

Summary of Hearing Examiner Recommendation

SUNNILAND TOWN CENTER CPD **Amendment**

The request seeks to amend a CPD first approved by the Board in 2006. Proposed development parameters include commercial, mini-warehouse, and potentially up to 300 multi-family dwelling units. Maximum building heights will be 45 feet for residential uses and 35 feet for commercial.

The property is located at the confluence of two intense land use designations: Central Urban and Mixed Use Overlay. This combination of land designations are suitable for high density and mixed use development.

The Economic Element of the Lee Plan directs the County to strive for a diversified economy to ensure maximum employment opportunities. The element also directs the county to ensure development of a variety of housing options to support a diverse workforce. The proposed amendment to the CPD features a mixed use project incorporating commercial and residential land uses in furtherance of these Lee Plan directives.

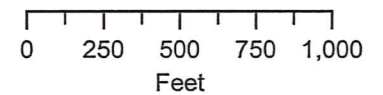
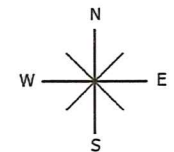
Detailed recommendation follows



DCI2023-00010

Future Land Use

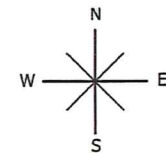
-  Subject Property
-  Central Urban
-  Urban Community
-  Public Facilities



DCI2023-00010

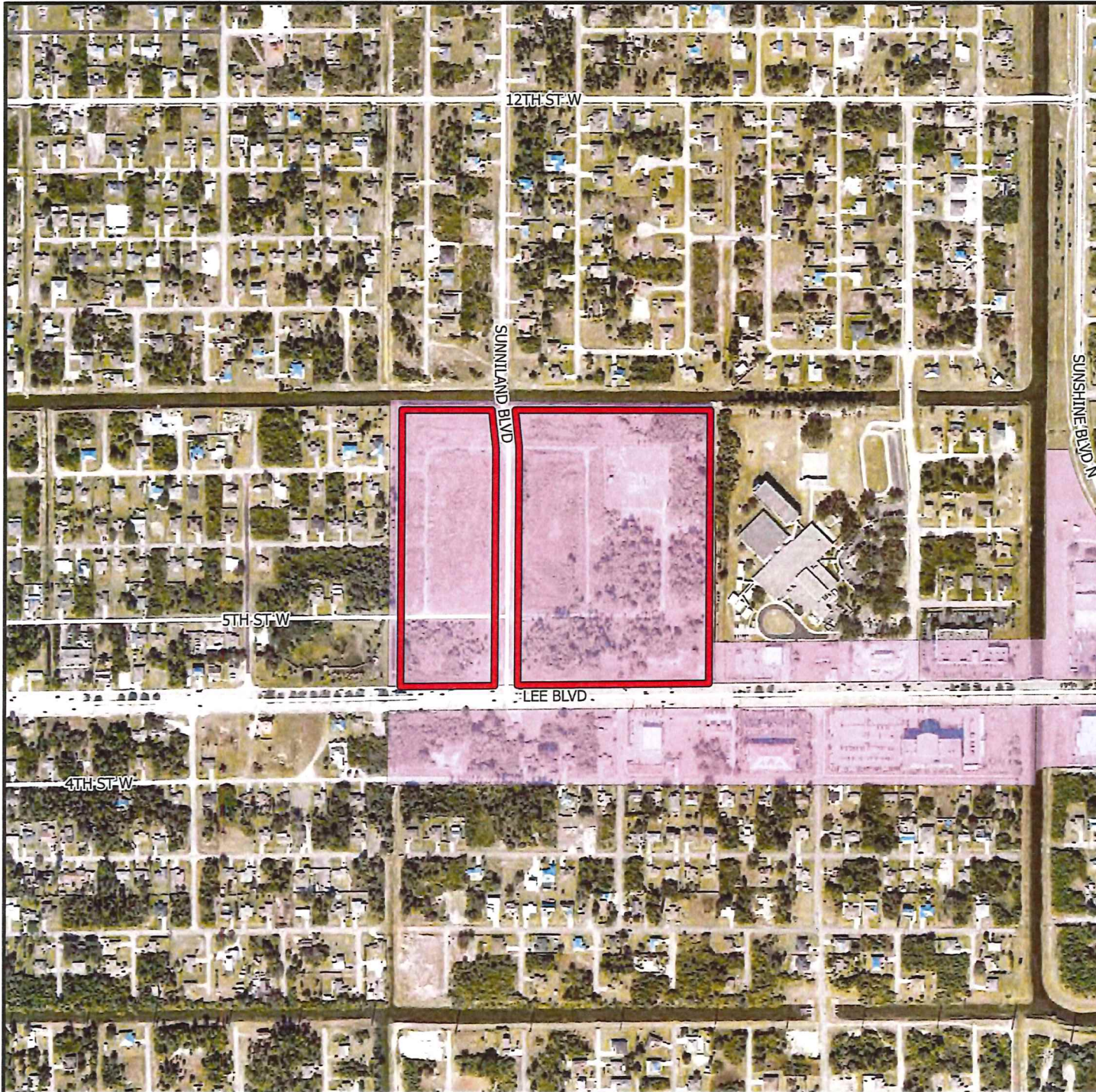
Aerial

 Subject Property



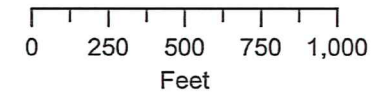
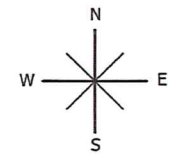
0 250 500 750 1,000
Feet





DCI2023-00010
Mixed Use Overlay

-  Subject Property
-  Mixed Use Overlay



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2023-00010

Regarding: **SUNNILAND TOWN CENTER CPD**

Location: 3614 and 3650 5th Street West
Lehigh Acres Planning Community
(District 5)

Hearing Date: April 25, 2024
Record Closed: May 6, 2024

I. **Request**

Amend Sunniland Town Center CPD to change schedule of uses, property development regulations, provide restoration to abate violations, and revise Master Concept Plan (MCP).

The application pursues two development options.

Option One: 265,000 square feet of commercial floor area and 100,000 square feet of Mini Warehouse uses.

Option Two: 100,000 square feet of commercial floor area, 100,000 square feet of Mini Warehouse, and 300 residential dwelling units.

The property legal description is set forth in Exhibit A.

II. **Hearing Examiner Recommendation**

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

III. **Discussion**

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property to the planned development zoning district.¹ In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on an application to amend the zoning approvals

¹ LDC §34-145(d)(4) a.

of the Sunniland Commercial Planned Development (CPD). Staff recommended approval with conditions.

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

Discussion supporting the Hearing Examiner's recommendation of approval with conditions follows below.²

Request

Applicant seeks to amend the 33.31 acre Sunniland CPD zoning approvals including its MCP.³ The zoning request also addresses outstanding code violations through conditioning. Sunniland Boulevard bisects the property forming two separate development tracts. The proposed MCP divides the west tract into an anchor parcel and two outparcels.⁴ The tract east of Sunniland Boulevard hosts an anchor parcel with three outparcels.⁵ All outparcels front on Lee Boulevard.

The MCP reflects the following development parameters:

Option One: 265,000 sq. feet commercial floor area and 100,000 sq. feet mini-warehouse.

Option Two: 100,000 sq. feet commercial floor area, 100,000 sq. feet mini-warehouse, and 300 multifamily dwelling units

The west anchor parcel is designated for commercial land uses. The east anchor parcel is designated for up to 300 multi-family residential units or commercial.

Maximum building heights by land use: 45 feet residential, 35 feet commercial.⁶

² Hearing Examiner codified conditions and deviations from prior approvals, eliminating those no longer applicable.

³ Parcel size derived from legal description provided by the Applicant. See Staff Report Attachment B: Legal Description

⁴ The west portion of the CPD is roughly 11.7 +/- acres and includes an area butting Angelfish Canal denoted as dry detention and restoration.

⁵ The east portion of the CPD is roughly 20.5 +/- acres. The MCP depicts a dry detention and restoration area along the north boundary abutting Angelfish Canal. A 1.2 acre preserve lies midway between Angelfish Canal and Lee Boulevard. See MCP.

⁶ Buildings outside of Lehigh's Specialized Mixed-Use Nodes are limited to a maximum of three stories or 45 feet unless greater heights are approved by deviation. LDC 33-1417.

History

The property is located at 3614 and 3650 5th Street W Lee Boulevard in Lehigh Acres.

The Sunniland CPD is located north of Lee Boulevard, approximately ½ mile west of Sunshine Boulevard. The property is vacant, partially cleared, and with native and exotic vegetation. The original CPD approved in 2006 authorized up to 232,000 square feet of commercial uses not to exceed 35 feet in height.⁷ Original approvals included two deviations from the LDC.⁸

The Board adopted the Lehigh Acres Planning Community LDC regulations in 2012, and later designated the entire property within the Mixed Use Overlay.⁹

The property owner closed an onsite oil well in 2023.¹⁰

The property is subject to outstanding code violations pertaining to land clearing without permits and a nuisance accumulation of horticultural and other debris.¹¹

Lee Plan

The Lee Plan regulates land development activity.¹² The Future Land Use Map divides the County into future urban, nonurban, and environmentally sensitive areas. All development must be consistent with the Lee Plan including the Future Land Use Map.¹³

The property's future land use designation is Central Urban.¹⁴ Central Urban areas are heavily settled with access to the greatest range and highest levels of public services.¹⁵ An array of land uses are permissible in Central Urban area.¹⁶ The Lee Plan encourages mixed use development in this category.¹⁷ Standard density

⁷ Z-06-090 approved January 29, 2007.

⁸ *Id.*

⁹ Existing approved planned developments may be voluntarily brought into compliance with the community plan. LDC 33-1402.

¹⁰ Staff Report Attachment G: FDEP Oil & Gas Program Oil Well Plug. Florida Department of Environmental Protection Oil and Gas Program monthly inspection checklist for Permit #841 notes placement of a well cap on June 5, 2023.

¹¹ VIO 2021-00378, VIO 2021-06268, and VIO 2021-06269.

¹² LDC §34-491.

¹³ Lee Plan Policy 2.1.2; LDC §§34-411(a), 34-491: Rezonings must be consistent with Lee Plan goals, objectives, and policies. Potential conflicts between the Lee Plan and the LDC must be resolved in favor of the Lee Plan.

¹⁴ Property designated Central Urban are considered Future Urban Areas. See Lee Plan Chapter XIV: Glossary definition of Future Urban Areas.

¹⁵ Lee Plan Policy 1.1.3.

¹⁶ Residential, commercial, public and quasi-public, and limited light industrial land uses are permissible in the Central Urban category. *Id.*

¹⁷ Lee Plan Policies 1.1.3, 11.1.1, 11.1.2, See also Lee Plan Objective 11.1.

ranges from four to 10 units per acre. Maximum total density is typically 15 units per acre but may be as high as 20 units per acre using Greater Pine Island Transfer of Development Units.¹⁸ The request seeks a project density of 10 units per acre using the entire site acreage as permitted in the Mixed Use Overlay.¹⁹

Development in Lehigh Acres is subject to a Community Plan. The Lehigh Acres Community Plan emphasizes development of vibrant commercial and employment centers, and pedestrian friendly mixed use activity centers.²⁰ The property also lies within a Commercial Overlay zone.²¹

The Lee Plan Economic Element directs the County to strive for a diversified economy to ensure maximum employment opportunities.²² The element also directs the county to ensure development of a variety of housing options to support a diverse workforce.²³ The CPD amendment proposes a mixed use project incorporating commercial and residential land uses in furtherance of these Lee Plan directives.

Mixed Use Overlay

The site is located within the Lehigh Commercial Overlay and Mixed Use Overlay, where the Lee Plan encourages an integrated mix of uses.²⁴ Property in the Mixed Use Overlay is desirable for mixed use development due to proximity to transit, shopping, and employment centers.²⁵ The 33.31 acre site provides opportunities for large scale commercial/mixed use development within a community otherwise dominated by single family platted lots.²⁶

A range of infrastructure and services are available to the property, including potable water, sanitary sewer, transit, medical facilities, schools, law enforcement, fire, and emergency medical services.²⁷ Lee Tran Route 110 travels along Lee Boulevard with an existing transit stop in front of the site.²⁸ Sidewalks and a shared use path connect to similar facilities on Gunnery Road.²⁹

The property is located at the confluence of two intense land use designations: Central Urban and Mixed Use Overlay. This combination of land designations are

¹⁸ Lee Plan Policy 1.1.3.

¹⁹ Lee Plan Objectives 11.1, 11.2, Policies 5.1.6, 11.1.1, 11.1.2, 11.2.1, 11.2.7.

²⁰ Lee Plan Goal 25. See also Goal 158.

²¹ Lee Plan Objective 25.6, Policy 25.6.1. Lee Plan Map 2-B.

²² Lee Plan Goal 158. Objective 158.2, Policy 158.2.1.

²³ Lee Plan Objective 160.1, Policy 160.1.3.

²⁴ Lee Plan Map 1-C: Mixed Use Overlay. The Mixed Use Overlay allows urban forms of development, which encourages maximizing land area on the site. Lee Plan Policy 11.2.5.

²⁵ Lee Plan Objectives 11.1, 11.2, Policies 11.2.1, 39.1.3, 39.2.1, See Lee Plan Goal 25, Policies 25.3.1, 25.4.1.

²⁶ Lee Plan Goal 25; Staff Report Attachment W: Environmental Staff Report. See LDC §34-145(d)(4)a.2.a)

²⁷ Lee Plan Objectives 2.1, 2.2. and 4.1.

²⁸ Lee Plan Policy 39.1.3.

²⁹ Lee Plan Policies 39.6.4, 43.1.1, Lee Plan Map 3-D: Lee County Walkways & Bikeways.

suitable for high density and mixed use development.³⁰ The Lee Plan encourages compact and contiguous development patterns in areas with services and infrastructure.³¹ Therefore, the property is ideally suited for intense development.³²

Compatibility

The County evaluates compatibility during zoning.³³ Compatibility exists when land uses exist in proximity and no one use unduly negatively impacts another.³⁴ Planned development zoning is useful when integrating new development with surrounding land uses.³⁵ The planned development zoning district allows flexibility in site design to address potential incompatibilities with neighboring development.³⁶

Properties surrounding the site are zoned for residential and commercial development.³⁷ Angelfish Canal forms the north boundary of CPD.³⁸ Development patterns north of the canal consist of platted single family lots, some of which are developed with homes. Lee Boulevard lies to the south followed by platted single family lots and a Family Dollar store. Sunshine Elementary and a CPD lie to the east.³⁹ A Lehigh Acres Municipal Services Improvement District (LAMSID) drainageway forms the west boundary of the property. Further west is LAMSID property improved with a boardwalk and nature trails.⁴⁰ Property north of the LAMSID park includes scattered residential land uses on platted lots.

Appropriate intensity is determined on a case-by-case basis in accordance with the Lee Plan and nature of surrounding land uses.⁴¹ Proposed development parameters include commercial, mini-warehouse, and potentially up to 300 multi-family dwelling units. Maximum building heights will be 45 feet for residential uses and 35 feet for commercial.⁴²

³⁰ Lee Plan Goal 24, Policy 5.1.6.

³¹ The project constitutes infill development. Lee Plan Objectives 2.1, 2.2, Policies 1.1.3, 2.2.1, 2.2.2, 6.1.1, 6.1.7, 39.1.3, See Lee Plan Glossary definition - infill.

³² Lee Plan Objectives 2.1, 2.2, Policies 1.1.3, 6.1.7; The request is consistent with the Central Urban future land use designation and location in a Mixed Use Overlay.

³³ LDC §34-145(d)(4).

³⁴ Florida Statutes s. 163.3164(9); Lee Plan Policy 135.9.6.

³⁵ LDC §34-612(2).

³⁶ *Id.*

³⁷ Surrounding properties are zoned RS-1 and CPD. The project constitutes infill development and is consistent with development patterns in the area.

³⁸ The Lehigh Acres Municipal Service Improvement District (LAMSID) manages the canals.

³⁹ The CPD is improved with an Automobile Repair and Service operation.

⁴⁰ LAMSID owns and manages the preserve area.

⁴¹ LDC §34-413.

⁴² The Lehigh Community planning regulations limit building height outside Lehigh's Specialized Mixed-Use Nodes to a maximum of three stories or 45 feet unless greater heights are approved by deviation. LDC §33-1417. The request does not request a deviation from height limitation.

The MCP uses creative site design to protect neighboring residential land uses with open space, stormwater management areas, and landscaping.⁴³ The design addresses potential incompatibilities with surrounding land uses.⁴⁴ Mini-warehouse is a low traffic generator, and not anticipated to create offsite impacts.⁴⁵

Architectural requirements in Lehigh Acres ensure building facades include architectural relief.⁴⁶

LDC

Development must comply with the LDC or request deviations. A “deviation” is a departure from a land development regulation.⁴⁷

The requested amendment includes one deviation. Applicants must demonstrate deviations enhance the project and will not cause a detriment to the public.⁴⁸ Staff recommended approval of the deviation. The Hearing Examiner agrees with this recommendation.⁴⁹

Development in the Lehigh Acres Planning District is subject to the Lehigh Acres Community Plan.⁵⁰ Community specific LDC regulations require zoning applications to conduct a public hearing in the community prior to the Hearing Examiner hearing.⁵¹ Applicant conducted an advertised neighborhood meeting at LAMSID Offices.⁵² Future development orders will also be subject to community review.⁵³

The 2006 approval of the Sunniland Town Centre CPD predated adoption of the Lehigh Community Plan and corresponding LDC regulations.⁵⁴ Developers of

⁴³ Staff Report Attachment MCP. The MCP depicts buffers in accordance with LDC §§10-425, 33-1405(c) and 34-411(h). See also Lee Plan Policy 61.3.8.

⁴⁴ Lee Plan Policies 5.1.5, 6.1.4, LDC §34-411(i).

⁴⁵ *Mini-warehouses are buildings designed to provide individual storage units with separate exterior doors as the primary means of access. The storage units must be used solely as dead storage depositories for personal property, inventory, and equipment and not for other uses. Mini-warehouses further regulated by LDC §§34-3001 et seq, and 34-2020(b) which address lighting, setbacks, and parking.*

⁴⁶ LDC §33-1416(1). See also LDC §10-620(c).

⁴⁷ LDC §34-2.

⁴⁸ LDC §34-373(a)(9).

⁴⁹ The Hearing Examiner may recommend approval, approval with modifications or denial of deviations based on findings that a deviation (1) enhances the planned development and, (2) preserves/promotes public health, safety, and welfare. LDC §34-377(a)(4).

⁵⁰ Lee Plan Goal 25 and supplemental development regulations in LDC §33-1400 et seq. Future development permits, including development orders, must comply with community standards.

⁵¹ LDC §33-1401(a)(2).

⁵² Staff Report Attachment R: Public Informational Meeting Summary. Meeting held at Lehigh Acres Municipal Services Improvement District Offices on June 22, 2023.

⁵³ The LDC requires development order and building permit applications to comply with the Lehigh Acres Planning Community regulations. LDC §33-1400(d). See also LDC §33-1401(a).

⁵⁴ The Board adopted the Lehigh Community Plan March 3, 2010 (Ordinance 10-16) and corresponding LDC regulations on January 10, 2012 (Ordinance 12-01).

existing planned developments may *voluntarily* comply with subsequently adopted community specific development criteria.⁵⁵

Environmental/Natural Resources

Rezoning requests must not adversely affect environmentally critical/sensitive areas or natural resources.

The site is vacant with native and exotic vegetation. The MCP devotes over 23% of the site to open space, more than half of which will consist of indigenous vegetation.⁵⁶ The proposed Preservation Area Management Plan restores 2.3 acres of uplands with native vegetation typically found in indigenous pine flatwood habitats.⁵⁷

Applicant's protected species survey disclosed 28 Gopher Tortoise burrows.⁵⁸ The gopher tortoise and its burrow are protected by Florida law.⁵⁹ The law requires relocation of gopher tortoises prior to development activity. The property owner must secure authorization from the Florida Wildlife Commission (FWC) to relocate gopher tortoises to an approved recipient site in accordance with FWC Gopher Tortoise Permitting Guidelines.⁶⁰

Development of the property will impact a small quantity of wetlands. Applicant must secure a formal jurisdictional determination from the South Florida Water Management District prior to construction.⁶¹

Restoration areas along the north property line will screen the project from dwellings north of Angelfish Canal. The MCP complies with or exceeds LDC landscape buffer requirements along remaining project boundaries. Development order submittals ensure buffers and landscaped areas follow Xeriscape principles.⁶²

⁵⁵ LDC §33-1402.

⁵⁶ Lee Plan Goal 77, Objective 77.2, Staff Report MCP depicts 8.14 acres of open space representing 23% of the site. Approximately 3.5 acres of the open space will be indigenous preservation and restoration areas.

⁵⁷ Lee Plan Policy 25.10.4; Restored uplands will be located within dry detention areas. Proposed vegetation will be species adapted to frequent short term inundation and long periods of dry conditions. See Staff Report Attachment U: Sunniland Preservation Area Management Plan dated October 2023 prepared by Owen Environmental Consulting, LLC.

⁵⁸ Staff Report Attachment W: Environmental Staff Report and Protected Species Survey & Florida Bonneted Bat Roost Survey for Lehigh Sunniland dated May 2023 prepared by Owen Environmental Consulting, Inc. The survey disclosed no other protected species on the property.

⁵⁹ Chapter 68A-27 FAC.

⁶⁰ Lee Plan Policy 123.8.1. An updated species survey is required during development order permitting.

⁶¹ *Id.* If the districts determines there are more wetlands than the environmental consultant observed, Applicant must update the MCP or mitigate through state and federal permitting procedures.

⁶² Lee Plan Objective 126.2, Policy 126.2.1. Required landscape buffers must consist of native landscape to conserve water.

Perimeter dry detention areas will provide water quantity, quality, and attenuation of storm water flow.⁶³

Evidence in the record confirmed decommissioning of an onsite oil well in 2023. Applicant's representative testified that Environmental Site Assessments conducted on the property disclosed no evidence of contamination.⁶⁴

The Hearing Examiner finds the requested amendments to the CPD will not harm environmentally critical/sensitive areas or natural resources.⁶⁵

Transportation

Requests to rezone property must provide access sufficient to support the proposed development and address impacts to transportation facilities through County regulations and conditions of approval.

The property is located at the intersection of Lee and Sunniland Boulevards.⁶⁶ Lehigh Acres planning community regulations discourage direct access to Lee Boulevard.⁶⁷ Accordingly, the MCP depicts access drives to Sunniland Boulevard and connections to Fifth Street West.⁶⁸

The Traffic Impact Statement (TIS) is based on the highest trip generation rates associated with the development.⁶⁹ As a mixed use project, interaction between uses potentially reduces trip generation. This interaction is called "internal capture." Internal capture means trips typically coming from external sources will originate from the project, reducing project impact on surrounding roadways.

⁶³ Lee Plan Policies 25.10.4, 61.3.8, 61.3.11, 61.3.12, 125.1.3 .

⁶⁴ Testimony of Darendia Marvin: Transcript Pages 171-172. Ms. Marvin testified two recent Phase One Environmental Site Assessments on the Sunniland site confirmed no evidence of contamination. One of the Environmental Site Assessments pertained specifically to the oil well parcel because of its history of contamination due to a spill. Ms. Marvin testified that the property owner took corrective action to remediate the spill, which was accepted by the State. She testified the more recent Phase One Environmental Site Assessment of the oil well parcel disclosed no evidence of contamination.

⁶⁵ Lee Plan 125.1.2.

⁶⁶ Lee Boulevard is a County maintained arterial. Sunniland Boulevard is a county maintained collector roadway. Lee County Administrative Code AC 11-1.

⁶⁷ Lee Plan Policy 25.8.1; LDC §33-1414(1). Commercial development adjacent to Lee Boulevard must provide access to Fifth Street West or other roadway. Direct vehicular access to Lee is permissible if the property has no direct or indirect access to public roadways and the driveway is shared with cross access to adjacent parcels.

⁶⁸ The MCP depicts an extension of Fifth Street West from its current terminus to the east property boundary. See MCP and Staff Report Attachment Q: LCDOT Staff Memo prepared by Md Rakibul Alam, Transportation Planner, Principal dated March 25, 2024.

⁶⁹ The combination of uses generating the greatest trips was of 265,000 square feet of retail land uses and 100,000 square feet of mini-storage. Staff Report Attachment P: Traffic Impact Statement for Sunniland CPD Lehigh Acres prepared by TR Transportation Consultants, Inc. revised January 4, 2024, and Staff Report Attachment Q: LCDOT Staff Memo prepared by Md Rakibul Alam, Transportation Planner, Principal dated March 25, 2024.

The TIS projects Gunnery Road will operate at poor LOS at buildout in 2028 both with and without the proposed development. For this reason, Gunnery Road is considered a pre-existing transportation deficiency. As such, the project is not responsible for mitigating impacts to the roadway.⁷⁰

Similarly, the TIS projects the intersection of Lee and Sunniland Boulevards will operate below adopted levels of service. Although this condition is also considered a pre-existing deficiency, staff and Applicant agreed to a condition requiring submittal of a signal warrant projection based on buildout traffic conditions.⁷¹

The TIS concludes the project will not negatively impact area roadways at buildout.⁷² The County's transportation planner concurred with this assessment subject to the recommended condition on signalization of the Sunniland intersection.⁷³

Road impact fees will adequately address project impacts to the County network. Further analysis of transportation impacts, including site related turn lane improvements, will occur during development order permitting.

The proposed CPD amendment is consistent with Lee Plan directives to develop high intensity land uses on parcels abutting transit corridors.⁷⁴ Lee Tran Route 110 runs along Lee Boulevard.⁷⁵ Project design must comply with LDC requirements to facilitate transit access.⁷⁶

Public Services and Infrastructure

Public services include facilities, capital improvements, and infrastructure necessary to support development.⁷⁷ The Lee Plan requires an evaluation of public services during the zoning process.⁷⁸

Public services and infrastructure are available to serve the site.⁷⁹ The project will have access to the road network via Sunniland Boulevard. Florida Governmental

⁷⁰ *Id.*

⁷¹ See Exhibit B, Condition 8.

⁷² Staff Report Attachment P.

⁷³ Staff Report Attachment Q.

⁷⁴ Lee Plan Policies 39.1.3, 39.2.1, 43.1.3; See also Lee Plan Policy 158.3.1.

⁷⁵ Lee Plan Map 3-C: 2045 Financially Feasible Transit Network. See Lee Plan Policy 43.1.1.

⁷⁶ LDC §10-442(b) requires projects proposing 30,000 square feet or greater commercial floor area must provide a paved walkway to the nearest bus stop and install a bicycle storage rack, signage, and a landing pad within the road right of way or dedicated easement. See also Lee Plan Policy 43.1.1.

⁷⁷ Public services and infrastructure available to serve the project will include public water and sewer, paved streets, parks and recreation facilities, libraries, police, fire and emergency services, urban surface water management, and schools. Lee Plan Objective 4.1, Standards 4.1.1, 4.1.2, 4.1.4.

⁷⁸ Lee Plan Policy 2.2.1.

⁷⁹ Staff Report Attachments G, L. See Lee Plan Goal 95, Policies 2.2.1, 5.1.3, 6.1.1, 6.1.4, Standards 4.1.2., 4.1.3.

Utility Authority (FGUA) will provide potable water and sanitary sewer service.⁸⁰ The Lehigh Acres Fire District is available to provide fire protection and emergency medical services from Stations 103 and 104 on Gunnery Road and 16th Street SW. Lee County Sheriff provides law enforcement services from a station located on Homestead Road.

Lee Tran operates a bus route 110 on Lee Boulevard.⁸¹ The project will be integrated with surrounding development by automobile, transit, pedestrian, and bicycle connections.⁸² Lee Boulevard is also improved with sidewalks and on-road bikeways.⁸³

Development will be subject to road, park, school, fire, and emergency medical service impact fees.⁸⁴

Conditions

The County must administer the zoning process so proposed land uses minimize adverse impacts on adjacent property and protect County resources.⁸⁵ Conditions must be plausibly related to the project's anticipated impacts, and pertinent to mitigating impacts to the public.⁸⁶ The CPD is subject to conditions addressing impacts anticipated from development.⁸⁷ Notable conditions include participation in a Signalization Agreement, sidewalk improvements, and buffers.

Hearing Examiner revised conditions/deviation for clarity, compliance with state law and to remove LDC references applicable to development by Condition 1.

Public

Four members of the public spoke at hearing. Concerns centered on compatibility, traffic, and disruption of gopher tortoise habitat.

Conclusion

The Hearing Examiner recommends approval of the requested amendments to the Sunniland CPD, subject to conditions in Exhibit B.

⁸⁰ Staff Report Attachment L. Lee Plan Objective 4.1, Policy 25.9.1, Standards 4.1.1, 4.1.2.

⁸¹ Lee Tran Route 110 originates at the Edison Mall and continues to Homestead Road. See Staff Report Pages 4,7. Lee Plan Policy 39.2.1.

⁸² Lee Plan Policies 39.1.3, 39.2.1.

⁸³ The road corridor is also part of the Charlotte-Lee-Hendry Trail. Lee Plan Maps 3-D, 4-E.

⁸⁴ LDC Chapter 2, Article VI.

⁸⁵ Lee Plan Policies 5.1.5, 135.9.6; LDC §§34-145(d)(4) a.2.(b), 34-377(a)(3), 34-411, and 34-932(c).

⁸⁶ LDC §34-932(b).

⁸⁷ LDC §§34-83(b)(4) a.3, 34-377(a)(2)c; Lee Plan Objective 77.3, Policies 5.1.5, 6.1.4.

The Hearing Examiner finds the proposed CPD amendments meet LDC criteria and, as conditioned, is compatible with surrounding development.⁸⁸

IV. Findings and Conclusions

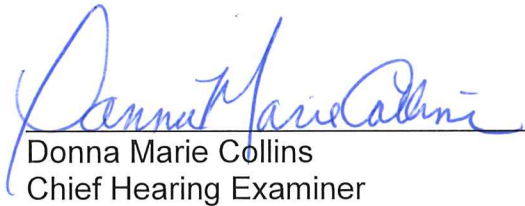
Based on the testimony and exhibits presented in the record, the Hearing Examiner finds:

- A. The requested amendment to the Sunniland CPD is consistent with the Lee Plan. Lee Plan Goals 2, 4, 5, 6, 11, 25, 77, 95, 158, Objectives 2.1, 2.2, 4.1, 5.1, 6.1, 11.2, 25.6, 25.8, 77.2, 126.2, 158.2, 160.1, and Policies 1.1.3, 2.1.1, 2.1.2, 2.1.3, 2.2.1, 2.2.2, 5.1.2, 5.1.3, 5.1.5, 6.1.1, 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 11.1.2, 11.2.1, 11.2.5, 11.2.7, 25.6.1, 39.1.3, 135.9.6, 158.2.1, 160.1.3, Lee Plan Maps 1-A, 1-B, 1-C, 2-A, 2-B, 3-C, 3-D, Table 1(a), 1(b)
- B. As conditioned, the CPD amendment:
 - 1. Is consistent with the LDC or qualifies for deviations. LDC Chapters 2, 10, 33, and 34.
 - 2. Is compatible with existing or planned uses in the surrounding area. Lee Plan Objectives 2.1, 2.2, 11.1, 11.2, and Policies 1.1.3, 5.1.3, 5.1.5, 5.1.6, 6.1.4, 11.1.1, 11.2.1, 25.6.1, 135.9.5, 135.9.6; LDC §§34-411, 34-413.
 - 3. Provides sufficient road access to support proposed development intensity. Lee Plan Objective 25.8, Policies 6.1.5, 25.8.1, 39.6.4, 43.1.1, 158.3.1.
 - 4. Expected impacts on transportation facilities will be addressed by County regulations and conditions of approval. Lee Plan Objectives 11.2, 39.1, Policies 38.1.1, 39.1.3, 39.2.1, 43.1.1, 43.1.3, 158.3.1; LDC §§2-261 *et seq.*, 34-411.
 - 5. Will not adversely affect environmentally sensitive areas or natural resources. Lee Plan Goals 60, 61, 77, Objectives 25.10, 60.2, 60.3, 77.2, 77.3, 126.2, Policies 6.1.6, 25.10.1, 25.10.4, 60.4.1, 60.4.2, 123.8.1, 125.1.2, 126.1.4, 126.2.1, Standard 4.1.4; and
 - 6. Public services and infrastructure will be available to serve the development. Goals 2, 4, 6, 25, 95, Objectives 2.1, 2.2, 4.1, Policies 2.2.1, 6.1.4, 25.9.1, 25.9.2, 39.1.3, Standards 4.1.1, 4.1.2.

⁸⁸ Lee Plan Policy 6.1.4.

- C. The proposed uses are appropriate at the location. Lee Plan Goals 2, 4, 6, 11, 25; Objectives 2.1, 2.2, 11.1, 11.2, Policies 1.1.3, 2.1.1, 2.1.2, 5.1.2, 5.1.3, 5.1.6, 6.1.7, 6.1.8, 11.2.1, 25.6.1, 25.9.2, 135.9.5, 135.9.6, 158.2.1, 160.1.3.
- D. The County regulations and recommended conditions provide sufficient safeguards to protect the public interest and relate to impacts expected from the proposed development. Lee Plan Objectives 77.2, 126.2, Policies 5.1.5, 6.1.4, 53.1.5, 56.1.4, 135.9.5, 135.9.6: LDC §§34-377(a)(3), 34-411 and 34-932(c).
- E. Deviations recommended for approval enhance the planned development and preserve public health, safety, and welfare. LDC §§34-373(a)(9), 34-377(a)(4).

Date of Recommendation: May 9, 2024.


Donna Marie Collins
Chief Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A



Professional Engineers, Planners & Land Surveyors

DESCRIPTION
OF
A TRACT OR PARCEL OF LAND LYING IN
SECTION 26, TOWNSHIP 44 SOUTH, RANGE 26 EAST,
LEE COUNTY, FLORIDA

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 26, TOWNSHIP 44 SOUTH, RANGE 26 EAST, BEING PORTIONS OF THE VACATED REPLAT OF TRACT 4 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, AND BEING FURTHER BOUND AND DESCRIBED AS FOLLOWS:

PARCEL 1

BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF LEE BOULEVARD (C.R. 884 / S-82B – 106 FEET WIDE) AND THE WEST RIGHT OF WAY LINE OF SUNNILAND BOULEVARD (100 FEET WIDE); THENCE N 00°11'05" E ALONG SAID WEST RIGHT-OF-WAY LINE FOR 1,027.48 FEET; THENCE N 05°50'38" W ALONG SAID WEST RIGHT-OF-WAY LINE FOR 164.56 FEET TO AN INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF A CANAL; THENCE N 89°55'09" W ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 384.98 FEET TO AN INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF A CANAL; THENCE S 00°11'05" W ALONG SAID EAST RIGHT-OF-WAY LINE FOR 1,196.06 FEET TO AN INTERSECTION WITH SAID NORTH RIGHT-OF-WAY LINE OF LEE BOULEVARD; THENCE N 89°23'01" E ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 402.30 FEET TO THE **POINT OF BEGINNING**.

AND

PARCEL 2

BEGINNING AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF LEE BOULEVARD (C.R. 884 / S-82B – 106 FEET WIDE) AND THE EAST RIGHT-OF-WAY LINE OF SUNNILAND BOULEVARD (100 FEET WIDE); THENCE N 00°11'05" E ALONG SAID EAST RIGHT-OF-WAY LINE FOR 1,031.38 FEET; THENCE N 05°50'38" W ALONG SAID EAST RIGHT-OF-WAY LINE FOR 159.42 FEET TO AN INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF A CANAL; THENCE S 89°55'09" E ALONG SAID SOUTH RIGHT-OF-WAY LINE FOR 835.96 FEET TO AN INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF A CANAL; THENCE S 00°09'42" W ALONG SAID WEST RIGHT-OF-WAY LINE FOR 1,179.97 FEET TO AN INTERSECTION WITH SAID NORTH RIGHT-OF-WAY LINE OF LEE BOULEVARD; THENCE S 89°23'01" W ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 819.77 FEET TO THE **POINT OF BEGINNING**.

SUBJECT PARCEL CONTAINS: 33.31 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

BEARINGS AND DISTANCES, UNLESS OTHERWISE NOTED, ARE BASED ON THE "STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83/2011 (CORS), WHEREIN THE NORTH RIGHT-OF-WAY LINE OF LEE BOULEVARD BEARS N 89°23'01" E. THE SCALE FACTOR IS 0.99994666.

DESCRIPTION PREPARED: 05-10-2023

DESCRIPTION REVISED: 01-09-2024

Digitally signed by Allen M Vose III

Date: 2024.01.09 12:00:01 -05'00'

ALLEN M. VOSE III, P.S.M.

PROFESSIONAL SURVEYOR AND MAPPER

FLORIDA CERTIFICATION NO. 7191

DATE SIGNED 01-09-2024

S:\Jobs\88xx\8844\Surveying\Descriptions\8844 Sunniland REV LGL.doc

S:\Jobs\88xx\8844\Surveying\Descriptions\8844 Sunniland REV SKT.dwg



REVIEWED
DCI2023-00010
Rick Burris, Principal
Planner
Lee County DCD/Planning
2/5/2024

SHEET 1 OF 2

• SERVING THE STATE OF FLORIDA •

10511 Six Mile Cypress Parkway • Suite 101 • Fort Myers, Florida 33966
Phone 239-939-5490 • www.bankseng.com • Fax 239-939-2523
Engineering License No. EB 6469 • Surveying License No. LB 6690

BANKS ENGINEERING

Professional Engineers, Planners, & Land Surveyors
Serving The State Of Florida

10511 SIX MILE CYPRESS PARKWAY, SUITE 101
FT. MYERS, FLORIDA 33966
PHONE (239)939-5490 FAX (239)939-2523

ENGINEERING LICENSE # EB 6469
SURVEY LICENSE # LB 8890

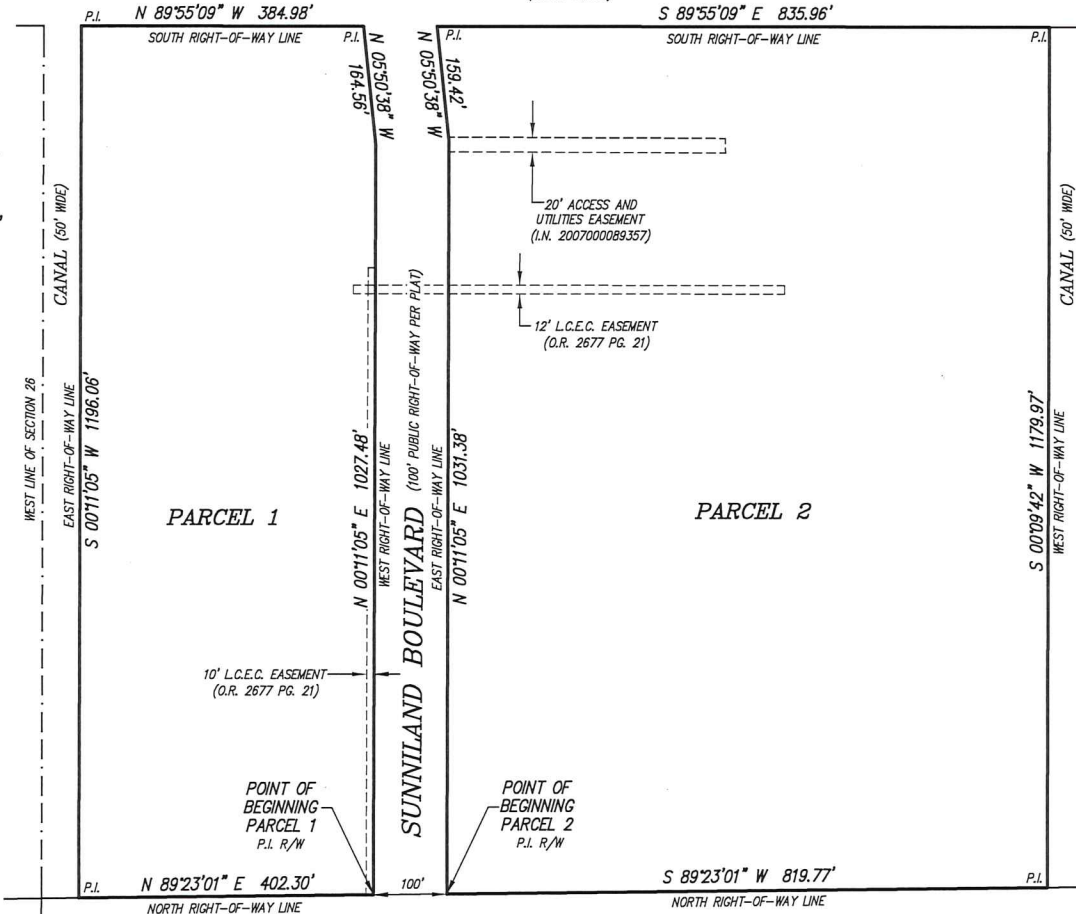
WWW.BANKSENG.COM

EAST-WEST QUARTER LINE OF SECTION 26

CANAL
(WIDTH VARIES)



1" = 200'



PARCEL 1

PARCEL 2

POINT OF
BEGINNING
PARCEL 1
P.I. R/W

POINT OF
BEGINNING
PARCEL 2
P.I. R/W

LEE BOULEVARD (C.R. 884)
(S-82-B - 106' WIDE PER R/W MAP)

PREPARED 05-10-2023
REVISED 01-09-2024
SHEET 2 OF 2

SKETCH OF DESCRIPTION

OF
A TRACT OR PARCEL OF LAND LYING IN
SECTION 26, TOWNSHIP 44 SOUTH, RANGE 26 EAST,
LEE COUNTY, FLORIDA

NOTES:

- 1.) SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.
- 2.) BEARINGS AND DISTANCES, UNLESS OTHERWISE NOTED, ARE BASED ON THE "STATE PLANE COORDINATE SYSTEM" FLORIDA ZONE WEST NAD 83/2011 (CORS), WHEREIN THE NORTH RIGHT-OF-WAY LINE OF LEE BOULEVARD BEARS N 89°23'01" E. THE SCALE FACTOR IS 0.99994666.
- 3.) ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF.
- 4.) SUBJECT PARCEL CONTAINS: 33.31 ACRES, MORE OR LESS.

LEGEND:

PG. INDICATES PAGE
C.R. INDICATES COUNTY ROAD
R/W INDICATES RIGHT-OF-WAY
C.R. INDICATES COUNTRY ROAD
O.R. INDICATES OFFICIAL RECORDS
LB INDICATES LICENSED BUSINESS
I.N. INDICATES INSTRUMENT NUMBER
P.I. INDICATES POINT OF INTERSECTION
L.C.E.C. INDICATES LEE COUNTY ELECTRIC CO-OPERATIVE
P.S.M. INDICATES PROFESSIONAL SURVEYOR AND MAPPER
CORS INDICATES CONTINUOUSLY OPERATING REFERENCE STATION

REVIEWED
DCI2023-00010
Rick Burris, Principal
Planner
Lee County DCD/Planning
2/5/2024

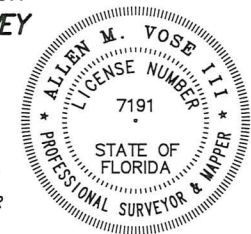
SEE SHEET 1 OF 2 FOR COMPLETE
METES AND BOUNDS DESCRIPTION.

**THIS SKETCH OF DESCRIPTION
IS NOT A BOUNDARY SURVEY**

Digitally signed by Allen M Vose III
Date: 2024.01.09 12:00:21 -05'00'

ALLEN M. VOSE III, P.S.M.
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATION NO. 7191

- DATE SIGNED: 01-09-2024
- THIS SKETCH OF DESCRIPTION IS NOT VALID
WITHOUT THE ORIGINAL SIGNATURE AND SEAL OF
A FLORIDA LICENSED SURVEYOR AND MAPPER.

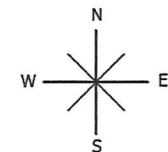


S: \JOBS\88XX\8844\SURVEYING\DESCRIPTIONS\8844 SUNNILAND REV LGL.DOC
S: \JOBS\88XX\8844\SURVEYING\DESCRIPTIONS\8844 SUNNILAND REV SKT.DWG

DCI2023-00010

Zoning

 Subject Property



0 250 500 750 1,000
Feet

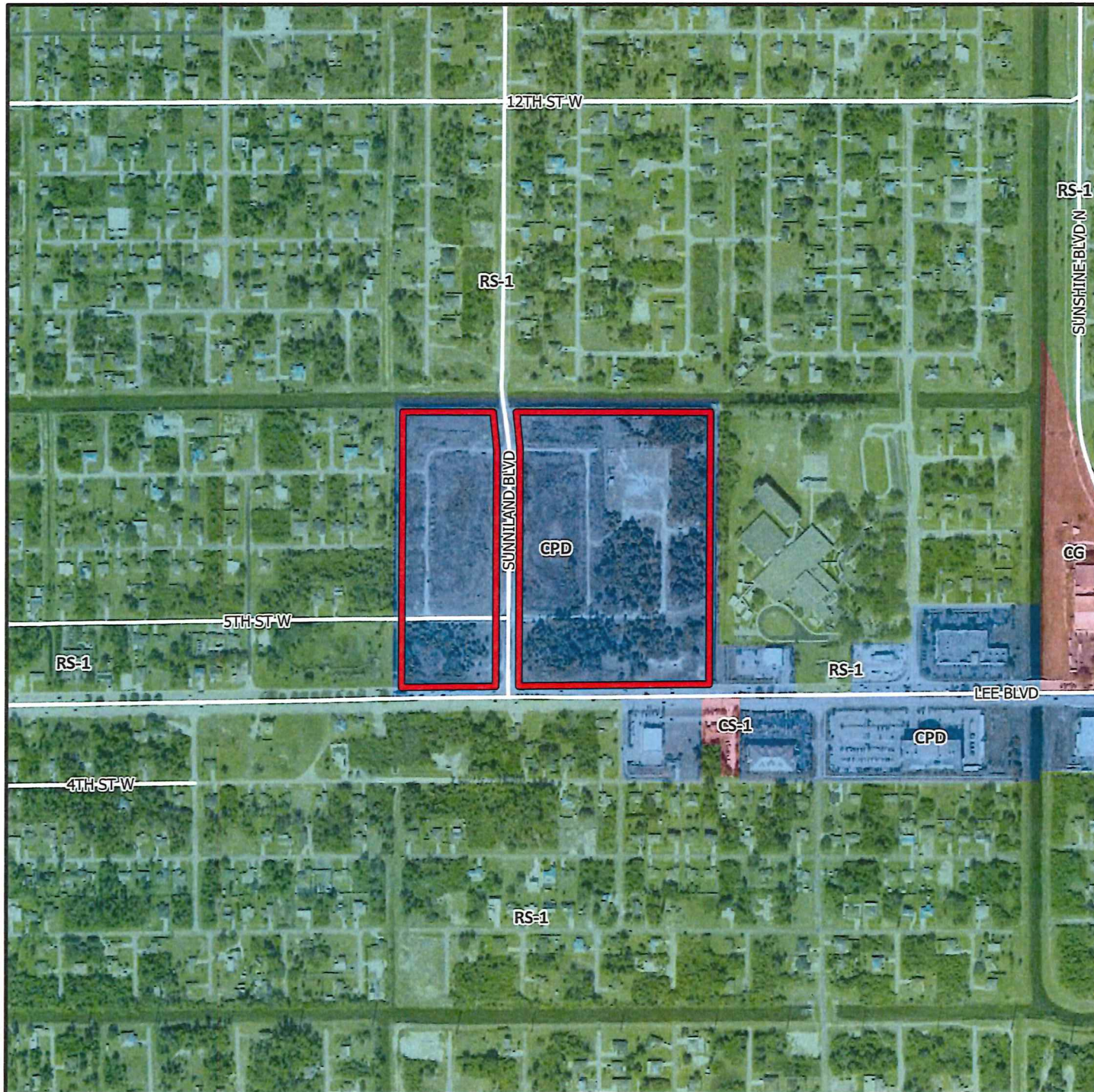


Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

As revised by the Hearing Examiner

CONDITIONS

1. Master Concept Plan (MCP). Development must be consistent with one-page MCP entitled "Sunniland" last revised May 1, 2024, except where modified by conditions below.

Lee Plan and Land Development Code (LDC). Development must comply with the Lee Plan and LDC. Changes to the MCP, conditions or deviations may require further development approvals.

Approved Development Parameters.

Option One: 265,000 sq. feet commercial floor area and 100,000 sq. feet Mini Warehouse, or

Option Two: 100,000 sq. feet commercial uses, 100,000 sq. feet of Mini Warehouse and 300 dwelling units (only on Parcel 2).

2. Permitted Uses and Property Development Regulations

- 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, Groups 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

<u>Maximum lot coverage:</u>	45 percent
------------------------------	------------

Maximum Building Height:

Residential	45 feet
Commercial	35 feet

Minimum Building Separation:	20 feet
------------------------------	---------

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)
<u>Minimum Open Space</u>	20 percent

3. Sidewalk Improvements

Developer must install a five-foot sidewalk along Sunniland Boulevard prior to issuance of a Certificate of Completion for any development order approved following the Limited Development Order issued to address outstanding code violations on Parcels 1 and 2,

The sidewalk must extend along the project's entire frontage on Sunniland Boulevard. This site-related improvement is not eligible for Road impact fee credits.

4. Open Space

Development order landscape plans must depict 7.0 acres of open space with 3.5 acres comprised of restored and preserved indigenous open space.

5. Abatement of Code Violations

The condition below codifies actions required to abate violations VIO2021-06268 and VIO2021-06269. If the conditions are not met, LDC Chapter 14 restoration criteria will apply and monitored consistent with 5.b.

- a. Prior to the issuance of development order(s) for properties subject to code violations, landscape plans for each violation must depict:
 1. 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. The trees must 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.
 2. Nine Live Oaks specified at 20 feet in height with a minimum of four-inch caliper and a minimum eight-foot canopy installed to replace the removed heritage trees.
 3. An above-ground irrigation system in restoration areas. The irrigation system may be removed one year after issuance of a Certificate of Compliance.

- b. Development Orders must include a five-year monitoring plan for restoration areas with monitoring reports describing the conditions of the restored areas to be submitted annually for five years.

6. Gopher Tortoises

Machines are prohibited within the 1.2-acre preservation area.

7. Buffers

- a. Parcel 1. Development order plans for Parcel 1 must depict the following:
 - 1. North Property Line. A ten-foot-wide Type B buffer with five trees per 100 linear feet and double hedge row; and
 - 2. West Property Line. A 25-foot-wide buffer with seven trees and 33 groundcovers per 100 linear feet and a double hedge row. Palms are limited to a maximum of 25 percent of the buffer tree requirement. Hedges must be 48 inches in height at installation and maintained at 72 inches in height. Groundcovers must be a minimum one-gallon container size at planting.
- b. Parcel 2. Development order plans for Parcel 2 must depict:
 - 1. North Property Line Buffer. A ten-foot-wide Type B buffer with five trees per 100 linear feet and a double hedge row; and
 - 2. East Property Line Buffer. A five-foot-wide buffer with five trees per 100 linear feet.

8. Transportation Conditions.

The first development order for vertical construction must include design for a traffic signal including required turn lands at the intersection of Sunniland and Lee Boulevards. For the purposes of this condition, vertical construction includes buildings/structures generating traffic.

Concurrent with development order review, Developer and County will enter into a Signalization Agreement that includes turn lane designs or, a development order stipulation specifying the respective proportionate share contributions/obligations of the County and Developer for the design and construction of a traffic signal and required turn lanes. The Signalization Agreement must be executed by all parties prior to issuance of a Certificate of Occupancy on the first dwelling unit or a Certificate of Completion on vertical commercial construction.

9. State and Federal Permits

- a. Generally. County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or if applicant undertakes actions resulting in a violation of state or federal law. Applicant must obtain applicable state/federal permits prior to commencing development.
- b. State Wetland Permits. Developer may not commence construction on development impacting wetlands until issuance of required state permits. Development activity must comply with state wetland permits and applicable local development permits.

If the State does not approve wetland impacts or if State wetland permits are not consistent with proposed wetland impacts reflected in County development permits, then Developer must amend County development permit approvals to be consistent with state wetland permits and applicable Lee Plan and LDC regulations regarding development within wetlands.

DEVIATION

1. Open Space – Indigenous Vegetation and Trees. Deviation 1 seeks relief from LDC §10-415(b), which requires large developments with existing indigenous native vegetation communities to devote 50 percent of required open space to preservation of onsite indigenous vegetation, to allow this requirement to be satisfied with a combination of onsite indigenous native vegetation and areas restored to create indigenous vegetation.

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

Exhibits to Conditions:

B1 Master Concept Plan last revised May 1, 2024

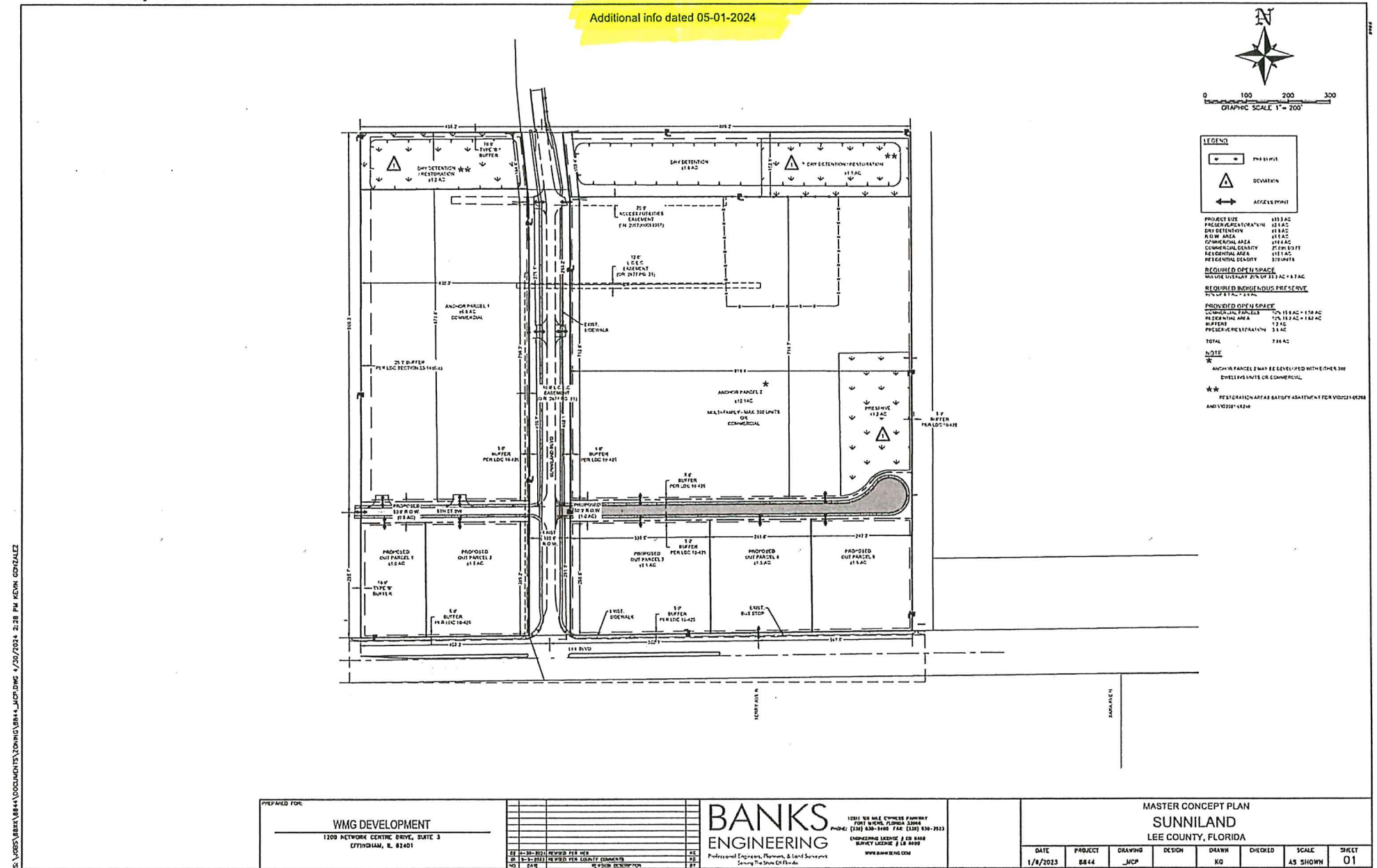


EXHIBIT B-1

LEE COUNTY
HEARING EXAMINER
2024 MAY -6 PM 2:50

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

- a. *48-Hour Notice*: Email dated Tuesday, April 23, 2024, 10:32 AM from Jamie Princing to Hearing Examiner, Neale Montgomery, Esq., Daniel DeLisi, Elizabeth Workman, Anthony Rodriguez, Marcus Evans, Rakibul Alam, Md, Brandon Dunn, Katherine Woellner, Phil Gillogly, Rebecca Sweigert, Nicholas DeFilippo, and Maria Perez. (multiple pages – 8.5"x11")
1. *DCD Staff Report with attachments for DCI*: Prepared by Elizabeth Workman, Principal Planner, date received April 10, 2024 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *PowerPoint Presentation*: Prepared by Lee County Staff dated April 25, 2024 (multiple pages – 8.5"x11") [color]
3. *Florida Department of Environmental Protection Oil & Gas Program*: Permit #841 Well Number and Name CTLC 26-2, Well Type II, MMR/PA Number 306470, Operator Breitburn Florida, Field Lehigh Park, County Lee, API Number 09-071-20063, dated June 5, 2023 (2 pages – 8.5"x11") [color]

APPLICANT EXHIBITS

- a. *48-Hour Notice*: Email dated Tuesday, April 23, 2024, 8:57 AM from Olga Ramos to Hearing Examiner and Maria Perez, (multiple pages – 8.5"x11" and 1 page 11"x17")
1. *PowerPoint Presentation*: Prepared for Hearing Examiner Hearing dated April 25, 2024 (multiple pages – 8.5"x11") [color]
2. *News-Press Affidavit*: Notice of Public Hearing for Petition to Vacate #95-12-183.03R (multiple pages – 8.5"x11")
3. *Written Submissions*: Email dated Monday, May 6, 2024, 2:33 PM from Olga Ramos to Hearing Examiner, Elizabeth Workman, Jamie Princing, Robert Price, Jillian Scholler, Rakibul Alam Md, with copies to Maria Perez and Neale Montgomery, Esq. (multiple pages – 8.5"x11" and 1 page – 11"x17") {post hearing}

OTHER EXHIBITS

Rahim Ahmadi

1. *Document with Aerial Photographs*: (2 double sided pages – 8.5"x11")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Marcus Evans
2. Robert Price, PE
3. Jullian Scholler, PE
4. Elizabeth Workman, AICP

Applicant Representatives:

1. Brent Addison, PE
2. Dan DeLisi, AICP
3. Darenda Marvin
4. Neale Montgomery, Esq.
5. Paul Owen
6. Ted Treesh

Public Participants:

1. Rahim Ahmadi
2. Marsha Ellis
3. Derek Felder
4. Deborah Wilkison

Exhibit E
INFORMATION

UNAUTHORIZED COMMUNICATIONS

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

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

COPIES OF TESTIMONY AND TRANSCRIPTS

- A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.
- B. A verbatim transcript may also be available for purchase from the court reporting service.