



BURGER KING ESTERO TOWN CENTER CPD
Amendment to Commercial Planned Development
Zoning Staff Report
For Village Council 1st and 2nd Reading

PROJECT NAME:	BURGER KING ESTERO TOWN CENTER CPD TRACT B, PHASE 2
CASE TYPE:	PLANNED DEVELOPMENT AMENDMENT
CASE NUMBER:	DCI2018-E003
PLANNING & ZONING BOARD DATE:	July 16, 2019
COUNCIL 1ST READING	September 4, 2019
COUNCIL 2ND READING	TBD

REQUEST

The applicant is requesting amendments to the Estero Town Center Commercial Planned Development to construct a Burger King fast food restaurant on 1.435 acres in the 32.96-acre commercial project located in the southeast quadrant of the intersection of Corkscrew Road and Three Oaks Parkway. A fast food restaurant is allowed in the current zoning on this lot but the amendment is needed for deviations and the location of the drive-thru. The request is summarized below:

1. Add a new cross-section to the design guidelines and standards approved as part of Zoning Resolution Z-03-032:

The applicant is requesting to amend the Planned Development to add a new cross-section under the section of the standards that addresses a drive-thru that is proposed along Corkscrew Road (Landscaping, B. Perimeter, #3.).

2. New Deviations:

The applicant is requesting three new deviations including a reduction in the amount of parking, stacking requirements, and the elimination of the sidewalk requirement along Estero Town Commons Place (on the south side of the proposed fast food restaurant). **The applicant withdrew Deviation #3 on August 12th, 2019.**

STAFF AND PLANNING AND ZONING BOARD RECOMMENDATION

Staff recommends approval with conditions (See Attachment C) of the request to add a new cross-section to the design guidelines and approval of Deviations #1 and #2, but denial of Deviation #3. The Planning and Zoning Board reviewed the request on July 16, 2019 and recommended approval of the amendment to the Planned Development as conditioned by staff. Since the applicant has withdrawn Deviation #3, no action is necessary for this Deviation.

Staff has identified several necessary modifications to the proposed Site Plan and Pattern Book that must be addressed prior to scheduling the Council's second reading. Modifications include providing information concerning the outdoor seating area, site landscaping, and site lighting.

APPLICATION SUMMARY

Applicant

John C. Firth, President, Bravoflorida, LLC

Authorized Agent

D. Wayne Arnold, AICP, Q. Grady Minor & Associates, P.A.

Additional Agent

Neale Montgomery, Pavese Law Firm

Location

The subject property is located in the southeast quadrant of the intersection of Corkscrew Road and Town Commons Drive within the Estero Town Center shopping center. The subject site is bounded by Corkscrew Road on the north, Town Commons Drive on the west and Estero Town Commons Place on the south. The subject site is a part of the Estero Town Center CPD (See Attachment A) shopping center located in the southeast quadrant of the intersection of Corkscrew Road and Three Oaks Parkway. The STRAP number is 35-46-25-E1-3300B.0000.

REQUEST

Amendment to Commercial Planned Development Zoning:

1. Add a new cross-section, Proposed Typical Section C-1, under the design guidelines and standards section that addresses a drive-thru that is proposed along Corkscrew Road (Landscaping, B. Perimeter, #3.).
2. Add three new deviations.
 - (1) A Deviation from LDC Section 34-2020, parking spaces, that requires fast food restaurants to provide 13 spaces per 1000 square feet of total floor area to permit 10 spaces per 1000 square feet of total floor area for the proposed fast food restaurant.
 - (2) A Deviation from LDC Section 34-2021, drive-thru stacking requirements, that requires restaurants to provide stacking to accommodate 10 cars per service lane with a minimum of 5 spaces preceding the menu board, to permit the drive-thru restaurant to provide a total of 7 spaces preceding the menu board for the double – drive-thru and a total of 15 spaces in the two service lanes.

- (3) A Deviation from LDC Section 10-256(c)(2)e, bikeways and pedestrian ways, that requires a sidewalk to be constructed when a property abuts a local street, to permit no sidewalk to be installed adjacent to a portion of Tract B. **The applicant withdrew this Deviation on August 12th, 2019.**

LAND USE CATEGORY

Urban Community (See Attachment B)
Proposed Transitional Mixed Use

PUBLIC INFORMATION MEETING – FEBRUARY 19, 2019

A Public Information Meeting for this application was held at the February 19, 2019 Planning and Zoning Board. The applicant's representative provided an overview of the proposed project including the conceptual site plan for the proposed Burger King restaurant. The applicant's representative stated that the planned development (PD) currently permits the proposed fast food use; however, the PD amendment seeks to adopt a revised cross-section in the design standards document of the PD to reflect accurate roadway and utility locations. The representative provided that the PD predated widening improvements to Corkscrew Road. Planning Board members asked several questions including whether direct access to Corkscrew Road was proposed, setbacks to Corkscrew Road, and whether the proposed building elevations were corporate or unique to Estero. The representative responded that no direct access to Corkscrew Road will be provided and that access will be via the existing access drives serving the shopping center. The representative confirmed that the proposed building will be setback a greater distance from the Corkscrew ROW compared to the previously approved cross-section. The representative indicated that the applicant has several architectural concepts, and the elevation presented to the Village is the most compatible with existing uses in the area. No members of the public were present.

PROJECT HISTORY

The subject property is part of the Estero Town Center Commercial Planned Development (CPD), which was originally approved by Lee County on October 20th, 2003 (Z-03-032). The subject property was rezoned to the Commercial Planned Development zoning district from AG-2. Zoning Resolution Z-03-032 limited the project to a maximum of 265,000 square feet of gross floor area, of which up to 50,000 square feet can consist of office space. This Resolution also provided that a portion of this approved floor area may be replaced with up to 175 hotel/motel units through an administrative amendment of this planned development. (See Attachment E.)

Subsequent to the approval of Resolution Z-03-032, four (4) Administrative Amendments have been approved for the project. The first, ADD2005-00156, was submitted to complete the requirements of Condition 8 of Resolution Z-03-032 by providing the location and amounts of open space, and the location of excavation. Indigenous open space (4.96 acres) is provided in the southern portion of the project as is the location of excavation for water retention purposes. The second, ADD2005-00235, added 32,000 square feet of outdoor storage/display area for the garden center at Lowe's. The third, ADD2006-00163, added deviations from LDC Chapter 30 to accommodate two (2) 200-square foot monument signs, one at the Corkscrew Road entrance and one at the Three Oaks Parkway entrance. The fourth, ADD2007-00017, added the commercial schools use to the Schedule of Uses for the project to accommodate a proposed Oriental Marshal Arts Commercial School.

PROJECT DESCRIPTION

The applicant is requesting an amendment to the Commercial Planned Development. The property was rezoned by Lee County in 2003 and developed with Lowe's and other retail uses. The subject site of this request is an out parcel located in the northern portion of the center, north of the Lowe's parking lot and adjacent to Ruby Tuesday's. The applicant is proposing to develop on the site a Burger King restaurant with a drive-thru. The applicant is also proposing a joint use agreement with Estero Town Center to use parking spaces within the Lowe's parking lot.

SITE PLAN

The applicant has provided a site plan for the 1.435-acre site. The plan depicts a 3,349 square foot restaurant with a double stacking drive-thru and onsite parking lot. The site plan depicts two vehicular access points, one from Town Commons Drive and one from Estero Town Commons Place. The restaurant is proposed in the northern portion of the site with parking in the southern portion of the site. The applicant has also stated that there is the possibility of utilizing the Lowe's parking lot through a joint-use agreement. The site plan proposes 35 parking spaces while the Land Development Code requires 44 parking spaces (13 spaces per 1,000 sq. ft. for fast food restaurant). Additionally, the applicant has submitted a deviation request which is discussed in greater detail in the Deviations section of this report.

SURROUNDING ZONING

North – Corkscrew Road and then a proposed Auto Zone in the Plaza Del Sol subdivision zoned Commercial Planned Development.

East – a Ruby Tuesday's restaurant on an outparcel in the Estero Town Center which is zoned Commercial Planned Development and then Estero Town Commons Place which aligns with Puente Lane.

South – Estero Town Commons Place then the Lowe's Parking lot and then Lowe's which is zoned Commercial Planned Development.

West – Town Commons Drive, then Complete Dentistry of Estero zoned Commercial Planned Development.

STAFF ANALYSIS

The staff analysis section of this report includes information on various issues, such as environmental issues, transportation impacts, stormwater management, pattern book, height, compatibility, and Comprehensive Plan considerations (including Estero-specific goals and policies).

Staff has provided a summary of the project's advantages and disadvantages below. Following this section is more information on each of the issues.

Summary of Advantages and Disadvantages

Advantages:

- A single freestanding fast food restaurant is permitted within the Estero Town Center CPD (per condition 14 of Resolution Z-03-032).

- The site is currently vacant, cleared and filled.
- The site has no environmental issues.
- The site is located considerable distances from the nearest residential uses (approximately 756 feet from the Estero Place subdivision and 1600 feet from the Island Club at Corkscrew Woodlands).

Disadvantages:

- The project will add over 1,575 vehicle trips per day to area roads including Corkscrew Road and Three Oaks Parkway (805 new daily trips).
- Level of service issues have been identified for Corkscrew Road. Corkscrew Road is currently not funded for 6-laning between Three Oaks Parkway and I-75, however interim improvements including a ramp project at the I-75 and Corkscrew Road intersection have been funded.
- The Supplemental Pattern Book does not provide all of the required detail.

Pattern Book

The applicant submitted a Supplemental Pattern Book dated August 16, 2019 and stamped received August 16, 2019 as required pursuant to the Land Development Code, Chapter 33. The Pattern Book includes a Site Plan, requests new Deviations, depicts existing pedestrian pathways, proposed typical Section C-1 and proposed building elevations of all four façades, and the height of the proposed building.

Staff review indicates that the Pattern Book is missing information such as:

- The Pattern Book provides limited details concerning the proposed “Public Outdoor Seating Space”.
- The Pattern Book does not include any information concerning the proposed lighting standards.
- A Pattern Book should depict the buffers and landscaping plan. The landscaping plan should be modified to provide more landscaping such as trees within the “pond” area along Estero Town Commons Place in the southern portion of the project.

Environmental Issues

Staff has performed an inspection of the property. The following are the findings:

- The property has been cleared, filled, and is vacant.
- There are no wetlands on the site.
- There are no heritage trees on the site.
- There are no native vegetative communities or critical habitat that could support listed species. There are a few native trees on the site.
- There are no imperiled (listed) species on the site and no potential since there is no critical habitat.
- There are no floodways designated on the site.
- The site falls within the Special Flood Hazard Area (AH) and therefore will need to adhere to the criteria in LDC Sections 6-401 which applies to development in a flood hazard area, and Section 10-253 regarding soil conditions in a flood hazard area.

Most of the site is maintained as a mowed grassed lot with a group of native trees in the center of the lot as well as existing trees along Corkscrew Road.

Flood Issues

As mentioned above, the site falls within the Special Flood Hazard Area (zone AH). Zone AH is the flood insurance rate zone that corresponds to the areas of 1 percent annual chance of shallow flooding with a constant water-surface elevation (usually areas of ponding) where average depths are between 1 and 3 feet. Staff recommends that a condition be included in any zoning amendment approval confirming that the finished first floor must meet base flood elevation (zone AH) plus one foot of free board as required by the Florida Building Code (or 16.2 feet NGVD).

Stormwater Management

The applicant has provided a Stormwater Management Narrative concerning the proposed restaurant. This narrative provides the following:

On January 26, 2006, the South Florida Water Management District (SFWMD) issued permit no.36-04799-P (Appl. No. 050401-19) for a 32.96-acre commercial shopping center. The permit allowed for future outparcel development provided that those outparcels provide a minimum dry-pretreatment volume of 1-inch of runoff. The master drainage system was constructed in 2006 under the above-mentioned permit, and the outparcel areas were mass graded.

On June 29, 2007, SFWMD issued permit no. 36-04799-P-02 (Appl. No. 070402-8) for 'Lots 1 and 2 at Estero Town Commons'. Lot 1 was subsequently developed with a Ruby Tuesday's restaurant. Quality Dining, Inc., dba Bravoflorida, LLC proposes to construct a Burger King restaurant on Lot 2.

Relevant development criteria are:

	<i>Per SFWMD Permit</i>	<i>Proposed for Burger King</i>
<i>Total Site Area</i>	<i>1.43 acres or 62, 517 SF</i>	<i>1.43 acres or 62,508 SF</i>
<i>Total Impervious Area</i>	<i>0.91 acres (64% impervious)</i>	<i>0.89 acres (62% impervious)</i>
<i>On-site Dry Treatment Vol.</i>	<i>5,210 CF</i>	<i>5,210 CF (min.)</i>
<i>Outfall</i>	<i>Curb inlet at SW Corner of Lot</i>	<i>Curb inlet at SW Corner of Lot</i>

With the master drainage system in place as described above, Quality Dining will develop Lot 2 with the appropriate dry-pretreatment areas. Runoff from the proposed impervious areas will drain to the dry-treatment areas, and then discharge to the aforementioned master drainage system.

The Burger King Stormwater Management system will meet the previously permitted criteria.

The Village engineer has reviewed the applicant's stormwater analysis and does not have additional comments or concerns.

Transportation

The applicant has provided a Traffic Impact Statement dated March 28, 2019. The proposed Fast Food Restaurant with double drive-thru development will generate approximately 1,578 vehicle trips per day or 805 new daily trips according to the applicant's traffic analysis when a 49% pass by rate is applied. The project has access to both Three Oaks Parkway and Corkscrew Road. Peak hour trips would be 69 in the morning and 56 in the evening peak hour according to the applicant's analysis.

The applicant's Traffic Study provides the following conclusions:

...it was determined that the proposed Burger King at Estero Town Commons will not have a significant or negative impact upon the surrounding road network. It was verified that all roadways, within the project's area of impact, currently have a surplus of capacity and can accommodate the traffic associated with the development of the fast food w/drive thru land use and the network will continue to operate at acceptable levels of service for project build-out traffic conditions...the report concludes that the project will not create any transportation deficiencies that need to be mitigated.

Concerning the segment of Corkscrew Road between Three Oaks Parkway and I-75, the study provides the following:

The Village of Estero requested that the project's impacts be based upon the traffic forecasts provided by the Area Wide Traffic Study. That study identifies that the segment of Corkscrew Road between Three Oaks Parkway and I-75, which is not significantly impacted by the project, is expected to operate at LOS F during PM peak hour peak season conditions by 2022. More specifically, that segment of Corkscrew Road is a four-lane road having an adopted maximum peak direction service volume capacity of 1,900 vphpd, and it is expected that by the year 2022 the traffic demand will exceed the road's adopted service capacity, during PM peak hour peak season conditions. There is adequate right-of-way to widen Corkscrew Road to six-lanes, but Lee County Government has not yet funded the improvements. Currently, the six-laning of Corkscrew Road is ranked 16 on their non-funded CIP schedule. Burger King will pay its fair share of roadway improvements via payment of road impact fees.

Corkscrew Road is a two-lane arterial road, currently shown in Lee County's 2017 Concurrency Report operating at an acceptable level of service east of Ben Hill Griffin Parkway. This segment of the road is expected to fail (Level of Service F) by 2021. Lee County has conducted a study to evaluate the 4-laning of Corkscrew Road and to identify the cost and funding methods, including proportionate shares from several County-approved projects located further east on Corkscrew Road. The study is not complete, but has recognized that 4-laning is needed east of Ben Hill Griffin. The 4 laning has been included in the Lee County 5-year Capital Improvements Plan. The proposed restaurant does not significantly impact this segment of Corkscrew Road.

There is another Level of Service issue at Corkscrew Road and the Interstate-75 interchange. Interim improvements have been funded by the Florida Department of Transportation (FDOT) that should be completed by late 2020 to improve the level of service to acceptable levels.

There is Lee Tran bus service available in the area, specifically along Three Oaks Parkway and Corkscrew Road.

Estero Town Center must provide a proportionate share of the cost of the signalization of the intersection of Puente Lane and Corkscrew Road at such time as the required warrants for signalization are met (warrants have been met). Staff recommends that a condition be included in any zoning amendment approval confirming this property's (Estero Town Center) obligation to participate in the funding of the signal, since the Village has already paid part of the cost.

Utilities

The property is located in the Lee County Utilities franchise service areas for both potable water and wastewater services. Potable water and sanitary sewer lines are in operation adjacent to the property. The applicant obtained a Potable Water and Wastewater Service Availability letter from Lee County Utilities dated November 2, 2018. This letter provides that Lee County Utilities presently has sufficient capacity to provide potable water and sanitary sewer service. The applicant will need an updated service availability letter from Lee County Utilities in conjunction with any development order site plan approval, indicating sufficient capacity for the project.

Fire

Estero Fire Rescue has reviewed the request and provided that an Auto Turn Study will be required to ensure adequate access for fire apparatus. The applicant must contact the fire district for truck dimensions and complete the study prior to the issuance of a development order. Staff recommends that a condition be included with any approval of the zoning amendment that requires the Study be provided as part of the Development Order.

Height

Section 33-229 of the Land Development Code limits height of buildings outside of the Highway Interchange Areas to a maximum of three stories or 45 feet, whichever is less. This section of the code also provides that "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 Estero Town Center project was previously approved by Lee County in Resolution Z-03-032 with buildings not exceeding 45 feet in height (4-stories). The submitted Pattern Book demonstrates that the building is 18 feet high with architectural features that rise to just below 31 feet. The proposed height is thus consistent with the approved height for the property.

Comprehensive Plan Considerations

The subject site is designated Transitional Mixed Use in the Village's new comprehensive plan. The plan is not currently in effect and the proposal is proceeding under the Transitional Comprehensive Plan.

The project is located in the Urban Community Future Land Use Category of the Comprehensive Plan. A description of this category is below:

Urban Community

Policy 1.1.4: *The Urban Community areas are areas outside of Fort Myers and Cape Coral that are characterized by a mixture of relatively intense commercial and residential uses. Included among them, for example, are parts of Lehigh Acres, San Carlos Park, South Fort Myers, Iona/McGregor, Pine Island, and Gasparilla Island. Although the Urban Communities have a*

distinctly urban character, they should be developed at slightly lower densities. As the vacant portions of these communities are urbanized, they will need to maintain their existing bases of urban services and expand and strengthen them accordingly. As in the Central Urban area, predominant land uses in the Urban Communities will be residential, commercial, public and quasi-public, and limited light industry (see Policy 7.1.6) with future development in this category encouraged to be developed as a mixed-use, as described in Policy 2.12.3., where appropriate. Standard density ranges from one dwelling unit per acre (1 du/acre) to six dwelling units per acre (6 du/acre), with a maximum of ten dwelling units per acre (10 du/acre). Any bonus densities approved on the properties added to the Urban Community future land use category in conjunction with CPA2010-00002 must be achieved through use of the transfer of development rights program.

The proposed fast food restaurant is allowable in the Urban Community land use category. The proposal's compatibility with adjacent uses is discussed below.

Compatibility

The proposed fast food restaurant is compatible with the other commercial uses in the Estero Town Center. Immediately east is a Ruby Tuesday restaurant and west beyond Town Commons Drive is Complete Dentistry. On the north side of Corkscrew Road is the Plaza Del Sol commercial subdivision. An Auto Zone retail store is proposed on the vacant lot directly north of the subject site. The proposed restaurant is located substantial distances from the nearest residential uses as previously discussed.

Comprehensive Plan Policies

Policies from the Comprehensive Plan that are relevant to this project are cited below.

OBJECTIVE 19.1: CHARACTER & LAND USE. *Promote community character through the implementation of planning and development practices that create a visually attractive community, an enhanced quality of life, and foster a unique sense of place. (Added by Ordinance No. 14-16)*

POLICY 19.1.1: *Support the unique character and quality of life within the Estero community by managing growth and development and by maintaining and executing Lee Plan policies, Land Development Code (LDC) regulations, and other planning tools that:*

- a. Implement and maintain commercial development standards for architecture, landscaping, buffering, signage, lighting designs and visual appearance of developments, transportation facilities, and other community amenities;*
- b. Promote the use of low impact design, sustainable energy, water, and other environmental features;*
- c. Establish higher density, mixed-use development within areas targeted on the Mixed-Use Overlay;*
- d. Encourage the redevelopment and infill of underutilized commercial and residential lands; and*
- e. Increase public participation in the land development approval process to ensure future development efforts support the Estero community plan and adopted Lee Plan policies and LDC standards. (Added by Ordinance No. 14-16)*

POLICY 19.1.3: *Encourage new developments that achieve the Estero community's vision and planning goal and policies and are consistent with mixed-use design, architectural, location, connectivity and public access standards by establishing and implementing development incentives within the Lee Plan and Land Development Code that:*

- a. *Promote urban integrated forms of development in targeted areas identified on the Mixed-Use Overlay;*
- b. *Promote targeted industries in appropriate areas of Estero-e.g.: healthcare, arts and culture, technology, and research and development facilities;*
- c. *Promote the use of green design, sustainable energy, water, and other environmental features;*
- d. *Expedite development projects particularly in targeted incentive zones where the community has adopted mixed-use plans and LDC standards;*
- e. *Enable infill of underutilized commercial and residential lands; and*
- f. *Encourage residential developments to use the bonus density established through the Lee Plan Urban land use categories. (Added by Ordinance No. 14-16)*

The subject site is a vacant outparcel in the Estero Town Center. The Ruby Tuesday restaurant is also located on platted Tract B. The subject site will need to be re-platted prior to a Development Order being approved on the site. Staff recommends that the approval be conditioned requiring the replat. The proposed fast food restaurant will have to be reviewed and approved by the Design Review Board to obtain a Development Order.

OBJECTIVE 19.2: MIXED-USE CENTERS AND ECONOMIC AREAS. *Promote Estero's quality of life and diverse local economy by fostering the development of mixed-use centers and targeted economic areas, as a preference over the development of strip commercial centers. The aim of the mixed-use centers is to provide Estero with central gathering places for Estero's residents, business people, and visitors. The aim of the economic areas is to provide the community a diverse employment and economic base while meeting the commercial, professional, and service needs of the people who live, work, and play within the community. (Added by Ordinance No. 14-16)*

POLICY 19.2.1: *Where feasible, provide for the development of walkable mixed-use town centers and economic areas featuring diverse housing options; government offices and public facilities; medical facilities; employment centers; public gathering places, parks, outdoor plazas, and other public spaces; greenway trails and pathways; and public access to the community's natural resources through Lee Plan policies and LDC regulations that support Estero's distinct community character and the following community priorities:*

- a. *Support the development of a central town center to unify the community;*
- b. *Improve the connectivity between Estero's residential neighborhoods, economic areas, civic uses, and park and recreational facilities;*
- c. *Diversify the community's economic base and employment opportunities;*

- d. *Encourage the development of targeted industry clusters—particularly health industries, professional services and businesses, and technology, research, and development;*
- e. *Expand multi-modal transportation options through improved pedestrian access, bikeways, transit service, and rail opportunities;*
- f. *Improve access to the community’s blueways—particularly the Estero river—, greenway trails, other open spaces;*
- g. *Promote the community’s cultural and historic resources; public spaces, parks, and recreational facilities; and other community amenities;*
- h. *Commercial and mixed-use developments will maintain a unified and consistent aesthetic/visual quality in landscaping, architecture, lighting, and signage; and*
- i. *Promote and incentivize private investment within mixed-use centers and economic areas. (Added by Ordinance No. 14-16)*

The request, if approved, adds a use that is not currently occurring in this commercial center. The fast food restaurant will provide an additional dining option in the area. The proposal includes a public gathering space, an outdoor seating area, located on the south side of the restaurant building.

POLICY 19.4.1: *Establish land development code standards that ensure the development of a well-connected transportation system that includes pedestrian pathways, bikeways, transit, and roadways. These standards should:*

- a. *Require, where feasible, interconnects with adjacent uses;*
- b. *To the extent feasible, minimize access points onto primary road corridors by providing multiple access to adjacent properties;*
- c. *Link neighborhoods, commercial and mixed-use centers, public facilities, and parks; and*
- d. *Enable multi-modal transportation access (pedestrian, bike, vehicular, and transit) within and between the different neighborhoods, economic and employment centers, civic uses, and public space, park, and recreational facilities within the Estero Community.*

POLICY 19.4.3: *All public and private rights-of-way within future mixed-use centers and the Old Estero area, as defined in the Land Development Code, are encouraged to be designed to include pedestrian ways, cross walks and traffic calming measures including, where appropriate, on-street parking, raised crosswalks, narrow lane widths or other similar mechanisms. (Added by Ordinance No. 14-16)*

This project is proposing a commercial use, a fast food restaurant, in an area developed with commercial uses such as Lowe’s and Ruby Tuesday. The project is proposing to interconnect to these adjacent commercial uses by adding sidewalks and pedestrian crossings of Estero Town Commons Place. Staff believes further connectivity should be provided by including a pedestrian

sidewalk on the north side of Estero Town Commons Place roadway facility. Missing gaps, such as that on the Ruby Tuesday and Complete Dentistry properties, can be addressed at other times as those properties redevelop or make additional improvements.

OBJECTIVE 2.2: DEVELOPMENT TIMING. *Direct new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in F.S. 163.3164(7)) will be granted only when consistent with the provisions of Sections 163.3202(2)(g) and 163.3180, Florida Statutes and the county's Concurrency Management Ordinance. (Amended by Ordinance No. 94-30, 00-22)*

POLICY 2.2.1: *Rezoning and development-of-regional-impact proposals will be evaluated as to the availability and proximity of the road network; central sewer and water lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare. (Amended by Ordinance No. 94-30, 00-22)*

This project is in a future urban area (Urban Community). Sewer and potable water lines are in the vicinity of the project and the applicant has provided an availability letter from Lee County Utilities. The project is accessed from Town Commons Drive and Estero Town Commons Place that have access to Corkscrew Road and Three Oaks Parkway.

Deviations

The prior zoning approval had three approved deviations. Deviation (1) requested relief from LDC Section 10-285 which requires a 660-foot connection separation along arterial roads to allow connection separation of 600 feet along Corkscrew Road. The applicant also asked for a connection separation deviation along Three Oaks Parkway. The Three Oaks Parkway portion of the request was denied, but the request affecting Corkscrew Road was approved. Deviation (2) was a two part request, 2.A and 2.B. Deviation 2.A sought relief from LDC sections 34-2192(b)(5) and 34-1047 (note 1b) which requires all parking lots, access streets, and drives be setback a minimum of 75 feet from the Corkscrew Road right-of-way, to allow parking to be located no closer than 30 feet from the right-of-way in specified locations and in accordance with the Center Design Guidelines, subject to the condition that the deviation allows no more than 300 feet of the Corkscrew Road frontage (with no more than 200 feet in any single location) for the proposed parking use and the area subject to this deviation is buffered in accordance with the Design Guidelines.

Deviation 2.B sought relief from Section 34-2192(b)(5) requirement that all parking lot access streets and drives be set back a minimum of 75 feet from Corkscrew Road to allow an access drive in conjunction with a drive-thru facility to be located no closer than five feet from the right-of-way in accordance with the Design Guidelines. This application seeks to modify this requirement by providing a new cross-section for the drive-thru facility. The new cross section accommodates a Type D buffer between Corkscrew Road and the proposed drive-thru with the result that the closest the drive thru will be to Corkscrew Road is twenty feet, not five feet.

The applicant is now requesting 3 new deviations:

- **Deviation (1):** *Seeks relief from LDC Section 34-2020, required parking spaces, which requires parking spaces at a ratio of 13 spaces per 1,000 square feet of floor area for fast*

food restaurants, to permit on-site parking at a ratio of 10 spaces per 1,000 square feet for fast food restaurants.

The effect of this deviation would be to reduce parking from 44 to 34 spaces (35 spaces are actually being provided).

The applicant provides the following justification:

The applicant has developed dozens of fast food restaurants throughout the southeastern United States and has empirical data to support the proposed parking ratio as sufficient for on-site parking. Approximately 65-70% of the overall sales are through Drive through services, lessening demand for on-site parking. Furthermore, Peak parking demand rate of 9.98 spaces per 1,000 square feet pursuant to current edition of Institute of Transportation Engineers' Parking Generation (4th ed.) for LUC 934, Fast-Food Restaurant with Drive-Through Window. Our plan provides 35 spaces. The location of the fast food restaurant is on outparcel within a multiple occupancy parcel which is in the process of coordinating a cross parking agreement permitting this parcel to share parking throughout the site. This cross access parking reduces the necessity to provide parking at the 13 square (SIC) per 1,000 square feet.

The applicant also provided a parking study of 3 comparable Burger King sites in Lee County, each with a dual ordering drive-thru configuration. Concerning these studies, the applicant provides the following:

Parking was observed during breakfast and lunch peak periods, which were identified by the applicant as the worst-case periods for counter service. Three days of data were collected at each site from 7:30 am to 9:30 am and from 11:30 am to 1:30 pm. Parking demand was measured in 5 minute intervals, with the observed number of parked vehicles at each 5 minute mark being recorded. The parking data was converted to a parking rate per ksf (1,000 s.f.) of building size. The results indicate an average parking demand of 2.84 spaces per ksf during the breakfast period and 4.39 spaces per ksf during the lunch period (inclusive of ADA spaces). The average maximum parking demand was identified as 3.48 spaces per ksf during the breakfast period and 5.47 spaces per ksf during the lunch period (inclusive of ADA spaces). The maximum parking demand rate observed at any site was found to be 5.97 spaces (inclusive of ADA spaces). Given these results, a parking supply of 20 vehicles would meet the anticipated demands for the proposed Burger King restaurant site (inclusive of ADA spaces).

Village staff has reviewed the parking studies and has concluded that these studies do support the approval of the requested Deviation. These studies, based on three comparable Burger Kings in Lee County, demonstrate that the maximum number of parking spaces needed at any time is 20 spaces. The site plan provides 35 spaces. The applicant is also willing to provide a cross-parking agreement for the use of additional spaces. Staff recommends **approval** of this deviation with the condition that the applicant execute and record a shared parking agreement with the developer of the Estero Town Center CPD for the use of an additional 10 parking spaces at a minimum.

- **Deviation (2):** *Seeks relief from LDC section 34-2021, drive-thru stacking requirements, which requires restaurants to provide stacking to accommodate 10 cars per service lane with a minimum of 5 spaces preceding the menu board, to permit the drive-thru restaurant to provide a total of 7 spaces preceding the menu board for the double drive-thru and a total of 15 spaces in the two service lanes.*

The applicant provides the following justification:

This privation of the LDC was written prior to the now common usage of the double drive-thru concept. The double drive-thru provides for faster ordering time, lessening the overall wait time. There are doors at both, the pay window and pick up windows that allow employees to collect payment or deliver food when an order is changed or any other issue may arise. These customers can then use the bypass lane to exit. Stacking would not back up into any public right of way. For further justification, attached is a queuing study that states that queuing observations were performed at three comparable Burger King sites in Lee County, each with a dual ordering drive-thru configuration. Queuing was observed during breakfast and lunch peak periods, which were identified by the applicant as the worst-case periods for drive-thru service. Three days of data were collected at each site from 7:30 am to 9:30 am and from 11:30 am to 1:30 pm. Queues were measured from the ordering stations. The maximum queue observed during each one-minute period was recorded, with the ordering vehicle representing a queue of 1 vehicle. The queue value recorded represents the maximum queue formed at either of the two order stations, or the combined queue if the vehicles were found to merge into a single queue in advance of the ordering station. The results indicate an average queue of 1.5 vehicles during the breakfast period and 1.8 vehicles during the lunch period. The average maximum queues observed at each site is 4 vehicles for both the breakfast and lunch periods, with the maximum queue overserved (sic) at any site being 5 vehicles. Again, it is noted that these queue values were measured from the ordering station, where the ordering vehicle represents the first vehicle in the recorded queue. Given these results, a queuing area of between 100 feet and 125 feet is recommended to be provided for the proposed Burger King restaurant site, as measured from the front a (sic) vehicle located at an ordering station.

Village staff has reviewed the queuing studies and has concluded that these studies do support the approval of the requested Deviation. These studies, based on three comparable Burger Kings in Lee County, demonstrated that the maximum queue observed at any site was 5 vehicles. Staff notes that the proposed site plan accommodates the required 5 queued vehicles before the order station. Staff recommends **approval** of this deviation with the condition that pavement stripes be reviewed by Village staff prior to development order approval.

- **Deviation (3)** seeks relief from LDC Section 10-256(c)(2)e, Bikeways and pedestrian ways, which requires a sidewalk to be constructed when a property abuts a local street to permit no sidewalk to be installed adjacent to a portion of Tract B.

Deviation #3 was withdrawn by the applicant on August 12, 2019.

FINDINGS AND CONCLUSIONS

The Council will need findings of fact to support its recommendation.

After balancing the advantages and disadvantages of this project and its impacts, based upon an analysis of the application and the standards for approval in the Land Development Code, staff has proposed the following Findings of Fact for review:

1. The applicant has provided sufficient justification for the zoning amendment by demonstrating compliance with the Comprehensive Plan, the Land Development Code, and other applicable codes.

2. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities because there are interim improvements underway at the I-75 interchange, and this project will not significantly impact the interchange or Corkscrew Road east of Ben Hill Griffin Parkway.
3. The application is generally compatible with existing or planned uses in the surrounding area. The proposed use is set back a considerable distance from adjacent residential uses.
4. Urban services will be available and adequate to serve the proposed use.
5. The request will not adversely affect environmentally critical areas and natural resources.
6. The proposed use, with the proposed conditions, is appropriate at the subject location.
7. The recommended conditions provide sufficient safeguards to the public interest and are reasonably related to impacts on the public's interest created by or expected from the proposed development.

The deviations recommended for approval:

- a. Enhance the planned development; and
- b. Preserve and promote the general intent of the LDC to protect the public, health, safety and welfare.

ATTACHMENTS

- A. Zoning Map
- B. Future Land Use Map
- C. Recommended Conditions
- D. Firestone Connectivity Exhibit
- E. Zoning Resolution Z-03-032
- F. Estero Crossing Connectivity Exhibit
- G. Applicant's information