RESOLUTION NUMBER Z-22-034

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

WHEREAS, Marshall Property Services, LLC, filed an application on behalf of the property owner, TEG Townhomes on Penzance, LLC, to rezone a 9.97± acre parcel from Agricultural (AG-2) to Residential Planned Development (RPD) in reference to Homes at 81 West RPD; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Amanda L. Rivera, was advertised to be heard on September 29, 2022. On September 26, 2022, due to circumstances related to Hurricane Ian, the Hearing Examiner continued the hearing from September 29, 2022. On October 12, 2022, the Hearing Examiner continued the hearing to November 14, 2022. On November 14, 2022, the public hearing was held; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2021-00026 and recommended APPROVAL of the Request with conditions; and

WHEREAS, a second public hearing was advertised and held on March 8, 2023, before the Lee County Board of Commissioners; and

WHEREAS, the Lee County Board of Commissioners 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; and

WHEREAS, at the second public hearing on March 8, 2023, the Lee County Board of Commissioners remanded the case back to the Hearing Examiner for further consideration; and

WHEREAS, a third public hearing was advertised and held on April 26, 2023, before the Lee County Zoning Hearing Examiner, Amanda L. Rivera, who gave full consideration to the evidence in the record for Case #DCI2021-00026 and recommended APPROVAL of the Request with conditions; and

WHEREAS, a fourth public hearing was advertised and held on August 2, 2023, before the Lee County Board of Commissioners; and

WHEREAS, the Lee County Board of Commissioners 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 a 9.97± acre parcel from AG-2 to RPD, to allow development of a maximum of 90 dwelling units.

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 and Development Parameters

Master Concept Plan. Development must be consistent with the two-page Master Concept Plan (MCP) entitled "Homes at 81 West RPD Master Concept Plan" prepared by Grady Minor, revised 4/6/2023, except as modified by the conditions below (Exhibit C).

Compliance with Lee Plan and Land Development Code (LDC). Development must comply with the Lee Plan and LDC, except where deviations have been approved. Subsequent amendments to the MCP, conditions, or deviations may be subject to additional development approvals.

Approved Development Parameters. Development is limited to a maximum of 90 dwelling units, with a maximum permitted building height of 35 feet.

2. Schedule of Uses and Property Development Regulations

a. Schedule of Uses

Accessory Uses, Buildings and Structures
Administrative Offices
Dwelling Unit
- Single-Family Detached
- Duplex
- Multiple-Family

Essential Services
Essential Service Facilities – Group I
Excavation, Water Retention
Fences, Walls
Recreation Facilities
- Personal
- Private–On-site

Signs

b. Property Development Regulations

Minimum Lot Area and Dimensions

Lot Width	N/A
Lot Depth	N/A
Lot Area	N/A

Minimum Setbacks

Internal Drive Aisle*	20 feet
PD Boundary	25 feet
Waterbody	20 feet
Attached Accessory Structure	15 feet
Minimum Building Separation	10 feet

Maximum Building Height	35 feet
Minimum Open Space	40% (10 ac x 0.40 = 4.0± acres)

*As measured from edge of pavement

3. Compliance with Multifamily Development Standards

Development order plans must demonstrate compliance with applicable regulations for multifamily development.

4. Blasingim Road Access

a. Developer must construct one access onto Blasingim Road consistent with LDC § 10-296. The Blasingim Road access must be restricted to emergency use only.

b. Prior to development order approval, developer must:

i. Submit a copy of legal documents creating the legal mechanism to ensure continuous maintenance of Blasingim Road along the property frontage;

ii. Record a notice in the public records to future property owners allowing construction of the project's access. The notice must detail the emergency access plan and provide information as to where a copy of the plan may be obtained from the developer or developer's successor; and

iii. Demonstrate that the emergency only access is equipped with an Emergency Vehicle Access Control (EVAC).

5. Development Permits

Issuance of a County development permit does not establish a right to obtain permits from state or federal agencies. Further, it does not establish liability on the part of the County if the developer: (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 law. Applicant must obtain applicable state/federal permits prior to commencing development.

SECTION C. DEVIATIONS

1. Access. Deviation (1) seeks relief from LDC § 10-291(3), which requires residential projects of five acres of more to provide more than one means of ingress or egress, to allow one full access via Penzance Boulevard and to allow a second access on Blasingim Road to function as "emergency only."

This deviation is APPROVED SUBJECT TO Condition 4.

2. Buffer. Deviation (2) seeks relief from LDC § 10-416(d)(6), which requires roads, drives, or parking areas associated with a multifamily residential use located less than 125 feet from existing single-family residential lots to be buffered by either:

   a. A solid wall or combination berm and solid wall not less than eight feet in height constructed no more than 25 feet from the abutting property with landscaping between the wall and the abutting property containing a minimum of five trees and 18 shrubs per 100 lineal feet; or

   b. A 30-foot-wide Type F buffer with the hedge planted a minimum of 20 feet from the abutting property.

   This will allow a 48-inch-high hedge, to be maintained at a height of 60 inches, to be installed within a 15-foot-wide buffer easement along the southern boundary of the subject property, except where a proposed street stub out terminates near the southern property boundary. The proposed street stub out area will be buffered with an eight-foot-high solid wall with plantings consisting of hedges and trees located between the proposed wall and south property line as depicted on the MCP.

   This deviation is APPROVED SUBJECT TO the condition that development order plans must depict a 15-foot-wide buffer up to the terminal access stub, which may have a 7.5-foot-wide buffer. Landscape plans must depict ten (10) trees per 100 linear feet and a double hedge row with hedges specified at 48-inches in height to be maintained at 60-inches in height.

3. Turnaround. Deviation (3) seeks relief from LDC § 10-296(k)(1), which requires permanent dead-end streets to be closed at one end by a circular turnaround for vehicles and be constructed in compliance with the LDC, to allow the use of hammerhead turnarounds at the terminal roads depicted on the MCP.

   This deviation is APPROVED.

4. Lake Banks. Deviation (4) seeks relief from LDC § 10-329(d)(4), which requires lake banks to be sloped at a ratio not greater than six horizontal to one vertical (6:1) from the top of bank to a water depth of two feet below the dry season water table, to allow slopes to be designed at a ratio of four horizontal to one vertical (4:1) with enhanced slope protection measures and design techniques determined by the project engineer at time of development order.

   This deviation is APPROVED.

5. Littoral Plantings. Deviation (5) seeks relief from LDC § 10-418(2)(d)3, which allows native wetland trees to be substituted for up to 25 percent of the total number of herbaceous plants required within planted littoral shelves, at a rate of one tree (minimum ten-foot height; 2 inch caliper, with a four-foot spread) per 100 herbaceous plants, to allow wetland trees to be substituted for 100 percent of the total required number of herbaceous plants.

   This deviation is APPROVED SUBJECT TO the condition that landscape plants must be in compliance with the Lee County Port Authority Non-Compatible and Compatible Plant List.

6. Penzance Boulevard Access. Deviation (6) seeks relief from LDC § 10-285, which prohibits lots in urban areas with access alternatives from having direct motor vehicle access to an arterial or major collector road, to allow a full access point on Penzance Boulevard as shown on the MCP.

   This deviation is APPROVED SUBJECT TO Condition 4.

SECTION D. EXHIBITS

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

SECTION E. FINDINGS AND CONCLUSIONS

Based upon its review, the Board of County Commissioners adopts the recommendation of the Hearing Examiner, including the following findings and conclusions:

1. The requested rezoning to RPD complies with the Lee Plan. Lee Plan Goals 2, 4, 5, 61, 77, 135; Objectives 1.5, 2.1, 2.2, 4.1, 5.1, 77.1, 77.3, 126.2; Policies 2.1.2, 2.2.1, 5.1.1, 5.1.2, 5.1.7, 135.1.9, 135.9.5, 135.9.6; Lee Plan Maps 1-A, 1-B.

2. As conditioned, the Homes at 81 West RPD:

   a. Meets the LDC and other County regulations or qualifies for deviations. LDC §§ 34-145(d), 34-341, 34-378, 34-411, 34-413, 34-491, 34-612(2), 34-932;

   b. Is compatible with existing and planned uses. Lee Plan Objectives 2.1, 2.2, Policies 5.1.5, 135.9.5, 135.9.6; LDC § 34-411;

   c. Provides access sufficient to support the proposed development intensity. Expected impacts to transportation facilities will be addressed by the conditions of approval and County regulations. Lee Plan Policies 39.1.1; LDC §§ 2-261 *et seq.*, 10-287, 34-411(d);

   d. Will not adversely affect environmentally critical/sensitive areas and natural resources. Lee Plan Goals 77, 125; Objectives 77.1, 77.3, 126.2; Policies 61.3.1, 61.3.6, 61.3.11, 126.2.1, Standard 4.1.4; and LDC § 34-411(h).

   e. Will be served by urban services adequate to serve the proposed land use. Lee Plan Glossary, Lee Plan Goals 2, 4, Objectives 2.1, 2.2, 4.1, and Standards 4.1.1 and 4.1.2; LDC § 34-411(d).

3. The proposed mix of uses is appropriate at the proposed location. Lee Plan Goals 2, 5; Policies 2.1.1, 2.2.2, 5.1.2, 5.1.3, 5.1.5, 135.1.9.

4. The recommended conditions and applicable regulations provide sufficient safeguards to protect the public interest. Lee Plan Policies: 5.1.5, 5.1.6, 126.2.1 and 135.9.6; LDC § 34-411.

ADD2026-00010 Lee County ePlan

5. The recommended conditions are reasonably related to the impacts expected from the proposed development. Lee Plan Policies 5.1.5, 135.9.6; LDC § 34-932.

6. The requested deviations, as conditioned:

   a. Enhance the objectives of the planned development; and

   b. Preserve and promote protection of public health, safety, and welfare.

SECTION F. SCRIVENER'S ERRORS

The Board intends that this resolution can be renumbered or relettered and typographical errors that do not affect the intent and are consistent with the Board's action can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

Commissioner Pendergrass made a motion to adopt the foregoing resolution, seconded by Commissioner Sandelli. The vote was as follows:

Adopted by unanimous consent.

Kevin Ruane	Aye
Cecil L Pendergrass	Aye
Raymond Sandelli	Aye
Brian Hamman	Aye
Mike Greenwell	Aye

DULY PASSED AND ADOPTED this 2nd day of August 2023.

ATTEST:
KEVIN C. KARNES, CLERK

BY: _____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Brian Hamman, Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

_____
Joseph A. Adams
Assistant County Attorney
County Attorney's Office

2023 AUG -9 PM 4:07

RECEIVED
MINUTES OFFICE

ADD2026-00010 Lee County ePlan
DCI2021-00026 Lee County ePlan

PROPERTY DESCRIPTION

THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTH QUARTER CORNER OF SECTION 8, TOWNSHIP 45 SOUTH RANGE 25 EAST, LEE COUNTY, FLORIDA; THENCE ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION, SOUTH 88°54'17" WEST, A DISTANCE OF 1,316.24 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED;

THENCE CONTINUE ALONG SAID SOUTH LINE, SOUTH 88°54'17" WEST, A DISTANCE OF 658.60 FEET; THENCE NORTH 01°19'45" WEST, A DISTANCE OF 659.94 FEET; THENCE NORTH 88°51'34" EAST, A DISTANCE OF 656.81 FEET; THENCE SOUTH 01°29'04" EAST, A DISTANCE OF 660.47 FEET TO THE POINT OF BEGINNING.

CONTAINING 9.97 ACRES, MORE OR LESS.

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE STATE PLANE COORDINATE SYSTEM ESTABLISHED BY THE NATIONAL GEODETIC SURVEY FOR FLORIDA WEST ZONE, 1983 DATUM WITH 2011 ADJUSTMENT OBTAINED UTILIZING RTK GPS OBSERVATIONS ON THE FDOT NETWORK AND REFER TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AS BEING S 88°54'17" W.

2. DIMENSIONS SHOWN HEREON ARE IN U.S. SURVEY FEET AND DECIMALS THEREOF.

3. THIS SKETCH AND DESCRIPTION IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OR THE DIGITAL SIGNATURE AND DIGITAL SEAL OF A LICENSED FLORIDA SURVEYOR AND MAPPER. NO ADDITIONS OR DELETIONS TO THIS SKETCH AND DESCRIPTION ARE PERMITTED WITHOUT THE EXPRESSED WRITTEN CONSENT OF THE SIGNING PARTY.

REVIEWED
DCI2021-00026
Rick Burris, Principal
Planner
Lee County DCD/Planning
7/11/2022

DRAWN BY:	KJG
CHECKED BY:	DLS
JOB CODE:	CMPB
SCALE:	1" = 120'
DATE:	5/18/2021
FILE:	20-218-S&L
SHEET:	1 of 2

NOT COMPLETE WITHOUT SHEETS 1 AND 2 OF 2

NOT A SURVEY

GradyMinor
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Cert. of Auth. EB 0005151 Cert. of Auth. LB 0005151 Business LC 26000266
Bonita Springs: 239.947.1144 www.GradyMinor.com Fort Myers: 239.690.4380
Q. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134

SKETCH AND DESCRIPTION

PARCEL OF LAND

LYING IN
SECTION 8, TOWNSHIP 45 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

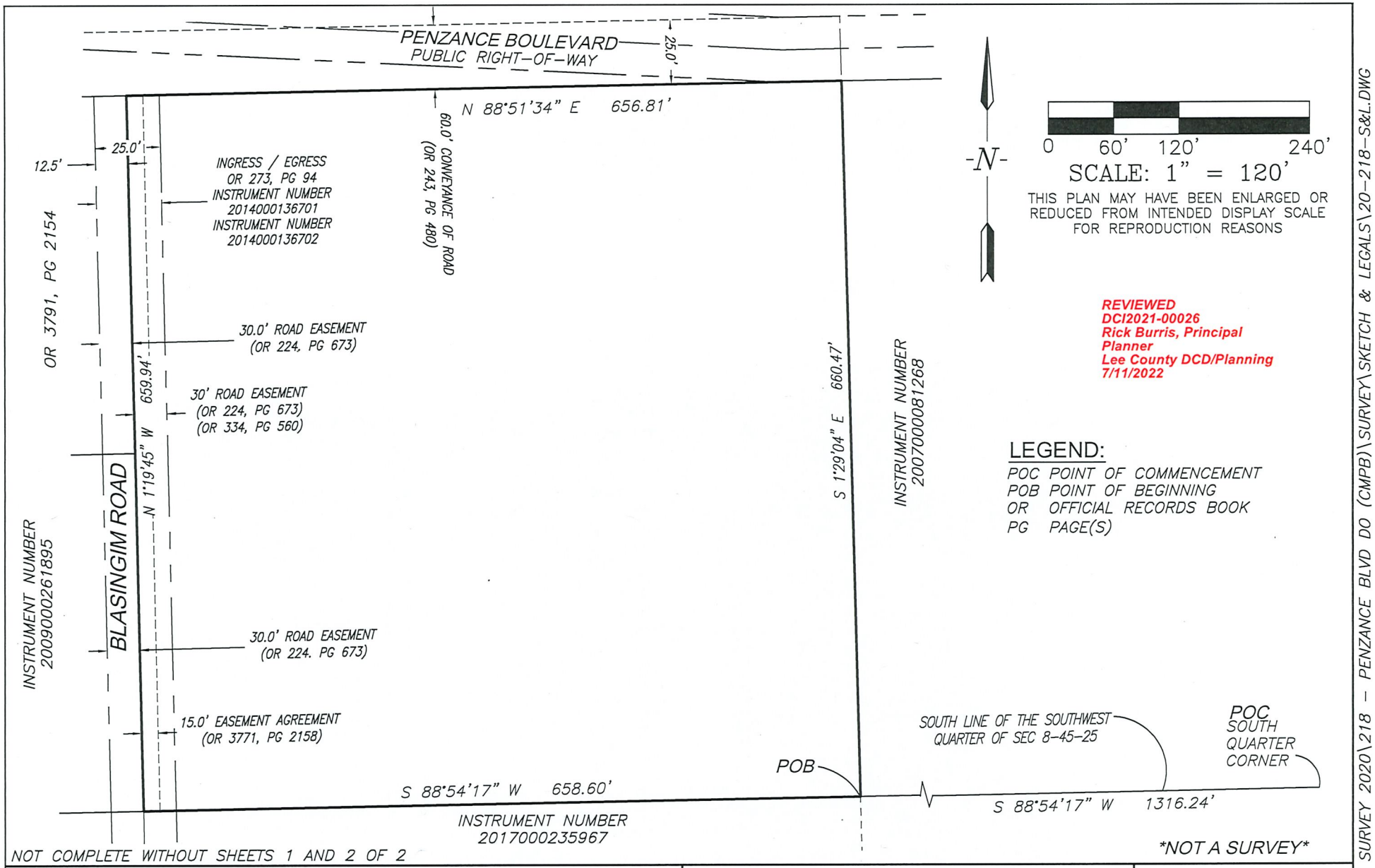
DATE SIGNED
Digitally signed by Donald L. Saintenoy III, PSM
Date: 2021.05.24 08:07:00 -04'00'

DONALD L. SAINTENOY III, P.S.M
FL LICENSE #6761
FOR THE FIRM

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EXHIBIT A

ADD2026-00010 Lee County ePlan
DCI2021-00026 Lee County ePlan



REVIEWED
DCI2021-00026
Rick Burris, Principal Planner
Lee County DCD/Planning
7/11/2022

LEGEND:

POC POINT OF COMMENCEMENT
POB POINT OF BEGINNING
OR OFFICIAL RECORDS BOOK
PG PAGE(S)

NOT A SURVEY

NOT COMPLETE WITHOUT SHEETS 1 AND 2 OF 2

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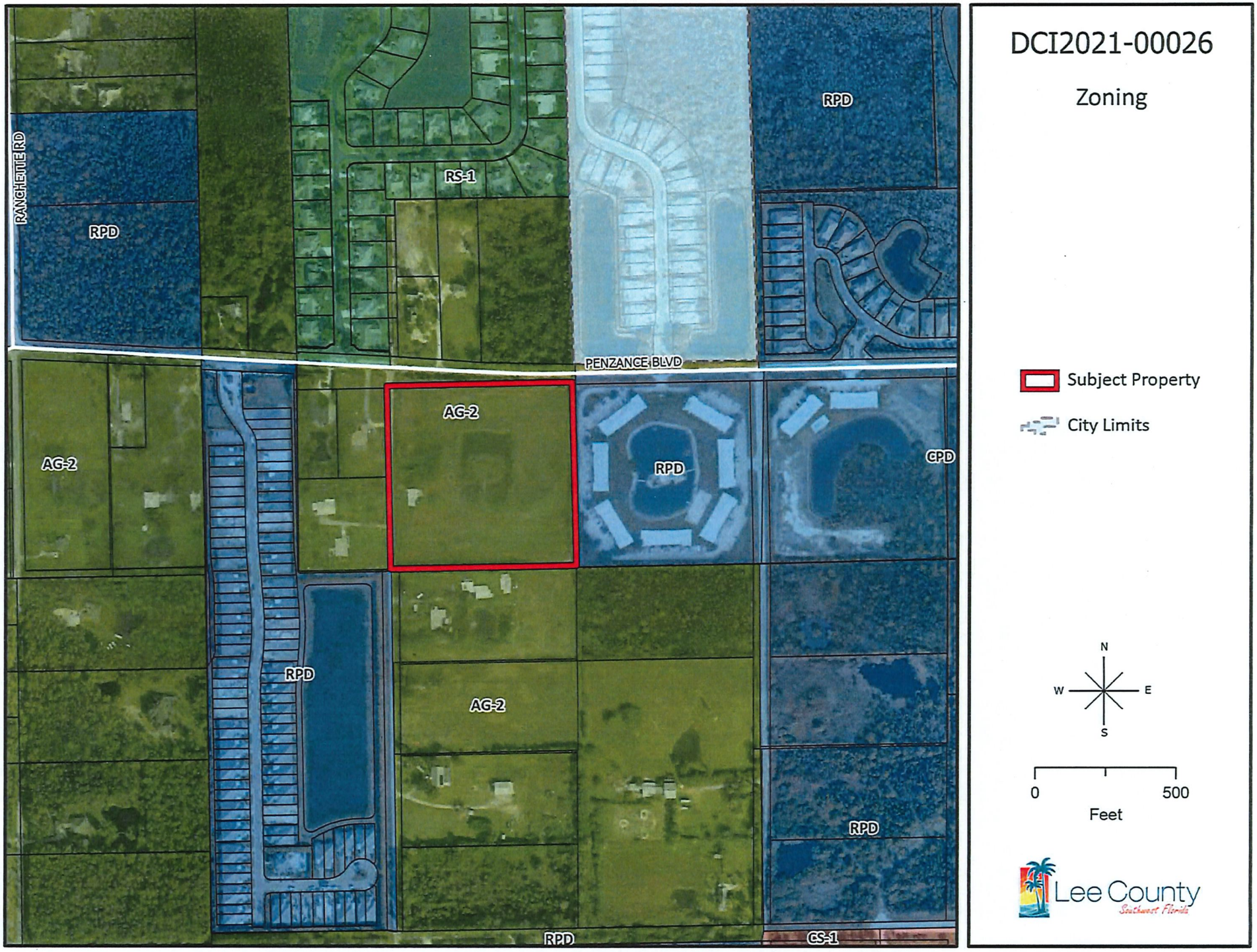
Q. Grady Minor and Associates, P.A.
3800 Via Del Rey
Bonita Springs, Florida 34134

SKETCH AND DESCRIPTION

PARCEL OF LAND

LYING IN
SECTION 8, TOWNSHIP 45 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

DRAWN BY:	KJG
CHECKED BY:	DLS
JOB CODE:	CMPB
SCALE:	1" = 120'
DATE:	5/18/2021
FILE:	20-218-S&L
SHEET:	2 of 2



DCI2021-00026

Zoning

Subject Property

City Limits

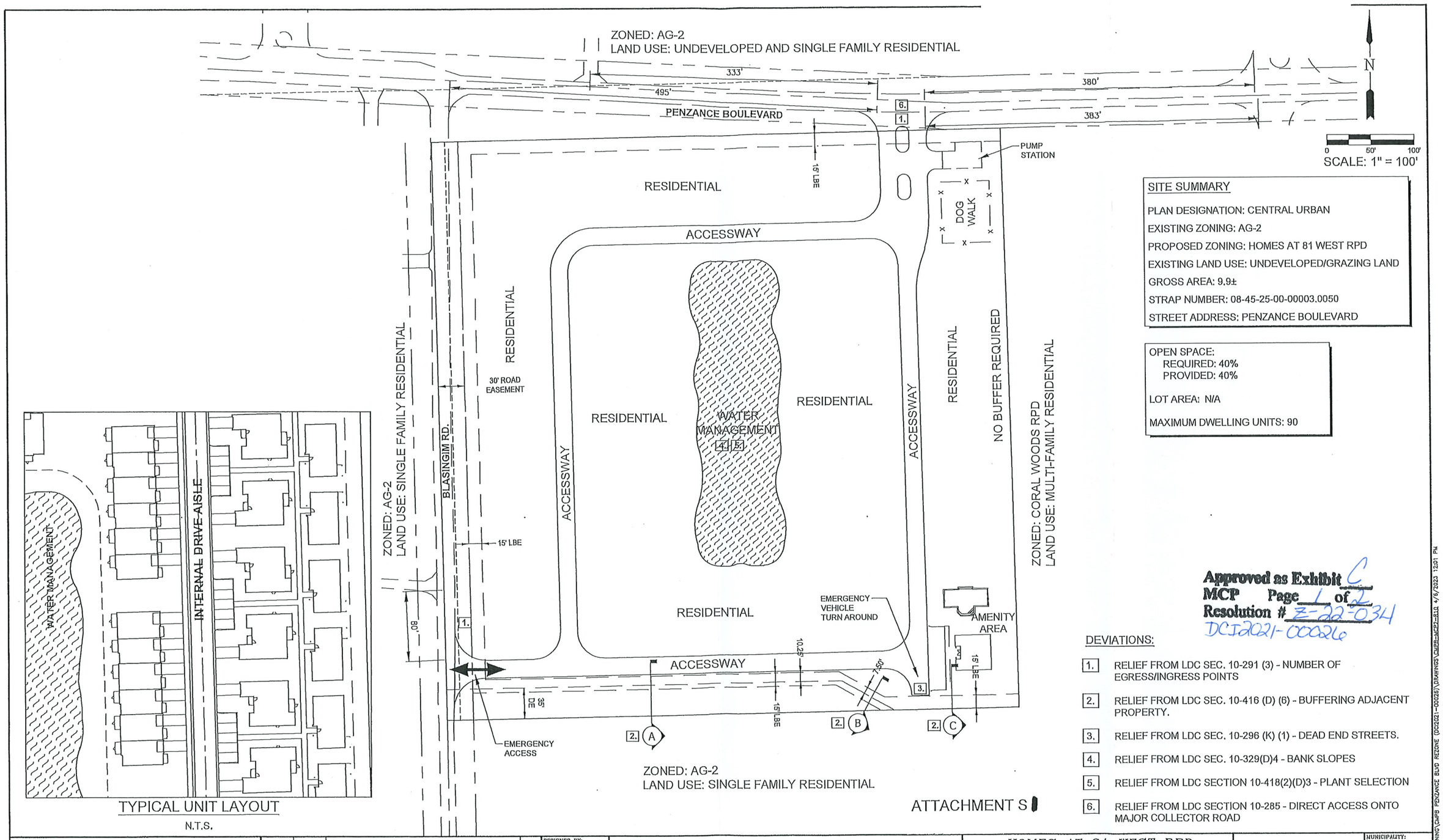
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Feet

Lee County
Southwest Florida

EXHIBIT B



TYPICAL UNIT LAYOUT
N.T.S.

SITE SUMMARY

PLAN DESIGNATION: CENTRAL URBAN
EXISTING ZONING: AG-2
PROPOSED ZONING: HOMES AT 81 WEST RPD
EXISTING LAND USE: UNDEVELOPED/GRAZING LAND
GROSS AREA: 9.9±
STRAP NUMBER: 08-45-25-00-00003.0050
STREET ADDRESS: PENZANCE BOULEVARD

OPEN SPACE:
REQUIRED: 40%
PROVIDED: 40%

LOT AREA: N/A

MAXIMUM DWELLING UNITS: 90

Approved as Exhibit C
MCP Page 1 of 2
Resolution # Z-22-034
DCI2021-000026

DEVIATIONS:

1. RELIEF FROM LDC SEC. 10-291 (3) - NUMBER OF EGRESS/INGRESS POINTS
2. RELIEF FROM LDC SEC. 10-416 (D) (6) - BUFFERING ADJACENT PROPERTY.
3. RELIEF FROM LDC SEC. 10-296 (K) (1) - DEAD END STREETS.
4. RELIEF FROM LDC SEC. 10-329(D)4 - BANK SLOPES
5. RELIEF FROM LDC SECTION 10-418(2)(D)3 - PLANT SELECTION
6. RELIEF FROM LDC SECTION 10-285 - DIRECT ACCESS ONTO MAJOR COLLECTOR ROAD

ATTACHMENT S

LEGEND

Revision	Date	Description	By

DESIGNED BY: F.J.F.
DRAWN BY: C.G.K.
APPROVED: D.W.A.
JOB CODE: CMPB
SCALE: 1" = 100'

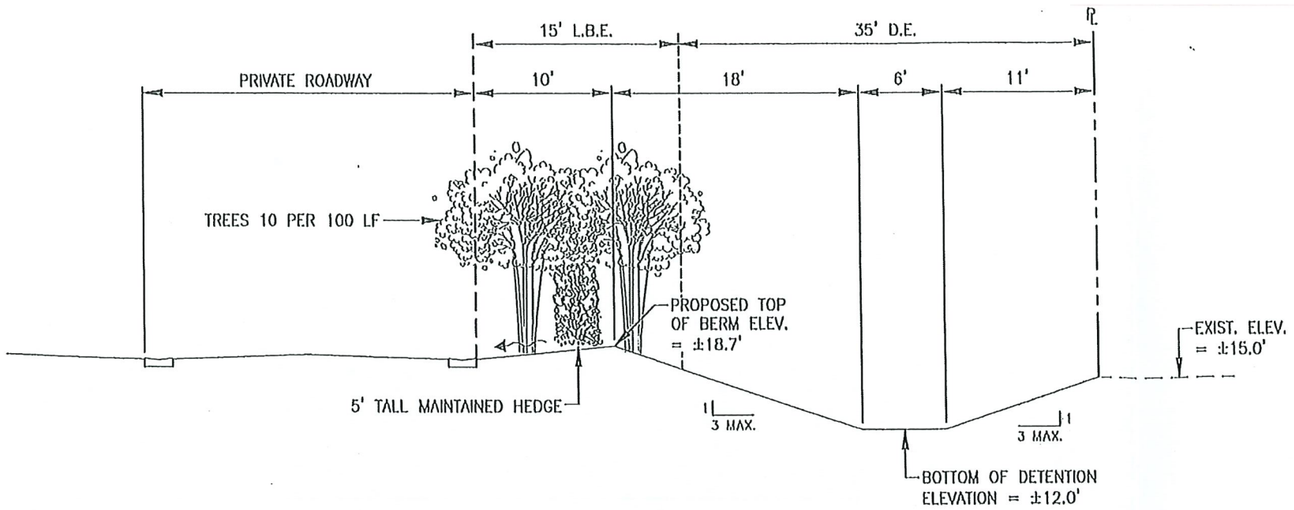
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Bonita Springs, Florida 34134

HOMES AT 81 WEST RPD
MASTER CONCEPT PLAN
REVISED 4/6/2023

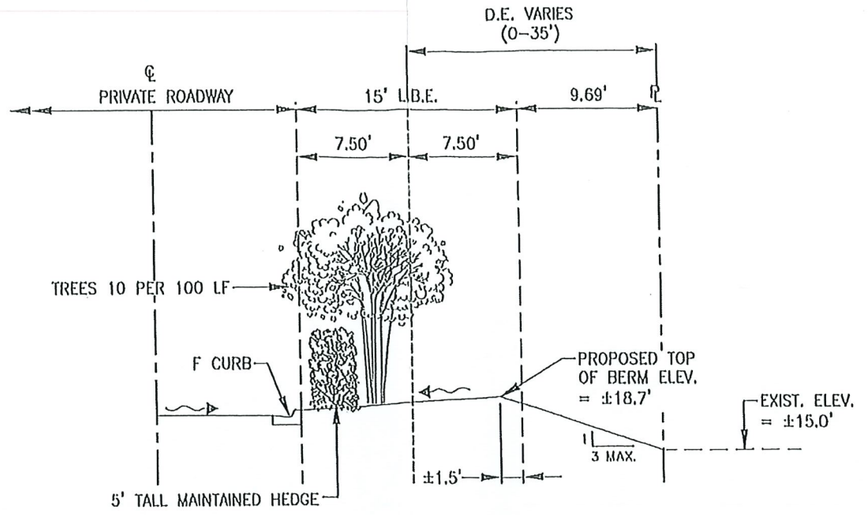
MUNICIPALITY: LEE COUNTY
SEC/TWN/RGE: 8/45S/25E
DATE: FEBRUARY 2021
SUBMITTAL TYPE: REZONE
SHEET 1 OF 2

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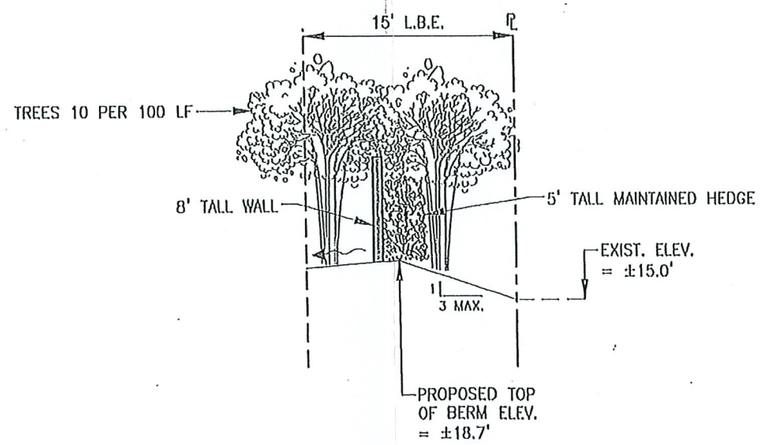
ADD2026-00010 Lee County ePlan



CROSS SECTION A
N.T.S.



CROSS SECTION B
N.T.S.



CROSS SECTION C
N.T.S.

Approved as Exhibit C
MCP Page 2 of 2
Resolution # Z-22-034
DCI2021-00026

LEGEND

Revision	Date	Description	By

DESIGNED BY: F.J.F.
DRAWN BY: C.G.K.
APPROVED: D.W.A.
JOB CODE: CVPB
SCALE: AS NOTED

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Bonita Springs, Florida 34134

HOMES AT 81 WEST RPD

DEVIATION #2
CROSS SECTIONS

MUNICIPALITY: LEE COUNTY
SEC/TWN/RGE: 8/45S/25E
DATE: FEBRUARY 2021
SUBMITTAL TYPE: REZONE
SHEET 2 OF 2

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