

MEMORANDUM
FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: Donna Marie Collins
Chief Hearing Examiner

DATE: April 23, 2024

FROM: Elizabeth Workman
Principal Planner

RE: Staff 48-Hour Letter
Sunniland Town Center CPD
DCI2023-00010

Staff is providing a 48-hour letter to revise the conditions (Attachment S) as follows:

- #1 – Revise Condition 4 to include Bar and Cocktail Lounge and Night Clubs. LDC Section 34-1264(a)(1)b limits the location of these uses to 500 feet from schools, religious facilities, and dwelling units under separate ownership.
- #2 – Add Condition 12 to Attachment S to include Transportation staff's conditions that were provided in the Transportation Memorandum (Attachment Q) and analyzed on pages 12 through 14 of the staff report.

Staff has provided revised Expert Witness Information (Staff Report, Attachment A) to add Robert L. Price, PE, Department of Transportation Director and Jillian Scholler, PE, Department of Transportation Deputy Director to the list of expert witnesses for County staff.

Respectfully Submitted,
Elizabeth Workman
Principal Planner, Zoning Section

Attachments:
Revised Schedule of Uses, Attachment S
Revised Lee County Expert Witness Information, Attachment A

Cc: Neale Montgomery, Pavese Law Firm
Daniel DeLisi, AICP, DeLisi, Inc.

Attachment S – Conditions

Sunniland Town Center CPD – DCI2023-00010

Section A. - Request

1. The development of this project must be consistent with one-page Master Concept Plan (MCP) entitled “Sunniland” last revised November 19, 2023, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at the time of local development order. If changes to the MCP or conditions or deviations are subsequently pursued, appropriate approvals will be necessary.

This project is limited to a maximum of either:

1. 265,000 square feet of commercial floor area and 100,000 square feet of Mini Warehouse uses, or
2. 100,000 square feet of commercial uses, 100,000 square feet of Mini Warehouse uses and 300 residential dwelling units (only on Parcel 2) with a maximum commercial building height of 35 feet and residential building height of 45 feet.

Section B. - Conditions

2. The following limits apply to the project and uses:

- a. Schedule of Uses

Accessory uses, buildings, and structures
Administrative Offices
Amusement Parks
Animal Clinic or Kennel
Auto Parts Store
ATM (Automatic Teller Machine)
Automobile Repair & Service – Group I
Automobile Service Station
Bait & Tackle Shop
Banks and Financial Establishments – Groups I & II
Bar and Cocktail Lounge
Boat Parts Store
Broadcast Studio, Commercial Radio & Television
Building Materials Sales
Business Services, Groups I & II
Car Wash
Cleaning & Maintenance Services (no repairs)
Clothing Stores, General
Clubs: Commercial, Fraternal, and Private
Continuing Care Facilities

Consumption on Premises (limited to outparcels along Lee Boulevard)
Contractors & Builders – Group I & II
Convenience Food and Beverage Store limited to one with a maximum 24 self-service fuel pumps
Cultural Facilities
Department Store
Day Care Center, Child or Adult
Drive-through Facility for any permitted use
Drugstore, Pharmacy
Dwelling Units, Multi-Family (Parcel 2 only)
EMS, Fire, or Sheriff's Station
Essential Services
Entrance Gates and Gatehouse (Parcel 2 only)
Excavation, Water Retention
Fences and Walls
Food Stores – Groups I & II
Food and Beverage Service, Limited
Funeral Home (without a crematory)
Gift and Souvenir Shop
Hardware Store
Health Care Facilities – All Groups
Hobby, Toy, and Game Shops
Home Occupation
Household and Office Furnishings – All Groups
Insurance Companies
Laundromat
Laundry or Dry Cleaning – Group I
Lawn and Garden Supply Stores
Library
Medical Office
Motion Picture Production Studio
Nightclubs
Non-store Retailers
Package Store – limited to two for entire CPD
Paint, Glass and Wallpaper
Parking Lot, Accessory
Personal Services – Groups I, II, & III
Pet Services
Pet Shops
Pharmacy
Place of Worship
Post Office

Printing and Publishing
 Real Estate Sales Office
 Recreation Facilities, Private on-site – (for Parcel 2 only, in conjunction with multi-family use)
 Recreation Facilities, Commercial, Group I
 Religious Facilities
 Rental and Leasing Establishment – Groups I & II
 Repair Shops – Groups I & II
 Research and Development Laboratories – Group II
 Restaurants – Group I, II, & III
 Restaurants – Fast Food
 Schools, Commercial and Noncommercial
 Signs
 Specialty Retail Shops – All Groups
 Social Services – Group I
 Storage, Indoor
 Transportation Services – Group II
 Theater, Indoor
 Used Merchandise Stores – Groups I
 Variety Store
 Vehicle & Equipment Dealers – Groups II
 Warehouse, Mini-Warehouse

b. Site Development Regulations

Anchor Parcels

Minimum lot size:	2.5 acres
Minimum lot width:	200 feet
Minimum lot depth:	200 feet

Outparcels:

Minimum lot size:	10,000 square feet
Minimum lot width:	100 feet
Minimum lot depth:	100 feet

Maximum lot coverage:	45 percent
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Maximum Residential Building Height:	45 feet
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Maximum Commercial Building Height:	35 feet
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Minimum Building Separation:	20 feet
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Setbacks:	
Development Perimeter:	25 feet
Street:	25 feet
Side:	20 feet
Rear:	20 feet
Waterbody:	25 feet
Preserve:	20 feet (30 feet for fire dependent indigenous plant communities)

Minimum Open Space: 20 percent

3. Platting and Subdividing

The subject property may only be subdivided after recording of a plat of the property in the Official Records of Lee County, Florida.

4. Consumption on Premises

Package Stores, Bars and Cocktail Lounges, and Night Clubs are limited to the outparcels as shown on the Master Concept Plan and must be located greater than 500 feet away from the property line of Sunshine Elementary School and dwelling units under separate ownership.

5. Sidewalk Improvements

a. Prior to the issuance of the Certificate of Completion for a development order subsequent to the Limited Development Order for violation abatement (Condition 8) Parcel 1 and Parcel 2, a five-foot-wide sidewalk must be installed along Sunniland Boulevard. The sidewalk must extend along the project's entire frontage on Sunniland Boulevard. This is a site-related improvement and not eligible for Road Impact Fee Credits.

b. 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.

6. Concurrency

a. Approval of this zoning request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee County Comprehensive Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1b.

b. Prior to the issuance of a local development order, the proposed project must meet the concurrency requirements set forth in LDC Chapter 2 and the Lee County Comprehensive Plan.

7. Open Space

Prior to the issuance of a local development order, that landscape plans must depict 7.0 acres of open space with 3.5 acres of preservation and restoration indigenous open space, consistent with the Master Concept Plan.

8. Violation Abatement

a. The following conditions codify the abatement required by VIO2021-06268 and VIO2021-06269. If the conditions are not met, the restoration criteria of Chapter 14 of the LDC will apply in full and will be monitored through the Code Enforcement violation process:

1. Prior to the issuance of a development order for any phase of development, the applicant must obtain a Limited Development Order to plant the abatement trees and must receive a Certificate of Compliance for the abatement plantings.
 2. Landscape plans must depict new abatement plantings consisting of 215 Cabbage Palms, 49 Live Oaks, and four South Florida slash pines. Live oaks and South Florida slash pines must be Florida No. 1 or better per amended Grades and Standards for Nursery Plants, Parts I and II and be a minimum six feet in height with a minimum trunk diameter of one inch measured at three feet above the ground and a minimum canopy diameter of two feet at installation.
 3. The landscape plans must depict nine Live Oaks specified at 20 feet in height with a minimum of four-inch caliper and a minimum eight-foot canopy must be installed to replace the removed heritage trees.
 4. Landscape plans must depict an above-ground irrigation system in the restoration areas, which may be removed one year after the issuance of a Certificate of Compliance for the Limited Development Order.
 5. The Limited Development Order must include a five-year monitoring plan for the restoration areas with monitoring reports describing the conditions of the restored areas submitted annually for five years.
9. Gopher Tortoises
Machines are prohibited within the 1.2-acre preservation area.
10. Parcel 1 Buffers
Prior to the issuance of a development order for Parcel 1 , the development order plans must depict the following:
- a. a ten-foot-wide Type B buffer with five trees per 100 linear feet and double hedge row along the north property line; and
 - b. a 25-foot-wide buffer with seven trees and 33 groundcovers per 100 linear feet and a double hedge row along the west property line. Palms are limited to a maximum of 25 percent of the buffer tree requirement. Hedges must be specified at 48 inches in height at time of installation and be maintained at 72 inches in height. Groundcovers must be a minimum one-gallon container size at time of planting.
11. Parcel 2 Buffers
Prior to the issuance of a development order for Parcel 2, the development order plans must depict the following:
- a. a ten-foot-wide Type B buffer with five trees per 100 linear feet and a double hedge row along the north property line; and
 - b. a five-foot-wide buffer with five trees per 100 linear feet along the east property line.

12. Transportation

- a. Development intensity is limited to new trips generated by 265,000 square feet of commercial retail use (Shopping Center (>150 KSF)) and 100,000 square feet of Mini-Warehouse use based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual in effect at time of development order review.
- b. The turning volumes projected in the Zoning TIS indicate that signal warrants will be met at Lee Boulevard and Sunniland Boulevard intersection. At the time of submittal for the first development order, a detailed signal warrant projection based on full buildout traffic conditions at Lee Boulevard and Sunniland Boulevard intersections, including full buildout of the Sunniland Town Center development established by zoning intensities and densities must be performed. Should the County Traffic Engineer deem that a traffic signal will be warranted at the intersection, the Applicant must incorporate the design of a new traffic signal as part of the development order process. Should the Developer decide to design the signal(s) as part of a separate Limited Review Development Order (LDO) for offsite improvements, the LDO must be approved prior to the issuance of a Certificate of Occupancy for any dwelling units or a Certificate of Compliance for vertical commercial construction. In addition to the signal design, the Applicant and County must enter into a signalization agreement that details any items necessary to construct the signal(s) including, but not limited to, timing of construction, funding, and the responsible entity to oversee the construction.

Section C. – Deviations

1. Deviation 1 is withdrawn.
2. Deviation 2 seeks relief from the LDC Section 10-415(b), which requires large developments with existing indigenous native vegetation communities to provide 50 percent of the required open space percentage as onsite indigenous preservation, to allow preservation of indigenous native vegetation communities and areas that do not meet the indigenous definition but are restored to create indigenous areas onsite to satisfy this requirement. The deviation is approved, subject to Condition 8.

Attachment A

LEE COUNTY STAFF EXPERT WITNESS INFORMATION PROVIDED PURSUANT TO AC-2-6, SECTION 2.2.b(5)(F)3.

Case Number: DCI2023-00010
Project Name: Sunniland Town Center
Hearing Examiner Date: April 25, 2024

Beth Workman, Principal 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, Lee Plan, and Environmental Sciences.
- 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.

Brandon Dunn, Planning Manager, 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 and Lee Plan.
- 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.

Ally Hall, Plan Reviewer, Development Services, 1500 Monroe Street, Fort Myers, FL 33901

- Seeking to be qualified as an expert witness in the Lee County Land Development Code and Lee Plan.
- Staff reviewed and provided comments for sufficiency. 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.

Robert L. Price, PE, Department of Transportation Director, 1500 Monroe Street, Fort Myers, FL 33901

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Jillian Scholler, PE, Department of Transportation Deputy Director, 1500 Monroe Street, Fort Myers, FL 33901

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Md Rakibul (Rakib) Alam, Senior Transportation Planner, Infrastructure Planning, 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 and Lee Plan.
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Nic DeFilippo, Senior Environmental Planner, Planning, 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, and Environmental Sciences.
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