Summary of Hearing Examiner Recommendation

DANIELS TOWN SQUARE MPD

The request rezones an existing Commercial Planned Development to the Mixed Use Planned Development district.

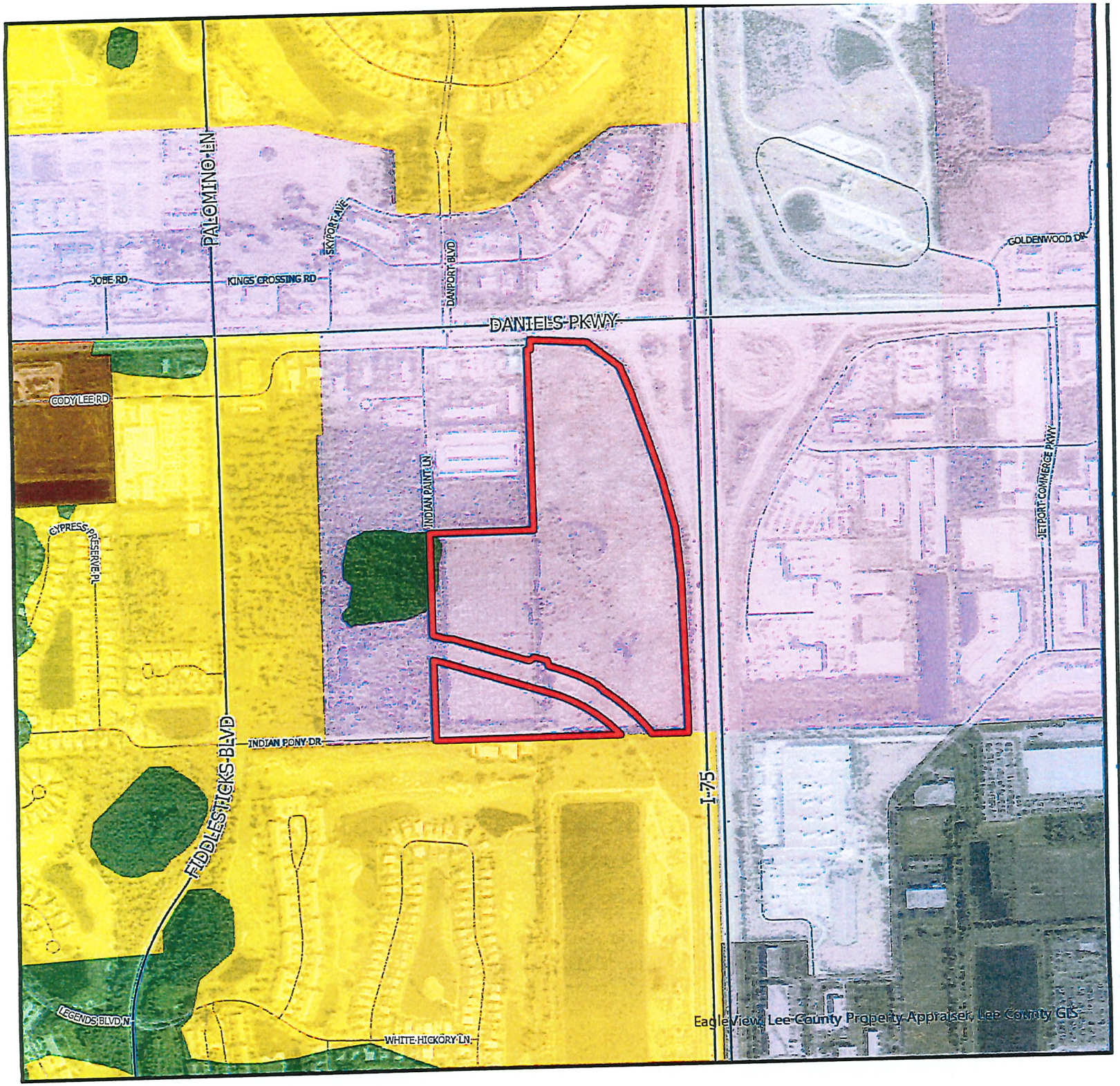
The proposed reduction in commercial intensity and introduction of residential land uses represents a reduction in anticipated traffic generation from existing development approvals. This is mainly because as a mixed use project, there will be interaction between uses called "internal capture." In addition, the Traffic Impact Analysis assumed 30% of project trip generation would be "pass-by" traffic destined for retail uses on the property.

The site design limits building heights on the southernmost tract to 35 feet. Indian Pony Drive separates this tract from Old Hickory Golf and Country Club. The MCP features a 15 foot wide vegetative buffer along Indian Pony Drive. Old Hickory's golf maintenance facility and a portion of the golf course is across Indian Pony Drive. Line of sight exhibits demonstrated 35 foot high buildings on the southernmost parcel will be sufficiently screened from the Old Hickory community. The Hearing Examiner finds these measures provide an effective transition between projects of differing intensity.

Detailed recommendation follows

DCI2022-00059

Future Land Use



- Subject Property
- Central Urban
- Outlying Suburban
- Public Facilities
- General Interchange
- Tradeport
- Wetlands

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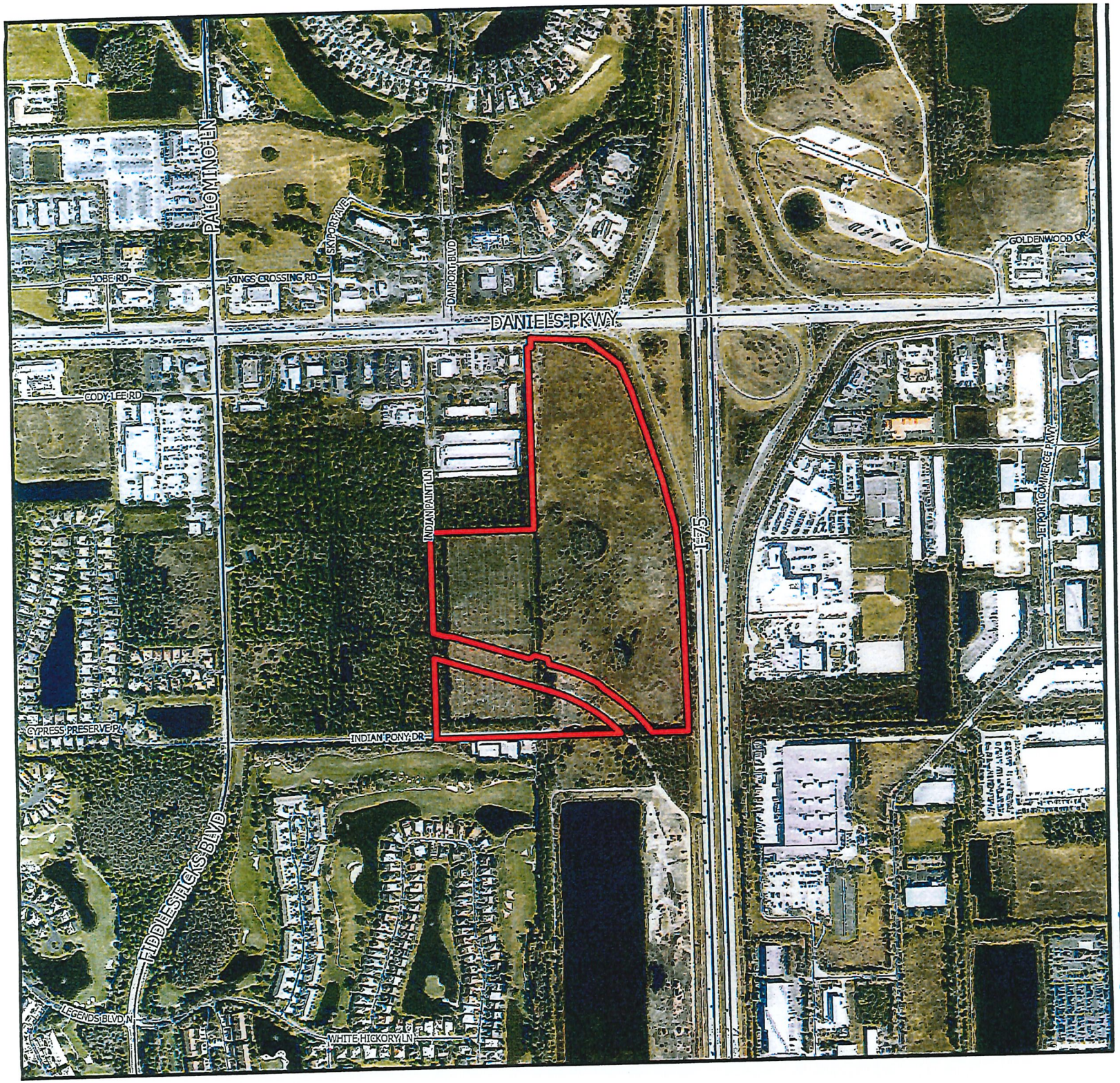
Lee County
Southwest Florida

DCI2022-00059

Aerial



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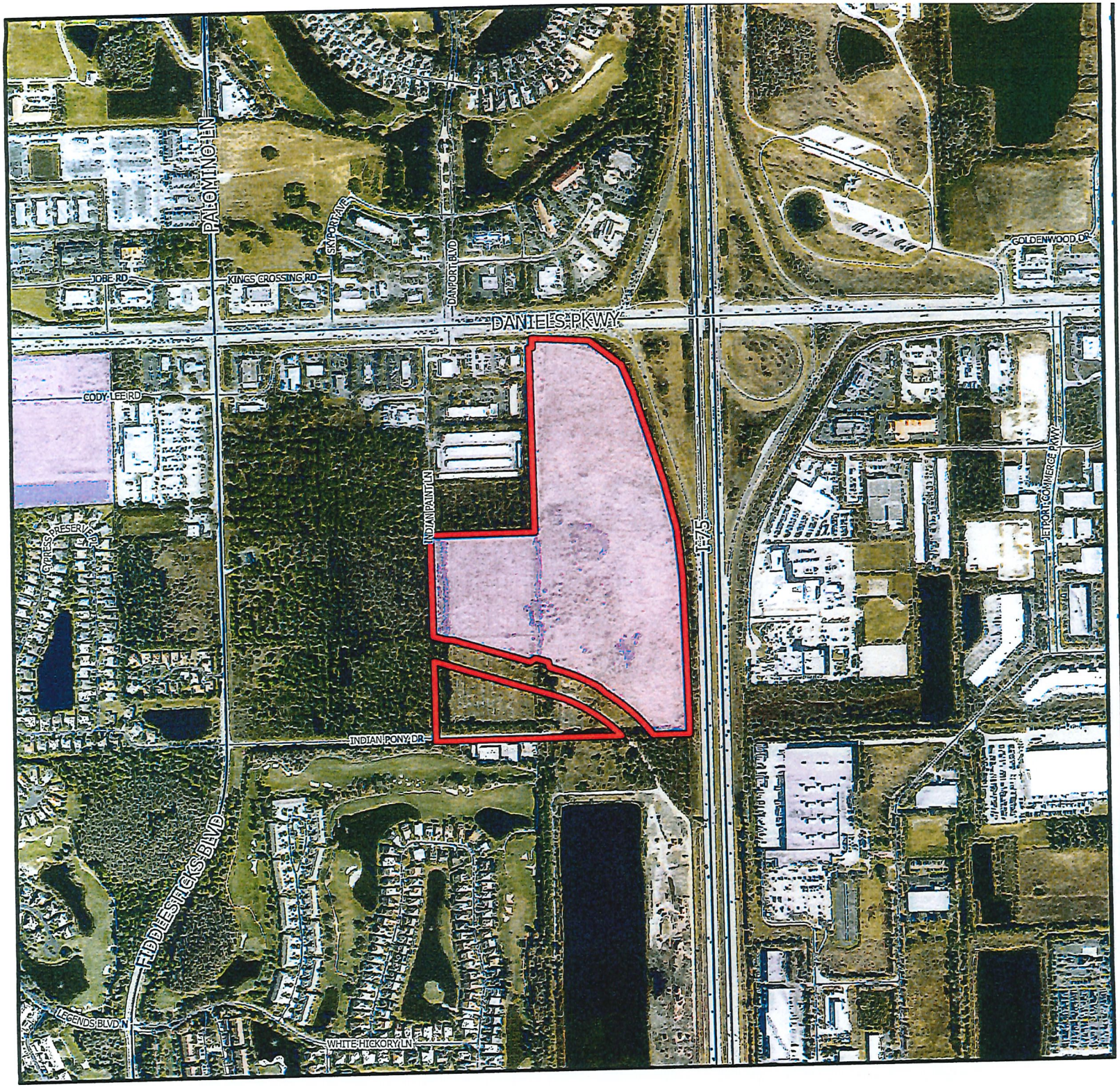
Southwest Florida



DCI2022-00059

Mixed Use Overlay

Subject Property

Mixed Use Overlay

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Feet

Lee County
Southwest Florida

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2022-00059

Regarding: **DANIELS TOWN SQUARE MPD**

Location: Southwest of the Daniels Parkway and Interstate 75 Interchange (District 2)

Hearing Date: November 1, 2024

I. Request

Rezone 61.26 +/- acres from Commercial Planned Development (CPD) to Mixed Use Planned Development (MPD), to allow 30,000 square feet of commercial development, a 200-room hotel, and 1,234 residential dwelling units.

The property legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approve, subject to 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 zoning district.[1] In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on an application to rezone 61.26 acres to the Mixed Use Planned Development District. Staff recommended approval with conditions.

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

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

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[1] LDC §34-145(d)(4) a.

Request

The request seeks to rezone 61.26 acres to Mixed Use Planned Development (MPD) to allow development of up to 1,234 dwelling units, 30,000 square feet of commercial use, and 200 hotel rooms. Applicant requests five deviations from the LDC seeking relief from standards governing lake slopes, littoral shelves, littoral shelf plantings, herbaceous plantings, and access.[2]

The Master Concept Plan (MCP) depicts seven development tracts with multifamily buildings, lakes, and a single commercial tract. The southern portion of the site is bifurcated by Three Oaks Parkway. There is a small indigenous preserve in the center of the property.[3]

The project devotes 20% of Parcels 1-5 to open space. These parcels are in the Mixed Use Overlay. Parcels six and seven south of Three Oaks Parkway Extension devote 40% of their land area to open space.

Height limits vary from 35 to 90 feet. The MCP positions the tallest buildings along the north property line and the shortest buildings along the south property boundary adjacent to Old Hickory.[4] Buildings internal to the site vary from 35 to 60 feet in height.

The Department of Community Development recommended approval of the requested MPD including bonus density, finding both requests satisfied review criteria.

The request is accompanied by two companion Lee Plan amendments.[5] The amendments:

(1) Change the future land use designation from General Interchange to Intensive Development,
(2) Designates property north of the Three Oaks Extension as Mixed Use Overlay.
(3) Amends Table 1(b) Year 2045 Allocations to accommodate proposed development parameters.

The Board voted to transmit the amendments to the State Land Planning Agency on September 18, 2024. An adoption hearing on the plan amendments will coincide with the final Board hearing on the MPD zoning request.

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[2] LDC §§10-329(d)(4),10-418(2), 10-291(3). Four of the five requested deviations are necessary to accommodate airport operations.
[3] There is a.79 acre wetland preserve within Parcel 4. Lee Plan Policy 123.2.4, 123.2.8.
[4] Multifamily buildings will be up to 90 feet along the north property line adjacent to Daniels Parkway/I-75 but capped at 35 feet along the south property line adjacent to Old Hickory.
[5] CPA 2022-00010 and CPA 2022-00011.

The Hearing Examiner's recommendation of approval is predicated on adoption of pending plan amendments. If the Board does not adopt the amendments, the zoning request will be inconsistent with the Lee Plan.[6]

Character of Area

The property lies within the southwest quadrant of the Daniels Parkway/I/75 interchange, one of the busiest intersections in Lee County. The Daniels Parkway corridor is developing with commercial, single family residential and hotel land uses.

The southern portion of the site is bisected by the future Extension of Three Oaks Parkway. Old Hickory Golf and Country Club lies to the south.[7] The west boundary abuts agriculturally zoned property east of Fiddlesticks Boulevard.

History

The 61.26 acre property consists of two parcels zoned Commercial Planned Development (CPD). The 2009 CPD zoning approvals authorize development of 50,000 square feet of medical office, 90,000 square feet general office, 250,000 square feet retail commercial, and a 120 room hotel.[8] Maximum approved building height was 75 feet. At the time of the CPD zoning, there was an active bald eagle nest on the property. The nest has since been abandoned.[9]

The site is vacant with an agricultural exemption for cattle grazing.

Lee Plan

The Lee Plan regulates land development activity in the County.[10] The Plan's Future Land Use Map divides the County into future urban, nonurban, and environmentally sensitive areas. Planned developments must be consistent with the Lee Plan.[11]

Intensive Development areas lie along major arterial roads suited to accommodate high density and intensities. The Lee Plan encourages mixed use developments

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[6] Florida Statutes s. 163.3194(1)(a); LDC §2-3 (*Development permits must be consistent with the Lee Plan in effect at the time of permit approval.*)

[7] Old Hickory Club RPD is approved for 858 dwelling units.

[8] Daniels Marketplace CPD Resolution Z-08-043 approved April 6, 2009.

[9] Bald eagle nest LE-058 was last occupied by an eagle pair during the 2018-2019 nesting season. The nest was in poor condition during the 2019-2020 nesting season and came down due to natural causes prior to the 2020-2021 nesting season. The eagles did not rebuild the nest. This history led the Lee County Eagle Technical Advisory Council to declare the nest "Lost" on May 9, 2023.

[10] LDC §34-491.

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

in this category. The MPD includes residential and commercial land uses consistent with Lee Plan policies.

Property in the Intensive Development Category may develop up to 14 units per acre by right.[12] Higher densities are permitted using transferred development rights.[13] The site is located within a Mixed Use Overlay.[14] The Mixed Use Overlay is ideal for intense development patterns due to proximity of shopping, employment, medical services, and transit.[15]

Applicant proposes additional units via bonus density. Bonus units may be obtained using Transfer of Development Units (TDUs). A transferable development unit is one dwelling unit severed from a sending parcel and transferred to a receiving parcel.[16] There are three types of TDUs: Wetland, Southeast Lee County, or Greater Pine Island Transfer of Development Units (TDUs).[17] Additional units are also achievable by developing Affordable Housing.[18]

Greater Pine Island TDUs offer the greatest bonus density, incentivizing growth on inland property served by public services and infrastructure.[19] Properties located outside the Coastal High Hazard Area are expressly preferred receiving areas for TDU credits.

Requests for bonus density must meet the following criteria:

(1) Additional traffic will not travel through areas with significantly lower densities before reaching the nearest collector or arterial road. The record confirms the project traffic will directly access the Three Oaks Parkway Extension, a County maintained arterial roadway.

(2) Existing committed public facilities are not so overwhelmed that a density increase would be contrary to the public interest. The record confirms there are adequate public services and infrastructure. See discussion under the heading "Public Services and Infrastructure."

(3) Storm shelters or other mitigation is provided if the development is in a Coastal High Hazard Area. The property is not in the Coastal High Hazard Area.[20]

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[12] Lee Plan Policy 1.1.2.

[13] *Id.* Maximum total density is 22 dwellings per acre but may go as high as 30 utilizing Greater Pine Island Transfer of Development Units. Lee Plan Policy 1.1.2.

[14] Lee Plan Map 1-C: Mixed Use Overlay.

[15] Lee Plan Map 1-C, Goal 11, Objectives 2.1, 2.2, 11.1, Policies 2.2.1, 2.2.2, 6.1.4 LDC §34-413.

[16] LDC 2-143(a).

[17] Lee County Administrative Code 13-5.

[18] *Id.*

[19] Heightened density encouraged in intense urban categories outside coastal high hazard areas and with access to services and infrastructure.

[20] The property is not in the Coastal High Hazard Area but will be subject to LDC hurricane shelter mitigation requirements. LDC Chapter 2, Article XI – Hurricane Preparedness.

(4) The resulting development will be compatible with existing/planned surrounding land uses.[21]

Record evidence demonstrates the MPD including bonus density meets the stated criteria. Requested density is consistent with the Intensive Development future land use designation.[22]

The Board has discretion to approve the rezoning without bonus density.[23] And has discretion to limit the number of units using bonus density to an intensity lower than maximum total density allowed. The Board may also impose conditions if they conclude increased density would be contrary to public health, safety, and welfare.[24]

The Lee Plan encourages compact and contiguous development patterns in areas with services and infrastructure to support new development.[25] Proposed multifamily residential uses expand housing options on Daniels Parkway corridor.[26]

Lee Tran Route 50 travels along Daniels Parkway.[27] Sidewalks and shared use paths on Daniels Parkway connect to similar facilities on connecting road corridors.[28]

The Economic Element of the Lee Plan encourages expansion of the County's economic base.[29] The proposed mix of land uses will contribute to a positive business climate creating additional housing options and employment opportunities for a diverse workforce.[30] Hotel uses support business and leisure tourism, strengthening the county economy.[31]

A small area of the property is designated Wetlands. Wetlands may develop with low-density residential, and recreation uses that do not adversely affect the ecological functions of wetlands.[32] The area will remain designated as wetland until applicant obtains a jurisdictional wetland determination clarifying its precise boundaries.[33]

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[21] See discussion on compatibility *infra*.
[22] LDC §34-413.
[23] LDC 2-147(b)(4).
[24] LDC 2-147(c).
[25] The zoning request is consistent with emerging development patterns in the area. *See* Lee Plan Objectives 2.1, 2.2, Policies 2.2.1, 5.1.3 and Glossary definition - infill.
[26] Lee Plan Goals 5, 11, 135, 158, Objective 135.1, Policies 5.1.3, 6.1.7, 11.2.1, 160.1.3.
[27] Lee Plan Policy 39.1.3.
[28] Lee Plan Policies 39.6.4, 43.1.1, Lee Plan Map 3-D: Lee County Walkways & Bikeways
[29] Lee Plan Goals 158, 161, Objective 158.2.
[30] Lee Plan Goal 158 Objective 158.3 Policies 135.1.9, 160.1.1, 160.1.2, 161.1.3.
[31] Lee Plan Goal 161, Objectives 161.1, 161.3, Policies 135.1.9, 161.2.2, 161.3.1.
[32] Lee Plan Policy 1.5.1.
[33] Applicant has not provided a formal wetland jurisdictional determination to staff. Accordingly, upland and wetland acreages are subject to further review and approval consistent with Lee Plan Policies 124.1.2, 124.1.3.

Compatibility

One purpose of "planned development" zoning is to integrate new development with surrounding land uses, providing consistency and visual harmony.[34]

The site is bordered by Daniels Parkway on the north vacant land and the Olde Hickory Golf Course maintenance facility to the south. The site borders I-75 to the east and vacant lands and commercial land uses to the west. Surrounding lands feature residential, and commercial land uses. The plan of development includes land uses already approved in the area.[35] While the proposed building heights exceed those typically found along Daniels Parkway, they are appropriate at this location given its proximity to the interstate.[36]

The Lee Plan classifies nearby properties as General Interchange and Outlying Suburban. Mixed use development is ideal at this location given the proximity of major transportation corridors, employment, and shopping centers.[37]

The Lee Plan encourages compact and contiguous development patterns in areas with the services and infrastructure necessary to support new development.[38] The site has access to public services and infrastructure including public water and sanitary sewer, paved roads, police, fire, and emergency medical services.[39]

The Board found commercial and hotel uses to be consistent with the Lee Plan in prior zoning approvals.[40] The introduction of residential land uses is consistent with the Lee Plan, which encourages mixed use development and a variety of housing options.[41]

The site design limits building heights on the southernmost tract to 35 feet. Indian Pony Drive separates this tract from Old Hickory Golf and Country Club. The MCP features a 15 foot wide buffer along Indian Pony Drive. The buffer will be comprised of five trees per 100 linear feet and a double staggered hedge row maintained to form a 36 inch high continuous visual screen. Old Hickory's golf maintenance facility and a portion of its golf course lies across Indian Pony Drive. Applicant demonstrated the multifamily building on the southernmost parcel will be

[34] Another purpose is to provide flexibility in development design. LDC §34-612(2).
[35] Lee Plan Policies 6.1.4, 135.9.5, 135.9.6. Surrounding land uses feature intense commercial development, hotels, and single family dwellings.
[36] Maximum heights range from 35 to 90 feet for residential uses, 35 feet for commercial uses, and 60 feet for hotel(s).
[37] Lee Plan Goal 11, Objectives 2.1, 2.2, 11.1, Policies 2.2.1, 2.2.2, 6.1.4 LDC §34-413
[38] Lee Plan Objectives 2.1, 2.2, Policies 2.2.1, 5.1.3.
[39] Lee Plan Policies 1.1.2, 2.2.1, 2.2.2, 6.1.1, 6.1.4,
[40] Z-08-043 Daniels Marketplace CPD.
[41] Lee Plan Goal 11, Objectives 11.1, 11.2, Policies 1.1.2, 11.2.1, 39.2.1. See also Lee Plan objectives and policies favoring diverse housing options: Lee Plan Objective 135.1, Policies 135.1.9, 135.9.6, 160.1.3.

sufficiently screened from the Old Hickory community.[42] The Hearing Examiner concludes the site design provides an effective transition between projects of differing intensity.[43]

The Hearing Examiner notes that the School Board anticipates the residential component will generate 40 school aged children.[44] Designing the project to accommodate safe school bus access is prudent, since the project will generate a significant number of students.[45] The Hearing Examiner recommends a condition to ensure project design accommodates safe pedestrian and bicycle access to school buses. Conditioning project design *at the outset* will reduce the likelihood of future design conflicts.

Airport Compatibility

A portion of the property lies within the Airport 10,000 foot Hazardous Wildlife Zone.[46] Airport proximity prompts deviations to reduce wildlife attractants that can be hazardous to air navigation.[47]

LDC

Development must comply with County land development regulations or seek deviations.

A planned development zoning district is appropriate because the request meets the definition of Development of County Impact.[48] Planned development zoning is a means to integrate new development with surrounding land uses.[49] Planned developments further the goals of the Lee Plan while providing flexibility in planning and design.[50]

A large portion of the site lies within a Mixed Use Overlay. This designation affords reductions in open space, buffers, indigenous vegetation, and setbacks.[51]

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[42] Applicant demonstrated effective screening with line of sight exhibits.
[43] Lee Plan Policy 5.1.5, LDC §34-411.
[44] Staff Report.
[45] Developing the site to provide safe access to school buses is consistent with the transportation and Community Facilities and Services elements of the Lee Plan. *See* Lee Plan Policies 39.3.2, 67.3.7, 68.3.7.
[46] LDC 34-1110((9).
[47] Lee Plan Objective 47.2, Policy 47.2.5. LDC §34-1110(a)(8) and (9). *See* requested deviations from excavation bank slopes, littoral plantings, and wetland plantings.
[48] LDC §34-2: Development of County Impact means development that may have a substantial effect upon the health, safety, and welfare of the citizens of the County or upon its natural resources. *See also* §34-341(a). Lee Plan Policies 2.1.1, 5.1.1, 5.1.5, 135.1.9; LDC §34-612(2).
[49] LDC §34-612(2).
[50] LDC §§34-411(a), 34-612(2), Lee Plan Policy 2.1.2.
[51] Lee Plan Policies 11.2.5, 11.2.7, LDC §10-425.

The request seeks five deviations from the LDC. A "deviation" is a departure from a land development regulation.[52] Applicants must demonstrate deviations enhance the planned development and will not cause a detriment to the public.[53] Four of the five deviations are necessary to reduce hazard to airport operations. The remaining deviation pertains to access to Parcel 6 south of Three Oaks Parkway Extension.[54] Applicant offered testimony and evidence in support of the deviations.[55]

Staff recommended approval of all five deviations. The Hearing Examiner agrees with staff's recommendation, finding the deviations meet LDC approval criteria. [56]

Transportation

Applications to rezone property must demonstrate access sufficient to support proposed development intensity. Expected impacts to transportation facilities must be addressed by existing County regulations and conditions of approval.[57]

Primary project access will be to Three Oaks Parkway Extension, shifting development focus from serving the traveling public. [58] There is indirect access from Daniels Parkway via a frontage road that is limited to ingress only.[59] There is an optional access to Indian Paint Lane.[60]

Existing CPD development approvals allow 250,000 square feet of commercial retail, 90,000 square feet general office, 50,000 square feet medical office, and up to 120 hotel rooms. Traffic generated from existing CPD approvals exceed the trip generation anticipated from the proposed MPD.[61] As a mixed use project, there

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[52] LDC §34-2.
[53] LDC §34-373(a)(9).
[54] The deviation allows a single access driveway serving Parcel 6.
[55] LDC §34-377(a)(4).
[56] The Hearing Examiner may recommend approval, approval with modifications or denial of requested deviations based upon findings that a deviation (1) enhances the planned development and, (2) preserves/promotes public health, safety, and welfare. LDC §34-377(a)(4).
[57] LDC §34-145(d)(4)a.
[58] Three Oaks Parkway Extension is designed as a four lane divided arterial under the jurisdiction of the County.
[59] Access to Daniels Parkway is via an existing frontage Road. Staff Report Attachment E: Traffic Impact Statement for Daniels Town Center prepared by TR Transportation Consultants, Inc. revised April 16, 2024. Daniels Parkway is a County maintained arterial classified as a Constrained Road between Metro Parkway and the interstate. Daniels Parkway is projected to operate at a poor LOS at buildout in 2027 both with and without the proposed development. Therefore, Daniels Parkway is considered a future preexisting transportation deficiency. As such, the proposed project will not be responsible for mitigating impacts to the roadway. Lee Plan Table 2(a), Objective 37.2. The Lee County Capital Improvement Plan includes improvements to Daniels Parkway as part of the Three Oaks Parkway Extension project. The improvements include widening Daniels Parkway from Appaloosa Lane to I-75. These future improvements will ameliorate projected level of service deficiencies on Daniels Parkway. The Alico Road Extension project will provide relief to the Daniels Parkway corridor.
[60] Testimony of Stacy Hewitt, AICP
[61] Testimony of Ted Treesh.

will be interaction between uses reducing overall trip generation called "internal capture."[62] In addition, the Traffic Impact Analysis assumed 30% of project trip generation would be "pass-by" traffic destined for retail uses.[63]

Further analysis of transportation impacts, including signalization of the project entrance and other site related turn lane improvements will occur during development order permitting.

Transit

The Lee Plan requires development design to reduce dependence on the automobile.[64] If a project lies within the Lee Tran public transit service area, the LDC requires site design to facilitate transit use.[65] In addition, Lee Plan directives include ensuring (1) safe and convenient travel via roads and transit to support businesses,[66] and (2) adequate public facilities are planned to service the County's employment base.[67] Consistent with these directives, project design must accommodate opportunities to interface with transit service on Daniels Parkway and the Three Oaks Extension.[68]

Designing the project to accommodate the likelihood of transit connections in the future is practical for the following reasons:

- The project abuts the Three Oaks Parkway Extension and Daniels Parkway, two arterial roads offering access to shopping, employment, recreation, libraries, schools, and the airport.

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[62] Staff Report Attachment E: Traffic Impact Statement for Daniels Town Center.
[63] Id.
[64] Lee Plan Policies 6.1.3, 7.1.2; *See also*, Lee Plan Policy 39.2.1 (*Future urban areas will have a balanced emphasis on automobile … transit, pedestrian, and bicycle modes of transportation.*)
[65] Internal sidewalks connecting to future bus stops achieve Lee Plan goals for a bicycle and pedestrian interface with transit. *See* Lee Plan Policies 43.1.1. (*Provide access for bicycle and pedestrian interface with transit by linking bicycle/pedestrian facilities with bus stops.*), 43.1.2.(*maintain efforts to provide construction of bus stop amenities*) The site is in the heart of an activity center evidenced by its proximity to the airport, shopping, employment, recreation, and transit routes serving those destinations. LDC §§10-442; 34-373(a)(6)j (The MCP must reflect proposed access to and facilities for public transit) *See also* LDC §§34-411(e), 10-442. LDC §34-411(e) (if within Lee Tran public transit service area, development must be designed to facilitate use of transit system). LDC 10-442(b) (commercial/industrial development with 30,000 sq. ft. of total floor area must provide (1) a paved walkway to nearest bus stop if bus stop is *within a ¼ mile of the project entrance* and bicycle storage rack, signs, and landing pad within the road right-of-way or dedicated easement. (2) If no bus stop within a ¼-mile and property abuts a bus route development must provide a bus stop, shelter, signs, walkway, bicycle rack, landing pad lighting and a bus pull off area within the road right-of-way or dedicated easement so passengers can access the bus outside the line of traffic.
[66] Lee Plan Objective 158.3, Policy 158.3.1.
[67] Lee Plan Policy 160.1.1. *see also* Policy 160.1.2, which directs the county to provide services need to maintain the County's position as an attractive and viable location for a diversified workforce.
[68] *See* Lee Plan Policies 6.1.3, 39.2.1, 43.1.1; LDC §§10-441, 10-442, 34-373(6)j, 34-411(e); *See also*, LDC §§10-154(6)l and (7)h, which requires local development order plans to include the location of proposed transit stops and passenger amenities.

- The proposed density/intensity of residential land uses warrants access to transit to provide residents alternative modes of travel.
- Requested land uses indicate the project will serve as a shopping and employment destination.[69]

The Hearing Examiner recommends project design reduce dependence on the automobile consistent with Lee Plan directives.[70]

Lee Tran Route 50 currently skirts the property's north perimeter on Daniels Parkway.[71] Therefore, the developer may be required to construct improvements facilitating access to transit during development order permitting.[72] The scope of those improvements will be dependent upon the distance to the nearest bus stop and consultation with Lee Tran.[73]

Environmental/Natural Resources

Requests to rezone property must not adversely affect environmentally critical/sensitive areas or natural resources.

The property lies within a critical area for surface water management.[74] Wet and dry detention areas will treat/filter storm water flows leaving the site improving the quality of surface and groundwater.[75] Discontinuation of livestock grazing,

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[69] Developing the site to be transit ready is consistent with the transportation and economic elements of the Lee Plan. *See* Lee Plan Objective 158.3 and Policies 39.1.1, 158.3.1, 160.1.1, 160.1.2, . Workers serving retail and hotel uses in housekeeping, food service, maintenance, salesclerks, will likely benefit most from the opportunity to pursue the project's employment opportunities using alternative modes of transportation.
[70] Lee Plan Policy 6.1.3. *See also*, Lee Plan Policy 39.2.1 (*Future urban areas will have a balanced. emphasis on automobile … transit, pedestrian, and bicycle modes of transportation.*)
[71] LDC §34-373(6)j. (The MCP must reflect proposed access to and facilities for public transit) *See also* LDC §§34-411(e), 10-442. LDC 34-411(e) (if within Lee Tran public transit service area, development must be designed to facilitate use of transit system). LDC §10-442(b) (commercial/industrial development with 30,000 sq. ft. of total floor area must provide (1) a paved walkway to nearest bus stop if bus stop is *within a ¼ mile of the project entrance* and bicycle storage rack, signs, and landing pad within the road right-of-way or dedicated easement. (2) If no bus stop within a ¼-mile and property abuts a bus route development must provide a bus stop, shelter, signs, walkway, bicycle rack, landing pad lighting and a bus pull off area within the road right-of-way or dedicated easement so passengers can access the bus outside the line of traffic.
[72] Applicant Exhibit 5: PowerPoint presentation.
[73] The MCP reflects the potential location of a bus stop, pull out area, and shelter. Unless contrary to public safety, LDC 10-442 requires commercial/industrial developments 30,000 square feet or more to provide a paved walkway to the nearest bus stop. If a stop is within ¼ mile of the project entrance. In addition, the code requires the installation of a bicycle storage rack, signage and landing pad. If there is no bus stop within a ¼ mile, the LDC requires the developer to provide a bus stop, including shelter, signage, walkways, bicycle rack, landing pad, lighting and a bus pull off area. *See* Lee Plan Policies 39.1.1, 39.2.1.
[74] Development in the Six Mile Cypress Watershed Basin must be consistent with the findings/conclusions set forth in the Six Mile Cypress Watershed Plan. Lee Plan Objective 60.3., Policy 60.3.1, LDC §10-321(f).
[75] *See* Lee Plan Goals 60, 61, 125, Policies 61.3.6, 61.3.11, 125.1.2. The project stormwater outfall will route project stormwater through the Old Hickory Golf and Country Club stormwater management system before discharging into the Six Mile Cypress Slough.

engineered stormwater management, and other improvements to site hydrology will improve/protect water quality.[76]

Project design includes an outfall at the southwest edge of the property to the Old Hickory Golf and Country Club. Ultimately stormwater outfalls to the Six Mile Cypress Slough. Future development requires a development order approval, an Environmental Resource Permit from SFWMD, and compliance with SFWMD surface water quality standards.[77]

The project must provide 13.87 acres open space.[78] Applicant's' Protected Species Survey notes scattered wetlands along the northeast corner and a centrally located wetland.[79] The MCP preserves 0.79 acres of wetlands and impacts 5.79 acres of wetlands, which will be mitigated consistent with SFWMD permit approvals.[80]

The plan of development incorporates hazardous wildlife minimization measures through four deviations to reduce bird attractants near the airport. This will be achieved by adjusting bank slopes and eliminating littoral shelves and vegetation in stormwater management lakes. The planting plan also substitutes code required herbaceous plants with native wetlands trees. Littoral plantings and herbaceous plants contribute to surface and groundwater quality. Elimination of those plantings led to a condition requiring submission of a Surface Water Quality Monitoring Plan with development order permitting.[81]

Buffers and landscaped areas must follow Xeriscape principles and consist of native landscape to conserve water.[82]

The Hearing Examiner finds the proposed MPD will not harm environmentally critical/sensitive areas or natural resources.[83] The proposed plan of development enhances the site's environmental features by removing exotic vegetation, restoring impacted upland and wetland vegetation, and eliminating agricultural uses that introduce nitrogen into the environment.

Public Services and Infrastructure

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[76] *See* Lee Plan Goal 125, Policies 125.1.1, 125.1.2, 123.1.3.
[77] Lee Plan Policies 125.1.2, 126.1.4.
[78] The MCP provides 20% open space on parcels within the Mixed Use Overlay (north of Three Oaks Parkway Extension), amounting to 10.62 acres of open space. Parcels south of Three Oaks Parkway comprise 8.13 acres and are not in the Mixed-Use Overlay. The MCP allocates 40% of those parcels to open space, amounting to 3.25 acres. *See* LDC §10-425(a) 10-415, 10-416(d).
[79] Staff Report Attachment E: Applicant narrative, Indigenous Monitoring & Protected Species Plan.
[80] Lee Plan Policies 123.2.4, 123.2.8
[81] Lee Plan Policy 125.1.4.
[82] Lee Plan Objective 126.2, Policy 126.2.1.
[83] Lee Plan 125.1.2.

Public services are services, facilities, capital improvements, and infrastructure necessary to support development.[84] The Lee Plan requires an evaluation of public services during the rezoning process.[85]

There is a wide array of public services and infrastructure to serve the site.[86] The property fronts on Daniels Parkway and the Three Oaks Extension. Daniels Parkway features a shared use path and is part of the Captiva-Hendry-Collier Trail.[87]

Three driveways will serve the project: An "entrance only" access from Daniels Parkway and two driveways on the Three Oaks Extension allowing all turning movements.

Development will connect to Lee County Utilities potable water supply.[88] Lee County Utilities will also supply sanitary sewer service.[89] South Trail Fire & Rescue District and Lee County Medic 35 will provide fire and emergency medical services.[90] Lee County Sheriff provides law enforcement services from the central station on Six Mile Cypress Parkway.

The property is within a quarter mile of Lee Tran Route 50 on Parkway.[91] The residential portion of the project must construct a paved walkway to the nearest bus stop, including signage, a landing pad, and bicycle storage racks within the road right of way if the stop does not already include those improvements.[92] The Hearing Examiner recommends the site design accommodate a transit interface along the Three Oaks Parkway Extension.[93]

Future residents will have access to schools, parks, hospital/medical facilities, shopping, and employment centers within reasonable distances.[94]

Development will be subject to impact fees for road, park, fire, school, and emergency medical services.[95]

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[84] Public services and infrastructure available to serve the project will include public water and sewer (Lee County Utilities), paved streets, parks and recreation facilities, libraries, police, fire and emergency services, urban surface water management, and schools.
[85] Lee Plan Goal 95 and Policy 2.2.1.
[86] Lee Plan Goal 95, Policies 2.2.1, 5.1.3, 6.1.1, 6.1.4.
[87] Lee Plan Map 3-D. In addition, Daniels Parkway is identified on the Greenways Master Plan as part of the Captiva-Hendry-Collier Trail. Lee Plan Map 4-E. *See also* Lee Plan Policy 77.3.7.
[88] Lee Plan Standard 4.1.1, Lee Plan Map 4-A.
[89] Lee Plan Standard 4.1.2, Lee Plan Map 4-B.
[90] Lee Plan Goal 66, Objective 66.1.
[91] Lee Plan Map 3-C.
[92] LDC §10-442.
[93] Lee Plan Policy 43.1.1.
[94] Lee Plan Goals 66, 95, Objective 95.1.
[95] LDC Chapter 2, Article VI.

Conditions

The County must administer the zoning process so proposed land uses minimize adverse impacts on adjacent property and protect County's resources.[96] Conditions must be plausibly related to the project's anticipated impacts, and pertinent to mitigating impacts to the public.[97]

The MPD will be subject to several conditions of approval designed to address impacts reasonably anticipated from development.[98] Notable conditions require completion of the Three Oaks Parkway Extension project prior to first development order, an indigenous management plan for the .79 acre wetland, a surface water quality monitoring plan, and submission of a detailed signal warrant for the project entrance(s) on Three Oaks Parkway.[99]

Hearing Examiner has the authority to recommend additional conditions in the context of a proposed planned development.[100] In furtherance of this authority, the Hearing Examiner recommends conditions to ensure project design accommodates (1) safe pedestrian and bicycle access to a school bus stop within the development and (2) ensuring project design accommodates opportunities to interface with transit along the Three Oaks Parkway Extension.

The Hearing Examiner revised wording of conditions/deviations to improve clarity.

Public

Three members of the public attended the hearing.

Conclusion

The Hearing Examiner recommends approval subject to conditions in Exhibit B. The Hearing Examiner finds the requested MPD zoning meets LDC criteria and, as conditioned, is compatible with surrounding development.[101]

The Hearing Examiner revised conditions of approval for clarity, compliance with state law and to remove references to the LDC applicable to development by Condition 1.

---

[96] Lee Plan Policies 5.1.5, 135.9.6; LDC §§34-145(d)(4) a.2.(b), 34-377(a)(3), 34-411, and 34-932(c).
[97] LDC §34-932(b).
[98] LDC §§34-83(b)(4) a.3, 34-377(a)(2)c; Lee Plan Objectives 47.2, 77.3, Policies 5.1.5, 6.1.4, 47.2.1, 47.2.5.
[99] Conditions 7, 8, 11, 12.
[100] LDC 34-145(d)(1)c. and (d)(6)a.
[101] Lee Plan Policy 6.1.4.

IV. Findings and Conclusions

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

A. The requested Daniels Town Square MPD is consistent with the Lee Plan. Lee Plan Goals 2, 4, 5, 6, 11, 77, 95, 123, 124, 125, 135, 158, 161; Objectives 2.1, 2.2, 4.1, 5.1, 6.1, 11.1, 11.2, 37.2, 60.4, 77.1, 77.2, 77.3, 125.1, 126.2, 135.1, 158.3, 161.1, 161.3, and Policies 1.1.2, 1.5.1, 1.6.5, 2.1.2, 2.2.1, 2.2.2, 5.1.1, 5.1.3, 5.1.5, 5.1.6, 5.1.7, 6.1.1, 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 11.2.1, 11.2.5, 11.2.7, 125.1.1, 125.1.2, 135.1.9, 135.9.5, 135.9.6, 158.2.1, 158.3.1, 160.1.1, 160.1.2, 160.1.3, 161.2.2, 161.3.1, Lee Plan Maps 1-A, 1-B, 3-D, 4-A, 4-B, 4-E, Tables 1(a), 1(b).

B. As conditioned, the MPD zoning district:

1. Is consistent with the Land Development Code or qualifies for deviations. LDC Chapters 2, 10, and 34.

2. Is compatible with existing or planned uses in the surrounding area. Lee Plan Objectives 2.1, 2.2, 161.1, 161.3, and Policies 1.1.2, 5.1.3, 5.1.5, 5.1.6, 6.1.4, 6.1.6, 135.9.5, 135.9.6, 160.1.3, 161.2.2, 161.3.1; LDC §§34-411, 34-413.

3. Provides sufficient road access to support proposed development intensity. Lee Plan Objective 161.4, Policies 6.1.5, 161.1.2, 161.4.3.

4. Expected impacts on transportation facilities will be addressed by County regulations and conditions of approval. Lee Plan Policies 38.1.1, 39.1.1, 39.1.3, 39.2.1, 39.3.2, 39.6.4, 43.1.1, 43.1.2, 67.3.7, 68.3.7, 158.3.1, 160.1.1, 160.1.2; LDC §§2-261 *et seq.*, 34-411.

5. Will not adversely affect environmentally sensitive areas or natural resources. Lee Plan Goals 60, 61, 77, 124, 125, Objectives 77.3, 126.2, Policies 5.1.6, 6.1.6, 61.3.6, 61.3.11, 77.3.1, 77.3.2, 77.3.7, 123.2.4, 123.2.8, 125.1.1, 125.1.2, 125.1.3, 125.1.4, 126.2.1, and Standard 4.1.4, Lee Plan Map 5-D Six Mile Cypress Watershed.

6. Public services and infrastructure will be available to serve the development. Goals 2, 4, 5, 6, 66, 95, Objectives 2.1, 2.2, 4.1, 95.1, Policies 2.2.1, 5.1.3, 6.1.1, 6.1.4, 43.1.1, 160.1.1, 161.1.2, 161.4.3, Standards 4.1.1, 4.1.2.

C. The proposed uses are appropriate at the location. Lee Plan Goals 2, 5, 6, 11; Objectives 2.1, 2.2, 135.1, Policies 2.1.1, 2.1.2, 5.1.3, 6.1.7, 6.1.8, 135.1.9, 135.9.6, 160.1.3, 161.3.1, Lee Plan Tables 1(a), 1(b).

D. The County regulations and recommended conditions provide sufficient safeguards to protect the public interest and relate to impacts expected from the proposed development. Lee Plan Goals 123, 124, 125, Objectives 47.2, 77.3, 126.2, Policies 5.1.5, 6.1.4, 39.3.2, 47.2.1, 47.2.5, 53.1.5, 54.1.2, 56.1.4, 67.3.7, 68.3.7, 77.3.1, 123.2.4, 123.2.8, 123.2.9, 125.1.4, 126.2.1, 135.9.6, LDC §§34-377(a)(3), 34-411 and 34-932(c).

E. Deviations recommended for approval enhance the planned development and preserve public health, safety, and welfare. LDC §§34-373(a)(9), 34-377(a)(4).

Revised recommendation date: November 14, 2024.

Donna Marie Collins
Chief Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

Exhibit A

DANIELS TOWN SQUARE
SECTION 22, TOWNSHIP 45 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

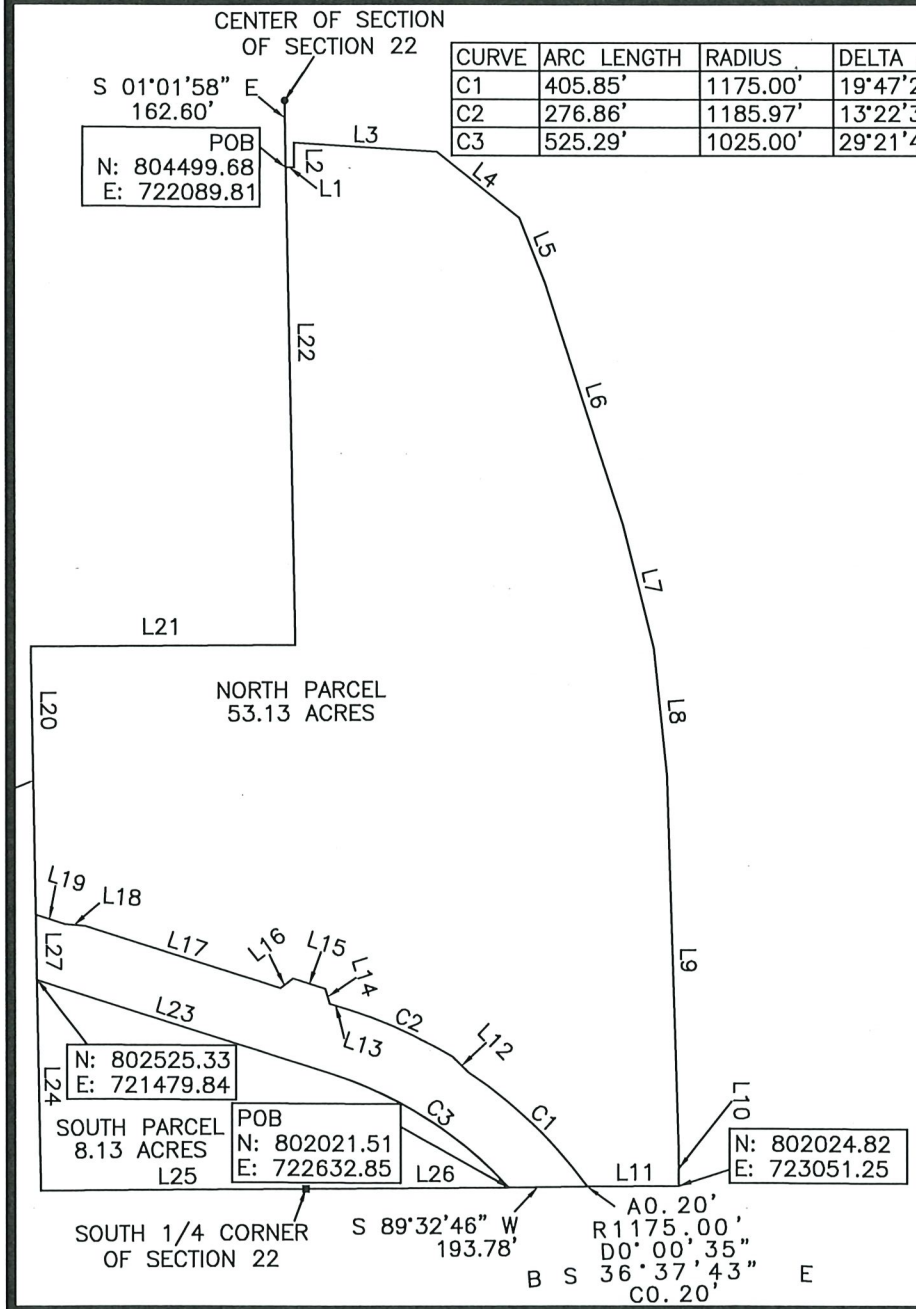
SKETCH

DATE: 04/11/24

N

0 450 900

SCALE IN FEET



CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	405.85'	1175.00'	19°47'24"	N 46°31'43" W	403.83'
C2	276.86'	1185.97'	13°22'31"	N 65°42'56" W	276.23'
C3	525.29'	1025.00'	29°21'45"	N 57°43'20" W	519.56'

LINE	BEARING	DISTANCE
L1	N 89°21'01" E	20.58'
L2	N 01°01'58" W	60.03'
L3	S 86°27'08" E	349.38'
L4	S 51°43'05" E	258.16'
L5	S 22°07'24" E	168.65'
L6	S 18°01'44" E	617.97'
L7	S 13°58'40" E	311.29'
L8	S 05°51'00" E	311.31'
L9	S 01°46'50" E	898.82'
L10	S 00°33'32" E	99.54'
L11	S 89°32'46" W	224.64'
L12	N 46°08'39" W	54.78'
L13	N 72°24'12" W	50.84'
L14	N 17°37'15" W	37.95'
L15	N 72°24'12" W	81.94'
L16	S 52°48'51" W	37.95'
L17	N 72°24'12" W	497.65'
L18	N 84°48'39" W	51.20'
L19	N 72°24'12" W	75.06'
L20	N 01°00'43" W	651.75'
L21	N 89°34'03" E	645.20'
L22	N 01°01'58" W	1159.76'
L23	N 72°24'12" W	748.78'
L24	S 01°00'43" E	512.76'
L25	N 89°33'48" E	645.69'
L26	N 89°32'46" E	498.31'
L27	S 01°00'43" E	158.27'

REVIEWED
DCI2022-00059
Rick Burris, Principal Planner
Lee County DCD/Planning
7/11/2024

****THIS IS NOT A SURVEY****

I CERTIFY THAT THIS SKETCH AND DESCRIPTION WAS MADE UNDER MY DIRECTION AND THAT IT MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17.050 THRU .052, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

REVISIONS:

PROJECT NO: N/A
SCALE: 1"= 450'
DRAWN BY: JJM
CHECKED BY: MDM
DATE DRAWN: 08/23/2022
FIELD BOOK: 55

CE-SITE
civil engineering . surveying . project management
EB-30108 • LB-7995
13650 Fiddlesticks Blvd., PMB202-389
Fort Myers, Florida 33912
Telephone (239) 936-9777

THIS MAP IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER.

Digitally signed by Mark D McCleary
Date: 2024.06.04 22:14:10 -04'00'

MARK D. McCLEARY, P.S.M.
FLORIDA REGISTRATION NO. 6557
FOR THE FIRM LB-7995
DATE SIGNED:

DCI2022-00059 Lee County ePlan

DANIELS TOWN SQUARE
SECTION 22, TOWNSHIP 45 SOUTH,
RANGE 25 EAST
LEE COUNTY, FLORIDA

DESCRIPTION

DATE: 04/11/24

****THIS IS NOT A SURVEY****

NORTH PARCEL

COMMENCE AT THE CENTER OF SAID SECTION 22 AND RUN S 01°01'58" E, ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22, A DISTANCE OF 162.60 FEET TO THE NORTHEAST CORNER OF A PARCEL OF LAND RECORDED IN INSTRUMENT NUMBER 2006000424258 PUBLIC RECORDS LEE COUNTY, FLORIDA AND THE SOUTH RIGHT-OF-WAY LINE OF AN INTERSTATE 75 SERVICE ROAD AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE N 89°21'01" E, ALONG THE SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 20.58 FEET; THENCE N 01°01'58" W A DISTANCE OF 60.03 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF DANIELS PARKWAY; THENCE ALONG THE SOUTHERLY AND WESTERLY RIGHT OF WAY LINE OF INTERSTATE 75 THE FOLLOWING EIGHT COURSES:
THENCE S 86°27'08" E A DISTANCE OF 349.38';
THENCE S 51°43'05" E A DISTANCE OF 258.16';
THENCE S 22°07'24" E A DISTANCE OF 168.65';
THENCE S 18°01'44" E A DISTANCE OF 617.97';
THENCE S 13°58'40" E A DISTANCE OF 311.29';
THENCE S 05°51'00" E A DISTANCE OF 311.31';
THENCE S 01°46'50" E A DISTANCE OF 898.82';
THENCE S 00°33'32" E A DISTANCE OF 99.54' TO THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22; THENCE S 89°32'46" W, ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22, A DISTANCE 224.64' TO THE NORTHERN LEE COUNTY RIGHT WAY AS RECORDED IN INSTRUMENT NUMBERS 2021000306954 AND 2021000128594 ; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 405.85', WITH A RADIUS OF 1175.00', WITH A DELTA ANGLE OF 19°47'24", WITH A CHORD BEARING OF N 46°31'43" W, WITH A CHORD LENGTH OF 403.83'; THENCE N 46°08'39" W A DISTANCE OF 54.78'; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 276.86', WITH A RADIUS OF 1185.97', WITH A DELTA ANGLE OF 13°22'31", WITH A CHORD BEARING OF N 65°42'56" W, WITH A CHORD LENGTH OF 276.23';
THENCE N 72°24'12" W A DISTANCE OF 50.84';
THENCE N 17°37'15" W A DISTANCE OF 37.95';
THENCE N 72°24'12" W A DISTANCE OF 81.94';
THENCE S 52°48'51" W A DISTANCE OF 37.95';
THENCE N 72°24'12" W A DISTANCE OF 497.65';
THENCE N 84°48'39" W A DISTANCE OF 51.20';
THENCE N 72°24'12" W A DISTANCE OF 75.06' TO THE CENTERLINE OF INDIAN PAINT LANE;
THENCE N 01°00'43" W A DISTANCE OF 651.75' ALONG SAID CENTERLINE;
THENCE N 89°34'03" E A DISTANCE OF 645.20';
THENCE N 01°01'58" W A DISTANCE OF 1159.76'
WHICH IS THE POINT OF BEGINNING, CONTAINING AN AREA OF 2,314,467.24 SQUARE FEET, 53.13 ACRES MORE OR LESS.

REVIEWED
DCI2022-00059
Rick Burris, Principal Planner
Lee County DCD/Planning
7/11/2024

REVISIONS:

PROJECT NO: N/A
SCALE: N/A
DRAWN BY: JJM
CHECKED BY: MDM
DATE DRAWN: 08/23/2022
FIELD BOOK: 55

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13650 Fiddlesticks Blvd., PMB202-389
Fort Myers, Florida 33912
Telephone (239) 936-9777

DCI2022-00059 Lee County ePlan

DANIELS TOWN SQUARE
SECTION 22, TOWNSHIP 45 SOUTH,
RANGE 25 EAST
LEE COUNTY, FLORIDA

DESCRIPTION

DATE: 04/11/24

****THIS IS NOT A SURVEY****

AND

SOUTH PARCEL

COMMENCE AT THE CENTER OF SAID SECTION 22 AND RUN S 01°01'58" E, ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22, A DISTANCE OF 162.60 FEET TO THE NORTHEAST CORNER OF A PARCEL OF LAND RECORDED IN INSTRUMENT NUMBER 2006000424258 PUBLIC RECORDS LEE COUNTY, FLORIDA AND THE SOUTH RIGHT-OF-WAY LINE OF AN INTERSTATE 75 SERVICE ROAD; THENCE N 89°21'01" E, ALONG THE SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 20.58 FEET; THENCE N 01°01'58" W A DISTANCE OF 60.03 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF DANIELS PARKWAY; THENCE ALONG THE SOUTHERLY AND WESTERLY RIGHT OF WAY LINE OF INTERSTATE 75 THE FOLLOWING EIGHT COURSES:
THENCE S 86°27'08" E A DISTANCE OF 349.38';
THENCE S 51°43'05" E A DISTANCE OF 258.16';
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THENCE S 05°51'00" E A DISTANCE OF 311.31';
THENCE S 01°46'50" E A DISTANCE OF 898.82';
THENCE S 00°33'32" E A DISTANCE OF 99.54' TO THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22; THENCE S 89°32'46" W, ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22, A DISTANCE 224.64' TO THE NORTHERN LEE COUNTY RIGHT WAY AS RECORDED IN INSTRUMENT NUMBERS 2021000306954 AND 2021000128594;
THENCE S 89°32'46" W A DISTANCE OF 193.78' TO THE POINT OF BEGINNING;
THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 525.29', WITH A RADIUS OF 1025.00', WITH A DELTA ANGLE OF 29°21'45", WITH A CHORD BEARING OF N 57°43'20" W, WITH A CHORD LENGTH OF 519.56';
THENCE N 72°24'12" W A DISTANCE OF 748.78';
THENCE S 01°00'43" E A DISTANCE OF 512.76';
THENCE N 89°33'48" E A DISTANCE OF 645.69' TO THE SOUTH ONE QUARTER CORNER OF SAID SECTION; THENCE N 89°32'46" E A DISTANCE OF 498.31'; WHICH IS THE POINT OF BEGINNING, CONTAINING AN AREA OF 354,247.78 SQUARE FEET, 8.13 ACRES MORE OR LESS.

REVIEWED
DCI2022-00059
Rick Burris, Principal Planner
Lee County DCD/Planning
7/11/2024

REVISIONS:

PROJECT NO: N/A
SCALE: N/A
DRAWN BY: JJM
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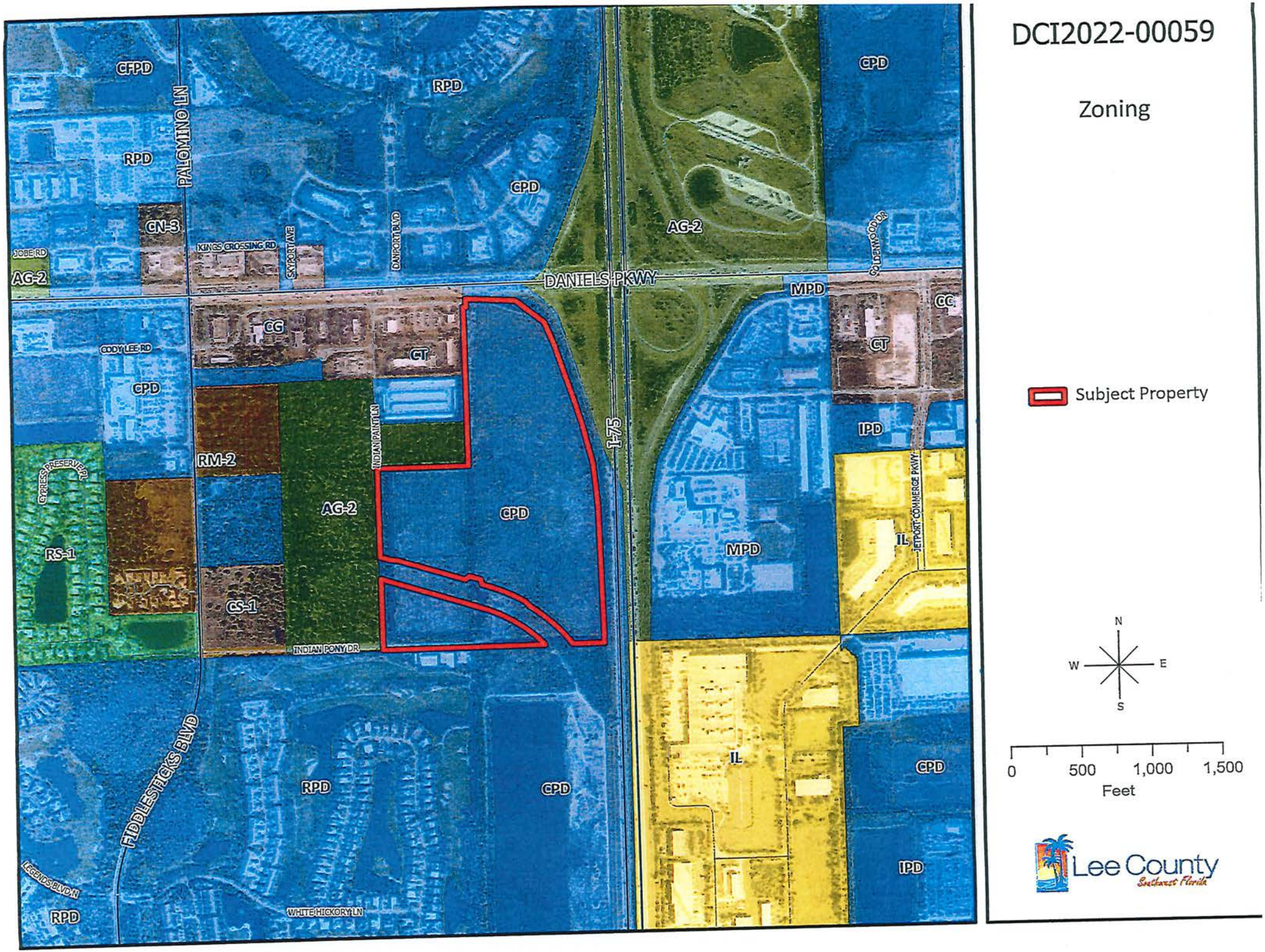
DCI2022-00059
Zoning
Subject Property
CFPD
RPD
PALOMINO LN
CPD
CN-3
JOBE RD
AG-2
KINGS CROSSING RD
SKYPORT AVE
DANPORT BLVD
DANIELS PKWY
GOLDENROD DR
MPD
CC
CG
CT
CODY LEE RD
I-75
IPD
RM-2
INDIAN PAINT LN
CYPRESS PRESERVE FPL
RS-1
CS-1
INDIAN PONY DR
IL
JETPORT COMMERCE PKWY
FIDDLESTICKS BLVD
LEGENDS BLVD N
WHITE HICKORY LN
N
W
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S
0
500
1,000
1,500
Feet
Lee County
Southwest Florida

Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

As revised by the Hearing Examiner

CONDITIONS

1. Master Concept Plan (MCP). Development must be consistent with one-page MCP entitled "Daniels Town Square", prepared by Atwell, revised September 23, 2024, except where modified by conditions below.

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

   Approved Development Parameters. The project may develop up to 30,000 square feet of commercial land uses, a 200-room hotel, and up to 1,234 residential dwelling units. Approved dwellings will be comprised of 777 standard density units and 457 bonus density units. Dwelling counts exceeding 1,221 units must be achieved using Greater Pine Island Transferable Development Units.

2. Permitted Uses and Property Development Regulations

   a. Schedule of Uses

   Accessory uses, buildings, and structures
   Accessory Apartment and Accessory Dwelling Unit
   Administrative Offices
   Agricultural Uses: Office/Base Operations
   Agricultural Services Accessory Uses and Buildings
   Agricultural Uses (subject to Condition 3)
   Animal Clinic or Kennel, Control Center (including Humane Society)
   ATM
   Auto Parts Store
   Automobile Service Station
   Bait and Tackle Shop
   Banks and Financial Establishments – Groups I, II
   Bar or Cocktail Lounge
   Bed and Breakfast Boarding House
   Boats; Parts Store, Rental, Sales, and Storage
   Broadcast Studio, Commercial Radio & Television
   Building Materials Sales
   Business Services, Groups I, II

Bus Station/Depot
Car Wash
Cleaning & Maintenance Services
Clothing Stores, General
Clubs: Commercial, Fraternal, and Private

Computer and Data Processing Services
Consumption on Premises
Continuing Care Facilities
Contractors & Builders – Groups I, II
Convenience Food and Beverage Store – maximum 24 self-service fuel pumps
Cultural Facilities
Day Care Center, Child, Adult
Department Store
Dormitory
Drive-Through Facility for any permitted use
Drug Store, Pharmacy
Dwelling unit: Multi-family
EMS, Fire or Sheriff's station
Entrance gates and gatehouse
Essential services
Essential service facilities: Group I
Excavation: Water retention
Excess Spoil Removal
Factory Outlets
Fam Equipment, Sales, Storage, Rental or Service
Fences, Walls
Flea Market: Open, Indoor
Food and Beverage, Limited
Food Stores: Groups I, II
Freight and Cargo Handling Establishments
Funeral Home or Mortuary (with or without crematory)
Gift and Souvenir Shop
Golf Driving Range
Hardware Store
Health Care Facilities: All Groups
Hobby, Toy, and Games Shop
Hospice
Hotel/Motel, limited to 200 rooms
Household and Office Furnishings: All Groups
Insurance Companies
Laundry or Dry Cleaning: Groups I, II
Lawn and Garden Supply Stores
Library

Medical Office
Models: Display Center
Motion Picture Productions Studio
Nightclubs
Non-Store Retailers: All Groups
Parcel and Express Services
Package Store
Paint, Glass, and Wallpaper
Parking Lot, All
Personal Services: All Groups
Pet Services
Pet Shop
Pharmacy
Photo Finishing Laboratories
Place of Worship
Plant Nursery
Post Office
Printing and Publishing Services
Real Estate Sales Office
Recreation Facilities: All Groups
Religious Facilities
Rental and Leasing Establishments: All Groups
Repair Shops: All Groups
Research and Development and Laboratories: All Groups
Residential Accessory Uses
Restaurant, Fast Food
Restaurant: All Groups
Retail and Wholesale Sales
Schools, Commercial and Non-Commercial
Self-Service Fuel Pumps (24 fuel pumps)
Signs
Social Services: All Groups
Specialty Retail Shops: All Groups
Storage: Indoor or Outdoor
Studios
Temporary Uses
Theater, Indoor or Outdoor (drive-in)
Transportation Services: All Groups
Used Merchandise Stores: All Groups
Variety Stores
Vehicle and Equipment Dealers: All Groups
Warehouse: Public, Private, Mini
Wholesale Establishments: Groups I, III, IV

b. Site Development Regulations

General Parameters

Maximum Lot Coverage	60%
Maximum Multi-family Building Height	
Parcel 1	45 feet
Parcel 2	45 feet
Parcel 3	60 feet
Parcel 4	90 feet
Parcel 5	Commercial 35 feet Hotel 60 feet
Parcel 6	35 feet
Minimum Open Space	
Parcels 1 – 5	20%
Parcels 6, 7	40%
Minimum Lot Area	10,000 square feet
Minimum Lot Width	100 feet
Minimum Lot Depth	100 feet

Residential Building Setbacks

Street (Public)	20 feet
Street (Private)	15 feet
Rear	5 feet
Side	5 feet
Minimum Building Separation	20 feet
Waterbody	20 feet

Commercial Building Setbacks

Street (Public)	20 feet
Street (Private)	15 feet
Rear	5 feet
Side	0 feet
Minimum Building Separation:	0 feet
Waterbody	20 feet

3. Agricultural Use

a. Existing Agricultural Activity. Bona fide agricultural uses consisting of pasture/grazing in existence when the application was filed, may continue consistent with the Agricultural Use Affidavit dated September 10. 2024, attached as Exhibit B2 until the County approves a local development order for the area containing those uses.

b. Termination of Agriculture Use. Agricultural uses must terminate on project areas receiving development order approval for vertical development prior to county issuance of a vegetation removal permit. Development order approvals for plats, infrastructure improvements, landscaping, surface water management, or other non- vertical development do not trigger termination.

c. Additional Clearing Prohibited. Additional clearing of trees or vegetation in an agricultural area is prohibited. Existing areas of bona fide agricultural use may be maintained, (i.e. mowed). But not cleared or expanded. This prohibition does not preclude County approved requests to remove invasive exotic vegetation.

d. Proof of Termination. Upon approval of local development order for vertical development and prior to the issuance of vegetation removal permit, the property owner must provide written proof of the following, subject to review/approval by the County Attorney's Office:

1. Affidavit. Sworn affidavit from the property owner confirming:

a) Date agricultural uses ceased.

b) Legal description of the property subject to development order approval for vertical development.

c) Affirmative statement acknowledging/agreeing agricultural uses are illegal and prohibited on the property. Further that the property owner covenants with the County not to resume agricultural uses until the property is rezoned to permit agriculture.

The affidavit constitutes a covenant between the property owner and Lee County binding on the owner and its successors. The covenant must be recorded in public records of Lee County at the owner's expense.

d) Termination of Tax Exemption. Termination of the agricultural tax exemption for portions of the property subject to a development order for vertical development. Proof of termination must include a copy of the request to terminate the tax exemption submitted to the Lee County Property Appraiser.

4. Three Oaks Parkway Extension

Three Oaks Parkway Extension Phase 1 must be complete and open to the public prior to County approval of a development order for vertical development. Project related construction traffic may utilize Daniels 9300 to access the property until Three Oaks Parkway Extension Phase 1 is open to traffic.

Once Three Oaks Parkway Extension Phase 1 is open to the public, access to the property via Daniels 9300 will be limited to ingress only. Temporary access to Indian Pony Drive is permissible until Phase 2 of the Three Oaks Parkway Extension is open to the public. The vegetation removal permit must include a condition stating once Phase 1 is open to the public, Daniels 9300 is limited to ingress only.

~~5. Density~~

~~For development that proposes impact to wetlands, construction may not commence until the issuance of required permits. Development activity must remain in compliance with applicable state wetland permits and applicable local development permits. If impacts to wetlands are not permitted by the State, or if issued state wetland permits are inconsistent with the proposed impacts to wetlands depicted within the local development order permit approvals, Developer must amend local development permit approvals to be consistent with issued state wetland permits or applicable Lee Plan and Land Development Code regulations pertaining to development within wetlands.~~

Hearing Examiner Note: *This condition rewritten and relocated to end of conditions consistent with prior zoning resolutions.*

5. Open Space

Parcels 1 - 5 must provide 20 percent open space and Parcels 6 - 7 must provide 40 percent open space in substantial compliance with the MCP.

6. Indigenous Open Space

Development order plans must depict the 0.79-acre wetland preserve and include an Indigenous Management Plan.

7. Water Quality Monitoring

Prior to local development order approval, the developer must submit a Surface Water Quality Monitoring Plan for review and approval by the Division of Natural Resources. The Surface Water Monitoring Plan must establish the following:

a. Goals and Objectives of the Surface Water Monitoring Plan.

b. Outfall monitoring schedule during "wet" season of June through September and "dry" season of October through May for Total Phosphorus, Total Nitrogen, Copper, Iron, Enterococci, Field Temperature, Specific Conductance, Dissolved Oxygen, Turbidity, pH, Total Dissolved Solids and Total Hardness.

c. Baseline monitoring event to be part of the monitoring plan that must be completed prior to commencement of construction.

d. Water quality monitoring data must be provided to the Division of Natural Resources annually for a minimum of 5 years and must include a report with a comparison of State water quality standards, plots of parameters, and recommendations. Results must be reported as an Electric Data Deliverable (EDD), in a format approved by the Division of Natural Resources.

   After five years of meeting or exceeding state water quality monitoring standards, the developer may amend water quality monitoring and reporting after written request, review, and approval by the Division of Natural Resources.

e. A contingency plan in the event of discovery of an exceedance of State Surface Water Quality Standards. The contingency plan must include notification to impacted residents and applicable authorities.

8. Buffers

Development order plans must depict a 15 foot wide Type D buffer along I-75, Three Oaks Parkway, Indian Pony Drive and Indian Paint Lane. The 15 foot wide buffer must reflect a consistent landscape theme throughout the project.

9. Wetland Trees

The planted littoral shelf calculation must be based on a 20-foot-wide littoral shelf with 100 percent of littorals converted to wetland trees at a ratio 100 littoral plants to one native wetland tree. Wetland trees must be located around wet detention areas.

10. Transportation

The first development order application must include a detailed signal warrant projection based on buildout traffic conditions at the site access to Three Oaks Parkway.

If the County Traffic Engineer concludes a traffic signal is warranted, Developer must include the design of a new traffic signal in the development order. If Developer decides to design the signal(s) in a separate Limited Review Development Order for offsite improvements, the LDO must be approved prior to the issuance of a Certificate of Occupancy for dwelling units or a Certificate of Compliance for vertical commercial construction. Developer will be solely responsible for the cost of design and installation of the traffic signal at this intersection, consistent with the Land Exchange and Impact Fee Credit Agreement. (Instrument Number 2021000128594)

11. Pedestrian and Bicycle Access to School Bus

Development Order plans must include safe pedestrian and bicycle access to school bus stops. The site plan must depict locations for school buses to stop, load and unload students in each residential development pod. Plans must also include a dedicated area for students to wait for the school bus. These waiting areas must be outside road rights-of-way and coordinated with the Lee County School District.

12. Transit Readiness

Development order plans must reflect a project design that will accommodate opportunities to interface with transit along its frontage on the Three Oaks Parkway Extension.

13. State and Federal Permits

Generally. County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or if applicant undertakes actions resulting in a violation of state or federal law. Applicant must obtain applicable state/federal permits prior to commencing development.

State Wetland Permits. Developer may not commence construction on development impacting wetlands until issuance of required state permits. Development activity must comply with state wetland permits and applicable local development permits.

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

DEVIATIONS

1. Excavation Bank Slopes. Deviation 1 seeks relief from LDC §10-329(d)(4), which requires lake bank slopes to be 6:1; to allow 4:1 slopes to minimize wildlife hazards within the 10,000-foot Hazardous Wildlife Zone criteria for airport operations and in accordance with Federal Aviation Administration Advisory Circular 150/5200-33C.

   Hearing Examiner Recommendation: Deviation approved.

2. Surface Water Management Systems. Deviation 2 seeks relief from LDC §10-418(2)a, which requires planted littoral shelf shoreline length to be 25 percent of the total linear feet of the lake at control elevation; to eliminate this requirement to minimize wildlife hazards within the 10,000-foot Hazardous Wildlife Zone criteria for airport operations and in accordance with Federal Aviation Administration Advisory Circular 150/5200-33C.

   Hearing Examiner Recommendation: Deviation approved. subject to Condition 9.

3. Surface Water Management Systems. Deviation 3 seeks relief from LDC §10-418(2)c, which requires a 20-foot-wide planted littoral shelf extending waterward of the control elevation at a depth no greater than two feet below the control elevation, to allow no planted littoral shelf.

   Hearing Examiner Recommendation: Deviation approved. subject to Condition 9.

4. Surface Water Management Systems. Deviation 4 seeks relief from LDC §10-418(2)d.3, which allows native wetland trees to be substituted for up to 25 percent of the total herbaceous plants required, to allow for native wetland trees to be substituted for 100 percent of the required herbaceous plants.

   Hearing Examiner Recommendation: Deviation approved. subject to Condition 9.

5. Required Street Access. Deviation 5 seeks relief from §10-291(3) which requires residential development of more than five acres to provide more than one means of ingress and egress, to allow one means of ingress/egress for Parcel 6.

   Hearing Examiner Recommendation: Deviation approved.

Exhibits to Conditions

B1: Master Concept Plan entitled "Daniels Town Square", prepared by Atwell, last revised September 23, 2024.

B2: Agricultural Affidavit dated September 10, 2024

LEGEND

- LAKE (11.64 AC)
- INDIGENOUS PRESERVATION (0.79 AC)
- PAVED CIRCULATION ACCESS
- VEHICULAR INGRESS AND EGRESS
- # DEVIATIONS

LAND USE TABLE

OPEN SPACE REQUIRED	3.25 AC (40% parcels 6 & 7)
	10.62 AC (20% parcels 1-5)
COMMERCIAL	30,000 SF
HOTEL	200 ROOMS
MULTI-FAMILY	1,234 DWELLING UNITS
LAKE / WET RETENTION	6.80 AC
TOTAL	61.26 AC

ATWELL
866.850.4200 www.atwell-group.com

MASTER CONCEPT PLAN FOR

DANIELS TOWN SQUARE

CLIENT:

BISON PROPERTY HOLDINGS, LLC

PLAN REVISIONS

1	2024-02-22	Insufficiency Response
2	2024-04-29	Insufficiency Response
3	2024-07-02	Insufficiency Response
4	2024-09-23	45-day Letter

0 60 120 240
SCALE IN FEET

FLORIDA CERTIFICATE OF AUTHORIZATION #6636

JEREMY H. ARNOLD, P.E.
FL LICENSE NO. 94218

SET NUMBER: 22000239E0101

SHEET: 1

EXHIBIT B-1

L:\2022\22000239 Daniels Town Square MPD-DP\MD CONSULTANTS\2 CIVIL\01 ZONING EXHIBITS\01 CURRENT PLANS\MCP-Daniels TS 2024-09-23.dwg
9/23/2024 2:42:10 PM

ATTACHMENT A

BONA FIDE AGRICULTURAL USES AT TIME OF ZONING APPLICATION

STATE OF FLORIDA
COUNTY OF LEE

BEFORE ME, the undersigned authority, on this 10 day of September, 2024, personally appeared Alexander M. Eaton as Managing Member of **Daniels Parkway JV Development, LLC** who, after first being duly sworn, deposes and says as follows:

1. He is an authorized representative of the Limited Liability Company that owns the Property described and shown in Exhibit "A" attached hereto and incorporated herein by reference and identified as STRAP numbers: 22-45-25-L3-U2060.3612, 22-45-25-L4-U2038.3602, 22-45-25-L4-U2037.3579 & 22-45-25-L3-U2053.3576.

2. That the above-described Property has an existing bona fide agricultural use and agricultural exemption issued by the Lee County Property Appraiser's Office which was in existence at the time the zoning application for this project was filed.

3. The specific agricultural activity occurring on the Property is cattle grazing over the entire property described in Exhibit "A".

FURTHER AFFIANT SAYETH NAUGHT.

Daniels Parkway JV Development, LLC

Signature

Sept 10, 2024
Date

Alexander M. Eaton
Print Name

Managing Member
Title

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☑ physical presence or ☐ online notarization, this 10 day of September, 2024, by ALEXANDER EATON (name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.

(SEAL)

Notary Public State of Florida
Laura E. Graham
My Commission HH 434861
Expires 12/13/2027

Laura Graham
Signature of Notary Public

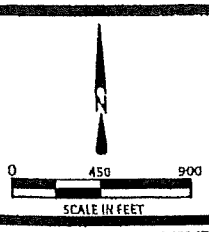
LAURA E. GRAHAM
Printed name of Notary Public

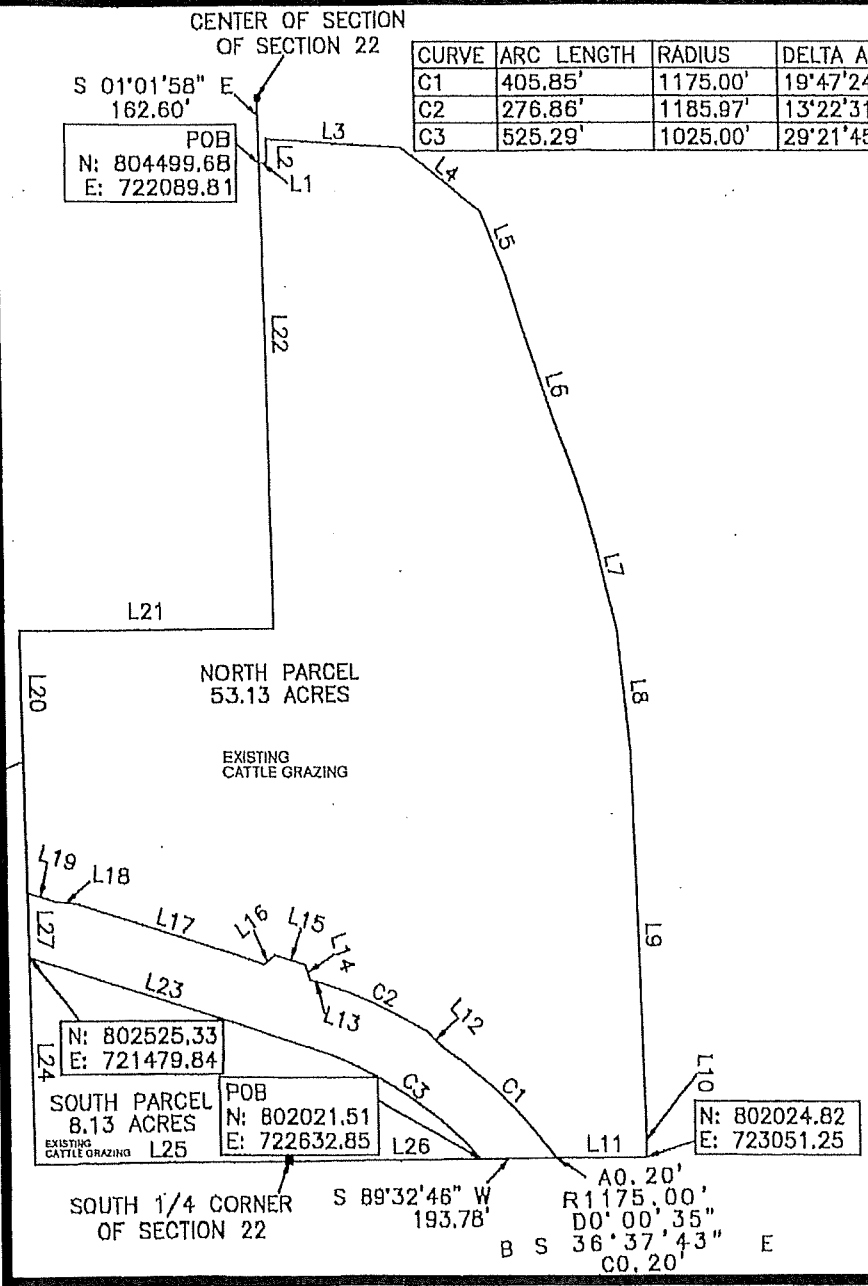
EXHIBIT "A"

DANIELS TOWN SQUARE
SECTION 22, TOWNSHIP 45 SOUTH,
RANGE 25 EAST
LEE COUNTY, FLORIDA

SKETCH

DATE: 04/11/24





CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	405.85'	1175.00'	19°47'24"	N 46°31'43" W	403.83'
C2	276.86'	1185.97'	13°22'31"	N 65°42'56" W	276.23'
C3	525.29'	1025.00'	29°21'45"	N 57°43'20" W	519.56'

LINE	BEARING	DISTANCE
L1	N 89°21'01" E	20.58'
L2	N 01°01'58" W	60.03'
L3	S 86°27'08" E	349.38'
L4	S 51°43'05" E	258.16'
L5	S 22°07'24" E	168.65'
L6	S 18°01'44" E	617.97'
L7	S 13°58'40" E	311.29'
L8	S 05°51'00" E	311.31'
L9	S 01°46'50" E	898.82'
L10	S 00°33'32" E	99.54'
L11	S 89°32'46" W	224.64'
L12	N 46°08'39" W	54.78'
L13	N 72°24'12" W	50.84'
L14	N 17°37'15" W	37.95'
L15	N 72°24'12" W	81.94'
L16	S 52°48'51" W	37.95'
L17	N 72°24'12" W	497.65'
L18	N 84°48'39" W	51.20'
L19	N 72°24'12" W	75.06'
L20	N 01°00'43" W	651.75'
L21	N 89°34'03" E	645.20'
L22	N 01°01'58" W	1159.76'
L23	N 72°24'12" W	748.78'
L24	S 01°00'43" E	512.76'
L25	N 89°33'48" E	645.69'
L26	N 89°32'46" E	498.31'
L27	S 01°00'43" E	158.27'

****THIS IS NOT A SURVEY****

I CERTIFY THAT THIS SKETCH AND DESCRIPTION WAS MADE UNDER MY DIRECTION AND THAT IT MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17.050 THRU .052, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

REVISIONS:

PROJECT NO: N/A
SCALE: 1"=450'
DRAWN BY: JJM
CHECKED BY: MDM
DATE DRAWN: 08/23/2022
FIELD BOOK: 55

CE-SITE
civil engineering . surveying . project management
EB-30108 • LB-7995
13650 Fiddlesticks Blvd., PMB202-389
Fort Myers, Florida 33912
Telephone (239) 936-9777

THIS MAP IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER.

Digitally signed by Mark D McCleary
Date: 2024.06.04 22:14:10 -04'00'

MARK D. McCLEARY, P.S.M.
FLORIDA REGISTRATION NO. 6557
FOR THE FIRM LB-7995
DATE SIGNED

DANIELS TOWN SQUARE
SECTION 22, TOWNSHIP 45 SOUTH,
RANGE 25 EAST
LEE COUNTY, FLORIDA

DESCRIPTION

DATE: 04/11/24

****THIS IS NOT A SURVEY****

NORTH PARCEL

COMMENCE AT THE CENTER OF SAID SECTION 22 AND RUN S 01°01'58" E, ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22, A DISTANCE OF 162.60 FEET TO THE NORTHEAST CORNER OF A PARCEL OF LAND RECORDED IN INSTRUMENT NUMBER 2006000424258 PUBLIC RECORDS LEE COUNTY, FLORIDA AND THE SOUTH RIGHT-OF-WAY LINE OF AN INTERSTATE 75 SERVICE ROAD AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE N 89°21'01" E, ALONG THE SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 20.58 FEET; THENCE N 01°01'58" W A DISTANCE OF 60.03 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF DANIELS PARKWAY; THENCE ALONG THE SOUTHERLY AND WESTERLY RIGHT OF WAY LINE OF INTERSTATE 75 THE FOLLOWING EIGHT COURSES:
THENCE S 86°27'08" E A DISTANCE OF 349.38';
THENCE S 51°43'05" E A DISTANCE OF 258.16';
THENCE S 22°07'24" E A DISTANCE OF 168.65';
THENCE S 18°01'44" E A DISTANCE OF 617.97';
THENCE S 13°58'40" E A DISTANCE OF 311.29';
THENCE S 05°51'00" E A DISTANCE OF 311.31';
THENCE S 01°46'50" E A DISTANCE OF 898.82';
THENCE S 00°33'32" E A DISTANCE OF 99.54' TO THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22; THENCE S 89°32'46" W, ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22, A DISTANCE 224.64' TO THE NORTHERN LEE COUNTY RIGHT WAY AS RECORDED IN INSTRUMENT NUMBERS 2021000306954 AND 2021000128594 ; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 405.85', WITH A RADIUS OF 1175.00', WITH A DELTA ANGLE OF 19°47'24", WITH A CHORD BEARING OF N 46°31'43" W, WITH A CHORD LENGTH OF 403.83'; THENCE N 46°08'39" W A DISTANCE OF 54.78'; THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 276.86', WITH A RADIUS OF 1185.97', WITH A DELTA ANGLE OF 13°22'31", WITH A CHORD BEARING OF N 65°42'56" W, WITH A CHORD LENGTH OF 276.23';
THENCE N 72°24'12" W A DISTANCE OF 50.84';
THENCE N 17°37'15" W A DISTANCE OF 37.95';
THENCE N 72°24'12" W A DISTANCE OF 81.94';
THENCE S 52°48'51" W A DISTANCE OF 37.95';
THENCE N 72°24'12" W A DISTANCE OF 497.65';
THENCE N 84°48'39" W A DISTANCE OF 51.20';
THENCE N 72°24'12" W A DISTANCE OF 75.06' TO THE CENTERLINE OF INDIAN PAINT LANE;
THENCE N 01°00'43" W A DISTANCE OF 651.75' ALONG SAID CENTERLINE;
THENCE N 89°34'03" E A DISTANCE OF 645.20';
THENCE N 01°01'58" W A DISTANCE OF 1159.76'
WHICH IS THE POINT OF BEGINNING, CONTAINING AN AREA OF 2,314,467.24 SQUARE FEET, 53.13 ACRES MORE OR LESS.

REVISIONS:

PROJECT NO: N/A
SCALE: N/A
DRAWN BY: JJH
CHECKED BY: MDM
DATE DRAWN: 08/23/2022
FIELD BOOK: 85

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Fort Myers, Florida 33912
Telephone (239) 936-9777

****THIS IS NOT A SURVEY****

AND

SOUTH PARCEL

COMMENCE AT THE CENTER OF SAID SECTION 22 AND RUN S 01°01'58" E, ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22, A DISTANCE OF 162.60 FEET TO THE NORTHEAST CORNER OF A PARCEL OF LAND RECORDED IN INSTRUMENT NUMBER 2006000424258 PUBLIC RECORDS LEE COUNTY, FLORIDA AND THE SOUTH RIGHT-OF-WAY LINE OF AN INTERSTATE 75 SERVICE ROAD; THENCE N 89°21'01" E, ALONG THE SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 20.58 FEET; THENCE N 01°01'58" W A DISTANCE OF 60.03 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF DANIELS PARKWAY; THENCE ALONG THE SOUTHERLY AND WESTERLY RIGHT OF WAY LINE OF INTERSTATE 75 THE FOLLOWING EIGHT COURSES:
THENCE S 86°27'08" E A DISTANCE OF 349.38';
THENCE S 51°43'05" E A DISTANCE OF 258.16';
THENCE S 22°07'24" E A DISTANCE OF 168.65';
THENCE S 18°01'44" E A DISTANCE OF 617.97';
THENCE S 13°58'40" E A DISTANCE OF 311.29';
THENCE S 05°51'00" E A DISTANCE OF 311.31';
THENCE S 01°46'50" E A DISTANCE OF 898.82';
THENCE S 00°33'32" E A DISTANCE OF 99.54' TO THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22; THENCE S 89°32'46" W, ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22, A DISTANCE 224.64' TO THE NORTHERN LEE COUNTY RIGHT WAY AS RECORDED IN INSTRUMENT NUMBERS 2021000306954 AND 2021000128594;
THENCE S 89°32'46" W A DISTANCE OF 193.78' TO THE POINT OF BEGINNING;
THENCE WITH A CURVE TURNING TO THE LEFT WITH AN ARC LENGTH OF 525.29', WITH A RADIUS OF 1025.00', WITH A DELTA ANGLE OF 29°21'45", WITH A CHORD BEARING OF N 57°43'20" W, WITH A CHORD LENGTH OF 519.56';
THENCE N 72°24'12" W A DISTANCE OF 748.78';
THENCE S 01°00'43" E A DISTANCE OF 512.76';
THENCE N 89°33'48" E A DISTANCE OF 645.69' TO THE SOUTH ONE QUARTER CORNER OF SAID SECTION; THENCE N 89°32'46" E A DISTANCE OF 498.31'; WHICH IS THE POINT OF BEGINNING, CONTAINING AN AREA OF 354,247.78 SQUARE FEET, 8.13 ACRES MORE OR LESS.

PROJECT NO: N/A
SCALE: N/A
DRAWN BY: JJH
CHECKED BY: MDM
DATE DRAWN: 06/23/2022
FIELD BOOK: 55

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Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments:* Prepared by Elizabeth Workman, Principal Planner, date received September 11, 2024 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

2. *Affidavit of Publication:* For Zoning Case DCI2022-00059, Daniels Town Square MPD (2 pages – 8.5"x11")

3. *Revised Maps:* (multiple pages – 8.5"x11")[color]

4. *PowerPoint Presentation:* Prepared by DCD Staff for DCI2022-00059, The Daniels Town Square, dated November 1, 2024 (multiple pages – 8.5"x11") [color]

5. *Résumé:* For Joseph P. Sarracino

APPLICANT EXHIBITS

1. *48-Hour Notice:* Email from Stacy Hewitt to Hearing Examiner, with copies to Elizabeth Workman, Maria Perez, Lauren Schaefer, Sandra Kokotilo, Jillian Scholler, Joseph Adams, Esq., Amanda Swindle, Esq., Michael Jacob, Esq., Richard Akin, Esq., Chris Moore, and Fred Drovdlic, dated Tuesday, September 24, 2024, 8:13 AM (multiple copies – 8.5"x11")

2. *PowerPoint Presentation:* Prepared by RVI Planning and Landscaping for DCI2022-00059, The Daniels Town Square, dated November 1, 2024 (multiple pages – 8.5"x11") [color]

3. *Master Concept Plan:* Prepared by Atwell for Daniels Town Square, last revised September 23, 2024 (1 page – 8.5"x11" and 11"x17")

4. *Written Submissions:* Email from Richard Akin, Esq., to Hearing Examiner, with copies to Elizabeth Workman, Stacy Hewitt, and Fred Drovdlic, dated Friday November 1, 2024, 3:49 PM (multiple pages – 8.5"x11")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Joseph Sarracino
2. Elizabeth Workman

Applicant Representatives:

1. Richard Akin, Esq.
2. Brown Collins
3. Jacquelyn Laroque
4. Stacy Ellis Hewitt
5. Ted Treesh

Public Participants:

1. Richard Mersman

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.