

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER DECISION

REZONING: REZ2023-00019

Regarding: 10488 NIKKIS LANE

Location: 10464 Nikkis Lane
Greater Pine Island City Planning Community
(District 1)

Hearing Date: May 9, 2024

I. **Request**

Rezone 0.9± acres from Neighborhood Commercial (CN-3) to General Commercial (CG).

The property legal description is set forth in Exhibit A.

II. **Hearing Examiner Decision**

Approved

III. **Discussion**

Applicant seeks to rezone 0.9± acres to the CG district south of Pine Island Road.

The property retained Two-Family Conservation District (TFC-2) zoning from Lee County Zoning Map inception until 2005. The Board of County Commissioners then rezoned the site to Neighborhood Commercial (CN-3) for development of a commercial office/retail center.¹

The property remains vacant. Applicant desires to develop the site with commercial uses aligned with more intense neighboring uses.²

CG is a conventional zoning district.³ Therefore, it is not possible to impose conditions on approval. The CG use regulation table will govern permitted uses,

¹ See Staff Report (Attachment E: Z-05-021).

² See Staff Report (pg. 2, Attachment C, G), Martin Testimony. The record indicates Applicant intends to locate a retail plant/landscaping/lawn service business or restaurant on the site. Martin and Danley Testimony.

³ LDC §34-612(1), §34-841.

subject to limitations imposed by the Lee County Comprehensive Plan (Lee Plan).⁴ Deviations from requirements of the Land Development Code (LDC) may be granted by variance.⁵ The Hearing Examiner has final decision-making authority on applications for conventional rezoning.⁶

Department of Community Development staff recommended approval of the request, finding the proposed CG zoning satisfied LDC review criteria.

Character of the Area

The parcel is in the Pine Island Center, east of the Pine Island Road/Stringfellow Road intersection. Surrounding properties host commercial uses including medical offices, restaurants, bait/tackle shops, and a plant nursery. A convenience food/beverage store with 16 fuel pumps abuts the site.

Public services and infrastructure serve the property including paved roadways, public water, sewer, law enforcement, and fire/EMS.⁷

Lee Plan Consistency/Area Compatibility/LDC Compliance

Rezoning requests must comply with the Lee Plan, meet LDC regulations, and be compatible with area uses.⁸

Lee Plan Maps designate the property within the Urban Community future land use category in the Greater Pine Island Planning Community.⁹

Urban Community lands consist of a mix of relatively intense commercial and residential uses.¹⁰ The proposed CG zoning district is consistent with commercial land uses anticipated in the Urban Community category.¹¹

The Lee Plan directs commercial development in Greater Pine Island to the Pine Island Center.¹² Pine Island Center developments are encouraged to provide employment opportunities, serve the daily needs of residents/visitors, demonstrate a positive impact on traffic patterns within Greater Pine Island, and reduce the number of vehicular trips through Matlacha.¹³ The requested rezoning to CG expands the types of commercial uses already permitted on the property.

⁴ LDC §34-844.

⁵ LDC §34-621(a)(2).

⁶ LDC §34-145(d)(1)a.

⁷ See Staff Report (pg. 1-2, 4, Attachment C, H).

⁸ LDC §34-145(d)(4)a.1, §34-491.

⁹ Lee Plan Map 1-A, 1-B, 2-A; Goal 42, Policy 1.1.4.

¹⁰ Lee Plan Policy 1.1.4.

¹¹ Lee Plan Policy 1.1.4. Property may not be rezoned to a district inconsistent with its future land use map category or with the text of the Lee Plan. LDC §34-491(c).

¹² Lee Plan Objective 24.4, Policy 24.4.1.

¹³ Lee Plan Policy 24.4.1.

Developing a dormant property provides employment opportunities through a business supporting residents' needs.¹⁴

Development must adhere to supplemental architectural and design standards in support of Pine Island's coastal character.¹⁵

The requested CG zoning continues existing development patterns in the surrounding area. Neighboring commercial properties host uses consistent with those permitted in the CG district.

The property is located within the Coastal High Hazard Area.¹⁶ Applicant must comply with supplemental requirements at the time of development order to protect residents and provide hurricane evacuation information.¹⁷

The Hearing Examiner finds the request consistent with the Lee Plan and compatible with the surrounding area.

Transportation

Rezoning requests must provide access sufficient to support the proposed development intensity.¹⁸ Expected impacts on transportation facilities must be addressed by existing County regulations.¹⁹

The property abuts Nikkis Lane, a county maintained local road.²⁰ Nikkis Lane intersects two arterial roads near the property, Pine Island Road to the north and Stringfellow Road to the west. There is sufficient access to support site development.²¹

The LDC does not require a Traffic Impact Statement (TIS) for conventional zoning requests. Rather, the LDC mandates review of traffic impacts during the development order process. Applicant must comply with LDC transportation requirements, including supplemental Greater Pine Island standards, at the time of development order review.²²

Environmental

Rezoning requests may not adversely affect environmentally critical or sensitive areas/natural resources.²³

¹⁴ Lee Plan Goal 158, Objective 158.2.

¹⁵ Lee Plan Policy 24.4.3, LDC §33-1083.

¹⁶ Lee Plan Map 5-A.

¹⁷ See Lee Plan Goal 101, Policy 101.1.1, 101.3.2; Staff Report (pg. 3).

¹⁸ LDC §34-145(d)(4)a.1(d).

¹⁹ LDC §34-145(d)(4)a.1(e).

²⁰ See Staff Report (pg. 4).

²¹ *Id.*

²² LDC §33-1011.

²³ LDC §34-145(d)(4)a.1(f).

The property is cleared, not within a flow-way, and does not appear to contain wetlands.²⁴

Applicant must comply with LDC open space, buffer, water management, and environmental requirements during development order review.²⁵

Public Services

The Lee Plan requires an evaluation of available services and infrastructure during the rezoning process.²⁶

The area is served by urban services and infrastructure. The property indirectly accesses arterial roads connecting to the greater county network.²⁷ Public water and sanitary sewer services are available to the site.²⁸ The Matlacha/Pine Island Fire Control District, Lee County Sheriff, and Lee County EMS provide emergency services to the site.²⁹

Public Concerns

Applicant presented its request at a community meeting in compliance with LDC requirements.³⁰

No members of the public appeared at the hearing before the Hearing Examiner.

Conclusion

The Hearing Examiner concurs with the staff analysis and recommendation of approval. The requested CG zoning district meets LDC criteria for approval.

IV. Findings in Support of Approval

The Hearing Examiner approves the requested CG zoning district and finds the proposed CG district:

- A. Complies with the Lee Plan. Lee Plan Goals 1, 2, 4, 6, 24, 101, 125, 158, Objectives 2.1, 2.2, 24.4, 101.1, 101.3, 125.1, 158.2, and Policies 1.1.1, 1.1.4, 2.1.1, 2.2.1, 2.2.2, 5.1.5, 6.1.1, 6.1.4, 6.1.6, 6.1.7, 24.4.1, 101.1.1,

²⁴ Martin and Danley Testimony.

²⁵ See *generally* LDC Ch. 10, Lee Plan Goal 126, Policy 126.1.4.

²⁶ Lee Plan Policy 2.2.1; LDC §34-145(d)(4)a.1(g).

²⁷ Lee Plan Map 3-B.

²⁸ Provided by Lee County Utilities. See Staff Report (pg. 5, Attachment H).

²⁹ See Staff Report (pg. 5). The Sheriff's substation is 13.4± miles away and an EMS/fire station is 3.2 miles away. See *Id.*

³⁰ LDC §33-1003. See Staff Report (pg. 4, Attachment G). The meeting was held on June 26, 2023. An initial meeting was also held on May 4, 2023. See *Id.*

101.3.2, 125.1.2, 125.1.3, Standards 4.1.1, 4.1.2, 4.1.4; Lee Plan Maps 1-A, 1-B, 2-A, 5-A.

- B. Complies with the Land Development Code. LDC §§33-1001 *et. seq.*, §34-621, §34-623, §34-624, §34-841 *et. seq.*
- C. Is compatible with existing and planned uses in the surrounding area. Lee Plan Policies 1.1.4, 2.1.1, 2.2.1, 6.1.4, 6.1.6, 6.1.7, 24.4.1.
- D. Will provide sufficient access to support development. Lee Plan Goal 39, Policy 6.1.1, 39.1.1.
- E. Expected Impacts to transportation facilities will be addressed by County regulations. Lee Plan Goal 39, Policies 2.2.1, 39.1.1.
- F. Will not adversely affect environmentally critical/sensitive areas or natural resources. Lee Plan Policy 6.1.6, 101.3.2, 125.1.2.
- G. Will be served by urban services and infrastructure. Lee Plan Goals 2, 4, 6, Objectives 2.1, 2.2, Policies 2.2.1, Standards 4.1.1, 4.1.2.

Date of decision: May 10, 2024.



Amanda L. Rivera
Deputy Hearing Examiner

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

Exhibits

A Legal Description

B Exhibits Presented at Hearing

C Participants

Exhibit A
Legal Description

EXHIBIT A

LEGAL DESCRIPTION

LOTS 5 – 10, BLOCK B, PINE ISLAND CENTER, A SUBDIVISION,
LOCATED IN SECTION 28, TOWNSHIP 44 SOUTH, RANGE 22
EAST, ACCORDING TO THE PLAT THEREOF ON FILE AND
RECORDED IN PLAT BOOK 9, PAGE 44, OF THE PUBLIC
RECORDS OF LEE COUNTY, FLORIDA.

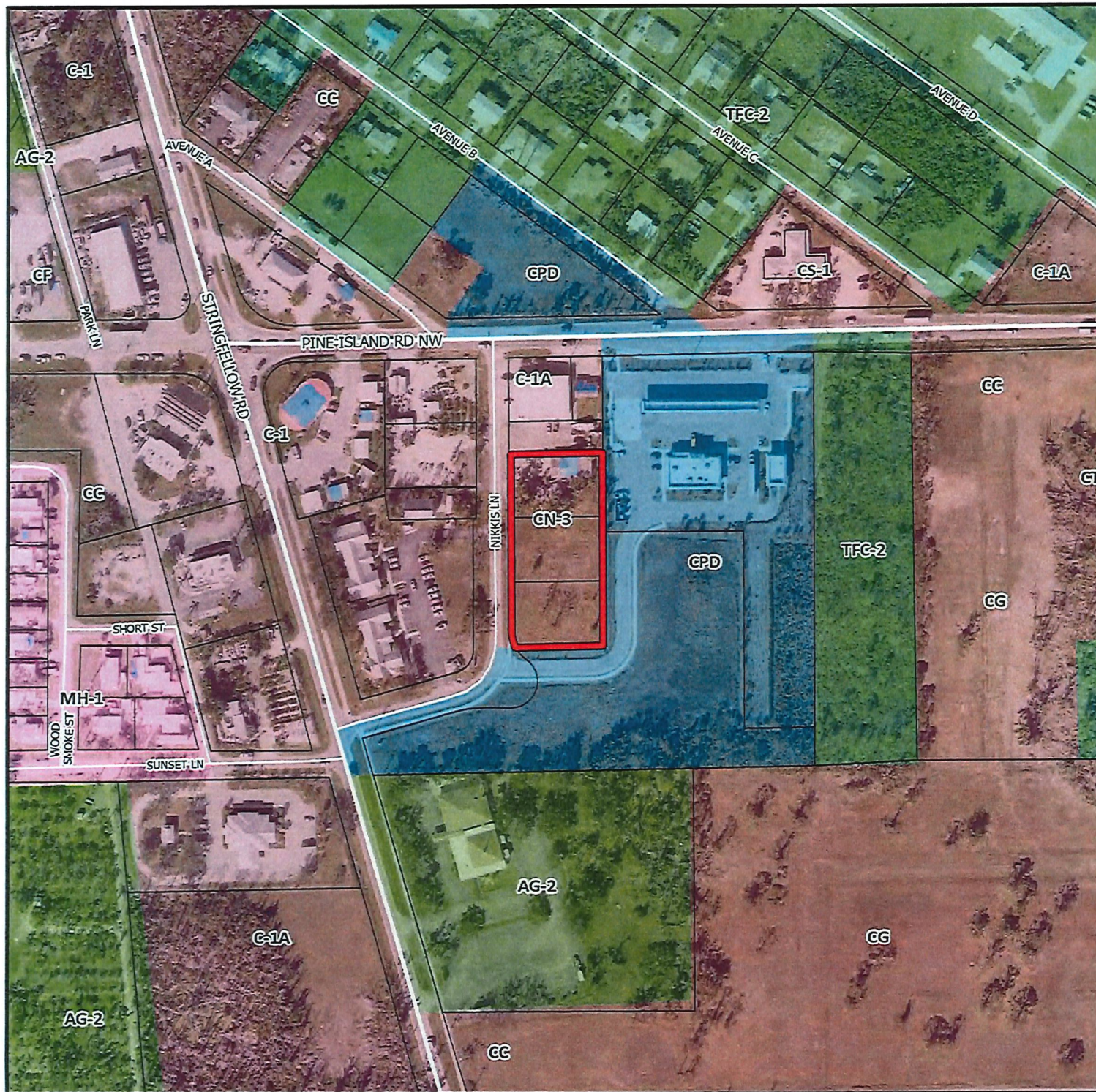
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28-44-22-L3.0000B.0050

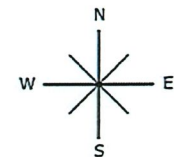
REVIEWED
REZ2023-00019
Rick Burris, Principal
Planner
Lee County DCD/Planning
2/29/2024

REZ2023-00019

Zoning



 Subject Property



0 300
Feet



Exhibit B

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments:* Prepared by Dirk Danley, Jr., Principal Planner, date received April 24, 2024 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *PowerPoint Presentation:* Prepared by Lee County Staff for REZ2023-00019, 10488 Nikkis Lane, dated May 9, 2024 (multiple pages – 8.5"x11")[color]

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Veronica Martin to Maria Perez, with copies to Linda Cope and Dirk Danley, Jr., dated Friday, May 3, 2024, 9:16 AM (multiple pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared for REZ2023-00019, REZ2023-00019, 10488 Nikkis Lane, dated May 9, 2024 (multiple pages – 8.5"x11")[color]

Exhibit C

HEARING PARTICIPANTS

County Staff:

Dirk Danley, Jr.

Applicant Representatives:

Veronica Martin

Public Participants:

None