

M E M O R A N D U M
FROM
THE OFFICE OF THE
LEE COUNTY HEARING EXAMINER

DATE: July 7, 2025

TO: Board of County Commissioners **FROM:** Amanda L. Rivera
Lee County Deputy Hearing Examiner

RE: CYPRESS LAKE PRESBYTERIAN CHURCH FOOD PANTRY
Hearing Examiner Decision

Deputy Hearing Examiner Amanda L. Rivera has rendered a Decision on the following zoning request:

**CYPRESS LAKE PRESBYTERIAN CHURCH FOOD
PANTRY**

SEZ2025-00005

HEARD: July 3, 2025

A copy of the Decision is attached for ready reference.

cc: Anthony Rodriguez / Zoning Section
Chahram Badamtchian / Zoning Section
Warren Baucom / Economic Development
Phil Gillogly / Natural Resources
Brienne Cherry / Community Development
Applicant(s) & Representative(s)
Other Interested Parties

OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER DECISION

SPECIAL EXCEPTION: SEZ2025-00005

Regarding: CYPRESS LAKE PRESBYTERIAN CHURCH FOOD PANTRY

Location: 8260 Cypress Lake Drive
South Fort Myers Planning Community
(District 2)

Hearing Date: July 3, 2025

I. Request

Special Exception in the Residential Multiple Family (RM-2) zoning district to allow an existing Religious Facility to expand their food pantry approved in SEZ2011-00004 by adding an outdoor refrigerated storage container.

II. Hearing Examiner Decision

Approval, subject to conditions set forth in Section V.

III. Discussion

Applicant seeks to improve the South Fort Myers Food Pantry at Cypress Lake Presbyterian Church by adding a refrigerated shipping container. The proposed addition allows the pantry to provide clients with more perishable food items.

The request locates the 320 square foot shipping container on 4.6± acres north of Cypress Lake Drive. The church has occupied the site for decades. In 2011, the County approved a Special Exception permitting a 1,200 square foot food pantry within a 3,600 square foot church building. The proposed container will be located on the east side of the existing food pantry building. Special Exception approval is required to add the proposed container to the site plan.

The food pantry has operated on the site for over a decade without incident.¹ The expansion will facilitate service to those with food insecurities, serving a vital community need.²

Staff recommended approval with conditions.

Special Exception Criteria

Special exceptions are specified departures from land development regulations for uses that may be permitted when governed by conditions to promote public health, safety, welfare, order, comfort, convenience, appearance, or prosperity.³

The Hearing Examiner *must* grant a special exception request unless:

1. The request is contrary to the public interest and the health, safety, welfare, comfort, and convenience of the citizens of the county; or
2. The requested use conflicts with the findings necessary to grant a special exception.⁴ These findings include consistency with the Lee County Comprehensive Plan (Lee Plan), compatibility with existing and planned uses, no injury to the neighborhood, and compliance with zoning provisions pertaining to the use and other applicable regulations.⁵

In reaching this decision, the Hearing Examiner may attach conditions necessary to protect the public.⁶ Such conditions must rationally relate to the special exception.⁷

Character of the Area

The property is located north of Cypress Lake Drive, between Winkler Road and Summerlin Road. The site is flanked by another church to the east and a multi-family development to the west/north. Cypress Lake Drive abuts the southern boundary. The FSW campus sits just northeast of the site.

¹ The record contains no evidence of prior incidents reported from the food pantry use. Hearing testimony confirmed no reported neighbor complaints for over 10 years. Staples Testimony.

² Hearing testimony reflects the pantry serves nearly 1,000 clients weekly, or nearly 50,000 clients annually. Although demand may increase, Mr. Staples explained that inventory and volunteer scheduling control service to remain at current levels, resulting in no increase to traffic or off-site impacts.

³ *Id.*

⁴ See LDC §34-145(c)(3); LDC §34-145(c)(4)a.

⁵ See LDC §34-145(c)(3).

⁶ *Id.*

⁷ See LDC §34-145(c)(4)b.

Lee Plan Compliance and Compatibility

Applicants must prove entitlement to special exceptions by demonstrating the request is consistent with the Lee Plan.⁸ The Hearing Examiner finds Applicant provided sufficient evidence and testimony to satisfy its burden of proof.⁹

Lee Plan maps locate the property in the Central Urban future land use category and the Mixed Use Overlay.¹⁰

Central Urban areas are considered the county's "urban core."¹¹ This category permits a wide range of uses, including commercial, residential, public/quasi-public, and limited light industrial.¹² The requested expansion of a food pantry serving a heavily developed area is consistent with the Central Urban designation.

Compatibility exists between land uses when they can exist in proximity, and no one use unduly negatively impacts another use.¹³ The site is located along a heavily developed corridor surrounded by a broad mix of uses. The proposed shipping container will be located along the site's eastern boundary, adjacent to another church. A fence, landscaping, and parking lot separates the container from neighboring church buildings.¹⁴

The County approved the food pantry use in 2011; the pantry has operated without negative impact since that time.¹⁵ The addition of the refrigerated container does not frustrate the County's prior finding of compatibility.¹⁶ Nearby residential development will remain protected by buffering, landscaping, and preserved traffic circulation provided by four lanes serving the pantry.¹⁷

As conditioned, the Hearing Examiner finds the request consistent with the Lee Plan and appropriate at the proposed location.

⁸ See LDC §34-145(c)(3)a.1.

⁹ See Lee Co. Admin. Code 2-6 §2.3.D(2)(b).

¹⁰ See Lee Plan Map 1-A, 1-C; Policy 1.1.3.

¹¹ Lee Plan Policy 1.1.3.

¹² *Id.*

¹³ F.S. §163.3164(9); The Lee Plan offers benchmarks from which to measure compatibility of uses adjacent to residential development. See Lee Plan Policies 5.1.5, 135.9.5, & 135.9.6.

¹⁴ See Site Plan.

¹⁵ Hearing testimony confirms the pantry opened in 2008. The County issued Special Exception approval in 2011 for the use. See SEZ2011-00004.

¹⁶ See *Id.*

¹⁷ Staff testified the nearest residence is more than 300 feet from the container and did not anticipate noise emanating from the proposed container beyond existing generator and air conditioner noise generation. Badamtchian Testimony.

Natural Resources/Environmental Areas

The request does not impact environmentally critical or sensitive areas.¹⁸ The site has been developed for decades in its current configuration. The proposed cooler will be located on an existing improved area. Applicant will install additional landscaping if warranted through the development order process.¹⁹

Injury to Neighborhood or Public Welfare

The request does not present injury to the neighborhood or public welfare.²⁰ The proposed container will not have a detrimental impact on surrounding roadways, drainage, or uses.²¹ Conditions of approval ensure compliance with approved landscaping plans to minimize potential off-site impacts. Hearing testimony reflects the container will be screened from adjacent property.²²

Compliance with Zoning Regulations

The request does not seek variances from land development regulations. Future site development must comply with the LDC.

Public Participation

No members of the public attended the hearing.

Conclusion

The Hearing Examiner concurs with staff's analysis and recommendation of approval. The special exception meets LDC review criteria because it is consistent with the property's land use classification and is compatible with the surrounding area.

As conditioned, the requested special exception will not be detrimental or injurious to the area. There are no negative impacts anticipated to public health, safety, or welfare.

IV. Findings and Conclusions

Based upon the testimony and evidence presented in the record, the Hearing Examiner finds the requested Special Exception:

¹⁸ See Staff Report (pg. 2-3).

¹⁹ See Condition 2.

²⁰ LDC §34-145(c)(3)a.4; See Staff Report (pg. 3).

²¹ *Id.*

²² Adjacent property is developed with a church and multi-family residential development.

- A. Is consistent with the Lee Plan. See Lee Plan Goal 2, and Policies 1.1.3, 2.1.3, 5.1.5, 135.9.5, 135.9.6.
- B. Will protect, conserve or preserve environmentally critical and natural resources.
- C. Will be compatible with existing and planned uses. See Lee Plan Objectives 2.1, and Policies 1.1.3, 2.1.3, 5.1.5, 135.9.5, 135.9.6.
- D. Will not be injurious to the neighborhood or detrimental to the public welfare. See Lee Plan Policies 1.1.3, 5.1.5, 135.9.5, 135.9.6.
- E. Will comply with zoning regulations pertaining to the use and other County regulations. See LDC §34-145(c).

V. Conditions of Approval

- 1. Site Plan. Development must be in substantial compliance with the enclosed Site Plan (Exhibit B).
- 2. Landscaping. Developer must demonstrate compliance with approved landscaping (Development Order 94-08-017.00D) for addition of the refrigerated cooler.
- 3. Development Permits. Special exception approval does not establish a right to obtain permits from state or federal agencies. Further, approval does not establish county liability if Applicant: (a) does not obtain requisite approvals or fulfill obligations imposed by state or federal agencies; or (b) undertakes actions that result in a violation of state or federal laws.

VI. Participants

Staff

- 1. Chahram Badamtchian

Applicant Representatives

- 1. Ed Desmond
- 2. Mike Roeder
- 3. Biff Staples

Public Participants

None

VII. Legal Description

Exhibit A (scanned legal description with vicinity map).

Strap #: 22-45-24-00-00001.015A

VIII. Exhibits Submitted at Hearing

Staff Exhibits

1. DCD Staff Report with attachments: Prepared by Chahram Badamtchian, Senior Planner, date received June 25, 2025 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. *Affidavit of Publication*: Zoning Case SEZ2025-00005, Cypress Lake Presbyterian Church Food Pantry (1 page – 8.5"x11")

Applicant Exhibits

1. Fact Sheet: For the South Fort Myers Food Pantry Coalition, Inc. (1 page – 8.5"x11")

IX. Unauthorized Communications

The LDC prohibits communications with the Hearing Examiner or her staff on the substance of pending zoning actions. There are limited exceptions for written communications requested by the Hearing Examiner, or where the Hearing Examiner seeks advice from a disinterested expert.

X. Appeals

This Hearing Examiner Decision is final on the date rendered. The Decision may be appealed to the Lee County Circuit Court within 30 days of the date rendered. Appeal is by Petition for *Writ of Certiorari* in accordance with LDC 34-146.

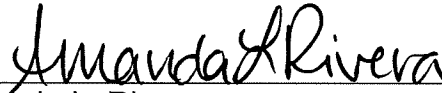
XI. Copies of Testimony and Transcripts

- A. Every hearing is recorded. Recordings are public records that are part of the case file maintained by the Department of Community Development.

Case files and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:00 p.m.

- B. A verbatim transcript may also be available for purchase from the court reporting service.

Decision rendered July 7, 2025.



Amanda L. Rivera
Deputy Hearing Examiner

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

Exhibits to Hearing Examiner Decision

- A: Legal Description and Vicinity Map
B: Site Plan

Exhibit A

SKETCH & DESCRIPTION OF A PARCEL LYING IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA

LEGAL DESCRIPTION:

(AS RECORDED IN OFFICIAL RECORDS BOOK 1524 AT PAGE 2239)

THE SOUTHEAST QUARTER (SE $\frac{1}{4}$) OF THE SOUTH HALF (S $\frac{1}{2}$) OF THE EAST 670.94 FEET OF THE WEST 1394.49 FEET OF THE WEST $\frac{3}{4}$ OF THE NORTHEAST QUARTER (NE $\frac{1}{4}$) OF SECTION 22, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, LESS CYPRESS LAKE DRIVE RIGHT-OF-WAY AND LESS 30' IN WIDTH ALONG THE WEST LINE OF SUBJECT PROPERTY.

(METES AND BOUNDS DESCRIPTION, AS DESCRIBED BY THIS FIRM)

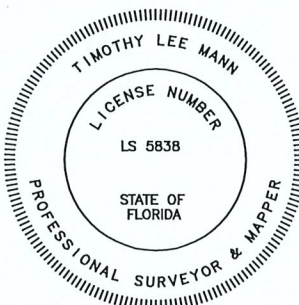
A TRACT OF LAND LYING IN THE STATE OF FLORIDA, COUNTY OF LEE, CITY OF FORT MYERS IN SECTION 22, TOWNSHIP 45 SOUTH, RANGE 24 EAST, BEING THE SAME AS THE PARCEL DESCRIBED IN OFFICIAL RECORDS BOOK 1524, PAGE 2239 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 45 SOUTH, RANGE 24 EAST; THENCE N.89°07'54"E. ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER FOR A DISTANCE OF 1,058.55 FEET; THENCE N.00°02'30"E., LEAVING SAID SOUTH LINE FOR A DISTANCE OF 55.51 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF OF CYPRESS LAKE DRIVE, A VARIABLE WIDTH RIGHT OF WAY; THENCE N.89°07'54"E., ALONG SAID RIGHT OF WAY, FOR A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE N.00°02'30"E. FOR A DISTANCE OF 606.60 FEET; THENCE N.89°06'16"E. FOR A DISTANCE OF 305.51 FEET; THENCE S.00°02'30"W. FOR A DISTANCE OF 606.74 FEET TO A POINT ON SAID NORTH RIGHT OF WAY OF CYPRESS LAKE DRIVE; THENCE S.89°07'54"W. FOR A DISTANCE OF 305.51 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 4.25 ACRES, MORE OR LESS

REVIEWED
SEZ2025-00005
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/13/2025

THIS SKETCH & DESCRIPTION HAS BEEN ELECTRONICALLY SIGNED AND SEALED BY TIMOTHY LEE MANN USING A DIGITAL SIGNATURE AND DATE. PRINT COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.



Timothy L Mann
Digitally signed by Timothy L Mann
Date: 2025.02.14 10:20:48 -05'00'
BY: Timothy L Mann
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. LS# 5838

NOTES:

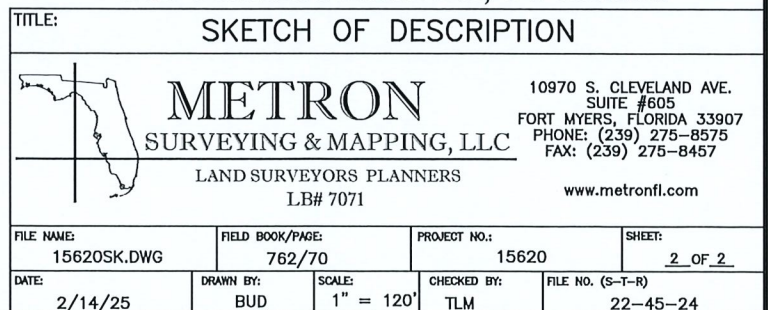
1. BEARINGS ARE BASED ON THE SOUTH LINE OF NORTHEAST QUARTER OF SECTION 22, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA AS BEING N.89°07'54"E.
2. DISTANCES ARE IN FEET AND DECIMALS THEREOF.
3. PARCEL IS SUBJECT TO EASEMENTS, RESERVATIONS OR RESTRICTIONS AND RIGHT-OF-WAYS (RECORDED AND UNRECORDED, WRITTEN AND UNWRITTEN).
4. RECORDING INFORMATION SHOWN HEREON RELATES TO THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA.
5. THE STATE PLANE COORDINATES SHOWN HEREON ARE IN FEET, FLORIDA WEST ZONE, NORTH AMERICAN DATUM OF 1983 (2011 ADJUSTMENT) BASED UPON CONTINUOUSLY OPERATING FLORIDA PERMANENT REFERENCE NETWORK (FPRN) STATIONS MAINTAINED BY THE FLORIDA DEPARTMENT OF TRANSPORTATION.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

8260 CYPRESS LAKE DR, FT MYERS

TITLE: LEGAL DESCRIPTION			
		METRON SURVEYING & MAPPING, LLC LAND SURVEYORS PLANNERS LB# 7071	
10970 S. CLEVELAND AVE. SUITE #605 FORT MYERS, FLORIDA 33907 PHONE: (239) 275-8575 FAX: (239) 275-8457 www.metronfl.com			
FILE NAME: 15620SK.DWG	FIELD BOOK/PAGE: 762/70	PROJECT NO.: 15620	SHEET: 1 OF 2
DATE: 2/14/25	DRAWN BY: BUD	SCALE: 1" = 120'	CHECKED BY: TLM FILE NO. (S-T-R) 22-45-24

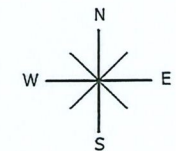
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SEZ2025-00005
Rick Burris, Principal
Planner
Lee County DCD/Planning
5/13/2025



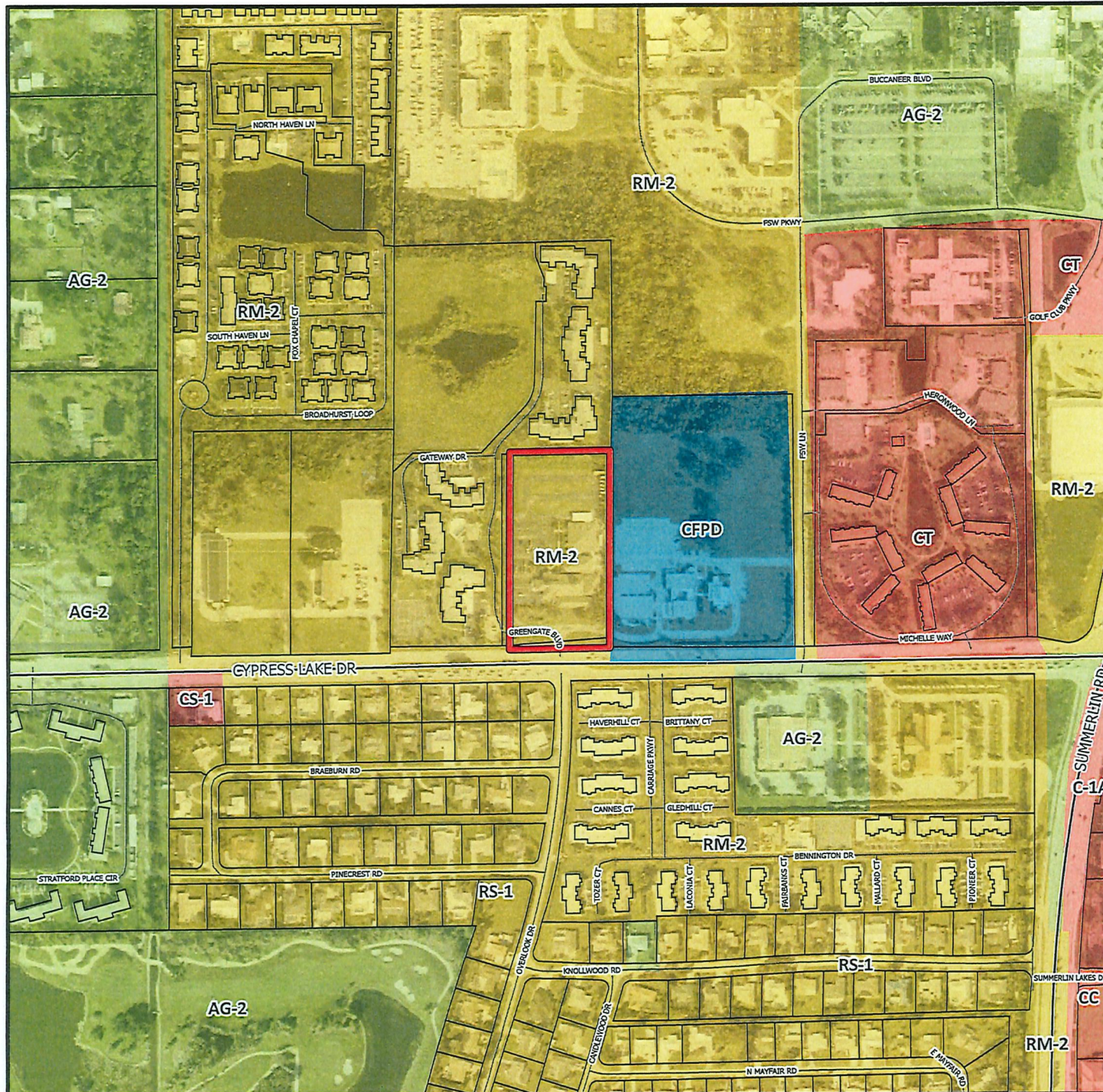
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Zoning

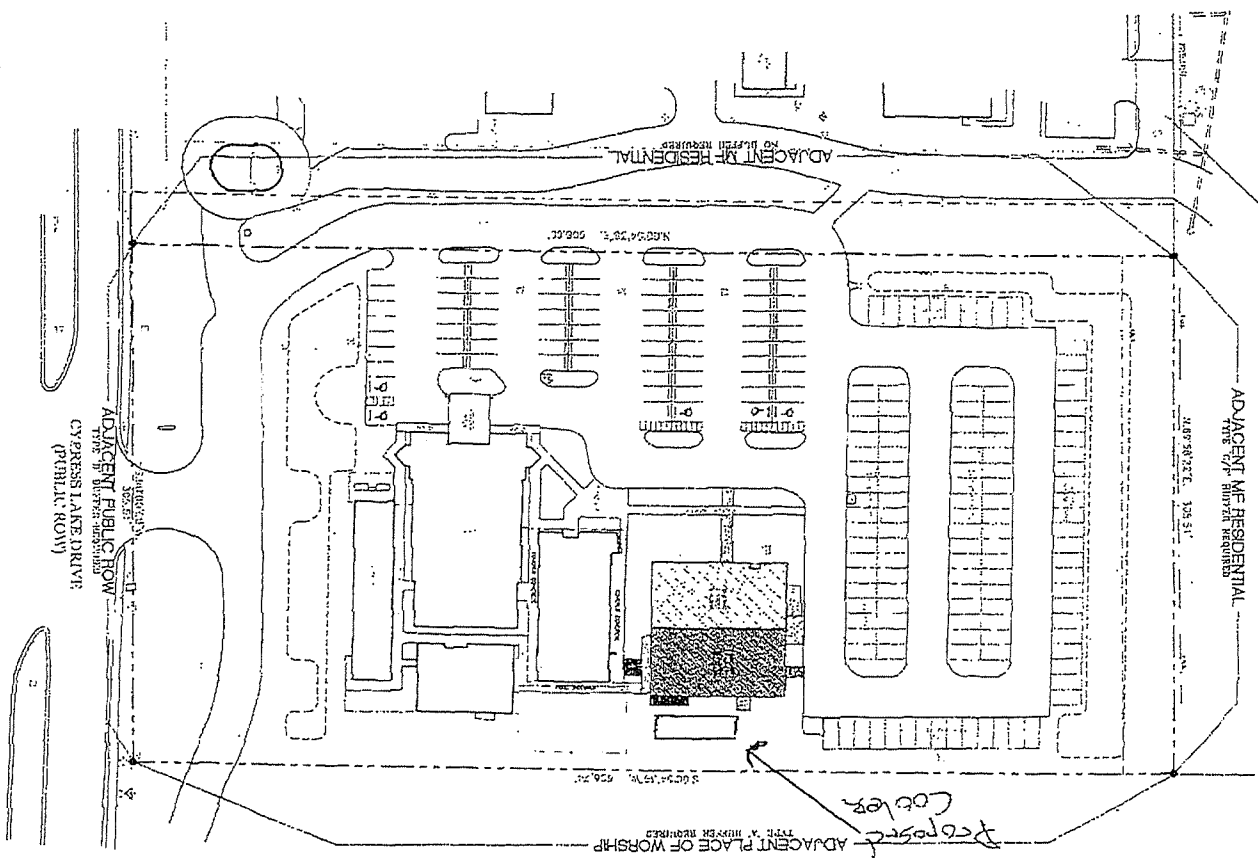
 Subject Property



0 500
Feet



SITE PLAN



GENERAL NOTES:

1. ALL DIMENSIONS ARE IN FEET AND INCHES.
2. ALL SETBACKS ARE TO THE CENTERLINE OF THE ADJACENT PROPERTY.
3. ALL UTILITIES ARE TO BE DEEPER THAN THE MINIMUM REQUIRED.
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9. ALL UTILITIES ARE TO BE DEEPER THAN THE MINIMUM REQUIRED.
10. ALL UTILITIES ARE TO BE DEEPER THAN THE MINIMUM REQUIRED.

DEVELOPER'S CERTIFICATION:

I, **CHARLOTTE**, of the County of **LEE**, State of **FLORIDA**, do hereby certify that the above is a true and correct copy of the original as filed in my office.

Notary Public for Lee County, Florida

My Comm. Exp. 12/31/2024

SE 2811-00004

LAND ARCHITECTS

1000 UNIVERSITY AVENUE, SUITE 200
TAMPA, FLORIDA 33606
TEL: 813-241-1234
FAX: 813-241-1235
WWW.LANDARCHITECTS.COM

CYPRESS PRESBYTERIAN CHURCH

FOOD PANTRY ADDITION

LEE COUNTY, FLORIDA

DESIGNED BY: **SCOTT, INC.**
123 LAKESHORE STREET
LEE COUNTY, FLORIDA 33604

ZONING
SPECIAL DISTRICT EXEMPTION

SITE PLAN
(Sheet 1 of 1)

DATE: 08/15/2023

PROJECT NO: **SP-1**