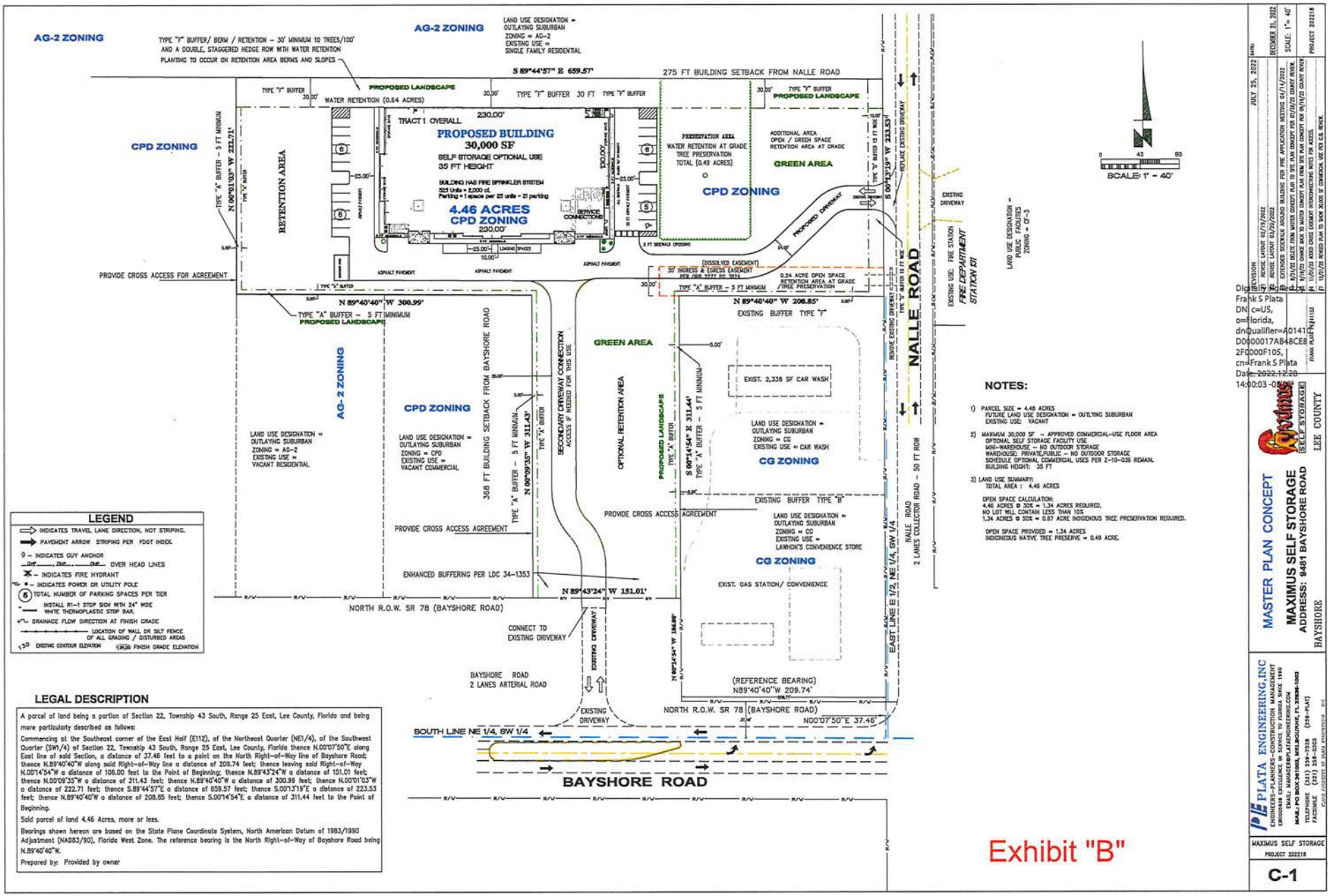
Mar 24, 2009 – 09:41:02 GBROWN)C:\SUR\06798\06798-002001.dwg

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
PORTION OF SECTION 22, TOWNSHIP 43 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

WilsonMiller
Planners • Engineers • Ecologists • Surveyors • Landscape Architects • Transportation Consultants
WilsonMiller, Inc.

TASK CODE:	DRAWN BY:	CHKED BY:	CAD FILE:	PROJECT NO:	SHEET	DRAWING INDEX NO:	REV:
23400	GPB	SPE	06798-002001	06798-000-000	1 OF 1	D-06798-002	

DCI 2009-00011



NOTES:

1) PARCEL SIZE = 4.46 ACRES
FUTURE LAND USE DESIGNATION = OUTLYING SUBURBAN
EXISTING USE: VACANT

2) MAXIMUM 30,000 SF – APPROVED COMMERCIAL-USE FLOOR AREA
OPTIONAL SELF STORAGE FACILITY USE
MINI-WAREHOUSE – NO OUTDOOR STORAGE
WAREHOUSE: PRIVATE,PUBLIC – NO OUTDOOR STORAGE
SCHEDULE OPTIONAL COMMERCIAL USES PER Z-10-036 REMAIN.
BUILDING HEIGHT: 35 FT

3) LAND USE SUMMARY:
TOTAL AREA : 4.46 ACRES

OPEN SPACE CALCULATION:
4.46 ACRES @ 30% = 1.34 ACRES REQUIRED.
NO LOT WILL CONTAIN LESS THAN 10%
1.34 ACRES @ 50% = 0.67 ACRE INDIGENOUS TREE PRESERVATION REQUIRED.

OPEN SPACE PROVIDED = 1.34 ACRES
INDIGENOUS NATIVE TREE PRESERVE = 0.49 ACRE.

LEGEND

- INDICATES TRAVEL LANE DIRECTION, NOT STRIPING.
- PAVEMENT ARROW STRIPING PER FDOT INDEX.
- INDICATES GUY ANCHOR
- OVER HEAD LINES
- INDICATES FIRE HYDRANT
- INDICATES POWER OR UTILITY POLE
- (5) TOTAL NUMBER OF PARKING SPACES PER TIER
- INSTALL R1-1 STOP SIGN WITH 24" WIDE WHITE THERMOPLASTIC STOP BAR.
- DRAINAGE FLOW DIRECTION AT FINISH GRADE
- LOCATION OF WALL OR SILT FENCE OF ALL GRADING / DISTURBED AREAS
- EXISTING CONTOUR ELEVATION
- FINISH GRADE ELEVATION

LEGAL DESCRIPTION

A parcel of land being a portion of Section 22, Township 43 South, Range 25 East, Lee County, Florida and being more particularly described as follows:

Commencing at the Southeast corner of the East Half (E1/2), of the Northeast Quarter (NE1/4), of the Southwest Quarter (SW1/4) of Section 22, Township 43 South, Range 25 East, Lee County, Florida thence N.00°07'50"E along East line of said Section, a distance of 37.46 feet to a point on the North Right-of-Way line of Bayshore Road; thence N.89°40'40"W along said Right-of-Way line a distance of 209.74 feet; thence leaving said Right-of-Way N.00°14'54"W a distance of 106.00 feet to the Point of Beginning; thence N.89°43'24"W a distance of 151.01 feet; thence N.00°09'35"W a distance of 311.43 feet; thence N.89°40'40"W a distance of 300.99 feet; thence N.00°01'03"W a distance of 222.71 feet; thence S.89°44'57"E a distance of 659.57 feet; thence S.00°13'19"E a distance of 223.53 feet; thence N.89°40'40"W a distance of 208.85 feet; thence S.00°14'54"E a distance of 311.44 feet to the Point of Beginning.

Said parcel of land 4.46 Acres, more or less.

Bearings shown hereon are based on the State Plane Coordinate System, North American Datum of 1983/1990 Adjustment (NAD83/90), Florida West Zone. The reference bearing is the North Right-of-Way of Bayshore Road being N.89°40'40"W.

Prepared by: Provided by owner

Exhibit "B"

REVISION	DATE
01 REVISE LAYOUT 02/19/2022	JULY 25, 2022
02 REVISE LAYOUT 03/26/2022	DECEMBER 21, 2022
03 EXTENDED SIDEWALK AROUND BUILDING FOR PRE APPLICATION MEETING 04/14/2022	SCALE: 1" = 40'
04 4/21/22 DELETE FROM MASTER CONCEPT PLAN TO SITE PLAN CONCEPT PER 07/22/22 COUNTY REVIEW.	
05 9/19/22 CHANGE BACK TO MASTER CONCEPT PLAN FROM SITE PLAN CONCEPT PER 09/19/22 COUNTY REVIEW	PROJECT 202218
06 11/01/22 ADDED CROSS EASEMENT INTERCONNECTIONS NOTES FOR ACCESS.	
07 12/21/22 REVISED PLAN TO SHOW 30,000 SF COMMERCIAL USE PER C.O. REVIEW.	

Digitally signed by Frank S Plata
DN: c=US, o=florida, dnQualifier=A01410D0000017AB48CE82FQ000F105, cn=Frank S Plata
Date: 2022.12.20 14:00:03 -05'00'

FRANK PLATA #41152

MASTER PLAN CONCEPT

MAXIMUS SELF STORAGE

ADDRESS: 9481 BAYSHORE ROAD

BAYSHORE — LEE COUNTY

PLATA ENGINEERING, INC
ENGINEERS-PLANNERS-CONSTRUCTION MANAGEMENT
EB0000839 EXCELLENCE IN SERVICE TO FLORIDA SINCE 1990
EMAIL: MANAGEMENT@PLATAENGINEERING.COM
MAIL: P.O. BOX 2000, CAPE CORAL, FL 33990-2000
TELEPHONE (239) 334-7233 (239-PLAT)
FACSIMILE (239) 334-0353
PLATA ENGINEERS OF MARY PROPERTIES, INC

MAXIMUS SELF STORAGE
PROJECT 202218

C-1

RESOLUTION NUMBER Z-10-036

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

WHEREAS, Robert Hutcherson filed an application on behalf of the property owner, Perry and Julie Sizemore, to rezone a 4.46±-acre parcel from Agricultural (AG-2) to Commercial Planned Development (CPD) in reference to W & W Service Park; and,

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner was advertised and held on November 10, 2010. At the conclusion of the hearing, the Hearing Examiner left the record open and requested Staff and the Applicant to submit written submissions to her Office on or before November 17, 2010; and,

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2009-00011, and recommended Approval of the Request; and,

WHEREAS, a second public hearing was advertised and held on January 10, 2011, 2010 before the Lee County Board of Commissioners; and,

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 4.46±-acre parcel from AG-2 to CPD to allow for a maximum floor area of 30,000 square feet of commercial development, including 10,000 square feet of commercial retail. Maximum height requested is two stories/35 feet. Development blasting is not requested. Any development will connect to public potable water service and public sanitary sewer service.

The property is located in the Outlying Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. Development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled "W & W Service Park," prepared by Wilson Miller, Inc., date stamped "Received Nov 17 2010 Community Development," and attached hereto as Exhibit C, except as modified by the conditions below.

   This development must comply with all requirements of the Lee County Land Development Code (LDC) at time of the 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.

   Maximum Commercial Floor Area: 30,000 square feet, of which a maximum of 3,500 may be commercial retail, as defined by the Lee County Comprehensive Plan per Policy 6.1.2(7).

2. The following limits apply to the project and uses.

   A. Schedule of Uses

   Accessory Uses and Structures.
   Administrative Office
   Animals - Clinic (no outdoor runs)
   Automatic Teller Machine (ATM)
   Auto Parts Store (no installation)
   Banks and Financial Establishments: Group I and II
   Broadcast Studio
   Business Services: Group I and II - no bail bonding
   Cleaning and Maintenance Services
   Clothing Stores
   Clubs: Commercial, Fraternal, Membership Organizations, Private
   Computer and Data Processing Services
   Consumption on Premises - See Condition 21.
   Contractors and Builders, Group I and II (no Group III)
   Convenience Food and Beverage Stores - Also See Conditions 18 and 20.
   Cultural Facilities - limited to art galleries, aquariums, historical sites, museums.
   Day Care Center, Child and Adult
   Drive Through Facility for Any Permitted Use
   Drug Store/Pharmacy
   Dwelling Unit, Single-Family - See Condition 12.
   EMS, Fire or Sheriff's Station
   Essential Services
   Essential Service Facilities, Group I only.
   Excavation
   Water Retention. Not to include removal of excavated material from site. No blasting.
   Fences, Walls
   Food Stores, Group I and II - Also See Condition 20.
   Gift and Souvenir Shop

Hardware Store
Hobby, Toy and Game Shops
Household and office furnishings, Group I and II (no Group III)
Insurance Companies
Laundromat
Laundry or dry cleaning, Group I & II
Motion Picture Production Facility
Parcel and Express Services
Paint, Glass and Wallpaper
Parking lot: Accessory
Personal Services, Group I, II and III - No Steam or Turkish Baths or Massage Parlors.
Pet Services - no outdoor runs
Pet Shop - no outdoor runs
Plant Nursery
Post Office
Real Estate Sales Office
Rental or leasing establishments, Group I and II only. No Group III.
Repair Shops, Group I and II only. No Group III.
Restaurants, Group I, II and III
Schools, Commercial
Self Service Fuel Pumps - maximum 2 pumps. In conjunction with a convenience food and beverage store or similar establishment (such as a food store) only.
Signs per Lee County LDC Chapter 30
Specialty Retail Shop, Group I, II, III, IV.
Temporary Uses
Used Merchandise Stores, Group I, II - Excluding Pawn Shop. No Group III (Automotive)
Variety Store

Site Development Regulations

Minimum Area:

Tract 1	1.08 acres
Tract 2	2.2 acres
Tract 3	1.18 acres

Minimum Depth	100 feet
Minimum Width	75 feet

Minimum Setbacks

Bayshore and Nalle Road	25 feet
Interior Street	15 feet
Side	15 feet
Rear	25 feet

North Property Line	30 feet.

Accessory uses and setbacks must comply with the LDC §34-1174 *et. seq.* and LDC §34-2194.

Minimum building separation	20 feet
Minimum Development Perimeter	25 feet
Maximum Lot Coverage	45 percent
Maximum Height	2 story/ 35 feet

3. 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. Prior to issuance of a local development order, the developer is required to demonstrate compliance with all concurrency requirements, including traffic concurrency,.

4. TRAFFIC

Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

5. LEE PLAN

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 Allocation Table, Map 16, and Table 1(b), be reviewed for, and found consistent with the retail commercial standards for the site area, including range of gross floor area, location, tenant mix, and general function (for commercial uses), as well as all other Lee Plan provisions.

6. NO BLASTING

Development blasting is not permitted as part of this project unless approved at a subsequent public hearing as an amendment to the planned development.

7. WATER AND SEWER

Development of this project must connect to both public water and public sewer. At time of local development order, the developer must also demonstrate there is adequate water and sewer capacity to handle level of development as proposed in the development order submittal.

8. ACCESSORY USES

Within the CPD, accessory uses must be located on the same tract where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract.

9. ACCESS TO SR 78 (BAYSHORE ROAD)

The proposed project access point on State Road 78 (Bayshore Road) will be subject to approval of the Florida Department of Transportation.

10. ACCESS TO NALLE ROAD

A right-of-way permit from Lee County Department of Transportation is required for the connection onto Nalle Road.

11. INTERSECTION ANALYSIS

An intersection analysis addressing the entire site's impacts, along with current turning movement counts, will be required prior to issuance of a development order for the subject parcel. This includes determination of the need for additional lanes on the southbound approach of Nalle Road.

12. RESIDENTIAL USE

The existing single-family use is allowed to remain on site, until a development order application is filed, and must be removed from the property before the development order is approved. Upon the approval of the commercial development order, NO residential uses are permitted on the property. If the MCP is vacated per LDC Section 34-381, all uses, single-family and commercial, require the reinstatement and extension of the MCP or other appropriate zoning approval per the LDC requirements.

13. CROSS ACCESS

a. This project must provide a cross access easement for future connection to the adjacent properties to the east and west along Bayshore Road. The MCP must be revised to show each such easement or easements. The easement(s) must be executed and recorded in the Public Records prior to approval of any vertical construction for commercial uses on the property.

b. Prior to development order approval for any vertical construction for any commercial uses, the developer of the subject property must make a good-faith effort to negociate an agreement with the neighboring property owners to the east and west to provide for an interconnection between the parcels in furtherance of LDC §10-295, and located as shown on the approval MCP.

If an agreement cannot be reached, the developer must provide evidence of the developer's good-faith effort to negotiate with the owner(s) of the neighboring

properties, in which case the developer is released from having to comply with this portion of this condition.

14. OPEN SPACE

Prior to local development order approval, the development order plans must delineate a minimum of 1.34 acres of open space for the project.

15. INDIGENOUS PRESERVATION

Prior to local development order approval, the landscape plans must depict 0.49 acres of native tree preservation to meet indigenous open space requirements.

16. SABAL PALMS

Prior to local development order approval, the landscape plans must depict the relocation of any sabal palms (Sabal Palmetto), greater than an eight-foot clear trunk, that will be impacted by the development. Sabal Palms must be relocated onsite in a horticulturally correct manner and clustered within open space areas.

17. HERITAGE TREES

a. Prior to local development order approval, the development order plans must:

(1) provide a detailed cross section which includes the location of the preserved heritage trees, and ensure that protection of the roots and the trunk of the trees is addressed. Root pruning or root barriers may be necessary to protect the trees from damage; and.

(2) document if a heritage tree dies, within four years of completion of construction, and provide for the replacement of the dead preserve tree with a 20-foot-tall tree of like species; and

(3) depict the storm water berm/swale designed to avoid impacts to the native trees located within the tree preserve area; and,

(4) depict that storm water design will not increase inundation or negatively impact the tree preserve area.

b. Prior to issuance of a vegetation removal permit, the heritage trees must be staked and field verified for appropriate protection measures such as root pruning, tree barricades, root barriers and trimming by a certified arborist.

18. BUFFERING FOR CONVENIENCE FOOD AND BEVERAGE USES

For Convenience Food and Beverage uses on Tract 1, the development order plans must be in compliance with LDC §34-1353 prior to their approval.

19. BUFFERS IN GENERAL

Prior to local development order approval, the development order plans must depict all planting heights to be measured from final grade of the project.

20. CONVENIENCE STORES AND FOOD STORES

The northwest corner of Nalle Road and Bayshore Road is limited to one convenience food and beverage and/or a food store, as defined by the LDC.

21. CONSUMPTION ON PREMISES

a. Consumption on premises - either 4-COP-SRX or 2-COP beverage license - is limited to indoor seating in conjunction with a Restaurant, Group III, full service-restaurant.

b, The hours of operation for indoor consumption on premises are limited to those between 11:00 a.m. and 11:00 p.m. daily.

c. No sale, service, or consumption of alcoholic beverages will be permitted without the sale of food and non-alcoholic beverages on the same premises.

d. Outdoor consumption on premises may be approved by a special exception or an administrative amendment to the CPD. The applicant must provide adequate detail of the outdoor seating area (square footage, number of seats, proposed hours, distance to residential uses, outdoor entertainment, etc.) consistent with the requirements of the LDC.

22. SOLID WASTE AND RECYCLING

Prior to any development order approval for vertical development, the developer must provide facilities in compliance with LDC §10-261 and Solid Waste Ordinance #08-10 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of the Development order application.

23. ARCHITECTURE.

All structures, including signage, within the development will be reviewed by Development Services staff to ensure that the development is designed and constructed in substantial compliance with the "Old Florida" architectural style.

SECTION C. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

Exhibit A: Legal description of the property
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: The Master Concept Plan

The applicant has indicated that the STRAP number for the subject property is:

22-43-25-00-00011.0000
22-43-25-00-00011.0110

SECTION D. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.

2. The rezoning, as approved:

   a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;

   b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;

   c. is compatible with existing or planned uses in the surrounding area;

   d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and

   e. will not adversely affect environmentally critical areas or natural resources.

3. The rezoning satisfies the following criteria:

   a. the proposed use or mix of uses is appropriate at the subject location;

   b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and

   c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

Commissioner Hall made a motion to adopt the foregoing resolution, seconded by Commissioner Manning. The vote was as follows:

John E. Manning	Aye
Brian Bigelow	Nay
Ray Judah	Nay
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 10 day of January 2011.

ATTEST:
CHARLIE GREEN, CLERK

BY: Kathleen A. Motz
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: [signature]
Frank Mann, Chair

Approved as to form by:

[signature]
Michael D. Jacob
Assistant County Attorney
County Attorney's Office

BOARD OF COUNTY COMMISSIONERS SEAL LEE COUNTY, FLORIDA

RECEIVED
MINUTES OFFICE
2011 JAN 20 PM 4:07

ADD2022-00117 Lee County ePlan

WilsonMiller®

EXHIBIT A
Legal Description,
Property located in Lee County,
Florida

LEGAL DESCRIPTION
(REZONE PARCEL)
BEING A PORTION OF SECTION 22,
TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA

A parcel of land being a portion of Section 22, Township 43 South, Range 25 East, Lee County, Florida and being more particularly described as follows:

Commencing at the Southeast corner of the East Half (E1/2), of the Northeast Quarter (NE1/4), of the Southwest Quarter (SW1/4) of Section 22, Township 43 South, Range 25 East, Lee County, Florida thence N.00°07'50"E along East line of said Section, a distance of 37.46 feet to a point on the North Right-of-Way line of Bayshore Road; thence N.89°40'40"W along said Right-of-Way line a distance of 209.74 feet; thence leaving said Right-of-Way N.00°14'54"W a distance of 106.00 feet to the **Point of Beginning**; thence N.89°43'24"W a distance of 151.01 feet; thence N.00°09'35"W a distance of 311.43 feet; thence N.89°40'40"W a distance of 300.99 feet; thence N.00°01'03"W a distance of 222.71 feet; thence S.89°44'57"E a distance of 659.57 feet; thence S.00°13'19"E a distance of 223.53 feet; thence N.89°40'40"W a distance of 208.85 feet; thence S.00°14'54"E a distance of 311.44 feet to the **Point of Beginning.**

Said parcel of land 4.46 Acres, more or less.

This legal description and the attached sketch are not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper. Bearings shown hereon are based on the State Plane Coordinate System, North American Datum of 1983/1990 Adjustment (NAD83/90), Florida West Zone. The reference bearing is the North Right-of-Way of Bayshore Road being N.89°40'40"W.

Prepared by:

WilsonMiller, Inc.

Mark D. Haines
Professional Surveyor & Mapper No. LS5312
State of Florida

P.I.N.: 06798-000-000
Ref.: A-06798-002
Date: March 23, 2009
Revised: December 26, 2009

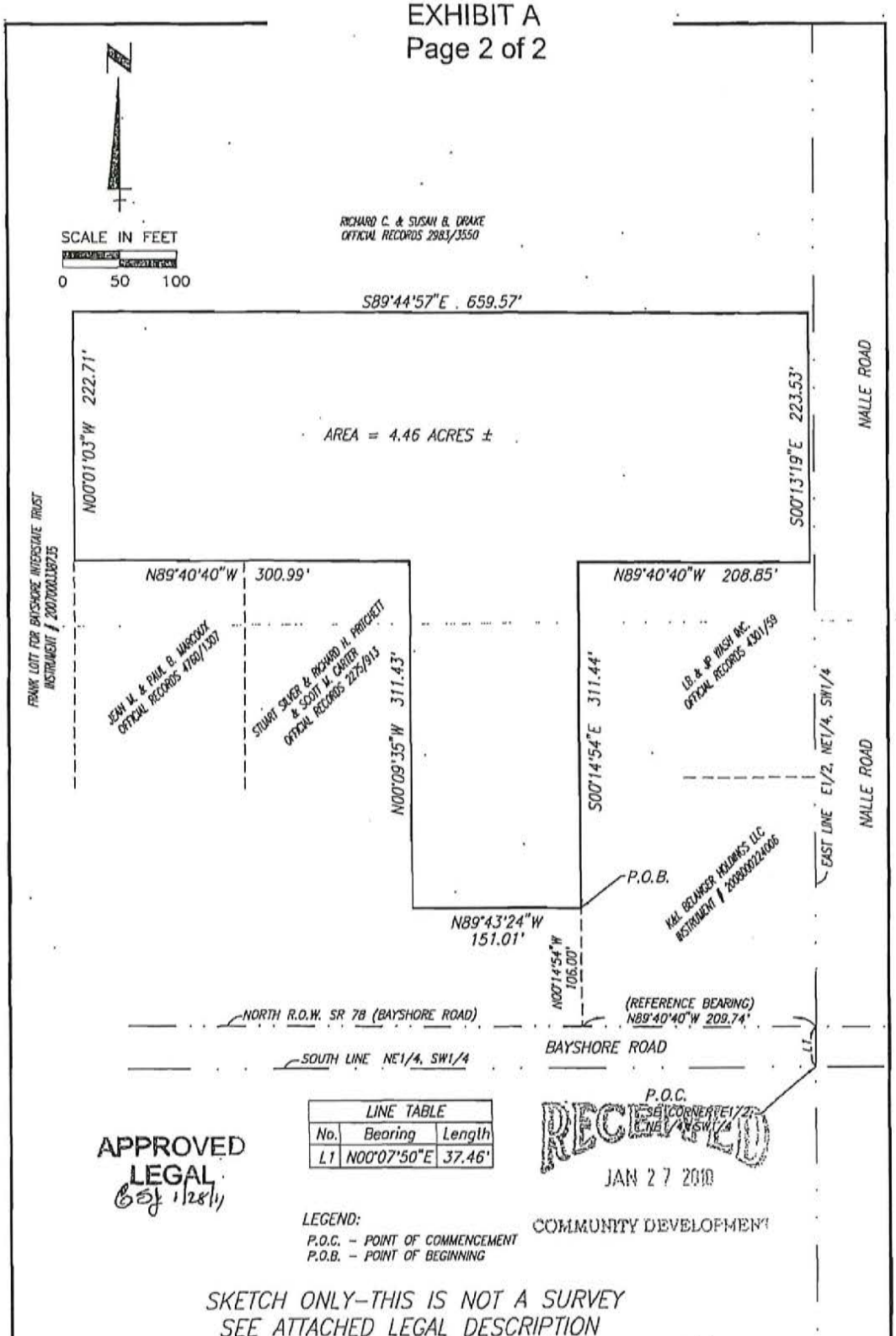
RECEIVED
JAN 27 2010
COMMUNITY DEVELOPMENT

APPROVED
LEGAL
BSJ 1/28/10

DCI 2009-00011

12801 Westlinks Drive Suite 106 Fort Myers, Florida 33913 | 800.649.4336 239.939.1020 F 239.939.3412 | WilsonMiller.com

EXHIBIT A
Page 2 of 2



LINE TABLE		
No.	Bearing	Length
L1	N00°07'50"E	37.46'

APPROVED
LEGAL
BSJ 1/28/11

RECEIVED
JAN 27 2010
COMMUNITY DEVELOPMENT

LEGEND:
P.O.C. – POINT OF COMMENCEMENT
P.O.B. – POINT OF BEGINNING

SKETCH ONLY–THIS IS NOT A SURVEY
SEE ATTACHED LEGAL DESCRIPTION

FOR: PERRY L. AND JULIE L. SIZEMORE

Mar 24, 2009 – 09:41:02 GBROWN\PC\SUR\06798\06798-002001.dwg

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
PORTION OF SECTION 22, TOWNSHIP 43 SOUTH,
RANGE 25 EAST
LEE COUNTY, FLORIDA

WilsonMiller
Pioneers • Engineers • Ecologists • Surveyors • Landscape Architects • Transportation Consultants
WilsonMiller, Inc.

TASK CODE:	DRAWN BY:	CHKED BY:	CAD FILE:	PROJECT NO:	SHEET	DRAWING INDEX NO:	REV:
23400	GPB	SPE	06798-002001	06798-000-000	1 OF 1	D-06798-002	

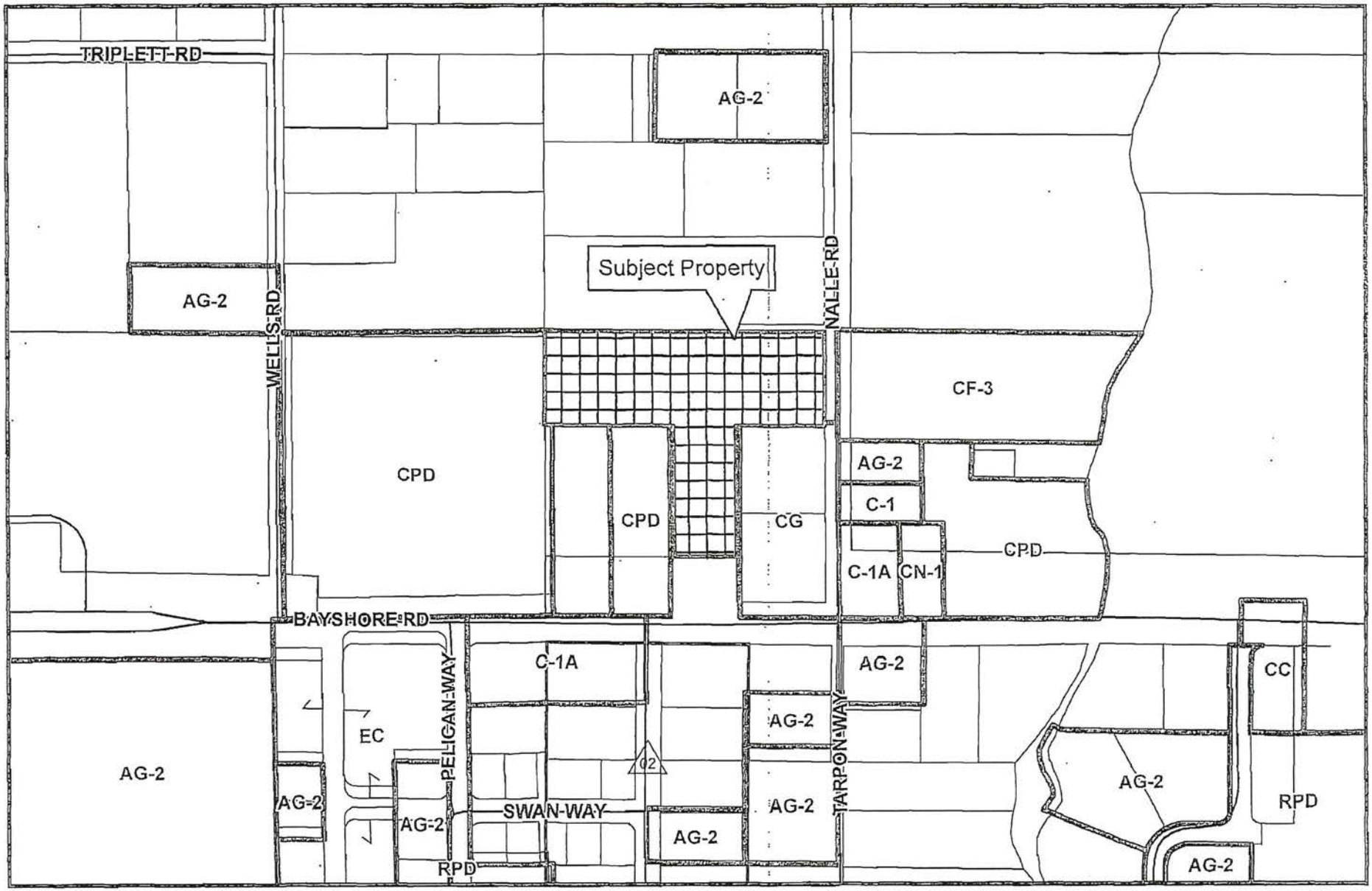
DCI 2009-00011

EXHIBIT B

DCI2009-00011

Zoning Map

9/29/2010

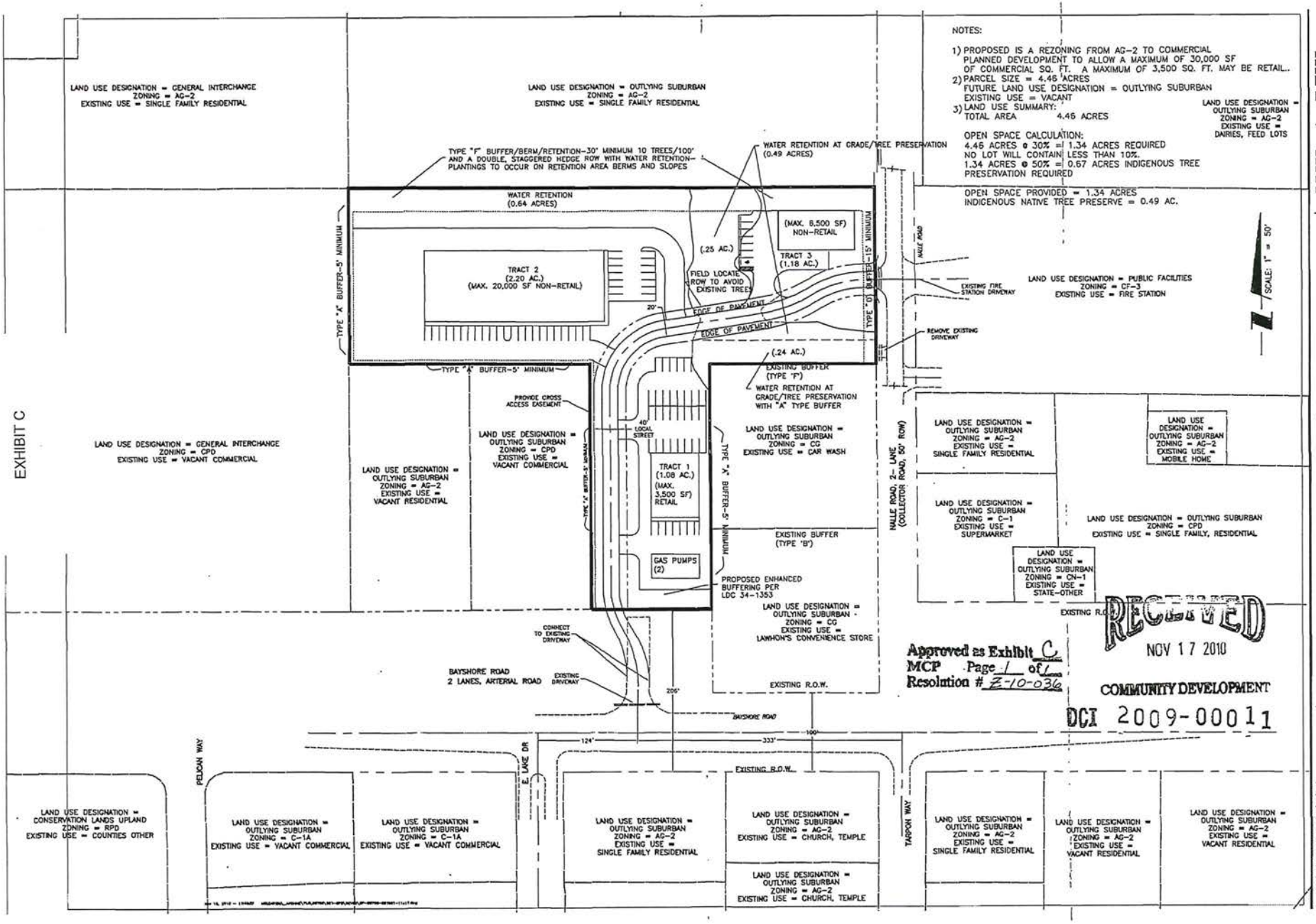


450 225 0 450 900 Feet

ADD2022-00117 Lee County ePlan

ADD2022-00117 Lee County ePlan

EXHIBIT C



Approved as Exhibit C
MCP Page 1 of 1
Resolution # Z-10-036

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NOV 17 2010
COMMUNITY DEVELOPMENT
DCI 2009-00011

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3200 Tamiami Trail North • Naples, Florida 34103
Phone 239-262-1651 • Fax 239-262-1656
www.wilsonmiller.com

W & W SERVICE PARK
COMMERCIAL PLANNED DEVELOPMENT
MASTER CONCEPT PLAN

PREPARED FOR: PERRY AND JULIE SIZEMORE

SEC 22 TWP 43	RGE 25
Designed by:	RH/1619
Drawn by:	LJO/2212
Checked by:	RH/1619
Approved by:	RH/1619
Date:	AUGUST 5, 2010
Scale:	1" = 50'
PIN:	06798-000-000
File #:	EP-06798-01

Sheet 1 of 2

ATTACHMENT P

BAYSHORE VILLAGE CPD PROPOSED SCHEDULE OF USES (LESS USES CURRENTLY PERMITTED BY RESOLUTION Z-06-046)

Agricultural Uses

Animal Clinic

Automobile repair and service, Groups I and II - restricted to southern 300' (*)

Automobile service station, with or without gas pumps - restricted to southern 300' (*)

Banks and financial establishments, Group II

Bar or cocktail lounge (AA/SE)
Restricted to southern 300' unless in conjunction with hotel or restaurant (*)

Boats
Boat sales
Boat storage, dry, not exceeding 18 feet above grade
Boat storage, dry, exceeding 18 feet above grade (SE)

Building material sales

Business Services, Group II

Bus station/depot

Caretaker's residence

Car wash, accessory or stand-alone - restricted to southern 300' (*)

Contractors and builders, Groups I, II, and III

Convenience food and beverage store, with or without gas pumps, with or without EV charging stations: Restricted to southern 300' (*)

Department store

Entrance gates and gatehouses

Emergency operations center

EMS, fire or sheriff's station

Excavation

- Oil or gas (SE)

Farm equipment, sales, storage, rental or service

Feed or fertilizer, mixing and sales

Flea market

- Open (SE)
- Indoor

Food and beverage service, limited (SE)

Food truck park - restricted to southern 300' (*)

Funeral home or mortuary

- No cremation
- With cremation

Health care facility, Group III

Hotel/Motel with or without EV charging stations

Laundromat

Lawn and garden supply store

Library

Maintenance facility (government)

Mobile home dealers (SE)

Model display center

Package store – no consumption on premise related to store

Parks, Groups I and II

Parking lot

- Commercial (SE)
- Garage, public parking (SE)
- Park-and-ride
- Temporary

Personal services, Groups I, II, III, and IV
Pet services
Pet shop
Pharmacy
Plant nursery
Post office
Recreation facilities
    Commercial, Group I
    Commercial, Group IV (P/SE)
Religious facilities
Rental or leasing establishments, Groups I, II, and III
Repair shops, Groups I, II, III, and IV - restricted to southern
300' (*) Research and development laboratories, Group II
Restaurant, fast food - restricted to southern 300' (*)
Restaurant, Group IV
Self-service fuel pumps - restricted to southern 300' (*)
Storage, indoor and open
Theatre, indoor
Transportation services, Groups II and III
Truck stop - restricted to southern 300' (*)
Used merchandise stores, Groups I, II, III, and IV
Vehicle and equipment dealers, Groups I, II, III, IV, and V
Warehouse
    Mini-warehouse
    Private
    Public
Wholesale establishment, Groups I, III, and IV

(*) Locational restrictions no longer apply if the abutting northern property is zoned for uses other than single family or agricultural.

ATTACHMENT Q

Lee County
Southwest Florida

BOARD OF COUNTY COMMISSIONERS

John E. Manning
District One

Cecil L Pendergrass
District Two

Raymond Sandelli
District Three

Brian Hamman
District Four

Frank Mann
District Five

Roger Desjarlais
County Manager

Richard Wm Wesch
County Attorney

Donna Marie Collins
County Chief Hearing Examiner

May 3, 2022

Via E-Mail

Dawn Russell
Barraco and Associates, Inc.
2271 McGregor Blvd, Suite 100
Fort Myers, FL 33901

RE: **Potable Water Availability**
Bayshore Village, 17300 Wells Road
STRAP # 22-43-25-00-00023.0000

Dear Ms. Russell:

The subject property is located within Lee County Utilities Future Service Area as depicted on Maps 4A of the Lee County Comprehensive Land Use Plan. Potable water lines are in operation adjacent to the property mentioned above. However, in order to provide service to the subject parcels, developer funded system enhancements such as line extensions may be required.

Your firm has indicated that this project will consist of commercial with an estimated flow demand of approximately 22,500 gallons per day. Lee County Utilities presently has sufficient capacity to provide potable water service as estimated above.

Availability of potable water service is contingent upon final acceptance of the infrastructure to be constructed by the developer. Upon completion and final acceptance of this project, potable water service will be provided through our North Lee County Water Treatment Plant.

Prior to beginning design work on this project, please meet with LCU Staff to determine the best point of connection and discuss requirements for construction.

This letter should not be construed as a commitment to serve, but only as to the availability of service. Lee County Utilities will commit to serve only upon receipt of all appropriate connection fees, a signed request for service and/or an executed service agreement, and the approval of all State and local regulatory agencies.

Further, this letter of availability of potable water service is to be utilized for Comprehensive Plan Amendment only. Individual letters of availability will be required for the purpose of obtaining building permits.

Sincerely,

LEE COUNTY UTILITIES

Mary McCormic

Mary McCormic
Technician Senior
239-533-8532
UTILITIES ENGINEERING

FGUA Operations Office

Government Services Group, Inc.
280 Wekiva Springs Rd., Ste 2070
Longwood, FL 32779-6026

(877) 552-3482 Toll Free
(407) 629-6900 Tel
(407) 629-6963 Fax

May 31, 2022

Mr. Jeff Wasko
Barraco and Associates, Inc.
2271 McGregor Blvd., Ste 100
Fort Myers, FL 33901
JeffW@barraco.net

RE: Wastewater and Reclaim Water Availability – LOA ID#: 22-079 NFMD

Parcel ID No.: 22-43-25-00-00023.0000

17300 Wells Rd., North Fort Myers, FL 33917

Bayshore Village

Dear Mr. Jeff Wasko:

The FGUA has received your Application for Service Availability, and upon review, it has been determined that wastewater disposal service is generally available to the address provided. The attached site map indicates the approximate size and location of the existing mains in the area. Please be advised that main extensions, connection to the reclaimed water system, and other system enhancements funded by the project sponsor may be required.

The application indicated that the proposed project consists of a 150,000 SF commercial property with an estimated wastewater disposal demand of 22,500 GPD. Currently, FGUA facilities are able to accommodate these demands. During the design process, if existing conditions warrant, a hydraulic analysis may need to be performed by the project engineer to evaluate the impacts the proposed project may have on the existing wastewater systems.

This letter should not be construed as a commitment to serve, but only as a statement of the availability of service and is effective for twelve (12) months from the date of issue. The FGUA commitment to serve will be made once a Utility Infrastructure Conveyance and Service Agreement (CSA) is fully executed. To move this project forward, contact Development Services via email at SSpencer@govmserv.com to receive a plan submittal package and schedule the pre-application meeting if required.

FGUA Board of Directors
PAM KEYES, P.E. Chair, Lee County / KEN CHEEK, P.E. Vice Chair, Citrus County / SHANE PARKER, P.E., Hendry County / TAMARA RICHARDSON, P.E., Polk County / MICHAEL CARRALLA, P.E., PCFF, Pasco County / JODY KIRKMAN, P.E., Marion County/ HEIDI PETITO, Flagler County

Sincerely,

FLORIDA GOVERNMENTAL UTILITY AUTHORITY

Douglas W. Black, PSM, PLS
Property & Development Manager

CC: Mike Currier, South Region Area Manager

Encl.

1. Pre-Development Meeting Information
2. Utility Locates
3. Fee Statement/Receipt

FLORIDA GOVERNMENTAL UTILITY AUTHORITY

Development Services Division

Pre-Application Meeting Information

Purpose:

The pre-application meeting is designed to be an informative discussion, specifically geared toward assisting the applicant (owner/developer/engineer) understand the FGUA's policies and development process. The pre-application meeting may be required prior to the formal submission and review of any utility construction plans by the Development Division.

It is our goal to assist you through the FGUA development process as smoothly as possible, and for your development to be a success. This pre-application meeting, if required, will provide you with the details you need to make this a successful and stress-free process.

What to Expect:

If the meeting is required, you will be provided with a variety of both general and specific information regarding the FGUA's development process. This will include, but not be limited to staff contact information, plan review guidelines, current fees, conveyance, and closeout procedures.

Who Should Attend:

It is encouraged that a representative from the property owner, developer, and engineer, at a minimum, attend this meeting. Representatives of the FGUA's Development Division, including the Development Technician, Development Coordinator, Real Property Coordinator and utility system Area Manager will also be in attendance as required.

In an effort to accommodate the potential long-distance commute between the FGUA's Operations Office in Longwood, Florida and the FGUA system areas, these meetings will take place via Microsoft Teams.

Meeting Requests:

Please e-mail Development Services to request a meeting at SSpencer@govmserv.com.

Please have your FGUA Letter of Availability (LOA) Number (included on the first page of your previously issued Letter of Availability) ready when you email to schedule this meeting.

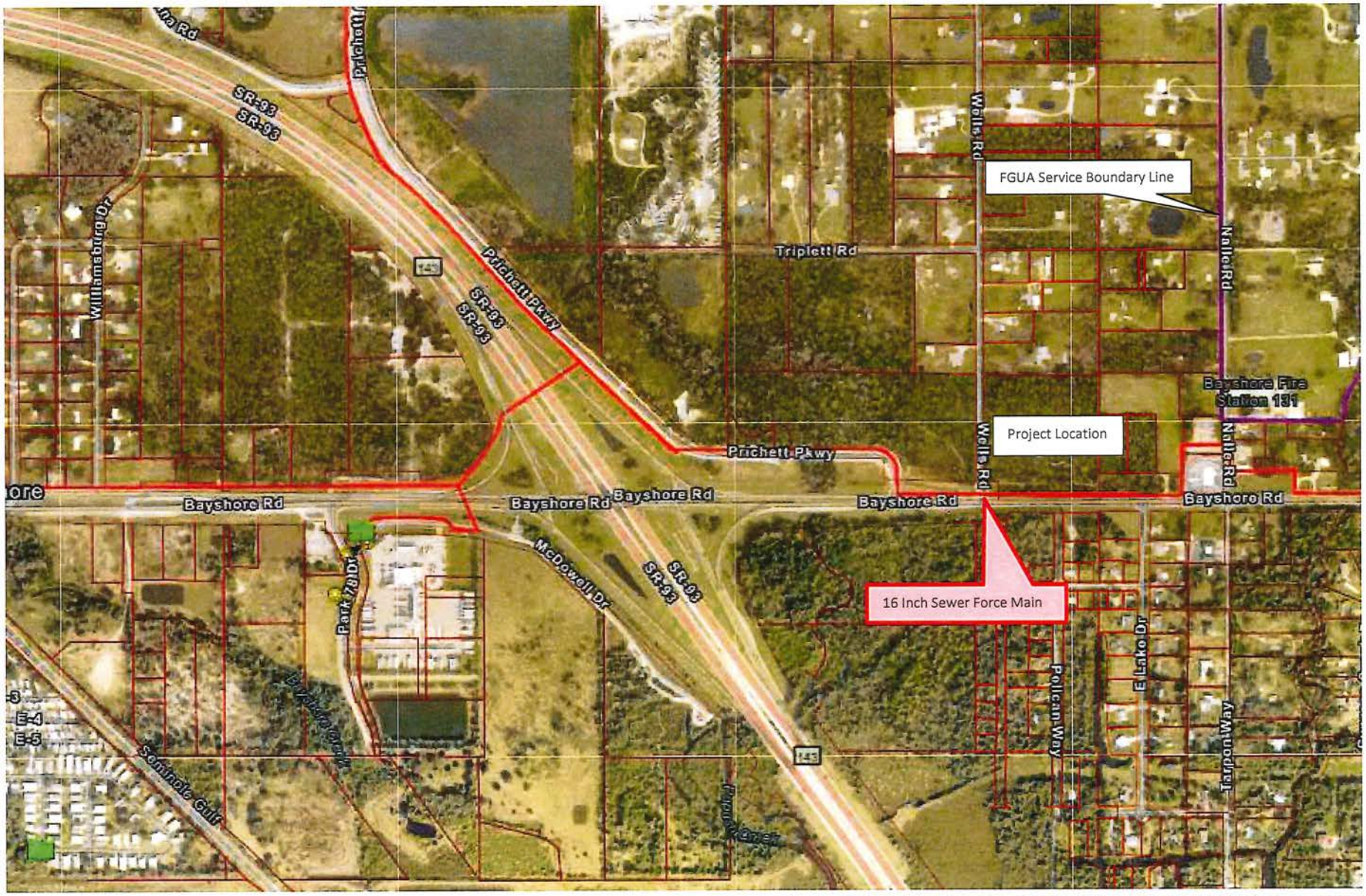
You will also be required to provide a preliminary site utility plan for staff review before the meeting is scheduled.

5/17/2022

Project Name: 22-079 NFMD Bayshore Village

STRAP/PID #: 22-43-25-00-00023.0000

Property Address: 17300 Wells Rd., North Fort Myers, FL 33917



ALL UTILITY LOCATIONS SHOWN HERE ARE APPROXIMATE. THE DEVELOPER IS SOLELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS VIA POTHOLING OR OTHER ACCEPTABLE MEANS.

LOA ID: 22-079 NFMD

FGUA Fee Statement
Letter of Availability and/or Locate Request

Property Address or PID: 22-043-25-00-00023.0000

System: North Fort Myers 416

Development/Project Name: Bayshore Village

Date: May 17, 2022

County: Lee

LOA ID: 22-079 NFMD

All fee amounts are based on the rates in effect as of the date of this statement and are subject to change.

Fees based on:

0	Letter of Utility Location Availability and Locate Map	$	100.00
1	Utility Availability Map (Map Only)	$	75.00
2	Letter of Utility Location Availability (Letter Only)	$	25.00

FGUA	G/L Code	Fees	Total fees	Amt Previously Paid	Balance Due
LOA Request	202098	$ 100.00	$ 100.00	$ 100.00	$ -

Fees Due: $ -

Payment History	Date	Check Date	Check #	Payer Name	Amount
0 Letter and Locate Map	5/17/2022	5/4/2022	1609	OB 4 LLC-BAYSHORE VILLAGE	$ 100.00
1 Map Only					
2 Letter Only					

ATTACHMENT R

Bayshore Village

Community Meeting-New Hope Church

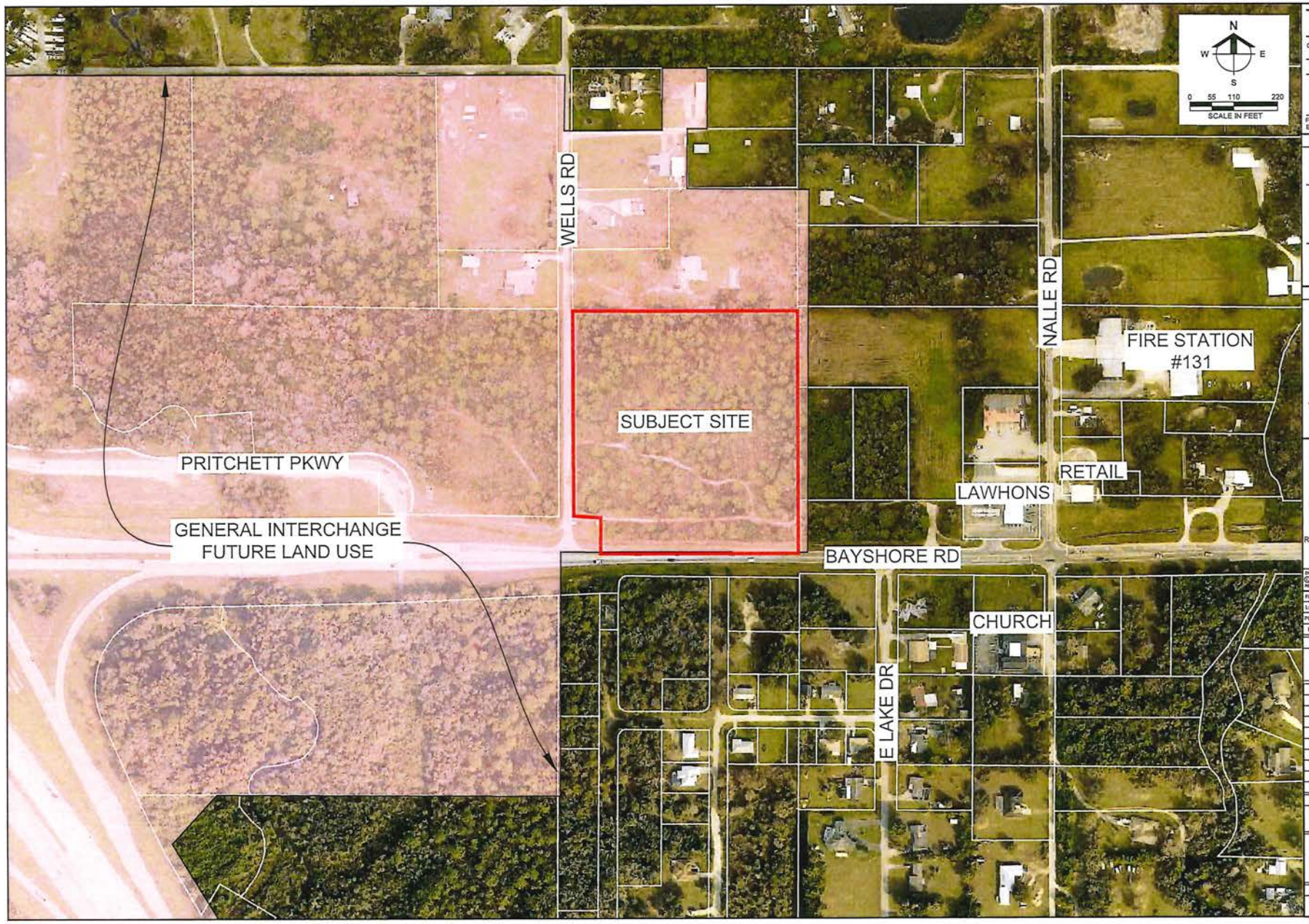
October 26, 2022

Team Attendees:
Jennifer Sapen
Neale Montgomery
Dawn Russell
Ron Inge

Estimated Public attendees: 75-80

Issues raised by public:

- Would like traffic light at Wells Road and Bayshore Road
- Concerns over losing "rural" flavor of community
- Concerns over impact on Lawhon's
- Traffic is congested currently, don't need additional traffic on Bayshore
- Don't want access point on Wells Road
- Concerns over water management and flooding of neighbors
- Want barrier wall on north property line
- Impact on school bus traffic
- Don't want hotels, gas stations, fast food, supermarket
- Too much development in area
- Don't want anything to be built on the property
- Proposal will decrease property values in the area
- Do not like general interchange land use designation and uses thereunder



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

OB 4, LLC.

PROJECT DESCRIPTION

BAYSHORE VILLAGE CPD

CITY OF CAPE CORAL
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.

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FILE NAME	24066X00-AERIAL-ZONING-MAP.DWG
LOCATION	J:\24066\DWG\EXHIBITS\
PLOT DATE	MON. 9-26-2022 - 9:18 AM
PLOT BY	ALYSSA FONTAINE

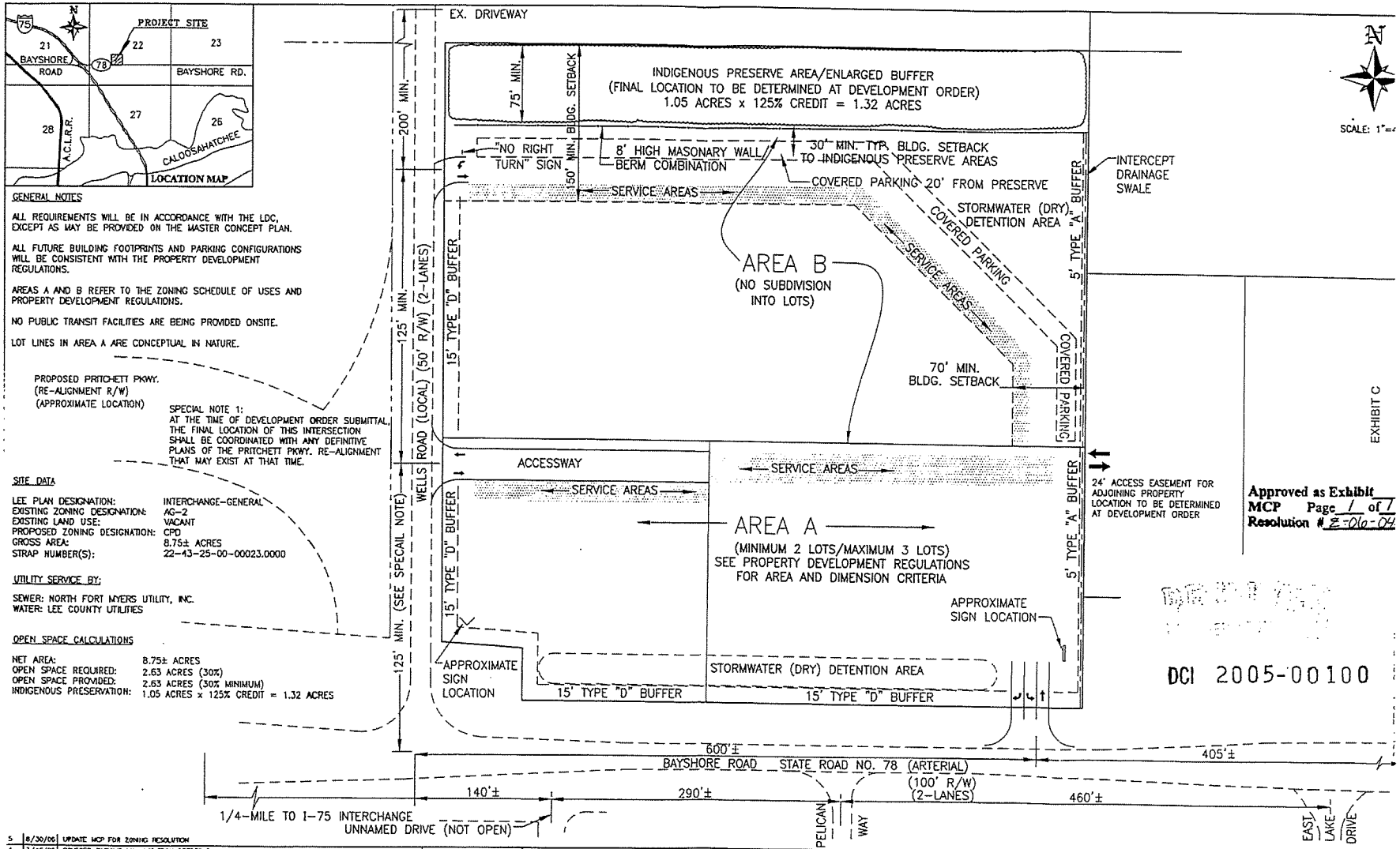
CROSS REFERENCED DRAWINGS

PLAN REVISIONS

PLAN STATUS

AERIAL
ZONING MAP

PROJECT / FILE NO.	SHEET NUMBER
24066	1



GENERAL NOTES

ALL REQUIREMENTS WILL BE IN ACCORDANCE WITH THE LDC, EXCEPT AS MAY BE PROVIDED ON THE MASTER CONCEPT PLAN.

ALL FUTURE BUILDING FOOTPRINTS AND PARKING CONFIGURATIONS WILL BE CONSISTENT WITH THE PROPERTY DEVELOPMENT REGULATIONS.

AREAS A AND B REFER TO THE ZONING SCHEDULE OF USES AND PROPERTY DEVELOPMENT REGULATIONS.

NO PUBLIC TRANSIT FACILITIES ARE BEING PROVIDED ONSITE.

LOT LINES IN AREA A ARE CONCEPTUAL IN NATURE.

PROPOSED PRITCHETT PKWY.
(RE-ALIGNMENT R/W)
(APPROXIMATE LOCATION)

SPECIAL NOTE 1:
AT THE TIME OF DEVELOPMENT ORDER SUBMITTAL, THE FINAL LOCATION OF THIS INTERSECTION SHALL BE COORDINATED WITH ANY DEFINITIVE PLANS OF THE PRITCHETT PKWY. RE-ALIGNMENT THAT MAY EXIST AT THAT TIME.

SITE DATA

LEE PLAN DESIGNATION:	INTERCHANGE-GENERAL
EXISTING ZONING DESIGNATION:	AG-2
EXISTING LAND USE:	VACANT
PROPOSED ZONING DESIGNATION:	CPD
GROSS AREA:	8.75± ACRES
STRAP NUMBER(S):	22-43-25-00-00023.0000

UTILITY SERVICE BY:

SEWER: NORTH FORT MYERS UTILITY, INC.
WATER: LEE COUNTY UTILITIES

OPEN SPACE CALCULATIONS

NET AREA:	8.75± ACRES
OPEN SPACE REQUIRED:	2.63 ACRES (30%)
OPEN SPACE PROVIDED:	2.63 ACRES (30% MINIMUM)
INDIGENOUS PRESERVATION:	1.05 ACRES x 125% CREDIT = 1.32 ACRES

NO	DATE	
5	8/30/06	UPDATE MCP FOR ZONING RESOLUTION
4	3/16/06	COVERED PARKING MIN. 10' FROM PRESERVE
3	3/02/06	REVISIONS PER SUFFICIENCY LETTER DATED MARCH 1, 2006
2	2/14/06	RELOCATE 8' HIGH MASONARY WALL
1	12/22/05	REV. PER LEE CO. STAFF COMMENTS, ADD SERVICE AREA, C/L DISTANCES, SWALES, BLDG SETBACK, SEATING

NOT AUTHORIZED FOR CONSTRUCTION UNLESS SIGNED IN THIS BLOCK

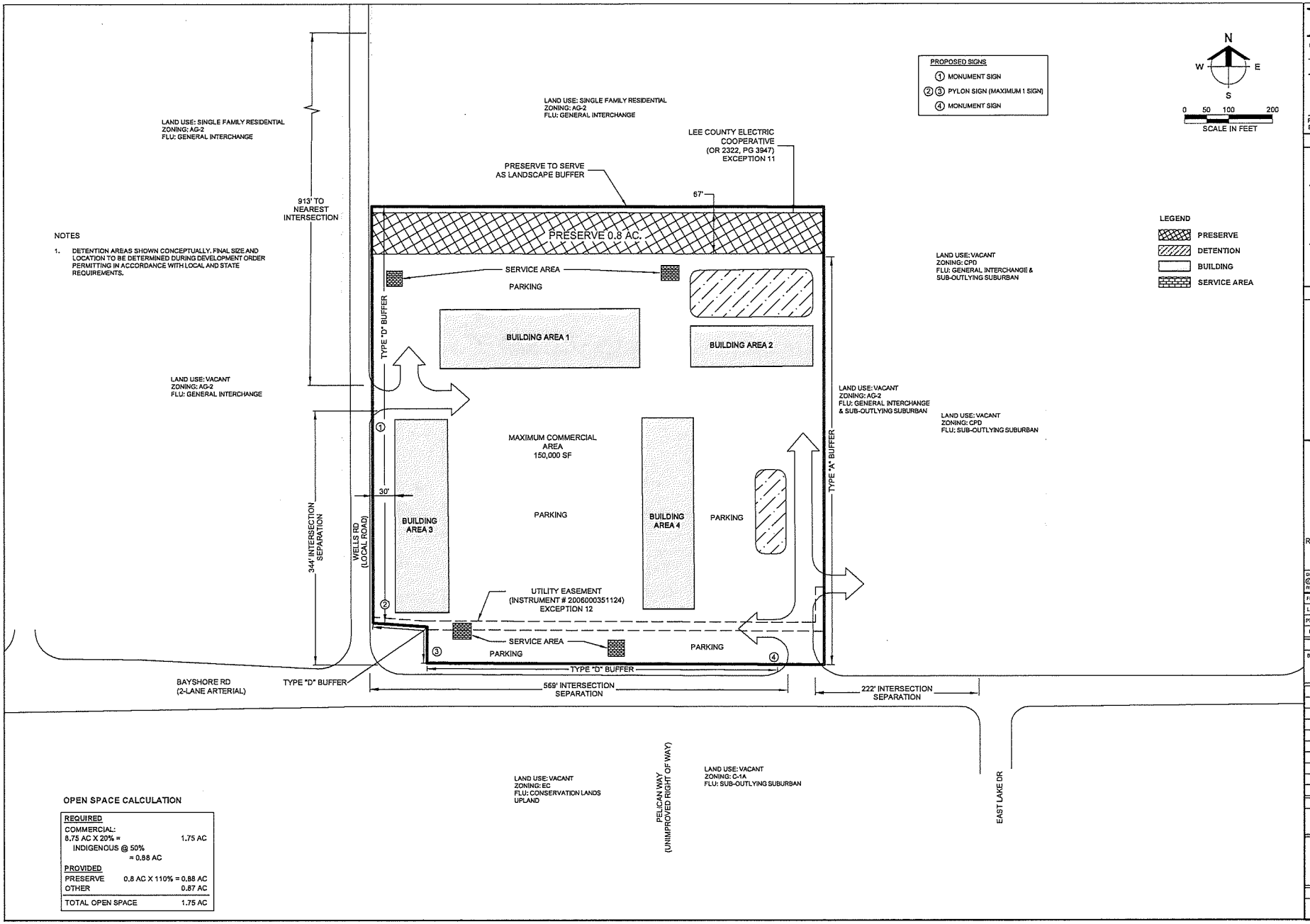
JRI Engineering, Inc.
Planning Engineering Surveying Aerial Photography & Photogrammetry Services
2328 Hancock Bridge Parkway, Ste. 114, Cape Coral, Florida 33990
Phone: 239.458.5544 Fax: 239.458.2227 www.jrieng.com
Engineering Business Certificate of Authorization No. 5424

BAYSHORE VILLAGE HOLDINGS GROUP, LLC.
P.O. BOX 4024
NORTH FORT MYERS, FLORIDA 33918
PHONE: (239) 995-1239

BAYSHORE VILLAGE MARKET SQUARE

MASTER CONCEPT PLAN

SCALE: 1"=40'
DATE: 10/12/05
SHEET: 1 OF 1
FILE No.: BVMS



NOTES

1. DETENTION AREAS SHOWN CONCEPTUALLY. FINAL SIZE AND LOCATION TO BE DETERMINED DURING DEVELOPMENT ORDER PERMITTING IN ACCORDANCE WITH LOCAL AND STATE REQUIREMENTS.

OPEN SPACE CALCULATION

REQUIRED	
COMMERCIAL:	
8.75 AC X 20% =	1.75 AC
INDIGENOUS @ 50%	
= 0.88 AC	
PROVIDED	
PRESERVE	0.8 AC X 110% = 0.88 AC
OTHER	0.87 AC
TOTAL OPEN SPACE	1.75 AC

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CIVIL ENGINEERING - LAND SURVEYING
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2271 McGREGOR BLVD., SUITE 100
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FAX (239) 461-3169
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6949

PREPARED FOR

OB 4, 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.

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FILE NAME	24066Z02.DWG
LOCATION	J:\24066\DWG\ZONING\
PLOT DATE	THU, 6-12-2022 - 10:52 AM
PLOT BY	ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS

BASEPLAN = 24066Z00.DWG

PLAN REVISIONS

PLAN STATUS

MASTER CONCEPT PLAN

PROJECT / FILE NO.	SHEET NUMBER
24066	1

ATTACHMENT S

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TRANSCRIPTS FOR CASE #:

DCI 2005-00100

LEE COUNTY HEARING EXAMINER
PUBLIC HEARING

Case No. DCI2005-00100

Applicant: Bayshore Village Holdings Group, LLC, in reference to The Village Square on Bayshore

Transcript of proceedings before Diana Parker, Lee County Hearing Examiner, 1500 Monroe Street, Fort Myers, Florida, on May 18, 2006, commencing at 9:00 A.M.

APPEARANCES:

MATT UHLE, Esquire
representing the Applicant

DAWN E. LEHNERT, Assistant County Attorney,
representing Lee County

TONY PALERMO, Senior Planner, Division of Zoning

KIM TREBATOSKI, Principal Environmental Planner,
Department of Environmental Sciences

MARTINA REPORTING SERVICES
2069 First Street
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ORIGINAL

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THE HEARING EXAMINER: Good morning. I'm Diana Parker, Chief Hearing Examiner for Lee County. This is Thursday, May the 18th, Case Number DCI-2005-00100, Bayshore Village Holdings Group, in reference to The Village Square on Bayshore.

Before we start the hearing this morning, the County Attorney has a few comments to make.

MS. LEHNERT: Good morning. My name is Dawn Lehnert and I am an Assistant County Attorney, representing the Board of County Commissioners. I'm also here to assist the county staff, the applicant and the hearing examiner to ensure that the record in this case is complete.

If you would like to participate at today's hearing or obtain a copy of the hearing examiner's recommendation, we ask that you please fill out a white form on the small table located at the front of the room. Once you have completed the form, please leave it next to the hearing examiner.

At the conclusion of staff's presentation, the hearing examiner will open the floor for public participation. It is at that time you will have an opportunity to address the hearing examiner.

All public comment will be heard from the podium at the front of the room.

When you step up to this podium, please state your name and address for the record. If you reside or own property in the area, please explain to the hearing examiner where you live in relation to the property, the subject property.

This is a rezoning hearing and it is not a final action on this matter. The hearing examiner's recommendation will be considered by the Board of County Commissioners at a final public hearing a few weeks after the recommendation is issued.

If you would like to have your thoughts considered in this matter, you will need to speak here today. If you wish to speak at the hearing before the Board of County Commissioners, you must speak here today.

At this time I would like to introduce the applicant's representatives and staff members working on this case. Tony Palermo to my right is the county's zoning planner. The court reporter. Diana Parker is the hearing examiner and Matt Uhle is the applicant's representative. Thank you.

THE HEARING EXAMINER: Okay. Folks, in addition to the comments that the county attorney has just made, let me do advise you we have only water in this room. Please do not bring in sodas or coffee. You

will be stopped at the door if my secretaries see you coming in with those drinks. Please do not bring those in here. Water only.

I need to swear in all persons who will be speaking at this morning's hearing. If you are an attorney and testifying to facts, you need to be sworn in as well. So if you intend to speak in today's hearing, please raise your right hand.

(Present witnesses sworn.)

Now, as the county attorney has indicated, the applicant will make their presentation first, bringing up whatever witnesses they need to call to make me understand fully what they're asking for. After the applicant has made their presentation, staff will then make a presentation explaining their reasoning and their recommendation of approval with conditions of this request. After staff and applicant have made their presentations, then I'll open the floor for public comment. At that time, as the county attorney's indicated, you need to come up to the podium, state your name and address for the record and then make your comments. Please keep your comments germane to the issue at hand. It does me no good for you to tell me you don't like the current property owner, you didn't like the past property owner, you

1 don't like your neighbor but your neighbor likes the
2 current property owner. Personalities, neighborhood
3 disputes have no basis in my decision. I need to know
4 what you feel will happen to your lives, your property
5 and your community if this request is approved, all
6 right? So please try to keep your comments germane to
7 those particular issues because those are the only
8 things that I can address.
9 And as the county attorney has indicated, my
10 recommendation will be issued, it will go to the Board
11 of County Commissioners. You will receive a copy of
12 my recommendation. You will also receive notice of
13 the hearing in front of the Board of County
14 Commissioners which occurs on a Monday morning at
15 9:30. All right. You will be given the opportunity
16 to speak at the board hearing only if you speak here.
17 You must speak here in order to be able to tell the
18 board if you think my recommendation is wrong. Okay.
19 Do I have any questions on procedures from anybody?
20 Yes, sir.
21 UNIDENTIFIED SPEAKER: Are there any time limits
22 to each speaker?
23 THE HEARING EXAMINER: No, sir. As long as the
24 information that you're giving me is relevant to the
25 issues at hand, there is no time limit. Now, in front

of the Board of County Commissioners you will be limited. It's either three or five minutes.

MS. LEHNERT: Three.

THE HEARING EXAMINER: Is it three? Okay, it's three minutes over there. But here, in order to fully explain your concerns, I don't put a time limit as long as your comments are relevant, okay. You can also ask questions, but the questions need to be relevant as well. I mean let's not get into pie in the sky and how much you're going to make out of this and that kind of thing because that has no bearing on my decision.

UNIDENTIFIED SPEAKER: To whom do we address those questions?

THE HEARING EXAMINER: You can address those questions to me and I will have the applicant or the staff respond to them as the appropriate person.

All right. Now, also, if the hearing runs over two hours we will be taking a short break so the court reporter can unwind and unfocus a little bit.

As I indicated, water only in this room. We do have a hearing that starts at one o'clock in this room, so we can run until one o'clock. If the hearing runs past one o'clock and we are not completed by one o'clock, we will have to continue the hearing to

1 another day because I have a full afternoon of
2 hearings already, so we will have to continue it to
3 another day. All right? Okay.
4 No other questions on procedures?
5 Yes, ma'am.
6 UNIDENTIFIED SPEAKER: Should we go fill the
7 paper out now?
8 THE HEARING EXAMINER: Yeah, you can do that. In
9 fact, if you would like to fill the paper out and then
10 just hold onto it, you can just bring it to me as you
11 come up to testify. If you need more pencils or pens,
12 let me know.
13 Are we ready to start? All right.
14 Is the applicant ready to go forward?
15 MR. UHLE: Yes, ma'am.
16 MR. UHLE: For the record, Matt Uhle representing
17 the applicant.
18 The hearing examiner should have received our
19 24-hour notice on this case yesterday.
20 THE HEARING EXAMINER: Uh-huh.
21 MR. UHLE: Indicates that there are five issues.
22 Of those I believe three of them have probably been
23 resolved. We'll have to see when staff gets up. But
24 the ones that I suspect have not been resolved are the
25 first and the last on the list.

In light of the public interest in this case and the fact that there are some issues with the staff, we will be making a fairly extensive presentation today. I will be beginning the presentation by giving you an overview of the property, the general location, the workings of the site plan and how it has evolved overtime. Following me, Jack Ruskai will be providing expert testimony on engineering issues relating to surface water management, utilities, to some extent the road standard condition, Condition 16, as well as talking about the cross section for the northernmost portion of the property which has been changed, as we'll explain, to be consistent, at least we think it's consistent with what the staff is recommending.

Following him Jim Keltner will be providing a brief bit of expert testimony on vegetation and protected species. Following him Rob Price will be addressing traffic. Mike Roeder will be providing testimony regarding the Lee Plan. And I will conclude the presentation by walking through the staff recommendation and addressing points where we either do or don't agree with the staff and why.

THE HEARING EXAMINER: Okay.

MR. UHLE: To begin with, the overview, of course, the subject property is roughly an 8.75-acre

parcel located at the northeast corner of the Wells Road/Bayshore Road intersection.

The property is vacant. As you can see from the FLUCCS map that Jim has already put up on the board here, it's all four level, it's all one big pine flatwood. It's zoned AG-2 and it's in the General Interchange Land Use Category. And that last fact is a matter of the utmost importance to this case because, as the hearing examiner's undoubtedly aware, a general interchange mandates that this property be used for commercial purposes and the list of uses that are discussed in that policy are quite intense. So this isn't a question of whether we want to do residential as opposed to commercial. This is not a mixed-use category. It's an exclusively commercial category and we are doing precisely in this case what the Lee Plan directs us to do.

With regard to the nature of the neighborhood, first of all, if you look at the parcels to the east there are a number of vacant parcels immediately to the east. They show up best on the staff aerial over here. You will see that one of the parcels has a boundary in red. That is a vacated commercial planned development. The other parcels that are vacant I believe are zoned Ag. And then there are commercial

uses at the corner of Nalle Road and Bayshore Road.

To the north of the subject property we have a piece of acreage that's used for single-family residential purposes. To the west of the property we have Wells Road which is classified by the county as a local road, and then other vacant property.

Now, one thing that I will note right up front, the existing Leetana access to Bayshore Road is located at this point here. There are apparently ongoing discussions between a developer and other parties to the effect that this access should be changed and the road should be extended to Wells Road. We are not a party to those discussions. We're in no way involved. We have no control over them.

THE HEARING EXAMINER: When you said the developer, you're talking about the developer of a project north of Bayshore that's accessed by Leetana?

MR. UHLE: Yes.

THE HEARING EXAMINER: Okay.

MR. UHLE: But what we have done is, in light of the possibility this project might be built and that realignment might take place, you will see when I go through the master concept plan we provided a note which requires us to attempt to coordinate with those efforts and align our southernmost access point with

that if in fact it happens. Other than that the property to the west obviously is vacant.

The property to the south, obviously we immediately abut Bayshore Road which is two lanes at this location. We're just to the east of the terminus of the four-lane section. And I will tell you that the 2030 plan does not show any attempt to widen the road at this particular area.

Then to the south of that you have property that on the staff aerial correctly shows up as an RPD. In reality, that's the River Run property which was acquired by the county in the 2020 program and so in the real world that's a preserve area but it shows up on the map as an RPD.

THE HEARING EXAMINER: Okay.

MR. UHLE: In reviewing the site plan, it's a relatively self-explanatory plan but I will walk you through it anyway. We show three access points. The first access point is shown on Bayshore Road at this location here. It's pushed as far to the east on the site as possible. That access point is obviously subject to permitting from FDOT, so there's a staff condition which addresses that and we don't have a problem with that. But I will tell you, and Mr. Price will discuss this in his testimony, that we have in

fact worked with FDOT and tried to come up with the best location for it. The indication from FDOT is that this is the best location for it. We also anticipate that there will be probably commercial uses to our east, so we tried to design this to create the possibility of interconnection for the benefit of those people.

There are two accesses on Wells Road. One of them is located between the two development areas. The northernmost access is intended to provide access purely for employee parking and for deliveries, and so as I'll explain as I talk about how the plan has evolved, one of the features of this is there will be no right turns permitted out of that access point. There's no reason for anybody to turn right and that will prevent traffic that doesn't need to be going north on Wells Road from doing so.

THE HEARING EXAMINER: So they will only be allowed to turn left.

MR. UHLE: Yes.

UNIDENTIFIED SPEAKER: Can you speak up a little? We're having a hard time hearing.

THE HEARING EXAMINER: Matt, can you get the microphone. Thank you.

MR. UHLE: I'll just speak from here. I assume

that the hearing examiner can see the master concept plan.

THE HEARING EXAMINER: Can you all hear?

Matt, pull the thing up. That microphone is very unidirectional.

MR. UHLE: The southernmost development area which is identified as Area A is intended to be out parcels. There is not a lot of detail shown on the plan. That's largely due to the fact that when you develop property and you don't specifically have end users, which is usually the case in commercial projects of this size, you never know exactly how much acreage everybody is going to need for their parcels. And if we showed a precise line, any attempt to deviate from that line might trigger a demand for an amendment, even possibly a public hearing amendment. We don't want to do that. So the way that we handled that on the application was to indicate that there would be a minimum of two and a maximum of three out parcels. That provides the county with the assurance of -- that this isn't going to turn into one of those Wal-Mart on Coconut Road situations where there really aren't any out parcels, but on the other hand, it gives you some idea of how many there will be.

Subsequent to that my client has actually told me

today that there clearly will be two out parcels rather than three. So if the hearing examiner wants to limit that to two out parcels, we have no objection to it. The out parcels obviously have their own schedule of uses which is tailored to out parcel type uses as you would expect.

Area B to the north of that is intended to be a multitenant facility. That's where the bulk of the square footage on this project will be. Again, we have provided a relatively large building envelope. You will see from our renderings that we have a reasonably clear idea of what we want, where we want the building actually to go with the parking in front. But again, if you show building footprints and you start moving them around, that can trigger the need for amendments. We don't want to do that, so that's why we have approached the issue in that way.

We have provided specific information about setbacks on the plan. There is a minimum 70-foot setback to the eastern property line from the building envelope and a minimum 150-foot setback from the northern property line.

Moving on to the north, there is an area that's shown as water management area in sort of the northeast corner of the property.

There is an area that's intended to go behind the multitenant building which will be used for delivery areas and also has some covered parking in it. To explain that a little bit, the covered parking is designed to be an amenity for the tenants, for the people who actually work there, the owners and so on.

We ran into an issue about the covered parking in that the Land Development Code has some relatively new language which says that, quote, unquote, buildings have to be a minimum of 20 feet from preserve areas. There's a question as to whether covered parking had to meet that particular standard. Zoning staff felt obviously pretty strongly that it did have to meet that standard. We didn't want to argue about it and so I indicated in a memo to the county that we would agree that the covered parking would only take place in the area that's sort of a diagonal from northwest to southeast on the eastern part of that area.

The staff has proposed a condition that says that we can't have any covered parking less than 20 feet from preserve areas and we're not objecting to that, so effectively that ratifies the concession that we've already made.

The area immediately to the north of that is indigenous preserve area. The section for the

northern property has changed a number of times in an effort to accommodate both the staff and the concerns of the neighbor to the north. And so we have a sketch that we attached to our 24-hour notice that reflects the current proposal. I'm not going to get into that in any detail. That's something that Jack Ruskai will deal with, but we are dealing with issues involving surface water management, indigenous preservation, gopher tortoises, buffering and so on. This area serves a variety of purposes and it's my belief that what we proposed here is consistent with what the staff wants us to do.

Let me go on now to give you an idea of how this plan has evolved over time because I think that's an important consideration here. I would say that there really have been three stages to the planning of this particular project. To begin with, we have always known that our one direct interface with residential uses was to the north, and because the quality of the pine flatwoods on this site is relatively uniform, it only made sense to provide the indigenous area on the northern part of the property so as to separate our use from the one residential use. So that has always been a feature of the plan. We've always made an effort to accommodate those concerns.

During the sufficiency process the neighbors to the north wrote a letter to Fred Drovdlic, who was the planner on the case at that time. He relayed those concerns to us. We had a meeting with him. As a result of that meeting we made a number of changes to the plan to further address staff and the neighbor's concerns. One of them was to provide the extraordinary setbacks that we're providing for the northernmost building. That's the 150 feet from the northern property line and the 70 feet from the eastern property line. But, of course, staff's primary concern with compatibility was pushing those uses away from any residential use and we agreed with that.

A second change had to do with water management. We understood that there was concern from the neighbor to the north about what was going to happen to surface water flowing off this property, and so somewhat unusually we provided on our plans some information about how that water management would be handled.

A third item was this is the point at which we agreed to the no right turns out on the northern access point in order to avoid putting traffic on the residential portion of Wells Road. We also identified on the plan and in our schedule of uses where in

1 general terms we expected the outdoor seating to take
2 place. We don't have detailed plans of these areas,
3 but we did in the case of the northernmost building
4 indicate that it would go south of the building. We
5 committed to that and so any outdoor seating has the
6 building as a buffer as well as all the space and the
7 wall and the vegetation and so on.
8 Finally, we made a number of concessions
9 regarding our list of uses. The original list of uses
10 that we provided was reasonably extensive and included
11 a number of uses that are consistent with the general
12 interchange but which some members of the Board of
13 County Commissioners and some members of the public
14 have found obnoxious at times. I think it was Mr.
15 Drovdlic's expectation that we would only ask to put
16 limits on those uses. In fact, we took them out of
17 the plan altogether and so the hearing examiner will
18 see that we are not proposing such uses as fast food
19 restaurants, convenience stores, car washes,
20 automobile service stations. That was a major
21 concession on our part. We removed other uses as
22 well, but those were the major ones at the time.
23 So all those things were done prior to the
24 application being found sufficient.
25 Subsequent to the findings of sufficiency and

within, I would say, the last month we have also done a number of other things to try to satisfy the staff and the community that what we're doing is compatible with the area. One of these is to come up with a rendering of the multitenant building, which I put up on the wall. That rendering indicates that we're perfectly satisfied to commit to an architectural scheme that is old Florida. That's this right here. It's our opinion that the design of that building is quite attractive and we thought it would be received favorably by the residents. Subsequent to that I understand that some of the residents don't like this building, they think it's too elaborate. I would simply say that architecture is negotiable. If the hearing examiner and the Board of County Commissioners think that building is too elaborate, then we're certainly happy to live with that decision and work with everybody to come up with a more acceptable building. But bottom line is, this isn't a Mediterranean building, it's not overwhelmingly scaled. It's designed to be consistent with the character of the area.

We have also provided a new section, a cross section for the northern portion of the property which moves the water management facilities from the

1 northern property line down to the area around the
2 berm and wall. That was in response to a concern
3 expressed by the neighbor. And again, Mr. Ruskai will
4 explain that further.
5 We are agreeing to the staff's request that
6 additional uses from our schedule of uses be removed.
7 We won't be contesting any of those uses. That's
8 another concession on our part.
9 We're agreeing to the staff proposal which was
10 prompted by the neighbor that the wall be extended to
11 the eastern property line. Exactly how that will be
12 done, we want some flexibility about whether that
13 should be done as a straight line as opposed to along
14 a diagonal. I don't think the staff has a problem
15 with that, but we do agree that that wall can be
16 provided and so on.
17 So the fact of the matter is that through this
18 process we have been extremely responsive to the
19 concerns expressed by the neighbors and by the staff.
20 I'm aware that there was a meeting earlier this
21 week of some of the neighbors in the area and they may
22 have other concerns. From what I know of what their
23 concerns are, I think we're probably prepared to
24 address some of them today but I'm not going to speak
25 to those until I've actually heard their testimony. I

1 don't think that would be appropriate, but we will
2 address those when they come up and I think we will be
3 prepared to satisfy them on some of those.
4 So that's how the case has evolved. I think when
5 you have heard all the testimony you will conclude
6 that this request is consistent with the character of
7 the area.
8 One other thing I will point out that I think is
9 important is that no deviations are being requested in
10 this case, which is very unusual. It means that we
11 will be complying with all county regulations. That
12 should provide everybody else with an additional layer
13 of comfort.
14 We will be hearing technical testimony and
15 planning testimony from Mr. Roeder about the Lee Plan
16 and we hope when you have heard all the testimony you
17 will find that we have addressed all the reasonable
18 concerns and that our project is consistent and should
19 be approved.
20 If you have any questions of me I'll be happy to
21 answer them.
22 THE HEARING EXAMINER: Questions of this witness
23 by the county? County staff?
24 MR. PALERMO: Yeah. Just want to hold on. I
25 don't know if this is too early, but for the record,

Tony Palermo for Lee County Zoning.

It's your intention to add this exhibit that you also have on the wall to the master concept plan, be part of the approval?

MR. UHLE: Yes.

MR. PALERMO: And I just wanted to place on the record that Mr. Fred Drovdlic worked for this zoning division and now he's happily employed for the private sector and he's an excellent planner, but the description that Mr. Uhle gave you was quite accurate. That's all.

THE HEARING EXAMINER: Kim, did you have something?

MS. TREBATOSKI: I just had one question and I don't -- if you're not the one to answer it, tell me who is later. Earlier when you were talking about the out parcels, the master concept plan just states open space requirement provided at 30 percent. And the question is, are you planning on having the 30 percent on each out parcel or meeting 30 percent overall with the minimum of ten percent on each out parcel?

MR. UHLE: I think I would prefer Mr. Ruskai respond to that.

THE HEARING EXAMINER: County attorney?

MS. LEHNERT: No.

1 MR. PALERMO: One last thing. During your
2 presentation, during the presentation of the applicant
3 is there any intent to bring up the issue regarding
4 the bridle trail which was a recent thing that's come
5 to my attention?
6 MR. UHLE: That's one of the concerns we've heard
7 from some of the residents. And again, we expect to
8 address that, but I want to hear the testimony before
9 we actually respond to it. We know there are also
10 some -- have been some concerns expressed in the
11 private domain about our amount of square footage and
12 some other things. But again, I'm not going to get up
13 here and start negotiating against myself without
14 hearing what they have to say.
15 MR. PALERMO: All right.
16 THE HEARING EXAMINER: Matt, just do me one
17 favor. Show me where the general interchange land use
18 category ends as far as this property is concerned.
19 Does it encompass the entire property?
20 MR. UHLE: Yes, it does.
21 THE HEARING EXAMINER: Does it go all the way out
22 to Nalle Road?
23 MR. UHLE: No. It terminates at our eastern
24 property line as far as I can tell.
25 THE HEARING EXAMINER: So does it go on the south

side too of Bayshore or is it just only on the north side? Because the south side you said is that preserve for River Run and then there clearly are some residential units.

MR. UHLE: The line is slightly different. The line is right about here.

THE HEARING EXAMINER: Oh, I see. Okay.

MR. UHLE: It extends like this and then goes like this. I know, because I have an application in the process for this property here.

MS. TREBATOSKI: The preserve is here. This isn't preserve.

THE HEARING EXAMINER: So the whole thing up there is not preserve, just the part that actually is south of your property. So clearly the interchange designation then was extended out past Wells Road to make use of that, both those corners on Wells Road.

MR. UHLE: Yes. I have no idea when that took place or what the rationale was, but it is a matter of fact that it includes all of our property.

THE HEARING EXAMINER: All right. Good. Thank you. I may have some other questions a little later after we hear some of the public testimony and whatnot, some things that were brought up in a couple of letters in the file, but I'll wait and let them

bring up whatever issues they have and we'll go through it at that time. Thank you.

Your next witness is?

MR. UHLE: Mr. Ruskai.

MR. RUSKAI: Good morning. My name is Jack Ruskai, JRI Engineering, engineering consultants for the project.

MR. UHLE: Before you start, Mr. Ruskai's previously been qualified as an expert in civil engineering and site design and we would ask that he be so accepted.

THE HEARING EXAMINER: Okay. Mr. Ruskai, are you a professional engineer?

MR. RUSKAI: Yes, I am.

THE HEARING EXAMINER: So you are registered. All right. And you have -- your testimony today is on?

MR. RUSKAI: General civil engineering characteristics of the site, storm water management, utilities.

THE HEARING EXAMINER: Okay. Any objections to Mr. Ruskai being accepted as an expert in those areas?

MS. TREBATOSKI: No.

THE HEARING EXAMINER: Okay. Accepted.

MR. RUSKAI: Thank you. Okay. Starting with

utilities, there's a quite large Lee County water main that extends up Bayshore from the west, crosses I-75. It's on the north side of the property and then it crosses Bayshore at our property line, goes to the south side of Bayshore and then continues to the east. So we have access to good water supply. There is, as we speak today, there is no sewer system in effect in this area. However, there is a new force main that's just been constructed that is stubbed out, stubbed out just around the bend over here and it goes to the -- across I-75 back down to Bayshore, goes down Bayshore towards where the Oak Creek development is going in, turns to the north, goes all the way up to the Del Prado Extension and crosses Slater Road and goes all along Del Prado Extension all the way to the wastewater treatment plant that North Fort Myers Utilities has to the Del Prado Extension.

THE HEARING EXAMINER: So you all can connect into that?

MR. RUSKAI: And we're going to connect into that and that should be fully operational just within a few weeks from now. In fact, we'll be extending that force main from the point I showed you where it ends on across the frontage of our property to our eastern property line more than likely.

Before we get into the drainage I'll take on that question that Kim raised. I'm glad she raised it because we have had arguments in the past over that interpretation. The open space, what she said, the latter thing she said which was the 30 percent overall for the site, plus ten percent for each of the out parcels.

THE HEARING EXAMINER: Okay. So it's 30 percent overall for the site but it's ten percent specifically of each out parcel will be open space. Okay. All right.

MS. TREBATOSKI: If I could, just so it's all together, Kim Trebatoski for the record. The reason why I asked that is because the code allows for that but the master concept doesn't state that, so it needs to be a condition of approval or my staff will hold them to 30 percent open space on each out parcel.

THE HEARING EXAMINER: On everything. Okay. All right.

MR. UHLE: Thank you for bringing that up.

MR. RUSKAI: Yeah. Okay. On drainage, it's overallwise storm water management is just a conventional drainage system. Nothing unusual. We'll have dry detention which lends itself nicely to water quality treatment and nutrient uptakes. And these

systems will normally be dry during most of the year and will be grassed areas and well maintained and mowed.

What's important now - and I'm going to slide over to the board, if I could again - is that this plan here that you have in your record, the date, is what we're changing along the north line, so what you're seeing in here is not the correct thing. But originally we were going to incorporate the entire indigenous preserve area as part of the water management system, so our water management berm would have extended around the property line like this. Since we are having a berm here and the general flow from the properties to the north was to the south and to the west, we were going to construct a very, very shallow intercept swale on the north side of the berm just to take any water that may come down and up to the berm and then send it back out to Wells Road so it won't obstruct the flow.

In working with the comments that everybody's had in that, both staff and the neighborhood, what we have decided to do is we're going to eliminate all that stuff that we proposed along the top here. We're going to take the berm out, no intercept swale. And we were also going to have a landscape buffer along

the berm, which we don't need because this preserve here will count as buffer area. And we're going to -- in other words, this 75 feet will now start from the northern property line. So from the north property line back there will be no activity at all, nothing. Everything will stay as is in a natural condition. The only thing we might have to do is go in -- the county requirement to be to remove any exotics that are in there. And according to what our environmentalist told us, there's not very many. There may be a few pepper trees here and there that might have to come out.

THE HEARING EXAMINER: Let me make sure I understand what you're saying here. Now, on the current plan you got the 15-foot wide buffer and then you have this 75-foot wide preserve area. Are you eliminating that 15 feet and just instead of having 90 feet total overall you're now only going to have 75?

MR. RUSKAI: We're still going to have the 75 foot of indigenous but it's going to slide to the north property line.

THE HEARING EXAMINER: So it's moving up?

MR. RUSKAI: Yeah, and the 15 is coming --

THE HEARING EXAMINER: So you're just going to flip flop the two.

1 MR. RUSKAI: Yes. We'll have the berm and a
2 small intercept swale again but it will be on the
3 south side of the preserve. So nothing will happen
4 from the north property line to 75 feet back.
5 THE HEARING EXAMINER: Now, are you all planning
6 on putting up any kind of chain link fencing or
7 anything along that order on your perimeter?
8 MR. RUSKAI: Well, there's going to be a wall.
9 THE HEARING EXAMINER: I understand the wall.
10 And that's going to be, that's going to be for, you
11 know, sound attenuation and visibility and whatnot.
12 But my question was is there going to be any kind of
13 security fencing on the north and east boundaries of
14 the property? Has that been even considered?
15 MR. RUSKAI: We haven't addressed anything like
16 that. I would say probably not. I mean it's not
17 common that I know of to do that since the properties
18 also to the east are zoned commercial.
19 THE HEARING EXAMINER: Because, well, that brings
20 up my next question. If you don't have something, you
21 know, delineating your specific boundary when you all
22 are, you know, maintaining the preserve, how are your
23 people going to know how far out to go, they don't get
24 on the neighbor's property or the neighbors don't get
25 on your property mowing? Is there going to be some

kind of boundary?

MR. RUSKAI: Along here?

THE HEARING EXAMINER: On the north side. I don't care about the east side.

MR. RUSKAI: On here?

THE HEARING EXAMINER: Yeah.

MR. RUSKAI: Like I said, there's a -- you know, there's survey markers along there. You can tell where that property line is. The only time I ever see us needing to go in there or the applicant, the owners, is to initially remove the exotics and then from time to time --

THE HEARING EXAMINER: Go in and pull out any new ones, yeah.

MR. RUSKAI: Per county requirements.

THE HEARING EXAMINER: Kim.

MS. TREBATOSKI: Sorry to keep interpreting, but to keep the record together. Kim Trebatoski. If you would like to condition that they have to put preserve signs every 50, a hundred feet, something like that, that would help them and the neighbors know where they each --

MR. RUSKAI: Along the north property line?

THE HEARING EXAMINER: Yeah, yeah.

MS. TREBATOSKI: It's just a small sign.

THE HEARING EXAMINER: Just a small. Okay, okay. Because I mean my concern is, after having done a rezoning on -- actually it's over by the Laurel Road and whatnot. You know, they have a lot of little four-wheelers that run through any area that's not, you know, fenced off or whatnot, and if this is going to be set up as a preserve, the last thing you want is to suddenly find yourself with a four-wheeler track right in the middle of it because it happens to be somebody's path or it's easier now to go this way than some other way. That was the only concern that I had. Okay.

MR. RUSKAI: And with that I think that's all I have.

MR. UHLE: Jack, can you please talk about the wall and how it's going to be constructed? That's part of the graphic up there.

MR. RUSKAI: Okay. Well, we have the indigenous preserve untouched from the north property line back, small intercept swale, small water management berm, our perimeter swale inside our berm and then we'll have this wall probably along the berm line here. The wall will be an eight-foot high buffer wall. There was some comment when this wall was going to be right up against the preserve that footers and things like

that would be too close, so Kim suggested a setback there. But since we have now freed up some space in there, that 15 feet additional actually, that shouldn't be a problem. But the wall was anticipated to be more of columns that would be sort of jack and pile kind of things into the ground without footers and just have these every ten feet or so, these vertical columns that would be hammered into the ground and then there's these panels that go along and slide in between so there wouldn't be the footer problem.

MR. UHLE: So that minimizes any potential impact on the indigenous?

MR. RUSKAI: Right.

MR. UHLE: I don't have any other questions.

THE HEARING EXAMINER: All right. Questions of this witness by county staff? Kim, any questions?

MS. TREBATOSKI: No.

THE HEARING EXAMINER: County attorney, none?

MS. LEHNERT: No, ma'am.

THE HEARING EXAMINER: Thank you.

MR. RUSKAI: Thank you.

MR. UHLE: The next witness is Mr. Keltner.

MR. KELTON: Good morning. I'm Jim Keltner with Boylan Environmental Consultants.

that would be too close, so Kim suggested a setback there. But since we have now freed up some space in there, that 15 feet additional actually, that shouldn't be a problem. But the wall was anticipated to be more of columns that would be sort of jack and pile kind of things into the ground without footers and just have these every ten feet or so, these vertical columns that would be hammered into the ground and then there's these panels that go along and slide in between so there wouldn't be the footer problem.

MR. UHLE: So that minimizes any potential impact on the indigenous?

MR. RUSKAI: Right.

MR. UHLE: I don't have any other questions.

THE HEARING EXAMINER: All right. Questions of this witness by county staff? Kim, any questions?

MS. TREBATOSKI: No.

THE HEARING EXAMINER: County attorney, none?

MS. LEHNERT: No, ma'am.

THE HEARING EXAMINER: Thank you.

MR. RUSKAI: Thank you.

MR. UHLE: The next witness is Mr. Keltner.

MR. KELTNER: Good morning. I'm Jim Keltner with Boylan Environmental Consultants.

MR. UHLE: He has previously been qualified as an expert in environmental sciences and we would ask that he be so accepted.

THE HEARING EXAMINER: Any objections from staff?

MS. TREBATOSKI: No.

THE HEARING EXAMINER: All right, accepted.

MR. KELTNER: As we kind of see, the whole site is basically a pine/palmetto uplands. We conducted a species survey back in July 2005 and at that point in time we found three inactive burrows. What we'll probably be doing, what we will be doing is we will conduct another species survey typically within 30 days prior to development order and then if we find any gopher tortoises we would obtain appropriate permit from the game commission and then we would move them up there into the indigenous preserve. And that's very brief and unless you have any other questions --

THE HEARING EXAMINER: Okay. Questions, Matt?

MS. TREBATOSKI: Just one quick question.

Jim, when you did the site check did you see any signs of four-wheeler impact on this site?

MR. KELTNER: There was one trail, you can kind of see it right in here. Other than that, most of the site is pretty consistent pine/palmetto.

MS. TREBATOSKI: No other questions.

THE HEARING EXAMINER: All right. Anything from the county attorney?

MS. LEHNERT: No, ma'am.

THE HEARING EXAMINER: I don't have any either.

MR. UHLE: Next witness is Mr. Price.

MR. PRICE: For the record, my name is Robert Price. I'm with TR Transportation Consultants formerly Metro Transportation Group. I have testified in this forum previously and been accepted as an expert in transportation and I would like --

MR. UHLE: Ask that he be so accepted again.

THE HEARING EXAMINER: Any objections from staff?

MR. PALERMO: No.

THE HEARING EXAMINER: All right, accepted.

MR. PRICE: We performed the TIS for the Village Square site. As Matt explained earlier, we're showing three driveways for this property. Two of them are to Wells Road. We have restricted the outbound right turns in the north driveway. The southern driveway will be full, a full access to Wells. But we still don't see too much traffic traveling to the north because there's -- it's not very densely populated.

We met with FDOT preliminarily for the access that we are showing on the eastern property boundary

to Bayshore Road. Bayshore Road is currently a two-lane road at that location. As you can see from the aerial, it transitions down from four lanes to two lanes between Pritchett Parkway and Wells Road. There's no plans to widen Bayshore Road at this time and it's not even in the 2030 plan, so it's way out in the future if it ever happens.

THE HEARING EXAMINER: Is Bayshore widened any further? I mean is it four-laned anywhere else east beyond you all?

MR. PRICE: Not to the east.

THE HEARING EXAMINER: So it's just to the west then that it picks up being four-lane.

MR. PRICE: And they're currently actually constructing, doing four-laning west of I-75 from Slater Road all the way to I-75.

At our meetings with FDOT we definitely went into the meetings attempting to get a full access to Bayshore since it's only a two-lane road. Their feeling was that we needed to push that driveway as far to the east as possible. In addition to showing an interconnect to the potential CPDs on the eastern property boundary, we accommodated that on our site plan, and basically shoving the driveway as far to the east as we could gives us as much spacing as we can

possibly show between Wells Road and any potential Pritchett Parkway extension that would, you know, come to Wells Road, which I know Matt did a good job of explaining that earlier. Currently there's no plans, no development orders have been applied for that extension of Pritchett Parkway. So it's kind of difficult to address any future traffic at that location when it's not even in the county or state plans, so we haven't addressed that at this time. But when we come in for development order in the future there's a good chance we'll have to address it at that time.

Basically we used the traffic count report to determine the historical growth along Bayshore Road and all other roads in the vicinity of the project. Historical growth was used to grow the concurrency management traffic up to the 2010 build-out that we assume for the site. The project traffic was added to the 2010 background traffic in order to determine level of service conditions, especially along Bayshore Road. Based on our conclusions, Bayshore Road has shown to operate at level of service D after our project traffic is added to the road. Level of service D is well within the county standards, so we do not foresee any level of service issues as a result

of this project.

That basically is all. We'll have to address turn lanes and any intersection improvements at the development order stage when we know for sure how the site's going to develop. There's a pretty substantial list of uses and each one of those we'll address at the development order stage when they come in.

THE HEARING EXAMINER: Questions?

MR. UHLE: No questions.

THE HEARING EXAMINER: Questions by staff?

MR. PALERMO: Just one question. In your experience in the development order stage will sidewalks be required when they actually develop?

MR. PRICE: I believe that would be the case. Is that right, Matt?

MR. UHLE: He asked you the question.

MR. PRICE: I believe that we will have to put sidewalks along Bayshore Road. I'm not sure about Wells, but maybe something you should ask somebody else. I'm not sure.

MR. PALERMO: That's all right.

THE HEARING EXAMINER: Let me ask you a couple questions, Rob. Can you get your TIS?

MR. PRICE: Yes, ma'am.

EXAMINATION

BY THE HEARING EXAMINER:

Q. All right. Can you look at Figure 2, is the traffic distribution?

A. Uh-huh.

THE HEARING EXAMINER: Also if staff can make sure I get page 3 of your traffic report, because I got three pages of page 2 and no page 3 and it's not even -- I don't have one at all in my file.

MR. PALERMO: On the traffic impact statement?

THE HEARING EXAMINER: Uh-huh. I go from page triple 2s to page 4.

MS. LEHNERT: So do I.

THE HEARING EXAMINER: So it was a copy mistake somewhere.

BY THE HEARING EXAMINER:

Q. All right. Looking at the distribution, the project traffic distribution, I'm a little confused. Maybe I should say a lot confused. All right. On the bottom half on the south side of Bayshore you indicate 70 percent traffic between Wells Road and the interstate. Then you indicate 40 traffic on the other side of the interstate. In other words, it's gone past the interstate and it's still going west. You've got 25 percent headed south and 5 percent headed north. I'm assuming that's what it's supposed to be.

A. Yes.

Q. So that makes up the 70 percent total right there when it splits out. But I don't understand why there's only 20 percent going between Bayshore and Nalle Road and ten percent past Nalle Road. If this is going to be -- and I realize that this is an interchange area, but some of the uses that are proposed here are really sort of more local uses rather than some of your traveling, your traveling public type. Wouldn't there be more distribution from the surrounding neighborhood rather than more from the interstate and more from west of the interstate?

A. So you're concerned that we should have assigned more traffic to the east?

Q. I would think that would be where it would come from. If this is the first little shopping center on this roadway from State Road 31 west, it seems to me like anybody headed that direction going home is going to want to stop in here or is going to do some shopping in here more so than people on the west side of I-75.

A. We basically analyzed the greatest impact that we could show to Bayshore Road which would be the 80 percent to the west. Now, as you just stated, a lot of these people would be coming home, so they would be entering the site off of I-75 or off of Bayshore Road from the west and

1 come in and then they would leave and go to the east and
2 that would be your pass-by traffic, and we did account for
3 pass-by in our analysis as well. But we have no problem,
4 you know, increasing the distribution to the east. The
5 traffic is fairly low out there. But we tried to show 80
6 percent -- the traffic is low according to the county
7 numbers. And there's plenty of capacity to the east along
8 Bayshore Road. So I mean any drop in the traffic on
9 Bayshore to the west between our site and I-75 would
10 lessen our impact. So if you feel like we should show
11 more traffic to the east, we have no problem with that.
12 Q. But it's not going to change the level of service
13 on the roadway.
14 A. Not at all. It actually will improve it.
15 Q. Okay, okay. Because that was the only concern
16 that I had was that it seemed like there was a lot -- I
17 had not considered the people coming home from downtown
18 coming out Bayshore or coming up 75 and then making the
19 turn and going east onto Bayshore. I had not -- in the
20 distribution here. I was thinking everybody going instead
21 of coming. So I can see what you have done there. But as
22 long as it doesn't make a difference in the level of
23 service on the roadway, you know. I can understand what
24 you have done with it then. It just didn't seem logical
25 at the time.

THE HEARING EXAMINER: All right. Let me see if I have any other questions that I have written in this little fella.

No, that was the only one.

Staff?

MR. PALERMO: Tony Palermo for the record. Just want to turn the hearing examiner and the witness's attention to Attachment C is the traffic impact statement for Bayshore Village Market. I'm looking at, first there's an introduction on page 2. And at the bottom of the page it reads: "The intersection of Bayshore Road and Wells Road," and you turn the page and there's a project map, what you turn to. Then it says "currently allows full turning movements under signalized conditions."

THE HEARING EXAMINER: So that's your page 3, your Figure 1 is page 3.

MR. PRICE: Yes, exactly.

MR. PALERMO: Second was just a general question. And I apologize if this wasn't part of your analysis, but just in general just so I can have a picture of it, the traffic on I-75 around that exit, that would be cars in the thousands. Do you have any figures about how big or how small that is?

MR. PRICE: On Bayshore Road or on I-75?

MR. PALERMO: On I-75.

MR. PRICE: Typically we don't analyze I-75. Everyone knows it's a four-lane road and the state is attempting to widen the road. It's definitely in the thousands. I don't have those numbers. I can find them out if you would like.

MR. PALERMO: I appreciate it.

MR. UHLE: The next witness is Mr. Roeder.

Thereupon,

MIKE ROEDER,

having been previously duly sworn, testified as follows:

MR. ROEDER: Good morning, Madam Hearing Examiner. My name is Mike Roeder, director of planning at Knott Consoer and I have been accepted before as an expert in land use and zoning.

THE HEARING EXAMINER: Any objections from staff to Mr. Roeder being accepted as an expert in land use, planning and zoning?

MR. PALERMO: No, ma'am. Thank you.

THE HEARING EXAMINER: All right. Accepted.

MR. ROEDER: Thank you. I'm basically here to talk about the consistency with the Lee Plan and I think the staff has done a very good job of identifying all of the relevant objectives and policies.

1 This particular case is a little different in
2 that we have the general Lee Plan policies and then
3 there's the specific section in the Lee Plan devoted
4 to the Bayshore Planning Community which is bounded by
5 the river, Charlotte County, I-75 and State Road 31.
6 I'm going to not go in the order that Tony identified
7 them because I think they are more understandable in
8 groups of policies. And I think the first and most
9 important policies relate to the land use categories
10 which Matt alluded to originally. Objective 1.3 is
11 the interstate highway interchange areas in general
12 and what they say is designated on the Future Land Use
13 Map, specialized categories for land adjacent to the
14 interchange, Interstate 75. It is important to make
15 the maximum beneficial use of these critical access
16 points and at the same time avoid irreconcilable
17 conflicts between competing demands such as through
18 traffic versus local traffic, conservation versus
19 development. It goes on with all the potential
20 conflicts. It says development in these areas must
21 minimize adverse traffic impacts and provide
22 appropriate buffers, visual amenities and safety
23 measures. So that's the county's general
24 identification of the interchange areas. And most
25 importantly it says residential uses are only

1 permitted in these categories in accordance with
2 Chapter 13, which is your lot of record provision. So
3 you really have no choice but to provide commercial
4 development on this land and the county is virtually
5 obligated to approve some type of commercial
6 development here under the comp plan.
7 Policy 1.3.2 then goes to the general interchange
8 description which is what this is and it says the
9 general interchange areas are intended primarily for
10 land uses that serve the traveling public, service
11 stations, hotel, motel, restaurants and gift shops.
12 And at first blush if there's any criticism of this
13 plan it's that it may be too neighborhood-oriented and
14 not enough toward the traveling public. We don't have
15 service stations. We don't have hotels and motels.
16 And I think to reconcile that issue you need to go to
17 the Bayshore plan, which is Policy 20 -- well, it's
18 actually Goal 20, the Bayshore Community, and then
19 Objective 20.1 and Policy 20.1.1. And I have to say
20 that I was the consultant to the Bayshore Planning
21 Community when this was developed and worked with that
22 group to get this into the plan, so I'm very familiar
23 with the background of it.
24 I think the most important and on point policy is
25 Policy 20.1.1 which says that retail, commercial

1 activity will be limited to the interstate interchange
2 designation at Bayshore and I-75, plus minor
3 commercial uses at the intersections of Nalle Road and
4 Bayshore, 31 and Bayshore, and 31 and Old Bayshore.
5 And then it says nonretail commercial uses are
6 permitted elsewhere consistent with the Lee Plan and
7 Land Development Code.
8 Well, in reality what that did was just
9 reiterated the county's Lee Plan restrictions on
10 retail to certain designated intersections and tried
11 to identify in advance where those could go. I think
12 read in conjunction with Goal 20, actually Objective
13 20.1, which says the existing land use designations of
14 the Lee Plan are appropriate to achieving the goals of
15 the Bayshore Plan. What was being said there is the
16 community was relatively satisfied with the existing
17 plan and they were accepting it and endorsing it
18 saying we don't want it to become more intense.
19 When you look at the interchange area and then
20 the designated node at Nalle and Bayshore, which is
21 right here -- and this building here is Lawhon's.
22 That's probably the most historic commercial center
23 for the Bayshore community; probably the locus of
24 community activity. And you add that to this property
25 to the west, and this is really the focal point of the

1 Bayshore community now. This will be their, quote,
2 unquote, downtown where whatever activity is occurring
3 should occur. And therefore when you look at the Goal
4 20 to protect the existing rural, residential,
5 agricultural and equestrian-oriented activity, the
6 limit that the applicant put on the uses and the
7 commitment to the architectural design of the
8 buildings and all of the efforts that have been made
9 to buffer the northern residential neighbor I think is
10 an almost ideal blending of what the county is saying
11 we need to do with an interchange area and what the
12 Bayshore community has tried to say we need to protect
13 our rural character as much as possible.
14 The next set of policies are the compatibility
15 and you have Policy 5.1.5, 139.5, 6.1.6 and 6.1.4, and
16 they all talk about the same general idea, which is
17 design the property to be compatible with the abutting
18 uses and make sure you don't have any adverse impacts
19 on your neighbors. And I think you have heard a lot
20 of description now of this northern buffer which is a
21 75-foot indigenous preserve that will be untouched and
22 then the berm and the wall and then an additional
23 75-foot setback to the building in addition to the
24 setback to the east.
25 So I think to the maximum extent possible the

1 planners responded to that residential neighbor, even
2 though from the staff report the residential neighbor
3 is in the general interchange category and not in the
4 urban -- outlying suburban. So in a sense, you know,
5 they're in a more urban category themself, but we have
6 provided extraordinary setbacks and buffers for that
7 residential use.
8 Then there's a series of policies that deal with
9 more technical and locational standards. And again,
10 the staff and the engineer have described how this
11 site plan will function. But Objective 21 relates to
12 development location, 2.2.1, evaluating the adequacy
13 of infrastructure and services, 4.1.1, importantly
14 11.1 and 11.2, which deal with water and sewer, and
15 Policy 6.1.3. And I think you have heard that in all
16 development requirements for infrastructure and
17 services this site meets the standards. There's no
18 question of the site location standards because it's
19 in the interchange area and they are exempt from that.
20 You would note, though, in Policy 20.1.1 where it says
21 retail commercial activity will be limited to the
22 interstate interchange designation at Bayshore and
23 I-75, plus minor commercial uses which are, as you
24 know, up to 30,000 square feet of retail. But the
25 clear implication of that is that at the interchange

area more than minor commercial is contemplated because that's really the only place in Bayshore where you can have more than minor commercial activity.

I think the one area where we have a disagreement with staff in terms of a planning conclusion is the proposed conditions on the COP. The staff says that before any outdoor seating could be approved we'd have to go through a separate public hearing apparently on the premise that there's not enough detail here to approve it at this level. I would respectfully disagree with that conclusion. The obvious most impacted person is the property to the north. And as we said, you not only have the 75-foot indigenous buffer, the wall and berm of eight feet, a further 75-foot setback to the building, and then the site plan makes it clear that any outdoor seating would be on the south side of that building, so then the building provides an additional buffer. And the staff report says staff cannot support outdoor consumption on premises in proximity to a rural residential neighborhood. To me that's a new definition of proximity. I don't think it's close enough to raise compatibility issues. And any outdoor seating on the out parcel is even further removed from the residential area and less of a concern.

On top of that the staff is proposing limits to hours even on the indoor consumption of alcohol, which nine o'clock during the week and eleven o'clock on the weekends. Well, to the extent that serves the traveling public that's probably not realistic or equitable. And even though Bayshore is a rural community, I don't think they go to bed that early all the time. And I think if there is -- we're talking about maybe an Applebee's or something like that and I don't think people would want to see it close down that early for indoor consumption. That's really too restrictive and we don't see any point in that.

But the bottom line is we believe this is very consistent with the Lee Plan in general and more specifically it responds to the Bayshore plan to the extent the Bayshore plan addresses the interchange area and really about the best proposal I can imagine for this site in terms of what the community is looking for.

I would be happy to answer any questions.

MR. UHLE: No questions.

THE HEARING EXAMINER: Questions by staff of this witness?

MS. LEHNERT: No.

THE HEARING EXAMINER: Mike, let me ask you a

1 couple.

2 EXAMINATION

3 BY THE HEARING EXAMINER:

4 Q. Now, you guys have done a really nice little

5 artist rendering up here of the multitenant building. Are

6 we looking at a 30,000-square-foot or whatever anchor

7 store? I mean are we looking at a Publix or, you know, I

8 mean some kind of an anchor store in the way of a grocery

9 store or a hardware store or something or is this going to

10 be a whole bunch of little tiny --

11 A. My understanding is that the main plan is for a

12 variety of smaller stores. The first level is about

13 45,000 square feet, as I understand. That second floor is

14 about 18,000 square feet.

15 Q. So that is not decoration up there, that actually

16 is a floor with --

17 A. Yes. There is a proposal for two stories, as you

18 can see only partial two stories.

19 Q. So the top part might be offices or something?

20 A. Probably offices almost certainly and a variety

21 of smaller shops. I don't know that they know exactly

22 what the market will be and they need to respond, but it's

23 really not laid out for a Publix or anything.

24 Q. Or a Walgreens or something along that order, a

25 drugstore in the center there or something.

1 A. I mean they have asked for, I believe a drugstore
2 is one of the possible uses. Yeah. And actually the
3 limits on the size are probably way more than are needed.
4 I know there's been some concern about the provision for
5 drive-through facilities, and the only intent there was to
6 allow for a bank to have a drive-through and possibly a
7 drugstore. There is no fast food allowed, so there can't
8 be any drive-through for fast food if there's no fast food
9 allowed. And again, that's an example of trying to tailor
10 this more to the community than to the traveling public.
11 Q. This drugstore limited to a maximum of 3,000
12 square feet, is that a typical CVS, Walgreens size
13 drugstore or is that smaller?
14 MR. UHLE: No, that's intended to be a smaller
15 facility.
16 THE HEARING EXAMINER: It's a smaller facility.
17 So it's not going to have --
18 MR. ROEDER: In fact, yeah, there's two actually
19 in here. One is Area A and one is Area B.
20 THE HEARING EXAMINER: That was Area B I was
21 looking at.
22 MR. ROEDER: And the one in Area A is actually
23 much larger than a drugstore would ever need.
24 THE HEARING EXAMINER: Staff needs to look at
25 page 3 of 16, drugstore, under Area B. Limited to a

1 maximum of 30,000 square feet. I don't think that's
2 what you intended to say there.
3 MR. PALERMO: How about limited to 3,000?
4 THE HEARING EXAMINER: That's 3,000 on the one on
5 the next page.
6 MR. ROEDER: In Area A -- I think your typical
7 Eckerd or CVS would be about 15,000.
8 THE HEARING EXAMINER: So it was still intended
9 to be 3,000, Staff, instead of 30?
10 MR. PALERMO: Hold on a second. Area A, I have
11 it limited to one and limited to a maximum of 30,000
12 square feet in Area A. That seems okay. And
13 drugstore in Area B, I would do the same limitation,
14 limit it to one, limit it to maximum square footage of
15 30,000 square feet.
16 THE HEARING EXAMINER: No, it's maximum 3,000
17 square feet.
18 MR. PALERMO: I know it says that.
19 MR. UHLE: That really is not an error. My
20 recollection is when we had the meeting with Mr.
21 Drovdlic that's when all of these limitations came to
22 be. And the idea was that in the multitenant facility
23 we weren't going to have anything like a major
24 Walgreens or anything like that. We were talking
25 about maybe some kind of a very small pharmacy to fit

in there. That's something that would fit in a multitenant facility. But as an out parcel use you might be talking about the more CVS type of use. So that's why there's a distinction between the square footage.

MR. PALERMO: I almost gave away the store. Sorry about that.

MR. ROEDER: I think 30,000 is way more than you would need for a stand-alone.

THE HEARING EXAMINER: Because my question then, and it may not be to you, maybe I need to be asking this to staff, but a drugstore at 30,000 square feet, I mean that's going to take an enormous parking lot.

MS. TREBATOSKI: It wouldn't fit.

MS. LEHNERT: It couldn't fit.

THE HEARING EXAMINER: I mean that was the only thought that I had when I saw that, you know, is 3,000 is quite small. All right.

MR. ROEDER: Typically not that large in this location.

THE HEARING EXAMINER: That would mean then if you had a 30,000-square-foot drugstore on an out parcel you wouldn't be having nothing else on the other out parcel because it would all be parking. You'd have one out parcel and it would all be

drugstore.

MR. UHLE: That's not permitted under the terms of the approval here since we're not allowed to move over to the other out parcel and we're committed to a minimum of two out parcels. So the bottom line is we're just trying to create some sort of limitation of some sort.

THE HEARING EXAMINER: County attorney has indicated that an administrative amendment could take care of the --

MS. LEHNERT: It potentially could get them in.

THE HEARING EXAMINER: Mike.

MR. ROEDER: I was going to say, I think the 30,000 is much greater than we would need for a drugstore and you could probably reduce that and it wouldn't be a problem.

THE HEARING EXAMINER: To 15? Staff have any objection?

MR. PALERMO: Not if the applicant's okay with it. I'm fine with it.

THE HEARING EXAMINER: Is that good for you, Matt, your client? Anybody shaking their head over there?

MR. UHLE: I'm not hearing any screams.

MR. ROEDER: My understanding is your typical

standard drugstore is about 15,000.

THE HEARING EXAMINER: Okay. Well, that makes me a little happier.

Okay. Do we know, Mike, the size, the actual size -- I thought I read in here somewhere where Parcel A is limited to a certain square footage and Parcel B is limited to the max. Do you recall that being broken down in that manner? I don't see it. I thought I had read it somewhere. I don't see it. Lot size.

MR. ROEDER: I don't recall either, but typically your out parcel uses are -- the biggest would be probably a drugstore in terms of square footage.

THE HEARING EXAMINER: Okay. So it's sort of 99,999 square feet and whatever you can put in the out parcels you put in the out parcels and everything else goes into the little shopping center.

MR. UHLE: I suspect after the public makes a presentation we'll be responding in a way that will address the breakdown.

THE HEARING EXAMINER: Okay.

MR. ROEDER: I think that's a real broad brush number right now.

THE HEARING EXAMINER: Let me look at two other things here. Now, we also have in the out parcel area

1 the farm equipment sales, feed and fertilizer, both of
2 those limited to 30,000 square feet. Is that doable?
3 MR. ROEDER: I noticed that same thing. I only
4 come on to this fairly recently and I thought that was
5 somewhat big for the overall site.
6 THE HEARING EXAMINER: Now, this is 30,000 square
7 feet of display area.
8 MR. ROEDER: Yeah.
9 THE HEARING EXAMINER: How much, how much acreage
10 do you have to have, Mike, to have 30,000 square feet
11 of display area and meet all the other requirements?
12 MR. ROEDER: You know, I really wouldn't be able
13 to answer that quickly, but again, I don't think the
14 owner's intent is to have one of the out parcels be a
15 feed or fertilizer sale. It's kind of a laundry list
16 of possibilities here.
17 THE HEARING EXAMINER: Then, you know, I'll just
18 leave it at this point and, you know, I mean if you
19 guys decide to come in, as long as it's not more than
20 30,000 you'll be okay, I reckon.
21 MR. ROEDER: I guess the idea was that is a more
22 rural type of use in case somebody wants to do that.
23 MS. TREBATOSKI: For clarification, Madam Hearing
24 Examiner, if either or those uses were to go in the
25 34-1532 of the 25-foot buffer and berms and all that

would go in, it would be really difficult to place it on either of those.

THE HEARING EXAMINER: Out parcels? Okay. On either one, A or B?

MS. TREBATOSKI: Well --

MR. PALERMO: We're saying no for B.

MS. TREBATOSKI: On the easternmost A, I just measured that out and that's 90,000 square feet, but then you're going to need to subtract out the accessway, so you're already under two acres in size. And if you go even further down you might be able to do it but not up to 30,000. It would be less than 30,000 square feet with the buffers.

THE HEARING EXAMINER: Then we'll just leave it at the 30 and if they decide to use it they'll just have to -- they can use up to that amount. Okay.

Let's see if I had any other things marked, Mike, for questions. I actually don't. Thank you.

Any other witnesses?

MR. UHLE: Before I do my closing, I would like to get Mr. Ruskai up and ask him one question I missed.

THE HEARING EXAMINER: Okay.

EXAMINATION

BY MR. UHLE:

1 Q. Jack, are you familiar with the concern that
2 we've expressed about the county's Condition 16, the local
3 road standards?
4 A. My interpretation of the local road standard is
5 for a Category A road that we would make the accessway
6 shown on the plan to Category A standards, which is a
7 24-foot width and a thicker pavement section that's in the
8 development standards ordinance and that's all that
9 applies to. It's not going to be a right-of-way or
10 anything like that, but the road will, the thickness of
11 the road will support commercial A traffic.
12 THE HEARING EXAMINER: And that's all of your
13 access points or just the one off of Bayshore?
14 MR. RUSKAI: It's the main access road for that
15 little --
16 THE HEARING EXAMINER: You'll have to --
17 MR. RUSKAI: Run through here and exit out here.
18 THE HEARING EXAMINER: Oh, I see. Okay. So it's
19 the one that's going to separate Area B from Area A.
20 It's going to be the spine road, essentially,
21 connecting. Okay.
22 MR. RUSKAI: But it's not going to be a dedicated
23 40-foot frontage road kind of easement. It just
24 applies to the pavement section itself.
25 BY MR. UHLE:

Q. If I can frame the question a little differently to make this more clear. If you can look at Condition 16 as written by the staff, can you please explain what our concern is about that condition as written?

A. It says the access area must be designated as a Category A local road per the Lee County Land Development Code to service the future subdivided lots. It's that road. And I'm missing what you're trying to get to.

Q. We have proposed a change to Condition 16. Can you please explain what, what the change is and why it's important? If I can help you out here, the Category A roads, are pavement width and pavement thickness the only standards for a Category A road in the Land Development Code?

A. Well, I think there's something in there for right-of-way width, but what we're talking about here is just the dimensions of the physical pavement which is 24 feet wide and the thicker pavement section. So the revised language should just address pavement width and thickness and not any right-of-way width. Am I still missing it?

Q. No, you're getting warm. What would be the implications to this project if we had to comply with the right-of-way widths?

A. Well, if we had a full right-of-way through there

then we'd have setbacks from the right-of-way line and an additional probably planting and buffers along that and all that and that just doesn't work.

THE HEARING EXAMINER: It cuts down on your development area?

MR. RUSKAI: Absolutely.

THE HEARING EXAMINER: And the use of the parcels. Okay.

MR. RUSKAI: We have no problem making the road thickness and strength to that standard to support traffic.

BY MR. UHLE:

Q. And would in your opinion, would it serve any purpose to require the road to meet all the standards for a Category A road?

A. It does not. It's just to support the truck traffic or pickup trucks or cars or whatever. It's just a general commercial standard for the thickness of the road.

Q. How does this particular accessway function? Is it really going to be a local road or is it just really in real world an access?

A. It's really just an access.

MR. UHLE: No further questions.

THE HEARING EXAMINER: Any questions of Mr. Ruskai from anyone based on what was just asked?

MS. TREBATOSKI: I have one question, if I may. Are you planning on having parking lots or parking spaces back out onto the access road?

MR. RUSKAI: Yes.

THE HEARING EXAMINER: Do you need a deviation for that?

MS. LEHNERT: Yeah.

MS. TREBATOSKI: I think we may need to go get Mr. Blackburn.

MR. UHLE: If it's an accessway I don't believe we do. If it's a road, we clearly do.

THE HEARING EXAMINER: Then maybe there's --

MS. TREBATOSKI: The reason why I asked that question is just from my knowledge of development orders and the condition came from Mr. Blackburn and I think that I should get him to come in and explain.

THE HEARING EXAMINER: We'll need him to explain. Okay. We can wait until we do the staff's presentation.

MS. LEHNERT: Can I just ask one more question? It's the same thing that Kim is asking in probably a different way.

If you limit the access road to the pavement width only, the pavement width for the local road, you basically would have your access through the parking

lot aisles. Is that what you're contemplating? That would be the pavement width you're talking about?

MR. RUSKAI: Except that in our development of the site plan in looking at that rendering, that spine road will have --

MS. LEHNERT: Where is the spine road, just so I understand?

MR. RUSKAI: That's the accessway.

MS. LEHNERT: The accessway that goes over the service area and goes to this place that has nothing?

MR. RUSKAI: Right. Somehow it will snake through there and connect up.

MS. LEHNERT: Just make sure I know what the spine road was.

MR. RUSKAI: And it will have -- it's not going to be like a parking lot aisle with parking all along it, but there may be some spots where we might have to have some back-out parking onto it, but it will be sufficiently wide enough that -- and it's not going to function as a road. It's actually functioning as just access to the parking lots and to the out parcels. It's not a full-fledged frontage road that's going to be connected up for miles along the highway.

MS. LEHNERT: So the answer to my question is partially yes and partially no? I asked if the

accessway, the paved area was going to function as a parking lot aisle and I think you said half yes and half no.

MR. RUSKAI: It will function partially as a, as a parking lot aisle, yes.

MS. LEHNERT: I think we need Don Blackburn.

THE HEARING EXAMINER: Anything else, Matt, of this witness?

MR. UHLE: No.

THE HEARING EXAMINER: Folks, after Mr. Uhle finishes his statements here we will take a break because I know you guys must be getting tired sitting in those chairs back there. They're not as comfortable as my chair.

MR. UHLE: I'm just going to conclude by walking through the staff report and indicating what we agree with and what we don't.

THE HEARING EXAMINER: Can you all hear him?

UNIDENTIFIED SPEAKER: No.

THE HEARING EXAMINER: Matt, you need to speak up. There.

MR. UHLE: With regard to the schedule of uses, the staff has proposed a number of exclusions which are made quite clear in the staff report. As I indicated in my opening statement, we agreed to a

1 substantial number of reductions early on in the
2 process, but we are also willing to agree to all of
3 the staff limitations that are proposed in here and I
4 think as the testimony goes on and in our rebuttal we
5 may be willing to agree to additional square footage
6 limitations.
7 I think, I think probably some of the limitations
8 that have been put in here were put in here just by
9 the staff and we weren't involved in some of these
10 30,000 square feet. I don't remember all those. So
11 when we ask questions about 30,000-square-foot
12 drugstores and that sort of thing, the hearing
13 examiner needs to remember we haven't engineered this
14 plan for particular uses, so in some cases what we're
15 trying to do is just give a generalized limitation and
16 we were just picking a number. It wasn't the basis of
17 any detailed analysis. That's why, if the numbers
18 seem excessively high, then that's the reason. And if
19 the hearing examiner wants to cut them down, that's
20 probably no big deal. Again, we can address that on
21 rebuttal if necessary.
22 Conditions 3, 4, 5, 6, 7, 8 and 9 are all not a
23 problem. Most of those are relatively boilerplate.
24 With regard to Condition 10, Mr. Roeder has
25 already addressed this. There are basically two

1 objections. One of them is that we don't agree that
2 the COP should be limited to indoor, and the reason
3 for that is, as Mike testified, we think that there
4 are plenty of safeguards built into this plan to
5 address that. When you've got a 75-foot buffer with
6 mature vegetation, you have an eight-foot wall and
7 berm, you have another 75-foot setback and you have a
8 building and then you get to the COP, we think on its
9 face that's plenty of information to approve an
10 outdoor COP. As he also indicated, the distance with
11 the out parcels is even greater. So we don't really
12 think it's necessary to go through another three-month
13 process for a particular use. We think we have
14 handled this in a satisfactory way. If the hearing
15 examiner feels it's necessary to approve this subject
16 to standard conditions involving outdoor
17 entertainment, that's fine.
18 We strongly object to the hours of operation that
19 were proposed for indoor consumption. The nine
20 o'clock limitation during the week in particular is
21 really -- it makes having any kind of a major
22 restaurant not feasible. There isn't a restaurant in
23 the world that serves alcohol that I know that's going
24 to stop serving it at nine o'clock, so -- and this is
25 indoor, it's not outdoor. So we think that that maybe

is not acceptable.

We do not have a problem with Condition 10-C. We do not have a problem with Condition 10-D.

Condition 10-E I think probably isn't a problem in the sense that we have the 150-foot setback and there's probably about 30 feet to the house, but I just don't want to get into the question of whether we're 190 feet away as opposed to 210 or something like that. Again, we think that there's enough detail in the plan with these setbacks and buffers and so on that the additional requirement of the 200 feet is not necessary.

And, of course, we object to F because that's another restatement of how we have to go back through the public hearing process.

With regard to Condition 11, I don't think we have an objection to this except that we did ask that where it talked about the eight-foot wall that we had to be able to do an eight-foot combination berm and wall because that's really the plan. When I indicated that we needed a clarification, what I meant by that was there's a diagram attached to the staff report which shows the wall running like this and we want the ability -- we don't know if we want to do this or not. We're willing to have the wall extend to the property

line but we may want to have it go like this rather than that.

THE HEARING EXAMINER: So you want the flexibility to curve the wall so that it follows along the --

MR. UHLE: The covered parking.

THE HEARING EXAMINER: -- the covered parking area.

MR. UHLE: Yes.

THE HEARING EXAMINER: That's interesting.

All right. Has the county, county environmental looked at that as far as effect on -- that's the dry retention area. Will that have an effect on the dry retention?

Kim, do you know?

MS. TREBATOSKI: For the record, Kim Trebatoski.

They would have to design it in a manner that their dry retention area will still be usable, but it's not uncommon for the walls to follow the paved area of the site instead of running through green area. It actually may be more hindersome to put it through this way.

THE HEARING EXAMINER: I see. So staff has no objection, then, to the southeast swing on that part of the wall berm?

1 MS. TREBATOSKI: Environmental Sciences staff
2 does not.
3 THE HEARING EXAMINER: Okay.
4 MS. TREBATOSKI: It's a good idea.
5 THE HEARING EXAMINER: All right, Matt. Does
6 that work then for you?
7 MR. UHLE: Yes. I don't think there's anything
8 literally read that prohibits us from doing it either
9 way in the staff's condition. We just wanted to make
10 it clear that that's what the intent was.
11 With regard to Condition 10, as I indicated -- or
12 12, as I indicated in my opening, we don't want to
13 argue about that, so we accept the condition. And
14 that effectively means the covered parking is only
15 permitted where the covered parking abuts the
16 retention area as opposed to the preserve.
17 Condition 13 we have agreed to.
18 With regard to Condition 14, we have asked for a
19 couple of changes in the last sentence. One of them
20 reflects the fact that when the first survey of the
21 property was done, the three gopher tortoise burrows
22 that were found were inactive. When the resurvey is
23 done it's possible that you will find that there
24 aren't any gopher tortoises there, so we don't want to
25 commit to doing -- using this property as a gopher

1 tortoise preserve unless there are gopher tortoises
2 there, so that's the reason for the first clause in
3 our version of that sentence.
4 And then where the staff language talks about
5 preserve may not be utilized as a dry detention area,
6 there is language in the Land Development Code that
7 permits that to be used as a dry detention area under
8 certain findings. And the language that I have
9 written that talks about unless it can be clearly
10 demonstrated that the effects of the construction and
11 operation of the surface water management system will
12 not cause death or harm to the protected indigenous
13 plant community, that language tracks what's in the
14 Land Development Code, so to my knowledge there's no
15 objection from DES to that, although they can speak
16 for themselves.
17 With regard to Condition 15, Condition 15 was
18 written before, obviously, we changed the section to
19 the north and was the inspiration for the change, so
20 what I have just proposed here, unless somebody has a
21 problem with it, is to indicate that our sketch of the
22 north section would be included as part of the master
23 concept plan. The development would have to be
24 consistent with that.
25 I think that addresses all the language within

the staff version of Condition 15. If not, they can.

Condition 16 Jack has just addressed and I don't need to go over anymore.

Condition 17, the access to State Road 78, that's simply a reflection of the fact that the county doesn't have jurisdiction over State Road 78. It's not an indication that we can't get an access point there. We have no objection to the statement because it's legally accurate.

With regard to 18, that's the condition that basically requires us to build this building consistent with the rendering but also consistent with the county regulations to the extent that there might be some conflict.

Again, if there's any public outcry about this rendering, then you may have to take that into consideration, but as it stands now, that's our position.

With those changes, we would ask you to approve the staff recommendation. We agree with the staff's conclusions as to the Lee Plan consistency of this project.

Thank you.

THE HEARING EXAMINER: Okay. Folks, let's take a ten-minute break. Be back here at ten minutes of

11:00, please.

As I indicated to you, water only in this room.

I think staff's presentation will be much shorter than the applicant's has been, so we'll try to get everybody's testimony in before one o'clock today.

Ten minutes, please. Back here at ten minutes of eleven. Water only.

(Whereupon, the proceedings were recessed.)

THE HEARING EXAMINER: Anything else from the applicant before we start --

MR. UHLE: No, ma'am.

THE HEARING EXAMINER: -- on staff?

Staff, hang on two seconds. I'm going to stop this and start the next tape because we have 29 counts.

All right. Staff's going to make their presentation.

MR. PALERMO: Are you ready?

THE HEARING EXAMINER: Uh-huh.

MR. PALERMO: Good morning, Madam Hearing Examiner. My name is Tony Palermo. I'm a senior planner for the Lee County Zoning Division.

First thing I would like to do is just as a -- Don Blackburn is here from development services and I would like him to address Condition Number 16 because

there is a difference between what the staff report had put in there, which is a recommendation from Mr. Blackburn, and there was an adjustment or change that Mr. Uhle had proposed and I wanted Mr. Blackburn to address that one issue and then I promise I'll get into my presentation.

THE HEARING EXAMINER: Okay.

Don, raise your right hand.

Thereupon,

DON BLACKBURN,

a witness, produced by the Staff, having been first duly sworn, was examined and testified as follows:

THE HEARING EXAMINER: State your name and your position with the county.

MR. BLACKBURN: My name is Don Blackburn and I'm a manager for Lee County Development Services.

THE HEARING EXAMINER: County attorney want to ask this witness questions? I don't think he's used to testifying in this proceeding.

MS. LEHNERT: I don't really want to ask the questions, Don. Because he knows what the issue is.

EXAMINATION

BY MS. LEHNERT:

Q. Condition 16 in the staff report was presented, I think it was the development services condition, and it

1 reads --

2 A. That was my condition.

3 Q. And the applicant has proposed in paragraph

4 numbered 5 in the memorandum from Matt Uhle dated May 16 a

5 revision to that. Earlier in the testimony, I'm not -- I

6 think you're aware of this, but earlier in their testimony

7 the applicant indicated that they were going to limit the

8 out parcels on this project to a maximum of two as opposed

9 to the maximum of three that was indicated there on the

10 plan when you had originally reviewed it. So basically

11 what we want to know is whether or not Condition 16

12 remains required if the two lots are -- if they only -- if

13 they commit to two out parcel lots or -- and if it is,

14 whether or not the limitation to the pavement width is

15 appropriate.

16 A. The reason I had the condition was because the

17 master concept plan does say maximum three. A third lot

18 on the plan, if one was drawn on there, would then need to

19 have access to a road that meets the minimum standard.

20 There's -- it looks like two lots shown there now even

21 though they're not labeled, but one has access onto Wells

22 and one onto Bayshore. If it is going to remain two lots

23 like the plan shows and the three-lot maximum is removed,

24 then there would be no need for the condition.

25 THE HEARING EXAMINER: Okay. So in other words,

1 what I'm hearing you say is if they're going to have
2 three out parcels on Development Area A, then you need
3 to -- the roadway needs to be constructed in
4 accordance with the Category A local road under the
5 Land Development Code, but if it's, if it's kept to
6 two out parcels, there is no such requirement because
7 each out parcel then will have some, not direct
8 access, but some more or less direct access to a
9 roadway, where that third parcel would have access
10 only to the spine road,
11 MR. BLACKBURN: Well, they would have direct
12 access, one with direct access to Wells and one to
13 Bayshore, which is what the code requires.
14 THE HEARING EXAMINER: Okay. The applicant have
15 any comments? Do you understand the --
16 MR. UHLE: Yes. And what he's saying is
17 consistent with our position. We agree that we'll
18 only have two.
19 THE HEARING EXAMINER: So if we limit the out
20 parcels, then, to two, then Condition Number 16 can be
21 deleted entirely?
22 MR. BLACKBURN: Yes.
23 THE HEARING EXAMINER: Any objections to the --
24 restricting the out parcels to two and deleting
25 Condition 16?

MR. UHLE: No.

THE HEARING EXAMINER: All right. That works for me.

MS. LEHNERT: Thanks, Don.

MR. BLACKBURN: Thank you.

THE HEARING EXAMINER: Any questions of this witness, Matt?

MR. UHLE: No.

THE HEARING EXAMINER: Thank you, Don.

Tony.

MR. PALERMO: Just continuing, again Tony Palermo for the record.

Before I open the presentation, just let me make a confession. I committed the cardinal sin in the Bayshore community. There is a dirt road on the southern portion of the property. It is not a footpath, it is a bridle path, and I just wanted to make that clear on the record.

THE HEARING EXAMINER: Did we say it was a footpath in here?

MR. PALERMO: In the staff report in a couple of instances I've mentioned footpath pretty casually, but the history of the property is it has been used as a bridle path.

THE HEARING EXAMINER: And that's off the

1 Bayshore right-of-way?
2 Oh, that's the little -- oh, I see. Okay.
3 That's not an ATV path, then.
4 MR. PALERMO: And I'll provide you with a
5 photograph of that.
6 First thing I need to do just real quick is I
7 would like to be recognized as an expert in planning
8 and zoning and land use. Been recognized by the
9 hearing examiner before and my resume and credentials
10 are on file.
11 THE HEARING EXAMINER: Any objections from the
12 applicant?
13 MR. UHLE: No objection.
14 THE HEARING EXAMINER: Accepted.
15 MR. PALERMO: Second thing I'll do is I will just
16 say on the record that we did not receive many phone
17 calls or e-mails, but we did receive some letters and
18 e-mails and communication from interested property
19 owners in the Bayshore community as well as activists
20 in the Bayshore community. There is a letter from the
21 Musho family that is part of the record and that you
22 have as part of your staff report.
23 We have sent the staff report to that surrounding
24 property owner and other Bayshore community activists
25 and we've tried to do a good job in keeping the public

1 informed of the process.

2 The objective of this presentation is really

3 threefold. I want to do three things today. Number

4 one, I'm just going to introduce just a few small

5 exhibits into the record. Number two, I'm going to

6 clarify the points of the staff report which you have.

7 It is dated May 1st, 2006. And I'll also give you

8 some conclusions and recommendations from the staff

9 report. I'll also do a little bit of rebuttal,

10 basically, on the consumption on premises issue. I

11 really won't get too much into it, but I did want to

12 make a few points on that issue.

13 Here we go. The number one thing I'll do is put

14 some exhibits on the record. I believe the hearing

15 examiner has a copy of this, that large photograph

16 there. That's photos taken by staff. Also attached

17 to that you will see an e-mail from Laura Alvarez of

18 the Concerned Citizens of Bayshore as an e-mail to me,

19 and I also have two things regarding the bridle path

20 issue just to put on the record in case this comes up

21 as an issue.

22 Number one is Condition Number 29 on Orange River

23 Estates. It's really the only planned development

24 that I know of that contains a condition saying you

25 must put in a bridle path. And the second and longer

exhibit is from a project called Stonybrook North, a planned development in the Bayshore community also known as Heritage Creek, and it also has a condition regarding enhanced sidewalks running on Pritchett Parkway and I wanted to put that on the record again just in case that comes up.

First thing I'll do is I'll just put a few essential facts on the record, and they are from the staff report. Mr. Uhle's team put some of this on the record, but let me just -- if you will indulge me, I'll just put a few things.

Number one, this is an 8.75-acre zoned property. It's zoned agricultural and they are planning -- and they are proposing to rezone it to a commercial planned development. It's a proposal for 99,999 square feet of office, medical and/or retail. The maximum height they are proposing is two stories and 35 feet.

This project will connect to public water and sewer and there are letters on the record showing both capacity and availability of water and sewer.

It is accurate to say it is in the General Interchange Future Land Use Category. There are no agricultural uses on the site. There are no agricultural exemptions. There are no deviations

being requested by the applicant.

And, again, there is nothing on the site except for a path which I called a footpath but which is actually a bridle path, and apparently it's used quite frequently by the public. Otherwise, it is vacant.

The property is on Bayshore Road, which is an arterial road with two lanes, and Wells Road, which is a local road, again two lanes. And it is approximately 1,500 feet east from the I-75 interchange.

Staff recommends approval of the planned development with conditions, and these conditions ensure three things: Number one, consistency with the Lee Plan; number two, compatibility with the surrounding neighborhood; and, number three, concurrency issues are all going to be addressed.

Madam Hearing Examiner, when looking at this planned development, staff really had two primary concerns. The first primary concern is that it would be accurate to characterize this plan as not having a whole lot of detail regarding footprints, regarding where exactly buildings will go. It has some detail in regard to buffering and separation, but you can't tell from this master concept plan where exactly parking and other details go.

The second issue which we're concerned about is to the north. You will find a predominance of single family uses. It is a very rural community in the Bayshore community.

The conditions I think adequately address the three issues and address my two concerns. I won't go into all the conditions, but let me just highlight a few of them.

If you go to page 2 of the staff report, the first thing I'll note is that the master concept plan, the latest one is the March 21st master concept plan, not the March 3rd master concept plan. And I have a copy of it right here. But your Attachment B of your staff report, that is the March 21st master concept plan.

You will see the master concept plan has a general Area A to the south and Area B to the north. We have done an adequate job in terms of looking very carefully at the schedule of uses. There will be no boat sales in Area A. There will be no boat sales in Area B. In Area B, the northernmost property, the list of uses shows no farm equipment; it shows no feed and fertilizer sales. We have also eliminated from the schedule of uses social services Group 3, which are group home sorts of uses.

1 Mr. Uhle said -- Mr. Roeder said quite accurately
2 that the deleterious uses have largely been removed or
3 not even proposed. No fast food is proposed for this
4 property, no self-service fuel pumps, no convenience
5 stores, no open storage, no vehicle sales and no water
6 or sewer treatment plants, and that was in essential,
7 in essential services. So the list of uses are a
8 combination of retail and office uses, which we think
9 are appropriate.
10 Condition Number 10 is the condition regarding
11 consumption on premises. We are permitting
12 consumption on premises indoors within a restaurant,
13 and any outdoor consumption on premises would require
14 a public hearing. I'll get a little more into that at
15 the end of the presentation.
16 Condition Number 11 we talked about a little bit,
17 extending the wall to the east. And again the
18 principle is just to have the wall protect the
19 integrity of the properties to the north as well as
20 the buffers and preserve.
21 Condition 12 Mr. Uhle's agreed to regarding the
22 covered parking. It must be a minimum 20 feet away
23 from the preserves. That's a good idea and we think
24 that's consistent with the Land Development Code.
25 Condition Number 18 requires this development

1 when they get to the development order stage to be
2 consistent with the elevations that they have
3 provided. They look like an old Florida sort of
4 development. So there's Condition 18 in there.
5 There is no bridle path condition, but that is in
6 general a good idea and bridle paths are consistent
7 with the Bayshore community. How it would be done,
8 that's the question, and that's why I provided a
9 couple of examples of how past projects have tried to
10 deal with the issue. But, again, it's not part of the
11 recommendation.
12 Second part of the presentation is asking the
13 question is this consistent with the Lee Plan. Again,
14 I won't belabor this, but this is consistent with the
15 General Interchange Future Land Use Category which
16 encourages uses to serve the traveling public. And
17 again there is a broad set of uses recommended.
18 It is consistent with Policy 1.3.2 and Objective
19 1.3, and you will find those on page 10 of the staff
20 report. It has conditions consistent with Policy
21 5.1.5, which is to protect the residential uses from
22 harm. It is consistent with Policy 6.1.2. That is
23 regarding the site location standards. Again, those
24 location standards are not applicable in the
25 interstate interchange area. And it's also consistent

with Goal 20 on Page 13, which is to protect the rural, residential, agricultural and equestrian-oriented community of Bayshore. And, again, as conditioned, I would believe this application is consistent with the Lee Plan.

Third issue is compatibility. This property is entirely within the Bayshore planning community, which is a rural residential area with large lots. There technically is no public meeting required with the Bayshore community with the applicant, but they are always encouraged and again we have tried to communicate with the Bayshore community and make sure everyone is aware of the process.

Page 13 of the staff report says, and I quote, "The continued support for the infrastructure necessary for the owners and breeders of horses." That's in the staff report. Bayshore is also about, on Page 14, "A wholesome family atmosphere is desired as well as the protection of existing agricultural and equestrian activities."

Just to give you a little bit of context about where we are. To the north is residential uses very close by on Wells Road. The applicant has talked about providing a buffer, providing berms, providing walls and providing really 150 feet of separation from

1 the building to the property line. To the south is
2 Bayshore Road, to the east is vacant property and to
3 the west is Wells Road. And also to the west, that's
4 where Stonybrook North is, that development would go,
5 and that's where its zoning is. Stonybrook North does
6 require an eight-foot bike path or two five-foot
7 sidewalks on Pritchett Parkway running from Bayshore
8 way down south to Rich Road to the north. And I have
9 given you a copy of that.
10 In terms of the third issue, let me briefly go
11 into that. The third issue is concurrency. There is
12 sewer from North Fort Myers Utilities, there is water
13 from Lee County Utilities, and there are letters of
14 availability from both of those utilities. As far as
15 roads are concerned, development services shows level
16 of service C on Bayshore Road, which will fall to
17 level of service D with the project. There is road
18 capacity per the Land Development Code.
19 Again, Bayshore Road is a state road, as it says
20 on page 15 of the staff report. I think -- page 15 of
21 the staff report, I think it says it is a county road.
22 It is a state road. There should be a correction
23 there. It is a two-lane arterial road. No
24 improvements are on the horizon according to the Lee
25 County Department of Transportation. And according to

1 Land Development Code a sidewalk will be required on
2 Bayshore Road and Wells Road, a local
3 county-maintained road, because we are talking about
4 commercial uses. And, again, that's in the land
5 development report.
6 As far as environmental issues are concerned, Kim
7 Trebatoski reviewed this project. She has provided
8 conditions for buffers, preserves and species and can
9 discuss these issues in her presentation.
10 Let me go into a little bit about the really one
11 issue left, which is consumption on premises.
12 As proposed, Mr. Uhle would delete Paragraph B,
13 which was regarding the hours, and which sort of begs
14 the question whether they are proposing alternate
15 hours or any hours whatsoever for the indoor
16 consumption on premises.
17 The second thing they objected to was the
18 Condition 10-E, which was requiring 200 feet of
19 separation from the consumption on premises -- let me
20 rephrase that. It was 200 feet from any dwelling unit
21 under separate ownership. And the third objection
22 they had was regarding outdoor seating, whether -- if
23 there's a proposal for outdoor seating, should the
24 developer provide the necessary detail and should they
25 have to go through a public hearing. And I think

1 their position is no, they should not have to go
2 through a public hearing for that specific use.
3 Let me address consumption on premises and I'll
4 make some general comments about consumption on
5 premises and I'll make some specific comments
6 regarding how it would impact this property.
7 Consumption on premises, just in general, if I
8 were talking about any piece of property, I think
9 really disturbs the quiet, residential ambience of the
10 neighborhood, and that's why we usually propose a
11 series of conditions and why we look at this
12 particular use carefully.
13 The analysis should look at really the five
14 senses, which are: Can you hear it, can you see it,
15 can you smell it, can you taste it and can you feel
16 it? And consumption on premises, I think it's
17 obvious, is something that affects your hearing, it
18 affects you visually and it affects the smell of the
19 neighborhood.
20 Number one, in terms of noise, consumption on
21 premises is often associated with loud music, with a
22 loud party and I think does have a serious effect on
23 the surrounding neighborhood's quiet enjoyment of
24 their property, so I think it affects how you hear.
25 Second, the second issue I will bring up is that

1 consumption on premises is often associated with
2 nuisance, especially outdoors. Again, I think it
3 brings up issues of crime, of security, and it is in
4 general a nuisance to residential uses.
5 The third impact I would bring up just in general
6 for consumption on premises is whether it has a visual
7 impact on not just the neighboring property, but the
8 travelers on Bayshore Road, the travelers on Wells
9 Road and the residents who would have to live on Wells
10 Road near this particular use. I think it has a
11 visual impact on the character of the community.
12 The fourth impact that consumption on premises
13 could have is smell, and anyone who has visited an
14 establishment where there's lots of consumption on
15 premises knows that there can be some unpleasant
16 smells associated with it. Just to be frank, there's
17 the smell of alcohol; there's a smell of vomit;
18 there's a smell of urine. Again, that could affect
19 any property.
20 And the fifth point I would bring up, just
21 generically the consumption on premises, is its impact
22 on family values. This is a pretty conservative
23 community, this is a pretty conservative part of the
24 community, and I think it does have an effect on the
25 values of community and that's why there are rules in

1 the Land Development Code regarding whether these uses
2 should be near parks or they should be near schools or
3 they should be near residences or whether they should
4 be nears schools -- or churches.
5 Let me get to the specifics of this property.
6 We are concerned about outdoor consumption on
7 premises because, number one, to the north is a single
8 family use which is very near this property. And I
9 appreciate any buffering you can do, but I don't think
10 there's -- that any buffering renders this use
11 invisible, renders it unable to be heard and renders
12 it with any mysterious cloak of protection.
13 The second concern I have is that there just
14 isn't enough detail. In fact, there is no detail
15 about what this consumption on premises will look like
16 or how it will impact the community. We have no
17 discussion of how many seats will be there, we have no
18 discussion of how much square footage is there. And
19 we're not saying do away with the use. We're saying
20 it has to go through the proper public hearing process
21 in order for us to evaluate it.
22 The third issue is that it is in the Bayshore
23 community and I think there are specific policies in
24 the plan and there are specific descriptions of the
25 Bayshore community which make, which make staff take a

special look at this community and really look out for the interest of the rural integrity of the neighborhood. And, again, they should go through the public hearing process with the necessary detail.

The fourth specific thing about this property is that it is near I-75. An outdoor consumption on premises use with a restaurant with a large size will attract people from miles around. There's thousands and thousands of people on I-75 using that road and it could be a very detrimental thing for the community.

The fifth point I bring up is that because it's on I-75 I think having late hours, I think having unlimited outdoor consumption on premises does create an issue of safety regarding outdoor consumption on premises. It raises the issue of drunk driving and whether this is something that we want to promote on I-75 with outdoor consumption on premises. And, again, we're okay with indoor consumption on premises.

And the sixth factor really is the equestrian factor. Is outdoor consumption on premises really compatible with the equestrian uses that we know are in the neighborhood and will continue to be in the neighborhood?

And, again, you can hear it, you can see it and you can smell it, and for these reasons that's why we

bring up this issue of consumption on premises.

I think the policies to support us are in the staff report and I won't go through them, but they're Policy 5.1.5 to protect residential uses, Policy 139 regarding character, Policy 6.1.4 regarding compatibility, and especially Goal 20, which is the Bayshore community.

In conclusion, we can recommend approval of this application with conditions. As conditioned there will be no environmental -- adverse environmental impacts; there is an adequate road network; there's urban services available; and the mix of uses are appropriate.

In closing, this application as conditioned is consistent with the Lee Plan, it's compatible with the surrounding neighborhood and I think it addresses all concurrency issues. And I'll just stop there and answer any questions you have.

THE HEARING EXAMINER: Questions? I'm sorry. Questions by staff of this witness?

MS. LEHNERT: No.

THE HEARING EXAMINER: Kim?

MS. TREBATOSKI: I have one question.

EXAMINATION

BY MS. TREBATOSKI:

1 Q. Tony, the outdoor consumption on premises, would
2 that be a conflicting use with the -- some of the proposed
3 uses such as day care center, place of worship or schools
4 that are requested by the applicant and approved?
5 A. Yes. Those are in the schedule of uses and
6 there's a potential conflict and that's why we would like
7 the necessary level of detail to even discuss outdoor
8 consumption on premises.
9 Q. One other question regarding that. I'm not sure
10 if I clearly heard it or not in your testimony. The
11 master concept plan as proposed, do we know for sure that
12 there wouldn't be any outdoor consumption on premise area
13 for -- be on the backside of a building facing the
14 indigenous area or that it would --
15 A. The conditions as proposed by staff say that the
16 outdoor consumption on premises or the consumption on
17 premises would have to be south of the building, so you
18 would have to have, working from the north, preserve,
19 building, and then consumption on premises and then
20 parking outside the building.
21 THE HEARING EXAMINER: All right. But that's the
22 indoor consumption, right?
23 MR. PALERMO: Correct.
24 THE HEARING EXAMINER: Because you're not
25 recommending approval of outdoor. So you are actually

recommending that the location of any lounge or bar or alcoholic consumption area will be only on the south side of whatever restaurant is being proposed?

MR. PALERMO: Correct. If I had the necessary detail to look at all that, that's what I would evaluate and that's what I would be for.

MS. TREBATOSKI: No further questions.

THE HEARING EXAMINER: County attorney, questions of this witness?

MS. LEHNERT: No, ma'am.

THE HEARING EXAMINER: Questions by the applicant?

EXAMINATION

BY MR. UHLE:

Q. Tony, are you familiar with any large Lee County restaurants that serve alcohol but stop serving it at nine o'clock at night?

A. I haven't drank alcohol for about ten years, so it would be hard for me to answer that question, but in general, restaurants have hours going until midnight or something like that. And that raises the question is that appropriate on this property, is that appropriate this close to I-75 to promote, say, an Applebee's, a Hooter's or whatever restaurant you have having drinking hours going 11:00, midnight, 2:00, 3:00 in the morning.

Q. Well, if it makes you feel any better, I haven't consumed alcohol in 47 years.

A. Thank you for sharing.

Q. Having said that, would you not have -- let me ask you this as a planner. I mean have you done any cases in Lee County where COPs were limited to nine clock hours?

A. I don't have any in memory, but I have been using generic hours of 11:00 and midnight and hours like that, but there probably are cases out there where hours were limited to 9:00 p.m., 10:00 p.m. Probably not my cases, but -- that's my answer.

Q. So the answer is that you're not aware of any personally where it was cut off at nine o'clock?

A. Correct.

Q. Would you say that it would be more customary to cut it off around 11:00 or 12:00?

A. It would be more customary if this were in an entirely different location. I have done cases where it's in Fort Myers Beach where it's just generally accepted that there will be consumption on premises till late hours.

Q. When I ask the question in terms of customary, I'm talking about on a countywide basis, I'm not talking about specific to this parcel.

In general, to your knowledge, is it more

1 customary to limit COP to eleven or twelve o'clock as
2 opposed to nine o'clock?
3 A. That is more common, and your word is more
4 customary, that they have late night hours.
5 MR. UHLE: No further questions.
6 THE HEARING EXAMINER: All right. Tony, don't
7 sit down. I have several questions now.
8 Going to page 4 of 16, the Area B schedule of
9 uses, you've got restaurant here, Group 1, 2 and 3.
10 Then you say no fast food and you say no freestanding
11 restaurants in Area B. So the freestanding that
12 you're talking about is not a restaurant that would be
13 part of the multitenant building, but one that would
14 be sitting out in the middle of the parking lot?
15 MR. PALERMO: Yeah. My expectation would be on
16 Area B you would have a multitenant building which
17 would have restaurants.
18 THE HEARING EXAMINER: All right. Following
19 through with that concept, was there a particular
20 reason why staff chose not to allow fast food as one
21 of the multitenants or as part of the multitenant and
22 restricted to one of the storefronts, essentially, in
23 the building?
24 MR. PALERMO: Yeah. There is a certain
25 discomfort for allowing fast food restaurants this

1 close to a residential property, but you're correct, I
2 was more thinking about the stand-alone McDonald's
3 fast food restaurant. If within that plaza they had,
4 say, a Subway or some other restaurant within a plaza
5 setting, that wouldn't be a terrible problem with me.
6 Definitely not fast food and definitely not the
7 drive-through sorts of restaurants.
8 THE HEARING EXAMINER: Okay. All right. But the
9 fast food and your sub shops or something along this
10 order, you know, Taco Bell, something, that would
11 actually be more in keeping with the intent of the
12 interchange land use designation, would it not?
13 MR. PALERMO: That would be appropriate in the
14 interchange land use category. I would just be
15 reluctant to go plopping it in there because the
16 applicant did not propose fast food as one of their
17 uses.
18 THE HEARING EXAMINER: Okay. All right. Because
19 I know we've discussed this in other cases in which
20 the fast food has been limited to the multitenant
21 building and not into -- not to a stand-alone, which I
22 think in this case would work pretty well, but it's up
23 to the applicant if they want to request that at this
24 point.
25 The next one -- question that I have -- let me

1 see if I can find it. I have got everything written
2 on top of everything.
3 Oh, the bridle path. Now, you gave me conditions
4 for the bridle path, all right, and you indicated to
5 me on the aerial photograph up there, actually the
6 FLUCCS map, I guess -- no, it was the aerial
7 photograph, that shows the little area where the
8 horses have been walking, the people have been using
9 as a bridle path across the south portion of the site
10 but well away from the right-of-way.
11 If the -- if you are proposing that the
12 applicants provide a bridle path, where are they going
13 to provide it?
14 MR. PALERMO: I haven't gotten down to that level
15 of detail, but I have provided you with two examples
16 of cases that did require a bridle path. But a bridle
17 path is not in my conditions and I have not crafted a
18 condition requiring a bridle path, but wanted to hear
19 from the public and I also wanted to hear from the
20 applicant regarding that particular issue. But my
21 recommendation is unchanged, but I wanted to give you
22 the flexibility to think about that issue and just say
23 generally that if the developer provides a bridle
24 path, that's a good idea and that's consistent with
25 Bayshore, but I have nothing to mandate it.

THE HEARING EXAMINER: All right. Because I'm concerned about, you know, if you recognize the location now, those folks have got to cross that access point, the entry off of Bayshore. They're going to have to walk across. The horse has got to walk across that driveway there. That concerns me.

And this may not be the proper question to ask you, maybe I need to ask Kim, but would the county accept a bridle path through the indigenous preserve?

MR. PALERMO: Ask her that one.

THE HEARING EXAMINER: Kim?

MS. TREBATOSKI: For the record, Kim Trebatoski.

Well, there would be a different department that would be handling any trails, but if there are gopher tortoises found on the property, a bridle path is inconsistent with preservation for the tortoises and any path that would be wider than five foot in width would need to be subtracted out of the preserve and additional preserve would need to be provided.

THE HEARING EXAMINER: So because in some open space or in some projects with open space and preserve areas the county allows your passive recreational uses, so a bridle path would not necessarily be considered a passive recreational use, then? Is that what I'm hearing?

1 MS. TREBATOSKI: I mean there's a number of
2 faults with bridle paths. First of all, the five-foot
3 width that I was talking about, that's what we limit
4 trails to. Secondly, with horses you have the matter
5 of their fecal matter which can be detrimental to
6 preserve areas. And the burrows of tortoises can be
7 detrimental to the horses and the horses can be
8 detrimental to tortoises if they --
9 THE HEARING EXAMINER: Step on them. I don't
10 think the horse is going to step on a burrow if they
11 can see it.
12 MS. TREBATOSKI: I just know from conversations
13 with people, and we are trying to work with people who
14 are doing pastureland, that they don't want the
15 tortoises and their burrows anywhere near the horses.
16 THE HEARING EXAMINER: Well, the only problem
17 that I have, and I know you have given me a couple of
18 samples of conditions or whatnot about a bridle path,
19 but my only concern and question is looking at the
20 proposed plan of development where this could safely
21 be put on this property, on this property.
22 MR. PALERMO: Don't have an answer for that.
23 THE HEARING EXAMINER: And I would think if staff
24 is recommending that a bridle path be constructed that
25 they should have some idea and concept of where they

1 would like to see it done for protection of the
2 horses, the riders and the drivers.
3 MS. LEHNERT: I think Tony indicated that it's
4 not in the staff's recommendation.
5 THE HEARING EXAMINER: You are not recommending a
6 bridle path?
7 MR. PALERMO: I don't have a condition to
8 recommend one.
9 THE HEARING EXAMINER: Okay, then --
10 MR. PALERMO: A sidewalk will be required, and if
11 there are enhancements to that that the developer
12 wants to do, we should consider them.
13 THE HEARING EXAMINER: So the purpose then of
14 Condition Number 29 on the Orange River Estates which
15 dedicated an eight-foot-wide strip along the southern
16 boundary of the property fronting on Homestead Road to
17 Lee County to serve as a bridle path, that was not
18 intended as a condition for the hearing examiner to
19 pick up and put in this?
20 MR. PALERMO: Correct. Just food for thought
21 just in case it comes up.
22 MS. TREBATOSKI: If I may, Madam Hearing
23 Examiner, both of those projects are strictly
24 residential, so there is a different traffic
25 interaction --

THE HEARING EXAMINER: With the horses than a commercial one? Yeah. Okay. All right.

Okay. I don't think I have any -- wait. Before I say that, let me flip through here and make sure I didn't write something down somewhere else I wanted to ask.

I think that is all for me.

Anything -- any follow-up from staff or applicant of this witness?

MR. UHLE: No, ma'am.

THE HEARING EXAMINER: Thank you, Tony.

Kim, you're making a presentation?

MS. TREBATOSKI: Very brief. Just some clarification.

MS. TREBATOSKI: For the record, I'm Kim Trebatoski, principal environmental planner for the Division of Environmental Sciences, and I have been tendered as an expert in environmental matters before and would like to be deemed so today.

THE HEARING EXAMINER: Any objection?

MR. UHLE: No objection.

MS. TREBATOSKI: I have to do it, Matt. Everybody else got tendered.

I just have three comments on this.

Mr. Ruskai had indicated that the preserve area

will remain as is except for the removal of invasive exotic vegetation. That is in part correct. The issue that may come up is that if gopher tortoises are found on the property, the pine flatwoods on the northern part of the property is very thick in palmetto and there may need to be some vegetative management to open up some areas, either trimming palmetto down or mowing mosaic patterns through to allow for more herbaceous ground cover for foraging for tortoises. And the other issue is there may be need over time to do some trimming of palmetto just to maintain the ecosystem. But it will serve as a buffer and it won't be an open vista between the property to the north and the commercial property, but there may be some slight alterations in order to manage the preserve and the related species utilizing the preserve.

The applicant has indicated that there are inactive gopher tortoise burrows on the property and Environmental Sciences staff also saw ones that did not show any recent activity. However, inactive burrows can be utilized and juvenile tortoises can be found in inactive burrows as well as abandoned burrows, and in this area the tortoises also venture around, so seasonally they may be on this property and

1 seasonally elsewhere and that is why Environmental
2 Sciences staff requires all active and inactive
3 burrows within the area to be cleared, to be excavated
4 and tortoises relocated.
5 Condition 14, regarding the preserve area and if
6 it can be used for water management area or not, it is
7 correct that the Land Development Code allows the
8 applicant to demonstrate how if it's used for dry
9 detention that it won't be detrimental to the plant
10 community. I would only request that at the end of
11 the sentence, last sentence in Matt Uhle's revised
12 condition that we add on, "for any listed species,"
13 because they need to also demonstrate that the use of
14 it as dry detention would not impact any listed
15 species and in this case most likely gopher tortoises.
16 If a certain volume of water is held in the area for
17 any length of time, that could be detrimental to
18 tortoises. But there are ways to demonstrate how
19 areas can be utilized. If it's a low volume of water
20 that's being held for a very short period of time, it
21 actually can be beneficial to certain types of plant
22 communities.
23 THE HEARING EXAMINER: You have no objections,
24 then, to the replacement of your -- the last sentence
25 of Paragraph 14 with the paragraph that -- in Mr.

1 Uhle's memo with the addition of the words, "or any
2 listed species," at the end of that paragraph?
3 MS. TREBATOSKI: Yeah.
4 MS. LEHNERT: Wait a minute.
5 THE HEARING EXAMINER: You know where we're at?
6 MS. LEHNERT: Yeah. I lost the period. Thank
7 you.
8 THE HEARING EXAMINER: Matt, do you have any
9 objections to the insertion of that language?
10 MR. UHLE: No.
11 THE HEARING EXAMINER: Okay.
12 MS. TREBATOSKI: We also do not have, the ES
13 staff does not have any objection to Point Number 2 in
14 Matt Uhle's memo that adding, "or wall and berm
15 combination". That's pretty typical of how areas are
16 put in.
17 Just a little bit further answer on your question
18 regarding if the wall could run at a diagonal, how
19 that would be, and depending on how they plant their
20 storm water, dry detention area it actually could be
21 beneficial to any tortoises to have the wall right
22 adjacent to the pavement and be able to forage in the
23 dry detention area, so there are some positive reasons
24 for that.
25 Otherwise, I don't have any additional comments.

1 It is pine flatwoods. I was actually quite surprised
2 that I didn't find any active burrows because there
3 are some areas that are open in there that would be
4 wonderful foraging habitat for tortoises.
5 THE HEARING EXAMINER: Okay. Questions of this
6 witness by staff?
7 County attorney?
8 MS. LEHNERT: No, ma'am.
9 THE HEARING EXAMINER: Applicant?
10 EXAMINATION
11 BY MR. UHLE:
12 Q. Kim, just to get this clear on the record, with
13 regard to our proposed revised northern cross section, do
14 you have any objection to that or to the language that we
15 proposed that implements that section?
16 A. No, because it's my understanding that that will
17 become part of the master concept plan and the type of
18 wall where it's pile footers and sections is what is being
19 committed to, then being closer to the preserve is okay.
20 It's when you have to trench the footer the entire length
21 that it becomes problematic. And the type of wall that's
22 being proposed now, we have actually had some developers
23 zigzag through some preserves when there's been an issue
24 of a need for a wall, and in this case they're actually
25 providing it outside the preserve. But the footer concern

is impact on roots of trees and that's why this is the preferred type of wall adjacent to a preserve.

MR. UHLE: I have no further questions.

THE HEARING EXAMINER: Thank you.

All right. Any other staff witnesses?

Okay, folks, at this point in time I'm going to open the floor up for public comment. I need you to come up one at a time, please, to the podium. If you would, bring me your white form as you come up, introduce yourself. If you have not been sworn in, please let me know. I will swear you in. But bring your white form, introduce yourself and your address, please, for the record.

MR. MUSHO: My name is Michael Musho. I live at 17350 Wells Road.

Before I begin, I would like to thank Mr. Fred Drovdlic and more recently Mr. Tony Palermo for their accessibility and insight into this rezoning process. While we may not agree on some of the aspects of this case, it's been very pleasant and professional throughout this process. I would also like to thank Miss Kim Trebatoski with the Division of Environmental Services for being just as cordial and receptive.

My home and 600 feet of my property is directly adjacent to the north property line of the proposed

project. My home and family will be probably the most affected.

I had mixed emotions about the project for some time now and reading the staff report gave me a better insight to help me come to a more solid conclusion. The staff report gave me three major areas of concern and disagreement: One, buffer; two, the traffic impact; and, three, the project's compatibility with the community.

Now, my understanding -- one of my concerns was the berm and swale on the north side of the preserve. I understand that has been resolved; is that correct?

MS. TREBATOSKI: Yes.

MR. MUSHO: Thank you.

The Lee Plan Policy 139.9.5 states that the new development adjacent to areas of established residential neighborhoods must be compatible or improve the area's existing character.

The 75-foot preserve is good and appreciated, but we also need to be watchful of the rural character of the community. A project this size is required to have a preserve. I believe it is 1.3 acres. And that has been allowed -- actually, 1.5 acres with the credit for keeping the preserve in one location.

If we are truly to protect the residential and

1 rural integrity of the neighborhood to the north, the
2 natural preserve should be extended and a bridle path
3 be provided on the far south side of the buffer for
4 the horses that now use the dirt bridle trail on the
5 south side of the property.
6 Extended buffer would also better facilitate the
7 gopher turtles management on the property. And the
8 gopher turtle burrows are now occupied on the
9 property, as I took videos of it yesterday. They
10 are -- apparently they do leave for a period of time
11 and return.
12 The increase of the buffer would also tie in with
13 the Bayshore community plan compatibility issues.
14 That is of great importance to the community.
15 Number two, the traffic impact. I would like to
16 bring your attention to the traffic impact statement,
17 Attachment C of the staff report. The traffic impact
18 statement that was submitted by the applicant has
19 substantial omissions that were not factored and
20 making the report unreliable. An important omission
21 is the planned Pritchett Parkway extension that is to
22 tie into Wells Road. As a result, the traffic impact
23 of the Heritage Creek, otherwise known as Stonybrook,
24 a U.S. Homes community with 1,275 planned dwellings on
25 Pritchett Parkway, which was already approved by the

1 Lee County Commissioners, is not included in the
2 applicant's traffic impact study. This U.S. Homes
3 community will be using the Wells Road intersection as
4 Pritchett Parkway is realigned to Wells Road.
5 According to the traffic impact statement for
6 this U.S. Homes community titled Heritage Creek
7 Development, Table 2, there will be 12,095 total daily
8 two-way trips generated by the development located on
9 Pritchett Parkway.
10 I would like to submit into the record a copy of
11 the traffic impact statement that is titled Exhibit A,
12 traffic impact statement for the Heritage Creek, a
13 U.S. Homes community. Study was done by Metro
14 Transportation, same people that did the study for
15 this project.
16 THE HEARING EXAMINER: Any objections from staff
17 or applicant?
18 MR. UHLE: No.
19 THE HEARING EXAMINER: All right. I'll take
20 that, then.
21 Thank you, sir.
22 MR. MUSHO: The traffic impact of this U.S. Home
23 community must be considered along with the
24 applicant's development, since they will both use the
25 same Wells Road and Bayshore intersection. That is

1 inevitable. U.S. Homes will be built as it has been
2 approved, or there may be some changes.
3 The Pritchett Road that now comes out to Wells
4 Road does not facilitate a safe left-hand turn, mainly
5 because there's a median here. There's traffic coming
6 up onto I-75 on ramp. In order for someone to make a
7 left-hand turn, they have to wait for a long period of
8 time to make a left-hand turn. This would back
9 traffic up with the load that it will be generated by
10 the U.S. Homes development. That is why that is being
11 as an option for them to channel this into Wells Road.
12 They cannot put a traffic light here. It is too close
13 to the interchange. And I don't know of any plans to
14 put a traffic light here at this time.
15 THE HEARING EXAMINER: There is not a traffic
16 light at Nalle Road, is there, Mr. Musho?
17 MR. MUSHO: I pointed at Wells Road. There is
18 one here, yes.
19 THE HEARING EXAMINER: There is one there? Okay.
20 UNIDENTIFIED SPEAKERS: (Inaudible.)
21 THE HEARING EXAMINER: All right, folks, folks,
22 folks, folks, folks.
23 MR. MUSHO: There's a flashing light. It's not a
24 traffic light, a functioning traffic light.
25 THE HEARING EXAMINER: I didn't recall even a

flashing light being there, but thank you.

MR. MUSHO: I would also like to bring your attention to Condition 7 of the zoning staff which was discussed here earlier. Condition 7, access to State Road 78 is not guaranteed and is subject to Florida Department of Transportation approval.

THE HEARING EXAMINER: That's 17? Number 17?

MR. MUSHO: Correct. I believe Condition 16 was omitted earlier.

THE HEARING EXAMINER: Uh-huh.

MR. MUSHO: This would mean that if FDOT does not grant the applicant Bayshore access to Area A, then all traffic to this large project would have to use Wells Road, a two-lane residential roadway, that all traffic from the Pritchett Parkway extension, the Wells Road neighborhood traffic and the traffic generated by this hundred thousand square foot shopping center with no Bayshore access would all merge to a local residential roadway that is Wells Road.

I submit to you that this is not responsible management of growth and will have a sizable adverse effect and impact on the road safety and the local residential community. This alone should be enough to deny this application as it is now or greatly reduce

1 the size of the project.

2 Number three, neighborhood compatibility. I

3 honestly believe that the essence, the spirit of the

4 Bayshore community plan is being largely ignored or

5 overlooked here. The zoning staff mentioned their

6 concern in the staff report that the master concept

7 plan has little detail regarding building placement,

8 parking and other features. And the applicants reply

9 is that showing such detail is not necessary due to

10 General Interchange Future Land Use Category. This

11 argument by the applicant is a demonstration of

12 disregard for our Bayshore community planning

13 district. Maintaining the integrity of rural areas

14 and communities is a critical element of the Lee Plan.

15 The residents of the Bayshore have legitimate concerns

16 about maintaining the rural integrity of our

17 community. The applicant has not met with anyone from

18 the Bayshore community, and I realize that is not

19 required of them, but it would have been nice and

20 civil to show some interest in meeting with the

21 community representative regarding a project of this

22 size.

23 This is a project to the scale of the Daniels

24 Crossway that is on the corner of Six Mile Cypress and

25 Daniels with the Publix shopping center. I believe

that is 116,000 square feet. We just don't see that kind of development in Bayshore. The two-story height of Area B, the 100,000 square foot size and intensity of this project are without comparison anywhere in the Bayshore community.

The impact on Wells Road and the residential neighborhood north of the project will be immense. The size and the intensity being proposed will without a doubt have a detrimental impact on our community by changing the community's character.

I must note that we don't want a so-called downtown Bayshore in Bayshore. We didn't move out to Bayshore to have a downtown. Downtown can stay where downtown is.

This project must now be approved as a 99,999 square foot development, but Area A should be eliminated and Area B shifted further south to allow a compatible buffer to the residential neighborhood to the north. The project should be reduced in size to a minor commercial development with 30,000 square foot of retail use for which it would better qualify.

Thank you.

THE HEARING EXAMINER: Thank you, sir.

Next speaker.

MS. MUSHO: Good morning, Madam Hearing Examiner.

1 THE HEARING EXAMINER: Now, you're going to need
2 to pull the microphone up because you're a little
3 taller and you speak softer.
4 MS. MUSHO: My name is Lisa Musho and I live at
5 17350 Wells Road and our property adjoins 600 feet
6 along the border of this property. And I, too, feel
7 that the way that this project is presented that it is
8 far too intensive at this level to be compatible with
9 our surrounding neighborhood and with the rural
10 Bayshore planning community, a plan that states the
11 community wants to maintain low residential densities
12 and minimal commercial activities.
13 It's noted that nowhere in the Bayshore area is
14 there any commercial project of this size, magnitude,
15 intensity, and that just because some restrictions,
16 which are much appreciated, have been placed on the
17 property doesn't just suddenly make it compatible at
18 this level.
19 Furthermore, the applicant argues that just
20 because this project would be located in an
21 interchange area that it should be developed
22 commercially at this magnitude. Again, this argument
23 ignores both the existing rural setting that is
24 already there, the homes of the people that are
25 already living there and the overall intention of the

1 Bayshore community plan, which states that the rural,
2 residential, agricultural and equestrian-oriented
3 character with minimal commercial activities should be
4 protected.
5 A 99,999-square-foot commercial project
6 represents an encroachment of uses. It's potentially
7 destructive to the character of our residential
8 environment and as such at this level it's not
9 compatible.
10 The next topic that I wanted to comment on was we
11 wanted to ask that you do not allow consumption on the
12 premises. We don't want liquor to be available on the
13 property which is so close to our home and where our
14 children are playing. We are also concerned about the
15 transient clientele coming off of I-75. It's going to
16 be more likely to come to establishments that are
17 offering liquor. Liquor consumption on this site is
18 not compatible with our family-oriented neighborhood
19 and it would draw a different, unwanted crowd of
20 clientele to our area.
21 Again, much appreciated on the limitations, but
22 in all honesty we really can't limit the negative
23 effects that were described by Tony earlier just
24 because the consumption is inside. People move
25 around, people hang out, people walk around, people

are drinking. They wander around. Not to mention the responsibility of coming out, going a very short distance and, boom, you're on 75. We do not want this located so close to our home.

It's also noted that the staff -- in the staff report regarding consumption that this use is to be at least 200 feet away from any dwelling under separate ownership, but the applicant's master concept plan shows a setback of only 150 feet, which is not far enough.

The next topic is I am also troubled by the broad and the varied schedule of uses that's being applied for on this property, and the reason for that is because I can't possibly know all the types of businesses that will be allowed under these categories and how they could adversely affect my home. For example, the schedule of uses for Area B includes drive-throughs. I know we talked about that earlier. Just for the record, we do not want drive-throughs next to our home. I'm also concerned about being next door to a business that's going to be open 24 hours a day. I don't want to be hearing noise all night long, with bright lights and traffic moving in and out of the property all hours of the night. I can, in my own experience, I can look at it and see, I can tell

1 certain ones are unacceptable such as nightclubs,
2 kennels with barking dogs outside 24 hours a day and
3 night and auto parts with machinery being used, but
4 I'm sure that contained in these remaining categories
5 are many uses that will still be intrusive to my home
6 next door. I ask the county to use their expertise in
7 knowing what these categories are and to ask
8 themselves if they personally would want to live
9 directly next door to that particular use. If the
10 answer is no, then I would ask that you eliminate that
11 category.
12 We also ask that you do not allow a height of two
13 stories on this project. It's way too intensive and
14 intrusive and it's not in keeping with any other
15 commercial developments in this area.
16 Lastly, as I mentioned earlier, we are also
17 concerned about the noise and lights that are going to
18 be generated by this project. We live in a community
19 that is quiet and dark at night and we do not want
20 noise and lights emanating from this project onto our
21 property. And I don't -- I would like to know how
22 this concern would be addressed.
23 Thank you.
24 THE HEARING EXAMINER: Okay. Thank you.
25 Anybody else wish to speak?

1 Thank you, sir.

2 MR. SHEPARD: Good morning. My name is Dave
3 Shepard. I live at 7730 Rich Road in North Fort
4 Myers. I'm a board member of the Bayshore Concerned
5 Citizens, a nonprofit group of Bayshore residents.
6 I'm here to speak on theirs and my behalf.

7 We're aware this is a prime commercial spot and
8 most certainly will be developed as such. However,
9 there's several items that we cannot support: First
10 and foremost, the square footage; and most disturbing,
11 the two-story design of the proposed building. You
12 can't drive anywhere the whole length of Bayshore and
13 find a two-story commercial building. No interchange
14 in Fort Myers has a two-story commercial building.
15 Doesn't matter what you build it like, rural,
16 plantation style or whatever. This is even being --
17 why this is being considered is even beyond belief.

18 Through the whole application project here it's
19 called, it is called consistent with the Lee Plan.
20 And Mr. Roeder here did assist on the Lee Plan here
21 for us some time ago, Policy 20.1.1. Retail
22 commercial activity shall be limited to the interstate
23 interchange designation at Bayshore and I-75, plus
24 commercial uses at the intersections of Nalle Road and
25 Bayshore, State Road 31 and Bayshore, State Road 31

1 and Old Bayshore.

2 Now, this is written right in here. I don't

3 know. Should I introduce it?

4 THE HEARING EXAMINER: No, you don't need to.

5 It's part of the Lee Plan. It's a document that I

6 have.

7 MR. SHEPARD: Actually, this is an addendum that

8 was written underneath it.

9 There is no obvious village center or commercial

10 core in Bayshore and this plan does not attempt to

11 create one. The intersection of Bayshore Road and

12 Nalle probably comes closest with Lawhon's and the

13 fire station in close proximity. There are other

14 commercial establishments scattered in various

15 locations. The existing Lee Plan already restricts

16 retail commercial to intersections of a defined

17 significance. The proposed policy further restricts

18 these potential retail locations by specifying certain

19 intersections where retail commercial will be

20 permitted. Since under the Lee Plan minor commercial

21 is defined to be up to 30,000 square feet of floor

22 area, this policy should allow more than adequate

23 commercial opportunities in the future.

24 Now, obviously the plan here is for 999,000 plus

25 square foot. That's obviously not well within the

30,000 that this plan actually calls for. Three times as much. How can the square footage be tripled and still come under the heading of minor commercial development?

Page 14 of the study talks to the significant impact this project will have on this area. Certainly that's quite an understatement. It most certainly will set an undesirable precedent, a hundred thousand square feet, a two-story building. These are totally unacceptable standards. No to the two stories and certainly no to the square footage.

The other concern we have obviously is the traffic flow that this project will affect. I find it surprising your own traffic person said minimal traffic flow there. He obviously has not spent any time driving in that area during the commuting hours morning and evening. It is nearly impossible to make a left turn there now with no further development at all, so obviously there needs to be improvements.

We know that this is going to be a commercial property and it's viable and we don't want to restrict the property owner from his rights of developing this as a commercial entity. Certainly we know it's commercial. But the mere size and sheer volume of this project is -- incompatible is even a slight word

to use.

The entrance that they propose here is on an exclusively residential entrance road. It's all residential. There's no commercial activity back in there at all. And will DOT approve of a direct Bayshore entrance? Maybe, maybe not. That certainly will have an adverse effect on traffic flow. Left turns and right turns into this project without major road improvements on Bayshore itself will virtually bring traffic to a standstill.

Having read that complicated traffic survey - and I appreciate having a copy of it - and realizing the difficulty in understanding the figures, there's several things that do come to mind. The first thing, on the study here, they have what they call a study period and they dictate it. It's .25 hours in the morning, .25 hours in the evening, 15 minutes. They have their finger on the pulse of traffic on Bayshore by observing and counting for 15 minutes? I don't see how that's possible.

It also stated in there that there is zero percent heavy vehicles in the study. Zero percent, it says. Anyone who travels Bayshore knows the great volume of heavy vehicles, especially dump trucks. It's their expressway. They use this road as a major

artery to reach North Fort Myers, the interstate and all that area. And, again, you're not going to restrict that. If you take State Road 31 out, 31 to Bayshore, 31 has all the gravel pits and everything out there. They have to use Bayshore to access this area. And, again, without any turn lanes, you know, left turn lanes, right turn lanes or even traffic lights there, it's an impossible intersection now.

There are concerns, obviously, all valid, that exist with this project and we feel as it is proposed it is unacceptable and certainly not compatible with our vision of North Fort Myers Bayshore community. We request less square footage, much less; no two-story buildings; no consumption of alcohol; a much needed bridle path; intersection improvements such as a right and left turn lanes; and a wider buffer for long-established residents. We respectfully request this project be rejected as it is now proposed.

Thank you.

THE HEARING EXAMINER: Thank you, sir.

Anyone else?

Yes, sir. Do you have your white form, sir?

Thank you.

MR. SIZEMORE: Hi. My name is Perry Sizemore and I'm a resident on Wells Road, 18100.

And I'm for just about anything we can get up there as far as shops and stuff because we have nothing, but I do believe that there will be a lot of traffic issues on Wells Road, getting in and out. It's tough right now during rush in the mornings and evenings. It's hard to get on and off Wells Road. And I just think there needs to be some changes to Wells Road if they're going to use Wells Road as an entrance to this project. That's my main concern. Like I said, it's too much right now without adding a lot more traffic, but I'm sure there's ways to make it safe. But as I know, maybe there's something in there for that. Anybody? To get in and out, extra turn lane into the project?

THE HEARING EXAMINER: I think the staff report indicated and I think the TIS indicated that turn lanes, that kind of thing will be determined at the development order time because then they will actually look at where everything is and what it is and what the amount of traffic is going to be generated and how long the turn lane's going to be and this kind of stuff, so those are things that are typically, you know, taken care of after the project has gone through the zoning, when they come up with the actual site plan and whatnot.

1 MR. SIZEMORE: That will be good. That's my only
2 question.
3 THE HEARING EXAMINER: Now, let me ask you a
4 question before you sit down.
5 Across the top -- or actually across the middle
6 of these public participation forms is a designation
7 for, against or general interest. You did not check
8 any one of the three and I need to know where to put
9 you.
10 MR. SIZEMORE: I'm for like shops and stuff in
11 our area because we have nothing but Lawhon's store,
12 one store, and we need -- but I'm not for it if it's
13 going to be -- I live on Wells Road, which that is one
14 of the entrances, and if it's not going to, you know,
15 if it's not going to get stuff done on Wells Road to
16 turn into there, then I'm not for it, so I'm sort
17 of --
18 THE HEARING EXAMINER: So let's put you down for
19 general interest. Will that work for you?
20 MR. SIZEMORE: That will work.
21 THE HEARING EXAMINER: You're kind of for and
22 against, so we'll do general.
23 MR. SIZEMORE: I'm for the shopping and all that,
24 but --
25 THE HEARING EXAMINER: Not for the impacts?

MR. SIZEMORE: That's it.

THE HEARING EXAMINER: Okay.

MR. SIZEMORE: Thank you.

THE HEARING EXAMINER: Anyone else?

MS. RODD: My name is Barbara Rodd. I live at 11500 Bayshore Road. I'm at the east end of Bayshore.

And I'm just not going to take much time, but just wanted to tell you some of my concerns.

Bayshore at the east end is a busy area and I'm concerned of the traffic that is going to increase on that area. This is going to be our so-called downtown. Where are these people going to come from to support it? Palm Beach Boulevard, State Road -- I mean State Road 31, plus I-75.

And when there are things at the civic center I cannot get out of my driveway. If I want to make a left-hand turn, forget it. I have to go right down to Highway 31, over to Palm Beach and then get on the interstate at that point.

The noise that we get from the civic center, we can hear it at our house. And I know if a development like this goes that close to Wells, people, especially if there is alcohol consumption, will hear noises until all hours of the night. I live quite a ways from where the rodeos are held. We hear that until

one o'clock in the morning and it is disturbing when you're trying to get some sleep at one o'clock in the morning and hear the noise of the fair or rodeos going on.

The traffic down by where Lawhon's is -- they need a stoplight at Wells if they're going to do this project because every time I try to turn to go back home from Lawhon's I take my life in -- my life is endangered. There's been many times I've almost been hit by other cars.

And I also do not care for alcohol being on the premises that close to an interstate. I worry about the increase in crime that will happen in our area. We're not like most residential areas where our houses are next to one another and people will see if there's unusual activity going on. We have, you know, one-acre, five-acre lots. And, you know, people, they start drinking, they go down the road, they get into trouble, and I kind of worry about the safety of the people living out in that area.

Also, drugstores. We don't need a drugstore in that area. There's one going in by Slater Road, I believe, and there's one at the new Publix on Palm Beach Boulevard. I don't believe we need the traffic 24 hours a day of a drugstore.

And basically that's all that I have. I am concerned about the traffic. I do like to see some growth in the area, but we need to keep it small like our community is. I feel very fortunate to live in a community like that. I'm a farm girl from Minnesota, and everybody who comes out says this is a wonderful area. I don't want to spoil it.

Thank you.

THE HEARING EXAMINER: Thank you, ma'am.

MS. SYLVESTER: My name is Ann Sylvester. I live at 18238 Sandy Pines Circle. It's at the end of Wells Road, so I'm a concerned citizen of the Bayshore community.

I realize there will be building in our area as a result of progress, but we would like to keep the rural integrity of this community.

The Lee County Zoning Division Staff Report on Page 14 states the need for neighborhood compatibility as described in the Lee Plan. They speak to the boundaries of the Bayshore area that is predominantly rural, with homes ranging in various price ranges along with limited infrastructure and commercial uses. It also states by and large the residents of Bayshore want to see this land use pattern maintained.

Our vision of the future is supporting

1 infrastructure that reflects the rural environment,
2 the protection of our resources, the maintenance of
3 the wholesome family values and the safeguard of
4 existing agriculture and, of course, our equestrian
5 activities.
6 This report recognizes that the integrity of the
7 rural areas and communities are critical elements of
8 the Lee Plan. They acknowledge the Bayshore
9 residents' concerns of maintaining the rural integrity
10 and encourage the applicant to meet with the Bayshore
11 planning committee. I support this idea. If we are
12 going to be neighbors, we need to work together for
13 betterment of our community.
14 The Lee County zoning staff report concludes the
15 commercial development will have a significant impact
16 on the rural community, especially to those of us who
17 live north on Wells Road. They also state that the
18 applicant has proposed a reasonable schedule of uses.
19 However, I feel further restrictions need to be placed
20 on the applicant and this development plan.
21 First of all, we don't need a two-story building
22 of a hundred thousand square feet, commercial slash
23 retail space, on this corner, particularly. A
24 two-story building is not in keeping with the rural
25 land use pattern that exists. A one-story building is

more realistic for this area.

In regards to Area A on the plan, it appears to be very vague, and what will be put in this area and how many parcels this will be divided into is vague, although that's been somewhat cleared up today to be two.

I do not want to see things that will bring additional transient traffic off the highway down into our neighborhood such as any type of club, anything that would allow alcohol consumption, drive-throughs, fast food, drugstores, food stores, gas stations, convenience stories or retailers who have a temporary need.

It would better serve our community and maintain the rural integrity if the applicant were to explore building an appropriate square footage one-story structure known as the Bayshore Village Market Square and encompass the lands on Areas A and B and not have any separate out parcels.

I'm also concerned about the traffic on Wells and Bayshore Road that is going to be impacted as a result of this proposed development. Currently Wells Road is a small, rural road maintained by the county. Bayshore Road shows ever increasing traffic, especially seen in the dramatic increase in the number

of dump trucks that come off of Highway 31 with full loads of fill and return many times a day to reload, with additional traffic complications which will occur for our neighborhood from the traffic leaving this Bayshore Village Market Square if and when they turn onto Wells Road, then they want to turn onto Bayshore Road. I feel that this will cause additional complications for that area in particular.

How will the traffic be handled with this proposed entrance on Wells Road and the eventuality of Pritchett Road flowing into Wells Road? On the plans I see two entrances on Wells Road and one entrance on Bayshore Road pending approval by the Florida DOT. According to Don Blackburn, Development Services manager, he states in Attachment I that access to State Road 78 is not guaranteed and is subject to the Florida DOT approval. So what is the plan if the Bayshore entrance road is not approved? Does Wells Road become the sole entryway?

Attachment C, the traffic impact statement for Bayshore Village Market Square, on page 11 states that currently there already exists a significant delay with the southbound approach from Wells Road turning left onto eastbound Bayshore Road. I can personally verify this. The past two evenings I attempted to

make a left-hand turn onto Bayshore Road from Wells Road. One night it was at 6:10 p.m. and the other evening it was at 6:50 p.m. Both times I experienced significant delays due to the eastbound traffic on Bayshore Road.

Now add the Bayshore Village Market Square traffic and the eventual redirection of Pritchett Road onto Wells Road. That corner has potential for greater delays and a large number of accidents.

If you are not aware, currently when traveling on the easterly direction of Bayshore Road you have the I-75 exit ramp blending into this easterly flow of traffic as well as the road narrows down to one lane in each direction prior to Wells Road. This can already prove to be very dangerous and a very congested area. With the addition of the Bayshore Village Market Square, this can only cause further congestion.

According to Attachment G from the Department of Community Development, Robert Rentz, development review engineer, states the traffic report for this project was based on the growth derived from a 2004 traffic count report. This memorandum states the proposed project will generate 435 new net trips in the peak hour. It does not appear that this takes

1 into account the additional cars that will eventually
2 flow from Pritchett Road as a result of the U.S. Homes
3 development, so therefore I think this count is low.
4 But, regardless, the 435 new trips in the peak hours
5 for the corner of Bayshore and Wells Road is
6 significant and needs further review.
7 In conclusion, I just want you all to understand
8 Wells Road and the Sandy Pines Circle are a very
9 family-oriented neighborhood. Every day you see kids
10 riding bikes, scooters, skateboards, knowing they are
11 relatively safe due to limited traffic. Adults are
12 out walking for exercise and enjoying their
13 neighborhood. Others are out with their horses, using
14 equestrian trails that surround us.
15 I realize progress is inevitable, but we must
16 find a way to move forward, provide for our safety and
17 preserve the rural life that we have all moved to this
18 area for.
19 That's all I have.
20 THE HEARING EXAMINER: Thank you, ma'am.
21 MS. ALVAREZ: Hello. My name is Laura Alvarez.
22 I have been a resident at 1800 Lynn Road in North Fort
23 Myers for -- well, since 1975. I'm also president of
24 Concerned Citizens of Bayshore Community.
25 I have a few comments to read from other

residents that were unable to make this hearing.

I realize that this is the first hearing for this particular development, but every hearing that we've ever had about Bayshore developments have always been during work hours, so residents have a hard time getting here.

UNIDENTIFIED SPEAKER: I can't hear.

MS. ALVAREZ: I'm sorry.

I'll start with the letters from the other residents.

To whom it may concern. I would like to introduce myself. I am Patrick Walsh. I live at 18129 Sandy Pines Circle, at the end of Wells Road in North Fort Myers, Florida.

I would like to have the following concerns heard in front of the county hearing examiner representative.

Number one, traffic. The increased number of vehicles coming into Wells Road from Bayshore and the proposed Pritchett Parkway extension will put an exorbitant amount of vehicles at an intersection that is already difficult to negotiate. Making a right onto Bayshore is tough, but try to go left, especially in the a.m. You have a real challenge on your hands.

Number two, I am concerned about the proposed

elevation of the structures. There simply are no two-story buildings in the area and the drawing reminds me of the Keys, not rural Florida, namely, the Bayshore community where I chose to move to raise a family. I could have moved anywhere in the country -- excuse me, county, but I chose the Bayshore community.

Number three. I have a concern about the building being constructed and having the majority of the units sit empty like they are at shops at the Veranda.

Are you familiar where the Veranda is?

THE HEARING EXAMINER: Uh-huh.

MS. ALVAREZ: Almost every shopping center constructed in the county has empty units in them.

Finally, I would like to see the Bayshore area remain as a tranquil, rural part of Lee County that does not become a cookie-cutter community that loses its old Florida charm.

Thank you for letting my concerns be aired.

Sincerely, Pat Walsh.

THE HEARING EXAMINER: Can you hang on two seconds? I'm going to -- I've got to stop the tape here for a second, get the other one started.

Okay. Thank you, ma'am.

MS. ALVAREZ: This is another letter from another

resident that could not attend.

MR. UHLE: Before she goes on, I would just like to note these letters are hearsay.

MS. LEHNERT: How many are there?

MS. ALVAREZ: This is only the second one. And how are they hearsay if they contact these people?

THE HEARING EXAMINER: It's all right, it's all right. It's a formal objection. It's okay.

How many letters do you have?

MS. ALVAREZ: Just one more.

THE HEARING EXAMINER: Just one more?

MS. LEHNERT: I'm good.

THE HEARING EXAMINER: Okay. The county attorney's fading fast here.

MS. ALVAREZ: It's really hard on these residents when these hearings are held during work hours. I really wanted to put their input in.

THE HEARING EXAMINER: Right, right. And I understand that.

MS. ALVAREZ: Okay. This letter -- let me find the person because I have to state it first. Richard and Katherine Queen, 18178 Sandy Pines Circle, North Fort Myers, Florida.

I think they do introduce themselves. I apologize.

We would have liked to have been at the hearing but we could not get off work. We, Richard B. Queen and Katherine B. Queen, reside at 18178 Sandy Pines Circle, North Fort Myers. Would like to comment on the proposed plans for the Village Square on Bayshore.

First let me assure you that we are not opposed to commercial development on Bayshore as long as it fits in with the existing rural community. We are opposed to this particular development. The architectural drawings are very nice, but that design belongs on Sanibel. This is not a design for a commercial development in the middle of a rural community.

The development should be limited to one story. First, it will decrease the amount of square footage that they can have on the property. For the size of the property, 99,000 square foot is too much. That is almost the amount of the square footage that is at Daniels Crossing, which is approximately 112,000, and there is no way that that size development will work in the size of the property that is at the corner of Bayshore and Wells Road.

Second, a two-story commercial development will be obtrusive to the residents that are already existing and border this proposed development. We

1 access both entering and exiting for the development
2 should be -- excuse me. The access should be from
3 Bayshore, not from Wells Road. Wells Road is a small
4 road used for residential access. There will be
5 massive traffic congestion at that corner.
6 The type of businesses that are allowed should be
7 those that will not draw unwanted elements so close to
8 a residential community. There are many children that
9 live off Wells Road and they ride their bikes along
10 Wells Road. Their safety should be the first concern.
11 The developers need to go back to the drawing
12 board and redesign a development that works within a
13 rural residential community.
14 Thank you for your time.
15 THE HEARING EXAMINER: And that was from Mr. and
16 Mrs. Queen?
17 MS. ALVAREZ: That is correct.
18 THE HEARING EXAMINER: Okay.
19 MS. ALVAREZ: And that's all the letters I have
20 from the community.
21 Because so many other residents have already
22 presented the same concerns as mine and did such a
23 wonderful job, I think I'll just touch on one or two
24 things.
25 I have questions. Is that okay?

THE HEARING EXAMINER: That's fine.

MS. ALVAREZ: Okay. So I'll speak for myself now.

Please understand that while the needs of the nonresidents using the interstate need to be met at this general exchange for I-75, only the east side of I-75 falls within Bayshore community. We still have plenty of room to develop on the other side that is in the North Fort Myers community that doesn't have such a -- I don't think they even have a community plan yet, so it's not as restrictive as our side. So I'm concerned that we're trying to meet the needs of this intersection all on one piece of property, so we need to remember that there is other property to develop and those needs can be met.

Let's see. Most of what I wanted to say people have already said, so let me just ask the questions.

THE HEARING EXAMINER: You essentially agree with everything that's been said by the folks that spoke before you?

MS. ALVAREZ: Yes, very much so.

Oh, I did want to point out that the reference to the large community of U.S. Homes is still up in the air. They don't have their development order. And that makes it complicated for us as residents and the

developer to try to meet roads and have them match when we're not even sure that that development will be exactly as what they have planned, so it's difficult, and we understand that.

I would like to know if it's true that the current owner will not be the actual developer of this property, that it's actually being prepared for a sale. Is that true?

THE HEARING EXAMINER: Why don't you go ahead and ask the questions and then I'll have the applicant address everything at the end. That way we can keep all the responses at one time.

MS. ALVAREZ: Matt had mentioned that they addressed the water flow and that was an unusual thing to do. However, in Bayshore that is not unusual. We have very strange water flow that anyone developing there -- that's very common, that you have to take a very, very close look at that.

That actually wasn't a question. I apologize.

THE HEARING EXAMINER: That's okay.

MS. ALVAREZ: The sewer stub that was mentioned, it doesn't actually access the property yet, so when this development is built, who actually pays for that stub to come all the way to the property? Will it be the taxpayers or will it be the developer?

I was confused at what signs were mentioned for mowing. I didn't understand what signs -- people in Bayshore probably aren't going to mow anything that doesn't belong to them.

THE HEARING EXAMINER: My point was, though, if you don't have some kind of fence marking where your property ends and where your neighbor's property begins, after a while one of them can start moving, just being helpful and mowing over the line and mowing a little further over the line.

MS. ALVAREZ: Your residents up against this property have large pieces of property and I believe most of them have --

THE HEARING EXAMINER: Fences?

MS. ALVAREZ: -- livestock, so the fences are going to be there.

THE HEARING EXAMINER: All right.

MS. ALVAREZ: So I wasn't sure if the signs would be very rural-looking, depending on what they were.

I would like to know what the current zone for the property is directly east of this property. When we speak about a bridle path and trying to line up a bridle path, I want to make sure that if we -- I'm sure that we can be creative with this developer and come up with something, but then you've got to go one

more east before you get to the country store, which is the purpose of the path, so whatever that is zoned, I hope that we'll be able to take part in connecting that later, so I would like to know what that's zoned.

THE HEARING EXAMINER: My understanding is the little red box -- can you see the little red box? Okay, that's a vacated CPD. That means it was approved as a CPD, a commercial planned development, but because it didn't get its development orders and whatnot within the three-year time frame, the development plan has vacated. If they want to build it, now they've got to come back in and get it reapproved. But I think the piece around it is still zoned Ag.

MS. ALVAREZ: So we could work still and continue that bridle path. It's there now. It's just made by the residents. It's not really official.

By the way, it's abused by the ATVs. And if we're creative with the placement of shrubbery and trees, you can keep the ATVs out. Horses do not need a wide path.

I guess my final comment -- oh, you have an e-mail. I didn't realize my e-mail was submitted. So I went on to explain why that is a bridle path and how important it is.

THE HEARING EXAMINER: That's in the e-mail?

MS. ALVAREZ: Right.

THE HEARING EXAMINER: Okay. Good.

MS. ALVAREZ: I don't need to restate that.

THE HEARING EXAMINER: No, because I'll have it here, unless the applicant would like to hear the reasoning and the background for the location of the bridle path.

MS. LEHNERT: It was submitted as an exhibit.

THE HEARING EXAMINER: He has a copy?

MS. LEHNERT: Yes.

THE HEARING EXAMINER: Okay. All right. Good.

MS. ALVAREZ: My final question is about the -- something that Matt mentioned about restaurants.

I'm not sure where Matt eats, but I can't find anything open after 10, especially in North Fort Myers. And I know that everyone made a very, very valid point about the alcohol consumption, but I would just like to reiterate that having any alcohol consumption that close to I-75 is just very irresponsible.

THE HEARING EXAMINER: Okay.

MS. ALVAREZ: Now, do I wait here for the questions to be answered?

THE HEARING EXAMINER: No. What I'll do is take

1 everybody else's comments and questions and then the
2 applicant will get together with his crew. We'll take
3 a break. The applicant will get together with his
4 crew, they'll answer all the questions. Then we'll
5 come back and the applicant will then put on testimony
6 answering the questions that have come in, and what
7 they can't do, if staff can answer, they will chime
8 in.
9 MS. ALVAREZ: Okay.
10 THE HEARING EXAMINER: So we'll get everybody's
11 questions answered right at the very end. That way we
12 don't get confused and I can keep it all together so
13 when I have to read it again it makes sense.
14 MS. LEHNERT: Madam Hearing Examiner, the
15 likelihood of making it through this case today is
16 slim and none.
17 THE HEARING EXAMINER: We can go until 1:30. We
18 can go until 1:30.
19 MS. LEHNERT: You're going to make me fall over
20 in this room with no -- can I eat? I mean I'm already
21 literally -- my brain is floating around.
22 THE HEARING EXAMINER: We're going to take a
23 break as soon as we finish the public input and you
24 can eat in my office.
25 MS. LEHNERT: Are you going to buy me the food?

THE HEARING EXAMINER: There's a machine down the hallway here.

All right. Thank you.

How many other folks do I have that wish to speak? One, two and three counting you. Okay, that's good.

UNIDENTIFIED SPEAKER: I'll be fast.

THE HEARING EXAMINER: We'll finish up with the speakers. And as Ms. Alvarez did, if everyone has already made your point, stole your thunder, whatnot, you don't have to try to take it back. You can just let me know that you agree. And if you have any special points you want to make, you can make those on the record and that will shorten the time up so that the county attorney doesn't slide out of her chair here.

State your name, please.

MS. FORD: My name is Cheryl Sterbens Ford. I live at 18210 Sandy Pines Circle, and mainly I'm just talking today in case I have something real important that I want to say at the next hearing, so I agree with what everybody from the Bayshore community has said. My husband and I are members of the Bayshore community and we, too, are very grateful to live in that area. We specifically picked it because of its

1 atmosphere.

2 Oh, by the way, Ann Sylvester -- for the

3 attorney, Ann Sylvester is a respiratory therapist and

4 if she faints she can do CPR.

5 THE HEARING EXAMINER: Mouth to mouth?

6 MS. FORD: My first concern, as has been

7 mentioned, is for the Mushos as they look south from

8 their home that they'll see a two-story building

9 rather than the pine and the woodland that currently

10 is there.

11 I'm not an expert witness. I'm not an expert on

12 anything except being a mom and a grandmother and

13 picking this magical place for our family to live, but

14 I can -- I raised my hand and swore when we all swore

15 in, that in the area that we live there are gopher

16 tortoises; there are herons, rabbits, raccoons, eagles

17 and squirrels. And that's part of the reason that we

18 love the place. Within the last two years on no less

19 than five occasions my grandsons and I, as we were

20 driving down Wells Road -- the population density is

21 low enough now and we know one another so that if

22 there's a gopher tortoise crossing the road, we can

23 actually stop our car and put on the flashers and the

24 boys and I can get out and pick up the gopher tortoise

25 and carry him across Wells Road. And if you pick them

1 up to move them, they pee all over you, so it's a very
2 memorable experience.
3 There are gopher tortoises there, and they may
4 have just left for the winter.
5 MS. TREBATOSKI: I wasn't questioning the
6 presence of gopher tortoises.
7 MS. FORD: I know. I'm just saying I don't know
8 what their habits are because I'm not an
9 environmentalist, but maybe they do like the Yankees
10 and they just like leave for the winter -- leave for
11 the summer and come back for the winter, but they are
12 there because we pick them up and move them.
13 One of our -- I'm trying to create a picture for
14 those of you who don't live in the Bayshore community
15 because you heard a lot of statistics, and I wish I
16 had -- I wish I was more knowledgeable about the
17 statistics and I had exhibits to submit to the Madam
18 Examiner because I thought that sounded so smart. I
19 wish I could do all that. But we have a daughter that
20 lives off of Bayshore with two small children and we
21 talk a lot on our cell phones, and even though my
22 husband tells us not to, we talk sometimes when we're
23 driving. But he threatens her life if she is on the
24 cell phone when she exits 75 going north to go onto
25 Bayshore because the people who were driving 70 miles

1 an hour and more as they exit that 143 exit off of
2 Bayshore, and then the people who are driving east on
3 Bayshore who are doing 50, because the speed limit
4 there is 50 miles an hour, those two lanes merge into
5 one lane, and for us to get off of 75 into the
6 left-hand lane to turn onto Wells Road is like running
7 a gauntlet. You just have to pray as you get off,
8 Lord, help me to get into this lane without getting
9 run over. So you don't need to be talking on a cell
10 phone, attending to anything except getting to Wells
11 Road. Just getting into that lane is an effort and
12 then being able to turn onto Wells Road any time in
13 the morning between 6:00 and 8:00 or any time in the
14 evening between 4:00 and 7:00, we just have to sit
15 there and wait.
16 I know nothing at all about traffic engineering.
17 I don't know if there's room to put a traffic light, a
18 flashing light or whatever between the off ramp to 75
19 and our entry onto Wells Road, but right now it is,
20 it's really, it's difficult. I would even describe it
21 as dangerous. I don't know how many accidents have
22 been there, I have no record of fatalities, but I can
23 just tell you on a daily basis just as a resident it's
24 a very, very difficult access to get onto Wells Road
25 as you're coming off of 75.

1 Is there anybody here from Seminole Campground?
2 Well, that's good. I just want to tell these
3 people that are trying to put their little development
4 here, the Village Square, somebody mentioned a fence,
5 I think you asked about a security fence or something,
6 the only blight in our entire community is as you turn
7 onto Wells Road on both sides in the in the -- where
8 the water is.
9 THE HEARING EXAMINER: The swale area, the ditch?
10 MS. FORD: The ditches. Before you get to
11 Triplett, everything is covered with trash, garbage,
12 seats. When we first moved there over seven years
13 ago, I thought oh, this looks terrible, and I went out
14 there and picked it up. You know, every week I would
15 pick up all the trash and I thought that would be good
16 exercise. There's no point.
17 There's lots and lots of transients. It is not a
18 pretty sight back there. Somebody --
19 THE HEARING EXAMINER: I know where you're
20 talking about.
21 MS. FORD: I think it's in the records that maybe
22 something could be done about this because it is a sad
23 state of affairs.
24 It's not going to be a secure area for the people
25 in this. They're going to have to hire security

1 because that's not a good area at all. That's just a
2 friendly note to the people who are investing in this.
3 We mentioned a couple of times the wholesome
4 family atmosphere that has been used to describe our
5 area and then somebody made the fatal mistake of
6 referring to this new little village as downtown
7 Bayshore and everybody's hackles went up. We don't
8 want a downtown Bayshore, if I am allowed to say that.
9 Again, I would like to describe to you all what
10 it's like to live in this area. Lawhon's has been
11 there, the little general store that has been there
12 for probably 25 years. What it's like to live in this
13 community is if you lose your dog, if you want to sell
14 a horse, if you want to buy a truck, if you want to
15 buy bait, if you want to have biscuits and gravy for
16 breakfast before you go to work, you go to Lawhon's.
17 It's a general store. It's a community meeting place.
18 It's small. They probably could have made a lot more
19 money if they had made the store bigger. It has
20 concrete floors. It smells like a meat market and we
21 love it. That's why we're there, because it's a
22 general store and a community place where we can meet.
23 Recently Mr. Lawhon's grandson had a fatal
24 accident and died and Ann Sylvester administered CPR
25 to him. When we wanted to find out without going --

1 all of us converging on the family home, we went to
2 Lawhon's to find out the details of what had happened
3 to him and when the funeral would be and what we could
4 do to help. That's the kind of community we live in
5 and that's the kind of community that we'd like to
6 keep.
7 So I was just -- I just -- you know, I don't have
8 any statistics. I'm just trying to paint a picture
9 for you, what it's like there.
10 And so I'll make a list of the things that I am
11 against, and that is that the building being more --
12 I, too, realize that, you know, development is
13 inevitable, but if we can just work together and plan
14 it.
15 I am against the two-story architecture. And I
16 absolutely agree that 99,000 square feet is just -- I
17 mean the whole reason that we took off work today and
18 came is because we were just in shock that how could
19 anybody put, you know, a 99,000-square-feet commercial
20 facility on the corner of that road.
21 We absolutely don't want any consumption of
22 alcohol. I'm not being funny. Some of the people who
23 live in that area don't need more availability of
24 alcohol. And as difficult as it is now to get on and
25 off of Wells Road if you're stone cold sober and

1 focused attention, I can't imagine anybody leaving
2 anywhere after having two beers and trying to get in
3 and out of there without getting killed. So insurance
4 for that area might be really a problem, too.
5 Also, it's very important to us to maintain the
6 bridle path. It's important to the people in the
7 community. Some -- Mr. Musho suggested that Area A be
8 eliminated and Area B be shifted south, and I very
9 much agree with that.
10 And I very much appreciate your time and
11 listening to us and we really would like to work with
12 you. We would just like to -- we would like changes
13 to be made.
14 Thank you.
15 THE HEARING EXAMINER: Okay. Thank you, ma'am.
16 Okay. Mr. Ford, did you wish to speak?
17 MR. FORD: You knew my name.
18 THE HEARING EXAMINER: Well, I figured the two of
19 you came in together, you were sitting right there
20 close together. I was hoping you were together
21 because otherwise start rumors here. I've done it
22 before. I mean not intending to, of course, but, you
23 know.
24 MR. FORD: I appreciate the camaraderie at this
25 meeting.

1 MR. FORD: I have notes. I'm just going to do
2 away with these and tell you my name is Larry Ford. I
3 am a resident with that lady there at 18210 Sandy
4 Pines Circle, which is about 5,000 feet north of the
5 Bayshore intersection with Wells Road.
6 Seven years ago we moved out of downtown Dodge
7 City and moved there so that we could find quiet and
8 the ambience that was there, the trees, the families,
9 the communities, and we were very grateful for that.
10 There has continually been difficulty with the
11 traffic flow there. And since Bayshore has been under
12 construction to make four lanes available to us from
13 41 all the way down to the interstate, it has even
14 provided more of a difficulty.
15 But as I see it and what I wanted to address here
16 today more than anything else was the safety because
17 I'm sure my wife has addressed all of the remaining
18 aspects of my grievances.
19 Like it has already been stated by those who have
20 done their homework previous to my statements, and
21 they have done a very good job of them, anyone who
22 travels those roads knows that when you reach the
23 two-lane section which begins immediately at Wells
24 Road, you have reached the bottleneck that presents
25 all the difficulties. Even remotely contemplating

putting a development at that corner without further improvement of our roads on Bayshore would be ludicrous at best because those places just don't provide good safety even now. Adding to the traffic load through businesses and whatever other parts are added to this will bring it to an even worse conclusion than we have today.

If we're using the template at Six Mile Cypress and Daniels Road as the size and scope of something that's going to be put there, I would like for us to take note here today that all the traffic lanes combined there amount to about 16 lanes in every direction. We have only two at Wells Road and two at Bayshore.

Please let's not do it like we have done previously and send this up as a recommendation for approval and find ourselves closing the gate after the cow has already gotten out of the barn proverbially.

THE HEARING EXAMINER: Thank you, sir.

MS. LEHNERT: She hasn't been sworn.

THE HEARING EXAMINER: Have you been sworn in?

MS. JACKOW: No.

THE HEARING EXAMINER: All right. Go to the podium and I'll swear you in.

(Ms. Jackow was placed under oath.)

THE HEARING EXAMINER: State your name, please.

MS. JACKOW: My name is Debbie Jackow. I live at 19450 Meredith Road in North Fort Myers, and I have lived out there for 30 years in the exact same spot.

I could talk on and on but I can't follow up all of my neighbors who did such a wonderful job, so I'm not even going to try. But being out there for as many years as I have, Bayshore Road is a disaster. It is so congested at the peak hours of the day. And they do have a lot of truck traffic, which is not addressed.

I am a medical professional. I work at a hospital. I need to get out when I need to get out in an emergency situation. I would not be able to with the traffic the way this is going to be.

If you go from Nalle Road, you have Nalle Road, you go up a little bit towards this project, there's a cement driveway that I guess was for this other CPD which never went in. Then if they get their entrance off of Bayshore Road you have another driveway. Then you have Wells Road. Then you still have, presently have Pritchett Parkway and you have I-75. Now, you have all of that in a half a mile distance on the same side of the road. And if Stonybrook gets put in at this 1,275, there's no way in the world you could have

1 this amount of traffic on Wells Road with this
2 development, with Stonybrook and these people and
3 their roads, that the way they are constructed now is
4 just an impossibility.
5 I'm also against the alcohol consumption and the
6 hours. Staying open later for alcohol consumption is
7 even worse because we're the first exit in North Fort
8 Myers coming off of I-75, and you don't want people
9 getting looped over there and then going out on I-75
10 or on Bayshore, which is a dangerous road, and causing
11 even more accidents than we already have.
12 Bayshore, if you have never been out there - and
13 I have lived there for 30 years and have no plans to
14 move - is a beautiful, rural, peaceful, quiet place
15 that probably everybody in this county wished they
16 could live in. And it's getting -- these type of
17 communities are smaller and smaller because everybody
18 considers it progress to build it up. I don't
19 consider it progress to build it up. I consider
20 progress to leave it as it is because it's one of the
21 few communities that are left this way in addition to
22 Alva and Buckingham, which is getting chipped away.
23 We have a right to have a rural community in this
24 county. We have a right to have large animals. We
25 have a right to have acreage. We have a right to all

these things that people look at us and they say oh, let's go up to Bayshore and let's chip away, let's develop, develop, develop. And, no, that is not progress to us. Progress to us is to let us live the lifestyle that we moved out there and bought our property out there and let us live the lifestyle that we want. That is not progress to develop it to us.

I stopped numerous times -- after the tortoise story I thought I might add my little tortoise story. Numerous times I have stopped on Bayshore Road with a stick shift car and actually had to drive with it under my arm, with these tortoises, and I won't go into the peeing aspect, but they also have extraordinary nails, which I still have the scars from, and trying to drive a stick shift car and get these tortoises to safety. And I have done it numerous times. And there are -- there's an unbelievable wildlife community out there that we are trying to protect.

The alcohol consumption, that's a no. This definitely is against our community character. The noise, the lights, the traffic, the hundred thousand square foot building, no. Two-story, no.

I think that they should all be one development. You shouldn't have two in the front that we don't know

what the heck is going to go in there and then you put this in the back.

I think that the Mushos should have more of a buffer. If it was me, I would want 150 feet of preserve back there because you have to go according to what -- how much land all these people next to them have. I mean the 75 feet, that sounds like a lot to somebody who lives in town, but when you live out in the country, that's nothing. So if I were them, I would go for a 150-foot buffer alone because that 150 feet that's presently on that map also includes the service area for the trucks, which is going to be noisy, so 75 feet and a wall is not going to do much to reduce the area and the noise.

My last concern is the water. Now, I know that they have to do -- that has some stringent restrictions on how this water can run off, but you have to understand that how it presently goes, it goes into Popash Creek, which is impaired, which goes under Bayshore Road into the Caloosahatchee, which is impaired. So right now all these bodies of water around us are impaired, and this cannot also add to that impairment. This needs to be cleaned up according to, I don't know, the federal government, the state government. It has to be cleaned up. But

we cannot add any more pollution into these creeks. And this is -- right now this is the way that the water does flow.

So I would suggest that you reject this project as it is now proposed and I appreciate you listening to me.

Thank you.

THE HEARING EXAMINER: Thank you, ma'am.

Okay. Do I have anyone else from the public who wishes to speak who has not spoken?

All right. Now, folks, I will warn you that if you thought of something between -- in listening to some of the others, you need to bring it up now because once the applicant and staff respond to the questions and some of the issues that were raised, there will be no additional public input. All right? So anything that you want to say at that point then has to go -- Laura -- has to go to the board.

MS. ALVAREZ: I forgot something.

THE HEARING EXAMINER: Please state your name again for the record.

MS. ALVAREZ: Laura Alvarez, 1800 Lynn Road. Excuse me. 18900. I don't know where I live.

I forgot to mention that the sign, the very small zoning sign shoved back in the bushes was not up for

1 30 days. How long -- I couldn't remember how long it
2 had to be up. It was not up for 30 days, so some of
3 our residents were aware at the very last minute and
4 that's why they couldn't make it, because they
5 couldn't get time off work.
6 THE HEARING EXAMINER: I'll find out from staff
7 and whatnot to do about that.
8 Thank you, ma'am.
9 Folks, let's take a ten-minute break, let the
10 applicant get together with his experts and whatnot,
11 get answers and responses to some of your questions
12 and concerns and then we'll close the hearing. But we
13 must be out of here by 1:30 because I'm already
14 working into the one o'clock hearing time, and I can
15 do that for half an hour and then we must be out.
16 Okay. Ten minutes, please, on the nose. One
17 o'clock.
18 (Whereupon, the proceedings were recessed.)
19 THE HEARING EXAMINER: Last chance for anyone
20 from the public to speak who has not spoken because
21 I'm going to open it up then to the applicant and
22 staff for responses to your questions and responses to
23 any issues that you might have raised that they feel
24 they need to discuss.
25 Okay. Matt?

1 MR. UHLE: I'm going to call two brief rebuttal
2 witnesses and then I have a closing.
3 THE HEARING EXAMINER: Okay.
4 MR. UHLE: First rebuttal witness is Rob Price.
5 MR. PRICE: Robert Price for the record.
6 EXAMINATION
7 BY MR. UHLE:
8 Q. Rob, did you hear Mr. Shepard's testimony
9 regarding the traffic impact statement and specifically
10 his questions about the methodology that went into it?
11 A. Yeah, I sure did. He's referring to the
12 intersection analysis that we performed.
13 Basically when you perform an intersection
14 analysis you input the hourly volumes that you will
15 experience at the intersection and then the program
16 actually picks out the peak 15 minute and it does the
17 calculation to determine the capacity based on the peak 15
18 minute. It's an accepted standard throughout the country.
19 It's how you calculate capacity at intersections. It's
20 based on the peak 15 minutes.
21 THE HEARING EXAMINER: Let me clarify something
22 here. When you say when you -- are you talking about
23 when you input? Where are you getting the numbers to
24 input? Is that where you get the traffic count, from
25 the county or from the state, whichever it happens to

be, or do you sit there and click it yourself?

MR. PRICE: Sometimes you do your own traffic count. Sometimes the organizations from the county can supply you with counts.

In this instance, since the future traffic is so unknown at this point with the U.S. Homes development and this development and Wells Road, we will be doing an extensive analysis. Since the gentleman did mention we did the traffic study for U.S. Homes as well, we will be doing an extensive analysis if and when that roadway ever does connect to Wells Road.

But, yes, you input hourly volumes, peak hour hourly volumes into the software. The software calculates capacity based on the peak 15 minutes.

THE HEARING EXAMINER: Okay.

BY MR. UHLE:

Q. Rob, there was also a question about heavy vehicles. Do you recall that? Please respond to it.

A. I do recall that, and we should have addressed the heavy vehicles. We probably should have put heavy vehicles in there, but in my professional opinion it wouldn't have changed the conclusions that we came up with at the intersection. And at the development order stage we can definitely address the heavy vehicle adjustment in the intersection analysis.

1 Q. Let's assume for purposes of argument that the
2 interconnection is made between Leetana and Wells Road for
3 the benefit of the U.S. Home project. In your opinion is
4 Wells -- is the intersection of Wells Road and Bayshore
5 under that circumstance likely to meet the warrants for a
6 traffic signal?
7 A. I would say yes, it is likely to meet the
8 warrants. However, it's much more difficult to get a
9 traffic signal approved by FDOT, so FDOT actually
10 physically has to see the traffic congestion on the roads
11 before they will approve the construction of a traffic
12 signal.
13 Q. If that permitting actually takes place, will
14 U.S. Home be required to provide mitigation for the
15 impacts of their project on Wells Road and on the Wells
16 Road/Bayshore Road intersection?
17 A. Yes. They will have to address the impacts of
18 not only their development, but the current traffic on
19 Wells Road, this development and other developments if
20 they were to permit that extension of Pritchett Parkway.
21 MR. UHLE: No further questions of this witness.
22 THE HEARING EXAMINER: Anything from staff or
23 county attorney?
24 MS. LEHNERT: No, ma'am.
25 THE HEARING EXAMINER: Rob, thank you.

1 MR. UHLE: Next witness is Mike Roeder.

2 EXAMINATION

3 BY MR. UHLE:

4 Q. Mike, I just have one question for you. In your
5 professional experience is it unusual to have restaurants
6 with consumption on premises in I-75 interchanges?

7 A. It's not unusual. I would say that typically you
8 find more fast food and casual restaurants, and that kind
9 of goes to the tension and the conflict between the
10 county's interchange designation and the Bayshore's vision
11 and what they want. And that's why I believe that this
12 type of restaurant that would have COP, which would be a
13 higher scale restaurant, is responding to that. We're not
14 going to have the fast food, traveling type of place.
15 We're going to have a nicer place. And that kind of goes
16 down to that -- my downtown reference, and I should have
17 put that in quotes. It was in my mind. But the whole
18 point of that is of all the places in Bayshore, this
19 interchange and the area between that and Nalle Road is
20 where 90 percent of the commercial activity for this whole
21 area is going to occur, so you're going to see more
22 development there, and that is the logic of the county
23 plan and the Bayshore plan. And so to have a nicer
24 restaurant with a COP would be very consistent with that
25 concept.

1 Q. Is that use consistent with the general
2 interchange category?
3 A. Yes, it is.
4 MR. UHLE: No further questions.
5 THE HEARING EXAMINER: Anything, staff?
6 MS. LEHNERT: No.
7 THE HEARING EXAMINER: County attorney?
8 Thank you, Mike.
9 MR. UHLE: Let me begin my closing by explaining
10 what it is in light of the public input that we can
11 agree to as concessions over and above what we have
12 previously offered.
13 First of all, my client has agreed, and I would
14 support this, although it's a dramatic change, that we
15 will drop the request for outdoor COP by right.
16 That's a major concession. It does not mean that we
17 agree with the hours of operation that have been
18 proposed for indoor consumption. That is still a
19 problem.
20 UNIDENTIFIED SPEAKER: Audio, please.
21 THE HEARING EXAMINER: Okay. So you still want
22 to have the longer hours for indoor consumption?
23 MR. UHLE: Yes. We will give up the outdoor
24 consumption.
25 On a couple of the uses, the issue about the

1 drugstore that came up and the 30,000 square feet, the
2 30,000 square feet clearly is excessive. My client is
3 willing to agree even in the out parcel areas that we
4 can limit that to the 3,000 square feet that's
5 identified for the multitenant building.
6 THE HEARING EXAMINER: Okay.
7 MR. UHLE: And with regard to the feed stores and
8 the farm equipment and that sort of thing, we were --
9 in our discussions with Tony before, we were actually
10 willing to give up those uses altogether. We didn't
11 change our list at the time, but we did indicate that
12 we would give up those uses. And so there were some
13 questions about square footage and display areas and
14 so on, and rather than deal with those, we're just
15 going to agree to withdraw those particular uses
16 completely from the schedule of uses.
17 We're also willing to reduce the square footage
18 of the buildings. We're willing to reduce the size of
19 the overall project to a maximum of 71,000 square
20 feet. Of that, 8,000 square feet would be
21 attributable to the out parcels and the remainder to
22 the main building.
23 THE HEARING EXAMINER: So that would be, that
24 would be 63,000, then, for the main, the main building
25 and 8,000 for the out parcels?

MR. UHLE: If this is helpful, the client has indicated that of the main building that it's contemplated that 45,000 square feet would be attributable to the first floor and a maximum of 18,000 square feet on the second floor.

Let me begin my closing by bringing us back to the question of what does the Lee Plan contemplate for this property.

We've heard a lot of testimony from the residents that it's a rural area, that the Bayshore plan contemplates rural uses and so on and so on. And I'm not saying that that isn't true, but you have to understand that this property is in the general interchange category. It's not in any of the other categories that are found within the Bayshore plan. The general interchange category permits and in fact requires uses that are not contemplated generally throughout the Bayshore plan, and Policy 20.1.1 acknowledges that. Bottom line is that this property is an exception to the general rules in the Bayshore plan.

Now, as Mike has indicated, I think, to some extent, those policies have to be read in connection with the rest of the Bayshore plan, and that's the reason that we tried to provide architecture that's

1 consistent with the area, large buffers, limited uses
2 and so on. But the fact of the matter is that this is
3 a different parcel and it has to be looked at
4 differently than the rest of the area.
5 Let's talk about traffic. I guess there are
6 about three different ways to look at traffic. The
7 way that Mr. Price analyzed the traffic was to assume
8 that there was no interconnection with Pritchett
9 Parkway because it doesn't exist, because it hasn't
10 been permitted, because mitigation for it hasn't been
11 identified, so it probably would have been
12 irresponsible for him to assume that all that would be
13 done and the county would have had a problem with it,
14 but it means that that is out there so that that's
15 something that needs to be considered, so there's sort
16 of the status quo issue.
17 Then the residents have raised a question of
18 whether the access on Bayshore will be permitted by
19 FDOT or not; and then, of course, the question what
20 happens with Pritchett Parkway.
21 Well, as the plan stands today, the analysis
22 indicates that there are no level of service problems,
23 and staff hasn't disputed that. And people can
24 complain about traffic as much as they like, but the
25 raw numbers don't support the conclusion that even

with this project, assuming that we don't have Pritchett Parkway and so on, there's no basis for a conclusion that there's a problem.

Now, let's assume that Pritchett Parkway does get interconnected. That does change things and there's no denying that that's the case. I think there is some irony in the fact that only becomes an issue if the U.S. Home project gets built. And as we know, the U.S. Home project is in litigation. And I suspect that some of the people complaining about this project probably are also members of the group who are fighting the U.S. Home project. But be that as it may, the U.S. Home project is not a done deal. We don't know if it will happen. We don't know if the interconnection will happen. We do know that if the interconnection happens that there will be substantial mitigation required of U.S. Home, and Rob has set out what that would be. And intuitively I suspect that that means that there will be a traffic light at the Wells Road/Bayshore Road intersection. And if that's the case, that would be a benefit to the residents. So, you know, there's some positive aspects to that. But, in any event, we don't have any control over that, but if it does happen, there will be mitigation.

Our project will also have to do its own

1 mitigation as a stand-alone. What that will be will
2 depend on what happens at the development order stage,
3 but that will have to be done. There's no question
4 about it. It's just premature to work on it at this
5 time.
6 With regards to the interconnection that we're
7 providing to Bayshore Road, obviously we don't have an
8 FDOT permit. It's too early in the process to be
9 doing that. We have coordinated with them. We have
10 no reason to believe we can't get that permit. And we
11 have done it in such a way as to provide the
12 possibility for a joint access, which is only
13 responsible.
14 We're 600 feet from the intersection. Based on
15 that, there just isn't any reason to believe that we
16 won't get that permit. But even if we didn't, I guess
17 the answer to the question what happens if we don't
18 get it, the people to the east of us are going to have
19 to have access and it's going to have to be on
20 Bayshore Road, so even if we didn't get that access
21 point, the likelihood is there would be an access
22 point approved to the east of us and we would be able
23 to tie in just as we're proposing to provide the
24 access and give them access on their property. So one
25 way or another, that access is going to happen.

With regard to the bridle path, the bridle path appears to be an existing use that is not within any kind of an easement. It's just there. People have been using it and the property owner apparently hasn't done anything to stop it or complain about it, but it's not any kind of legally authorized use as it exists today.

It's clear that the Bayshore plan does promote equestrian uses. My client is aware of that, has no objection to providing in some way for continuing access for horses through this property, but the hearing examiner has already noted some of the design problems with doing that. So basically our position on this is that we're willing to accept it, we don't object to it, but we're not going to plan it either. It's really between the people in the community who want this and the staff to try to figure out how they can make that work within the context of our project. We certainly don't plan to redesign the project to accommodate a use that isn't even authorized by an easement.

Concern has been raised about the size of this project. A complaint has been made that it is unprecedented. In a sense that's probably true. But that brings you back to the point that this is also

1 the only area in the Bayshore plan that's in the
2 interchange, so that's what's contemplated by the
3 plan. Nobody should be alarmed about that.
4 Having said that, we have agreed to reduce the
5 size of the project by nearly 30 percent, so that
6 should give some comfort to the residents.
7 It is also obviously a widespread concern about
8 the two stories. The two stories and 35 feet is
9 exactly the standard that you find basically
10 everywhere in the county. Anybody who wants to build
11 a house on Wells Road today has the right to build it
12 to two stories and 35 feet. All we're asking is to do
13 a project that's of the same maximum height as anybody
14 else.
15 In addition I would point out that we have a
16 buffer to our second story from not only in terms of
17 distance, but the mature trees on the north side of
18 the property provide substantial screening. I have to
19 believe that those trees are about 35 feet tall. I
20 don't know exactly how tall they are, but they're
21 definitely mature trees and they're probably in that
22 neighborhood.
23 The suggestion that we should be required to
24 reduce the square footage of this project to 30,000
25 square feet is a problem, obviously. There is no

1 requirement in the Bayshore plan that this property be
2 limited to a minor commercial development. That is
3 simply not there. And if you were to do -- be limited
4 to 30,000 square feet, that would mean slightly more
5 than 3,000 square feet per acre, which would be an
6 extremely low amount relative to other projects in the
7 county, and that's not acceptable.
8 I would like to point out in response to the
9 concerns expressed by the Musho family that there is
10 correspondence that's attached to the staff report
11 that lays out seven concerns and the hearing examiner
12 will note that we have agreed to do five of the seven
13 things that they asked us to do in that
14 correspondence. And by eliminating the outdoor COP, I
15 think we might have addressed the sixth one. So while
16 we didn't meet with them as such, we were aware of
17 their correspondence. One thing that I can tell you
18 that Tony is very good at is making sure
19 correspondence like that is filtered to the
20 applicants, so we knew what their concerns were and we
21 have been trying very hard in this process to address
22 their issues. And the fact that we made all these
23 changes to the north buffer and to this section and
24 did the drainage and this, that and the other thing I
25 think is very good evidence that not only were we

1 aware what was going on, but we tried very hard to
2 accommodate their legitimate concerns.
3 A concern was expressed about having
4 drive-throughs close to the northern property line.
5 The only reason to have a drive-through on the north
6 side would be in connection with the bank in the
7 multitenant facility, which is a reasonable
8 possibility. I don't think that that's an
9 unreasonable request. Obviously we don't have any
10 drive-throughs in connection with fast foods or a lot
11 of the other uses that one might attach to a
12 drive-through.
13 Concern has been expressed about nightclubs.
14 Nightclubs are not permitted in our schedule of uses
15 and were never requested.
16 Concern was expressed about noise and lights.
17 Obviously the principal method of protecting the
18 residents from noise is the buffer, the setback and
19 the location of the building relative to most of the
20 activity. We think that we provided a very
21 substantial buffer and that that should be enough.
22 With regard to lights, the hearing examiner is aware
23 that the LDC has very substantial requirements
24 relative to lights which do not permit us to have
25 lights that spill over the property line, so that

would be addressed in the development order process.

With regard to the question of who will pay for the stub-out for the sewer, the answer is the developer will. The taxpayers do not pay for those kinds of things.

The argument was raised that it's common in North Fort Myers to consider surface water management in zoning plans. It's certainly more common in North Fort Myers than it is in some other places, but I wouldn't say that it's common. It happens on certain parcels that have flow ways. Nobody said that this property was a flow way, but we made a special effort to accommodate the flow from the north because that was one of the concerns expressed by the residents and so we did.

I think that addresses concerns that I heard that require responses. Obviously if the hearing examiner has follow-up questions we can have our experts answer them. But our bottom line is that we have made a lot of efforts to try to make this project compatible with the area, but it has to be recognized as a special case in light of its land use category. Money that was invested in this property was done so on the basis of the land use category. People need to be able to look at the Lee Plan and say this is an area that the

Lee Plan wants intense commercial uses in. They ought to be able to put them there.

THE HEARING EXAMINER: Matt, did I miss the statement -- I think Laura had asked if the owner was going to be the developer. Did I --

MR. HOUSTON: Well, we are intending to. Yes, we are the owner.

MS. LEHNERT: He's not sworn. We don't know who he is.

MR. UHLE: You need to come up here and answer.

MR. HOUSTON: My name is Maynard Houston. I live at 9250 Sedgefield in North Fort Myers. I'm a general manager, more or less the managing member of the LLC. I have two other partners in Maryland.

We intend to bring in a developer as a construction manager but not a developer in the terms that everybody knows a developer. We are not turning it over to a developer. We entered into this property with the sole intent and purpose of doing something for this community as an investment. My two investors from -- in Maryland are putting their interests as well as I probably will do into a family trust. And so we don't have any intention -- and it's always been talked about this flipping, and that's one word I will not listen to. We didn't do this on this intention.

1 As Matt said, it's considerable money in it right now.
2 THE HEARING EXAMINER: Okay. Thank you.
3 Now, let me ask you a question. Were you sworn
4 in earlier?
5 MR. HOUSTON: No, I was not.
6 THE HEARING EXAMINER: Raise your right hand.
7 Do you solemnly swear or affirm that the sworn
8 testimony you just gave was the truth?
9 MR. HOUSTON: Yes.
10 THE HEARING EXAMINER: That will do it.
11 MR. HOUSTON: Does that solve that?
12 THE HEARING EXAMINER: That solves it.
13 MR. HOUSTON: We're really committed. He has
14 done a marvelous job. We asked Matt to do this and I
15 really appreciate it and all the consultants.
16 We weren't able to meet with the community. That
17 bothered me a great deal.
18 THE HEARING EXAMINER: You may still have a
19 chance.
20 MR. HOUSTON: Well, I meant -- I have done that
21 all my life and I want to be a part of that and make
22 it a part. And it will not be something that will
23 ever be -- I'm not proud of.
24 THE HEARING EXAMINER: You all know who to
25 contact.

1 MR. UHLE: My last comment would be that in all
2 the public input I only heard two complaints about the
3 appearance of the rendering, so obviously this is up
4 to the hearing examiner, but I personally don't think
5 that's enough of a basis to tell us we should build
6 some other building.
7 THE HEARING EXAMINER: I think it should go
8 Mediterranean. Why not? Everything in the south is
9 Mediterranean.
10 Staff have any comments they would like to make
11 before we close the record?
12 MR. PALERMO: No, thank you. That's fine.
13 MS. LEHNERT: Thank you.
14 THE HEARING EXAMINER: All right. Folks, in case
15 you're not aware, I do go out and do site visits. I
16 will drive around the area. I will visit your homes.
17 I will probably look at the property up there where
18 the U.S. Home's project is going. I try to get a feel
19 for the area before I make a recommendation to the
20 Board of County Commissioners so that I can see what
21 your concerns are and try to address them if at all
22 possible.
23 Okay. I'm going to have this transcribed.
24 Because of the length of the hearing, it will be
25 transcribed. The decision in this case, my

recommendation in this case, because this is already toward the end of May, probably will not come out until sometime the end of June, the first part of July, which means it will not go before the Board of County Commissioners until sometime in August because they take the whole month of July off.

MS. LEHNERT: Or September. If it comes out the end of -- if it comes out the end of July or middle of July, it won't be until September. It's about six weeks.

THE HEARING EXAMINER: It may take four to six weeks after it comes out. It's according to how backed up they are. But look for something from me by the end of June, first couple weeks in July unless I get totally backed up. All right?

All right. Thank you all for coming.

This hearing is closed.

(The proceedings were concluded at 1:28 p.m.)

STATE OF FLORIDA)

COUNTY OF LEE)

I, Janet K. North, RPR, do certify that I was authorized to and did stenographically report the foregoing proceedings and that the typewritten transcript, consisting of pages numbered 1 through 179, is a true record.

Dated this 9th day of June, 2006.

Janet K. North

Janet K. North, RPR

12/13/2023
RE: Bayshore Village CPD Rezoning Request
DCI2022-00032
Lee County Hearing Examiner,

The current zoning for Bayshore Village, as approved by the BOCC on 8/21/2006 (DCI2005-00100), represents a compromise that allows more than sufficient development rights for the property, and should not be changed. Therefore we oppose the current rezoning request. Please note the following.

1. The Bayshore Community Plan was written (with the help of a hired planner) by the Bayshore Steering Committed and approved unanimously by the BOCC on 1/9/2003. The Bayshore Plan Goal, which has remained unchanged, states:

"GOAL 18: BAYSHORE COMMUNITY PLAN. Protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, and exclude incompatible uses that are destructive to the character of this rural residential environment."

In the staff report for the original Bayshore Plan, under "Basis and Recommended finding of fact" staff stated:
"The Bayshore planning effort originated as a grass-roots effort by citizens of the Bayshore area who took an active interest in the County's current policies regarding land use issues in their community. The proposed amendments have been driven by the interests of the community."

As reported by the News Press at the time, the Bayshore Steering Committee held a public meeting at the Civic Center to review the proposed Bayshore Plan. The News Press reported "...the proposal met with nearly unanimous agreement from the crowd numbering more than 400,..." I attended that meeting. The only dissent was from a few attendees who felt the plan wasn't strong enough to protect the rural lifestyle.

The higher intensity commercial development proposed is inconsistent with the Bayshore Plan Goal.

2. When the current zoning was considered in 2006, the applicant had requested 99,999 sq. ft. of commercial space and 2 story 35' high buildings. The zoning request was reduced to 61,000 sq. ft. of commercial space and 1 story 25' buildings because the county determined that was the most intensive use for the site consistent with the Bayshore Plan. As already stated, the Bayshore Plan Goal has not changed.

In the analysis section of the 9/26/2023 staff report for this application, staff provides a table showing the intensity of other developments in the General Interchange land use category within Lee County. Staff states:

"According to these figures, the average concentration of intensity in the General Interchange Future Land Use category is 8,579 square feet per acre, while the average hotel unit concentration is approximately 5 units per acre."

Staff also notes the requested intensity for Bayshore Village is:

"A concentration of 125,000 (or 137,500) square feet on 8.75 acres is 14,285 (or 15,714) square feet per acre and 14.29 hotel units per acre."

DCI2022-00032

EXHIBIT# 1
Steven Brodkin

The existing permitted 61,000 sq. ft. of commercial space results in 6,971 sq. ft. per acre, which is a greater intensity than 3 of the 8 developments within the General Interchange table provided by staff. This is slightly under average which is appropriate considering consistency the Bayshore Plan. The applicant also requests hotel rooms at an intensity almost triple the average as compared with the other developments in the table.

The applicant is requesting the most intense use of General Interchange land in the County by far. It would be more than 50% more intense than the most intense General Interchange development in the County. The current zoning provides ample development rights to the applicant, being considered the maximum intensity by staff in 2006, to be consistent with the Bayshore Plan. Therefore the new rezoning application should be denied.

3. In the 2005 zoning application (DCI2005-00100) the applicant's traffic analysis showed the section of Bayshore Road from Wells Rd. to I-75 going from a LOS "C" to a LOS "D" by 2010 (after completion of the development). This analysis was done more than 18 years age. The MPO defines LOS "D" as "traffic congestion, reduced travel speeds and severely restricted maneuverability; two-lane roads have an unstable flow and passing is difficult; turning vehicles and distractions cause shock waves in the traffic stream".

Anyone in the area can tell you how much worse the traffic has become on Bayshore Road in the last 2 years without Bayshore Village. Babcock is developing and hundreds of homes are currently under construction along Bayshore Road (Bayshore Ranch and Stonehill Manor, not to mention Brightwater). The traffic analysis provided by the current applicant for Bayshore Village, which underestimates the background traffic, admits to a LOS "F" in the near future for Bayshore Road in the Wells Road area. Residents will tell you the roads are failing already. It's already become much more difficult to make a right turn out of Wells Road at certain times of the day, and dangerous and nearly impossible to make a left turn out of Wells Road.

FDOT's PD&E study for SR-78 (Bayshore Road) is only in the study phase and not yet funded in the 5-year Adopted Work Program. By the time the final approved alignment, funding, right-of-way acquisition, design and construction is complete, it will be way past the 2028 projections being considered in the applicant's traffic study. Meanwhile the safety and welfare of the community, as well as th quality of life in the community, will be heavily impacted.

Note the Lee Plan policies below:

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

POLICY 2.2.3: When an area within the County is approaching the capacity of the necessary facilities as described above, requested rezonings to increase densities and intensities may be deferred or denied to give preference to existing vacant lots and other valid development approvals, provided that a constitutionally mandated reasonable use of land would still be permitted.

Rezoning to a greater commercial intensity will have significant negative impacts to the health, safety, and welfare of the community. We already know the road network is failing or approaching failing, and our fire chief has expressed concerns regarding fire and EMS services which are hampered by increasing excess traffic. How is the community's health, safety, and welfare served by increasingly overburdened roads and the greater danger created? As already stated, the widening of Bayshore Road by the state is early in the process and many years off. The applicant told us in a public meeting that they hope to be building within 2 years.

Objective 1.3 states, in part:

"OBJECTIVE 1.3: INTERSTATE HIGHWAY INTERCHANGE AREAS. Special areas adjacent to the interchanges of Interstate 75 that maximize critical access points will be designated on the Future Land Use Map. Development in these areas must minimize adverse traffic impacts and provide appropriate buffers, visual amenities, and safety measures."

The rezoning of Bayshore Village will significantly increase adverse traffic impacts, increase the safety hazard at Bayshore Road and Wells Road, and be detrimental to the health, safety and welfare of the community. The application should be denied considering the policies and Objective above, and since the current zoning provides that a "...constitutionally mandated reasonable use of the land would still be permitted.".

4. The applicant claims "The proposed site plan will provide buffers comparable to the currently approved MCP..." The comparison shows there is no equivalence. They're asking to more than double the intensity, increase the building height from 25' to 48', and eliminate the buffer wall. Consider Lee Plan policies 5.1.5 and 135.9.5:

"POLICY 5.1.5: Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in the LDC, Chapter 10, are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a Planned Development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The LDC will continue to require appropriate buffers for new developments."

"POLICY 135.9.5: New development adjacent to areas of established residential neighborhoods must be compatible with or improve the area's existing character."

When the current zoning was approved in 2006 the staff report stated:

"Commercial developments-including this one-will have a significant impact on this rural community, especially to the north on Wells Road. For this reason, the applicant has proposed a reasonable schedule of uses, limited height, buffers, and separation requirements. Special care has been taken to protect the property to the north, utilizing enhanced separation, required buffering preserve areas, berms and walls."
"Staff also recommends any wall buffering the northern property line extend across the entire property line. The proposed MCP shows the wall terminating near the dry detention area. The extension of the wall will provide a better visual barrier and will help buffer any noise or nuisance from the property to the north. (see condition 11)."

Conditions such as the 8' wall (it should be higher), the 75' preserve, building setbacks from the northern property line, building height, and the schedule of uses (as conditioned in the 2006 resolution) need to be maintained in order to be consistent with the policies above and the Bayshore Plan Goal.

5. The applicant claims in their application that: "The proposed 125,000 sq. ft. of commercial will help alleviate the currently stressed Bayshore corridor by removing some of the traffic that must travel further west on Bayshore Road, beyond I-75 to reach specific commercial uses at further distances." and in their supplemental submission: "Site will meet the needs of the traveling public to and from Babcock Ranch along with I-75. As well as the forecasted population increase within the Bayshore planning Community,"

However Babcock was designed to be self sufficient, providing all of the commercial uses needed by residents in Babcock and the surrounding area. The General Interchange zone is meant primarily to serve the traveling public, and there is ample commercial space, both developed and not yet developed, to serve that need. We currently have 3 Publix supermarkets within 5 miles of Bayshore (along with associated stores), 400,000 sq. ft. of commercial space entitled on Greenwell's SR 31 property, increasing commercial space nearby at Babcock, plus additional commercial space available within and immediately west of the I-75 interchange in the Suburban land use category.

Bayshore residents recognize that they may have to travel a little further for services in order to maintain the rural lifestyle and nature of the community, and there is more that sufficient commercial space available nearby to serve the community.

6. The expanded table of uses, and lack of specificity in the master concept plan, concerns residents with regard to what might be permitted there. Neighbors have concerns about increasing traffic (and access onto Bayshore Road), noise, overflow lighting, odors from dumpsters, and transient travelers who could commit crimes and bet back on the interstate. Increasing the commercial intensity will exacerbate these problems. In the staff report for the 2006 rezoning, staff reduced the schedule of uses from what was originally proposed to eliminate "uses deleterious to the rural residential uses on Wells Rd.". The schedule of uses should not now be expanded. Also note that policy 18.1.3 prohibits new industrial uses in the Bayshore Community.

"POLICY 18.1.3: No new industrial uses or industrial rezonings are permitted after February 3, 2003."

7. About 250 local residents have signed a petition opposing the rezoning (attached). Note that some residents signed the petition in person and some signed online.

In summary, in the 2006 zoning the county reduced the commercial square footage from the applicant's original request and added conditions in order to help reduce impacts to the community and be consistent with the Lee Plan and Bayshore Plan. The current application completely erodes the compromise measures meant to reduce the impacts, and will be detrimental to the health, safety, and welfare of the community.

If approved, the new entitlement would result in the following:

- The commercial floor space has been more than doubled.
- The required buffer wall has been removed.
- The building setback has been severely reduced from the northern property line. In 2006 a 150 foot setback was required.
- They're asking for almost double the building height, from 25' to 48'.
- They've expanded the schedule of uses, which was reduced in 2006 in order to be less disruptive to the community. A gas station would potentially endanger the nearby county well, and create higher traffic volumes than other uses.
- They've added light industrial uses, which are prohibited in the Bayshore Plan.
- The increase in commercial space will negatively impact the already overly congested traffic problem on Bayshore Road and make the intersection with Wells Road more dangerous. Consideration of the failing roadway condition and the resulting safety concerns have been totally ignored.
- The section of Bayshore Road by Wells Road is predicted to fail (LOS "F") in the near future even without the development, posing a safety issue for the community, including the school buses that serve children in the area.
- The applicant added a provision in the maximum intensity table stating: "Note: An increase of up to 10% may be allowed through an administrative amendment". This excludes the public from participating in the process, and is designed to sneak in additional intensity. The Bayshore Plan Goal states: "minimal commercial

activities". The applicant's plan represents maximum commercial activity, and would be by far the most intense General Interchange Zone development in the county.

Many residents of the Bayshore Community did not approve of the original zoning approved in 2006. However, it was seen as a compromise to allow commercial development in the interchange zone with a preserve and buffer wall to reduce impacts to the residential neighbors. Considering all of the factors, including the 2006 determination by the county that 61,000 sq, ft. of commercial space and a maximum 25' building height is the maximum intensity consistent with the Bayshore Plan, we ask that you recommend denial of the current application.

The application is inconsistent with Goal 18, Objective 1.3, and policies 2.2.1, 2.2.3, 5.1.5, 6.1.5, 18.1.3, and 135.9.5 of the Lee Plan. The property owner already has more than sufficient commercial entitlement approved for the site. Please include our comments in the record.

Respectfully,
Steve Brodkin
Vice President/Secretary
CCBC (Concerned Citizens of Bayshore Community, Inc.)

WPL

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September 12, 2023

By email and Regular U.S. Mail

Adam D. Mendez, Senior Planner
Lee County Department of Community Development
1500 Monroe St.
Fort Myers, FL 33901
AMendez@leegov.com

Subject: Substantive Objection to Bayshore Village (Planned Development Rezoning/Amendment Application) DCI# 2022-00032

Mr. Mendez,

This firm represents Michael and Lisa Musho, the property owners of 17350 Wells Road, who are aggrieved parties with respect to the proposed rezoning of 17300 Wells Rd. (the "Subject Property").[1] The Mushos respectfully request this objection and the enclosed engineering opinion be considered in the preparation of the staff report and included in the staff report as exhibits, and made a part of the hearing record at the hearing before the Hearing Examiner.

The Mushos are adjacent property owners who share a 600-foot property line with the Subject Property and the Mushos use their property for residential purposes and have done so for over 30 years.

The Subject Property is in the Bayshore Community Planning Area, Goal 18 of Future Land Use Element of the Lee Plan and in a General Interchange area, Policy 1.3.2 of the Future Land Use Element of the Lee Plan.

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[1] This filing and the submittal of the various documents, materials, and arguments herein as part of this objection is and is being made and provided while reserving the right to supplement this filing with additional arguments and additional materials once discovered and/or obtained. No rights, concerns, or objections of the Mushos concerning the rezoning are waived by anything stated herein or omitted here from, and the right to present, make and submit additional arguments and materials is specifically reserved.

EXHIBIT# 2
Zachary Lombardo

The Mushos have met with representatives of the Applicant, Light Bayshore Village, LLC, and Reeseretland Bayshore Village, LLC, and appreciate the modifications to the application made to date but continue to have serious concerns regarding this rezoning and therefore object, as stated herein.

The Mushos have reviewed the most recent submittal of July 10, 2023, and hereby object to the approval of the rezoning as filed due to:

1. ***The requested increase in intensity is inconsistent with the Lee Plan and should be denied (there is no pending companion comprehensive plan amendment).***

Currently, the Applicant is asking to increase the intensity from 61,000 to 125,000 square feet of commercial space with an additional 10% administrative increase, which is an effective increase to 137,500 square feet, or more than 225% more than what is currently permitted in the existing CPD, approved by Resolution Z-06-046, which is enclosed for reference.

The existing CPD for the Subject Property allows for 61,000 square feet of commercial use, which equates to 6,971.43 square feet per acre. The proposed increase, if approved, will equate to 14,285.71 square feet per acre (and 15,714 square feet per acre with the administrative increase). As noted by Lee County staff in the initial insufficiency letter dated July 25, 2022, the typical non-residential development in Lee County is 10,000 square feet per acre.

A review of the approved CPDs in the Interstate Highway Interchange Area, General Interchange area, at I-75 and Bayshore Road shows the requested increase in intensity/square footage, if approved, would be **more than double that of the commercial intensity of all of the CPDs in the same General Interchange area, before the administrative increase,** see Figure 1 below.

CPDs in the General Interchange Area

CPD	SQ FT/Acre	CPD	SQ FT/Acre
Current zoning for Subject Property	6,971.43	Proposed zoning for Subject Property	14,285.71
Bayshore I-75 CPD	5,060.33	Proposed zoning for Subject Property w/ admin. approval	15,714
North River Plaza CPD	6,250		

Figure 1

In addition, the requested increase in intensity/square footage, if approved, would be **more than 1.5 times the commercial intensity than the most commercially**

intense CPD in the Bayshore Community Planning Area, before the administrative increase, and 5 times the commercial intensity of the least commercially intense CPD, before the administrative increase, see Figure 2 below.

CPDs in the Bayshore Community

CPD	SQ FT/Acre	CPD	SQ FT/Acre
Current zoning for Subject Property	6,971.43	Proposed zoning for Subject Property	14,285.71
SPC Interchange Store CPD	2,462.06	Proposed zoning for Subject Property w/ admin. Approval	15,714
W&W Service Park CPD	6,741		
Ed & Kathie Ramsey CPD	8,474.57		
McPherson CPD (Carter-Pritchett Advtg)	No Commercial other than storage (billboard and storage only)		
Pritchett III CPD (Carter-Pritchett Advtg)	No Commercial other than storage (billboard and storage only)		

Figure 2

This requested increase is a request to increase the intensity of commercial development to an extent greater than any other development in either the General Interchange area or the Bayshore Community Planning Area.

This substantial increase of intensity is inconsistent with the Lee Plan for the following reasons:

A. This more than doubling of intensity is inconsistent with the Bayshore Community Plan segment of the Lee Plan

This proposed project is located within the Bayshore Community Planning Area.

The goal of the Bayshore Community Plan is to: "Protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities ***and minimal commercial activities, and exclude incompatible uses that are destructive to the character of this rural residential environment***." Lee Plan, FLUE Goal 18 (emphasis added).

A plain reading of the above goal makes it clear commercial activities are to be minimal and should not tend to destroy the character of the rural residential environment. At a minimum test, any commercial intensity greater than the typical intensity in the County as a whole, is not minimal. And, as shown in the above tables, intensity greater than all surrounding CPDs, even those not in the Bayshore Community is not minimal. The impact of this intensity will be destructive to the character of the rural residential environment.

The Bayshore Community Plan identifies and designates an Interstate Interchange District area within the Bayshore Community Planning Area. In Policy 18.1.1. of the Future Land Use Element, it is specified that retail commercial uses are to be limited to the Interstate Interchange District. The Subject Property's location within an Interstate Interchange District does not exempt it from the noted limitations in the Bayshore Community Plan. The reference to retail commercial uses does not expand the ability for "minimal commercial activities. Instead, like all other developments located within the Bayshore Community Planning Area, the plan must be followed. For reference, the currently allowed 61,000 square feet was found in the resolution approving the current CPD to meet the Lee Plan. The zoning request at the time, however, was for 99,000 square feet of commercial. That request was properly denied at the time and only 61,000 square feet was approved as being consistent with the Lee Plan. Because the Lee Plan has not changed and the existing adjacent uses have not changed, more than 61,000 square feet cannot be approved now.

Additionally, the Applicant has cited to the CPD to the East, W&W Service Park. This CPD is also in the Bayshore Community Planning Area, as noted in Figure 2 above. It is 4.45 acres and was approved for 30,000 square feet of commercial uses, or 6,741 square feet per acre. As shown in Figure 2 above, this pending application is not just to double the square footage of the allowable commercial uses in the Subject Property, but to multiply it by 1.5 as compared to any CPD in the Bayshore Community Planning Area.

The applicant references the Bayshore Community Plan and acknowledges its rural nature and goals. The applicant then, however, asserts the needs of the Bayshore corridor have drastically changed. Specifically, the applicant states:

> ***Despite the rural nature and goals of the Bayshore Community east of I-75***, Babcock Ranch, planned for

> 19,500 residential units, is a huge economic driver that has ***drastically altered the needs of the Bayshore corridor***. The subject site is about 7 miles, a 10-minute drive, from Babcock Ranch compared to Charlotte County's closest I-75 interchange at Duncan Rd located 25 miles away, a 30 minute drive. With limited development opportunities west of I-75, residential growth continues east of I-75 to meet the needs of the population surge in southwest Florida. (emphasis added)

The above assertion may be true, but as a matter of law, land development regulations must be consistent with the adopted comprehensive plan. § 163.3202, Fla. Stat. (2022). Thus, an amendment to the Lee Plan is necessary to enact a zoning change (a change to a land development regulation) that departs from the adopted comprehensive plan. The applicant may not, by assertion, change the Lee Plan or ask the County to ignore the Lee Plan due to the applicant's assertions of an increased need created primarily, per the Applicant's assertions, by a development not located within the Bayshore Community Planning Area, namely, Babcock Ranch. To do so violates the consistency requirement of Chapter 163, Florida Statutes.

Therefore, because the proposed rezoning violates the Lee Plan by its own admission and thus violates the consistency requirements of Chapter 163, Florida Statutes, the Mushos object and ask the County to reject the Application.

B. This More Than Doubling of Intensity Despite Road Conditions Supports Following Policy 2.2.3 of the Future Land Use Element of the Lee Plan and Deferring or Denying the Request

Additionally, under the Lee Plan the County has the ability to defer or deny rezonings as follows:

FLUE POLICY 2.2.3: When an area within the County is approaching the capacity of the necessary facilities as described above, requested rezonings to increase densities and intensities may be deferred or denied to give preference to existing vacant lots and other valid development approvals, provided that a constitutionally mandated reasonable use of land would still be permitted.

As opined by the Applicant's traffic engineer and as analyzed in the enclosed opinion from Nathan Poole, P.E., of Vibe Engineering, Bayshore Road will fail in 2028 under **current** conditions. Current conditions involve several commercially zoned properties that have not yet been built out, including the Subject Property.

As opined by the enclosed opinion from Vibe Engineering, this rezoning will have a significant impact on the safety of Bayshore and Wells roads and will cause Bayshore to fail by virtue of this development, without background growth.

As this area is approaching the capacity of Bayshore Road under current conditions, deferring or denying this rezone is in the interest of safety and would still provide for a constitutionally mandated reasonable use of the land. The current CPD allows for the construction of 61,000 square feet of commercial uses, which, as shown in the above table is already the most intense commercial use in the General Interchange area and the second most in the Bayshore Community Planning Area. Further, as argued above, the Applicant has no reasonable expectation of rezoning the Subject Property beyond what is allowable under the comprehensive plan and thus, denying this rezone will not impact reasonable use.

Bayshore Road is being reviewed by FDOT for improvement, but until this is done, the County should not authorize any increase in commercial intensity.

Therefore, because this segment of Bayshore is currently being analyzed by FDOT for improvements to increase and/or improve capacity issues, without waiving any argument that the requested intensity is inconsistent with the Lee Plan, any consideration of any increase in commercial intensity should be deferred or denied, pursuant to Policy 2.2.3 of the Future Land Use Element of the Lee Plan.

C. This More than Doubling of Intensity is Inconsistent with the Transportation Section of the Bayshore Community Plan

Policy 18.2 of the Bayshore Community Plan states: All road improvements within the Bayshore Community considered by the County will address the community's goal to maintain its rural character and give preference to alternatives that allow existing roads to function at their current capacity.

Because, as explained by engineer Poole, the roads are struggling to perform under the current uses, it violates the Bayshore Community Plan's requirement to give preference to an alternative that allows the existing roads to function at current capacity. That alternative is to deny any increase in intensity.

Recently, the appellate courts held that failure to follow traffic related comprehensive plan challenges to be reversible error. *Conservancy of Sw. Fla., Inc. v. Collier Cty.*, 352 So. 3d 481, 487 (Fla. 2d DCA 2022). Thus, like in Collier County, when there are comprehensive plan elements that require alternatives to be pursued to avoid traffic issues, rezonings must conform or be subject to challenge.

The Applicant asserts:

> The proposed 125,000 square feet of commercial will help to alleviate the currently stressed Bayshore corridor by removing some of the traffic that must travel further west on Bayshore Road, beyond I-75 or accessing I-75 to reach specific commercial uses at further distances. As such, the proposed amendment will help to reduce length of trips on Bayshore Road and I-75 alike. Additionally, the increased commercial will serve the Bayshore Community's existing and future residential growth.

This assertion, however, is not supported by the provided analysis. As opined by engineer Poole, the pass-by capture is minor compared to the impact of this development and its substantial increase in intensity.

Therefore, because the proposed rezoning violates the Lee Plan and thus violates the consistency requirements of Chapter 163, Florida Statutes, the Mushos object and ask the County to reject the Application.

2. ***The requested removal of a boundary wall on the current plan and a general decrease in the buffer between the proposed project and the current existing uses to the North despite a requested increase in intensity is inconsistent with the Lee Plan and Incompatible with Adjacent Uses.***

The current CPD for the Subject Property includes, in addition to the preserve and the easement, a boundary wall, a type C landscape buffer, and a building setback. As noted in 1 above, this current proposal seeks to more than double the potential square footage of commercial development.

A. **The Proposed More Than Doubling of Intensity Paired with a Reduction in Buffering Is Inconsistent with The Lee Plan and no Deviation Should be Granted.**

It is inconsistent with the Lee Plan for the Applicant to double the intensity of commercial uses and **reduce** the corresponding buffering.

Policy 2.2.1 of the Future Land Use Element of the Lee Plan requires an evaluation of compatibility with surrounding uses for rezonings and Policy 6.1.4 of the Future Land Use Element requires proposed commercial development to be compatible with adjacent, existing land uses. Policy 6.1.3 of the Future Land Use Element requires CPDs to be designed to avoid negative impacts on surrounding land uses.

Importantly, these policies do not only require just compatibility with surrounding entitlements (or permitted uses). Instead, the Lee Plan requires compatibility with existing uses, which, here, on the Northern boundary is a single-family home.

Consistent with the Lee Plan, the Lee County Land Development Code ("LDC") requires buffering based off actual uses (for developed property). § 10-416, LDC. While the Musho's residential use to the North may have a future land use designation that would allow it to increase intensity, it is currently zoned agricultural and is used as a residential use, a permitted use in the agricultural district, and has been a residential use for over 30 years.

The removal of the wall and reduction of the buffer from the LDC and the CPD decreases compatibility because it decreases the effectiveness of the buffer next to a residential use and is incompatible.

Here is a chart showing the requested reduction in buffering:

Current Buffer, Screening, and Setback	**Requested**
8-foot Wall, South of preserve	Remove wall
15-foot type C buffer with intercept swale	Remove buffer and intercept swale
75-foot preserve	75-foot preserve
20-foot setback from preserve	None
8-foot utility easement	8-foot utility easement
150-foot building setback	None for primary structures

Figure 3

The current buffer, a type C buffer with additional protections, as shown in Figure 3, is consistent with the LDC and Lee Plan and was found to be compatible with the adjacent single-family home in the existing CPD, approved by Resolution Z-06-046. Because the Lee Plan has not changed and the existing adjacent uses have not changed, a less protective buffer cannot be approved now along with an increase in commercial square footage.

The removal of the wall, under the LDC, requires a type F buffer. But here, the Applicant is asking to remove the wall, remove the buffer, remove the preserve setback, and remove the building setback and increase intensity. This is incompatible as determined by the prior zoning action and thus inconsistent with the Lee Plan.

Therefore, the Mushos object and ask the County to reject the Application because to rezone this CPD so as to remove the boundary wall, buffer, and building setback is inconsistent with the requirements of the Bayshore Community Plan and the Lee Plan. In the alternative, the Mushos ask the

County to deny any deviation to buffering and require the currently zoned buffering and building setback requirements.

B. The Use of the Proposed Preserve in this Case is Inconsistent with the Lee Plan and the buffering requirements of the LDC

A deviation from a C or F to the preserve is inconsistent with the Lee Plan because preserves serve different functions than buffers and cannot be counted on as being sufficiently opaque. For example, a type F buffer requires a continuous hedge. A preserve does not, and more than not requiring it, a preserve, in some cases, may not allow for such opacity due to the specific requirements of the native plants and facilitation of wildlife. Further, as stated by the applicant's consultant, the current proposed preserve will have to be thinned to remove exotics. The February 28, 2023, analysis from Bear Paws as to the front 50 feet of the property states:

> **The existing 50-feet, adjacent to Bayshore Road, is lacking native trees and contains nuisance/exotic species. (Please refer to the attached pictures). The client would like to request a deviation from this requirement, as once the understory is cleared out and cleaned up, the vegetation remaining will be sparse and not aesthetically attractive.** They are proposing to replace the 50-feet with a 15-feet Type D buffer, with enhanced number of trees, at 7 trees per 100-feet rather than 5 trees per 100-feet, as well as planting a double hedgerow, all irrigated and maintained. The frontage on Bayshore is approximately 540-feet, as a result, the client is proposing to plant 38-40 trees, plus double hedgerow.
>
> (Emphasis added.)

This information is referenced in support of the Applicant's third deviation which asks for a deviation from LDC Section10-415(b)(4) which requires a 50' wide tree preservation buffer to provide buffers per LDC 10-416 and LDC 34-1353. This deviation is based in part on the above statement: "once the understory is cleared out and cleaned up, the vegetation remaining will be sparse and not aesthetically attractive". There is no indication the Subject Property is more verdant where the preserve is proposed. Instead, along with its November 17, 2022, additional information, the Applicant provided a vegetative analysis from its consultant that the Subject Property is split down the middle into roughly even amounts of pine wood flats (411) and mixed upland hardwoods (420). Further, the applicant's consultant identifies exotic plant material must be removed, see below excerpts. In the preserve, the applicant's consultant indicates that for roughly half of the preserve, 50% or more of the plants are exotic and will be removed. That means

the preserve will likely be "sparse and not aesthetically attractive", and insufficient as a buffer.

Figure 4
p. 47 of November 17, 2022 Additional Information

Table 1. FLUCFCS Community Table

FLUCFCS Code	Community Description	Habitat Type	Acres
411 E1	Pine Flatwoods (Exotics 1-24%)	Upland	4.32± Ac.
420 E2	Mixed Upland Hardwoods (Exotics 25-49%)	Upland	4.65± Ac.
8146	Primitive Road & Trails	Upland	0.28± Ac.
Total			**9.25± Ac.**

Figure 5
p. 41 of November 17, 2022 Additional Information

Thus, for the exact same reason as articulated above regarding the Southern property line and deviation 3, a buffer ***should*** be required on the Northern border of the preserve, as is required in the current CPD. The Applicant should not be

able to claim the existing vegetation on the Subject Property is both not enough for buffering on the South end and enough for buffering on the North end to increase buildable space to achieve commercial intensity that, as shown above, is more intense than any approved CPD in either the Bayshore Community Planning or the General Interchange area. Even with adding plantings, the function of a preserve is simply not buffering or screening. A consistent visual screen may not be possible. And, the loss of the buffering, screening, and setbacks shown in Figure 3 cannot be replaced by the preserve, which is already in the current CPD. The Applicant states that the width of the preserve is more effective than a C of F buffer, but what is currently required is both a preserve and a C buffer. Thus, no matter how it is looked at, it is a reduction.

Further, the Applicant is applying for reductions in required open space using the existence of the preserve as the rationale. The preserve should not be used to both reduce open space and buffering so that the Applicant can build at an unprecedented and inconsistent intensity.

Therefore, the Mushos object and ask the County to reject the Application because to rezone this CPD to remove the boundary wall, buffer, and building setback is inconsistent with the requirements of the Bayshore Community Plan and the Lee Plan. In the alternative, the Mushos ask the County to deny any deviation to buffering, including deviation 6, and require the currently zoned buffering, screening, and preserve, and building setback requirements.

C. This More Than Doubling of Intensity Paired with a Reduction In Buffering Is Inconsistent With The Bayshore Community Plan

Also as noted in 1 above the Subject Property is located within and subject to the Bayshore Community Planning Area, which requires protecting existing residential uses. This is more specifically stated in Objective 18.1, which states: "The County will continue to enforce land development regulations that ensure separation of urban and rural land uses through the implementation of open space, buffers, and setback requirements that protect high quality environmental areas, such as creeks, oak hammocks, floodplains and wetlands from potential impacts of development."

Here, the current CPD does this by requiring a wall, a landscape buffer, as well as a natural separation provided by a preserve, and building setbacks. In all events the current requirements for a wall, a landscape buffer, as well as the natural separation provided by a preserve, and building setbacks, must be retained. To the extent any increased square footage is approved, and additional height is approved, current separation and buffer requirements should not be changed, with the exception that the required wall height be increased in height, to remain

consistent with Goal 18 of the Future Land Use Element of the Lee Plan. Anything else would be incompatible with the adjacent land uses.

Therefore, because the Bayshore Community Plan is more stringent than Policy 2.2.1 of the Future Land Use Element of the Lee Plan, for all of the above reasons in A and B above, the Mushos object and ask the County to reject the Application because to rezone this CPD to remove the boundary wall, buffer, and building setback is inconsistent with the requirements of the Bayshore Community Plan and the Lee Plan. In the alternative, the Mushos ask the County to deny any deviation to buffering and require the currently zoned buffering and building setback requirements.

3. Any Increase in Building Height is Inconsistent with the Lee Plan and the Bayshore Community Plan.

Policy 2.2.1 of the Future Land Use Element of the Lee Plan requires an evaluation of compatibility with surrounding uses for rezonings and Policy 6.1.4 of the Future Land Use Element of the Lee Plan requires proposed commercial development to be compatible with adjacent, existing land uses. Policy 6.1.3 of the Future Land Use Element of the Lee Plan requires CPDs to be designed to avoid negative impacts on surrounding land uses. Goal 18 requires the protection "the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities ***and minimal commercial activities, and exclude incompatible uses that are destructive to the character of this rural residential environment***."

The proposed property development regulations include structures up to 4 stories in height, which, as shown by the below is inconsistent within the Bayshore Plan, incompatible with current adjacent uses, and does not transition well if the buffers are removed. Consistent with the current CPD, a building setback should be required to make these structures more compatible with existing uses.

Further, this height of building is not rural in nature and is inconsistent with other approved CPD heights in the Bayshore Community Planning Area.

A review of the approved CPDs in the Bayshore Community Planning Area shows the proposed zoning for hotels is **taller than all of CPDs.**

CPDs in the Bayshore Community Planning Area

CPD	**Height**
Current zoning for Subject Property	25 feet/one story
SPC Interchange Store CPD	35 feet above grade
W&W Service Park CPD	2 stories/35 feet
Ed & Kathie Ramsey CPD	35 feet above grade

McPherson CPD (Carter-Pritchett Advtg)	Height not directly comparable due to billboard
Pritchett III CPD (Carter-Pritchett Advtg)	Height not directly comparable due to billboard
Proposed zoning for Subject Property	35, but hotel up to 48 feet

Figure 6

Therefore, the Mushos object and ask the County to reject the Application because to rezone this CPD to increase the height for hotels is inconsistent with the requirements of the Bayshore Community Plan and the Lee Plan. In the alternative, the Mushos ask the County to not permit the any height above 35 feet.

4. The Requested Increase Includes Inconsistent and Incompatible Uses

A. Certain Proposed Uses are Inconsistent Uses and Should be Not Allowed or Modified

The following uses are not permitted in the current CPD and are inconsistent with Lee Plan as presented and are incompatible uses that are destructive to the character of this rural residential environment, which should be excluded.

By way of example, the adjacent CPD W&W Service Park (Bayshore Community Planning area) is compared and the Northriver Plaza CPD (General Interchange area) is compared. This Subject Property is in both the General Interchange area and the Bayshore Community Planning area. Both should be compared.

- Animals (Clinic, Kennel, Control Center (including Humane Society)

Note W&W Service Park CPD has this use but does not allow outdoor runs. The Mushos request that if this use is kept it include a prohibition on outdoor runs.

Northriver Plaza CPD, a General Interchange CPD, does not have this use.

- Bar or cocktail lounge (AA/SE)

W&W Service Park CPD does not have this use.

Northriver Plaza CPD, a General Interchange CPD does not have this use.

- Department Store

W&W Service Park CPD does not have this use.

Northriver Plaza CPD, a General Interchange CPD does not have this use.

- Farm equipment, sales, storage, rental or service

W&W Service Park CPD does not have this use.

Northriver Plaza CPD, a General Interchange CPD does not have this use.

- Feed or fertilizer, mixing and sales (see below)

W&W Service Park CPD does not have this use.

Northriver Plaza CPD, a General Interchange CPD does not have this use.

- Flea market (either open (SE) or indoor)

W&W Service Park CPD does not have this use.

Northriver Plaza CPD, a General Interchange CPD does not have this use.

- Food truck park

W&W Service Park CPD does not have this use.

Northriver Plaza CPD, a General Interchange CPD does not have this use.

- Funeral home or mortuary (with or without cremation)

W&W Service Park CPD does not have this use.

Northriver Plaza CPD, a General Interchange CPD does not have this use.

- Night Clubs (AA/SE)

W&W Service Park CPD does not have this use.

Northriver Plaza CPD, a General Interchange CPD does not have this use.

- Package Store

W&W Service Park CPD does not have this use.

Northriver Plaza CPD, a General Interchange CPD does not have this use.

- Pet Services

Note W&W Service Park CPD has this use but does not allow outdoor runs.

Northriver Plaza CPD, a General Interchange CPD does not have this use.

B. Certain Uses are Non-Existent Uses and Cannot be Added without Amending the LDC

Additionally, the Mushos object to the Food Truck Park use as it is not a use listed or defined in the LDC.

C. Certain Uses Should Be Modified

The following use should have a 300-foot setback from the Northern property line: bus stations.

The following use should have a 150-foot setback from the Northern property line: hotel.

Finally, in the currently approved zoning resolution the use for Excavation, water retention – not to include the removal of excavated materials from the site includes "NO blasting". That should be retained.

D. On-Premises Consumption Should Not Be Expanded

In the hearing for the current CPD, Lee County senior planner Tony Palermo outlined why on-premises consumption is inconsistent with the Bayshore Community and the General Interchange area of the Lee Plan. As the Lee Plan has not change and the adjacent use has not changed since that analysis, that analysis still applies. A full copy of that transcript is enclosed.

Mr. Palermo stated as follows:

> We are concerned about outdoor consumption on premises because, number one, to the north is a single family use which is very near this property. And I appreciate any buffering you can do, but I don't think there's -- that any buffering renders this use invisible, renders it unable to be heard and renders it with any mysterious cloak of protection.
>
> The second concern I have is that there just isn't enough detail. In fact, there is no detail about what this consumption on premises will look like or how it will impact the community. We have no discussion of how many seats will be there, we have no discussion of how much square footage is there. And we're not saying do away with the use. We're saying it has to go through the proper public hearing process in order for us to evaluate it.

The third issue is that it is in the Bayshore community and I think there are specific policies in the plan and there are specific descriptions of the Bayshore community which make, which make staff take a special look at this community and really look out for the interest of the rural integrity of the neighborhood. And, again, they should go through the public hearing process with the necessary detail.

The fourth specific thing about this property is that it is near I-75. An outdoor consumption on premises use with a restaurant with a large size will attract people from miles around. There's thousands and thousands of people on I-75 using that road and it could be a very detrimental thing for the community.

The fifth point I bring up is that because it's on I-75 I think having late hours, I think having unlimited outdoor consumption on premises does create an issue of safety regarding outdoor consumption on premises. It raises the issue of drunk driving and whether this is something that we want to promote on I-75 with outdoor consumption on premises. And, again, we're okay with indoor consumption on premises.

> And the sixth factor really is the equestrian factor. Is outdoor consumption on premises really compatible with the equestrian uses that we know are in the neighborhood and will continue to be in the neighborhood?

The current CPD, consistent with the above analysis only has consumption on premises indoors and with a Group III restaurant. The proposed CPD expands on-premises consumption to other restaurant types and adds the Bar or cocktail lounge, Night Club, and Package Store uses. It does not add outdoor consumption, but, the same analysis applies to these more intense consumption uses. The impact of these uses on the Bayshore Community must be considered.

There is a maximum intensity that a high turnover restaurant would be limited to of 35,000 square feet, but there is no limit on Bar or cocktail lounge, Night Club, and Package Store uses. Further there is no analysis as to how these uses might impact the neighborhood.

These uses are inconsistent, incompatible, and the same consumption restrictions currently present should remain.

E. Conclusion

Therefore, the Mushos object and ask the county to reject the Application because the above uses are inconsistent with the Lee Plan. In the alternative, the Mushos ask the County to not permit the above uses and otherwise make the above modifications.

5. The Requested increase includes inconsistent industrial uses.

Policy 18.1.3 of the Future Land Use Element of the Lee Plan states: "No new industrial uses or industrial rezonings are permitted after February 3, 2003." Lee Plan, FLUE Policy 18.1.3.

The Application references 125,000 square feet of light industrial uses. As stated above inclusion of industrial uses is contrary to and inconsistent with the Bayshore Community Plan.

Additionally, the Printing and Publishing use is an Industrial Use, as indicated by Note 5 in section 3-934, LDC, and thus by including this use, the Application is directly inconsistent with the Lee Plan. This use was included in the 2006 rezoning,

but there is no indication that it was present prior to 2006, and thus not prior to 2003 and is thus not consistent with the Lee Plan.

Therefore, the Mushos object and ask the County to reject the Application because the above use and the "light industrial uses" referenced in the Application are inconsistent with the Lee Plan. In the alternative, the Mushos ask the County to not permit any industrial uses in the CPD.

6. Conclusion

Overall, the requested rezone asks for the right to engage in commercial development at an intensity that far exceeds the rural goals of the Bayshore Community Plan and that is not present in any current CPD in either the Bayshore Community Planning Area or even the General Interchange area at I-75 and Bayshore Road. The Applicant asks this while at the same time asking to remove existing buffering, screening, and setbacks designed and determined by the County in the prior rezoning to be compatible with and protect the existing residential use to the North and to be consistent with the Lee Plan. In addition, the Applicant seeks to add more intense uses, such as night clubs and bars.

If not denied as inconsistent with the Lee Plan and incompatible with existing uses or delayed pursuant to Policy 2.2.3 of the Lee Plan, the Application should be reduced to minimal commercial uses in total square footage, height, and in type, to protect the existing rural residential, agricultural, and equestrian-oriented character of the community, and the buffering, screening, and setbacks should remain.

Specifically, if not denied or delayed, the Mushos ask:

1. That the commercial square footage not be increased beyond 61,000 square feet;
2. That the current buffering, screening, and setback from Resolution Z-06-046 be maintained, specifically: the preserve, the easement, a type C buffer with an 8-foot wall, South of the preserve (see § 11 of Resolution Z-06-046), the preserve setback if 20-feet, and a 150-foot building setback (§ 2.b. of Resolution Z-06-046);
3. That height not be increased for any use above 35 feet;
4. That the following uses not be permitted:
    a. Animals (Clinic, Kennel, Control Center (including Humane Society)
    b. Bar or cocktail lounge (AA/SE)
    c. Department Store
    d. Farm equipment, sales, storage, rental or service
    e. Feed or fertilizer, mixing and sales (see below)
    f. Flea market (either open (SE) or indoor)

g. Food truck park
h. Funeral home or mortuary (with or without cremation)
i. Night Clubs (AA/SE)
j. Package Store
k. Pet Services

5. That the following use should have a 300-foot setback from the Northern property line: bus stations.
6. That the following use should have a 150-foot setback from the Northern property line: hotel.
7. That the removal of excavated materials from the site should include "NO blasting".
8. That on-premises consumption not be expanded; and
9. That no industrial uses be permitted.

Sincerely,

Zachary W. Lombardo

Zachary W. Lombardo, Esq.

Copies to client and counsel for applicant, N. Montgomery
Enclosures as indicated

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

WHEREAS, an application was filed by the property owner, Bayshore Village Holdings Group, LLC, to rezone a 8.75± acre parcel from Agricultural (AG-2) to Commercial Planned Development (CPD) in reference to The Village Square on Bayshore; and

WHEREAS, a public hearing was advertised and held on May 18, 2006, before the Lee County Zoning Hearing Examiner, Diana Parker, who gave full consideration to the evidence in the record for Case #DCI2005-00100; and

WHEREAS, a second public hearing was advertised and held on August 21, 2006, before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 8.75± acre parcel from AG-2 to CPD, to allow a maximum of 99,999 square feet of mixed uses: office, medical office and retail. Maximum height requested is two stories/35 feet. No development blasting is requested. The project will connect to public potable water and to a public sanitary sewer system as part of any development of this property. The property is located in the General Interchange Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions specified in Section B below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be consistent with the 1-page Master Concept Plan entitled "BAYSHORE VILLAGE MARKET SQUARE: MASTER CONCEPT PLAN," last revised 8/30/06, date stamped "Received SEP 06 2006," attached hereto as Exhibit C, except as modified by the conditions below.

   This development must comply with all requirements of the Lee County 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.

Maximum Commercial Floor Area: 61,000 square feet of commercial uses (office and/or retail), of which a maximum of 8,000 square feet may be used in the two outparcels.

2. The following limits apply to the project and uses:

a. Schedule of Uses

AREA A - LIMITED TO A MAXIMUM OF TWO OUTPARCELS

ACCESSORY USES
ADMINISTRATIVE OFFICES
AUTOMATIC TELLER MACHINE (ATM)
AUTO PARTS STORE - without installation.
BAIT & TACKLE SHOP
BANKS AND FINANCIAL ESTABLISHMENTS, Group I
BOAT PARTS STORE - Limited to one
BROADCAST STUDIO
BUSINESS SERVICES, GROUPS I AND II - excluding armored car services and Automobile Claims Adjusters.
CLOTHING STORES
CLUBS - commercial, fraternal, membership, private
CONSUMPTION ON PREMISES, Indoors only (see conditions)
DAY CARE CENTER, CHILD OR ADULT
DRIVE-THROUGH FOR ANY PERMITTED USE
DRUG STORE - Limited to one and to a maximum of 3,000 square feet in size.
ESSENTIAL SERVICES
ESSENTIAL SERVICE FACILITIES, GROUP I
EXCAVATION, WATER RETENTION - Not to include the removal of excavated materials from the site. NO blasting.
FENCES, WALLS
FOOD STORES, Groups I and II
GIFT & SOUVENIR SHOP
HARDWARE STORE
HOBBY, TOY AND GAME SHOPS
HOUSEHOLD & OFFICE FURNISHINGS
LAUNDRY OR DRY CLEANING, Group I
MEDICAL OFFICE - Limited to a maximum of 8,000 square feet
NON-STORE RETAILER
PAINT, GLASS & WALLPAPER
PARKING LOT, ACCESSORY
PRINTING & PUBLISHING
RESTAURANT, Groups I, II, and III - NO fast food.
SCHOOLS, COMMERCIAL
SIGNS PER CHAPTER 30 OF THE LDC
SOCIAL SERVICES, Groups I and II
SPECIALTY RETAIL SHOPS, All Groups
STUDIOS
TEMPORARY USES

AREA B

ACCESSORY USES
ADMINISTRATIVE OFFICES
AUTOMATIC TELLER MACHINE (ATM)
AUTO PARTS STORE - without installation
BAIT & TACKLE SHOP
BANKS AND FINANCIAL ESTABLISHMENTS, Group I
BOAT PARTS STORE
BROADCAST STUDIO
BUSINESS SERVICES, Group I
CLEANING AND MAINTENANCE SERVICES
CLOTHING STORES
CLUBS - commercial, fraternal, membership, private
CONSUMPTION ON PREMISES, Indoor only (see conditions)
DAY CARE CENTER, CHILD OR ADULT
DRIVE-THROUGH FOR ANY PERMITTED USE - Limited to the east end of the building.
DRUG STORE - Limited to one and to a maximum of 3,000 square feet.
ESSENTIAL SERVICES
ESSENTIAL SERVICE FACILITIES, Group I
EXCAVATION, WATER RETENTION - NOT to include the removal of excavated materials from the site - NO blasting.
FENCES, WALLS
FOOD STORES, Groups I and II
GIFT & SOUVENIR SHOP
HARDWARE STORE
HOBBY, TOY AND GAME SHOPS
HOUSEHOLD & OFFICE FURNISHINGS
LAUNDRY OR DRY CLEANING, Group I
MEDICAL OFFICE - Limited to a maximum of 10,000 square feet
NON-STORE RETAILER
PAINT, GLASS & WALLPAPER
PARKING LOT, ACCESSORY
PLACE OF WORSHIP
PRINTING & PUBLISHING
RESTAURANT, Groups I, II, and III - NO fast food or freestanding restaurants
RENTAL OR LEASING ESTABLISHMENTS, Groups I and II
SCHOOLS, COMMERCIAL
SIGNS PER CHAPTER 30 OF THE LDC
SOCIAL SERVICES, Groups I and II
SPECIALTY RETAIL SHOPS, ALL Groups
STUDIOS
TEMPORARY USES
VARIETY STORES

b. Site Development Regulations

Minimum Lot Areas and Dimensions

Lot Size:	22,500 square feet
Lot Width:	150 feet
Lot Depth:	150 feet

Minimum Setbacks

Street	25 feet (public)/20 feet (private)
Side	15 feet (10 feet interior)
Rear	20 feet
Water body	25 feet

All Accessory Uses: Per the LDC.
Setbacks from Preserves (All structures): 20 feet, per the LDC.

Minimum Perimeter Setbacks: 150 feet to the north and 70 feet to the east as shown on the MCP, otherwise a minimum 25 feet is required.

Minimum Building Separation: 20 feet.

Building Height: 25 feet/One story

Maximum Lot Coverage: 60 percent

3. 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.

4. No agricultural uses are existing on site and none are approved by virtue of this rezoning.

5. No development blasting is permitted as part of this project unless approved, at a subsequent public hearing, as an amendment to the planned development.

6. All required buffers must utilize 100 percent all native vegetation.

7. Accessory uses must be located on the same tract, parcel or outparcel where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, parcel or outparcel.

8. Approval of this rezoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.

9. Approval of this rezoning request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee Plan provisions.

10. Consumption on Premises (indoor only) Area A and B:

    a. Consumption on Premises (indoor only) is permitted only in conjunction with a Group III Restaurant.

    b. The hours of operation for indoor consumption on premises are limited to between noon to 11:00 p.m., Sunday through Thursday, and noon to 12:00 p.m., Friday and Saturday.

    c. No sale, service or consumption of alcoholic beverages will be permitted without the sale or availability of food and non-alcoholic beverages on the same premises.

    d. The location of any consumption on premises must be consistent with the general locations shown on the approved Master Concept Plan.

    e. Any consumption on premises must be located in Area A or at the southeast end of the building in Area B.

    f. Outdoor consumption on premises is not approved herein, and may only be approved by an amendment to the planned development or as a Special Exception (public hearing required). This use may not be approved administratively. The applicant must provide adequate detail of the outdoor seating area consistent with the requirements of the LDC.

11. The 8-foot-high wall, or wall/berm combination, along the north boundary must be extended to the eastern property line. (Attached Exhibit C).

12. Covered parking must be a minimum of 20 feet from preserve areas, per LDC §10-415 (b)(1)c.

13. Prior to local development order approval, the property must be re-surveyed for the presence of gopher tortoises and their burrows, and, if found, a gopher tortoise management plan must be submitted as part of the indigenous preserve management plan for the Division of Environmental Sciences Staff review and approval. The gopher tortoise management plan must include details on habitat management to provide open herbaceous foraging areas, and how the habitat will be maintained in perpetuity. The management should also include the following details pertaining to site work:

    a. A copy of the Florida Fish and Wildlife Conservation Commission Gopher Tortoise Permit and receipt of payment if applicable must be submitted to the Division of Environmental Sciences staff prior to issuance of a Vegetation Removal Permit; and

    b. A Vegetation Removal Permit to install gopher tortoise fencing and burrow excavation must be obtained prior to any site work; and

    c. Any gopher tortoises and commensal species located during burrow excavation must be moved to appropriate indigenous preserves; and

d. The number of tortoises and any commensal species moved to preserves must be reported to the Division of Environmental Sciences Staff; and

e. All active and inactive gopher tortoise burrows located outside of the indigenous preserves must be excavated and fully collapsed prior to issuance of a Vegetation Removal Permit for clearing and filling of the development area.

f. If gopher tortoises are found on the site during the re-survey, the preserve will be utilized as a gopher tortoise preserve, and may not be utilized as a dry detention area unless it can be clearly demonstrated at the development order stage that the effects of the construction and operation of the surface water management system will not cause death or harm to the protected indigenous plant community.

14. Prior to local development order approval, the development order plans must depict an indigenous preserve in the northern 100-feet of the property with a minimum 75-foot width and a total acreage of 1.31 acres including upland preservation credits.

15. The Master Concept Plan must be revised to be consistent with the cross-section of the area north of the service areas in the northern part of Area B, as depicted on Exhibit C attached hereto. The wall material must be such that no linear footers are required.

16. Access to State Road 78 is not guaranteed and is subject to Florida Department of Transportation approval.

17. **DESIGN STANDARDS**

a. Prior to local development order approval, the exterior elevations must be in substantial compliance with the 1-page conceptual elevation entitled, "Bayshore Village: Conceptual Artist Rendition/Showing View Overlooking Parking Towards the Main Building" and the 1-page "Site Section Study for Bayshore Village Holding Group LLC - Partial Site Cross Section" attached as Exhibit D. This condition does not preclude the construction of a one-story building in lieu of the two-story building shown on attached Exhibit D.

b. These designs are preliminary and subject to changes in conformance with this Resolution and the Lee County LDC, including Article IV, §10-600 "Design Standards and Guidelines for Commercial Buildings and Developments."

c. Area A, located along Bayshore Road, must conform buildings to the Old Florida style design similar to that depicted in attached Exhibit D.

SECTION C. EXHIBITS AND STRAP NUMBER:

The following exhibits are attached to this resolution and incorporated by reference:

Exhibit A: Legal description of the property
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: The Master Concept Plan
Exhibit D: Partial Site Cross Section

The applicant has indicated that the STRAP number for the subject property is: 22-43-25-00-00023.0000.

SECTION D. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.

2. The rezoning, as approved:

   a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request; and,

   b. is consistent with the densities, intensities and general uses set forth in the Lee Plan; and,

   c. is compatible with existing or planned uses in the surrounding area, and will not be detrimental or injurious to the intent of the Bayshore Planning Community (Goal 20); and,

   d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and,

   e. will not adversely affect environmentally critical areas or natural resources.

3. The rezoning satisfies the following criteria:

   a. the proposed use or mix of uses is appropriate at the subject location; and

   b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and

   c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.

4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Judah, seconded by Commissioner St. Cerny and, upon being put to a vote, the result was as follows:

Robert P. Janes	Aye
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Tammara Hall	Nay
John E. Albion	Aye

DULY PASSED AND ADOPTED this 21st day of August 2006.

ATTEST:
CHARLIE GREEN, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Tammara Hall
Chairwoman

Approved as to form by:

_____
Dawn E. Perry-Lehnert
County Attorney's Office

2006 OCT -5 AM 11:56

DESCRIPTION:

A PARCEL OF LAND LYING IN SECTION 22, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICLARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE N00°05'43"E ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION LINE 22, A DISTANCE OF 1323.13 FEET; THENCE N89°43'24"W ALONG THE CENTERLINE OF BAYSHORE ROAD (STATE ROAD NO. 78), A DISTANCE OF 663.17 FEET; THENCE N00°00'46"W, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING; THENCE N89°43'24"W ALONG THE NORTHERLY RIGHT OF WAY LINE OF BAYSHORE ROAD, A DISTANCE OF 540.25 FEET; THENCE N00°16'36"E, A DISTANCE OF 50.02 FEET; THENCE CONTINUING ALONG SAID NORTHERLY RIGHT OF WAY LINE N85°20'36"W, A DISTANCE OF 73.63 FEET; THENCE N00°07'14"W ALONG THE EASTERLY RIGHT OF WAY LINE OF WELLS ROAD, A DISTANCE OF 570.82 FEET; THENCE S89°54'31"E ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 614.45 FEET; THENCE S00°00'46"E ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 628.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 8.75 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF WAY OF RECORD.

DCI2005-00100

NOTES:
1. THIS IS NOT A SURVEY.
2. THIS DOCUMENT IS NOT VALID WITHOUT THE SIGNERS EMBOSSED SEAL.
3. BEARINGS ARE BASED ON THE CENTERLINE OF BAYSHORE ROAD BEING N89°43'24"W AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAPS.
4. R/W INDICATES RIGHT OF WAY.
5. P.O.B. INDICATES POINT OF BEGINNING.

RONALD KERFOOT 10/11/05
PROFESSIONAL LAND SURVEYOR #2994

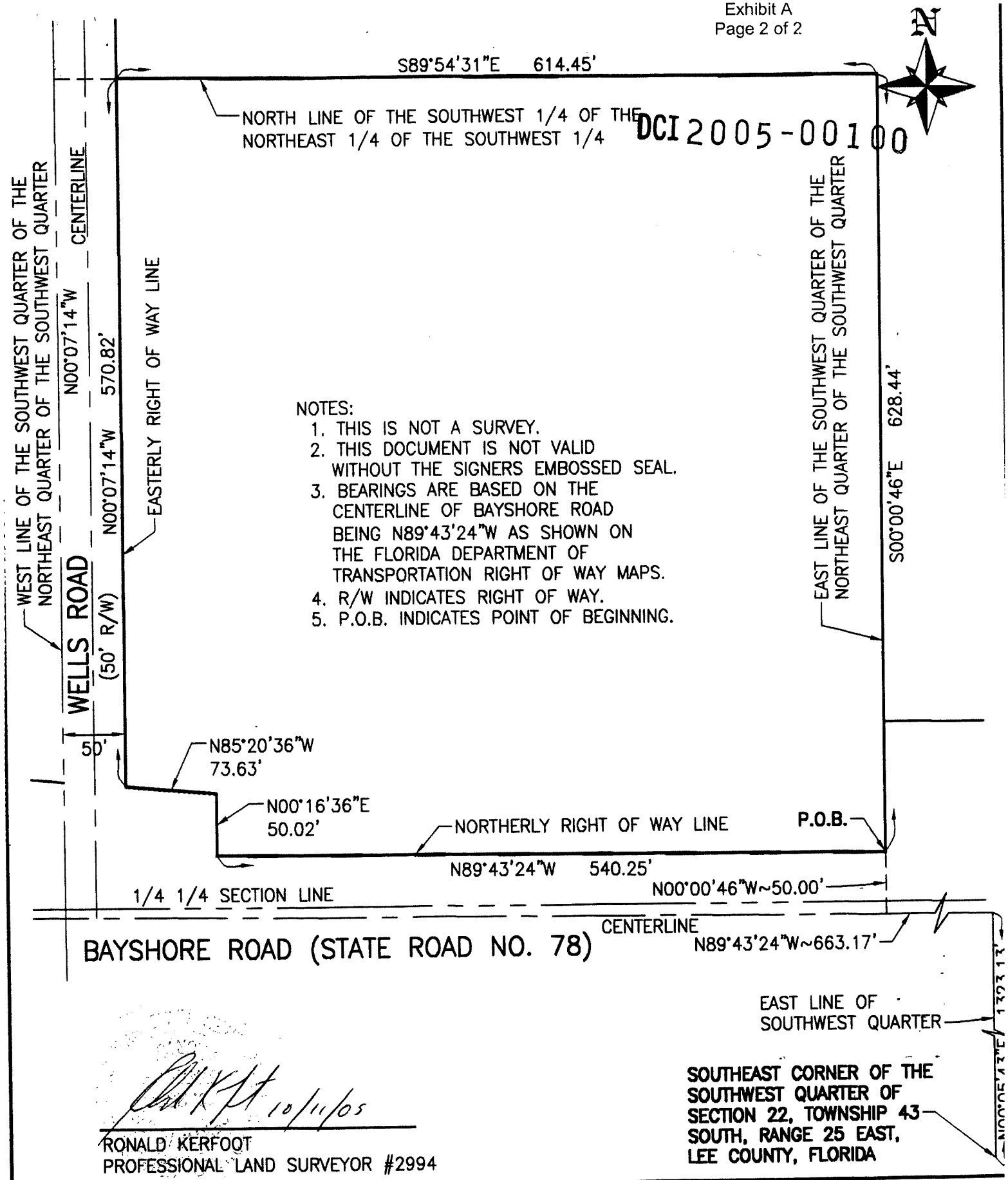
JRI Engineering, Inc.
Planning Engineering Surveying Aerial Photography & Photogrammetry Services
2328 Hancock Bridge Parkway, Ste. 114, Cape Coral, Florida 33990
Phone: 239.458.5544 Fax: 239.458.2233 www.jriengineeringinc.com
Engineering Business Certificate of Authorization No. 5424

BAYSHORE VILLAGE MARKET SQUARE

DESCRIPTION

SCALE: N.T.S.	BY: RK	DATE: 9-27-05	SHEET No. 2 OF 2

DCI2005-00100



10/11/05

RONALD KERFOOT
PROFESSIONAL LAND SURVEYOR #2994

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Engineering Business Certificate of Authorization No. 5424

BAYSHORE VILLAGE MARKET SQUARE

SKETCH OF DESCRIPTION

SCALE: 1"=100'	BY: RK	DATE: 9-27-05	SHEET No. 1 OF 2

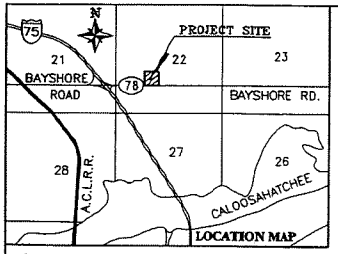
DCI2005-00100

Zoning Map

3/9/2006

Exhibit B

390 195 0 390 780 Feet



GENERAL NOTES

ALL REQUIREMENTS WILL BE IN ACCORDANCE WITH THE LDC, EXCEPT AS MAY BE PROVIDED ON THE MASTER CONCEPT PLAN.

ALL FUTURE BUILDING FOOTPRINTS AND PARKING CONFIGURATIONS WILL BE CONSISTENT WITH THE PROPERTY DEVELOPMENT REGULATIONS.

AREAS A AND B REFER TO THE ZONING SCHEDULE OF USES AND PROPERTY DEVELOPMENT REGULATIONS.

NO PUBLIC TRANSIT FACILITIES ARE BEING PROVIDED ONSITE.

LOT LINES IN AREA A ARE CONCEPTUAL IN NATURE.

PROPOSED PRITCHETT PKWY. (RE-ALIGNMENT R/W) (APPROXIMATE LOCATION)

SPECIAL NOTE 1:
AT THE TIME OF DEVELOPMENT ORDER SUBMITTAL, THE FINAL LOCATION OF THIS INTERSECTION SHALL BE COORDINATED WITH ANY DEFINITIVE PLANS OF THE PRITCHETT PKWY. RE-ALIGNMENT THAT MAY EXIST AT THAT TIME.

SITE DATA

LEE PLAN DESIGNATION:	INTERCHANGE-GENERAL
EXISTING ZONING DESIGNATION:	AG-2
EXISTING LAND USE:	VACANT
PROPOSED ZONING DESIGNATION:	CPD
GROSS AREA:	8.75± ACRES
STRAP NUMBER(S):	22-43-25-00-00023.0000

UTILITY SERVICE BY:

SEWER: NORTH FORT MYERS UTILITY, INC.
WATER: LEE COUNTY UTILITIES

OPEN SPACE CALCULATIONS

NET AREA:	8.75± ACRES
OPEN SPACE REQUIRED:	2.63 ACRES (30%)
OPEN SPACE PROVIDED:	2.63 ACRES (30% MINIMUM)
INDIGENOUS PRESERVATION:	1.05 ACRES x 125% CREDIT = 1.32 ACRES

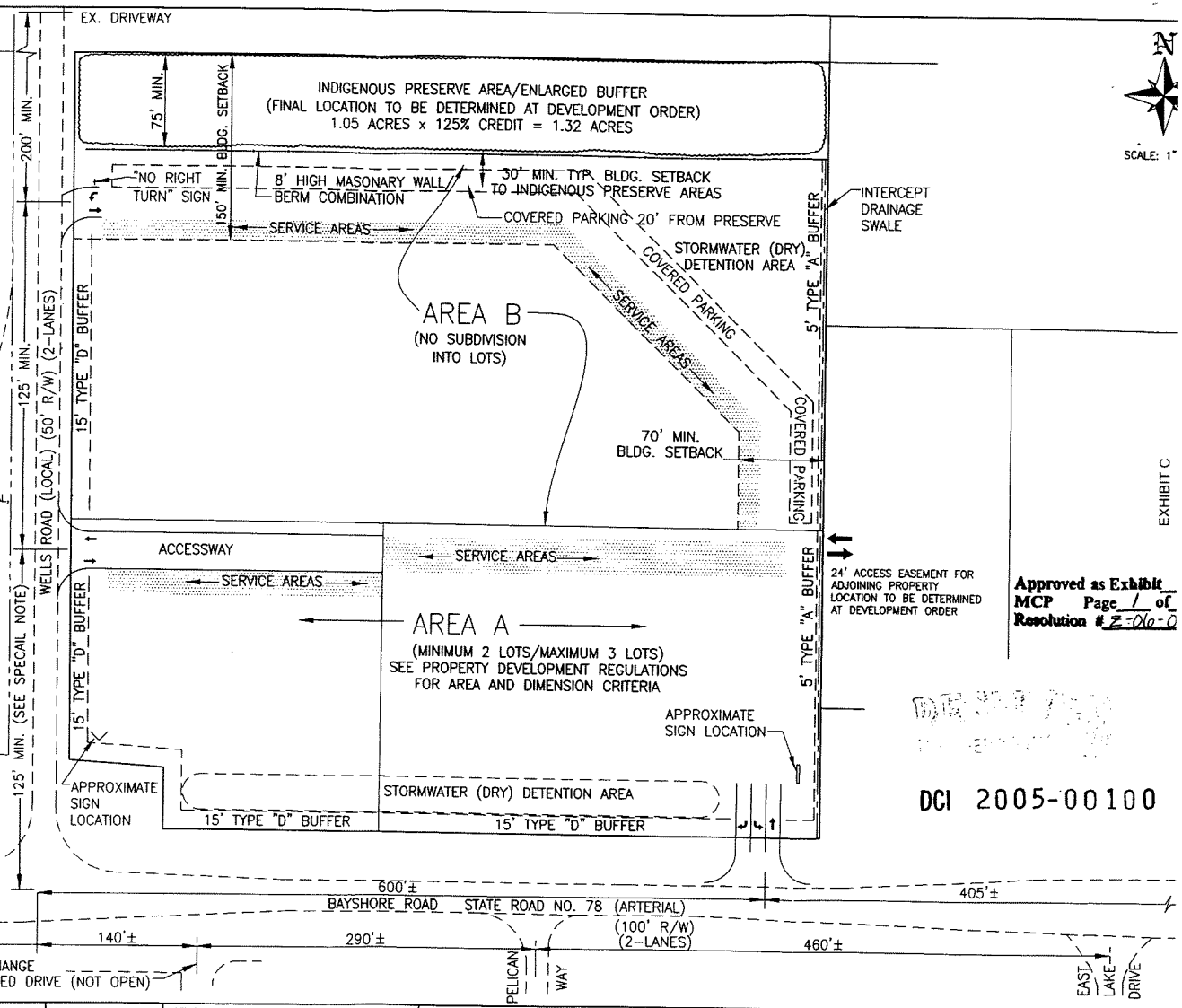


EXHIBIT C

Approved as Exhibit ___
MCP Page 1 of ___
Resolution # Z-06-0

DCI 2005-00100

NO.	DATE	
5	8/30/06	UPDATE MCP FOR ZONING RESOLUTION
4	3/15/06	COVERED PARKING MIN. 10' FROM PRESERVE
3	3/02/06	REVISIONS PER SUFFICIENCY LETTER DATED MARCH 1, 2006
2	2/14/06	RELOCATE 8' HIGH MASONARY WALL
1	12/22/05	REV. PER LEE CO. STAFF COMMENTS, ADD SERVICE AREA, C/L DISTANCES, SWALES, BLDG. SETBACK, SEATING

NOT AUTHORIZED FOR CONSTRUCTION UNLESS SIGNED IN THIS BLOCK

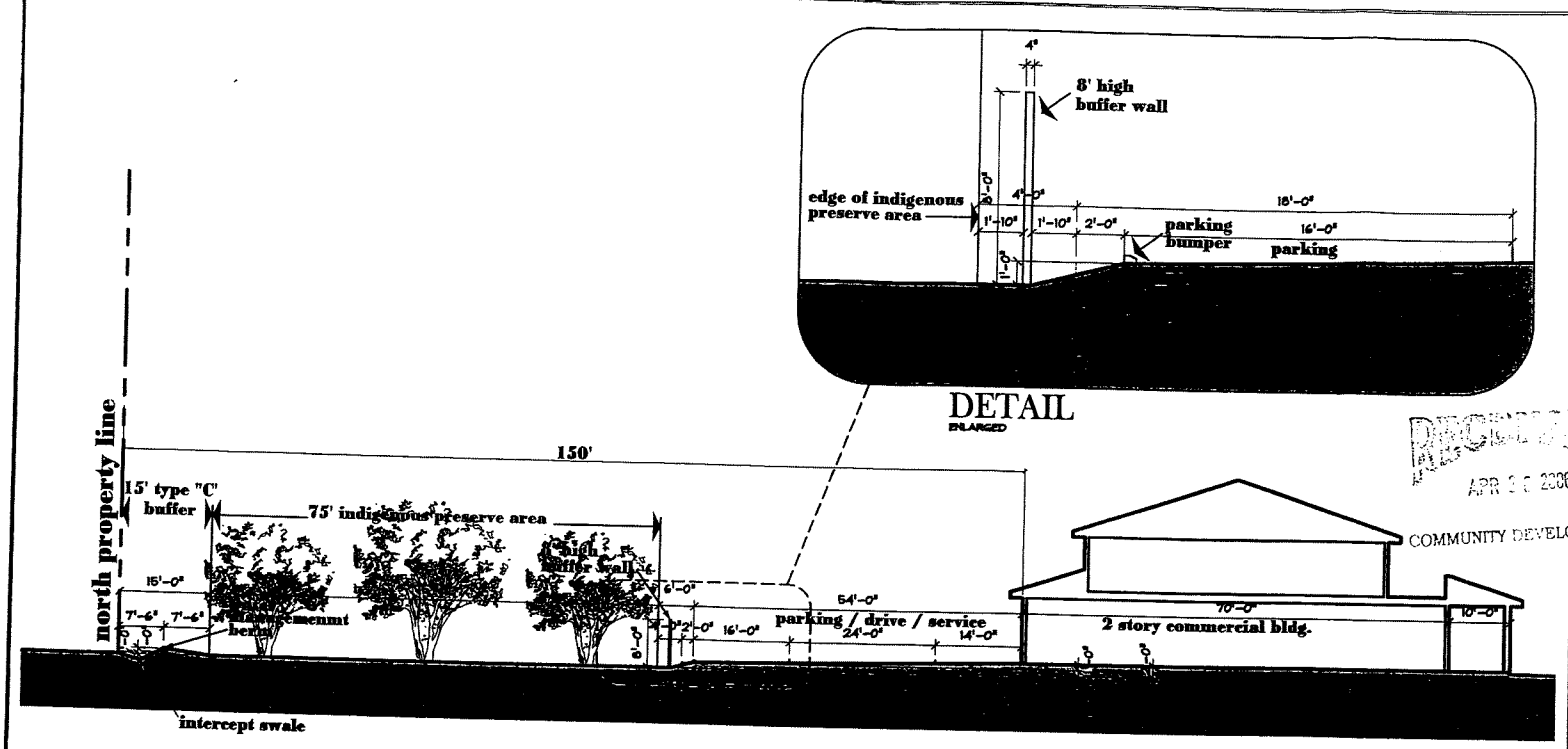
JRI Engineering, Inc.
Planning Engineering Surveying Aerial Photography & Photogrammetry Services
2328 Hancock Bridge Parkway, Ste. 114, Cape Coral, Florida 33990
Phone: 239.458.3544 Fax: 239.458.2233 www.jrengineeringinc.com
Engineering Business Certificate of Authorization No. 5424

BAYSHORE VILLAGE HOLDINGS GROUP, LLC.
P.O. BOX 4024
NORTH FORT MYERS, FLORIDA 33918
PHONE: (239) 995-1239

BAYSHORE VILLAGE MARKET SQUARE

MASTER CONCEPT PLAN

SCALE: 1"=40'
DATE: 10/12/05
SHEET: 1 OF 1
FILE No.: BVMS



PARTIAL SITE CROSS SECTION

NO SCALE

RECEIVED
APR 2 5 2006
COMMUNITY DEVELOPMENT

Cora McGahey ASSOCIATES IN ARCHITECTURE
43 Barkley Circle Suite 202
Fort Myers, Florida 33907
239-275-0225 Fax 239-275-7123

SITE SECTION STUDY FOR:
BAYSHORE VILLAGE HOLDINGS GROUP, LLC.
NORTH FORT MYERS, FLORIDA
PARTIAL SITE CROSS SECTION

SP-1

DCI 2005-00100

Bayshore Village

Conceptual Artists Rendition / Showing view overlooking parking towards the Main Building

BAYSHORE VILLAGE HOLDINGS GROUP, LLC.

Bradford & Company DESIGN GROUP INC.

Artistic Rendering / Architectural Design Concept By: Steven Bradford Turner -Bradford & Company Design Group, Inc. / Cape Coral, Fl. (239) 541-3906

RECEIVED
APR 2 2 2005
COMMUNITY DEVELOPMENT

DCI 2005-00100

September 12, 2023

Adam D. Mendez, Senior Planner
Lee County Department of Community Development
1500 Monroe St.
Fort Myers, FL 33901

RE: Review of Bayshore Village Traffic Study (Planned Development Rezoning/Amendment Application) DCI# 2022-00032

Dear Mr. Mendez:

Concerned Citizens of Bayshore Community, Inc (CCBC) retained VIBEngineering, Inc. (VIBE) to review the Applicant's traffic study for potential concerns related to the requested rezoning's impacts on the area roadway's operations and safety. My resume showing my qualifications and relatable project experience is included as Attachment 1. The rezoning request is to increase the development's intensity from 61,000 square feet (sq-ft) of floor area to 125,000 sq-ft, with a potential additional 10% increase with administrative approval. The operational and safety concerns with SR 78 relate to the projected capacity failure of the segment of SR 78 from Pritchett Parkway to Wells Road, the ability to receive approval from the Florida Department of Transportation (FDOT) for access on SR 78, and the ability to receive approval from the FDOT to potentially construct a traffic signal at the SR 78 and Wells Road intersection.

As the traffic study notes, the segment of SR 78 from Pritchett Parkway to Wells Road is projected to fail from a capacity standpoint in the 2028 background condition. This means that this segment of the roadway will fail in 2028 without the construction of this development. While allowing the project to be developed to 61,000 sq-ft will make this condition worse, allowing the intensity to be increased to 125,000 sq-ft will further exacerbate the capacity problem that is projected to occur on this segment of SR 78. In addition, the study states the failure of the SR 78 segment is due to background growth; however, this development is a major contributor to the SR 78 segment failure as well. If the background growth is removed and only the development's project trips are applied to the existing traffic volumes from 2020, the segment is also projected to fail with a LOS F. The study does make mention of the FDOT Capacity Study on SR 78 between I-75 and SR 31; however, the subsequent design, right-of-way, and construction phases for the project are currently not funded, which means it is highly unlikely that any capacity improvements (widening SR 78 to four lanes) will be in place by 2028. Approving the requested rezoning would be inconsistent with The Lee Plan Policy 2.2.3 as it has been documented by the Applicant's traffic study that the SR 78 segment will exceed capacity with or without the Applicant's requested increase in intensity. In addition, the projected congestion conditions will impact the safety of SR 78 as an increase in congested-related crashes, such as rear-end crashes and "good Samaritan" type left-turn and angle crashes, could be expected.

It should be noted that the traffic study appears to have underestimated the 2028 background traffic conditions. Using the same AADT source as the traffic study and with the AADT from 2012-2021, we calculated a historical growth of 5.75%. This is noticeably higher than the 3.85% used in the traffic study. Also, the traffic study included in the 11/17/2022 submittal to the County indicated a 12% growth rate was applied to Pritchett Parkway; however, the traffic volume worksheets included in the 12/6/2022 submittal to the County only used a 2% growth rate. With the underestimation of the background growth, the already strained projected 2028 background traffic conditions are not fully reflected in the traffic study, further supporting that approving the requested rezoning would be inconsistent with The Lee Plan Policy 2.2.3.

6914 W. Linebaugh Avenue, Tampa, FL 33625
Phone: 813.264.2508
www.VIBEngineering.com

From an access management perspective, the development is requesting two accesses (one on Wells Road and one on SR 78). SR 78 in this area is an access management classification four, which has a minimum driveway spacing of 660 feet with the posted speed limit of 50 miles per hour (mph). Their proposed driveway is approximately 550 feet from the nearest driveway/side street to the west (Wells Road) and approximately 500 feet from the nearest driveway/side street (on the north side of SR 78) to the east (driveway to gas station). With adequate access to Wells Road, it is highly unlikely that the FDOT would approve the access on SR 78 as it would create safety and operational concerns on SR 78. This means all development traffic would end up on Wells Road and utilize the SR 78 intersection. The traffic study shows the Wells Road intersection failing if the project has two driveways; therefore, the elimination of the driveway on SR 78 will only exacerbate the failing condition at the Wells Road intersection. The increase in intensity of traffic could also cause operational and safety concerns at the intersection of SR 78 and Wells Road such as a potential increase in crashes associated with impatient drivers, which would be left-turn and angle crashes.

The provided traffic study indicates the Wells Road approach at SR 78 will fail in 2028 under the current intersection control (two-way stop control) with the construction of the requested 125,000 sq-ft development. The signal spacing for an access management classification four is 2,640 feet. The nearest signalized intersection west of Wells Road (northbound I-75 ramps) is approximately 1,630 feet and the nearest signalized intersection east of Wells Road (Nalle Road) is approximately 1,330 feet. It is highly unlikely that the FDOT would approve a traffic signal at Wells Road as it would create safety and operational concerns on SR 78, which has the potential of spilling into the influence area of the I-75 at SR 78 interchange. If a traffic signal is shown to be warranted at SR 78 and Wells Road, the next step the FDOT would require is the preparation of an Intersection Control Evaluation (ICE) analysis. Ultimately, the results of the ICE analysis will determine the proposed control for the intersection.

In addition to the Wells Road approach at SR 78 failing, the intersection analysis reports included in the 12/6/2022 submittal to the County indicate the Pritchett Parkway approach to SR 78 and the proposed Site Access to SR 78 will fail as a result of the construction of this development. This indicates that the increase in intensity for this development will not only further exacerbate a failing condition on SR 78 but will also cause failing conditions for nearby side streets and the proposed access to SR 78. Approving the requested rezoning would be inconsistent with The Lee Plan Policy 2.2.3.

The Applicant has stated that the proposed 125,000 sq-ft commercial development will help to alleviate the currently stressed Bayshore corridor by removing some of the traffic that must travel further west on Bayshore Road, beyond I-75 or accessing I-75, to reach specific commercial uses at further distances. While the Applicant's traffic study does account for the development's pass-by trips, which are trips from vehicles that are passing by the site today, the roughly 20% pass-by rate is a minor reduction of the gross new trips for the development. Even with these deductions, we still have projected roadway and intersection failures.

As stated in this letter, this development creates operational and safety concerns on the SR 78 corridor. The segment of SR 78 from Pritchett Parkway to Wells Road is projected to fail with or without this development; therefore, approving the requested rezoning would be inconsistent with The Lee Plan Policy 2.2.3. In addition, there are concerns regarding the SR 78 access being approved by the FDOT, as well as approval to potentially construct a traffic signal at the SR 78 and Wells Road intersection. The projected congested corridor will impact the safety of SR 78 as it would be anticipated that congested-related crashes, such as rear-end crashes and "good Samaritan" type left-turn and angle crashes, could increase, and there could be an increase in crashes associated with impatient drivers, which would be left-turn and angle crashes, at the intersection of SR 78 and Wells Road.

Sincerely,

Nathan Poole, PE
Senior Traffic/ITS Engineer

Attachments
Cc: Concerned Citizens of Bayshore Community, Inc
Zachary W. Lombardo, Esq., Woodward, Pires & Lombardo, P.A.

ATTACHMENT 1

RESUME

Nathan J. Poole, PE

Traffic/ITS Engineer

PROFILE

Nathan Poole, PE, has over 12 years of transportation engineering, studies and design, ITS and CEI experience. He has been responsible for preparing safety and traffic impact studies and corridor operational analyses, as well as preparing comprehensive construction packages for traffic signals, street lights, and ITS projects. This includes the Lee Boulevard Operational Analysis, Starkey Road Operation Analysis, Crosswind Ranch Traffic Impact Analysis, Sumter County ATMS Design, and the Lee County ATMS/ITS Master Plan and D/B Criteria Package.

As a Senior Traffic/ITS Engineer, his responsibilities include preparing complete, functional designs in accordance with the project scope of services, and conducting on-site visits for data collection to determine existing conditions and device placement for equipment such as CCTV cameras and DMSs. He is also responsible for completing preliminary design activities and conducting post-design reviews.

Years of Experience:

- 12

Education:

- BS, Civil Engineering, Auburn University, 2010

Professional Registration:

- PE: FL #79444
- ATMS Certification: FDOT (2017)
- IMSA, Traffic Signals Inspector, Level 1 (2013)

Affiliations:

- Intelligent Transportation Society of FL
- Institute of Transportation Engineers
- Tampa Bay Institute of Transportation Engineers

PROJECT EXPERIENCE

General Engineering Consultant (GEC) | Bartow, FL | FDOT D1 | Traffic/ITS Engineer

Nathan provides in-house support as requested by District One. This includes performing all ERC reviews and One Stop Permit reviews on behalf of the TSM&O Department, reviews of various documents and tasks, providing technical support for the TSM&O Department and In-House Design, and development of SEMPs. Nathan's technical support to In-House Design encompasses five projects and includes preparing ITS/ATMS design plans, Wrong Way Vehicle Detection System (WWVDS) design plans, and signal operations details, in addition to assisting with the preparation of ITS communications design plans.

Lee Boulevard Operational Analysis | Lee County, FL | Lee County | Senior Traffic/ITS Engineer

Nathan was responsible for preparing an operational analysis of the Lee Boulevard corridor from east of SR 82 to west of Westgate Boulevard and the Westgate Boulevard corridor from north of Lee Boulevard to south of 6th Street West. This included preparing Condition Diagrams, collecting crash data, preparing Collision Diagrams, and performing a qualitative assessment during the AM and PM peak periods for the corridors. In addition, impacts by future developments were estimated based on the future land use. Based on the collected data, recommendations were developed, benefit-to-cost (B/C) ratios were calculated, a signal warrant analysis was prepared for the recommended signalized intersection, and the findings were compiled into a single report document.

Starkey Road Operational Analysis | Pinellas County, FL | Pinellas County | Traffic/ITS Engineer

Nathan was responsible for preparing an operational analysis of the Starkey Road corridor from north of Brian Diary Road to north of Walsingham Road. This included preparing Condition Diagrams, collecting crash data, preparing Collision Diagrams, and performing a qualitative assessment during the AM and PM peak periods for the corridor. In addition, impacts by future developments were estimated based on the future land use. Based on the collected data, recommendations were developed, benefit-to-cost (B/C) ratios were calculated, and the findings were compiled into a single report document.

ITS – Continuing Services | Districtwide, FL | FDOT D7 | Traffic/ITS Engineer

Nathan was responsible for preparing signal warrant analyses for 10 intersections and for performing a left-turn phase analysis at one intersection. The analyses included obtaining turning movement counts, conducting a crash analysis, and performing a qualitative assessment for each intersection.

DW Access Management | Tampa, FL | FDOT D7 | Traffic/ITS Engineer

Nathan was involved in the safety and access management review of eight locations along US 19 in Pasco and Pinellas County. Work involved field reviews, qualitative assessments, crash analyses, recommendations for safety improvements, and costs estimates. The goal of the project was to review for safety concerns and develop recommendations to address the identified safety issues.

Objection to DCI2022-00032

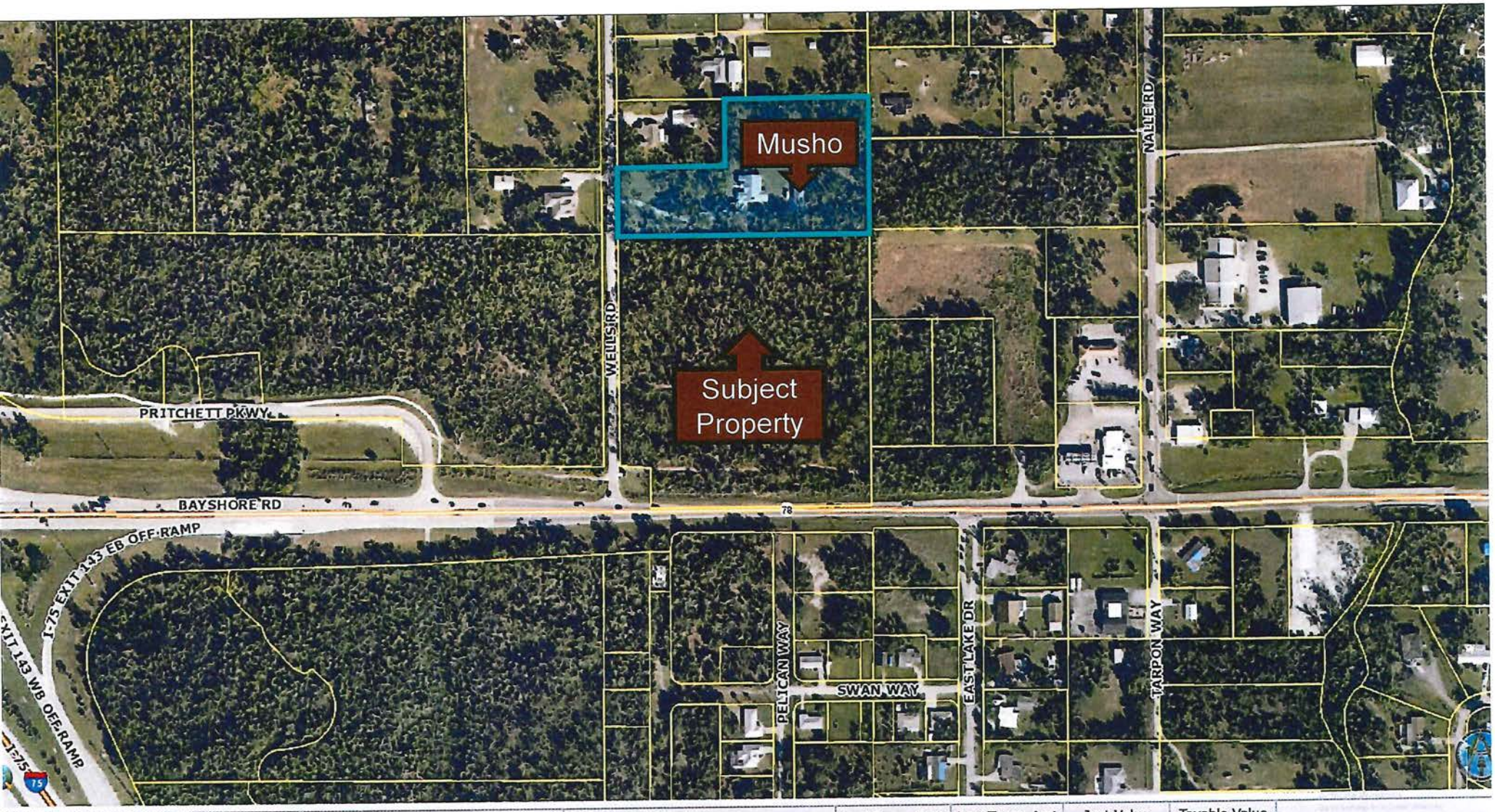
On behalf of Lisa and Michael Musho
Adjacent Property Owners of 17350 Wells Rd

Woodward, Pires & Lombardo, P.A.

EXHIBIT# 1 Lombardo
~~Susan Smith~~

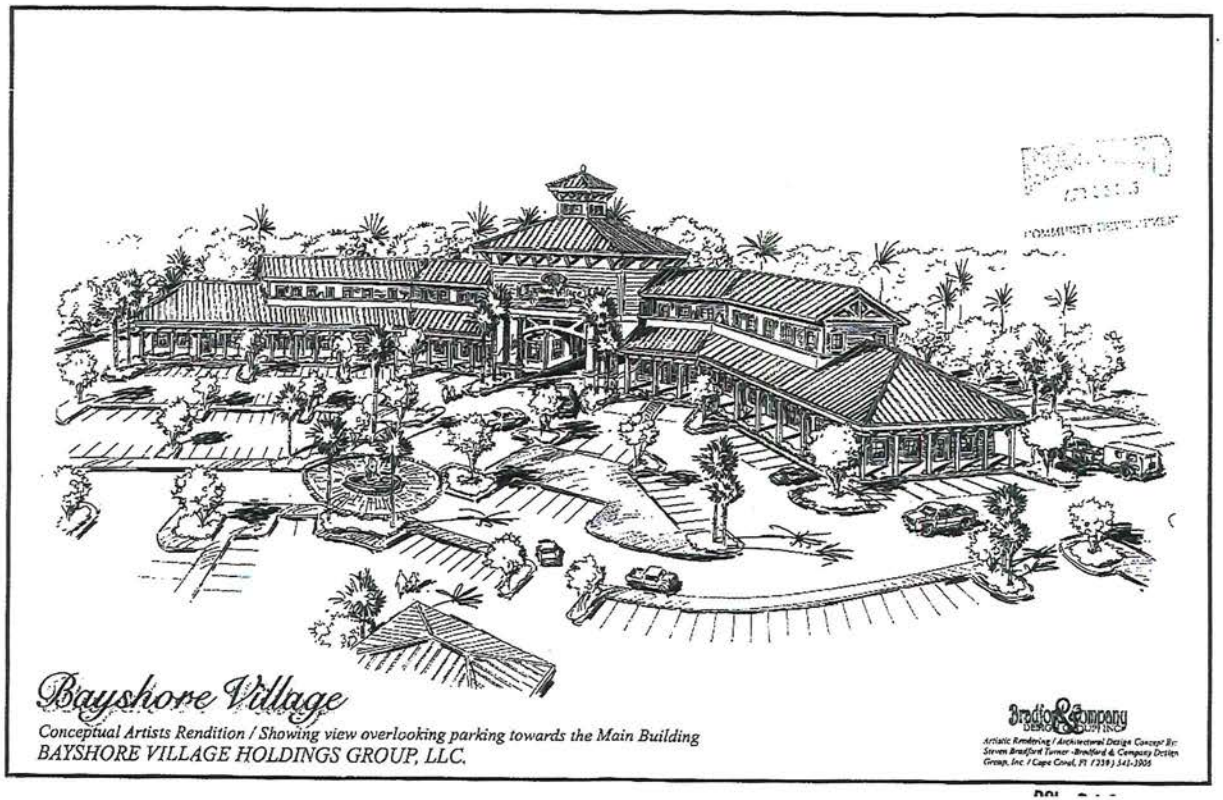
SUSAN SWIFT, AICP

- Documents submitted:
  - Resume
  - Planning Opinion dated December 12, 2023



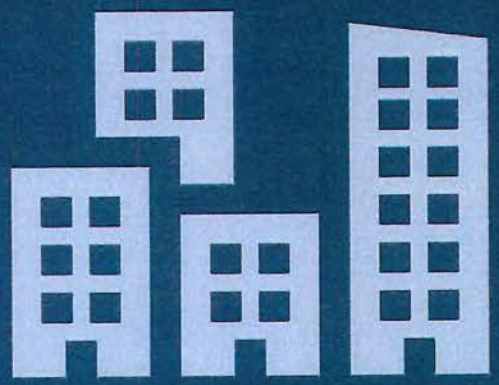
STRAP	Folio	Owner Name	Site Address	Last Trans. Date	Last Trans. Amt	Just Value	Taxable Value
22-43-25-00-00022.0010	10238798	MUSHO MICHAEL J & LISA S	17350 WELLS RD, NORTH FORT MYERS	11-1994	$ 100	$ 556,757	$ 170,872

	RESOLUTION Z-06-046	DCI-2022-00032*
mount of Development	61,000 SF	125,000 SF plus 125 room hotel Conversion options for SF vs hotel Conversion options for uses/trips
utparcels ses ot Area ot Width	2 outparcels max. Area A only 8000 SF max on both 22,500 SF 150 ft	 10,000 SF 100 ft
etbacks treet de ear	 25/20 ft 15/10 ft 20 ft	 30/20 ft 15 ft 25 ft
erimeter Setback orth outh ast est	 150 ft 25 ft 70 ft 25 ft	 only for buildings over 2 stories
eight	25 ft/1 story 35 ft/2 story	Hotel 48 ft Hotel accessory structures 35 ft All other structures 35 ft
esign Standards evations adopted d Florida Style required	 For Area B For Area A only	Not Provided
ermitted Uses	Retail/office/medical – 37 uses Similar to Neighborhood Commercial CN-2 & CN-3 uses Drug store – Limited SF Medical - Limited SF No fast food, gas pumps or Convenience stores No outdoor storage	Broad range – 150 uses (approx) Similar to General Commercial (CG) uses Gas pumps, convenience stores, Crematoria, mini-warehouses, park/ride lots, car dealers, building material sales and numerous other uses with outdoor storage



DESIGN AND STYLE STANDARDS

WHY THIS APPLICATION WARRANTS A FUTURE LAND USE MAP AMENDMENT



In addition to the evidence that DCI-22-32 is inconsistent with the Lee Plan, incompatible with surrounding uses and entitlements, and noncompliant with the Land Development Code, there are several recurring themes that indicate this application rises to a Map Amendment:

- *Compatible with conditions vs. incompatible – are not the same*
- *No amount of landscaping and walls can make an incompatible use, compatible*
- *The number and extent of conditions by the staff confirms that the PD is not compatible and therefore, not consistent with the Plan*
- *Undermines the intent of a PD*
- *Lack of predictability for surrounding property owners due to two site plan options and multiple trade-offs within them*
- *Substandard vs. "minimum" or "adequate" or "appropriate" – too many deviations and not enough "enhancements"*

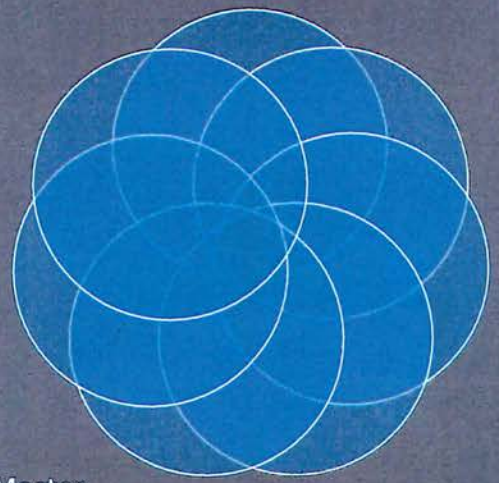
PLANNING OBJECTIONS

No reliable or predictable development concept or basis to analyze impacts

The amount of development approved vs. proposed 61,000 to 137,500 SF

The number of staff conditions confirms that the uses and intensity are not compatible with surrounding properties

Every adjacent property (except two) is zoned AG-2 or Conservation



Increase from two stories to more than four stories

The number and intensity of commercial uses is vastly increased

5 times the intensity of the least intense CPD

Multiple Master Concept Plan versions, options and trade-offs despite the use of a PD

1.5 times the amount allowed in Bayshore Community

The Application Violates the 3 C's

- Consistency with the Comprehensive Plan
- Compatibility with Surrounding Uses
- Compliance with the Land Development Code

01

Inconsistent with Purpose and Goals, Objectives and Policies of the Lee Plan

02

Inconsistent with the Bayshore Community Plan

03

Inconsistent with the General Interchange Land Use Category

INTENSITY & USES ARE INCONSISTENT WITH LEE PLAN

THE APPLICATION IS INCONSISTENT WITH ADOPTED PLANS

Inconsistent with the Lee Plan (Policies 5.1.5, 1.3.1, 5.2.4, 6.1.6, 13.6.1, 1.1.11)

- It does not "protect existing and future residential areas from encroachment of potentially destructive uses "(5.1.5)
- The site design is not "compatible with surrounding land uses to the maximum extent possible" (5.2.4)

Inconsistent with the Bayshore Community Plan (Goal 18, 18.1)

- The application does not "protect the existing rural residential, agricultural and equestrian-oriented character " and does not "maintain low residential and minimal commercial activities..."

Inconsistent with the General Interchange Land Use Category (Obj. 1.3, 1.3.2)

- The added uses are not "intended primarily for low – intensity commercial uses" nor do they provide "appropriate buffers or visual amenities

THE APPLICATION IS INCOMPATIBLE WITH SURROUNDING PROPERTIES

AMOUNT OF DEVELOPMENT

- 61,000 SF vs. 137,500 SF
- Not "minor commercial activities"
- Premature for the Bayshore Community Planning Area & more intense than other CPD's

HEIGHT

- Hotel is 48 ft/ 4 stories with potential for rooftop uses
- Not appropriate when surrounded by AG-2 and existing single-family

MORE INTENSE USES & TOO MANY USES

- 150 uses (approx.) proposed
- Many uses allow outdoor storage, 22 gas pumps,
- Negative impacts such as excessive noise, lighting, safety and visual impacts

BY CODE, CG USES ARE INCOMPATIBLE WITH RESIDENTIAL

Applicant submission 7/23: "The commercial uses are comparable to the uses permitted in the Commercial General (CG) zoning district, plus some additional uses.

LDC Section 34-841(h):

CG General Commercial District. The purpose and intent of the CG District is to permit the designation of suitable locations for and to facilitate the proper development and use of consumer-oriented commercial facilities which are of a type or scale which are not suited for and do not generally seek locations in neighborhood, community or regional shopping centers. Such uses frequently consist of a single principal building containing sales, administration, repair services or manufacture; often rely on large ground areas for storage or display of goods; and are relatively insensitive to the impacts of adjacent land uses while generating substantial impacts on their neighbors. High visual exposure and easy accessibility, usually from arterial roads or suburban highways, are important.

The 2006 CPD uses were similar to Neighborhood Commercial Districts CN-2/3 which "protect the residential character of adjoining neighborhoods."

By definition, neither the intensity nor the uses are compatible for the following reasons:

- No *similarity* in uses when comparing the proposed uses (such as open storage, park and ride lots, car wash, wholesale, etc.) to the abutting large-lot single-family residence
- These major or heavier commercial uses do not provide *reciprocity* to the Bayshore Community's rural residential *character*
- There are *actual and/or potential conflicts* and negative impacts of noise from outdoor storage and mechanical equipment, outdoor alcohol consumption, visual/aesthetic of 48 ft high buildings, noise/debris/dust from loading areas, excessive lighting from car lots and security for outdoor equipment
- There are no predictable or reliable limitations on the size and intensity of each use or the location of uses within the site. This results in significant *harmful and negative influences* (in terms of lighting, safety, noise, vibration, dust and visual impacts) between the subject site and surrounding properties.

NOT "COMPATIBLE"

as defined in LDC Sec. 34-2

THE MASTER CONCEPT PLAN AND CONDITIONS ARE NOT COMPLIANT WITH THE LDC

This is a sampling of the more serious deficiencies and evidence that the application is not compliant with the Lee County Land Development Code

- The heavier commercial uses such as truck terminals, car dealerships, clubs, certain warehouses and any use that involves outdoor storage are incompatible and will not be made compatible by any type of buffer
- Location of uses are not specified
- The buffers offered are substandard – meaning they are neither "minimum," "adequate" or "appropriate" as required
- Condition 11, referring to the hotel creates numerous compatibility problems. The 48 ft/4 story height for the hotel is misleading; consultation with our firm's architects indicates that 48 ft is not sufficient height for most chain hotel products. Accessory hotel structures should not be allowed at 35 ft height, when the location and usage are unknown.
- As defined by code, four stories allows for additional uses on the rooftop which results in a fifth level and presents further noise, lighting and other negative impacts to surrounding uses
- The applicant's narrative misuses the term "traveling public" to justify increased intensity and heavier uses; the Lee Plan uses the term relative to tourist/interchange uses rather than vehicle traffic as implied by the applicant
- Deviation #1 further increases the intensity by reducing the east side setback, a portion of which abuts the low-intensity Sub-Outlying Suburban land use category
- Deviations #4 further increases the intensity by reducing the required lot widths
- Deviation #5 further increases the intensity of the site by reducing the required lot area
- Deviation #6 adds another layer of unknown for Mr. and Mrs. Musho

THE APPLICANT ASKS FOR A REDUCTION IN COMPATIBILITY MEASURES

Current Compatibility Measures	Requested
8-foot Wall, South of preserve	Remove wall
15-foot type C buffer with intercept swale	Remove buffer and intercept swale
75-foot preserve	75-foot preserve
20-foot setback from preserve	None
8-foot utility easement	8-foot utility easement
150-foot building setback	None for primary structures
Design and Style Standards	None

PROJECT UNDERMINES THE INTENT OF A PLANNED DEVELOPMENT

- The Lee Plan relies heavily on the PD as a tool to maintain community character and minimize impacts
- The purpose of a PD is to allow flexibility for "creativity or unique site characteristics"
- Flexibility is intended to minimize impacts – not to minimize compliance
- This application undermines the intent of a Planned Development and is noncompliant with Sections 34-612 (2a,2b,2d, 2h)
- The number of possible uses, MCP options & trade-offs & conditions does not provide a PD that can be relied upon
- Too many unknowns
- Too many deviations

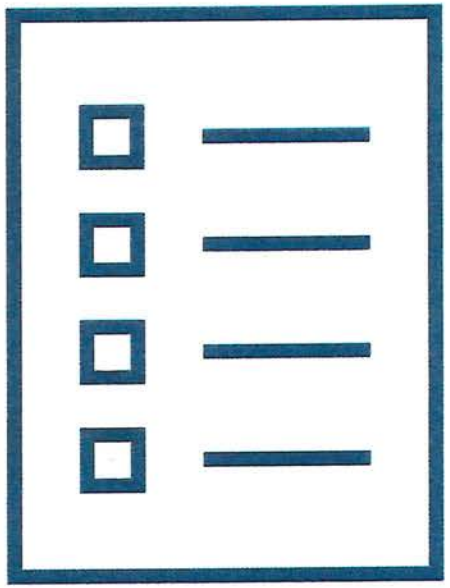
THE MAGNITUDE OF THE PROJECT REQUIRES A FUTURE LAND USE MAP AMENDMENT

- There are no changes in the Bayshore Community Plan that warrant increased intensity
- There are no changes in the surrounding uses or zoning districts that warrant increased intensity
- The amount of development is not consistent with the Lee Plan or Bayshore Plan
- The proposed uses, height and amount of development are of a magnitude that cannot be mitigated by landscaping and buffers
- The doubling of height is not compatible with surrounding properties
- The allowance for much heavier and intense commercial uses that are not compatible with Bayshore's rural residential character
- The increase from 37 uses to 150 uses – with no location does not provide a reliable plan or predictable impacts for surrounding owners
- The staff's compromise does not mitigate the inconsistencies & incompatibilities

PLANNING OPINION CONCLUSIONS

The application should be denied as inconsistent with the Lee Plan, incompatible with the surrounding uses, and not in compliance with LDC, based upon:

- The Lee Plan and the surrounding uses and zoning have not changed since the approval of the 2006 CPD for this site
- The 2006 CPD decision specifically rejected additional density
- It is not consistent with the Lee Plan or the Bayshore Community Plan
- It is not consistent with the General Interchange Land Use category
- It is not compatible with existing uses or that surround the property
- It is not compatible with the land use and zoning entitlements of surrounding properties
- The intensity exceeds other projects approved in the Bayshore Community Planning Area
- The heavier commercial uses are incompatible with the existing residence and the AG-2 zoning on adjacent parcels
- The proposed uses, height and placement are so incompatible with the adjacent residence and low-density entitlements, they cannot be mitigated by plants or walls
- The deviations recommended for approval by staff increase the intensity by allowing uses on smaller lots and more development to be crammed into this site.
- The deviations recommended for approval by staff further reduce the compatibility of the project



NATHAN POOLE, P.E.

- Documents Submitted:
  - Resume
  - Opinion Letter dated September 12, 2023

TRAFFIC OBJECTIONS

GENERAL CONCERNS AND OBJECTIONS

- There would be operational and safety concerns with SR 78 relating to the projected capacity failure of the segment of SR 78 from Pritchett Parkway to Wells Road. Specifically, the projected congestion conditions will impact the safety of SR 78 as an increase in congested-related crashes, such as rear-end crashes and "good Samaritan" type left-turn and angle crashes, could be expected.

- There is a concern re the ability to receive approval from the Florida Department of Transportation (FDOT) for access on SR 78, and the ability to receive approval from the FDOT to potentially construct a traffic signal at the SR 78 and Wells Road intersection.

TRAFFIC OBJECTIONS (CONT.)

Application Concerns and Objections

- The Applicant's study states the failure of the SR 78 segment is due to background growth; however, this development is a major contributor to the SR 78 segment failure as well. If the background growth is removed and only the development's project trips are applied to the existing traffic volumes from 2020, the segment is also projected to fail with a LOS F. The study does make mention of the FDOT Capacity Study on SR 78 between I-75 and SR 31; however, the subsequent design, right-of-way, and construction phases for the project are currently not funded, which means it is highly unlikely that any capacity improvements (widening SR 78 to four lanes) will be in place by 2028.
- It should be noted that the traffic study appears to have underestimated the 2028 background traffic conditions. Using the same AADT source as the traffic study and with the AADT from 2012-2021, we calculated a historical growth of 5.75%. This is noticeably higher than the 3.85% used in the traffic study. Also, the traffic study included in the 11/17/2022 submittal to the County indicated a 12% growth rate was applied to Pritchett Parkway; however, the traffic volume worksheets included in the 12/6/2022 submittal to the County only used a 2% growth rate.

TRAFFIC OBJECTIONS (CONT.)

Application Concerns and Objections (Cont.)

The Applicant has stated that the proposed 125,000 sq-ft commercial development will help to alleviate the currently stressed Bayshore corridor by removing some of the traffic that must travel further west on Bayshore Road, beyond I-75 or accessing I-75, to reach specific commercial uses at further distances.

While the Applicant's traffic study does account for the development's pass-by trips, which are trips from vehicles that are passing by the site today, the roughly 20% pass-by rate is a minor reduction of the gross new trips for the development.

Even with these deductions, we still have projected roadway and intersection failures.

TRAFFIC CONCLUSIONS

This development creates operational and safety concerns on the SR 78 corridor

Lee Plan Issues

- FLE 18.2
- FLE 2.2.3
  - Unfunded

On Behalf of Objectors Lisa and Michael Musho:

- **Susan Swift, AICP, Boggs Engineering**
- **Nathan Poole, P.E., VIBEngineering**
- **Zachary W. Lombardo, Esq., Woodward, Pires & Lombardo, P.A.**

PRINCIPAL OBJECTION

The proposed increased commercial intensity (uses, height, total square footage, etc.) and decreased compatibility measures (setbacks, screening, etc.) is far in excess of what is permissible under the Lee Plan, even with staff's proposed reductions, and is thus INCONSISTENT AND SHOULD BE DENIED.

TABLE 1

I-75 Exit	Project Name	Planning District	Resolution	Acreage	Maximum Intensity	Per Acre
143	North River Plaza	North Fort Myers	Z-10-032	41.6	260,000SF + 180 Hotel Units	6,250SF + 4.3 Hotel Units
143	Bayshore 22	North Fort Myers	Z-22-012	22.23	240,000SF	10,796SF
143	Bayshore/I-75 Land Trust	North Fort Myers	Z-86-191	22.56	130,000SF + 182 Hotel Units	5,762SF + 8.06 Hotel Units
131	Daniels Marketplace	Daniels Parkway	Z-08-043	65.5	390,000SF + 120 Hotel Units	5,954SF + 1.8 Hotel Units
131	Galleria East	Daniels Parkway	Z-03-026	14.21	170,000SF + 120 Hotel Units	11,963SF + 8.4 Hotel Units
131	Daniels/I-75 Commerce Center	Gateway/ Airport	Z-02-032	64	610,000SF + 120 Hotel Units	9,531SF + 1.9 Hotel Units
128	Vintage Commerce Center	Gateway/ Airport	Z-19-035	33.95	350,000SF + 300 Hotel Units	10,309SF + 8.8 Hotel Units
128	Alico Crossroads Center	Gateway/ Airport	Z-08-035	46.69	377,000SF + 100 Hotel Units	8,074SF + 2.2 Hotel Units

CPDs in the Bayshore Community

CPD	SQ FT/Acre	CPD	SQ FT/Acre
Current zoning for Subject Property	6,971.43	Proposed zoning for Subject Property	14,285.71
SPC Interchange Store CPD	2,462.06	Proposed zoning for Subject Property w/ admin. Approval	15,714
W&W Service Park CPD	6,741	Staff Proposal	10,000
Ed & Kathie Ramsey CPD	8,474.57		

LEGAL ISSUES

Consistency is Required to Approve Application

In addition to 34-411, LDC, which requires Lee Plan consistency:

Florida law mandates consistency between a local government's comprehensive plan and its development orders. See § 163.3194(1)(a) ("After a comprehensive plan ... has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders ... shall be consistent with such plan or element as adopted."). *Heine v. Lee Cnty.*, 221 So. 3d 1254, 1257 (Fla. Dist. Ct. App. 2017)

"[A]n aggrieved party [is authorized] to bring an action to challenge a development order that "materially alters the use or density or intensity of use on a particular piece of property which is not consistent with the comprehensive plan." § 163.3215(3). " *Heine v. Lee Cnty.*, 221 So. 3d 1254, 1257 (Fla. Dist. Ct. App. 2017)

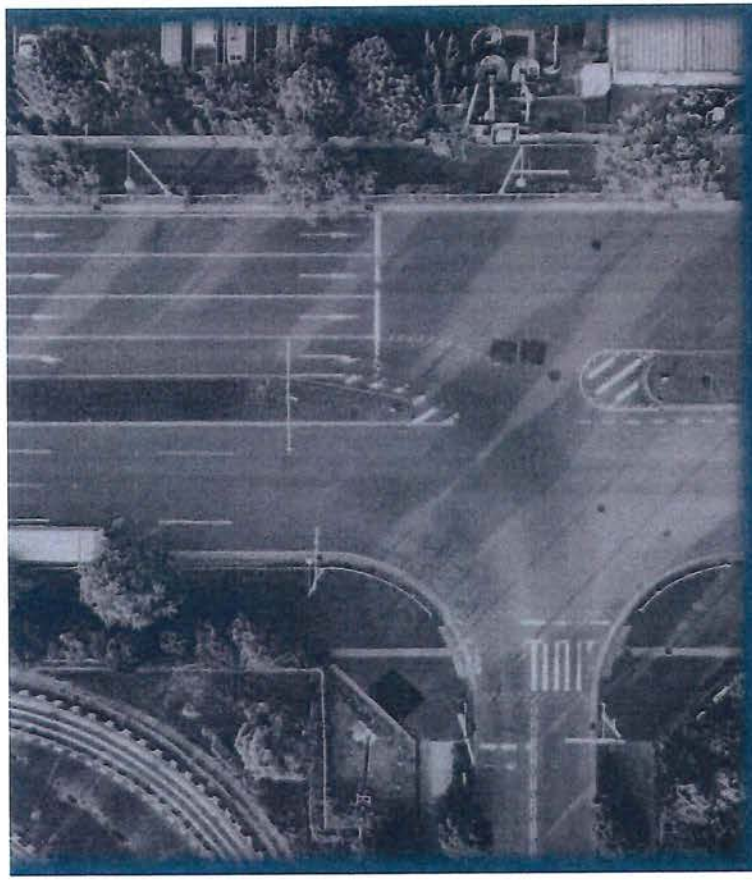
LEGAL ISSUES

Standing:

The Florida Supreme Court has long recognized that standing requires showing that one will suffer special damages that differ in kind, rather than degree, from others in the community. *Renard v. Dade County,* 261 So.2d 832, 837 (Fla. 1972). One must show that their affected interest is different from others in the community at large.

Here, as the adjacent property owners, the Mushos will suffer special damages if this rezoning is approved and are otherwise aggrieved or adversely impacted property owners under section 163.3215, Florida Statutes.

LEGAL OBJECTIONS: INTENSITY



1. **As opined by Planner Swift, The requested increase in intensity is inconsistent with the Lee Plan and should be denied (there is no pending companion comprehensive plan amendment).**

   A. *This more than doubling of commercial square footage, addition of hotel rooms, increase in height, and increase in uses is an increase in intensity that is inconsistent with the Bayshore Community Plan and Interchange segments of the Lee Plan as well as other goals and policies.*

Dear Ms. Collins,

The applicant does hereby submit the information required in the 48-Hour letter.

The applicant agrees with the staff recommendation of approval. The applicant has included a revised MCP (A and B) to be consistent with the recommended conditions, dated December 8, 2023. The applicant will bring an updated exhibit regarding the travel times from the wellfield protection ordinance. The updated master concept plans are attached hereto.

The applicant submits that the limitation of drive through to the east side of a structure should not apply in the southern 400 feet.

The staff was kind enough to provide an updated memorandum dated December 4, 2023. The applicant disagrees with some of the conditions recommended by the staff. The applicant does not agree with the staff recommendation on the permitted square footage for the site. The applicant does not agree with the requirement for a wall south of the significant vegetated buffer/indigenous area on the north side of the property.

NOT INCLUDED IN APPLICANT PRESENTATION

- GOAL 18: BAYSHORE COMMUNITY PLAN. Protect the existing rural residential, agricultural and equestrian-oriented character of the community ***by maintaining low residential densities and minimal commercial activities***, and exclude incompatible uses that are destructive to the character of this rural residential environment.

- Applicant requesting unprecedented commercial activities
- Staff is recommending average commercial activities
- Plan requires minimal

TRAFFIC IMPACT AND CONSISTENCY

Recently, the appellate courts held failure to consider traffic impact claims in comprehensive plan challenges to be reversible error. *Conservancy of Sw. Fla., Inc. v. Collier Cty.*, 352 So. 3d 481, 490 (Fla. 2d DCA 2022). Thus, like in Collier County, when there are comprehensive plan elements that speak to traffic impact, rezonings must conform or be subject to challenge.

The Applicant asserts:

- The proposed 125,000 square feet of commercial will help to alleviate the currently stressed Bayshore corridor by removing some of the traffic that must travel further west on Bayshore Road, beyond I-75 or accessing I-75 to reach specific commercial uses at further distances. As such, the proposed amendment will help to reduce length of trips on Bayshore Road and I-75 alike. Additionally, the increased commercial will serve the Bayshore Community's existing and future residential growth.

This assertion, however, is not supported by the provided analysis. As opined by engineer Poole, the pass-by capture is minor compared to the impact of this development and its substantial increase in intensity.

Instead, the proposed intensity will cause a need to expand roads, inconsistent with Policy 18.2.

- OBJECTIVE 18.2: TRANSPORTATION. All road improvements within the Bayshore Community considered by the County will address the community's goal to maintain its rural character and ***give preference to alternatives that allow existing roads to function at their current capacity***.

WELLS ROAD NOT ANALYZED BY APPLICANT

LEGAL OBJECTIONS: TRAFFIC

As opined by the Mr. Poole, this More Than Doubling of Intensity Despite Road Conditions Supports Following Policy 2.2.3 of the Future Land Use Element of the Lee Plan and Deferring or Denying the Request.

POLICY 2.2.3: When an area within the County is approaching the capacity of the necessary facilities as described above, requested rezonings to increase densities and intensities may be deferred or denied to give preference to existing vacant lots and other valid development approvals, provided that a constitutionally mandated reasonable use of land would still be permitted.

SECTION A. REQUEST

The applicant filed a request to rezone a 8.75± acre parcel from AG-2 to CPD, to allow a maximum of 99,999 square feet of mixed uses: office, medical office and retail. Maximum height requested is two stories/35 feet. No development blasting is requested. The project will connect to public potable water and to a public sanitary sewer system as part of any development of this property. The property is located in the General Interchange Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions specified in Section B below.

LEGAL OBJECTIONS (CONT.)

2. The Requested Increase Includes Inconsistent and Incompatible Uses

A. *Certain Proposed Uses are Inconsistent Uses and Should be Not Allowed or Modified*

B. *Certain Uses are Non-Existent Uses and Cannot be Added without Amending the LDC (food truck park (lacks definition))*

C. *Certain Uses Should Be Modified*

D. *On-Premises Consumption Should Not Be Expanded*

GOAL 18: BAYSHORE COMMUNITY PLAN. Protect the existing rural residentia equestrian-oriented character of the community by maintaining low residential densi commercial activities, and exclude incompatible uses that are destructive to the cham residential environment. (Ord. No. 03-02, 18-18)

OBJECTIVE 18.1: LAND USE. The County will continue to enforce land developm that ensure separation of urban and rural land uses through the implementation of speci and setback requirements that protect high quality environmental areas, such as creeks, floodplains and wetlands from potential impacts of development. Planned developm appropriate conditions of approval, will be required to locate low residential densi perimeters of the development. Amendments to the Future Land Use Map that increa intensity must demonstrate compatibility through a concurrent planned development re No. 03-02, 18-18, 18-18)

POLICY 18.1.1: Retail commercial uses will be limited to the Interstate Interchange at Bayshore and I-75, plus minor commercial uses at the intersections of Nalle Road an SR 31 and Bayshore, and SR 31 and Old Bayshore. Non-retail commercial uses at elsewhere consistent with the Lee Plan and the LDC. (Ord. No. 03-02, 18-18)

POLICY 18.1.2: The following properties are deemed consistent with Policy 18.1.1: 7.1 acre +/- retail commercial center at 10440 Bayshore Road, the 0.66 acre +/- retail c property at 19451 SR 31, the 0.83 +/- acre retail commercial property at 17270 Durrance the 0.36 +/- acre retail commercial property described in resolution Z-72-93, which is property at 6600 Nalle Grade Road. (Ord. No. 03-02, 17-13, 18-18)

POLICY 18.1.3: No new industrial uses or industrial rezonings are permitted after Fel 2003. (Ord. No. 03-02, 18-18)

POLICY 18.1.4: No new mining uses or commercial excavations are permitted after Feb 2003. (Ord. No. 03-02, 18-18)

OBJECTIVE 18.2: TRANSPORTATION. All road improvements within the Bayshore Com considered by the County will address the community's goal to maintain its rural character an preference to alternatives that allow existing roads to function at their current capacity. (Ord. N 02, 18-18)

POLICY 18.2.1: Any expansion of the state arterial roadways should include physically sepa provisions for bicyclists/pedestrians. (Ord. No. 03-02, 18-18)

POLICY 18.2.2: Road capacity improvements needed within the Bayshore Community to s demands generated outside the community will be designed to minimize the impacts on community and its rural character. (Ord. No. 03-02, 18-18)

POLICY 18.2.3: If a need to extend Del Prado Boulevard east of I-75 t Community Plan area is demonstrated, the c the existing Nalle G

OBJECTIONS TO SPECIFIC USES

- Animals (Clinic, Kennel, Control Center (including Humane Society)
  - *Note W&W Service Park CPD has this use but does not allow outdoor runs. The Mushos request that if this use is kept it include a prohibition on outdoor runs.*
  - *Northriver Plaza CPD, a General Interchange CPD, does not have this use*
- Bar or cocktail lounge (AA/SE)
  - *W&W Service Park CPD does not have this use*
  - *Northriver Plaza CPD, a General Interchange CPD does not have this use*
- Department Store
  - *W&W Service Park CPD does not have this use*
  - *Northriver Plaza CPD, a General Interchange CPD does not have this use*
- Farm equipment, sales, storage, rental or service
  - *W&W Service Park CPD does not have this use*
  - *Northriver Plaza CPD, a General Interchange CPD does not have this use*
- Feed or fertilizer, mixing and sales (see below)
  - *W&W Service Park CPD does not have this use*
  - *Northriver Plaza CPD, a General Interchange CPD does not have this use*
- Flea market (either open (SE) or indoor)
  - *W&W Service Park CPD does not have this use*
  - *Northriver Plaza CPD, a General Interchange CPD does not have this use*
- Food truck park
  - *W&W Service Park CPD does not have this use*
  - *Northriver Plaza CPD, a General Interchange CPD does not have this use*
- Funeral home or mortuary (with or without cremation)
  - *W&W Service Park CPD does not have this use*
  - *Northriver Plaza CPD, a General Interchange CPD does not have this use*
- Package Store
  - *W&W Service Park CPD does not have this use*
  - *Northriver Plaza CPD, a General Interchange CPD does not have this use*
- Pet Services
  - *Note W&W Service Park CPD has this use but does not allow outdoor runs*
  - *Northriver Plaza CPD, a General Interchange CPD does not have this use*

LEGAL OBJECTIONS: COMPATIBILITY

3. As opined by Planner Swift, The requested rezone is incompatible with the surrounding land uses.

A. An increase in intensity and a decrease in buffering should not be approved

2006 RESOLUTION PERSPECTIVE

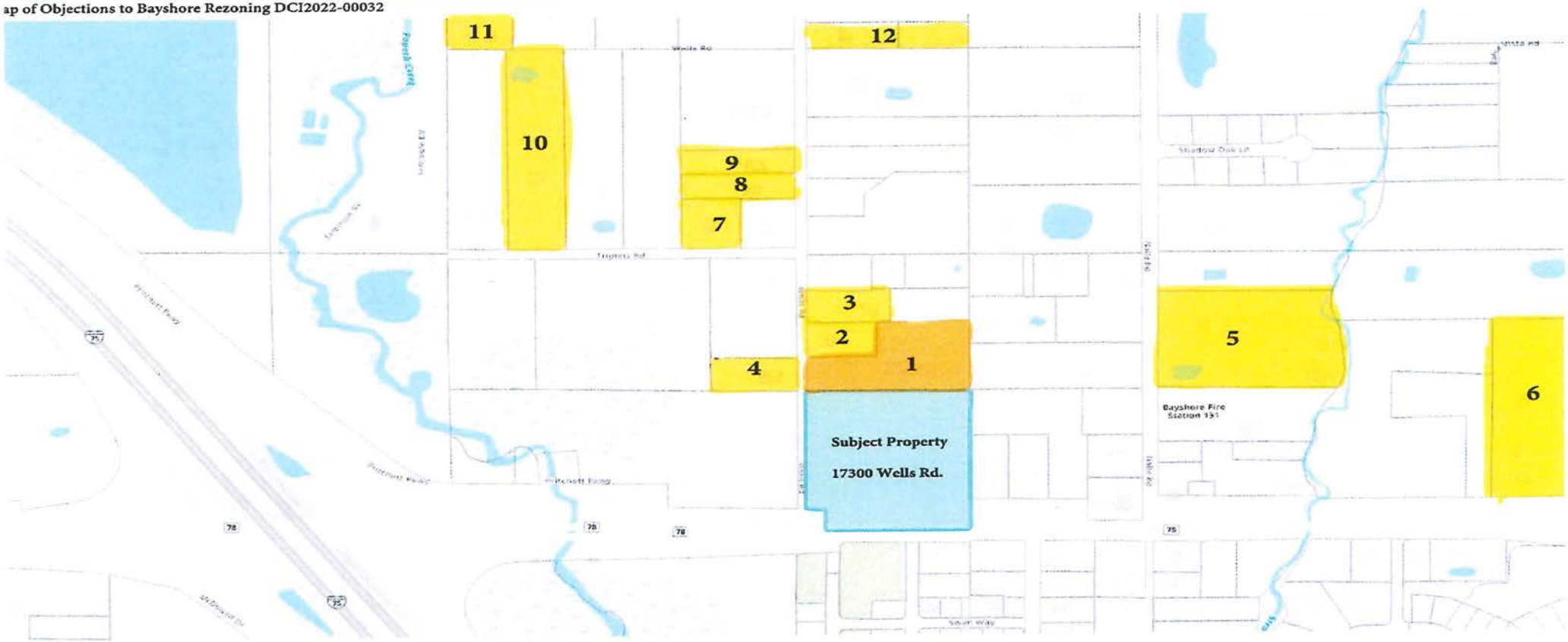
- In 2006, Goal 18 was in place and the surrounding uses were essentially the same.
- Goal 18 was considered and an application for 99,000 square feet was reduced to 61,000 square feet and many protections were put in place to ensure consistency and compatibility.
- Legally, nothing material has changed.
- Commercial development can take place. This application requests too much. The applicant has reasonable use of its property and has no reasonable expectation in rezoning to an intensity not supported by the Lee Plan.

SUMMARY OF EVIDENCE IN OPPOSITION

- Objections from 100s of neighboring property owners
- Testimony from Mr. and Mrs. Musho
- Testimony from planner Swift re inconsistency, incompatibility, and LDC compliance issues
- Testimony from engineer Poole re inconsistency and safety concerns

MAP OF NEARBY PROPERTIES IN OBJECTION TO DCI2022-00032

ap of Objections to Bayshore Rezoning DCI2022-00032



1. LISA AND MICHAEL MUSHO - 17350 WELLS RD, NORTH FORT MYERS
2. DAVID AND FRANKIE VIETHS - 17400 WELLS RD, NORTH FORT MYERS
3. BRITTANY AND DAVID EADS - 17430 WELLS RD, NORTH FORT MYERS
4. JOE BAUBLIS - 17351 WELLS RD, NORTH FORT MYERS
5. KATHY CROSS - 17400 NALLE RD, NORTH FORT MYERS
6. ROBIN WHIDDEN - 9695-9721 BAYSHORE RD, NORTH FORT MYERS
7. RONALD BEYER - 9171 TRIPLETT RD, NORTH FORT MYERS
8. DAVID AND BETHANY MCCLEAF - 17535 WELLS RD, NORTH FORT MYERS
9. KATHLEEN PUTETT SMALL AND PERRY SMALL - 17575 WELLS RD, NORTH FORT MYERS
10. SARA CATALANO - 9051 TRIPLETT RD, NORTH FORT MYERS
11. AMY AYERS - 17771 WELLS RD, NORTH FORT MYERS
12. GIGETA MILLER - 17700 & 17730 WELLS RD, NORTH FORT MYERS

CONCLUSION

The application should be denied as inconsistent with the Lee Plan.

1. **The commercial square footage should not be increased beyond 61,000 square feet;**
2. **The current buffering, screening, and setback from Resolution Z-06-046 be maintained, specifically:**

   the preserve, the easement, a type C buffer with an 8-foot wall, South of the preserve (see § 11 of Resolution Z-06-046), the preserve setback of 20-feet, and a 150-foot building setback (§ 2.b. of Resolution Z-06-046);
3. **The height should not be increased for any use above 35 feet;**
4. **Examples of the most egregious uses include:**

   a. Animals (Clinic, Kennel, Control Center (including Humane Society);

   b. Bar or cocktail lounge (AA/SE);

   c. Department Store;

   d. Farm equipment, sales, storage, rental or service;

   e. Feed or fertilizer, mixing and sales (see below);

   f. Flea market (either open (SE) or indoor);

   g. Food truck park (NOT DEFINED, NOT IN THE LDC);

   h. Funeral home or mortuary (with or without cremation);

   i. Night Clubs (AA/SE);

   j. Package Store;

   k. Pet Services
5. **On-premises consumption should not be expanded**

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TRANSCRIPTS FOR CASE #:

DCI 2005-00100

LEE COUNTY HEARING EXAMINER
PUBLIC HEARING

Case No. DCI2005-00100

Applicant: Bayshore Village Holdings Group, LLC, in reference to The Village Square on Bayshore

Transcript of proceedings before Diana Parker, Lee County Hearing Examiner, 1500 Monroe Street, Fort Myers, Florida, on May 18, 2006, commencing at 9:00 A.M.

APPEARANCES:

MATT UHLE, Esquire
representing the Applicant

DAWN E. LEHNERT, Assistant County Attorney,
representing Lee County

TONY PALERMO, Senior Planner, Division of Zoning

KIM TREBATOSKI, Principal Environmental Planner,
Department of Environmental Sciences

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ORIGINAL

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THE HEARING EXAMINER: Good morning. I'm Diana Parker, Chief Hearing Examiner for Lee County. This is Thursday, May the 18th, Case Number DCI-2005-00100, Bayshore Village Holdings Group, in reference to The Village Square on Bayshore.

Before we start the hearing this morning, the County Attorney has a few comments to make.

MS. LEHNERT: Good morning. My name is Dawn Lehnert and I am an Assistant County Attorney, representing the Board of County Commissioners. I'm also here to assist the county staff, the applicant and the hearing examiner to ensure that the record in this case is complete.

If you would like to participate at today's hearing or obtain a copy of the hearing examiner's recommendation, we ask that you please fill out a white form on the small table located at the front of the room. Once you have completed the form, please leave it next to the hearing examiner.

At the conclusion of staff's presentation, the hearing examiner will open the floor for public participation. It is at that time you will have an opportunity to address the hearing examiner.

All public comment will be heard from the podium at the front of the room.

When you step up to this podium, please state your name and address for the record. If you reside or own property in the area, please explain to the hearing examiner where you live in relation to the property, the subject property.

This is a rezoning hearing and it is not a final action on this matter. The hearing examiner's recommendation will be considered by the Board of County Commissioners at a final public hearing a few weeks after the recommendation is issued.

If you would like to have your thoughts considered in this matter, you will need to speak here today. If you wish to speak at the hearing before the Board of County Commissioners, you must speak here today.

At this time I would like to introduce the applicant's representatives and staff members working on this case. Tony Palermo to my right is the county's zoning planner. The court reporter. Diana Parker is the hearing examiner and Matt Uhle is the applicant's representative. Thank you.

THE HEARING EXAMINER: Okay. Folks, in addition to the comments that the county attorney has just made, let me do advise you we have only water in this room. Please do not bring in sodas or coffee. You

will be stopped at the door if my secretaries see you coming in with those drinks. Please do not bring those in here. Water only.

I need to swear in all persons who will be speaking at this morning's hearing. If you are an attorney and testifying to facts, you need to be sworn in as well. So if you intend to speak in today's hearing, please raise your right hand.

(Present witnesses sworn.)

Now, as the county attorney has indicated, the applicant will make their presentation first, bringing up whatever witnesses they need to call to make me understand fully what they're asking for. After the applicant has made their presentation, staff will then make a presentation explaining their reasoning and their recommendation of approval with conditions of this request. After staff and applicant have made their presentations, then I'll open the floor for public comment. At that time, as the county attorney's indicated, you need to come up to the podium, state your name and address for the record and then make your comments. Please keep your comments germane to the issue at hand. It does me no good for you to tell me you don't like the current property owner, you didn't like the past property owner, you

1 don't like your neighbor but your neighbor likes the
2 current property owner. Personalities, neighborhood
3 disputes have no basis in my decision. I need to know
4 what you feel will happen to your lives, your property
5 and your community if this request is approved, all
6 right? So please try to keep your comments germane to
7 those particular issues because those are the only
8 things that I can address.
9 And as the county attorney has indicated, my
10 recommendation will be issued, it will go to the Board
11 of County Commissioners. You will receive a copy of
12 my recommendation. You will also receive notice of
13 the hearing in front of the Board of County
14 Commissioners which occurs on a Monday morning at
15 9:30. All right. You will be given the opportunity
16 to speak at the board hearing only if you speak here.
17 You must speak here in order to be able to tell the
18 board if you think my recommendation is wrong. Okay.
19 Do I have any questions on procedures from anybody?
20 Yes, sir.
21 UNIDENTIFIED SPEAKER: Are there any time limits
22 to each speaker?
23 THE HEARING EXAMINER: No, sir. As long as the
24 information that you're giving me is relevant to the
25 issues at hand, there is no time limit. Now, in front

of the Board of County Commissioners you will be limited. It's either three or five minutes.

MS. LEHNERT: Three.

THE HEARING EXAMINER: Is it three? Okay, it's three minutes over there. But here, in order to fully explain your concerns, I don't put a time limit as long as your comments are relevant, okay. You can also ask questions, but the questions need to be relevant as well. I mean let's not get into pie in the sky and how much you're going to make out of this and that kind of thing because that has no bearing on my decision.

UNIDENTIFIED SPEAKER: To whom do we address those questions?

THE HEARING EXAMINER: You can address those questions to me and I will have the applicant or the staff respond to them as the appropriate person.

All right. Now, also, if the hearing runs over two hours we will be taking a short break so the court reporter can unwind and unfocus a little bit.

As I indicated, water only in this room. We do have a hearing that starts at one o'clock in this room, so we can run until one o'clock. If the hearing runs past one o'clock and we are not completed by one o'clock, we will have to continue the hearing to

1 another day because I have a full afternoon of
2 hearings already, so we will have to continue it to
3 another day. All right? Okay.
4 No other questions on procedures?
5 Yes, ma'am.
6 UNIDENTIFIED SPEAKER: Should we go fill the
7 paper out now?
8 THE HEARING EXAMINER: Yeah, you can do that. In
9 fact, if you would like to fill the paper out and then
10 just hold onto it, you can just bring it to me as you
11 come up to testify. If you need more pencils or pens,
12 let me know.
13 Are we ready to start? All right.
14 Is the applicant ready to go forward?
15 MR. UHLE: Yes, ma'am.
16 MR. UHLE: For the record, Matt Uhle representing
17 the applicant.
18 The hearing examiner should have received our
19 24-hour notice on this case yesterday.
20 THE HEARING EXAMINER: Uh-huh.
21 MR. UHLE: Indicates that there are five issues.
22 Of those I believe three of them have probably been
23 resolved. We'll have to see when staff gets up. But
24 the ones that I suspect have not been resolved are the
25 first and the last on the list.

In light of the public interest in this case and the fact that there are some issues with the staff, we will be making a fairly extensive presentation today. I will be beginning the presentation by giving you an overview of the property, the general location, the workings of the site plan and how it has evolved overtime. Following me, Jack Ruskai will be providing expert testimony on engineering issues relating to surface water management, utilities, to some extent the road standard condition, Condition 16, as well as talking about the cross section for the northernmost portion of the property which has been changed, as we'll explain, to be consistent, at least we think it's consistent with what the staff is recommending.

Following him Jim Keltner will be providing a brief bit of expert testimony on vegetation and protected species. Following him Rob Price will be addressing traffic. Mike Roeder will be providing testimony regarding the Lee Plan. And I will conclude the presentation by walking through the staff recommendation and addressing points where we either do or don't agree with the staff and why.

THE HEARING EXAMINER: Okay.

MR. UHLE: To begin with, the overview, of course, the subject property is roughly an 8.75-acre

1 parcel located at the northeast corner of the Wells
2 Road/Bayshore Road intersection.
3 The property is vacant. As you can see from the
4 FLUCCS map that Jim has already put up on the board
5 here, it's all four level, it's all one big pine
6 flatwood. It's zoned AG-2 and it's in the General
7 Interchange Land Use Category. And that last fact is
8 a matter of the utmost importance to this case
9 because, as the hearing examiner's undoubtedly aware,
10 a general interchange mandates that this property be
11 used for commercial purposes and the list of uses that
12 are discussed in that policy are quite intense. So
13 this isn't a question of whether we want to do
14 residential as opposed to commercial. This is not a
15 mixed-use category. It's an exclusively commercial
16 category and we are doing precisely in this case what
17 the Lee Plan directs us to do.
18 With regard to the nature of the neighborhood,
19 first of all, if you look at the parcels to the east
20 there are a number of vacant parcels immediately to
21 the east. They show up best on the staff aerial over
22 here. You will see that one of the parcels has a
23 boundary in red. That is a vacated commercial planned
24 development. The other parcels that are vacant I
25 believe are zoned Ag. And then there are commercial

1 uses at the corner of Nalle Road and Bayshore Road.
2 To the north of the subject property we have a
3 piece of acreage that's used for single-family
4 residential purposes. To the west of the property we
5 have Wells Road which is classified by the county as a
6 local road, and then other vacant property.
7 Now, one thing that I will note right up front,
8 the existing Leetana access to Bayshore Road is
9 located at this point here. There are apparently
10 ongoing discussions between a developer and other
11 parties to the effect that this access should be
12 changed and the road should be extended to Wells Road.
13 We are not a party to those discussions. We're in no
14 way involved. We have no control over them.
15 THE HEARING EXAMINER: When you said the
16 developer, you're talking about the developer of a
17 project north of Bayshore that's accessed by Leetana?
18 MR. UHLE: Yes.
19 THE HEARING EXAMINER: Okay.
20 MR. UHLE: But what we have done is, in light of
21 the possibility this project might be built and that
22 realignment might take place, you will see when I go
23 through the master concept plan we provided a note
24 which requires us to attempt to coordinate with those
25 efforts and align our southernmost access point with

that if in fact it happens. Other than that the property to the west obviously is vacant.

The property to the south, obviously we immediately abut Bayshore Road which is two lanes at this location. We're just to the east of the terminus of the four-lane section. And I will tell you that the 2030 plan does not show any attempt to widen the road at this particular area.

Then to the south of that you have property that on the staff aerial correctly shows up as an RPD. In reality, that's the River Run property which was acquired by the county in the 2020 program and so in the real world that's a preserve area but it shows up on the map as an RPD.

THE HEARING EXAMINER: Okay.

MR. UHLE: In reviewing the site plan, it's a relatively self-explanatory plan but I will walk you through it anyway. We show three access points. The first access point is shown on Bayshore Road at this location here. It's pushed as far to the east on the site as possible. That access point is obviously subject to permitting from FDOT, so there's a staff condition which addresses that and we don't have a problem with that. But I will tell you, and Mr. Price will discuss this in his testimony, that we have in

fact worked with FDOT and tried to come up with the best location for it. The indication from FDOT is that this is the best location for it. We also anticipate that there will be probably commercial uses to our east, so we tried to design this to create the possibility of interconnection for the benefit of those people.

There are two accesses on Wells Road. One of them is located between the two development areas. The northernmost access is intended to provide access purely for employee parking and for deliveries, and so as I'll explain as I talk about how the plan has evolved, one of the features of this is there will be no right turns permitted out of that access point. There's no reason for anybody to turn right and that will prevent traffic that doesn't need to be going north on Wells Road from doing so.

THE HEARING EXAMINER: So they will only be allowed to turn left.

MR. UHLE: Yes.

UNIDENTIFIED SPEAKER: Can you speak up a little? We're having a hard time hearing.

THE HEARING EXAMINER: Matt, can you get the microphone. Thank you.

MR. UHLE: I'll just speak from here. I assume

1 that the hearing examiner can see the master concept
2 plan.
3 THE HEARING EXAMINER: Can you all hear?
4 Matt, pull the thing up. That microphone is very
5 unidirectional.
6 MR. UHLE: The southernmost development area
7 which is identified as Area A is intended to be out
8 parcels. There is not a lot of detail shown on the
9 plan. That's largely due to the fact that when you
10 develop property and you don't specifically have end
11 users, which is usually the case in commercial
12 projects of this size, you never know exactly how much
13 acreage everybody is going to need for their parcels.
14 And if we showed a precise line, any attempt to
15 deviate from that line might trigger a demand for an
16 amendment, even possibly a public hearing amendment.
17 We don't want to do that. So the way that we handled
18 that on the application was to indicate that there
19 would be a minimum of two and a maximum of three out
20 parcels. That provides the county with the assurance
21 of -- that this isn't going to turn into one of those
22 Wal-Mart on Coconut Road situations where there really
23 aren't any out parcels, but on the other hand, it
24 gives you some idea of how many there will be.
25 Subsequent to that my client has actually told me

today that there clearly will be two out parcels rather than three. So if the hearing examiner wants to limit that to two out parcels, we have no objection to it. The out parcels obviously have their own schedule of uses which is tailored to out parcel type uses as you would expect.

Area B to the north of that is intended to be a multitenant facility. That's where the bulk of the square footage on this project will be. Again, we have provided a relatively large building envelope. You will see from our renderings that we have a reasonably clear idea of what we want, where we want the building actually to go with the parking in front. But again, if you show building footprints and you start moving them around, that can trigger the need for amendments. We don't want to do that, so that's why we have approached the issue in that way.

We have provided specific information about setbacks on the plan. There is a minimum 70-foot setback to the eastern property line from the building envelope and a minimum 150-foot setback from the northern property line.

Moving on to the north, there is an area that's shown as water management area in sort of the northeast corner of the property.

There is an area that's intended to go behind the multitenant building which will be used for delivery areas and also has some covered parking in it. To explain that a little bit, the covered parking is designed to be an amenity for the tenants, for the people who actually work there, the owners and so on.

We ran into an issue about the covered parking in that the Land Development Code has some relatively new language which says that, quote, unquote, buildings have to be a minimum of 20 feet from preserve areas. There's a question as to whether covered parking had to meet that particular standard. Zoning staff felt obviously pretty strongly that it did have to meet that standard. We didn't want to argue about it and so I indicated in a memo to the county that we would agree that the covered parking would only take place in the area that's sort of a diagonal from northwest to southeast on the eastern part of that area.

The staff has proposed a condition that says that we can't have any covered parking less than 20 feet from preserve areas and we're not objecting to that, so effectively that ratifies the concession that we've already made.

The area immediately to the north of that is indigenous preserve area. The section for the

1 northern property has changed a number of times in an
2 effort to accommodate both the staff and the concerns
3 of the neighbor to the north. And so we have a sketch
4 that we attached to our 24-hour notice that reflects
5 the current proposal. I'm not going to get into that
6 in any detail. That's something that Jack Ruskai will
7 deal with, but we are dealing with issues involving
8 surface water management, indigenous preservation,
9 gopher tortoises, buffering and so on. This area
10 serves a variety of purposes and it's my belief that
11 what we proposed here is consistent with what the
12 staff wants us to do.
13 Let me go on now to give you an idea of how this
14 plan has evolved over time because I think that's an
15 important consideration here. I would say that there
16 really have been three stages to the planning of this
17 particular project. To begin with, we have always
18 known that our one direct interface with residential
19 uses was to the north, and because the quality of the
20 pine flatwoods on this site is relatively uniform, it
21 only made sense to provide the indigenous area on the
22 northern part of the property so as to separate our
23 use from the one residential use. So that has always
24 been a feature of the plan. We've always made an
25 effort to accommodate those concerns.

1 During the sufficiency process the neighbors to
2 the north wrote a letter to Fred Drovdlic, who was the
3 planner on the case at that time. He relayed those
4 concerns to us. We had a meeting with him. As a
5 result of that meeting we made a number of changes to
6 the plan to further address staff and the neighbor's
7 concerns. One of them was to provide the
8 extraordinary setbacks that we're providing for the
9 northernmost building. That's the 150 feet from the
10 northern property line and the 70 feet from the
11 eastern property line. But, of course, staff's
12 primary concern with compatibility was pushing those
13 uses away from any residential use and we agreed with
14 that.
15 A second change had to do with water management.
16 We understood that there was concern from the neighbor
17 to the north about what was going to happen to surface
18 water flowing off this property, and so somewhat
19 unusually we provided on our plans some information
20 about how that water management would be handled.
21 A third item was this is the point at which we
22 agreed to the no right turns out on the northern
23 access point in order to avoid putting traffic on the
24 residential portion of Wells Road. We also identified
25 on the plan and in our schedule of uses where in

general terms we expected the outdoor seating to take place. We don't have detailed plans of these areas, but we did in the case of the northernmost building indicate that it would go south of the building. We committed to that and so any outdoor seating has the building as a buffer as well as all the space and the wall and the vegetation and so on.

Finally, we made a number of concessions regarding our list of uses. The original list of uses that we provided was reasonably extensive and included a number of uses that are consistent with the general interchange but which some members of the Board of County Commissioners and some members of the public have found obnoxious at times. I think it was Mr. Drovdlic's expectation that we would only ask to put limits on those uses. In fact, we took them out of the plan altogether and so the hearing examiner will see that we are not proposing such uses as fast food restaurants, convenience stores, car washes, automobile service stations. That was a major concession on our part. We removed other uses as well, but those were the major ones at the time.

So all those things were done prior to the application being found sufficient.

Subsequent to the findings of sufficiency and

within, I would say, the last month we have also done a number of other things to try to satisfy the staff and the community that what we're doing is compatible with the area. One of these is to come up with a rendering of the multitenant building, which I put up on the wall. That rendering indicates that we're perfectly satisfied to commit to an architectural scheme that is old Florida. That's this right here. It's our opinion that the design of that building is quite attractive and we thought it would be received favorably by the residents. Subsequent to that I understand that some of the residents don't like this building, they think it's too elaborate. I would simply say that architecture is negotiable. If the hearing examiner and the Board of County Commissioners think that building is too elaborate, then we're certainly happy to live with that decision and work with everybody to come up with a more acceptable building. But bottom line is, this isn't a Mediterranean building, it's not overwhelmingly scaled. It's designed to be consistent with the character of the area.

We have also provided a new section, a cross section for the northern portion of the property which moves the water management facilities from the

1 northern property line down to the area around the
2 berm and wall. That was in response to a concern
3 expressed by the neighbor. And again, Mr. Ruskai will
4 explain that further.
5 We are agreeing to the staff's request that
6 additional uses from our schedule of uses be removed.
7 We won't be contesting any of those uses. That's
8 another concession on our part.
9 We're agreeing to the staff proposal which was
10 prompted by the neighbor that the wall be extended to
11 the eastern property line. Exactly how that will be
12 done, we want some flexibility about whether that
13 should be done as a straight line as opposed to along
14 a diagonal. I don't think the staff has a problem
15 with that, but we do agree that that wall can be
16 provided and so on.
17 So the fact of the matter is that through this
18 process we have been extremely responsive to the
19 concerns expressed by the neighbors and by the staff.
20 I'm aware that there was a meeting earlier this
21 week of some of the neighbors in the area and they may
22 have other concerns. From what I know of what their
23 concerns are, I think we're probably prepared to
24 address some of them today but I'm not going to speak
25 to those until I've actually heard their testimony. I

1 don't think that would be appropriate, but we will
2 address those when they come up and I think we will be
3 prepared to satisfy them on some of those.
4 So that's how the case has evolved. I think when
5 you have heard all the testimony you will conclude
6 that this request is consistent with the character of
7 the area.
8 One other thing I will point out that I think is
9 important is that no deviations are being requested in
10 this case, which is very unusual. It means that we
11 will be complying with all county regulations. That
12 should provide everybody else with an additional layer
13 of comfort.
14 We will be hearing technical testimony and
15 planning testimony from Mr. Roeder about the Lee Plan
16 and we hope when you have heard all the testimony you
17 will find that we have addressed all the reasonable
18 concerns and that our project is consistent and should
19 be approved.
20 If you have any questions of me I'll be happy to
21 answer them.
22 THE HEARING EXAMINER: Questions of this witness
23 by the county? County staff?
24 MR. PALERMO: Yeah. Just want to hold on. I
25 don't know if this is too early, but for the record,

Tony Palermo for Lee County Zoning.

It's your intention to add this exhibit that you also have on the wall to the master concept plan, be part of the approval?

MR. UHLE: Yes.

MR. PALERMO: And I just wanted to place on the record that Mr. Fred Drovdlic worked for this zoning division and now he's happily employed for the private sector and he's an excellent planner, but the description that Mr. Uhle gave you was quite accurate. That's all.

THE HEARING EXAMINER: Kim, did you have something?

MS. TREBATOSKI: I just had one question and I don't -- if you're not the one to answer it, tell me who is later. Earlier when you were talking about the out parcels, the master concept plan just states open space requirement provided at 30 percent. And the question is, are you planning on having the 30 percent on each out parcel or meeting 30 percent overall with the minimum of ten percent on each out parcel?

MR. UHLE: I think I would prefer Mr. Ruskai respond to that.

THE HEARING EXAMINER: County attorney?

MS. LEHNERT: No.

MR. PALERMO: One last thing. During your presentation, during the presentation of the applicant is there any intent to bring up the issue regarding the bridle trail which was a recent thing that's come to my attention?

MR. UHLE: That's one of the concerns we've heard from some of the residents. And again, we expect to address that, but I want to hear the testimony before we actually respond to it. We know there are also some -- have been some concerns expressed in the private domain about our amount of square footage and some other things. But again, I'm not going to get up here and start negotiating against myself without hearing what they have to say.

MR. PALERMO: All right.

THE HEARING EXAMINER: Matt, just do me one favor. Show me where the general interchange land use category ends as far as this property is concerned. Does it encompass the entire property?

MR. UHLE: Yes, it does.

THE HEARING EXAMINER: Does it go all the way out to Nalle Road?

MR. UHLE: No. It terminates at our eastern property line as far as I can tell.

THE HEARING EXAMINER: So does it go on the south

1 side too of Bayshore or is it just only on the north
2 side? Because the south side you said is that
3 preserve for River Run and then there clearly are some
4 residential units.
5 MR. UHLE: The line is slightly different. The
6 line is right about here.
7 THE HEARING EXAMINER: Oh, I see. Okay.
8 MR. UHLE: It extends like this and then goes
9 like this. I know, because I have an application in
10 the process for this property here.
11 MS. TREBATOSKI: The preserve is here. This
12 isn't preserve.
13 THE HEARING EXAMINER: So the whole thing up
14 there is not preserve, just the part that actually is
15 south of your property. So clearly the interchange
16 designation then was extended out past Wells Road to
17 make use of that, both those corners on Wells Road.
18 MR. UHLE: Yes. I have no idea when that took
19 place or what the rationale was, but it is a matter of
20 fact that it includes all of our property.
21 THE HEARING EXAMINER: All right. Good. Thank
22 you. I may have some other questions a little later
23 after we hear some of the public testimony and
24 whatnot, some things that were brought up in a couple
25 of letters in the file, but I'll wait and let them

bring up whatever issues they have and we'll go through it at that time. Thank you.

Your next witness is?

MR. UHLE: Mr. Ruskai.

MR. RUSKAI: Good morning. My name is Jack Ruskai, JRI Engineering, engineering consultants for the project.

MR. UHLE: Before you start, Mr. Ruskai's previously been qualified as an expert in civil engineering and site design and we would ask that he be so accepted.

THE HEARING EXAMINER: Okay. Mr. Ruskai, are you a professional engineer?

MR. RUSKAI: Yes, I am.

THE HEARING EXAMINER: So you are registered. All right. And you have -- your testimony today is on?

MR. RUSKAI: General civil engineering characteristics of the site, storm water management, utilities.

THE HEARING EXAMINER: Okay. Any objections to Mr. Ruskai being accepted as an expert in those areas?

MS. TREBATOSKI: No.

THE HEARING EXAMINER: Okay. Accepted.

MR. RUSKAI: Thank you. Okay. Starting with

utilities, there's a quite large Lee County water main that extends up Bayshore from the west, crosses I-75. It's on the north side of the property and then it crosses Bayshore at our property line, goes to the south side of Bayshore and then continues to the east. So we have access to good water supply. There is, as we speak today, there is no sewer system in effect in this area. However, there is a new force main that's just been constructed that is stubbed out, stubbed out just around the bend over here and it goes to the -- across I-75 back down to Bayshore, goes down Bayshore towards where the Oak Creek development is going in, turns to the north, goes all the way up to the Del Prado Extension and crosses Slater Road and goes all along Del Prado Extension all the way to the wastewater treatment plant that North Fort Myers Utilities has to the Del Prado Extension.

THE HEARING EXAMINER: So you all can connect into that?

MR. RUSKAI: And we're going to connect into that and that should be fully operational just within a few weeks from now. In fact, we'll be extending that force main from the point I showed you where it ends on across the frontage of our property to our eastern property line more than likely.

Before we get into the drainage I'll take on that question that Kim raised. I'm glad she raised it because we have had arguments in the past over that interpretation. The open space, what she said, the latter thing she said which was the 30 percent overall for the site, plus ten percent for each of the out parcels.

THE HEARING EXAMINER: Okay. So it's 30 percent overall for the site but it's ten percent specifically of each out parcel will be open space. Okay. All right.

MS. TREBATOSKI: If I could, just so it's all together, Kim Trebatoski for the record. The reason why I asked that is because the code allows for that but the master concept doesn't state that, so it needs to be a condition of approval or my staff will hold them to 30 percent open space on each out parcel.

THE HEARING EXAMINER: On everything. Okay. All right.

MR. UHLE: Thank you for bringing that up.

MR. RUSKAI: Yeah. Okay. On drainage, it's overallwise storm water management is just a conventional drainage system. Nothing unusual. We'll have dry detention which lends itself nicely to water quality treatment and nutrient uptakes. And these

systems will normally be dry during most of the year and will be grassed areas and well maintained and mowed.

What's important now - and I'm going to slide over to the board, if I could again - is that this plan here that you have in your record, the date, is what we're changing along the north line, so what you're seeing in here is not the correct thing. But originally we were going to incorporate the entire indigenous preserve area as part of the water management system, so our water management berm would have extended around the property line like this. Since we are having a berm here and the general flow from the properties to the north was to the south and to the west, we were going to construct a very, very shallow intercept swale on the north side of the berm just to take any water that may come down and up to the berm and then send it back out to Wells Road so it won't obstruct the flow.

In working with the comments that everybody's had in that, both staff and the neighborhood, what we have decided to do is we're going to eliminate all that stuff that we proposed along the top here. We're going to take the berm out, no intercept swale. And we were also going to have a landscape buffer along

the berm, which we don't need because this preserve here will count as buffer area. And we're going to -- in other words, this 75 feet will now start from the northern property line. So from the north property line back there will be no activity at all, nothing. Everything will stay as is in a natural condition. The only thing we might have to do is go in -- the county requirement to be to remove any exotics that are in there. And according to what our environmentalist told us, there's not very many. There may be a few pepper trees here and there that might have to come out.

THE HEARING EXAMINER: Let me make sure I understand what you're saying here. Now, on the current plan you got the 15-foot wide buffer and then you have this 75-foot wide preserve area. Are you eliminating that 15 feet and just instead of having 90 feet total overall you're now only going to have 75?

MR. RUSKAI: We're still going to have the 75 foot of indigenous but it's going to slide to the north property line.

THE HEARING EXAMINER: So it's moving up?

MR. RUSKAI: Yeah, and the 15 is coming --

THE HEARING EXAMINER: So you're just going to flip flop the two.

MR. RUSKAI: Yes. We'll have the berm and a small intercept swale again but it will be on the south side of the preserve. So nothing will happen from the north property line to 75 feet back.

THE HEARING EXAMINER: Now, are you all planning on putting up any kind of chain link fencing or anything along that order on your perimeter?

MR. RUSKAI: Well, there's going to be a wall.

THE HEARING EXAMINER: I understand the wall. And that's going to be, that's going to be for, you know, sound attenuation and visibility and whatnot. But my question was is there going to be any kind of security fencing on the north and east boundaries of the property? Has that been even considered?

MR. RUSKAI: We haven't addressed anything like that. I would say probably not. I mean it's not common that I know of to do that since the properties also to the east are zoned commercial.

THE HEARING EXAMINER: Because, well, that brings up my next question. If you don't have something, you know, delineating your specific boundary when you all are, you know, maintaining the preserve, how are your people going to know how far out to go, they don't get on the neighbor's property or the neighbors don't get on your property mowing? Is there going to be some

kind of boundary?

MR. RUSKAI: Along here?

THE HEARING EXAMINER: On the north side. I don't care about the east side.

MR. RUSKAI: On here?

THE HEARING EXAMINER: Yeah.

MR. RUSKAI: Like I said, there's a -- you know, there's survey markers along there. You can tell where that property line is. The only time I ever see us needing to go in there or the applicant, the owners, is to initially remove the exotics and then from time to time --

THE HEARING EXAMINER: Go in and pull out any new ones, yeah.

MR. RUSKAI: Per county requirements.

THE HEARING EXAMINER: Kim.

MS. TREBATOSKI: Sorry to keep interpreting, but to keep the record together. Kim Trebatoski. If you would like to condition that they have to put preserve signs every 50, a hundred feet, something like that, that would help them and the neighbors know where they each --

MR. RUSKAI: Along the north property line?

THE HEARING EXAMINER: Yeah, yeah.

MS. TREBATOSKI: It's just a small sign.

THE HEARING EXAMINER: Just a small. Okay, okay. Because I mean my concern is, after having done a rezoning on -- actually it's over by the Laurel Road and whatnot. You know, they have a lot of little four-wheelers that run through any area that's not, you know, fenced off or whatnot, and if this is going to be set up as a preserve, the last thing you want is to suddenly find yourself with a four-wheeler track right in the middle of it because it happens to be somebody's path or it's easier now to go this way than some other way. That was the only concern that I had. Okay.

MR. RUSKAI: And with that I think that's all I have.

MR. UHLE: Jack, can you please talk about the wall and how it's going to be constructed? That's part of the graphic up there.

MR. RUSKAI: Okay. Well, we have the indigenous preserve untouched from the north property line back, small intercept swale, small water management berm, our perimeter swale inside our berm and then we'll have this wall probably along the berm line here. The wall will be an eight-foot high buffer wall. There was some comment when this wall was going to be right up against the preserve that footers and things like

that would be too close, so Kim suggested a setback there. But since we have now freed up some space in there, that 15 feet additional actually, that shouldn't be a problem. But the wall was anticipated to be more of columns that would be sort of jack and pile kind of things into the ground without footers and just have these every ten feet or so, these vertical columns that would be hammered into the ground and then there's these panels that go along and slide in between so there wouldn't be the footer problem.

MR. UHLE: So that minimizes any potential impact on the indigenous?

MR. RUSKAI: Right.

MR. UHLE: I don't have any other questions.

THE HEARING EXAMINER: All right. Questions of this witness by county staff? Kim, any questions?

MS. TREBATOSKI: No.

THE HEARING EXAMINER: County attorney, none?

MS. LEHNERT: No, ma'am.

THE HEARING EXAMINER: Thank you.

MR. RUSKAI: Thank you.

MR. UHLE: The next witness is Mr. Keltner.

MR. KELTON: Good morning. I'm Jim Keltner with Boylan Environmental Consultants.

1 that would be too close, so Kim suggested a setback
2 there. But since we have now freed up some space in
3 there, that 15 feet additional actually, that
4 shouldn't be a problem. But the wall was anticipated
5 to be more of columns that would be sort of jack and
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8 vertical columns that would be hammered into the
9 ground and then there's these panels that go along and
10 slide in between so there wouldn't be the footer
11 problem.
12 MR. UHLE: So that minimizes any potential impact
13 on the indigenous?
14 MR. RUSKAI: Right.
15 MR. UHLE: I don't have any other questions.
16 THE HEARING EXAMINER: All right. Questions of
17 this witness by county staff? Kim, any questions?
18 MS. TREBATOSKI: No.
19 THE HEARING EXAMINER: County attorney, none?
20 MS. LEHNERT: No, ma'am.
21 THE HEARING EXAMINER: Thank you.
22 MR. RUSKAI: Thank you.
23 MR. UHLE: The next witness is Mr. Keltner.
24 MR. KELTNER: Good morning. I'm Jim Keltner with
25 Boylan Environmental Consultants.

MR. UHLE: He has previously been qualified as an expert in environmental sciences and we would ask that he be so accepted.

THE HEARING EXAMINER: Any objections from staff?

MS. TREBATOSKI: No.

THE HEARING EXAMINER: All right, accepted.

MR. KELTNER: As we kind of see, the whole site is basically a pine/palmetto uplands. We conducted a species survey back in July 2005 and at that point in time we found three inactive burrows. What we'll probably be doing, what we will be doing is we will conduct another species survey typically within 30 days prior to development order and then if we find any gopher tortoises we would obtain appropriate permit from the game commission and then we would move them up there into the indigenous preserve. And that's very brief and unless you have any other questions --

THE HEARING EXAMINER: Okay. Questions, Matt?

MS. TREBATOSKI: Just one quick question.

Jim, when you did the site check did you see any signs of four-wheeler impact on this site?

MR. KELTNER: There was one trail, you can kind of see it right in here. Other than that, most of the site is pretty consistent pine/palmetto.

1 MS. TREBATOSKI: No other questions.

2 THE HEARING EXAMINER: All right. Anything from

3 the county attorney?

4 MS. LEHNERT: No, ma'am.

5 THE HEARING EXAMINER: I don't have any either.

6 MR. UHLE: Next witness is Mr. Price.

7 MR. PRICE: For the record, my name is Robert

8 Price. I'm with TR Transportation Consultants

9 formerly Metro Transportation Group. I have testified

10 in this forum previously and been accepted as an

11 expert in transportation and I would like --

12 MR. UHLE: Ask that he be so accepted again.

13 THE HEARING EXAMINER: Any objections from staff?

14 MR. PALERMO: No.

15 THE HEARING EXAMINER: All right, accepted.

16 MR. PRICE: We performed the TIS for the Village

17 Square site. As Matt explained earlier, we're showing

18 three driveways for this property. Two of them are to

19 Wells Road. We have restricted the outbound right

20 turns in the north driveway. The southern driveway

21 will be full, a full access to Wells. But we still

22 don't see too much traffic traveling to the north

23 because there's -- it's not very densely populated.

24 We met with FDOT preliminarily for the access

25 that we are showing on the eastern property boundary

to Bayshore Road. Bayshore Road is currently a two-lane road at that location. As you can see from the aerial, it transitions down from four lanes to two lanes between Pritchett Parkway and Wells Road. There's no plans to widen Bayshore Road at this time and it's not even in the 2030 plan, so it's way out in the future if it ever happens.

THE HEARING EXAMINER: Is Bayshore widened any further? I mean is it four-laned anywhere else east beyond you all?

MR. PRICE: Not to the east.

THE HEARING EXAMINER: So it's just to the west then that it picks up being four-lane.

MR. PRICE: And they're currently actually constructing, doing four-laning west of I-75 from Slater Road all the way to I-75.

At our meetings with FDOT we definitely went into the meetings attempting to get a full access to Bayshore since it's only a two-lane road. Their feeling was that we needed to push that driveway as far to the east as possible. In addition to showing an interconnect to the potential CPDs on the eastern property boundary, we accommodated that on our site plan, and basically shoving the driveway as far to the east as we could gives us as much spacing as we can

possibly show between Wells Road and any potential Pritchett Parkway extension that would, you know, come to Wells Road, which I know Matt did a good job of explaining that earlier. Currently there's no plans, no development orders have been applied for that extension of Pritchett Parkway. So it's kind of difficult to address any future traffic at that location when it's not even in the county or state plans, so we haven't addressed that at this time. But when we come in for development order in the future there's a good chance we'll have to address it at that time.

Basically we used the traffic count report to determine the historical growth along Bayshore Road and all other roads in the vicinity of the project. Historical growth was used to grow the concurrency management traffic up to the 2010 build-out that we assume for the site. The project traffic was added to the 2010 background traffic in order to determine level of service conditions, especially along Bayshore Road. Based on our conclusions, Bayshore Road has shown to operate at level of service D after our project traffic is added to the road. Level of service D is well within the county standards, so we do not foresee any level of service issues as a result

of this project.

That basically is all. We'll have to address turn lanes and any intersection improvements at the development order stage when we know for sure how the site's going to develop. There's a pretty substantial list of uses and each one of those we'll address at the development order stage when they come in.

THE HEARING EXAMINER: Questions?

MR. UHLE: No questions.

THE HEARING EXAMINER: Questions by staff?

MR. PALERMO: Just one question. In your experience in the development order stage will sidewalks be required when they actually develop?

MR. PRICE: I believe that would be the case. Is that right, Matt?

MR. UHLE: He asked you the question.

MR. PRICE: I believe that we will have to put sidewalks along Bayshore Road. I'm not sure about Wells, but maybe something you should ask somebody else. I'm not sure.

MR. PALERMO: That's all right.

THE HEARING EXAMINER: Let me ask you a couple questions, Rob. Can you get your TIS?

MR. PRICE: Yes, ma'am.

EXAMINATION

BY THE HEARING EXAMINER:

Q. All right. Can you look at Figure 2, is the traffic distribution?

A. Uh-huh.

THE HEARING EXAMINER: Also if staff can make sure I get page 3 of your traffic report, because I got three pages of page 2 and no page 3 and it's not even -- I don't have one at all in my file.

MR. PALERMO: On the traffic impact statement?

THE HEARING EXAMINER: Uh-huh. I go from page triple 2s to page 4.

MS. LEHNERT: So do I.

THE HEARING EXAMINER: So it was a copy mistake somewhere.

BY THE HEARING EXAMINER:

Q. All right. Looking at the distribution, the project traffic distribution, I'm a little confused. Maybe I should say a lot confused. All right. On the bottom half on the south side of Bayshore you indicate 70 percent traffic between Wells Road and the interstate. Then you indicate 40 traffic on the other side of the interstate. In other words, it's gone past the interstate and it's still going west. You've got 25 percent headed south and 5 percent headed north. I'm assuming that's what it's supposed to be.

1 A. Yes.

2 Q. So that makes up the 70 percent total right there
3 when it splits out. But I don't understand why there's
4 only 20 percent going between Bayshore and Nalle Road and
5 ten percent past Nalle Road. If this is going to be --
6 and I realize that this is an interchange area, but some
7 of the uses that are proposed here are really sort of more
8 local uses rather than some of your traveling, your
9 traveling public type. Wouldn't there be more
10 distribution from the surrounding neighborhood rather than
11 more from the interstate and more from west of the
12 interstate?

13 A. So you're concerned that we should have assigned
14 more traffic to the east?

15 Q. I would think that would be where it would come
16 from. If this is the first little shopping center on this
17 roadway from State Road 31 west, it seems to me like
18 anybody headed that direction going home is going to want
19 to stop in here or is going to do some shopping in here
20 more so than people on the west side of I-75.

21 A. We basically analyzed the greatest impact that we
22 could show to Bayshore Road which would be the 80 percent
23 to the west. Now, as you just stated, a lot of these
24 people would be coming home, so they would be entering the
25 site off of I-75 or off of Bayshore Road from the west and

1 come in and then they would leave and go to the east and
2 that would be your pass-by traffic, and we did account for
3 pass-by in our analysis as well. But we have no problem,
4 you know, increasing the distribution to the east. The
5 traffic is fairly low out there. But we tried to show 80
6 percent -- the traffic is low according to the county
7 numbers. And there's plenty of capacity to the east along
8 Bayshore Road. So I mean any drop in the traffic on
9 Bayshore to the west between our site and I-75 would
10 lessen our impact. So if you feel like we should show
11 more traffic to the east, we have no problem with that.
12 Q. But it's not going to change the level of service
13 on the roadway.
14 A. Not at all. It actually will improve it.
15 Q. Okay, okay. Because that was the only concern
16 that I had was that it seemed like there was a lot -- I
17 had not considered the people coming home from downtown
18 coming out Bayshore or coming up 75 and then making the
19 turn and going east onto Bayshore. I had not -- in the
20 distribution here. I was thinking everybody going instead
21 of coming. So I can see what you have done there. But as
22 long as it doesn't make a difference in the level of
23 service on the roadway, you know. I can understand what
24 you have done with it then. It just didn't seem logical
25 at the time.

THE HEARING EXAMINER: All right. Let me see if I have any other questions that I have written in this little fella.

No, that was the only one.

Staff?

MR. PALERMO: Tony Palermo for the record. Just want to turn the hearing examiner and the witness's attention to Attachment C is the traffic impact statement for Bayshore Village Market. I'm looking at, first there's an introduction on page 2. And at the bottom of the page it reads: "The intersection of Bayshore Road and Wells Road," and you turn the page and there's a project map, what you turn to. Then it says "currently allows full turning movements under signalized conditions."

THE HEARING EXAMINER: So that's your page 3, your Figure 1 is page 3.

MR. PRICE: Yes, exactly.

MR. PALERMO: Second was just a general question. And I apologize if this wasn't part of your analysis, but just in general just so I can have a picture of it, the traffic on I-75 around that exit, that would be cars in the thousands. Do you have any figures about how big or how small that is?

MR. PRICE: On Bayshore Road or on I-75?

MR. PALERMO: On I-75.

MR. PRICE: Typically we don't analyze I-75. Everyone knows it's a four-lane road and the state is attempting to widen the road. It's definitely in the thousands. I don't have those numbers. I can find them out if you would like.

MR. PALERMO: I appreciate it.

MR. UHLE: The next witness is Mr. Roeder.

Thereupon,

MIKE ROEDER,

having been previously duly sworn, testified as follows:

MR. ROEDER: Good morning, Madam Hearing Examiner. My name is Mike Roeder, director of planning at Knott Consoer and I have been accepted before as an expert in land use and zoning.

THE HEARING EXAMINER: Any objections from staff to Mr. Roeder being accepted as an expert in land use, planning and zoning?

MR. PALERMO: No, ma'am. Thank you.

THE HEARING EXAMINER: All right. Accepted.

MR. ROEDER: Thank you. I'm basically here to talk about the consistency with the Lee Plan and I think the staff has done a very good job of identifying all of the relevant objectives and policies.

1 This particular case is a little different in
2 that we have the general Lee Plan policies and then
3 there's the specific section in the Lee Plan devoted
4 to the Bayshore Planning Community which is bounded by
5 the river, Charlotte County, I-75 and State Road 31.
6 I'm going to not go in the order that Tony identified
7 them because I think they are more understandable in
8 groups of policies. And I think the first and most
9 important policies relate to the land use categories
10 which Matt alluded to originally. Objective 1.3 is
11 the interstate highway interchange areas in general
12 and what they say is designated on the Future Land Use
13 Map, specialized categories for land adjacent to the
14 interchange, Interstate 75. It is important to make
15 the maximum beneficial use of these critical access
16 points and at the same time avoid irreconcilable
17 conflicts between competing demands such as through
18 traffic versus local traffic, conservation versus
19 development. It goes on with all the potential
20 conflicts. It says development in these areas must
21 minimize adverse traffic impacts and provide
22 appropriate buffers, visual amenities and safety
23 measures. So that's the county's general
24 identification of the interchange areas. And most
25 importantly it says residential uses are only

1 permitted in these categories in accordance with
2 Chapter 13, which is your lot of record provision. So
3 you really have no choice but to provide commercial
4 development on this land and the county is virtually
5 obligated to approve some type of commercial
6 development here under the comp plan.
7 Policy 1.3.2 then goes to the general interchange
8 description which is what this is and it says the
9 general interchange areas are intended primarily for
10 land uses that serve the traveling public, service
11 stations, hotel, motel, restaurants and gift shops.
12 And at first blush if there's any criticism of this
13 plan it's that it may be too neighborhood-oriented and
14 not enough toward the traveling public. We don't have
15 service stations. We don't have hotels and motels.
16 And I think to reconcile that issue you need to go to
17 the Bayshore plan, which is Policy 20 -- well, it's
18 actually Goal 20, the Bayshore Community, and then
19 Objective 20.1 and Policy 20.1.1. And I have to say
20 that I was the consultant to the Bayshore Planning
21 Community when this was developed and worked with that
22 group to get this into the plan, so I'm very familiar
23 with the background of it.
24 I think the most important and on point policy is
25 Policy 20.1.1 which says that retail, commercial

1 activity will be limited to the interstate interchange
2 designation at Bayshore and I-75, plus minor
3 commercial uses at the intersections of Nalle Road and
4 Bayshore, 31 and Bayshore, and 31 and Old Bayshore.
5 And then it says nonretail commercial uses are
6 permitted elsewhere consistent with the Lee Plan and
7 Land Development Code.
8 Well, in reality what that did was just
9 reiterated the county's Lee Plan restrictions on
10 retail to certain designated intersections and tried
11 to identify in advance where those could go. I think
12 read in conjunction with Goal 20, actually Objective
13 20.1, which says the existing land use designations of
14 the Lee Plan are appropriate to achieving the goals of
15 the Bayshore Plan. What was being said there is the
16 community was relatively satisfied with the existing
17 plan and they were accepting it and endorsing it
18 saying we don't want it to become more intense.
19 When you look at the interchange area and then
20 the designated node at Nalle and Bayshore, which is
21 right here -- and this building here is Lawhon's.
22 That's probably the most historic commercial center
23 for the Bayshore community; probably the locus of
24 community activity. And you add that to this property
25 to the west, and this is really the focal point of the

1 Bayshore community now. This will be their, quote,
2 unquote, downtown where whatever activity is occurring
3 should occur. And therefore when you look at the Goal
4 20 to protect the existing rural, residential,
5 agricultural and equestrian-oriented activity, the
6 limit that the applicant put on the uses and the
7 commitment to the architectural design of the
8 buildings and all of the efforts that have been made
9 to buffer the northern residential neighbor I think is
10 an almost ideal blending of what the county is saying
11 we need to do with an interchange area and what the
12 Bayshore community has tried to say we need to protect
13 our rural character as much as possible.
14 The next set of policies are the compatibility
15 and you have Policy 5.1.5, 139.5, 6.1.6 and 6.1.4, and
16 they all talk about the same general idea, which is
17 design the property to be compatible with the abutting
18 uses and make sure you don't have any adverse impacts
19 on your neighbors. And I think you have heard a lot
20 of description now of this northern buffer which is a
21 75-foot indigenous preserve that will be untouched and
22 then the berm and the wall and then an additional
23 75-foot setback to the building in addition to the
24 setback to the east.
25 So I think to the maximum extent possible the

1 planners responded to that residential neighbor, even
2 though from the staff report the residential neighbor
3 is in the general interchange category and not in the
4 urban -- outlying suburban. So in a sense, you know,
5 they're in a more urban category themself, but we have
6 provided extraordinary setbacks and buffers for that
7 residential use.
8 Then there's a series of policies that deal with
9 more technical and locational standards. And again,
10 the staff and the engineer have described how this
11 site plan will function. But Objective 21 relates to
12 development location, 2.2.1, evaluating the adequacy
13 of infrastructure and services, 4.1.1, importantly
14 11.1 and 11.2, which deal with water and sewer, and
15 Policy 6.1.3. And I think you have heard that in all
16 development requirements for infrastructure and
17 services this site meets the standards. There's no
18 question of the site location standards because it's
19 in the interchange area and they are exempt from that.
20 You would note, though, in Policy 20.1.1 where it says
21 retail commercial activity will be limited to the
22 interstate interchange designation at Bayshore and
23 I-75, plus minor commercial uses which are, as you
24 know, up to 30,000 square feet of retail. But the
25 clear implication of that is that at the interchange

1 area more than minor commercial is contemplated
2 because that's really the only place in Bayshore where
3 you can have more than minor commercial activity.
4 I think the one area where we have a disagreement
5 with staff in terms of a planning conclusion is the
6 proposed conditions on the COP. The staff says that
7 before any outdoor seating could be approved we'd have
8 to go through a separate public hearing apparently on
9 the premise that there's not enough detail here to
10 approve it at this level. I would respectfully
11 disagree with that conclusion. The obvious most
12 impacted person is the property to the north. And as
13 we said, you not only have the 75-foot indigenous
14 buffer, the wall and berm of eight feet, a further
15 75-foot setback to the building, and then the site
16 plan makes it clear that any outdoor seating would be
17 on the south side of that building, so then the
18 building provides an additional buffer. And the staff
19 report says staff cannot support outdoor consumption
20 on premises in proximity to a rural residential
21 neighborhood. To me that's a new definition of
22 proximity. I don't think it's close enough to raise
23 compatibility issues. And any outdoor seating on the
24 out parcel is even further removed from the
25 residential area and less of a concern.

On top of that the staff is proposing limits to hours even on the indoor consumption of alcohol, which nine o'clock during the week and eleven o'clock on the weekends. Well, to the extent that serves the traveling public that's probably not realistic or equitable. And even though Bayshore is a rural community, I don't think they go to bed that early all the time. And I think if there is -- we're talking about maybe an Applebee's or something like that and I don't think people would want to see it close down that early for indoor consumption. That's really too restrictive and we don't see any point in that.

But the bottom line is we believe this is very consistent with the Lee Plan in general and more specifically it responds to the Bayshore plan to the extent the Bayshore plan addresses the interchange area and really about the best proposal I can imagine for this site in terms of what the community is looking for.

I would be happy to answer any questions.

MR. UHLE: No questions.

THE HEARING EXAMINER: Questions by staff of this witness?

MS. LEHNERT: No.

THE HEARING EXAMINER: Mike, let me ask you a

1 couple.

2 EXAMINATION

3 BY THE HEARING EXAMINER:

4 Q. Now, you guys have done a really nice little

5 artist rendering up here of the multitenant building. Are

6 we looking at a 30,000-square-foot or whatever anchor

7 store? I mean are we looking at a Publix or, you know, I

8 mean some kind of an anchor store in the way of a grocery

9 store or a hardware store or something or is this going to

10 be a whole bunch of little tiny --

11 A. My understanding is that the main plan is for a

12 variety of smaller stores. The first level is about

13 45,000 square feet, as I understand. That second floor is

14 about 18,000 square feet.

15 Q. So that is not decoration up there, that actually

16 is a floor with --

17 A. Yes. There is a proposal for two stories, as you

18 can see only partial two stories.

19 Q. So the top part might be offices or something?

20 A. Probably offices almost certainly and a variety

21 of smaller shops. I don't know that they know exactly

22 what the market will be and they need to respond, but it's

23 really not laid out for a Publix or anything.

24 Q. Or a Walgreens or something along that order, a

25 drugstore in the center there or something.

1 A. I mean they have asked for, I believe a drugstore
2 is one of the possible uses. Yeah. And actually the
3 limits on the size are probably way more than are needed.
4 I know there's been some concern about the provision for
5 drive-through facilities, and the only intent there was to
6 allow for a bank to have a drive-through and possibly a
7 drugstore. There is no fast food allowed, so there can't
8 be any drive-through for fast food if there's no fast food
9 allowed. And again, that's an example of trying to tailor
10 this more to the community than to the traveling public.
11 Q. This drugstore limited to a maximum of 3,000
12 square feet, is that a typical CVS, Walgreens size
13 drugstore or is that smaller?
14 MR. UHLE: No, that's intended to be a smaller
15 facility.
16 THE HEARING EXAMINER: It's a smaller facility.
17 So it's not going to have --
18 MR. ROEDER: In fact, yeah, there's two actually
19 in here. One is Area A and one is Area B.
20 THE HEARING EXAMINER: That was Area B I was
21 looking at.
22 MR. ROEDER: And the one in Area A is actually
23 much larger than a drugstore would ever need.
24 THE HEARING EXAMINER: Staff needs to look at
25 page 3 of 16, drugstore, under Area B. Limited to a

1 maximum of 30,000 square feet. I don't think that's
2 what you intended to say there.
3 MR. PALERMO: How about limited to 3,000?
4 THE HEARING EXAMINER: That's 3,000 on the one on
5 the next page.
6 MR. ROEDER: In Area A -- I think your typical
7 Eckerd or CVS would be about 15,000.
8 THE HEARING EXAMINER: So it was still intended
9 to be 3,000, Staff, instead of 30?
10 MR. PALERMO: Hold on a second. Area A, I have
11 it limited to one and limited to a maximum of 30,000
12 square feet in Area A. That seems okay. And
13 drugstore in Area B, I would do the same limitation,
14 limit it to one, limit it to maximum square footage of
15 30,000 square feet.
16 THE HEARING EXAMINER: No, it's maximum 3,000
17 square feet.
18 MR. PALERMO: I know it says that.
19 MR. UHLE: That really is not an error. My
20 recollection is when we had the meeting with Mr.
21 Drovdlic that's when all of these limitations came to
22 be. And the idea was that in the multitenant facility
23 we weren't going to have anything like a major
24 Walgreens or anything like that. We were talking
25 about maybe some kind of a very small pharmacy to fit

in there. That's something that would fit in a multitenant facility. But as an out parcel use you might be talking about the more CVS type of use. So that's why there's a distinction between the square footage.

MR. PALERMO: I almost gave away the store. Sorry about that.

MR. ROEDER: I think 30,000 is way more than you would need for a stand-alone.

THE HEARING EXAMINER: Because my question then, and it may not be to you, maybe I need to be asking this to staff, but a drugstore at 30,000 square feet, I mean that's going to take an enormous parking lot.

MS. TREBATOSKI: It wouldn't fit.

MS. LEHNERT: It couldn't fit.

THE HEARING EXAMINER: I mean that was the only thought that I had when I saw that, you know, is 3,000 is quite small. All right.

MR. ROEDER: Typically not that large in this location.

THE HEARING EXAMINER: That would mean then if you had a 30,000-square-foot drugstore on an out parcel you wouldn't be having nothing else on the other out parcel because it would all be parking. You'd have one out parcel and it would all be

drugstore.

MR. UHLE: That's not permitted under the terms of the approval here since we're not allowed to move over to the other out parcel and we're committed to a minimum of two out parcels. So the bottom line is we're just trying to create some sort of limitation of some sort.

THE HEARING EXAMINER: County attorney has indicated that an administrative amendment could take care of the --

MS. LEHNERT: It potentially could get them in.

THE HEARING EXAMINER: Mike.

MR. ROEDER: I was going to say, I think the 30,000 is much greater than we would need for a drugstore and you could probably reduce that and it wouldn't be a problem.

THE HEARING EXAMINER: To 15? Staff have any objection?

MR. PALERMO: Not if the applicant's okay with it. I'm fine with it.

THE HEARING EXAMINER: Is that good for you, Matt, your client? Anybody shaking their head over there?

MR. UHLE: I'm not hearing any screams.

MR. ROEDER: My understanding is your typical

1 standard drugstore is about 15,000.

2 THE HEARING EXAMINER: Okay. Well, that makes me

3 a little happier.

4 Okay. Do we know, Mike, the size, the actual

5 size -- I thought I read in here somewhere where

6 Parcel A is limited to a certain square footage and

7 Parcel B is limited to the max. Do you recall that

8 being broken down in that manner? I don't see it. I

9 thought I had read it somewhere. I don't see it. Lot

10 size.

11 MR. ROEDER: I don't recall either, but typically

12 your out parcel uses are -- the biggest would be

13 probably a drugstore in terms of square footage.

14 THE HEARING EXAMINER: Okay. So it's sort of

15 99,999 square feet and whatever you can put in the out

16 parcels you put in the out parcels and everything else

17 goes into the little shopping center.

18 MR. UHLE: I suspect after the public makes a

19 presentation we'll be responding in a way that will

20 address the breakdown.

21 THE HEARING EXAMINER: Okay.

22 MR. ROEDER: I think that's a real broad brush

23 number right now.

24 THE HEARING EXAMINER: Let me look at two other

25 things here. Now, we also have in the out parcel area

1 the farm equipment sales, feed and fertilizer, both of
2 those limited to 30,000 square feet. Is that doable?
3 MR. ROEDER: I noticed that same thing. I only
4 come on to this fairly recently and I thought that was
5 somewhat big for the overall site.
6 THE HEARING EXAMINER: Now, this is 30,000 square
7 feet of display area.
8 MR. ROEDER: Yeah.
9 THE HEARING EXAMINER: How much, how much acreage
10 do you have to have, Mike, to have 30,000 square feet
11 of display area and meet all the other requirements?
12 MR. ROEDER: You know, I really wouldn't be able
13 to answer that quickly, but again, I don't think the
14 owner's intent is to have one of the out parcels be a
15 feed or fertilizer sale. It's kind of a laundry list
16 of possibilities here.
17 THE HEARING EXAMINER: Then, you know, I'll just
18 leave it at this point and, you know, I mean if you
19 guys decide to come in, as long as it's not more than
20 30,000 you'll be okay, I reckon.
21 MR. ROEDER: I guess the idea was that is a more
22 rural type of use in case somebody wants to do that.
23 MS. TREBATOSKI: For clarification, Madam Hearing
24 Examiner, if either or those uses were to go in the
25 34-1532 of the 25-foot buffer and berms and all that

would go in, it would be really difficult to place it on either of those.

THE HEARING EXAMINER: Out parcels? Okay. On either one, A or B?

MS. TREBATOSKI: Well --

MR. PALERMO: We're saying no for B.

MS. TREBATOSKI: On the easternmost A, I just measured that out and that's 90,000 square feet, but then you're going to need to subtract out the accessway, so you're already under two acres in size. And if you go even further down you might be able to do it but not up to 30,000. It would be less than 30,000 square feet with the buffers.

THE HEARING EXAMINER: Then we'll just leave it at the 30 and if they decide to use it they'll just have to -- they can use up to that amount. Okay.

Let's see if I had any other things marked, Mike, for questions. I actually don't. Thank you.

Any other witnesses?

MR. UHLE: Before I do my closing, I would like to get Mr. Ruskai up and ask him one question I missed.

THE HEARING EXAMINER: Okay.

EXAMINATION

BY MR. UHLE:

1 Q. Jack, are you familiar with the concern that
2 we've expressed about the county's Condition 16, the local
3 road standards?
4 A. My interpretation of the local road standard is
5 for a Category A road that we would make the accessway
6 shown on the plan to Category A standards, which is a
7 24-foot width and a thicker pavement section that's in the
8 development standards ordinance and that's all that
9 applies to. It's not going to be a right-of-way or
10 anything like that, but the road will, the thickness of
11 the road will support commercial A traffic.
12 THE HEARING EXAMINER: And that's all of your
13 access points or just the one off of Bayshore?
14 MR. RUSKAI: It's the main access road for that
15 little --
16 THE HEARING EXAMINER: You'll have to --
17 MR. RUSKAI: Run through here and exit out here.
18 THE HEARING EXAMINER: Oh, I see. Okay. So it's
19 the one that's going to separate Area B from Area A.
20 It's going to be the spine road, essentially,
21 connecting. Okay.
22 MR. RUSKAI: But it's not going to be a dedicated
23 40-foot frontage road kind of easement. It just
24 applies to the pavement section itself.
25 BY MR. UHLE:

Q. If I can frame the question a little differently to make this more clear. If you can look at Condition 16 as written by the staff, can you please explain what our concern is about that condition as written?

A. It says the access area must be designated as a Category A local road per the Lee County Land Development Code to service the future subdivided lots. It's that road. And I'm missing what you're trying to get to.

Q. We have proposed a change to Condition 16. Can you please explain what, what the change is and why it's important? If I can help you out here, the Category A roads, are pavement width and pavement thickness the only standards for a Category A road in the Land Development Code?

A. Well, I think there's something in there for right-of-way width, but what we're talking about here is just the dimensions of the physical pavement which is 24 feet wide and the thicker pavement section. So the revised language should just address pavement width and thickness and not any right-of-way width. Am I still missing it?

Q. No, you're getting warm. What would be the implications to this project if we had to comply with the right-of-way widths?

A. Well, if we had a full right-of-way through there

1 then we'd have setbacks from the right-of-way line and an
2 additional probably planting and buffers along that and
3 all that and that just doesn't work.
4 THE HEARING EXAMINER: It cuts down on your
5 development area?
6 MR. RUSKAI: Absolutely.
7 THE HEARING EXAMINER: And the use of the
8 parcels. Okay.
9 MR. RUSKAI: We have no problem making the road
10 thickness and strength to that standard to support
11 traffic.
12 BY MR. UHLE:
13 Q. And would in your opinion, would it serve any
14 purpose to require the road to meet all the standards for
15 a Category A road?
16 A. It does not. It's just to support the truck
17 traffic or pickup trucks or cars or whatever. It's just a
18 general commercial standard for the thickness of the road.
19 Q. How does this particular accessway function? Is
20 it really going to be a local road or is it just really in
21 real world an access?
22 A. It's really just an access.
23 MR. UHLE: No further questions.
24 THE HEARING EXAMINER: Any questions of Mr.
25 Ruskai from anyone based on what was just asked?

MS. TREBATOSKI: I have one question, if I may. Are you planning on having parking lots or parking spaces back out onto the access road?

MR. RUSKAI: Yes.

THE HEARING EXAMINER: Do you need a deviation for that?

MS. LEHNERT: Yeah.

MS. TREBATOSKI: I think we may need to go get Mr. Blackburn.

MR. UHLE: If it's an accessway I don't believe we do. If it's a road, we clearly do.

THE HEARING EXAMINER: Then maybe there's --

MS. TREBATOSKI: The reason why I asked that question is just from my knowledge of development orders and the condition came from Mr. Blackburn and I think that I should get him to come in and explain.

THE HEARING EXAMINER: We'll need him to explain. Okay. We can wait until we do the staff's presentation.

MS. LEHNERT: Can I just ask one more question? It's the same thing that Kim is asking in probably a different way.

If you limit the access road to the pavement width only, the pavement width for the local road, you basically would have your access through the parking

lot aisles. Is that what you're contemplating? That would be the pavement width you're talking about?

MR. RUSKAI: Except that in our development of the site plan in looking at that rendering, that spine road will have --

MS. LEHNERT: Where is the spine road, just so I understand?

MR. RUSKAI: That's the accessway.

MS. LEHNERT: The accessway that goes over the service area and goes to this place that has nothing?

MR. RUSKAI: Right. Somehow it will snake through there and connect up.

MS. LEHNERT: Just make sure I know what the spine road was.

MR. RUSKAI: And it will have -- it's not going to be like a parking lot aisle with parking all along it, but there may be some spots where we might have to have some back-out parking onto it, but it will be sufficiently wide enough that -- and it's not going to function as a road. It's actually functioning as just access to the parking lots and to the out parcels. It's not a full-fledged frontage road that's going to be connected up for miles along the highway.

MS. LEHNERT: So the answer to my question is partially yes and partially no? I asked if the

accessway, the paved area was going to function as a parking lot aisle and I think you said half yes and half no.

MR. RUSKAI: It will function partially as a, as a parking lot aisle, yes.

MS. LEHNERT: I think we need Don Blackburn.

THE HEARING EXAMINER: Anything else, Matt, of this witness?

MR. UHLE: No.

THE HEARING EXAMINER: Folks, after Mr. Uhle finishes his statements here we will take a break because I know you guys must be getting tired sitting in those chairs back there. They're not as comfortable as my chair.

MR. UHLE: I'm just going to conclude by walking through the staff report and indicating what we agree with and what we don't.

THE HEARING EXAMINER: Can you all hear him?

UNIDENTIFIED SPEAKER: No.

THE HEARING EXAMINER: Matt, you need to speak up. There.

MR. UHLE: With regard to the schedule of uses, the staff has proposed a number of exclusions which are made quite clear in the staff report. As I indicated in my opening statement, we agreed to a

1 substantial number of reductions early on in the
2 process, but we are also willing to agree to all of
3 the staff limitations that are proposed in here and I
4 think as the testimony goes on and in our rebuttal we
5 may be willing to agree to additional square footage
6 limitations.
7 I think, I think probably some of the limitations
8 that have been put in here were put in here just by
9 the staff and we weren't involved in some of these
10 30,000 square feet. I don't remember all those. So
11 when we ask questions about 30,000-square-foot
12 drugstores and that sort of thing, the hearing
13 examiner needs to remember we haven't engineered this
14 plan for particular uses, so in some cases what we're
15 trying to do is just give a generalized limitation and
16 we were just picking a number. It wasn't the basis of
17 any detailed analysis. That's why, if the numbers
18 seem excessively high, then that's the reason. And if
19 the hearing examiner wants to cut them down, that's
20 probably no big deal. Again, we can address that on
21 rebuttal if necessary.
22 Conditions 3, 4, 5, 6, 7, 8 and 9 are all not a
23 problem. Most of those are relatively boilerplate.
24 With regard to Condition 10, Mr. Roeder has
25 already addressed this. There are basically two

1 objections. One of them is that we don't agree that
2 the COP should be limited to indoor, and the reason
3 for that is, as Mike testified, we think that there
4 are plenty of safeguards built into this plan to
5 address that. When you've got a 75-foot buffer with
6 mature vegetation, you have an eight-foot wall and
7 berm, you have another 75-foot setback and you have a
8 building and then you get to the COP, we think on its
9 face that's plenty of information to approve an
10 outdoor COP. As he also indicated, the distance with
11 the out parcels is even greater. So we don't really
12 think it's necessary to go through another three-month
13 process for a particular use. We think we have
14 handled this in a satisfactory way. If the hearing
15 examiner feels it's necessary to approve this subject
16 to standard conditions involving outdoor
17 entertainment, that's fine.
18 We strongly object to the hours of operation that
19 were proposed for indoor consumption. The nine
20 o'clock limitation during the week in particular is
21 really -- it makes having any kind of a major
22 restaurant not feasible. There isn't a restaurant in
23 the world that serves alcohol that I know that's going
24 to stop serving it at nine o'clock, so -- and this is
25 indoor, it's not outdoor. So we think that that maybe

1 is not acceptable.

2 We do not have a problem with Condition 10-C. We

3 do not have a problem with Condition 10-D.

4 Condition 10-E I think probably isn't a problem

5 in the sense that we have the 150-foot setback and

6 there's probably about 30 feet to the house, but I

7 just don't want to get into the question of whether

8 we're 190 feet away as opposed to 210 or something

9 like that. Again, we think that there's enough detail

10 in the plan with these setbacks and buffers and so on

11 that the additional requirement of the 200 feet is not

12 necessary.

13 And, of course, we object to F because that's

14 another restatement of how we have to go back through

15 the public hearing process.

16 With regard to Condition 11, I don't think we

17 have an objection to this except that we did ask that

18 where it talked about the eight-foot wall that we had

19 to be able to do an eight-foot combination berm and

20 wall because that's really the plan. When I indicated

21 that we needed a clarification, what I meant by that

22 was there's a diagram attached to the staff report

23 which shows the wall running like this and we want the

24 ability -- we don't know if we want to do this or not.

25 We're willing to have the wall extend to the property

line but we may want to have it go like this rather than that.

THE HEARING EXAMINER: So you want the flexibility to curve the wall so that it follows along the --

MR. UHLE: The covered parking.

THE HEARING EXAMINER: -- the covered parking area.

MR. UHLE: Yes.

THE HEARING EXAMINER: That's interesting.

All right. Has the county, county environmental looked at that as far as effect on -- that's the dry retention area. Will that have an effect on the dry retention?

Kim, do you know?

MS. TREBATOSKI: For the record, Kim Trebatoski.

They would have to design it in a manner that their dry retention area will still be usable, but it's not uncommon for the walls to follow the paved area of the site instead of running through green area. It actually may be more hindersome to put it through this way.

THE HEARING EXAMINER: I see. So staff has no objection, then, to the southeast swing on that part of the wall berm?

1 MS. TREBATOSKI: Environmental Sciences staff
2 does not.
3 THE HEARING EXAMINER: Okay.
4 MS. TREBATOSKI: It's a good idea.
5 THE HEARING EXAMINER: All right, Matt. Does
6 that work then for you?
7 MR. UHLE: Yes. I don't think there's anything
8 literally read that prohibits us from doing it either
9 way in the staff's condition. We just wanted to make
10 it clear that that's what the intent was.
11 With regard to Condition 10, as I indicated -- or
12 12, as I indicated in my opening, we don't want to
13 argue about that, so we accept the condition. And
14 that effectively means the covered parking is only
15 permitted where the covered parking abuts the
16 retention area as opposed to the preserve.
17 Condition 13 we have agreed to.
18 With regard to Condition 14, we have asked for a
19 couple of changes in the last sentence. One of them
20 reflects the fact that when the first survey of the
21 property was done, the three gopher tortoise burrows
22 that were found were inactive. When the resurvey is
23 done it's possible that you will find that there
24 aren't any gopher tortoises there, so we don't want to
25 commit to doing -- using this property as a gopher

1 tortoise preserve unless there are gopher tortoises
2 there, so that's the reason for the first clause in
3 our version of that sentence.
4 And then where the staff language talks about
5 preserve may not be utilized as a dry detention area,
6 there is language in the Land Development Code that
7 permits that to be used as a dry detention area under
8 certain findings. And the language that I have
9 written that talks about unless it can be clearly
10 demonstrated that the effects of the construction and
11 operation of the surface water management system will
12 not cause death or harm to the protected indigenous
13 plant community, that language tracks what's in the
14 Land Development Code, so to my knowledge there's no
15 objection from DES to that, although they can speak
16 for themselves.
17 With regard to Condition 15, Condition 15 was
18 written before, obviously, we changed the section to
19 the north and was the inspiration for the change, so
20 what I have just proposed here, unless somebody has a
21 problem with it, is to indicate that our sketch of the
22 north section would be included as part of the master
23 concept plan. The development would have to be
24 consistent with that.
25 I think that addresses all the language within

the staff version of Condition 15. If not, they can.

Condition 16 Jack has just addressed and I don't need to go over anymore.

Condition 17, the access to State Road 78, that's simply a reflection of the fact that the county doesn't have jurisdiction over State Road 78. It's not an indication that we can't get an access point there. We have no objection to the statement because it's legally accurate.

With regard to 18, that's the condition that basically requires us to build this building consistent with the rendering but also consistent with the county regulations to the extent that there might be some conflict.

Again, if there's any public outcry about this rendering, then you may have to take that into consideration, but as it stands now, that's our position.

With those changes, we would ask you to approve the staff recommendation. We agree with the staff's conclusions as to the Lee Plan consistency of this project.

Thank you.

THE HEARING EXAMINER: Okay. Folks, let's take a ten-minute break. Be back here at ten minutes of

11:00, please.

As I indicated to you, water only in this room.

I think staff's presentation will be much shorter than the applicant's has been, so we'll try to get everybody's testimony in before one o'clock today.

Ten minutes, please. Back here at ten minutes of eleven. Water only.

(Whereupon, the proceedings were recessed.)

THE HEARING EXAMINER: Anything else from the applicant before we start --

MR. UHLE: No, ma'am.

THE HEARING EXAMINER: -- on staff?

Staff, hang on two seconds. I'm going to stop this and start the next tape because we have 29 counts.

All right. Staff's going to make their presentation.

MR. PALERMO: Are you ready?

THE HEARING EXAMINER: Uh-huh.

MR. PALERMO: Good morning, Madam Hearing Examiner. My name is Tony Palermo. I'm a senior planner for the Lee County Zoning Division.

First thing I would like to do is just as a -- Don Blackburn is here from development services and I would like him to address Condition Number 16 because

there is a difference between what the staff report had put in there, which is a recommendation from Mr. Blackburn, and there was an adjustment or change that Mr. Uhle had proposed and I wanted Mr. Blackburn to address that one issue and then I promise I'll get into my presentation.

THE HEARING EXAMINER: Okay.

Don, raise your right hand.

Thereupon,

DON BLACKBURN,

a witness, produced by the Staff, having been first duly sworn, was examined and testified as follows:

THE HEARING EXAMINER: State your name and your position with the county.

MR. BLACKBURN: My name is Don Blackburn and I'm a manager for Lee County Development Services.

THE HEARING EXAMINER: County attorney want to ask this witness questions? I don't think he's used to testifying in this proceeding.

MS. LEHNERT: I don't really want to ask the questions, Don. Because he knows what the issue is.

EXAMINATION

BY MS. LEHNERT:

Q. Condition 16 in the staff report was presented, I think it was the development services condition, and it

reads --

A. That was my condition.

Q. And the applicant has proposed in paragraph numbered 5 in the memorandum from Matt Uhle dated May 16 a revision to that. Earlier in the testimony, I'm not -- I think you're aware of this, but earlier in their testimony the applicant indicated that they were going to limit the out parcels on this project to a maximum of two as opposed to the maximum of three that was indicated there on the plan when you had originally reviewed it. So basically what we want to know is whether or not Condition 16 remains required if the two lots are -- if they only -- if they commit to two out parcel lots or -- and if it is, whether or not the limitation to the pavement width is appropriate.

A. The reason I had the condition was because the master concept plan does say maximum three. A third lot on the plan, if one was drawn on there, would then need to have access to a road that meets the minimum standard. There's -- it looks like two lots shown there now even though they're not labeled, but one has access onto Wells and one onto Bayshore. If it is going to remain two lots like the plan shows and the three-lot maximum is removed, then there would be no need for the condition.

THE HEARING EXAMINER: Okay. So in other words,

1 what I'm hearing you say is if they're going to have
2 three out parcels on Development Area A, then you need
3 to -- the roadway needs to be constructed in
4 accordance with the Category A local road under the
5 Land Development Code, but if it's, if it's kept to
6 two out parcels, there is no such requirement because
7 each out parcel then will have some, not direct
8 access, but some more or less direct access to a
9 roadway, where that third parcel would have access
10 only to the spine road,
11 MR. BLACKBURN: Well, they would have direct
12 access, one with direct access to Wells and one to
13 Bayshore, which is what the code requires.
14 THE HEARING EXAMINER: Okay. The applicant have
15 any comments? Do you understand the --
16 MR. UHLE: Yes. And what he's saying is
17 consistent with our position. We agree that we'll
18 only have two.
19 THE HEARING EXAMINER: So if we limit the out
20 parcels, then, to two, then Condition Number 16 can be
21 deleted entirely?
22 MR. BLACKBURN: Yes.
23 THE HEARING EXAMINER: Any objections to the --
24 restricting the out parcels to two and deleting
25 Condition 16?

MR. UHLE: No.

THE HEARING EXAMINER: All right. That works for me.

MS. LEHNERT: Thanks, Don.

MR. BLACKBURN: Thank you.

THE HEARING EXAMINER: Any questions of this witness, Matt?

MR. UHLE: No.

THE HEARING EXAMINER: Thank you, Don.

Tony.

MR. PALERMO: Just continuing, again Tony Palermo for the record.

Before I open the presentation, just let me make a confession. I committed the cardinal sin in the Bayshore community. There is a dirt road on the southern portion of the property. It is not a footpath, it is a bridle path, and I just wanted to make that clear on the record.

THE HEARING EXAMINER: Did we say it was a footpath in here?

MR. PALERMO: In the staff report in a couple of instances I've mentioned footpath pretty casually, but the history of the property is it has been used as a bridle path.

THE HEARING EXAMINER: And that's off the

1 Bayshore right-of-way?
2 Oh, that's the little -- oh, I see. Okay.
3 That's not an ATV path, then.
4 MR. PALERMO: And I'll provide you with a
5 photograph of that.
6 First thing I need to do just real quick is I
7 would like to be recognized as an expert in planning
8 and zoning and land use. Been recognized by the
9 hearing examiner before and my resume and credentials
10 are on file.
11 THE HEARING EXAMINER: Any objections from the
12 applicant?
13 MR. UHLE: No objection.
14 THE HEARING EXAMINER: Accepted.
15 MR. PALERMO: Second thing I'll do is I will just
16 say on the record that we did not receive many phone
17 calls or e-mails, but we did receive some letters and
18 e-mails and communication from interested property
19 owners in the Bayshore community as well as activists
20 in the Bayshore community. There is a letter from the
21 Musho family that is part of the record and that you
22 have as part of your staff report.
23 We have sent the staff report to that surrounding
24 property owner and other Bayshore community activists
25 and we've tried to do a good job in keeping the public

1 informed of the process.

2 The objective of this presentation is really

3 threefold. I want to do three things today. Number

4 one, I'm just going to introduce just a few small

5 exhibits into the record. Number two, I'm going to

6 clarify the points of the staff report which you have.

7 It is dated May 1st, 2006. And I'll also give you

8 some conclusions and recommendations from the staff

9 report. I'll also do a little bit of rebuttal,

10 basically, on the consumption on premises issue. I

11 really won't get too much into it, but I did want to

12 make a few points on that issue.

13 Here we go. The number one thing I'll do is put

14 some exhibits on the record. I believe the hearing

15 examiner has a copy of this, that large photograph

16 there. That's photos taken by staff. Also attached

17 to that you will see an e-mail from Laura Alvarez of

18 the Concerned Citizens of Bayshore as an e-mail to me,

19 and I also have two things regarding the bridle path

20 issue just to put on the record in case this comes up

21 as an issue.

22 Number one is Condition Number 29 on Orange River

23 Estates. It's really the only planned development

24 that I know of that contains a condition saying you

25 must put in a bridle path. And the second and longer

exhibit is from a project called Stonybrook North, a planned development in the Bayshore community also known as Heritage Creek, and it also has a condition regarding enhanced sidewalks running on Pritchett Parkway and I wanted to put that on the record again just in case that comes up.

First thing I'll do is I'll just put a few essential facts on the record, and they are from the staff report. Mr. Uhle's team put some of this on the record, but let me just -- if you will indulge me, I'll just put a few things.

Number one, this is an 8.75-acre zoned property. It's zoned agricultural and they are planning -- and they are proposing to rezone it to a commercial planned development. It's a proposal for 99,999 square feet of office, medical and/or retail. The maximum height they are proposing is two stories and 35 feet.

This project will connect to public water and sewer and there are letters on the record showing both capacity and availability of water and sewer.

It is accurate to say it is in the General Interchange Future Land Use Category. There are no agricultural uses on the site. There are no agricultural exemptions. There are no deviations

being requested by the applicant.

And, again, there is nothing on the site except for a path which I called a footpath but which is actually a bridle path, and apparently it's used quite frequently by the public. Otherwise, it is vacant.

The property is on Bayshore Road, which is an arterial road with two lanes, and Wells Road, which is a local road, again two lanes. And it is approximately 1,500 feet east from the I-75 interchange.

Staff recommends approval of the planned development with conditions, and these conditions ensure three things: Number one, consistency with the Lee Plan; number two, compatibility with the surrounding neighborhood; and, number three, concurrency issues are all going to be addressed.

Madam Hearing Examiner, when looking at this planned development, staff really had two primary concerns. The first primary concern is that it would be accurate to characterize this plan as not having a whole lot of detail regarding footprints, regarding where exactly buildings will go. It has some detail in regard to buffering and separation, but you can't tell from this master concept plan where exactly parking and other details go.

1 The second issue which we're concerned about is
2 to the north. You will find a predominance of single
3 family uses. It is a very rural community in the
4 Bayshore community.
5 The conditions I think adequately address the
6 three issues and address my two concerns. I won't go
7 into all the conditions, but let me just highlight a
8 few of them.
9 If you go to page 2 of the staff report, the
10 first thing I'll note is that the master concept plan,
11 the latest one is the March 21st master concept plan,
12 not the March 3rd master concept plan. And I have a
13 copy of it right here. But your Attachment B of your
14 staff report, that is the March 21st master concept
15 plan.
16 You will see the master concept plan has a
17 general Area A to the south and Area B to the north.
18 We have done an adequate job in terms of looking very
19 carefully at the schedule of uses. There will be no
20 boat sales in Area A. There will be no boat sales in
21 Area B. In Area B, the northernmost property, the
22 list of uses shows no farm equipment; it shows no feed
23 and fertilizer sales. We have also eliminated from
24 the schedule of uses social services Group 3, which
25 are group home sorts of uses.

Mr. Uhle said -- Mr. Roeder said quite accurately that the deleterious uses have largely been removed or not even proposed. No fast food is proposed for this property, no self-service fuel pumps, no convenience stores, no open storage, no vehicle sales and no water or sewer treatment plants, and that was in essential, in essential services. So the list of uses are a combination of retail and office uses, which we think are appropriate.

Condition Number 10 is the condition regarding consumption on premises. We are permitting consumption on premises indoors within a restaurant, and any outdoor consumption on premises would require a public hearing. I'll get a little more into that at the end of the presentation.

Condition Number 11 we talked about a little bit, extending the wall to the east. And again the principle is just to have the wall protect the integrity of the properties to the north as well as the buffers and preserve.

Condition 12 Mr. Uhle's agreed to regarding the covered parking. It must be a minimum 20 feet away from the preserves. That's a good idea and we think that's consistent with the Land Development Code.

Condition Number 18 requires this development

when they get to the development order stage to be consistent with the elevations that they have provided. They look like an old Florida sort of development. So there's Condition 18 in there.

There is no bridle path condition, but that is in general a good idea and bridle paths are consistent with the Bayshore community. How it would be done, that's the question, and that's why I provided a couple of examples of how past projects have tried to deal with the issue. But, again, it's not part of the recommendation.

Second part of the presentation is asking the question is this consistent with the Lee Plan. Again, I won't belabor this, but this is consistent with the General Interchange Future Land Use Category which encourages uses to serve the traveling public. And again there is a broad set of uses recommended.

It is consistent with Policy 1.3.2 and Objective 1.3, and you will find those on page 10 of the staff report. It has conditions consistent with Policy 5.1.5, which is to protect the residential uses from harm. It is consistent with Policy 6.1.2. That is regarding the site location standards. Again, those location standards are not applicable in the interstate interchange area. And it's also consistent

with Goal 20 on Page 13, which is to protect the rural, residential, agricultural and equestrian-oriented community of Bayshore. And, again, as conditioned, I would believe this application is consistent with the Lee Plan.

Third issue is compatibility. This property is entirely within the Bayshore planning community, which is a rural residential area with large lots. There technically is no public meeting required with the Bayshore community with the applicant, but they are always encouraged and again we have tried to communicate with the Bayshore community and make sure everyone is aware of the process.

Page 13 of the staff report says, and I quote, "The continued support for the infrastructure necessary for the owners and breeders of horses." That's in the staff report. Bayshore is also about, on Page 14, "A wholesome family atmosphere is desired as well as the protection of existing agricultural and equestrian activities."

Just to give you a little bit of context about where we are. To the north is residential uses very close by on Wells Road. The applicant has talked about providing a buffer, providing berms, providing walls and providing really 150 feet of separation from

the building to the property line. To the south is Bayshore Road, to the east is vacant property and to the west is Wells Road. And also to the west, that's where Stonybrook North is, that development would go, and that's where its zoning is. Stonybrook North does require an eight-foot bike path or two five-foot sidewalks on Pritchett Parkway running from Bayshore way down south to Rich Road to the north. And I have given you a copy of that.

In terms of the third issue, let me briefly go into that. The third issue is concurrency. There is sewer from North Fort Myers Utilities, there is water from Lee County Utilities, and there are letters of availability from both of those utilities. As far as roads are concerned, development services shows level of service C on Bayshore Road, which will fall to level of service D with the project. There is road capacity per the Land Development Code.

Again, Bayshore Road is a state road, as it says on page 15 of the staff report. I think -- page 15 of the staff report, I think it says it is a county road. It is a state road. There should be a correction there. It is a two-lane arterial road. No improvements are on the horizon according to the Lee County Department of Transportation. And according to

1 Land Development Code a sidewalk will be required on
2 Bayshore Road and Wells Road, a local
3 county-maintained road, because we are talking about
4 commercial uses. And, again, that's in the land
5 development report.
6 As far as environmental issues are concerned, Kim
7 Trebatoski reviewed this project. She has provided
8 conditions for buffers, preserves and species and can
9 discuss these issues in her presentation.
10 Let me go into a little bit about the really one
11 issue left, which is consumption on premises.
12 As proposed, Mr. Uhle would delete Paragraph B,
13 which was regarding the hours, and which sort of begs
14 the question whether they are proposing alternate
15 hours or any hours whatsoever for the indoor
16 consumption on premises.
17 The second thing they objected to was the
18 Condition 10-E, which was requiring 200 feet of
19 separation from the consumption on premises -- let me
20 rephrase that. It was 200 feet from any dwelling unit
21 under separate ownership. And the third objection
22 they had was regarding outdoor seating, whether -- if
23 there's a proposal for outdoor seating, should the
24 developer provide the necessary detail and should they
25 have to go through a public hearing. And I think

1 their position is no, they should not have to go
2 through a public hearing for that specific use.
3 Let me address consumption on premises and I'll
4 make some general comments about consumption on
5 premises and I'll make some specific comments
6 regarding how it would impact this property.
7 Consumption on premises, just in general, if I
8 were talking about any piece of property, I think
9 really disturbs the quiet, residential ambience of the
10 neighborhood, and that's why we usually propose a
11 series of conditions and why we look at this
12 particular use carefully.
13 The analysis should look at really the five
14 senses, which are: Can you hear it, can you see it,
15 can you smell it, can you taste it and can you feel
16 it? And consumption on premises, I think it's
17 obvious, is something that affects your hearing, it
18 affects you visually and it affects the smell of the
19 neighborhood.
20 Number one, in terms of noise, consumption on
21 premises is often associated with loud music, with a
22 loud party and I think does have a serious effect on
23 the surrounding neighborhood's quiet enjoyment of
24 their property, so I think it affects how you hear.
25 Second, the second issue I will bring up is that

1 consumption on premises is often associated with
2 nuisance, especially outdoors. Again, I think it
3 brings up issues of crime, of security, and it is in
4 general a nuisance to residential uses.
5 The third impact I would bring up just in general
6 for consumption on premises is whether it has a visual
7 impact on not just the neighboring property, but the
8 travelers on Bayshore Road, the travelers on Wells
9 Road and the residents who would have to live on Wells
10 Road near this particular use. I think it has a
11 visual impact on the character of the community.
12 The fourth impact that consumption on premises
13 could have is smell, and anyone who has visited an
14 establishment where there's lots of consumption on
15 premises knows that there can be some unpleasant
16 smells associated with it. Just to be frank, there's
17 the smell of alcohol; there's a smell of vomit;
18 there's a smell of urine. Again, that could affect
19 any property.
20 And the fifth point I would bring up, just
21 generically the consumption on premises, is its impact
22 on family values. This is a pretty conservative
23 community, this is a pretty conservative part of the
24 community, and I think it does have an effect on the
25 values of community and that's why there are rules in

1 the Land Development Code regarding whether these uses
2 should be near parks or they should be near schools or
3 they should be near residences or whether they should
4 be nears schools -- or churches.
5 Let me get to the specifics of this property.
6 We are concerned about outdoor consumption on
7 premises because, number one, to the north is a single
8 family use which is very near this property. And I
9 appreciate any buffering you can do, but I don't think
10 there's -- that any buffering renders this use
11 invisible, renders it unable to be heard and renders
12 it with any mysterious cloak of protection.
13 The second concern I have is that there just
14 isn't enough detail. In fact, there is no detail
15 about what this consumption on premises will look like
16 or how it will impact the community. We have no
17 discussion of how many seats will be there, we have no
18 discussion of how much square footage is there. And
19 we're not saying do away with the use. We're saying
20 it has to go through the proper public hearing process
21 in order for us to evaluate it.
22 The third issue is that it is in the Bayshore
23 community and I think there are specific policies in
24 the plan and there are specific descriptions of the
25 Bayshore community which make, which make staff take a

1 special look at this community and really look out for
2 the interest of the rural integrity of the
3 neighborhood. And, again, they should go through the
4 public hearing process with the necessary detail.
5 The fourth specific thing about this property is
6 that it is near I-75. An outdoor consumption on
7 premises use with a restaurant with a large size will
8 attract people from miles around. There's thousands
9 and thousands of people on I-75 using that road and it
10 could be a very detrimental thing for the community.
11 The fifth point I bring up is that because it's
12 on I-75 I think having late hours, I think having
13 unlimited outdoor consumption on premises does create
14 an issue of safety regarding outdoor consumption on
15 premises. It raises the issue of drunk driving and
16 whether this is something that we want to promote on
17 I-75 with outdoor consumption on premises. And,
18 again, we're okay with indoor consumption on premises.
19 And the sixth factor really is the equestrian
20 factor. Is outdoor consumption on premises really
21 compatible with the equestrian uses that we know are
22 in the neighborhood and will continue to be in the
23 neighborhood?
24 And, again, you can hear it, you can see it and
25 you can smell it, and for these reasons that's why we

bring up this issue of consumption on premises.

I think the policies to support us are in the staff report and I won't go through them, but they're Policy 5.1.5 to protect residential uses, Policy 139 regarding character, Policy 6.1.4 regarding compatibility, and especially Goal 20, which is the Bayshore community.

In conclusion, we can recommend approval of this application with conditions. As conditioned there will be no environmental -- adverse environmental impacts; there is an adequate road network; there's urban services available; and the mix of uses are appropriate.

In closing, this application as conditioned is consistent with the Lee Plan, it's compatible with the surrounding neighborhood and I think it addresses all concurrency issues. And I'll just stop there and answer any questions you have.

THE HEARING EXAMINER: Questions? I'm sorry. Questions by staff of this witness?

MS. LEHNERT: No.

THE HEARING EXAMINER: Kim?

MS. TREBATOSKI: I have one question.

EXAMINATION

BY MS. TREBATOSKI:

1 Q. Tony, the outdoor consumption on premises, would
2 that be a conflicting use with the -- some of the proposed
3 uses such as day care center, place of worship or schools
4 that are requested by the applicant and approved?
5 A. Yes. Those are in the schedule of uses and
6 there's a potential conflict and that's why we would like
7 the necessary level of detail to even discuss outdoor
8 consumption on premises.
9 Q. One other question regarding that. I'm not sure
10 if I clearly heard it or not in your testimony. The
11 master concept plan as proposed, do we know for sure that
12 there wouldn't be any outdoor consumption on premise area
13 for -- be on the backside of a building facing the
14 indigenous area or that it would --
15 A. The conditions as proposed by staff say that the
16 outdoor consumption on premises or the consumption on
17 premises would have to be south of the building, so you
18 would have to have, working from the north, preserve,
19 building, and then consumption on premises and then
20 parking outside the building.
21 THE HEARING EXAMINER: All right. But that's the
22 indoor consumption, right?
23 MR. PALERMO: Correct.
24 THE HEARING EXAMINER: Because you're not
25 recommending approval of outdoor. So you are actually

recommending that the location of any lounge or bar or alcoholic consumption area will be only on the south side of whatever restaurant is being proposed?

MR. PALERMO: Correct. If I had the necessary detail to look at all that, that's what I would evaluate and that's what I would be for.

MS. TREBATOSKI: No further questions.

THE HEARING EXAMINER: County attorney, questions of this witness?

MS. LEHNERT: No, ma'am.

THE HEARING EXAMINER: Questions by the applicant?

EXAMINATION

BY MR. UHLE:

Q. Tony, are you familiar with any large Lee County restaurants that serve alcohol but stop serving it at nine o'clock at night?

A. I haven't drank alcohol for about ten years, so it would be hard for me to answer that question, but in general, restaurants have hours going until midnight or something like that. And that raises the question is that appropriate on this property, is that appropriate this close to I-75 to promote, say, an Applebee's, a Hooter's or whatever restaurant you have having drinking hours going 11:00, midnight, 2:00, 3:00 in the morning.

Q. Well, if it makes you feel any better, I haven't consumed alcohol in 47 years.

A. Thank you for sharing.

Q. Having said that, would you not have -- let me ask you this as a planner. I mean have you done any cases in Lee County where COPs were limited to nine clock hours?

A. I don't have any in memory, but I have been using generic hours of 11:00 and midnight and hours like that, but there probably are cases out there where hours were limited to 9:00 p.m., 10:00 p.m. Probably not my cases, but -- that's my answer.

Q. So the answer is that you're not aware of any personally where it was cut off at nine o'clock?

A. Correct.

Q. Would you say that it would be more customary to cut it off around 11:00 or 12:00?

A. It would be more customary if this were in an entirely different location. I have done cases where it's in Fort Myers Beach where it's just generally accepted that there will be consumption on premises till late hours.

Q. When I ask the question in terms of customary, I'm talking about on a countywide basis, I'm not talking about specific to this parcel.

In general, to your knowledge, is it more

1 customary to limit COP to eleven or twelve o'clock as
2 opposed to nine o'clock?
3 A. That is more common, and your word is more
4 customary, that they have late night hours.
5 MR. UHLE: No further questions.
6 THE HEARING EXAMINER: All right. Tony, don't
7 sit down. I have several questions now.
8 Going to page 4 of 16, the Area B schedule of
9 uses, you've got restaurant here, Group 1, 2 and 3.
10 Then you say no fast food and you say no freestanding
11 restaurants in Area B. So the freestanding that
12 you're talking about is not a restaurant that would be
13 part of the multitenant building, but one that would
14 be sitting out in the middle of the parking lot?
15 MR. PALERMO: Yeah. My expectation would be on
16 Area B you would have a multitenant building which
17 would have restaurants.
18 THE HEARING EXAMINER: All right. Following
19 through with that concept, was there a particular
20 reason why staff chose not to allow fast food as one
21 of the multitenants or as part of the multitenant and
22 restricted to one of the storefronts, essentially, in
23 the building?
24 MR. PALERMO: Yeah. There is a certain
25 discomfort for allowing fast food restaurants this

1 close to a residential property, but you're correct, I
2 was more thinking about the stand-alone McDonald's
3 fast food restaurant. If within that plaza they had,
4 say, a Subway or some other restaurant within a plaza
5 setting, that wouldn't be a terrible problem with me.
6 Definitely not fast food and definitely not the
7 drive-through sorts of restaurants.
8 THE HEARING EXAMINER: Okay. All right. But the
9 fast food and your sub shops or something along this
10 order, you know, Taco Bell, something, that would
11 actually be more in keeping with the intent of the
12 interchange land use designation, would it not?
13 MR. PALERMO: That would be appropriate in the
14 interchange land use category. I would just be
15 reluctant to go plopping it in there because the
16 applicant did not propose fast food as one of their
17 uses.
18 THE HEARING EXAMINER: Okay. All right. Because
19 I know we've discussed this in other cases in which
20 the fast food has been limited to the multitenant
21 building and not into -- not to a stand-alone, which I
22 think in this case would work pretty well, but it's up
23 to the applicant if they want to request that at this
24 point.
25 The next one -- question that I have -- let me

see if I can find it. I have got everything written on top of everything.

Oh, the bridle path. Now, you gave me conditions for the bridle path, all right, and you indicated to me on the aerial photograph up there, actually the FLUCCS map, I guess -- no, it was the aerial photograph, that shows the little area where the horses have been walking, the people have been using as a bridle path across the south portion of the site but well away from the right-of-way.

If the -- if you are proposing that the applicants provide a bridle path, where are they going to provide it?

MR. PALERMO: I haven't gotten down to that level of detail, but I have provided you with two examples of cases that did require a bridle path. But a bridle path is not in my conditions and I have not crafted a condition requiring a bridle path, but wanted to hear from the public and I also wanted to hear from the applicant regarding that particular issue. But my recommendation is unchanged, but I wanted to give you the flexibility to think about that issue and just say generally that if the developer provides a bridle path, that's a good idea and that's consistent with Bayshore, but I have nothing to mandate it.

THE HEARING EXAMINER: All right. Because I'm concerned about, you know, if you recognize the location now, those folks have got to cross that access point, the entry off of Bayshore. They're going to have to walk across. The horse has got to walk across that driveway there. That concerns me.

And this may not be the proper question to ask you, maybe I need to ask Kim, but would the county accept a bridle path through the indigenous preserve?

MR. PALERMO: Ask her that one.

THE HEARING EXAMINER: Kim?

MS. TREBATOSKI: For the record, Kim Trebatoski.

Well, there would be a different department that would be handling any trails, but if there are gopher tortoises found on the property, a bridle path is inconsistent with preservation for the tortoises and any path that would be wider than five foot in width would need to be subtracted out of the preserve and additional preserve would need to be provided.

THE HEARING EXAMINER: So because in some open space or in some projects with open space and preserve areas the county allows your passive recreational uses, so a bridle path would not necessarily be considered a passive recreational use, then? Is that what I'm hearing?

1 MS. TREBATOSKI: I mean there's a number of
2 faults with bridle paths. First of all, the five-foot
3 width that I was talking about, that's what we limit
4 trails to. Secondly, with horses you have the matter
5 of their fecal matter which can be detrimental to
6 preserve areas. And the burrows of tortoises can be
7 detrimental to the horses and the horses can be
8 detrimental to tortoises if they --
9 THE HEARING EXAMINER: Step on them. I don't
10 think the horse is going to step on a burrow if they
11 can see it.
12 MS. TREBATOSKI: I just know from conversations
13 with people, and we are trying to work with people who
14 are doing pastureland, that they don't want the
15 tortoises and their burrows anywhere near the horses.
16 THE HEARING EXAMINER: Well, the only problem
17 that I have, and I know you have given me a couple of
18 samples of conditions or whatnot about a bridle path,
19 but my only concern and question is looking at the
20 proposed plan of development where this could safely
21 be put on this property, on this property.
22 MR. PALERMO: Don't have an answer for that.
23 THE HEARING EXAMINER: And I would think if staff
24 is recommending that a bridle path be constructed that
25 they should have some idea and concept of where they

1 would like to see it done for protection of the
2 horses, the riders and the drivers.
3 MS. LEHNERT: I think Tony indicated that it's
4 not in the staff's recommendation.
5 THE HEARING EXAMINER: You are not recommending a
6 bridle path?
7 MR. PALERMO: I don't have a condition to
8 recommend one.
9 THE HEARING EXAMINER: Okay, then --
10 MR. PALERMO: A sidewalk will be required, and if
11 there are enhancements to that that the developer
12 wants to do, we should consider them.
13 THE HEARING EXAMINER: So the purpose then of
14 Condition Number 29 on the Orange River Estates which
15 dedicated an eight-foot-wide strip along the southern
16 boundary of the property fronting on Homestead Road to
17 Lee County to serve as a bridle path, that was not
18 intended as a condition for the hearing examiner to
19 pick up and put in this?
20 MR. PALERMO: Correct. Just food for thought
21 just in case it comes up.
22 MS. TREBATOSKI: If I may, Madam Hearing
23 Examiner, both of those projects are strictly
24 residential, so there is a different traffic
25 interaction --

THE HEARING EXAMINER: With the horses than a commercial one? Yeah. Okay. All right.

Okay. I don't think I have any -- wait. Before I say that, let me flip through here and make sure I didn't write something down somewhere else I wanted to ask.

I think that is all for me.

Anything -- any follow-up from staff or applicant of this witness?

MR. UHLE: No, ma'am.

THE HEARING EXAMINER: Thank you, Tony.

Kim, you're making a presentation?

MS. TREBATOSKI: Very brief. Just some clarification.

MS. TREBATOSKI: For the record, I'm Kim Trebatoski, principal environmental planner for the Division of Environmental Sciences, and I have been tendered as an expert in environmental matters before and would like to be deemed so today.

THE HEARING EXAMINER: Any objection?

MR. UHLE: No objection.

MS. TREBATOSKI: I have to do it, Matt. Everybody else got tendered.

I just have three comments on this.

Mr. Ruskai had indicated that the preserve area

will remain as is except for the removal of invasive exotic vegetation. That is in part correct. The issue that may come up is that if gopher tortoises are found on the property, the pine flatwoods on the northern part of the property is very thick in palmetto and there may need to be some vegetative management to open up some areas, either trimming palmetto down or mowing mosaic patterns through to allow for more herbaceous ground cover for foraging for tortoises. And the other issue is there may be need over time to do some trimming of palmetto just to maintain the ecosystem. But it will serve as a buffer and it won't be an open vista between the property to the north and the commercial property, but there may be some slight alterations in order to manage the preserve and the related species utilizing the preserve.

The applicant has indicated that there are inactive gopher tortoise burrows on the property and Environmental Sciences staff also saw ones that did not show any recent activity. However, inactive burrows can be utilized and juvenile tortoises can be found in inactive burrows as well as abandoned burrows, and in this area the tortoises also venture around, so seasonally they may be on this property and

1 seasonally elsewhere and that is why Environmental
2 Sciences staff requires all active and inactive
3 burrows within the area to be cleared, to be excavated
4 and tortoises relocated.
5 Condition 14, regarding the preserve area and if
6 it can be used for water management area or not, it is
7 correct that the Land Development Code allows the
8 applicant to demonstrate how if it's used for dry
9 detention that it won't be detrimental to the plant
10 community. I would only request that at the end of
11 the sentence, last sentence in Matt Uhle's revised
12 condition that we add on, "for any listed species,"
13 because they need to also demonstrate that the use of
14 it as dry detention would not impact any listed
15 species and in this case most likely gopher tortoises.
16 If a certain volume of water is held in the area for
17 any length of time, that could be detrimental to
18 tortoises. But there are ways to demonstrate how
19 areas can be utilized. If it's a low volume of water
20 that's being held for a very short period of time, it
21 actually can be beneficial to certain types of plant
22 communities.
23 THE HEARING EXAMINER: You have no objections,
24 then, to the replacement of your -- the last sentence
25 of Paragraph 14 with the paragraph that -- in Mr.

1 Uhle's memo with the addition of the words, "or any
2 listed species," at the end of that paragraph?
3 MS. TREBATOSKI: Yeah.
4 MS. LEHNERT: Wait a minute.
5 THE HEARING EXAMINER: You know where we're at?
6 MS. LEHNERT: Yeah. I lost the period. Thank
7 you.
8 THE HEARING EXAMINER: Matt, do you have any
9 objections to the insertion of that language?
10 MR. UHLE: No.
11 THE HEARING EXAMINER: Okay.
12 MS. TREBATOSKI: We also do not have, the ES
13 staff does not have any objection to Point Number 2 in
14 Matt Uhle's memo that adding, "or wall and berm
15 combination". That's pretty typical of how areas are
16 put in.
17 Just a little bit further answer on your question
18 regarding if the wall could run at a diagonal, how
19 that would be, and depending on how they plant their
20 storm water, dry detention area it actually could be
21 beneficial to any tortoises to have the wall right
22 adjacent to the pavement and be able to forage in the
23 dry detention area, so there are some positive reasons
24 for that.
25 Otherwise, I don't have any additional comments.

It is pine flatwoods. I was actually quite surprised that I didn't find any active burrows because there are some areas that are open in there that would be wonderful foraging habitat for tortoises.

THE HEARING EXAMINER: Okay. Questions of this witness by staff?

County attorney?

MS. LEHNERT: No, ma'am.

THE HEARING EXAMINER: Applicant?

EXAMINATION

BY MR. UHLE:

Q. Kim, just to get this clear on the record, with regard to our proposed revised northern cross section, do you have any objection to that or to the language that we proposed that implements that section?

A. No, because it's my understanding that that will become part of the master concept plan and the type of wall where it's pile footers and sections is what is being committed to, then being closer to the preserve is okay. It's when you have to trench the footer the entire length that it becomes problematic. And the type of wall that's being proposed now, we have actually had some developers zigzag through some preserves when there's been an issue of a need for a wall, and in this case they're actually providing it outside the preserve. But the footer concern

is impact on roots of trees and that's why this is the preferred type of wall adjacent to a preserve.

MR. UHLE: I have no further questions.

THE HEARING EXAMINER: Thank you.

All right. Any other staff witnesses?

Okay, folks, at this point in time I'm going to open the floor up for public comment. I need you to come up one at a time, please, to the podium. If you would, bring me your white form as you come up, introduce yourself. If you have not been sworn in, please let me know. I will swear you in. But bring your white form, introduce yourself and your address, please, for the record.

MR. MUSHO: My name is Michael Musho. I live at 17350 Wells Road.

Before I begin, I would like to thank Mr. Fred Drovdlic and more recently Mr. Tony Palermo for their accessibility and insight into this rezoning process. While we may not agree on some of the aspects of this case, it's been very pleasant and professional throughout this process. I would also like to thank Miss Kim Trebatoski with the Division of Environmental Services for being just as cordial and receptive.

My home and 600 feet of my property is directly adjacent to the north property line of the proposed

1 project. My home and family will be probably the most
2 affected.
3 I had mixed emotions about the project for some
4 time now and reading the staff report gave me a better
5 insight to help me come to a more solid conclusion.
6 The staff report gave me three major areas of concern
7 and disagreement: One, buffer; two, the traffic
8 impact; and, three, the project's compatibility with
9 the community.
10 Now, my understanding -- one of my concerns was
11 the berm and swale on the north side of the preserve.
12 I understand that has been resolved; is that correct?
13 MS. TREBATOSKI: Yes.
14 MR. MUSHO: Thank you.
15 The Lee Plan Policy 139.9.5 states that the new
16 development adjacent to areas of established
17 residential neighborhoods must be compatible or
18 improve the area's existing character.
19 The 75-foot preserve is good and appreciated, but
20 we also need to be watchful of the rural character of
21 the community. A project this size is required to
22 have a preserve. I believe it is 1.3 acres. And that
23 has been allowed -- actually, 1.5 acres with the
24 credit for keeping the preserve in one location.
25 If we are truly to protect the residential and

1 rural integrity of the neighborhood to the north, the
2 natural preserve should be extended and a bridle path
3 be provided on the far south side of the buffer for
4 the horses that now use the dirt bridle trail on the
5 south side of the property.
6 Extended buffer would also better facilitate the
7 gopher turtles management on the property. And the
8 gopher turtle burrows are now occupied on the
9 property, as I took videos of it yesterday. They
10 are -- apparently they do leave for a period of time
11 and return.
12 The increase of the buffer would also tie in with
13 the Bayshore community plan compatibility issues.
14 That is of great importance to the community.
15 Number two, the traffic impact. I would like to
16 bring your attention to the traffic impact statement,
17 Attachment C of the staff report. The traffic impact
18 statement that was submitted by the applicant has
19 substantial omissions that were not factored and
20 making the report unreliable. An important omission
21 is the planned Pritchett Parkway extension that is to
22 tie into Wells Road. As a result, the traffic impact
23 of the Heritage Creek, otherwise known as Stonybrook,
24 a U.S. Homes community with 1,275 planned dwellings on
25 Pritchett Parkway, which was already approved by the

1 Lee County Commissioners, is not included in the
2 applicant's traffic impact study. This U.S. Homes
3 community will be using the Wells Road intersection as
4 Pritchett Parkway is realigned to Wells Road.
5 According to the traffic impact statement for
6 this U.S. Homes community titled Heritage Creek
7 Development, Table 2, there will be 12,095 total daily
8 two-way trips generated by the development located on
9 Pritchett Parkway.
10 I would like to submit into the record a copy of
11 the traffic impact statement that is titled Exhibit A,
12 traffic impact statement for the Heritage Creek, a
13 U.S. Homes community. Study was done by Metro
14 Transportation, same people that did the study for
15 this project.
16 THE HEARING EXAMINER: Any objections from staff
17 or applicant?
18 MR. UHLE: No.
19 THE HEARING EXAMINER: All right. I'll take
20 that, then.
21 Thank you, sir.
22 MR. MUSHO: The traffic impact of this U.S. Home
23 community must be considered along with the
24 applicant's development, since they will both use the
25 same Wells Road and Bayshore intersection. That is

1 inevitable. U.S. Homes will be built as it has been
2 approved, or there may be some changes.
3 The Pritchett Road that now comes out to Wells
4 Road does not facilitate a safe left-hand turn, mainly
5 because there's a median here. There's traffic coming
6 up onto I-75 on ramp. In order for someone to make a
7 left-hand turn, they have to wait for a long period of
8 time to make a left-hand turn. This would back
9 traffic up with the load that it will be generated by
10 the U.S. Homes development. That is why that is being
11 as an option for them to channel this into Wells Road.
12 They cannot put a traffic light here. It is too close
13 to the interchange. And I don't know of any plans to
14 put a traffic light here at this time.
15 THE HEARING EXAMINER: There is not a traffic
16 light at Nalle Road, is there, Mr. Musho?
17 MR. MUSHO: I pointed at Wells Road. There is
18 one here, yes.
19 THE HEARING EXAMINER: There is one there? Okay.
20 UNIDENTIFIED SPEAKERS: (Inaudible.)
21 THE HEARING EXAMINER: All right, folks, folks,
22 folks, folks, folks.
23 MR. MUSHO: There's a flashing light. It's not a
24 traffic light, a functioning traffic light.
25 THE HEARING EXAMINER: I didn't recall even a

1 flashing light being there, but thank you.

2 MR. MUSHO: I would also like to bring your

3 attention to Condition 7 of the zoning staff which was

4 discussed here earlier. Condition 7, access to State

5 Road 78 is not guaranteed and is subject to Florida

6 Department of Transportation approval.

7 THE HEARING EXAMINER: That's 17? Number 17?

8 MR. MUSHO: Correct. I believe Condition 16 was

9 omitted earlier.

10 THE HEARING EXAMINER: Uh-huh.

11 MR. MUSHO: This would mean that if FDOT does not

12 grant the applicant Bayshore access to Area A, then

13 all traffic to this large project would have to use

14 Wells Road, a two-lane residential roadway, that all

15 traffic from the Pritchett Parkway extension, the

16 Wells Road neighborhood traffic and the traffic

17 generated by this hundred thousand square foot

18 shopping center with no Bayshore access would all

19 merge to a local residential roadway that is Wells

20 Road.

21 I submit to you that this is not responsible

22 management of growth and will have a sizable adverse

23 effect and impact on the road safety and the local

24 residential community. This alone should be enough to

25 deny this application as it is now or greatly reduce

the size of the project.

Number three, neighborhood compatibility. I honestly believe that the essence, the spirit of the Bayshore community plan is being largely ignored or overlooked here. The zoning staff mentioned their concern in the staff report that the master concept plan has little detail regarding building placement, parking and other features. And the applicants reply is that showing such detail is not necessary due to General Interchange Future Land Use Category. This argument by the applicant is a demonstration of disregard for our Bayshore community planning district. Maintaining the integrity of rural areas and communities is a critical element of the Lee Plan. The residents of the Bayshore have legitimate concerns about maintaining the rural integrity of our community. The applicant has not met with anyone from the Bayshore community, and I realize that is not required of them, but it would have been nice and civil to show some interest in meeting with the community representative regarding a project of this size.

This is a project to the scale of the Daniels Crossway that is on the corner of Six Mile Cypress and Daniels with the Publix shopping center. I believe

1 that is 116,000 square feet. We just don't see that
2 kind of development in Bayshore. The two-story height
3 of Area B, the 100,000 square foot size and intensity
4 of this project are without comparison anywhere in the
5 Bayshore community.
6 The impact on Wells Road and the residential
7 neighborhood north of the project will be immense.
8 The size and the intensity being proposed will without
9 a doubt have a detrimental impact on our community by
10 changing the community's character.
11 I must note that we don't want a so-called
12 downtown Bayshore in Bayshore. We didn't move out to
13 Bayshore to have a downtown. Downtown can stay where
14 downtown is.
15 This project must now be approved as a 99,999
16 square foot development, but Area A should be
17 eliminated and Area B shifted further south to allow a
18 compatible buffer to the residential neighborhood to
19 the north. The project should be reduced in size to a
20 minor commercial development with 30,000 square foot
21 of retail use for which it would better qualify.
22 Thank you.
23 THE HEARING EXAMINER: Thank you, sir.
24 Next speaker.
25 MS. MUSHO: Good morning, Madam Hearing Examiner.

THE HEARING EXAMINER: Now, you're going to need to pull the microphone up because you're a little taller and you speak softer.

MS. MUSHO: My name is Lisa Musho and I live at 17350 Wells Road and our property adjoins 600 feet along the border of this property. And I, too, feel that the way that this project is presented that it is far too intensive at this level to be compatible with our surrounding neighborhood and with the rural Bayshore planning community, a plan that states the community wants to maintain low residential densities and minimal commercial activities.

It's noted that nowhere in the Bayshore area is there any commercial project of this size, magnitude, intensity, and that just because some restrictions, which are much appreciated, have been placed on the property doesn't just suddenly make it compatible at this level.

Furthermore, the applicant argues that just because this project would be located in an interchange area that it should be developed commercially at this magnitude. Again, this argument ignores both the existing rural setting that is already there, the homes of the people that are already living there and the overall intention of the

1 Bayshore community plan, which states that the rural,
2 residential, agricultural and equestrian-oriented
3 character with minimal commercial activities should be
4 protected.
5 A 99,999-square-foot commercial project
6 represents an encroachment of uses. It's potentially
7 destructive to the character of our residential
8 environment and as such at this level it's not
9 compatible.
10 The next topic that I wanted to comment on was we
11 wanted to ask that you do not allow consumption on the
12 premises. We don't want liquor to be available on the
13 property which is so close to our home and where our
14 children are playing. We are also concerned about the
15 transient clientele coming off of I-75. It's going to
16 be more likely to come to establishments that are
17 offering liquor. Liquor consumption on this site is
18 not compatible with our family-oriented neighborhood
19 and it would draw a different, unwanted crowd of
20 clientele to our area.
21 Again, much appreciated on the limitations, but
22 in all honesty we really can't limit the negative
23 effects that were described by Tony earlier just
24 because the consumption is inside. People move
25 around, people hang out, people walk around, people

are drinking. They wander around. Not to mention the responsibility of coming out, going a very short distance and, boom, you're on 75. We do not want this located so close to our home.

It's also noted that the staff -- in the staff report regarding consumption that this use is to be at least 200 feet away from any dwelling under separate ownership, but the applicant's master concept plan shows a setback of only 150 feet, which is not far enough.

The next topic is I am also troubled by the broad and the varied schedule of uses that's being applied for on this property, and the reason for that is because I can't possibly know all the types of businesses that will be allowed under these categories and how they could adversely affect my home. For example, the schedule of uses for Area B includes drive-throughs. I know we talked about that earlier. Just for the record, we do not want drive-throughs next to our home. I'm also concerned about being next door to a business that's going to be open 24 hours a day. I don't want to be hearing noise all night long, with bright lights and traffic moving in and out of the property all hours of the night. I can, in my own experience, I can look at it and see, I can tell

1 certain ones are unacceptable such as nightclubs,
2 kennels with barking dogs outside 24 hours a day and
3 night and auto parts with machinery being used, but
4 I'm sure that contained in these remaining categories
5 are many uses that will still be intrusive to my home
6 next door. I ask the county to use their expertise in
7 knowing what these categories are and to ask
8 themselves if they personally would want to live
9 directly next door to that particular use. If the
10 answer is no, then I would ask that you eliminate that
11 category.
12 We also ask that you do not allow a height of two
13 stories on this project. It's way too intensive and
14 intrusive and it's not in keeping with any other
15 commercial developments in this area.
16 Lastly, as I mentioned earlier, we are also
17 concerned about the noise and lights that are going to
18 be generated by this project. We live in a community
19 that is quiet and dark at night and we do not want
20 noise and lights emanating from this project onto our
21 property. And I don't -- I would like to know how
22 this concern would be addressed.
23 Thank you.
24 THE HEARING EXAMINER: Okay. Thank you.
25 Anybody else wish to speak?

1 Thank you, sir.

2 MR. SHEPARD: Good morning. My name is Dave
3 Shepard. I live at 7730 Rich Road in North Fort
4 Myers. I'm a board member of the Bayshore Concerned
5 Citizens, a nonprofit group of Bayshore residents.
6 I'm here to speak on theirs and my behalf.

7 We're aware this is a prime commercial spot and
8 most certainly will be developed as such. However,
9 there's several items that we cannot support: First
10 and foremost, the square footage; and most disturbing,
11 the two-story design of the proposed building. You
12 can't drive anywhere the whole length of Bayshore and
13 find a two-story commercial building. No interchange
14 in Fort Myers has a two-story commercial building.
15 Doesn't matter what you build it like, rural,
16 plantation style or whatever. This is even being --
17 why this is being considered is even beyond belief.

18 Through the whole application project here it's
19 called, it is called consistent with the Lee Plan.
20 And Mr. Roeder here did assist on the Lee Plan here
21 for us some time ago, Policy 20.1.1. Retail
22 commercial activity shall be limited to the interstate
23 interchange designation at Bayshore and I-75, plus
24 commercial uses at the intersections of Nalle Road and
25 Bayshore, State Road 31 and Bayshore, State Road 31

1 and Old Bayshore.

2 Now, this is written right in here. I don't

3 know. Should I introduce it?

4 THE HEARING EXAMINER: No, you don't need to.

5 It's part of the Lee Plan. It's a document that I

6 have.

7 MR. SHEPARD: Actually, this is an addendum that

8 was written underneath it.

9 There is no obvious village center or commercial

10 core in Bayshore and this plan does not attempt to

11 create one. The intersection of Bayshore Road and

12 Nalle probably comes closest with Lawhon's and the

13 fire station in close proximity. There are other

14 commercial establishments scattered in various

15 locations. The existing Lee Plan already restricts

16 retail commercial to intersections of a defined

17 significance. The proposed policy further restricts

18 these potential retail locations by specifying certain

19 intersections where retail commercial will be

20 permitted. Since under the Lee Plan minor commercial

21 is defined to be up to 30,000 square feet of floor

22 area, this policy should allow more than adequate

23 commercial opportunities in the future.

24 Now, obviously the plan here is for 999,000 plus

25 square foot. That's obviously not well within the

30,000 that this plan actually calls for. Three times as much. How can the square footage be tripled and still come under the heading of minor commercial development?

Page 14 of the study talks to the significant impact this project will have on this area. Certainly that's quite an understatement. It most certainly will set an undesirable precedent, a hundred thousand square feet, a two-story building. These are totally unacceptable standards. No to the two stories and certainly no to the square footage.

The other concern we have obviously is the traffic flow that this project will affect. I find it surprising your own traffic person said minimal traffic flow there. He obviously has not spent any time driving in that area during the commuting hours morning and evening. It is nearly impossible to make a left turn there now with no further development at all, so obviously there needs to be improvements.

We know that this is going to be a commercial property and it's viable and we don't want to restrict the property owner from his rights of developing this as a commercial entity. Certainly we know it's commercial. But the mere size and sheer volume of this project is -- incompatible is even a slight word

1 to use.

2 The entrance that they propose here is on an
3 exclusively residential entrance road. It's all
4 residential. There's no commercial activity back in
5 there at all. And will DOT approve of a direct
6 Bayshore entrance? Maybe, maybe not. That certainly
7 will have an adverse effect on traffic flow. Left
8 turns and right turns into this project without major
9 road improvements on Bayshore itself will virtually
10 bring traffic to a standstill.

11 Having read that complicated traffic survey - and
12 I appreciate having a copy of it - and realizing the
13 difficulty in understanding the figures, there's
14 several things that do come to mind. The first thing,
15 on the study here, they have what they call a study
16 period and they dictate it. It's .25 hours in the
17 morning, .25 hours in the evening, 15 minutes. They
18 have their finger on the pulse of traffic on Bayshore
19 by observing and counting for 15 minutes? I don't see
20 how that's possible.

21 It also stated in there that there is zero
22 percent heavy vehicles in the study. Zero percent, it
23 says. Anyone who travels Bayshore knows the great
24 volume of heavy vehicles, especially dump trucks.
25 It's their expressway. They use this road as a major

artery to reach North Fort Myers, the interstate and all that area. And, again, you're not going to restrict that. If you take State Road 31 out, 31 to Bayshore, 31 has all the gravel pits and everything out there. They have to use Bayshore to access this area. And, again, without any turn lanes, you know, left turn lanes, right turn lanes or even traffic lights there, it's an impossible intersection now.

There are concerns, obviously, all valid, that exist with this project and we feel as it is proposed it is unacceptable and certainly not compatible with our vision of North Fort Myers Bayshore community. We request less square footage, much less; no two-story buildings; no consumption of alcohol; a much needed bridle path; intersection improvements such as a right and left turn lanes; and a wider buffer for long-established residents. We respectfully request this project be rejected as it is now proposed.

Thank you.

THE HEARING EXAMINER: Thank you, sir.

Anyone else?

Yes, sir. Do you have your white form, sir?

Thank you.

MR. SIZEMORE: Hi. My name is Perry Sizemore and I'm a resident on Wells Road, 18100.

And I'm for just about anything we can get up there as far as shops and stuff because we have nothing, but I do believe that there will be a lot of traffic issues on Wells Road, getting in and out. It's tough right now during rush in the mornings and evenings. It's hard to get on and off Wells Road. And I just think there needs to be some changes to Wells Road if they're going to use Wells Road as an entrance to this project. That's my main concern. Like I said, it's too much right now without adding a lot more traffic, but I'm sure there's ways to make it safe. But as I know, maybe there's something in there for that. Anybody? To get in and out, extra turn lane into the project?

THE HEARING EXAMINER: I think the staff report indicated and I think the TIS indicated that turn lanes, that kind of thing will be determined at the development order time because then they will actually look at where everything is and what it is and what the amount of traffic is going to be generated and how long the turn lane's going to be and this kind of stuff, so those are things that are typically, you know, taken care of after the project has gone through the zoning, when they come up with the actual site plan and whatnot.

1 MR. SIZEMORE: That will be good. That's my only
2 question.
3 THE HEARING EXAMINER: Now, let me ask you a
4 question before you sit down.
5 Across the top -- or actually across the middle
6 of these public participation forms is a designation
7 for, against or general interest. You did not check
8 any one of the three and I need to know where to put
9 you.
10 MR. SIZEMORE: I'm for like shops and stuff in
11 our area because we have nothing but Lawhon's store,
12 one store, and we need -- but I'm not for it if it's
13 going to be -- I live on Wells Road, which that is one
14 of the entrances, and if it's not going to, you know,
15 if it's not going to get stuff done on Wells Road to
16 turn into there, then I'm not for it, so I'm sort
17 of --
18 THE HEARING EXAMINER: So let's put you down for
19 general interest. Will that work for you?
20 MR. SIZEMORE: That will work.
21 THE HEARING EXAMINER: You're kind of for and
22 against, so we'll do general.
23 MR. SIZEMORE: I'm for the shopping and all that,
24 but --
25 THE HEARING EXAMINER: Not for the impacts?

MR. SIZEMORE: That's it.

THE HEARING EXAMINER: Okay.

MR. SIZEMORE: Thank you.

THE HEARING EXAMINER: Anyone else?

MS. RODD: My name is Barbara Rodd. I live at 11500 Bayshore Road. I'm at the east end of Bayshore.

And I'm just not going to take much time, but just wanted to tell you some of my concerns.

Bayshore at the east end is a busy area and I'm concerned of the traffic that is going to increase on that area. This is going to be our so-called downtown. Where are these people going to come from to support it? Palm Beach Boulevard, State Road -- I mean State Road 31, plus I-75.

And when there are things at the civic center I cannot get out of my driveway. If I want to make a left-hand turn, forget it. I have to go right down to Highway 31, over to Palm Beach and then get on the interstate at that point.

The noise that we get from the civic center, we can hear it at our house. And I know if a development like this goes that close to Wells, people, especially if there is alcohol consumption, will hear noises until all hours of the night. I live quite a ways from where the rodeos are held. We hear that until

one o'clock in the morning and it is disturbing when you're trying to get some sleep at one o'clock in the morning and hear the noise of the fair or rodeos going on.

The traffic down by where Lawhon's is -- they need a stoplight at Wells if they're going to do this project because every time I try to turn to go back home from Lawhon's I take my life in -- my life is endangered. There's been many times I've almost been hit by other cars.

And I also do not care for alcohol being on the premises that close to an interstate. I worry about the increase in crime that will happen in our area. We're not like most residential areas where our houses are next to one another and people will see if there's unusual activity going on. We have, you know, one-acre, five-acre lots. And, you know, people, they start drinking, they go down the road, they get into trouble, and I kind of worry about the safety of the people living out in that area.

Also, drugstores. We don't need a drugstore in that area. There's one going in by Slater Road, I believe, and there's one at the new Publix on Palm Beach Boulevard. I don't believe we need the traffic 24 hours a day of a drugstore.

And basically that's all that I have. I am concerned about the traffic. I do like to see some growth in the area, but we need to keep it small like our community is. I feel very fortunate to live in a community like that. I'm a farm girl from Minnesota, and everybody who comes out says this is a wonderful area. I don't want to spoil it.

Thank you.

THE HEARING EXAMINER: Thank you, ma'am.

MS. SYLVESTER: My name is Ann Sylvester. I live at 18238 Sandy Pines Circle. It's at the end of Wells Road, so I'm a concerned citizen of the Bayshore community.

I realize there will be building in our area as a result of progress, but we would like to keep the rural integrity of this community.

The Lee County Zoning Division Staff Report on Page 14 states the need for neighborhood compatibility as described in the Lee Plan. They speak to the boundaries of the Bayshore area that is predominantly rural, with homes ranging in various price ranges along with limited infrastructure and commercial uses. It also states by and large the residents of Bayshore want to see this land use pattern maintained.

Our vision of the future is supporting

1 infrastructure that reflects the rural environment,
2 the protection of our resources, the maintenance of
3 the wholesome family values and the safeguard of
4 existing agriculture and, of course, our equestrian
5 activities.
6 This report recognizes that the integrity of the
7 rural areas and communities are critical elements of
8 the Lee Plan. They acknowledge the Bayshore
9 residents' concerns of maintaining the rural integrity
10 and encourage the applicant to meet with the Bayshore
11 planning committee. I support this idea. If we are
12 going to be neighbors, we need to work together for
13 betterment of our community.
14 The Lee County zoning staff report concludes the
15 commercial development will have a significant impact
16 on the rural community, especially to those of us who
17 live north on Wells Road. They also state that the
18 applicant has proposed a reasonable schedule of uses.
19 However, I feel further restrictions need to be placed
20 on the applicant and this development plan.
21 First of all, we don't need a two-story building
22 of a hundred thousand square feet, commercial slash
23 retail space, on this corner, particularly. A
24 two-story building is not in keeping with the rural
25 land use pattern that exists. A one-story building is

more realistic for this area.

In regards to Area A on the plan, it appears to be very vague, and what will be put in this area and how many parcels this will be divided into is vague, although that's been somewhat cleared up today to be two.

I do not want to see things that will bring additional transient traffic off the highway down into our neighborhood such as any type of club, anything that would allow alcohol consumption, drive-throughs, fast food, drugstores, food stores, gas stations, convenience stories or retailers who have a temporary need.

It would better serve our community and maintain the rural integrity if the applicant were to explore building an appropriate square footage one-story structure known as the Bayshore Village Market Square and encompass the lands on Areas A and B and not have any separate out parcels.

I'm also concerned about the traffic on Wells and Bayshore Road that is going to be impacted as a result of this proposed development. Currently Wells Road is a small, rural road maintained by the county. Bayshore Road shows ever increasing traffic, especially seen in the dramatic increase in the number

of dump trucks that come off of Highway 31 with full loads of fill and return many times a day to reload, with additional traffic complications which will occur for our neighborhood from the traffic leaving this Bayshore Village Market Square if and when they turn onto Wells Road, then they want to turn onto Bayshore Road. I feel that this will cause additional complications for that area in particular.

How will the traffic be handled with this proposed entrance on Wells Road and the eventuality of Pritchett Road flowing into Wells Road? On the plans I see two entrances on Wells Road and one entrance on Bayshore Road pending approval by the Florida DOT. According to Don Blackburn, Development Services manager, he states in Attachment I that access to State Road 78 is not guaranteed and is subject to the Florida DOT approval. So what is the plan if the Bayshore entrance road is not approved? Does Wells Road become the sole entryway?

Attachment C, the traffic impact statement for Bayshore Village Market Square, on page 11 states that currently there already exists a significant delay with the southbound approach from Wells Road turning left onto eastbound Bayshore Road. I can personally verify this. The past two evenings I attempted to

make a left-hand turn onto Bayshore Road from Wells Road. One night it was at 6:10 p.m. and the other evening it was at 6:50 p.m. Both times I experienced significant delays due to the eastbound traffic on Bayshore Road.

Now add the Bayshore Village Market Square traffic and the eventual redirection of Pritchett Road onto Wells Road. That corner has potential for greater delays and a large number of accidents.

If you are not aware, currently when traveling on the easterly direction of Bayshore Road you have the I-75 exit ramp blending into this easterly flow of traffic as well as the road narrows down to one lane in each direction prior to Wells Road. This can already prove to be very dangerous and a very congested area. With the addition of the Bayshore Village Market Square, this can only cause further congestion.

According to Attachment G from the Department of Community Development, Robert Rentz, development review engineer, states the traffic report for this project was based on the growth derived from a 2004 traffic count report. This memorandum states the proposed project will generate 435 new net trips in the peak hour. It does not appear that this takes

1 into account the additional cars that will eventually
2 flow from Pritchett Road as a result of the U.S. Homes
3 development, so therefore I think this count is low.
4 But, regardless, the 435 new trips in the peak hours
5 for the corner of Bayshore and Wells Road is
6 significant and needs further review.
7 In conclusion, I just want you all to understand
8 Wells Road and the Sandy Pines Circle are a very
9 family-oriented neighborhood. Every day you see kids
10 riding bikes, scooters, skateboards, knowing they are
11 relatively safe due to limited traffic. Adults are
12 out walking for exercise and enjoying their
13 neighborhood. Others are out with their horses, using
14 equestrian trails that surround us.
15 I realize progress is inevitable, but we must
16 find a way to move forward, provide for our safety and
17 preserve the rural life that we have all moved to this
18 area for.
19 That's all I have.
20 THE HEARING EXAMINER: Thank you, ma'am.
21 MS. ALVAREZ: Hello. My name is Laura Alvarez.
22 I have been a resident at 1800 Lynn Road in North Fort
23 Myers for -- well, since 1975. I'm also president of
24 Concerned Citizens of Bayshore Community.
25 I have a few comments to read from other

residents that were unable to make this hearing.

I realize that this is the first hearing for this particular development, but every hearing that we've ever had about Bayshore developments have always been during work hours, so residents have a hard time getting here.

UNIDENTIFIED SPEAKER: I can't hear.

MS. ALVAREZ: I'm sorry.

I'll start with the letters from the other residents.

To whom it may concern. I would like to introduce myself. I am Patrick Walsh. I live at 18129 Sandy Pines Circle, at the end of Wells Road in North Fort Myers, Florida.

I would like to have the following concerns heard in front of the county hearing examiner representative.

Number one, traffic. The increased number of vehicles coming into Wells Road from Bayshore and the proposed Pritchett Parkway extension will put an exorbitant amount of vehicles at an intersection that is already difficult to negotiate. Making a right onto Bayshore is tough, but try to go left, especially in the a.m. You have a real challenge on your hands.

Number two, I am concerned about the proposed

elevation of the structures. There simply are no two-story buildings in the area and the drawing reminds me of the Keys, not rural Florida, namely, the Bayshore community where I chose to move to raise a family. I could have moved anywhere in the country -- excuse me, county, but I chose the Bayshore community.

Number three. I have a concern about the building being constructed and having the majority of the units sit empty like they are at shops at the Veranda.

Are you familiar where the Veranda is?

THE HEARING EXAMINER: Uh-huh.

MS. ALVAREZ: Almost every shopping center constructed in the county has empty units in them.

Finally, I would like to see the Bayshore area remain as a tranquil, rural part of Lee County that does not become a cookie-cutter community that loses its old Florida charm.

Thank you for letting my concerns be aired.

Sincerely, Pat Walsh.

THE HEARING EXAMINER: Can you hang on two seconds? I'm going to -- I've got to stop the tape here for a second, get the other one started.

Okay. Thank you, ma'am.

MS. ALVAREZ: This is another letter from another

1 resident that could not attend.

2 MR. UHLE: Before she goes on, I would just like

3 to note these letters are hearsay.

4 MS. LEHNERT: How many are there?

5 MS. ALVAREZ: This is only the second one. And

6 how are they hearsay if they contact these people?

7 THE HEARING EXAMINER: It's all right, it's all

8 right. It's a formal objection. It's okay.

9 How many letters do you have?

10 MS. ALVAREZ: Just one more.

11 THE HEARING EXAMINER: Just one more?

12 MS. LEHNERT: I'm good.

13 THE HEARING EXAMINER: Okay. The county

14 attorney's fading fast here.

15 MS. ALVAREZ: It's really hard on these residents

16 when these hearings are held during work hours. I

17 really wanted to put their input in.

18 THE HEARING EXAMINER: Right, right. And I

19 understand that.

20 MS. ALVAREZ: Okay. This letter -- let me find

21 the person because I have to state it first. Richard

22 and Katherine Queen, 18178 Sandy Pines Circle, North

23 Fort Myers, Florida.

24 I think they do introduce themselves. I

25 apologize.

We would have liked to have been at the hearing but we could not get off work. We, Richard B. Queen and Katherine B. Queen, reside at 18178 Sandy Pines Circle, North Fort Myers. Would like to comment on the proposed plans for the Village Square on Bayshore.

First let me assure you that we are not opposed to commercial development on Bayshore as long as it fits in with the existing rural community. We are opposed to this particular development. The architectural drawings are very nice, but that design belongs on Sanibel. This is not a design for a commercial development in the middle of a rural community.

The development should be limited to one story. First, it will decrease the amount of square footage that they can have on the property. For the size of the property, 99,000 square foot is too much. That is almost the amount of the square footage that is at Daniels Crossing, which is approximately 112,000, and there is no way that that size development will work in the size of the property that is at the corner of Bayshore and Wells Road.

Second, a two-story commercial development will be obtrusive to the residents that are already existing and border this proposed development. We

access both entering and exiting for the development should be -- excuse me. The access should be from Bayshore, not from Wells Road. Wells Road is a small road used for residential access. There will be massive traffic congestion at that corner.

The type of businesses that are allowed should be those that will not draw unwanted elements so close to a residential community. There are many children that live off Wells Road and they ride their bikes along Wells Road. Their safety should be the first concern.

The developers need to go back to the drawing board and redesign a development that works within a rural residential community.

Thank you for your time.

THE HEARING EXAMINER: And that was from Mr. and Mrs. Queen?

MS. ALVAREZ: That is correct.

THE HEARING EXAMINER: Okay.

MS. ALVAREZ: And that's all the letters I have from the community.

Because so many other residents have already presented the same concerns as mine and did such a wonderful job, I think I'll just touch on one or two things.

I have questions. Is that okay?

THE HEARING EXAMINER: That's fine.

MS. ALVAREZ: Okay. So I'll speak for myself now.

Please understand that while the needs of the nonresidents using the interstate need to be met at this general exchange for I-75, only the east side of I-75 falls within Bayshore community. We still have plenty of room to develop on the other side that is in the North Fort Myers community that doesn't have such a -- I don't think they even have a community plan yet, so it's not as restrictive as our side. So I'm concerned that we're trying to meet the needs of this intersection all on one piece of property, so we need to remember that there is other property to develop and those needs can be met.

Let's see. Most of what I wanted to say people have already said, so let me just ask the questions.

THE HEARING EXAMINER: You essentially agree with everything that's been said by the folks that spoke before you?

MS. ALVAREZ: Yes, very much so.

Oh, I did want to point out that the reference to the large community of U.S. Homes is still up in the air. They don't have their development order. And that makes it complicated for us as residents and the

developer to try to meet roads and have them match when we're not even sure that that development will be exactly as what they have planned, so it's difficult, and we understand that.

I would like to know if it's true that the current owner will not be the actual developer of this property, that it's actually being prepared for a sale. Is that true?

THE HEARING EXAMINER: Why don't you go ahead and ask the questions and then I'll have the applicant address everything at the end. That way we can keep all the responses at one time.

MS. ALVAREZ: Matt had mentioned that they addressed the water flow and that was an unusual thing to do. However, in Bayshore that is not unusual. We have very strange water flow that anyone developing there -- that's very common, that you have to take a very, very close look at that.

That actually wasn't a question. I apologize.

THE HEARING EXAMINER: That's okay.

MS. ALVAREZ: The sewer stub that was mentioned, it doesn't actually access the property yet, so when this development is built, who actually pays for that stub to come all the way to the property? Will it be the taxpayers or will it be the developer?

I was confused at what signs were mentioned for mowing. I didn't understand what signs -- people in Bayshore probably aren't going to mow anything that doesn't belong to them.

THE HEARING EXAMINER: My point was, though, if you don't have some kind of fence marking where your property ends and where your neighbor's property begins, after a while one of them can start moving, just being helpful and mowing over the line and mowing a little further over the line.

MS. ALVAREZ: Your residents up against this property have large pieces of property and I believe most of them have --

THE HEARING EXAMINER: Fences?

MS. ALVAREZ: -- livestock, so the fences are going to be there.

THE HEARING EXAMINER: All right.

MS. ALVAREZ: So I wasn't sure if the signs would be very rural-looking, depending on what they were.

I would like to know what the current zone for the property is directly east of this property. When we speak about a bridle path and trying to line up a bridle path, I want to make sure that if we -- I'm sure that we can be creative with this developer and come up with something, but then you've got to go one

more east before you get to the country store, which is the purpose of the path, so whatever that is zoned, I hope that we'll be able to take part in connecting that later, so I would like to know what that's zoned.

THE HEARING EXAMINER: My understanding is the little red box -- can you see the little red box? Okay, that's a vacated CPD. That means it was approved as a CPD, a commercial planned development, but because it didn't get its development orders and whatnot within the three-year time frame, the development plan has vacated. If they want to build it, now they've got to come back in and get it reapproved. But I think the piece around it is still zoned Ag.

MS. ALVAREZ: So we could work still and continue that bridle path. It's there now. It's just made by the residents. It's not really official.

By the way, it's abused by the ATVs. And if we're creative with the placement of shrubbery and trees, you can keep the ATVs out. Horses do not need a wide path.

I guess my final comment -- oh, you have an e-mail. I didn't realize my e-mail was submitted. So I went on to explain why that is a bridle path and how important it is.

THE HEARING EXAMINER: That's in the e-mail?

MS. ALVAREZ: Right.

THE HEARING EXAMINER: Okay. Good.

MS. ALVAREZ: I don't need to restate that.

THE HEARING EXAMINER: No, because I'll have it here, unless the applicant would like to hear the reasoning and the background for the location of the bridle path.

MS. LEHNERT: It was submitted as an exhibit.

THE HEARING EXAMINER: He has a copy?

MS. LEHNERT: Yes.

THE HEARING EXAMINER: Okay. All right. Good.

MS. ALVAREZ: My final question is about the -- something that Matt mentioned about restaurants.

I'm not sure where Matt eats, but I can't find anything open after 10, especially in North Fort Myers. And I know that everyone made a very, very valid point about the alcohol consumption, but I would just like to reiterate that having any alcohol consumption that close to I-75 is just very irresponsible.

THE HEARING EXAMINER: Okay.

MS. ALVAREZ: Now, do I wait here for the questions to be answered?

THE HEARING EXAMINER: No. What I'll do is take

everybody else's comments and questions and then the applicant will get together with his crew. We'll take a break. The applicant will get together with his crew, they'll answer all the questions. Then we'll come back and the applicant will then put on testimony answering the questions that have come in, and what they can't do, if staff can answer, they will chime in.

MS. ALVAREZ: Okay.

THE HEARING EXAMINER: So we'll get everybody's questions answered right at the very end. That way we don't get confused and I can keep it all together so when I have to read it again it makes sense.

MS. LEHNERT: Madam Hearing Examiner, the likelihood of making it through this case today is slim and none.

THE HEARING EXAMINER: We can go until 1:30. We can go until 1:30.

MS. LEHNERT: You're going to make me fall over in this room with no -- can I eat? I mean I'm already literally -- my brain is floating around.

THE HEARING EXAMINER: We're going to take a break as soon as we finish the public input and you can eat in my office.

MS. LEHNERT: Are you going to buy me the food?

THE HEARING EXAMINER: There's a machine down the hallway here.

All right. Thank you.

How many other folks do I have that wish to speak? One, two and three counting you. Okay, that's good.

UNIDENTIFIED SPEAKER: I'll be fast.

THE HEARING EXAMINER: We'll finish up with the speakers. And as Ms. Alvarez did, if everyone has already made your point, stole your thunder, whatnot, you don't have to try to take it back. You can just let me know that you agree. And if you have any special points you want to make, you can make those on the record and that will shorten the time up so that the county attorney doesn't slide out of her chair here.

State your name, please.

MS. FORD: My name is Cheryl Sterbens Ford. I live at 18210 Sandy Pines Circle, and mainly I'm just talking today in case I have something real important that I want to say at the next hearing, so I agree with what everybody from the Bayshore community has said. My husband and I are members of the Bayshore community and we, too, are very grateful to live in that area. We specifically picked it because of its

1 atmosphere.

2 Oh, by the way, Ann Sylvester -- for the

3 attorney, Ann Sylvester is a respiratory therapist and

4 if she faints she can do CPR.

5 THE HEARING EXAMINER: Mouth to mouth?

6 MS. FORD: My first concern, as has been

7 mentioned, is for the Mushos as they look south from

8 their home that they'll see a two-story building

9 rather than the pine and the woodland that currently

10 is there.

11 I'm not an expert witness. I'm not an expert on

12 anything except being a mom and a grandmother and

13 picking this magical place for our family to live, but

14 I can -- I raised my hand and swore when we all swore

15 in, that in the area that we live there are gopher

16 tortoises; there are herons, rabbits, raccoons, eagles

17 and squirrels. And that's part of the reason that we

18 love the place. Within the last two years on no less

19 than five occasions my grandsons and I, as we were

20 driving down Wells Road -- the population density is

21 low enough now and we know one another so that if

22 there's a gopher tortoise crossing the road, we can

23 actually stop our car and put on the flashers and the

24 boys and I can get out and pick up the gopher tortoise

25 and carry him across Wells Road. And if you pick them

1 up to move them, they pee all over you, so it's a very
2 memorable experience.
3 There are gopher tortoises there, and they may
4 have just left for the winter.
5 MS. TREBATOSKI: I wasn't questioning the
6 presence of gopher tortoises.
7 MS. FORD: I know. I'm just saying I don't know
8 what their habits are because I'm not an
9 environmentalist, but maybe they do like the Yankees
10 and they just like leave for the winter -- leave for
11 the summer and come back for the winter, but they are
12 there because we pick them up and move them.
13 One of our -- I'm trying to create a picture for
14 those of you who don't live in the Bayshore community
15 because you heard a lot of statistics, and I wish I
16 had -- I wish I was more knowledgeable about the
17 statistics and I had exhibits to submit to the Madam
18 Examiner because I thought that sounded so smart. I
19 wish I could do all that. But we have a daughter that
20 lives off of Bayshore with two small children and we
21 talk a lot on our cell phones, and even though my
22 husband tells us not to, we talk sometimes when we're
23 driving. But he threatens her life if she is on the
24 cell phone when she exits 75 going north to go onto
25 Bayshore because the people who were driving 70 miles

1 an hour and more as they exit that 143 exit off of
2 Bayshore, and then the people who are driving east on
3 Bayshore who are doing 50, because the speed limit
4 there is 50 miles an hour, those two lanes merge into
5 one lane, and for us to get off of 75 into the
6 left-hand lane to turn onto Wells Road is like running
7 a gauntlet. You just have to pray as you get off,
8 Lord, help me to get into this lane without getting
9 run over. So you don't need to be talking on a cell
10 phone, attending to anything except getting to Wells
11 Road. Just getting into that lane is an effort and
12 then being able to turn onto Wells Road any time in
13 the morning between 6:00 and 8:00 or any time in the
14 evening between 4:00 and 7:00, we just have to sit
15 there and wait.
16 I know nothing at all about traffic engineering.
17 I don't know if there's room to put a traffic light, a
18 flashing light or whatever between the off ramp to 75
19 and our entry onto Wells Road, but right now it is,
20 it's really, it's difficult. I would even describe it
21 as dangerous. I don't know how many accidents have
22 been there, I have no record of fatalities, but I can
23 just tell you on a daily basis just as a resident it's
24 a very, very difficult access to get onto Wells Road
25 as you're coming off of 75.

1 Is there anybody here from Seminole Campground?
2 Well, that's good. I just want to tell these
3 people that are trying to put their little development
4 here, the Village Square, somebody mentioned a fence,
5 I think you asked about a security fence or something,
6 the only blight in our entire community is as you turn
7 onto Wells Road on both sides in the in the -- where
8 the water is.
9 THE HEARING EXAMINER: The swale area, the ditch?
10 MS. FORD: The ditches. Before you get to
11 Triplett, everything is covered with trash, garbage,
12 seats. When we first moved there over seven years
13 ago, I thought oh, this looks terrible, and I went out
14 there and picked it up. You know, every week I would
15 pick up all the trash and I thought that would be good
16 exercise. There's no point.
17 There's lots and lots of transients. It is not a
18 pretty sight back there. Somebody --
19 THE HEARING EXAMINER: I know where you're
20 talking about.
21 MS. FORD: I think it's in the records that maybe
22 something could be done about this because it is a sad
23 state of affairs.
24 It's not going to be a secure area for the people
25 in this. They're going to have to hire security

1 because that's not a good area at all. That's just a
2 friendly note to the people who are investing in this.
3 We mentioned a couple of times the wholesome
4 family atmosphere that has been used to describe our
5 area and then somebody made the fatal mistake of
6 referring to this new little village as downtown
7 Bayshore and everybody's hackles went up. We don't
8 want a downtown Bayshore, if I am allowed to say that.
9 Again, I would like to describe to you all what
10 it's like to live in this area. Lawhon's has been
11 there, the little general store that has been there
12 for probably 25 years. What it's like to live in this
13 community is if you lose your dog, if you want to sell
14 a horse, if you want to buy a truck, if you want to
15 buy bait, if you want to have biscuits and gravy for
16 breakfast before you go to work, you go to Lawhon's.
17 It's a general store. It's a community meeting place.
18 It's small. They probably could have made a lot more
19 money if they had made the store bigger. It has
20 concrete floors. It smells like a meat market and we
21 love it. That's why we're there, because it's a
22 general store and a community place where we can meet.
23 Recently Mr. Lawhon's grandson had a fatal
24 accident and died and Ann Sylvester administered CPR
25 to him. When we wanted to find out without going --

1 all of us converging on the family home, we went to
2 Lawhon's to find out the details of what had happened
3 to him and when the funeral would be and what we could
4 do to help. That's the kind of community we live in
5 and that's the kind of community that we'd like to
6 keep.
7 So I was just -- I just -- you know, I don't have
8 any statistics. I'm just trying to paint a picture
9 for you, what it's like there.
10 And so I'll make a list of the things that I am
11 against, and that is that the building being more --
12 I, too, realize that, you know, development is
13 inevitable, but if we can just work together and plan
14 it.
15 I am against the two-story architecture. And I
16 absolutely agree that 99,000 square feet is just -- I
17 mean the whole reason that we took off work today and
18 came is because we were just in shock that how could
19 anybody put, you know, a 99,000-square-feet commercial
20 facility on the corner of that road.
21 We absolutely don't want any consumption of
22 alcohol. I'm not being funny. Some of the people who
23 live in that area don't need more availability of
24 alcohol. And as difficult as it is now to get on and
25 off of Wells Road if you're stone cold sober and

1 focused attention, I can't imagine anybody leaving
2 anywhere after having two beers and trying to get in
3 and out of there without getting killed. So insurance
4 for that area might be really a problem, too.
5 Also, it's very important to us to maintain the
6 bridle path. It's important to the people in the
7 community. Some -- Mr. Musho suggested that Area A be
8 eliminated and Area B be shifted south, and I very
9 much agree with that.
10 And I very much appreciate your time and
11 listening to us and we really would like to work with
12 you. We would just like to -- we would like changes
13 to be made.
14 Thank you.
15 THE HEARING EXAMINER: Okay. Thank you, ma'am.
16 Okay. Mr. Ford, did you wish to speak?
17 MR. FORD: You knew my name.
18 THE HEARING EXAMINER: Well, I figured the two of
19 you came in together, you were sitting right there
20 close together. I was hoping you were together
21 because otherwise start rumors here. I've done it
22 before. I mean not intending to, of course, but, you
23 know.
24 MR. FORD: I appreciate the camaraderie at this
25 meeting.

1 MR. FORD: I have notes. I'm just going to do
2 away with these and tell you my name is Larry Ford. I
3 am a resident with that lady there at 18210 Sandy
4 Pines Circle, which is about 5,000 feet north of the
5 Bayshore intersection with Wells Road.
6 Seven years ago we moved out of downtown Dodge
7 City and moved there so that we could find quiet and
8 the ambience that was there, the trees, the families,
9 the communities, and we were very grateful for that.
10 There has continually been difficulty with the
11 traffic flow there. And since Bayshore has been under
12 construction to make four lanes available to us from
13 41 all the way down to the interstate, it has even
14 provided more of a difficulty.
15 But as I see it and what I wanted to address here
16 today more than anything else was the safety because
17 I'm sure my wife has addressed all of the remaining
18 aspects of my grievances.
19 Like it has already been stated by those who have
20 done their homework previous to my statements, and
21 they have done a very good job of them, anyone who
22 travels those roads knows that when you reach the
23 two-lane section which begins immediately at Wells
24 Road, you have reached the bottleneck that presents
25 all the difficulties. Even remotely contemplating

putting a development at that corner without further improvement of our roads on Bayshore would be ludicrous at best because those places just don't provide good safety even now. Adding to the traffic load through businesses and whatever other parts are added to this will bring it to an even worse conclusion than we have today.

If we're using the template at Six Mile Cypress and Daniels Road as the size and scope of something that's going to be put there, I would like for us to take note here today that all the traffic lanes combined there amount to about 16 lanes in every direction. We have only two at Wells Road and two at Bayshore.

Please let's not do it like we have done previously and send this up as a recommendation for approval and find ourselves closing the gate after the cow has already gotten out of the barn proverbially.

THE HEARING EXAMINER: Thank you, sir.

MS. LEHNERT: She hasn't been sworn.

THE HEARING EXAMINER: Have you been sworn in?

MS. JACKOW: No.

THE HEARING EXAMINER: All right. Go to the podium and I'll swear you in.

(Ms. Jackow was placed under oath.)

THE HEARING EXAMINER: State your name, please.

MS. JACKOW: My name is Debbie Jackow. I live at 19450 Meredith Road in North Fort Myers, and I have lived out there for 30 years in the exact same spot.

I could talk on and on but I can't follow up all of my neighbors who did such a wonderful job, so I'm not even going to try. But being out there for as many years as I have, Bayshore Road is a disaster. It is so congested at the peak hours of the day. And they do have a lot of truck traffic, which is not addressed.

I am a medical professional. I work at a hospital. I need to get out when I need to get out in an emergency situation. I would not be able to with the traffic the way this is going to be.

If you go from Nalle Road, you have Nalle Road, you go up a little bit towards this project, there's a cement driveway that I guess was for this other CPD which never went in. Then if they get their entrance off of Bayshore Road you have another driveway. Then you have Wells Road. Then you still have, presently have Pritchett Parkway and you have I-75. Now, you have all of that in a half a mile distance on the same side of the road. And if Stonybrook gets put in at this 1,275, there's no way in the world you could have

1 this amount of traffic on Wells Road with this
2 development, with Stonybrook and these people and
3 their roads, that the way they are constructed now is
4 just an impossibility.
5 I'm also against the alcohol consumption and the
6 hours. Staying open later for alcohol consumption is
7 even worse because we're the first exit in North Fort
8 Myers coming off of I-75, and you don't want people
9 getting looped over there and then going out on I-75
10 or on Bayshore, which is a dangerous road, and causing
11 even more accidents than we already have.
12 Bayshore, if you have never been out there - and
13 I have lived there for 30 years and have no plans to
14 move - is a beautiful, rural, peaceful, quiet place
15 that probably everybody in this county wished they
16 could live in. And it's getting -- these type of
17 communities are smaller and smaller because everybody
18 considers it progress to build it up. I don't
19 consider it progress to build it up. I consider
20 progress to leave it as it is because it's one of the
21 few communities that are left this way in addition to
22 Alva and Buckingham, which is getting chipped away.
23 We have a right to have a rural community in this
24 county. We have a right to have large animals. We
25 have a right to have acreage. We have a right to all

1 these things that people look at us and they say oh,
2 let's go up to Bayshore and let's chip away, let's
3 develop, develop, develop. And, no, that is not
4 progress to us. Progress to us is to let us live the
5 lifestyle that we moved out there and bought our
6 property out there and let us live the lifestyle that
7 we want. That is not progress to develop it to us.
8 I stopped numerous times -- after the tortoise
9 story I thought I might add my little tortoise story.
10 Numerous times I have stopped on Bayshore Road with a
11 stick shift car and actually had to drive with it
12 under my arm, with these tortoises, and I won't go
13 into the peeing aspect, but they also have
14 extraordinary nails, which I still have the scars
15 from, and trying to drive a stick shift car and get
16 these tortoises to safety. And I have done it
17 numerous times. And there are -- there's an
18 unbelievable wildlife community out there that we are
19 trying to protect.
20 The alcohol consumption, that's a no. This
21 definitely is against our community character. The
22 noise, the lights, the traffic, the hundred thousand
23 square foot building, no. Two-story, no.
24 I think that they should all be one development.
25 You shouldn't have two in the front that we don't know

what the heck is going to go in there and then you put this in the back.

I think that the Mushos should have more of a buffer. If it was me, I would want 150 feet of preserve back there because you have to go according to what -- how much land all these people next to them have. I mean the 75 feet, that sounds like a lot to somebody who lives in town, but when you live out in the country, that's nothing. So if I were them, I would go for a 150-foot buffer alone because that 150 feet that's presently on that map also includes the service area for the trucks, which is going to be noisy, so 75 feet and a wall is not going to do much to reduce the area and the noise.

My last concern is the water. Now, I know that they have to do -- that has some stringent restrictions on how this water can run off, but you have to understand that how it presently goes, it goes into Popash Creek, which is impaired, which goes under Bayshore Road into the Caloosahatchee, which is impaired. So right now all these bodies of water around us are impaired, and this cannot also add to that impairment. This needs to be cleaned up according to, I don't know, the federal government, the state government. It has to be cleaned up. But

we cannot add any more pollution into these creeks. And this is -- right now this is the way that the water does flow.

So I would suggest that you reject this project as it is now proposed and I appreciate you listening to me.

Thank you.

THE HEARING EXAMINER: Thank you, ma'am.

Okay. Do I have anyone else from the public who wishes to speak who has not spoken?

All right. Now, folks, I will warn you that if you thought of something between -- in listening to some of the others, you need to bring it up now because once the applicant and staff respond to the questions and some of the issues that were raised, there will be no additional public input. All right? So anything that you want to say at that point then has to go -- Laura -- has to go to the board.

MS. ALVAREZ: I forgot something.

THE HEARING EXAMINER: Please state your name again for the record.

MS. ALVAREZ: Laura Alvarez, 1800 Lynn Road. Excuse me. 18900. I don't know where I live.

I forgot to mention that the sign, the very small zoning sign shoved back in the bushes was not up for

30 days. How long -- I couldn't remember how long it had to be up. It was not up for 30 days, so some of our residents were aware at the very last minute and that's why they couldn't make it, because they couldn't get time off work.

THE HEARING EXAMINER: I'll find out from staff and whatnot to do about that.

Thank you, ma'am.

Folks, let's take a ten-minute break, let the applicant get together with his experts and whatnot, get answers and responses to some of your questions and concerns and then we'll close the hearing. But we must be out of here by 1:30 because I'm already working into the one o'clock hearing time, and I can do that for half an hour and then we must be out.

Okay. Ten minutes, please, on the nose. One o'clock.

(Whereupon, the proceedings were recessed.)

THE HEARING EXAMINER: Last chance for anyone from the public to speak who has not spoken because I'm going to open it up then to the applicant and staff for responses to your questions and responses to any issues that you might have raised that they feel they need to discuss.

Okay. Matt?

MR. UHLE: I'm going to call two brief rebuttal witnesses and then I have a closing.

THE HEARING EXAMINER: Okay.

MR. UHLE: First rebuttal witness is Rob Price.

MR. PRICE: Robert Price for the record.

EXAMINATION

BY MR. UHLE:

Q. Rob, did you hear Mr. Shepard's testimony regarding the traffic impact statement and specifically his questions about the methodology that went into it?

A. Yeah, I sure did. He's referring to the intersection analysis that we performed.

Basically when you perform an intersection analysis you input the hourly volumes that you will experience at the intersection and then the program actually picks out the peak 15 minute and it does the calculation to determine the capacity based on the peak 15 minute. It's an accepted standard throughout the country. It's how you calculate capacity at intersections. It's based on the peak 15 minutes.

THE HEARING EXAMINER: Let me clarify something here. When you say when you -- are you talking about when you input? Where are you getting the numbers to input? Is that where you get the traffic count, from the county or from the state, whichever it happens to

be, or do you sit there and click it yourself?

MR. PRICE: Sometimes you do your own traffic count. Sometimes the organizations from the county can supply you with counts.

In this instance, since the future traffic is so unknown at this point with the U.S. Homes development and this development and Wells Road, we will be doing an extensive analysis. Since the gentleman did mention we did the traffic study for U.S. Homes as well, we will be doing an extensive analysis if and when that roadway ever does connect to Wells Road.

But, yes, you input hourly volumes, peak hour hourly volumes into the software. The software calculates capacity based on the peak 15 minutes.

THE HEARING EXAMINER: Okay.

BY MR. UHLE:

Q. Rob, there was also a question about heavy vehicles. Do you recall that? Please respond to it.

A. I do recall that, and we should have addressed the heavy vehicles. We probably should have put heavy vehicles in there, but in my professional opinion it wouldn't have changed the conclusions that we came up with at the intersection. And at the development order stage we can definitely address the heavy vehicle adjustment in the intersection analysis.

1 Q. Let's assume for purposes of argument that the
2 interconnection is made between Leetana and Wells Road for
3 the benefit of the U.S. Home project. In your opinion is
4 Wells -- is the intersection of Wells Road and Bayshore
5 under that circumstance likely to meet the warrants for a
6 traffic signal?
7 A. I would say yes, it is likely to meet the
8 warrants. However, it's much more difficult to get a
9 traffic signal approved by FDOT, so FDOT actually
10 physically has to see the traffic congestion on the roads
11 before they will approve the construction of a traffic
12 signal.
13 Q. If that permitting actually takes place, will
14 U.S. Home be required to provide mitigation for the
15 impacts of their project on Wells Road and on the Wells
16 Road/Bayshore Road intersection?
17 A. Yes. They will have to address the impacts of
18 not only their development, but the current traffic on
19 Wells Road, this development and other developments if
20 they were to permit that extension of Pritchett Parkway.
21 MR. UHLE: No further questions of this witness.
22 THE HEARING EXAMINER: Anything from staff or
23 county attorney?
24 MS. LEHNERT: No, ma'am.
25 THE HEARING EXAMINER: Rob, thank you.

1 MR. UHLE: Next witness is Mike Roeder.

2 EXAMINATION

3 BY MR. UHLE:

4 Q. Mike, I just have one question for you. In your
5 professional experience is it unusual to have restaurants
6 with consumption on premises in I-75 interchanges?

7 A. It's not unusual. I would say that typically you
8 find more fast food and casual restaurants, and that kind
9 of goes to the tension and the conflict between the
10 county's interchange designation and the Bayshore's vision
11 and what they want. And that's why I believe that this
12 type of restaurant that would have COP, which would be a
13 higher scale restaurant, is responding to that. We're not
14 going to have the fast food, traveling type of place.
15 We're going to have a nicer place. And that kind of goes
16 down to that -- my downtown reference, and I should have
17 put that in quotes. It was in my mind. But the whole
18 point of that is of all the places in Bayshore, this
19 interchange and the area between that and Nalle Road is
20 where 90 percent of the commercial activity for this whole
21 area is going to occur, so you're going to see more
22 development there, and that is the logic of the county
23 plan and the Bayshore plan. And so to have a nicer
24 restaurant with a COP would be very consistent with that
25 concept.

1 Q. Is that use consistent with the general
2 interchange category?
3 A. Yes, it is.
4 MR. UHLE: No further questions.
5 THE HEARING EXAMINER: Anything, staff?
6 MS. LEHNERT: No.
7 THE HEARING EXAMINER: County attorney?
8 Thank you, Mike.
9 MR. UHLE: Let me begin my closing by explaining
10 what it is in light of the public input that we can
11 agree to as concessions over and above what we have
12 previously offered.
13 First of all, my client has agreed, and I would
14 support this, although it's a dramatic change, that we
15 will drop the request for outdoor COP by right.
16 That's a major concession. It does not mean that we
17 agree with the hours of operation that have been
18 proposed for indoor consumption. That is still a
19 problem.
20 UNIDENTIFIED SPEAKER: Audio, please.
21 THE HEARING EXAMINER: Okay. So you still want
22 to have the longer hours for indoor consumption?
23 MR. UHLE: Yes. We will give up the outdoor
24 consumption.
25 On a couple of the uses, the issue about the

1 drugstore that came up and the 30,000 square feet, the
2 30,000 square feet clearly is excessive. My client is
3 willing to agree even in the out parcel areas that we
4 can limit that to the 3,000 square feet that's
5 identified for the multitenant building.
6 THE HEARING EXAMINER: Okay.
7 MR. UHLE: And with regard to the feed stores and
8 the farm equipment and that sort of thing, we were --
9 in our discussions with Tony before, we were actually
10 willing to give up those uses altogether. We didn't
11 change our list at the time, but we did indicate that
12 we would give up those uses. And so there were some
13 questions about square footage and display areas and
14 so on, and rather than deal with those, we're just
15 going to agree to withdraw those particular uses
16 completely from the schedule of uses.
17 We're also willing to reduce the square footage
18 of the buildings. We're willing to reduce the size of
19 the overall project to a maximum of 71,000 square
20 feet. Of that, 8,000 square feet would be
21 attributable to the out parcels and the remainder to
22 the main building.
23 THE HEARING EXAMINER: So that would be, that
24 would be 63,000, then, for the main, the main building
25 and 8,000 for the out parcels?

MR. UHLE: If this is helpful, the client has indicated that of the main building that it's contemplated that 45,000 square feet would be attributable to the first floor and a maximum of 18,000 square feet on the second floor.

Let me begin my closing by bringing us back to the question of what does the Lee Plan contemplate for this property.

We've heard a lot of testimony from the residents that it's a rural area, that the Bayshore plan contemplates rural uses and so on and so on. And I'm not saying that that isn't true, but you have to understand that this property is in the general interchange category. It's not in any of the other categories that are found within the Bayshore plan. The general interchange category permits and in fact requires uses that are not contemplated generally throughout the Bayshore plan, and Policy 20.1.1 acknowledges that. Bottom line is that this property is an exception to the general rules in the Bayshore plan.

Now, as Mike has indicated, I think, to some extent, those policies have to be read in connection with the rest of the Bayshore plan, and that's the reason that we tried to provide architecture that's

consistent with the area, large buffers, limited uses and so on. But the fact of the matter is that this is a different parcel and it has to be looked at differently than the rest of the area.

Let's talk about traffic. I guess there are about three different ways to look at traffic. The way that Mr. Price analyzed the traffic was to assume that there was no interconnection with Pritchett Parkway because it doesn't exist, because it hasn't been permitted, because mitigation for it hasn't been identified, so it probably would have been irresponsible for him to assume that all that would be done and the county would have had a problem with it, but it means that that is out there so that that's something that needs to be considered, so there's sort of the status quo issue.

Then the residents have raised a question of whether the access on Bayshore will be permitted by FDOT or not; and then, of course, the question what happens with Pritchett Parkway.

Well, as the plan stands today, the analysis indicates that there are no level of service problems, and staff hasn't disputed that. And people can complain about traffic as much as they like, but the raw numbers don't support the conclusion that even

with this project, assuming that we don't have Pritchett Parkway and so on, there's no basis for a conclusion that there's a problem.

Now, let's assume that Pritchett Parkway does get interconnected. That does change things and there's no denying that that's the case. I think there is some irony in the fact that only becomes an issue if the U.S. Home project gets built. And as we know, the U.S. Home project is in litigation. And I suspect that some of the people complaining about this project probably are also members of the group who are fighting the U.S. Home project. But be that as it may, the U.S. Home project is not a done deal. We don't know if it will happen. We don't know if the interconnection will happen. We do know that if the interconnection happens that there will be substantial mitigation required of U.S. Home, and Rob has set out what that would be. And intuitively I suspect that that means that there will be a traffic light at the Wells Road/Bayshore Road intersection. And if that's the case, that would be a benefit to the residents. So, you know, there's some positive aspects to that. But, in any event, we don't have any control over that, but if it does happen, there will be mitigation.

Our project will also have to do its own

mitigation as a stand-alone. What that will be will depend on what happens at the development order stage, but that will have to be done. There's no question about it. It's just premature to work on it at this time.

With regards to the interconnection that we're providing to Bayshore Road, obviously we don't have an FDOT permit. It's too early in the process to be doing that. We have coordinated with them. We have no reason to believe we can't get that permit. And we have done it in such a way as to provide the possibility for a joint access, which is only responsible.

We're 600 feet from the intersection. Based on that, there just isn't any reason to believe that we won't get that permit. But even if we didn't, I guess the answer to the question what happens if we don't get it, the people to the east of us are going to have to have access and it's going to have to be on Bayshore Road, so even if we didn't get that access point, the likelihood is there would be an access point approved to the east of us and we would be able to tie in just as we're proposing to provide the access and give them access on their property. So one way or another, that access is going to happen.

1 With regard to the bridle path, the bridle path
2 appears to be an existing use that is not within any
3 kind of an easement. It's just there. People have
4 been using it and the property owner apparently hasn't
5 done anything to stop it or complain about it, but
6 it's not any kind of legally authorized use as it
7 exists today.
8 It's clear that the Bayshore plan does promote
9 equestrian uses. My client is aware of that, has no
10 objection to providing in some way for continuing
11 access for horses through this property, but the
12 hearing examiner has already noted some of the design
13 problems with doing that. So basically our position
14 on this is that we're willing to accept it, we don't
15 object to it, but we're not going to plan it either.
16 It's really between the people in the community who
17 want this and the staff to try to figure out how they
18 can make that work within the context of our project.
19 We certainly don't plan to redesign the project to
20 accommodate a use that isn't even authorized by an
21 easement.
22 Concern has been raised about the size of this
23 project. A complaint has been made that it is
24 unprecedented. In a sense that's probably true. But
25 that brings you back to the point that this is also

1 the only area in the Bayshore plan that's in the
2 interchange, so that's what's contemplated by the
3 plan. Nobody should be alarmed about that.
4 Having said that, we have agreed to reduce the
5 size of the project by nearly 30 percent, so that
6 should give some comfort to the residents.
7 It is also obviously a widespread concern about
8 the two stories. The two stories and 35 feet is
9 exactly the standard that you find basically
10 everywhere in the county. Anybody who wants to build
11 a house on Wells Road today has the right to build it
12 to two stories and 35 feet. All we're asking is to do
13 a project that's of the same maximum height as anybody
14 else.
15 In addition I would point out that we have a
16 buffer to our second story from not only in terms of
17 distance, but the mature trees on the north side of
18 the property provide substantial screening. I have to
19 believe that those trees are about 35 feet tall. I
20 don't know exactly how tall they are, but they're
21 definitely mature trees and they're probably in that
22 neighborhood.
23 The suggestion that we should be required to
24 reduce the square footage of this project to 30,000
25 square feet is a problem, obviously. There is no

1 requirement in the Bayshore plan that this property be
2 limited to a minor commercial development. That is
3 simply not there. And if you were to do -- be limited
4 to 30,000 square feet, that would mean slightly more
5 than 3,000 square feet per acre, which would be an
6 extremely low amount relative to other projects in the
7 county, and that's not acceptable.
8 I would like to point out in response to the
9 concerns expressed by the Musho family that there is
10 correspondence that's attached to the staff report
11 that lays out seven concerns and the hearing examiner
12 will note that we have agreed to do five of the seven
13 things that they asked us to do in that
14 correspondence. And by eliminating the outdoor COP, I
15 think we might have addressed the sixth one. So while
16 we didn't meet with them as such, we were aware of
17 their correspondence. One thing that I can tell you
18 that Tony is very good at is making sure
19 correspondence like that is filtered to the
20 applicants, so we knew what their concerns were and we
21 have been trying very hard in this process to address
22 their issues. And the fact that we made all these
23 changes to the north buffer and to this section and
24 did the drainage and this, that and the other thing I
25 think is very good evidence that not only were we

aware what was going on, but we tried very hard to accommodate their legitimate concerns.

A concern was expressed about having drive-throughs close to the northern property line. The only reason to have a drive-through on the north side would be in connection with the bank in the multitenant facility, which is a reasonable possibility. I don't think that that's an unreasonable request. Obviously we don't have any drive-throughs in connection with fast foods or a lot of the other uses that one might attach to a drive-through.

Concern has been expressed about nightclubs. Nightclubs are not permitted in our schedule of uses and were never requested.

Concern was expressed about noise and lights. Obviously the principal method of protecting the residents from noise is the buffer, the setback and the location of the building relative to most of the activity. We think that we provided a very substantial buffer and that that should be enough. With regard to lights, the hearing examiner is aware that the LDC has very substantial requirements relative to lights which do not permit us to have lights that spill over the property line, so that

would be addressed in the development order process.

With regard to the question of who will pay for the stub-out for the sewer, the answer is the developer will. The taxpayers do not pay for those kinds of things.

The argument was raised that it's common in North Fort Myers to consider surface water management in zoning plans. It's certainly more common in North Fort Myers than it is in some other places, but I wouldn't say that it's common. It happens on certain parcels that have flow ways. Nobody said that this property was a flow way, but we made a special effort to accommodate the flow from the north because that was one of the concerns expressed by the residents and so we did.

I think that addresses concerns that I heard that require responses. Obviously if the hearing examiner has follow-up questions we can have our experts answer them. But our bottom line is that we have made a lot of efforts to try to make this project compatible with the area, but it has to be recognized as a special case in light of its land use category. Money that was invested in this property was done so on the basis of the land use category. People need to be able to look at the Lee Plan and say this is an area that the

1 Lee Plan wants intense commercial uses in. They ought
2 to be able to put them there.
3 THE HEARING EXAMINER: Matt, did I miss the
4 statement -- I think Laura had asked if the owner was
5 going to be the developer. Did I --
6 MR. HOUSTON: Well, we are intending to. Yes, we
7 are the owner.
8 MS. LEHNERT: He's not sworn. We don't know who
9 he is.
10 MR. UHLE: You need to come up here and answer.
11 MR. HOUSTON: My name is Maynard Houston. I live
12 at 9250 Sedgefield in North Fort Myers. I'm a general
13 manager, more or less the managing member of the LLC.
14 I have two other partners in Maryland.
15 We intend to bring in a developer as a
16 construction manager but not a developer in the terms
17 that everybody knows a developer. We are not turning
18 it over to a developer. We entered into this property
19 with the sole intent and purpose of doing something
20 for this community as an investment. My two investors
21 from -- in Maryland are putting their interests as
22 well as I probably will do into a family trust. And
23 so we don't have any intention -- and it's always been
24 talked about this flipping, and that's one word I will
25 not listen to. We didn't do this on this intention.

As Matt said, it's considerable money in it right now.

THE HEARING EXAMINER: Okay. Thank you.

Now, let me ask you a question. Were you sworn in earlier?

MR. HOUSTON: No, I was not.

THE HEARING EXAMINER: Raise your right hand.

Do you solemnly swear or affirm that the sworn testimony you just gave was the truth?

MR. HOUSTON: Yes.

THE HEARING EXAMINER: That will do it.

MR. HOUSTON: Does that solve that?

THE HEARING EXAMINER: That solves it.

MR. HOUSTON: We're really committed. He has done a marvelous job. We asked Matt to do this and I really appreciate it and all the consultants.

We weren't able to meet with the community. That bothered me a great deal.

THE HEARING EXAMINER: You may still have a chance.

MR. HOUSTON: Well, I meant -- I have done that all my life and I want to be a part of that and make it a part. And it will not be something that will ever be -- I'm not proud of.

THE HEARING EXAMINER: You all know who to contact.

1 MR. UHLE: My last comment would be that in all
2 the public input I only heard two complaints about the
3 appearance of the rendering, so obviously this is up
4 to the hearing examiner, but I personally don't think
5 that's enough of a basis to tell us we should build
6 some other building.
7 THE HEARING EXAMINER: I think it should go
8 Mediterranean. Why not? Everything in the south is
9 Mediterranean.
10 Staff have any comments they would like to make
11 before we close the record?
12 MR. PALERMO: No, thank you. That's fine.
13 MS. LEHNERT: Thank you.
14 THE HEARING EXAMINER: All right. Folks, in case
15 you're not aware, I do go out and do site visits. I
16 will drive around the area. I will visit your homes.
17 I will probably look at the property up there where
18 the U.S. Home's project is going. I try to get a feel
19 for the area before I make a recommendation to the
20 Board of County Commissioners so that I can see what
21 your concerns are and try to address them if at all
22 possible.
23 Okay. I'm going to have this transcribed.
24 Because of the length of the hearing, it will be
25 transcribed. The decision in this case, my

recommendation in this case, because this is already toward the end of May, probably will not come out until sometime the end of June, the first part of July, which means it will not go before the Board of County Commissioners until sometime in August because they take the whole month of July off.

MS. LEHNERT: Or September. If it comes out the end of -- if it comes out the end of July or middle of July, it won't be until September. It's about six weeks.

THE HEARING EXAMINER: It may take four to six weeks after it comes out. It's according to how backed up they are. But look for something from me by the end of June, first couple weeks in July unless I get totally backed up. All right?

All right. Thank you all for coming.

This hearing is closed.

(The proceedings were concluded at 1:28 p.m.)

STATE OF FLORIDA)

COUNTY OF LEE)

I, Janet K. North, RPR, do certify that I was authorized to and did stenographically report the foregoing proceedings and that the typewritten transcript, consisting of pages numbered 1 through 179, is a true record.

Dated this 9th day of June, 2006.

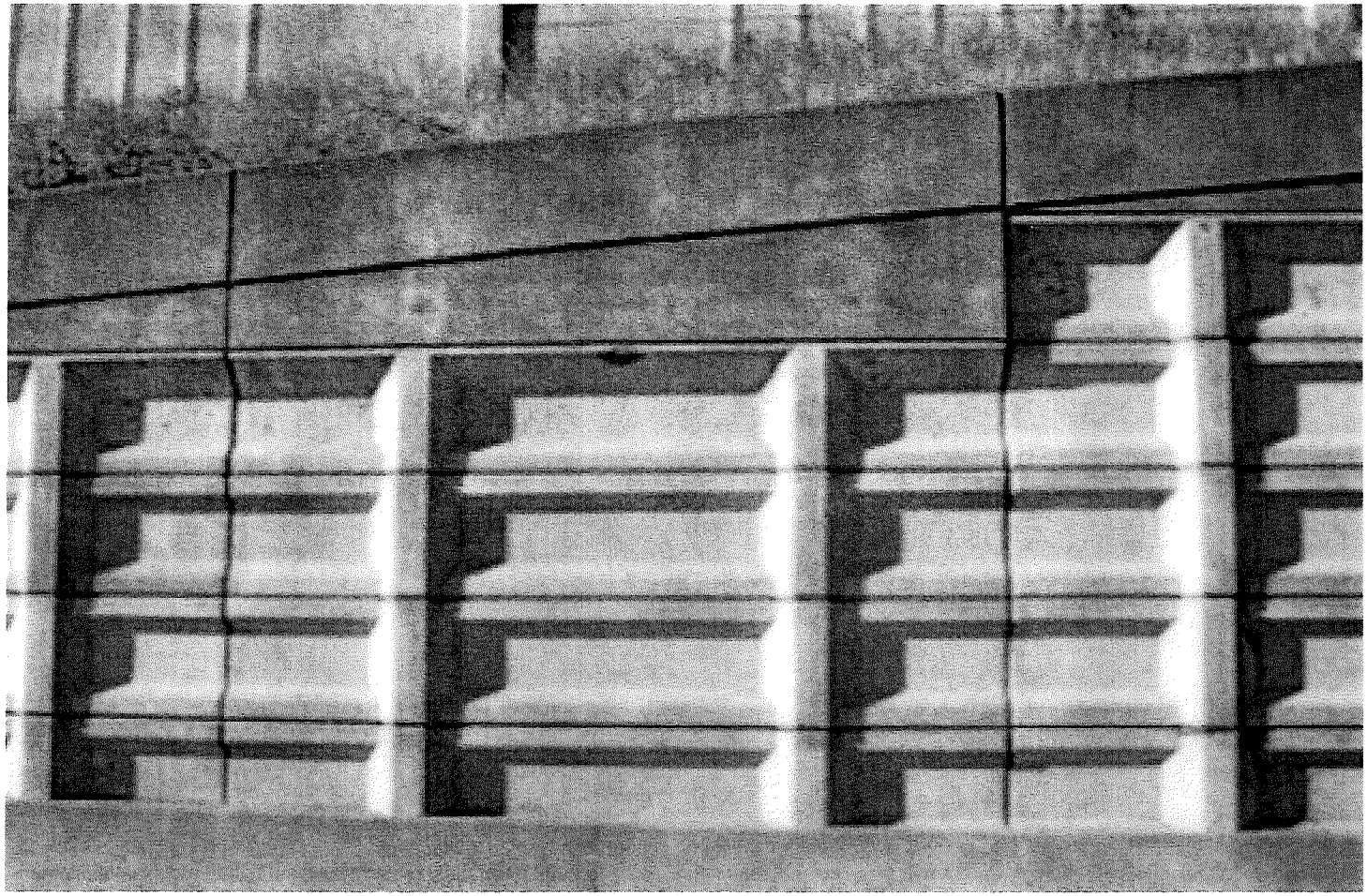
Janet K. North

Janet K. North, RPR

Noise Abatement Part 2: State DOTs Study New Noise Wall Options

November 18, 2020 • Traffic Noise

EXHIBIT# Lisa Musho 1
LISA MUSHO
DC 12023-00052



State departments of transportation across of the country are looking at new and better ways to predict traffic noise levels, as well new materials for highway sound barriers, in order to reduce the overall cost of noise abatement efforts.

[Photo courtesy of the Missouri Department of Transportation.

This second of a two-part series on state DOT noise abatement strategies examines some of the research state DOTs are conducting to find more cost-effective and innovative designs and materials to mitigate the high levels of roadway noise: everything from using less expensive materials or smaller barriers to designing duel use barriers such as vegetation walls and solar panels.

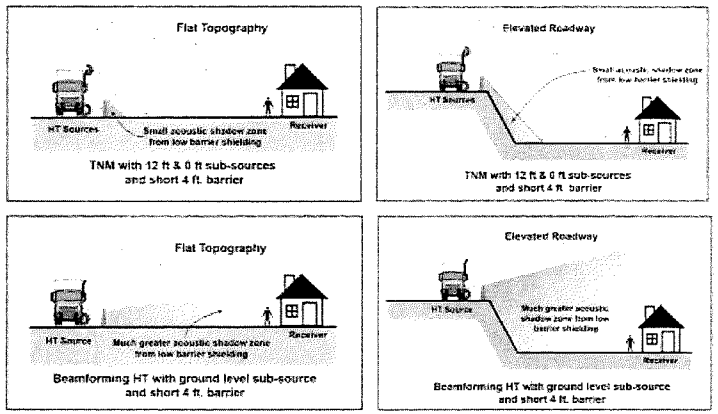
Traditionally, sound wall barriers are pre-cast or cast-in-place concrete sections. However, several different types of materials have been in use since the beginning of sound barrier construction in the 1960s. The latest noise barrier inventory – maintained by the Federal Highway Administration –indicates barriers constructed with a single material make up 84% percent of all noise barriers. Furthermore:

- Concrete comprises 55 percent of those barriers.
- Block represents 18 percent of those barriers.
- Wood comprises 5 percent of those barriers.

- Metal, berm, and brick together account for another 5 percent of single material barriers.
- "Other" materials comprise the final 1 percent of those barriers, including acrylic, composite, fiberglass, glass, opaque plastic, and transparent plastic.

There are noise walls designed with absorptive material to absorb sound, but the majority are built to deflect sound. Barrier analysis and design must meet the requirements of federal regulation 23 CFR 772 for all federally funded projects.

The Ohio Department of Transportation is in the start-up phase of a research project expected to begin January 2021 to look at the effectiveness of vinyl fence as a noise barrier as opposed to the now-standard concrete barriers. The project involves constructing two 8-foot tall vinyl fences at two different locations, testing them for noise reductions, and comparing the reductions to nearby concrete noise walls.



Graphic courtesy of the California Department of Transportation

The Ohio DOT plans to use readily available vinyl fence materials that already have specifications available – indeed, one type of fence earmarked for testing is available at the local Home Depot.

Noel Alcala, the noise and air quality coordinator at the Ohio Department of Transportation and noise workgroup coordinator on behalf of the American Association of State Highway and Transportation Officials, explained in an interview that while vinyl is a lot less durable overall than concrete, it is "a lot less expensive and we have an indication that the noise reduction will be very noticeable."

The Ohio DOT is also studying the feasibility of using vegetation growing on noise walls as both a sound absorber and an air quality improvement and plans to complete a report on that effort by the end of 2020. That effort – based on research conducted in 2010 – looked at a 400-foot long section of "green noise wall." That wall consisted of a 12-foot-high section of stacked, 70-pound bags sprouting plants and grass as a way to muffle highway sound.

Trees and shrubs can decrease highway-traffic noise levels if high enough, wide enough, and dense enough, but it would take at least 100 feet of dense vegetation to provide the same benefit as the smallest feasible noise wall. Because of this, the FHWA has not approved using vegetation for noise abatement.

However, future studies could show more innovative choices will result in higher levels of noise absorption. For instance, environmentally friendly and sustainable bamboo growth may provide the needed noise level abatement to meet FHWA requirements. One feasibility study presented at the 2016 International Congress and Exposition on Noise Control Engineering indicated that the noise-reducing effect of a bamboo barrier with a height of 5 meters (roughly 16 feet) and a thickness of 6 meters (nearly 20-feet) is roughly comparable to a 3-meter (nearly 10-foot) high solid noise wall.

Some states are looking to try new noise barriers with a dual purpose. In 2018, for example, the Minnesota Department of Transportation completed a literature review, *Harnessing Solar Energy through Noise Barriers and Structural Snow Fencing*, on the topic.

That study found that sound barriers equipped with solar panels are used successfully in Europe, though there are no current in-place solar panel noise barriers in the United States. However, two states, Massachusetts and Georgia, are currently working with partners to pursue pilot studies using solar panels built into sound walls so they can produce renewable energy without compromising their abilities to reduce noise – and do so safely. Given the number of miles of sound barrier currently constructed in the United States – over 3,000 miles total – the study found the potential for energy production could be at least 400 Gigawatt hours annually, roughly equivalent to the annual electricity use of 37,000 homes.

The California Department of Transportation is also looking at innovative designs to save money on noise abatement construction.

Currently, Caltrans is exploring the feasibility and effectiveness of lower height barriers and berms. Its latest research suggests that at freeway speed, most all light-vehicle noise is at the tire/pavement interface — literally at the zero-foot level. Meanwhile, on most heavy trucks — even with tall exhaust stacks – most noise is below 3.3-foot level.

That means shorter less-expensive noise barriers would help attenuate noise. A low vehicle noise source also means a short (4-foot) solid-concrete safety-barrier could provide noticeable noise mitigation if positioned correctly in the road cross-section. Shorter barriers mean lower overall costs. State transportation agencies across the United States are making strides to protect the public from high levels of traffic noise. Click here for a list of current state DOT noise reduction projects.

Upcoming Events

DEC 12 3:00 pm - 4:00 pm EST
Reconnecting Communities Community of Practice Webinar

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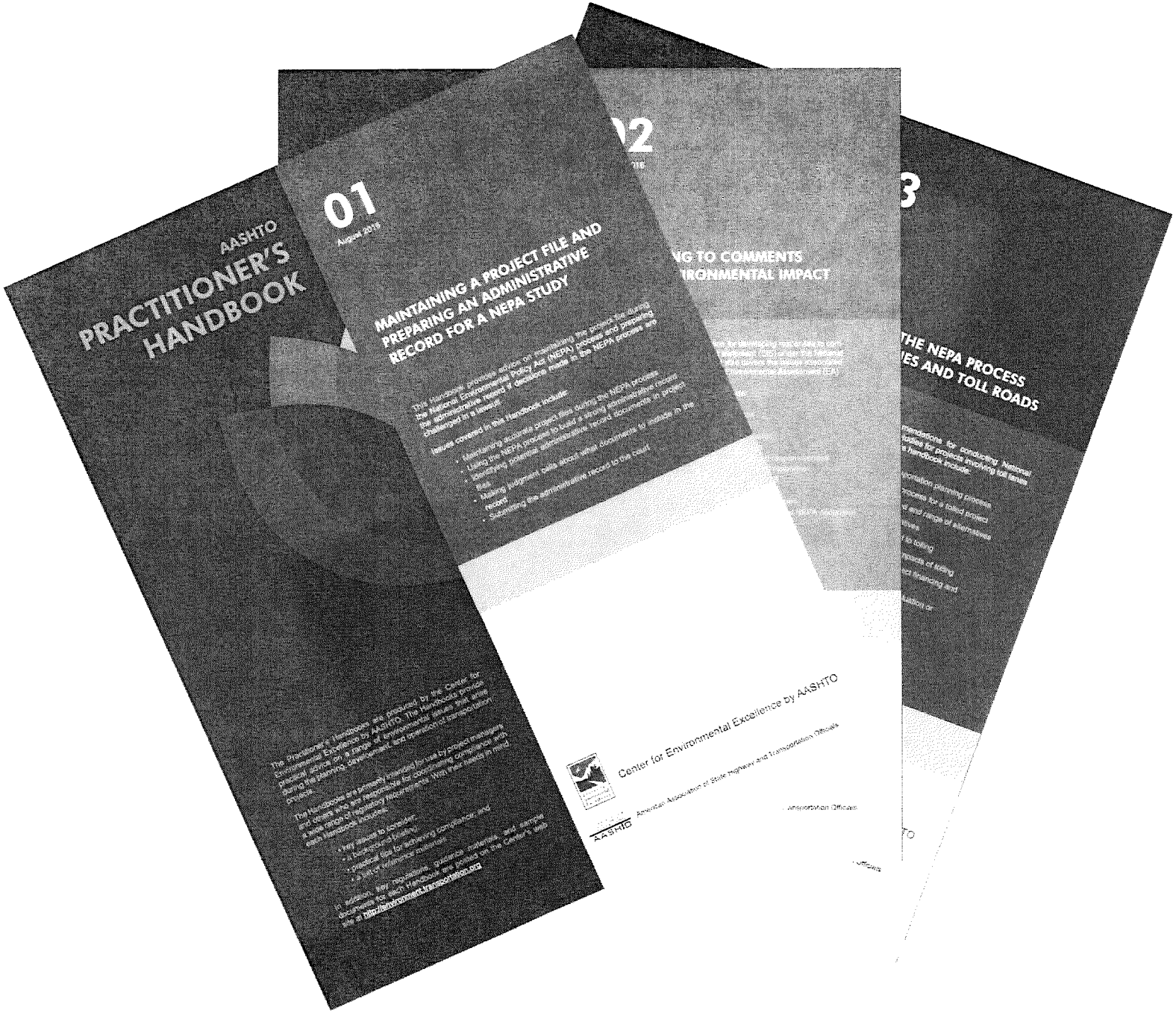
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Nathan J. Poole, PE

Traffic/ITS Engineer

PROFILE

Nathan Poole, PE, has over 12 years of transportation engineering, studies and design, ITS and CEI experience. He has been responsible for preparing safety and traffic impact studies and corridor operational analyses, as well as preparing comprehensive construction packages for traffic signals, street lights, and ITS projects. This includes the Lee Boulevard Operational Analysis, Starkey Road Operation Analysis, Crosswind Ranch Traffic Impact Analysis, Sumter County ATMS Design, and the Lee County ATMS/ITS Master Plan and D/B Criteria Package.

As a Senior Traffic/ITS Engineer, his responsibilities include preparing complete, functional designs in accordance with the project scope of services, and conducting on-site visits for data collection to determine existing conditions and device placement for equipment such as CCTV cameras and DMSs. He is also responsible for completing preliminary design activities and conducting post-design reviews.

Years of Experience:

- 12

Education:

- BS, Civil Engineering, Auburn University, 2010

Professional Registration:

- PE: FL #79444
- ATMS Certification: FDOT (2017)
- IMSA, Traffic Signals Inspector, Level 1 (2013)

Affiliations:

- Intelligent Transportation Society of FL
- Institute of Transportation Engineers
- Tampa Bay Institute of Transportation Engineers

PROJECT EXPERIENCE

General Engineering Consultant (GEC) | Bartow, FL | FDOT D1 | Traffic/ITS Engineer

Nathan provides in-house support as requested by District One. This includes performing all ERC reviews and One Stop Permit reviews on behalf of the TSM&O Department, reviews of various documents and tasks, providing technical support for the TSM&O Department and In-House Design, and development of SEMPs. Nathan's technical support to In-House Design encompasses five projects and includes preparing ITS/ATMS design plans, Wrong Way Vehicle Detection System (WWVDS) design plans, and signal operations details, in addition to assisting with the preparation of ITS communications design plans.

Lee Boulevard Operational Analysis | Lee County, FL | Lee County | Senior Traffic/ITS Engineer

Nathan was responsible for preparing an operational analysis of the Lee Boulevard corridor from east of SR 82 to west of Westgate Boulevard and the Westgate Boulevard corridor from north of Lee Boulevard to south of 6th Street West. This included preparing Condition Diagrams, collecting crash data, preparing Collision Diagrams, and performing a qualitative assessment during the AM and PM peak periods for the corridors. In addition, impacts by future developments were estimated based on the future land use. Based on the collected data, recommendations were developed, benefit-to-cost (B/C) ratios were calculated, a signal warrant analysis was prepared for the recommended signalized intersection, and the findings were compiled into a single report document.

Starkey Road Operational Analysis | Pinellas County, FL | Pinellas County | Traffic/ITS Engineer

Nathan was responsible for preparing an operational analysis of the Starkey Road corridor from north of Brian Diary Road to north of Walsingham Road. This included preparing Condition Diagrams, collecting crash data, preparing Collision Diagrams, and performing a qualitative assessment during the AM and PM peak periods for the corridor. In addition, impacts by future developments were estimated based on the future land use. Based on the collected data, recommendations were developed, benefit-to-cost (B/C) ratios were calculated, and the findings were compiled into a single report document.

ITS – Continuing Services | Districtwide, FL | FDOT D7 | Traffic/ITS Engineer

Nathan was responsible for preparing signal warrant analyses for 10 intersections and for performing a left-turn phase analysis at one intersection. The analyses included obtaining turning movement counts, conducting a crash analysis, and performing a qualitative assessment for each intersection.

DW Access Management | Tampa, FL | FDOT D7 | Traffic/ITS Engineer

Nathan was involved in the safety and access management review of eight locations along US 19 in Pasco and Pinellas County. Work involved field reviews, qualitative assessments, crash analyses, recommendations for safety improvements, and costs estimates. The goal of the project was to review for safety concerns and develop recommendations to address the identified safety issues.

DC/2022-00032

EXHIBIT# 1
Nathan Poole

September 12, 2023

Adam D. Mendez, Senior Planner
Lee County Department of Community Development
1500 Monroe St.
Fort Myers, FL 33901

RE: Review of Bayshore Village Traffic Study (Planned Development Rezoning/Amendment Application) DCI# 2022-00032

Dear Mr. Mendez:

Concerned Citizens of Bayshore Community, Inc (CCBC) retained VIBEngineering, Inc. (VIBE) to review the Applicant's traffic study for potential concerns related to the requested rezoning's impacts on the area roadway's operations and safety. My resume showing my qualifications and relatable project experience is included as Attachment 1. The rezoning request is to increase the development's intensity from 61,000 square feet (sq-ft) of floor area to 125,000 sq-ft, with a potential additional 10% increase with administrative approval. The operational and safety concerns with SR 78 relate to the projected capacity failure of the segment of SR 78 from Pritchett Parkway to Wells Road, the ability to receive approval from the Florida Department of Transportation (FDOT) for access on SR 78, and the ability to receive approval from the FDOT to potentially construct a traffic signal at the SR 78 and Wells Road intersection.

As the traffic study notes, the segment of SR 78 from Pritchett Parkway to Wells Road is projected to fail from a capacity standpoint in the 2028 background condition. This means that this segment of the roadway will fail in 2028 without the construction of this development. While allowing the project to be developed to 61,000 sq-ft will make this condition worse, allowing the intensity to be increased to 125,000 sq-ft will further exacerbate the capacity problem that is projected to occur on this segment of SR 78. In addition, the study states the failure of the SR 78 segment is due to background growth; however, this development is a major contributor to the SR 78 segment failure as well. If the background growth is removed and only the development's project trips are applied to the existing traffic volumes from 2020, the segment is also projected to fail with a LOS F. The study does make mention of the FDOT Capacity Study on SR 78 between I-75 and SR 31; however, the subsequent design, right-of-way, and construction phases for the project are currently not funded, which means it is highly unlikely that any capacity improvements (widening SR 78 to four lanes) will be in place by 2028. Approving the requested rezoning would be inconsistent with The Lee Plan Policy 2.2.3 as it has been documented by the Applicant's traffic study that the SR 78 segment will exceed capacity with or without the Applicant's requested increase in intensity. In addition, the projected congestion conditions will impact the safety of SR 78 as an increase in congested-related crashes, such as rear-end crashes and "good Samaritan" type left-turn and angle crashes, could be expected.

It should be noted that the traffic study appears to have underestimated the 2028 background traffic conditions. Using the same AADT source as the traffic study and with the AADT from 2012-2021, we calculated a historical growth of 5.75%. This is noticeably higher than the 3.85% used in the traffic study. Also, the traffic study included in the 11/17/2022 submittal to the County indicated a 12% growth rate was applied to Pritchett Parkway; however, the traffic volume worksheets included in the 12/6/2022 submittal to the County only used a 2% growth rate. With the underestimation of the background growth, the already strained projected 2028 background traffic conditions are not fully reflected in the traffic study, further supporting that approving the requested rezoning would be inconsistent with The Lee Plan Policy 2.2.3.

6914 W. Linebaugh Avenue, Tampa, FL 33625
Phone: 813.264.2508
www.VIBEngineering.com

DCI2022-00032
EXHIBIT# 2
Nathan Boyd

From an access management perspective, the development is requesting two accesses (one on Wells Road and one on SR 78). SR 78 in this area is an access management classification four, which has a minimum driveway spacing of 660 feet with the posted speed limit of 50 miles per hour (mph). Their proposed driveway is approximately 550 feet from the nearest driveway/side street to the west (Wells Road) and approximately 500 feet from the nearest driveway/side street (on the north side of SR 78) to the east (driveway to gas station). With adequate access to Wells Road, it is highly unlikely that the FDOT would approve the access on SR 78 as it would create safety and operational concerns on SR 78. This means all development traffic would end up on Wells Road and utilize the SR 78 intersection. The traffic study shows the Wells Road intersection failing if the project has two driveways; therefore, the elimination of the driveway on SR 78 will only exacerbate the failing condition at the Wells Road intersection. The increase in intensity of traffic could also cause operational and safety concerns at the intersection of SR 78 and Wells Road such as a potential increase in crashes associated with impatient drivers, which would be left-turn and angle crashes.

The provided traffic study indicates the Wells Road approach at SR 78 will fail in 2028 under the current intersection control (two-way stop control) with the construction of the requested 125,000 sq-ft development. The signal spacing for an access management classification four is 2,640 feet. The nearest signalized intersection west of Wells Road (northbound I-75 ramps) is approximately 1,630 feet and the nearest signalized intersection east of Wells Road (Nalle Road) is approximately 1,330 feet. It is highly unlikely that the FDOT would approve a traffic signal at Wells Road as it would create safety and operational concerns on SR 78, which has the potential of spilling into the influence area of the I-75 at SR 78 interchange. If a traffic signal is shown to be warranted at SR 78 and Wells Road, the next step the FDOT would require is the preparation of an Intersection Control Evaluation (ICE) analysis. Ultimately, the results of the ICE analysis will determine the proposed control for the intersection.

In addition to the Wells Road approach at SR 78 failing, the intersection analysis reports included in the 12/6/2022 submittal to the County indicate the Pritchett Parkway approach to SR 78 and the proposed Site Access to SR 78 will fail as a result of the construction of this development. This indicates that the increase in intensity for this development will not only further exacerbate a failing condition on SR 78 but will also cause failing conditions for nearby side streets and the proposed access to SR 78. Approving the requested rezoning would be inconsistent with The Lee Plan Policy 2.2.3.

The Applicant has stated that the proposed 125,000 sq-ft commercial development will help to alleviate the currently stressed Bayshore corridor by removing some of the traffic that must travel further west on Bayshore Road, beyond I-75 or accessing I-75, to reach specific commercial uses at further distances. While the Applicant's traffic study does account for the development's pass-by trips, which are trips from vehicles that are passing by the site today, the roughly 20% pass-by rate is a minor reduction of the gross new trips for the development. Even with these deductions, we still have projected roadway and intersection failures.

As stated in this letter, this development creates operational and safety concerns on the SR 78 corridor. The segment of SR 78 from Pritchett Parkway to Wells Road is projected to fail with or without this development; therefore, approving the requested rezoning would be inconsistent with The Lee Plan Policy 2.2.3. In addition, there are concerns regarding the SR 78 access being approved by the FDOT, as well as approval to potentially construct a traffic signal at the SR 78 and Wells Road intersection. The projected congested corridor will impact the safety of SR 78 as it would be anticipated that congested-related crashes, such as rear-end crashes and "good Samaritan" type left-turn and angle crashes, could increase, and there could be an increase in crashes associated with impatient drivers, which would be left-turn and angle crashes, at the intersection of SR 78 and Wells Road.

Sincerely,

Nathan Poole, PE
Senior Traffic/ITS Engineer

Attachments
Cc: Concerned Citizens of Bayshore Community, Inc
Zachary W. Lombardo, Esq., Woodward, Pires & Lombardo, P.A.

ATTACHMENT 1

RESUME

Nathan J. Poole, PE

Traffic/ITS Engineer

PROFILE

Nathan Poole, PE, has over 12 years of transportation engineering, studies and design, ITS and CEI experience. He has been responsible for preparing safety and traffic impact studies and corridor operational analyses, as well as preparing comprehensive construction packages for traffic signals, street lights, and ITS projects. This includes the Lee Boulevard Operational Analysis, Starkey Road Operation Analysis, Crosswind Ranch Traffic Impact Analysis, Sumter County ATMS Design, and the Lee County ATMS/ITS Master Plan and D/B Criteria Package.

As a Senior Traffic/ITS Engineer, his responsibilities include preparing complete, functional designs in accordance with the project scope of services, and conducting on-site visits for data collection to determine existing conditions and device placement for equipment such as CCTV cameras and DMSs. He is also responsible for completing preliminary design activities and conducting post-design reviews.

Years of Experience:

- 12

Education:

- BS, Civil Engineering, Auburn University, 2010

Professional Registration:

- PE: FL #79444
- ATMS Certification: FDOT (2017)
- IMSA, Traffic Signals Inspector, Level 1 (2013)

Affiliations:

- Intelligent Transportation Society of FL
- Institute of Transportation Engineers
- Tampa Bay Institute of Transportation Engineers

PROJECT EXPERIENCE

General Engineering Consultant (GEC) | Bartow, FL | FDOT D1 | Traffic/ITS Engineer

Nathan provides in-house support as requested by District One. This includes performing all ERC reviews and One Stop Permit reviews on behalf of the TSM&O Department, reviews of various documents and tasks, providing technical support for the TSM&O Department and In-House Design, and development of SEMPs. Nathan's technical support to In-House Design encompasses five projects and includes preparing ITS/ATMS design plans, Wrong Way Vehicle Detection System (WWVDS) design plans, and signal operations details, in addition to assisting with the preparation of ITS communications design plans.

Lee Boulevard Operational Analysis | Lee County, FL | Lee County | Senior Traffic/ITS Engineer

Nathan was responsible for preparing an operational analysis of the Lee Boulevard corridor from east of SR 82 to west of Westgate Boulevard and the Westgate Boulevard corridor from north of Lee Boulevard to south of 6th Street West. This included preparing Condition Diagrams, collecting crash data, preparing Collision Diagrams, and performing a qualitative assessment during the AM and PM peak periods for the corridors. In addition, impacts by future developments were estimated based on the future land use. Based on the collected data, recommendations were developed, benefit-to-cost (B/C) ratios were calculated, a signal warrant analysis was prepared for the recommended signalized intersection, and the findings were compiled into a single report document.

Starkey Road Operational Analysis | Pinellas County, FL | Pinellas County | Traffic/ITS Engineer

Nathan was responsible for preparing an operational analysis of the Starkey Road corridor from north of Brian Diary Road to north of Walsingham Road. This included preparing Condition Diagrams, collecting crash data, preparing Collision Diagrams, and performing a qualitative assessment during the AM and PM peak periods for the corridor. In addition, impacts by future developments were estimated based on the future land use. Based on the collected data, recommendations were developed, benefit-to-cost (B/C) ratios were calculated, and the findings were compiled into a single report document.

ITS – Continuing Services | Districtwide, FL | FDOT D7 | Traffic/ITS Engineer

Nathan was responsible for preparing signal warrant analyses for 10 intersections and for performing a left-turn phase analysis at one intersection. The analyses included obtaining turning movement counts, conducting a crash analysis, and performing a qualitative assessment for each intersection.

DW Access Management | Tampa, FL | FDOT D7 | Traffic/ITS Engineer

Nathan was involved in the safety and access management review of eight locations along US 19 in Pasco and Pinellas County. Work involved field reviews, qualitative assessments, crash analyses, recommendations for safety improvements, and costs estimates. The goal of the project was to review for safety concerns and develop recommendations to address the identified safety issues.

SUSAN SWIFT, AICP

Director of Planning

PROFILE

Susan Swift has more than four decades of experience in planning, zoning, transportation, and site development in Florida, Virginia, and Maryland. She has public and private sector experience and has won several awards for innovative projects. Ms. Swift served as Planning Director for the municipalities of Tampa and Pinellas Park, FL, Rockville, MD, and Leesburg, VA, all of which benefitted from her focus on transforming the development review and permitting procedures and updating their plans and codes. In addition, she has represented developers of commercial and residential projects in land use and zoning entitlement applications, due diligence and development potential analyses.

Ms. Swift is known as a change agent and innovator. She has testified before and collaborated with policymakers in three states to improve transportation, affordable housing ordinances, comprehensive planning, and growth management tools. Her public speaking experience is extensive, including national and state conferences, university guest lecturer and facilitator.

As an expert planner, she has represented numerous public sector clients in eminent domain activities including land planning reports and analyses, and expert testimony in mediations and litigation support phases. These include the Florida Department of Transportation, Tampa Bay Water and several cities and counties. As a public sector Planning Director, she has testified in numerous court cases involving illegal zoning uses, setback violations, sign code violations, adult uses and historic buildings.

QUALIFICATIONS

Bachelor of Arts in Geography, University of Florida.
Masters of Science in Urban & Regional Planning, Florida State University
AICP # 12548, July 1996

WORK EXPERIENCE

BBE-Boggs Engineering LLC

Director of Planning, April 2022 to present

- Land Planning, appraisal support and litigation support for FDOT Districts 1 & 7, Manatee County, Hillsborough County and Pinellas County

- Rezoning, land use plan amendments, due diligence and development potential reports for real estate transactions and commercial and residential development in numerous west coast jurisdictions

Colliers Engineering & Design (formerly Maser Consulting P.A.)

Geographic Discipline Leader – Planning Services, May 2019 to April 2022

- Continuing Services contracts for local government clients (Hillsborough County, Hillsborough City County Planning Commission and City of Lakeland)
- Entitlement and due diligence projects for real estate transactions and commercial and residential development in multiple west coast jurisdictions
- Expert witness and appraisal support for eminent domain cases for FDOT and local governments
- Recent projects include: Cortez Bridge (3 parcels for FDOT District 1), I-75/Bee Ridge Road (12 parcels for District 1), Hillsborough County (3 parcels for water pipeline), Hillsborough County (library site).

Suburban Maryland Transportation Alliance (SMTA)

Executive Director, July 2017 to May 2019

- Served as first Executive Director for a 501(c)4 whose mission was to educate and advocate for roadway and transit improvements in Maryland. Responsibilities included public speaking at various levels of government and in the community, media relations, policy and program development, events, fundraising and operations.

Swift & Golden

Principal, May 2017 to May 2019

- "Making Communities More Human" by assisting clients with advocacy, transportation policy issues, due diligence and permitting, and association management, public engagement and media relations.

City of Rockville, Maryland

Director, Community Planning and Development Services Department, April 2008 to April 2017

- Responsible for a staff of 42 including planning, zoning, housing, and permitting.
- Advisor to the Mayor and Council, Planning Commission, Board of Appeals, Historic District Commission, and Sign Review Board.
- Managed complete revision of City's building and "green building" codes.
- Implementation of new Zoning Ordinance including training, procedures manuals, technology changes, and public information.
- Supervision of Moderately Priced Dwelling Unit program.
- Oversight of Twinbrook Neighborhood Plan and the Historic Building Catalog.

- Supervision of Rockville Pike Plan which includes a form-based code and redesign to a multi-modal boulevard cross-section.
- Multiple zoning ordinance revisions for mixed use, sign updates and process improvements.
- Reorganized permitting and inspections staff to enable cross-training, coordination and significant efficiencies.

Town of Leesburg, Virginia

Director, Planning, Zoning and Development Department, July 2002 to April 2008

- Responsible for a staff of 23 including comprehensive planning, zoning, plan review, historic preservation and the town arborist.
- Staff support for Town Council and five Commissions including Planning Commission, Board of Zoning Appeals, Board of Architectural Review, Environmental Advisory Commission and the Tree Commission.
- Produced "State of the Department" report and Strategic Plan
- Initiated major changes and tools to streamline site plan review, cutting processing time in half and improving consistency.
- Revision of the Town Plan, Zoning and Subdivision Codes for a town with 96% growth.
- Revision of historic district guidelines, sign guidelines and archeological surveys for Civil War sites.
- Project manager for the Town's first redevelopment plan, the Crescent District Plan and a form-based zoning district for the area.
- Led effort for the Town to develop its own transportation and fiscal models.

HDR, Inc.

Senior Planner and promotion to Florida Planning Manager, 1999 to 2002

- Brandon Main Street Master Plan: Implementation and Financing Strategy and development regulations; Eloise Redevelopment Plan, Historic Palm Harbor Downtown Master Plan and zoning code, community participation for the Reservoir Recreation Plan and the Hillsborough County Brownfield Task Force
- Due diligence reports for various private sector clients.
- Expert witness services for mediation and litigation of 80 parcels for various government condemning authorities including FDOT and Tampa Bay Water.

Tampa Bay Engineering, Inc. (now Cardno/Stantec)

Director of Community Development, 1995 to 1999

- Responsible for marketing and managing projects for various public agencies, expert testimony for eminent domain activities, due diligence reports, zoning and site plan approvals, redevelopment plans and grant applications.
- Polk County Land Development Code, St. Petersburg Enterprise Park brownfield master plan and grant application, Manatee County Airport Development of Regional Impact (DRI).
- Expert witness, acquisition and litigation support for Orange County and 100 parcels throughout Florida DOT Districts 1,3 and 7.

City of Tampa, Florida

Deputy Director, Department of Housing & Development Coordination, 1993 to 1995

- Responsible for staff of 190 including Land Development, Real Estate and Code Enforcement Divisions, Community Redevelopment Agency, and the Construction Services Center.
- Major accomplishments included: creating and operating the new one-stop Construction Services Center, streamlining residential building permit and commercial site plan review procedures, implementing the Inspection Hotline.
- Co-authored Channel District regulations and design guidelines for a warehouse district redeveloping into a mixed use and tourist area; co-authored the Neighborhood Element of the adopted Comprehensive Plan; project manager for the Central Business District Plan which first outlined the Tampa Riverwalk.

City of Tampa, Florida

Manager, Land Development Coordination Division, 1984 to 1993

- Responsible for a staff of 20 including zoning, right-of-way, subdivision and Developments of Regional Impact (DRI's).
- Supervising development reviews and staff reports for 50 cases, monthly.
- Writing and administering all land development regulations, subdivision, historic preservation and design guidelines; city-wide rezoning of 120,000 parcels; reviewing and negotiating more than 35 Developments of Regional Impact (DRI's) including Florida's first downtown and first area-wide DRI's.
- Author of three award-winning zoning regulations for Ybor City, Channel District and the Tampa Quality Development District; Chair of the land use subcommittee of the MacDill Air Force Base Reuse Committee; project manager for Concurrency System and innovative airport zoning districts.

Honors and Contributions to the Profession

- Appointed by Mayor Castor to the Tampa Historic Preservation Commission.
- Appointed by Maryland Governor to Transportation Advisory Committee.
- Author of 2011 APA QuickNotes "Getting the Most Out of Staff Reports".
- Contributing Columnist to FAPA Magazine & Member of Editorial Board.
- HDR Employee Recognition Award and Marketing Team Award.
- National Awards Juror for the American Planning Association.
- Awarded three Suncoast APA awards for innovative zoning for the Ybor City, Tampa Quality Development and Channel Districts and Brandon Main Street Plan.
- Guest lecturer, Ball State University, The Catholic University & University of Maryland, College of Architecture and Planning.
- 15-year member of the Site Visit Team for the Planning Accreditation Board.
- Appointed to various statewide committees including the editorial committee for the Florida Model Land Development Code publication.
- Testified before and lobbied Florida, Maryland and Virginia legislatures on issues including transportation, affordable housing ordinances, comprehensive planning, Developments of Regional Impact and adequate public facilities ordinances.

SUSAN SWIFT, AICP

Director of Planning

PROFILE

Susan Swift has more than four decades of experience in planning, zoning, transportation, and site development in Florida, Virginia, and Maryland. She has public and private sector experience and has won several awards for innovative projects. Ms. Swift served as Planning Director for the municipalities of Tampa and Pinellas Park, FL, Rockville, MD, and Leesburg, VA, all of which benefitted from her focus on transforming the development review and permitting procedures and updating their plans and codes. In addition, she has represented developers of commercial and residential projects in land use and zoning entitlement applications, due diligence and development potential analyses.

Ms. Swift is known as a change agent and innovator. She has testified before and collaborated with policymakers in three states to improve transportation, affordable housing ordinances, comprehensive planning, and growth management tools. Her public speaking experience is extensive, including national and state conferences, university guest lecturer and facilitator.

As an expert planner, she has represented numerous public sector clients in eminent domain activities including land planning reports and analyses, and expert testimony in mediations and litigation support phases. These include the Florida Department of Transportation, Tampa Bay Water and several cities and counties. As a public sector Planning Director, she has testified in numerous court cases involving illegal zoning uses, setback violations, sign code violations, adult uses and historic buildings.

QUALIFICATIONS

Bachelor of Arts in Geography, University of Florida.
Masters of Science in Urban & Regional Planning, Florida State University
AICP # 12548, July 1996

WORK EXPERIENCE

BBE-Boggs Engineering LLC

Director of Planning, April 2022 to present

- Land Planning, appraisal support and litigation support for FDOT Districts 1 & 7, Manatee County, Hillsborough County and Pinellas County

A. WHY THIS APPLICATION REQUIRESS A FUTURE LAND USE MAP AMENDMENT

The near tripling of intensity, doubling of height and the addition of heavy commercial uses – when taken together – is not consistent with the current Goals, Objectives and Policies in the Lee Plan and the Bayshore Community Planning Area, in particular. Taken separately - the near tripling of intensity, doubling of height and the addition of heavy commercial uses – are not compatible with the existing uses or entitlements that surround the property. Incompatibility, by policy, also makes the project inconsistent with the Lee Plan.

Prior to any consideration of this Commercial Planned Development (CPD) application, a Future Land Use Map Amendment is crucial in order to thoroughly analyze the significant increases and impacts this project imposes on the Bayshore community and the growth patterns anticipated in the Lee Plan. The requested changes to the 2006 CPD far exceed the growth data goals for this area of the County and the character goals codified in the Bayshore Community Planning Area, in particular. The applicant's request is <u>five times</u> the commercial intensity of the least intense CPD, even without the administrative increase (See Tables 1 and 2 on page 11).

Further, the quantity and magnitude of changes to uses and intensity, taken together, far exceed the threshold for a simple amendment to a PD. These proposed amendments clearly change the character of the area beyond what was planned for the 2045 horizon year of the Lee Plan.

This report provides competent and substantial evidence that the proposed project is not consistent with the Lee Plan and therefore, should require a plan amendment application prior to consideration of a PD application of this magnitude. In addition to the Bayshore Community Plan and relevant Lee Plan policies, this opinion is supported by the County's stated purpose for the Lee Plan, and the purpose and intent of any Planned Development District in the County's Land Development Code.

In addition to the evidence that DCI-22-32 is inconsistent with the Lee Plan, incompatible with surrounding uses and entitlements, and noncompliant with the Land Development Code, several recurring themes are noted in this report:

- The number and extent of conditions by the staff confirms that the PD is not compatible and therefore, not consistent with the Plan
- Compatible with conditions vs. incompatible – are not the same
- No amount of landscaping and walls can make an incompatible use, compatible
- Undermines the intent of a PD
- Lack of predictability for surrounding property owners due to two site plan options and multiple trade-offs within them
- Substandard vs. "minimum" or "adequate" or "appropriate"

Finally, the Lee Plan and the surrounding uses and AG-2 zoning have not changed since the approval of the 2006 CPD. Therefore, there are no policy changes that warrant the magnitude of the requested increases.

B. INTENSITY & USES ARE INCONSISTENT WITH LEE PLAN

The subject site is assigned the Future Land Use category of *General Interchange* and it falls within the *Bayshore Community Plan* boundaries. The existing PD was approved in 2006 under the original version of the 2003 Bayshore Community Plan. The two recent amendments to the Community Plan do not reflect any intent to increase densities or change the character of this area. As a result, the intent and data of the current plan do not support the intensity or character of uses proposed by the applicant or the staff.

Inconsistent With Purpose and Goals, Objectives and Policies of the Lee Plan

Comprehensive Plans have been mandated by Florida Statutes since 1985 to manage future growth and the purpose of the Lee Plan is to "guide and regulate all land development activities within Lee County." As with any comprehensive plan, the County's planning horizon and planned growth patterns there will be development pressures that are not authorized by this Plan and the proposed application DCI-22-32, is an example of that situation.

Not only is the subject site at the edge of the Interchange General Future Land Use area, it abuts an existing single-family home and much lower land use designations on the east and south. Any development order analysis must be in context with the existing uses and entitlements that abut and surround this site. Therefore, the proposal to nearly triple the intensity of this commercial site, and its associated negative impacts, is not consistent with Policy 5.1.5 which calls for protecting existing and future residential areas.

> *POLICY 5.1.5 Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in the LDC are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a PD or special exception and generally applicable development regulations are deemed to be inadequate, conditions can be devised, the application will be denied altogether.*

Inconsistent with the Bayshore Community Plan

The Bayshore Community Plan is adopted as Goal 18 and its associated Objectives and Policies in the Lee Plan. From a professional planning perspective little interpretation is needed to make a finding of fact that the proposed changes to this project are inconsistent with the Bayshore Goal 18 which reads:

> *Goal 18. Bayshore Community Plan: Protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, and exclude incompatible uses that are destructive to the character of this rural residential environment.*

With the existing CPD approved as "minimal commercial activities", the proposed increased intensity, four story height and new heavy commercial uses are not minimal and therefore, DCI-22-32 is incompatible with Goal 18. The Goal further states that incompatible uses should be excluded. This is reinforced by the history of the current CPD which was approved in 2006 for 61,000 SF because the requested 99,000 SF was not "minimal commercial." As noted, there is nothing in the Bayshore Community Plan that implies or directs any change in the desired intent, intensity or character for this site.

A majority of the newly-proposed uses (i.e. nightclubs, truck terminals, open storage, car dealerships, among others) are destructive to the character of the rural residential environment because they can be seen and heard from surrounding properties.

The applicant does not provide any justification or analysis to show that these uses fit into the rural residential character. The applicant further contends that the uses will be made compatible by providing landscaping and buffers. Buffers do not mitigate negative impacts of this magnitude. Impacts such as excessive noise and lighting that taller buildings and heavy commercial uses will impose on adjacent single-family residential uses. This is especially true when the buffers offered are substandard – meaning they are neither "minimum," "adequate" or "appropriate" – as required by numerous plan policies (e.g. 1.3.1, 5.1.5,5.2.5, 6.1.6, 13.6.1,18.1).

The importance of maintaining the "conditions unique" to the community planning areas is reinforced in Objective 18.1 which supports the need for a Future Land Use Map amendment concurrent with a PD rezoning because the "increase density or intensity must demonstrate compatibility...". The proposed CPD does not maintain the conditions unique to the Bayshore Community and therefore, should be required to process a Land Use Map amendment.

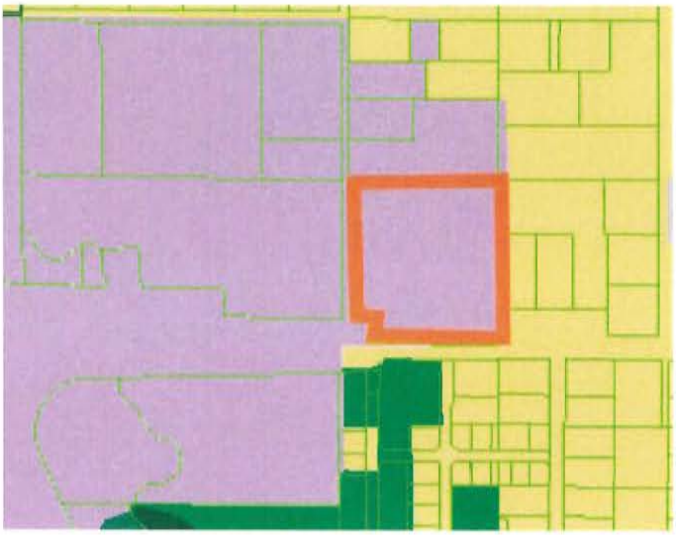
Finally, the application attempts to justify the increased amount of development and resultant traffic with a reliance on future improvements to Bayshore Road. Even if the Florida Department of Transportation is conducting a PD&E study at this time, funding and construction is years away – far beyond adequate public facilities being available for this project. More importantly, Objective 18.2 (Transportation) states that road designs within the Bayshore Community must "maintain its rural character."

Inconsistent with the General Interchange Land Use Category

The Future Land Use designation for the subject site is *General Interchange*, which is "intended primarily" for low-intensity commercial uses for tourists. Policy 1.3.2 does allow for flexibility for heavier uses but only when deemed compatible with surrounding properties. The numerous other policies in the Lee Plan (i.e. Policy 5.1.5) that address protection of residential properties, community character and compatibility override the consideration of heavier commercial uses proposed by the applicant. In fact, the proposed PD is not consistent with Objective 1.3 which allows for the Interstate Highway Interchange Areas but specifically requires that:

"Development in these areas must minimize adverse traffic impacts and provide appropriate buffers, visual amenities, and safety measures."

The proposed PD does not provide appropriate buffers or visual amenities – especially given the new heavy commercial uses proposed. Such uses are not compatible with the abutting residential, regardless of buffering. While "appropriate" buffering may mitigate negative visual impacts of low-intensity commercial uses, landscaping and walls do not mitigate other negative impacts such as noise, lights and visual impacts of loading areas for those heavier commercial uses or four-story buildings proposed here.



The applicant's site is at the edge of the Interchange Land Use category and bordered by a significantly lower density category on two sides. The amount of increased development and the type of heavier uses proposed in this rezoning are not compatible with the abutting Sub-Outlying Suburban category, as stated in Policy 1.1.11:

> *POLICY 1.1.11: The Sub-Outlying Suburban future land use category is characterized by low density residential areas. Generally the infrastructure needed for higher density development is not planned or in place. This future land use category will be placed in areas where higher densities would be incompatible or where there is a desire to retain a low-density community character....*

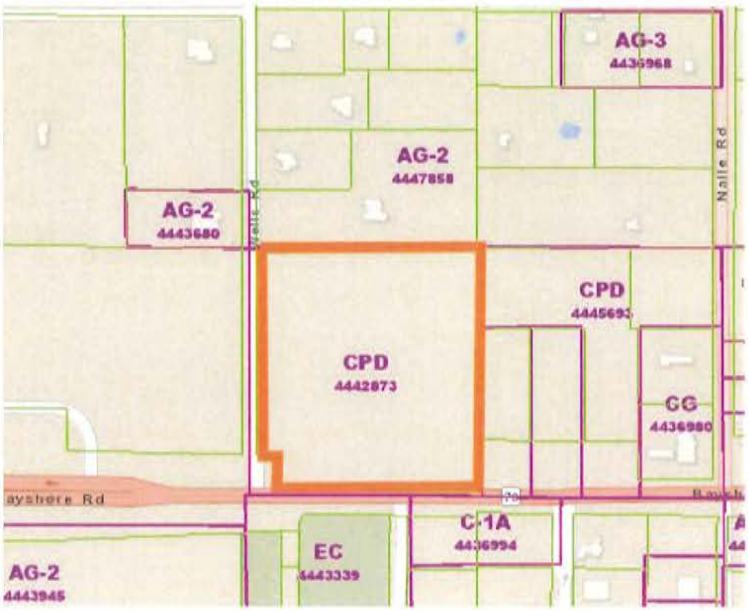
Therefore, as noted above, the proposed application is not in context with the existing uses and entitlements that abut and surround this site. The magnitude of the increases on this commercial site, and the associated negative impacts, are not consistent with the character and uses specified for the abutting properties. As shown in Tables 1 and 2, they exceed other CPD approvals in the Bayshore Community Planning Area and the General Interchange category.

C. INTENSITY & USES ARE NOT COMPATIBLE WITH SURROUNDING USES OR ZONING

Not only is the magnitude of DCI-22-32 beyond the intent of the Lee Plan, it is incompatible with the surrounding uses. The applicant's site is at the edge of the General Interchange Land Use category, bordered by low-density land use categories and in the midst of the Bayshore Community Plan Area. Most importantly, it abuts an existing single-family home zoned for large rural lots that characterizes the Bayshore area.

Further, the staff's compromise of 87,500 SF is not consistent with the Lee Plan because neither the Plan nor the surrounding uses have changed since the 2006 rejection of 99,000 SF. In fact, the number and extent of conditions suggested by the staff confirms that the CPD is not compatible and therefore, not consistent with the Plan.

Every adjacent lot (except two) is zoned AG-2 or Conservation, which are much less intense districts than the project. The proposed intensity and uses of DCI-22-32 are not compatible with the existing uses or future entitlements on the north, west and east of the applicant's property.



Neither the intensity of development nor the new uses proposed, are compatible with the existing uses and entitlements surrounding this subject site.

Section 34-2 of the LDC defines "Compatible" as it is to be applied for development decisions in Lee County:

> *Compatible means, in describing the relation between two land uses, buildings or structures, or zoning districts, the state wherein those two things exhibit either a positive relationship based on fit, similarity or reciprocity of characteristics, or a neutral relationship based on a relative lack of conflict (actual or potential) or on a failure to communicate negative or harmful influences one to another.*

Intensity. The increase from 61,000 SF to 137,500 SF nearly triples the amount of development on this site. This is more than 1.5 times the intensity of the most intense CPD in the Bayshore Community Planning Area and it is five times that of the least intense CPD. This does not include the administrative increase which the applicant has also requested.

Uses. The list of uses in the existing 2006 CPD and the proposed amendment are drastically different. There are only 37 uses listed in Resolution 2006-046 which are primarily office, medical office and retail uses which are compatible with the surrounding area. Even the staff's list of uses in the Hearing Examiner memo, includes approximately 150 uses that could be located on this site, most of which are not compatible with surrounding uses or the AG-2 zoning district.

By definition, neither the intensity nor the uses are compatible for the following reasons:

- No similarity in uses when comparing the proposed uses (such as open storage, park and ride lots, car wash, wholesale, etc.) to the abutting large-lot single-family residence
- These major or heavier commercial uses do not provide reciprocity to the Bayshore Community's rural residential character
- There are actual and/or potential conflicts and negative impacts of noise from outdoor storage and mechanical equipment, outdoor alcohol consumption, visual/aesthetic of 48

ft high buildings, noise/debris/dust from loading areas, excessive lighting from car lots or security for outdoor equipment

- There are no predictable or reliable limitations on the size and intensity of each use or the location of uses within the site. This results in significant harmful and negative influences (in terms of lighting, safety, noise, vibration, dust and visual impacts) between the subject site and surrounding properties.

D. PROJECT UNDERMINES THE INTENT OF A PLANNED DEVELOPMENT

This application undermines the intent of the Planned Development (PD) tool. This project is wrought with deviations from minimum code requirements yet does not offer any features that exceed minimum requirements. The use of a Planned Development (PD) is intended to allow flexibility for "creativity" or "unique site characteristics" - but only for purposes of allowing equivalent or enhanced results. This is not only recognized in Lee County's application of the Planned Development but also how PD's are utilized across the United States.

Goal 1 of the Lee Plan acknowledges that conflicts will arise and "where there are apparent conflicts between the Lee Plan and the LDC, the Lee Plan will prevail." The Lee Plan relies heavily on the PD as a tool to maintain community character and minimize impacts for a variety of development types, locations and situations.

The Bayshore Village application clearly violates the intent and purpose of a Planned Development District because it is noncompliant with Section 34-612(2a,b,d,h):

The general purpose of both types of zoning district is to implement the goals, objectives and policies of the Lee Plan, as well as to provide protection to the public health, safety and welfare through the regulation of land use.

(2) PD Planned Development Districts. The purpose and intent of the various Planned Development Districts is to further implement the goals, objectives and policies of the Lee Plan while providing some degree of flexibility in planning and designing developments by:

> *a.Facilitating state of the art site planning in order to improve the quality of the built environment and to ensure the most economical use of land and public resources;*
>
> *b.Stimulating, where appropriate, the integration of new development with surrounding land uses, providing for consistency and visual harmony through various techniques, including screening and buffering, sign control, architectural controls and landscape design;*
>
> *d.Promoting improved and unifying design techniques that reduce dependence on vehicular movement within the development, encourage the use of joint parking and loading facilities, provide for joint access, and generally maintain adequate service and facilities while avoiding negative impacts on surrounding land use and traffic circulation;*

h.Providing a process and record on which developers, public officials, the general public and the consumers of development may rely;

Reliability is a key factor in the deniability of this CPD application. As required in Subsection h, above, the process and record of this application does not provide any reliability or predictability. The surrounding property owners and specifically Mr. and Mrs. Musho cannot rely on what this project will be. The two optional site plans, the unknown uses that will result, the unknown location for each use, the lack of detail of the site plans, the trade-off for uses, the number of deviations, and the magnitude of conditions – provides no clear picture of the project and no clear way to analyze the potential impacts of the project. This completely subverts the Planned Development process, regulations and standards as required by the Land Development Code.

E. THE MASTER CONCEPT PLAN AND CONDITIONS ARE NOT COMPLIANT WITH THE LDC

The County's intent for Planned Developments is further stated in Section 34-411, the PD Design Standards and General Standards. It is clear from the following sample sub-sections that the intent of a PD is to minimize impacts on surrounding properties – not to minimize compliance with County regulations.

(a) – Shall be consistent with the Lee Plan

(c) – The tract shall be "located so as to minimize the negative effects of the resulting land uses on surrounding properties..."

(f) – "Development and subsequent use of the PD shall not create or increase hazards....nor shall it impose a nuisance on surrounding land uses..."

(h) – "A fundamental principle of planned development design is the creative use of the open space requirement to produce an architecturally integrated human environment.

(k) – "Where the proposed planned development is surrounded by existing development or land uses with which it is not compatible or which is of a significant higher or lower intensity of use (plus or minus 20 % of the residential density) or is surrounded by undeveloped land or water, the design emphasis will be to separate and mutually protect the planned development and its environs."

(n) – "Density or typed of use, height and bulk of buildings and other parameters of intensity should vary systematically throughout the planned development. This is intended to permit the location of intense or obnoxious uses away from incompatible land uses at the planned development's perimeter, or, conversely, to permit the concentration of intensity where it is desirable, e.g. on a major road or intersection."

The Land Development Code reinforces this intent in numerous other places in the text:

- Section 34-373(a)9 – requires the applicant to provide documentation, detailed drawing and justification to illustrate "how each deviation would enhance the achievement of the objectives of the planned development and will not cause a detriment to public interests."

- Section 34-377(a)4 - requires the applicant to provide a schedule of deviations that "enhances the achievement of the objectives of the planned development."
- Section 34-378(b) - ".... This section must be interpreted and applied such that no approved use will be vested as to density or intensity unless the proposed density or intensity is specifically reviewed and approved during the planned development process."

The following facts are evidence that the Master Concept Plan (MCP) and associated conditions do not comply with the substantive regulations nor the minimum application requirements of the LDC in general and the CPD in particular. There are three recurring themes:

1) Too many unknowns - As described in the previous section, there are too many unknowns, options and trade-offs for surrounding owners to rely on and impossible to analyze the impacts or the mitigation offered.
2) Compatible uses with mitigating conditions vs. incompatible uses - The MCP and Conditions do not and cannot mitigate uses that are incompatible. Buffers and landscaping are meant to mitigate negative impacts such as noise, lighting, appearance. In this case, the proposed uses, height and placement are so incompatible with the adjacent residence and low-density entitlements, they cannot be mitigated by plants or walls.
3) Substandard design features instead of "minimum," "adequate" or "appropriate" - This project provides numerous design features that are substandard – meaning they do not comply with the meaning of "minimum," "adequate" or "appropriate" as required by LDC and Lee Plan policies – and therefore would not mitigate negative impacts let alone "enhance" the project.

This is not an exhaustive list of objections to the MCP and conditions, it is merely a sampling of the more serious deficiencies and evidence that the application is not compliant with the Lee County Land Development Code:

- The heavier commercial uses such as truck terminals, car dealerships, garages, crematoriums, certain warehouses and any use that involves outdoor storage are incompatible and will not be made compatible by any type of buffer
- Location of uses are not specified
- The buffers, lot sizes, lot widths offered are substandard – meaning they are neither "minimum," "adequate" or "appropriate" as required
- Condition 11, referring to the hotel creates numerous compatibility problems. The 48 ft/4 story height for the hotel is misleading; consultation with our firm's architects indicates that 48 ft is not sufficient height for most chain hotel products. Accessory hotel structures should not be allowed at 35 ft height, when the location and usage are unknown.
- As defined by code, four stories allows for additional uses on the rooftop which results in a fifth level and presents further noise, lighting and other negative impacts to surrounding uses
- The architectural design guidelines in the current CPD have been eliminated

- The applicant's narrative misuses the term "traveling public" to justify increased intensity and heavier uses; the Lee Plan uses the term relative to tourist/interchange uses rather than vehicle traffic as implied by the applicant
- Deviation #1 further increases the intensity by reducing the east side setback, a portion of which abuts the low-intensity Sub-Outlying Suburban land use category
- Deviations #4 further increases the intensity by reducing the required lot widths
- Deviation #5 further increases the intensity of the site by reducing the required lot area
- Deviation #6 adds another layer of unknown for Mr. and Mrs. Musho.

CONCLUSION

Based on my review of the documents, the pending application DCI-2022-00032 is neither consistent, compatible nor compliant. Taken together, the magnitude of this project's deficiencies go well beyond a simple amendment of the 2006 Planned Development. The near tripling of intensity, doubling of height and the significant increase of heavier commercial uses – when taken together - clearly trigger a Future Land Use Map Amendment.

The staff's compromise of 87,500 SF is not consistent with the Lee Plan because neither the Plan nor the surrounding uses have changed since the 2006 rejection of 99,000 SF. In fact, the number and extent of conditions suggested by the staff confirms that the CPD is not compatible and therefore, not consistent with the Plan.

Based upon the analysis and findings of fact presented in this report, the Bayshore Village application, DCI-2022-00032 should be denied for the following reasons:

- The Lee Plan and the surrounding uses and zoning have not changed since the approval of the 2006 CPD for this site
- The 2006 CPD decision specifically rejected additional density
- It is not consistent with the Lee Plan or the Bayshore Community Plan
- It is not consistent with the General Interchange Land Use category
- It is not compatible with existing uses or that surround the property
- It is not compatible with the land use and zoning entitlements of surrounding properties
- The intensity exceeds other projects approved in the Bayshore Community Planning Area
- The heavier commercial uses are incompatible with the existing residence and the AG-2 zoning on adjacent parcels
- The proposed uses, height and placement are so incompatible with the adjacent residence and low-density entitlements, they cannot be mitigated by plants or walls
- The deviations recommended for approval by staff increase the intensity by allowing uses on smaller lots and more development to be crammed into this site.
- The deviations recommended for approval by staff further reduce the compatibility of the project

TABLE 1. CPD's IN THE GENERAL INTERCHANGE AREA

CPD	SQ FT/Acre	CPD	SQ FT/Acre
Current zoning for Subject Property	6,971.43	Proposed zoning for Subject Property	14,285.71
Bayshore I-75 CPD	5,060.33	Proposed zoning for Subject Property w/ admin. approval	15,714
North River Plaza CPD	6,250	Staff Recommendation	10,000

TABLE 2. CPD's IN THE BAYSHORE COMMUNITY PLANNING AREA

CPD	SQ FT/Acre	CPD	SQ FT/Acre
Current zoning for Subject Property	6,971.43	Proposed zoning for Subject Property	14,285.71
SPC Interchange Store CPD	2,462.06	Proposed zoning for Subject Property w/ admin. Approval	15,714
W&W Service Park CPD	6,741	Staff Recommendation	10,0010,0000
Ed & Kathie Ramsey CPD	8,474.57		
McPherson CPD (Carter-Pritchett Advtg)	No Commercial other than storage (billboard and storage only)		
Pritchett III CPD (Carter-Pritchett Advtg)	No Commercial other than storage (billboard and storage only)		

Perez, Maria

From:	Olga Ramos <OlgaRamos@PaveseLaw.com>
Sent:	Monday, December 11, 2023 10:48 AM
To:	Hearing Examiner; Perez, Maria
Cc:	Adams, Joseph; Werst, Lee
Subject:	Bayshore Village CPD (DCI20233-00032)
Attachments:	48 Hr Letter Bayshore Village CPD (DCI2022-00032).pdf

Caution: This email originated from an external source. Be cautious of attachments and links, and do not provide login information. Report suspicious activity to the Service Desk: servicedesk@leegov.com or 533-HELP.

Good morning,

Attached please find a 48-hour letter regarding the above referenced matter. If you should have any questions or concerns, please do not hesitate to contact our office.

Best regards,

PAVESE LAW FIRM est 1949

Olga L. Ramos
Legal Assistant to Neale Montgomery, Esq.
PAVESE LAW FIRM
1833 Hendry Street (33901)
Post Office Box 1507 / Fort Myers, FL 33902
Direct 239.336.6235 / Fax 239.332.2243
olgaramos@paveselaw.com
Visit our website: www.paveselaw.com

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APPLICANT'S
EXH # 9

PAVESE LAW FIRM
est. 1949

NEALE MONTGOMERY
Partner
Direct dial: (239) 336-6235
Email: NealeMontgomery@paveselaw.com

1833 Hendry Street, Fort Myers, Florida 33901 | P.O. Box 1507, Fort Myers, Florida 33902 | (239) 334-2195 | Fax (239) 332-2243

December 11, 2023

Ms. Donna Marie Collins
Hearing Examiner
1500 Monroe Street
Fort Myers, FL 33905

Via e-mail: hex@leegov.com

RE: Bayshore Village CPD
DCI2022-0032

Dear Ms. Collins,

The applicant does hereby submit the information required in the 48-Hour letter.

The applicant agrees with the staff recommendation of approval. The applicant has included a revised MCP (A and B) to be consistent with the recommended conditions, dated December 8, 2023. The applicant will bring an updated exhibit regarding the travel times from the wellfield protection ordinance. The updated master concept plans are attached hereto.

The applicant submits that the limitation of drive through to the east side of a structure should not apply in the southern 400 feet.

The staff was kind enough to provide an updated memorandum dated December 4, 2023. The applicant disagrees with some of the conditions recommended by the staff. The applicant does not agree with the staff recommendation on the permitted square footage for the site. The applicant does not agree with the requirement for a wall south of the significant vegetated buffer/indigenous area on the north side of the property.

A. APPLICANT WITNESSES:

- *Ron Inge- Inge and Associates, Inc.*
- *Jennifer Sapen, AICP- Sapen Site Planning, LLC*
- *Nelson Taylor, MRICS, MSRE- LSI Companies*
- *Barrett Stejskal- BearPaws Environmental Consulting, Inc.*
- *W. Kirk Martin, P.G.- Water Science Associates*
- *Carl A. Barraco, P.E.- Barraco and Associates, Inc.*
- *Ted Treesh- TR Transportation Consultants, Inc.*

In addition to the above witnesses, I will also be present representing the applicant.

B. <u>APPLICANT EXHIBITS</u>:

- Applicant's PowerPoint Presentation
- Revised Master Concept Plan
- Resumes of Nelson Taylor and Jennifer Sapen

Sincerely,

Neale Montgomery

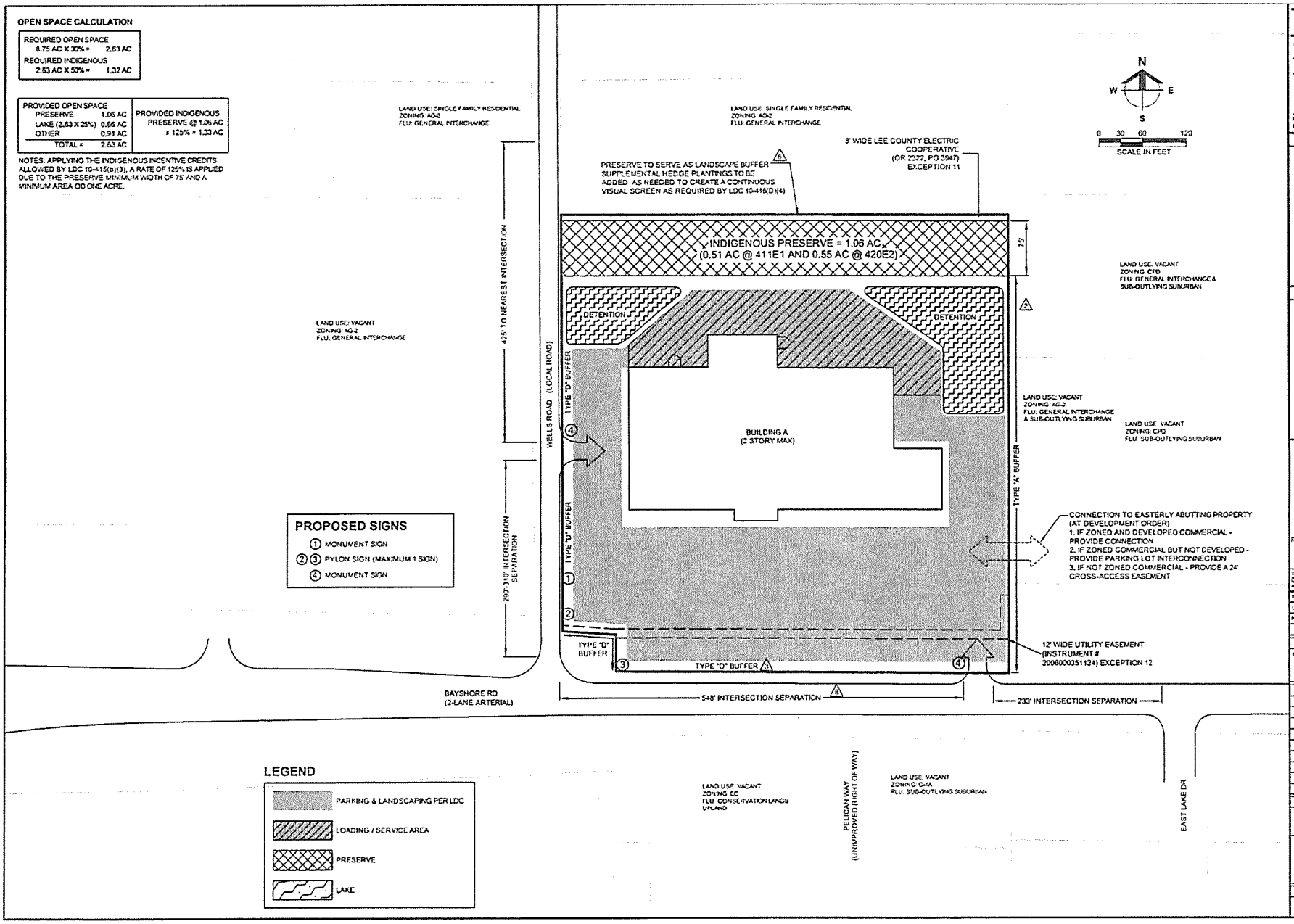
Cc: Adam Mendez, Lee County Community Development (*via e-mail: AMendez@leegov.com)*

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.



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PHONE (239) 481-3170
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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.

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FILE NAME	24066E-3-6.DWG
LOCATION	J:\24066\DWG\ZONING
PLOT DATE	FRI, 12-3-2021 - 9:10 AM
PLOT BY	ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS

BASE PLAN = 24066E20-6.DWG

PLAN REVISIONS

1-25-23	1ST SUFFICIENCY RESPONSE
2-17-23	2ND SUFFICIENCY RESPONSE
3-14-23	DEVIATION #1
6-12-23	WELLS RD @ INTERNAL CNTLINE
7-7-23	ADD DEVIATION #3
9-27-23	AUGUST SUFFICIENCY SUFFICIENCY
12-8-23	8/4/2023 REVISIONS

PLAN STATUS

MASTER CONCEPT PLAN ALT B

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

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 OD ONE ACRE.

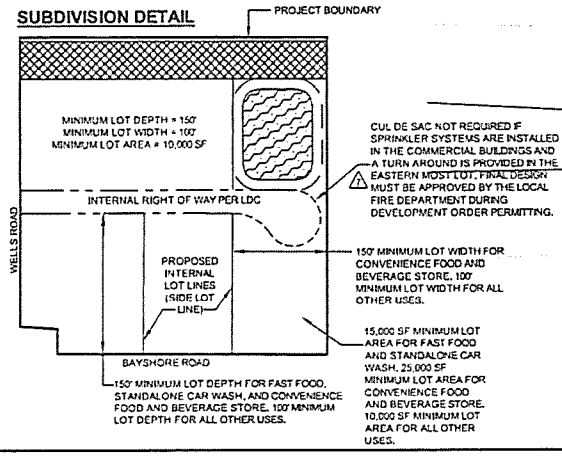
PROPOSED SIGNS

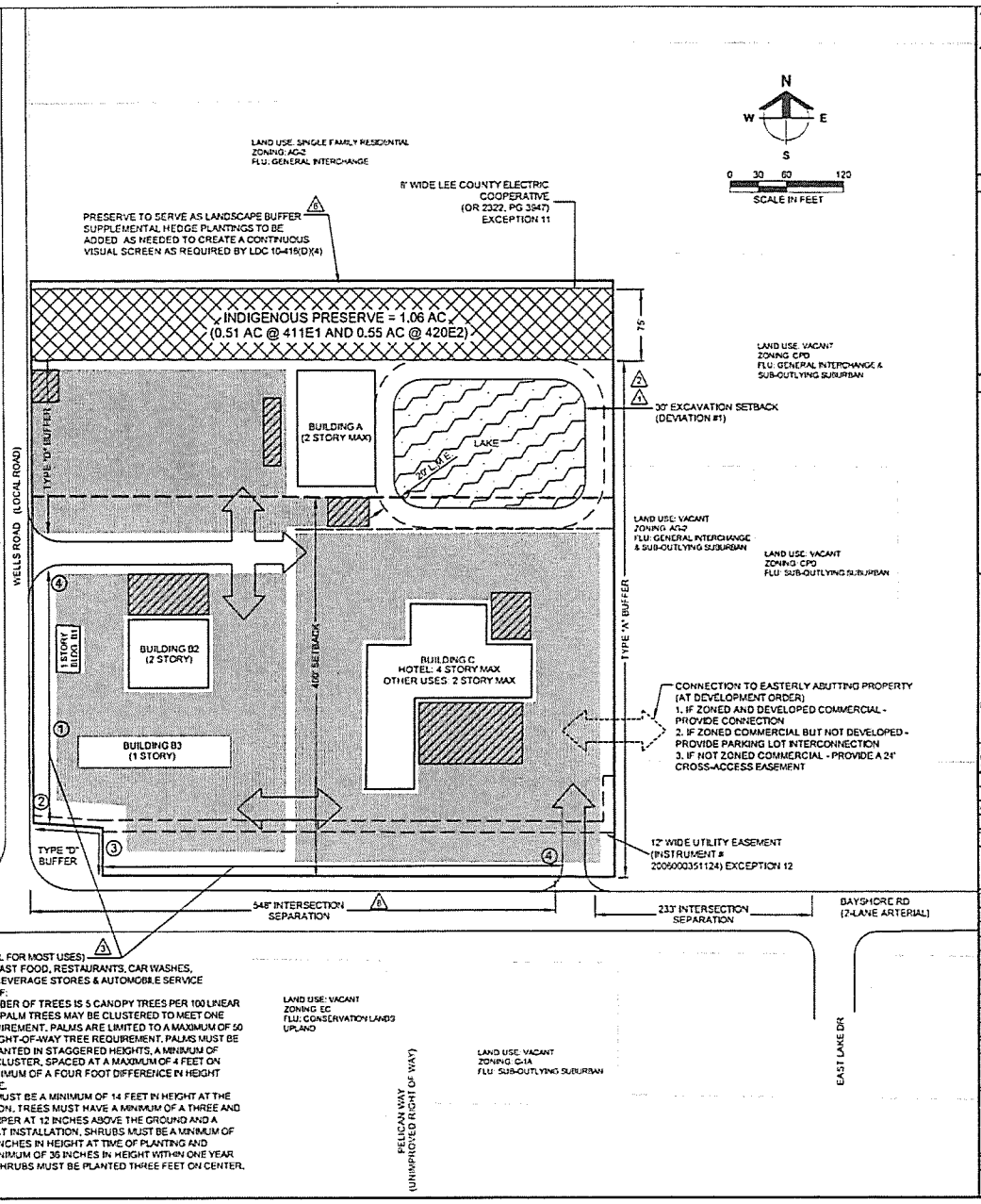
1. MONUMENT SIGN
2. 3. PYLON SIGN (MAXIMUM 1 SIGN)
4. MONUMENT SIGN

LEGEND

- PARKING & LANDSCAPING PER LDC
- LOADING / SERVICE AREA
- PRESERVE
- LAKE

SUBDIVISION DETAIL





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ENGINEERING 7995 • SURVEYING LB-6946

PREPARED FOR

LIGHT BAYSHORE VILLAGE LLC & REESERETLAND BAYSHORE VILLAGE LLC

PROJECT DESCRIPTION

BAYSHORE VILLAGE

LEE COUNTY, FLORIDA

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FILE NAME	24066BAJ.DWG
LOCATION	J:\24066\DWG\ZONING
PLOT DATE	FRI, 12-8-2023 - 9:38 AM
PLOT BY	ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS

BASE PLAN = 24066BAJ.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 IS INTERNAL CONFIRM
7-7-23	ADD DEVIATION #6
8-27-23	AUGUST/SEPTEMBER SUFFICIENCY
12-8-23	48-HOUR REVISIONS

PLAN STATUS

MASTER CONCEPT PLAN ALT A

PROJECT / FILE NO.	SHEET NUMBER
24066	1

Jennifer Sapen, AICP, LEED AP BD+C

SAPEN
Site Planning

Employment Experience

Sapen Site Planning 2023-present Owner / Founder	※ Process zoning applications and provide testimony during public hearings as an accepted expert witness in the Lee County Land Development Code and Comprehensive Plan. ※ Envision and design creative and efficient site plans for commercial, industrial and residential uses, with an emphasis on master planned residential communities. ※ Provide site planning services locally in Southwest Florida and in developing areas near the cities of Daytona, Miami and Panama City Beach; also in South Carolina and Texas.
Barraco and Associates 2002-2023 Vice President of Planning	※ Managed land planning department and provided over 20 years land planning services for a civil engineering and surveying company. ※ Processed zoning applications and comprehensive plan amendments in Lee, Collier, Charlotte, Hendry and Desoto Counties; and incorporated Cities within. ※ Provided expert testimony during the public hearing process and conducted community outreach. ※ Created site plans for a wide range of development patterns and assisted civil engineering to permit and finalize design through construction.
Johnson Engineering 1998-2002 Engineering Technician	※ Provided civil engineering drafting services during permitting and construction of four residential golf course communities: West Bay Club, Crown Colony, Verandah, and Shadow Wood Preserve.

Planning & Zoning Project Experience

- ※ Orange River RPD - Lee County
- ※ River Hall RPD/CPD - Lee County
- ※ Hudson Creek PUD - City of Cape Coral
- ※ Burnt Store 295 PUD - Charlotte County
- ※ Orange Blossom PUD - Collier County
- ※ Gully Creek RPD - Lee County
- ※ State Road 80/31 CPD - Lee County
- ※ Isles of Collier Preserve PUDA - Collier County
- ※ Tri-County Commerce IPD & CPA - City of Fort Myers
- ※ Ridgdill PUD, CPA & Annexation - City of Labelle
- ※ Michigan Avenue PUD & CPA - City of Fort Myers
- ※ Burnt Store 2007 PUD - Charlotte County
- ※ Colonial Hammock PUD - City of Fort Myers
- ※ Sonoma Preserve PUD - DeSoto County

Site Plan Design and Envisioning Experience

- ※ Master planned residential communities in excess of 5,000 units
- ※ Amenity facility and park designs for master planned communities
- ※ Golf course routing plans and golf course residential communities
- ※ Multifamily apartment complexes
- ※ Downtown mixed use towers with parking garages
- ※ Commercial centers
- ※ Luxury RV communities
- ※ Assisted living facilities & senior living
- ※ Motor speedway park
- ※ Fast food and gas station site plans
- ※ Mini-storage, boat and RV storage
- ※ Heavy industrial and distribution

Contact

Sapen Site Planning, LLC
P.O. Box 100690
Cape Coral, FL 33910

jennifer@sapenplans.com
(239) 900-3011

Address: 1470 Friendship Walkway, Fort Myers, FL 33901
Cell: 239-770-2909
Email: ntaylor@lsicompanies.com

Nelson P. Taylor, ALC, MRICS, MSRE

PROFESSIONAL EXPERIENCE

LSI COMPANIES, INC. **FORT MYERS, FL**

Privately owned, all-inclusive land development and brokerage firm. LSI Companies is proud to be recognized as a leader in Southwest Florida real estate brokerage, offering full land services, market research, asset management, and commercial / land marketing specialties. Specialties include entitling and positioning land for future residential development.

VICE PRESIDENT – MARKET RESEARCH *August 2018 - Present*

- Analyze and interpret land use and development trends for use in market analysis as it relates to valuation and positioning of assets.
- Produce quarterly reports tracking and providing insight into SWFL residential and commercial real estate.
- Prepare market studies for proposed development, needs analysis, position, and valuation of real estate.

HANSON REAL ESTATE ADVISORS, INC. **FORT MYERS, FL**

Privately owned, boutique firm. Provides real estate valuation and consulting services to a client base that generally consists of attorneys, institutional investors, and private equity funds.

SENIOR REAL ESTATE APPRAISER & ANALYST *June 2009- August 2018*

- Work directly with clients to develop market-based solutions in response to complex real estate issues for use in strategic asset management, investment analysis, portfolio valuation, and litigation.
- Supplied services for a broad range of commercial real estate product types, including large-scale mixed-use development, office, retail, industrial, single-family and multi-family development, agriculture, hotel, condo-hotels, commercial and residential condominium projects, large, urban and rural, land tracts, and specialty uses.
- Coordinated with land planners and engineers for proposed developments and eminent domain acquisitions.
- Provided valuation and consulting services for commercial real estate assets located in 57 of Florida's 67 counties.

- In 2018, was lead associate and project coordinator in valuing and counseling of 120 acres surrounding the Orlando Orange County Convention Center entitled for development of 4,900 hotel units, 1,200 apartment units, 953,000 square feet of commercial floor area and 700,000 square feet of industrial floor area.
- Assisted CIII Asset Management, LLC, a highly rated servicer (primary and special) of over $20 billion of commercial real estate loans, by providing valuation and advisory services in reference to more than 4,000 residential rental apartment units located in forty-seven projects situated throughout Florida.
- Provided consulting and valuation services to Cardtronics, Inc., a public traded company (CATM) that provides financial services through its network of automated teller machines and kiosks. Developed analytical models that were used to determine market rent for ATMs at over 4,000 locations throughout Florida.

EDUCATION

University of Denver

- Master of Science – Graduated June 2018
- Major: Real Estate and the Built Environment
- Awards: Golden Key International Honor Society, Alpha Sigma Gamma – International Real Estate Honorary Society, Beta Gamma Sigma – Academic Honor Society

The Florida State University

- Bachelor of Science – Graduated May 2009
- Major: Real Estate Minor: Urban Regional Planning

PROFESSIONAL DESIGNATIONS

Florida State Certified General Real Estate Appraiser (RZ3732)
Florida State Licensed Sales Associate (SL3337310)
Argus Software Certified (ASC) – Enterprise
Member of the Royal Institute of Chartered Surveyors
Accredited Land Consultant - Realtor Land Institute

BAYSHORE VILLAGE CPD

DCI2022-00032

Presentation to Hearing Examiner

December 13, 2023

Project Team

- Ron Inge – Inge and Associates, Inc.
- Jennifer Sapen, AICP – Sapen Site Planning, LLC
- Nelson Taylor, MRICS, MSRE – LSI Companies
- Barrett Stejskal – BearPaws Environmental Consulting, Inc.
- W. Kirk Martin, P.G. – Water Science Associates
- Carl A. Barraco, P.E. – Barraco and Associates, Inc.
- Ted Treesh – TR Transportation Consultants, Inc.
- Neale Montgomery, J.D. – Pavese Law Firm

APPLICANT EXHIBIT# 1

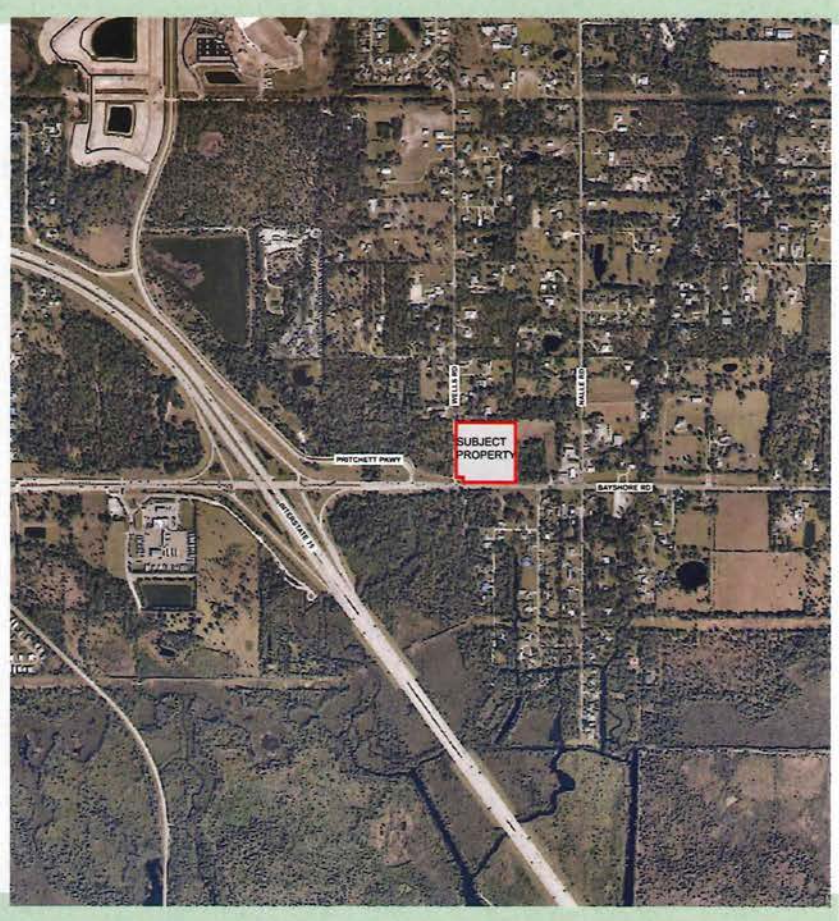
INTRODUCTION

- General Interchange designation in 1989 Lee Plan, well before Bayshore Community Plan
- Zoning for variety of retail/commercial uses in 2006
- Area has changed with advent of Babcock Ranch, other residential developments
- Nothing has occurred due to the limited uses approved in 2006 and the economics of a parcel of this size near the interchange
- Agree with staff with exception of three items-(drive-through location) **(1)**

INTRODUCTION

Jennifer Sapen

- Lee Plan and LDC Compliance
- Surrounding uses and change in character of Bayshore area, east of I-75
- Overview of FDOT plans for Bayshore Road---TBT to discuss in more detail
- MCP review
- Buffering, particularly on north line and why a wall is not needed due to extensive vegetation **(2)**
- Discussion and analysis of the requested deviations
- Community and neighborhood meetings and changes made to our request as a result



INTRODUCTION

Nelson Taylor

- Analysis of Bayshore Community General Interchange area
- Developments that have occurred that decrease acreage available for commercial and retail use-conversion to residential
- Significant presence of wetlands on remaining acreage, further decreasing available acreage
- Net acreage remaining, the needs of the traveling public and the community and why the requested SF will help fulfill those needs **(3)**

Barrett Stejskal

- Discussion of protected species and land cover
- Only species noted were gopher tortoises
- Land cover dense in northern portion-supports request to delete requirement for wall

INTRODUCTION

Kirk Martin

- Will address wellfield related issues
- Discuss how protection zones were created and how protected
- Will outline how staff proposed conditions and site design will address any concerns related to the well nearby
- Utilizing GIS representation of wellfield protection areas

Carl Barraco

- Utility availability
- Stormwater management and drainage

Ted Treesh

- LOS with and without project
- More importantly—FDOT plans to substantially widen roadway that will alter the area and address any traffic concerns

Neale Montgomery

- Will address any legal or procedural issues

Ron Inge

- Summary and request to respond to staff and/or public concerns after those are presented.

AERIAL LOCATION MAP

BAYSHORE VILLAGE CPD

DCI2022-00032

Land Planning

SAPEN
Site Planning

Jennifer Sapen, AICP

Sapen Site Planning, LLC

LOCATION & REQUEST

- Located on Bayshore Road at NE corner of I-75 interchange, at Wells Road intersection
- 8.75 acres
- CPD to CPD (currently commercially zoned)
- Approved as CPD in 2006 through Z-06-046
- Request to allow 125,000 sf commercial uses

BAYSHORE COMMUNITY PLAN COMMERCIAL LOCATION

POLICY 18.1.1

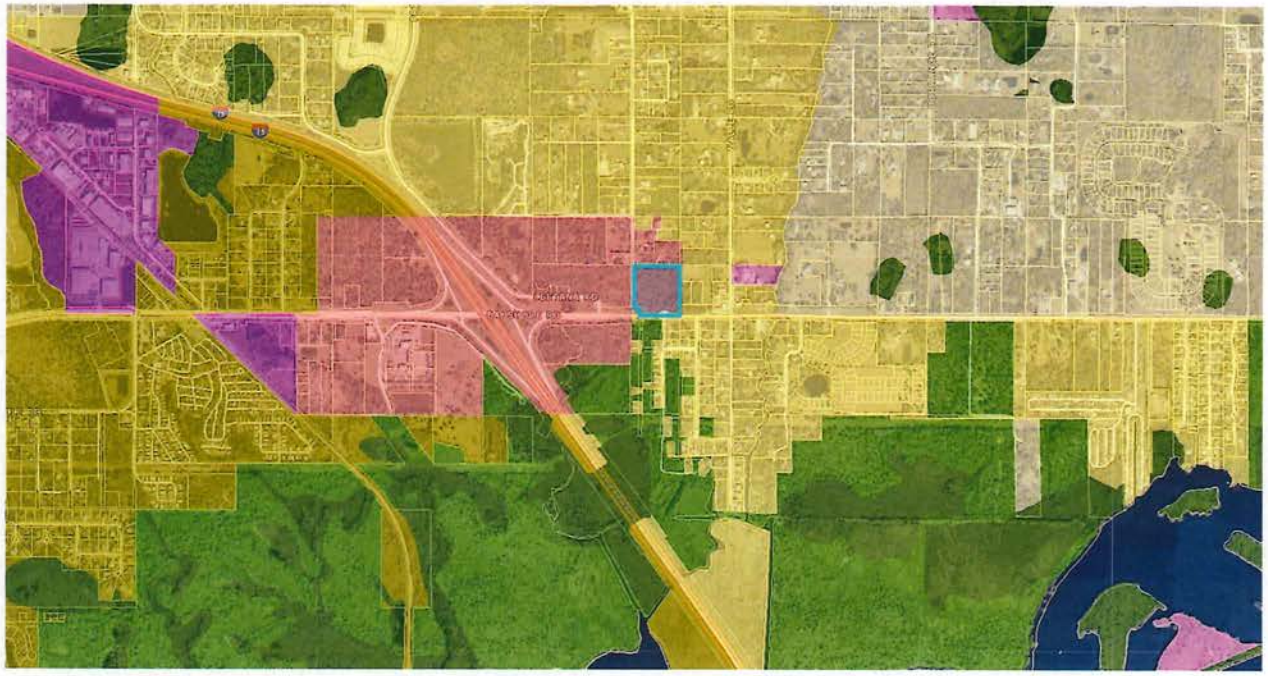
Retail commercial uses will be limited to the Interstate Interchange designation at Bayshore and I-75, plus minor commercial uses at the intersections of Nalle Road and Bayshore, SR 31 and Bayshore, and SR 31 and Old Bayshore. Non-retail commercial uses are permitted elsewhere consistent with the Lee Plan and the LDC.

Compliance

- The proposed CPD is located at Bayshore Road and I-75
- Within General Interchange Future Land Use designation
- The first Policy within the Bayshore Community Plan provides a distinction between the subject site and other areas within Bayshore Community

INTERCHANGE FUTURE LAND USE

- Located in General Interchange FLU
- Policy 1.3.2
  - Intended primarily for land uses that serve the traveling public
  - But permits a broad range of uses due to location and market attractions
- Defined as Future Urban Area by the comprehensive plan: FUTURE URBAN AREAS – *Those future urban categories on the Future Land Use Map that are designated for urban activities, allow for bonus density, and encourage a mixture of uses: Intensive Development, General Interchange, Central Urban, Destination Resort Mixed Use Water Dependent, and Urban Community.*



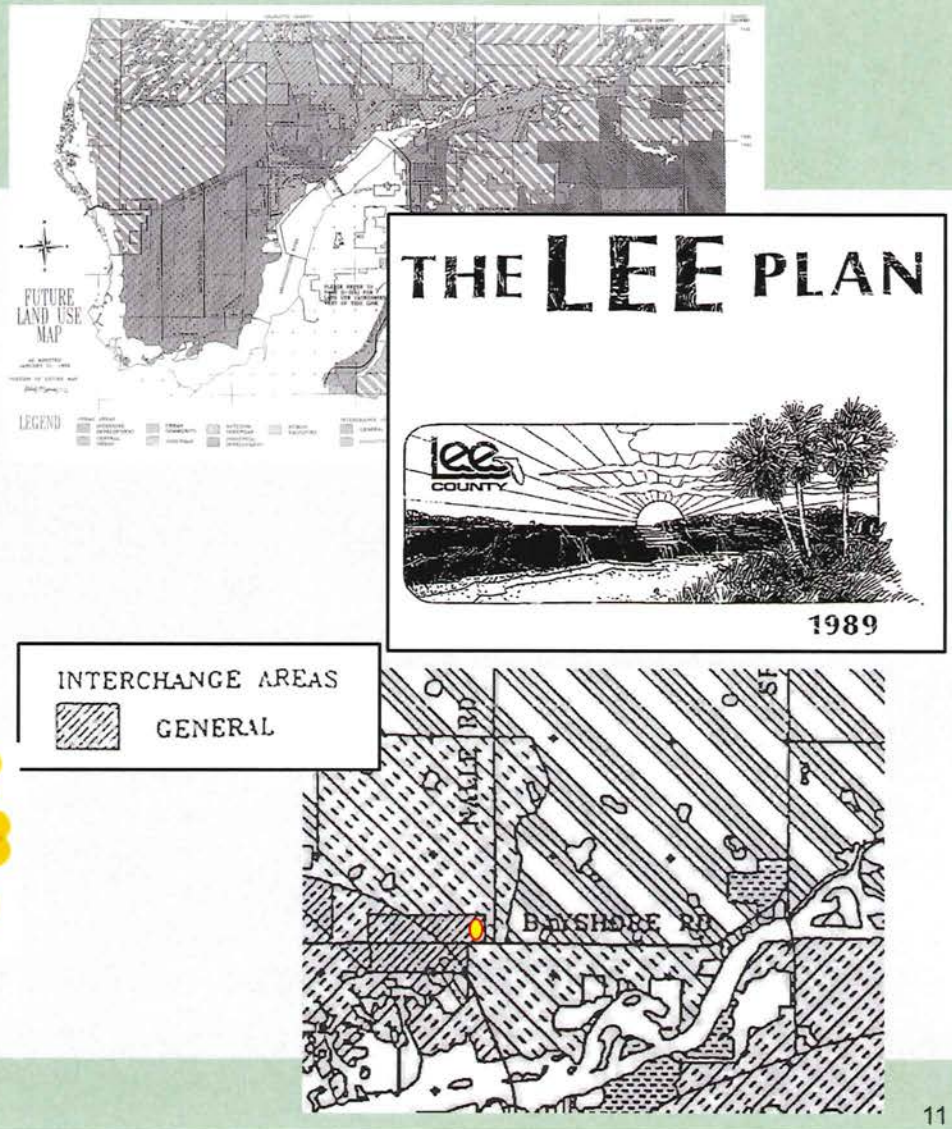
HISTORIC FUTURE LAND USE

Current Policy

POLICY 1.3.2: The General Interchange areas are intended primarily for land uses that serve the traveling public: service stations, hotel, motel, restaurants, and gift shops. But because of their location, market attractions, and desire for flexibility, these interchange uses permit a broad range of land uses that include tourist commercial, general commercial, light industrial / commercial, and multi-family dwelling units. The standard density range is from eight dwelling units per acre (8 du/acre) to fourteen dwelling units per acre (14 du/acre). Maximum density is twenty-two dwelling units per acre (22 du/acre).

1989 Policy

POLICY 1.3.2: The General Interchange areas are intended primarily for land uses that serve the traveling public: service stations, hotel, motel, restaurants, and gift shops. But because of their location, market attractions, and desire for flexibility, these interchange uses permit a broad range of land uses that include tourist commercial, general commercial and light industrial/commercial.



I-75 CORRIDOR

I-75 connection between Punta Gorda Airport and SFW Airport:

- No gas stations for over 17 miles on I-75 between Bayshore Road and Jones Loop Road
- 21 gas stations in 5 exits south of Bayshore Road
- 5 gas stations at Jones Loop Road
- Serves as major corridor for hurricane evacuation – including evacuation of Lee County residents to PNG airport

COMMERCIAL POTENTIAL

Commercial development east of I-75 along Bayshore is limited by FLU and physical restraints

- Land within General Interchange at I-75 is restricted by existing conditions
- Abutting single family north of CPD is unlikely to be developed as commercial in the near future due to:
  - Separation from Bayshore Road
  - Conditions of Wells Road north of the CPD
  - Surrounding residential
- The remaining FLU east of I-75 is Rural and Sub-Outlying Suburban
- The proposed intensity increase provides an opportunity to balance the loss of potential commercial development along Bayshore Road.

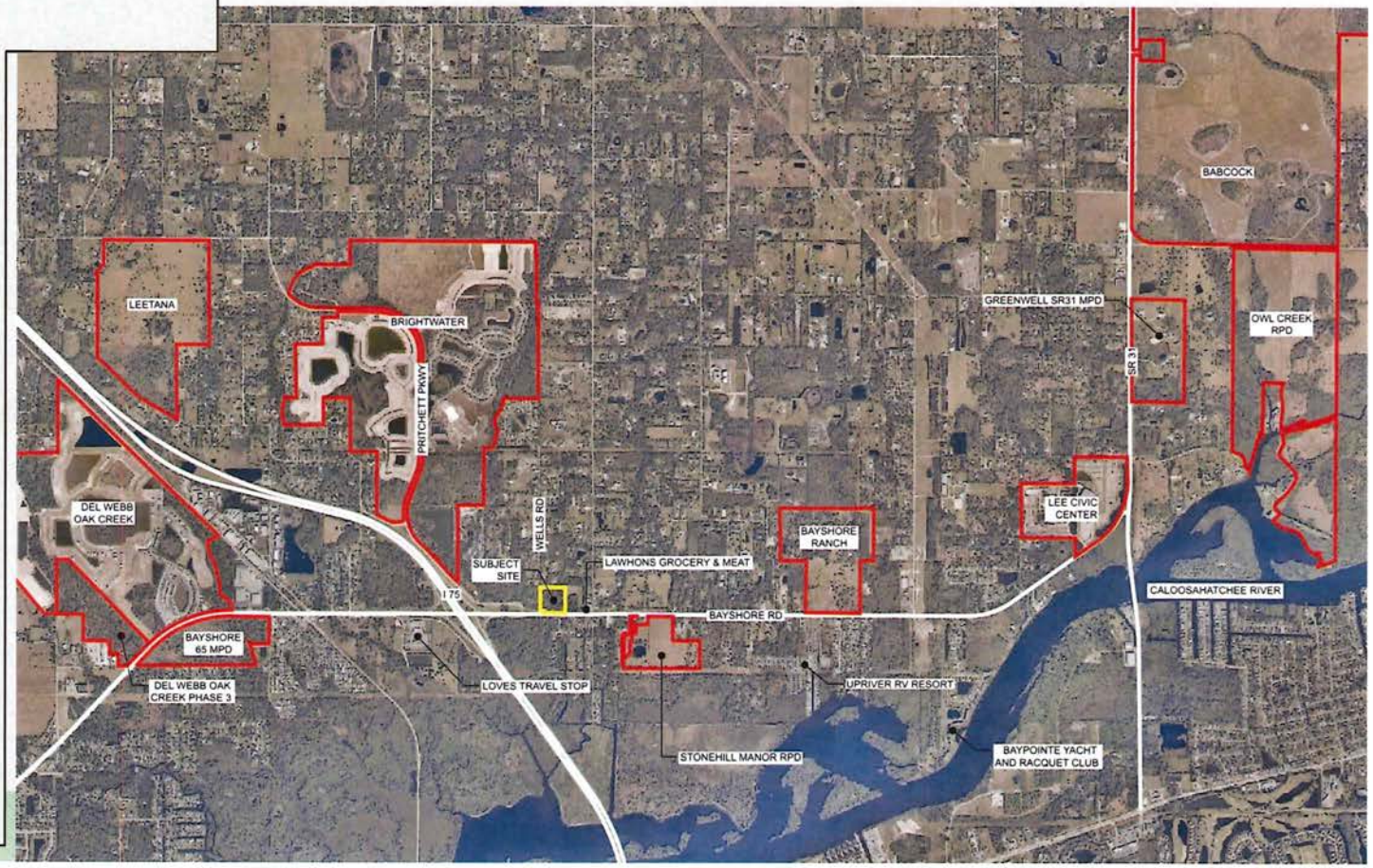
SURROUNDING DEVELOPMENTS

New economic drivers of commercial needs on Bayshore corridor

- Babcock Ranch (19,500 units)
- Brightwater (1,275 units)
- Stonehill Manor RPD (71 units)
- Bayshore Ranch (130 units)
- Leetana (201 units)

Benefits of localized commercial

- Provide commercial on the east side of I-75 (opposed to Bayshore commercial on west side of I-75 or using I-75 to other interchanges
- Reduces trips on Bayshore Road, I-75 and other I-75 interchanges



INTERCHANGE FUTURE LAND USE

- Located in General Interchange FLU
- Policy 1.3.2
  - Intended primarily for land uses that serve the traveling public
  - But permits a broad range of uses due to location and market attractions
- Limited land available east of I-75 on Bayshore Road

General Interchange east of I-75 (total = 97 ac)	
Subject site	9 ac
Developed residential	11 ac
Public roadway	15 ac
Wetland/Creek/OSW	29 ac
Access from Local Road (Triplett Rd)	15 ac
Remaining Land:	16 ac

ZONING MAP

DIRECTION	FUTURE LAND USE	LAND USE / ZONING
North	General Interchange (GI)	Residential / AG-2
South	Sub-Outlying Suburban (SOS)	Bayshore Road ROW / EC, C-1A
East	General Interchange (GI)	Vacant Commercial and Agricultural Land/CPD, AG-2 (*)
West	General Interchange (GI)	Wells Road ROW and Vacant Agricultural Land/AG-2

* CG rezoning under review

SURROUNDING AREA

Baypointe Yacht & Racquet Club

- 3- & 5- story multifamily buildings
- Constructed prior to 1998 (estimate 1983 based on LeePA sales transactions)
- Not rural

SURROUNDING AREA

Brightwater

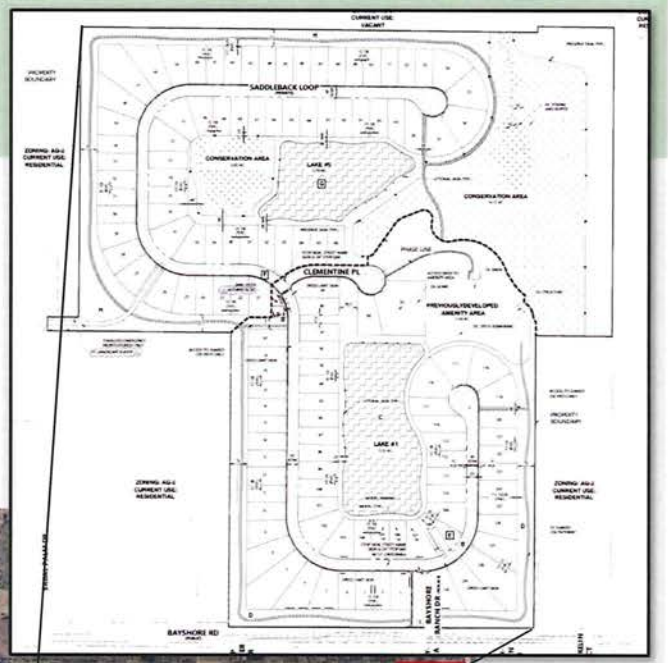
- 1,275 units
- Not rural

SURROUNDING AREA

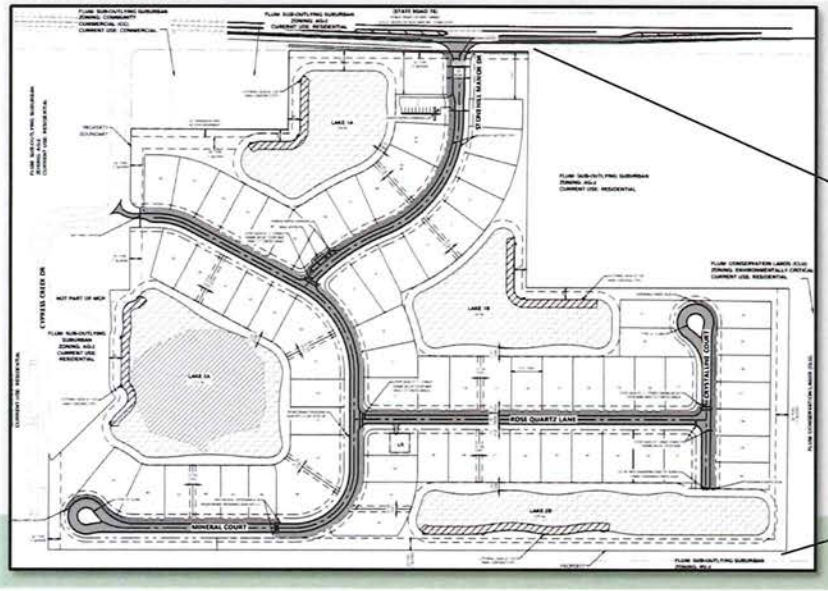
Bayshore Ranch & Stonehill Manor

- Bayshore Ranch – 130 units on 110 acres (exceeds Rural FLU due to location on arterial road and within utility service area)
- Stonehill Manor – 71 units on 40 acres (2 du/ac allowed by Sub-Outlying Suburban FLU)
- Not rural

Bayshore Ranch



Stonehill Manor



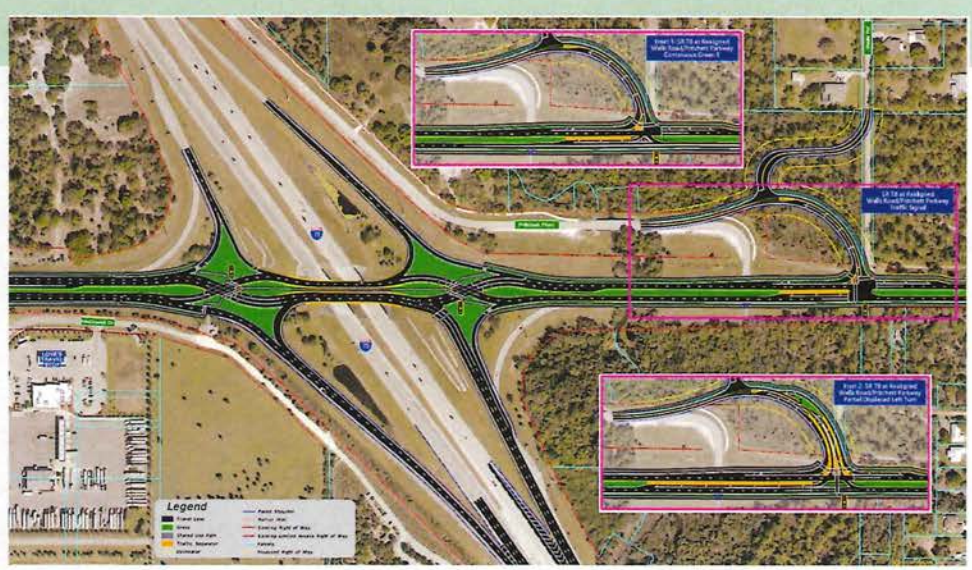
SURROUNDING AREA

Lawhon's

Grocery / Convenience /
Self Service Fuel Pumps

BAYSHORE ROAD FDOT IMPROVEMENTS

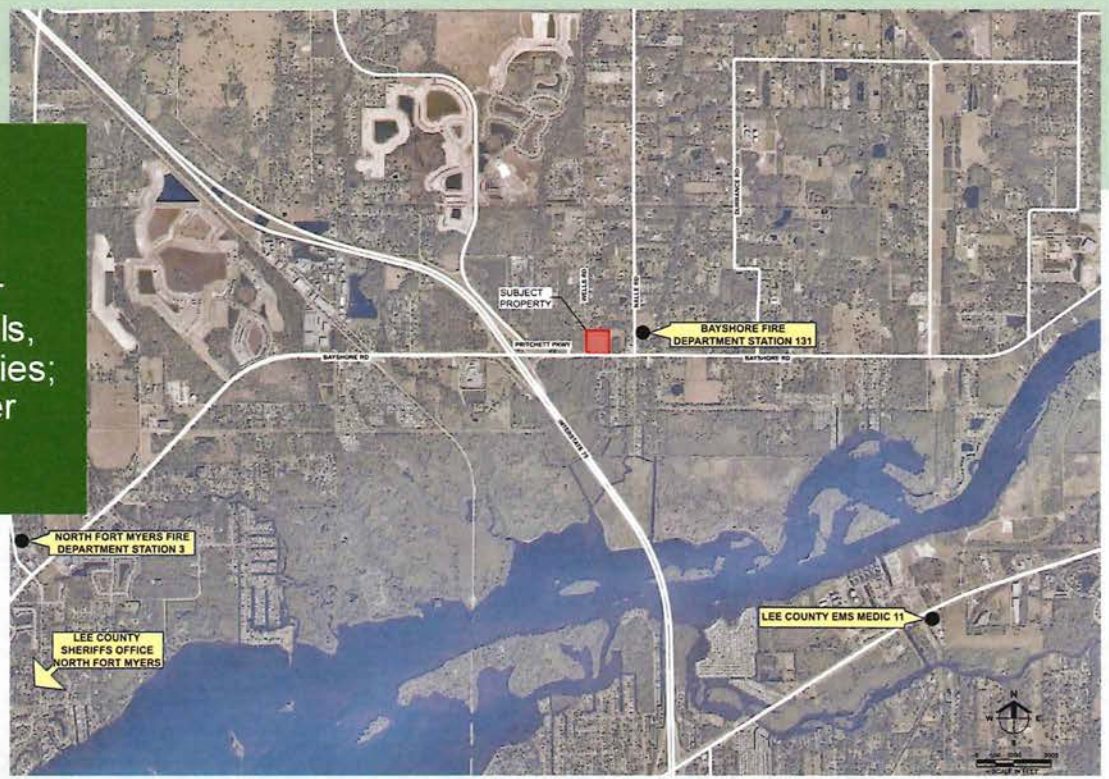
- Large land allocation used for proposed interchange
- Roundabout & cross section design
- Not rural



PUBLIC SERVICES

POLICY 2.2.1

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



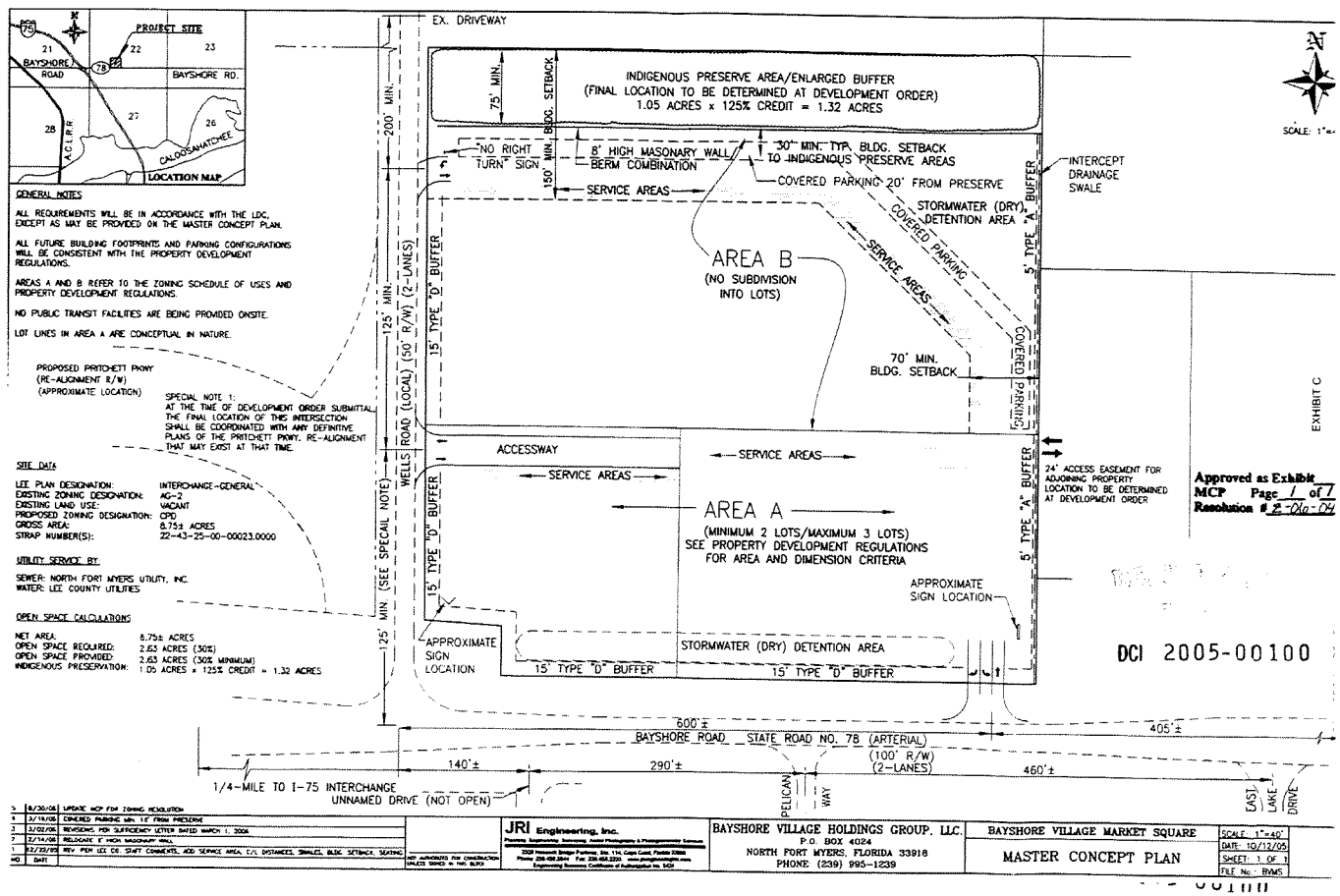
STANDARDS 4.1.1 & 4.1.2

….any new single commercial or industrial development in excess of 30,000 square feet ~ AND~
….any new single commercial or industrial development that generates more than 5,000 gallons of sewage per day, must connect to a sanitary sewer system.

- Potable water: Lee County Utilities
- Wastewater: Florida Governmental Utility Authority
- Adequate capacity & letters of availability provided

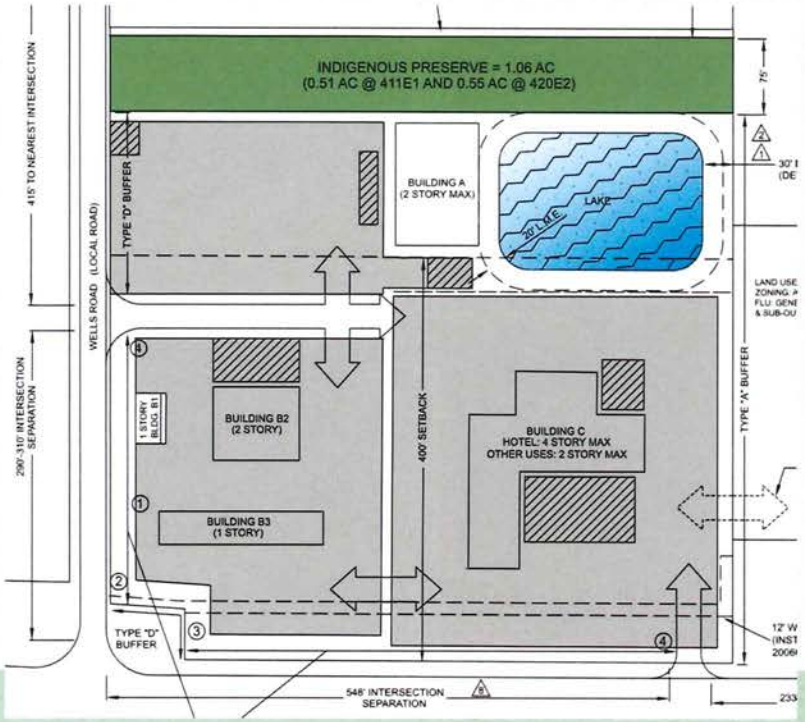
APPROVED MCP

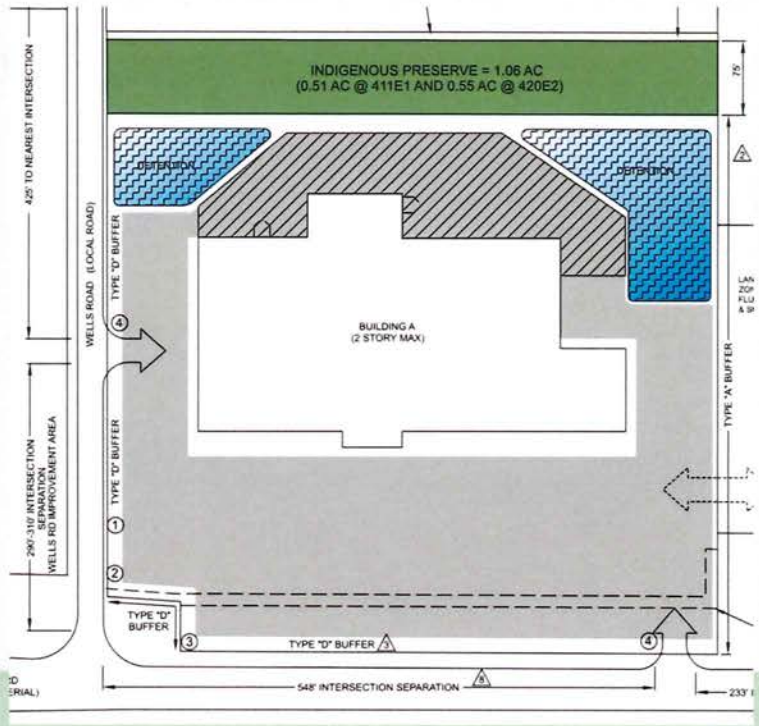
- Allows mix of commercial uses
- Split into two areas (A/B) with more intense uses allowed in Area A (south)
- Two access points on Wells Road
- North access 200' from existing single family



PROPOSED MCPs

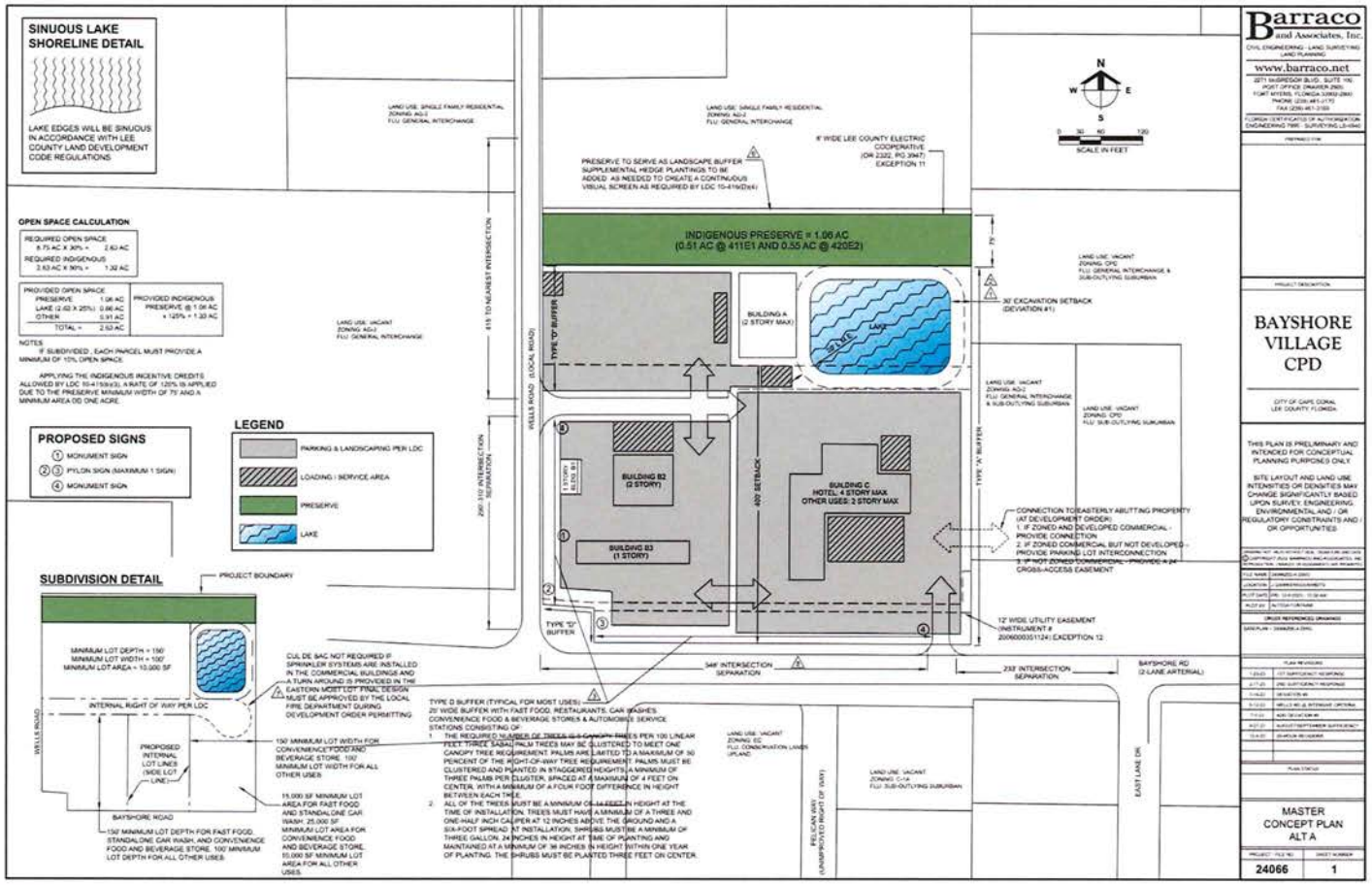
- Two MCPs are proposed
- Both with one access on Wells Road
- Both with natural preserve buffer on north boundary
- Lighting, loading and trash areas to be in accordance with LDC requirements





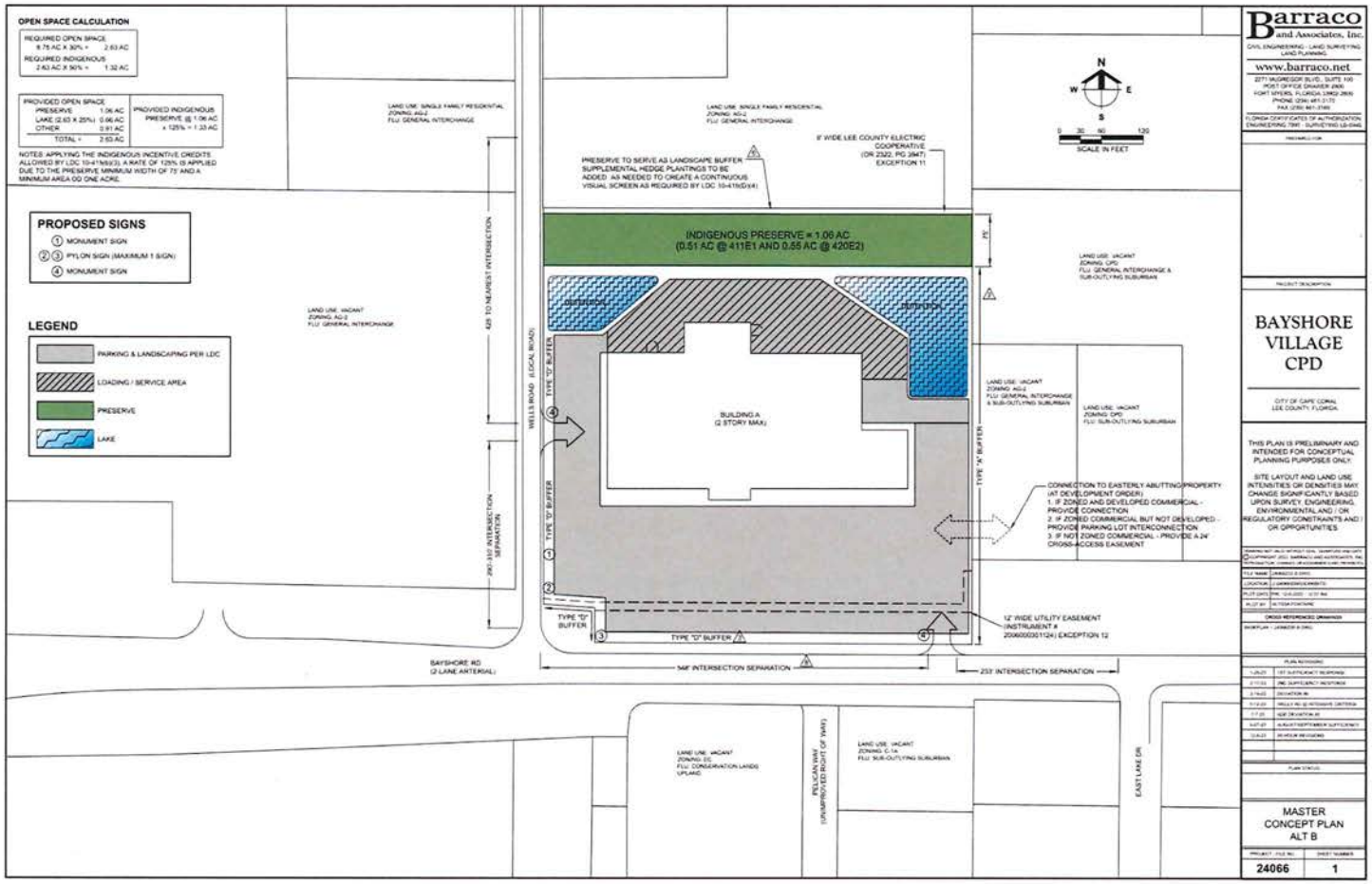
PROPOSED MCP (ALT A)

- Multi-use tenant
- May or may not be platted (subdivision detail)
- Lot size and building placement regulated by property development regulations
- Some uses have unique setbacks, buffers and other conditions



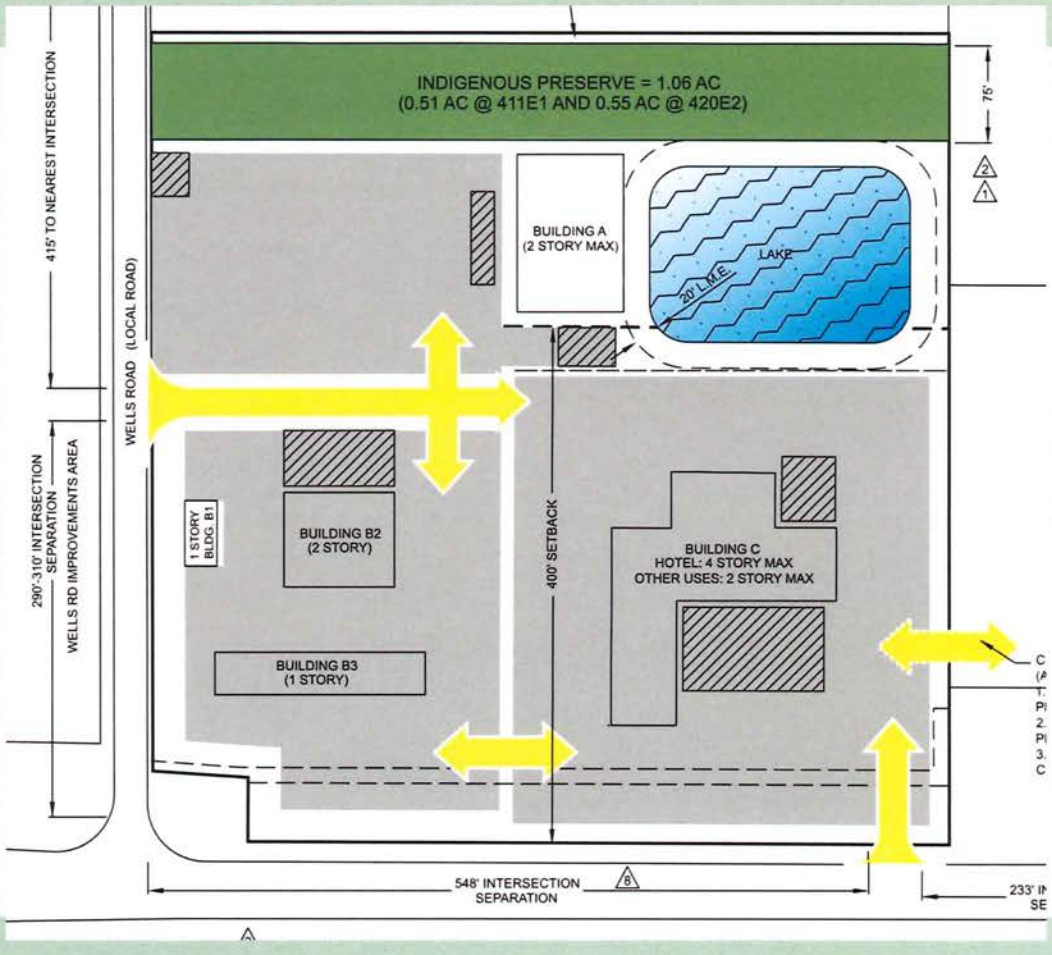
PROPOSED MCP (ALT B)

- Single-use tenant
- Conditions and access the same as MCP Alt A



ACCESS

- One access on Wells Road 415' from neighboring driveway to north (increased from 200' on approved MCP.
- Internal connectivity between parcels
- East connection (agree with staff's recommended Deviation 2 Condition)
- Bayshore Road access unchanged



DESIGN CRITERIA

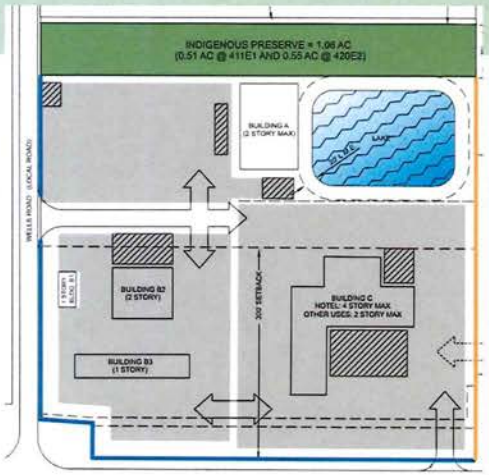
LDC 10-610 (commercial design criteria)

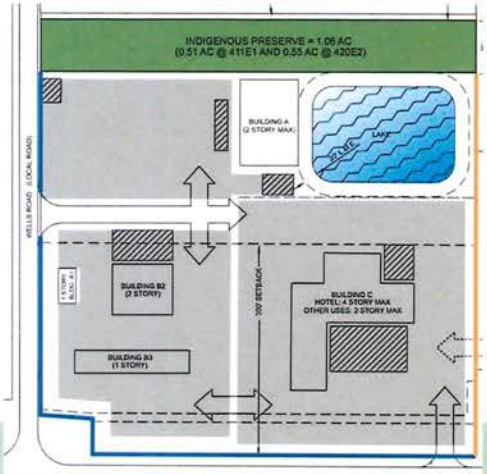
- Loading areas and docks (including delivery truck parking), outdoor storage, trash collection, heating/air conditioning and other similar mechanical equipment, solid waste disposal facilities, trash compaction, recycling, and other similar service function areas must be fully shielded from adjacent properties and street rights-of-way when viewed from ground level. The shielding must extend vertically a distance equal to or greater than the items, delivery trucks, or facilities being shielded.
- Shielding material and design must be consistent with design treatment of the primary facades of the commercial building or development and the landscape plan.
- Roof top mechanical equipment must be shielded from view at ground level by parapet or similar architectural features.

LDC 34-625 (lighting criteria)

- In no case may the illumination exceed 0.5 footcandle measured at the property line. The amount of illumination projected onto a residentially zoned property or use from another property, may not exceed 0.2 footcandle measured at ten feet from the property line onto the adjacent residential property.
- Fixtures used to accent architectural features, materials, colors, style of buildings, landscaping, or art must be located, aimed and shielded so that light is directed only on those features. Such fixtures must be aimed or shielded to minimize light spill onto adjacent properties or into the night sky in conformance with illumination and luminaire standards.
- All nonessential exterior commercial lighting must be turned off after business hours.

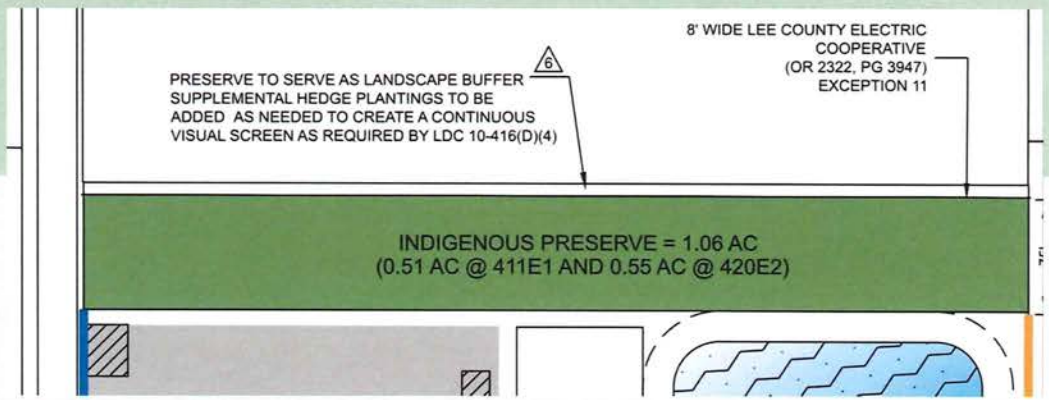
BUFFERS





BUFFER LEGEND

- TYPE A BUFFER
- TYPE D BUFFER



North buffer

- 75' wide indigenous preserve
- 8' LCEC easement
- Indigenous management plan
- Commitment to supplement plantings

Type A Buffer (east border)

- 5' wide
- 4 trees per 100 l.f.

Type D Buffer (south and west borders)

- 15' wide
- 5 trees per 100 l.f.
- Double staggered hedge row

BUFFERS / SPECIAL USE CRITERIA

LDC 34-1353 - Requires special criteria for

- Convenience food and beverage store
- Automotive service stations
- Fast food restaurants
- Car washes

Buffers

- 25' wide abutting Wells Road and Bayshore Road
- 15' wide at internal accessway
- 5 trees per 100 l.f. – 14' height installed with 6'
- Palms may be used at rate of 3 palms = 1 tree, up to 50% of plantings, staggered heights, planted 4' on center
- Shrubs – 24" height installed, maintained at 36" at 1-year, planted 3' on center

Canopies

- Lighting per 34-625(d)(4)c (recessed/shielded, indirect lighting, prohibits top mounted exposed lights, County restrictions on off-site light spillage)
- Color consistent with principal structure

Note: internal uses within the CPD provide additional buffering and separation to abutting single family home

- Indigenous buffer + LCEC easement
- North parcel use with parking canopy trees and building perimeter planting
- Internal accessway buffer

USES – CONDITIONS SPECIALIZED TO THIS CPD

Uses restricted to southern 400'

- Automobile repair and service, Groups I and II
- Automobile service station, with or without pumps
- Car wash, accessory or standalone
- Convenience food and beverage store, with or without gas pumps and EV charging stations
- Drive through facility for any permitted use (limited to east side of buildings)
- Repair shops, Groups I, II, III and IV
- Restaurants, fast food
- Self-service fuel pumps

Uses which require a Special Exception

- Bar or cocktail lounge
- Boat storage, dry
- Food and beverage service, limited
- Parking lot, commercial

COMPREHENSIVE PLAN COMPLIANCE

OBJECTIVE 5.1 - All development approvals for residential, commercial, and industrial land uses must be consistent with the following policies…

POLICY 5.1.1 - Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment…

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

Compliance – demonstrated through provisions of:

- Increased setbacks and buffers for certain uses
- Indigenous preserve buffer and preserve management plan
- LDC commercial design criteria and lighting standards

1. Many uses are allowed in existing approved CPD
2. Many uses allowed in neighboring CG zoning
3. Similar or more intense uses allowed in neighboring CPDs

USES - NEIGHBORING CPDS

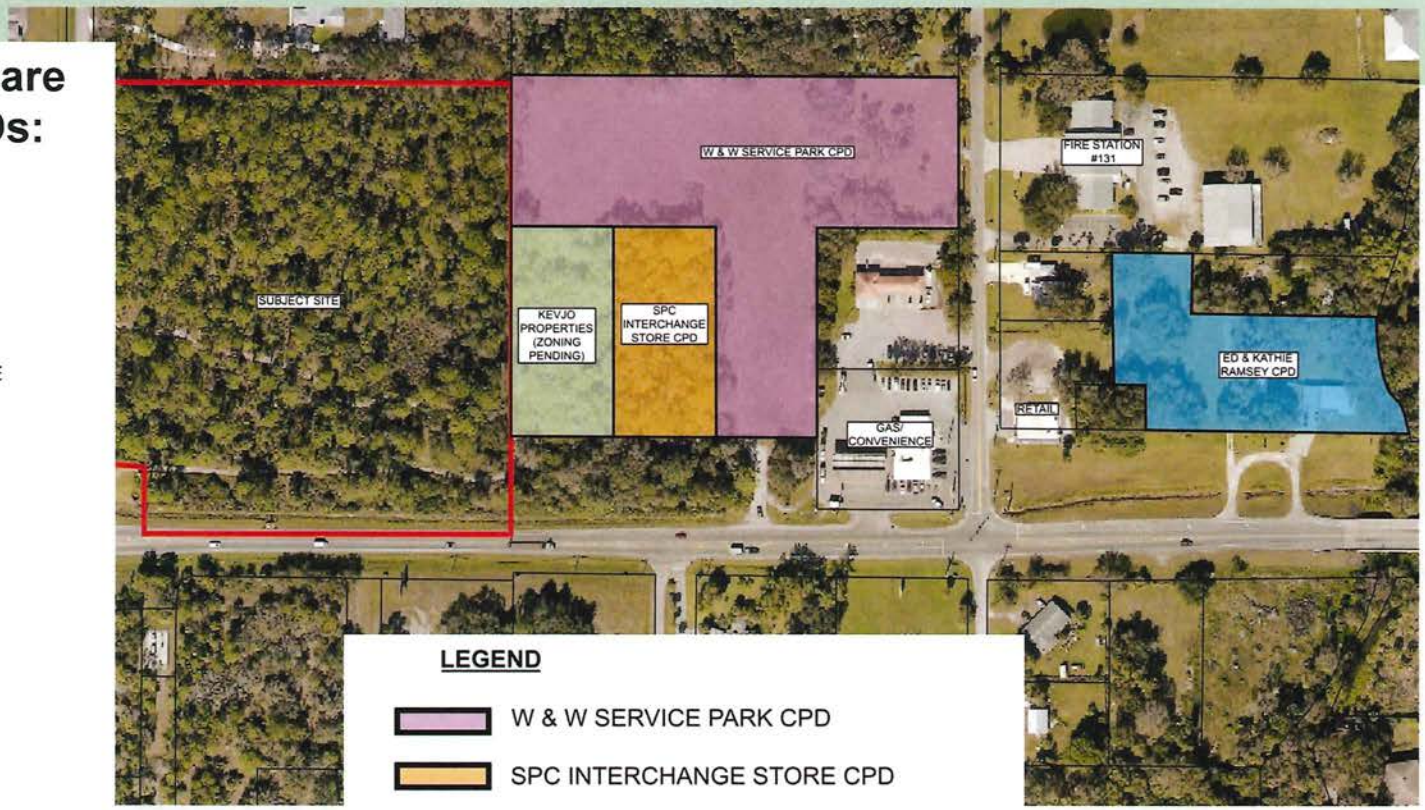
Many of the proposed uses are allowed in neighboring CPDs:

SURROUNDING CPDs & APPROVED USES

W & W SERVICE PARK CPD
- AUTO PARTS STORE
- CONSUMPTION ON PREMISES
- CONTRACTORS & BUILDERS
- CONVENIENCE FOOD & BEVERAGE STORE
- DRIVE THROUGH FACILITY FOR ANY PERMITTED USE
- FOOD STORES
- REPAIR SHOPS
- RESTAURANTS
- SCHOOLS, COMMERCIAL
- SELF SERVICE FUEL PUMPS
- WAREHOUSE PUBLIC/MINI (PENDING)

SPC INTERCHANGE STORE CPD
- CONSUMPTION ON PREMISES
- CONTRACTORS & BUILDERS
- TRANSPORTATION SERVICES
- VEHICLE & EQUIPMENT DEALERS
- FUNERAL HOME & MORTUARIES
- MINI-WAREHOUSE
- PROCESSING & WAREHOUSING
- REPAIR SHOPS
- RESTAURANTS
- SCHOOLS, COMMERCIAL
- STORAGE, INDOOR, ENCLOSED, OPEN

ED & KATHIE RAMSEY CPD
- BUILDING MATERIAL SALES
- ESSENTIAL SERVICE FACILITY GROUP II - LIMITED TO SEWAGE TREATMENT FACILITY
- RESTAURANTS
- TRANSIENT HOTEL MOTEL 75 ROOMS



LEGEND

- W & W SERVICE PARK CPD
- SPC INTERCHANGE STORE CPD
- ED & KATHIE RAMSEY CPD
- KEVJO PROPERTIES(PENDING COMMERCIAL ZONING)

USES – CURRENTLY APPROVED

Proposed uses that are currently approved

- Accessory Uses
- Administrative Offices
- ATM (automatic teller machine)
- Auto parts store – without installation
- Bait and tackle shop
- Banks and financial establishments, Groups I
- Boats parts store – Limited to one
- Broadcast studio
- Business Services, Groups I and II
- Clothing stores, general
- Clubs – commercial, fraternal, membership, private
- Consumption on premises, indoor only
- Day care center, adult, child
- Drive-through facility for any permitted use
- Drugstore, pharmacy
- Essential services
- Essential service facilities, Group I
- Excavation
- Water retention – Not to include the removal of excavated materials from the site
- Fences, Walls
- Food stores, Groups I and II
- Gift and souvenir shop
- Hardware store
- Hobby, toy and game shops
- Household and office furnishings, Groups I, II, and III
- Medical office
- Non-store retailer
- Paint, glass and wallpaper
- Parking lot
- Places of worship
- Printing and Publishing
- Restaurant, Groups I, II and III
- Schools, commercial
- Signs in accordance with Chapter 30
- Social services, Groups I and II
- Specialty retail shop, Groups I, II, III, and IV
- Studios
- Temporary uses
- Variety stores

USES – ALLOWED BY CG ZONING

Uses allowed by CG zoning which are not proposed:

- Animal kennel
- Animal control center
- Bus station / depot
- Contractors and builders Group III
- Indoor flea market
- Mass transit depot
- Model display center
- Truck stop
- Vehicle and equipment dealers Group V
- Wholesale establishments Groups I, III and IV

PUBLIC INPUT

Revisions made to request after meeting with abutting residential neighbor and voluntary community meeting held October 26th, 2022 at New Hope Church (not required by LDC)

1. Buffer on North Line - increased buffer from 0.8 acres to over an acre.
2. Wells Road Entrance - moved entrance on Wells Road closer to Bayshore Road
3. North boundary - restricted bar/cocktail lounge use and convenience store/gas pumps to south 300' of the property. *(the 300' restrictions have since been revised to 400' due to wellfield protection zones)*
4. Uses of concern:
   a. Animal Kennel - eliminated, but kept veterinarian office
   b. Bar/Cocktail lounge - restricted to south 300', if the bar/cocktail lounge stands alone, but a bar/cocktail lounge can be contained within a hotel.
   c. Nightclubs - eliminated
   d. Package Store - remains, but no consumption as a use related to the store
   e. Recycling Facility - eliminated
   f. Mass transit and maintenance depot - eliminated
   g. Any consumption on premises will be restricted to the uses noted in b., above
5. Blasting—not requested as a use
6. Intensity---reduced intensity from 150,000 SF to 125,000 SF

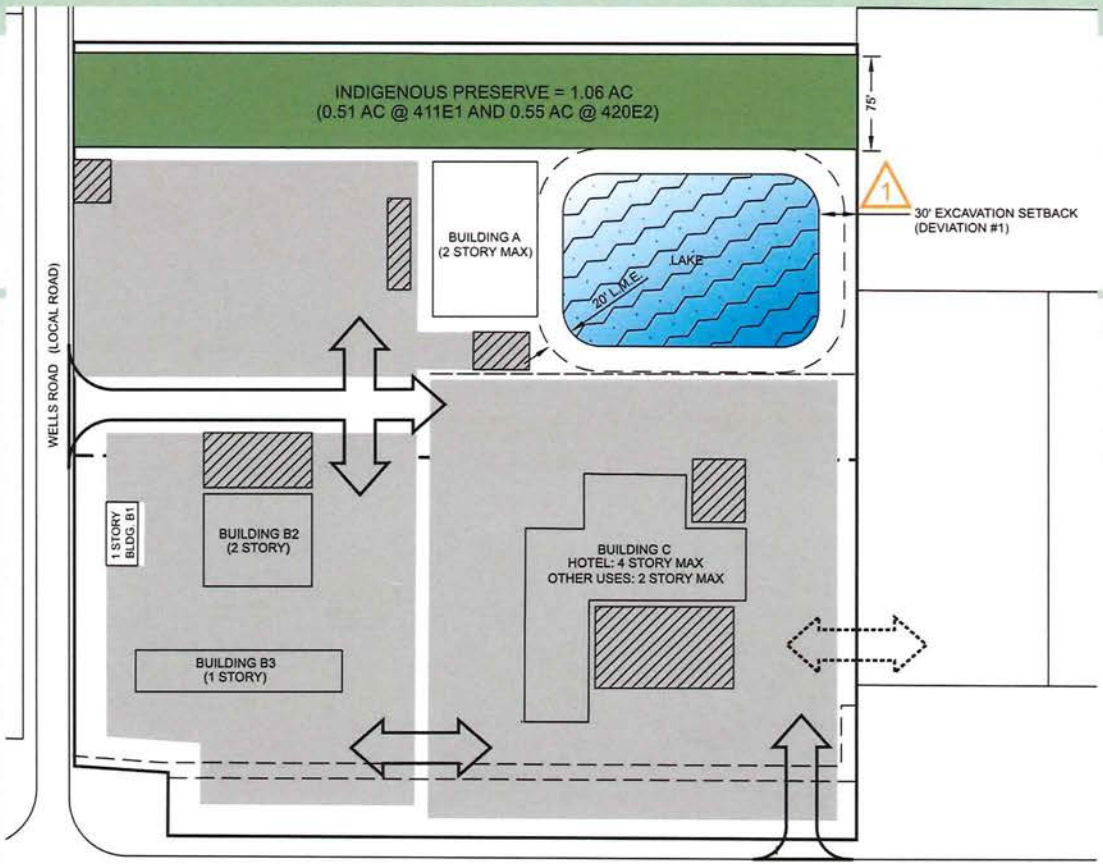
DEVIATION 1

LDC 10-329(d)a.3

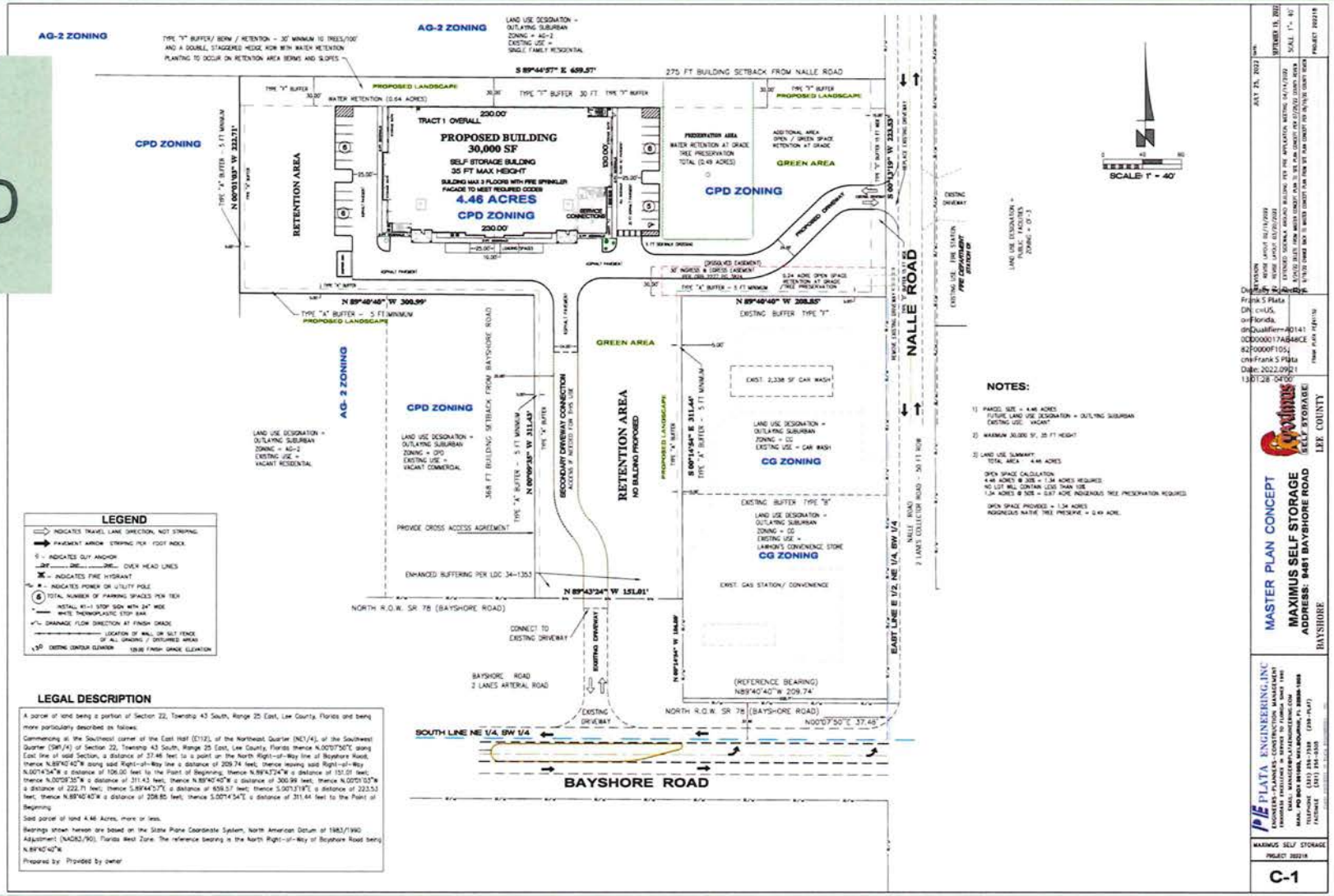
Which requires excavation setback of 50' to allow 30' setback.

Justification

- Water management area proposed on abutting CPD (W&W Service Park CPD)
- Type A Buffer (4 trees per 100 lf) proposed on both CPDs at deviation location



W&W SERVICE PARK CPD MCP



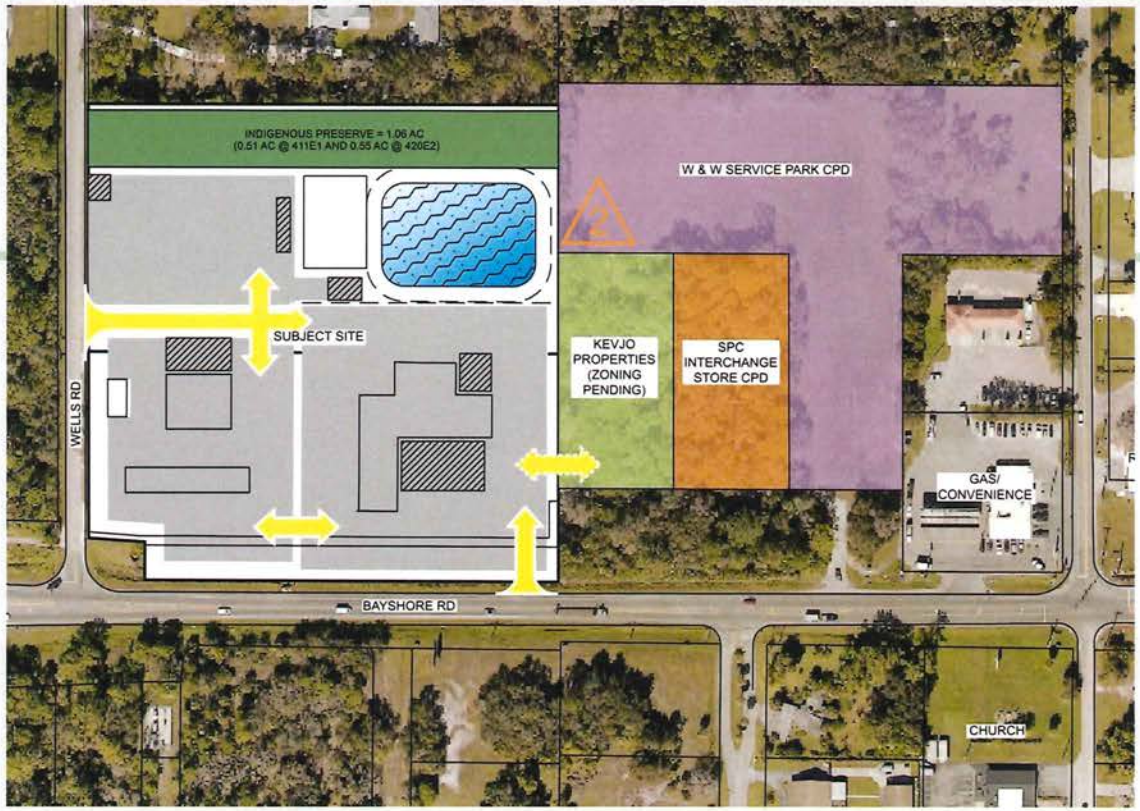
DEVIATION 2

LDC 10-610(e)

Which requires parking lot interconnections to adjacent commercial uses to provide no interconnection with the abutting CPD.

Justification

- Requests to omit connection to W&W Service Park CPD
- In a location where both CPDs propose abutting water management areas
- Agree with staff conditions…



DEVIATION 2

Staff Conditions of Deviation Approval

LDC 10-610(e) which requires parking lot interconnections

i. The easterly parking lot interconnection annotated on the Master Concept Plans must be made at time of local development order 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 local development order approval for the subject property, a parking lot interconnection stub must be made to the property line and depicted on the approved development order plans.

iii. If the property is not zoned for commercial uses, a 24-foot-wide cross-access easement must be provided for future parking lot interconnection. The easement language must be acceptable to the County Attorney's Office and executed and recorded in the Public Records prior to approval of any building permit for commercial uses on the property.

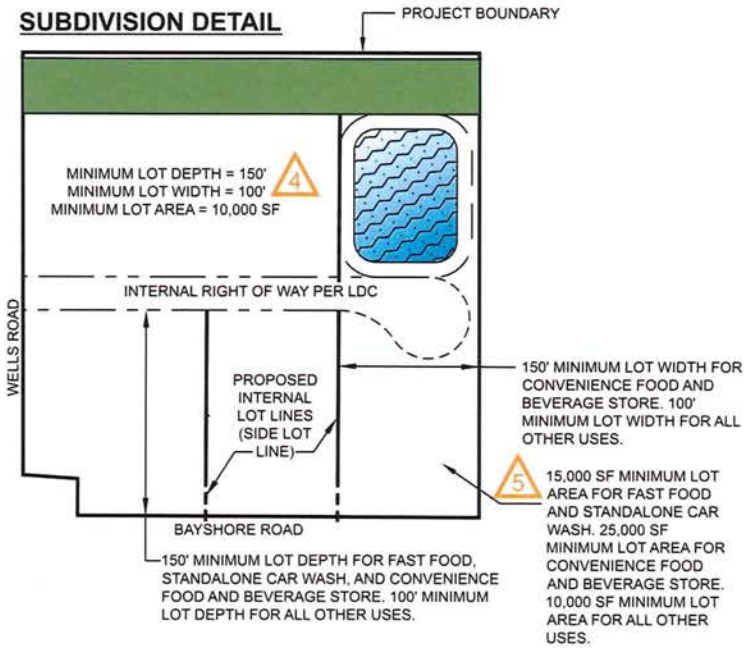
DEVIATIONS 4 & 5

LDC 34-1353(c)-(1)&(3)

Which requires 150' lot width and 25,000 sf lot area to allow 100' lot width and 15,000 sf lot area

Justification

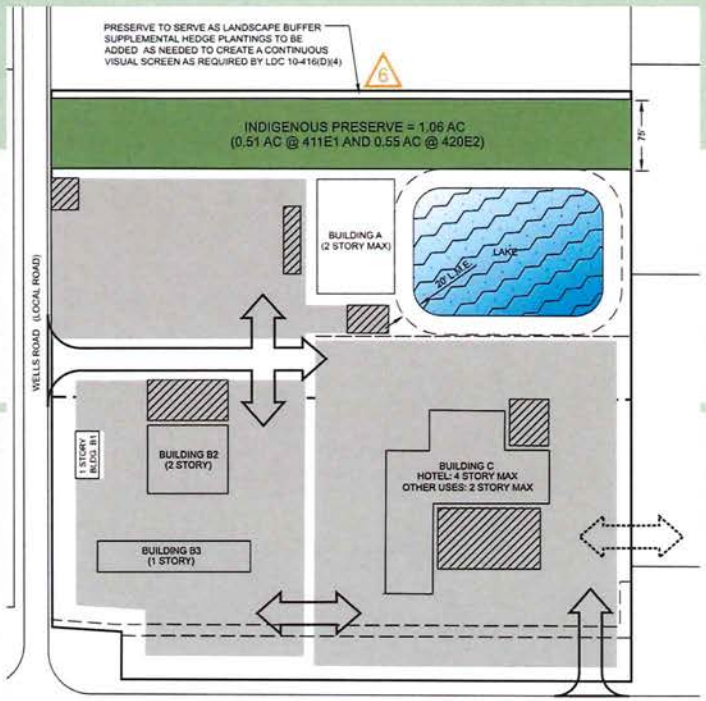
- Requirement applies only to fast food restaurants and car washes
- Therefore, limited to southern 400' of property by staff Condition 2
- Allows for fee-simple lots to be platted consistent with some smaller franchise models



DEVIATION 6

LDC 10-416(d)(3)

Which requires a Type C or F Buffer along the north boundary to allow indigenous preserve to serve as buffer.



- Type C and F buffers vary in width, plantings and hardscape

BUFFER TYPES (per 100 linear feet)		
Buffer Types	C	F
Minimum width in feet	15	30
Minimum # of trees	5	10
Minimum # of shrubs	18(4)	Hedge(2)
Wall requirement (1)	Yes	No

- The proposed buffer is 75' wide, plus an additional 8' wide LCEC easement of open space north of the preserve
- No vegetation to be cleared within LCEC easement, but at a minimum the additional open space will allow tree canopies to expand.

DEVIATION 6

BUFFER TYPES (per 100 linear feet)		
Buffer Types	C	F
Minimum width in feet	15	30
Minimum # of trees	5	10
Minimum # of shrubs	18(4)	Hedge(2)
Wall requirement (1)	Yes	No

Understanding that the LDC finds both a Type C and Type F buffers appropriate buffering to existing residential, a correlation between the number of buffer trees and buffer width related to the presence of a wall can be extracted

	With a Wall	Without a Wall	Wall / No Wall Correlation
Width	15'	30'	15' additional buffer width equates to a wall
# of Trees/100 l.f.	5 trees	10 trees	5 additional trees equates to a wall

- The proposed buffer of 75' provides the 30' required by a Type F buffer, plus 45' additional feet
- Existing vegetation within preserve has contains FLUFCS codes with suffixes –E1 and –E2, indicating low exotic infestation

NORTH BUFFER PHOTOS

Preserve Management Plan

- Removal of exotic species, monitored and maintained
- Annual preserve monitoring for 5 years
- Plantings to occur if 80% native coverage isn't achieved in 2 years

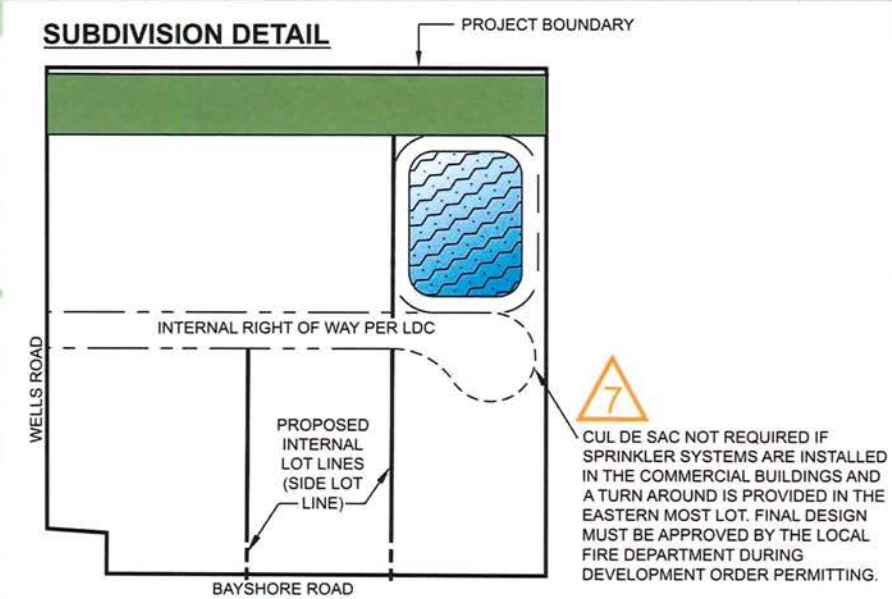
DEVIATION 7

LDC 10-296(k)

Which requires a cul de sac on dead end roads to provide no cul de sac if turn around is provided within the commercial outparcels.

Justification

- Only applicable if platted with a road right of way and subdivided as shown on MCP Alternate A
- Only allowed if proper turn-around is provided within the last parcel and a letter of no objection is obtained from the local fire department prior to DO approval
- Allows for land for cul de sac turn-around to be utilized within the last (eastern) parcel.



BAYSHORE VILLAGE CPD

DCI2022-00032

Market Research

Nelson Taylor, MRICS, MSRE

LSI Companies

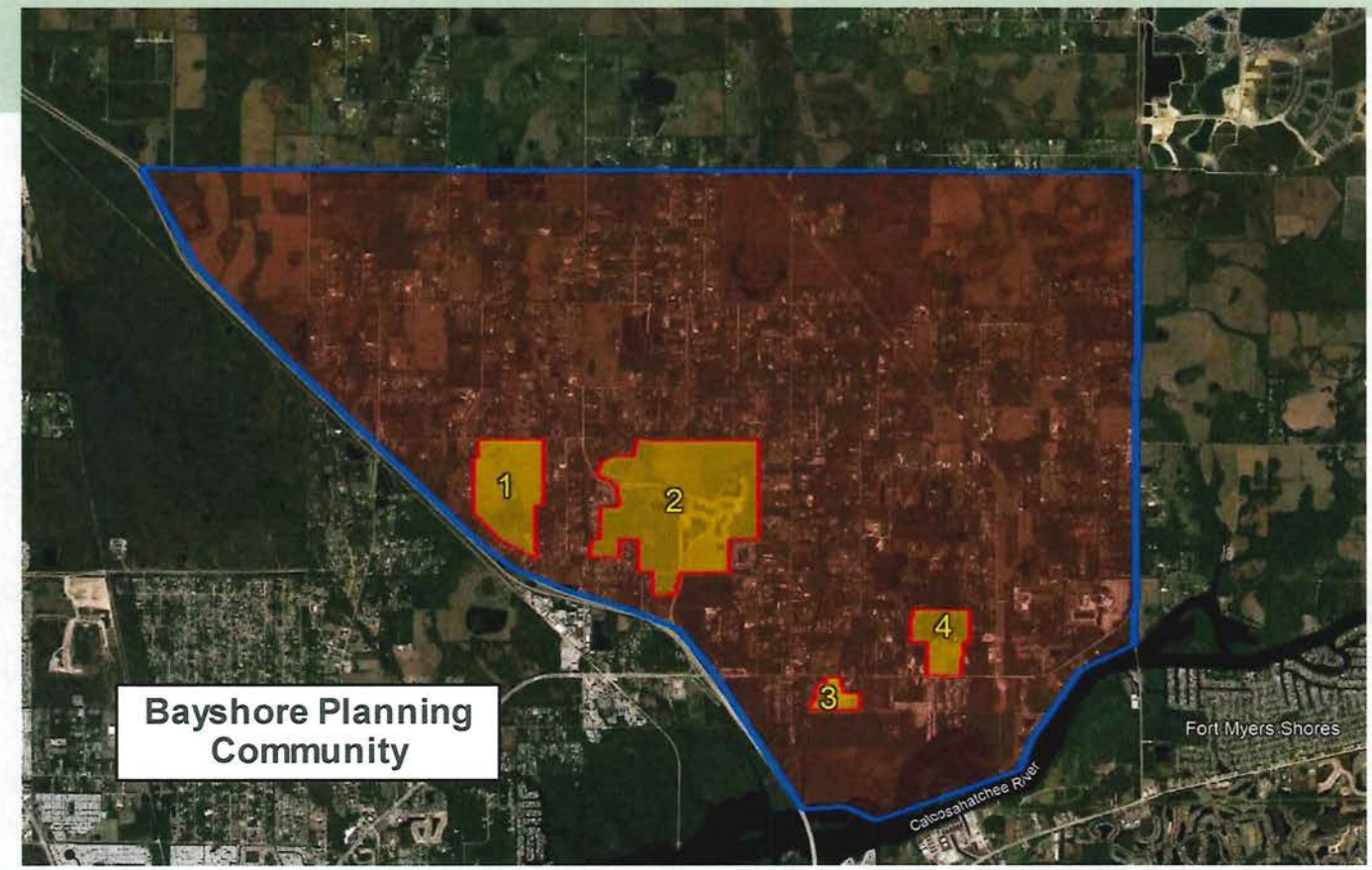
BAYSHORE PLANNING COMMUNITY POPULATION & FORECAST

Variable	Bayshore Planning Community	Lee County
2022 Total Population	5,566	791,753
2027 Total Population	6,699	838,268
2045 Projected Population	8,653	1,056,600
2022 Average Household Size	2.57	2.35
2027 Average Household Size	2.57	2.35

UF BEBR 2023 Forecast for 2045 Lee County has increased to 1,077,800

RECENTLY APPROVED RESIDENTIAL DEVELOPMENT – BAYSHORE PLANNING COMMUNITY

Map Number	Development	Unit Count
1	Leetana	201
2	Brightwater	1275
3	Stonehill	71
4	Bayshore Ranch	130
	Total	1,677



FORECAST POPULATION

Forecast Population	
Unit Buildout- New Developments	1,677
Household Size	2.5
Additional Population	4,193
Current Population	5,566
TOTAL POPULATION	**9,759**

2045 Lee County Community Development – Bayshore Planning Community Forecast	**8,653**

- Current Population, plus anticipated population from recently approved developments exceed the LCCD Bayshore 2045 Forecast.
- The 9,759 projection does not consider any new residential development or building in the Bayshore Planning Community for the next 22 years.

POTENTIAL COMMERCIAL LOCATIONS

122 ac of potential commercial locations

Per The Bayshore Community Plan:

Retail commercial activity shall be limited to the General Interchange Future Land Use *designation at Bayshore and I-75, plus minor commercial uses at the intersections of Nalle Road and Bayshore, SR 31 and Bayshore, and SR 31 and Old Bayshore. Non-retail commercial uses are permitted elsewhere consistent with the Lee Plan and the Land Development Code. (Bold for Emphasis)*

GENERAL INTERCHANGE FUTURE LAND USE BAYSHORE PLANNING COMMUNITY

- The General Interchange Land Use Category is segmented by parcels under various ownership.

COMPOSITION OF BAYSHORE GENERAL INTERCHANGE ACREAGE

Use	Acres
General Interchange	81.71
(Less) Residentially Improved	11.21
(Less) Wetlands	28.6
Net Developable Commercial	**41.9**

Wetland Source: U.S. Fish & Wildlife Service National Wetlands Inventory

RETAIL NEEDS
BAYSHORE PLANNING COMMUNITY

Variable	Bayshore Planning	Lee County
Existing Retail Square Footage	39,000	48,900,000
2022 Total Population	5,566	791,753
Square Feet Per Person	7.0	61.8

Source: CoStar Real Estate Analytics

Commercial Needs By 2045	
Forecasted Population	9,750
Square Feet per Person	60
Total Retail:	585,000 sf

- The retail needs of the Bayshore Planning Community is already underserved at 7.0 square feet per person.

Bayshore General Interchange Acreage	
Use	**Acres**
Total Acreage	81.71
(Less) Residentially Improved	11.21
(Less) Wetlands	28.6
Net Developable Commercial	**41.9**
Bayshore Commercial Needs 2045	585,000
Developable Acres	**41.9**
Intensity Required to Achieve 585,000	**13,962**

Bayshore Village
8.75 Acres x 13,962 SF = 122,167 Commercial Square Feet

SUMMARY

- Bayshore Community is growing as evidenced by residential planned communities.
- Lee County Economic Overview highlights the need for commercial activity surrounding the Bayshore Planning Community.
- Allocated Commercial land is fragmented by residential and wetlands, leaving few parcels capable of supporting future retail needs.
- Site will meet the needs of the traveling public to and from Babcock Ranch along I-75, as well as the forecasted population increase within the Bayshore Planning Community.

BAYSHORE VILLAGE CPD

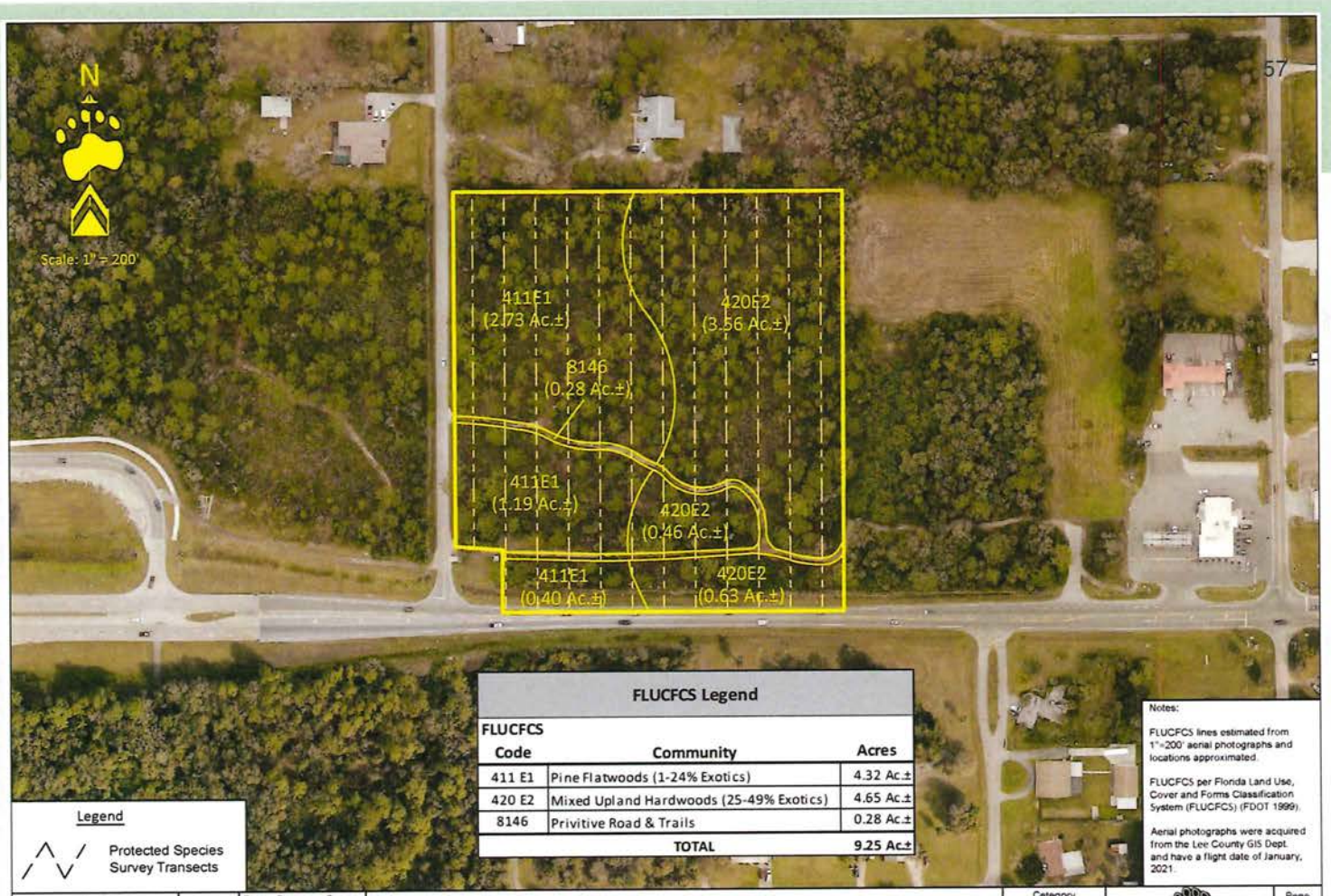
DCI2022-00032

Environmental

Barrett Stejskal

BearPaws Environmental Consulting, Inc.

FLUCFCS & PROTECTED SPECIES MAP



FLUCFCS Legend

FLUCFCS Code	Community	Acres
411 E1	Pine Flatwoods (1-24% Exotics)	4.32 Ac.±
420 E2	Mixed Upland Hardwoods (25-49% Exotics)	4.65 Ac.±
8146	Privitive Road & Trails	0.28 Ac.±
	TOTAL	9.25 Ac.±

Legend

Protected Species Survey Transects

Notes:

FLUCFCS lines estimated from 1"=200' aerial photographs and locations approximated.

FLUCFCS per Florida Land Use, Cover and Forms Classification System (FLUCFCS) (FDOT 1999).

Aerial photographs were acquired from the Lee County GIS Dept. and have a flight date of January, 2021.

Revisions	Date:	Drawn By: BWS	Date: 9/5/22	Bayshore Village	Category PSS	Page -
		Job Number		Aerial PSS Map	Scale: 1" = 200'	Exhibit -
		S/T/R 22/43S/25E			County Lee	

BEARPAWS ENVIRONMENTAL CONSULTING

BAYSHORE VILLAGE CPD

DCI2022-0032

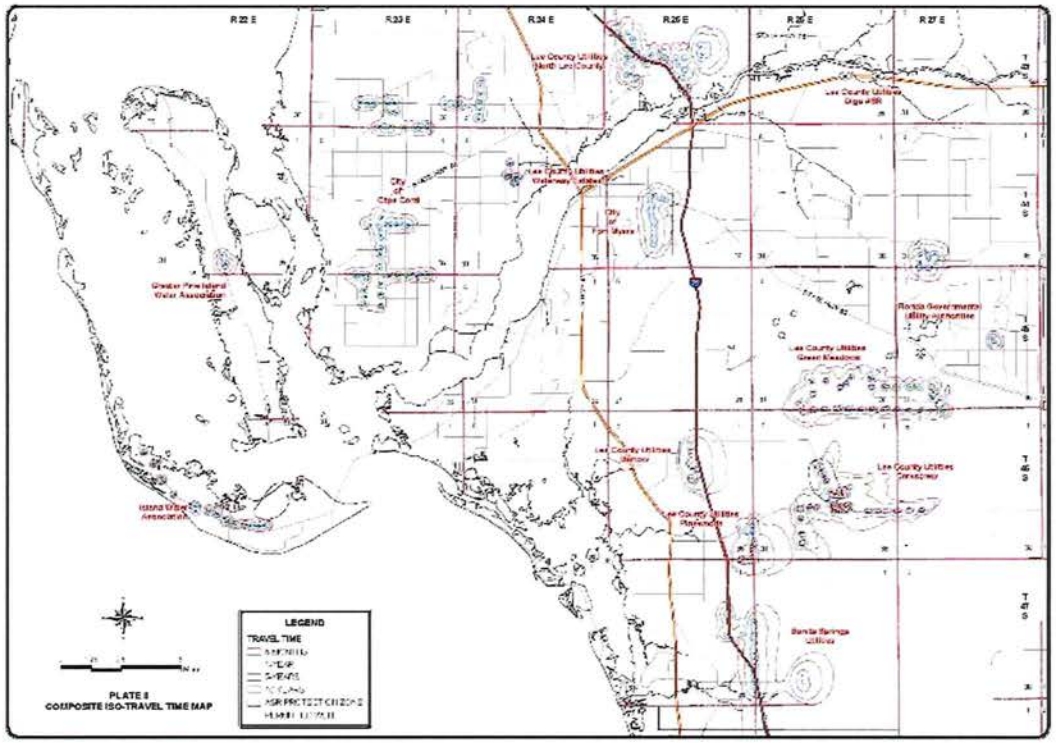
Wellfield Protection

W. Kirk Martin, P.G.

Water Science Associates

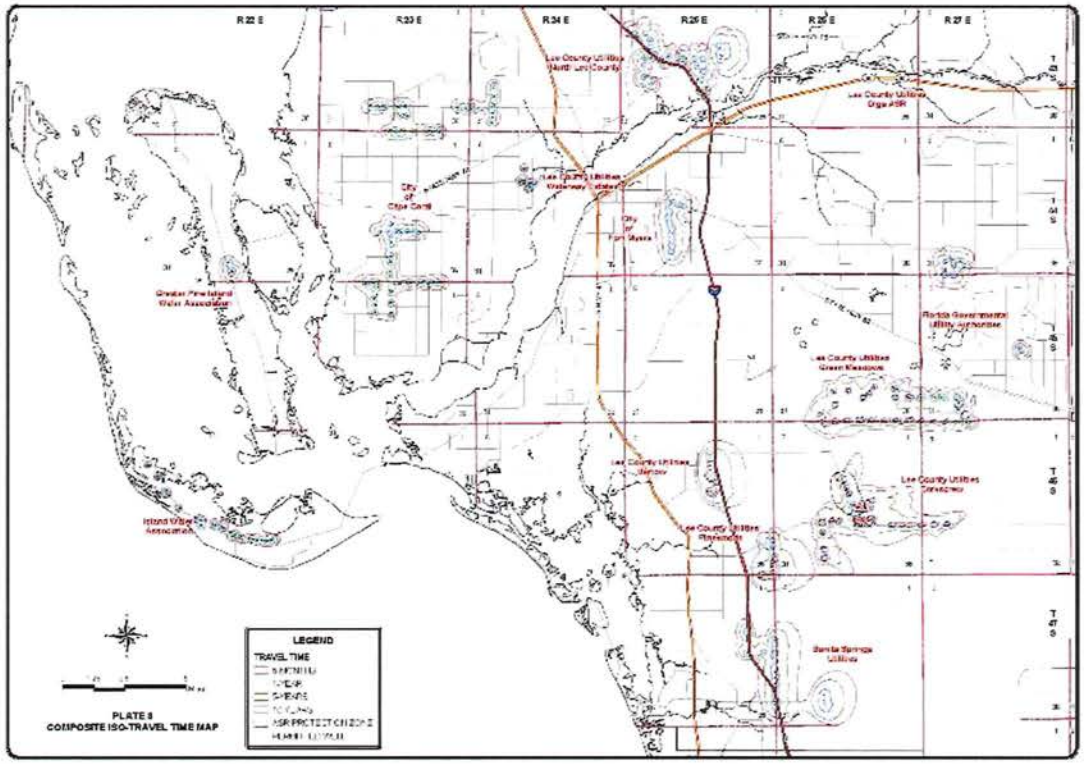
LEE COUNTY WELLFIELD PROTECTION

- Purpose to protect PWS Wellfields from potential groundwater contamination
- Concept developed in the 1980's to address numerous contaminated public water supply wellfields around the country predominantly in shallow unconfined aquifers
- LC WHP zones are based on model derived estimates of groundwater movement
- Purpose of WHP is not to stop land use changes but to manage potential for impacts and provide time to address impacts should they occur

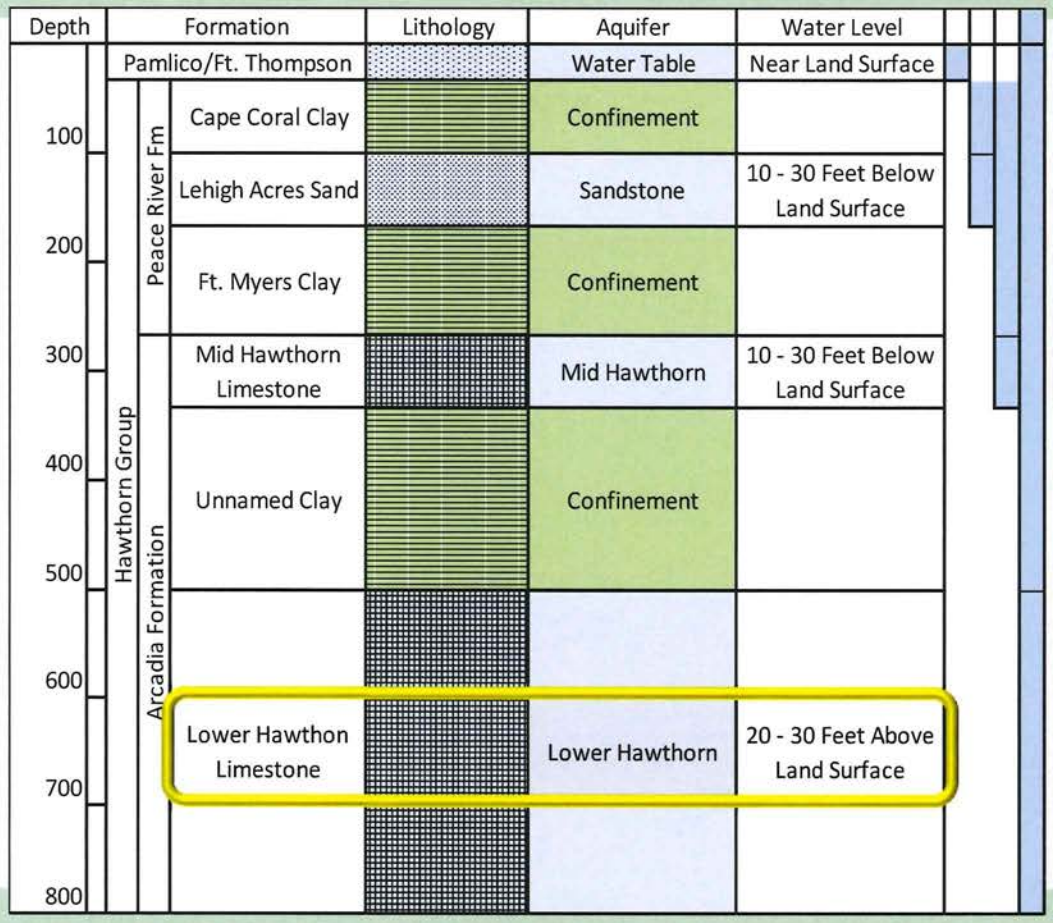


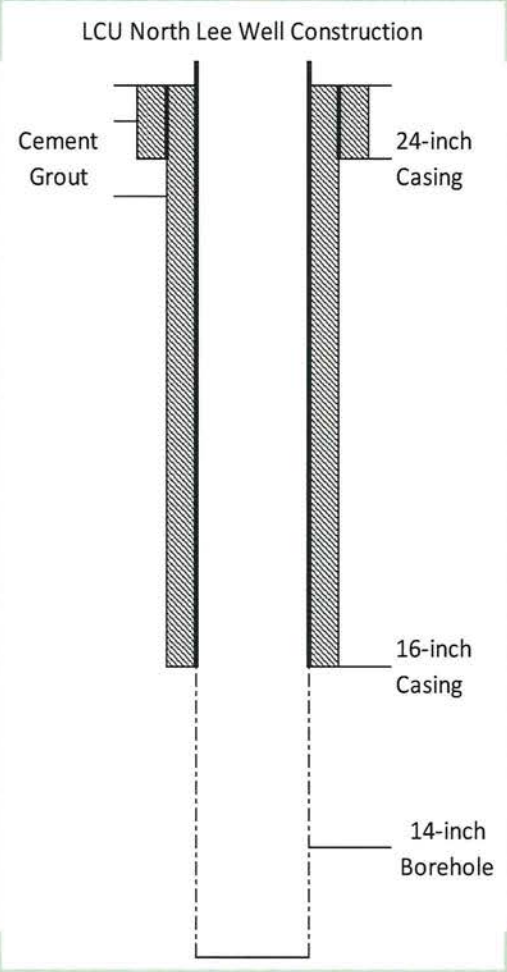
LEE COUNTY WELLFIELD PROTECTION

- Groundwater travel timelines developed for 6-months, 1-year, 5-years, & 10-years corresponding to Zones I, II, III, and IV in the WHP Ordinance
  - Prohibitions on certain land uses in Zone I (6-month travel)
  - Administrative Exemptions provided for Zone II (1-year travel)
  - Operating Permits provided for Zones III and IV (5- and 10-year travel)



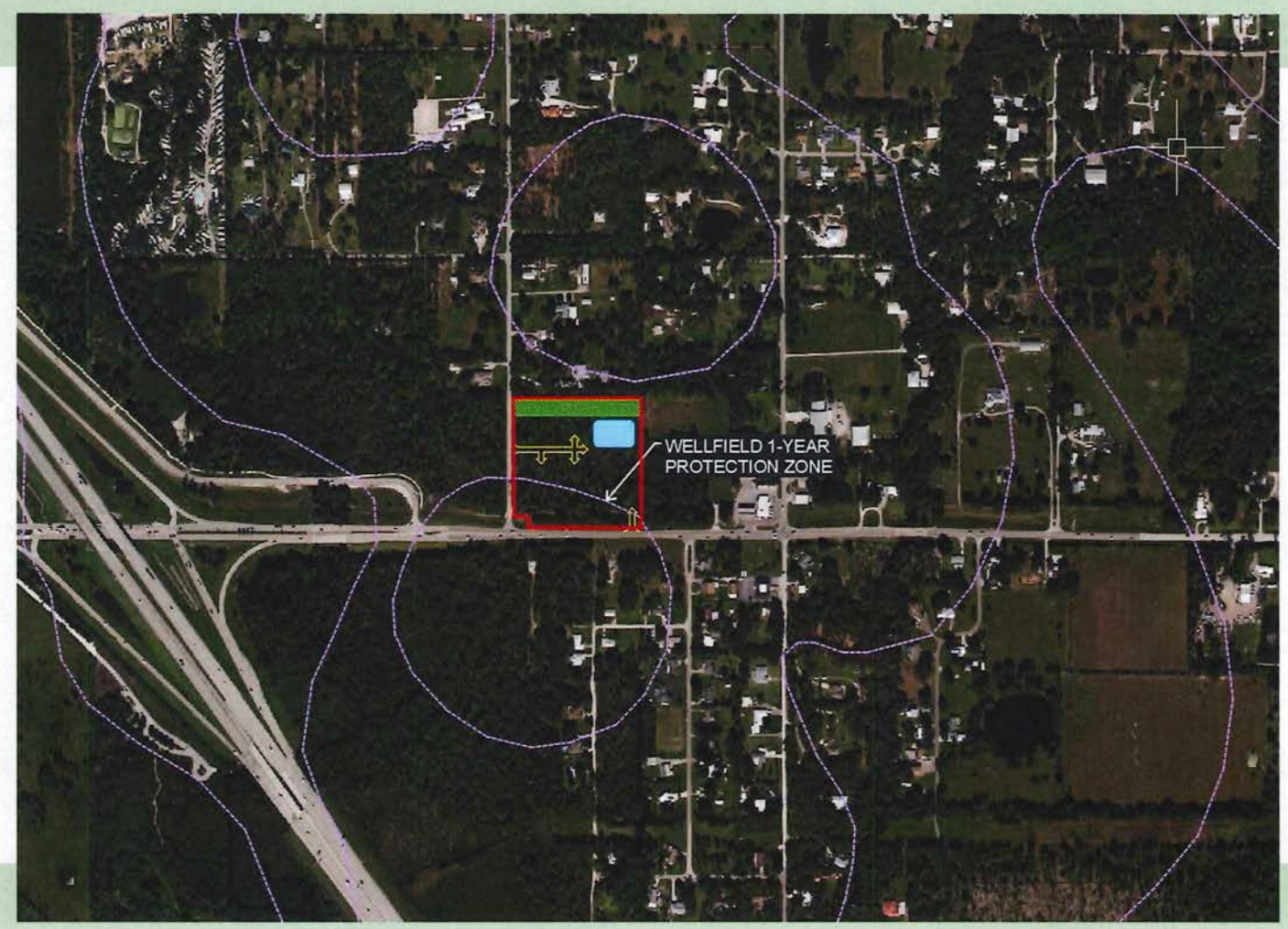
HYDROGEOLOGY & WELL CONSTRUCTION





BAYSHORE VILLAGE SITE PLAN & WHP

- None of project in WHP Zone I (6 months)
- Small area in WHP Zone II (1 year)
- Remainder in WHP Zone III (5 year)
- WHP zones based on largest travel times modeled of three <u>shallow</u> aquifers
- Wells near site use <u>deep</u> artesian aquifer



PROJECT PROPOSAL TO ASSURE WHP

- All fuel storage outside of WHP Zone II
- Double containment on all fuel storage and transmission
- Leak detection on containment system
- Groundwater monitoring program

BAYSHORE VILLAGE CPD

DCI2022-00032

Engineering

Barraco and Associates, Inc.

Carl A. Barraco, P.E.

Barraco and Associates, Inc.

UTILITIES

- Potable water provided by Lee County Utilities (LCU)
- Sanitary sewer provided by Florida Government Utility Authority (FGUA)

FGUA Operations Office
Government Services Group, Inc.
280 Wekiva Springs Rd., Ste 2070
Longwood, FL 32779-6026
(877) 552-3482 Toll Free
(407)
(407)

May 31, 2022

Mr. Jeff Wasko
Barraco and Associates, Inc.
2271 McGregor Blvd., Ste 100
Fort Myers, FL 33901
JeffW@barraco.net

RE: Wastewater and Reclaim Water Availability – LOA ID#: 22-079 NFMD
Parcel ID No.: 22-43-25-00-00023.0000
17300 Wells Rd., North Fort Myers, FL 33917
Bayshore Village

Dear Mr. Jeff Wasko:

The FGUA has received your Application for Service Availability, and upon review, it has been dete wastewater disposal service is generally available to the address provided. The attached site map i approximate size and location of the existing mains in the area. Please be advised that main extensions to the reclaimed water system, and other system enhancements funded by the project sponsor may be r

The application indicated that the proposed project consists of a 150,000 SF commercial prope estimated wastewater disposal demand of 22,500 GPD. Currently, FGUA facilities are able to ac these demands. During the design process, if existing conditions warrant, a hydraulic analysis may performed by the project engineer to evaluate the impacts the proposed project may have on wastewater systems.

This letter should not be construed as a commitment to serve, but only as a statement of the availabili and is effective for twelve (12) months from the date of issue. The FGUA commitment to serve will be r Utility Infrastructure Conveyance and Service Agreement (CSA) is fully executed. To move this proj contact Development Services via email at SSpencer@govmserv.com to receive a plan submittal p schedule the pre-application meeting if required.

FGUA Board of Directors
PAM KEYES, P.E. Chair, Lee County / KEN CHSEK, P.E. Vice Chair, Citrus County / SHANE PARKER, P.E., Hardy County / TAMARA BICHARDS County / MICHAEL CARBALLA, P.E. BCEE, Pasco County / JODY KIRKMAN, P.E., Marion County/ HEDDI PETTIS, Flagler County

Lee County
Southwest Florida

BOARD OF COUNTY COMMISSIONERS

John E. Manning
District One
Cecil L. Pendergrass
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Brian Hamman
District Four
Frank Mann
District Five
Roger Desjarlais
County Manager
Richard Wm Wesch
County Attorney
Donna Marie Collins
County Chief Hearing Examiner

May 3, 2022 Via E-Mail

Dawn Russell
Barraco and Associates, Inc.
2271 McGregor Blvd, Suite 100
Fort Myers, FL 33901

RE: **Potable Water Availability**
Bayshore Village, 17300 Wells Road
STRAP # 22-43-25-00-00023.0000

Dear Ms. Russell:

The subject property is located within Lee County Utilities Future Service Area as depicted on Maps 4A of the Lee County Comprehensive Land Use Plan. Potable water lines are in operation adjacent to the property mentioned above. However, in order to provide service to the subject parcels, developer funded system enhancements such as line extensions may be required.

Your firm has indicated that this project will consist of commercial with an estimated flow demand of approximately 22,500 gallons per day. Lee County Utilities presently has sufficient capacity to provide potable water service as estimated above.

Availability of potable water service is contingent upon final acceptance of the infrastructure to be constructed by the developer. Upon completion and final acceptance of this project, potable water service will be provided through our North Lee County Water Treatment Plant.

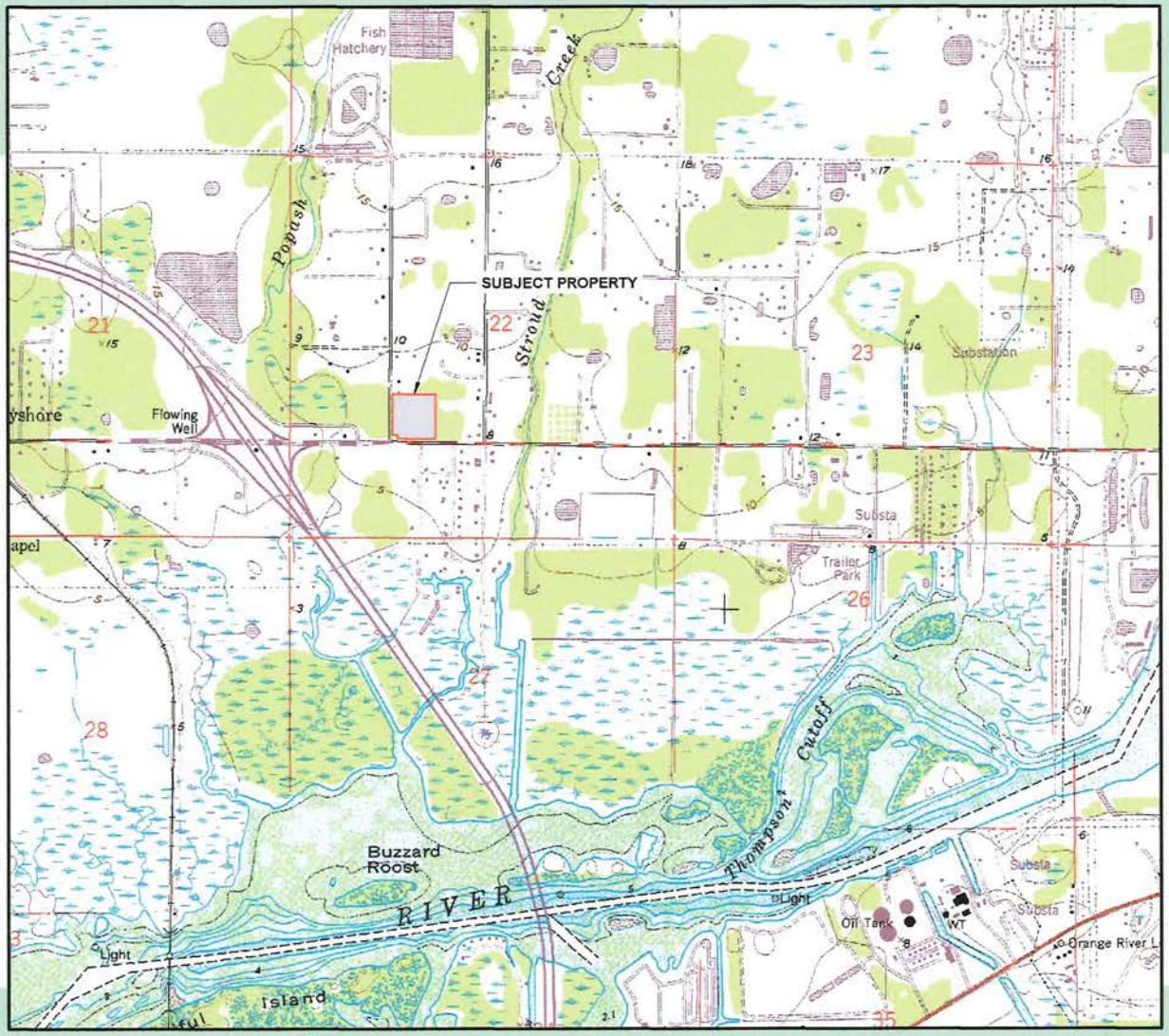
Prior to beginning design work on this project, please meet with LCU Staff to determine the best point of connection and discuss requirements for construction.

This letter should not be construed as a commitment to serve, but only as to the availability of service. Lee County Utilities will commit to serve only upon receipt of all appropriate connection fees, a signed request for service and/or an executed service agreement, and the approval of all State and local regulatory agencies.

P.O. Box 398, Fort Myers, Florida 33902-0398 (239) 533-2111
lee-county.com
AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER

QUAD MAP

- Discharge into Popash Branch.
- Surface Water Management System to be designed in accordance with South Florida Water Management District (SFWMD) requirements.
- Located within FEMA Zone AE
- 100-year Flood elevation 10.0 NAVD.



BAYSHORE VILLAGE CPD

DCI2022-00032

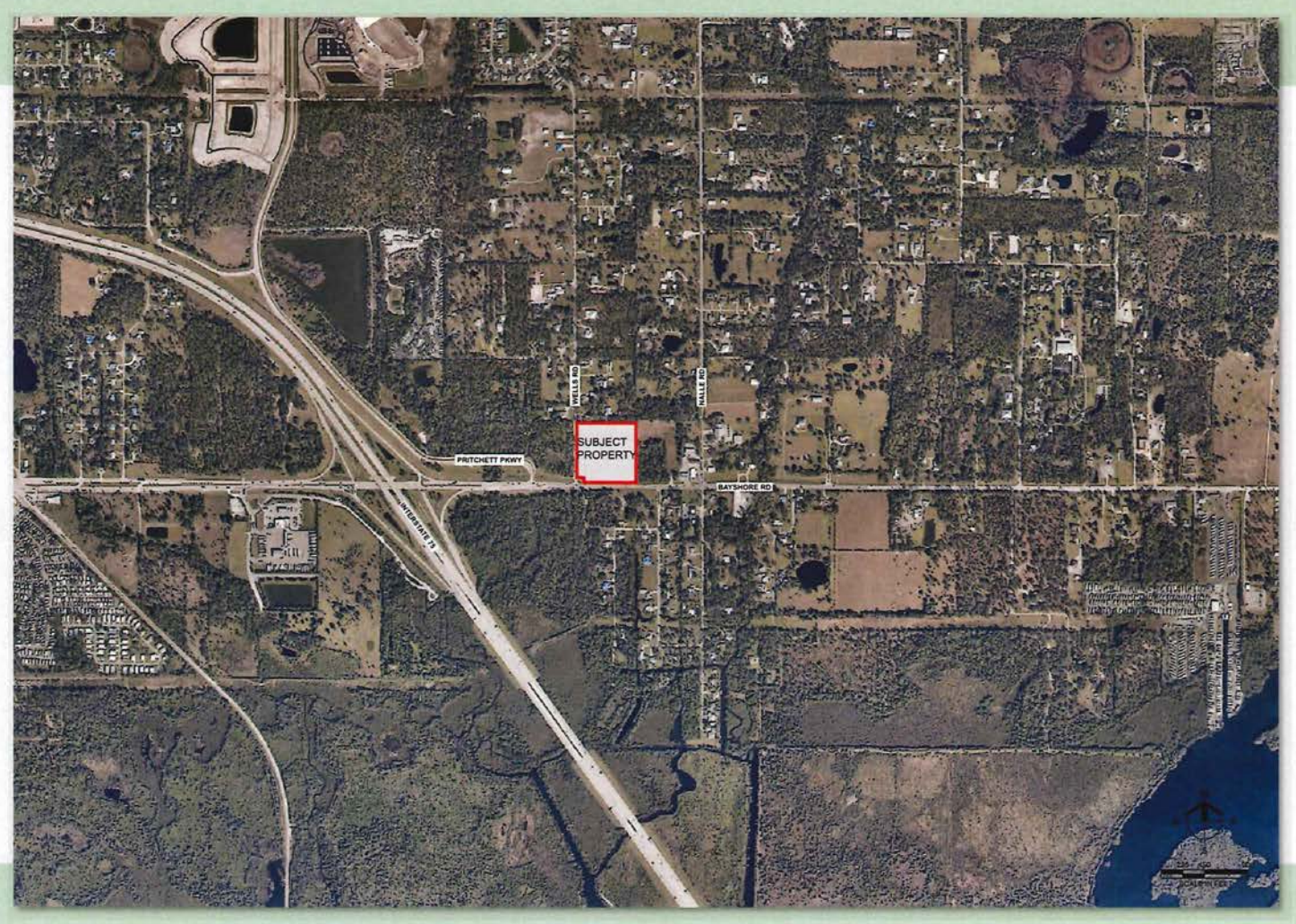
Transportation

TR TRANSPORTATION CONSULTANTS, INC

Ted Treesh, PTP

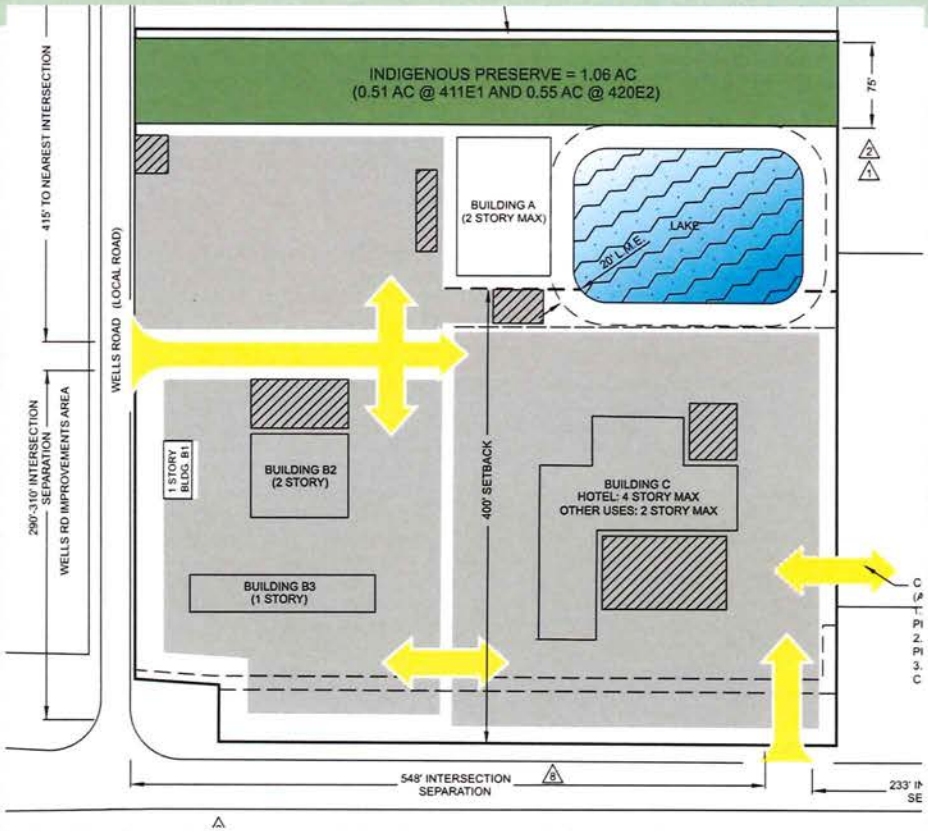
TR Transportation Consultants, Inc.

TRANSPORTATION



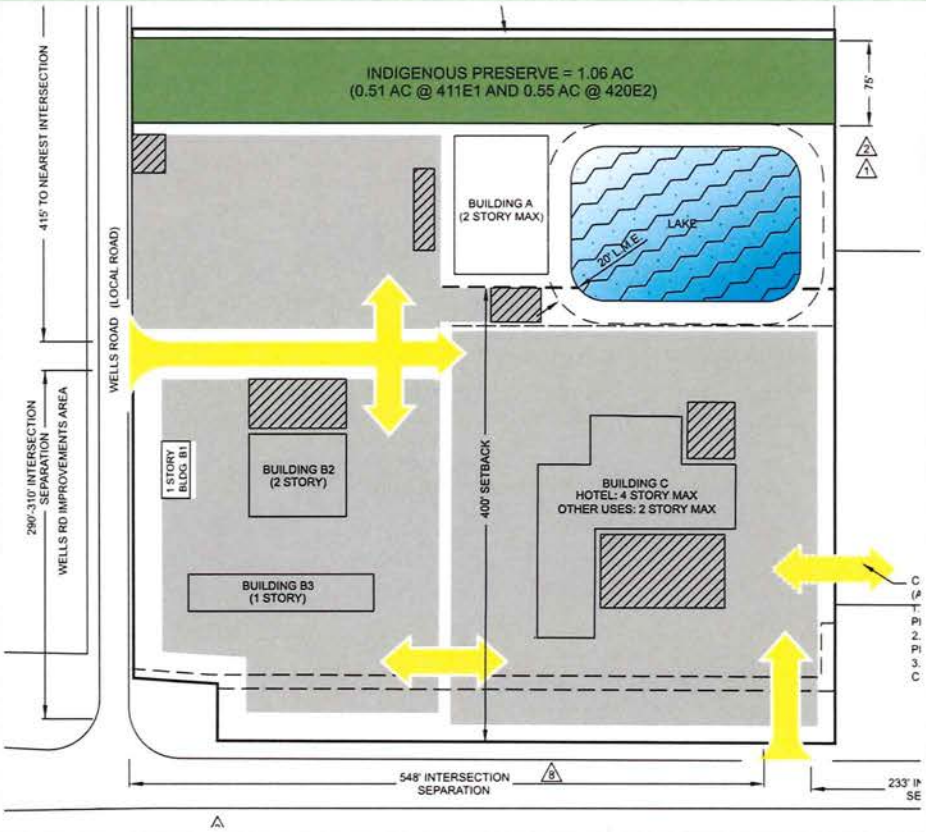
TRANSPORTATION

- Traffic Study addressed impacts of 125,000 square feet of Retail Shopping Center (a mix of Commercial uses, including restaurants, offices, banks, post offices, etc. This use also considered a Grocery Store Tenant as a "worst case" analysis.
- Access provided to both SR 78 and Wells Road
- Commercial Uses primarily provide goods and services to the area residents
- Study conducted pursuant to the Administrative Code and requirements of Lee County
- Pre-Application Meeting held with FDOT to discuss access to SR 78

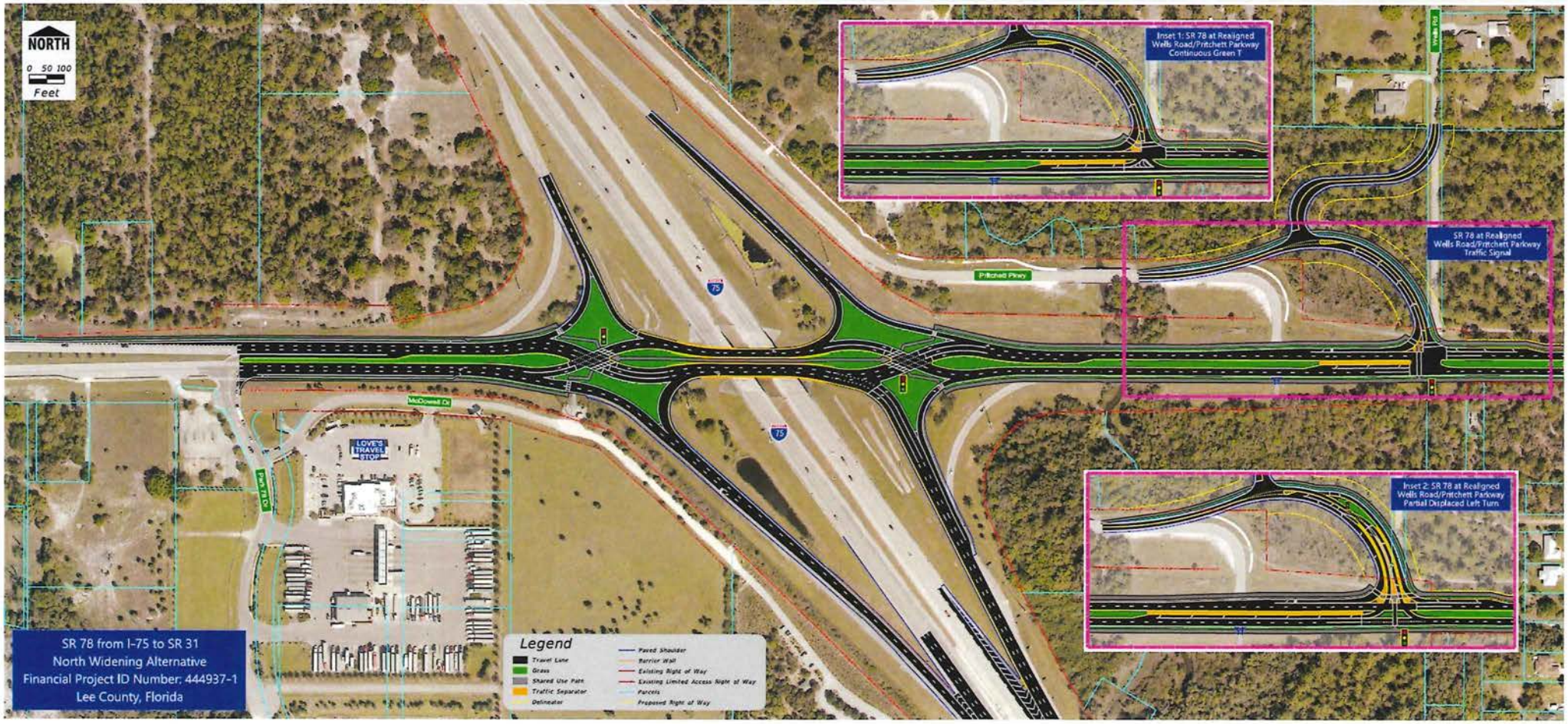


TRANSPORTATION

- Build-out Year assumed Year 2028
- Analysis Conduced Based on Peak Season Traffic Conditions
- Future Improvements To SR 78 NOT CONSIDERED in this analysis
- Only the short segment of SR 78 between Pritchett Pkwy & Wells Road shown to operate at a poor LOS in 2028 **PRIOR** to the project traffic being added to the road
- No changes to any LOS in 2028 as a result of the Project trips being added in 2028
- SR 78 East of Wells Rd - LOS "C"
- Nalle Road North of SR 78 - LOS "C"
- Pritchett Pkwy North of SR 78 - LOS "C"

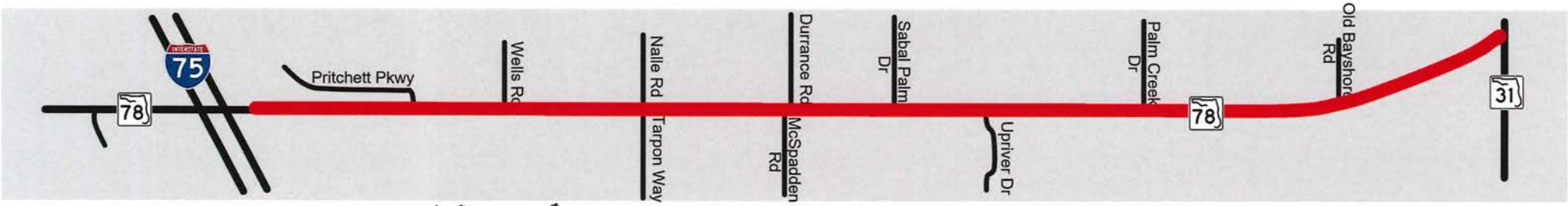


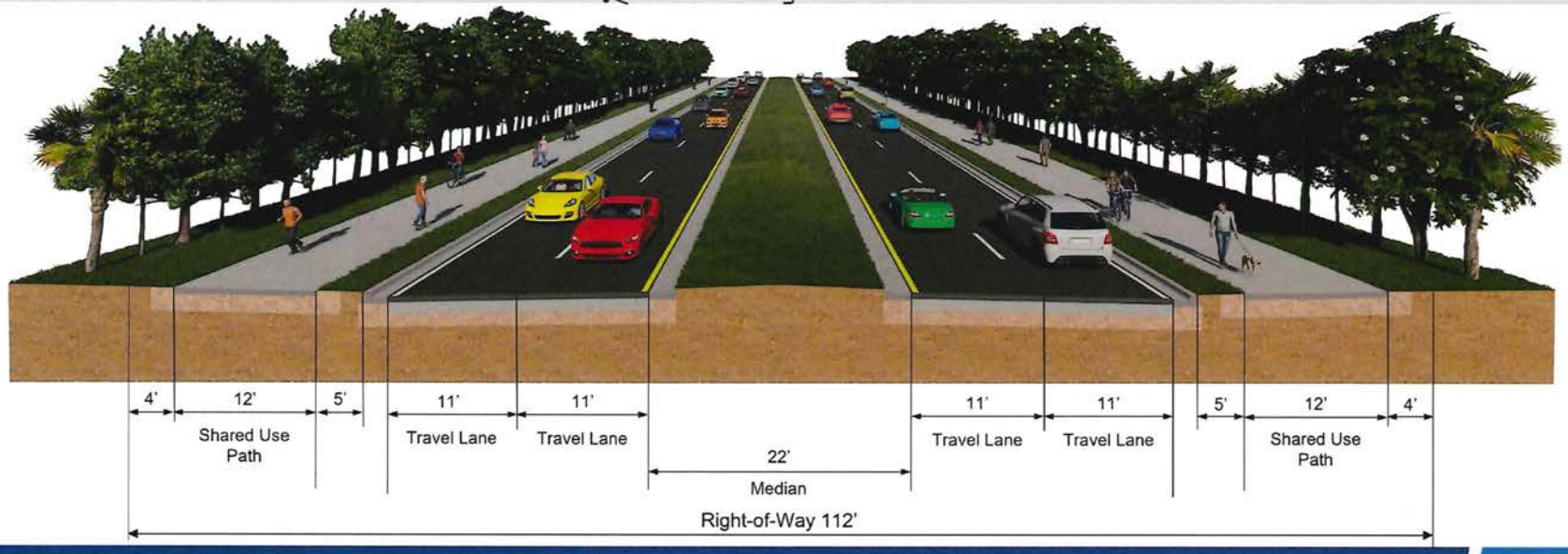
TRANSPORTATION



TRANSPORTATION

PROPOSED ROADWAY TYPICAL SECTION

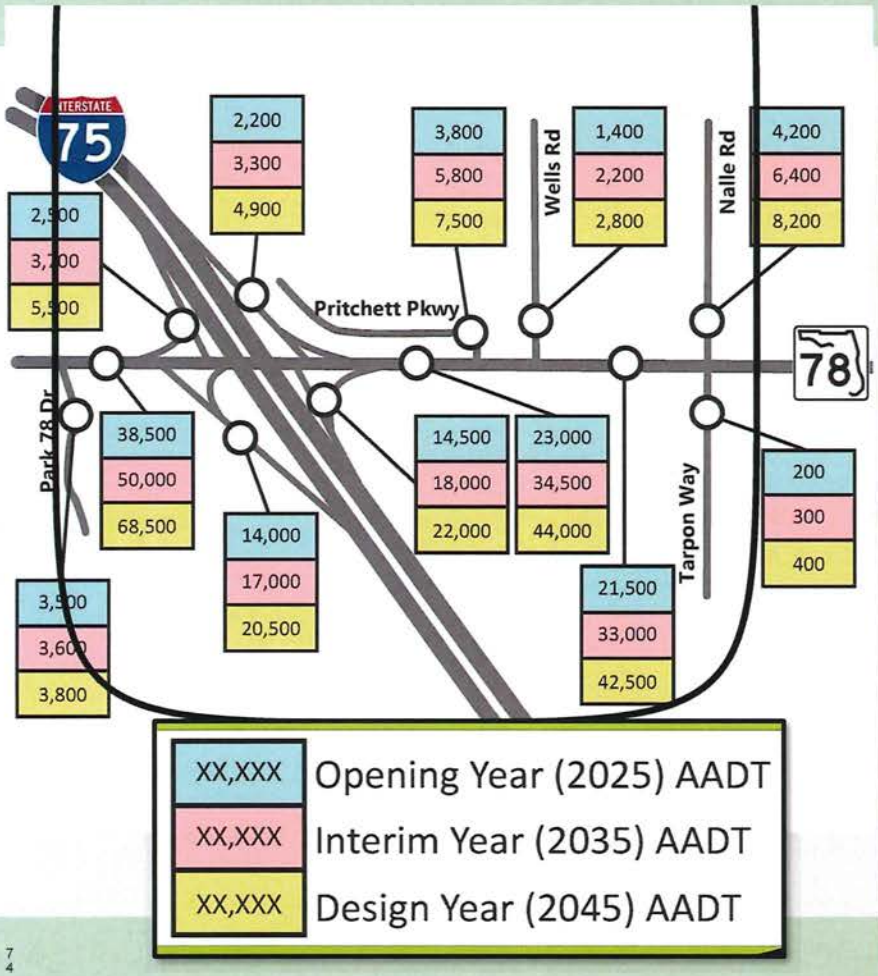




SR 78 from I-75 to SR 31

FDOT

TRANSPORTATION



- FDOT currently conducting a PD & E Study of SR 78 to determine future Cross Section of SR 78 between I-75 & SR 31
- Plans are to widen SR 78 to 4-lanes from I-75 to SR 31
- Currently plans are to complete PD & E by Mid-2024 and begin ROW Phase in 2024
- FDOT Plans to do a Design/Build Project for SR 78 in 2025 in conjunction with the widening of SR 31
- As of now, the plans are to widen SR 78 with the Option of the North Widening Option (North Widening Option on the PD & E Website)
- The FDOT plans include a Traffic Signal at the Wells Road Intersection
- The Re-Alignment of Pritchett Parkway to the Wells Road Intersection
- Urban cross section proposed at SR 78 and I-75 as well as SR 80 and SR 31.
- The Projected 2045 Traffic Volumes on SR 78 (Based on the FDOT PD & E Study) is 42,500 Vehicles Per Day between Wells Road and Nalle Road.
- This is a Significant Increase in traffic over the currently ADT of 21,500 Vehicles Per Day (97% Increase over 20 years)

BAYSHORE VILLAGE CPD

DCI2022-00032

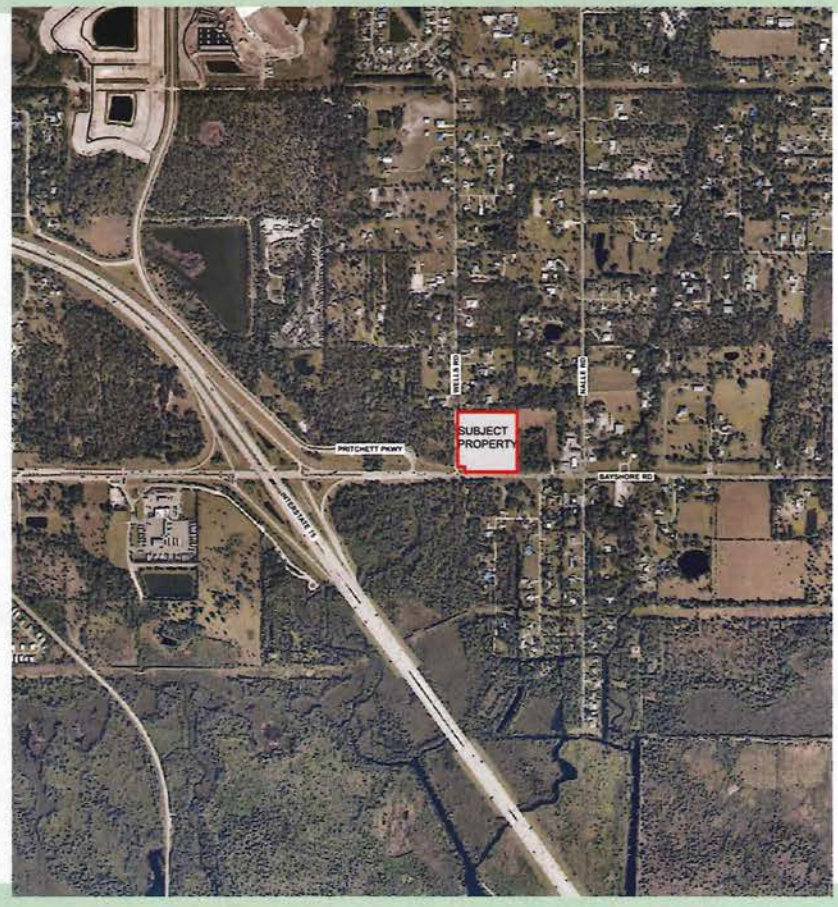
Summary

Ron Inge

Inge and Associates, Inc.

SUMMARY

- In General Interchange - Designated by Lee Plan since 1989
- Designation is for the use of the traveling public and local residents
- Bayshore area has changed significantly with Babcock Ranch and other higher density residential projects
- Property was zoned in 2006 for a variety of retail and commercial uses - 17 years ago
- Uses approved in 2006 did not significantly assist the traveling public nor the local community, both of which have grown significantly in the interim
- We are adding uses that help fulfill those needs



SUMMARY

- Bayshore Road will be significantly improved in the near future, FDOT working those plans
- Much of General Interchange lands in the Bayshore Planning Community have been converted to other uses---residential, mobile home, and/or have significant wetlands
- Remaining acreage needs to have the intensity to address the unfilled needs
- Requested uses are sensitive to the wellfield protection zones. Ordinance Safeguards and Development Order design will prohibit any concerns, as evidenced by suggested Condition 7
- Bayshore Village is fulfilling plans and strategies adopted or approved by the county long ago and meet needs that will only get larger as the area continues to transition

BAYSHORE VILLAGE CPD

DCI2022-00032

Neale Montgomery, J.D.

Pavese Law Firm

BAYSHORE VILLAGE CPD

DCI2022-00032

Additional Reference Slides

SINUOUS LAKE SHORELINE DETAIL

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

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 OD ONE ACRE

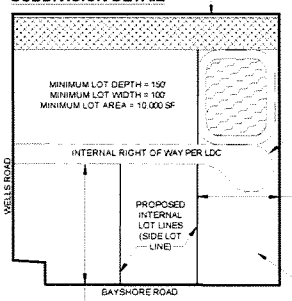
PROPOSED SIGNS

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

LEGEND

- PARKING & LANDSCAPING PER LDC
- LOADING / SERVICE AREA
- PRESERVE
- LAKE

SUBDIVISION DETAIL

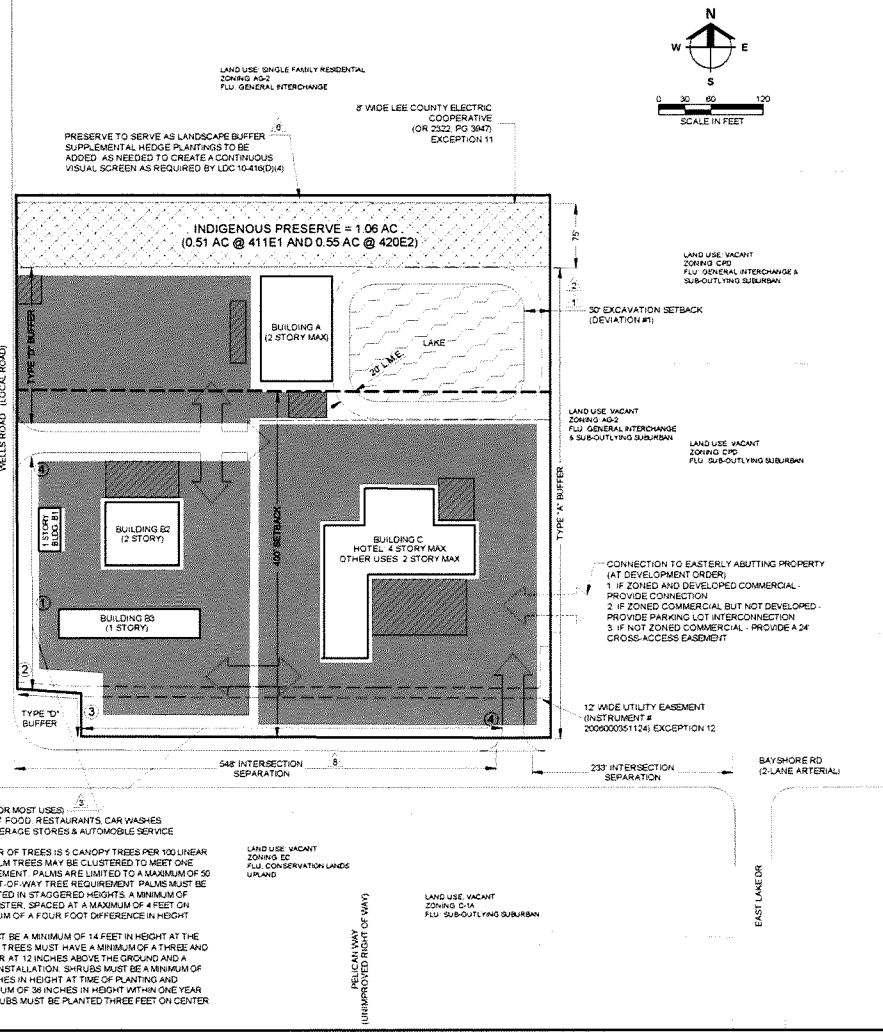


150' MINIMUM LOT DEPTH FOR FAST FOOD STANDALONE CAR WASH, AND CONVENIENCE FOOD AND BEVERAGE STORE. 100' MINIMUM LOT DEPTH FOR ALL OTHER USES.

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

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) 461-3186
FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 1995 - SURVEYING LB-6946

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

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FILE NAME	BAYSHORE.DWG
LOCATION	LEE COUNTY, FLORIDA
PROJECT DATE	2007 (ORIGINAL) 11-15-07
DRAWN BY	BARRACO AND ASSOCIATES
CHECKED BY	BARRACO AND ASSOCIATES
DATE CHECKED	11-15-07

11-15-07	MASTER CONCEPT PLAN
11-15-07	2ND SUFFICIENCY RESPONSE
11-15-07	DEVIATION #1
11-15-07	WELLS RD. & BAYSHORE RD. TYPE A
11-15-07	ADD EXCAVATION
11-15-07	ADJUST TYPE D BUFFER
11-15-07	ADJUST INTERSECTION

MASTER CONCEPT PLAN ALT A

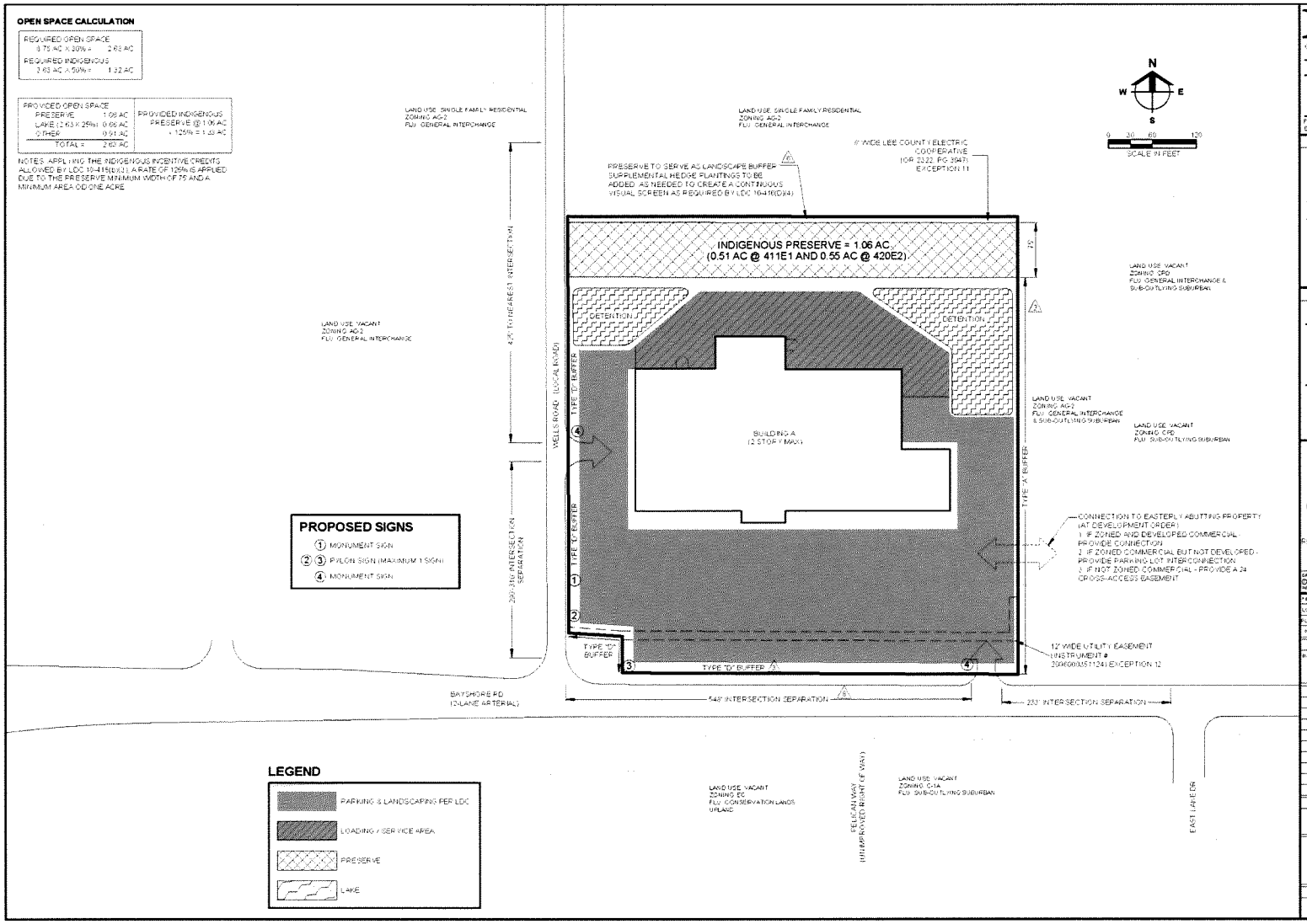
PROJECT FILE NO.	SHEET NUMBER
24066	1

OPEN SPACE CALCULATION

REQUIRED OPEN SPACE	
9.75 AC X 30% =	2.93 AC
REQUIRED INDIGENOUS	
2.93 AC X 50% =	1.32 AC

PROVIDED OPEN SPACE		PROVIDED INDIGENOUS
PRESERVE	1.06 AC	PRESERVE @ 100% AC
LAKE (2.63 X 25%)	0.66 AC	+ 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 OF ONE ACRE



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) 461-3168

FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7988 - SURVEYING LB-5940

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

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FILE NAME	24066-MSTR-B.DWG
LOCATION	V:\ENGINEERING\ZONING\
PLOT DATE	FRI, 12-10-2021 - 3:42 AM
PLOT BY	ALYSSA FONTANA

CROSS REFERENCED DRAWINGS

BASE PLAN = 24066-BASE.DWG

PLAN REVISIONS

1-28-21	1ST SUFFICIENCY RESPONSE
2-17-21	2ND SUFFICIENCY RESPONSE
3-14-21	DEVIATION #1
4-12-21	WELLS RD INTENSIVE CRITERIA
7-7-21	ADD DEVIATION #3
9-27-21	ADDITIONAL TUNDER SUFFICIENCY
1-24-22	MINOR REVISIONS

PLAN STATUS

MASTER CONCEPT PLAN ALT B

PROJECT FILE NO	SHEET NUMBER
24066	1

PRESERVE MANAGEMENT PLAN

Legend

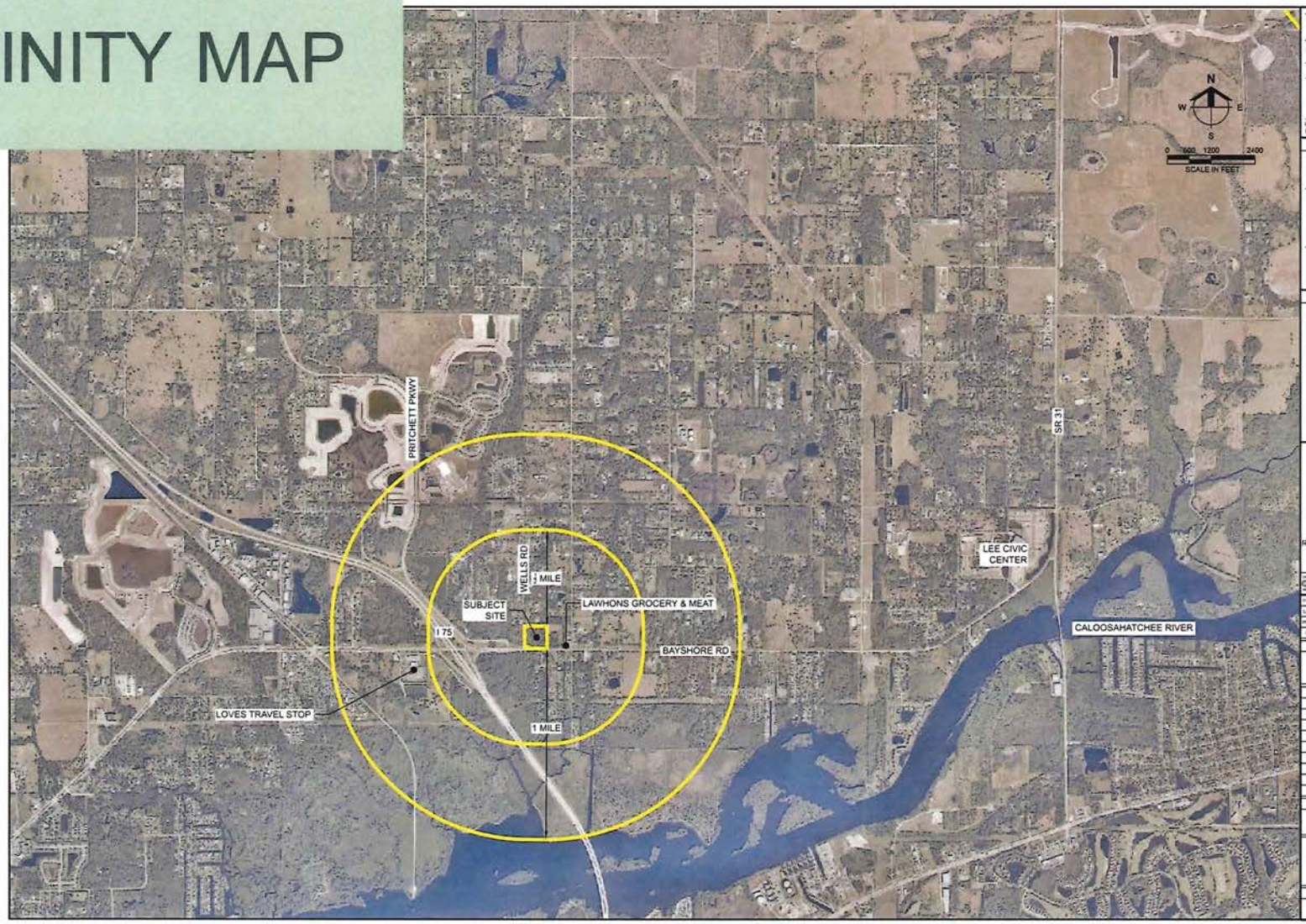
Preserve (1.06± Ac)

Service Areas

PP-3 Photostation

Transects

VICINITY MAP



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FLORIDA CERTIFICATES OF AUTHORIZATION
ENGINEERING 7995 - SURVEYING LB-6946

PREPARED FOR

OB 4, LLC.

PROJECT DESCRIPTION

BAYSHORE VILLAGE CPD

CITY OF CAPE CORAL
LEE COUNTY, FLORIDA

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FILE NAME	OB4BAYSHORE-AERIAL LOC MAPS.DWG
LOCATION	J:\JOBS\24066\DESIGN\
PLOT DATE	WED 11-24-2021 - 9:07 AM
PLOTTED BY	ALFSGA FONTANE

CROSS REFERENCED DRAWINGS

PLAN REVISIONS

PLAN STATUS

AERIAL LOCATION MAP

PROJECT / FILE NO.	SHEET NUMBER
24066	1

Automobile repair and service, Groups I and 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 and II
Bar or cocktail lounge (**)
Business services, Group I
Boats:
- Boat parts store (limited to one)
- Boat sales (subject to Condition 10)
- 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) (**)

Broadcast studio, commercial radio and television
Building material sales
Business Services, Groups I and II
~~Bus station/depot~~
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)
Contractors and builders, Group I, II and ~~III~~
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 ~~(limited to east side of buildings)~~ (*)
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
- ~~Oil or gas (SE)~~

Farm equipment, sales, storage, rental or service
Feed or fertilizer, mixing and sales
Fences, Walls
~~Flea Market:~~
- ~~Indoor~~
- ~~Open (SE)~~

Food and beverage service, limited (**)
Food stores, Groups I and II
Food truck park (subject to Condition 13)

DC12022-00032
APPLICANT EXHIBIT# 2
Page 2 of Exhibit 2
Mendez Memo 12/4

BAYSHORE VILLAGE CPD

DCI2022-00032

Presentation to Hearing Examiner

December 14, 2023

APPLICANT EXHIBIT# 3
PowerPoint Day 3

BAYSHORE VILLAGE CPD

DCI2022-00032

Land Planning

SAPEN
Site Planning

Jennifer Sapen, AICP

Sapen Site Planning, LLC

HEX QUESTIONS

1. Hotel height
2. Hotel and land use conversions (which is related to 10% ADD discussion)

Hotel Height
Condition 11.E.

E. Maximum Height. The maximum permitted height for a hotel use is 48 feet, accessory structures are limited to a maximum permitted height of 35 feet. If the principal building exceeds 35 feet in height, then it must be located in the southern 300 feet of the subject property, as measured from the Bayshore Road right-of-way. Buildings exceeding 35 feet in height must be set back a minimum of 50 feet from the Bayshore Road and Wells Road rights-of-way. A hotel use 35 feet in height or less must be set back a minimum of 150 feet from the north property line and the Wells Road right-of-way, and 50 feet from the Bayshore Road right-of-way. See Condition 9, general height provision.

General Height Provision
Condition 9

(9) Project Building or Structure Height

A. The building and structure heights specified herein may not be exceeded without obtaining approval through the public hearing process. The provisions of LDC Section 34-2174, additional permitted height when increased setbacks provided, may not be utilized within the planned development.

B. All buildings exceeding two stories must be setback 150 feet from the north property line.

Hotel Conversion Condition 11.A.

(11) Hotel Use

The development of a hotel on the subject property is subject to the following conditions:

A. Maximum Units/Conversion. The 44-unit hotel allocation may be increased to a maximum of 125 units at a conversion rate of 1 hotel unit per every 120-square-foot reduction of the 87,500-square-foot intensity allocation. The transfer of square-footage to hotel units must be reviewed through the administrative amendment process.

- 1 hotel room = 120 sf commercial intensity

MAX HOTEL	125 ROOMS
ALLOWED HOTEL	44 ROOMS
CONVERTED HOTEL	81 ROOMS
@ 120 SF / ROOM	9,720 SF COMMERCIAL INTENSITY REDUCTION

STAFF RECOMMENDED INTENSITY WITH 125 ROOMS =	77,780 SF
APPLICANT PROPOSED INTENSITY WITH 125 ROOMS =	115,280 SF

Use Conversion (General) Condition 12

- Early submittals from applicant included a Land Use Conversion Chart
- The chart provided intensity conversions between uses
- A note at the bottom of this old chart indicated an option for 10% intensity increase
- This chart has since been deleted and replaced by Condition 12 which ties to ITE trip generation

(12) Project Vehicular Trip Generation

Regardless of any land use density/intensity conversion allowed per the Land Development Code or zoning condition specific to this development, the development is allowed a maximum calculated development intensity with respect to new trip generation utilizing the following development scenario based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual in effect at time of local development order: 87,500 square-feet commercial retail.

- All references to 10% intensity increase have bene removed and are not included in staff's proposed conditions
- Any potential future amendments to the CPD will follow standard LDC criteria for Administrative Review

COMPREHENSIVE PLAN

Florida Statute 163.3194

- Goals are broad statements of purpose
- Future Development Order must comply with Policies and Objectives per Fl Statute 163.3194(3)(a)

The 2023 Florida Statutes (including Special Session C)

Title XI COUNTY ORGANIZATION AND INTERGOVERNMENTAL RELATIONS	Chapter 163 INTERGOVERNMENTAL PROGRAMS	View Entire Chapter

163.3194 Legal status of comprehensive plan.—

(3)(a) A development order or land development regulation shall be consistent with the comprehensive plan if the land uses, densities or intensities, and other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities or intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government.

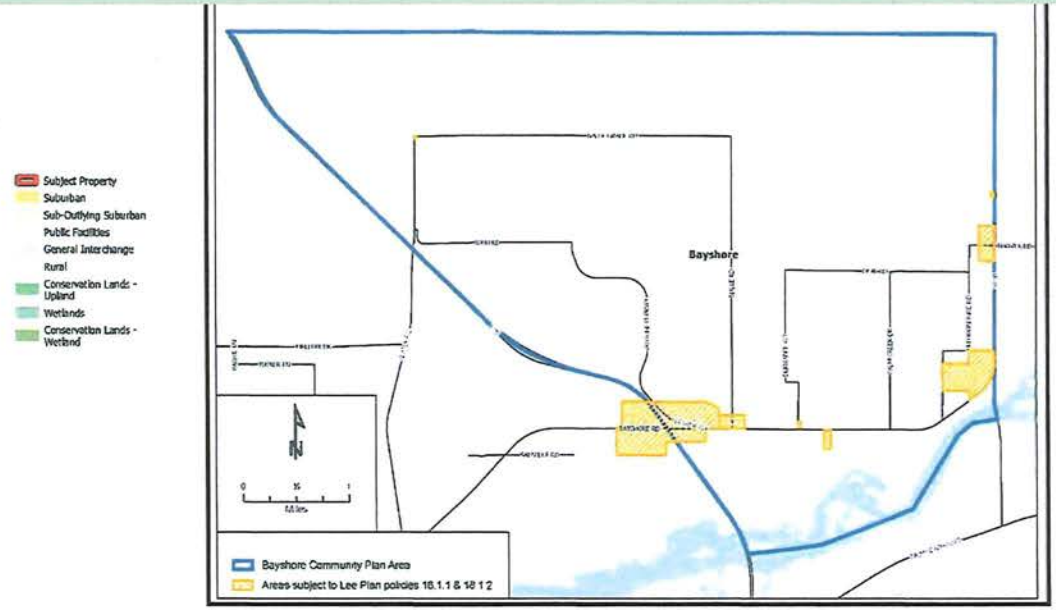
Strained interpretation.

17.1.3
Community Planning

Bayshore Community Plan

However, while not criteria for D.O. review, looking at the broad statement:

- "Minimal Commercial Activities" is not the same thing as low commercial intensity
- Commercial uses (activities) are restricted (minimized) to two locations within Bayshore Community (Policy 18.1.1 & 18.1.2) – Bayshore Road and SR 31
- Largest areas are General Interchange FLU areas at I-75 and Civic Center



Lee County
Southwest Florida

GOAL 18: BAYSHORE COMMUNITY PLAN. Protect the existing rural residential, agricultural and equestrian-oriented character of the community by maintaining low residential densities and minimal commercial activities, and exclude incompatible uses that are destructive to the character of this rural residential environment. (Ord. No. 03-02, 18-18)

Bayshore Community Plan

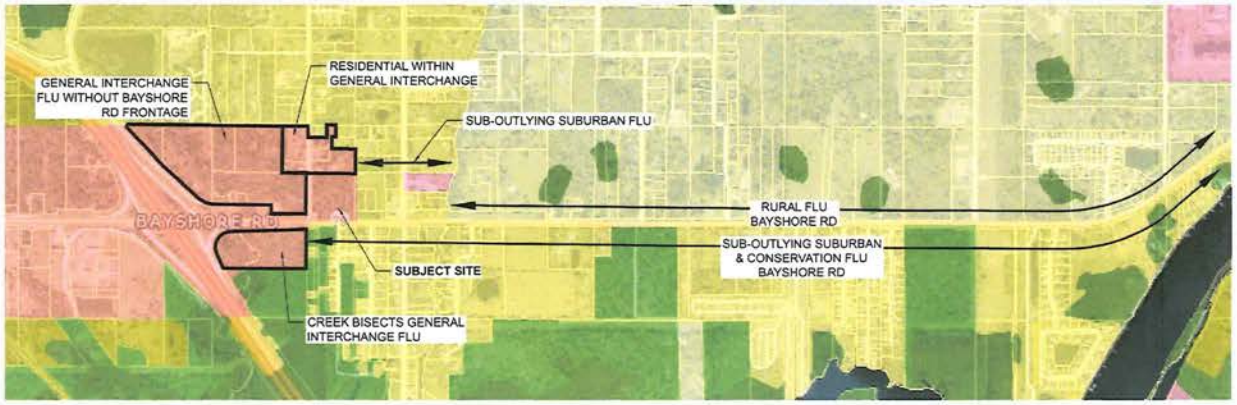
"Community Protection"

Commercial intensity will be needed in this area

- Additional rooftops in Bayshore Community & East of SR 31
- Improvements to Bayshore Road

Unrealized intensity in the established nodes could lead to development pressures in inappropriate areas

- FLU connecting most of I-75 and SR 31 along Bayshore Road is Rural and Sub-Outlying Suburban
- Creative text amendment to allow development approved in Rural over 1 du/ac (Bayshore Ranch)



Bayshore Community Plan

Policy 18.1.1

"Retail commercial uses will be limited to the Interstate Interchange designation at Bayshore and I-75, plus minor commercial uses…" in other places.

- Policy does not specify minor commercial at subject site

OBJECTIVE 18.1: LAND USE. The County will continue to enforce land development regulations that ensure separation of urban and rural land uses through the implementation of open space, buffers, and setback requirements that protect high quality environmental areas, such as creeks, oak hammocks, floodplains and wetlands from potential impacts of development. Planned developments, through appropriate conditions of approval, will be required to locate low residential densities along the perimeters of the development. Amendments to the Future Land Use Map that increase density or intensity must demonstrate compatibility through a concurrent planned development rezoning. (Ord. No. 03-02, 18-14, 18-18)

POLICY 18.1.1: Retail commercial uses will be limited to the Interstate Interchange designation at Bayshore and I-75, plus minor commercial uses at the intersections of Nalle Road and Bayshore, SR 31 and Bayshore, and SR 31 and Old Bayshore. Non-retail commercial uses are permitted elsewhere consistent with the Lee Plan and the LDC. (Ord. No. 03-02, 18-18)

POLICY 18.1.2: The following properties are deemed consistent with Policy 18.1.1: the existing 7.1 acre +/- retail commercial center at 10440 Bayshore Road, the 0.66 acre +/- retail commercial property at 19451 SR 31, the 0.83 +/- acre retail commercial property at 17270 Durrance Road, and the 0.36 +/- acre retail commercial property described in resolution Z-72-93, which is part of the property at 6600 Nalle Grade Road. (Ord. No. 03-02, 17-13, 18-18)

POLICY 18.1.3: No new industrial uses or industrial rezonings are permitted after February 3, 2003. (Ord. No. 03-02, 18-18)

POLICY 18.1.4: No new mining uses or commercial excavations are permitted after February 3, 2003. (Ord. No. 03-02, 18-18)

Bayshore Community Plan

- Remaining Objectives and Policies relate to Transportation, Sewer/Water, and Parks/Recreation

OBJECTIVE 18.2: TRANSPORTATION. All road improvements within the Bayshore Community considered by the County will address the community's goal to maintain its rural character and give preference to alternatives that allow existing roads to function at their current capacity. (Ord. No. 03-02, 18-18)

POLICY 18.2.1: Any expansion of the state arterial roadways should include physically separated provisions for bicyclists/pedestrians. (Ord. No. 03-02, 18-18)

POLICY 18.2.2: Road capacity improvements needed within the Bayshore Community to serve demands generated outside the community will be designed to minimize the impacts on the community and its rural character. (Ord. No. 03-02, 18-18)

POLICY 18.2.3: If a need to extend Del Prado Boulevard east of I-75 through the Bayshore Community Plan area is demonstrated, the corridor evaluation must include alternatives to using the existing Nalle Grade Road alignment. The evaluation will address (but not be limited to) access, safety and community character issues. Alternatives will be presented at an evening public information meeting in accordance with Policies 17.3.3 and 17.3.4. (Ord. No. 03-02, 18-18)

OBJECTIVE 18.3: SEWER AND WATER. Given the desire to maintain a low residential density, new central sewage service is not economically feasible and is discouraged north of Bayshore Road within the future non-urban land use categories. Central water service for enhanced fire protection will be encouraged where economically feasible. (Ord. No. 03-02, 18-18)

POLICY 18.3.1: No landowner will be required to connect to central sewer or water utilities or be assessed for same unless a threat to public health can be documented, or if a new development proposes an intensity that exceeds the thresholds in Standards 4.1.1 and 4.1.2. (Ord. No. 03-02, 18-18)

OBJECTIVE 18.4: PARKS AND RECREATION. The County will explore, with the support of the residents of Bayshore, the feasibility of establishing an equestrian park as the primary recreation facility for this community. (Ord. No. 03-02, 18-18)

POLICY 18.4.1: The support of the Bayshore residents may include assistance with development and maintenance of such a recreation facility. (Ord. No. 03-02, 18-18)

- No FAR noted within Lee Plan
- No associated LDC Article in Chapter 33 with FAR or intensity guidelines (10 communities have some LDC guidelines)

General Interchange

POLICY 1.3.2: The General Interchange areas are intended primarily for land uses that serve the traveling public: service stations, hotel, motel, restaurants, and gift shops. But because of their location, market attractions, and desire for flexibility, these interchange uses permit a broad range of land uses that include tourist commercial, general commercial, light industrial[4]/commercial, and multi-family dwelling units. The standard density range is from eight dwelling units per acre (8 du/acre) to fourteen dwelling units per acre (14 du/acre). Maximum density is twenty-two dwelling units per acre (22 du/acre). (Ord. No. 94-30, 99-18, 16-02, 17-12)

In reference to BBE Planning Report, page 4 of 11
Policy 1.3.2

- Includes tourist commercial as just one potential use with emphasis or other mention of tourism
- Does not specify "low-intensity commercial uses"
- Allows a broad range, including light industrial

LAND DEVELOPMENT CODE

Planned Developments

1. Two MCPs allow a graphical representation of two potential development scenarios
   - Large master planned communities sometimes show only a CPD parcel, or only a bubble plan within the CPD
   - Property development regulations, criteria for certain uses, buffers, etc. govern future final design
   - Two MCPs are often approved in Lee County
2. The number of deviations and conditions within a PD does not indicate inherent incompatibilities with neighboring properties or inconsistencies with the Comprehensive Plan.
3. Deviations do not require an offering or a trade of certain features to exceed requirements. Deviation criteria is that the deviation
   1. Enhance the achievement of the objectives of the planned development
   2. Will not cause a detriment to public interest

LAND DEVELOPMENT CODE

Deviations

1. The number of deviations and conditions within a PD does not indicate inherent incompatibilities with neighboring properties or inconsistencies with the Comprehensive Plan.
2. Two MCPs allow a graphical representation of two potential development scenarios
   - Large master planned communities sometimes show only a CPD parcel, or only a bubble plan within the CPD
   - Property development regulations, criteria for certain uses, buffers, etc. govern future final design
   - Two MCPs are often approved in Lee County

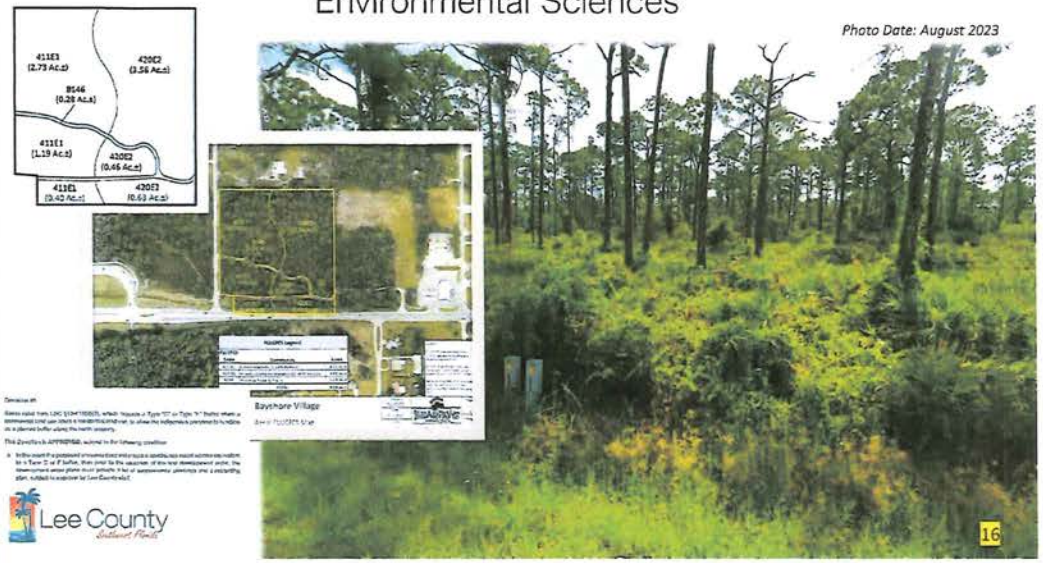
GENERAL NOTES

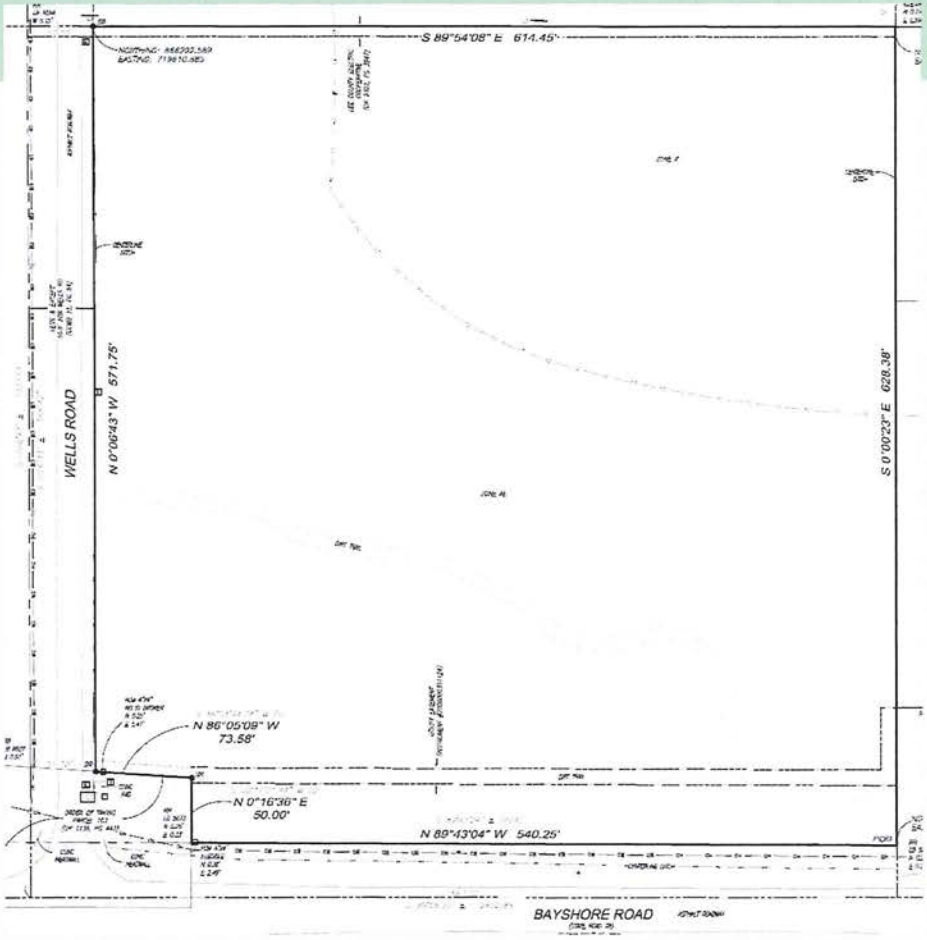
1. Food Trucks would require administrative approval per Condition 13.
2. A note on the MCP requires additional plantings to be added as needed to create a continuous visual screen as required by LDC 10-416(D)4.
3. “I don’t mind driving to go to things” creates traffic.
4. Conditions are routinely created in Lee Co PD’s to allow transition between uses. They do not indicate an underlying issue with a project.

INDIGENOUS

- Vegetation is more dense on the north end of the property
- Photo showing telephone box is in the middle of the site (near access point)

Environmental Sciences





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00023
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Perez, Maria

From:	Olga Ramos <OlgaRamos@PaveseLaw.com>
Sent:	Thursday, December 21, 2023 1:44 PM
To:	Hearing Examiner; Perez, Maria
Cc:	Neale Montgomery; Mendez, Adam; Siverson, Camryn; DeFilippo, Nicholas; Sarracino, Joseph
Subject:	Bayshore Village CPD- DCI2022-0032
Attachments:	HEX Letter -Bayshore Village (12.21.23).pdf

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Good afternoon,

Please see attached document regarding the above referenced matter.

If you should have any questions or concerns, please do not hesitate to contact our office.

Best regards,

PAVESE LAW FIRM est 1949

Olga L. Ramos
Legal Assistant to Neale Montgomery, Esq.
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APPLICANT'S
EXH # 4

PAVESE LAW FIRM
est. 1949

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Partner
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Email: NealeMontgomery@paveselaw.com

1833 Hendry Street, Fort Myers, Florida 33901 | P.O. Box 1507, Fort Myers, Florida 33902 | (239) 334-2195 | Fax (239) 332-2243

December 21, 2023

Ms. Donna Marie Collins
Hearing Examiner
1500 Monroe Street
Fort Myers, FL 33905

Via e-mail: hex@leegov.com

RE: Bayshore Village CPD
DCI2022-0032

Dear Ms. Collins,

The applicant and the staff have been in communication in regard to the conditions. Everyone has worked diligently to ensure clarity in the conditions. The staff and the applicant are in agreement on everything except the amount of square footage. The final draft of the conditions is attached, for reference, but I believe you have been sent these by Adam Mendez, as well. The applicant remains committed to the reduced square footage of 100,000 square feet to enable the property to be developed in a manner that will properly serve the traveling public as required by the General Interchange Future Land Use Category. A revised Master Concept Plan will be provided and updated to be consistent with the attached conditions, on or before January 5, 2024, per your Order for Post Hearing Written Submissions. The applicant will be providing a wall along the entire width of the property, south of the preserve area. The staff and the applicant agreed to limit signage and related lighting to further ensure compatibility with the single-family residence located in the General Interchange FLUC.

The applicant appreciates your time and attention to this application.

Sincerely,

Neale Montgomery

Cc: Adam Mendez, Lee County Community Development (*via e-mail: AMendez@leegov.com)*
Ron Inge *(via e-mail: ron@ingeandassociates.com)*
Jennifer Sapen (*via e-mail: jennifer@sapenplans.com*)
Rhonda Brewer (*via e-mail: rbrewer@retlandholdings.com*)
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Carl A. Barraco (*via e-mail: CarlB@barraco.net*)
Ted Treesh *(via e-mail: tbt@trtrans.net)*

Perez, Maria

From: Laurie L. Plue <laurieplue@paveselaw.com>
Sent: Wednesday, January 3, 2024 4:07 PM
To: Hearing Examiner
Cc: Neale Montgomery; Mendez, Adam; jennifer@sapenplans.com; Carl A. Barraco; alyssaF@barraco.net; rbrewer@retlandholdings.com; Dawn Russell; tbt; ron@ingeandassociates.com; Olga Ramos
Subject: Bayshore Village DCI2022-0032 (Our Client File #95683.001)
Attachments: Ltr,Att DM Collins 1-3-2024 RE Bayshore Village DCI2022-0032.pdf

Categories: Maria Handled This

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Good afternoon,

Attached please find correspondence with enclosures from Neale Montgomery regarding the above-referenced matter. A hard copy will not follow by mail unless requested. Thank you for your assistance.

PAVESE LAW FIRM est. 1949

Laurie L. Plue
Legal Assistant to Steven C. Hartsell, Esq. (Of Counsel)
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APPLICANT'S
EXH # 5
W.S.

PAVESE
LAW FIRM
est. 1949

NEALE MONTGOMERY
Partner
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January 3, 2024

Donna Marie Collins
Chief Hearing Examiner
Lee County Hearing Examiner's Office
1500 Monroe Street, Room 218
Fort Myers, FL 33901

VIA EMAIL: hex@leegov.com

RE: Bayshore Village, DCI2022-0032 (Our Client File #95683.001)

Dear Madam Hearing Examiner:

Please accept this letter as a follow up to the hearing held on December 13th and 14th, 2023. The record was kept open for the submission of additional information. The staff provided the Hearing Examiner with the updated list of conditions. The proposed Master Concept Plans have been revised to reflect the updated requirements. A clean version and a highlighted version of the MCP are provided to facilitate the review of the changes. Both master concept plans reflect the wall on the south side of the preserve. The cross-section of the north line, LCEC easement, preserve, and wall location are reflected on both Master Concept Plans.

A note was added to the master concept plans which indicates that the entrance on Wells Road will be coordinated with the plans for Pritchett Parkway if the plans reflect the final location of the Pritchett connection to Wells Road. The applicant provided the revised MCPs to the staff for their review and comment. The staff is in agreement with the MCPs provided herewith.

Your continued consideration of this matter is appreciated.

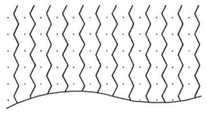
Sincerely,

Neale Montgomery

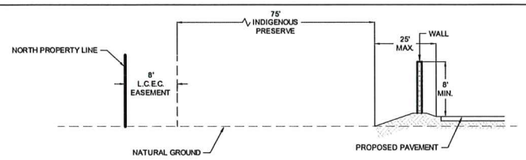
NM/llp
Attachments: *as noted above*

cc: Adam Mendez *via email: amendez@leegov.com*
Jennifer Sapen, *via email: jennifer@sapenplans.com*
Carl Barraco, *via email: CarlB@barraco.net*
Alyssa Fontaine, *via email: AlyssaF@barraco.net*
Ronda Brewer, *via email: rbrewer@retlandholdings.com*
Dawn Russell, *via email: drussell@lsicompanies.com*
Ted Treesh, *via email: tbt@trtrans.net*
Ron Inge, *via email: ron@ingeandassociates.com*

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

415' TO NEAREST INTERSECTION

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 OD ONE ACRE.

SPECIAL NOTE:
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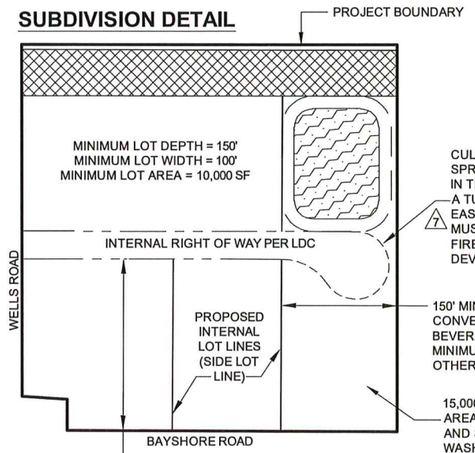
PROPOSED SIGNS

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

LEGEND

- PARKING & LANDSCAPING PER LDC
- LOADING / SERVICE AREA
- PRESERVE
- LAKE

SUBDIVISION DETAIL



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. (7)

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.

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

TYPE D BUFFER (TYPICAL FOR MOST USES) (3)
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.
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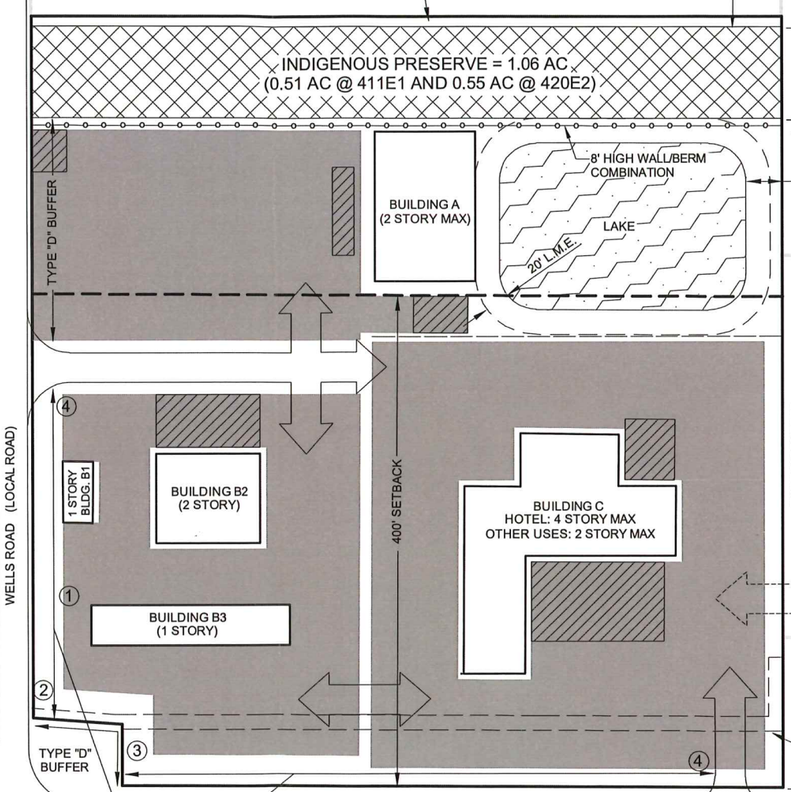
LEE COUNTY
HEARING EXAMINER
2024 JAN -3 PM 4: 30

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) (6)



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

30' EXCAVATION SETBACK (DEVIATION #1)

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

548' INTERSECTION SEPARATION (8)

233' INTERSECTION SEPARATION

BAYSHORE RD (2-LANE ARTERIAL)

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

PELICAN WAY (UNIMPROVED RIGHT OF WAY)

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

EAST LAKE DR

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SCALE IN FEET

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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

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LOCATION	J:\24066\DWG\ZONING\
PLOT DATE	TUE. 1-2-2024 - 2:16 PM
PLOT BY	ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS

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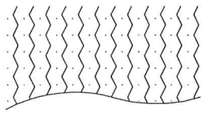
7-7-23	ADD DEVIATION #8
9-27-23	AUGUST/SEPTEMBER SUFFICIENCY
12-8-23	48-HOUR REVISIONS
12-29-23	ADD WALL CROSS SECTION & NOTES

PLAN STATUS

MASTER CONCEPT PLAN ALT A

PROJECT / FILE NO.	SHEET NUMBER
24066	1

SINUOUS LAKE SHORELINE DETAIL



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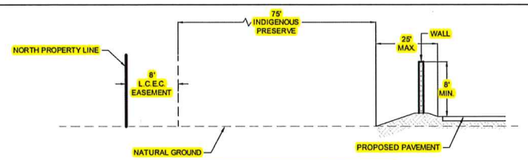

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LEGEND

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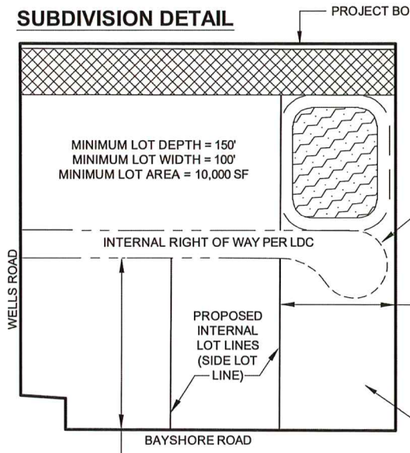
- LOADING / SERVICE AREA
- PRESERVE
- LAKE

SUBDIVISION DETAIL



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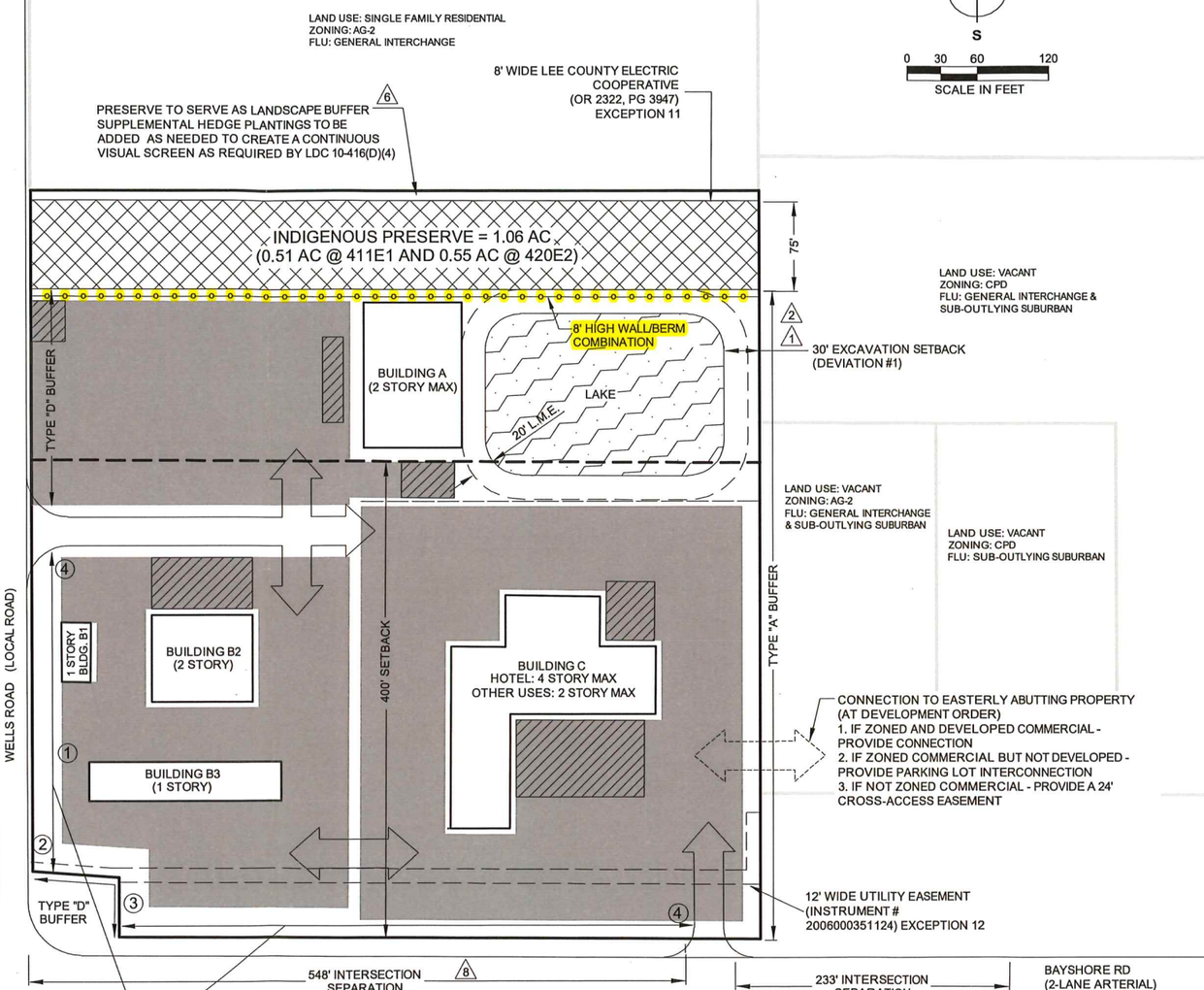

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SCALE IN FEET

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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

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FILE NAME	24066Z02-A.DWG
LOCATION	J:\24066\DWG\ZONING\
PLOT DATE	TUE. 1-2-2024 - 2:16 PM
PLOT BY	ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS

BASEPLAN = 24066Z00-A.DWG

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12-29-23	ADD WALL CROSS SECTION & NOTES

PLAN STATUS

MASTER CONCEPT PLAN ALT A

PROJECT / FILE NO.	SHEET NUMBER
24066	1

OPEN SPACE CALCULATION

REQUIRED OPEN SPACE	
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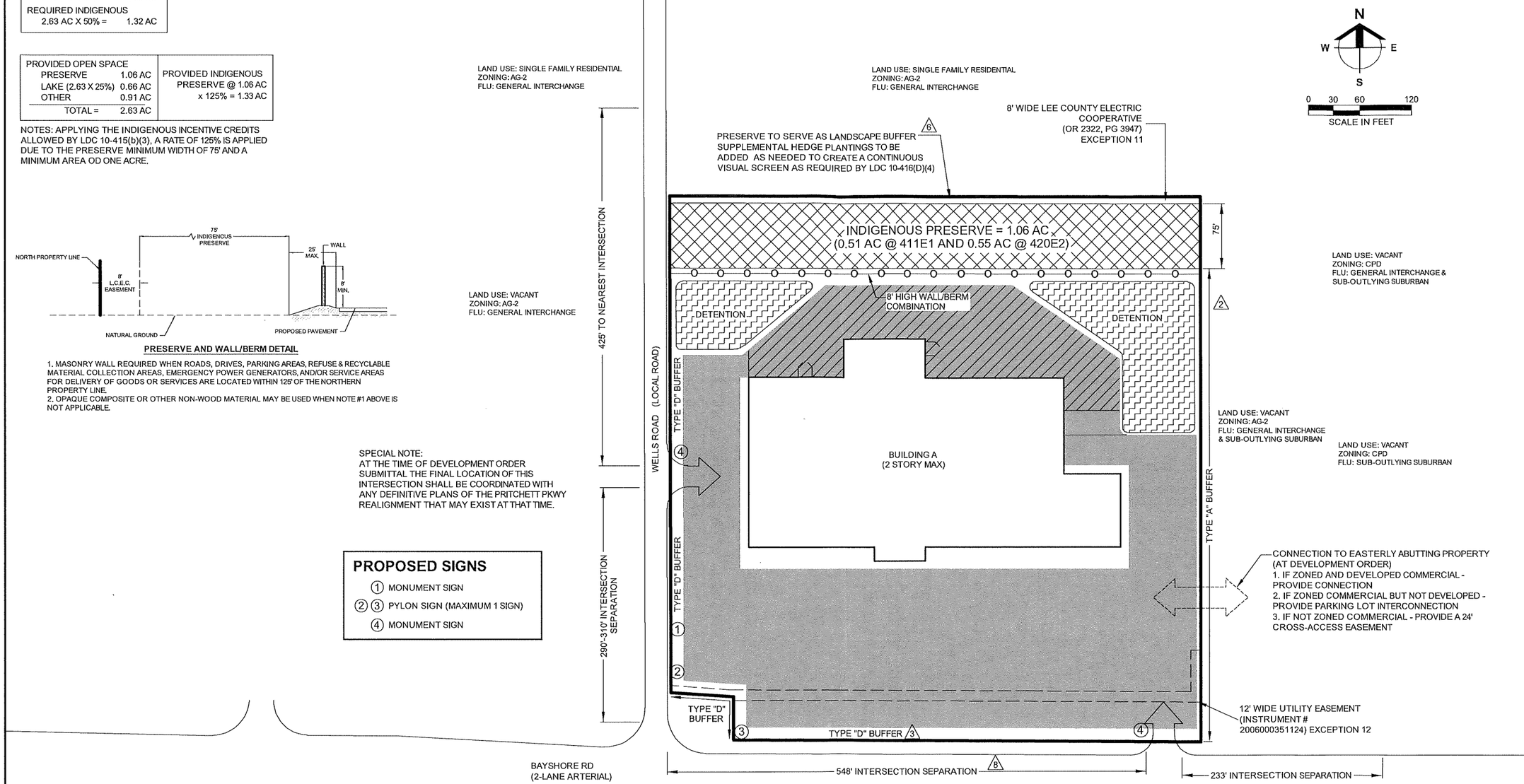

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SCALE IN FEET

LEGEND

- PARKING & LANDSCAPING PER LDC
- LOADING / SERVICE AREA
- PRESERVE
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PREPARED FOR

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LEE COUNTY, FLORIDA

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PLAN STATUS

MASTER CONCEPT PLAN ALT B

PROJECT / FILE NO.	SHEET NUMBER
24066	1

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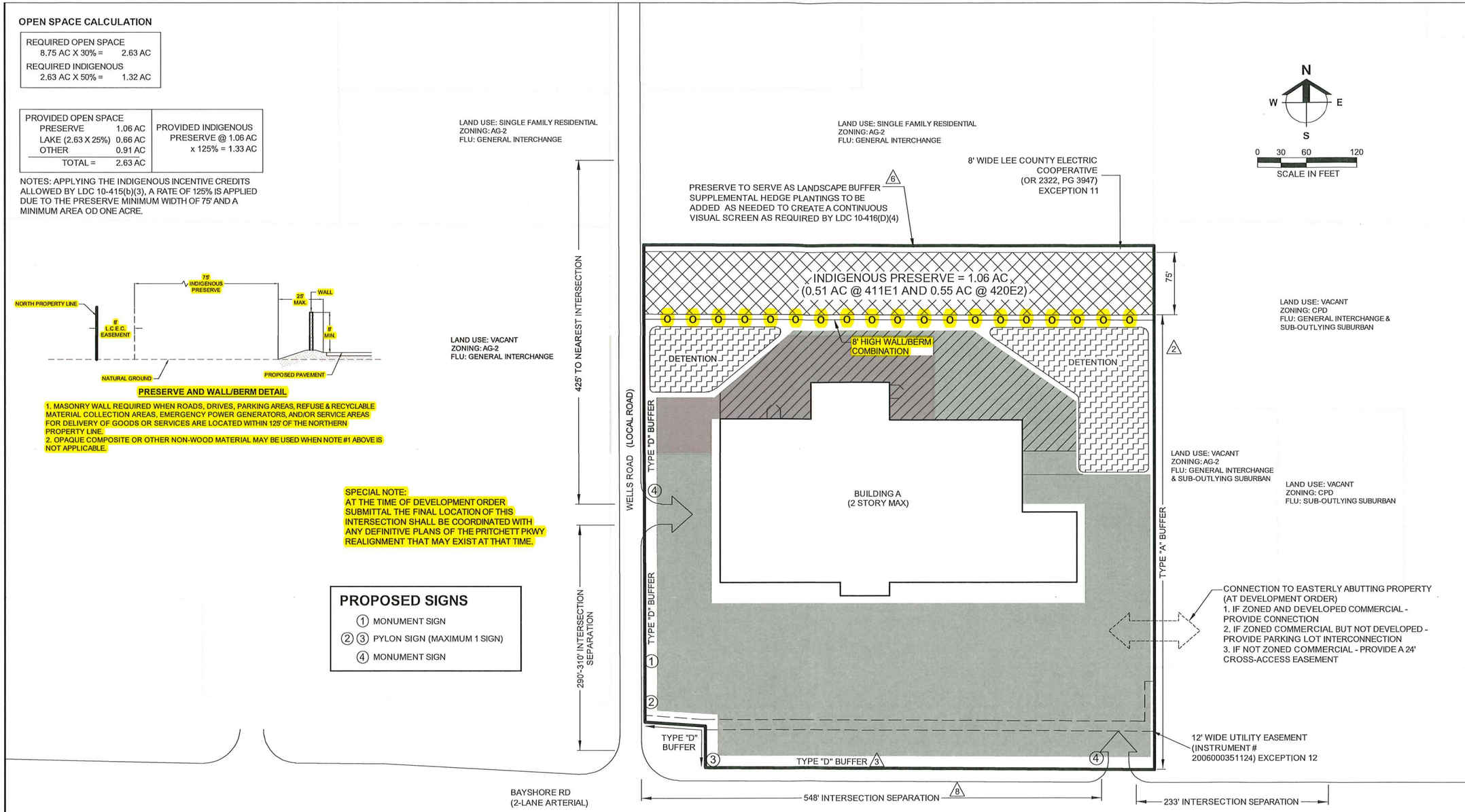

LEGEND

- PARKING & LANDSCAPING PER LDC
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