Lee County
Southwest Florida

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County Hearing Examiner

March 21, 2025

Writer's Direct Dial Number: 239-533-8793

Cindy Leal Brizuela
EnSite, Inc.
2401 First Street
Suite 201
Fort Myers, FL 33901

Re: Planned Development Amendment
Betsy Parkway MPD
DCI2025-00003

Dear Ms. Brizuela,

The Zoning Section has reviewed the submission package for the above-referenced application in accordance with the Lee County Land Development Code (LDC). Please be advised that the application is insufficient at this time. The insufficiency comments must be addressed within thirty (30) calendar days of this letter, or the case will be considered withdrawn in accordance with the LDC. Please be advised that additional comments may follow once required documents and detailed analysis are submitted.

If you have any questions, please contact me at (239) 533-8793 or EWorkman@leegov.com.

Sincerely,
DEPARTMENT OF COMMUNITY DEVELOPMENT
Zoning Section
Electronically signed on March 21, 2025
Elizabeth A. Workman
Principal Planner
EAW

Legal

1. Please see Sec. 34-202(a). Submittal requirements for applications requiring public hearing as a reference to the following comments:

    - The boundary survey does not include the required state plane coordinates, one at the point of beginning (POB) and one at an opposing corner.

    - The certification submitted is greater than 90 days old at the time of the initial application submittal. An updated title certification is required.

    - When revised title certification is provided, the boundary survey will require the updated reference to the title certification.

Planning

2. The subject properties appear to be adjacent to state designated aquatic preserves, associated wetlands, or natural tributaries. Because of these conditions, Lee Plan policy 24.1.5 applies to the proposed development and was not included in the Lee Plan analysis. This policy also requires additional buffers and development regulations that do not appear to be incorporated in the proposed MCP. Provide an analysis of Policy 24.1.5 and revise the supporting documents accordingly.

3. Provide an analysis of the policies within Lee Plan Objective 124.1.

Zoning

1. The property is in the Urban Community FLUC which focuses on commercial, residential, public and quasi-public uses, and light industrial. The Schedule of Uses includes intense manufacturing uses that exceed a light industrial type of use as listed in the IL zoning district per LDC Section 34-903. Due to the non-compatible uses being requested, staff cannot find the case consistent with Lee Plan Goals, Objectives, and Policies for Development Location, Development Timing, Commercial Land Uses, and Industrial Land Uses.

2. Please explain why the applicant is requesting the Excess Spoil Removal use.

3. Please revise the Schedule of Uses to be consistent with the uses listed in LDC Section 34-934 for MPD zoning districts. For instance, Resource Recovery Facilities and Shredding and Composting of Vegetative Material are not allowable uses.

4. Please review the allowed uses within the MPD zoning district and remove those uses that are not compatible with the surrounding uses and environmentally sensitive lands located to the east of the subject property. Uses such as vehicle, farm equipment, and boat repair must be removed due to the proximity to conservation lands and the aquatic preserve. In addition to environmental sensitivity, the compatibility of the local roads must be considered when choosing uses such as Freight and Cargo and Private or Hybrid Warehouses. See the definition of each to understand the intensification to the road systems.

5. The Schedule of Uses include Rental and Leasing Establishments and Vehicle Sales. Depict the location of display and sale and rental areas on the Master Concept Plan. Revise the setbacks and buffers to comply with LDC Section 34-1353.

6. Commercial School is listed in the Schedule of Uses; however, the Master Concept Plan depicts open storage, service areas, and medical offices, including the existing medical office in the northeast corner of the site.

7. The applicant has listed Private, on-site and off-site Recreation Facilities. Please explain how this fits in with open storage, service areas, and medical offices.

8. Amateur Radio and Satellite Earth Stations are a proposed use being requested that must be reviewed per LDC Section 34-1175, which analyzes the environmental sensitivities that include migratory birds and aquatic preserve concerns. Please review this use and provide some background to meet LDC 34-1175.

9. The Lee Plan analysis and the MCP are unclear as to what is being provided as Indigenous Open Space. The site does not meet the indigenous vegetation definition per LDC Section 10-1 due to the level of exotic vegetation. If the applicant is proposing to preserve and restore the wetland, and indigenous restoration and management plan must be provided to demonstrate how the wetland will be restored.

10. The restoration plantings must be specified at the height and planting requirements per the requirements of Developments Abutting an Aquatic Preserve per LDC Section 33-1082(a), a Type-F buffer per LDC Section 10-416(d) incorporated into the 50-foot buffer required per Lee Plan Policy 24.1.5 for developments abutting an aquatic preserve. The plant species must be salt tolerant as this area is tidally influenced.

11. Provide a cross section of the east property line to depict the grades of the preserve, upland buffer, and development area to ensure the upland buffer slope does not impact the preserve area. Provide a separate cross section depicting the east property line, the 50-foot excavation setback, the 20-foot lake maintenance easement and development area. Please ensure that Lee Plan Policy 24.1.5 is being met.

12. The MCP Open Space Table A indicates that indigenous credits are being allocated toward the restoration area. LDC Section 10-415(b)(3) does not allow indigenous credits for wetlands. Revise the document.

13. The MCP Open Space Table A notes a deviation #1 triangle which relates to the deviation note for gate requirements depicted on the MCP. Please clarify how the gate deviation relates to the indigenous open space.

14. The MCP must be revised to change the "indigenous preservation" call-out to "indigenous wetland restoration and preservation" and remove the reference to credits.

15. Deviation #2 will not be supported by staff as this area is abutting an EC zoned Conservation 20/20 Land that is within the aquatic preserve. Revise the MCP and remove Deviation #2.

16. The subject property is within the Coastal High Hazard Area. Revise the Request Narrative to include analysis of Objective 101.3 and Policy 101.3.2. Development in Coastal High Hazard Areas is limited to upland areas, unless the use is Public Facilities.

17. Please submit the Community Review information per LDC Section 33-1003(b).

18. Revise the MCP to label the buffers and all easements per LDC Section 34-373(6). Buffers must be in compliance with open storage screening (LDC Section 34-3005) and display, sale, rental establishments (LDC Section 34-1352).

Development Services

19. LDC 34-202(a)(6) requires applicants to submit a boundary survey with public hearing applications. The boundary survey must identify and depict all easements affecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection. Survey Note #3 specifically exempts freedom of encumbrances and does not meet the referenced LDC requirement.

20. Staff requests additional information in regard to Deviation (1) from LDC Sec. 34-1748(1)(d)(1). The MCP provided does not meet the requirements of LDC 34-1748(5) which requires a turn around on the ingress side of the gate. Please clarify how a vehicle approaching the gate when it is closed can turn around without backing into the ROW. Staff will not support a deviation request that does not provide an alternative method for a vehicle to turn around.

21. Staff has no objection to Deviation (2) from LDC Sec. 10-329(d)(1)(a)(3) based on the justification provided.

22. Staff recommends removal of Deviation (3) from LDC Sec. 10-256. This will need to be requested at time of DO has a Waiver (fee-in-lieu) pursuant to LDC Sec. 10-256(b)(5).

23. Pursuant to LDC Sec. 34-373(a)(6)e. the general location of service areas for delivery of goods or services must be shown on the proposed MCP for all developments that are not residential subdivisions.

24. Please provide a written description of the surface water management plan per LDC 34-373(b)(1).

25. Please provide a status for existing case currently shown onsite (LDO2016-00238). If the work was completed, please reach out to DevRevInpspections@leegov.com to set up an inspection to close out the case. If the work was not completed and you wish to withdraw the case, please include a letter of request to withdraw from the property owner.

Natural Resources

26. Please provide a written description of the surface water management plan per LDC 34-373(b)(1).

27. Please note that the eagle nest has not yet met the Lost definition in LDC 14-112. Until ETAC makes a Lost declaration the applicant must comply with LDC 14-119.

28. Please provide analysis of applicable Lee Plan policies within Goal 101.

29. The properties to the east of the applicant's MPD are owned by Lee County and managed as part of Buttonwood Preserve. Please provide analysis of Lee Plan policies 123.1.5 and 123.2.10.

30. Please provide an analysis of Lee Plan policies 125.1.2, 125.1.4, 126.1.1, and 126.1.4.

Environmental Sciences

31. The application provided two FLUCCS maps on two separate protected species surveys, and the shared boundary between parcels does not show matching site conditions between FLUCCS maps. Provide a revised FLUCCS map, additional comments may follow.

32. Based on MCP provided, the open space table appears to provide an inaccurate amount of indigenous preservation for the industrial area of the development.

33. The indigenous preserve area is located within an area where no indigenous vegetation communities are present and yet is applying credits pursuant to 10-415(b)(1)(3). This area does not meet the definition of indigenous native upland plant communities in LDC 10-1 and 10-701, and therefore credits should not be applied. Revise indigenous preserve areas to be sure they are in areas where native vegetation currently exists. Large projects with indigenous vegetation must provide half of the required open space through preservation.

34. The MCP includes a map appearing to depict wetlands, but staff did not receive a 62-340 F.A.C., jurisdictional determination. Provide a jurisdictional determination of the wetlands and uplands or acknowledge that the zoning will be conditioned at time of development order approval.

35. Pursuant to LDC 10-415, commercial development abutting a preserve must provide a type-F buffer as part of the requirements per Lee Plan Policy 24.1.5. Provide the location of the lake maintenance easement so staff can confirm that they do not overlap with the required buffers.

36. The northern property line abuts TFC-2 zoned properties. Pursuant to LDC 10-416 (d)(3), proposed commercial uses abutting a single-family use must provide either a Type-C or Type-F buffer. The proposed commercial use also abuts an industrial use and a commercial use. Provide code required buffers along the entire property boundary.

37. Demonstrate that the open space areas have been designed to incorporate as many of the existing large native trees as possible. Staff completed a site inspection and noted the large number of trees on site that appeared to meet the definition of heritage tree.

38. Staff noted Rare and Unique plant communities during the site inspection. Lee Plan Policy 123.2.15 requires the applicant to protect Rare and Unique upland habitats from development impacts to the greatest extent possible. The county encourages the preservation of rare and unique uplands pursuant to Lee Plan Policy 24.1.6. Provide a Lee Plan Analysis of the sections and show how the project meets these sections.

39. Lee Plan Policy 24.7.9 prevents the applicant from deviating from setbacks unless the request meets the county approval criteria for variances.

40. Provide an analysis of Lee Plan Policy 101.1.1 which requires development within the Coastal High Hazar Area be compatible with natural systems, such as, water retention and purification, wildlife habitat, primary productivity, and defensive against coastal flooding.

41. Policy 101.3.2 restricts development in the Coastal High Hazard area to uplands and the MCP shows impacts to those wetlands. Demonstrate impacts can or will be mitigated, or staff will condition the zoning at time of DO.

42. Show all proposed and existing easements on the MCP.

DOT

43. Will both accesses remain on Pine Island Rd?

44. Demonstrate the motor vehicle connections on Pine Island Rd. and Betsy Pkwy shown on the plans are in compliance with LDC Section 10-285 (Connection Separation). The connection separation distances, measured edge to edge, must be determined on both sides of the roadway for undivided roadways. Existing and approved access points must be depicted on both sides of the road along the project frontage and to the nearest access point beyond the project frontage in each direction.

45. Per Lee Plan Policy 12.3.5: Commercial developments must provide interconnection opportunities with adjacent uses to minimize access points onto primary road corridors; and residential developments to provide interconnect opportunities with commercial areas, including but not limited to, bike paths and pedestrian access ways. (Ord. No. 09-15, 18-18) Please demonstrate cross access on the MCP demonstrating compliance.

46. Deviations for sidewalks will not be approved or supported at the time of zoning. When the applicant applies for a development order, the applicant may request a fee-in-lieu by providing adequate justification and cost estimate in accordance with LDC 10-256(b)(5).

TIS

47. The application request does not have the proposed uses for this project.

48. The Land Use Code (LUC) of warehousing was used in the TIS for the Industrial Tract, but the schedule of uses includes a lot of uses which have more trip generation than warehousing. The TIS shall study a worst-case scenario. We recommend the LUC of 130 (Industrial Park) be used for the Industrial Tract.

49. The fitted curve rate shall be used for the trip generation calculation, not the average rate.

50. The applicant needs to provide the information of the traffic/directional splits entering and exiting the proposed project at the proposed access points (trip distribution/assignment).

51. The project's traffic significant impact on the roadway network is 10% of LOS "C" service volumes for the links at build-out, not 10% of LOS "E" service volumes.
52. Stringfellow Road may be significantly impacted by the project.

53. The applicant needs to show how the project traffic is assigned to the roadway network. For example, why only 58 trips were assigned onto Pine Island Road.

54. Since the project's trip generation is more 100 trips per hour, the information of intersection Level of Service analysis for the project's entrances must be provided.