



VILLAGE OF ESTERO
Zoning
STAFF REPORT

PROJECT NAME: SHOPPES AT COCONUT TRACE CPD
CASE TYPE: PLANNED DEVELOPMENT AMENDMENT
CASE NUMBER: DCI2017-E006
PLANNING & ZONING BOARD DATE: JANUARY 16, 2018

REQUEST AND STAFF RECOMMENDATION

This is a request for an amendment to a Commercial Planned Development with a deviation for a 3.5-acre portion of a larger development site located on Lyden Drive, on the west side of US 41 across from the Coconut Point Shopping Center.

The property was rezoned by Lee County in 2003 as part of a larger 11.39 acre commercial subdivision (Estero Pointe CPD). The applicant requests an amendment to the zoning on two vacant lots in order to construct a freestanding emergency medical center for Naples Community Hospital.

Staff does not recommend approval of the request for the reasons outlined in the staff report.

APPLICATION SUMMARY

Applicant: Estero Parcel CD, LLC on behalf of Naples Community Hospital, Inc.

Request: Applicant's request is an amendment to the Commercial Planned Development to:

1. "Clarify" that a freestanding emergency department is an expressly permitted use;
2. Remove a restriction on the hours of operation for a freestanding emergency department;
3. Modify the CPD design standards as they relate to the placement of service facilities near US 41; and
4. Add a deviation for building height.

Location: The subject property is located at 22951 and 22961 Lyden Drive. The applicant indicates the STRAP numbers are: 09-47-25-E2-3500B.00C0 and 09-47-25-E2-3500B.00D0.

LAND USE CATEGORY

Suburban (proposed as Urban Commercial in pending Comprehensive Plan)

SURROUNDING ZONING

North – Commercial Planned Development (other parcels in Shoppes of Coconut Trace a/k/a Estero Pointe), partially developed with bank and restaurants (Suburban land use).

East – US 41, then Coconut Point Mixed Planned Development (Urban Community land use).

West – Residential Planned Development, Marsh Landing (Suburban land use).

South – Vacant property zoned Mixed Planned Development (Coconut Road MPD) approved for commercial and residential development by Lee County (Urban Community land use).

PROJECT HISTORY

The site is currently vacant and cleared. The property was rezoned by Lee County (Resolution Z-03-011) from Agricultural (AG-2) to Commercial Planned Development (CPD) in 2003 to permit development of various commercial uses up to 95,000 square feet on the larger 11.39 acre parcel. An administrative amendment was approved in 2005 by Lee County (ADD 2005-00034) to permit the reconfiguration of parcels and other minor changes. The larger site is partially developed with a bank and two restaurants.

A development order was issued by Lee County in 2004 to clear and fill the site and install buffers on US 41, Lyden Drive and Cerise Drive.

PUBLIC INFORMATION MEETINGS

A public information meeting for this amendment request was held at the Planning and Zoning Board on November 14, 2017.

Prior to that, the applicant presented the development order plans to the Design Review Board at an informational meeting on April 26, 2017. The application for the development order was submitted to the Village on April 8, 2017 (DOS2017-E004).

On July 26, 2017, the applicant presented revised plans for the development order at a public hearing at the Design Review Board. Staff review indicated that the application did not conform to the zoning resolution for the proposed use (hours of operation restriction). The plans were not approved for two reasons: the architectural plans needed additional revisions, and the application did not meet the zoning resolution restriction related to hours of operation.

On August 2, 2017, the applicant filed an appeal to the Village Council of the Design Review Board decision. In reviewing the documents related to the appeal, the Village land use counsel communicated to the applicant's attorney that the appropriate resolution was to either comply with the hours of operation restriction or file an application for amendment to the zoning. The applicant filed this application for amendment to the zoning and subsequently withdrew the appeal.

PROJECT DESCRIPTION AND MASTER CONCEPT PLAN

The applicant is requesting an amendment to the zoning resolution to construct a freestanding emergency medical center for Naples Community Hospital on the southernmost 3.54 acre tract (Tracts C and D) in the larger 11.39 acre Coconut Trace commercial subdivision. The two subject tracts are approved for a combination of 60,000 square feet of commercial uses under the zoning resolution approved by Lee County.

The applicant's Development Order application requests approval for an approximately 40,000 square foot two-story healthcare facility including an emergency department, medical offices, testing facility, and related uses. The emergency department comprises approximately 12,000 square feet of the total square footage.

The Master Concept Plan in the current zoning resolution shows development tracts with little detail. The staff requested the applicant prepare a Master Concept Plan showing the location of the proposed use on this tract, along with other general information relating to buffers, open space, parking and other details. The applicant submitted the Master Concept Plan for this site that shows the location of the building along US 41, with parking on the west, south and east. Buffers are already installed along the project perimeter. Access to the site would be from two access points off Lyden Drive, a reverse frontage road. No direct access is proposed to US 41.

STAFF ANALYSIS AND RECOMMENDATION

The application, according to the request statement submitted with the application for zoning amendment, applicant is seeking to "*clarify that a freestanding emergency department is an allowed use, remove a restriction on the hours of operation for said emergency department, and modify design standards as they relate to service facilities near US 41*". The applicant is also requesting a height deviation that was noted as needed by the Design Review Board in July when the development order site plan and architectural drawings were first presented.

When the applicant filed its application for a Development Order on the property, staff determined during its review that an amendment to the zoning resolution would be needed because there were restrictions on the hours of operation in the zoning resolution. The zoning resolution allows various commercial uses as well as "Health Care Facilities, Group III (only)". This is defined in the Land Development Code as:

GROUP III. Outpatient care facilities. Establishments primarily engaged in outpatient care with permanent facilities and with medical staff to provide diagnosis or treatment, or both, for patients who are ambulatory and do not require inpatient care.

The schedule of uses also allows "Emergency Medical Service (ambulance station)". This is not defined in the Land Development Code. A hospital is not allowed. A hospital is a Group IV health care facility which is defined as:

GROUP IV. Hospitals. Establishments primarily engaged in providing diagnostic services, extensive medical treatment, including surgical services, and other hospital services, as well as continuous nursing services. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care as an emergency department.

Staff disagrees with the applicant that the combination of Group III and EMS (ambulance station) would allow the proposed use as a 24 hour emergency department without an amendment to the zoning.

When the commercial rezoning was approved by Lee County, there was a condition offered by the applicant and accepted by the Lee County Hearing Examiner and Board of County Commissioners limiting the hours of operation for all uses on the site to “7 am to 11 pm, Monday through Sunday”. NCH now seeks to remove this restriction.

The Development Order application was reviewed by the Design Review Board but was not approved for two reasons: the architectural plan was inadequate, and an amendment to the zoning resolution to allow the 24-hour emergency department use (removing the restriction on hours) was needed prior to any action being taken on the development order. The applicant appealed the Design Review Board’s denial of the Development Order to the Village Council. Several meetings were held between the applicant, its legal representatives, Village staff and the Village’s land use counsel. Subsequently, the applicant decided to withdraw the appeal and file an application for amendment to the zoning resolution.

The applicant’s request to “clarify that a freestanding emergency department is an allowed use” is a misstatement of the nature of the application. The applicant’s original appeal to the Village Council was withdrawn, and this application must be reviewed as a request to change the use, not to “clarify” that the use is permitted.

Staff does not recommend the proposed change to the hours of operation restriction. This restriction was proposed by the applicant during the Lee County rezoning process, and accepted by the Lee County Hearing Examiner and Board of County Commissioners. The commercial uses allowed included a broad list of uses, and the condition was included because the limitation on hours of operation helps ensure compatibility with the adjacent Marsh Landing neighborhood and the planned 95,000 square feet of commercial use. The Hearing Examiner’s report contains a detailed summary on the discussion at the time Staff finds no changed circumstances to eliminate the hours of operation restriction.

PATTERN BOOK

The applicant has submitted a Supplemental Pattern Book as required by the Land Development Code. The Pattern Book is supplemental because there were certain design standards approved as part of the original rezoning (Coconut Trace Design Review Guidelines). These standards defined a neo-Mediterranean architectural style. The Supplemental Pattern Book shows the lot configuration, layout of the site for the proposed use, buffer areas, access points, and architectural building elements. The Development Order application contains more detail as well. The applicant has requested that, if the project is approved, the Pattern Book would only apply to the proposed use in this application. If another use is developed instead, then the Pattern Book would not apply.

ENVIRONMENTAL ISSUES

The site has been cleared and filled. Some landscape buffers were installed in conjunction with the 2004 Lee County development order. The buffers do not meet the current code and must now be installed to meet the current Estero standards. The buffers include a 25 foot enhanced type “D” on US 41—5 trees per 100 linear feet and 36 inches high (after one year) double staggered hedgerow; Type “A” on the north side of the property, 5 feet wide; and a Type “D” on the west side adjacent to the reverse frontage road (Lyden Drive) and on the south.

Open space on this tract is 10%, or .35 acres per the original zoning resolution. Native vegetation will be preserved on the area west of Lyden Drive. The Coconut Trace subdivision has designated 2.37 acres as native open space on a tract west of the subject site to comply with the required open space of 30% for the entire subdivision. This allows some parcels, including the parcel in this application, to provide less open space (10%) on the particular parcels.

WATER AND SEWER

Water and sewer will be provided by Bonita Springs Utilities and are being reviewed as part of the Development Order process.

TRANSPORTATION

The applicant submitted a traffic impact statement as part of the Development Order application. The statement asserts that the project would generate 1,489 two-way trips per day. The analysis shows 133 trips during the peak hour in the afternoon, and 100 trips in the a.m. peak hour for the 41,664 square foot medical office building. US 41 maintains a Level of Service C with the development, which is acceptable for concurrency purposes. The applicant was asked about ambulance trips. The applicant's response was that the number of ambulance trips was included in the traffic analysis. Staff notes that ambulances could arrive at any time, not just peak hours, if the proposal is approved. The approved zoning did not anticipate traffic impacts 24 hours a day. Ambulances can be noisy with loud sirens. The applicant stated at the Design Review Board that the ambulance siren could be turned off as the ambulance approaches the emergency room, but staff questions the ability to monitor and enforce this operation. Also, it does not resolve the noise that will be heard from ambulances on US 41 upon approach.

There are two access points proposed off Lyden Drive, the northern reverse frontage road, into the development. Lyden Drive connects to the north to Vandenberg Way, then US 41. The reverse frontage road also extends south to Coconut Road but the road has not received a certificate of completion and is not officially open to traffic. Cerise Drive is south of the subject parcel but it does not connect to US 41 and no access is proposed to Cerise Drive.

The zoning at the time of original approval was very thoroughly evaluated with appropriate conditions to ensure compatibility and protect the adjacent residential neighborhood from incompatible uses by restricting operating hours to mitigate traffic, lights, noise and other similar detrimental impacts. Nothing in regard to the adjacent residential neighborhood has changed since that time.

Staff has reviewed the documentation of the original proceeding, including the report from the office of the Lee County Hearing Examiner (April 29, 2003) and agrees with the Hearing Examiner's recommendation and decision to include mitigating conditions, including hours of operation, for all of the uses on the property.

STORMWATER AND FLOODING ISSUES

The applicant was requested to address stormwater issues as the result of two storm events in late August and mid-September, 2017. The applicant's engineer response states:

Coconut Trace was issued a South Florida Water Management District (SFWMD) Environmental Resource Permit in January of 2005. Since that time, several of the

out parcels have been developed into freestanding commercial and retail uses. To the best of our knowledge, the system has performed without any flooding or standing water issues until recently. The original design consisted of a dry detention basin that provided attenuation and water quality for the community. The flow from the dry detention area was conveyed to a concrete control structure located in the northeast corner of the site via a swale that ran along the north and west property lines.

In 2015, SFWMD and Lee County approved a modification to the Coconut Trace water management system to allow for the construction of the Autumn Leaves community. A review of the approved storm water management plans for Autumn Leaves reveals that there is no longer a swale along the north side of the property. The discharge for the entire 24.79 acre community now must flow through an 18 inch diameter pipe that connects to the swale on the west side of the site, through all the proposed drainage structures for Autumn Leaves, and then to a bubble up inlet located in front of the control structure. It is our professional opinion that this 18 inch diameter pipe is not adequate to convey the runoff from the entire 24.79 acre Coconut Trace community in the same timely manner as the swale that was removed.

If the swale can be restored, the standing water issues created by utilizing an 18" diameter pipe to convey the runoff from the 24.79 acre Coconut Trace community will be resolved.

In regards to concerns of flooding caused by Hurricane Irma and the nearly 18 inches of rainfall the Estero Community experienced two weeks prior, the water management system for Coconut Trace was designed based on the guidelines set forth by the SFWMD. Those design standards set the minimum road elevation at a 5 year, 24 hour storm event. In the case of Coconut Trace, the rainfall depth for the 5 year, 24 hour event is 5.50 inches. Based on these standards, when 5.50 inches or more of rain fall within a 24 hour period, the roads will have standing water. This is well below the rainfall from both events.

In contrast, the minimum berm elevation for any project is set at the 2 year, 3 day storm event. This is the elevation that SFWMD sets the limit on controlling the rate of discharge for a project. For Coconut Trace, this event has a rainfall depth of 10.55 inches, again well below the 18 inches of rain that fell on Estero from both events. When there is 10.55 inches of rainfall or more within a 72 hour period, the roads will be under water and there is the possibility of water flowing over the perimeter berms to the adjacent lands. We have not been informed that water was leaving the community by any other means than the existing concrete control structure.

Finally, the minimum floor elevation is set using the 100 year, 3 day storm event with zero discharge from the site. The rainfall depth for Coconut Trace for this event is 13.00 inches. A rainfall event of 13.00 inches or more within 72 hours is expected to generate severe flooding. Water will be up to or possibly into the first floor of buildings. There is assumed no discharge from a project since the receiving bodies will have no capacity to convey the runoff from the upland areas. To the best of my knowledge, there was no severe flooding of Coconut Trace. No buildings sustained any damage from rising waters.

Flooding is an issue that the Village is currently reviewing. A Stormwater Master Plan study is underway. Recommendations to address general issues will be proposed, but not necessarily site specific issues. Vandenberg Way has experienced some flooding in the past and the property owner's association is now correcting the swale issue. In addition, the lowest finished floor elevation of the building will be 19.35 feet, which complies with the SLOSH model (Sea, Lake and Overland Surges from Hurricanes).

COMPREHENSIVE PLAN CONSISTENCY

The subject property is located within the Suburban land use category further defined by the Village of Estero Transitional Comprehensive Plan as follows:

POLICY 1.1.5: *The Suburban areas are or will be predominantly residential areas that are either on the fringe of the Central Urban or Urban Community areas or in areas where it is appropriate to protect existing or emerging residential neighborhoods. These areas provide housing near the more urban areas but do not provide the full mix of land uses typical of urban areas. The standard residential densities are the same as the Urban Community category (1du/acre to 6 du/acre). Higher densities, commercial development greater than neighborhood centers, and industrial land uses are not permitted. Bonus densities are not allowed. (Amended by Ordinance No. 94-39)*

Additionally, the approval of the commercial uses in this land use category that is expected to be primarily residential included a limit on hours of operation to mitigate adverse impacts to Marsh Landing residents. This restriction should be retained.

POLICY 6.1.4: *Commercial development will be approved only when compatible with adjacent existing and proposed land uses and with existing and programmed public service facilities.*

The proposed change to the hours of operation would not be compatible with the adjacent Marsh Landing development.

An excerpt from the report from the Office of the Lee County Hearing Examiner (April 29, 2003), describing and supporting the Hearing Examiner's recommendation, states:

When this project was designed, it was done so with the residential community in mind. The Applicant has asked for a number of uses on the site¹, but it has confined the few less desirable uses (more on this below) to Parcel A. This is the portion of the project that is the farthest from the residential community. It is also the portion of the subject site that contains a wetland cypress preserve, native open space and buffer area. As such, the nearest "objectionable" use on the subject site will be no closer than 480 feet from any residential use in Marsh Landing (when the distances for setbacks on both properties are added to the preserve/open space/buffer area in the subject parcel).

As noted, the Staff has recommended approval of the request with a set of conditions that are designed to make the project compatible with the surrounding uses and consistent with the Lee Plan and the Land Development Code. The

¹ See Condition #2 for a full list of uses.

Schedule of Uses produced the most discussion among members of the public, and a discussion of their comments will shed the most light on the project's place in the Estero community.

For the most part, the Estero Community did not have major objections to the project. They noted that they have had discussions with the Applicant and its representatives, and that the discussions have led to changes to some of the uses proposed for the site. Specific objections that were made by the public came mostly from residents of Marsh Landing. Their objections revolved around the so called "dirty five" uses proposed for the project. These uses are fast-food, fuel stations, car washes convenience food and beverage stores, and package stores. It was noted by the Applicant that these uses, while objectionable to the Marsh Landing community, were not prohibited by any of the Estero planning community plans even though they could have been added to the list of objectionable uses by the drafters of those plans. As such, they should be addressed in the limited context of objections from Marsh Landing residents.

From the outset of the discussion on these uses, the Applicant pointed out that of the five uses only two were still on the table as standalone uses, and that those two were confined to Tract A of the project; the Tract farthest away from Marsh Landing and separated from that community by an access road, a preserve area, an enhanced vegetative buffer, and an eight-foot-tall wall....

The other Tracts on the site will be allowed to be used for general office, medical office, and for the sale of minor retail goods and service. There will be no highway commercial uses on Tracts B-D, and Tracts B and C are being designed as a commercial village rather than as a strip plaza.

. . . Finally, the Applicant has agreed to be bound by the Estero Point CPD Design Standards that are contained in Applicant's Exhibit 8 to this Recommendation. These Standards cover the: West Side Buffer; Automobile Service Station and Gas Convenience Design Standards; Street Lighting Standards; Service Area Design Standards; Architectural & Signage Design Standards, and Operating Hours (i.e., 7 a.m. to 11:00 p.m., Monday through Sunday).

DEVIATIONS

The request includes one deviation from the Land Development Code and a modification of the design standards for the placement of service facilities near US 41. Deviation 1 seeks relief from Section 33-229 which limits maximum height to 45 feet, to allow architectural elements to exceed the maximum building height of 45 feet. The deviation should be from the maximum 35 feet in the zoning resolution.

The deviation is needed for height to allow architectural elements to exceed the height stated in the zoning resolution and Land Development Code. The Land Development Code states:

Sec. 33-229. Maximum Height.

Buildings outside of the Interstate Highway Interchange Areas are limited to a maximum of three stories or 45 feet, whichever is less, in height. Elements that enhance visibility, create focal points or amenities, such as turrets, sculpture, clock

tower and corner accentuating rooflines, may exceed the maximum height limitations with an approved variance or deviation.

The code language indicates that the applicant needs this deviation for several architectural elements. The two highest appear to be 50 feet as shown in the Supplemental Pattern Book and 61 feet 7.5 inches for the tower, the tallest architectural element and primary building feature. The architectural features, in particular the 61 foot tall tower, are disproportionate to the size of the building. Staff does not recommend approval of the amendment, and therefore the height deviation should not be approved.

The modification to design standards was brought up at the Design Review Board meeting during review of the site plan. The design standards (Exhibit D to the approved zoning resolution) contain a statement that:

All service area functions are to be located away from US 41 and from the west property line/Marsh Landing RPD site area. All service function areas are to be fully serviced on three sides by a 6-ft. wall, fence or similar structure with a solid gate....

The applicant proposes to modify this language as it does not wish to locate the service area closer to the main entrance. The service area is proposed to be located closer to US 41 than the west property line. Because the staff is not recommending approval of the amendment to the hours of operation or the deviation, this modification should also be denied.

FINDINGS AND CONCLUSIONS

Staff reviewed the entirety of the application and is recommending the proposed amendment not be approved.

Based upon an analysis of the application and the standards for approval in the Land Development Code, staff provides the following Findings of Fact for review:

1. The applicant has not provided sufficient justification for the amendment by demonstrating compliance with the Land Development Code and Comprehensive Plan.
2. The proposed change to allow a 24-hour operation, 7 days a week use as an emergency department is not compatible with the surrounding properties.
3. Urban services will be generally available and adequate to serve the proposed use.
4. The proposed use as a 24-hour, 7 day a week operation is not appropriate at the subject location.
5. The applicant's proposed conditions do not provide sufficient safeguards to the public interest from the proposed development.
6. The deviation and modification:
 - a. Do not enhance the planned development; and
 - b. Do not preserve and promote the general intent of the LDC to protect the public health, safety and welfare.

ATTACHMENTS:

- A. Zoning Map
- B. Master Concept Plan
- C. Supplemental Pattern Book
- D. Resolution Z-03-011 and Exhibits
- E. ADD 2005-00034
- F. Applicant's Summary of 11-14-17 Public Information Meeting
- G. Applicant's Information including Proposed Conditions