Application No.
PA-12-09-12 & Z-12-09-13
(Unified Plan Amendment and Rezoning Request)

Applicant
Thomas & Marie C. Frey / Morningside Drive

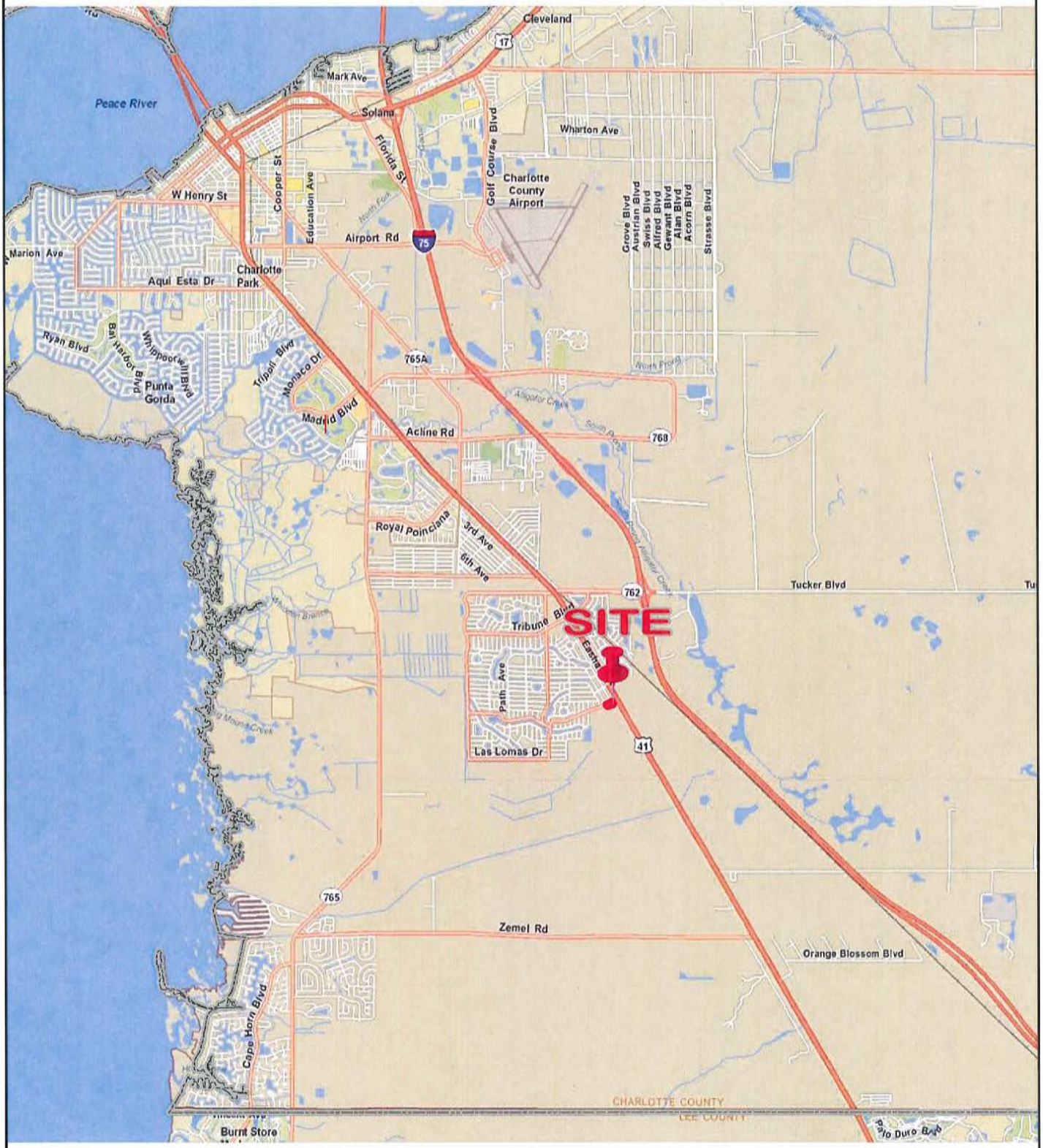
Legislative / Quasi-Judicial

Commission Dist. II

Community Development

CHARLOTTE COUNTY

Location Map for PA-12-09-12 and Z-12-09-13



11/42/23 South County

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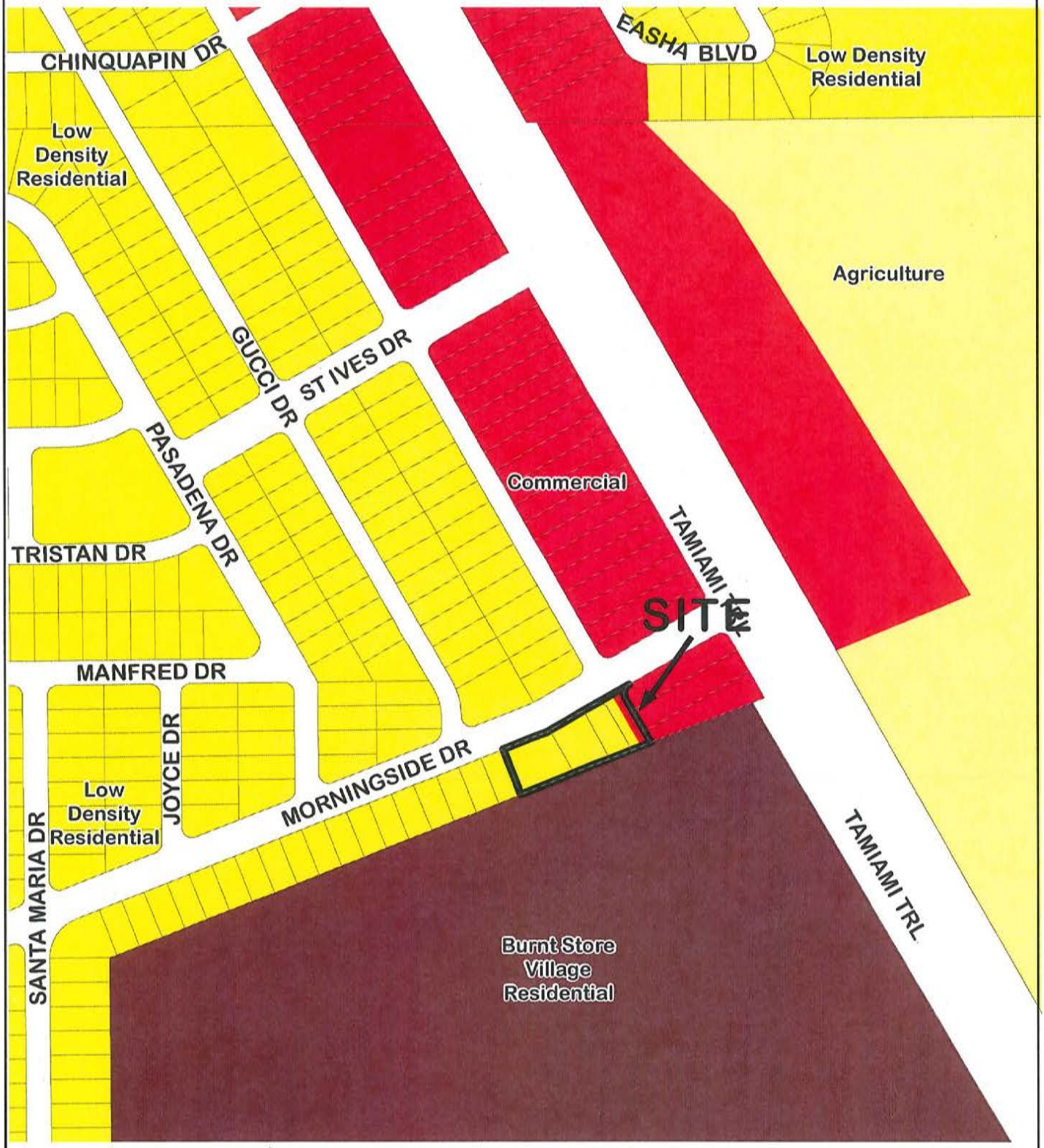
Flum Map for PA-12-09-12 and Z-12-09-13



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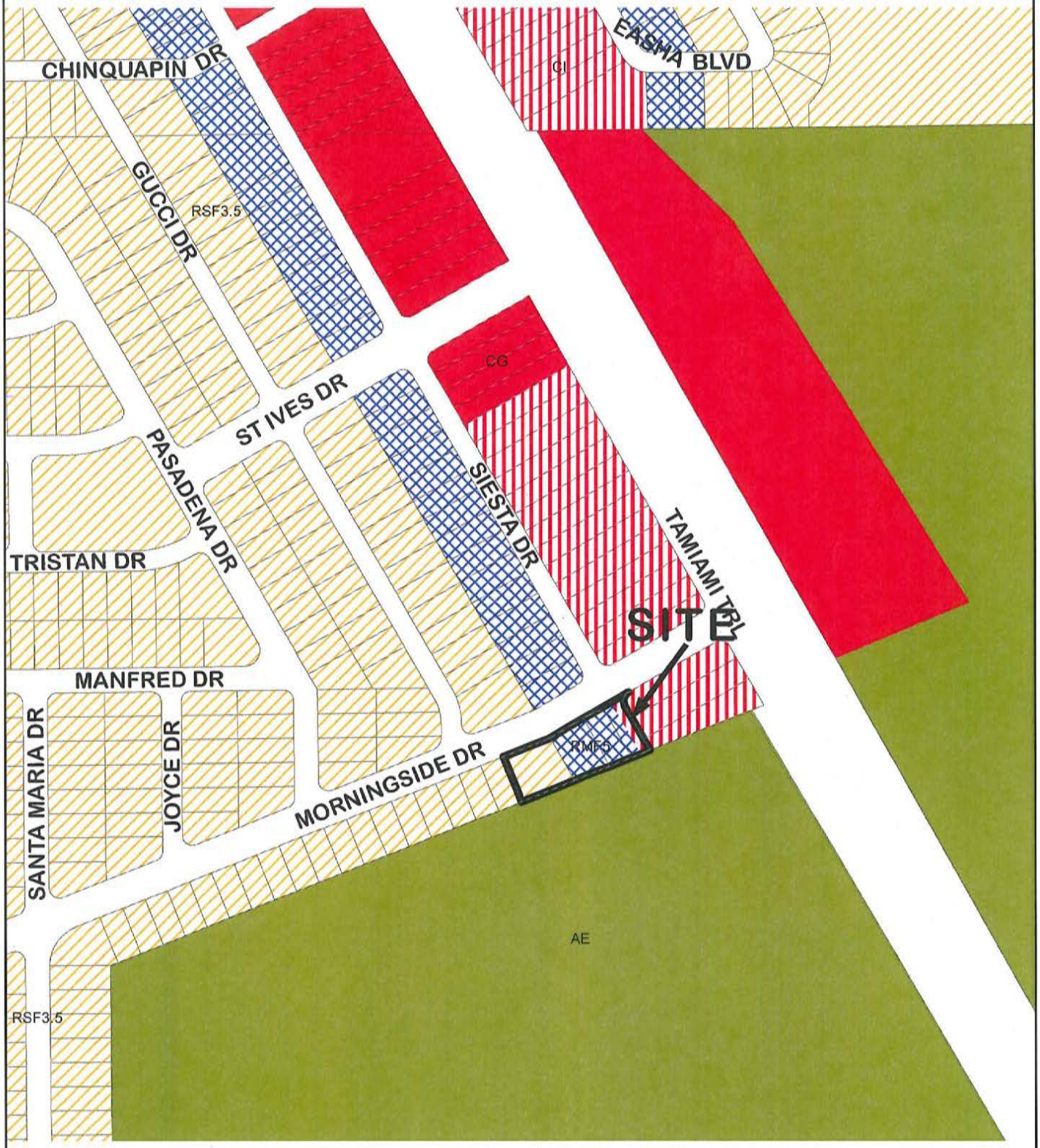
Zoning Map for PA-12-09-12 and Z-12-09-13



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Community Development Department
Staff Report for PA-12-09-12 & Z-12-09-13

DATE: October 19, 2012

TO: Honorable Board of County Commissioners
The Planning and Zoning Board

FROM: Jie Shao, Planner III

REQUESTED ACTION(S): A privately initiated request to amend:

- Charlotte County FLUM Series Map #1: 2030 Future Land Use, from Commercial (COM) and Low Density Residential (LDR) to Commercial (COM); and
- Charlotte County Zoning Atlas from Commercial Intensive (CI), Residential Multi-family 5 (RMF-5) and Residential Single-family 3.5 (RSF-3.5) to Commercial Intensive (CI).

PART I

Applicant(s): Thomas Frey and Marie C. Frey
267 Cherokee Trail
Seymour, TN 37865

Owner(s): Same as applicants

General Location and Acreage: The subject property is located north and east of Santa Maria Drive, south of Morningside Drive and west of Tamiami Trail (U.S. 41) , in the Punta Gorda area. The site contains a total of 1.01± acres more or less.

Account Number(s): 422311255018, 422311255019 & 422311255020

Analysis:

The subject property is located on the west side of US 41, in the Punta Gorda area, and contains a total of 1.01 acres. The petitioners, Thomas and Marie Frey, are requesting a Future Land Use map amendment from Commercial (COM) and Low Density Residential (LDR) to COM and a companion rezoning from Commercial Intensive (CI), Residential Multi-family 5 (RMF-5), and Residential Single-family 3.5 (RSF-3.5) to CI.

In early 2012, Mr. Frey applied for a Street Vacation to vacate a portion of Siesta Drive located between a commercial lot along US 41 and three residential lots to the west. All these lots are owned by petitioners. The Board of County Commissioners approved this Street Vacation (Petition Number is SV-12-02-02) on May 8, 2012. According to this unified application, the owners wish to unify these three residential lots and the vacated portion of Siesta Drive with the existing commercial property located on US 41 in order to expand the existing business.

Consistency with the Smart Charlotte 2050 Comprehensive Plan

The proposed change is not contrary to FLU Policy 5.4.2: Limit Expansion of Strip Commercial. This policy states that "*The County shall deny FLUM amendments to the Commercial category that will allow new strip commercial development. An exception to this policy may be made in the case of infill development where a property is located between two properties already designated Commercial, or in order to increase the depth of an existing Commercial lot(s) where:*

1. *The proposed development is required to have joint, interconnected access and is under the same ownership, or under unified control, with the existing lot(s), and the proposed development is required to submit a unified development proposal; or*

2. *The proposed development is required to have joint, interconnected access and is under the same ownership, or under unified control, with the existing lot(s), and the proposed development is part of a Planned Development rezoning that includes both the existing and proposed properties."*

The petitioners own both the subject property and the property directly adjacent to the east of the site, which is already designated as Commercial and zoned CI. The petitioners also wish to expand the existing commercial uses on the subject site. Thus, the petitioners' request meets the exception to this policy to increase the depth of an existing commercial lot.

Furthermore, the subject property is located within an Emerging Neighborhood on the 2050 Framework map, and is also located at the southwest corner of US 41 and Morningside Drive, in the south Punta Gorda area. Commercial uses are located directly to the east of the site; a strip of commercial lands are located on the both side of US 41; to the west and further southwest and northwest of the site are predominantly residential areas with a lot of vacant platted residential lots as well as some single-family homes. Within one-half mile of the subject property, it is important to note that approximately 356 acres of lands are designated for residential uses (which majority of lands are currently vacant), and 37.07 acres of lands are designated for commercial uses (14.7 acres of lands are zoned CI and 22.37 acres of lands are zoned CG). 86% of the CI zoned properties have already been developed. It is the staff's opinion that there will be a demand for commercial uses, specifically commercial intensive uses, in this area in order to provide adequate commercial services for the future residents.

Lands designated for Residential uses:

Existing Land Use	**Acreage**
Vacant	341.2

Single-family Homes	14.8
Total	**356**

Lands designated for Commercial uses:

Existing Land Use	**Zoning District**	**Acreage**
Vacant	CI Zoning	2.1
	CG Zoning	20.97
Improved Commercial	CI Zoning	12.6
	CG Zoning	1.4
Total		**37.07**

Compatibility and Impacts on the Adjacent Land Uses

The properties located to the northeast and east are all commercial properties with existing commercial intensive uses on the site. There are also some vacant residential lands located directly to the west and south, as well as some vacant residential lots located across Morningside Drive to the north. The proposed CI zoning requires a type D buffer at a minimum to be placed along the property boundary adjacent to residential zoned properties. In addition, there is a street (Morningside Drive) which also provides some buffering between the proposed commercial uses and the existing designated residential uses. It is staff's determination that the proposed land use changes will not create any detrimental impacts on the platted residential neighborhood located directly to the west and north.

Concurrency issues

- Water and Sewer: The subject property is located within the Charlotte County Utilities (CCU) service area. Although water and sanitary sewer services are not available at this time, CCU offers line extension services at customer's expense, and it currently retains enough capacity to provide water and sewer services to the proposed commercial uses.
- Traffic: US 41 is currently operating at an acceptable Level-of-Service (LOS). According to the County's Transportation Planner, the proposed commercial uses will not cause the LOS of the County roadway to fall below the adopted LOS D.

Therefore, the proposed development will not raise any concurrency issues.

STAFF RECOMMENDATION:

"Approve adoption of Petition No. PA-12-09-12 based on the findings and analysis in the Comprehensive Planning Division staff report dated October 19, 2012 and any evidence presented at the public hearing on the application."

"Approve adoption of Petition No. Z-12-09-13 based on the findings and analysis in the Comprehensive Planning Division staff report dated October 19, 2012 and any evidence presented at the public hearing on the application."

Conclusion:

Staff recommends approval of this FLUM change and rezoning because it is consistent with Smart Charlotte and will not create any detrimental impacts on the surrounding land uses.

The Planning and Zoning Board proposed recommendations:

"Motion to forward application No. PA-12-09-12 to the Board of County Commissioners with a recommendation of [Approval or Denial], based on the findings and analysis in the staff report dated October 19, 2012 and the evidence presented at the public hearing on the application."

"Motion to forward application No. Z-12-09-13 to the Board of County Commissioners with a recommendation of [Approval or Denial], based on the findings and analysis in the staff report dated October 19, 2012 and the evidence presented at the public hearing on the application."

PART II: RESEARCH AND FINDINGS

1. **2050 Framework Designation:** The entire property is designated as part of an Emerging Neighborhood.

2. **2030 Service Area Delineation:** The entire site is located in the Urban Service Area.

3. **Existing Land Use on the Site:** The subject property is currently vacant.

4. **Existing Designation(s):**

FLUM	Development Standard
Commercial (COM)	The Commercial category is used for properties wherein nodal-style and strip-style commercial development occurs or is projected to occur in the future. Establishing a nodal-style commercial development shall be the principal and preferred use of the Commercial category. Further strip-style commercial development is prohibited except in the specific circumstances listed in FLU Policy 5.4.2. Nodal-style commercial development is differentiated into three sub-categories based upon size, character and location. The acreage of adjacent lands designated Commercial shall be aggregated to determine the standards to which the development may occur. **General Range of Uses** These lands are designated for retail and service uses, institutional, office activities, hotels, motels, restaurants, as well as public services and facilities. **Community:** These developments are designed to provide for the daily shopping and service needs of residents located in surrounding neighborhoods with a service area of up to a ten-mile radius. Businesses operating in these areas provide daily convenience and retail goods such as food, drugs, and sundries as well as professional and business services which meet the needs of the trade area. **Locational Standards:** These developments shall be located adjacent to and with access provided by arterial or collector roadways. **Residential Support:** up to 40,000 persons **Size:** Three to 30 acres **Maximum Intensity:** 0.5 FAR for commercial / retail 1.0 FAR for professional office buildings
Low Density	**General Range of Uses**

Residential (LDR)	Single-family residential, multi-family residential, manufactured residential dwelling units, recreational vehicles, recreational facilities in association with residential development, schools, and public services and facilities. **Minimum and Maximum Density** Low Density Residential lands may be developed at a density of one dwelling unit per acre up to five dwelling units per acre. If zoned Environmentally Sensitive, the density is one dwelling unit per ten acres.
Zoning	**Development Standard**
Commercial Intensive (CI)	The purpose and intent of the commercial, intensive (CI) district is to permit the designation of suitable locations for and to facilitate the proper development and use of land for those commercial activities which are like or which have many of the same needs as industrial land uses. Such uses often rely on large ground areas for storage or display of goods, are relatively insensitive to the impacts of adjacent land uses, while generating substantial impacts on their neighbors. Commercial, intensive land uses are generally services, particularly warehousing, distribution and compatible businesses oriented to the sale and service of automobiles and boats. The CI district is and is intended to be intermediate between consumer-oriented commercial and light industrial uses. • Minimum lot size is 12,000 square feet. • Minimum lot width is 100 feet. • Maximum lot coverage is 50%. • Maximum structure height is 60 feet. • Setbacks: o Front setback is 25 feet; o Side setback is 20 feet (Abutting a road); o Rear setback is 10 feet (Abutting a lot).
Residential Multi-family 5 (RMF-5)	The residential, multifamily (RMF) districts are intended to be low- or high-density residential districts with emphasis on multifamily use. • Minimum lot area is 7,500 square feet. • Minimum width is 80 feet. • Maximum lot coverage by all buildings is 35 percent. • Maximum building height is 60 feet. • Maximum density is 5 units per acre. • Minimum yard requirements: o Front yard is 25 feet. o Side yard: ▪ Interior, hale the building height but not less than seven and one-half (71/2) feet. ▪ Abutting a road, half the building height but not less than fifteen (15) feet.
Residential Single-family 3.5 (RSF-3.5)	The residential, single-family (RSF) districts are intended to be used for single-family residential dwellings and other uses normally associate therewith. Among RSF-1, RSF-2, RSF-3.5, and RSF-5 districts, there are variations in requirements for lot area, width and certain yards. • Minimum lot site is 10,000 square feet. • Minimum width is 80 feet. • Maximum lot coverage by all buildings is 35%. • Maximum building height is 38 feet. • Maximum density is 3.5 units per acre.

	• Setbacks: o Front setback is 25 feet. o Side setback is 15 feet (Abutting a road). o Rear setback is 20 feet (Abutting a lot).

Table 1

5. Proposed Designation(s):

FLUM	Development Standard
Commercial (COM)	The Commercial category is used for properties wherein nodal-style and strip-style commercial development occurs or is projected to occur in the future. Establishing a nodal-style commercial development shall be the principal and preferred use of the Commercial category. Further strip-style commercial development is prohibited except in the specific circumstances listed in FLU Policy 5.4.2. Nodal-style commercial development is differentiated into three sub-categories based upon size, character and location. The acreage of adjacent lands designated Commercial shall be aggregated to determine the standards to which the development may occur. **General Range of Uses** These lands are designated for retail and service uses, institutional, office activities, hotels, motels, restaurants, as well as public services and facilities. **Community:** These developments are designed to provide for the daily shopping and service needs of residents located in surrounding neighborhoods with a service area of up to a ten-mile radius. Businesses operating in these areas provide daily convenience and retail goods such as food, drugs, and sundries as well as professional and business services which meet the needs of the trade area. **Locational Standards:** These developments shall be located adjacent to and with access provided by arterial or collector roadways. **Residential Support:** up to 40,000 persons **Size:** Three to 30 acres **Maximum Intensity:** 0.5 FAR for commercial / retail 1.0 FAR for professional office buildings
Zoning	**Development Standard**
Commercial Intensive (CI)	The purpose and intent of the commercial, intensive (CI) district is to permit the designation of suitable locations for and to facilitate the proper development and use of land for those commercial activities which are like or which have many of the same needs as industrial land uses. Such uses often rely on large ground areas for storage or display of goods, are relatively insensitive to the impacts of adjacent land uses, while generating substantial impacts on their neighbors. Commercial, intensive land uses are generally services, particularly warehousing, distribution and compatible businesses oriented to the sale and service of automobiles and boats. The CI district is and is intended to be intermediate between consumer-oriented commercial and light industrial uses. • Minimum lot size is 12,000 square feet. • Minimum lot width is 100 feet. • Maximum lot coverage is 50%. • Maximum structure height is 60 feet. • Setbacks: o Front setback is 25 feet; o Side setback is 20 feet (Abutting a road);

	o Rear setback is 10 feet (Abutting a lot).

Table 2

6. **Surrounding Land Uses and their Future Land Use Map and Zoning Designations:**

Direction	Existing Land Use	FLUM Designation	Zoning District Designation
North	Morningside Drive Vacant lands designated for residential uses Auto sales and repair business	Low Density Residential (LDR) Commercial (COM)	Residential Multi-family 5 (RMF-5) Commercial Intensive (CI)
East	Auto sales and repair business owned by the applicant US 41 Vacant lands designated for agricultural uses	Commercial (COM) Agriculture (AG)	Commercial Intensive (CI) Agriculture Estates (AE)
South	Vacant lands designated for residential uses owned by the applicant	Burnt Store Village Residential (BSVR)	Agriculture Estates (AE)
West	Vacant lands designated for residential uses	Low Density Residential (LDR)	Residential Single-family 3.5 (RSF-3.5)

Table 3

7. **Buildout Calculations (square footage &/or density):**
The proposed commercial intensive uses involve no residential density. Based on the commercial FLUM designation and proposed CI zoning district, the maximum Floor Area Ratio is 0.5, and the maximum building height is 60 feet; therefore, the maximum buildout of the subject site is 21,998 square feet of commercial uses.

8. **Is the subject site within a Community Planning Area or Special Plan area?** The site is not located within any Community Planning Area or Special Plan area.

9. **Is the subject site located adjacent to existing or proposed Federal, State, or County wildlife management areas, parks, preserves or reserves?**
The subject property is not adjacent to any of the existing or proposed Federal, State, or County wildlife management areas, parks, preserves or reserves.

10. **Is the proposed land use designation(s) consistent with the provisions of the:**
    a. **Charlotte Harbor Aquatic Preserves Management Plan?** The subject property is located outside the boundary of the Charlotte Harbor Aquatic Preserves.
    b. **Lemon Bay Aquatic Preserve Management Plan?** The subject property is located outside the boundary of the Lemon Bay Aquatic Preserve.

11. **Does the subject site contain any designated archaeological site or historic structures?**

According to the Florida Master Site File, the subject site does not contain any historic structures nor is it designated as an archaeological site.

12. **Are there wetlands on the property?** No
    a. **Number of acres of Category I:** N/A
    b. **Number of acres of Category II:** N/A

13. **Natural Resources**:
    a. **Significant natural resources and/or critical habitat for endangered/potentially endangered species:** No, according to the Environmental Site Evaluation report, prepared by The Ecology Group, Inc., dated August 22, 2012, there are no identified environmental constraints on the project site.
    b. **Possible impacts to groundwater, surface water, wetlands or other significant natural resources:** No
    c. **Is the subject site within the Special Surface Water Protection Overlay District?** No
    d. **Is the subject site within the Watershed Overlay District?** No
    e. **Is the subject site within a Wellhead Protection Area?** No
    f. **Is the subject site within the Prime Aquifer Recharge Area?** No

14. **Coastal Planning:**
    a. **Is the subject site within the Coastal Planning Area?** No. The site is located outside the Coastal Planning Area.
    b. **Could the proposed changes impact beach accessibility?** No
    c. **Could the proposed change affect other waterfront access?** No
    d. **Flood Zone:** The entire site is located in Flood Zone D, an area in which flood hazards are undetermined, but possible.
    e. **Storm Surge Evacuation Zone:** The site is located within Evacuation Zone D.
    f. **Coastal High Hazard Area?** No
    g. **Could the proposed changes impact evacuation times?** No

15. **Facilities and Services**
    a. **Nearest Park:** N/A
    b. **Nearest Police Station:**
       Name: District 3
       Address: 7474 Utilities Road, Punta Gorda
       Distance: approximately 8 miles to the northwest of the subject site
    c. **Nearest Fire/EMS Station:**
       Name: Charlotte County Station No. 5
       Address: 26287 Notre Dame Boulevard, Punta Gorda
       Response Time: Approximate response time is 4-6 minutes
    d. **Nearest Library:** N/A
    e. **Nearest Hospital:**
       Name: Charlotte Regional Medical Center
       Address: 809 East Marion Avenue, Punta Gorda
       Distance: approximately 9.6 miles to the northwest of the subject site

f. Nearest Potential Emergency Shelter: N/A

g. Nearest Public Schools: N/A

16. Concurrency

a. Roads Level of Service: See attached report from Venkat Vattikuti, Transportation Planner

b. Potable Water Level of Service:

1. *Provider's Name:* Charlotte County Utilities (CCU)

	225 gallons per ERU per day	
Permitted Facility Capacity	**Current Facility Usage**	**Proposed Land Use estimated water needs**
2,400,000	299,300	1,100

Table 4

2. *Analysis:* If the Board approves this unified application, it will allow the property owner to have a maximum of 21,998 square feet of commercial uses. The estimated water usage would be 1,100 gallons per day. Charlotte County Utilities (CCU) retains enough capacity to serve the proposed commercial development.

c. Sanitary Sewage Level of Service:

1. *Provider's Name:* Charlotte County Utilities (CCU)

	190 gallons per ERU per day	
Permitted Facility Capacity	**Current Facility Usage**	**Proposed Land Use estimated sewer needs**
500,000	287,000	935

Table 5

2. *Analysis:* If the Board approves this unified application, it will allow the property owner to have a maximum of 21,998 square feet of commercial uses. The estimated sewer generation would be 935 gallons per day. Charlotte County Utilities (CCU) retains enough capacity to serve the proposed commercial development.

d. Park and Recreation Level of Service:

1. *Level of Service*

Adopted Level of Service is 16 Park, Recreation and Open Space (PROS) point per 1,000 populations

2. *Analysis:*

A 2009 analysis shows that the County currently has 17.2 PROS points per 1,000 populations.

e. Schools: N/A

f. Solid Waste:

1. *Refuse Collector:* Waste Management Inc. of Florida
2. *Solid Waste Provider:* Public Works Department - Municipal Solid Waste Management
3. *Level of Service*
   - Solid Waste (Landfill) 5.0 pounds per day per equivalent fulltime resident
   - Solid Waste (Recycle) 2.2 pounds per day per equivalent fulltime resident
   - Zemel Rd. landfill currently has capacity to dispose of 4.6 million cubic yards of waste. The landfill has a projected remaining lifespan to the year 2027. An existing estimated 170 acres for future disposal cells will provide disposal capacity beyond the year 2050.

g. Drainage:

1. *Level of Service*

New arterials – flood free in the 100-year rainfall event

New and improved collectors - not less than one lane of traffic in each direction above the design high water elevation from a 25-year, 24-hour rainfall.

New local residential streets - designed and constructed with the pavement centerline at or above the design high water elevation resulting from a 5-year, 24-hour rainfall

Stormwater management facilities - in all new subdivisions manage a 25-year, 24-hour rainfall.

New parking facilities- maximum temporary detention depth of nine (9) inches resulting from a 5-year, 24-hour rainfall.

New development on existing platted lots (except single-family, duplex, and triplex dwellings) - on-site stormwater management for a 25-year, 24-hour rainfall.

2. *Analysis:*

The Southwest Florida Water Management District and the Community Development Department review stormwater management plans on a project specific basis.

17. Capital Improvements Program

a. Are any updates to the CIP required as a result of this petition? No

18. Intergovernmental Coordination

a. Does this amendment require comments from or coordination with adjacent governments or other governmental agencies? No

19. Has a public hearing been held on this property within the last year? Yes, the subject property includes a vacated street (Petition Number is SV-12-02-02). On May 8, 2012, the Board of County Commissioners approved this Street Vacation.

20. 2050 Comprehensive Plan; Goals, Objectives, and Policies that may be relevant to the proposed amendment:

Future Land Use

FLU Policy 5.4.2: Limit Expansion of Strip Commercial

The County shall deny FLUM amendments to the Commercial category that will allow new strip commercial development. An exception to this policy may be made in the case of infill development where a property is located between two properties already designated Commercial, or in order to increase the depth of an existing Commercial lot(s) where:

3. The proposed development is required to have joint, interconnected access and is under the same ownership, or under unified control, with the existing lot(s), and the proposed development is required to submit a unified development proposal; or

4. The proposed development is required to have joint, interconnected access and is under the same ownership, or under unified control, with the existing lot(s), and the proposed development is part of a Planned Development rezoning that includes both the existing and proposed properties.

FLU Policy 5.7.3: Commercial Access

The County shall require that commercial land uses that request to have access to local roads, but which have frontage on and access to an arterial or collector roadway, provide an analysis that provides the reasons why it is necessary. Joint access with adjacent commercial sites and safety issues must be included as part of the analysis. The commercial access may be approved by the County as part of the Site Plan Review process should the need for the access be proven to improve the health, safety, and welfare of the public. Should the commercial land use be located within an area that has an adopted Revitalization Plan, Emerging Area Plan or Special Area Plan that provides standards for local road access, a statement referring to these standards is adequate support material.

FLU Policy 5.7.4: Commercial Landscaping and Buffering
The County shall enforce its landscaping and buffer regulations on all new commercial developments to protect the aesthetic qualities of commercial lands; to provide shady, well-landscaped parking lots in all commercial areas; and to provide buffering in order to protect adjacent, less intensive land uses from adverse impacts such as noise, lighting, and traffic. Alternate urban design standards shall be required for areas that are developed under a Revitalization Plan, an Emerging Area Plan or a Special Area Plan.

21. Standards for Rezoning Approval:

For the rezoning of land, the final action of the Board shall be made after giving due consideration to:

a. Would the proposed change be contrary to the Comprehensive Plan?

Finding: The proposed rezoning to Commercial Intensive (CI) would not be contrary to the Comprehensive Plan if the Board finds the requested plan amendment to Commercial (COM) appropriate.

b. The existing land use pattern in adjacent areas:

Finding: The subject property is located on the west side of US 41, in an area designated as an Emerging Neighborhood on the 2050 Framework map. Vacant platted lots are located immediately to the west of the site. To the north, across Morningside Drive, there are vacant lots designated for residential development; further to the northeast, there are auto repair and storage services. To the east, there is the applicant's commercial parcel with a large communication tower, auto and RV repair and sale business on the site. US 41 is located further to the east. To the south, there is a vacant property designated as Burnt Store Village Residential intended for low-density residential development.

c. The population density pattern and possible increased load on public facilities, such as schools, utilities, and roads:

Finding: The proposed CI rezoning involves no residential density and so student populations are not expected to change as a result of this rezoning. The use of potable water and sanitary sewer could increase compared to the existing residential zoning districts. The subject site is located within the Charlotte County Utilities (CCU) service area, and where CCU currently does not provide any services to the site. However, CCU retains enough

capacity to serve the proposed commercial development. Furthermore, although the proposed commercial uses would increase the automobile trip generation of the site, US 41 is currently operating at an acceptable Level-of-Service (LOS); the County Transportation Planner reviewed this application and concluded that the proposed rezoning will not cause the LOS of the County roadways to fall below an adopted LOS.

d. Would changed conditions make the passage of the proposed amendments appropriate?

Finding: No. The proposed land use change is not contrary to FLU Policy 5.4.2.

e. Would the proposed change adversely influence living conditions or property values in adjacent areas?

Finding: The proposed commercial uses would create a slight increase in the amount of noise, possible fumes, traffic volume, and light on the subject site as compared to the current residential zoning of the properties. However, the subject property is located immediately adjacent to an established commercial corridor with existing similar uses. The proposed change should not have any adverse influence on living conditions or property values in adjacent areas.

f. Would the proposed change affect public safety?

Finding: Public safety should not be affected by this proposed change.

g. Would the proposed change reduce light and air to adjacent areas?

Finding: No. The site is currently vacant, and any new development must comply with the setbacks, height limitations, landscaping and buffering requirements set forth in the County's Land Development Regulations. In addition, for any new development of the site, a Type D buffer (at a minimum) is required to be placed along the property boundary adjacent to those properties zoned RSF-3.5 and RMF-5. The proposed changes would not reduce light or air to adjacent areas.

h. Are there substantial reasons why the property cannot be used in accordance with the existing zoning?

Finding: No. There are no substantial reasons why the property cannot be used in accordance with the existing residential zoning.

Michael P. Haymans

====ATTORNEY AT LAW, P. A. ====

September 24, 2012

Ms. Jie Shao
Charlotte County Community Development Department
Comprehensive Planning Section, Room 205
18500 Murdock Circle
Port Charlotte, FL 33948

Re: Small Scale Plan Amendment and Rezoning, Thomas Frey and Marie C. Frey

Dear Jei,

This letter follows up and confirms our telephone conversation of last week. Please accept this clarification to the pending application. This past spring, the Board of County Commissioners vacated a portion of Siesta Drive, which resulted in one-half of the roadway going to each adjoining parcel. As a matter of practice, the underlying vacated roadway parcels assume the Comprehensive Plan Future Land Use Map Designation and Zoning Designation of the respective adjoining parcels. Arguably therefore the east half of the vacated roadway is already designated Commercial Corridor and zoned Commercial Intensive.

If that is so, then including the eastern half of the vacated roadway is a harmless redundancy, which does not justify the additional survey work and attendant costs to amend the application. On the other hand, if there is any question about the designation of the underlying vacated roadway parcel happening a matter of law, then including that portion of the roadway in the application will foreclose such a question.

As a matter of economic efficiency and certainty, the underlying easterly half of the vacated roadway shall remain a part of the application. The applicant hereby acknowledges that its inclusion may in fact be a redundancy, and that portion of the property is Commercial Corridor and Commercial Intensive.

Sincerely,

Michael P. Haymans

MPH/lsc
Cc: Client

MICHAEL P. HAYMANS ATTORNEY AT LAW, P. A.
215 West Olympia Avenue
Punta Gorda, FL 33950
Phone: (941) 575-0007
Fax: 575-9177
www.mphaymans.com
michael@mphaymans.com

Application for Plan Amendment and Rezoning
Petition Number: PA -12-9-12 & Z-12-09-13

TO: Honorable Board of County Commissioners
The Planning and Zoning Board

FROM: Venkat Vattikuti

DATE: October 23, 2012

REQUESTED ACTION:

APPLICANT: Thomas Frey & Marie C. Frey

OWNER: Thomas Frey & Marie C. Frey, 267 Cherokee Trail, Seymour, TN 37865

GENERAL LOCATION: Southwest Corner of Morningside Drive and Siesta Drive

ACCOUNT NUMBER: Parcel ID# 412005156009 & 4120051560189

ANALYSIS: From the transportation perspective, the review of the proposed plan amendment and re-zoning request[1] of the subject property, the surrounding roadway segments within the area of significance (shown in the Table below) which are currently operating at acceptable levels of service would continue to operate at acceptable levels of service to the year 2017 (which is the estimated built-out year). There wouldn't be any roadway concurrency failures with the proposed re-zoning. No modifications would be required for the adopted FDOT Transportation Improvement Program, 2035 Long range Transportation Plan and County's Capital Improvements Program.

RECOMMENDATION: Approve the requested rezoning and small scale plan amendment (MAP).

Transportation Element: Roadway Segments in the Area of Significance

ROADWAY	FUNCTIONAL CLASSIFICATION	PM Peak Hour LOS		
		Actual	Adopted	w/ Change
US 41: Tuckers Grade to Zemel Road	Major Arterial	C	C	C
Morningside Drive: US 41 to Santa Maria Drive	Local	C	C	C

[1] Requesting from the Future Land Use Map (FLUM) of Commercial (COM) and Low Density Residential (LDR) to Commercial (COM) (PD) and a zoning change from Commercial Intensive (CI), Residential Multi-Family 5 (RMF-5) and Residential Single-Family 3.5 (RSF 3.5) to Commercial Intensive (CI).

Community Development Department
Comprehensive Planning Section
Room 205
18500 Murdock Circle
Port Charlotte, FL, 33948

CHARLOTTE COUNTY
BUILDING AND GROWTH MANAGEMENT DEPARTMENT

UNIFIED APPLICATION for SMALL SCALE PLAN AMENDMENT (MAP) and REZONING

Date Received:	Time Received:
Date of Log-in:	Petition #: PA-12-09-12 & Z-12-09-13 Accela #: PAS-12-00001 & RZ-12-00003
Receipt #:	Amount Paid:

1. PARTIES TO THE APPLICATION

Name of Applicant: Thomas Frey and Marie C. Frey

Mailing Address: 267 Cherokee Trail

City: Seymour	State: TN	Zip Code: 37865
Phone Number:		Fax Number:
Email Address:		

Name of Agent: Michael P. Haymans

Mailing Address: 215 West Olympia Avenue

City: Punta Gorda	State: FL	Zip Code: 33950
Phone Number: 941-575-0007		Fax Number: 941-575-9177
Email Address: michael@mphaymans.com		

Name of Engineer/Surveyor: Derek Miller, Miller Surveying

Mailing Address: 21053 Peachland Boulevard

City: Port Charlotte	State: FL	Zip Code: 33952
Phone Number: 941-743-8423		Fax Number: 941-743-8404
Email Address: millersurveying@comcast.net		

Name of Property Owner (if more than one property owner, attach a separate sheet with a list of all owners): Thomas Frey and Marie C. Frey

Mailing Address: 267 Cherokee Trail

City: Seymour	State: TN	Zip Code: 37865
Phone Number:		Fax Number:
Email Address:		

Community Development Department
Comprehensive Planning Section
Room 205
18500 Murdock Circle
Port Charlotte, FL. 33948

2. PROPERTY INFORMATION

If more than one account number exists, attach a separate sheet listing all information required by this section

Property Account #: See Attachment "A" 422311255018, 422311255019, 422311255020		
Section:	Township:	Range:
Parcel/Lot #:	Block #:	Subdivision:
Total acreage or square feet of the property: ~~44,040~~ ~~10,291~~ SF (See attached for details)		

3. SURVEY:

- For unplatted property, provide one original boundary survey that is **signed and sealed** by a registered land surveyor and an accurate legal description (including acreage) of the property.
- For platted land, provide one original surveyor's sketch that is **signed and sealed** by a registered land surveyor and an accurate legal description (including acreage) of the property.

4. PROOF OF LAND OWNERSHIP:

Provide the most current *Title Insurance Policy* or an *Ownership and Encumbrance Report* on the subject property.

5. NOTARIZED AUTHORIZATION:

A written, notarized authorization from each owner must be provided with this application if:

- If the applicant is not the owner of the property, a written, notarized authorization from each owner must be provided with this application – use Form A, attached. Property owner authorization is required. If the property owner withdraws permission at any point during the review and approval process, the application is considered null and void.
- If an agent is submitting the application for the applicant – authorization from the applicant is required – use Form B, attached.

6. RESTRICTIONS:

Provide a copy of any covenants, easements or restrictions that have been recorded for the subject site.

7. EXISTING LAND USE DESIGNATIONS

Future Land Use Map (FLUM) designation(s)	Acreage
Low Density Residential	Lot 1 is 7,798 SF; Lot 2 is 12,391 SF;
commercial	Lot 3 is 16,183 SF

Zoning District(s)	Acreage
RMF 5	Lot 1 is 7,798 SF; Lot 2 is 12,391 SF;
RSF 3.5	Lot 3 is 16,183 SF

CI

8. APPLICANT'S PROPOSED CHANGE(S):

Amending FLUM designation(s) to: Commercial ~~(Corridor)~~

Amending Zoning designation(s) to: Commercial Intensive

UNIFIED APPLICATION FOR A SMALL SCALE PLAN AMENDMENT AND REZONING, THOMAS FREY AND MARIE C. FREY, PROPERTY OWNERS

PROPERTY INFORMATION, QUESTION 2, PAGE 2 OF APPLICATION:

All of the following are in Section 11, Township 42N, Range 23E, TGA Subdivision

Property Account Number	**Lot Number**	**Total Square Feet of the Property**
422311255020	1	7,798 SF
422311255019	2	12,391 SF
422311255018	3	16,183 SF
	Total of 3 Lots is	**36,372 SF**
PLUS vacated portion of Siesta Drive		7,668 SF 12
		44,040 /SF
		~~40,292~~

The portion of Siesta Drive vacated in July 2012, by Resolution recorded in the public records of Charlotte County, Florida at O. R. Book 3674, Pages 1906-1911, i.e.

A 10 FOOT PUBLIC UTILITY EASEMENT ALONG THE THE NORTHERLY RIGHT OF WAY LINE AND THE WESTERLY RIGHT OF WAY LINE OF THE FOLLOWING DESCRIBED PARCEL:

COMMENCING AT THE SOUTHEAST CORNER OF BLOCK 202 OF THE PLAT OF TROPICAL GULF ACRES UNIT TEN, SAID POINT BEING A PERMANENT REFERENCE POINT FOR SAID PLAT, THENCE RUN S68°24'10"W ALONG THE SOUTHERLY LINE OF SAID BLOCK 202, SAID LINE ALSO BEING THE SOUTHERLY LINE OF SAID PLAT FOR 303.16 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL;
THENCE N29°52'50"W, ALONG THE WESTERLY LINE OF BLOCK 202, ALSO BEING THE EASTERLY RIGHT OF WAY LINE OF SIESTA DRIVE (A 50 FEET PUBLIC RIGHT OF WAY) A DISTANCE OF 126.63 FEET TO A POINT OF CURVATURE;
THENCE NORTHERLY, A DISTANCE OF 39.27 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 90°00'00" TO THE SOUTHERLY RIGHT OF WAY LINE OF MORNINGSIDE DRIVE (AN 80 FEET PUBLIC RIGHT OF WAY) OF SAID PLAT OF TROPICAL GULF ARCES UNIT TEN;
THENCE S60°07'10"W, ALONG THE SAID SOUTHERLY RIGHT OF WAY LINE OF MORNINGSIDE DRIVE FOR A DISTANCE OF 100.00 FEET TO A POINT OF CURVATURE AT THE INTERSECTION OF SAID SOUTHERLY RIGHT OF WAY LINE OF MORNINGSIDE DRIVE AND WESTERLY RIGHT OF WAY LINE OF SAID SIESTA DRIVE;
THENCE EASTERLY, A DISTANCE OF 39.27 FEET ALONG THE ARC A NONTANGENT CURVE TO THE RIGHT OF WHICH THE RADIUS POINT LIES S29°52'50"E A RADIUS OF 25.00 FEET, AND HAVING A CENTRAL ANGLE OF 90°00'00" ALSO BEING THE WESTERLY RIGHT OF WAY LINE OF SAID SIESTA DRIVE AND THE EASTERLY LINE OF LOT 1 BLOCK 204 OF SAID PLAT OF TROPICAL GULF ACRES UNIT TEN;
THENCE S29°52'50"E, ALONG SAID WESTERLY RIGHT OF WAY LINE OF SIESTA DRIVE A DISTANCE OF 119.35 FEET TO A POINT AT THE SOUTHEASTERLY CORNER OF SAID LOT 1, BLOCK 204 OF SAID PLAT ALSO BEING A POINT ON THE SOUTHERLY LINE OF SAID PLAT;
THENCE N68°24'10"E, ALONG THE SOUTHERLY RIGHT OF WAY LINE OF SIESTA DRIVE ALSO BEING THE SOUTHERLY LINE OF SAID PLAT OF TROPICAL GULF ACRES UNIT TEN A DISTANCE OF 50.53 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH A 5 FOOT WIDE PUBLIC UTILITY EASEMENT ALONG THE REAR LINE OF LOT 3, BLOCK 302, OF SAID PLAT OF TROPICAL GULF ACRES UNIT TEN.

CONTAINING 7,668 SQUARE FEET OR 0.18 ACRES, MORE OR LESS.

If the proposed change involves an increase in density, which of the Receiving Zone criteria does the property meet, or would this be an exemption consistent with a Revitalization Plan?
There is no increase in density, rather there is a reduction in density.

9. REASON FOR PROPOSED CHANGE(S):
Applicant wishes to unify these three lots and the vacated portion of Siesta Drive with the existing commercial property at 12701 Tamiami Trail in order to expand the existing business.

10. CURRENT LAND USE OF SUBJECT PROPERTY: (example: house, vacant land, barn, etc.)
Vacant low density residential.

11. SURROUNDING LAND USES:

North:	RMF 5; Low Density Residential
South:	AE Zoning; Burnt Store Village Residential (FLUM)
East:	Commercial Corridor within CI Zoning. Communication Tower and RV Sales and Service.
West:	RSF 3.5; Low Density Residential

12. ENVIRONMENTAL ASSESSMENT:

- Provide an *Environmental Assessment Report,* conducted within one year or less from the date of submittal, that includes:
  - Maps and surveys of the subject site illustrating the existing land cover according to Level 3 of the FLUCCS
  - Locations of listed flora and fauna species, if present.
  - If any wetlands are identified on site, provide a survey showing delineations of any wetlands, acreages, and the wetland Category (ENV Policy 3.1.3) under which they fall.
  - If the property is adjacent to any Federal, State, or County wildlife management areas, parks, preserves or reserves, supply a science-based analysis of possible impacts to the environmental resources of these lands and the manner in which these impacts can be eliminated. Where elimination is not possible, the analysis shall detail how these impacts can be reduced and mitigated.

13. INFRASTRUCTURE:

A. Roadway

i. List the roads or streets upon which vehicles may travel to gain access to the site (generally within ¼ mile radius):
U. S. Highway 41 and Morningside Drive

ii. *Traffic Impact Report*: This narrative does not need to be authored by a registered professional engineer. Address the number of vehicle trips that may be generated by development of the subject site at maximum buildout allowed under the proposed FLUM and Zoning.

B. Potable Water and Sanitary Sewer

i. Submit a letter from the utility companies (water/sewer) stating availability of utility service to the property.

ii. Attach an *Estimated Potable Water and Sanitary Sewer Usage Report* showing the gallons per day that may be generated by development of the subject site at maximum buildout allowed under the proposed FLUM and Zoning.

14. HISTORICAL OR ARCHEOLOGICAL SITES: When the property under review is within the area determined to contain potential historic and archeological resources by the Archaeological Predictive Model (depicted on SPAM Series Map #3), the applicant must submit an *Archeological/Historical Memo* indicating that a review of the National Register of Historic Places, the Florida Master Site File and the Local Historic Register (when available) has been performed and the results of that review. If the subject site contains any object listed in these resources, the applicant must provide an *Archeological/Historical Survey* performed by a professional archeologist licensed in the State of Florida.

15. REZONING NARRATIVE

Charlotte County Code Section 3-9-11(e) lists the following standards for approval. A narrative stating the applicant's justification for the rezoning based upon the following standards of approval is required: See Attached.

A. Whether the proposed change would be contrary to the Comprehensive Plan
B. The existing land use pattern in adjacent areas
C. The population density pattern and possible increased load on public facilities such as schools, utilities, and streets
D. Whether changed conditions make the passage of the proposed amendment appropriate
E. Whether the proposed change will adversely influence living conditions or property values in adjacent areas
F. Whether the proposed change will affect public safety
G. Whether the proposed change will reduce light and air to adjacent areas
H. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning

16. ADJACENT PROPERTY OWNERS INFORMATION:

Provide an *electronic text file (.txt)* that includes the names and addresses of all property owners within 200 feet of the subject property (excluding street right-of-ways), and a map indicating which properties are included in the address list. The Adjacent Property Owner List must be based upon the latest available property records of the Property Appraiser's Office. The list shall include property owner's name, mailing address, and parcel(s) or lot(s) description or account number so each parcel can be referenced on the Adjacent Property Owner Map. Refer to the Geographic Information System Internet site for mapping and owner information at **http://www.ccgis.com/**. (Use a buffer of 250 feet or larger in order to account for right-of-ways, canals, etc.) Every property owner within 200 feet of every parcel of land involved will be notified of the schedule of public hearings.

THOMAS FREY AND MARIE C. FREY

SMALL-SCALE PLAN AMENDMENT AND REZONING NARRATIVE

This is an application for a Small-Scale Future Land Use Map change from Low Density Residential to Commercial, and a rezoning from Residential Single-Family 3.5 (RSF 3.5) for Lot 3, and Residential Multi-family 5 (RMF 5) for Lots 1 and 2 and the West ½ of Vacated Siesta Drive to Commercial Intensive (CI). The subject property adjoins Commercial Corridor designated, and Commercial Intensive zoned property on the corner of Morningside Drive and U. S. 41. That adjoining property is developed with an existing business and with a communication tower. The developed property and the property subject to this application became adjoining as the result of Road Vacation of Siesta Drive in application number SV 12-02-02. The purpose of the Road Vacation was to allow the expansion of the existing business, thereby deepening the commercial property to overcome some aspects of the existing strip development along U. S. 41.

The change from Residential to Commercial is consistent with the Comprehensive Land Use Plan Smart Charlotte, and furthers Policies and Objectives within that plan. This change will strengthen and direct development toward existing communities in furtherance of FLU Policy 1.1.1. The property is in the Urban Service Area. This change will promote infill development in furtherance of FLU policy 1.2.3. The change will also further FLU Objective 1.4 by protecting private property rights. This change will further FLU Policy 4.1.2 by reducing platted residential lands, and facilitates the reassembly of lots. Granting this request furthers FLU Policy 4.1.5 by helping to ensure adequate commercial support services are proximate to predominantly residential neighborhoods. Approval of this application will further FLU Objective 5.5 by supporting business creation and future economic development opportunities.

This is also an application for rezoning the property after a Small-Scale Plan Amendment is approved from the existing Residential zoning to Commercial Intensive. This application meets the standards of approval as follows:

A. WHETHER THE PROPOSED CHANGE WOULD BE CONTRARY TO THE COMPREHENSIVE PLAN.

As presented above, this change would be consistent with the Compresensive Land Use Plan, and furthers important Policies and Objectives within Smart 2050.

B. THE EXISTING LAND USE PATTERN IN ADJACENT AREAS.

Subject property is at the southeast corner of a suburban residential subdivision. Residential development, particularly near the subject property is very sparse, with only U. S. 41 strip commercial service to residents. Property to the South is vacant agricultural land within the Burnt Store Area Overlay intended for low density uses. The adjacent property owned by the applicant is improved with a large communication tower, and auto and RV repair and sales business. The business has been in the same location for years. Property owners in the area are used to the uses, and an expansion of the existing uses will not constitute new commercial activities in the area.

C. THE POPULATION DENSITY PATTERN AND POSSIBLE INCREASED LOAD ON PUBLIC FACILITIES SUCH AS SCHOOLS UTILITIES AND STREETS.

Changing the Land Use Designation and Zoning from Low Density Residential and Residential 3.5 units per acre will remove 3 residential lots, thereby reducing the potential impact on schools and public facilities. The streets U. S. 41 and Morningside near U. S. 41, are adequate for the proposed use.

D. WHETHER CHANGED CONDITIONS MAKE THE PASSAGE OF THE PROPOSED AMENDMENT APPROPRIATE.

These platted residential lots have remained vacant for many years. Our economic downturn and sputtering recovery further indicate that the property is better serving and an expansion of existing business. The depressed residential market and the opportunity to expand an existing business amounts to a change of circumstance from when the Zoning and Comp Plan designations were initially implemented.

E. WHETHER THE PROPOSED CHANGE WILL ADVERSELY INFLUENCE LIVING CONDITIONS OR PROPERTY VALUES IN ADJACENT AREAS.

The proposed change will not adversely influence living conditions or property values. Area residents are already accustomed to commercial use at or about this location.

F. WHETHER THE PROPOSED CHANGE WILL AFFECT PUBLIC SAFETY.

This proposed change should have no effect upon public safety.

G. WHETHER THE PROPOSED CHANGE WILL REDUCE LIGHT AND AIR TO ADJACENT AREAS.

No.

H. WHETHER THERE ARE SUBSTANTIAL REASONS WHY THE PROPERTY CANNOT BE USED IN ACCORDANCE WITH EXISTING ZONING.

It is not economical in this market to construct residential homes on the subject property. There are substantial reasons why the property should be Commercial in order to allow the existing owner to expand an existing business.

FORM B. APPLICANT AUTHORIZATION TO AGENT

I, the undersigned, being first duly sworn, depose and say that I am the applicant for this PLAN AMENDMENT and REZONING for the property described and which is the subject matter of the proposed hearing.

I give authorization for MICHAEL P. HAYMANS ATTORNEY AT LAW, P. A. to be my agent for this application.

THOMAS FREY
267 Cherokee Trail
Seymour, TN 37865

MARIE C. FREY
267 Cherokee Trail
Seymour, TN 37865

STATE OF TENNESSEE
COUNTY OF SEVIER

The foregoing instrument was acknowledged before me this 15th day of August 2012, by THOMAS FREY and MARIE C. FREY, who are personally known to me or who produced TN. DL as identification and who did take an oath.

My commission expires: 7-3-14
(Affix seal)

Notary Public State of ~~Florida~~ Tennessee

Rhonda Gibson
Printed Name

RHONDA K. GIBSON
NOTARY PUBLIC
STATE OF TENNESSEE
SEVIER COUNTY

Community Development Department
Comprehensive Planning Section
Room 205
18500 Murdock Circle
Port Charlotte, FL 33948

AFFIDAVIT

I, the undersigned, being first duly sworn, depose and say that I am the owner or agent of the property described and which is the subject matter of the proposed hearing; that all answers to the questions in this application, and all sketches, data and other supplementary matter attached to and made a part of the application are honest and true to the best of my knowledge and belief. I understand this application must be complete and accurate before the hearing can be advertised, and that if I am not the owner of the property I have attached a notarized authorization from the owner(s) to submit this application. I acknowledge that all items listed in the application must be submitted concurrent at the time the County accepts the application. I swear that the attached list of adjacent property owners is complete, including all property owners within 200 feet of the subject properties (excluding right-of-ways), that it is correct, providing addresses as listed in the County Tax Roll.

STATE OF FLORIDA, COUNTY OF CHARLOTTE

The foregoing instrument was acknowledged before me this 23rd day of August, 20 12, by

who is personally known to me or has/have produced

as identification and who did/did not take an oath.

Lorayne S. Cavallaro	Michael P. Haymans
Notary Public Signature	Signature of Applicant or Agent
Lorayne S. Cavallaro	Michael P. Haymans
Notary Printed Signature	Printed Signature of Applicant or Agent
	215 West Olympia Avenue
Title	Address
DD857964	Punta Gorda, FL 33950
Commission Code	City, State, Zip
	941-575-0007
	Telephone Number

LORAYNE S. CAVALLARO
MY COMMISSION # DD 857964
EXPIRES: March 14, 2013
Bonded Thru Notary Public Underwriters

ENVIRONMENTAL SITE EVALUATION

of

28387, 28399, and 28407 MORNINGSIDE DRIVE, PUNTA GORDA, FL 33955
PID # 422311255018, 422311255019, 422311255020,
and To-be-Vacated Section of Siesta Drive

August 22, 2012

Prepared for:

Thomas and Marie Frey
267 Cherokee Trail
Seymour, TN 37865

Prepared by:

Dorothea P. Zysko, C.E., PWS
The Ecology Group, Inc.
P. O. Box 512856
Punta Gorda, FL 33951-2856

ENVIRONMENTAL SITE EVALUATION
28387, 28399, and 28407 Morningside Drive, Punta Gorda, FL 33955
PID # 422311255018, 42211255019, 422311255020,
and Vacated Section of Siesta Drive

Introduction

A site visit was conducted on the afternoon of Tuesday, August 21, 2012 to three parcels located in south Punta Gorda, Florida owned by Thomas and Marie Frey to conduct an environmental evaluation. The evaluation was requested by Michael P. Haymans, Attorney, as part of a Charlotte County Small Scale Plan Amendment for the parcels and the vacation of a portion of Siesta Drive. The parcels and portion of Siesta Drive are located in Section 11, Township 42 South, Range 23 East and total approximately 1.07± acres, as shown on the Exhibit 1(Location Map). The three parcels are currently vacant and zoned RMF5.

Field Conditions

Sunny, clear, winds NE at 8 mph, temperature 93º.

Vegetation/Wetlands

During the site visit, the vegetation on the parcels was classified according to the Florida Land Use, Cover and Forms Classification System (FLUCCS) (DOT, 1999) as Disturbed Lands (FLUCCS 741) and Hardwood/Conifer Mixed, Disturbed (FLUCCS 434D).

Evidence of dumping is present on all three lots. The portion of Siesta Drive to be vacated currently is cleared and has two recreational vehicles on it, presumably from the business adjacent to it.

Drainage swales are present on the roadside and near the rear property lines.

Disturbed (FLUCCS 740)

A few live oaks and slash pine occur in the canopy layer on Lot 1 and 2, but the majority of the lots and the portion of Siesta Drive to be vacated were previously cleared and the vegetation is currently dominated by ruderal and weedy species such as dog fennel, Spanish tickseed, and various grasses. Brazilian pepper is dense along the roadside and also occurs in patchy locations on the parcels.

Hardwood/Conifer Mixed, Disturbed (FLUCCS 434D)

The relative open canopy of Lot 3 includes live oak (*Quercus* sp.), slash pine (*Pinus elliottii*) and laurel oak (*Quercus laurifolia*) as well as a few melaleuca (*Melaleuca quinquenervia*), an invasive exotic species. No one species dominates the canopy.

Species present in the subcanopy/shrub layer include one or two red bay (*Persea borbonia*), scattered wax myrtle (*Myrica cerifera*), cabbage palm (*Sabal palmetto*), saw palmetto (*Serenoa repens*), sapling pines and cabbage palms, and the invasive exotic Brazilian pepper (*Schinus terebinthifolius*) occurring in patches and densely along the roadway.

Species occurring in the ground cover include grape vine (*Vitis* sp.), catbrier (*Smilax* spp.), rabbit tobacco (*Pseudognaphalium obtusifolium*) occasional swamp fern (*Blechnum serrulatum*) and camphorweed (*Pluchea* sp.), broomsedge (*Andropogon* sp.), maidencane (*Panicum hemitomon*), and seedling slash pine and cabbage palms. Much of the ground cover is vegetated by various weedy and ruderal species.

Note that although there are some species that are indicative of wetlands, they are scattered and no area meets the A or B test of the Department of Environmental Protection or U.S. Army Corps of Engineers criteria to be considered jurisdictional to those agencies. These species are likely remnants of natural conditions and have persisted over the years.

See Exhibit 2, a 2011 Charlotte County GIS color aerial photograph of the parcel, with the Florida Land Use Cover and Forms Classification System (FLUCCS) codes noted.

Wetlands Hydrology

No evidence of wetlands hydrology was observed anywhere on the three parcels or the portion of Siesta Drive to be vacated.

Soils

The parcel was mapped by the Natural Resources Conservation Service (NRCS) as Malabar fine sand (34), a hydric soil. No soil plugs were taken for this preliminary evaluation. Exhibit 3, an NRCS Soils Map from MapWise, shows the mapped soils for the parcel and surrounding property. The soil description paraphrased from the NRCS Soil Survey is below. Note that this project site has been affected by drainage swales and a road network and is therefore no longer exhibits some of the characteristics described.

Malabar fine sand.
This map unit consists of nearly level, poorly drained soils on sloughs. The surface layer is dark gray fine sand about 5 inches thick. The subsurface layer is light gray sand in upper 12 inches and light yellowish brown fine sand in the next 16 inches. Under natural conditions, the seasonal high water table is within 10 inches for 2 to 4 months. For six months, the water table 10 to 40 inches. In extended dry periods, the water is below 40 inches. During periods of high rainfall, the soil is covered by a shallow layer of slowly moving water.

Natural vegetation on the site consists of wax myrtle, slash pine, scattered saw palmetto, pineland threeawn, maidencane and panicum.

Protected Species and Wildlife

A preliminary and limited protected species and wildlife survey was conducted on the parcel at the time of the site visit. Meandering pedestrian transects across the three lots and Siesta Drive area were used for the survey. Various environmental agency databases were searched for potential protected species and wildlife for this area and type of habitat.

Wildlife: The majority of the project site is not considered good wildlife habitat. No protected species were observed on any of parcels. Observed evidence of wildlife included an armadillo burrow and evidence of armadillo foraging.

Bald Eagle: The Florida Wildlife Conservation Commission (FWC) Bald Eagle database was checked for any eagle nests in close proximity to the site. Eagle Nest CH002 is the closest nest and is located approximately 2.36 miles to the east northeast of the parcel. Therefore, the subject parcel is not located within any protected zone of the closest identified active eagle nest.

Florida Scrub Jay: A "Territory Search" for the Florida Scrub Jay using the Charlotte County website database was conducted. The results indicate that the parcel is not located within a scrub jay territory. Therefore, no coordination with the U.S. Fish and Wildlife Service is required for development of the parcels.

Gopher Tortoise: No gopher tortoises were observed and no gopher tortoise burrows were identified on the project site.

FEMA Flood Zones

A Charlotte County FEMA Flood Zone map is provided as Exhibit 4. The site is classified as D Zone, which is a zone for which flood hazards have not been determined. To obtain the current base Flood Elevation for the parcel, contact the Charlotte County Office of Emergency Management or Building Construction Services.

Photographs

See Exhibit 5 for photographs of the site.

Conclusions

Based on this limited evaluation, there are no identified environmental constraints on the project site. A Phase I Environmental Audit is recommended.

No species protected by state or federal law were observed on the site nor is the parcel within any protected zone of the bald eagle. No permits will be required from the state or federal government based on information obtained at the time of this evaluation.

EXHIBIT 1. SITE LOCATION MAP

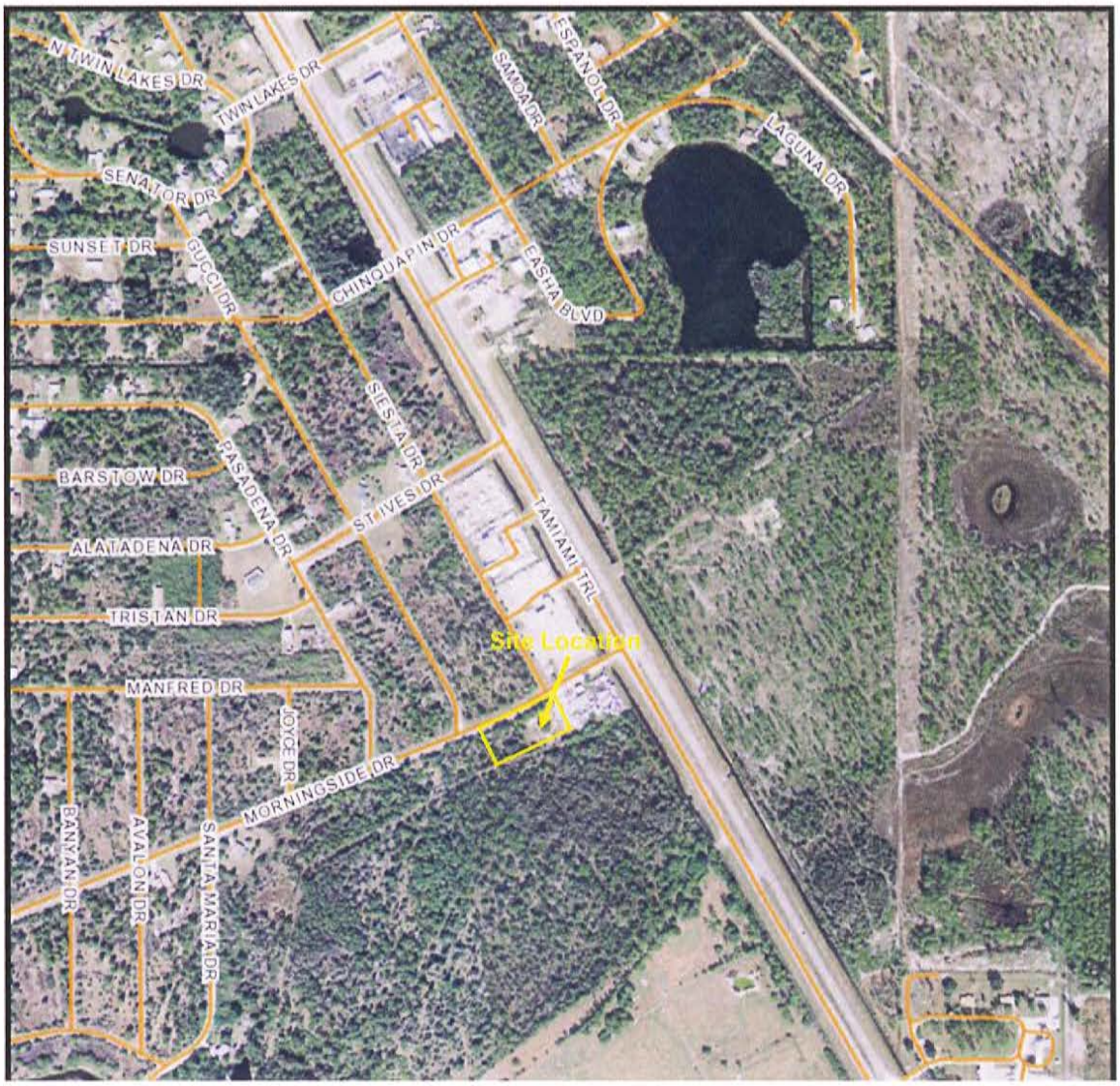
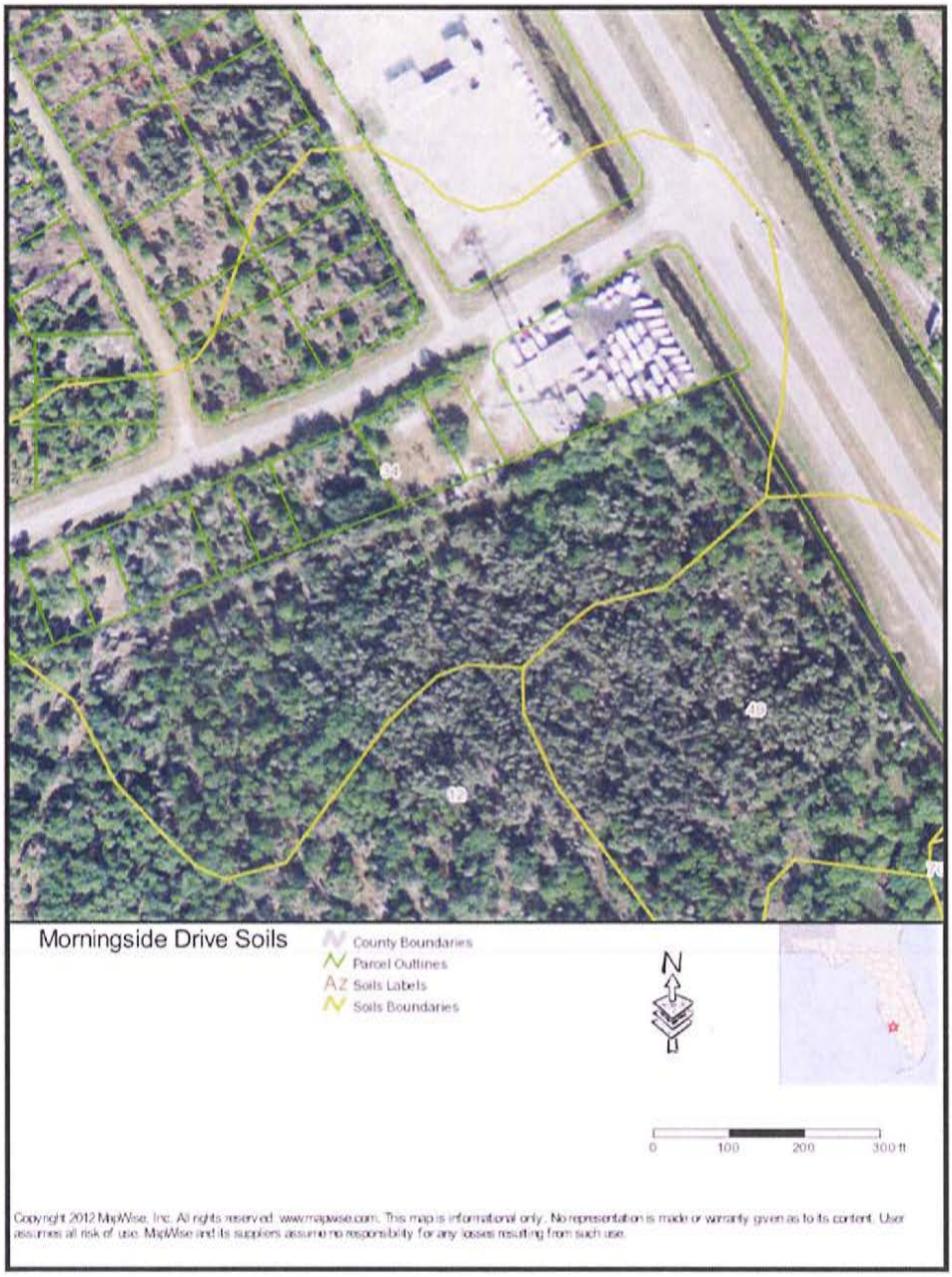


EXHIBIT 2. FLUCCS MAP with APPROXIMATE BOUNDARIES

EXHIBIT 3. NRCS SOILS MAP



Source: Mapwise

EXHIBIT 4. FIRM (FLOOD ZONE) MAP

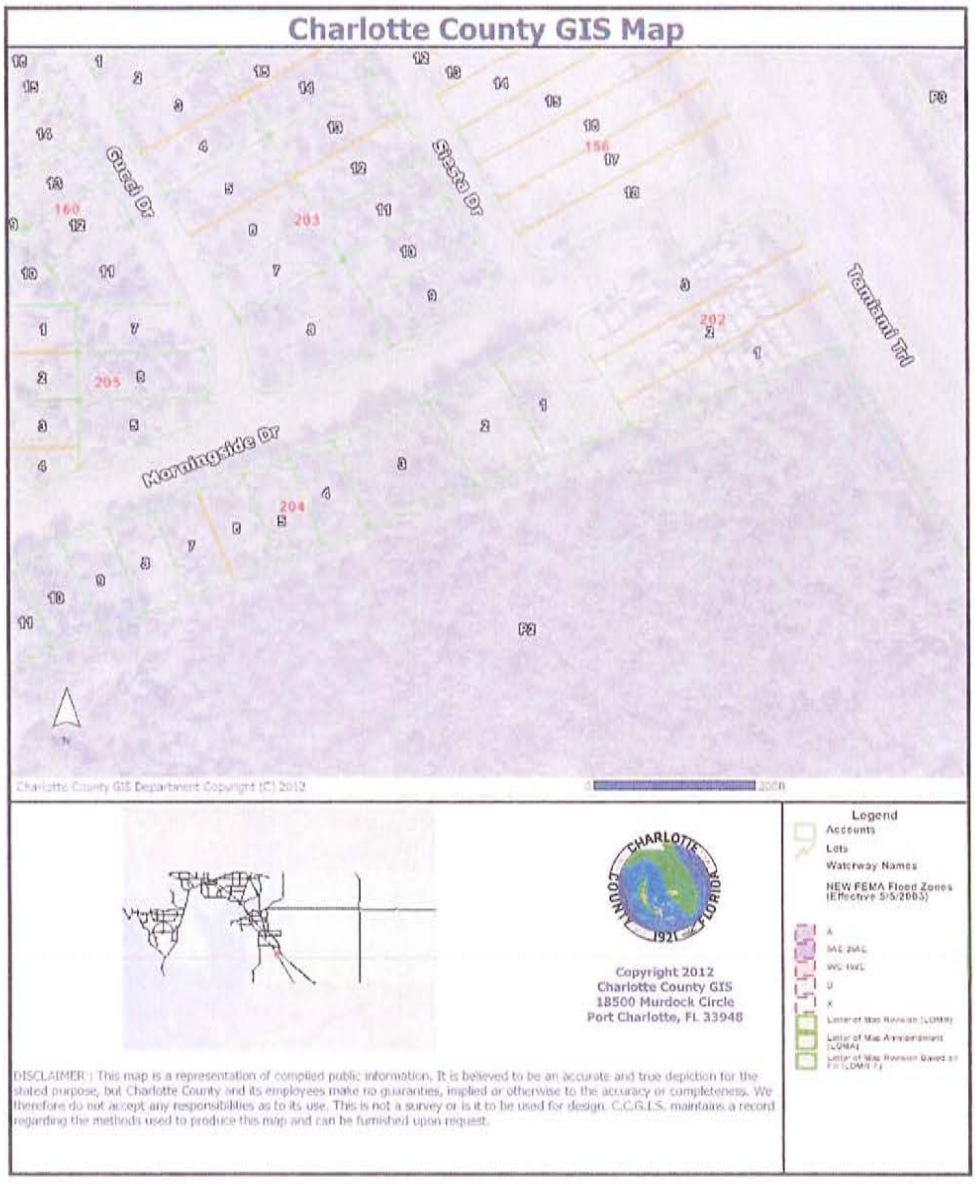


EXHIBIT 5. REPRESENTATIVE SITE PHOTOGRAPHS

Photograph taken on Lot 3 indicative of disturbance and dumping on the lots.

Photograph of armadillo burrow in debris from clearing on Lot 3.

Rreational vehicles on portion of Siesta Drive to be vacated.

Brazilian pepper along Morningside Drive.

Interior of hardwood/conifer mixed area.

Cleared area on Lots 1 and 2 primarily vegetated by ruderal and weedy species.

Mr. Michael P. Haymans Attorney at Law P.A.
215 West Olympia Avenue
Punta Gorda, FL 33950

August 22, 2012

RE: Small Scale Land Use Plan Amendment
FTE Project No. 112027-01

Dear Mr. Haymans:

FTE has prepared a Trip Generation analysis for the proposed small scale land use plan amendment for the property located on Morningside Drive off US 41 in Charlotte County. The lot size is approximately 44,040 square feet. The developer intends to change zoning from RSF 3.5 to Commercial Intensive. The following is a summary of our findings. Project Location Map showing aerial view is provided in Figure 1.

Trip Generation

Trip Generation was performed using the Institute of Transportation Engineers (ITE) *Trip Generation*, 8th Edition. The Commercial Intensive zoning allows among other uses: ITE Land Use Code 820 Shopping Center, ITE Land Use Code 850 Supermarket, ITE Land Use Code 814 Specialty Retail Center, ITE Land Use Code 710 General Office, and many other uses. Due to the size of the development, shopping center which typically has 300,000 square feet to 500,000 square feet building area is not an anticipated land use. ITE Land Use 814 Specialty Retail Center and 710 General Office uses are also not likely uses at this location due to the type of developments in the project vicinity.

The intent of the developer was also considered for the rezoning application. The developer intends to expand their existing Recreational Vehicle (RV) sales and service facility adjacent to this property. There is no specific ITE land use available for the RV sales and service land use. Therefore, for the conservative analysis, ITE land use code 841 (New Car Sales) was utilized to check whether the intended land use would generate more trips than the other trip generating land uses.