



LEE COUNTY BOARD OF COUNTY COMMISSIONERS
ZONING
and
COMPREHENSIVE PLAN AMENDMENT HEARING
AGENDA
Wednesday, December 6, 2023
9:30AM

DCI2022-00061
Z-23-033

ORIOLE ALICO WEST, MPD

CPA2023-00007

MCGREGOR MIXED USE OVERLAY – ADOPTION

CPA2022-00019

CARY+DUKE+POVIA MAP AMENDMENT - TRANSMITTAL
This case has been continued to January 17, 2024

CPA2023-00004

BUILDING HEIGHT AND RESILIENCY – ADOPTION

NOTICE OF PUBLIC HEARING

The Lee County Board of County Commissioners will hold a public hearing at 9:30 am on Wednesday, December 6, 2023, in the Board Chambers at 2120 Main St., Ft. Myers, FL, to review the written recommendations made by the Hearing Examiner and make a final decision on the case below.

DCI2022-00061 / Oriole Alico West, MPD

Request to rezone 30.65± acres from Agricultural (AG-2) to Mixed Use Planned Development (MPD) to allow for up to 350,000 square feet of commercial retail, office and industrial uses and 150 hotel rooms.

Located on the northwest corner of Alico and Oriole Roads, Gateway/Airport Planning Community, Lee County, FL.

Copies of the Hearing Examiner's recommendation may be obtained or the file reviewed at the Zoning Section, 1500 Monroe St., Ft. Myers, FL. Telephone 239-533-8585 for additional information.

If you did not appear before the Hearing Examiner or otherwise become a participant for that case in which you wish to testify, the law does not permit you to address the Board of County Commissioners.

Statements before the Board of County Commissioners regarding the zoning case will be strictly limited to testimony presented to the Hearing Examiner, testimony concerning the correctness of the findings of fact or conclusions of law contained in the record, or to allege the discovery of new, relevant information which was not available at the time of the hearing before the Hearing Examiner.

Any document that a participant of record intends to submit must have been submitted as part of the record in the hearing before the Hearing Examiner or the document is relevant new evidence that was not known or could not have been reasonably discovered by the participant at the time of the hearing before the Hearing Examiner. All other documents will not be accepted by the Board. To ensure compliance with these regulations, copies of documents not submitted as part of the record before the Hearing Examiner must be provided to the Applicant and County Staff (JPrincing@leegov.com) not less than 2 days before the date of the zoning hearing.

If a participant decides to appeal a decision made by the Board of County Commissioners with respect to any matter considered at this hearing, a verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

In accordance with the Americans with Disabilities Act, Lee County will not discriminate against qualified individuals with disabilities in its services, programs, or activities. To request an auxiliary aid or service for effective communication or a reasonable modification to participate, contact Joan LaGuardia, (239) 533-2314, ADArequests@leegov.com or Florida Relay Service 711. Accommodation will be provided at no cost to the requestor. Requests should be made at least five business days in advance.

**NOTICE OF PROPOSED AMENDMENT TO THE
LEE COUNTY COMPREHENSIVE LAND USE PLAN
(ADOPTION HEARING OF SMALL SCALE AMENDMENT)**

The Lee County Board of County Commissioners will hold a public hearing to consider the adoption of a proposed amendment to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, December 6, 2023. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers, 2120 Main Street in Downtown Fort Myers.

The Board proposes to adopt an ordinance amending the Lee Plan as follows:

CPA2023-00007 McGregor Mixed Use Overlay – Amend Lee Plan Map 1-C to extend the Mixed Use Overlay to approximately 3.73 acres of existing commercial properties located at the northwest corner of McGregor Boulevard and College Parkway.

Copies of this Notice and the proposed ordinance are available for inspection or copying during regular business hours at the Minutes Office of the Clerk of Courts of Lee County, located in the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida. This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

Lee County will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income or family status. To request language interpretation, document translation or an ADA-qualified reasonable modification at no charge to the requestor, contact Joan LaGuardia, (239) 839-6038, Florida Relay Service 711, at least five business days in advance. El Condado de Lee brindará servicios de traducción sin cargo a personas con el idioma limitado del inglés.

**NOTICE OF PROPOSED AMENDMENT TO THE
LEE COUNTY COMPREHENSIVE LAND USE PLAN
(TRANSMITTAL HEARING)**

This case is continued to January 17, 2024

The Lee County Board of County Commissioners will hold a public hearing to consider proposed amendments to the Lee County Comprehensive Land Use Plan (Lee Plan) on Wednesday, December 6, 2023. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers, 2120 Main Street in Downtown Fort Myers. At the hearing, the Board will consider the proposed amendments for transmittal to the Florida Department of Economic Opportunity:

CPA2022-00019: Cary+Duke+Povia CPA - Amend the Lee County Utilities Future Water Service Areas Map (Map 4A) and the Lee County Utilities Future Sewer Service Areas Map (Map 4B), to include a 788+/- acre property located on North River Road, approximately 1 mile east of SR 31.

This transmittal hearing is the first step in a two-step public hearing process to amend the Lee Plan. A second hearing will follow the Department of Economic Opportunity's review of the application.

Documentation for the Proposed Comprehensive Plan Amendment is available at <https://www.leegov.com/dcd/planning/cpa> or at the Department of Community Development located at 1500 Monroe Street, Fort Myers, Florida. This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

It is the intent of the Board of County Commissioners that the provisions of this Comprehensive Plan Amendment may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

Lee County will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income or family status. To request language interpretation, document translation or an ADA-qualified reasonable modification at no charge to the requestor, contact Joan LaGuardia, (239) 839-6038, Florida Relay Service 711, at least five business days in advance. El Condado de Lee brindará servicios de traducción sin cargo a personas con el idioma limitado del inglés.

**REVISED NOTICE OF PROPOSED AMENDMENT TO THE
LEE COUNTY COMPREHENSIVE LAND USE PLAN
(ADOPTION HEARING)**

The Lee County Board of County Commissioners will hold a public hearing to consider the adoption of proposed amendments to the Lee County Comprehensive Land Use Plan (Lee Plan). This hearing was initially published to occur on November 8, 2023. The new hearing date will be held on Wednesday, December 6, 2023. The hearing will commence at 9:30 a.m., or as soon thereafter as can be heard, in the Board Chambers, 2120 Main Street in Downtown Fort Myers.

The Board proposes to adopt an ordinance amending the Lee Plan as follows:

CPA2023-00004 Building Height and Resiliency Amend Lee Plan Goal 23 removing reference to one and two story building heights and Policy 23.2.3 to remove reference to building height regulations being established as of March 23, 2018.

Copies of this Notice and the proposed ordinance are available for inspection or copying during regular business hours at the Minutes Office of the Clerk of Courts of Lee County. The Minutes Office is located in the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida. This meeting is open to the public. Interested parties may appear at the meeting and be heard with respect to the proposed plan amendment. A verbatim record of the proceeding will be necessary to appeal a decision made at this hearing.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

Lee County will not discriminate against individuals on the basis of race, color, national origin, sex, age, disability, religion, income or family status. To request language interpretation, document translation or an ADA-qualified reasonable modification at no charge to the requestor, contact Joan LaGuardia, (239) 839-6038, Florida Relay Service 711, at least five business days in advance. El Condado de Lee brindará servicios de traducción sin cargo a personas con el idioma limitado del inglés.

DCI2022-00061
ORIOLE ALICO
WEST, MPD

Staff Summary

CASE NUMBER & NAME: DCI2022-00061 / Oriole Alico West, MPD

REQUEST: Request to rezone 30.65± acres from Agricultural (AG 2) to Mixed Use Planned Development (MPD) to allow for up to 350,000 square feet of commercial retail, office and industrial uses and 150 hotel rooms.

RESOLUTION NUMBER: Z-23-033

LOCATION: Located on the northwest corner of Alico and Oriole Roads, Gateway/Airport Planning Community, Lee County, FL

OWNER: Freeman Alan C

APPLICANT: Quattrone & Associates, Inc.


AGENT: Al Quattrone
Quattrone & Associates, Inc.
4301 Veronica Shoemaker Blvd.
Fort Myres, FL 33916

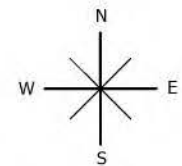
HEARING EXAMINER
RECOMMENDATION: Approval, subject to the conditions and deviations set forth in Exhibit B.

PARTICIPANTS: NONE

DCI2022-00061

Aerial

 Subject Property



0 300 600 900 1,200
Feet



Summary of Hearing Examiner Recommendation

ALICO ORIOLE WEST MPD

The request seeks to develop commercial/office/hotel/industrial uses at the northwest intersection of Alico and Oriole Roads. The Lee Plan designates the site within the Industrial land use category. This category imposes limitations on retail development to ensure the MPD develops with predominantly industrial uses.

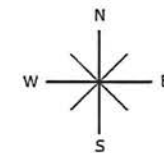
The proposed project is suitable at the site's location along two corridors emerging with intense commercial and industrial uses.

Detailed recommendation follows

DCI2022-00061

Future Land Use

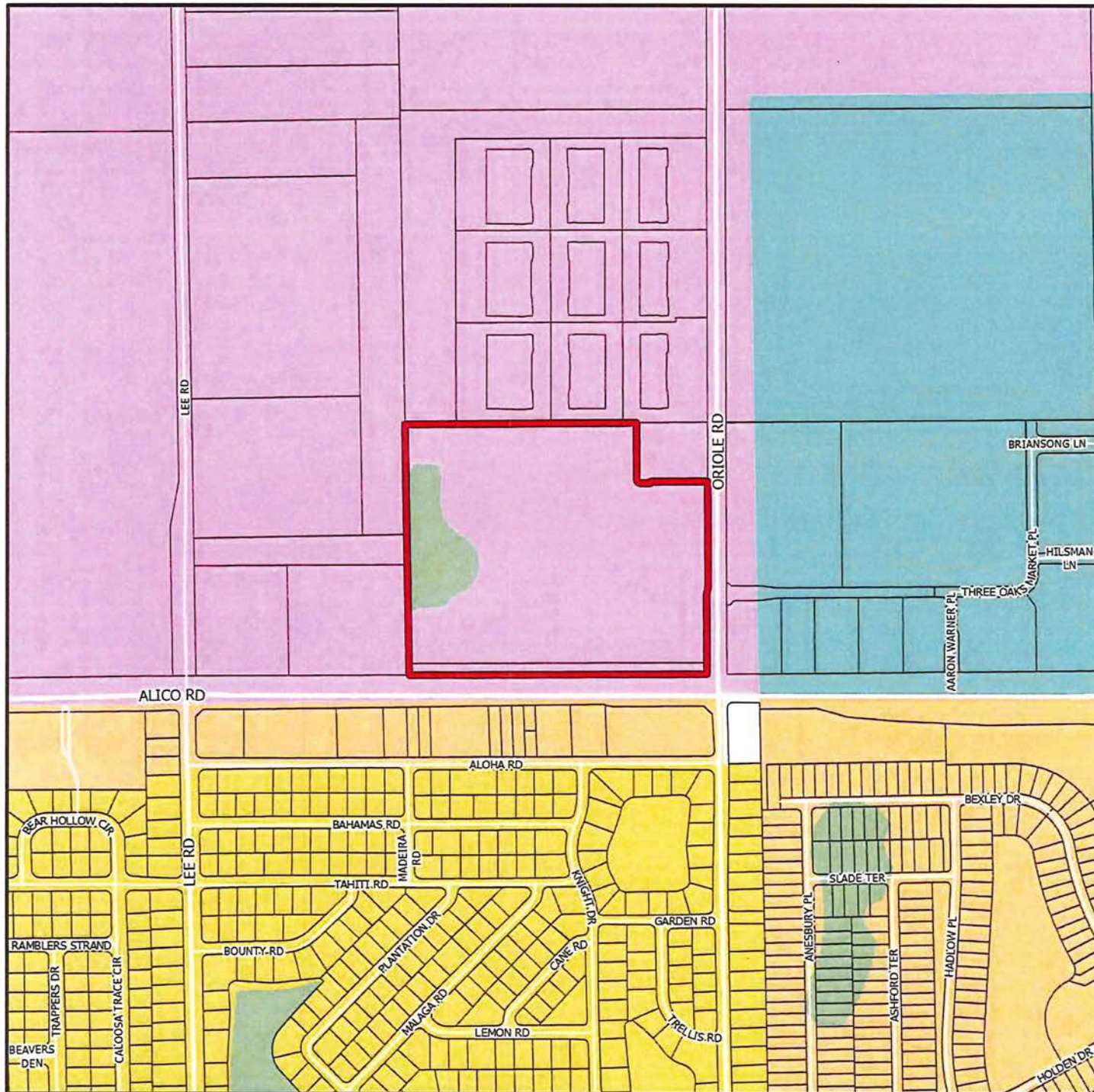
-  Subject Property
-  Urban Community
-  Suburban
-  Industrial
-  Public Facilities
-  Industrial Commercial Interchange
-  Wetlands

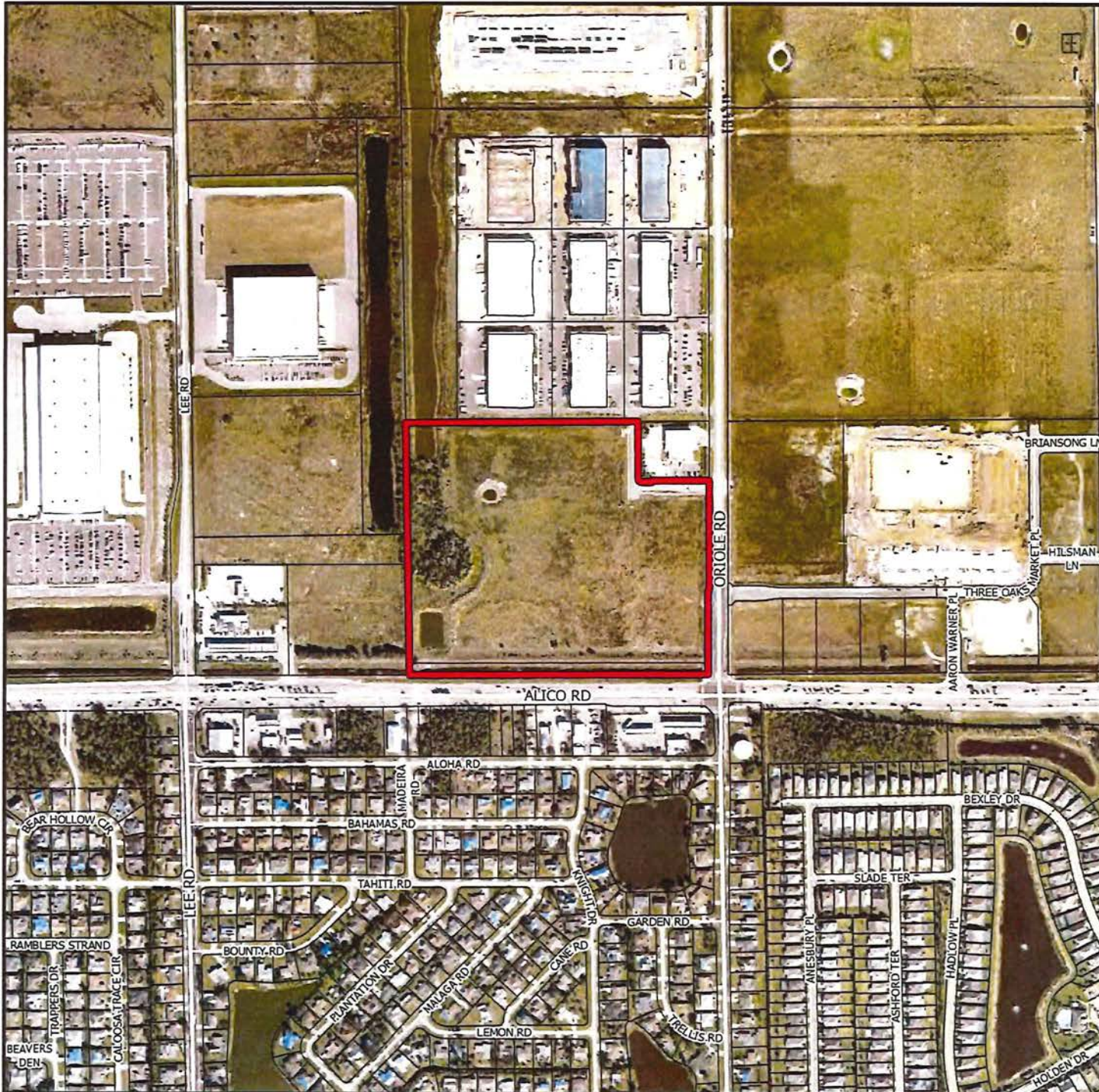


0 300 600 900 1,200
Feet



Lee County
Southwest Florida

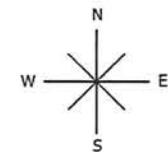




DCI2022-00061

Aerial

 Subject Property



0 300 600 900 1,200
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

REZONING: DCI2022-00061

Regarding: **ALICO ORIOLE WEST MPD**

Location: Northwest Corner of Alico Road/Oriole Road Intersection
Gateway/Airport Planning Community
(District 2)

Hearing Date: September 27, 2023

Record Closed: **October 2, 2023**

I. Request

Rezone 30.65± acres from Agricultural (AG-2) to Mixed Use Planned Development (MPD) to allow 350,000 square feet of commercial retail, office, industrial uses, and 150 hotel rooms.

The property's legal description is set forth in Exhibit A.

II. Hearing Examiner Recommendation

Approval, subject to the conditions and deviations set forth in Exhibit B.

III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.¹ In satisfaction of this duty, the Hearing Examiner accepted testimony and evidence on the application to rezone to MPD.

In preparing a recommendation to the Board, the Hearing Examiner must consider the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other applicable County regulations to the facts presented in a rezoning request.² Specifically, the Hearing Examiner must find the request compatible with surrounding uses and complies with Lee Plan and LDC requirements relating to such items as transportation facilities, natural resources, and urban services.³ The

¹ LDC §34-145(d)(1)(a) & (2)(a).

² LDC §34-145(d)(3).

³ LDC §34-145(d)(4).

Hearing Examiner may take judicial notice of previous Board decisions.⁴ The Hearing Examiner's recommendation must be based on competent and substantial evidence.⁵

Discussion supporting the recommendation of approval of the proposed MPD follows below.

Request Synopsis

The 30.65± acre property sits at the northwest corner of the Alico Road/Oriole Road intersection.

The property is zoned AG-2 and is vacant, except for cattle grazing.⁶ An eagle's nest occupies the western portion of the site. The Eagle Technical Advisory Committee approved Applicant's Bald Eagle Management Plan in June 2023.⁷

Applicant seeks to develop 350,000 square feet of office/retail/commercial/industrial uses and 150 hotel rooms. Site design locates development tracts around internal roadways with lake/preserve areas along the property's western border. Wetlands and preserves are under a conservation easement, bolstering protection of the eagle's nest.

Applicant proposes two access points on Oriole Road and one access to Alico Road.⁸ The northern Oriole Road access will be shared with the San Carlos Fire Station.⁹

Staff recommended approval, finding the proposed MPD satisfies LDC review criteria.

⁴ Lee Co. Admin. Code 2-6, 2.3.D(4)(b).

⁵ Lee Co. Admin. Code 2-6, 3.3.A(2); LDC §34-83(a)(4)(a)(1)(a).

⁶ See Staff Report (Attachment L: Narrative); Applicant's Ex. 1 (slide 5, indicating the property receives an agricultural tax exemption).

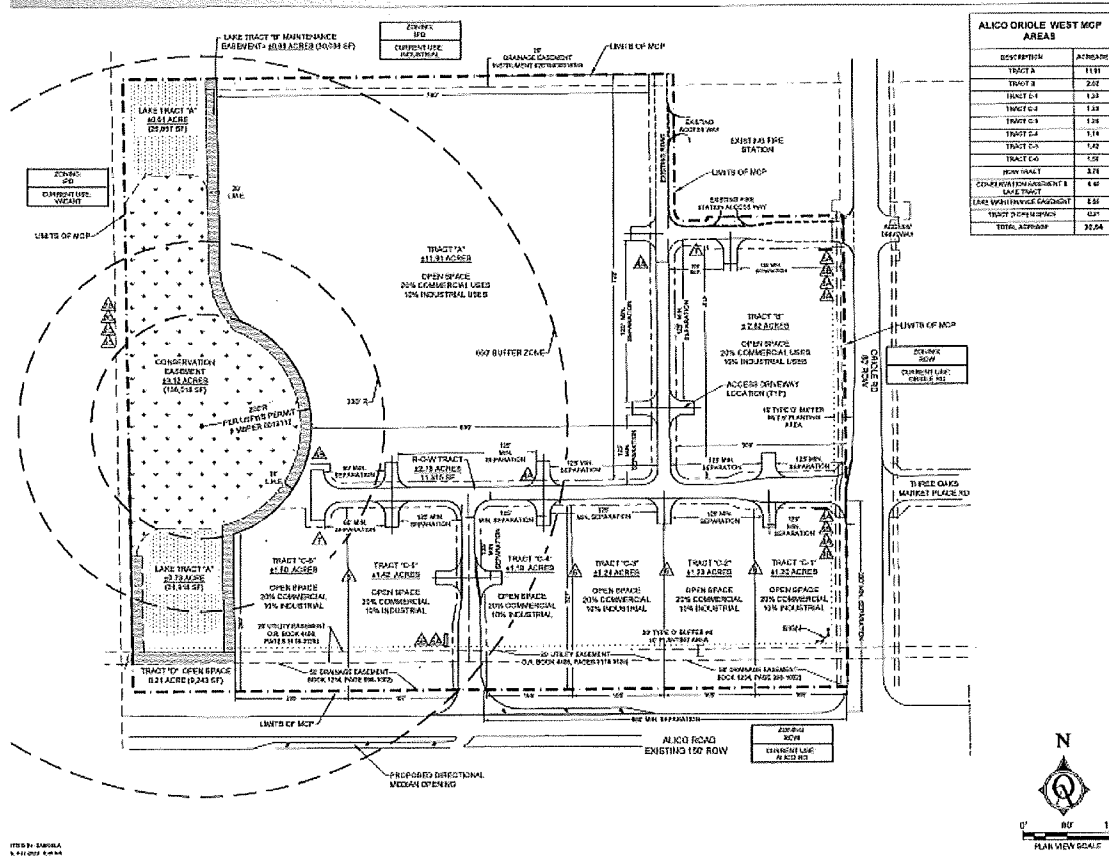
⁷ See Staff Report (Attachment H: Bald Management Plan dated May 11, 2023); See also LDC §14-119(c). The Management Plan is attached as Exhibit B2 to the Recommended Conditions herein.

⁸ Lee Plan Map 3G and Objective 36.2 limit Alico Road access from Oriole Road east to Ben Hill Griffin Parkway, and within 1,000 feet of the I-75 interchange. The request is outside the scope of these limitations.

⁹ The access drive is constructed with a stub-out to serve the subject property. (Transcript pg. 8).

ALICO ORIOLE WEST

LOCATED IN SECTION 04, TOWNSHIP 46-S, RANGE 25-E, LEE COUNTY, FLORIDA

**Zoning Review Criteria**

Before recommending approval, the Hearing Examiner must find the request:

- Complies with the Lee Plan;
- Meets the LDC and other applicable County regulations or qualifies for deviations;
- Is compatible with existing and planned uses in the surrounding area;
- Will provide access sufficient to support the proposed development intensity;
- Addresses impacts on transportation facilities by County regulations or conditions of approval;

F. Will not adversely affect environmentally critical/sensitive areas or natural resources; and

G. Will be served by urban services if located in a Future Urban area.¹⁰

When the requested zoning action is a planned development, the Hearing Examiner must also find:

H. The proposed use/mix of uses is appropriate at the proposed location;

I. Recommended conditions (1) provide sufficient safeguards to the public interest, and (2) reasonably relate to impacts on the public interest expected from the proposed development; and

J. Requested deviations (1) enhance achievement of the objectives of the planned development, and (2) promote the LDC's intent to protect public health, safety, and welfare.¹¹

Character of the Area

The property is located north of Alico Road, west of Oriole Road. Commercial and industrial developments line Alico Road. A fire station abuts the site to the northeast.¹² Residential uses lie along Oriole Road south of Alico Road.

The area is experiencing a development boom due to its proximity to the airport and the emergence of high intensity projects attracting national/regional employers.¹³ Significant road expansion projects continue to open both the Alico Road and Oriole Road corridors to new development opportunities.¹⁴

Alico Road serves as the dividing line between Industrial and Industrial Commercial Interchange lands to the north, and Suburban/Urban Community lands to the south.¹⁵

¹⁰ LDC §34-145(d)(4)(a)(1).

¹¹ LDC §34-145(d)(4)(a)(2).

¹² The San Carlos Fire Station "squares off" the site, occupying a notched out portion in the northeast.

¹³ See Applicant Ex. 1 (slide 10).

¹⁴ Extensions to Three Oaks Parkway and Alico Road are underway, improving connectivity for employees and customers of businesses locating in this area. See Lee County Dept. of Transp. Project Plans (<https://www.leegov.com/dot/engineeringservices/projectsplans>).

¹⁵ See Lee Plan Map 1-A, Staff Report (Attachment B).



Lee Plan Consistency and Compatibility

Planned developments must be consistent with the Lee Plan.¹⁶ Rezoning requests must be compatible with existing/planned uses in the surrounding area.¹⁷ Planned developments must be located to minimize negative effects of proposed uses on neighboring properties.¹⁸

The property is located within the Industrial Development future land use category in the Gateway/Airport Planning Community.¹⁹ The Industrial Development category contemplates industrial activities and mixed uses.²⁰ Appropriate uses include industrial, manufacturing, and research.²¹ This category restricts recreational/service/retail uses to 20% of the site to maintain an industrial focus.²² The LDC further requires at least 30,000 square feet each of commercial and industrial uses to satisfy MPD zoning parameters.²³

¹⁶ LDC §34-411(a).

¹⁷ LDC §34-145(d)(4)(a).

¹⁸ LDC §34-411(c) and (i).

¹⁹ Lee Plan Map 1-A, 1-B; Policy 1.1.7.

²⁰ Lee Plan Policy 1.1.7.

²¹ *Id.*

²² See Lee Plan Policy 1.1.7(2).

²³ See LDC §34-940(a).

Conservation wetlands along the western edge of the property are subject to a conservation easement.²⁴

The property is the sole agricultural zoned parcel in this area. Surrounding lands are zoned industrial, commercial, or mixed-use.²⁵ Adjacent properties are approved for intense commercial and industrial uses including warehousing, manufacturing, outdoor storage, and a fueling station.²⁶ The site plan ensures consistency with surrounding developments along road corridors to preserve the aesthetic for the traveling public by maintaining approved right-of-way buffers.²⁷

The MPD zoning district is appropriate in the Industrial Development category on a high-volume arterial roadway. Industrial and heavy commercial land uses surround the property.²⁸ There are no residential uses adjacent to the property.²⁹

Zoning actions for industrial land uses must be consistent with the Lee Plan's Economic Element.³⁰ The property is well positioned to serve as an employment center for area residents.³¹

The property falls within two Special Treatment Areas: Airport Noise Zone C and the Educational Facility Protection Zone.³² The Lee Plan does not impose development restrictions for properties in Zone C beyond compliance with LDC notification requirements.³³ Schools are prohibited within the Educational Facility Protection Zone. The proposed Schedule of Uses does not permit schools, and conditions of approval require Applicant to provide airport noise zone notification.³⁴

The requested MPD is consistent with the Lee Plan and compatible with the surrounding area.³⁵

²⁴ Applicant delineated wetland areas in its South Florida Water Management District Environmental Resource Permit (ERP) and placed under a conservation easement. See Applicant Ex. 1 (slide 11, referencing ERP #36-05268-P; slide 18, referencing Instrument #2011000192265).

²⁵ See Staff Report (Attachment B); Aerial zoning map *infra*.

²⁶ See Staff Report (pg. 1-2, Attachment L).

²⁷ Staff confirmed right-of-way landscaping is uniform with surrounding developments. See Transcript pg. 22-23.

²⁸ Lee Plan Policy 1.1.7; See Lee Plan Map 3-B.

²⁹ See Staff Report (pg. 4).

³⁰ Lee Plan Policy 7.1.10.

³¹ San Carlos and Three Oaks residents are within proximity.

³² See Lee Plan Map 1E, LDC §§34-1106, 34-1107, Appendix C.

³³ See LDC §34-1104(a)(4), (b); Condition 8.

³⁴ See Condition 2 & 8.

³⁵ Lee Plan Goals 6, 7, 158, Objective 2.1, 2.2, 11.1, Policy 1.1.7, 1.5.1, 2.1.1, 6.1.6, 6.1.7, 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.1.6, 7.1.7, 7.1.8.

Transportation/Traffic

Planned developments must have access to roads with sufficient capacity to support proposed intensity.³⁶ Existing regulations or conditions of approval must address expected impacts on transportation facilities.³⁷

The site plan reflects access to Alico Road with two accesses to Oriole Road. The northern Oriole Road access is existing with a stub-out to connect the MPD's future development.³⁸ Applicant demonstrated the request provides sufficient access to support proposed development.³⁹

The Traffic Impact Statement (TIS) evaluated transportation impacts and concludes the request will not degrade levels of service on affected roadways/intersections.⁴⁰ Conditions of approval limit project trip generation to ensure no detrimental impact to the surrounding roadway system.⁴¹

Site related impacts will be evaluated during development order review.⁴²

Environmental and Natural Resources

Planned development design should reflect creative use of open space.⁴³ Developers must make an effort to protect and preserve natural site features.⁴⁴

The site is grazing pasture with isolated wetlands.⁴⁵ The South Florida Water Management District issued an ERP encumbering wetlands/preserve areas under a conservation easement.⁴⁶

³⁶ LDC §34-145(d)(4)(a)(1)(d); §34-411(d)(1).

³⁷ LDC §34-145(d)(4)(a)(1)(e); §34-411(d)(2).

³⁸ Transcript pg. 8; Staff Report (Attachment F).

³⁹ LDC §34-145(d)(4)(a)(1)(d); Staff Report (Attachment L).

⁴⁰ See Staff Report (pg. 2, Attachment F: Infrastructure Planning Memorandum dated 8/22/2023; Attachment K: TIS dated 11/10/2022).

⁴¹ See Staff Report (pg. 2, Attachment F: Infrastructure Planning Memorandum dated 8/22/2023); Condition 9. County Transportation staff recommended a condition to limit project intensity to impacts analyzed in the TIS in the event Applicant elects to develop a hotel. See *Id.*

⁴² Site related improvements include capital improvements and right-of-way dedications for "direct access" improvements to the project. Direct access improvements include site driveways/roads, median cuts made necessary by driveways/roads, right-turn, left-turn and deceleration/acceleration lanes serving driveways/roads, traffic control measures, and roads/intersection improvements whose primary purpose at the time of construction is to provide access to the development. See, Lee Plan Glossary and LDC §2-264; Lee Plan Objective 39.1, Policy 39.1.1. LDC §2-66 *et. seq.*

⁴³ LDC §34-411(h).

⁴⁴ LDC §34-411(g).

⁴⁵ See Staff Report (Attachment E).

⁴⁶ See Applicant Ex. 1 (*referencing* SFWMD ERP #36-05268-P and Instrument #2011000192265)

There is an active eagle nest along the western boundary. The Master Concept Plan (MCP) demarcates associated buffer zones.⁴⁷ Conditions of approval limit uses within 660 feet of the eagle nest pursuant to an approved Bald Eagle Management Plan.⁴⁸

Applicant's ecologist identified no other protected species during site review.⁴⁹ Additional species review will occur at the development order stage. State and federal agencies will address permits as needed.⁵⁰

The MCP complies with buffer requirements.⁵¹ Development will be consistent with a detailed Open Space chart attributed to each tract.⁵²

Public Services

Public/urban services are the facilities, capital improvements, and infrastructure necessary to support development.⁵³ The Lee Plan requires an evaluation of available urban services during the rezoning process.⁵⁴

A host of urban services and infrastructure serve the property including roads, transit, potable water, sanitary sewer, police, fire, and emergency medical services.⁵⁵ A San Carlos Fire Protection District station abuts the site.⁵⁶

Transit routes offer stops along Alico Road proximate to the site.⁵⁷

⁴⁷ Buffer zones are indicated by dotted circles with measurements ranging from 200-660 feet, referencing USFWS Permit #MBPER 0019112. See MCP.

⁴⁸ See Condition 6a; Staff Report (Attachment H: Bald Eagle Management Plan dated 5/11/2023).

⁴⁹ See Staff Report (Attachment E).

⁵⁰ *Id.*

⁵¹ See MCP; Staff Report (Attachment E). Buffers are not required for abutting industrial uses. Applicant withdrew Deviation 3B seeking relief from right-of-way buffers. The MCP reflects 20% open space for commercial uses and 10% for industrial uses on each tract, consistent with Deviation 3A. Staff supported reduced open space since the conservation easement/lake tract comprise 5± acres (16.3% of the site). See *Id.*

⁵² See Conditions Exhibit B3.

⁵³ Lee Plan Glossary: Public services include public water/sewer, paved streets/roads, public transit, parks/recreation facilities, urban levels of police, fire, and emergency services, urban surface water management, schools, employment, industrial, and commercial centers, institutional, public, or administrative facilities, community facilities such as senior citizens centers, libraries, and community centers.

⁵⁴ Lee Plan Policy 2.2.1.

⁵⁵ See Staff Report (pg. 3-4, Attachment I: Utility Letters of Availability). The site is serviced by San Carlos Park Fire Protection & Rescue Service. The nearest Lee County Sheriff's office is the South District office.

⁵⁶ Station #54 abuts the northeast corner of the property.

⁵⁷ Lee Tran Route 60 has stops along Alico Road, connecting the site to US 41 and FGCU. See Staff Report (pg. 3).

Deviations

“Deviations” are departures from LDC regulations.⁵⁸ The request proposes deviations⁵⁹ related to excavation setbacks, lake bank sloping, fencing, open space, signage, and connection separation. Several deviations are necessary to recognize existing conditions.⁶⁰ Staff supports the requested deviations.⁶¹

The Hearing Examiner's standard of review requires a finding the deviations:

1. Enhance achievement of objectives of the planned development; and
2. Preserve and promote the general intent of the LDC to protect the public health, safety, and welfare.⁶²

Applying LDC deviation standards of review to testimony and evidence in the record, the Hearing Examiner concludes requested deviations meet approval criteria.⁶³

Conditions

The county must administer the zoning process so proposed land uses acceptably minimize adverse impacts to adjacent property. Conditions must plausibly relate to impacts anticipated from the development and mitigate impacts on public health, safety, and welfare.⁶⁴

The MPD will be subject to many conditions of approval. Conditions relate to impacts anticipated from the project.⁶⁵ The Hearing Examiner recommends:

1. Revisions to conditions to improve clarity; and
2. Deletion of conditions that restate LDC standards and criteria applicable to the project pursuant to Condition 1.

Public

No members of the public appeared at hearing.

⁵⁸ LDC §34-2.

⁵⁹ Applicant withdrew two deviations prior to hearing. See Applicant Ex. a: 48-Hour Letter.

⁶⁰ Existing conditions include lakes extending beyond site boundaries and proximity to the airport. See Staff Report (pg. 7-10). The property is part of a master drainage system permitted by SFWMD ERP #36-05268-P. Airport proximity informs certain planting requirements.

⁶¹ See Staff Ex. 2 (slides 17-19). Staff recommended withdrawal of two deviations to remain consistent with the LDC and surrounding development. Applicant withdrew those requests prior to hearing. See Applicant Ex. a: 48-Hour Memorandum.

⁶² LDC §34-145(d)(4).

⁶³ LDC §34-377(a)(4).

⁶⁴ LDC 34-932(b).

⁶⁵ LDC §34-83(b)(4)a.3.

Conclusion

The Hearing Examiner concurs with staff's analysis and recommendation of approval.

IV. Findings and Conclusions

The Hearing Examiner makes the following findings and conclusions based on the testimony and evidence in the record:

- A. *As conditioned herein*, the proposed MPD:
1. Complies with the Lee Plan. See, Lee Plan Goals 2, 4, 6, 7, 77, 124, 158, Objectives 1.6, 2.1, 2.2, 6.1, 7.1, and Policies 1.1.7, 1.5.3, 1.6.1, 1.6.5, 2.1.1, 2.2.1, 6.1.1, 6.1.3, 6.1.4, 6.1.5, 6.1.6, 6.1.7, 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.1.6, 7.1.7, 7.1.8, 123.6, 124.1.2, 125.1.3, Standards 4.1.1, 4.1.2, 4.1.4; Lee Plan Maps 1A-B, 1E, 3C.
 2. Complies with the LDC and other County regulations or qualifies for deviations. See, LDC Chapters 10 and 34.
 3. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.7, 1.5.1, 2.1.1, 2.1.2, 2.2.1, 6.1.4, 7.1.3, 7.1.4; LDC 34-411(c), (i), and (j).
 4. Provides sufficient access to support the proposed development intensity, with expected impacts on transportation facilities addressed by existing County regulations or conditions of approval. See Lee Plan Policy 6.1.5, 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.1.7.
 5. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goals 77, 124, 125, Objectives 1.5, 4.1, 77.1, Policy 1.5.1, 6.1.6, 7.1.1, 7.1.6, 124.1.2, Standard 4.1.4, LDC 34-411(h).
 6. Will be served by urban services. See, Lee Plan Glossary, Map 4A-B, Goal 2; Objectives 2.1, 2.2, 4.1, 6.1, 7.1, 53.1, 56.1; Policies 2.2.1, and Standards 4.1.1 and 4.1.2; LDC 34-411(d).
- B. The Master Concept Plan reflects sufficient access to support the intensity of development. In addition, County regulations and conditions of approval will address expected impacts to transportation facilities. See, Lee Plan Goal 39, Objective 39.1, Policies 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.1.7; LDC 34-411(d).
- C. The proposed mix of uses is appropriate at the proposed location. See, Lee Policies 1.1.7, 1.5.1, 2.1.1, 6.1.4, 6.1.7, 7.1.1, 7.1.2, 7.1.3, 7.1.4.

- D. The recommended conditions are sufficient to protect the public interest and reasonably relate to the impacts expected from the development. See, LDC Chapters 10 and 34.
- E. As conditioned herein, the deviations:
 - 1. Enhance the objectives of the planned development; and
 - 2. Promote the intent of the LDC to protect public health, safety, and welfare. See, 34-377(b)(4).

Date of Recommendation: November 8, 2023.



Amanda Rivera
Deputy Hearing Examiner

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

Exhibits to Hearing Examiner's Recommendation

Exhibit A Legal Description and Vicinity Map
Exhibit B Recommended Conditions and Deviations
Exhibit C Exhibits Presented at Hearing
Exhibit D Hearing Participants
Exhibit E Information

Exhibit A

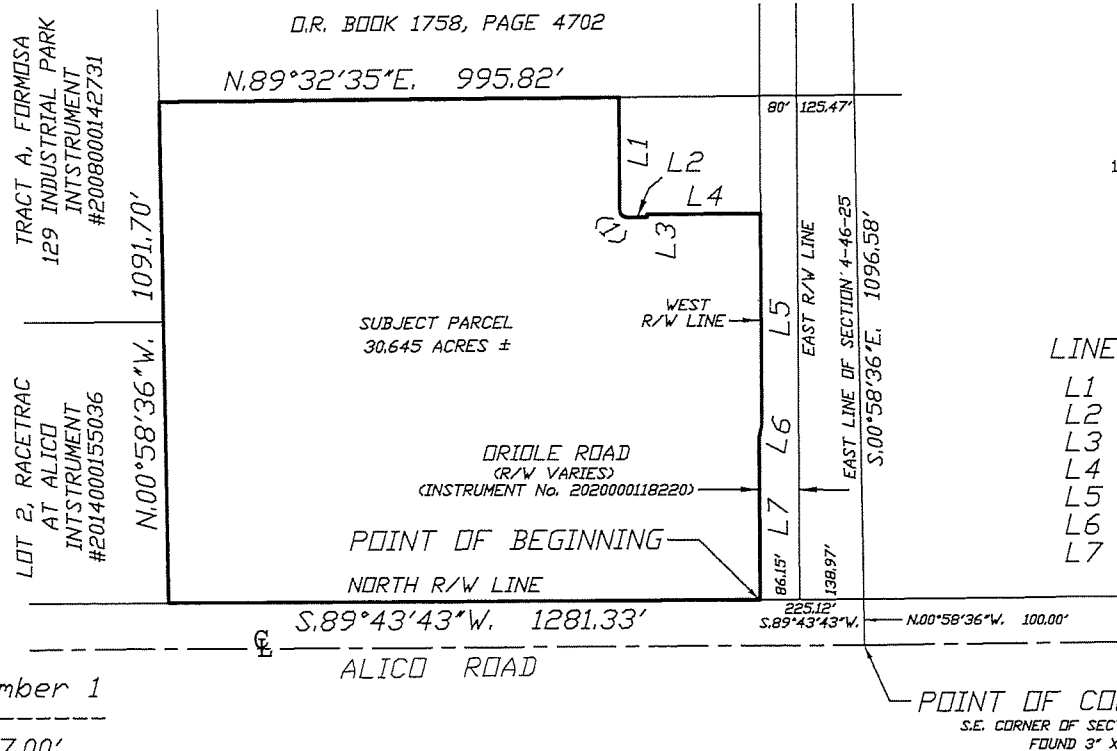
LEGAL DESCRIPTION AND VICINITY MAP

HARRIS-JORGENSEN, LLC
3048 DEL PRADO BLVD. S. SUITE 100
CAPE CORAL, FLORIDA 33904
PHONE: (239) 257-2624
FAX: (239) 257-2921

SKETCH TO ACCOMPANY DESCRIPTION
**A PARCEL OF LAND LYING
IN SECTION 4**

TOWNSHIP 46 SOUTH, RANGE 25 EAST
LEE COUNTY, FLORIDA

SEE EXHIBIT "A" (SHEET 2 OF 2)
FOR DESCRIPTION
THIS IS NOT A BOUNDARY SURVEY



Curve number 1

Radius= 17.00'
Delta= 90°00'00"
Arc= 26.70'
Chord= 24.04'
Chord Brg.= S.45°17'39"E.

SHEET 1 OF 2

EXHIBIT A

DESCRIPTION TO ACCOMPANY SKETCH

EXHIBIT "A"

DESCRIPTION:

A TRACT OR PARCEL OF LAND LYING IN SECTION 4, TOWNSHIP 46 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE AFORESAID SECTION 4; THENCE RUN N.00°58'36"W. ALONG THE EAST LINE OF SAID SECTION 4 FOR 100.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF ALICO ROAD; THENCE RUN S.89°43'43"W. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 225.12 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°43'43"W. ALONG SAID NORTH RIGHT-OF-WAY LINE FOR 1281.33 FEET; THENCE RUN N.00°58'36"W. (AS MEASURED PERPENDICULAR) WEST OF AND PARALLEL WITH THE COMMON LINE BETWEEN SECTIONS 3 & 4, FOR 1091.70 FEET; THENCE RUN N.89°32'35"E. FOR 995.82 FEET; THENCE RUN S.00°17'39"E. FOR 244.48 FEET TO A POINT OF CURVATURE; THENCE RUN SOUTHEASTERLY ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 17.00 FEET, A CENTRAL ANGLE OF 90°00'00", A CHORD BEARING OF S.45°17'39"E. AND A CHORD DISTANCE OF 24.04 FEET TO A POINT OF TANGENCY; THENCE RUN N.89°42'21"E. FOR 42.55 FEET; THENCE RUN N.00°17'39"W. FOR 6.00 FEET; THENCE RUN N.89°42'21"E. FOR 245.45 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF ORIOLE ROAD (80 FEET WIDE); THENCE RUN S.00°16'17"E. ALONG SAID WEST RIGHT-OF-WAY LINE FOR 460.65 FEET; THENCE RUN S.12°01'31"W. ALONG THE WEST RIGHT-OF-WAY LINE OF ORIOLE ROAD (R/W VARIES) FOR 28.89 FEET; THENCE RUN S.00°16'17"E. ALONG SAID WEST RIGHT-OF-WAY LINE FOR 350.62 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 30.645 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE WEST RIGHT-OF-WAY LINE OF ORIOLE ROAD AS BEING S.00°16'17"E.

Phillip M Mould, Digitally signed by
P.S.M. 6515 Phillip M Mould, P.S.M.
State of Florida 6515 State of Florida
Date: 2023.02.07
15:02:12 -05'00'

PHILLIP M MOULD
LS6515
MAY 27, 2020

REVIEWED
DCI2022-00061
Hunter Searson, GIS
Planner
Lee County Government
5/31/2023

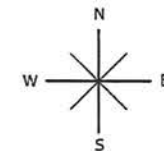
NOTE: THIS MAP/PLAT IS CONSIDERED SIGNED USING A DIGITAL SEAL IN ACCORDANCE WITH THE APPLICABLE STATE LAWS AND STATUTES FS 668.001-006; FS 668.50; FS 472.025; 5J-17.062, FLORIDA ADMINISTRATIVE CODE, STATE OF FLORIDA.



DCI2022-00061

Zoning

 Subject Property



0 300 600 900 1,200
Feet



Exhibit B

RECOMMENDED CONDITIONS AND DEVIATIONS

CONDITIONS

1. Master Concept Plan(MCP)/Development Parameters

- a. MCP. Development must be consistent with the one-page MCP entitled "Alico Oriole West" date stamped 9/28/2023, except where modified by conditions below (Exhibit B1).
- b. LDC and Lee Plan. Development must comply with the LDC and Lee Plan at time of development order approval, except where deviations are granted herein. Subsequent modifications to the MCP or conditions of approval may require further development approvals.
- c. Development Parameters. This MPD allows a maximum of 175,000 square feet of industrial uses, 175,000 square feet of commercial uses, and 150 hotel rooms. The project must maintain a minimum of 30,000 square feet of commercial uses and 30,000 square feet of industrial uses.

2. Uses and Site Development Regulations

a. Schedule of Uses

Uses with an asterisk (*) are not permitted on Tract A, Tract C-6, C-5, and C-4 (within 660' of the eagle nest)

Accessory Uses and Structures

Administrative Offices

Agricultural Uses and Agricultural Accessory Uses, subject to Condition 4

Agricultural Services Office/Base Operations

Aircraft Food Services and Catering

Airport Operations Facilities

Amateur Radio Antennae and Satellite Earth Stations

Animals, Clinic or Kennel

ATM (automatic teller machines)

Auto Parts Store, with or without installations

Auto Repair and Service, Groups I and *II

*Automobile Service Station -Limited to 1 for the entire MPD

Bait and Tackle Shop

Banks and Financial Establishments, Groups I and II

Bar or Cocktail Lounge – limited to 1 for the entire MPD

Boats: Boat Parts Store; [Boat Repair and Service]*

Boat Sales

Broadcast Studio, Commercial Radio and Television
Building Materials Sales
Business Services, Groups I and II
*Bus Station/Depot
Caretaker's Residence
Car Wash
Cleaning & Maintenance Services
Clothing Stores, General
Clubs: Commercial, Fraternal, Membership Organization
Cold Storage, Precooking, Warehouse & Processing Plant
Computer and Data Processing Services
Consumption on Premises - In conjunction with a restaurant use, bar, cocktail lounge, hotel/motel, nightclub only
Contractors and Builders, Groups I, *II, and *III
*Convenience Food and Beverage Stores - Limited to 1 for the entire MPD
Cultural Facilities
Day Care Center, Child, Adult
Department Store
Drive through for any permitted use
Drugstore, Pharmacy
Emergency Operations Center
EMS, Fire, or Sheriff's Office
Entrance Gates and Gatehouse
Essential Services
Essential Service Facilities, Group I
 - Group *II (by amendment through the public hearing process only)
Excavation: Water Retention
Excess Spoil Removal
Factory Outlets, Point of Manufacture Only
Fences, Walls
Food and Beverage Service, Limited
Food Stores, All Groups
*Freight or Cargo Handling Establishments
Funeral Home and Mortuary, with or without crematorium
*Gasoline Dispensing Systems, Special
Gift and Souvenir Shop
*Golf Driving Range
Hardware Store
Health Care Facilities, Groups I, II, and III
*Heliport or Helistop
Hobby Toy and Game Shop
Hospice

Hotel/Motel – 150 Rooms Maximum

Household and Office Furnishings, All Groups

Insurance Companies

Laundromat

Laundry and Dry Cleaning, Groups I and II

*Lawn and Garden Supply Store

Library

*Manufacturing of:

- Apparel Products
- Boats
- Chemical and Allied Products, Groups I and II
- Electrical Machinery and Equipment
- Fabricated Metal Products, Groups I, II and III
- Food and Kindred Products, Group III
- Furniture and Fixtures
- Leather and Leather Products, Group II
- Lumber and Wood Products, All Groups
- Machinery, Groups I, II, and III
- Measuring, Analyzing and Controlling Instruments
- Novelties, Jewelry, Toys and Signs, All Groups
- Paper and Allied Products, All Groups
- Rubber and Plastic Products, Group II
- Stone, Clay, Glass and Concrete Products, Groups I-IV
- Textile Mill Products, Groups I, II, and III
- Transportation Equipment, Groups I, II, and III

Maintenance Facility (Government)

Medical Office

Motion Picture Production Studio

Nightclub – limited to 1 for the entire MPD

Nonstore Retailer, All Groups

Package Store – limited to 1 for the entire MPD

Paint, Glass and Wallpaper

Parks, Groups I and II

Parcel and Express Services

Parking Lot - Accessory, Commercial, Garage, Public Parking, Temporary

Personal Services, Groups I, II, III, IV (Excluding Massage Parlors, Steam
or Turkish Baths, Escort Services, Palm Readers Fortunetellers or
Card readers)

Pet Services

Pet Shop

Pharmacy

Photofinishing Laboratory

Post Office

Maximum Building Height:

65 feet (Height above 35 feet must maintain additional setbacks of one-half foot for every foot)

Minimum Building Separation:

One-half the sum of the heights of both buildings or 20 feet, whichever is greater.

Maximum Lot Coverage:

Commercial:	55%
Industrial:	75%

Minimum Open Space: (See Deviation 3A)

Commercial:	20%
Industrial:	10%

3. Building Design

Buildings/structures fronting Alico and Oriole Roads must comply with LDC Chapter 10, Article IV, Design Standards and Guidelines for Commercial Buildings and Development

4. Agricultural Uses

Existing bona fide agricultural uses (pasture/grazing) may continue subject to the following:

- a. Termination of Agriculture Use. Agricultural uses must terminate on project areas receiving development order approval for vertical development and prior to county issuance of a vegetation removal permit. Development order approvals for plats, infrastructure improvements, landscaping, surface water management, or other non-vertical development do not trigger termination.
- b. Additional Clearing Prohibited. Additional clearing of trees/vegetation in an agricultural area is prohibited. Existing areas of bona fide agricultural use may be maintained, (i.e. mowed) but not cleared or expanded. This prohibition does not preclude County approval of requests to remove invasive exotic vegetation.
- c. Proof of Termination. Upon approval of development order for vertical development and prior to the issuance of vegetation removal permit,

Printing and Publishing
*Processing and Warehousing
Real Estate Sales Office
Recreational Facilities, Commercial, Groups I, *III and IV (Excluding Outdoor Gun Ranges)
Rental or Leasing Establishment: Group I, II, III
Repair Shops: Groups I, II, III and IV
Restaurant, Fast Food
Restaurants: All Groups
Retail and Wholesale Sales, Ancillary to an Approved Use
*Self Service Fuel Pumps - In conjunction with convenience food and beverage use, or auto service station, maximum 20 pumps
Signs
Social Services: Groups I-IV
Specialty Retail Shops: All Groups
Supermarket
Storage: Indoor, Open
Studios
Temporary Uses
Theater, Indoor
*Transportation Services, Groups I – IV (*applies to Groups III & IV only)
*Truck Stop, Trucking Terminal
Used Merchandise Stores: Groups I, II and III
Variety Store
Vehicle & Equipment Dealers: Groups I, II & III
Warehouse, Mini warehouse, Private, Public, Cold Storage, Hybrid
Wholesale Establishments: Groups I, II, III and IV

b. Site Development Regulations

Minimum Lot Area and Dimensions:

Area: 10,000 square feet
Width: 100 feet
Depth: 100 feet

Minimum Setbacks:

Street (Public): 25 feet
Street (Private): 15 feet
Side: 10 feet
Rear: 15 feet
Water Body: 25 feet

Development Perimeter Building Setback: 25 feet

developer must provide written proof of the following, subject to review/approval by the County Attorney's Office:

- i. Affidavit. Sworn affidavit from the property owner confirming:
 - a) Date agricultural uses ceased.
 - b) Legal description of the property subject to development order approval for vertical development.
 - c) Affirmative statement acknowledging and agreeing agricultural uses are illegal and prohibited on the property. The property owner must covenant with the County not to resume agricultural uses until the property is rezoned to permit agricultural use.

The affidavit constitutes a covenant between the property owner and Lee County, binding on the owner and its successors. The covenant must be recorded in Lee County public records at the owner's expense.
- ii. Termination of Tax Exemption. Termination of the agricultural tax exemption for portions of the property subject to a development order for vertical development. Proof of termination must include a copy of the request to terminate the tax exemption submitted to the Lee County Property Appraiser.

5. Unified Sign Plan

Developer must submit a unified signage plan with the development order application.

6. Natural Resources

- a. Developer must adhere to the Bald Eagle Management Plan dated May 11, 2023, for proposed impacts within 660 feet of the bald eagle nest (Exhibit B2). The 660-foot buffer zone and the activities/restrictions outlined in the Plan must be shown on development order plans.
- b. Transportation Services Groups III and IV uses are not permitted on Tract A, Tract C-6, Tract C-5, and Tract C-4.

7. Environmental

- a. Development order plans must demonstrate compliance with the open space chart (Exhibit B3).
- b. Development order plans must demonstrate 3.12 acres of indigenous preserve in substantial compliance with the MCP.
- c. Developer must include a map depicting the location of mechanical and hand-removal methods of exotic vegetation removal prior to issuance of the vegetation removal permit. Mechanical clearing must be limited to non-indigenous areas. Native vegetation must be protected by the tree barricades.
- d. Developer must provide a LDC compliant indigenous management plan before development order approval. The Plan must be approved by Lee County Development Services staff.
- e. Development plans must depict a 20-foot Type D right-of-way buffer along Alico Road.
- f. Development plans must depict a 10-foot Type D buffer along Oriole Road (along Tract C-1 and B only).

8. Airport Noise Zone

The developer, successor or assign acknowledges the property's proximity to Southwest Florida International airport and the potential for noises created by and incidental to the operation of the airport as outlined in Land Development Code Section 34-1104. The developer, successor or assign acknowledges that a disclosure statement is required on plats, and in association documents for condominium, property owner and homeowner associations as outlined in Land Development Code Section 34-1104(b).

9. Development Services

Development intensity is limited to trips generated by 175,000 SF commercial retail use and 175,000 SF industrial use based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual in effect at time of local development order.

10. Development Permits

County development permits do not create rights to obtain permits from state/federal agencies. Further, County development permits 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 undertakes actions in violation of state/federal law. Applicant must obtain applicable state/federal permits prior to commencing development.

DEVIATIONS

DEVIATION 2A: Withdrawn

DEVIATION 2B: Setbacks for Water Retention or Detention Excavations. Relief from LDC §10-329(d)(1)a.3, which prohibits excavation within 50 feet of private property line under separate ownership; to allow a 25-foot setback or to allow a zero-foot setback when the lake is combined with a lake on abutting property.

HEX Recommendation: Approve

DEVIATION 2C: Relief from Bank Slopes. Relief from LDC §10-329(d)(4), which requires banks of excavations to be sloped at a ratio not greater than six horizontal feet to one vertical feet from the top of bank to a water depth of two feet below the control elevation; to allow the existing lake (lake Tract A) to be sloped at a ratio of four horizontal to one vertical.

HEX Recommendation: Approve, This deviation, subject to the following condition:

Cross-sections of the littoral shelves and existing vegetation of preexisting lakes must be submitted and signed/sealed by a civil engineer prior to development order approval.

DEVIATION 2D: Fencing. Relief from LDC §10-329(d)(6), which requires a four-foot fence may be required to be placed around excavations for water retention when located less than 100 feet from any property under separate ownership; to allow no fencing around any existing or proposed lakes.

HEX Recommendation: Approve

DEVIATION 3A: Open Space. Relief from LDC §10-415(a), which requires Large Industrial Developments to provide a minimum of 20% open space and Large Commercial Developments to provide a minimum of 30% open space; to allow the 5± acre Conservation Easement and Lake Tract parcels to be credited toward the open space and reduce the requirement to 20% for commercial uses and 10% industrial uses on individual parcels.

HEX Recommendation: Approve, subject to the following condition:

Development order plans must demonstrate substantial compliance with the open space chart and MCP prior to development order approval.

DEVIATION 3B: Withdrawn

DEVIATION 3C: Littoral Shelf (Proposed Lakes Only). Relief from LDC §10-418(2)(a) and §10-418(2)(d)3, which requires surface water management systems to provide a planted littoral shelf that mimics the function of a natural marsh; to allow 4:1 littoral shelf. And relief from §10-418(2)(d)3, which allows native wetland trees to be substituted for up to 25% of the total number of herbaceous plants required; to allow native wetland trees to be substituted for 100% of the total number of herbaceous plants required.

HEX Recommendation: Approved, *subject to* the following conditions prior to development order approval:

Development order plans must demonstrate a 4:1 littoral shelf on newly constructed lakes.

Landscape plans must demonstrate a 100% substitution of herbaceous plants to native wetland trees for existing and new lakes to comply with FAA guidelines.

DEVIATION 4A: Street Trees. Deviation from LDC §10-296(e)(2)d which requires Street Trees must be planted on both sides of the road, palm trees may be substituted for a maximum of 50% of required small trees, and trees must be spaced evenly along the frontage and not clustered; to allow required trees to be planted on one side of the road, to allow 100% of the trees to be palm trees, and to allow the palm trees to be clustered.

HEX Recommendation: Approve, *subject to* the following condition:

Landscape plans must depict tree and palm spacing in roadway planting areas as 100% cabbage palms. Cabbage palms may be clustered and must be staggered in height from a minimum of 10-feet to 14-feet.

DEVIATION 4B: Culs-de-Sac. Deviation from LDC §10-296(k)(1), which requires dead-end streets to be closed at one end by a circular turnaround for vehicles; to allow internal roads or accessways to be designed constructed with a hammerhead turnaround as depicted on the MCP.

HEX Recommendation: Approve, *subject to* the following condition:

Developer must demonstrate the hammerhead turnaround is of sufficient length to allow emergency vehicles, as specified by the San Carlos Park Fire & Rescue Services District, to turn around.

DEVIATIONS 5A and 5B: Nonresidential Identification Signs. Deviation from LDC §30-153(2)a and §30-153(2)a.1.ii which requires the development be permitted to have one identification sign equal to one square foot of sign area per face for every one linear foot of frontage to allow:

- a) One additional sign on the Oriole Road frontage, for a total of two ground-mounted developer signs on Oriole Road; and
- b) Two signs on Oriole Road with 200 square feet per sign area per face. This is a deviation of an additional 100 square feet of sign area on Oriole Road.

HEX Recommendation: Approve

DEVIATION 6: Parking Lot Interconnection. Relief from LDC §10-610(e) and §34-2015(2)(f), which requires projects to provide parking lot interconnections for automobile, bicycle and pedestrian traffic; to allow the proposed local roadway as shown on the MCP to serve as the required interconnection for Lots of C-1 through C-6.

HEX Recommendation: Approve

DEVIATION 7: Connection Separation. Relief from LDC §10-285(a), which requires that motor vehicle connection(s) to a road from privately maintained streets, access roads or accessways onto local roads in future suburban areas must be a minimum of 125 feet apart; to allow a connection separation of 60 feet on proposed access roads from anticipated entrances on Tracts "A", C-5, C-6" (proposed commercial"), and to allow 102 feet on "Sweeney Way" from anticipated entrances on Tracts "B", (proposed commercial") as depicted on the MCP.

HEX Recommendation: Approve

Exhibits to Conditions:

B1 MCP dated 9/28/2023

B2 Bald Eagle Management Plan dated 5/11/2023

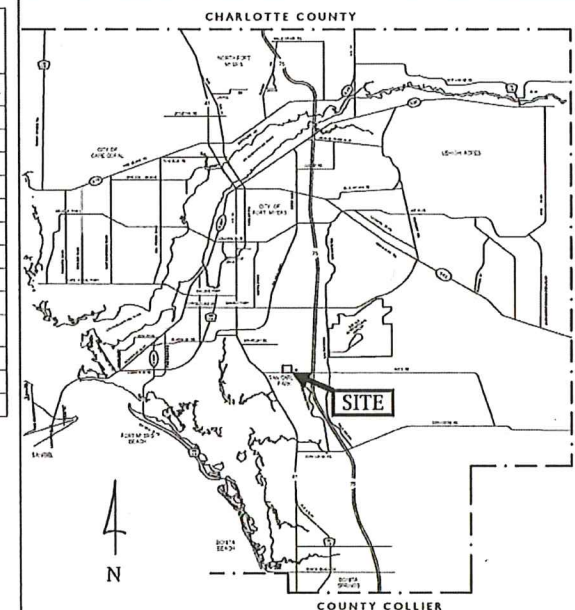
B3 Open Space Chart

LOCATED IN SECTION 04, TOWNSHIP 46-S, RANGE 25 -E, LEE COUNTY, FLORIDA

2023 SEP 28 PM 1:55

MASTER CONCEPT PLAN

ALICO ORIOLE WEST MCP AREAS	
DESCRIPTION	ACREAGE
TRACT A	11.91
TRACT B	2.82
TRACT C-1	1.20
TRACT C-2	1.23
TRACT C-3	1.24
TRACT C-4	1.19
TRACT C-5	1.42
TRACT C-6	1.50
ROW TRACT	2.78
CONSERVATION EASEMENT & LAKE TRACT	4.46
LAKE MAINTENANCE EASEMENT	0.68
TRACT D OPEN SPACE	0.21
TOTAL ACREAGE	30.64



LOCATION MAP
(NOT TO SCALE)

PROJECT SUMMARY:

<u>ZONING</u>	<u>STRAP #'s</u>
AG-2 to MPD	04-46-25-L3-00003-0020

PROJECT ACREAGE
30.64 ACRES (1,334,896 SF)

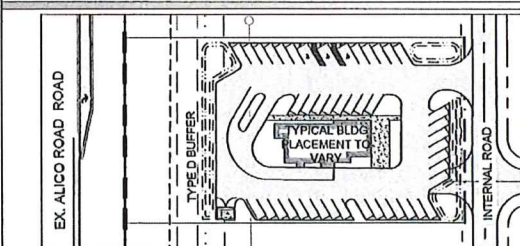
PROJECT INTENSITY
MAX BUILDING FLOOR AREA = 350,000 SF
MINIMUM 30,000 SF COMMERCIAL
MINIMUM 30,000 SF INDUSTRIAL

OPEN SPACE
COMMERCIAL USES: 20%
INDUSTRIAL USES: 10%

CONSERVATION AND LAKE AREA
4.46 ACRES

DEVIATIONS

TYPICAL LOT LAYOUT:



Q **Quattrone & Associates, Inc.**
Engineers, Planners, & Development Consultants
4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QAINc.net

EXHIBIT B-1

Project\220104 ALICO ORIOLE WEST\01-CADD FILES\00-QAI CADD - CONCEPTS\23-04-17 REV MCP\220104 BASE-MCP

PLOTTED BY: GABRIELA
MOVL 4-17-2023 8:49 AM
220104 BASE MCP.DWG

EXHIBIT B2

ALICO ORIOLE WEST, MPD
DCI2022-00061 -Major PD

Bald Eagle Management Plan
Eagle Nest LE093
11 May 2023

Owner
Horowitz Sanford I, TR FOR Land Trust
d.b.a. Three Oaks Horowitz LLC
Alan Freeman, Trustee
28120 Hunters Ridge Blvd, Suite 5
Bonita Springs, FL 34135

Preparer
Synecological Analysts® Inc.
2159 Morning Sun Ln
Naples, FL 34119

Table Of Contents

1	Background and Introduction	Page 3
2.	Existing Conditions	Page 5
3.	Management Plan	Page 7
4.	Minimization Measures to Limit Incidental Take	Page 10
5.	Monitoring and Reporting Requirements	Page 11

Attachments

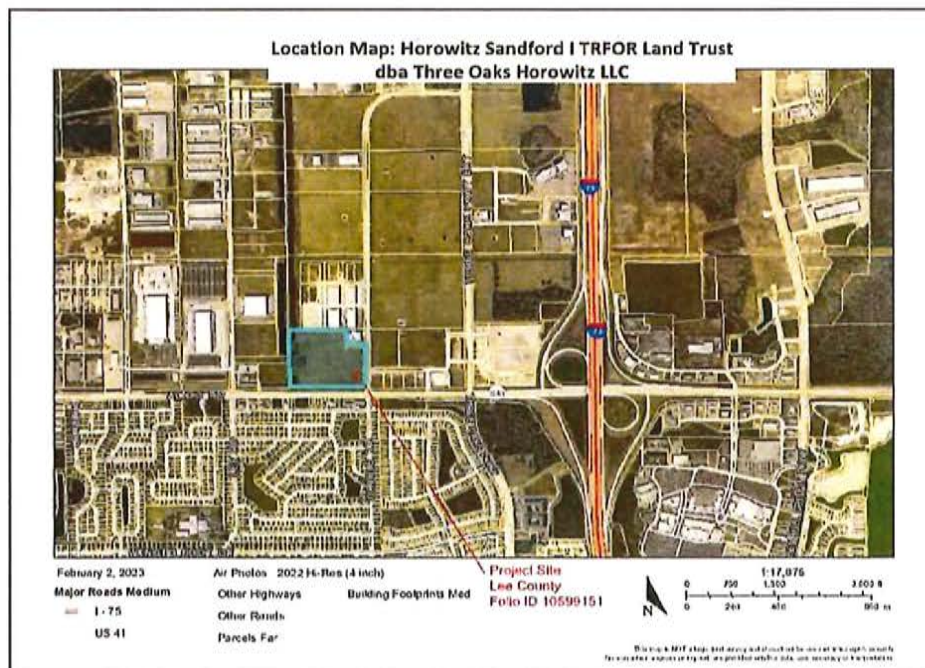
1	Eagle Buffer Planting Exhibit
2	Short-Term Eagle Incidental Take Permit No. MBPER0019112
3	LE093 Nesting History
4	Alternate Eagle Nest/Perch Trees Exhibit
5	Eagle Flight Pattern Exhibits
6	MCP

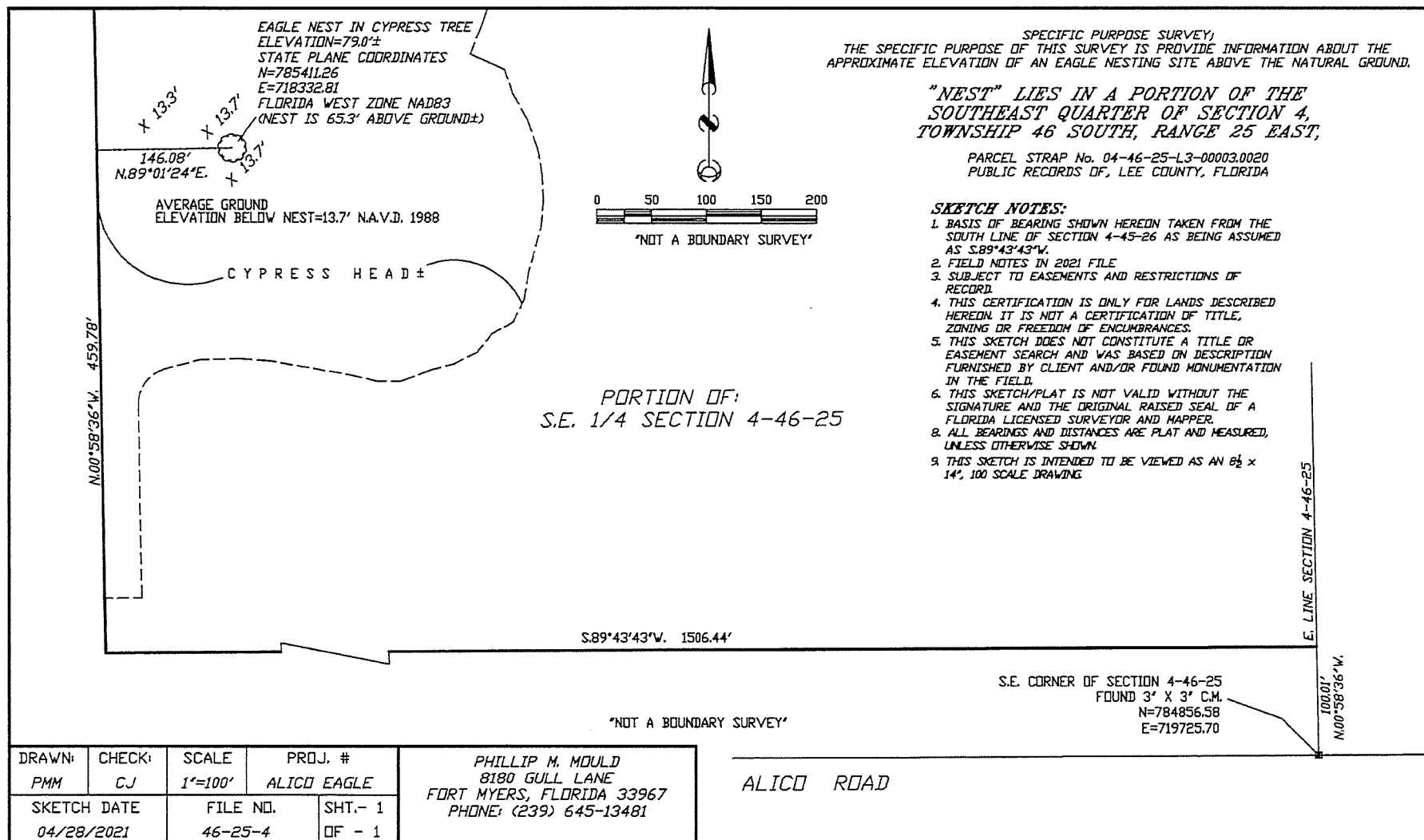
Background and Introduction

Three Oaks Horowitz LLC is seeking approval to develop the Alico Oriole West MPD project on this approximately 29.16 ac parcel (STRAP 04-46-25-L3-00003.0020). This parcel is bordered by a fire station, industrial park and vacant land to the north, Oriole Rd to the east, Alico Rd to the south, and water management areas and vacant land to the west. This site has both State (SFMWD Permit No. 36-0568-P) and Federal (No Permit Required SAJ-2006888) wetland approvals. All wetland impacts have been mitigated consistent with these approvals.

Nest LE-093 has been active since the 2012-13 nesting season. This nest occurs in a recorded Conservation Easement that was created by the previously referenced SFMWD ERP permit. The nest is located in a large cypress tree at elevation 79'+-, State Plane Coordinates N= 785411.26 E= 718332.81. The nest is located 65.3' above ground. The nest has been destroyed by storms and rebuilt multiple times over the years. Most recently, Hurricane Ian damaged but did not destroy this nest. The nesting pair repaired the damage soon thereafter and the nest is observed to be active.

This Eagle Management Plan is intended to facilitate both the long term habitat quality for this pair of nesting eagles and responsible development of the parcel as proposed. The applicant has been granted a Short Term Eagle Take Permit No. MBPER00119112. This permit allows for development of this project within portions of the buffer zones, consistent with Permit Conditions/guidelines and minimization protocols. The conditions of this permit will be discussed in more detail in subsequent sections.





Existing Conditions

Synecological Analysts® (SAI) conducted an Environmental Assessment on this site. SAI evaluated this property to determine distribution, extent, and character of vegetational communities. Habitat types, jurisdictional wetland status, potential or presence of listed species, and suitability of the on-site habitat for listed species habitat were also evaluated. Soil types, distribution and extent were determined to assist in other evaluations.

All native communities except the Cypress head (FLUCCS 621) have been disturbed over an extended period of time as a result of agricultural activities and creation of drainage/road networks. This disturbance influenced the majority of this site and occurred in progressive fashion.

The Alico Oriole West site is not a pristine area that approximates the pre-development character of this general area. Plant communities and habitat have been severely impacted over time by ongoing AG activity. Most of the non-Cypress canopy and much of the Saw palmetto upland shrub strata are largely absent. Regional and area drainage has been massively disrupted by construction of I-75 and the Airport canal. Cycles of fire and renewal have been absent from this site for decades.

Plant communities and land uses were identified according to the Florida Department of Transportation (FDOT1999) Florida Land Use, Cover, and Forms Classification system (FLUCCS) protocol.

FLUCCS 211 - Improved Pasture

This upland habitat type is found in both the primary and secondary buffers of the bald eagle nest tree and contains several shallow ditches/swales that were part of the historic agricultural use. The canopy is mostly open with scattered live oak (*Quercus virginiana*), laurel oak (*Quercus laurifolia*), and slash pine along the edges. The subcanopy is mostly open with scattered Brazilian pepper (*Schinus terebinthifolius*) and cabbage palm (*Sabal palmetto*). The groundcover is dominated by Bahia grass (*Paspalum notatum*), with scattered Spanish needles (*Bidens alba*), false buttonweed (*Spermacoce verticillata*), ragweed (*Ambrosia artemisiifolia*), broomsedge (*Andropogon virginicus*), caesarweed (*Urena lobata*), dog fennel (*Eupatorium capillifolium*), smutgrass (*Sporobolus* spp.), and other various opportunistic weedy species. Commonly observed vines include greenbriar (*Smilax* spp.), and grapevine (*Vitis rotundifolia*).

FLUCCS 616 - Inland Ponds and Sloughs

This area is a human constructed conservation area and water management system and mimics closely these Inland Ponds and Sloughs systems occurring naturally. The dominant shrubs are Wax myrtle and Willow. Herbaceous components include Maiden cane, Sawgrass, and a wide variety of sedges and rushes. This area is excluded from cattle grazing.

FLUCCS 621 - Cypress

This community occurs as isolated heads in the central portion of the western conservation area site. (The Eagle nest is located in this area)

Flucss	Description	Area (ac)
211	Improved Pastures	23.75
621	Cypress	1.32
742	Borrow Areas	0.09
616	Inland Ponds and Sloughs	4.00



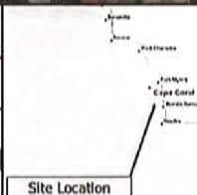
ENVIRONMENTAL EVALUATION AND ADVISORY

2159 Morning Sun Lane
NAPLES, FLORIDA 34119
PHONE: (239) 514-3998
www.synecol.com

PROJECT: West Oriole Marketplace - Flucss Map

DATE: March 29, 2022

DRAWN BY: NW



0 100 200 ft

Along the southeast and northeast boundary of the 621 area, larger areas occur. Bald Cypress (*Taxodium distichum*) and Pond Cypress dominate the canopy. Scattered Slash pine occur within this cypress matrix. Swamp bay and Dahoon characterize the shrub stratum along the margins. Representative herbaceous components include Swamp Fern and Laurel greenbrier. The canopy in this community is mature Pond Cypress varying between 65' to 75' in height. There are two primary perch trees at the north and south sides of this head. These perch trees are 68' and 75' tall, respectively. Their location is shown on the following pages. There are 5-8 trees in this head that could be considered as adequate as nest trees. If this pair relocates the nest there are several trees that would be adequate for this use.

The shrub canopy is largely Cabbage palm, with considerable composition of Dahoon holly, Pond apple, Buttonbush and Willow. These trees are on the order of 10-20' in height. Because this area is a preserve, exotic control has been ongoing and the exotic component limited. The herbaceous strata includes Maidencane, *Spartina Bakerii*, Bushybeard bluestem and swamp fern.

FLUCCS 742 - Borrow Area

Borrow areas for cattle watering cover approximately 0.1 acres of this site and are essentially devoid of emergent vegetation.

Management Plan

Regulatory basis of activities have resulted in the issuance of an Incidental Take Permit for bald eagles through the USFWS Eagle Permit (Eagle Permit) process under 50 C.F.R. 22.26. The 2007 FWS National Bald Eagle Management Guidelines ("Guidelines") provide guidance regarding options to minimize disturbance (impacts) to bald eagles. The Bald and Golden Eagle Protection Act discourages eagle disturbance. The Federal Take Permit and County Eagle Management Plan provide guidance to minimize such disturbance. On April 20, 2017, the Florida FWC approved revisions to the state's bald eagle rule (68A16.002, F.A.C.). That became effective on June 22, 2017. The result of this revision is that only a Federal permit is required for activities with the potential to take or disturb bald eagles or their nests. This Bald Eagle Management Plan reflects necessary minimization and Special Conditions set forth in the Short-Term Eagle Incidental Take Permit obtained for the project. Two zones have been created, 330' and 660' feet from nest LE093, each of which has differing levels of restrictions as to the proposed development and timing of constructions.

Proposed Conservation Measures Within 660'

What conservation measures are proposed within 660' during nesting season?

1. If exterior construction work or project activities outlined in Condition D of the USFWS Take Permit are conducted when the nest is in use: (Note: nest in-use generally refers to the bald eagle nesting season (October 1 - May 15) but use may occur earlier if nesting is initiated prior to October 1 and may end earlier or later than May 15, dependent upon date of successful fledging of young or documented nest failure)

a. Initiate a noise abatement program for construction personnel within 660' of the eagle nest to include:

aa. No excessive and/or sudden loud noise including engine braking, tailgate banging, loud radios, shouting/singing, etc.

ab. All motorized equipment, including saws or other handheld power tools, must be moved indoors if possible or placed to minimize noise at and reflect noise away from the direction of the eagle nest, i.e. behind a temporary structure that reflects noise away from the direction of the eagle nesting area.

ac. Minimize the need for reverse indicator horns and utilize ground flag crews or guides to the degree practicable to avoid using reverse indicator horns.

ad. Provide signage in English and Spanish indicating the need for quiet to the extent practicable.

2. A proposed vegetational visual screen (See Eagle Buffer Planting Exhibit attached) will be installed when the nest is not in use.

3. The previously described landscape/visual buffer.

4. The nesting tree is located in a conservation area, behind a large berm. Based on many hours of nest observation over multiple nesting seasons, these birds are most sensitive to human activity. Planes, buildings, people in association with buildings or equipment do not typically focus the birds attention. Based on this extensive period of observation, it seems likely proposed buildings present no consequential restraint on the birds normal activity and flight patterns so long as the proposed vegetational planted buffer is installed/maintained. Please refer to the wind row base figures showing primary flight sectors to and from this nest.

5. No active external construction within 330' of the nest when the nest is active (nesting season historically Oct 1 through May 15).

6. On-site signage regarding the urgency of being quiet during the nesting season.

Proposed Activities Between the 330' - 660' Buffer of LE093

The onsite development and associated utilities needed to support the onsite development, located between 330' and 660' of the eagle nest, are presented below.

If any exterior construction or project activities within this zone need to occur when the nest is in-use during nesting season (October 1- May 15), the following restrictions/ management practices will be utilized:

1. A traffic/noise abatement program will be initiated for construction personnel, which includes:
 - a. no excessive and/or sudden loud noise, including engine braking, tailgate banging, loud radios, shouting, singing, etc.
 - b. All motorized equipment, including saws or other handheld power tools must be moved indoors if possible or placed to minimize noise at and reflect noise away from the direction of the eagle nest tree
 - c. Minimize the need for "reverse" indicator horns and utilize ground flag crews to the degree practicable to avoid using reverse indicator horns.
 - d. Provide signage in English and Spanish emphasizing the need for quiet to the extent practicable.
 - e. A staging area for equipment and parking/ car pool location for construction or project personnel will be established outside of 330' of the eagle nest tree.
2. This nest will be censused twice weekly as nesting season approaches to document arrival of the nesting pair. Once an eagle is observed, monitoring will be conducted up to three times a week for a minimum of 90 minutes each to document nest status and eagles reactions to any ongoing work. Monitoring will occur on days that construction is ongoing and in process to the extent possible. Monitoring may be reduced to one day per week five weeks post hatching, with concurrence from County staff.

Activities Between the 200' - 330' Buffer of LE093

Exterior construction, heavy landscaping, and associated activities are prohibited within 330' of the nest tree when the nest is in-use during nesting season. The developers will comply with this restriction, resulting in the need for the proposed outdoor work between 200' - 330' of the nest tree to occur only when the nest is not in-use.

Between the 0' - 200' (No Development) Buffer of LE093

No development is proposed on the Alico Oriole West site within 200' of LE093. The Eagle Buffer Planting Exhibit attached shows ±1.3 acres of undeveloped land to remain around the nest tree within the Alico Oriole West site. Per Lee County Development Code requirements, invasive vegetation will be removed within the entire development area, including this buffer zone. This exotic control is also mandated by the existing SFWMD permit for this site. Such invasive removal will only occur outside of the bald eagle nesting season and when the nest is not in-use.

Minimization Measures to Limit Incidental Take

In accordance with Eagle Incidental Take Permit MBPER0019112, the following measures will be implemented by the developer to help minimize disturbance to eagle nest LE093:

1. Prior to construction of the proposed work within 660' of the eagle nest tree, educational materials that outline how to minimize disturbance to eagles, along with contact information for the local eagle rehabilitator, will be prepared and provided to project personnel, tenants occupying any building located within 660'

of the nest tree, and maintenance personnel responsible for the post-project maintenance of the project area within 660' of the nest tree.

2. All project related exterior or temporary construction lighting, if used, will be shielded/directional in nature so that lights do not shine directly onto the eagle nest.
3. If using pesticides, herbicides, or other chemicals onsite, State and federal BMP's, laws and label instructions will be followed at all times.
4. Overhead utility lines will be coordinated to be in compliance with the Avian Power Line Interaction Committee (APLIC) Guidelines found at www.aplic.org to reduce the potential for any electrocution, collision, and/or nesting of avian species.
5. The proposed Eagle Buffer Planting between the wetland area where the eagle nest is located and the proposed development extends over 549 linear feet along the existing berm (Attachment 1). The applicant proposes to install fifteen (15) Pines ("Densa") 12 feet on center [in five groups of 3], thirty (30) Sabal Palms [in six groups of 5], and in addition forty-six (46) Walter's Viburnum #3 under the Sabal Palms as shown on the attached Eagle Buffer Planting Exhibit. The goal is to create a visual buffer between LE093 and the proposed development. These plants will have an irrigation system installed to support their vigor and growth. The location and extent of this buffer is shown in Attachment 1. The purpose of the plantings is to shield both the perch trees and nest to the human activity located in the development to the east of the nest. Based on our observations of this nesting pair they are not influenced by equipment, traffic or noise. Human presence/activity focuses their attention. Plant materials selection for this visual screen/buffer were based on several factors. These included a selection of native trees and plants, canopy density and extent, evergreen/deciduous comparisons, growth form of mature trees, sustainability with regard to extreme weather events and the location on the top of an existing berm. We implemented the recommendation in the US FWS Eagle Take Permit to "enhance and expand the visual vegetation buffer between construction activities and the eagle nest tree by planting native pines and/ or hardwoods". It is worth noting that our observations included periods when the cypress trees surrounding the nest tree had foliage as well as periods when the leaves had

dropped. We also have experience with eagle nests in areas dominated by slash pine. Based on the available plant materials of a size needed for the buffer along canopy density and sustainability, we considered a short list of cypress, oak (both laurel and live oak), slash pine and palms. Our selection of pines and sabal palms was based on the following factors:

- a. Appropriate and available native trees and shrubs,
- b. The lack of canopy density during a good part of the nesting season,
- c. Severe weather event survivability, and
- d. Lack of an extensive root systems to support the trees, particularly in severe weather events,

We selected the Pines and Sabal Palms after consultation with the Lee County Eagle Technical Advisory Committee as they have a stable canopy density, good sustainability through extreme weather events, a compact and dense root system, and sufficient density based on the available native species with a single row of plants. We believe we understand the unusual nature of doing an eagle buffer planting plan and we also understand the sole purpose of this planting effort is to improve the quality of life for this nesting pair of eagles or others that might occupy this nest over time. This is not a landscape requirement and is being installed on top of a berm. We think the benefit to occupants of LE 093 makes this Eagle Buffer Planting Plan the optimal, available native planting solution to creating a dense, sustainable visual screen/buffer that maintains or improves quality of life for these eagles, complies with the policies of the Eagle Take Permit and the Lee County eagle buffer policies, and allows responsible development of the nearby parcel at the NW corner of Alico Rd. and Oriole Rd.

Monitoring and Reporting Requirements

The Federal Take Permit relative to this nest requires a qualified biologist to monitor eagle use of the nesting territory defined as up to a 1.5-mile radius of eagle nest LE093, onsite that is legally accessible by the developer and where the activities occur. The monitor will be experienced in recognizing specific patterns and changes of eagle behavior and employed by or contracted by the permittee, landowner, company, or entity responsible for having the activity monitored. The monitor will be as inconspicuous as possible, so not to cause a disturbance with his/her presence, and when applicable, a wildlife blind or viewing location out of direct sight of the eagle will be utilized.

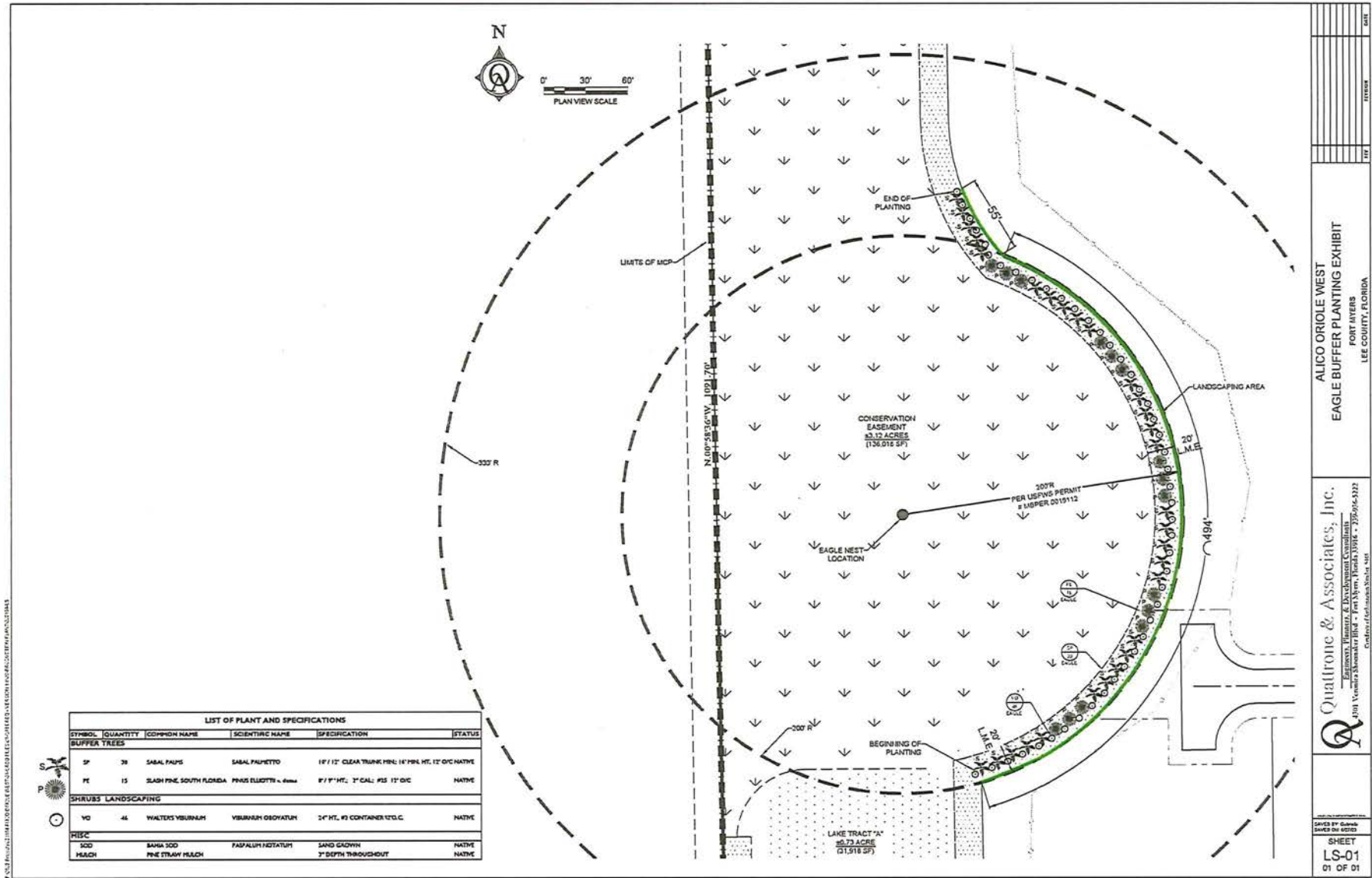
Monitoring will be conducted at a distance that allows for observation without an interruption in the eagle's normal breeding behavior. If the eagles do not return to the known nest location (LE093), the site will be monitored to assess whether or not the eagles nest, roost, and/or forage at a new location.

If a new eagle nest is built on the site or within the nesting territory, the monitor will report the new eagle nest location within 10 days to the FWS Southeast Region Eagle Biologist and ETAC through the assigned Lee County personnel.

Monitoring will be conducted in the methodology previously described under the monitoring requirements for work within the 330'-660' buffer zone of the eagle nest, with the monitor using the FWS Bald Eagle Monitoring Data Report to record ongoing construction activities and eagle behaviors observed during each monitoring event. This information will be compiled onto the Eagle Take Annual Report Form (found online at www.fws.gov/forms/3,202-15.pdf) and submitted annually to the FWS (submitted electronically to FW4eaglemonitoring@fws.gov and mailed to the migratory bird permit issuing office) and ETAC through the designated Lee County personnel.

The FWS Eagle Incidental Take Permit remains valid through September 30, 2025. However, if full construction on the subject site is complete prior to expiration of the federal permit, the FWS may be notified to have the permit closed accordingly. Lee County will be copied on all related Federal correspondence. Monitoring and reporting will continue in accordance with this Bald Eagle Management Plan contained herein, including Condition # 2 for monitoring between 330' and 660' contained above, and the referenced federal permit through completion of construction within 660' of the nest tree and close-out of the federal permit. The applicant understands that these compliance commitments at both the Federal, State and Local levels will transfer to any and all owners and users going forward. Regarding requirements of the approved eagle management plan and the state and federal eagle protection laws.

ATTACHMENTS





SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112

Version Number: 0

Effective: 2021-11-23 **Expires:** 2025-09-30

Issuing Office:

Department of the Interior
U.S. FISH AND WILDLIFE SERVICE

MB Atlanta Permit Office
1875 Century Boulevard, NE
Atlanta, Georgia 30345
permitsR4MB@fws.gov
Tel: 404-679-7070
Fax: 404-679-4180

**Carmen
Simonton**

Digitally signed by

Carmen Simonton
2021-11-23 12:53:56

Chief, Migratory Bird Permit
Office, Atlanta, Georgia

Permittee:

Horowitz Sanford I TRFOR Land Trust
dba Three Oaks Horowitz LLC
Alan Freeman
28120 Hunters Ridge Boulevard Suite 5
Bonita Springs, Florida 34135

Authority: Statutes and Regulations: 16 U.S.C. 668-668(d), 16 U.S.C 703-712 50 CFR Part 13, 50 CFR 22.26

Location where authorized activity may be conducted:

See Condition D.

Reporting requirements:

Monitoring requirements are outlined in Condition I Monitoring Requirements.

Reporting requirements are outlined in Condition D, E, F, I. and in Condition J Reporting Requirements.

Condition J Reporting Requirements outlines the required schedule of monitoring reports (Condition I3) and the content of the annual summary monitoring report.

Authorizations and Conditions:

Southeast Region Eagle Biologist Ulgonde Kirkpatrick, Ulgonde_Kirkpatrick@fws.gov, (352) 406-6780
Southeast Region Eagle Permit Coordinator Resee Collins, Resee_Collins@fws.gov, (404) 679-4163



SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112

Version Number: 0

Effective: 2021-11-23 **Expires:** 2025-09-30

Link to federal permit regulations: <https://www.fws.gov/birds/policies-and-regulations/permits/permit-policies-and-regulations.php>

Eagle nest means any assemblage of materials built, maintained, or used by Bald Eagles or Golden Eagles for the purpose of reproduction.

In-use nest means a bald or golden eagle nest characterized by the presence of one or more eggs, dependent young, or adult eagles on the nest in the past 10 consecutive days during the breeding season.

Alternate nest means one of potentially several nests within a nesting territory that is not an in-use nest at the current time. When there is no in-use nest, all nests in the territory are alternate nests.

Disturb/disturbance means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

A. General conditions set out in Subpart B of 50 CFR 13, and specific conditions contained in Federal regulations cited above, are hereby made a part of this permit. All activities authorized herein must be carried out in accordance with and for the purposes described in the application submitted. Continued validity, or renewal of this permit is subject to complete and timely compliance with all applicable conditions, including the filing of all required information and reports.

B. You are responsible for ensuring that the permitted activity is in compliance with all federal, tribal, state, and local laws and regulations applicable to eagles.

C. Valid for use by permittee named and any subpermittees (See Condition H).

D. Due to all construction activities associated with the development of West Oriole Market Place located north of Alico Road and west of Oriole Road in Fort Myers, Lee County, Florida, you are authorized to:

Take by means of disturbance incidental to your activities (1) pair of nesting Bald Eagles including the loss of productivity of eggs or young due to potential abandonment of the Bald Eagle nest identified as LE093

Eagle Nest LE093 location: 26.494333N, -81.809833W, Fort Myers, Lee County, Florida

Reporting Required: Annual Summary by June 30 of 2022, 2023, 2024, 2025, 2026

Construction activities will be phased over a multi-year period and will include adding fill dirt to property; building a foundation, multiple warehouse and commercial buildings, and associated infrastructure.

The project impacts are occurring within the 660-foot buffer zone around eagle nest LE093. The closest construction is occurring no closer than 200 feet from the eagle nest tree at any time of the year.

The authorizations granted by this permit apply only to take that results from activities conducted in accordance with the description contained in the permit application and the terms of the permit. If the permitted activity changes, you must immediately contact the Eagle Biologist to determine whether a permit amendment is required in order to retain take authorization.

E. This permit does not authorize intentional take or injury of any live eagles, excluding take of eggs or young by nest abandonment as described in Condition D, nor does it authorize take of any eagle nest.



SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112

Version Number: 0

Effective: 2021-11-23 **Expires:** 2025-09-30

4. To the extent practicable, construction or associated project activities farthest from an eagle nest should occur prior to construction or associated project activities closest to the nest.
5. Prior to conducting or while activities in Condition D are occurring, in the event any eagle is injured or is found on the ground, you must provide educational materials that outline how to minimize disturbance to eagles, along with contact information for an eagle rehabilitator to the following:
 - a. All project personnel; and
 - b. Maintenance personnel responsible for the post-project maintenance of the project area described in Condition D.
6. Preserve the largest native pines and hardwoods outside of the project footprint for use as potential eagle roost or nest sites.
7. Maintain and/or create, enhance or expand the visual vegetation buffer between construction activities and the eagle nest tree by planting **native** pines and/or hardwoods.
8. Down-shield all new permanent exterior lighting so that lights do not shine directly onto the eagle nest.
9. Follow state and federal guidelines, laws and label instructions at all times if using pesticides, herbicides, or other chemicals on property identified in Condition D.
10. If applicable, coordinate the design and construction or retrofitting of new and existing utility lines to be in compliance with the Avian PowerLine Interaction Committee (APLIC) Guidelines found at www.aplic.org to reduce the potential for any electrocution, collision and/or nesting of avian species.

H. Subpermittees.

1. Any person who is employed by or under contract to you for the activities specified in this permit, or otherwise designated a subpermittee by you in writing, may exercise the authority of this permit.
2. A subpermittee is an individual to whom you have provided written authorization to conduct some or all of the permitted activities in your absence. Subpermittees must be at least 18 years of age.
3. Any subpermittee who has been delegated this authority may not re-delegate to another individual/business.
4. You are responsible for ensuring that your subpermittees are qualified to perform the work and adhere to the terms of your permit. You are also responsible for maintaining current records of designated subpermittees. As the permittee, you are ultimately legally responsible for compliance with the terms and conditions of this permit and that responsibility may not be delegated.
5. You and any subpermittees must carry a legible copy of this permit and display it upon request whenever exercising its authority.

I. Monitoring Requirements.



SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112

Version Number: 0

Effective: 2021-11-23 **Expires:** 2025-09-30

You must immediately notify the Southeast Region Eagle Permit Coordinator by phone and email upon discovery of any unanticipated take or regarding any apparent injury or death occurring to any eagle, including viable eggs or young, for any reason during project activities. You must immediately contact the Conservancy of Southwest Florida von Arx Wildlife Hospital, 1495 Smith Preserve Way, Naples, Florida. 34102, (239) 262-0304, to coordinate transportation of any injured eagle.

F. You are authorized to salvage eagle feathers found on the ground in the vicinity of the Bald Eagle nest located in Condition D. Any salvaged items found at the site must be shipped within 30 days to the National Eagle Repository, Contact: U.S. Fish and Wildlife Service, National Eagle and Wildlife Repository, RMA, Bldg. 128, 6550 Gateway Road, Commerce City, Colorado, 80022, (303) 287-2110.

You must immediately notify the Southeast Region Eagle Permit Coordinator by phone and email upon discovery of any eagle carcass(es) at the location listed in Condition D.

G. You must comply with the following avoidance or minimization measures prescribed by this permit for take of eagle(s) identified in Condition D. All minimization measures, unless noted otherwise, are applicable when any eagles are present at the nest site and the nest meets the definition of an in-use nest during the Bald Eagle nesting season (October 1 – May 15); or when the nest is in-use before October 1 or after May 15:

1. Eagle Nest Buffer. You will erect a temporary protective barrier to delineate the 200-foot buffer around the eagle nest tree to prevent construction personnel and heavy equipment from entering into this buffer while any construction or associated project activities outlined in Condition D are occurring. All exterior development and heavy equipment access is strictly prohibited in this area. Exclude human access by foot or vehicle within 200 feet of the eagle nest tree when the nest is in-use.

2. FOR ACTIVITIES WITHIN 660 FEET OF THE EAGLE NEST TREE:

a. If exterior construction work or project activities outlined in Condition D are conducted when the nest is in-use:

(1) Initiate a noise abatement program for construction personnel within 660 feet of an eagle nest, to include:

- (a) No excessive and/or sudden loud noise, including engine braking, tailgate banging, loud radios, shouting, singing, etc.;
- (b) All motorized equipment, including saws or other handheld power tools, must be moved indoors if possible or placed to minimize noise at and reflect noise away from the direction of the eagle nest, i.e. behind a temporary structure that reflects noise away from the direction of the eagle nesting area;
- (c) Minimize the need for "reverse" indicator horns and utilize ground flag crews to the degree practicable to avoid using reverse indicator horns; and
- (d) Provide signage in English and Spanish (if applicable) indicating the need for quiet to the extent practicable; and

3. FOR ACTIVITIES BETWEEN 660 AND 330 FEET OF THE EAGLE NEST TREE:

a. If any construction work or project activities outlined in Condition D are conducted when the nest is in-use, you must initiate a traffic abatement program which includes that you establish equipment staging and offsite parking/carpool locations for construction personnel outside of 330 feet from the eagle nest tree.



SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112

Version Number: 0

Effective: 2021-11-23 **Expires:** 2025-09-30

1. A qualified monitor is required to monitor eagle use of the nesting territory, which is defined as up to a 1.5 mile radius of the eagle nest identified in Condition D, on property that is legally accessible by you and where the activities outlined in Condition D. occur. The monitor must be experienced in recognizing specific patterns and changes of eagle behavior, and employed by or contracted by the permittee, landowner, company or entity responsible for having the activity monitored. The monitor must also be as inconspicuous as possible, so not to cause a disturbance with their presence, and when applicable, a wildlife blind or viewing location out of direct sight of the eagles is recommended.

Monitoring must be conducted at a distance that allows for observation without an interruption in the eagle's normal breeding behavior. If eagles do not return to the nest at the location described in Condition D, you are required to monitor on adjacent property that is accessible by you to assess whether or not eagles nest, roost and/or forage at a new location.

If a new eagle nest is built on the property described in Condition D. or within the nesting territory, you must report that new eagle nest location within 10 days to the Southeast Region Eagle Biologist. Additional monitoring and authorization may be required based on the new eagle nest location in relation to activities described in Condition D.

2. Monitoring must occur at a time of day when eagles are most likely to be in the area, (early morning, beginning ½ hour before sunrise, or late afternoon, beginning ½ hour before sunset). You must assess whether or not eagles return to the nesting territory as identified in Monitoring Requirements No.1 and continue to nest, roost and/or forage there, and/or if the eagles attempt to build or occupy another nest. Monitoring must be conducted for a minimum of 60-90 minutes.

3. Once project activities have begun, including if construction activities have begun but are not occurring, monitoring is required annually to determine eagle nesting activity and/or nest failure. During each nesting season, no additional monitoring is required once eaglets have fledged from the nest or nest failure is documented.

The required monitoring period is:

- a. During each eagle nesting season, defined as October 1 through May 15, or when eagles are present at the nest and
- b. For an additional (1) nesting season after project has been completed.

Monitoring must be conducted according to the following Eagle Monitoring Schedule:

Frequency	Eagle Monitoring Schedule	Time	Time of Day
Once	November	60 – 90 minutes	Begin ½ hour before sunrise or before sunset
Once	Between December 15 and January 15	60 – 90 minutes	Begin ½ hour before sunrise or before sunset
Once	Between February 15 and March 15	60 – 90 minutes	Begin ½ hour before sunrise or before sunset
Once	April	60 – 90 minutes	Begin ½ hour before sunrise or before sunset
Once	May	60 - 90 minutes	Begin ½ hour before sunrise or before sunset
Once	Every month after until fledging or nest failure is documented	60 – 90 minutes	Begin ½ hour before sunrise or before sunset

4. Monitoring reports must include the following information:



SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112

Version Number: 0

Effective: 2021-11-23 **Expires:** 2025-09-30

- a. Date and length of time Bald Eagles were observed;
- b. Time of day;
- c. Number and age of Bald Eagles observed (i.e. juvenile, immature, subadult, adult); if age is not known provide description;
- d. Observed behavior (e.g. perching, feeding, sitting on or attending nest, in flight);
- e. If a new eagle nest is built on or adjacent to your property, the new location and whether the eagles produced young at that site;
- f. If any eagle nesting attempt was successful, failed or the eagles abandoned the area; and
- g. A description of any human activity at the time eagles are observed during each month of the monitoring period (e.g. construction, road building, use of machinery, etc.).

J. Reporting Requirements.

1. You may use Form 3-202-15 (Eagle Take Annual Report) found online at www.fws.gov/forms/3-202-15.pdf to report monthly and annual Bald Eagle monitoring activities. Use of this form is not mandatory, but the same information must be submitted.
2. You must annually submit your monitoring reports, including your summary Eagle Take Annual Report (Form 3-202-15), by June 30 of each calendar year a report is required as follows:
 - a. Electronically to FW4eaglemonitoring@fws.gov. The email subject line for each report submitted must reference the permit number, project title or name, and month/year of report, and
 - b. Mailed to the migratory bird permit issuing office at U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, Georgia 30345.

If no eagle activity is observed, a report indicating "no activity observed" is required.

If project activities were delayed or not conducted, an annual report indicating "no activities occurred" is required.

50 CFR 22.26 STANDARD CONDITIONS EAGLE TAKE (DISTURBANCE) PERMIT

All of the provisions and conditions of the governing regulations at 50 CFR part 13 and 50 CFR part 22.26 are conditions of your permit. Failure to comply with the conditions of your permit could be cause for suspension of the permit and/or citation. The standard conditions below are a continuation of your permit conditions. If you have questions regarding these conditions, refer to the regulations and forms, or to obtain contact information for your issuing office, visit: <https://www.fws.gov/birds/policies-and-regulations/permits.php>

1. This permit does not authorize you to conduct activities on federal, state, tribal or other public or private property without additional prior written permits or permission from the agency/landowner.
2. You remain responsible for all outstanding monitoring requirements and mitigation measures required under the terms of the permit for take that occurs prior to cancellation, expiration, suspension, or revocation of the permit. Provisions for discontinuance of permit activity are outlined in 50 CFR 13.26.



SHORT-TERM EAGLE INCIDENTAL TAKE

Permit Number: MBPER0019112

Version Number: 0

Effective: 2021-11-23 **Expires:** 2025-09-30

3. You must maintain records as required in 50 CFR 13.46. Your records must also include the data gathered for monitoring and reporting purposes. All records relating to the permitted activities must be kept at the location indicated in writing by you to the migratory bird permit issuing office.
4. Acceptance of this permit authorizes the U.S. Fish and Wildlife Service to inspect and audit or copy any permits, books or records required to be kept by the permit and governing regulations (50 CFR 13.47).
5. You must allow Service personnel or other qualified persons designated by the Service, access to the areas where eagles are likely to be affected by your project activities, at any reasonable hour, and with reasonable notice from the Service, for purposes of monitoring eagles at the site(s) while the permit is valid and for up to 3 years after it expires.
6. The Service may amend, suspend, or revoke a permit issued under this section if new information indicates that revised permit conditions are necessary, or that suspension or revocation is necessary, to safeguard local or regional eagle populations. This provision is in addition to the general criteria for amendment, suspensions and revocation of Federal permits set forth in 50 CFR 13.23, 13.27, and 13.28 of this chapter.
7. To renew this permit if the activities described in Condition D have not been completed by the expiration date of this permit, permittee must meet issuance criteria at the time of renewal and must also have been in compliance with permit conditions, including all monitoring and reporting requirements of the original permit.
8. You may request amendment to your permit. The Service will charge a fee for substantive amendments made to permits within the time period that the permit is still valid. The fee is \$500 for commercial permittees and \$150 for non-commercial permittees (50 CFR 13.11(d)(4)). Substantive amendments are those that pertain to the purpose and conditions of the permits and are not purely administrative. Administrative changes, such as updating name and address information, are required under 13.23(c), and the Service will not charge a fee for such amendments. Requests for substantive amendment must be submitted via Form 3-200-71.

LE093 Nesting History Exhibit

LE-93: Alico Road

Strap Number: 04-46-25-00-00003.0020

Year	History
2012-2013	Active, 1 Fledgling. Nest in Cypress Tree
2013-2014	Active, Nest Failed. Great Horned owl in nest.
2014-2015	Inactive, Eagles observed in the area but no activity at the nest
2015-2016	Active, 1 Fledgling. Nest was down at the end of the season.
2016-2017	Active, adults constructed nest but no incubation observed.
2017-2018	Active, nest failed. Incubation observed Dec 2017 and adult appeared to be feeding young in Jan 2018. No activity was observed after Jan 2018.
2018-2019	Active, 2 Fledglings confirmed
2019-2020	Active, 1 Fledgling confirmed
2020-2021	Active, 2 Fledglings confirmed

2021 - 2022 Active, fledglings

2022 - 2023 Active, fledglings not observed, but feeding behavior exhibited

FlucCs	Description	Area (ac)
211	Improved Pastures	23.75
621	Cypress	1.32
742	Borrow Areas	0.09
616	Inland Ponds and Sloughs	4.00

- Property boundary
- FlucCs area
- Eagle nest
- x Commonly used perch tree (tree height 68'-75')



2159 Morning Sun Lane
NAPLES, FLORIDA 34119
PHONE: (239) 514-3888
www.synecol.com

PROJECT: West Oriole Marketplace - FlucCs Map

DATE: Feb 27, 2023

DRAWN BY: NW



0 100 200 ft

Alternate Eagle Nest / Perch trees

The arrows indicate the perch trees



Tree 1: Height

Tree 2: Height



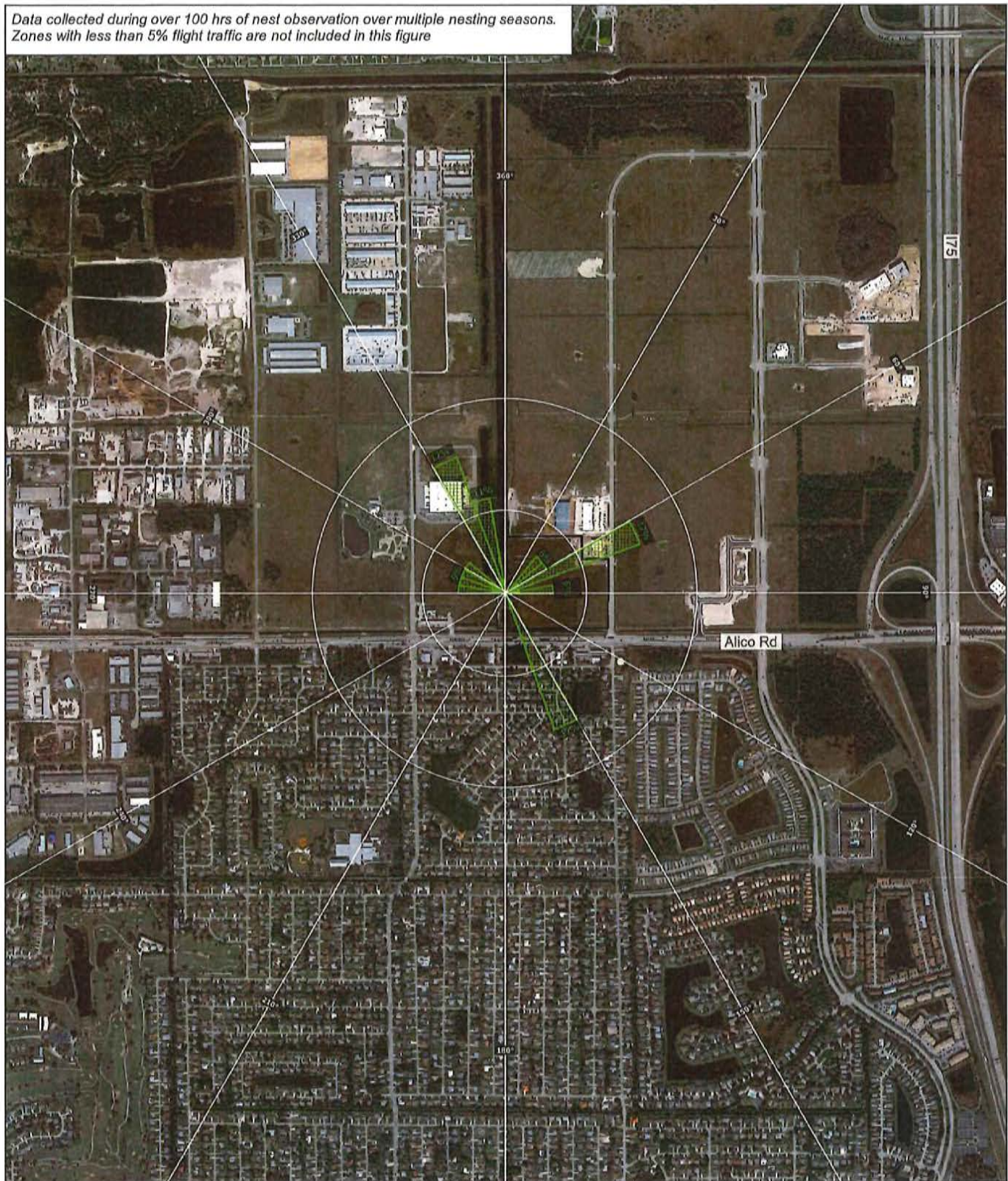
Tree 1

Tree 2



Eagle Flight Patterns

Data collected during over 100 hrs of nest observation over multiple nesting seasons.
Zones with less than 5% flight traffic are not included in this figure



2159 Morning Sun Lane
NAPLES, FLORIDA 34119
PHONE: (239) 514-3998
www.synecol.com

PROJECT: Oriole Alico West Eagle Foraging Area
- Flights To Nest

DATE: May 9, 2023

DRAWN BY: NW



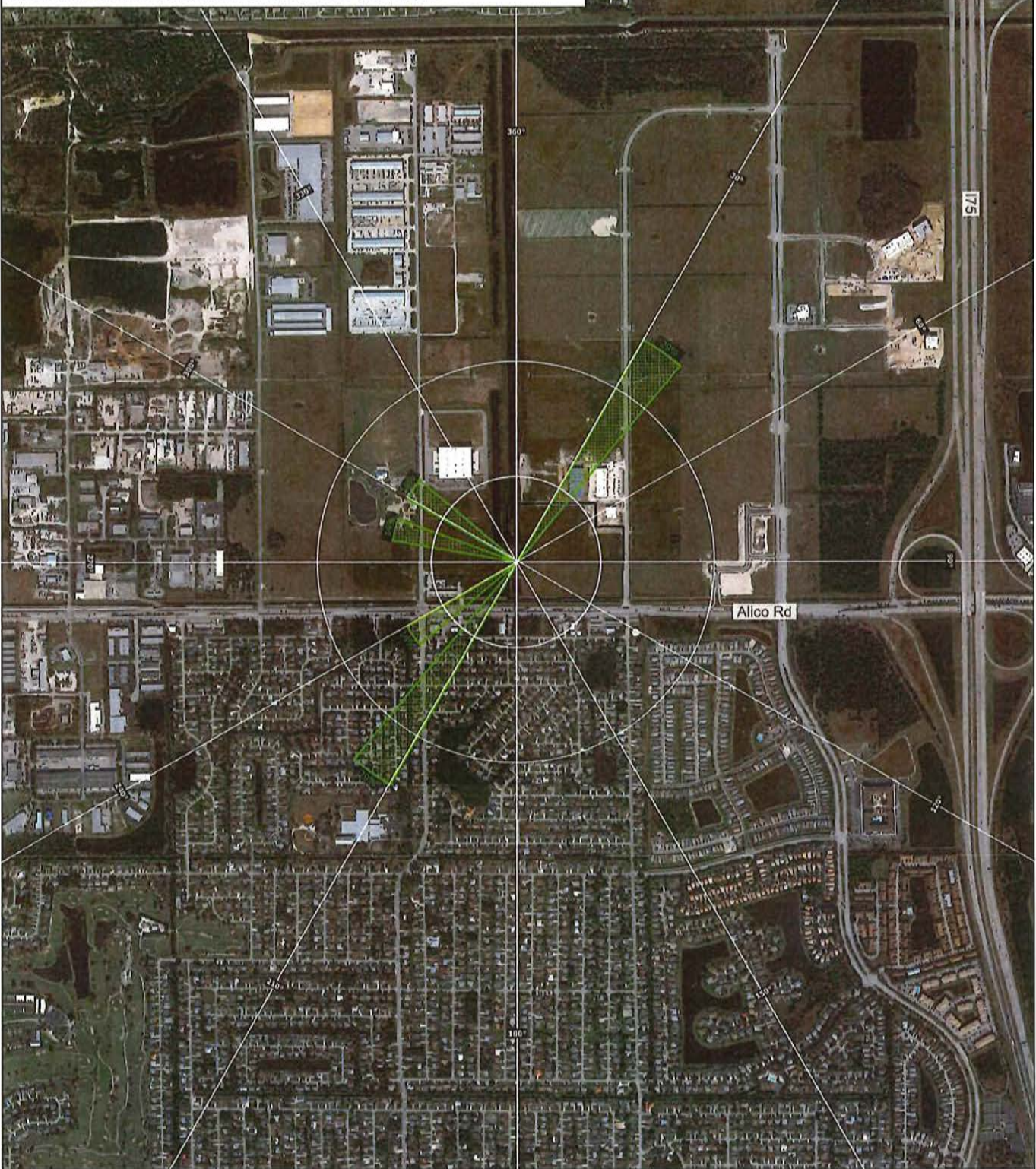
Site Location



0 400 800 1,200 ft



Data collected during over 100 hrs of nest observation over multiple nesting seasons.
Zones with less than 5% flight traffic are not included in this figure



2159 Morning Sun Lane
NAPLES, FLORIDA 34119
PHONE: (239) 614-3908
www.synecol.com

PROJECT: Oriole Alco West Eagle Foraging Area
- Flights From Nest

DATE: May 9, 2023

DRAWN BY: NW



0 400 800 1,200 ft





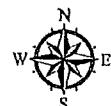
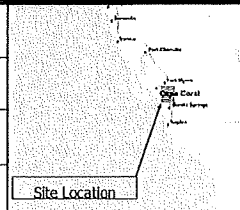
ENVIRONMENTAL EVALUATION AND ADVISORY

2159 Morning Sun Lane
NAPLES, FLORIDA 34119
PHONE: (239) 514-3998
www.synco.com

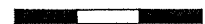
PROJECT: LE 093 Nest Foraging Area Figure

DATE: May 9, 2023

DRAWN BY: NW



0 0.5 1 1.5 mi



LOCATED IN SECTION 04, TOWNSHIP 46-S, RANGE 25 -E, LEE COUNTY, FLORIDA



LOCATION MAP

<u>ZONING</u>	<u>STRAP #'s</u>
AG-2 to MPD	04-46-25-L3-00003-0020

<u>ZONING</u>	<u>STRAP #'s</u>
AG-2 to MPD	04-46-25-L3-00003-0020

PROJECT ACREAGE
30.64 ACRES (1,334,895 SF)

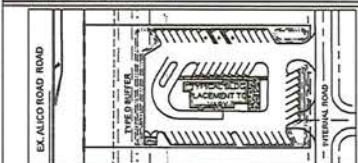
PROJECT INTENSITY
MAX BUILDING FLOOR AREA = 350,000 SF
MINIMUM 30,000 SF COMMERCIAL
MINIMUM 30,000 SF INDUSTRIAL

OPEN SPACE
COMMERCIAL USES: 20%
INDUSTRIAL USES: 10%

CONSERVATION AN LAKE AREA
4.46 ACRES

DEVIATIONS

TYPICAL LOT LAYOUT:



Q **Quattrone & Associates, Inc.**
Engineers, Planners, & Development Consultants
4301 Venetian Shoreline Blvd. | Fort Myers, FL 33916 | 239.936.5777 | Q&A.com

EXHIBIT B3

ALICO ORIOLE WEST MCP AREA			
DESCRIPTION	AREA (AC)	INDUSTRIAL (AC) 10% OPEN SPACE REQUIRED	COMMERCIAL (AC) 20% OPEN SPACE REQUIRED
TRACT A	11.91	1.19	2.38
TRACT B	2.82	0.28	0.56
TRACT C-1	1.20	0.12	0.24
TRACT C-2	1.23	0.12	0.25
TRACT C-3	1.24	0.12	0.25
TRACT C-4	1.19	0.12	0.24
TRACT C-5	1.42	0.14	0.28
TRACT C-6	1.50	0.15	0.30
ROW TRACT	2.78	0	0
CONSERVATION EASEMENT & LAKE TRACT OPEN SPACE	4.46	4.46	4.46
LAKE MAINTENANCE EASEMENT OPEN SPACE	0.68	0.68	0.68
TRACT D OPEN SPACE	0.21	0.21	0.21
TOTAL ACERAGE	30.64	7.60	9.85
PERCENTAGE PROVIDED		24.81%	32.15%
Large Project Open Space Required		20% = 6.13 AC	30% = 9.19AC

Exhibit C

EXHIBITS PRESENTED AT HEARING

STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Chahram Badamtchian, Senior Planner, date received September 12, 2023 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Sharon Hrabak with Quattrone & Associates, Inc., to Maria Perez, Chahram Badamtchian, Al Quattrone, dated Monday, September 25, 2023, 5:13 PM (3 pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared by Quattrone and Associates, Inc., for Alico Oriole West Mixed Planned Development Rezoning, Lee County Hearing Examiner Public Hearing, dated Thursday, September 27, 2023 (multiple pages – 8.5"x11)[color]
2. *Written Submissions:* Email from Sharon Hrabak with Quattrone & Associates, Inc., to Zsuzsanna Weigel, Michael Jacob, Esq., Joseph Adams, Esq., Richard Akins, Esq., Anthony Rodriguez, Chahram Badamtchian, Jamie Prancing, Al Quattrone, Yury Bykau, dated Wednesday, September 27, 2023, 5:08 PM (3 pages – 8.5"x11" and 1 page 11"x17")

Exhibit D

HEARING PARTICIPANTS

County Staff:

1. Chahram Badamtchian

Applicant Representatives:

1. Richard Akin, Esq.
2. Al Quattrone

Public Participants:

None

Exhibit E
INFORMATION

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.

HEARING BEFORE LEE COUNTY BOARD OF COUNTY COMMISSIONERS

- A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.
- B. The Board will hold a final hearing to consider the Recommendation and record made before the Hearing Examiner. The Department of Community Development will notify hearing participants of the final hearing date. Only Parties and participants may address the Board at the final hearing. Presentation by participants are limited to the substance of testimony presented to the Hearing Examiner, testimony concerning the correctness of Findings of Fact or Conclusions of Law contained in the Recommendation, or allegations of relevant new evidence not known or that could not have been reasonably discovered by the speaker at the time of the Hearing Examiner hearing.
- C. Participants may not submit documents to the Board of County Commissioners unless they were marked as Exhibits by the Hearing Examiner. Documents must have the Exhibit number assigned at hearing.

COPIES OF TESTIMONY AND TRANSCRIPTS

- A. Every hearing is recorded. Recordings are public records that become part of the case file maintained by the Department of Community Development. The case file and recordings are available for public examination Monday through Friday between 8:00 a.m. and 4:30 p.m.
- B. A verbatim transcript may also be available for purchase from the court reporting service.

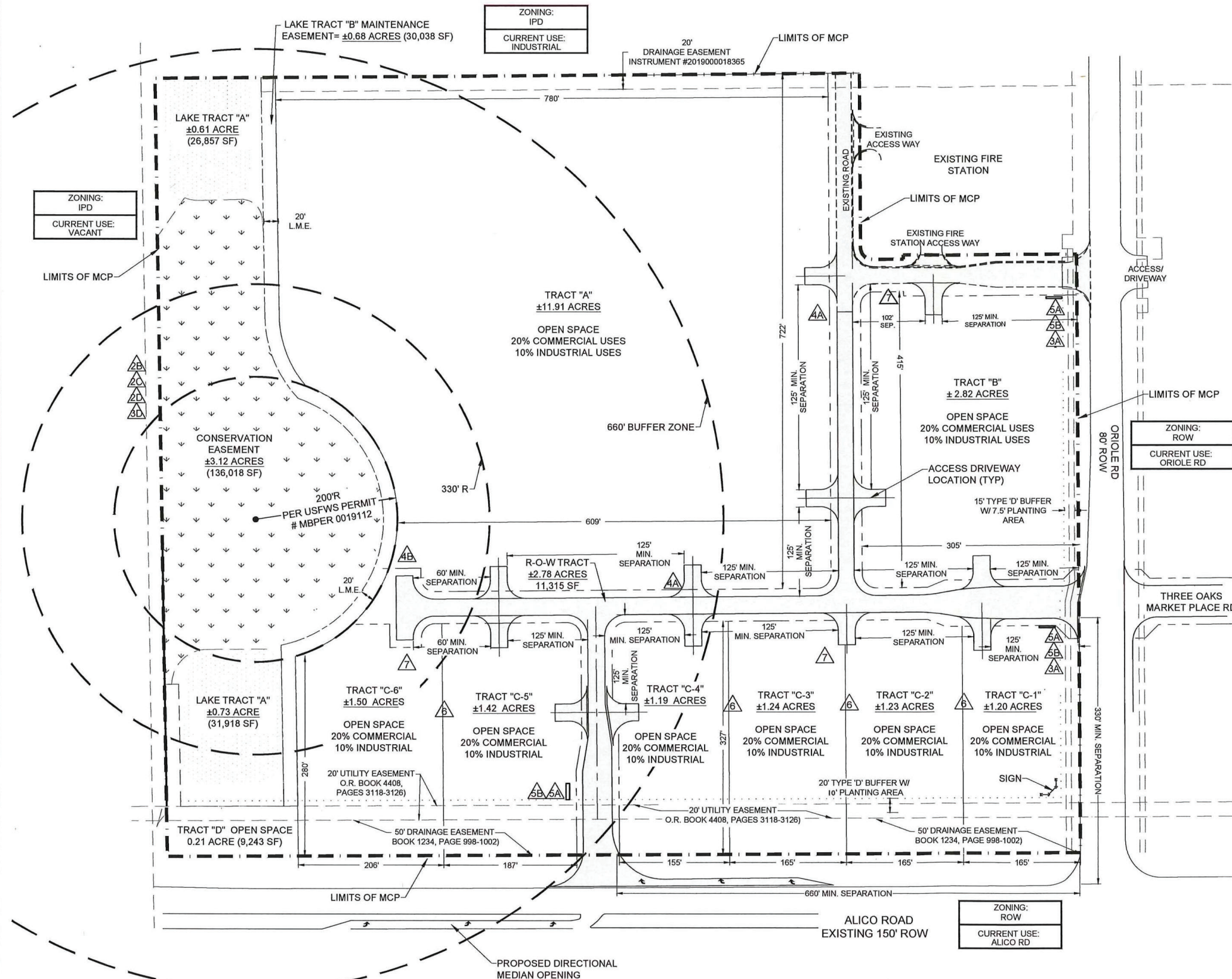
ALICO ORIOLE WEST

LOCATED IN SECTION 04, TOWNSHIP 46-S, RANGE 25 -E, LEE COUNTY, FLORIDA

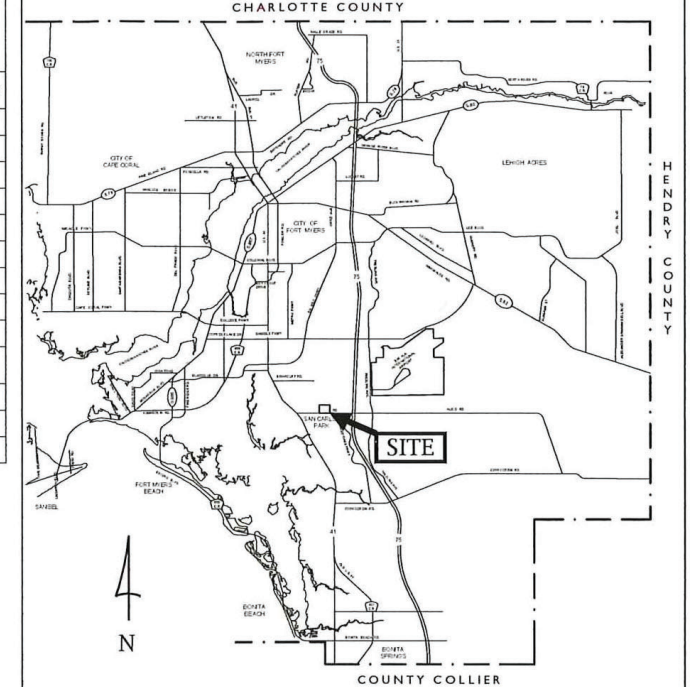
LEE COUNTY
HEARING EXAMINER

2023 SEP 28 PM 1:55

MASTER CONCEPT PLAN



ALICO ORIOLE WEST MCP AREAS	
DESCRIPTION	ACREAGE
TRACT A	11.91
TRACT B	2.82
TRACT C-1	1.20
TRACT C-2	1.23
TRACT C-3	1.24
TRACT C-4	1.19
TRACT C-5	1.42
TRACT C-6	1.50
ROW TRACT	2.78
CONSERVATION EASEMENT & LAKE TRACT	4.46
LAKE MAINTENANCE EASEMENT	0.68
TRACT D OPEN SPACE	0.21
TOTAL ACREAGE	30.64



LOCATION MAP

PROJECT SUMMARY:

<u>ZONING</u>	<u>STRAP #'s</u>
AG-2 to MPD	04-46-25-L3-00003-0020

PROJECT ACREAGE
30.64 ACRES (1,334,896 SF)

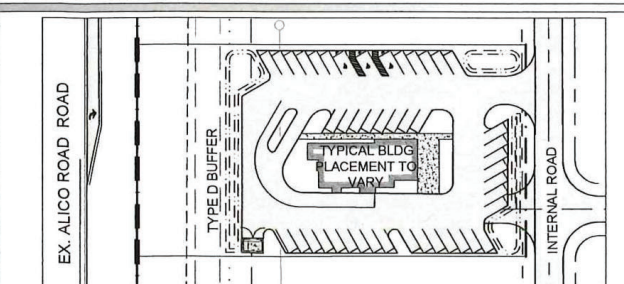
PROJECT INTENSITY
MAX BUILDING FLOOR AREA = 350,000 SF
MINIMUM 30,000 SF COMMERCIAL
MINIMUM 30,000 SF INDUSTRIAL

OPEN SPACE
COMMERCIAL USES: 20%
INDUSTRIAL USES: 10%

CONSERVATION AND LAKE AREA
4.46 ACRES

DEVIATIONS

TYPICAL LOT LAYOUT:



Q **Quattrone & Associates, Inc.**
Engineers, Planners, & Development Consultants
4301 Veronica Shoemaker Blvd. | Fort Myers, FL 33916 | 239.936.5222 | QALnc.net

DCI2022-00061, Alico Oriole West MPD
Conditions and Deviations

A. Conditions

1. MASTER CONCEPT PLAN/DEVELOPMENT PARAMETERS

The development of this project must be consistent with the one-page Master Concept Plan entitled “Alico Oriole West”, except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code (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 Master Concept Plan are subsequently pursued, appropriate approvals will be necessary.

This planned development will allow a maximum of 175,000 square feet of industrial uses, 175,000 square feet of commercial uses, and 150 hotel rooms.

2. USES AND SITE DEVELOPMENT REGULATIONS

a. Schedule of Uses

All uses with an asterisk (*) are not permitted on Tract A, Tract C-6, C-5, and C-4 (within 660’ of the Nest).

Accessory Uses and Structures

~~Accessory apartment and accessory dwelling unit~~

Administrative Offices

Agricultural Uses and Agricultural Accessory Uses, Subject to condition 4

Agricultural Services Office/Base Operations

Aircraft Food Services and Catering

Airport Operations Facilities

Amateur Radio Antennae and Satellite Earth Stations

Animals, Clinic or Kennel

~~Assisted Living Facility~~

ATM (automatic teller machines)

Auto Parts Store, with or without installations

Auto Repair and Service, Groups I and *II

*Automobile Service Station

-Limited to 1 for the entire MPD

Bait and Tackle Shop

Banks and Financial Establishments, Groups I and II

Bar or Cocktail Lounge – limited to 1 for the entire MPD

Boats: Boat Parts Store; [Boat Repair and Service]*

Boat Sales

Broadcast Studio, Commercial Radio and Television

Building Materials Sales
 Business Services, Groups I and II
 *Bus Station/Depot
 Caretaker's Residence
 Car wash
 Cleaning & Maintenance Services
 Clothing Stores, General
 Clubs: Commercial, Fraternal, Membership Organization
 Cold Storage, Precooking, Warehouse & Processing Plant
 Computer and Data Processing Services
 Consumption on Premises
 - In conjunction with a restaurant use, bar, cocktail lounge,
 hotel/motel, nightclub only
 Contractors and Builders, Groups I, *II, and *III
 *Convenience Food and Beverage Stores
 - Limited to 1 for the entire MPD
 Cultural Facilities
 Day Care Center, Child, Adult
 Department Store
 Drive through for any permitted use
 Drugstore, Pharmacy
 Emergency Operations Center
 EMS, Fire, or Sheriff's Office
 Entrance Gates and Gatehouse
 Essential Services
 Essential Service Facilities, Group I
 - Group *II (by amendment through the public hearing process only)
 Excavation: Water Retention
 Excess Spoil Removal
 Factory Outlets, Point of Manufacture Only
 Fences, Walls
 Food and Beverage Service, Limited
 Food Stores, All Groups
 *Freight or Cargo Handling Establishments
 Funeral Home and Mortuary, with or without crematorium
 *Gasoline Dispensing Systems, Special
 Gift and Souvenir Shop
 *Golf Driving Range
 Hardware Store
 Health Care Facilities, Groups I, II, and III
 *Heliport or Helistop
 Hobby Toy and Game Shop
 Hospice
 Hotel/Motel – 150 Rooms Maximum
 Household and Office Furnishings, All Groups
 Insurance Companies

Laundromat

Laundry and Dry Cleaning, Groups I and II

*Lawn and Garden Supply Store

Library

*Manufacturing of:

- Apparel Products
- Boats
- Chemical and Allied Products, Groups I and II
- Electrical Machinery and Equipment
- Fabricated Metal Products, Groups I, II and III
- Food and Kindred Products, Group III
- Furniture and Fixtures
- Leather and Leather Products, Group II
- Lumber and Wood Products, All Groups
- Machinery, Groups I, II, and III
- Measuring, Analyzing and Controlling Instruments
- Novelties, Jewelry, Toys and Signs, All Groups
- Paper and Allied Products, All Groups
- Rubber and Plastic Products, Group II
- Stone, Clay, Glass and Concrete Products, Groups I-IV
- Textile Mill Products, Groups I, II, and III
- Transportation Equipment, Groups I, II, and III

Maintenance Facility (Government)

Medical Office

Motion Picture Production Studio

Nightclub – limited to 1 for the entire MPD

Nonstore Retailer, All Groups

Package Store – limited to 1 for the entire MPD

Paint, Glass and Wallpaper

Parks, Groups I and II

Parcel and Express Services

Parking Lot

Accessory, Commercial, Garage, Public Parking, Temporary

Personal Services, Groups I, II, III, IV (Excluding Massage Parlors, Steam or Turkish Baths, Escort Services, Palm Readers Fortunetellers or Card readers)

Pet Services

Pet Shop

Pharmacy

Photofinishing Laboratory

Post Office

Printing and Publishing

*Processing and Warehousing

Real Estate Sales Office

Recreational Facilities, Commercial, Groups I, * III and IV (Excluding Outdoor Gun Ranges)

Rental or Leasing Establishment: Group I, II, III
 Repair Shops: Groups I, II, III and IV
 Restaurant, Fast Food
 Restaurants: All Groups
 Retail and Wholesale Sales, Ancillary to an Approved Use
 *Self Service Fuel Pumps
 In conjunction with convenience food and beverage use, or auto service station, maximum 20 pumps ~~for the entire MPD. Additional fuel pumps are permissible as an accessory use to individual businesses to provide fuel for their fleet of vehicles and equipment—~~
 Maximum 4 per business
 Signs
 Social Services: Group I-IV
 Specialty Retail Shops: All Groups
 Supermarket
 Storage: Indoor, Open
 Studios
 Temporary Uses
 Theater, Indoor
 *Transportation Services, Groups I – IV (*applies to Groups III & IV only)
 *Truck Stop, Trucking Terminal
 Used Merchandise Stores: Groups I, II and III
 Variety Store
 Vehicle & Equipment Dealers: Groups I, II & III
 Warehouse, Mini warehouse, Private, Public, Cold Storage, Hybrid
 Wholesale Establishments: Groups I, II, III and IV

b. Site Development Regulations

Minimum Lot Area and Dimensions:

Area:	10,000 square feet
Width:	100 feet
Depth:	100 feet

Minimum Setbacks:

Street (Public):	25 feet
Street (Private)	15 feet
Side:	10 feet
Rear:	15 feet
Water Body:	25 feet

Development Perimeter Building Setback: ~~15 feet~~ 25 feet

Maximum Building Height:

65 feet (Height in excess of 35 feet must maintain additional setbacks of one-half foot for every foot over 35 feet)

Minimum Building Separation:

One-half the sum of the heights of both buildings, or 20 feet, whichever is greater.

Maximum Lot Coverage:

Commercial: 55%

Industrial: 75%

Minimum Open Space: (See Deviation 3A)

Commercial: 20%

Industrial: 10%

3. Building Design

All industrial or commercial buildings and structures fronting on Alico and Oriole Roads must comply with Chapter 10, Article IV, Design Standards and Guidelines for Commercial Buildings and Development, of the Lee County LDC.

4. AGRICULTURAL USES

Existing bona fide agricultural uses (PASTURE/GRAZING) may continue on this site SUBJECT TO the following:

- A) Termination of Agriculture Use. Agricultural uses must terminate on project areas receiving development order approval for vertical development and prior to county issuance of a vegetation removal permit. Development order approvals for plats, infrastructure improvements, landscaping, surface water management, or other non-vertical development do not trigger termination.
- B) Additional Clearing Prohibited. Additional clearing of trees or vegetation in an agricultural area is prohibited. Existing areas of bona fide agricultural use may be maintained, (i.e. mowed). But not cleared or expanded. This prohibition does not preclude County approval of requests to remove invasive exotic vegetation.
- C) Proof of Termination, upon approval of local development order for vertical development and prior to the issuance of vegetation removal permit, the property owner must provide written proof of the following, SUBJECT TO review/approval by the County Attorney's Office:
 - i. Affidavit. Sworn affidavit from the property owner confirming:
 - (1) Date agricultural uses ceased.
 - (2) Legal description of the property SUBJECT TO development order approval for vertical development.

- (3) Affirmative statement acknowledging and agreeing agricultural uses are illegal and prohibited on the property. Further that the property owner covenants with the County not to resume agricultural uses until the property is rezoned to permit agricultural.

The affidavit constitutes a covenant between the property owner and Lee County binding on the owner and its successors. The covenant must properly recorded in public record of Lee County at the owner's expense.

- ii. Termination of Tax Exemption. Termination of the agricultural tax exemption for portions of the property SUBJECT TO a development order for vertical development. Proof of termination must include a copy of the request to terminate the tax exemption submitted to the Lee County Property Appraiser.

5. Unified Sign Plan

The developer must submit a unified signage plan with the application for local development order.

6. Natural Resources

- a) Prior to local development order approval, the developer must adhere to the attached a Bald Eagle Management Plan dated May 11, 2023, for all proposed impacts within 660 feet of the bald eagle nest. The 660-foot buffer zone and the activities and restrictions outlined in the bald eagle management plan must be shown on the development order plans.
- b) The following uses are not permitted on Tract A, Tract C-6, Tract C-5, and Tract C-4: Transportation Services Groups III and IV.

7. Environmental

- a. Prior to the issuance of the first development order, plans must demonstrate compliance with the open space chart, attached as Exhibit D.
- b. Prior to the issuance of the first development order, development order plans must demonstrate a total of 3.12 acres of indigenous preserve, in substantial compliance with the Master Concept Plan.
- c. Prior to the issuance of a vegetation removal permit, the developer must include a map depicting where mechanical and hand-removal methods of exotic vegetation removal will be located. Mechanical clearing must be limited to non-indigenous areas and native vegetation must be protected by the tree barricades.

- d. Prior to the issuance of the first development order, the applicant must provide an indigenous management plan in accordance with the Land Development Code. This plan must be approved by Lee County Development Services staff.
- e. Prior to the issuance of the first development order, the development plans must depict a 20-foot Type D right-of-way buffer along Alico Road.
- f. Prior to the issuance of the first development order, the development plans must depict a 10-foot Type D buffer along Oriole Road (along Tract C-1 and B only).

8. Airport Noise Zone

The developer, successor or assign acknowledges the property's proximity to Southwest Florida International airport and the potential for noises created by and incidental to the operation of the airport as outlined in Land Development Code Section 34-1104. The developer, successor or assign acknowledges that a disclosure statement is required on plats, and in association documents for condominium, property owner and homeowner associations as outlined in Land Development Code Section 34-1104(b).

9. Development Services

Regardless of any land use density/intensity conversion allowed per the Land Development Code or zoning condition specific to this development, the development is allowed a maximum calculated development intensity with respect to new trip generation utilizing the following development scenario based upon the Institute of Transportation Engineers (ITE) Trip Generation Manual in effect at the time of local development order:

- 175,000 SF commercial retail use; and
- 175,000 SF industrial use.

B. DEVIATIONS:

DEVIATION 2A: Setbacks for Water Retention or Detention Excavations.

Deviation from Land Development Code Section 10-329(d)(1) a.2, which requires that no excavation be allowed within 50 feet of any existing or proposed right-of-way line or easement for a collector or arterial street, to allow a 25-foot setback.

Staff recommends withdrawal of this deviation. The Master Concept Plan does not depict any lakes adjacent to any collector or arterial road.

DEVIATION 2B: Setbacks for Water Retention or Detention Excavations.

Deviation from Land Development Code Section 10-329(d)(1)a.3, which requires that no excavation is allowed within 50 feet of any private property line under separate ownership; to allow a 25-foot setback and/or to allow a zero-foot setback when the lake is combined with a lake on abutting property. This deviation is approved.

The adjacent properties are part of a master storm water management system permitted by the South Florida Water Management District in Permit #36-05268-P, which provides for existing drainage easements that extend beyond the north property line.

DEVIATION 2C: Relief from Bank Slopes.

Deviation from Land Development Code Section 10-329(d)(4), which requires that the banks of excavations to be sloped at a ratio not greater than six horizontal feet to one vertical feet from the top of bank to a water depth of two feet below the control elevation; to allow the existing lake (lake Tract A) to be sloped at a ratio of four horizontal to one vertical. This deviation is approved subject to the following condition:

Prior to the issuance of the first development order, cross-sections of the littoral shelves and existing vegetation of the preexisting lakes must be submitted and signed/sealed from a civil engineer.

DEVIATION 2D: Fencing.

Deviation from Land Development Code Section 10-329(d)(6), which requires that a four-foot fence may be required, at the discretion of the Director, to be placed around excavations for water retention when located less than 100 feet from any property under separate ownership; to not require fencing around any existing or proposed lakes. This deviation is approved.

The lakes are existing and, in some cases, straddle the property lines. Additionally, the property is surrounded by other industrial and commercial uses that are part of the same master drainage system limiting public access.

DEVIATION 3A: Open Space.

Deviation from Land Development Code Section 10-415(a), which requires that all Large Industrial Developments to provide a minimum of 20% open space and all Large Commercial Developments to provide a minimum of 30% open space to allow the ± 5-acre Conservation Easement and Lake Tract parcels to be credited toward the open space as a whole and reduce the requirement to 20% for commercial uses and 10% industrial uses on individual parcels. This deviation is approved subject to the following condition:

Prior to the issuance of the first development order, the development order plans must demonstrate substantial compliance with the submitted open space chart and Master Concept Plan.

DEVIATION 3B: Buffers

Deviation from Land Development Code Section 10-416(d)(4), which requires that the Type D Right-of-Way buffers must be a minimum of 15 feet wide to allow the Type D buffer on Oriole Road to be 10 feet wide for Tracts B and C-1. This deviation is denied.

Projects along Oriole Road were approved with the required 15-foot-wide buffer. Granting this deviation will not be in keeping with the development trends in the area.

DEVIATION 3C: Littoral Shelf (Proposed Lakes Only).

Deviation from Land Development Code Sections 10-418(2)(a), and 10-418(2)(d)3, which requires all surface water management systems to provide a planted littoral shelf that mimics the function

of a natural marsh, to allow 4:1 littoral shelf. In addition, deviate from subsection 10-418(2)(d)3, which allows native wetland trees to be substituted for up to 25% of the total number of herbaceous plants required, to allow native wetland trees to be substituted for 100% of the total number of herbaceous plants required. This deviation is approved subject to the following conditions:

Prior to the issuance of the first development order, the development order plans must demonstrate a 4:1 littoral shelf on newly constructed lakes.

Prior to the issuance of the first development order, the landscape plans must demonstrate a 100% substitution of herbaceous plants to native wetland trees for both the existing lakes and new lakes, to comply with FAA guidelines.

DEVIATION 4A: Street Trees.

Deviation from Land Development Code Section 10-296(e)(2)d. which requires that Street Trees must be planted on both sides of the road, that palm trees may only be substituted for a maximum of 50 percent of the required small trees, and that the trees must be spaced evenly along the frontage and not clustered, to allow the trees required per this section of the code to be planted on one side of the road, to allow 100 percent of the trees to be palm trees, and to allow the palm trees to be clustered. As an enhancement to the code, the palms must be staggered in height from 10 feet to 14 feet. This deviation is approved subject to the following condition:

Prior to the first development order, landscape plans must depict tree and palm spacing in roadway planting areas as 100% cabbage palms. Cabbage palms may be clustered and must be staggered in height from a minimum of 10-feet to 14-feet.

DEVIATION 4B: Culs-de-Sac.

Deviation from Land Development Code Section 10-296(k)(1), which requires dead-end streets to be closed at one end by a circular turnaround for vehicles; to allow the internal roads and/or accessways to be designed constructed with a hammerhead turnaround, as depicted on the Master Concept Plan. This deviation is approved subject to the following condition:

At time of development order, the applicant must demonstrate that the hammerhead turnaround is of sufficient length to allow emergency vehicles, as specified by the San Carlos Park Fire & Rescue, to turn around.

DEVIATIONS 5A and 5B: Nonresidential Identification Signs

Deviation from Land Development Code Sections 30-153(2)a. and 30-153(2)a.1.ii. which requires the development be permitted to have one identification sign equal to one square foot of sign area per face for every one linear foot of frontage to allow:

- a) One additional sign on the project's Oriol Road frontage, for a total of two ground-mounted developer signs on Oriole Road; and
- b) Two signs on Oriole Road with 200 square feet per sign area per face. This is a deviation of an additional 100 square feet of sign area on Oriole Road.

This Deviation is approved. This project contains almost 700 feet of road frontage on Oriole Road with two access points to the site from that road. This deviation will allow each entrance to have an identification sign.

DEVIATION 6: Parking Lot Interconnection.

Deviation from Land Development Code Sections 10-610(e) and 34-2015(2)(f), which requires projects to provide parking lot interconnections for automobile, bicycle and pedestrian traffic, to allow the proposed local roadway as shown on the Master Concept Plan to serve as the required interconnection for Lots of C-1 through C-6. This deviation is approved.

During development of the parcel the applicant will be required to plat the proposed development and provide internal roadway access to the development parcels. This internal roadway will perform the required interconnection between the proposed lots and allow traffic circulation between the development parcels without the need to use the adjacent roadway.

Deviation 7: Connection Separation.

Deviation from Land Development Code Section 10-285(a), which requires that motor vehicle connection(s) to a road from privately maintained streets, access roads or accessways onto local roads in future suburban areas must be a minimum of 125 feet apart, to allow a connection separation of 60 feet on proposed access roads from anticipated entrances on Tracts "A", C-5, C-6" (proposed commercial"), and to allow 102 feet on "Sweeney Way" from anticipated entrances on Tracts "B", (proposed commercial") as depicted on the Master Concept Plan.

The deviation request for Tracts "A", C-5, and C-6 are located at the end of the roadway and will be subject to a minimal amount of low-speed traffic. The access points to the tracts are located to line up access points on each side of the right-of-way and provide sufficient access to each individual tract.

The deviation from Tract B will align with the existing access to the Fire Station to the north. Typically, alignment of accessways would not require an additional deviation request, however, staff could not locate an approved deviation for reduced connection separation for the existing Fire Department access to the north. This request will bring the existing access point into compliance with the Land Development Code requirement in Section 10-285.

**LEE COUNTY, FLORIDA
DEPARTMENT OF COMMUNITY DEVELOPMENT
ZONING SECTION
STAFF REPORT**

TYPE OF CASE: PLANNED DEVELOPMENT/DCI
CASE NUMBER: DCI2022-00061
HEARING EXAMINER DATE: September 27, 2023

APPLICATION SUMMARY

Applicant: Quattrone and Associates, Inc. in reference to Alico Oriole West MPD.

Request: Request to rezone 30.65± acres from Agricultural (AG-2) to Mixed Use Planned Development (MPD) to allow for up to 350,000 square feet of commercial retail, office and industrial uses and 150 hotel rooms.

Location: The subject property is located on the northwest corner of the Alico Road and Oriole Road intersection, in the Gateway/Airport Planning Community, Lee County, FL. (District #2). The applicant indicates the property's STRAP number is 04-46-25-L3-00003.0020.

SUMMARY:

Staff recommends approval of the applicant's request to rezone the subject property with the conditions and deviations found in Attachment C.

The conditions have been prepared to address the proposed development and consistency with the Lee County Comprehensive Plan (Lee Plan), compatibility with surrounding land uses, and addressing future infrastructure needs to support the development and address the needs of the community.

The applicant's request includes twelve (12) deviations from the requirements of the Land Development Code. Staff recommends approval of eleven (10) with conditions, denial of one, and withdrawal of one.

CHARACTER OF THE AREA

The area is partially to mostly developed with industrial and commercial uses along Alico Road and Oriole Road respectively. Due to its proximity to the Airport, the properties in the area are being rezoned to Commercial, Industrial and Mixed Use Planned Developments allowing industrial and commercial uses. The area is partially within Airport Noise Zone "C" making it more appropriate for industrial and heavy commercial type uses. Properties to the north and west of the subject site is within the Industrial Development Future Land Use designation. Properties to the south of this site have the Urban Community Future Land Use designation, and properties to the east are located in the Industrial Commercial Interchange Future Land Use category.

To the north, this property abuts a Mixed Use Planned Development, partially developed with offices and warehousing (Three Oaks Distribution Center MPD, approved by Resolution Z-20-002).

To the east, across Oriole Road, there is a Mixed Use Planned Development under construction (Three Oaks Market Place, approved by Resolution Z-16-037). At the northeast corner of the subject site, there is a 1.8-acre property zoned AG-2 and is developed with a Fire station.

To the south, across Alico Road, there are vacant and developed properties, zoned C-1A, CN-1 and CPD.

To the west, this property abuts a partially developed Industrial Planned Development (Formosa Commerce Center, approved by Resolution Z-05-066, as most recently amended by Resolution Z-20-001).

ANALYSIS

The subject property is located in Gateway/Airport Planning Community. The site consists of 30.65± acres and is currently vacant. The property fronts on Alico and Oriole Roads. The request is to rezone the site to Mixed Use Planned Development to allow for up to 350,000 square feet of industrial, office, retail and 150 hotel rooms.

The Traffic Impact Statement (TIS) provided by the applicant indicates 175,000 square feet of retail and 175,000 square feet of industrial uses. The hotel use is not included in the trip generation of the site. The hotel, if developed, will reduce the square footage of commercial and/or industrial uses based on the number of trips generated by the hotel.

Environmental

Environmental Staff has reviewed this project and recommends approval subject to conditions (See Attachment E).

Transportation

Lee County Infrastructure Planning staff reviewed this request and recommended approval subject to conditions (Attachment F). This project will generate 8,663 daily 2-way trips. Alico Road, east and west of this project will function at a Level of Service "C" with or without this project, and Oriole Road north of Alico Road will function at a Level of Service "E" and at a Level of Service "C" south of Alico Road with or without this project.

Master Concept Plan

The Master Concept Plan depicts two entrances to the development from Oriole Road and one from Alico Road. The Master Concept Plan also depicts a total of 8 development tracts. Six of the tracts front directly on Alico Road, one fronts on Oriole Road, while one tract is a corner lot and fronts on both roads. The largest tract is only accessible from the internal road network. The MCP depicts an active bald eagle nest.

Bald Eagle Nest

There is an active bald eagle nest on this site, located on the western portion of the site. This request and the said Eagle Management Plan (BEMP) for this site were presented to ETAC on July 11, 2023 and ETAC recommended approval of the Bald Eagle Management Plan, and conditions requiring the implementation of the BEMP are listed in Attachment C of this staff report (Attachment H).

Airport Noise Zones

This property is partially located within Airport Noise Zone “C”. In compliance with the Land Development Code Section 34-1104, a condition was added to the list of conditions of approval for this project to provide notification to future property owners within this development.

Availability of Urban Services

The Lee Plan defines Urban Services as the requisite services, facilities, capital improvements, and infrastructure necessary to support growth and development at levels of urban density and intensity.

Public sewer and water: County potable water and sanitary sewer services are available to the site and the site will connect to those services.

Paved streets and roads: The subject property fronts on Alico Road which is an arterial road, and Oriole Road, a local road, and will have direct access to those roads.

Public transit: Lee Tran Route 60, with stops on Alico Road, connects this site to Tamiami Trail, Florida Gulf Coast University and Miromar Outlet Mall.

Urban levels of police, fire, and emergency services: The subject property will be provided urban levels of police, fire and emergency services. Fire protection is provided by San Carlos Fire Protection District (Station #54), located at the northeast corner of this site (16900 Oriole Road). This fire station also contains an EMS substation. A Sheriff's substation is located 8350 Hospital Drive in Bonita Springs about 9 miles from this site.

Urban surface water management: Any future development will be required to comply with the LDC, including provisions for surface water management.

Schools: The subject property is served by the School District of Lee County and is located in South Choice (S-2) Zone. This request does not contain residential uses and therefore, will have no impact on classroom needs.

Employment, industrial, and commercial centers: The subject property will provide employment opportunities in the area.

LEE PLAN

The site is located in the Gateway/Airport Planning District and within the Industrial Development Future Land Use category established by the Lee Plan.

This property is located in the Industrial Development Future Land Use category established by the Lee Plan. This Future Land Use category is reserved mainly for industrial activities and selective land use mixtures. According to the Lee Plan, appropriate land use mixtures include industrial, manufacturing, research, recreational uses and office complexes. Retail and recreational uses may not exceed 20% of the total acreage within the Industrial Development Future Land Use categories of each Planning Community. Staff finds the proposed development, as conditioned, consistent with Policy 1.1.7 of the Lee Plan.

This property mostly falls within Airport Noise Zone “C”. This Overlay requires formal notifications to all tenants and purchasers consistent with LDC Section 34-1104(b). Staff finds the proposed development, as conditioned, consistent with Policy 1.6.1 of the Lee Plan.

This property fronts on two roads, one of which is an arterial road (Alico Road). Water and sewer services are available to the site. All urban services are available to this site, and the area is planned and is being rezoned to be developed with uses similar to this development project. Staff finds the proposed development, as conditioned, consistent with Policy 2.2.1 of the Lee Plan.

Water and sewer lines are within the vicinity of this parcel, and they will be extended to provide services to this site. Staff finds the proposed development consistent with Standards 4.1.1 and 4.1.2 of the Lee Plan.

This development meets the threshold for Development of County Impact and is being reviewed as an Industrial Planned Development (IPD). This project is being reviewed for traffic impact, neighborhood compatibility, availability and adequacy of urban services and landscaping and buffer requirements.

The area, due to its location and Future Land Use designation, is appropriate for industrial and commercial uses. It fronts on an arterial road and is not not adjacent to any residential developments. Staff finds the proposed development, as conditioned, consistent with Objective 6.1 and Policies 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.1.7, and 7.1.8 of the Lee Plan.

This rezoning request is for a mixed-use development. The area contains sufficient infrastructure for an industrial and commercial development. This site is within close proximity to Interstate 75 and Florida Southwest International Airport. Staff finds the proposed development, as conditioned, consistent with Objective 11.1 of the Lee Plan.

PLANNING DISTRICT MAP AND ALLOCATION TABLE

POLICY 1.6.5: The Planning Communities Map and Acreage Allocation Table (see Map 1-B and Table 1(b) and Policies 1.1.1 and 2.2.2) depicts the proposed distribution, extent, and location of generalized land uses for the year 2045.

The subject property is located in the Gateway/Airport Planning District. The Lee Plan has allocated 1,216 acres of commercial and 2,134 acres of industrial development within this planning district by the year 2045. Currently there are approximately 168 acres of commercial uses and 687 acres of industrial developed. There are approximately 1,048 acres of additional land allocated to commercial uses and 1,451 acres of additional land allocated to industrial uses within this area of Lee County remaining. Staff finds the request consistent with the allocations for the Gateway/Airport Planning District. This finding is not a guarantee that there will be sufficient allocations for development in the future. Such a determination will be made at time of local development order.

Deviations

The applicant is requesting the following 12 deviations in conjunction with this rezoning action.

DEVIATION 2A: Setbacks for Water Retention or Detention Excavations.

Deviation from Land Development Code Section 10-329(d)(1) a.2, which requires that no excavation be allowed within 50 feet of any existing or proposed right-of-way line or easement for a collector or arterial street, to allow a 25-foot setback.

Staff recommends withdrawal of this deviation. The Master Concept Plan does not depict any lakes adjacent to any collector or arterial road.

DEVIATION 2B: Setbacks for Water Retention or Detention Excavations.

Deviation from Land Development Code Section 10-329(d)(1)a.3, which requires that no excavation is allowed within 50 feet of any private property line under separate ownership; to allow a 25-foot setback and/or to allow a zero-foot setback when the lake is combined with a lake on abutting property. This deviation is approved.

The adjacent properties are part of a master storm water management system permitted by the South Florida Water Management District in Permit #36-05268-P, which provides for existing drainage easements that extend beyond the north property line.

DEVIATION 2C: Relief from Bank Slopes.

Deviation from Land Development Code Section 10-329(d)(4), which requires that the banks of excavations to be sloped at a ratio not greater than six horizontal feet to one vertical feet from the top of bank to a water depth of two feet below the control elevation; to allow the existing lake (lake Tract A) to be sloped at a ratio of four horizontal to one vertical. This deviation is approved subject to the following condition:

Prior to the issuance of the first development order, cross-sections of the littoral shelves and existing vegetation of the preexisting lakes must be submitted and signed/sealed from a civil engineer.

DEVIATION 2D: Fencing.

Deviation from Land Development Code Section 10-329(d)(6), which requires that a four-foot fence may be required, at the discretion of the Director, to be placed around excavations for water retention when located less than 100 feet from any property under separate ownership; to not require fencing around any existing or proposed lakes. This deviation is approved.

The lakes are existing and, in some cases, straddle the property lines. Additionally, the property is surrounded by other industrial and commercial uses that are part of the same master drainage system limiting public access.

DEVIATION 3A: Open Space.

Deviation from Land Development Code Section 10-415(a), which requires that all Large Industrial Developments to provide a minimum of 20% open space and all Large Commercial Developments to provide a minimum of 30% open space to allow the \pm 5-acre Conservation Easement and Lake Tract parcels to be credited toward the open space as a whole and reduce the requirement to 20% for commercial uses and 10% industrial uses on individual parcels. This deviation is approved subject to the following condition:

Prior to the issuance of the first development order, the development order plans must demonstrate substantial compliance with the submitted open space chart and Master Concept Plan.

DEVIATION 3B: Buffers

Deviation from Land Development Code Section 10-416(d)(4), which requires that the Type D Right-of-Way buffers must be a minimum of 15 feet wide to allow the Type D buffer on Oriole Road to be 10 feet wide for Tracts B and C-1. This deviation is denied.

Projects along Oriole Road were approved with the required 15-foot-wide buffer. Granting this deviation will not be in keeping with the development trends in the area.

DEVIATION 3C: Littoral Shelf (Proposed Lakes Only).

Deviation from Land Development Code Sections 10-418(2)(a), and 10-418(2)(d)3, which requires all surface water management systems to provide a planted littoral shelf that mimics the function of a natural marsh, to allow 4:1 littoral shelf. In addition, deviate from subsection 10-418(2)(d)3, which allows native wetland trees to be substituted for up to 25% of the total number of herbaceous plants required, to allow native wetland trees to be substituted for 100% of the total number of herbaceous plants required. This deviation is approved subject to the following conditions:

Prior to the issuance of the first development order, the development order plans must demonstrate a 4:1 littoral shelf on newly constructed lakes.

Prior to the issuance of the first development order, the landscape plans must demonstrate a 100% substitution of herbaceous plants to native wetland trees for both the existing lakes and new lakes, to comply with FAA guidelines.

DEVIATION 4A: Street Trees.

Deviation from Land Development Code Section 10-296(e)(2)d. which requires that Street Trees must be planted on both sides of the road, that palm trees may only be substituted for a maximum of 50 percent of the required small trees, and that the trees must be spaced evenly along the frontage and not clustered, to allow the trees required per this section of the code to be planted on one side of the road, to allow 100 percent of the trees to be palm trees, and to allow the palm trees to be clustered. As an enhancement to the code, the palms must be staggered in height from 10 feet to 14 feet. This deviation is approved subject to the following condition:

Prior to the first development order, landscape plans must depict tree and palm spacing in roadway planting areas as 100% cabbage palms. Cabbage palms may be clustered and must be staggered in height from a minimum of 10-feet to 14-feet.

DEVIATION 4B: Culs-de-Sac.

Deviation from Land Development Code Section 10-296(k)(1), which requires dead-end streets to be closed at one end by a circular turnaround for vehicles; to allow the internal roads and/or accessways to be designed constructed with a hammerhead turnaround, as depicted on the Master Concept Plan. This deviation is approved subject to the following condition:

At time of development order, the applicant must demonstrate that the hammerhead turnaround is of sufficient length to allow emergency vehicles, as specified by the San Carlos Park Fire & Rescue, to turn around.

DEVIATIONS 5A and 5B: Nonresidential Identification Signs

Deviation from Land Development Code Sections 30-153(2)a. and 30-153(2)a.1.ii. which requires the development be permitted to have one identification sign equal to one square foot of sign area per face for every one linear foot of frontage to allow:

- a) One additional sign on the project's Oriole Road frontage, for a total of two ground-mounted developer signs on Oriole Road; and
- b) Two signs on Oriole Road with 200 square feet per sign area per face. This is a deviation of an additional 100 square feet of sign area on Oriole Road.

This Deviation is approved. This project contains almost 700 feet of road frontage on Oriole Road with two access points to the site from that road. This deviation will allow each entrance to have an identification sign.

DEVIATION 6: Parking Lot Interconnection.

Deviation from Land Development Code Sections 10-610(e) and 34-2015(2)(f), which requires projects to provide parking lot interconnections for automobile, bicycle and pedestrian traffic, to allow the proposed local roadway as shown on the Master Concept Plan to serve as the required interconnection for Lots of C-1 through C-6. This deviation is approved.

During development of the parcel the applicant will be required to plat the proposed development and provide internal roadway access to the development parcels. This internal roadway will perform the required interconnection between the proposed lots and allow traffic circulation between the development parcels without the need to use the adjacent roadway.

Deviation 7: Connection Separation.

Deviation from Land Development Code Section 10-285(a), which requires that motor vehicle connection(s) to a road from privately maintained streets, access roads or accessways onto local roads in future suburban areas must be a minimum of 125 feet apart, to allow a connection separation of 60 feet on proposed access roads from anticipated entrances on Tracts "A", C-5, C-6" (proposed commercial"), and to allow 102 feet on "Sweeney Way" from anticipated entrances on Tracts "B", (proposed commercial") as depicted on the Master Concept Plan.

The deviation request for Tracts "A", C-5, and C-6 are located at the end of the roadway and will be subject to a minimal amount of low-speed traffic. The access points to the tracts are located to line up access points on each side of the right-of-way and provide sufficient access to each individual tract.

The deviation from Tract B will align with the existing access to the Fire Station to the north. Typically, alignment of accessways would not require an additional deviation request, however, staff could not locate an approved deviation for reduced connection separation for the existing Fire Department access to the north. This request will bring the existing access point into compliance with the Land Development Code requirement in Section 10-285.

Findings and Conclusions

Based upon an analysis of the application and the standards for approval of planned development rezonings, staff finds that the request:

- a) Complies with Lee Plan as discussed in the Lee Plan analysis section of this report, specifically Lee Plan Policies 1.1.7, 1.6.1, 2.2.1, 7.1.1, 7.1.2, 7.1.3, 7.1.4, 7.1.7, 7.1.8, Lee Plan Standards 4.1.1 and 4.1.2, and Objectives 1.5 and 11.1 and Goal 6 of the Lee Plan, Land Development Code, and other applicable codes and regulations;
- b) Meets the Land Development Code and other applicable County regulations; or qualifies for deviations;
- c) Is compatible with existing and planned uses in the surrounding area;
- d) Will provide access sufficient to support the proposed development intensity and the expected impacts on existing or planned transportation facilities will be mitigated through existing County regulations or conditions of approval;
- e) Will not adversely affect environmentally critical or sensitive areas and natural resources;
- f) Will be served by urban services, defined in Lee Plan Standards 4.1.1 and 4.1.2 and other applicable Lee Plan Policies;
- g) The proposed mix of uses is appropriate at the proposed location;
- h) The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to the impacts on the public's interest expected from the proposed development.
- i) The approved deviations, as conditioned:
 - 1) Enhance the achievement of the objectives of the planned development; and
 - 2) Preserve and promote the general intent of this Code to protect the public health, safety and welfare.

ATTACHMENTS:

- A. Expert Witness Information
- B. Maps: surrounding zoning, future land use and aerial photograph
- C. Conditions and Deviations
- D. Master Concept Plan
- E. Zoning Section's Environmental Staff Report
- F. Memorandum from Infrastructure Planning
- G. Memorandum from Division of Natural Resources
- H. Bald Eagle Management Plan
- I. Utilities Letter of availability for water and sewer
- J. Memorandum from Section of Development Services
- K. TIS
- L. Application and Narrative
- M. Legal Description

CPA2023-00007

McGregor Mixed Use Overlay

**SUMMARY SHEET
CPA2023-00007 – MCGREGOR MIXED USE OVERLAY
ADOPTION HEARING**

REQUEST:

Amend Lee Plan Map 1-C to include ±1.93 acres along McGregor Boulevard in the Mixed Use Overlay. The amendment will allow the applicant to redevelop an older parcel with development standards allowed within the Mixed Use Overlay.

The requested map amendment is a small-scale comprehensive plan amendment per Florida Statute 163.3187(1).

LPA PUBLIC HEARING:

The LPA discussed the proposed amendment and various merits of the case, including the compatibility with the surrounding area, interconnection between adjacent parcels, the appropriateness of including the additional parcels, the method of informing the property owners of the additional parcels, and the changes that would result from inclusion in the Mixed Use Overlay.

LPA PUBLIC INPUT:

No members of the public provided input before the Local Planning Agency.

LPA MOTION:

A motion was made to recommend that the Board of County Commissioners (BoCC) **adopt** CPA2023-00007. The motion passed 6 to 1.

RAYMOND BLACKSMITH	<u>NAY</u>
KEITH DEAN	<u>AYE</u>
DUSTIN GARDNER	<u>AYE</u>
DAWN RUSSELL	<u>AYE</u>
DON SCHROTENBOER	<u>AYE</u>
STAN STOUDE	<u>AYE</u>
HENRY ZUBA	<u>AYE</u>

STAFF RECOMMENDATION:

Staff recommends adding an additional ±1.8 acres to the request boundary to include all commercially zoned parcels from Edinburgh Drive to College Parkway for a total of 3.73 acres to be added to the Mixed Use Overlay. Staff further recommends that the BoCC **adopt** the proposed amendment as provided in Attachment 1.

LEE COUNTY ORDINANCE NO. ____
McGregor Mixed Use Overlay
(CPA2023-00007)

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN TO ADOPT A SMALL SCALE AMENDMENT PERTAINING TO MCGREGOR MIXED USE OVERLAY (CPA2023-00007); PROVIDING FOR PURPOSE, INTENT AND SHORT TITLE; ADOPTION OF SMALL SCALE AMENDMENT TO LEE PLAN MAP 1-C, THE FUTURE LAND USE MAP; LEGAL EFFECT OF THE “LEE PLAN”; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; GEOGRAPHICAL APPLICABILITY; SEVERABILITY; INCLUSION IN CODE, CODIFICATION AND SCRIVENER’S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan (“*Lee Plan*”) and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners (“*Board*”); and

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6, provide an opportunity for private individuals to request amendment to the Future Land Use Map through a small scale amendment public hearing process; and

WHEREAS, the Local Planning Agency (“*LPA*”) held a public hearing on the adoption of the proposed amendment on October 23, 2023. At that hearing the LPA found the proposed amendment to be consistent with the Lee Plan and recommended that the Board adopt the amendment; and

WHEREAS, the Board held a public hearing for the adoption of the proposed amendment on December 6, 2023. At that hearing, the Board approved a motion to adopt proposed amendment CPA2023-00007 pertaining to McGregor Mixed Use Overlay, amending Map 1-C of the Lee Plan, the Future Land Use Map. The subject parcel is located at the west side of McGregor Boulevard, near the northwest corner of the intersection of McGregor Boulevard and College Parkway.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted a public hearing to review a proposed small scale amendment to the Future Land Use Map Series of the Lee Plan. The purpose of this ordinance is to adopt the amendment to the Lee Plan discussed at that meeting and later approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the “Lee Plan.” **This amending ordinance may be referred to as the “McGregor Mixed Use Overlay Ordinance (CPA2023-00007)”.**

SECTION TWO: ADOPTION OF SMALL SCALE AMENDMENT TO LEE PLAN FUTURE LAND USE MAP SERIES, MAP 1-C

The Lee County Board of County Commissioners hereby amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment to the Future Land Use Map Series, Map 1-C to allow the subject property to redevelop using development standards allowed in the Mixed Use Overlay. The amendments will amend Lee Plan Map 1-C to extend the Mixed Use Overlay to 3.73 acres of existing commercial properties located at the northwest corner of McGregor Boulevard and College Parkway. The subject parcel is located at northwest corner of McGregor Boulevard and College Parkway. The corresponding staff report and analysis, along with all attachments for this amendment, are adopted as "support documentation" for the Lee Plan.

SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

SECTION FOUR: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION FIVE: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

SECTION SIX: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION SEVEN: INCLUSION IN CODE, CODIFICATION AND SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be re-numbered or re-lettered and the word "ordinance" may be changed to "section," "article" or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent may be authorized by the County Manager, or designee, without need of a public hearing, by filing a corrected or re-codified copy with the Clerk of the Circuit Court.

SECTION EIGHT: EFFECTIVE DATE

The small scale Lee Plan amendment adopted by this ordinance will be effective 31 days after adoption unless challenged within 30 days after adoption. If challenged within 30 days after adoption, the small scale amendment to the Lee Plan will not be effective until the Florida Department of Economic Opportunity or the Administrative Commission issues a final order determining the small scale amendment is in compliance with Florida Statutes, Section 163.3184. No development orders, development permits or land uses dependent on this amendment may be issued or commence before the amendment has become effective.

Commissioner _____ made a motion to adopt the foregoing ordinance, seconded by Commissioner _____. The vote was as follows:

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

DONE AND ADOPTED this 6th day of December, 2023.

ATTEST:
KEVIN C. KARNES
CLERK OF CIRCUIT COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY FLORIDA

BY: _____
Deputy Clerk

BY: _____
Mike Greenwell, Chair

DATE: _____

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

Lee County Attorney's Office

Exhibit A (Adopted by BOCC December 6, 2023):
Adopted existing and revised Future Land Use Map, Map 1-C

CAO Draft 11/15/2023 11:41:10 AM






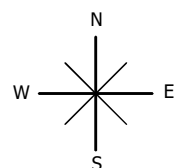
CPA2023-00007

Mixed Use Overlay



Map Generated: October 2023

-  Existing Mixed Use Overlay
-  Applicant Proposal
-  Staff Addition



0 200 400
Feet

STAFF REPORT FOR
CPA2023-00007:
McGREGOR MIXED USE OVERLAY



Small-Scale Map Amendment to the Lee Plan

Recommendation:

Adopt

Applicant:

McGregor 12690 Properties,
LLC

Representative:

Al Quattrone, P.E.
Quattrone & Associates, Inc.

Property Location:

12670, 12680, and 12690
McGregor Blvd

Size:

± 1.93 acres

Planning District:

District #15

Commissioner District:

District #2

Attachments:

1: Proposed Amendment

Hearing Dates:

LPA: 10/23/2023
BoCC: TBD

REQUEST

- Amend Lee Plan Map 1-C to expand the Mixed Use Overlay to ±1.93 acres.
- In addition to the applicant's request, staff recommends all commercially zoned properties between Edinburgh Drive and College Parkway with frontage on McGregor Boulevard be added to the Mixed Use Overlay (see Figure 2).

SUMMARY

The requested amendment would allow the subject property to redevelop using development standards allowed in the Mixed Use Overlay.

PROPERTY LOCATION

The subject property is located on the west side of McGregor Boulevard, near the northwest corner of the intersection of McGregor Boulevard and College Parkway.



Figure 1: Aerial Location of the subject property

RECOMMENDATION

Staff recommends that the Board of County Commissioners **adopt** the amendments, as recommended by staff, based on the analysis and findings provided in this staff report.

PART 1
STAFF ANALYSIS

Subject Property

The approximately 1.93 acre subject property is located on the west of side McGregor Boulevard, near the northwest corner of McGregor Boulevard and College Parkway. The subject property consists of three parcels, located in the South Fort Myers Planning District. The subject property is within Intensive Development future land use category and is zoned commercial (C-1). These parcels are currently developed with commercial uses.

South Fort Myers Planning District

The South Fort Myers Planning District is located in the center of Lee County and consists of Future Urban and Suburban areas, including the Intensive Development, Central Urban, Urban Community, and Suburban future land use categories. The South Fort Myers Planning District is considered a core area of the county.

Intensive Development Future Land Use Category

The property is located within the Intensive Development Future Land Use Category, which is the most intense future land use category. As stated in Policy 1.1.2, this land use category allows for high densities and intensities of development, and encourages mixed-use centers.

POLICY 1.1.2: The Intensive Development areas are located along major arterial roads in Fort Myers, North Fort Myers, East Fort Myers west of I-75, and South Fort Myers. By virtue of their location, the county's current development patterns, and the available and potential levels of public services, they are well suited to accommodate high densities and intensities. Planned mixed use centers of high-density residential, commercial, limited light industrial (see Policy 7.1.6), and office uses are encouraged to be developed as described in Objective 11.1, where appropriate. As Lee County develops as a metropolitan complex, these centrally located urban nodes can offer a diversity of lifestyles, cosmopolitan shopping opportunities, and specialized professional services that benefit such a region. The standard density range is from eight dwelling units per acre (8 du/acre) to fourteen dwelling units per acre (14 du/acre). Maximum total density is twenty-two dwelling units per acre (22 du/acre). The maximum total density may be increased to thirty dwelling units per acre (30 du/acre) utilizing Greater Pine Island Transfer of Development Units. (Ordinance No. 94-30, 09-06, 10-10, 16-07)

Surrounding Properties

Properties to the north and south consist of existing commercial uses and are zoned C-1. To the west is a platted residential subdivision and to the east, across McGregor Boulevard, are several commercial parcels and a multi-family development. Further information can be found in Table 1, below.

TABLE 1: SURROUNDING PROPERTIES INFORMATION

	Future Land Use	Zoning	Existing Use
North	Central Urban	C-1, C-1A, & RS-1	Commercial & Single-Family Residential
East	Intensive Development	C-1, MPD approved for 649 dwelling units, 180,000 SF of commercial uses, and a 100 unit hotel ¹	Commercial & Multi-Family Residential
South	Intensive Development	C-1 & RS-1	Commercial & Single-Family Residential
West	Intensive Development and Central Urban	RS-1	Single-Family Residential

Lee Plan Consistency

The Mixed Use Overlay is currently located to the east of the subject property, across McGregor Boulevard. The Mixed Use Overlay consists of locations within Lee County that facilitate mixed-use development and accommodate future growth in proximity to public transportation; various commercial and residential centers; and recreational opportunities.

Lee Plan **Objective 1.1** and **Policy 1.1.1** provide that Future Urban and Suburban Areas as identified on the Future Land Use Map will provide opportunities for future development and redevelopment. Development standards for properties included in the Mixed Use Overlay are intended to encourage redevelopment and allow a more urban form of development. The standards of the Mixed Use Overlay are appropriate for older commercial lots in Future Urban Areas, which may have trouble meeting the current code requirements due to their small size. Allowing these parcels to redevelop with the standards of the Mixed Use Overlay will help facilitate redevelopment of existing properties in existing urban areas of Lee County and furthers Policy 1.1.1.

The subject property is in the Intensive Development future land use category, which is described in **Policy 1.1.2**. Policy 1.1.2 provides that lands within the Intensive Development future land use category “are suited to accommodate high densities and intensities” and goes on to encourage mixed-use developments. Adding the subject property to the Mixed Use Overlay is consistent with Policy 1.1.2.

Objective 2.2 directs new growth to areas where “adequate public facilities exist or are assured and where compact and contiguous development patterns can be created”. The subject property is located in an area with existing public facilities. The redevelopment of this property will ensure continued compact development patterns, consistent with Objective 2.2.

Objective 11.1 provides that mixed-use development should be allowed and encouraged “within certain future land use categories and at appropriate locations where sufficient infrastructure exists to support development”. Adding the subject property to the Mixed Use Overlay will allow and encourage a mixed-use form of development, consistent with Objective 11.1.

Expansion of the Mixed Use Overlay depends upon a number of criteria specifically addressed in **Policy 11.2.1**. Generally, these criteria include enabling continued pedestrian and automobile connections,

¹ PD-98-030; Z-97-060

location within specific future land use categories, and adequate public facilities and infrastructure. An Analysis of 11.2.1 is provided below:

Located within the extended pedestrian shed (1/2 mile) of established transit routes: LeeTran route 30 is within one quarter mile of the subject property, allowing for pedestrian access to an established transit route. Route 30 operates east to west and is served by bus stop #10210. Improvements may need to be made to the bus stop in accordance with Land Development Code Section 10-442. Potential improvements to this bus stop will be reviewed at time of local Development Order.

Distinct pedestrian and automobile connections to adjacent uses can be achieved without accessing arterial roadways: The subject property has direct access to McGregor Boulevard, an arterial roadway, however Lee County Land Development Code Section 10-610(e) requires parking lot interconnections between commercial uses and will be required to demonstrate compliance during the development order process. Existing sidewalks allow pedestrian access from the subject property to the adjacent commercial properties, commercial properties across McGregor Boulevard, and Lee Tran facilities.

Located within the Intensive Development, Central Urban, or Urban Community future land use categories: The subject property is located within the Intensive Development future land use category.

Availability of adequate public facilities and infrastructure: There are adequate public facilities and infrastructure to serve the proposed development.

- Fire: The Iona-McGregor Fire Protection and Rescue Service District confirmed service availability. The primary responding service is Station #74, approximately 1.4 miles from the property.
- Emergency Medical Services: Lee County Emergency Medical Services indicated that there is adequate EMS availability for the property. There are two ambulances 0.8 miles southeast and two other locations within 5 miles of the development.
- Police: The Lee County Sheriff's Office confirmed service availability for the proposed development. Services will be provided from the West District offices in Fort Myers. The Sheriff's Office requests a Crime Prevention Through Environmental Design report.
- Solid Waste: Solid Waste confirmed that they are capable of providing solid waste collection to the subject property. Disposal will be accomplished at the Lee County Resource Recovery Facility and the Lee-Hendry Regional Landfill.
- Public Transit: LeeTran confirmed that transit service is available at this location through bus stop #10210. The 2021 Transit Development Plan identifies the need for enhanced or additional transit services in the area.
- Schools: Lee County Schools stated that it has no objections to the proposed amendment. The proposal does not increase the number of dwelling units in the relevant school zone.

The subject property is immediately adjacent to, or within walking distance of, a number of commercial properties, including restaurants, repair shops, an entertainment venue, and several offices.

Will not intrude into predominately single-family residential neighborhoods: The proposed amendment to Map 1-C extends only to the properties which are already commercially zoned (C-1) and have existing commercial uses on them. The adjacent single-family neighborhood to the west was platted in 1952 as

the Edison Acres neighborhood². The original plat excluded the properties included in the proposed amendment. The properties included in the proposed amendment have no significant zoning history.

The requested amendment is consistent with **Policy 11.2.1**.

Policy 11.2.2 states that “development in the Mixed Use Overlay accommodate connections to adjacent uses.” As previously mentioned, there are existing pedestrian facilities between the parcels included in the proposed amendment. Vehicular connections do not currently exist between the respective parcels; however, Land Development Code Section 10-610(e) mandates that parking lot interconnections be provided between commercial properties and can be enforced at time of Development Order, if appropriate, as individual parcels redevelop.

Lee Plan **Policy 39.2.1** states that transportation facilities in urban areas will have a balanced emphasis on multiple modes of transportation, in part, by “incentivizing infill and redevelopment, mixed uses, pedestrian friendly design, and higher development density/intensity in areas served by transit.” Adding the Mixed Use Overlay to an area with existing pedestrian and transit facilities will incentivize infill and redevelopment with a mixture of uses at the higher end of the density and intensity range, consistent with Policy 39.2.1.

Staff Recommendation

Policy 11.2.3 provides that the Board of County Commissioners has the discretion to extend the Mixed Use Overlay up to a quarter of a mile to accommodate developments located partially within or immediately adjacent to the Mixed Use Overlay. Based on this discretion, staff recommends the Mixed Use Overlay be expanded to include the remaining commercial parcels between College Parkway and Edinburgh Drive with frontage on McGregor Boulevard in addition to the applicant’s request. The total area recommended to be added to the Mixed Use Overlay by staff is approximately 3.73 acres.

The additional 1.8 acres recommended by staff consists of 5 parcels within the same future land use category (Intensive Development), same Planning District (15, South Fort Myers) and same zoning district (C-1) as the 1.93 acres subject to the request of the applicant. Staff finds that expanding the Mixed Use Overlay to the immediately adjacent parcels will aid in future redevelopment of these parcels and will allow for a cohesive development pattern as these small parcels will be subject to the same development standards. Because the additional properties recommended by staff are immediately adjacent to the property subject to the applicant’s request, are within the same future land use category, and the same Planning District, adding these parcels is consistent with the Lee Plan as described above in the previous section. The applicant and staff recommended additions to the Mixed Use Overlay are shown in Figure 2, below.

² Plat Book 9 Page 56, Lee County Clerk of Courts



Figure 2: Location map with aerial, showing original applicant request and additional areas recommended by staff.

Staff analyzed the impacts of adding the additional parcels to the Mixed Use Overlay for potential impacts to transportation, potable water, and sanitary sewer facilities. Lee County Department of Transportation determined that potential peak hour trip generation yielded fewer than fifty additional trips and that no further traffic analysis is required. Lee County Utilities determined that there is sufficient capacity to serve the subject property, including the additional area recommended by staff.

Conclusions

Adding approximately 3.73 acres of commercial properties between College Parkway and Edinburgh Drive to the Mixed Use Overlay is consistent with the Lee Plan.

- The properties meet specific criteria identified in **Policy 11.2.1.**
- The proposed amendment is consistent the future land use category, **Policy 1.1.2.**
- The amendment will encourage redevelopment of a heavily settled area of the county, consistent with **Policy 1.1.1.**
- The proposed amendments support a balance of multiple transportation modes by incentivizing infill and redevelopment with a mixture of uses, consistent with **Policy 39.2.1.**

For the reasons discussed in this staff report, staff recommends that the Board of County Commissioners **adopt** the proposed amendment as shown in Attachment 1.

PART 2
LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: October 23, 2023

A. LOCAL PLANNING AGENCY REVIEW

The applicant's representatives provided a presentation addressing the requested amendment, subject property, existing and proposed location of the Mixed Use Overlay, future use of the property, surrounding uses, and consistency with the Lee Plan.

Members of the LPA asked about plans for environmental restoration due to the vacant gas station on the subject property and the ability to create interconnections between existing uses.

Following this, staff made a presentation addressing the requested amendments, subject property, and consistency with the Lee Plan and staff recommendation. Staff also discussed the expansion of the boundaries of the request and the analysis of roadway impacts and LCU service availability.

LPA Members then asked about how the property owners were notified of staff's recommendation to include their property, whether this amendment would provide any hinderance to property owners who tried to develop at a later date, how the Mixed Use Overlay is different from a future land use category, and if there was any precedence for the procedure used by staff to expand the applicant's request.

No members of the public provided input before the Local Planning Agency.

B. LOCAL PLANNING AGENCY RECOMMENDATION

A motion was made to recommend that the Board of County Commissioners (BoCC) **adopt** CPA2023-00007 as recommended by staff. The motion passed 6 to 1.

RAYMOND BLACKSMITH	<u>NAY</u>
KEITH DEAN	<u>AYE</u>
DUSTIN GARDNER	<u>AYE</u>
DAWN RUSSELL	<u>AYE</u>
DON SCHROTENBOER	<u>AYE</u>
STAN STODER	<u>AYE</u>
HENRY ZUBA	<u>AYE</u>

C. STAFF RECOMMENDATION

Staff recommends that the BoCC **adopt** the proposed amendment as provided in Attachment 1.

ATTACHMENT 1

➤ **Proposed Map 1-C**



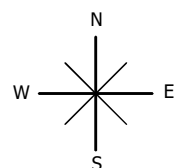
CPA2023-00007

Mixed Use Overlay



Map Generated: October 2023

- Existing Mixed Use Overlay
- Applicant Proposal
- Staff Addition



0 200 400
Feet



APPLICATION FOR A COMPREHENSIVE PLAN AMENDMENT - MAP

Project Name: McGregor-Mixed Use Overlay

Project Description: Add 1.93 acres extend the Mixed-Use Overlay boundary west McGregor, North College Pkwy.

Map(s) to Be Amended: Map I-C- Mixed Use Overlay

State Review Process: ☒ Small-Scale Review ☐ State Coordinated Review ☐ Expedited State Review

1. Name of Applicant: McGregor 12690 Properties, LLC

Address: 10481 Solaro St.

City, State, Zip: Fort Myers, FL 33913

Phone Number: _____

E-mail: _____

2. Name of Contact: Al Quattrone, P.E.- Quattrone & Associates, Inc

Address: 4301 Veronica Shoemaker Blvd

City, State, Zip: Fort Myers, FL 33916

Phone Number: 239-936-5222

E-mail: permits@gainc.net

3. Owner(s) of Record: Please See Owner on Record

Address: _____

City, State, Zip: _____

Phone Number: _____

E-mail: _____

4. Property Location:

1. Site Address: 12690, 12670, 12680 McGregor Blvd; Fort Myers, FL 33919

2. STRAP(s): 16-45-24-00-00007.0060, 16-45-24-00-00005.0000, 16-45-24-00-00006.0010

5. Property Information:

Total Acreage of Property: ±1.93 acres

Total Acreage Included in Request: ±1.93 acres.

Total Uplands: ±1.93 acres

Total Wetlands: 0

Current Zoning: C-1

Current Future Land Use Category(ies): Intensive Development

Area in Each Future Land Use Category: ±1.93 acres

Existing Land Use: Commercial

6. Calculation of maximum allowable development under current Lee Plan:

Residential Units/Density: 22 du/ac=42

Commercial Intensity: 19,300sf

Industrial Intensity: N/A

7. Calculation of maximum allowable development with proposed amendments:

Residential Units/Density: 22 du/ac=42

Commercial Intensity: 19,300sf

Industrial Intensity: N/A

RECEIVED
OCT 09 2023

COMMUNITY DEVELOPMENT

Public Facilities Impacts

NOTE: The applicant must calculate public facilities impacts based on the maximum development.

1. Traffic Circulation Analysis: The analysis is intended to determine the effect of the land use change on the Financially Feasible Highway Plan Map 3A (20-year plus horizon) and on the Capital Improvements Element (5-year horizon). Toward that end, an applicant must submit a Traffic Impact Statement (TIS) consistent with Lee County Administrative Code (AC)13-17.

- a. Proposals affecting less than 10 acres, where development parameters are contained within the Traffic Analysis Zone (TAZ) or zones planned population and employment, or where there is no change in allowable density/intensity, may be eligible for a TIS requirement waiver as outlined in the Lee County TIS Guidelines and AC-13-17. Identification of allowable density/intensity in order to determine socio-economic data for affected TAZ(s) must be coordinated with Lee County Planning staff. Otherwise a calculation of trip generation is required consistent with AC-13-17 and the Lee County TIS Guidelines to determine required components of analysis for:
 - i. Total peak hour trip generation less than 50 total trip ends – trip generation.
 - ii. Total peak hour trip generation from 50 to 300 total trip ends – trip generation, trip distribution and trip assignment (manual or Florida Standard Urban Transportation Modeling Structure (FSUTMS) analysis consistent with AC-13-17 and TIS Guidelines), short-term (5 year) and long-range (to current Lee Plan horizon year) segment LOS analysis of the nearest or abutting arterial and major collector segment(s) identified in the Transportation Inventory based on the trip generation and roadway segment LOS analysis criteria in AC-13-17. A methodology meeting is recommended prior to submittal of the application to discuss use of FSUTMS, any changes to analysis requirements, or a combined CPA and Zoning TIS short term analysis.
 - iii. Total peak hour trip generation is over 300 total trip ends - trip generation, mode split, trip distribution and trip assignment (manual or FSUTMS analysis consistent with AC-13-17 and TIS Guidelines), short-term (five-year) and long-range (to current Lee Plan horizon year) segment LOS analysis of arterial and collector segments listed in the Transportation Inventory. LOS analysis will include any portion of roadway segments within an area three miles offset from the boundary of the application legal description metes and bounds survey. LOS analysis will also include any additional segments in the study area based on the roadway segment LOS analysis criteria in AC-13-17. A methodology meeting is required prior to submittal of the application.
- b. Map amendment - greater than 10 acres -Allowable density/intensity will be determined by Lee County Planning staff.

2. Provide an existing and future conditions analysis for the following (see Policy 95.1.3):

- a. Sanitary Sewer
- b. Potable Water
- c. Surface Water/Drainage Basins
- d. Parks, Recreation, and Open Space
- e. Public Schools

Analysis for each of the above should include (but is not limited to) the following (see the Lee County Concurrency Management Report):

- a. Franchise Area, Basin, or District in which the property is located
- b. Current LOS, and LOS standard of facilities serving the site
- c. Projected 2030 LOS under existing designation
- d. Projected 2030 LOS under proposed designation
- e. Existing infrastructure, if any, in the immediate area with the potential to serve the subject property
- f. Improvements/expansions currently programmed in 5 year CIP, 6-10 year CIP, and long range improvements
- g. Provide a letter of service availability from the appropriate utility for sanitary sewer and potable water

In addition to the above analysis, provide the following for potable water:

- a. Determine the availability of water supply within the franchise area using the current water use allocation (Consumptive Use Permit) based on the annual average daily withdrawal rate.
- b. Include the current demand and the projected demand under the existing designation, and the projected demand under the proposed designation.
- c. Include the availability of treatment facilities and transmission lines for reclaimed water for irrigation.
- d. Include any other water conservation measures that will be applied to the site (see Goal 54).

3. Provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities, including:

- a. Fire protection with adequate response times
- b. Emergency medical service (EMS) provisions
- c. Law enforcement
- d. Solid Waste
- e. Mass Transit
- f. Schools

In reference to above, the applicant must supply the responding agency with the information from application items 5, 6, and 7 for their evaluation. This application must include the applicant's correspondence/request to the responding agency.

Environmental Impacts

Provide an overall analysis of the character of the subject property and surrounding properties, and assess the site's suitability for the proposed change based upon the following:

1. A map of the Plant Communities as defined by the Florida Land Use Cover and Classification system (FLUCCS).
2. A map and description of the soils found on the property (identify the source of the information).
3. A topographic map depicting the property boundaries and 100-year flood prone areas indicated (as identified by FEMA).
4. A map delineating the property boundaries on the most recent Flood Insurance Rate Map.
5. A map delineating wetlands, aquifer recharge areas, and rare & unique uplands.
6. A table of plant communities by FLUCCS with the potential to contain species (plant and animal) listed by federal, state or local agencies as endangered, threatened or species of special concern. The table must include the listed species by FLUCCS and the species status (same as FLUCCS map).

Impacts on Historic Resources

List all historic resources (including structure, districts, and/or archaeologically sensitive areas) and provide an analysis of the proposed change's impact on these resources. The following should be included with the analysis:

1. A map of any historic districts and/or sites listed on the Florida Master Site File which are located on the subject property or adjacent properties.
2. A map showing the subject property location on the archaeological sensitivity map for Lee County.

Internal Consistency with the Lee Plan

1. Discuss how the proposal affects established Lee County population projections, Lee Plan Table 1(b) and the total population capacity of the Lee Plan Future Land Use Map.
2. List all goals and objectives of the Lee Plan that are affected by the proposed amendment or that affect the subject property. This analysis should include an evaluation of all relevant policies under each goal and objective.
3. Describe how the proposal affects adjacent local governments and their comprehensive plans.

State Policy Plan and Regional Policy Plan

List State Policy Plan and Regional Policy Plan goals, strategies and actions, and policies which are relevant to this plan amendment.

Justify the proposed amendment based upon sound planning principles

Support all conclusions made in this justification with adequate data and analysis.

Planning Communities/Community Plan Area Requirements

If located within a planning community/community plan area, provide a meeting summary document of the required public informational session [Lee Plan Goal 17].

Sketch and Legal Description

The certified legal description(s) and certified sketch of the description for the property subject to the requested change. A metes and bounds legal description must be submitted specifically describing the entire perimeter boundary of the property with accurate bearings and distances for every line. The sketch must be tied to the state plane coordinate system for the Florida West Zone (North America Datum of 1983/1990 Adjustment) with two coordinates, one coordinate being the point of beginning and the other an opposing corner. If the subject property contains wetlands or the proposed amendment includes more than one land use category a metes and bounds legal description, as described above, must be submitted in addition to the perimeter boundary of the property for each wetland or future land use category.

SUBMITTAL REQUIREMENTS

Clearly label all submittal documents with the exhibit name indicated below.

For each map submitted, the applicant will be required to submit a 24"x36" version and 8.5"x11" reduced map for inclusion in public hearing packets.

MINIMUM SUBMITTAL ITEMS (3 Copies)

<input checked="" type="checkbox"/>	Completed Application (Exhibit – M1)
<input checked="" type="checkbox"/>	Disclosure of Interest (Exhibit – M2)
<input checked="" type="checkbox"/>	Surrounding Property Owners List, Mailing Labels, and Map For All Parcels Within 500 Feet of the Subject Property (Exhibit – M3)
<input checked="" type="checkbox"/>	Existing Future Land Use Map (Exhibit – M4)
<input checked="" type="checkbox"/>	Map and Description of Existing Land Uses (Not Designations) of the Subject Property and Surrounding Properties (Exhibit – M5)
<input checked="" type="checkbox"/>	Map and Description of Existing Zoning of the Subject Property and Surrounding Properties (Exhibit – M6)
<input checked="" type="checkbox"/>	Signed/Sealed Legal Description and Sketch of the Description for Each FLUC Proposed (Exhibit – M7)
<input checked="" type="checkbox"/>	Copy of the Deed(s) of the Subject Property (Exhibit – M8)
<input checked="" type="checkbox"/>	Aerial Map Showing the Subject Property and Surrounding Properties (Exhibit – M9)
<input checked="" type="checkbox"/>	Authorization Letter From the Property Owner(s) Authorizing the Applicant to Represent the Owner (Exhibit – M10)
<input type="checkbox"/>	Proposed Amendments (Exhibit – M11)
<input checked="" type="checkbox"/>	Lee Plan Analysis (Exhibit – M12)
<input checked="" type="checkbox"/>	Environmental Impacts Analysis (Exhibit – M13)
<input checked="" type="checkbox"/>	Historic Resources Impact Analysis (Exhibit – M14)
<input checked="" type="checkbox"/>	Public Facilities Impacts Analysis (Exhibit – M15)
<input type="checkbox"/>	Traffic Circulation Analysis (Exhibit – M16)
<input checked="" type="checkbox"/>	Existing and Future Conditions Analysis - Sanitary Sewer, Potable Water, Surface Water/Drainage Basins, Parks and Rec, Open Space, Public Schools (Exhibit – M17)
<input checked="" type="checkbox"/>	Letter of Determination For the Adequacy/Provision of Existing/Proposed Support Facilities - Fire Protection, Emergency Medical Service, Law Enforcement, Solid Waste, Mass Transit, Schools (Exhibit – M18)
<input checked="" type="checkbox"/>	State Policy Plan and Regional Policy Plan (Exhibit – M19)
<input checked="" type="checkbox"/>	Justification of Proposed Amendment (Exhibit – M20)
<input type="checkbox"/>	Planning Communities/Community Plan Area Requirements (Exhibit – M21)

APPLICANT – PLEASE NOTE:

Changes to Table 1(b) that relate directly to and are adopted simultaneously with a future land use map amendment may be considered as part of this application for a map amendment.

Once staff has determined the application is sufficient for review, 15 complete copies will be required to be submitted to staff. These copies will be used for Local Planning Agency hearings, Board of County Commissioners hearings, and State Reviewing Agencies. Staff will notify the applicant prior to each hearing or mail out to obtain the required copies.

If you have any questions regarding this application, please contact the Planning Section at (239) 533-8585.

AFFIDAVIT

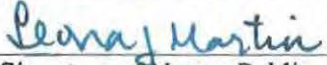
I, Daniel M Clemens, SR, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

 3/31/2023
Signature of Applicant Date

Daniel M Clemens, SR
Printed Name of Applicant

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization on 3/21/2023 (date) by Daniel M Clemens, SR-President (name of person providing oath or affirmation), who is personally known to me or who has produced Florida Driver License (type of identification) as identification.


Signature of Notary Public

Leona J Martin
(Name typed, printed or stamped)



LEONA J. MARTIN
Commission # HH 165448
Expires September 4, 2025
Bonded Thru Budget Notary Services

AFFIDAVIT

I, Kevin W Taylor, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

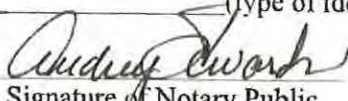

Signature of Applicant

2/9/23
Date

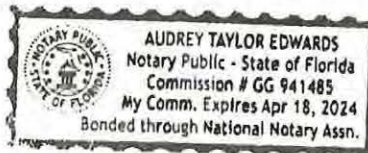
Kevin W Taylor
Printed Name of Applicant

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization on 02/09/23 (date) by Kevin W Taylor-Director
(name of person providing oath or affirmation), who is personally known to me or who has produced
(type of identification) as identification.


Signature of Notary Public

AUDREY EDWARDS
(Name typed, printed or stamped)



AFFIDAVIT

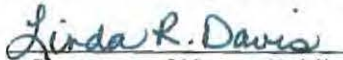
I, James M Todd, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

 2/9/23
Signature of Applicant Date

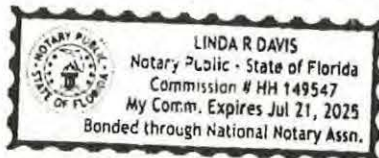
James M Todd
Printed Name of Applicant

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization on 2/9/23 (date) by James M Todd-Co-Owner
(name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.


Signature of Notary Public

Linda R. DAVIS
(Name typed, printed or stamped)



AFFIDAVIT

I, Karen F Todd, certify that I am the owner or authorized representative of the property described herein, and that all answers to the questions in this application and any sketches, data, or other supplementary matter attached to and made a part of this application, are honest and true to the best of my knowledge and belief. I also authorize the staff of Lee County Community Development to enter upon the property during normal working hours for the purpose of investigating and evaluating the request made through this application.

Karen F Todd 2/9/23
Signature of Applicant Date

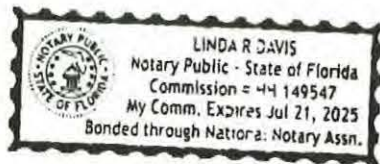
Karen F Todd
Printed Name of Applicant

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization on 2/9/23 (date) by Karen F Todd-Co-Owner (name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.

Linda R. Davis
Signature of Notary Public

Linda R. Davis
(Name typed, printed or stamped)



**DISCLOSURE OF INTEREST
AFFIDAVIT**

BEFORE ME this day appeared Daniel M Clemans, SR, who, being first duly sworn and deposed says:

1. That I am the record owner, or a legal representative of the record owner, of the property that is located at 12690 McGregor Blvd. Fort Myers, FL 33919 and is the subject of an Application for zoning action (hereinafter the "Property").

2. That I am familiar with the legal ownership of the Property and have full knowledge of the names of all individuals that have an ownership interest in the Property or a legal entity owning an interest in the Property.

[OPTIONAL PROVISION IF APPLICANT IS CONTRACT PURCHASER: In addition, I am familiar with the individuals that have an ownership interest in the legal entity that is under contract to purchase the Property.]

3. That, unless otherwise specified in paragraph 6 below, no Lee County Employee, County Commissioner, or Hearing Examiner has an Ownership Interest in the Property or any legal entity (Corporation, Company, Partnership, Limited Partnership, Trust, etc.) that has an Ownership Interest in the Property or that has contracted to purchase the Property.

4. That the disclosure identified herein does not include any beneficial Ownership Interest that a Lee County Employee, County Commissioner, or Hearing Examiner may have in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public.

5. That, if the Ownership Interest in the Property changes and results in this affidavit no longer being accurate, the undersigned will file a supplemental Affidavit that identifies the name of any Lee County Employee, County Commissioner, or Hearing Examiner that subsequently acquires an interest in the Property.

6. Disclosure of Interest held by a Lee County Employee, County Commissioner, or Hearing Examiner.

Name and Address	Percentage of Ownership

Under penalty of perjury, I declare that I have read the foregoing and the facts alleged are true to the best of my knowledge and belief.



Property Owner

Daniel M Clemens, SR
Print Name

*****NOTE: NOTARY PUBLIC IS NOT REQUIRED FOR ADMINISTRATIVE APPROVALS*****
ALL OTHER APPLICATION TYPES MUST BE NOTARIZED

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, on 3/21/2023 (date) by Daniel M Clemens, SR-President (name of person providing oath or affirmation), who is personally known to me or who has produced Florida Driver License (type of identification) as identification.

STAMP/SEAL



Signature of Notary Public



LEONA J. MARTIN
Commission # HH 165448
Expires September 4, 2025
Bonded Thru Budget Notary Services

**DISCLOSURE OF INTEREST
AFFIDAVIT**

BEFORE ME this day appeared Kevin W Taylor, who, being first duly sworn and deposed says:

1. That I am the record owner, or a legal representative of the record owner, of the property that is located at 12680 McGregor Blvd., Fort Myers, FL 33919 and is the subject of an Application for zoning action (hereinafter the "Property").

2. That I am familiar with the legal ownership of the Property and have full knowledge of the names of all individuals that have an ownership interest in the Property or a legal entity owning an interest in the Property.

[OPTIONAL PROVISION IF APPLICANT IS CONTRACT PURCHASER: In addition, I am familiar with the individuals that have an ownership interest in the legal entity that is under contract to purchase the Property.]

3. That, unless otherwise specified in paragraph 6 below, no Lee County Employee, County Commissioner, or Hearing Examiner has an Ownership Interest in the Property or any legal entity (Corporation, Company, Partnership, Limited Partnership, Trust, etc.) that has an Ownership Interest in the Property or that has contracted to purchase the Property.


4. That the disclosure identified herein does not include any beneficial Ownership Interest that a Lee County Employee, County Commissioner, or Hearing Examiner may have in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public.

5. That, if the Ownership Interest in the Property changes and results in this affidavit no longer being accurate, the undersigned will file a supplemental Affidavit that identifies the name of any Lee County Employee, County Commissioner, or Hearing Examiner that subsequently acquires an interest in the Property.

6. Disclosure of Interest held by a Lee County Employee, County Commissioner, or Hearing Examiner.

Name and Address	Percentage of Ownership

Under penalty of perjury, I declare that I have read the foregoing and the facts alleged are true to the best of my knowledge and belief.



Property Owner

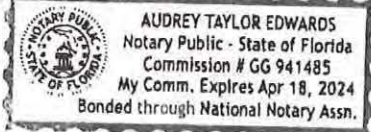
Kevin W Taylor
Print Name

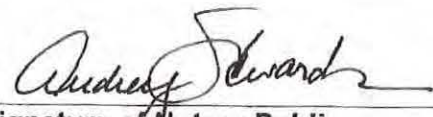
*****NOTE: NOTARY PUBLIC IS NOT REQUIRED FOR ADMINISTRATIVE APPROVALS*****
ALL OTHER APPLICATION TYPES MUST BE NOTARIZED

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, on 02/09/23 (date) by Kevin W Taylor-Director (name of person providing oath or affirmation), who is personally known to me or who has produced _____ (type of identification) as identification.

STAMP/REAL





Signature of Notary Public

**DISCLOSURE OF INTEREST
AFFIDAVIT**

BEFORE ME this day appeared James M Todd, who, being first duly sworn and deposed says:

1. That I am the record owner, or a legal representative of the record owner, of the property that is located at 12670 McGregor Blvd. Fort Myers, FL 33919 and is the subject of an Application for zoning action (hereinafter the "Property").

2. That I am familiar with the legal ownership of the Property and have full knowledge of the names of all individuals that have an ownership interest in the Property or a legal entity owning an interest in the Property.

[OPTIONAL PROVISION IF APPLICANT IS CONTRACT PURCHASER: In addition, I am familiar with the individuals that have an ownership interest in the legal entity that is under contract to purchase the Property.]

3. That, unless otherwise specified in paragraph 6 below, no Lee County Employee, County Commissioner, or Hearing Examiner has an Ownership Interest in the Property or any legal entity (Corporation, Company, Partnership, Limited Partnership, Trust, etc.) that has an Ownership Interest in the Property or that has contracted to purchase the Property.

4. That the disclosure identified herein does not include any beneficial Ownership Interest that a Lee County Employee, County Commissioner, or Hearing Examiner may have in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public.

5. That, if the Ownership Interest in the Property changes and results in this affidavit no longer being accurate, the undersigned will file a supplemental Affidavit that identifies the name of any Lee County Employee, County Commissioner, or Hearing Examiner that subsequently acquires an interest in the Property.

6. Disclosure of Interest held by a Lee County Employee, County Commissioner, or Hearing Examiner.

Name and Address	Percentage of Ownership

Under penalty of perjury, I declare that I have read the foregoing and the facts alleged are true to the best of my knowledge and belief.

James M Todd
Property Owner

James M Todd
Print Name

James M Todd

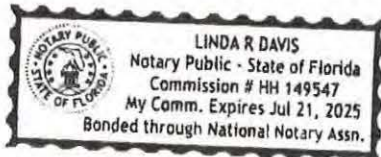
*****NOTE: NOTARY PUBLIC IS NOT REQUIRED FOR ADMINISTRATIVE APPROVALS*****
ALL OTHER APPLICATION TYPES MUST BE NOTARIZED

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, on 3/21/23 (date) by James M Todd- Co-Owner (name of person providing oath or affirmation), who is personally known to me or who has produced personally known (type of identification) as identification.

STAMP/SEAL

Linda R. Davis
Signature of Notary Public



**DISCLOSURE OF INTEREST
AFFIDAVIT**

BEFORE ME this day appeared Karen F Todd, who, being first duly sworn and deposed says:

1. That I am the record owner, or a legal representative of the record owner, of the property that is located at 12670 McGregor Blvd. Fort Myers, FL 33919 and is the subject of an Application for zoning action (hereinafter the "Property").

2. That I am familiar with the legal ownership of the Property and have full knowledge of the names of all individuals that have an ownership interest in the Property or a legal entity owning an interest in the Property.

[OPTIONAL PROVISION IF APPLICANT IS CONTRACT PURCHASER: In addition, I am familiar with the individuals that have an ownership interest in the legal entity that is under contract to purchase the Property.]

3. That, unless otherwise specified in paragraph 6 below, no Lee County Employee, County Commissioner, or Hearing Examiner has an Ownership Interest in the Property or any legal entity (Corporation, Company, Partnership, Limited Partnership, Trust, etc.) that has an Ownership Interest in the Property or that has contracted to purchase the Property.

4. That the disclosure identified herein does not include any beneficial Ownership Interest that a Lee County Employee, County Commissioner, or Hearing Examiner may have in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public.

5. That, if the Ownership Interest in the Property changes and results in this affidavit no longer being accurate, the undersigned will file a supplemental Affidavit that identifies the name of any Lee County Employee, County Commissioner, or Hearing Examiner that subsequently acquires an interest in the Property.

6. Disclosure of Interest held by a Lee County Employee, County Commissioner, or Hearing Examiner.

Name and Address	Percentage of Ownership

Under penalty of perjury, I declare that I have read the foregoing and the facts alleged are true to the best of my knowledge and belief.

Karen F. Todd
Property Owner

Karen F Todd
Print Name
KAREN F. Todd

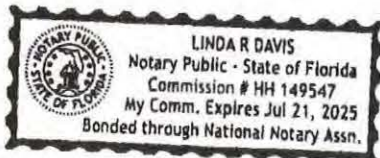
*****NOTE: NOTARY PUBLIC IS NOT REQUIRED FOR ADMINISTRATIVE APPROVALS*****
ALL OTHER APPLICATION TYPES MUST BE NOTARIZED

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, on 3/21/23 (date) by Karen F Todd- Co-Owner (name of person providing oath or affirmation), who is personally known to me or who has produced personally known (type of identification) as identification.

STAMP/SEAL

Linda R. Davis
Signature of Notary Public

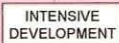


Owners on Record

1. McGregor 12690 Properties, LLC
10481 Solaro St.
Fort Myers, FL 33913
2. T & C Enterprises of SWFL, Inc
12680 McGregor Blvd #2
Fort Myers, FL 33919
3. Todd James M & Karen F
409 Coral Dr
Cape Coral, FL 33904

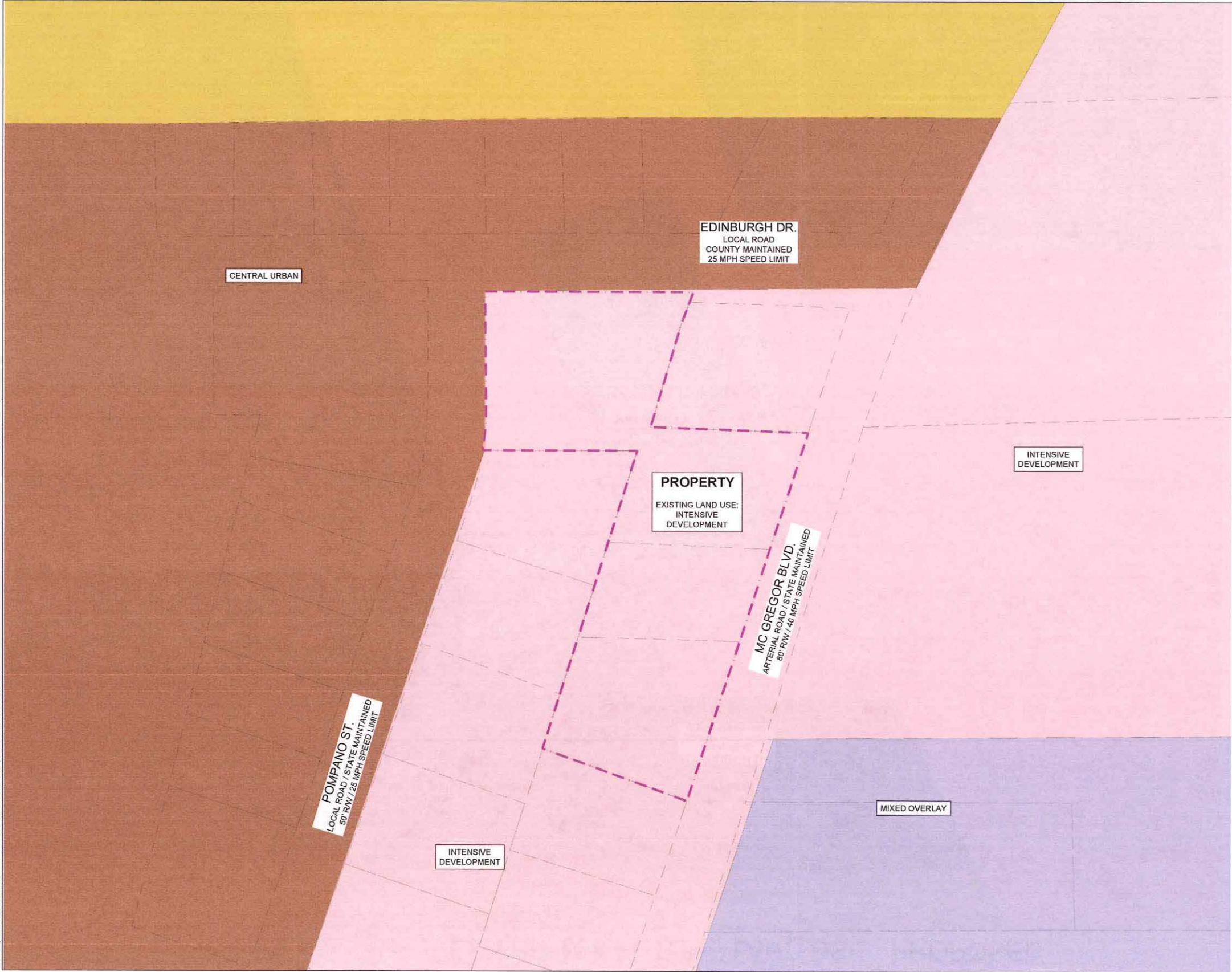


P:\2022 Projects\221004 CHILLED AUTO AIR - ACTIVE\01-CAAD FILES\07 -QAI CAAD ZONING EXHIBITS\221004-ZE



- ALFRED QUATTRONE, P.E.
FL. REG #52741
VALID ONLY WITH STAMPED SEAL
SAVED BY: Gabriela
SAVED ON: 5/28/23
SHEET
M-4
FUTURE LAND
USE PROPOSED

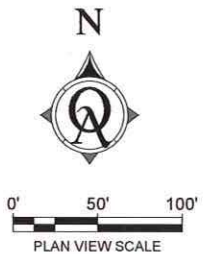
EXHIBIT M-4 FUTURE LAND USE - EXISTING



- Future Urban Areas**
- Intensive Development
 - Central Urban
 - Urban Community
 - Suburban
 - Outlying Suburban
 - Sub-Outlying Suburban
 - Commercial
 - Industrial
 - Public Facilities
 - University Community
 - Burnt Store Marina Village
 - Destination Resort Mixed Use Water Dependent
- Special Urban Areas**
- Industrial Interchange
 - General Interchange
 - General Commercial Interchange
 - Industrial Commercial Interchange
 - University Village Interchange
 - New Community
 - Tradeport
 - Airport
- Non-Urban Areas**
- Rural
 - Rural Community Preserve
 - Coastal Rural
 - Outer Island
 - Open Lands
 - Density Reduction/Groundwater Resource
 - Conservation Lands - Upland
 - Wetlands
 - Conservation Lands - Wetland

NOTES:

- THIS AERIAL PHOTOGRAPH SHOWN WERE PROVIDED BY LEE COUNTY GOVERNMENT AND WERE TAKEN IN 2023.
- FUTURE LAND USE DATA FROM LEE COUNTY GIS OPEN DATA, UPDATED 2023.



CHILLED AUTO AIR
FUTURE LAND USE MAP - EXISTING
12660 MCGREGOR BLVD.
FORT MYERS, FL 33919

Quattrone & Associates, Inc.
Engineers, Planners, & Development Consultants
4301 Veronica Shoemaker Blvd - Fort Myers, Florida 33916 - 239-936-5222
Certificate of Authorization Number: 9465

ALFRED QUATTRONE, P.E.
FL REG #52741
VALID ONLY WITH STAMPED SEAL
SAVED BY: Gabriela
SAVED ON: 5/26/23
SHEET
M-4
FUTURE LAND
USE EXISTING

P:\2023 Projects\211004 CHILLED AUTO AIR - ACTIVIST-CADD FILES\07-041 CADD LAYING EXHIBITS\211004-02E



McGregor-Mixed Use Overlay

Description of Existing Land Uses of the Subject Property and Surrounding Properties

Subject Properties

The subject property is a total of ± 1.93 acres site. The property is located to the west of McGregor Blvd. approximately 0.1 mile north of the intersection of McGregor Blvd. and College Pkwy. The overall site consists of three parcels with existing commercial development that consist of Vacant Commercial Building, Neighborhood Shopping Center and JM Business Equipment and Handling with development order approvals under 88-12-014-00D, LDO2011-00128 and 94-04-025-01L which provides pedestrian and automobile connection onto McGregor Blvd.

East

Adjacent to the east is McGregor Blvd. (arterial roadway) with existing sidewalk, bike lane and paved shoulder. Across McGregor consist of neighborhood shopping center, a restaurant, nightclub, a multiple-occupancy office and various retail shops.

South

Adjacent to the south is Hippy Trippy Ice Cream parlor, Surterra Wellness Medical Marijuana and Judy antiques and estates jewelry store. Behind the commercial parcels is College Parkway (County Maintained Arterial Road)

West

Adjacent to the west is residential, single-family homes and multi-family. (Caloosa Yacht & Racquet Club.

North

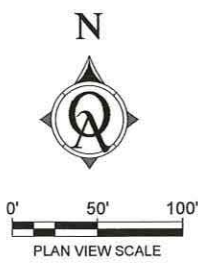
Adjacent to the north is Advanced Automotive Pro, Underwater Explorers Diving Center-Retail then Residential, primarily single family.

EXHIBIT M-5 EXISTING LAND USE MAP



DEPARTMENT OF REVENUE PROPERTY CLASSIFICATION CODE LEGEND:	
01	COLLEOM ITALIAN RESTAURANT
02	ONCE AGAIN BOUTIQUE-CONSIGNMENT SHOP
03	BUDDHA LIVE MUSIC VENUE / NIGHT CLUB
04	NEIGHBORHOOD SHOPPING CENTER
05	MCGREGOR LAKES OFFICE CENTER
06	ENCLAVE AT COLLEGE POINT-MF COMMUNITY
07	HIPPIE TRIPPY ICE CREAM
08	SURTERRA WELLNESS MEDICAL MARIJUANA
09	JUDY JEWELRY ANTIQUES AND ESTATE JEWELRY
10	CHILLED AUTO AIR AND REPAIR
11	VACANT COMMERCIAL
12	NEIGHBORHOOD SHOPPING CENTER
13	JM BUSINESS EQUIPMENT AND HANDLING
14	ADVANCE AUTOMOTIVE PRO
15	RESIDENTIAL NEIGHBORHOOD
16	FELIX MARIANO, ELECTRICIAN
17	YANKEE CLIPPER-BARBER
18	LILY SALON HAIR SALON
19	FARMHOUSE 44 HOME DECOR
20	UNDERWATER EXPLORERS DIVING CENTER-RETAIL

SUBJECT PROPERTY
STRAP #'s
16-45-24-00-00007.0060
16-45-24-00-00005.0000
16-45-24-00-00006.0010



CHILLED AUTO AIR
EXISTING USES MAP
12690 MCGREGOR BLVD.
FORT MYERS, FL 33919

Quattrone & Associates, Inc.
Engineers, Planners, & Development Consultants
4301 Veronica Shoemaker Blvd. • Fort Myers, Florida 33916 • 239-936-5222
Certificate of Authorization Number: 9465

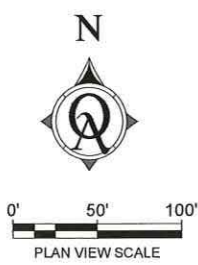
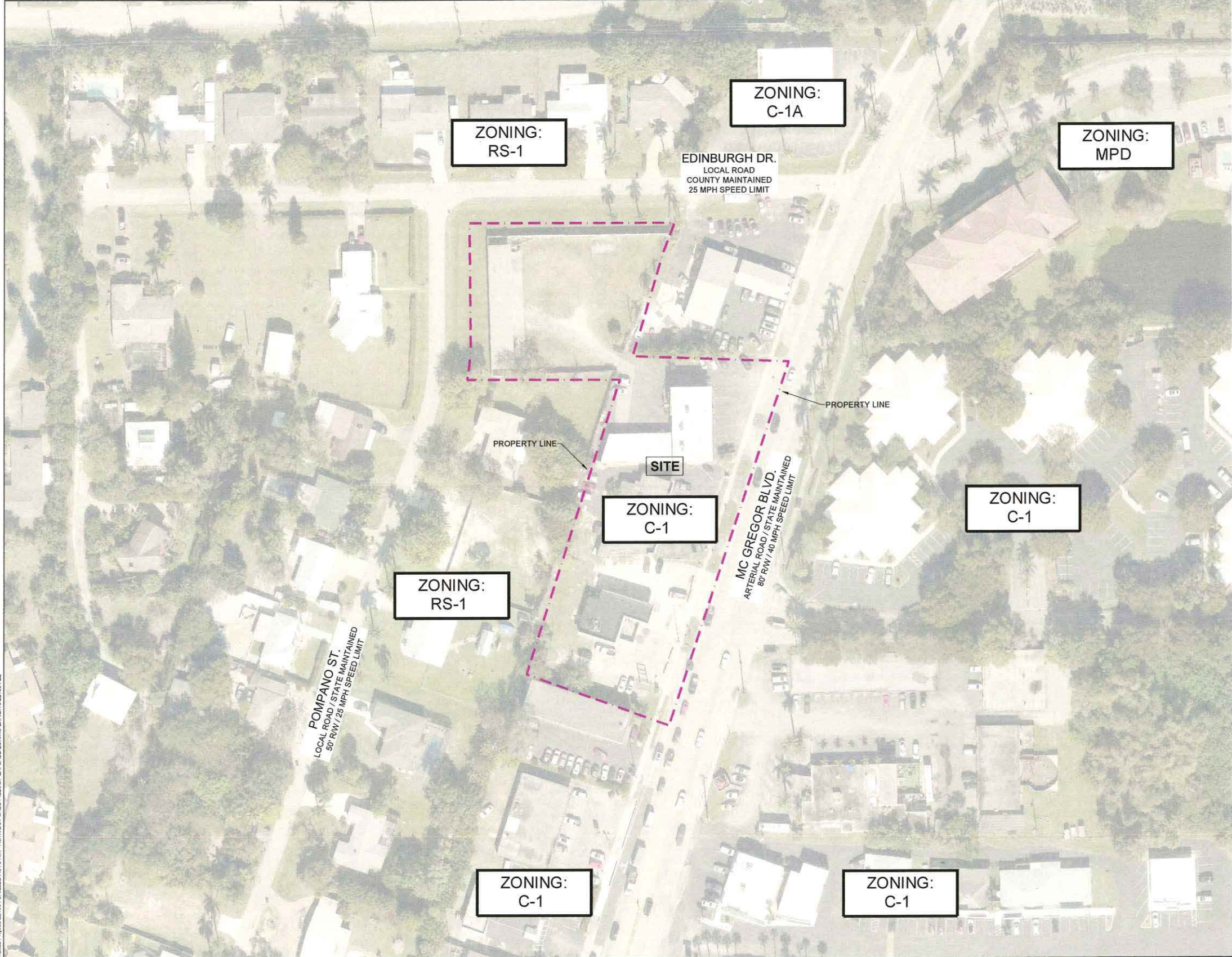
ALFRED QUATTRONE, P.E.
FL REG #52741
VALID ONLY WITH STAMPED SEAL
SAVED BY: Gabriela
SAVED ON: 5/26/23
SHEET
M-5
EXISTING
LAND USE

P:\2022 Projects\221004 CHILLED AUTO AIR - ACTIVE\01-CADD FILES\07 - GAT CADD ZONING EXHIBIT\202104\2E

EXHIBIT M-6 ZONING LAND USE

NOTES:

- THIS AERIAL PHOTOGRAPH SHOWN WERE PROVIDED BY LEE COUNTY GOVERNMENT AND WERE TAKEN IN 2023.
- FUTURE LAND USE DATA FROM LEE COUNTY GIS OPEN DATA, UPDATED 2023.



CHILLED AUTO AIR
ZONING LAND USE MAP
12650 MCGREGOR BLVD.
FORT MYERS, FL 33919

Quattrone & Associates, Inc.
Engineers, Planners, & Development Consultants
4301 Veronica Shoemaker Blvd - Fort Myers, Florida 33916 - 239-936-5222
Certificate of Authorization Number: 9465

ALFRED QUATTRONE, P.E.
FL REG #52741
VALID ONLY WITH EXEMPTED SEAL
SAVED BY: Gabriela
SAVED ON: 5/26/23
SHEET
M-6
ZONING

REV	REVISION	DATE

P:\2022 Projects\221004 CHILLED AUTO AIR - ACTIVE\CHILLED AUTO AIR - CAD ZONING EXHIBITS\221004-ZE



POMPANO STREET
(50' RIGHT OF WAY)

N00°04'40"W 129.02'

C1

N: 808980.94
E: 685378.81

OR 3117 PG 826
12670 MCGREGOR BOULEVARD
16-45-24-00-00005.0000

OR 1311 PG 2094
12640 MCGREGOR BOULEVARD
16-45-24-00-00005.0010
(NOT A PART)

S17°43'00"W
69.69'

N88°59'00"E 150.00'

40.00'

S88°59'00"W 159.18'

P.O.B.
N.E. CORNER
LOT 12
BLOCK A
N: 808983.76
E: 685537.96

LOT 12
BLOCK A

OR 3117 PG 826
12670 MCGREGOR BOULEVARD
16-45-24-00-00005.0000

SUBJECT PARCEL
85640.99 SQUARE FEET OR
1.97 ACRES, MORE OR LESS

EDISON ACRES
SUBDIVISION
PB 9, PG 56

LOT 11
BLOCK A

ORI 202000080251
12680 MCGREGOR BOULEVARD
16-45-24-00-00006.0010

N17°43'00"E 315.13'

LOT 10
BLOCK A

S17°43'00"W 389.07'

ORI 2022000201997
12690 MCGREGOR BOULEVARD
16-45-24-00-00007.0060

LOT 9
BLOCK A

N72°17'00"W 150.00'

40.00'

C MCGREGOR BOULEVARD
80' RIGHT OF WAY

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	225.00'	33.92'	33.89'	N04°14'27"E	8°38'14"
C2	1841.59'	80.43'	80.43'	S20°56'23"W	2°30'09"

LEGEND

LB LICENSED BUSINESS
LS LICENSED SURVEYOR
P.O.B. POINT OF BEGINNING
P.O.C. POINT OF COMMENCEMENT
OR OFFICIAL RECORDS BOOK
ORI OFFICIAL RECORDS INSTRUMENT
PG PAGE
PB PLAT BOOK
N: NORTHING
E: EASTING

SKETCH TO ACCOMPANY DESCRIPTION

OF A PARCEL LYING IN
SECTION 16, TOWNSHIP 45 SOUTH,
RANGE 24 EAST,
LEE COUNTY, FLORIDA.

THIS IS NOT A BOUNDARY SURVEY

Kenneth E. Trask Digitally signed by Kenneth E.
Trask PLS4684 State of Florida, Date: 2023.06.08 09:28:57 -0400

KENNETH E. TRASK
PROFESSIONAL LAND SURVEYOR
FLORIDA LICENSE NO. LS4684

DATE

K.E. Trask, P.A.

Land Surveyors

Florida Licensed Business No. LB8450
12345 Blasingm Road
Fort Myers, Florida 33966
(239) 980-1495

date	dwg	scale	job#	sheet
6-6-23	23-22SK	1"=60'	23-22	2 OF 2

K.E. TRASK, P.A.

LAND SURVEYORS

PL A PARCEL LYING IN
SECTION 16, TOWNSHIP 45 SOUTH, RANGE 24 EAST,
LEE COUNTY, FLORIDA.

(12670, 12680 & 12690 MCGREGOR BOULEVARD)

A TRACT OR PARCEL OF LAND SITUATED IN THE STATE OF FLORIDA, COUNTY OF LEE, LYING IN SECTION 16, TOWNSHIP 45 SOUTH, RANGE 24 EAST, BEING THE PARCELS AS DESCRIBED IN OFFICIAL RECORDS BOOK 3117, PAGE 826, OFFICIAL RECORDS INSTRUMENT 2020000080251, AND OFFICIAL RECORDS INSTRUMENT 2022000201997, LEE COUNTY PUBLIC RECORDS AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 12, BLOCK A, UNIT NO. 1, EDISON ACRES, PLAT BOOK 9, PAGE 56, SAID PUBLIC RECORDS; THENCE S.88°59'00"W. ALONG THE NORTH LINE OF SAID LOT 12 FOR 159.18 FEET TO THE EAST RIGHT OF WAY LINE OF POMPANO STREET, 50 FOOT WIDE RIGHT OF WAY, BEING A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 225.00 FEET, A CHORD BEARING N.04°14'27"E. AND LENGTH OF 33.89 FEET; THENCE ALONG SAID CURVE AND SAID RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 08°38'14" FOR AN ARC LENGTH OF 33.92 FEET; THENCE N.00°04'41"W. ALONG SAID RIGHT OF WAY LINE FOR 129.02 FEET TO THE SOUTH RIGHT OF WAY LINE OF EDINBURG DRIVE, 60 FOOT WIDE RIGHT OF WAY; THENCE N.89°03'44"E. ALONG SAID RIGHT OF WAY LINE FOR 222.21 FEET TO THE NORTHWEST CORNER OF THE PARCEL AS DESCRIBED IN OFFICIAL RECORDS BOOK 1311, PAGE 2094; SAID CORNER LYING N.89°03'44"E. AT 150.35 FEET FROM THE WESTERLY RIGHT OF WAY LINE OF MCGREGOR BOULEVARD, 80 FOOT WIDE RIGHT OF WAY; THENCE ALONG THE BOUNDARY OF SAID PARCEL, BEING A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 1841.59 FEET, A CHORD BEARING S.20°56'23"W. AND LENGTH OF 80.43 FEET; A CENTRAL ANGLE OF 02°30'09" FOR AN ARC LENGTH OF 80.43 FEET; THENCE S.17°43'00"W. ALONG SAID BOUNDARY FOR 69.69 FEET; THENCE N.88°59'00"E. ALONG SAID BOUNDARY FOR 150.00 FEET TO SAID WESTERLY RIGHT OF WAY LINE OF MCGREGOR BOULEVARD; THENCE S.17°43'00"W. ALONG SAID RIGHT OF WAY LINE FOR 389.07 FEET; THENCE LEAVING SAID RIGHT OF WAY LINE, N.72°17'00"W. FOR 150.00 FEET TO THE EASTERLY LINE OF BLOCK A, SAID UNIT NO. 1, EDISON ACRES; THENCE N.17°43'00"E. ALONG SAID EAST LINE FOR 315.13 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 85640.99 SQUARE FEET OR 1.97 ACRES, MORE OR LESS.

BEARINGS ARE REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE, NORTH AMERICAN DATUM OF 1983/1990, BASED ON THE RIGHT OF WAY LINE OF MCGREGOR BOULEVARD AS BEARING S.17°43'00"W.

K.E. TRASK, P.A.
FLORIDA LICENSED BUSINESS LB8450

JUNE 6, 2023

Kenneth E. Trask
PLS4684 State of Florida

Digitally signed by Kenneth E.
Trask PLS4684 State of Florida
Date: 2023.06.08 09:29:22 -04'00'

KENNETH E. TRASK
PROFESSIONAL LAND SURVEYOR
FLORIDA LICENSE LS4684

12345 BLASINGIM ROAD • FORT MYERS, FL 33966

Property Data

STRAP: 16-45-24-00-00007.0060 Folio ID: 10202048

Generated on 1/31/2023 7:55 AM

Owner Of Record - Sole Owner

[\[Change Address\]](#)

MCGREGOR 12690 PROPERTIES LLC
10481 SOLARO ST
FORT MYERS FL 33913

Site Address

Site Address maintained by E911 Program Addressing

12690 MCGREGOR BLVD
FORT MYERS FL 33919

Property Description

Do not use for legal documents!



BEG AT PT 550FT NELY FR
WLY SI MCGREGOR BLVD +
NLY SI MILES RD AS SHOWN

[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)[\[Pictometry Aerial Viewer \]](#)

Current Working Values

[Tax Roll Value Letter](#)

Just

246,031

Attributes

Land Units Of Measure	SF
Units	22650.00
Total Number of Buildings	1
Total Bedrooms / Fixtures	0 / 4
Gross Building Area	1,215
1st Year Building on Tax Roll	1965
Historic Designation	No

Image of Structure

< Photo Date June of 2022 > ☐ View other photos

Last Inspection Date: 01/18/2023

Property Value History

Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Taxable
1992	151,830	102,650	151,830	151,830	0	151,830
1993	150,000	102,080	150,000	150,000	0	150,000
1994	143,360	94,100	143,360	143,360	0	143,360
1995	142,310	93,720	142,310	142,310	0	142,310
1996	129,930	82,010	129,930	129,930	0	129,930
1997	132,210	84,530	132,210	132,210	0	132,210
1998	131,140	84,150	131,140	131,140	0	131,140
1999	129,760	83,450	129,760	129,760	0	129,760
2000	128,370	82,740	128,370	128,370	0	128,370
2001	124,610	82,410	124,610	124,610	0	124,610
2002	123,570	82,000	123,570	123,570	0	123,570
2003	124,530	83,610	124,530	124,530	0	124,530
2004	155,370	91,930	155,370	155,370	0	155,370
2005	181,220	97,600	181,220	181,220	0	181,220
2006	315,060	230,870	315,060	315,060	0	315,060
2007	347,130	233,810	347,130	347,130	0	347,130
2008	346,770	233,450	346,770	346,770	0	346,770
2009	265,350	126,840	265,350	265,350	0	265,350
2010	227,018	90,600	227,018	227,018	0	227,018
2011	180,073	67,950	180,073	180,073	0	180,073
2012	180,056	67,950	180,056	180,056	0	180,056
2013	225,340	113,250	225,340	198,062	0	198,062
2014	225,323	113,250	225,323	217,868	0	217,868
2015	191,331	79,275	191,331	191,331	0	191,331
2016	203,795	79,275	203,795	189,866	0	189,866
2017	204,542	79,275	204,542	204,542	0	204,542
2018	215,577	79,275	215,577	215,577	0	215,577
2019	215,305	83,633	215,305	215,305	0	215,305
2020	232,178	90,600	232,178	232,178	0	232,178
2021	236,569	90,600	236,569	236,569	0	236,569
2022	246,031	93,554	246,031	246,031	0	246,031

The **Just** value is the total parcel assessment (less any considerations for the cost of sale). This is the closest value to *Fair Market Value* we produce and is dated as of January 1st of the tax year in question ([F.A.C. 12D-1.002](#)).

The **Land** value is the portion of the total parcel assessment attributed to the land.

The **Market Assessed** value is the total parcel assessment (less any considerations for the cost of sale) based upon the assessment standard. Most parcels are assessed based either upon the *Highest and Best Use* standard or the *Present Use* standard ([F.S. 193.011](#)). For *Agriculturally Classified* parcels (or parts thereof), only agricultural uses are considered in the assessment ([F.S. 193.461 \(6\) \(a\)](#)). The difference between the *Highest and Best Use/Present Use* and the *Agricultural Use* is often referred to as the *Agricultural Exemption*. (i.e. Market Assessed = Just - Agricultural Exemption)

The **Capped Assessed** value is the *Market Assessment* after any *Save Our Homes* or *10% Assessment Limitation* cap is applied. This assessment cap is applied to all properties and limits year-to-year assessment increases to either the *Consumer Price Index* or 3%, whichever is lower for Homestead properties OR 10% for non-Homestead properties.

The **Exemptions** value is the total amount of all exemptions on the parcel.

The **Taxable** value is the *Capped Assessment* after exemptions (*Homestead, etc.*) are applied to it. This is the value that most taxing authorities use to calculate a parcel's taxes. (i.e. Taxable = Capped Assessed - Exemptions)

Exemptions / Classified Use (Current)

Generated on 1/31/2023 7:55 AM

No existing exemptions found for this property.

Exemptions / Classified Use (2022 Tax Roll)

Generated on 1/31/2023 7:55 AM

No exemptions found for this tax year.

Values (2022 Tax Roll)

Generated on 1/31/2023 7:55 AM

Property Values:

Property Values:		Attributes	
Just	246,031	Land Units Of Measure 	SF
Assessed	246,031	Units 	22650.00
Portability Applied	0	Total Number of Buildings	1
Cap Assessed	246,031	Total Bedrooms / Fixtures	0 / 4
Taxable	246,031	1st Year Building on Tax Roll 	1965
Cap Difference	0	Historic Designation	No

Taxing Authorities

Generated on 1/31/2023 7:55 AM

IONA MCGREGOR FIRE / 068

Name / Code	Category	Mailing Address
LEE CO GENERAL REVENUE / 044	County	LEE COUNTY OFFICE OF MGMT & BUDGET PO BOX 398 FORT MYERS FL 33902-0398
LEE CO ALL HAZARDS PROTECTION DIST / 101	Dependent District	LEE COUNTY OFFICE OF MGMT & BUDGET PO BOX 398 FORT MYERS FL 33902-0398
LEE CO UNINCORPORATED MSTU / 020	Dependent District	LEE COUNTY OFFICE OF MGMT & BUDGET PO BOX 398 FORT MYERS FL 33902-0398
LEE COUNTY LIBRARY DIST / 052	Dependent District	LEE COUNTY OFFICE OF MGMT & BUDGET PO BOX 398 FORT MYERS FL 33902-0398
IONA MCGREGOR FIRE DISTRICT / 050	Independent District	IONA MCGREGOR FIRE DISTRICT 6061 S POINTE BLVD FORT MYERS FL 33919

LEE CO HYACINTH CONTROL DIST / 051	Independent District	LEE CO HYACINTH CONTROL DIST 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
LEE CO MOSQUITO CONTROL DIST / 053	Independent District	LEE CO MOSQUITO CONTROL DIST 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
WEST COAST INLAND NAVIGATION DIST / 098	Independent District	WEST COAST INLAND NAVIGATION DIST 200 MIAMI AVE E VENICE FL 34285-2408
PUBLIC SCHOOL - BY LOCAL BOARD / 012	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
PUBLIC SCHOOL - BY STATE LAW / 013	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
SFWMD-DISTRICT-WIDE / 110	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-EVERGLADES CONSTRUCTION PROJECT / 084	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-OKEECHOBEE BASIN / 308	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406

Sales / Transactions ⓘ

Generated on 1/31/2023 7:55 AM

Sale Price	Date	OR Number	Type	Notes	Vacant/Improved
185,000.00	06/09/2022	2022000201997	01		I
10.00	04/24/2014	2014000144351	11		I
100.00	04/01/1996	2697/2399	03		I
3,823,000.00	02/01/1990	2125/2447	02		I

Help safeguard your home against property fraud. Sign up for the Lee Clerk's free [Property Fraud Alert](#).

Building/Construction Permit Data

Generated on 1/31/2023 7:55 AM

Permit Number	Permit Type	Date
FNC2019-02395	Fence	01/22/2020
DEM2008-00208	Demolition	09/23/2008
FNC2003-01249	Fence	07/29/2003
FNC1995-01658	Fence	02/20/1995
199309560	Commercial	10/14/1993
COM000608580	Commercial	08/21/1986
86136	Commercial	04/02/1982
83323	Commercial	12/02/1981

IMPORTANT: THIS MAY NOT BE A COMPREHENSIVE OR TIMELY LISTING OF PERMITS ISSUED FOR THIS PROPERTY.

Note: The Lee County Property Appraiser's Office does not issue or maintain any permit information. The Building/Construction permit data displayed here represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding that in no way is this to be considered a comprehensive listing of permits for this or any other parcel.

The Date field represents the date the property appraiser received information regarding permit activity; it may or not represent the actual date of permit issuance or completion.

Full, accurate, active and valid permit information for parcels can only be obtained from the [appropriate permit issuing agency](#).

Location Information

Generated on 1/31/2023 7:55 AM

Township	Range	Section	Block	Lot
45	24E	16		
Municipality	Latitude	Longitude		
Lee County Unincorporated - 0	26.55851	-81.91012		
<div>Links</div>				
View Parcel on Google Maps		View Parcel on GeoView		

Solid Waste (Garbage) Roll Data

Generated on 1/31/2023 7:55 AM

Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount
002 - Service Area 2	C - Commercial Category	C	1630	46.01
Garbage	Collection Days	Recycling	Horticulture	
Tuesday	Tuesday		Tuesday	

Flood and Storm Information

Generated on 1/31/2023 7:55 AM

Community	Panel	Version	Date	Evacuation Zone
125124	0416	F	8/28/2008	A

Address History

Generated on 1/31/2023 7:55 AM

Street Number	Street Name	Unit	City	Zip	Maintenance Date
12690	MCGREGOR BLVD		FORT MYERS	33919	5/30/2007 9:27:07 AM
12690	MCGREGOR BLVD		Fort Myers	33919	9/1/1999 5:14:56 PM
12690	MCGREGOR BLVD		Fort Myers	33919	12/31/1996 11:11:19 AM

Appraisal Details (2022 Tax Roll)

Generated on 1/31/2023 7:55 AM

Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
1100	Store, One (1) Floor	22650.00	Square Feet

Land Features

Description	Year Added	Units
BLACK TOP - IMPROVED	1982	19,000
PAVEMENT - CONCRETE - PARKING	1967	1,208
SLAB - CONCRETE	1999	121
FENCE - WOOD STOCKADE	2003	864

Buildings

Building 1 of 1

Building Characteristics

Improvement Type	Model Type	Stories	Living Units
35 - Stores - Retail	4 - commercial	1.0	0
Bedrooms	Fixtures	Year Built	Effective Year Built
0	0.0	1965	1984

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
-------------	--------------------	--------------

BAS - BASE	Y	1,215
CAN - CANOPY	N	724
FST - FINISHED UTILITY	N	396

Building Front Photo



Photo Date: June of 2022

Building Footprint

**Appraisal Details (Current Working Values)**

Generated on 1/31/2023 7:55 AM

Land**Land Tracts**

Use Code	Use Code Description	Number of Units	Unit of Measure
1100	Store, One (1) Floor	22650.00	Square Feet

Land Features

Description	Year Added	Units
BLACK TOP - IMPROVED	1982	19,000
PAVEMENT - CONCRETE - PARKING	1967	1,208
SLAB - CONCRETE	1999	121
FENCE - WOOD STOCKADE	2003	864

Buildings**Building 1 of 1****Building Characteristics**

Improvement Type	Model Type	Stories	Living Units
35 - Stores - Retail	4 - COMMERCIAL	1.0	0
Bedrooms	Fixtures	Year Built	Effective Year Built
0	0.0	1965	1984

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
BAS - BASE	Y	1,215
CAN - CANOPY	N	724
FST - FINISHED UTILITY	N	396

Building Front Photo



Photo Date: June of 2022

Building Footprint



Generated on 1/31/2023 7:55 AM

Property Data

STRAP: 16-45-24-00-00006.0010 Folio ID: 10202042

Generated on 1/31/2023 7:58 AM

Owner Of Record - Sole Owner

[\[Change Address\]](#)

T & C ENTERPRISES OF SWFL INC
12680 MCGREGOR BLVD #2
FORT MYERS FL 33919

Site Address

Site Address maintained by E911 Program Addressing

12680 MCGREGOR BLVD
FORT MYERS FL 33919

Property Description

Do not use for legal documents!



PARL IN NW 1/4 OF SE 1/4
AS DESC OR 638/0074

[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)[\[Pictometry Aerial Viewer \]](#)

Current Working Values



Tax Roll Value Letter

Just

445,097

Attributes

Land Units Of Measure SF
Units 15000.00
Total Number of Buildings 1
Total Bedrooms / Fixtures 0 / 10
Gross Building Area 3,885
1st Year Building on Tax Roll 1973
Historic Designation No

Image of Structure

< Photo Date April of 2020 > ☐ View other photos

Last Inspection Date: 04/07/2020

Property Value History

Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Taxable
1992	110,410	63,530	110,410	110,410	0	110,410
1993	116,030	63,250	116,030	116,030	0	116,030
1994	118,760	62,960	118,760	118,760	0	118,760
1995	117,000	62,690	117,000	117,000	0	117,000
1996	117,910	54,920	117,910	117,910	0	117,910
1997	117,720	54,650	117,720	117,720	0	117,720
1998	123,960	54,380	123,960	123,960	0	123,960
1999	129,270	54,110	129,270	129,270	0	129,270
2000	128,930	53,840	128,930	128,930	0	128,930
2001	140,040	53,570	140,040	140,040	0	140,040
2002	140,410	53,570	140,410	140,410	0	140,410
2003	140,290	51,570	140,290	140,290	0	140,290
2004	150,810	55,320	150,810	150,810	0	150,810
2005	151,880	59,070	151,880	151,880	0	151,880
2006	179,680	139,640	179,680	179,680	0	179,680
2007	194,890	139,640	194,890	194,890	0	194,890
2008	243,800	139,640	243,800	243,800	0	243,800
2009	187,600	84,000	187,600	187,600	0	187,600
2010	212,410	60,000	212,410	206,360	0	206,360
2011	222,204	45,000	222,204	222,204	0	222,204
2012	264,727	45,000	264,727	244,424	0	244,424
2013	284,564	45,000	284,564	268,866	0	268,866
2014	326,136	76,104	326,136	295,753	0	295,753
2015	389,048	101,950	389,048	325,328	0	325,328
2016	403,170	75,086	403,170	357,861	0	357,861
2017	403,165	74,555	403,165	393,647	0	393,647
2018	305,473	56,490	305,473	305,473	0	305,473
2019	322,136	63,162	322,136	322,136	0	322,136
2020	333,100	61,674	333,100	333,100	0	333,100
2021	356,084	63,630	356,084	356,084	0	356,084
2022	445,097	73,968	445,097	391,692	0	391,692

The **Just** value is the total parcel assessment (less any considerations for the cost of sale). This is the closest value to *Fair Market Value* we produce and is dated as of January 1st of the tax year in question ([F.A.C. 12D-1.002](#)).

The **Land** value is the portion of the total parcel assessment attributed to the land.

The **Market Assessed** value is the total parcel assessment (less any considerations for the cost of sale) based upon the assessment standard. Most parcels are assessed based either upon the *Highest and Best Use* standard or the *Present Use* standard ([F.S. 193.011](#)). For *Agriculturally Classified* parcels (or parts thereof), only agricultural uses are considered in the assessment ([F.S. 193.461 \(6\) \(a\)](#)). The difference between the *Highest and Best Use/Present Use* and the *Agricultural Use* is often referred to as the *Agricultural Exemption*.
(i.e. Market Assessed = Just - Agricultural Exemption)

The **Capped Assessed** value is the *Market Assessment* after any *Save Our Homes* or *10% Assessment Limitation* cap is applied. This assessment cap is applied to all properties and limits year-to-year assessment increases to either the *Consumer Price Index* or 3%, whichever is lower for Homestead properties OR 10% for non-Homestead properties.

The **Exemptions** value is the total amount of all exemptions on the parcel.

The **Taxable** value is the *Capped Assessment* after exemptions (*Homestead, etc.*) are applied to it. This is the value that most taxing authorities use to calculate a parcel's taxes.
(i.e. Taxable = Capped Assessed - Exemptions)

Exemptions / Classified Use (Current)

Generated on 1/31/2023 7:58 AM

No existing exemptions found for this property.

Exemptions / Classified Use (2022 Tax Roll)

Generated on 1/31/2023 7:58 AM

No exemptions found for this tax year.

Values (2022 Tax Roll)

Generated on 1/31/2023 7:58 AM

Property Values

Just	445,097	Land Units Of Measure	SF
Assessed	445,097	Units	15000.00
Portability Applied	0	Total Number of Buildings	1
Cap Assessed	391,692	Total Bedrooms / Fixtures	0 / 10
Taxable	391,692	1st Year Building on Tax Roll	1973
Cap Difference	53,405	Historic Designation	No

Attributes

Taxing Authorities

Generated on 1/31/2023 7:58 AM

IONA MCGREGOR FIRE / 068

Name / Code

Category

Mailing Address

LEE CO GENERAL REVENUE / 044

County

LEE COUNTY OFFICE OF MGMT & BUDGET
PO BOX 398
FORT MYERS FL 33902-0398

LEE CO ALL HAZARDS PROTECTION DIST / 101

Dependent District

LEE COUNTY OFFICE OF MGMT & BUDGET
PO BOX 398
FORT MYERS FL 33902-0398

LEE CO UNINCORPORATED MSTU / 020

Dependent District

LEE COUNTY OFFICE OF MGMT & BUDGET
PO BOX 398
FORT MYERS FL 33902-0398

LEE COUNTY LIBRARY DIST / 052

Dependent District

LEE COUNTY OFFICE OF MGMT & BUDGET
PO BOX 398
FORT MYERS FL 33902-0398

IONA MCGREGOR FIRE DISTRICT / 050

Independent District

IONA MCGREGOR FIRE DISTRICT
6061 S POINTE BLVD
FORT MYERS FL 33919

LEE CO HYACINTH CONTROL DIST / 051	Independent District	LEE CO HYACINTH CONTROL DIST 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
LEE CO MOSQUITO CONTROL DIST / 053	Independent District	LEE CO MOSQUITO CONTROL DIST 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
WEST COAST INLAND NAVIGATION DIST / 098	Independent District	WEST COAST INLAND NAVIGATION DIST 200 MIAMI AVE E VENICE FL 34285-2408
PUBLIC SCHOOL - BY LOCAL BOARD / 012	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
PUBLIC SCHOOL - BY STATE LAW / 013	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
SFWMD-DISTRICT-WIDE / 110	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-EVERGLADES CONSTRUCTION PROJECT / 084	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-OKEECHOBEE BASIN / 308	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406

Sales / Transactions ⓘ

Generated on 1/31/2023 7:58 AM

Sale Price	Date	OR Number	Type	Notes	Vacant/Improved
375,000.00	03/31/2020	2020000080251	37		
0.00	01/23/2019	2019000027752	11		
0.00	01/23/2019	2019000025276	11		
100.00	01/17/2005	4602/1176	01		
100.00	02/21/2003	3865/985	01		
0.00	04/20/1996	2712/729	03		
200,000.00	04/01/1985	1781/1611	01		

[View Recorded Plat at LeeClerk.org](#)

Use the above link to do a search on the Lee County Clerk of Courts website, using **638** and **74** for the book and page numbers and **Official Records** for the book type.

Help safeguard your home against property fraud. Sign up for the Lee Clerk's free [Property Fraud Alert](#).

Building/Construction Permit Data

Generated on 1/31/2023 7:58 AM

Permit Number	Permit Type	Date
COM2003-00776	Building Remodel / Repair	05/21/2003
113551	Commercial	05/05/1989

IMPORTANT: THIS MAY NOT BE A COMPREHENSIVE OR TIMELY LISTING OF PERMITS ISSUED FOR THIS PROPERTY.

Note: The Lee County Property Appraiser's Office does not issue or maintain any permit information. The Building/Construction permit data displayed here represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding that in no way is this to be considered a comprehensive listing of permits for this or any other parcel.

The Date field represents the date the property appraiser received information regarding permit activity; it may or not represent the actual date of permit issuance or completion.

Full, accurate, active and valid permit information for parcels can only be obtained from the [appropriate permit issuing agency](#).

Location Information

Generated on 1/31/2023 7:58 AM

Township	Range	Section	Block	Lot
45	24E	16		
Municipality	Latitude	Longitude		
Lee County Unincorporated - 0	26.55887	-81.91001		
<div>Links</div>				
View Parcel on Google Maps		View Parcel on GeoView		

Solid Waste (Garbage) Roll Data

Generated on 1/31/2023 7:58 AM

Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount
002 - Service Area 2	C - Commercial Category	C	4031	110.02
Garbage	Recycling	Horticulture		
Tuesday	Tuesday	Tuesday		

Flood and Storm Information

Generated on 1/31/2023 7:58 AM

Community	Flood Insurance Panel	Version	Date	Evacuation Zone
125124	0416	F	8/28/2008	A

Address History

Generated on 1/31/2023 7:58 AM

Street Number	Street Name	Unit	City	Zip	Maintenance Date
12680	MCGREGOR BLVD		FORT MYERS	33919	9/10/2012 3:14:47 PM
12680	MCGREGOR BLVD		FORT MYERS	33919	7/28/2011 10:49:16 AM
12680	MCGREGOR BLVD		FORT MYERS	33919	2/26/2010 1:41:48 PM
12680	MCGREGOR BLVD		FORT MYERS	33919	5/30/2007 9:27:07 AM
12680	MCGREGOR BLVD		Fort Myers	33919	9/1/1999 5:14:56 PM
12680	MCGREGOR BLVD		Fort Myers	33919	12/31/1996 11:11:19 AM

Appraisal Details (2022 Tax Roll)

Generated on 1/31/2023 7:58 AM

Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
1610	Shopping Center, Neighborhood	15000.00	Square Feet

Land Features

Description	Year Added	Units
BLACK TOP - IMPROVED	1973	540
BLACK TOP - IMPROVED	1980	8,986
FENCE - WOOD STOCKADE	1973	100

Buildings

Building 1 of 1

Building Characteristics

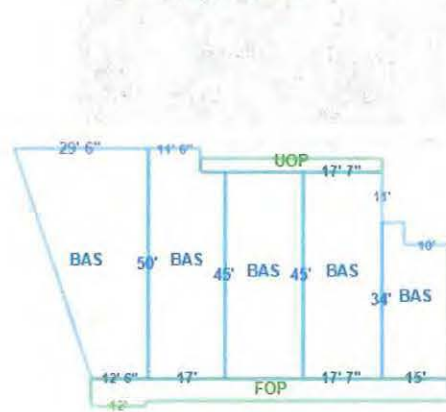
Improvement Type	Model Type	Stories	Living Units
38 - Shopping Center - Neighborhood	4 - commercial	1.0	0
Bedrooms	Fixtures	Year Built	Effective Year Built
0	0.0	1973	1984

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
BAS - BASE	Y	1,050
BAS - BASE	Y	823
BAS - BASE	Y	791
BAS - BASE	Y	460
BAS - BASE	Y	761
FOP - FINISHED OPEN PORCH	N	407
UOP - UNFINISHED OPEN PORCH	N	120

Building Front Photo

Photo Date: April of 2020

Building Footprint**Appraisal Details (Current Working Values)**

Generated on 1/31/2023 7:58 AM

Land**Land Tracts**

Use Code	Use Code Description	Number of Units	Unit of Measure
1610	Shopping Center, Neighborhood	15000.00	Square Feet

Description	Year Added	Units
BLACK TOP - IMPROVED	1973	540
BLACK TOP - IMPROVED	1980	8,986
FENCE - WOOD STOCKADE	1973	100

Buildings**Building 1 of 1****Building Characteristics**

Improvement Type	Model Type	Stories	Living Units
38 - Shopping Center - Neighborhood	4 - COMMERCIAL	1.0	0
Bedrooms	Fixtures	Year Built	Effective Year Built
0	0.0	1973	1984

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
BAS - BASE	Y	1,050
BAS - BASE	Y	823
BAS - BASE	Y	791
BAS - BASE	Y	460
BAS - BASE	Y	761
FOP - FINISHED OPEN PORCH	N	407

UOP - UNFINISHED OPEN PORCH

N

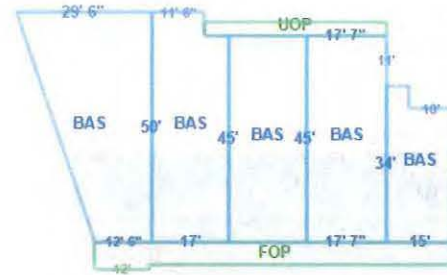
120

Building Front Photo



Photo Date: April of 2020

Building Footprint



Generated on 1/31/2023 7:58 AM

Property Data

STRAP: 16-45-24-00-00005.0000 Folio ID: 10202040

Generated on 1/31/2023 8:01 AM

Owner Of Record - Tenants by Entirety [\[Change Address\]](#)

TODD JAMES M & KAREN F
409 CORAL DR
CAPE CORAL FL 33904

Site Address

Site Address maintained by E911 Program Addressing

12670 MCGREGOR BLVD
FORT MYERS FL 33919

Property Description

Do not use for legal documents!

PAR IN SE1/4 S OF EDIN-
BURGH DR +W OF MCGREGOR
BLVD OR 2454/2566

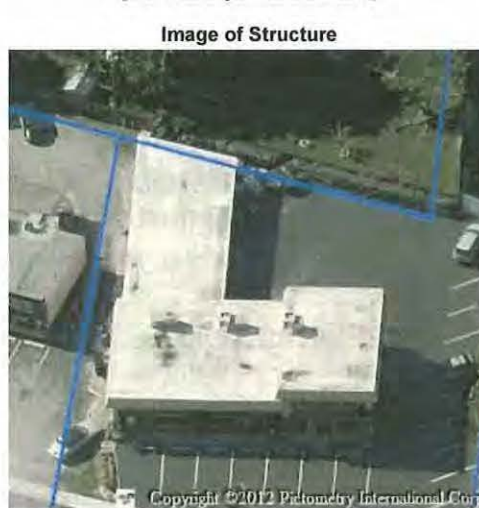
[\[Tax Map Viewer \]](#) [\[View Comparables \]](#)[\[Pictometry Aerial Viewer \]](#)

Image of Structure

Copyright © 2012 Pictometry International Corp

◀ Photo Date December of 2012 ▶ ☐ View other photos

Last Inspection Date: 08/02/2017

[Current Working Values](#)
[Tax Roll Value Letter](#)

Just	1,026,556
Attributes	
Land Units Of Measure	SF
Units	51008.00
Total Number of Buildings	2
Total Bedrooms / Fixtures (multiple buildings, see Appraisal Details below)	0 / 7
Gross Building Area (multiple buildings, see Appraisal Details below)	7,175
1st Year Building on Tax Roll	1953
Historic Designation	No

Property Value History

Tax Year	Just	Land	Market Assessed	Capped Assessed	Exemptions	Taxable
1992	61,000	61,000	61,000	61,000	0	61,000
1993	61,000	61,000	61,000	61,000	0	61,000
1994	244,980	139,900	244,980	244,980	0	244,980
1995	244,660	139,600	244,660	244,660	194,460	50,200
1996	234,440	129,400	234,440	234,440	209,840	24,600
1997	307,090	137,220	307,090	307,090	210,760	96,330
1998	306,140	137,180	306,140	306,140	280,380	25,760
1999	316,210	137,150	316,210	316,210	279,900	36,310
2000	314,790	137,110	314,790	314,790	0	314,790
2001	319,210	137,960	319,210	319,210	0	319,210
2002	321,370	137,940	321,370	321,370	0	321,370
2003	319,540	136,260	319,540	319,540	0	319,540
2004	403,560	148,820	403,560	403,560	0	403,560
2005	528,600	191,870	528,600	528,600	0	528,600
2006	706,750	382,690	706,750	706,750	0	706,750
2007	706,960	382,640	706,960	706,960	0	706,960
2008	704,970	382,600	704,970	704,970	0	704,970
2009	600,560	238,980	600,560	600,560	0	600,560
2010	490,586	170,700	490,586	490,586	0	490,586
2011	393,257	150,900	393,257	393,257	0	393,257
2012	385,633	150,900	385,633	385,633	0	385,633
2013	384,423	150,900	384,423	384,423	0	384,423
2014	383,212	150,900	383,212	383,212	0	383,212
2015	391,900	160,800	391,900	391,900	0	391,900
2016	493,857	165,776	493,857	431,090	0	431,090
2017	480,310	165,776	480,310	474,199	0	474,199
2018	480,227	165,776	480,227	480,227	0	480,227

2019	526,972	173,369	526,972	526,972	0	526,972
2020	721,475	246,511	721,475	579,669	0	579,669
2021	987,109	329,009	987,109	637,636	0	637,636
2022	1,026,556	313,317	1,026,556	701,400	0	701,400

The **Just** value is the total parcel assessment (less any considerations for the cost of sale). This is the closest value to *Fair Market Value* we produce and is dated as of January 1st of the tax year in question ([F.A.C. 12D-1.002](#)).

The **Land** value is the portion of the total parcel assessment attributed to the land.

The **Market Assessed** value is the total parcel assessment (less any considerations for the cost of sale) based upon the assessment standard. Most parcels are assessed based either upon the *Highest and Best Use* standard or the *Present Use* standard ([F.S. 193.011](#)). For *Agriculturally Classified* parcels (or parts thereof), only agricultural uses are considered in the assessment ([F.S. 193.461 \(6\)\(a\)](#)). The difference between the *Highest and Best Use/Present Use* and the *Agricultural Use* is often referred to as the *Agricultural Exemption*.
(i.e. Market Assessed = Just - Agricultural Exemption)

The **Capped Assessed** value is the *Market Assessment* after any *Save Our Homes* or *10% Assessment Limitation* cap is applied. This assessment cap is applied to all properties and limits year-to-year assessment increases to either the *Consumer Price Index* or 3%, whichever is lower for Homestead properties OR 10% for non-Homestead properties.

The **Exemptions** value is the total amount of all exemptions on the parcel.

The **Taxable** value is the *Capped Assessment* after exemptions (*Homestead, etc.*) are applied to it. This is the value that most taxing authorities use to calculate a parcel's taxes.
(i.e. Taxable = Capped Assessed - Exemptions)

Exemptions / Classified Use (Current)

Generated on 1/31/2023 8:01 AM

No existing exemptions found for this property.

Exemptions / Classified Use (2022 Tax Roll)

Generated on 1/31/2023 8:01 AM

No exemptions found for this tax year.

Values (2022 Tax Roll)

Generated on 1/31/2023 8:01 AM

Property Values

Just	1,026,556	Land Units Of Measure	SF
Assessed	1,026,556	Units	51008.00
Portability Applied	0	Total Number of Buildings	2
Cap Assessed	701,400	Total Bedrooms / Fixtures (multiple buildings, see Appraisal Details below)	0 / 7
Taxable	701,400	1st Year Building on Tax Roll	1953
Cap Difference	325,156	Historic Designation	No

Attributes

Taxing Authorities

Generated on 1/31/2023 8:01 AM

IONA MCGREGOR FIRE / 068

Name / Code

Category

Mailing Address

LEE CO GENERAL REVENUE / 044

County

LEE COUNTY OFFICE OF MGMT & BUDGET
PO BOX 398
FORT MYERS FL 33902-0398

LEE CO ALL HAZARDS PROTECTION DIST / 101

Dependent District

LEE COUNTY OFFICE OF MGMT & BUDGET
PO BOX 398
FORT MYERS FL 33902-0398

LEE CO UNINCORPORATED MSTU / 020

Dependent District

LEE COUNTY OFFICE OF MGMT & BUDGET
PO BOX 398
FORT MYERS FL 33902-0398

LEE COUNTY LIBRARY DIST / 052	Dependent District	LEE COUNTY OFFICE OF MGMT & BUDGET PO BOX 398 FORT MYERS FL 33902-0398
IONA MCGREGOR FIRE DISTRICT / 050	Independent District	IONA MCGREGOR FIRE DISTRICT 6061 S POINTE BLVD FORT MYERS FL 33919
LEE CO HYACINTH CONTROL DIST / 051	Independent District	LEE CO HYACINTH CONTROL DIST 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
LEE CO MOSQUITO CONTROL DIST / 053	Independent District	LEE CO MOSQUITO CONTROL DIST 15191 HOMESTEAD RD LEHIGH ACRES FL 33971
WEST COAST INLAND NAVIGATION DIST / 098	Independent District	WEST COAST INLAND NAVIGATION DIST 200 MIAMI AVE E VENICE FL 34285-2408
PUBLIC SCHOOL - BY LOCAL BOARD / 012	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
PUBLIC SCHOOL - BY STATE LAW / 013	Public Schools	LEE COUNTY SCHOOL BOARD BUDGET DEPARTMENT 2855 COLONIAL BLVD FORT MYERS FL 33966
SFWMD-DISTRICT-WIDE / 110	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-EVERGLADES CONSTRUCTION PROJECT / 084	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406
SFWMD-OKEECHOBEE BASIN / 308	Water District	SFWMD 3301 GUN CLUB RD WEST PALM BEACH FL 33406

Sales / Transactions

Generated on 1/31/2023 8:01 AM

Sale Price	Date	OR Number	Type	Notes	Vacant/Improved
425,000.00	05/07/1999	3117/826	03		I
100.00	05/15/1997	2824/3849	04		I
340,000.00	12/01/1993	2454/2566	03		I
450,000.00	11/01/1985	1815/362	06		V

[View Recorded Plat at LeeClerk.org](#)

Use the above link to do a search on the Lee County Clerk of Courts website, using **2454** and **2566** for the book and page numbers and **Official Records** for the book type.

Help safeguard your home against property fraud. Sign up for the Lee Clerk's free [Property Fraud Alert](#).

Building/Construction Permit Data

Generated on 1/31/2023 8:01 AM

Permit Number	Permit Type	Date
ROF2018-10429	Roof	08/02/2018
COM2018-00238	Building Window / Door Replacement	03/06/2018
ROF2004-04991	Roof	10/18/2004
DEM2004-00263	Demolition	08/23/2004
COM199404865	Building New Construction	05/16/1994

IMPORTANT: THIS MAY NOT BE A COMPREHENSIVE OR TIMELY LISTING OF PERMITS ISSUED FOR THIS PROPERTY.

Note: The Lee County Property Appraiser's Office does not issue or maintain any permit information. The Building/Construction permit data displayed here represents only those records this Office may find necessary to conduct Property Appraiser business. Use of this information is with the understanding that in no way is this to be considered a comprehensive listing of permits for this or any other parcel.

The Date field represents the date the property appraiser received information regarding permit activity; it may or not represent the actual date of permit issuance or completion.

Full, accurate, active and valid permit information for parcels can only be obtained from the [appropriate permit issuing agency](#).

Parcel Numbering History ⓘ

Generated on 1/31/2023 8:01 AM

Prior STRAP	Prior Folio ID	Renumber Reason	Renumber Date
16-45-24-00-00006.0000	N/A	Combined (With another parcel-Delete Occurs)	N/A

Location Information

Generated on 1/31/2023 8:01 AM

Township	Range	Section	Block	Lot
45	24E	16		
Municipality	Latitude	Longitude		
Lee County Unincorporated - 0	26.55936	-81.9101		

[Links](#)

[View Parcel on Google Maps](#)

[View Parcel on GeoView](#)

Solid Waste (Garbage) Roll Data

Generated on 1/31/2023 8:01 AM

Solid Waste District	Roll Type	Category	Unit / Area	Tax Amount
002 - Service Area 2	C - Commercial Category	C	7752	209.22
Garbage	Collection Days	Recycling	Horticulture	
Tuesday	Tuesday	Tuesday	Tuesday	

Flood and Storm Information

Generated on 1/31/2023 8:01 AM

Community	Flood Insurance Panel	Find my flood zone Version	Date	Evacuation Zone
125124	0416	F	8/28/2008	A

Address History

Generated on 1/31/2023 8:01 AM

Street Number	Street Name	Unit	City	Zip	Maintenance Date
12670	MCGREGOR BLVD		Fort Myers	33919	3/22/2002 9:15:54 AM
12670	MCGREGOR BLVD		Fort Myers	33919	9/25/1997 8:53:33 AM
12650	MCGREGOR BLVD		Fort Myers	33919	12/31/1996 11:11:19 AM

Appraisal Details (2022 Tax Roll)

Generated on 1/31/2023 8:01 AM

Land

Land Tracts

Use Code	Use Code Description	Number of Units	Unit of Measure
1100	Store, One (1) Floor	51008.00	Square Feet
Land Features			
Description	Year Added	Units	
BLACK TOP - IMPROVED	1975	10,000	
WALL - CONCRETE BLOCK	1975	2,877	

SLAB - CONCRETE

1997

600

Buildings**Building 1 of 2****Building Characteristics**

Improvement Type
35 - Stores - Retail
Bedrooms
0

Model Type
4 - commercial
Fixtures
0.0

Stories
1.0
Year Built
1953

Living Units
0
Effective Year Built
1981

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
AOF - AVERAGE OFFICE	Y	300
AOF - AVERAGE OFFICE	Y	700
AOF - AVERAGE OFFICE	Y	300
AOF - AVERAGE OFFICE	Y	300
BAS - BASE	Y	700
BAS - BASE	Y	1,700
FOF - FAIR OFFICE	Y	675
FST - FINISHED UTILITY	N	1,100

Building Features

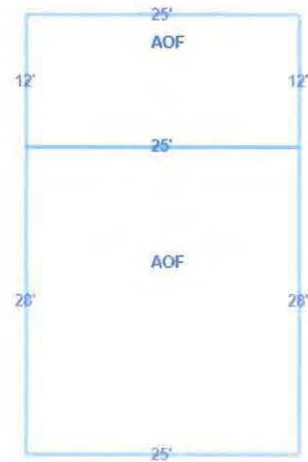
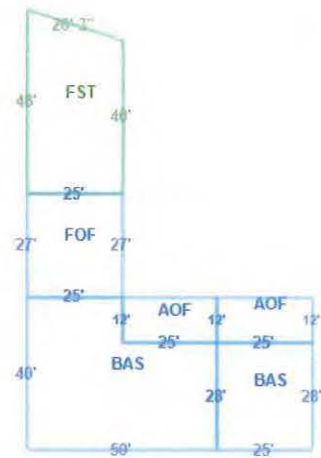
Description	Year Added	Units
OVERHEAD DOOR - SMALL LESS THAN 10X10	1975	2

Building Front Photo



Photo Date: December of 2012

Building Footprint



Building 2 of 2

Building Characteristics

Improvement Type

82 - Warehouse - Metal/Frame

Bedrooms

0

Model Type

6 - Warehouse/Industrial

Bathrooms

0.0

Stories

1.0

Living Units

0

Year Built

1996

Effective Year Built

1997

Building Subareas

Description

BAS - BASE

PTO - PATIO

Y

N

Heated / Under Air

Area (Sq Ft)

2,500

1,875

Building Features

Description

OVERHEAD DOOR - SMALL LESS THAN 10X10

Year Added

1996

Units

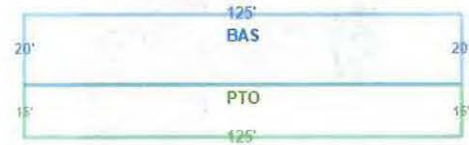
1

Building Front Photo



Photo Date: December of 2012

Building Footprint

**Appraisal Details (Current Working Values)**

Generated on 1/31/2023 8:01 AM

Land**Land Tracts**

Use Code	Use Code Description	Number of Units	Unit of Measure
1100	Store, One (1) Floor	51008.00	Square Feet

Land Features

Description	Year Added	Units
BLACK TOP - IMPROVED	1975	10,000
WALL - CONCRETE BLOCK	1975	2,877
SLAB - CONCRETE	1997	600

Buildings**Building 1 of 2****Building Characteristics**

Improvement Type	Model Type	Stories	Living Units
35 - Stores - Retail	4 - COMMERCIAL	1.0	0
Bedrooms	Fixtures	Year Built	Effective Year Built
0	0.0	1953	1981

Building Subareas

Description	Heated / Under Air	Area (Sq Ft)
AOF - AVERAGE OFFICE	Y	300
AOF - AVERAGE OFFICE	Y	700
AOF - AVERAGE OFFICE	Y	300
AOF - AVERAGE OFFICE	Y	300
BAS - BASE	Y	700
BAS - BASE	Y	1,700
FOF - FAIR OFFICE	Y	675
FST - FINISHED UTILITY	N	1,100

Building Features

Description	Year Added	Units
OVERHEAD DOOR - SMALL LESS THAN 10X10	1975	2

Building Front Photo

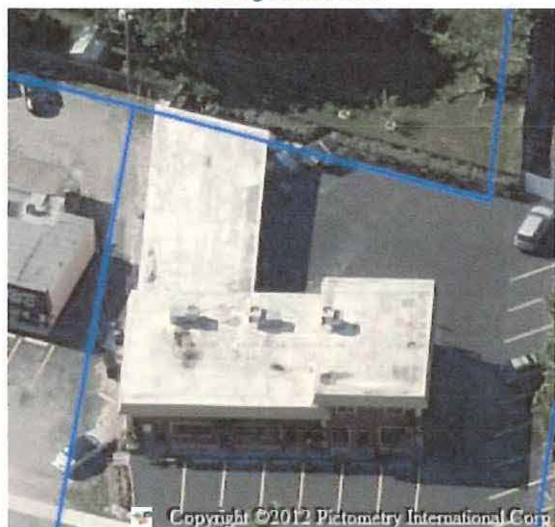
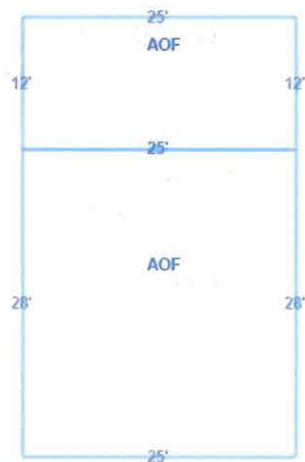
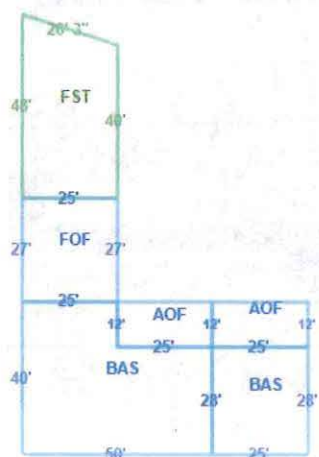


Photo Date: December of 2012

Building Footprint



Building 2 of 2

Building Characteristics

Improvement Type
82 - Warehouse - Metal/Frame

Model Type
6 - WAREHOUSE/INDUSTRIAL

Stories
1.0

Living Units
0

Bedrooms
0

Bathrooms
0.0

Year Built
1996

Effective Year Built
1997

Building Subareas

BAS - BASE
PTO - PATIO

Heated / Under Air
Y
N

Area (Sq Ft)
2,500
1,875

Building Features

OVERHEAD DOOR - SMALL LESS THAN 10X10

Year Added
1996

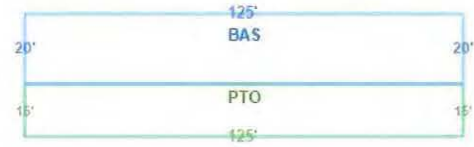
Units
1

Building Front Photo



Photo Date: December of 2012

Building Footprint



Generated on 1/31/2023 8:01 AM

THIS DOCUMENT PREPARED BY:

Speedway LLC
c/o 7-Eleven, Inc.
Legal Department
3200 Hackberry Road
Irving, Texas 75063

WHEN RECORDED MAIL TO:

Stewart Title Guaranty Company
1360 Post Oak Blvd., 10th Floor
Houston, Texas 77056
Attn: Tiffany Gourgis

SEND FUTURE TAX STATEMENTS TO:

McGregor 12690 Properties, LLC
10481 Solaro Street
Fort Myers, FL 33913-7198

Tax ID No. 16-45-24-00-00007.0060

SPECIAL WARRANTY DEED

SPEEDWAY LLC, a Delaware limited liability company, with a principal address of c/o 7-Eleven, Inc., 3200 Hackberry Road, Irving, Texas 75063 ("Grantor"), **GRANTS, BARGAINS, CONVEYS AND SELLS** to **MCGREGOR 12690 PROPERTIES, LLC**, a Florida limited liability company, with a principal address of 10481 Solaro Street, Fort Myers, Florida 33913 ("Grantee"), for the sum of TEN AND NO/100 DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, the real property located in FORT MYERS, LEE COUNTY, FLORIDA and more fully described on Exhibit A attached hereto and made a part hereof (the "Property"). For purposes of this Deed, the "Closing" shall mean the recordation of this Deed, fully-executed and acknowledged, in the official records of the County, and the "Closing Date" shall mean the date this Deed is so recorded.

TO HAVE AND TO HOLD the Property, with all and singular the rights, members and appurtenances thereof, belonging or in anywise appertaining, to Grantee, its successors and assigns, forever. GRANTOR, for itself and its successors, does covenant, promise and agree, to and with Grantee, its successors and assigns, that Grantor is lawfully seized of said land in fee simple; that Grantor has good, right and lawful authority to sell and convey said land; Grantor has not done, or suffered to be done, anything whereby the Property is, or may be, in any manner encumbered or charged, except as set forth

above, and Grantor hereby SPECIALLY WARRANTS AND AGREES TO FOREVER DEFEND the Property against all persons lawfully claiming the same by, through or under it, but not otherwise,

SUBJECT TO (i) current taxes and assessments not yet delinquent and taxes and assessments for subsequent years; (ii) all covenants, conditions, restrictions, servitudes, liens, reservations, easements, rights-of-way, declarations, encumbrances and other matters of record or to which reference is made in the public records; (iii) zoning and other regulatory laws and ordinances affecting the Property; (iv) matters that would be disclosed by an accurate survey; and (v) rights of tenants in possession (if any); and (v) any plat affecting the Property ("Conditions").

The payment of current ad valorem taxes on the Property having been prorated to the date hereof, the payment thereof is assumed by Grantee.

Invalidation of any one provision herein by judgment or court order shall in no way affect any other provision.

Neither Grantee nor its successors, assigns or legal representatives, lessees, or sublessees, shall conduct or permit the conduct on the Property of, and the Property shall not be used for:

- i. a grocery or convenience store selling at retail any food or food products, dairy products, beer, or wine or other alcoholic beverages for consumption off the premises; or
- ii. the sale of motor fuels and petroleum products.

The Property is sold and conveyed AS IS, WHERE IS, WITH ALL FAULTS, SUBJECT, HOWEVER, TO THE WARRANTIES OF TITLE SET FORTH IN THIS DEED. GRANTOR DOES NOT EXPRESSLY OR IMPLIEDLY WARRANT OR GUARANTEE THE CONDITION OF THE PROPERTY NOR ITS MERCHANTABILITY OR FITNESS FOR ANY PURPOSE.

BY ITS ACCEPTANCE OF THIS CONVEYANCE, GRANTEE AGREES AS FOLLOWS: PURSUANT TO SECTION 10 OF THE SALES CONTRACT, DATED JANUARY 31, 2022, BY AND BETWEEN GRANTOR AND GRANTEE, SUBSECTIONS (A) THROUGH (J) BELOW SHALL BE COVENANTS RUNNING WITH THE LAND AND SHALL BE BINDING UPON GRANTEE AND ITS SUBSIDIARIES, LEGAL REPRESENTATIVES, HEIRS, SUCCESSORS AND ASSIGNS, AS APPLICABLE, INCLUDING, BUT NOT LIMITED TO, FUTURE OWNERS OF ALL (OR ANY PORTION) OF THE PROPERTY, AND SHALL INURE TO THE BENEFIT OF GRANTOR AND ITS SUBSIDIARIES, LEGAL REPRESENTATIVES, HEIRS, SUCCESSORS AND ASSIGNS, AS APPLICABLE. THE INTENTION OF GRANTOR AND GRANTEE IS THAT SAID COVENANTS SHALL LAST IN PERPETUITY. IF REQUESTED BY GRANTOR, GRANTEE OR THE THEN OWNER(S) OF THE PROPERTY, BY ITS ACCEPTANCE OF A DEED FOR ALL OR A PORTION OF THE PROPERTY, AGREES TO EXECUTE SUCH DOCUMENTATION OR TAKE SUCH ACTION AS GRANTOR MAY REASONABLY REQUEST TO CONFIRM OR OTHERWISE GIVE EFFECT TO SUCH COVENANTS.

a. Hazardous Substances. Except as set forth below, Grantee hereby assumes liability for, and agrees to take all actions required by law relating to, all environmental obligations or liabilities, including investigation, monitoring and remediation obligations and third party claims, arising from environmental conditions or Hazardous Substances (as defined herein) existing on, beneath or migrating from the Property as of the Closing Date, including, but not limited to: (i) any violation or alleged violation of, or liability or alleged liability under, any local, state or federal law, rule or regulation or common law duty pertaining to human health, natural resources or the environment, including, without limitation, the

Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), the Clean Air Act (42 U.S.C. §7401 et seq.), the Emergency Planning and Community-Right-to-Know Act (42 U.S.C. §11001 et seq.), the Endangered Species Act (16 U.S.C. §1531 et seq.), the Toxic Substances Control Act (15 U.S.C. §2601 et seq.), the Occupational Safety and Health Act (29 U.S.C. §651 et seq.) and the Hazardous Substances Transportation Act (49 U.S.C. §1801 et seq.), and those relating to Lead Based Paint (as hereinafter defined) and each of their state counterparts and the regulations promulgated pursuant to said laws, all as amended from time to time (collectively, "Environmental Laws"), relating to or affecting the Property, whether or not caused by or within the control of Grantor; (ii) the presence, release or threat of release of or exposure to any hazardous, toxic or harmful substances, wastes, materials, pollutants or contaminants (including, without limitation, asbestos or asbestos-containing materials, polychlorinated biphenyls, petroleum or petroleum products or byproducts, flammable explosives, radioactive materials, paint containing more than .05% lead by dry weight ("Lead Based Paint"), infectious substances or raw materials which include hazardous constituents) or any other substances or materials which are included under or regulated by Environmental Laws (collectively, "Hazardous Substances") or any toxic mold or fungus of a type that may pose a risk to human health or the environment or would negatively impact the value of the Property ("Toxic Mold"), on, in, under or affecting all or any portion of the Property or any surrounding areas, regardless of whether or not caused by or within the control of Grantor; (iii) any transport, treatment, recycling, storage, disposal or arrangement thereof of Hazardous Substances whether on the Property, originating from the Property, or otherwise associated with the Grantee or any operations conducted on the Property at any time; or (iv) any environmental investigation, assessment, audit or review conducted in connection with the Property or the operations conducted at any time thereon, including, without limitation, the cost of assessment, investigation, containment, removal and/or remediation of any and all Hazardous Substances or Toxic Mold from all or any portion of the Property or any surrounding areas, the cost of any actions taken in response to the presence, release or threat of release of any Hazardous Substances or Toxic Mold on, in, under or affecting any portion of the Property or any surrounding areas to prevent or minimize such release or threat of release so that it does not migrate or otherwise cause or threaten danger to present or future public health, safety, welfare or the environment, and costs incurred to comply with Environmental Laws in connection with all or any portion of the Property or any surrounding areas.

b. Indemnity. Grantee will protect, defend, hold harmless and indemnify Grantor, its directors, officers, agents and employees from and against any and all expenses, claims, actions, liabilities, attorney's fees, damages, losses, penalties, fines and interest of any kind whatsoever (including without limiting the foregoing, death of or injury to persons and damage to Property), actually or allegedly resulting from or connected with the environmental condition of the Property or from the omission or commission of any act, lawful or unlawful, by Grantee or its agents or employees, whether or not such act is within the scope of the employment of such agents or employees, or from leaks, seepage, spills or other loss of motor fuels or other toxic pollutants at the Property. Grantee hereby agrees that this indemnity shall survive the Closing.

c. Waiver and Release. Subject to the terms of subsection (d) below, (i) Grantee hereby waives, relinquishes and releases Grantor from all costs by reason of or arising out of any environmental conditions at the Property and from any contribution action; and (ii) should any clean-up, remediation or removal of Hazardous Substances or other environmental conditions on the Property be required after the Closing Date, it is hereby understood and agreed that such clean-up, removal or remediation shall be the responsibility of and shall be performed at the sole cost and expense of Grantee. It is understood and agreed that the Purchase Price reflects the allocation of risk set forth in this subsection. Further, notwithstanding anything to the contrary herein, Grantee covenants and agrees that in no event shall it commence any action or make any claim against Grantor, its parent corporation, subsidiaries, affiliates and assigns, or any former owner or operator of the Property which in any way relates to the environmental or other condition of the Property, including any claim for property damage or diminution

of property value by reason of the presence of Hazardous Substances at, on under or emanating from the Property, and Grantee hereby releases Grantor from all such claims. It is acknowledged and agreed that the Purchase Price of the Property reflects the condition of the Property. Grantee's sole remedy after Closing with respect to any such contamination shall be for specific performance of Grantor's obligations under this Section.

d. Remedial Measures. Notwithstanding the foregoing, Grantee is hereby advised that the Property has been impacted by subsurface petroleum contamination ("Release"), which has been reported to the Florida Department of Environmental Protection ("Department"). Grantor is currently conducting Remedial Measures (as defined below) and shall, at its expense, use commercially reasonable efforts to complete such Remedial Measures after the Closing. As used herein, "Remedial Measures" shall consist of those activities which, in Grantor's reasonable opinion, in consultation with the Department, are required to investigate, monitor and/or remediate petroleum hydrocarbon conditions or other environmental conditions originating on the Property prior to Closing. The Remedial Measures shall be undertaken in such a commercially reasonable manner, subject to the requirements of the Department, as to minimize disruption to Grantee's business on the Property. The parties agree that Grantor's Remedial Measures shall be based upon the least stringent standards acceptable to the Department for non-residential or commercial purposes, including natural attenuation, and that residual contamination may remain at the Property after the conclusion of the Remedial Measures. Grantor will provide to Grantee copies of all reports generated by the environmental consultant for delivery to the Department. Grantor will be entitled to all reimbursement available with respect to the performance of the Remedial Measures and Grantee will cooperate with Grantor in that regard to the extent reasonably requested. Grantor acknowledges that the indemnity set forth in subsection (a) above shall not be applicable to the Release.

e. Access Agreement. At Closing, in addition to the closing documents set forth in Section 7 of the Sales Contract, Grantor and Grantee will execute an Access Agreement in the form attached to the Sales Contract as Exhibit C, pursuant to which Grantee will provide Grantor with access to the Property for the purpose of performing the Remedial Measures.

f. Completion of Remedial Measures. Remedial Measures for the Property shall be deemed completed when either (i) Grantee receives a written determination from the appropriate governmental authority having jurisdiction over the Property that no further activities are required to meet applicable industrial/commercial clean-up standards (excluding periodic monitoring) under applicable environmental laws, including without limitation a "No Further Action" letter or order; or (ii) if the applicable environmental laws do not provide for such a written determination, then when all required activities have been completed to meet applicable industrial/commercial clean-up standards pursuant to a work plan approved by the Department or any appropriate governmental authority having jurisdiction over the Property (the "Satisfaction of Environmental Remediation"). Grantor will deliver the Satisfaction of Environmental Remediation to Grantee and upon Grantee's receipt of the Satisfaction of Environmental Remediation, Grantor shall thereafter be released from any liability associated with any Hazardous Substances fuels on the Property prior to Closing.

g. Post-Closing Release. If, at any time after Closing, during the performance of the Remedial Measures at the Property, either party has reason to believe that a post-closing release has occurred, such party shall notify the other immediately and take those steps reasonably required by law or by the Department, to determine and abate the source of the release. If, upon subsequent investigation by Grantor and Grantee, hydrocarbon contamination is determined to have occurred subsequent to the Closing, Grantor and Grantee shall agree on an allocation of responsibility for tests undertaken by Grantee and for the remediation expenses from that date forward based on the degree to which the post-closing release increased the estimated overall remediation costs, with Grantee and Grantor to be responsible for their respective share of the remediation costs and entitled to receive the reimbursement applicable to their

respective share. If the subsequent release is larger than the condition being remediated, Grantee shall become the "responsible party" and shall conclude any required remediation, and Grantor shall reimburse Grantee its pro-rata share of such remediation costs base on the allocation of responsibility described above.

h. Memorandum of Agreement. At Closing, in addition to the closing documents set forth in Section 7 of the Sales Contract, Grantor and Grantee will execute and record a Memorandum of Agreement in the form attached to the Sales Contract as Exhibit D, pursuant to which Grantee shall agree on behalf of itself and its successors, assigns, lessees, or other persons with any interest or control of the Property ("Grantee Controlled Entities") to assume a duty of cooperation with Grantor. Such cooperation may include, without limitation (i) ongoing compliance with the Access Agreement, and agreement to modify the Access Agreement as may be reasonably necessary in Grantor's sole discretion, to provide Grantor the ongoing access to the Property necessary for the purpose of conducting the Remedial Measures; (ii) executing or causing to be executed documents that are necessary for Grantor to perform or complete the Remedial Measures, including any restrictive covenants that prohibit the use of the Property for non-residential purposes and/or the use of groundwater; (iii) complying with the requirements and/or conditions of any institutional controls; (iv) agreeing to not destroy, alter, remove, relocate or block any investigation, monitoring or remediation equipment, or otherwise interfere with or obstruct Grantor's performance or completion of the Remedial Measures; (v) cooperating with Grantor as to any ongoing or future investigations, including the installation of borings and monitoring wells at the Property, that are required by the Department or that Grantor in its sole discretion determines are reasonably necessary; and (vi) cooperating with Grantor as to any other reasonable requests necessary for the performance and completion of the Remedial Measures.

i. Notice of Changes. Grantee shall give Grantor not less than thirty (30) days' prior written notice of any plans of Grantee to remove, relocate or alter the equipment utilized by Grantor to perform the Remedial Measures, whether above or below the surface of the Property, and including, without limitation, all piping used by Grantor to perform the Remedial Measures, and any such activities will require Grantor's prior approval and will be performed at Grantee's sole cost and expense.

j. Survival. The covenants of this Section 10 shall survive Closing and shall be binding upon and shall inure to the successors and assigns of each of the parties and all subsequent purchasers of the Property. Upon the request of Grantor, Grantee agrees to execute and deliver such instruments in recordable form as necessary to effect record notice of the foregoing rights and covenants.

*[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE TO FOLLOW]*

IN WITNESS WHEREOF, Grantor has caused this Special Warranty Deed to be executed this
9th day of June, 2022.

Witness: [Signature]
Name: Braeden Powell

Witness: [Signature]
Name: Kelsey Landis

GRANTOR:

SPEEDWAY LLC, a Delaware limited liability company

By: [Signature]
Name: Randy Quinn
Title: Manager

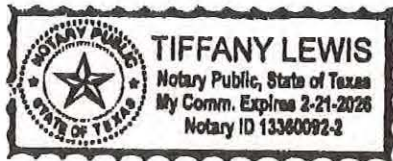
ACKNOWLEDGEMENT

STATE OF TEXAS §
COUNTY OF DALLAS §

On this 17th day of May, 2022, before me, the undersigned, a Notary Public in and for the aforesaid County and State, on this day by means of ☐ physical presence or ☐ online notarization Randy Quinn, a Manager of SPEEDWAY LLC, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same as the act of such corporation for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 17th day of May, 2022.

(seal)



[Signature]
(Notary signature)

Tiffany Lewis
(typed or printed name)

My commission expires: 2/21/26

EXHIBIT A

Property Description

A tract or parcel of land lying in the Northwest quarter (NW 1/4) of the Southeast quarter (SE 1/4) of Section 16, Township 45 South, Range 24 East, Lee County, Florida, which tract or parcel is described as follows:

From the intersection of the North line of Miles Road with the Northwestern line of McGregor Boulevard as shown on the plat of Unit No. 1, EDISON ACRES according to a map or plat thereof recorded in Plat Book 9, Page 56, of the Public Records of Lee County run N 17°43'00" E along the Northwestern boundary of McGregor Boulevard For 550 feet to the point of beginning of the lands herein described. From said point of beginning continue N 17°43'00" E along said Northwestern line of McGregor Boulevard for 166 feet to a point 200 feet Southeasterly of the lands marked "not included in this plat"; thence run S 88°59'00" W parallel with the South line of said lands "not included in this plat" for 158.39 feet to the Southeasterly line of Lot 10, Block A, said Unit No. 1, EDISON ACRES; thence run S 17°43'00" W along said Southeasterly line of Block A, Unit No. 1, EDISON ACRES for 115.23 feet to an intersection with a line perpendicular to said Northwestern line of McGregor Boulevard passing through the point of beginning; thence run S 72°17'00" E along said perpendicular line for 150 feet to the point of beginning.

Prepared by and return to:

Ashley L. Suarez, Esq.

Roetzel & Andress, L.P.A.

2320 First Street, Suite 1000

Fort Myers, FL 33901-2904

239-337-3850

File Number: 142180.0002

Parcel Identification No. 16-45-24-00-00006.0010

[Space Above This Line For Recording Data]

Warranty Deed

(STATUTORY FORM - SECTION 689.02, F.S.)

This Indenture made this 31st day of March, 2020 between **Barbara Proctor, a married woman** whose post office address is **3404 Jewel Court, The Villages, FL 32163** of the County of **Sumter**, State of **Florida**, grantor*, and **T & C Enterprises of SWFL, Inc, a Florida corporation** whose post office address is **12680 McGregor Boulevard, #2, Fort Myers, FL 33919** of the County of **Lee**, State of **Florida**, grantee*,

Witnesseth that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Lee County, Florida**, to-wit:

The South one-half (S 1/2) of the following described property: A parcel of land in the Northwest Quarter (NW 1/4) of the Southeast Quarter (SE 1/4) of Section 16, Township 45 South, Range 24 East, Lee County, Florida, described as follows: BEGINNING at the Northeast corner of Lot 12, in Block A, Unit No. 1, EDISON ACRES, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida, in Plat Book 9, at Page 56, run East, along a prolongation of the North line of said Lot 12 and the South line of the lands conveyed by deed recorded in Deed Book 173, at Page 141 of said Public Records, for 158.39 feet to a point on the West right-of-way line of McGregor Boulevard (State Road 867); thence run South 17°43' West along said right-of-way line (40 feet from center line) for 200 feet; thence run South 88°59' West, parallel to said North line of Lot 12, Block A, for 158.39 feet to the Easterly line of said Block A; thence run North 17°43' East, along said Easterly line of Block A, for 200 feet to the Point of Beginning.

Subject to taxes for 2020 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

NON-HOMESTEAD: Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property.

and said grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

* "Grantor" and "Grantee" are used for singular or plural, as context requires.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Cliff Bairman
Witness #1 Signature

Cliff Bairman
Witness #1 Printed Name

Ashley Morgan
Witness #2 Signature

Ashley Morgan
Witness #2 Printed Name

Barbara Proctor
Barbara Proctor

State of Florida
County of Sumter

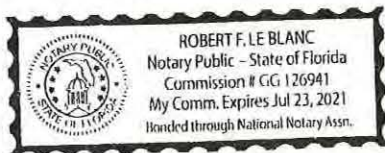
The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 26th day of March, 2020 by Barbara Proctor, who ☐ is personally known or ☐ has produced FLORIDA DRIVERS LICENSE as identification.

[Notary Seal]

Robert F. LeBlanc
Notary Public

Printed Name: ROBERT F. LEBLANC

My Commission Expires: 07/23/2021



4632395

This Instrument Prepared by and Return to:

S. Renae Henry
Title Group Services, Ltd.
13131 University Drive
Fort Myers, Florida 33907

RECORDED BY
JOANNE MILLER, D.C.

Property Appraisers Parcel Identification (Folio) Numbers:

16-45-24-00-00005.0000

Grantees SS #s:

Documentary Tax Pd. \$ 2975⁰⁰
Intangible Tax Pd.
\$ CHARLIE GREEN, CLERK, LEE COUNTY
By Joanne Miller Deputy Clerk

OR3117 PG0826

SPACE ABOVE THIS LINE FOR RECORDING DATA

THIS WARRANTY DEED, made the 7th day of May, A.D. 1999 by Habitat for Humanity of Lee County, Inc., a Florida Not for Profit Corp. herein called the grantor, whose post office address is 1288 North Tamiami Trail, North Fort Myers, FL 39903, to James M. Todd and Karen F. Todd, husband and wife whose post office address is 409 Coral Drive, Cape Coral, FL 33904, hereinafter called the Grantees:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That the grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee all that certain land situate in LEE County, State of Florida, viz:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Subject to easements, restrictions and reservations of record and to taxes for the year 1999 and thereafter.

TOGETHER, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the grantor hereby covenants with said grantees that the grantor is/are lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 1998.

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Habitat for Humanity of Lee County, Inc., a
Florida Not for Profit Corp.

By: Vernon Archibald
Vernon Archibald, President

Signature Bruce F. Todd
Printed Signature Bruce F. Todd
Signature Mary M. Reingardt
Printed Signature Mary M. Reingardt

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 7th day of May, 1999 by Vernon Archibald, President of Habitat for Humanity of Lee County, Inc., a Florida Not for Profit Corp. on behalf of the corporation. He/she is personally known to me or has produced Id. Driver's License as identification.

SEAL

Mary M. Reingardt
Notary Signature
Printed Notary Signature

My Commission Expires:


 Mary M. Reingardt
MY COMMISSION # CC627711 EXPIRES
April 9, 2001
ENTERED THREE THOUSAND NINE HUNDRED NINETY NINE

EXHIBIT "A"

A tract or parcel of land situated in the State of Florida, County of Lee, Section 16, Township 45 South, Range 24 East and further bounded and described as follows: Starting at a concrete monument marking the intersection of the South right-of-way line of McGregor Boulevard (State Road No. 867), (80 feet wide), said point being 200.00 feet, more or less, South of the North line of the Southeast 1/4 of said Section 16, thence South 89 degrees 03'44" West along the South right-of-way line of Edinburg Drive for 150.50 feet to a concrete monument and the point of beginning; thence continue South 89 degrees 03'44" West along said right-of-way line for 222.21 feet to a concrete monument marking the Easterly right-of-way line of Pompano Street (50.00 feet wide); thence South 00 degrees 04'40" East along said right-of-way line for 129.02 feet to the beginning of a curve concave to West having a radius of 225.00 feet; thence southerly along said curve and said right-of-way through a central angle of 08 degrees 37' 02" for 33.84 feet to a concrete monument marking the Northwest corner of Lot 12, EDISON ACRES SUBDIVISION, as recorded in Plat Book 9 at Page 56; thence North 88 degrees 59'00" East along the Northerly line of said lot for 159.16 feet to a concrete monument marking the Northeast corner of said lot; thence South 17 degrees 43'00" West along the Easterly line of said Lot 12 for 100.00 feet; thence North 88 degrees 59'00" East parallel to the North line of said Lot 12 for 158.39 feet to an intersection with the Westerly right-of-way line of the aforesaid McGregor Boulevard; thence North 17 degrees 43'00" East along said right-of-way line for 123.07 feet; thence South 88 degrees 59'00" West for 150.00 feet; thence North 17 degrees 43'00" East parallel to said McGregor Boulevard for 69.10 feet to the beginning of a non-tangent curve concave to the Southeast having a radius of 1819.07 feet and to which point a radial line bears North 70 degrees 19'09" East; thence Northeasterly along said curve through a central angle of 02 degrees 32'52" for 80.89 feet to the Point of Beginning.

DR3117 P60827

CHARLIE GREEN, CLERK
LEE COUNTY, FL
1999 MAY 13 AM 9:42

EXHIBIT M-9 AERIAL MAP

EDINBURGH DR.
LOCAL ROAD
COUNTY MAINTAINED
25 MPH SPEED LIMIT

PROPERTY LINE

PROPERTY LINE

SUBJECT PROPERTY

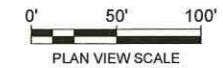
MC GREGOR BLVD.
ARTERIAL ROAD / STATE MAINTAINED
80' R/W / 40 MPH SPEED LIMIT

POMPANO ST.
LOCAL ROAD / STATE MAINTAINED
50' R/W / 25 MPH SPEED LIMIT

2022 Projects 21004 CHILLED AUTO AIR - ACTIVE01-CADD FILEB07 - 40A CADD ZONING EXHIBIT 121004-2E

STRAP #'s
16-45-24-00-00007.0060
16-45-24-00-00005.0000
16-45-24-00-00006.0010

POMPANO ST.
LOCAL ROAD / STATE MAINTAINED
50' R/W / 25 MPH SPEED LIMIT



SHEET
M9
AERIAL MAP

p:\2022 Projects\221004 CHILLED AUTO AIR - ACTIVE\01-CADD FILES\07-QAI CADD ZONING EXHIBITS\221004-ZE

McGregor-Mixed Use Overlay

Lee Plan Analysis
Exhibit M12

Request

The 2-acre +/- site is located on the west side of McGregor Blvd. and north of College within the South Fort Myers Planning Community. Its Future Land Use Classification is Intensive Development. The overall site consists of three parcels as seen in the aerial below.



Figure 1. Subject Property Location Map

Existing and Surrounding Conditions

The subject property is located within the South Fort Myers Planning Community. It consists of three C-I zoned parcels. The surrounding area has been developed with a mixture of Residential, Commercial and institutional uses. Future Land Use designations, zoning and current adjacent uses are identified in the table below.

	North	South	East	West
FLU	Central Urban & Intensive Development	Intensive Development	Intensive Development w./Mixed Use	Central Urban & Intensive Development
Zoning	C-I & RS-I	C-I & RS-I	C-I & MPD	RS-I
Actual Use	Auto Repair * Business Services w./Retail * SF	Retail * Medical * Auto Repair	Office * Retail * Bar & Lounge	SF



Extension of and Compatibility with Existing Development Patterns and Surrounding Uses:

The proposed mixed-use overlay amendment will advance a more efficient use of the land via alternative land development standards that incentivize a more efficient use of the property. Thus, the amendment facilitates neighborhood re-development with like commercial uses.

The subject property abuts McGregor, a major roadway connecting employment and activity centers to the North Fort Myers city-center and to the South Fort Myers metropolitan area. Existing uses along McGregor Blvd are a range of residential, commercial retail, commercial office, professional office and institutional activities. Due to the de-minimis size of the property and of its existing commercial uses, the roadway has sufficient capacity to serve the subject property. The proposed amendment is consistent with sound planning practices promoting infill and allowing intensification along major corridors to ensure an efficient use of public infrastructure.

As identified on the following pages, the proposed incorporation of the Mixed-Use overlay over the 2-acre Intensive Future Land Use property will serve to promote a more intensive urban redevelopment that is consistent, compatible and complementary to the surrounding land uses and development patterns.

Lee Plan Consistency Narrative

Future Land Use Element

POLICY 1.1.1: *The Future Land Use Map depicts the pattern for future development and substantial redevelopment within the unincorporated portion of Lee County through the year 2045.*

RESPONSE _Existing buildings within the project limits are 30 + years old and in some cases predate current rules for setbacks and buffers. Incorporating the properties into the mixed-use overlay would allow these properties to be redeveloped in accordance with the new land development requirements. The mixed-use overlay would be appropriate for this area.

POLICY 1.1.2: *The Intensive Development future land use category is located along major arterial roads. By virtue of their location, the County's current development patterns, and the available and potential levels of public services, areas with this designation are suited to accommodate high densities and intensities. Mixed use developments of high-density residential, commercial, limited light industrial, and office uses are encouraged to be developed as described in Objective 1.1.1, where appropriate. The standard density range is from eight dwelling units per acre (8 du/acre) to fourteen dwelling units per acre (14 du/acre), with a maximum total density of twenty-two dwelling units per acre (22 du/acre). The maximum total density may be increased to thirty dwelling units per acre (30 du/acre) utilizing Greater Pine Island Transfer of Development Units. (Ord. No. 94- 30, 09-06, 10-10, 16-07, 21-09)*



RESPONSE _ The subject property is located in close proximity to two arterial roadways (McGregor Blvd. and College Pkwy). Urban services are available and adequate to serve the development, as demonstrated in the letters of availability provided by Lee County Utilities, Lee Tran, Lee County Schools, Iona McGregor Fire District, Lee County Solid Waste Division, Lee County Emergency Medical Services, and the Lee County Sheriff's Office. The property is adjacent to the College Parkway Mixed-Use Overlay district which consists of conventional and mixed use planned development zoned projects and high-density MF residential and commercial use. Consisting of long-standing commercial suitable for redevelopment, the subject two acre property is ideally suited for the Mixed Use Overlay in

that the reduced development standards will serve as sound incentives for greater urbanized, compact growth. This is consistent with Policy 1.1.2.

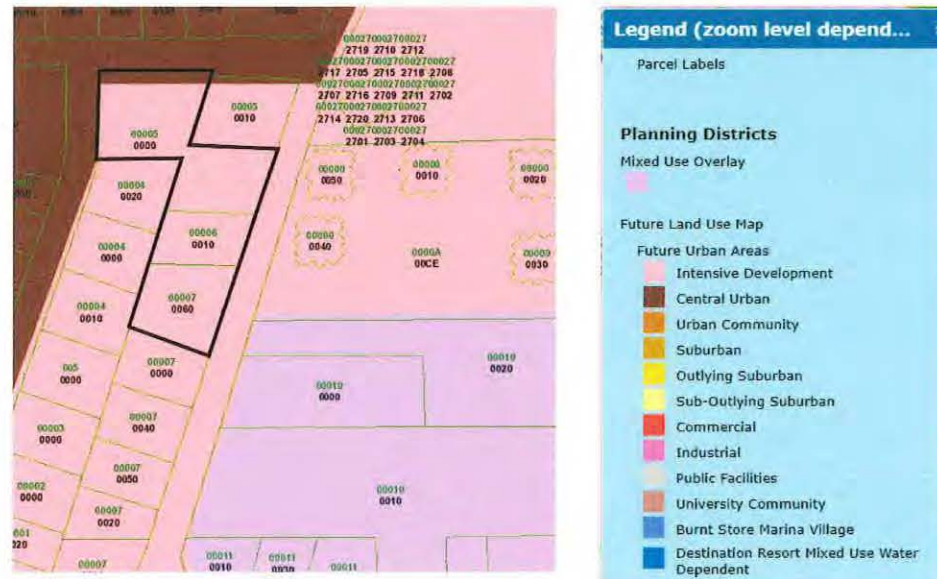


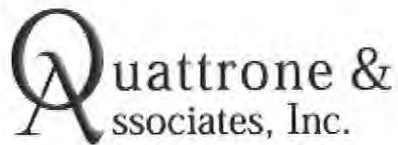
Figure 2. FLUM-Proximately to Existing Mixed-Use Overlay

OBJECTIVE 2.1: DEVELOPMENT LOCATION. *Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, and prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities. (Ordinance No. 94-30, 00-22)*

POLICY 2.1.1: *Most residential, commercial, industrial, and public development is expected to occur within the designated future urban areas on the Future Land Use Map through the assignment of very low densities to the non-urban categories.*

POLICY 2.1.2: *New land uses will be permitted only if they are consistent with the Future Land Use Map and the goals, objectives, policies, and standards of this plan. (Ord. No. 00-22)*

RESPONSE _ The request for a mixed-use overlay designation for the subject property is reasonable and conforms to accepted professional land use practices and principles. The site location is ideal for incentivized commercial redevelopment since it is near the



intersection of two arterial roadways (McGregor Blvd. and College Pkwy) and is classified as a Future Intensive Development land use. The surrounding McGregor and College Parkway properties are built-out with uses including retail, professional office, restaurants and multi-Family. The property has a zoning designation of C-1. Adding the 2-acre property to the Mixed-Use Overlay is consistent with Objective 2.1: Development Location, Policy 2.1.1 and Policy 2.1.2 because it incentivizes appropriate commercial uses based on accepted professional planning practices.

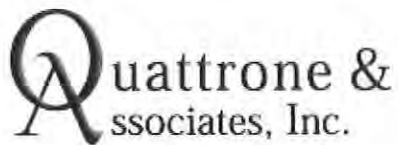
OBJECTIVE 2.2: DEVELOPMENT TIMING. *Direct new growth to those portions of the future urban areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in Section 163.3164(7), F.S.) will be granted only when consistent with the provisions of Sections 163.3202(2)(g) and 163.3180, F.S. and the concurrency requirements in the Land Development Code. (Ordinance No.94-30, 00-22, 17-19)*

POLICY 2.2.1: *Rezoning's and Development of Regional Impact proposals will be evaluated as to the availability and proximity of the road network; central sewer and water lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare. (Ordinance No. 94-30, 00-22)*

RESPONSE _ The subject property is located within the Intensive Development urban land use. The property has more than adequate public facilities. The property has frontage on an arterial roadway (McGregor Blvd) near the intersection with an Arterial roadway (College Parkway) that is signalized. Lee County Utilities has existing potable water and sanitary sewer lines in operation adjacent to the subject property and has provided a letter of availability, which is included with the application. Tanglewood Riverside School Elementary School is ±2.7 miles from the site, Cypress Lake Middle School is ±1.8 miles from the site and Cypress Lake High School is ±2.3 miles from the site. Iona-McGregor Fire Station 74 and EMS Medic 84 are located ±0.7 mile from the property at 6061 South Pointe Blvd. Lee County Sheriff's Office West District Substation is ±3.8 miles from the site. There is existing development to the north, south, east and west. Approval of the requested Map Amendments will allow for incentivized urban infill development providing a compact and contiguous development pattern, consistent with Objective 2.2 and Policy 2.2.1

POLICY 2.2.2: *Map 1 of the Future Land Use Map series indicates the uses and density ranges that will ultimately be permitted on a given parcel. However, it is not a guarantee that such densities or uses are immediately appropriate, as the map provides for the county's growth beyond the Lee Plan's planning horizon of 2030. During the rezoning process the Board of County Commissioners will balance the overall standards and policies of this plan with three additional factors:*

- 1. Whether a given proposal would further burden already overwhelmed existing and committed public facilities such that the approval should be delayed until the facilities can be constructed; and*
- 2. Whether a given proposal is for land so far beyond existing development or adequate public*



facilities that approval should be delayed in an effort to encourage compact and efficient growth patterns; and

RESPONSE _ The subject property is zoned C-1 (Commercial District), which permits a mix of residential and commercial uses. As such, is perfectly suited for the Mixed Use Overlay, The request is consistent with Objective 2.2: Development Timing, Policy 2.2.1, and Policy 2.2.2

GOAL 4: GENERAL DEVELOPMENT STANDARDS. Pursue or maintain land development regulations which protect the public health, safety and welfare, encourage creative site designs and balance development with service availability and protection of natural resources. (Ordinance No. 94-30, 07-15, 17-13)

STANDARD 4.1.1: WATER.

2. If the proposed development lies within the boundaries of a water utility's certificated or franchised service area, or Lee County Utilities' future potable water service area (see Map 6), then the development must be connected to that utility.
3. The developer must provide proof that the prior commitments of the water utility, plus the projected need of the developer, do not exceed the supply and facility capacity of the utility
4. All waterline extensions to new development will be designed to provide minimum fire flows, as well as adequate domestic services as required by Chapter 62-555, FAC.

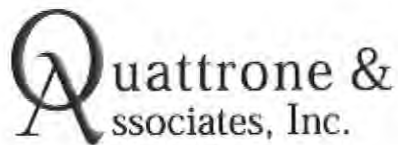
RESPONSE _ The subject property is located within the Lee County Utilities future water service area as depicted on Lee Plan Map 4-A. Lee County Utilities has existing potable water distribution lines in place adjacent to the subject property (see Letter of Service Availability). Water treatment and distribution will be provided through the Corkscrew Water Treatment Plant. The requested Map is consistent with Standard 4.1.1.

STANDARD 4.1.2: SEWER.

2. If the proposed development exceeds the thresholds listed above and lies within the boundaries of a sewer utility's certificated or franchised service area, or Lee County Utilities' future sanitary sewer service area (see Map 7), and that utility has sufficient capacity to provide minimum service to the development, then the development must connect to that sewer utility if there is existing infrastructure adequate to accept the effluents of the development within 1/4 mile from any part of the development.

RESPONSE _ The subject property is located within the Lee County Utilities future sewer service area as depicted on Lee Plan Map 4-B. Lee County Utilities has existing sanitary sewer collection lines in place adjacent to the subject property (see Letter of Service Availability). Sanitary Sewer treatment service will be provided through the Fort Myers South Water Reclamation Facility. The requested Map and Text Amendments are consistent with Standard 4.1.2.

STANDARD 4.1.4: ENVIRONMENTAL FACTORS.



1. In any case where there exists or there is the probability of environmentally sensitive areas (as identified by Lee County, the Corps of Engineers, Department of Environmental Protection, South Florida Water Management District, or other applicable regulatory agency), the developer/applicant must prepare an environmental assessment that examines the existing conditions, addresses existing or anticipated environmental problems, and proposes means and mechanisms to protect, conserve, or preserve the environmental and natural resources.

RESPONSE _ The proposed land use change will not negatively impact environmental protection policies and standards because the 2-acre property is completely developed; it does not contain natural features. The amendment is consistent with Standard 4.1.4.

GOAL 6: COMMERCIAL LAND USES. *To permit orderly and well-planned commercial development at appropriate locations within the county. (Ordinance No. 94-30)*

POLICY 6.1.1: *All applications for commercial development will be reviewed and evaluated as to:*

a. Traffic and access impacts (rezoning and development orders);

- RESPONSE _ The parcel has direct access onto McGregor Blvd.

c. Screening and buffering (planned development rezoning and development orders);

- RESPONSE _ The mixed-use overlay allows for reduced ROW and Adjacent Property Sec. 10-416 Buffering. The amendment advances a more efficient use of the land and thus encourages re-development.

d. Availability and adequacy of services and facilities (rezoning and development orders);

- RESPONSE _ As documented by Lee County Utilities the project has access to water and sanitary sewers.

e. Impact on adjacent land uses and surrounding neighborhoods (rezoning)

- RESPONSE _ The amendment does not change the existing non-residential to residential west boundary interface. Hence no unanticipated impacts are expected at the subject location.

f Proximity to other similar centers (rezoning);

- RESPONSE _ The property adjoins commercial facilities and uses, including restaurants, business, and personal services.

g. Environmental considerations (rezoning and development orders).

- RESPONSE _ The property is comprised of improved commercial uses absent of critical or sensitive environmental site characteristics.

POLICY 6.1.3: *Commercial developments requiring rezoning and meeting Development of County Impact (DCI) thresholds must be developed as commercial planned developments designed to arrange uses in an integrated and cohesive unit in order to:*

- Provide visual harmony and screening.



- RESPONSE _ The mixed-use overlay allows for continued ROW and Adjacent Property Buffering.
- *Reduce dependence on the automobile.*
 - RESPONSE _ The mixed-use overlay may end up reducing automobile dependence depending on the final re-development of the property.
- *Promote pedestrian movement within the development.*
 - RESPONSE _ The mixed-use overlay may end up promoting internal pedestrian movement depending on if the property is re-developed as a uniform project; code required sidewalks will promote pedestrian traffic based on the final re-development plan.
- *Utilize joint parking, access and loading facilities.*
 - RESPONSE _ The mixed-use overlay may end up promoting joint parking, access and loading depending on if the property is re-developed as a uniform project.
- *Avoid negative impacts on surrounding land uses and traffic circulation.*
 - RESPONSE _ The mixed-use overlay amendment does not create new negative impacts on the surrounding land uses and circulation due to the underlying land use and zoning remain the same with or without the mixed use overlay.
- *Protect natural resources;*
 - RESPONSE _ The property is comprised of improved commercial uses absent of critical or sensitive environmental site characteristic. The overlay amendment does not impact natural resources.
- *Provide necessary services and facilities where they are inadequate to serve the proposed use.*
 - RESPONSE _ As documented by Lee County Utilities the project has access to water and sanitary sewers, along with fire and other public safety services.

POLICY 6.1.4: *Commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public services and facilities.*

- RESPONSE _ The mixed-use overlay amendment does not present new and/or unanticipated compatibility and public services and facilities impacts on surrounding land uses. This is because the underlying land use and zoning remain the same and, that the property's minimum size eliminates potential unanticipated impacts.

POLICY 6.1.5: *The land development regulations will require that commercial development be designed to protect the traffic-carrying capacity of roads and streets. Methods to achieve this include but are not limited to frontage roads; clustering of activities; limiting access; sharing access; setbacks from existing rights-of-way; acceleration, deceleration and right-turn-only lanes; and, signalization and intersection improvements. (Ordinance No. 94-30, 00-22)*



- **RESPONSE** _ The mixed-use overlay amendment does not create new and/or unanticipated McGregor Blvd. traffic circulation because the underlying land use and zoning remain the same and, that the properties small size reduces noticeable traffic impacts.

POLICY 6.1.6: *The land development regulations will require that commercial development provide adequate and appropriate landscaping, open space, and buffering. Such development is encouraged to be architecturally designed so as to enhance the appearance of structures and parking areas and blend with the character of existing or planned surrounding land uses.*

- **RESPONSE** _ Any project that occurs via the mixed-use overlay amendment will meet all LDC rules and regulations.

POLICY 6.1.7: *Prohibit commercial developments from locating in such a way as to open new areas to premature, scattered, or strip development; but permit commercial development to infill on small parcels in areas where existing commercial development would make a residential use clearly unreasonable.*

- **RESPONSE** _ The mixed-use overlay amendment for an existing commercial property does not open up new and premature, scattered strip development.

POLICY 6.1.8: *Prohibit commercial development from locating near existing or planned school areas in such a way as to jeopardize the safety of students. (Ord. No. 00-22, 17-13)*

- **RESPONSE** _ The mixed-use overlay amendment is for an existing and developed commercial property that is not located near existing or planned schools.

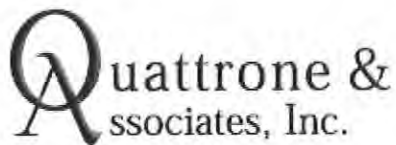
POLICY 6.1.11: *Encourage the upgrading or revitalization of deteriorating commercial areas but prohibit the expansion or replacement of commercial uses which are inappropriately located or that have an adverse impact on surrounding residential and non-residential uses. Such revitalization includes but is not limited to: store-front renewal, sign control, and the provision of common parking areas and consolidated access. (Ord. No. 94-30, 17-13, 21-09)*

- **RESPONSE** _ The mixed-use overlay amendment's development standards encourages the upgrading of the property; the small size of the property serves to avoid an inappropriate use potential.

OBJECTIVE 11.2: MIXED USE OVERLAY. *The county will maintain an overlay in the future land use map series identifying locations appropriate for mixed use located in proximity to: public transit routes; education facilities; recreation opportunities; and, existing residential, shopping and employment centers. Mixed Use, Traditional Neighborhood, and Transit Oriented development patterns are encouraged and preferred within the Mixed-Use Overlay.*

POLICY 11.2.1: *The Mixed-Use Overlay identifies locations where mixed-use development will have a positive impact on transportation facilities though increased transit service, internal trip capture, and reduced travel distance. Requests to expand the Mixed-Use Overlay will be evaluated based on all of the following criteria:*

I. Located within the extended pedestrian shed of established transit routes; and,



2. Distinct pedestrian and automobile connections to adjacent uses can be achieved without accessing arterial roadways; and,
3. Located within the Intensive Development, Central Urban, or Urban Community future land use categories; and,
4. Availability of adequate public facilities and infrastructure.
5. Will not intrude into predominately single-family residential neighborhoods.

- **RESPONSE** _ The mixed-use overlay amendment advances and is consistent with 11.2.1. Lee Tran Routes 30 run along College Parkway, with an existing bus stop #10210 @ 0.1 mile to the south. There are existing sidewalks on both sides of McGregor Blvd., and an existing bike lane. The site access has existing access to an arterial roadway. The portion of the site proposed for inclusion in the Mixed-Use Overlay is within the Intensive Development future land use category. The submitted letters of review and recommendation demonstrate that adequate public facilities and infrastructure are available. Being along McGregor Blvd and with less than 300-ft in depth, any new development t project under the Mixed-Use Overlay will not intrude into predominately single-family residential neighborhoods. The subject property and the properties to the north, south and east have existing commercial zoning along the McGregor Blvd. frontage. During the development order review will need to provide “visual harmony and screening; reduce dependence on the automobile; promote pedestrian movement within the development; utilize joint parking, access and loading facilities; avoid negative impacts on surrounding land uses and traffic circulation; protect natural resources. The request is consistent with Policy 11.2.1

POLICY 11.2.2: Development in the Mixed-Use Overlay should accommodate connections to adjacent uses. (Ord. No. 07-15, 17-13)

- **RESPONSE** _ The parcel(s) are currently developed and if redeveloped during the development order review will need to meet all LDC rules and regulations.

POLICY 11.2.3: At the discretion of the Board of County Commissioners, the Mixed-Use Overlay boundary may be extended up to one-quarter mile to accommodate developments located partially within a Mixed-Use Overlay or immediately adjacent to a Mixed-Use Overlay. (Ord. No. 07-15, 17-13)

- **RESPONSE** _ The mixed-use overlay amendment is adjacent to and well within one-quarter mile distance of an existing Mixed Use Overlay boundary.

Conclusion

In conclusion, the proposed Map Amendment is consistent with accepted professional planning principles and practices, is consistent with the intent of the Objective 11.2 Mixed-use Overlay and is consistent with Lee Plan goals, objectives and policies.



McGregor-Mixed Use Overlay

Environmental Analysis

Exhibit M13

The total site area is ± 2 -ac developed and urbanized land that abuts the arterial road McGregor Blvd and commercial and residential uses. The property may be classified as FLUCCS 1822 High Intensity Urban, which includes residential, commercial and institutional uses. The map overlay amendment does not change the FLUCCS category. The requested Map Series are identified below.

FLUCCS 1822 100% Site Area

The property does not have any potential to contain plant and animal species listed by federal, state or local agencies as endangered, threatened or species of special concern.



Ex. M13 Environmental Analysis _ FLUCCS



Ex. M13 Environmental Analysis _ Soils Source _ Lee Co. LEESPINS

Immokalee_Urban Complex - 36



Ex. M13 Environmental Analysis _ Topography Source _ Lee Co. LEESPINS

Six -ft to Eight - ft range



Ex. M13 Environmental Analysis _ 100-yr. Floodplain Source _ Lee Co. LEESPINS

Approx. 50% Zone X and 50% AE 8



Ex. M13 Environmental Analysis _ WETLANDS RECHARGE UPLANDS Map _ Sources: Lee Co. LEESPINS

The property is a FLUCCS 1822 Urban Land w./an absence of aquifer recharge areas, wetlands and sensitive uplands.



McGregor-Mixed Use Overlay

Historical Resources Impact Analysis
Exhibit M14

Florida Master Site File

Per the Florida Master Site File, there are not any previously recorded cultural or historic resources located within 150 feet of the subject property.

Archaeological Sensitivity Map

The subject property is not identified as being archaeologically sensitive (sensitivity Level 1 or 2) on the Lee County Archaeological Sensitivity Map, dated December 2014. See Attached Map

Sharon Hrabak

From: Frederick, Cassandra A. <Cassandra.Frederick@dos.myflorida.com>
Sent: Wednesday, May 24, 2023 9:06 AM
To: Sharon Hrabak
Subject: RE: McGregor Mixed Use Overlay
Attachments: ResourceRoster.pdf; Map.pdf



EXTERNAL SENDER

Good morning Sharon,

I have searched the properties you listed and have attached the results here. There is one previously recorded resource on/near each of the properties listed. Please let me know if you have any questions or need anything else. Have a great day!

Kind regards,

CASSIE FREDERICK

Historic Data Analyst | Florida Master Site File | Bureau of Historic Preservation | Division of Historical Resources |
Florida Department of State | 500 South Bronough Street | Tallahassee, Florida
32399 | 850.245.6424 | 1.800.847.7278 | Fax: 850.245. 6439 | flheritage.com



This record search is for informational purposes only and does NOT constitute a project review. This search only identifies resources recorded at the Florida Master Site File and does NOT provide project approval from the Division of Historical Resources. Contact the Compliance and Review Section of the Division of Historical Resources at 850-245-6333 for project review information.

From: Tobias, Jennifer L. <Jennifer.Tobias@dos.myflorida.com>
Sent: Wednesday, May 24, 2023 8:38 AM
To: Sharon Hrabak <Sharon@qainc.net>
Cc: FMSFILE <FMSFILE@dos.myflorida.com>
Subject: RE: McGregor Mixed Use Overlay

Hi, Sharon. The Florida Master Site File will be happy to provide you with a list of historical resources located on these parcels. I have copied them on this email to get things started.

Thank you,

Jennifer Tobias

Historic Sites Specialist | Bureau of Historic Preservation | Division of Historical Resources |
Florida Department of State | 500 South Bronough Street | Tallahassee, Florida 32399 | flheritage.com



From: Sharon Hrabak <Sharon@gainc.net>
Sent: Wednesday, May 24, 2023 7:37 AM
To: Tobias, Jennifer L. <Jennifer.Tobias@dos.myflorida.com>
Subject: McGregor Mixed Use Overlay

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

Jennifer,

Currently our firm will be submitting Comp Plan Amendment within Lee county. We will need to provide correspondence with the Bureau of Historic Preservation regarding the search of the Florida Master Site File. The properties are located. 12690, 12670, 12680 McGregor Blvd; Fort Myers, FL 33919, with strap # 16-45-24-00-00007.0060, 16-45-24-00-00005.0000, 16-45-24-00-00006.0010

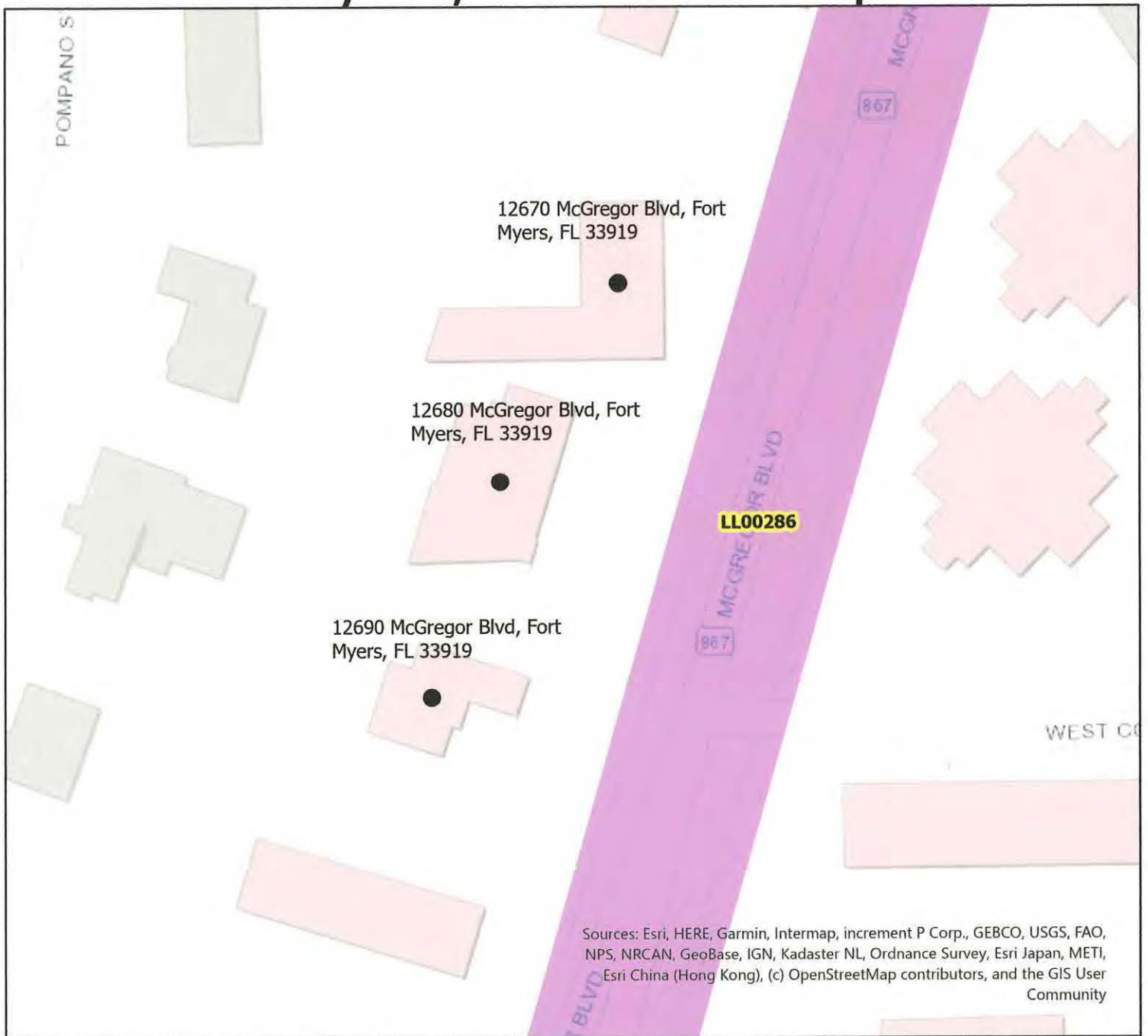
Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net

12670,12680,12690 McGregor Blvd Fort Myers, FL 33919 Map



- FloridaStructures
- FloridaSites
- HistoricalBridges
- ResourceGroups
- NationalRegister
- HistoricalCemeteries

0 0.01 0.01 0.03 Miles





AR=0
SS=0
CM=0
RG=1
BR=0
Total=1

Cultural Resource Roster

SiteID	Type	Site Name	Address	Additional Info	SHPO Eval	NR Status
LL00286	RG	MCGREGOR BLVD	Fort Myers	Linear Resource - 1 Contrib Resources	Eligible	



McGregor-Mixed-Use Overlay

Existing and Future Public Facilities Impacts Analysis
Exhibit M15

Potable Water and Sanitary Sewer

The subject property is within Lee County Utilities (LCU)

The subject property is within the Lee County Utilities (LCU) potable water franchise area as depicted on Maps 4A and 4B of the Lee Plan. LCU owns and maintains existing potable water and wastewater lines along the adjacent streets. Corkscrew Water Treatment Plant will provide potable water service to the proposed development while City of Fort Myers South Reclamation Facility will provide wastewater service.

Lee County utilities has sufficient capacity to provide water and sewer service for redevelopment of the existing Commercial properties and will remain in Urban Community land use. The proposed addition to Mixed-Use Overlay has similar uses that could be developed, the difference in the expected water and sewer demand would be only due to the addition of the square footage summarized below.

Existing Development: $\pm 8,000$ SF commercial:

478 gallon used month/ 30 days= 16 GPD

Proposed Development Potential: 33,658 SF commercial:

$(\pm 33,658 \times 10/100) = 3,365$ GPD

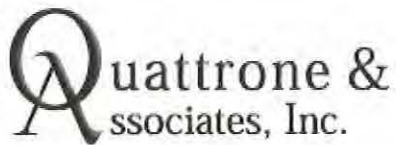
According to the 2022 Lee County Concurrency Report, LCU's interconnected water distribution system is permitted with a capacity of 52.9 million gallons per day (MGPO) and is projected planned future to operate at 54.3 MGPO. Therefore, there is sufficient capacity within the existing water distribution system to serve the project at build-out.

According to the 2022 Lee County Concurrency Report LCU's / CFM combined wastewater Water Reclamation Facility is permitted with a capacity of 43.4 million gallons per day (MGPD) and is projected to operate at 49.4, by 2023/2024. Therefore, there is sufficient capacity within the existing plant to serve the increase in demand to the wastewater system from the project at build-out.

Surface Water/Drainage Basins

The existing site consists of developed commercial parcels. There is an existing stormwater swale along ROW of McGregor Blvd. The existing stormwater runoff sheet flows generally to the south into Coastal flow way and will continue to do so.

The subject site is currently in a FEMA Zone AE-EL8 per map panel 12071C0416G, which has an established base flood elevation of 9' NAVD.



The Lee Plan Policy 95.1.3 establishes regulatory standards and non-regulatory standards for public facilities and states as follows:

Stormwater Management Facilities LOS: The existing surface water management system in the unincorporated areas of the county will be sufficient to prevent the flooding of designated evacuation routes (see Map 3J) from the 25-year, 3-day storm event (rainfall) for more than 24 hours.

The 2022 Concurrency Report confirms that none of the evacuation routes in the studied watersheds are anticipated to be flooded for more than 24 hours, and that new developments that receive approval from the South Florida Water Management District and comply with standards in Florida Administrative Code Chapter 62- 330 will be deemed concurrent with the Lee Plan's surface water management LOS. The McGregor-Mixed Use Overlay project will receive approval for an Environmental Resource Permit from the South Florida Water Management District and, as such, will be consistent with the surface water management Level of Service standards of the Lee Plan.

The amendment to extend the Mixed-Use Overlay will not change the developable area. The proposed development will include a surface water management system which will provide both stormwater attenuation and water quality treatment. The surface water management system will include controlled discharge into the Hendry Creek system, meeting all requirements of South Florida Water Management District and Lee County at the time of development order.

The change in land use will have no impacts on the design or function of the surface water management system, drainage basin, discharge rates, nutrient loadings, water quality or flood zone.

Parks, Recreation and Open Space

Regional Parks:

The Lee County Public Facilities Level of Service and Concurrency Report 2022 indicates a total of 7,066 acres of existing regional parks operated by county, local, state, and federal governments within Lee County. The capacity required to meet The Lee Plan Policy 95.1.3 non-regulatory level of-service standard of 6 acres per 1,000 total seasonal county population is equal to:

$$923,000 \text{ [seasonal county population]} \times (6 \text{ acres}/1,000 \text{ population}) = 5,538 \text{ acres}$$

The Bureau of Economic and Business Research (BEBR) Projections of Florida Population by County, 2020-2045, with Estimates for 2019 provided a high projected population of 997,000 for Lee County in 2030. This would require 5,982 acres to meet the level of service standard. There is more than adequate existing Regional Park acreage in Lee County to meet the needs of the project.



Community Parks

The Lee County Public Facilities Level of Service and Concurrency Report 2022 indicates a total of 670.1 acres of existing community parks operated by Lee County or jointly operated with The School District of Lee County within Lee County. The capacity required to meet the Lee Plan Policy 95.1.3 non-regulatory level of-service standard of 0.8 acres per 1,000 total permanent county population is equal to:

$384,000 \text{ [permanent unincorporated county population]} \times (0.8 \text{ ac/1,000 population}) = 307 \text{ ac}$

The existing inventory of community parks within Lee County meets the community park level of-service standard in the County for the year 2020 and will continue to do so at least through the next five years. The level of service standard increased from 285 acres in 2019 to 295 acres in 2021 which represents here is more than adequate existing Community Park acreage in Lee County to meet the needs of the project.

Public Schools

The subject property is within the South Zone, Lee Plan Policy 95.1.3 provides that Public Schools Facilities LOS standards for Elementary Schools, Middle Schools, High Schools and Special Purpose Facilities is based upon Permanent Florida Inventory School Houses (FISH) capacity and is 100% as adjusted by the School Board annually to account for measurable programmatic changes.

According to the Lee County Public Facilities Level of Service and Concurrency Report 2022, the South Zone showed an available capacity of 638 elementary school seats, 337 middle school seats, and 347 high school seats. The letter of review and recommendation has been requested from the School District of Lee County.



Engineers, Planners & Development Consultants

4301 Veronica Shoemaker Boulevard, Fort Myers, FL 33912
239.936.5222 | QAINC.NET | f 239.936.7228

CHILLED AUTO AIR

MINOR TRAFFIC STUDY

July 14, 2023

Prepared By:
Paul M. Torocco, P.E.
Fl. PE#93442

QAI Project # 221004



Chilled Auto Air

STRAP#: 16-45-24-00-00005.0000, 16-45-24-00-00006.0010 & 16-45-24-00-00007.0060
12690 McGregor Blvd.

The purpose of this Minor Traffic Study is to analyze the potential traffic impacts of Comp Plan Amendment.

EXISTING CONDITIONS

OVERVIEW

The proposed parcels that are to change land uses are located on the west side of McGregor Blvd approximately 600 ft north of College Pkwy. Exhibit T-01 displays the location of the sites along with their current use.

ROADWAY INFORMATION

McGregor Blvd is a two-lane undivided arterial adjacent to the proposed development. McGregor Blvd has a posted speed limit of 45 mph and is under the jurisdiction of the Florida Department of Transportation.

Utilizing FDOT's Florida Traffic Online reports, the existing peak hour traffic volume was calculated by multiplying the AADT value by the K and D factors. The current peak hour peak directional volume was found to be 735 vehicles. Currently, the roadway is operating at LOS C

PROPOSED AMMENDMENT

The proposed amendment will allow the commercial zoning to have the option to develop up to 14 units per acre. The existing commercial uses are expected to remain at the same intensity, meaning the highest additional projected traffic would be a result of the residential units. The total subject site is approximately 1.94 acres which will expected to be fully built out for a conservative approach. The likely use of residential will be Multifamily Housing (Low-Rise) due to area restrictions.

Below is the land use code utilized to calculate the projected trips:

LUC 220 – Multifamily Housing (Low-Rise)

27 Dwelling Units

TRIP GENERATION

The trip generation proposed for the development was determined using OTISS software which references the Institute of Transportation Engineer's (ITE) report, titled *Trip Generation*, 11th Edition.

The LUC 220 Multifamily Housing (Low-Rise) was not within the ITE data ranges for weekday analysis, therefore the average method analysis was used to generate trips. However the AM and PM peak hour were generated utilizing the ITE fitted curve equation.

The table below outlines the anticipated weekday A.M. and P.M. peak hour trip generation for the proposed use as well as weekday analysis, calculated by OTISS.

Land Use	Peak AM		Peak PM		Weekday	
	Entry	Exit	Entry	Exit	Entry	Exit
220 – Multifamily Housing (Low-Rise)	7	24	20	12	91	91

TRIP DISTRIBUTION AND LEVEL OF SERVICE ANALYSIS

For a conservative approach to this Minor Traffic Study, the distribution analyzed all trips utilizing the same roadway. The proposed amendment will not have any adverse impacts on McGregor Blvd. Table 1, demonstrates the LOS analysis, the peak hour, peak direction trips for the subject roadway of the development added to the background traffic.

100 TH HIGHEST HOUR LEVEL OF SERVICE (LOS) CALCULATION			
MCGREGOR BLVD			
PROJECT NAME:	CHILLED AUTO AIR		
ENGINEER:	QUATTRONE & ASSOCIATES, INC.		
DATE:	July 14, 2023		
PROJECT LOCATION:	12690 MCGREGOR BLVD		
100 th HOUR VEHICLES PER HOUR (V.P.H.) Year Rate:	2022		735
LOS EXISTING =			C
100 th HOUR V.P.H. FOR PROJECT =			24
NEW TRIP DISTRIBUTION % = 100%		NEW TRIPS =	24
100 th HOUR V.P.H. ADJUSTED + NEW TRIPS =	735	+	24
			759
LOS WITH PROJECT =			C
LOS TRIP THRESHOLD =	MCGREGOR BLVD	A	0
		B	0
		C	872
		D	924
		E	924

Table 1 LOS Calculations & Analysis

CONCLUSION

There is no change in the Level of Service for McGregor Blvd, based on the 100th highest hour LOS calculations. Therefore, no improvements will be warranted as a result of the amendment.

REFERENCES

- Trip Generation by OTISS Online Traffic Impact Study Software
- Institute of Transportation Engineers Trip Generation, 11th Edition
- Generalized Peak Hour Directional Volumes, Table 7 (FDOT)
- Florida Traffic Online Report (FDOT)

PROJECT AERIAL



AERIAL MAP

EDINBURGH DR.
LOCAL ROAD
COUNTY MAINTAINED
25 MPH SPEED LIMIT

PROPERTY LINE

PROPERTY LINE

SUBJECT PROPERTY

MC GREGOR BLVD.
COUNTY ROAD 125
25 MPH SPEED LIMIT

PUMPING ST.
LOCAL ROAD
COUNTY MAINTAINED
25 MPH SPEED LIMIT

• THIS AERIAL PHOTOGRAPH SHOWS WERE PROVIDED BY
AERIAL PHOTOGRAPHIC CORP. (APC) AND AERIAL PHOTOGRAPHIC CORP.

STRAP #s
16-45-24-00-00007 0000
16-45-24-00-00008 0000
16-45-24-00-00008 0010



PLAN VIEW SCALE

CHILLED AUTO AIR
AERIAL MAP
12680 MCGREGOR BLVD
FORT MYERS, FL 33919

Quattrone & Associates, Inc.

AUTOCAD 2010 PLOT FILE
 FILE PLOT IN 2010
 ...
 SAVED BY: ...
 SAVED ON: 2013
 SHEET
 1

TRIP GENERATION GRAPHS



Land Use: 220

Multifamily Housing (Low-Rise)

Description

Low-rise multifamily housing includes apartments, townhouses, and condominiums located within the same building with at least three other dwelling units and that have two or three floors (levels). Various configurations fit this description, including walkup apartment, mansion apartment, and stacked townhouse.

- A walkup apartment typically is two or three floors in height with dwelling units that are accessed by a single or multiple entrances with stairways and hallways.
- A mansion apartment is a single structure that contains several apartments within what appears to be a single-family dwelling unit.
- A fourplex is a single two-story structure with two matching dwelling units on the ground and second floors. Access to the individual units is typically internal to the structure and provided through a central entry and stairway.
- A stacked townhouse is designed to match the external appearance of a townhouse. But, unlike a townhouse dwelling unit that only shares walls with an adjoining unit, the stacked townhouse units share both floors and walls. Access to the individual units is typically internal to the structure and provided through a central entry and stairway.

Multifamily housing (mid-rise) (Land Use 221), multifamily housing (high-rise) (Land Use 222), affordable housing (Land Use 223), and off-campus student apartment (low-rise) (Land Use 225) are related land uses.

Land Use Subcategory

Data are presented for two subcategories for this land use: (1) not close to rail transit and (2) close to rail transit. A site is considered close to rail transit if the walking distance between the residential site entrance and the closest rail transit station entrance is ½ mile or less.

Additional Data

For the three sites for which both the number of residents and the number of occupied dwelling units were available, there were an average of 2.72 residents per occupied dwelling unit.

For the two sites for which the numbers of both total dwelling units and occupied dwelling units were available, an average of 96.2 percent of the total dwelling units were occupied.

The technical appendices provide supporting information on time-of-day distributions for this land use. The appendices can be accessed through either the ITETripGen web app or the trip

generation resource page on the ITE website (<https://www.ite.org/technical-resources/topics/trip-and-parking-generation/>).

For the three sites for which data were provided for both occupied dwelling units and residents, there was an average of 2.72 residents per occupied dwelling unit.

It is expected that the number of bedrooms and number of residents are likely correlated to the trips generated by a residential site. To assist in future analysis, trip generation studies of all multifamily housing should attempt to obtain information on occupancy rate and on the mix of residential unit sizes (i.e., number of units by number of bedrooms at the site complex).

The sites were surveyed in the 1980s, the 1990s, the 2000s, the 2010s, and the 2020s in British Columbia (CAN), California, Delaware, Florida, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, Minnesota, New Jersey, Ontario (CAN), Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, and Washington.

Source Numbers

188, 204, 237, 300, 305, 306, 320, 321, 357, 390, 412, 525, 530, 579, 583, 638, 864, 866, 896, 901, 903, 904, 936, 939, 944, 946, 947, 948, 963, 964, 966, 967, 1012, 1013, 1014, 1036, 1047, 1056, 1071, 1076

Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

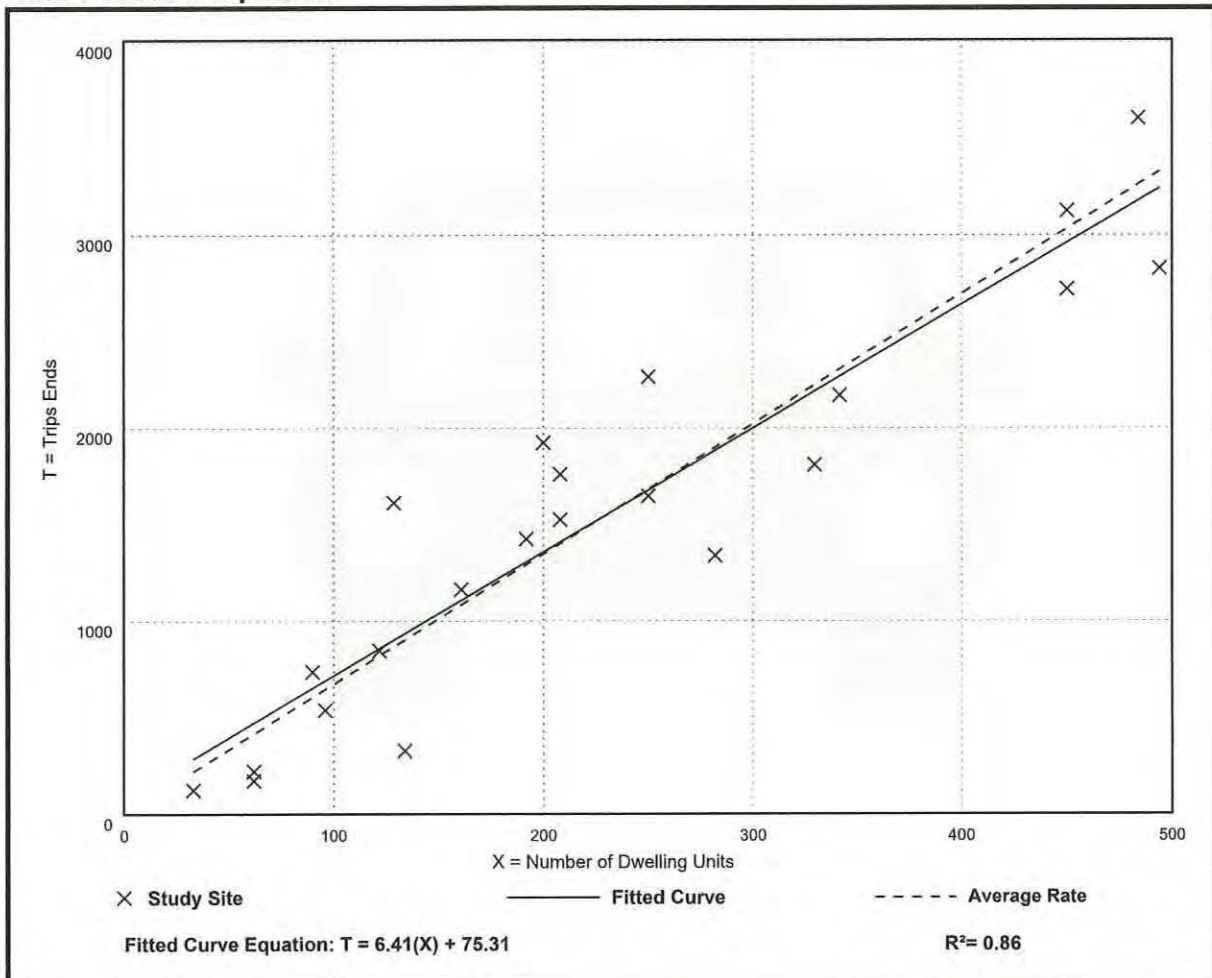
Vehicle Trip Ends vs: Dwelling Units
On a: Weekday

Setting/Location: General Urban/Suburban
Number of Studies: 22
Avg. Num. of Dwelling Units: 229
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
6.74	2.46 - 12.50	1.79

Data Plot and Equation



Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

Vehicle Trip Ends vs: Dwelling Units

On a: Weekday,

Peak Hour of Adjacent Street Traffic,

One Hour Between 7 and 9 a.m.

Setting/Location: General Urban/Suburban

Number of Studies: 49

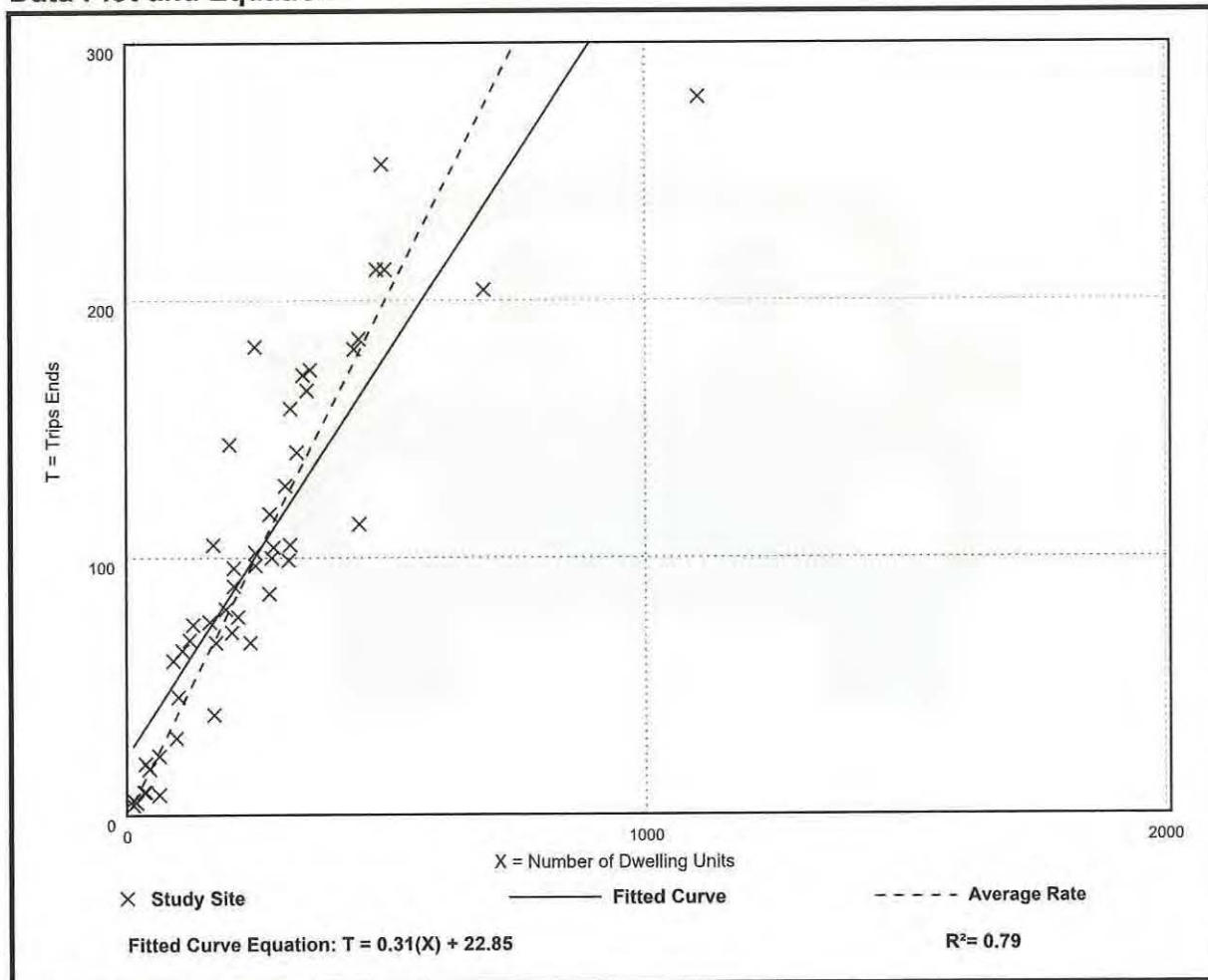
Avg. Num. of Dwelling Units: 249

Directional Distribution: 24% entering, 76% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.40	0.13 - 0.73	0.12

Data Plot and Equation



Multifamily Housing (Low-Rise) Not Close to Rail Transit (220)

Vehicle Trip Ends vs: Dwelling Units

On a: Weekday,

Peak Hour of Adjacent Street Traffic,

One Hour Between 4 and 6 p.m.

Setting/Location: General Urban/Suburban

Number of Studies: 59

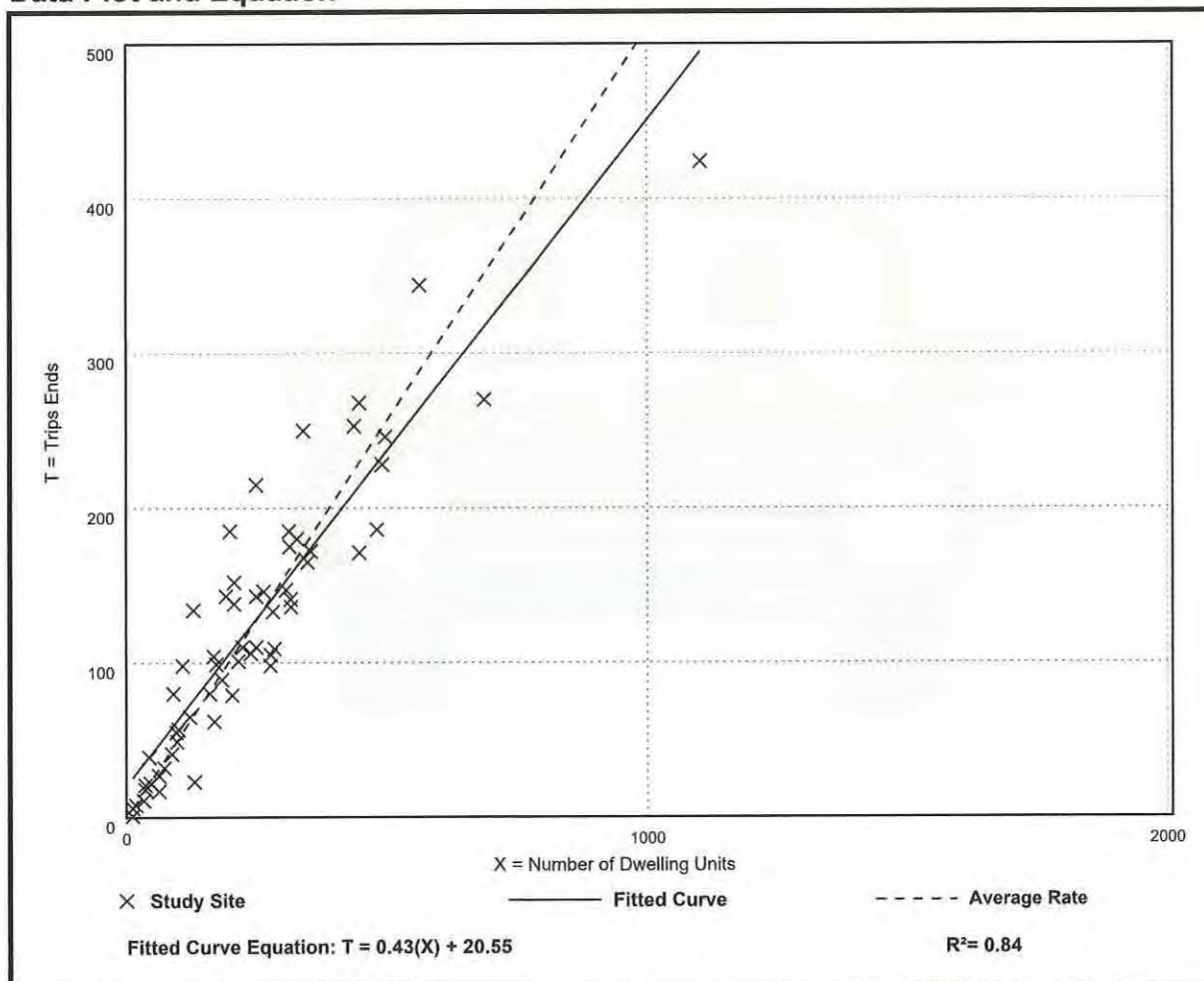
Avg. Num. of Dwelling Units: 241

Directional Distribution: 63% entering, 37% exiting

Vehicle Trip Generation per Dwelling Unit

Average Rate	Range of Rates	Standard Deviation
0.51	0.08 - 1.04	0.15

Data Plot and Equation



TRAFFIC REPORT



TABLE 7

Generalized **Peak Hour Directional** Volumes for Florida's
Urbanized Areas

January 2020

INTERRUPTED FLOW FACILITIES						UNINTERRUPTED FLOW FACILITIES					
STATE SIGNALIZED ARTERIALS						FREEWAYS					
Class I (40 mph or higher posted speed limit)						Core Urbanized					
Lanes	Median	B	C	D	E	Lanes	B	C	D	E	
1	Undivided	*	830	880	**	2	2,230	3,100	3,740	4,080	
2	Divided	*	1,910	2,000	**	3	3,280	4,570	5,620	6,130	
3	Divided	*	2,940	3,020	**	4	4,310	6,030	7,490	8,170	
4	Divided	*	3,970	4,040	**	5	5,390	7,430	9,370	10,220	
						6	6,380	8,990	11,510	12,760	
Class II (35 mph or slower posted speed limit)						Urbanized					
Lanes	Median	B	C	D	E	Lanes	B	C	D	E	
1	Undivided	*	370	750	800	2	2,270	3,100	3,890	4,230	
2	Divided	*	730	1,630	1,700	3	3,410	4,650	5,780	6,340	
3	Divided	*	1,170	2,520	2,560	4	4,550	6,200	7,680	8,460	
4	Divided	*	1,610	3,390	3,420	5	5,690	7,760	9,520	10,570	
Non-State Signalized Roadway Adjustments						Freeway Adjustments					
(Alter corresponding state volumes by the indicated percent.)						Auxiliary Lane + 1,000 Ramp Metering + 5%					
Non-State Signalized Roadways - 10%											
Median & Turn Lane Adjustments						UNINTERRUPTED FLOW HIGHWAYS					
Lanes	Median	Exclusive Left Lanes	Exclusive Right Lanes	Adjustment Factors		Lanes	Median	B	C	D	E
1	Divided	Yes	No	+5%		1	Undivided	580	890	1,200	1,610
1	Undivided	No	No	-20%		2	Divided	1,800	2,600	3,280	3,730
Multi	Undivided	Yes	No	-5%		3	Divided	2,700	3,900	4,920	5,600
Multi	Undivided	No	No	-25%		Uninterrupted Flow Highway Adjustments					
-	-	-	Yes	+5%		Lanes	Median	Exclusive left lanes	Adjustment factors		
One-Way Facility Adjustment						1	Divided	Yes	+5%		
Multiply the corresponding directional volumes in this table by 1.2						Multi	Undivided	Yes	-5%		
						Multi	Undivided	No	-25%		
BICYCLE MODE²						¹ Values shown are presented as peak hour directional volumes for levels of service and are for the automobile/truck modes unless specifically stated. This table does not constitute a standard and should be used only for general planning applications. The computer models from which this table is derived should be used for more specific planning applications. The table and deriving computer models should not be used for corridor or intersection design, where more refined techniques exist. Calculations are based on planning applications of the HCM and the Transit Capacity and Quality of Service Manual.					
(Multiply vehicle volumes shown below by number of directional roadway lanes to determine two-way maximum service volumes.)						² Level of service for the bicycle and pedestrian modes in this table is based on number of vehicles, not number of bicyclists or pedestrians using the facility.					
Paved Shoulder/Bicycle Lane Coverage						³ Buses per hour shown are only for the peak hour in the single direction of the higher traffic flow.					
	B	C	D	E		* Cannot be achieved using table input value defaults.					
0-49%	*	150	390	1,000		** Not applicable for that level of service letter grade. For the automobile mode, volumes greater than level of service D become F because intersection capacities have been reached. For the bicycle mode, the level of service letter grade (including F) is not achievable because there is no maximum vehicle volume threshold using table input value defaults.					
50-84%	110	340	1,000	>1,000		Source:					
85-100%	470	1,000	>1,000	**		Florida Department of Transportation					
PEDESTRIAN MODE²						Systems Implementation Office					
(Multiply vehicle volumes shown below by number of directional roadway lanes to determine two-way maximum service volumes.)						https://www.fdot.gov/planning/systems/					
Sidewalk Coverage	B	C	D	E							
0-49%	*	*	140	480							
50-84%	*	80	440	800							
85-100%	200	540	880	>1,000							
BUS MODE (Scheduled Fixed Route)³											
(Buses in peak hour in peak direction)											
Sidewalk Coverage	B	C	D	E							
0-84%	> 5	≥ 4	≥ 3	≥ 2							
85-100%	> 4	≥ 3	≥ 2	≥ 1							

FLORIDA DEPARTMENT OF TRANSPORTATION
TRANSPORTATION STATISTICS OFFICE
2022 HISTORICAL AADT REPORT

COUNTY: 12 - LEE

SITE: 5001 - SR 867, N OF SHADDELEE LN/S OF WINKLER LC331

YEAR	AADT	DIRECTION 1		DIRECTION 2		*K FACTOR	D FACTOR	T FACTOR
2022	15200 F	N	7700	S	7500	9.00	53.70	5.20
2021	15200 C	N	7700	S	7500	9.00	53.10	5.20
2020	15300 C	N	7500	S	7800	9.00	52.80	4.40
2019	16500 C	N	8100	S	8400	9.00	53.30	4.10
2018	16400 C	N	8300	S	8100	9.00	53.30	4.70
2017	15900 C	N	8000	S	7900	9.00	53.20	4.30
2016	16200 C	N	8300	S	7900	9.00	55.90	3.00
2015	16000 C	N	8200	S	7800	9.00	54.40	3.60
2014	16800 F	N	8700	S	8100	9.00	54.90	3.30
2013	16800 C	N	8700	S	8100	9.00	55.20	3.30
2012	16300 C	N	8400	S	7900	9.00	55.50	3.80
2011	17900 F	N	9200	S	8700	9.00	54.70	2.80
2010	17500 C	N	9000	S	8500	9.40	55.43	2.80
2009	16600 C	N	8500	S	8100	9.68	55.28	3.10
2008	15900 C	N	8100	S	7800	9.74	55.49	3.80
2007	17600 C	N	8800	S	8800	12.15	51.63	4.10

AADT FLAGS: C = COMPUTED; E = MANUAL ESTIMATE; F = FIRST YEAR ESTIMATE
S = SECOND YEAR ESTIMATE; T = THIRD YEAR ESTIMATE; R = FOURTH YEAR ESTIMATE
V = FIFTH YEAR ESTIMATE; 6 = SIXTH YEAR ESTIMATE; X = UNKNOWN
*K FACTOR: STARTING WITH YEAR 2011 IS STANDARDK, PRIOR YEARS ARE K30 VALUES

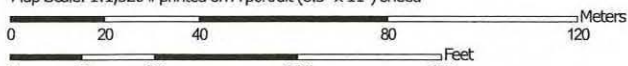
Soil Map—Lee County, Florida



81° 54' 40" W



Map Scale: 1:1,520 if printed on A portrait (8.5" x 11") sheet.



Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 17N WGS84



Natural Resources
Conservation Service

Web Soil Survey
National Cooperative Soil Survey

7/25/2023
Page 1 of 3

MAP LEGEND

Area of Interest (AOI)		Spoil Area
Area of Interest (AOI)		Stony Spot
Soils		Very Stony Spot
Soil Map Unit Polygons		Wet Spot
Soil Map Unit Lines		Other
Soil Map Unit Points		Special Line Features
Special Point Features		
Blowout	Water Features	Streams and Canals
Borrow Pit	Transportation	
Clay Spot	Rails	
Closed Depression	Interstate Highways	
Gravel Pit	US Routes	
Gravelly Spot	Major Roads	
Landfill	Local Roads	
Lava Flow	Background	
Marsh or swamp	Aerial Photography	
Mine or Quarry		
Miscellaneous Water		
Perennial Water		
Rock Outcrop		
Saline Spot		
Sandy Spot		
Severely Eroded Spot		
Sinkhole		
Slide or Slip		
Sodic Spot		

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service

Web Soil Survey URL:

Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Lee County, Florida

Survey Area Data: Version 20, Sep 1, 2022

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Nov 14, 2021—Nov 23, 2021

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.



Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
36	Immokalee sand-Urban land complex, 0 to 2 percent slopes	8.1	67.7%
59	Urban land, 0 to 2 percent slopes	3.9	32.3%
Totals for Area of Interest		11.9	100.0%

Sharon Hrabak

From: Sharon Hrabak
Sent: Friday, May 19, 2023 11:34 AM
To: fireprevention@ionafire.com
Subject: McGregor
Attachments: Letter of Availability - Iona McGregor Department.pdf; Location Map.pdf

To Whom it May Concern,

We will be proposing a Comprehensive Amendment to change the future land use and as part of the submittal we need to provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities. Please see attached Letter of request as well as the Location Map for the properties that would be included with our proposal.

Please feel free to reach out if you have any questions.

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@qainc.net | www.qainc.net



Engineers, Planners & Development Consultants

4301 Veronica Shoemaker Blvd. Fort Myers, FL
239.936.5222 | QA@qainc.net | f 239.936.7228

May 16, 2023

Seth Comer, Chief
Iona McGregor Fire Department
6061 South Pointe Blvd.
Fort Myers, FL 33919

Re: Request for Letter of Service Availability
McGregor Blvd
Comprehensive Plan Amendment
Strap # 16-45-24-00-00007.0060, 16-45-24-00-00005.0000, 16-45-24-00-00006.0010

Dear Chief Comer:

We are seeking an amendment to the Lee County Comprehensive ± 1.93 acres to the Mixed-Use Overlay. The application is intended to extend the Mixed-Use Overlay Boundary on the west of McGregor Blvd. and North of College Parkway.

The primary intent of the amendment is to accommodate redevelopment of the property. The current land uses of Intensive Development encourage mixed use of high density residential and commercial development. Although the proposed land use would be slightly more intensive from a development, traffic, utility and public service needs standpoint, there is adequate infrastructure to serve the project.

The application requires us to provide a Letter of Service Availability from all agencies determining the adequacy/provision of existing/proposed support facilities. If you could please provide us with a letter of availability for services to the referenced parcels at your earliest convenience, we would greatly appreciate it.

If you have any questions, or require additional information, please do not hesitate to contact me at 239-936-5222 or sharon@qainc.net

Sincerely,
QUATTRONE & ASSOCIATES, INC.

Sharon Hrabak
Permitting Manager



IONA MCGREGOR FIRE DISTRICT

6061 SOUTH POINTE BLVD

FORT MYERS, FL 33919

MAIN OFFICE: (239) 433-0660

FIRE PREVENTION OFFICE: (239) 425-9336

www.ionafire.com

July 26, 2023

Quattrone & Associates, Inc.
Sharon Hrabak, Permitting Manager
4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916

Re: Letter of Service Availability – McGregor Blvd Comprehensive Plan Amendment
Strap # 16-45-24-00-00007.0060, 16-45-24-00-00005.0000, 16-45-24-00-00006.0010

Ms. Hrabak,

Our office is in receipt of your request for a Letter of Service Availability for the above-mentioned parcels, totaling 33,628ft² maximum commercial square footage.

Iona McGregor Fire District is the primary fire protection rescue service agency responsible for coverage at the location you have provided. Because we currently serve this area and have a sufficient response data sample, we evaluated response times in this vicinity to simulate the anticipated demand and response.

The primary responding fire protection and rescue service for this location is IMFD Station #74, located 1.4 miles southeast of the property.

It is our opinion that the fire protection and rescue service availability for the proposed development of this property is adequate at this time. Should the plans change, a new analysis of this impact would be required.

Please contact our office if we can be of further assistance.

Sincerely,

Jackielou Mozes
Fire Marshal

Sharon Hrabak

From: Sharon Hrabak
Sent: Friday, May 19, 2023 11:12 AM
To: Abes, Benjamin
Subject: McGregor Mixed Use
Attachments: Location Map.pdf; Letter of Availability - Lee County Public Safety.pdf

Ben,

We will be proposing a Comprehensive Amendment to change the future land use and as part of the submittal we need to provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities. Please see attached Letter of request as well as the Location Map for the properties that would be included with our proposal.

Please feel free to reach out if you have any questions.

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net



Engineers, Planners & Development Consultants
4301 Veronica Shoemaker Blvd. Fort Myers, FL
239.936.5222 | QA@QAINC.net | f 239.936.7228

May 16, 2023

Mr. Benjamin Abes, Public Safety Director
Lee County Department of Public Safety
P.O. Box 398
Fort Myers, FL 33902
Benjamin.Abes@leegov.com

Re: Request for Letter of Service Availability
McGregor Blvd
Comprehensive Plan Amendment
Strap # 16-45-24-00-00007.0060, 16-45-24-00-00005.0000, 16-45-24-00-00006.0010

Dear Mr. Abes,

We are seeking an amendment to the Lee County Comprehensive ± 1.93 acres to the Mixed-Use Overlay. The application is intended to extend the Mixed-Use Overlay Boundary on the west of McGregor Blvd. and North of College Parkway.

The primary intent of the amendment is to accommodate redevelopment of the property. The current land uses of Intensive Development encourage mixed use of high density residential and commercial development. Although the proposed land use would be slightly more intensive from a development, traffic, utility and public service needs standpoint, there is adequate infrastructure to serve the project.

The application requires us to provide a Letter of Service Availability from all agencies determining the adequacy/provision of existing/proposed support facilities. If you could please provide us with a letter of availability for services to the referenced parcels at your earliest convenience, we would greatly appreciate it.

If you have any questions, or require additional information, please do not hesitate to contact me at 239-936-5222 or sharon@qainc.net

Sincerely,
QUATTRONE & ASSOCIATES, INC.

Sharon Hrabak
Permitting Manager



Lee County
Southwest Florida

Board of County Commissioners

Kevin Ruane
District One

Cecil L. Pendergrass
District Two

Ray Sandelli
District Three

Brian Hamman
District Four

Mike Greenwell
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
County Hearing
Examiner

May 21, 2023

Sharon Hrabak
Quattrone & Associates, Inc.
4301 Veronica Shoemaker Blvd.
Fort Myers, FL 33901

Re: Letter of Service Availability – McGregor/Edinburgh

Ms. Hrabak,

I am in receipt of your letter requesting a Letter of Service Availability for a Comprehensive Plan Amendment. This amendment would extend the mixed use overlay west of McGregor Boulevard. The property bears STRAP 16-45-24-00-00007.0060, 16-45-24-00-00005.0000, and 16-45-24-00-00006.0010.

Lee County Emergency Medical Services is the primary EMS transport agency responsible for coverage at the location you have provided. There are two ambulances located 0.8 miles southeast. There are two other locations within five miles of the property.

It is our opinion that the EMS service availability for the proposed development of this property is adequate at this time. Should the plans change, a new analysis of this impact would be required.

Sincerely,

Benjamin Abes
Director, Public Safety

Sharon Hrabak

From: Sharon Hrabak
Sent: Friday, May 19, 2023 11:30 AM
To: Nelson, Stanley
Subject: McGregor Mixed Use
Attachments: Location Map.pdf; Letter of Availability - Lee County Sheriff's Office.pdf

Stan,

We will be proposing a Comprehensive Amendment to change the future land use and as part of the submittal we need to provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities. Please see attached Letter of request as well as the Geo Map for the properties that would be included with our proposal.

Please feel free to reach out if you have any questions.

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net



Engineers, Planners & Development Consultants

4301 Veronica Shoemaker Blvd. Fort Myers, FL
239.936.5222 | QAINC.net | f 239.936.7228

May 16, 2023

Stan Nelson, Director of Planning & Research
Patrol Special Operations
Lee County Office of the Sherriff
14750 Six Mile Cypress Parkway
Fort Myers, FL 33912
SNelson@sheriffleefl.org

Re: Request for Letter of Service Availability
McGregor Blvd
Comprehensive Plan Amendment
Strap # 16-45-24-00-00007.0060, 16-45-24-00-00005.0000, 16-45-24-00-00006.0010

Dear Major Chris Reeves,

We are seeking an amendment to the Lee County Comprehensive ± 1.93 acres to the Mixed-Use Overlay. The application is intended to extend the Mixed-Use Overlay Boundary on the west of McGregor Blvd. and North of College Parkway.

The primary intent of the amendment is to accommodate redevelopment of the property. The current land uses of Intensive Development encourage mixed use of high density residential and commercial development. Although the proposed land use would be slightly more intensive from a development, traffic, utility and public service needs standpoint, there is adequate infrastructure to serve the project.

The application requires us to provide a Letter of Service Availability from all agencies determining the adequacy/provision of existing/proposed support facilities. If you could please provide us with a letter of availability for services to the referenced parcels at your earliest convenience, we would greatly appreciate it.

If you have any questions, or require additional information, please do not hesitate to contact me at 239-936-5222 or sharon@gainc.net

Sincerely,
QUATTRONE & ASSOCIATES, INC.

Sharon Hrabak
Permitting Manager

Carmine Marceno
Sheriff



"Proud to Serve"

State of Florida
County of Lee

May 22, 2023

Sharon Hrabak
Quattrone & Associates, Inc.
4301 Veronica Shoemaker Blvd.
Fort Myers, FL 33916

Ms. Hrabak,

The Lee County Sheriff's Office has reviewed your Lee County Comprehensive Plan amendment request to the Mixed-Use Overlay for the following parcels: STRAP # 16-45-24-00-00007.0060, 16-45-24-00-00005.0000, 16-45-24-00-00006.0010)

The request would extend the Mixed Use Overlay Boundary to the identified parcels in order to accommodate redevelopment of the property. This Agency evaluated your request solely on its ability to provide law enforcement service to the project. Based on that criterion, the proposed change would not affect our ability to provide law enforcement services to the project and surrounding area.

Law enforcement services will be provided from our West District offices in Fort Myers. At the time of application for a development order or building permit, we request that the applicant provide a Crime Prevention Through Environmental Design (CPTED) report done by the applicant and given to the Lee County Sheriff's Office for review and comment. Please contact Community Response Unit Crime Prevention Practitioner Kim Swanson at (239) 477-1617 with any questions regarding the CPTED study.

Respectfully,


Chris Reeves
Major, Patrol Bureau

94094



"The Lee County Sheriff's Office is an Equal Opportunity Employer"
14750 Six Mile Cypress Parkway • Fort Myers, Florida 33912-4406 • (239) 477-1000

Sharon Hrabak

From: Sharon Hrabak
Sent: Friday, May 19, 2023 11:28 AM
To: BKantor@leegov.com
Subject: McGregor Mixed Use
Attachments: Letter of Availability - Lee County Solid Waste.pdf; Location Map.pdf

Brigitte,

We will be proposing a Comprehensive Amendment to change the future land use and as part of the submittal we need to provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities. Please see attached Letter of request as well as the Geo Map for the properties that would be included with our proposal.

Please feel free to reach out if you have any questions.

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net



Engineers, Planners & Development Consultants
4301 Veronica Shoemaker Blvd. Fort Myers, FL
239.936.5222 | QA@qainc.net | f 239.936.7228

May 16, 2023

Brigitte Kantor, Public Utilities Manager
Lee County Solid Waste Division
6431 Topaz Court
Fort Myers, FL 33966
BKantor@leegov.com

Re: Request for Letter of Service Availability
McGregor Blvd
Comprehensive Plan Amendment
Strap # 16-45-24-00-00007.0060, 16-45-24-00-00005.0000, 16-45-24-00-00006.0010

Dear Ms. Kantor:

We are seeking an amendment to the Lee County Comprehensive ± 1.93 acres to the Mixed-Use Overlay. The application is intended to extend the Mixed-Use Overlay Boundary on the west of McGregor Blvd. and North of College Parkway.

The primary intent of the amendment is to accommodate redevelopment of the property. The current land uses of Intensive Development encourage mixed use of high density residential and commercial development. Although the proposed land use would be slightly more intensive from a development, traffic, utility and public service needs standpoint, there is adequate infrastructure to serve the project.

The application requires us to provide a Letter of Service Availability from all agencies determining the adequacy/provision of existing/proposed support facilities. If you could please provide us with a letter of availability for services to the referenced parcels at your earliest convenience, we would greatly appreciate it.

If you have any questions, or require additional information, please do not hesitate to contact me at 239-936-5222 or sharon@qainc.net

Sincerely,
QUATTRONE & ASSOCIATES, INC.

Sharon Hrabak
Permitting Manager

Sharon Hrabak

From: Sharon Hrabak
Sent: Monday, July 24, 2023 5:08 PM
To: BKantor@leegov.com
Subject: FW: McGregor Mixed Use
Attachments: Letter of Availability - Lee County Solid Waste.pdf; Location Map.pdf

Brigitte,

Please let us know if you have any questions regarding our request for the LOA.

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net

From: Sharon Hrabak
Sent: Wednesday, July 12, 2023 4:59 PM
To: BKantor@leegov.com
Subject: FW: McGregor Mixed Use

Hello,

We are following up with our request to see if you have any questions?

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net

From: Sharon Hrabak
Sent: Friday, May 19, 2023 11:28 AM
To: BKantor@leegov.com
Subject: McGregor Mixed Use

Brigitte,

We will be proposing a Comprehensive Amendment to change the future land use and as part of the submittal we need to provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities. Please see attached Letter of request as well as the Geo Map for the properties that would be included with our proposal.

Please feel free to reach out if you have any questions.

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net

Sharon Hrabak

From: Sharon Hrabak
Sent: Friday, May 19, 2023 11:26 AM
To: Mnolen@leegov.com
Subject: McGregor Mixed Use
Attachments: Letter of Availability - Lee County Transit.pdf; Location Map.pdf

Margo,

We will be proposing a Comprehensive Amendment to change the future land use and as part of the submittal we need to provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities. Please see attached Letter of request as well as the Geo Map for the properties that would be included with our proposal.

Please feel free to reach out if you have any questions.

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net



Engineers, Planners & Development Consultants

4301 Veronica Shoemaker Blvd. Fort Myers, FL
239.936.5222 | QA@QAINC.net | f 239.936.7228

May 16, 2023

Ms. Margo Nolen, Senior Support Specialist
LeeTran Headquarters
3401 Metro Parkway
Fort Myers, FL 33901
MNolen@leegov.com

Re: Request for Letter of Service Availability
McGregor Blvd
Comprehensive Plan Amendment
Strap # 16-45-24-00-00007.0060, 16-45-24-00-00005.0000, 16-45-24-00-00006.0010

Dear Ms. Nolen,

We are seeking an amendment to the Lee County Comprehensive ± 1.93 acres to the Mixed-Use Overlay. The application is intended to extend the Mixed-Use Overlay Boundary on the west of McGregor Blvd. and North of College Parkway.

The primary intent of the amendment is to accommodate redevelopment of the property. The current land uses of Intensive Development encourage mixed use of high density residential and commercial development. Although the proposed land use would be slightly more intensive from a development, traffic, utility and public service needs standpoint, there is adequate infrastructure to serve the project.

The application requires us to provide a Letter of Service Availability from all agencies determining the adequacy/provision of existing/proposed support facilities. If you could please provide us with a letter of availability for services to the referenced parcels at your earliest convenience, we would greatly appreciate it.

If you have any questions, or require additional information, please do not hesitate to contact me at 239-936-5222 or sharon@qainc.net

Sincerely,
QUATTRONE & ASSOCIATES, INC.

Sharon Hrabak
Permitting Manager



LeeTran Headquarters
Lee County Transit
3401 Metro Parkway
Fort Myers, FL 33901

Kevin Ruane
District One

May 30, 2023

Cecil L. Pendergrass
District Two

Sharon Hrabak
Permitting Manager
QUATTRONE & ASSOCIATES, INC.

Ray Sandelli
District Three

Brian Hamman
District Four

McGregor Blvd
Comprehensive Plan Amendment
Letter of Service Availability Request

Mike Greenwell
District Five

Roger Desjarlais
County Manager

Sharon Hrabak,

Richard Wesch
County Attorney

LeeTran has reviewed your request for service availability regarding a proposed Comprehensive Plan Amendment. After reviewing the site and comparing the location with our existing and planned route locations according to the 2020 Transit Development Plan (TDP), the following has been determined:

Donna Marie Collins
County Hearing Examiner

- Subject area is within one-quarter mile of a fixed-route corridor.
- Closest bus stop, #10210 is within one-quarter mile of the subject parcels.
- The 2021 TDP does identify the need for enhanced or additional transit services in the area.

Proposed future development does currently meet the applicability outlined within Lee County Transit Land Development Code Sec. 10-442 (a)(1) and Sec. 10-296 (4)(a). The developer will be required to connect to and improve transit facilities because planning action does trigger the relevant Development Code.

If transit services have been modified within one-quarter mile of the subject parcels at the time of a DO or LDO type D submittal, necessary improvements will be determined at that time.

Attached is a map of the closest bus stop that serves the subject parcels. If you have any questions or require further information, please do not hesitate to contact me at (239) 533-0340 or cmarinodiaz@leegov.com.

Sincerely,

Clarissa Marino Diaz

Clarissa Marino Diaz,
Transit Service Planner
Phone: (239) 533-0340



Sharon Hrabak

From: Sharon Hrabak
Sent: Friday, May 19, 2023 11:15 AM
To: JacquelineHe@LeeSchools.net
Subject: McGregor Mixed Use
Attachments: Location Map.pdf; Letter of Availability - Lee County School District.pdf

Jacqueline,

We will be proposing a Comprehensive Amendment to change the future land use and as part of the submittal we need to provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities. Please see attached Letter of request as well as the Geo Map for the properties that would be included with our proposal.

Please feel free to reach out if you have any questions.

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net



Engineers, Planners & Development Consultants

4301 Veronica Shoemaker Blvd. Fort Myers, FL
239.936.5222 | QA@QAINC.net | f 239.936.7228

May 16, 2023

Mr. Joel Deguzman
The School District of Lee County
2855 Colonial Boulevard
Fort Myers, Florida 33966
joelsd@leeschools.net

Re: Request for Letter of Service Availability
McGregor Blvd
Comprehensive Plan Amendment
Strap # 16-45-24-00-00007.0060, 16-45-24-00-00005.0000, 16-45-24-00-00006.0010

Dear Mr. Gemelli,

We are seeking an amendment to the Lee County Comprehensive ± 1.93 acres to the Mixed-Use Overlay. The application is intended to extend the Mixed-Use Overlay Boundary on the west of McGregor Blvd. and North of College Parkway.

The primary intent of the amendment is to accommodate redevelopment of the property. The current land uses of Intensive Development encourage mixed use of high density residential and commercial development. Although the proposed land use would be slightly more intensive from a development, traffic, utility and public service needs standpoint, there is adequate infrastructure to serve the project.

The application requires us to provide a Letter of Service Availability from all agencies determining the adequacy/provision of existing/proposed support facilities. If you could please provide us with a letter of availability for services to the referenced parcels at your earliest convenience, we would greatly appreciate it.

If you have any questions, or require additional information, please do not hesitate to contact me at 239-936-5222 or sharon@qainc.net

Sincerely,
QUATTRONE & ASSOCIATES, INC.

Sharon Hrabak
Permitting Manager

Sharon Hrabak

From: Heredia, Jacqueline <JacquelineHe@LeeSchools.net>
Sent: Thursday, July 13, 2023 2:24 PM
To: Sharon Hrabak
Subject: RE: McGregor Mixed Use

EXTERNAL SENDER

Good afternoon,

The School District has no comment McGregor Mixed Use. The applicant is not proposing additional dwelling units nor are they proposing COP within 500' of school.

Please do not hesitate to reach out should you have any questions

Jacqueline Heredia

District Planning Specialist

2855 Colonial Blvd, Fort Myers, FL 33966

o: 239-335-1494

JacquelineHE@leeschools.net

www.leeschools.net

THE SCHOOL DISTRICT OF LEE COUNTY

PERSONAL | PASSIONATE | PROGRESSIVE



From: Sharon Hrabak <Sharon@qainc.net>
Sent: Thursday, July 13, 2023 2:21 PM
To: Heredia, Jacqueline <JacquelineHe@LeeSchools.net>
Subject: RE: McGregor Mixed Use

NOTICE: This message originated from outside the District's network.

Jacqueline,

Our client currently is not proposing any residential, however for the purpose of the FLU amendment we need to foresee the highest intensity that would be allowed. Currently the area has a FLU of Intensive Development which allow for 14 dwelling Units per acre. If the property owners decide to redevelop the existing commercial parcels the FLU maximum would be an overall 14 DU. I would assume multifamily would be the only possible way to achieve the highest possible density of 14 units per acre given the size.

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net

From: Heredia, Jacqueline <JacquelineHe@LeeSchools.net>
Sent: Thursday, July 13, 2023 2:14 PM
To: Sharon Hrabak <Sharon@gainc.net>
Subject: RE: McGregor Mixed Use

EXTERNAL SENDER

Are these single family or multi family?

From: Sharon Hrabak <Sharon@gainc.net>
Sent: Wednesday, July 12, 2023 4:56 PM
To: Heredia, Jacqueline <JacquelineHe@LeeSchools.net>
Subject: FW: McGregor Mixed Use

NOTICE: This message originated from outside the District's network.

Jacqueline,

Following up with our request for a letter of availability?

We are proposing commercial, however if ever its redevelopment the Land Use would allow for 14 dwelling units per acre. The request is 1.93 acres which would allow for 27 dwelling units if ever it is redeveloped.

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net

From: Sharon Hrabak
Sent: Wednesday, June 21, 2023 5:06 PM
To: Heredia, Jacqueline <JacquelineHe@LeeSchools.net>
Subject: RE: McGregor Mixed Use

Jacqueline,

The proposed with be for Commercial only. No residential!

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net

From: Heredia, Jacqueline <JacquelineHe@LeeSchools.net>
Sent: Friday, June 16, 2023 1:47 PM
To: Sharon Hrabak <Sharon@gainc.net>
Subject: RE: McGregor Mixed Use

EXTERNAL SENDER

I apologize for this email some how was lost in my inbox. Are there any multifamily or single family homes being developed? If so how many and on how many acres will they be places on? I did not see that specified.

Thank you

Jacqueline Heredia

District Planning Specialist

2855 Colonial Blvd, Fort Myers, FL 33966
o: 239-335-1494
JacquelineHE@leeschools.net
www.leeschools.net

THE SCHOOL DISTRICT OF LEE COUNTY

PERSONAL | PASSIONATE | PROGRESSIVE



From: Sharon Hrabak <Sharon@gainc.net>
Sent: Friday, May 19, 2023 11:15 AM
To: Heredia, Jacqueline <JacquelineHe@LeeSchools.net>
Subject: McGregor Mixed Use

NOTICE: This message originated from outside the District's network.

Jacqueline,

We will be proposing a Comprehensive Amendment to change the future land use and as part of the submittal we need to provide a letter from the appropriate agency determining the adequacy/provision of existing/proposed support facilities. Please see attached Letter of request as well as the Geo Map for the properties that would be included with our proposal.

Please feel free to reach out if you have any questions.

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net

Sharon Hrabak

From: Sharon Hrabak
Sent: Tuesday, July 25, 2023 1:24 PM
To: lcudcap
Subject: FW: McGregor-Mixed Use
Attachments: Letter of Availability - LCU.doc; 7. LOA McGregor - Mixed Use - Quattrone - Letter.pdf

Ashanti

For the purpose of our Comp Plan amendment, we need to include the limits of our request. If all the parcels were redeveloped the maximum commercial square footage would be 33,628 square feet of building footprint over the 3 parcels with an approximation of maximum 3,369 gpd usage. Can you please revise the letter?

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@qainc.net | www.qainc.net

From: lcudcap <lcudcap@leegov.com>
Sent: Thursday, June 8, 2023 7:40 AM
To: Sharon Hrabak <Sharon@qainc.net>; lcudcap <lcudcap@leegov.com>
Subject: RE: McGregor-Mixed Use

EXTERNAL SENDER

No Problem! I don't mind at all. I was just saying I didn't forget about you.

If you have any questions, please feel free to contact me by email or phone.

**PLEASE NOTE: All project related emails must be sent to lcudcap@leegov.com
(Multiple staff members will receive emails at this address)**

Here are some helpful LCU website links

- | | |
|---|---|
| 1. LCU rates and fees (Approved LCU Rate Resolution 11-08-26) | 2. LCU design manual (for Record Drawing requirements see 'General Responsibilities, Requirements & Processes') |
| 3. Typical LCU developer project process | 4. LCU Developer project forms |
| 5. Application for new meter sets | 6. Lee County Utilities Cross Connection Control Policy |

Respectfully,



LEE COUNTY UTILITIES
REQUEST FOR LETTERS OF AVAILABILITY

DATE: JULY 26, 2023

TO: **MARY MCCORMIC**
Technician Senior

FROM: **SHARON HRABAK**

FIRM: **QUATTRONE & ASSOCIATES**

ADDRESS: **4301 VERONICA SHOEMAKER BLVD**

ADDRESS: **FORT MYERS, FL 33916 -**

PHONE#: **(239)936-5222** FAX: () -

E-MAIL ADDRESS: **SHARON@QAINC.NET**

PROJECT NAME: **MCGREGOR CPU**

PREVIOUS PROJECT NAME(S):

STRAP NUMBER(S): **16-45-24-00-00007.0060, 16-45-24-00-00005.000, 16-45-24-00-00006.0010**

PRIOR STRAP NUMBER(S) (IF ANY):

LOCATION/SITE ADDRESS: **12690, 12670, 12680 McGregor Blvd; Fort Myers, FL 33919**

PURPOSE OF LETTER:

- ☐ DEVELOPMENT ORDER SUBMITTAL ☐ FINANCING ☐ EFFLUENT REUSE
☐ PERMITTING OF SURFACE WATER MANAGEMENT (SOUTH FLORIDA WATER MANAGEMENT DISTRICT)
☒ OTHER: (PLEASE SPECIFY) **FLU AMENDMENT**

PLANNED USE:

- ☒ COMMERCIAL ☐ INDUSTRIAL ☐ RESIDENTIAL - (☐ SINGLE-FAMILY ☐ MULTI-FAMILY)
☐ OTHER: (PLEASE SPECIFY) _____

PLANNED # OF COMMERCIAL/INDUSTRIAL BUILDINGS: **±4** TOTAL SQUARE FOOTAGE: **±33,628 SF**

RESIDENTIAL UNITS: SINGLE-FAMILY: _____ MULTI-FAMILY: _____

AVERAGE ESTIMATED DAILY FLOW (GPD): **500** (☒ WATER ☒ WASTE-WATER)

☐ REUSE PLEASE SHOW CALCULATION USED TO DETERMINE AVERAGE ESTIMATED DAILY FLOW (GPD) PER

CRITERIA SET FORTH IN LEE COUNTY UTILITIES DESIGN MANUAL: **CH 64-E**

Retail 10/ 100sf 33,628 SF /100 =336 X 10= 3,363 Gpd

Please e-mail the completed form at mmccormic@leegov.com.

If you should have any questions or require assistance, please feel free to call our office at (239) 533-8532.





BOARD OF COUNTY COMMISSIONERS

Kevin Ruane
District One

Cecil L Pendergrass
District Two

Raymond Sandelli
District Three

Brian Hamman
District Four

Michael Greenwell
District Five

Roger Desjarlais
County Manager

Richard Wm Wesch
County Attorney

Donna Marie Collins
*County Chief
Hearing Examiner*

July 26, 2023

Via E-Mail

required. Sharon Hrabak
Quattrone & Associates
4301 Veronica Shoemaker Boulevard
Fort Myers, FL 33916

RE: **Potable Water and Wastewater Availability**
12690, 12680, 12670 McGregor
STRAP # 16-45-24-00-00007.0060; 16-45-24-00-00005.0000;
16-45-24-00-00006.0010

To whom this may concern:

The subject property is located within Lee County Utilities Future Service Area as depicted on Maps 4A and 4B of the Lee County Comprehensive Land Use Plan. Potable water and sanitary sewer lines are in operation adjacent to the property mentioned above. However, in order to provide service to the subject parcels, developer funded system enhancements such as line extensions may be

Your firm has indicated that this project will consist of four commercial units with an estimated flow demand of approximately 3,363 gallons per day. Lee County Utilities presently has sufficient capacity to provide potable water and sanitary sewer service as estimated above.

Availability of potable water and sanitary sewer service is contingent upon final acceptance of the infrastructure to be constructed by the developer. Upon completion and final acceptance of this project, potable water service will be provided through our Corkscrew Water Treatment Plant.

Sanitary sewer service will be provided by the City of Ft Myers South Water Reclamation Facility. The Lee County Utilities' Design Manual requires the project engineer to perform hydraulic computations to determine what impact this project will have on our existing system.

There are no reuse mains in the vicinity of these parcels.

Prior to beginning design work on this project, please meet with LCU Staff to determine the best point of connection and discuss requirements for construction.

This letter should not be construed as a commitment to serve, but only as to the availability of service. Lee County Utilities will commit to serve only upon receipt of all appropriate connection fees, a signed request for service and/or an executed service agreement, and the approval of all State and local regulatory agencies.

Further, this letter of availability of potable water and sanitary sewer service is to be utilized for Comprehensive Plan Amendment only. Individual letters of availability will be required for the purpose of obtaining building permits.

Sincerely,

LEE COUNTY UTILITIES

Ashanti Shahriyar

Ashanti Shahriyar
Plan Reviewer
239-533-8531
UTILITIES ENGINEERING

Sharon Hrabak

From: Utilities Customer Correspondence <Utilities@leegov.com>
Sent: Thursday, July 27, 2023 10:16 AM
To: Sharon Hrabak
Subject: RE: Water Usage Request McGregor Blvd.

EXTERNAL SENDER

Good morning,

Thank you for contacting Lee County Utilities. To produce the average gallon usage per day you can calculate it by dividing the total amount of water used by the number of days in the billing period. So, in this case, it would be divided by the number of days between the readings. Due to the amount of usage at all three properties most of the usage amounts are 0, so there won't be average gallon per day usage for those dates. If you have any further questions, please call us at the number below.

Thank you!
Have a great day!



Lee County Utilities

7391 College Parkway, Fort Myers, FL 33907

office: (239) 533-8845

fax: (239) 485-8845

email: utilities@leegov.com

web: www.leegov.com/utilities

Connect With Us On Social Media



Customer portal: myutilities.leegov.com

[Customer Service Survey](#)

KCP

From: Sharon Hrabak <Sharon@qainc.net>
Sent: Wednesday, July 26, 2023 10:44 AM
To: Utilities Customer Correspondence <Utilities@leegov.com>
Subject: [EXTERNAL] RE: Water Usage Request McGregor Blvd.

I apologize for my ignorance, but I am trying to come up with a average gallon per day usage. How should I go about that?

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.
Fort Myers, Florida 33916
P: 239-936-5222 | F: 239-936-7228
sharon@gainc.net | www.gainc.net

From: Utilities Customer Correspondence <Utilities@leegov.com>
Sent: Wednesday, July 26, 2023 8:50 AM
To: Sharon Hrabak <Sharon@gainc.net>
Subject: RE: Water Usage Request McGregor Blvd.

EXTERNAL SENDER

Good morning,
Thank you for contacting Lee County Utilities. 12690 McGregor Blvd doesn't have a usage report. I have attached the other two usage reports. If you have any further questions, please call us at the number below.
Thank you!
Have a great day!



Lee County Utilities

7391 College Parkway, Fort Myers, FL 33907
office: (239) 533-8845
fax: (239) 485-8845
email: utilities@leegov.com
web: www.leegov.com/utilities
Connect With Us On Social Media



Customer portal: myutilities.leegov.com

[Customer Service Survey](#)

KCP

From: Sharon Hrabak <Sharon@gainc.net>
Sent: Tuesday, July 25, 2023 2:12 PM
To: Utilities Customer Correspondence <Utilities@leegov.com>
Subject: [EXTERNAL] Water Usage Request McGregor Blvd.

Good Afternoon,

Can you please provide a 12-month usage for the following addresses:

12690 McGregor Blvd

12680 McGregor Blvd

12670 McGregor Blvd.

Thank you,

Sharon Hrabak



4301 Veronica Shoemaker Blvd.

Fort Myers, Florida 33916

P: 239-936-5222 | F: 239-936-7228

sharon@qainc.net | www.qainc.net

Receive updates from Lee County Government by [subscribing to our newsletter](#)

Please note: Florida has a very broad public records law. Most written communications to or from County Employees and officials regarding County business are public records available to the public and media upon request. Your email communication may be subject to public disclosure.

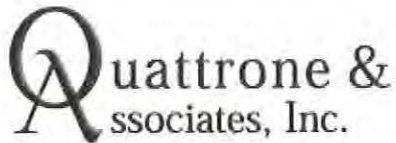
Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

Service Address :	12670 MCGREGOR BLVD 2, FORT MYERS FL
Service :	Water
Service Id:	26811
Last Billed:	7/5/2023

Meter	Source of Read	Reading Type	Read Date	Reading	Multiplier
1700086668	Meter Reading	AMI Read (Mueller)	6/28/2023	285.0	1.0
1700086668	Meter Reading	AMI Read (Mueller)	5/30/2023	285.0	1.0
1700086668	Meter Reading	AMI Read (Mueller)	4/27/2023	285.0	1.0
1700086668	Meter Reading	AMI Read (Mueller)	3/30/2023	285.0	1.0
1700086668	Meter Reading	AMI Read (Mueller)	2/28/2023	285.0	1.0
1700086668	Manual Entry	Corrected Read	1/31/2023	285.0	
1700086668	Meter Reading	SQL Read Update	1/31/2023	294.0	1.0
1700086668	Meter Reading	SQL Read Update	12/29/2022	294.0	1.0
1700086668	Meter Reading	SQL Read Update	11/29/2022	294.0	1.0
1700086668	Meter Reading	SQL Read Update	10/28/2022	294.0	1.0
1700086668	Estimated Reading	Estimate Reading	9/28/2022	294.0	1.0
1700086668	Meter Reading	AMI Read (Mueller)	8/25/2022	285.0	1.0
1700086668	Meter Reading	AMI Read (Mueller)	7/27/2022	284.0	1.0
1700086668	Meter Reading	AMI Read (Mueller)	6/27/2022	281.0	1.0

Account Number :	1266022
Account Name :	T&C ENTERPRISES OF SWFL INC
Service Address :	12680 MCGREGOR BLVD, FORT MYERS
Service :	Water
Service Id:	26814
Last Billed:	7/3/2023

Meter	Source of Read	Reading Type	Read Date	Reading	Multiplier
21135599	Meter Reading	AMI Read (Mueller)	6/28/2023	181.0	1.0
21135599	Meter Reading	AMI Read (Mueller)	5/30/2023	180.0	1.0
21135599	Meter Reading	AMI Read (Mueller)	4/27/2023	179.0	1.0
21135599	Meter Reading	AMI Read (Mueller)	3/30/2023	178.0	1.0
21135599	Meter Reading	AMI Read (Mueller)	2/28/2023	177.0	1.0
21135599	Estimated Reading	Estimate Reading	1/30/2023	164.0	1.0
21135599	Estimated Reading	Estimate Reading	12/29/2022	164.0	1.0
21135599	Meter Reading	AMI Read (Mueller)	11/29/2022	164.0	1.0
21135599	Meter Reading	AMI Read (Mueller)	10/28/2022	132.0	1.0
21135599	Estimated Reading	Estimate Reading	9/28/2022	63.0	1.0
21135599	Meter Reading	AMI Read (Mueller)	8/25/2022	63.0	1.0
21135599	Meter Reading	AMI Read (Mueller)	7/28/2022	58.0	1.0
21135599	Meter Reading	AMI Read (Mueller)	6/28/2022	8.0	1.0



McGregor-Mixed Use Overlay

State and Regional Policy Plan
Exhibit M19

Consistent with FSS 29I-6.002 Strategic Policy Plan, the 2-acre +/- property is consistent with the SWFRPC SRPP in the following manner:

Transportation Strategy _ Promote Smart growth where residential communities are linked with job centers through transit, carpooling, or other high occupancy vehicle transportation.

REPOSE – The requested Mixed-use Overlay map amendment serves to advance urban infill redevelopment via reduced development standards. It is an accepted professional planning principle and practice that urban infill redevelopment is “Smart Growth”. The map amendment is consistent with the SWFRPC Strategic Regional Policy Plan.

Economic Strategy _ Ensure the adequacy of lands for commercial and industrial centers, with suitable services provided.

REPOSE – The requested Mixed-use Overlay map amendment serves to ensure an adequate supply of urban city-center commercial lands. It does so by incentivizing urban infill commercial redevelopment. The map amendment is consistent with the SWFRPC Strategic Regional Policy Plan.

Consistent with FSS 187.201 State Comprehensive Plan, the 2-acre +/- property is consistent with the Florida plan in the following manner:

(7)(a)(b.5) Water Resources _ 5. Ensure that new development is compatible with existing local and regional water supplies.

REPOSE – The requested Mixed-use Overlay map amendment has available to it at adequate capacity potable water and sanitary sewer services consistent with all local government utility plans. The map amendment is consistent with the State Comprehensive Plan.

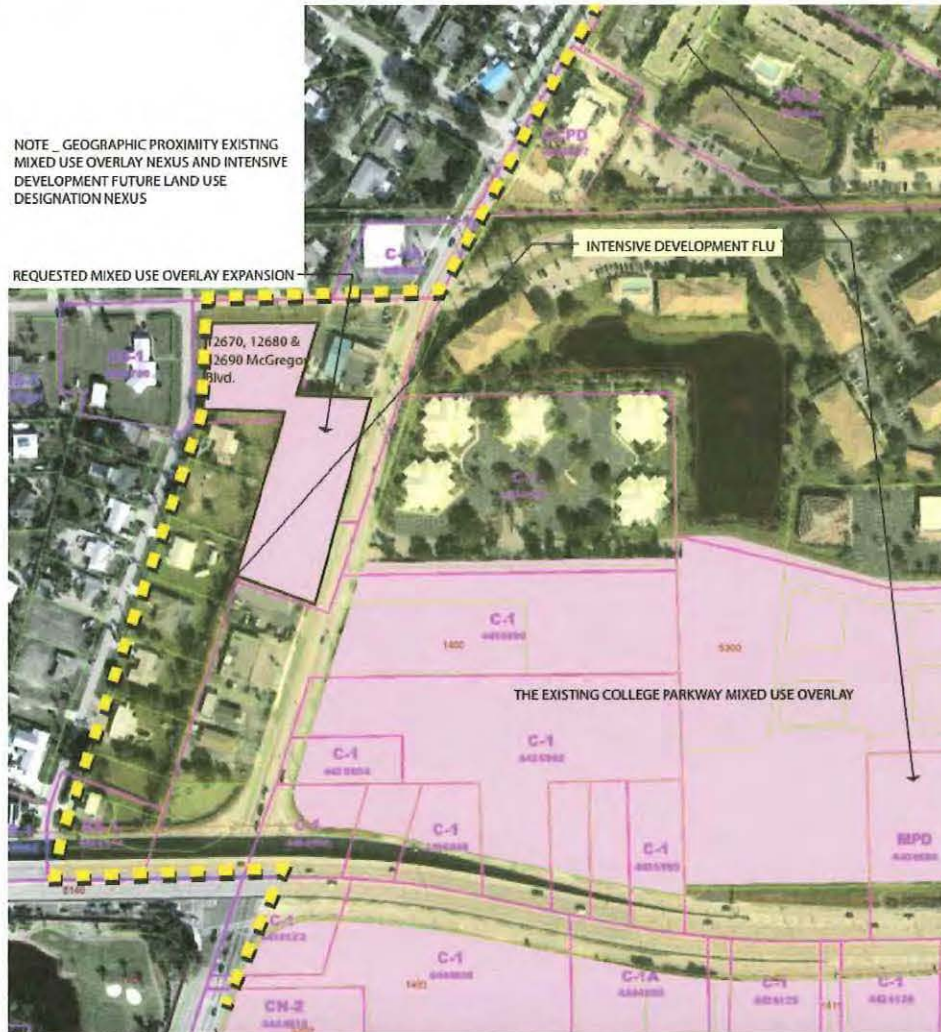
(7)(b.1) Land Use _ 1. Promote state programs, investments, and development and redevelopment activities which encourage efficient development and occur in areas which will have the capacity to service new population and commerce.

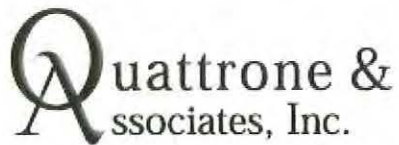
REPOSE – The requested map amendment advances urban infill investment and redevelopment via reduced development standards. The map amendment is consistent with the State Comprehensive Plan.

McGregor-Mixed Use Overlay

Justification of Proposed Amendment
Exhibit M20

The applicant is requesting an amendment to Lee Plan Map I-C to allow the Mixed-Use Overlay to be extended west to include 2 acres +/- . The subject property is located on the west side of McGregor Blvd, approximately 0.5 mile north of College Parkway and is adjacent to the College Parkway Mixed-use Overlay. The property is development and improved commercial land, is located within the Intensive Development Future Use Category, and is zoned C-1. The applicant desires to re-develop the property and thus desires the overlay's reduced development standards to advance economic feasibility. As identified within the below graphic, there is sound location and land use nexus to support the minor westward expansion of the College Parkway Mixed-use Overlay.

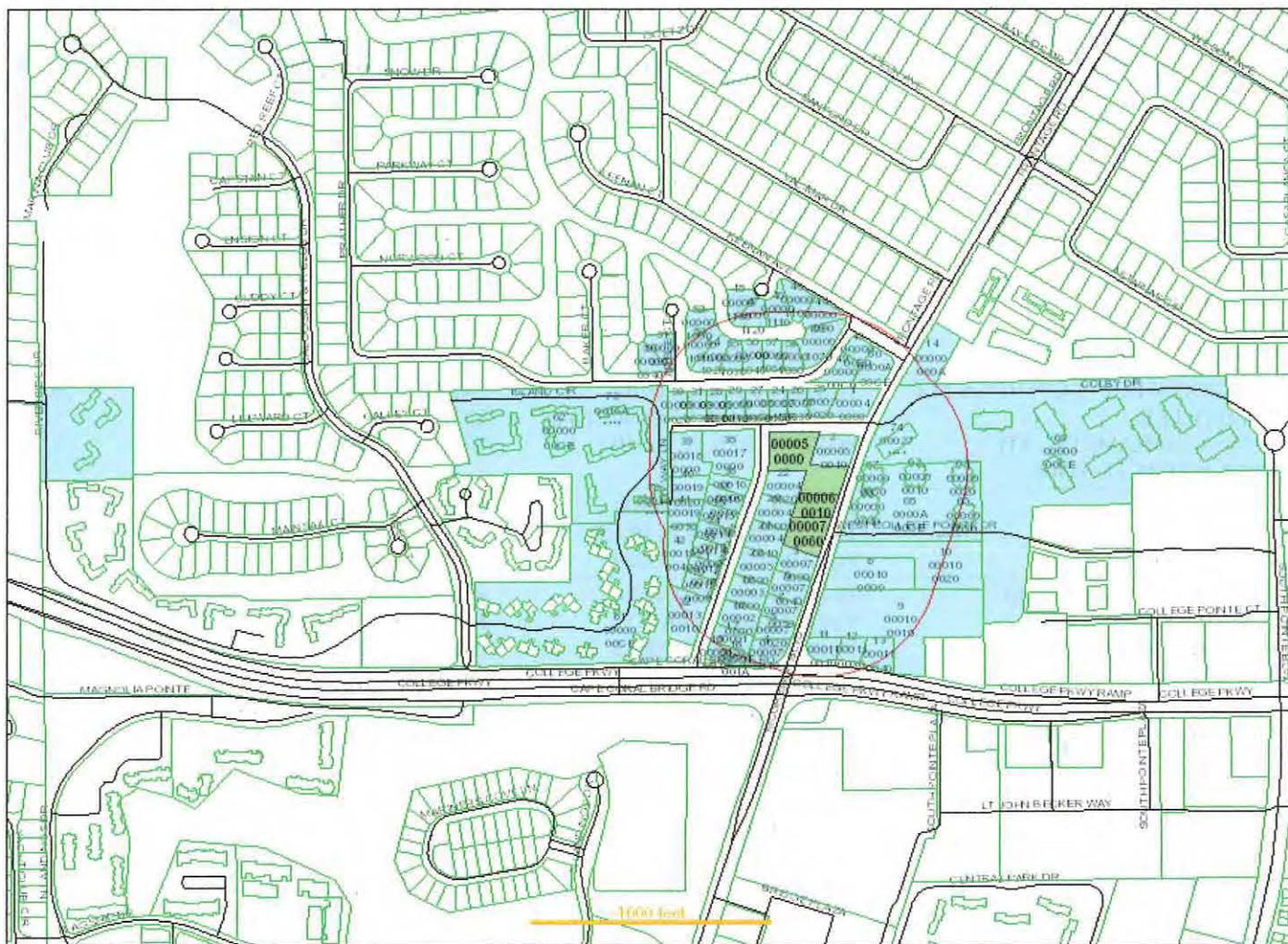




The intent of the Mixed-Use Overlay is to identify locations within Lee County that facilitate mixed-use development and urban infill development. Overlay location criteria are based on accommodating future growth in proximity to public transportation, existing commercial and residential centers, education and recreation facilities. As outlined within Policy 11.2.1, overlay expansion criteria includes proximity of transit routes, enabling pedestrian and automobile connections, location within the Intensive Development Future Land Use, having adequate public facilities and infrastructure, and not intruding into predominately single-family residential neighborhoods. The subject property, being located on Lee Tran routes 30, in the Intensive Development future land use category and its proximity to several properties within the Mixed-Use Overlay and existing public facilities, serves to facilitate continued opportunities for infill-clustered development. Though the 2 acre property abuts 4 home lots to the west, the site is not within a predominantly single family neighborhood since it's urban form is McGregor Blvd. commercial strip. The subject property and the properties to the north and south have existing commercial zoning, and development since 1965. The request is consistent with Policy 11.2.1.

In conclusion, the application meets the criteria to amend the College Parkway Mixed-Use Overlay and is consistent with and furthers the Goals, Objectives and Policies of the Lee Plan.





Date of Report: May 01, 2023

Buffer Distance: 500 feet

Parcels Affected: 102

Subject Parcels: 16-45-24-00-00005.0000, 16-45-24-00-00006.0010, 16-45-24-00-00007.0060

To change, add or remove subject parcels please change the parcel selection in [GeoView](#)

[Click here to download the map image, mailing labels \(Avery 5161\) and CSV formatted information.](#)

OWNER NAME AND ADDRESS	STRAP AND LOCATION	LEGAL DESCRIPTION	MAP INDEX
UNDERWATER EXPLORERS 7770 CAMERON CIR FORT MYERS FL 33912	16-45-24-00-00004.0000 12600 MCGREGOR BLVD FORT MYERS FL 33919	PARL IN NW 1/4 OF SE 1/4 AS DESC OR 1259/0441	1
RUFENER GARY D 12640 MCGREGOR BLVD FORT MYERS FL 33919	16-45-24-00-00005.0010 12640 MCGREGOR BLVD FORT MYERS FL 33919	PARL IN NW 1/4 OF SE 1/4 AS DESC OR 1065/1421	2
IDEAL INVESTMENTS AND PROPERTY 616 BASS LN CHARLOTTE NC 28270	16-45-24-00-00007.0000 12700 MCGREGOR BLVD FORT MYERS FL 33919	PARL IN NW 1/4 OF SE 1/4 AS DESC OR 0613/0453	3
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	16-45-24-00-00007.0010 12740 MCGREGOR BLVD FORT MYERS FL 33919	PARL IN NW 1/4 OF SE 1/4 AS DESC OR 0186/0127 LESS RD R/W	4
CELEJ ALAN & MARINO GINA 12730 MCGREGOR BLVD FORT MYERS FL 33919	16-45-24-00-00007.0020 12730 MCGREGOR BLVD FORT MYERS FL 33919	PARL IN NW 1/4 OF SE 1/4 AS DESC OR 1192/0920	5
BAMBOO SHAN PROPERTIES LLC TOMMY LEE	16-45-24-00-00007.0040 12710 MCGREGOR BLVD	PARL IN NW 1/4 OF SE 1/4 AS DESC OR 0732/0633	6

17240 S TAMiami TRL STE 3 FORT MYERS FL 33908	FORT MYERS FL 33919		
V 3 FUND III FT MYERS LLC V 3 CAPITAL GROUP LLC 496 S HUNT CLUB BLVD APOPKA FL 32703	16-45-24-00-00007.0050 12720 MCGREGOR BLVD FORT MYERS FL 33919	PARL IN NW 1/4 OF SE 1/4 AS DESC OR 1014/0071	7
C P T MING & ASSOCIATES INC TOMMY LEE 17240 S TAMiami TRL STE 3 FORT MYERS FL 33908	16-45-24-00-00010.0000 12695/697 MCGREGOR BLVD FORT MYERS FL 33919	PARL IN NW 1/4 OF SE 1/4 E OF BLVD AS DESC IN OR 0552/0443	8
NOTES DRIVE LLC 835 S TOWN + RIVER FORT MYERS FL 33908	16-45-24-00-00010.0010 12709-731 MCGREGOR BLVD FORT MYERS FL 33919	PARL IN NW 1/4 OF SE 1/4 E OF BLVD DESC IN OR 222/ 825 + OR 593/223 LS RD R/W	9
BAMBOO SHAN PROPERTIES LLC TOMMY LEE 17240 S TAMiami TRL STE 3 FORT MYERS FL 33908	16-45-24-00-00010.0020 12691/693 MCGREGOR BLVD FORT MYERS FL 33919	PARL IN NW 1/4 OF SE 1/4 E OF BLVD AS DESC OR 0927/0455	10
LEE COUNTY PO BOX 398 FORT MYERS FL 33902	16-45-24-00-00011.0010 12741 MCGREGOR BLVD FORT MYERS FL 33919	PARL NW 1/4 OF SE 1/4 DESC OR 1998/3856 LESS RD R/W	11
STOKES PROPERTIES LLC 15955 PINE RIDGE RD FORT MYERS FL 33908	16-45-24-00-00011.0030 9340 COLLEGE PKWY FORT MYERS FL 33919	PARL IN NW 1/4 OF SE 1/4 E OF BLVD AS DESC IN OR 0868/0820 LESS RD R/W	12
HARRISON JAMES W & 1206 LA FAUNCE WAY FORT MYERS FL 33919	16-45-24-00-00011.0040 9320 COLLEGE PKWY FORT MYERS FL 33919	PARL IN NW 1/4 OF SE 1/4 E OF BLVD AS DESC IN OR 0669/0665 LESS RD R/W	13
MCGREGOR BUILDING LLC 12581 MCGREGOR BLVD FORT MYERS FL 33919	16-45-24-01-00000.060A 12581 MCGREGOR BLVD FORT MYERS FL 33919	BAYSHORE PARK PB 3 PG 40 PT LT 60 DESC IN 2006000365523	14
FORD DOUGLAS E 6089 POMPANO ST FORT MYERS FL 33919	16-45-24-02-00001.0010 6089 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK A PB 9 PG 56 LOT 2 LESS ELY 82.5 FT	15
COASTAL TRAFFIC DISPLAYS LLC PO BOX 160 WINDERMERE FL 34786	16-45-24-02-00001.001A 6085 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK A PB 9 PG 56 ELY 82.5 FT LOT 2 LESS RD	16
JOHNSTON THEODORE II 1510 MONROE AVE RIVER FOREST IL 60305	16-45-24-02-00001.0020 6081 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK A PB 9 PG 56 LOT 3	17
LAMBERT ELIZABETH SUSAN L/E + 6073 POMPANO ST FORT MYERS FL 33919	16-45-24-02-00002.0000 6073 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK A PB 9 PG 56 LOT 4 + S 1/2 LOT 5	18
LIRETTE MARY ELIZABETH 18167 PHLOX DR FORT MYERS FL 33967	16-45-24-02-00003.0000 6065 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK A PB 9 PG 56 LOTS 6 + N 1/2 LOT 5	19
MCGREGOR 12690 PROPERTIES LLC 10481 SOLARO ST FORT MYERS FL 33913	16-45-24-02-00004.0000 6039 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK A PB 9 PG 56 LOT 10 + SWLY 1/2 LOT 11	20
FRIER SCOTT A & MONICA L 6047 POMPANO ST FORT MYERS FL 33919	16-45-24-02-00004.0010 6047 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.A PB 9 PG 56 LOT 9 + NLY 1/2 LOT 8	21
HARMON PETER & LESLEY 6031 POMPANO ST FORT MYERS FL 33919	16-45-24-02-00004.0020 6031 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK A PB 9 PG 56 NELY 1/2 LOT 11 + LOT 12	22
MAGOUYRK TODD & LORI S 2742 JACKSON PIKE BATAVIA OH 45103	16-45-24-02-00005.0000 6057 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.A PB 9 PG 56 LOT 7 + SLY 1/2 LOT 8	23
PESSA ANTHONY & ELIZABETH 3427 SE 22ND PL CAPE CORAL FL 33904	16-45-24-02-00007.0000 534 EDINBURGH DR FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.A PB 9 PG 56 PT LT 14 TH N 120 FT OF W 80 FT	24

TOCK KEVIN C 548 EDINBURGH DR FORT MYERS FL 33919	16-45-24-02-00007.0020 548 EDINBURGH DR FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.A PB 9 PG 56 LOT PT 14 AS DESC OR 0497/0435	25
WALLACE NATHAN L & JULIE A 544 EDINBURGH DR FORT MYERS FL 33919	16-45-24-02-00007.0030 544 EDINBURGH DR FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.A PB 9 PG 56 PT LOT 14 AS DESC OR 736/0172	26
BROWN JANICE + 528 EDINBURGH DR FORT MYERS FL 33919	16-45-24-02-00008.0000 528 EDINBURGH DR FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK A PB 9 PG 56 LOT 15	27
INDARAWIS WAHABALLAH & 516 EDINBURGH DR FORT MYERS FL 33919	16-45-24-02-00009.0000 516 EDINBURGH DR FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.A PB 9 PG 56 LOT 17	28
RAUN FAMILY REVOCABLE TRUST 522 EDINBURGH DR FORT MYERS FL 33919	16-45-24-02-00009.0010 522 EDINBURGH DR FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK A PB 9 PG 56 LOT 16	29
GENSEL RUSSELL H & KATHI L 506 EDINBURGH DR FORT MYERS FL 33919	16-45-24-02-00009.0020 506 EDINBURGH DR FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK A PB 9 PG 56 LOT 19	30
REDMAN BRADLEY KENT + 508 EDINBURGH DR FORT MYERS FL 33919	16-45-24-02-00009.0030 508 EDINBURGH DR FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.A PB 9 PG 56 LOT 18	31
ONEIL ROBERT & 6080 POMPANO ST FORT MYERS FL 33919	16-45-24-02-00013.0010 6080 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK B PB 9 PG 56 LTS 3 + 4 + PT LTS 2 + 17A	32
KINGOS GREGORY VANCE TR 5669 EICHEN CIR W FORT MYERS FL 33919	16-45-24-02-00014.0000 6056/6058 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.B PB 9 PG 56 LOT 7	33
BEYER BARBARA 6050 POMPANO ST FORT MYERS FL 33919	16-45-24-02-00014.0010 6050 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK B PB 9 PG 56 LOT 8	34
KOSMAN JERRY JOHN & P DIANE 6044 POMPANO ST FORT MYERS FL 33919	16-45-24-02-00015.0000 6044 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.B PB 9 PG 56 LOT 9	35
WORKINGER PAMELA J 6036 POMPANO ST FORT MYERS FL 33919	16-45-24-02-00016.0000 6036 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.B PB 9 PG 56 LOT 11	36
KARASU MARTI A 6040 POMPANO ST FORT MYERS FL 33919	16-45-24-02-00016.0010 6040 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.B PB 9 PG 56 LOT 10	37
KOVACS WILLIAM F 6026 POMPANO ST FORT MYERS FL 33919	16-45-24-02-00017.0000 6026 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.B PB 9 PG 56 LOTS 12 THRU 15	38
WALKER WENDY & 503 EDINBURGH DR FORT MYERS FL 33919	16-45-24-02-00018.0000 503 EDINBURGH DR FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK B PB 9 PG 56 LOTS 16 + 17 + N 50 FT OF LOT 17 A	39
VANDERMARK WALTER C 9509 MY WAY LN FORT MYERS FL 33919	16-45-24-02-00019.0020 9509 MY WAY LN FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK B PB 9 PG 56 PT LT 17A S 100 FT OF N 150 FT	40
MAZZOTTA JAMES I & 9515 MY WAY LN FORT MYERS FL 33919	16-45-24-02-00019.0030 9515 MY WAY LN FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK B PB 9 PG 56 PT LT 17A S 100 FT OF N 250 FT	41
BRIAN P MCDONALD INVESTMENTS 16791 PALM RD FORT MYERS FL 33908	16-45-24-02-00019.0040 9521 MY WAY LN FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK B PB 9 PG 56 PT LOT 17A DESC OR 1684 PG 2772	42
TAYLOR DWAYNE II 548 PRATHER DR FORT MYERS FL 33919	16-45-24-09-00000.00B0 548 PRATHER DR FORT MYERS FL 33919	MCGREGOR ISLES UNIT 1 PB 12 PG 24 LOT B LESS THE SW 14 FT	43

ROGERS MARC & SUMMER 560 KEENAN AVE FORT MYERS FL 33919	16-45-24-09-00000.1090 560 KEENAN AVE FORT MYERS FL 33919	MCGREGOR ISLES UNIT 1 PB 12 PG 24 LOT 109	44
STOCKFISH PAMELA CHRISTINE + 552 KEENAN AVE FORT MYERS FL 33919	16-45-24-09-00000.1100 552 KEENAN AVE FORT MYERS FL 33919	MCGREGOR ISLES UNIT 1 PB 12 PG 24 LOT 110	45
SKALKO JOHN J & NANCY C 548 BRUCE CIR FORT MYERS FL 33919	16-45-24-09-00000.1110 548 BRUCE CIR FORT MYERS FL 33919	MCGREGOR ISLES UNIT 1 PB 12 PG 24 LOT 111	46
WAGNER JASON J & JENNIFER E 1625 SUNDANCE DR SAINT CLOUD FL 34771	16-45-24-09-00000.1120 546 BRUCE CIR FORT MYERS FL 33919	MCGREGOR ISLES UNIT 1 PB 12 PG 24 LOT 112	47
PEARCE MALCOLM B JR TR APRIL LOWE 14 MAPLE ST WESTHAMPTON BEACH NY 11978	16-45-24-09-00000.1130 542 BRUCE CIR FORT MYERS FL 33919	MCGREGOR ISLES UNIT 1 PB 12 PG 24 LOT 113	48
POPE CHRISTOPHER L 542 PRATHER DR FORT MYERS FL 33919	16-45-24-10-00000.00C0 542 PRATHER DR FORT MYERS FL 33919	MCGREGOR ISLES UNIT 2 PB 12 PG 140 LOT C + SW 14 FT OF LOT B UNIT 1	49
TATA BEATRIZ P TR 497 PRATHER DR FORT MYERS FL 33919	16-45-24-10-00000.0940 497 PRATHER DR FORT MYERS FL 33919	MCGREGOR ISLES UNIT 2 PB 12 PG 140 LOT 94	50
WILSON SHANE M 5980 ADELE CT FORT MYERS FL 33919	16-45-24-10-00000.0950 5980 ADELE CT FORT MYERS FL 33919	MCGREGOR ISLES UNIT 2 PB 12 PG 140 LOT 95	51
BERRY JEFFREY S & 5973 ADELE CT FORT MYERS FL 33919	16-45-24-10-00000.1000 5973 ADELE CT FORT MYERS FL 33919	MCGREGOR ISLES UNIT 2 PB 12 PG 140 LOT 100	52
ROBERTS JIMMY CASSELL III & 5981 ADELE CT FORT MYERS FL 33919	16-45-24-10-00000.1010 5981 ADELE CT FORT MYERS FL 33919	MCGREGOR ISLES UNIT 2 PB 12 PG 140 LOT 101	53
DESQUESNES MARC H + SARAH S 515 PRATHER DR FORT MYERS FL 33919	16-45-24-10-00000.1020 515 PRATHER DR FORT MYERS FL 33919	MCGREGOR ISLES UNIT 2 PB 12 PG 140 LOT 102	54
SAFFORD STEWART P 523 PRATHER DR FORT MYERS FL 33919	16-45-24-10-00000.1030 523 PRATHER DR FORT MYERS FL 33919	MCGREGOR ISLES UNIT 2 PB 12 PG 140 LOT 103	55
SHEU JOHN E & CHERYL L 525 PRATHER DR FORT MYERS FL 33919	16-45-24-10-00000.1040 525 PRATHER DR FORT MYERS FL 33919	MCGREGOR ISLES UNIT 2 PB 12 PG 140 LOT 104	56
LITOWITZ DENNIS JAY TR 531 PRATHER DR FORT MYERS FL 33919	16-45-24-10-00000.1050 531 PRATHER DR FORT MYERS FL 33919	MCGREGOR ISLES UNIT 2 PB 12 PG 140 LOT 105	57
COPP W GEORGE TR 535 PRATHER DR FORT MYERS FL 33919	16-45-24-10-00000.1060 535 PRATHER DR FORT MYERS FL 33919	MCGREGOR ISLES UNIT 2 PB 12 PG 140 LOT 106 LESS PT RETAINED OR 984/635	58
STEPHENSON MICHAEL 545 PRATHER DR FORT MYERS FL 33919	16-45-24-10-00000.1070 545 PRATHER DR FORT MYERS FL 33919	MC GREGOR ISLES UT 1 + 2 PB 12 PGS 24 + 140 LOT 107+108 PT LOT 106 OR 1285/1445	59
MCGREGOR ISLES OWNERS ASSN PO BOX 6801 FORT MYERS FL 33911	16-45-24-10-0000A.00CE 12596 MCGREGOR BLVD FORT MYERS FL 33919	MCGREGOR ISLES UNIT 2 PB 12 PG 140 LOT A	60
CALOOSA BAYVIEW VILLAGE HOMES SAK & ASSOCIATES MGMT INC 12901 MCGREGOR BLVD STE 20 216 FORT MYERS FL 33919	16-45-24-20-00000.00CE CALOOSA BAYVIEW C/E FORT MYERS FL 33919	CALOOSA BAYVIEW VILLAGE HOMES UNIT NO 1 COMMON ELEMENTS POOL + TENNIS + UNITS A3-E + A3-F	61

CALOOSA BAYVIEW CONDO PH B INFINITY ACCOUNTING GROUP INC 12901 MCGREGOR BLVD STE 20 216 FORT MYERS FL 33919	16-45-24-22-00000.00CE CALOOSA BAYVIEW C/E FORT MYERS FL 33919	CALOOSA BAYVIEW CONDO PH B DESC OR BK 1063 PG 0716 CE:POOL+TENNIS	62
GULF STREAM WEST LLC TCG PM LLC 9450 CORKSCREW PALMS CIR #101 ESTERO FL 33928	16-45-24-45-00000.0010 12651 MCGREGOR BLVD #1 FORT MYERS FL 33919	MCGREGOR LAKES CENTER OFFICE PARK PB 73 PGS 64 + 65 LOT 1	63
GULF STREAM WEST LLC TCG PM LLC 9450 CORKSCREW PALMS CIR #101 ESTERO FL 33928	16-45-24-45-00000.0020 12651 MCGREGOR BLVD #2 FORT MYERS FL 33919	MCGREGOR LAKES CENTER OFFICE PARK PB 73 PGS 64 + 65 LOT 2	64
GULF STREAM WEST LLC TCG PM LLC 9450 CORKSCREW PALMS CIR #101 ESTERO FL 33928	16-45-24-45-00000.0030 12651 MCGREGOR BLVD #3 FORT MYERS FL 33919	MCGREGOR LAKES CENTER OFFICE PARK PB 73 PGS 64 + 65 LOT 3	65
GULF STREAM WEST LLC TCG PM LLC 9450 CORKSCREW PALMS CIR #101 ESTERO FL 33928	16-45-24-45-00000.0040 12651 MCGREGOR BLVD #4 FORT MYERS FL 33919	MCGREGOR LAKES CENTER OFFICE PARK PB 73 PGS 64 + 65 LOT 4	66
GULF STREAM WEST LLC TCG PM LLC 9450 CORKSCREW PALMS CIR #101 ESTERO FL 33928	16-45-24-45-00000.0050 12651 MCGREGOR BLVD #5 FORT MYERS FL 33919	MCGREGOR LAKES CENTER OFFICE PARK PB 73 PGS 64 + 65 LOT 5	67
MCGREGOR LAKES CENTER ASSN COMMERCIAL PROPERTY SPEC 12734 KENWOOD LN STE 93 FORT MYERS FL 33907	16-45-24-45-0000A.00CE MCGREGOR LAKES CENTER C/E FORT MYERS FL 33919	MCGREGOR LAKES CENTER OFFICE PARK PB 73 PGS 64 + 65 TRACT A	68
ENCLAVE AT COLLEGE POINTE ASSN SWFL CAM SERVICES 10231 METRO PKWY # 204 FORT MYERS FL 33966	16-45-24-47-00000.00CE ENCLAVE @ COLLEGE POINTE C/E FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 FKA COLLEGE POINTE PB 62/76- 78 TRACTS L-D-K + POR TR E COMMON ELEMENTS	69
KINGOS TARA HALL + 5669 EICHEN CIR W FORT MYERS FL 33919	16-45-24-L3-00013.0000 6062 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.B PB 9 PG 56 LOT 5	70
KINGOS TARA HALL + 5669 EICHEN CIR W FORT MYERS FL 33919	16-45-24-L3-00013.0010 6060 POMPANO ST FORT MYERS FL 33919	EDISON ACRES UNIT 1 BLK.B PB 9 PG 56 LOT 6	71
EUGSTER DAVID P 1760 DUNNWOOD WAY OREGON WI 53575	16-45-24-22-00014.1066 4262 ISLAND CIR #3 FORT MYERS FL 33919	CALOOSA BAYVIEW PH B COND BLDG 14 OR 1063 PG 709 UNIT 1066	72
LEHMAN KIMBERLY DAWN 4262 ISLAND CIR #2 FORT MYERS FL 33919	16-45-24-22-00014.1068 4262 ISLAND CIR #2 FORT MYERS FL 33919	CALOOSA BAYVIEW PH B COND BLDG 14 OR 1063 PG 709 UNIT 1068	72
WAGNER JENNIFER KAY 4262 ISLAND CIR #1 FORT MYERS FL 33919	16-45-24-22-00014.1070 4262 ISLAND CIR #1 FORT MYERS FL 33919	CALOOSA BAYVIEW PH B COND BLDG 14 OR 1063 PG 709 UNIT 1070	72
KLEVINSKY LAURA M 420 CUNAT BLVD APT 3B RICHMOND IL 60071	16-45-24-22-0016A.1040 4261 ISLAND CIR #8 FORT MYERS FL 33919	CALOOSA BAYVIEW PH B COND BLDG 16A OR 1063 PG 709 UNIT 1040 + VINYL PORCH	73
RICHARDS MARILYN 4261-G ISLAND CIR FORT MYERS FL 33919	16-45-24-22-0016A.1041 4261 ISLAND CIR #7 FORT MYERS FL 33919	CALOOSA BAYVIEW PH B COND BLDG 16A OR 1063 PG 709 UNIT 1041	73
KRAUS CONRAD J & JENNIE G 820 FOX CHASE RD ROCKLEDGE PA 19046	16-45-24-22-0016A.1043 4261 ISLAND CIR #6 FORT MYERS FL 33919	CALOOSA BAYVIEW PH B COND BLDG 16A OR 1063 PG 709 UNIT 1043	73

MEANS DIANE E & THOMAS P 4261 ISLAND CIR UNIT E FORT MYERS FL 33919	16-45-24-22-0016A.1045 4261 ISLAND CIR #5 FORT MYERS FL 33919	CALOOSA BAYVIEW PH B COND BLDG 16A OR 1063 PG 709 UNIT 1045	73
CORNER IRENE R 4261 ISLAND CIR APT D FORT MYERS FL 33919	16-45-24-22-0016A.1047 4261 ISLAND CIR #4 FORT MYERS FL 33919	CALOOSA BAYVIEW PH B COND BLDG 16A OR 1063 PG 709 UNIT 1047	73
CARRUTHERS JO ANN 4261 ISLAND CIR APT B FORT MYERS FL 33919	16-45-24-22-0016A.1050 4261 ISLAND CIR #2 FORT MYERS FL 33919	CALOOSA BAYVIEW PH B COND BLDG 16A OR 1063 PG 709 UNIT 1050	73
DONAHUE D P & MARIE T 79 COLLINS LN GETZVILLE NY 14068	16-45-24-22-0016A.1051 4261 ISLAND CIR #1 FORT MYERS FL 33919	CALOOSA BAYVIEW PH B COND BLDG 16A OR 1063 PG 709 UNIT 1051	73
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2701 9085 COLBY DR #2701 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2701	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2702 9085 COLBY DR #2702 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2702	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2703 9085 COLBY DR #2703 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2703	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2704 9085 COLBY DR #2704 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2704	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2705 9085 COLBY DR #2705 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2705	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2706 9085 COLBY DR #2706 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2706	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2707 9085 COLBY DR #2707 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2707	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2708 9085 COLBY DR #2708 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2708	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2709 9085 COLBY DR #2709 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2709	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2710 9085 COLBY DR #2710 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2710	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2711 9085 COLBY DR #2711 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2711	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2712 9085 COLBY DR #2712 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2712	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2713 9085 COLBY DR #2713 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2713	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2714 9085 COLBY DR #2714 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2714	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2715 9085 COLBY DR #2715 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2715	74

JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2716 9085 COLBY DR #2716 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2716	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2717 9085 COLBY DR #2717 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2717	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2718 9085 COLBY DR #2718 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2718	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2719 9085 COLBY DR #2719 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2719	74
JSM @ COLLEGE POINTE PH IV LLC 1260 STELTON RD PISCATAWAY NJ 08854	16-45-24-47-00027.2720 9085 COLBY DR #2720 FORT MYERS FL 33919	ENCLAVE AT COLLEGE POINTE DESC IN OR 4768 PG 951 BLDG 27 UNIT 2720	74

CPA2022-00019

Cary Duke CPA

This case has been
continued to
January 17, 2024

CPA2023-00004

Building Height and Resiliency

SUMMARY SHEET
CPA2023-00004, BUILDING HEIGHT AND RESILIENCY
ADOPTION HEARING

BOARD DIRECTION:

The Board of County Commissioners (BoCC) directed staff to identify regulatory constraints when seeking redevelopment to accommodate increased resiliency to future natural disasters at the January 17, 2023, regular Board meeting. Based on this direction, staff analyzed the entire Lee Plan to identify restrictions that may create problems with rebuilding and found two provisions that met the criteria.

SUMMARY:

The proposed amendments are to Amend Goal 23 and Policy 23.2.3 to remove language that prevents redevelopment of existing structures to base flood elevation while maintaining previous usable space.

PUBLIC COMMENTS:

10 members of the public provided comments concerning the proposed amendments. Members of the public who spoke against the amendments were concerned the amendments could lead to an increase in density and intensity and development that is out of character with existing development in the Captiva Community Plan area. members speaking in favor of the proposed amendments stated the amendments were needed to provide certainty in order to rebuild following Hurricane Ian and changes to the FEMA flood maps for Lee County that became effective in November of 2022.

TRANSMITTAL HEARING:

A motion was made to **transmit** CPA2023-00004 as recommended by staff and the LPA. The motion passed 4 to 1.

MIKE GREENWELL	AYE
BRIAN HAMMAN	AYE
CECIL L. PENDERGRASS	AYE
KEVIN RUANE	NAY
RAY SANDELLI	AYE

STATE REVIEW:

Lee County received responses from FloridaCommerce, the Florida Department of Environmental Protection (DEP), the Florida Department of Transportation (FDOT), the Florida Fish and Wildlife Conservation Commission (FWC), and the South Department of Agriculture and Consumer Services (FDACS). As discussed in the staff report there was one comment from FloridaCommerce and a letter of opposition from the City of Sanibel.

STAFF RECOMENDATION:

Staff recommends that the Board of County Commissioners **adopt** the amendments to the Lee Plan as transmitted and as provided in Attachment 1.

LEE COUNTY ORDINANCE NO. 23-XX

Building Height and Resiliency
(CPA2023-00004)

AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE PLAN, COMMONLY KNOWN AS THE “LEE PLAN,” ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENT PERTAINING TO THE BUILDING HEIGHT AND RESILIENCY (CPA2023-00004) APPROVED DURING A PUBLIC HEARING; PROVIDING FOR PURPOSE, INTENT, AND SHORT TITLE; AMENDMENTS TO ADOPTED MAP AND TEXT; LEGAL EFFECT OF “THE LEE PLAN”; PERTAINING TO MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER’S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, the Lee County Comprehensive Plan (“Lee Plan”) and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners (“Board”); and,

WHEREAS, the Board, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency (“LPA”) held a public hearing on the proposed amendment in accordance with Florida Statutes and the Lee County Administrative Code on May 22, 2023; and,

WHEREAS, the Board held a public hearing for the transmittal of the proposed amendment on September 6, 2023. At that hearing, the Board approved a motion to send, and did later send, proposed amendment pertaining to Building Height and Resiliency (CPA2023-00004) to the reviewing agencies set forth in Section 163.3184(1)(c), F.S. for review and comment; and,

WHEREAS, at the September 6, 2023 meeting, the Board announced its intention to hold a public hearing after the receipt of the reviewing agencies’ written comments; and,

WHEREAS, on December 6, 2023 the Board held a public hearing and adopted the proposed amendment to the Lee Plan set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:

SECTION ONE: PURPOSE, INTENT AND SHORT TITLE

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted public hearings to review proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt map and text amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board of County Commissioners. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as hereby amended, will continue to be the "Lee Plan." **This amending ordinance may be referred to as the "Building Height and Resiliency Ordinance (CPA2023-00004)."**

SECTION TWO: ADOPTION OF COMPREHENSIVE PLAN AMENDMENT

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting an amendment, which amends Lee Plan Goal 23 and Policy 23.2.3 to remove requirements that restrict the ability to redevelop or rebuild structures in a way that reduces potential flooding threats by accommodating required minimum flood elevations. This amendment is known as Building Height and Resiliency (CPA2023-00004).

The corresponding Staff Reports and Analysis, along with all attachments and application submittals for this amendment are adopted as "Support Documentation" for the Lee Plan. Proposed amendments adopted by this Ordinance are attached as Exhibit A.

SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

SECTION FOUR: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION FIVE: GEOGRAPHIC APPLICABILITY

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

SECTION SIX: SEVERABILITY

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the

powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

SECTION SEVEN: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

SECTION EIGHT: EFFECTIVE DATE

The plan amendments adopted herein are not effective until 31 days after the State Land Planning Agency notifies the County that the plan amendment package is complete. If timely challenged, an amendment does not become effective until the State Land Planning Agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status.

THE FOREGOING ORDINANCE was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____. The vote was as follows:

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

DONE AND ADOPTED this ____ day of _____ 2023.

ATTEST:
KEVIN C. KARNES
CLERK OF CIRCUIT COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Brian Hamman, Chair

DATE: _____

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

County Attorney's Office

Exhibit A (Adopted by BOCC December 6, 2023):
Adopted revisions to Lee Plan Text

CAO Draft 10/30/2023 11:37:41 AM

EXHIBIT A

Note: Text depicted with underscore represents additions to the Lee Plan. Strike-through text represents deletions from the Lee Plan.

PROPOSED TEXT AMENDMENTS

FUTURE LAND USE ELEMENT

GOAL 23: CAPTIVA COMMUNITY PLAN. The goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, waterways, wildlife, vegetation, water quality, dark skies and history. This goal will be achieved through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, maintain the mangrove fringe, limit noise, light, water, and air pollution, create mixed use development of traditionally commercial properties, and enforce development standards that maintain ~~one and two story building heights~~ and the historic low-density residential development pattern of Captiva.

Objective 23 through Policy 23.2.2 unchanged.

POLICY 23.2.3: Building Heights. Maintain building height regulations ~~established as of March 23, 2018~~ that account for barrier island conditions, such as mandatory flood elevation and mean-high sea level, for measuring height of buildings and structures.

STAFF REPORT FOR CPA2023-00004: BUILDING HEIGHT AND RESILIENCY



County Initiated Text Amendments to the Lee Plan

Amendment Type:

County Initiated
Direction: 01/17/2023

Recommendation:

Adopt

Amended Element(s):

Future Land Use

Hearing Dates:

LPA: 05/22/23
BoCC #1: 09/06/23
BoCC #2: 11/08/23

Attachment(s):

1: Text Amendments

PURPOSE

Amend Lee Plan Goal 23 and Policy 23.2.3 to remove requirements that restrict the ability to redevelop or rebuild structures in a way that reduces potential flooding threats by accommodating required minimum flood elevations.

SUMMARY

Staff reviewed the Lee Plan and identified two provisions, Goal 23 and Policy 23.2.3, which do not accommodate increased height due to increases of minimum flood elevations over time. The intent of the amendments is to accommodate increased resiliency to flooding, while minimizing changes to height that would be inconsistent with the character of the surrounding community.

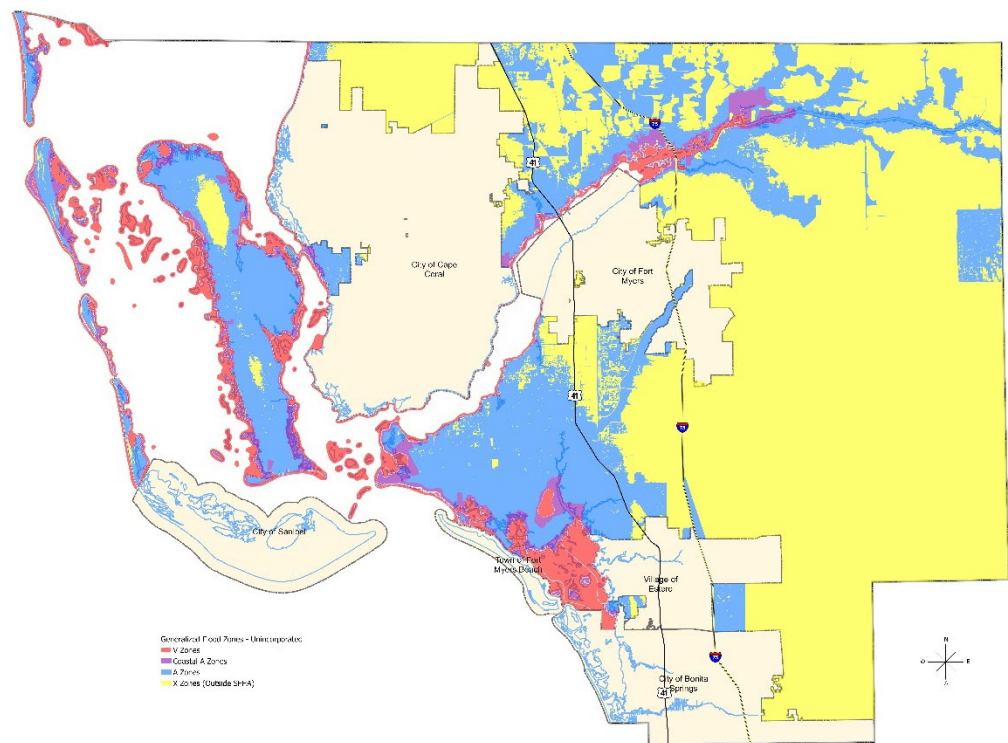


Figure 1: Generalized Flood Zones - Unincorporated Lee County

RECOMMENDATION

Staff recommends that the Board of County Commissioners **adopt** the amendments based on the analysis and findings provided in this staff report.

PART 1 STAFF DISCUSSION AND ANALYSIS

BACKGROUND

In the wake of Hurricane Ian, residents and business of Lee County have encountered conflicting federal, state, and county regulations during the process of rebuilding or redeveloping lawfully existing structures. In Lee County one of the most frequently identified concerns is meeting current minimum flood elevation requirements while also meeting local height requirements.

Adding to this concern, on November 17, 2022, the Federal Emergency Management Agency released updated flood maps which generally increased required base flood elevations from the previously effective flood maps.

On January 17, 2023, the Board of County Commissioners directed staff to identify regulatory constraints when seeking redevelopment to accommodate increased resiliency to flood events. Based on this direction staff analyzed the entire Lee Plan to identify restrictions that may create problems with rebuilding in accordance with state and federal building regulations. Staff identified one goal and one policy within the Lee Plan that limit maximum height without allowing for increases to state and federal minimum flood elevations. Both of these provisions relate to height within the Captiva Community Plan Area.

COMMUNITY PLANNING

The Captiva Community Plan was adopted into the Lee Plan by Ordinance 03-01, the adopting ordinance of CPA2001-00010: Pertaining to the Captiva Island Community Plan, on January 9, 2003. The staff report of CPA2001-00010 states that “The Community expressed a desire to implement a stronger community approach to land use and zoning issues to proactively address community character, density, natural resources, public participation and transportation.”

Goal 23 intends to “protect the coastal barrier island community’s natural resources such as beaches, waterways, wildlife, vegetation, water quality, dark skies and history.” The goal of the Captiva Community Plan is accomplished through various environmental protections and limits on development. The full Goal 23, including proposed amendments, is identified below:

GOAL 23: CAPTIVA COMMUNITY PLAN. The goal of the Captiva Community Plan is to protect the coastal barrier island community’s natural resources such as beaches, waterways, wildlife, vegetation, water quality, dark skies and history. This goal will be achieved through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, maintain the mangrove fringe, limit noise, light, water, and air pollution, create mixed use development of traditionally commercial properties, and enforce development standards that maintain ~~one and two story building heights and~~ the historic low-density residential development pattern of Captiva.

The generality with which the current Goal 23 is written, concerning building heights, is vague but still limiting. The wording is ambiguous because it does not define a starting point for the “one and two story building heights,” nor does it clarify if areas within a structure but below the base flood elevation, which may include storage or parking, would be considered one of the allowable two stories. Without a clear

definition of “one and two story building heights”, land owners seeking to make their properties more resilient are left with limited ability to rebuild their properties while retaining the same amount of useable living space within the structure. Community character will continue to be enforced through specific height limitations within the Land Development Code.

Policy 23.2.3 as currently written, ties land owners to past regulations on building height and restricts property owners’ ability to adapt to dynamic regulations and coastal environments. While this policy does aid in protecting the character of the island, it also prevents residents and business owners who had structures damaged by Hurricane Ian from rebuilding within federal and state flood regulations while maintaining previously approved usable living space. The full Policy 23.2.3, including proposed amendments, is as follows:

POLICY 23.2.3: Building Heights. Maintain building height regulations established as of March 23, 2018 that account for barrier island conditions, such as mandatory flood elevation and mean-high sea level, for measuring height of buildings and structures

The original Captiva Plan provided guidance for heights allowed in the Community Plan Area with the purpose of limiting density on the island that provided a maximum height of 35 feet above grade or 42 feet above sea level, whichever was lower. This guidance was later updated by Ordinance 11-19 (CPA2010-00015), which added an option to have a maximum height of “28 feet above the lowest horizontal member at or below the lawful base flood elevation.” These specific heights were later removed from the Lee Plan and relocated to the Land Development Code, where they are more appropriate, through Ordinance 18-4 (CPA2015-00009). At that time the specific language was replaced by the language currently in Policy 23.2.3 which commits to maintaining LDC regulations that appropriately regulate height. Subsequently, the Captiva Plan Goal was renumbered from Goal 13 to its current Goal 23 in 2018 by Ordinance 18-18 (CPA2017-00010).

The proposed amendment to Policy 23.2.3 is to delete a specific date that does not allow for updates to state or federal requirements. Captiva’s community character and low density will continue to be maintained by **Policy 23.2.4** and **Policy 23.2.5**. Policy 23.2.4 states that development on Captiva is limited to the historic development pattern, which is “comprised of low-density residential dwelling units.” Policy 23.2.5 prohibits certain rezonings that reduce the minimum lot size per unit, aiding in the protection of the low-density character of the island. Staff finds the potential change in character resulting from the proposed amendments is minimal and is consistent with the intent of the Policy.

Policy 17.3.2 requires all privately-initiated amendments within a community plan area to conduct one or more public meetings within the boundary of the community plan area in question. Since the proposed text amendments are county-initiated, there is no requirement to hold a meeting within the boundaries of the Captiva community plan area per Policy 17.3.2.

OTHER LEE PLAN CONSIDERATIONS

The proposed amendments remove potential inconsistencies with **Policy 5.1.2** by allowing for design of residential structures to be adjusted accordingly where physical hazards such as flooding exists.

Objective 72.2 requires the county to “maintain land development regulations that reduce the vulnerability of development from the threats of natural and man-made hazards”. The proposed text

amendments are consistent with this policy by clarifying and allowing development standards that will reduce risk of damage to life and property from storm water.

The proposed amendments take into account Lee Plan **Chapter XII. Property Rights Element** by clarifying the ways in which property owners in Lee County can rebuild their property to the standards necessary to minimize future risk of property damage.

The proposed amendment does not change the number of residential dwelling units or the types of non-residential development that may be approved within the Captiva Community Plan Area. Appropriate uses within the Captiva Community Plan Area will continue to be determined by the Future Land Use Map as well as the objectives and policies within Goal 23.

PUBLIC FACILITIES AND INFRASTRUCTURE AVAILABILITY ANALYSIS

The proposed amendments will not increase density in the Community Plan Area, therefore there will be no significant impacts to public facilities and services.

CONCLUSIONS

The Lee Plan, with the proposed amendments, will provide for greater resiliency by allowing structures to minimize flood hazards through design and construction. The proposed amendments will impact the Captiva Community Plan Area by providing for consistent treatment of structures that require elevation and removing ambiguous language from the community plan. These amendments will not impact the community plan's intent to retain low-density development. The amendments are internally consistent with the Captiva plan and the Lee Plan as a whole, including Policy 5.1.2, Objective 72.2, and Chapter XII.

For the reasons discussed in this staff report, staff recommends that the Board of County Commissioners ***transmit*** the proposed amendment as shown in Attachment 1.

PART 2
LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION

DATE OF PUBLIC HEARING: May 22, 2023

A. LOCAL PLANNING AGENCY REVIEW

Staff provided a brief presentation addressing Board of County Commissioners' direction, reasons for and impacts of the amendment, consistency with the Lee Plan, and staff recommendation.

The LPA discussed the proposed amendments and various merits of the case, including the community meeting requirements for county-initiated amendments.

There was no public comment concerning the proposed amendment at the LPA Hearing.

B. LOCAL PLANNING AGENCY RECOMMENDATION

A motion was made to recommend that the Board of County Commissioners **transmit** CPA2023-00004. The motion passed 4 to 0.

RAYMOND BLACKSMITH	<u>AYE</u>
KEITH DEAN	<u>AYE</u>
DUSTIN GARDNER	<u>ABSENT</u>
DAWN RUSSELL	<u>ABSENT</u>
DON SCHROTENBOER	<u>AYE</u>
STAN STODER	<u>AYE</u>
HENRY ZUBA	<u>ABSENT</u>

C. STAFF RECOMMENDATION

Staff recommends that the BoCC ***transmit*** the proposed amendment as provided in Attachment 1.

PART 3
BOARD OF COUNTY COMMISSIONERS
TRANSMITTAL HEARING

DATE OF PUBLIC HEARING: June 21, 2023

A. BOARD REVIEW:

The hearing scheduled for June 21, 2023, did not occur. At the regular Board of County Commissioners (BoCC) Meeting on June 20, 2023, the BoCC voted to continue the transmittal hearing on CPA2023-00004 until September 6, 2023. Staff was instructed to hold meetings with the public to discuss the proposed changes and listen to public comments prior to the September 6 hearing.

DATE OF PUBLIC HEARING: September 6, 2023

B. BOARD REVIEW:

Staff provided a presentation for the proposed amendment which included the purpose of the proposed amendments, anticipated impacts of the amendments, consistency with the Lee Plan, and staff recommendation.

10 members of the public provided comments concerning the proposed amendments. Members of the public who spoke against the amendments were concerned the amendments could lead to an increase in density and intensity and development that is out of character with existing development in the Captiva Community Plan area. members speaking in favor of the proposed amendments stated the amendments were needed to provide certainty in order to rebuild following Hurricane Ian and changes to the FEMA flood maps for Lee County that became effective in November of 2022.

One member of the BoCC expressed disagreement with the amendments.

C. BOARD ACTION:

A motion was made to transmit CPA2023-00004 as recommended by staff and the LPA. The motion passed 4 to 1.

VOTE:

MIKE GREENWELL	<u>AYE</u>
BRIAN HAMMAN	<u>AYE</u>
CECIL L. PENDERGRASS	<u>AYE</u>
KEVIN RUANE	<u>NAY</u>
RAY SANDELLI	<u>AYE</u>

PART 4
STATE REVIEWING AGENCIES'
OBJECTIONS, RECOMMENDATIONS, AND COMMENTS

Comments from the State Reviewing Agencies were due to Lee County by October 6, 2023.

A. OBJECTIONS, RECOMMENDATIONS AND COMMENTS:

Lee County received responses from the following review agencies addressing the transmitted amendment:

- FloridaCommerce,
- Florida Department of Environmental Protection (DEP),
- Florida Department of Transportation (FDOT),
- Florida Fish and Wildlife Conservation Commission (FWC), and
- South Department of Agriculture and Consumer Services (FDACS)

As discussed below there was one comment from FloridaCommerce.

FloridaCommerce:

Comment #1:

The amendment appears to fly a "false flag" of "resilience" as a primary purpose. When, in reality, the amendment is clearly at least in-part for the purpose of an increase in hotel room density. Whether or not an increase in hotel room density is appropriate is for the community to decide. Rather, we are simply urging you to have a transparent discussion with the community about the actual purpose of the amendment.

Response Comment #1

Section 163.3184(3), Fla. Stat., provides the process for Expedited State Review of local Comprehensive Plan Amendments. As the State Land Planning Agency under Chapter 163, Fla. Stat., FloridaCommerce is tasked with reviewing Lee County's Comprehensive Plan Amendments in accordance with the limited authority granted to it under § 163.3184, Fla. Stat.

Pursuant to § 163.3184(3)(b)2., Fla. Stat.,

*State agencies **shall only comment on important state resources and facilities that will be adversely impacted by the amendment** if adopted. Comments provided by state agencies shall state with specificity how the plan amendment will adversely impact an important state resource or facility and shall identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts.*

Section 163.3184(3)(b)4.h., Fla. Stat., provides:

*4. Comments to the local government from state agencies **shall be limited to the following subjects as they relate to important state resources and facilities that will be adversely impacted by the amendment if adopted:***

*h. The state land planning agency [FloridaCommerce] **shall limit its comments to important state resources and facilities outside the jurisdiction of other commenting state agencies** and may include comments on countervailing planning policies and objectives served by the plan amendment that should be balanced against potential adverse impacts to important state resources and facilities.* (emphasis added).

The only comment received from FloridaCommerce referenced density, hotels, and transparency. The comment was not limited to only those concerning “*important state resources and facilities that will be adversely impacted by the amendment if adopted*” and therefore violated State law. See § 163.3184(3)(b)2., and § 163.3184(3)(b)4, Fla. Stat.

Notwithstanding the clear violation of State law, the comments from FloridaCommerce concerning density and hotel units were directed towards comments concerning the Land Development Code amendments and not the Lee Plan Amendments. Furthermore, to the extent the FloridaCommerce comment regarding transparency were directed toward the Lee Plan Amendment, the County’s actions were transparent and were consistent with the requirements of Chapter 125, Fla. Stat., Chapter 163, Fla. Stat., and all applicable Lee County regulations pertaining to the adoption of revisions to the Land Development Code and the Lee Plan.

That being said, Lee County has been transparent with all affected communities about the actual purpose of the proposed LDC and Lee Plan amendments. Prior to scheduling the proposed amendments for public hearing before the County Commission, County staff presented the proposed amendments to the following Board-appointed citizen advisory committees as part of publicly advertised meeting agendas:

- On May 12, 2023, staff presented the proposed amendments to the Land Development Code Advisory Committee (“LDCAC”). The LDCAC reviewed the proposed amendments to the Land Development Code (LDC) and recommended approval of the proposed amendments as modified.
- On May 22, 2023, the Local Planning Agency (LPA) reviewed the proposed amendments to both the Lee Plan and LDC and found them consistent with the Lee Plan.

The proposed amendments were then scheduled for a series of duly advertised public hearings before the County Commission to consider their adoption as follows:

- On June 6, 2023, a request to set the Ordinance for a public hearing was presented to the Board of County Commissioners during its publicly advertised Board meeting. The Board voted to set the public hearing for the proposed ordinance for June 20, 2023.
- On June 20, 2023, the Board of County Commissioners voted to continue the public hearing for the proposed ordinance until September 5, 2023 to allow for opportunities for public input. The Board also voted to continue the transmittal hearing of companion amendments to the Lee Plan from June 21, 2023 to September 6, 2023.

In response to the Board’s direction, staff scheduled and held a series of public meetings to engage concerned citizens and residents regarding the proposed amendments. These meetings were as follows:

- Thursday, July 13, 2023, 6:00 p.m. – 8:00 p.m., Captiva Civic Center, 11550 Chapin Lane, Captiva.
 - [Presentation](#)
 - [Summary of Discussion](#)

- Tuesday August 1, 2023, 6:30 p.m., Pine Island Civic Association Regular Meeting, Pine Island United Methodist Church - 5701 Pine Island Road, Bokeelia.
 - [Presentation](#)
- Wednesday, August 2, 2023, 6:00 p.m. – 8:00 p.m., BIG ARTS, 900 Dunlop Road, Sanibel Island.
 - [Presentation](#)
 - [LDC Overview and Clarification](#)
- Wednesday, August 9, 2023, 5:30 p.m. – 7:30 p.m., Lee County Public Works Building, Conference Room 1B, 1500 Monroe Street, Fort Myers.

Lee County will continue to include opportunities for public input if a property request zoning changes based proposed amendments to the Lee Plan.

The comment did not identify any “important state resources and facilities that will be adversely impacted by the amendment if adopted,” and did not “identify measures Lee County should take to eliminate, reduce, or mitigate the adverse impacts.” Therefore, it is the opinion of staff the comment provided by FloridaCommerce will not result in a challenge by the state land planning agency. No modifications or further actions are needed on response to the FloridaCommerce comment.

City of Sanibel:

In addition to the comment received from FloridaCommerce, a letter of opposition from the City of Sanibel dated October 6, 2023, was also received by Lee County. As provided in FS163.3184(3)(b)3.c. “municipal comments shall be in the context of the relationship of the proposed plan amendments on the municipal plan.”

Comment #1:

While there are no specifically identified comments or objections in the letter from the City of Sanibel, it is stated “any changes to the Lee Plan or Lee County Land Development Plan that allows for increased density, increased building height (as a means of achieving higher density), or increased intensity on Captiva has a direct and undesirable impact Sanibel.”

Response Comment #1

Lee County maintains that the proposed amendments to the Lee Plan do not increase density or intensity of development as defined in the Lee Plan. The Lee Plan defines density as follows:

DENSITY – The number of residential dwelling or housing units per gross acre (du/acre) (emphasis added). Densities specified in this plan are **gross residential densities** (emphasis added). For the purpose of calculating gross residential density, the total acreage of a development includes those lands to be used for residential uses, and includes land within the development proposed to be used for streets and street rights of way, utility rights-of-way, public and private parks, recreation and open space, schools, community centers, and facilities such as police, fire and emergency services, sewage and water, drainage, and existing man-made waterbodies contained within the residential development. Lands for commercial, office, industrial uses, natural water bodies, and other non-residential uses must not be included in the density calculation, unless otherwise stated in this plan.

When the calculation of the gross density of a development results in a fractional density, 0.50 of a dwelling unit or greater shall be rounded up to the next whole number and fractions less than 0.50

shall be rounded down. No further rounding is permitted. Fractional density rounding may not be applied to parcels subject to the Gasparilla Island Conservation District Act of 1980 (as amended) or existing, undersized parcels that would require a Minimum Use Determination pursuant to Chapter XIII to permit one single-family residence on said parcel. Fractional density rounding may not be applied to parcels of land created (subdivided or combined) after March 16, 2016 in a manner that would permit greater gross density than that was permitted (with fractional density rounding) prior to creation of the new parcel.

The changes transmitted by Lee County, shown below, as previously stated, do not in any way change the number of residential dwelling units.

GOAL 23: CAPTIVA COMMUNITY PLAN. The goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, waterways, wildlife, vegetation, water quality, dark skies and history. This goal will be achieved through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, maintain the mangrove fringe, limit noise, light, water, and air pollution, create mixed use development of traditionally commercial properties, and enforce development standards that maintain ~~one and two story building heights and~~ the historic low-density residential development pattern of Captiva.

POLICY 23.2.3: Building Heights. Maintain building height regulations ~~established as of March 23, 2018~~ that account for barrier island conditions, such as mandatory flood elevation and mean-high sea level, for measuring height of buildings and structures

The Captiva Community Plan Area is identified on Map 2-A of the Lee Plan. Lands within the Captiva Community Plan Area are within the Outlying Suburban, Public Facilities, and Wetlands future land use category as identified on the Future Land Use Map, Map 1-A.

- The Outlying Suburban future land use category allows a density of 3 dwelling units per acre as established by Policy 1.1.6.
- The Public Facilities future land use category does not allow residential density per Policy 1.1.8.
- The Wetlands future land use category allows a density of 1 unit per 20 acres¹ per acre as established by Policy 1.5.1, Policy 124.1.1 and Table 1(a).

The proposed amendments do not seek to amend Map 1-A, Policy 1.1.6, Policy 1.1.8, Policy 1.5.1, Policy 124.1.1 or Table 1(a). Additionally, because density is tied to gross acre, a building's height does not impact the allowable density. Therefore, there are no proposed amendments that could possibly change the density or number of residential dwelling units permitted within the Captiva Community Plan Area.

B. STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners **adopt** the amendments to the Lee Plan as transmitted and as provided in Attachment 1.

¹ Lee Plan Policy 124.1.1 provides a density incentive when freshwater wetlands are preserved adjacent to certain land use categories.

PROPOSED TEXT AMENDMENTS

FUTURE LAND USE ELEMENT

GOAL 23: CAPTIVA COMMUNITY PLAN. The goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, waterways, wildlife, vegetation, water quality, dark skies and history. This goal will be achieved through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, maintain the mangrove fringe, limit noise, light, water, and air pollution, create mixed use development of traditionally commercial properties, and enforce development standards that maintain ~~one and two story building heights~~ and the historic low-density residential development pattern of Captiva.

Objective 23 through Policy 23.2.2 unchanged.

POLICY 23.2.3: Building Heights. Maintain building height regulations ~~established as of March 23, 2018~~ that account for barrier island conditions, such as mandatory flood elevation and mean-high sea level, for measuring height of buildings and structures.

Miller, Janet

From: Dunn, Brandon
Sent: Thursday, September 28, 2023 1:49 PM
To: Miller, Janet
Cc: Sarracino, Joseph; Rozdolski, Mikki; Jacob, Michael; Sweigert, Rebecca; Rodriguez, Anthony
Subject: FW: Proposed CPA-23-05ESR/ Lee County/ FDOT Review

FYI, this is concerning CPA2023-00004 – Building Height and Resiliency



Brandon Dunn | Manager
Community Development – Planning Section

1500 Monroe Street, Fort Myers, FL 33902-0398

office: (239) 533-8585

email: bdunn@leegov.com

web: www.leegov.com

Connect With Us On Social Media



From: Suguri, Vitor <Vitor.Suguri@dot.state.fl.us>
Sent: Thursday, September 28, 2023 1:45 PM
To: Dunn, Brandon <BDunn@leegov.com>
Cc: Reina, Bessie <Bessie.Reina@dot.state.fl.us>; Merkle, Tanya <Tanya.Merkle@dot.state.fl.us>; McCaughey, Erica <Erica.McCaughey@dot.state.fl.us>; Babuji Ambikapathy (BAmbikapathy@VHB.com) <BAmbikapathy@VHB.com>; jzaballero@vhb.com
Subject: [EXTERNAL] Proposed CPA-23-05ESR/ Lee County/ FDOT Review

Caution: This email originated from an external source. Be cautious of attachments and links, and do not provide login information. Report suspicious activity to the Service Desk: servicesdesk@leegov.com or 533-HELP.

Good afternoon, Mr. Dunn,

FDOT has reviewed the transmitted amendment for Lee County pursuant to Section 163.3184(3), Florida Statutes. The proposed CPA is not anticipated to have significant adverse impacts to transportation resources or facilities of state importance.

We appreciate the opportunity to review the proposed amendment, and if you have any questions, please do not hesitate to contact me.

Sincerely,

Vitor Suguri, Ph.D.

Community Planner

SIS Coordinator

Florida Department of Transportation - District One

10041 Daniels Parkway

Fort Myers, FL 33913

(239) 225-1959 - Desk

(863) 221-1707 – Cell



Receive updates from Lee County Government by [subscribing to our newsletter](#)

Please note: Florida has a very broad public records law. Most written communications to or from County Employees and officials regarding County business are public records available to the public and media upon request. Your email communication may be subject to public disclosure.

Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES COMMISSIONER WILTON SIMPSON

October 3, 2023

VIA EMAIL (bdunn@leegov.com)

Lee County
Brandon Dunn
P.O. Box 398
Fort Myers, Florida 33902-0398

Re: Amendment Package Reference Number: Lee County #23-05ESR

Dear Brandon Dunn,

The Florida Department of Agriculture and Consumer Services (the "Department") received the above-referenced proposed comprehensive plan amendment on September 7, 2023. The Department has reviewed the proposed amendment pursuant to Section 163.3184, Florida Statutes, for any adverse impacts to important state resources or facilities related to agriculture, forestry, and aquaculture issues.

The Department has no comments on the above-referenced proposed comprehensive plan amendment as presented.

Please contact me at CompPlans@FDACS.gov if you have any questions.

Sincerely,

Steven Hall
Assistant Deputy Commissioner

cc: Florida Department of Economic Opportunity
(SLPA #: Lee County #23-05ESR)

October 6, 2023

The Honorable Brian Hamman
Chairman, Lee County
Board of County Commissioners
Post Office Box 398
Fort Myers, Florida 33901-0398

Dear Chairman Hamman:

The Florida Department of Commerce (FloridaCommerce) has reviewed the proposed comprehensive plan amendment for Lee County (Amendment No. 23-05ESR) received on September 7, 2023. The review was completed under the expedited state review process. After consideration of the proposed amendment and citizen input, we have a comment regarding the proposed amendment.


The amendment appears to fly a “false flag” of “resilience” as a primary purpose. When, in reality, the amendment is clearly at least in-part for the purpose of an increase in hotel room density. Whether or not an increase in hotel room density is appropriate is for the community to decide. Rather, we are simply urging you to have a transparent discussion with the community about the actual purpose of the amendment.

The County should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment. In addition, the County is reminded that:

- Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the County. **If the County receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption.**
- **The second public hearing**, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of agency comments or the amendment shall be **deemed withdrawn** unless extended by agreement with notice to FloridaCommerce and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.
- **The adopted amendment must be transmitted to FloridaCommerce within ten working days after the second public hearing pursuant to 163.3184(3)(c)2., F.S.** Under Section 163.3184(3)(c)2. and 4., F.S., the **amendment effective date** is 31 days after FloridaCommerce notifies the County that the amendment package is complete or, if challenged, until it is found to be in compliance by FloridaCommerce or the Administration Commission.

If you have any questions concerning this review, please contact Scott Rogers, Regional Planning Administrator, by telephone at (850)-717-8510 or by email at scott.rogers@commerce.fl.gov.

Sincerely,



James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/sr

Enclosure(s): Procedures for Adoption

cc: David Loveland, Director, Lee County Department of Community Development
Margaret Wuerstle, Executive Director, Southwest Florida Regional Planning Council

SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS

FOR EXPEDITED STATE REVIEW

Section 163.3184(3), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit electronically using FloridaCommerce's electronic amendment submittal portal "**Comprehensive Plan and Amendment Upload**" (<https://fldco.my.salesforce-sites.com/cp/>) **or** submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ State Land Planning Agency identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format.

_____ In the case of future land use map amendments, an adopted future land use map, **in color format**, clearly depicting the parcel, its future land use designation, and its adopted designation.

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

_____ Copy of the executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for expedited review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

_____ List of additional changes made in the adopted amendment that the State Land Planning Agency did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the State Land Planning Agency in response to the comment letter from the State Land Planning Agency.

From: [Plan_Review](#)
To: [Dunn, Brandon](#); [DCPexternalagencycomments](#)
Cc: [Plan_Review](#)
Subject: Lee County 23-05ESR Proposed
Date: Friday, October 6, 2023 4:31:12 PM
Attachments: [image001.png](#)

Caution: This email originated from an external source. Be cautious of attachments and links, and do not provide login information. Report suspicious activity to the Service Desk: servicedesk@leegov.com or 533-HELP.

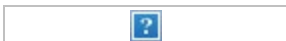
To: Mr. Brandon Dunn, Manager

Re: Lee County 23-05ESR – Expedited State Review of Proposed Comprehensive Plan Amendment

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (Department) has reviewed the above-referenced amendment package under the provisions of Chapter 163, Florida Statutes. The Department conducted a detailed review that focused on potential adverse impacts to important state resources and facilities, specifically: air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, conservation easements; solid waste; and water and wastewater treatment.

Based on our review of the submitted amendment package, the Department has found no provision that, if adopted, would result in adverse impacts to important state resources subject to the Department's jurisdiction.

Please submit all future amendments by email to Plan.Review@FloridaDEP.gov. If your submittal is too large to send via email or if you need other assistance, contact Lindsay Weaver at (850) 717-9037.





Florida Fish and Wildlife Conservation Commission

Commissioners

Rodney Barreto
Chairman
Coral Gables

Steven Hudson
Vice Chairman
Fort Lauderdale

Preston Farrior
Tampa

Gary Lester
Oxford

Albert Maury
Coral Gables

Gary Nicklaus
Jupiter

Sonya Rood
St. Augustine

Office of the
Executive Director
Roger A. Young
Executive Director

Jessica Crawford
Chief of Staff

850-487-3796
850-921-5786 FAX

*Managing fish and wildlife
resources for their long-term
well-being and the benefit
of people.*

620 South Meridian Street
Tallahassee, Florida
32399-1600
Voice: 850-488-4676

Hearing/speech-impaired:
800-955-8771 (T)
800 955-8770 (V)

MyFWC.com

October 6, 2023

Brandon Dunn
Lee County Planning Section
P.O. Box 398
Fort Myers, FL 33902
bdunn@leegov.com

RE: Lee County Comprehensive Plan Amendment 23-05ESR (CPA2023-0004)

Dear Mr. Dunn:

Florida Fish and Wildlife Conservation Commission (FWC) staff reviewed the above-referenced comprehensive plan amendment package and provides the following comments and recommendations for consideration in accordance with Chapter 163.3184, Florida Statutes. While there are no objections to the amendment, the following technical assistance information is provided to assist the Department of Economic Opportunity, the County, and any applicants during the amendment review and future project planning.

Proposed Amendments

The proposal is a county-initiated amendment to the Lee Plan Goal 23 and Policy 23.2.3 relating to building heights within the Captiva Community Plan Area. In the aftermath of Hurricane Ian, residents and businesses seeking to rebuild existing structures must meet state and federal building regulations related to minimum flood elevations. Lee Plan Goal 23 and Policy 23.2.3 both currently limit maximum height without allowing for these corresponding increases in minimum flood elevations. The proposed text amendments are designed to address this by providing consistent treatment of structures that require elevation, while minimizing increases in overall building height.

Comments and Recommendations

Marine Turtle Lighting

The beaches in Lee County provide important nesting habitat for loggerhead (*Caretta caretta*, Federally Threatened [FT]) and green (*Chelonia mydas*, FT) sea turtles. While the County is considering regulatory changes affecting redevelopment in the wake of Hurricane Ian, FWC staff recommends that the County consider updating the current Lee County lighting ordinance to align with recommendations under the Model Lighting Ordinance for Marine Turtle Protection (62B-55, <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=62B-55>) and/or develop a local lighting ordinance for Captiva. FWC staff are available to provide technical assistance with the development or revision of lighting ordinances and requests can be sent by email to MarineTurtle@MyFWC.com.

FWC staff appreciates the opportunity to provide input on this project. For specific technical questions regarding the content of this letter, please contact Sydney Wilson at (561) 236-6706 or by email at Sydney.Wilson@MyFWC.com. All other inquiries may be sent to ConservationPlanningServices@MyFWC.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Cucinella". The signature is fluid and cursive, with the first name "Josh" and last name "Cucinella" clearly distinguishable.

Josh Cucinella
Land Use Planning Program Administrator
Office of Conservation Planning Services

jc/sw

Lee County 23-05ESR_56968_10062023



City of Sanibel

800 Dunlop Road
Sanibel, Florida 33957-4096

www.mysanibel.com

AREA CODE – 239

ADMINISTRATION	472-3700
CITY CLERK/LEGISLATIVE	472-3700
CITY COUNCIL	472-4135
BUILDING	472-4555
FINANCE	472-9615
IT SUPPORT	472-3700
LEGAL	472-4359
NATURAL RESOURCES	472-3700
PLANNING	472-4136
POLICE	472-3111
EMERGENCY MANAGEMENT	472-3111
PUBLIC WORKS	472-6937
RECREATION	472-0345
UTILITIES	472-3179

October 5, 2023

Donna Harris (donna.harris@commerce.fl.gov; 850-717-8491)
Scott Rogers, Program Administrator (scott.rogers@commerce.fl.gov)
Florida Department of Commerce

Re: Amendment to the Lee Plan Transmittal Submission Package CPA2023-00004

Dear Ms. Harris and Mr. Rogers,

This letter conveys the City of Sanibel's strong opposition to the Lee Plan Amendment that was submitted to your office by Lee County (Submission Package CPA2023-00004). As you may know, for any person to visit the unincorporated Lee County barrier island of Captiva by land, one must travel through the City of Sanibel. Therefore, any changes to the Lee Plan or Lee County Land Development Plan that allows for increased density, increased building height (as a means of achieving higher density), or increased intensity on Captiva has a direct and undesirable impact on Sanibel.

The City of Sanibel was incorporated in 1974 to ensure the island was not overdeveloped. The residents who led Sanibel's municipal incorporation also led the development of the Sanibel Plan and the Sanibel Land Development Code. Together, the Plan and the Code work to guard against overdevelopment on the island, and to preserve the small town and scenic characteristics of our barrier island community. The dominant principal of the Sanibel Plan's Vision Statement states:

Sanibel is and shall remain a barrier island sanctuary, one in which a diverse population lives in harmony with the Island's wildlife and natural habitats. The Sanibel community must be vigilant in the protection and enhancement of its sanctuary characteristics.

The City of Sanibel will resist pressures to accommodate increased development and redevelopment that is inconsistent with the Sanibel Plan, including this Vision Statement.

The City of Sanibel will guard against and, where advisable, oppose human activities in other jurisdictions that might harm the Island's sensitive habitats, including the Island's surrounding aquatic ecosystems.

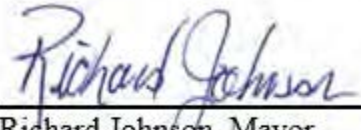
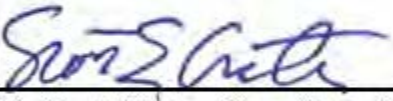

At the October 3, 2023, City Council meeting, the City Council expressed their desire to oppose the referenced Lee Plan amendment by endorsing the letter the Captiva Civic Association sent to your office on September 19, 2023, a copy of which is attached.

The Sanibel City Council has consistently expressed opposition to amending the Lee County Land Development Code (Chapters 30,33 & 34), which was approved by the Lee County Board of County Commissioners (BOCC) on September 5, 2023,

and the proposed amendments to the Lee Plan as transmitted to your agency. The letters sent to the BOCC by the City of Sanibel are attached to this letter.

Should you wish to discuss the City of Sanibel's concerns, please contact Dana Souza, City Manager at 239-472-3700 or by email at dana.souza@mysanibel.com.

Respectfully submitted,


Richard Johnson, Mayor
Mike Miller, Vice Mayor
Dr. Scott Crater, Councilmember
John Henshaw, Councilmember
Holly D. Smith, Councilmember

Richard Grosso, Esq.
Richard Grosso, P.A.
6919 W. Broward Blvd.
Plantation, FL 33317
Mailbox 142
richardgrosso1979@gmail.com
954-801-5662
richardgrosso.com

sent via email

September 19, 2023

Donna Harris (donna.harris@commerce.fl.gov; 850-717-8491)
Scott Rogers, Program Administrator (scott.rogers@commerce.fl.gov; 850-717-8510)
Florida Department of Commerce

Re: Amendment to the Lee Plan Transmittal Submission Package CPA2023-00004

Dear Ms. Harris and Mr. Rogers,

I write on behalf of the Captiva Civic Association (“CCA”), a longstanding organization advocating for the benefit of the citizens of Captiva, and the owner of the Civic Center, the Captiva Memorial Library property and the home rented by Lee County for the Deputy Sheriff on Captiva, within unincorporated Lee County. CCA’s Land Use Committee consists of members from the key stakeholder organizations on Captiva. We write to share our significant concerns with this proposed Amendment, which would perversely allow an increase in hotel rooms and additional floors of buildable living space on a barrier island within the Coastal High Hazard Area just one year after that island was devastated by Hurricane Ian.

The Amendment Allows an Increase in Hotel Room Density and Greater Building Heights

First and foremost, the proposed Amendment – misleadingly labelled “Building Height and Resilience” - represents **a substantial increase in allowable hotel room density**. The statement in the staff report accompanying the proposed Amendment that the Amendment does not increase residential density fails to disclose that the Amendment allows an increase in hotel room density. The County’s transmittal cover letter represents that “[t]he amendment is as follows:

“CPA2023-00004, Building Height and Resiliency
Amend Lee Plan Goal 23 and Policy 23.2.3 to remove requirements that restrict the ability to redevelop or rebuild structures in a way that reduces potential flooding threats by accommodating required minimum flood elevations.”¹

¹ As far as we can tell, the transmittal cover letter and the brief staff report are the entire transmittal package transmitted to the Department by the County.

This is not accurate. Rather, the Amendment makes two material changes which, taken together, allow an increase in hotel room density on Captiva.

First, the Plan Amendment allows the County to raise the maximum building heights on Captiva from 28 to 35 feet above base flood elevation – allowing for an additional habitable floor to be built above base flood elevation. The Amendment permits an increase in the intensity of use by raising building heights and **increase in the number of habitable floors above base flood elevation from two to three (thereby permitting an increase in intensity of use by 50 percent).**

Second, the Plan Amendment exempts South Seas Island Resort from the building heights and hotel density limitations on Captiva - **thereby permitting South Seas Island Resort to substantially increase the height of its buildings up to 45 to 75 feet above base flood elevation – substantially higher than the permitted heights on the rest of Captiva, and allowing an increase in the number of buildable hotel rooms – also greater than the 3 hotel units per acre permitted for other hotels and resorts on the rest of Captiva.**

This effect of the Amendment is further explained in the attached August 23, 2023 letter from the Holland & Knight firm (**Attachment A**) and the attached statement of Mr. David Mintz to the County’s Local Planning Agency. (**Attachment B**). We trust that the points expressed in those letters, and which we make below, will, in combination with the agency’s own expertise and review, support strong objections by the DOC to the proposed Amendments. We have done our best in this correspondence to share the key documents we believe provide the full picture of the impact the Amendment would have,. Among other issues, the potential impacts on hurricane evacuation, evacuation routes, and coastal resiliency render the Amendment as having a potential adverse impacts on issues and facilities of statewide importance.

The Staff Report offers hints of the impact on hotel room density, but does not acknowledge the effect on hotel room density. It states that “[t]he original Captiva Plan provided guidance for heights allowed in the Community Plan Area with the purpose of limiting density on the island....” (Staff Report, p. 3 of 5). It then states that:

“The proposed amendment **does not change the number of *residential* dwelling units** or the ***types* of non-residential development** that may be approved within the Captiva Community Plan Area.” (Staff Report, p. 3 of 5) (emphasis added)

Close scrutiny reveals that it does not state that there is no change to the “intensity” of hotel room development that would be allowed – only that there is no change to the *types* (i.e. hotels) of non-residential development that may be approved on Captiva.

The proposed amendment to Future Land Use **Goal 23** reads as follows:

“GOAL 23: CAPTIVA COMMUNITY PLAN. The goal of the Captiva Community Plan is to protect the coastal barrier island community's natural resources such as beaches, waterways, wildlife, vegetation, water quality, dark skies and history. This

goal will be achieved through environmental protections and land use regulations that preserve shoreline and natural habitats, enhance water quality, encourage the use of native vegetation, maintain the mangrove fringe, limit noise, light, water, and air pollution, create mixed use development of traditionally commercial properties, and enforce development standards that maintain **one and two story building heights** and the historic low-density residential development pattern of Captiva.” (bold emphasis added)

The proposed amendment to Future Land Use **Policy 23.2.3** reads as follows:

“POLICY 23.2.3: Building Heights. Maintain building height regulations **established as of March 23, 2018** that account for barrier island conditions, such as mandatory flood elevation and mean-high sea level, for measuring height of buildings and structures.” (bold emphasis added)

With this, the proposed Amendment repeals the previous standards that were stated, respectively, as a specific number of stories, and the maximum height of 28 feet above base flood elevation adopted by reference, and **replaces them with no standard**, granting the County complete discretion as to the standard to be adopted by regulation. The Amendment expressly repeals the two – story height limitation without any analysis of the resulting impacts on community character, natural resources, infrastructure demands, or other issues.

On September 5, 2023, the day before it voted to transmit the proposed plan Amendment, the County approved on second reading Ord. 23-22, which made a series of changes to the County’s land development code governing density, height and intensity restrictions on Captiva. That Ordinance, approvable only if the proposed plan Amendment currently under review goes into effect, exempts *South Seas Island Resort* from the current three unit per gross acre hotel unit density restriction established in the county code. (**Attachment C**: Ordinance Staff Report at pages 2 and 7 of 20). **A memo, apparently from the County Attorney’s Office, acknowledges that the Amendment would allow a approval of increased hotel room density at the South Seas Island Resort.** (**Attachment D**, at pp. 1, 5 and 9) The Ordinance is attached as **Attachment E**.

Thus, lifting the current height limits represents a substantial “up-planning” of the permissible intensity of such uses on the island. It is inexplicable how the County would not explain this impact in its transmittal package to the state, and that the entire amendment package it transmitted to the state consists of a single brief staff report that mentions only flood elevation and height restriction changes related to base flood elevation, but does not mention the resulting impact on hotel room density or additional building heights unrelated to base flood elevation to permit additional habitable floors both within and outside of South Seas Island Resort.

Because the Amendment lifts the current applicable building height restrictions, it has major implications for safety / hurricane evacuation and environmental impacts. To exacerbate these impacts, the related code amendments grant special benefits to a specific landowner, constituting inappropriate spot-planning, raising potential “equal protection under the law” constitutional issues, and rendering it almost certain that similarly situated landowners would be

able to seek and receive the same density increases, increasing the overall long – term environmental and evacuation impacts. This proposal has generated substantial opposition and data, analysis and other information that was submitted to the County but, to our surprise, not included as part of the transmittal package to the state.

Hotel Room Density Increases for one landowner which lack a binding, objective standard

The proposed Amendment repeals the previous standards that were stated, respectively, as a specific number of stories, and the maximum height of 28 feet above base flood elevation adopted by reference, and **replaces them with no standard**, granting the County complete discretion as to the standard to be adopted in its regulations.

While County Staff suggest that remaining Policy 23.2.4 will provide the required objective standards, that policy does not establish an objectively verifiable standard. Instead, Policy 23.2.4 states:

“POLICY 23.2.4: Historic Development Pattern. *Limit development to that which is in keeping with the historic development pattern* on Captiva including the designation of historic resources and the rehabilitation or reconstruction of historic structures. The historic development pattern on Captiva is *comprised of low-density residential dwelling units*, as defined in LDC, Chapter 10, minor commercial development and South Seas Island Resort.”

<https://www.leegov.com/dcd/Documents/Planning/LeePlan/LeePlan.pdf> (p. 78 of 311)

The lack of a specific maximum density standard violates Section 163.3177 (1), Fla. Stat., which mandates that a comprehensive plan “shall establish meaningful and predictable standards for the use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations.” Section 163.3177 (6)(a), Fla. Stat. also requires that a plan’s Future Land Use Element:

“**designat[e] proposed future general** distribution, location, and **extent of the uses of land for residential uses, commercial uses** ... and other categories of the public and private uses of land. The approximate acreage and the **general range of density or intensity of use shall be provided** for the gross land area included in each existing land use category.” (emphasis added)

Also:

“**Each future land use category** must be defined in terms of uses included, and **must include standards to be followed in the control and distribution of population densities and building and structure intensities**. The proposed distribution, location, and extent of the various categories of land use shall be shown on a land use map or map series which shall be supplemented by goals, policies, and **measurable objectives**.” §163.3177 (6)(a)1, Fla. Stat.

In sum, the proposed amendment violates the requirement for meaningful and predictable standards set forth in Section 163.3177 (1), Fla. Stat.

The Height and Hotel Room Density/ Intensity Increase is Not Supported by Data and Analysis

The Amendment, which constitutes an “up-planning” of development on Captiva, are not supported by the data and analysis required by the Community Planning Act. The Staff Report accompanying the Amendment contains no data or analysis supporting the removal of the height limitation on Captiva or the resulting hotel room density increase. There is no explanation or analysis of the range of increase in the number of hotel rooms potentially authorized by the Amendment, and no assessment of the Amendment’s impact on Captiva’s infrastructure, roads, water resources, septic or sewer systems, or environmental resources. This omission seemingly springs from the faulty premise of the Staff Report, that:

“The proposed amendments will not increase density in the Community Plan Area, therefore there will be no significant impacts to public facilities and services.”
(Staff Report p. 4 of 5)

The complete absence of data and analysis of the impacts of the Amendment is an obvious and inexplicable compliance flaw, in contravention of the fundamental statutory requirement that all plan amendments be based upon relevant and appropriate data and analysis. Section 163.3177(1) (f), Fla. Stat. With all due respect, the sparse 6 – page staff memo in support of the Amendment does not come close to analyzing all of its impacts.

The lack of data and analysis is particularly egregious, as most of Captiva lies within Lee County’s Coastal High Hazard Area (“CHHA”). (**Attachment F**). The County has not conducted any review of whether increased population resulting from increased building heights and hotel density permitted by the Amendment will affect compliance with the hurricane evacuation level of service or the sufficiency of shelter space required by Florida law. Section 163.3178, Fla. Stat.

The Captiva Fire Department and the Island Water Association have raised serious concerns about the impacts of the Amendment. For some reason the County did not include that data and analysis in the transmittal package. We attach those letters as **Attachments G and H**.

The Amendment is inconsistent with §163.3177 (6) (a) 2 (c) and 163.3177 (6)(a)8.a., Fla. Stat., because they are not based upon surveys, studies, and data regarding the character of the land or the availability of public facilities and services, including evacuation, emergency medical, police and other public safety response times.

The Amendment Has Little to do with the need to accommodate changing base flood elevations.

The County's position that the Amendment is intended only to allow base elevations to take into consideration changes to the FEMA flood maps is suspect. **Policy 23.2.3. of the Plan already incorporates changing base flood elevations into Captiva's building heights regulation, and allows two habitable stories above base flood elevations.**

"POLICY 23.2.3: Building Heights. Maintain building height regulations established as of March 23, 2018 that account for barrier island conditions, such as mandatory flood elevation and mean high sea level, for measuring height of buildings and structures."

<https://www.leegov.com/dcd/Documents/Planning/LeePlan/LeePlan.pdf> (p. 77 of 311)

The Amendment Creates Internal Inconsistencies

Section 163.3177(2), Florida Statutes provides:

Coordination of the several elements of the local comprehensive plan shall be a major objective of the planning process. The several elements of the comprehensive plan shall be consistent. Where data is relevant to several elements, consistent data shall be used, including population estimates and projections unless alternative data can be justified for a plan amendment through new supporting data and analysis. Each map depicting future conditions must reflect the principles, guidelines, and standards within all elements, and each such map must be contained within the comprehensive plan.

The Amendments are inconsistent with and fail to reflect key provisions of the Lee Plan.

Future Land Use Objective 23.1: PROTECTION OF NATURAL RESOURCES. To continue the long-term protection and enhancement of wetland habitats, water quality, native upland habitats (including rare and unique habitats), and beaches on Captiva.

[leegov.com/dcd/Documents/Planning/LeePlan/LeePlan.pdf](https://www.leegov.com/dcd/Documents/Planning/LeePlan/LeePlan.pdf) (p. 76 of 311)

Future Land Use Policy 23.1.5, which requires Lee County to encourage the size of any central sewer system to be consistent with existing development permitted by the Lee Plan and Land Development Code.

Id

The Amendment now makes questionable the current wastewater calculations as a result of possible increased allowable density and intensity, and jeopardizes the County's central sewer wastewater project with the City of Sanibel.

"Future Land Use Policy 23.2.9: Dark Skies. Limit light pollution and light trespass on Captiva in order to protect wildlife from any detrimental effects and for the benefit of Captiva residents and visitors."

leegov.com/dcd/Documents/Planning/LeePlan/LeePlan.pdf (p. 78 of 311)

“Future Land Use Policy 101.1.4: Require that comprehensive plan amendments which increase density within the Coastal High Hazard Area or on islands meet one of the following criteria in accordance with § 163.3178(8), Fla. Stat.:

1. Will not result in an out of County hurricane evacuation time that exceeds 16 hours for a Category 5 storm event (Level E storm surge threat); or
2. Will maintain a 12 hour evacuation time to shelter for a Category 5 storm event (Level E storm surge threat) and ensure shelter space is available to accommodate the additional population; or
3. Will provide appropriate mitigation as determined by Lee County Department of Public Safety, to satisfy both criteria above, which may include the payment of money or construction of hurricane shelters and transportation facilities.”

leegov.com/dcd/Documents/Planning/LeePlan/LeePlan.pdf (p. 181 of 311)

There is no mention of this policy in the staff report, let alone any analysis of the Amendment’s impact on evacuation times.

Conclusion

The Amendment has little to do with resiliency, and will make Captiva less resilient and less safe by increasing the intensity of use inside and outside of South Seas Island Resort. It grants a discriminatory benefit for a single property owner on South Seas Island Resort and sets a unavoidable precedent for more intense development over the entire island. There has been opposition from every sector of the Captiva and Sanibel communities to the Plan Amendment, including the Sanibel and Captiva Islands Chamber of Commerce. (**Attachment I**), and the City of Sanibel (**Attachment J**). The Amendment was approved after more than 13,800 people signed a petition opposing the Amendment, and despite more than two hours of testimony from public speakers opposing the Amendment.

We thank you for your consideration of these comments and information, and hope that the agency will raise strong and clear objection to the County’s proposal to increased hotel room density and building heights on a narrow barrier island with limited evacuation routes. We hope the Department will agree that this such an action is completely unacceptable response to the devastation wrought last year by Hurricane Ian.

Sincerely,



Richard Grosso

cc: Lisa Riordan, Chair, CCA Land Use Committee



City of Sanibel

800 Dunlop Road
Sanibel, Florida 33957-4096

www.mysanibel.com

AREA CODE - 239

ADMINISTRATION	472-3700
CITY CLERK/LEGISLATIVE	472-3700
CITY COUNCIL	472-4335
BUILDING	472-4555
FINANCE	472-6615
IT SUPPORT	472-4700
LEGAL	472-4359
NATURAL RESOURCES	472-4700
PLANNING	472-4136
POLICE	472-3111
EMERGENCY MANAGEMENT	472-3111
PUBLIC WORKS	472-6937
RECREATION	472-0345
UTILITIES	472-3179

June 16, 2023

Commission Chairman, Brian Hamman
Commission Vice Chairman, Mike Greenwell
Commissioner Cecil L. Pendergrass
Commissioner Kevin Ruane
Commissioner Ray Sandelli
Lee County Board of County Commissioners
2120 Main Street
Fort Myers, FL 33901

Sent via email and USPS

Re: **Proposed Amendments to Chapters 30, 33, and 34 of the Lee County LDC**

Honorable Chair, Vice Chair and Members of the Lee County Commission:

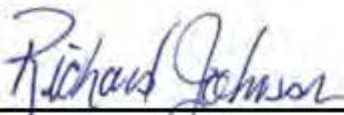
On Jun 14, 2023, the Sanibel City Council held a special meeting to discuss the proposed amendments to Chapters 30, 33 and 34 of the Lee County Land Development Code (LDC), which were first presented to the Lee County Board of County Commissioners (BOCC) on June 6, 2023 and which are scheduled before the BOCC for public hearing on June 20, 2023. As you may know, the City invited Lee County staff to present a summary of the proposed LDC amendments; however, the County Manager declined our invitation.

There were 115 persons in attendance (excluding City Council and staff) and 245 independent viewers on the City's Facebook Live broadcast, for a total of 360 attendees and viewers. There were 14 public speakers who identified themselves as residents of Sanibel or Captiva, or as a leader of a Sanibel/Captiva organization. Notably, there were no comments in opposition to the general notion of increasing resiliency, which the City Council understood to be the original premise for the proposed LDC changes. However, there was universal opposition to the LDC amendments, as proposed, as they far exceed any aim of resiliency by also facilitating increased intensity of use throughout Captiva and facilitating potential increased density and perhaps vulnerability within South Seas Island Resort, in contravention of resiliency aims and the current Comprehensive Plans for both Captiva and Sanibel. The City Council is concerned that the proposed LDC amendments, if approved, will negatively impact Sanibel by increasing traffic congestion, increasing evacuation times, and put at risk the partnership between Sanibel and Lee County to develop a central sewer system on Captiva Island.

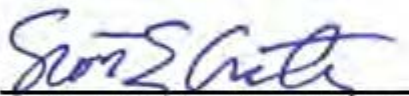
After hearing public comment and further discussion amongst City Councilmembers, the City Council voted unanimously to request the BOCC reject the proposed amendments to the Lee County Land Development Code that were presented at the June 6, 2023 BOCC meeting and which are scheduled for a Public Hearing at the June 20, 2023 BOCC meeting, as well as to reject the proposed amendments to the Lee County Comprehensive Plan scheduled to be heard at a June 21, 2023 BOCC's Zoning and Comprehensive Plan Amendment Hearing. The City Council saw no value in simply postponing the Public Hearing because City Councilmembers believe the proposed amendments increase vulnerability instead of improving resiliency and believe the potential increases in density and intensity will threaten the current quality of life on Sanibel.

This letter memorializes the City Council's unanimously approved motion and formally conveys its request that the BOCC reject the subject LDC amendments set for hearing on June 20, 2023, as well as reject the subject Plan amendments set for hearing on June 21, 2023.

Respectfully submitted,


Richard Johnson, Mayor


Mike Miller, Vice Mayor


Dr. Scott Crater, Councilmember


John Henshaw, Councilmember


Holly D. Smith, Councilmember



City of Sanibel

800 Dunlop Road
Sanibel, Florida 33957-4096

www.mysanibel.com

AREA CODE – 239

ADMINISTRATION	472-3700
CITY CLERK/LEGISLATIVE	472-3700
CITY COUNCIL	472-4135
BUILDING	472-4555
FINANCE	472-9615
IT SUPPORT	472-3700
LEGAL	472-4359
NATURAL RESOURCES	472-3700
PLANNING	472-4136
POLICE	472-3111
EMERGENCY MANAGEMENT	472-3111
PUBLIC WORKS	472-6937
RECREATION	472-0345
UTILITIES	472-3179

July 19, 2023

Commission Chairman, Brian Hamman
Commission Vice Chairman, Mike Greenwell
Commissioner Cecil L. Pendergrass
Commissioner Kevin Ruane
Commissioner Ray Sandelli
Lee County Board of County Commissioners
2120 Main Street
Fort Myers, FL 33901 **Sent via email and USPS**

RE: Captiva Community Panel Principles for Maintaining and Increasing Resiliency on Captiva

Honorable Chair, Vice Chair and Members of the Lee County Commission:

At the July 18, 2023, City Council meeting; and at the request of the Captiva Community Panel, the Sanibel City Council voted unanimously to endorse and support the *"Principles for Maintaining and Increasing Resiliency on Captiva"* (Principles) prepared by the Captiva Community Panel. A copy of the Principles is attached to this letter.

As you know, the Captiva Community Panel developed the Principles in response to the proposed amendments to the Lee County Land Development Code (LDC), Chapters 30, 33 and 34 (short title: LDC Amendments for Building Height, Resiliency, South Seas). These amendments were presented to the Lee County Board of County Commissioners (BOCC) for consideration on June 20, 2023. Prior to the June 20, 2023, BOCC public hearing, the Sanibel City Council held a Special City Council meeting on June 14, 2023, and voted to request that the BOCC reject the proposed amendments to the LDC.

During our discussion on July 18th, Sanibel City Councilmembers expressed gratitude to the BOCC for delaying the public hearing on the LDC amendments until September 5, 2023, and for directing Lee County staff to hold public meetings in Captiva and Sanibel to solicit public comment on the proposed amendments. Collectively, we all look forward to the August 2, 2023, public meeting in Sanibel.

While the discussion at the July 13, 2023, public meeting on Captiva provided a robust conversation concerning the base flood elevation (BFE) and its relationship to the build back height of 28' above BFE on Captiva, there was no meaningful discussion on the issues of density and building height for new construction. The

Sanibel City Council remains concerned about and opposed to the proposed exception for the South Seas resort to the current 3-units per acre limitation for hotel units. We feel any increase in density would overburden the water, sanitary sewer, and transportation public infrastructure systems, and would be detrimental to the quality of life for Sanibel and Captiva residents.

We remain committed to listening and learning about the proposed LDC amendments at the upcoming August 2, 2023, public meeting; however, for the reasons stated, we remain steadfast in our opposition to increasing density on Captiva.

This letter memorializes the City Council's unanimously approved motion to endorse and support the "Principles for Maintaining and Increasing Resiliency on Captiva Island" as developed by the Captiva Community Panel.

Respectfully submitted,


Richard Johnson, Mayor


Mike Miller, Vice Mayor


Dr. Scott Crater, Councilmember


John Henshaw, Councilmember


Holly D. Smith, Councilmember

Captiva Community Panel:

Principles for Maintaining and Increasing Resiliency on Captiva:

We oppose changing the existing height restrictions on Captiva which already incorporate increasing base flood elevations.

[We would consider offering property owners on Captiva the option to add up to four feet to their lawful base flood elevation. The current 28 feet height allowance for habitable space would then be measured from the higher base flood elevation.]

We oppose changing the maximum permitted density for hotels and motels on Captiva which may not exceed 3 units per gross acre.

We oppose any special exceptions to the existing height restrictions and density limitations on Captiva, and oppose exempting South Seas Island Resort from the height and density regulations applicable to Captiva when it seeks to redevelop its property.

We support the elimination of any ambiguity in the county's build-back policy to ensure that structures whose damage exceeds 50% of their value can be rebuilt to what existed at the time of the damage with the same use, density, intensity and size – including the originally permitted height which will be measured from the federal base flood elevations in force at the time permits are sought for rebuilding.

We request the county correct the outdated height limitations in Section 34 of the Land Development Code to reflect the Captiva-specific height limitations in Chapter 33 which incorporate base flood elevations.

We support efforts by parties governed by Administrative Interpretation - ADD2002-00098 on South Seas Island Resort to bring its existing master development plan into compliance with the Land Development Code provisions applicable to Captiva to reflect the more resilient height restrictions on Captiva which incorporate base flood elevations.

We support other revisions to the Land Development Code that can be shown to improve resiliency, enhance disaster recovery, and protect our fragile barrier island's environment – and which do not conflict with the principles stated above.



City of Sanibel

800 Dunlop Road
Sanibel, Florida 33957-4096

www.mysanibel.com

AREA CODE - 239

ADMINISTRATION	472-3700
CITY CLERK/LEGISLATIVE	472-3700
CITY COUNCIL	472-4135
BUILDING	472-4555
FINANCE	472-9615
IT SUPPORT	472-3700
LEGAL	472-4359
NATURAL RESOURCES	472-3700
PLANNING	472-4136
POLICE	472-3111
EMERGENCY MANAGEMENT	472-3111
PUBLIC WORKS	472-6937
RECREATION	472-0345
UTILITIES	472-3179

August 25, 2023

Commission Chairman, Brian Hamman
Commission Vice Chairman, Mike Greenwell
Commissioner Cecil L. Pendergrass
Commissioner Kevin Ruane
Commissioner Ray Sandelli

Lee County Board of County Commissioners
2120 Main Street
Fort Myers, FL 33901 **Sent via email and USPS**

RE: Opposition to the Proposed Amendments to the Lee County Land Development Code and the Captiva Chapter of the Lee Plan

Honorable Chair, Vice Chair and Members of the Lee County Commission:


On August 15, 2023, the Sanibel City Council unanimously voted to express our continued opposition to the proposed amendments to Chapters 30, 33 and 34 of the Lee County Land Development Code (LDC) effecting Captiva and the Captiva Chapter of the Lee Plan.

We are grateful that the BOCC delayed the Public Hearing on the proposed LDC amendments from June 20, 2023, to September 5, 2023. At your direction, Lee County staff held a series of public meetings during the months of July and August to specifically solicit public input on the proposed amendments. If civic engagement is authentic, then the testimony and comments provided at the County's public meetings must be given great weight. We applaud the BOCC for requiring these public meetings and hope your decision on the proposed amendments to the LDC and Captiva Chapter of the Lee Plan will be consistent with the testimony provided.

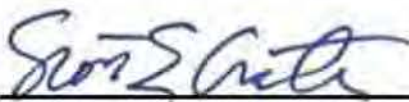
Captiva and Sanibel are barrier island communities. They are unique and the development on and around environmentally sensitive land must be managed differently than the land in more densely populated urban areas. Maintaining the attributes of low density and less intensive use of the land is critical for the sustainability and resiliency of the islands. By significantly altering building height restrictions for Captiva, and removing provisions that prevent the South Seas Island Resort from increasing density on their property, the natural environment, and the quality of life for Sanibel and Captiva residents will most certainly be harmed.


By attending all the County's public meetings in July and August, as either participants or attendees, we have learned through discussions and public comment that a majority of Captiva and Sanibel residents oppose the proposed Captiva-related amendments to the LDC and amendments to the Captiva Chapter of the Lee Plan. Based on the feedback and our own analysis, we urge you to soundly reject the proposed Captiva-related amendments to the LDC and the amendments to the Captiva Chapter of the Lee Plan.

Respectfully submitted,


Richard Johnson, Mayor


Mike Miller, Vice Mayor


Dr. Scott Crater, Councilmember


John Henshaw, Councilmember


Holly D. Smith, Councilmember

CC: Dana Souza, City Manager
Steve Chaipel, Deputy City Manager
John Agnew, City Attorney
Scotty Lynn Kelly, City Clerk
Dave Harner, County Manager



Lee County
Southwest Florida

BOARD OF COUNTY COMMISSIONERS

Kevin Ruane
District One

Cecil L. Pendergrass
District Two

Ray Sandelli
District Three

Brian Hamman
District Four

Mike Greenwell
District Five

Dave Harner, II
County Manager

Richard Wesch
County Attorney

Donna Marie Collins
Chief Hearing Examiner

Telephone (239) 533-2236

Facsimile (239) 485-2106

VIA ELECTRONIC & U.S. MAIL

October 20, 2023

James D. Stansbury, Chief
Bureau of Community Planning and Growth
Florida Department of Commerce
107 E. Madison Street
Tallahassee, Florida 32399

Re: Lee County Comprehensive Plan Amendment (No. 23-05ESR)

Dear Mr. Stansbury:

Lee County is in receipt of the October 6, 2023 letter you issued under Florida's Expedited State review process for the above referenced Lee County Comprehensive Plan amendment. Unfortunately, due to the seriousness of the allegations made in your letter and your comments made without an apparent basis in law or fact, Lee County is compelled to provide this response.

While the comments may have been added for persons unknown to us, your comments appear as though the Department of Economic Opportunity is questioning the integrity of the Lee County Board of County Commissioners and its Staff. In fact, one might take your comments as going beyond questioning and in fact alleging that the Lee County Board of County Commissioners and its Staff have lied to its residents. And to make such assertions without an apparent basis in law or fact might amount to an expansion of the Department's role in the Expedited Review process under State law. See § 163.3184(3)(b)2., and § 163.3184(3)(b)4, Fla. Stat.

Not only did your comments lack a basis in State law, they demonstrate your Department's complete lack of information on the facts surround this case and lack of effort to elicit the requisite information to make such comments (even though that review is outside the scope of your Department's role in the Expedited State Review process). Had your Department sought information to support your comments, you would have found that those comments are unsubstantiated and would not have included them. For the reasons stated below, Lee County respectfully requests that the Department immediately withdraw its October 6th letter and issue a revised letter without inclusion of the comments that clearly exceed the Department's scope of review under State law.

P.O. Box 398, Fort Myers, Florida 33902-0398 (239) 533-2111

Internet address <http://www.leegov.com>

AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER

Re: Lee County Comprehensive Plan Amendment (No. 23-05ESR)

Since 2011, the Florida legislature has made it clear. The role of State Reviewing Agencies in the local comprehensive plan amendment process is very limited. The State legislature's actions over the past decade are in direct response to past actions by State reviewing agencies, such as yours, in expanding their roles in review of local regulations. Your letter is a direct representation of the types of letters that the Florida legislature intended to restrain State Reviewing Agencies from writing. As you are undoubtedly aware of the changes the State legislature made to Chapter 163, Fla. Stat., and Florida Administrative Codes over the past decade. Unfortunately, since your Department did not comply with the current Expedited Review process under Chapter 163, Fla. Stat., it's necessary to review those laws in this response.

Section 163.3184(3), Fla. Stat., provides the process for Expedited State Review of local Comprehensive Plan Amendments. As the State Land Planning Agency under Chapter 163, Fla. Stat., your Department is tasked with reviewing Lee County's Comprehensive Plan Amendments in accordance with the limited authority granted to it under § 163.3184, Fla. Stat.

Pursuant to § 163.3184(3)(b)2., Fla. Stat.,

*State agencies **shall only comment on important state resources and facilities that will be adversely impacted by the amendment** if adopted. Comments provided by state agencies shall state with specificity how the plan amendment will adversely impact an important **state resource or facility** and shall identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts. (emphasis added)*

Section 163.3184(3)(b)4.h., Fla. Stat., provides:

*4. Comments to the local government from state agencies **shall be limited to the following** subjects as they relate to important **state resources and facilities** that will be adversely impacted by the amendment if adopted: (emphasis added)*

*h. The state land planning agency [YOUR DEPARTMENT] **shall limit its comments to important state resources and facilities outside the jurisdiction of other commenting state agencies** and may include comments on countervailing planning policies and objectives served by the plan amendment that should be balanced against potential adverse impacts to important **state resources and facilities**. (emphasis added)*

Re: Lee County Comprehensive Plan Amendment (No. 23-05ESR)

Existing State law could not be any clearer concerning your Department's limited role in the Expedited State Review process.

Notwithstanding the clear limitations in Statute, your Department exceeded those limitations and provided the following comments:

The review was completed under the expedited state review process. After consideration of the proposed amendment and citizen input, we have a comment regarding the proposed amendment.

The amendment appears to fly a "false flag" of "resilience" as a primary purpose. When in reality, the amendment is clearly at least in-part for the purpose of an increase in hotel room density. Whether or not an increase in hotel room density is appropriate is for the community to decide. Rather we are simply urging you to have a transparent discussion with the community about the actual purpose of the amendment.

Nowhere within these comments do you reference a single State resource, facility, or any State interest as required under § 163.3184(3)(b)2., and § 163.3184(3)(b)4, Fla. Stat. Furthermore, these comments are factually inaccurate and demonstrate a complete lack of information to make such comments. These comments are not even applicable to the Plan Amendments before your Department.

Lee County understands the need for public input in the decision-making process, when permitted by law to accept that input. However, Lee County is unaware of any section of Chapter 163, Fla. Stat., or Florida Administrative Code that permit your Department to consider, let alone incorporate "citizen input" in the Expedited State Review process. There appears to be no legal authority for your Department to ignore the explicit limitations under State law concerning the scope of your Department's comments in the Expedited State review process. Having recently seen the "citizen input" you received, we are unable to find any reference to relevant "important state resources and facilities." Your inclusion of "citizen input" into your Department's comments is highly irregular. In fact, we are aware of no other circumstance in Lee County in which your Department did so.

Notwithstanding the legal improprieties of your letter, as written, your comments were apparently based off nothing more than inaccurate and mischaracterized allegations put forth in a letter from a citizen's group. You allowed those assertions to become the official comments of your Department, in direct conflict with your scope of review under Chapter 163, Fla. Stat. And, you did so, without verifying the veracity of those allegations.

Re: Lee County Comprehensive Plan Amendment (No. 23-05ESR)

While Lee County strongly disagrees with any State agency taking the actions you did, at least before doing so, your Department should have provided Lee County with all the information you received and would consider in your review (written or via telephone). More importantly, your Department should have advised Lee County that, regardless of the limitations under State law, your review comments could be changed as a result of that information. Then, prior to issuance of a revised letter, you should have provided Lee County with an opportunity to respond to that new information prior to issuance of a Department letter.

Instead of affording Lee County this opportunity, you allowed inaccurate assertions, in violation of Chapter 163, Fla. Stat., to be included as your Department's official comments. If your Department were inclined to include such comments, then perhaps you should have either verified the veracity of such comments or contacted Lee County to discuss and explore that "citizen input" prior to including them as your Department's comments. To understand just how inaccurate your comments are, I'll provide you with an overview of the facts.

On September 28, 2022, Lee County was hit with the third most costly Hurricane in US History. Along with Hurricane Ian's dangerous winds, Hurricane Ian brought a catastrophic storm surge that destroyed many Lee County residents' homes and lives. As the County began assessing Hurricane Ian's impacts, one thing, among many others, became very clear. Rebuilding homes, businesses, and Lee County residents' lives would need help on multiple fronts.

One issue that residents and Lee County Community Development Staff needed to address concerned existing height regulations as they related to new flood requirements. In certain cases, Lee County's existing development regulations (having nothing to do with your Department) needed to be changed to allow property owners to rebuild their homes and businesses to the degree they once had while maintaining safe structures above new flood regulations and recently adopted FEMA map revisions. To accomplish that goal, certain Land Development Code ("LDC") amendments and Comprehensive Plan amendments relative to height restrictions were necessary to permit that reconstruction.

The actual Comprehensive Plan Amendment application that was before your Department was necessary to remove language within the Lee Plan that would serve as an impediment to changing height regulations throughout the County. While resiliency has many facets, it seems absurd that you would write a comment that the proposed Plan amendments concerning heights "*appears to fly a 'false flag'*" and that the amendment is for the "*purpose of an increase in hotel room density.*" Avoiding for a moment your obvious

Re: Lee County Comprehensive Plan Amendment (No. 23-05ESR)

allegation that the County is being deceitful, the sole text being amended concerned height regulations. Nothing within the comprehensive plan amendment that your Department reviewed concerned density or hotel units. Notwithstanding the fact that hotel rooms and density have nothing to do with State interests subject to your Department's review, the sole basis for this comment was from "citizen input" and not the Application before you. This comment is factually inaccurate, legally deficient, beyond your scope of review, and must be removed.

Your letter stated that the Department urges "*the County to have a transparent discussion with the community.*" Is it your Department's position that the Comprehensive Plan Amendment process was not transparent or has not be in accordance with existing laws? As written, your Department appears to be making that assertion. Your letter provides no citation to any procedural improprieties with the County's review of this application. Your letter fails to identify which State or County laws were not met concerning the notification, publication, or public hearings for this case. Assuming you can cite none, this comment is also factually inaccurate, legally deficient, beyond your scope of review, and must be removed.

Had your Department inquired, you would have learned that the County's actions in this case were beyond open and transparent. All actions taken by the Board were consistent with the requirements of Chapter 125, Fla. Stat., Chapter 163, Fla. Stat., and all applicable Lee County regulations pertaining to the adoption of revisions to the Land Development Code and Lee Comprehensive Plan. In fact, in direct rebuttal to your allegations that Lee County was not transparent, I draw your attention to the magnitude of public actions and hearings of the Lee County Board of County Commissioners in this matter.

On January 17, 2023, at a public meeting, the Lee County Board of County Commissioners provided direction to County Staff to review and bring back proposed amendments addressing height, setbacks, and other development limitations that are potentially restricting residents' ability to rebuild their homes and businesses in a manner that reduces potential flooding threats. That direction included review of and proposed amendments to provisions of the LDC applicable to development of South Seas.

Subsequent to receiving that direction, County staff from the County Attorney's Office and the Department of Community Development developed proposed amendments to the LDC and the Lee Plan to advance the County Commission's direction. While amendments to the LDC are outside the

Re: Lee County Comprehensive Plan Amendment (No. 23-05ESR)

scope of your Department's review, since you allowed "citizen input" concerning those amendments to infect your Department's comments and drive your comments concerning the transparency of this process, I've included dates of those meetings within this response.

Prior to scheduling the proposed amendments (LDC and Lee Plan) for public hearing before the County Commission, County staff presented the proposed amendments to the following Board-appointed citizen advisory committees as part of publicly advertised meeting agendas:

- On May 12, 2023, staff presented the proposed amendments to the Land Development Code Advisory Committee ("LDCAC"). The LDCAC reviewed the proposed amendments to the LDC and recommended approval of the amendments as modified.
- On May 22, 2023, the Local Planning Agency reviewed the proposed amendments to both the Lee Plan and LDC and found them consistent with the Lee Plan.

The proposed LDC amendments were then scheduled for a series of duly advertised public hearings before the County Commission to consider their adoption as follows:

- On June 6, 2023, a request to set the Ordinance for a public hearing was presented to the Board of County Commissioners during its publicly advertised Board meeting. The Board of County Commissioners voted to set the public hearing for the proposed ordinance for June 20, 2023 at 9:30 a.m.
- On June 20, 2023 at 9:30 a.m., the Board of County Commissioners voted to continue the public hearing for the proposed ordinance until September 5, 2023 at 9:30 a.m. to allow for opportunities for public input. The Board also voted to continue the transmittal hearing of companion amendments to the Lee Plan from June 21, 2023 at 9:30 a.m. to September 6, 2023 at 9:30 a.m.

In response to the Board's direction, staff scheduled and held a series of additional public meetings that are not required under Chapter 125, Fla. Stat., or Chapter 163, Fla. Stat. The purpose of those meetings was to engage concerned citizens and residents regarding the proposed amendments. These meetings were publicly advertised and held on:

- Thursday, July 13, 2023, 6:00 p.m. – 8:00 p.m., Captiva Civic Center, 11550 Chapin Lane, Captiva, FL 33924

Re: Lee County Comprehensive Plan Amendment (No. 23-05ESR)

- Tuesday August 1, 2023, 6:30 p.m., Pine Island Civic Association Regular Meeting, Pine Island United Methodist Church - 5701 Pine Island Road, Bokeelia, FL 33922
- Wednesday, August 2, 2023, 6:00 p.m. – 8:00 p.m., BIG ARTS, 900 Dunlop Road, Sanibel Island, FL 33957
- Wednesday, August 9, 2023, 5:30 p.m. – 7:30 p.m., Lee County Public Works Building, Conference Room 1B, 1500 Monroe Street, Fort Myers, FL 33901

We have no reason to doubt that the individuals responsible for your “citizen input” were present at most, if not all, of those meetings. Those individuals or their representatives made presentations and voiced their concerns regarding the proposed amendments, both Lee Plan and LDC. The County went above and beyond what is required under Chapter 163, Fla. Stat., in presenting these Amendments to the public. At no point was the County’s actions less than transparent. Nothing within the Comprehensive Plan Amendment application presented to your Department could have lead you to the conclusion raised in your letter. The sole basis for your comment concerning transparency was from unsubstantiated assertions made in “*citizen input*.”

The “*citizen input*” you relied upon to make your determinations are in large part a response to the County’s adoption of new height regulations in the LDC and speculation on how certain developments may utilize those regulations. A simple review of the “*citizen input*” would lead you to that conclusion. LDC regulations are not a part of the Comprehensive Plan Amendment application that was sent to your Department as part of the Expedited Review Process.

Like other development projects and proposed Code changes, there will always be those that do not want change or those that fear competition. While their “concerns” may be understandable to some degree, those residents were free to present their position concerning the LDC changes (and in fact did so) at the plethora of public meetings that were held before the Board of County Commissioners. While reasonable minds are free to agree or disagree, ultimately, the decision to move forward with these Amendments fully resides with the Lee County BOCC. The Lee County BOCC did in fact carefully consider the citizens input on the Lee Plan and LDC Amendments and decided to transmit the proposed amendments.

Re: Lee County Comprehensive Plan Amendment (No. 23-05ESR)

However, and more importantly, your Department is **NOT** free to interject these types of comments as part of your Expedited Review process. By doing so, you have openly defied the State legislature's intent since 2011 to preclude such behavior and your Department has done so in direct violation of State law. See § 163.3184(3)(b)2., Fla. Stat., and § 163.3184(3)(b)4, Fla. Stat. And, at the same time, you managed to question the integrity and disparage the entire Board of County Commissioners and County Staff for nothing more than obvious political expediency.

To remedy this overstep, Lee County is requesting that the Department issue a revised letter consistent with Chapter 163.3184, Fla. Stat., by limiting comments to only those concerning "*important state resources and facilities that will be adversely impacted by the amendment if adopted.*" See § 163.3184(3)(b)2., and § 163.3184(3)(b)4, Fla. Stat. If an additional conversation is needed or information concerning this case, please do not hesitate to contact me directly. Thank you for your time and attention to the matters raised herein.

Sincerely,



Michael D. Jacob
Deputy County Attorney

cc via email only:

Scott Rogers, Regional Planning Administrator
Commissioner Kevin Ruane, District 1
Commissioner Cecil L Pendergrass, District 2
Commissioner Raymond Sandelli, District 3
Commissioner Brian Hamman, District 4
Commissioner Mike Greenwell, District 5
Dave Harner, II, County Manager
Marc Mora, Assistant County Manager
Richard Wm. Wesch, County Attorney
Mikki Rozdolski, Director, Department of Community Development