

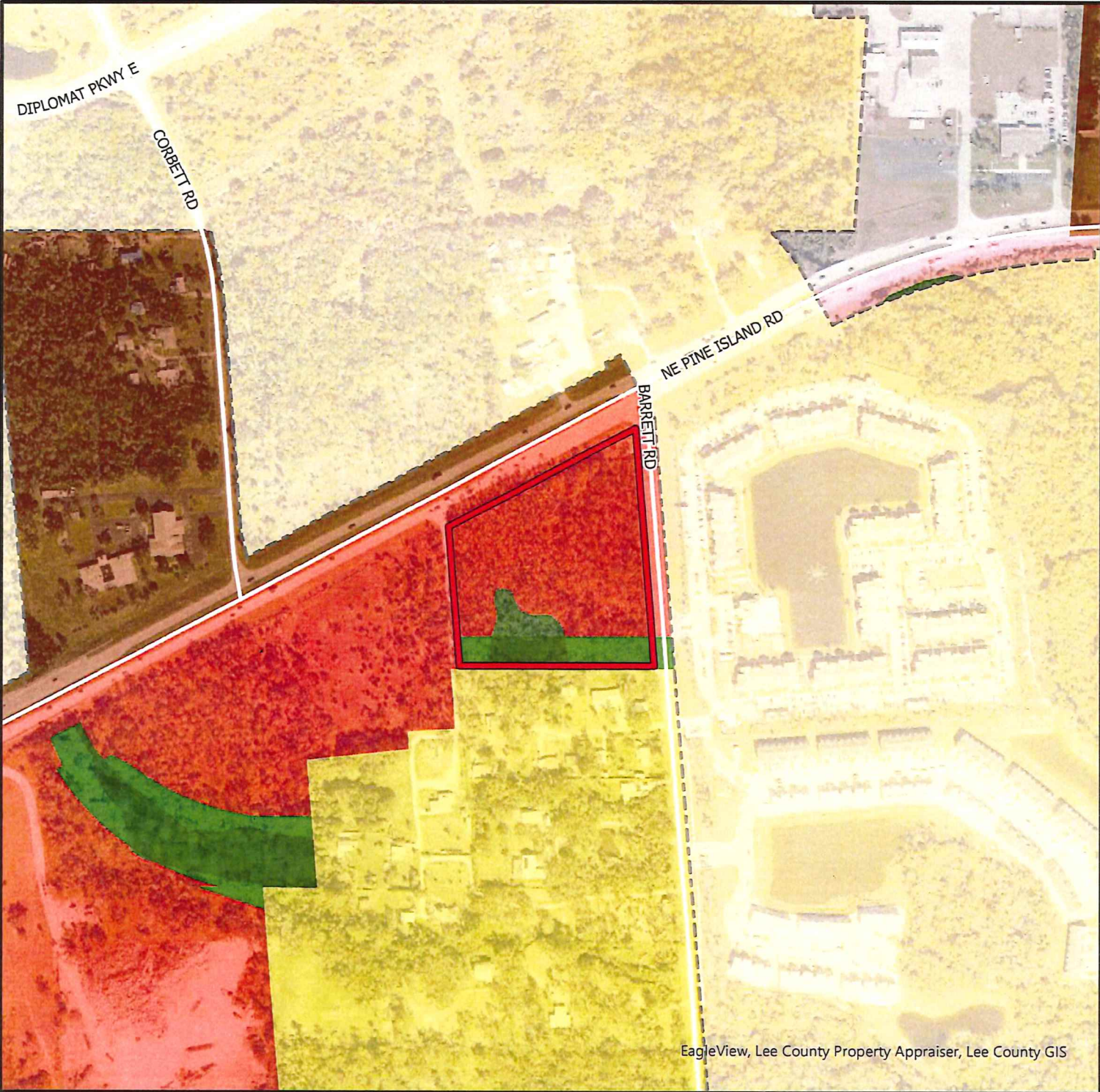
Summary of Hearing Examiner Recommendation

FLOOR & DÉCOR CPD

Applicant seeks to rezone vacant land along Pine Island Road to construct 80,000 square feet of commercial floor area. Site design includes two access points on Barrett Road and an extensive Preservation Area along the southern boundary.

The request infills development along a heavily developed corridor at a suitable location.

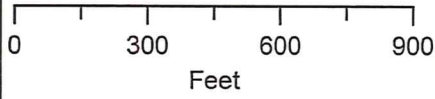
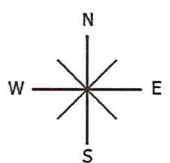
Detailed recommendation follows

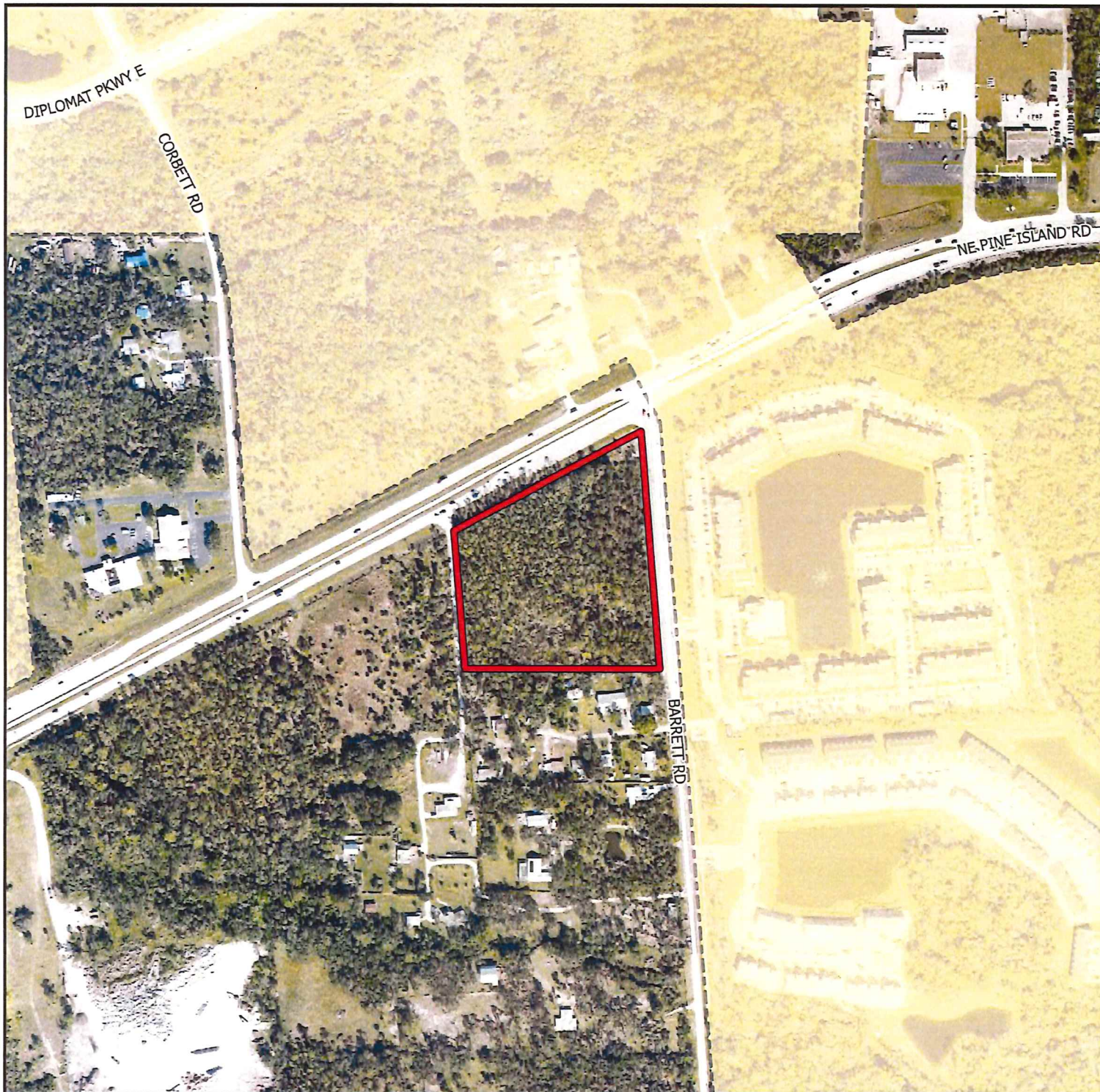


DCI2023-00038

Future Land Use

- Subject Property
- Intensive Development
- Central Urban
- Sub-Outlying Suburban
- Commercial
- Public Facilities
- Conservation Lands - Upland
- Wetlands
- Conservation Lands - Wetland
- City Limits



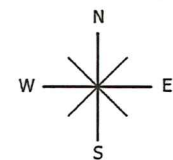


DCI2023-00038

Aerial

 Subject Property

 City Limits



0 300 600 900
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2023-00038

Regarding: FLOOR & DÉCOR CPD

Location: 1481 Barrett Road and 2800 NE Pine Island Road
North Fort Myers Planning Community
(District 4)

Hearing Date: June 6, 2024 (Not Heard)

Continued Date: July 11, 2024

I. Request

Rezone 7.99± acres from Agricultural (AG-2) to Commercial Planned Development (CPD) to allow 80,000 square feet of retail floor area.

The property's legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval, subject to the conditions and deviations 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 district.¹ In satisfaction of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone to CPD.

In preparing a recommendation to the Board, the Hearing Examiner must consider the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other applicable County regulations to the facts presented in a rezoning request.² Specifically, the Hearing Examiner must find the request compatible with surrounding uses and complies with Lee Plan and LDC requirements relating to such items as transportation facilities, natural resources, and public services.³ The

¹ LDC §34-145(d)(1)b.

² LDC §34-145(d)(3).

³ LDC §34-145(d)(4).

Hearing Examiner's recommendation must be based on competent and substantial evidence.⁴

Discussion supporting the recommendation of CPD approval follows below.

Zoning Review Criteria

Before recommending approval for rezoning to the Board, the Hearing Examiner must find the request:

- A. Complies with the Lee Plan;
- B. Meets the LDC and other applicable County regulations or qualifies for deviations;
- C. Is compatible with existing and planned uses in the surrounding area;
- D. Will provide access sufficient to support the proposed development intensity;
- E. Addresses expected impacts on transportation facilities through existing County regulations or conditions of approval;
- F. Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- G. Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.⁵

If the request involves planned development zoning, the Hearing Examiner must also find:

- H. The proposed use or mix of uses is appropriate at the proposed location;
- I. The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and
- J. Each requested deviation (1) enhances the achievement of the objectives of the planned development, and (2) protects public health, safety, and welfare.⁶

⁴ Lee Co. Admin. Code 2-6, 3.3(A)(2); LDC §34-83(a)(4)a.1(a).

⁵ LDC §34-145(d)(4)a.1.

⁶ LDC §34-145(d)(4)a.2.

Request Synopsis

Applicant seeks to rezone 7.99± acres to CPD to develop an 80,000 square foot Floor & Decor facility.⁷ Site design centers the building on the property, flanked by parking and drive aisles. A 100-foot-wide preservation area runs along the southern border. Open space lines the perimeter of the site.⁸

The development contemplates two access points on Barrett Road. Both deviation requests address separation requirements necessary to accommodate site conditions and align with neighboring development.⁹

Staff recommended approval, finding the CPD satisfied LDC review criteria.

Character of the Area

The vacant property sits on Pine Island Road, at the edge of the Lee County/Cape Coral line. Intense commercial and residential uses dominate the Pine Island Road corridor. Single family homes and multi-family developments line Barrett Road to the west and south. Vacant lands abut to the west.¹⁰

Lee Plan Consistency/Compatibility

Planned developments must be consistent with the Lee Plan.¹¹ Requests for rezoning must be compatible with existing/planned uses in the surrounding area.¹² Planned developments must be located to minimize negative effects of proposed uses on neighboring properties.¹³

The property is located within the Commercial future land use category in the Commercial Corridor of the North Fort Myers Planning Community.¹⁴ A small portion is designated within the Conservation Lands and Wetlands categories.¹⁵

The Commercial category is reserved for commercial and light industrial uses along established road corridors.¹⁶ Residential uses are prohibited in this

⁷ There are references in the record to the site comprising 8.03± acres, but the legal description and Master Concept Plan both denote 7.99± acres. See Staff Report (Attachments D, K).

⁸ Applicant Ex. 1 (slide 7).

⁹ The southern access point aligns with the multi-family development across Barrett Road. McDonald Testimony.

¹⁰ The adjoining site to the west is zoned CG, without known development plans. Badamchian Testimony.

¹¹ LDC §34-411(a).

¹² LDC §34-145(d)(4)a.

¹³ LDC §34-411(c) and (i).

¹⁴ Lee Plan Map 1A-B, 2A, Policy 1.1.10; Lee Plan Policy 30.2.5; LDC §33-1537, §33-1566 *et. seq.* Supplemental land development regulations apply to Commercial Corridor properties.

¹⁵ See Lee Plan Map 1-A; See Staff Report (pg. 3, Attachment B).

¹⁶ Lee Plan Policy 1.1.10.

category.¹⁷ Accordingly, rezoning to CPD brings the site into greater compliance with its future land use designation.¹⁸

The proposed development promotes contiguous and compact growth consistent with Lee Plan directives.¹⁹ The requested facility develops an infill parcel proximate to intense commercial and residential uses.²⁰ The facility offers employment and retail opportunities, improving the community's economic base.²¹ Supplemental regulations ensure development achieves community design standards.²²

The CPD complies with the Commercial category's requirement that rezonings utilize the planned development process to prevent adverse impacts to surrounding areas.²³ Preservation areas and buffers adequately protect adjacent residences from project impacts.²⁴

Land within the Conservation Lands and Wetlands categories are predominantly within the Preservation Area or used as open space.²⁵ The Preservation Area provides a substantial buffer to the south. Staff proposed extensive environmental conditions consistent with Conservation Lands and Wetlands directives.²⁶

The requested rezoning is consistent with the Lee Plan and compatible with the surrounding area.

Environmental/Natural Resources

Planned development design should reflect creative use of open space.²⁷ Developers must make an effort to protect and preserve natural site features.²⁸

The site is densely vegetated and contains wetlands.²⁹ Accordingly, the request is undergoing review by the South Florida Water Management District.³⁰ Hearing testimony confirms Applicant will mitigate wetland impacts through mitigation credits.³¹

¹⁷ *Id.*

¹⁸ Permitted uses under the AG-2 district are misaligned with Commercial land use directives. See LDC §34-651 *et. seq.*; Lee Plan Policy 1.1.10.

¹⁹ See Lee Plan Objectives 2.1, 2.2, Policies 2.1.1, 2.2.1, 6.1.7, Staff Report (pg. 3).

²⁰ See Lee Plan Policies 6.1.3, 6.1.4.

²¹ See Lee Plan Goal 158.

²² See LDC §33-1542 *et. seq.*, §33-1566 *et. seq.*, Lee Plan 30.2.9.

²³ Lee Plan Policy 1.1.10.

²⁴ See Lee Plan Policy 5.1.5; Staff Report (pg.3). The MCP reflects Code compliant buffering. The Preservation Area serves as a buffer to the south.

²⁵ McDonald Testimony; Lee Plan Policy 124.1.1.

²⁶ See Condition 3; Staff Report (Attachment E); Lee Plan Objective 30.5.

²⁷ LDC §34-411(h).

²⁸ LDC §34-411(g).

²⁹ See Staff Report (Attachment E).

³⁰ See Staff Report (Attachment E, citing SFWMD ERP 36-109805-P).

³¹ McDonald Testimony.

Site design provides adequate buffers from neighboring properties and exceeds open space requirements.³² Environmental review discovered no protected species on site.³³

Transportation Facilities/Traffic

Planned developments must have access to roads with sufficient capacity to support proposed intensity.³⁴ Existing regulations or conditions of approval must address expected transportation impacts.³⁵

The project fronts Pine Island Road and Barrett Road.³⁶ Site design locates two access points on Barrett Road.³⁷ The northern point offers right-in access, while the southern point is full-access.³⁸ The property has adequate frontage to accommodate access.³⁹

Lee Tran Route 595 services the site with existing stops on Pine Island Road.⁴⁰

The Traffic Impact Statement (TIS) evaluated transportation impacts and concluded the request will not degrade levels of service on affected roadways/intersections.⁴¹

Public Services

Public services are the facilities, capital improvements, and infrastructure necessary to support development.⁴² The Lee Plan requires urban service evaluation for rezoning.⁴³

The request constitutes infill development in an area served by a host of urban services and infrastructure including roads, potable water, sanitary sewer, police, fire, and emergency medical services.⁴⁴

³² See MCP Open Space Table.

³³ Applicant must conduct further environmental study during development order review.

³⁴ LDC §34-145(d)(4)(a)(1)(d); §34-411(d)(1).

³⁵ LDC §34-145(d)(4)(a)(1)(e); §34-411(d)(2).

³⁶ Pine Island Road is a four-lane road maintained by the State.

³⁷ Consistent with LDC §10-285(a), prohibiting access on an arterial road if projects have alternative access.

³⁸ See MCP; Staff Report (Attachment F).

³⁹ See Staff Report (Attachment F); Lee Plan Objective 39.1, Policy 39.1.1.

⁴⁰ See Staff Report (pg. 2); Lee Plan Policy 30.3.3.

⁴¹ See Staff Report (pg. 2, Attachment H: TIS prepared by TR Transportation Consultants, Inc. dated Oct. 16, 2023, Attachment F: Memo from Md Rakibul Alan dated April 29, 2024).

⁴² Lee Plan Glossary. Public services include public water and sewer, paved streets and roads, public transit, parks and recreation facilities, urban levels of police, fire and emergency services, urban surface water management, schools, employment, institutional/public/administrative/community facilities, and libraries.

⁴³ Lee Plan Policy 2.2.1.

⁴⁴ See Staff Report (pg. 2-3). North Fort Myers Fire Station No. 2 with EMS is 0.6± miles away.

Conditions

The county must administer the zoning process so proposed uses acceptably minimize adverse impacts to adjacent property. Conditions must plausibly relate to impacts anticipated from the proposed development and must be pertinent to mitigating those impacts for public health, safety, and welfare.⁴⁵

The CPD will be subject to conditions of approval addressing development parameters and environmental features. The conditions relate to impacts anticipated from the project.⁴⁶

Deviations

“Deviations” are departures from LDC regulations.⁴⁷ Applicant requested two deviations, both relating to separation requirements. Staff supports the requested deviations.

The Hearing Examiner's standard of review requires a finding that the deviations:

1. Enhance achievement of objectives of the planned development; and
2. Protect public health, safety, and welfare.⁴⁸

Applying LDC deviation standards of review to testimony and evidence in the record, the Hearing Examiner concludes the requested deviations meet approval criteria.⁴⁹

Public

Applicant presented its request at a community meeting in compliance with LDC requirements.⁵⁰ No members of the public appeared at the hearing before the Hearing Examiner.

⁴⁵ LDC §34-932(b).

⁴⁶ LDC §34-83(b)(4)a.3. The Hearing Examiner recommends revisions to conditions to improve clarity.

⁴⁷ LDC §34-2.

⁴⁸ LDC 34-145(d)(4).

⁴⁹ LDC 34-377(a)(4).

⁵⁰ LDC §33-1532. See Staff Ex. 3. The meeting was held on June 26, 2024.

Conclusion

The Hearing Examiner concurs with staff's analysis and recommendation that the requested CPD meets LDC approval criteria.

IV. Findings and Conclusions

The Hearing Examiner makes the following findings and conclusions based on testimony and evidence in the record:

As conditioned herein, the proposed CPD:

- A. Complies with the Lee Plan. See Lee Plan Goals 2, 4, 6, 30, 158, Objective 2.1, 2.2, 30.5, 39.1, and Policies 1.1.10, 1.4.6, 1.5.1, 1.7.6, 2.1.1, 2.2.1, 5.1.5, 6.1.3, 6.1.4, 6.1.7, 30.2.5, 30.2.9, 39.1.1, 123.2.4, 123.2.8, 124.1.1; Lee Plan Maps 1A-B, 2A.
- B. Complies with the LDC and other County regulations. See LDC §10-1, §10-416, §§33-1531 *et. seq.*, §34-623, §34-625, §34-934.
- C. Is compatible with existing and planned uses in the area. See Lee Plan Policies 1.1.10, 2.1.1, 2.1.2, 2.2.1, 5.1.5, 6.1.1, 6.1.3, 6.1.4, 6.1.6, 6.1.7, LDC §34-411(c), (i), and (j).
- D. Will provide sufficient access to support the proposed development. See LDC §10-285(a).
- E. Expected impacts on transportation facilities will be addressed by existing County regulations or conditions of approval. See Lee Plan Goal 39, Policy 6.1.5, 39.1.1; LDC §34-411(d).
- F. Will not adversely affect environmentally critical areas and natural resources. See Lee Plan Goal 77, Objectives 4.1, 77.2; Policies 1.4.6, 1.5.1, 123.2.4, 123.2.8, 123.2.9, and LDC §34-411(h).
- G. Will be served by urban services. See Lee Plan Glossary, Maps 4A-B, Goal 2; Objectives 2.1, 2.2, 4.1; Policies 2.2.1, 6.1.4, and Standards 4.1.1 and 4.1.2; LDC §34-411(d).
- H. The proposed mix of uses is appropriate at the proposed location. See Lee Plan Policies 1.1.10, 2.1.1, 6.1.1, and 6.1.7.
- I. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See Lee Plan Policy 6.1.1; See *also* LDC Chapters 10, 33, and 34.

J. As conditioned herein, the deviations:

- (1) Enhance the objectives of the planned development; and
- (2) Protect public health, safety, and welfare. See §34-377(b)(4).

Date of Recommendation: July 12, 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 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

**SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST
LEE COUNTY, FLORIDA**

DESCRIPTION: FLOOR & DECOR PARCEL (PREPARED BY SURVEYOR)

A PARCEL OF LAND LOCATED IN SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA AND BEING PREMISES DESCRIBED IN DEED TO DANIEL RENOLLETT, RECORDED IN OFFICIAL RECORD INSTRUMENT NUMBER 2011000222648, ALL REFERENCES HEREIN ARE TO PUBLIC RECORDS OF LEE COUNTY, FLORIDA, PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 44 SOUTH, RANGE 24 EAST; THENCE WITH THE EAST LINE OF SAID NORTHWEST 1/4, SOUTH 04°33'12" EAST, A DISTANCE OF 584.25 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 78 (NE PINE ISLAND ROAD) PER FDOT RIGHT-OF-WAY MAP SECTION #12060-2519; THENCE WITH SAID SOUTH LINE SOUTH 61°58'00" WEST, A DISTANCE OF 65.32 FEET TO THE INTERSECTION OF SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 78 AND WEST RIGHT-OF-WAY LINE OF BARRETT ROAD AND THE POINT OF BEGINNING; THENCE WITH SAID WEST LINE SOUTH 04°32'48" EAST, A DISTANCE OF 737.18 FEET TO THE SOUTH LINE OF THE NORTHWEST 1/4 OF SECTION 4; THENCE WITH SAID SOUTH LINE SOUTH 89°58'30" WEST, A DISTANCE OF 597.19 FEET TO THE EAST LINE OF PREMISES RECORD IN INSTRUMENT NUMBER 2019000114584; THENCE WITH SAID EAST LINE NORTH 04°41'25" WEST, A DISTANCE OF 430.94 TO THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 78; THENCE WITH SAID SOUTH LINE NORTH 61°58'00" EAST, A DISTANCE OF 650.28 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 7.999 ACRES (348,040 SQUARE FEET) OF LAND, MORE OR LESS.

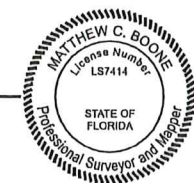
SURVEYOR'S NOTES:

- 1) THIS IS NOT A FIELD SURVEY. THIS SKETCH AND DESCRIPTION WAS PREPARED IN ACCORDANCE WITH STANDARDS OF PRACTICE FOR SURVEYORS AND MAPPERS AS SET FORTH IN ADMINISTRATIVE RULE 5J-17, FLORIDA ADMINISTRATIVE CODE. THIS IS NOT A BOUNDARY SURVEY.
- 2) THE BASIS OF BEARINGS FOR THIS SURVEY IS GRID NORTH STATE PLANE COORDINATE SYSTEM, FLORIDA WEST (NGS ZONE 902). THE WEST RIGHT-OF-WAY LINE OF BARRETT ROAD BEARS SOUTH 04°32'48" EAST.
- 3) ADDITIONS AND/OR DELETIONS TO THIS SKETCH OF DESCRIPTION, BY ANYONE OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.
- 4) PRINTED COPIES OF THIS SKETCH AND DESCRIPTION ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. DIGITAL COPIES OF THIS SKETCH AND DESCRIPTION ARE NOT CONSIDERED VALID WITHOUT THE ELECTRONIC SIGNATURE AS SET FORTH IN ADMINISTRATIVE RULE 5J-17, FLORIDA ADMINISTRATIVE CODE.

REVIEWED
DCI2023-00038
Rick Burris, Principal
Planner
Lee County DCD/Planning
4/1/2024

****THIS SKETCH & DESCRIPTION IS NOT VALID UNLESS
SHEETS 1-2 ARE INCLUDED****

REV#	REVISION	DATE
0	ISSUED	11/16/23



MATTHEW BOONE
FLORIDA PROFESSIONAL SURVEYOR
& MAPPER NO. 7414

Digitally signed
by Matthew C
Boone

Date: 2023.11.16
16:10:37 -05'00'



KCI TECHNOLOGIES
LICENSED BUSINESS # 6901
3915 N US HIGHWAY 301
TAMPA, FL 33619
PHONE: (813) 740-2300

**SKETCH & DESCRIPTION OF
FLOOR & DECOR PARCEL
2800 NE PINE ISLAND ROAD
FOR
THOMAS ENGINEERING GROUP**

DATE:	SCALE:	SHEET:
NOV 16, 2023	NTS	1 OF 2

SECTION 4, TOWNSHIP 44 SOUTH,
RANGE 24 EAST
LEE COUNTY, FLORIDA

ADJACENT PROPERTY TABLE	
(A) OWNER: ROTTINGHAUS, THOMAS G PARCEL #04-44-24-00-00022.0100 INSTRUMENT #2016000101661	
(B) OWNER: CAMPBELL, DUDLEY N & GILDA PARCEL #04-44-24-00-00022.0080 OR BOOK 2401, PAGE 158	
(C) OWNER: MCCracken, ROBERT PARCEL #04-44-24-00-00022.0050 INSTRUMENT #2019000267608	
(D) OWNER: MCCracken, ROBERT PARCEL #04-44-24-00-00022.0000 INSTRUMENT #2019000100242	
(F) OWNER: DD PINE ISLANDS LLC PARCEL #04-44-24-00-00023.0000 INSTRUMENT #2023000057451	

POINT OF COMMENCEMENT
NORTHEAST CORNER OF
THE NORTHWEST 1/4 OF SECTION 4
EAST LINE OF THE
NORTHWEST 1/4 OF SECTION 4

**STATE ROAD 78
(NE PINE ISLAND ROAD)**
PUBLIC RIGHT-OF-WAY WIDTH VARIES
(FDOT RIGHT-OF-WAY MAP SECTION 12060-2519)

N61°58'00"E 650.28'
SOUTHERLY RIGHT-OF-WAY
LINE OF STATE ROAD 78

POINT OF BEGINNING
INTERSECTION OF SOUTHERLY
RIGHT-OF-WAY LINE OF STATE ROAD 78 & THE
WEST RIGHT-OF-WAY LINE OF BARRETT ROAD

WEST RIGHT-OF-WAY LINE
OF BARRETT ROAD

737.18'

BARRETT ROAD

60' PUBLIC RIGHT-OF-WAY
(FDOT RIGHT-OF-WAY MAP SECTION 12060-2519)

GRID NORTH

R/W

OWNER: MEDERIOS JOANN
PARCEL #04-44-24-00-00023.0040
(PER INSTRUMENT #2019000114584)

EAST LINE OF PREMISES RECORDED IN
INSTRUMENT #2019000114584

OWNER: RENOLLETT, DANIEL
PARCEL #04-44-24-00-00014.0000 &
PARCEL #04-44-24-00-00015.0000
INSTRUMENT #2011000222648

LINE DATA		
NO.	BEARING	DISTANCE
L1	S04°33'12"E	584.25'
L2	S61°58'00"W	65.32'

REVIEWED
DCI2023-00038
Rick Burris, Principal
Planner
Lee County DCD/Planning
4/1/2024

SOUTH LINE OF THE NORTHWEST 1/4
OF SECTION 4, T44S, R24E

S89°58'30"W 597.19'

OWNER: ROTTINGHAUS, THOMAS G
PARCEL #04-44-24-00-00022.0040
INSTRUMENT #2016000101608

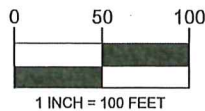
SEE (A) OF THE
ADJACENT
PROPERTY TABLE

SEE (B) OF THE
ADJACENT
PROPERTY TABLE

SEE (C) OF THE
ADJACENT
PROPERTY TABLE

SEE (D) OF THE
ADJACENT
PROPERTY TABLE

SEE (F) OF THE
ADJACENT
PROPERTY TABLE



NOT A FIELD SURVEY

LEGEND
R/W = RIGHT-OF-WAY LINE



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LICENSED BUSINESS # 6901
3915 N US HIGHWAY 301
TAMPA, FL 33619
PHONE: (813) 740-2300

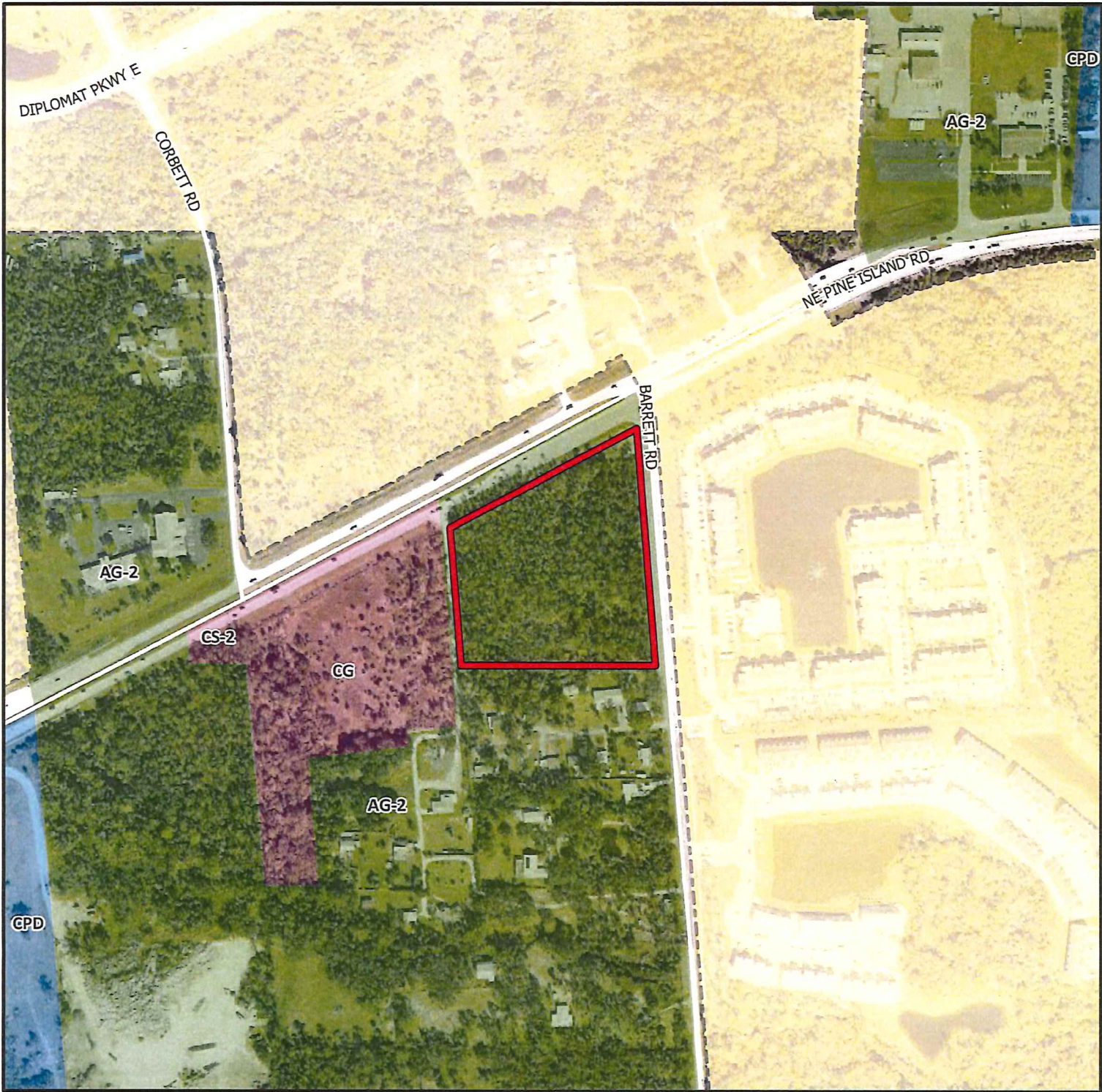
SKETCH & DESCRIPTION OF
FLOOR & DECOR PARCEL
2800 NE PINE ISLAND ROAD
FOR
THOMAS ENGINEERING GROUP

DATE:
NOV 16, 2023

SCALE:
1" = 100'

SHEET:
2 OF 2

**THIS SKETCH & DESCRIPTION IS NOT VALID UNLESS
SHEETS 1-2 ARE INCLUDED**

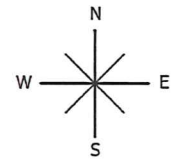


DCI2023-00038

Zoning

 Subject Property

 City Limits



0 300 600 900
Feet



Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

1. Master Concept Plan (MCP)/Development Parameters

- a. MCP. Development must be substantially consistent with the one-page (MCP) entitled "Floor & Décor, North Fort Myers," dated April 16, 2024, (Exhibit B1), except as modified by the conditions below.
- b. LDC and Lee Plan. Development must comply with the LDC and Lee Plan at time of local development order approval, except as may be granted by deviation herein. Subsequent changes to the MCP or conditions/deviations are subject to the planned development amendment process established in the LDC.
- c. Development Parameters. Project intensity is limited to a maximum of 80,000 square feet of commercial uses.

2. Uses and Site Development Regulations

a. Schedule of Uses

Accessory Uses and Structures
Administrative Offices
ATM (automatic teller machines)
Essential Services
Essential Service Facilities, Group I
Excavation: Water Retention
Excess Spoil Removal
Household and Office Furnishings, Groups I & III
Signs

b. Site Development Regulations

Minimum Lot Area and Dimensions:

Area: 8 acres
Width: 430 feet
Depth: 600 feet

Minimum Setbacks:

Street (Public): 25 feet
Side: 25 feet
Rear: 25 feet

Water Body: 25 feet

Development Perimeter Building Setback: 25 feet

Maximum Building Height: 35 feet

Minimum Building Separation: One-half the sum of the heights of both buildings, or 20 feet, whichever is greater.

Maximum Lot Coverage: 45%

Minimum Open Space: 30%

3. Environmental

- a. Development order plans must depict/include:
 - i. 4.19 acres of open space.
 - i. 10% publicly accessible open space.
 - ii. A map depicting where mechanical and hand-removal methods of exotic vegetation removal will be located. Indigenous preservation areas are limited to hand removal of exotics only.
 - iii. An indigenous management plan.
 - iv. The preservation of native heritage trees with at least a 20-inch caliper DBH to the maximum extent possible. If a heritage tree must be removed from, a replacement tree with a minimum 20-foot height must be planted within open space.
 - v. A tree barricade and protection plan.
 - vi. An erosion control plan with illustrations of how fill is impacting existing preservation trees.
- b. The buffer material/vegetation must be measured from the parking lot grade of the project at the time of the first development order
- c. Developer may not commence construction impacting wetlands until issuance of required state and federal permits. Development activity must comply with required state and federal wetland permits and applicable local development permits.

4. Development Permits

County development permits do not create rights to obtain permits from state/federal agencies. Further, County development permits 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

undertakes actions in violation of state/federal law. Applicant must obtain applicable state/federal permits prior to commencing development

DEVIATIONS

1. Deviation #1: Connection Separation. A deviation from LDC §10-285(a), which requires a minimum of 330-foot connection separation on major collector roads in the future suburban areas, to allow a 312-foot connection separation from NE Pine Island Road intersection to the northern access point of the subject site.

HEX Recommendation: Approve

2. Deviation #2: Connection Separation. A deviation from LDC§10-285(a), which requires a minimum of 330-foot connection separation on major collector roads in the future suburban areas, to allow a 286-foot connection separation between the northern and southern access points to the site on Barrett Road.

HEX Recommendation: Approve, subject to the following condition:

The northern access point is limited to right-in only. The southern entrance may be a full access point.

Exhibits to Conditions:

B1 MCP entitled "Floor & Décor, North Fort Myers" dated April 16, 2024

- GENERAL NOTES**
1. DIMENSIONS ARE TO FACE OF CURB UNLESS OTHERWISE NOTED.
 2. ALL RADII UNLESS OTHERWISE NOTED.
 3. RADII AT THE MAIN ENTRIES SHALL BE 25' UNLESS OTHERWISE NOTED.
 4. REFER TO ARCHITECTURAL AND ELECTRICAL PLANS FOR SITE LIGHTING POLES, FIXTURES AND ELECTRICAL PLAN PRIOR TO PLACING PAVEMENT.
 5. SITE LIGHTING IS BY OTHERS. REF. SITE LIGHTING PLANS FOR LOCATIONS AND DETAILS PRIOR TO PLACING PAVEMENT.
 6. REFER TO ARCHITECTURAL AND STRUCTURAL PLANS FOR EXACT BUILDING DIMENSIONS.
 7. SIDEWALKS TO HAVE A 5% MAXIMUM RUNNING SLOPE AND A MAXIMUM 2% CROSS SLOPE IN ACCORDANCE WITH ADA REQUIREMENTS.
 8. FIELD VERIFY ADA GRADES PRIOR TO PLACING PAVEMENT. CONTRACTOR SHALL CONSTRUCT ALL ACCESSIBLE ROUTES IN ACCORDANCE WITH ADA STANDARDS AND THE LEE COUNTY.
 9. REF. IRRIGATION PLANS PRIOR TO PLACING PAVEMENT.
 10. STRIPING SHALL BE ACCORDING TO THE LEE COUNTY AND FDOT REQUIREMENTS.
 11. CONTRACTOR SHALL BUDGET FOR ACCESSIBLE STALL STRIPING, FIRE LANE STRIPING, DIRECTIONAL ARROWS, ETC.
 12. REF. BUILDING PLANS FOR ALL EXTERIOR STAIRS DETAILS.
 13. CONTRACTOR TO ADJUST EXISTING SANITARY SEWER MANHOLES, STORM SEWER MANHOLES, ELECTRICAL MANHOLES, FIRE HYDRANTS, VALVE BOXES, WATER METERS, ETC. TO MATCH PROPOSED FINISHED GRADES IF NECESSARY.
 14. STRIPING SHALL BE 4" SOLID WHITE LINES.
 15. SEE ARCHITECTURAL AND SIGN DRAWINGS FOR EXACT LOCATION, DIMENSIONS AND DETAILS FOR THE PROPOSED MONUMENT SIGNS SHOWN. LOCATION AND SIZE SHOWN ON THIS PLAN ARE FOR GENERAL COORDINATION PURPOSES ONLY.
 16. SEE ARCHITECTURAL DRAWINGS FOR EXACT BUILDING DIMENSIONS AND DETAILS. ANY BUILDING DIMENSIONS SHOWN ON THIS PLAN ARE FOR GENERAL COORDINATION PURPOSES ONLY AND SHOULD NOT BE USED TO LAYOUT THE BUILDING OR ITS APPURTENANCES (STAIRS, DOORS, DOCKS, ETC.) COORDINATE WITH ARCHITECTURAL AND STRUCTURAL PLANS.
 17. THERE ARE NO POTENTIAL IMPACTS TO GROUND AND SURFACE WATERS, WETLANDS OR FLOOD PLAINS ANTICIPATED DUE TO CONSTRUCTION OF THIS PROJECT. IF REQUIRED, DEWATERING WILL REMAIN ON SITE. SURFACE WATER MANAGEMENT FOLLOWS THE MASTER SYSTEM.



LEGEND:

- | | | | |
|--|---|--|--|
| | PROPERTY LINE | | PUBLIC ACCESSIBLE OPEN SPACE |
| | PROPOSED BUILDING | | PRESERVATION AREA |
| | PROPOSED STANDARD DUTY ASPHALT PAVEMENT | | PROPOSED 7' CURB |
| | PROPOSED HEAVY DUTY ASPHALT PAVEMENT | | PROPOSED PARKING SPACE COUNT |
| | EXISTING SIDEWALK | | PROPOSED H.C. SPACE |
| | PROPOSED CONCRETE EDGWORK | | DIRECTIONAL ARROW FOR SITE PLAN INFORMATION ONLY |
| | EXISTING PAVEMENT ASPHALT | | PROPOSED LIGHT POLE LOCATION |
| | PROPOSED HEAVY DUTY CONCRETE | | PROPOSED SIGN |
| | PROPOSED BUILDING PENETRATION SPACE | | PROPOSED COUNTY SCHEDULE |
| | IMPACTED WETLAND AREA | | PROPOSED HEAVY DUTY FOOT PAVEMENT (COUNT) |
| | | | DEVIATION REQUEST |

SITE DATA

THIS PLAN REFERENCES A ALTA/BOUNDARY & TOPO, SURVEY BY:

KCI TECHNOLOGIES - SURVEYORS
4041 CRESCENT PARK DRIVE, TAMPA, FL 33678
TELEPHONE: (813) 740-2300

APPLICANT: FLOOR & DECOR

SITE ADDRESS: 2800 NE PINE ISLAND RD, NORTH FT MYERS, FL 33903

PARCEL STRAPS: 04-44-24-00-00014.0000
04-44-24-00-00015.0000
10152648 & 10152649

FOLIO ID:

FLUCFCS MAP
TOTAL FLUCFCS AREA
A = 74,732 SF (1.72 ACRES)

FLUCFCS LEGEND:
411 MESIC FLATWOODS
414E1 PINE-MESIC OAK (1-25% EXOTICS)
617E1 MIXED WETLAND HARDWOOD (1-25% EXOTICS)
141 DEV. RETAIL/COMMERCIAL

MIN PERVIOUS: 30% ON COMMERCIAL DEVELOPMENTS

SITE AREA BREAKDOWN:	EXISTING	PROPOSED
IMPERVIOUS AREA:	87,00 S.F. (0.002 ACRES) - 0.02%	165,511 S.F. (3.80 ACRES) - 47.55%
BUILDING AREA	-	75,149 S.F. (1.73 ACRES) - 21.59%
PAVEMENT VUL AREA	81,038 S.F. (1.86 ACRES) - 22.28%	9,323 S.F. (0.21 ACRES) - 2.68%
SIDEWALK/CURB/ETC	87,00 S.F. (0.002 ACRES) - 0.02%	-
PERVIOUS AREA (TOTAL):	347,993 S.F. (7.999 ACRES) - 99.98%	182,569 S.F. (4.19 ACRES) - 52.45%
GREEN SPACE	-	69,518 S.F. (1.57 ACRES) - 19.60%
INDIGENOUS VEG. PRESERVE	281,954 S.F. (6.473 ACRES) - 81.00%	74,733 S.F. (1.72 ACRES) - 21.47%
POND	-	37,458 S.F. (0.86 ACRES) - 10.76%
2' VEHICULAR OVERHANG	-	1,860 S.F. (0.04 ACRES) - 0.53%
AREA:	348,080 S.F. (7.99 ACRES) - 100%	348,080 S.F. (7.99 ACRES) - 100%
FAVLOT COVERAGE:	MAXIMUM 0.45	PROPOSED 0.216
OPEN SPACE		
TOTAL REQUIRED OPEN SPACE	30% OR 30% X 7.99 AC = 2.40 ACRES	
TOTAL REQUIRED INDIGENOUS VEG. OPEN SPACE	50% X 2.40 AC = 1.20 ACRES	
TOTAL OPEN SPACE	REQUIRED 2.40 ACRES	PROPOSED 4.19 ACRES
(TOTAL OPEN SPACE AREA INCLUDES ALL OF THE PERVIOUS AREA ON SITE. REFERENCE LDC 10-419)		
TOTAL INDIGENOUS VEG. OPEN SPACE	1.20 ACRES	1.72 ACRES
(INDIGENOUS VEG. AREA INCLUDES 100 FT PRESERVATION AREA ON SOUTH PROPERTY LINE AND WETLAND AREA REMAINING)		
PUBLIC ACCESSIBLE OPEN SPACE	10% OF GFA 10% X 75,149 = 7,515 SF	10.3% OF GFA 7,600 SF PERVIOUS
FLOOR AREA RATIO (F.A.R.):		
GROSS FLOOR AREA:	75,149 SF BUILDING - 1.72 AC (75,149 SF) (STORE)	
NON-RESIDENTIAL DEVELOPMENT USE:		
DEVELOPABLE AREA:	7,991 AC OR (348,080 SF)	

LANDSCAPE BUFFERS:

	REQUIRED	PROPOSED
FRONT ROW(H)	20'	20'
SIDE (V)	15'	15'
SIDE ROW(E)	20'	20'
REAR (S)	20' WYALL OR 50'	50'

BUILDING PERIMETER: 10% OF PROPOSED GROSS FLOOR AREA
REQUIRED = 10% X 75,149 SF = 7,515 SF
PROVIDED = 7,523 SF

DEVIATION REQUEST SUMMARY:

DEVIATION REQUEST FROM LDC SECTION 10-285 FOR DRIVEWAY SPACING. BARRETT ROAD IS CLASSIFIED AS A MAJOR COLLECTOR WITH A POSTED SPEED OF 30 MPH AND WITHIN A FUTURE SUBURBAN AREA, THEREFORE REQUIRING DRIVEWAY SPACING OF 330 FEET BETWEEN DRIVEWAYS. THE FOLLOWING DEVIATIONS ARE REQUESTED AND AS REFLECTED ON THE SITE PLAN AS THE MINIMUM DRIVEWAY DEVIATION NEEDED. PINE ISLAND TO F&D DRIVE NORTH - ±312 FEET. F&D DRIVE NORTH TO F&D DRIVE SOUTH - ±286 FEET.

EXHIBIT B-1

FLOOR & DECOR
2800 WINDY RIDGE PARKWAY, SE ATLANTA, GA 30339

SBLM
SBLM Architects AA-0003434
33 West Windy Ridge
Suite 300A
Huntington Station, NY 11748
Telephone: 631 583 5558
Fax: 631 583 5591

A.Y. SCHWAB & ASSOCIATES
CONSULTING ENGINEERS
1000 N. W. 10th Ave., Suite 100
Fort Lauderdale, FL 33304
Phone: 754 561 1111

ccci
CODE CONSULTANTS, INC.
5001 N. W. 10th Ave., Suite 100
Fort Lauderdale, FL 33304
Phone: 754 561 1111

THOMAS
ENGINEERING GROUP
THOMAS ENGINEERING GROUP
1802 N. FLETCHER AVE., SUITE 101
TAMPA, FL 33612
(813) 378-4100

FLOOR & DECOR
NORTH FORT MYERS, FL (CAPE CORAL)

2800 NE PINE ISLAND ROAD
CAPE CORAL, FL 33908

ISSUE DATE: 09/08/2023
STORE NUMBER: T2D
AREA: 75,149 SF
JOB NUMBER: 030303
PROJECT TYPE: 2023 Q2

ISSUE

EDWARD M. McDONALD, P.E.
April 16, 2024
FLORIDA LICENSE No. 71615
FLORIDA BUSINESS CENT. OF AUTH. No. 21521
-SHEET-
MASTER CONCEPT PLAN

MCP

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

- a. *Response to Additional Information Requested by Hearing Examiner:* Email from Joseph Adams to Logan Opsahl, Esq., with copies to Chahram Badamtchian and Anthony Rodriguez, dated Monday, June 3, 2024, 1:11 PM (1 page – 8.5"x11")
- 1. *DCD Staff Report with attachments:* Prepared by Chahram Badamtchian, Senior Planner, date received May 22, 2024 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
- 2. *Notice of Affidavit:* For Zoning Case DCI2023-00038, Floor & Décor (1 page – 8.5"x11")
- 3. *Public Meeting Package:* (multiple pages – 8.5"x11")

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Logan Opsahl, Esq., to Maria Perez, dated June 3, 2024, 4:23 PM (multiple pages – 8.5"x11")[color]
- 1. *PowerPoint Presentation:* Prepared for CPD Zoning Request, DCI2023-00039, dated July 11, 2024 (3 double-sided pages – 8.5"x11")[color]
- 2. *Master Concept Plan:* Prepared by Edward M. McDonald, P.E., with SBLM Architects (1 page – 24"x36")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Chahram Badamtchian

Applicant Representatives:

1. Edward M. McDonald
2. Logan Opsahl

Public Participants:

None

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 this recommendation to the Board of County Commissioners.
- B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final 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 the correctness of Findings of Fact or Conclusions of Law contained 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 they were 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.