

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

DATE: November 19, 2025

TO: Board of County Commissioners FROM: Donna Marie Collins
Lee County Chief Hearing Examiner

RE: FIORE'S CAFÉ & GARDEN CENTER COP
Hearing Examiner Decision

Chief Hearing Examiner Donna Marie Collins has rendered a Decision on the following zoning request:

FIORE'S CAFÉ & GARDEN CENTER COP

SEZ2024-00007

HEARD: November 12, 2025

A copy of the Decision is attached for ready reference.

cc: Anthony Rodriguez / Zoning Section
Brianna Schroeder / 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: SEZ2024-00007

Regarding: FIORE'S CAFÉ & GARDEN CENTER COP

Location: 15885 Pine Ridge Road
Iona/McGregor Planning Community
(District 3)

Hearing Date: November 12, 2025

I. Request

Special Exception in the Commercial (C1-A) zoning district to allow Consumption of Premises (2COP-Beer/Wine) in conjunction with a café (Restaurant, Group II), with outside seating and ancillary to an existing Lawn and Garden Supply Store.

II. Hearing Examiner Decision

Approved, subject to conditions set forth in Section V.

III. Discussion

Special exceptions are specified departures from the County's land development regulations for uses not permitted generally within a zoning district but may be permitted when controlled with conditions.¹

The Hearing Examiner is the final decision-maker on special exceptions.²

The Hearing Examiner must grant a special exception request unless she concludes:

1. The request is contrary to the public's interest and the health, safety, welfare, comfort, and convenience of the citizens of the County; or,
2. The requested use conflicts with the findings required by the LDC for a grant of special exception.

¹ LDC §34-2.

² LDC §34-145.

The Hearing Examiner may attach conditions necessary to protect public health, safety, comfort, convenience, or welfare.³

Context of the Request

The Request is for special exception approval to allow consumption on premises (2-COP) of beer and wine accessory to a garden center in a Commercial (C1-A) zoning district.

Consumption of beer and wine on premises may be approved administratively, but the request must be approved by special exception in this instance because a dwelling under separate ownership lies within 500 feet of the proposed sale/service area.

The Department of Community Development staff recommended approval, finding the proposed special exception satisfies LDC review criteria.

History of Property

The property is 3.7 acres and improved with a lawn and garden center. Testimony at hearing disclosed there are unpermitted structures on the site. Site development must comply with the LDC or seek variances.

Special Exceptions must comply with the Lee Plan

The property is designated Urban Community by the Lee Plan.⁴ The Urban Community is characterized by a mix of intense commercial and residential uses.⁵ Commercial and industrial uses surround the site.⁶ Residential development lies to the west across Pine Ridge Road.

The requested expansion to the scope of the lawn and garden business is consistent with Lee Plan directives to encourage expansion of existing businesses.⁷

³ LDC §34-145(c)(4) b.

⁴ Properties designated Urban Community are considered Future Urban Areas. See Lee Plan Chapter XIV: Glossary definition of Future Urban Areas.

⁵ Lee Plan Policy 1.1.4; Residential, commercial, public, and quasi-public, and limited light industrial land uses are permissible in the Urban Community.

⁶ The site is on the edge of a commercial node on Pine Ridge Road.

⁷ Lee Plan Goal 159, Policy 159.2.1.

Special Exceptions must protect environmentally critical and natural resources.

There are no environmentally critical or natural resources on the property.

Special Exceptions must be compatible with existing and planned land uses and not injurious to the neighborhood

The County must administer the zoning process so that proposed land uses acceptably minimize adverse impacts on residential development.⁸ Applicants must demonstrate the special exception will not adversely affect surrounding property.⁹

The area identified for outdoor consumption is shielded from public view by buildings and the parking lot. However, because required separation from the nearest residence cannot be achieved, conditions are appropriate to ensure consumption of beer/wine will not excessively impact adjacent properties.

These conditions include regulating areas of consumption, hours of operation, amplified sound, and existing unpermitted structures on the property.¹⁰

The site has access to potable water and sanitary sewer service. Fire protection and emergency medical services are available from Iona McGregor Fire Control & Rescue Service District on Pine Ridge Road. The Lee County Sheriff has a substation on Pine Ridge Road as well.

No members of the public attended the hearing.

Special Exceptions must comply with zoning and other applicable regulations.

The Board of County Commissioners adopted LDC provisions in furtherance of Lee Plan objectives to maintain compatibility with surrounding development. C1-A districts are intended to accommodate a variety of small-scale commercial land uses.¹¹ The existing café on the premises is classified as a Group II Restaurant. These types of establishments are primarily pedestrian oriented and located in business or recreational areas for the convenience of walk-in customers.¹² The

⁸ Lee Plan Policy 135.9.6. LDC performance standards state uses may not *create a nuisance by offending nearby residents*. LDC §34-624.

⁹ LDC §34-1264(2)b.

¹⁰ Testimony at hearing revealed there are unpermitted structures onsite that must obtain Limited Development Order approvals or be removed from the property prior to commencing COP related activity.

¹¹ LDC §34-841

¹² LDC §34-622(c)(43).

request broadens the offerings of the onsite café by allowing consumption of beer/wine.

The LDC permits sale/consumption of alcoholic beverages by administrative approval, so long as the activity is not within 500 feet of dwellings under separate ownership.¹³ The proposed outdoor consumption does not meet the code required separation criteria, triggering the need for special exception approval. The public hearing process is only necessary when the distance requirement cannot be satisfied, or alcohol will be consumed in outdoor seating areas.¹⁴

The property has approximately 178 feet of frontage on Pine Ridge Road, a county-maintained collector road.¹⁵ The COP will be accessory to the lawn and garden center cafe on the property and will not result in a substantial increase in traffic.¹⁶ Conditions of approval ensure compliance with LDC performance standards.¹⁷

IV. Findings and Conclusions

Based upon the testimony and exhibits presented during the hearing, the Hearing Examiner finds and concludes that, *as conditioned herein*, the requested Special Exception is approved for the following reasons:

- A. It is consistent with the Lee Plan. Lee Plan Goals 2, 4, 6, 77, 158, 159, Objectives 2.1, 2.2, 6.1, Policies 1.1.4, 2.1.1, 2.1.2, 6.1.1, 6.1.4, 6.1.6, 6.1.7, 159.2.1. Map 1-A, Table 1(b).
- B. Will be compatible with existing and planned uses. Lee Plan Goal 6, Objectives 2.1, 2.2, Policies 2.1.1, 2.1.2, 2.2.1, 5.1.5, 6.1.1, 6.1.4, 6.1.7.
- C. Will not be injurious to the neighborhood or detrimental to the public welfare. Lee Plan Policies 5.1.5, 6.1.4, 6.1.6.
- D. Will comply with LDC zoning regulations. LDC Chapters 2, 10, 34.
- E. There are no environmentally critical or natural resources on the property.

¹³ LDC §34-1264(a)(1)j.

¹⁴ LDC §34-1264(a)(2)a Consumption on premises is permitted by special exception in the C1-A zoning district. LDC §34-844.

¹⁵ Lee County Administrative Code 11-1 (Functional Classification of Roadways).

¹⁶ Applicant presentation and Staff Report.

¹⁷ LDC §§34-624, 34-625.

V. Conditions of Approval

1. Scope of Approval. Special exception approval is limited to consumption of alcohol (2-COP series license, beer, wine) indoors and outdoors in conjunction with limited food and beverage service, accessory to a lawn and garden center.
2. Defined Area. Consumption of alcoholic beverages is limited to the area depicted on the site plan, stamped received February 17, 2025 (attached as Exhibit B). The operator must post the boundaries of the COP area on the property to guide patrons. The COP boundaries may not include areas designated for parking or lawn and garden related inventory.
3. Days/Hours of COP Operation. Sale/service and consumption of alcoholic beverages may occur as follows: Monday through Sunday between 11:00 AM and 5:00 PM.
4. Amplified Sound. Use of amplified sound is prohibited.
5. Unpermitted Existing Structures. The property owner must obtain permits for all structures on the property prior to expanding café offerings to include beer and wine.
6. Permits Generally. County development permits do not create rights to obtain permits from state or federal agencies and do not create liability on the part of the County if applicant fails to obtain requisite approvals or fulfill obligations imposed by state/federal agencies or if applicant undertakes actions resulting in a violation of state or federal law.

VI. Participants

Staff

Brianna Schroeder, Planner

Applicant Representatives

Keith Long, Esq.

VII. Legal Description

Exhibit A (scanned legal description with vicinity map).

Strap #: 32-45-24-00-00026.0060

VIII. Exhibits Submitted at Hearing

Staff Exhibits

1. DCD Staff Report with attachments for Special Exception Prepared by Brianna Schroeder, Planner, received November 4, 2025 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
2. 48-Hour Notice: Affidavit of Publication for SEZ2024-00007, Fiore's Café & Garden Center COP (3 pages – 8.5"x11")
3. PowerPoint Presentation: Prepared by Lee County Staff for SEZ2024-00007, Fiore's Café & Garden Center COP, dated November 12, 2025 (multiple pages – 8.5"x11") [color]

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.

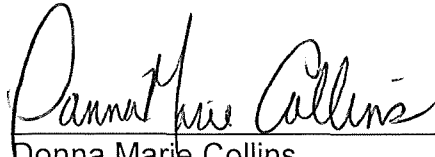
X. Appeals

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 November 19, 2025.

A handwritten signature in black ink, reading "Donna Marie Collins". The signature is written in a cursive style with a large initial 'D' and 'C'.

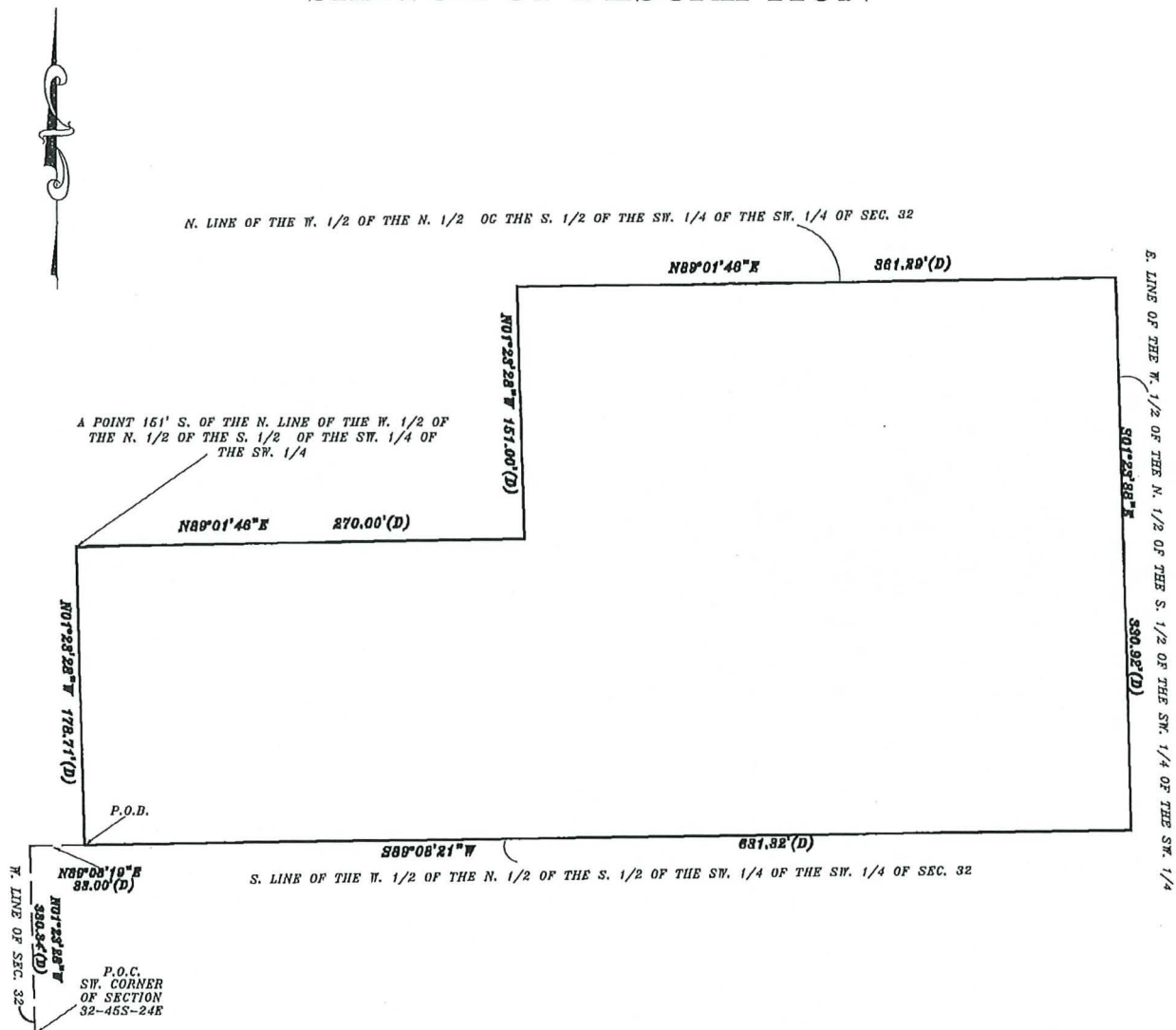
Donna Marie Collins
Chief Hearing Examiner

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 stamped received February 17, 2025.

SKETCH OF DESCRIPTION



LIS LAND SURVEYING, LLC

d.b.a. S & H Land Surveying Co.

RLS 2239

21430 PALM BEACH BLVD.

ALVA, FLORIDA 33920

239-481-2366 239-481-2437 (FAX)

© 2019 LIS LAND SURVEYING, LLC — ALL RIGHTS RESERVED.

SCALE: 1"=100'

I HEREBY CERTIFY THAT THIS SKETCH OF SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND TO THE BEST OF MY KNOWLEDGE AND BELIEF SAID SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE FURTHER, THIS DOCUMENT IS ELECTRONICALLY SIGNED AND SEALED PURSUANT TO SECTION 472.027, OF THE FLORIDA STATUTES AND CHAPTER 5J-17 OF THE FLORIDA ADMINISTRATION CODE.

REVIEWED

Project: SEZ2024-00007

By: Richard Burris

Dept: Legal Review

Date: 10/03/2025

JOB NO: 22524

BILL H. HYATT, JR.
REGISTERED LAND SURVEYOR NO. 4636

DATED: 06-19-19
PAGE 1 OF 2

SEE PAGE 2 FOR LEGAL DESCRIPTION

Attachment A LEGAL DESCRIPTION

Commence at the Southwest Corner of Section 32, Township 45 South, Range 24 East; thence N01°23'28"W, along the West Line of said Section 32 for 330.34 feet to the South Line of the West half (½) of the North half (½) of the South half (½) of the Southwest quarter (¼) of the Southwest quarter (¼) of said Section 32; thence N89°08'19"E, along the South line of said West half (½) for 33.00 feet to the Point of Beginning: Thence N01°23'28"W, parallel with said West line of Section 32, for 178.71 feet to a point 151.00 feet South of the North line of the West half (½) of the North half (½) of the South half (½) of the Southwest quarter (¼) of the Southwest quarter (¼) of said Section 32; thence N89°01'46"E, parallel with said North line, for 270.00 feet; thence N01°23'28"W, parallel with said West line of Section 32, for 151.00 feet to the North Line of the West half (½) of the North half (½) of the South half (½) of the Southwest quarter (¼) of the Southwest quarter (¼) of said Section 32; thence N89°01'46"E, along said North line, for 361.29' to the Northeast corner of the West half (½) of the North half (½) of the South half (½) of the Southwest quarter (¼) of the Southwest quarter (¼) of said Section 32; thence S01°23'38"E along the East line of the West half (½) of the North half (½) of the South half (½) of the Southwest quarter (¼) of the Southwest quarter (¼) of said Section 32, a distance of 330.92 feet to the Southeast corner of the West half (½) of the North half (½) of the South half (½) of the Southwest quarter (¼) of the Southwest quarter (¼) of said Section 32, thence S89°08'21"W for 631.32 feet to the Point of Beginning, in Lee County, Florida.

DATED: 06-19-2019

LIS LAND SURVEYING, LLC

d.b.a. S & H Land Surveying Co.

RLS 2239

21430 PALM BEACH BLVD.

ALVA, FLORIDA 33920

239-481-2366 239-481-2437 (FAX)

REVIEWED

Project: SEZ2024-00007

By: Richard Burris

Dept: Legal Review

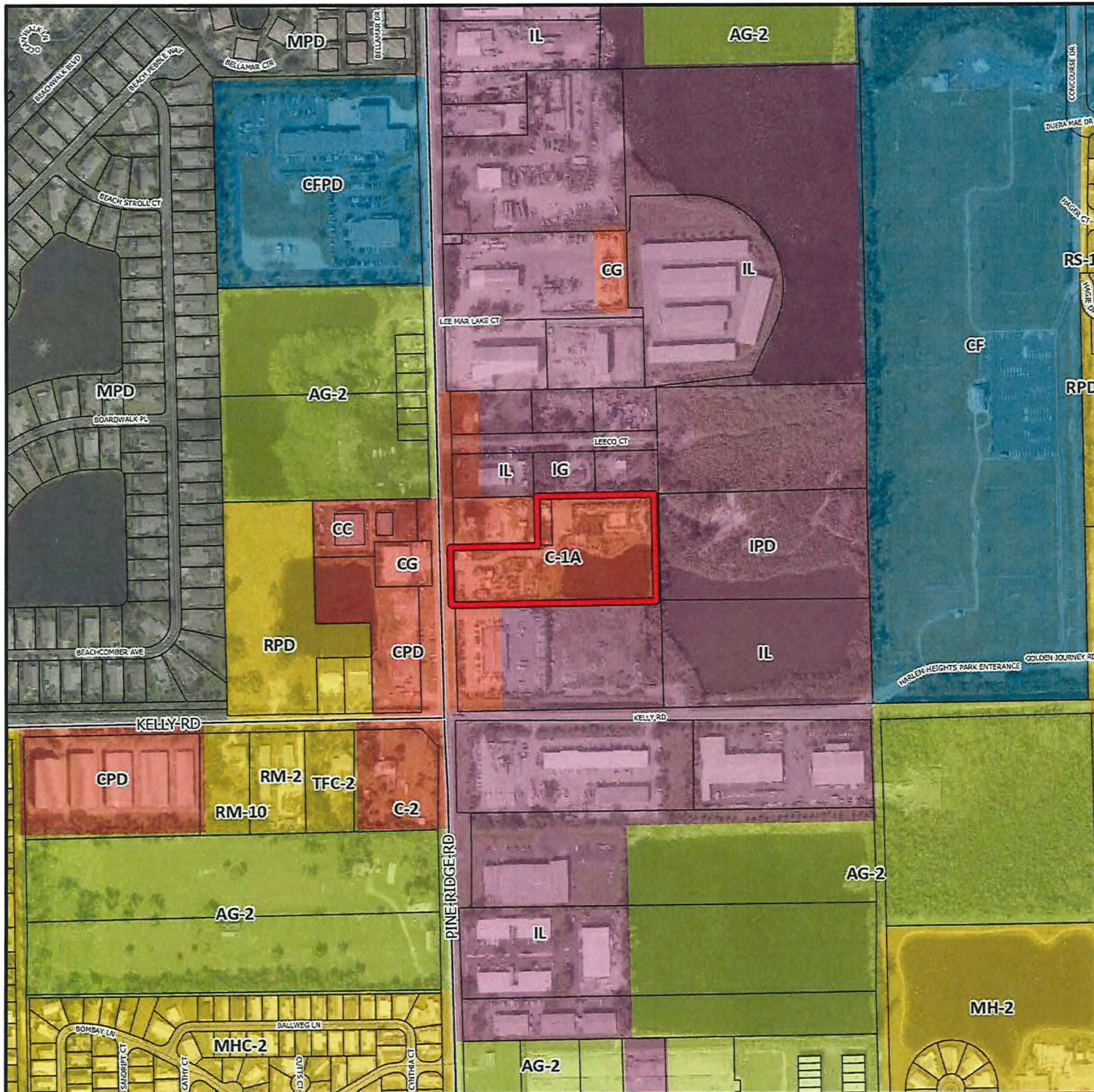
Date: 10/03/2025

JOB NO: 22524

BILL H. HYATT, JR. REGISTERED LAND SURVEYOR PSM #4636
STATE OF FLORIDA

PAGE 2 OF 2

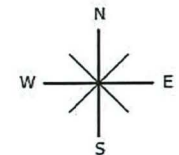
SEE PAGE 1 FOR DESCRIPTION SKETCH



SEZ2024-00007

Zoning

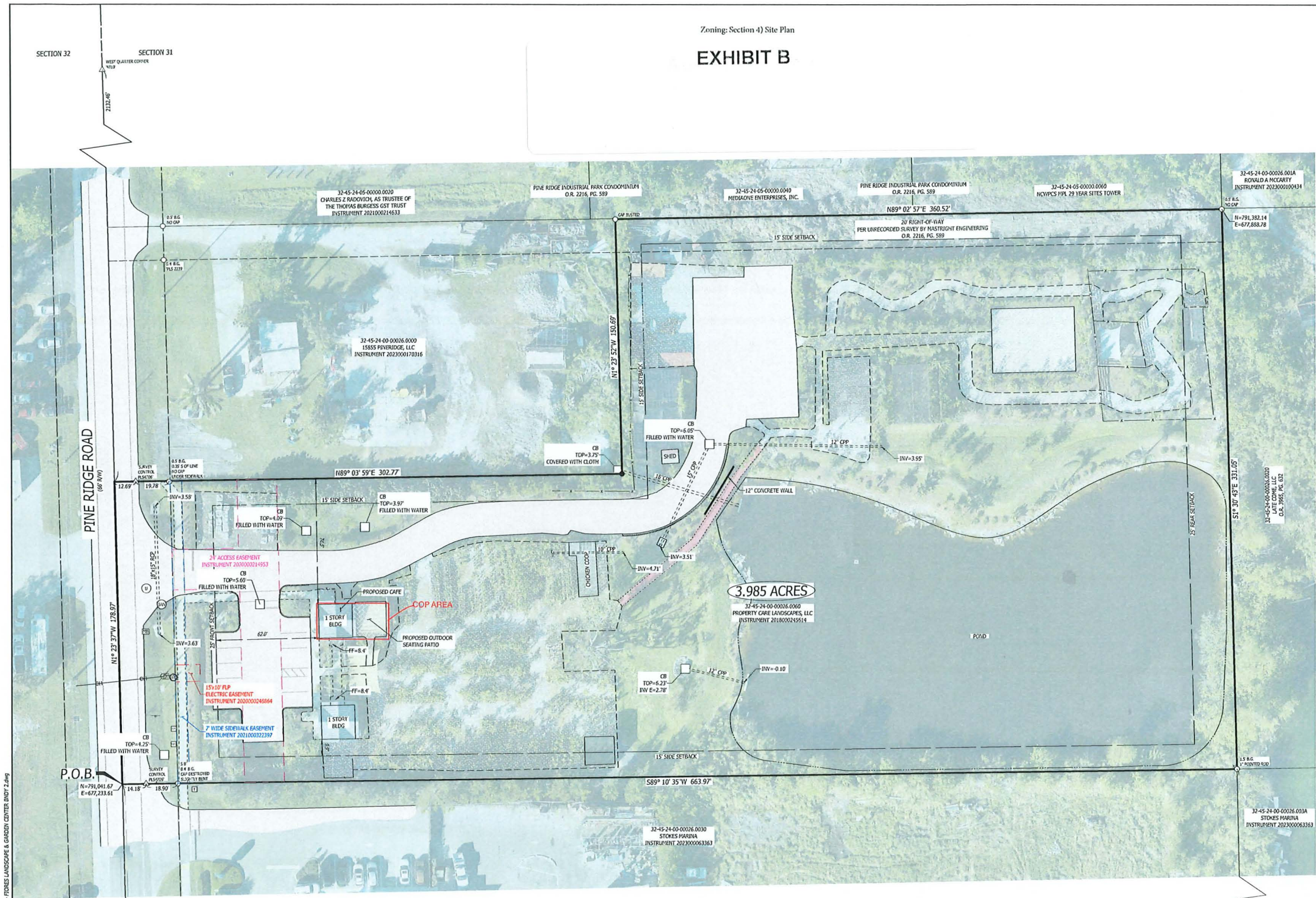
 Subject Property



0 500
Feet

Zoning: Section 4) Site Plan

EXHIBIT B



NOTES:

1. SOURCE DOCUMENTS AS NOTED.
2. OCCUPATION IN GENERAL FITS SURVEY.
3. MONUMENTATION IS IN GOOD CONDITION UNLESS OTHERWISE NOTED. 'B.G.' INDICATES BELOW GRADE AND 'A.G.' INDICATES ABOVE GRADE. UNLESS OTHERWISE NOTED, ALL MONUMENTATION IS FLUSH WITH THE GRADE.
4. DISTANCE UNITS ARE BASED ON THE US SURVEY FOOT DEFINITION (1' = 1200/3937 METERS).
5. BEARINGS ARE BASED ON GRID NORTH, OF THE FLORIDA STATE PLANE COORDINATE SYSTEM WEST ZONE (0902) AS DERIVED FROM FDOT'S FLORIDA PERMANENT REFERENCE (FPRN) SYSTEM (NAD '83) (NAD '88).
6. HORIZONTAL AND VERTICAL DATUMS ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM WEST ZONE (0902) AS DERIVED FROM FDOT'S FLORIDA PERMANENT REFERENCE (FPRN) SYSTEM (NAD '83) (NAD '88). THE GEOID USED WAS GEOID 18.
7. SITE BENCHMARK AS SHOWN HEREON.
8. IRON PINS SET ARE 18" LONG, 1/2" DIAMETER REBAR WITH CAP STAMPED 'C.D. MORRIS LS-7495'.
9. SUBJECT SITE IS LOCATED IN ZONE AE WITH A BASE FLOOD ELEVATION OF 10' PER A GRAPHICAL INTERPRETATION OF FEMA'S FLOOD INSURANCE RATE MAP NO. 12071C0418G WITH AN EFFECTIVE DATE OF 11/17/2022.
10. SUBJECT SITE CONTAINS 10 PARKING SPACES OF WHICH 1 IS DESIGNATED HANDICAP.
11. THIS SURVEY AND PLOTTED EASEMENTS ARE BASED ON A TITLE CERTIFICATION FROM MADDEN LAWI FIRM LLC DATED APRIL 14, 2025.

LEGEND:

- 1/2" IRON PIN FOUND
- ▲ MAG NAIL FOUND
- 1/2" IRON PIN SET
- CATCH BASIN
- ⊙ SANITARY MANHOLE
- ⊙ UNKNOWN MANHOLE
- ⊙ UTILITY POLE
- ⊙ GUY WIRE
- ⊙ ELECTRIC BOX
- ⊙ WATER METER
- ⊙ WATER VALVE
- ⊙ FIRE HYDRANT
- ⊙ SIGN (1 POST)
- OVERHEAD UTILITIES
- FENCE LINE
- ▭ ASPHALT
- ▭ CONCRETE
- ▭ GRAVEL
- ▭ PAVERS
- ▭ FEMA ZONE AE

SURVEYOR'S CERTIFICATION

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OR ELECTRONIC SEAL OF THE FLORIDA LICENSED SURVEYOR BELOW. THE SURVEYOR HEREBY CERTIFIES THAT THE ELECTRONIC SIGNATURE AND SEAL HEREON MEETS PROCEDURES SET FORTH IN CHAPTER 53-17.062 OF THE FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.025, FLORIDA STATUTES. THE SURVEYOR HEREBY CERTIFIES THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS FOR SURVEYS, SET FORTH BY THE FLORIDA BOARD OF SURVEYORS AND MAPPERS IN CHAPTER 53-17.051 AND 53-17.052 OF THE FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

THE SURVEY DEPICTED BY THIS PLAT WAS PREPARED UNDER MY DIRECT SUPERVISION BY GPS RTK METHODS AND USED A TRIMBLE R121 GPS MULTI FREQUENCY RECEIVER. THE RELATIVE POSITIONAL ACCURACY OF THE SURVEY POINTS IS WITHIN ±0.07" ±50 PPM.

FIELD WORK WAS COMPLETED ON 12/4/2024

Chris Morris
CHRISTOPHER D. MORRIS, P.S.M. NO. 7495



1001 Corporate Avenue, Unit 1
North Point, FL 34289

kapurinc.com

PROJECT:

FIORES GARDEN
CENTER

LOCATION:

SECTION 32,
TOWN 45 S, RANGE 24 E
15885 PINE RIDGE ROAD
FORT MEYERS,
LEE COUNTY, FLORIDA

CLIENT:

PROPERTY CARE
LANDSCAPES, LLC
12406 ARBOR VIEW DR
FORT MEYERS, FL 33908

OWNER:

PROPERTY CARE
LANDSCAPES, LLC
12406 ARBOR VIEW DR
FORT MEYERS, FL 33908

SURVEYOR OF RECORD
CHRISTOPHER D. MORRIS, PSM
LICENSE # 7495
CMORRIS@KAPURINC.COM

THIS IS A BOUNDARY SURVEY, AS DEFINED
IN CHAPTER 53-17.050(1)(A)-(K) OF THE
FLORIDA ADMINISTRATIVE CODE.

REVISIONS:

#	DATE	NOTE
1	2/21/2024	BASE MAP
2	4/18/2025	UPDATED W/ TITLE
3	5/1/2025	UPDATED PER COMMENTS

NORTH ARROW:



HORIZ. SCALE: 1"=30'



STAMP:



all in

SHEET:

BOUNDARY
SURVEY

PROJECT MANAGER: CMH
PROJECT NUMBER: 24.0796.01
DATE: 12/31/2024

SHEET NUMBER:

1 OF 1

UNDERGROUND UTILITIES ARE PLOTTED FROM A COMPILATION OF AVAILABLE RECORD INFORMATION AND SURFACE INDICATIONS OF UNDERGROUND STRUCTURES AND MAY NOT BE INCLUSIVE. PRECISE LOCATIONS AND THE EXISTENCE OR NON EXISTENCE OF UNDERGROUND UTILITIES CANNOT BE VERIFIED. PLEASE NOTIFY THE SUNSHINE UTILITY PROTECTION SERVICE AT 811 OR 1-800-432-4770 BEFORE ANY PERIOD OF EXCAVATION OR CONSTRUCTION ACTIVITY.

