



LEE COUNTY BOARD OF COUNTY COMMISSIONERS

ZONING HEARING  
AGENDA

Wednesday, March 17, 2021

9:30AM

DCI2020-00004  
Z-20-032

STORAGE KING ROUTE 80

DCI2020-00011  
Z-21-001

STATE ROAD 80 CPD

## NOTICE OF PUBLIC HEARING

The Lee County Board of County Commissioners will hold a public hearing at 9:30 am on Wednesday, March 17, 2021 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 cases below.

### **DCI2020-00004 / STORAGE KING ROUTE 80**

Request to rezone 13.36± acres from Commercial (C-2) and Tourist Commercial (CT) to Commercial Planned Development (CPD).

Located at 11351 Palm Beach Blvd., Fort Myers Shores Planning Community, Lee County, FL

### **DCI2020-00011 /STATE ROAD 80 CPD**

Request to rezone 25.94± acres from Commercial Planned Development (CPD) and Community Commercial (CC) to Commercial Planned Development (CPD) to add an additional 1.2 acres± to the State Road 80 CPD previously approved by Lee County Zoning Resolution Number Z-04-028A. No change to the development intensity/parameters is proposed.

Located at 16101 State Rd. 31, Fort Myers Shores 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.**

**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](mailto: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.**

DCI2020-00004  
STORAGE KING  
ROUTE 80

## **Staff Summary**

CASE NUMBER & NAME: DCI2020-00004 / Storage King Route 80

REQUEST: Request to rezone 13.36± acres from Commercial (C-2) and Tourist Commercial (CT) to Commercial Planned Development (CPD).

RESOLUTION NUMBER: Z-20-032

LOCATION: 11351 Palm Beach Blvd, Fort Myers Shores Planning Community, Lee County, FL

OWNER: SKUSA FT MYERS LLC

AGENT: Susan Swift  
Maser Consulting, P.A.  
5471 W. Waters Ave., #100  
Tampa, FL 33634

HEARING EXAMINER  
RECOMMENDATION: Approve, with conditions

PARTICIPANTS: (0) NONE

---



DCI2020-00004  
Aerial

Legend

 Subject Parcel



0 200  
Feet



## Summary of Hearing Examiner Recommendation

# **STORAGE KING ROUTE 80**

(by Maser Consulting, PA on behalf of SKUSA Fort Myers, LLC)

Request:	Rezone from Commercial (C-2) and Tourist Commercial (CT) to Commercial Planned Development (CPD) to: <ul style="list-style-type: none"><li>• Expand existing mini-warehouse facility to add four buildings (totaling 121,152 square feet across six buildings); and</li><li>• Add 118 covered spaces and 32 uncovered spaces for large vehicle storage.</li></ul>
Location:	11351 Palm Beach Boulevard (South of Palm Beach Blvd, East of I-75 and Dusty Trail)  Fort Myers Shores Planning Community  District 5
Size:	13.36± acres
Recommendation:	Approve, with conditions
Deviations:	4 requested, 3 recommended
Public Concerns:	None

### **Hearing Examiner Remarks:**

Applicant seeks to expand an existing mini-warehouse facility and add outdoor storage. The requested expansion is consistent with the Lee Plan and compatible with the surrounding area.

However, Applicant also attempts to deviate from architectural standards for building facades. The Lee Plan requires application of variance criteria for architectural deviations in the Caloosahatchee Shores Community.<sup>1</sup> Despite this clear Lee Plan directive, the LDC purports to allow deviations through the development order process.<sup>2</sup>

---

<sup>1</sup> Lee Plan Policy 21.1.2.

<sup>2</sup> LDC 33-1484.

Florida Statutes mandate that a comprehensive plan take precedence over conflicting land development regulations. The Hearing Examiner must follow the Lee Plan and apply variance criteria to the requested architectural deviation. The architectural deviation does not satisfy LDC variance criteria. Therefore, the Hearing Examiner recommends denial of that deviation.

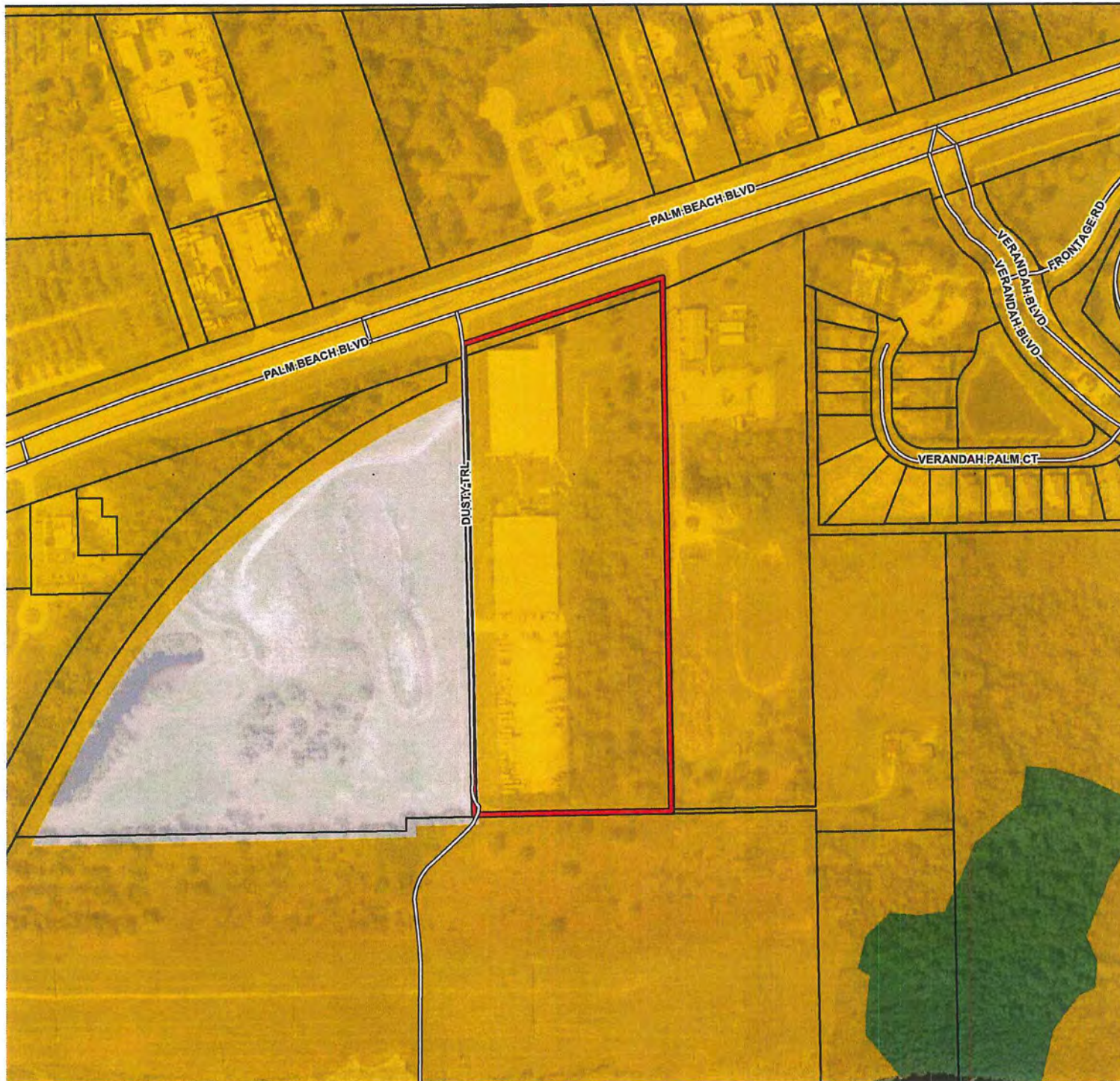
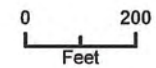
The Hearing Examiner recommends amending the Lee Plan or LDC to address the conflicting review standards for deviations in the Caloosahatchee Shores planning communities.

*Detailed recommendation follows*

**DCI2020-00004**  
**Future Land Use**

**Legend**

-  Subject Parcel
-  Suburban
-  Public Facilities
-  Wetlands





DCI2020-00004  
Aerial

**Legend**

 Subject Parcel



0 200  
Feet

**OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA**

**HEARING EXAMINER RECOMMENDATION**

**REZONING:** DCI2020-00004

**Regarding:** **STORAGE KING ROUTE 80**

**Location:** 11351 Palm Beach Boulevard  
Fort Myers Shores Planning Community  
(District 5)

**Hearing Date:** October 15, 2020  
**Record Closed:** October 23, 2020  
**Re-Opened:** January 22, 2021

**I. Request:**

Rezone 13.36± acres from Commercial (C-2) and Tourist Commercial (CT) to Commercial Planned Development (CPD) to:

- Expand existing mini-warehouse facility to add four buildings (totaling 121,152 square feet across six buildings); and
- Add 118 covered spaces and 32 uncovered spaces for large vehicle storage.

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.<sup>3</sup> In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the Storage King Route 80 CPD application.

In preparing a recommendation to the Board, the Hearing Examiner applies the Lee County Comprehensive Plan (Lee Plan), the Land Development Code (LDC), and other County regulations to testimony and evidence in the record. The Hearing

---

<sup>3</sup> LDC 34-145(d)(1)(a); LDC 34-145(d)(4)(a).

Examiner may also take judicial notice of previous Board decisions in the context of reviewing zoning requests and preparing recommendations. The record must include competent substantial evidence to support the recommendation.<sup>4</sup>

The Hearing Examiner recommends approval of the request, except for one deviation, subject to conditions. Discussion supporting the recommendation follows below.

### **Synopsis of Request and Zoning History**

The request seeks to rezone 13.36± acres in the Caloosahatchee Shores Planning Community from C-2 and CT to CPD. The property is located south of Palm Beach Boulevard, between I-75 and the Verandah.

The property is bifurcated into two zoning districts: C-2 on the west, and CT on the east. The western portion developed as a mini-warehouse and open storage facility in 2002.<sup>5</sup> Applicant subsequently added another mini-warehouse building fronting Palm Beach Boulevard in 2017.<sup>6</sup> Administrative development approvals permitted deviations from architectural standards for the 2017 interior storage mini-warehouse building.<sup>7</sup> The CT parcel remains vacant.<sup>8</sup>

Current site development includes two mini-warehouse buildings and open parking.<sup>9</sup> Applicant proposes to expand the facility by adding four mini-warehouse buildings and outdoor recreational vehicle/boat storage.<sup>10</sup> The site plan reflects both covered and uncovered bays for large vehicle storage.

Applicant seeks to apply the architectural deviation approved in 2017 to new construction.<sup>11</sup> Proposed development utilizes existing access to Palm Beach Boulevard via Dusty Trail.<sup>12</sup> No new access points are proposed.

---

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

<sup>5</sup> DOS2002-00137 (See Staff Report pg. 2, Attachment E).

<sup>6</sup> ADD2017-00164, DOS2017-00058. Construction completed in 2019. See Staff Report (pg. 2, Attachments F & O). Three deviations accompanied the administrative zoning approval. See ADD2017-00164. The MCP identifies this building as Building B.

<sup>7</sup> ADD2017-00164. The deviation did not address Lee Plan Policy 21.1.2 requiring LDC Chapter 34 variance criteria evaluation.

<sup>8</sup> Minor traffic improvements extend into the CT portion but there is no vertical development.

<sup>9</sup> The MCP identifies all buildings by lettering – Building A was constructed in 2002 while Building B was built in 2017. Applicant testified Building B is an interior storage building (i.e. units are entered by hallways within the building). Testimony of Susan Swift.

<sup>10</sup> Applicant testified proposed buildings are accessed externally (i.e. units are enclosed but no hallways). Unit contents would be directly accessed by rolling metal door. Testimony of Susan Swift.

<sup>11</sup> The record is devoid of evidence demonstrating ADD2017-00164 considered Lee Plan Policy 21.1.2 or applied variance review criteria in approving the architectural deviation for Building B. See Staff Report (Attachment O).

<sup>12</sup> Applicant proposes no new access points.

Department of Community Development staff recommended approval of the request subject to conditions. Staff recommended denial of the architectural deviation.<sup>13</sup>

**Zoning Review Criteria**

Before recommending approval for rezoning to the Board, the Hearing Examiner must find the request:

- A. Complies with the Lee Plan;
- B. Meets the LDC 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;
- E. The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- F. Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- G. Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.<sup>14</sup>

If the request involves planned development zoning, the Hearing Examiner must also find:

- H. The proposed use or mix of uses is appropriate at the proposed location;
- I. Recommended conditions provide sufficient safeguards to the public interest and reasonably relate to impacts on the public's interest expected from the proposed development; and

---

<sup>13</sup> The Staff Report and initial hearing reflect staff's recommendation of approval for Deviation 1. However, proposed conditions rendered the deviation from Florida vernacular standards unworkable for Applicant. The Hearing Examiner left the record open after initial hearing to allow the Parties an opportunity to address disputed conditions through written submissions. The Parties' written submissions exceeded the scope of review permitted outside of public hearing. The Hearing Examiner re-opened the hearing to properly receive evidence and testimony on the architectural deviation and attendant conditions. See Order for Filing Post Hearing Written Submissions (issued Oct. 15, 2020); Applicant's Ex. 4 (Post-Hearing Written Submissions dated Oct. 23, 2020); Staff's Ex. 3 (Post-Hearing Written Submissions dated Oct. 23, 2020); & Order to Reopen Hearing (issued Jan. 6, 2021).

<sup>14</sup> LDC 34-145(d)(4)(a)(1).

- J. Each requested deviation (1) enhances the achievement of the objectives of the planned development, and (2) preserves and promotes the general intent of the LDC to protect the public health, safety, and welfare.<sup>15</sup>

### **Character of the Area**

Surrounding properties lie in the Suburban and Public Facilities land use categories.<sup>16</sup> Various commercial developments sit across Palm Beach Boulevard to the north. A church adjoins the site to the east, with the Verandah development thereafter. Abutting properties to the south and west are owned by FP&L and the State, respectively.<sup>17</sup>

### **Lee Plan Consistency and Compatibility**

All planned developments must be consistent with the Lee Plan.<sup>18</sup> Requests for rezoning must be compatible with existing or planned uses in the surrounding area.<sup>19</sup> Planned development parcels must be located to minimize negative effects of proposed uses on neighboring properties.<sup>20</sup>

The property is within the Fort Myers/Caloosahatchee Shores Planning Community and the Suburban land use category.<sup>21</sup> The Lee Plan envisions the Caloosahatchee Shores district to have a more rural character, with commercial uses focused along SR 80.<sup>22</sup> The community encourages commercial development that serves residents' needs.<sup>23</sup> The request achieves Planning Community objectives by locating new commercial development along SR 80 that provides storage opportunities for residents.

Suburban properties are largely residential lands on the fringe of urban areas.<sup>24</sup> This category prioritizes protecting residential neighborhoods.<sup>25</sup> The proposed commercial use supports nearby residential communities consistent with Suburban directives.<sup>26</sup>

---

<sup>15</sup> LDC 34-145(d)(4)(a)(2).

<sup>16</sup> See Staff Report Attachment B: Maps; Staff Ex. 2 (slide 5).

<sup>17</sup> See Applicant's Ex. 2.

<sup>18</sup> LDC 34-411(a).

<sup>19</sup> LDC 34-145(d)(4)(a).

<sup>20</sup> LDC 34-411(c) and (i).

<sup>21</sup> Lee Plan Maps 1 & 16. The Fort Myers Shores Planning Community is divided into two districts: Caloosahatchee Shores (east of I-75), and Palm Beach Boulevard (west of I-75). Lee Plan Vision Statement ¶4.

<sup>22</sup> Lee Plan Vision Statement ¶4.

<sup>23</sup> *Id.*; Lee Plan Objective 21.2.

<sup>24</sup> Lee Plan Policy 1.1.5.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

The proposed development program is compatible with existing and planned uses in the surrounding area.<sup>27</sup>

The request is consistent with the Lee Plan, except for the architectural deviation.<sup>28</sup>

### Architectural Deviation

The requested deviation would relieve Applicant of compliance with enhanced architectural standards applicable to Caloosahatchee Shores properties.<sup>29</sup> Staff initially indicated support of the deviation, but later testified the property lacked inherent exceptional condition to support an architectural variance.<sup>30</sup>

A “deviation” is a departure from the land development regulations.<sup>31</sup> Generally, an applicant must demonstrate a requested deviation will enhance objectives of the planned development and will not cause a detriment to public interests.<sup>32</sup> However, the Lee Plan mandates deviations from *architectural requirements within Caloosahatchee Shores must meet LDC variance approval criteria.*<sup>33</sup>

This Policy discourages variances in favor of enforcing the community’s adopted design standards.<sup>34</sup> The variance review standard is much stricter than the deviation standard.<sup>35</sup>

The standard of review for variances requires a finding that:

- A. There are exceptional conditions inherent to the property which make a variance from the standards set forth in the LDC appropriate;
- B. The exceptional conditions are not the result of actions taken by the Applicant subsequent to the adoption of the LDC;

---

<sup>27</sup> 34-145(d)(4)(a)(1)(c).

<sup>28</sup> Deviation 1. Approved in ADD2017-00164 for existing Building B fronting Palm Beach Boulevard.

<sup>29</sup> Architectural design of all commercial buildings within the Caloosahatchee Shores Planning Community must comply with this subdivision. LDC 33-1495. See LDC 33-1498, 10-620(c).

<sup>30</sup> Staff indicated willingness to permit Applicant to deviate from the LDC 33-1496 requirement that buildings meet the Florida vernacular architectural style. However, Staff did not support deviations from LDC 33-1498 or LDC 33-1499 to permit metal building construction. Staff testified the property lacks inherent exceptional conditions to support a variance. Staff also offered evidence and testimony that LDC Caloosahatchee Shores architectural standards apply to *all* building facades rather than “primary” facades. Testimony of Brian Roberts; Staff Ex. 4. Staff did not present evidence to support Deviation 1.

<sup>31</sup> LDC 34-2.

<sup>32</sup> LDC 34-145(d)(4)a.2(c); LDC 34-373(a)(9).

<sup>33</sup> Lee Plan Policy 21.1.2.

<sup>34</sup> *Id.*

<sup>35</sup> LDC 33-1484 conflicts with Lee Plan Policy 21.1.2. Florida Statutes mandate that the comprehensive plan takes precedence over inconsistent land development regulations. Accordingly, the Lee Plan and LDC should be revisited to ensure consistency between the two provisions.

- C. The variance is the minimum variance that relieves the Applicant of the unreasonable burden caused by application of the LDC to the property;
- D. Granting the variance will not be injurious to the neighborhood or detrimental to the public welfare; and
- E. The variance is consistent with the Lee Plan.

The Caloosahatchee Shores Planning Community adopted specific development standards in both the Lee Plan and LDC.<sup>36</sup> The community places great emphasis on aesthetics.<sup>37</sup> Façade treatments are required for buildings to be visually appealing from all directions.<sup>38</sup>

Applicant asserts the institutional ownership of adjacent lands is an exceptional circumstance creating a hardship to comply with façade requirements.<sup>39</sup> Applicant also argues unique design demands of mini-warehouse buildings render adherence to Florida vernacular economically infeasible.<sup>40</sup>

Applicant contends the intent of the regulation would still be met if it satisfied architectural requirements only for building fronts facing Palm Beach Boulevard and Dusty Trail.<sup>41</sup> For all other buildings, Applicant would not comply with Florida vernacular façade treatments.

Staff indicated general support to allow the project flexibility in the Florida vernacular style.<sup>42</sup> However, Staff did not agree the property has inherent exceptional conditions.<sup>43</sup> Further, Staff clearly pointed to: (1) LDC provisions requiring Florida vernacular style on *all* building facades within the project; (2) LDC limits on building material to less than 50% metal of the façade area; and (3) failure of the request to meet variance review criteria.<sup>44</sup>

---

<sup>36</sup> Lee Plan Goal 21; LDC 33-1480 *et. seq.*

<sup>37</sup> Lee Plan Goal 21, Objectives 21.1, 21.2; LDC 33-1495, 33-1496, 33-1498.

<sup>38</sup> LDC 33-1495, 33-1498, 10-620(c). Chapter 33 contains inconsistencies regarding applicability of design standards. LDC 33-1495 applies to *all* buildings. LDC 33-1498 refers first to “buildings [being] visually appealing from all directions,” to “buildings visible from more than one right-of-way” or “on all *viewable* facades.”

<sup>39</sup> Testimony of Susan Swift. Property to the west is owned by the State, while lands to the south are owned by FP&L. Ms. Swift also noted the site’s expansive indigenous preserve area would visually buffer proposed buildings. Ms. Swift further explained Building D is entirely internal to the site and shielded from external view.

<sup>40</sup> Testimony of Susan Swift.

<sup>41</sup> *Id.*

<sup>42</sup> Staff generally supports bringing Deviation 1 forward, as approved and conditioned, from ADD2017-00164. However, Staff did not place evidence or testimony into the record to support the variance necessary to approve this deviation. Staff testified it would *not* support deviations from LDC 10-620, 33-1498, or 33-1499 Applicant would need to implement its proposed construction. See Staff Ex. 4; Testimony of Brian Roberts.

<sup>43</sup> Testimony of Brian Roberts; Staff Ex. 4.

<sup>44</sup> *Id.* See also LDC 33-1485, -1495, -1496, -1498, -1499; LDC 10-620(e); LDC 34-145(d).

The community's architectural/design standards are intended to ensure new development is visually attractive and promotes the character of the Caloosahatchee Shores community.<sup>45</sup> The requested deviation does not compromise this objective; the proposed building designs exhibit a uniform theme and architectural style in keeping with the spirit of the code. However, the Hearing Examiner is constrained by the plain meaning of Florida Statutes and the Lee Plan, which require development permits to be consistent with the comprehensive plan.

While Applicant designed the project to be aesthetically pleasing, it did not present sufficient evidence to meet the strict variance criteria necessary to support the architectural deviation.<sup>46</sup> Variance criteria demands the requested relief be the minimum required to relieve Applicant of a hardship, and that need for the variance is not self-created.<sup>47</sup> Applicant asserted the Florida Vernacular requirement for mini-warehouses creates an economic hardship.<sup>48</sup> While that may be true, the record contains no evidence to suggest the request is the minimum relief necessary to relieve a hardship.<sup>49</sup> Most importantly, the alleged hardship does not arise from *an inherent condition of the property*; but rather, from the *type of use* Applicant proposes.<sup>50</sup>

The Hearing Examiner acknowledges Applicant's efforts to beautify the project. However, the requested deviation does not meet variance criteria required by the Lee Plan in the Caloosahatchee Shores Community.<sup>51</sup> Accordingly, the Hearing Examiner must recommend denial of the deviation request.<sup>52</sup>

### **Environmental Features**

Planned development design should reflect creative use of open space.<sup>53</sup> Developers must make every effort to protect and preserve natural site features.<sup>54</sup>

The proposed development exceeds LDC open space requirements.<sup>55</sup> The Master Concept Plan ("MCP") reflects adequate buffers from adjacent properties to

---

<sup>45</sup> See Objective 21.1.

<sup>46</sup> Lee Plan Policy 21.1.2; LDC 34-145(b)(3).

<sup>47</sup> LDC 34-145(b)(3).

<sup>48</sup> Testimony of Susan Swift.

<sup>49</sup> The deviation requests relief from complying with the Florida Vernacular style. The requirement of 50% metal construction is already mandated in LDC 10-620(e)(2). Economic impacts cannot serve as the sole basis to establish a hardship. LDC 34-2.

<sup>50</sup> Applicant referred to varying construction materials for mini-warehouse buildings where units are accessed either internally or externally. Ms. Swift testified Applicant can more easily satisfy architectural standards for internal access buildings than external access buildings. Testimony of Susan Swift.

<sup>51</sup> Lee Plan Policy 21.1.2.

<sup>52</sup> Should the community wish to relax these requirements, they could do so through a Lee Plan amendment.

<sup>53</sup> LDC 34-411(h).

<sup>54</sup> LDC 34-411(g).

<sup>55</sup> Lee Plan Goal 77, Objective 77.2. The LDC requires 30% open space, Applicant is providing 39%. See Applicant's Ex. 2 (slide 6 & 8); Staff Report (Attachment L).

minimize off-site impacts.<sup>56</sup> The MCP also denotes a substantial indigenous preserve on the southeast corner.<sup>57</sup>

Applicant observed no listed species on site.<sup>58</sup>

### **Transportation/Traffic**

Planned developments must have access to roads with sufficient capacity to support the proposed intensity.<sup>59</sup> Existing regulations or conditions of approval must address the request's expected impacts on transportation facilities.<sup>60</sup>

The project has two access points to Dusty Trail, with indirect access to Palm Beach Boulevard/SR 80.<sup>61</sup> Dusty Trail is a privately-maintained local road that intersects Palm Beach Boulevard at the site's northwest corner.<sup>62</sup> Palm Beach Boulevard is a four-lane arterial roadway. Applicant demonstrated surrounding roads offer sufficient capacity to support the proposed development intensity.<sup>63</sup>

Applicant's traffic engineer testified that project traffic will not alter levels of service on affected roadways.<sup>64</sup> Applicant must address site related impacts at the development order stage.<sup>65</sup>

### **Urban Services and Infrastructure**

Urban services are the services, facilities, capital improvements, and infrastructure necessary to support development.<sup>66</sup> The Lee Plan requires an evaluation of the availability of urban services during the rezoning process.<sup>67</sup>

---

<sup>56</sup> See Staff Report (Attachments L & I). The project provides Code-compliant buffers.

<sup>57</sup> See Staff Report (Attachment I & L); Condition 4. Roughly 15% of the site is indigenous preserve.

<sup>58</sup> See Staff Report (pg. 8, Attachments L & M).

<sup>59</sup> LDC 34-145(d)(4)(a)(1)(d); 34-411(d)(1).

<sup>60</sup> LDC 34-145(d)(4)(a)(1)(e); 34-411(d)(2).

<sup>61</sup> See Applicant's Ex. 2 (slide 12); Staff Report (pg. 8, Attachments H & K).

<sup>62</sup> Staff Report (pg. 8).

<sup>63</sup> See Staff Report (pg. 8, Attachments G & K).

<sup>64</sup> Testimony of Stephen Leung; Applicant's Ex. 2 (slide 12); Staff Report (Attachment K). In evaluating transportation impacts, planners examine projected traffic conditions at build out taking into consideration a combination of historical growth rates for the area and approved development.

<sup>65</sup> Site related improvements include capital improvements and right-of-way dedications for direct access improvements to the project. These improvements may include site driveways, road, turn lanes, deceleration or acceleration lanes, etc. Lee Plan Objective 39.1, Policy 39.1.1.

<sup>66</sup> Lee Plan Glossary; Urban services include; public water and sewer, paved streets and roads, public transit, parks and 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.

<sup>67</sup> Lee Plan Policy 2.2.1.

The project constitutes infill development.<sup>68</sup> Accordingly, a host of urban services and infrastructure are available to serve the property including roads, potable water, police, fire, and emergency medical services.<sup>69</sup>

The site sits within one-quarter mile of LeeTran route 100. Future development must comply with LDC transit facility regulations.<sup>70</sup>

### **Deviations**

“Deviations” are departures from LDC regulations.<sup>71</sup> The request carries forward three deviations approved administratively, with one new deviation.<sup>72</sup> Staff supports the requested deviations, except for deviating from architectural standards.

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

1. Enhances the achievement of the objectives of the planned development; and
2. Preserves and promotes the general intent of the LDC to protect the public health, safety, and welfare.<sup>73</sup>

Applying LDC standards of review for deviations to record testimony and evidence, the Hearing Examiner finds three of the deviations meet approval criteria.<sup>74</sup> The Hearing Examiner recommends denial of Applicant's request to deviate from architectural standards.<sup>75</sup>

The newly requested deviation seeks relief from landscape requirements.<sup>76</sup> The Lee Plan mandates that deviations from landscape standards in the Caloosahatchee Shores planning community must be evaluated against variance review standards.<sup>77</sup> The requested deviation meets variance review criteria because utility easements uniquely burden the ability to meet planting requirements.<sup>78</sup> The easement location coupled with the inability to deviate from

---

<sup>68</sup> Lee Plan Objective 2.

<sup>69</sup> See Staff Report (pg. 8,-9 Attachment G). The project will continue to utilize on-site septic system given the nature of the development. Fort Myers Shores Fire District serves the property from a station approximately 1.3 miles east of the site.

<sup>70</sup> LDC 10-441 and 10-442(b)(1). See Staff Report (pg. 9, Attachment N).

<sup>71</sup> LDC 34-2.

<sup>72</sup> Staff carries forward three deviations approved in ADD2017-00164. The new deviation addresses planting requirements within a utility easement.

<sup>73</sup> LDC 34-145(d)(4).

<sup>74</sup> LDC 34-377(a)(4); LDC 34-145(d)(4). The Hearing Examiner recommends approval of Deviations 2-4.

<sup>75</sup> Discussed in the Lee Plan Consistency section above.

<sup>76</sup> Deviation 4.

<sup>77</sup> Lee Plan Policy 21.1.2.

<sup>78</sup> LDC 33-1494; See LDC ch. 10.

LDC requirements create exceptional property conditions.<sup>79</sup> Refusing Applicant relief for this hardship would be inappropriate.<sup>80</sup>

### **Conditions**

The county must administer the zoning process so proposed land uses acceptably minimize adverse impacts to adjacent property as specified in the development regulations. Conditions must plausibly relate to the impacts anticipated from proposed development and must be pertinent to mitigation of those impacts on the public health, safety, and welfare.<sup>81</sup>

The CPD will be subject to several conditions of approval. The conditions relate to impacts anticipated from the project.<sup>82</sup> 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**

Applicant held the LDC mandated community meeting for rezoning within Caloosahatchee Shores.<sup>83</sup>

No members of the public appeared at the community meeting or the hearing.

### **Conclusion**

The Hearing Examiner concurs with staff's analysis and recommendation that the requested rezoning to CPD meets LDC approval criteria, except for the architectural deviation.

## **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 rezoning to CPD:

1. Complies with the Lee Plan. See, Lee Plan Vision Statement Paragraph 4 (*Fort Myers Shores Planning Community*), Lee Plan

---

<sup>79</sup> LDC 10-421(a)(5) prohibits required plants installed in an easement unless the easement holder provides written approval. The LDC does not permit deviations or variances from this provision. See Staff Report (pg. 7 & Attachment L).

<sup>80</sup> LDC 34-145(b)(4).

<sup>81</sup> LDC 34-932(b).

<sup>82</sup> LDC 34-83(b)(4)a.3.

<sup>83</sup> See Staff Report (Attachment J). Applicant held a virtual community meeting on June 2, 2020.

Goals 2, 4, 6, 21, Objectives 1.1, 2.1, 2.2, 4.1, 6.1, 21.2 and Policies 1.1.5, 1.7.6, 2.1.1, 2.2.1, 4.1.1, 6.1.1, 6.1.3, 6.1.4, 6.1.7; Lee Plan Maps 1, 16, Table 1(b).

2. Complies with the LDC and other County regulations. See, LDC Chapters 10, 33, and 34;
  3. Is compatible with existing and planned uses in the area. See, Lee Plan Policies 1.1.5, 2.1.1, 2.1.2, 2.2.1, 6.1.1; LDC 34-411(c), (i), and (j).
  4. Will not adversely affect environmentally critical areas and natural resources. See, Lee Plan Goal 21, 77, Objectives 4.1, and LDC 34-411(h).
  5. Will be served by urban services. See, Lee Plan Glossary, Maps 6, 7, Goal 2; Objectives 2.1, 2.2, 4.1; Policies 2.2.1, and Standard 4.1.1; 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; LDC 34-411(d).
- C. The proposed mix of uses is appropriate at the proposed location. See, Lee Plan Policies 1.1.5, 2.1.1, 6.1.1.
- 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, 33-1480 *et. seq.*, 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 the public health, safety, and welfare. See, 34-377(b)(4).

Date of Recommendation: February 4, 2021.



Amanda L. Rivera  
Deputy Hearing Examiner

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

**Exhibits to Hearing Examiner's Recommendation**

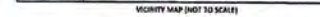
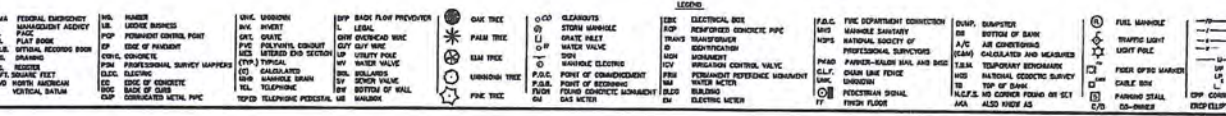
- Exhibit A Legal Description and Vicinity Map
- Exhibit B Recommended Conditions and Deviations (Strike Through/Underlined Version)
- Exhibit C Recommended Conditions and Deviations (Clean Version)
- Exhibit D Exhibits Presented at Hearing
- Exhibit E Hearing Participants
- Exhibit F Information

**Exhibit A**

**LEGAL DESCRIPTION AND VICINITY MAP**



SECTION 36 , TOWNSHIP 43 SOUTH, RANGE 25 EAST  
LEE COUNTY, FLORIDA

[illegible]

SEE SHEET 1 OF 2 FOR NOTES

**MAP OF SURVEY**  
**SECTION 36 , TOWNSHIP 43 SOUTH, RANGE 25 EAST**  
**LEE COUNTY, FLORIDA**

**LEGAL DESCRIPTION (RECORDED INSTRUMENT #2017000039118)**

A TRACT OF LAND LYING IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A CONCRETE MONUMENT MARKING THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION; THENCE NORTH 00°49'18" WEST 867.21 FEET ALONG THE EAST BOUNDARY OF SAID NORTHWEST QUARTER TO THE SURVEY LINE OF STATE ROAD 80; THENCE SOUTH 71°36'07" WEST 869.37 FEET ALONG SAID SURVEY LINE; THENCE SOUTH 01°13'46" EAST 104.66 FEET TO THE NORTHEAST CORNER OF PROPERTY CONVEYED TO THE STATE OF FLORIDA IN THAT CERTAIN DEED RECORDED IN OFFICIAL RECORDS BOOK 1655, PAGE 2882, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTH 01°12'53" EAST A DISTANCE OF 41.87 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 01°12'53" EAST ALONG THE EAST BOUNDARY OF SAID PROPERTY A DISTANCE OF 1139.19 FEET; THENCE NORTH 89°08'04" EAST 475.76 FEET; THENCE NORTH 00°53'38" WEST 190.22 FEET TO A CONCRETE MONUMENT; THENCE NORTH 00°48'45" WEST 1101.43 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 80; THENCE SOUTH 71°36'07" WEST A DISTANCE OF 506.36 FEET ALONG THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 80 TO THE POINT OF BEGINNING.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: (FIELD SURVEYED)

A TRACT OF LAND LYING IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A CONCRETE MONUMENT MARKING THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION; THENCE NORTH 00°49'02" WEST, A DISTANCE OF 887.21 FEET ALONG THE EAST BOUNDARY OF SAID NORTHWEST QUARTER TO THE SURVEY LINE OF STATE ROAD 80; THENCE SOUTH 71°36'23" WEST, A DISTANCE OF 869.37 FEET ALONG SAID SURVEY LINE; THENCE SOUTH 01°13'30" EAST, A DISTANCE OF 104.66 FEET TO THE NORTHEAST CORNER OF PROPERTY CONVEYED TO THE STATE OF FLORIDA IN THAT CERTAIN DEED RECORDED IN OFFICIAL RECORDS BOOK 1655, PAGE 2882, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE SOUTH 01°14'23" EAST, A DISTANCE OF 41.87 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 01°14'23" EAST, A DISTANCE OF 1,138.53 FEET; THENCE NORTH 89°03'59" EAST, A DISTANCE OF 475.62 FEET; THENCE NORTH 00°58'42" WEST, A DISTANCE OF 189.68 FEET; THENCE NORTH 00°52'28" WEST, A DISTANCE OF 1,101.34 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 80; THENCE SOUTH 71°31'56" WEST ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 80, A DISTANCE OF 506.22 FEET TO THE POINT OF BEGINNING.  
 SAID PARCEL CONTAINS 582,066.70 SQUARE FEET OR 13.36 ACRES MORE OR LESS.

**SURVEYOR'S NOTES:**

1. THE USE OF THE WORD "CERTIFY" OR "CERTIFICATION" CONSTITUTES AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THOSE FACTS OR FINDINGS WHICH ARE THE SUBJECT OF THE UNDERSIGNED PROFESSIONAL'S KNOWLEDGE, INFORMATION, AND BELIEF, AND IN ACCORDANCE WITH THE COMMONLY ACCEPTED PROCEDURE CONSISTENT WITH THE APPLICABLE STANDARDS OF PRACTICE, AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE EITHER EXPRESSED OR IMPLIED.
2. IF THIS DOCUMENT DOES NOT CONTAIN A RAISED IMPRESSION OR INK SEAL OF THE UNDERSIGNED PROFESSIONAL, IT IS NOT AN AUTHORIZED ORIGINAL DOCUMENT AND MAY HAVE BEEN ALTERED.
3. BEARINGS SHOWN HEREON ARE REFERENCED TO THE EAST BOUNDARY OF THE NORTHWEST 1/4 OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 25 EAST BEING N 00°49'18" W, AS RECORDED IN INSTRUMENT # 2017000039118 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA AND NORTH 00°49'02" WEST BASED ON FIELD SURVEY.
4. COORDINATES LISTED HEREON FOR THE NORTHWESTERLY CORNER OF THOSE LANDS DESCRIBED IN INSTRUMENT #2017000039118 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA ARE REFERENCED TO NGS MONUMENT WITH DESIGNATION "R415" LEE COUNTY, FLORIDA, TO THE NORTH AMERICAN DATUM OF 1983 (NAD83). FLORIDA WEST ZONE NAD83 (2011) ADJUSTMENT.

SKETCH ONLY, NOT A BOUNDARY SURVEY  
 SEE SHEET 2 FOR SKETCH OF DESCRIPTION

**MASER CONSULTING, P.A.**

Customer Loyalty through Client Satisfaction  
 www.maserconsulting.com

Engineers • Planners • Surveyors  
 Landscape Architects • Environmental Scientists

State of Fl. Cert. of Authorization: 30381 / 1/8/2019

Office Locations:

■ Red Bank, NJ	■ Raleigh, NC
■ Clearwater, FL	■ Tampa, FL
■ Englewood, NJ	■ Tallahassee, FL
■ Fort Lauderdale, FL	■ Titusville, FL
■ Ft. Lauderdale, FL	■ Virginia Beach, VA
■ Ft. Lauderdale, FL	■ Washington, DC
■ Ft. Lauderdale, FL	■ Winchester, KY
■ Ft. Lauderdale, FL	■ York, PA

LEGAL SKETCH  
 FOR  
 STORAGE KING

FOLIO NO. 10241954  
 SEC. 36, T43S, R25E

LEE COUNTY  
 FLORIDA

**811**

PROTECT YOURSELF  
 ALWAYS CALL 811 BEFORE ANY  
 EXCAVATION OR DRILLING TO  
 AVOID DAMAGE TO UNDERGROUND  
 UTILITIES.

Call before you dig.  
 811 is the number to call.

FOR STATE SPECIFIC SELECT PHONE NUMBERS  
 VISIT: 811.CALLBEFOREYODIG.COM

**TAMPA OFFICE**  
 10000 Bruce B. Downs Blvd.  
 Suite 600  
 Tampa, FL 33613  
 Phone: 813.381.0001  
 Fax: 813.381.0000

**LEGAL SKETCH**

1 of 2

**MAP OF SURVEY**  
**SECTION 36 , TOWNSHIP 43 SOUTH, RANGE 25 EAST**  
**LEE COUNTY, FLORIDA**

N  
E  
S  
W

STATE ROAD 80  
(AKA PALM BEACH BOULEVARD)  
NORTH SOUTH BOUND  
RIGHT OF WAY WIDTH VARIES  
RIGHT OF WAY MAP FILE# 12020M  
RIGHT OF WAY LINE OF STATE ROAD 80  
S 71°36'07" W 869.37' (L)  
S 71°36'23" W 869.37' (C)

S 01°13'46"E 104.66' (L)  
S 01°13'30"E 104.66' (C)  
S 01°12'53"E 41.87' (L)  
S 01°14'23"E 41.87' (C)  
POINT OF BEGINNING  
N: 859,459.35  
E: 731,002.82

SOUTHERLY RIGHT OF WAY  
LINE OF STATE ROAD 80  
S 71°36'07" W 506.36' (L)  
S 71°31'56" W 506.22' (FS)

NORTHEAST CORNER OF  
PROPERTY CONVEYED TO  
STATE OF FLORIDA  
O.R.B. 1655, PG. 2882

660'± TO  
VERANDAH BLVD

EAST BOUNDARY OF THE  
NW 1/4 OF SECTION 36--43--25  
N 00°49'18"W 887.21' (L)  
N 00°49'02"W 887.21' (C)

POINT OF COMMENCEMENT  
SE CORNER OF THE  
NE 1/4 OF THE NW 1/4  
SECTION 36, TOWNSHIP  
43 SOUTH, RANGE 25 EAST  
N: 858,993.05  
E: 731,837.29

"NOT INCLUDED"  
CALVARY TEMPLE ASSEMBLY OF GOD  
11431 PALM BEACH BOULEVARD  
FOLIO NO. 10241953

SKUSA FT MYERS LLC  
11351 PALM BEACH BOULEVARD  
FOLIO NO. 10241954  
INSTRUMENT# 2017000039118  
DOCUMENT TYPE 'D', PAGE 3

30.00' PERPETUAL EASEMENT  
O.R.B. 4051, PG. 4527  
INSTRUMENT 2017000039120  
S 01°12'53" E 1139.19' (L)  
S 01°14'23" E 1,138.53' (FS)

30' INGRESS, EGRESS, PUBLIC UTILITY  
AND ROAD RIGHT OF WAY EASEMENT  
O.R.B. 2348, PG. 4647  
O.R.B. 2348, PG. 4650  
O.R.B. 3391, PG. 4841

N 00°48'45" W 1,101.43' (L)  
N 00°52'28" W 1,101.34' (FS)

N 00°53'38" W 190.22' (L)  
N 00°58'42" W 189.68' (FS)  
N 89°08'04" E 475.76' (L)  
N 89°03'59" E 475.62' (FS)

N: 858,321.09  
E: 731,027.46

**APPROVED**  
**DCI2020-00004**  
**Daniel Munt, Planner**  
**Lee County DCD**  
**8/7/2020**

**LEGEND-**

(L)	LEGAL	NE	NORTHEAST
NW	NORTHWEST	NW	NORTHWEST
(POB)	POINT OF BEGINNING	SE	SOUTHEAST
(POC)	POINT OF COMMENCEMENT	PG.	PAGE
O.R.B.	OFFICIAL RECORD BOOK	NO.	NUMBER
(C)	CALCULATED		
(FS)	FIELD SURVEY		

**SKETCH ONLY, NOT A BOUNDARY SURVEY**  
**SEE SHEET 1 FOR DESCRIPTION OF SKETCH**

**APPROVED**  
**DCI2020-00004**  
**Daniel Munt, Planner**  
**Lee County DCD**  
**8/7/2020**

LEGEND-

(L)	LEGAL	NE	NORTHEAST
NW	NORTHWEST	NW	NORTHWEST
(POB)	POINT OF BEGINNING	SE	SOUTHEAST
(POC)	POINT OF COMMENCEMENT	PG.	PAGE
O.R.B.	OFFICIAL RECORD BOOK	NO.	NUMBER
(C)	CALCULATED		
(FS)	FIELD SURVEY		

SKETCH ONLY, NOT A BOUNDARY SURVEY  
SEE SHEET 1 FOR DESCRIPTION OF SKETCH

[illegible]

DCI2020-00004  
Zoning

Legend

 Subject Parcel



0 200  
Feet



## Exhibit B

### RECOMMENDED CONDITIONS AND DEVIATIONS

(Strike Through/Underlined Version)

The Hearing Examiner revised proposed conditions and deviations to improve clarity and facilitate implementation and compliance.

This approval does **not** supersede ADD2017-00164.

#### CONDITIONS:

1. Master Concept Plan (MCP) and Development Parameters
  - (a) MCP. Development must be consistent with the one-page MCP entitled "Storage King Route 80," prepared by Maser Consulting dated May 18, 2020 (Exhibit B1) except where modified by conditions herein.
  - (b) Land Development Code (LDC) and Lee Plan. Development must comply with the LDC and Lee Plan at time of local development order approval, except pursuant to approved deviations herein. Subsequent amendments to the MCP, conditions, or deviations may require further development approvals.
  - (c) Development Parameters. This CPD approves 121,152 square feet of mini-warehouse and open storage uses.
2. Schedule of Uses and Site Development Regulations
  - (a) Schedule of Uses
    - Accessory Uses and Structures
    - Caretaker's Residence
    - Entrance Gates/Gatehouses
    - Essential Services
    - Essential Services Facilities, Group I
    - Excavation, Water Retention
    - Fences and Walls
    - Mini-Warehouse
    - Storage, Indoor and Open
    - Signs
    - Temporary uses, Limited to construction trailers

(b) Site Development Regulations

Lot Size:

Minimum Lot Area:	13.36 acres
Minimum Lot Depth:	1,101 feet
Minimum Lot Width:	506 feet

Setbacks (Minimum):

Development Perimeter:	20 feet
Street (public):	25 feet
Street (private):	15 feet
Side:	20 feet
Rear:	25 feet
Waterbody:	25 feet

Accessory uses and setbacks must comply with LDC 34-1174 *et seq.* and LDC 34-2194.

Minimum building separation: 20 feet, or one-half the building height, whichever is greater

Maximum Lot Coverage: 40%

Minimum Open Space: 30%

3. ~~Vehicular/Pedestrian Impacts~~

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

4. ~~Lee Plan Consistency~~

~~Approval of this zoning request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1 (b), be reviewed for, and found consistent with Lee Plan provisions.~~

5. Concurrency

~~Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.~~

**HEX Note:** Recommend deletion as restatements of Condition 1 requirement that all development be consistent with the LDC and Lee Plan.

6.3. Development Permits

Issuance of a county development permit does not establish a right to obtain a permit from state or federal agencies. Further, it does not establish liability on the part of the county if the developer: (a) does not obtain requisite approvals or fulfill the obligations imposed by state or federal agencies; or (b) undertakes actions that result in a violation of state or federal law.

7.4. Indigenous Open Space

Development order plans must demonstrate a minimum 88,000 square feet of indigenous open space consistent with the MCP.

8. ~~The nature of self-storage, within the proposed buildings, is not conducive to providing an architectural style that completely emulates the typical Florida vernacular architectural style, therefore, the primary facades, which face Palm Beach Boulevard and Dusty Trail (Building "C" and Building "D") and are most visible to the public, must be designed with elements that are consistent with the Florida vernacular style, similar to the existing self-storage structures on the subject property. Florida vernacular design elements must also be included in the other facades (Building "D" and "E"); however, due to the functionality of the proposed buildings (e.g. location of exterior accessed roll-up doors, parking space and loading area and canopy), it may not be feasible to achieve a complete Florida vernacular style on all facades.~~

**HEX NOTE:** Recommend deletion. Record evidence and testimony do not support variance criteria for architectural deviation.

9.5. Construction Material Tracking

Developer must provide a summary table indicating the percentage of metal panels used in the building façade for each building elevation prior to development order approval. Metal panels may not comprise more than 50% of the building façade area.

10.6. Unified Site Development

Proposed development must employ architectural, site, and landscaping design elements integrated with and common to existing site development including colors and materials associated with Building B.

- ~~11. Redevelopment or discontinuance of the use as defined in LDC 10-602 requires Developer to meet the requirement of LDC 33-1496.~~

**HEX NOTE:** Recommend deletion as restatements of the LDC.

- ~~12. Prior to development order approval the applicant must provide their tenant lease agreement that includes language that specifically and explicitly prohibits tenants from dumping in the on-site dumpster.~~

**HEX NOTE:** Recommend deletion. Parties agreed at hearing Applicant complied with this condition. ADD2017-00164 remains in effect.

- ~~13-7. Solid Waste Facilities. Redevelopment to change approved uses requires the redeveloped area to comply with existing LDC requirement for solid waste facilities.~~

- ~~14-8. Transit Facilities. Deviation 3 approves relief for sidewalk construction only. Developer must otherwise comply with LDC 10-442.~~

#### **DEVIATIONS:**

1. Architectural Style. Deviation (1) seeks relief from the LDC 33-1496 requirement that the architectural style in the Caloosahatchee Shores Planning Community be Florida vernacular, *to allow* the architectural style to match existing site development.

*HEX Recommendation:* Denial. Request does not satisfy Lee Plan review criteria.

2. Solid Waste. Deviation (2) seeks relief from the LDC 10-261(a) requirement to calculate minimum refuse and solid waste container space from the commercial building area, *to allow* the total container space calculation to be based only on office use square footage.

*HEX Recommendation:* Approval.

3. Transit Facilities. Deviation (3) seeks relief from the LDC 10-441 requirement to construct sidewalk from the project to the nearest bus stop for commercial establishments with 30,000 square feet or more of total area if the bus stop is within one-fourth mile of the vehicular entrance to the property, *to allow* no sidewalk.

*HEX Recommendation:* Approval, *subject to* Condition 8.

4. Detention Planting. Deviation (4) seeks relief from the LDC 33-1494 requirement that dry detention areas be planted with Southern Red Maple,

Case: DCI2020-00004

South Florida Slash Pine, Laurel Oak, or Cypress trees, *to allow* no plantings along the western property line in the dry detention area.

*HEX Recommendation:* Approval.

Exhibits to Conditions:  
B1 Master Concept Plan

## Exhibit C

### RECOMMENDED CONDITIONS AND DEVIATIONS (Clean Version)

#### CONDITIONS:

1. Master Concept Plan (MCP) and Development Parameters
  - (a) MCP. Development must be consistent with the one-page MCP entitled "Storage King Route 80," prepared by Maser Consulting dated May 18, 2020 (Exhibit B1) except where modified by conditions herein.
  - (b) Land Development Code (LDC) and Lee Plan. Development must comply with the LDC and Lee Plan at time of local development order approval, except pursuant to approved deviations herein. Subsequent amendments to the MCP, conditions, or deviations may require further development approvals.
  - (c) Development Parameters. This CPD approves 121,152 square feet of mini-warehouse and open storage uses.
2. Schedule of Uses and Site Development Regulations
  - (a) Schedule of Uses

Accessory Uses and Structures  
Caretaker's Residence  
Entrance Gates/Gatehouses  
Essential Services  
Essential Services Facilities, Group I  
Excavation, Water Retention  
Fences and Walls  
Mini-Warehouse  
Storage, Indoor and Open  
Signs  
Temporary uses, Limited to construction trailers
  - (b) Site Development Regulations

Lot Size:

Minimum Lot Area:	13.36 acres
Minimum Lot Depth:	1,101 feet

Minimum Lot Width: 506 feet

Setbacks (Minimum):

Development Perimeter:	20 feet
Street (public):	25 feet
Street (private):	15 feet
Side:	20 feet
Rear:	25 feet
Waterbody:	25 feet

Accessory uses and setbacks must comply with LDC 34-1174 *et seq.* and LDC 34-2194.

Minimum building separation: 20 feet, or one-half the building height, whichever is greater

Maximum Lot Coverage: 40%

Minimum Open Space: 30%

3. Development Permits

Issuance of a county development permit does not establish a right to obtain a permit from state or federal agencies. Further, it does not establish liability on the part of the county if the developer: (a) does not obtain requisite approvals or fulfill the obligations imposed by state or federal agencies; or (b) undertakes actions that result in a violation of state or federal law.

4. Indigenous Open Space

Development order plans must demonstrate a minimum 88,000 square feet of indigenous open space consistent with the MCP.

5. Construction Material Tracking

Developer must provide a summary table indicating the percentage of metal panels used in the building façade for each building elevation prior to development order approval. Metal panels may not comprise more than 50% of the building façade area.

6. Unified Site Development

Proposed development must employ architectural, site, and landscaping design elements integrated with and common to existing site development including colors and materials associated with Building B.

7. Solid Waste Facilities.  
Redevelopment to change approved uses requires the redeveloped area to comply with existing LDC requirement for solid waste facilities.
8. Transit Facilities.  
Deviation 3 approves relief for sidewalk construction only. Developer must otherwise comply with LDC 10-442.

**DEVIATIONS:**

1. Architectural Style. Deviation (1) seeks relief from the LDC 33-1496 requirement that the architectural style in the Caloosahatchee Shores Planning Community be Florida vernacular, *to allow* the architectural style to match existing site development.  
  
*HEX Recommendation:* Denial. Request does not satisfy Lee Plan review criteria.
2. Solid Waste. Deviation (2) seeks relief from the LDC 10-261(a) requirement to calculate minimum refuse and solid waste container space from the commercial building area, *to allow* the total container space calculation to be based only on office use square footage.  
  
*HEX Recommendation:* Approval.
3. Transit Facilities. Deviation (3) seeks relief from the LDC 10-441 requirement to construct sidewalk from the project to the nearest bus stop for commercial establishments with 30,000 square feet or more of total area if the bus stop is within one-fourth mile of the vehicular entrance to the property, *to allow* no sidewalk.  
  
*HEX Recommendation:* Approval, *subject to* Condition 8.
4. Detention Planting. Deviation (4) seeks relief from the LDC 33-1494 requirement that dry detention areas be planted with Southern Red Maple, South Florida Slash Pine, Laurel Oak, or Cypress trees, *to allow* no plantings along the western property line in the dry detention area.  
  
*HEX Recommendation:* Approval.

Exhibits to Conditions:  
B1 Master Concept Plan



## Exhibit D

### EXHIBITS PRESENTED AT HEARING

#### STAFF EXHIBITS

- a. *48-Hour Notice*: Email from Brian Roberts to Maria Perez, Tracy Toussaint, Audra Ennis, Tina Boone, Lauren Schaefer, Michelle Ervin, Robert Hutcherson, Marcus Evans, Brandon Dunn, Elizabeth Workman, Rebecca Sweigert, Lili Wu, Daniel Munt, Michael Pavese, Beccagayle Reide, Nicholas DeFilippo, Sharon Jenkins-Owen, & Susan Swift, dated Tuesday, October 6, 2020 1:50 PM (6 pages – 8.5"x11")
- 1. *DCD Staff Report with attachments for DCI*: Prepared by Brian Roberts, Planner, date stamped received October 1, 2020 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]
- 2. *PowerPoint Presentation*: Prepared for DCI2020-00004, Storage King Route 80 (CPD) (multiple pages – 8.5"x11")[color]
- 3. *Written Submissions*: Email from Tracy Toussaint, to Susan Swift, Brian Roberts, & Hearing Examiner, dated Friday, October 23, 2020 3:01 PM (multiple pages – 8.5"x11")
- 4. *PowerPoint Presentation*: Prepared for DCI2020-00004, Storage King Route 80, for the January 22, 2021 reopened hearing (CPD) (multiple pages – 8.5"x11")[color]

#### APPLICANT EXHIBITS

- a. *48-Hour Notice*: Email from Susan Swift to Brian Cohen & Maria Perez, dated Tuesday, October 13, 2020 12:25 PM (1 page – 8.5"x11")
- 1. *Résumé*: For Susan Swift, AICP, Geographic Discipline Leader/Planning, with Maser Consulting, PA (3 pages – 8.5"x22")
- 2. *PowerPoint Presentation*: Prepared by Maser Consulting P.A., prepared for Storage King Route 80 Rezoning from C-2/C-t to Commercial Planned Development (CPD), Zoning Hearing Examiner – Public Hearing, dated October 15, 2020 at 9 a.m. (multiple pages – 8.5"x11")[color]
- 3. *Traffic Impact Statement*: Prepared by David Plummer & Associates, Inc., prepared for Storage King USA Rezoning, dated February 25, 2020 (multiple pages – 8.5"x11")

4. *Written Submissions:* Email from Susan Swift, to Maria Perez, with copies to Brian Roberts, dated Sunday, October 25, 2020 12:30 AM (multiple pages – 8.5"x11")

**Exhibit F**  
**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.

**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.

**Exhibit E**

**HEARING PARTICIPANTS**

**County Staff:**

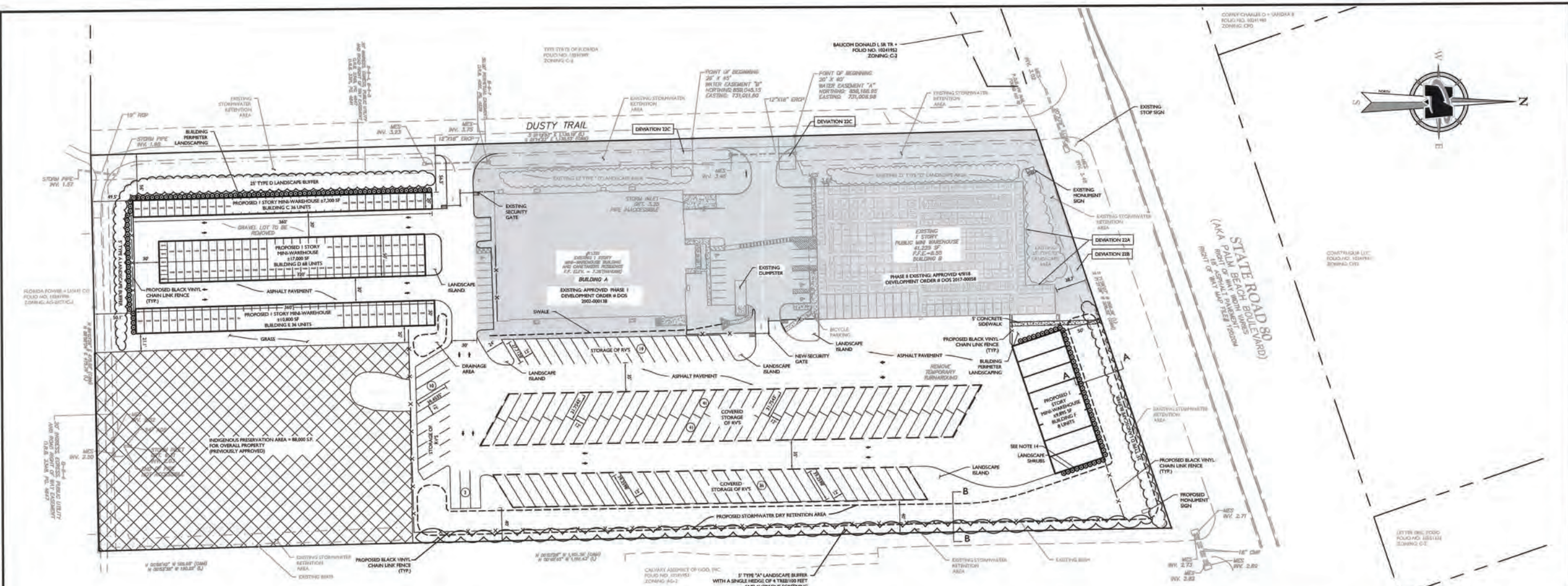
1. Brian Roberts

**Applicant Representatives:**

1. Stephen Leung
2. Susan Swift

**Public Participants:**

None



**MASER CONSULTING P.A.**  
Customer Loyalty through Client Satisfaction  
www.maserconsulting.com  
Engineers • Planners • Surveyors  
Landscape Architects • Environmental Scientists

Office Locations:  
■ Albany, NY  
■ Red Bank, NJ  
■ Clinton, NJ  
■ Haverhill, NJ  
■ Haverhill, PA  
■ Harrisburg, PA  
■ Harrisburg, VA  
■ Norfolk, VA  
■ Albuquerque, NM  
■ Albany, NY  
■ Chestnut Ridge, NY  
■ New Windsor, NY  
■ Haverhill, NY  
■ Lehigh Valley, PA  
■ Harrisburg, PA  
■ Philadelphia, PA  
■ Tampa, FL  
■ Miami, FL  
■ Columbia, MD

Scale of F.L. Certificate of Authorization: 30301 / LB8020

Copyright © 2020 Maser Consulting P.A. All Rights Reserved. This drawing and all the information contained herein is submitted for use only for the project for which it was prepared. It is not to be used for any other project without the express written consent of Maser Consulting P.A.

**811**  
Call before you dig  
FOR STATE SPECIFIC DIRECT PHONE NUMBERS VISIT:  
WWW.CALL811.COM

REV	DATE	DESCRIPTION
1	5/1/20	ISSUED FOR PUBLIC COMMENT

**REZONING FROM C-2 AND C-T TO CPD**

**PROPERTY OWNER**  
3054 FT MYERS LLC  
150 E. 32ND ST. 32ND FLOOR  
ATTN: BRIAN COHEN  
NEW YORK, NY 10022

**DEVELOPMENT TEAM**  
**DEVELOPER**  
BRIAN COHEN / WILLIAM COHEN  
ANDOVER PROPERTIES LLC  
150 E. 32ND ST. 32ND FLOOR  
NEW YORK, NY 10022  
(212) 813-0141

**SITE ENGINEER/PLANNER**  
STUART M. ROGERS, P.E. / SUSAN SWIFT, A.L.P.  
MASER CONSULTING, P.A.  
5471 W. WATERS AVE. SUITE 100  
TAMPA, FL 33634  
(813) 207-1061

**SURVEYOR**  
DAVID FERRARO  
MASER CONSULTING, P.A.  
5471 W. WATERS AVE. SUITE 100  
TAMPA, FL 33634  
(813) 207-1061

**ARCHITECT**  
TINA LONG-FORSKUND  
STUDIO X2 ARCHITECTS  
510 7TH STREET EAST  
BRADENTON, FL 34208  
(941) 747-0220  
(941) 747-0220

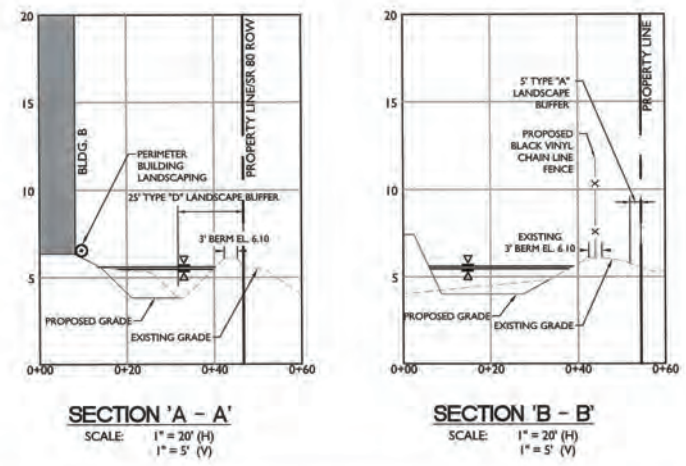
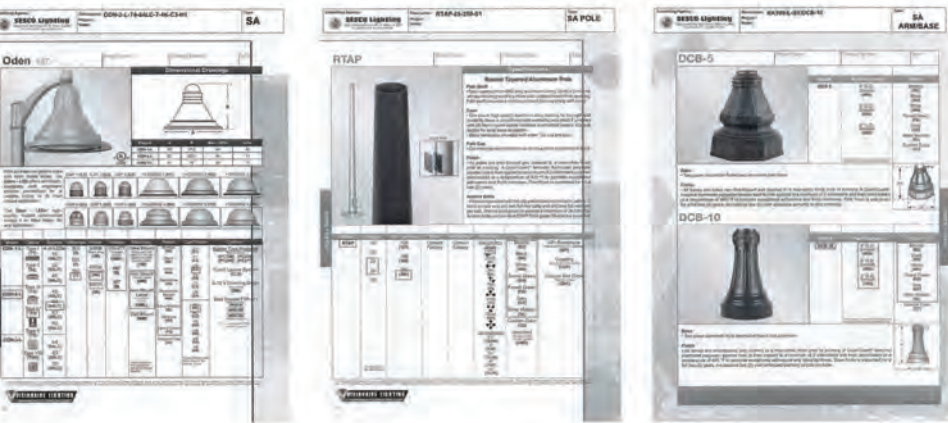
**EXISTING CONDITIONS**  
TOTAL SITE AREA:  
13.36 AC (362,570 S.F.)  
ZONING JURISDICTION:  
LEE COUNTY  
34-43-25-00-00012.0010  
ADDRESS:  
11351 PALM BEACH BLVD  
FORT MYERS, FL 33905  
FLOOD ZONE:  
ZONE "AE", ELEV. 7, PER FEMA FIRM PANEL NUMBER: 12071 C0284F DATED 08/28/2006  
FUTURE LAND USE:  
SUBURBAN  
ZONING:  
C-2 (COMMERCIAL) & CT (COMMERCIAL TOURIST)  
PROPOSED ZONING:  
COMMERCIAL PLANNED DEVELOPMENT (CPD)  
PRIOR DEVELOPMENT ORDERS:  
DC03002 - 00138, PHASE I  
DC03017 - 00058, PHASE II

**SCHEDULE OF USES:**  
EXISTING USE:  
MINI WAREHOUSE/PUBLIC WAREHOUSE/OPEN STORAGE OF RV'S/CARETAKER RESIDENCE/VACANT  
PROPOSED USE:  
MINI WAREHOUSE/PUBLIC WAREHOUSE/OPEN STORAGE OF RV'S/CARETAKER RESIDENCE  
BUILDING AREA:  
34,832 S.F. (EXISTING) BUILDING A  
41,225 S.F. (EXISTING) BUILDING B  
54,895 S.F. (1148 UNITS) (PROPOSED) BUILDING C  
130,952 S.F. (TOTAL)

**OPEN STORAGE OF RV'S**  
COVERED VEHICLE STORAGE: 118 SPACES  
(ROOFED ACCESSORY STRUCTURE)  
UNCOVERED VEHICLE STORAGE: 33 SPACES  
TOTAL: 150 SPACES

**SIGNS:**  
2 MONUMENT SIGNS  
FENCES:  
AS SHOWN

**NOTES**  
1. ALL DIMENSIONS ARE TO THE FACE OF CURB UNLESS OTHERWISE NOTED.  
2. THE PROPOSED DEVELOPMENT SHALL NOT IMPACT GROUND AND SURFACE WATER FLOWS ADJACENT TO THE SITE.  
3. THE PROPOSED DEVELOPMENT SHALL NOT IMPACT ANY FLOODWAYS ADJACENT TO THE SITE.  
4. BASED ON FLORIDA BUILDING CODE (2001) THE SITE IS LOCATED IN A ZONE OF ZERO SEISMIC PROBABILITY.  
5. ALL DESIGN AND CONSTRUCTION SHALL BE IN ACCORDANCE WITH LEE COUNTY LAND DEVELOPMENT CODE, ZONING AND ALL OTHER ORDINANCES, EXCEPT AS NOTED HEREIN.  
6. THE PROPOSED PROJECT IS CONSISTENT WITH THE GOALS, OBJECTIVES AND POLICIES OF THE LEE PLAN, INCLUDING BUT NOT LIMITED TO THE ACREAGE ALLOCATION TABLE, TABLE (N) YEAR 2030 ALLOCATION, STANDARDS AND PROVISIONS, SITE LOCATION CRITERIA, AND LAND USE CATEGORISATION.  
7. THE PROPOSED PROJECT IS LOCATED WITHIN THE CALOOSAHATCHEE SHORES PLANNING AREA COMMUNITY.  
8. IMPROVEMENTS TO THE SITE WERE DESIGNED AND WILL BE CONSTRUCTED IN COMPLIANCE WITH THE ADA ACCESSIBILITY GUIDELINES TO THE EXTENT REQUIRED UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990 (ADA) PER LCLDC SECTION 10-1 AND 10-251.  
9. THE REQUIRED MIN. OVERHEAD CLEARANCE OF 22' AND A 12' WIDE UNOBSTRUCTED ACCESS OPENING IS PROVIDED IN PHASE I TO ACCOMMODATE ALL THE REFUSE AND SOLID WASTE DISPOSAL FACILITIES STORAGE CONTAINERS IN THIS AREA.  
10. THE PROPOSED DEVELOPMENT IS APPROXIMATELY 1/2 MILE FROM THE NEAREST BUS STOP, ROUTE 100 (ROSA PARKS) BUS STOP, ID NUMBER 0644.  
11. IRRIGATION SYSTEM WILL BE DESIGNED PER SECTION 10-417.  
12. PER 24-1352(G), SECTION 10-405, AND SECTION 10-416 OF THE LEE COUNTY LAND DEVELOPMENT CODE, A 5' TYPE "A" BUFFER WILL BE PLANTED WITH A TREE/100 FEET, SINGLE HEDGE ROW + 6' FT OPAQUE SCREEN ALONG THE EASTERN AND SOUTHERN PROPERTY LINE.  
13. PER SECTION 10-412, 10-413, 10-414, AND SECTION 10-416 OF THE LEE COUNTY LAND DEVELOPMENT CODE, A 15' TYPE "D" BUFFER WILL BE PROVIDED ALONG PALM BEACH BLVD AND DUSTY TRAIL. EXISTING BUFFERS WILL REMAIN AS IS.  
14. PER SECTION 10-416(G) OF THE LEE COUNTY LAND DEVELOPMENT CODE, BUILDING PERIMETER PLANTINGS WILL BE PLANTED ALONG THE NORTH SIDE OF BUILDING "C" AND THE WEST SIDE OF BUILDING "C" & "E". BUILDING PERIMETER PLANTINGS WILL BE PLANTED ON THREE SIDES OF BUILDING "F".  
15. LANDSCAPE ISLANDS WILL BE PLANTED WITH GRASS, GROUND COVER, AND SHRUBS.  
16. LIGHTING WILL COMPLY WITH LEE COUNTY LAND DEVELOPMENT CODE SECTION 34-425.  
17. ALL LUMINAIRES SHALL BE FULLY SHIELDED, FULL CUT-OFF LUMINAIRES WITH UPLIGHT RATINGS OF 0 (ZERO), RECESSED BULBS, AND FLAT LENSES.  
18. ANY FREE-STANDING OR BUILDING MOUNTED SIGNS ARE TO BE REVIEWED AS PART OF BUILDING PLAN REVIEW AND ARE NOT TO ADVERSELY IMPACT LIGHT LEVELS AT THE PROPERTY LINES.  
19. BUILDINGS, AWNINGS, ROOFS, WINDOWS, DOORS, AND OTHER ELEMENTS MAY NOT BE DESIGNED TO BE OUTLINED WITH LIGHT. EXPOSED NEON AND BACKLIT AWNINGS ARE PROHIBITED. TEMPORARY SEASONAL LIGHTING DURING THE MONTH OF DECEMBER IS EXCLUDED FROM THIS REQUIREMENT.  
20. ALL PROPOSED LIGHT POLES ARE COMPLIANT WITH RESPECT TO LEE COUNTY LDC SECTION 33-1491(C).  
21. THE PROJECT WILL COMPLY WITH LEE PLAN POLICY 125.1.2.  
22. SCHEDULE OF DEVIATIONS:  
DEVIATION A: FLORIDA VERNACULAR ARCHITECTURE IS PREFERRED (POLICY 21.1.1). CALOOSAHATCHEE SHORES COMMUNITY PLAN.  
THE PROJECT CREATES A VISUALLY ATTRACTIVE ADDITION TO THE COMMUNITY, AS REQUIRED BY THIS OBJECTIVE AND ITS POLICIES. THE EXISTING BUILDING WAS APPROVED BY THE COUNTY IN 2017 UNDER A C-2 ZONING AND IS NOT THE PREFERRED FLORIDA VERNACULAR RURAL STYLE. IT IS, HOWEVER, AN "ENHANCED" ARCHITECTURAL DESIGN FOR A MINI-WAREHOUSE USE AND THE SMALLER NEW BUILDING IS PROPOSED TO CONTINUE THAT QUALITY BUT MATCH THE STYLE OF THE EXISTING BUILDING RATHER THAN RURAL STYLE. ADDITIONALLY, THE SETBACKS ON THE SOUTH AND WEST EXCEED CODE REQUIREMENTS AND OPEN SPACE IS NEARLY 40% OF THE SITE. THESE FEATURES ALSO ADD TO THE COMMUNITY CHARACTER AND ATTRACTIVENESS OF THE CALOOSAHATCHEE SHORES AREA.



**LEGEND**

EXISTING	PROPOSED
TRAVELER LINE, CENTER LINE OR BASELINE (LABEL AS SUCH) (12+00)	TRAVELER LINE, CENTER LINE OR BASELINE (LABEL AS SUCH) (12+00)
RIGHT OF WAY LINE	RIGHT OF WAY LINE
PROPERTY LINE	PROPERTY LINE
EDGE OF PAVEMENT	EDGE OF PAVEMENT
CURB	CURB
DEPRESSED CURB	DEPRESSED CURB
SIDEWALK	SIDEWALK
FENCES	FENCES
LANDSCAPE BUFFER	LANDSCAPE BUFFER
ROADWAY SIGNS	ROADWAY SIGNS
SWALE	SWALE
MUNICIPAL BOUNDARY LINE	MUNICIPAL BOUNDARY LINE
STALL COUNT	STALL COUNT
ADA ACCESSIBLE STALL	ADA ACCESSIBLE STALL
DEPRESSED CURB AND ADA RAMP	DEPRESSED CURB AND ADA RAMP
DIRECTION OF TRAFFIC FLOW	DIRECTION OF TRAFFIC FLOW
BUILDING PERIMETER PLANTINGS	BUILDING PERIMETER PLANTINGS

**COMMERCIAL PLANNED DEVELOPMENT MASTER CONCEPT PLAN FOR STORAGE KING ROUTE 80**

11351 PALM BEACH BLVD  
FORT MYERS, FL 33905

LEE COUNTY  
FLORIDA

**TAMPA OFFICE**  
5471 West Waters Avenue  
Suite 100  
Tampa, FL 33634  
Phone: 813.207.1061  
Fax: 813.281.1050

SCALE: AS SHOWN	DATE: 01/20/20	DRAWN BY: MPC	CHECKED BY: SS
PROJECT NUMBER: 1790538C	DRAWING NAME: C-CPD	SHEET TITLE: MASTER CONCEPT PLAN	
SHEET NUMBER: 1 of 1			

## A. Conditions

1. Development must be consistent with the one-page Master Concept Plan (MCP) entitled "Storage King Route 80," prepared by Maser Consulting revised and dated May 18, 2020 except as modified by the conditions below. This development must comply with all requirements of the Lee County Land Development Code 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.

2. The following limits apply to the project and uses.

a. Schedule of Uses

· Accessory Uses and Structures  
 · Caretaker's Residence  
 · Entrance Gates/Gatehouses  
 · Essential Services.  
Essential Services Facilities, Group I.  
Excavation - Water Retention  
 Fences and Walls  
 Mini-Warehouse  
 Storage, Indoor and Open  
 Signs  
 Temporary uses - limited to construction trailers

b. Site Development RegulationLot Size

Minimum Lot Area:	13.36 acres
Minimum Lot Depth:	1101 feet
Minimum Lot Width:	506 feet

Setbacks (Minimum)

Development Perimeter	20 feet
Street (public)	25 feet
Street (private)	15 feet
Side	20 feet
Rear	25 feet
Water body	25 feet

Accessory uses and setbacks must comply with the LDC§ 34-1174 *et seq.* and LDC§ 34-2194.

Minimum building separation: 20 feet or one half the building height whichever is greater.

Maximum Lot Coverage: 40%

Minimum Open Space: 30%

3. Vehicular/Pedestrian Impacts

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

4. Lee Plan Consistency

Approval of this zoning request does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1 (b), be reviewed for, and found consistent with Lee Plan provisions.

5. Concurrency

Approval of this rezoning does not constitute a finding that the proposed project meets the concurrency requirements set forth in LDC Chapter 2 and the Lee Plan. The developer is required to demonstrate compliance with all concurrency requirements prior to issuance of a local development order.

6. Development Permits

Issuance of a county development permit does not establish a right to obtain a permit from state or federal agencies. Further, it does not establish liability on the part of the county if the developer: (a) does not obtain requisite approvals or fulfill the obligations imposed by state or federal agencies or (b) undertake actions that result in a violation of state or federal law.

7. Indigenous Open Space

Prior to local development order approval, the development order plans must demonstrate a minimum 88,000 square-feet of indigenous open space as shown in the approved Master Concept Plan, revised May 18, 2020.

8. The proposed buildings must be architecturally designed to incorporate design elements of the Florida vernacular style where possible and consistent with existing buildings.

9. The applicant must provide a summary table indicating the percentage of metal panels that make up the building façade area for each building elevation prior to development order approval

10. The proposed development must employ architectural, site, and landscaping design elements which are integrated with and common to those used on the existing development site including colors and materials associated with the existing building that has frontage on Palm Beach Boulevard.

11. Any renovations, redevelopment or discontinuance of the use as defined in LDC Section 10-602 of the site will require the applicant to meet the requirement of LDC Section 33-1496.

12. Prior to development order approval the applicant must provide their tenant lease agreement that includes language that specifically and explicitly prohibits tenants from dumping in the on-site dumpster.

13. Any redevelopment of the site to change the uses approved as part of this rezoning will require the redeveloped area to be in compliance with the existing Land Development Code requirement for solid waste facilities.
14. Approval of the deviation is for sidewalk construction only and does not include other required improvements at the bus stop location as detailed in LDC Section 10-442(Required Facilities).

### Deviations

- **Note: Deviations(1-3) were previously approved in ADD2017-00164**

1. **Deviation(1)** seeks relief from LDC Section 33-1496 that requires that the architectural style in the Caloosahatchee Shores Planning Community be vernacular to allow the architectural style to match the existing development on the parcel. Staff recommends APPROVAL of the deviation SUBJECT TO conditions number 8, 9 and 10.
2. **Deviation(2)** seeks relief from LDC Section 10-261(a), to allow the minimum refuse and solid waste container space calculated from the commercial building area to allow for the total container space calculation to be based on the office use square footage only. Staff recommends APPROVAL of the deviation SUBJECT to conditions 11 and 12.
3. **Deviation(3)** seeks relief from LDC Section 10-441 (Public Transit) from the requirement to construct sidewalk from the development to the nearest bus stop for commercial establishments with 30,000 square feet or more of total area if the bus stop is within one-fourth mile of the vehicular entrance to the property to allow no construction of the sidewalk. Staff recommends approval of the deviation SUBJECT to condition 13.

- **Note: Deviation(4) is requested as part of the rezoning request**

4. **Deviation (4)** seeks relief from LDC Section 33-1494 that requires dry detention areas to be planted with Southern Red Maple, South Florida Slash Pine, Laurel Oak, and/or Cypress trees to allow no plantings along the western property line in the dry detention area. Staff recommends APPROVAL of the deviation

**Lee County, Florida**  
**Department of Community Development**  
**Zoning Section**  
**Staff Report**

<b>Case Number:</b>	<b>DCI2020-00004</b>
<b>Case Name:</b>	<b>Storage King Route 80</b>
<b>Type of Case:</b>	<b>Minor Planned Development</b>
<b>Area Affected by Request:</b>	<b>13.36 +/- acres</b>
<b>Date Sufficient:</b>	<b>August 19, 2020</b>
<b>Hearing Examiner Date:</b>	<b>October 15, 2020</b>

**Summary of Request and Recommendation:**

Maser Consulting, PA on behalf of SKUSA Fort Myers, LLC, submitted an application to rezone the subject parcel from Commercial (C-2) and Tourist Commercial (CT) to Commercial Planned Development. The applicant seeks to:

- Expand the existing mini-warehouse use to allow four new mini-warehouse buildings for a total of 121,152 square-feet in six buildings;
- Add additional outdoor storage to include 118 covered spaces and 32 uncovered spaces for recreational vehicle storage; and
- Add one deviation to allow no plantings in the detention area along Dusty Trail in the existing utility easement.

The subject property is located at 11351 Palm Beach Boulevard. The property's STRAP number is 36-43-25-00-00012.0010. The property is located in the Fort Myers Shores Planning Community and the Caloosahatchee Shore Community Planning Area. A legal description and sketch of the subject property is attached as Attachment "B."

Staff recommends **APPROVAL** of the applicant's request with the deviations and conditions found in Attachment "D."

The applicant has requested one deviation as part of this request, three deviations were approved administratively in ADD2017-00164 and will be carried forward into this approval. Staff has reviewed the requested deviations and recommends approval with conditions as in shown in Attachment "D." Staff finds that the deviations will advance the objectives of the planned development while protecting public health, safety, and welfare in accordance with the intent of the Land Development Code. The deviations are discussed in greater detail later in this report.

## **Property History and Character of the Area:**

The west portion of the subject property is zoned Commercial (C-2) and is developed as a mini-warehouse and open storage facility known as Storage King. The development was approved as a mini-warehouse in DOS2002-00137 (Attachment “E”). The current property owner purchased the property in 2017 and added an additional mini-warehouse building along the frontage on Palm Beach Boulevard in the C-2 zoned portion of the property. This development was approved in DOS2017-00058 (Attachment “F”). In addition to the development order approval, an Administrative Deviation (ADD2017-00058) was approved to incorporate deviations necessary for the development proposed in DOS2017-00058. Construction of the additional building was completed in 2019. The eastern portion of the property, zoned Tourist Commercial (CT), remained undeveloped except for minor on-site traffic circulation improvements. After completion of the improvements in DOS2017-00058, the applicant is now requesting to rezone the subject parcel from Commercial (C-2) and Tourist Commercial (CT) to Commercial Planned Development (CPD) to allow further expansion of the mini-warehouse use and to add outdoor storage of recreational vehicles (Attachment “G”). The uses that the applicant is requesting as part of the rezoning are not permitted in the CT zoning district, thus necessitating the request. The subject property is located on the south side of Palm Beach Boulevard, a State-maintained arterial roadway with a speed limit of 55 miles-per-hour. The subject parcel is also abutting Dusty Trail on the west side, a private local road with a speed limit of 25 miles-per-hour. The property is accessed via Dusty Trail.

### *North*

The property abuts Palm Beach Boulevard to the north. Across Palm Beach Boulevard the properties are zoned Commercial Planned Development (CPD), Commercial (C-1A), and Commercial (C-2). The parcels consist of a multi-use three story building directly north of the subject property, existing open storage to the northeast and an undeveloped parcel to the northwest. The properties are designated Suburban on the Future Land Use Map of the Lee County Comprehensive Plan.

### *South*

The property to the south is zoned Agricultural (AG-2), is owned by Florida Power and Light, and is developed with power transmission lines and associated access. The property is designated Suburban on the Future Land Use Map of the Lee County Comprehensive Plan.

### *East*

The property to the east is zoned Agricultural (AG-2) and is developed as a place of worship. The property is owned by Calvary Assembly of God and is designated Suburban on the Future Land Use Map of the Lee County Comprehensive Plan.

### *West*

The property to the west is zoned Commercial (C-2), is currently vacant, and is owned by the State of Florida. The parcel is designated Public Facilities on the Future Land Use Map of the Lee County Comprehensive Plan.

The subject parcel is zoned Commercial (C-2) and Tourist Commercial (CT) and is designated Suburban on the Future Land Use Map of the Lee County Comprehensive Plan. The property is in the Fort Myers Shores Planning Community and the Caloosahatchee Shores Community Planning Area. The subject parcel will be required to meet Goal 21 of the Lee Comprehensive Plan and Chapter 33 requirements of the Lee County Land Development Code. The parcel is in the Coastal High Hazard Area and Archaeological Sensitivity Zone 2.

## **ANALYSIS:**

The request is to rezone the subject parcel from C-2 and CT to CPD to expand the mini-warehouse use to allow four new buildings for a total of 121,152 square feet of floor area in six buildings, add additional outdoor storage to include 118 covered spaces and 32 uncovered spaces for recreational vehicle storage, and add one deviation to allow no plantings along the western property line in the dry detention area.

Section 34-612 of the Lee County Land Development Code describes the intent of the utilization of the Planned Development zoning district. The purpose of planned development zoning is to further implement the goals, objectives, and policies of the Lee Plan, while providing some degree of flexibility in the planning and design of proposed developments. LDC Section 34-145(d) establishes the review criteria for all rezoning requests. Before recommending approval of a rezoning request, the Hearing Examiner must find the request:

- a) Complies with the Lee Plan;
- 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;
- e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- g) Will be served by urban services, defined in the Lee Plan, if located in a Future Urban Area category.

For Planned Development rezoning requests, the Hearing Examiner must also find:

- a) The proposed use or mix of uses is appropriate at the proposed location;
- b) 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; and
- c) That each requested deviation:
  - 1) Enhances the achievement of the objectives of the planned development; and
  - 2) Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.

### Compliance with the Lee Plan

The subject parcel is located in the Fort Myers Shores Planning Community and Caloosahatchee Shores Community Planning Area as defined in the Lee Plan. The Fort Myers Shores Planning Community contains two discernible areas. The subject amendment request is within the Caloosahatchee Shores area east of I-75 to the Buckingham Rural Community Preserve. This area is described by the Lee Plan as having a more rural character, but is anticipated to grow substantially and contains a mix of future land use designations that consist of Suburban, Outlying Suburban, Rural and Urban Community. Because the property is within the Caloosahatchee Shore Planning Area, it is subject to Goal 21 of the Lee Plan and Chapter 33 of the Land Development Code.

Policy 1.1.5 of the Lee Plan defines the Suburban Future Land Use of the Lee Plan as predominately residential areas on the fringe of the Central Urban or Urban Community future land use categories in areas where it is appropriate to protect existing or emerging residential communities. Industrial land uses are not permitted. The request seeks to expand an established commercial use with sufficient access to urban services in place to support the development. There is no adjacent residential development and access to the property does not required travel through residential development. For these reasons the amendment request is consistent with Policy 1.1.5 of the Lee Plan.

Objective 2.1 and Objective 2.2 detail the need to promote contiguous and compact growth patterns in areas where public facilities exist to contain urban sprawl as well as minimize the impact to natural resources. The subject parcel is developed with mini-warehouse and open storage on the western half in the C-2 zoning district. The portion of the parcel zoned CT is undeveloped except for an area used for on-site traffic circulation for the existing development in the C-2 zoning district. The parcel abuts a State-maintained, arterial road on the north and a privately-maintained local road to the west. The applicant has provided a protected species report as well as the required open space and buffering. Access is provided to the site by Dusty Trail via Palm Beach Boulevard. For these reasons the requested amendment is consistent with Objective 2.1 and Objective 2.2 of the Lee Plan.

Goal 4 of the Lee Plan addresses general development standards such as water and sewer availability and protection of natural resources. The applicant has provided a potable water and sewer narrative attached as Attachment "H." The existing development is supplied potable water by Lee County Utilities and uses an on-site septic system to meet wastewater requirements. The existing services will remain in operation. The amended Master Concept Plan submitted by the applicant (Attachment "I") depicts the location of buffers, open space, and indigenous open space that complies with the Land Development Code. Staff finds that this request is consistent with Goal 4 of the Lee Plan.

Goal 6 of the Lee Plan addresses orderly and well planned commercial development at appropriate locations in Lee County. The subject property is located along an arterial roadway which will allow access via a local private road to the site without traversing residential development. The parcels adjacent to the subject parcel are predominately commercially-zoned with agricultural zoning to the east and south. The developed parcels include FP&L

transmission lines, a place of worship, multi-use commercial, mini-warehouse and open storage uses. The proposed CPD zoning and schedule of uses is consistent with the area. The requested rezoning, if approved, would allow the continued development of existing mini-warehouses and open storage on the parcel. The Master Concept Plan provided by the applicant depicts the required buffering, open space and indigenous open space. Therefore, the proposed rezoning is consistent with Lee Plan Policies 6.1.1, 6.1.4, 6.1.5, and 6.1.7.

Goal 21 of the Lee Plan addresses development in the Caloosahatchee Shores Community Plan. The Lee Plan details the requirement to protect the existing character, natural resources and quality of life in the area while promoting new development, redevelopment and maintaining a more rural identity. Goal 21 limits commercial uses to property already zoned for commercial uses while requiring applications for rezoning to go through the planned development process. Commercial development along State Route 80 (Palm Beach Boulevard) is encouraged to meet the needs of the Caloosahatchee Shores community. In accordance with Goal 21, the applicant is seeking to rezone to a planned development district and is proposing commercial development along the State Route 80 corridor. Therefore, the proposed rezoning conforms to Lee Plan Goal 21 and Objectives 21.1 and 21.2.

Policy 61.3.6 of the Lee Plan requires developments to provide surface water management systems, acceptable programs for operation and maintenance, and post-development runoff conditions that reflect the natural surface water flow rate, direction, quality, hydroperiod, and drainage basin. At the time of local development order approval, the applicant will need to demonstrate the design of the surface water management system complies with this policy. The existing development has been permitted by the South Florida Water Management District an amendment to that permit will be required for the future development of the parcel.

Goal 101 and Policies 101.1.1 and 101.1.2 apply to development within the Coastal High Hazard Area and requires compatibility with the existing natural system and protection of sensitive wetlands and tidal creeks. The subject property does not have existing wetlands or tidal creeks on-site. The proposed rezoning is consistent with Goal 101 and Policies 101.1.1 and 101.1.2.

#### *Land Development Code Compliance and Deviations:*

Section 34-411 of the Lee County Land Development Code requires all planned developments to be consistent with the Land Development Code except as approved through deviations during the planned development process.

The subject parcel was approved for three deviations from the Land Development Code in ADD2017-00164 (Attachment "O"). The approved deviations and conditions will be carried forward as part of this rezoning request.

**Deviation(1)** seeks relief from LDC Section 33-1496 (Architectural Style) that requires the architectural style in the Caloosahatchee Shores Planning Community to be vernacular to allow the architectural style to match the existing development on the

parcel. Staff recommends APPROVAL of the deviation SUBJECT to the following conditions:

- *The proposed buildings must be architecturally designed to incorporate design elements of the Florida vernacular style where possible and consistent with existing buildings.*
- *The applicant must provide a summary table indicating the percentage of metal panels that make up the building façade area for each building elevation prior to development order approval.*
- *Any renovations, redevelopment or discontinuance of the use as defined in LDC Section 10-602 of the site will require the applicant to meet the requirement of LDC Section 33-1496.*

The justifications for approval of the deviation concluded that the nature of self-storage within the proposed buildings was not conducive to providing an architectural style that completely emulates Florida vernacular. The front façade facing State Route 80 (Palm Beach Boulevard) was designed with elements of Florida vernacular style and is the most visible to the public. However, the required functionality of the proposed buildings such as the location of exterior roll-up doors, parking and loading areas, and canopies prohibited the ability to achieve a complete Florida vernacular style on all facades.

Policy 21.1.2 states that any deviation from landscaping, buffering, signage or architectural requirements may not be granted unless the request meets the approval criteria for variances set forth in Chapter 34 of the Land Development Code. The architectural design of the existing building was granted an administrative deviation and subsequent development order to deviate from the requirement to provide a Florida vernacular architectural style. The approved deviation specifically included both the C-2 and CT zoned property which are the subject of this rezoning request. The existing building, along Palm Beach Boulevard, was designed and constructed in accordance with these approvals. The applicant is seeking to continue development with additional buildings that will be designed in the same architectural style as previously approved. To revise the previously approved architectural design would cause an undue hardship for the applicant, was not the result of actions of the property owner, is the minimum deviation that will relieve the unreasonable burden caused by the application of the regulation. The requested deviation will not be injurious to the neighborhood or detrimental to the public welfare, and is consistent with the Lee Plan. Staff finds that the proposed deviation meets the variance criteria found in LDC Section 34-145(b).

**Deviation (2)** seeks relief from LDC Section 10-261(a), to allow the minimum refuse and solid waste container space calculated from the commercial building area to allow for the total container space calculation to be based on the office use square footage only. Staff recommends APPROVAL of the deviation SUBJECT to the following conditions:

- *Prior to development order approval, the applicant must provide their tenant lease agreement that includes language that specifically and explicitly prohibits tenants from dumping in the on-site dumpster.*
- *Any redevelopment of the site to change the uses approved as part of this rezoning will require the redeveloped area to be in compliance with the existing Land Development Code requirement for solid waste facilities.*

**Deviation (3)** seeks relief from LDC Section 10-441 (Public Transit) from the requirement to construct sidewalk from the development to the nearest bus stop for commercial establishments with 30,000 square feet or more of total area if the bus stop is within one-fourth mile of the vehicular entrance to the property, to allow no construction of the sidewalk. Staff recommends approval of the deviation SUBJECT to the following condition:

- *Approval of the deviation is for sidewalk construction only and does not include other required improvements at the bus stop location as detailed in LDC Section 10-442(Required Facilities).*

The deviation was previously approved because sidewalk construction is shown in the five year Florida Department of Transportation work program at this location.

The applicant has request one new deviation as part of this request. The deviation is summarized below:

**Deviation (4)** seeks relief from LDC Section 33-1494 that requires dry detention areas to be planted with Southern Red Maple, South Florida Slash Pine, Laurel Oak, and/or Cypress trees to allow no plantings along the western property line in the dry detention area. Staff recommends APPROVAL of the deviation.

Policy 21.1.2 requires any deviation from landscaping, buffering, signage or architectural requirements in the Caloosahatchee Shores Community Plan Area to meet the approval criteria for variances set forth in Chapter 34 of the Land Development Code. The existing easements along the western property line cannot be vacated and existed prior to the requirements in the Caloosahatchee Shores Community Plan Area. LDC Section 10-421(a)(5) prohibits required plants from being installed in any easement unless the easement holder provides written approval. Furthermore, deviations and variances from LDC Section 10-421(a)(5) are prohibited. For these reason Staff finds that requested deviation meets the variance criteria in LDC Section 34-145(b).

Staff finds that the deviations, as recommended and/or conditioned above, enhance the objectives of the planned development, preserve the general intent of the Land Development Code, and the protection of public safety, health, and welfare.

In accordance with Sec 33-1482, the applicant has conducted one publicly-advertised information session on June 2, 2020. The meeting summary and presentation slides are attached as Attachment “J.”

The uses requested by the applicant are permitted in the CPD zoning district. The parcel is of sufficient size and has access to permit the development proposed in the Master Concept Plan while meeting the required site design elements, setbacks, open space and buffering with the approval of the deviations and conditions proposed.

*Compatibility with existing and planned uses in the surrounding area:*

The subject property is adjacent to an arterial roadway that is developed primarily with commercial uses. The parcel has been partially developed with similar uses that are requested by the applicant in this rezoning request. The applicant is seeking to expand previously approved uses in an area that is primarily commercial in nature. There are no adjacent residential uses or impacts proposed to existing residential uses as part of this rezoning. For these reasons Staff finds that the proposed rezoning to CPD is compatible with existing uses in the surrounding area.

*Sufficient access to support the development and impacts on transportation facilities:*

There are two existing access points to Dusty Trail that will remain as part of this rezoning as shown on the Master Concept Plan. Dusty Trail is a privately-maintained local road that intersects with Palm Beach Boulevard at the northwest corner of the subject property. The applicant has submitted a Traffic Impact Statement (TIS) that has been reviewed by Staff. The analysis performed by Staff and the attached memorandum (Attachment “K”) finds that the proposed rezoning has sufficient access and will not have detrimental impacts on existing transportation facilities.

*Impacts to environmentally critical or sensitive areas and natural resources:*

Lee County Environmental Staff reviewed the requested rezoning and deviations and their analysis is included as Attachment “L.” Staff has noted that a Protected Species Report (Attachment “M”) was submitted by the applicant that indicated that no protected species or signs of protected species were observed on the parcel. The submitted MCP is in compliance with the landscaping, open space, and indigenous opens space in accordance with the Land Development Code. As detailed above in the requested deviations, Environmental Staff also recommended approval of Deviation (2). Staff finds that the requested rezoning does not impact environmentally critical or sensitive areas and natural resources.

*Urban Services:*

The applicant has provided a potable water and sewer narrative attached as Attachment “G.” The existing development is supplied potable water by Lee County Utilities and uses an on-site septic system to meet wastewater requirements. There is no proposed change to the existing service as part of this request. The subject property is within the Fort Myers Shores Fire District. Fort Myers Shores Fire Department is approximately 1.3 miles east of the subject property and

provides fire suppression, emergency medical services, rescue, and basic life support. The subject parcel is served by the Central District of the Lee County Sheriff's Department. Lee County Transit has reviewed the rezoning request and provided their analysis attached as Attachment "N." The subject property is located within one-quarter mile of bus route number 100 that is operated in the eastbound and westbound direction on Palm Beach Boulevard. Any future development would be required to meet LDC Sec. 10-441 and Sec.10-442(b)(1).

## **CONCLUSION:**

Staff finds that the request is consistent with the Lee Plan and with the requirements of the Land Development Code. This request has been reviewed against the decision making criteria set forth in LDC Sec. 34-145(d)4, and staff has found the request:

- Complies with the Lee Plan;
- Meets this Code and other applicable County regulations or qualifies for deviations;
- Will provide access sufficient to support the proposed development intensity;
- Will be able to address expected impacts on transportation facilities in accordance with the requirements of the Land Development Code;
- Will not adversely affect environmentally critical or sensitive areas and natural resources; and
- Will be served by urban services, defined in the Lee Plan, if located in a Future Urban area category.

In addition, staff has found:

- The proposed use or mix of uses is appropriate at the proposed location;
- 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; and
- That each requested deviation:
  - Enhances the achievement of the objectives of the planned development; and
  - Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.

Staff recommends **approval** of the request with the deviations and conditions attached.

## **ATTACHMENTS:**

- A. Expert Witness Information
- B. Legal Description
- C. Maps: surrounding zoning, future land use and aerial photograph
- D. Recommended Conditions, Schedule of Uses, and Deviations

- E. DOS2002-00137
- F. DOS2017-00058
- G. Narrative Request
- H. Water and Sewer Narrative
- I. Master Concept Plan (revised May 18, 2020)
- J. Public Meeting Summary and Slides
- K. TIS Staff Report (dated August 28, 2020)
- L. Environmental Science Staff Report (dated September 10, 2020)
- M. Protected Species Report (dated May 11, 2020)
- N. Lee County Transit Letter (dated April 3, 2020)
- O. ADD2017-00164

DCI2020-00011  
STATE ROAD 80  
CPD

# **Staff Summary**

CASE NUMBER & NAME: DCI2020-00011 / State Road 80 CPD

REQUEST: Request to rezone 25.94± acres from Commercial Planned Development (CPD) and Community Commercial (CC) to Commercial Planned Development (CPD) to add an additional 1.2 acres± to the State Road 80 CPD previously approved by Lee County Zoning Resolution Number Z-04-028A. No change to the development intensity/parameters is proposed.

RESOLUTION NUMBER: Z-21-001

LOCATION: 16101 State Road 31, Fort Myers Shores Planning Community, Lee County, FL

OWNER: STATE ROAD 80 COMMERCIAL LLC

AGENT: Jennifer Sopen  
Barraco and Associates, Inc.  
2271 McGregor Blvd., Ste 100  
Fort Myers, FL 33901

HEARING EXAMINER  
RECOMMENDATION: Approve, with conditions

PARTICIPANTS: (0) NONE

---

# DCI2020-00011 Aerial

## Legend

 Subject Parcel



Map Generated: December 2020

Aerial Year - 2020

0 1,000  
Feet



## Summary of Hearing Examiner Recommendation

### **STATE ROAD 80 CPD**

(Barraco and Associates, Inc., o/b/o  
State Road 80 Commercial, LLC and PBV SR31, LLC)

Request:	Amend State Route 80 Commercial Planned Development (CPD) to increase the CPD by 1.2 acres, add permitted uses and an access. This is accomplished by rezoning the 1.2 acre parcel from Community Commercial (CC) to CPD and amending the CPD to include the property in the Master Concept Plan.
Location:	Northwest corner of the Palm Beach Boulevard (State Road 80) and State Road 31 intersection  Caloosahatchee Shores Community (District 5)
Size:	25.94+/-
Recommendation:	Approve, with conditions
Deviations:	11 requested, 9 recommended for approval. <sup>1</sup>

#### **Hearing Examiner Remarks**

The Lee Plan imposes *variance criteria* for deviations from the design standards of the Caloosahatchee Shores planning community. In contrast, LDC applies “traditional” deviation review criteria within the community.<sup>2</sup> Under Florida law, the comprehensive plan takes precedence over conflicting land development regulations.

The Hearing Examiner recommends the Board address the conflict in the review standards by amending either the Lee Plan or the LDC. Until then, the Hearing Examiner must apply variance review criteria when evaluating Applicant’s request to deviate from community sign and architectural standards.

*Detailed recommendation follows*

---

<sup>1</sup> Applicant’s original request sought to retain one formerly approved deviation and request 12 new deviations. Prior to closing the record, Applicant withdrew 2 of the “new deviations.” The Hearing Examiner recommends that the Board deny two of the remaining deviations, leaving a total of 9 deviations recommended for approval.

<sup>2</sup> Compare LDC 33-1484 with Lee Plan Policy 21.1.2.

DCI2020-00011  
Future Land Use

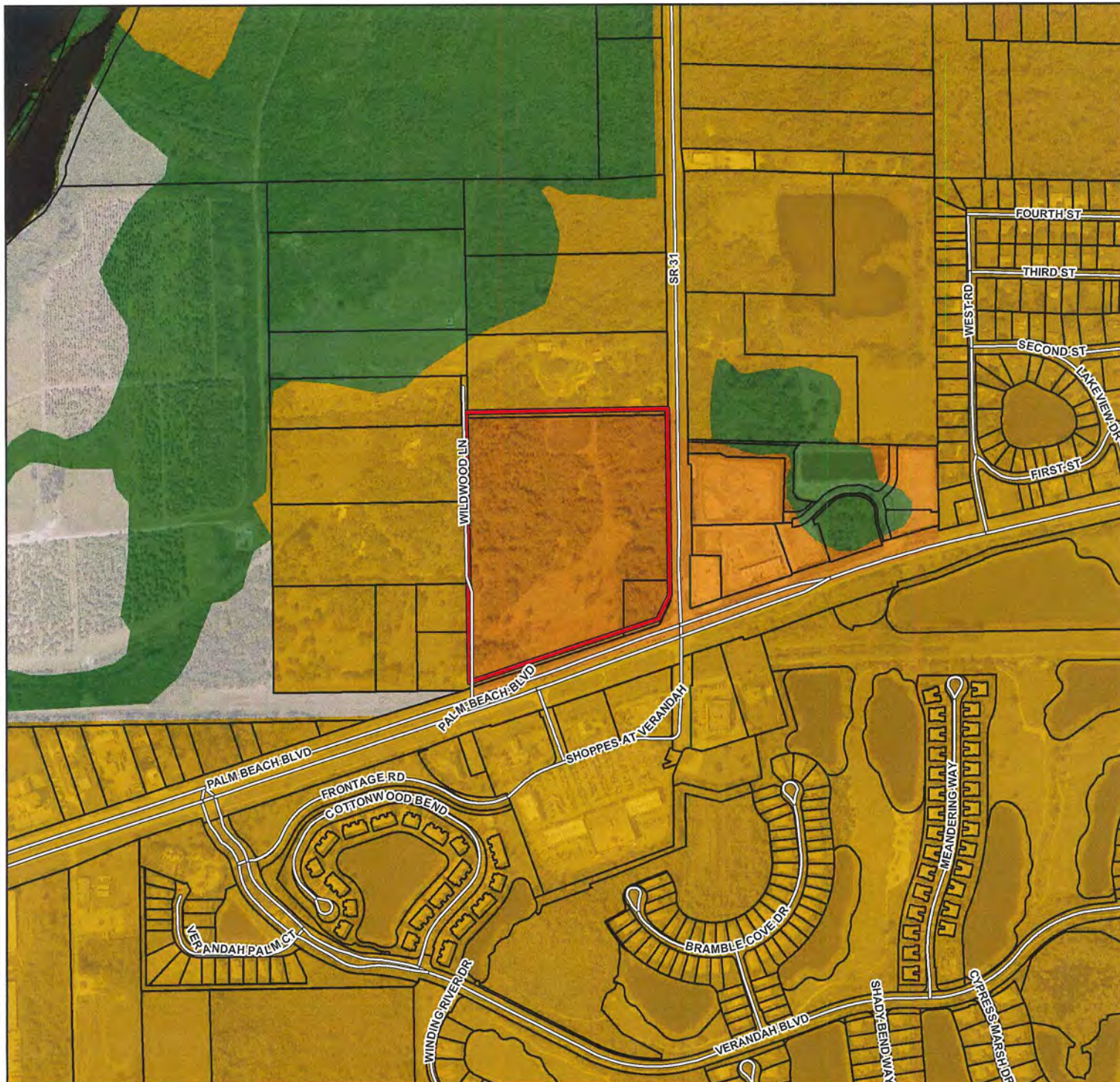
Legend

-  Subject Parcel
-  Urban Community
-  Suburban
-  Public Facilities
-  Wetlands



Map Generated: December 2020  
Aerial Year: 2020

0 1,000  
Feet



DCI2020-00011  
Aerial

Legend

 Subject Parcel



Map Generated: December 2020

Aerial Year - 2020

0 1,000  
Feet



OFFICE OF THE HEARING EXAMINER, LEE COUNTY, FLORIDA

HEARING EXAMINER RECOMMENDATION

**REZONING:** DCI2020-00011

**Regarding:** **STATE ROAD 80 CPD**

**Location:** Northwest corner of the Palm Beach Boulevard (State Road 80) and State Road 31 intersection

Caloosahatchee Shores Community  
(District 5)

**Hearing Date:** January 6, 2021

**Record Closed:** January 29, 2021

**I. Request:**

Amend the State Route 80 Commercial Planned Development (CPD) approved by Resolution Z-04-028A and rezone a 1.2 acre adjacent parcel from Community Commercial to CPD.

The request also seeks to:

- Incorporate the ±1.2 acres into the CPD;
- Adopt a new Master Concept Plan (MCP) to reflect additional land area, reconfigure development tracts and internal roadways, and add an access from Palm Beach Boulevard (State Road 80);
- Adopt a revised Schedule of Uses and increase the maximum number of self-service fuel pumps from 12 to 24; and
- Retain one previously approved deviation and add 10 new deviations.<sup>3</sup>

The property legal description is set forth in Exhibit A.

**II. Hearing Examiner Recommendation:**

Approve, *subject to* conditions and deviations set forth in Exhibit B.

---

<sup>3</sup> Applicant elected to withdraw two originally requested deviations.

### III. Discussion

The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners (Board) on applications to rezone property.<sup>4</sup> In furtherance of this duty, the Hearing Examiner accepted testimony and evidence on the application to amend the Commercial Planned Development (CPD) zoning approval for the "State Road 80 CPD."

In preparing a recommendation to the Board, the job of the Hearing Examiner is to apply the comprehensive plan (Lee Plan), Land Development Code (LDC) and other County regulations to the facts adduced at hearing. The record must include substantial competent evidence to support the Hearing Examiner's recommendation.

Discussion supporting the recommendation of approval follows below.

#### Synopsis

The site is located within a Mixed Use Overlay in the Northwest quadrant of the State Road 80 and State Road 31 intersection.<sup>5</sup>

The request seeks to amend an existing CPD by including an adjacent 1.2 acre parcel already zoned for commercial use. The proposed Master Concept Plan reflects the additional land area, reconfigures development tracts, internal roadways, and adds an access to S.R. 80. The request also proposes a revised schedule of uses and increases permitted self-serve fuel pumps from 12 to 24. Finally, the request seeks 10 additional deviations from the LDC.<sup>6</sup>

The Department of Community Development staff recommended approval of the amended CPD.

#### Zoning History

The 1.2+/- acre portion of the request was rezoned from Agricultural (AG-2) to Community Commercial (CC) in 1984.<sup>7</sup> The Board subsequently rezoned the adjacent 24+/- acres to the State Route 80 CPD in 2004.<sup>8</sup> Two Administrative Amendments followed.

---

<sup>4</sup> LDC 34-145(d)(1)b. 1 and 6; LDC 34-145(d)(4)a.

<sup>5</sup> Future instances of "State Route" abbreviated as S.R.

<sup>6</sup> Post Hearing submittal dated January 11, 2021 from Russell Schropp, Esq. withdrew Deviations 3 and 4 before the closing of the written record.

<sup>7</sup> ZAB-84-205-065 approved March 31, 2008.

<sup>8</sup> Z-04-028A.

The original CPD authorized development of 200,000 square feet commercial office and retail uses, including convenience food and beverage stores with 12 self-service fuel pumps. The County twice amended the CPD approvals to add uses, change lot configuration and authorize an excavation setback deviation.<sup>9</sup> The site is vacant and partially covered with vegetation.<sup>10</sup>

### **Lee Plan Consistency/Character of Area**

The property is in the Fort Myers Shores Planning Community and designated Urban Community and Wetlands.<sup>11</sup> Its location east of the interstate places the site within the Caloosahatchee Shores sub-area of the Planning Community.<sup>12</sup> Lee Plan Maps designate the property within a Mixed Use Overlay in recognition of its proximity to transit routes, recreation opportunities, residential, shopping, and employment centers.<sup>13</sup>

The property is located within a commercial node intended to serve the community and traveling public.<sup>14</sup> Existing development within the node includes a commercial shopping center, bank, and two convenience stores with fuel pumps.

The requested schedule of uses is consistent with existing and planned uses in the area.<sup>15</sup>

Applicant held a community meeting on the proposed amendment.<sup>16</sup>

### **Traffic**

The project is located at the intersection of S.R. 80 and S.R. 31. The intersection is controlled by a traffic signal. The S.R. 80 corridor is the main thoroughfare between Fort Myers and the east coast.

Applicant proposes five driveways from S.R. 80 and S.R. 31.<sup>17</sup> Florida Department of Transportation has sole authority on access onto state roads.

---

<sup>9</sup> Administrative Approvals: ADD2017-00131 approved November 20, 2017 and ADD2018-00014 approved April 23, 2018. See Staff Report Attachments I and J.

<sup>10</sup> The County issued a development order to permit site clearing, grubbing, lake excavation and filling on the CPD in 2018. The County has not issued a certificate of compliance on that development order to date.

<sup>11</sup> Lee Plan Vision Statement Paragraph 4, Lee Plan Objective 1.5, and Policy 1.1.4, Lee Plan Maps 1, 16

<sup>12</sup> Lee Plan Map 1, page 2 (Special Treatment Areas) and Goal 21; LDC 33-1481, LDC Appendix I, Map 14

<sup>13</sup> Lee Plan Map 1, page 6, Objective 11.2, Policy 11.2.1.

<sup>14</sup> Lee Plan Objective 21.2, Policy 21.2.1

<sup>15</sup> Lee Plan Objectives 2.2, 21.2, Policies 2.1.1, 2.1.2, 2.2.1, 6.1.1, 6.1.3, 6.1.4, 6.1.7, 6.1.8 and 21.2.1; LDC34-145(d), 34-411

<sup>16</sup> Lee Plan Objective 17.3 and Policy 13.3.5; LDC 33-1482. Applicant presented the requested CPD amendment at meeting in the Caloosahatchee Shores community on September 28, 2020, Staff Report Attachment S.

<sup>17</sup> LDC 34-145(d); One of the driveways onto S.R. 80 will have limited turning movements.

The proposed amendments will not impact the trip generation as there is no change in the intensity of existing development approvals.<sup>18</sup> Area roadways will continue to operate at acceptable levels of service post development.<sup>19</sup> The developer will address site related improvements during local development order review.<sup>20</sup>

### **Environmental**

The proposed amendments propose no significant changes to previously approved open space, perimeter buffers or indigenous preserves. Recommended conditions of approval protect existing indigenous preservation areas.<sup>21</sup> The record includes a copy of a conservation easement over environmentally sensitive areas.

Staff and Applicant disagreed on the necessity of a condition addressing replacement of heritage trees. Testimony confirmed the objectionable condition restate LDC requirements applicable during development order review. Hearing Examiner agrees it is not necessary to include conditions that simply restate code. The Hearing Examiner revised the condition, but does not object to its removal altogether.

### **Urban Services**

Urban services are available and adequate to serve the development.<sup>22</sup> Paved arterial roadways border the site on two sides.<sup>23</sup> Water and sewer infrastructure in the area has capacity to serve the development. Lee Tran Route 100 runs along S.R. 80 with stops on the east and westbound sides of the highway. Since the bus stop is located within a quarter mile, the developer must construct paved walkways to the stop at the time of development order approval. The LDC also requires the developer to improve the existing bus stop with a landing pad and bicycle storage rack.<sup>24</sup> Fire and emergency medical services are located within one mile of the site.<sup>25</sup> The property lies within the Lee County Sheriff Central District.

### **Conditions**

The amended CPD retains several existing conditions of approval. The conditions reasonably relate to impacts anticipated from the project.<sup>26</sup>

---

<sup>18</sup> Testimony of James Banks, P.E. of JMB Engineering. Mr. Banks testified that the proposed MCP and schedule of uses will not generate more trips than those anticipated under the previous CPD approvals.

<sup>19</sup> LDC 34-145(d).

<sup>20</sup> LDC 10-286.

<sup>21</sup> LDC 34-145(d).

<sup>22</sup> Lee Plan Objective 2.2 and Policies 1.1.4, 2.2.1; LDC 34-145(d).

<sup>23</sup> Lee Plan Policies 4.1.2, Goal 11, Standard 11.3, Policy 39.1.1.; LDC 34-411(d).

<sup>24</sup> LDC 10-296, 10-441, 10-442.

<sup>25</sup> Fort Myers Shores Fire District Station 81 is within ½ mile. EMS Station Medic 11 is within one mile.

<sup>26</sup> LDC 34-83(b)(4)a.3, 34-145(d), 34-932(c).

The Hearing Examiner revised wording of conditions to improve clarity. She also recommends removal references restating LDC requirements that are already applicable pursuant to Condition 1.<sup>27</sup>

### Deviations

"Deviations" are departures from the land development regulations.<sup>28</sup> The proposed amendment to the CPD seeks 10 additional deviations from the LDC. Newly requested deviations seek relief from LDC parking, signs, and internal street design criteria.

The Hearing Examiner's standard of review for deviations typically requires a finding the deviation enhances the planned development and protects public health, safety and welfare.<sup>29</sup> However, the Caloosahatchee Shores Community Plan discourages deviations from design standards. The objective is to promote community character.<sup>30</sup> Lee Plan policies impose variance review standards on deviations from certain community design criteria.<sup>31</sup>

The Hearing Examiner agrees with staff's assertion that requested deviations from code limitations on wall and window signs do not meet variance criteria.<sup>32</sup> Those deviations are not necessary to readdress an exceptional condition inherent to the property. Failing this criterion, no further analysis of remaining variance criteria is necessary.<sup>33</sup>

The remaining newly requested deviations pertain to parking, internal street design and signs.

---

<sup>27</sup> LDC 34-145(d)(6).

<sup>28</sup> LDC 34-2.

<sup>29</sup> LDC 34-145(d)(4)a.2.c).

<sup>30</sup> See Objective 21.1.

<sup>31</sup> Lee Plan Policy 21.1.2; LDC provisions for the Caloosahatchee Shores Community permit deviations and does not reference the Lee Plan imposed variance review standard. See LDC 33-1484: The LDC directs applicants to pursue deviations from architectural guidelines at the time of development order. Applicant withdrew two deviations in light of this directive. LDC 33-1484 conflicts with Lee Plan Policy 21.1.2, which discourages deviations and imposes variance criteria on deviations from sign, buffering, landscaping and architectural requirements. Florida Statutes mandate that the comprehensive plan take precedence over inconsistent land development regulations. Accordingly, either the Lee Plan or LDC should be revisited to ensure consistency between the two.

<sup>32</sup> It is noteworthy that Deviation 10 is from Chapter 30 and not the Chapter 33 community specific sign design criteria. However, to the extent Deviations 8 and 10 regulate similar subject, it is appropriate to consider both deviations using the Lee Plan mandated variance criteria. While Deviations 8 and 10 do not necessarily compromise the objective of enhancing community character, the Hearing Examiner is constrained by the Lee Plan to review both deviations using variance criteria.

<sup>33</sup> At hearing, Applicant suggested section 553.79, F.S. may be interpreted to supersede LDC design criteria in this case. The rules of statutory construction do not support the conclusion section 553.79(22), F.S. supersedes Chapter 163, which requires development permits issued by a local government be consistent with the adopted comprehensive plan. Section 553.79(22), F.S. provides no express exception from Chapter 163. Therefore, the Hearing Examiner concludes its relief is limited to conflicts with the LDC, and not the Lee Plan.

The parking deviation locates convenience food and beverage store parking in front and on the side of the building.<sup>34</sup> The purpose of the request is to ensure parking areas are clearly visible to the store employees.<sup>35</sup> This parking configuration allows for unobstructed access to the rear of building for product deliveries. The community's parking requirements are not subject to enhanced variance review criteria under the Lee Plan. The request meets standard deviation review criteria of enhancing the project and protecting public health, safety and welfare.<sup>36</sup>

The internal street design deviation applies only to an internal road that does not connect to S.R. 80 or S.R. 31. It is a two part deviation that seeks to reduce travel lane width by one foot and construct a sidewalk on only one side of the internal road. The single sidewalk would be constructed adjacent to the row of outparcels. Applicant testified reduced lane widths are a traffic calming measure improving public safety. The request meets standard deviation review criteria of enhancing the project and protecting public health, safety and welfare.<sup>37</sup>

Sign Deviations 6, 7, 11, 12, relate to location, quantity, and design of signs along the S.R. 80 and S.R. 31 road corridors. The property boundary is distant from the travel lanes of the road corridors due to supporting drainage infrastructure within the rights-of-way. The deviations are necessary to improve visibility for the traveling public.

The staff report demonstrated these four sign deviations meet the applicable variance criteria. Specifically, the property's location at the intersection of two state highways with high rates of speed and wide rights-of-way. These circumstances warrant prominent signage to alert the traveling public from sufficient distances to allow safe access to the site. The conditions were not created by Applicant, and are the minimum necessary to provide relief. These sign deviations will not injure the neighborhood or be detrimental to public welfare. For these reasons, the Hearing Examiner concludes Deviations 6, 7, 11, and 12 meet Lee Plan imposed variance criteria necessary for approval.

Deviation 9 seeks relief from limitations on size of wall signs for a fuel canopy façade.<sup>38</sup> The LDC limits the sign coverage to 10% of the wall area. Applicant requests signs covering 36% of the short sides of a fuel canopy.

The staff report demonstrated this deviation meets applicable variance criteria in the Caloosahatchee Shores Planning Community. Specifically, the property's

---

<sup>34</sup> LDC 33-1493(a) prohibits greater than 20% of parking from being located between the street and principal structure or along the sides of a building in the Caloosahatchee Shores Planning Community.

<sup>35</sup> Safety concerns as well as industry standard dictate parking to be located in front and on the side of the store.

<sup>36</sup> LDC 34-145(d)(4)a.2.c).

<sup>37</sup> LDC 34-145(d)(4)a.2.c).

<sup>38</sup> This deviation is only applicable to convenience food and beverage store with fuel pumps.

location requires signage visible to the traveling public from two state highways with high travel speed. Improved visibility allows vehicles to safely access the site without the need for dangerous maneuvers. Applicant did not create these conditions. The deviation is the minimum necessary to provide relief from the code, because it is limited to a single use: convenience food and beverage store with fuel pumps. This sign deviation will not injure the neighborhood or be detrimental to public welfare. For these reasons, the Hearing Examiner concludes the deviation meets Lee Plan imposed variance criteria necessary for approval.

### **Public Participation**

No members of the public attended the hearing before the Hearing Examiner.

### **IV. Findings and Conclusions:**

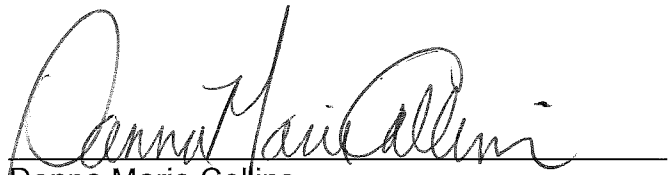
Based on the testimony and exhibits presented in the record, the Hearing Examiner finds and concludes as follows:

As conditioned herein, the proposed amendments to State Route 80 Commercial Planned Development:

1. Complies with the Lee Plan. See Lee Plan Vision Statement - Paragraph 4, Lee Plan Goals 2, 4, 6, 17, and 21, Objectives 2.2, 4.1, 6.1, 11.2, 17.3, 21.1, and 21.2, and Policies 1.1.4, 1.5.1, 2.1.1, 2.1.2, 4.1.1(standard), 4.1.2(standard), 4.1.4(standard), 6.1.1, 6.1.3, 6.1.5, 6.1.6, 11.2.1, 17.3.5, and 39.1.3;
2. Meets the LDC and other County regulations or qualifies for deviations. LDC 33-1482, 34-411, and 34-612(2);
3. Is compatible with existing and planned uses in the surrounding area. Lee Plan Objective 21.2, Policies 2.1.2, 2.2.1, 6.1.3, 6.1.4; LDC 34-411;
4. Will provide access sufficient to support the proposed development intensity;
5. The expected impacts on transportation facilities will be addressed by County regulations and conditions of approval. Lee Plan Policies 6.1.5, 39.1.3;
6. Will not adversely affect environmentally critical or sensitive areas and natural resources. Lee Plan Goal 77, Objective 77.2, Policies 1.5.1, 4.1.4(standard), 6.1.6; and
7. Will be served by urban services. Lee Plan Policies 2.2.1, 4.1.1(standard), 4.1.2(standard), 4.1.3, 6.1.4, and 21.2.1, LDC 34-411.

8. The proposed mix of uses is appropriate at the proposed location. Lee Plan Objectives 2.2, 21.2, Policies 2.1.1, 6.1.1, 6.1.2, 6.1.4, 6.1.7, 6.1.8 and 21.2.1.
9. The recommended conditions provide sufficient safeguards to protect the public interest and are reasonably related to the impacts on the public's interest. LDC 34-411, 34-932.
10. As conditioned, the deviations recommended for approval:
  - a. Enhance the planned development, and
  - b. Preserve and promote the LDC's intent to protect the public health, safety and welfare. See LDC 33-1484.

Date of Recommendation: February 4, 2021.



Donna Marie Collins  
Chief Hearing Examiner

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

**Exhibits to Hearing Examiner's Recommendation**

- Exhibit A Legal Description and Vicinity Map
- Exhibit B Recommended conditions and deviations revised by Hearing Examiner
- Exhibit C Clean version of recommended conditions and deviations.
- Exhibit D Exhibits Presented at Hearing
- Exhibit E Hearing Participants
- Exhibit F Information

**Exhibit A**

**LEGAL DESCRIPTION AND VICINITY MAP**

### DESCRIPTION

Parcel in  
 Section 25, Township 43 South, Range 25 East  
 Lee County, Florida

A tract or parcel of land lying in Section 25, Township 43 South, Range 25 East, Lee County, Florida, said tract or parcel of land being more particularly described as follows:

Commencing at the Northeast corner of the Southeast Quarter (SE 1/4) of said Section 25, run S89°11'26"W along the North line of said Fraction for 50.00 feet to an intersection with the West right of way line of State Road 31, (100' wide right of way) as shown on F.D.O.T. Right of Way map, Section No. 12620-2150; thence run S00°42'54"E along said West right of way line for 1,178.41 feet to POINT OF BEGINNING.

From said Point of Beginning continue S00°42'54"E along said West right of way line for 900.33 feet to an intersection with the Northwestern right of way line of Palm Beach Boulevard (State Road No. 80) (F.D.O.T. right of way Section No. 12020-2538), as described in a deed recorded in Official Records Book 1918, at Page 1850, Lee County Records; thence run S25°05'24"W along said right of way line for 131.32 feet to an intersection with the Northwestern Right of Way Line of said Palm Beach Boulevard (State Road No. 80) (F.D.O.T. right of way Section No. 1202-202(106)), being 75 feet Northwesternly as measured perpendicular to the centerline thereof; thence run S71°36'06"W along said Northwesternly right of way line for 968.60 feet to an intersection with the centerline of roadway easement, (60 feet wide); thence run N00°42'54"W along said centerline, parallel with the East line of said Fraction for 1,311.16 feet; thence run N89°11'26"E parallel with the North line of said Fraction for 980.00 feet to the POINT OF BEGINNING.

Containing 25.94 acres, more or less.

Bearings hereinabove mentioned are State Plane for the West Zone (1983/NSRS 2007) and are based on the East line of the Southeast Quarter (SE 1/4) of Section 25 to bear S00°42'54"E.

Digitally signed by

Scott A. Wheeler,

PSM

Date: 2020.07.14

'14:44:33 -04'00



Scott A. Wheeler (For The Firm)  
 Professional Surveyor and Mapper  
 Florida Certificate No. 5949

L:\21888 - S.R. 80 Commercial Area 1\Survey\Descriptions\21888S03.docx

**www.barraco.net**  
2271 McGREGOR BLVD., SUITE 100  
POST OFFICE DRAWER 2800  
FORT MYERS, FLORIDA 33902-2800  
PHONE (239) 461-3170  
FAX (239) 461-3160

FLORIDA CERTIFICATES OF AUTHORIZATION  
ENGINEERING 7905 - SURVEYING LB-604

PREPARED FOR:



Bonita Bay  
Group®

9950 COCONUT ROAD  
BONITA SPRINGS, FLORIDA 34135-8482

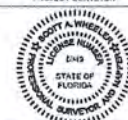
PHONE (230) 496-1000  
FAX (239) 992-3672

WWW.BONTABAYGROUP.COM

### PROJECT DESCRIPTION

**A PARCEL OF LAND IN  
SECTION 25,  
TOWNSHIP 43 SOUTH,  
RANGE 25 EAST,  
LEE COUNTY, FLORIDA**

PROJECT SUMMARY



NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED OR DIGITAL SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

FILE NAME	210500012.DWG
LAYOUT	2
LOCATION	J:\210500012\01 SURVEY\K10A1E1CH
PLOT DATE	TUE, 7-14-2020 - 2:29 PM
PLOT BY	PETER GLISON

DRAWING DATA	
SURVEY DATE	07-14-2020
DRAWN BY	P. OLSEN
CHECKED BY	SAW
SCALE	1"=20'
FIELD BOOK	

#### CLAIM REVISIONS

STRAP NUMBER:

SKETCH TO  
ACCOMPANY  
DESCRIPTION

PROJECT / FILE NO.	SHEET NUMBER
21000 25-43-25	2 OF 2



1. ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF. UNLESS OTHERWISE NOTED DISTANCES ARE ALSO (U.S. SURVEY FEET) GROUND AND CAN BE MULTIPLIED BY 0.9999478 TO OBTAIN GRID DISTANCES.
2. INST. No.- DENOTES INSTRUMENT NUMBER, LEE COUNTY PUBLIC RECORDS.
3. O.R. - DENOTES OFFICIAL RECORD BOOK, LEE COUNTY PUBLIC RECORDS.
4. PG. - DENOTES PAGE.
6. BEARINGS AND COORDINATES HEREON ARE STATE PLANE FLORIDA WEST ZONE (NAD1983 (NSRS 2007)) AND ARE BASED THE EAST LINE OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 25 TO BEAR S00°42'54"E.
7. DESCRIPTION IS ATTACHED.



0 250 500  
SCALE IN FEET

**THIS IS NOT A SURVEY**

Digitally signed by  
Scott A. Wheeler,  
PSM  
Date: 2020.07.14  
'14:44:51 -04'00



SCOTT A. WHEELER (FOR THE FIRM - LB-6940)  
PROFESSIONAL SURVEYOR AND MAPPER  
FLORIDA CERTIFICATE NO. 5949

DATE SIGNED: \_\_\_\_\_

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED OR DIGITAL SEAL  
OF A FLORIDA LICENSED SURVEYOR AND MAPPER



# DCI2020-00011 Zoning

## Legend

 Subject Parcel



Map Generated: December 2020

Aerial Year - 2020

0 1,000  
Feet



# DCI2020-00011 Zoning

## Legend

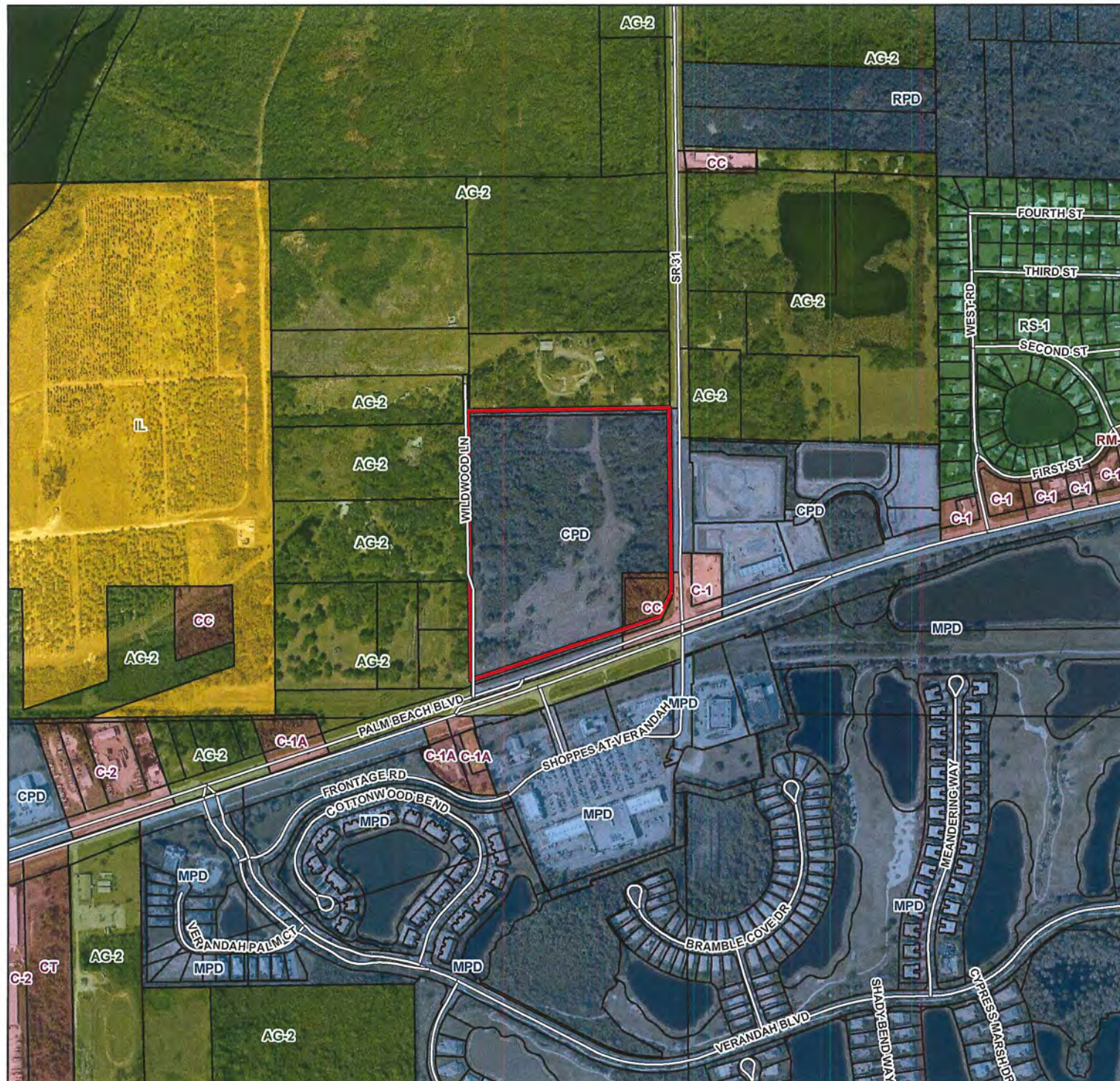
 Subject Parcel



Map Generated: December 2020

Aerial Year - 2020

0 1,000  
Feet



## Exhibit B

### RECOMMENDED CONDITIONS AND DEVIATIONS

(Conditions already modified for clarity)

(Strike through and underlining solely illustrates text removed due to redundancies)

#### CONDITIONS:

1. Development must be consistent with the two-page Master Concept Plan (MCP) entitled "State Road 31 CC," prepared by Barraco and Associates, Inc., last revised January 7, 2021, except as modified by the conditions below. Development must comply with the LDC at the time of local development order approval, except where deviations have been noted below. Amendments to the MCP, conditions, or deviations may be subject to further development approvals.

The terms and conditions of Resolution Z-04-028A, as amended by ADD2017-00131 and ADD2018-00014, are superseded by this resolution.

2. Approved Development Parameters

- a. Schedule of Uses

Anchor Parcel

Accessory uses and structures

Auto parts store, without installation facilities

Auto repair and service, all groups, only in conjunction with an anchor store

Banks and financial establishments, Groups I, II

Building material sales

Caretaker's residence, limited to one in conjunction with storage/warehouse use

Clothing stores, general

Consumption on premises, only in conjunction with restaurant, Group III

Day care center, child, adult

Department store

Drive-through facility for any permitted use

Drugstore, pharmacy, limited to one

Essential services

Essential service facilities, Group I

Excavation, water retention

Fences, walls

Food stores, Groups I, II

Gift and souvenir shop

Hardware store

Hobby, toy and game shops

Household and office furnishings, Groups I, II  
Laundry or dry cleaning, Group I  
Lawn and garden supply stores  
Medical office  
Non-store retailers, Groups I, II  
Package store  
Paint, glass and wallpaper  
Personal services, Groups I, II, excluding massage parlors  
Pet services  
Pet shop  
Place of worship  
Post office  
Recreational facilities, commercial, Group IV, excluding community  
hall, dance hall, and skating rinks  
Rental or leasing establishment, Groups I, II  
Repair shops, Groups I, II, and III  
Restaurant, fast food  
Restaurants, all groups  
Schools, commercial  
Signs  
Specialty retail shops, Groups I through IV  
Storage  
    Indoor only  
    Storage, open  
Temporary uses  
Used merchandise stores, Group I  
Variety store  
Warehouse  
    Mini-warehouse  
    Public  
    Hybrid<sup>39</sup> (see Condition)

Outparcels

Accessory uses and structures  
Auto parts store, without installation facilities, limited to one,  
prohibited on outparcel 1  
Automobile service station, limited to one, prohibited on outparcel 1  
Banks and financial establishments, Groups I, II  
Business services, Groups I and II  
Car wash, standalone, limited to one, prohibited on outparcel 1  
Clothing stores, general  
Consumption on premises, only in conjunction with restaurant,  
Group III

---

<sup>39</sup> This type of warehouse combines the structural and use aspects of a "mini-warehouse" and a "public warehouse," it has individual units, separate exterior doors, and allows "storage" inside the units, as these terms are defined by LDC §34-2. It also allows limited accessory personal recreational uses.

Convenience food and beverage stores, limited to one, prohibited on outparcel 1  
Day care center, child, adult, limited one  
Drive-through facility for any permitted use  
Drugstore, pharmacy  
Essential services  
Essential service facilities, Group I  
Excavation, water retention  
Fences, walls  
Food stores, Groups I, II, prohibited on outparcel 1  
Hobby, toy and game shops  
Hotel/motel  
Household and office furnishings, Groups I, II, and III (no outdoor storage for Group III)  
Lawn and garden supply stores  
Medical office  
Personal services, Groups I and II, excluding massage parlors  
Pet shop  
Repair shops, Groups I, II, and III  
Restaurant, fast food, limited to two (2), prohibited on outparcel 1  
Restaurants, all groups  
Schools, commercial  
Self-service fuel pumps, in conjunction with a convenience food and beverage store, limited to 24 fueling positions on one outparcel, prohibited on outparcel 1  
Signs  
Specialty retail shops, Groups I through IV  
Variety store

b. Site Development Regulations

Minimum Lot Size

Lot Width: 100 feet  
Lot Depth: 100 feet  
Lot Areas: 10,000 sq. ft.

Minimum Setbacks

Street: 20 feet  
State Road 80: 25 feet  
State Road 31: 25 feet

Side: 10 feet (office/retail)  
15 feet (hotel/motel)

Rear: 10 feet (office/retail)  
20 feet (hotel/motel)

Waterbody: 20 feet  
Development Perimeter of the subject property: 15 feet

Building Separation: <sup>1</sup> 20 feet between structures

Maximum Building Height: <sup>1</sup> 65 feet, with maximum stories set at five stories for office, two stories for retail; and five stories for hotel/motel uses

Maximum Lot Coverage: 45%

<sup>1</sup>Buildings with a height greater than 35 feet must provide increased building setbacks and building separation in compliance with LDC Sections 34-2174(a) and 34-935(e)(4).

**Hearing Examiner Note:** Restatement of LDC provisions unnecessary. Condition 1 requires compliance with the LDC unless deviation approved.

- c. Approved Development Parameters: A maximum of 200,000 square feet of commercial retail/office uses, of which a maximum of 60,000 square feet may be dedicated to outparcels.

Hotel/motel may be developed if an approved Traffic Impact Statement (TIS) demonstrates no increase to project trip generation. Hotel/motel use may not exceed 125 units (rooms).

3. Heritage trees. Developer must submit a heritage tree survey map with applications for local development order. The survey map must depict heritage trees to be preserved and the heritage trees planned for removal and replacement. Development order grading and paving plans must include measures to protect and preserve heritage trees. Development order landscape plans must depict required replacement trees in accordance with the LDC.

4. Signs

- a. Prior to local development order approval, the applicant must submit an administrative amendment to the planned development for the approval of a unified signage plan. The unified signage plan must depict the quantity, location, size, and height of signage for the commercial planned development and must include sign details for each sign type proposed within the development. The unified signage plan must be consistent with

the signage table and sign location map depicted on Sheet 2 (Details and Deviations) of the MCP.

- b. Identification signs for the commercial planned development are permitted only at FDOT-approved access points, except that a convenience food and beverage store with fuel pumps may have one identification sign per frontage on Palm Beach Boulevard (State Road 80) or State Road 31 independent of an FDOT-approved access point.
5. Architecture. Structures must be architecturally compatible and share a common architectural theme. The preferred architectural style for buildings is Florida Vernacular consistent with Lee Plan directives.
6. Access. This resolution does not address access to Palm Beach Boulevard (S.R. 80) and S.R. 31. Lee County has no jurisdiction over state roadways. The development must pursue access with the Florida Department of Transportation.
7. Blasting Prohibited.
8. Agricultural Uses Prohibited. Agriculture is not a permitted use. This prohibition does not prevent developer from harvesting and relocating existing native trees/vegetation.
9. Wildwood Lane Access. Access off Wildwood Lane will be consistent with the State Road 80 Florida Department of Transportation (FDOT) Access Management Plan. Developer must improve Wildwood Lane to street design and construction standards established in LDC 10-296(e) and Table 8 from State Road 80 to the project entrance shown on the MCP. Access will not be permitted north of the entrance shown on the MCP.
10. Open Space. Development Order landscape plans must depict 2.59 acres of indigenous open space (1.97 acres of indigenous upland and 2.35 acres of indigenous wetland). A 125 percent open space incentive may be allocated for the preservation of 1.97 acres of indigenous uplands.
11. Conservation Easement. Developer must submit a copy of the recorded conservation easement for the 4.3 acre preserve in the Northwest corner of the site with the first development order application.
12. Hybrid Warehouse Use Restrictions.
  - a. Use of Individual Units are limited to the following:

1. Storage of personal property, such as: automobiles, boats, recreational vehicles, furniture, and other personal possessions;
  2. Minor maintenance work; and
  3. Watching television, gaming, listening to music and similar uses.
- b. Prohibited uses/activities within individual units:
1. Dwelling unit, temporary living or overnight sleeping;
  2. Installation of stoves, cooktops, ranges, or ovens;
  3. Operation of a business;
  4. Use for manufacturing or construction; and
  5. Storage or use of hazardous material
- c. Uses/activities prohibited on Hybrid Warehouse Tract:
1. Outdoor storage of unattended vehicles including cars, trucks, boats, trailers, mobile homes, recreational vehicles, or other similar vehicles, with the exception of washing and rinsing;
  2. Overnight outdoor parking or outdoor storage of any kind; and
  3. Using outdoor areas for uses permitted within Individual Units.
- d. Individual Units utilized for purposes other than dead storage must comply with occupied space standards of the Florida Building Code.
- e. The use restrictions herein must be reflected in restrictive covenants, property owners' association documents, or lease documents.
13. Density and Intensity Conversions. The project is limited to a new trip generation equivalent of 200,000 square feet of commercial retail development.

**DEVIATIONS:**

1. Excavations. Deviation (1) seeks relief from LDC 10-329(d)(1)a.3, which requires a minimum excavation setback of 50 feet from private property under separate ownership, to allow an excavation setback of 30 feet to the property boundary.

*Approve*, subject to the following conditions:

- (a) Excavations are permitted a minimum of 30 feet from the northern property boundary for the purposes of constructing required storm water infrastructure.

- (b) Developer must install a four-foot-high fence along the northern property line where water retention excavations are located within 100 feet of the property boundary.
2. Parking. Deviation 2 seeks relief from LDC 33-1493(a), which prohibits more than 20 percent of parking to be located between the street right-of-way and principal structure or along the side of a building, to allow approximately 90 percent of required parking along the front and sides of a convenience food and beverage store with fuel pumps.

*Approve, subject to the following condition:*

- ~~(a) Approval is limited to a convenience food and beverage store with fuel pumps. Remaining development must comply with LDC planning community parking location requirements.~~

**Hearing Examiner Note:** Struck through text is redundant. Suggest removal. The body of deviation limited to convenience food and beverage store.

3. Withdrawn.
4. Withdrawn.
5. Signs. Deviation 5 seeks relief from LDC 33-1505(a), which prohibits animated, emitting, and automatic changing signs, to permit the LED signs for convenience food and beverage store with fuel pumps.

*Approve, subject to the following condition:*

- (a) LED signs limited to display of fuel prices. for convenience food and beverage store with fuel pumps.

**Hearing Examiner Note:** Struck through text redundant. Suggest removal. Body of deviation limited to convenience food and beverage store.

6. Signs. Deviation 6 seeks relief from LDC 33-1506(a), which permits one monument-style identification sign along streets providing access to the property, to allow up to four monument-style identification signs along Palm Beach Boulevard (State Road 80) and up to three along State Road 31.

*Approve, subject to Condition 4.*

7. Sign Setback. Deviation 7 seeks relief from LDC 33-1506(a)(3), which requires monument-style identification signs be set back a minimum of 15 feet from street rights-of-way or easements, to allow identification signs set back 5 feet from the Palm Beach Boulevard (State Road 80) and State Road 31 rights-of-way for a convenience food and beverage store with fuel pumps.

*Approve.* subject to the following condition:

~~(a) — Approval limited to signs for a convenience food and beverage store with fuel pumps.~~

**Hearing Examiner Note:** Struck through text redundant. Suggest removal. Body of deviation limited to convenience food and beverage store.

8. Signs. Deviation 8 seeks relief from LDC 33-1506(a)(7), which prohibits wall signs from advertising messages or sale items, to permit one wall sign advertising an internal store offering for a convenience food and beverage store with fuel pumps.

*Deny.*

9. Signs. Deviation 9 seeks relief from LDC 30-153(3)d, which limits sign area on walls to ten percent of total wall area, to allow sign area of 36 percent for the short sides of fuel canopy facades for a convenience food and beverage store with fuel pumps.

*Approve.* subject to the following condition:

~~(a) — Approval limited to signs on the short side of a canopy for a convenience food and beverage store with fuel pumps.~~

**Hearing Examiner Note:** Struck through text redundant. Suggest removal. Body of deviation limited to fuel canopy façade.

10. Signs. Deviation 10 seeks relief from LDC 30-5(25), which prohibits window signs advertising activities, services, goods, or products within the building, and that collectively cover more than 30 percent of the window glass surface area, to allow one or multiple window clings to cover a maximum of 50 percent of window glass surfaces for a convenience food and beverage store with fuel pumps.

*Deny.*

11. Sign Area. Deviation 11 seeks relief from LDC 30-153(2)a and 30-153(2)a.1.ii, which permit one ground-mounted identification sign with a maximum sign area of 200 square feet per sign face along streets that provide access to the property, to allow four signs on Palm Beach Boulevard (State Road 80) and three signs on State Road 31, with a combined sign area of 300 square feet per frontage.

*Approve*, subject to Condition 4.

12. Sign Area. Deviation 12 seeks relief from LDC 30-153(2)a.1.iv, which limits additional identification signs to 16 square feet in area with no illumination and restricts messaging to the development name only, to permit additional site identification signs with a maximum sign area of 45 square feet, with illumination, and to permit fuel price signs to have a maximum sign area of 65 square feet with LED lighting.

*Approve*, subject to Condition 4, and the following:

- (a) LED signs limited to display of fuel prices for a convenience food and beverage store with fuel pumps.
13. Street Design and Construction Standards. Deviation 13 seeks relief from LDC 10-296(e)(1)(i)(5)ii and Table 8, which require two, 11-foot-wide travel lanes and sidewalks on both sides of the road, to permit an internal roadway constructed with two, 10-foot-wide travel lanes and sidewalks on one side of the road.

*Approve*, subject to following conditions:

- (a) Developer may construct a sidewalk on one side of internal access roads, so long as the road does not provide direct access to Palm Beach Boulevard (S.R. 80) or S.R.31
- (b) Developer must construct sidewalks on both sides of internal road segments that directly access Palm Beach Boulevard (S.R. 80) or S.R.31.

Exhibits to Conditions:

B1 Master Concept Plan "State Road 31 CC" last revised January 7, 2021

## Exhibit C

### RECOMMENDED CONDITIONS AND DEVIATIONS (Clean Version)

#### CONDITIONS:

1. Development must be consistent with the two-page Master Concept Plan (MCP) entitled "State Road 31 CC," prepared by Barraco and Associates, Inc., last revised January 7, 2021, except as modified by the conditions below. Development must comply with the LDC at the time of local development order approval, except where deviations have been noted below. Amendments to the MCP, conditions, or deviations may be subject to further development approvals.

The terms and conditions of Resolution Z-04-028A, as amended by ADD2017-00131 and ADD2018-00014, are superseded by this resolution.

2. Approved Development Parameters

- a. Schedule of Uses

#### Anchor Parcel

Accessory uses and structures

Auto parts store, without installation facilities

Auto repair and service, all groups, only in conjunction with an anchor store

Banks and financial establishments, Groups I, II

Building material sales

Caretaker's residence, limited to one in conjunction with storage/warehouse use

Clothing stores, general

Consumption on premises, only in conjunction with restaurant, Group III

Day care center, child, adult

Department store

Drive-through facility for any permitted use

Drugstore, pharmacy, limited to one

Essential services

Essential service facilities, Group I

Excavation, water retention

Fences, walls

Food stores, Groups I, II

Gift and souvenir shop

Hardware store

- Hobby, toy and game shops
- Household and office furnishings, Groups I, II
- Laundry or dry cleaning, Group I
- Lawn and garden supply stores
- Medical office
- Non-store retailers, Groups I, II
- Package store
- Paint, glass and wallpaper
- Personal services, Groups I, II, excluding massage parlors
- Pet services
- Pet shop
- Place of worship
- Post office
- Recreational facilities, commercial, Group IV, excluding community hall, dance hall, and skating rinks
- Rental or leasing establishment, Groups I, II
- Repair shops, Groups I, II, and III
- Restaurant, fast food
- Restaurants, all groups
- Schools, commercial
- Signs
- Specialty retail shops, Groups I through IV
- Storage
  - Indoor only
  - Storage, open
- Temporary uses
- Used merchandise stores, Group I
- Variety store
- Warehouse
  - Mini-warehouse
  - Public
  - Hybrid<sup>40</sup> (see Condition)

#### Outparcels

- Accessory uses and structures
- Auto parts store, without installation facilities, limited to one, prohibited on outparcel 1
- Automobile service station, limited to one, prohibited on outparcel 1
- Banks and financial establishments, Groups I, II
- Business services, Groups I and II
- Car wash, standalone, limited to one, prohibited on outparcel 1
- Clothing stores, general

---

<sup>40</sup> This type of warehouse combines the structural and use aspects of a “mini-warehouse” and a “public warehouse,” it has individual units, separate exterior doors, and allows “storage” inside the units, as these terms are defined by LDC §34-2. It also allows limited accessory personal recreational uses.

Consumption on premises, only in conjunction with restaurant,  
Group III  
Convenience food and beverage stores, limited to one, prohibited on  
outparcel 1  
Day care center, child, adult, limited one  
Drive-through facility for any permitted use  
Drugstore, pharmacy  
Essential services  
Essential service facilities, Group I  
Excavation, water retention  
Fences, walls  
Food stores, Groups I, II, prohibited on outparcel 1  
Hobby, toy and game shops  
Hotel/motel  
Household and office furnishings, Groups I, II, and III (no outdoor  
storage for Group III)  
Lawn and garden supply stores  
Medical office  
Personal services, Groups I and II, excluding massage parlors  
Pet shop  
Repair shops, Groups I, II, and III  
Restaurant, fast food, limited to two (2), prohibited on outparcel 1  
Restaurants, all groups  
Schools, commercial  
Self-service fuel pumps, in conjunction with a convenience food and  
beverage store, limited to 24 fueling positions on one  
outparcel, prohibited on outparcel 1  
Signs  
Specialty retail shops, Groups I through IV  
Variety store

b. Site Development Regulations

Minimum Lot Size

Lot Width:	100 feet
Lot Depth:	100 feet
Lot Areas:	10,000 sq. ft.

Minimum Setbacks

Street:	20 feet
State Road 80:	25 feet
State Road 31:	25 feet
Side:	10 feet (office/retail) 15 feet (hotel/motel)

Rear: 10 feet (office/retail)  
20 feet (hotel/motel)

Waterbody: 20 feet  
Development Perimeter of the subject property: 15 feet

Building Separation: <sup>1</sup> 20 feet between structures

Maximum Building Height: <sup>1</sup> 65 feet, with maximum stories set at five stories for office, two stories for retail; and five stories for hotel/motel uses

Maximum Lot Coverage: 45%

- c. Approved Development Parameters: A maximum of 200,000 square feet of commercial retail/office uses, of which a maximum of 60,000 square feet may be dedicated to outparcels.

Hotel/motel may be developed if an approved Traffic Impact Statement (TIS) demonstrates no increase to project trip generation. Hotel/motel use may not exceed 125 units (rooms).

3. Heritage trees. Developer must submit a heritage tree survey map with applications for local development order. The survey map must depict heritage trees to be preserved and the heritage trees planned for removal and replacement. Development order grading and paving plans must include measures to protect and preserve heritage trees. Development order landscape plans must depict required replacement trees in accordance with the LDC.

4. Signs

- a. Prior to local development order approval, the applicant must submit an administrative amendment to the planned development for the approval of a unified signage plan. The unified signage plan must depict the quantity, location, size, and height of signage for the commercial planned development and must include sign details for each sign type proposed within the development. The unified signage plan must be consistent with the signage table and sign location map depicted on Sheet 2 (Details and Deviations) of the MCP.
- b. Identification signs for the commercial planned development are permitted only at FDOT-approved access points, except that a convenience food and beverage store with fuel pumps

may have one identification sign per frontage on Palm Beach Boulevard (State Road 80) or State Road 31 independent of an FDOT-approved access point.

5. Architecture. Structures must be architecturally compatible and share a common architectural theme. The preferred architectural style for buildings is Florida Vernacular consistent with Lee Plan directives.
6. Access. This resolution does not address access to Palm Beach Boulevard (S.R. 80) and S.R. 31. Lee County has no jurisdiction over state roadways. The development must pursue access with the Florida Department of Transportation.
7. Blasting Prohibited.
8. Agricultural Uses Prohibited. Agriculture is not a permitted use. This prohibition does not prevent developer from harvesting and relocating existing native trees/vegetation.
9. Wildwood Lane Access. Access off Wildwood Lane will be consistent with the State Road 80 Florida Department of Transportation (FDOT) Access Management Plan. Developer must improve Wildwood Lane to street design and construction standards established in LDC 10-296(e) and Table 8 from State Road 80 to the project entrance shown on the MCP. Access will not be permitted north of the entrance shown on the MCP.
10. Open Space. Development Order landscape plans must depict 2.59 acres of indigenous open space (1.97 acres of indigenous upland and 2.35 acres of indigenous wetland). A 125 percent open space incentive may be allocated for the preservation of 1.97 acres of indigenous uplands.
11. Conservation Easement. Developer must submit a copy of the recorded conservation easement for the 4.3 acre preserve in the Northwest corner of the site with the first development order application.
12. Hybrid Warehouse Use Restrictions.
  - a. Use of Individual Units are limited to the following:
    1. Storage of personal property, such as: automobiles, boats, recreational vehicles, furniture, and other personal possessions;
    2. Minor maintenance work; and
    3. Watching television, gaming, listening to music and similar uses.

- b. Prohibited uses and activities in individual units:
    - 1. Dwelling unit, temporary living or overnight sleeping;
    - 2. Installation of stoves, cooktops, ranges, or ovens;
    - 3. Operation of a business;
    - 4. Use for manufacturing or construction; and
    - 5. Storage or use of hazardous material
  - c. Uses and activities prohibited on Hybrid Warehouse Tract:
    - 1. Outdoor storage of unattended vehicles including cars, trucks, boats, trailers, mobile homes, recreational vehicles, or other similar vehicles, with the exception of washing and rinsing;
    - 2. Overnight outdoor parking or outdoor storage of any kind; and
    - 3. Using outdoor areas for uses permitted within Individual Units.
  - d. Individual Units utilized for purposes other than dead storage must comply with occupied space standards of the Florida Building Code.
  - e. Use restrictions established herein must be reflected in restrictive covenants, property owners' association documents, or lease documents.
13. Density and Intensity Conversions. The project is limited to a new trip generation equivalent of 200,000 square feet of commercial retail development.

**DEVIATIONS:**

1. Excavations. Deviation (1) seeks relief from LDC 10-329(d)(1)a.3, which requires a minimum excavation setback of 50 feet from private property under separate ownership, to allow an excavation setback of 30 feet to the property boundary.

*Approve*, subject to the following conditions:

- (a) Excavations are permitted a minimum of 30 feet from the northern property boundary for the purposes of constructing required storm water infrastructure.
- (b) Developer must install a four-foot-high fence along the northern property line where water retention excavations are located within 100 feet of the property boundary.

2. Parking. Deviation 2 seeks relief from LDC 33-1493(a), which prohibits more than 20 percent of parking to be located between the street right-of-way and principal structure or along the side of a building, to allow approximately 90 percent of required parking along the front and sides of a convenience food and beverage store with fuel pumps.

*Approve.*

3. Withdrawn.

4. Withdrawn.

5. Signs. Deviation 5 seeks relief from LDC 33-1505(a), which prohibits animated, emitting, and automatic changing signs, to permit the LED signs for convenience food and beverage store with fuel pumps.

*Approve*, subject to the following condition:

(a) LED signs limited to display of fuel prices.

6. Signs. Deviation 6 seeks relief from LDC 33-1506(a), which permits one monument-style identification sign along streets providing access to the property, to allow up to four monument-style identification signs along Palm Beach Boulevard (State Road 80) and up to three along State Road 31.

*Approved*, subject to Condition 4.

7. Sign Setback. Deviation 7 seeks relief from LDC 33-1506(a)(3), which requires monument-style identification signs be set back a minimum of 15 feet from street rights-of-way or easements, to allow identification signs set back 5 feet from the Palm Beach Boulevard (State Road 80) and State Road 31 rights-of-way for a convenience food and beverage store with fuel pumps.

*Approve.*

8. Signs. Deviation 8 seeks relief from LDC 33-1506(a)(7), which prohibits wall signs from advertising messages or sale items, to permit one wall sign advertising an internal store offering for a convenience food and beverage store with fuel pumps.

*Denied.*

9. Signs. Deviation 9 seeks relief from LDC 30-153(3)d, which limits sign area on walls to ten percent of total wall area, to allow sign area of 36 percent for the short sides of fuel canopy facades for a convenience food and beverage store with fuel pumps.

*Approved.*

10. Signs. Deviation 10 seeks relief from LDC 30-5(25), which prohibits window signs advertising activities, services, goods, or products within the building, and that collectively cover more than 30 percent of the window glass surface area, to allow one or multiple window clings to cover a maximum of 50 percent of window glass surfaces for a convenience food and beverage store with fuel pumps.

*Deny.*

11. Sign Area. Deviation 11 seeks relief from LDC 30-153(2)a and 30-153(2)a.1.ii, which permit one ground-mounted identification sign with a maximum sign area of 200 square feet per sign face along streets that provide access to the property, to allow four signs on Palm Beach Boulevard (State Road 80) and three signs on State Road 31, with a combined sign area of 300 square feet per frontage.

*Approve*, subject to Condition 4.

12. Sign Area. Deviation 12 seeks relief from LDC 30-153(2)a.1.iv, which limits additional identification signs to 16 square feet in area with no illumination and restricts messaging to the development name only, to permit additional site identification signs with a maximum sign area of 45 square feet, with illumination, and to permit fuel price signs to have a maximum sign area of 65 square feet with LED lighting.

*Approve*, subject to Condition 4, and the following:

- (a) LED signs limited to display of fuel prices for a convenience food and beverage store with fuel pumps.
13. Street Design and Construction Standards. Deviation 13 seeks relief from LDC 10-296(e)(1)(i)(5)ii and Table 8, which require two, 11-foot-wide travel lanes and sidewalks on both sides of the road, to permit an internal roadway constructed with two, 10-foot-wide travel lanes and sidewalks on one side of the road.

*Approve*, subject to following conditions:

- (a) Developer may construct a sidewalk on one side of internal access roads, so long as the road does not provide direct access to Palm Beach Boulevard (S.R. 80) or S.R.31.
- (b) Developer must construct sidewalks on both sides of internal road segments that directly access Palm Beach Boulevard (S.R. 80) or S.R.31.

Exhibits to Conditions:

B1 Master Concept Plan "State Road 31 CC" last revised January 7, 2021

EXHIBIT B-1

ZONING: AG-2  
FLU: SUBURBAN  
USE: RESIDENTIAL

ALL REASONABLE EFFORTS SHALL BE MADE  
TO RETAIN INDIGENEOUS VEGETATION  
WITHIN THE PRIVATE ROAD EASEMENT

ZONING: AG-2  
FLU: SUBURBAN  
USE: RESIDENTIAL

ZONING: AG-2  
FLU: SUBURBAN  
USE: RESIDENTIAL

ZONING: AG-2  
FLU: SUBURBAN  
USE: VACANT

ZONING: AG-2  
FLU: SUBURBAN  
USE: VACANT

IMPROVEMENTS TO LOCAL  
ROAD BY DEVELOPER

ZONING: AG-2  
FLU: SUBURBAN  
USE: RESIDENTIAL

PRESERVE  
4.3 AC

ANCHOR PARCEL

OUTPARCEL 8

OUTPARCEL 7

OUTPARCEL 6

OUTPARCEL 5

OUTPARCEL 4

OUTPARCEL 3

OUTPARCEL 2

OUTPARCEL 1

ZONING: AG-2  
FLU: SUBURBAN  
USE: VACANT

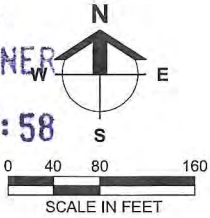
ZONING: CPD  
FLU: URBAN COMMUNITY  
USE: VACANT / GAS STATION  
UNDER CONSTRUCTION

ZONING: C-1  
FLU: URBAN COMMUNITY  
USE: COMMERCIAL -  
SERVICE STATION

ZONING: MPD  
FLU: SUBURBAN  
USE: VERANDAH  
COMMERCIAL CENTER

LEE COUNTY  
HEARING EXAMINER

2021 FEB -4 AM 7:58



**Barraco**  
and Associates, Inc.  
CIVIL ENGINEERING - LAND SURVEYING  
LAND PLANNING  
www.barraco.net  
2271 MCGREGOR BLVD., SUITE 100  
POST OFFICE DRAWER 2800  
FORT MYERS, FLORIDA 33902-2800  
PHONE (239) 461-3170  
FAX (239) 461-3169  
FLORIDA CERTIFICATES OF AUTHORIZATION  
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

PBV SF 31, LLC.  
&  
SR 80 COMMERCIAL,  
LLC.

PROJECT DESCRIPTION

STATE ROAD 31  
CC

COMMERCIAL DEVELOPMENT

PART OF SECTION 25  
TOWNSHIP 43 SOUTH  
RANGE 25 EAST  
LEE COUNTY, FLORIDA

THIS PLAN IS PRELIMINARY AND  
INTENDED FOR CONCEPTUAL  
PLANNING PURPOSES ONLY.

SITE LAYOUT AND LAND USE  
INTENSITIES OR DENSITIES MAY  
CHANGE SIGNIFICANTLY BASED  
UPON SURVEY, ENGINEERING,  
ENVIRONMENTAL AND / OR  
REGULATORY CONSTRAINTS  
AND / OR OPPORTUNITIES.

NOT FOR  
CONSTRUCTION

DRAWING NOT VALID WITHOUT SEAL, SIGNATURE AND DATE  
© COPYRIGHT 2021, BARRACO AND ASSOCIATES, INC.  
REPRODUCTION, CHANGES OR ASSIGNMENTS ARE PROHIBITED

FILE NAME: 21888Z01.DWG  
LOCATION: J:\21888\DWG\ZONING 2020\  
PLOT DATE: TUE. 2-2-2021 - 3:47 PM  
PLOT BY: ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS  
BASEPLAN = 21888Z00.DWG

PLAN REVISIONS	
8/28/20	REVISED OPEN SPACE CALCS
9/2/20	REVISED OPEN SPACE CALCS
9/17/20	REVISED DEVIATION NUMBERS
1-7-21	INCENTIVE CREDIT AT 125% (HEX)

PLAN STATUS

MASTER  
CONCEPT  
PLAN

PROJECT / FILE NO. 21888  
SHEET NUMBER 1 OF 2

OPEN SPACE CALCULATIONS

REQUIRED (PER LDC 10-425)

OPEN SPACE		
25.9 AC X 20% =	5.2 AC	
INDIGENOUS		
5.2 AC X 50% =	2.6 AC	

PROVIDED OPEN SPACE

INDIGENOUS		
4.3 AC X 125% INCENTIVE =	6.5 AC	
OPEN SPACE		
PRESERVE	4.3 AC	
LAKE	0.8 AC	
OTHER / BUFFER (*)	1.0 AC	

TOTAL: 6.1 AC

\* EACH OUTPARCEL TO PROVIDE A MINIMUM  
OF 10% OPEN SPACE.

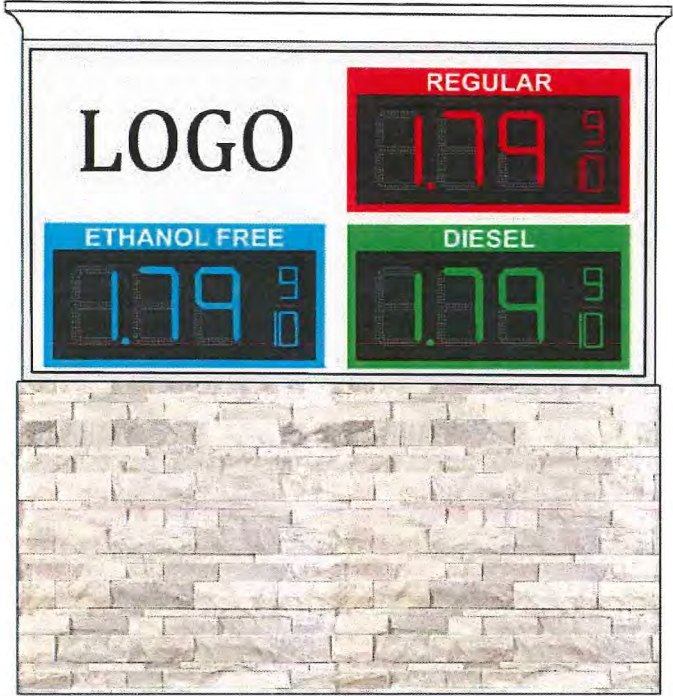
LEGEND

#	DEVIATION REQUEST
LAKE	LAKE
INDIGENOUS WETLAND	INDIGENOUS WETLAND
INDIGENOUS UPLAND	INDIGENOUS UPLAND

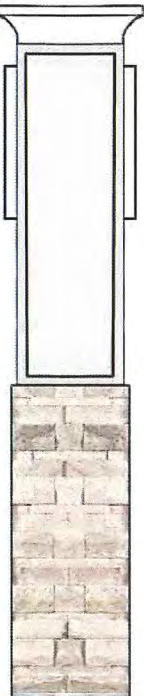
NOTE:

1) OUTPARCEL SIZE, CONFIGURATION, NUMBERING SEQUENCE AND  
SIGN LOCATIONS FOR ILLUSTRATIVE PURPOSES AND SUBJECT TO  
CHANGE.

2) DEVIATIONS 2 THRU 12 APPLY TO OUTPARCELS 2 TO 8.



FRONT VIEW



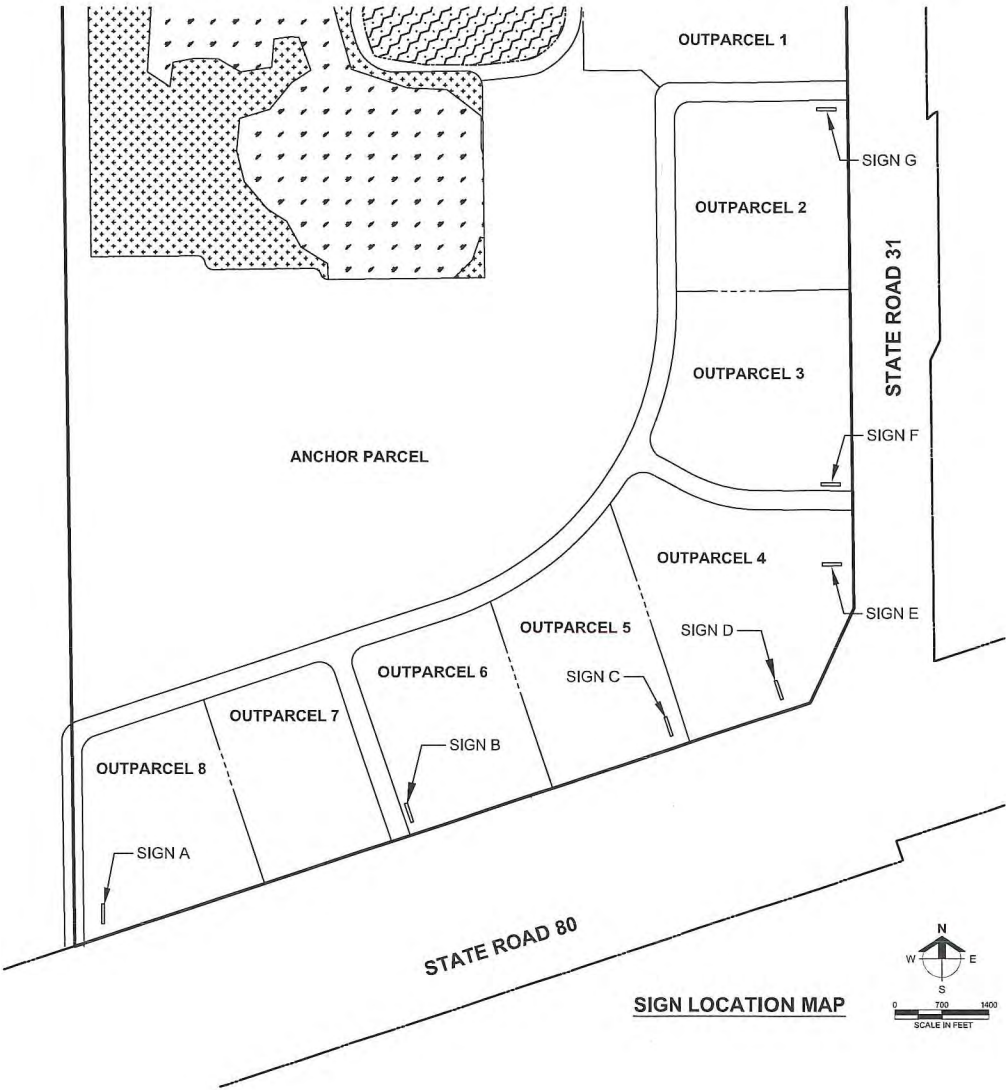
SIDE VIEW

SIGN PLAN 65 S.F. LED PRICE SIGN  
(OUTPARCELS 2 TO 8)

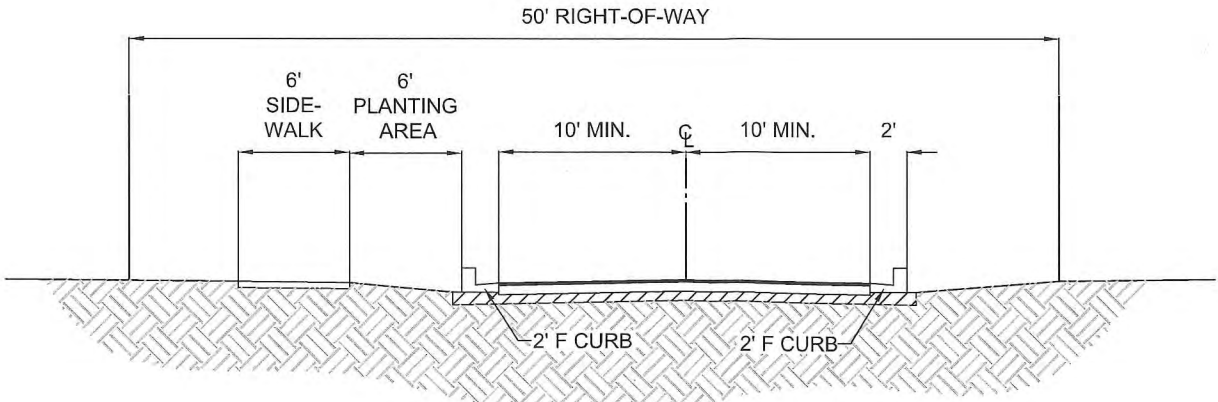
SIGNAGE

STATE ROAD 80 SIGNAGE	
A	145 S.F.
B	45 S.F.
C	45 S.F.
D	65 S.F.
TOTAL NOT TO EXCEED 300 S.F.	
STATE ROAD 31 SIGNAGE	
E	65 S.F.
F	45 S.F.
G	145 S.F.
TOTAL NOT TO EXCEED 300 S.F.	

LDC SECTION 30-153 ( MAX HEIGHT 24')



SIGN LOCATION MAP



TYPICAL COMMERCIAL ROAD SECTION  
(DEVIATION #15)

NOTE:  
1) OUTPARCEL SIZE, CONFIGURATION, NUMBERING SEQUENCE AND SIGN LOCATIONS FOR ILLUSTRATIVE PURPOSES AND SUBJECT TO CHANGE.

**Barraco**  
and Associates, Inc.

CIVIL ENGINEERING - LAND SURVEYING  
LAND PLANNING

www.barraco.net

2271 MCGREGOR BLVD., SUITE 100  
POST OFFICE DRAWER 2800  
FORT MYERS, FLORIDA 33902-2800  
PHONE (239) 461-3170  
FAX (239) 461-3169

FLORIDA CERTIFICATES OF AUTHORIZATION  
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

PBV SF 31, LLC.  
&  
SR 80 COMMERCIAL,  
LLC.

PROJECT DESCRIPTION

STATE ROAD 31  
CC

COMMERCIAL DEVELOPMENT

PART OF SECTION 25  
TOWNSHIP 43 SOUTH  
RANGE 25 EAST  
LEE COUNTY, FLORIDA

THIS PLAN IS PRELIMINARY AND  
INTENDED FOR CONCEPTUAL  
PLANNING PURPOSES ONLY.

SITE LAYOUT AND LAND USE  
INTENSITIES OR DENSITIES MAY  
CHANGE SIGNIFICANTLY BASED  
UPON SURVEY, ENGINEERING,  
ENVIRONMENTAL AND / OR  
REGULATORY CONSTRAINTS  
AND / OR OPPORTUNITIES.

NOT FOR  
CONSTRUCTION

DRAWING NOT VALID WITHOUT SEAL, SIGNATURE AND DATE  
© COPYRIGHT 2021, BARRACO AND ASSOCIATES, INC.  
REPRODUCTION, CHANGES OR ASSIGNMENTS ARE PROHIBITED

FILE NAME J:\21888\DWG\ZONING 2020.DWG  
LOCATION J:\21888\DWG\ZONING 2020.DWG  
PLOT DATE TUE, 2-2-2021 - 3:49 PM  
PLOT BY ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS  
BASEPLAN = 21888Z00.DWG

PLAN REVISIONS

NO.	DESCRIPTION
1-7-21	INCENTIVE CREDIT AT 125% (HEX)

PLAN STATUS

DETAILS  
AND  
DEVIATIONS

PROJECT / FILE NO. 21888  
SHEET NUMBER 2 OF 2

## Exhibit D

### EXHIBITS PRESENTED AT HEARING

#### STAFF EXHIBITS

1. *DCD Staff Report with attachments for DCI:* Prepared by Anthony Rodriguez, Principal Planner, dated December 15, 2020 (multiple pages – 8.5"x11" & 11"x14") [black & white, color]

#### APPLICANT EXHIBITS

- a. *48-Hour Notice:* Email from Richard Akin, Esq., with Henderson Law, to Hearing Examiner, Anthony Rodriguez, John Fredyma, Esq., Jennifer Saper, Vince Barraco, Russell Schropp, Esq., James Banks, Andy Woodruff, Dawn Russell, & Carl Barraco, dated Monday, January 4, 2021 at 8:46 AM (3 pages – 8.5"x11")
1. *PowerPoint Presentation:* Prepared for State Road 80 CPD, DCI2020-00011, Presentation to Lee County Hearing Examiner, prepared by Barraco & Associates, Inc., Passarella & Associates, Inc., JMB Transportation Engineering, Inc., & Henderson Franklin Starnes & Holt Law Firm (multiple pages 8.5"x11") [color]
2. *Proposed Condition:* Emails (2 pages – 8.5"x11")
3. *Deed of Conservation Easement Standard:* Dated June 12, 2018, to South Florida Water Management District-Grantee (multiple pages – 8.5"x11")
4. *Résumé:* Carl Barraco, Jr., P.E., Vice President of Barraco and Associates, Inc. (1 page – 8.5"x11")
5. *Written Submissions:* Email from Russell Schropp, Esq., with Henderson Franklin, to Hearing Examiner, with copies to Richard Akin, Anthony Rodriguez, Joseph Adams, Esq., David Halverson, John Fredyma, Esq., & Jennifer Saper, dated Monday, January 11, 2021 9:47 AM (1 page – 8.5"x11" & 2 pages – 11"x17")

**Exhibit E**

**HEARING PARTICIPANTS**

County Staff:

1. Anthony Rodriguez
2. Elizabeth Workman

Applicant Representatives:

1. Richard Akin, Esq.
2. Jim Banks
3. Carl Barraco, Jr.
4. Jennifer Sopen
5. Russell Schropp, Esq.
6. Andy Woodruff

**Exhibit F**  
**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:**

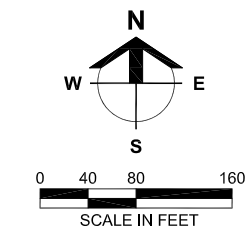
A. The Hearing Examiner will provide a copy of this recommendation to the Board of County Commissioners.

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.

**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.



**Barraco**  
and Associates, Inc.  
CIVIL ENGINEERING - LAND SURVEYING  
LAND PLANNING

---

**[www.barraco.net](http://www.barraco.net)**

---

2271 McGREGOR BLVD., SUITE 100  
POST OFFICE DRAWER 2800  
FORT MYERS, FLORIDA 33902-2800  
PHONE (239) 461-3170  
FAX (239) 461-3169

---

FLORIDA CERTIFICATES OF AUTHORIZATION  
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

---

PBV SF 31, LLC.  
&  
SR 80 COMMERCIAL,  
LLC.

PROJECT DESCRIPTION	
<div>STATE ROAD 31 CC</div> <div>COMMERCIAL DEVELOPMENT</div> <div>PART OF SECTION 25 TOWNSHIP 43 SOUTH RANGE 25 EAST LEE COUNTY, FLORIDA</div>	

THIS PLAN IS PRELIMINARY AND  
INTENDED FOR CONCEPTUAL  
PLANNING PURPOSES ONLY.

SITE LAYOUT AND LAND USE  
INTENSITIES OR DENSITIES MAY  
CHANGE SIGNIFICANTLY BASED  
UPON SURVEY, ENGINEERING,  
ENVIRONMENTAL AND / OR  
REGULATORY CONSTRAINTS  
AND / OR OPPORTUNITIES.

**NOT FOR  
CONSTRUCTION**

DRAWING NOT VALID WITHOUT SEAL, SIGNATURE AND DATE  
© COPYRIGHT 2021, BARRACO AND ASSOCIATES, INC.  
REPRODUCTION, CHANGES OR ASSIGNMENTS ARE PROHIBITED

FILE NAME	21888Z01.DWG
LOCATION	J:\21888\DWG\ZONING 2020\
PLOT DATE	TUE, 2-2-2021 - 3:47 PM
PLOT BY	ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS
BASEPLAN = 21888Z00.DWG

PLAN REVISIONS	
8/28/20	REVISED OPEN SPACE CALCS
9/2/20	REVISED OPEN SPACE CALCS
9/17/20	REVISED DEVIATION NUMBERS
1-7-21	INCENTIVE CREDIT AT 125% (HEX)

PLAN STATUS
-------------

MASTER  
CONCEPT  
PLAN

PROJECT / FILE NO.	SHEET NUMBER
<b>21888</b>	<b>1 OF 2</b>





<b><u>REQUIRED (PER LDC 10-425)</u></b>	
OPEN SPACE	
25.9 AC X 20% =	5.2 AC
INDIGENOUS	
5.2 AC X 50% =	2.6 AC
<b><u>PROVIDED OPEN SPACE</u></b>	
INDIGENOUS	
4.3 AC X 125% INCENTIVE =	6.5 AC
OPEN SPACE	
PRESERVE	4.3 AC
LAKE	0.8 AC
OTHER / BUFFER (*)	1.0 AC
<hr/> <hr/>	
TOTAL:	6.1 AC
* EACH OPENPARCEL TO PROVIDE A MINIMUM OF 10% OPEN SPACE.	

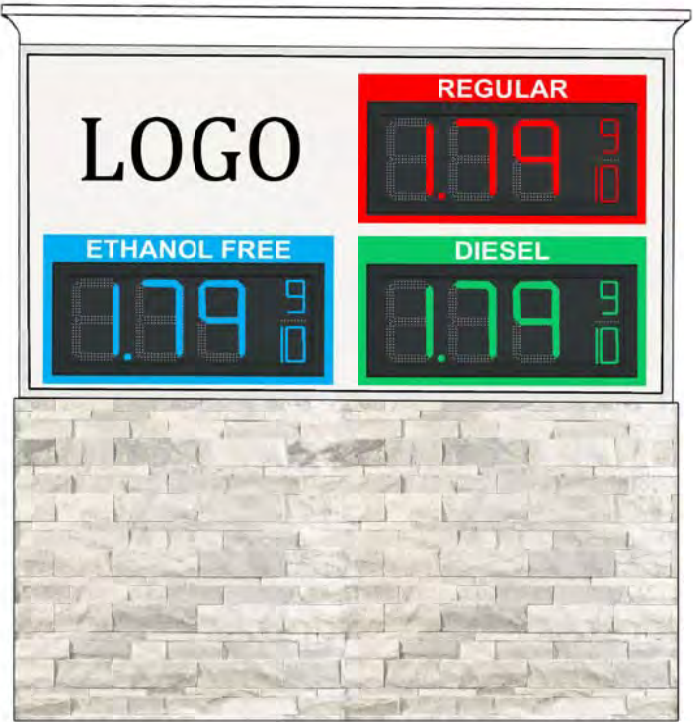
**NOTE:**

1) OUTPARCEL SIZE, CONFIGURATION, NUMBERING SEQUENCE AND SIGN LOCATIONS FOR ILLUSTRATIVE PURPOSES AND SUBJECT TO CHANGE.

2) DEVIATIONS 2 THRU 12 APPLY TO OUTPARCELS 2 TO 8.

### LEGEND

	DEVIATION REQUEST
	LAKE
	INDIGENOUS WETLAND
	INDIGENOUS UPLAND



FRONT VIEW



SIDE VIEW

SIGN PLAN 65 S.F. LED PRICE SIGN  
(OUTPARCELS 2 TO 8)

SIGNAGE

STATE ROAD 80 SIGNAGE

A	145 S.F.
B	45 S.F.
C	45 S.F.
D	65 S.F.

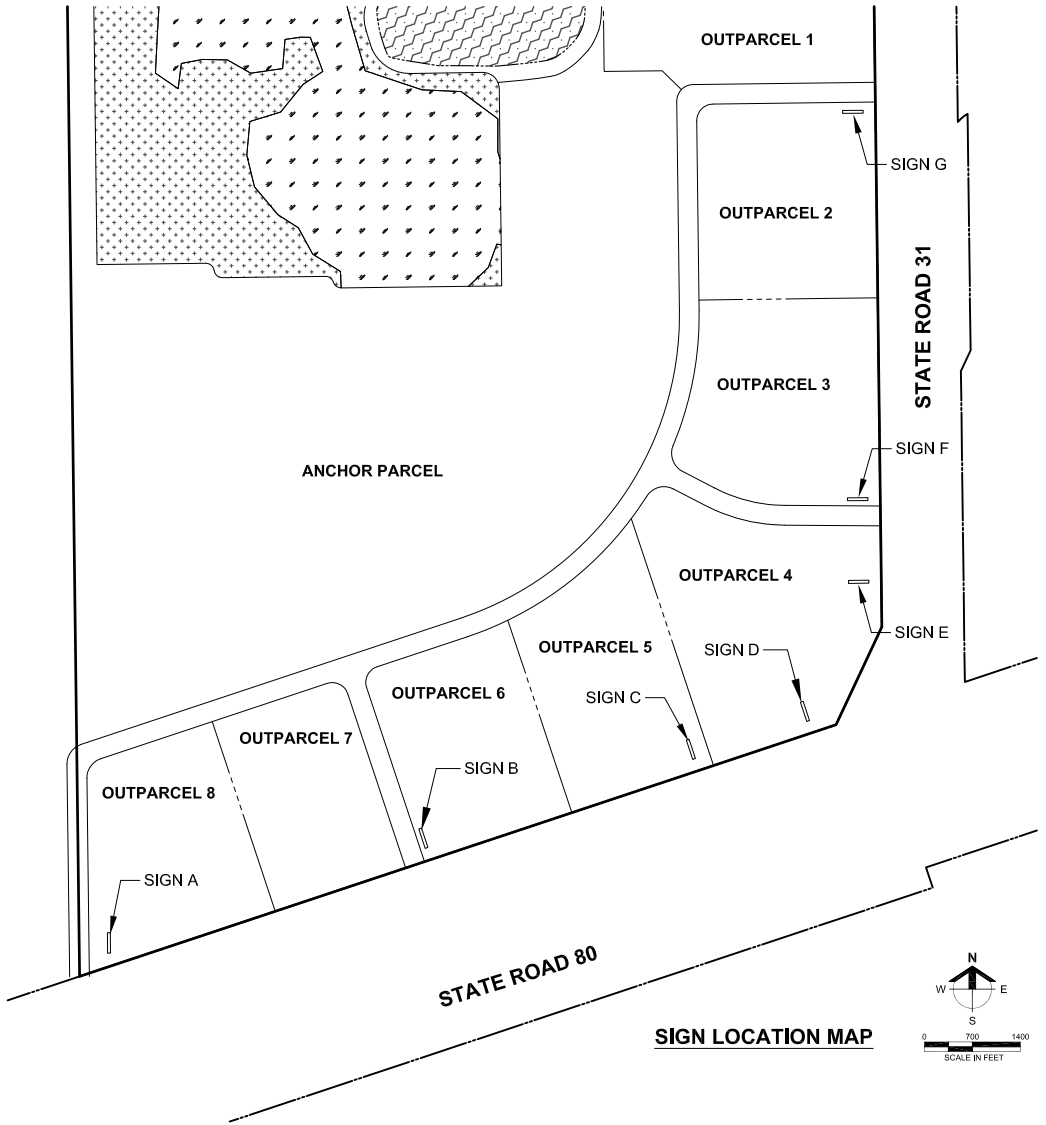
TOTAL NOT TO EXCEED  
300 S.F.

STATE ROAD 31 SIGNAGE

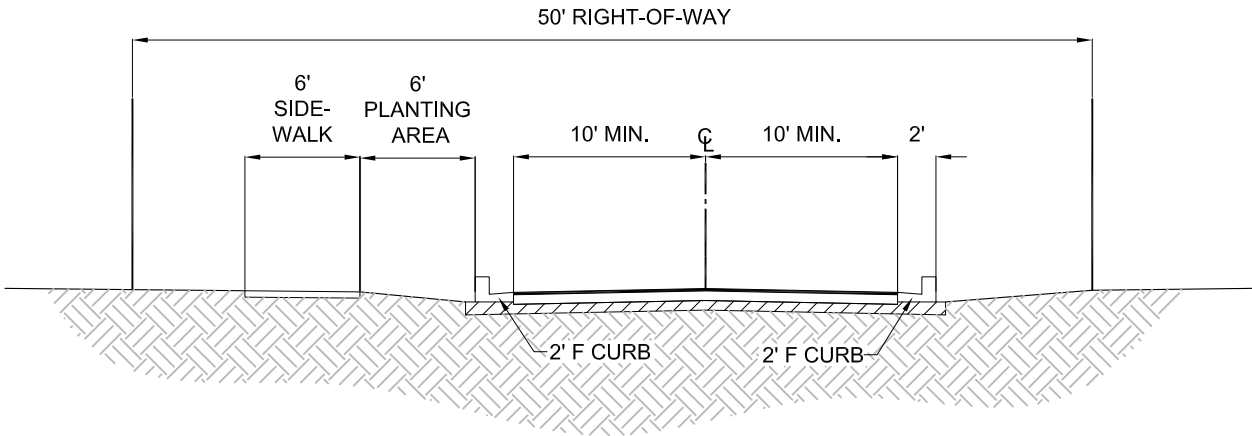
E	65 S.F.
F	45 S.F.
G	145 S.F.

TOTAL NOT TO EXCEED  
300 S.F.

LDC SECTION 30-153 ( MAX HEIGHT 24')



SIGN LOCATION MAP



TYPICAL COMMERCIAL ROAD SECTION  
(DEVIATION #15)

NOTE:  
1) OUTPARCEL SIZE, CONFIGURATION, NUMBERING SEQUENCE AND  
SIGN LOCATIONS FOR ILLUSTRATIVE PURPOSES AND SUBJECT TO  
CHANGE.

Barraco

and Associates, Inc.  
CIVIL ENGINEERING - LAND SURVEYING  
LAND PLANNING

www.barraco.net

2271 MCGREGOR BLVD., SUITE 100  
POST OFFICE DRAWER 2800  
FORT MYERS, FLORIDA 33902-2800  
PHONE (239) 461-3170  
FAX (239) 461-3169

FLORIDA CERTIFICATES OF AUTHORIZATION  
ENGINEERING 7995 - SURVEYING LB-6940

PREPARED FOR

PBV SF 31, LLC.  
&  
SR 80 COMMERCIAL, LLC.

PROJECT DESCRIPTION

STATE ROAD 31  
CC

COMMERCIAL DEVELOPMENT

PART OF SECTION 25  
TOWNSHIP 43 SOUTH  
RANGE 25 EAST  
LEE COUNTY, FLORIDA

THIS PLAN IS PRELIMINARY AND  
INTENDED FOR CONCEPTUAL  
PLANNING PURPOSES ONLY.

SITE LAYOUT AND LAND USE  
INTENSITIES OR DENSITIES MAY  
CHANGE SIGNIFICANTLY BASED  
UPON SURVEY, ENGINEERING,  
ENVIRONMENTAL AND / OR  
REGULATORY CONSTRAINTS  
AND / OR OPPORTUNITIES.

NOT FOR  
CONSTRUCTION

DRAWING NOT VALID WITHOUT SEAL, SIGNATURE AND DATE  
© COPYRIGHT 2021, BARRACO AND ASSOCIATES, INC.  
REPRODUCTION, CHANGES OR ASSIGNMENTS ARE PROHIBITED

FILE NAME: 21888Z02.DWG

LOCATION: J:\21888\DWG\ZONING 2020\

PLOT DATE: TUE, 2-2-2021 - 3:49 PM

PLOT BY: ALYSSA FONTAINE

CROSS REFERENCED DRAWINGS

BASEPLAN = 21888Z00.DWG

PLAN REVISIONS

1-7-21 INCENTIVE CREDIT AT 125% (HEX)

PLAN STATUS

DETAILS  
AND  
DEVIATIONS

PROJECT / FILE NO.

21888

SHEET NUMBER

2 OF 2

**(A) Conditions**

- (1) Development of this project must be consistent with the two-page Master Concept Plan (MCP) entitled "State Road 31 CC," prepared by Barraco and Associates, Inc., last revised September 17, 2020, except as modified by the conditions below. Development must comply with all the requirements of the LDC at the time of local development order approval, except as may be granted by deviation as part of this planned development. Subsequent amendments to the Master Concept Plan, conditions, or deviations may be subject to further development approvals.

The terms and conditions of Resolution Z-04-028A, as amended by ADD2017-00131 and ADD2018-00014, are null and void and are superseded by this zoning action.

- (2) The following limits apply to the project and uses:

**A. Schedule of Uses**

**1. Anchor Parcel**

Accessory uses and structures  
Auto parts store, without installation facilities  
Auto repair and service, all groups, only in conjunction with an anchor store  
Banks and financial establishments, Groups I and II  
Building material sales  
Caretaker's residence, limited to one (1) in conjunction with storage/warehouse use  
Clothing stores, general  
Consumption on premises, only in conjunction with restaurant, Group III  
Day care center, child, adult  
Department store  
Drive-through facility for any permitted use  
Drugstore, pharmacy, limited to one (1)  
Essential services  
Essential service facilities, Group I  
Excavation, water retention  
Fences, walls  
Food stores, Groups I and II  
Gift and souvenir shop  
Hardware store  
Hobby, toy and game shops  
Household and office furnishings, Groups I and II  
Laundry or dry cleaning, Group I  
Lawn and garden supply stores  
Medical office  
Non-store retailers, Groups I and II

Package store  
Paint, glass and wallpaper  
Personal services, Groups I and II, excluding massage parlors  
Pet services  
Pet shop  
Place of worship  
Post office  
Recreational facilities, commercial, Group IV, excluding community hall,  
dance hall, and skating rinks  
Rental or leasing establishment, Groups I and II  
Repair shops, Groups I, II, and III  
Restaurant, fast food  
Restaurants, all groups  
Schools, commercial  
Signs  
Specialty retail shops, Groups I through IV  
Storage  
    Indoor only  
    Storage, open  
Temporary uses  
Used merchandise stores, Group I  
Variety store  
Warehouse  
    Mini-warehouse  
    Public  
    Hybrid<sup>1</sup> (see Condition )

## **2. Outparcels**

Accessory uses and structures  
Auto parts store, without installation facilities, limited to one (1), prohibited on  
outparcel 1  
Automobile service station, limited to one (1), prohibited on outparcel 1  
Banks and financial establishments, Groups I and II  
Business services, Groups I and II  
Car wash, standalone, limited to one (1), prohibited on outparcel 1  
Clothing stores, general  
Consumption on premises, only in conjunction with restaurant, Group III  
Convenience food and beverage stores, limited to one (1), prohibited on  
outparcel 1  
Day care center, child, adult, limited one (1)  
Drive-through facility for any permitted use

---

<sup>1</sup> This type of warehouse combines the structural and use aspects of a “mini-warehouse” and a “public warehouse,” it has individual units, separate exterior doors, and allows “storage” inside the units, as these terms are defined by LDC §34-2. It also allows limited accessory personal recreational uses.

Drugstore, pharmacy  
 Essential services  
 Essential service facilities, Group I  
 Excavation, water retention  
 Fences, walls  
 Food stores, Groups I and II, prohibited on outparcel 1  
 Hobby, toy and game shops  
 Hotel/motel  
 Household and office furnishings, Groups I, II, and III (no outdoor storage for Group III)  
 Lawn and garden supply stores  
 Medical office  
 Personal services, Groups I and II, excluding massage parlors  
 Pet shop  
 Repair shops, Groups I, II, and III  
 Restaurant, fast food, limited to two (2), prohibited on outparcel 1  
 Restaurants, all groups  
 Schools, commercial  
 Self-service fuel pumps, in conjunction with a convenience food and beverage store, limited to 24 fueling positions on one (1) outparcel, prohibited on outparcel 1  
 Signs  
 Specialty retail shops, Groups I through IV  
 Variety store

#### B. Site Development Regulations

##### Minimum Lot Size

Lot Width	100 feet
Lot Depth	100 feet
Lot Area	10,000 sq. ft.

##### Minimum Setbacks

Street	20 feet
State Road 80	25 feet
State Road 31	25 feet
Side	10 feet (office/retail) 15 feet (hotel/motel)
Rear	10 feet (office/retail) 20 feet (hotel/motel)
Waterbody	20 feet
Development perimeter of	15 feet

the subject property

Building separation<sup>1</sup> 20 feet between structures

Maximum building height<sup>1</sup> 65 feet, with maximum stories set at five stories for office, two stories for retail; and five stories for hotel/motel uses

Maximum lot coverage 45 percent

<sup>1</sup>Buildings with a height greater than 35 feet must provide increased building setbacks and building separation in compliance with LDC Sections 34-2174(a) and 34-935(e)(4).

- C. The development shall be limited to a maximum of 200,000 square feet of commercial retail/office uses, of which a maximum of 60,000 square feet may be dedicated to outparcels.

Hotel/motel units may be developed through approval of a Traffic Impact Statement (TIS) submitted at the time of local development order showing that trip generation will not increase. The hotel/motel will not exceed 125 units (rooms).

*Staff note: Resolution Z-04-028A, as amended approved a maximum of 20,000 square feet for each of three outparcels approved at the time of original rezoning. The number of outparcels was increased from three to seven by ADD2017-00131. This condition has been revised to clarify that a cumulative total 60,000 square feet of commercial intensity for the eight outparcels depicted on the master concept plan.*

- (3) ~~Prior to local development order approval, the final site design will delineate any oak hammock that will be retained within the areas labels as "dry retention" and "lake" on the Master Concept Plan. Portions of the dry detention area that will not be excavated must preserve the existing native trees and understory, if the understory vegetation does not interfere with the detention capacity. The final lake design must have a sinuous shoreline and incorporate the preservation of oak hammock along the perimeter of the lake where possible. This condition is not meant to prohibit the use of these areas as part of the surface water management system. A surface water management system berm may be located along the north and west boundaries of the dry retention, lake, and indigenous preserve.~~

*Staff note: Staff recommends deleting this condition. The master concept plan no longer depicts dry detention areas, and the only lake depicted on the master concept plan is an existing lake approved for excavation by DOS2017-00080. Staff recommends the following condition of approval to facilitate the preservation and replacement of heritage trees during the design and development of the property:*

Heritage trees. A heritage tree survey map must be submitted with an application for local development order approval for any phase of development. The heritage tree survey map must depict heritage trees to be preserved and heritage trees to be removed and replaced. The grading and paving plans submitted with the application for local development order approval must depict protection measures for preservation of heritage trees. The landscape plans submitted with the application for local development order approval must depict the required replacement trees pursuant to LDC Section 10-416(a)(4).

- ~~(4) The applicant shall provide a “unified and pleasing aesthetic value quality of landscaping” as per Lee Plan Objective 13.2 for this development. At the time of local development order approval, a landscape plan must be submitted for approval for an enhanced right-of-way buffer, consistent with the intent of Lee Plan Objective 13.2, for those portions of the subject property fronting on Palm Beach Boulevard (State Road 80) and State Road 31. The clustering of trees and shrubs is strongly recommended to create visibility windows into the parcels, and to provide a more naturalistic buffer containing canopy trees and understory vegetation. All trees and shrubs used to meet this buffer requirement must be indigenous to southwest Florida.~~

*Staff note: Staff recommends deleting this condition. Lee Plan Objective 13.2 (now Lee Plan Objective 21.2) has been amended to remove the reference to “unified and pleasing aesthetic/visual quality in landscaping,” and now requires new commercial zoning to be approved through the planned development rezoning process. Furthermore, the design of the buffer and the creation of visibility windows into parcels is the choice of the landscape architect at the time of local development order, and the LDC requirements are intended to permit design flexibility.*

- ~~(3)(5) Signage. A unified signage plan must be submitted for Staff review and approval in conjunction with local development order approval. The unified signage plan must satisfy the requirements of Lee Plan Objective 13.2, Caloosahatchee Shores Community Plan.~~

*Staff note: Staff recommends deleting and replacing the condition above with two updated conditions as follows:*

- (a) Prior to local development order approval, the applicant must submit an administrative amendment to the planned development for the approval of a unified signage plan. The unified signage plan must depict the quantity, location, size, and height of signage for the commercial planned development and must include sign details for each sign type proposed within the development. The unified signage plan must be consistent with

the signage table and sign location map depicted on Sheet 2 (Details and Deviations) of the master concept plan.

- (b) Identification signs for the commercial planned development are permitted only at FDOT-approved access points, except that a convenience food and beverage store with fuel pumps may have one identification sign per frontage on Palm Beach Boulevard (State Road 80) or State Road 31 independent of an FDOT-approved access point.

- ~~(4)(6)~~ All structures must be designed to be architecturally compatible and share a common architectural theme, with the preferred architectural style for all buildings being Florida Vernacular consistent with ~~the design must satisfy the requirements of Lee Plan Policy 2.1.1. Objective 13.2, Caloosahatchee Shores Community Plan.~~

*Staff note: Staff recommends revising this condition to reflect Lee Plan amendments adopted subsequent to the property's original rezoning.*

- ~~(5)(7)~~ Approval of this zoning request does not address access onto Palm Beach Boulevard (State Road 80) and State Road 31, since Lee County has no jurisdiction over these roadways. The development must pursue Palm Beach Boulevard (State Road 80) and State Road 31 access issues with the Florida Department of Transportation.

- ~~(6)(8)~~ No development blasting is permitted as part of this project unless approved at a subsequent public hearing as an amendment to the planned development.

- ~~(9)~~ Buildings exceeding 35 feet in height must maintain additional building setbacks and additional building separation as regulated by LDC Section 34-2174(a) and LDC Section 34-935(e)(4).

*Staff note: Staff recommends deleting this condition. A reference to these sections has been incorporated into the site development regulations (see Condition 1.B)*

- ~~(7)(10)~~ Agriculture is not a permitted use within this planned development. However, this prohibition is not intended to prevent applicant from harvesting and relocating the existing native trees and vegetation on this site.

- ~~(11)~~ Approval of this rezoning does not address mitigation of the project's vehicular or pedestrian traffic impacts. Additional conditions consistent with the Lee County LDC may be required to obtain a local development order.

*Staff note: Staff recommends deleting this condition. Condition 1 requires compliance with the LDC at the time of local development order.*

- ~~(12) Approval of this rezoning does not guarantee local development order approval. Future development order approvals must satisfy the requirements of the Lee Plan Planning Communities Map and Acreage Allocation Table, Map 16 and Table 1(b), be reviewed for, and found consistent with the retail commercial standards for site area, including range of gross floor area, location, tenant mix and general function, as well as other Lee Plan provisions.~~

*Staff note: Staff recommends deleting this condition. The site location standards were deleted from the Lee Plan by CPA2015-00013. Furthermore, Lee Plan Policy 1.7.6.2 requires review and compliance with Lee Plan Table 1(b).*

- ~~(8)(13)~~ Access off Wildwood Lane will be in conjunction with the State Road 80 Florida Department of Transportation (FDOT) Access Management Plan. This project will improve Wildwood Lane to the street design and construction standards established in LDC Section 10-296(e) and Table 8 ~~local road standards~~ from State Road 80 to the entrance of the project as depicted on the master concept plan. Access to the subject property will not be permitted north of the entrance shown on the master concept plan.

*Staff note: Staff recommends revising this condition to provide clarity and ease of administration.*

- ~~(14) Accessory uses, including accessory parking, must be located on the same tract, lot, parcel, or outparcel where a principal use is located. Accessory uses must be incidental and subordinate to the principal use of the tract, lot, parcel, or outparcel.~~

*Staff note: Staff recommends deleting this condition. The location of accessory uses, buildings, and structures is regulated by LDC Section 34-1174.*

- (9) Open Space. Prior to the issuance of the first development order, the landscape plans must depict 2.59 acres of indigenous open space (1.97 acres of indigenous upland and 2.35 acres of indigenous wetland). A 125 percent open space incentive may be allocated for the 1.97 acres of indigenous upland being preserved.
- (10) Conservation Easement. The applicant must submit a copy of the recorded conservation easement prior to the issuance of the first development order.
- (11) Hybrid Warehouse Use Restrictions.

(a) Uses allowed in individual units:

1. The use of individual units is limited to the storage of personal property, such as: automobiles, boats, recreational vehicles, furniture, and other personal possessions;
2. Minor maintenance work; and

3. Watching television, gaming, listening to music and similar uses.
- (b) Uses and activities prohibited in individual units:
1. Use as a dwelling unit, temporary living or overnight sleeping;
  2. The installation and use of stoves, cooktops, ranges, or ovens;
  3. Operation of a business;
  4. The use of units for manufacturing or construction; and
  5. The storage or use of hazardous material
- (c) Uses and activities prohibited on the property:
1. The outdoor storage of unattended vehicles including cars, trucks, boats, trailers, mobile homes, recreational vehicles, or other similar vehicles, with the exception of washing and rinsing;
  2. Overnight outdoor parking or outdoor storage of any kind; and
  3. Using outdoor areas for uses permitted within individual units..
- (d) Any unit that will be utilized for any purpose other than dead storage must comply with all applicable occupiable space standards of the Florida Building Code.
- (e) The use restrictions established herein must be reflected in any restrictive covenant, property owners' association documents, or lease documents.
- (12) Density and Intensity Conversions. Regardless of any land use density/intensity conversion allowed pursuant to the Land Development Code or condition specific to this development, the development is permitted a maximum calculated development density/intensity with respect to new trip generation of 200,000 square feet of commercial retail.

## **(B) Deviations**

- (1) Deviation (1) seeks relief from LDC Section 10-329(d)(1)a.3, which requires a minimum excavation setback of 50 feet from any private property under separate ownership, to allow an excavation setback of 30 feet to the property boundary.

This deviation was APPROVED by ADD2017-00131 subject to the following conditions:

- (a) Excavations are permitted a minimum of 30 feet from the northern property boundary for the purposes of constructing required stormwater infrastructure.
  - (b) A four-foot-high fence must be installed along the northern property line where any water retention excavation is located within 100 feet of the adjoining property.
- (2) **Deviation 2** seeks relief from LDC Section 33-1493(a), which prohibits more than 20 percent of parking from being located between the street right-of-way and the principal

structure or along the sides of a building, to allow approximately 90 percent of required parking along the front and sides of the building for a convenience food and beverage store with fuel pumps.

This deviation is APPROVED subject to the following condition:

- (a) Approval of this deviation is limited to the development of a convenience food and beverage store with fuel pumps. All other development must comply with parking location requirements established in LDC Section 33-1493(a).
- (3) **Deviation 3** seeks relief from LDC Section 33-1500(b), which requires buildings to have an average slope of 5V:12H and a minimum six-inch overhang, to permit a roof pitch of 2.5V:12H for a convenience food and beverage store with fuel pumps.

This deviation is DENIED.

- (4) **Deviation 4** seeks relief LDC Section 33-1502(c)(2), which requires awnings to correspond with openings and prohibits connection at corners to “wrap” the building, to permit awnings to be placed on the side of the building where there are no openings for a convenience food and beverage store with fuel pumps.

This deviation is DENIED.

- (5) **Deviation 5** seeks relief from LDC Section 33-1505(a), which prohibits animated, emitting, and automatic changing signs, to permit the use of LED signage for a convenience food and beverage store with fuel pumps.

This deviation is APPROVED subject to the following conditions:

- (a) The use of LED signage is limited to the display of fuel prices associated with a convenience food and beverage store with fuel pumps.
- (6) **Deviation 6** seeks relief from LDC Section 33-1506(a), which permits one monument-style identification sign along any street that provides access to the property to allow up to four (4) monument-style identification signs along Palm Beach Boulevard (State Road 80) and up to three (3) along State Road 31.

This deviation is APPROVED subject to Condition 3.

- (7) **Deviation 7** seeks relief from LDC Section 33-1506(a)(3), which requires monument-style identification signs to be set back a minimum of 15 feet from any street right-of-way or easement, to allow identification signs to be set back 5 feet from the Palm Beach Boulevard (State Road 80) and State Road 31 rights-of-way for a convenience food and beverage store with fuel pumps.

This deviation is APPROVED subject to the following condition:

- (a) Approval of this deviation is limited to signage associated with the development of a convenience food and beverage store with fuel pumps.

- (8) **Deviation 8** seeks relief from LDC Section 33-1506(a)(7), which prohibits wall signs from containing advertising messages or sale item names, to permit one wall sign advertising an internal store offering for a convenience food and beverage store with fuel pumps.

This deviation is DENIED.

- (9) **Deviation 9** seeks relief from LDC Section 30-153(3)d, which limits the allowable sign area of any wall to ten percent of the total wall area, to allow a total sign area of 36 percent for the short sides of the fuel canopy facades associated with a convenience food and beverage store with fuel pumps.

This deviation is APPROVED subject to the following condition:

- (a) Approval of this deviation is limited to signage installed on the short side of a canopy associated with the development of a convenience food and beverage store with fuel pumps.

- (10) **Deviation 10** seeks relief from LDC Section 30-5(25), which prohibits window signs that identify or advertise activities, services, goods, or products available within the building, and which collectively cover more than 30 percent of the window glass surface area, to allow one or multiple window clings that cover a maximum of 50 percent of the window glass surface for a convenience food and beverage store with fuel pumps.

This deviation is DENIED.

- (11) **Deviation 11** seeks relief from LDC Sections 30-153(2)a and 30-153(2)a.1.ii, which permits one ground-mounted identification sign with a maximum sign area of 200 square feet per sign face along any street which provides access to the property, to allow four signs on Palm Beach Boulevard (State Road 80) and three signs on State Road 31, with a combined sign area of 300 square feet per frontage.

This deviation is APPROVED subject to Condition 3.

- (12) **Deviation 12** seeks relief from LDC Section 30-153(2)a.1.iv, which limits additional identification signs to 16 square feet in area with no illumination and restricts messaging to the development name only, to permit additional site identification signs to have a maximum sign area of 45 square feet, with illumination, and to permit fuel

price signs associated with a convenience food and beverage store with fuel pumps to have a maximum sign area of 65 square feet with LED lighting.

This deviation is APPROVED subject to Condition 3, and the following:

- (a) The use of LED signage is limited to the display of fuel prices associated with a convenience food and beverage store with fuel pumps.
- (13) **Deviation 13** seeks relief from LDC Section 10-296(e)(1)(i)(5)ii and Table 8, which requires two 11-foot-wide travel lanes and sidewalks on both sides of the road, to permit the proposed internal roadway to be constructed with two 10-foot-wide travel lanes and sidewalks on one side of the road.

This deviation is APPROVED subject to the following condition:

- (a) Sidewalks may be constructed on one side of the road for those segments of the internal access road that do not provide direct access onto Palm Beach Boulevard (State Road 80) or State Road 31. The roadway segments providing direct access to these roadways (generally located between outparcels 1 and 2, outparcels 3 and 4, and outparcels 6 and 7 as depicted on the master concept plan) must be constructed with sidewalks on both sides of the road.

**Lee County, Florida**  
**Department of Community Development**  
**Zoning Section**  
**Staff Report**

**Case Number:** DCI2020-00011  
**Case Name:** State Road 80 CPD  
**Case Type:** Major Planned Development Rezoning  
**Area Affected by Request:** ±25.94 Acres  
**Sufficiency Date:** November 5, 2020  
**Hearing Date:** January 6, 2021

**Summary of Request and Recommendation**

Barraco and Associates, Inc., on behalf of State Road 80 Commercial, LLC and PBV SR 31, LLC, filed a request to rezone ±25.94 acres from Commercial Planned Development (CPD) and Community Commercial (CC) to Commercial Planned Development (CPD) to expand the State Road 80 CPD approved by Resolution Z-04-028A, as amended. The request, if approved, will:

- Incorporate an additional ±1.2 acres of land located at the intersection of Palm Beach Boulevard (State Road 80) and State Road 31 into the previously approved Commercial Planned Development boundary;
- Adopt a new Master Concept Plan (MCP) to reflect the additional land area, reconfigure the development parcels and internal roadways, and add a proposed access point to the property from Palm Beach Boulevard (State Road 80);
- Adopt a Schedule of Uses that adds certain uses, reflects the reconfiguration of development parcels, and increases the maximum number of self-service fuel pumps from 12 to 24 as compared to the Schedule of Uses adopted by Resolution Z-04-028A, as amended; and
- Retain one deviation approved for the CPD-zoned portion of the property and request 12 new deviations related to architectural standards and signage.

The subject property is a tract of land consisting of two parcels located at the northwest corner of the intersection of Palm Beach Boulevard (State Road 80) and State Road 31. The property is located in the Caloosahatchee Shores Community Plan Area (Commission District #5). A legal description and sketch of the subject property is attached as Attachment T.

Staff recommends **APPROVAL** of the applicant's request with the conditions found in Attachment C.

One deviation has been approved through prior zoning actions for the previously approved Commercial Planned Development. The applicant proposes to retain this deviation and has requested twelve additional deviations as part of this request. Deviations related to architectural standards and signage requirements are required to meet the variance criteria for approval pursuant to the Caloosahatchee Shores Community Plan (Lee Plan Goal 21). Staff recommends denial of four deviations (two deviations from architectural standards and two deviations from signage requirements) on the basis that the deviations do not meet the criteria for variance approval pursuant to the Caloosahatchee Shores Community Plan. Staff recommends approval the remaining deviations, subject to certain conditions. Staff finds that these deviations, depending on the standard of review, meet the criteria for variance approval established in LDC Section 34-145, or will advance the objectives of the planned development while protecting public health, safety, and welfare in accordance with the intent of the Land Development Code.

### **Property History and Character of the Area**

The subject property is a tract of land consisting of two parcels located at the northwest corner of the intersection of Palm Beach Boulevard (State Road 80) and State Road 31. The property is bordered to the south and east by these roadways and by largely vacant agricultural lands to the north (see Attachment B).

The subject property is currently zoned Commercial Planned Development (CPD) and Community Commercial (CC). The CPD-zoned portion of the property was rezoned from Agricultural (AG-2), Community Commercial (CC), and Commercial (C-1A) to Commercial Planned Development (CPD) by Resolution Z-04-028A (see Attachment H). Two administrative amendments were adopted subsequent to the adoption of this resolution (ADD2017-00131 and ADD2018-00014, see Attachments I and J). The CC-zoned portion of the property was rezoned from Agricultural (AG-2) to Community Commercial (CC) by Resolution ZAB-84-205 (see Attachment K). Both properties are vacant with respect to use. A development order (DOS2017-00080) was issued to permit site clearing and grubbing, lake excavation, and filling on the CPD-zoned portion of the property in January of 2018. This development order has not been issued a certificate of compliance.

The subject property is located within the Urban Community future land use category as designated by the Lee Plan (see Attachment B). The property is also located within the Mixed Use Overlay as established by the Lee Plan. The areas surrounding the subject property can be characterized as follows:

#### **North and West**

Lands to the north and west of the subject property are zoned Agricultural (AG-2) and are located within the Suburban future land use category as designated by the Lee Plan. These lands are developed with low density residential uses or are used for agricultural purposes (see Attachment B).

#### **South**

Lands to the south of the subject property (across Palm Beach Boulevard) are zoned Mixed Use Planned Development and are designated Suburban by the Lee Plan (see Attachment B). These

lands are developed with a mix of commercial uses and comprise a portion of the Verandah Mixed Use Planned Development.

### East

Lands to the east of the subject property are zoned Commercial (C-1), Commercial Planned Development (CPD), and Agricultural (AG-2) and are designated Urban Community and Suburban by the Lee Plan. These lands are under development with a variety of commercial retail, fast food, and convenience food and beverage uses. The Commercial Planned Development, known as the State Road 31 CPD, is approved for a maximum of 200,000 square feet of commercial development intensity.

### **Analysis**

The subject request seeks to rezone ±25.94 acres from Commercial Planned Development (CPD) and Community Commercial (CC) to Commercial Planned Development (CPD) to expand the State Road 80 CPD approved by Resolution Z-04-028A, as amended. If approved, the request will:

- Incorporate an additional ±1.2 acres of land located at the intersection of Palm Beach Boulevard (State Road 80) and State Road 31 into the previously approved Commercial Planned Development boundary;
- Adopt a new Master Concept Plan (MCP) to reflect the additional land area, reconfigure the development parcels and internal roadways, and add a proposed access point to the property from Palm Beach Boulevard (State Road 80);
- Adopt a Schedule of Uses that adds certain uses, reflects the reconfiguration of development parcels, and increases the maximum number of self-service fuel pumps from 12 to 24 as compared to the Schedule of Uses adopted by Resolution Z-04-028A, as amended; and
- Retain one deviation approved for the CPD-zoned portion of the property and request 12 new deviations related to architectural standards and signage (See Attachment G).

Section 34-145 of the Land Development Code (LDC) establishes the review criteria for all rezoning requests. Before recommending approval of a rezoning request, the Hearing Examiner must find the request:

- a) Complies with the Lee Plan;
- 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;
- e) The expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval;
- f) Will not adversely affect environmentally critical or sensitive areas and natural resources; and

- g) Will be served by urban services, defined in the Lee Plan, if located in a Future Urban Area category.

For Planned Development rezoning requests, the Hearing Examiner must also find:

- a) The proposed use or mix of uses is appropriate at the proposed location;
- b) 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; and
- c) That each requested deviation:
  - 1) Enhances the achievement of the objectives of the planned development; and
  - 2) Preserves and promotes the general intent of this Code to protect the public health, safety and welfare.

The following sections provide an analysis of the request and whether it meets the criteria for entitlement in accordance with the Land Development Code.

#### Lee Plan Compliance

The subject property is located within the Caloosahatchee Shores Community Plan area, which is a subset of the Fort Myers Shores planning community. The vision statement for this planning community notes that "the Caloosahatchee Shores planning community has a more rural character, but is anticipated to grow substantially" and that the community "has a mixture of future land use designations." The vision statement also recognizes that the community's rapid rise in population and limitations on commercial development in surrounding communities will result in a doubling in the amount of commercial buildings in this area. The vision statement specifically notes that "shopping areas in this community are concentrated along the SR 80 corridor with specific commercial nodes for higher intensity development." The request contemplates an expansion in land zoned commercial planned development, but does not contemplate an increase in the previously approved maximum development intensity. The request, if approved, will allow for more cohesive development located at the intersection of two state roads consistent with the Lee Plan's established vision for this community plan area.

The subject property is designated Urban Community by the Lee Plan (see Attachment B). **Lee Plan Policy 1.1.4** notes that these areas are characterized by a mix of relatively intense commercial and residential uses, with future development encouraged to incorporate a mix of uses as described in **Lee Plan Objective 11.1**. The subject property is also located within the Mixed Use Overlay as described in **Lee Plan Objective 11.2**. The request, if approved, will provide for the development of a wide variety of commercial, office, and service-related uses at the intersection of two state roads (see Attachment E).

Approval of the request, as conditioned, will continue to promote contiguous and compact growth patterns and minimize the cost of energy and services (**Lee Plan Objective 2.1 and Policy 6.1.7**) while permitting growth within future urban areas in a manner consistent with the Goals, Objectives, and Policies of the Lee Plan (**Lee Plan Policies 2.1.1 and 2.1.2**). Adequate public facilities, services, and infrastructure exist to serve the proposed development, and the request will

be compatible with surrounding land uses (**Lee Plan Objective 2.2 and Policy 2.2.1**). Water and wastewater infrastructure is located adjacent to the subject property, and there is no change to the previously approved development parameters that will impact water or wastewater demand for the proposed development (**Lee Plan Standards 4.1.1 and 4.1.2**) (see Attachment L). Fort Myers Shores Fire Station #81 is located approximately one-half mile from the subject property, while EMS Station Medic 11 is located approximately one mile from the subject property. The subject property is located within the Central District of the Lee County Sheriff's Office, whose main office is located approximately 17 miles from the subject property. The request will have no impact on educational facilities (see Attachment M). Improvements to public transit facilities will be required at the time of Local Development Order (see Attachment N).

The subject property fronts on and is proposed to be accessed from Palm Beach Boulevard (State Road 80) and State Road 31 (see Attachment B). Each of these roadways is under the jurisdiction of the Florida Department of Transportation (FDOT), and access from these roadways is subject to FDOT approval. Adequate access to the local roadway network exists to accommodate the Commercial Planned Development.

The requested planned development rezoning will continue to provide for the development of commercial uses that are compatible with existing and proposed land uses and with programmed public services and facilities (**Lee Plan Policy 6.1.4**). Conditions of approval have been previously approved to ensure visual harmony within the development and have been carried forward into the conditions of approval recommended herein (**Lee Plan Policy 6.1.6**).

The subject property is located within the Caloosahatchee Shores Community Plan area as designated by the Lee Plan. The goal of the Caloosahatchee Shores Community Plan is to protect the existing character, natural resources, and quality of life in the Caloosahatchee Shores community while promoting new development and redevelopment and maintaining a more rural identity for neighborhoods east of I-75 by establishing minimum aesthetic requirements, planning the location and intensity of future commercial and residential uses, and providing incentives for redevelopment, mixed use development, and pedestrian safe environments.

**Lee Plan Objective 21.1** seeks to create a visually attractive community through regulations that provide for enhanced landscaping, signage, and architectural standards to maintain an old Florida rural identity (**Policy 21.1.1**). **Lee Plan Policy 21.1.2** seeks to advance this objective by requiring deviations from landscaping, buffering, signage, or architectural requirements to meet the criteria of approval for variances established in LDC Section 34-145. The applicant is seeking twelve deviations from architectural- and signage-related regulations established for the Caloosahatchee Shores Community Plan area, as well as deviations from signage regulations established in Chapter 30 of the LDC. The applicant has provided an analysis of how each deviation meets the established variance criteria in LDC Section 34-145 (see Attachment G). An analysis of the requested deviations and whether each deviation meets the variance criteria established in LDC Section 34-145 is discussed in greater detail below; however, in terms of process, the request is **CONSISTENT with Lee Plan Objective 21.1 and Policy 21.1.2**.

**Lee Plan Objective 21.2** establishes geographic limits new commercial uses within the community and recognizes the intersection of State Road 80 and State Road 31 as an appropriate location for commercial development. This objective also requires new commercial zoning to be approved through the planned development rezoning process. The subject property is located within a designated commercial node, which allows for greater commercial intensity (**Policy 21.2.1**). The schedule of uses and Master Concept Plan provide for mixed use development (**Policy 21.4.2**). Therefore, the request, as conditioned, is **CONSISTENT with Lee Plan Objective 21.2 and Policies 21.2.1 and 21.4.2**.

In conclusion, **the request, as conditioned, is CONSISTENT with the Lee Plan**. The subject property is located in a future urban area that is designated as a commercial node within the Caloosahatchee Shores Community Plan area. The request, if approved, will further capitalize on the property's location at the intersection of two state roads and its access to infrastructure, public services and facilities, and the local and regional roadway network without proposing an increase in development intensity. The subject property remains well-suited to accommodate the proposed mix of uses, and the development of the property with the proposed mix of uses presents minimal compatibility-related concerns.

#### *Land Development Code Compliance and Deviations*

Section 34-411 of the Lee County Land Development Code requires all planned developments to be consistent with the Lee Plan and the Land Development Code except to the extent that deviations from the Land Development Code are requested as part of an application for a planned development. As noted above, the request, as conditioned, is consistent with the Lee Plan.

LDC Section 33-1482 requires an applicant applying for a planned development rezoning to conduct one publicly-advertised information session within the Caloosahatchee Shores Planning Community prior to obtaining approval or a finding of sufficiency for the requested zoning action. The applicant conducted the required public information session on September 28, 2020, and subsequently provided the required meeting summary document (see Attachment S).

One deviation was approved subsequent to the CPD-zoned portion of the property's rezoning to Commercial Planned Development to permit a reduced excavation setback from the boundary of the subject property (ADD2017-00131, see Attachment I). The applicant is seeking to retain this deviation<sup>1</sup> and has requested twelve additional deviations as part of the subject request, several of which are from architectural and signage-related regulations established within LDC Chapters 30 and 33 (see Attachment G). As noted above, **Lee Plan Policy 21.1.2** requires deviations from architectural and signage-related provisions of the Land Development Code to meet the variance approval criteria established in LDC Section 34-145.

It should be noted that Florida Statutes §553.79(22)(a) precludes a local government from adopting or enforcing any ordinance or imposing any building permit or other development order requirement that "contains any building, construction, or aesthetic requirement or condition that conflicts with or impairs corporate trademarks, service marks, trade dress, logos, color patterns,

---

<sup>1</sup> Referenced in the Conditions and Deviations as Deviation 1 (see Attachment C).

design scheme insignia, image standards, or other features of corporate branding identity on real property or improvements thereon used in activities conducted under chapter 526 or in carrying out business activities defined as a franchise by Federal Trade Commission regulations;" or "imposes any requirement on the design, construction, or location of signage advertising the retail price of gasoline in accordance with the requirements of ss. 526.111 and 526.121 which prevents the signage from being clearly visible and legible to drivers of approaching motor vehicles from a vantage point on any lane of traffic in either direction on a roadway abutting the gas station premises and meets height, width, and spacing standards for Series C, D, or E signs, as applicable, published in the latest edition of Standard Alphabets for Highway Signs published by the United States Department of Commerce, Bureau of Public Roads, Office of Highway Safety." Further, Florida Statutes §553.79(22)(c) notes that "all such ordinances and requirements are hereby preempted and superseded by general law." Nevertheless, staff has reviewed, analyzed, and provided recommendations regarding the deviation requests, many of which apply to a convenience food and beverage store with fuel pumps, against the applicable criteria for approval as noted below. Staff's analysis and recommendations regarding the requested deviations are as follows:

**Deviation 2** seeks relief from LDC Section 33-1493(a), which prohibits more than 20 percent of parking from being located between the street right-of-way and the principal structure or along the sides of a building, to allow approximately 90 percent of required parking along the front and sides of the building for a convenience food and beverage store with fuel pumps.

The applicant's justification for the requested deviation cites safety and security-related concerns and indicates that employees of this type of business must be able to see the fuel canopy and vehicular use areas from within the store. The applicant's justification cites other approved convenience food and beverage stores with fuel pumps located nearby to the subject property.

Staff finds that the requested deviation, as conditioned, will enhance the objectives of the planned development while providing for the protection of public health, safety, and welfare. Therefore, staff recommends **APPROVAL** of the requested deviation subject to the following condition:

- Approval of this deviation is limited to the development of a convenience food and beverage store with fuel pumps. All other development must comply with parking location requirements established in LDC Section 33-1493(a).

**Deviations 3 and 4** seek relief from certain architectural regulations of the Caloosahatchee Shores Community Plan area as applied to a convenience food and beverage store with fuel pumps.

**Deviation 3** seeks relief from LDC Section 33-1500(b), which requires buildings to have an average slope of 5V:12H and a minimum six-inch overhang, to permit a roof pitch of 2.5V:12H. **Deviation 4** seeks relief LDC Section 33-1502(c)(2), which requires awnings to correspond with openings and prohibits connection at corners to "wrap" the building, to permit awnings to be placed on the side of the building where there are no openings.

The applicant's justification for the roof pitch-related deviation notes that many convenience food and beverage franchises have established corporate branding which establishes common aesthetics for building architecture, color schemes, and signage. The applicant notes that building architecture

will be upscale and will utilize high quality materials and cohesive design for the building and canopy. The applicant's justification for the awning placement-related relief notes that the relief is being sought to use an architectural feature to balance columns and provide visual relief on facades, that additional awnings are intended to provide a cohesive design element along the façade, and that is not always feasible to provide windows or openings for all proposed awnings.

Staff has completed analyses of these deviations against the variance approval criteria established in LDC Section 34-145 and recommends **DENIAL** of the requested deviations based on the following findings:

The property has no inherent exceptional conditions that cause the application of the regulation to create a hardship (as defined in section 34-2) on the property owner.

There are no apparent inherent exceptional conditions associated with the subject property that would preclude compliance with these architectural requirements. The applicant has not provided sufficient evidence demonstrating that conditions associated with the property create a hardship and necessitate the requested relief.

The exceptional conditions are the result of actions of the property owner taken subsequent to the adoption of the ordinance.

The applicant is taking the action of seeking relief from two architectural regulations subsequent to the adoption of the ordinance establishing this regulation.

The variance granted is not the minimum variance that will relieve the unreasonable burden caused by the application of the regulation to the property.

The applicant has not provided evidence sufficient to demonstrate that the 2.5V:12H roof slope is the minimum variance necessary to remove the unreasonable burden caused by the application of this regulation to the property. Similarly, The applicant has not provided evidence sufficient to demonstrate that permitting decorative awnings in locations where no windows exist is the minimum variance necessary to remove the unreasonable burden caused by the application of this regulation to the property.

The granting of the variance will not be injurious to the neighborhood or detrimental to the public welfare.

The relief sought by these deviation requests will not be injurious to the neighborhood or detrimental to the public welfare. Relief from these regulations are purely aesthetic and will have no material impact on the neighborhood or public health, safety, and welfare.

The variance is not consistent with the Lee Plan.

Lee Plan Policy 21.1.2 requires deviations sought from architectural standards within the Caloosahatchee Shores Community Plan to meet variance criteria for approval. The requested deviations do not meet the criteria for variance approval based on the findings herein.

**Deviation 5** seeks relief from LDC Section 33-1505(a), which prohibits animated, emitting, and automatic changing signs, to permit the use of LED signage for a convenience food and beverage store with fuel pumps. This deviation is limited to signage displaying the price of fuel only.

The applicant's justification for the requested deviation notes that the use of LED signage to display fuel prices provides a more efficient and manageable way to light this type of signage and does not

present safety-related concerns related to marquis-style signage that must be manually changed and is prone to blowing off in high winds.

Staff has completed an analysis of this deviation against the variance approval criteria established in LDC Section 34-145 and recommends **APPROVAL** of the requested deviation based on the following:

The property has inherent exceptional conditions that cause the application of the regulation to create a hardship (as defined in section 34-2) on the property owner.

The subject property is located at the intersection of two State Roads (Palm Beach Boulevard/State Road 80 and State Road 31). The wide rights-of-way coupled with the relative high rates of speed along these roadways require adequate signage on these roadways to alert the traveling public in a manner that will allow adequate distance for a motorist to read the sign and make a safe vehicular movement.

The exceptional conditions are not the result of actions of the property owner taken subsequent to the adoption of the ordinance.

The applicant is seeking to establish a convenience food and beverage store use, which is consistent with the types of uses permitted within a Commercial Planned Development district. The applicant did not take any action to affect right-of-way widths or speed limits along the property's frontage on two state roadways.

The variance granted is the minimum variance that will relieve the unreasonable burden caused by the application of the regulation to the property.

The use of LED signage is proposed to be limited only to fuel price-related signage. This is the minimum variance necessary to relieve the unreasonable burden caused by the application of this regulation to the subject property.

The granting of the variance will not be injurious to the neighborhood or detrimental to the public welfare.

The relief sought by the deviation request is intended to promote public health, safety, and welfare.

The variance is consistent with the Lee Plan.

Lee Plan Policy 21.1.2 requires deviations sought from sign standards within the Caloosahatchee Shores Community Plan to meet variance criteria for approval. The requested deviation meets the criteria for variance approval as noted herein.

Approval of this deviation is subject to the following conditions:

- The use of LED signage is limited to the display of fuel prices associated with a convenience food and beverage store with fuel pumps.

**Deviations 6, 7, 11, and 12** are each related to the location, quantity, and design of site identification signage as follows:

**Deviation 6** seeks relief from LDC Section 33-1506(a), which permits one monument-style identification sign along any street that provides access to the property to allow up to four (4)

monument-style identification signs along Palm Beach Boulevard (State Road 80) and up to three (3) along State Road 31.

**Deviation 7** seeks relief from LDC Section 33-1506(a)(3), which requires monument-style identification signs to be set back a minimum of 15 feet from any street right-of-way or easement, to allow identification signs to be set back 5 feet from the Palm Beach Boulevard (State Road 80) and State Road 31 rights-of-way for a convenience food and beverage store with fuel pumps.

**Deviation 11** seeks relief from LDC Sections 30-153(2)a and 30-153(2)a.1.ii, which permits one ground-mounted identification sign with a maximum sign area of 200 square feet per sign face along any street which provides access to the property, to allow four signs on Palm Beach Boulevard (State Road 80) and three signs on State Road 31, with a combined sign area of 300 square feet per frontage.

**Deviation 12** seeks relief from LDC Section 30-153(2)a.1.iv, which limits additional identification signs to 16 square feet in area with no illumination and restricts messaging to the development name only, to permit additional site identification signs to have a maximum sign area of 45 square feet, with illumination, and to permit fuel price signs associated with a convenience food and beverage store with fuel pumps to have a maximum sign area of 65 square feet with LED lighting.

The applicant's justifications for the requested deviations note that the quantity, location, and design of signs subject to these deviations are intended to provide adequate identification in a manner that improves visibility and traffic maneuvering. The subject property's boundary is located a significant distance from the closest travel lanes of Palm Beach Boulevard (State Road 80) and State Road 31 due to the presence of existing drainage infrastructure within each right-of-way. The applicant has provided a breakdown of the size and location of proposed signage on the Master Concept Plan (see Attachment D), and has indicated that the total amount of signage will not exceed 300 square feet on either State Road 80 (Palm Beach Boulevard) or State Road 31.

Staff has completed an analysis of each requested deviation against the variance approval criteria established in LDC Section 34-145 and recommends **APPROVAL** of the requested deviations based on the following:

The property has inherent exceptional conditions that cause the application of the regulation to create a hardship (as defined in section 34-2) on the property owner.

The subject property is located at the intersection of two State Roads (Palm Beach Boulevard/State Road 80 and State Road 31). The wide rights-of-way coupled with the relative high rates of speed along these roadways require adequate signage (in type, quantity, and design) to alert the traveling public in a manner that will allow adequate distance for a motorist to read the sign and make a safe vehicular movement. Therefore, the quantity, setback, and size-related deviations for signage within the development are warranted.

The exceptional conditions are not the result of actions of the property owner taken subsequent to the adoption of the ordinance.

The applicant did not take any action to affect right-of-way widths, buffer requirements, travel lane distance, or speed limits along the property's frontage on two state roadways.

The variance granted is the minimum variance that will relieve the unreasonable burden caused by the application of the regulation to the property.

The quantity of signage sought by the request generally aligns with the number of proposed access points to the development. Adequate signage is required to allow for safe vehicular movements into the property from the adjacent state highways. Staff has recommended conditions of approval to assure that sign locations are limited to FDOT-approved access points, while allowing the convenience food and beverage store with fuel pumps to install one sign per frontage along each of the abutting state roads to assure that the variance granted is the minimum variance to relieve the unreasonable burden caused by the application of this regulation to the property. In addition, the requested setback reduction is the minimum variance sought to relieve the unreasonable burden caused by this regulation, as it will allow the signage for a specific use to be placed forward of the required buffer plantings along these roadways.

The granting of the variance will not be injurious to the neighborhood or detrimental to the public welfare.

The relief sought by the deviation request is intended to promote public health, safety, and welfare, and will not be injurious to the neighborhood.

The variance is consistent with the Lee Plan.

Lee Plan Policy 21.1.2 requires deviations sought from sign standards within the Caloosahatchee Shores Community Plan to meet variance criteria for approval. The requested deviation meets the criteria for variance approval as noted herein.

Approval of these deviations are subject to the following conditions:

- Prior to local development order approval, the applicant must submit an administrative amendment to the planned development for the approval of a unified signage plan. The unified signage plan must depict the quantity, location, size, and height of signage for the commercial planned development and must include sign details for each sign type proposed within the development. The unified signage plan must be consistent with the signage table and sign location map depicted on Sheet 2 (Details and Deviations) of the master concept plan.
- Identification signs for the commercial planned development are permitted only at FDOT-approved access points, except that a convenience food and beverage store with fuel pumps may have one identification sign per frontage on Palm Beach Boulevard (State Road 80) or State Road 31 independent of an FDOT-approved access point.
- Approval of Deviation 7 is limited to signage associated with the development of a convenience food and beverage store with fuel pumps.

**Deviations 8 and 10** seek relief from provisions limiting wall and window signage for advertising purposes as follows:

**Deviation 8** seeks relief from LDC Section 33-1506(a)(7), which prohibits wall signs from containing advertising messages or sale item names, to permit one wall sign advertising an internal store offering for a convenience food and beverage store with fuel pumps.

**Deviation 10** seeks relief from LDC Section 30-5(25), which prohibits window signs that identify or advertise activities, services, goods, or products available within the building, and which collectively cover more than 30 percent of the window glass surface area, to allow one or multiple window clings that cover a maximum of 50 percent of the window glass surface for a convenience food and beverage store with fuel pumps.

The applicant's justification for the request deviations notes that relief is requested to allow one wall sign containing a maximum of 95 square feet of sign area and to allow window clings that cover a maximum of 50 percent of window glass surface to advertise an internal store offering for the convenience food and beverage store. As such, the sign is intended to be viewed by patrons at the pumps to notify these customers of the store offering. The applicant also notes that the proposed window signage would be transparent from inside the proposed convenience store building.

Staff has completed an analysis of these deviations against the variance approval criteria established in LDC Section 34-145 and recommends **DENIAL** of the requested deviation based on the following:

The property has no inherent exceptional conditions that cause the application of the regulation to create a hardship (as defined in section 34-2) on the property owner.

The requested deviation is sought to permit the advertisement of sale items to customer utilizing the proposed fuel pumps. The relief sought to permit this signage is not related to a hardship associated with the property. Furthermore, in-store offerings are commonly advertised through small signage that is oriented toward each fueling position, or through electronic means at each fuel pump.

The exceptional conditions are the result of actions of the property owner taken subsequent to the adoption of the ordinance.

The applicant is seeking relief from this regulation to facilitate the placement of additional signage as part of a convenience food and beverage store. Compliance with this regulation can be accomplished by withdrawing the requested deviation.

The variance granted is not the minimum variance that will relieve the unreasonable burden caused by the application of the regulation to the property.

The Land Development Code provides the ability to place adequate signage to alert the traveling public to the presence of a specific business or use. The variance sought by this request is not the minimum variance that will relieve the unreasonable burden caused by the application of the regulation to the property in question. As noted above, there are alternate means to achieve the applicant's intended purpose of alerting fuel pump patrons to in-store offerings.

The granting of the variance will not be injurious to the neighborhood or detrimental to the public welfare.

The relief sought by the deviation request is internal to the proposed convenience food and beverage store use and would not be injurious to the neighborhood or detrimental to the public welfare.

The variance is not consistent with the Lee Plan.

Lee Plan Policy 21.1.2 requires deviations sought from sign standards within the Caloosahatchee

Shores Community Plan to meet variance criteria for approval. The requested deviation does not meet the criteria for variance approval as noted herein.

**Deviation 9** seeks relief from LDC Section 30-153(3)d, which limits the allowable sign area of any wall to ten percent of the total wall area, to allow a total sign area of 36 percent for the short sides of the fuel canopy facades associated with a convenience food and beverage store with fuel pumps.

The applicant's justification for the requested relief notes the need to provide fuel canopy signage in excess of the required ten percent maximum established by the LDC. In addition, the wall area of a fuel canopy is considerably less than that of a conventional building. Therefore, while the percentage of façade area occupied by signage is relatively high, the overall size of the signage will be consistent with other signage associated with the use.

Staff has completed an analysis of this deviation against the variance approval criteria established in LDC Section 34-145 and recommends **APPROVAL** of the requested deviation based on the following:

The property has inherent exceptional conditions that cause the application of the regulation to create a hardship (as defined in section 34-2) on the property owner.

The subject property is located at the intersection of two State Roads (Palm Beach Boulevard/State Road 80 and State Road 31). The wide rights-of-way coupled with the relative high rates of speed along these roadways require adequate signage on these roadways to alert the traveling public in a manner that will allow adequate distance for a motorist to read the sign and make a safe vehicular movement.

The exceptional conditions are not the result of actions of the property owner taken subsequent to the adoption of the ordinance.

The applicant is seeking to establish a convenience food and beverage store use, which is consistent with the types of uses permitted within a Commercial Planned Development district. The applicant did not take any action to affect right-of-way widths or speed limits along the property's frontage on two state roadways; furthermore, the applicant is seeking relief for signage that is typical on fuel canopies associated with the subject use.

The variance granted is the minimum variance that will relieve the unreasonable burden caused by the application of the regulation to the property.

The requested deviation is proposed to be limited only to canopy signage associated with the convenience food and beverage store use. This is the minimum variance necessary to relieve the unreasonable burden caused by the application of this regulation to the subject property.

The granting of the variance will not be injurious to the neighborhood or detrimental to the public welfare.

The relief sought by the deviation request is intended to promote public health, safety, and welfare, and will not be injurious to the neighborhood.

The variance is consistent with the Lee Plan.

Lee Plan Policy 21.1.2 requires deviations sought from sign standards within the Caloosahatchee Shores Community Plan to meet variance criteria for approval. The requested deviation meets the criteria for variance approval as noted herein.

Approval of this deviation is subject to the following condition:

- Approval of this deviation is limited to signage installed on the short side of a canopy associated with the development of a convenience food and beverage store with fuel pumps.

**Deviation 13** seeks relief from LDC Section 10-296(e)(1)(i)(5)ii and Table 8, which requires two 11-foot-wide travel lanes and sidewalks on both sides of the road, to permit the proposed internal roadway to be constructed with two 10-foot-wide travel lanes and sidewalks on one side of the road.

The applicant's justification for the requested deviation notes that the internal roadway is intended to be a low speed access road, which creates an environment where the roadway may be safely shared with bicyclists and pedestrians. The applicant's justification further notes that the requested sidewalk deviation is intended to apply only to the portions of the internal access road that do not have direct access to Palm Beach Boulevard (State Road 80) and State Road 31. Those segments of the access road that provide direct access these roadways will be constructed with sidewalk on both sides of the road.

Staff finds that the requested deviation, as conditioned, will enhance the achievement of the objectives of the planned development while protecting public health, safety, and welfare consistent with the purpose and intent of the LDC. Therefore, staff recommends **APPROVAL** of the requested deviation subject to the following condition:

- Sidewalks may be constructed on one side of the road for those segments of the internal access road that do not provide direct access onto Palm Beach Boulevard (State Road 80) or State Road 31. The roadway segments providing direct access to these roadways (generally located between outparcels 1 and 2, outparcels 3 and 4, and outparcels 6 and 7 as depicted on the master concept plan) must be constructed with sidewalks on both sides of the road.

#### Compatibility with Surrounding Uses

The subject property is surrounded by lands that are zoned for commercial and agricultural uses. The requested rezoning is consistent with the Future Land Use Map designation of the subject property. The request contemplates the expansion of the boundary of a previously approved planned development by incorporating an adjacent commercial parcel. The request also proposes a Schedule of Uses that is largely consistent with the Schedule of Uses approved for the CPD-zoned portion of the property and therefore remains compatible with the existing and planned uses in the surrounding area.

#### Sufficiency of Access, Transportation Considerations, and Traffic Impacts

Access to the subject property is proposed to be provided from both Palm Beach Boulevard (State Road 80). Each of these roadways is under FDOT jurisdiction, and the location of access points to the subject property is subject to FDOT approval. The locations of the proposed access points along State Road 31 and Palm Beach Boulevard (State Road 80) are unchanged from the Master Concept Plan approved by Resolution Z-04-028A (see Attachment H); however, one additional access point is proposed to be provided along Palm Beach Boulevard (State Road 80) (see Attachment D).

The applicant secured a waiver from the submittal of a Traffic Impact Statement for the subject request (see Attachment O). The request does not propose any increase in development intensity when compared to the approved development intensity for the CPD-zoned portion of the property. Development Services staff reviewed the request and recommended one condition of approval to assure that no combination of land uses or trip generation conversion exceeds the trip generation of the most intense trip generation calculation of the development (see Attachment P).

### **Environmental Considerations**

Lee County Environmental staff reviewed the request and provided substantive comment on the subject request (see Attachment Q). Environmental staff recommends conditions of approval related to the provision of open space (including indigenous open space), the establishment of a conservation easement consistent with the surface water management plan (see Attachment R), and the preservation of heritage trees. Environmental staff also recommends modifications to the proposed master concept plan and certain conditions of approval in effect for the CPD-zoned portion of the property. These recommendations are reflected in the staff-recommended conditions of approval (see Attachment C).

### **Findings and Conclusion**

The subject planned development rezoning request meets all the criteria for rezoning and is compliant with the Land Development Code to the extent that deviations have not been requested and recommended for approval by staff. The request, as conditioned, is compatible with existing and planned uses in the surrounding area. The conditions recommended by staff include a codified list of conditions that were approved for the CPD-zoned portion of the property, as well as new conditions that are intended to protect public health, safety, and welfare and are reasonably related to the impacts on the public interest expected from the proposed development. Sufficient access will be provided to support the proposed development intensity, and the proposed use of the property remains appropriate.

### **Attachments**

- A. Expert Witness List
- B. Aerial, Current Zoning, and Future Land Use Maps
- C. Conditions and Deviations
- D. Master Concept Plan
- E. Applicant's Proposed Schedule of Uses
- F. Applicant's Request Narrative and Lee Plan Consistency
- G. Applicant's Schedule of Deviations and Justifications
- H. Resolution Z-04-028A
- I. ADD2017-00131
- J. ADD2018-00014
- K. ZAB-84-205
- L. Lee County Utilities Correspondence
- M. Lee County School District Correspondence
- N. LeeTran Correspondence
- O. GEN2020-00192 (TIS Waiver)
- P. Development Services Traffic Analysis Memorandum

- Q. Lee County Environmental Staff Memorandum
- R. Surface Water Management Plan Description
- S. Public Information Session Summary
- T. Legal Description, Sketch and Boundary Survey