

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

WHEREAS, an application was filed by the property owner, BJ Holdings of Fort Myers, LLC, to rezone a 115± acre parcel from Agricultural (AG-2) and Light Industrial (IL) to Mixed Use Planned Development (MPD), in reference to Treeline 115 MPD; and

WHEREAS, a public hearing before the Lee County Zoning Hearing Examiner, Donna Marie Collins, was advertised and held on February 14, 2019; and

WHEREAS, the Hearing Examiner gave full consideration to the evidence in the record for Case #DCI2018-00007 and recommended APPROVAL of the Request; and

WHEREAS, a second public hearing was advertised and held on June 19, 2019 before the Lee County Board of Commissioners; and,

WHEREAS, the Lee County Board of Commissioners gave full and complete consideration to the recommendations of the staff, the Hearing Examiner, the documents on record and the testimony of all interested persons.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS:

SECTION A. REQUEST

The applicant filed a request to rezone a 115± acre parcel from AG-2 and IL to MPD to allow a maximum of 487 dwelling units and 100,000 sq. ft. of commercial uses.

The property is located in the Urban Community and Wetlands Future Land Use Category and is legally described in attached Exhibit A. The request is APPROVED, SUBJECT TO the conditions and deviations specified in Sections B and C below.

SECTION B. CONDITIONS:

All references to uses are as defined or listed in the Lee County Land Development Code (LDC).

1. Development of this project must be consistent with the one-page Master Concept Plan (MCP) entitled "Master Concept Plan," prepared by Waldrop Engineering, date stamped received May 16, 2019, and attached hereto as Exhibit C, except as modified by the conditions below. Development must comply with all requirements of the LDC at time of local development order approval, except as may be granted by deviation as part of this planned development. If changes to the MCP are subsequently pursued, appropriate approvals will be necessary.

Approved development parameters are as follows:

Maximum of 487 dwelling units,

Maximum of 50,000 sq. feet total gross floor area of commercial non-office use,

25,000 sq. feet of medical office use, and
25,000 sq. feet of non-medical office use

2. Permitted Uses and Site Development Regulations

a. Schedule of Uses

Commercial Tract:

Accessory uses and structures
Accessory apartment
Administrative offices
Agricultural uses, as limited by conditions
Animal, clinic or kennel
ATM (automatic teller machine)
Auto parts store
Automobile repair and service
Automobile service station
Bar or cocktail lounge
Bed and breakfast
Business services, Group I
Car wash
Caretaker's residence
Cleaning and maintenance services
Clothing stores, general
Clubs:
 Fraternal, membership organizations
 Private
Community gardens
Consumption on premises, *subject to Condition 8*
Convenience food and beverage store
Cultural facilities
Day care center, child and adult
Drive-through facility for any permitted use
Drugstore, pharmacy
Dwelling units – maximum of 275 single-family or 487 multi-family units:
Live work
 Single-family
 Two-family attached
 Townhouse
 Multiple family building
 Zero lot line
Entrance gates and gatehouses
Essential services
Essential service facilities, Group I
Excavation, for water detention and retention
Fences, walls
Food and beverage service, Limited
Food stores, Group I
Gift and souvenir shop
Hardware store

Healthcare facilities, Groups I - III
Hobby, toy and game shop
Home occupation
Insurance company
Lawn and garden supply store
Manufacturing of food in kindred products, Group II (brewery)
Medical office, limited to a maximum of 25,000 sq. feet
Model homes, model display center
Non-store retailers, Group I
Paint, glass and wallpaper stores
Parts, Groups I, II
Parking lot, accessory
Personal services, Groups I, II (excluding massage parlors, steam or Turkish bath)
Pet services
Pet shops
Pharmacy
Post office
Real estate sales office
Recreational facilities, commercial
Recreational facilities, personal, private on-site, private offsite
Religious facilities
Rental or leasing establishments, Group I - III
Residential accessory uses
Restaurant, fast food
Restaurants, all groups
Schools, commercial and noncommercial
Self-service fuel pumps
Signs
Specialty retail shops, all groups
Storage, indoor and open
Studios
Supermarket
Temporary uses
Transportation services, Groups II, III
Used merchandise stores, Group I
Variety store
Vehicle and equipment dealers, Groups I - III

Residential Tract:

Accessory uses, as defined by the LDC
Administrative office
Community gardens
Consumption on premises in conjunction with recreational facilities, as limited by conditions
Clubs, private
Dwelling units – limited to 487 dwelling units in MPD
Live work
Single-family
Two-family attached
Townhouse
Multiple family building

Zero lot line
 Entrance gates and gatehouses
 Essential services
 Essential service facilities, Group I
 Excavation – water detention and retention
 Fences, walls
 Home occupation
 Models, model homes, display center, sales center
 Parking lot, Accessory, temporary
 Real estate sales office
 Residential accessory uses and structures
 Signs
 Temporary uses

b. Site Development Regulations

Minimum lot area and dimensions:

Single-Family Detached

Minimum lot size	4,500	square feet
Minimum lot width	40	feet
Minimum lot depth	100	feet
Minimum street setback	20	feet street setback for front-loaded garages
	15	feet street setback four side loaded garages
	10	feet street setback for rear loaded/alley lots
		and secondary street setback on corner lots
Side setback	5	feet
Rear setback	10	feet
Accessory structure setback	5	feet or 0 feet where the property line abuts a lake maintenance easement or landscape buffer easement
Maximum building height	35	feet
Minimum building separation	10	feet
Maximum lot coverage	55%	
Waterbody setback	20	feet, except for accessory structures

Zero lot line:

Minimum lot size	4,000	sq. feet
Minimum lot width	40	feet
Minimum lot depth	100	feet
Minimum street setback	20	feet street setback for front-loaded garages
	15	feet street setback four side loaded garages
	10	feet street setback for rear loaded/alley lots
		and secondary street setback on corner lots
Side setback	0	feet, unless a greater setback is provided then a minimum of 10 feet is required
Rear setback	10	feet
Accessory structure setback	5	feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements
Maximum building height	35	feet
Minimum building separation	10	feet

Maximum lot coverage	60%
Waterbody setback	20 feet, except for accessory structures

Two- Family Attached:

Minimum lot size	3,500 square feet
Minimum lot width	35 feet
Minimum lot depth	100 feet
Minimum street setback	20 feet street setback for front-loaded garages 10 feet street setback for rear loaded/alley lots and secondary street setback on corner lots
Side setback	5 feet
Rear setback	10 feet
Accessory structure setback	5 feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements
Maximum building height	35 feet
Minimum building separation	10 feet
Maximum lot coverage	60%
Waterbody setback	20 feet, except accessory structures

Townhouse:

Minimum lot size	1,800 square feet
Minimum lot with	18 feet
Minimum lot depth	100 feet
Minimum street setback	20 feet street setback for front loaded garages 10 feet street setback for rear loaded/alley lots and secondary street setback for corner lots
Side setback	0 feet, unless a greater setback is provided then a minimum of 10 feet is required
Rear setback	10 feet
Accessory structure setback	5 feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements
Maximum building height	45 feet
Minimum building separation	15 feet
Maximum lot coverage	65%
Waterbody setback	20 feet, except for accessory structures

Multiple-Family Building:

Minimum lot size	7,500 square feet
Minimum lot with	75 feet
Minimum lot depth	100 feet
Minimum street setback	20 feet street setback for front loaded garages
Rear setback	10 feet
Accessory structure setback	5 feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements
Maximum building height	65 feet
Minimum building separation	15 feet
Maximum lot coverage	50%
Waterbody setback	20 feet, except accessory structures

Retail/Office, and Mixed Use Buildings:

Minimum lot size	10,000	square feet
Minimum lot with	100	feet
Minimum lot depth	100	feet
Minimum street setback	25	feet
Side setback	0	feet, unless a greater setback is provided then a minimum of 10 feet is required
Rear setback	0	feet, unless a setback is provided greater than 0 feet then a minimum of 10 feet is required
Accessory structure setback	5	feet or 0 feet where the property line abuts lake maintenance or landscape buffer easements
Maximum building height	65	feet
Minimum building separation	15	feet
Maximum lot coverage	50%	
Waterbody setback	20	feet, except accessory structures

3. Vehicular/Pedestrian Impacts

Zoning approval does not address mitigation of vehicular or pedestrian traffic impacts. Additional conditions consistent with the LDC may be required to obtain a local development order.

4. Development Permits

County development permits do not establish a right to obtain permits from state or federal agencies. Further, those County permits do not establish liability on the County if the developer: (a) does not obtain requisite approvals or fulfill obligations imposed by state or federal agencies or (b) undertakes actions that result in a violation of state or federal law.

5. Open Space and Indigenous Management

The application for the first development order must include the following:

- a. Development order plans must depict 22.5 acres of indigenous open space;
- b. Indigenous management plan with five-year monitoring following the issuance of the first Certificate of Compliance;
- c. If the first development order includes the commercial component, plans must depict 30% open space based upon actual acreage of commercial development. Each commercial tract must provide a minimum of 10% of the required open space; and
- d. If the first development order includes the residential component, plans must depict 40% open space based upon actual acreage of residential development.

6. Development Phasing

The developer must submit a report/tabulation with each development order application itemizing the following:

- a. Intensity of non-residential (expressed in square footage), and number of dwelling units;
- b. Cumulative intensity and dwelling units permitted by previous development order approvals; and
- c. Remaining intensity and dwelling units available for future development.

7. Restaurant Area Calculation

Permitted gross floor area must include outdoor seating areas.

8. Consumption on Premises

Consumption on Premises or the sale of alcoholic beverages are prohibited within 500 feet of the Lee County School Board property.

9. Residential Density - Wetlands

If the Environmental Resource Permit (ERP) permits additional impacts to freshwater wetlands, the maximum number of permitted dwelling units must remain consistent with Lee Plan Wetlands density calculations.

SECTION C. DEVIATIONS:

1. Deviation (1), Landscape Buffer, seeks relief from the LDC §10-416(d)(1) requirement to provide a buffer along the entire perimeter whenever proposed development abuts a different use, to allow no perimeter buffers where on-site preserves abut the perimeter of the MPD. This deviation is APPROVED.
2. Deviation (2), Dead End Streets, seeks relief from the LDC §10-296(k)(1) requirement to provide the dead end streets be closed at one end by a circular-turnaround-vehicles, to allow for five dead end streets. This deviation is APPROVED SUBJECT TO the following conditions:
 - a. The developer must submit evidence of Fire District sign-off on the proposed design of the dead end road at the time of development order application.
 - b. The deviation is approved for the five locations referenced on the MCP. Additional locations must obtain additional zoning approval.

SECTION D. EXHIBITS:

The following exhibits are attached to this resolution and incorporated by reference:

- Exhibit A: Legal description of the property
- Exhibit B: Zoning Map (with the subject parcel indicated)
- Exhibit C: The Master Concept Plan

SECTION E. FINDINGS AND CONCLUSIONS:

1. The proposed Mixed Use Planned Development complies with the Lee Plan. See Lee Plan Vision Statement Paragraph 10 (Gateway/Airport), Lee Plan Goals 2, 5, 6, 60, 61, 77, 114, Objectives 1.5, 2.2, 114.1, and Policies 1.1.4, 1.5.1, 2.1.2;
2. As conditioned, the Mixed Use Planned Development zoning district:
 - a. Meets the LDC and other county regulations or qualifies for deviations. LDC §§ 10-321(b), 10-415, 34-341, 34-411, 34-413, 34-612(2), 34-931(h);
 - b. Is compatible with existing and planned uses in the area. See Lee Plan Policies 1.1.4, 2.2.1, 5.1.5, 5.1.7, 6.1.3, 6.1.4, 6.1.6;
 - c. Will provide access sufficient to support the proposed development intensity. Further, the expected impacts on transportation facilities will be addressed by existing County regulations and conditions of approval. See Lee Plan Policies 2.2.1, 5.1.3, 6.1.1, 6.1.3; See *also* Policy 39.1.1; LDC §§ 10-8, 34-411(d) and (e);
 - d. Will not adversely affect environmentally critical areas and natural resources. See Lee Plan Goals 60, 63, 77, 114, Objectives 60.4, 60.5, 61.2, 63.1, 77.1, 77.2, 77.3, 114.1; Policies 60.1.2, 60.5.1, 60.5.2, 60.5.3, 61.3.6, 61.3.11, 77.3.1, 77.3.4, 77.3.5, 114.1.2, 115.1.2; Standard 4.1.4; and
 - e. Will be served by urban services including paved roads, potable water, sanitary sewer, urban surface water management, fire protection, EMS and police. See Lee Plan Glossary, Lee Plan Goal 2, Objectives 2.1, 4.1, Policies 2.2.1, 5.1.7, 6.1.4, 6.1.5, and Standards 4.1.1, 4.1.2; LDC §34-411(d).
3. The proposed mix of uses is appropriate at the proposed location. See Lee Plan Objective 2.2, Policies 1.1.4, 5.1.2, 6.1.4.
4. The recommended conditions provide sufficient safeguards to the public interest and reasonably relate to the impacts expected from the proposed development. See Lee Plan Goal 114, Objectives 77.3, 114.1, Policies 6.1.1, 6.1.3, 6.1.6, 107.2.13, 135.9.6; See *also* LDC §§ 34- 83(a)(4)a.3, 34-377, 34-411, 34-932.
5. As conditioned, the deviations:
 - a. Enhance the planned development; and
 - b. Preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

SECTION F. SCRIVENER'S ERRORS

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

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

Adopted by unanimous consent.

John Manning	Aye
Cecil Pendergrass	Aye
Vacant	—
Brian Hamman	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 19th day of June, 2019.

ATTEST:
LINDA DOGGETT, CLERK

BY: Joyce Townsend
Deputy Clerk



BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Brian Hamman

Brian Hamman, Vice Chair
Commissioner Cecil L. Pendergrass
Lee County Board of County Commissioners
District 2

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

Michael D. Jacob
Deputy County Attorney
County Attorney's Office

RECEIVED
MINUTES OFFICE
2019 JUL -2 PM 2:41

DESCRIPTION
OF A PARCEL LYING IN
SECTION 14&15, TOWNSHIP 45 SOUTH, RANGE 25 EAST,
LEE COUNTY, FLORIDA

DESCRIPTION

A TRACT OR PARCEL OF LAND IN SECTIONS 14 & 15, TOWNSHIP 45 SOUTH, RANGE 25 EAST, LEE COUNTY, FLORIDA AND FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION 15, WHICH IS THE POINT OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED:

THENCE S 01°12'06" E A DISTANCE OF 661.75'

THENCE N 88°14'25" E A DISTANCE OF 679.02'

THENCE S 01°08'17" E A DISTANCE OF 661.48'

THENCE N 88°13'00" E A DISTANCE OF 618.28' TO THE WESTERLY RIGHT OF WAY LINE

OF TREELINE AVENUE,

THENCE S 01°04'28" E ALONG SAID LINE A DISTANCE OF 1322.47'

THENCE LEAVING SAID LINE S 88°10'10" W A DISTANCE OF 1293.64'

THENCE S 89°33'43" W A DISTANCE OF 1266.13' TO THE EASTERLY RIGHT OF WAY LINE OF INTERSTATE 75

THENCE ALONG SAID LINE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 856.47',

WITH A DELTA OF 04°20'37", WITH A RADIUS OF 11297.16', WITH A CHORD BEARING OF N 06°10'57" E, WITH A CHORD LENGTH OF 856.26';

THENCE N 08°21'16" E A DISTANCE OF 1817.95'

THENCE N 89°35'14" E A DISTANCE OF 854.24' TO THE POINT OF BEGINNING, HAVING AN AREA OF 114.8 ACRES+/-

Applicant's Legal Checked
by DM 10/18/18

RECEIVED
FEB 22 2018

COMMUNITY DEVELOPMENT

DCI 2018-00007

*** THIS IS NOT A SURVEY***

REVISIONS:

SHEET 2 OF 2

PROJECT NO. _____
SCALE: 1"=100'
DRAWN BY: GDD
CHECKED BY: ADM
DATE DRAWN: 02/02/14
FIELD SKETCH: _____



AE Site, LLC
EB-30108 LB-7995

13958 Palmetto Blvd., Fort Myers, Florida 33912
Telephone (239) 938-6777

THIS MAP IS NOT VALID WITHOUT THE APPROVAL, SIGNATURE AND PAPER SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER.
[Signature]
JAMES D. BUCKLEY, P.S.A.
FLORIDA REGISTRATION NO. 1582
FOR THE FIRM L.P. & S.
DATE SIGNED: 10/14/17

EXHIBIT A

PROJECT NO. TL 118
SCALE: 1"=150'
DRAWN BY: JLM
CHECKED BY: JLM
DATE DRAWN: 07/07/2017
FIELD BOOK/PAGE:

DCI2018-00007 Zoning

Legend

- Subject Parcel
- City Limits
- Parcel Boundary

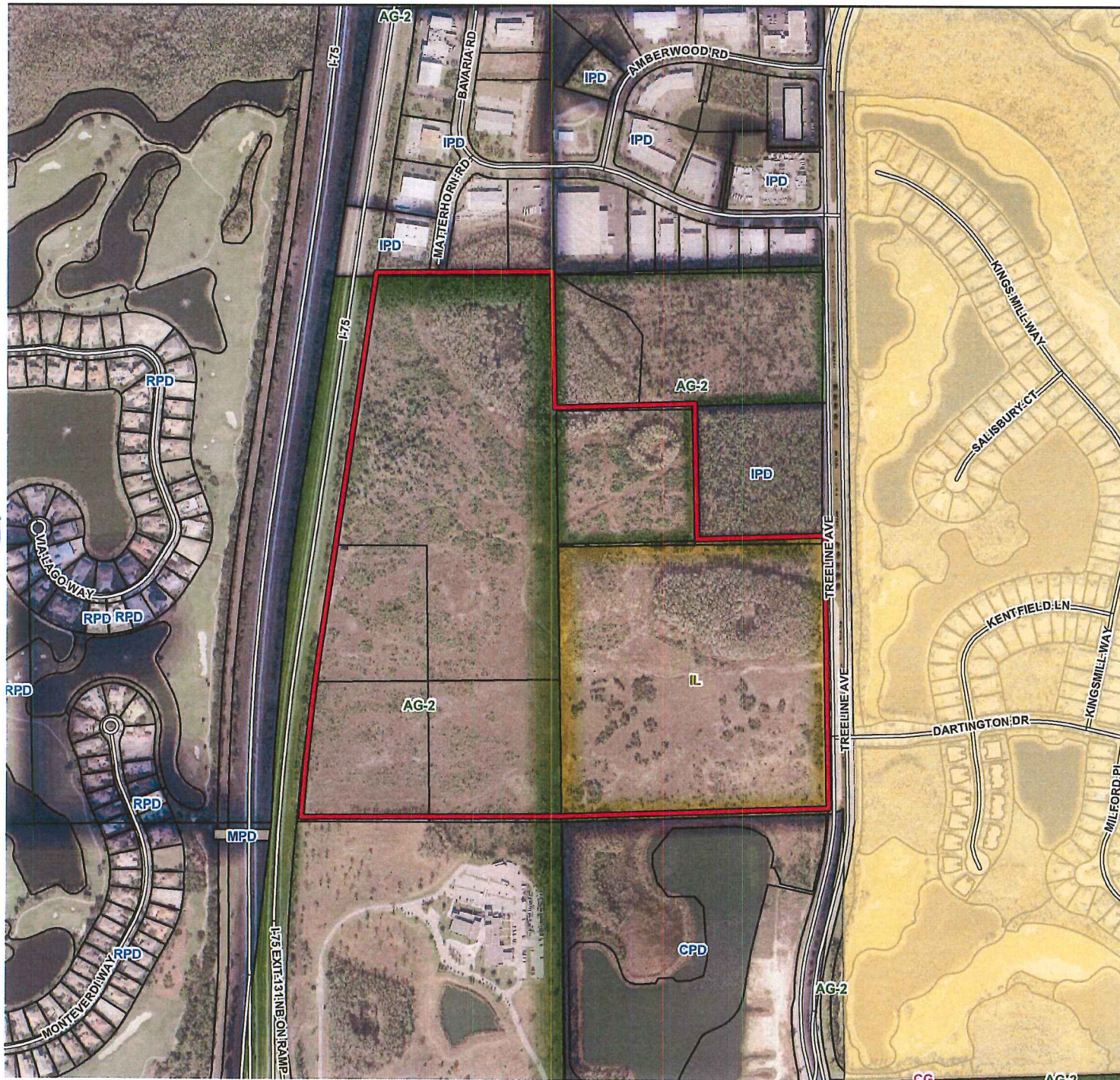
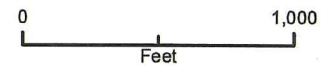


EXHIBIT B

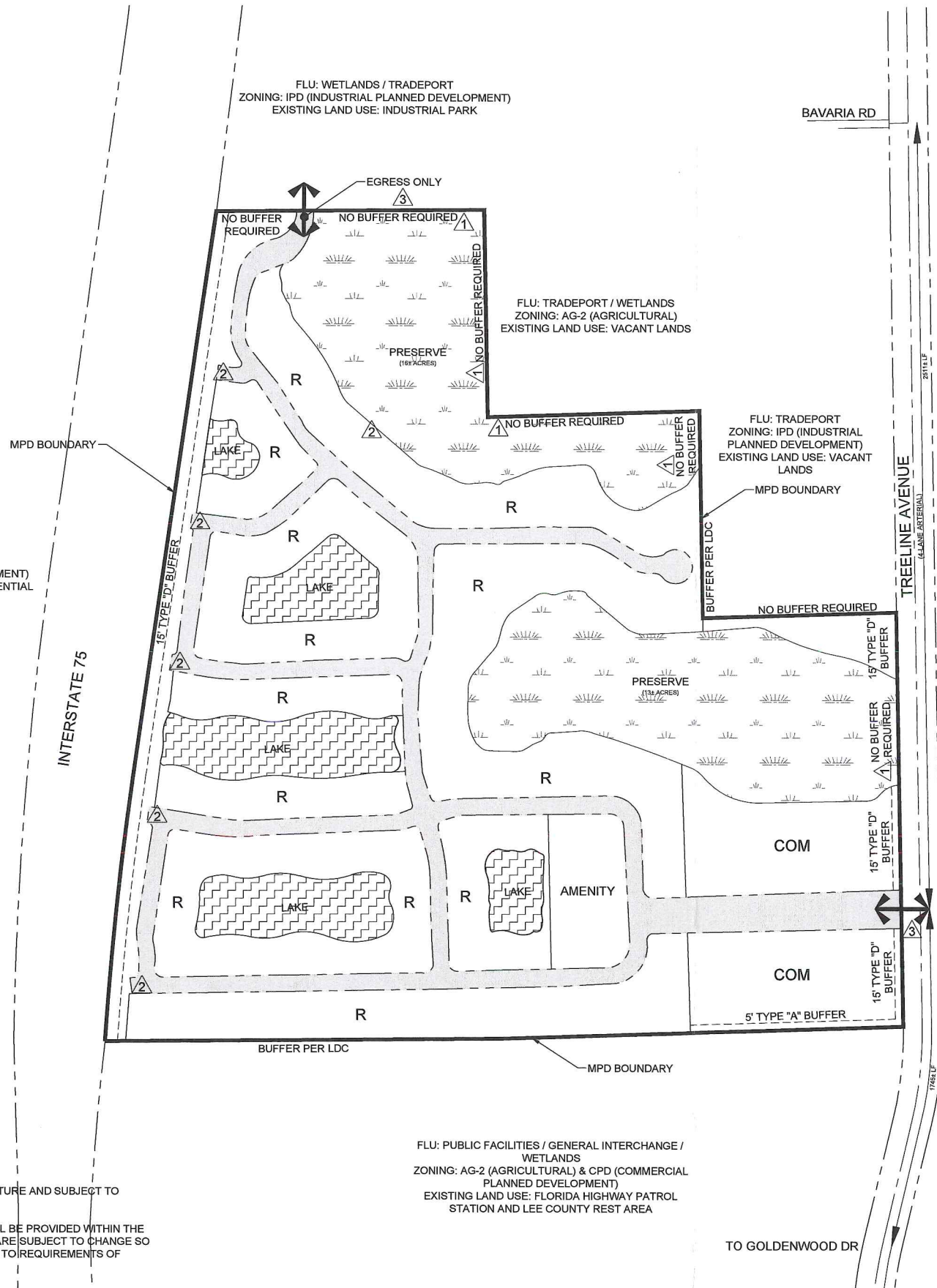
RECEIVED
MAY 16 2019

COMMUNITY DEVELOPMENT

DC 2018*00007

NOTES:

1. THE MASTER CONCEPT PLAN IS CONCEPTUAL IN NATURE AND SUBJECT TO MODIFICATIONS IN ACCORDANCE WITH THE LDC.
2. A MINIMUM OF 28 ACRES OF ON-SITE PRESERVE WILL BE PROVIDED WITHIN THE MPD. ACREAGES OF INDIVIDUAL PRESERVE AREAS ARE SUBJECT TO CHANGE SO LONG AS MINIMUM ACREAGE IS PROVIDED SUBJECT TO REQUIREMENTS OF CHAPTER 10.



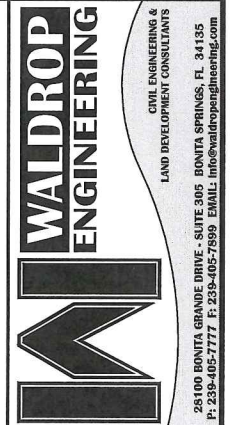
FLU: SPECIAL COMMUNITY (CITY OF FORT MYERS)
ZONING: MDP-3 (MASTER DEVELOPMENT PLAN-3, CITY OF FORT MYERS)
EXISTING LAND USE: RIGHT-OF-WAY (TREELINE AVENUE); ARBORWOOD DRI (THE PLANTATION, CITY OF FORT MYERS)

Approved as Exhibit C
MCP Page 1 of 1
Revision # Z-19-005

LAND USE SUMMARY	
	ACREAGE
RESIDENTIAL	48
RIGHT-OF-WAY	12
COMMERCIAL	10
LAKE	10
PRESERVE	28
BUFFERS	1
OTHER OPEN SPACE	6
TOTAL AREA	115

OPEN SPACE SUMMARY	
COMMERCIAL REQUIREMENT	32%
10 AC * 0.30 = 3 AC	
RESIDENTIAL REQUIREMENT	47%
125 AC * 0.40 = 42 AC	
TOTAL REQUIRED	45 AC
TOTAL PROVIDED	45 AC
PRESERVE	28 AC
LAKE	10 AC
BUFFERS	1 AC
OTHER OPEN SPACE	6 AC
INDIGENOUS PRESERVE CALCULATION	
INDIGENOUS REQUIREMENT	45 AC * 0.50
TOTAL REQUIRED	22.5 AC
TOTAL PROVIDED	22.5 AC

LEGEND	
	RIGHT-OF-WAY
	LAKE
	PRESERVE
	RESIDENTIAL
	COMMERCIAL
	DEVIATION
	INGRESS / EGRESS



115-ACRE TREELINE AVENUE

MASTER CONCEPT PLAN

PLAN REVISIONS	
7/19/18	REVISED PER COUNTY COMMENT
10/18/18	REVISED PER COUNTY COMMENT
11/17/18	REVISED PER COUNTY COMMENT
05/17/19	REVISED PER EXHIBIT RECOMMENDATION
0 100 200 400 SCALE IN FEET	
PREPARED FOR: BJ HOLDINGS OF FORT MYERS	
SET NUMBER:	715-01-E0901
SHEET:	1

EXHIBIT C