Application No.
Z-13-03-05
(Rezoning)

Applicant
Elias Mahshie, Ttee /
Tanglewood Ave.

Quasi-Judicial

Commission Dist. IV

Charlotte County Government

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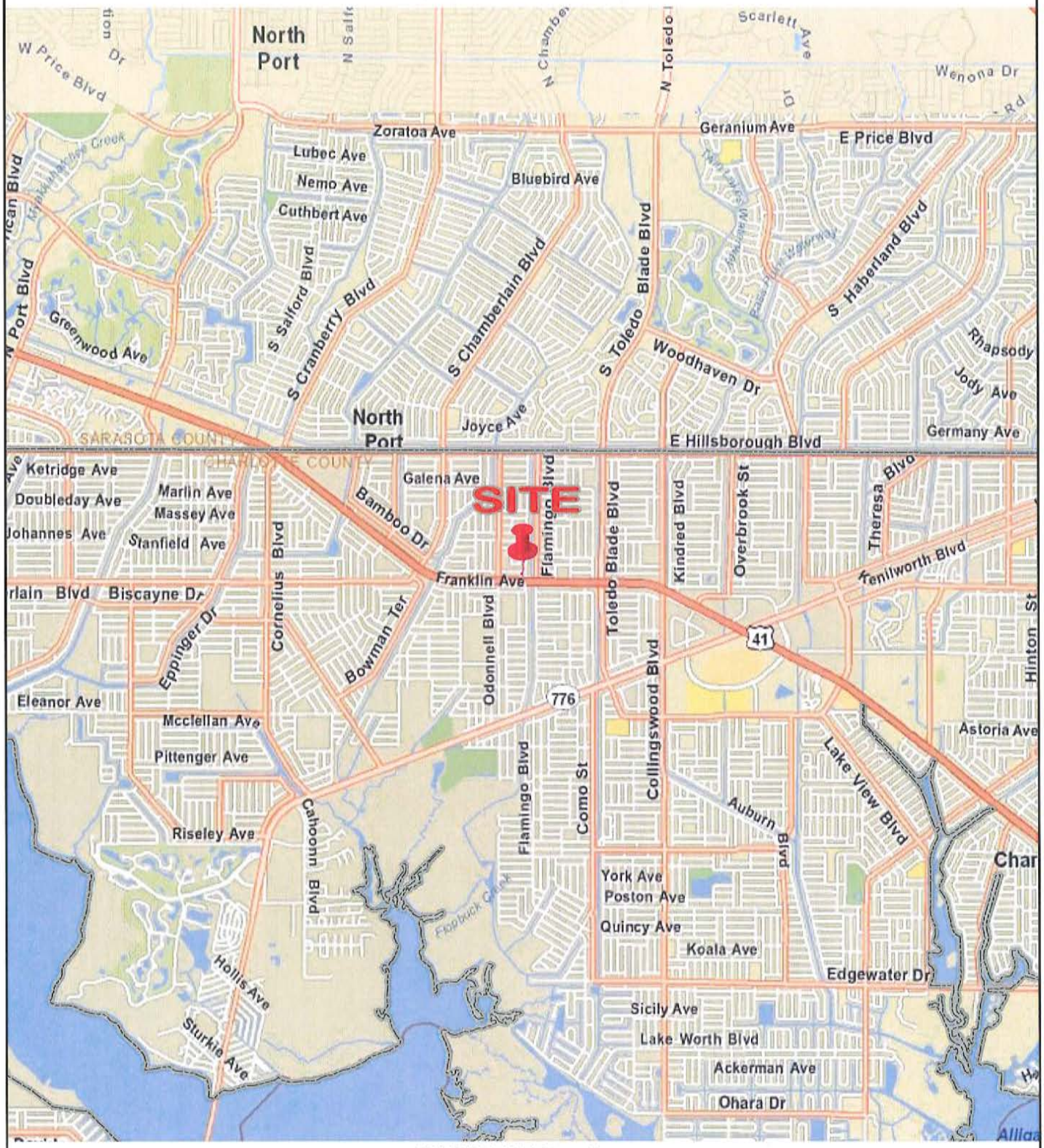
Community Development

CHARLOTTE COUNTY

Location Map for Z-13-03-05



02/40/21 Mid County

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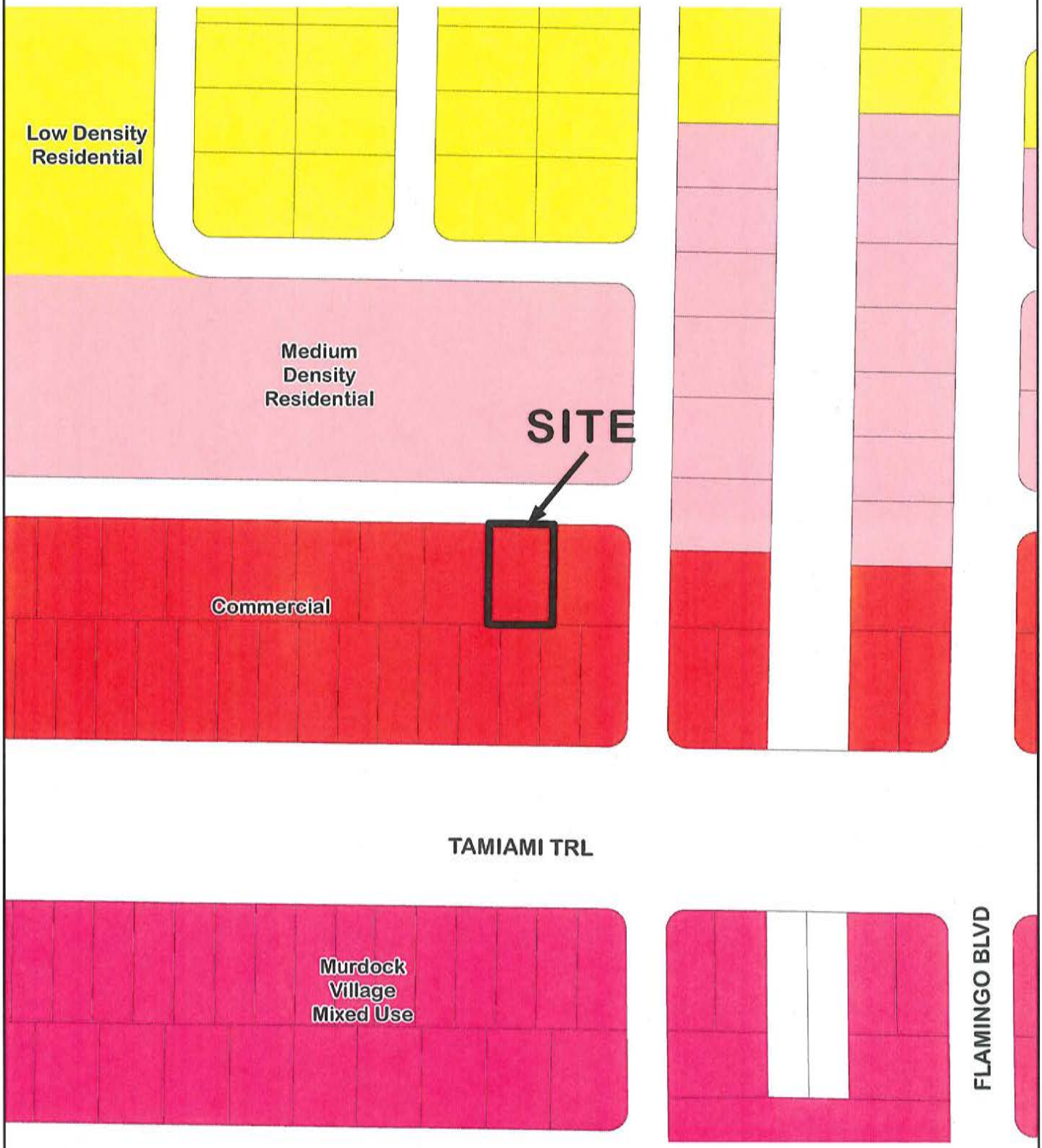
CHARLOTTE COUNTY

FLUM Map for Z-13-03-05



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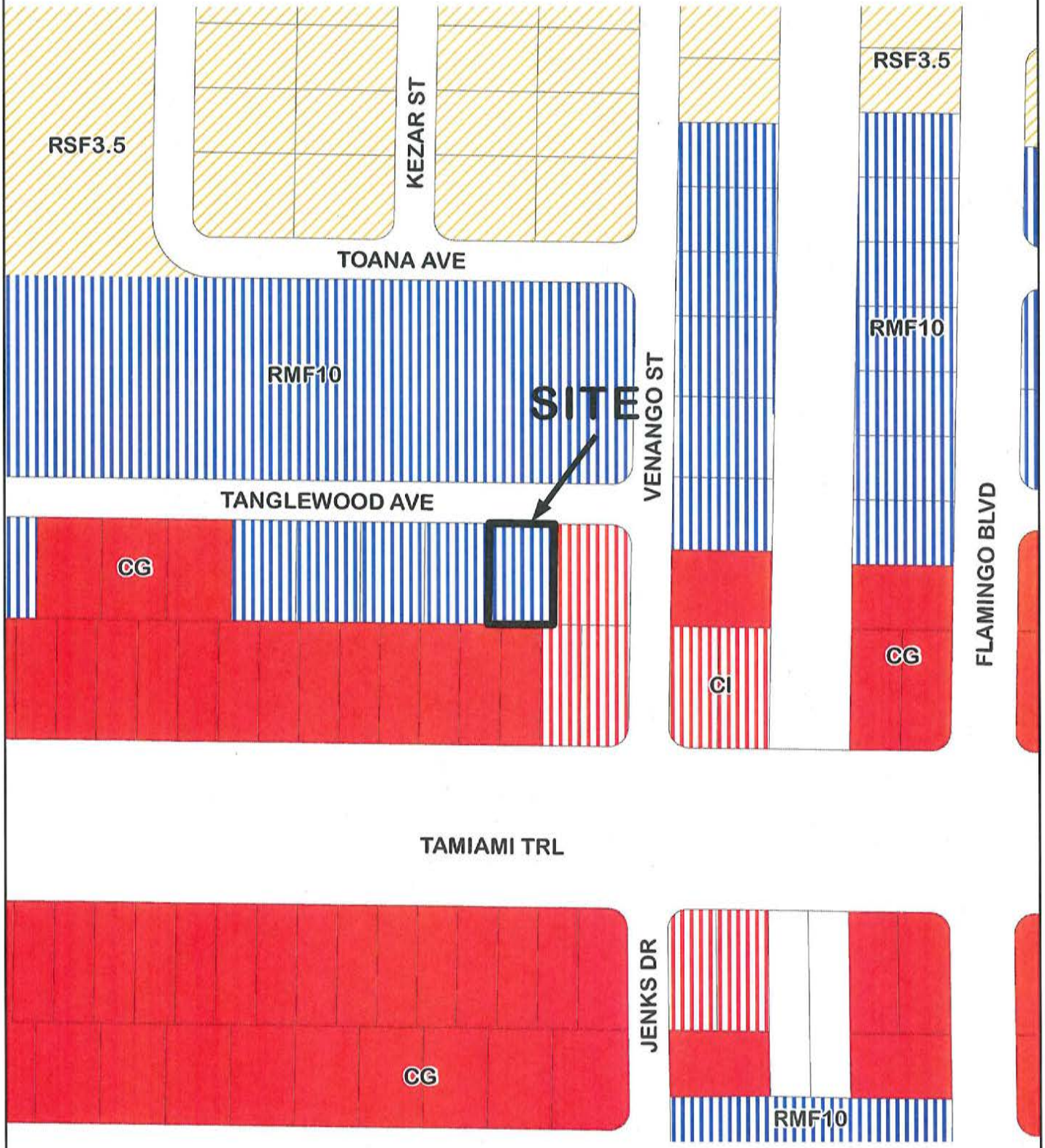
Zoning Map for Z-13-03-05



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Community Development Department
Staff Report for Z-13-03-05

DATE: April 19, 2013

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 Zoning Atlas from Residential Multi-family 10 (RMF-10) to Commercial General (CG)

PART I

Applicant(s): Elias M. Mahshie, Trustee
1560 Matthew Drive, Suite B
Fort Myers, FL 33907

Owner(s): Same as applicant.

General Location and Acreage: The subject property is located north of Tamiami Trail (U.S. 41), south of Tanglewood Avenue, east of Warrington Boulevard and west of Venango Street, in the Port Charlotte area. The site contains a total of 0.23± acres. Also known as Lot 23 of Block 1146.

Account Number(s): 402102477007

Analysis:

The applicant, Mr. Mahshie, is requesting a rezoning from Residential Multi-family 10 (RMF-10) to Commercial General (CG). The subject site is located on Tanglewood Avenue, in the U.S. 41 Zoning District Overlay (Overlay). The Overlay allows expansion of the commercial uses to the second tier (the lots facing the streets behind the existing lots on U.S. 41) of the block along U.S. 41. The stated purposed of this petition is that the applicant wishes to use the subject property for storm water runoff associated with development of surrounding commercially zoned properties located at 16517 Tanglewood Avenue (Lot 22), 511 Venango Street (Lot 21), and 732 U.S. 41 (Lot 20), two of which are located immediately adjacent to U.S. 41.

Compatibility and Impacts on the Adjacent Residential Uses

The subject property is located at the northwest corner of U.S. 41 and Venango Street, in the Port Charlotte area. There are vacant residential lands located directly to the west and across Tanglewood Avenue to the north. The potential commercial and existing commercial uses are located directly to the south and east of the site. Lots 20, 21, and 22 in Block 1146 are owned by the applicant and are located directly to the east and southeast of the site. All of these lots are currently vacant, but are already designated for Commercial and are zoned CI. Two of these lots are located on U.S. 41. Although this proposed change would expand the commercial uses to the rear lots, no commercial traffic would be allowed on Tanglewood Avenue per the requirements of the Overlay Code. Furthermore, the Overlay Code contains language regarding enhanced buffers and landscaping requirements, a building height limitation, and limitations on the uses that could develop, which would minimize the possible impacts to the adjacent residential neighborhood. Further to the south, across U.S. 41, there is a strip of land which is also designated for commercial development.

Consistency with the Smart Charlotte 2050 Comprehensive Plan

The subject property is within the Economic Corridor framework designation on the 2050 Framework Map, and it is also located within the boundary of the U.S. 41 Overlay District. Lots along U.S. 41 are incentivized to develop a more attractive business by being allowed to expand to a rear lot, which enhances the economic and business climate of the County and is in the best interests of Charlotte County and its citizens. The proposed change will allow commercial uses to expand to the second tier of the block, which is consistent with Smart Charlotte 2050.

Consistency Issues

- Water and Sewer: The commercial general uses would likely result in higher use of utilities than the currently-permitted residential uses. However, Charlotte County Utilities has more than adequate capacity to accommodate the proposed commercial uses.
- Traffic: After reviewing the application, the County Transportation Planner has concluded that the proposed change will not cause the Level-of-Service (LOS) of the County's roadways such as U.S. 41 to drop below the adopted LOS D.

STAFF RECOMMENDATION:

"Approve adoption of Petition No. Z-13-03-05 based on the findings and analysis in the Comprehensive Planning Division staff report dated April 19, 2013 and any evidence presented at the public hearing on the application."

Conclusion:

Staff recommends approval of this rezoning to CG because it is consistent with the County's Comprehensive Plan and the intent of the U.S. 41 Zoning District Overlay. The proposed commercial general uses will be compatible with the existing and potential commercial uses and will not create any detrimental impacts on the surrounding properties.

<u>The Planning and Zoning Board proposed recommendations:</u>

"Motion to forward application No. Z-13-03-05 to the Board of County Commissioners with a recommendation of Approval/Denial, based on the findings and analysis in the staff report dated April 19, 2013 and the evidence presented at the public hearing on the application."

PART II: RESEARCH AND FINDINGS

1. **2050 Framework Designation:** Economic Corridor

2. **2030 Service Area Delineation:** Urban Service Area

3. **Existing Land Use on the Site:** The site 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

Zoning	Development Standard
Residential Multi-family 10 (RMF-10)	The residential, multifamily (RMF) districts are intended to be low-or high-density residential districts with emphasis on multifamily use. • Minimum lot site is 7,500 square feet. • Minimum width is 80 feet. • Maximum lot coverage by all buildings is 35%. • Maximum building height is 60 feet. • Maximum density is ten units per acre.

	• Setbacks: o Front setback is 25 feet. o Side setback is half the building but not less than 7.5 feet (interior). o Rear setback is half the building but not less than 15 feet (Abutting a lot).

Table 1

5. Proposed Designation(s):

FLUM	Development Standard
N/A	N/A

Zoning	Development Standard
Commercial General (CG)	The commercial, general (CG) district is intended to provide areas in which the customary and traditional conduct of trade, retail sales and commerce may be carried on without disruption by the encroachment and intrusion of incompatible residential uses and protected from the adverse effects of undesirable industrial uses. • Minimum lot size is 12,000 square feet. • Minimum lot width is 100 feet. • 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	Vacant lands designated for residential uses	Medium Density Residential (MDR)	Residential Multi-family 10 (RMF-10)
East	Vacant lands designated for commercial uses and owned by the applicant	Commercial (COM)	Commercial Intensive (CI) Commercial General (CG)
South	One story store U.S. 41	Commercial (COM)	(CI)Commercial General (CG) Commercial Intensive (CI)
West	Vacant lands designated for residential uses	Commercial (COM)	Residential Multi-family 10 (RMF-10) Commercial General (CG)

Table 3

7. Buildout Calculations (square footage &/or density):

The subject property is located within the boundary of the U.S. 41 Zoning District Overlay. The proposed commercial general uses involve no residential density. Based on the proposed CG zoning district, the maximum Floor Area Ratio is 0.5 and the maximum building height is 38 feet; therefore, the maximum buildout of the subject site is 5,009 square feet of commercial general 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. However, the site is located within the boundary of the U.S. 41 Zoning District Overlay 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:** No
    b. **Number of acres of Category II:** No

13. **Natural Resources**:
    a. **Significant natural resources and/or critical habitat for endangered/potentially endangered species:** Per the environmental assessment dated February 8, 2013 by Dorothea Zysko with The Ecology Group, no environmental resources were identified on the 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?** The site is located within 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 X, an area determined to be outside the 0.2% annual change flood plain.
    e. **Storm Surge Evacuation Zone:** The site is located within Evacuation Zone B.
    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 2
Address: 1441 Tamiami Trail (Town Center Mall near Sears), Port Charlotte
Distance: approximately 2 miles to the southeast of the subject site

c. **Nearest Fire/EMS Station:**
Name: Charlotte County Station No. 1
Address: 3631 Tamiami Trail, Port Charlotte
Response Time: Approximate response time is 4-6 minutes

d. **Nearest Library:** N/A

e. **Nearest Hospital:**
Name: Peace River Regional Medical Center
Address: 2500 Harbor Boulevard, Port Charlotte
Distance: approximately 5.7 miles to the southeast 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**
16,100,000	13,344,000	250

Table 4

2. *Analysis:* If the Board approves this rezoning application, it will allow the property owner to have a maximum of 5,009 square feet of commercial general uses. The estimated water usage would be 250 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**
6,000,000	3,949,000	213

Table 5

2. *Analysis:* If the Board approves this unified petition, it will allow the property owner to have a maximum of 5,009 square feet of commercial general uses. The estimated sewer

generation would be 213 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*
   <u>New arterials</u> – flood free in the 100-year rainfall event
   <u>New and improved collectors</u> - not less than one lane of traffic in each direction above the design high water elevation from a 25-year, 24-hour rainfall.
   <u>New local residential streets</u> - designed and constructed with the pavement centerline at or above the design high water elevation resulting from a 5-year, 24-hour rainfall
   <u>Stormwater management facilities</u> - in all new subdivisions manage a 25-year, 24-hour rainfall.
   <u>New parking facilities</u>- maximum temporary detention depth of nine (9) inches resulting from a 5-year, 24-hour rainfall.
   <u>New development on existing platted lots (except single-family, duplex, and triplex dwellings)</u> - 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? No

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

Future Land Use

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.

U.S. 41 OVERLAY DISTRICT (41OD)

Charlotte County recognizes that U.S. 41 is a major thoroughfare in the County and it is critically important. In an effort to establish meaningful, specific development standards such as commercial design standards and signage requirements, and to implement the 41MU FLUM designation for the future development and redevelopment within this area, the County established the U.S. 41 Overlay District, which is depicted on FLUM Series Map #8. The County may adopt land development regulations for this area to enhance the aesthetics and visual environment of the Corridor and property values, and to create a more attractive economic and business climate which is in the best interests of Charlotte County and its citizens.

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 subject property is designated as Commercial on the 2030 Future Land Use map. The proposed rezoning to Commercial General (CG) would not be contrary to the Comprehensive Plan. In addition, the proposed change would allow expansion of the commercial uses to the second tier of the block along U.S. 41, a change which is encouraged by the U.S. 41 Zoning District Overlay (Overlay). The proposed uses are consistent with the intent of the Overlay Code in the County's Land Development Regulations and the U.S. 41 Overlay District as set forth in the Smart Charlotte 2050 Comprehensive Plan.

b. The existing land use pattern in adjacent areas:

Finding: The subject property includes only Lot 23. The applicant also owners Lots 20-22, which are located directly to the east and southeast of the site, and all of these lots are designated as Commercial and zoned CG. All applicant-owned lots are located within the U.S. 41 Zoning District Overlay boundary. To the west, there are vacant platted lots designated for residential development. Across Tanglewood Avenue, to the north, there are vacant residential properties. Further to the east, across Venango Street, there is an auto repair and sale business. To the south, there are vacant commercial properties and a store. Further to the south, there is U.S. 41.

c. **The population density pattern and possible increased load on public facilities, such as schools, utilities, and roads:**
Finding: There would likely be an increased use of water and sewer services as well as increased traffic volumes. The proposed CG rezoning involves no residential density and so student populations are not expected to change as a result of this petition. According to the County Transportation Planner's review, the proposed uses will not cause the Level-of-Service (LOS) of these County roadways (U.S. 41 and Tanglewood Avenue) to fall below the adopted LOS of D. In addition, Charlotte County Utilities retains enough capacity to serve the proposed development. Therefore, the proposed change will not create any concurrency issues with regard to on schools, roads, or utilities.

d. **Would changed conditions make the passage of the proposed amendments appropriate?**
Finding: Yes. The adoption of the U.S. 41 Overlay has made this property appropriate for less-intensive commercial development, which would create a transition between commercial uses and residential development.

e. **Would the proposed change adversely influence living conditions or property values in adjacent areas?**
Finding: The proposed use would create a slight increase in the amount of noise, possible fumes, traffic volume and artificial lighting on the subject site as compared to the current permitted residential use of the properties. The Overlay Code will supersede the proposed CG zoning. The Overlay Code contains language to minimize the possible impacts to the adjacent residential neighborhood. The language includes such things as enhanced buffer requirements, the types of commercial that are allowed, and enhanced sign and lighting requirements. Therefore, the proposed change would not adversely influence 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: The development standards of the proposed CG zoning are different from the development standards of the current RMF-10 zoning. In addition, the Overlay restricts the height of buildings on these second tier lots to 38 feet, a height that may be up to 60 feet

elsewhere under the proposed CG zoning district. Therefore, the proposed change would not reduce light and 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. However, the applicant wishes to use the subject parcel for storm water runoff associated with development of surrounding commercially zoned parcels. The proposed uses are permitted under any commercial zoning districts but not under the current RMF-10 zoning.

Application for Rezoning
Petition Number: Z -13-03-05

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

FROM: Venkat Vattikuti

DATE: April 12, 2013

REQUESTED ACTION:

APPLICANT: Elias M. Mahshie Trustee, 1560 Matthew Drive #B, Fort Myers, FL 33907

OWNER: Elias M. Mahshie Trustee, 1560 Matthew Drive, Suite B, Fort Myers, FL 33907

GENERAL LOCATION: 16509 Tanglewood Avenue, Port Charlotte, FL 33954

ACCOUNT NUMBER: 402102477007 in Section 02, Township 40 and Range 21, with a total approximate area of 0.23 acres.

ANALYSIS: From the transportation perspective, the review of the proposed re-zoning request[1] of the subject property shows that the surrounding roadway segments within the area of significance which are currently operating at acceptable levels of service would continue to operate at acceptable levels of service to the year 2018 (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 re-zoning.

[1] Requesting from the existing land use designation of Commercial General (CG) to Commercial Intensive (CI)

MEMORANDUM

Date: April 11, 2013

To: Jie Shao, Planner III

From: Jamie Scudera, Environmental Specialist

Subject: Z-13-03-05
Stormwater Retention Site
16509 Tanglewood Ave.

The Current Planning and Zoning Environmental Review Section reviewed the above referenced petition for **environmental, landscaping and tree compliance** and offer the following comments:

- The applicant is proposing to amend the current zoning designation from Residential Multi-family 10 (RMF-10) to Commercial General (CG) in order to use the subject parcel for storm water run-off associated with development of surrounding commercially zoned parcels located at 16517 Tanglewood Avenue, 732 Tamiami Trail and 511 Venango Street.

- Per the environmental assessment dated February 8, 2013 by Dorothea Zysko with The Ecology Group, no environmental issues were identified on the site and no environmental permitting is required at this time.

- The property is not adjacent to any County, State or Federal wildlife management areas, parks, preserves or reserves.

If this petition is approved, the following conditions will be reviewed for compliance prior to the issuance of any county permits or land improvement activities.

- All applicable county, state and federal authorization/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**
  **All heritage trees (per Section 3-2-190) must remain preserved.

  Chapter 3-5:
  Article IV, *CLEARING, FILLING AND SOIL CONSERVATION,*
  Article XVI, *OPEN SPACE / HABITAT RESERVATION TRUST,*
  Article XVIII, *LANDSCAPING AND BUFFERS*

- The project must comply with the Charlotte County Smart Charlotte 2050 Comprehensive Plan with particular attention paid to the *NATURAL RESOURCES (ENV) – GOALS, OBJECTIVES AND POLICIES* sections.

The applicant is advised that the Charlotte County site review is cursory, additional wildlife or environmental reviews may be required by state and federal agencies.

Please contact me if you have any questions or need additional information (941) 743-1290.

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

CHARLOTTE COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION for REZONING

Date Received: 3/18/2013	Time Received: 3:00PM
Date of Log-in: 3/19/2013	Petition #: Z-13-03-05 Accela #: RZ-13-00004
Receipt #: 108084	Amount Paid: $2,490.00

1. PARTIES TO THE APPLICATION

Name of Applicant: Elias M. Mahshie, Trustee
Mailing Address: 1560 Matthew Drive, Suite B
City: Fort Myers | State: Florida | Zip Code: 33907
Phone Number: 239-931-7566 | Fax Number: 239-931-7560
Email Address: Elias@HMDLegal.com

Name of Agent: Elias M. Mahshie, Esquire
Mailing Address: 1560 Matthew Drive, Suite B
City: Fort Myers | State: FL | Zip Code: 33907
Phone Number: 239-931-7566 | Fax Number: 239-931-7560
Email Address: Elias@HMDLegal.com

Name of Engineer/Surveyor: Greg Weyers, LandMark Land Consultants
Mailing Address: 2550 Placida Road
City: Englewood | State: FL | Zip Code: 34224
Phone Number: 941-475-5651 | Fax Number: 941-475-2998
Email Address:

Name of Property Owner (if more than one property owner, attach a separate sheet with a list of all owners):
Elias M. Mahshie, Trustee
Mailing Address: 1560 Matthew Drive, Suite B
City: Fort Myers | State: FL | Zip Code: 33907
Phone Number: 239-931-7566 | Fax Number: 239-931-7560
Email Address: Elias@HMDLegal.com

2. PROPERTY INFORMATION

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

Property Account #: 402102477007		
Section: 02	Township: 40	Range: 21
Parcel/Lot #: 23	Block #: 1146	Subdivision: Port Charlotte SCC30
Total acreage or square feet of the property: 0 0.23		

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:

- 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
Commercial	0.23

Zoning District(s)	Acreage
RMF-10	0.23

8. APPLICANT'S PROPOSED CHANGE(S):

Amending Zoning designation(s) to: Commercial general.

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?

_____

9. REASON FOR PROPOSED CHANGE(S):

Applicant desires to utilize the subject parcel for storm water run off associated with development of surrounding commercially zoned parcels located at 16517 Tanglewood Avenue, 732 Tamiami Trail and 511 Venango Street.

10. CURRENT LAND USE OF SUBJECT PROPERTY (example: house, vacant land, barn, etc.)**:**

Residential multi-family 10

11. SURROUNDING LAND USES:

North: Vacant multi-family residential 10

South: Commercial general

East: Commercial intensive

West: Vacant multi-family residential 10

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):

Tamiami Trail, Tanglewood Avenue, Venango Street, Warrington Blvd.

ii. *Traffic Impact Report*: This narrative does not need to be authored by a registered professional

REZONING NARRATIVE

REZONING NARRATIVE

A. Whether the proposed change would be contrary to the Comprehensive Plan

The Comprehensive Plan calls for a Future Land Use designation of Commercial for the subject property. Accordingly, the proposed change from Residential Multi-Family to Commercial General would not be contrary to the comprehensive plan.

B. The existing land use pattern in adjacent areas

The existing land use pattern in adjacent areas is as follows:

i. North – Vacant Multi-Family Residential 10
ii. South – Commercial General
iii. East - Commercial Intensive
iv. West – Vacant Multi-Family Residential 10

C. The population density pattern and possible increased load on public facilities such as schools, utilities, and streets

Public Schools – Generally, it is new residential development occurring within the community that is the primary contributor to student population growth and has the most significant impact on the public school system. The proposed change, if granted, will change a Multi-Family Residential use to a Commercial General use. Accordingly, the proposed change will decrease, not increase, the load on the public school system.

Transportation/Streets – The Transportation Element is closely related to several Comprehensive Plan Elements. The strongest relationship is with the Future Land Use Element. The future land use designation for the subject parcel is Commercial. Accordingly, the proposed change will not conflict, but rather is consistent, with the Comprehensive Plan's position on streets and transportation.

The attached Traffic Impact Report indicates that the highest intensity use under the proposed zoning change will result in an average of 90 daily vehicle trip ends, 9 of which will occur during peak hours. In light of the surrounding uses and the Future Land Use designation for the subject parcel, the proposed zoning change will not significantly increase the load on Transportation/Streets in a way that is not contemplated by its future use designation.

Utilities – the load on utilities will not be significantly increased under the proposed use. Applicant's desired use (storm water runoff) under the proposed zoning change will not require usage of water or power utilities. Even under the highest intensity use permitted under the proposed change, it appears that there will be no significant load increase on utility services.

D. Whether changed conditions make the passage of the proposed amendment appropriate

The subject parcel is surrounded by commercial uses. Though some of the adjacent parcels are zoned Multi-Family Residential, none are currently being utilized for that purpose. Generally, the developed surrounding parcels are utilized for commercial uses.

The economic challenges which have confronted Charlotte County and the Nation as a whole in recent years have has led to massive job loss and historically high unemployment rates. The proposed zoning change, if granted, will allow for the development of the subject property in a manner which will generate much needed jobs in the local construction industry (i.e. engineering, land clearing, commercial construction, etc.) and will create permanent service industry jobs once the project reaches completion.

In short, the evolution from the red-hot residential housing market of the mid 2000's to its crash in the late 2000's and the resulting glut of vacant residential properties is the predominant changed condition affecting the dubious prospect of utilizing the subject parcel under its current Multi-Family zoning designation. This changed condition begs for an alteration in the zoning designation to a designation which promotes job growth and economic stability for our community.

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 in adjacent areas. As previously addressed, the proposed change is consistent with both the current existing use of adjacent parcels as well as the future land use map for the subject parcel. The proposed change and subsequent commercial development of the subject parcel will presumably increase property value in adjacent areas.

F. Whether the proposed change will affect public safety

Based on the surrounding uses and the Future Land Use Map's contemplation of future uses, it does not appear that the proposed change will adversely affect public safety.

G. Whether the proposed change will reduce light and air to adjacent areas

The restrictions placed on Commercial General zoning designation will not allow for development which would significantly reduce light and air to adjacent areas.

H. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning

As previously addressed, there is an overstock of residential housing in Charlotte County. The parcels surrounding the subject parcel are by and large utilized for commercial purposes. Accordingly, under its existing zoning designation, the subject parcel is unlikely to be developed and utilized for residential purposes in the foreseeable future. Furthermore, due to the surrounding uses and the Future Land Use designation for the subject parcel, it appears that the parcel's highest, best and most practical use is the proposed commercial use.

TRAFFIC IMPACT REPORT

CREST ENGINEERING OF SARASOTA

Civil Engineering and Land
Development Consulting

TRAFFIC IMPACT REPORT
FOR
16509 TANGLEWOOD DRIVE (P.I.D. 402102477007)
CHARLOTTE COUNTY, FLORIDA

March 15, 2013

Description:

This Traffic Impact Report has been prepared to address the relative traffic generation rates of the above 10,000 SF parcel under the current zoning designation of RMF-10 and the maximum buildout of the parcel under the proposed zoning designation of CG. Trip generation rates are as taken from the 8th Edition of the Institute of Traffic Engineers *Trip Generation.* A review of the allowable uses in the CG zoning district, parking requirements and trip generation rates of those uses indicates that 2,500 SF of medical or dental office space represents the maximum traffic generating intensity available under the proposed zoning.

Trip Generation For RMF -10 Zoning Use:

Maximum Density (0.22 Ac. X 10)	=	2 Dwelling Units (Apartments – I.T.E. Land Use 220)
Average Daily Vehicle Trip Ends	=	13
P.M. Peak Hour Trip Ends	=	1

Trip Generation for Maximum CG Zoning Use:

Maximum Density	=	2,500 SF (Medical/Dental Office-I.T.E. Land Use 720)
Average Daily Vehicle Trip Ends	=	90
P.M. Peak Hour Trip Ends	=	9

Adjacent Roadways:

The following adjacent roadways would be used to gain access to the site:

- Tamiami Trail
- Venango Street
- Tanglewood Avenue
- Warrington Blvd.

3/15/13

Michael Shannon, P.E.
Florida License No. 67896

MICHAEL L. SHANNON
LICENSE
No. 67896
STATE OF FLORIDA
PROFESSIONAL ENGINEER

3402 MAGIC OAK LANE • SARASOTA, FLORIDA 34232 • (941) 377-8811 • FAX (941) 378-8811

Florida Certificate of Authorization No. 28100

AFFIDAVIT

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

FORM A. PROPERTY OWNER AUTHORIZATION TO APPLICANT

I, the undersigned, being first duly sworn, depose and say that I am the owner of the property described and which is the subject matter of the proposed hearing.
I give authorization for Elias Mahshie, Trustee to be the applicant for this REZONING.

STATE OF Florida, COUNTY OF Charlotte

The foregoing instrument was acknowledged before me this 18 day of March, 2013, by Elias Mahshie

who is personally known to me or has/have produced

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

Lissette Muse	[signature]
Notary Public Signature	Signature of Owner
Lissette Muse	Elias Mahshie, Trustee
Notary Printed Signature	Printed Signature of Owner
Manager	1560 Matthew Drive, Suite B
Title	Address
11/8/16	Fort Myers, FL 33907
Commission Code	City, State, Zip
	239-931-7566
	Telephone Number

Lissette Muse
Notary Public
State of Florida
My Commission # EE 850382
Expires: November 8, 2016

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

FORM B. APPLICANT AUTHORIZATION TO AGENT

I, the undersigned, being first duly sworn, depose and say that I am the applicant for the REZONING of the property described and which is the subject matter of the proposed hearing.
I give authorization for Elias Mahshie, Esq. to be my agent for this application.

STATE OF Florida, COUNTY OF Charlotte

The foregoing instrument was acknowledged before me this 18 day of March, 2013, by Elias Mahshie

who is personally known to me or has/have produced

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

Lissette Muse	Elias Mahshie
Notary Public Signature	Signature of Applicant
Lissette Muse	Elias Mahshie, Trustee
Notary Printed Signature	Printed Signature of Applicant
Manager	1560 Matthew Drive, Suite B
Title	Address
11/8/16	Fort Myers, FL 33907
Commission Code	City, State, Zip
	239-931-7566
	Telephone Number

Lissette Muse
Notary Public
State of Florida
My Commission # EE 850382
Expires: November 8, 2016

March 20, 2013

Elias Mahshie
Holtz, Mahshie & Decosta
239-931-7566 - ofc
239-931-7560 - fax
elias@hmdlegal.com

Re: Water, Sewer and Reclaimed Water Availability to: 16501/16493 Tanglewood Ave, 33954
Legal Desc: PCH 030 1146 0024/0025

Dear Mr. Mahshie:

This letter is to confirm our understanding relative to the availability of water, sewer and reclaimed water to the above referenced site location(s). Potable water, wastewater and reclaimed water services are not available to the subject site at this time. The nearest potable water main is within 700 feet of the property's limits. Please note that a project to implement improvements along US 41, including the construction of new potable water, wastewater and reclaimed water utility mains, will begin in the near future. Once completed, these utility mains will service any structures located at the property.

Utility service availability is subject to the execution of an Agreement with the Owner/Developer and Charlotte County Utilities as per the Uniform Extension Policy and upon fulfillment of each of the following conditions:

1. Owner/Developer shall be solely responsible for the design, funding, construction and installation of all required on-site and off-site utilities facilities necessary to provide service to Owner/Developer's site location, which may include up-grading existing utilities facilities in the area.
2. Owner/Developer shall secure all necessary regulatory approvals.
3. All Utility plans must be reviewed and approved by Charlotte County Utilities.
4. A Utility Agreement is fully executed by both parties and all appropriate capacity/connection fees are paid prior to the commencement of construction of any water, sewer and reclaimed water facilities.
5. Sufficient potable water, wastewater and reclaimed water plant capacity exists at the time of connection.
6. A Reclaimed Water Supply Contract is fully executed by both parties.

No commitment expressed or implied shall be construed by this letter, nor shall one exist until a Utility Agreement and a Reclaimed Water Supply Contract have been fully executed by both parties, all fees paid, the necessary approvals by all of the required regulatory bodies have been obtained and all conditions stated above have been met. This letter of confirmation is valid for 3 months from the date of this letter.

Sincerely,

Chris J. D'Urso
Development Coordinator

cc: File / CHRONO
pBruce R. Bullert

ENVIRONMENTAL SITE EVALUATION

16509 Tanglewood Avenue

PID # 402102477007

Port Charlotte, Florida 33954

February 11, 2013

Prepared for:

Mr. Richie Walczyk
21320 Higgs Drive
Port Charlotte, FL 33952

Prepared by:

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

The Ecology Group Inc.

P. O. Box 512856
Punta Gorda, Florida 33951-2856
Office: 941.639.4011
Fax: 941.639.1297
Cell: 941.416.1187

ENVIRONMENTAL EVALUATION
16509 Tanglewood Avenue, Port Charlotte, FL 33954
PID# 402102477007

INTRODUCTION

A site visit was conducted on afternoon of Friday, February 8, 2013, to perform an environmental evaluation of the subject parcel owned by Richie Walczyk located in Port Charlotte in Section 02, T40S, Range 21E. The parcel is approximately 10,000 sq. ft. or 0.19 acre. The general location is shown on Exhibit 1, Location Map. The parcel is currently zoned Residential Multi-family 10 Units Per Acre (RMF10). The owner is requesting a rezoning of the parcel.

This environmental evaluation included reviewing the site for the presence of wetlands and protected species including gopher tortoises, scrub jays and bald eagles, and preparing a habitat/vegetation (FLUCCS) map. The parcel was surveyed by meandering pedestrian transects.

SITE EVALUATION

Field Conditions

Sunny, clear, winds NE at 10-11 mph, 80°.

Vegetation and Land Use

The parcel is currently undeveloped and naturally vegetated. The property is bounded on the north by Tanglewood Avenue, on the south by a commercially developed parcel, and on the east and west by vacant parcels.

The existing vegetation on the parcel was classified according to the Florida Land Use, Cover and Forms Classification System (FLUCCS) (DOT, 1999) as: Live Oak (FLUCCS 427) and Primitive Trail (FLUCCS 8146).

No Heritage Trees were identified on the parcel.

See Exhibit 2, a 2012 Charlotte County GIS color aerial photograph of the parcel, with the approximate boundaries of the Florida Land Use Cover and Forms Classification System (FLUCCS) codes noted. See Exhibit 4 for photographs of the parcel.

FLUCCS 427 – Live Oak

The dominant species on this parcel are a few species of oak (*Quercus* spp.). There is a somewhat dense litter layer and very few species were observed in the ground cover or shrub layer. Species noted include a few small cabbage palms (*Sabal palmetto*) with no clear trunk, broom sedge (*Andropogon* sp.), poison ivy (*Toxicodendron radicans*), grape

The Ecology Group Inc.

P. O. Box 512856
Punta Gorda, Florida 33951-2856
Office: 941.639.4011
Fax: 941.639.1297
Cell: 941.416.1187

vine (*Vitis* sp.), and small oaks. One small bent slash pine (*Pinus elliottii*) is present toward the front of the parcel.

FLUCCS 8146 – Primitive Trail

A cleared dirt trail runs through the parcel from Tanglewood Avenue to the back of the parcel.

Wetlands

After reviewing the site, aerial photography and soils information, no state or federal jurisdictional wetlands were determined to be present on the parcel. It appears a small isolated wetland is present on a parcel to the north and historically wetlands may have been present in the area.

Soils

The parcel was mapped by the Natural Resources Conservation Service (NRCS) as Isles fine sand, slough (38), a hydric soil. See Exhibit 3. No soil plugs were taken during this evaluation to verify soil mapping. However, the large scale of mapping conducted by the NRCS in 1981 lumped several soil inclusions with this soil. According to the Soil Survey, 15 to 20 percent of the mapping unit included Wabasso, Boca, Malabar, Oldsmar and Pineda soils some of which are non-hydric soils.

A soil description of Isles fine sand, slough, is paraphrased from the NRCS Soil Survey is provided below although it is likely that this does NOT represent the soils on the site.

Isles fine sand, slough (38)
This is a nearly level, very poorly drained soil on sloughs. The soil is ponded for 6-9 months or more each year. The water table is within 10 inches of the surface for 1-3 months during the year and at a depth of 10-40 inches during most of the remainder of the year. The natural vegetation typically includes cabbage palms, water oak and maidencane.

Protected Species and Wildlife

A limited protected species survey was conducted on the parcel at the time of the environmental evaluation. Meandering pedestrian transects across the parcel to survey for wildlife. No protected species or evidence of any was observed.

Wildlife

During the site review, no wildlife was observed although a few birds were heard singing.

The Ecology Group Inc.

P. O. Box 512856
Punta Gorda, Florida 33951-2856
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Fax: 941.639.1297
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Gopher Tortoise

Suitable gopher tortoise habitat is present on the parcel. However, no gopher tortoises or burrows were observed during the site review.

Bald Eagle

The Florida Fish and Wildlife Conservation Commission Bald Eagle database was reviewed for identification of eagle nests within 5 miles of the parcel. Eight were identified with the closest, CH020, located approximately 2.69 miles to the south of the parcel. This nest was last reported active in 2010. The next closest nest is CH070 located 3.17 miles to the southeast and last reported active in 2012. These distances are great enough that there are no restrictions on development of the property relative to bald eagles as of the date of this report.

Florida Scrub Jay

A territory search on the Charlotte County website for the Florida Scrub Jay was conducted. The results indicate that the parcel is not located within any identified scrub jay territory and no jays were observed on the parcel during the site review.

CONCLUSIONS

No environmental issues were identified on the parcel and no environmental permitting is required at this time.

Land Clearing

A tree survey is required prior to clearing and development of the parcel. Please refer to the County's Tree Protection regulations in the Land Development Code.

Prior to the removal of any underbrush or trees on a development site, you must apply for a Tree Permit from the County. See a copy of the Tree Permit Application in the Appendix.

The Ecology Group Inc.

P. O. Box 512856
Punta Gorda, Florida 33951-2856
Office: 941.639.4011
Fax: 941.639.1297
Cell: 941.416.1187

EXHIBIT 1. PARCEL LOCATION MAP

P. O. Box 512856
Punta Gorda, Florida 33951-2856
Office: 941.639.4011
Fax: 941.639.1297
Cell: 941.416.1187

EXHIBIT 2. FLUCCS MAP (Approximate Boundaries)

P. O. Box 512856
Punta Gorda, Florida 33951-2856
Office: 941.639.4011
Fax: 941.639.1297
Cell: 941.416.1187

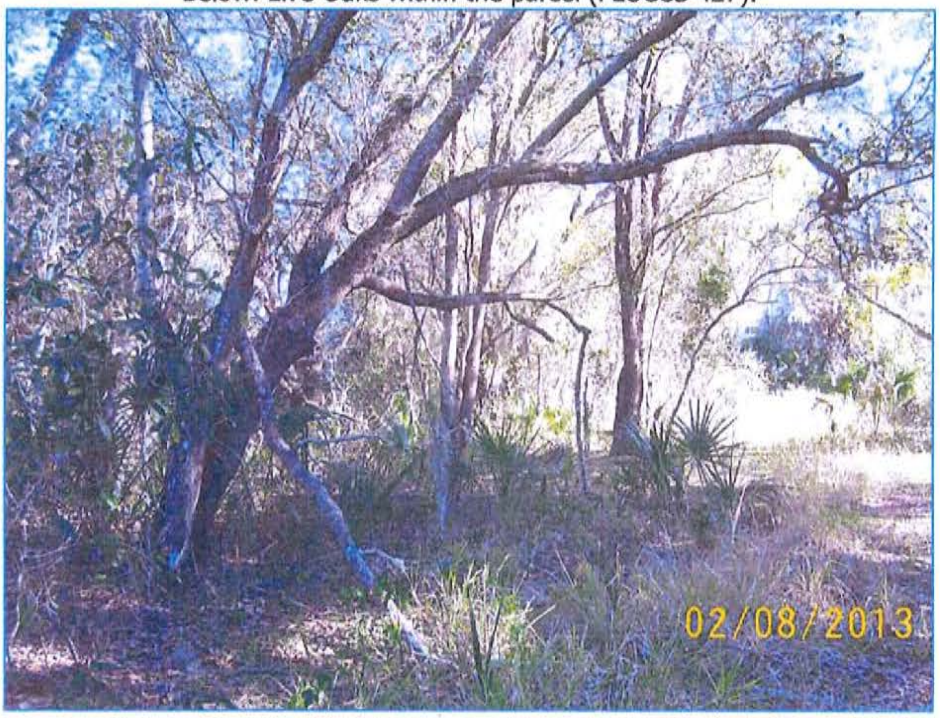
EXHIBIT 3. NRCS SOILS MAP

Source: Mapwise

P. O. Box 512856
Punta Gorda, Florida 33951-2856
Office: 941.639.4011
Fax: 941.639.1297
Cell: 941.416.1187

EXHIBIT 4. PHOTOGRAPHS OF PARCEL

Above. Photograph of Primitive Trail (FLUCCS 8146).
Below. Live Oaks within the parcel (FLUCCS 427).



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Punta Gorda, Florida 33951-2856
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Above. Photograph from Tanglewood Ave. looking into the parcel.
Below. Looking toward commercial development on the south of the parcel.

P. O. Box 512856
Punta Gorda, Florida 33951-2856
Office: 941.639.4011
Fax: 941.639.1297
Cell: 941.416.1187

APPENDIX

The Ecology Group Inc.

P. O. Box 512856
Punta Gorda, Florida 33951-2856
Office: 941.639.4011
Fax: 941.639.1297
Cell: 941.416.1187

Permit # _____

CHARLOTTE COUNTY TREE PERMIT APPLICATION

Select from the following: ☐ Tree Preservation ☐ Tree Removal Authorization ☐ No Tree Affidavit ☐ Memorandum of Exemption of Fees

Contractor or Owner/Builder _____ Contractor License # _____

Mailing Address: _____ Phone: _____

Job Address: _____

Parcel ID # _____ Lot: _____ Block: _____ Subdivision: _____

Check all that apply: Residential _____ Commercial _____
Individual Trees _____ Lot Clearing _____
Other (specify) _____

1. **Tree Preservation:**
Will any trees be preserved on site? Yes____ No ____

I certify that ____ (number) of trees on the above-described property are to be preserved/protected according to the methods set forth in the Charlotte County Tree Code, Chapter 3-2-191. (Provide four (4) site plans.)

2. **Tree Removal Authorization:**
Will any trees be removed from the site? Yes____ No ____

I request that ____ (number) trees on the above-described property and indicated on the attached site plan be removed utilizing the Tree Removal Authorization as provided in the Charlotte County Tree Code, Chapter 3-2-192. (Provide four (4) site plans) Indicate reason for removal: _____

AND / OR

3. **Memorandum of Exemption of Fees:**

I certify that ____ (number) trees on the above-described property are exempt from Tree Removal Authorization and removal fees as provided by the tree protection requirements of the Charlotte County Tree Code, Chapter 3-2-193. (Provide four (4) site plans) Indicate reason for removal: _____

I agree to assume full responsibility for the removal of said trees(s) and for compliance with all applicable County and State regulations regarding the proper disposal of brush and yard trimmings. Further, I will replace trees as required by the Charlotte County Code.

OR

4. **No Tree Affidavit:**
There are NO TREES currently located on site. (Use affidavit below)

_____ _____
Signature of Applicant Printed Name of Applicant

State of Florida, County of _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by _____, who is personally known to me or who has produced _____ as identification and who *did / did not* take an oath.

_____ _____
Signature of Notary Notary's Printed Name

_____
Commission Number

Environmental Inspection:		$ 55.00
Residential Tree:		$ 70.00
Commercial Tree*:		$ 80.00
***Plus total # of caliper inches removed** _____	**x $1.00:**	$_____
Total Fee:		$_____

Applicant's Signature: _____ Date: _____

Authorized County Official: _____ Date: _____

P. O. Box 512856
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Permit # _____

CHARLOTTE COUNTY TREE PERMIT APPLICATION

An approved barricade inspection must be obtained in order to receive credit for tree preservation.
To request a barricade inspection, call (941) 743-1204 or (941) 743-1205.