



LEE COUNTY BOARD OF COUNTY COMMISSIONERS

ZONING
and
COMPREHENSIVE PLAN AMENDMENT HEARING
AGENDA

Wednesday, November 6, 2024
9:30AM

DCI2023-00015
Z-24-022

Pine Island Road CPD

DCI2023-00049
Z-24-023

Royal Palm Multifamily RPD

CPA2023-00010

BSR 40

CPA2023-00012

Babcock Lee Comprehensive Plan Amendment

NOTICE OF PUBLIC HEARING

The Lee County Board of County Commissioners will hold a public hearing at 9:30 am on Wednesday, November 6, 2024 in the Board Chambers at 2120 Main St., Ft. Myers, FL, to review the written recommendations made by the Hearing Examiner and make a final decision on the case(s) below.

DCI2023-00015 / Pine Island Road CPD

Request to rezone 9.7± acres from Agricultural (AG-2) and Commercial (C-1 and C-1A) to Commercial Planned Development (CPD) to allow a maximum of 115,000 square feet of commercial uses including a convenience food and beverage store with sixteen fueling positions.

Located At SW corner of Pine Island Road and Cleveland Avenue, North Fort Myers Planning Community, Lee County, FL

DCI2023-00049 / Royal Palm Multifamily RPD

Request to rezone 19.33 +/- acres from Mobile Home Conservation Residential District (MHC-2) to Residential Planned Development (RPD) to allow 391 multifamily dwelling units with amenities, including 136 units of bonus density.

Located At SW corner of Old Gladiolus Drive and US 41, South Fort Myers Planning Community, Lee County, FL

Copies of the Hearing Examiner's recommendation may be obtained or the file reviewed at the Zoning Section, 1500 Monroe St., Ft. Myers, FL. Telephone 239-533-8585 for additional information.

If you did not appear before the Hearing Examiner or otherwise become a participant for that case in which you wish to testify, the law does not permit you to address the Board of County Commissioners.

Statements before the Board of County Commissioners regarding the zoning case will be strictly limited to testimony presented to the Hearing Examiner, testimony concerning the correctness of the findings of fact or conclusions of law contained in the record, or to allege the discovery of new, relevant information which was not available at the time of the hearing before the Hearing Examiner.

Any document that a participant of record intends to submit must have been submitted as part of the record in the hearing before the Hearing Examiner or the document is relevant new evidence that was not known or could not have been reasonably discovered by the participant at the time of the hearing before the Hearing Examiner. All other documents will not be accepted by the Board. To ensure compliance with these regulations, copies of documents not submitted as part of the record before the Hearing Examiner must be provided to the Applicant and County Staff (JPrincing@leegov.com) not less than 2 days before the date of the zoning hearing.

If a participant decides to appeal a decision made by the Board of County Commissioners with respect to any matter considered at this hearing, a verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

In accordance with the Americans with Disabilities Act, Lee County will not discriminate against qualified individuals with disabilities in its services, programs, or activities. To request an auxiliary aid or service for effective communication or a reasonable modification to participate, contact Raphaela Morais-Peroba, (239) 533-8782, ADArequests@leegov.com or Florida Relay Service 711. Accommodation will be provided at no cost to the requestor. Requests should be made at least five business days in advance.

**NOTICE OF PROPOSED AMENDMENT TO THE
LEE COUNTY COMPREHENSIVE LAND USE PLAN
(ADOPTION HEARING)**

The Lee County Board of County Commissioners will hold a public hearing to consider the adoption of a proposed amendment to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, November 6, 2024. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers, 2120 Main Street in Downtown Fort Myers.

The Board proposes to adopt an ordinance amending the Lee Plan as follows:

CPA2023-00010 BSR 40 - Amend Lee Plan Map 1-A, Future Land Use Map, to redesignate the +38.51 acre property from Open Lands and Wetlands to Central Urban and Wetlands future land use categories, and update Table 1(b), Year 2045 Allocations, to accommodate development within the Central Urban future land use category in the Burnt Store Planning District. The property is located on the east side of Burnt Store Road, east of the Cape Coral City Limits, and approximately one mile south of the Charlotte County boundary.

Copies of this Notice and the proposed ordinance are available for inspection or copying during regular business hours at the Minutes Office of the Clerk of Courts of Lee County, located in the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida. This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

Lee County will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income or family status. To request language interpretation, document translation or an ADA-qualified reasonable modification at no charge to the requestor, contact Raphaela Morais-Peroba, (239) 533-8782, Florida Relay Service 711, at least five business days in advance. El Condado de Lee brindará servicios de traducción sin cargo a personas con el idioma limitado del inglés.

**NOTICE OF PROPOSED AMENDMENT TO THE
LEE COUNTY COMPREHENSIVE LAND USE PLAN
(TRANSMITTAL HEARING)**

The Lee County Board of County Commissioners will hold a public hearing to consider proposed amendments to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, November 6, 2024. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers, 2120 Main Street in Downtown Fort Myers. At the hearing, the Board will consider the proposed amendments for transmittal to the Florida Department of Commerce:

CPA2023-00012 Babcock Lee Text Amendment - Amend Lee Plan Policies 1.1.15, 29.9.1, and 29.9.2 relating to the New Community future land use category and Note 19 of Table 1(a), Summary of Residential Densities, to increase the residential density for the approximately 4,157-acre portion of Babcock Ranch in Lee County from 1 unit per 2.5 acres with a maximum of 1,630 units to 1 unit per 1.9 acres with a maximum of 2,078 units and reduce the nonresidential intensity from 600 hotel rooms to 250 hotel rooms. The subject site is generally located east of State Road 31 and north of North River Road.

This transmittal hearing is the first step in a two-step public hearing process to amend the Lee Plan. A second hearing will follow the Department of Commerce's review of the application.

Documentation for the Proposed Comprehensive Plan Amendment is available at <https://www.leegov.com/dcd/planning/cpa> or at the Department of Community Development located at 1500 Monroe Street, Fort Myers, Florida. This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

It is the intent of the Board of County Commissioners that the provisions of this Comprehensive Plan Amendment may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

Lee County will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income or family status. To request language interpretation, document translation or an ADA-qualified reasonable modification at no charge to the requestor, contact Raphaela Morais-Peroba, (239) 533-8782, Florida Relay Service 711, at least five business days in advance. El Condado de Lee brindará servicios de traducción sin cargo a personas con el idioma limitado del inglés.

DCI2023-00049
ROYAL PALM
MULTIFAMILY RPD

Staff Summary

CASE NUMBER & NAME: DCI2023-00049 / Royal Palm Multifamily RPD

REQUEST: Request to rezone 19.33 +/- acres from Mobile Home Conservation Residential District (MHC-2) to Residential Planned Development (RPD) to allow 391 multifamily dwelling units with amenities, including 136 units of bonus density.

RESOLUTION NUMBER: Z-24-023

LOCATION: SW corner of Old Gladiolus Drive and US 41, South Fort Myers Planning Community, Lee County, FL

OWNER: Royal Palm Village Condominium Association, Inc.

APPLICANT: Flourney Development Group

AGENT: Fred Drovdlc, AICP
RVI Planning and Landscape Architecture
1514 Broadway, Suite 201
Fort Myers, FL 33901

HEARING EXAMINER RECOMMENDATION: Approve, subject to conditions and deviations set forth in Exhibit B.

PARTICIPANTS (9):
1. Janet Bley
2. Robyn Campbell
3. Gregory Dudek
4. Thomas Estrella
5. Eric Farmer
6. Tim Kendall
7. Tom Lowen
8. Rod Pickett
9. Zachary Shankle

Summary of Hearing Examiner Recommendation

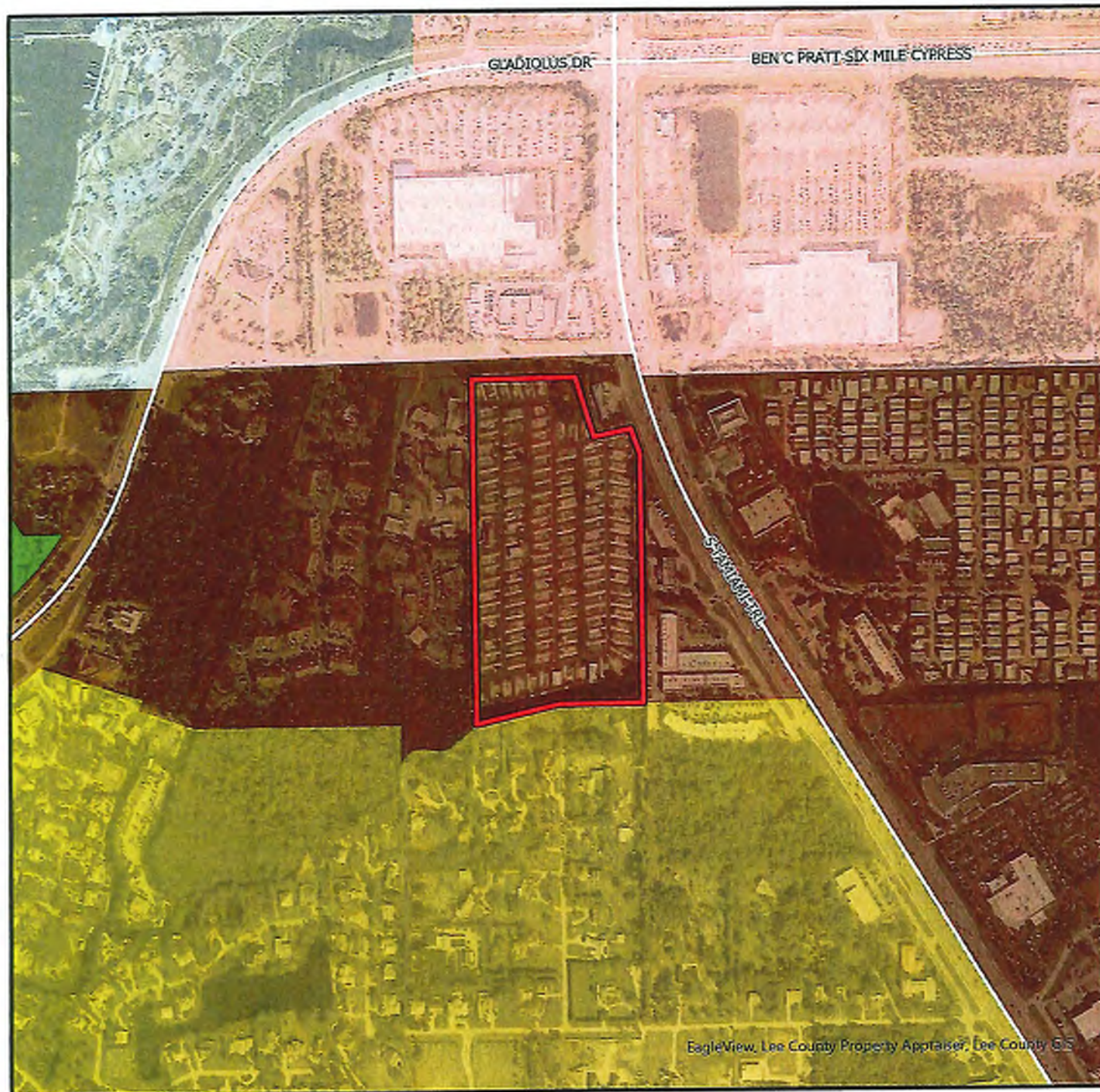
ROYAL PALM MULTIFAMILY RPD

The request seeks to revitalize a mobile home park ravaged by Hurricane Ian. Applicant proposes to construct a multi-family community utilizing bonus density for site-built affordable housing. The property is in the Coastal High Hazard Area and must comply with site-specific development standards.

A recent Lee Plan amendment redesignated the property to Intensive Development. Proposed density, inclusive of bonus units, remains within the permissible range.

Several members of the public spoke at hearing, divided evenly between opposition and support of the request.

Detailed recommendation follows



DCI2023-00049

Future Land Use

- Subject Property
- Intensive Development
- Central Urban
- Suburban
- Public Facilities
- Conservation Lands - Upland



0 500 1,000
Feet

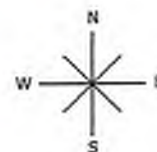




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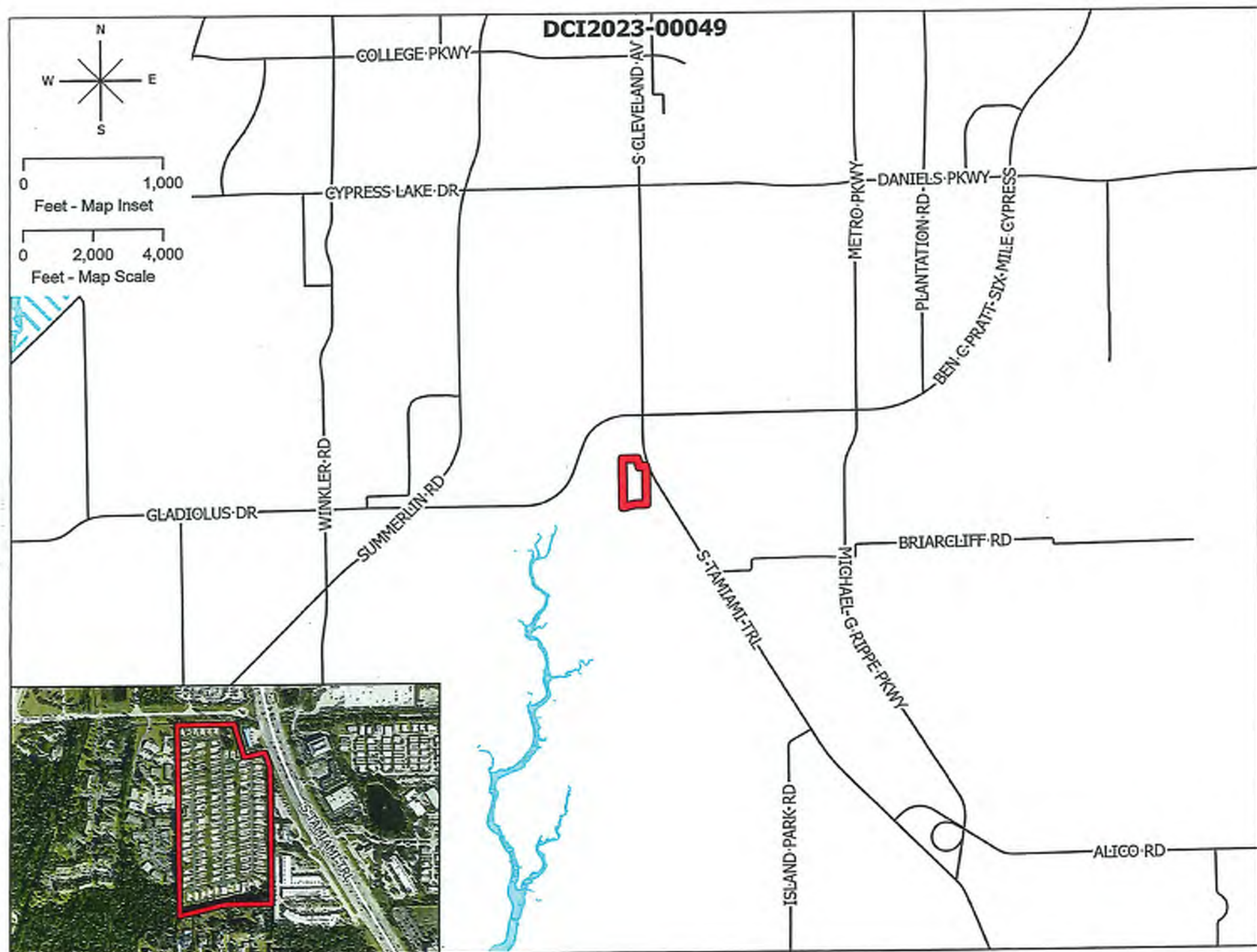
Aerial

 Subject Property



0 500 1,000
Feet





OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2023-00049

Regarding: ROYAL PALM MULTIFAMILY RPD

Location: 15180 Meadow Circle
South Fort Myers Planning Community
(District 3)

Hearing Date: August 29, 2024
Record Closed: **August 30, 2024**

I. **Request**

Rezone 19.33± acres from Mobile Home (MHC-2) to Residential Planned Development (RPD) to allow a maximum of 391 multi-family units, 60 feet in height. Requested density includes 136 bonus units.

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

II. **Hearing Examiner Recommendation**

Approval, subject to the conditions and deviations set forth in Exhibit B.

III. **Discussion**

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.¹ In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone 19.33± acres to RPD.

In preparing a recommendation for the Board, Hearing Examiner must apply the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other County regulations to the facts presented. There must be competent substantial evidence in the record to support the recommendation to the Board.

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

¹ LDC §34-145(d)(4)a.

DCI2023-00049

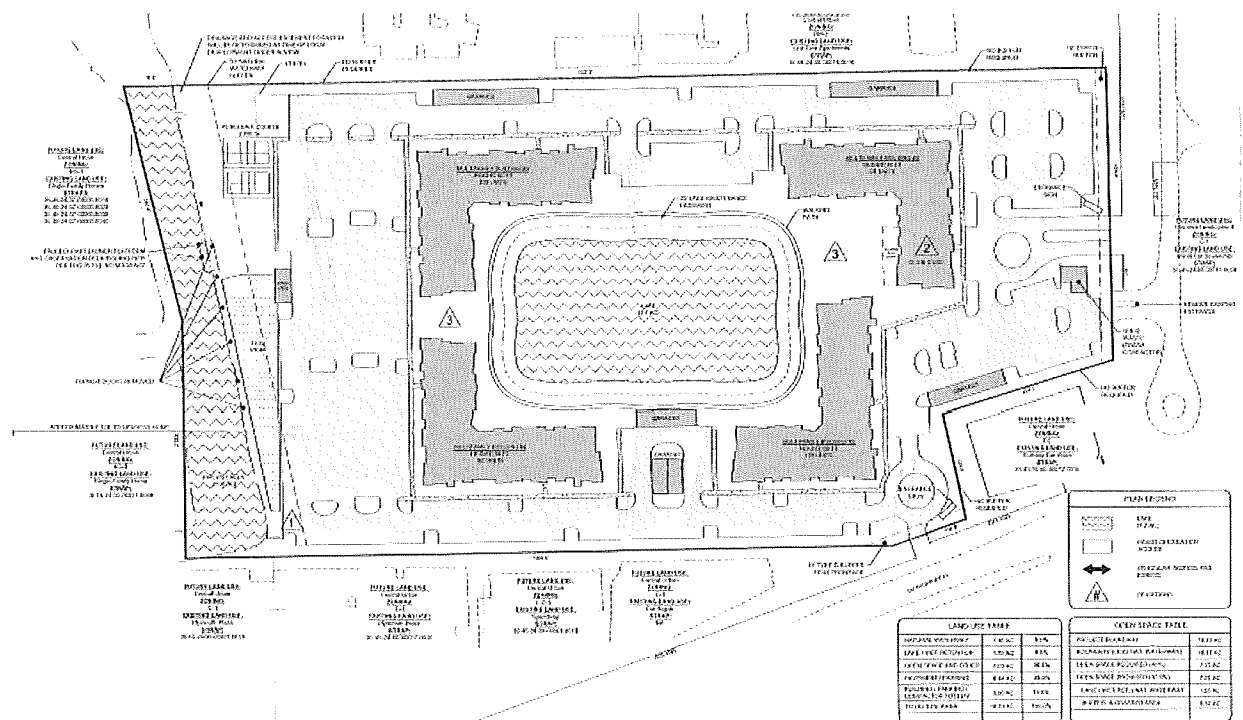
Request

The property is west of US 41, south of Old Gladiolus Drive. The site is uniquely positioned between intense commercial and residential uses. A mobile home park historically occupied the site, but was destroyed by Hurricane Ian.

The request seeks approval of a residential development consisting of 391 multi-family dwelling units.² Applicant proposes to develop 136 affordable housing units utilizing the bonus density program. Site design includes four residential buildings with a clubhouse, garages, lake, dog park, pickleball courts, open space, and parking. Buildings are centralized around the lake to maximize buffers from adjacent residents. Maximum building heights will be 60 feet.

The Board approved a Lee Plan map amendment designating the property as Intensive Development on August 7, 2024.³

Staff recommended approval, finding the proposed RPD satisfies review criteria in the LDC and Lee Plan.



² Base density is 255 units with up to 136 bonus units.

³ See Staff Report (pg. 1, referencing CPA2023-00011, Attachment D). The property was previously in the Central Urban future land use category.

DCI2023-00049

Zoning Review Criteria

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

- A. Complies with the Lee Plan;
- B. Meets the LDC and other applicable County regulations, or qualifies for deviations;
- C. Is compatible with existing and planned uses in the surrounding area;
- D. Provides access sufficient to support the proposed development intensity;
- E. The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- F. Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- G. Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.⁴

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

- H. The proposed use is appropriate at the proposed location;
- I. Recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and
- J. Each requested deviation (1) enhances the achievement of the objectives of the planned development, and (2) protects public health, safety, and welfare.⁵

⁴ See LDC §34-145(d)(4)(a)(1).

⁵ See LDC §34-145(d)(4)(a)(2).

DCI2023-00049

History of the Site

The Royal Palm Village mobile home community occupied the site from 1982 until Hurricane Ian struck in 2022.⁶ The property supported 130 mobile homes on individually owned lots governed by a Declaration of Condominium.⁷ The owners voted to dissolve the condominium following destruction caused by the hurricane.⁸ The site is mostly vacant, with some remnants of development.⁹

Character of Surrounding Area

The site fronts Old Gladiolus Drive and US 41. Intense commercial uses line the US 41 corridor. The Gladiolus Drive/US 41 intersection is among the busiest in the county and sits just north of the site. Commercial retail centers including a Lowe's hardware store, auto dealership, car wash, auto repair shop, gas station, and Walmart Plaza with fast food outparcels are to the north and east.

Phillips Creek adjoins to the south, separating the property from a large lot residential neighborhood.¹⁰ The Lost Tree Village and Pine Meadows multifamily communities abut to the west.¹¹

The requested RPD infills a heavily developed area, promoting contiguous and compact growth patterns consistent with the Lee Plan.¹²

Lee Plan Consistency

Planned developments must be consistent with the Lee Plan.¹³

The Lee Plan Future Land Use Map classifies the property as Intensive Development in the South Fort Myers Planning District.¹⁴ The Intensive Development land use category permits high levels of development. Permissible density ranges from 8 to 22 dwellings per acre but may be as high as 30 units per acre under certain circumstances.¹⁵ Intensive Development areas are suited to accommodate high densities.¹⁶

⁶ See Staff Report (pg. 1-2).

⁷ *Id*; See also Attachment F.

⁸ See Staff Report (pg. 2).

⁹ The Hearing Examiner conducted a site visit on August 28, 2024.

¹⁰ See Staff Report (pg. 2-3). The RS-1 lots to the south consist of ½ acre to ¾ acre lots in the Phillips Creek Subdivision Plat (Staff Report Attachment G).

¹¹ Lands to the west are zoned RM-2 and have been developed with single-story and two-story residential buildings. See Staff Report (pg. 3).

¹² Lee Plan Objectives 2.1 and 2.2.

¹³ Lee Plan Policy 2.1.2; LDC §34-411(a).

¹⁴ Lee Plan Maps 1-A, 1-B, Policy 1.1.2.

¹⁵ Maximum density is 22 units per acre. Developers may increase maximum density to 30 dwellings per acre when utilizing Greater Pine Island Transfer of Development Units. Lee Plan Policy 1.1.2.

¹⁶ Lee Plan Policy 1.1.2.

DCI2023-00049

The proposed density of 21 units per acre falls within the permissible range. Applicant seeks 136 units through the affordable housing bonus density program.¹⁷ The RPD will utilize site-built affordable housing consistent with Lee Plan directives for properties within the Coastal High Hazard Area.¹⁸ Providing a diversity of housing types while meeting the community's affordable housing needs satisfies various Lee Plan directives.¹⁹

Requests for bonus density must demonstrate compliance with supplemental requirements set forth in the LDC.²⁰ Applicants must show:

1. Additional traffic will not be required to travel through areas with significantly lower densities before reaching the nearest collector/arterial road;
2. Existing and committed public facilities are not so overwhelmed that a density increase would be contrary to the overall public interest;
3. Storm shelters are provided if the development is located within the coastal high hazard area; and
4. The resulting development will be compatible with existing and planned surrounding land uses.

Traffic

The property has an existing access to Old Gladiolus Drive, a county-maintained local road.²¹ Old Gladiolus Drive intersects with Gladiolus Drive, a state-maintained arterial road. Site design envisions adding a right-in/right-out access on US 41, a state-maintained arterial road. The Florida Department of Transportation (FDOT) is reviewing Applicant's permit application seeking US 41 access.²²

Project traffic will directly access an arterial road in satisfaction of the review criteria.²³

Public Facilities

The record reflects existing and committed public facilities will not be so overwhelmed that a density increase would be contrary to the public interest.²⁴

¹⁷ Applicant also indicated it may utilize gray water legislation to achieve additional density. See Applicant Ex. 1 (slide 13); Drovdlc Testimony (Transcript pg. 18-19).

¹⁸ Lee Plan Policies 101.3.6, 101.3.7; Drovdlc Testimony (Transcript pg. 50-51).

¹⁹ See Lee Plan Goal 135, Objective 135.1, Policy 135.1.1, 135.1.4, 135.1.9, 135.1.14, 135.4.14.

²⁰ LDC §2-146(b).

²¹ Applicant proposes to relocate the access farther west and gate it to restrict use to residents and guests.

²² Drovdlc and Treesh Testimony (Transcript pgs. 33-35, 43-45).

²³ Mr. Treesh testified FDOT permitting was underway with no indication that the US 41 access would not be approved. *Id.* at 45. Ms. Workman elaborated traffic on Old Gladiolus passes medical office, commercial, and multi-family uses before reaching Gladiolus Drive, the next arterial road. *Id.* at 76.

²⁴ See Staff Report (pg. 4, Attachment G & I).

DCI2023-00049

Sufficient road capacity accommodates projected trip generation.²⁵ Applicant provided a Traffic Impact Statement (TIS) and letters of availability from service providers to demonstrate compliance with this criterion.²⁶

Storm Mitigation

The property is located within the Coastal High Hazard Area.²⁷ Applicant prepared a Coastal High Hazard/Hurricane Risk Assessment Report analyzing the flooding/storm surge risks, FEMA flood elevation designation, and how site design improves resiliency.²⁸ Applicant's expert pointed to significant safety benefits afforded by construction standards applicable to new development.²⁹

Compatibility

The LDC defines *compatible* to mean the state wherein two land uses/buildings/structures/zoning districts exhibit either: (1) a positive relationship based on fit, similarity or reciprocity of characteristics; or (2) a neutral relationship based on a relative lack of conflict or on a failure to communicate negative/harmful influences on one another.³⁰

A multi-family residential use is compatible with existing development patterns. Multi-family development is generally accepted as an appropriate transition between lower density residential and nonresidential land uses along arterial road networks. The proposed RPD serves as a transition from the single-family neighborhood to the south to commercial uses along US 41/Old Gladiolus Drive.

The proposed site plan considers neighboring uses and buffers adjacent residents by:

- Increasing setbacks from prior mobile home placement.³¹
- Clustering development as far north as possible to distance site activity from existing residences.³²

²⁵ See Staff Report (Attachment E: TIS prepared by TR Transportation Consultants, dated Dec. 6, 2023).

²⁶ See Staff Report (Attachment E, H). Applicant obtained letters from the Lee County Sheriff, South Trail Fire Control and Rescue District, Lee County School District, Lee County Utilities, Public Safety, Parks & Recreation, and Lee County Solid Waste.

²⁷ Lee Plan Map 5-A.

²⁸ See Staff Report (pg. 9, Attachment E); Fountain Testimony (Transcript pg. 37-42); Applicant Ex. 1 (slide 25-28).

²⁹ Ms. Fountain elaborated that mobile home residents evacuate at higher rates than apartment dwellers, further aiding regional evacuation efforts. Other safety benefits include strict construction standards imposed by FEMA, state, and local regulations. Fountain and Workman Testimony (Transcript pg. 37-42, 66-68).

³⁰ LDC §34-2.

³¹ Drovdlc Testimony (Transcript pg. 23-24).

³² The nearest residence is 400-550 feet away from project buildings. The MCP reflects 170 feet separates the parking areas from the nearest residence. Drovdlc Testimony (Transcript pg. 24, 58).

DCI2023-00049

- Restricting access on Old Gladiolus Drive to residents/guests to prohibit cross-through traffic.³³
- Enhancing buffers, including a 50-foot waterway buffer to separate the RPD from southern neighbors.³⁴
- Locating garages along the western boundary to minimize off-site impacts to western neighbors.³⁵
- Replacing six existing docks in Philips Creek with one unified observation deck/paddlecraft launch constructed consistent with LDC requirements.³⁶
- Improving water quality and implementing shoreline stabilization of Philips Creek.³⁷
- Prohibiting lighting and limiting hours for the dog park and pickleball courts.

Applicant provided sufficient evidence to satisfy each of the requisite criteria to support participation in the bonus density program.

Transportation

Planned developments must have access to roads with sufficient capacity to support proposed intensity.³⁸ Existing regulations or conditions of approval must address expected impacts on transportation facilities.³⁹

The site plan reflects direct access to US 41.⁴⁰ A second access is located on Old Gladiolus Drive with indirect access to Gladiolus Drive.⁴¹ FDOT governs connections to US 41 and is reviewing the proposed right-in/right-out access.⁴²

Access will be gated to prevent passthrough traffic.⁴³ Project accesses have a circular design to facilitate traffic flow.⁴⁴ Ultimate traffic circulation design will be determined during development order review.

The record supports a finding that there is sufficient access to support the proposed development.⁴⁵

³³ Treesh Testimony (Transcript pg. 44-45).

³⁴ Applicant provided Line-of-Sight exhibits at hearing. Applicant Ex. 1 (slide 18). Deviation 1 grants a slight reduction for parking areas in the southeast.

³⁵ Garages are lower impact activity centers than the multi-family buildings clustered around the internal lake.

³⁶ See MCP; Drovdlc Testimony (Transcript pg. 25-26).

³⁷ Lee Plan Objective 101.4.

³⁸ LDC §34-145(d)(4)(a)(1)(d); §34-411(d)(1).

³⁹ LDC §34-145(d)(4)(a)(1)(e); §34-411(d)(2).

⁴⁰ US 41 at this location is a six-lane divided arterial road. Applicant proposes a right-in/right-out to US 41. See Staff Report (Attachment J).

⁴¹ Old Gladiolus Drive is a county-maintained road that connects to Gladiolus Drive, a county-maintained arterial road. See Staff Report (pg. 9, Attachment J).

⁴² See *Id.*; Drovdlc and Treesh Testimony (Transcript pg. 33-35, 43-47).

⁴³ Drovdlc and Treesh Testimony (Transcript pg. 15, 44).

⁴⁴ Drovdlc Testimony (Transcript pg. 55-57).

⁴⁵ Treesh Testimony (Transcript pg. 43-47); See Staff Report (Attachment E, J); Applicant Ex. 1 (slide 29).

DCI2023-00049

The Traffic Impact Statement (TIS) demonstrates area roadways will operate at acceptable levels of service at buildout.⁴⁶ The report concluded the request does not significantly impact affected roads.⁴⁷

Site-related improvements will be evaluated during local development order review.⁴⁸

Environmental

Rezoning requests cannot adversely affect environmentally critical or sensitive areas and natural resources.⁴⁹

Applicant meets open space requirements on upland areas.⁵⁰ The request includes an open space deviation due to calculations involving Philips Creek acreage in the property boundary.⁵¹

Philips Creek is a natural waterbody that conveys offsite flows from the east side of US 41 to Hendry Creek and the Estero Bay Aquatic Preserve.⁵² Applicant will preserve the existing flow way consistent with Lee Plan directives.⁵³

The surface water management system will be directed to onsite attenuation areas prior to discharging into Phillips Creek.⁵⁴ The Florida Department of Environmental Protection (FDEP) identifies the Creek as an impaired waterbody.⁵⁵ Accordingly, Applicant must abide by the Surface Water Quality Monitoring Plan to ensure maximum daily loads are not exceeded and that the request does not degrade water quality.⁵⁶

There are no protected species or wetlands on site.⁵⁷

⁴⁶ See Staff Report (Attachment E: TIS prepared by TR Transportation Consultants, dated Dec. 6, 2023), (Attachment J).

⁴⁷ Mr. Treesh explained County regulations define "significant impacts" as project trips exceeding 10% of LOS C on affected roadways. Transcript at 42. Ms. Workman echoed the LOS remains the same with/without project traffic. *Id.* at 68.

⁴⁸ Applicant must address site related improvements, including turn lanes, if warranted during the development order process. Lee Plan Objective 39.1, Policy 39.1.1, LDC §10-287.

⁴⁹ See LDC §34-145(d)(4)a1(e).

⁵⁰ LDC §10-415(a) requires 40% open space based on total land area. Philips Creek occupies 1.16 acres, prompting Applicant to seek a deviation in recognition of this constraint. The MCP reflects 36.4% open space including the Philips Creek acreage.

⁵¹ See *Id.* Condition 1 incorporates the Open Space Plan into the RPD zoning resolution.

⁵² See Staff Report (Attachment I); Fountain Testimony (Transcript pg. 53-55).

⁵³ Lee Plan 60.4.3, 126.1.4.

⁵⁴ See Staff Report (Attachment E, I); Fountain and Workman Testimony (Transcript pg. 53-55, 72-73, 133-136).

⁵⁵ See Staff Report (Attachment I).

⁵⁶ Condition 6.

⁵⁷ *Id.*

DCI2023-00049

Public Services

The Lee Plan requires the availability of urban services be evaluated during the rezoning process. Public services are the services, facilities, capital improvements, and infrastructure necessary to support development.⁵⁸

A broad range of services and infrastructure serve the site.⁵⁹ Services include public water and sewer, solid waste collection, schools, libraries, medical facilities, law enforcement, fire, and emergency medical services.⁶⁰

Shopping, recreation, and employment centers are in proximity. Transit stops are within walking distance, as well as bicycle and pedestrian facilities.⁶¹

Development will be subject to road, park, school, fire, and EMS impact fees.⁶²

Public Participation

Applicant conducted a public information meeting, not required by the LDC.⁶³

There was significant public participation at hearing, with speakers both in support and opposition of the request.⁶⁴ Speakers in opposition reside south and west of the site. Concerns focused on flooding, traffic, impact on property values, noise, and compatibility. Rebuttal testimony addressed concerns, resulting in additional conditions prepared by the parties to protect residents from development impacts.⁶⁵

Conditions

The County must administer the zoning process so that proposed land uses acceptably minimize adverse impacts to adjacent residential properties.⁶⁶

⁵⁸ Lee Plan Glossary definition of public services.

⁵⁹ Applicant Ex. 1 (slide 11); Staff Report (Attachment H).

⁶⁰ South Trail Fire Station #63, EMS Station #35 and Medic #8 provide emergency services to the site. Law Enforcement will be supplied by Lee County Sheriff's offices. Each provider submitted letters confirming capacity to serve the proposed development. Lee County provided letters of availability for potable water and sanitary sewer. See Staff Report (pg. 3, Attachment H); Lee Plan Maps 4-A, 4-B.

⁶¹ See Staff Report (pg. 4); Lee Plan Maps 3-D, 4-E; LDC §10-256. Shared use paths are on US 41 and Gladiolus Drive. A bicycle path is also on US 41. LeeTran has a stop within easy walking distance. Drovdlc Testimony (Transcript pg. 16-17, referencing Routes 240 and 140).

⁶² LDC §§2-261 *et seq.*, §§2-301 *et seq.*, §§2-341 *et seq.*, §§2-381 *et seq.*

⁶³ See Staff Report (pg. 1, Attachment E), Applicant Ex. 1 (slide 7). The meeting was held on December 6, 2023. The Staff Report contains a meeting summary, notice of the meeting sent to affected neighbors, and an aerial map. See *Id.* Strayhorn Testimony (Transcript pg. 10-11).

⁶⁴ Public Testimony (Transcript pg. 80-119). Staff also submitted a letter of objection from the Parkside Place community at hearing. See Staff Ex. 5; Workman Testimony (Transcript pg. 79-80).

⁶⁵ Rebuttal Testimony (Transcript pg.120-139); Applicant Ex. 2: Post-Hearing Written Submissions (dated August 30, 2024).

⁶⁶ Lee Plan Policy 135.9.6.

DCI2023-00049

Accordingly, the proposed RPD will be subject to conditions of approval. Conditions must plausibly relate to impacts anticipated from the development and be pertinent to mitigating impacts on public health, safety, and welfare.⁶⁷

Staff and the Applicant provided additional conditions after hearing public comment to address concerns related to off-site impacts. Specifically, the parties agreed to limit height to four stories; prohibit lighting of amenity areas including the dog park and pickleball courts; restrict operation of amenity areas to dusk/dawn; and require gated access to limit passthrough traffic. These are in addition to conditions governing site development parameters, permitted uses, water quality monitoring, and enhanced buffer plantings.

Deviations

The proposed RPD includes three deviation requests. "Deviations" are departures from the land development regulations.⁶⁸

The Hearing Examiner's standard of review for deviations requires a finding that each deviation:

1. Enhances objectives of the planned development; and
2. Protects public health, safety, and welfare.⁶⁹

The requested deviations pertain to buffers, open space, and parking.⁷⁰ Staff found two deviations met LDC criteria for approval, but recommended denial of the parking deviation.⁷¹

The Hearing Examiner agrees with staff's recommendations finding the open space and buffer deviations, as conditioned, enhance the RPD and protect public health, safety, and welfare.⁷² The Hearing Examiner further agrees with staff's recommended denial of the parking deviation. There is not sufficient evidence in the record to support a finding that reducing parking protects public health, safety, and welfare.⁷³

⁶⁷ LDC §34-932(b).

⁶⁸ LDC §34-2.

⁶⁹ LDC §34-377(a)(4).

⁷⁰ Applicant seeks deviations from LDC §10-416(d)(9), 34-2020, and 10-415(a).

⁷¹ See Staff Report (pg. 4); Drovdlc and Workman Testimony (Transcript pgs. 27-31, 73-76).

⁷² LDC §34-373(a)(9), §34-377(a)(4).

⁷³ Applicant provided ample testimony and argument as to why the parking standard should be lower for clubhouses under certain circumstances but did not submit a parking study. There is no evidence to suggest that granting the requested deviation protects public health, safety, or welfare. Absent LDC amendment to lower clubhouse parking standards, the Hearing Examiner cannot make the requisite finding to support approval of Deviation 2.

DCI2023-00049

Conclusion

In conclusion, the Hearing Examiner recommends approval of the requested RPD, subject to the conditions set forth in Exhibit B.

IV. Findings and Conclusions

Based on record testimony and evidence, the Hearing Examiner makes the following findings and conclusions:

As conditioned, the Royal Palm RPD:

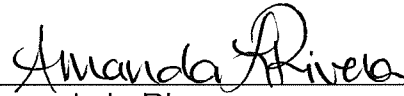
- A. Complies with the Lee Plan. Lee Plan Goals 2, 4, 5, 135; Objectives 2.1, 2.2, 4.1, 5.1, 60.4, 77.1, 77.3, 135.1; Policies 1.1.2, 1.6.5, 2.1.2, 2.2.1, 4.1.1, 4.1.2, 4.1.4, 5.1.2, 5.1.3, 5.1.5, 5.1.6, 5.1.7, 5.1.8, 60.4.1, 61.3.6, 61.3.11, 61.4.4, 101.1.1, 101.3.2, 101.3.7, 135.1.9, 135.1.14, 135.9.5, 135.9.6, 160.1.3; Lee Plan Maps 1-A, 1-B, 3-D, and 5-A.
- B. Complies with the Land Development Code and other County regulations or qualifies for deviations. LDC §§34-145(d), 34-341, 34-378, 34-411, 34-413, 34-491, 34-612(2), 34-932;
- C. Is compatible with existing and planned uses. Lee Plan Objectives 2.1, 2.2, Policies 5.1.5, 135.9.5, 135.9.6; LDC §34-411;
- D. Will provide sufficient access to support the proposed development. LDC §34-411(d).
- E. Expected impacts on transportation facilities will be addressed by the conditions of approval or County regulations. Lee Plan Policies 39.1.1; LDC §§ 2-261 *et seq.*, 10-287, 34-411;
- F. Will not adversely affect environmentally critical areas and natural resources. Lee Plan Goals 77, 125; Objectives 77.1, 77.3, 101.1.1, 101.3, 126.2; Policies 61.3.1, 61.3.6, 61.3.11, 125.1.2, 126.2.1, Standard 4.1.4; and LDC §34-411;
- G. Will be served by urban services. Lee Plan Glossary, Lee Plan Goals 2, 4, Objectives 2.1, 2.2, 4.1, and Standards 4.1.1 and 4.1.2; LDC §10-256, 34-411.
- H. The proposed mix of uses is appropriate at the proposed location. Lee Plan Goals 2, 5; Policies 2.1.1, 2.2.2, 5.1.2, 5.1.3, 5.1.5, 135.1.9, 135.9.6.
- I. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. Lee Plan Policies: 5.1.5, 5.1.6, 126.2.1 and 135.9.6; LDC §34-411, 34-932.

DCI2023-00049

F. As conditioned herein, the requested deviations:

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

Date of Recommendation: October 3, 2024.



Amanda L. Rivera
Deputy Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

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

DCI2023-00049

Exhibit A

LEGAL DESCRIPTION AND VICINITY MAP

ROYAL PALM VILLAGE

LEGAL DESCRIPTION

Exhibit A

A TRACT OR PARCEL OF LAND LYING IN THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, FURTHER DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 35; THENCE RUN SOUTH 89°09'08" WEST ALONG THE NORTH LINE OF THE NORTHEAST 1/4, OF SAID SECTION 35, A DISTANCE OF 253.82 FEET TO THE NORTHWESTERLY CORNER OF A PARCEL AS RECORDED IN OFFICIAL RECORDS BOOK 994, PAGE 648, PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED:

THENCE DEPARTING SAID NORTH LINE, RUN SOUTH 17°05'41" EAST, A DISTANCE OF 253.17 FEET; THENCE RUN NORTH 77°50'39" EAST, A DISTANCE OF 150.51 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF TAMiami TRAIL (AKA STATE ROAD 45, A VARIABLE WIDTH PUBLIC RIGHT-OF-WAY PER RIGHT-OF-WAY MAP PROJECT NUMBER 12010-2561), SAID POINT ALSO BEING ON A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 2932.79 FEET AND A CENTRAL ANGLE OF 02°07'24", SUBTENDED BY A CHORD WITH A BEARING OF SOUTH 19°53'27" EAST, 108.88 FEET; THENCE RUN ALONG SAID WESTERLY RIGHT-OF-WAY LINE AND SAID NON-TANGENT CURVE, AN ARC DISTANCE OF 108.69 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 35; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE AND CURVE, RUN SOUTH 00°51'31" EAST ALONG SAID EAST LINE, A DISTANCE OF 1009.27 FEET TO THE SOUTHEAST CORNER OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE DEPARTING SAID EAST LINE, RUN SOUTH 89°27'57" WEST ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35, A DISTANCE OF 332.25 FEET TO THE CENTERLINE OF PHILLIPS CREEK; THENCE DEPARTING SAID SOUTH LINE, RUN SOUTH 76°13'19" WEST, MEANDERING ALONG SAID CENTERLINE OF PHILLIPS CREEK, A DISTANCE OF 340.48 FEET TO THE INTERSECTION WITH THE WEST LINE OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4; THENCE DEPARTING SAID MEANDER LINE, RUN NORTH 00°56'37" WEST, A DISTANCE OF 78.00 FEET TO THE SOUTHWEST CORNER OF SAID EAST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 35; THENCE RUN NORTH 00°56'37" WEST, A DISTANCE OF 1321.92 FEET TO THE NORTHWEST CORNER OF SAID EAST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 35; THENCE RUN NORTH 89°09'08" EAST ALONG SAID NORTH LINE OF SECTION 35, A DISTANCE OF 412.33 FEET TO THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED PARCEL OF LAND LIES IN LEE COUNTY, FLORIDA, AND CONTAINS 19.324 ACRES, MORE OR LESS.

SURVEYOR'S NOTES

1. THIS LEGAL DESCRIPTION IS NOT VALID IF PRINTED, OR WITHOUT THE ORIGINAL SIGNATURE AND RAISED SEAL OF THE PROFESSIONAL SURVEYOR AND MAPPER SHOWN HEREON.
2. NO ABSTRACT FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD HAVE BEEN PROVIDED BY THIS FIRM.
3. THE "LEGAL DESCRIPTION" HEREON HAS BEEN PREPARED BY THE SURVEYOR AT THE CLIENT'S REQUEST.
4. THIS SKETCH DOES NOT REPRESENT A FIELD SURVEY, AS SUCH.
5. THE DELINEATION OF LANDS SHOWN HEREON IS AS PER THE CLIENT'S INSTRUCTIONS.
6. THIS LEGAL DESCRIPTION DOES NOT CONSTITUTE A BOUNDARY SURVEY, AS SUCH.
7. ATTENTION IS DIRECTED TO THE FACT THAT THIS MAP MAY HAVE BEEN REDUCED IN SIZE BY REPRODUCTION, THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.
8. BEARINGS SHOWN HEREON ARE ASSUMED, DERIVING A BEARING OF N89°09'08"E ALONG THE NORTH LINE OF SECTION 35, TOWNSHIP 45 SOUTH, RANGE 24 EAST, AS MEASURED.
9. NORTHINGS AND EASTINGS SHOWN HEREON ARE REFERENCED TO THE NORTH AMERICAN DATUM OF 1983 (NAD83), 2011 ADJUSTMENT, FLORIDA STATE PLANES, WEST ZONE.

LEGEND & SYMBOLS

POB = POINT OF BEGINNING
 POC = POINT OF COMMENCEMENT
 POT = POINT OF TERMINATION
 RAW = RIGHT-OF-WAY
 SEC = SECTION
 PID = PARCEL IDENTIFICATION
 PB = PLAT BOOK
 ORB = OFFICIAL RECORDS BOOK
 PG = PAGE
 SQ.FT. = SQUARE FEET
 AC = ACRES
 AKA = ALSO KNOWN AS
 (C) = CALCULATED DATA
 (D) = RECORDED DATA
 (M) = MEASURED DATA
 (N) = NORTHING
 (E) = EASTING

REVIEWED
 DCI/2023-00049
 Rick Burris, Principal
 Planner
 Lee County BCD/Planning
 7/25/2024

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT ALL PARTS OF THIS SKETCH HAVE BEEN COMPLETED IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR SURVEYING IN THE STATE OF FLORIDA, 5J-17, F.A.C., TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF. NOT VALID WITHOUT A SIGNATURE AND RAISED SEAL FROM THE SURVEYOR.

Digitally
 signed by
 Dalton Cross

Date:

2024.03.13

14:55:04

03/00

DALTON R. CROSS, P.S.M.
 FLORIDA LICENSE #7329



DATE 03/13/2024

THIS SKETCH HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, OR ORGANIZATIONS IDENTIFIED BELOW AND ITS CERTIFICATION IS NON-TRANSFERABLE. ANY COPY HEREOF, TO BE CONSIDERED VALID, MUST BE EMBOSSED WITH THE SEAL OF A REGISTERED SURVEYOR EMPLOYED BY THIS FIRM.

FLOURNOY DEVELOPMENT GROUP

THIS SKETCH IS NOT A SURVEY

SHEET	1	OF	3
DRW:	MC	CHK:	NW
SEC:	35	TWN:	45S
PLOT DATE:	03/13/2024		
FILE:	23001930 ROYAL PALM VILLAGE-SOD		



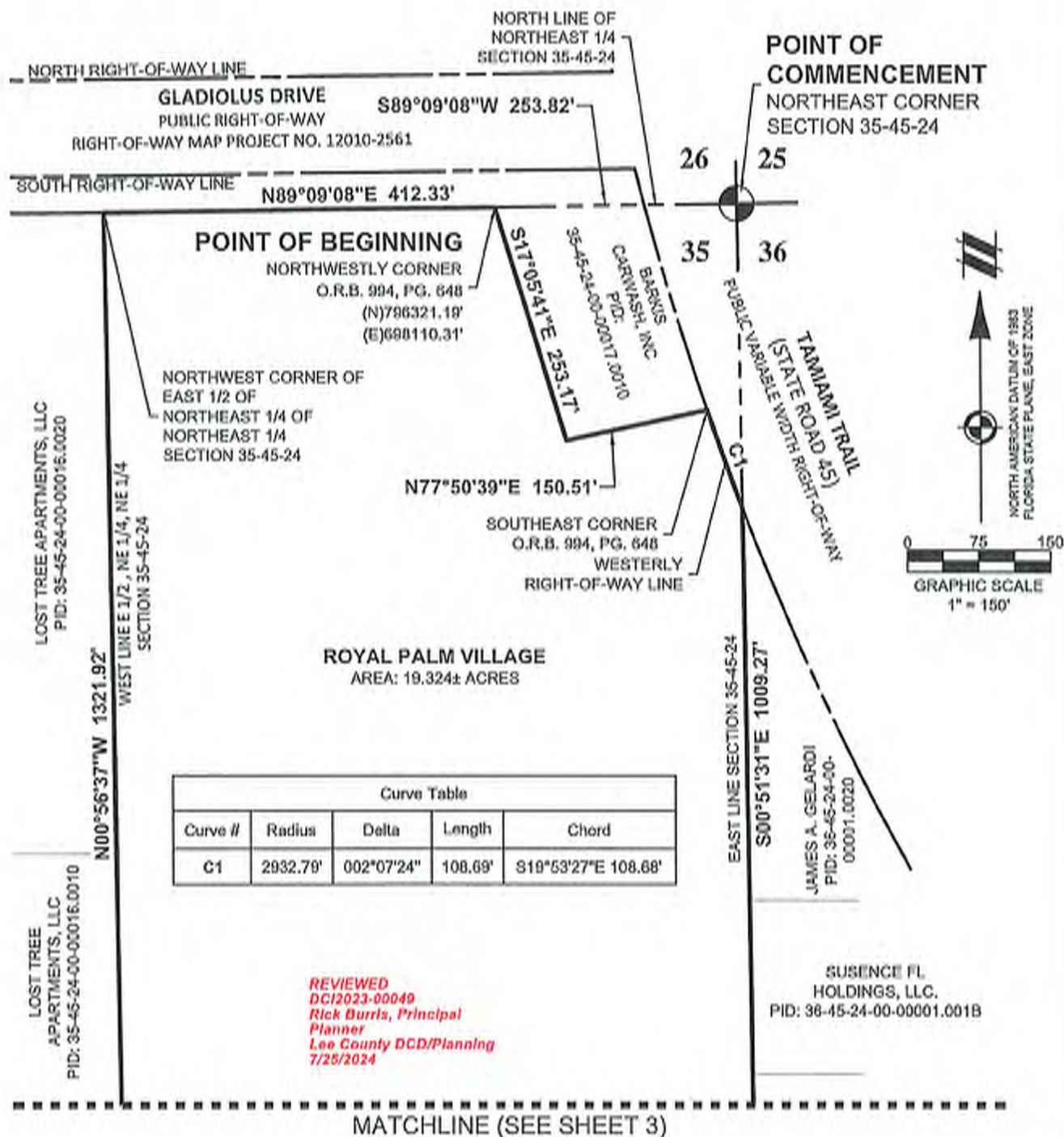
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ROYAL PALM VILLAGE

SKETCH OF LEGAL DESCRIPTION



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FLOURNOY DEVELOPMENT GROUP

THIS SKETCH IS NOT A SURVEY

SHEET	2	OF	3
DRW:	MC	CHK:	NW
SEC:	35	TWN:	45S
PLOT DATE:	03/13/2024	RNG:	24E
FILE:	23001930 ROYAL PALM VILLAGE-SOD		



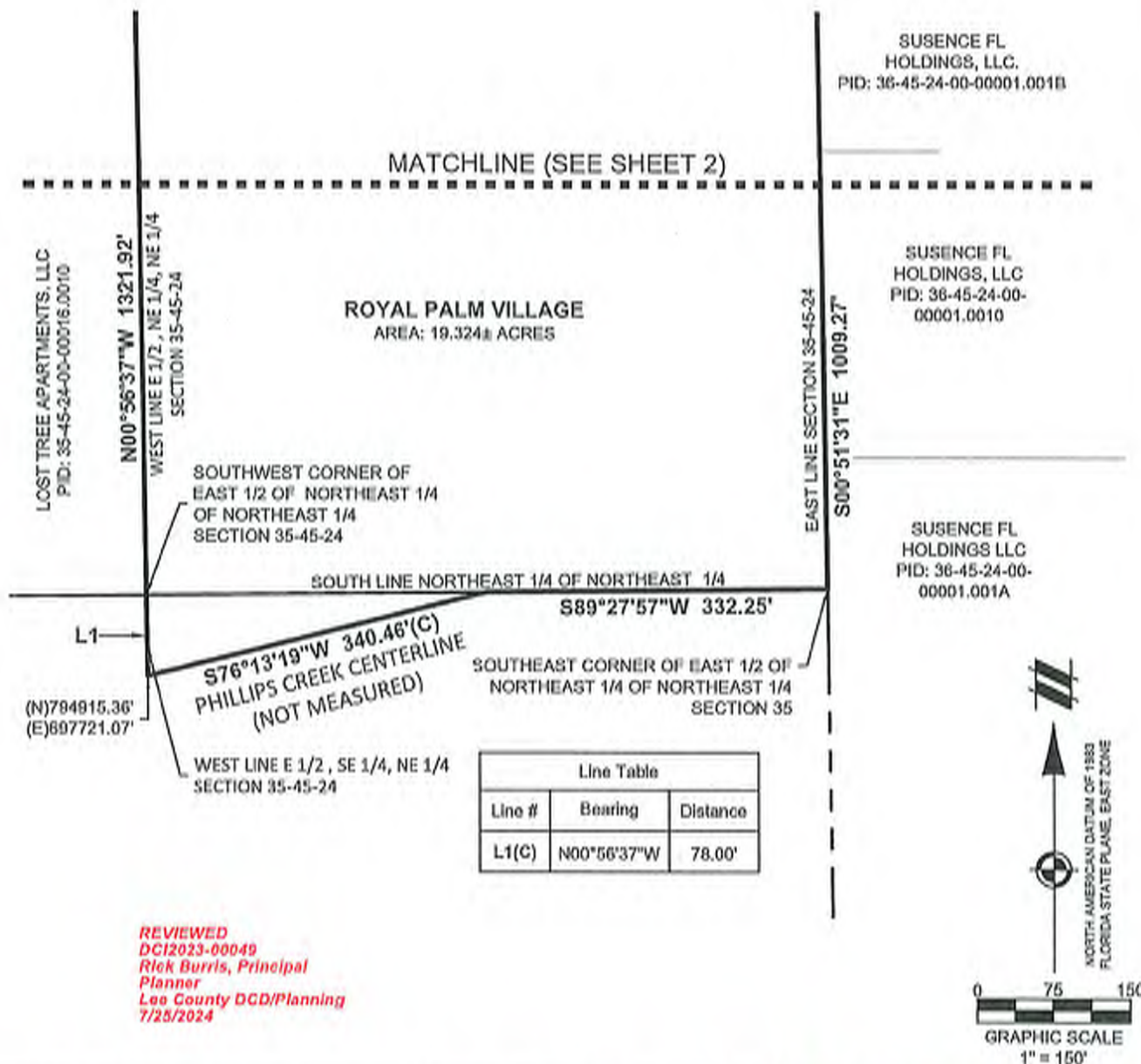
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ROYAL PALM VILLAGE

SKETCH OF LEGAL DESCRIPTION



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FLOURNOY DEVELOPMENT GROUP

THIS SKETCH IS NOT A SURVEY

SHEET 3 OF 3

DRW: MC CHK: NW PM: DC

SEC: 35 TWN: 45S RNG: 24E

PLOT DATE: 03/13/2024

FILE: 23001030 ROYAL PALM VILLAGE-800



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DCI2023-00049

Zoning

 Subject Property



0 500 1,000
Feet



Exhibit B**RECOMMENDED CONDITIONS AND DEVIATIONS**

As modified by the Hearing Examiner

CONDITIONS**1. Master Concept Plan (MCP)/Development Parameters**

- a. MCP. Development must be substantially consistent with the two-page MCP entitled "Royal Palm Multi-Family RPD," prepared by RVI Planning + Architecture, dated April 2, 2024, except as modified by conditions below (Exhibit B1).
- b. LDC and Lee Plan. Development must comply with the LDC and Lee Plan at time of development order approval, except where deviations are granted herein. Subsequent modifications to the MCP or conditions of approval may require further development approvals.
- c. Development Parameters. The RPD is limited to a maximum 391 dwelling units, including 136 bonus density units, and amenities. The maximum height permitted is four stories, or sixty (60) feet.

2. Uses and Site Development Regulations**a. Schedule of Uses**

Accessory Uses, Buildings, and Structures
Administrative Offices
Dwelling unit: Multi-family
Entrance gates and gatehouse
Essential services
Essential service facilities: Group I
Excavation:
 Water retention
 Fences, Walls
Recreation facilities:
 Personal
 Private on-site
Signs
Temporary Uses

DCI2023-00049

b. **Site Development Regulations**

General Parameters

Minimum Lot Coverage:	40 percent
Maximum Multi-family Building Height:	60 feet
Maximum Garage Building Height:	35 feet
Minimum Open Space:	40 percent
Minimum Lot Area:	19.33 acres

Building Setbacks

Street (Public):	20 feet
Front:	15 feet
Rear:	5 feet
Side:	0 feet
Minimum Building Separation:	20 feet
Natural Waterway:	50 feet
Waterbody:	20 feet

3. **Condominium Lots**

Developer must provide documentation from Lee County Property Appraiser's office demonstrating the condominium lots have been removed prior to development order issuance.

4. **Open Space**

Development order plans must calculate required open space based on 18.17 acres of developable land (less 1.16 acres for Philips Creek).

5. **Natural Waterway Buffer**

Development order plans must depict ten native trees, 50 shrubs, and 20 salt tolerant littoral grasses per 100 linear feet. Species must be native and meet LDC §10-420 specifications. Grasses must be salt tolerant.

6. **Water Quality Monitoring**

Developer must provide a Surface Water Quality Monitoring Plan for approval by the Lee County Division of Natural Resources. At a minimum, the Surface Water Monitoring Plan (the "Plan") must establish the following:

- a. The overall Goals and Objectives of the Plan.
- b. An 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. A baseline monitoring event that must be completed prior to commencement of construction.

DCI2023-00049

- 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 surface water quality standards, plots of parameters, and recommendations. After five years of meeting/exceeding State surface water quality monitoring standards, Developer may amend water quality monitoring and reporting after written request, review, and approval by the Division of Natural Resources. Results must be reported as an Electric Data Deliverable (EDD), in a format approved by the Division of Natural Resources.
 - e. A contingency plan in the event an exceedance of State Surface Water Quality Standards is discovered. The Plan must include notification to impacted residents and applicable authorities.
7. **Transportation**
- a. The US 41 access shown on the MCP is conceptual and subject to modification based upon final approval from the Florida Department of Transportation (FDOT).
 - b. Development is allowed a maximum calculated intensity for new trip generation utilizing the following development scenario based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual in effect at the time of local development order: 391 Dwelling Units of Multi-Family Housing Mid-Rise (LUC 221).
8. **Amenities**
- The dog park and pickleball courts will be open from dawn to dusk and will not be lighted.
9. **Gated Access**
- Vehicular entrance and exit points must be gated to restrict access to residents and their guests.
10. **Development Permits**
- County development permits do not create rights to obtain permits from state/federal agencies. Further, County development permits do not create liability on the part of the County if Applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or undertake actions in violation of state/federal law. Applicant must obtain applicable state/federal permits prior to commencing development.

DCI2023-00049

DEVIATIONS

1. **Waterway Buffer. Deviation (1)** seeks relief from LDC §10-416(d)(9), which requires developments abutting a natural waterway to provide a 50-foot-wide natural waterway buffer measured from mean high water or top of bank, whichever is further landward, within a common element/tract and containing six native canopy trees and 50 native shrubs per 100 linear feet, *to allow a 20-foot-wide buffer at the southeast corner where the parking encroaches into the 50-foot-wide buffer.*

HEX Recommendation: Approve, subject to Condition 5.

2. **Deviation (2)** seeks relief from Lee County Land Development Code (LDC) Section 34-2020, Table 7, which requires four parking spaces per 1,000 square feet for clubhouses and ancillary uses within a residential community without a golf course, *to allow the 10,000-square-foot clubhouse parking to be calculated at 2.5 spaces per 1,000 square feet of parking.*

HEX Recommendation: Deny.

3. **Open Space. Deviation (3)** seeks relief from LDC §10-415(a), which requires large residential developments to provide 40 percent open space based on the total area of the subject request, *to allow the open space calculation from the developable land area of 18.17 acres since 1.16 acres is within Philips Creek.*

HEX Recommendation: Approve, subject to Conditions 4 and 5.

Exhibits to Conditions:

B1 Master Concept Plan dated April 2, 2024

DCI2023-00049

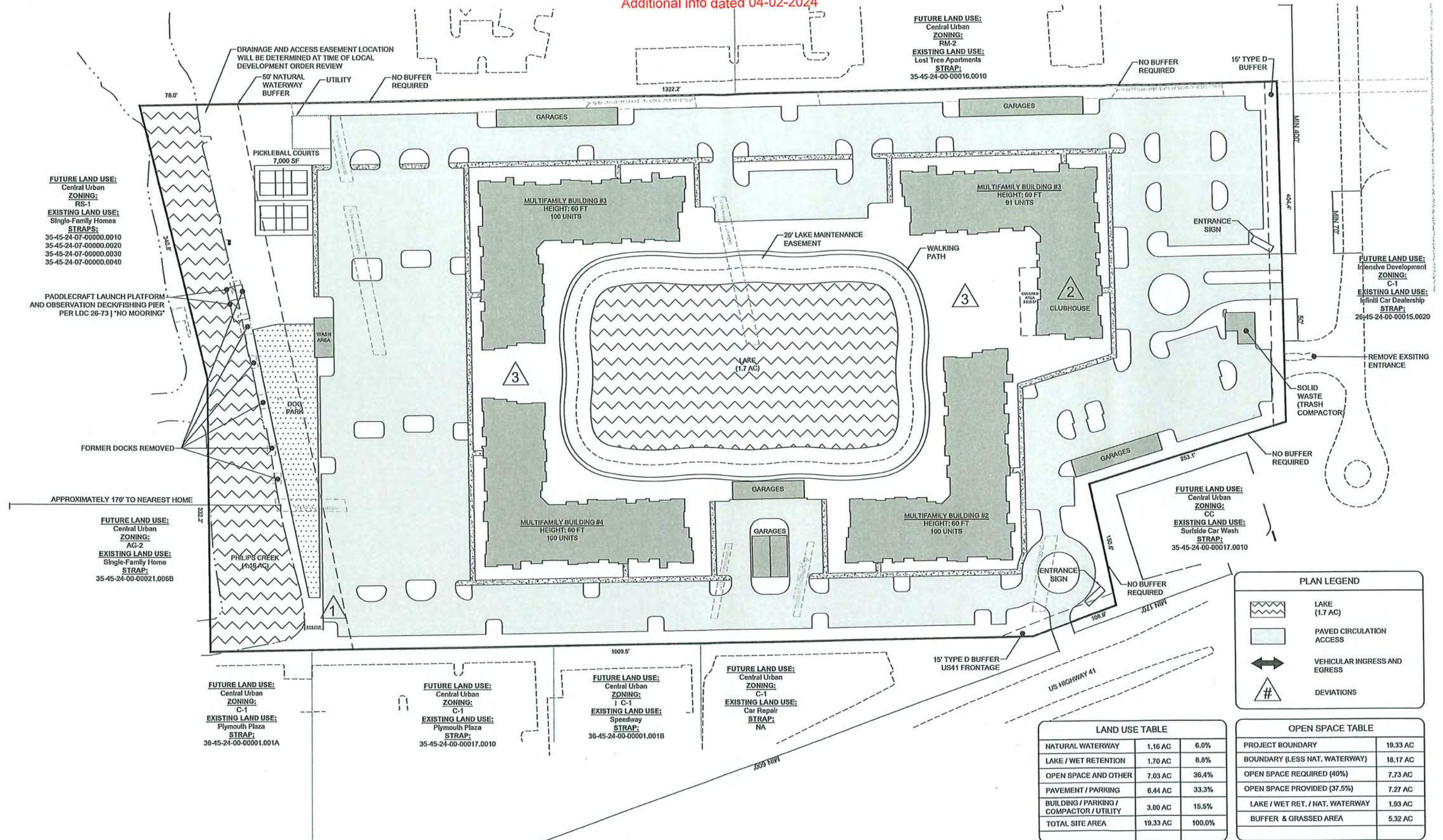
Exhibit C**EXHIBITS PRESENTED AT HEARING****STAFF EXHIBITS**

1. *DCD Staff Report with attachments for DCI:* Prepared by Elizabeth Workman, Principal Planner, date received August 13, 2024 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *Affidavit of Publication:* For case DCI2023-00049 Palms Multifamily RPD (1 page – 8.5"x11")
3. *Permit Plan:* Prepared by Atwell Group for Flournoy Development Group, Inc., dated July 12, 2024 (1 page – 11"x17")
4. *PowerPoint Presentation:* Prepared by Lee County Staff for DCI2023-00049, Royal Palm Multi-Family RPD, dated August 29, 2024 (multiple pages – 8.5"x11")[color]
5. *Letter:* From Sara Whitmer, President of Parkside Place Condominium Association, to Elizabeth Workman, received by Community Development August 28, 2024 (1 page – 8.5"x11")

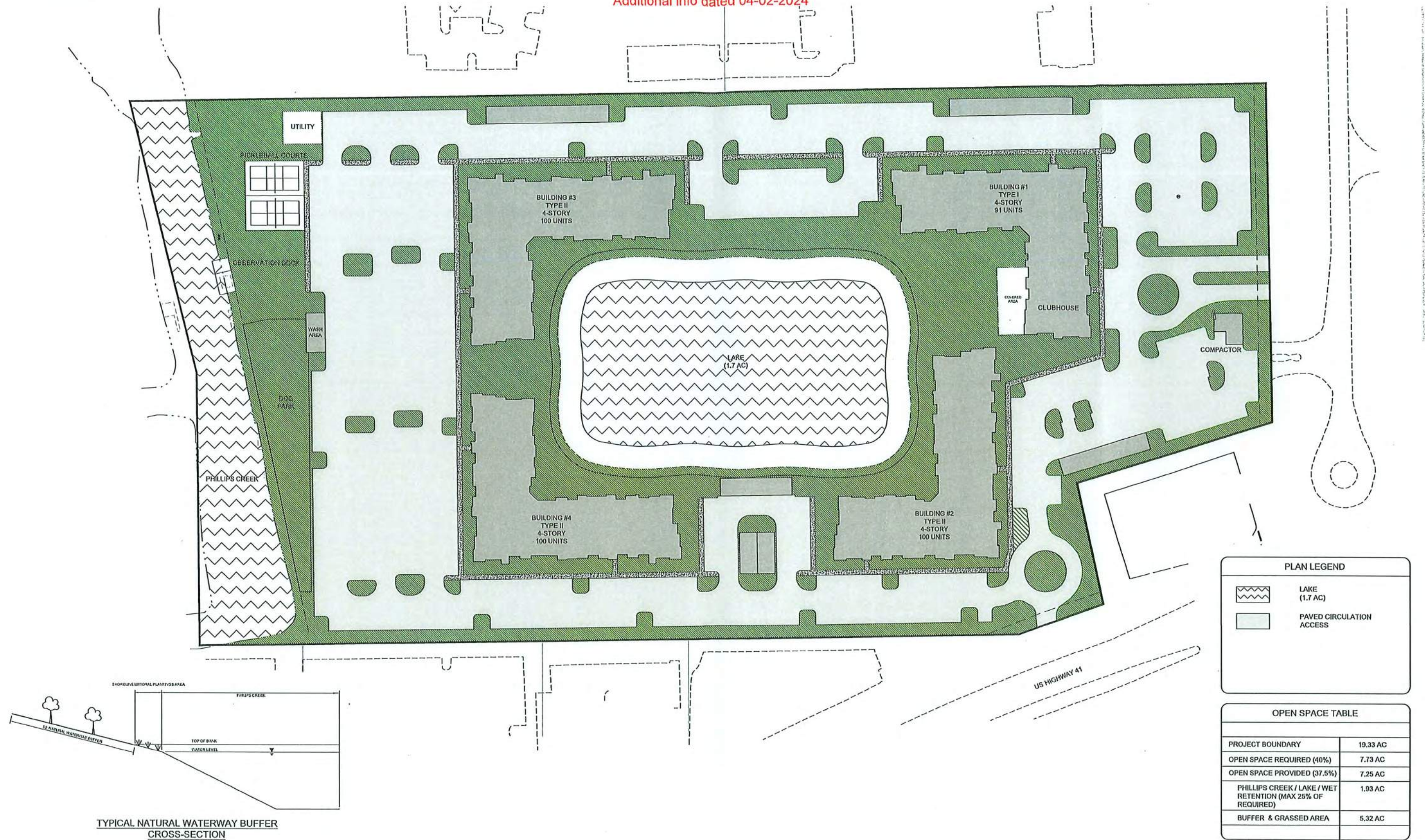
APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Megan Strayhorn, Esq., to Maria Perez, Reece Cooper, Fred Drovdic, Paul Damico, D. Gastel, Bruce Strayhorn, Esq., TR Transportation, Elizabeth Workman, with copies to Rebecca Sweigert, Tracy Toussaint, Jamie Princing, Elizabeth Workman, Audra Ennis, Nicholas DeFilippo, Ohdet Kleinmann, Abby Henderson, Lee Werst, Warren Baucom, Mikki Rozdolski, Anthony Rodriguez, Dirk Danley, Jr., Phil Gillogly, Marcus Evans, and Jennifer Rodriguez, dated Tuesday, August 27, 2024, 6:49 AM (multiple pages – 8.5"x11")
- b. *Exhibit List:* Email from Megan Strayhorn, Esq., to Maria Perez, dated Wednesday, August 28, 2024, 8:00 a.m. (2 pages – 8.5"x11")
- c. *Revised Exhibit List:* Email from Megan Strayhorn, Esq., to Maria Perez, dated Wednesday, August 28, 2024, 2:37 p.m. (multiple pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared by for DCI2023-00049, Royal Palm Multi-Family RPD, dated August 29, 2024 (multiple pages – 8.5"x11")[color]

Additional info dated 04-02-2024



Additional info dated 04-02-2024



DCI2023-00049

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2. *Affidavit of Publication:* For case DCI2023-00049 Palms Multifamily RPD (1 page – 8.5"x11")
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APPLICANT EXHIBITS

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1. *PowerPoint Presentation:* Prepared by for DCI2023-00049, Royal Palm Multi-Family RPD, dated August 29, 2024 (multiple pages – 8.5"x11")[color]

DCI2023-00049

2. *Written Submissions:* Email from Megan Strayhorn, Esq., to Maria Perez, with copies to Elizabeth Workman and Fred Drovdllic, dated Friday, August 30, 2024, 10:48 AM (multiple pages – 8.5"x11"){post hearing submittal}

OTHER EXHIBITS

Zachary Shankle

1. *Photographs:* (3 pages – 8.5"x11")[color]

DCI2023-00049

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Elizabeth Workman

Applicant Representatives:

1. Fred Drovdllic
2. Elizabeth Fountain
3. Magen Strayhorn, Esq.
4. Ted Treesh

Public Participants:

1. Janet Bley
2. Robyn Campbell
3. Gregory Dudek
4. Thomas Estrella
5. Eric Farmer
6. Tim Kendall
7. Tom Lowen
8. Rod Pickett
9. Zachary Shankle

DCI2023-00049

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.

Royal Palm Multi-Family RPD (DCI2023-00049)**Attachment C – Conditions and Deviations****Section A. - Conditions**

1. The development of this project must be consistent with two-page Master Concept Plan (MCP) entitled “Royal Palm Multi-Family RPD”, prepared by RVi Planning + Architecture, except as modified by the conditions below. This development must comply with all requirements of the Lee County LDC at the time of local development order, except as may be granted by deviation as part of this planned development. If changes to the MCP or conditions or deviations are subsequently pursued, appropriate approvals will be necessary.

This project is limited to a maximum of 391 dwelling units, including 136 bonus density units, and amenities, subject to the conditions enumerated herein.

2. The following limits apply to the project and uses:

a. Schedule of Uses

Accessory uses, buildings, and structures
Administrative Offices
Dwelling unit: Multi-family
Entrance gates and gatehouse
Essential services
Essential service facilities: Group I
Excavation: Water retention
Fences, Walls
Recreation facilities:
 Personal
 Private on-site
Signs
Temporary Uses

b. Site Development Regulations**General Parameters**

Minimum Lot Coverage	40 percent
Maximum Multi-family Building Height	60 feet
Maximum Garage Building Height	35 feet
Minimum Open Space	40 percent
Minimum Lot Area	19.33 acres

Building Setbacks

Street (Public)	20 feet
Front	15 feet
Rear	5 feet
Side	0 feet

Minimum Building Separation	20 feet
Natural Waterway	50 feet
Waterbody	20 feet

3. Condominium Lots

Prior to the issuance of a development order approval, the applicant or successor must provide documentation from Lee County Property Appraiser's office demonstrating the condominium lots have been removed.

4. Open Space

Prior to the issuance of the first development order, the development order plans must calculate required open space based on 18.17 acres of developable land (less 1.16 acres for Philips Creek).

5. Natural Waterway Buffer

Prior to the issuance of the first development order, the development order plans must depict ten native trees, 50 shrubs, and 20 salt tolerant littoral grasses per 100 linear feet. All species must be native and meet the specifications per LDC Section 10-420. Grasses must salt tolerant.

6. Water Quality Monitoring

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

- a. The overall Goals and Objectives of the Surface Water Monitoring Plan;
- b. An 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. A 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 surface water quality standards, plots of parameters, and recommendations. After five years of meeting or exceeding State surface 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. Results must be reported as an Electric Data Deliverable (EDD), in a format approved by the Division of Natural Resources.
- e. A contingency plan in the event an exceedance of State Surface Water Quality Standards is discovered. This plan must include notification to impacted residents and applicable authorities.

6. Transportation

- a. The access location on US 41 shown on the Master Concept Plan is conceptual in nature and subject to modify based upon final approval from the Florida Department of Transportation (FDOT).
- b. Regardless of any land use density/intensity conversion allowed per the Land Development Code or zoning condition specific to this development, the development is allowed a maximum

calculated development intensity with respect to new trip generation utilizing the following development scenario based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual in effect at the time of local development order: 391 Dwelling Units of Multi-Family Housing Mid-Rise (LUC 221). Buildings containing multiple-family residential units may not be less than four (4) habitable floors.

Section B. – Deviations

1. **Deviation (1)** seeks relief from Lee County Land Development Code (LDC) Section 10-416(d)(9), which requires developments abutting a natural waterway to provide a 50-foot-wide natural waterway buffer measured from mean high water or top of bank, whichever is further landward, within a common element or tract and containing six native canopy trees and 50 native shrubs per 100 linear feet, to allow a 20-foot-wide buffer at the southeast corner where the parking encroaches into the 50-foot-wide buffer.

This deviation is **APPROVED** subject to Condition 5.

2. **Deviation (2)** seeks relief from Lee County Land Development Code (LDC) Section 34-2020, Table 7, which requires four parking spaces per 1,000 square feet for clubhouses and ancillary uses within a residential community without a golf course, to allow the 10,000-square-foot clubhouse parking to be calculated at 2.5 spaces per 1,000 square feet of parking.

This deviation is **DENIED**.

Deviation (3) seeks relief from Lee County Land Development Code (LDC) Section 10-415(a), which requires large residential developments to provide 40 percent open space based on the total area of the subject request, to allow the open space calculation from the developable land area of 18.17 acres since 1.16 acres is within Philips Creek.

This deviation is **APPROVED** subject to Condition 5.

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

Case Number: DCI2023-00049

Case Name: Royal Palm Multi-Family Residential Planned Development

Area Subject to Request: +/- 19.33 Acres

Case Type: Minor Planned Development Rezone

Sufficiency Date: April 30, 2024

Hearing Date: August 29, 2024

REQUEST:

RVi Planning + Landscape Architecture, on behalf of the Flournoy Development Group, has filed an application to rezone approximately 19.33 acres from Mobile Home (MHC-2) to Residential Planned Development (RPD) to allow a maximum of 391 dwelling units that includes 136 site-built affordable housing bonus density units with a clubhouse and dog park. The maximum proposed height is 60 feet.

The subject property is located at the southwest corner of Old Gladiolus Drive and South Tamiami Trail, approximately 0.3 miles from the intersection of Old Gladiolus Road and Gladiolus Drive. The parcel is located within the Intensive Development Future Land Use Category and the South Fort Myers Community Plan area. A concurrent Comprehensive Plan Amendment (CPA2023-00011) redesignated the subject property to the Intensive Development Future Land Use Category, as adopted by the Board of County Commissioners on August 7, 2024 (Attachment D). The applicant conducted a public information meeting, which is not required per the Lee Plan or Land Development Code (LDC) (see Attachment E). A legal description and boundary survey of the subject property are attached as Attachment K of the staff report.

SUMMARY:

Staff recommends **APPROVAL** of the applicant's request to rezone approximately 19.33 acres to Residential Planned Development to allow 391 dwelling units, which includes 136 site-built affordable housing bonus density, an amenity center, and dog park with a maximum height of 60 feet, with conditions (Attachment E). The applicant has requested three deviations from LDC Sections 10-416(d)(9), 34-2020, Table 7, and 10-415(a) (Attachment E). Staff recommended approval of Deviations #1 pertaining to natural waterway buffer and #3 pertaining to required open space. Staff recommends denial of Deviation #2, which seeks relief from residential amenity parking requirements.

HISTORY OF PARCEL:

The subject property is located on the site previously occupied by Royal Palm Village. This mobile home community was established in 1982 with 130 mobile homes on individually owned parcels per the Declaration of Condominium (Attachment F). The subject property was rezoned from Mobile Home (MH-2) and Recreational Vehicle (RV-3) to Mobile Home (MHC-2) and was designated as Central Urban in 1984 when the Lee County Comprehensive Plan was adopted (Attachment F). The dwelling units abutting Philips

Creek were set back approximately ten to 20 feet from the creek and some units had docks or fishing piers. Royal Palm Village sustained significant damage during Hurricane Ian, and most of the members voted to dissolve the condominium association and sell the property (Attachment F). The Board of County Commissioners adopted CPA2023-00011, which changed the future land use category from Central Urban to Intensive Development to reach the maximum dwelling units allowed per Lee Plan Table 1(a), which allows a maximum base density range of 14 dwelling units per acre. This is an additional eight dwelling units with bonus density when compared to the density limitations of the Central Urban Future Land Use category and will allow 400 dwelling units based on 18.17 acres (less 1.16 acres of natural waterway). The property is within the Coastal High Hazard Area per **Lee Plan Map 5-A**; and therefore, bonus density must be in the form of site-built affordable housing in accordance with **Lee Plan Policies 101.3.6 and 101.3.7**. The applicant is proposing a total of 391 dwelling units with bonus density, which is an overall density of approximately 21 dwelling units per acre based on 18.17 acres (less 1.16 acres of natural waterway).

CHARACTER OF THE AREA:

The subject parcel is in an area that has a wide variety of existing uses. The parcels adjacent to the subject property consist of single-family or multi-family residential developments and commercial developments. The parcels further north and east of the subject property, which abut Old Gladiolus Drive and South Tamiami Trail, are all commercially zoned. The parcels further south of the subject property are a mix of large half acre to one-acre residential lots. The parcels to the west are a mix of single-family and commercial uses and zoning districts. Property immediately surrounding the subject property is depicted in Attachment B of this report and can be characterized as follows:

North

The subject property abuts Old Gladiolus Drive, which is a County-maintained local road. The properties further north are zoned Commercial (C-1) and consist of a car dealership and Lowe's Home Improvement.

East

The east property line partially abuts South Tamiami Trail, which is a State-maintained arterial road, as well as commercial zoned (C-1) properties that are developed with a convenience food and beverage store and other commercial uses. The properties further east of South Tamiami Trail are zoned commercial (C-1A) and are developed with a mix of commercial uses. East of the C-1A zoned properties is the Jamaica Bay mobile home subdivision, zoned MH-2.

South

The subject property abuts Philips Creek, a natural waterway, that is part of the Hendry Creek Watershed that connects to the Estero Bay Aquatic Preserve. The properties further south is zoned Residential (RS-1) and consist of ½ acre to ¾ acre lots as recorded in the Philips Creek Subdivision Plat (Attachment G). The plat depicts a recorded Preservation Easement along the rear lot lines of Lot 1 thru 7 (Attachment G).

West

The subject property abuts Lost Tree Village and Park Meadows, zoned Multi-Family Residential (RM-2). Lost Tree Village abuts the northwest property line of the subject property. The multi-family dwelling units were developed in the early 1980s. The dwelling units are single-story buildings. Park Meadows is south of Lost Tree Village and west of the subject property. The multi-family units within Park Meadows consist of two-story condominiums that are approximately 45 feet in height.

AVAILABILITY OF URBAN SERVICES:

Public 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.”* The level of urban services currently serving the subject property are as follows:

Public water, Sewer, and Solid Waste: The proposed project is within the Future Sewer and Water Service Areas in accordance with Lee Plan Maps 4-A and 4-B. The applicant has provided a letter of availability for potable water and sanitary sewer from Lee County Utilities. Potable water will be provided by Green Meadows Water Treatment Plant and sanitary sewer will be provided by Fiesta Village Water Reclamation Facility. There is sufficient capacity available for service to 391 multi-family dwelling units with an estimated potable water flow of approximately 97,750 gallons per day; however, developer funded system enhancements such as line extensions may be required (see Attachment H). The applicant has provided a letter from the Solid Waste Department stating that they can provide solid waste collection service for the proposed 391 multi-family dwelling units.

Police, fire, and emergency services: Emergency Management Services Medic Station #35 is located northeast of the subject property at 14752 Six Mile Cypress Parkway, approximately 1.6 miles away from the subject property and Medic #8 at 15961 Winkler Road, approximately 2.3 miles away from the subject property (see Attachment H). The closest Fire Station is South Trail Fire – Station #63 located at 5531 Halifax Avenue, 1.10 miles away from the subject property. The Lee County Sheriff's office is located at 14750 Six Mile Cypress Parkway, approximately 1.6 miles from the subject parcel. Emergency management, the South Trail fire district and the Lee County Sheriff's office have provided letters stating that they have the capacity to provide service to the 391 dwelling units.

Schools and Parks

The School District of Lee County has provided a letter that was submitted by the applicant for the zoning case but was part of the comprehensive plan amendment. It is anticipated by the district's generation rate system that the development would have a total of 16.82 school-aged children. The subject property is within the South Choice Zone and capacity would be an issue within this concurrency service area at the elementary school level. However, the adjacent concurrency service area would be able to serve since it has capacity. (Attachment H). The applicant provided a letter from Lee County Parks and Recreation that evaluated the capacity of the park system to serve the proposed project. Lakes Park is less than a half mile away to the west from the subject property. The parks and recreation service availability letter states that the available capacity is 7,066 acres of regional parks and 832 community parks. The required capacity per

Lee Plan 95.1.3 is 5,538 acres of regional parks and 295 acres of community parks. The park system has sufficient capacity to serve the 391 dwelling units being proposed (Attachment H).

Public transit and pedestrian facilities: The property is near existing routes on the Lee County Walkways and Bikeways Map and Lee County Greenways Master Plan per **Lee Plan Maps 3-D and 4-E**. A shared-use path and on-road bikeway currently exist along US 41 and a shared use path exists along Gladiolus Drive per **Lee Plan Map 3-D**. The applicant will be required to provide a sidewalk along Old Gladiolus Drive to connect to the existing pedestrian facilities along US 41 and Gladiolus Drive per **LDC Section 10-256**. The closest LeeTran bus stop is located along US 41 at the end of the Old Gladiolus Drive cul-de-sac. The bus stop serves Routes 140 and 240 going southbound. The closest northbound bus stop is located across US 41 and serves Routes 140 and 240 going northbound. Prior to development order approval, the applicant will be required to provide sidewalks internal to the project and abutting the subject property in accordance with LDC Section 10-256.

PROPERTY DEVELOPMENT REGULATIONS & OFF-STREET PARKING:

The applicant proposes property development regulations that include maximum heights, minimum setbacks, maximum lot coverage (Attachment E). Staff finds the proposed property development appropriate to facilitate development in accordance with the MCP.

DEVIATIONS:

The applicant has requested three deviations from LDC Sections 10-416(d)(9), 34-2020, Table 7, and 10-415(a) (Attachment E). Deviation #1 seeks relief from LDC Section 10-416(d)(9) which requires developments abutting a natural waterway to provide a 50-foot-wide natural waterway buffer measured from mean high water or top of bank, whichever is further landward. The buffer for residential subdivisions must be in a common element or tract and must include six native canopy trees and 50 native shrubs per 100 linear feet. The applicant is requesting to provide a 20-foot-wide buffer at the southeast corner where proposed parking encroaches into the 50-foot-wide buffer. The applicant will provide the 50-foot-wide buffer along the remaining natural waterway and the buffer vegetation will be provided per code. Staff is recommending approval with a condition that incorporates the Deviation #3 enhancements into the natural waterway buffer (see Condition 5, Attachment C).

Deviation #2 is being requested from LDC Section 34-2020, Table 7 which requires four spaces per 1,000 square feet for clubhouses and ancillary uses within a residential community without a golf course, to allow the 10,000-square-foot clubhouse parking to be calculated at a ratio of 2.5 spaces per 1,000 square feet of parking, which is a reduction of 15 spaces (37.5 percent). Staff is recommends denial of Deviation #2 because the applicant has submitted a development order (DOS2024-00101) that demonstrates compliance with LDC Section 34-2020, Table 7.

Deviation #3 seeks relief from LDC Section 10-415(a), which requires large residential developments to provide 40 percent open space based on the total area of the subject request. The applicant is requesting this deviation to base the open space calculation on the developable land area of 18.17 acres since 1.16 acres of land is submerged within Philips Creek. Staff recommends approval of Deviation #3 with a condition

requiring an enhanced buffer containing landscaping in addition to the natural waterway buffer along Phillips Creek (see Condition 5, Attachment C).

REVIEW CRITERIA:

LDC Section 34-145 establishes the review criteria for rezoning requests. Before recommending approval of a rezoning request, the Hearing Examiner must find the request:

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

For Planned Development rezoning requests, the Hearing Examiner must also find:

- a) The proposed use or mix of uses is appropriate at the proposed location;
- b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and
- c) That each requested deviation:
 - 1) Enhances the achievement of the objectives of the planned development; and
 - 2) Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.

The applicant has provided a narrative that addresses the planned development rezoning request with analysis against the applicable criteria (see Attachment E). The following provides staff's analysis of the request, as measured against the established criteria.

REVIEW CRITERIA ANALYSIS:

The subject property is currently within the Central Future Land Use Category (FLUC) per the Lee Plan. The Board of County Commissioners approved a concurrent Comprehensive Plan Amendment (CPA2023-00011) to designate the subject property within the Intensive Development Future Land Use Category on August 7, 2024 (Attachment D). The amendment allows higher density on the subject property due to the change in the land use category. The previous future land use category, Central Urban, allows for up to fifteen dwelling

units per acre with a maximum density of twenty dwelling units per acre with the transfer of development units. The Intensive Development future land use category allows up to fourteen units per acre with the opportunity to pursue bonus density of twenty-two dwelling units per acre. The applicant is proposing 391 dwelling units that includes 136 bonus density units, bonus density units must be site built affordable housing since the project is in the Coastal High Hazard area per **Lee Plan Map 5-A and Lee Plan Policy 101.3.7. Lee Plan Policy 1.1.2** characterizes the Intensive Development future land use category as mixed use developments of high-density residential, commercial, limited light industrial, and office uses in an area located along arterial roads. Proposed developments in the Intensive Development future land use category have access to public services to support a higher intensity development. The properties north and east of the subject property are all within the Intensive Development future land use category, creating an opportunity for a higher intensity and density corridor in the South Fort Myers Planning area.

Lee Plan Policy 1.6.5 establishes the distribution, extent, and location of land uses through the Lee Plan's horizon per the Planning Districts Map and Acreage Allocation Table per **Map 1-B and Table 1(b)**. Currently, the Central Urban Future Land Use (FLU) has 3,113 acres within the South Fort Myers Planning Area. CPA2023-00011 removes 18.17 acres (excludes Philips Creek) from the Central Urban future land use category and add it to the Intensive Development future land use category, which currently has 801 acres of land allocated to residential uses. Therefore, the applicant's request to rezone 20.14 acres for residential uses complies with **Lee Plan Policy 1.6.5**. Staff finds the request, as conditioned, to be **CONSISTENT with Policies 1.1.4 and 1.6.5**.

The proposed development complies with **Objectives 2.1 and 2.2** for development location and timing due to the development being an infill project. The previous development was a mobile home park that sustained damage due to Hurricane Ian. The multi-family dwelling units and site improvements will meet the current land development and building codes. The site is in an area that has access to potable water and sanitary sewer. The property is located within a half mile of sidewalks and LeeTran public transportation. Fire, EMS, and sheriff's stations are within a mile of the site. Staff finds the proposed project in compliance with **Lee Plan Objectives 2.1 and 2.2 and Policy 2.2.1 and Standards 4.1.1 and 4.1.2**.

GOAL 5 of the Lee Plan is to ensure that residential uses needed to accommodate the project population of Lee County in the year 2045 are provided in appropriate locations, guided by the Future Land Use Map, and in attractive and safe neighborhoods, with a variety of price ranges and housing types. The request is intended to result in the development of a multi-family residential project that includes 136 site-built affordable housing units. The concurrent CPA amended the future land use category to increase the allowable density to help accommodate future housing needs within the future urban area and redevelop a property to current land development building codes. Staff finds the request, as conditioned, to be consistent with **Goal 5** and is further supported by the Housing and Economic Elements of the Lee Plan, specifically **Lee Plan Policies 135.1.9 and 160.1.3**, which ensure a mix of residential types and designs of housing County-wide to support a diverse workforce.

Lee Plan Policy 5.1.2 prohibits residential development from being located where "physical constraints or hazards exist". Constraints or hazards may include but are not limited to flood, storm, or hurricane hazards; unstable soil or geologic conditions; or environmental limitations. The site is within the Coastal High Hazard area per **Lee Plan Map 5-A**, which identifies areas within the storm surge line of a category one storm

established on a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized surge model and in Federal Emergency Management Agency (FEMA) Flood Zone AE-EL11. The site is an infill parcel that was developed with mobile homes in early 1982. The units existed in an area that was not built to accommodate stormwater or account for Philips Creek or current flood elevation. The applicant will be required to design the project to meet the standards of the Florida Building Code and FEMA requirements based on the property's flood zone. The Master Concept Plan and deviation requests are reviewed to ensure that the design protects the public's health and safety by requiring a 50-foot natural waterway buffer along Philips Creek that consists of landscaping that provides protection during a storm event as compared to the previous mobile homes that were ten to 20 feet from the edge of Philips Creek. Staff finds the request, as conditioned, to be consistent with the **Lee Plan Policy 5.1.2**.

Lee Plan Policy 5.1.3 directs high density residential developments to locations near employment and shopping centers, schools, parks, and mass transit and bicycle facilities. The property is centrally located near two arterial roads that serve wide range of commercial centers to support the proposed multi-family development. The site is located near Lakes Park, Florida Southwestern State College, South Fort Myers High School, and LeeTran Routes 240 and 140. The applicant will be required to provide internal sidewalks that connect to offsite pedestrian sidewalks that will be reviewed during the development order review process. Staff finds the request, as conditioned, to be consistent with the **Lee Plan Policy 5.1.3**.

Lee Plan Objectives 60.4 and Policies 60.4.1, 60.4.2, 60.4.3, and 61.4.4 all speak to the design of the stormwater management system, utilization of green infrastructure to filter pollutants, preservation of existing natural flow-ways, and including flow-ways as part of the surface water management plan with depictions of the watersheds and their trunk and major tributaries. The applicant submitted a Surface Water Management Plan (Attachment E). The property has existing catch basins and drainage swales located in the existing streets that supported the mobile home lots. Perimeter swales along the east and west property lines convey runoff to the south, where they outfall to a ditch connecting to Philips Creek, which connects to Hendry Creek and ultimately outfalls into the Estero Bay Aquatic Preserve. The proposed stormwater management system will consist of a centrally located lake with an outfall structure located along the south property line. The applicant indicates that the existing natural flow patterns flow from the east side of South Tamiami Trail through the subject property to Philips Creek will be maintained. The Surface Water Management Plan indicates that the onsite stormwater will be directed to the onsite attenuation areas before discharging to Philips Creek. Philips Creek is within the Hendry Creek Watershed, which is an impaired waterbody. Natural Resources staff has provided a memorandum explaining the impaired waterways and recommended conditions to ensure a surface water quality monitoring plan is submitted at time of development order (Attachment I). The applicant is providing a drainage and access easement in accordance with **LDC Section 10-328** to ensure County staff has access to maintain Philips Creek in the event of an emergency. The applicant is providing a 50-foot natural waterway buffer as required per **LDC Section 10-416(d)(9)** with a small parking lot encroachment at the southeast corner. Staff has recommended a condition to require a planted littoral shelf along Philips Creek in addition to the 50-foot natural waterway buffer landscape plantings for filtering of runoff and stabilization of the slope along Philips Creek. Staff finds the request, as conditioned, to be consistent with **Lee Plan Objective 60.4 and Policies 60.4.1, 60.4.2, 60.4.3, and 61.4.4**.

Lee Plan 101.1.4 requires comprehensive plan amendments which increase density within the Coastal High Hazard area meet criteria established in Section 163.3178(8), F.S. which require appropriate mitigation to offset the additional density. The applicant is required to maintain an emergency preparedness plan meeting the standards set forth in Administrative Code 7-7. The applicant must provide mitigation for impacts on hurricane shelter availability and evacuation capability in accordance with **LDC Chapter 2**. The applicant has provided a Coastal High Hazard Hurricane Assessment Report that explains the measures being taken for the development (Attachment E). The extent of the mitigation will be required at the time of Development Order. Staff finds the request, as conditioned, to be consistent with **Lee Plan 101.1.4**.

Lee Plan Policy 101.3.2 restricts development in the Coastal High Hazard Area to uplands, except as needed for the provision of public facilities. The Royal Palm Village was built prior to the comprehensive plan or land development code requirements. Impacts to the land occurred prior to the South Florida Water Management or the Department of Environmental Protection wetland permitting. The applicant has submitted a Natural Resources Report that includes a protected species survey and FLUCCS map. The applicant is proposing to build the units and site improvements on the site in a smaller footprint than what was previously built due to open space and buffering requirements. There are no wetlands on the site and the proposed project is providing pretreatment prior to conveying surface water to Philips Creek. Staff is requiring a planted littoral shelf along Philips Creek in conjunction with the 50-foot natural waterway buffer to provide additional filtration and stormwater buffering. Staff finds the request, as conditioned, to be consistent with **Lee Plan 101.3.2**.

Lee Plan Policy 125.1.2 states that new development and additions to existing development must not degrade surface and ground water quality. As mentioned, Philips Creek is in the Hendry Creek watershed which is verified as being impaired. The applicant has provided a Water Quality Report and Natural Resources staff recommends water quality monitoring requirements that must be met as part of the development order process (Attachments E and I).

Land Development Code Compliance

Staff finds the proposed planned development rezoning request, as conditioned, to be in compliance with the LDC, including regulations which pertain to:

- LDC Section 2-146(b) Bonus Density Review Criteria.
- Use and corresponding supplemental regulations, such as parking.
- LDC Chapter 10 Development Standards.
- Details required on the MCP and compliance with Division 9 of Article VI, Chapter 34, Planned Development Districts.

All relevant County regulations, which are not specifically deviated from as part of this planned development request, will apply, such as LDC, Code of Ordinances and Administrative Code provisions. If future deviations are proposed, each will be evaluated within the parameters of the established LDC review criteria.

Compliance with LDC Section 2-146(b) (Bonus Density)

- 1. The additional traffic will not be required to travel through areas with significantly lower densities before reaching the nearest collector or arterial road.**

The proposed development currently has access to Old Gladiolus Drive, a County-maintained road, which is the only means of access to the subject property. The existing entrance is proposed to be relocated to the west and used as a secondary access point. The applicant has requested an additional access point on South Tamiami Trail from the Florida Department of Transportation. The additional traffic will be utilizing South Tamiami Trail, a State-maintained arterial road, which provides access to the subject property and commercial uses to the north and south. Old Gladiolus Drive is a County-maintained local road which provides access to the multi-family, commercial, and medical office uses from Gladiolus Drive located to the west of the subject property. The proposed project is in compliance with criterion #1.

- 2. Existing and committed public facilities are not so overwhelmed that a density increase would be contrary to the overall public interest.**

The applicant has provided a Traffic Impact Statement and Letters of Availability from Lee County Utilities stating that public facilities will not be overwhelmed by the proposed density. Urban services exist and have available capacity to serve subject property. The subject property is located where fire, EMS, police, parks, schools, and LeeTran public transportation are located within proximity of the subject property. The School District of Lee County provided a letter dated November 16, 2023, stating that capacity is an issue within the Concurrency Service Area (CSA) at the elementary school level; however, capacity is available in the adjacent CSA, which is acceptable according to **Lee Plan Policy 68.2.3**.

- 3. Storm shelters or other appropriate mitigation is provided if the development is located within the coastal high hazard area as defined in LDC Section 2-483.**

The subject property is within the Coastal High Hazard Area in accordance with **Lee Plan Map 5-A**. The applicant has provided a Coastal High Hazard / Hurricane Risk Assessment Report explaining the flooding and storm surge risks, FEMA flood elevation designation, and the proposed project's design to increase the resiliency of the new structures (Attachment E). The site is being redeveloped to bring it into compliance with the current standards for setbacks, the natural waterway buffer abutting Philips Creek, open space requirements, and building codes to build a more resilient development.

- 4. The resulting development will be compatible with existing and planned surrounding land uses.**

Compatible means, in describing the relation between two land uses, buildings or structures, or zoning districts, the state wherein those two things exhibit either a positive relationship based on fit, similarity or reciprocity of characteristics, or a neutral relationship based on a relative lack of conflict (actual or potential) or on a failure to communicate negative or harmful influences one to another (LDC Section 34-2).

The parcel is in an area of Lee County that has access to existing uses, LeeTran bus routes, utilities, and a roadway network to support the 391 dwelling units being proposed. The applicant has provided a Master Concept Plan that depicts four buildings centrally located around a lake (Attachment C). Parking areas, including three parking garages, are being proposed. The south property line consists of a 50-foot-wide natural waterway buffer that consists of six native canopy trees and 50 native shrubs per 100 linear feet surrounding pickleball courts, fenced in dog park, and fishing/observation pier with paddlecraft launch. The natural waterway buffer provides a natural screening to shield the uses from the single-family subdivision across Philips Creek. The applicant will be required to provide right-of-way buffers abutting Old Gladiolus Drive and South Tamiami Trail that are 15 feet wide and consist of five trees per 100 linear feet and a double hedgerow. The applicant is not required to provide a buffer along the west property line per LDC Section 10-416(d). A 15-foot-wide drainage and utility easement exists along the west property line and the abutting parking area provides access for County staff to maintain the drainage easement that outfalls to Philips Creek in an emergency event.

Compliance with LDC Section 34-145(d)(4)

a) Complies with Lee Plan.

The proposed rezoning is consistent with the Lee Plan as demonstrated in the analysis.

b) Meets this Code and other applicable County regulations or qualifies for deviations.

The applicant currently has a development order under review. The development order must comply with the Land Development Code and Lee Plan. The deviations that are requested are needed to maintain the design to comply with parking, including the encroachment into the natural waterway buffer. Calculating open space from the developable land and not including Philips Creek creates an opportunity to enhance the natural waterway, providing additional screening above code requirements. The deviations, if approved, will allow the applicant to comply with the parking requirements. The deviations are recommended for approval with conditions for shoreline enhancements along Philips Creek to increase water quality and stabilization of the shoreline.

c) Compatibility with existing and planned uses in the surrounding area.

As previously stated above, the proposed development is compatible with the surrounding land uses.

d) Sufficiency of Access and Transportation Impacts.

The proposed development has existing access to Old Gladiolus Drive, a local road, and is proposing an additional access to South Tamiami Trail, an arterial road. Per the Traffic Impact Statement, the accesses are sufficient to support the proposed development (see Attachments E & J).

- e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval.**

As stated previously, the proposed project is proposed to have access to Old Gladiolus Drive, a County-maintained local road, and South Tamiami Trail, a State-maintained arterial road. New trip assignments were made to the surrounding road network to evaluate Level of Service (LOS) impacts as necessary at site entrances, intersections within the vicinity of site entrances, and intersections anticipated to be most affected by the proposed development. Following Administrative Code AC-13-17 Traffic Study Guidelines for Planned Development Rezonings, a "significant impact" is characterized by a 10 percent or greater increase in the total peak-hour intersection volume (sum of all four approaches) upon project completion. At time of development order, the project will be evaluated to determine required offsite roadway improvements, if applicable. (see Attachment E and J).

- f) No adverse impacts to environmentally critical or sensitive areas and natural resources**

The site was previously developed with no indigenous vegetation preserved and the Philips Creek shoreline impacted by docks and piers. Dwelling units were approximately ten feet from the water's edge. Per the Protected Species Survey, there were no protected species on the site (see Attachment E).

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

As noted, and defined above, the subject property is located within a future urban area. The subject property has adequate access to urban services to accommodate the development proposed by the request. Future improvements required by the LDC at time of local development order approval will further improve urban services and pedestrian facilities surrounding the subject property.

- h) Supplemental Planned Development Criteria**

Staff finds the request to be consistent with the following additional criteria:

- a) The proposed use or mix of uses is appropriate at the proposed location;
- b) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development; and
- c) That deviations #1 and #3, as conditioned:
 - 1) Enhance the achievement of the objectives of the planned development; and
 - 2) Preserve and promote the general intent of this Code to protect the public health, safety and welfare.

CONCLUSION:

Based upon an analysis of the application and the standards for approval of planned development rezonings, staff finds the request to be consistent with the established review criteria. The Residential Planned Development rezone is consistent with the Intensive Development future land use designation and the applicable goals, objectives and policies of the Lee Plan. The request, as conditioned, is appropriate in the context of its surroundings. Staff recommends **APPROVAL** of the request to rezone the property from Mobile Home (MHC-2) to Residential Planned Development (RPD) to allow a maximum of 391 dwelling units that includes 136 site-built affordable housing bonus density units with a clubhouse and dog park with a maximum proposed height is 60 feet subject to the conditions attached as Attachment C of this report.

ATTACHMENTS:

- A. Expert Witness Information
- B. Case Maps
- C. Conditions, Deviations, and Master Concept Plan received April 2, 2024
- D. Comprehensive Plan Amendment CPA2023-00011
- E. Applicant's Narrative
 - Schedule of Uses
 - Public Information Meeting
 - Deviations and Justifications
 - Property Development Regulations
 - Coastal High Hazard / Emergency Preparedness Mitigation
 - Surface Water Management Plan
 - Protect Species Survey
 - Water Quality Plan
 - Traffic Impact Statement
- F. Declaration of Condominium
 - Resolution Z-90-055
 - Termination of Royal Palm Village Condominium
- G. Philips Creek Subdivision Plat
- H. Lee County Utilities Letter of Availability
 - Letter of Service School District
 - Letter of Service Emergency Management
 - Letter of Service Lee County Sheriff
 - Letter of Service Lee County Parks and Recreation
- I. Natural Resources Staff Report
- J. Transportation Staff Report
- K. Legal description and Survey