



**8111 BROADWAY E. (Old Post Office) CPD  
Rezoning to Commercial Planned Development  
Zoning Staff Report  
For Estero Village Council**

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<b>PROJECT NAME:</b>	<b>8111 Broadway E. (Old Post Office) CPD</b>
<b>CASE TYPE:</b>	<b>Planned Development Rezoning</b>
<b>CASE NUMBER:</b>	<b>DCI2019-E001</b>
<b>COUNCIL 1<sup>ST</sup> READING</b>	<b>June 17, 2020</b>
<b>COUNCIL 2<sup>ND</sup> READING</b>	<b>July 15, 2020 (tentative)</b>

### **REQUEST**

The applicant is requesting to rezone a one acre site at 8111 Broadway E. from Agriculture (AG-2) to Commercial Planned Development (CPD) to utilize the Old Post Office site and building for various commercial uses. The property is located east of the Broadway Shoppes and north of Estero United Methodist Church.

The request also seeks approval of 6 deviations as noted on page 2.

### **STAFF AND PLANNING AND ZONING BOARD RECOMMENDATION**

*Staff recommends approval with conditions in the proposed Ordinance.*

Staff review indicates two main issues: a broad array of commercial uses is requested with no specific end user identified; and there is a lack of central sewer service in the area and use of a septic system is proposed. These issues are discussed in the staff report.

*The Planning and Zoning Board reviewed the request at a public hearing on November 19, 2019 and recommended approval with staff conditions.*

### **APPLICATION SUMMARY**

#### **Applicant**

Yoshi Suzuki, Suzuki Family Trust

### **Authorized Agent**

Veronica Martin, TDM Consulting, Inc.

### **Additional Agents**

Mike Sheeley, Lotus Architecture

David Kulsveen, Landesco, PLLC

Forrest Harris, Harris-Jorgensen, Inc.

### **Location**

The subject property is located at 8111 Broadway East, east of the Broadway Shoppes shopping center and north of Estero United Methodist Church. There are two accesses to Broadway East. The STRAP number is 28-46-25-E2-U1923.2494.

## **REQUEST**

### **Rezone from AG-2 to Commercial Planned Development (CPD) Zoning:**

1. Establish a Master Concept Plan, Schedule of Uses and Property Development Regulations for the site.
2. Allow six deviations.
  - (1) A Deviation from LDC Section 34-935(b)(1), Property Development Regulations, which requires a 20-foot building setback to the east property line to permit a 16 foot building setback to the east property line.
  - (2) A Deviation from LDC Section 34-935(b)(2), Property Development Regulations, which requires that parking or internal roads or drives be located in this case a minimum of 20 feet from the east property line to permit the existing driveway and parking lot to be 15 feet from the east property line.
  - (3) A Deviation from LDC Section 33-351, Landscaping Buffers, which requires a Type C buffer to be a minimum of 20 feet wide with 10 trees and 30 shrubs per 100 linear feet with an 8 foot high solid wall to permit a 15 foot wide Type C buffer along the east property line with the wall located 10 feet from the property line, to permit the building to act as the "wall" for 80 linear feet, and to permit the "wall" to be made of PVC or similar material.
  - (4) A Deviation from LDC Section 33-118, Interconnections and Shared Access, which requires that adjacent commercial uses must provide interconnections for automobile, bicycle and pedestrian traffic and that all adjacent parking lots must connect to permit that the subject site not provide a vehicular interconnection or shared access to the adjacent property to the north and west.
  - (5) A Deviation from LDC Section 34-1742(b), Construction of Fences, which requires that all fences and fence walls on each property be of uniform materials, design, and color to permit both the existing chain link fence and proposed buffer wall and gate to be of different materials, design, and color than the existing chain link fence.
  - (6) A Deviation from LDC Section 10-285, Connection Separation, which requires a connection separation distance of 330 feet on Collector roads to permit a connection

separation distance of 265± feet to the nearest residential driveway to the east and 298± feet to U.S. 41 to the west.

## **LAND USE CATEGORY**

Urban Commercial

## **PUBLIC INFORMATION MEETING – MARCH 19, 2019**

A Public Information Meeting for this application was held at the March 19, 2019 Planning and Zoning Board meeting. The applicant's representatives provided an overview of the proposed project including the conceptual site plan and architectural elevations for the redevelopment of the Old Post Office site.

The Planning and Zoning Board raised questions concerning the project's connectivity to the adjacent commercial uses, whether the project is connecting to sanitary sewer service, what types of uses are proposed and will there be time limitations on the uses, is outdoor lighting proposed and will the facility be used at night. The Board also expressed concern if the applicant was providing the appropriate buffer with landscaping on the east property boundary adjacent to an existing single-family residence.

## **PROJECT HISTORY**

The subject property was developed with a U.S. Post Office facility in 1983. The site subsequently has been modified from the original 1983 plan that was submitted to Lee County such as reconfiguring the parking lot and adding a modular building. The Village requested the modular building be removed from the site at the start of the rezoning case review and it was removed. The Federal Government did not seek local approvals for the site modifications.

The site currently is not being used. Potable water was provided by Lee County Utilities and is available. Wastewater was handled by a septic system. There is also an onsite well that is being used for irrigation purposes. Concerning the Old Estero Post Office, the application provides the following:

*The property is currently developed with a 4,800 square foot single-story building with parking and chain link fence. The historical use of the property was the Estero Post Office. As a federal development, the commercial use was permitted on Agricultural zoned property. In addition, the development was not required to adhere to local codes and regulations, including but not limited to setbacks, buffers, and parking.*

## **PROJECT DESCRIPTION**

The applicant is requesting to rezone the property from Agricultural (AG-2) to Commercial Planned Development (CPD). The applicant has not specified a particular use, but is requesting a broad array of commercial uses.

## **MASTER CONCEPT PLAN**

The Master Concept Plan (MCP), stamped "Received June 4, 2020" depicts a 4,800 square foot building and onsite parking lot. The site plan depicts one vehicular access point from Broadway East. The applicant has agreed to close the existing access point nearer to the intersection of

U.S. 41 and Broadway East. The existing building is located in the southeast portion of the site with parking in the western and northern portions of the site. The site plan includes 41 marked parking spaces. The Master Concept Plan includes a note that required parking will be determined at time of Development Order. Two handicap spaces located adjacent to the building's front entrance are also depicted on the site plan.

The MCP addresses several pedestrian access issues. For instance, a non-ADA accessible connection provides access to the Broadway Shoppes to the west through the subject property's parking lot to the building's front door. There is a significant change in topography from the Broadway Shoppes to the subject site. The subject site is approximately 4 to 5 feet lower than the Broadway Shoppes property. The change in topography between the Broadway Shoppes and the subject site precludes ADA compliant pedestrian access between the properties other than immediately along Broadway East.

An ADA accessible sidewalk is provided along Broadway East. This sidewalk is proposed on the subject site (rather than the adjacent right-of-way) and will require the recording of an easement prior to the issuance of the Development Order Certificate of Compliance. A draft easement has been submitted with the rezoning application. A condition of approval is included to assure this legal instrument is completed. A pedestrian access point is also provided at the project vehicular access point at Broadway East consistent with LDC Section 33-362(1).

The Master Concept Plan also depicts a stormwater management area in the northwest corner of the property as well as a dumpster area. The existing septic drain field is depicted in the northeast corner of the property.

### **SURROUNDING ZONING**

North – Broadway Shoppes zoned Community Commercial (CC).

East – a single-family residence zoned Agricultural (AG-2).

South – Corkscrew Road then Estero United Methodist Church zoned Community Facilities Planned Development (CFPD).

West – Broadway Shoppes zoned Community Commercial (CC).

### **STAFF ANALYSIS**

The staff analysis section of this report addresses environmental issues, transportation impacts, stormwater management, utilities (water and sewer), pattern book, compatibility, and Comprehensive Plan considerations.

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:

- The site is already developed, currently vacant.
- The site has no environmental issues.

- The site is located adjacent to commercial uses (Broadway Shoppes) but is also adjacent to a single-family residence.
- The site provides for utilization of a property that has been vacant for several years.
- Existing trees on the east property line are proposed to be preserved.
- Eliminating one access point on Broadway East.

Disadvantages:

- No end user of the property has been identified.
- Project will add 1,512 vehicle trips per day to area roads (worst case scenario).
- Applicant is proposing to use a septic tank in lieu of sewer until sewer service is available.

**Pattern Book**

The applicant submitted a Pattern Book stamped “Received May 6, 2020” as required by Chapter 33 of the Land Development Code. The Pattern Book includes proposed building elevations of all four façades depicting architectural style and building height, proposed colors and materials, a monument sign, lighting and design details, connectivity and public seating, buffers, tree preservation and open space, and landscape images. The applicant is proposing to add a Mediterranean façade on the existing building.

Staff review finds that the Pattern Book generally complies with the Land Development Code. A Buffer Type D is required along Broadway E which will be 20’ wide with 5 trees per 100 feet and a double hedgerow. The eastern buffer, adjacent to the single family home, requires a Type C Buffer, however a deviation is requested which includes two components of the buffer: width (20’ wide to 15’ wide); and for the 8 foot solid opaque wall which is proposed to be PVC material in part, and in part the existing structure will function as the buffer wall. The PVC fence is proposed to match the buffer wall color of Dark Brown Graphite. Final design of the wall must consider placement, as well as address the proposed preservation of pines and assure that there is no damage to the existing native trees. Deviation #3 is justified as the existing structure is located 16 feet from the property line and the footing for a masonry wall would not be possible.

The pattern book indicates an outdoor seating area and provides a detail of a bench, however a condition of approval is recommended regarding provision of seating in the outdoor area. This will be further reviewed at DO.

**Environmental Issues**

Staff has performed an inspection of the property with the following findings:

- The property has been cleared, filled, and developed in the past and is currently vacant.
- There are no wetlands on the site.
- The existing large trees (pines, oaks, magnolias, palms, and mahogany trees) on the east side of the site are proposed to be incorporated into the buffers and open space areas.
- There are no native vegetative communities or critical habitat that could support listed species.
- There are no imperiled (listed) species on the site and no potential since there is no critical habitat.
- There are heritage trees on the site that will be preserved.
- There are no floodways designated on the site.
- The site falls within the Flood Zone X. The property is not within the Special Flood Hazard Area.

## **Flood Issues**

As mentioned above, the site is not within the Special Flood Hazard Area (Zone X). Zone X is the flood insurance rate zone that corresponds to the areas of 0.2 percent annual chance of flooding. The building has a finished floor elevation of 14.27 feet NAVD 88.

## **Stormwater Management**

The applicant has provided a Stormwater Management Narrative concerning the proposed redevelopment of the site. The Village engineer has reviewed the applicant's stormwater analysis and currently does not have any concerns. The analysis will be reviewed in more detail at time of Development Order. The narrative provides the following:

*An Environmental Resource Permit (ERP) was issued by South Florida Water Management District (SFWMD) on July 17, 2009. Although the property is only 1.07 acres in size and less than 2 acres of impervious, the property owner chose to get the ERP after minor flooding of the parking lot during 100-year storm events. The ERP Number is 36-07147-P.*

*The Engineer of Record has determined that the existing drainage plan will work as designed but needs maintenance. As designed, storm water runoff from the building and the majority of the parking lot flows towards the west property line where there is a swale adjacent to the parking lot. Said swale is undulating vertically, with several catch basins placed at the swale's high points. The catch basins are connected to an existing culvert that is directly under the swale and connects the main dry detention area in the NW corner of the site to the discharge control along Broadway. Water quality is achieved in the swale's low points prior to staging up and entering the culvert conveyance. Since the discharge control is only a 3" bleeder pipe, this constricted discharge will force the storm water in the pipe/swale to flow into the deeper main detention area in the NW corner under many intense storm conditions. Said main detention area also receives storm water runoff from the remainder of the site, providing water quality prior to discharge. Storm water discharge from the site then flows east along Broadway in the existing roadside swale, flows south through the culvert under Broadway at the railroad tracks, and continues all the way to the Estero River, which drains into the Estero Bay.*

## **Transportation Issues**

The applicant has provided a Traffic Impact Statement (TIS) dated October 2018, revised May 2019. The TIS is based on the assumption that the proposed project will be completed in 2020. The TIS assumed that the project will consist of a single use from the proposed Schedule of Uses that generates the most traffic: a fast casual restaurant. Thus the analysis represents the worst case scenario from a traffic-generating basis. The TIS points out the following:

*Access to the proposed development will be provided by one (1) existing full-access driveway connection to Broadway East. It is worth noting that a second existing full-access driveway connection to Broadway East will be removed during this re-development.*

The proposed Fast Casual Restaurant will generate approximately 1,512 vehicle trips per day. Peak hour trips would be 10 in the morning and 68 in the P.M. peak hour according to the applicant's analysis. Concerning trip distribution, the TIS provides the following:

*Because Broadway East provides direct access to the nearest arterial street (U.S. 41) to the west and access to relatively few single-family homes to the east, it is assumed for this report that 90% of traffic will enter and exit the proposed development using this driveway connection from the west while 10% of traffic will enter and exit the proposed development using this driveway connection from the east.*

The applicant's Traffic Study provides the following conclusions:

*The development will not introduce a significant increase in traffic flows and will not degrade the Level of Service of U.S. 41 during the peak season below the Performance Standard Level of Service (see attached 100<sup>th</sup> Highest Hour Level of Service Calculation).*

The TIS provides that Level of Service Standard of C is maintained on U.S. 41. Staff has reviewed this TIS and concurs that the proposal will not cause the level of service on U.S. 41 to be exceeded. Village staff has also concluded that the proposal will not cause the level of service to be exceeded on Broadway East. The applicant will provide a more detailed traffic analysis as part of the development order. It was noted at the Planning and Zoning Board meeting that westbound traffic on Broadway often backs up at the intersection of US 41.

In addition, Village staff notes that Lee Tran bus service is available in the area, specifically Route 140 along U.S. 41. There is a bus stop located in front of Estero United Methodist Church on U.S. 41 about 630 feet from the subject site. It was noted at the Planning and Zoning Board meeting that westbound traffic on Broadway often backs up at the intersection of U.S. 41.

### **Utilities**

The property is located in the Lee County Utilities franchise service areas for both potable water and wastewater services. While there is capacity for Lee County Utilities to service this project, there is an issue with connecting to sewer that is discussed below. The applicant obtained a Potable Water and Wastewater Service Availability letter from Lee County Utilities dated October 2, 2018. The letter provides that "Potable water lines are in operation along Broadway East and this property is currently served". The letter also provides that "wastewater lines are in operation on South Tamiami Trail at Rosies Court, about 800 feet away".

The connection of the project to the centralized sanitary sewer system has been the topic of considerable discussion between Village staff and the applicant's representatives regarding the feasibility of connecting the site to sanitary sewer service. The applicant has provided further information:

*According to the Letter of Availability from Lee County Utilities, wastewater lines are in operation on South Tamiami Trail at Rosies Court, about 800 feet away. Developer funded system enhancements would be required to extend the lines to the subject property. Per LCU, there is a 4-inch private force main at the US 41/Rosies Court intersection that serves the commercial plaza. However, the force main was sized to serve the plaza and has no additional capacity.*

*The subject property (Old Estero Post Office) currently uses an on-site septic system (DOH Permit #36-SB-71659). An inspection of the system in 2018 verified that the system is in operational condition.*

The applicant believes that the proposed development does not meet the criteria for mandatory connection to sanitary sewer. The applicant intends to use the existing septic system until such a time as sanitary sewer lines are located along Broadway E.

Further investigation by Village staff has revealed that the nearest sewer lines that have capacity are located near the intersection of Estero Parkway and U.S. 41. Staff has included a condition that requires the property to connect to sewer service when it is available and that yearly inspections of the septic system be performed similar to a condition the Council approved for the Estero United Methodist Church. An additional condition is included that discusses the requirements at DO for demonstration of adequate septic capacity for the use proposed during the interim period when the septic system will be utilized.

The Village Engineer is investigating sewer service in the area that includes the subject property. The Village is also investigating special assessments to fund any identified improvements. Relevant code sections are provided below:

***LDC Sec. 10-353 – Sanitary Sewer Systems Generally.***

- (a) *Connection to central system required for certain developments. The following types of developments, when located within the boundaries of the certificated or franchised service area of any investor- or subscriber-owned utility, or within the County utilities' future sewer service areas as delineated on Map 7 in the Lee Plan, must connect to that respective sewer system:*
- (1) *Any residential development that exceeds 2.5 dwelling units per gross acre, except for a development that contains less than ten dwelling units in any phase or combination of phases located more than one-quarter mile from a point of connection;*
  - (2) *Any commercial or industrial development that exceeds 30,000 square feet of gross floor area and any smaller such development that will generate more than 5,000 gallons per day of sewage;*
  - (3) *Any commercial or industrial development that generates more than 1,000 gallons per day located adjacent to or within 50 feet of a connection point, as measured from the property line;*
  - (4) *Any commercial or industrial development subdivision consisting of more than five lots located less than one-quarter mile from a point of connection; or*
  - (5) *Any residential, commercial or industrial development of any size where central sewer lines are or will be available within 90 days of the issuance of the development order.*

The applicant further indicates that per Florida Administrative Code 64E-6.008, Table 1, the proposed development will generate approximately 861 gallons per day and has provided documentation that the existing system, which consists of a 900 gallon septic tank and dimensions a 21 x 20 foot mound drainfield, that states that the septic tank is in good condition. Additional site information includes:

- *has a maximum intensity of only 4,800 square feet gross floor area;*
- *generates less than 5,000 gallons per day of sewage;*



- *is not located adjacent to or within 50 feet of a connection point as measured from the property line;*
  - *does not consist of more than five lots located less than one-quarter mile from a point of connection; and*
  - *central sewer lines will not be available within 90 days of the issuance of the development order.*
- (b) *Individual sewage disposal systems. If the proposed development is not required to connect pursuant to 10-353(a):*
- (1) *A development order may be issued upon satisfactory documentation that the development will itself provide sanitary sewer service in accordance with the regulations of the state department of environmental protection, or on-site sewage disposal in accordance with the regulations of the state department of health; and*
  - (2) *The system approved under 10-353(b)(1) must be removed or abated and connection to the utility must be made not more than 90 days from the date the utility provides written notice to the property owner that sanitary sewer service is available at the boundary of the development and connection is mandatory. An appropriate bond or equivalent security may, at the utility's option, be tendered to the affected utility to ensure compliance.*
  - (3) *The individual sewage disposal system installed must comply with Chapter 64E-6 of the Florida Administrative Code as the same now exists or as it may be amended from time to time.*

### **Fire**

Estero Fire Rescue has reviewed the request and states that an Auto Turn Analysis for fire apparatus must be completed, a fire hydrant must be installed within 400 feet of the building per code, and if the Auto Turn Analysis shows fire department access issues, then the building should have a fire sprinkler system installed. The Fire District review also specifies that the owner or owner's representative shall conduct an assessment model to determine if the minimum radio signals' strength for the fire department communication is in compliance in accordance with NFPA 1: 11.10, NFPA 1221: 11.3.9, standards for inbound and outbound signal strength and quality. If minimum signal strength is not available, the applicant shall install radio enhancement in the building.

### **Height**

Section 33-229 of the Land Development Code limits the 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 submitted Pattern Book demonstrates that the proposed redevelopment of the building to the top of the roof of the corner tower is 24.5 feet high. The proposed height is thus consistent with the LDC height requirements.

### **Schedule of Uses and Compatibility**

The applicant has not identified an end user in this zoning application. There is a list of proposed uses for the redeveloped site. Staff has proposed eliminating some uses that could be more intense and could negatively impact the surrounding neighborhood. Proposed eliminated uses include Building Material Sales, Auto and Boat Parts Stores, Flea Markets, and Commercial and Fraternal Clubs. Staff's recommended uses are included in the proposed Ordinance. Staff is also recommending several conditions to address compatibility such as no outdoor seating for any restaurant that is developed on the site and specifying where open storage can occur on the site.

Septic capacity will be reviewed at development order which may require upgrades to the existing system.

### **Comprehensive Plan Considerations**

The subject site is designated Urban Commercial in the Village's Comprehensive Plan.

A description of this category is reproduced below:

#### **Urban Commercial**

***FLU Policy -1.2.9 Urban Commercial:*** *The main purpose of the Urban Commercial designation is to foster development of unique destinations rather than a strip development pattern. Urban commercial areas are characterized by primarily existing or emerging developments along the Village's corridors where primarily single use retail, restaurant, office, and assisted living uses are concentrated. These properties are generally smaller in size (less than 10 acres) and serve nearby residential neighborhoods and consumers from outside Estero with daily and occasional needs for goods and services. Urban services are in place or readily expandable to support moderately intense levels of commercial development. Residential uses are also allowable, however they are not incentivized. These areas were typically designated Urban Community or Suburban and within the Mixed-Use Overlay per the Village's Transitional Comprehensive Plan. Urban Commercial areas are generally the individual development sites along major corridors of U.S. 41, Corkscrew Road, and Three Oaks Parkway. These areas are located in close proximity to: public transit routes; education facilities; recreation opportunities; and existing residential, shopping and employment centers.*

*A. Uses: A broad mix of commercial uses is allowed in the Urban Commercial areas to foster convenience and efficiency for a broader live/work/play environment, including neighborhood and community scale commercial including shopping, restaurant, hotel and office, all subject to the compatibility standards of FLU-1.10. Assisted living facilities, public and quasi-public uses are allowed in the Urban Commercial future land use category. Residential development is allowed subject to compatibility standards, and limited to parcels of 5 or more acres in size or parcels subject to an approved and effective Development of Regional Impact (DRI) that designates residential development as allowable on the parcel.*

*B. Development Type, Density, and Intensity: Single use commercial subject to compatibility standards is limited to a maximum intensity of 1 FAR; and Neighborhood or community scale commercial per FLU-1.5*

While the category definition allows a broad mix of uses to be considered, the rezoning must also be compatible with the surrounding area, and in particular the single-family home located directly east.

### **Comprehensive Plan Policies**

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

***FLU-1.1.1*** *Support the unique character and quality of life within the Estero community by managing growth and development and by maintaining and executing comprehensive plan policies, Land Development Code (LDC) regulations, and other planning tools that:*

- A. Implement and maintain high quality development standards for architecture, landscape architecture, hardscaping, site planning, landscaping and buffering, signage, lighting designs and visual appearance of developments, transportation facilities, pedestrian circulation and community amenities including public spaces and parks within mixed use and non-residential developments;*
- B. Promote the use of low impact design, sustainable energy, water, and other environmental features;*
- C. Encourage higher density, compact mixed-use development in designated locations as a means of increasing internal capture and reducing overall vehicle miles travelled;*
- D. Promote targeted industries in appropriate areas of Estero, e.g.: healthcare, arts and culture, technology, and Class A office facilities;*
- E. Encourage the redevelopment of underutilized commercial and residential lands for older properties seeking to comply with current comprehensive plan policies and LDC standards; and*
- F. Facilitate public participation in the land development approval process by having the owner or agent applying for Planned Developments, Rezoning, Variances, Special Exceptions, Plan Amendments, and other amendments and Development Orders, within the Village, participate in a public information meeting pursuant to adopted Village regulations and policies.*

This is a redevelopment proposal of the Old Post Office property which is encouraged under this policy.

***FLU-1.5.1*** *Commercial development levels are categorized as minor, neighborhood, community, or regional scale. The Village assigns intensities to these commercial levels according to the context and accessibility of the commercial development described below. See Map TR-1 for Functional Classifications of roadways.*

*The location standards specified in Subsections A-D will apply to the following commercial developments: shopping centers, free-standing retail or service establishments, restaurants, convenience food stores, automobile dealerships, gas stations, car washes, and other commercial development generating large volumes of traffic. These location standards will not apply to the following: banks and savings and loan establishments*

*without drive-in facilities; hotels or motels; marinas; general, medical, or professional offices; industrial, warehouse, or wholesale development; clubs, as defined in the Land Development Code (commercial clubs excepted); and other similar development.*

*A. Minor Commercial*

- 1. Provides for the sale of convenience goods and services and has a gross floor area less than 30,000 square feet.*
- 2. Must be located (except where this plan provides specific exceptions) on or within 330 feet of the right of way of local and collector, local and arterial, or collector and collector roads; at the intersection of collector and arterial and arterial and arterial roads; or within a residential planned development provided it is located and designed primarily to meet the commercial needs of the residents of the development.*
- 3. When developed as part of a Mixed Use planned development, Estero Planned Development or Compact planned development, and meeting the use limitations, modified setback standards, signage limitations, and landscaping provisions, retail uses may deviate from the locational requirements and maximum square footage limitations through compliance with design standards of this plan and approval by the Village Council.*
- 4. Village Council may approve applications for minor commercial centers that do not comply with the location standards of subsection 2 above for such centers but which are consistent with design standards of this plan.*

The proposal meets the site location standards for Commercial Development (Policy 1.5.1) minor commercial less than 30,000 s.f.

***FLU-1.10.3*** *Encourage commercial developments within the Village of Estero to provide interconnect opportunities with adjacent commercial uses in order to minimize access points onto primary road corridors; and residential developments to provide interconnect opportunities with commercial areas, including, but not limited to, bike paths and pedestrian accessways. Connections to existing residential neighborhoods will be encouraged and will not be precluded by the commercial development's design.*

A pedestrian interconnect will be provided, but the topography does not lend itself to a vehicle interconnection.

***TRA-1.2.4*** *During the review of comprehensive plan amendments, rezonings, zoning amendments, and development order applications, applicants must provide an evaluation addressing potential for addition of new interconnections between communities, creation of pedestrian and vehicular interconnection, and addition of new connections to the surrounding road network.*

The applicant has improved access by eliminating one of the two access points onto Broadway East.

**TRA-1.5.4** *During the review of rezonings or zoning amendments, and development order applications, applicants must provide an evaluation of vehicle, bicycle and pedestrian safety in the proposed design or plan.*

A condition is included that requires the applicant provide an evaluation of vehicle, bicycle, and pedestrian safety in the proposed design or plan at DO.

**INF-1.4.5** *No development order for new development, or change in use or intensity in an approved development order will be issued unless sanitary sewer service is available at the minimum acceptable level of service within ¼ mile of the development, or surety is given that it will be installed prior to occupancy.*

Sanitary sewer service is not currently available within ¼ mile of the site. A condition of approval would require the applicant to convert to sanitary sewer when it becomes available.

**CCM-1.9.3** *It is hereby declared that in the interests of preserving public health and of preserving and enhancing environmental quality, it is in the public interest to abate and cease use of septic tanks and wastewater treatment package plants where and when central sewer is available. The Village will identify the existing inventory of septic tanks in the Village, evaluate water quality issues associated with them, and coordinate with property owners, local utility providers and Florida Department of Environmental Protection to develop a program, schedule and funding to convert from septic tank use to central sewer facilities. Abatement of the use of private potable water wells and conversion to central water facilities should be considered in conjunction with this program.*

The applicant proposes to use the existing septic system until sewer is available. A condition of approval is included that will require capacity analysis based upon the proposed uses at DO.

### **Deviations**

The applicant is proposing 6 Deviations to the Village's Land Development Code. Discussion of each request and staff recommendations are below.

**(1) A Deviation from LDC Section 34-935(b)(1), Property Development Regulations, which requires a 20-foot building setback to the east property line to permit a 16-foot building setback to the east property line.**

The applicant has provided that the property was developed in 1983 and that the existing structure was constructed approximately 16.10 feet from the east property line. The applicant provides it is not practical or logical to move the building four feet to comply with the minimum setback requirement. The applicant submits that "doing so would create problems with the parking lot, drive aisles, sidewalks...and...create a multitude of problems with the building." The applicant provides that this not the result of actions taken by the applicant/property owner.

Staff agrees that the deviation is needed. In addition, the proposed plan includes a relatively wide planted buffer on the east side of the property.

Staff recommends **Approval** of Deviation #1.

- (2) **A Deviation from LDC Section 34-935(b)(2), Property Development Regulations, which requires that parking or internal roads or drives be located in this case a minimum of 20 feet from the east property line to permit the existing driveway and parking lot to be 15 feet from the east property line.**

The applicant provides that the driveway and parking lot are located only 15 feet from the east property line. The applicant has agreed to remove the western access point to Broadway East, nearest to the U.S. 41 intersection, "to allow for longer queuing at the intersection and better traffic circulation on Broadway East." The applicant submits it would require a major redesign of the site to move the driveway and parking area five feet to the west and would decrease the connection separation distance to U.S. 41.

Staff agrees that the Deviation is warranted to provide the maximum connection separation distance to U.S. 41 and that the proposed buffer with wall will address compatibility with the adjacent single-family residence.

Staff recommend **Approval** of Deviation #2.

- (3) **A Deviation from LDC Section 33-351, Landscaping Buffers, which requires a Type C buffer to be a minimum of 20 feet wide with 10 trees and 30 shrubs per 100 linear feet with an 8-foot high solid wall to permit a 15 foot wide Type C buffer along the east property line with the wall located 10 feet from the property line, to permit the building to act as the "wall" for 80 linear feet, and to permit the "wall" to be made of PVC or similar material.**

The applicant provides that "it isn't possible to comply with the 20-foot minimum buffer width along the entire east property line due to the location of the existing building, parking lot, driveway, and easements. The application notes that there is a 10 foot wide FPL easement parallel to the buffer easement and that there are underground utilities located in the FPL easement. The application also notes that there is an existing septic tank and drainfield near the northeast corner of the property. The applicant is proposing a 15 foot wide buffer with an 8 foot high wall located 10 feet from the east property line. The applicant maintains this is necessary "so as not to negatively impact the underground utilities in the FPL easement or the septic and drainfield". The applicant submits that the proposed buffer permits a 10 foot wide planting area as well as an additional 5 feet "of green open space" that meets the intent of the code to shield and buffer the adjacent property from "any negative impacts associated with the proposed commercial development".

The deviation includes two other provisions regarding the 8-foot high solid wall which is proposed to be PVC or similar material, and for the existing building to act as the wall for 80 feet.

Staff concurs that the existing site conditions warrant approval of the requested Deviation and will result in a uniform buffer on the east property line.

Staff recommends **Approval** of Deviation #3.

- (4) **A Deviation from LDC Section 33-118, Interconnections and Shared Access, which requires that adjacent commercial uses must provide interconnections for automobile, bicycle and pedestrian traffic and that all adjacent parking lots must**

**connect to permit that the subject site not provide a vehicular interconnection or shared access to the adjacent property to the north and west.**

The application provides that “there are multiple reasons a vehicular interconnect doesn't work for this property” such as difference in elevations and loss of parking/outdoor storage area, security, stormwater, traffic impacts, existing site conditions of the Broadway Grande Shoppes, the applicant bearing all the additional costs associated with an interconnect, and the fact that the adjacent but undeveloped Downtown Estero project already has a planned and approved interconnect with the Broadway Shoppes that provides access to Broadway East and U.S. 41.

Staff agrees with some of the applicant's submitted justification. Providing a vehicular interconnect with the Broadway Shoppes would be physically difficult given the existing site conditions and differences in topography. The interconnect would have the potential to negatively affect the already developed onsite stormwater system and would result in through traffic on to a site that was designed as an onsite traffic aisle. An interconnect would also place additional traffic closer to the Broadway East/U.S. 41 intersection while there is a planned and approved interconnection that would result in traffic from the Broadway Shoppes gaining access onto Broadway East further east.

The applicant also maintains that providing a vehicular interconnect to the adjacent commercial property is a safety issue. The Broadway Shoppes project has one right-in/right-out driveway on U.S. 41. The applicant notes that “providing an interconnect with the adjacent property effectively turns the parking lot of the subject property into a street, funneling southbound traffic through the site onto Broadway”. The application notes this would drastically change the Traffic Impact Statement as the existing 43,056 square feet of commercial uses from the Shoppes could result in an average of one car per minute using this access point creating a safety hazard with cars backing out of spaces in the subject site's parking stalls. Staff finds that there are alternative connections that are already planned and approved to address the interconnection of the uses in this area.

Staff recommends **Approval** of Deviation #4 for the vehicular connection.

- (5) A Deviation from LDC Section 34-1742(b), Construction of Fences, which requires that all fences and fence walls on each property be of uniform materials, design, and color to permit both the existing chain link fence and proposed buffer wall and gate to be of different materials, design, and color than the existing chain link fence.**

There is a chain link fence around a portion of the property that was installed by the Estero Post Office for security purposes. The application states that several of the proposed uses require outdoor storage whether it is for company vehicles or materials such as for a lawn and garden supply store. The proposed storage area is located to the north of the site behind the building near the existing Broadway Shoppes. The application provides that this area will not be seen from the street or the residence to the east. The application provides for a new gate to replace the existing chain link gate “with a new gate to match the buffer wall. The application provides that the fence and gate are necessary to separate the public area from the storage area and also for security. The buffer wall will be of different materials, design and color. Staff notes that the chain link fence is topped by barbed wire. Staff concurs with the need to maintain security on the site and that there is a need for the requested deviation to utilize a chain link fence on the site. The new gate and landscaping should adequately shield the views from Broadway East to the proposed storage area.

Staff recommends **Approval** of Deviation #5. Staff has included a recommended condition to address the storage area and the removal of the existing barbed wire.

- (6) **A Deviation from LDC Section 10-285, Connection Separation, which requires a connection separation distance of 330 feet on Collector roads to permit a connection separation distance of 265± feet to the nearest residential driveway to the east and 298± feet to U.S. 41 to the west.**

The application provides that there is an existing access point located 265 feet to the east for the adjacent single-family residence. The applicant is proposing to remove the western access point to Broadway East but still will not be able to meet the 330 foot minimum separation distance for a Collector road. Staff agrees it is not possible to meet the requirement on the subject property.

Staff recommends **Approval** of Deviation #6.

## **FINDINGS AND CONCLUSIONS**

The Planning and Zoning Board 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.
3. The application with the proposed conditions is generally compatible with existing or planned uses in the surrounding area.
4. Urban services will be available and adequate to serve the proposed use with the exception of sanitary sewer service. Approval is conditioned that when this service is available, the subject site will connect to sanitary sewer service.
5. The request will not adversely affect environmentally critical areas and natural resources.
6. The proposed uses, with the proposed conditions, are 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. Applicant's information