

ADMINISTRATIVE AMENDMENT (PD) ADD2022-00187

ADMINISTRATIVE AMENDMENT
LEE COUNTY, FLORIDA

WHEREAS, Sam Lowrey, Director filed an application for an administrative amendment to a Commercial Planned Development to revise Development Area 5/6 by reconfiguring the sales office and parking area, on a project known as MarineMax Deep Lagoon Marina located at 14010-040 McGregor Blvd, described more particularly as:

LEGAL DESCRIPTION: In Section 29, Township 45 South, Range 24 East, Lee County, Florida:

ATTACHED AS EXHIBIT "A"

WHEREAS, the property was originally rezoned in case number Resolution Z-87-009 (with subsequent amendments in Resolution Z-99-013, Resolution Z-05-033, Resolution Z-06-026, Resolution Z-09-036, ADD2006-00212, ADD2010-00034, ADD2011-00006, ADD2015-00014, Resolution Z-18-014, and ADD2020-00131); and

WHEREAS, the subject property is located in the Urban Community Future Land Use Category as designated by the Lee Plan; 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 applicant proposes to amend the building layout and reconfigure the parking area in Development Area 5/6, revise the open space exhibit to reflect these changes, and request an additional deviation from Land Development Code (LDC) Section 10-610(e) for parking lot interconnections (see Exhibits B, E, F and G); and

WHEREAS, the applicant has constructed a temporary sales office and conducts dry slip boat storage, boat launching, wet slips, and boat repairs in Development Area 3; and

WHEREAS, these uses are not allowed in Development Area 3 per Resolution Z-18-014 and as depicted on the Master Concept Plan approved per ADD2020-00131 (see Exhibit C); and

WHEREAS, the applicant has demolished an existing structure and restored the shoreline in Development Area 3 without a demolition permit or dock and shoreline permit; and

WHEREAS, the applicant has provided a document that justifies the current uses, the demolition, and shoreline stabilization as part of the emergency response provided after Hurricane Ian (see Exhibit D); and

WHEREAS, the applicant has submitted after-the-fact permits for the demolition and the shoreline stabilization (DEM2023-01322 and DSH2023-00159); and

WHEREAS, the applicant states that the sales office and boat repair currently taking place in Development Area 3 are temporary uses that are needed as the current sales office is removed and Development Area 5/6 is reconfigured; and

WHEREAS, the applicant has applied for a temporary use (TMP2023-00487) and temporary trailer permit (TMP2023-00485) for the sales office located in Development Area 3; and

WHEREAS, the applicant has been issued the demolition permit and has received a Certificate of Completion; and

WHEREAS, the remaining permits have been found insufficient and require additional information; and

WHEREAS, staff has provided a condition to ensure that the outstanding permits are issued a Certificate of Compliance prior to the certification of the development order for Development Area 5/6 (DOS2022-00094); and

WHEREAS, the applicant's request to reconfigure Development Area 5/6, revise the open space exhibit, and request an additional deviation from parking lot interconnection requirements have been reviewed and approved by staff pending the issuance of the temporary use permits and dock and shoreline permit to bring the site into compliance with the Land Development Code (LDC); 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 the Commercial Planned Development is **APPROVED subject to the following conditions:**

- 1. The Development must be in compliance with the amended Master Concept Plan, dated January 13, 2023, a copy of which is attached hereto as Exhibit B.**

2. **Prior to the issuance of a Certificate of Compliance for the proposed development in Development Area 5/6, the applicant must provide documentation that a Certificate of Compliance has been issued for DSH2023-00159.**
3. **The terms and conditions of the original zoning resolutions and subsequent amendments thereto remain in full force and effect.**
4. **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 4/14/2023

Anthony R. Rodriguez, AICP, CPM, Zoning Manager

Exhibits:

- A. Legal
- B. Master Concept Plan dated January 13, 2023
- C. Previous Master Concept Plan per ADD2020-00131
- D. Applicant's Response Letter
- E. Schedule of Deviations
- F. Request Narrative
- G. Open Space Exhibit

REVIEWED
ADD2022-00187
Hunter Searson, GIS
Planner
Lee County Government
12/9/2022

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN SECTIONS 20 & 29, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH CORNER OF LOT 6, DEEP LAGOON ESTATES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 14 AT PAGE 79 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, THE SAME BEING A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY OF MCGREGOR BOULEVARD, AN 80 FOOT WIDE PUBLIC RIGHT-OF-WAY; THENCE RUN THE FOLLOWING FIVE CALLS ALONG THE BOUNDARY OF SAID DEEP LAGOON ESTATES; THENCE RUN N44°20'19"W FOR A DISTANCE OF 65.00 FEET; THENCE RUN N45°45'38"E FOR A DISTANCE OF 40.00 FEET; THENCE RUN N44°14'22"W FOR A DISTANCE OF 557.81 FEET, TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE; THENCE ALONG SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 30.00 FEET, THROUGH A CENTRAL ANGLE OF 131°52'40" AND BEING SUBTENDED BY A CHORD OF 54.79 FEET AT A BEARING OF N21°41'58"E, FOR AN ARC LENGTH OF 69.05 FEET; THENCE RUN N87°38'18"E FOR A DISTANCE OF 127.40 FEET; THENCE LEAVING SAID BOUNDARY RUN N44°14'22"W FOR A DISTANCE OF 39.01 FEET TO A POINT ON THE SOUTH LINE OF SECTION 20, TOWNSHIP 45 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA THE SAME BEING A POINT ON THE SOUTH LINE OF PHASE 3, AS SHOWN IN DECLARATION OF CONDOMINIUM FOR FT MYERS BOATCLUB, A CONDOMINIUM, AS RECORDED IN INSTRUMENT NO. 2007000333100 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S88°54'59"W ALONG SAID SOUTH LINE AND THE SOUTH LINE OF PHASE 2B FOR A DISTANCE OF 155.19 FEET TO A POINT ON THE SOUTH LINE OF PHASE 2B AS SHOWN ON SAID FT MYERS BOATCLUB, A CONDOMINIUM; THENCE RUN S85°03'20"W ALONG SAID SOUTH LINE OF PHASE 2B, PHASE 4 AND PHASE 2A OF SAID FT MYERS BOAT CLUB, A CONDOMINIUM, FOR A DISTANCE OF 813.00 FEET; THENCE RUN N04°37'51"E ALONG THE WEST LINE OF SAID PHASE 2A FOR A DISTANCE OF 500.00 FEET TO A POINT ON THE CENTER LINE OF THE I.D.D. CANAL "F", AS INDICATED IN TOWN & RIVER ESTATES UNIT 13 PLAT, AS RECORDED IN PLAT BOOK 33 AT PAGES 91-92 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN N89°30'58"E ALONG SAID CENTER LINE FOR A DISTANCE OF 1597.78 FEET TO A POINT ON THE EAST LINE OF THE PARCEL OF LAND DESCRIBED IN INSTRUMENT NO. 2016000080042 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE RUN S00°06'40"E ALONG SAID EAST LINE FOR A DISTANCE OF 267.23 FEET TO A POINT ON THE NORTH LINE OF THE PARCEL OF LAND DESCRIBED IN INSTRUMENT NO. 2016000080043; THENCE RUN N89°25'39"E ALONG SAID NORTH LINE FOR A DISTANCE OF 307.80 FEET; THENCE RUN S44°20'26"E ALONG SAID NORTH LINE FOR A DISTANCE OF 39.69 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY OF MCGREGOR BOULEVARD, A PUBLIC RIGHT-OF-WAY; THENCE RUN S45°45'38"W ALONG THE NORTHWESTERLY RIGHT-OF-WAY FOR A DISTANCE OF 185.97 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 20; THENCE LEAVING SAID RIGHT-OF-WAY RUN S88°54'59"W ALONG THE SOUTH LINE OF SAID SECTION 20, FOR A DISTANCE OF 143.37 FEET; THENCE LEAVING SAID SOUTH LINE RUN S26°44'21"E FOR A DISTANCE OF 102.82 FEET TO A POINT ON THE SAID NORTHWESTERLY RIGHT-OF-WAY; THENCE RUN S45°45'38"W ALONG SAID NORTHWESTERLY RIGHT-OF-WAY FOR A DISTANCE OF 688.25 FEET, TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

CONTAINING 1,045,223 SQUARE FEET OR 24.00 ACRES.

HOLE MONTES, INC., CERTIFICATE OF AUTHORIZATION NUMBER LB 1772

BY Thomas M. Murphy LS5628
 THOMAS M. MURPHY STATE OF FLORIDA



Digitally signed by
 Thomas M Murphy
 DN: cn=Thomas M
 Murphy, o=Hole
 Montes Inc, ou,
 email=tommurphy
 @hmeng.com,
 c=US
 Date: 2017.12.15
 12:27:46 -05'00'

DRAWN BY: R.A.K.	DATE: 12/9/17
SHEET # 1	OF SHEET 2
SEC-TWN-RGE: 20/29-45S-24E	



6200 Whiskey Creek Dr.
 Ft. Myers, FL. 33919
 Phone: (239) 985-1200
 Florida Certificate of
 Authorization No.1772

LEGAL DESCRIPTION
 MARINE MAX OVERALL

DRAWING NO. H-519
PROJECT NO. 2016548
FILE NAME Marine Max Overall.dwg

H:\2016\2016548\SKETCHES\MARINEMAX-Rev01\Marine Max Overall.dwg 12/9/2017 8:08:18 PM Plotted by: Rick Kornett

CURVE TABLE				
CURVE	RADIUS	DELTA ANGLE	CHORD	CHORD BEARING
C1	30.00	131°52'40"	54.79	N21°41'58"E
ARC LENGTH				
69.05				

LINE TABLE		
LINE	DIRECTION	LENGTH
L1	N44°20'19"W	65.00
L2	N45°45'38"E	40.00
L3	N87°38'18"E	127.40
L4	N89°25'39"E	307.80

NOTE: PHASE REFERENCES HEREON REFER TO DECLARATION OF CONDOMINIUM FOR FT MYERS BOATCLUB, A CONDOMINIUM RECORDED IN INSTRUMENT NO. 2007000333100, AMENDED INSTRUMENT NO. 2009000227351, PUBLIC RECORDS OF LEE COUNTY, FLORIDA.

ABBREVIATIONS

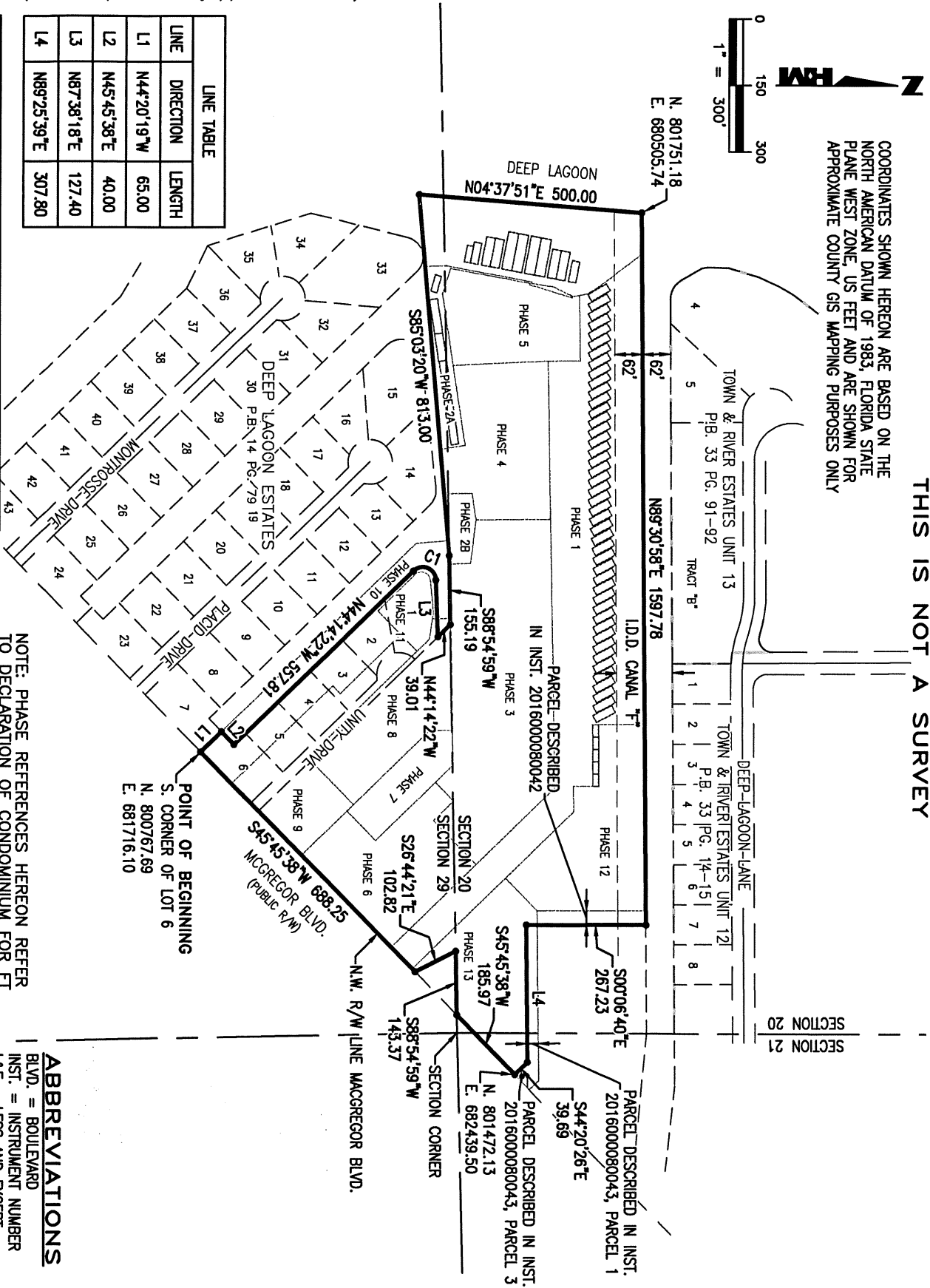
BLVD. = BOULEVARD
INST. = INSTRUMENT NUMBER
L&E = LESS AND EXCEPT
P.B. = PLAT BOOK
PG. = PAGE
R/W = RIGHT-OF-WAY
N. = NORTHING
E. = EASTING



6200 Whiskey Creek Dr.
Ft. Myers, FL. 33919
Phone: (239) 985-1200
Florida Certificate of
Authorization No.1772

SKETCH OF LEGAL DESCRIPTION MARINE MAX OVERALL

DRAWING NO.
H-519
PROJECT NO.
2016548
FILE NAME
Marine Max Overall.dwg



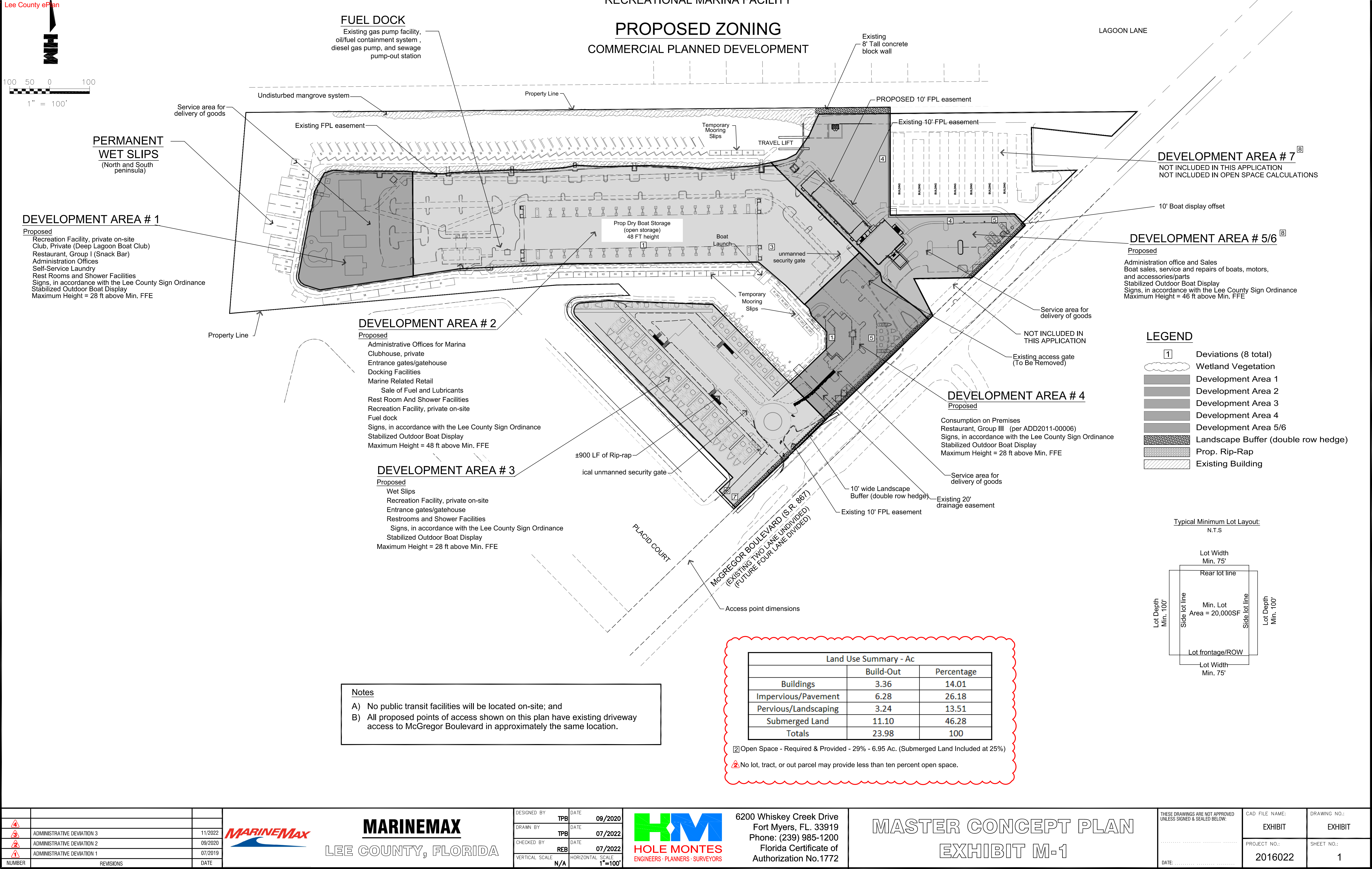


EXHIBIT B

Land Use Summary - Ac		
	Build-Out	Percentage
Buildings	3.36	14.01
Impervious/Pavement	6.28	26.18
Pervious/Landscaping	3.24	13.51
Submerged Land	11.10	46.28
Totals	23.98	100

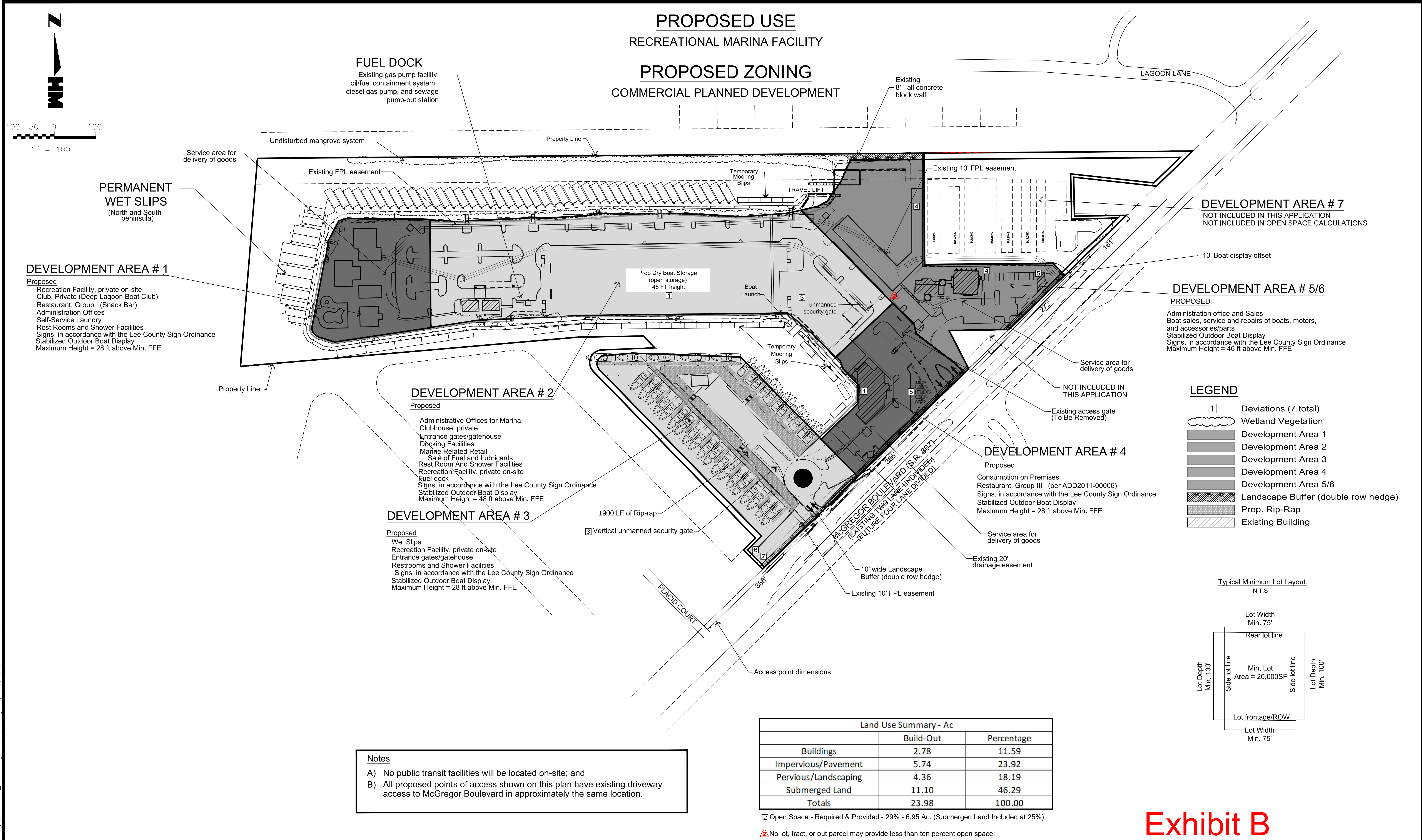


Exhibit B



6200 Whiskey Creek Drive • Fort Myers, Florida 33919 • Phone 239.985.1200 • Fax: 239.985.1259

March 10, 2023

Ms. Elizabeth Workman
Principal Planner
Zoning Section
Department of Community Development
Lee County Development Services
PO Box 398
Fort Myers, FL 33902

**RE: Application for Administrative Amendment
ADD2022-00187
MarineMax Deep Lagoon Marina**

Dear Ms. Workman:

In response to the County's comment letter dated February 17, 2023, we offer the following responses:

"Zoning staff in the previous insufficiency letter was questioning the consistency between the submittal documents, uses onsite, and the MCP. Development Area #3 was approved for specific uses consisting of wet slips, recreation facility, private on-site, entrance gates/gatehouse, restrooms and shower facilities, signs, and stabilized outdoor boat display. Staff inspected Development Area #3 and the area is being used for open storage, dry slips, travel lift with access to the water, and a service center building. Development Area #3 is not in compliance with the zoning in accordance with LDC Section 34-3223. Before any further zoning actions are approved, please explain how the applicant intends to resolve this matter.

Staff suggests scheduling a meeting with staff to discuss the issue."

As requested, a conference call was held on February 22, 2023, with Lee County staff members Elizabeth Workman and Rebecca Sweigert; and Hole Montes representatives Jeremie Chastain and Tyler Bonnough. As per the provided comment, the meeting was to discuss the noncompliance uses associated with Development Area #3 (DA 3) per approved the MarineMax CPD Zoning Resolution Z-18-014, with respect to the current administrative amendment application. Zoning Resolution Z-18-014 was approved on May 22nd, 2019, and permitted the following uses within DA 3:

- Wet Slips
- Recreation Facility, private on-site
- Entrance Gates/gatehouse
- Restrooms and Shower Facilities
- Signs, in accordance with Lee County Sign Ordinance

- Stabilized outdoor boat display
- Maximum heights = 28 feet above minimum finish floor elevation

The previous uses, prior to this zoning resolution, included but were not limited to:

- Boat launch
- General administration office
- Boat sales
- Service and repairs of boats, motors, and accessories/parts
- Stabilized outdoor boat display
- Docking facilities
- Dry boat storage

In September 2022, the natural disaster Hurricane Ian swept through Florida creating a statewide emergency and becoming one of the costliest hurricanes to ever impact Florida. Much like the rest of Southwest Florida, this property sustained severe damage due to the intense winds and flooding that occurred during this event. More specifically to this property, DA 3 experienced 3-4 feet of flooding over its entirety damaging not only their associated dockage but rendering the existing infrastructure upland unsafe for public/private use.

As a result of Hurricane Ian and the damage accrued, DA 3 is not in compliance with the approved MCP. The site was repaired so that it was safe for use as soon as possible. The property owners then utilized DA 3 as a triage for first responders and marina staff/clients. First responders, including Iona McGregor Fire Department, are still utilizing this property's boat launch and wet slips to access and recovery damage boats in the area. Damaged boats that are recovered are stored on ground racks in DA 3 so that they may be assessed for damage and either serviced for repairs or disposed of appropriately. Additionally, temporary service trailers have been installed in DA 3 to assist with these efforts and to continue commercial operations for the property.

Given the circumstances and permits for the property, this area cannot currently be utilized with the uses per the approved Zoning Resolution Z-18-014. As a result of the conference call and response to the natural disaster, Lee County has requested the following actions to take place in order to approve the initial administrative deviation:

- To provide a narrative describing the circumstances, uses and timeline as a projection for the uses that are taking place in order to further process this application.
- File associated permits to back log the natural disaster response and bring DA 3 into compliance with its approved Zoning Resolution.

Lee County has requested the following actions to take place in order to bring DA 3 into compliance with approved Zoning Resolution Z-18-014:

- To file an after-the-fact demolish permit for any/all infrastructure that was demolished.
- To file a temporary use permit for all temporary uses being conducted with DA 3 that are not already approved uses within the Zoning Resolution Z-18-014.
- To file a dock and shoreline permit through Lee County for the repairs executed to stabilize the shoreline.

A formal noncompliance notification has not been issued given the circumstances and explanation of such actions that have taken place since the natural disaster, and the property owner greatly appreciates Lee County's understanding through these difficult times. As a result, the requested demolish permit #DEM2023-01322, temporary trailer permit # TMP2023-00485, temporary uses permit # TMP2023-00487, and dock and shoreline permit #DSH2023-00159 have been applied for.

In addition to the existing permitted uses, the following interim uses will be located within DA 3:

- Boat launch
- General administration office
- Boat sales
- Service and repairs of boats, motors, and accessories/parts
- Docking facilities
- Dry slips

These uses will be conducted within this development area until the property's associated Development Order (DOS2022-00094) for Development Area 5/6 (DA 5/6) receives final certification. If Development Order DOS2022-00094 has been certified while relief efforts are occurring, these efforts will be carried out within DA 5/6 where these uses are approved within the zoning resolution. At that time, any and all interim temporary uses within DA 3 will expire. Anticipated timeline for these temporary uses is expected to be completed by December 2024. The applicant is willing to agree to a condition stating that the proposed interim uses within DA 3 will be relocated to DA 5/6

Please accept this narrative letter as an explanation for the changes and uses that have taken place within DA 3. This formal notification from the property owners states their intentions with their property and assistance to better Lee County. If you need further information, please feel free to contact me at 239-254-2027.

Very truly yours,
HOLE MONTES, INC.



Jeremie Chastain, AICP
Senior Planner

**SCHEDULE OF DEVIATIONS
MARINEMAX (DEEP LAGOON MARINA CPD)**

The proposed revisions are underlined/~~striketrough~~ below.

1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.
7. No change.
8. Deviation (8) seeks relief from LDC Section 10-610(e), parking lot interconnections, which requires adjacent commercial uses to provide parking lot interconnections, to allow for no interconnection between Development Area #5/6 and Development Area #7.

Justification: Development Area #7 consists of an existing mini storage with a communications tower and is under separate ownership. The mini storage is secured via a perimeter fence and entrance gates. Due to the layout of the development areas within the CPD, the location of the interconnect would provide access to the secure area of the mini storage facility. Members of the public will not be able to travel past this gate. Furthermore, only ±19' of the shared boundary between Development Area #5/6 and #7 is outside of the electronic gate and the storage facility's connection to McGregor, which is not enough space to safely accommodate an access point and the patrons of the storage facility. An interconnection would provide no benefit to the traveling public and be detrimental to the mini storage facility.

EXHIBIT E

NARRATIVE OF REQUEST MARINEMAX CPD

Summary of Request

This is a request to amend the existing MarineMax CPD (Zoning Resolution Z-18-014) to amend the MCP to revise building footprints and reconfigure the parking lot layout in Development Area #5/6; amend the Open Space Exhibit to reflect these changes; and to request a new deviation from LDC Sec. 10-610(e), parking lot interconnections.

The subject property is located on the north side of McGregor Blvd. at the intersection with A & W Bulb Road at 14010/14030/14040 McGregor Blvd., on two peninsulas jutting out into Deep Lagoon, and includes the lands located along McGregor Blvd. between the peninsulas, and the canal bottom surrounding the two peninsulas. The northern peninsula is long, narrow, and extends east to west, while the southern peninsula is short and stubby, running northwest to southeast. The CPD contains approximately 26.11 acres in total, including Development Area 7 which is not part of this amendment request. The CPD is abutted on the north by a canal and residential uses zoned RS-1 and RM-2; on the east by McGregor Boulevard, two small parcels zoned IL, and across McGregor by a DOT stormwater pond and a mix of commercial and residential uses; on the south by a canal and residential uses zoned RS-1; and on the west by Deep Lagoon and, across the water, the Deep Lagoon Preserve. The property is designated Urban Community in the Lee Plan. Please see the table, below, for surrounding property zoning classifications and existing land uses.

North	RS-1 & RM-2	Canal; single-family residential
East	IL	Commercial
East (across McGregor)	CPD, RS-1, CN-1, RM-2	Office, single- and multi-family residential; FDOT stormwater management pond
South	RS-1	Canal; single-family residential
West	AG-2	Deep Lagoon and Deep Lagoon Preserve

The proposed buildings in Development Area #5/6 will be replacing the temporary sales facilities/office that are currently in use on the property; and will provide indoor space to perform boat repairs and maintenance. The existing sales facility and administrative offices are located in temporary facilities. There is no indoor space designated for servicing boats. The parking lot in Development Area #5/6 will be reconfigured to accommodate the new building layout. The reconfigured parking lot will provide more parking spots than the existing layout to accommodate the increased size of the proposed sales facility/office, and will be designed to safely accommodate pedestrian and vehicular traffic. The proposed amendment will allow for the site to be developed with a consistent architectural theme, providing a more attractive project that is cohesively designed. The service building will benefit adjacent properties by providing additional screening of repair and maintenance uses via locating these services indoors.

There is one new deviation requested. Deviation (8) requests relief from LDC Section 10-610(e), parking lot interconnections, which requires adjacent commercial uses to provide parking lot interconnections, to allow for no interconnection between Development Area #5/6 and Development Area #7. Please see the Schedule of Deviations for additional details.

An Open Space Exhibit depicting open space areas within each development area has been included with this application.

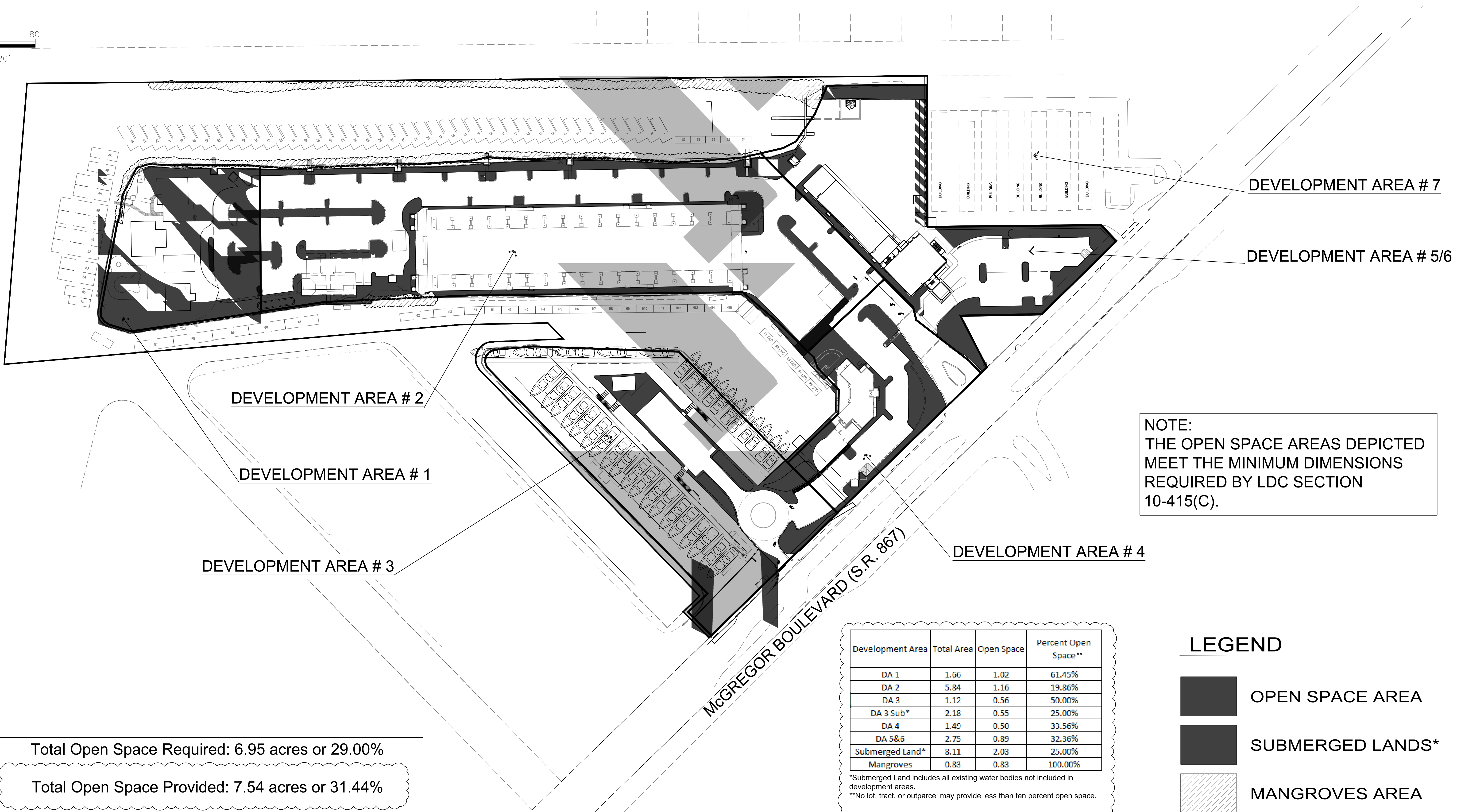
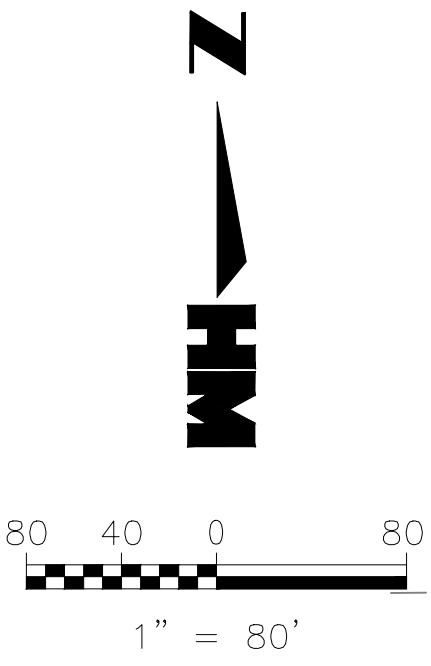
There are no changes to the layout of indigenous preserves, approved intensity, or increased building height proposed.

Decision Making Compliance

In accordance with LDC Section 34-174, the data and analysis provided in the enclosed application demonstrates the following:

- i) Administrative Amendment to a planned development
 - a. The request does not increase height, density or intensity of the development;
 - b. The request does not result in the substantial underutilization of public resources and public infrastructure committed to the support of the development;
 - c. The request does not result in a reduction of total open space provided on the master concept plans by more than ten percent;
 - d. The request does not decrease the amount of indigenous native vegetation preservation or open space areas below the amount required by code;
 - e. No changes to the buffers or landscaping are proposed;
 - f. The request does not adversely impact surrounding land uses; and
 - g. The request is consistent with all applicable provisions of the Lee Plan and land development regulations in effect at the time of the amendment request.

RECREATIONAL MARINA FACILITY
COMMERCIAL PLANNED DEVELOPMENT



Total Open Space Required: 6.95 acres or 29.00%

Total Open Space Provided: 7.54 acres or 31.44%

Development Area	Total Area	Open Space	Percent Open Space**
DA 1	1.66	1.02	61.45%
DA 2	5.84	1.16	19.86%
DA 3	1.12	0.56	50.00%
DA 3 Sub*	2.18	0.55	25.00%
DA 4	1.49	0.50	33.56%
DA 5&6	2.75	0.89	32.36%
Submerged Land*	8.11	2.03	25.00%
Mangroves	0.83	0.83	100.00%

*Submerged Land includes all existing water bodies not included in development areas.
**No lot, tract, or outparcel may provide less than ten percent open space.

EXHIBIT G

H:\2016\20160220\DW\Zoning\2016022_MCP - Open Space.dwg Tab: Exhibit A Oct 10, 2022 - 3:20pm