

**Lee County, Florida
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION
STAFF REPORT**

CASE NUMBER: REZ2023-00029

CASE NAME: CHIEF COURT INDUSTRIAL REZONE

TYPE OF CASE: CONVENTIONAL REZONING

HEARING EXAMINER DATE: August 22, 2024

SUFFICIENCY DATE: June 28, 2024

REQUEST

An application has been submitted by Fred Drovdlc, RVi Planning and Landscape Architecture, on behalf of Donald D Carter Trust, to request a conventional rezoning of 1.88 acres from Agricultural (AG-2) to General Commercial (CG).

The subject property is located at 15851 and 15881 Chief Court and a parcel with no address along Ten Mile Canal in Fort Myers. The STRAP Numbers for the property are 36-45-24-00-00010.0000 and 36-45-24-03-00000.0010. The legal description for this property can be found in Attachments "B1" and "B2."

SUMMARY:

Staff recommends **APPROVAL** of the request.

HISTORY OF SUBJECT PROPERTY

The subject property is located on the east side of Chief Court and west of Ten Mile Canal. Although there are two STRAP numbers associated with this rezoning case, the subject property also includes a third STRAP number, 36-45-24-03-00000.0020, which is not proposed to be rezoned. The northern of the two subject STRAPs is a rectangular parcel aligned north-south. It lays between the boundaries of the Briarwood Industrial Park on the west and Ten-Mile Canal on the east. It is unplatted and was formerly owned by the Seaboard Coast Line Railroad. The southern STRAP of the subject property consists of Lot 1 of the Briarwood Industrial Park recorded in Plat Book 37, Page 60 on March 24, 1986, and that portion of the former Seaboard Coast Line Railroad land between Lot 1 and Ten Mile Canal. It is also rectangular and is aligned east-west. The combination of the two parts into one STRAP occurred on April 1, 2002, and is recorded in OR Book 3612, Page 4072. Only a portion of the STRAP is being requested for a rezoning. That portion that was created as part of the Briarwood Industrial Park is already zoned Light Industrial (IL) and is not proposed to be rezoned. Only the portion that was part of the abandoned railroad right-of-way is zoned Agricultural (AG-2) and is proposed to be rezoned to General Commercial (CG).

The portion of the property that is not subject to the proposed rezoning lays between the other two STRAPs and consists of Lot 2 of the Briarwood Industrial Park and that portion of the Seaboard Coast Line Railroad land between Lot 2 and Ten Mile Canal (see Attachment "C2").

The northern portion of the property has always been zoned Agricultural (AG-2) since the adoption of zoning districts in Lee County in 1962. The southern portion of the subject property has two zoning districts. The portion of the lot formerly owned by the Seaboard Coast Line Railroad has always been zoned Agricultural (AG-2) whereas the portion of the lot within the Briarwood Industrial Park was rezoned from Residential Single-Family (RS-1) to Light Industrial (IL) in 1981 by Zoning Resolution Z-81-351. This resolution also included the middle portion of the property which is not part of the proposed rezoning.

The area of the abandoned Seaboard Coast Line Railroad to the west of Ten Mile Canal is separate from the still existing right-of-way for the Seminole Gulf Railway lying east of Ten Mile Canal.

The current use of the subject property is for boat repairs and marine-oriented services. The vacant portion of the southern STRAP is currently used for open storage of boats, which is not a permitted use in the Agricultural (AG-2) zoning district. The applicant originally proposed to rezone the subject area to the Light Industrial (IL) zoning district. However, Lee Plan Policy 7.1.2 states that all rezonings to allow industrial uses outside of the Industrial Development, Tradeport, or Industrial Interchange Future Land Use Categories must be rezoned to a Planned Development. This would apply to the subject property because it is within the Urban Community. Because the applicant wanted to avoid using the Planned Development process, they altered their request to rezone to the General Commercial (CG) zoning district instead.

The subject property currently has four Code Enforcement violations (VIO2023-04466, VIO2023-04469, VIO2023-04471, VIO2023-04572, and VIO2023-04573). The relevant violation for this case is VIO2023-04469, which cites that the applicant is employing the Agricultural (AG-2) zoned open area on the east side of the subject property for the Open Storage of boats, equipment, and materials. Rezoning the subject property to the General Commercial (CG) zoning district will abate this violation as the General Commercial (CG) district permits open storage. The remaining code violations deal with site design requirements such as landscaping and vegetation clearing and are beyond the scope of this rezoning. The remaining violations will be addressed through the Development Order process.

CHARACTER OF THE AREA

The subject property is located at the east end of an existing commercially and industrially developed area defined by Youngquist Road, Brothers Court and Chief Court. This has resulted in a de facto commercial/industrial subdivision. This subdivision is accessed at the west end from US 41 via Youngquist Road which is the only access. Therefore, the subject property is located near the back end of the subdivision, generally isolated by Ten Mile Canal on the east and the rest of the subdivision on all other sides (see Attachments "C1" and "C2"). The only residential use nearby is the southeast corner of the Laurel Oaks residential subdivision which abuts the northwest corner of the northern STRAP of the subject property.

The subject property and its subdivision are part of a larger block of land designated Urban Community on the Lee Plan Future Land Use Map and generally zoned for commercial and industrial uses, with the Laurel Oaks subdivision being the exception (see Attachments “C3” and “C4”). This block of land runs between US 41 and Ten Mile Canal. It is triangular in nature and runs roughly from Briarcliff Road on the north to the intersection of US 41 and Ten Mile Canal. The general pattern of zoning within this block is commercial districts such as General Commercial (CG) and Commercial (C-1) on the west side abutting or laying close to US 41. Further from US 41, the land is generally zoned Light Industrial (IL). This has resulted in an area that is mostly commercial and industrial in character.

Ten Mile Canal, the railroad right-of-way, and Michael G. Rippe Parkway create a significant barrier between the commercial/industrial block above and the rural and agricultural lands to the east. The property is setback far from US 41 and has little interaction with non-abutting properties. Therefore, the subject property is largely isolated within the block of commercial and industrial uses.

The nature of the uses surrounding the subject property is commercial but oriented towards the building industry and services rather than general retail goods and services. Many of the businesses near the subject property are closer in nature to Builders and Contractors rather than consumer retailers. Examples include flooring stores, air conditioning services, auto glass services, and landscape maintenance businesses.

The following are the surrounding zoning districts and existing land uses:

North

To the north of the subject property is an abutting undeveloped parcel. It is a portion of the former Seaboard Coast Line Railroad land.

Northwest

Northwest of the subject property is the Laurel Oaks Residential Planned Development (RPD). It is developed with single family residences.

East

To the east lays Ten Mile Canal, the right-of-way for the Seminole Gulf Railway, and then Michael G. Rippe Parkway. Beyond this is an extensive rural area developed with large-lot single-family residences.

West

To the west, across Chief Court, is property zoned Light Industrial (IL). It is developed with commercial services, industrial uses serving the building industry, and a vacant commercial building.

South

The property to the south is zoned Light Industrial (IL). It is developed with commercial uses.

ANALYSIS

This application requests a conventional rezoning of an approximately 1.88-acres from Agricultural (AG-2) to General Commercial (CG).

Conventional Rezoning Criteria

Decision-making criteria for conventional rezoning requests are established in LDC Sec. 34-145(d)(4). The applicant has provided a request statement that describes the request and contains an analysis of pertinent Lee Plan policies (see Attachment "D"). Below is an analysis of the decision-making criteria established in LDC Sec. 34-145(d)(4) based upon the applicant's request:

1. *Compliance with the Lee Plan*

The subject property is within the Urban Community future land use category as described in Lee Plan Policy 1.1.4. The Urban Community Future Land Use Category is described as being characterized by a mixture of relatively intense commercial and residential uses. This category is well-suited to contain the General Commercial (CG) zoning district, which permits more intensive commercial uses. Staff finds the proposed rezoning consistent with Policy 1.1.4.

Objectives 2.1 and 2.2 of the Lee Plan intend to direct new growth to future urban areas in compact and contiguous growth patterns where adequate public facilities exist. The subject property is located within the Urban Community Future Land Use Category, and it is located within a block that is already heavily zoned with commercial and industrial zoning districts. Much of the property within this block is already developed with commercial and industrial uses. Therefore, the proposed General Commercial (CG) zoning district is creating infill in an existing commercial area and not intruding into any non-developed areas. The property also has quick access to US 41 and will not require additional roadways to be built. The subject property will be served by the Lee County Sheriff's Office. Fire service will be provided from the San Carlos Park Fire Station 52 within the South Trail Fire District and EMS service is provided by Lee County Medic 33. Potable water service will be provided by Lee County Utilities and sewer service will be provided by Forest Utilities, Inc. (see Attachment "E"). Staff finds the proposed rezoning consistent with Objectives 2.1 and 2.2.

Objective 4.1 of the Lee Plan addresses the availability of potable water and sanitary sewer service to the subject property. The property is currently served by central potable water lines and an on-site septic system that is in compliance with County regulations. The application includes a letter of service availability from Lee County Utilities and Forest Utilities Inc., the relevant potable water service and Sewer service providers, respectively, for the property (see Attachment "E"). These letters state that there are both potable water lines and sanitary sewer lines in proximity to the property, although additional infrastructure may be needed to hook into the subject property. This would be necessary if the development of the property exceeds the thresholds requiring connection to central water and sewer systems established by Standards 4.1.1 and 4.1.2.

Policy 5.1.5 of the Lee Plan intends to protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of residential development. The northern lot of the subject property already abuts the Laurel Oaks Residential Planned Development. However, the abutting portion is only at the northwest corner of the subject property and the southeast corner of the Laurel Oaks plat. Therefore, the introduction of a commercial zoning district on the subject property would not have a significant frontage of interaction with the residential parcel. In addition, the Laurel Oaks community already abuts the Briarwood Industrial Park plat and other commercial and industrial land along the entire south boundary of the residential neighborhood. So, the proposed rezoning would not be introducing any commercial or industrial land in close proximity to the residential community for the first time. It should be noted that the LDC requires greater buffering and screening requirements for less desirable uses, such as open storage, which further prevents encroachment of commercial uses into residential areas. Staff finds the request does not result in any encroachment into a residential area and is therefore consistent with Policy 5.1.5.

Goal 6 of the Lee Plan establishes objectives and policies to facilitate orderly and well-planned commercial development at appropriate locations within the county. Policy 6.1.1 of the Lee Plan requires that applications be reviewed for traffic and access impacts, incorporate landscaping and detailed site planning, provide screening and buffering, ensure availability of services and facilities, minimize impacts on adjacent uses, be located in proximity to other similar centers, and properly mitigate environmental considerations. Many of these issues are related to specific site designs which are beyond the scope of this request. These issues will be addressed through the Development Order application process. Staff finds the request to be consistent with Policy 6.1.1.

Policy 6.1.4 of the Lee Plan requires that commercial uses be approved only when compatible with adjacent existing and proposed land uses as well as existing and programmed services and facilities. The subject property is located in an area that is already zoned and developed with commercial uses. Although there is residential zoning near the subject property, there is no cross-access between the residential community and the business/industrial park containing the subject property. Further, the subject property only abuts the residential community at a single corner on its northwest side. Staff finds that the request is consistent with Policy 6.1.4.

Policy 6.1.7 of the Lee Plan prohibits commercial developments from locating in a way that opens new areas to premature, scattered, or strip development. The block that contains the subject property is already mainly zoned and developed for industrial and commercial districts and uses. Additional commercially zoned land will not be intrusive to this pattern of development, nor will it be premature as this development pattern already exists. Staff finds this request consistent with Policy 6.1.7.

Lee Plan Policy 7.1.2 states that all rezonings to allow industrial uses outside of the Industrial Development, Tradeport, or Industrial Interchange Future Land Use Categories must be rezoned to a Planned Development. This would normally apply to the subject property because it is within the Urban Community. However, because of the commercial nature of the business on the property, a rezoning to the General Commercial (CG) zoning district would avoid the complications created by Policy 7.1.2 while allowing the applicant to continue to use the property for his existing business.

2. Ability to comply with Code and other applicable County regulations or qualifies for deviations.

The subject property meets the dimensions required by the General Commercial (CG) zoning district. The General Commercial (CG) zoning district requires a minimum of 100 feet of width, 100 feet of depth, and a minimum lot area of 20,000 square feet for commercial uses. Additional property development regulations are established in Chapters 10, 33, 34 of the Lee County Land Development Code including maximum height, setbacks, buffer requirements, and open space. In addition, the property will need to conform to commercial site design criteria if the proposed rezoning is approved.

3. Compatibility with existing and planned uses in the surrounding area.

The area surrounding the subject property is zoned and developed with industrial and commercial zoning districts and uses. The proposed General Commercial (CG) district conforms to this pattern of zoning and development. In addition, the proposed General Commercial (CG) zoning district will conform to the intended pattern of development for the area created by the Future Land Use category. The provision of adequate buffering, screening, and other compatibility-related design considerations will be addressed by LDC regulations during the subsequent development order process. Although the rest of the property owned by the applicant is zoned Light Industrial, the applicant has chosen to rezone to the General Commercial zoning district. The southern STRAP of the subject property is already being used for the open storage of boats awaiting repair at the applicant's business. The Light Industrial (IL) zoning district permits the open storage of boats. It would appear that Light Industrial (IL) would therefore be a more appropriate zoning district for the rezoning. However, the applicant desires to avoid the requirement of Lee Plan Policy 7.1.2 to rezone the subject property to Planned Development rezoning. Therefore, the General Commercial zoning district is an appropriate choice because it permits the existing open storage on the property and is compatible with the commercial boat repair and maintenance use of the property.

4. Provision with sufficient access to support the proposed development intensity.

The southern portion of the subject property fronts on Chief Court, which runs South to Youngquist Road and then to US 41. As a small property, this provides sufficient access for commercial uses. The northern portion of the subject property does not abut a road right of way but is in common ownership with properties that abut on Chief Court.

5. *Expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval.*

Because this is a conventional rezoning, no Traffic Impact Statement is required. The Land Development Code requires review of traffic impacts during the development order process, at which point impacts to the roadway system may be required to be offset with development-related traffic improvements. Therefore, requirements of the Land Development Code will sufficiently address any potential traffic-related issues resulting from development of the subject property.

6. *No adverse impacts to environmentally critical or sensitive areas and natural resources.*

The applicant negatively impacted the natural resources on the subject property prior to applying for this rezoning case. Code Enforcement case VIO2023-04572 addresses the environmental impact that the applicant has had on the subject property (see Attachment “F”). The applicant has come to an agreement with Code Enforcement staff to abate this violation which includes measures such as planting new trees, shrubs, and other vegetation. In addition, the use of the rear parcel for open storage requires an opaque visual screen that is 8 feet high for any portion of the storage area visible from residential areas and 6 feet high for the rest.

For the vacant northern portion of the subject property, the applicant will be required to comply with the requirements of the Land Development Code for buffers, open space, and the submittal of an environmental assessment.

7. *Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category:*

Urban Services are defined by the Lee Plan as: the requisite services, facilities, capital improvements, and infrastructure necessary to support growth and development at levels of urban density and intensity.

Public Sewer and Water: The subject property will be serviced by Lee County Utilities for potable water and the Forest Utilities Inc is the sanitary sewer service provider (see Attachment “E”).

Public Transit: LeeTran Route 240 runs along US 41 approximately 2000 feet west of the subject property.

Police, Fire, and Emergency Services: the subject property is within Lee County Sheriff's District S1 South. San Carlos Park Fire Station #52 and Medic #33 are approximately 5,000 feet southwest of the subject property.

Urban Surface Water Management: Any future development will be required to comply with the Land Development Code, including all provisions for surface water management.

Solid Waste Service: The subject property is within Solid Waste Franchise Area 3.

CONCLUSION

The proposed Conventional Rezoning from the Agricultural (AG-2) zoning district to the General Commercial (C-1) zoning district is consistent with the Lee Plan. This request has been reviewed against the decision-making criteria set forth in LDC Sec. 34-145(d)(4), and staff has found that the request:

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

Staff recommends **approval** of the request to rezone the subject property from the Agricultural (AG-2) zoning district to the General Commercial (CG) zoning district.

ATTACHMENTS:

- A. Expert Witness Information
- B. Legal Description
 - 1. North Parcel
 - 2. South Parcel
- C. Maps:
 - 1. Location Map
 - 2. Aerial
 - 3. Zoning
 - 4. Future Land Use
- D. Request Statement
- E. Letters of Utility Availability
- F. Environmental Review Letter and Attachments

Attachment A

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

Case Number: REZ2023-00029

Project Name: Chief Court Industrial Rezone

Hearing Examiner Date: August 22, 2024

Peter Blackwell, AICP, Planner, Zoning, 1500 Monroe Street, Fort Myers, FL 33901

- Previously qualified as an expert witness by the Lee County Hearing Examiner. Current resume is available for the Hearing Examiner.
- Qualified as an expert witness in the Lee County Land Development Code, the Lee Plan, zoning, and land use planning.
- Report and documents are submitted with the Staff Report for this case. Additional documents that may be relied upon and used as evidence during the hearing include: the Lee County Land Development Code, the Lee Plan, and documentation submitted by the applicant as part of the subject application.

REVIEWED
RE2023-00029
Rick Burris, Principal
Planner
Lee County DCD/Planning
6/25/2024

SKETCH TO ACCOMPANY DESCRIPTION:
A TRACT OR PARCEL OF LAND LYING
IN A PORTION OF THE
SOUTHEAST 1/4 OF SECTION 36,
TOWNSHIP 45 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA

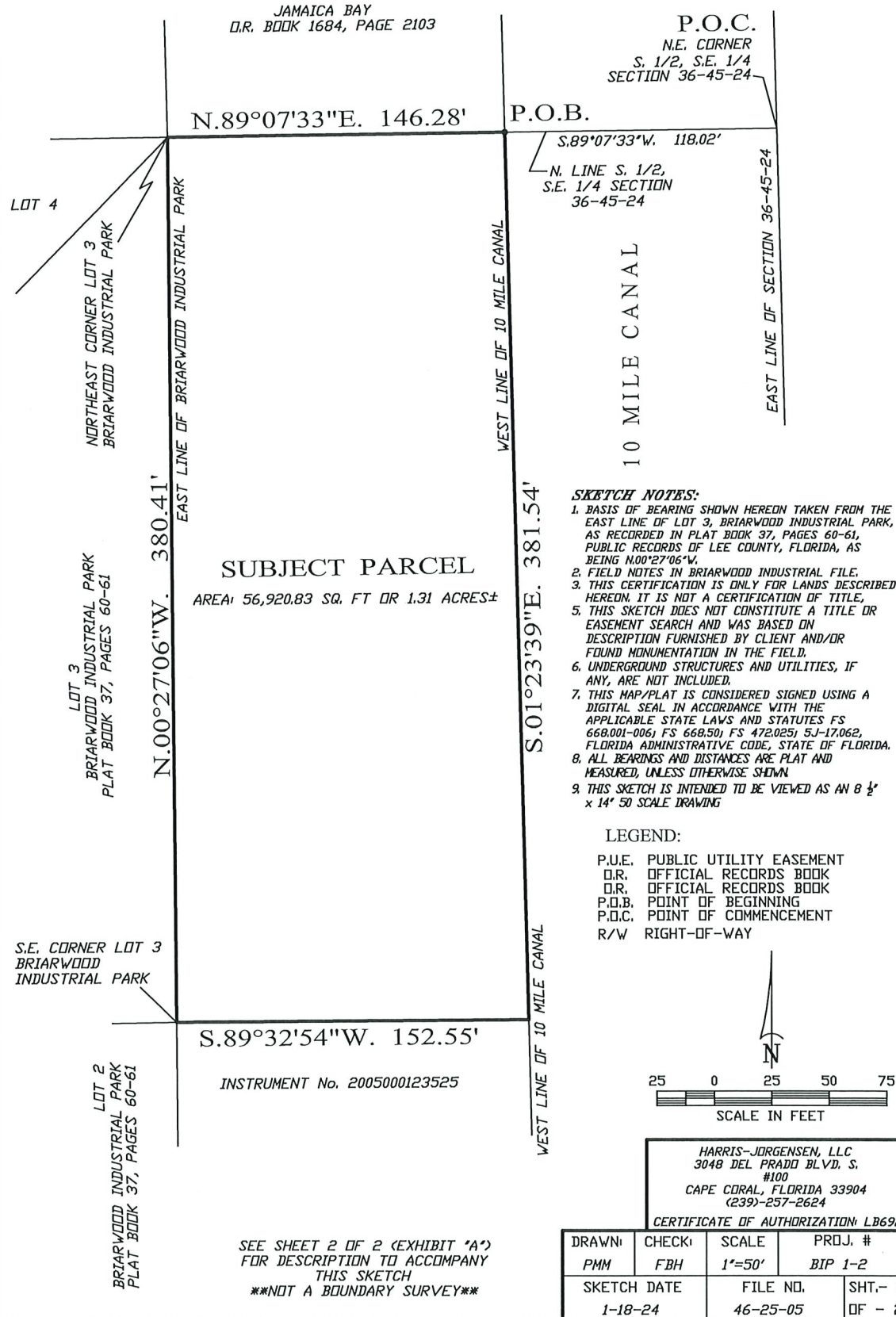


EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH:

A TRACT OR PARCEL OF LAND LYING
IN A PORTION OF THE
SOUTHEAST 1/4 OF SECTION 36,
TOWNSHIP 45 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA

SEE SHEET 1 OF 2 FOR SKETCH TO ACCOMPANY THIS DESCRIPTION

****NOT A BOUNDARY SURVEY****

DESCRIPTION:

A PLOT OR PARCEL OF LAND LYING IN A PORTION OF THE SOUTHEAST QUARTER (SE $\frac{1}{4}$) OF SECTION 36, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, SAID PLOT OR PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTH HALF (S $\frac{1}{2}$), OF THE SOUTHEAST QUARTER (SE $\frac{1}{4}$) OF SECTION 36, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA; THENCE RUN S.89°07'33"W. ALONG THE NORTH LINE OF SOUTH HALF (S.1/2), OF THE SOUTHEAST QUARTER (SE $\frac{1}{4}$) SAID SECTION 36, FOR 118.02 FEET, TO THE POINT OF BEGINNING; THENCE RUN S.01°23'39"E. ALONG THE WEST LINE OF TEN MILE CANAL RIGHT OF WAY FOR 381.54 FEET; THENCE RUN S.89°32'54"W. TO THE SOUTHEAST CORNER OF LOT 3, BRIARWOOD INDUSTRIAL PARK, AS RECORDED IN PLAT BOOK 37, PAGES 60-61, PUBLIC RECORDS OF LEE COUNTY, FLORIDA FOR 152.55 FEET; THENCE RUN N.00°27'06"W. TO THE NORTHEAST CORNER OF SAID LOT 3, FOR 380.41 FEET; THENCE RUN N.89°07'33"E. TO A POINT ALONG THE AFORESAID WEST RIGHT OF WAY LINE OF TEN MILE CANAL FOR 146.28 FEET, TO THE POINT OF BEGINNING.

CONTAINING: 56,920.83 SQ. FT OR 1.31 ACRES, MORE OR LESS.

REVIEWED
REZ2023-00029
Rick Burris, Principal
Planner
Lee County DCD/Planning
6/25/2024

Phillip M Mould, LS6515, State of Florida	Digitally signed by Phillip M Mould, LS6515, State of Florida Date: 2024.01.18 13:26:00 -05'00'
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PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA
1-18-24

CERTIFICATE OF
AUTHORIZATION: LB6921

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
(239)-257-2624

REVIEWED
REZ2023-00029
Rick Burris, Principal
Planner
Lee County DCD/Planning
6/25/2024

SKETCH TO ACCOMPANY DESCRIPTION:
A TRACT OR PARCEL OF LAND LYING
IN A PORTION OF THE
SOUTHEAST 1/4 OF SECTION 36,
TOWNSHIP 45 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA

LOT 2
BRIARWOOD INDUSTRIAL PARK
PLAT BOOK 37, PAGES 60-61

N.E. CORNER LOT 1
BRIARWOOD
INDUSTRIAL PARK

P.O.C. / P.O.B.

LOT 1
BRIARWOOD INDUSTRIAL PARK
PLAT BOOK 37, PAGES 60-61

S.E. CORNER LOT 1
BRIARWOOD
INDUSTRIAL PARK

INSTRUMENT No. 2005000123525
(UNPLATTED LANDS)

N.89°33'21"E. 155.18'

SUBJECT PARCEL

AREA: 25,038.48 SQUARE FEET, OR
0.57 ACRES, MORE OR LESS.

N.00°27'06"W. 160.00'

S.89°32'54"W. 157.82'

STRAP: 36-45-24-00-00011.0140
(UNPLATTED LANDS)

W. LINE OF 10 MILE CANAL
S.01°23'39"E. 160.00'

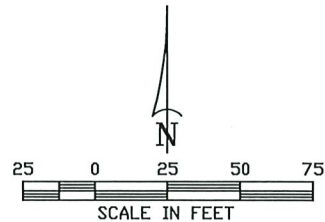
FORMER I.D.D. CANAL
(10 MILE CANAL)

SKETCH NOTES:

1. BASIS OF BEARING SHOWN HEREON TAKEN FROM THE EAST LINE OF LOT 1, BRIARWOOD INDUSTRIAL PARK, AS RECORDED IN PLAT BOOK 37, PAGES 60-61, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, AS BEING N00°27'06"W.
2. FIELD NOTES IN BRIARWOOD INDUSTRIAL FILE.
3. THIS CERTIFICATION IS ONLY FOR LANDS DESCRIBED HEREON. IT IS NOT A CERTIFICATION OF TITLE.
5. THIS SKETCH DOES NOT CONSTITUTE A TITLE OR EASEMENT SEARCH AND WAS BASED ON DESCRIPTION FURNISHED BY CLIENT AND/OR FOUND MONUMENTATION IN THE FIELD.
6. UNDERGROUND STRUCTURES AND UTILITIES, IF ANY, ARE NOT INCLUDED.
7. THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES FS 668.001-006; FS 668.50; FS 472.025; 5J-17.062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA.
8. ALL BEARINGS AND DISTANCES ARE PLAT AND MEASURED, UNLESS OTHERWISE SHOWN.
9. THIS SKETCH IS INTENDED TO BE VIEWED AS AN 8 1/2" x 14" 50 SCALE DRAWING.

LEGEND:

P.U.E. PUBLIC UTILITY EASEMENT
O.R. OFFICIAL RECORDS BOOK
O.R. OFFICIAL RECORDS BOOK
P.O.B. POINT OF BEGINNING
P.O.C. POINT OF COMMENCEMENT
R/W RIGHT-OF-WAY



HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S.
#100
CAPE CORAL, FLORIDA 33904
(239)-257-2624

CERTIFICATE OF AUTHORIZATION: LB6921

SEE SHEET 2 OF 2 (EXHIBIT 'A')
FOR DESCRIPTION TO ACCOMPANY
THIS SKETCH
NOT A BOUNDARY SURVEY

DRAWN:	CHECK:	SCALE	PROJ. #
PMM	FBH	1"=50'	BIP 1-2
SKETCH DATE	FILE NO.	SHT.- 1	
1-18-24	46-25-05	OF - 2	

EXHIBIT "A"

DESCRIPTION TO ACCOMPANY SKETCH:

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TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, SAID PLOT OR PARCEL BEING MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 1, BRIARWOOD INDUSTRIAL PARK, AS RECORDED IN PLAT
BOOK 37, PAGES 60-61, PUBLIC RECORDS OF LEE COUNTY, FLORIDA, FOR A POINT OF BEGINNING; THENCE RUN
N.89°33'21"E. TO A POINT ALONG THE WEST LINE OF THE TEN MILE CANAL RIGHT OF WAY, FOR 155.81 FEET;
THENCE RUN S.01°23'39"E. ALONG SAID WEST CANAL RIGHT OF WAY FOR 160.00 FEET; THENCE RUN S.89°32'54"W.
TO THE SOUTHEAST CORNER OF THE AFORESAID LOT 1, FOR 157.82 FEET; THENCE RUN N.00°27'06"W. ALONG
THE WEST LINE OF SAID LOT 1, FOR 160.00 FEET, TO THE POINT OF BEGINNING.

CONTAINING: 25,038.48 SQUARE FEET, OR 0.57 ACRES, MORE OR LESS.

REVIEWED
REZ2023-00029
Rick Burris, Principal
Planner
Lee County DCD/Planning
6/25/2024

Phillip M Mould, LS6515, State of Florida	Digitally signed by Phillip M Mould, LS6515, State of Florida Date: 2024.01.18 13:26:55 -05'00'
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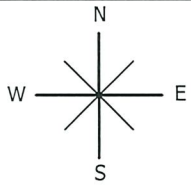
PHILLIP M. MOULD
PROFESSIONAL SURVEYOR AND MAPPER
LS6515 - STATE OF FLORIDA
1-18-24

CERTIFICATE OF
AUTHORIZATION: LB6921

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. #100
CAPE CORAL, FLORIDA 33904
(239)-257-2624

REZ2023-00029

Attachment C1



0 1,000 2,000
Feet - Map Scale

0 250 500
Feet - Inset Scale

BEN C. PRATT SIX-MILE CYPRESS

METR
PKW

BRIARCLIFF RD

MICHAEL G. RIPPE PKWY

S. TAMiami TRl

ISLAND PARK RD

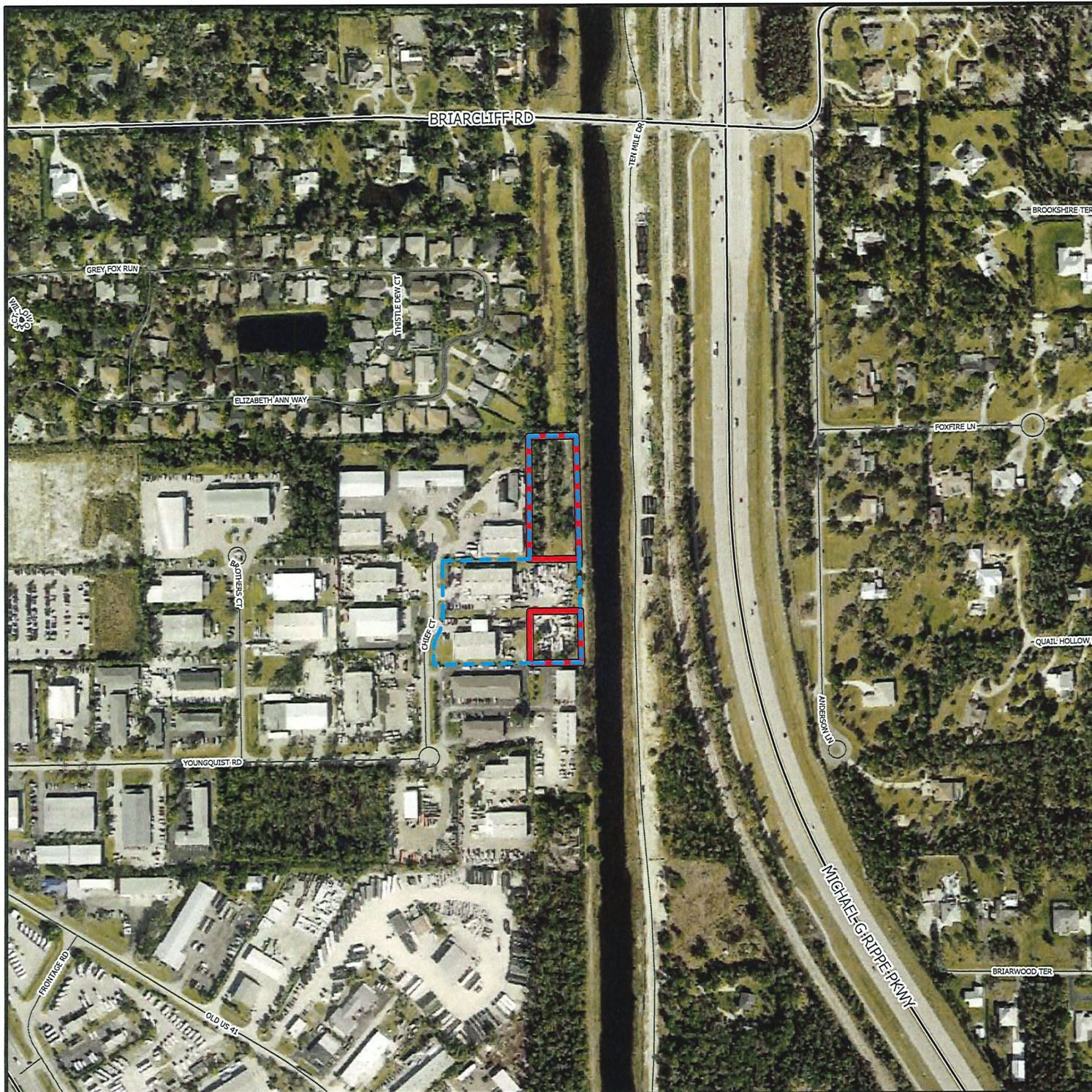
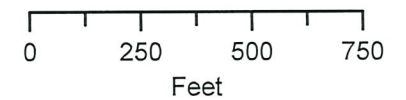
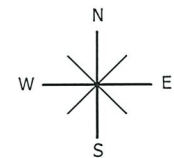
ALICO RD



REZ2023-00029

Aerial
Attachment C2

-  Subject Property
-  Common Ownership



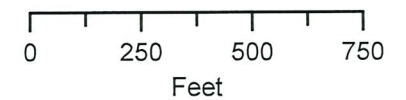
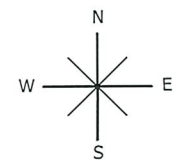
REZ2023-00029

Future Land Use

Attachment C3

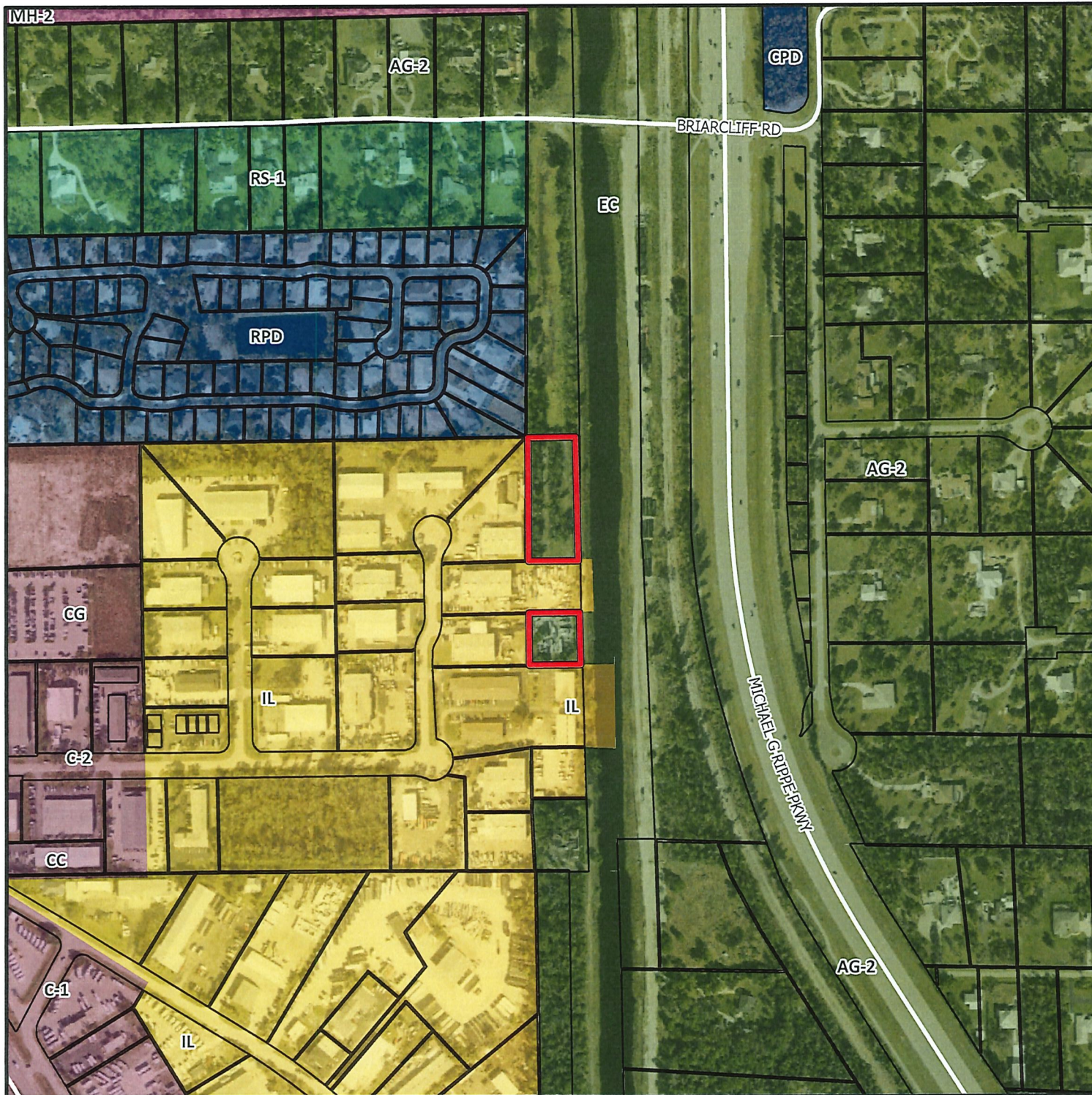


-  Subject Property
-  Central Urban
-  Urban Community
-  Suburban
-  Rural



EagleView, Lee County Property Appraiser, Lee County GIS

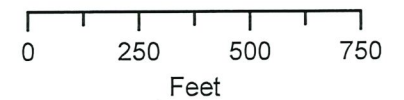
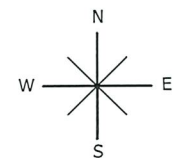




REZ2023-00029

Zoning
Attachment C4

 Subject Property

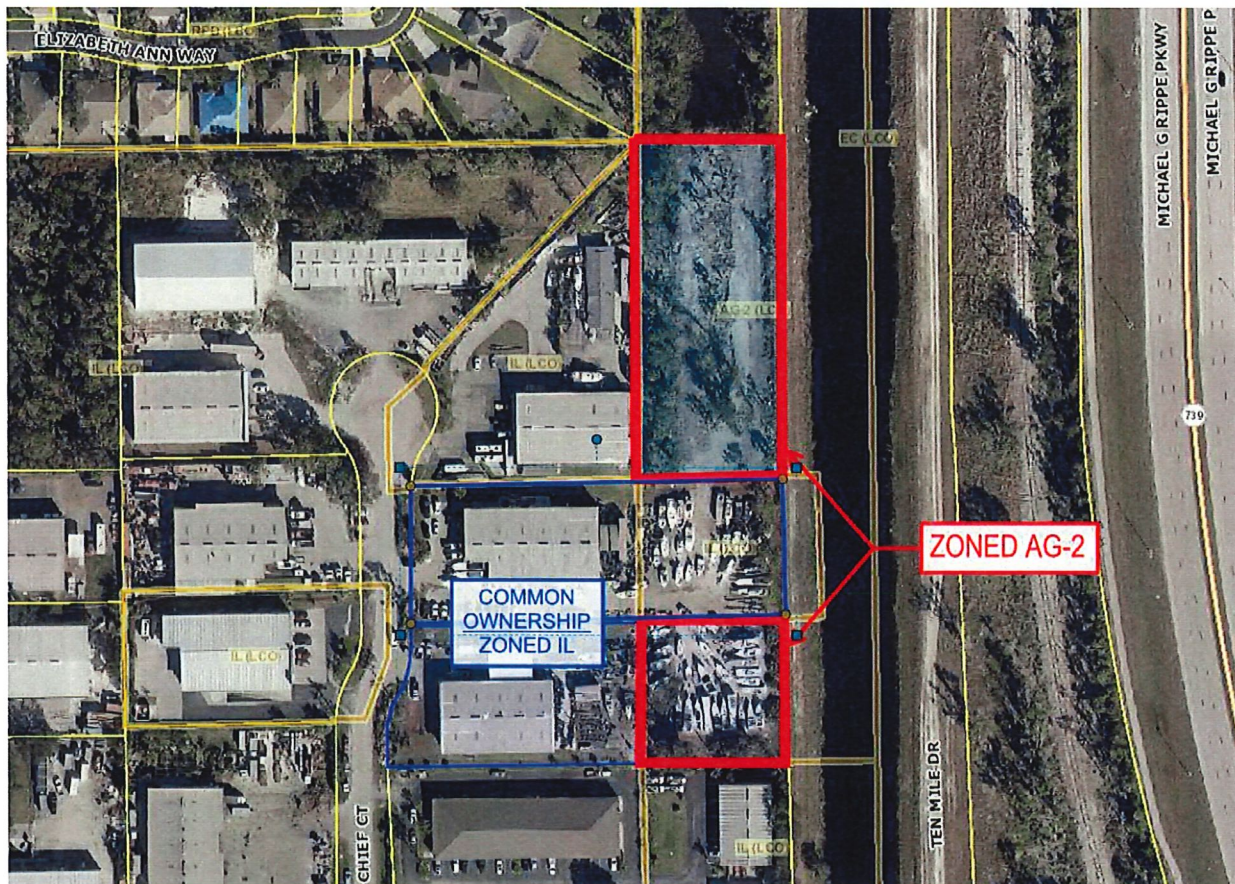


CHIEF COURT INDUSTRIAL REZONING Request Statement

I. REQUEST

Donald D Carter Trust ("Applicant") seeks to rezone two parcels that total 1.885+/- acres from Agricultural (AG-2) to Commercial General (CG). The properties are located on the east side of Chief Court just north of Youngquist Road in unincorporated Lee County, Florida. The northern most parcel occupies 1.31+/- acres and the southernmost parcel, at 15881 Chief Court, is only partially zoned AG-2 – the eastern most 0.575 +/- acres. For clarity, the parcel at 15851 Chief Court is under the same ownership, but zoned IL and not part of this zoning request. All three properties are under common ownership.

The rezoning will bring the properties into zoning categories that will allow for expansion of an existing boat repair business. The rezoned parcels will serve as open and enclosed storage for boats that are awaiting repair. No repair will take place on those parcels. The zoning and redevelopment seek to abate a violation for open storage of vessels, storage containers, materials, equipment, and misc. items on Agriculturally zoned property (VIO2023-04465).



II. EXISTING CONDITIONS

The Property is currently home to Offshore Marine Center Inc. and Offshore Performance Specs (see image below looking east from Chief Court). The AG-2 zoned lands were a result of former railroad right of way which has long been abandoned. The southern parcel is of little concern with zoning changes to IL district having occurred to the north and south. The zoning change will bring the parcels into consistency with the industrial park as agricultural uses are not appropriate at this location.

The Property is located outside of Coastal High Hazard Areas and is in FEMA Flood Zone AE and X. It is located on the east side of Chief Court, approximately 1.3 miles east of S. Tamiami Trail. The Property is accessed directly from Chief Court (a county maintained principal arterial road). There are no significant environmental concerns on site as the site is mostly disturbed but any such concerns will be addressed at the time of local development order.



The Property and all surrounding areas are in the Urban Community Future Land Use Category (FLUC). Please refer to Table 1 below for a detailed inventory of the adjacent Future Land Use Categories, zoning districts, and existing land uses.

Table 1: Inventory of Surrounding Lands

	FUTURE LAND USE	ZONING	EXISTING LAND USE
NORTH	Urban Community	IL / AG-2	Boat repair shop and retention pond
SOUTH	Urban Community	IL	Warehousing Stores
EAST	Urban Community	AG-2	Ten Mile Canal
WEST	Urban Community	IL	Truck repair shop (with outdoor storage) and warehousing

The general area contains a mix of commercial and industrial uses immediately adjacent to the Property. The corridor along Alico Road, particularly in the one-mile radius of this property, are uses

that are generally industrial of intense uses and commercial that is in support or ancillary to industrial uses, not of the retail nature for consumers, but more related to manufacturing, trucking, warehousing and distribution, processing, and material conversion.

III. PROPERTY HISTORY

The property is owned and operated by Offshore Marine Center Inc. and Offshore Performance Specs both owned by the Applicant. The property has been an industrial use for over 20 years and is fully developed on site. The business expanded onto the rear of the southernmost parcel which has caused the violation as the portion of the parcel east of the FPL easement is not zoned for boat storage as it being used today. The north 1.31 acre parcel is undeveloped.

IV. PUBLIC INFRASTRUCTURE

As outlined in the enclosed application, the Property is serviced by existing public infrastructure that can accommodate the proposed increase in industrial land use zoning.

Potable water is available to the Property by Lee County Utilities as verified by a letter of utility availability received from LCU in December 2023.

Sanitary sewer services capacity is available from Forest Utilities and connection will be made if required according to Florida Statute and the Lee County LDC based on gallons per day use thresholds.

Roadways and access are in place and there are adequate public facilities and services in the immediate vicinity of the project to serve the proposed development in terms of fire, EMS and Sheriff's protection. Fire and EMS service available from San Carlos Fire Station 52 off S Tamiami Trail. The Lee County Sheriff's Office is 2.5+/- miles west on Six Mile Parkway.

V. DECISION-MAKING COMPLIANCE

In accordance with LDC Section 34-145(d)(4), the data and analysis provided in the enclosed application demonstrate the following:

- a. **The application is consistent with the uses and densities set forth for the Urban Community Future Land Use designation.** Consistent with the Urban Community FLUC, this area has long been programmed and reserved for a mix of intense commercial and industrial developments. The industrial subdivision has been nearly fully developed with dozens of warehousing, repair and other local small businesses that are light industrial in nature. The CG zoning request will allow for uses that are consistent with the Urban Community FLUC, whereas light industrial uses are no longer permitted without a IPD zoning in a non-Industrial FLUC.
- b. **The request will meet or exceed all performance and locational standards set forth for the proposed mixed use planned development, except where a deviation has been approved.** The conventional rezoning does not allow for deviations. Access will be provided from Chief Court which connects to Youngquist Road and S Tamiami Trail, providing direct access to Lee County's arterial roadway network. All urban services are available to service this site including, police, fire, EMS, utilities, and transportation network. Traffic impacts of the project will be addressed at the time of local development order review.

- c. **Is compatible with existing and planned uses in the surrounding area.** The request for the rezoning is consistent with the goals, objectives, and policies of the Lee Plan, as outlined in this application. Consistent with the Urban Community FLUC, this area has long been programmed and reserved for light industrial and intense commercial development.
- d. **Will provide access sufficient to support the proposed development intensity.** The project is accessed directly onto Chief Court – an industrial subdivision that directly connects to Youngquist Road and S. Tamiami Trail.
- e. **Approval of the request will not have a significant impact upon the surrounding roadway network.** The uses permitted in the CG zoning district are already taking place in the area and on the site. The small addition of 1.81 acres of use that will permit storage of boats while they await repair at an existing shop will minimally impact traffic volumes and in no way exceed capacity on Chief Court, Youngquist Road or S. Tamiami Trail.
- f. **This request will not adversely affect environmentally critical areas and natural resources.** There no environmentally critical areas are within the boundaries of the project. The site will be required to meet the LDC requirements as well as state and federal requirements for protection of water and harmful runoff and water management facilities.

VI. LEE PLAN COMPLIANCE

The following is an analysis of the Industrial Rezoning's consistency with goals, objectives and policies of the Lee County Comprehensive Plan (Lee Plan).

POLICY 1.1.4: The Urban Community future land use category are areas characterized by a mixture of relatively intense commercial and residential uses. The residential development in these areas will be at slightly lower densities than other future urban categories described in this plan. As vacant properties within this category are developed, the existing base of public services will need to be maintained which may include expanding and strengthening them accordingly. As in the Central Urban future land use category, predominant land uses in this category will be residential, commercial, public and quasi-public, and limited light industrial with future development encouraged to be mixed use, as described in Objective 11.1, where appropriate. The standard density range is from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6du/acre), with a maximum total density of ten dwelling units per acre (10 du/acre). The maximum total density may be increased to fifteen dwelling units per acre (15 du/acre) utilizing Greater Pine Island Transfer of Development Units.

The Property is located in the Urban Community FLUC. The requested rezoning is consistent with the intended uses in the Urban Community category. Light industrial and quasi-industrial commercial uses are permitted in the CG district with more intense manufacturing and light industrial uses be restricted consistent with the commercial and limited light industrial uses permitted in this land use category. The existing uses on the subject properties are boat repair and storage, also consistent with this policy.

OBJECTIVE 2.1: DEVELOPMENT LOCATION. Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities.



The proposed rezoning will allow for a clustered and logical development of intense uses in the proper location in an area readily serviced by public infrastructure, in direct compliance with the above policy. As outlined in detail within the application, the project represents an infill development within an urbanized area of Lee County with similar uses where commercial and industrial development is encouraged in the Chief Court subdivision.

OBJECTIVE 2.2: DEVELOPMENT TIMING. *Direct new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in F.S. 163.3164(7)) will be granted only when consistent with the provisions of Sections 163.3202(2)(g) and 163.3180, Florida Statutes and the county's Concurrency Management Ordinance.*

The site is part of an operating industrial park with many active businesses. The properties that are part of this zoning are an expansion of the current business and allowing development of one of the few remaining parcels in this subdivision not developed and operating as a business. The road network has capacity to support the expanded business. Lee County Utilities has water capacity and currently serves the site. Forest Utilities is the franchise for sanitary sewer; however, they do not service the subdivision with infrastructure. Therefore, the site will continue operate on the onsite septic system.

POLICY 2.2.1: Rezoning and Development of Regional Impact proposals will be evaluated as to the availability and proximity of the road network; central sewer and water lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare.

The road network in the region has been specifically constructed to support large-scale employment centers and industrial activity that is dependent on truck transport and shipping and access to major transportation networks. Chief Court connects to Youngquist Road and the S Tamiami Trail, keeping shipping and trucking traffic from needing to use other surrounding roadway networks.

Lee County Utilities has water capacity and currently serves the site. Forest Utilities is the franchise for sanitary sewer; however, they do not service the subdivision with infrastructure. Therefore, the site will continue operate on the onsite septic system.

GOAL 4

STANDARD 4.1.1 & 4.1.2: WATER & SEWER

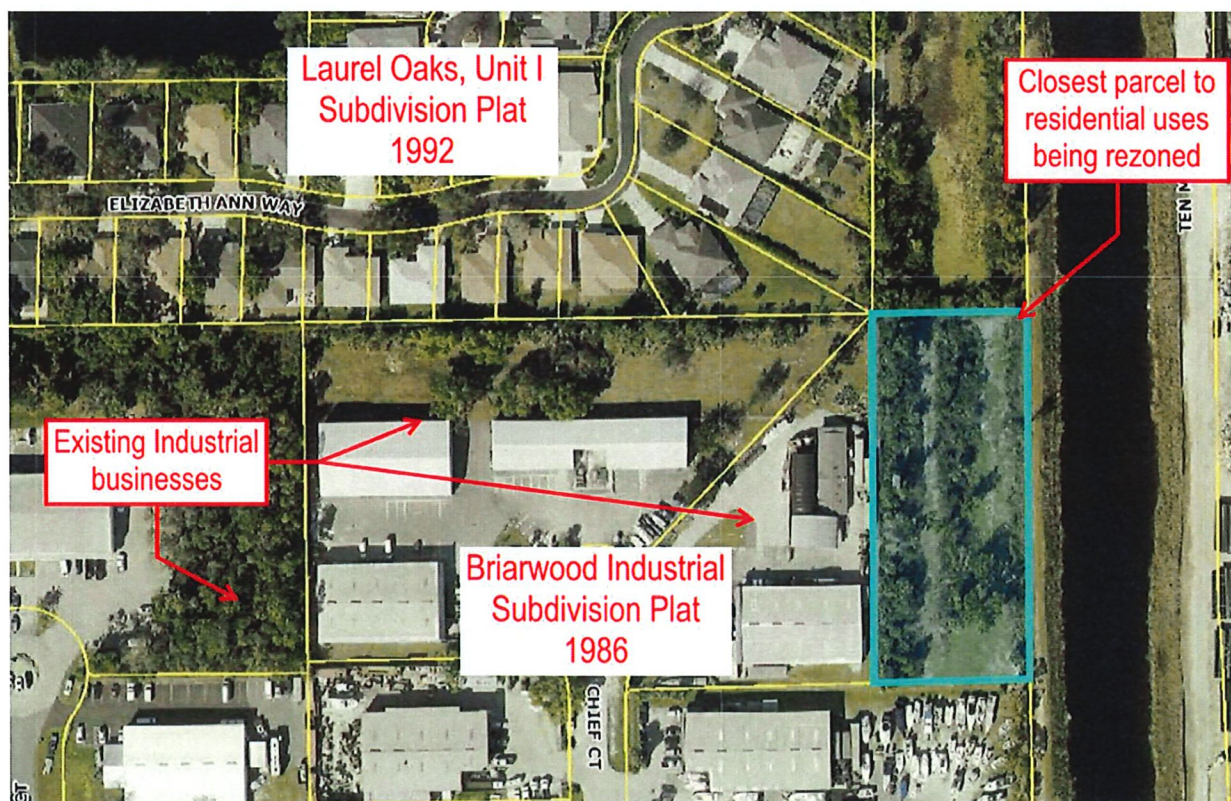
Potable water serves the current site. Capacity is available to serve the expanded business as stated in the utility letter from Lee County Utilities.

Sanitary sewer services are provided by Forest Utilities and the property is in the franchise service area which requires connection if service lines are available. Forest Utilities states in a letter received December 12, 2023, that they have sanitary sewer services capacity available to service the site. Yet, they also state that, "...sewer lines were not extended along Youngquist Road and the Chief Court Industrial Subdivision" and through discussions they exposed they do not intend to add the lines in time to service the expanded business.

The properties are part of the already operating commercial business on site which are currently served by the onsite septic system that is in compliance. If necessary, a letter from Forest Utilities stating they will not insist on an existing functioning business to connect, which would require construction of sewer lines that would cover hundreds of feet and serve and benefit many others along the way to the connection point.

POLICY 5.1.5: Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in the LDC, Chapter 10, are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a Planned Development or special exception and generally applicable development regulations are deemed to be inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The LDC will continue to require appropriate buffers for new developments.

The Briarwood Industrial Subdivision was first platted in 1986. Business have been operating in the subdivision since the late 1980 and early 1990's. The Abutting subdivision was created after the industrial subdivision being platted in 1992 so the homes have been occupied knowing of the abutting industrial subdivision and existing businesses.



In addition, the proposed parcel that is closest to ab abuts at a small corner of one parcel is east of the current industrial properties abutting the subdivision and will be required to have property screening and buffering.

GOAL 6 (COMMERCIAL LAND USES)

POLICY 6.1.1

a. Traffic and access impacts;

The subdivision is served by local roads that empty onto US 41.

c. Screening and buffering;

The parcel will be required by the LDC to buffering according to the final use as if it were abutting residential property on the entire northern boundary.

d. Availability and adequacy of services and facilities;

All urban services are serving the site currently. The exception is Forest Utilities who has the franchise does not have lines to the subdivision so the businesses will continue on septic systems.

e. Impact on adjacent land uses and surrounding neighborhoods;

The zoning conditions and LDC requirements have adequately addressed impacts on adjacent uses. Impacts are nearly non-existent as the industrial subdivision that is part of this zoning request, that abuts the residential homes to the north, was created prior to the residential subdivision. The property is also east of the closest home abutting in only a small corner. The home will be protected by the LDC for buffering commercial properties from residential homes.

f. Proximity to other similar centers; and

The subject property is part of the existing industrial subdivision and an expansion of a current operating business.

g. Environmental considerations.

There are no existing environmentally sensitive areas on site that are of concern.

POLICY 6.1.4: Commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities.

The property is part of an existing, active industrial and parcels owned by an existing business to serve an expansion of the current uses such as outdoor boat storage. All existing urban services exist and currently serve the Chief Court subdivision.

POLICY 6.1.5: The land development regulations will require that commercial development be designed to protect the traffic-carrying capacity of roads and streets. Methods to achieve this include, but are not limited to: frontage roads; clustering of activities; limiting access; sharing access; setbacks from existing rights-of-way; acceleration, deceleration and right-turn-only lanes; and, signalization and intersection improvements.

The subdivision is nearly built out with active light industrial uses. The parcels are expansions of the existing use clustering this activity as consistent with this policy.

POLICY 6.1.7: Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.

A residential home would not be appropriate in an industrial subdivision, nor is the agricultural uses that are part of the current zoning district. The rezoning is the appropriate request for consistency with this policy.

POLICY 11.1.1: Developments located within the Intensive Development, Central Urban, or Urban Community future land use categories that have existing connectivity or can demonstrate that connectivity may be created to adjacent neighborhoods are strongly encouraged to be developed with two or more of the following uses: residential, commercial (including office), and light industrial (including research and development use).

The property is located within the Urban Community FLUC. The property is located on Chief Court which is connected to Youngquist Road. The immediate surrounding uses are categorized as light industrial. Light industrial and quasi-industrial commercial uses will be limited to only those uses that are related to the manufacturing with most of the industrial activities being limited in the IL district. Overall, the requested rezoning is consistent with the intended uses in the Urban Community category and allows the extension of the current business.

POLICY 61.1.1: Lee County recognizes that all fresh waters are a resource to be managed and allocated wisely, and will support allocations of the resource on the basis 1) of ensuring that sufficient water is available to maintain or restore valued natural systems, and 2) of assigning to any specified use or user the lowest quality freshwater compatible with that use, consistent with financial and technical constraints.

The Briarwood Industrial Park has obtained Environmental Resource Permit (ERP #36-00390-S) from the South Florida Water Management District which will need to be modified to add the additional property, the design will need to meet regulations.

POLICY 125.1.2: New development and additions to existing development must not degrade surface and ground water quality.

As mentioned, the is part of the Briarwood Industrial Park's ERP #36-00390-S. The site design will ensure pretreatment of stormwater prior to discharge off-site through a modification to the ERP.

POLICY 125.1.3: The design, construction, and maintenance of artificial drainage systems must provide for retention or detention areas and vegetated swale systems that minimize nutrient loading and pollution of freshwater and estuarine systems.

As mentioned, the is part of the Briarwood Industrial Park's ERP #36-00390-S. The site design will ensure pretreatment of stormwater prior to discharge off-site through a modification to the ERP.

VIV. CONCLUSION

The proposed rezoning from AG-2 to CG on the property demonstrates the current expansion of the business as well as the light industrial uses consistent with the Urban Community FLUC, surrounding uses and overall fits the intent for Chief Court and the Briarwood Industrial Park.

Attachment E



Lee County
Southwest Florida

BOARD OF COUNTY COMMISSIONERS

Kevin Ruane
District One

January 5, 2024

Via E-Mail

Cecil L. Pendergrass
District Two

Fred Drovdic, AICP

Ray Sandelli
District Three

RVI Planning and Landscape Architecture

Brian Hamman
District Four

1514 Broadway, Suite 201

Fort Myers, FL 33901

Michael Greenwell
District Five

RE: **Potable Water Availability**

Dave Harner, II
County Manager

Chief Court Industrial Rezoning - 15851 Chief Court, Fort Myers, FL

Richard Wm Wesch
County Attorney

STRAP # 36-45-24-03-00000.0020, 36-45-24-03-00000.0010

and 36-45-24-00-00010.000

Donna Marie Collins
County Hearing Examiner

To whom this may concern:

The subject properties are located within Lee County Utilities Future Service Area as depicted on Maps 4A of the Lee County Comprehensive Land Use Plan. Potable water and sanitary sewer lines are in operation adjacent to the property mentioned above. However, in order to provide service to the subject parcels, developer funded system enhancements such as line extensions may be required.

Your firm has indicated that this project will consist of 3 industrial units with an estimated flow demand of approximately 500 gallons per day. Lee County Utilities presently has sufficient capacity to provide potable water service as estimated above.

Availability of potable water service is contingent upon final acceptance of the infrastructure to be constructed by the developer. Upon completion and final acceptance of this project, potable water service will be provided through our Green Meadows Water Treatment Plant.

Sanitary sewer service will be provided by Forest Utilities. The Lee County Utilities' Design Manual requires the project engineer to perform hydraulic computations to determine what impact this project will have on our existing system.

There are no reuse mains in the vicinity of these parcels.

Prior to beginning design work on this project, please meet with LCU Staff to determine the best point of connection and discuss requirements for construction.

This letter should not be construed as a commitment to serve, but only as to the availability of service. Lee County Utilities will commit to serve only upon receipt of all appropriate

connection fees, a signed request for service and/or an executed service agreement, and the approval of all State and local regulatory agencies.

Further, this letter of availability of potable water service is to be utilized for Due Diligence only. Individual letters of availability will be required for the purpose of obtaining building permits.

Sincerely,

LEE COUNTY UTILITIES

Ashanti Shahriyar

Ashanti Shahriyar
Plan Reviewer
239-533-8531
UTILITIES ENGINEERING

Forest Utilities, Inc

6000 Forest Boulevard • Fort Myers, FL 33908 * 239-481-5333

DATE: 12/20/2023

TO WHOM IT MAY CONCERN:

AT THIS TIME FOREST UTILITIES, INC. HAS THE AVAILABLE PLANT CAPACITY TO PROVIDE THE NECESSARY SEWER SERVICES FOR YOUR

Chief Court industrial subdivision in Lee County

The STRAP numbers are: 36-45-24-03-00000.0020, 36-45-24-03-00000.0010 and 36-45-24-00-00010.000.

The property is in the FUI franchise service area, though sewer lines were not extended along Younquist Road and the Chief Court Industrial Subdivision.

FOREST UTILITIES, INC, WILL GUARANTEE CAPACITY ONLY UPON RECEIPT OF APPROPRIATE FEES AND CHARGES, AND APPROVAL OF ALL STATE AND LOCAL AGENCIES.

ALL CONSTRUCTION MUST BE TO FOREST UTILITIES, INC SPECIFICATIONS
IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THIS OFFICE AT 239-481-5333.

THIS AVAILABILITY LETTER IS VOIDED AFTER 365 DAYS FROM ISSUANCE.

SINCERELY,

A handwritten signature in black ink, reading "Sonnet M. De Vries". The signature is written in a cursive, flowing style.

FOREST UTILITIES, INC.

Attachment F

Lee County, Florida DEPARTMENT OF COMMUNITY DEVELOPMENT ENVIRONMENTAL STAFF REPORT

CASE NUMBER: REZ2023-00029
TYPE OF CASE: Conventional Rezoning
CASE NAME: Chief Court Industrial Rezoning
TOTAL ACREAGE: 1.88 Acres
SUFFICIENCY DATE: June 28, 2024
HEARING EXAMINER DATE: August 22, 2024

Request

The applicant is requesting to rezone two parcel that total 1.88 acres from Agricultural (AG-2) to General Commercial (CG). The two parcels are under that same ownership as the Industrial (IL) zoned properties to the west along Chief Court.

Existing Conditions and Abatement

The applicant currently has four violations on the subject properties for constructing a structure and clearing without permits and operating a use that is not allowed on an Agricultural (AG-2) zoned property. The applicant must rezone the property to a zoning district that allows the proposed use of open storage providing buffers that are in compliance with Land Development Code (LDC) 34-3005 in addition to the buffer requirements in LDC Section 10-416(d). The applicant must submit a development order demonstrating compliance with the LDC for buffering, open space for the proposed uses, and abatement landscaping per VIO2023-04572 Amended Code Enforcement Agreement (Exhibit A). Code Enforcement has provided a letter regarding the rezoning case that explains which violations will be abated if the rezoning is approved and which violations will require a development order.

Open Space and Buffering

The project meets the small development definition (Land Development Code 10-1). LDC 10-415(a) requires the applicant to provide 20 percent open space for small commercial developments. Buffering for open storage must comply with LDC Section 34-3005(b) which requires eight-foot screening when visible from a residential use. The subject property is visible from the residential dwelling units to the northwest. The subject parcels abut property to the east that is zoned Environmentally Critical and per LDC Section 10-416(d) must provide a 30-foot-wide buffer.

Industrial Zoned Property (15851 Chief Court)

The applicant owns the abutting Industrial zoned property located to the west which will need to be brought up to code if additional site improvements are required to provide access for the subject properties. The applicant must comply with the required right-of-way buffer (15-foot-wide) and ten percent open space requirements within the industrial property.

Exhibits

A - Amended Code Enforcement Agreement
B - Code Enforcement Letter dated 12/27/2023

EXHIBIT A

This Instrument Prepared by:

Lee County Department of Community Development
1500 Monroe St.
Fort Myers, Florida 33901

STRAP No: 36-45-24-03-00000.0010

AMENDED CODE ENFORCEMENT AGREEMENT

This Amended Code Enforcement Agreement is entered into this 17 day of July 2024, by and between Lee County, a political subdivision of the State of Florida, whose address is Post Office Box 398, 2115 Second Street, Fort Myers, Florida 33902 ("County"), and CARTER DONALD D TR FOR DONALD D CARTER TRUST whose address is 15881 CHIEF CT, FORT MYERS, FL 33912 ("Respondent"). Collectively the foregoing are hereinafter referred to as the Parties ("Parties").

RECITALS

WHEREAS, the Respondent* is the owner or authorized agent of property subject to the following code enforcement case:

CASE NO: VIO2023-04572

Description of Violation: Not in compliance with development order: missing landscaping, clearing vegetation without a permit

Code Section: Lee County Land Development Code (LDC) Sections 10-7(f), 10-421(b), 14-411 and Development Order 87-05.001.00D

Property Address: 15881 CHIEF CT, FORT MYERS, FL 33912

STRAP: 36-45-24-03-00000.0010

; and

WHEREAS, the Respondent received Notice, by hand delivery, certified mail, or posting, of the alleged existing of condition(s) on the property that violated a Lee County Ordinance and/or the cited section(s) of the Lee County Land Development Code; and

WHEREAS, the Notice specified actions necessary to correct the alleged violation by a specific date; and

WHEREAS, the Respondent admits or does not contest the violation described herein; and

WHEREAS, the Respondent has requested to enter into an Amended Code Enforcement Agreement in an effort to comply with the provisions of the applicable Lee County Ordinance and/or section(s) of the Lee County Land Development Code; and

WHEREAS, the Parties acknowledge that the purpose of this Amended Code Enforcement Agreement is to provide an alternative and efficient means by which Respondent can achieve compliance and abate the above-referenced code enforcement violation.

WHEREAS, the Parties acknowledge that this Amended Code Enforcement Agreement replaces and supersedes any prior Code Enforcement Agreement(s) entered into by the Parties concerning the violation described herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants set forth herein, the sufficiency of which is hereby acknowledged, the Parties stipulate and agree as follows:

1. The above recitals are true and correct and the substantive provisions and terms are incorporated herein.
2. The Respondent admits or does not contest the violation described herein.
3. The Respondent will perform the following actions ("Abatement Actions"):

- a. The Respondent will correct the violation in the manner set forth below within 126 days.

- b. The Respondent agrees to correct the violation by: Plant 13 Mahogany trees, 9 Florida slash pines, and 29 Wax myrtles/saw palmettos as shrubs for landscape and buffer requirements. The locations and minimum replacement specifications are highlighted on the enclosed SD-1 sheet of the Site Development plan.

Plant the following species on the rear property specified above: 30 Florida slash pine trees, 6 Live oak trees, and 6 Cabbage palms. Replacement trees are computed on a 3:1 basis according to the total number of removed trees per LDC 14-384. Replacement trees must meet the standards for Florida No. 1 or better, as set out in Grades and Standards for Nursery Plants, Parts I and II, Department of Agricultural, State of Florida (as amended), nursery grown, containerized and a minimum of 6 feet in height with a minimum trunk diameter of 1 inch measured at 3 feet above the ground and a minimum canopy diameter of 2 feet at installation. Palms must have a minimum of six feet clear trunk at time of planting. The restoration plantings are provided in addition to any trees or shrubs otherwise required to be planted by the LDC.

Trees and palms must be installed in a horticultural correct manner, including staking and mulching.

- c. Respondent will correct the violation on or before 8:00 AM on November 20, 2024. Code Enforcement specialists will verify the condition(s) on the property on that date to determine the status of the violation. If the violation has not been corrected in full, a fine of \$50.00 per day will be imposed against the Respondent, beginning on that date and continuing each day thereafter until the violation has been corrected. Respondent must contact Code Enforcement to confirm compliance with this Amended Code Enforcement Agreement by calling (239) 533-8895 (Monday through Friday). The Respondent must demonstrate that any failure to timely abate the violation was either the result of excusable neglect or due to factors outside the Respondent's control in order for consideration of additional time to be offered.

- d. Respondent will pay the County \$0.00 for administrative costs incurred in the prosecution of this case. These costs will be due on or before 8:00 AM on November 20, 2024.

4. In the event that the Respondent fails to perform any of the Abatement Actions set forth above, the County may elect to enforce the terms and conditions of this Amended Code Enforcement Agreement in a court of competent jurisdiction by injunction or an action for specific performance; or, the County may present the case to the Hearing Examiner for the sole purpose of determining that the agreed upon abatement has not occurred in accordance with the Amended Code Enforcement Agreement and entry of an Order Imposing a Fine at the agreed upon fine amount, together with administrative costs; or, any combination of the above methods.
5. The County reserves the right to unilaterally terminate this Amended Code Enforcement Agreement and request an immediate hearing before the Hearing Examiner if the County has reason to believe the violation or the condition causing the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature. If the County exercises this right, the County shall make a reasonable effort to notify the Respondent.

[End of provisions.]

By signing below, Respondent and County, consent to the terms of this Amended Code Enforcement Agreement. Under penalty of perjury, the undersigned Respondent* declares that they have read the Code Enforcement Agreement and to his/her knowledge the facts alleged are true.

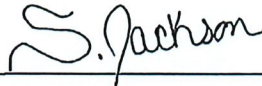


*Respondent (Owner or Authorized Agent)
Donald D. Carter

Respondent(Print Name)

Representative Capacity (if Agent)
offshorez@le@yahoo.com

Respondent Contact: Phone and Email



Lee County
By: Lee County Code Enforcement

Done and executed by Lee County Code Enforcement on July 17, 2024.

EXHIBIT B

Fred Drovdlc

From: Guzman, Jonathan <JGuzman@leegov.com>
Sent: Wednesday, December 27, 2023 8:38 AM
To: Fred Drovdlc
Cc: Bob Case (BOBC@LIS-E.COM); Owen, Aja
Subject: RE: VIO2023-04465 Updated Actions by Land Owner

Good Morning,

A re-zoning will only abate the code violation case, VIO2023-04469 (Permitted Uses - In accordance with Lee County Land Development Code 34-652, 653 & 654, the use of the AG zoned portion of the property for the open storage of multiple vessels and other materials & equipment is not permitted.). However, this will not abate code violation case's, VIO2023-04465, VIO2023-04466, VIO2023-04471, VIO2023-04572 and VIO2023-04573.

A development order for 15881 Chief Ct will still need to be applied for and approved after the re-zoning is accomplished in order to abate code violation case VIO2023-04466 & VIO2023-04572. Also, an additional development order will need to be approved for 15851 Chief Ct to abate code violation case VIO2023-04471 & VIO2023-04573.

I hope this answers your questions. But if you have any more questions please feel free to email me or call me.

Thank you.

Very Respectfully,



Jonathan Guzman | Enforcement Specialist

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From: Fred Drovdlc
Sent: Tuesday, December 19, 2023 4:36 PM
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Cc: Bob Case (BOBC@LIS-E.COM) <BOBC@LIS-E.COM>
Subject: VIO2023-04465 Updated Actions by Land Owner

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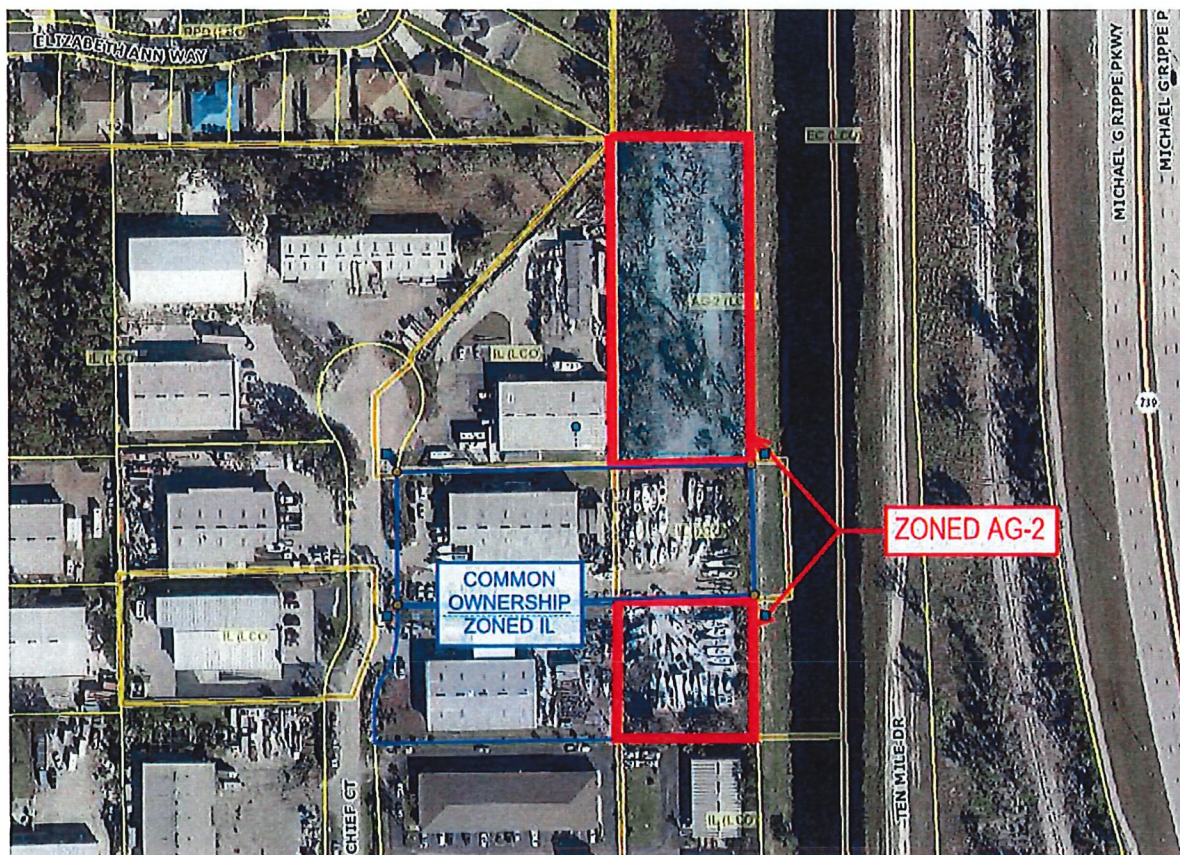
Hi Mr. Guzman,

I am the agent for Don Carter, the owner of the property under violation. We are in the process of rezoning portions of his property in an attempt to mitigate the violation. In our zoning review letter we for case REZ2023-00029 we were asked to what extent the rezoning to a Commercial General district would go towards abatement.

Here is the request summary and aerial:

Donald D Carter Trust ("Applicant") seeks to rezone two parcels that total 1.885+/- acres from Agricultural (AG-2) to Commercial General (CG). The properties are located on the east side of Chief Court just north of Youngquist Road in unincorporated Lee County, Florida. The northern most parcel occupies 1.31+/- acres and the southernmost parcel, at 15881 Chief Court, is only partially zoned AG-2 – the eastern most 0.575 +/- acres. For clarity, the parcel at 15851 Chief Court is under the same ownership, but zoned IL and not part of this zoning request. All three properties are under common ownership.

The rezoning will bring the properties into zoning categories that will allow for expansion of an existing boat repair business. The rezoned parcels will serve as open and enclosed storage for boats that are awaiting repair. No repair will take place on those parcels. The zoning and redevelopment seek to abate a violation for open storage of vessels, storage containers, materials, equipment, and misc. items on Agriculturally zoned property (VIO2023-04465).



Fred Drovdic, AICP
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