



**CPA2004-02
ESTERO OUTDOOR DISPLAY
PRIVATELY INITIATED AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

**Privately Initiated Application
and Lee County Staff Analysis**

BoCC Adoption Document

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(239) 479-8585*

October 12, 2005

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2004-00002**



Text Amendment



Map Amendment

This Document Contains the Following Reviews:	
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
✓	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
✓	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: January 14, 2005

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. SPONSOR/APPLICANT:

A. APPLICANT

Argonaut Holdings, Inc.
C.O. Director of Retail Real Estate
General Motors World Wide Real Estate
200 Renaissance Center, 38th Floor
Detroit, MI 48265

2. REQUEST:

Amend Policy 19.2.5 to allow outdoor display in excess of one acre within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

B. LANGUAGE TRANSMITTED BY THE BOARD OF COUNTY COMMISSIONERS:

Policy 19.2.5: The following uses are prohibited within the Estero Planning Community: “detrimental uses” (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. Outdoor display in excess of one acre is permitted within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

C. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Approval of the request to allow outdoor display in excess of one acre within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

Staff recommends that Policy 19.2.5 be amended as follows:

Policy 19.2.5: The following uses are prohibited within the Estero Planning Community: “detrimental uses” (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. Outdoor display in excess of one acre is permitted within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Policy 19.2.5 was adopted by the Board of County Commissioners on January 10, 2002. That policy prohibits uses that require outdoor display in excess of one acre.
- Prior to the adoption of Policy 19.2.5 there was no acreage restriction on outdoor display in Estero.
- The one acre outdoor display restriction was proposed by the Estero community as a result of their concerns about the location of the Estero Greens Commercial Planned Development (CPD). The Estero Greens CPD allowed for a car dealership within its schedule of uses for property located south of Williams Road on the West side of Hwy. 41. A car dealership is under construction on that site at this time.
- The property located within the General Interchange area west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard has an approved CPD known as the Corkscrew Commerce Center CPD.
- The Corkscrew Commerce Center CPD is approved for 100,000 square feet of retail use; 30,000 square feet of office use; and a 120 unit hotel/motel, with buildings not to exceed 65 feet in height.

- The applicant has expressed a desire to allow outdoor display in excess of one acre for the Corkscrew Commerce Center CPD. They believe the proposed use for that site is more appropriate for the area than the allowed uses approved for the Corkscrew Woodlands CPD.
- This plan amendment will allow for a car dealership at the southwest intersection of Corkscrew Road and I-75. The proposed project was presented to the Estero Community at a publicly advertised meeting and received favorable comments. The Estero Community Planning Panel has taken the position that they prefer the proposed master concept plan for the car dealership over the approved Corkscrew Commerce Center CPD.
- The Corkscrew Commerce Center CPD will have to be amended through the public hearing process to allow for a vehicle and equipment dealer (car dealership).

D. BACKGROUND INFORMATION

On September 15, 1997 the Board of County Commissioners approved the Estero Greens CPD for property located south of Williams Road, immediately west of Hwy. 41, and adjacent to the Fountain Lakes residential subdivision. Among the approved schedule of uses for that CPD was vehicle and equipment dealers, class 1 and 2, which allows automobile dealers.

On February 4, 2005, at the request of the applicant, staff issued a zoning verification letter stating that a proposed 10 acre car dealer was not a neighborhood commercial use and therefore was not consistent with the Suburban Future Land Use Category where the site was located. Staff's response was appealed to the Hearing Examiner and staff's interpretation was overturned. The Board of County Commissioners appealed the Hearing Examiner decision to the Circuit Court who upheld the HEX decision.

The Estero Community submitted a Community Plan to Lee County on September 28, 2000. The Community Plan included a new Goal, Objectives and Policies that were adopted by the Board of County Commissioners on January 10, 2002. Policy 19.2.5 of Goal 19, Estero, of the Lee plan reads:

***Policy 19.2.5:** The following uses are prohibited within the Estero Planning Community: "detrimental uses" (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. (Amended by Ordinance No. 022-05)*

The restriction of no more than one acre of outdoor display was intended to prevent automobile dealerships in Estero as a direct result of the concerns of Estero residents with the Estero Greens CPD that allowed an automobile dealership adjacent to the Fountain Lakes multi-family residential development. That automobile dealership is currently under construction and is nearing completion.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

On January 8, 2004, representatives from General Motors Corporation gave a presentation to the Estero community about a Chevrolet automobile dealership they were considering for the southwest corner of Corkscrew Road and I-75. That site currently has an approved CPD known as the Corkscrew Commerce Center. That CPD is approved for 100,000 square feet of retail use; 30,000 square feet of office use; and a 120 unit hotel/motel, with buildings not to exceed 65 feet in height.

Following the General Motors presentation, two neighborhood associations (Corkscrew Woodlands Association, Inc., and Island Club Association, Inc.) wrote the General Motors representative a letter in general support of the proposal. The Corkscrew Woodlands neighborhood is immediately adjacent to the south of the Corkscrew Commerce Center and the Island Club is nearby to the southwest of the site. The Associations state in their letter of support, "in general these Associations are supportive of your proposed 'Chevrolet Store' occupancy as a vast improvement over the multiple parcels or 'bubble plan' zoning now in existence". The concerns put forward in their letter were not with the automobile dealership, but with increased automobile traffic, access, signage, storm water and pedestrian and vehicular circulation.

The Estero Community Planning Panel who formed to initiate the Estero Community Plan has also expressed support to planning staff for the automobile dealership at that specific location.

The one acre restriction on outdoor display in Policy 19.2.5 of the Lee Plan will effectively prevent the Chevrolet dealership from locating in Estero. Prior to the January 10, 2002 adoption of Policy 19.2.5 there was no restriction on outdoor display in Estero. The Estero community proposed Policy 19.2.5 to prevent automobile dealerships in the Estero Planning Community. Since the adoption of that policy they have reconsidered their decision for the specific site located west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

Staff did not object to the restriction on outdoor display in the Estero Community back in 2002 because that request was made by the community after a number of public meetings and as a result of the Estero Community Plan. The same individuals that requested the restriction on outdoor display in Estero have reconsidered their request for the Corkscrew Commerce Park site to allow an automobile dealer at that location in lieu of the uses allowed under the existing CPD.

Vehicle and equipment dealers (automobile dealerships) are a permitted use in the General Commercial and Light Industrial zoning categories and are consistent with the General Interchange Future Land Use Category. Lee Plan Policy 1.3.2 states:

***Policy 1.3.2:** The General Interchange areas are intended primarily for land uses that serve the traveling public: service stations, hotel, motel, restaurants, and gift shops. But because of their location, market attractions, and desire for flexibility, these interchange uses permit a broad range of land uses that include tourist commercial, general commercial and light industrial/commercial. (Amended by Ordinance No. 94-30, 99-18)*

Automobile dealerships are permitted uses in the CPD zoning category. An automobile dealership at the site of the Corkscrew Commerce Park will require an amended Master Concept Plan which will be subject to the same public hearing process as a CPD rezoning. All of the concerns expressed by the Corkscrew Woodlands Association, Inc., and the Island Club Association, Inc., can be addressed at that time.

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: January 24, 2005

A. LOCAL PLANNING AGENCY REVIEW

Following a brief presentation by staff one member of the LPA asked if this amendment applied only to the specific location at the southwest corner of I-75 and Corkscrew Road. Staff confirmed that to be the case.

No further questions were posed to staff or the applicant and there was no public comment.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

The LPA recommended that the Board of County Commissioners transmit the propose amendment to 19.2.5 as revised in Section B. 1. of this report.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The LPA accepted the findings of fact as advanced by staff.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
MATT BIXLER	<u>AYE</u>
DEREK BURR	<u>AYE</u>
RONALD INGE	<u>AYE</u>
CARLETON RYFFEL	<u>AYE</u>
RAYMOND SCHUMANN, ESQ.	<u>AYE</u>
VACANT	<u> </u>

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: June 1, 2005

A. BOARD REVIEW: Following a presentation by staff, one Board member asked if the Estero community supported this request. Staff responded that they had received letters of support from the community and received no objections.

The Board then opened the hearing to public comment. One member of the Estero Planning Panel spoke on behalf of the Panel and noted that there was community support for this amendment. He also spoke on behalf of the applicant and stated that this amendment would allow for uses on the subject property that were less intense than an already approved commercial planned development for the property. He asked the Board to transmit the amendment.

The Board closed the public hearing and a motion was made and seconded to transmit the amendment. The motion carried 5-0.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION: Motion to transmit the amendment carried 5-0.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The Board accepted the findings of fact as advanced by staff.

C. VOTE:

JOHN ALBION	<u>AYE</u>
TAMMY HALL	<u>AYE</u>
BOB JANES	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
DOUG ST. CERNY	<u>AYE</u>

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: August 19, 2005

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

The Department of Community Affairs provided no objections, recommendations or comments concerning the proposed amendment.

B. STAFF RESPONSE

Adopt the proposed amendment as transmitted.

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: October 12, 2005

A. BOARD REVIEW: The Board provided no discussion on this amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board voted to adopt this amendment.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact as advanced by staff and the local planning agency.

C. VOTE:

JOHN ALBION	<u>AYE</u>
TAMMY HALL	<u>AYE</u>
BOB JANES	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
DOUG ST. CERNY	<u>AYE</u>

RECEIVED
FEB 25 2004



PERMIT COUNTER

Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (941) 479-8585
FAX: (941) 479-8519

APPLICATION FOR A
COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D 2-25-04

REC'D BY: mkw

APPLICATION FEE \$2500.00

TIDEMARK NO: CPA 2004-00002

THE FOLLOWING VERIFIED:

Zoning CPD ☐

Commissioner District

3

Designation on FLUM ☐

General interchange 82.22

wet lands 17.44

(To be completed by Planning Staff)

Plan Amendment Cycle: ☒ Normal ☐ Small Scale ☐ DRI ☐ Emergency

Request No: _____

APPLICANT PLEASE NOTE:

Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: _____

Submit 6 copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

2/23/04

DATE

Sue Murphy
SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

I. APPLICANT/AGENT/OWNER INFORMATIONArgonaut Holdings Inc., C/O Director Of Real EstateAPPLICANTGeneral Motors World Wide Real Estate, 200 Renaissance Center, 38th FloorADDRESSDetroit, MI 48265CITYSTATEZIPTELEPHONE NUMBERFAX NUMBERSue Murphy, AICP, Ruden McCloskyAGENT*401 E. Jackson Street, Suite 2700ADDRESSTampa,FL33602CITYSTATEZIP813-222-6634813-314-6934TELEPHONE NUMBERFAX NUMBEROWNER(s) OF RECORDADDRESSCITYSTATEZIPTELEPHONE NUMBERFAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application.

* This will be the person contacted for all business relative to the application.

II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

A. TYPE: (Check appropriate type)

☒ **Text Amendment**

☐ **Future Land Use Map Series Amendment
(Maps 1 thru 20)**

List Number(s) of Map(s) to be amended

B. SUMMARY OF REQUEST (Brief explanation):

See attached Summary Request

**III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY
(for amendments affecting development potential of property)**

A. Property Location:

1. **Site Address:** in the vicinity and including Corkscrew Commerce Center

2. **STRAP(s):** 35-46-25-00-00001-1030 Corkscrew Commerce Center

B. Property Information

Total Acreage of Property: _____

Total Acreage included in Request: _____

Area of each Existing Future Land Use Category: _____

Total Uplands: _____

Total Wetlands: _____

Current Zoning: _____

Current Future Land Use Designation: _____

Existing Land Use: _____

SUMMARY OF REQUEST

The applicant is proposing a text amendment to the Lee Plan that would allow outdoor storage over one acre within a very limited portion of the Estero Planning Community area. Specifically, outdoor storage would be permitted within a portion of the General Interchange land use designation within the area, which is the interchange of I-75/Corkscrew Road.

N.A.

C. State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:

Lehigh Acres Commercial Overlay: _____

Airport Noise Zone 2 or 3: _____

Acquisition Area: _____

Joint Planning Agreement Area (adjoining other jurisdictional lands): _____

Community Redevelopment Area: _____

D. Proposed change for the Subject Property: _____

N.A.

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density _____

Commercial intensity _____

Industrial intensity _____

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density _____

Commercial intensity _____

Industrial intensity _____

IV. AMENDMENT SUPPORT DOCUMENTATION

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of amendment packets, the applicant is encouraged to provide all data and analysis electronically. (Please contact the Division of Planning for currently accepted formats)

A. General Information and Maps

NOTE: For each map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.

The following pertains to all proposed amendments that will affect the development potential of properties (unless otherwise specified).

- N.A.
1. Provide any proposed text changes. See attached Proposed Text Amendment Language
 2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.
 3. Map and describe existing land uses (not designations) of the subject property and surrounding properties. Description should discuss consistency of current uses with the proposed changes.
 4. Map and describe existing zoning of the subject property and surrounding properties.
 5. The legal description(s) for the property subject to the requested change.
 6. A copy of the deed(s) for the property subject to the requested change.
 7. An aerial map showing the subject property and surrounding properties.
 8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts

NOTE: The applicant must calculate public facilities impacts based on a maximum development scenario (see Part II.H.).

N.A.

1. **Traffic Circulation Analysis**

The analysis is intended to determine the effect of the land use change on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit the following information:

Long Range – 20-year Horizon:

- N.A.
- a. Working with Planning Division staff, identify the traffic analysis zone (TAZ) or zones that the subject property is in and the socio-economic data forecasts for that zone or zones;
 - b. Determine whether the requested change requires a modification to the socio-economic data forecasts for the host zone or zones. The land uses for the proposed change should be expressed in the same format as the socio-economic forecasts (number of units by type/number of employees by type/etc.);

- N.A.
- c. If no modification of the forecasts is required, then no further analysis for the long range horizon is necessary. If modification is required, make the change and provide to Planning Division staff, for forwarding to DOT staff. DOT staff will rerun the FSUTMS model on the current adopted Financially Feasible Plan network and determine whether network modifications are necessary, based on a review of projected roadway conditions within a 3-mile radius of the site;
 - d. If no modifications to the network are required, then no further analysis for the long range horizon is necessary. If modifications are necessary, DOT staff will determine the scope and cost of those modifications and the effect on the financial feasibility of the plan;
 - e. An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change;
 - f. If the proposal is based on a specific development plan, then the site plan should indicate how facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated.

Short Range – 5-year CIR horizon:

- N.A.
- a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
 - b. Identify the major road improvements within the 3-mile study area funded through the construction phase in adopted CIP's (County or Cities) and the State's adopted Five-Year Work Program;

Projected 2020 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);

- c. For the five-year horizon, identify the projected roadway conditions (volumes and levels of service) on the roads within the 3-mile study area with the programmed improvements in place, with and without the proposed development project. A methodology meeting with DOT staff prior to submittal is required to reach agreement on the projection methodology;
- d. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal.

2. Provide an existing and future conditions analysis for:

- N.A.
- a. Sanitary Sewer
 - b. Potable Water
 - c. Surface Water/Drainage Basins
 - d. Parks, Recreation, and Open Space.

Analysis should include (but is not limited to) the following:

- Franchise Area, Basin, or District in which the property is located;

- N.A.
- Current LOS, and LOS standard of facilities serving the site;
 - Projected 2020 LOS under existing designation;
 - Projected 2020 LOS under proposed designation;
 - Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
 - Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).

- N.A.
3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including:
- a. Fire protection with adequate response times;
 - b. Emergency medical service (EMS) provisions;
 - c. Law enforcement;
 - c. Solid Waste;
 - d. Mass Transit; and
 - e. Schools.

In reference to above, the applicant should supply the responding agency with the information from Section's II and III for their evaluation. This application should include the applicant's correspondence to the responding agency.

C. Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use upon the following:

- 1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).
- 2. A map and description of the soils found on the property (identify the source of the information).
- 3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).
- 4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.
- 5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

D. Impacts on Historic Resources

List all historic resources (including structure, districts, and/or archeologically sensitive areas) and provide an analysis of the proposed change's impact on these resources. The following should be included with the analysis:

1. A map of any historic districts and/or sites, listed on the Florida Master Site File, which are located on the subject property or adjacent properties.
2. A map showing the subject property location on the archeological sensitivity map for Lee County.

E. Internal Consistency with the Lee Plan SEE ATTACHED

1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.
2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.
3. Describe how the proposal affects adjacent local governments and their comprehensive plans.
4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment.

F. Additional Requirements for Specific Future Land Use Amendments

1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from).
 - a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
 - b. Provide data and analysis required by Policy 2.4.4,
 - c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.
2. Requests moving lands from a Non-Urban Area to a Future Urban Area
 - a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.

N.A

3. Requests involving lands in critical areas for future water supply must be evaluated based on policy 2.4.2.
4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis. See Attached Justification Statement

Item 1: Fee Schedule

Map Amendment Flat Fee	\$2,000.00 each
Map Amendment > 20 Acres	\$2,000.00 and \$20.00 per 10 acres up to a maximum of \$2,255.00
Small Scale Amendment (10 acres or less)	\$1,500.00 each
Text Amendment Flat Fee	\$2,500.00 each

AFFIDAVIT

I, Sue Murphy, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

Sue Murphy
Signature of owner or owner-authorized agent

2/23/04
Date

Sue Murphy
Typed or printed name

STATE OF FLORIDA)
COUNTY OF ~~DEK~~) HILLSBOROUGH

The foregoing instrument was certified and subscribed before me this 23rd day of Feb 2004,
by Sue Murphy, who is personally known to me or who has produced _____ as identification.



Betty S. Hechinger
MY COMMISSION # DD095449 EXPIRES
March 4, 2006
BONDED THRU TROY FAIN INSURANCE, INC.

Betty S. Hechinger
Signature of notary public

Betty S. Hechinger
Printed name of notary public

PROPOSED TEXT AMENDMENT LANGUAGE

POLICY 19.2.5: The following uses are prohibited within the Estero Planning Community: "detrimental uses" (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. Outdoor display in excess of one acre is permitted within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

Section E. Internal Consistency with the Lee Plan

1. Discuss how the proposal affects established Lee County population projections and the total capacity of the Lee Plan Future Land Use Map.

The proposed text amendment will not affect neither the Lee County population projections nor the total capacity of the Lee Plan Future Land Use Map.

2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.

The proposed text amendment primarily affects the Estero Community Plan and the Corkscrew Main Street Overlay by permitting outdoor display over one acre in a very limited area at the interchange of I-75 and Corkscrew Road. The following goals, objectives and policies are addressed:

Goal 19: Estero: To protect the character, natural resources and quality of life in Estero by establishing minimum aesthetic requirements, managing the location and intensity of future commercial and residential uses, and providing greater opportunities for public participation in the land development approval process. This Goal and subsequent objectives and policies apply to the Estero Planning Community as depicted on Map 16.

Objective 19.1: Community Character: The Estero Community will draft and submit regulations, policies, and discretionary actions affecting the character and aesthetic appearance of Estero for Lee County to adopt and enforce to help create a visually attractive community.

Policy 19.1.1: By the end of 2002, The Estero Community will draft and submit regulations or policies for Lee County to review, amend or establish as Land Development Code regulations that provide for enhanced landscaping along roadway corridors, greater buffering, shading of parking areas, signage and lighting consistent with the Community Vision, and architectural standards.

Policy 19.1.2: Lee County is discouraged from approving any deviation that would result in a reduction of landscaping, buffering, signage guidelines or compliance with architectural standards.

The applicant is proposing the addition of outdoor display areas over one acre as a permitted use in the General Interchange land use category in the Estero Community. This limits the permitted outdoor display location to the quadrants of the I-75/Corkscrew Road interchange. The intent is to allow outdoor storage over 1 acre in the area containing the Corkscrew Commerce Center PD. The other

quadrants are primarily developed and contain a mixture of residential, institutional and commercial uses, including the TECO arena, the Miramar outlet mall, and Florida Gulf Coast University.

The requested amendment would not only limit this use to this small, specific area, but it will also require increased buffers and setbacks to ensure compatibility with surrounding uses. The development of outdoor display over one acre in this area will be bound to the architectural, signage and other regulations for the Corkscrew Main Street Overlay district, except outdoor display areas will require increased buffering and setbacks. There is also a requirement that any outdoor display areas be approved as a CPD zoning so that adequate controls can be placed on the development.

The applicant has met with the surrounding neighborhood and with the Estero Planning Board to discuss this issue. As far as can be determined, there is no opposition and much support for this request, as evidenced by the attached letters and newspaper articles.

Objective 19.2: Commercial Land Uses. Existing and future County regulations, land use interpretations, policies, zoning approvals, and administrative actions must recognize the unique conditions and preferences of the Estero Community to ensure that commercial areas maintain a unified and pleasing aesthetic/visual quality in landscaping, architecture, lighting and signage, and provide for employment opportunities, while discouraging uses that are not compatible with adjacent uses and have significant adverse impacts on natural resources.

Policy 19.2.1: All new commercial development that requires rezoning within the Estero Planning Community must be reviewed as a Commercial Planned Development.

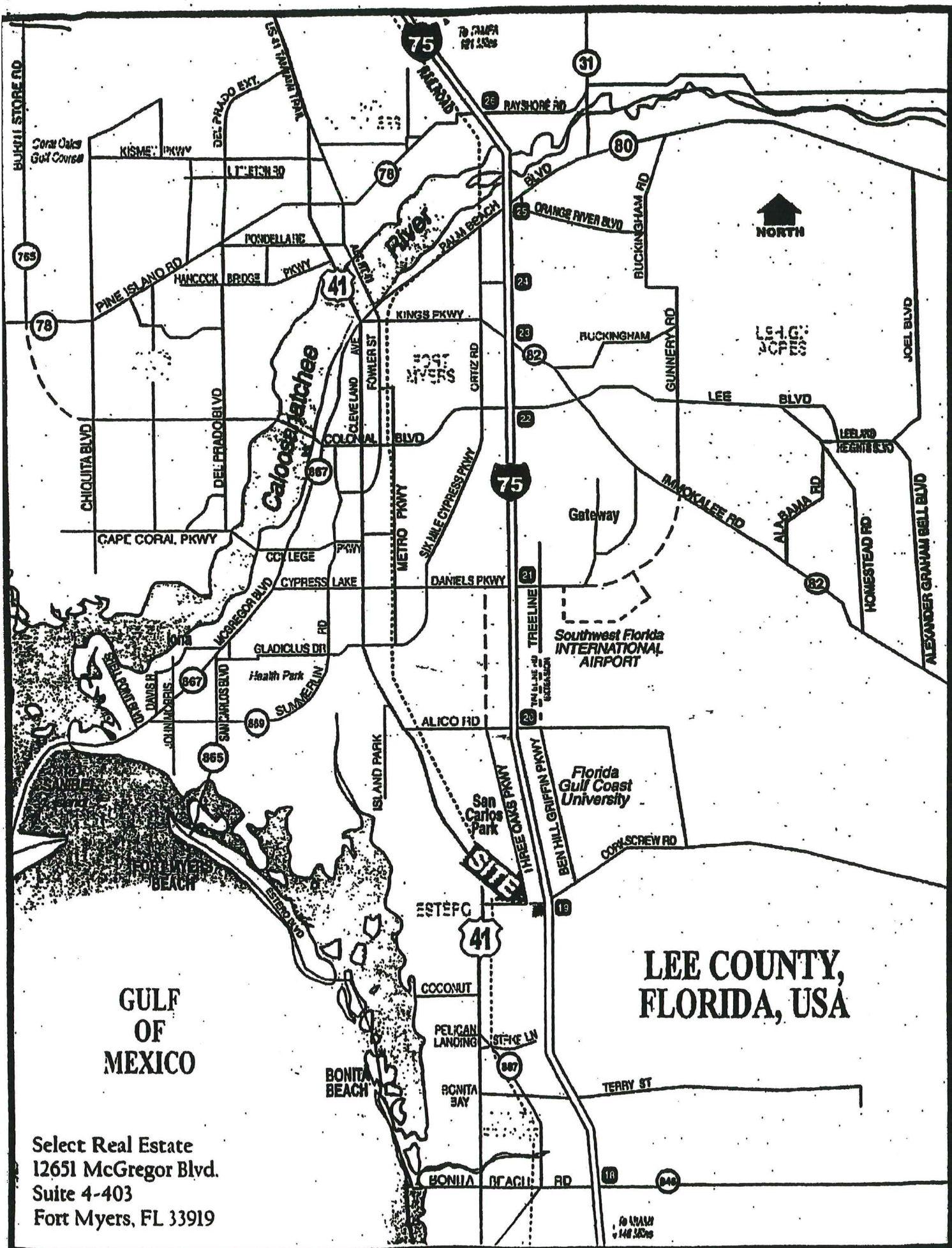
Policy 19.2.2: All retail uses must be in compliance with the Commercial Site Location Standards.

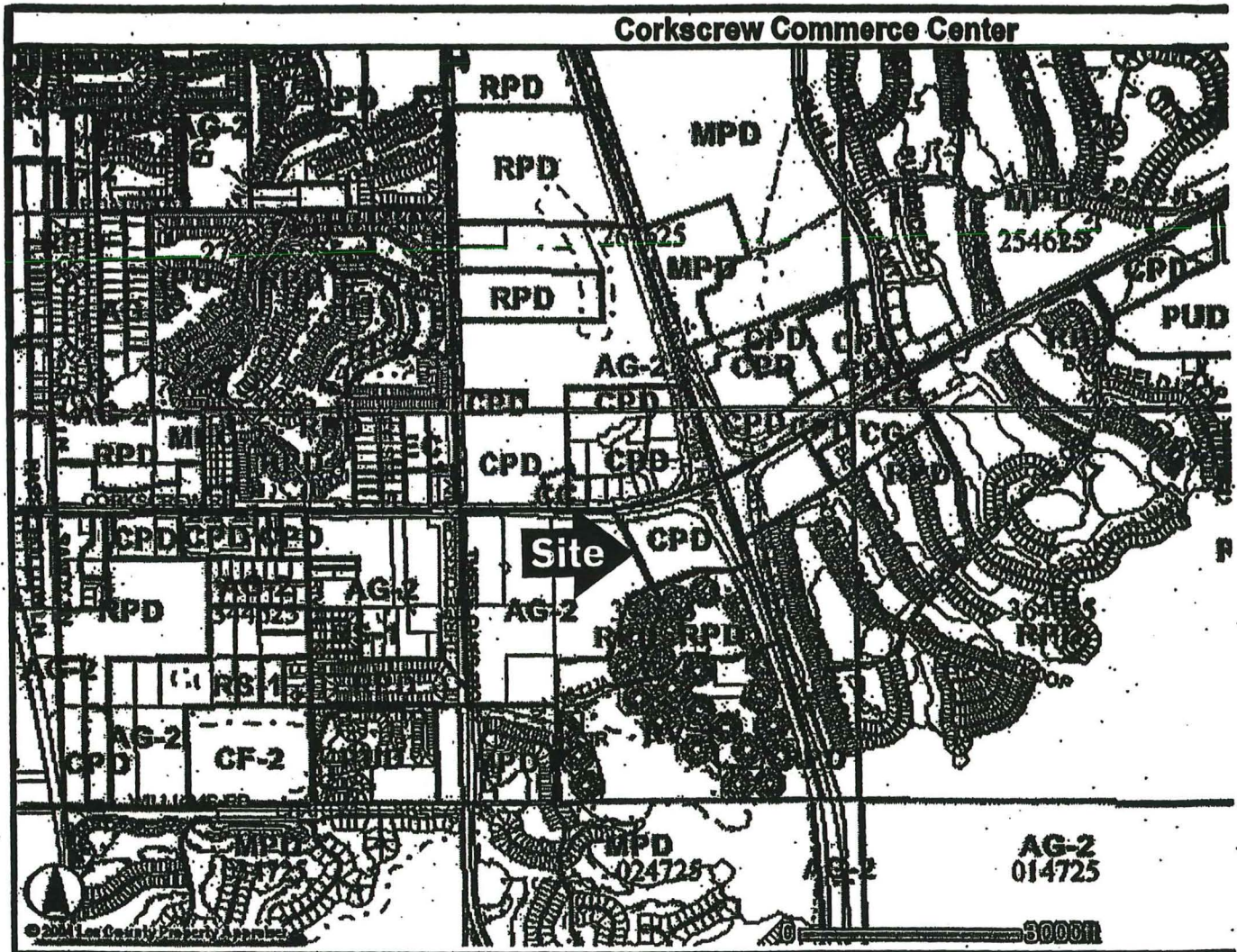
Policy 19.2.5: The following uses are prohibited within the Estero Planning Community: "detrimental uses" (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre.

The proposed text amendment will require CPD zoning with appropriate conditions to mitigate impacts and provide for an aesthetically pleasing development. CPD zoning can mandate adherence to the signage, lighting and applicable architectural standards of the Corkscrew Main Street Overlay and the Estero Community Plan will be required for outdoor display areas over one acre. CPD Zoning can also require the provision of enhanced buffer yards, landscaping and setbacks to ensure compatibility with surrounding uses.

GULF
OF
MEXICO

Select Real Estate
12651 McGregor Blvd.
Suite 4-403
Fort Myers, FL 33919





Naples Daily News

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URL: http://www.naplesnews.com/npdn/bonitanews/article/0,2071,NPDN_14894_2642506,00.html

Panel sees car dealer as a way to address corner

By CHRISTINA HOLDER, cholder@naplesnews.com

February 10, 2004

An Estero panel that in the past has been wary of car dealerships settling into the community is supporting a North Carolina businessman's plan to pursue property for a Chevrolet franchise.

Charles Winton, 41, of Charlotte, N.C., said he would like to build the car dealership on the southwest corner of Corkscrew Road and Interstate 75, a tract adjacent to two neighborhoods.

Yet first he will have to purchase about 10 of the 20 available acres on the interstate corner and get a zoning change that would allow a car display in excess of one-acre.

If approved, the zoning amendment would bypass a rule limiting outdoor displays to one acre that Estero activists worked to get into the community's county-endorsed plan several years ago to regulate businesses like car dealerships.

Yet panel members on Monday night supported Winton's plan to pursue the property because it could eliminate potential users of the site's parcels from eight to three and decrease the risk of bars, fast-food restaurants or similar businesses that the panel would like to limit in the area.

"This is sort of an opportunity I've seen to take care of this corner," panel member Greg Toth said. "What we are trying to do, is take eight users, limit it to three, which will mean less traffic, less impact to the area, more green space."

Toth, who is acting as Winton's broker, said he would recuse himself from the panel's discussion should Winton's plan come before the panel in the future.

Getting community support for Winton's project in a timely manner is important, Toth said, because Lee County is likely to issue a development order for the parcel within the next few weeks and the owner of the parcel will be looking for buyers.

"What I'm trying to do is come in before that," he said. "We really need the community to be behind us before we discuss those financial negotiations."

If Winton were to purchase 10 acres, the remaining acres would leave room for two parcels open for additional users. The dream would be to buy all eight parcels, Winton said, but he could not guarantee he could purchase the entire lot.

The presidents of the Board of Directors for neighboring Island Club and Corkscrew Woodlands wrote a letter, dated Jan. 19, to Winton and Toth in support of the franchise.

However, the letter listed several concerns as the plan develops, including potential traffic problems on Corkscrew Road and Corkscrew Boulevard and questions about how storm water would be managed.

Panel member Mitch Hutchcraft said a car dealership is a better user for the site than other businesses, such as fast-food restaurants.

"Those operations last much on longer into the night," he said. "Their lighting requirements are much higher."

Winton said it was his dream to become an entrepreneur and own a car dealership, but he also wanted to make Estero his home.

"I'm going to be there every day," Winton said. "I want to live in the Estero community. They would have a local business on site."

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Estero welcomes Chevy lot

Nearby residents back dealership

By DENISE L. SCOTT, dscott@news-press.com

Published by news-press.com on February 10, 2004

Chevy may be coming to Estero, and it's getting a warmer welcome than Ford.

Estero Community Planning Panel member Greg Toth, acting as real estate agent, presented preliminary plans for a Chevrolet dealership at the southwest corner of Corkscrew Road and Interstate 75 to his fellow panel members Monday night.

Unlike the Galloway Ford dealership being built on U.S. 41, which was fought by Fountain Lakes residents, those in Island Club and Corkscrew Woodlands adjacent to the Chevrolet property support it — with a few concerns.

The General Motors franchise owner, Charles Winton, 41, of Charlotte, N.C., wants to purchase 10 of the property's 20 acres, leaving two 1 1/4-acre outparcels for other businesses.

He received written support from the two community associations after meeting with residents in January. The panel also responded positively Monday night, citing the benefits of one car dealership with two small outlots versus eight separate parcels on the same property.

Toth said the property's owner, James Goldie of Galleria Properties, soon will receive a development order and begin selling off parcels. He said Winton must buy the property before it's too late to limit the number of businesses, which under current zoning could include gas stations, bars and fast food restaurants.

"We can take eight users and trim down to three," Toth said, noting that would reduce traffic and the impact on the community. And, he said, rezoning could limit the allowable uses for the two outparcels.

Toth said this would ensure a unified architectural and landscape plan, unlike what is happening across Corkscrew Road with the mishmash of buildings, including Embassy Suites and Tires Plus.

In addition to rezoning, the possibly two-year process would require an amendment to Estero-specific county code to permit more than 1-acre of outdoor display, and a deviation to the Corkscrew Road overlay so the building could be set back from the road.

"We do need community support to put the amount of money necessary to hold the property while it's going through amendments and zoning," Toth said.

Panel Chairman Neal Noethlich cautioned that the county code amendment restricting outdoor display to one acre or less was created specifically for car dealerships.

"We want to be very careful we don't open up some other problem for us," he said.

Toth said the amendment could be written specific to the I-75 corridor.

The community associations' letter cites concerns including traffic, entrances, signs, storm water, sidewalks and the relocation of their entrance gates.

"We'll be dealing with their concerns. None are back breakers," Toth said, noting the site plan includes two large fountains and an expansion of the green space to 6 acres.

Winton said he plans to move to provide local ownership and realizes the importance of

community support to get the property rezoned.

"Time is of the essence," he said. "I'm going to have Greg sit down with Mr. Goldie right away."

Ralph Colter, 67, has lived in Island Club for five years and said he is impressed with Winton's willingness to work with residents.

"He seems to be real amicable about trying to answer the questions we had and take care of our needs for buffering, noise, roadway and lighting," he said. "I personally don't want eight businesses there."

Toth said they would bring the project back to the panel for a formal presentation during the rezoning process, at which time he would recuse himself from panel discussions and voting.

In other business, the panel discussed residents' e-mail campaign that failed to get Wal-Mart representatives to postpone presenting plans for a Supercenter at Coconut Road and U.S. 41 to the Estero Design Review Committee on Wednesday. The goal was to have Wal-Mart meet with neighboring residents first.

"We're trying every way we can to ensure significant public dialogue for this store," Noethlich said, noting a meeting at Marsh Landing has been tentatively set for early March.

"They are ignoring the wishes of potentially thousands of customers," panel member and Marsh Landing resident Jim Ramsburg said. "I'm a little disgusted with their refusal."

[Back to Bonita](#)

Return to story: <http://www.news-press.com/news/bonita/040210estero.html>

**Corkscrew Woodlands
Association, Inc.**

**21600 Corkscrew Woodlands Blvd.
Estero, Florida 33928**

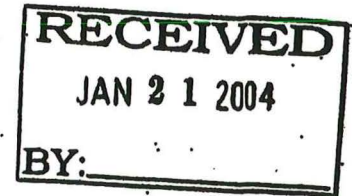
**Island Club
Association, Inc.**

**21500 Corkscrew Woodlands Blvd.
Estero, Florida 33928**

January 19, 2004

**Mr. Charles D. Winton
B722 Briar Oak Court
Charlotte, North Carolina 28226**

**Mr. Gregory F. Toth
12651 McGregor Boulevard
Fort Myers, Florida 33919**



Subject: Corkscrew Commerce Park - Proposed Rezoning

The residents of our communities attentively participated in your presentation and discussion on January 8, 2004, in the Community Center of the Island Club Association. Much interest was exhibited as you may recall. The two Associations are residential communities dead-ended in an entrance road easement which also may serve the commercial interests on either side. Thus, we are most concerned that our future living environment is perhaps enhanced and certainly not adversely affected.

In general these Associations are supportive of your proposed "Chevrolet Store" occupancy as a vast improvement over the multiple parcels or "bubble plan" zoning now in existence. We prefer to know in advance who our neighbors will be and we commend this effort to do that for the majority of the land area involved in the 20 plus acres plot.

There are, however, some concerns and questions that we respectfully request be specifically addressed as part of the approval process.

- **Safety and traffic control onto and off of Corkscrew Road and Corkscrew Boulevard are vital to our residential interests.**

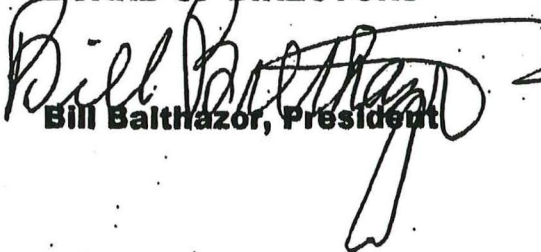
The increased emphasis of Corkscrew Road as a main street of Estero plus the planned widening of the ramp and of I-75 appear to indicate much increased traffic in near term. Also the potential entrance needs of the 43 acre parcel on the West of Corkscrew

Woodlands Boulevard ought be determined since the four adjoining entitles are apparently involved in the Corkscrew Woodlands Boulevard entrance road easements from Corkscrew Road.

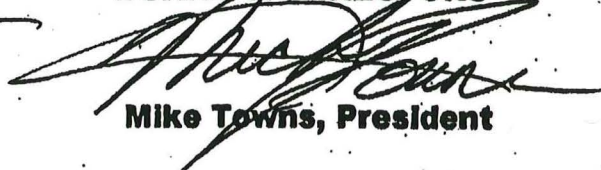
- **It is proposed that specific occupancies be determined on the two out parcels which total 3.75 acres. Entrances to be only from the internal road, not directly from Corkscrew Woodlands Boulevard.**
- **It is presumed our present entrance sign on Corkscrew Woodlands Boulevard at Corkscrew Road would remain. Is so?**
- **Storm water shall not be drained onto the Island Club Association and continue on into Corkscrew Woodlands Lake as was apparently anticipated in the past.**
- **A pedestrian walkway from the Island Club boundary on Corkscrew Woodlands Boulevard to the Corkscrew Road walkway is proposed. A bus pickup and discharge area also is proposed.**
- **The traffic control gates located at the Island Club boundary ought be located much closer to Corkscrew Road to curtail unwanted traffic to the communities. Provisions should be made for vehicles and especially large vehicles to be able to turn around before the gates to the residential communities.**

The opportunity to further comment on this important subject is very much appreciated. Thank You. We hope the identification and resolution of these issues might aid in the development of a mutually advantageous project. While we have identified these concerns it is assumed our ability to have voice in this process is assured as the project moves forward. We would welcome that involvement.

BOARD OF DIRECTORS


Bill Balthazor, President

BOARD OF DIRECTORS


Mike Towns, President

LEE COUNTY ORDINANCE NO. 05-19
(Consent Ordinance)

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE LAND USE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENTS APPROVED ON THE CONSENT AGENDA DURING THE COUNTY'S 2004/2005 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT, MAPS AND TABLES; PURPOSE AND SHORT TITLE; LEGAL EFFECT; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan (hereinafter referred to as the "Lee Plan") Policy 2.4.1 and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners; and,

WHEREAS, the Lee County Board of County Commissioners, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ("LPA") held public hearings pursuant to Chapter 163, Part II, Florida Statutes, and the Lee County Administrative Code on January 24, 2005, March 28, 2005, April 25, 2005, and May 23, 2005; and,

WHEREAS, the Board of County Commissioners, pursuant to Florida Statutes and the Lee County Administrative Code held a public hearing for the transmittal of the proposed amendments on June 1, 2005. At that hearing, the Board approved a motion to send, and did later send, the proposed amendment to the Florida Department of Community Affairs ("DCA") for review and comment; and,

WHEREAS, at the transmittal hearing on June 1, 2005, the Board announced its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report." DCA issued their ORC report on August 19, 2005; and,

WHEREAS, the Board moved to adopt the proposed amendments to the Lee Plan set forth herein during its statutorily prescribed public hearing for the plan amendments on October 12, 2005.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted a series of public hearings to consider proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt the certain amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as amended, will continued to be the "Lee Plan." **This ordinance may be referred to as the "2004/2005 Regular Comprehensive Plan Amendment Cycle Consent Ordinance."**

SECTION TWO: ADOPTION OF LEE COUNTY'S 2004/2005 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE (Consent Agenda Items)

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting amendments, as revised by the Board of County Commissioners on October 12, 2005, known as: CPA2004-02, CPA2004-08, CPA2004-09, CPA2004-12, CPA2004-14, and CPA2004-15. The aforementioned amendments amend the text of the Lee Plan including the Future Land

Use Map series and the Lee Plan Land Use Allocation Table (Table 1b). A brief summary of the content of those amendments is set forth below:

CPA2004-02 (Estero Outdoor Display)

Amend Lee Plan Policy 19.2.5. of the Future Land Use Element to allow outdoor display in excess of one acre at the intersection of I-75 and Corkscrew Road. Sponsor: Argonaut Holdings, Inc.

CPA2004-08 (Oak Creek)

Amend the Future Land Use Map Series for a 27.25±-acre portion of land located in Section 17, Township 43 South, Range 25 East, to change the classification shown on Map 1, the Future Land Use Map, from "Rural" to "Suburban." Amend the Future Land Use Map Series for a 17.81±-acre portion of land located in Section 19, Township 43 South, Range 25 East, to change the classification shown on Map 1, the Future Land Use Map, from "Suburban" to "Rural." Sponsor: S.W. Florida Land 411, LLC.

CPA2004-09 (Captiva)

Amend Goal 13 of the Lee Plan pertaining to the Captiva Community to incorporate recommendations of the Captiva Island Community Planning effort. Amend Goal 84: Wetlands to add a new policy 84.1.4. Sponsor: BOCC.

CPA2004-12 (Boca Grande)

Amend the Future Land Use Element of the Lee Plan to incorporate recommendations of the Boca Grande Community Planning effort. Establish a new Vision Statement and a new Goal, including Objectives and Policies specific to Boca Grande. Sponsor: BOCC.

CPA2004-14 (Coastal High Hazard Area Density)

Amend the Lee Plan's Conservation and Coastal Management Element Policy 75.1.4. to consider limiting the future population exposed to coastal flooding while considering applications for rezoning in the Coastal High Hazard Area. Sponsor: BOCC

CPA2004-15 (Fort Myers Shore Table 1b Update)

Text amendment to revise the Lee Plan Land Use Allocation Table (Table 1b) for the Fort Myers Shores Planning Community to address the establishment of the Outlying Suburban Future Land Use Category within the planning community. Sponsor: BOCC

The corresponding Staff Reports and Analysis, along with all attachments for these amendments are adopted as "Support Documentation" for the Lee Plan.

SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

SECTION FOUR: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

SECTION FIVE: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administrative Commission finding the amendment in compliance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made

effective by adoption of a resolution affirming its effective status. A copy of such resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

THE FOREGOING ORDINANCE was offered by Commissioner Albion, who moved its adoption. The motion was seconded by Commissioner Hall, and, when put to a vote, the vote was as follows:

Robert P. Janes	Aye
Douglas St. Cerny	Aye
Ray Judah	Aye
Tammy Hall	Aye
John Albion	Aye

DONE AND ADOPTED this 12th day of October 2005.

ATTEST:
CHARLIE GREEN, CLERK

BY: *Spica D. Pierce*
Deputy Clerk

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: *[Signature]*
Chairman

DATE: 10/12/05



Approved as to form by:

Donna Marie Collins
Donna Marie Collins
County Attorney's Office

CPA2004-02
ESTERO OUTDOOR DISPLAY
PRIVATELY INITIATED AMENDMENT
TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

**Privately Initiated Application
and Lee County Staff Analysis**

**BoCC Public Hearing Document
for the
October 12th Adoption Hearing**

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(239) 479-8585*

August 19, 2005

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2004-00002**



Text Amendment



Map Amendment

This Document Contains the Following Reviews:	
<input checked="" type="checkbox"/>	Staff Review
<input checked="" type="checkbox"/>	Local Planning Agency Review and Recommendation
<input checked="" type="checkbox"/>	Board of County Commissioners Hearing for Transmittal
<input checked="" type="checkbox"/>	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: January 14, 2005

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. SPONSOR/APPLICANT:

A. APPLICANT

Argonaut Holdings, Inc.
C.O. Director of Retail Real Estate
General Motors World Wide Real Estate
200 Renaissance Center, 38th Floor
Detroit, MI 48265

2. REQUEST:

Amend Policy 19.2.5 to allow outdoor display in excess of one acre within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

B. LANGUAGE TRANSMITTED BY THE BOARD OF COUNTY COMMISSIONERS:

Policy 19.2.5: The following uses are prohibited within the Estero Planning Community: “detrimental uses” (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. Outdoor display in excess of one acre is permitted within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

C. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Approval of the request to allow outdoor display in excess of one acre within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

Staff recommends that Policy 19.2.5 be amended as follows:

Policy 19.2.5: The following uses are prohibited within the Estero Planning Community: “detrimental uses” (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. Outdoor display in excess of one acre is permitted within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Policy 19.2.5 was adopted by the Board of County Commissioners on January 10, 2002. That policy prohibits uses that require outdoor display in excess of one acre.
- Prior to the adoption of Policy 19.2.5 there was no acreage restriction on outdoor display in Estero.
- The one acre outdoor display restriction was proposed by the Estero community as a result of their concerns about the location of the Estero Greens Commercial Planned Development (CPD). The Estero Greens CPD allowed for a car dealership within its schedule of uses for property located south of Williams Road on the West side of Hwy. 41. A car dealership is under construction on that site at this time.
- The property located within the General Interchange area west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard has an approved CPD known as the Corkscrew Commerce Center CPD.
- The Corkscrew Commerce Center CPD is approved for 100,000 square feet of retail use; 30,000 square feet of office use; and a 120 unit hotel/motel, with buildings not to exceed 65 feet in height.

- The applicant has expressed a desire to allow outdoor display in excess of one acre for the Corkscrew Commerce Center CPD. They believe the proposed use for that site is more appropriate for the area than the allowed uses approved for the Corkscrew Woodlands CPD.
- This plan amendment will allow for a car dealership at the southwest intersection of Corkscrew Road and I-75. The proposed project was presented to the Estero Community at a publicly advertised meeting and received favorable comments. The Estero Community Planning Panel has taken the position that they prefer the proposed master concept plan for the car dealership over the approved Corkscrew Commerce Center CPD.
- The Corkscrew Commerce Center CPD will have to be amended through the public hearing process to allow for a vehicle and equipment dealer (car dealership).

D. BACKGROUND INFORMATION

On September 15, 1997 the Board of County Commissioners approved the Estero Greens CPD for property located south of Williams Road, immediately west of Hwy. 41, and adjacent to the Fountain Lakes residential subdivision. Among the approved schedule of uses for that CPD was vehicle and equipment dealers, class 1 and 2, which allows automobile dealers.

On February 4, 2005, at the request of the applicant, staff issued a zoning verification letter stating that a proposed 10 acre car dealer was not a neighborhood commercial use and therefore was not consistent with the Suburban Future Land Use Category where the site was located. Staff's response was appealed to the Hearing Examiner and staff's interpretation was overturned. The Board of County Commissioners appealed the Hearing Examiner decision to the Circuit Court who upheld the HEX decision.

The Estero Community submitted a Community Plan to Lee County on September 28, 2000. The Community Plan included a new Goal, Objectives and Policies that were adopted by the Board of County Commissioners on January 10, 2002. Policy 19.2.5 of Goal 19, Estero, of the Lee plan reads:

***Policy 19.2.5:** The following uses are prohibited within the Estero Planning Community: "detrimental uses" (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. (Amended by Ordinance No. 022-05)*

The restriction of no more than one acre of outdoor display was intended to prevent automobile dealerships in Estero as a direct result of the concerns of Estero residents with the Estero Greens CPD that allowed an automobile dealership adjacent to the Fountain Lakes multi-family residential development. That automobile dealership is currently under construction and is nearing completion.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

On January 8, 2004, representatives from General Motors Corporation gave a presentation to the Estero community about a Chevrolet automobile dealership they were considering for the southwest corner of

Corkscrew Road and I-75. That site currently has an approved CPD known as the Corkscrew Commerce Center. That CPD is approved for 100,000 square feet of retail use; 30,000 square feet of office use; and a 120 unit hotel/motel, with buildings not to exceed 65 feet in height.

Following the General Motors presentation, two neighborhood associations (Corkscrew Woodlands Association, Inc., and Island Club Association, Inc.) wrote the General Motors representative a letter in general support of the proposal. The Corkscrew Woodlands neighborhood is immediately adjacent to the south of the Corkscrew Commerce Center and the Island Club is nearby to the southwest of the site. The Associations state in their letter of support, "in general these Associations are supportive of your proposed 'Chevrolet Store' occupancy as a vast improvement over the multiple parcels or 'bubble plan' zoning now in existence". The concerns put forward in their letter were not with the automobile dealership, but with increased automobile traffic, access, signage, storm water and pedestrian and vehicular circulation.

The Estero Community Planning Panel who formed to initiate the Estero Community Plan has also expressed support to planning staff for the automobile dealership at that specific location.

The one acre restriction on outdoor display in Policy 19.2.5 of the Lee Plan will effectively prevent the Chevrolet dealership from locating in Estero. Prior to the January 10, 2002 adoption of Policy 19.2.5 there was no restriction on outdoor display in Estero. The Estero community proposed Policy 19.2.5 to prevent automobile dealerships in the Estero Planning Community. Since the adoption of that policy they have reconsidered their decision for the specific site located west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

Staff did not object to the restriction on outdoor display in the Estero Community back in 2002 because that request was made by the community after a number of public meetings and as a result of the Estero Community Plan. The same individuals that requested the restriction on outdoor display in Estero have reconsidered their request for the Corkscrew Commerce Park site to allow an automobile dealer at that location in lieu of the uses allowed under the existing CPD.

Vehicle and equipment dealers (automobile dealerships) are a permitted use in the General Commercial and Light Industrial zoning categories and are consistent with the General Interchange Future Land Use Category. Lee Plan Policy 1.3.2 states:

***Policy 1.3.2:** The General Interchange areas are intended primarily for land uses that serve the traveling public: service stations, hotel, motel, restaurants, and gift shops. But because of their location, market attractions, and desire for flexibility, these interchange uses permit a broad range of land uses that include tourist commercial, general commercial and light industrial/commercial. (Amended by Ordinance No. 94-30, 99-18)*

Automobile dealerships are permitted uses in the CPD zoning category. An automobile dealership at the site of the Corkscrew Commerce Park will require an amended Master Concept Plan which will be subject to the same public hearing process as a CPD rezoning. All of the concerns expressed by the Corkscrew Woodlands Association, Inc., and the Island Club Association, Inc., can be addressed at that time.

**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: January 24, 2005

A. LOCAL PLANNING AGENCY REVIEW

Following a brief presentation by staff one member of the LPA asked if this amendment applied only to the specific location at the southwest corner of I-75 and Corkscrew Road. Staff confirmed that to be the case.

No further questions were posed to staff or the applicant and there was no public comment.

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT
SUMMARY**

1. RECOMMENDATION:

The LPA recommended that the Board of County Commissioners transmit the propose amendment to 19.2.5 as revised in Section B. 1. of this report.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The LPA accepted the findings of fact as advanced by staff.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
MATT BIXLER	<u>AYE</u>
DEREK BURR	<u>AYE</u>
RONALD INGE	<u>AYE</u>
CARLETON RYFFEL	<u>AYE</u>
RAYMOND SCHUMANN, ESQ.	<u>AYE</u>
VACANT	<u> </u>

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: June 1, 2005

A. BOARD REVIEW: Following a presentation by staff, one Board member asked if the Estero community supported this request. Staff responded that they had received letters of support from the community and received no objections.

The Board then opened the hearing to public comment. One member of the Estero Planning Panel spoke on behalf of the Panel and noted that there was community support for this amendment. He also spoke on behalf of the applicant and stated that this amendment would allow for uses on the subject property that were less intense than an already approved commercial planned development for the property. He asked the Board to transmit the amendment.

The Board closed the public hearing and a motion was made and seconded to transmit the amendment. The motion carried 5-0.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION: Motion to transmit the amendment carried 5-0.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The Board accepted the findings of fact as advanced by staff.

C. VOTE:

JOHN ALBION	<u>AYE</u>
TAMMY HALL	<u>AYE</u>
BOB JANES	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
DOUG ST. CERNY	<u>AYE</u>

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: August 19, 2005

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

The Department of Community Affairs provided no objections, recommendations or comments concerning the proposed amendment.

B. STAFF RESPONSE

Adopt the proposed amendment as transmitted.

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: October 12, 2005

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

TAMMY HALL

BOB JANES

RAY JUDAH

DOUG ST. CERNY

CPA2004-02
ESTERO OUTDOOR DISPLAY
PRIVATELY INITIATED AMENDMENT
TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

**Privately Initiated Application
and Lee County Staff Analysis**

DCA Transmittal Document

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(239) 479-8585*

June 7, 2005

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2004-00002**

☒

Text Amendment

☐

Map Amendment

This Document Contains the Following Reviews:	
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
✓	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: January 14, 2005

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. SPONSOR/APPLICANT:

A. APPLICANT

Argonaut Holdings, Inc.
C.O. Director of Retail Real Estate
General Motors World Wide Real Estate
200 Renaissance Center, 38th Floor
Detroit, MI 48265

2. REQUEST:

Amend Policy 19.2.5 to allow outdoor display in excess of one acre within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

B. LANGUAGE TRANSMITTED BY THE BOARD OF COUNTY COMMISSIONERS:

Policy 19.2.5: The following uses are prohibited within the Estero Planning Community: “detrimental uses” (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. Outdoor display in excess of one acre is permitted within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

C. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Approval of the request to allow outdoor display in excess of one acre within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

Staff recommends that Policy 19.2.5 be amended as follows:

Policy 19.2.5: The following uses are prohibited within the Estero Planning Community: “detrimental uses” (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. Outdoor display in excess of one acre is permitted within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Policy 19.2.5 was adopted by the Board of County Commissioners on January 10, 2002. That policy prohibits uses that require outdoor display in excess of one acre.
- Prior to the adoption of Policy 19.2.5 there was no acreage restriction on outdoor display in Estero.
- The one acre outdoor display restriction was proposed by the Estero community as a result of their concerns about the location of the Estero Greens Commercial Planned Development (CPD). The Estero Greens CPD allowed for a car dealership within its schedule of uses for property located south of Williams Road on the West side of Hwy. 41. A car dealership is under construction on that site at this time.
- The property located within the General Interchange area west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard has an approved CPD known as the Corkscrew Commerce Center CPD.
- The Corkscrew Commerce Center CPD is approved for 100,000 square feet of retail use; 30,000 square feet of office use; and a 120 unit hotel/motel, with buildings not to exceed 65 feet in height.

- The applicant has expressed a desire to allow outdoor display in excess of one acre for the Corkscrew Commerce Center CPD. They believe the proposed use for that site is more appropriate for the area than the allowed uses approved for the Corkscrew Woodlands CPD.
- This plan amendment will allow for a car dealership at the southwest intersection of Corkscrew Road and I-75. The proposed project was presented to the Estero Community at a publicly advertised meeting and received favorable comments. The Estero Community Planning Panel has taken the position that they prefer the proposed master concept plan for the car dealership over the approved Corkscrew Commerce Center CPD.
- The Corkscrew Commerce Center CPD will have to be amended through the public hearing process to allow for a vehicle and equipment dealer (car dealership).

D. BACKGROUND INFORMATION

On September 15, 1997 the Board of County Commissioners approved the Estero Greens CPD for property located south of Williams Road, immediately west of Hwy. 41, and adjacent to the Fountain Lakes residential subdivision. Among the approved schedule of uses for that CPD was vehicle and equipment dealers, class 1 and 2, which allows automobile dealers.

On February 4, 2005, at the request of the applicant, staff issued a zoning verification letter stating that a proposed 10 acre car dealer was not a neighborhood commercial use and therefore was not consistent with the Suburban Future Land Use Category where the site was located. Staff's response was appealed to the Hearing Examiner and staff's interpretation was overturned. The Board of County Commissioners appealed the Hearing Examiner decision to the Circuit Court who upheld the HEX decision.

The Estero Community submitted a Community Plan to Lee County on September 28, 2000. The Community Plan included a new Goal, Objectives and Policies that were adopted by the Board of County Commissioners on January 10, 2002. Policy 19.2.5 of Goal 19, Estero, of the Lee plan reads:

***Policy 19.2.5:** The following uses are prohibited within the Estero Planning Community: "detrimental uses" (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. (Amended by Ordinance No. 022-05)*

The restriction of no more than one acre of outdoor display was intended to prevent automobile dealerships in Estero as a direct result of the concerns of Estero residents with the Estero Greens CPD that allowed an automobile dealership adjacent to the Fountain Lakes multi-family residential development. That automobile dealership is currently under construction and is nearing completion.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

On January 8, 2004, representatives from General Motors Corporation gave a presentation to the Estero community about a Chevrolet automobile dealership they were considering for the southwest corner of

Corkscrew Road and I-75. That site currently has an approved CPD known as the Corkscrew Commerce Center. That CPD is approved for 100,000 square feet of retail use; 30,000 square feet of office use; and a 120 unit hotel/motel, with buildings not to exceed 65 feet in height.

Following the General Motors presentation, two neighborhood associations (Corkscrew Woodlands Association, Inc., and Island Club Association, Inc.) wrote the General Motors representative a letter in general support of the proposal. The Corkscrew Woodlands neighborhood is immediately adjacent to the south of the Corkscrew Commerce Center and the Island Club is nearby to the southwest of the site. The Associations state in their letter of support, "in general these Associations are supportive of your proposed 'Chevrolet Store' occupancy as a vast improvement over the multiple parcels or 'bubble plan' zoning now in existence". The concerns put forward in their letter were not with the automobile dealership, but with increased automobile traffic, access, signage, storm water and pedestrian and vehicular circulation.

The Estero Community Planning Panel who formed to initiate the Estero Community Plan has also expressed support to planning staff for the automobile dealership at that specific location.

The one acre restriction on outdoor display in Policy 19.2.5 of the Lee Plan will effectively prevent the Chevrolet dealership from locating in Estero. Prior to the January 10, 2002 adoption of Policy 19.2.5 there was no restriction on outdoor display in Estero. The Estero community proposed Policy 19.2.5 to prevent automobile dealerships in the Estero Planning Community. Since the adoption of that policy they have reconsidered their decision for the specific site located west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

Staff did not object to the restriction on outdoor display in the Estero Community back in 2002 because that request was made by the community after a number of public meetings and as a result of the Estero Community Plan. The same individuals that requested the restriction on outdoor display in Estero have reconsidered their request for the Corkscrew Commerce Park site to allow an automobile dealer at that location in lieu of the uses allowed under the existing CPD.

Vehicle and equipment dealers (automobile dealerships) are a permitted use in the General Commercial and Light Industrial zoning categories and are consistent with the General Interchange Future Land Use Category. Lee Plan Policy 1.3.2 states:

***Policy 1.3.2:** The General Interchange areas are intended primarily for land uses that serve the traveling public: service stations, hotel, motel, restaurants, and gift shops. But because of their location, market attractions, and desire for flexibility, these interchange uses permit a broad range of land uses that include tourist commercial, general commercial and light industrial/commercial. (Amended by Ordinance No. 94-30, 99-18)*

Automobile dealerships are permitted uses in the CPD zoning category. An automobile dealership at the site of the Corkscrew Commerce Park will require an amended Master Concept Plan which will be subject to the same public hearing process as a CPD rezoning. All of the concerns expressed by the Corkscrew Woodlands Association, Inc., and the Island Club Association, Inc., can be addressed at that time.

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: January 24, 2005

A. LOCAL PLANNING AGENCY REVIEW

Following a brief presentation by staff one member of the LPA asked if this amendment applied only to the specific location at the southwest corner of I-75 and Corkscrew Road. Staff confirmed that to be the case.

No further questions were posed to staff or the applicant and there was no public comment.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

The LPA recommended that the Board of County Commissioners transmit the propose amendment to 19.2.5 as revised in Section B. 1. of this report.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The LPA accepted the findings of fact as advanced by staff.

C. VOTE:

NOEL ANDRESS	AYE
MATT BIXLER	AYE
DEREK BURR	AYE
RONALD INGE	AYE
CARLETON RYFFEL	AYE
RAYMOND SCHUMANN, ESQ.	AYE
VACANT	

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: June 1, 2005

A. BOARD REVIEW: Following a presentation by staff, one Board member asked if the Estero community supported this request. Staff responded that they had received letters of support from the community and received no objections.

The Board then opened the hearing to public comment. One member of the Estero Planning Panel spoke on behalf of the Panel and noted that there was community support for this amendment. He also spoke on behalf of the applicant and stated that this amendment would allow for uses on the subject property that were less intense than an already approved commercial planned development for the property. He asked the Board to transmit the amendment.

The Board closed the public hearing and a motion was made and seconded to transmit the amendment. The motion carried 5-0.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION: Motion to transmit the amendment carried 5-0.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

The Board accepted the findings of fact as advanced by staff.

C. VOTE:

JOHN ALBION	AYE
TAMMY HALL	AYE
BOB JANES	AYE
RAY JUDAH	AYE
DOUG ST. CERNY	AYE

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: _____

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

B. STAFF RESPONSE

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

TAMMY HALL

BOB JANES

RAY JUDAH

DOUG ST. CERNY

CPA2004-02
ESTERO OUTDOOR DISPLAY
PRIVATELY INITIATED AMENDMENT
TO THE

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

**Privately Initiated Application
and Lee County Staff Analysis**

**BoCC Public Hearing Document
for the
June 1, 2005 Transmittal Hearing**

*Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(239) 479-8585*

May 18, 2005

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2004-00002**

☒

Text Amendment

☐

Map Amendment

This Document Contains the Following Reviews:	
✓	Staff Review
✓	Local Planning Agency Review and Recommendation
	Board of County Commissioners Hearing for Transmittal
	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: January 14, 2005

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. SPONSOR/APPLICANT:

A. APPLICANT

Argonaut Holdings, Inc.
C.O. Director of Retail Real Estate
General Motors World Wide Real Estate
200 Renaissance Center, 38th Floor
Detroit, MI 48265

2. REQUEST:

Amend Policy 19.2.5 to allow outdoor display in excess of one acre within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Approval of the request to allow outdoor display in excess of one acre within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

Staff recommends that Policy 19.2.5 be amended as follows:

Policy 19.2.5: The following uses are prohibited within the Estero Planning Community: “detrimental uses” (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. Outdoor display in excess of one acre is permitted within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

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- The property located within the General Interchange area west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard has an approved CPD known as the Corkscrew Commerce Center CPD.
- The Corkscrew Commerce Center CPD is approved for 100,000 square feet of retail use; 30,000 square feet of office use; and a 120 unit hotel/motel, with buildings not to exceed 65 feet in height.
- The applicant has expressed a desire to allow outdoor display in excess of one acre for the Corkscrew Commerce Center CPD. They believe the proposed use for that site is more appropriate for the area than the allowed uses approved for the Corkscrew Woodlands CPD.
- This plan amendment will allow for a car dealership at the southwest intersection of Corkscrew Road and I-75. The proposed project was presented to the Estero Community at a publicly advertised meeting and received favorable comments. The Estero Community Planning Panel has taken the position that they prefer the proposed master concept plan for the car dealership over the approved Corkscrew Commerce Center CPD.

- The Corkscrew Commerce Center CPD will have to be amended through the public hearing process to allow for a vehicle and equipment dealer (car dealership).

C. BACKGROUND INFORMATION

On September 15, 1997 the Board of County Commissioners approved the Estero Greens CPD for property located south of Williams Road, immediately west of Hwy. 41, and adjacent to the Fountain Lakes residential subdivision. Among the approved schedule of uses for that CPD was vehicle and equipment dealers, class 1 and 2, which allows automobile dealers.

On February 4, 2005, at the request of the applicant, staff issued a zoning verification letter stating that a proposed 10 acre car dealer was not a neighborhood commercial use and therefore was not consistent with the Suburban Future Land Use Category where the site was located. Staff's response was appealed to the Hearing Examiner and staff's interpretation was overturned. The Board of County Commissioners appealed the Hearing Examiner decision to the Circuit Court who upheld the HEX decision.

The Estero Community submitted a Community Plan to Lee County on September 28, 2000. The Community Plan included a new Goal, Objectives and Policies that were adopted by the Board of County Commissioners on January 10, 2002. Policy 19.2.5 of Goal 19, Estero, of the Lee plan reads:

***Policy 19.2.5:** The following uses are prohibited within the Estero Planning Community: "detrimental uses" (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. (Amended by Ordinance No. 022-05)*

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PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

On January 8, 2004, representatives from General Motors Corporation gave a presentation to the Estero community about a Chevrolet automobile dealership they were considering for the southwest corner of Corkscrew Road and I-75. That site currently has an approved CPD known as the Corkscrew Commerce Center. That CPD is approved for 100,000 square feet of retail use; 30,000 square feet of office use; and a 120 unit hotel/motel, with buildings not to exceed 65 feet in height.

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Associations state in their letter of support, "in general these Associations are supportive of your proposed 'Chevrolet Store' occupancy as a vast improvement over the multiple parcels or 'bubble plan' zoning now in existence". The concerns put forward in their letter were not with the automobile dealership, but with increased automobile traffic, access, signage, storm water and pedestrian and vehicular circulation.

The Estero Community Planning Panel who formed to initiate the Estero Community Plan has also expressed support to planning staff for the automobile dealership at that specific location.

The one acre restriction on outdoor display in Policy 19.2.5 of the Lee Plan will effectively prevent the Chevrolet dealership from locating in Estero. Prior to the January 10, 2002 adoption of Policy 19.2.5 there was no restriction on outdoor display in Estero. The Estero community proposed Policy 19.2.5 to prevent automobile dealerships in the Estero Planning Community. Since the adoption of that policy they have reconsidered their decision for the specific site located west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

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***Policy 1.3.2:** The General Interchange areas are intended primarily for land uses that serve the traveling public: service stations, hotel, motel, restaurants, and gift shops. But because of their location, market attractions, and desire for flexibility, these interchange uses permit a broad range of land uses that include tourist commercial, general commercial and light industrial/commercial. (Amended by Ordinance No. 94-30, 99-18)*

Automobile dealerships are permitted uses in the CPD zoning category. An automobile dealership at the site of the Corkscrew Commerce Park will require an amended Master Concept Plan which will be subject to the same public hearing process as a CPD rezoning. All of the concerns expressed by the Corkscrew Woodlands Association, Inc., and the Island Club Association, Inc., can be addressed at that time.

PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: January 24, 2005

A. LOCAL PLANNING AGENCY REVIEW

Following a brief presentation by staff one member of the LPA asked if this amendment applied only to the specific location at the southwest corner of I-75 and Corkscrew Road. Staff confirmed that to be the case.

No further questions were posed to staff or the applicant and there was no public comment.

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

The LPA recommended that the Board of County Commissioners transmit the propose amendment to 19.2.5 as revised in Section B. 1. of this report.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The LPA accepted the findings of fact as advanced by staff.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
MATT BIXLER	<u>AYE</u>
DEREK BURR	<u>AYE</u>
RONALD INGE	<u>AYE</u>
CARLETON RYFFEL	<u>AYE</u>
RAYMOND SCHUMANN, ESQ.	<u>AYE</u>
VACANT	<u></u>

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: June 1, 2005

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

TAMMY HALL

BOB JANES

RAY JUDAH

DOUG ST. CERNY

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: _____

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

B. STAFF RESPONSE

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

TAMMY HALL

BOB JANES

RAY JUDAH

DOUG ST. CERNY

**CPA2004-02
ESTERO OUTDOOR DISPLAY
PRIVATELY INITIATED AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

**Privately Initiated Application
and Lee County Staff Analysis**

**LPA Public Hearing Document
for the
January 24, 2005 Public Hearing**

***Lee County Planning Division
1500 Monroe Street
P.O. Box 398
Fort Myers, FL 33902-0398
(239) 479-8585***

January 14, 2005

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2004-00002**

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Text Amendment

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Map Amendment

This Document Contains the Following Reviews:	
<input checked="" type="checkbox"/>	Staff Review
<input type="checkbox"/>	Local Planning Agency Review and Recommendation
<input type="checkbox"/>	Board of County Commissioners Hearing for Transmittal
<input type="checkbox"/>	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
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STAFF REPORT PREPARATION DATE: January 14, 2005

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1.S PONSOR/APPLICANT:

A. APPLICANT

Argonaut Holdings, Inc.
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General Motors World Wide Real Estate
200 Renaissance Center, 38th Floor
Detroit, MI 48265

2.R EQUEST:

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1. RECOMMENDATION: Approval of the request to allow outdoor display in excess of one acre within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

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- This plan amendment will allow for a car dealership at the southwest intersection of Corkscrew Road and I-75. The proposed project was presented to the Estero Community at a publicly advertised meeting and received favorable comments. The Estero Community Planning Panel has taken the position that they prefer the proposed master concept plan for the car dealership over the approved Corkscrew Commerce Center CPD.
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C. BACKGROUND INFORMATION

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On February 4, 2005, at the request of the applicant, staff issued a zoning verification letter stating that a proposed 10 acre car dealer was not a neighborhood commercial use and therefore was not consistent with the Suburban Future Land Use Category where the site was located. Staff's response was appealed to the Hearing Examiner and staff's interpretation was overturned. The Board of County Commissioners appealed the Hearing Examiner decision to the Circuit Court who upheld the HEX decision.

The Estero Community submitted a Community Plan to Lee County on September 28, 2000. The Community Plan included a new Goal, Objectives and Policies that were adopted by the Board of County Commissioners on January 10, 2002. Policy 19.2.5 of Goal 19, Estero, of the Lee plan reads:

***Policy 19.2.5:** The following uses are prohibited within the Estero Planning Community: "detrimental uses" (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. (Amended by Ordinance No. 022-05)*

The restriction of no more than one acre of outdoor display was intended to prevent automobile dealerships in Estero as a direct result of the concerns of Estero residents with the Estero Greens CPD that allowed an automobile dealership adjacent to the Fountain Lakes multi-family residential development. That automobile dealership is currently under construction and is nearing completion.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

On January 8, 2004, representatives from General Motors Corporation gave a presentation to the Estero community about a Chevrolet automobile dealership they were considering for the southwest corner of Corkscrew Road and I-75. That site currently has an approved CPD known as the Corkscrew Commerce

Center. That CPD is approved for 100,000 square feet of retail use; 30,000 square feet of office use; and a 120 unit hotel/motel, with buildings not to exceed 65 feet in height.

Following the General Motors presentation, two neighborhood associations (Corkscrew Woodlands Association, Inc., and Island Club Association, Inc.) wrote the General Motors representative a letter in general support of the proposal. The Corkscrew Woodlands neighborhood is immediately adjacent to the south of the Corkscrew Commerce Center and the Island Club is nearby to the southwest of the site. The Associations state in their letter of support, "in general these Associations are supportive of your proposed 'Chevrolet Store' occupancy as a vast improvement over the multiple parcels or 'bubble plan' zoning now in existence". The concerns put forward in their letter were not with the automobile dealership, but with increased automobile traffic, access, signage, storm water and pedestrian and vehicular circulation.

The Estero Community Planning Panel who formed to initiate the Estero Community Plan has also expressed support to planning staff for the automobile dealership at that specific location.

The one acre restriction on outdoor display in Policy 19.2.5 of the Lee Plan will effectively prevent the Chevrolet dealership from locating in Estero. Prior to the January 10, 2002 adoption of Policy 19.2.5 there was no restriction on outdoor display in Estero. The Estero community proposed Policy 19.2.5 to prevent automobile dealerships in the Estero Planning Community. Since the adoption of that policy they have reconsidered their decision for the specific site located west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

Staff did not object to the restriction on outdoor display in the Estero Community back in 2002 because that request was made by the community after a number of public meetings and as a result of the Estero Community Plan. The same individuals that requested the restriction on outdoor display in Estero have reconsidered their request for the Corkscrew Commerce Park site to allow an automobile dealer at that location in lieu of the uses allowed under the existing CPD.

Vehicle and equipment dealers (automobile dealerships) are a permitted use in the General Commercial and Light Industrial zoning categories and are consistent with the General Interchange Future Land Use Category. Lee Plan Policy 1.3.2 states:

***Policy 1.3.2:** The General Interchange areas are intended primarily for land uses that serve the traveling public: service stations, hotel, motel, restaurants, and gift shops. But because of their location, market attractions, and desire for flexibility, these interchange uses permit a broad range of land uses that include tourist commercial, general commercial and light industrial/commercial. (Amended by Ordinance No. 94-30, 99-18)*

Automobile dealerships are permitted uses in the CPD zoning category. An automobile dealership at the site of the Corkscrew Commerce Park will require an amended Master Concept Plan which will be subject to the same public hearing process as a CPD rezoning. All of the concerns expressed by the Corkscrew Woodlands Association, Inc., and the Island Club Association, Inc., can be addressed at that time.

**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: January 24, 2005

A. LOCAL PLANNING AGENCY REVIEW

B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

NOEL ANDRESS

MATT BIXLER

DEREK BURR

RONALD INGE

RAYMOND SCHUMANN, ESQ.

CARLETON RYFFEL

VACANT

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

TAMMY HALL

BOB JANES

RAY JUDAH

DOUG ST. CERNY

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: _____

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

B. STAFF RESPONSE

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: _____

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

TAMMY HALL

BOB JANES

RAY JUDAH

DOUG ST. CERNY

RECEIVED
FEB 25 2004



LEE COUNTY
SOUTHWEST FLORIDA

PERMIT COUNTER

Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (941) 479-8585
FAX: (941) 479-8519

APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D 2-25-04

REC'D BY: mkw

APPLICATION FEE \$2500.00

TIDEMARK NO: CPA 2004-00002

THE FOLLOWING VERIFIED:

Zoning CPD ☐

Commissioner District 3

Designation on FLUM ☐

GIVEN INTERCHARGE 82.22%
WETLANDS 17.44%

(To be completed by Planning Staff)

Plan Amendment Cycle: ☒ Normal ☐ Small Scale ☐ DRI ☐ Emergency

Request No: _____

APPLICANT PLEASE NOTE:

Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: _____

Submit 6 copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

2/23/04 Shirley Murphy
DATE SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

I. APPLICANT/AGENT/OWNER INFORMATION

Sue Murphy, AICP, Ruden, McClosky

APPLICANT

401 E. Jackson Street, Suite 2700

ADDRESS

Tampa,

FL

33602

CITY

STATE

ZIP

813-222-6634

813-314-6934

TELEPHONE NUMBER

FAX NUMBER

Same as above

AGENT*

ADDRESS

CITY

STATE

ZIP

TELEPHONE NUMBER

FAX NUMBER

OWNER(s) OF RECORD

ADDRESS

CITY

STATE

ZIP

TELEPHONE NUMBER

FAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application.

* This will be the person contacted for all business relative to the application.

II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

A. TYPE: (Check appropriate type)

☒ Text Amendment

☐ Future Land Use Map Series Amendment
(Maps 1 thru 20)
List Number(s) of Map(s) to be amended

B. SUMMARY OF REQUEST (Brief explanation):

See attached Summary Request

**III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY
(for amendments affecting development potential of property)**

A. Property Location:

1. Site Address: in the vicinity and including Corkscrew Commerce Center
2. STRAP(s): 35-46-25-00-00001-1030 Corkscrew Commerce Center

B. Property Information

Total Acreage of Property: _____

Total Acreage included in Request: _____

Area of each Existing Future Land Use Category: _____

Total Uplands: _____

Total Wetlands: _____

Current Zoning: _____

Current Future Land Use Designation: _____

Existing Land Use: _____

SUMMARY OF REQUEST

The applicant is proposing a text amendment to the Lee Plan that would allow outdoor storage over one acre within a very limited portion of the Estero Planning Community area. Specifically, outdoor storage would be permitted within a portion of the General Interchange land use designation within the area, which is the interchange of I-75/Corkscrew Road.

C. State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:

Lehigh Acres Commercial Overlay: _____

Airport Noise Zone 2 or 3: _____

Acquisition Area: _____

Joint Planning Agreement Area (adjoining other jurisdictional lands): _____

Community Redevelopment Area: _____

D. Proposed change for the Subject Property:

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density _____

Commercial intensity _____

Industrial intensity _____

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density _____

Commercial intensity _____

Industrial intensity _____

IV. AMENDMENT SUPPORT DOCUMENTATION

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of amendment packets, the applicant is encouraged to provide all data and analysis electronically. (Please contact the Division of Planning for currently accepted formats)

A. General Information and Maps

NOTE: For each map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.

The following pertains to all proposed amendments that will affect the development potential of properties (unless otherwise specified).

- N.A.
1. Provide any proposed text changes. See attached Proposed Text Amendment Language
 2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.
 3. Map and describe existing land uses (not designations) of the subject property and surrounding properties. Description should discuss consistency of current uses with the proposed changes.
 4. Map and describe existing zoning of the subject property and surrounding properties.
 5. The legal description(s) for the property subject to the requested change.
 6. A copy of the deed(s) for the property subject to the requested change.
 7. An aerial map showing the subject property and surrounding properties.
 8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts

NOTE: The applicant must calculate public facilities impacts based on a maximum development scenario (see Part II.H.).

N.A.

1. Traffic Circulation Analysis

The analysis is intended to determine the effect of the land use change on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit the following information:

N.A.

Long Range – 20-year Horizon:

- a. Working with Planning Division staff, identify the traffic analysis zone (TAZ) or zones that the subject property is in and the socio-economic data forecasts for that zone or zones;
- b. Determine whether the requested change requires a modification to the socio-economic data forecasts for the host zone or zones. The land uses for the proposed change should be expressed in the same format as the socio-economic forecasts (number of units by type/number of employees by type/etc.);

- N.A.
- c. If no modification of the forecasts is required, then no further analysis for the long range horizon is necessary. If modification is required, make the change and provide to Planning Division staff, for forwarding to DOT staff. DOT staff will rerun the FSUTMS model on the current adopted Financially Feasible Plan network and determine whether network modifications are necessary, based on a review of projected roadway conditions within a 3-mile radius of the site;
 - d. If no modifications to the network are required, then no further analysis for the long range horizon is necessary. If modifications are necessary, DOT staff will determine the scope and cost of those modifications and the effect on the financial feasibility of the plan;
 - e. An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change;
 - f. If the proposal is based on a specific development plan, then the site plan should indicate how facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated.

Short Range – 5-year CIP horizon:

- N.A.
- a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
 - b. Identify the major road improvements within the 3-mile study area funded through the construction phase in adopted CIP's (County or Cities) and the State's adopted Five-Year Work Program;

Projected 2020 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);

- c. For the five-year horizon, identify the projected roadway conditions (volumes and levels of service) on the roads within the 3-mile study area with the programmed improvements in place, with and without the proposed development project. A methodology meeting with DOT staff prior to submittal is required to reach agreement on the projection methodology;
- d. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal.

2. Provide an existing and future conditions analysis for:

- N.A.
- a. Sanitary Sewer
 - b. Potable Water
 - c. Surface Water/Drainage Basins
 - d. Parks, Recreation, and Open Space.

Analysis should include (but is not limited to) the following:

- Franchise Area, Basin, or District in which the property is located;

N.A

- Current LOS, and LOS standard of facilities serving the site;
- Projected 2020 LOS under existing designation;
- Projected 2020 LOS under proposed designation;
- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).

N.A

3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including:
 - a. Fire protection with adequate response times;
 - b. Emergency medical service (EMS) provisions;
 - c. Law enforcement;
 - c. Solid Waste;
 - d. Mass Transit; and
 - e. Schools.

In reference to above, the applicant should supply the responding agency with the information from Section's II and III for their evaluation. This application should include the applicant's correspondence to the responding agency.

C. Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use upon the following:

1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).
2. A map and description of the soils found on the property (identify the source of the information).
3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).
4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.
5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

N.A.

D. Impacts on Historic Resources

List all historic resources (including structure, districts, and/or archeologically sensitive areas) and provide an analysis of the proposed change's impact on these resources. The following should be included with the analysis:

1. A map of any historic districts and/or sites, listed on the Florida Master Site File, which are located on the subject property or adjacent properties.
2. A map showing the subject property location on the archeological sensitivity map for Lee County.

E. Internal Consistency with the Lee Plan SEE ATTACHED

1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.
2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.
3. Describe how the proposal affects adjacent local governments and their comprehensive plans.
4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment.

N.A.

F. Additional Requirements for Specific Future Land Use Amendments

1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from)
 - a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
 - b. Provide data and analysis required by Policy 2.4.4,
 - c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.
2. Requests moving lands from a Non-Urban Area to a Future Urban Area
 - a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.

N.A.

3. Requests involving lands in ~~critical~~ areas for future water supply must be evaluated based on policy 2.4.2.
4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis. See Attached Justification Statement

Item 1: Fee Schedule

Map Amendment Flat Fee	\$2,000.00 each
Map Amendment > 20 Acres	\$2,000.00 and \$20.00 per 10 acres up to a maximum of \$2,255.00
Small Scale Amendment (10 acres or less)	\$1,500.00 each
Text Amendment Flat Fee	\$2,500.00 each

AFFIDAVIT

I, Sue Murphy, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

Sue Murphy
Signature of owner or owner-authorized agent

2/23/04
Date

Sue Murphy
Typed or printed name

STATE OF FLORIDA)
COUNTY OF ~~LEE~~) HILLSBOROUGH

The foregoing instrument was certified and subscribed before me this 23rd day of Feb, 2004,
by Sue Murphy, who is personally known to me or who has produced
as identification.



Betty S. Hechinger
MY COMMISSION # DD095449 EXPIRES
March 6, 2006
BONDED THRU TROY FAJN INSURANCE, INC.

Betty S. Hechinger
Signature of notary public

Betty S. Hechinger
Printed name of notary public

PROPOSED TEXT AMENDMENT LANGUAGE

POLICY 19.2.5: The following uses are prohibited within the Estero Planning Community: “detrimental uses” (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre, except as noted below:

19.2.5 (A) Outdoor display in excess of one acre shall be permitted subject to the following limitations:

1. The site must have a land use plan designation of General Interchange as shown on the Lee County Plan Future Land Use map and must abut the interchange of I-75 and Corkscrew Road.
2. The site must be zoned CPD so that site-specific compatibility issues can be addressed.

Section E. Internal Consistency with the Lee Plan

1. Discuss how the proposal affects established Lee County population projections and the total capacity of the Lee Plan Future Land Use Map.

The proposed text amendment will not affect neither the Lee County population projections nor the total capacity of the Lee Plan Future Land Use Map.

2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.

The proposed text amendment primarily affects the Estero Community Plan and the Corkscrew Main Street Overlay by permitting outdoor display over one acre in a very limited area at the interchange of I-75 and Corkscrew Road. The following goals, objectives and policies are addressed:

Goal 19: Estero: To protect the character, natural resources and quality of life in Estero by establishing minimum aesthetic requirements, managing the location and intensity of future commercial and residential uses, and providing greater opportunities for public participation in the land development approval process. This Goal and subsequent objectives and policies apply to the Estero Planning Community as depicted on Map 16.

Objective 19.1: Community Character: The Estero Community will draft and submit regulations, policies, and discretionary actions affecting the character and aesthetic appearance of Estero for Lee County to adopt and enforce to help create a visually attractive community.

Policy 19.1.1: By the end of 2002, The Estero Community will draft and submit regulations or policies for Lee County to review, amend or establish as Land Development Code regulations that provide for enhanced landscaping along roadway corridors, greater buffering, shading of parking areas, signage and lighting consistent with the Community Vision, and architectural standards.

Policy 19.1.2: Lee County is discouraged from approving any deviation that would result in a reduction of landscaping, buffering, signage guidelines or compliance with architectural standards.

The applicant is proposing the addition of outdoor display areas over one acre as a permitted use in the General Interchange land use category in the Estero Community. This limits the permitted outdoor display location to the quadrants of the I-75/Corkscrew Road interchange. The intent is to allow outdoor storage over 1 acre in the area containing the Corkscrew Commerce Center PD. The other

quadrants are primarily developed and contain a mixture of residential, institutional and commercial uses, including the TECO arena, the Miramar outlet mall, and Florida Gulf Coast University.

The requested amendment would not only limit this use to this small, specific area, but it will also require increased buffers and setbacks to ensure compatibility with surrounding uses. The development of outdoor display over one acre in this area will be bound to the architectural, signage and other regulations for the Corkscrew Main Street Overlay district, except outdoor display areas will require increased buffering and setbacks. There is also a requirement that any outdoor display areas be approved as a CPD zoning so that adequate controls can be placed on the development.

The applicant has met with the surrounding neighborhood and with the Estero Planning Board to discuss this issue. As far as can be determined, there is no opposition and much support for this request, as evidenced by the attached letters and newspaper articles.

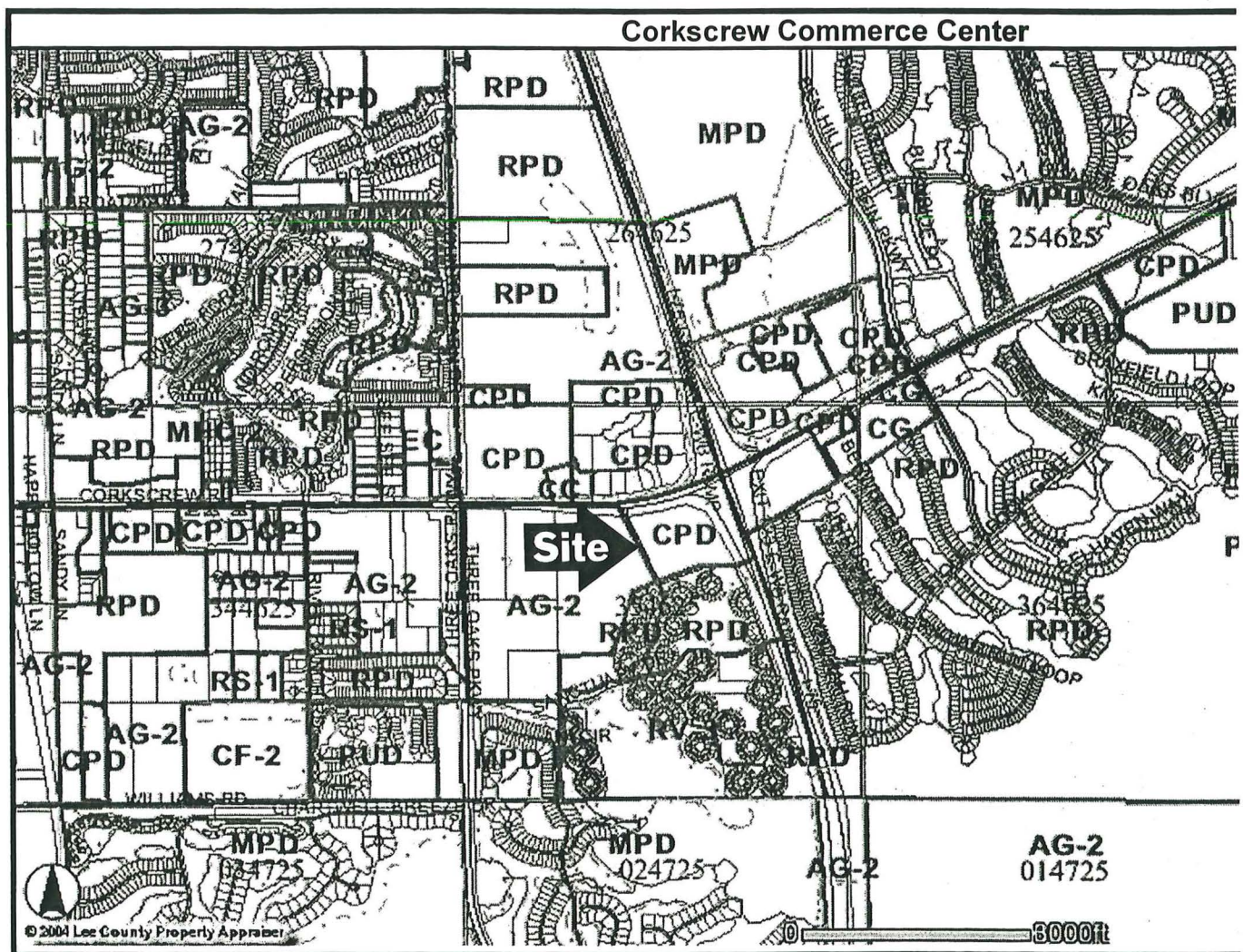
Objective 19.2: Commercial Land Uses. Existing and future County regulations, land use interpretations, policies, zoning approvals, and administrative actions must recognize the unique conditions and preferences of the Estero Community to ensure that commercial areas maintain a unified and pleasing aesthetic/visual quality in landscaping, architecture, lighting and signage, and provide for employment opportunities, while discouraging uses that are not compatible with adjacent uses and have significant adverse impacts on natural resources.

Policy 19.2.1: All new commercial development that requires rezoning within the Estero Planning Community must be reviewed as a Commercial Planned Development.

Policy 19.2.2: All retail uses must be in compliance with the Commercial Site Location Standards.

Policy 19.2.5: The following uses are prohibited within the Estero Planning Community: "detrimental uses" (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre.

The proposed text amendment will require CPD zoning with appropriate conditions to mitigate impacts and provide for an aesthetically pleasing development. CPD zoning can mandate adherence to the signage, lighting and applicable architectural standards of the Corkscrew Main Street Overlay and the Estero Community Plan will be required for outdoor display areas over one acre. CPD Zoning can also require the provision of enhanced buffer yards, landscaping and setbacks to ensure compatibility with surrounding uses.



Naples Daily News

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URL: http://www.naplesnews.com/npdn/bonitanews/article/0,2071,NPDN_14894_2642506,00.html

Panel sees car dealer as a way to address corner

By CHRISTINA HOLDER, cholder@naplesnews.com

February 10, 2004

An Estero panel that in the past has been wary of car dealerships settling into the community is supporting a North Carolina businessman's plan to pursue property for a Chevrolet franchise.

Charles Winton, 41, of Charlotte, N.C., said he would like to build the car dealership on the southwest corner of Corkscrew Road and Interstate 75, a tract adjacent to two neighborhoods.

Yet first he will have to purchase about 10 of the 20 available acres on the interstate corner and get a zoning change that would allow a car display in excess of one acre.

If approved, the zoning amendment would bypass a rule limiting outdoor displays to one acre that Estero activists worked to get into the community's county-endorsed plan several years ago to regulate businesses like car dealerships.

Yet panel members on Monday night supported Winton's plan to pursue the property because it could eliminate potential users of the site's parcels from eight to three and decrease the risk of bars, fast-food restaurants or similar businesses that the panel would like to limit in the area.

"This is sort of an opportunity I've seen to take care of this corner," panel member Greg Toth said. "What we are trying to do, is take eight users, limit it to three, which will mean less traffic, less impact to the area, more green space."

Toth, who is acting as Winton's broker, said he would recuse himself from the panel's discussion should Winton's plan come before the panel in the future.

Getting community support for Winton's project in a timely manner is important, Toth said, because Lee County is likely to issue a development order for the parcel within the next few weeks and the owner of the parcel will be looking for buyers.

"What I'm trying to do is come in before that," he said. "We really need the community to be behind us before we discuss those financial negotiations."

If Winton were to purchase 10 acres, the remaining acres would leave room for two parcels open for additional users. The dream would be to buy all eight parcels, Winton said, but he could not guarantee he could purchase the entire lot.

The presidents of the Board of Directors for neighboring Island Club and Corkscrew Woodlands wrote a letter, dated Jan. 19, to Winton and Toth in support of the franchise.

However, the letter listed several concerns as the plan develops, including potential traffic problems on Corkscrew Road and Corkscrew Boulevard and questions about how storm water would be managed.

Panel member Mitch Hutchcraft said a car dealership is a better user for the site than other businesses, such as fast-food restaurants.

"Those operations last much on longer into the night," he said. "Their lighting requirements are much higher."

Winton said it was his dream to become an entrepreneur and own a car dealership, but he also wanted to make Estero his home.

"I'm going to be there every day," Winton said. "I want to live in the Estero community. They would have a local business on site."

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Estero welcomes Chevy lot

Nearby residents back dealership

By **DENISE L. SCOTT**, dscott@news-press.com

Published by news-press.com on February 10, 2004

Chevy may be coming to Estero, and it's getting a warmer welcome than Ford.

Estero Community Planning Panel member Greg Toth, acting as real estate agent, presented preliminary plans for a Chevrolet dealership at the southwest corner of Corkscrew Road and Interstate 75 to his fellow panel members Monday night.

Unlike the Galloway Ford dealership being built on U.S. 41, which was fought by Fountain Lakes residents, those in Island Club and Corkscrew Woodlands adjacent to the Chevrolet property support it — with a few concerns.

The General Motors franchise owner, Charles Winton, 41, of Charlotte, N.C., wants to purchase 10 of the property's 20 acres, leaving two 1¼-acre outparcels for other businesses.

He received written support from the two community associations after meeting with residents in January. The panel also responded positively Monday night, citing the benefits of one car dealership with two small outlots versus eight separate parcels on the same property.

Toth said the property's owner, James Goldie of Galleria Properties, soon will receive a development order and begin selling off parcels. He said Winton must buy the property before it's too late to limit the number of businesses, which under current zoning could include gas stations, bars and fast food restaurants.

"We can take eight users and trim down to three," Toth said, noting that would reduce traffic and the impact on the community. And, he said, rezoning could limit the allowable uses for the two outparcels.

Toth said this would ensure a unified architectural and landscape plan, unlike what is happening across Corkscrew Road with the mishmash of buildings, including Embassy Suites and Tires Plus.

In addition to rezoning, the possibly two-year process would require an amendment to Estero-specific county code to permit more than 1 acre of outdoor display, and a deviation to the Corkscrew Road overlay so the building could be set back from the road.

"We do need community support to put the amount of money necessary to hold the property while it's going through amendments and zoning," Toth said.

Panel Chairman Neal Noethlich cautioned that the county code amendment restricting outdoor display to one acre or less was created specifically for car dealerships.

"We want to be very careful we don't open up some other problem for us," he said.

Toth said the amendment could be written specific to the I-75 corridor.

The community associations' letter cites concerns including traffic, entrances, signs, storm water, sidewalks and the relocation of their entrance gates.

"We'll be dealing with their concerns. None are back breakers," Toth said, noting the site plan includes two large fountains and an expansion of the green space to 6 acres.

Winton said he plans to move to provide local ownership and realizes the importance of

community support to get the property rezoned.

"Time is of the essence," he said. "I'm going to have Greg sit down with Mr. Goldie right away."

Ralph Colter, 67, has lived in Island Club for five years and said he is impressed with Winton's willingness to work with residents.

"He seems to be real amicable about trying to answer the questions we had and take care of our needs for buffering, noise, roadway and lighting," he said. "I personally don't want eight businesses there."

Toth said they would bring the project back to the panel for a formal presentation during the rezoning process, at which time he would recuse himself from panel discussions and voting.

In other business, the panel discussed residents' e-mail campaign that failed to get Wal-Mart representatives to postpone presenting plans for a Supercenter at Coconut Road and U.S. 41 to the Estero Design Review Committee on Wednesday. The goal was to have Wal-Mart meet with neighboring residents first.

"We're trying every way we can to ensure significant public dialogue for this store," Noethlich said, noting a meeting at Marsh Landing has been tentatively set for early March.

"They are ignoring the wishes of potentially thousands of customers," panel member and Marsh Landing resident Jim Ramsburg said. "I'm a little disgusted with their refusal."

[Back to Bonita](#)

Return to story: <http://www.news-press.com/news/bonita/040210estero.html>

**Corkscrew Woodlands
Association, Inc.**

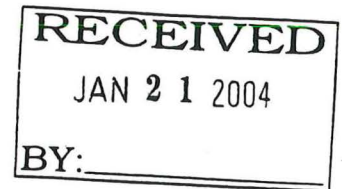
**21600 Corkscrew Woodlands Blvd.
Estero, Florida 33928**

**Island Club
Association, Inc.**

**21500 Corkscrew Woodlands Blvd.
Estero, Florida 33928**

January 19, 2004

**Mr. Charles D. Winton
B722 Briar Oak Court
Charlotte, North Carolina 28226**



**Mr. Gregory F. Toth
12651 McGregor Boulevard
Fort Myers, Florida 33919**

Subject: Corkscrew Commerce Park - Proposed Rezoning

The residents of our communities attentively participated in your presentation and discussion on January 8, 2004, in the Community Center of the Island Club Association. Much interest was exhibited as you may recall. The two Associations are residential communities dead-ended in an entrance road easement which also may serve the commercial interests on either side. Thus, we are most concerned that our future living environment is perhaps enhanced and certainly not adversely affected.

In general these Associations are supportive of your proposed "Chevrolet Store" occupancy as a vast improvement over the multiple parcels or "bubble plan" zoning now in existence. We prefer to know in advance who our neighbors will be and we commend this effort to do that for the majority of the land area involved in the 20 plus acres plot.

There are, however, some concerns and questions that we respectfully request be specifically addressed as part of the approval process.

- **Safety and traffic control onto and off of Corkscrew Road and Corkscrew Boulevard are vital to our residential interests.**

The increased emphasis of Corkscrew Road as a main street of Estero plus the planned widening of the ramp and of I-75 appear to indicate much increased traffic in near term. Also the potential entrance needs of the 43 acre parcel on the West of Corkscrew

Woodlands Boulevard ought be determined since the four adjoining entities are apparently involved in the Corkscrew Woodlands Boulevard entrance road easements from Corkscrew Road.

- **It is proposed that specific occupancies be determined on the two out parcels which total 3.75 acres. Entrances to be only from the internal road, not directly from Corkscrew Woodlands Boulevard.**
- **It is presumed our present entrance sign on Corkscrew Woodlands Boulevard at Corkscrew Road would remain. Is so?**
- **Storm water shall not be drained onto the Island Club Association and continue on into Corkscrew Woodlands Lake as was apparently anticipated in the past.**
- **A pedestrian walkway from the Island Club boundary on Corkscrew Woodlands Boulevard to the Corkscrew Road walkway is proposed. A bus pickup and discharge area also is proposed.**
- **The traffic control gates located at the Island Club boundary ought be located much closer to Corkscrew Road to curtail unwanted traffic to the communities. Provisions should be made for vehicles and especially large vehicles to be able to turn around before the gates to the residential communities.**

The opportunity to further comment on this important subject is very much appreciated. Thank You. We hope the identification and resolution of these issues might aid in the development of a mutually advantageous project. While we have identified these concerns it is assumed our ability to have voice in this process is assured as the project moves forward. We would welcome that involvement.

BOARD OF DIRECTORS


Bill Balthazor, President

BOARD OF DIRECTORS


Mike Towns, President

From: Lindsey Sampson
To: Noble, Matthew
Date: 3/24/04 6:53PM
Subject: Re: 2004 Lee Plan Private Amendments - Summaries...

Matt,

I don't have any objections to the requested amendments that are summarized below.

Lindsey

Lindsey J. Sampson
Lee County Solid Waste Division
sampsolj@leegov.com
Ph. 239-338-3302
Fax 239-461-5871

>>> Matthew Noble 03/23/04 07:50AM >>>
Good morning all,

Here is a brief summary for the Plan amendments that I email late yesterday:

1. CPA 2004-01 - Small Scale Amendment (from General Commercial Interchange to Central Urban)- Leeward Yacht Club L.L.C., Leeward Yacht Club Mixed Use Planned Development (Hansen's Marina property @ S.R. 80 & I-75).

(EAR ROUND OF AMENDMENTS PRIVATE REQUESTS:)

2. CPA 2004-02 - Text Amendment, Sue Murphy, AICP, Estero, allow outdoor storage over one acre within a portion of the General Interchange land use category at Corkscrew & I-75.

3. CPA 2004-03 - Text and FLUM Amendment, Weeks Landing L.L.C., Michele Pessin, Manager, Creation of the "Public Marine Mixed Use" category and application to Weeks Fish Camp property (23 acres).

4. CPA 2004-04 - FLUM Amendment, William Fitzgerald, Trustee, Amend from Outlying Suburban to Urban Community (54 acres) from Rural to Outlying Suburban (55 acres), located near Daniels Parkway & I-75 .

5. CPA 2004-05 - Text Amendment, Pine Island, Pine Island Agriculture & Landowners' Association, Inc., Amend Policy 14.2.2.

6. CPA 2004-06 - FLUM and Text Amendment, Florida Citrus Corporation, North East Lee County (Alva), Creation of the Rural Village land use category, Amend from Rural and Open Lands to the new Rural Village category for a 3,713 acre property.

7. CPA 2004-07 - Text Amendment, Watermen Development Group Corp., Buckingham, Amend Policy 17.1.3 to "allow lots to be clustered as part of an Agricultural Planned Development."

8. CPA 2004-08 - FLUM Amendment, Advance Homes, Inc., Mill Creek Florida Properties No. 3, L.L.C., Richard D. Fernandez, SW Florida Land 411 L.L.C., Development known as Oak Creek, Amend Rural to Suburban (10 acres), and Suburban to Rural (10 acres), North Fort Myers (near Raymond Lumber)

9. CPA 2004-09 - Text Amendment, Captiva Community Panel, Captiva, Proposing six additional policies.

10. CPA 2004-10 - FLUM Amendment, Hawks Haven Investment, L.L.C., East Lee County (off S.R. 80),

Amend approximately 1,623 acres of Rural and 79 acres of Suburban to Outlying Suburban with a density limit of 2 units per acre and Public Facilities (20 acres).

Matthew A. Noble, Principal Planner
Lee County Department of Community Development
Division of Planning
Email: noblema@bocc.co.lee.fl.us
(239) 479-8548
(941) 479-8319 FAX



Fee History

Case #: CPA2004-00002

Case #: CPA2004-00002
Property Owner: GOLDIE JAMES M TR
Property Address: CORKSCREW COMMERCE CT ES
Contractor:
License Number:
Fax Number:

application for, comp plan text change in estero to include outdoor display at the interchange area for an auto dealership.

Description	Revenue Account Number	Fees	Paid	Date Paid	Due
Text Amendment Flat Fee	LB5150715500.322000.9018	2,500.00	2,500.00	2/25/2004	0.00
		Total Fees: \$2,500.00	Paid: \$2,500.00	TOTAL REMAINING DUE:	\$0.00

RECEIVED
FEB 25 2004



PERMIT COUNTER

Lee County Board of County Commissioners
Department of Community Development
Division of Planning
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: (941) 479-8585
FAX: (941) 479-8519

APPLICATION FOR A
COMPREHENSIVE PLAN AMENDMENT

(To be completed at time of intake)

DATE REC'D 2-25-04

REC'D BY: amkw

APPLICATION FEE \$2500.00

TIDEMARK NO: CPA 2004-00002

THE FOLLOWING VERIFIED:

Zoning CPD ☐

Commissioner District 3

Designation on FLUM ☐

General interchange 82.22
wet lands 17.44

(To be completed by Planning Staff)

Plan Amendment Cycle: ☒ Normal ☐ Small Scale ☐ DRI ☐ Emergency

Request No: _____

APPLICANT PLEASE NOTE:

Answer all questions completely and accurately. Please print or type responses. If additional space is needed, number and attach additional sheets. The total number of sheets in your application is: _____

Submit 6 copies of the complete application and amendment support documentation, including maps, to the Lee County Division of Planning. Additional copies may be required for Local Planning Agency, Board of County Commissioners hearings and the Department of Community Affairs' packages.

I, the undersigned owner or authorized representative, hereby submit this application and the attached amendment support documentation. The information and documents provided are complete and accurate to the best of my knowledge.

2/23/04

Sue Murphy

DATE

SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

I. APPLICANT/AGENT/OWNER INFORMATIONArgonaut Holdings Inc., C/O Director Of Real EstateAPPLICANTGeneral Motors World Wide Real Estate, 200 Renaissance Center, 38th FloorADDRESSDetroit, MI 48265CITYSTATEZIPTELEPHONE NUMBERFAX NUMBERSue Murphy, AICP, Ruden McCloskyAGENT*401 E. Jackson Street, Suite 2700ADDRESSTampa,FL33602CITYSTATEZIP813-222-6634813-314-6934TELEPHONE NUMBERFAX NUMBEROWNER(s) OF RECORDADDRESSCITYSTATEZIPTELEPHONE NUMBERFAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application.

* This will be the person contacted for all business relative to the application.

II. REQUESTED CHANGE (Please see Item 1 for Fee Schedule)

A. TYPE: (Check appropriate type)

☒ Text Amendment

☐ Future Land Use Map Series Amendment
(Maps 1 thru 20)

List Number(s) of Map(s) to be amended

B. SUMMARY OF REQUEST (Brief explanation):

See attached Summary Request

**III. PROPERTY SIZE AND LOCATION OF AFFECTED PROPERTY
(for amendments affecting development potential of property)**

A. Property Location:

1. Site Address: in the vicinity and including Corkscrew Commerce Center

2. STRAP(s): 35-46-25-00-00001-1030 Corkscrew Commerce Center

B. Property Information

Total Acreage of Property: _____

Total Acreage included in Request: _____

Area of each Existing Future Land Use Category: _____

Total Uplands: _____

Total Wetlands: _____

Current Zoning: _____

Current Future Land Use Designation: _____

Existing Land Use: _____

SUMMARY OF REQUEST

The applicant is proposing a text amendment to the Lee Plan that would allow outdoor storage over one acre within a very limited portion of the Estero Planning Community area. Specifically, outdoor storage would be permitted within a portion of the General Interchange land use designation within the area, which is the interchange of I-75/Corkscrew Road.

C. State if the subject property is located in one of the following areas and if so how does the proposed change effect the area:

Lehigh Acres Commercial Overlay: _____

Airport Noise Zone 2 or 3: _____

Acquisition Area: _____

Joint Planning Agreement Area (adjoining other jurisdictional lands): _____

Community Redevelopment Area: _____

D. Proposed change for the Subject Property:

E. Potential development of the subject property:

1. Calculation of maximum allowable development under existing FLUM:

Residential Units/Density

Commercial intensity

Industrial intensity

2. Calculation of maximum allowable development under proposed FLUM:

Residential Units/Density

Commercial intensity

Industrial intensity

IV. AMENDMENT SUPPORT DOCUMENTATION

At a minimum, the application shall include the following support data and analysis. These items are based on comprehensive plan amendment submittal requirements of the State of Florida, Department of Community Affairs, and policies contained in the Lee County Comprehensive Plan. Support documentation provided by the applicant will be used by staff as a basis for evaluating this request. To assist in the preparation of amendment packets, the applicant is encouraged to provide all data and analysis electronically. (Please contact the Division of Planning for currently accepted formats)

A. General Information and Maps

NOTE: For each map submitted, the applicant will be required to provide a reduced map (8.5" x 11") for inclusion in public hearing packets.

The following pertains to all proposed amendments that will affect the development potential of properties (unless otherwise specified).

- N.A.
1. Provide any proposed text changes. See attached Proposed Text Amendment Language
 2. Provide a Future Land Use Map showing the boundaries of the subject property, surrounding street network, surrounding designated future land uses, and natural resources.
 3. Map and describe existing land uses (not designations) of the subject property and surrounding properties. Description should discuss consistency of current uses with the proposed changes.
 4. Map and describe existing zoning of the subject property and surrounding properties.
 5. The legal description(s) for the property subject to the requested change.
 6. A copy of the deed(s) for the property subject to the requested change.
 7. An aerial map showing the subject property and surrounding properties.
 8. If applicant is not the owner, a letter from the owner of the property authorizing the applicant to represent the owner.

B. Public Facilities Impacts

NOTE: The applicant must calculate public facilities impacts based on a maximum development scenario (see Part II.H.).

N.A.

1. **Traffic Circulation Analysis**

The analysis is intended to determine the effect of the land use change on the Financially Feasible Transportation Plan/Map 3A (20-year horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit the following information:

Long Range – 20-year Horizon:

- N.A.
- a. Working with Planning Division staff, identify the traffic analysis zone (TAZ) or zones that the subject property is in and the socio-economic data forecasts for that zone or zones;
 - b. Determine whether the requested change requires a modification to the socio-economic data forecasts for the host zone or zones. The land uses for the proposed change should be expressed in the same format as the socio-economic forecasts (number of units by type/number of employees by type/etc.);

- N.A.
- c. If no modification of the forecasts is required, then no further analysis for the long range horizon is necessary. If modification is required, make the change and provide to Planning Division staff, for forwarding to DOT staff. DOT staff will rerun the FSUTMS model on the current adopted Financially Feasible Plan network and determine whether network modifications are necessary, based on a review of projected roadway conditions within a 3-mile radius of the site;
 - d. If no modifications to the network are required, then no further analysis for the long range horizon is necessary. If modifications are necessary, DOT staff will determine the scope and cost of those modifications and the effect on the financial feasibility of the plan;
 - e. An inability to accommodate the necessary modifications within the financially feasible limits of the plan will be a basis for denial of the requested land use change;
 - f. If the proposal is based on a specific development plan, then the site plan should indicate how facilities from the current adopted Financially Feasible Plan and/or the Official Trafficways Map will be accommodated.

Short Range – 5-year CIP horizon:

- N.A.
- a. Besides the 20-year analysis, for those plan amendment proposals that include a specific and immediated development plan, identify the existing roadways serving the site and within a 3-mile radius (indicate laneage, functional classification, current LOS, and LOS standard);
 - b. Identify the major road improvements within the 3-mile study area funded through the construction phase in adopted CIP's (County or Cities) and the State's adopted Five-Year Work Program;

Projected 2020 LOS under proposed designation (calculate anticipated number of trips and distribution on roadway network, and identify resulting changes to the projected LOS);

- c. For the five-year horizon, identify the projected roadway conditions (volumes and levels of service) on the roads within the 3-mile study area with the programmed improvements in place, with and without the proposed development project. A methodology meeting with DOT staff prior to submittal is required to reach agreement on the projection methodology;
- d. Identify the additional improvements needed on the network beyond those programmed in the five-year horizon due to the development proposal.

2. Provide an existing and future conditions analysis for:

- N.A.
- a. Sanitary Sewer
 - b. Potable Water
 - c. Surface Water/Drainage Basins
 - d. Parks, Recreation, and Open Space.

Analysis should include (but is not limited to) the following:

- Franchise Area, Basin, or District in which the property is located;

N.A

- Current LOS, and LOS standard of facilities serving the site;
- Projected 2020 LOS under existing designation;
- Projected 2020 LOS under proposed designation;
- Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements; and
- Anticipated revisions to the Community Facilities and Services Element and/or Capital Improvements Element (state if these revisions are included in this amendment).

N.A

3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including:
 - a. Fire protection with adequate response times;
 - b. Emergency medical service (EMS) provisions;
 - c. Law enforcement;
 - c. Solid Waste;
 - d. Mass Transit; and
 - e. Schools.

In reference to above, the applicant should supply the responding agency with the information from Section's II and III for their evaluation. This application should include the applicant's correspondence to the responding agency.

C. Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed use upon the following:

1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).
2. A map and description of the soils found on the property (identify the source of the information).
3. A topographic map with property boundaries and 100-year flood prone areas indicated (as identified by FEMA).
4. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.
5. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

N.A.

D. Impacts on Historic Resources

List all historic resources (including structure, districts, and/or archeologically sensitive areas) and provide an analysis of the proposed change's impact on these resources. The following should be included with the analysis:

1. A map of any historic districts and/or sites, listed on the Florida Master Site File, which are located on the subject property or adjacent properties.
2. A map showing the subject property location on the archeological sensitivity map for Lee County.

E. Internal Consistency with the Lee Plan SEE ATTACHED

1. Discuss how the proposal affects established Lee County population projections, Table 1(b) (Planning Community Year 2020 Allocations), and the total population capacity of the Lee Plan Future Land Use Map.
2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.
3. Describe how the proposal affects adjacent local governments and their comprehensive plans.
4. List State Policy Plan and Regional Policy Plan goals and policies which are relevant to this plan amendment.

N.A.

F. Additional Requirements for Specific Future Land Use Amendments

1. Requests involving Industrial and/or categories targeted by the Lee Plan as employment centers (to or from)
 - a. State whether the site is accessible to arterial roadways, rail lines, and cargo airport terminals,
 - b. Provide data and analysis required by Policy 2.4.4,
 - c. The affect of the proposed change on county's industrial employment goal specifically policy 7.1.4.
2. Requests moving lands from a Non-Urban Area to a Future Urban Area
 - a. Demonstrate why the proposed change does not constitute Urban Sprawl. Indicators of sprawl may include, but are not limited to: low-intensity, low-density, or single-use development; 'leap-frog' type development; radial, strip, isolated or ribbon pattern type development; a failure to protect or conserve natural resources or agricultural land; limited accessibility; the loss of large amounts of functional open space; and the installation of costly and duplicative infrastructure when opportunities for infill and redevelopment exist.

N.A.

3. Requests involving lands in ~~critical~~ areas for future water supply must be evaluated based on policy 2.4.2.
4. Requests moving lands from Density Reduction/Groundwater Resource must fully address Policy 2.4.3 of the Lee Plan Future Land Use Element.

G. Justify the proposed amendment based upon sound planning principles. Be sure to support all conclusions made in this justification with adequate data and analysis. See Attached Justification Statement

Item 1: Fee Schedule

Map Amendment Flat Fee	\$2,000.00 each
Map Amendment > 20 Acres	\$2,000.00 and \$20.00 per 10 acres up to a maximum of \$2,255.00
Small Scale Amendment (10 acres or less)	\$1,500.00 each
Text Amendment Flat Fee	\$2,500.00 each

AFFIDAVIT

I, Sue Murphy, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

Sue Murphy
Signature of owner or owner-authorized agent

2/23/04
Date

Sue Murphy
Typed or printed name

STATE OF FLORIDA)
COUNTY OF ~~LEE~~) HILLSBOROUGH

The foregoing instrument was certified and subscribed before me this 23rd day of Feb, 2004,
by Sue Murphy, who is personally known to me or who has produced
as identification.



Betty S. Hechinger
MY COMMISSION # DD095449 EXPIRES
March 6, 2006
BONDED THRU TROY FAIN INSURANCE, INC.

Betty S. Hechinger
Signature of notary public

Betty S. Hechinger
Printed name of notary public

PROPOSED TEXT AMENDMENT LANGUAGE

POLICY 19.2.5: The following uses are prohibited within the Estero Planning Community: "detrimental uses" (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. Outdoor display in excess of one acre is permitted within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

Section E. Internal Consistency with the Lee Plan

1. Discuss how the proposal affects established Lee County population projections and the total capacity of the Lee Plan Future Land Use Map.

The proposed text amendment will not affect neither the Lee County population projections nor the total capacity of the Lee Plan Future Land Use Map.

2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment. This analysis should include an evaluation of all relevant policies under each goal and objective.

The proposed text amendment primarily affects the Estero Community Plan and the Corkscrew Main Street Overlay by permitting outdoor display over one acre in a very limited area at the interchange of I-75 and Corkscrew Road. The following goals, objectives and policies are addressed:

Goal 19: Estero: To protect the character, natural resources and quality of life in Estero by establishing minimum aesthetic requirements, managing the location and intensity of future commercial and residential uses, and providing greater opportunities for public participation in the land development approval process. This Goal and subsequent objectives and policies apply to the Estero Planning Community as depicted on Map 16.

Objective 19.1: Community Character: The Estero Community will draft and submit regulations, policies, and discretionary actions affecting the character and aesthetic appearance of Estero for Lee County to adopt and enforce to help create a visually attractive community.

Policy 19.1.1: By the end of 2002, The Estero Community will draft and submit regulations or policies for Lee County to review, amend or establish as Land Development Code regulations that provide for enhanced landscaping along roadway corridors, greater buffering, shading of parking areas, signage and lighting consistent with the Community Vision, and architectural standards.

Policy 19.1.2: Lee County is discouraged from approving any deviation that would result in a reduction of landscaping, buffering, signage guidelines or compliance with architectural standards.

The applicant is proposing the addition of outdoor display areas over one acre as a permitted use in the General Interchange land use category in the Estero Community. This limits the permitted outdoor display location to the quadrants of the I-75/Corkscrew Road interchange. The intent is to allow outdoor storage over 1 acre in the area containing the Corkscrew Commerce Center PD. The other

quadrants are primarily developed and contain a mixture of residential, institutional and commercial uses, including the TECO arena, the Miramar outlet mall, and Florida Gulf Coast University.

The requested amendment would not only limit this use to this small, specific area, but it will also require increased buffers and setbacks to ensure compatibility with surrounding uses. The development of outdoor display over one acre in this area will be bound to the architectural, signage and other regulations for the Corkscrew Main Street Overlay district, except outdoor display areas will require increased buffering and setbacks. There is also a requirement that any outdoor display areas be approved as a CPD zoning so that adequate controls can be placed on the development.

The applicant has met with the surrounding neighborhood and with the Estero Planning Board to discuss this issue. As far as can be determined, there is no opposition and much support for this request, as evidenced by the attached letters and newspaper articles.

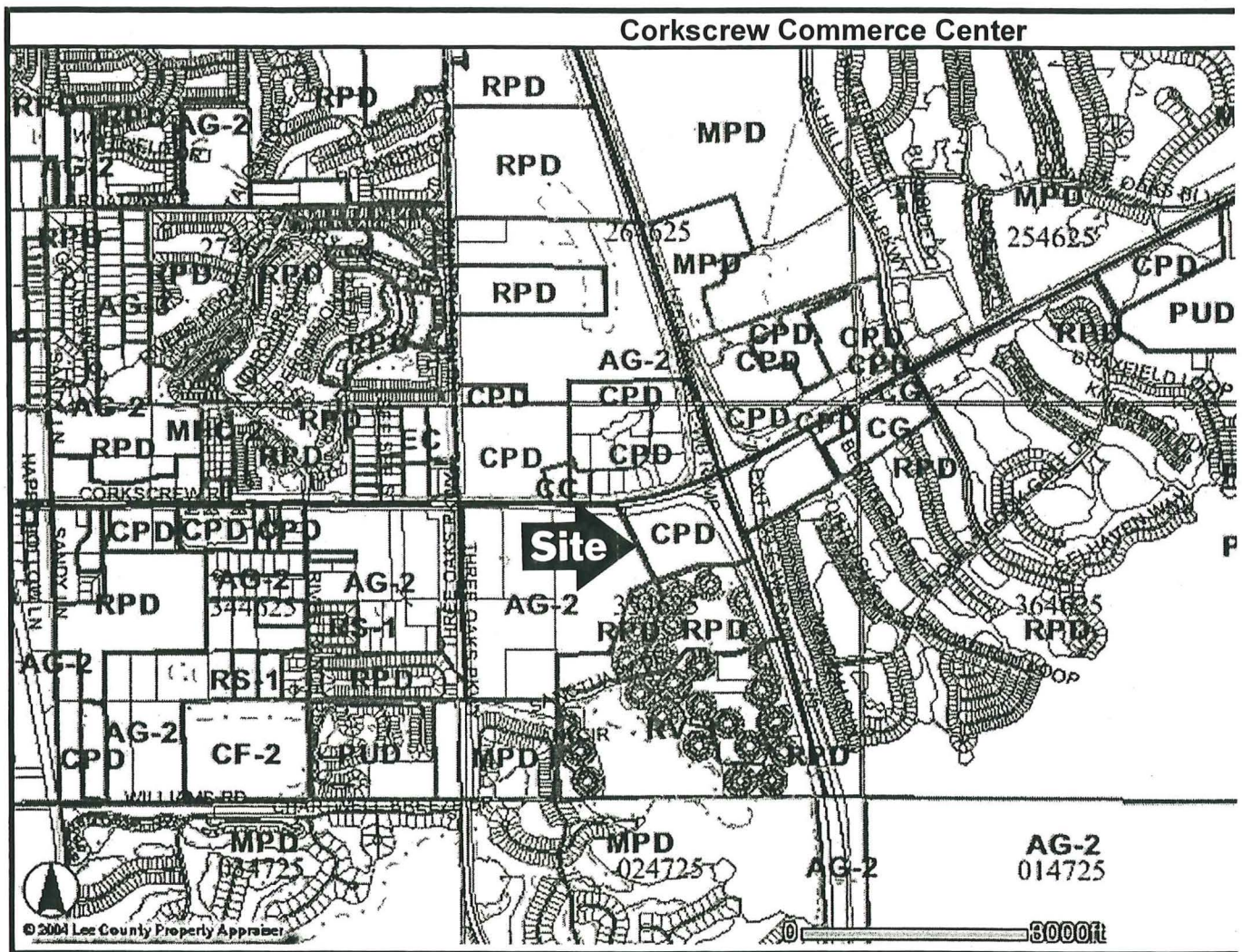
Objective 19.2: Commercial Land Uses. Existing and future County regulations, land use interpretations, policies, zoning approvals, and administrative actions must recognize the unique conditions and preferences of the Estero Community to ensure that commercial areas maintain a unified and pleasing aesthetic/visual quality in landscaping, architecture, lighting and signage, and provide for employment opportunities, while discouraging uses that are not compatible with adjacent uses and have significant adverse impacts on natural resources.

Policy 19.2.1: All new commercial development that requires rezoning within the Estero Planning Community must be reviewed as a Commercial Planned Development.

Policy 19.2.2: All retail uses must be in compliance with the Commercial Site Location Standards.

Policy 19.2.5: The following uses are prohibited within the Estero Planning Community: "detrimental uses" (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre.

The proposed text amendment will require CPD zoning with appropriate conditions to mitigate impacts and provide for an aesthetically pleasing development. CPD zoning can mandate adherence to the signage, lighting and applicable architectural standards of the Corkscrew Main Street Overlay and the Estero Community Plan will be required for outdoor display areas over one acre. CPD Zoning can also require the provision of enhanced buffer yards, landscaping and setbacks to ensure compatibility with surrounding uses.



Naples Daily News

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URL: http://www.naplesnews.com/npdn/bonitanews/article/0,2071,NPDN_14894_2642506,00.html

Panel sees car dealer as a way to address corner

By CHRISTINA HOLDER, cholder@naplesnews.com

February 10, 2004

An Estero panel that in the past has been wary of car dealerships settling into the community is supporting a North Carolina businessman's plan to pursue property for a Chevrolet franchise.

Charles Winton, 41, of Charlotte, N.C., said he would like to build the car dealership on the southwest corner of Corkscrew Road and Interstate 75, a tract adjacent to two neighborhoods.

Yet first he will have to purchase about 10 of the 20 available acres on the interstate corner and get a zoning change that would allow a car display in excess of one acre.

If approved, the zoning amendment would bypass a rule limiting outdoor displays to one acre that Estero activists worked to get into the community's county-endorsed plan several years ago to regulate businesses like car dealerships.

Yet panel members on Monday night supported Winton's plan to pursue the property because it could eliminate potential users of the site's parcels from eight to three and decrease the risk of bars, fast-food restaurants or similar businesses that the panel would like to limit in the area.

"This is sort of an opportunity I've seen to take care of this corner," panel member Greg Toth said. "What we are trying to do, is take eight users, limit it to three, which will mean less traffic, less impact to the area, more green space."

Toth, who is acting as Winton's broker, said he would recuse himself from the panel's discussion should Winton's plan come before the panel in the future.

Getting community support for Winton's project in a timely manner is important, Toth said, because Lee County is likely to issue a development order for the parcel within the next few weeks and the owner of the parcel will be looking for buyers.

"What I'm trying to do is come in before that," he said. "We really need the community to be behind us before we discuss those financial negotiations."

If Winton were to purchase 10 acres, the remaining acres would leave room for two parcels open for additional users. The dream would be to buy all eight parcels, Winton said, but he could not guarantee he could purchase the entire lot.

The presidents of the Board of Directors for neighboring Island Club and Corkscrew Woodlands wrote a letter, dated Jan. 19, to Winton and Toth in support of the franchise.

However, the letter listed several concerns as the plan develops, including potential traffic problems on Corkscrew Road and Corkscrew Boulevard and questions about how storm water would be managed.

Panel member Mitch Hutchcraft said a car dealership is a better user for the site than other businesses, such as fast-food restaurants.

"Those operations last much on longer into the night," he said. "Their lighting requirements are much higher."

Winton said it was his dream to become an entrepreneur and own a car dealership, but he also wanted to make Estero his home.

"I'm going to be there every day," Winton said. "I want to live in the Estero community. They would have a local business on site."

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Estero welcomes Chevy lot

Nearby residents back dealership

By **DENISE L. SCOTT**, dscott@news-press.com

Published by news-press.com on February 10, 2004

Chevy may be coming to Estero, and it's getting a warmer welcome than Ford.

Estero Community Planning Panel member Greg Toth, acting as real estate agent, presented preliminary plans for a Chevrolet dealership at the southwest corner of Corkscrew Road and Interstate 75 to his fellow panel members Monday night.

Unlike the Galloway Ford dealership being built on U.S. 41, which was fought by Fountain Lakes residents, those in Island Club and Corkscrew Woodlands adjacent to the Chevrolet property support it — with a few concerns.

The General Motors franchise owner, Charles Winton, 41, of Charlotte, N.C., wants to purchase 10 of the property's 20 acres, leaving two 1¼-acre outparcels for other businesses.

He received written support from the two community associations after meeting with residents in January. The panel also responded positively Monday night, citing the benefits of one car dealership with two small outlots versus eight separate parcels on the same property.

Toth said the property's owner, James Goldie of Galleria Properties, soon will receive a development order and begin selling off parcels. He said Winton must buy the property before it's too late to limit the number of businesses, which under current zoning could include gas stations, bars and fast food restaurants.

"We can take eight users and trim down to three," Toth said, noting that would reduce traffic and the impact on the community. And, he said, rezoning could limit the allowable uses for the two outparcels.

Toth said this would ensure a unified architectural and landscape plan, unlike what is happening across Corkscrew Road with the mishmash of buildings, including Embassy Suites and Tires Plus.

In addition to rezoning, the possibly two-year process would require an amendment to Estero-specific county code to permit more than 1 acre of outdoor display, and a deviation to the Corkscrew Road overlay so the building could be set back from the road.

"We do need community support to put the amount of money necessary to hold the property while it's going through amendments and zoning," Toth said.

Panel Chairman Neal Noethlich cautioned that the county code amendment restricting outdoor display to one acre or less was created specifically for car dealerships.

"We want to be very careful we don't open up some other problem for us," he said.

Toth said the amendment could be written specific to the I-75 corridor.

The community associations' letter cites concerns including traffic, entrances, signs, storm water, sidewalks and the relocation of their entrance gates.

"We'll be dealing with their concerns. None are back breakers," Toth said, noting the site plan includes two large fountains and an expansion of the green space to 6 acres.

Winton said he plans to move to provide local ownership and realizes the importance of

community support to get the property rezoned.

"Time is of the essence," he said. "I'm going to have Greg sit down with Mr. Goldie right away."

Ralph Colter, 67, has lived in Island Club for five years and said he is impressed with Winton's willingness to work with residents.

"He seems to be real amicable about trying to answer the questions we had and take care of our needs for buffering, noise, roadway and lighting," he said. "I personally don't want eight businesses there."

Toth said they would bring the project back to the panel for a formal presentation during the rezoning process, at which time he would recuse himself from panel discussions and voting.

In other business, the panel discussed residents' e-mail campaign that failed to get Wal-Mart representatives to postpone presenting plans for a Supercenter at Coconut Road and U.S. 41 to the Estero Design Review Committee on Wednesday. The goal was to have Wal-Mart meet with neighboring residents first.

"We're trying every way we can to ensure significant public dialogue for this store," Noethlich said, noting a meeting at Marsh Landing has been tentatively set for early March.

"They are ignoring the wishes of potentially thousands of customers," panel member and Marsh Landing resident Jim Ramsburg said. "I'm a little disgusted with their refusal."

[Back to Bonita](#)

Return to story: <http://www.news-press.com/news/bonita/040210estero.html>

**Corkscrew Woodlands
Association, Inc.**

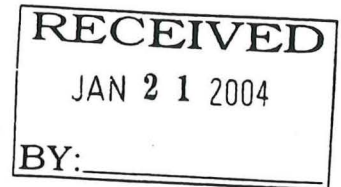
**21600 Corkscrew Woodlands Blvd.
Estero, Florida 33928**

**Island Club
Association, Inc.**

**21500 Corkscrew Woodlands Blvd.
Estero, Florida 33928**

January 19, 2004

**Mr. Charles D. Winton
B722 Briar Oak Court
Charlotte, North Carolina 28226**



**Mr. Gregory F. Toth
12651 McGregor Boulevard
Fort Myers, Florida 33919**

Subject: Corkscrew Commerce Park – Proposed Rezoning

The residents of our communities attentively participated in your presentation and discussion on January 8, 2004, in the Community Center of the Island Club Association. Much interest was exhibited as you may recall. The two Associations are residential communities dead-ended in an entrance road easement which also may serve the commercial interests on either side. Thus, we are most concerned that our future living environment is perhaps enhanced and certainly not adversely affected.

In general these Associations are supportive of your proposed "Chevrolet Store" occupancy as a vast improvement over the multiple parcels or "bubble plan" zoning now in existence. We prefer to know in advance who our neighbors will be and we commend this effort to do that for the majority of the land area involved in the 20 plus acres plot.

There are, however, some concerns and questions that we respectfully request be specifically addressed as part of the approval process.

- **Safety and traffic control onto and off of Corkscrew Road and Corkscrew Boulevard are vital to our residential interests.**

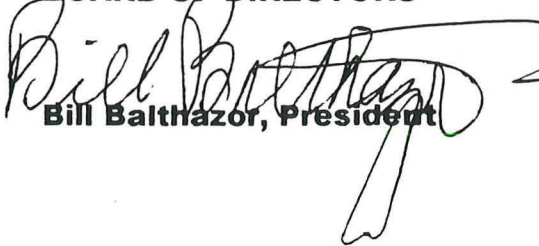
The increased emphasis of Corkscrew Road as a main street of Estero plus the planned widening of the ramp and of I-75 appear to indicate much increased traffic in near term. Also the potential entrance needs of the 43 acre parcel on the West of Corkscrew

Woodlands Boulevard ought be determined since the four adjoining entitles are apparently involved in the Corkscrew Woodlands Boulevard entrance road easements from Corkscrew Road.

- **It is proposed that specific occupancies be determined on the two out parcels which total 3.75 acres. Entrances to be only from the internal road, not directly from Corkscrew Woodlands Boulevard.**
- **It is presumed our present entrance sign on Corkscrew Woodlands Boulevard at Corkscrew Road would remain. Is so?**
- **Storm water shall not be drained onto the Island Club Association and continue on into Corkscrew Woodlands Lake as was apparently anticipated in the past.**
- **A pedestrian walkway from the Island Club boundary on Corkscrew Woodlands Boulevard to the Corkscrew Road walkway is proposed. A bus pickup and discharge area also is proposed.**
- **The traffic control gates located at the Island Club boundary ought be located much closer to Corkscrew Road to curtail unwanted traffic to the communities. Provisions should be made for vehicles and especially large vehicles to be able to turn around before the gates to the residential communities.**

The opportunity to further comment on this important subject is very much appreciated. Thank You. We hope the identification and resolution of these issues might aid in the development of a mutually advantageous project. While we have identified these concerns it is assumed our ability to have voice in this process is assured as the project moves forward. We would welcome that involvement.

BOARD OF DIRECTORS


Bill Balthazor, President

BOARD OF DIRECTORS


Mike Towns, President

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER DECISION

ADMINISTRATIVE APPEAL: CASE ADM2000-00003

APPELLANT: GALLOWAY 1995 PARTNERSHIP / ESTERO GREENS CPD

HEARING DATE: APRIL 5, 2000

I. APPLICATION:

Filed by GALLOWAY 1995 PARTNERSHIP, P. O. Box 70, Ft. Myers, FL 33902 (Appellant); CHARLES J. BASINAIT, ESQUIRE, HENDERSON, FRANKLIN, STARNES & HOLT, P.A., P. O. Box 280, Ft. Myers, FL 33902-0280 (Agent/Attorney for Appellant); JOHN MADDEN, TRUSTEE OF ESTERO 41 LAND TRUST, % RICHARD A. COLLMAN, ESQUIRE, 1648 Periwinkle Way, Sanibel, FL 33957 (Property Owner); MATT UHLE, ESQUIRE, % HUMPHREY & KNOTT, P.A., 1625 Hendry St., Ft. Myers, FL 33901 (Attorney for Property Owner).

This is a Request for Appeal of an Administrative Interpretation to the Hearing Examiner to appeal a decision by the Division of Development Services/Department of Community Development that a 10-acre new and used auto and truck dealership would provide a community commercial function (rather than neighborhood commercial) and would not be allowed in the Suburban land use category.

The subject property is a 10-acre parcel located west of U.S. 41 and south of Williams Road, Estero, Florida. [District #3]

The Strap #'s as furnished by the Appellant are: portions of 04-47-25-00-00001.002D and 04-47-25-00-00001.002E

II. HEARING EXAMINER DECISION:

The undersigned Hearing Examiner hereby GRANTS the Appellant's Appeal and finds that the Lee County Board of County Commissioners has already found that Vehicle and Equipment Dealer, Groups I and II, is a permissible use in the Suburban land use category and that, so long as that use does not exceed 100,000 square feet of use, and so long as the use is confined to 10 acres or less, it falls within the definition of Neighborhood Commercial use, it is consistent with the Lee Plan and the Land Development Code, and it is permissible in the Suburban land use category. Furthermore, the County must determine the intensity of the use by calculating the square footage based upon the total area of the building(s) or portions of the building(s) contained within the surrounding exterior walls of the building(s) or structure(s). On that basis, the Appellant will have used 57,671 square feet of its 100,000-square-foot retail commercial allocation under Zoning Resolution Z-97-050, at the completion of the Vehicle and Equipment Dealer, Groups I and II, project.

The County Staff is Ordered to proceed in a manner consistent with this Finding.

III. HEARING EXAMINER DISCUSSION:

The Appellant, Galloway 1995 Partnership / Estero Greens CPD, has filed an Administrative Appeal with the Lee County Hearing Examiner pursuant to Section 34-145 of the Lee County Land Development Code (LDC). That provision allows an aggrieved party to appeal an action by an administrative official where it is alleged that the administrative official made an error in any order, requirement, decision, interpretation, determination or action that addresses the land development code or any other ordinance that provides for similar review.

If the Appeal is properly brought, the Hearing Examiner is authorized, pursuant to LDC Section 34-145(a)(4), to reverse, affirm or modify any decision or action of any administrative official charged with the administration or enforcement of LDC Chapter 34. Furthermore, the Hearing Examiner is empowered to make any decision, with respect to the Appeal, that the administrative officer from whom the Appeal was taken could have made.

It is found that the Appeal was properly brought before the Hearing Examiner, and that he has jurisdiction to hear the Appeal pursuant to LDC Section 34-145.

The Appeal was brought before the Hearing Examiner as the result of a disagreement that arose between the Appellant and the Staff with respect to whether the Appellant can develop a 10-acre vehicle and equipment dealership (hereinafter, a new car dealership) on a 10-acre parcel of land located in the Suburban land use category of Lee County, Florida.

The genesis of the dispute can be traced back to September 15, 1997, when the Appellant, received zoning approval from the Lee County Board of County Commissioner (Resolution Z-97-050, hereinafter the Resolution). That Resolution rezoned a 24.2-acre parcel of land from Agricultural (AG-2), to Commercial Planned Development (CPD). It allowed the Appellant (Applicant in the zoning case) to develop up to 100,000 square feet of retail uses, or 129,900 square feet of office uses (with a maximum of 229,900 square feet of commercial development), or an Adult Living Facility (ALF) on three acres of land with a maximum of 145 rooms, or a 125-room hotel/motel use, or some combination of these uses, with some other restrictions that are not relevant to this Appeal.

What is relevant to this Appeal are some of the conditions that were contained within the Resolution. Among the permitted uses is "Vehicle and Equipment Dealers, Groups I and II." This use is defined in LDC Section 34-622(c)(55) as "establishments primarily involved in the retail sale or storage of motor vehicles. . . ." Group I includes "Auto and Truck dealers," and Group II includes "Motorcycle and lawnmower dealers."

This use was added to the Schedule of Uses at the Hearing Examiner hearing. The summary of the Hearing Examiner's Recommendation that lead to the Board's Resolution¹, as well as testimony taken during this Appeal, supports the conclusion that the "Vehicle and Equipment Dealers, Groups I and II" use was added to the Schedule of Uses at the Hearing Examiner's hearing because it was inadvertently left off the list when the Staff Report was written. There was no apparent opposition by the Staff to the inclusion of this use; in fact, the Staff appeared to acquiesce to its inclusion.

¹ Hearing Examiner Recommendation in Case 97-04-065.03Z 01.01, rendered August 5, 1997.

Another condition of the Resolution addressed the intensity of development that would be allowed on the site. It limited the intensity to that allowed in a "Minor Commercial" development (i.e., less than 30,000 square feet) until access to Williams Road is achieved. After the completion of Williams Road, the development could increase to 100,000 square feet of retail uses.

The project also called for special buffering to protect potential residential neighbors from some of the potentially intensive commercial uses that could be found in the Schedule of Uses.

The final provision of the Resolution, which has relevance to this Appeal, is found in Condition 10. It states:

Approval of this CPD rezoning merely changes the zoning district of the subject property. It does not grant or vest present or future development rights exceeding the Lee Plan use restrictions set forth in the 2010 (Roberts) Overlay or any other Lee Plan provisions.

Although there are many other conditions contained in the Resolution, they are not part of the disagreement between the Appellant and the Staff, and they will not be discussed further.

The nature of the disagreement which lead to this Appeal revolves around the allowable intensity of the proposed car dealership, and the method that is used to determine the square footage that the car dealership is using.

The Staff has taken the position that a car dealership is a permitted use in the Suburban land use category, but that it may not be 10 acres in size because that intensity of use takes it out of the Neighborhood Commercial category, and places it in the Community Commercial category. Since a Community Commercial use is not permitted in the Suburban land use category, the Staff argued that the Appellant may not proceed with its project as it is presently envisioned. Furthermore, the Staff has opined that it is not necessary to make a determination of how much square footage is to be allocated to the car dealership use because that issue is never reached; the use itself is not allowed.

The Appellant has taken the position that the Board of County Commissioners had already decided this issue when it approved Resolution Z-97-050. The Board approved Vehicle and Equipment Dealers, Groups I and II; it approved up to 100,000 square feet of retail commercial uses (if Williams Road is improved); and it found the request to be consistent with the Lee Plan and the Land Development Code. The Appellant contends that this is an attempt by the Staff to get a second bite of the apple about a decision with which they disagree.

The issue came to a head when the Appellant's attorney wrote a letter to Walter McCarthy, in which the attorney indicated that he represented a client who wanted to purchase the southern 14 acres of the 24.2-acre tract and use it for a new and used auto and truck dealership. Since the entire site was not to be used by the dealership, the Appellant asked for an opinion with respect to how the square footage for an automobile dealership is to be calculated. The question arose because of a dispute in an earlier case in which the Staff took the position that all of the retail area, including outdoor display areas, should be

included in calculating retail commercial square footage.² The Hearing Examiner and the Board concluded that the square footage would be calculated consistent with the definition of "floor area" as defined in Section 34-2 (Definitions) of the LDC.³ The Appellant's attorney, in undertaking his "due diligence" review, wanted to address the issue early and to get the Staff's acquiescence to the Hearing Examiner and Board's conclusions. What he got instead was a letter from Paul O'Connor, Planning Division Director (dated December 16, 1999), which stated that the proposal which was submitted was not consistent with the Lee Plan because 14 acres of development exceeds the maximum site area (for Neighborhood Commercial use) by 40 percent. In other words, the maximum allowable square footage for a Neighborhood Commercial use is 10 acres. Based upon that response, the project was scaled down to 10 acres.

The next written request was sent by the Appellant's attorney to Robert Gurnham, on January 11, 2000. It was in the form of a **Zoning Verification Letter** and it asked for confirmation that the new and used auto and truck dealer was a permitted use pursuant to the existing CPD; that the size of the proposed project (10 acres) is acceptable under the Lee Plan; and that a determination be made of the amount of square footage that this project would use if the plan is developed under the current regulatory parameters.

The response was sent from Kay Deselem, Senior Planner, on February 4, 2000. This response concluded that Vehicle and Equipment Dealers, Group I, is a permitted use in the CPD zoning district. It also concluded that retail sales would be limited to 100,000 square feet pursuant to the Resolution that approved the Master Concept Plan for this project (i.e., Z-97-050). It went on to state that Lee Plan Policy 1.1.5 prohibits commercial developments that are greater than neighborhood centers in intensity from being located in the Suburban land use category. The conclusion that was reached by the Staff was that the proposed 10-acre use for a new and used auto and truck dealership is not a "Neighborhood Commercial" use because it would draw from an area that is larger than the immediate neighborhood. It based this conclusion on an analysis of the types of uses typically found in a neighborhood center, and that the type of use contemplated by the Appellant did not fall within that category. The Staff did not answer the question about how square footage would be calculated because that issue was moot in the opinion of the Staff.

After discussions between the Staff and the Appellant failed to reach a satisfactory conclusion, in the opinion of the Appellant, this Appeal was filed.

The Staff has taken the position that the Board did not specifically address the issues that have been raised in this Appeal because the earlier rezoning was a "bubble plan"⁴ and the Board was not aware of the intensity of use now contemplated by the Appellants. Furthermore, the Staff took the position that the language contained in Condition 10 of the

² **Bernard J. DeWolfe, et al, in reference to Bennett New Car Alternative**, Case 96-09-083.02Z 01.01, rendered by the Hearing Examiner on April 22, 1997.

³ *Floor area* means the total area of each story of a building, or portion thereof, within the surrounding exterior walls of the building or structure.

⁴ A "bubble plan" is one in which there is not a great deal of detail. The location of buildings and other improvements, for example, are not specifically detailed on the master concept plan. Limitations on the degree of intensity or density are spelled out, as are buffers, setbacks, etc., but other details are decided at a later time when the information becomes available. It affords the Applicant some flexibility in how the project will be developed.

Resolution⁵ provides them with the opportunity to readdress these issues at the time of the development order. On a direct question by the Hearing Examiner, Ms. Deselem was asked:

Is it the Staff's position that, if site location standards are addressed at the Board . . . and the Board approves them, that the Staff has the option of then going back and looking at those criteria?

Ms. Deselem answered, "yes." ⁶

The Staff also made a distinction between the term "Neighborhood Commercial" as defined in the site location standards, and "Neighborhood Centers" as that term is used in planning circles. It appears that they were attempting to distinguish the two terms and to argue that both serve as measures to determine whether the proposed use is one that is suitable for the location that has been chosen. They argued that, even if the project meets the site location standards of a Neighborhood Commercial use, the proposed use may still be too intense because it will draw its customers from an area that is larger than what was contemplated by the Lee Plan, and it contains uses that are not typical (in Staff's view) of uses found in neighborhood centers. The Staff went on to opine that a neighborhood center is one that draws its business from an area of about a 1½-mile radius and from a population of about 2,500 to 40,000.⁷ This argument was made despite the fact that radius and population were removed from the standards of review by the Board in 1994⁸ and therefore they do not have any regulatory significance in reviewing planned developments in today's planning climate. While these standards may make good planning sense, and while they may be a desirable objective, they are not the standards of review mandated by the Board.

When these issues were presented to the Board in 1997, they knew that a car dealership was a listed use for the project. They knew that the use was in the Suburban land use category. They limited retail commercial uses to 100,000 square feet. They were aware of the Lee Plan's requirement that Neighborhood Commercial uses must be on a parcel of land that is between two and 10 acres in size. Knowing all of these facts, the Board approved the rezoning request with many conditions to ensure its compatibility with the surrounding area. In none of those conditions did they restrict car dealerships to less than 100,000 square feet, or to a parcel of land that is less than 10 acres in size even though it was within their authority to do so. To now have the Staff argue that they can do so in the development order stage is not supportable. No new facts have arisen since the rezoning occurred, only new Staff interpretations that use arcane and obscure arguments to reach a conclusion that attempts to distinguish what the Board concluded and what Staff would have liked the Board to have concluded.

⁵ Approval of this CPD rezoning merely changes the zoning district of the subject property. It does not grant or vest present or future development rights exceeding the Lee Plan use restrictions set forth in the 2010 (Roberts) Overlay or any other Lee Plan provisions.

⁶ Transcript of Proceedings, Page 118.

⁷ Id., Page 158

⁸ Id., Page 9.

Whenever one has professionals making sound professional decisions, and elected officials reviewing the same issues in a civic context, there is often a difference of opinion. While we professionals would prefer to have our views followed, we must defer to the final elected authority that has been chosen to represent the community at large. In this case the Board has spoken, and it has concluded that the project is consistent with the Lee Plan and the Land Development Code. Nothing that has been argued by the Staff changes that conclusion.

So long as the Appellant confines the car dealership to 100,000 square feet and 10 acres, and so long as Williams Road is improved as required by the zoning resolution, it is consistent with the Lee Plan and the Land Development Code, and it is a Neighborhood Commercial use that is allowed in the Suburban land use category. "Neighborhood center," as used by the Staff to restrict the use to something under 10 acres in size, has no support in the Lee Plan or the Land Development Code no matter how laudable the sentiment it represents. Furthermore, the Staff is instructed to determine the square footage of the project by limiting its intensity to the total area of each story of a building, or portion thereof, within the surrounding exterior walls of the building or structure, and not to include the outdoor display area of the project until such time as the Land Development Code is amended to reflect something different. Based upon the information supplied by the Applicant, this use will use 57,571± square feet, leaving the difference (up to a total of 100,000 square feet of retail commercial uses for the entire project), for other retail commercial uses on the remainder of the 24.2-acre site.

Therefore, the Appeal is granted and the County Staff is Ordered to proceed in a manner consistent with this Finding.

IV. FINDINGS AND CONCLUSIONS:

Based upon the Staff Report, the testimony and exhibits presented in connection with this matter, the undersigned Hearing Examiner makes the following findings and conclusions:

- A. That the Appeal was properly brought before the Hearing Examiner pursuant to Section 34-145 of the Land Development Code of Lee County.
- B. That the Hearing Examiner has jurisdiction of this matter pursuant to Section 34-145 of the Land Development Code of Lee County.
- C. That the Lee County Board of County Commissioners approved a rezoning for the subject property in Zoning Resolution Z-97-050, on September 15, 1997 in which, among other things, they found:
 - 1. That Vehicle and Equipment Dealers, Groups I and II, are permissible uses on the subject property;
 - 2. That the project may contain up to 100,000 square feet of retail uses after improvements to Williams Road are completed;
 - 3. That the Resolution contained conditions that were designed to address the potential impacts that uses, such as Vehicle and Equipment Dealers, might have on potential residential neighbors;

4. That the Board was aware of the potential uses and the impacts that such uses might have on nearby neighbors;

5. That the Board found the project to be consistent with the Lee Plan and the Land Development Code;

6. That the Board took into consideration that a Vehicle and Equipment Dealer was a possibility on the subject site and that it might be up to 100,000 square feet in size;

7. That the Board is presumed to be aware of the Land Development Code and Lee Plan provisions that relate to Neighborhood Commercial uses as well as Community Commercial uses; and

8. That the Board impliedly approved a Vehicle and Equipment Dealership on the subject property so long as it was no more than 100,000 square feet in size, and so long as it encompassed a parcel of land between two and 10 acres in size.

D. That the Staff is without authority to readdress any of the issues that have been addressed by the Board in Resolution Z-97-050, at the Development Order stage of the development process.

E. That the Board has concluded that the proposed project is allowed in the Suburban land use category because it is consistent with the Lee Plan.

F. That there is no support in the Lee Plan or the Land Development Code for distinguishing between "Neighborhood Commercial" uses and "Neighborhood Centers."

G. That the proper manner of determining the retail square footage used by a Vehicle and Equipment Dealership is to measure the total area of each story of a building, or portion thereof, within the surrounding exterior walls of the building or structure, and to not measure the outdoor display area.

V. LIST OF EXHIBITS:

STAFF'S EXHIBITS

Résumés of Lee County Staff are on file with the Hearing Examiner's Office and are incorporated herein.

- 1 573 So.2d 889, Edward J. Seibert, A.I.A. Architect and Planner, P.A. vs. Bayport Beach and Tennis Club Ass'n., Inc. (Fla.App. 2 Dist. 1990)
- 2 A Basis of Rezoning Report for the Estero Greens CPD, prepared for Florida Group Investment, Inc., Trustee, by Stuart and Associates, dated 03/26/97
- 3 Composite Exhibit: Hearing Examiner Recommendation 94-11-01-DCI-10, Harvey Goldberg, Trustee et al, in ref. to Galloway Car Dealership, hearing date 11/01/94; and Narrative, prepared by Morris-Depew Associates, Inc.

- 4 Composite Exhibit: Staff Report, Hearing Examiner Recommendation, and Zoning Resolution Z-98-047 for Case 98-05-074.01Z 01.01, Delaware Associates, LLC, rep. by Shellmyer, Inc., in ref. to Shelton Dealership
- 5 Composite Exhibit: Planning Division Memorandum from Paul O'Connor, Director, to Kay Deselem, dated 10/16/96, re: Bennett New Car Alternative (Case 96-09-083.02Z); and Zoning Resolution Z-97-021 for Case 96-09-083.02Z 01.01, Bernard J. DeWolfe et al, in ref. to Bennett New Car Alternative
- 6 Land Development Handbook - Planning, Engineering, and Surveying, Dewberry & Davis, page 202
- 7 Shopping Center Development Handbook, Second Edition, from Community Builders Handbook Series by the Executive Group of the Commercial and Retail Development Council of ULI - the Urban Land Institute, 1985
- 8 Shopping Centers and Other Retail Properties - Investment, Development, Financing, and Management, edited by John R. White and Kevin D. Gray, in association with the Urban Land Institute
- 9 Composite Exhibit: Department of Community Development/Zoning & Development Services Division Development Order Submittals - forms dated 4/96 and 3/99
- 10 Sections 163.3194(1)(a) and (3)(a), Florida Statutes; Lee Plan consistency language from Chapter XIII.a.; Lee Plan Policy 6.1.8; and Condition 10 of Zoning Resolution

APPELLANT/APPLICANT'S EXHIBITS

Résumés of Appellant's consultants/representatives are on file with the Hearing Examiner's office and are incorporated herein.

- 1 Résumé - David W. Depew, M.A./AICP, Morris-Depew Associates, Inc.
- 2 Master Concept Plan for the Estero Greens CPD, prepared for Florida Group Investment, Inc., Trustee, by Stuart and Associates, dated 06/09/97
- 3 Preliminary (Architectural) Site Plan - Galloway Car Dealership, prepared by Sheeley Architects, Inc., dated 01/12/00
- 4 Land Development Handbook - Planning, Engineering, and Surveying, Dewberry & Davis, pages 196 thru 203
- 5 Resolution Z-96-047, Case 96-02-271.03Z 01.01, James Colosimo, Trustee, in ref. to Daniels Falls

OTHER EXHIBITS

Intervenors

- 1 Composite Exhibit: Commercial Site Location/Development Standards (chart, page 77); Standard III.C., Factors Applicable to Commercial Land Use, Zoning and Development Review, pages III-55 thru III-60; Directed Lee Plan Map and Text Amendments (pages V-1 thru V-4) - "Commercial Locational Standards"; EAR Future Land Use Element/BCC Adopted EAR with Transmitted Amendments, July 1994, pages III-96 thru III-105, Goal 13: Commercial Standards
- 2 Composite Exhibit: Staff Report, Hearing Examiner Recommendation, and Zoning Resolution Z-97-021 for Case 96-09-083.02Z 01.01, Bernard J. DeWolfe et al, in ref. to Bennett New Car Alternative
- 3 Composite Exhibit: Staff Report, Hearing Examiner Recommendation, and Zoning Resolution Z-97-050, Florida Group Investments, Inc., in ref. to Estero Greens

VI. PRESENTATION SUMMARY:

SEE OFFICIAL COURT REPORTER TRANSCRIPT.

VII. OTHER PARTICIPANTS AND SUBMITTALS:

ADDITIONAL APPELLANT'S REPRESENTATIVES:

1. David W. DEPEW, AICP/President, Morris-Depew Associates, Inc., 2216 Altamont Ave., Ft. Myers, FL 33901

ADDITIONAL COUNTY STAFF:

1. Kay DESELEM, Development Services Division, Lee County, P.O. Box 398, Ft. Myers, FL 33902-0398
2. Tim JONES, Assistant County Attorney, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398
3. Matt NOBLE, Division of Planning, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398
4. Paul O'CONNOR, Director, Planning Division, Lee County, P. O. Box 398, Ft. Myers, FL 33902-0398

PUBLIC REQUEST FOR COPY OF DECISION:

1. Stephanie KEYES, AICP, % The School District of Lee County, 3308 Canal St., Ft. Myers, FL 33916
2. FOUNTAIN LAKES, 22201 Fountain Lakes Blvd., Ste. 1, Estero, FL 33928 (Attn: Janet Bartlett, Rebecca Campbell, Dr. Ken Wisen, Dick Wright, Sharon Newell, Martin Cribbins)
3. Jim ANDERS, 3891 Mary Ann Way, Estero, FL 33928

4. Greg STUART, AICP/President, % Stuart & Associates, Inc., 2180 W. First St., Ste. 503, Ft. Myers, FL 33901
5. Alice WALAT, 22643 Island Lakes Dr., Estero, FL 33928
6. Brenda DUGAS, 3951 Spring Garden Ln., Estero, FL 33928-2395
7. Richard EMERY, 22679 Fountain Lakes Blvd., Estero, FL 33928
8. Chad GILLIS, % Naples Daily News, 9102 Bonita Beach Rd., Bonita Springs, FL 34135
9. Richard E. MARCHETTA, 5100 Rosen Blvd., Boynton Beach, FL 33437
10. John EZZELL, P. O. Box 70, Ft. Myers, FL 33919

IX. LEGAL DESCRIPTION:

The southerly two (2) acres of the parcel identified by Strap #04-47-25-00-00001.002D and the northerly eight (8) acres of the parcel identified by Strap #04-47-25-00-00001.002E.

X. UNAUTHORIZED COMMUNICATIONS:

Unauthorized communications shall include any direct or indirect communication in any form, whether written, verbal or graphic, with the Hearing Examiner, or the Hearing Examiner's staff, any individual County Commissioner or their executive assistant, by any person outside of a public hearing and not on the record concerning substantive issues in any proposed or pending matter relating to appeals, variances, rezonings, special exceptions, or any other matter assigned by statute, or any other matter assigned by statute, ordinance or administrative code to the Hearing Examiner for decision or recommendation. . . . [Administrative Code AC-2-5]

No person shall knowingly have or attempt to initiate an unauthorized communication with the Hearing Examiner or any county commissioner [or their staff]. . . . [LDC Section 34-52(a)(1), emphasis added]

Any person who knowingly makes or attempts to initiate an unauthorized communication . . . [may] be subject to civil or criminal penalties which made include: [Section 34-52(b)(1), emphasis added]

Revocation, suspension or amendment of any permit, variance, special exception or rezoning granted as a result of the Hearing Examiner action which is the subject of the unauthorized communication. [LDC Section 34-52(b)(1)b.2.] OR

A fine not exceeding \$500.00 per offense, by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. [LDC Section 1-59(c)]

XI. APPEALS:

This Decision becomes final on the date rendered. A Hearing Examiner Decision may be appealed to the Circuit Court in Lee County. Appeals must be filed within thirty (30) days

of the date the Hearing Examiner Decision is rendered. Appeal is by Petition for Writ of Certiorari in accordance with the Lee County Land Development Code Section 34-146.

XII. COPIES OF TESTIMONY AND TRANSCRIPTS:

A. A complete verbatim transcript of the testimony presented at the hearing can be purchased from the court reporting service under contract to the Hearing Examiner's Office. The original documents and file in connection with this matter are located at the Lee County Department of Community Development, 1500 Monroe Street, Fort Myers, Florida.

B. The original file and documents used at the hearing will remain in the care and custody of the Department of Community Development. The documents are available for examination and copying by all interested parties during normal business hours.

This decision is rendered this 4th day of May, 2000. Copies of this decision will be delivered to the offices of the Lee County Board of County Commissioners.

SALVATORE TERRITO
LEE COUNTY HEARING EXAMINER
1500 Monroe Street, Suite 218
Post Office Box 398
Fort Myers, FL 33902-0398
Telephone: 941/479-8100
Facsimile: 941/479-8106

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, an application was filed by the property owner, Louis Joseph, Trustee, and the contract purchaser, Joe D'Jamoos, to rezone on a 20.67± acre parcel from Commercial Planned Development (CPD) to Commercial Planned Development (CPD), in reference to Corkscrew Commerce Center; and

WHEREAS, a public hearing was advertised and held on May 24, 2000 before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2000-00008; and

WHEREAS, a second public hearing was advertised and held on July 17, 2000 before the Lee County Board of Commissioners, who gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicants filed a request to rezone from CPD to CPD to permit a mixed commercial development with a maximum of 100,000 square feet of retail use; 30,000 square feet of office use; and a 120 unit hotel/motel, with buildings not to exceed 65 feet in height, on 20.67± total acres of land. The property is located in the General Interchange and Wetlands Land Use Category and legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. The development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled "Master Concept Plan," stamped "Received Mar 7, 2000," last revised 02/18/00, except as modified by the conditions below. This development must comply with all requirements of the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

The intensity of this development is limited to 100,000 square feet of retail use; 30,000 square feet of office use; and a 120-unit hotel/motel. Any change sought in this intensity must be approved through the amendment processes as provided for in the LDC.

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

a. Schedule of Uses

All Lots

ADMINISTRATIVE OFFICES

ANIMALS: Clinic

ATM (automatic teller machine)

AUTO PARTS STORE - with or without installation facilities

BANKS AND FINANCIAL ESTABLISHMENTS [LDC §34-622(c)(3)]:

Group I

BUSINESS SERVICES [LDC §34-622(c)(5)]: Group I

CAR WASH

DRIVE-THROUGH FACILITY FOR ANY PERMITTED USE

DAYCARE CENTER: Adult and Child

ESSENTIAL SERVICES (LDC §34-1611 *et seq.*, and 34-1741 *et seq.*)

ESSENTIAL SERVICE FACILITIES [LDC §34-622(c)(13)]: Groups I

(LDC §34-1611 *et seq.*, 34-1741 *et seq.*, and 34-2141 *et seq.*)

EXCAVATION: Water retention (LDC §34-1651)

LAUNDRY OR DRY CLEANING: Group I (pick up/drop off)

MEDICAL OFFICE

NONSTORE RETAILERS [LDC §34-622(c)(30)], All Groups

PERSONAL SERVICES [LDC §34-622(c)(33)]: Groups I, II, and III

RENTAL OR LEASING ESTABLISHMENT [LDC §34-622(c)(39)]:

Groups I, and III (LDC §34-1201 *et seq.*, 34-1352, and 34-3001 *et seq.*)

REPAIR SHOP: Group I

SIGNS, in accordance with Chapter 30

SPECIALTY RETAIL SHOP [LDC §34-622(c)(47)]: Group I

STORAGE: Indoor only, (LDC §34-3001 *et seq.*)

STUDIOS [LDC §34-622(c)(49)]

WHOLESALE ESTABLISHMENTS [LDC §34-622(c)(56)]:

Group III (provided use is limited to those commodities and products which are permitted to be sold at retail, provided the off-street parking meets the requirement for the retail sales use)

Lots 1-6 and 9-11 Only

AUTOMOBILE SERVICE STATION

BAR OR COCKTAIL LOUNGE (LDC §34-1261 *et seq.*)

CONSUMPTION ON PREMISES (LDC §34-1261 *et seq.*) Limited to a maximum of two and SUBJECT TO the restriction that such use may only be allowed as an accessory use to a permitted principal use such as a restaurant, hotel/motel, etc. Additional COPs must be approved as an amendment of this planned development handled through the public hearing process.

CONVENIENCE FOOD AND BEVERAGE STORE

HOTEL/MOTEL (LDC §34-1801 *et seq.*)

RESTAURANT, FAST FOOD
RESTAURANTS [LDC §34-622(c)(43)]: Groups I, II, III, and IV
SELF-SERVICE FUEL PUMPS

b. Site Development Regulations

Minimum Lot Area and Dimensions:

Area: 10,000 square feet
Width: 100 feet
Depth: 100 feet

Minimum Setbacks:

Street: 25 feet (also see Condition 6)
Side: 20 feet
Rear: 25 feet
Water Body: 25 feet

Maximum Lot Coverage: 40 percent

Maximum Building Height: **50 feet for the Hotel/Motel**, if 10 percent of open space is maintained for the lot(s) upon which the use is located.

65 feet for the Hotel/Motel if 15 percent of open space is maintained for the lot(s) upon which the use is located.

35 feet for all other uses

3. Any sabal palms with a 10-foot or greater clear trunk must be preserved in place or relocated to open space or landscape areas within the development area. Prior to local development order approval, the sabal palms that are preserved or relocated must be shown on the landscape plan.
4. Thirty percent or 6.2 acres of open space is required for the overall site. Each lot must provide a minimum of 10 percent open space [with the exception of the Hotel/Motel lot(s) if the height of the structure is 65 feet, in which case that lot(s) will contain 15 percent open space]. Prior to local development order approval, the approximately 4.28-acre wetland within the stormwater management and environmental area delineated on the approved MCP must be shown as an indigenous preserve on the development order plans. A stormwater pond may be constructed within the stormwater management and environmental area outside of the wetland preserve.
5. Prior to local development order approval, the potential Big Cypress fox squirrel nests on-site must be re-surveyed specifically for fox squirrel presence. The protected species survey must be prepared per LDC §10-473 and submitted to the Division of Planning, Environmental Sciences for review and approval. If fox squirrel use of the site is verified, final management details per LDC §10-474 must be submitted.

6. Parking lots within 50 feet of Corkscrew Road are prohibited. Parking lot areas must be buffered and screened in accordance with LDC §10-416(d)(3).
7. No direct access from any lot or parcel is permitted to Corkscrew Road from this development.
8. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.
9. Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b).
10. A sidewalk that meets the standards of the LDC will be installed along the frontage of Corkscrew Woodlands Boulevard at the time the project begins to develop and development orders are approved.

SECTION C. DEVIATIONS:

1. Deviation (1) requests relief from the LDC §10-416(d)(4) requirement to provide a wall, five trees, and 18 shrubs per 100 linear feet to allow the installation of an 8' high cyclone fence with slats along that portion of the southern property line and the area depicted on the MCP as "Stormwater Management and Environmental Area." This deviation is APPROVED, SUBJECT TO the following:
 - a. The area depicted on the MCP as "Stormwater Management and Environmental Area" must be designated as an indigenous preserve;
 - b. Wherever possible, the fence must be incorporated with the existing berm (for an overall height of 8 feet) [This condition is applicable only to the extent the existing berm is located on the subject property.];
 - c. Where reasonably possible, the fence, whether on the berm or not, must be installed to avoid the removal of existing trees;
 - d. Landscaping must be installed on the south side of the fence in accordance with the requirements of a LDC §10-416(d)(4), Type C Buffer, with appropriate species of vegetation to be approved by County; and
 - e. A wall and Type C Buffer must be installed in accordance with LDC §10-416(d)(4) where there are no delineated wetlands, and also along all other portions of the southern property line of the subject premises.

SECTION D. EXHIBITS:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: The legal description and STRAP number of the property.
- Exhibit B: Zoning Map
- Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

1. The applicant has proven entitlement to the rezoning by demonstrating compliance with the Lee Plan, the LDC, and any other applicable code or regulation.
2. The rezoning, as approved:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area;
 - d. will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and
 - e. will not adversely affect environmentally critical areas or natural resources.
3. The rezoning satisfies the following criteria:
 - a. the proposed use or mix of uses is appropriate at the subject location;
 - b. the recommended conditions to the concept plan and other applicable regulations provide sufficient safeguard to the public interest; and
 - c. the recommended conditions are reasonably related to the impacts on the public interest created by or expected from the proposed development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The approved deviation, as conditioned, enhances achievement of the planned development objectives, and preserves and promotes the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of Commissioners upon the motion of Commissioner Judah, seconded by Commissioner St. Cerny and, upon being put to a vote, the result was as follows:

John E. Manning	Absent
Douglas R. St. Cerny	Aye
Ray Judah	Aye
Andrew W. Coy	Absent
John E. Albion	Aye

DULY PASSED AND ADOPTED this 17th day of July, 2000.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Michelle S. Leisner

BY: John E. Albion
Chairman

Approved as to form by:

John Hecchere
County Attorney's Office

FILED JUL 21 2000

MINUTES OFFICE
mgl



LEGAL DESCRIPTION:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 35, TOWNSHIP 46 SOUTH, RANGE 25 EAST, AND FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

STARTING AT THE SOUTHWEST CORNER OF THE EAST ONE HALF (E 1/2) OF THE SOUTHWEST ONE QUARTER (SW 1/4) OF SAID SECTION 35; THENCE N00°44'07"W ALONG THE WEST LINE OF SAID FRACTION FOR 1926.54 FEET; THENCE EAST FOR 700.00 FEET; THENCE N19°00'00"E FOR 900.00 FEET; THENCE N68°30'00"E FOR 331.29 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE N68°30'00"E FOR 585.22 FEET; THENCE EAST FOR 492.82 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 75; THENCE N26°59'09"W ALONG SAID RIGHT-OF-WAY LINE FOR 460.00 FEET; THENCE N28°56'58"W ALONG SAID RIGHT-OF-WAY LINE FOR 348.60 FEET; THENCE N68°58'19"W ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF CORKSCREW ROAD FOR 277.81 FEET; THENCE S76°06'19"W ALONG SAID RIGHT-OF-WAY LINE FOR 288.72 FEET; THENCE S81°00'56"W ALONG SAID RIGHT-OF-WAY LINE FOR 483.87 FEET; THENCE S86°41'44"W ALONG SAID RIGHT-OF-WAY LINE FOR 67.46 FEET; THENCE S25°46'14"E FOR 977.57 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 20.67 ACRES MORE OR LESS.
BEARINGS ARE BASED ON THE CENTERLINE SURVEY OF INTERSTATE 75.

SUBJECT TO THE FOLLOWING 50' ROADWAY EASEMENT:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 35, TOWNSHIP 46 SOUTH, RANGE 25 EAST, AND FURTHER BOUNDED AND DESCRIBED AS FOLLOWS: STARTING AT THE SOUTHWEST CORNER OF THE EAST ONE HALF (E 1/2) OF THE SOUTHWEST ONE QUARTER (SW 1/4) OF SAID SECTION 35; THENCE N00°44'07"W ALONG THE WEST LINE OF SAID FRACTION FOR 1926.54 FEET; THENCE EAST FOR 700.00 FEET; THENCE N19°00'00"E FOR 900.00 FEET; THENCE N68°30'00"E FOR 331.29 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N68°30'00"E FOR 50.14 FEET; THENCE N25°46'14"W FOR 960.62 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF CORKSCREW ROAD; THENCE S86°41'44"W ALONG SAID RIGHT-OF-WAY LINE FOR 54.11 FEET; THENCE S25°46'14"E FOR 977.57 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1.11 ACRES MORE OR LESS.
BEARINGS ARE BASED ON THE CENTERLINE SURVEY OF INTERSTATE 75.

EXHIBIT "A"
(Page 1 of 2)



AND GRANTED THE FOLLOWING 50' ROADWAY EASEMENT:

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 35, TOWNSHIP 46 SOUTH, RANGE 25 EAST, AND FURTHER BOUNDED AND DESCRIBED AS FOLLOWS: STARTING AT THE SOUTHWEST CORNER OF THE EAST ONE HALF (E 1/2) OF THE SOUTHWEST ONE QUARTER (SW 1/4) OF SAID SECTION 35; THENCE N00°44'07"W ALONG THE WEST LINE OF SAID FRACTION FOR 1926.54 FEET; THENCE EAST FOR 700.00 FEET; THENCE N19°00'00"E FOR 900.00 FEET; THENCE N68°30'00"E FOR 81.15 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N68°30'00"E FOR 50.14 FEET; THENCE N25°46'14"W FOR 977.57 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF CORKSCREW ROAD; THENCE S86°41'44"W ALONG SAID RIGHT-OF-WAY LINE FOR 49.85 FEET; THENCE N85°17'38"W FOR 4.57 FEET; THENCE S25°46'14"E FOR 995.19 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 1.13 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE CENTERLINE SURVEY OF INTERSTATE 75.

ROBERT A. ELLIS, P.L.S. (FOR THE FIRM)
FLORIDA REGISTRATION NO. 03880
MORRIS-DEPEW ASSOCIATES, INC.

The applicant has indicated that the STRAP number for the subject property is:
35-46-25-00-00001.1030

EXHIBIT "A"
(Page 2 of 2)

ZONING MAP

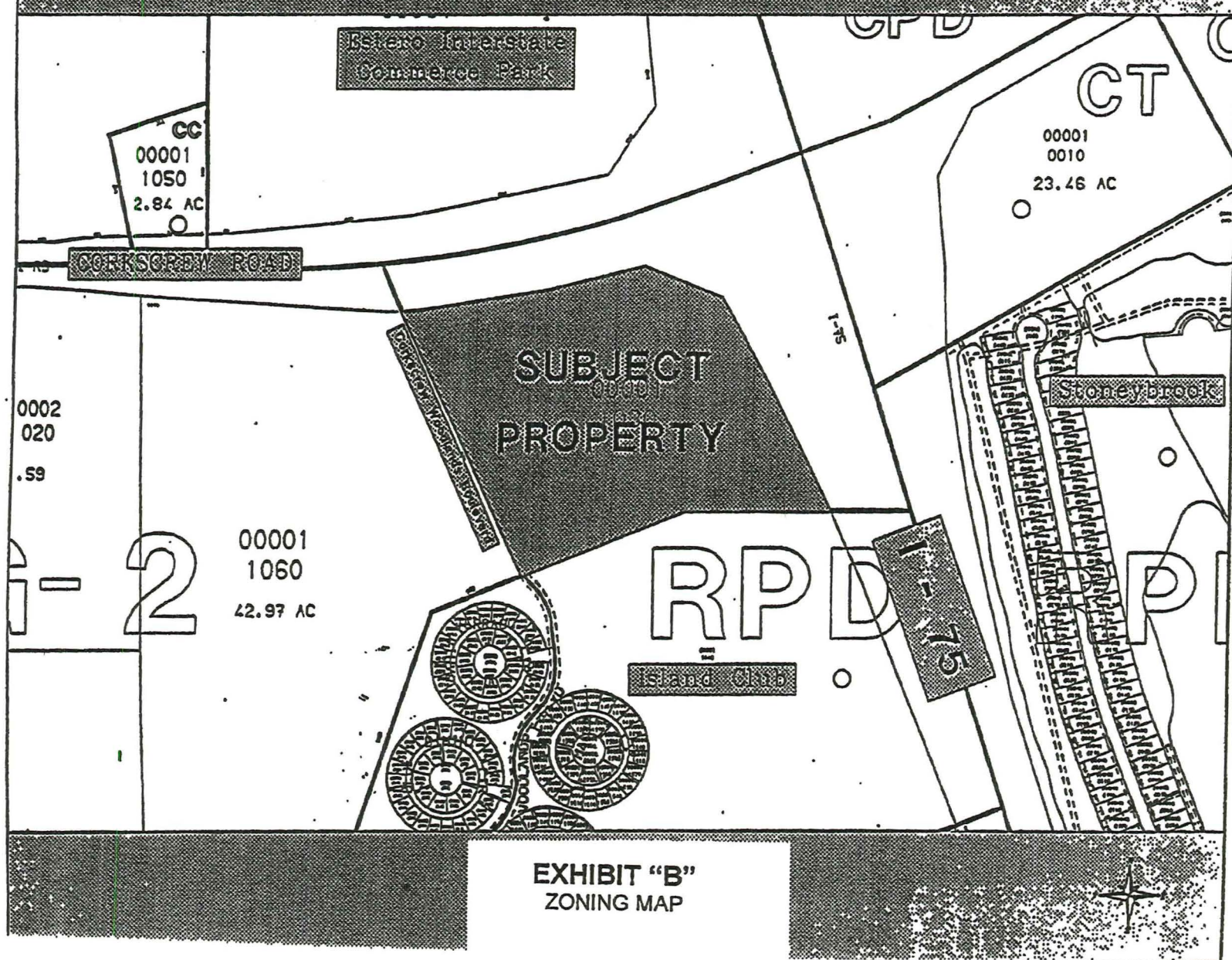


EXHIBIT "B"
ZONING MAP

PROPOSED IS AN ADDENDUM TO AN EXISTING COMPREHENSIVE PLANNED DEVELOPMENT (ZONING DISTRICT 2, 2.00 ACRES).

3. SITE AREA: 38.87 ACRES

4. PREVIOUS ZONING: GENERAL INTERMEDIATE A WETLANDS PERMIT AREA DESIGNATIONS

5. SCHEME OF USES

6. ADMINISTRATIVE OFFICES

7. ANNUAL CLING

8. JETON AUTOMATIC TOLLER MACHINE

9. AUTOMOBILE SERVICE STATION

10. BUS & TRUCK STOP

11. BANK & FINANCIAL ESTABLISHMENTS GROUP 1

12. BAR OR COUNTRY LOUNGE

13. BUSINESS SERVICES GROUP 1

14. CAR WASH

15. CLOTHING STORES, GENERAL

16. CLUB, FRATERNAL & PRIVATE

17. COMMERCE OF FREEDOM

18. CONVENIENCE FOOD & BEVERAGE STORE

19. DAY CARE CENTER, ADULT

20. DRIVE-IN THEATRE FACILITY FOR AIR PERMITTED USE

21. ESSENTIAL SERVICES

22. LIBRARY/VIDEO FACILITIES GROUP 1 & II

23. EDUCATION, WATER RETENTION

24. FOOD STORES GROUP 1

25. HOTEL/MOTEL - 120 ROOMS, 6-STORIES, 845' ABOVE FINISHED GRADE

26. LAUNDRY/NET

27. LAUNDRY OR DRY CLEANING GROUP 1

28. MEDICAL OFFICE

29. HONORE RETAILERS ALL GROUPS

30. PERSONAL SERVICES GROUP 1, II & III

31. RECREATION FACILITIES, COMMERCIAL GROUP 1, II & III

32. RESTAURANT, DRIVE-IN, ON-SITE OR OFF-SITE

33. RETAIL OR LEASING ESTABLISHMENTS GROUPS 1, II & III

34. RETAIL SHOP GROUPS 1, II & III

35. RETAIL SHOP GROUPS 1, II & III

36. RESTAURANT, FAST FOOD

37. RESTAURANTS, GROUPS 1, II, & III

38. RETAIL SHOP GROUPS 1, II & III

39. SELF-SERVICE FUEL PUMPS

40. SERVICE

41. SERVICE, WITH CHARTER 30

42. SPOONERY PLANT, SHOP GROUPS 1 & II

43. STORE, KICKER GOLF

44. STUDIOS

45. SUPERMARKET

46. THEATRE, THEATRE

47. TRANSPORTATION SERVICES, GROUP II

48. TRUCK

49. WHOLESALE ESTABLISHMENTS GROUPS 1, II & III

50. PROFESSIONAL REGULATIONS

51. MINIMUM LOT AREA - 10,000 SQ. FT.

52. MINIMUM LOT WIDTH - 100'

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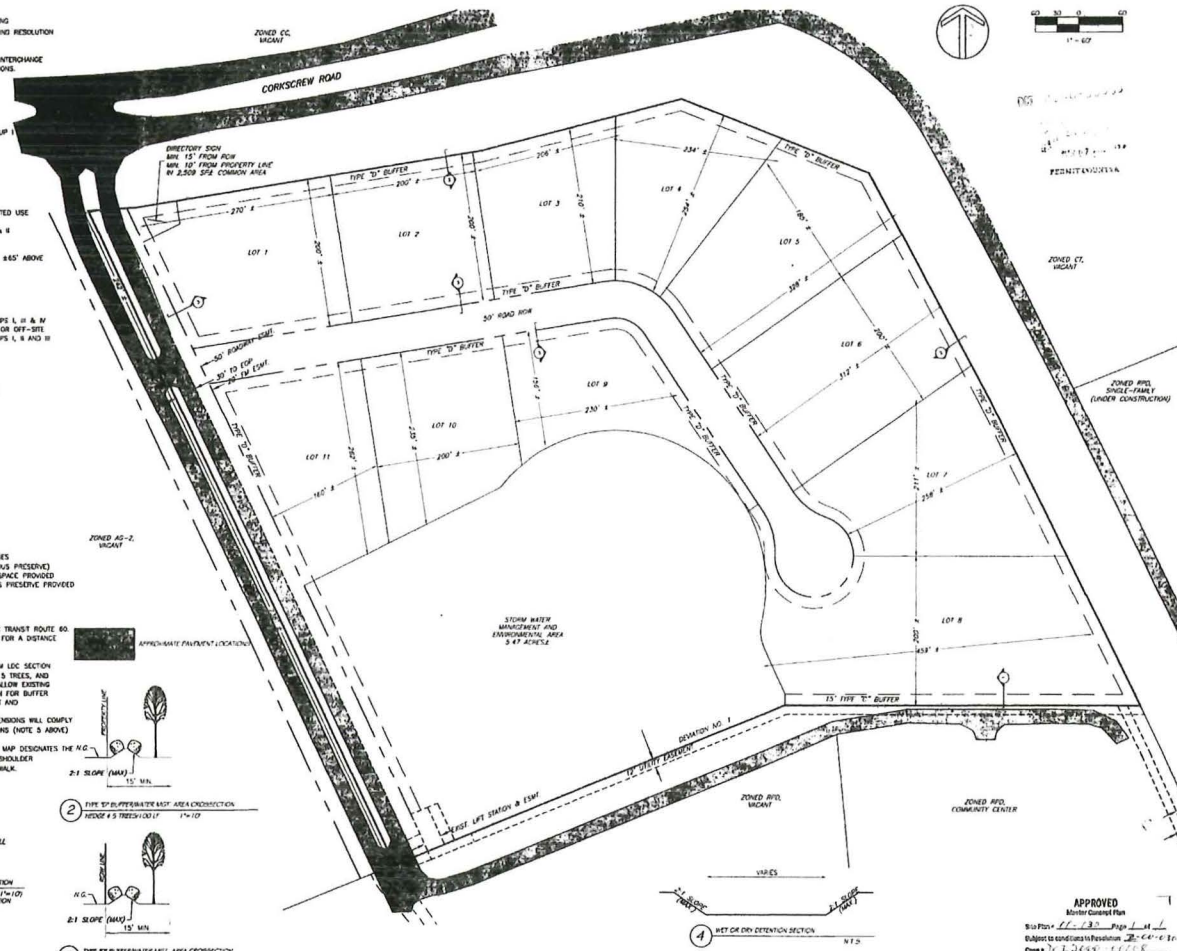
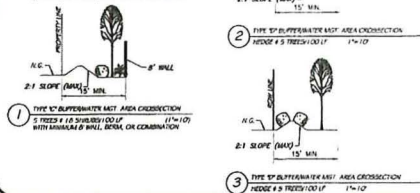
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APPROVED
Monitor Control Plan

Site Plan # 11-130 Page 1 of 1
Subject to and Consistent with Resolution 2000-00-01
Date 12-2-2000 11-130

MD
 MORRIS - DEFEW ASSOCIATES, INC.
 ENGINEERS • PLANNERS • SURVEYORS & MAPPING
 225 Edward Street • Fort Myers, Florida 33901 • (813) 331-1900 • FAX 331-1904
 NEW PROJECTS
 991190
 CHECKED BY: DWD
 DESIGNED BY: SAZ
 01117700
 SPEC#

ADMINISTRATIVE AMENDMENT (PD) ADD2003-00164

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, James M. Goldie, Trustee, filed an application for administrative approval to a Commercial Planned Development on a project known as Corkscrew Commerce Park in order to amend the approved Master Concept Plan to re-configure 11 lots into six (6) lots on property located at the southwest corner of I-75 and Corkscrew Road, described more particularly as:

LEGAL DESCRIPTION: In Section 36, Township 46 South, Range 25 East, Lee County, Florida:

See Exhibit 'A'

WHEREAS, the property was originally rezoned in case number Z-00-030 (with subsequent development order number DOS2003-00005); and

WHEREAS, the Lee County Land Development Code provides for certain administrative changes to planned development master concept plans and planned unit development final development plans; and

WHEREAS, the subject application and plans have been reviewed by the Lee County Department of Community Development in accordance with applicable regulations for compliance with all terms of the administrative approval procedures; and

WHEREAS, it is found that the proposed amendment does not increase density but does reduce the number of approved lots from 11 to 6 within the development; does not decrease buffers or open space required by the LDC; does not underutilize public resources or infrastructure; does not reduce total open space, buffering, landscaping or preservation areas; and does not otherwise adversely impact on surrounding land uses.

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for administrative approval for an amendment to Commercial Planned Development is **APPROVED**.

Approval is subject to the following conditions:

1. **The Development must be in compliance with the amended Master Concept Plan, dated October 31, 2003. The amended Master Concept Plan for ADD2003-00164 is hereby APPROVED and adopted. A reduced copy is attached hereto.**
2. **The terms and conditions of the original zoning resolutions remain in full force and effect including the prohibition of direct access onto Corkscrew Road from any lot or development associated with this project.**

DULY SIGNED this 14th day of November, A.D., 2003.

BY:

A handwritten signature in dark ink, appearing to read "Pam Houck", is written over a horizontal line.

Pam Houck, Director
Division of Zoning
Department of Community Development

PROPERTY DESCRIPTION

A PARCEL OF LAND LOCATED IN SECTION 35, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 35; THENCE NORTH 00°44'07" WEST ALONG THE WEST LINE OF SAID FRACTION FOR 1926.54 FEET; THENCE SOUTH 90°00'00" EAST FOR 700.00 FEET; THENCE NORTH 19°00'00" EAST FOR 900.00 FEET; THENCE NORTH 68°30'00" EAST FOR 331.29 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; FROM SAID POINT OF BEGINNING CONTINUE NORTH 68°30'00" EAST FOR A DISTANCE OF 585.22 FEET; THENCE RUN SOUTH 90°00'00" EAST FOR A DISTANCE OF 492.82 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF INTERSTATE 75 (STATE ROAD 93); THENCE RUN NORTH 26°59'09" WEST ALONG SAID WESTERLY RIGHT OF WAY LINE FOR A DISTANCE OF 460.00 FEET; THENCE RUN NORTH 28°56'58" WEST ALONG SAID WESTERLY RIGHT OF WAY LINE FOR A DISTANCE OF 348.60 FEET; THENCE RUN NORTH 68°58'19" WEST ALONG SAID WESTERLY RIGHT OF WAY LINE FOR A DISTANCE OF 277.81 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF INTERSTATE 75 (STATE ROAD 93) THE SAME BEING THE SOUTHERLY RIGHT OF WAY LINE OF CORKSCREW ROAD; THENCE RUN SOUTH 76°06'13" WEST ALONG SAID SOUTHERLY RIGHT OF WAY LINE FOR A DISTANCE OF 288.71 FEET TO A POINT ON A CIRCULAR CURVE CONCAVE NORTH, WHOSE RADIUS POINT BEARS NORTH 13°33'25" WEST, A DISTANCE OF 3,034.79 FEET THEREFROM; THENCE RUN WESTERLY ALONG SAID SOUTHERLY RIGHT OF WAY LINE AND THE ARC OF SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 3,034.79 FEET, THROUGH A CENTRAL ANGLE OF 10°24'52", SUBTENDED BY A CHORD OF 550.86 FEET AT A BEARING OF SOUTH 81°39'01" WEST, FOR AN ARC LENGTH OF 551.62 FEET TO THE END OF SAID CURVE; THENCE RUN SOUTH 25°46'14" EAST FOR A DISTANCE OF 976.96 FEET TO THE POINT OF BEGINNING, CONTAINING 20.594 ACRES, MORE OR LESS.

SUBJECT TO A 20' UTILITY EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 2662, PAGES 2996-3002, LEE COUNTY, FLORIDA.


SUBJECT TO A 20' FORCE MAIN EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 2246, PAGES 2327-2336, LEE COUNTY, FLORIDA.

SUBJECT TO A 50' ROAD RIGHT OF WAY EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 1793, PAGES 2968-2969, LEE COUNTY, FLORIDA.

SUBJECT TO A 40' UTILITY EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 2662, PAGES 2996-3002, LEE COUNTY, FLORIDA.

SUBJECT TO A 25' LIFT STATION EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 2446, PAGES 2327-2336, LEE COUNTY, FLORIDA.

*** THIS IS NOT A SURVEY ***

SHEET: 1 OF 2	 Q. GRADY MINOR AND ASSOCIATES, P.A. CIVIL ENGINEERS • LAND SURVEYORS • PLANNERS 3800 VIA DEL REY BONITA SPRINGS, FLORIDA 34134 PHONE : (239) 947-1144 FAX : (239) 947-0375 CERTIFICATE OF AUTHORIZATION NUMBER LB 5151	LEGAL DESCRIPTION	
DRAWN: KJC		CORKSCREW COMMERCE PARK	
JOB CODE: CORK75		SECTION 35, TOWNSHIP 48 SOUTH, RANGE 25 EAST	
SCALE: 1" = N/A		LEE COUNTY, FLORIDA	
		DATE: JANUARY, 2003	DRAWING #B-2555

NOTES

1. BEARINGS SHOWN HEREON REFER TO THE WEST LINE OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, AS BEING N 00°44'07" W.
2. THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS AND OR RESTRICTIONS OF RECORD.
3. DIMENSIONS SHOWN HEREON ARE IN FEET AND DECIMALS THEREOF.

Applicant's Legal Checked

by AGH 07 NOV 03

ADD 2003-00164

Q. GRADY MINOR AND ASSOCIATES, P.A.

SIGNED 3-10-03

RECEIVED

NOV 06 2003

ZONING



MICHAEL L. HARMON

P.S.M. #2904
STATE OF FLORIDA

EXHIBIT A

LEGEND

P.O.C. POINT OF COMMENCEMENT
P.O.B. POINT OF BEGINNING
O.R. OFFICIAL RECORDS BOOK
PGS. PAGES
S.R. STATE ROAD

UNPLATTED
PARCEL 00001-1060
O.R. BOOK 2983, PAGE 3162

LINE TABLE		
LINE	BEARING	LENGTH
L1	N 68°30'00" E	585.22'
L2	S 90°00'00" E	492.82'
L3	N 26°59'09" W	460.00'
L4	N 28°56'58" W	348.60'
L5	N 68°58'19" W	277.81'
L6	S 76°06'13" W	288.71'
L7	S 25°46'14" E	976.96'
L8	N 00°44'07" W	1926.54'
L9	S 90°00'00" E	700.00'
L10	N 19°00'00" E	900.00'
L11	N 68°30'00" E	331.29'

P.O.C.

THE SOUTHWEST CORNER OF THE EAST HALF (1/2) OF THE SOUTHWEST QUARTER (1/4) OF SECTION 35, TOWNSHIP 46 SOUTH, RANGE 25 EAST LEE COUNTY, FLORIDA.

THE WEST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 35-48-25

BEARING BASIS

SHEET: 2 OF 2
DRAWN: KJC
JOB CODE: CORK75
SCALE: 1" = 200'

INTERSTATE-75 RIGHT-OF-WAY (CORKSCREW ROAD)
SOUTHERLY RIGHT OF WAY LINE
C1
ADD 2003-00164

20' UTILITY EASEMENT
(O.R. 2662, PGS. 2996-3002)
20' FORCE MAIN EASEMENT
(O.R. 2246, PGS. 2327-2336)

50' ROAD RIGHT-OF-WAY EASEMENT
(O.R. 1793, PGS. 2968-2969)

50' ROAD RIGHT-OF-WAY EASEMENT
(O.R. 1793, PGS. 2968-2969)

CORKSCREW COMMERCE PARK

(20.594 ACRES+/-)
PARCEL 00001-1030

40' UTILITY EASEMENT
(O.R. 2662, PGS. 2996-3002)

25' LIFT STATION EASEMENT
(O.R. 2446, PGS. 2327-2336)

CORKSCREW WOODLANDS BOULEVARD (30' WIDE EASEMENT)
(O.R. 1803, PAGE 2679)

12' UTILITY EASEMENT
(O.R. 2446, PGS. 2327-2336)

Applicant's Legal Checked
by Amj 07 NOV 03

UNPLATTED
PARCEL 00001-1040
(O.R. 1803, PAGE 2677)

CURVE TABLE					
CURVE	RADIUS	LENGTH	DELTA	CHORD	BEARING
C1	3034.79'	551.62'	10°24'52"	550.86'	S 81°39'01" W

* THIS IS NOT A SURVEY *

Q. GRADY MINOR AND ASSOCIATES, P.A.
CIVIL ENGINEERS • LAND SURVEYORS • PLANNERS
3800 VIA DEL REY
BONITA SPRINGS, FLORIDA 34134
PHONE : (239) 947-1144 FAX : (239) 947-0375
CERTIFICATE OF AUTHORIZATION NUMBER LB 5151

SKETCH TO ACCOMPANY LEGAL DESCRIPTION
CORKSCREW COMMERCE PARK
SECTION 35, TOWNSHIP 48 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

DATE: JANUARY, 2003 DRAWING #B-2555

EXHIBIT A

NOTES:

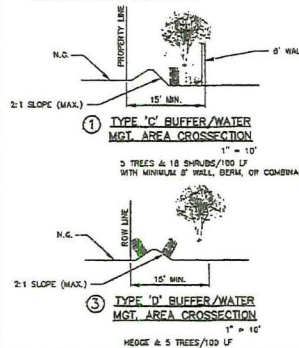
1. PROPOSED IS AN AMENDMENT TO AN EXISTING COMMERCIAL PLANNED DEVELOPMENT (ZONING RESOLUTION NO. 2-88-136).
2. SITE AREA: 10.87± ACRES.
3. THE PARCEL IS LOCATED IN THE GENERAL INTERCHANGE & INTERCHANGE FUTURE USE DESIGNATIONS.
4. SCHEDULE OF USES:

ALL LOTS

- ADMINISTRATIVE OFFICES
- ANNUAL CLINIC
- ATM (AUTOMATED TELLER MACHINE)
- AUTO PARTS STORE-WITH OR WITHOUT INSTALLATION FACILITIES
- BANKS & FINANCIAL ESTABLISHMENTS GROUP I
- BUSINESS SERVICES GROUP I
- CAR WASH
- DAY CARE CENTER, ADULT AND CHILD
- DRUG-THROUGH FACILITY FOR ANY PERMITTED USE
- ESSENTIAL SERVICES
- ESSENTIAL SERVICE FACILITIES GROUP I
- EVACUATION, WATER RETENTION
- LAUNDRY OR DRY CLEANING GROUP I
- MEDICAL OFFICE
- INDUSTRY RETAILERS ALL GROUPS
- RECREATION FACILITIES, PRIVATE, ON-SITE OR OFF-SITE
- RENTAL OF LEASING ESTABLISHMENTS GROUPS I AND II
- REPAIR SHOPS GROUP I
- SIGNS IN ACCORDANCE WITH CHAPTER 30
- SPECIALTY RETAIL SHOP GROUP I
- STORAGE, INDOOR ONLY
- WHOLESALE ESTABLISHMENT GROUP II

LOTS 1-4 AND 7 & 8 ONLY

- AUTOMOBILE SERVICE STATION
- BAR OR COCKTAIL LOUNGE
- CONSUMPTION ON PREMISES
- CONVENIENCE FOOD & BEVERAGE STORE
- HOTEL/MOTEL
- RESTAURANT, FAST FOOD
- RESTAURANTS, GROUPS I, II, III & IV
- SELF-SERVICE FUEL PUMPS
- 5. PROPERTY DEVELOPMENT REGULATIONS
- MINIMUM LOT AREA = 10,000 SQ. FT.
- MINIMUM LOT WIDTH = 100'
- MINIMUM LOT DEPTH = 100'
- MINIMUM LOT COVERAGE = 40%
- STREET SETBACKS = 25'
- SIDE SETBACKS = 20'
- REAR SETBACKS = 25'
- WATER BODY = 15'
- MAXIMUM BUILDING HEIGHT = 35'/8 STORIES
- MINIMUM OPEN SPACE, 30% (30% INDIGENOUS PRESERVE)
- 20.87 ± 0.10 = 6.2 AC. MINIMUM OPEN SPACE PROVIDED
- 6.2 ± 0.1 = 1.1 AC. MINIMUM INDIGENOUS PRESERVE PROVIDED
- 7. MAXIMUM INTENSITY PROPOSED:
- RETAIL: 100,000 GSF
- OFFICES: 30,000 GSF
- HOTEL: 120 ROOMS
- 8. PROJECT IS LOCATED ON LEE TRAIL PUBLIC TRANSPORT ROUTE 60.
- LAND USE AND ZONING DESIGNATIONS ARE FOR A DISTANCE OF 275' FROM PROPERTY LINE.
- 9. DONATIONS:
- DONATION NO. 1: REQUEST RELIEF FROM LDC SECTION 15-41E(4)(5) WHICH REQUIRES A WALL, 5' TALL, AND 18 SHRUBS PER 100 LINEAR FEET, TO ALLOW EXISTING VEGETATION TO SERVE AS VISUAL SCREEN FOR BUFFER ADJACENT TO STORM WATER MANAGEMENT AND ENVIRONMENTAL AREA.
- 10. LOT LINES ARE APPROXIMATE. FINAL DIMENSIONS WILL COMPLY WITH PROPERTY DEVELOPMENT REGULATIONS (NOTE 3 ABOVE) AT TIME OF PLATTING.
- 11. THE BUREAU/MAJORWAYS FACILITIES PLAN MAP DESIGNATES THE PROJECT FOR 6-YEAR BI-LEVEL PAVED SHOULDER (CLASS II/ON ROAD) 10 YEAR SIDEWALK.
- 12. THE BUREAU/MAJORWAYS FACILITIES PLAN MAP DESIGNATES THE PROJECT FOR 6-YEAR BI-LEVEL PAVED SHOULDER (CLASS II/ON ROAD) 10 YEAR SIDEWALK.



LEGEND

OWNER
JAMES M. SOLIS, TRUSTEE
18779 OLD ROUTE 41
SPACE, FLORIDA 34110

Revision	Date	Describe	By
1	10/29/03	REVISE MGP TO SHOW NEW LOT SIZES	MWM

PRINTED

OCT 31 2003
Q. GRADY MINOR & ASSOCIATES, P.A.
ONE THROUGHWAY DRIVE, SUITE 200
BOYNTON BEACH, FLORIDA 33434

DESIGNED BY: M.W.M.
DRAWN BY: L.J.H.
APPROVED: M.W.M.
JOB CODE: CORK75X
SCALE: 1" = 60'

Q. GRADY MINOR AND ASSOCIATES, P.A.
CIVIL ENGINEERS • LAND SURVEYORS • PLANNERS
3800 WEA DEL REY
BOYNTON BEACH, FLORIDA 33434
PHONE: (239) 647-1544 FAX: (239) 647-0975
BOYNTON BEACH, FLORIDA 33434
PROFESSIONAL CERTIFICATE OF ADEQUACY TO DESIGN
SURVEYING CERTIFICATE OF ADEQUACY TO DESIGN

CORKSCREW COMMERCE CENTER

MASTER CONCEPT PLAN

DATE: OCTOBER, 2003 FILE NAME: CCOMCP DRAWING NUMBER: 1 OF 1

ZONING: CC
LAND USE: VACANT

CORKSCREW ROAD

CORKSCREW WOODLANDS BOULEVARD

STORM WATER MANAGEMENT
AND ENVIRONMENTAL AREA
5.47± ACRES

ZONING: RPD
LAND USE: RESIDENTIAL
12' UTILITY EASEMENT

ZONING: RPD
LAND USE: COMMUNITY CENTER

RECEIVED
OCT 31 2003
PERMIT DIVISION

APPROVED
Submitted to
Master Concept Plan
Subject to Case #1002003-0017
Date 11/17/03

2003-00164

EXHIBIT 'C'

ZONE NOTES QUERY REPORT
ZONE NOTES ID: ZONE:CPD:001420
ZONING: CPD
STRAP: 35-46-25-00-00001.1030

ADD2003-00164, 14NOV03, APRVL TO AMEND MCP TO RECONFIGURE 11 LOTS; CONDS.
Z-00-030, DCI2000-00008, 7/17/00, DBC FM CPD TO CPD TO PERMIT A MIXED
COMMERCIAL DEV W A MAX OF 100000 SQ FT OF RETAIL, 30000 SQ FT OF OFFICE, &
120 UNIT HOTEL/MOTEL W COND.
Z-86-136, 86-08-08-DCI, MASTER CONCEPT PLAN IS VACATED AND SHALL BE NULL & VOID UNTIL
SUCH TIME A NEW CONCEPT PLAN IS SUBMITTED & APVD.OR 2148 PG 2996.
Z-86-136. FM AG-2 TO CPD TO PERMIT AN INTERSTATE-ORIENTED COMMERCIAL PK,
W/COND. HEAR #86-8-8 DCI.

RESOLUTION NUMBER Z-97-050

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Florida Group Investments, Inc. filed an application for a rezoning from Agricultural (AG-2) to Commercial Planned Development (CPD), in reference to Estero Greens; and

WHEREAS, the subject property is located at 22250 S Tamiami Trail, Estero, and is described more particularly as:

LEGAL DESCRIPTION: In Section 04, Township 47 South, Range 25 East, Lee County, Florida:

A tract or parcel of land lying in Section 04, Township 47 South, Range 25 East, Lee County, Florida, more particularly described as follows:

Commence at the Southeast corner of Section 04, Township 47 South, Range 25 East;

THENCE S88°14'22"W for 2,266.44 feet along the South line of the Southeast Quarter (SE¼) of said Section 04 to an intersection with the Westerly right-of-way line of US 41 (SR 45 - Tamiami Trail);

THENCE N06°41'21"W for 2,267.59 feet along said Westerly right-of-way to the POINT OF BEGINNING;

THENCE continue N06°41'21"W for 651.86 feet along said right-of-way to the Point of Curvature of a curve to the right, radius 2,932.79 feet, central angle 07°12'27";

THENCE Northwesterly for 590.90 feet along the said arc of curve to the Point of Tangency;

THENCE N04°51'17"E for 811.36 feet along said right-of-way;

THENCE N85°08'43"W for 500.00 feet to an intersection with a line parallel with and 500.00 feet Westerly of (as measured at right angles to) the aforementioned Westerly right-of-way line of US 41;

THENCE S04°51'17"W for 811.36 feet along said parallel line and a line common with a tract or parcel of land as described in Official Record Book 1775 at Pages 2025 and 2026 of the Public Records of Lee County, Florida to the Point of Curvature of a curve to the left, radius 3,432.79 feet, central angle 07°12'27";

THENCE Southwesterly for 691.63 feet along the arc of said curve to the Point of Tangency;

THENCE S06°41'21"E for 651.86 feet;

THENCE N83°18'39"E for 500.00 feet along said common line to the POINT OF BEGINNING.

Containing 24.16 acres more or less; and

WHEREAS, the applicant has indicated the property's current STRAP numbers are 04-47-25-00-00001.002D and 04-47-25-00-00001.002E; and

9/15/97

WHEREAS, Florida Group Investments, Inc., the owner of the subject parcel, authorized Stuart & Associates to act as agent to pursue this zoning application; and

WHEREAS, a public hearing was advertised and held on July 30, 1997 before the Lee County Hearing Examiner in Case No. 97-04-065.03Z 01.01, who gave full consideration to the evidence available; and

WHEREAS, a public hearing was advertised and held on September 15, 1997 before the Lee County Board of County Commissioners who gave full and complete consideration to the recommendations of staff, the Hearing Examiner, the documents on file with the county, and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS, that the Board **APPROVES** the rezoning from Agricultural (AG-2) to Commercial Planned Development (CPD), to permit the development of up to 100,000 square feet of retail or 129,900 square feet of office uses (with a maximum of 229,900 square feet of commercial development), or an Adult Living Facility (ALF) on three acres with a maximum of 145 rooms, or a 125-room hotel/motel use, or some combination of these uses, with building(s) not to exceed 45 feet in height within three stories for all uses, except the hotel/motel use which may be a maximum of 50 feet in height within five stories, on 24.2± acres of land **WITH THE FOLLOWING CONDITIONS AND DEVIATIONS:**

SECTION A. CONDITIONS:

The CPD rezoning and Master Concept Plan are subject to the following conditions:

1. The development of this project must be in accordance with the one-page Master Concept Plan (MCP) entitled "Master Concept Plan for Estero Greens CPD," prepared by Stuart & Associates, dated 6/9/97, stamped "Received June 12, 1997," as may be modified below. This approval does not alleviate the need to comply with all state and county development regulations, except as specifically modified by this approval. Any change to the MCP will require an appropriate approval.
2. The uses and development regulations for this property are as follows:

a. Schedule of Uses

- (1) This project may be developed with the following uses, except as further limited below:

Accessory uses and structures
Administrative Offices
Animal Clinic (only as limited by LDC Section 34-1322)
Auto Parts Store
Auto Repair & Service, Group II
Automobile Service Station
Bait & Tackle Shop

Banks & Financial Establishments, Groups I & II
Boat Parts Store
Boat Sales
Broadcast Studio, Commercial Radio & Television
Building Material sales
Business Services, Group I
Car Wash
Cleaning & Maintenance Services
Clothing Store, General
Clubs-Commercial, Fraternal, Membership
Consumption on Premises (only as limited below)
Convenience Food & Beverage Stores
Cultural Facilities (excluding zoos)
Day care Center, Child and/or Adult
Department Store
Drive Thru (only as limited below)
Drugstore
Essential Services (in compliance with LDC Section 34-1611)
Essential Service Facilities, Group I
Excavation, Water Retention
Food & Beverage Services, Limited
Food Stores, Groups I & II
Funeral Home or Mortuary (with or without cremation)
Gift & Souvenir Shop
Hardware Store
Hobby, Toy & Game Shops
Hotel Motel, limited to a maximum of 125 rooms
Household & Office Furnishings, All Groups
Insurance Companies
Laundromat
Laundry or Dry Cleaning, Group I
Lawn and Garden Supply Store
Library
Medical Office
Mini-warehouse
Model Display Center
Non-store Retailers, all groups
Package Store
Paint, Glass & Wallpaper
Parking Lot - accessory, commercial, garage, temporary
Personal Services, Groups I, II & III
Pet Shops
Pet Services
Plant Nursery
Place of Worship
Post Office
Printing & Publishing

Real Estate Sales Office
 Recreation, Commercial, Groups II & IV
 Recreational Facilities - commercial, personal, private or public--
 indoor only
 Religious Facilities
 Rental or Leasing Establishments, Groups I, II & III
 Repair Shops, Groups I & II
 Research & Development Laboratories, Groups II & IV
 Restaurants, Fast Food (as limited below)
 Restaurants, all Groups
 Schools, Commercial
 Self-Service Fuel Pumps
 Self-Service Fuel Pump Stations
 Signs, in accordance with the LDC
 Social Services, Groups I & II
 Specialty Retail Shops, All Groups
 Storage, Indoor
 Studios
 Supermarket
 Temporary Uses
 Theater, Indoor
 Transportation Services, Group II
 Used Merchandise Store, Groups I & II
 Vehicle & Equipment Dealers, Groups I & II
 Wholesale Establishment, Groups I & III -limited to those
 commodities and products which are permitted to be sold at retail,
 provided that parking meets the requirements for retail sales

- (2) Any consumption on premises not in conjunction with a full service restaurant must be located at least 500 feet from any residentially used building measured from entrance to entrance.
- (3) Outside speaker systems, loud speakers, or public address systems associated with any drive-thru use must be located a minimum of 200 feet away from the project's western perimeter property line. Sound must be directed away from the western perimeter property line.
- (4) Outside consumption on premises is prohibited within 400 feet of the west property line.
- (5) Deliveries to any businesses on this site between the hours of 8:00 p.m. and 6:00 a.m. are prohibited.
- (6) Garbage or grease dumpsters may not be located on the west side of the internal roadway.

b. Property Development Regulations

- (1)
 - a. Maximum overall commercial development is limited to 229,900 square feet, with the retail commercial uses further limited by items c. and d. below.
 - b. This project can be comprised of medical, general office, retail, or service uses (in compliance with the schedule above), or any combination of those uses, up to the maximum square footage, provided all limiting conditions and parking, open space, buffering, and water management requirements are met.
 - c. Prior to approval of a development order for uses that are subject to Lee Plan Neighborhood Commercial retail site location standards, the developer must provide access to Williams Road via an internal connection through the northerly parcel. Absent this interconnection, the project may not exceed Lee Plan standards for Minor Commercial uses.
 - d. If the project cannot achieve access to Williams Road, the connection(s) to U.S. 41 must be developed/built to local road standards to qualify and achieve Lee Plan Minor Commercial uses.

(2) Minimum Setbacks:

Street (U.S. 41)	25 feet
Street (internal)	25 feet
Side:	15 feet
Rear:	20 feet
Water Body:	25 feet
Building separation:	20 feet (if no lot line exists)

- (3) Minimum lot size: 20,000 square feet
100 feet by 100 feet
- (4) Minimum Open Space: 30 percent per lot, parcel or tract
- (5) Maximum building height may not exceed 45 feet or three stories for any use other than the hotel/motel use which is limited to a maximum of 50 feet or five stories, whichever is less. However, no office building taller than two stories is permitted within 125 feet of the Fountain Lakes western property line, and no retail or service building or a hotel/motel taller than two stories is permitted within 200 feet of the Fountain Lakes western property line.

3. Required parking will be calculated based upon the specific uses developed.

4. Special Buffering

- a. The developer must provide a 75-foot-wide indigenous preserve buffer along the length of the entire western property boundary (east of the 10-foot-wide drainage easement). In addition, the developer must provide an 8-foot-high fence (not a wall) or a 6-foot-high fence on a 2-foot-high berm within the westerly 10-foot-wide drainage easement. Additional tree plantings must be provided on the east side of the fence within 20 feet of said fence. These trees plantings must be South Florida slash pines no less than 10 feet tall with a three-inch caliper measured at three feet above the ground. A minimum of eight trees per 100 foot buffer segment are required.
 - b. The developer must remove invasive exotic vegetation from the special buffering area and provide the fence and additional plantings as part of the first phase of any construction on site.
5. Each parcel, lot, or tract must provide 30 percent open space. Indigenous open space preservation must be as delineated (a minimum of 3.70 contiguous acres with a minimum width of 75 feet) on the approved Master Concept Plan. Indigenous open space "credit" will be allotted to each parcel, lot, or tract by the proportionate size of the indigenous preserve area on each parcel, lot, or tract at time of their local development order. (The open space table on the Master Concept Plan is not adopted as part of this zoning approval.)

All invasive exotic vegetation, as identified in the Lee County LDC Section 10-413(f), must be removed from the entire indigenous vegetation preserve area prior to Certificate of Compliance for roads and infrastructure construction. This requirement must be stated on the development plans prior to development order approval for roads and infrastructure.

6. Auto repair work must be performed within a completely enclosed building.
7. Interior (project) lighting must comply with Land Development Code Section 34-936(g), must be of the lowest intensity meeting life safety codes, and must be shielded and directed away from the adjacent residential area.
8. This project must comply with the Lee Plan requirements for sewer service. Septic tanks will not be permitted if central service can be accommodated in compliance with the LDC and the Lee Plan.
9. Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions may be required to obtain a local development order.
10. Approval of this CPD rezoning merely changes the zoning district of the subject property. It does not grant or vest present or future development rights exceeding the Lee Plan use restrictions set forth in the 2010 (Roberts) Overlay or any other Lee Plan provision.

11. This development must comply with all of the requirements of the LDC at the time of local development order approval, except as may be granted by deviations approved as part of this planned development.
12. Prior to approval of development orders or the granting of an early work permit for infrastructure or individual lot development, the affected area of the site, and any portion of the property within 125 feet of the affected area, must be resurveyed for possible squirrel presence. If squirrel nests or "day beds" are observed, the survey must determine if these structures are being utilized by fox squirrels. Should fox squirrel use be verified, a management plan meeting the requirements of the Land Development Code Section 10-474 is required.

SECTION B. DEVIATIONS:

The Master Concept Plan deviates from several Lee County development standards. The proposed deviations are granted as set forth below:

1. Deviation (1) requests relief from LDC Section 10-414(a) which requires a 15-foot-wide landscape buffer and the 8-foot-high wall to be provided between certain commercial and residential developments, to replace the requirement with a 75-foot-wide, 3.73-acre, native open space and surface water management and buffer area. This deviation is **APPROVED subject to Condition 4.**
2. Deviation (2) was **WITHDRAWN** by the Applicant.
3. Deviation (3) requests relief from LDC Section 10-415(b)(1) to replace the required 10-foot-wide landscaping strips along U.S. 41 with a 20-foot-wide roadway buffer that includes five trees and twelve shrubs per 100 linear feet, and to eliminate the required 10-foot-wide landscape strip buffer areas along both side of the internal north-south road. All internal east/west roads will provide the required 10-foot-wide landscape strips per the LDC. This deviation is **APPROVED subject to the developer providing the 20-foot-wide landscaped strip with five trees and twelve shrubs per 100 linear feet along U.S. 41, and providing the normally required landscaped strip along the internal east/west roads.**
4. Deviation (4) requests relief from LDC Section 34-2192(a) which requires a 65-foot-wide minimum roadway setback for arterial roadways (U.S. 41) shown on the required access roadway map, to allow a 25-foot minimum roadway setback for proposed buildings located along the U.S. 41 roadway frontage. This deviation is **APPROVED with the following conditions:**
 - a. In accordance with Land Development Code Section 10-295, Table 3, reverse frontage roads must comply with local road standards. Therefore, if the proposed privately maintained road is to be an open drainage design, the minimum easement or right-of-way width must be 45 feet. The same criteria would apply to the proposed 35-foot easement that runs perpendicular to U.S. 41.

- b. The frontage road requirement for the subject property is waived.

SECTION C. Master Concept Plan:

A one page reduced copy of the Master Concept Plan is attached and incorporated into this resolution by reference, except as modified herein.

SECTION D. FINDINGS AND CONCLUSIONS:

The following findings and conclusions were made in conjunction with the approval of the requested rezoning:

1. The applicant has proven entitlement to the rezoning or special exception by demonstrating compliance with the Lee Plan, the Land Development Code, and other applicable codes and regulations.
2. The CPD rezoning, as conditioned:
 - a. meets or exceeds all performance and locational standards set forth for the potential uses allowed by the request;
 - b. is consistent with the densities, intensities and general uses set forth in the Lee Plan;
 - c. is compatible with existing or planned uses in the surrounding area; and
 - d. will not adversely affect environmentally critical areas or natural resources.
3. Approval of the CPD rezoning will not unduly burden existing transportation or planned infrastructure facilities, and the site will be served by streets with the capacity to carry traffic generated by the development.
4. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.
5. The proposed use or mix of uses is appropriate at the subject location.
6. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.
7. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.
8. The deviations granted:
 - a. enhance the objectives of the planned development; and

- b. preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

The foregoing resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner John E. Manning, and seconded by Commissioner Ray Judah and, upon being put to a vote, the result was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Absent
Ray Judah	Aye
Andrew W. Coy	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED this 15th day of September, 1997.

ATTEST:
CHARLIE GREEN, CLERK

BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Chairman

Approved as to form by:


County Attorney's Office

FILED

SEP 16 1997

CLERK CIRCUIT COURT
BY: Ruth E. D.C.

OPEN SPACE TABLE

PROJECT SUMMARY DATA

PROJECT DELEGATION STANDARDS

700 15 221
KECEIA

SCHEDULE OF PROJECT USES:

SCHEDULE OF DEVIATIONS

PROJECT NOTES AND GENERAL COMMENTS

100 FT.
3' 30, BOYOMVA BULLEWZ @ 15 ZHULWZ YND 2 LNCZ
CYLSCOM
1' BOYOMVA ALKIM THE LULWE ZHULWYAM NYD NZE
NOTE:

MARSH LANDING RPD



Sheet 1 of 1
108 NO. 38 003
Revision
Scale: 1" = 100'
Date: 6/8/87

PREPARED FOR: FLORIDY GROUP INVESTMENTS, INC., TRUSTEES
ESTERO GREENS CPD
MASTER CONCEPT PLAN FOR THE

Wendi Wilkie - ADD2005-00006 AmSouth @ Verandah

From: Wendi Wilkie
To: rpassouale@interplanorlando.com
Date: 1/14/2005 11:23 AM
Subject: ADD2005-00006 AmSouth @ Verandah

Hi Robert,

I do the preliminary property description review for the planners and we are in need of additional info for this application. Since it's an amendment to the PD, we'll need a clean, original copy of the description and a boundary survey or sketch of the entire Verandah property. This can be obtained from Johnson Engineering 239-334-0046. One copy of each will be fine.

Please keep in mind that the planner for this application (Tony Palermo) may require additional information upon his review of the application.

Please use the number ADD2005-00006 when submitting items for this application at the front counter on the first floor. Thank you so much! I'll be on the lookout for the submittal. Have a great day.

W

Wendi Wilkie
Department of Community Development
Division of Zoning
P.O. Box 398
Ft. Myers, FL 33902-0398
239.479.8483
239.479.8313 FAX
AWILKIE@leegov.com

ZONE NOTES QUERY REPORT
ZONE NOTES ID: ZONE:CPD:000958
ZONING: CPD
STRAP: 04-47-25-00-00001.002E

ADD2001-00179, 25JAN02, APRVD AMEND TO CPD TO ALLOW THIRD ACCESS FROM US41;
SUBJ TO CONDS.
004533, 6/1/00, BOCC PET FOR WRIT OF CERT TO CIRCUIT COURT TO REVERSE
HEX, PENDING.
BLUE SHEET 20000499, 5/16/00, WALK ON TO CONSIDER BOCC APPEAL OF HEX.
ADM2000-00003, 5/3/00, HEX HOLDS USE PERMISSIBLE, INTENSITY OF USE TO BE
DETERMINED BY CALCULATING SQ FT OF BUILDING AREA.
ZVL2000-00006, 2/4/00, 10 ACRES, NEW & USED AUTO DEALER NOT NEIGHBOHOOD
COMMERCIAL.
Z97-50, 97-04-065.03Z, CPD, 9/15/97, ESTERO GREENS CPD, 24.2 AC, 229900 SQ FT COMM,
OR ALF, BCC APPV REZN FM AG-2 TO CPD, SUBJ TO CONDS.
Z-73-243, 73-11-26, SP FOR 14 SIGNS, TO BE RENEWED YRLY

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. RECOMMENDATION: Approval of the request to allow outdoor display in excess of one acre within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

Staff recommends that Policy 19.2.5 be amended as follows:

Policy 19.2.5: The following uses are prohibited within the Estero Planning Community: "detrimental uses" (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre. Outdoor display in excess of one acre is permitted within the property located in the General Interchange Future Land Use Category west of I-75, south of Corkscrew Road and east of Corkscrew Woodlands Boulevard.

Post-It™ brand fax transmittal memo 7671		# of pages ▶ 1
To Sue Murphy	From Jim Mudd	
Co.	Co. Lee County Planning	
Dept.	Phone # 239-479-8180	
Fax # 813-314-6934	Fax #	

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	0565	
CONNECTION TEL		8818133146934
SUBADDRESS		
CONNECTION ID		
ST. TIME	01/19 11:59	
USAGE T	00'20	
PGS. SENT	1	
RESULT	OK	

I. APPLICANT/AGENT/OWNER INFORMATION

Sue Murphy, AICP, Ruden, McClosky

APPLICANT

401 E. Jackson Street, Suite 2700

ADDRESS

Tampa,

FL

33602

CITY

STATE

ZIP

813-222-6634

813-314-6934

TELEPHONE NUMBER

FAX NUMBER

Same as above

AGENT*

ADDRESS

CITY

STATE

ZIP

TELEPHONE NUMBER

FAX NUMBER

OWNER(s) OF RECORD

ADDRESS

CITY

STATE

ZIP

TELEPHONE NUMBER

FAX NUMBER

Name, address and qualification of additional planners, architects, engineers, environmental consultants, and other professionals providing information contained in this application.

* This will be the person contacted for all business relative to the application.

PROPOSED TEXT AMENDMENT LANGUAGE

POLICY 19.2.5: The following uses are prohibited within the Estero Planning Community: "detrimental uses" (as defined in the Land Development Code); nightclubs or bar and cocktail lounges not associated with a Group III Restaurant; and retail uses that require outdoor display in excess of one acre, except as noted below:

19.2.5 (A) Outdoor display in excess of one acre shall be permitted subject to the following limitations:

1. The site must have a land use plan designation of General Interchange as shown on the Lee County Plan Future Land Use map and must abut the interchange of I-75 and Corkscrew Road.
2. The site must be zoned CPD so that site-specific compatibility issues can be addressed.