

STAFF REPORT
Community Development Department
Petition Number: VAR-13-005

To: The Charlotte County Board of Zoning Appeals

From: Shaun Cullinan, Zoning Official

Report Date: September 3, 2013

BZA meeting date: September 11, 2013

Requested Action/General Information:

Warren Newell, agent for Cheney Brothers, Inc., is requesting two variances as follows: (a) a variance to reduce the 762.5 tree points required per section 3-2-188 by 455 tree points, to allow 307.5 tree points; and (b) a variance to eliminate 25 trees and 10 accent trees from the landscape buffer required adjacent to Interstate 75 (I-75) per section 3-9-51(g)(2)(d) in the Enterprise Charlotte Airport Park (ECAP) zoning district. This property is located at 26511 Airport Rd., Punta Gorda, FL (to eventually be changed to One Cheney Way pending Airport Authority approval), Parcel Identification No. 412316200007 (see **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is Enterprise Charlotte Airport Park (ECAP). This property has an Enterprise Charlotte Airport Park, Future Land Use Map designation.

This project is classified in Charlotte County as a "Development of countywide economic impact" which is defined as "Any development with greater than two hundred fifty thousand (250,000) square feet of industrial or distribution center floor area." Phase one of this project is projected to be in excess of 311,000 sq. ft. of floor space with an ultimate build out of approximately 500,000 sq. ft. of distribution space. As such, this type of project is exempt from almost all elements of the Zoning code with a few exceptions such as height, setbacks, and buffering along Rights of Way.

(a) This site is 1,524,600 sq. ft. (approximately 35 acres), and would therefore require 762.5 tree points required per section 3-2-188, they are requesting to reduce that number by 455 tree points to allow for 307.5 tree points total on the property. These tree points will be located in areas where no buffering or landscaping is required in order to give a more coherent landscaping design. Given the intent of this type of development, highly intense, and the vast reduction in zoning and development requirements, Staff believes that this request falls in line with what is trying to be accomplished in the ECAP area of the County, which is very intense, job creating businesses.

(b) The Applicant is also requesting a Variance to eliminate 25 trees and 10 accent trees from the landscape buffer required adjacent to I-75 per section 3-9-51(g)(2)(d) in the Enterprise Charlotte Airport Park (ECAP) zoning district. More specifically to remove the 5 trees and 2 accent trees per 100 feet, this equates to 25 canopy trees and 10 accent trees as the I-75 boundary is approximately 500 feet long. The property is set back deeply from I-75 and abuts active cow pastures and large billboards. There will be enough separation from the ROW that requiring this buffering may create a visibility issue with the property, hence this request for a Variance to the requirement. The Applicant is enhancing their landscaping in other areas of the property, where not required by code, in an effort to mitigate the request and Staff is in agreement with this.

The applicant has submitted the attached **Site Plan (Exhibit A)**, which shows the proposed development as well as the landscaping being proposed on the property. As a distribution facility, there will be large trucks as the majority of vehicle traffic, therefore it is a mostly impervious site to accommodate this use, almost everywhere there is open green space, the applicant has landscaped, again, as a Development of Countywide Economic Impact, this type of development pattern is to be expected and the site is intended to be maximized for highly intense uses such as this. The development is utilizing the Airport Authority's master storm water system for the vast majority of their storm water runoff, with only a small area onsite.

The applicant has submitted the attached **Narrative (Exhibit B)** explaining why the applicant believes this request for a variance should be granted. An Environmental Specialist has performed a cursory environmental review and their comments are in the attached **Memorandum (Exhibit C)** dated August 26, 2013.

Findings: The seven standards for approval of a Variance according to Section 3-9-6.1(d) of the Charlotte County Zoning Code are as follows:

1. Unique or peculiar conditions or circumstances exist which relate to the location, size and characteristics of the land or structure involved and are not generally applicable to other lands or structures.

Finding: This 1,524,600 sq. ft. (approximately 35 acres) sized lot is irregularly shaped, with a small frontage portion along I-75. This property was cleared and was the site of "FEMA Village" following Hurricane Charley, as such there is no existing vegetation aside from some weedy ground cover, located on the property and is one of the larger pieces of property in the County which is intended for high intensity development.

2. The strict and literal enforcement of the Zoning Regulations would create an undue hardship as distinguished from a mere inconvenience on the property owners. Physical handicaps or disability of the applicant may be considered where relevant to the request.

Finding: A combination of the relaxing of the development standards for this type of project and the intent of the ECAP Zoning to promote highly intense development in this area lead to the conclusion that there was no intent in the framers of this district to require intense landscaping on projects of this size and scope. Literal enforcement of these codes does create an undue hardship on this property owner as they will not be able to develop the size needed to support a "Development of Regional Economic Impact."

3. The variance requested does not involve any use, which is prohibited in the district where the property is located.

Finding: The variances requested do not involve any use, which is prohibited in the district where the property is located.

4. The granting of a variance would not be injurious to or incompatible with contiguous uses, the surrounding neighborhood or otherwise detrimental to the public welfare.

Finding: The granting of the requested variances, to reduce the tree points required and modify the buffer along I-75, would not be injurious to, or incompatible with, the adjacent uses as the entire area is located in the ECAP and will be developing to highly intense development.

5. The condition giving rise to the requested variance has not been created by any person presently having an interest in the property and the conditions cannot reasonably be corrected or avoided by the applicant.

Finding: The conditions giving rise to the requested variances have not been created by the current owner/applicant, but possibly by the County, with the promotion of the ECAP as a district where these types of developments, with relaxed standards, are targeted.

6. The requested variance is the minimum modification of the regulation at issue that will afford relief.

Finding: The requested variances are the minimum modifications that will afford relief to a development of this magnitude.

7. The requested variance is consistent with the **Smart Charlotte 2050 Plan** (Charlotte County Comprehensive Plan).

Finding: Staff believes that this variance request may be considered consistent with this objective.

ANALYSIS AND CONCLUSIONS:

After review of the site and the application requesting the variances to the tree point requirements and modification of the I-75 landscape buffer, staff believes that the requested variance does meet all seven criteria for granting a variance.

If the Board of Zoning Appeals decides to approve the requested variances staff recommends the following condition be adopted, as a condition of approval, to ensure that this development is in compliance with the purpose and intent of the Zoning Code. The recommended condition(s) are as follows:

1. If the development is ever removed, destroyed or replaced, all future development must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time.

Please be advised that the final decision regarding the petition rests with the Board of Zoning Appeals, and will be decided upon consideration of all the evidence introduced at the hearing.

Attachments: Staff Report (4), Location Map, Zoning Map, Aerial Photo, Landscape Plan, Narrative, Environmental Specialist Memorandum



Community Development

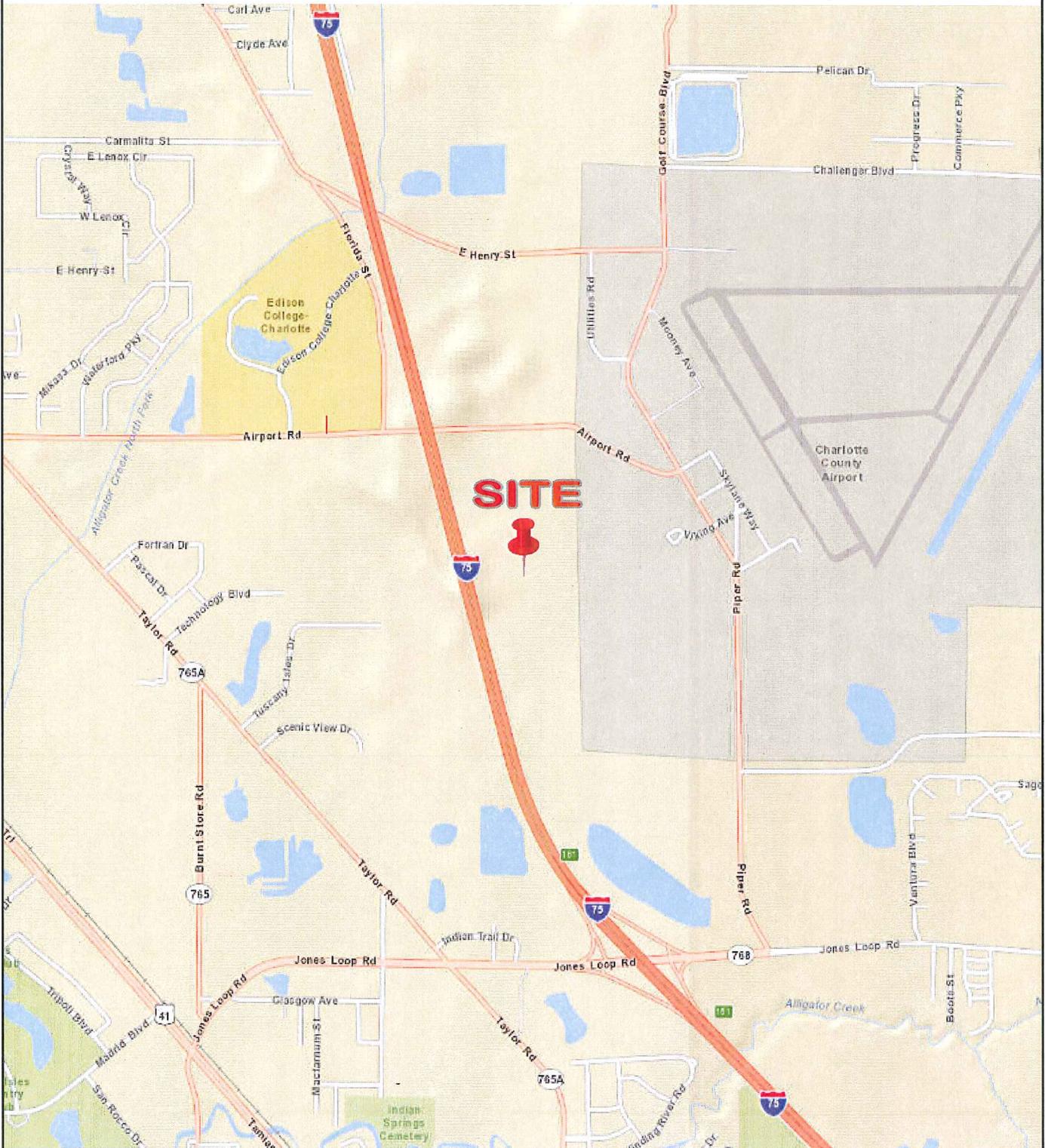
CHARLOTTE COUNTY

Location Map for VAR-13-005

Charlotte County Government

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Community Development

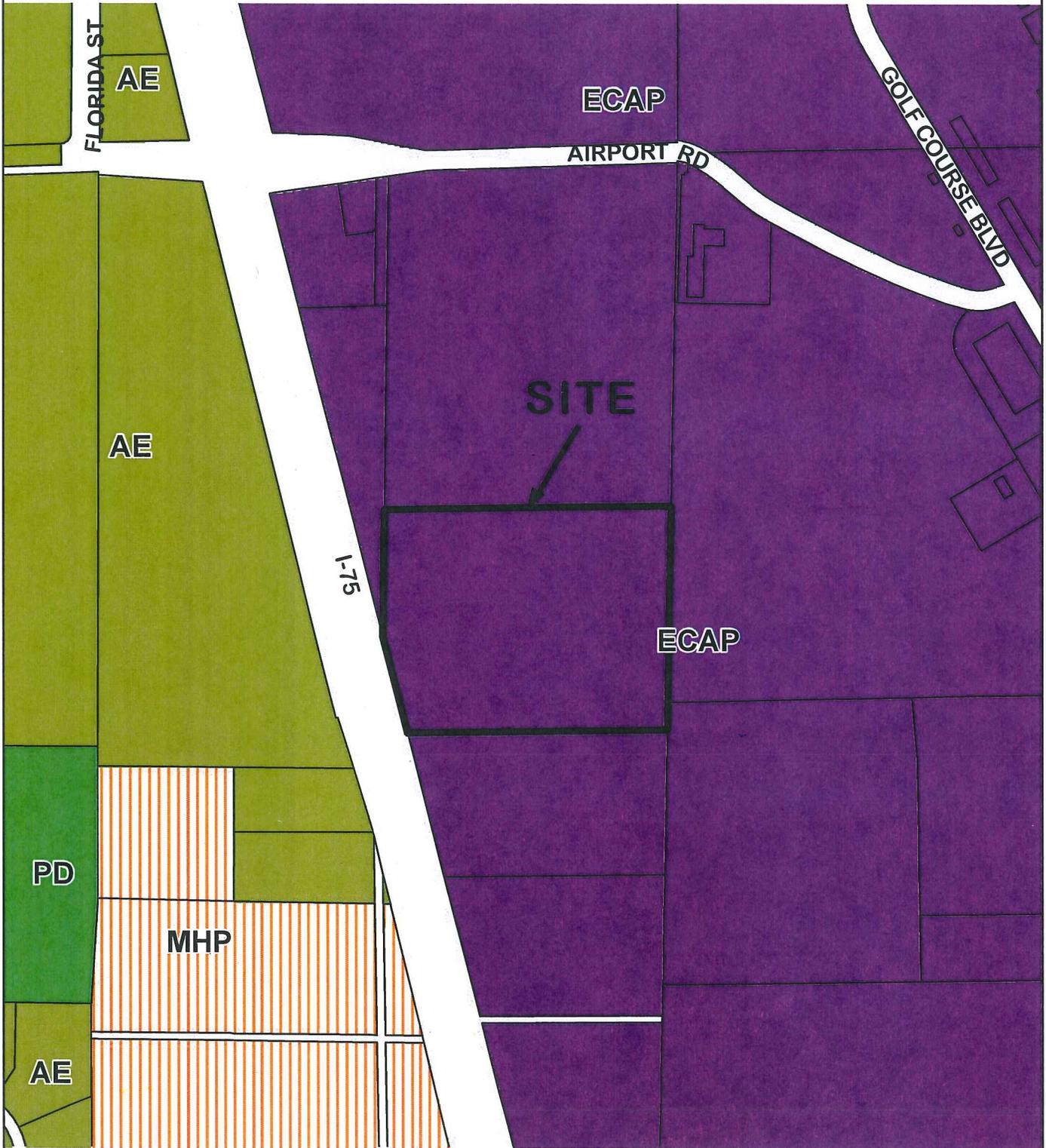
CHARLOTTE COUNTY

Zoning Map for VAR-13-005

Charlotte County Government

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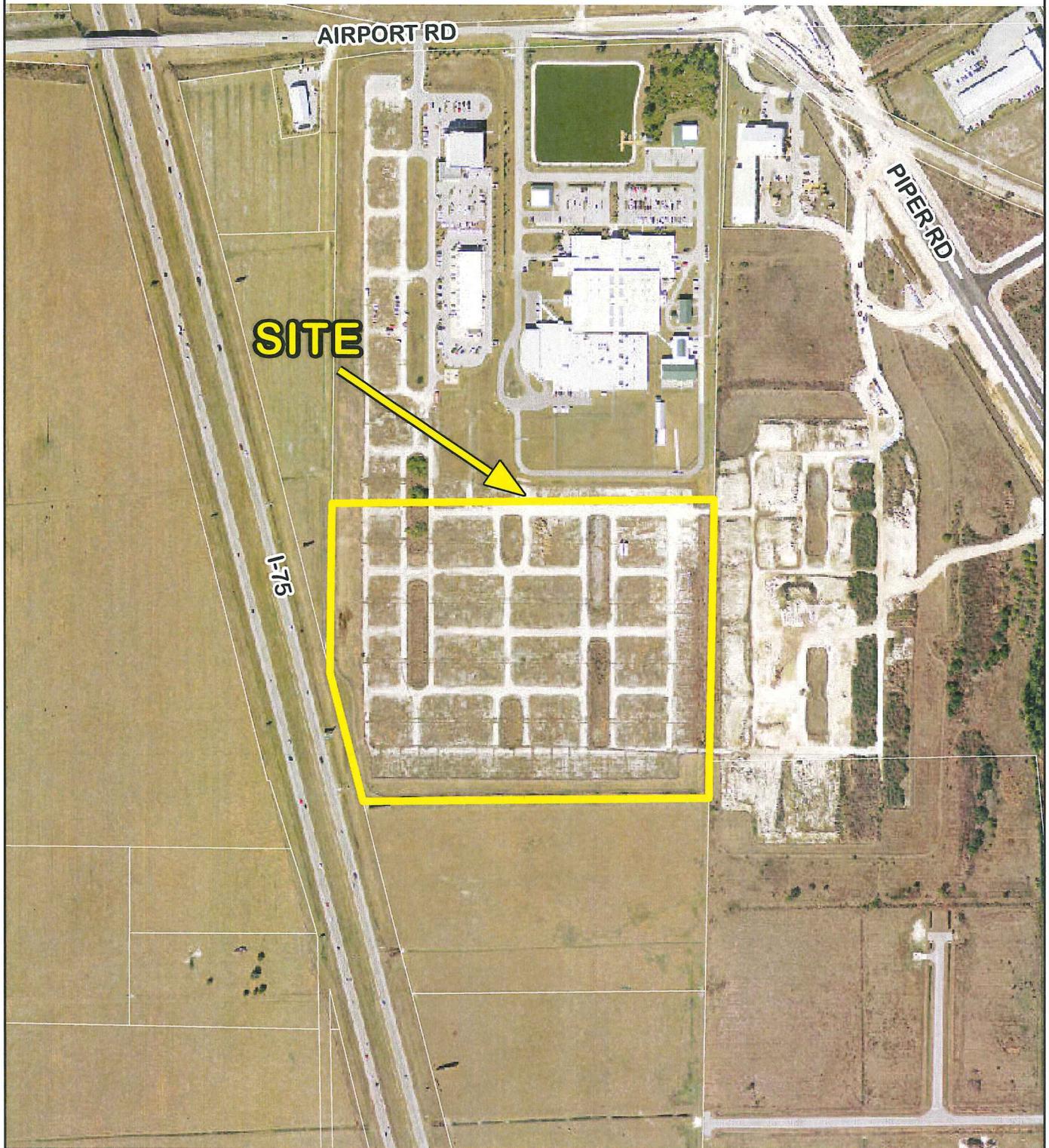
CHARLOTTE COUNTY

Aerial View for VAR-13-005

Charlotte County Government

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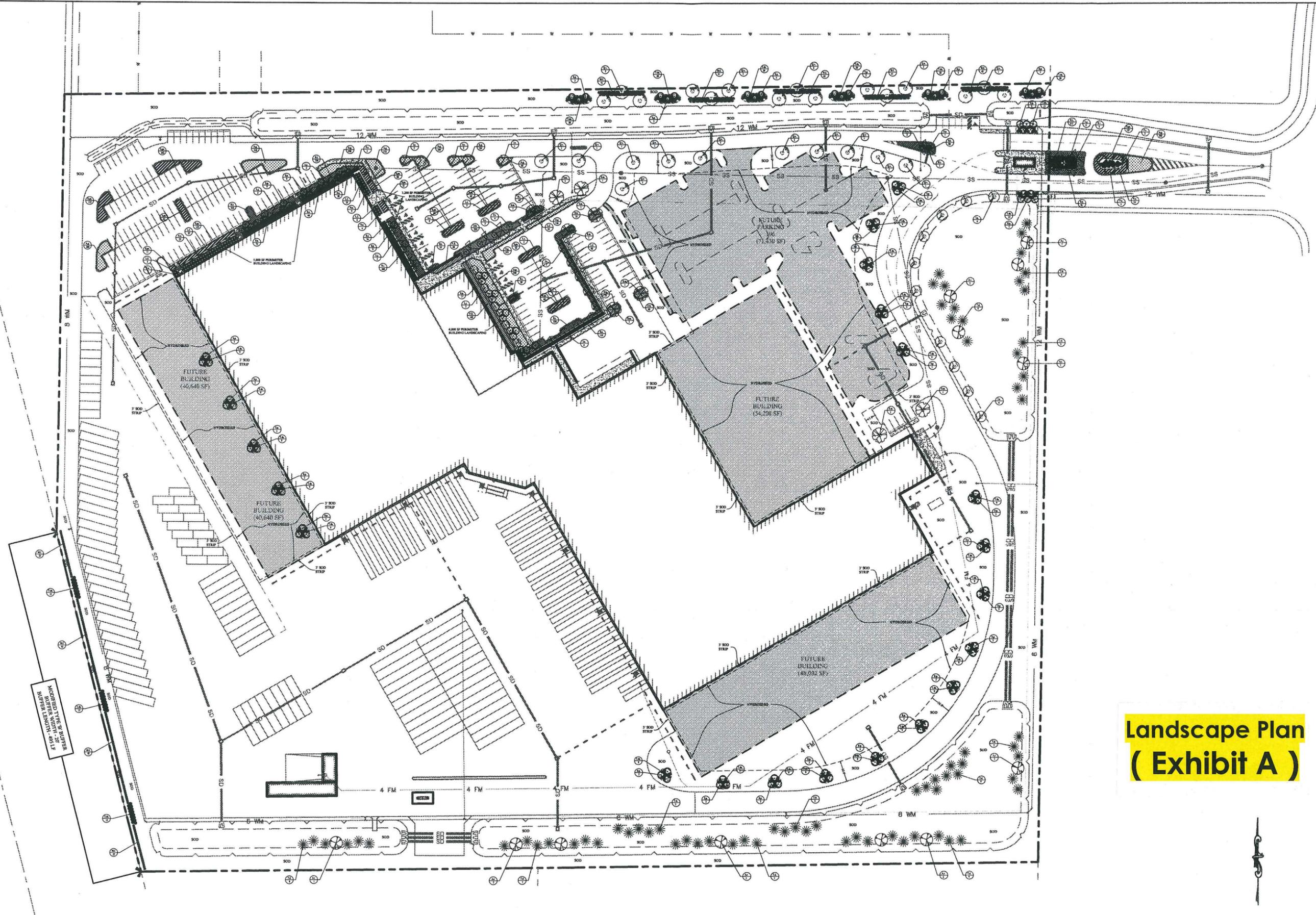
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**Landscape Plan
(Exhibit A)**

Scale: 1" = 60'

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1700 El Johnson Road
Port Charlotte, Florida, 33946
Telephone No. (813) 929-2522
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E-mail: ce@char-engineering.com



Landscape Plan
Cheney Brothers Distribution Center
26551 Airport Road
Charlotte County, Florida

FOR
Cheney Brothers, Inc.
1 Cheney Way
West Palm Beach, Florida 33404
Phone: (800) 432-1341
Fax: (561) 688-6746

Revisions:
Rev. Frel. DRC 7/09/13

John T. Swen, R.L.A.
L.A. No. 6901832
State of Florida
Charlotte Engineering & Surveying, Inc.
Austriantratt No. LC-371

Date: 06/17/13
Scale: 1"=60'
Drawn By: -
Checked By: JTS
Project #: 12683

12. Variance Narrative:

Project Overview:

Cheney Brothers, Inc. is developing a thirty five (35) acre food distribution center located within the Enterprise Charlotte Airport Park (ECAP). This proposed center when completed will provide hundreds of employment opportunities to the surrounding area and will be a significant economic stimulus to Charlotte County. It meets the definition of a Development of Countywide Impact in that it shall consist of approximately three hundred thousand (300,000) square feet of distribution center floor area.

The site (the former Hurricane Charlie FEMA trailer site) is located in a heavily industrial area adjacent to the East right-of-way (ROW) line of Interstate 75, with access coming from the newly constructed Piper Road through Cheney Way. On the North property line lays the County Jail/Public Works Facility and along the South property line is an active cow pasture. Cheney Way was constructed earlier this year and was accepted by Charlotte County Commission for public maintenance on July 23, 2013. The construction and funding of this access way was created through a public/private partnership that included Charlotte County, The Charlotte County Airport Authority, the State of Florida and Cheney Brothers, Inc.

The distribution center will include approximately 300,000 square feet of warehouse and office space within the first phase including offices, loading docks, warehouse space, maintenance facilities and accessory buildings. Total proposed build out could exceed 500,000 square feet.

Some of the main reasons this site was purchased by Cheney Brothers to build the new distribution center was its exposure to Interstate 75, the superb access to the Interstate through Pipers Road and Jones Loop, and the resounding support that was received from the community.

Due to the unique nature of this large distribution center, relying heavily on large storage buildings and expansive paved areas for truck parking, maneuvering and other parking, a disproportionate amount of impervious surface area is required for this project. This factor, along with considerations for future expansions of buildings and parking areas, limits areas for planting of trees. Additionally, with respect to along the I-75 ROW, it is important that Cheney Brothers has sufficient visibility. Due to its limited frontage (much of which is an active cow pasture), deep set back, and large billboards blocking several site lines, visibility is limited and would be further limited if Cheney Brothers was required to comply strictly with the Code's requirements for landscape buffer along the I-75 ROW.

Accordingly, Cheney Brothers respectfully requests two variances as set forth below. Neither are restricted or prohibited in the ECAP district and neither is incompatible with adjacent properties, surrounding communities, or is otherwise detrimental to the public welfare. To the contrary they will contribute to the success of the development, thereby contributing to the economic wellbeing of the community.

Narrative
(Exhibit B-1)

Proposed Variances:

Variance Request #1

Article II, Section 3-9-51, Enterprise Charlotte Airport Park (ECAP) governs the design and development of property within the ECAP district. Under Section 3-9-51 (g) (2) "Applicability", it provides, in pertinent part, as follows:

The design and development standards provided for in this section are applicable in all areas of the ECAP district unless otherwise provided herein. Any regulation or standard contained in this section governing any particular aspect of design or physical layout of a development located within the ECAP district shall supersede any other regulation or standards contained elsewhere in this Code of Laws and Ordinances of Charlotte County, Florida, governing that same aspect of design or development. In the event there is some aspect of design or physical layout of a development that is not expressly governed or regulated by the provisions of this section 3-9-51, but that is governed by another county law, the ordinance, code, rule or regulation shall apply to that aspect of design or physical layout of a development in the ECAP district. Developments that are subject to, or exempted from, the design and development standards contained in this section are as follows:

a....

b...

c...

d. Developments of countywide impact. Developments under this category shall be exempt from the design and development standards contained herein, except that such developments shall meet the setback standards as set forth in subsection (g)(6) hereof, the height standards set forth in subsections (g)(8) and (e)(7) hereof, and the landscaping and buffering standards as set forth below.

- A Type B buffer, modified to include a single hedgerow of shrubs instead of fifteen shrubs per one hundred (100) linear feet, must be planted along all property boundaries adjacent to a road ROW.
- One hundred (100) square feet of building perimeter plantings shall be required per ten thousand (10,000) square feet of building footprint for the development. Where this standard is unachievable due to high traffic circulation, required plantings can be shifted to the perimeter of the site. Any landscape plantings in a public row are subject to approval by the county engineer.

The "modified Type B buffer", per Section 3-9-51 (g)(7), would further require "5 trees plus 2 accent trees per 100 linear feet" along the I-75 ROW. For the Cheney Brothers property, this would equate to 25 canopy trees (495 lineal feet X 5 canopy trees) and 10 accent trees (495 lineal feet X 2 accent trees). **Cheney Brothers is respectfully requesting a variance from the tree portion of the buffer requirement, specifically a variance allowing it to forgo planting 25 canopy trees and 10 accent trees along the I-75 ROW.**

Narrative
(Exhibit B-2)

Variance Request #2

Article IX, Section 3-2-188 Minimum Tree Requirements provides, in pertinent part, that for all developments regulated thereby, 1 tree point must be provided for every 2,000 square feet of development site. In order to count toward the minimum tree point requirement, a preserved or planted tree must have a minimum height of eight (8) feet and a minimum caliper of two (2) inches measured twelve (12) inches from the natural ground level.

The Cheney Brothers site is 35 acres (1,524,600 square feet). Thus, under the code, 762.3 tree points are required. **Cheney Brothers respectfully requests a variance from this Code provision allowing it to provide 307.5 tree points (a variance of 454.8 tree points).**

Cheney Brothers, Inc. respectfully requests the above referenced variances be granted. Same comport with the unique characteristics of the property; would eliminate an undue hardship on the petitioner; do not involve any use prohibited within the district; would not be injurious or incompatible with contiguous uses, the surrounding neighborhood or the public welfare; are the minimum modifications needed; and are consistent with the Comprehensive Plan.

Narrative
(Exhibit B-3)



MEMORANDUM

Date: August 26, 2013
To: Ken Quillen, Planner III
From: Jamie Scudera, Environmental Specialist
Subject: VAR-13-005
Cheney Brothers Distribution Center, One Cheney Way

The Zoning Environmental Review Section has conducted a cursory review (additional wildlife or environmental reviews may be required by state and/or federal agencies) of the above referenced petition for compliance with Environmental, Tree and Landscaping codes/ordinances and offers the following comments.

- ❖ The applicant has provided a protected species assessment dated June 2013 by Ian Vincent & Associates documenting no listed species utilization. The site is a total of 35 acres which was cleared, filled and graded several years ago in order to be used as the FEMA trailer site following Hurricane Charlie.

If this petition is approved, the following conditions will be reviewed for compliance upon Site Plan Review (if required) and the issuance of any county permit or land improvement activities:

- ❖ All applicable county, state and federal authorization or permits, and mitigation (if necessary) will be required.
- ❖ If this proposal moves forward, it will be reviewed for compliance with:

Chapter 3-2:
Article IX. TREE REQUIREMENTS.

Chapter 3-5:
Article IV, CLEARING, FILLING AND SOIL CONSERVATION.

If there are any questions pertaining to this review please feel free to contact me at (941) 743-1290.

JS

(Exhibit C)

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