

ADMINISTRATIVE APPROVAL (PD) ADD2025-00114

ADMINISTRATIVE APPROVAL
LEE COUNTY, FLORIDA

WHEREAS, Aileron Lehigh, LLC filed an application for an administrative amendment to a Commercial Planned Development (CPD) known as Barry's Place to amend the Master Concept Plan and request the following additional deviations:

- a) Deviation #5: relief from Land Development Code (LDC) Section 34-1353(c)(3), requiring a minimum lot size of 25,000 square feet for fast food restaurants, to allow a drive-thru only coffee shop with a minimum lot area of 24,380 square feet;
- b) Deviation #6: relief from LDC Section 34-1353(e)(1), requiring landscaping adjacent to rights-of-way external to the development project to be located within a landscape buffer a minimum of 25 feet in width or 15 feet in width if abutting an internal accessway to a commercial development, to allow the north right-of-way buffer to be 15 feet in width and the internal buffer to be 4.5 feet in width;
- c) Deviation #7: relief from LDC Section 33-1405(3), requiring that when commercial uses abut single- or multiple-family residential uses a buffer must be provided that is 25 feet in width with seven (7) trees, a double hedge row, and 33 groundcovers per 100 linear feet, to allow a 5-foot wide Type A buffer between the proposed coffee shop and the existing single-family home to the south; and
- d) Deviation #8: relief from LDC Section 10-416(b), requiring all new development in commercial zoning districts and commercial components of planned development districts to provide building perimeter plantings equal to ten percent of the proposed building gross ground level floor area, with planting areas located abutting three sides of the building to allow building perimeter plantings to be located on two sides of the building; and

WHEREAS, the subject property is legally described as follows:

LEGAL DESCRIPTION: In Section 26, Township 44 South, Range 26 East, Lee County, Florida

ATTACHED AS EXHIBIT "A"

WHEREAS, the property was originally rezoned to Commercial Planned Development (CPD) by Resolution Z-08-045 on November 3, 2008; and

WHEREAS, the subject property is located in the Central Urban Future Land Use Category as designated by the Lee Plan and is within the Lehigh Acres Community Plan Area; and

Resolution Z-08-045 was amended on February 21, 2011, via ADD2010-00090(A) to amend the Master Concept Plan and add Deviations #3 and #4; and

WHEREAS, Deviation #3 permitted an increase in the maximum permitted driveway width from 35 feet at the property line to 60 feet for the driveway accessing Terry Avenue; and

WHEREAS, Deviation #4 reduced the required intersection separation from 125 feet to 110 feet between 4th Street W and Terry Avenue access to the development; and

WHEREAS, the applicant has filed the subject request to seek relief from development regulations specific to fast food restaurants established in LDC Section 34-1353 to facilitate development of a drive-thru coffee shop on the northeastern development tract of the planned development; and

WHEREAS, LDC Section 34-1353(c)(3) requires a minimum lot size of 25,000 square feet for fast food restaurants; and

WHEREAS, the applicant has provided a proposed Master Concept Plan with a drive-thru coffee shop on a lot that is approximately 24,380 square feet, and seeks a deviation (Deviation #5) from the required minimum lot area (see Exhibit "B"); and

WHEREAS, LDC Section 34-1353(e)(1) requires landscaping adjacent to rights-of-way external to a development project with a fast food restaurant to be located within a landscape buffer that is a minimum of 25 feet in width or 15 feet in width if abutting an internal accessway to a commercial development; and

WHEREAS, the applicant has provided a proposed Master Concept Plan with a drive-thru coffee shop that provides a landscape buffer 15 feet in width abutting Lee Boulevard and a landscape buffer 4.5 feet in width along common property lines with abutting parcels (see Exhibit "B"); and

WHEREAS, the applicant seeks a deviation (Deviation #6) from these buffering requirements to allow adequate cross access between commercially zoned parcels abutting Lee Boulevard and to provide a consistent buffer along the subject planned development's Lee Boulevard frontage; and

WHEREAS, LDC Section 33-1405(c)(3) requires commercial uses abutting single- or multiple-family residential uses to provide a buffer 25 feet in width with seven trees, a double hedge row, and 33 groundcovers per 100 linear feet within the Lehigh Acres Community Plan Area; and

WHEREAS, the subject application includes a request for a deviation (Deviation #7) to allow a 5-foot wide Type A buffer between the proposed coffee shop and the existing single-family home to the south; and

WHEREAS, the existing single-family home to the south of the proposed coffee shop is within the subject CPD and is depicted on the Master Concept Plan as a location for future commercial development; and

WHEREAS, LDC Section 10-416(b) requires all new development within commercial components of planned development districts to provide building perimeter plantings equal to ten percent of the building's gross floor area at ground level and requires the perimeter plantings to abut three sides of the building; and

WHEREAS, the applicant has filed a deviation request (Deviation #8) to allow the required building perimeter plantings to be provided on two sides of the proposed coffee shop building to accommodate the business's drive-thru facilities (see Exhibit "B"); and

WHEREAS, the proposed deviations enhance the achievement of the objectives of the planned development and will not cause a detriment to public interests in accordance with LDC Section 34-373(a)(9); and

WHEREAS, the applicant has provided a written narrative to provide justification for the proposed deviations (see Exhibit "C"); and

WHEREAS, the applicant has provided an amended Master Concept Plan depicting a development scheme that implements the proposed property development regulations and depicts the approved and requested deviations sought through this amendment (see Exhibit "B"); and

WHEREAS, the applicant held a publicly advertised community meeting to discuss the requested amendments on July 24, 2025, at the Lehigh Acres Architectural, Planning and Zoning Review Board's monthly meeting and provided a public information session summary pursuant to LDC Section 33-1401 (see Exhibit "D"); 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 or intensity 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; and

NOW, THEREFORE, IT IS HEREBY DETERMINED that the application for an administrative amendment to the Barry's Place Commercial Planned Development (CPD) to amend the Master Concept Plan and add four deviations to allow for the development of a drive-thru coffee shop is **APPROVED, subject to the following conditions:**

1. **Development of the subject property must be in substantial compliance with the amended Master Concept Plan prepared by TDM Consulting, Inc., attached hereto as Exhibit "B".**
2. **Deviation (5), which seeks relief from Land Development Code (LDC) Section 34-1353(c)(3) requiring a minimum lot size of 25,000 square feet for fast food restaurants to allow a drive-thru only coffee shop with a minimum lot area of 24,380 square feet as depicted on the Master Concept Plan, is APPROVED.**
3. **Deviation (6), which seeks relief from LDC Section 34-1353(e)(1), requiring landscaping adjacent to rights-of-way external to the development project to be located within a landscape buffer a minimum of 25 feet in width or 15 feet in width if abutting an internal accessway to a commercial development, to allow a drive-thru only coffee shop to be developed with a 15-foot wide north right-of-way buffer abutting Lee Boulevard and internal buffers along the west, south, and east property lines to be 4.5 feet in width, is APPROVED.**
4. **Deviation (7), which seeks relief from LDC Section 33-1405(3), requiring a 25-foot wide buffer with seven (7) trees, a double hedge row, and 33 groundcovers per 100 linear feet when commercial uses abut single- or multiple-family residential uses, to allow a 4.5-foot wide Type A buffer between the proposed coffee shop and the existing single-family home to the south, is APPROVED.**
5. **Deviation (8), which seeks relief from LDC Section 10-416(b), requiring all new development in commercial zoning districts and commercial components of planned development districts to provide building perimeter plantings equal to ten percent of the gross ground level floor area of a proposed building with planting areas located abutting three sides of the building, to allow the required building perimeter plantings for the drive-thru only coffee shop to be located on two sides of the building, is APPROVED.**
6. **The terms and conditions of the original zoning resolution and subsequent amendments thereto remain in full force and effect, except as amended herein.**
7. **If it is determined that inaccurate or misleading information was provided to the County or if this decision does not comply with the LDC when rendered, then, at any time, the Zoning Manager may issue a modified decision that complies with the Code or revoke the decision. If the approval is revoked, the applicant**

may acquire the necessary approvals by filing an application for public hearing in accordance with Chapter 34.

Duly passed, adopted, and electronically signed on 11/18/2025

Anthony R. Rodriguez, AICP, CPM, Zoning Manager

Community Development

Exhibits

Exhibit A: Legal Description

Exhibit B: Revised Master Concept Plan

Exhibit C: Deviation Justification

Exhibit D: Public Information Session Summary

Exhibit E: Resolution Z-08-045 and ADD2010-00090(A)

LEGAL DESCRIPTION

EXHIBIT "A"

LOTS 3 AND 4, BLOCK 29, UNIT 7, REPLAT OF TRACTS P & Q – UNIT 7, A
SUBDIVISION OF LEHIGH ACRES, LOCATED IN SECTION 26, TOWNSHIP 44 SOUTH,
RANGE 26 EAST, ACCORDING TO THE PLAT THEREOF ON FILE AND RECORDED IN
PLAT BOOK 26, PAGE 156 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA;
AND

LOTS 17 AND 18, BLOCK 29, UNIT 7, A SUBDIVISION OF LEHIGH ACRES, LOCATED
IN SECTION 26, TOWNSHIP 44 SOUTH, RANGE 26 EAST, ACCORDING TO THE PLAT
THEREOF ON FILE AND RECORDED IN PLAT BOOK 15, PAGE 75, OF THE PUBLIC
RECORDS OF LEE COUNTY, FLORIDA.

STRAP NOS.

26-44-26-L4-07029.0030

26-44-26-L4-07029.0180

26-44-26-14-07029.0170

REVIEWED

Project: ADD2025-00114

By: Richard Burris

Dept: Legal Review

Date: 07/03/2025



1520 Royal Palm Square Blvd, Suite 100
Fort Myers, FL 33919
Phone: 239-433-4231
www.tdmcivilengineering.com
Certificate of Authorization # 29086

Elliano's Coffee
Schedule of Deviations
Revised 10-8-2025

DEVIATIONS APPROVED – Z-08-045

DEVIATION #1:

Parking Lot Buffer – Deviation (1) seeks relief from the LDC §10-416(d)(6) requirement to provide a 25-foot wide landscape buffer with a solid wall, when a parking lot or a driveway is proposed within 125 feet of any residential properties, to allow for a 5-foot wide landscape buffer. This deviation is APPROVED.

DEVIATION #2:

Buffer next to Residential – Deviation (2) seeks relief from the LDC §10-416(d)(3) requirement to provide a type “C” or “F” buffer when a commercial development abuts a residentially zoned or used property, to allow for a 5-foot wide landscape buffer. This deviation is APPROVED.

NOTE: The justification for Deviations #1 and #2 remains the same. No changes are proposed with this application that affect these deviations.

DEVIATIONS APPROVED – ADD2010-00090

DEVIATION #3:

Deviation (3) reducing the required intersection separation of 125 feet established for local streets to 110 feet is hereby APPROVED.

DEVIATION #4:

Deviation (4) increasing the width of the driveway from a maximum of 35 feet at property line to 60 feet is hereby APPROVED.

NOTE: The justification for Deviations #3 and #4 remains the same. No changes are proposed with this application that affect these deviations.

PROPOSED DEVIATIONS

DEVIATION #5

Seeks relief from the LDC Sec. 34-1353(c)(3) requirement of a minimum lot area of 25,000 square feet for convenience food and beverage stores, automotive service stations, fast food restaurants, and car washes. Request to permit the proposed fast-food restaurant to have a minimum lot area of 24,380 square feet.

JUSTIFICATION:

The commercial planned development consists of three (3) lots – the existing Family Dollar store located at 3519 Lee Blvd, the proposed fast-food restaurant at 3513 Lee Blvd, and the future commercial development at 3512 - 3514 4th Street W. The property at 3514 4th Street W is currently used for single-family residential, but will be developed for commercial use at a later date as shown on the MCP. The Applicant is the current property owner of 3513 Lee Blvd and 3512 – 3514 4th Street W. The land is part of a subdivision plat – Tracts P and Q – Unit 7. The applicant is proposing to utilize the existing platted lot lines to create each development. As a result, the lot for the fast-food restaurant is 24,380 square feet. In order to comply with the LDC minimum requirement of 25,000 square feet, the applicant would have to replat the land.

The proposed fast-food restaurant is a drive-thru only coffee shop. The MCP is consistent with the Lee Plan, the LDC, and the previous zoning resolutions and amendments to the maximum extent possible. Permitting the minimum lot area to be 24,380 square feet will not be detrimental to the public health, safety or welfare. The applicant respectfully requests approval of this deviation.

DEVIATION #6

Seeks relief from the LDC Sec. 34-1353(e)(1) requirement that landscaping adjacent to rights-of-way external to the development project must be located within a landscape buffer that is a minimum of 25 feet in width or 15 in width if abutting an internal accessway to a commercial development. Request to permit the north right-of-way buffer to be 15 feet in width and the internal buffer be 4.5 feet in width (5.5' with curbing).

JUSTIFICATION:

The applicant is proposing a 15-foot wide buffer along the north property line abutting the Lee Boulevard right-of-way. The site is constrained by an existing interconnect to the east and west, which is required by the LDC. That leaves only 33 feet for parking, buffers, and drainage. LDC Sec. 34-1353(e)(3) and (4) requires the buffer vegetation to include five (5) canopy trees per 100 linear feet, which must be a minimum of 14 feet in height at time of installation with a 3 ½-inch caliper at 12 inches above the ground and a six (6) foot spread. In addition, shrubs must be a minimum of three (3) gallon, 24 inches in height at time of planting and a height of 36" within one year of installation. The applicant will provide the minimum vegetation required, which is already enhanced for fast-food restaurants.

The proposed coffee shop is only 819 square feet and is set back from the right-of-way 88 feet, when the minimum requirement is only 50 feet for arterials and collectors. Reducing the buffer width to 15 feet, but with the required "enhanced" vegetation, plus the additional building setback, meets the intent of the LDC to buffer and shield fast food restaurants from the right-of-way. The applicant is able to comply with other sections of the LDC with the reduced buffer width. The applicant respectfully requests approval of this deviation. Permitting a 15' wide buffer width along the north property line will not be detrimental to the public health, safety or welfare.

As stated above, there's an existing interconnect between the commercial properties to the east and west. Both properties are already developed, so the interconnect cannot be changed. In addition, the lot is shallow, with only 153 feet in depth. The surrounding developments to the east, west, and south are all developed with commercial uses. The site is located in an urban environment along an arterial roadway, in the mixed-use overlay. Providing a 15' buffer along the right-of-way and then another 15' wide buffer along the interconnect is excessive and redundant at this location. The applicant is providing a 4.5 wide buffer surrounded by curbing one-half foot in width to buffer the commercial development from the interconnect. Landscaping within the buffer will comply with

the LDC at time of DO permitting. Reducing the buffer along the interconnect at this location will not cause a detriment to the public health, safety or welfare. This deviation enhances the objectives of the achievement of the planned development. The applicant respectfully requests approval of this deviation.

DEVIATION #7

Seeks relief from the LDC 33-1405(3) requirement that when commercial, place of worship, industrial, or public active recreational park uses abut single- or multiple-family residential uses a buffer must be provided that is 25 feet in width with seven (7) trees, a double hedge row, and 33 groundcovers per 100 linear feet. The applicant is requesting to provide a 5-foot wide Type A buffer between the proposed coffee shop and the existing single-family home to the south.

JUSTIFICATION:

The Applicant owns both the proposed coffee shop property along Lee Boulevard and the property to the south along 4th Street W. The lot at 3514 4th Street W. is zoned CPD, but has an existing single-family residential use. The revised MCP shows future commercial along the lots on 4th Street W. LDC Sec. 33-1405(c)(1) states that a Type A buffer is required between commercial uses to allow for pedestrian, bicycle and automobile connections through adequate spacing between trees. In addition, the property is in the Mixed-Use Overlay. Per LDC Sec. 10-425(f)(2), 10-foot wide buffers with Type B plantings are required along property lines which abut single-family residences. And LDC Sec. 34-1353(e)(5) states that landscaping adjacent to the rear and side property lines must comply with the minimum requirements established in Section 10-416 dependent on adjacent land uses; however, in this case, Chapter 33, Article V – Lehigh Acres Community Plan Area supersedes Section 10-416.

The Applicant is requesting to provide the standard 5' wide Type A buffer between the commercial uses since the lot at 3514 4th Street W is already zoned for commercial use and is part of the phased commercial planned development. It's unwarranted to require a 25-foot wide buffer with seven trees, a double hedge row, and 33 groundcovers per 100 linear feet between the proposed and future commercial uses. In addition, providing a 25-foot wide buffer would create a hardship on the proposed development. The coffee shop is only 819 square feet in size. The 25' wide buffer makes the proposed development impossible. The previous applicant requested a similar deviation (approved Deviations #1 and #2) with the original rezoning request. Staff supported the deviation requests, the Hearing Examiner recommended approval of the deviation requests, and the BOCC ultimately approved the deviation requests. The Applicant is requesting the same consideration as before since it has already been demonstrated that a Type A buffer is sufficient between a commercial use and existing residential use (with commercial zoning) on this block of commercial properties in the Lehigh Acres planning community area. The Applicant respectfully requests approval of this deviation.

DEVIATION #8

Seeks relief from the LDC Sec. 10-416(b) requirement that all new development in commercial zoning districts and commercial components of planned development districts and DRIs must provide building perimeter plantings equal to ten percent of the proposed building gross ground level floor area. These planting areas must be located abutting three sides of the building with emphasis on the sides most visible to the public, not including the loading area. Request to permit the building perimeter plantings be located on two sides of the building.

JUSTIFICATION:

The proposed development is for a drive-thru coffee shop. The one-story building is only 819 square feet in size and oriented east to west with pick up windows on the north and south sides of the building. In order to comply with the Land Development Code regarding vehicle stacking, setbacks, adequate traffic circulation, and the required interconnect along Lee Boulevard, there isn't enough room to provide building perimeter plantings along the north façade facing Lee Boulevard. The nature of the business with the drive-thru lanes and the architectural floor plan and façade doesn't leave room for an area dedicated to building perimeter plantings. The Applicant is proposing building perimeter plantings on the east and west facades, the next most prominent locations. In addition, the plantings are proposed to be 216 square feet, which is 26% of the building perimeter. This deviation enhances the achievements of the planned development and will not cause a detriment to the public health, safety or welfare.

SUMMARY

LDC Sec. 34-373(a)(9) requires proposed deviations to enhance the achievement of the objectives of the planned development and to not cause a detriment to public interests. The Applicant has demonstrated that the additional deviations enhance the achievements of the objectives of the Planned Development and will not cause a detriment to the public health, safety, or welfare. The Applicant respectfully requests approval of the requested deviations.



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Elliano's Coffee
PIM Meeting Summary

A Public Information Meeting was held on July 24, 2025 at the LAMSID offices during the Lehigh Acres Architectural, Planning and Zoning Review Board's monthly meeting. Aaron Martin with TDM Consulting presented the zoning amendment, Master Concept Plan, and requested deviations. The DO plans were also presented, including the site construction plans, architectural plans, and landscaping plans.

A Notice of Meeting ran in the News-Press on July 10, 2025. The Board members had minimal questions, mostly related to the difference in the PD Amendment MCP versus the DO plans. The LAAPZRB voted to approve both the PD Amendment and the DO, even though approval isn't required by Lee County. The LAAPZRB didn't provide a sign-in sheet; however, in addition to the design team, the LAAPZRB members were in attendance.

Attendees:
Aaron Martin
Greg Diserio
Marc Foker

LEHIGH ACRES ARCHITECTURAL PLANNING & ZONING REVIEW BOARD

LEHIGH ACRES ARCHITECTURAL PLANNING AND ZONING REVIEW BOARD APPLICATION

Date Received: _____

File Name : _____

LAAPZRB Date: _____

(1) GENERAL INFORMATION (Use additional sheets if necessary)

1. Name of Project: Elliano's Coffee
2. Street Address of Project: 3513 Lee Blvd
3. Strap No. 26-44-26-L4-07029.0030
4. Application Request: (i.e.: Zoning change, Variance, Site/Project Approval)
Amendment to a Planned Development and Development Order
5. Applicant Name / Title: Chris Salemi, Manager, Aileron Lehigh, LLC
Address: 3401 W Cypress St, #201, Tampa, FL 33607
Phone: 727-278-5028 Email: csalemi@aileroncap.com
6. Date of LAAPZRB meeting requested for presentation July 24, 2025
(Applicant shall be notified to confirm placement on the agenda)
7. Primary Firm/Person Presenting Project to LAAPZRB:
Name / Title: Aaron Martin, Project Manager, TDM Consulting, Inc. *MARC FOKER*
Address: 1520 Royal Palm Square Blvd, Suite 100 *GREG DISERIO*
Phone: 239-433-4231 Email: amartin@tdmconsulting.com
8. Provide name and contact information of additional persons to receive correspondence from the LAAPZRB.
Veronica Martin, vmartin@tdmconsulting.com
Michelle Addario, maddario@tdmconsulting.com
Greg Diserio, gdiserio@dmjafl.com
9. County staff Reviewer: Zoning - Joe Sarracino and DO - Lee Tallaksen
10. Has project been presented to Community Development or Lee County Hearing Examiner or other public presentations: Yes X No _____ Dates: _____
Application No.: ADD2025-00114 and DOS2025-00068

LEHIGH ACRES ARCHITECTURAL PLANNING & ZONING REVIEW BOARD

11. Direction to the project site:

On the south side of Lee Blvd between Gunnery Rd and Sunshine Blvd, south of Sunshine Elementary. More precisely, east of Terry Ave N, west of Sara Ave N, and north of 4th Street W.

12. Proposed Use:

Coffee Shop

13. Adjacent Zoning and Land Uses:

North: Lee Blvd right-of-way

South: CPD: single-family home, vacant lot, and 4th Street W right-of-way

East: CS-1: State Farm and other commercial businesses and RS-1: vacant lot

West: CPD: Family Dollar

14. Project summary. Provide information of how the project will provide for, achieve and maintain a unified and pleasing aesthetic quality as defined by the community standards set forth in Chapter 33 and other similar projects previously approved and built:

The applicant is amending the Commercial Planned Development zoning resolution to permit a coffee shop. This includes revisions to the master concept plan and potential deviations. The Development Order includes the civil site construction plans, landscape plans and architectural plans.

15. Project Checklist submitted: X Yes No

16. Application Fee Submitted: Type 1 \$50.00 Type 2: \$150.00 X

PROPERTY OWNER/APPLICANT

I hereby certify that I am the owner of record or authorized agent for the property described in Section 1 above and that I approve of the requested action herein.

Signature: Veronica Martin

Date: 6-27-2025

Print Name: Veronica Martin

Title: Senior Planner, TDM Consulting, Inc.

☒ **ACTION TAKEN**
LAAPZRB

DATE
7/24/25

DECISION
Approved

Initials: B

Attachments: Inclusion of the entire 10 acres parcel.

Schedule for ad number LSAR03302570

Thu Jul 10, 2025

Fort Myers News-Press

All Zones

NOTICE OF MEETING

TDM Consulting, Inc. will hold a Public Information Meeting at the Lehigh Acres Architectural and Zoning Review Board's monthly meeting on Thursday, July 24, 2025. The meeting will be held at LAMSID, 601 East County Lane, Lehigh Acres, FL at 5:30 p.m. The applicant is requesting to amend the zoning resolution to permit a coffee shop and to revise the master concept plan. The design team will also present the development order plans for the Coffee Shop. For additional information contact Aaron Martin with TDM Consulting at 239-433-4231.

July 10 2025

LSAR0330257

RESOLUTION NUMBER Z-08-045

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

WHEREAS, an application was filed by the property owner, First Choice Properties of Lehigh, Inc., to rezone 2.13± acres from Residential Single-Family (RS-1) to Commercial Planned Development (CPD), in reference to Barry's Place; and,

WHEREAS, a public hearing was advertised and held on August 27, 2008, and then continued to September 5, 2008, for written submissions, before the Lee County Zoning Hearing Examiner, who gave full consideration to the evidence in the record for Case #DCI2007-00060; and

WHEREAS, a second public hearing was advertised and held on November 3, 2008, 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 applicant filed a request to rezone 2.13± acres from RS-1 to CPD to permit a maximum of 25,000 square feet of medical office, general office and retail uses with a maximum height of 35 feet and two stories. Potable water and sanitary sewer services will be provided by Florida Governmental Utility Authority. No development blasting is proposed. The property is located in the Central Urban Future Land Use Category and is 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. Master Concept Plan/Development Parameters

The development of this project must be consistent with the single-page Master Concept Plan (MCP) entitled "Barry's Place, Master Concept Plan," dated MAR 2007, last revised 10/15/08, date-stamped "Received OCT 16 2008" except as modified by the conditions below. Said MCP is attached hereto as Exhibit "C". 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.

This project is permitted a maximum gross floor area of 25,000 square feet.

2. Uses and Site Development Regulations

The following Limits apply to the project and uses:

a. Schedule of Uses

ACCESSORIES USES AND STRUCTURES
ADMINISTRATIVE OFFICES
ATM (AUTOMATIC TELLER MACHINE)
BAIT AND TACKLE SHOP
BANKS & FINANCIAL ESTABLISHMENTS, GROUP I only, WITH DRIVE-THRU
BROADCAST STUDIOS
BUSINESS SERVICES: GROUP I only
CLEANING AND MAINTENANCE SERVICES
CLOTHING STORES
CLUB, PRIVATE AND FRATERNAL
DAY CARE CENTER
ESSENTIAL SERVICES, GROUP I only
FENCES, WALLS
FOOD STORES: GROUP I only
GIFT AND SOUVENIR SHOP
HARDWARE STORE
HEALTHCARE FACILITIES, GROUP III only
HOBBY, TOY, AND GAME SHOPS
HOUSEHOLD AND OFFICE FURNISHINGS, ALL GROUPS,
NO OUTDOOR DISPLAY
LAUNDRY OR DRY CLEANING, GROUP I only
LAWN AND GARDEN SUPPLY STORE
MEDICAL OFFICE
NONSTORE RETAIL, GROUP I only
PACKAGE STORE
PAINT, GLASS AND WALLPAPER
PARKING LOT: ACCESSORY
PERSONAL SERVICES: GROUPS I, II & III
PET SERVICES
PET SHOP
PHARMACY
PLACE OF WORSHIP
RENTAL ESTABLISHMENTS, GROUPS I & II
REPAIR SHOPS, GROUPS I, II & III
RESTAURANT, FAST FOOD
RESTAURANTS: ALL GROUPS NO CONSUMPTION ON PREMISES
SIGNS IN ACCORDANCE WITH LDC CHAPTER 30
SOCIAL SERVICES, GROUP I
SPECIALTY RETAIL SHOPS: ALL GROUPS
STUDIOS

TEMPORARY USES, LIMITED TO CONSTRUCTION STORAGE AND
CONTRACTOR'S OFFICE DURING DEVELOPMENT
USED MERCHANDISE STORES, GROUPS I & II
VARIETY STORE

b. Site Development Regulations

Building setbacks:

From public right-of-way:	25 feet
From lot line:	10 feet
Building separation:	20 feet

Maximum Lot Coverage: 40%

Minimum Open Space: 30%

Maximum Building Height: 35 feet

Minimum Lot width: 287 feet

Minimum Lot depth: 320 feet

Minimum Lot area: 2.13 acres

3. Environmental Conditions

- A. Prior to local development order approval, the development order plans must delineate a minimum of 0.64 acres of common open space.
- B. Prior to local development order approval, the development order plans must delineate an enhanced type "A" buffer along the eastern portion of the project, planted with 4 palms and 18 shrubs planted at 24 inches and maintained at 36 inches per 100 linear feet. The buffer shrubs can be clustered between the parking lot and eastern property line to provide sufficient screening to the adjacent residential project.
- C. Prior to local development order approval, the landscape plans must depict the planting of native herbaceous grasses and shrubs in the dry detention areas per LDC §10-420(I).

4. Traffic Conditions

Prior to any local development approval, the developer must record an easement which permits vehicular and pedestrian access from the CS-1 parcel to the east (as identified on the MCP) through the subject parcel to its access on Terry Avenue.

5. Hours of deliveries

Commercial deliveries may only occur between the hours of 8 a.m. and 9 p.m., Monday through Sunday.

6. Utility Easement Vacation

Prior to local development order approval, all internal Public Utility Easements not accommodated by the MCP must be vacated.

7. Vehicular/Pedestrian Impacts

Approval of this zoning request does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

8. Lee County Comprehensive Plan Consistency

Approval of this zoning request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee County Comprehensive Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with, the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as all other Lee County Comprehensive Plan provisions.

9. Concurrency

This project is deemed exempt from the concurrency requirements set forth in LDC Chapter 2 and the Lee County Comprehensive Plan by virtue of the Certificate of Concurrency Exemption issued by the County pursuant to the Stipulation and Settlement Agreement dated June 9, 1992, in *Lehigh Corporation v. Lee County*, Case No. 91-2482 CA.

10. Utilities

Water and sewer services are available to the site, and this development must connect to those services as part of any local development order for the site.

11. Solid Waste/Recycling

Prior to local development order approval for vertical development, the developer must provide facilities in compliance with LDC §10-261 and Lee County Solid Waste Ordinance No. 08-10 for the pick-up/disposal of solid waste and recyclables. The minimum area required for, and specific locations of, these facilities will be reviewed at the time of local development order application.

12. Construction Traffic

All site preparation and construction traffic is required to use only the Terry Avenue access point. No other site accesses are authorized.

SECTION C. DEVIATIONS:

1. Parking Lot Buffer - Deviation (1) seeks relief from the LDC §10-416(d)(6) requirement to provide a 25-foot wide landscape buffer with a solid wall, when a parking lot or a driveway is proposed within 125 feet of any residential properties, to allow for a 5-foot wide landscape buffer. This deviation is APPROVED.
2. Buffer next to Residential - Deviation (2) seeks relief from the LDC §10-416(d)(3) requirement to provide a type "C" or "F" buffer when a commercial development abuts a residentially zoned or used property, to allow for a 5-foot-wide landscape buffer. This deviation is APPROVED.

SECTION D. EXHIBITS AND STRAP NUMBERS:

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

- Exhibit A: Legal description of the property
Exhibit B: Zoning Map (with the subject parcel indicated)
Exhibit C: The Master Concept Plan

The applicant has indicated that the STRAP numbers for the subject property are:
26-44-26-07-00029.0010; 26-44-26-07-00029.0020; 26-44-26-07-00029.0030;
26-44-26-07-00029.0040; 26-44-26-07-00029.0170; 26-44-26-07-00029.0180;
26-44-26-07-00029.0190 and 26-44-26-07-00029.0200.

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 deviations, as conditioned, enhance achievement of the planned development objectives, and preserve and promote the general intent of LDC Chapter 34, to protect the public health, safety and welfare.

Commissioner Tammara Hall made a motion to adopt the foregoing resolution, seconded by Commissioner Robert P. Janes. The vote was as follows:

Robert P. Janes	Aye
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 3rd day of November, 2008.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Marcia Wilson
Deputy Clerk

BY: Ray Judah
Ray Judah, Chair

Approved as to form by:

John J. Fredyma

John J. Fredyma
Assistant County Attorney
County Attorney's Office

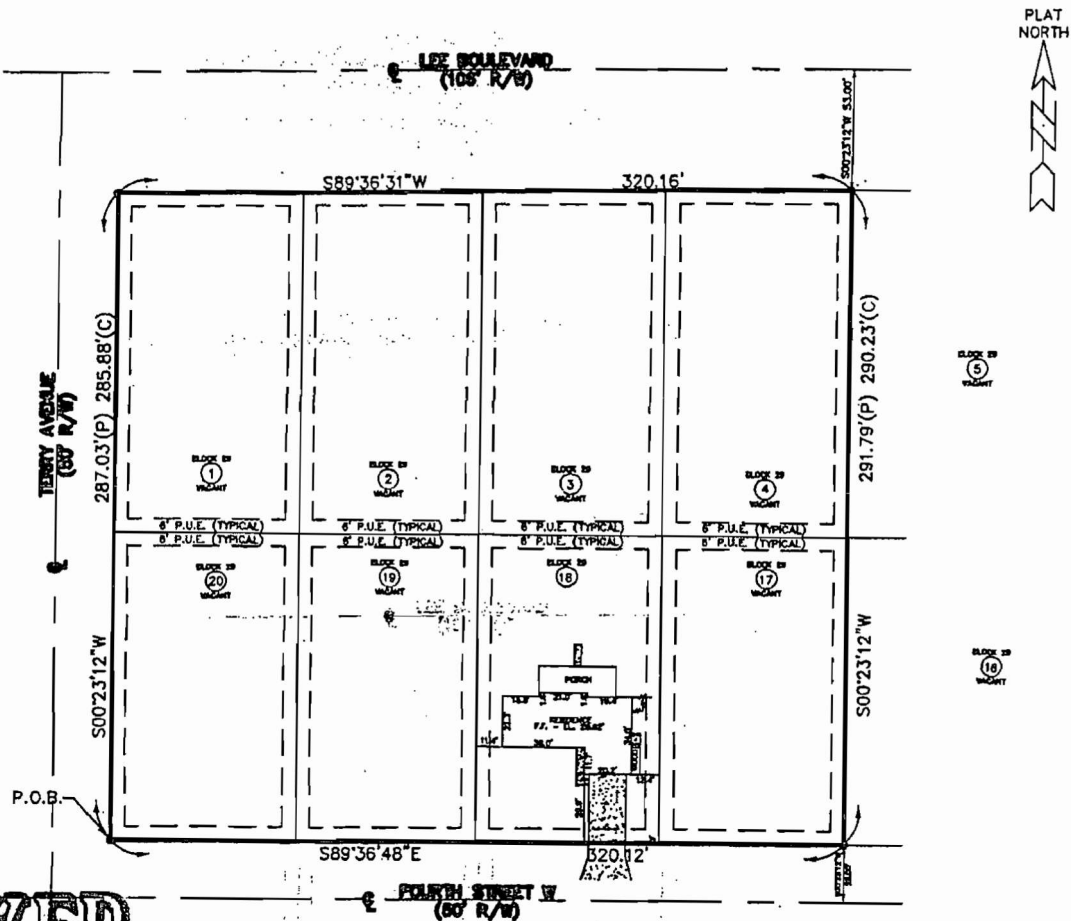


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2008 DEC 29 PM 2:13

CASE NO: DCI2007-00060

NOT A SURVEY - SKETCH ONLY



RECEIVED
MAR 13 2008

DCI 2007-00060

PERMIT COUNTER LOTS 1-4 AND 17-20, BLOCK 29, UNIT 7
SECTION 26, TOWNSHIP 44 SOUTH, RANGE 26 EAST
LEHIGH ACRES, LEE COUNTY, FLORIDA
RECORDED IN PLAT BOOK 15, PAGE 75, OF THE
OFFICIAL RECORDS OF LEE COUNTY, FLORIDA

sketch
Applicant's Legal Checked
by *[signature]* 4/9/08

[signature]
2-29-08

LEHIGH SURVEYING, INC. (LB5941)

Professional Surveyors and Mappers

715 Greenwood Avenue, Lehigh Acres, Florida 33972

(239) 368-7400 (239) 368-7685 (Fax)

DATE	2-29-08
JOB NUMBER	0625-7
DRAWN BY	C.B.S.
SCALE	1" = 80'
SHEET	1 of 1

EXHIBIT "A"

(Page 1 of 4)

LEGAL DESCRIPTION

A TRACT OR PARCEL OF LAND LYING IN SECTION 26, TOWNSHIP 44 SOUTH, RANGE 26 EAST, LEHIGH ACRES, LEE COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 20, BLOCK 29, UNIT 7, A SUBDIVISION OF LEHIGH ACRES AS RECORDED IN PLAT BOOK 15, PAGE 75, OF THE OFFICIAL RECORDS OF LEE COUNTY, FLORIDA, SAID POINT ALSO BEING ON THE EASTERLY RIGHT OF WAY LINE OF TERRY AVENUE (50' WIDE) AND THE NORTHERLY RIGHT OF WAY LINE OF FOURTH STREET WEST (50' WIDE) THENCE RUN N0°23'12"E, ALONG SAID EASTERLY RIGHT OF WAY LINE OF TERRY AVENUE, FOR A DISTANCE OF 285.88 FEET (287.03' PLAT) TO THE NORTHWEST CORNER OF LOT 1, BLOCK 29, SAID POINT BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF LEE BOULEVARD (106' WIDE); THENCE LEAVING SAID EASTERLY RIGHT OF WAY LINE OF SAID TERRY AVENUE, RUN N89°36'31"E, ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF LEE BOULEVARD, FOR A DISTANCE OF 320.16 FEET TO THE NORTHEAST CORNER OF LOT 4, BLOCK 29; THENCE LEAVING SAID SOUTHERLY RIGHT OF WAY LINE OF LEE BOULEVARD, RUN S0°23'12"W FOR A DISTANCE OF 290.23 FEET (291.79' PLAT) TO THE SOUTHEAST CORNER OF LOT 17, BLOCK 29, SAID POINT ALSO BEING ON THE NORTHERLY RIGHT OF WAY LINE OF FOURTH STREET WEST; THENCE RUN N89°36'48"W, ALONG SAID NORTHERLY RIGHT OF WAY LINE OF FOURTH STREET WEST, FOR A DISTANCE OF 320.12 FEET TO THE POINT OF BEGINNING.

Christopher B. Still
 [Seal of Lee County, Florida]

RECEIVED
 MAR 13 2008

CHRISTOPHER B. STILL

P.S.M. 5941

FEBRUARY 29, 2008

PERMIT COUNTER

Applicant's Legal Checked
 4/9/08

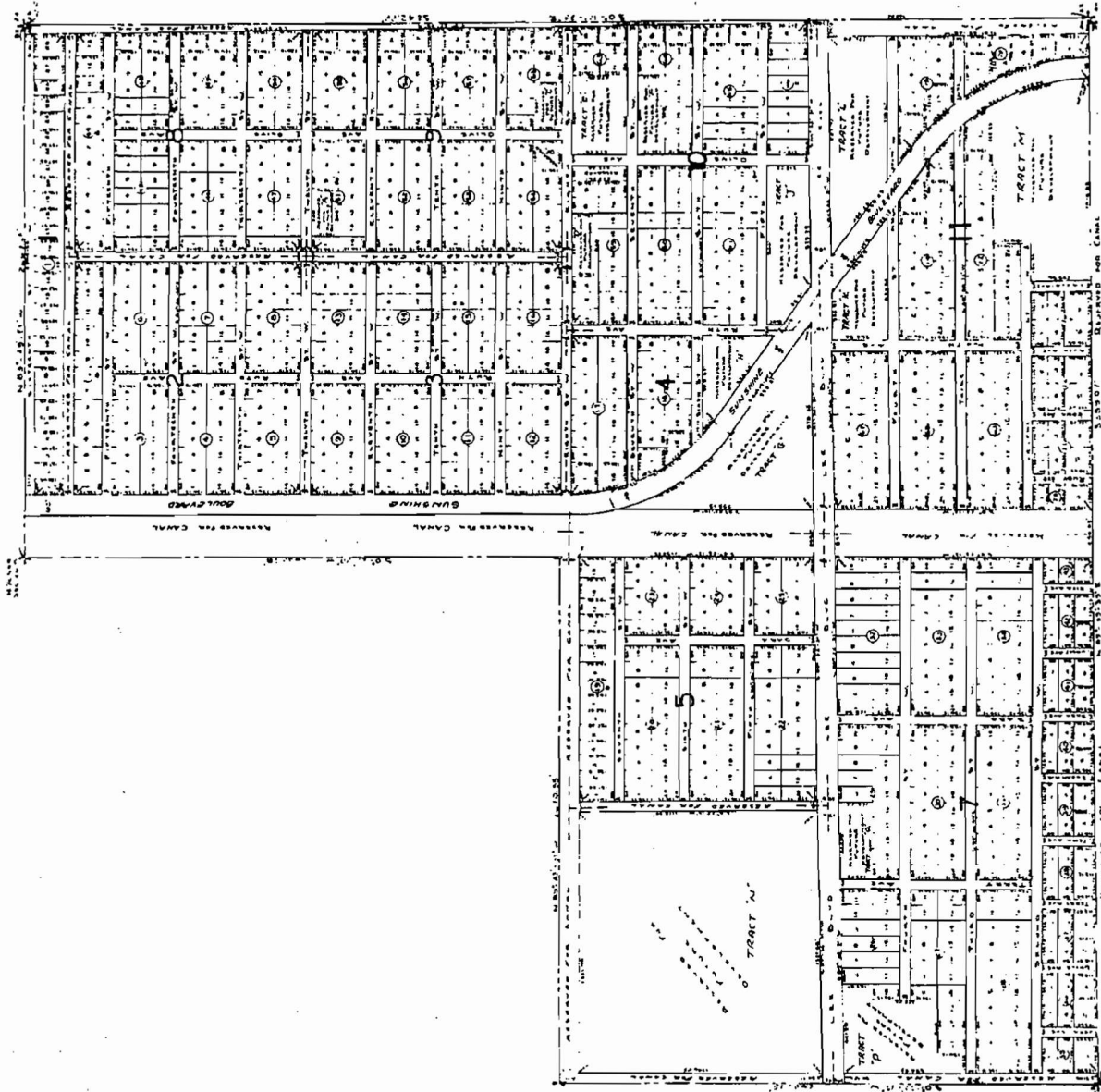
Applicant's Legal Checked

DCI 2007-00060

EXHIBIT "A"

(Page 2 of 4)

1 ←



PLAT OF
NE 1/4 & S 1/4 of SECTION 26
TOWNSHIP 44 SOUTH RANGE 26 EAST

A SUBDIVISION OF
LEHIGH ACRES

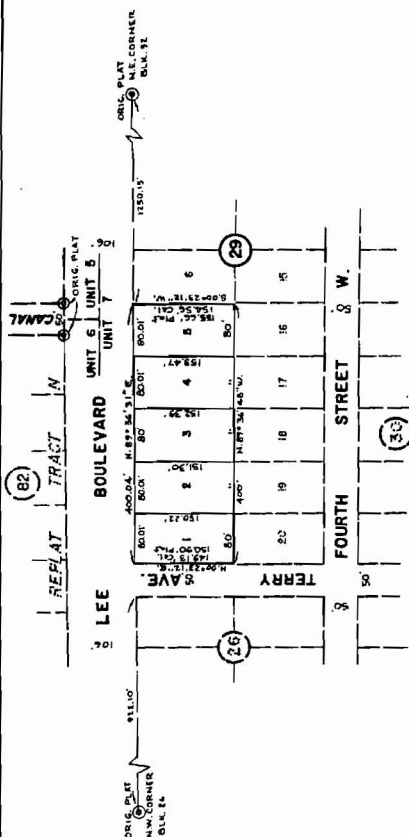
LEE COUNTY, FLORIDA
LEE COUNTY LAND & TRUST CO., DEVELOPERS
Book 15, Page 75
AUGUST, 1956

SUBDIVISION CERTIFICATE
This certificate is given in full satisfaction of the requirements of the Florida Statutes, Chapter 319, Section 319.01, and the provisions of the Lee County Ordinance, Chapter 1, Section 1.01, relating to the subdivision of land.

NOTE: This certificate is given in full satisfaction of the requirements of the Florida Statutes, Chapter 319, Section 319.01, and the provisions of the Lee County Ordinance, Chapter 1, Section 1.01, relating to the subdivision of land.



NOTARY PUBLIC
Lee County, Florida
My Commission Expires on 1/1/57



REPLAT OF
TRACTS P & Q - UNIT 7
N.E. $\frac{1}{4}$ & S. $\frac{1}{2}$ OF SECTION 26,
TWP. 44S., RGE. 26E.
A SUBDIVISION OF

LEHIGH ACRES



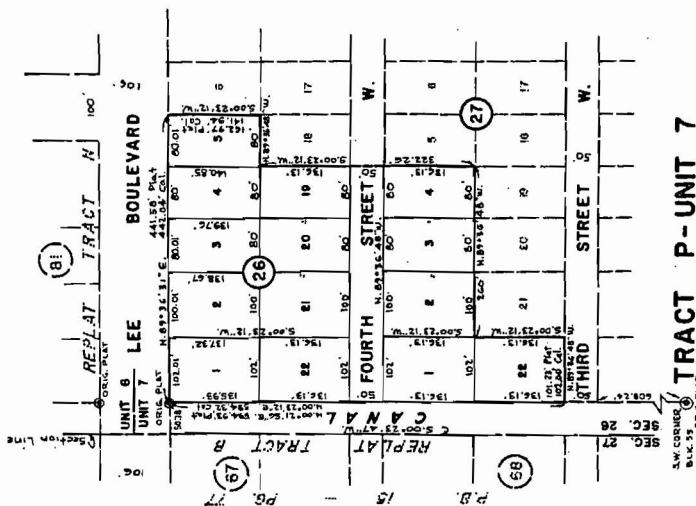
All lots subject to a 5 foot Utility and
Drainage Easement on both sides, front,
and back.

All corner lot radii are 25 feet except as shown. The lot dimensions are to the straight line intersections, except where arc distances are shown.

NOTE : ORIGINAL PLAT P.B. 15 - PG. 75

...ZUNING...

SHEET 61 OF 121



TRACT P - UNIT 7

DCI200700060

Zoning Map

7/30/2008

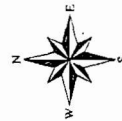
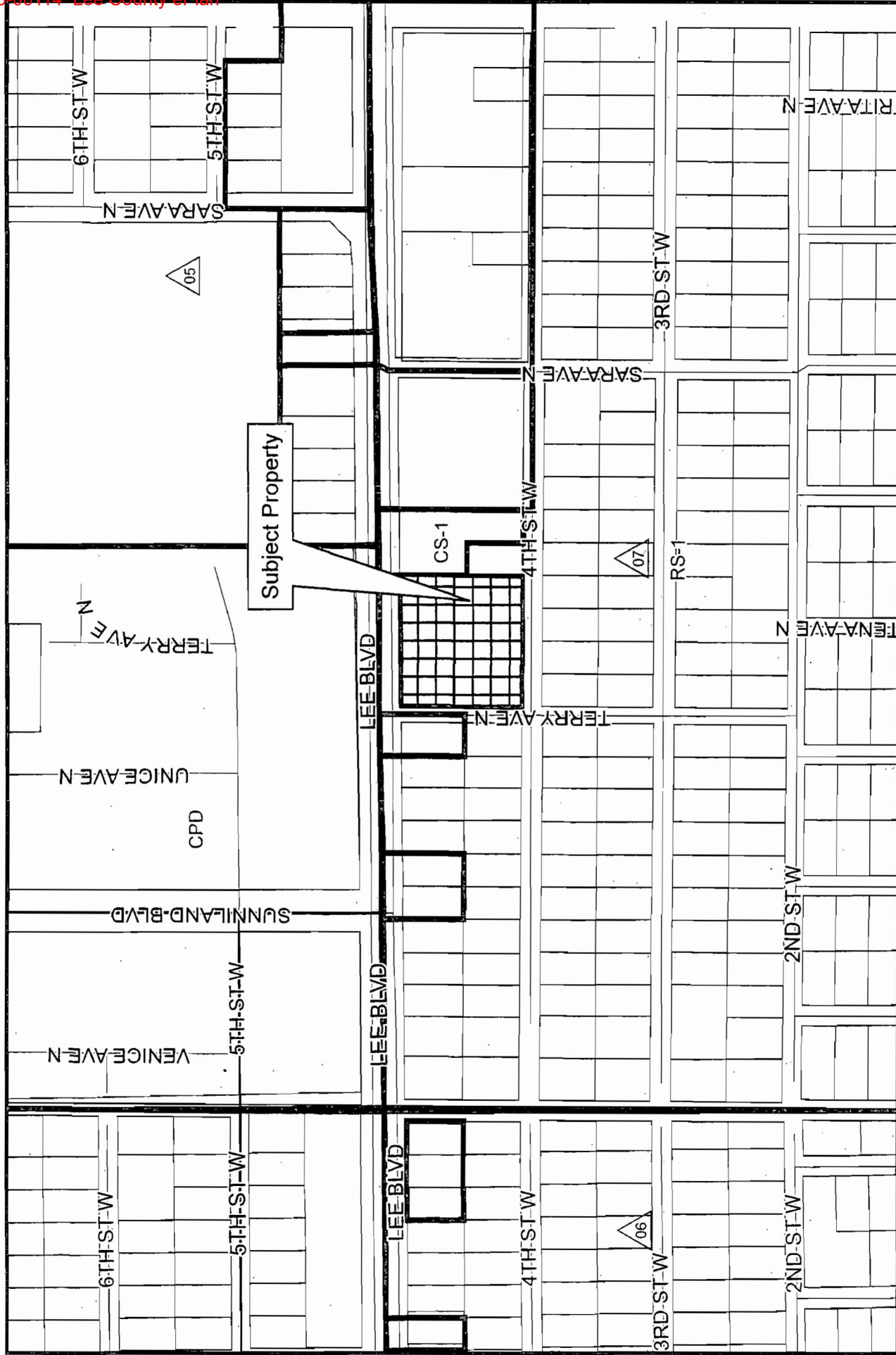
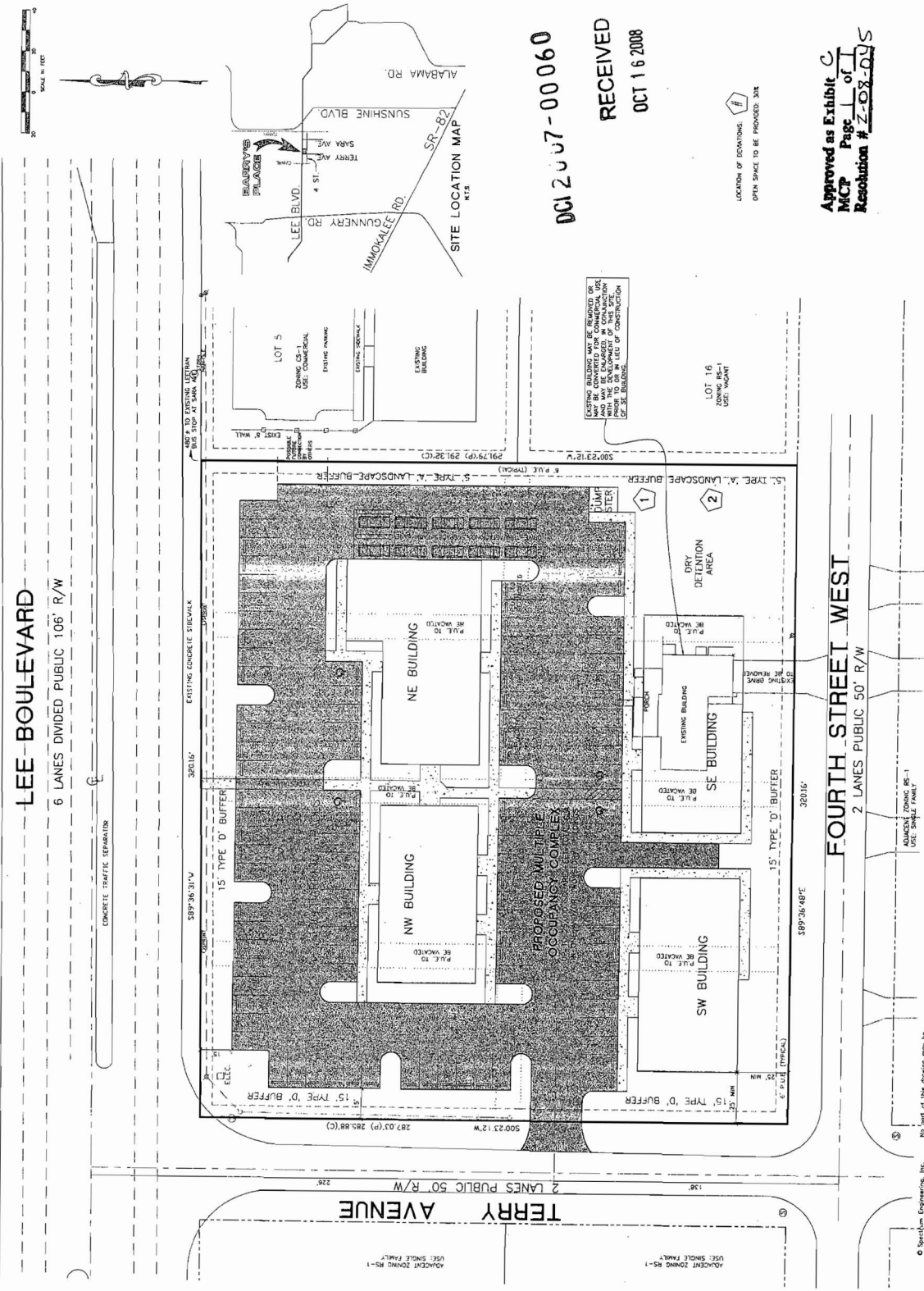


EXHIBIT "B"





Approved as Exhibit C
MCP Page 1 of 1
Resolution # Z-08-095

ADMINISTRATIVE AMENDMENT (PD) ADD2010-00090(A)

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Barry Gionfriddo filed an application for administrative approval to a Commercial Planned Development on a project known as Barry's Place (Z-08-045) for re-arranging and reducing the number of buildings shown on the Master Concept Plan (MCP), revising the Site Development Regulations to enable the subdivision of the site, and including two additional deviations on property located at 3519 Lee Blvd., described more particularly as:

LEGAL DESCRIPTION: In Section 26, Township 44 South, Range 26 East, Lee County, Florida:

See Exhibit "A"

WHEREAS, the property was originally rezoned in case number DCI2007-00060 (Z-08-045); and

WHEREAS, an administrative amendment was approved in December 21, 2010 in case number ADD2010-00090, and

WHEREAS, on February 1st, 2011, the applicant requested to amend the administrative amendment ADD2010-00090 to provide modified site development regulations and requesting modification to one of the conditions of approval by providing a revised Master Concept Plan, and

WHEREAS, the subject property is located in the Central Urban Future Land Use Category as designated by the Lee Plan; and

WHEREAS, the applicant requested modification to the approved Master Concept Plan to remove two of the four buildings shown on the original Master Concept Plan and replacing them with a single larger building; and

WHEREAS, the request includes relocation of the access point further to the south than originally approved; and

WHEREAS, two additional deviations are requested from the intersection separation requirement of 125 feet established for local roads to 110 feet (LDC Sec. 10-10-285), and a driveway access width of 60 feet from the required maximum width of 35 feet at property line (LDC Sec. 34-2013(b)(3)); and

WHEREAS, these deviations are necessary to provide safe ingress and egress for cars and trucks to and from the site; and

WHEREAS, the applicant, in order to allow the subdivision of the property into two development parcels, has requested to modify the Site Development Regulations of Resolution Z-08-045; 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 or intensity 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** subject to the following conditions:

1. **The original administrative amendment ADD2010-00090 approved on December 21, 2010 is no longer effective and is hereby replaced by this resolution.**
2. **The Development must be in compliance with the amended Master Concept Plan, stamped received dated February 1, 2011. Master Concept Plan for ADD2010-00090A is hereby APPROVED and adopted. A reduced copy is attached hereto.**
3. **The terms and conditions of the original zoning resolution remains in full force and effect, unless amended herein.**
4. **Deviation #3 increasing the width of the driveway from a maximum of 35 feet at property line to 60 feet is hereby approved.**
5. **Deviation #4 reducing the required intersection separation of 125 feet established for local street to 110 feet is hereby approved.**
6. **Site Development Regulations:**
 - Building Setbacks:**
 - From Public right-of-way: 25 feet**
 - From lot line: 10 feet**
 - Building separation: 20 feet**

Maximum lot coverage:	40%
Minimum open space:	30%
Maximum building height:	35 feet
Minimum lot width:	160 feet
Minimum lot depth:	235 feet
Minimum lot area:	1 acre

DULY SIGNED this 21st day of February, A.D., 2011.

BY: _____

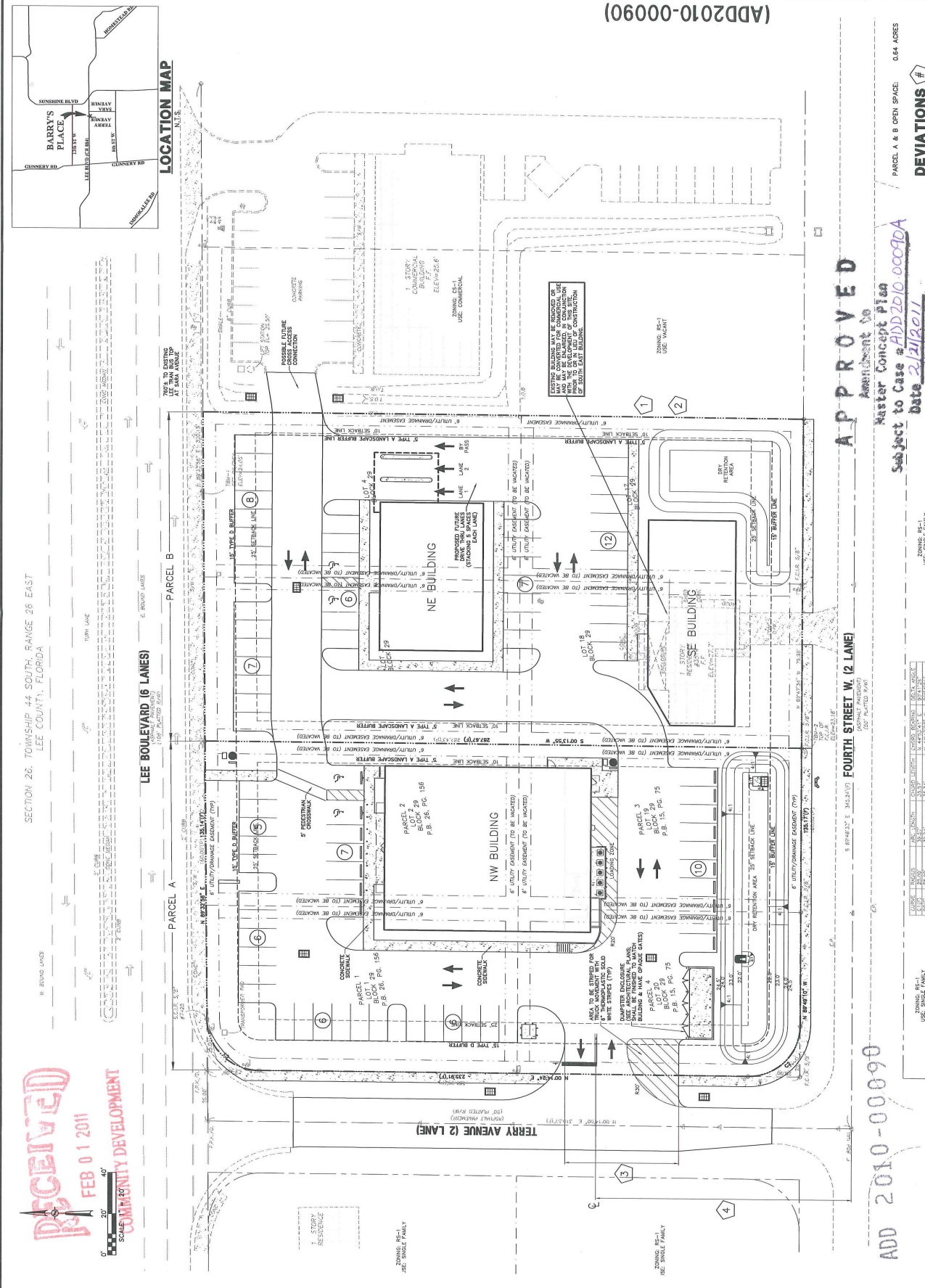
Pam Houck
Pam Houck, Director

Division of Zoning

Department of Community Development

JAN 27 2011

PROJECT TITLE 3519 LEE BLVD, LEHIGH ACRES, LEE COUNTY, FLORIDA		SHEET TITLE AMENDED MASTER CONCEPT PLAN	
SHEET No. AMCP		DEVIATIONS #	
Barry Gionfriddo Professional Engineer No. 147-012 Date: 08-27-10		Barry Gionfriddo Professional Engineer No. 147-012 Date: 08-27-10	



APPROVED Amendment to Master Concept Plan Subject to Case # ADD2010-00090A Date 2/12/2011		ZONING RS-1 USE: SINGLE FAMILY	
ADD 2010-00090		FEB 01 2011	

