

April 23, 2024

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

Via e-mail: hex@leegov.com

**RE: Sunniland Town Center CPD
DCI2023-00010**

Dear Ms. Collins,

Please accept this letter as the forty-eight (48) hour letter for the above styled matter. The applicant is in agreement with the staff recommendation. The applicant has concerns or suggested changes for some of the conditions. The changes are as follows:

1. Section A, condition 1, the revision date for the MCP will need to be updated.
2. Section A, condition 2. The owner of the oil well parcel wants the use, "Gas & Oil Extraction - existing well only", reinserted in the list of permitted uses. This may require the reinsertion of the prior condition 15, even though Condition 15 has already been fulfilled.
3. Section A, condition 3. Is a carryover from a prior time when this condition was "standard" and often contested as it did not permit a condominium plat. The condition is not necessary because platting is addressed by Chapter 177, F.S., Section 10-211, LDC, and AC 13-19.
4. Section A, condition 6. Concurrency. Part A is a true statement addressed by the Lee Plan and LDC, and not necessary. Part B should be eliminated. This is a condition that was included when the County included transportation concurrency in the Lee Plan. Policy 95.1.3. of the Lee Plan addresses regulatory and non-regulatory levels of service standards and is now controlling.
5. Section A. condition 8: The applicant would submit that some adjustment to the condition, particularly as it relates to timing, will be necessary. The dry detention areas will include some of the restoration plantings. Thus, a development order for the surface water management system will be required in order to establish the restoration plantings.
 - a. This condition indicates that the restoration criteria of Chapter 14 will apply in full. It is the applicant's understanding that the restoration plan has been reviewed and meets the criteria. The condition states that the monitoring will be done through the code enforcement violation process. The applicant is unclear as to what this process is. If the process in the one set forth in Section 14-384(a)(5), L.D.C., it would be helpful to indicate that fact, so future applicants and reviewers have a clear understanding.

- b. Condition 8.a.1. ~~Prior to~~ As part of the issuance of the first development order for any phase of development, the applicant must obtain a Limited Development Order include the restoration plan which requires the applicant to plant the abatement trees. The applicant must receive a Certificate of Compliance for all vegetation required by the Development Order including the abatement plantings.
 - c. Condition 8.a.4. The applicant would submit that the required irrigation for the vegetation should be installed in each phase to ensure the viability of the vegetation instead of a temporary above ground system.
 - d. Condition 8.a.5. This condition appears to be the same as the monitoring requirement in Section 14-384(a)(5), LDC, which seems to be the same as condition 8.a. The applicant would request clarity. If this condition includes the same requirement as 8.a. and 8.a.1, then this condition should be removed.
6. Attachment Q, condition 2. Indicates that at build out the project will meet the signal warrants at build out. The applicant would submit that the following condition be included regarding future signalization in lieu of condition 2 in the LDOT memo:
- a. At the time of the first Development Order application for vertical construction (buildings/structures that generate traffic), the Developer will submit a signalization agreement to the County to review that will include conducting a Warrant Study at the intersection of Lee Boulevard and Sunniland Boulevard based on the development parameters outlined in the approved zoning. The signalization agreement will also outline the details necessary to design and construct the signal, including but not limited to, timing of construction, funding, and the responsible entity to oversee the construction. The Signalization Agreement will be required to be executed by all parties by the time the first Certificate of Occupancy of the first dwelling unit or a Certificate of Completion for vertical commercial construction.
7. The applicant objects to DOT condition 1. Section A. condition 1 sets for the maximum square footage and units that can be developed on the property. The Development Order TIS must be consistent with the zoning. The condition is superfluous, but if it is included it will be presumed that it is there for a reason different from the limitations in Section A condition 1.

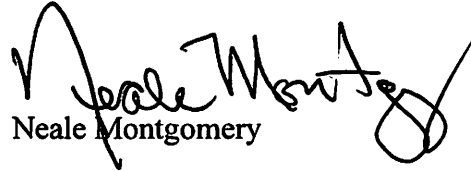
The witnesses for the request are:

- 1. Dan Delisi
- 2. Yury Bykau/Ted Treesh
- 3. Paul Owen
- 4. Brent Addison
- 5. Darendia Marvin

The applicant will be providing as exhibits at the hearing:

1. Updated Master Concept Plan (attached)
2. PowerPoint
3. Resolution Z-06-090

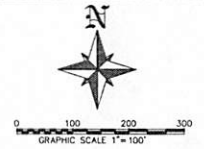
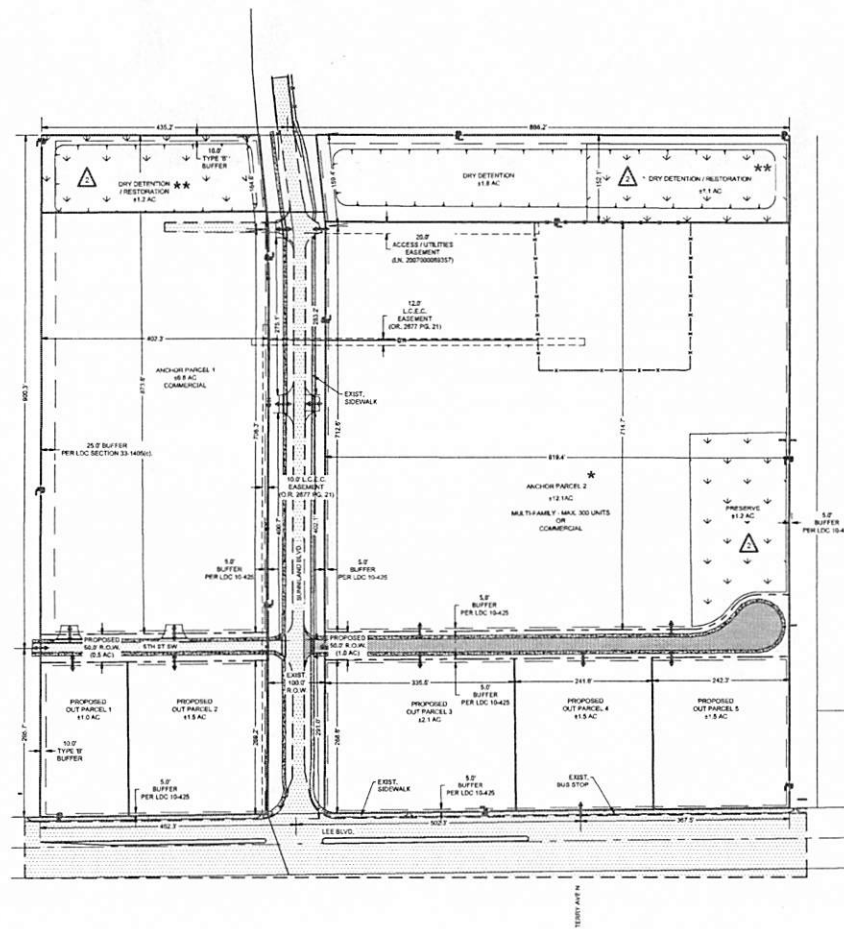
Sincerely,


Neale Montgomery

Cc: Dan DeLisi (via e-mail: dan@delisi-inc.com)
Yury Bykau (via e-mail: yury@trtrans.net)
Ted Treesh (via e-mail: tbt@trtrans.net)
Paul Owen (via e-mail: powen@pwenenv.com)
Brent Addison (via e-mail: baddison@atwell-group.com)
Darenda Marvin (via e-mail: dmartin@wmgdevelopment.com)

S:\J05\5854\5854\DOCUMENTS\DRAWING\5844_JCD.DWG 4/17/2024 3:20 PM KEVIN GONZALEZ

SECTION N



PROJECT SIZE: 415.3 AC
PRESERVE/RESTORATION: 45.0 AC
DRY DETENTION: 41.0 AC
R.O.W. AREA: 41.0 AC
COMMERCIAL AREA: 41.0 AC
COMMERCIAL DENSITY: 25,000 S.F./AC
RESIDENTIAL AREA: 41.0 AC
RESIDENTIAL DENSITY: 300 UNITS

REQUIRED OPEN SPACE
MIN. USE COVERAGE: 30% OF 415.3 AC = 124.6 AC

REQUIRED INDIGENOUS PRESERVE
50% OF 41.0 AC = 20.5 AC

PROVIDED OPEN SPACE

COMMERCIAL PARCELS: 10% 15.8 AC = 1.58 AC

RESIDENTIAL AREA: 10% 16.2 AC = 1.62 AC

BUFFERS: 1.0 AC

PRESERVE/RESTORATION: 3.5 AC

TOTAL: 7.88 AC

NOTE

ANCHOR PARCEL 2 MAY BE DEVELOPED WITH EITHER 300 DWELLING UNITS OR COMMERCIAL.

RESTORATION AREAS SATISFY ABATEMENT FOR V00321-0008 AND V00321-0009

SECTION N

PREPARED FOR:

WMG DEVELOPMENT
1200 NETWORK CENTRE DRIVE, SUITE 3
EFFINGHAM, IL 62401

NO.	DATE	REVISION	PER COUNTY COMMENTS	BY
01	4-15-2024	REVISED PER COUNTY COMMENTS		BT
02	4-16-2024	REVISION DESCRIPTION		

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MASTER CONCEPT PLAN
SUNNILAND
LEE COUNTY, FLORIDA

DATE	PROJECT	DRAWING	DESIGN	DRAWN	CHECKED	SCALE	SHEET
1/8/2023	5844	_MCP		KG		AS SHOWN	01

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

WHEREAS, an application was filed by the property owner, Lehigh Commercial LLC, to rezone 33.3± acres from Residential Single-Family (RS-1) to Commercial Planned Development (CPD), in reference to Sunniland Town Centre; and,

WHEREAS, a public hearing was advertised and held on October 25, 2006, with the record held open for written submissions until November 3, 2006, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2006-00013; and

WHEREAS, a second public hearing was advertised and held on January 29, 2007, 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 33.3± acres from RS-1 CPD to permit a maximum of approximately 232,000 square feet of commercial uses including, but not limited to: Office, Restaurant, Department Store and Pharmacy. No blasting is proposed. Maximum height is 35 Feet. Connections to central water and sewer systems will be provided. The property is located in the Central Urban 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. The development of this project must be consistent with the 1-page Master Concept Plan (MCP) entitled "Sunniland Town Center, Master Concept Plan," dated 07/10/06, last revised 3/26/07, date stamped "Received Mar 28 2007 Community Development," except as modified by the conditions below. This development must comply with all requirements of the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

A maximum of 232,000 square feet of commercial uses are permitted.

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

a. Schedule of Uses

Parcel 1 (West of Sunniland Boulevard)

Accessory Uses and Structures

Administrative Offices

ATM

Banks and Financial Institutions, Groups I & II

Broadcast Studio

Business Services, Group I

Computer and Data Processing Services

Consumption on Premises (COP) - limited to two as shown on the MCP

Essential Services

Excavation, water retention

Fences, walls

Insurance Companies

Medical Office

Parcel and Express Services

Post Office

Real Estate Sale Office

Restaurants: Groups I, II & III

Signs in accordance with Chapter 30

Parcel 2 (East of Sunniland Boulevard)

Accessory Uses and structures

Administrative Offices

Animal Clinic or kennel

ATM

Auto Parts Store

Automobile Service Station

Banks and Financial Institutions: Groups I & II

Bar or Cocktail Lounge

Broadcast Studio

Business Services: Group I

Clothing Stores

Clubs: commercial, fraternal & private

Computer and Data Processing Services

Consumption on Premises (COP) - limited to 1, with no outdoor seating

(See also Condition 6)

Cultural Facilities

Day Care Center, child or adult

Department Store

Drive thru Facility - as shown on the MCP

Drugstore, Pharmacy

EMS, Fire or Sheriff's station

Essential Services

Excavation, water retention

Fences, walls
 Food Stores: Groups I & II
 Gas & Oil Extraction - existing well only
 Gift and Souvenir Shop
 Hardware Store
 Hobby, Toy and Game Shops
 Household and Office Furnishings, Groups I, II & III
 Insurance Companies
 Medical Office
 Motion Picture Production Facility
 Parcel and Express Services
 Package Store - limited to 1
 Paint, Glass and Wallpaper
 Personal Services: Groups I, II & III
 Pet Services
 Pet Shop
 Post Office
 Real Estate Sale Office
 Rental and Leasing Facilities: Groups I & II
 Repair Shops: Groups I & II
 Restaurants: Groups I, II & III
 Schools, Commercial
 Signs in accordance with Chapter 30
 Specialty Retail: Groups I, II, III & IV
 Theater, Indoor
 Variety Store

b. Site Development Regulations

Minimum Lot Width:	200 feet
Minimum Lot Depth:	200 feet
Minimum Lot Area:	2.5 acres
Outparcels:	
Minimum Lot Width	100 feet
Minimum Lot Depth	100 feet
Minimum Lot Area	10,000 square feet
Maximum Lot Coverage:	45 percent
Maximum Building Height	35 feet or two stories
Minimum Building Separation	20 feet
Setbacks:	
Development Perimeter	25 feet
Street:	25 feet
Side:	20 feet
Rear:	20 feet
Waterbody	25 feet

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

4. Where vehicular asphalt is within 125 feet of a residential zoned property the applicant must install an enhanced Type "D" buffer. This buffer must be planted with a double-staggered hedge row with a minimum 24-inch height at the time of planting and maintained at no less than 48-inches high. The buffer must also be planted with five trees every 100 linear feet with a clear trunk height of 12 feet. At least 50 percent of the required buffer trees must be Live Oaks.
5. A single package store is permitted within the proposed development. The Package Store must be located greater than 500 feet away from the property line of Sunshine Elementary School.
6. Consumption on Premises (COP) in conjunction with a Group III Restaurant is approved, but limited to the following conditions:
 - A. Hours of operation for indoor seating are approved between the hours of 10:00 A.M. and 12:00 P.M., Monday through Sunday.
 - B. Hours of Operation for outdoor seating are approved between the hours of 10:00 A.M. and 10:00 P.M., Monday through Sunday. Outdoor entertainment is limited to piped music during the same hours of operation for consumption on premises. Music must remain at or below a normal conversation level.
7. The reduced setback area for the water management lakes, as outlined in Deviation 1, must be planted with a landscaped buffer and will provide berms, guardrails or other acceptable materials in this area to provide for the protection of wayward vehicles.
8. Prior to the issuance of the certificate of completion for Parcel 1 and Parcel 2, a 5-foot wide sidewalk must be installed along that side of 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.
9. 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.
10. 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 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 County Comprehensive Plan provisions.

11. 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 County Comprehensive Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.
12. Traffic calming devices, acceptable to Lee County Development Services, must be installed along the parking aisle which extends between 5th Street West and Sunniland Boulevard. The Applicant will identify to Lee County Development Services the traffic calming devices it proposes to employ for this purpose at the time of request for the development order for the first parcel that contains, or is adjacent to, the subject parking aisle.
13. Bike racks must be installed on each commercial parcel located on both the east and west sides of Sunniland Boulevard. A bike rack must be installed on each commercial parcel prior to the issuance of the first Certificate of Occupancy for the business on each respective parcel.
14. Prior to local development order approval, a detailed gopher tortoise management plan must be submitted for the Division of Environmental Sciences Staff review and approval. This management plan must include details of the existing vegetative cover, any enhancements that are needed including the planting of gopher tortoise forage vegetation, and the type of permanent protective barriers to be provided between the commercial development and the gopher tortoise preserve. The development order plans must delineate a gopher tortoise preserve in substantial compliance with the area shown on the MCP.
15. Prior to local development order approval, the landscape plans must include the delineation of: (1) thirty percent (30%) or 10 acres of open space; (2) 2.29 acres of native tree preservation areas and 2.27 acres of gopher tortoise habitat in substantial compliance with the MCP; and (3) a South Florida Slash Pine (minimum 20-foot height) in the southeast gopher tortoise preserve.
16. The on-site oil well must be plugged or capped within six months of the permanent cessation of oil production activities, and during that six-month period the wellhead must be fenced (with a chainlink fence) in such a manner so as to preclude access to the wellhead by unauthorized individuals.

SECTION C. DEVIATIONS:

1. Deviation (1) seeks relief from the §10-329(d)(1)a.2. requirement to provide a minimum waterbody setback of 50 feet from an existing right-of-way line for a collector or arterial road, to allow a setback of 35 feet. This deviation is APPROVED, SUBJECT TO Condition 7 above.

2. Deviation (2) seeks relief from the §10-416(d)(6) requirement to provide a 25-foot-wide buffer with a wall when vehicular pavement is proposed within 125 feet of a residentially zoned parcel, to allow a 15-foot wide Type "D" buffer along the southeastern portion of the subject property. This deviation is APPROVED, SUBJECT TO Condition 4 above.

SECTION D. 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:
26-44-26-00-00003.0000

SECTION E. 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.
5. The approved deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

Commissioner Ray Judah made a motion to adopt the foregoing resolution, seconded by Commissioner Tammara Hall. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

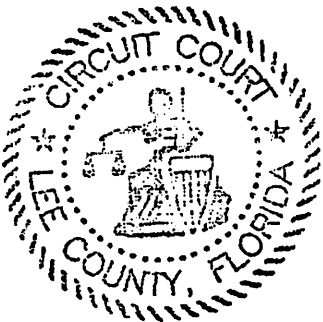
DULY PASSED AND ADOPTED this 29th day of January, 2007.

ATTEST:
CHARLIE GREEN, CLERK

BY: Kathleen A. Motz
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Robert P. Janes
Robert P. Janes, Chair



Approved as to form by:

John J. Fredyma
John J. Fredyma
Assistant County Attorney
County Attorney's Office

DESCRIPTION
Parcel 1 & Parcel 2
Part of Section 26, Township 44 South, Range 26 East

Those Portions of the vacated Re-Plat of Tract N Unit 6, Lehigh Acres as recorded in Plat Book 26, Page 155, vacated per Official Records Book 2710, Page 3442 of the Public Records of Lee County, Florida being more particularly described as follows:

Parcel 1

Beginning at the intersection of the north right-of-way line Lee Boulevard and the west right-of-way line of Sunniland Boulevard; thence North 00°24'35" East, along said west right-of-way line, a distance of 1027.48 feet; thence North 05°37'08" West, continuing the along said west right-of-way line, a distance of 164.56 feet to the south right-of-way line of a canal; thence North 89°41'39" West along said south right-of-way line, a distance of 384.98 feet to the east line of a canal; thence South 00°24'35" West, along said east right-of-way line, a distance of 1196.06 feet to the north right-of-way line of Lee Boulevard; thence North 89°36'31" East, along said north right-of-way line, a distance of 402.30 feet to the **Point of Beginning**.

Containing 10.990 acres, more or less.

TOGETEHER WITH:

Parcel 2

Beginning at the intersection of the north right-of-way line Lee Boulevard and the east right-of-way line of Sunniland Boulevard; thence North 00°24'35" East, along said east right-of-way line, a distance of 1031.38 feet; thence North 05°37'08" West, continuing along said east right-of-way line, a distance of 159.42 feet to the south right-of-way line of a canal; thence South 89°41'39" East, along said south right-of-way line, a distance of 835.96 feet to the west right-of-way line of a canal; thence South 00°23'12" West, along said west right-of-way line, a distance 1179.97 feet to the north right-of-way line of Lee Boulevard; thence South 89°36'31" West, along said north right-of-way line, a distance of 819.77 feet to the **Point of Beginning**.

Containing 22.322 acres, more or less.

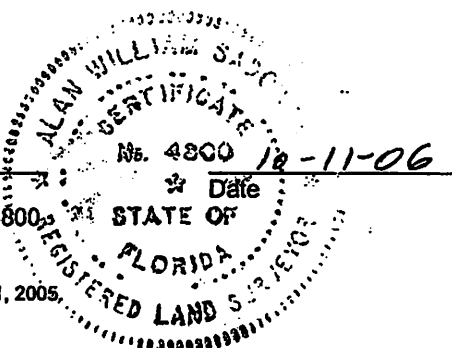
This legal description and the attached sketch is not valid without the signature and raised seal of a Florida licensed surveyor and mapper.

SEE ATTACHED SKETCH

Prepared by:
WilsonMiller, Inc.

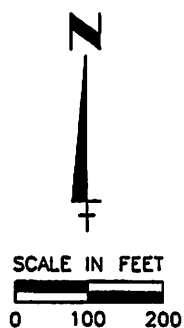
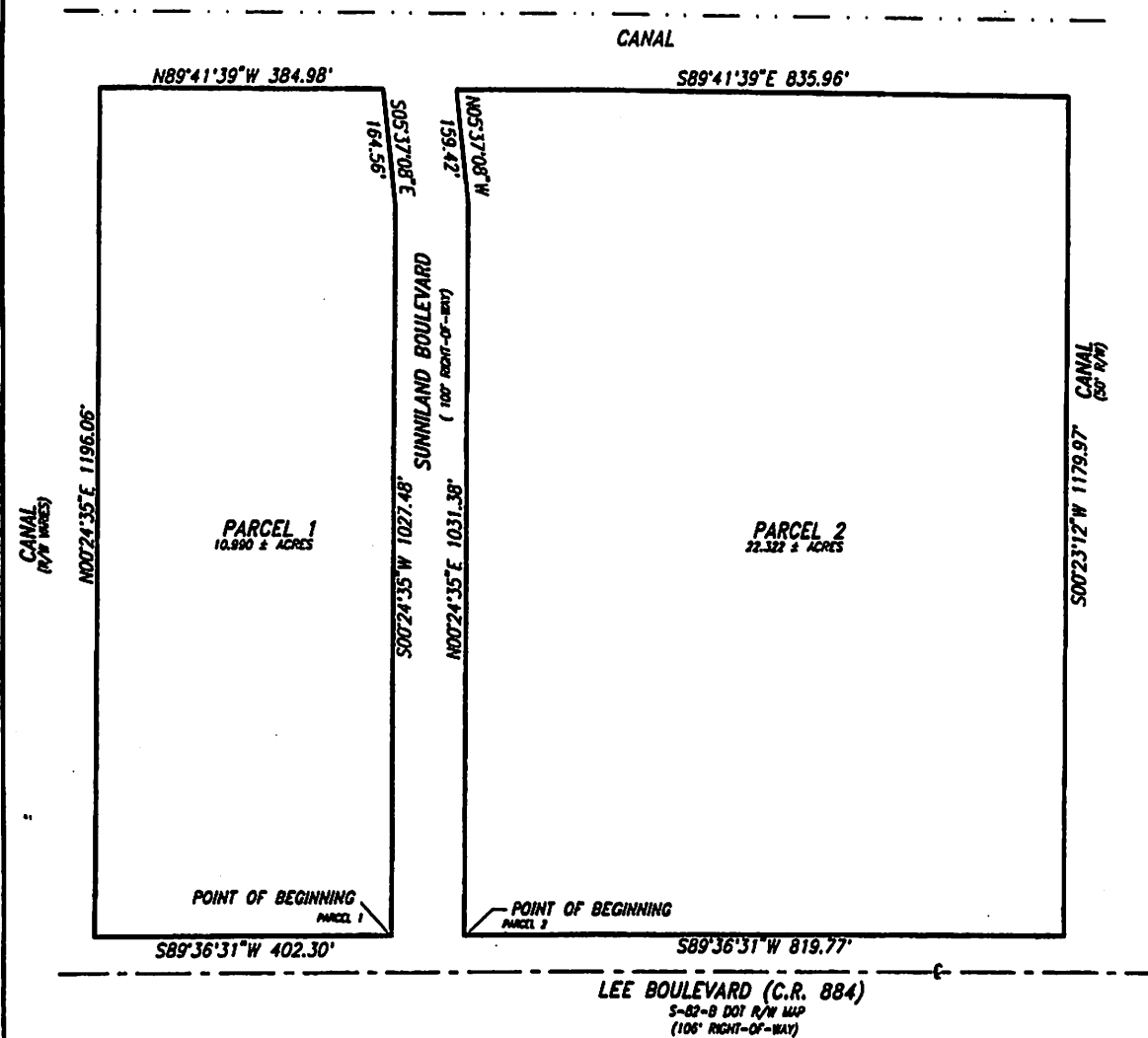

Alan W. Sadowski, PSM
Professional Surveyor and Mapper No. LS4800,
State of Florida

PIN: 04816-000-000 Ref: D-4816-02 Date: March 31, 2005.



**APPROVED
LEGAL**
10/11/06
CSJ

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csf.

FOR: MR. JERRY PETERSEN

Feb 13, 2006 - 14:52:51

This is NOT a Survey.
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SKETCH & DESCRIPTION OF
SUNNILAND
SECTION 28, TOWNSHIP 44 S., RANGE 28E.,
LEE COUNTY, FLORIDA

Wilson Miller

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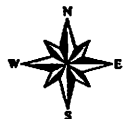
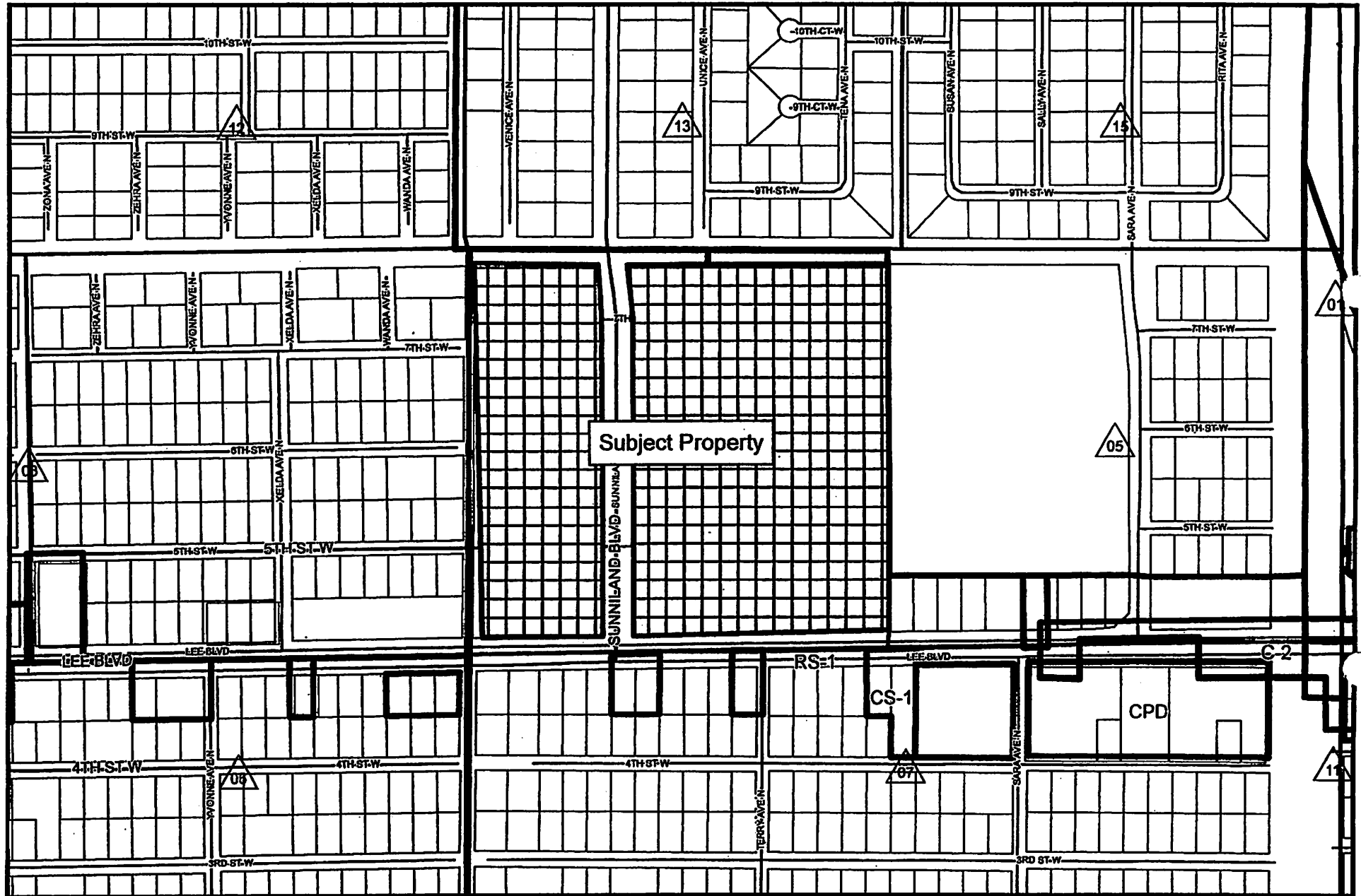


EXHIBIT "B"
(Zoning Map)



