

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20030946

1. REQUESTED MOTION:

ACTION REQUESTED: Deny appeal of an administrative interpretation of the Lee Plan under the single-family determination provision filed by Harold W. Sears on behalf of Oyster Pond Limited Partnership.

WHY ACTION IS NECESSARY: To take action concerning an appeal of a denial for a favorable administrative interpretation of the Lee Plan under the single-family resident provision.

WHAT ACTION ACCOMPLISHES: The Board action will uphold the determination that the property is ineligible for a favorable administrative interpretation of the Lee Plan under the single-family provision.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #

AP #1

3. MEETING DATE:

10-14-2003

4. AGENDA:

5. REQUIREMENT/PURPOSE:
(Specify)

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER *Lee Plan Ch. XIII*

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT *County Attorney*
- C. DIVISION *[Signature]*
- BY: *Dawn E. Perry-Lehnert*
Assistant County Attorney

7. BACKGROUND:

Harold W. Sears, as partner of Oyster Pond Limited Partnership, has filed an appeal of MUD2003-00041. The appeal seeks relief from the County Attorney's denial of a favorable administrative interpretation under the Lee Plan single-family residence provision. In July 2003, the Office of the County Attorney concluded that the subject property did not qualify for relief from the standards set forth in the Lee Plan governing residential density in the Urban Future Land Use Category.

The subject parcel was created prior to the adoption of the Lee Plan in 1984. The entire parcel is 1800 square feet in size and is zoned MH-1. A 1,174 square foot residence was constructed on the parcel in 1949. The current owners wish to demolish this structure and construct a new residence on the same footprint.

CONTINUED

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
				<i>[Signature]</i>	<i>OA</i>	<i>OM</i>	<i>RISK</i>	<i>GC</i>	<i>[Signature]</i>
					<i>8/12/03</i>	<i>8/13/03</i>	<i>8/12/03</i>	<i>8/12/03</i>	<i>8-14-03</i>

10. COMMISSION ACTION:

- APPROVED
 - DENIED
 - DEFERRED *TO - 10-14-03*
 - OTHER
- ON 09-09-03*

CO. CLERK
FORWARDED TO:
Co. Admin
8-12-03

RECEIVED BY
COUNTY ADMIN *RK*
8/12/03
2:15 pm
COUNTY ADMIN
FORWARDED TO: *[Signature]*
9/11/03

In order to qualify for a favorable single-family determination under the applicable Lee Plan provisions, the parcel must encompass at least 4,000 square feet. This parcel is comprised of less than the required square footage. Therefore, a favorable single-family determination was denied.

As a basis for appeal, Mr. Sears asserts the subject parcel is entitled to a favorable decision because "it is a pre-existing non-conforming lot and building." Land Development Code (LDC) Chapter 34 addresses non-conforming buildings and lots and generally provides for their amortization. Under LDC §34-3273, a favorable single-family residence determination will allow the property owner to construct a residence on the subject property. However, absent approved variances from the setback requirements imposed by the Code the residence would be limited to 448 square feet. This is much smaller than the existing residence on this site.

The procedures for administrative interpretation govern the Board's consideration of the requested appeal. These guidelines are set forth in Chapter XIII of the Lee Plan and require the Board to consider only the information submitted in the administrative interpretation process. The Board must determine whether the County Attorney's Office has properly applied the criteria set forth in the Plan to the facts presented in the application. No additional evidence may be considered by the Board.

The applicant has not demonstrated a factual basis for relief on the grounds of equitable estoppel. The subject parcel is currently developed with a single-family residence and already enjoys the minimum use allowed under the applicable Lee Plan provisions.

The subject parcel does not meet the criteria established to allow a favorable single-family residence determination. Therefore, the appeal should be denied.

Attachments:

1. Harold W. Sears' letter requesting appeal.
2. Administrative Interpretation of a single-family residence provisions of the Lee Plan Case #MUD2003-00041
3. Application
4. Staff report
5. Lee Plan Chapter XIII b.
6. LDC Chapter 34, Article VIII

Oyster Pond Limited Partnership
P.O. Box 189
N. Falmouth, MA 02556

2003 JUL 28 PM 1:02
RECEIVED BY
LEE CO. ATTORNEY

County Attorney's Office
2115 Second Street
Fort Myers, FL 33902
Att: Dawn E. Perry-Lehnert

7/24/03

RE: Case MUD2003-00041

To Whom It May Concern:

I disagree with the administrative interpretation of 7/18/03 of the above case for the following reasons.

The existing building has been lived in since its construction in 1949 on the same lot with the same front, side, and rear set backs as presently exist.

The property is in need of renovation. The work to be preformed will not change the footprint or the location of the building on the lot.

There is no way this lot can be made to conform to the present Lee Plan Chapter XIII as it is a preexisting non conforming lot and building.

I appeal this decision and request a hearing at the earliest possible date.

Sincerely, *Harold W. Sears Partner*

cc: Tony Polarmo

**ADMINISTRATIVE INTERPRETATION OF
THE SINGLE FAMILY RESIDENCE PROVISIONS OF
THE LEE PLAN**

CASE NO.: MUD2003-00041

DATE OF
APPLICATION: 4/24/03

APPLICANT/
OWNER: OYSTER POND LTD. PARTNERSHIP and
SUNSET LAKE, LLC
P.O. Box 189
North Falmouth, MA 02556

AGENT: HAROLD H. SEARS
P.O. Box 189
North Falmouth, MA 02556

PROPERTY IN
QUESTION: 2639 Pine Street, Matlacha, Florida, more particularly described as:
The southwesterly ½ of Lot 11, all of Lot 12 and the Northeasterly ½ of
Lot 13, GEARY'S ADDITION TO MATLACHA, according to the plat
thereof, as recorded in Plat Book 9, Page 4, in the Public Records of
Lee County, Florida.

STRAP NO.: 24-44-22-05-00000.0120

FINDINGS OF
FACT: The documentation provided with the application shows that the current
owner acquired the parcel in July 2002 via a Warranty Deed recorded
in the Public Records of Lee County in Official Records (OR) Book
3677, Page 4743. For the purpose of calculating density, the parcel
comprises approximately .041 acres of land (1800 sq. ft.) and is zoned
MH-1. The parcel is located in the Urban Future Land Use Category,
which requires a minimum of 4,356 square feet per dwelling unit
(maximum density is 10 dwelling units/acre). The property existed as
a separate parcel in 1982, by virtue of a Warranty Deed recorded in
the Public Records of Lee County in OR Book 1978, Page 2134.

At the present time the parcel is improved with a 1,174 sq. ft. building,
which the application states the owner desires to remove and replace
with another building covering the same footprint.

The parcel is less than 4,000 square feet, and did not comply with the governing zoning requirements for a lot in the MH-1 district, prior to the Lee Plan's effective date of December 21, 1984.

The Lee Plan requires that the parcel front on a road with a graded surface of shell, marl, gravel base rock, or other compacted fill material, suitable for year-round use. The parcel must also be served by drainage swales or equivalent drainage measures. Access to the lot is via Pine Street, a paved road with drainage swales.

DETERMINATION:

This parcel does not qualify for the construction of one single-family residence under the Administrative Interpretation provisions set forth in Lee Plan Chapter XIII because the lot is less than 4,000 sq. ft. in size.

THIS DETERMINATION CONSTITUTES A DENIAL OF THE RIGHT TO CONSTRUCT OR RECONSTRUCT A SINGLE-FAMILY HOME ON THE SUBJECT LOT.

Applications for building permits or development orders must comply with all applicable County, State, and Federal regulations as those regulations exist at the time each application is submitted.

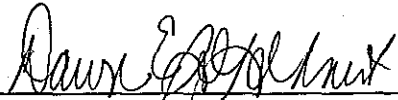
APPEAL PROCEDURE:

"An administrative interpretation may be appealed to the Board of County Commissioners by filing a written request within fifteen (15) days after the administrative interpretation has been made. In reviewing such an appeal, the Board will consider only information submitted in the administrative interpretation process and will review only whether the designated individual has properly applied, to the facts presented, the standards set forth in the Plan for such administrative interpretations. No additional evidence will be considered by the Board. The Board of County Commissioners will conduct such appellate review at a public hearing."

Based upon this quoted language, if you disagree with this administrative interpretation, you have the right to an appeal to the Board of County Commissioners. In order to exercise this right of appeal, a written Notice of Appeal must be delivered to the County Attorney's Office, at 2115 Second Street, Fort Myers, Florida, no later than 15 days from the date of this Administrative Interpretation, stating the reasons for your disagreement.

Dated this 18th day of July 2003.

LEE COUNTY ATTORNEY'S OFFICE
AS ADMINISTRATIVE DESIGNEE

BY: 
Dawn E. Perry-Lehnert
Assistant County Attorney

DPL/pr

cc: Timothy Jones, Chief Assistant County Attorney
Donald D. Stilwell, County Manager
Paul O'Connor, Director, Planning Division
Peter Blackwell, Planning Division
Julie Dalton, Property Appraiser's Office
Debbie Carpenter, DCD
Tidemark



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COMMUNITY DEVELOPMENT

APPLICATION FOR ADMINISTRATIVE ACTION

APPLICATION FOR:

- | | |
|--|---|
| <input type="checkbox"/> Administrative Variance (Sup A) | <input type="checkbox"/> Commercial Lot Split (Sup B) |
| <input type="checkbox"/> Consumption On Premises Per. (Sup C) | <input checked="" type="checkbox"/> Mini. Use Determination (Sup D) |
| <input type="checkbox"/> Ordinance Interpretation (Sup E) | <input type="checkbox"/> Relief for Desig. Hist. Res. (Sup F) |
| <input type="checkbox"/> Relief for Easement Encroachment (Sup G) | <input type="checkbox"/> Adm. Amend. PUD or PD (Sup H) |
| <input type="checkbox"/> Admin. Deviation from Chapter 10 (Sup I) | <input type="checkbox"/> Placement of Model Home/Unit or Model Display Center (Sup J) |
| <input type="checkbox"/> Dock & Shoreline structures (Sup. K) | <input type="checkbox"/> Redevelopment District (Sup L) |
| <input type="checkbox"/> Final Plan Approval per Resolution: # _____ | |

Applicant's Name: OYSTER POND LTD PARTNERSHIP Phone #: 774-238-0124

Project Name: " " " " (GEARYS ADDN TO MATLACHA)

STRAP Number: 24-44-22-05-00000.0120

Application Form: Computer Generated* County Printed

* By signing this application, the applicant affirms that the form has not been altered.

STAFF USE ONLY

Commission District: 01 Land Use Classification: Urban Com
 Current Zoning: MH1 Lee Plan Density Range: 1-6 Du/Ac
 Case Number: MUD 2003.00041 Fee: 135.00
 Date of Application: 4/24/03 Date Fee Paid: 4/24/03
 Intake by: PS Receipt Number: _____
Pine Island

* Supplements "A" through "H" & "J through L" & Final Plan Approval only ** Supplement "I" only

LEE COUNTY
 COMMUNITY DEVELOPMENT
 P.O. BOX 398 (1500 MONROE STREET)
 FORT MYERS, FLORIDA 33902
 PHONE (941) 479-8585

MUD 2003-00041

PART II - PROPERTY INFORMATION

Is this request specific to a particular tract of land? NO YES. If the answer is yes, please complete the following:

1. Is this action being requested as a result of a violation notice? NO YES.

a. If yes, date of notice: _____

b. Specific nature of violation: _____

2. Relationship of applicant to property: Owner Other (please Indicate): _____

3. Name of owner of property: OYSTER POND LTD PARTNERSHIP

Mailing Address: Street: P.O. BOX 189

City: N. FALMOUTH State: MA Zip: 02556

Phone Number: Area Code: 974 Number: 238-0124 Ext.: _____

Fax Number: Area Code: 508 Number: 564-6822

4. Legal Description: Is property description clearly shown within a platted subdivision recorded in the official Plat Books of Lee County?

NO. Attach a legible copy of the legal description and certified sketch of description as set out in chapter 61G 17-6.006, Florida Administrative Code.

YES. Property is identified as:

Subdivision Name: GEARYS ADDITION TO MATLAGHA

Plat Book 9 Page 4 Unit _____ Block _____ Lot 12+SWLY 1/2
11+NE 1/2 OF 13

5. STRAP NUMBER: 24-44-22-05-00000-0120

6. Property Dimensions:

Area: 1800 square feet or _____ acres

Width along roadway: 40 feet.

Depth: 45 feet.

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7. Property Street Address: 2639 PINE ST MATLAGHA FL
AND NORTH

8. General Location Of Property: WEST OF DRAIN BRIDGE PINE ISLAND RD
AND MATLAGHA 2639 PINE ST

PART III

AFFIDAVIT

KRISTIN T. SEARS

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

Kristin T. Sears
Signature of owner or owner-authorized agent

4/21/03
Date

KRISTIN T. SEARS
Typed or printed name


STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was certified and subscribed before me this 21 day of April, 2003, by Kristin T. Sears, who is personally known to me or who has produced Dr. Lic. Fl. 5620-518-36-59 as identification.

(SEAL)

Donna E Fleming
Signature of notary public

DONNA E FLEMING
Printed name of notary public

 Donna E Fleming
My Commission DD177758
Expires January 15, 2007

MUD 2003-00041

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PART I - GENERAL INFORMATION

1. APPLICANT'S NAME: OYSTER POND LTD PARTNERSHIP

Mailing Address:

Street: P.O. BOX 189

City: N. FALMOUTH State: MA Zip: 02556

Phone Number: Area Code: 774 Number: 238-0124 Ext. _____

Fax Number: Area Code: 508 Number: 564-0124

E-mail address: _____

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2. Relationship of applicant to property:

- Owner
 - Option holder
 - Lessee
 - Trustee
 - Contract Purchaser
 - Other (indicate) _____
- COMMUNITY DEVELOPMENT

If applicant is NOT the owner, submit a Notarized Authorization Form from the owner to the applicant.

3. AGENT'S NAME(S): (Use additional sheets if necessary): _____

HAROLD H. SEARS

Mailing Address:

Street: SAME AS APPLICANT

City: _____ State: _____ Zip: _____

Phone Number: Area Code: 774 Number: 238-0124 Ext.: _____

Fax Number: Area Code: 508 Number: 564-6822

E-mail address: _____

4. TYPE OF REQUEST (please check one)

- Administrative Variance (requires supplement A)
- Commercial Lot Split (requires supplement B)
- Consumption On Premises (requires supplement C)
- Minimum Use Determination (requires supplement D)
- Ordinance Interpretation (requires supplement E)
- Relief for Designated Historic Resources (requires supplement F)
- Easement Encroachment (requires supplement G)
- Administrative Amendment to a PUD or Planned Development (requires supplement H)
- Administrative Deviation from Chapter 10 of the LDC (requires supplement I)
- Placement of Model Home/Unit or Model Display Center (requires supplement J)
- Dock & Shoreline Structure (requires supplement K)
- Redevelopment District (requires supplement L)
- Final Plan Approval (no supplement)

MUD 2003-00041

5. NATURE OF REQUEST (please print): TO RECONSTRUCT EXISTING BUILDING



LEE COUNTY
SOUTHWEST FLORIDA

**ADMINISTRATIVE ACTION REQUEST
SUPPLEMENT D**

MINIMUM USE DETERMINATION

If the request is for a Minimum Use Determination please submit the "Application for Administrative Action" form and the following:

1. PROPERTY INFORMATION

MUD 2003-00041
1

- a. Number of parcels (lots) involved in the request: _____
- b. Size of parcels (please submit a site plan, plat, or survey indicating dimensions and area of each lot as well as the total area of all lots involved: 45X40 1800 SQ FT
- c. Comprehensive Plan Land Use designation for the subject property: RESIDENTIAL
MHI ZONING
- d. Zoning: Indicate the zoning on the parcel(s) when the parcel(s) was created (split out into its present dimensions from a larger parcel): MHI

2. INTENDED USE

- a. Do you wish to construct one single family residence on each of the above parcels? _____ NO.
 YES REBUILD EXISTING HOUSE ON SAME FOOT PRINT
If the parcel on which you wish to construct one home is some combination of lots, indicate which lots will comprise the final single family parcel: SEE ATTACHED PLAN
- b. Do you wish to reapportion lots? NO _____ YES. If yes, on the site plan or map submitted for 2 above, please indicate the changes you wish to make in compliance with this provision.

3. ADDITIONAL DOCUMENTATION REQUIRED

- a. Copy of the recorded deed, agreement for deed, or other official documentation indicating the date you acquired the property and the date the deed was recorded in the Lee County Clerk's office.
- b. If the parcel(s) is not in a platted or unofficial recorded subdivision, please provide a copy of the recorded deed (or other official documentation) establishing the date the parcel(s) was created (i.e. split out from a larger parcel into its present dimensions).

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LETTER OF AUTHORIZATION

TO LEE COUNTY COMMUNITY DEVELOPMENT

The undersigned do hereby swear or affirm that they are the fee simple title holders and owners of record of property commonly known as OYSTER POND LIMITED PARTNERSHIP and legally described in exhibit A attached hereto.

The property described herein is the subject of an application for zoning or development. We hereby designate HAROLD H SEARS as the legal representative of the property and as such, this individual is authorized to legally bind all owners of the property in the course of seeking the necessary approvals to develop. This authority includes but is not limited to the hiring and authorizing of agents to assist in the preparation of applications, plans, surveys, and studies necessary to obtain zoning and development approval on the site. This representative will remain the only entity to authorize development activity on the property until such time as a new or amended authorization is delivered to Lee County.

Kristin T. Sears
Owner* (signature)
KRISTIN T. SEARS
Printed Name

Owner* (signature)

Printed Name

Owner* (signature)

Printed Name

Owner* (signature)

Printed Name

STATE OF FLORIDA
COUNTY OF LEE

Sworn to (or affirmed) and subscribed before me this 23 day of April, 2003 by

Kristin T. Sears, who is personally known to me or who has produced

as
identification.



Beth Smith
Notary Public

Beth Smith
(Name typed, printed or stamped)

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LEE COUNTY PROPERTY APPRAISER

**PROPERTY DATA FOR PARCEL 24-44-22-05-00000.0120
TAX YEAR 2002**

Parcel data is available for the following tax years:
[2001 | 2002]

[[Next Lower Parcel Number](#) | [Next Higher Parcel Number](#) | [Display Tax Bills on this Parcel](#)]

OWNERSHIP, LEGAL, SALES AND DISTRICT DATA ARE FROM THE CURRENT DATABASE.
LAND, BUILDING, VALUE AND EXEMPTION DATA ARE FROM THE 2002 ROLL.

Owner of Record	Legal Description	Image of Structure
OYSTER POND LTD PARTNERSHIP + SUNSET LAKE LLC T/C P O BOX 189 N FALLMOUTH MA 02556	GEARYS ADDN TO MATLACHA PB 9 PG 4 LOT 12+SWLY 1/2 11 + NE 1/2 OF 13	
Site Address		
2639 PINE ST MATLACHA, FL 33993		Photo Date: April of 2003 PHOTO DATED AFTER 2002 ROLL

Taxing District	DOR Code
007 - MATLACHA-PINE ISLAND FIRE DISTRICT	01 - SINGLE FAMILY RESIDENTIAL

Property Values		Exemptions		Dimensions	
Just	50,330	Homestead	0	Measurement Units	UT
Assessed	50,330	Agricultural	0	Number of Units	1.00
Assessed SOH	50,330	Widow	0	Frontage	40
Taxable	50,330	Widower	0	Depth	45
Building	23,830	Disability	0	Bedrooms	2
Land	26,500	Wholly	0	Bathrooms	1
Building Extra Features	0	Energy	0	Total Sq. Ft.	1,174
Land Extra Features	1,500	SOH Difference	0	Year Improved	1949

Sales Transactions					
Sale Price	Date	OR Book / Page	Transaction Details		Vacant / Improved
			Type	Description	
				Qualified (Fair Market Value / Arms Length / One	

45,000	7/1/2002	3677/4743	06	STRAP #)	I
7,000	8/7/2001	3476/572	08	Disqualified (Doc Stamps Greater than .70/SP Gr. than \$100)	I
100	10/1/1991	2291/3643	01	Disqualified (Doc Stamp .70 / SP less th \$100 / Other DisQ)	I
35,000	3/1/1988	1978/2134	06	Qualified (Fair Market Value / Arms Length / One STRAP #)	I

Solid Waste (Garbage) Roll Data

Solid Waste District	Roll Type	Category	Unit/Area	Tax Amount
005 - Service Area 5 - Pine Island Area	R - Residential Category		1	221.23

Land Tracts/Land Use

Description	Use Code	Units
Single Family Residential, Canal	131	1.00 Units

Storm Surge Category

Flood Insurance (FIRM)

Rate Code	Community	Panel	Version	Date	
Tropical Storm	A9:EL9	125124	0165	B	091984

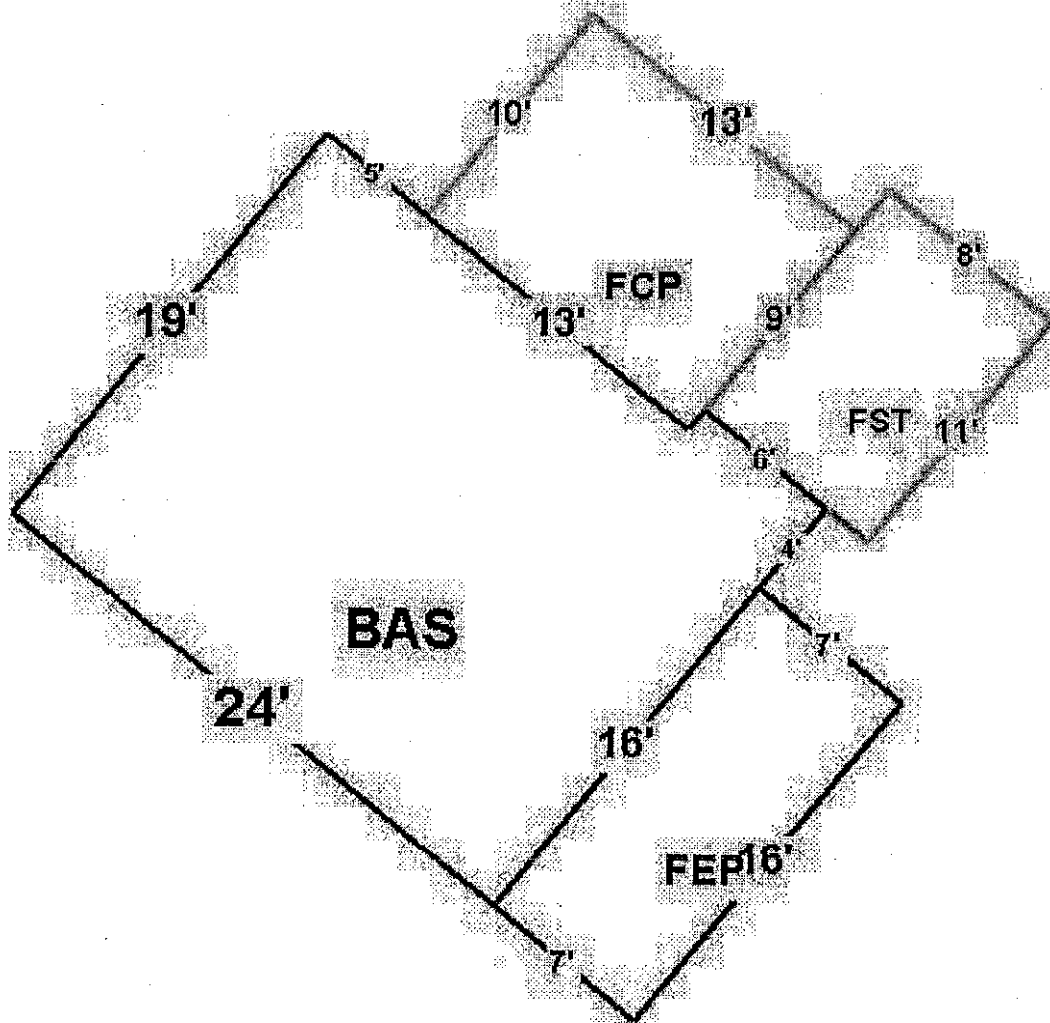
Building/Structure Details - (1 total structure)

Building 1

Improvement Code: 1 - single family residential	Bedrooms: 2	Bathrooms: 1
Model Code: 1 - single family residential	Stories: 1	Year Built: 1949

Subareas

Description	Year Added	Area (sq. ft.)
BASE (BAS)	1949	480
FINISHED CARPORT (FCP)	1949	117
FINISHED ENCLOSED PORCH (FEP)	1949	112
FINISHED UTILITY (FST)	1949	72
PATIO (PTO)	1949	393



© 2003 Lee County Property Appraiser

Extra Features		
Description	Year Added	Units
DAVITS - BOAT	1992	1
SEAWALL - CONCRETE	1949	40

LEFT CLICK & HOLD WHILE MOVING THE MOUSE WILL PAN THE AERIAL IN ALL DIRECTIONS
 LEFT CLICK & HOLD + RIGHT CLICK & HOLD WHILE MOVING THE MOUSE FORWARD AND BACKWARD WILL
 ZOOM THE AERIAL OUT AND IN.
AERIALS TAKEN ON OR ABOUT FEBRUARY 1998



[View Parcel Info](#)

TRIM (*proposed* tax) Notices are available for the following tax years:

[[1997](#) | [1998](#) | [1999](#) | [2000](#) | [2001](#) | [2002](#)]

[[Hide Building Details](#)]

[[Hide Aerial View](#)]

[[Next Lower Parcel Number](#) | [Next Higher Parcel Number](#)]

[[New Query](#) | [New Browse](#) | [Parcel Queries Page](#) | [Lee PA Home](#)]

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Page was last modified on Wednesday, April 16, 2003 1:25:41 PM.

This instrument prepared by:

Chris G. McEwan P.A.
5400 Pine Island Road
Bokelia, Florida 33922
(941) 283-1067

Property Appraiser's

Parcel Identification No: 24-44-22-05-00000.0120

Grantees' Social Security No.:

Oyster Pond Limited Partnership, Sunset Lake L.L.C. -

INSTR # 5493453
CR BK 03677 PG 4743
RECORDED 07/01/2002 02:17:55 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY
RECORDING FEE 18.50
DEED DOC 315.00
DEPUTY CLERK J Gallagher

Warranty Deed

(Statutory Form F.S. 689.02)

THIS INDENTURE, made July 1, 2002, between Tom Carpenter, a single person, residing at 8335 Main Street, Bokelia FL 33922, Grantor*, and Oyster Pond Limited Partnership, Sunset Lake L.L.C., Grantee*, and whose post office address is PO Box 189, N. Fallmouth Mass 02556.

*"Grantor" and "Grantee" are used for singular or plural, as context requires.

Witnesseth:

That the Grantor, for and in consideration of the sum of TEN and 00/100 DOLLARS (\$10.00) and other good and valuable consideration, to Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the Grantee, and Grantee's heirs and assigns forever, the following described land, situate, lying in Lee County, Florida, to wit:

The southwesterly 1/2 of Lot 11, all of Lot 12 and the Northeasterly 1/2 of Lot 13, GEARY'S ADDITION TO MATLACHA, according to the plat thereof, as recorded in Plat Book 9, Page 4, in the Public Records of Lee County, Florida.

NOTE: THIS IS NOT THE HOMESTEAD OF THE GRANTOR, NOR IS IT CONTIGUOUS TO THE HOMESTEAD OF THE GRANTOR.

and Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

TO HAVE AND TO HOLD, the same in fee simple forever, together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

AND, the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons

MUD 2003-00041

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whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2001, and easements and restrictions of record, if any, but this reference to said restrictions shall not serve to reimpose the same.

IN WITNESS WHEREOF, the said grantor has hereunto set grantor's hand and seal the day and year first above written:

Signed, sealed and delivered in our presence:

(1) Susan E. Doddato
Signature of First Witness
Printed Name:

Tom Carpenter
TOM CARPENTER

(2) [Signature]
Signature of Second Witness
Printed name:

STATE OF FL
COUNTY OF Lee

I HEREBY CERTIFY that on this date, before me, an officer duly qualified in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared Tom Carpenter, a single person who executed the foregoing instrument in his/her/their personal or authorized representative capacity(ies) indicated above, and

who is personally known to me by ongoing acquaintance of _____ years/months, or

who has produced their DL as identification,

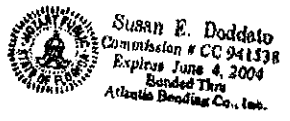
WITNESS my hand and official seal in the County and State last aforesaid this 15 day of July, 2002.

Susan E. Doddato
Notary Public

(NOTARY SEAL)

Printed Notary Signature

My commission expires:
My Commission Number:



MUD 2003-00041

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...OPMENT

1030
35
This instrument prepared by:
Chris G. McEwan P.A.
5400 Pine Island Road
Bokeelia, Florida 33922
(941) 283-1067

Property Appraiser's
Parcel Identification No: 24-44-22-05-00000.0120

Grantees' Social Security No.:
Oyster Pond Limited Partnership, Sunset Lake L.L.C. -

INSTR # 5493453
OR BK 03677 PG 4743
RECORDED 07/01/2002 02:17:55 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY
RECORDING FEE 10.50
DEED DDC 315.00
DEPUTY CLERK J Gallagher

Warranty Deed

(Statutory Form F.S. 689.02)

THIS INDENTURE, made July 1, 2002, between Tom Carpenter, a single person, residing at 8335 Main Street, Bokeelia FL 33922, Grantor*, and Oyster Pond Limited Partnership, Sunset Lake L.L.C., Grantee*, and whose post office address is PO Box 189, N. Fallmouth Mass 02556.

*"Grantor" and "Grantee" are used for singular or plural, as context requires.

Witnesseth:

That the Grantor, for and in consideration of the sum of TEN and 00/100 DOLLARS (\$10.00) and other good and valuable consideration, to Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the Grantee, and Grantee's heirs and assigns forever, the following described land, situate, lying in Lee County, Florida, to wit:

The southwesterly 1/2 of Lot 11, all of Lot 12 and the Northeastly 1/2 of Lot 13, GEARY'S ADDITION TO MATLACHA, according to the plat thereof, as recorded in Plat Book 9, Page 4, in the Public Records of Lee County, Florida.

NOTE: THIS IS NOT THE HOMESTEAD OF THE GRANTOR, NOR IS IT CONTIGUOUS TO THE HOMESTEAD OF THE GRANTOR.

and Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

TO HAVE AND TO HOLD, the same in fee simple forever, together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

AND, the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons.

MUD 2003-00041

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APR 24 2003

COMMUNITY DEVELOPMENT

whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 2001, and easements and restrictions of record, if any, but this reference to said restrictions shall not serve to reimpose the same.

IN WITNESS WHEREOF, the said grantor has hereunto set grantor's hand and seal the day and year first above written:

Signed, sealed and delivered in our presence:

(1) Susan E. Dodato
Signature of First Witness
Printed Name:

Tom Carpenter
TOM CARPENTER

(2) [Signature]
Signature of Second Witness
Printed name:

STATE OF FL
COUNTY OF Lee

MUD 2003-00041

I HEREBY CERTIFY that on this date, before me, an officer duly qualified in the State aforesaid and in the County aforesaid to take acknowledgements, personally appeared Tom Carpenter, a single person who executed the foregoing instrument in his/her/their personal or authorized representative capacity(ies) indicated above, and

[] who is personally known to me by ongoing acquaintance of ___ years/months, or

[x] who has produced their DL as identification,

WITNESS my hand and official seal in the County and State last aforesaid this 15 day of July, 2002.

Susan E. Dodato
Notary Public

(NOTARY SEAL)

Printed Notary Signature

My commission expires:
My Commission Number:



Susan E. Dodato
Commission # CC 941538
Expires June 4, 2004
Bonded Thru
Atlantic Bonding Co., Inc.

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APR 24 2003

COMMUNITY DEVELOPMENT

Certificate of Limited Partnership

of

RECEIVED

APR 24 2003

Oyster Pond Limited Partnership COMMUNITY DEVELOPMENT

This Certificate of Limited Partnership of OYSTER POND LIMITED PARTNERSHIP (the "Limited Partnership") is being executed by the undersigned for the purpose of forming a limited partnership pursuant to the Delaware Revised Uniform Limited Partnership Act.

1. The name of the Limited Partnership is:

OYSTER POND LIMITED PARTNERSHIP.

2. The address of the registered office of the Limited Partnership in Delaware is 1013 Centre Road, Wilmington, Delaware 19805. The Limited Partnership's registered agent at that address is Corporation Service Company.

3. The name and address of the general partner is:

<u>NAME</u>	<u>ADDRESS</u>
SUNSET LAKE, L. L. C.	23 Fells Road Falmouth, Massachusetts 02540

4. The term of the Limited Partnership shall end on December 31, 2048.

The Limited Partnership may hold, manage, develop, exchange, and/or lease real estate, buy and sell both real and personal property including options, rights, intangibles and undivided interests in property. It may borrow and lend money, with and without interest or collateral. The Limited Partnership may invest and reinvest in securities of different types and classes, including, without in any way limiting the generality thereof, mutual funds, stocks, bonds, notes, debentures, and certificates of interest or participation, and in other personal property without limitation or restriction. There is no geographical or jurisdictional restriction upon the location of an investment property or activity. Furthermore, the Limited Partnership may engage in and conduct any lawful business or investment activities.

IN WITNESS WHEREOF, the undersigned, constituting all of the general partners of the Partnership, have caused this Certificate of Limited Partnership to be duly

executed as of July 29, 1998.

GENERAL PARTNER:

SUNSET LAKE, L.L.C.

BY: Kristin T. Sears
KRISTIN T. SEARS, Manager

STATE OF MASSACHUSETTS)
) ss.
COUNTY OF MIDDLESEX)

BEFORE ME, on this day personally appeared KRISTIN T. SEARS, Manager of the SUNSET LAKE, L.L.C., dated July 29, 1998, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed, and in the capacities stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on July 29, 1998.

Christopher J. Mahoney
Christopher J. Mahoney
Notary Public
My commission expires: October 5, 2001

MUD 2003-00041

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APR 24 2003

COMMUNITY DEVELOPMENT

**DETERMINATION OF
THE APPLICATION OF THE
MINIMUM USE PROVISION**

CASE # MUD2003-00041

DATE RECEIVED BY ZONING DIVISION: 4/24/03

STRAP NUMBER: 24-44-22-05-00000.0120

APPLICANT: Oyster Pond Ltd. Partnership

OWNER: Oyster Pond Ltd. Partnership

OWNERSHIP

- a) DATE WARRANTY DEED OR AGREEMENT FOR DEED RECORDED IN OWNER/PURCHASER NAME: July 2001
- b) PLACE RECORDED: OR Book 3677 Page 4743

CREATION OF PARCEL

- a) DATE PARCEL CREATED/RECORDED: February 1982
- b) PLACE RECORDED: OR Book 1578 Page 1010
 - 1) LOT WAS CREATED/RECORDED IN PLAT BOOKS PRIOR TO December 21, 1984 AND HAS NOT BEEN ALTERED: YES ___ NO ___ N/A X
 - 2) A LEGAL DESCRIPTION OF THE LOT WAS LAWFULLY RECORDED IN O.R. BOOKS PRIOR TO DECEMBER 21, 1984: YES X NO ___ N/A ___
 - 3) LOT WAS LAWFULLY CREATED AFTER DECEMBER 21, 1984 AND IS IN COMPLIANCE WITH THE LEE PLAN: YES ___ NO ___ N/A X

ZONING WHEN CREATED/RECORDED: MH-1

- a) COMPLIED WITH ZONING WHEN CREATED/RECORDED: YES NO N/A
- b) CREATED PRIOR TO JUNE 27, 1962 AND HAS A MINIMUM OF 4,000 SQUARE FEET: YES NO N/A
- c) CREATED AFTER JUNE 27, 1962 AND PRIOR TO DECEMBER 21, 1984 AND HAS A WIDTH NOT LESS THAN 50 FEET AND HAS AN AREA NOT LESS THAN 5,000 SQUARE FEET AND RECORDED IN A PLAT BOOK: YES NO N/A
- d) CREATED AFTER JUNE 27, 1962 AND PRIOR TO DECEMBER 21, 1984, HAS A MINIMUM OF 7,500 SQUARE FEET AND RECORDED IN O.R. BOOK: YES NO N/A

LAND USE CATEGORY: Urban Community

- a) LOT IS CONSISTENT WITH DENSITY REQUIREMENTS: YES NO

REAPPORTIONING LOTS: YES NO

RECOMMENDATION:

THE LOT IS NOT CONSISTENT WITH THE MINIMUM USE PROVISION BASED ON THE FOLLOWING:

The subject lot was recorded in 1982 prior to the adoption of the Lee Plan. The lot is accessed by Pine Street, a paved road with drainage swales. The lot does not conform to the minimum lot size requirement of the MH-1 zoning district nor does it meet the 5,000 square foot minimum or 50 foot width required by the Single Family Provision of the Lee Plan. The subject lot does not qualify for one single family residence under the Single Family Provision of the Lee Plan.

REC 6.00
DOC 192.50

2427885

This instrument was prepared by:

CHRIS G. McEWAN
Attorney at Law
5400 Pine Island Road
BOKEELIA, FLORIDA 33322

Warranty Deed (STATUTORY FORM—SECTION 689.02 F.S.)

1578/1010 2/2/82

This Indenture, Made this 12 day of March 1988, Between

DELBERT DICKEY

of the County of Lee, State of Florida, grantor, and

MABEL P. BURGESS

whose post office address is 7580 Hill Road, Roseville, California 95661
of the County of California, State of California, grantee,

Witnesseth, That said grantor, for and in consideration of the sum of

TEN and NO/100 Dollars,

and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Lee County, Florida, to-wit:

The Southwesterly 1/2 of Lot 11, all of Lot 12 and the Northeasterly 1/2 of Lot 13, GEARY'S ADDITION TO MATLACHA, according to the plat thereof, as recorded in Plat Book 9, Page 4, in the Public Records of Lee County, Florida.

Subject to easements, restrictions and reservations of record, if any.

THIS IS NOT AND HAS NEVER BEEN THE HOMESTEAD OF THE HEREIN GRANITOR, NOR IS IT CONTIGUOUS TO THE HOMESTEAD OF THE GRANITOR.

Documentary Tax Pk. 5 192.50
Substantive Tax Pk. _____
Lee County, Florida

RECORDED & HELD VERIFIED
MAR 21 11 16 AM '88
Clerk of Court
LEE COUNTY, FLORIDA

DR 1978

PS 2135

RECORDED & HELD VERIFIED
MAR 21 11 16 AM '88
Clerk of Court
LEE COUNTY, FLORIDA

and said grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

*"Grantor" and "grantee" are used for singular or plural, as context requires.

In Witness Whereof, Grantor has hereunto set grantor's hand and seal the day and year first above written. Signed, sealed and delivered in our presence:

Stephen M. Mantell (Seal)
Delbert Dickey (Seal)
DELBERT DICKEY

(Seal)
(Seal)

STATE OF Florida
COUNTY OF Lee

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared Delbert Dickey

to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 12 day of March 19 88
Stephen M. Mantell
Notary Public

My commission expires:

NOTARY PUBLIC, STATE OF FLORIDA
STEPHEN M. MANTELL
1988

Spatial District Query Report

STRAP Number: 24-44-22-05-00000.0120

District Name	District Value(s)	Pct of Parcel in District (if fractional)	Notes
Airport Noise Zone		NOT FOUND	
Airspace Notification		NOT FOUND	
Census Tract	Tract ID	701	
Coastal Building Zone		NOT FOUND	
Coastal High Hazard Area	Coastal High Hazard Zone	High hazard	
Fire District	Fire District	Pine Island-Matlacha	
	Taxing Authority	(null)	
Flood Insurance Zone	Flood Zone	A9-EL9	
Flood Insurance Panel	Community Panel	125124 0165	
	Version	B	
	Date	091984	
Flood Insurance Coastal Barrier		NOT FOUND	
Lighting District		NOT FOUND	
Planning Community	ID	16	
	Plan Community	Pine Island	
Planning Land Use 2010	Landuse	Urban Community	89.36%
Sanibel/County Agreement		NOT FOUND	
School Board District	District School Board Member	1 Robert Chilmonik	
School Choice Zone	Choice Zones	West Zone	
Solid Waste District	District Area	Area 5	
Storm Surge	Category	T S	
Traffic Analysis Zone	TAZ	683	
Archaeological Sensitivity		NOT FOUND	
Sea Turtle Lighting Zone		NOT FOUND	
Watersheds	Shed ID	Matlacha	
FLUCCS1995	Code	1009	
	Landuse	Mobile home units - any density	
Vegetation Permit Required	Vegetation Permit	Pine Island	89.36% 1
Soil	Map Symbol	25	
	Soil Name	ST. AUGUSTINE SAND, ORGANIC SUBSTRATUM- URBAN LAND COMPLEX	
Panther Habitat		NOT FOUND	
Eagle Nesting Site buffer		NOT FOUND	
Commissioner District	District Commissioner	1 Robert Janes	
Unincorporated Lee County Zoning	Zoning Designation	MH-1	
Development Orders		NOT FOUND	

[Modify] Report Settings

Note	Details
1	Vegetation Removal Permit REQUIRED, Contact Environmental Sciences (239) 479-8585.

Our goal is to provide the most accurate data available, however no warranties, expressed or implied, are provided with this data, it's use, or interpretation.

**All information subject to change without notice.
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All rights reserved.**

Codes Review Notes (24442205)

GEARY'S ADDN MATLACHA

24-44-22-05-00000-0590 PRE 62

PB 9 PG 4 MH1

MPF CK GIS FOR FLOOD

LEE COUNTY PROPERTY APPRAISER - NAME & LEGAL

STRAP: 24 44 22 05 00000 0120
 OYSTER POND LTD PARTNERSHIP +
 SUNSET LAKE LLC T/C
 P O BOX 189
 N FALLMOUTH
 MA

DOR...: 01 SINGLE FAMILY RESIDENTIAL
 LOC...:
 LEGAL1: GEARYS ADDN TO MATLACHA P
 LEGAL2: B 9 PG 4 LOT 12+SWLY 1/2
 LEGAL3: 11 + NE 1/2 OF 13

02556 N/R: HWDWXA
 *** VALUES *** ** EX VALUES ***
 JUST: 50,330 AG.:
 ASSD: 50,330 HX.:
 TXBL: 50,330 WID:
 BLDG: 23,830 DIS:
 LAND: 26,500 WLY:
 NCST: 0 ENG:
 PVAL: WDR:
 SOH : DIFF:
 SITE: 2639 PINE ST 33993

UNIT MEAS.: UT #UNITS...: 1.00
 1ST TAX YR: 1949 FRONTAGE: 40
 YR SPLIT...: DEPTH...: 45
 YR CREATED: 1900 E/I NUM.:
 ENERGY CD.: S/D VAL.:
 ENERGY YR.: S/D CODE:
 APRVED BY.: DSC.....:
 TAX DIST...: ZONING...: MH-1
 PRIOR DOR.: PEND.....:
 PRIOR STRP: 00-00-00-00-00000.0000

#	SALE PRICE	D.O.S.	BOOK	PAGE	TC	VI
1:	45,000	07/02	3677	4743	06	I
2:	7,000	08/01	3476	572	08	I

NBHD CODE: 51131
 NBHD DESC: PINE ISLAND MATLACHA NW

PAGE: 360 MAINT DATE
 LINE: 510 SITE: 04/04/2003
 NAL.:
 MAF.:
 PAV.:
 HIST DIST: H

Property Appraiser Land Use Codes

PARCEL: 244422-05-00000.0120

ACRES : 0.0458431

DOR CODE: 01 SINGLE FAMILY
IMP CODE: 01 SINGLE FAMILY RESIDENCE
MOD CODE: 1 SINGLE FAMILY RESIDENTIAL
TYP CODE: 1 CANAL
USE CODE: 0131 SINGLE FAMILY RES: CANAL

PARCEL NOT IN ANY MULTI-USE AG.

HIT ON MAP TO SELECT ANOTHER PARCEL

-OR-

SELECT ANY POINT FOR 2010 LAND USE

LEE COUNTY ZONING NOTES

ZONE-> MH-1 aaaaaa CONTAINS PARCEL AP:244422:05:00000:0120 CENTER aaaaaa

1 Z-69-69, 69-3-19, VAR FOR LOT SIZE TO 2,250 SQ FT IN A TRAILER S/D.
(MH-1, AS CONVERTED).

*LAST
APPLICATION
* THIS
JOB*

ZONE-> C-1

1 ADD2002-00014, 11APR02, APRVL FOR ADMIN RELIEF IN C-1 FOR PERI MATLACHA
HIST DIST ADDITION-LOT 3, PLAT BK 8, PG 83.

b. ADMINISTRATIVE INTERPRETATIONS OF THE PLAN

Persons or entities whose interests are directly affected by the Lee Plan have the right to an administrative interpretation of the plan as it affects their specific interest. Such an interpretation, under the procedures and standards set forth below, will remain in effect and thereafter be binding upon the county only as to the legally described property and any plan of development upon which the interpretation was based. If the plan of development is proposed to be, or is changed, through any action of any owner or developer of the property, then the administrative interpretation is no longer binding on the county. Actions that will render a previous interpretation no longer binding include any of the following: significant changes in parcel or platted lot(s) configuration; changes to land uses; decreases in the amount of open space or preserved land; increases in density or intensity of use; increases in the size or acreage of the property; or any other change that makes the plan of development less consistent with the current Lee Plan. (Note: combing lands consistent with XIII.b.B.4.b.(4) is allowed.) A determination of whether or not a plan of development has been, or would be changed sufficiently to render the previous interpretation no longer binding on the county will be made on a case by case basis by the Administrative Designee using the above-described criteria.

Administrative interpretations are intended to expedite and reduce disputes over interpretations of the Lee Plan, resolve certain map or boundary disputes, avoid unnecessary litigation, ensure consistency in plan interpretation, and provide predictability in interpreting the plan. All such administrative interpretations, once rendered, are subject to challenge under the provisions of Section 163.3215, Florida Statutes.

Anyone seeking an administrative interpretation must submit an application with requested information and will have the burden of demonstrating compliance with the standards set forth below.

A. SUBJECT MATTER OF ADMINISTRATIVE INTERPRETATIONS.

Administrative interpretations will be provided only as to the matters set forth below. In no event will administrative interpretations hereunder involve questions of the consistency of development or land use regulations with the Lee Plan. Administrative interpretations will be limited to:

1. County Attorney's Office:

- a. Whether the single-family residence provision as hereinafter defined applies and the applicant desires a written opinion for future use, or a concurrent building permit application has not been approved under 2.a. below.

2. County Administrator (or his designee):

- a. Whether the single-family residence provision as hereinafter defined applies and the applicant is also applying for a building permit. If said permit application is not approved, a separate application for the single-family residence provision may be submitted to the County Attorney's Office for final review and, if applicable, written denial.
- b. Whether an area has been (or should have been) designated Wetlands on the basis of a clear factual error. A field check will be made prior to the issuance of such an interpretation.

- c. Clarification of land use map boundaries as to a specific parcel of property.

B. STANDARDS FOR ADMINISTRATIVE INTERPRETATIONS.

Administrative interpretations of the Lee Plan will be determined under the following standards:

1. deny all economically viable use of property will be avoided;
2. Interpretations should be consistent with background data, other policies, and objectives of the plan as a whole;
3. Interpretations should, to the extent practical, be consistent with comparable prior interpretations;
4. Single-Family Residence Provision:

- a. Applicability

Notwithstanding any other provision of this plan, any entity owning property or entering or participating in a contract for purchase agreement of property, which property is not in compliance with the density requirements of the Lee Plan, will be allowed to construct one single-family residence on said property PROVIDED THAT:

- (1) Date Created:

- (a) the lot or parcel must have been created and recorded in the official Plat Books of Lee County prior to the effective date of the Lee Plan (December 21, 1984), and the configuration of said lot has not been altered; OR
- (b) a legal description of the lot or parcel was lawfully recorded in the Official Record books of the Clerk of Circuit Court prior to December 21, 1984; OR
- (c) the lot was lawfully created after December 21, 1984, and the lot area was created in compliance with the Lee Plan as it existed at that time.

- (2) Minimum Lot Requirements: In addition to meeting the requirements set forth above, the lot or parcel must:

- (a) have a minimum of 4,000 square feet in area if it was created prior to June 27, 1962; OR
- (b) have a width of not less than 50 feet and an area of not less than 5,000 square feet if part of a subdivision recorded in the official Plat Books of Lee County after June 27, 1962, and prior to December 21, 1984; OR
- (c) have a minimum of 7,500 square feet in area if it was created on or after June 27, 1962, and prior to December 21, 1984, if not part of a subdivision recorded in the official Plat Books of Lee County; OR

(d) have been in conformance with the zoning regulations in effect at the time the lot or parcel was recorded if it was created after December 21, 1984; OR

(e) have been approved as part of a Planned Unit Development or Planned Development.

(3) Access and Drainage: In addition to meeting the requirements set forth above:

(a) the road that the lot or parcel fronts on must have been constructed and the lot must be served by drainage swales or equivalent drainage measures. The road must have, at a minimum, a graded surface of shell, marl, gravel base rock, or other compacted fill material, suitable for year-round use; OR

(b) the lot or parcel must be located within a subdivision which was approved under Chapter 177, Florida Statutes, as long as the subdivision improvements have been made or security for their completion has been posted by the subdivider.

If the lot or parcel cannot meet the requirement of access and drainage, this requirement will not apply to the extent that it may result in an unconstitutional taking of land without due process.

(4) Interchange, Airport Commerce, and Industrial Development land use categories: In addition to the requirements set forth above, a residential use must be the only reasonable use of the lot or parcel. The existence of a reasonable commercial or industrial use will be determined by reference to all of the applicable facts and circumstances, including, but not limited to, the nature of the surrounding uses, the adequacy of the lot size (pursuant to Chapter 34 of the Land Development Code) for commercial or industrial uses, and whether adequate infrastructure exists or can reasonably be provided to serve a commercial or industrial use at the location in question.

b. Construction Regulations

Subsequent to a property owner establishing the right to build a single-family residence on a lot through the procedures set forth in this plan, the following policies will prevail:

(1) The residential structure must be in compliance with all applicable health, safety, and welfare regulations, as those regulations exist at the time the application for construction of the residence is submitted.

(2) Lots or parcels which qualify for the right to construct a residence and which contain wetlands will be subject to special provisions of the Wetlands Protection Ordinance.

(3) If two or more contiguous lots or parcels have each qualified for the right to build a single-family residence, the property owner is permitted and encouraged to reapportion properties if the result of the reappointment is a lot or lots which come closer to meeting the property development regulation standards for the zoning district in which it is located and as long as no property becomes non-conforming or increases in its non-conformity as a result of the reappointment and as long as the density will not increase.

- (4) If a lot or parcel has qualified for the right to construct a single-family residence, nothing herein will be interpreted as prohibiting the combining of said lot or parcel with other contiguous property provided the density will not increase.
- (5) If two or more contiguous properties have each qualified for the right to construct a single-family residence and if the lots or parcels are located in a zoning district which permits duplex or two-family dwellings, the property owner(s) may combine the lots to build a single duplex or two-family building in lieu of constructing two single-family residences.

c. Transferability

This right will run with the land and be available to any subsequent owner if the property which qualifies for the single-family provision is transferred in its entirety.

C. PROCEDURE FOR ADMINISTRATIVE INTERPRETATIONS.

The following procedures will apply in obtaining administrative interpretations:

1. Except as provided in 3. below, anyone seeking an administrative interpretation of the plan will submit an application, on an appropriate form provided by the county, with all requested information to the Zoning and Development Review Division (single-family residence provision) or the Planning Division (all other applications), or to their successor agencies.
2. The person authorized by Section A.1. or 2. above will review such information and issue an administrative interpretation in writing within sixty (60) days after submittal of the application and all requested information to the appropriate division. The interpretation will contain findings and reasons for the interpretation rendered.
3. If the request for a single-family residence provision or Wetlands determination is in conjunction with an application for a building permit, development order, or planned development rezoning, a separate application will not be required. The interpretation will be noted on the building permit, development order, or planned development rezoning approval, or will be contained in the reasons for denial where applicable.
4. An administrative interpretation may be appealed to the Board of County Commissioners by filing a written request within fifteen (15) days after the administrative interpretation has been made. In reviewing such an appeal, the Board will consider only information submitted in the administrative interpretation process and will review only whether the designated individual has properly applied to the facts presented and the standards set forth in the plan for such administrative interpretation. No additional evidence will be considered by the Board. The Board of County Commissioners will conduct such appellate review at a public meeting.
5. The Board of County Commissioners will consider the appeal at a hearing to be held within thirty (30) days after the date of the written request for appeal. A decision overruling the written interpretation will be in writing and will be rendered by the Board within thirty (30) days after the date of the hearing. Alternatively, the Board may adopt the administrative interpretation being appealed.

(f) *Storage.* The equipment not being displayed for rent must be stored in an enclosed structure or removed from the property when not in use.

(g) *Signage.* Signage visible from any street right-of-way or street easement is prohibited. Only one on-site identification sign will be permitted. The sign must be located on the beach side of the building, facing the beach and may not exceed 25 square feet.

(h) *Parking.* A minimum of five parking spaces will be provided for the outdoor water-oriented rental establishments. Any other use of the property must comply with the off-street parking requirements set forth in article VII, division 26 of this chapter.

(Zoning Ord. 1993, § 202.20; Ord. No. 94-24, § 48, 8-31-94; Ord. No. 96-06, § 5, 3-20-96)

Secs. 34-3152—34-3170. Reserved.

DIVISION 42. "CLOTHING OPTIONAL" ESTABLISHMENTS FOR RESIDENTIAL DEVELOPMENTS

Sec. 34-3171. Applicability of division.

This division will apply to all businesses, clubs, recreational facilities, and residential developments wherein the wearing of clothes by members, visitors, residents, or guests is optional. (Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-3172. Definitions.

The following words, terms and phrases will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Clothing optional development means any business, club, residential development, or recreational facility, not otherwise defined as a sexually oriented business in accordance with Ordinance No. 95-18, wherein the wearing of clothes by members, visitors, residents, tenants, or guests is optional or prohibited as well as any residential development which permits members, visitors, tenants, guests, or residents to appear in a state of nudity in any common area.

Nudity means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state.

(Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-3173. Special exception required.

Any clothing optional development must obtain a special exception and is subject to the following minimum regulations:

- (1) Clothing optional developments which are not contained totally within an enclosed building, must be completely enclosed by a fence or wall not less than eight feet in height, which provides 100 percent opacity.
- (2) Clothing optional developments may not be located closer than 1,000 feet, measured on a straight line from property line to property line, from any school (noncommercial), day care center (child), park, playground, place of worship, religious facility, or public recreation facility.
- (3) Clothing optional developments may not be located closer than 500 feet, measured on a straight line from property line to property line, from any existing residence under separate ownership.

(Ord. No. 96-06, § 5, 3-20-96)

Secs. 34-3174—34-3200. Reserved.

ARTICLE VIII. NONCONFORMITIES*

DIVISION 1. GENERALLY

Sec. 34-3201. Purpose of article.

The regulations of this chapter have caused or will cause some lots, structures or buildings, or uses of lots, structures or buildings, to be nonconforming. It is the purpose of this article to set

*Cross references—Nonconforming signs generally, § 30-55; nonconforming signs on Captiva Island, § 30-251 et seq.

forth the rules and regulations regarding those nonconforming lots, structures or buildings and uses which were created by the adoption of this chapter. Nothing contained in this article is intended to preclude the enforcement of federal, state and other local regulations that may be applicable.
(Zoning Ord. 1993, § 600)

Sec. 34-3202. Nonconforming use defined.

For purposes of this article, the term "nonconforming use" means a use or activity which was lawful prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, but which fails, by reason of such adoption, revision or amendment, to conform to the use requirements of the zoning district in which located.
(Zoning Ord. 1993, § 601)

Sec. 34-3203. Enlargement or expansion of nonconforming structure.

(a) *Structures nonconforming due to setbacks.* A structure which is lawful in all respects with the exception of a setback requirement may be enlarged, provided that:

- (1) The enlargement is otherwise permitted; and
- (2) The enlargement itself, including any enlargement which increases the height or volume of the structure, complies with all the setback requirements.

(b) *Structures nonconforming due to area.* A structure which is lawful in all respects with the exception of lot area requirements may be enlarged, provided that:

- (1) The enlargement is otherwise permitted;
- (2) All other property development requirements such as setbacks, height, bulk, lot coverage, parking and open space are met; and
- (3) The enlargement does not increase the density or intensity of use.

(c) *Structures nonconforming due to height.* A structure which is lawful in all respects with the exception of height restrictions may be enlarged, provided that:

- (1) The enlargement is otherwise permitted; and
- (2) The enlargement complies with height and setback requirements.

(d) *Structures nonconforming due to bulk or lot coverage.* A structure which is lawful in all respects with the exception of bulk or lot coverage shall not be enlarged.

(Zoning Ord. 1993, § 604)

Sec. 34-3204. Mobile home and recreational vehicle unit replacements and roof repairs.

Any mobile home or recreational vehicle unit which has been lawfully placed on any rental lot within any rental park, regardless whether the park has been converted to either cooperative or condominium ownership prior to June 25, 1986, may be replaced by a unit of equal or smaller size upon proof that the placement of the unit was lawful. Such proof may consist of copies of official tax records, tag registrations or county permits, or may be by affidavit or any other competent evidence. Permits shall also be issued for reroofing and roof repairs for any existing mobile home or recreational vehicle located within a mobile home or recreational vehicle park, regardless of lot size.

(Zoning Ord. 1993, § 605)

Sec. 34-3205. Uses approved by special exception or permit.

Uses approved by special exception or other permits which were issued or granted by the Board of County Commissioners before the effective date of the ordinance from which this chapter is derived, and which are no longer permitted in the zoning district where located, shall be considered to be nonconforming uses and subject to the provisions of this article.

(Zoning Ord. 1993, § 606)

Sec. 34-3206. Nonconformities created by eminent domain proceedings.

A structure, lot, tract or parcel of land that has been or will be rendered nonconforming as to area, width, depth, setbacks, lot coverage or parking because of a taking through eminent domain proceedings or by the voluntary sale of a parcel of land under the threat of eminent domain proceedings by a governmental authority, after October 15, 1992, will be deemed conforming under the terms of this chapter.

(Zoning Ord. 1993, § 607; Ord. No. 95-07, § 33, 5-17-95)

Secs. 34-3207—34-3220. Reserved.

DIVISION 2. NONCONFORMING USE OF LAND

Sec. 34-3221. Generally.

A nonconforming use of land may be continued subject to the provisions of this division.
(Zoning Ord. 1993, § 601.01)

Sec. 34-3222. Enlargement or replacement.

No nonconforming use of land shall be extended or enlarged, or replaced by another use not specifically permitted in the zoning district concerned.

(Zoning Ord. 1993, § 601.01(A))

Sec. 34-3223. Discontinuance.

No land used in whole or in part for a nonconforming use, which use is subsequently discontinued for a continuous period of six calendar months, shall again be used except in conformity with the regulations then in effect. The intent of the owner, lessee or other user shall not be relevant in determining whether the use has been discontinued.

(Zoning Ord. 1993, § 601.01(B))

Sec. 34-3224. Erection of additional structures.

No additional structure which does not conform to the requirements of this chapter shall be erected in connection with a nonconforming use of land.

(Zoning Ord. 1993, § 601.01(C))

Secs. 34-3225—34-3240. Reserved.

DIVISION 3. NONCONFORMING BUILDINGS AND USE OF BUILDINGS

Sec. 34-3241. Nonconforming buildings and structures.

(a) For purposes of this division, the term "nonconforming building or structure" means a building or structure which was lawful prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, but which fails, by reason of such adoption, revision or amendment, to conform to the proper development requirements of the zoning district in which the building or structure is located due to its size, dimension or location on the lot.

(b) A nonconforming building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) Except as provided in section 34-3203, no such building or structure may be enlarged, altered or repaired in a way which, in the opinion of the department director or his designee, increases its nonconformity, but any structure or building or portion thereof may be altered to decrease its nonconformity. If there is more than one structure on a property with a legally nonconforming use, a limited expansion may be allowed subject to there being a determination that there will be an improvement to neighborhood compatibility. The limited expansion shall be to allow a structure or portion of a structure to be destroyed and the equivalent square footage replaced by expansion of another existing structure if the department director makes a determination that such



expansion would not be detrimental to the neighborhood and such expansion is less than 50 percent of the current assessed value of the structure which will be expanded. Any expansion must also conform to setback requirements and all other requirements for the zoning district in which the property is located.

(2) Except as provided in this section:

a. Any nonconforming structure or building, or portion thereof, that is substantially improved (reconstructed, rehabilitated, altered or demolished) to the extent that the cost of such improvement equals or exceeds a cumulative total of 50 percent of the current assessed value of the structure before the start of construction of the improvement may only be reconstructed at, but not to exceed, the lawful density or intensity existing at the time of destruction; provided, however, that the reconstruction of the structure is consistent with federal, state and local regulations and all the other provisions of this chapter. Any such alteration, demolition, reconstruction or rebuilding must be recorded with the division of development services for the purpose of establishing the value upon which subsequent alterations, demolition, reconstructions or rehabilitations will be based.

b. Structures which have been damaged by fire or other natural forces to the extent that the cost of their reconstruction or repair exceeds 50 percent of the replacement cost of the structure may be reconstructed at, but not to exceed, the legally documented actual use, density and intensity existing at the time of destruction, thereby allowing such structures to be rebuilt or replaced to the size, style and type of their original construction, including their original square footage; provided, however, that the affected structure,

as rebuilt or replaced, complies with all applicable federal and state regulations, local building and life safety regulations, and other local regulations which do not preclude reconstruction otherwise intended by the Lee Plan and Ordinance No. 90-61 of the county, as amended from time to time.

- (3) A lawfully existing single-family residence or mobile home damaged by fire or other natural forces may be repaired or replaced, provided the new unit is no larger in area, width and depth than the size of unit being replaced.
- (4) Repairs, reconstruction or renewal of an existing structure, building or portion thereof for the purpose of its maintenance may be permitted. However, repairs, reconstruction or renewal of structural elements will be reviewed by the director of the division of development services to determine applicability under this section, or whether such repairs will be considered under subsection (b)(2)a. of this section. For purposes of this section, a change in the roofline from a flat roof to a peaked roof constitutes an alteration as indicated in subsection (b)(2)a. of this section, provided that there is no increase in floor area.
- (5) Should a nonconforming structure be moved on-site for any reason, for any distance whatever, it may not be moved unless the relocation decreases the non-conformity.
- (6) Any portion of a nonconforming structure that becomes physically unsafe or unlawful due to lack of repairs and maintenance, and which is declared unsafe or unlawful by a duly authorized county official, but which the owner wishes to repair, restore or rebuild, must be repaired, restored or rebuilt in conformance with the provisions of this chapter. Excluded from this provision are buildings that have been designated as historic by chapter 22.

(Zoning Ord. 1993, § 603; Ord. No. 98-28, § 5, 12-8-98)

Sec. 34-3242. Nonconforming uses of buildings.

A nonconforming use of a building, or building and land in combination, may be continued subject to the following provisions:

- (1) *Enlargement or replacement.* No such nonconforming use of a building, or building and land in combination, shall be extended or enlarged, or replaced by another building or use not specifically permitted in the use regulations for the zoning district in which the building is located.
- (2) *Discontinuance.* When a nonconforming use of a building, land, or building and land in combination is discontinued or abandoned for six consecutive months (except when government action impedes access to the land), the building, or building and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. This subsection shall not apply to seasonal agricultural uses.
- (3) *Repair and maintenance.*
 - a. Only ordinary repairs and maintenance, including repair or replacement of roof covering, walls, fixtures, wiring or plumbing, shall be permitted on any building or structure devoted to a nonconforming use. In no case shall such repairs include structural alterations.
 - b. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations for the district in which located.

(Zoning Ord. 1993, § 601.02)

Secs. 34-3243—34-3270. Reserved.

DIVISION 4. NONCONFORMING LOTS

Sec. 34-3271. Nonconforming lot defined.

For purposes of this division, the term "nonconforming or substandard lot" means a lot of which the area, dimension or location was lawful prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, and which fails by reason of such adoption, revision or amendment to conform to the requirements for the zoning district in which the lot is located.

(Zoning Ord. 1993, § 602)

Sec. 34-3272. Lot of record defined; general development standards.

For the purposes of this division only, a lot of record is a lot which conformed to the minimum lot size for the use permitted for that lot in its zoning district at such time that the lot was created, but which lot fails to conform to the minimum lot size requirements which are established by this chapter.

- (1) For the purpose of this division, a lot is created on such date that one of the following conditions occur:
 - a. The date that a deed for the lot is lawfully recorded in the public records of the county;
 - b. The date that a subdivision plat has been lawfully recorded in the public records of the county, if the lot is a part of the subdivision;
 - c. The date that a site plan for a development was approved by the Board of County Commissioners pursuant to resolution, as long as the development subsequently recorded a subdivision plat that has been approved by the Board of County Commissioners in the public records of the county, if the lot is a part of the subdivision; or
 - d. In the case of mobile home or recreational vehicle parks, the date when the park was approved by resolution for rezoning or a special permit for

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such use; provided, however, that the park subsequently obtained, on or before June 3, 1987, approval by the Board of County Commissioners of a site plan which identifies individual sites within the park and the sites meet the minimum lot size and setbacks consistent with the zoning regulations as set forth in section 34-3274 and its applicable subsection based on the date of the resolution. Any park which was lawfully established prior to the effective date of the county's 1962 zoning regulations shall be governed by the requirements of section 34-3274(1) as long as the park satisfies the remaining minimum documentary requirements and Board of County Commissioners approval set forth in this provision. For purposes of this subsection, the term "site plan" means any one or more of the following, whichever is applicable:

1. A sealed and signed survey showing individual lots by both course and distance;
2. An unrecorded subdivision plat prepared and certified by a professional engineer or surveyor;
3. A condominium plot plan prepared and recorded pursuant to F.S. ch. 718;
4. A park plan prepared and submitted with a prospectus pursuant to F.S. ch. 723, provided that the prospectus has been approved by the state department of business regulation and is of sufficient accuracy, size and legibility to enable the director to administer this chapter;
5. A site plan approved in accordance with county administrative code policy F-0015;
6. A site plan approved pursuant to a preliminary or final development order;

7. A rectified aerial with a minimum scale of one inch equals 100 feet and which has each site delineated and identified by its number and shows individual lot measurements with a reasonable degree of accuracy; or
8. Any other document which shows lot lines with enough specificity to enable the director to apply the provisions of this chapter with respect to minimum lot size, lot widths and setback requirements. Any of such documents which has not been or is not formally approved by the Board of County Commissioners shall not be sufficient to satisfy the provisions of this subsection. The burden of proof that any of such documents have received Board of County Commissioners approval shall be that of the owner.

- (2) The remaining lot after condemnation shall be deemed a lot of record in accordance with section 34-3206.
- (3) Lots of record may be developed subject to the following provisions:
 - a. All other regulations of this chapter must be met.
 - b. No division of any parcel may be permitted which creates a lot with width, depth or area below the minimum requirements stated in this chapter, provided that abutting lots of record may be combined and redivided to create larger dimension lots as long as such recombination includes all parts of all lots, existing allowable density is not increased, and all setback requirements are met.
 - c. For mobile home or recreational vehicle lots of record, the following will also apply:
 1. All mobile homes or recreational vehicles, including any attach-

ments, must be placed at least five feet from any body of water or waterway.

2. All mobile homes or recreational vehicles must have a minimum separation of ten feet between units (body to body) and appurtenances thereto. Each unit will be permitted to have eaves which encroach not more than one foot into the ten-foot separation.
3. Sites or lots located within a park may not be reconfigured or reduced in dimension so as to increase the density for which the park was originally created.

(4) The burden of proof that the lot is legally nonconforming, and lawfully existed at the specified date, shall be with the owner. (Zoning Ord. 1993, § 602.01; Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-3273. Construction of single-family residence.

(a) A single-family residence may be constructed on a nonconforming lot of record that:

- (1) Does not comply with the density requirements of the Lee Plan, provided the owner receives a favorable single-family residence determination in accordance with the Lee Plan.

Such nonconforming lots are exempt from the minimum lot area and minimum lot dimension requirements of this chapter, and it will not be necessary to obtain a variance from those requirements.

- (2) Does comply with the density requirements of the Lee Plan, as long as the lot:

a. Was lawfully created prior to June 1962 and the following conditions are met:

- i. Lots existing in the AG-2 or AG-3 zoning district require a minimum width of 75 feet, a

minimum depth of 100 feet and a lot area not less than 7,500 square feet.

- ii. Lots existing in any other zoning district which permits the construction of a single-family residence require a minimum of 40 feet in width and 75 feet in depth, and a lot area not less than 4,000 square feet.

b. Is part of a plat approved by the Board of County Commissioners and lawfully recorded in the public records of the county after June 1962.

(b) The use of a nonconforming lot of record for a residential use other than a single-family dwelling unit is prohibited except in compliance with the lot width, lot depth, lot area, and density requirements for the zoning district.

(c) Neither a guest house nor servants' quarters is permitted on a single lot of record less than 7,500 square feet in area, or which is occupied by a dwelling unit or units other than one single-family residence.

(d) Minimum setbacks for structures permitted under subsections (1) or (2) above, are as follows:

- (1) Street setbacks must be in accordance with section 34-2192.
- (2) Side setbacks must be ten percent of lot width, or five feet, whichever is greater.
- (3) Rear setbacks must be one-fourth of the lot depth but do not need to be greater than 20 feet.

(Zoning Ord. 1993, § 602.02; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 00-14, § 5, 6-27-00)

Sec. 34-3274. Placement of mobile home or recreational vehicle on lot.

A single-family mobile home or a recreational vehicle may be placed on a lot of record, which lot is located within a mobile home or recreational vehicle park, as applicable, provided, however, that the park was properly zoned or approved by special permit for mobile home or recreational

vehicle use, and provided further that minimum requirements as set forth in this section were met at the time the lot was created. These requirements are as follows:

(1) For lots of record created prior to the effective date of the county's 1962 zoning regulations:

- a. The minimum lot area per unit shall be not less than 1,200 square feet; and
- b. There shall be a minimum of ten feet between units.

(2) For lots of record created after the effective date of the county's 1962 zoning regulations but prior to the effective date of the county's 1968 zoning regulations:

- a. The minimum lot area per unit shall be not less than 2,800 square feet;
- b. The minimum lot width shall be 40 feet; and
- c. The minimum setbacks from all lot lines shall be five feet, and between units or appurtenances thereto they shall be ten feet.

(3) For lots of records created after the effective date of the county's 1968 zoning regulations but prior to the effective date of the county's 1973 zoning regulations:

- a. Minimum lot areas shall be:
 - 1. For mobile homes on central sewer, 3,750 square feet;
 - 2. For mobile homes on individual septic systems, 7,500 square feet; and
 - 3. For recreational vehicles, 1,200 square feet.
- b. Minimum setbacks for both mobile homes and recreational vehicles shall be:
 - 1. From a street right-of-way, ten feet;
 - 2. From a rear lot line, ten feet;
 - 3. From side lot lines, five feet or a minimum of ten feet between units; and

4. From the park perimeter, 15 feet.

(4) For lots of record created after the effective date of the county's 1973 zoning regulations but prior to the effective date of the county's 1978 zoning regulations:

- a. Minimum lot areas shall be:
 - 1. For mobile homes on central sewer, 4,000 square feet; and
 - 2. For recreational vehicles on approved septic systems, 1,200 square feet.
- b. Minimum setbacks for both mobile homes and recreational vehicles shall be:
 - 1. From a street right-of-way, ten feet;
 - 2. From a rear lot line, ten feet;
 - 3. From side lot lines, five feet or a minimum of ten feet between units; and
 - 4. From the park perimeter, 15 feet.

(5) For lots of record created after the effective date of the county's 1978 zoning regulations but prior to the effective date of the ordinance from which this chapter is derived:

- a. Minimum lot areas shall be:
 - 1. In the MH-1 district, 7,500 square feet;
 - 2. In the MH-2 district, 5,000 square feet;
 - 3. In the MH-3 district, 21,000 square feet;
 - 4. In the MH-4 district, 40,000 square feet; and
 - 5. In the RV district, 2,000 square feet.
- b. Minimum setbacks shall be as set forth in the 1978 zoning regulations.

(Zoning Ord. 1993, § 602.03)

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Sec. 34-3275. Commercial or industrial use.

A commercial or industrial use of land may be commenced on a single nonconforming lot of record lawfully existing on the effective date of the ordinance from which this chapter is derived, subject to the specific limitations and regulations set forth in this section; provided, however, that the lot is zoned for such use. However, the lot must be appropriately located and adequate in size and dimension to accommodate the use contemplated and all spatial requirements, i.e., proposed structures, setbacks, parking, access, surface water management facilities and, where required, buffers.

- (1) If the lot was lawfully created prior to June 1962, it must be at least 4,000 square feet in area and have a minimum width of 40 feet and a minimum depth of 75 feet. Minimum setbacks for structures are as follows:
 - a. Street setbacks shall be as set forth in the regulations for the applicable zoning district.
 - b. Side setbacks shall be 20 percent of lot width, or 15 feet, whichever is less.
 - c. Rear setbacks shall be one-half of the lot depth less the street setback, or five feet, whichever is greater, but not more than 25 feet.
- (2) If the lot was created between June 1962 and January 5, 1978, and was lawfully existing on February 4, 1978, it must be at least 7,500 square feet in area and have a minimum width of 75 feet and a minimum depth of 100 feet. Minimum setbacks for structures are as follows:
 - a. Street setbacks shall be as set forth in the regulations for the applicable zoning district.
 - b. Side setbacks shall be 15 feet.
 - c. Rear setbacks shall be one-half the lot depth less the street setback, or five feet, whichever is greater, but not more than 25 feet.

- (3) Nothing in this section shall be construed to prohibit the rezoning of nonconforming lots of record into commercial or industrial districts where the public interest is served by such a rezoning.
(Zoning Ord. 1993, § 602.04)